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FOR CITY COUNCIL PACKET  
MAY 6, 2014

BACK-UP INFORMATION FOR THE WEDNESDAY, MAY 7, 2014, FORMAL AGENDA

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Packet Date: May 1, 2014

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**CITY COUNCIL REPORT**

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**FORMAL AGENDA**

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TO: City Council AGENDA DATE: May 7, 2014  
FROM: Greg Stanton PAGE: 1  
Mayor  
SUBJECT: BOARDS AND COMMISSIONS

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**Development Advisory Board**

I recommend the following for appointment:

Michael Abegg

Mr. Abegg is the current Building Official for the City of Phoenix. He will replace Julie Belyeu on the Board as an ex-officio member.

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**CITY COUNCIL REPORT**

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**FORMAL AGENDA**

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TO: Mayor and Council Members                      AGENDA DATE: May 7, 2014

FROM: Penny Parrella, Executive Assistant                      PAGE: 1  
to the City Council

SUBJECT: BOARDS AND COMMISSIONS – CITY COUNCIL APPOINTEES

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**Central City Village Planning Committee**

Councilman Michael Nowakowski recommends the following for appointment:

Caitlyn Mitchell

Ms. Mitchell is a management analyst in the Deputy County Manager's Office for Maricopa County and a resident of Central City. She has previously served on other community advisory boards and will fill a vacancy on the committee. Her term will expire November 19, 2015.

**Estrella Village Planning Committee**

Councilman Michael Nowakowski recommends the following for appointment:

Joseph Gorfoth

Mr. Gorfoth is a planner with Southwest Development Services. He is a resident of District 7 and will fill a vacancy on the committee. His term will expire November 19, 2015.

Dan Rush

Mr. Rush is an entrepreneur and the owner of Rush Auto Recyclers, Inc. in District 7. He will fill a vacancy on the committee and his term will expire November 19, 2015.

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## CITY COUNCIL REPORT

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### FORMAL AGENDA

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TO: Deanna Jonovich  
Deputy City Manager

AGENDA DATE: May 7, 2014

FROM: Karl Matzinger  
Interim Housing Director

ITEM: 16 PAGE: 24

SUBJECT: ORDINANCE S-40695 – ALLOCATION OF GAP FUNDING FOR FUTURE  
PHASES OF FRANK LUKE ADDITION HOPE VI REVITALIZATION

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This report provides back-up information to Item 16 on the May 7, 2014, City Council Formal Meeting agenda, which requests City Council authorization to use up to \$5,000,000 of City of Phoenix Affordable Housing Program funds, and up to \$2,228,920 of 2006 General Obligation Affordable Housing and Neighborhood Revitalization (GO) Bond funds as presented to the Bond Executive Committee and approved in April 2011, for future phases of the Frank Luke Addition HOPE VI Revitalization.

Affordable Housing and GO Bond funds requested in this report will only be used if the Low Income Housing Tax Credit (LIHTC) applications submitted by the City to the Arizona Department of Housing in March 2014 are not awarded.

The Neighborhoods, Housing, and Development Subcommittee recommended approval of this item on February 18, 2014.

#### THE ISSUE

In May 2011, the U.S. Department of Housing and Urban Development (HUD) awarded the City of Phoenix a \$20 million HOPE VI grant to revitalize the former Frank Luke Addition (FLA) public housing community. The 12.2-acre site is bounded by 16th and 18th Streets, and Villa and McKinley Streets. The revitalized FLA community, now called Aeroterra, will consist of 250 mixed-income rental units built in multiple phases, a new 6,500-square-foot community and early childhood education center, and a renovated Historic building to be used as community space and leasing offices.

Development of the FLA site through City instrumentalities was approved by City Council in three different Ordinances: S-37208, S-38087, and S-38139. Ordinance S-38139, approved in August 2011, authorized the formation of new City instrumentalities, applications for Low Income Housing Tax Credit (LIHTC) financing, and all actions necessary to develop, implement, and operate all phases of the FLA Revitalization.

In accordance with those Ordinances, and the commitment to redevelop the property based on receiving the federal HOPE VI grant, the Housing Department relocated residents and demolished 134 units of public housing on the FLA site with HUD approval. The first phase of the revitalization, Aeroterra Senior Village, was completed in December 2012 and remains 100 percent occupied, serving seniors and persons with disabilities in 60 public housing units.

Federal HOPE VI grant funds require the Housing Department to maintain compliance with HUD requirements such as Davis Bacon wages, environmental abatement, legal services related to the HUD Mixed Finance approval process, and additional operating reserves for public housing, which typically leads to increased costs to the development, when compared to private sector and/or other affordable developments. In addition, a unique aspect of the Phase 2 development includes the mandated renovation of the on-site Historic building.

### OTHER INFORMATION

The Low Income Housing Tax Credit (LIHTC) Program is an indirect Federal subsidy used to finance the development of affordable rental housing for low-income households. Each year, the IRS allocates housing tax credits to designated state agencies which in turn award the credits to developers of qualified projects through a competitive process.

The amount of Federal HOPE VI grant funds awarded to the City for the FLA project will not cover the entire cost to redevelop the 250 rental units and a community center required by the grant. In order to bridge that gap, and leverage the HOPE VI grant funds, the Housing Department submitted LIHTC applications to the Arizona Department of Housing in March 2014 for Phases 2 and 3 of the FLA Revitalization.

Similarly to the HOPE VI grant funds, the LIHTC Program also carries unique compliance requirements and program criteria, which can increase the development costs when compared to private sector and/or other affordable developments. For example, the LIHTC Program generally limits projects to between 50 and 80 units. This can result in increased development costs because economies of scale cannot be achieved due to the limited number of units being constructed. The LIHTC Program also requires additional finance and legal costs because of the tax credit and equity investor documentation and reporting requirements. Finally, based on the City's public housing wait list information, the FLA development has a need to accommodate larger families with more three-, four-, and five-bedroom units than a typical LIHTC development.

The development costs submitted for FLA Phases 2 and 3 are in line with other affordable projects submitted under the LIHTC process. Construction and financing costs for the two Phases are estimates and these two services will be competitively bid if awarded LIHTCs this year.

## RECOMMENDATION

The Neighborhoods, Housing, and Development Subcommittee recommended approval of this item on February 18, 2014.

On the April 16, 2014, Formal Agenda Item 34 was continued to the May 7, 2014, Formal City Council meeting.

The May 7, 2014, Formal Agenda Item 16 requests authorization to use up to \$5,000,000 of City of Phoenix Affordable Housing Program funds, and up to \$2,228,920 of 2006 General Obligation Affordable Housing and Neighborhood Revitalization (GO) Bond funds as presented to the Bond Executive Committee and approved in April 2011, for future phases of the Frank Luke Addition HOPE VI Revitalization. Authorization is also requested for the City Manager to execute all necessary documents and the City Controller to disburse the funds over the life of the contract(s).

Affordable Housing and GO Bond funds requested in this report will only be used if the LIHTC applications submitted by the City to the Arizona Department of Housing in March 2014 are not awarded.

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**CITY COUNCIL REPORT**

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**FORMAL AGENDA**

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TO: Rick Naimark  
Deputy City Manager

AGENDA DATE: May 7, 2014

FROM: Alan Stephenson  
Acting Planning and Development  
Director

ITEM: 85 PAGE: 96

SUBJECT: Z-56-13-6 – LOCATED APPROXIMATELY 305 FEET NORTH OF THE  
NORTHEAST CORNER OF 7TH STREET AND OCOTILLO ROAD

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This report provides back-up information on Item 85 on the May 7, 2014, Formal Agenda.

**THE ISSUE**

A rezoning application has been submitted for approval to the City Council for a parcel located approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road. Application is being made by Jason Allen of Skyline consultants on behalf of Mr. Ken and Dr. Jen Gatt.

**OTHER INFORMATION**

Rezoning Case Z-56-13-6 is a request to rezone 0.96 acres from R1-6 to R-O to allow a psychologist office.

The Camelback East Village Planning Committee reviewed the application on February 4, 2014, and recommended approval, subject to staff stipulations on a 12-0 vote.

The application was heard by the Planning Commission on February 11, 2014, and recommended for approval per the memo from Tricia Gomes dated February 11, 2014, with one additional stipulation limiting the height of development to 15 feet and one story on a 7-0 vote.

The application was appealed by the opposition and a three-fourths vote of the City Council is required for approval.

Attachments:

A – Staff Report Z-56-13-6



**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT

**To:** City of Phoenix Planning Commission **Date:** February 11, 2014

**From:** Tricia Gomes  
Planner III

**Subject:** BACK UP TO ITEM 7 (Z-56-13-6) – APPROXIMATELY 305 FEET NORTH OF THE NORTHEAST CORNER OF 7<sup>TH</sup> STREET AND OCOTILLO ROAD

This memo is to update the site plan to address communications between the applicant and adjacent property owners regarding an additional landscape buffer along the east and south property lines. Staff has not received a recorded Proposition 207 Waiver; therefore Stipulation 8 has been added.

Staff recommends approval per the revised and additional stipulations.

1. The development shall be in general conformance with the site plan date stamped ~~January 9, 2014~~ FEBRUARY 11, 2014, except as modified by the following stipulations and approved by the Planning and Development Department.
2. The property owner shall provide a minimum 20-foot landscape setback with a minimum 3-inch caliper trees to be placed 20-feet on center or in equivalent groupings along the east property line as approved by the Planning and Development Department, WITH SPECIFIC REGARD TO THE 11 TREES ALONG THE SOUTH AND EAST PROPERTY LINES AS DEPICTED ON THE SITE PLAN DATE STAMPED FEBRUARY 11, 2014.
3. The property owner shall provide a minimum 20-foot landscape setback with a minimum 3-inch caliper trees to be placed 20-feet on center or in equivalent groupings along the south property line as approved by the Planning and Development Department.
4. The property owner shall maintain a minimum of three trees in the front yard setback.
5. The maximum number of parking spaces allowed shall not exceed 125 percent of the City requirement.
6. The trash enclosure shall be located no closer to the street than the main building as approved by the Planning and Development Department.
7. The property owner shall dedicate a 10-foot wide sidewalk easement along the east side of 7th street as approved by the Planning and Development Department.
8. THAT PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER



SHALL EXECUTE A PROPOSITION 207 WAIVER OF CLAIMS IN A FORM APPROVED BY THE CITY ATTORNEY'S OFFICE. THE WAIVER SHALL BE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE AND DELIVERED TO THE CITY TO BE INCLUDED IN THE REZONING APPLICATION FILE FOR RECORD.

**Attachments**

Site plan date stamped February 11, 2014



**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT

**Staff Report: Z-56-13-6**  
January 22, 2014

<b>Camelback East Village Planning Committee Hearing Date</b>	February 4, 2014
<b>Planning Commission Hearing Date</b>	February 11, 2014
<b>Request From:</b>	R1-6 (0.96 acres)
<b>Request To:</b>	R-O (0.96 acres)
<b>Proposed Use</b>	Office
<b>Location</b>	Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road
<b>Owner</b>	Mr. Ken and Dr. Jen Gatt
<b>Applicant's Representative</b>	Jason P. Allen – Skyline Consultants
<b>Staff Recommendation</b>	Approval, subject to stipulations

<b>General Plan Conformity</b>			
<b>General Plan Land Use Designation</b>		Residential 3.5 to 5 du / acre	
<b>Street Map Classification</b>	7th Street	Major Arterial	40-foot east half street
<p><b><i>LAND USE ELEMENT, GOAL 5: INTEGRATION OF LAND USE AND TRANSPORTATION SYSTEMS: AN INTEGRATED LAND USE AND TRANSPORTATION SYSTEM, WHICH FURTHERS THE URBAN VILLAGE MODEL AND MINIMIZES THE ADVERSE IMPACTS OF THE TRANSPORTATION SYSTEM ON HOUSING, BUSINESSES AND PUBLIC USES, SHOULD BE ENCOURAGED.</i></b></p> <p>The elimination of a single family residence along 7th Street will further minimize the adverse impacts of the major arterial on the surrounding single family neighborhood.</p>			
<p><b><i>NEIGHBORHOOD ELEMENT, GOAL 4: CHARACTER AND IDENTITY: NEIGHBORHOOD CHARACTER AND IDENTITY SHOULD BE ENCOURAGED AND REINFORCED.</i></b></p> <p>The proposed redevelopment would repurpose an underutilized and vulnerable property into a compatible use for a major arterial, preserving the neighborhood's residential character and identity.</p>			

<b>Surrounding Land Uses/Zoning</b>		
	<u>Land Use</u>	<u>Zoning</u>
<b>On Site</b>	Single-Family Residential	R1-6
<b>North</b>	Office	R-O
<b>South</b>	Single-Family Residential	R1-6
<b>East</b>	Single-Family Residential	R1-6
<b>West</b>	Single-Family Residential	R1-10

### **Background/Issues/Analysis**

1. This is a request to rezone 0.96 acres from R1-6 (Single-Family Residential) to R-O (Residential Office) to allow an office.
2. The site is currently developed with a vacant, ranch style, single-family home. Access to the existing home is provided through a long driveway that enters the property at the southwest corner of the site. The driveway curves toward the front of the home and then wraps around the north side of the property toward the back of the home.
3. The General Plan designation for the parcel is Residential 3.5 to 5 dwelling units per acre. While the proposal is not consistent with the General Plan designation, it is consistent with many General Plan policies and the land uses in the area.
4. There are single-family properties to the south and east which may be sensitive to the increase traffic and noise of an office development. The property owner has agreed to maintain large landscape setbacks along the southern and eastern property lines to buffer these uses. A stipulation has been added to address this requirement.
5. The property owner has agreed to take steps to keep the residential feel of the property. The property will be providing a large landscape setback in the front of the home to maintain the residential feel of the property, limiting the amount of parking on the site, and keeping the trash enclosure behind the front of the main building. Stipulations have been added to address these requirements.
6. The parking for the development will primarily be located along the northern property line, next to the existing office building to the north. Four parking spaces, including an accessible parking spot will be located in front of the building, near its north end. A general conformance stipulation has been added to address this requirement.
7. The City of Phoenix Floodplain Management division of the Street Transportation Department has determined that this parcel is not in a Special Flood Hazard Area (SFHA), but is located in a Shaded Zone X, on panel 1740 L of the Flood Insurance Rate Maps (FIRM) dated October 16, 2013.
8. Development and use of the site is subject to all applicable codes and ordinances. Zoning approval does not negate other ordinance requirements. Other formal actions such as, but not limited to, zoning adjustments and abandonment may be required.

