



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

October 16, 2015

**C9-15-01 Self Storage – First Avenue
Rezoning R-3 to C-1
Public Hearing: October 1, 2015**

BACKGROUND

This is a request by the Planning Center, on behalf of the property owners, First and River Storage LLP, to rezone approximately 1.2 acres, from R-3 to C-1 zoning. The rezoning site is located on the east side of First Avenue; approximately 800 feet north of River Road. The preliminary development plan proposes 33,280 square foot, 16 foot tall single-story (with basement) self-storage facility to be integrated with existing self-storage facility on the adjacent parcel to the south.

Land use policy direction for this area is provided by the *Catalina Foothills Subregional Plan* and *Plan Tucson*.

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 three written protests were received. Kelly Lee, 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 the Planning Center, on behalf of the property owners, First and River Storage LLP, to rezone approximately 1.2 acres, from R-3 to C-1 zoning. The rezoning site is located on the east side of First Avenue; approximately 800 feet north of River Road. The preliminary development plan proposes 33,280 square foot, 16 foot tall single-story (with basement) self-storage facility to be integrated with existing self-storage facility on the adjacent parcel to the south.

The rezoning site is an irregularly shaped parcel created from the combination of remnant right-of-way and privately owned parcels approximately 800 feet north of River Road, 300 feet south of Foothills Drive, on the east side of 1st Avenue. Adjacent to the south is a C-1 zoned self storage facility (to be expanded through this rezoning). The adjacent properties to the north, zoned R-3 and currently vacant, are constrained from development due to hillside, wash, and exiting drainage improvements. The land adjacent to the east rises abruptly and is developed with single-family attached residences zoned Pima County TR. To the west, across Oracle Road, is multi-family residential development zoned R-3.

Access to the rezoning site will be through the existing self storage facility to the south. A one-foot no vehicular access easement should be recorded where rezoning site abuts First Avenue right-of-way. Any existing curb cuts and driveways should be removed and

**C9-15-01 Self Storage – First Avenue
Rezoning: R-3 to C-1**

replaced by street curb, sidewalk, and a landscape buffer along First Avenue. Site constrains limit location of dumpster location and staff recommends applicant work with environmental services to ensure proper access and maneuverability for on-site trash pickup for existing dumpster and proposed rezoning site dumpster location. The First Avenue right-of-way adjacent to the rezoning site is within Pima County jurisdiction and is identified on the Pima County *Major Streets and Scenic Routes Plan* as an arterial street. First Avenue right-of-way adjacent to the existing self-storage facility is within the City of Tucson and is designated on the City of Tucson *Major Streets and Routes Plan* map as an aerial scenic route. The *Catalina Foothills Subregional Plan* identifies First Avenue as an arterial street adjacent to the rezoning site. Given the above, the rezoning site is subject to the landscaping requirements for arterial streets.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 81 vehicle trips per day. The applicant notes that actual traffic generated by the existing self storage facility amounts to much less than this estimate.

Land use policy direction for this area is provided by the *Catalina Foothills Subregional Plan* and *Plan Tucson*. The rezoning site is located within an existing neighborhood as identified on the Future Growth Scenario Map of *Plan Tucson*. Existing neighborhoods are characterized in *Plan Tucson* as largely built-out residential neighborhoods and commercial districts in which minimal new development or redevelopment is expected in the next few decades. The goal is to maintain the character of these neighborhoods while accommodating some new development and encouraging reinvestment, services, and amenities that contribute to further neighborhood stability. Environmentally sensitive infill projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines are supported when they enhance the overall function and visual quality of the street, adjacent properties, and the community. Urban heat island effects should be mitigated by expanding and maintaining a healthy drought-tolerant low-water use urban forest. New development should utilize solutions and strategies included in the Design Guidelines Manual to provide an improved level of community design. Land Use, Transportation, and Urban Design policies support retaining and expanding existing businesses and expansion of commercial areas into adjoining residential areas when logical boundaries, such as existing streets, or drainageways can be established to appropriately screen and buffer adjacent residential development. The rezoning site is in substantial compliance with the existing policy guidance of the *Catalina Foothills Subregional Plan* which identifies the intersection of River Road and First Avenue as having a mix of zoning and land uses, including commercial activities, and high and low density residential uses.