### **Findings**

1. The proposal is consistent with the surrounding land uses.

2. The development would improve and adaptively reuse an underutilized property along a major arterial.
3. The proposal will maintain residential feel of the surrounding area, while providing a buffer from 7th street for the single-family residential to the east.

### **Stipulations**

1. The development shall be in general conformance with the site plan date stamped January 9, 2014, except as modified by the following stipulations and approved by the Planning and Development Department.
2. The property owner shall provide a minimum 20-foot landscape setback with a minimum 3-inch caliper trees to be placed 20-feet on center or in equivalent groupings along the east property line as approved by the Planning and Development Department.
3. The property owner shall provide a minimum 20-foot landscape setback with a minimum 3-inch caliper trees to be placed 20-feet on center or in equivalent groupings along the south property line as approved by the Planning and Development Department.
4. The property owner shall maintain a minimum of three trees in the front yard setback.
5. The maximum number of parking spaces allowed shall not exceed 125 percent of the City requirement.
6. The trash enclosure shall be located no closer to the street than the main building as approved by the Planning and Development Department.
7. The property owner shall dedicate a 10-foot wide sidewalk easement along the east side of 7th street as approved by the Planning and Development Department.

### **Writer**

Xandon Keating

01/16/14

### **Team Leader**

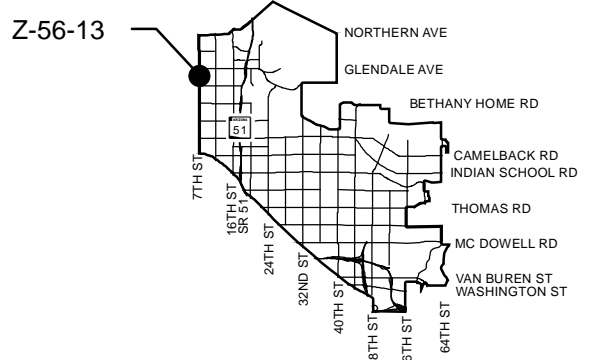
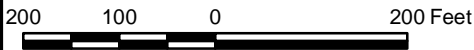
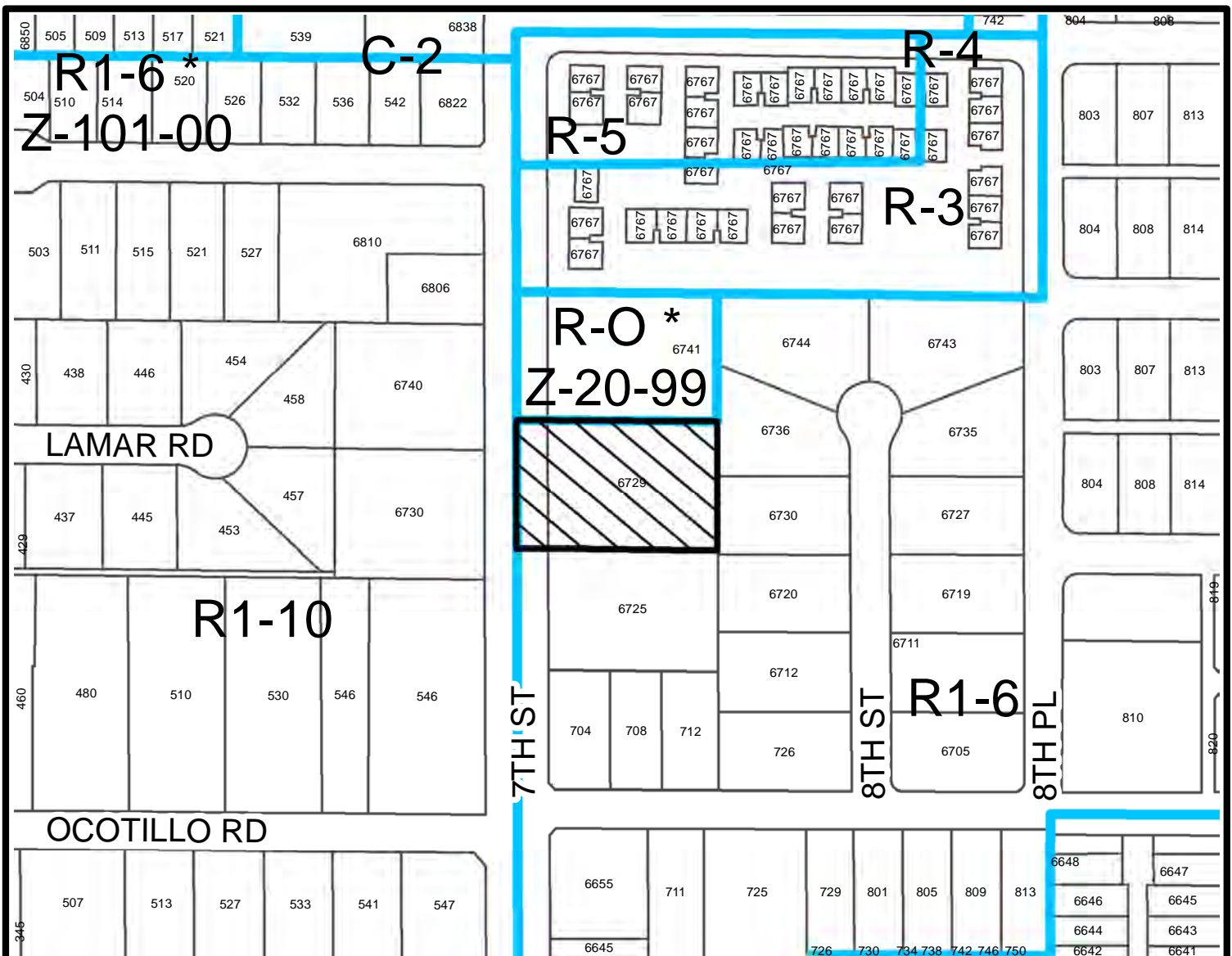
Joshua Bednarek

### **Attachments**

Sketch Map

Aerial

Site Plan (date stamped 1/9/14)

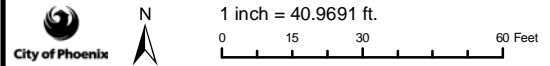
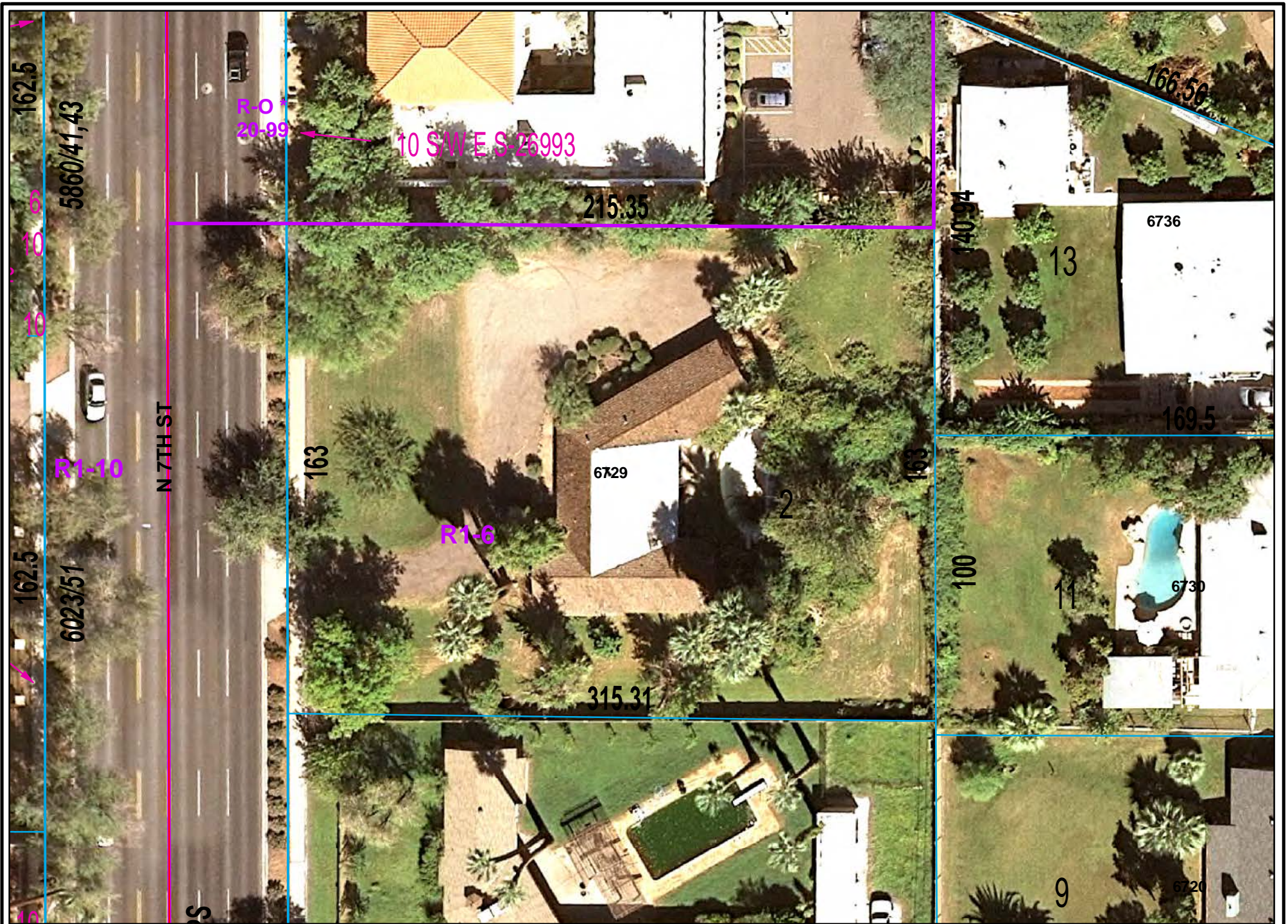


CITY OF PHOENIX PLANNING DEPARTMENT  
**CAMELBACK EAST VILLAGE**  
 CITY COUNCIL DISTRICT: 6

<b>APPLICANT'S NAME:</b> Mr. Ken & Dr. Jen Gatt		<b>REQUESTED CHANGE:</b>	
<b>APPLICATION NO.</b> Z-56-13		<b>FROM:</b> R1-6, (.96 a.c.)	
<small>GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX.</small> .96 Acres		<b>TO:</b> R-O, (.96 a.c.)	
<b>MULTIPLES PERMITTED</b>		<b>CONVENTIONAL OPTION</b>	
R1-6		4	
R-O		1	
		<b>* UNITS P.R.D. OPTION</b>	
		6	
		1	

\* Maximum Units Allowed with P.R.D. Bonus

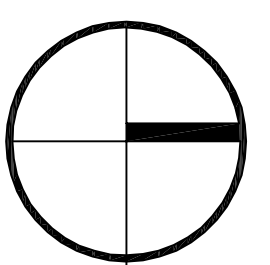
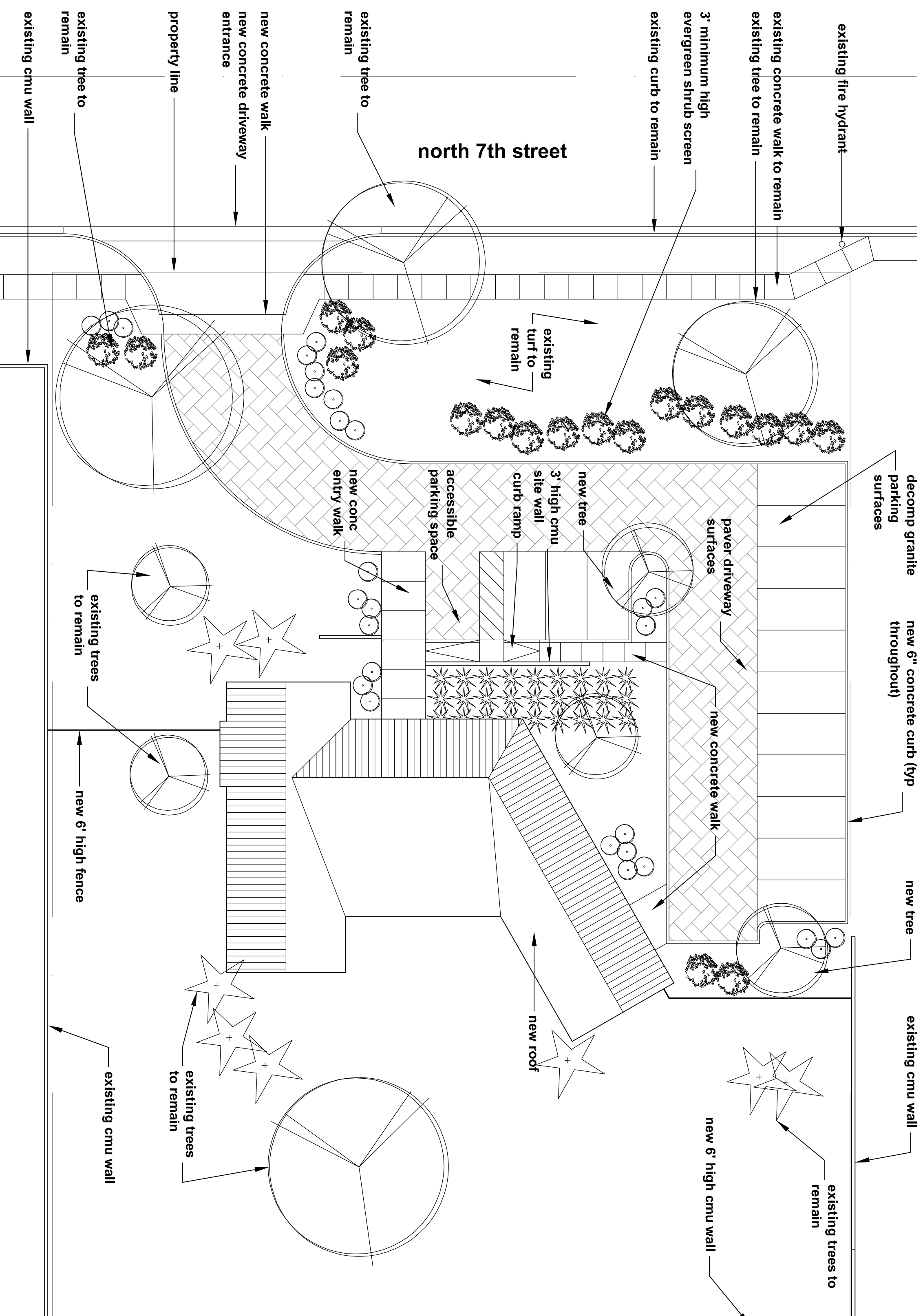




# Planning and Development

The information provided on this map is based on record drawings submitted by others. Users of this information are cautioned that independent verification of actual conditions may be necessary





# site plan

1/16" = 1'-0"

parking:  
 3312 sf building @ 1 space per 300 sf = 11 spaces required  
 14 standard 8.5'x18' spaces provided  
 1 accessible 11'x18' space provided

# residential office conversion

6729 north 7th street

phoenix, arizona

CITY OF PHOENIX

JAN 09 REC'D

PLANNING DEPT.  
 2ND FL. RECEPTION



## Village Planning Committee Meeting Summary Z-56-13-6

<b>Date of VPC Meeting</b>	February 4, 2014
<b>Request From</b>	R1-6
<b>Request To</b>	R-O
<b>Proposed Use</b>	Office
<b>Location</b>	Approximately 305 feet north of the northeast corner of 7 <sup>th</sup> Street and Ocotillo Road
<b>VPC Recommendation</b>	Approved per the staff recommendation.
<b>VPC Vote</b>	12-0

### **VPC DISCUSSION & RECOMMENDED STIPULATIONS:**

**Vice Chair Cole** noted this case had a number of residents in opposition, and made a motion to continue for 28 days to the next Camelback East Village Planning Committee meeting. **Mr. Rodney Jarvis** seconded the motion, noting he was seconding the motion so they could talk about the proposed continuance. Mr. Jarvis noted he liked the idea of the applicant working with the residents to resolve any issues.