The development as proposed includes one-story, 14 foot tall (with basement) 33,280 square foot building on 1.2 acres, as an expansion of the existing self-storage facility to the south. The combined site will be approximately 2.86 acres. There is a grade difference between the rezoning site and the top of bluffs of approximately 50 feet. Because of the low overall building height (16 feet) and the significant elevation changes, offsite views at

C9-15-01 Self Storage – First Avenue
Rezoning: R-3 to C-1

the horizon will not be significantly impacted by the proposed rezoning and commercial development.

The exterior facades should be designed with materials, color schemes, and architectural detail that are compatible with the existing self-storage building directly south of the subject property. Side and rear building facades should have architectural character and detail comparable to the front facade using building materials, color, and other design elements. Final building design should be comparable to the existing self-storage building to the south. To reduce reflected glare from the commercial rooftops which may impact off-site views below the horizon, the roof of the proposed self-storage facility should be coated with non-reflective earth tones or compatible colors/material.

The proposed PDP reflects additional buffering and landscaping along the northern property line to assist in mitigation for the residential properties north of Foothills Drive. Proposed loading zone and dumpster location will be screened from residential development by the proposed commercial building and are proposed at a greater distance than the recommended 50 feet from residential development edges.

The applicant proposes onsite drainage onto retention detention basins and then into the adjacent natural wash located adjacent to and north of the rezoning site. The development package process will also address the landscape buffer yards and planting materials to enhance the overall visual impact of the proposed personal storage facility. Although the rezoning site street landscape buffer along First Avenue will comply with the Major Streets and Routes, arterial street requirements, it should complement in density and quality the existing scenic route landscape buffer located along First Avenue within the existing personal storage site.

The proposed commercial building is shown to be located at greater than required setbacks to reduce the impacts on hillside and to the neighboring residential units. Additional protection for the hillside will be provided by minimizing disturbance of natural undisturbed hillside vegetation. Separation of the natural undisturbed hillside from on-site commercial development will be secured by a masonry retaining wall and landscaping that will be located adjacent to building footprint. The retaining wall will support the base of bluff and contain roof run-off and direct run-off to designated retention detention basins. In addition, adjacent to the retaining wall will be a fifteen foot wide landscape area with desert trees and desert hydro-seed mix to re-establish desert vegetation at the base of the foothill bluffs to reduce visual impacts of commercial development from area residential development.

CONCLUSION

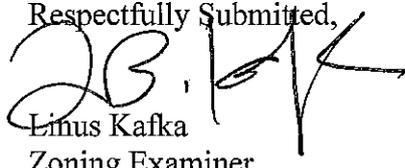
The proposed rezoning request is consistent with, and supported by the *Catalina Foothills Subregional Plan* and *Plan Tucson* which support medium-to-high-density residential, low-rise office, and neighborhood commercial including C-1 uses at this location. Subject to compliance with the attached revised preliminary conditions, approval of the requested C-1 zoning is appropriate.

C9-15-01 Self Storage – First Avenue
Rezoning: R-3 to C-1

RECOMMENDATION

The Zoning Examiner recommends approval of C-1 zoning.

Respectfully Submitted,


Linus Kafka
Zoning Examiner

ATTACHMENTS:

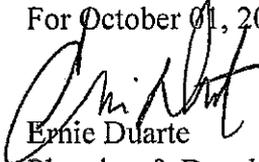
Public Hearing Minutes
Rezoning Staff Report



MEMORANDUM

DATE: September 4, 2015
For October 01, 2015 Hearing

TO: Linus Kafka
Zoning Examiner

FROM: 
Ernie Duarte
Planning & Development Services
Director

SUBJECT: REZONING
PLANNING & DEVELOPMENT SERVICES REPORT
C9-15-01 – Self Storage – 1st Avenue, R3 to C-1 (Ward 3)

Issue – This is a request by the Planning Center, on behalf of the property owners, First and River Storage LLP, to rezone approximately 1.2 acres, from R-3 to C-1 zoning. The rezoning site is located on the east side of 1st Avenue; approximately 800 feet north of River Road (see Case Location Map). The preliminary development plan proposes 33,280 square foot, 16 foot tall single-story (with basement) self-storage facility to be integrated with existing self-storage facility on the adjacent parcel to the south.

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

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-3; vacant

South: Zoned C-1; self-storage facility

East: Zoned TR (Pima County); single family attached residential

West: Zoned R-3; multi-family residential

Previous Cases on the Property: none

Related Cases:

C9-11-12 Town West – First Avenue R-2 to O-2 and C-1 This was a rezoning request to allow approximately 35,000 square feet of office, commercial, and retail development on 3.04 acres at the southwest corner of 1st Avenue and Limberlost Road. On January 24, 2012, Mayor and Council adopted Ordinance No. 10960.

Applicant's Request – The applicant is proposing to rezone approximately 1.2 acres from R-3 to C-1 to allow for an expansion of a personal storage facility. This action will allow for consolidation of the proposed rezoning site with adjacent parcel to function as a continuous C-1 commercial development with integrated pedestrian and vehicular circulation. Overall consolidated site will be approximately 2.86-acres.

Planning Considerations

Land use policy direction for this area is provided by the *Catalina Foothills Subregional Plan* and *Plan Tucson*. The rezoning site is located within an existing neighborhood as identified on the Future Growth Scenario Map of *Plan Tucson*. Existing neighborhoods are characterized in *Plan Tucson* as largely built-out residential neighborhoods and commercial districts in which minimal new development or redevelopment is expected in the next few decades. The goal is to maintain the character of these neighborhoods while accommodating some new development and encouraging reinvestment, services, and amenities that contribute to further neighborhood stability. Environmentally sensitive infill projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines are supported when they enhance the overall function and visual quality of the street, adjacent properties, and the community. Urban heat island effects should be mitigated by expanding and maintaining a healthy drought-tolerant low-water use urban forest. New development should utilize solutions and strategies included in the Design Guidelines Manual to provide an improved level of community design. Land Use, Transportation, and Urban Design policies support retaining and expanding existing businesses, and expansion of commercial areas into adjoining residential areas when logical boundaries, such as existing streets, or drainageways can be established to appropriately screen and buffer adjacent residential development. The rezoning site is in substantial compliance with the existing policy guidance of the *Catalina Foothills Subregional Plan* which identifies the intersection of River Road and 1st Avenue as having a mix of zoning and land uses, including commercial activities, and high and low density residential uses.

The rezoning site is an irregularly shaped parcel created from the combination of remnant right-of-way and privately owned parcels approximately 800 feet north of River Road, 300 feet south of Foothills Drive, on the east side of 1st Avenue. Adjacent to the south is a C-1 zoned self-storage facility (to be expanded through this rezoning). The adjacent properties to the north, zoned R-3 and currently vacant, are constrained from development due to hillside, wash, and exiting drainage improvements. The land adjacent to the east rises abruptly and is developed

with single-family attached residences zoned Pima County TR. To the west, across Oracle Road, is multi-family residential development zoned R-3.

The 1st Avenue right-of-way adjacent to the rezoning site is within Pima County jurisdiction and is identified on the Pima County Major Streets and Scenic Routes Plan as an arterial street. 1st Avenue right-of-way adjacent to the existing self-storage facility is within the City of Tucson and is designated on the City of Tucson Major Streets and Routes Plan map as an arterial scenic route. The *Catalina Foothills Subregional Plan* identifies 1st Avenue as an arterial street adjacent to the rezoning site. Given the above, the rezoning site is subject to the landscaping requirements for arterial streets.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 81 vehicle trips per day. Field inspection by staff indicates there are currently no billboards on the rezoning site.