**Ms. Karin Beckvar** asked if the neighborhood notification included the entire platted subdivision. Mr. Keating responded that it likely did, just looking at the plat it would appear everybody would likely be within the 600 feet, but without more research it is impossible to tell.

**Ms. Rhonda Beckerleg Thraen** asked if the continuance would affect the Planning Commission date. Mr. Keating responded the applicant would need to request a continuance at Planning Commission.

**Mr. Jarvis** asked if staff felt the applicant had adequately addressed issues with the community. Mr. Keating responded that this is really a judgment call for the Committee to make. However, Mr. Keating noted the applicant had addressed issues such as security and buffers and the applicant had attempted to reach out on the issue of CC&R's but has been unable to meet with the correct people.



**Chairman Swart** clarified that all members of the public who had put a card in would be given a chance to speak on the continuance. **Mr. Jarvis** withdrew his second because he felt it was better to hear the item and decide what to do then. **Vice Chair Cole** responded by withdrawing his motion.

Mr. Keating provided a brief overview of the request, noting the surrounding land uses, general plan designation and staff recommendation.

The applicant's representative, **Mr. Jason Allen** gave a presentation on the request. Mr. Allen discussed the history of property, noting it has been in the same family for many years, but has remained vacant for several years. He continued with a discussion of previous proposed developments at the site which mostly consisted of three to four homes. Mr. Allen emphasized the home would be preserved, much of the landscaping would remain, and the property would retain its residential feel. Mr. Allen finished by discussing the notification requirements and the CC&R's. Mr. Allen noted the CC&R's have been modified previously, once to allow a three lot split for three new single family homes, and once to allow a two story office building on the property to the north of the subject site.

**Chairman Swart** asked what type of Doctor's office would be operated on the subject site? Mr. Allen responded it would be a neuropsychological office with no more than 9 employees at a time. The only patients would be children who are there for testing, one at a time.

**Mr. Jarvis** asked if the site would be secured after hours. Mr. Allen responded the building would be, they will be building a six foot wall to secure the rear of the property and are working with a security company to install lighting and other security features.

**Ms. Beckvar** asked if drugs would be kept on site. The applicant, **Ms. Jennifer Gatt** responded there would not be any drugs on site. She continued that doctors practicing at this facility are all PHD's, not MD's and do not have the authority to prescribe medicine.

**Mr. Lee Miller** asked what the plan was if the CC&R's cannot be amended. Mr. Allen responded that the property owners now own the home, and did not have a backup plan.

**Ms. Kathryn Langmade** asked for a clarification on the number of people at the facility at one time. She was confused because the numbers seemed to conflict. Ms. Gatt responded that three doctors work at the facility at one time. They each test one child at a time, but do it separately. Because the testing is very intense, they also will have two graduate students each to assist them. The doctors typically test on separate days, and are not at the facility at the same time, but at most they could have a total of nine employees at the facility at one time.

**Mr. Wally Graham** asked what uses R-O allows. Mr. Keating responded that R-O primarily allows professional office uses such as a doctor's office, law firm, accountant, etc. He also explained that R-O would allow conversion back to single family if the property owner chose to do so. Mr. Wally Graham followed up by asking if the permitted R-O uses would be allowed regardless of the CC&R's. Mr. Keating responded that they would. CC&R's do not affect city zoning regulations.

Five cards were presented to the chair in **support** of this item, with one wishing to speak.

**Ms. Holly Courtin** spoke in support of the item. Ms. Courtin noted she is the daughter of the current owner. She continued with a history of the property, and how it got to be in its present condition. She noted it was important to the previous owners that the integrity of the property be kept intact. She noted there were other commercial uses along 7<sup>th</sup> Street and felt the use was appropriate.

The following individuals submitted cards in support but did not choose to speak:

- Jason J. Baker
- Jennifer Gatt
- Ken Gatt
- R. Courtin

Three cards were presented to the chair in opposition of this item, with two wishing to speak.

**Ms. Catherine Balzano** spoke in opposition of the item. She noted after many years of living in other parts of the City, she choose to return to Central Phoenix because of the quality of life that it offers. She mentioned she represented approximately 5 homeowners whose property backs up to the properties that front 7<sup>th</sup> Street. She noted former developers have been willing to work with the neighborhood, and did not feel this property owner had made a good faith effort to meet them. She also noted the CC&R's were very specific that mental health facilities were not allowed.

**Mr. Thomas Beard** spoke in opposition of the item. He mentioned that he likes the residential feel of the neighborhood, explain that when he purchased his home, he read the CC&R's and wanted a residential neighborhood. He does not want to live by commercial businesses and does not see a reason to amend the deed restrictions.

**Ms. Patricia Sallen** asked if the proposed development did not happen, what would he suggest instead. Mr. Beard responded he would like to see a single house on the property. He continued that the previous property owners did not allow the property to stay on the market long enough to attract someone interested in keep the property residential.

**Ms. Janice Ariola** also submitted a card in opposition, but choose not to speak.

**Mr. Jason Allen** gave a brief rebuttal clarifying the residential density of 5.5 units that would be allowed on the site. He noted it is a large lot and 7<sup>th</sup> Street is a major street which is very undesirable to live next to.

**Mr. Graham** noted he was hearing from the community that they are concerned about erosion of commercial uses into the neighborhood, but feels R-O meets the intent of a buffer and would work well for the neighborhood.

**Mr. Miller** asked if R-O could happen along 8<sup>th</sup> Street. Mr. Keating responded we cannot say it is not possible, the decision is ultimately up to City Council, but staff would not be supportive of an R-O request along 8<sup>th</sup> Street. He continued that R-O is intended as a buffer between sensitive single family residential uses, and more intense uses such as typical commercial zoning or an arterial. The office space along 7<sup>th</sup> Street is not intense enough to warrant R-O zoning along 8<sup>th</sup> Street.

**Mr. Craig Tribken** noted the sidewalk was set back on this property, and asked how that happened. Mr. Keating and Mr. Allen both noted reason for the sidewalk modification was not identified through their research, and they did not know. Mr. Tribken also asked why staff would state they were not requiring a landscape strip across the entire rear yard, so if at a future date the property could use a portion of the rear for parking if needed. Staff responded that previous iterations of the proposed site plan included much more parking in the front. Staff wanted to ensure there was very little parking in the front and felt the rear landscape buffer as proposed was sufficient.

**MOTION: Mr. Rodney Jarvis** made a motion to approve as presented noting the Committee does not have any authority to act on CC&R's. **Mr. Craig Tribken** seconded the motion.

**Mr. Graham** explained his support by saying felt this was a good solution, but he was concerned with R-O erosion into the neighborhood.

**Mr. Miller** explained his support, noting he would prefer the CC&R amendment was completed before the rezoning action.

**Chairman Swart** explained his support stating he has come across many vacant properties through his career in law enforcement. He felt this was a good solution and supported the item.

**VOTE:** 12-0 motion to approve passes.

#### **STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:**

Staff has no comments.

Item #: 7  
Application #: Z-56-13-6  
From: R1-6  
To: R-O  
Acreage: 0.96  
Location: Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road  
Proposal: Psychologist Office  
Applicant: Mr. Ken & Dr. Jen Gatt  
Owner: Mr. Ken & Dr. Jen Gatt  
Representative: Jason P. Allen - Skyline Consultants

Ms. Tricia Gomes presented Z-56-13-6; a request to rezone 0.96 acres located approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road from R1-6 to R-O to allow a psychologist office. The Camelback East Village Planning Committee recommended approval 12-0 per staff stipulations. Staff recommended approval per the per the memo from Tricia Gomes dated February 11, 2014, which addressed additional landscaping along the south and east property lines and the Proposition 207 Waiver.

Commissioner Davis stated she did not have a conflict but wanted to state on the record that her children and the applicant's children attend the same school.

Mr. Jason Allen stated over 110 notification letters were sent out to the neighborhood in two separate mailings. They had not received any phone calls during that time; one letter was received which they did respond to. At one neighborhood meeting six individuals attended and were met with. The main issue was related to the deed restrictions. An individual was located regarding the deed restrictions but was currently located in California and they could not meet.

After the Village Planning Committee meeting Mr. Allen met with the neighbors and had agreed to amend the site plan by providing eleven additional trees that would address the concerns along the eastern boundary and the southeast corner. Mr. Allen believed the issues were resolved.

Mr. Thomas Beard stated he liked the residential feel of the neighborhood and did not want to live near a commercial business; Mr. Beard did not see a reason to amend the deed restrictions.

Mr. Warren Schneider requested a continuance for additional information on what the specific use would be. The residential neighborhood had active deed restrictions and he did not understand why this property would not have to abide by them.

Chairwomen Katsenes asked Mr. Schneider if he had received a notice from the applicant regarding the project.

Mr. Schneider stated he did on January 17 and another in December; he did not attend the meetings. He believed the Planning Commission was the meeting to attend and

express his concerns.

Ms. Nichelle Whitehead stated that the letters that were sent out to the hundreds of people were not affected by the covenant of restrictions. Ms. Whitehead purchased her home in 2010 understanding that the deed restrictions were in effect. The new owners of the property in question had to have known about the deed restrictions. Her concern was the allowable lot coverage and height which indicated the potential for a two story building which was not consistent to the buildings in the neighborhood.

Commissioner Awai asked staff to confirm the height.

Ms. Gomes stated the R-O designation allowed fifteen feet of building height at the rear and side yard setbacks. It could go up to a maximum of twenty-five feet. It potentially could be a two-story or a one story at twenty-five feet.

Ms. Whitehead stated the concern was that the application was vague in terms of the height and parking. She was asking for more clarification on the plans and also requested a continuance.

Ms. Gomes responded that the parking calculations were based off of the size of the building; that is how the number of parking spaces was determined. The applicant was requesting to move forward with the existing building and maintaining that structure.

Commissioner Johnson confirmed that the applicant would be stipulated to the site plan.

Ms. Gomes stated the project was stipulated to general conformance to the site plan, if there was a significant change to the site plan it would have to come back through the public hearing process.

Commissioner Johnson asked if the site plan specified one story.

Ms. Gomes stated the site plan did not specify the height therefore it would defer to the requirements in the Zoning Ordinance.

Chairwomen Katsenes confirmed that currently if the applicant wanted to change the site plan they would have to come back through a public hearing process.

Mr. Gomes stated yes, the ordinance allows a ten percent variation, however, a significant change beyond the ten percent would require a modification through the Planning Hearing Officer process.

Ms. Mary Ann Guerra stated when they purchased their home that had to modify their plans based on the CC&R's in the deed restrictions. The proposed property was behind their home and she was concerned that the CC&R's were being ignored. Ms. Guerra stated she was actively trying to get information from the applicant and presented a letter with the deed restrictions.

Commissioner Johnson stated that the Planning Commission cannot consider CC&R's

or deed restrictions nor could the city enforce them. Only the Homeowners Associations support those private agreements.

Mr. Damon Boyd asked for a continuance to further discuss with the applicant the plans for the site. He was concerned about the traffic and the number of staff that would be there at any given time.

Two additional cards were submitted in opposition but did not wish to speak.

Janice Ariola and Lee Evans.

Two cards were submitted in favor but did not wish to speak.

Ken Gatt and Jennifer Gatt.

Mr. Allen reiterated the neighborhood outreach in terms of trying to get in touch with the neighborhood. Letters were sent out on December 11 and January 17. The site was posted and there was also notification in the newspaper. The issues of the CC&R's were brought up at the meeting from the second letter notification.

The issues were deed restriction related and were amended for the property north of the proposed site which was zoned R-O and almost twice as large. In terms of the height, Mr. Allen stated that he would limit the height to fifteen feet and one story. The hours of operation would be 8 a.m. to 5 p.m. with no more than 12 clients per week at the site and no more than nine staff members at any one time. Mr. Allen stated he would be more than willing to continue meeting with the neighbors to work out details before the City Council hearing.

Commissioner Awai confirmed that the applicant would stipulate to one-story and fifteen feet.

Mr. Allen confirmed yes; one-story at fifteen feet.

Commissioner Montalvo asked what the main opposition was.

Mr. Allen responded it was the deed restrictions; the CC&R's.

Commissioner Davis clarified with staff that the notices were sent out on December 11, 2013 and January 17, 2014.

Ms. Gomes stated the requirements for notice were met.

Chairwoman Katsenes asked if other homes along 7th Street had R-O uses.

Mr. Allen stated there was one on the southwest corner of 7th Street and Missouri Avenue. The property to the north was a residential office, about 20 feet in height, which was also part of the subdivision. The property to the north was the R-O that was amended and significantly larger than the project Mr. Allen was proposing.

Commissioner Heck stated that the property to the north looked like a two-story building which was a concern of the neighbors of the proposed project.

Mr. Allen confirmed they were in agreement to the 15 foot height and one-story.

Commissioner Awai stated the property was along the 7th Street and would not be safe for a family with children. It was unfortunate for this to happen but he did not see another use for this property. The proposal maintains the residential character which was appropriate.

Commissioner Awai made a MOTION to approve Z-56-13-6 per the memo from Tricia Gomes dated February 11, 2014 with an additional stipulation regarding the building height.

Commissioner Davis SECONDED.

Commissioner Heck commented although she would have preferred residential; this seemed to be the best of both worlds in meeting with the integrity of the existing property which had not been lived in for a long time.

Chairwomen Katsenes agreed with Commissioner Heck in that the home would be kept in its original form as intended. The commercial use seemed to be low in traffic and she appreciated the additional stipulation in regards to the height.

There being no further discussion, Chairwoman Katsenes called for a vote and the MOTION PASSED 7-0 (Whitaker, Beletz absent)

\* \* \*

Stipulations:

1. The development shall be in general conformance with the site plan date stamped ~~January 9, 2014~~ FEBRUARY 11, 2014, except as modified by the following stipulations and approved by the Planning and Development Department.
2. The property owner shall provide a minimum 20-foot landscape setback with a minimum 3-inch caliper trees to be placed 20-feet on center or in equivalent groupings along the east property line as approved by the Planning and Development Department, WITH SPECIFIC REGARD TO THE 11 TREES ALONG THE SOUTH AND EAST PROPERTY LINES AS DEPICTED ON THE SITE PLAN DATE STAMPED FEBRUARY 11, 2014.
3. The property owner shall provide a minimum 20-foot landscape setback with a minimum 3-inch caliper trees to be placed 20-feet on center or in equivalent groupings along the south property line as approved by the Planning and Development Department.

4. The property owner shall maintain a minimum of three trees in the front yard setback.
5. The maximum number of parking spaces allowed shall not exceed 125 percent of the City requirement.
6. The trash enclosure shall be located no closer to the street than the main building as approved by the Planning and Development Department.
7. The property owner shall dedicate a 10-foot wide sidewalk easement along the east side of 7th street as approved by the Planning and Development Department.
8. THAT PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER SHALL EXECUTE A PROPOSTIION 207 WAIVER OF CLAIMS IN A FORM APPROVED BY THE CITY ATTORNEY'S OFFICE. THE WAIVER SHALL BE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE AND DELIVERED TO THE CITY TO BE INCLUDED IN THE REZONING APPLICATION FILE FOR RECORD.
9. THE BUILDING HEIGHT SHALL BE LIMITED TO 1-STORY AND 15-FEET.

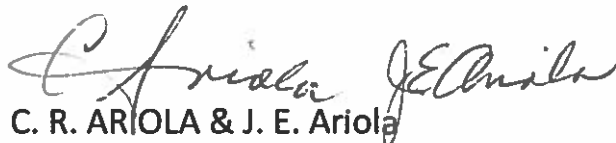


January 1, 2014

City of Phoenix Planning Department  
200 W. Washington Street  
Phoenix, Arizona 85003

Ref: Skyline Consultants LLC letter relating to a request for rezoning of a residential lot in Ocotillo Manor Case #Z—56-13 dtd December 11, 2013

1. The reference urged residents to submit comments and attend meetings relating to the subject rezoning.
2. My comments and recommendations are submitted in the 3 page attachment.



C. R. ARIOLA & J. E. Ariola  
Residents, Ocotillo Manor  
6736 N. 8<sup>th</sup> St.  
Phoenix, AZ 85014  
Phone: 602-361-1497

1/2/2014

Comments and Information to whom it May Concern (relating to Referenced (a))

Subject: Lot #2, Ocotillo Manor, 6729 N 7<sup>th</sup> Street, Phoenix, Arizona 85014

Reference (a) Letter from Skyline Consultants, LLC dated December 11, 2013, relating to a proposed rezoning of Lot #2, Ocotillo Manor, 6729 N 7<sup>th</sup> Street, Phoenix, Arizona 85014 (City case #Z-56-13)

1. The referenced letter does not include some significant facts, as follows:
  - a. Makes no mention of the fact that the lot is located in Ocotillo Manor and that it is subject to recorded, and active Covenants and Restrictions. Lot #2 is one of 18 Lots included in the Declaration of Restrictions for "Ocotillo Manor" as recorded on April 29, 1952 in the office of the County Recorder of Maricopa County, Arizona, in Book 52, Page 2(with amendments). These expressed Covenants, stipulations, and restrictions were established as running with the title, are current and have been maintained since they were recorded on April 29, 1952 (Docket: 917 Page 270), over 60 years ago. The Declaration of Restrictions for Ocotillo Manor specifically prohibits the use proposed by reference (a) (see below).
  - b. Modifications to these Covenants require a majority vote of the 18 voting owners of the eighteen (18) lots located in Ocotillo Manor. All past and recent changes effecting use of the Lots of Ocotillo Manor have been reviewed and voted on by the residents of Ocotillo Manor prior to requesting action by the city. Other than receipt of reference (a), the residents of Ocotillo Manor are only aware that someone purchased Lot #2, almost immediately brought in bulldozers to clean sweep much of the vegetation off the lot, level and destroy all irrigation berms, and fill the swimming pool with excess soil and debris (no permit to do so was ever known to have been posted in public view-(perhaps that is not required?)). Also the existing "health hazard", i.e., the seven palm trees that have not been pruned for many years, filled with rats, birds, scorpions, spiders and other vermin, a major fire hazard, remains untouched. The massive dust cloud created by this effort lasted for several days! It is noted that the

- new owner does not live in Ocotillo Manor and has apparently purchased this residential lot for the sole purpose of rezoning and commercial use.
- c. It is also noted that the referenced letter from Skyline was distributed to residential neighborhoods outside the boundaries of Ocotillo Manor, residences that have no connection to Ocotillo Manor. Perhaps the new owners, or their agent have not yet obtained a copy of the Covenants and Restrictions which clearly show the boundaries.
  - d. Paragraph 1 and paragraph 10, of the Ocotillo Manor Covenants and Restrictions does not allow the use stated in reference (a) , i.e.,  
Paragraph 1: "All of said lots in said OCOTILLO MANOR shall be known and described as residential lots". Paragraph 10: "No store, office or other place of business of any kind and no hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, saloon or other place of entertainment shall ever be erected or permitted upon any of said lots, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence on said lots". Note: Even if a rezoning of any specific lot were approved, these restrictions, in effect for sixty plus years, should be considered prior to any change in rezoning of the subject property.
  - e. Only one Lot in Ocotillo Manor has ever been approved for use other than residential. Several years ago a vacant lot, Lot #1, which is located next to a large residential apartment complex at 6741 N. 7<sup>th</sup> Street, was approved for use by a Non-profit, charitable organization, CTLPC Parenting Arizona, who provides community based support services for needy families. This change had a desirable, humanitarian purpose. The requested change in use of Lot #2 is simply for profit and considered not desirable by many.
2. Ocotillo Manor Covenants and Restrictions contain requirements and regulations that apply to and are designed to properly regulate a well maintained Phoenix community. The residents are proud of their homes as is evidenced by several recent major renovations and upgrades completed, underway and planned. It is likely that the improvements and increase in property values will far exceed any tax value the city could reasonably expect from rezoning Lot #2. Most residents are concerned that such disruptions as those described in reference (a), a commercial endeavor in the center of our community, will most likely cause a

decrease in property values, and especially those that adjoin the boundaries of Lot #2. It should also be noted that the Skyline Consultants letter provides a plan that is not likely the final plan in view of the statement in the last paragraph on page one. "Market conditions" are sure to change quickly and require a new plan? One might ask the question as to why a single Doctor operating from a "residence" needs nineteen parking spaces. With the clearing, leveling of the lot, elimination of the irrigation berms and flow valves, and the filling of the swimming pool, could we already be preparing for an addition? Keep in mind that we are talking about Zoning Ordinance 620 Residential Office R-O District-Restricted Commercial, the full description of the requested zoning, which is absent from the Skyline letter. Paragraph B.3.c. requires occupancy. At this time the property does not seem to meet that requirement. Once the word "Commercial" enters the rezoning definition of a parcel, it would seem we have made a giant leap toward a full Commercial zoning, something that the past and many of the present residents of Ocotillo Manor have fought since its establishment.

3. It is requested the Camelback East Village Planning Committee, the Phoenix City Planning Commission and The Phoenix City Council support those residents of Ocotillo Manor who are against rezoning Lot #2 from its current use, to 620 Residential Office District-Restricted Commercial.
4. Residents of Ocotillo Manor who might support or not support the rezoning request for Lot #2 Ocotillo Manor are encouraged to submit their own comments and/or attend any meetings on this matter.

January 23, 2014

Xandon Keating  
Village Planner  
Ahwatukee Foothills & Camelback East  
City of Phoenix Planning and Development Department  
200 West Washington Street, 3rd Floor  
Phoenix, AZ 85003-1611

Re: Z-56-13-6

Dear Mr. Keating:

I am the daughter of the late Virginia Erwin and beneficiary of the Erwin Trust that recently sold the property at 6729 N. 7<sup>th</sup> Street to Ken and Jennifer Gatt. They have recently submitted an application for new zoning on the property and have asked that I forward to City Staff some historical context for the property that may be helpful as you evaluate the merits of the application.

To start with, we were very glad that we found a buyer for the property who intends to keep the house and update it rather than leveling it and doing something kitchy (or obtrusively dense). There are a lot of memories here, and my mother, sister and I have long hoped that, when the time came, we would find someone who would honor the structural integrity of the property. As it transitions to the next generation, a conversion to professional office makes all the sense in the world.

Here is some history on the house: The house was built in the mid-1950's by the son of the original land owner. Since this was to be his family's personal residence, he wanted to build something custom that would, hopefully set the tenor for the area. As the developer of a resort hotel complex in Mexico, he imported the adobe blocks, floor tile, hand-made wall tile, and hand-crafted ceiling beams and planks.. The front door originally graced the front of a historical turn-of-the-century bank in Douglas. I met a dozen members of the family this last Summer, many of whom were raised there, who told stories of the house being a social gathering spot for North Central families for many years.

My parents bought the house from this family in the mid-1960's (making the Gatts only the third owner of this 60-year-old house). My sister and I were raised here. In the mid-90's, my mother started spending half the year in Washington State, the other half at the Phoenix house. Because of its visibility from 7<sup>th</sup> Street, and I'm sure because of the lack of activity 6-months out of the year, there were a series of burglaries. Eight or ten years ago, Mom confronted a burglar in the dark and in an adrenaline-fueled attack chased the

intruder out of the house. After this traumatic event, she never felt comfortable sleeping in the house again.

The house remained filled with her possessions and was routinely ransacked. Iron bars, heavy chains and padlocks went up on the doors and windows. A jerry-rigged set of high, chain-link fences closed off the back yard, intended to thwart intruders. Nonetheless, the neighbors and police found more than a couple of squatters in the bushes at the back of the lot. As her financial condition deteriorated, she continued to cut back on maintenance of the property, shutting off the gas and water, draining the pool, doing landscape maintenance sporadically, at best. The burglaries continued.

Mom died exactly a year ago. The trustee handling her estate hired a real estate broker and put the property on the market in May to pay off accumulated debts and property taxes. The broker soon realized that what should have been an attractive "fix-up" of a North Central custom home on an acre lot at a bargain price was thwarted by the up-hill battle of trying to sell a house on one of Phoenix' busiest arterial streets. I certainly can understand: Who would want to live day-to-day having to combat the noise and access-safety issues that come with over 30,000 cars a day going past your front door?

When the house was built, 7<sup>th</sup> Street was a 2-lane road in the suburbs. Over the ensuing years, the City widened the street several times, and with each upgrade, the traffic increased. At one point they installed a reversible center lane that essentially created three lanes of traffic for each of the two rush-hours per day.

As the streets widened, the physical character of the area changed. Several houses and "farm-ettes" to the south and farther to the north were developed for multifamily and commercial. Apartments went in a couple hundred feet to our north. A block north at Glendale Avenue, older commercial on three of the corners was redeveloped and expanded. Although the commercial development certainly improved the general quality of the neighborhood, traffic continued to increase.

Adjacent to us, an attorney bought the house to the south and ran his law firm out of it for years (without ever obtaining the appropriate zoning), taking advantage of the perceived "commercial" 7<sup>th</sup> Street address to drive his business. The owner of the lot adjacent to the north did the most logical thing, selling it for development of an office building. My mother continued to own the only real "single-family", original acre-lot house left of the four Ocotillo Manor lots along 7<sup>th</sup> Street. She was often approached by developers, and at one point (although she never went under contract) a synagogue that was proposed for hers and all of the other adjacent 7<sup>th</sup> Street lots. The neighborhood came unglued. The developer thought it was anti-Semitism. I think it was a bad plan that was insensitive to the neighborhood in terms of height, parking and other issues.

So it seemed fitting when the broker found that the only real, qualified buyers for the property that surfaced were developers. One wanted to do a sports bar in the house; the broker discouraged that use based on the potential impact on the surrounding neighborhood. An apartment developer wanted to build 3 and 4-story buildings on ours

and the adjoining lot to the south; that was also discouraged because of the probability of neighborhood opposition to the height. A single-family homebuilder went under contract to build 8 to 10 detached houses on the two combined lots and was shot down by the neighborhood. Three other homebuilders who wanted to build similar or even higher density never went to contract because of the stonewalling they were sure they'd encounter, one of them after meeting with one of the more vocal (and intransigent) neighbors on 8<sup>th</sup> Street. Although these developers were clearly able to demonstrate that there would be no vehicular or pedestrian traffic or noise or light pollution impact on their neighborhood, and several were willing to concede to single-story houses abutting their lots, it was clear that there was simply an aversion to change, under any practical, scenario, that made economic sense.

Since Mr. and Mrs. Gatt are not changing the height or general character of the house (other than possibly doing an addition some time down the road mimicking the same architecture, height, and materials of the existing house), and since Mrs. Gatt's practice is a pretty low-traffic, low-impact use for the house, I can't imagine that the neighborhood would not see this as the best possible solution for the property.

Thank you for giving my comments consideration. I am looking forward to seeing the property once it's fully restored. If you have any questions, you can reach me at (480) 390-8329.