Design Considerations

Land Use Compatibility – The development as proposed includes one-story, 14 foot tall (with basement) 33,280 square foot building on 1.2 acres, as an expansion of the existing self-storage facility to the south. The combined site will be approximately 2.86 acres. There is a grade difference between the rezoning site and the top of bluffs of approximately 50 feet. Because of the low overall building height (16 feet) and the significant elevation changes, offsite views at the horizon will not be significantly impacted by the proposed rezoning and commercial development.

The exterior façades should be designed with materials, color schemes, and architectural detail that are compatible with the existing self-storage building directly south of the subject property. Side and rear building façades should have architectural character and detail comparable to the front façade using building materials, color, and other design elements. Final building design should be comparable to the existing self-storage building to the south. To reduce reflected glare from the commercial rooftops which may impact off-site views below the horizon, the roof of the proposed self-storage facility should be coated with non-reflective earth tones or compatible colors/material.

The proposed PDP reflects additional buffering and landscaping along the northern property line to assist in mitigation for the residential properties north of Foothills Drive. Proposed loading zone and dumpster location will be screened from residential development by the proposed commercial building and are proposed at a greater distance than the recommended 50 feet from residential development edges.

Drainage/Grading/Vegetation – The applicant proposes onsite drainage onto retention detention basins and then into the adjacent natural wash located adjacent to and north of the rezoning site. The development package process will also address the landscape buffer yards and planting materials to enhance the overall visual impact of the proposed personal storage facility. Although the rezoning site street landscape buffer along 1st Avenue will comply with the Major Streets and

Routes, arterial street requirements, it should complement in density and quality the existing scenic route landscape buffer located along 1st Avenue within the existing personal storage site.

The proposed commercial building is shown to be located at greater than required setbacks to reduce the impacts on hillside and to the neighboring residential units. Additional protection for the hillside will be provided by minimizing disturbance of natural undisturbed hillside vegetation. Separation of the natural undisturbed hillside from on-site commercial development will be secured by a masonry retaining wall and landscaping that will be located adjacent to building footprint. The retaining wall will support the base of bluff and contain roof run-off and direct run-off to designated retention detention basins. In addition, adjacent to the retaining wall will be a fifteen foot wide landscape area with desert trees and desert hydro-seed mix to re-establish desert vegetation at the base of the foothill bluffs to reduce visual impacts of commercial development from area residential development.

Vehicular/Dumpster Access – Access to the rezoning site will be through the existing self-storage facility to the south. A one-foot no vehicular access easement should be recorded where rezoning site abuts 1st Avenue right-of-way. Any existing curb cuts and driveways should be removed and replaced by street curb, sidewalk, and a landscape buffer along 1st Avenue. Site constraints limit location of dumpster location and staff recommends applicant work with environmental services to ensure proper access and maneuverability for on-site trash pickup for existing dumpster and proposed rezoning site dumpster location.

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.

Signs – The rezoning site is an expansion to the existing self-storage facility. The existing self-storage facility wall signs were subject to scenic route *Sign Code* regulations. Request for any future signage within the overall personal storage facility site will be subject scenic route sign regulations, as defined and regulated by the City of Tucson *Sign Code*.

Mapping – Due to a past realignment of 1st Avenue and the sale of portions of Pima County owned parcels to the applicant, Pima County and City of Tucson mapping of the area may not accurately reflect existing conditions. The Pima County Real Property Division is in the process of redefining

legal descriptions for First Avenue right-of-way and Pima County owned parcels. These legal issues affect this City of Tucson rezoning process. As part of the City of Tucson rezoning and development review process, and prior to the issuance of construction permits, the above mentioned legal issues will need to be resolved.

Conclusion – The proposed rezoning request is consistent with, and supported by the *Catalina Foothills Subregional Plan* and *Plan Tucson* 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.

PROCEDURAL

1. A Development Package shall be in substantial compliance with the Preliminary Development Plan dated July 24, 2015 and the required reports dated May 2015, 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. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County’s public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

8. Building height shall not to exceed sixteen (16) feet in height, as propose in the Design Compatibility Report.
9. East and north building façade shall have no doors, or operable windows on east and north building façade, except for *Fire Code* and *Building Codes* emergency exit requirements.

10. All outdoor security lighting shall be in compliance with the Outdoor Lighting Code and shall be full cutoff directed down and shielded away from residential parcels and public right-of-way. Wall mounted or pole mounted outdoor lighting shall not exceed sixteen (16) feet in height to the light source. Outdoor light layout and lighting fixture detail shall be submitted as part of the development package.
11. Outdoor noise-generating activities such as but not limited to; trash dumpsters, loading zone, shall be a minimum of fifty (50) feet from the east and north property lines.
12. Six (6) inch wide fence block or greater shall be used for required/proposed perimeter/screen wall(s).
13. All perimeter/screen wall(s) shall be graffiti-resistant masonry that incorporates two (2) or more of the following visually appealing design treatments, such as the use of decorative materials like stucco, tile, stone, rusted metal, or brick; a visually-interesting design on the wall surface; and/or a varied wall alignment (jog, curve, notch, setback, etc.). Provide wall detail. Graffiti to be removed within five days of discovery.
14. Hours of operation; including trash pick-up and patrons with access cards (except for emergencies) shall be limited from 7:00 a.m. to 7:00 p.m.
15. The exterior facades shall be designed with materials, color schemes, and architectural details that are compatible with the existing self-storage building directly south of the subject property. Side and rear building facades should have architectural character and details comparable to the front façade using building materials, color, and other design elements. Final building design should be comparable to the existing self-storage building to the south.
16. The roof of the proposed self-storage facility shall be coated with non-reflective earth tones or compatible colors/material.

DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

17. There shall be no encroachment of the undisturbed hillside slopes as identified on preliminary development plan dated July 24, 2015, except as following: a fifteen (15) foot wide “construction encroachment zone/landscape buffer” shall be located abutting full length of east retaining wall, which parallels the east building façade, as identified in preliminary development plan dated July 24, 2015, sheet C3 of 14, keynote 23. The “construction encroachment zone/landscape buffer” shall separate the undisturbed hillside slopes from the buildable area. Construction encroachment zone/landscape buffer shall be identified in the development package and labeled with keynote.
18. Prior to a grubbing/grading permit, the “construction encroachment zone/landscape buffer” area shall require a fence permit to install a temporary fence. Temporary fence shall be installed prior to grubbing or grading of site. Fence shall be installed along the full length of the east edge of the “construction encroachment zone/landscape buffer.” The fencing

material to be of sturdy material to withstand excavation and construction of basement, building, and east retaining wall. The fifteen (15) foot wide “construction encroachment zone/landscape” is to allow equipment, small construction vehicles, material and workers a zone in which to work on the exterior of the east building façade and associated east retaining wall needed to retain/stabilize the slope cut adjacent to the building footprint.

19. At the time of landscape improvements, the “construction encroachment zone/landscape buffer” located east of the building/retaining wall, shall be converted to a fifteen (15) foot wide landscape buffer. Temporary fencing to remain in place during landscape planting adjacent to the undisturbed hillside slopes and vegetation. Landscape buffer located east of building shall include drought tolerant, native thorn-less canopy trees and hydro-seeding for ground cover. A temporary drip irrigation system for this buffer area located east of the building shall be installed for a minimum of 1 year or until trees and hydro-seed are stable and can survive with Tucson’s annual rain fall.
20. That portions of the site with natural undisturbed hillside located east of the “construction encroachment zone/landscape buffer: (see condition #19), shall be excluded from site improvements and remain in its natural state, except as needed for underground utility improvements. Utility trenching in the protected hillside are shall require a ground cover desert hydro-seed mix when utility work completed.
21. Prior to Certificate of Occupancy or equivalent, the temporary fencing separating the undisturbed hillside slopes from the buildable area shall be removed.
22. Incorporate water harvesting techniques into the landscape irrigation design.
23. Preparation of a complete Drainage Report, including details of detention/retention, is required.
 - a) all flows of 100 cfs or more must be clearly delineated and verification of finishes floor elevations will be required. Complete compliance with the Floodplain Ordinance and floodplain permits and/or elevation certificates might be required.
 - b) Detention/retention basin floors shall be graded to drain either toward the outlet structure or other logical point. Basin floors shall not be flat.
 - c) Detention/retention basins shall be located adjacent to a street or accessible common area. Basin side slopes in the adjacent area (s) shall be designed and constructed in accordance with the requirements of the Detention/Retention Manual for human activity zones.
 - d) Rectangular basin shapes shall be avoided unless necessitated by recreational or visual amenities within the basin.
 - e) Vegetation shall be used as screening and/or security barriers for minimum of ten percent of the basin perimeter.
 - f) All security barriers and screening for detention/retention basins shall meet Safe by Design guidelines.
 - g) Provide design detail of the proposed drainage structures that shows the landscaping for this buffer area. Indicate the type of materials, (sandy bottom to