Best regards,



Holly Erwin Courtin  
5601 E Montecito  
Phoenix, AZ 85018

cc: Ken & Jennifer Gatt  
Jason Allen

February 6, 2014

Planning Commission  
Phoenix City Council  
200 W. Jefferson Street  
Phoenix, AZ 85003

**CITY OF PHOENIX**

FEB 11 2014

**Planning & Development  
Department**

Subject: 6729 N. 7<sup>th</sup> Street: General Land-Use and planning discussions

Information from Agenda:

Application Number: Z-56-13-6

From: R1-6

To: R-0

0.96

Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road

Psychologist Office  
Mr. Ken & Dr. Jen Gatt  
Jason P. Allen - Skyline Consultants

Dear Planning Commission and City Council,

We are taking the time to address both groups regarding the planned use of the property noted in above subject line. This property currently occupies a residential home where the new owners Jenifer and Ken Gatt have announced plans to have its zoning modified for use as a medical office. While information has been provided to the neighbors as to how the home will be renovated, it is a bit unclear from the recent Village Planning Committee meeting whether the true use of the space and planned architecture have been conveyed to the local residence that are concerned with the use of this property. This lot is covered by existing CC&R's that have been active for over 50 years. My husband Lee Evans and I are intimately aware of these deed restrictions, as we have purchased the property of 8th street that is DIRECTLY behind 6729 N. 7<sup>th</sup> street. We have invested over \$600,000.00 to create a beautiful home and to improve the residential landscape of this area. Our current home is at 402 East Lamar Rd, so we are VERY concerned that the neighborhood around us, and this additional property, be used for the highest residential good.

The property in question was previously under contract within the past 12 months and these potential buyers submitted a plan had been submitted to have multiple homes built on this property as well as another adjacent property. Both properties covered by the deed restrictions. The plans were submitted and discussed with the neighborhood HOA and attempts were made to develop a plan that could work for both the builder and the neighbors. The HOA was willing to modify the CC&Rs to accommodate reasonable plans that reflected the spirit of the CC&Rs. Unfortunately the property was re-sold (or is under contract...we are not sue) and now the proposed use is for a medical office with a focus on mental health. The CC&Rs specifically disallow the use of space for commercial use, psychiatric facilities and home office use, so the proposed plan is in direct violation of the basic tenants of these long standing residential operation agreements. The have been in effect since 1952 and are VERY clear in their intent! Specifically the Deed Restrictions state on page 2:

***"10. No store, office or other place of business of any kind and no hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, salon or other place of entertainment shall ever be erected or permitted upon any of said lots, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence on said lots."***

Having just bought a property, we too were subject to these standards, were required to MODIFY our building plans, lost about 600 sq. ft. of space to our proposed plans, lost time/money in doing this but DID comply with the CC & Rs and worked with the neighborhood to create a beautiful new property that will



add value to all. So our concerns are very personal, not to mention that the property in question is in our backyard!

Our concerns are as follows:

- Skyline has NOT worked with the neighbors to create an acceptable plan. While at the Village Planning Committee meeting Jason Allen stated he had personally contacted the neighborhood residents and none had replied, that statement was a bit inaccurate. Jason called my office (BioAccel) the same afternoon of the Village Planning Committee meeting, held on February 4. My assistant got the message and forwarded it to me. I got the message at 4:00 pm and returned the call immediately. He did not respond.
- My understanding from a few other residents is that they too only received a call that day. Not much time to discuss and negotiate a reasonable plan. We also had attended a Community/Neighborhood meeting with Skyline and the owners Jenifer and Ken Gatt that was held on Monday, January 27, gave them our contact information and conveyed our concerns. So they clearly had our contact information and knew our concerns.
- The proposed plan violates the deed restrictions that have been active for 62 years and applied to all other properties in the neighbor as recently as within the past 4 months.
- Because this is a beautiful historic home and lovely property in N. Central Phoenix, we would be willing to consider a purchase of the property to remain its integrity and residential status. In fact we did speak with the selling Real Estate Agent about the property at one time, and they were VERY clear about the deed restrictions. Therefore the Gatt's were knowledgeable about these limitations from the time of initial interests.

We realize that the legal status of the CC&Rs and City Planning responsibilities may be on two sides of the coin. But there is a serious problem when neighborhoods are encouraged to operate using HOAs, keep the neighborhoods beautiful to retain property values and to create safe places for our families/children and then a commercial entity can ignore these guidelines and force residence to engage in legal battle to protect the integrity of their neighborhood. I am sure as residents of the lovely City of Phoenix each of you might take exception to having a medical practice with a specialty in psychiatrics dropped into your neighborhood and told that is OK.

We thank you for your understanding and consideration of our concern. We would simply like the owners to work with the HOA, CC&Rs and neighbors to come up with a mutually acceptable plan that provide security for adjacent properties.

Sincerely,

MaryAnn Guerra and Lee Evans  
Business Owners  
Neighborhood Residents



Stephanie Saenz/PLN/PHX  
02/11/2014 10:51 AM

To Edward Keyser/PLN/PHX@PHXENT  
cc  
bcc  
Subject Fw: Contact Us Planning and Zoning - Form Submission

Please see email below..

Thanks,  
Stephanie Saenz  
City of Phoenix  
Planning & Development  
200 W. Washington St., 3rd floor  
Phoenix, Arizona 85003-1611  
stephanie.saenz@phoenix.gov  
602-495-2076 - Direct Line  
602-732-2587 - Fax Line

----- Forwarded by Stephanie Saenz/PLN/PHX on 02/11/2014 10:51 AM -----



no-reply@phoenix.gov  
02/10/2014 05:50 PM

To Zoning Mailbox PLN/PLN/PHX@PHXENT  
cc  
Subject Contact Us Planning and Zoning - Form Submission

Form Submission On : 2/10/2014 5:50:38 PM  
IP Address: 98.165.192.30:49511  
Referer: <http://phoenix.gov/contactus/index.html>

First and Last Name : MaryAnn Guerra  
Email : [mguerra@bioaccel.org](mailto:mguerra@bioaccel.org)  
Comments : We are owners in a neighborhood HOA that is impacted by this plan. They are ignoring existing HOA guidelines with their rezoning application.  
6729 N. 7th Street: General Land-Use and planning discussions

Information from Agenda:

Application Number: Z-56-13-6

From: R1-6

To: R-0

0,96

Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road

Psychologist Office

Mr. Ken & Dr. Jen Gatt

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- The proposed plan violates the deed restrictions that have been active for 62 years and applied to all other properties in the neighbor as recently as within the past 4 months.

- Because this is a beautiful historic home and lovely property in N. Central Phoenix, we would be willing to consider a purchase of the property to remain its integrity and residential status. In fact we did speak with the selling Real Estate Agent about the property at one time, and they were VERY clear about the deed restrictions. Therefore the Gatt's were knowledgeable about these limitations from the time of initial interests.

We realize that the legal status of the CC&Rs and City Planning responsibilities may be on two sides of the coin. But there is a serious problem when neighborhoods are encouraged to operate using HOAs, keep the neighborhoods beautiful to retain property values and to create safe places for our families/children and then a commercial entity can ignore these guidelines and force residence to engage in legal battle to protect the integrity of their neighborhood. I am sure as residents of the lovely City of Phoenix each of you might take exception to having a medical practice with a specialty in psychiatrics dropped into your neighborhood and told that is OK.

We thank you for your understanding and consideration of our concern. We would simply like the owners to work with the HOA, CC&Rs and neighbors to come up with a mutually acceptable plan that provides security for adjacent properties.

Sincerely,

MaryAnn Guerra and Lee Evans  
Business Owners  
Neighborhood Residents  
602 653 5375 (MaryAnn Cell)  
602 820 5223 (Lee Cell)

CITY OF PHOENIX  
PLANNING AND DEVELOPMENT DEPARTMENT

<b>FORM TO REQUEST PC to CC</b>			
<b>I HEREBY REQUEST THAT THE PC / CC HOLD A PUBLIC HEARING ON:</b>			
<b>APPLICATION NO./ LOCATION</b>	Z-56-13-6 Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road	<b>(SIGNATURE ON ORIGINAL IN FILE)</b>	
		opposition	X
<b>APPEALED FROM:</b>	PC 2/11/14	Mary Ann Guerra 602-653-5375	
	<small>PC/CC DATE</small>	<small>NAME / PHONE</small>	
<b>TO PC/CC HEARING</b>	CC 3/19/14	6730 N 8th Street Phoenix AZ 85012	
	<small>DATE</small>	<small>STREET ADDRESS/CITY/STATE/ZIP</small>	
<b>REASON FOR REQUEST: attached letter</b>			
<b>RECEIVED BY:</b>	SK / LO	<b>RECEIVED ON:</b>	2/18/14

Larry Tom  
Diane Rogers  
Lilia Olivarez, PC Secretary  
Ken Black  
David Miller  
Courtney Gordon  
Ben Ernyei  
PLN All



**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT

PLANNING DEPT.  
2ND FL. RECEPTION

FEB 18 REC'D

CITY OF PHOENIX

The **PLANNING COMMISSION** agenda for February 11, 2014 is attached.

The **CITY COUNCIL** may approve the recommendation of the Planning Commission without further hearing **unless**:

1. A **REQUEST FOR A HEARING** by the **CITY COUNCIL** is filed within seven (7) days.

There is a \$630.00 appeal fee for hearings requested by the applicant, due by 5:00 p.m. February 18, 2014

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2. A **WRITTEN PROTEST** is filed, no later than seven (7) days after the Planning Commission's action, which requires a three-fourths vote. A written protest will require a three-fourths vote of the City Council to approve a zoning change when the owners of at least 20 percent of the land included in the proposed change or of the land within 150 feet (not including the width of the street) of the front, back or any side of the property sought to be rezoned signed the petition. For condominium, townhouse and other types of ownership with common lands, authorized property owner signatures are required. Please see Planning and Development Department Staff for additional information prior to gathering signatures.

To require a three-fourths vote of the City Council for approval, a written protest for applications on this agenda must be filed with the Planning and Development Department by 5:00 p.m. February 18, 2014.

The Planning and Development Department will verify ownership by protestors to determine whether or not a three-fourths vote will be required.

3. A **CONTINUANCE** is granted at the **PLANNING COMMISSION**. In the event of a continuance, there is an \$830.00 fee due from the applicant within fourteen (14) days, by 5:00 p.m. February 25, 2014.

**FORM TO REQUEST CITY COUNCIL HEARING**

**I HEARBY REQUEST THAT THE CITY COUNCIL HOLD A PUBLIC HEARING:**

Z 56-13-6  
APPLICATION NO.

7th Street between Ocotillo/Glenbrook  
LOCATION OF APPLICATION SITE

2/18/14  
DATE APPEALED FROM

OPPOSITION  
 APPLICANT

[Signature]  
PLANNER  
(PLANNER TAKING THE APPEAL)

**BY MY SIGNATURE BELOW, I ACKNOWLEDGE CITY COUNCIL APPEAL:**

Mary Ann Guerra  
PRINTED NAME OF PERSON APPEALING

[Signature]  
SIGNATURE

67  
STREET ADDRESS

DATE OF SIGNATURE

Phoenix, AZ 85012  
CITY, STATE, & ZIP CODE

602-653-5375  
TELEPHONE NO.

REASON FOR REQUEST Attached Letter

**APPEALS MUST BE FILED IN PERSON AT 200 WEST WASHINGTON, 2ND FLOOR, ZONING COUNTER**

February 17, 2014

Phoenix City Council  
200 W. Jefferson Street  
Phoenix, AZ 85003

Subject: Protest filed for Application Number: Z-56-13-6  
February 24, 2014 Public Hearing for Z-TA-14-13  
6729 N. 7<sup>th</sup> Street: General Land-Use and rezoning request  
From: R1-6  
To: R-O  
Acreage: 0.96  
Location: Approximately 305 feet north of the northeast corner of 7<sup>th</sup> Street and  
Ocotillo Road

Proposal: Psychologist Office  
Owner: Mr. Ken & Dr. Jen Gatt  
Representative: Jason P. Allen - Skyline Consultants

Dear City Council,

We are respectively, officially protesting, the rezoning of 6729 N. 7<sup>th</sup> Street from its current classification of R1-6 to R-O. As local residents of the neighborhood and owners of property that is directly adjacent to the property under rezoning reconsideration, we have grave concerns about the recent actions taken by the Village Planning Committee and City of Phoenix Planning Commission. We feel a public hearing and three-fourths vote of the City Council is appropriate in this instance.

This property currently occupies an historic residential home where the new owners Jenifer and Ken Gatt have announced plans to have its zoning modified for use as a psychiatric medical office. While notice and some information has been provided to the neighbors as to the proposed development, its rezoning to any type of commercial use is not only problematic to the general neighborhood but also specifically to us as our backyard abuts to this property. While we are great supporters of local economic development, we are equally concerned with retention of quality neighborhoods. In this instance, Dr. Gatt is relocating her office from a commercial space south on 7<sup>th</sup> to the proposed location. As the CEO of BioAccel a local non-profit dedicated to growing new biotech companies in Arizona, I am very supportive of strong economic development efforts. However in this case, the proposed change negatively impacts our local neighborhood by expanding the commercial footprint in the neighborhood **without** having any positive or expanded increase in local economic impact.

**Background information:**

This lot is covered by existing CC&R's that have been active for over 50 years. My husband Lee Evans and I are intimately aware of these deed restrictions, our property on 8<sup>th</sup> street that is DIRECTLY behind 6729 N. 7<sup>th</sup> street. We purchased this property within the last year and have invested over \$600,000.00 creating a beautiful home that we had planned to move into and improved the residential landscape of this area. When

we purchased this property we were made aware of the deed restriction upon purchase and have conformed to these legal agreements between neighbors. Additionally we were happy to have these as we had a concern that our property backed up to a home on 7<sup>th</sup>, but were assured that this property was also bound by the same existing CC&Rs. Our current home is at 402 East Lamar Rd, so we are VERY concerned that the neighborhood, and this additional property, be used for the highest residential good.

The property in question was previously under contract within the past 12 months and these potential buyers submitted a plan to have multiple homes built on this property as well as another adjacent property. Both properties are covered by the deed restrictions. The plans were submitted and discussed with the neighborhood HOA and attempts were made to develop a plan that could work for both the builder and the neighbors. The HOA was willing to modify the CC&Rs to accommodate reasonable plans that reflected the spirit of the CC&Rs and **maintained it as residential**. Unfortunately the property was re-sold and now the proposed use is for a medical office with a focus on mental health. The CC&Rs specifically disallow the use of space for commercial use, psychiatric facilities and home office use, so the proposed plan is in direct violation of the basic items of these long standing residential operating agreements. These deed restrictions have been in effect since 1952 and are very clear in their intent! Specifically the Deed Restrictions state on page 2:

***“10. No store, office or other place of business of any kind and no hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, salon or other place of entertainment shall ever be erected or permitted upon any of said lots, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence on said lots.”***

Having just bought our property on 8<sup>th</sup> street, we too were subject to these standards, were required to MODIFY our building plans, lost about 600 sq. ft. of space to our proposed expansion plans, lost time/money in doing this but **DID** comply with the CC & Rs and worked with the neighborhood to create a beautiful new property that will add value to all. So our concerns are very personal, not to mention that the property in question is in our back yard!

While we have read the beautiful and gut wrenching letter prepared by the previous owner's daughter Holly Erwin, we were also made aware that *her husband is the commercial real estate agent for the property in question* and therefore is somewhat conflicted in their support to “rezone” 7<sup>th</sup> street.

Our concerns are as follows:

- Two hearings have been held on this property. The “neighbors” received 2 minutes to speak at the Village Planning Committee and 10 minutes to speak at the City Planning Commission meeting. The 10 minutes at the Planning Committee meeting had to be divided among 5 members of the neighborhood, who also disagreed with the proposed rezoning. The opposition was allowed to speak for 5 minutes to present his case. and then received another 10 minutes to



rebut the neighbors. This seem quite unfair to us. Additionally the rebuttal by Jason Allen of Skyline consultants basically outlined how they had sent out letters to the neighbors and none of us responded in writing. However we did attend their meeting in person and we did attend the hearings. What Mr. Allen never addresses was why the City should approve rezoning over the opposition of the neighbors, and he never presented any merit to why the rezoning was of value to the City and/or the neighborhood. As noted above, we see no positive economic impact that would support this rezoning due to Dr. Gatt's current location down the street. Also, they argued that her business was small and she had no intention of growing it, so again the move would have no greater positive economic impact for Phoenix.

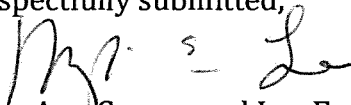
- In neither of these meetings was a case made for "why" the property should be rezoned. I was frankly shocked to have the Chairman of the City Planning Commission refer to 7<sup>th</sup> street as the 7<sup>th</sup> street freeway! And it will become be one if the City continues to kill of the residences for commercial use.
- While 7<sup>th</sup> Street and Glendale have commercial establishments, some of which have been creeping south, that does not justify that all residential properties should be rezoned. The property in question has residential dwellings to the North, South, East and West of it across the street from it. There appears to be no strong reason to support rezoning to commercial office use, especially based on the potential impact it will have to other residence. At least two of us have just purchased the adjacent properties (behind and south) as residences and therefore the impact to our home values is significant if this rezoning is approved. I purposefully modified by morning jog on Sunday to run on the "7<sup>th</sup> street freeway" rather than the Bridle Path and it confirmed my impression that the street has a substantive residential footprint.
- While we realize that the City does not adhere to the deed restrictions that have been active for 62 years and applied to all other properties in the neighborhood and the property in question as recently as within the past 4 months, we do feel that a good case should be made as to why they are being violated and the subsequent benefit to the City. The current owners WERE aware of these deed restrictions yet purchased the property with the intent of blatantly violating long standing legal contracts and have misled the village planning committee, the city planning commission and now the City of Phoenix into allowing them to conduct such a violation. It seems quite unfair that for 62 years this contract has been in place and adhered to by all, yet one party can come along and undue the legal document and take steps to accelerate a deterioration of the local neighborhood. Phoenix needs MORE high quality residential areas, not less.
- We are concerned that the City would be in support of ignoring a binding legal contract relating to the CC & R's without some strong justification to do so.
- Because this is a beautiful historic home and lovely property in N. Central Phoenix, we would be willing to consider a purchase of the property to restore it's integrity and residential status.

We realize that the legal status of the CC&Rs and City Planning responsibilities may be on two sides of the coin. But there is a serious problem when neighborhoods are encouraged to operate using HOAs, keep the neighborhoods beautiful to retain property values and to create safe places for our families/children, and then a commercial entity

can ignore these guidelines and force residents to engage in legal battle to protect the integrity of their neighborhood. I am sure as residents of the lovely City of Phoenix each of you might take exception to having a medical practice with a specialty in psychiatrics dropped into your neighborhood and told that is OK.

We thank you for your understanding and consideration of our concern. We also hope that you will understand the need to maintain our neighborhoods and the integrity of our properties, especially when there is no apparent benefit to the City of Phoenix. This one move will impact many, and frankly without any good reason or sound justification for doing so.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MaryAnn Guerra and Lee Evans', written in a cursive style.

MaryAnn Guerra and Lee Evans  
Business Owners  
Neighborhood Residents

CITY OF PHOENIX  
PLANNING AND DEVELOPMENT DEPARTMENT

<b>FORM TO REQUEST PC to CC</b>			
<b>I HEREBY REQUEST THAT THE PC / CC HOLD A PUBLIC HEARING ON:</b>			
<b>APPLICATION NO./ LOCATION</b>	Z-56-13-6 Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road	<b>(SIGNATURE ON ORIGINAL IN FILE)</b>	
		<b>opposition</b>	<b>X</b>
<b>APPEALED FROM:</b>	PC 2/11/14	Kalliopi Schneider 602-234-8994	
	<i>PC/CC DATE</i>	<i>NAME / PHONE</i>	
<b>TO PC/CC HEARING</b>	CC 3/19/14	6743 N 8th Street Phoenix AZ 85014	
	<i>DATE</i>	<i>STREET ADDRESS/CITY/STATE/ZIP</i>	
<b>REASON FOR REQUEST: Continuance</b>			
<b>RECEIVED BY:</b>	DB / LO	<b>RECEIVED ON:</b>	2/18/14

Larry Tom  
Diane Rogers  
Lilia Olivarez, PC Secretary  
Ken Black  
David Miller  
Courtney Gordon  
Ben Ernyei  
PLN All



FEB 18 2014

The **PLANNING COMMISSION** agenda for February 11, 2014 is attached **Planning & Development Department**

The **CITY COUNCIL** may approve the recommendation of the Planning Commission without further hearing **unless**:

1. A **REQUEST FOR A HEARING** by the **CITY COUNCIL** is filed within seven (7) days.

There is a \$630.00 appeal fee for hearings requested by the applicant, due by 5:00 p.m. February 18, 2014

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2. A **WRITTEN PROTEST** is filed, no later than seven (7) days after the Planning Commission's action, which requires a three-fourths vote. A written protest will require a three-fourths vote of the City Council to approve a zoning change when the owners of at least 20 percent of the land included in the proposed change or of the land within 150 feet (not including the width of the street) of the front, back or any side of the property sought to be rezoned signed the petition. For condominium, townhouse and other types of ownership with common lands, authorized property owner signatures are required. Please see Planning and Development Department Staff for additional information prior to gathering signatures.

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**FORM TO REQUEST CITY COUNCIL HEARING**

**I HEARBY REQUEST THAT THE CITY COUNCIL HOLD A PUBLIC HEARING:**

Z-56-13-6  
APPLICATION NO.

305 feet north of the NE corner of 7th Street and Ocotillo Road  
LOCATION OF APPLICATION SITE

Feb 11, 2014  
DATE APPEALED FROM

OPPOSITION  
 APPLICANT

Drew Bjork  
PLANNER  
(PLANNER TAKING THE APPEAL)

**BY MY SIGNATURE BELOW, I ACKNOWLEDGE CITY COUNCIL APPEAL:**

Kathleen P. Schneider  
PRINTED NAME OF PERSON APPEALING

[Signature]  
SIGNATURE

6743 N. 8th St  
STREET ADDRESS

2/18/2014  
DATE OF SIGNATURE

Phoenix, AZ 85014  
CITY, STATE & ZIP CODE

602-234-8994  
TELEPHONE NO.

REASON FOR REQUEST Continuance

**APPEALS MUST BE FILED IN PERSON AT 200 WEST WASHINGTON, 2ND FLOOR, ZONING COUNTER**

February 18, 2014

City Council  
City of Phoenix  
200 W. Washington St.  
Phoenix, AZ 85003

# CITY OF PHOENIX

FEB 18 2014

## Planning & Development Department

RE: Z-56-13-6/6729 N. 7<sup>th</sup> Street, Phoenix, AZ

Dear Phoenix City Council Members:

Our names our Damon and Danelle Boyd. We live in Ocotillo Manor at 6743 N. 8<sup>th</sup> St, Phoenix, AZ 85014, our names are Warren and Kalliopi Schneider and we have three children, John-17, Peter-15, and Theodore- 13. We have lived here since July 1997. I grew up on this street, right next door at 6744 and my mother still resides there. We moved into Ocotillo Manor because it is a beautiful, safe, residential neighborhood, with mature vegetation, large size lots, great public schools, and many distinctive older ranch style homes. The neighbors of Ocotillo Manor, several of whom have lived in Ocotillo Manor for more than 60 years, are friendly, supportive and community oriented. They make Ocotillo Manor a friendly and safe neighborhood that is a great place to not just begin and raise a family, but to retire to and enjoy all that North Central Phoenix has to offer. We chose this neighborhood to raise our family and assist my mother to enjoy her retirement.

We enjoy North Central Phoenix and Ocotillo Manor so much, we have recently re-modeled our home with an addition among other remodeling that we have done since we have bought our home in 1997. With all of our remodeling projects, we have adhered to the CC&R's that currently exist. With this investment in our home and neighborhood, we hope to spend the rest of our lives in Ocotillo Manor.

However, we are concerned about the present and future plans the Applicant has (and indeed successors to the Applicant may have) for re-zoning of the lot on 6729 N. 7<sup>th</sup> St. (Application No. Z-56-13-6) to Residential Owner status. In this regard, we have had some dialog with the Applicant's representative to understand some of the details of the site plans that are not apparent in the plans Applicant has thus far submitted, nor in the Camelback East Village Planning Committee Staff Report dated January 22, 2014. We have also had some discussions with the Applicant's representative about potential restrictions on the site to appease our concerns.

However, though we have had some positive steps in this direction, thus far we have no concrete restrictions that give us the assurance that present or future use of the lot at 6729 N. 7<sup>th</sup> St. will not be inconsistent with our neighborhood character. In particular, though we have some level of comfort with the plans the Applicant has provided to us for the immediate future use, we are concerned with what should happen should the Applicant change plans, or if they assign their interest in 6729 N. 7<sup>th</sup> St., what future owners may intend with the property. Frankly, at this point it is that potential future use that concerns us the most.

Because of these concerns, we need further dialog with the Applicant. With that intent, at the Planning Commission Hearing on February 11, 2014, we requested a continuance of 4 weeks. That request was denied, and the Planning Commission recommended approval of the plan.

Accordingly, first and foremost, we request the City Council to re-consider the denial of the continuance and grant those of us in Ocotillo Manor another 4 weeks to continue our dialog with the Applicant. In the event the City Council refuses to grant a continuance, we formally OBJECT to the recommendation of the Planning Commission and request a public hearing on the proposed re-zoning.

I understand that a number of residents of Ocotillo Manor likewise Appeal the decision of the Planning Commission and/or are filing Written Protests of the same. I understand that in connection with those actions, my neighbors are also submitting their thoughts and views and a number of circumstances that impact them personally. We understand and agree with those positions as well and thus, in the interest of brevity, we do not repeat those thoughts and views again in this letter.

Instead, we want to highlight our own position that we understand that as the City of Phoenix grows, some change is inevitable. Recognizing this, we, as a neighborhood, regularly work with individuals that have a desire to join our neighborhood to make sure our neighborhood does not lose its valuable safety and character, while at the same time understand changing circumstances. For example, when a developer sought to purchase and build multiple homes on the lot on the corner of 7<sup>th</sup> St. and Ocotillo Rd., we worked with the developer to amend the deed restrictions in such a way to allow the use conform to the restrictions, but preserve those restrictions which make our neighborhood safe and unique. All the while we recognized the need for the developer to have a financially feasible plan. It is unquestionable that the development was a success for Ocotillo Manor and the developer. Simply put, we are a reasonable neighborhood.

We believe it is important to work together, as allowing one party to come into the neighborhood without sufficient restrictions potentially creates a “slippery slope” where each time someone else comes in, restrictions get further and further from the original intent, **and we fear that in such a scenario, one day there will be little in the way of restriction.**

Accordingly, as noted above, **we request a continuance of 4 weeks** to dialog further with the Applicant and, as we have done in the past, hopefully come to an agreement that is beneficial to all parties involved. Should the City Council refuse a continuance, we hereby formally OBJECT to the recommendation of the Planning Commission and request a public hearing on the proposed re-zoning.

We are both happy to speak to City Council members at any time to discuss our thoughts and concerns and we remain optimistic that our City Council will, as they have in the past, represent the best interests of North Central Phoenix.

Sincerely,

Warren and Kalliopi Schneider

CITY OF PHOENIX  
PLANNING AND DEVELOPMENT DEPARTMENT

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<b>APPLICATION NO./ LOCATION</b>	<b>Z-56-13-6</b> Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road	<b>(SIGNATURE ON ORIGINAL IN FILE)</b>	
		<b>opposition</b>	<b>X</b>
<b>APPEALED FROM:</b>	<b>PC 2/11/14</b>	<b>Catherine Balzano</b> <b>520-289-7306</b>	
	<i>PC/CC DATE</i>	<i>NAME / PHONE</i>	
<b>TO PC/CC HEARING</b>	<b>CC 3/19/14</b>	<b>6720 N 8th Street</b> <b>Phoenix AZ 85014</b>	
	<i>DATE</i>	<i>STREET ADDRESS/CITY/STATE/ZIP</i>	
<b>REASON FOR REQUEST: neighbor opposition to upzoning</b>			
<b>RECEIVED BY:</b>	<b>DB / LO</b>	<b>RECEIVED ON:</b>	<b>2/18/14</b>

Larry Tom  
Diane Rogers  
Lilia Olivarez, PC Secretary  
Ken Black  
David Miller  
Courtney Gordon  
Ben Ernyei  
PLN All



# CITY OF PHOENIX

City of Phoenix  
PLANNING AND DEVELOPMENT DEPARTMENT

FEB 18 2014

## Planning & Development Department

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### FORM TO REQUEST CITY COUNCIL HEARING

I HEARBY REQUEST THAT THE CITY COUNCIL HOLD A PUBLIC HEARING:

2-56-13-6  
APPLICATION NO.

2-11-2014  
DATE APPEALED FROM

OPPOSITION  
 APPLICANT

6729 N. 7TH STREET  
LOCATION OF APPLICATION SITE

XANDON KEATING  
PLANNER  
(PLANNER TAKING THE APPEAL) Drew Byck

BY MY SIGNATURE BELOW, I ACKNOWLEDGE CITY COUNCIL APPEAL:

Catherine Balzano  
PRINTED NAME OF PERSON APPEALING

6720 N. 8TH STREET  
STREET ADDRESS

PHOENIX AZ 85014-1016  
CITY, STATE & ZIP CODE

Catherine Balzano  
SIGNATURE

2-18-2014  
DATE OF SIGNATURE

520-289-7306  
TELEPHONE NO.