maximize water harvesting) and landscape plantings. There shall be no concrete used in the North Manor Wash for bank protection or stabilization.

24. There shall be no greater than a 10 percent surplus over the number of vehicle parking spaces required by the *UDC* for the proposed use.
25. New and replacement roofing material shall be Energy Star rated, or cool roof rated with Initial Solar Reflectance Greater than or equal to 0.65, and minimum infrared emittance to be 85% or more. Roof surface material color to be earth tone or compatible.
26. Tree root zone within the paved parking area have a minimum of 300 cubic feet (no deeper than 3') of un-compacted 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.
27. Mature trees, trunk diameter 4.5 feet above existing grade that is greater than eight inches in fair to good health, will be preserved in place; if this is not possible, removed trees will be mitigated in one of the following ways:
 - a) trees to be assessed for replacement value using an acceptable assessment methodology (International Society of Arborist); funds set aside in a Tree Fund to be used for revegetation/landscape enhancement and/or improvements within street rights-of-way, or within common space areas within the neighborhood association, within a mile radius from site;
 - b) the following replacement to be in addition to the required landscape
 - 1) Trunk diameter 4.5-6" = replace with 3 trees, minimum 15 gallon.
 - 2) Trunk diameter > 6" – 8" = replace with 4 trees, minimum 15 gallon.
 - 3) Trunk diameter > 8" = replace with 5 trees, minimum 15 gallon.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

28. Development package to provide a one-foot no access vehicular easement along the west property line where the rezoning area abuts 1st Avenue right-of-way. Development package to indicate location of the one foot no-access vehicular easement and identified by keynote. The one foot no-access vehicular easement shall be recorded and the assigned sequence number shall be provided on the development package.
29. The following is within Pima County right-of-way and will require Pima County permits and inspections. A minimum six (6) foot wide public sidewalk, or same width as City right-of-way on adjacent parcel to the south, whichever width is greater, shall be constructed along 1st Avenue. Closure of all existing driveway/entrances on 1st Avenue that are to be removed. Curb opening will be closed with new curb.
Or, as may be exempt by Pima County; requires Pima County documented waiver/exemption.

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(l).

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 C9-15-01 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 C9-15-01.

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.

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

Manny Padilla - C9-15-01 Revised Preliminary Conditions of Rezoning

From: Manny Padilla
To: Kafka, Linus
Date: 10/02/2015 1:07 PM
Subject: C9-15-01 Revised Preliminary Conditions of Rezoning
Attachments: Revised 10.1.2015_Prelim Conditions and Prop 207 waiver.docx; C9-15-01 Revised Preliminary Conditions of Rezoning.pdf

Linus attached is a copy of the C9-15-01, revised preliminary conditions of rezoning without the **bold** letters identifying the clarification and revised language for condition number 23.g).
I'm providing you with both a PDF and a Word document for your file.

Rezoning case C9-15-01 was part of the Zoning Examiner's Public Hearing on October 1, 2015 (last night).
The revised preliminary conditions were part of the hearing.