REASON FOR REQUEST NEIGHBOR OPPOSITION TO UPZONING

**APPEALS MUST BE FILED IN PERSON AT 200 WEST WASHINGTON, 2ND FLOOR, ZONING COUNTER**



# CITY OF PHOENIX

FEB 18 2014

Catherine Marie Balzano  
6720 North 8th Street  
Phoenix, Arizona 85014-1016

**Planning & Development  
Department**

February 18, 2014

Phoenix City Council  
200 West Washington, Second Floor  
Phoenix, Arizona

HAND-DELIVERED

RE: PROTEST of Rezoning Application **Z-56-13-6**  
**R1-6** (Single-Family Residential) to **R-O** (Residential Office-Restricted Commercial)  
6729 N. 7th Street, Approximately 305 feet north of 7th Street & Ocotillo Road  
AKA: LOT 2, OCOTILLO MANOR SUBDIVISION

Dear Honorable Mayor and City Council Members:

Thank you for the opportunity to participate in the City of Phoenix' public process. It is critical that the City protects its long-established north-central neighborhoods -- where families have peacefully enjoyed well-built homes and a convenient location for school, work and play. I own and live in a renovated 1956 block home built on Lot 9 of Ocotillo Manor, a 16-lot *single-family residential subdivision*, which was created in Maricopa County and IS PROTECTED by a Declaration of Restrictions, recorded 4/29/52.

You are considering a higher intensity of land use on Lot 2 in Ocotillo Manor. Please refer to the enclosed county plat. The use proposed by Z-56-13-6 was never intended and is, in fact, expressly prohibited by the covenants, stipulations and restrictions in the above-referenced document. Exact language is included in a neighbor's letter of protest.

Yes, It's true that many of the Ocotillo Manor homeowners are annoyed and disgusted by the previous owner's neglect of the property -- which ultimately became a crime-infested, public nuisance. That owner, now deceased, was represented by a teary-eyed daughter at the East Camelback Village Planning Committee meeting on February 4th. Her mother had repeatedly stated to at least one homeowner that her goal was to make a huge profit when the property (Lot 2) was rezoned for commercial use.

At that same meeting, I stated that many if not all of the Ocotillo Manor homeowners would fight Z-56-13-6 all the way to the City Council. The only persons supporting the application were ALL part of the application. Ignoring the homeowners, the Village Planning Committee explained that the deed restrictions were NOT considered in the rezoning process.

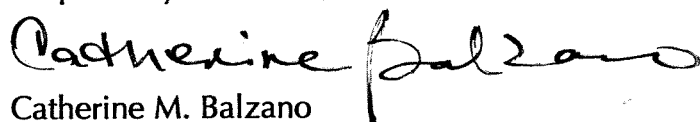
More homeowners voiced their concerns at the Planning Commission's meeting on February 11th. Although I was unable to attend, I heard about some of the Commissioners' comments -- especially the one referring to 7th Street as a *freeway*; and how could anyone live along 7th Street? I am am very aware of the traffic flow on the city's major arterials -- especially the central corridor. As a retired planning professional and long-time Phoenix resident, I am offended that an appointed official would make such a public comment. Unacceptable! The Commission voted to move the request to the Council for final consideration.

As you evaluate this up-zoning, I ask you to consider the following:

- Subject property is contiguous to low-density residential to the northeast, east, southeast and south, Lots 13, 11, 9 and 3 of Ocotillo Manor, respectively.
- Proposed land use change is NOT supported by the Deed Restrictions which have guided and maintained the integrity of our well-established North Central Phoenix residential neighborhood.
- Existing land use west of subject property and across 7th Street is lower-density, single-family residential and part of the North Central Phoenix Homeowners' Association. *What does the NCPHA think about additional commercial use (and traffic) south of intersection of 7th Street & Glendale Avenue?*
- The zoning of Lot 1, north of subject property and adjacent to multi-family residential, was regrettably changed to R-O to accommodate a non-profit organization. R-O/Restricted Commercial zoning of Lot 2 is NOT NEEDED.
- Proposed zoning change to R-O/Restricted Commercial opens the door for more intense commercial zoning in the future.
- Proposed zoning change to R-O/Restricted Commercial potentially harms our property values. Many Ocotillo Manor residents are currently investing or have already invested 100s of thousands of dollars in their homes. We are rightfully concerned how our home and property values are negatively impacted.

The proposed zoning change from R1-6 to R-O/Restricted Commercial is only desired by the previous landowner and the applicants themselves. Because this rezoning request is controversial, I submit this letter protesting the Planning Commission's action with a formal request for a Public Hearing and ultimately a 3/4 vote by the City Council.

Respectfully submitted,

  
Catherine M. Balzano

ENCLOSURE



CITY OF PHOENIX  
PLANNING AND DEVELOPMENT DEPARTMENT

<b>FORM TO REQUEST PC to CC</b>			
<b>I HEREBY REQUEST THAT THE PC / CC HOLD A PUBLIC HEARING ON:</b>			
<b>APPLICATION NO./ LOCATION</b>	Z-56-13-6 Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road	<b>(SIGNATURE ON ORIGINAL IN FILE)</b>	
		<b>opposition</b>	<b>X</b>
<b>APPEALED FROM:</b>	PC 2/11/14	Damon & Danelle Boyd 602-741-4575	
	<i>PC/CC DATE</i>	<i>NAME / PHONE</i>	
<b>TO PC/CC HEARING</b>	CC 3/19/14	6727 N 8th Street Phoenix AZ 85014	
	<i>DATE</i>	<i>STREET ADDRESS/CITY/STATE/ZIP</i>	
<b>REASON FOR REQUEST: Protesting the decision of the Planning Commission</b>			
<b>RECEIVED BY:</b>	RP / LO	<b>RECEIVED ON:</b>	2/18/14

Larry Tom  
Diane Rogers  
Lilia Olivarez, PC Secretary  
Ken Black  
David Miller  
Courtney Gordon  
Ben Ernyei  
PLN All



FEB 18 REC'D

PLANNING DEPT.  
2nd fl. RECEPTION

The **PLANNING COMMISSION** agenda for February 11, 2014 is attached.

The **CITY COUNCIL** may approve the recommendation of the Planning Commission without further hearing **unless**:

1. A **REQUEST FOR A HEARING** by the **CITY COUNCIL** is filed within seven (7) days.

There is a \$630.00 appeal fee for hearings requested by the applicant, due by 5:00 p.m. February 18, 2014

Any member of the public may, within seven (7) days after the Planning Commission's action, request a hearing by the City Council on any application. If you wish to request a hearing, fill out and sign the form below and return it to the Planning and Development Department by 5:00 p.m. February 18, 2014

2. A **WRITTEN PROTEST** is filed, no later than seven (7) days after the Planning Commission's action, which requires a three-fourths vote. A written protest will require a three-fourths vote of the City Council to approve a zoning change when the owners of at least 20 percent of the land included in the proposed change or of the land within 150 feet (not including the width of the street) of the front, back or any side of the property sought to be rezoned signed the petition. For condominium, townhouse and other types of ownership with common lands, authorized property owner signatures are required. Please see Planning and Development Department Staff for additional information prior to gathering signatures.

To require a three-fourths vote of the City Council for approval, a written protest for applications on this agenda must be filed with the Planning and Development Department by 5:00 p.m. February 18, 2014.

The Planning and Development Department will verify ownership by protestors to determine whether or not a three-fourths vote will be required.

3. A **CONTINUANCE** is granted at the **PLANNING COMMISSION**. In the event of a continuance, there is an \$830.00 fee due from the applicant within fourteen (14) days, by 5:00 p.m. February 25, 2014.

**FORM TO REQUEST CITY COUNCIL HEARING**

**I HEARBY REQUEST THAT THE CITY COUNCIL HOLD A PUBLIC HEARING:**

2-58-13-6  
APPLICATION NO.

6727 N 7th St, Phoenix, AZ 85014  
LOCATION OF APPLICATION SITE

February 11, 2014  
DATE APPEALED FROM

OPPOSITION  
 APPLICANT

Renee Peña  
PLANNER  
(PLANNER TAKING THE APPEAL)

**BY MY SIGNATURE BELOW, I ACKNOWLEDGE CITY COUNCIL APPEAL:**

Damon & Danelle Boyd  
PRINTED NAME OF PERSON APPEALING

[Signature]  
SIGNATURE

6727 N 8th St  
STREET ADDRESS

2/17/14  
DATE OF SIGNATURE

Phoenix AZ 85014  
CITY, STATE & ZIP CODE

(602) 741-4575  
TELEPHONE NO.

REASON FOR REQUEST Oppose re-zoning to Residential Office, request continuance to discuss potential stipulations with Applicant

**APPEALS MUST BE FILED IN PERSON AT 200 WEST WASHINGTON, 2ND FLOOR, ZONING COUNTER**

February 18, 2014

City Council  
City of Phoenix  
200 W. Washington St.  
Phoenix, AZ 85003

RE: Z-56-13-6/6729 N. 7<sup>th</sup> Street, Phoenix, AZ

Dear Phoenix City Council Members:

Our names are Damon and Danelle Boyd. We live in Ocotillo Manor at 6727 N. 8<sup>th</sup> St, Phoenix, AZ 85014, along with our three children, ages 5, 5 and 3. We have lived here since March of 2003. Ocotillo Manor is a beautiful, safe, residential neighborhood, with mature vegetation, great public schools, and many distinctive "Ralph Haver Homes." The neighbors of Ocotillo Manor, several of whom have lived in Ocotillo Manor for more than 60 years, are friendly, supportive and community oriented. They make Ocotillo Manor a friendly and safe neighborhood that is a great place to not just begin and raise a family, but to retire to and enjoy all that North Central Phoenix has to offer.

Importantly (to us), because we enjoy North Central Phoenix and Ocotillo Manor so much, we have recently undertaken a substantial re-model of our home, spending several hundred thousand dollars in so doing. With this investment in our home and neighborhood, we hope to spend many more years in Ocotillo Manor.

However, we are concerned about the present and future plans the Applicant has (and indeed successors to the Applicant may have) for re-zoning of the lot on 6729 N. 7<sup>th</sup> St. (Application No. Z-56-13-6) to Residential Owner status. In this regard, we have had some dialog with the Applicant's representative to understand some of the details of the site plans that are not apparent in the plans Applicant has thus far submitted, nor in the Camelback East Village Planning Committee Staff Report dated January 22, 2014. We have also had some discussions with the Applicant's representative about potential restrictions on the site to appease our concerns.

However, though we have had some positive steps in this direction, thus far we have no concrete restrictions that give us the assurance that present or future use of the lot at 6729 N. 7<sup>th</sup> St. will not be inconsistent with our neighborhood character. In particular, though we have some level of comfort with the plans the Applicant has provided to us for the immediate future use, we are concerned with what should happen should the Applicant change plans, or if they assign their interest in 6729 N. 7<sup>th</sup> St., what future owners may intend with the property. Examples of potential restrictions we have discussed so far relate to the size of the business, parking, the number of employees, the nature and limits on the number of people that can assemble on the premises, and security.

Frankly, at this point it is the uncertainty relating to potential future use that concerns us the most.

Because of these concerns, we need further dialog with the Applicant. With that intent, at the Planning Commission Hearing on February 11, 2014, we requested a continuance of 4 weeks. That request was denied, and the Planning Commission recommended approval of the plan.

Accordingly, first and foremost, we request the City Council to re-consider the denial of the continuance and grant those of us in Ocotillo Manor another 4 weeks to continue our dialog with the Applicant. In the event the City Council refuses to grant a continuance, we formally OBJECT to the recommendation of the Planning Commission and request a public hearing on the proposed re-zoning.

I understand that a number of residents of Ocotillo Manor likewise Appeal the decision of the Planning Commission and/or are filing Written Protests of the same. I understand that in connection with those actions, my neighbors are also submitting their thoughts and views and a number of circumstances that impact them personally. We understand and agree with those positions as well and thus, in the interest of brevity, we do not repeat those thoughts and views again in this letter.

Instead, we want to highlight our own position that we understand that as the City of Phoenix grows, some change is inevitable. Recognizing this, we, as a neighborhood, regularly work with individuals that have a desire to join our neighborhood to make sure our neighborhood does not lose its valuable safety and character, while at the same time understand changing circumstances. For example, when a developer sought to purchase and build multiple homes on the lot on the corner of 7<sup>th</sup> St. and Ocotillo Rd., we worked with the developer to amend the deed restrictions in such a way to allow the use conform to the restrictions, but preserve those restrictions which make our neighborhood safe and unique. All the while we recognized the need for the developer to have a financially feasible plan. It is unquestionable that the development was a success for Ocotillo Manor and the developer. Simply put, we are a reasonable neighborhood.

We believe it is important to work together, as allowing one party to come into the neighborhood without sufficient restrictions potentially creates a "slippery slope" where each time someone else comes in, restrictions get further and further from the original intent, and we fear that in such a scenario, one day there will be little in the way of restriction.

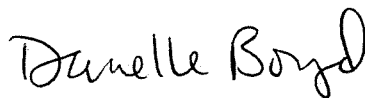
Accordingly, as noted above, we request a continuance of 4 weeks to dialog further with the Applicant and, as we have done in the past, hopefully come to an agreement that is beneficial to all parties involved. Should the City Council refuse a continuance, we hereby formally OBJECT to the recommendation of the Planning Commission and request a public hearing on the proposed re-zoning.

We are both happy to speak to City Council members at any time to discuss our thoughts and concerns and we remain optimistic that our City Council will, as they have in the past, represent the best interests of North Central Phoenix.

Sincerely,



Damon and Danelle Boyd



Cc: Jason Allen

CITY OF PHOENIX  
PLANNING AND DEVELOPMENT DEPARTMENT

<b>FORM TO REQUEST PC to CC</b>			
<b>I HEREBY REQUEST THAT THE PC / CC HOLD A PUBLIC HEARING ON:</b>			
<b>APPLICATION NO./ LOCATION</b>	Z-56-13-6 Approximately 305 feet north of the northeast corner of 7th Street and Ocotillo Road	<b>(SIGNATURE ON ORIGINAL IN FILE)</b>	
		<b>opposition</b>	<b>X</b>
<b>APPEALED FROM:</b>	PC 2/11/14	Janice Ariola 602-361-1497	
	<i>PC/CC DATE</i>	<i>NAME / PHONE</i>	
<b>TO PC/CC HEARING</b>	CC 3/19/14	6736 N 8th Street Phoenix AZ 85014	
	<i>DATE</i>	<i>STREET ADDRESS/CITY/STATE/ZIP</i>	
<b>REASON FOR REQUEST: Protesting the decision of the Planning Commission</b>			
<b>RECEIVED BY:</b>	RP / LO	<b>RECEIVED ON:</b>	2/18/14

3/4 Vote

Larry Tom  
Diane Rogers  
Lilia Olivarez, PC Secretary  
Ken Black  
David Miller  
Courtney Gordon  
Ben Ernyei  
PLN All



**FORM TO REQUEST CITY COUNCIL HEARING**

I HEARBY REQUEST THAT THE CITY COUNCIL HOLD A PUBLIC HEARING:

2-56-43-6  
APPLICATION NO.

305 ft North of the NE corner  
LOCATION OF APPLICATION SITE

2-11-2014  
DATE APPEALED FROM

of 7th St @ Acostilla Rd  
PLANNER  
(PLANNER TAKING THE APPEAL)

OPPOSITION  
 APPLICANT

BY MY SIGNATURE BELOW, I ACKNOWLEDGE CITY COUNCIL APPEAL:

Janice Ariola  
PRINTED NAME OF PERSON APPEALING

Janice Ariola  
SIGNATURE

6736 N. 8th St  
STREET ADDRESS

2-18-2014  
DATE OF SIGNATURE

Phoenix AZ 85014  
CITY, STATE & ZIP CODE

602-391-1497  
TELEPHONE NO.

REASON FOR REQUEST protesting the decision of the  
Planning Commission

APPEALS MUST BE FILED IN PERSON AT 200 WEST WASHINGTON, 2ND FLOOR, ZONING COUNTER

RECEIVED  
CITY OF PHOENIX  
PLANNING DEPT.

FEB 18 REC'D

PLANNING DEPT.  
2nd fl. RECEPTION

To: City Council  
City of Phoenix  
200 West Washington  
Phoenix, AZ 85003

FEB 18 REC'D

PLANNING DEPT.  
2nd fl. RECEPTION

From: Carl and Janice Ariola  
6736 North 8<sup>th</sup> Street  
Phoenix AZ 85014

Subject: REQUEST FOR A THREE-FOURTHS VOTE OF THE CITY OF PHOENIX CITY COUNCIL FOR  
APPLICATION # Z-56-~~53-6~~ - APPROXIMATELY 305 FEET NORTH OF THE NORTHEAST  
CORNER OF 7<sup>TH</sup> STREET AND OCOTILLO ROAD.

Dear Phoenix City Council Members:

This request is being filed to address difficulties that have transpired concerning the communications between the Applicant, the Homeowners of Ocotillo Manor, Camelback East Village Planning and the Planning Commission. The time limits imposed at the meetings on the residents of Ocotillo Manor prevented them from presenting valuable and important information. The time limits are unreasonably short in duration. Whereas, the Applicant was able to enjoy longer times and was able to give extra information. Because of this situation it has been difficult to determine the actual intent of the new owners asking for this rezoning from R1-6 to R-O. We fear that a commercial zoning request may be forthcoming in a short period of time or upon the future sale of this property at 6729 North 7<sup>th</sup> Street.


The Deed Restrictions for Ocotillo Manor are over 60 years old and have always served as guidelines to preserve the integrity of the neighborhood. However, it appears that the Camelback East Village and the Phoenix City Planning Commission have chosen to ignore these restrictions that clearly express that....."no hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally shall be erected on any said lots..." in Ocotillo Manor.

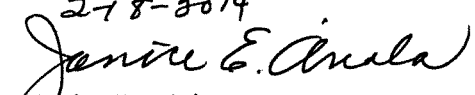
It is a curious fact that the commercial real estate person represented to previous buyers of this property that the subject property was "uninhabitable", and ready for "push-over" or scraping. The entire neighborhood can attest to the fact that the property had two floodings—one was by the City of Phoenix, multiple homeless coming and going, and has been left vacant to rot for years. These facts led to the decision of a prospective builder that the property would lend itself to the construction of three gated patio homes after the old home was **eliminated**. The residents of Ocotillo Manor cooperated fully with the seller and this builder and at their request changed the Deed Restrictions to allow for 3 single residences. And, now the question would be - "why has the question been avoided throughout this rezoning request process of why the sellers and new buyers did not consider the alternative plan that was already in place and allowed three single level residences to be built on the lot? Since the final

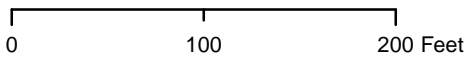
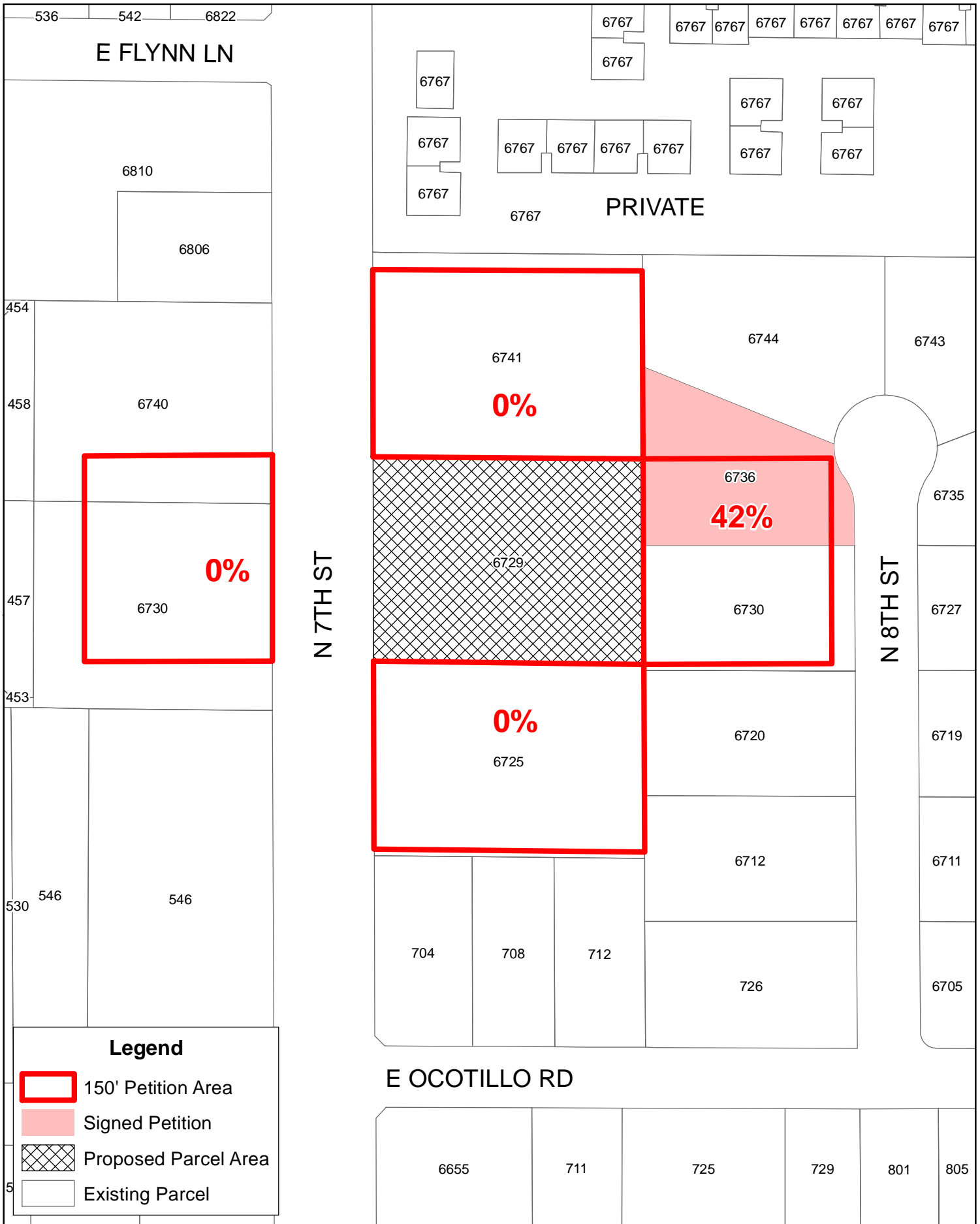
sales transaction of the first property was never completed, the old adobe ruin has now taken on a new façade as an “adorable older adobe home perfect for three doctors to use as a office? The unhealthy state that must exist in the old house must be horrendous and it would seem unrealistic that the Drs. would spend thousands of dollars to bring this house up to a livable state muchless try to develop a workable business sanitary enough to begin seeing patients. This all would lead a reasonable person to believe that there is some other agenda here---like the scraping and push-over of the old home and a new commercial building erected on the site-----after, of course the **next** round of re-zoning for commercial occurs.

The proposed property to be rezoned is directly behind our home. Our home is historic in nature and was built by Ralph Haver, a popular builder in the 1950s here in Phoneix We have lived in Ocotillo Manor for 12 years and my parents built the house and lived here for over 40 years. We have worked diligently to maintain the “Haver Home” look and have spent thousands of dollars in remodeling costs .We feel our property values will plummet due to this proposed rezoning and the activity that will follow along with it. This is a residential family oriented neighborhood and it needs to remain so.

Therefore, because of the present uncertain intent of the Applicant, we request a three-fourths vote by the Phoenix City Council to rescind the favorable decision of the Planning Commssion that was sent forward to grant this re-zoning.

  
Carl R. Ariola  
2-18-2014

  
Janice E. Ariola  
2-18-2014



**Petition Map for Z-56-13**

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**CITY COUNCIL REPORT**

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**FORMAL AGENDA**

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TO: Rick Naimark  
Deputy City Manager

AGENDA DATE: May 7, 2014

FROM: Alan Stephenson  
Acting Planning and Development  
Director

ITEM: 86 PAGE: 98

SUBJECT: GPA-RV-1-14-1 – 43RD AVENUE BETWEEN CIRCLE MOUNTAIN ROAD  
AND JENNY LIN ROAD

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This report provides back-up information on Item 86 on the May 7, 2014, Formal Agenda.

**THE ISSUE**

An amendment to the Street Classification Map has been submitted for approval to reclassify 43rd Avenue between Circle Mountain Road and Jenny Lin Road. Application is being made by Stephen Earl of Earl, Curley & Lagarde, P.C.

**OTHER INFORMATION**

General Plan Amendment Case GPA-RV-1-14-1 is a request to amend the Street Classification Map to reclassify 43rd Avenue between Circle Mountain Road and Jenny Lin Road from an Arterial to a Collector.

The Desert View Village Planning Committee reviewed the application on March 24, 2014, and recommended for approval on a 3-0-1 vote.

The application was heard by the Planning Commission on April 8, 2014, and recommended for approval on an 8-0 vote.

Attachments:

A – Staff Report GPA-RV-1-14-1



## GENERAL PLAN AMENDMENT STAFF ANALYSIS

<u>Application:</u>	GPA-RV-1-14-1
<u>Applicant:</u>	Stephen C. Earl
<u>Location:</u>	43rd Avenue, between Circle Mountain Road and Jenny Lin Road
<u>Acreage:</u>	N/A
<u>Current Plan Designation:</u>	Arterial
<u>Requested Plan Designation:</u>	Collector
<u>Reason for Requested Change:</u>	Amend the Street Classification Map to re-align 43rd Avenue and reclassify 43rd Avenue from an Arterial to a Collector Road
<u>Village Planning Committee Date:</u>	March 24, 2014
<u>Staff Recommendation:</u>	Approval

### Findings:

- 1) The proposed General Plan Amendment and Street Classification Map designation of Collector Street is compatible with the local/residential streets and uses in the area.
- 2) The request will have minimal impact on overall street patterns.

### **BACKGROUND**

This request would amend the existing General Plan Street Classification Map alignment and designation of 43rd Avenue, between Jenny Lin Road and Circle Mountain Road. Existing drainage corridor conditions impact the construction of the 43rd Avenue alignment as depicted on the Street Classification Maps; its realignment would allow the roadway to develop in a manner that would not require construction through a floodplain. Rezoning case Z-32-13-1, a request to rezone 77.88 acres from S-1 to R1-6 for the development of 202 single-family homes, identified 43rd Avenue at this location as a 60-foot wide Collector. Physical geographic constraints and a limited number of homes, diminish the need for a larger street cross-section.

Maricopa County borders the property on the north and the Interstate 17 Highway (Black Canyon Freeway) borders the site on the east. A vacant commercial parcel is

located immediately south of the subject site on Circle Mountain Road, with a single-family subdivision in close proximity. The western property line is bounded by the New River Wash and undeveloped residential.

## **RELATIONSHIP TO GENERAL PLAN GOALS AND POLICIES**

### **CIRCULATION**

- **GOAL 2C, POLICY 5. DESIGN NEW RESIDENTIAL COLLECTOR STREETS WITH NO MORE THAN ONE LANE OF VEHICULAR TRAFFIC IN EACH DIRECTION, PLUS A TURN LANE IF NECESSARY, UNLESS TRAFFIC STUDIES IN HIGH-DENSITY AREAS SHOW A NEED FOR MORE LANES.**

Given the geographic constraints and the limited number of homes proposed, approval of this request will enable the construction of 43rd Avenue as part of the subdivision. This reclassification will require that the applicant be responsible for the design and improvements associated with the reconfiguration of 43rd Avenue.

### **LAND USE ELEMENT**

- **GOAL 5, INTEGRATION OF LAND USE AND TRANSPORTATION SYSTEMS: AN INTEGRATED LAND USE AND TRANSPORTATION SYSTEM, WHICH FURTHERS THE URBAN VILLAGE MODEL AND MINIMIZES THE ADVERSE IMPACTS OF THE TRANSPORTATION SYSTEM ON HOUSING, BUSINESSES AND PUBLIC USES, SHOULD BE ENCOURAGED.**

Approval of this request will allow for the development of 43rd Avenue in a manner that enhances the character of the area while working with the geographic physical constraints of the New River Wash.

The proposed amendment has no significant effect on the following General Plan Elements:

### **COST OF DEVELOPMENT**

**BICYCLING**

**RECREATION**

**OPEN SPACE**

**GROWTH AREA**

**HOUSING ELEMENT**

**PUBLIC SERVICES AND FACILITIES**

**CONSERVATION, REHABILITATION AND REDEVELOPMENT**

**ENVIRONMENTAL PLANNING**

**NATURAL RESOURCES CONSERVATION**

**WATER RESOURCES**

**PUBLIC BUILDING**

**SAFETY**

## **CONCLUSION AND RECOMMENDATION**

Staff recommends that the request be approved

Approval of this General Plan Amendment will further the goals of the General Plan. Approval is consistent with the residential development patterns in the area and will encourage the development of connected single-family housing while preserving the New River Wash.

March 10, 2014

Attachments:

Sketch Map

Aerial (2 Pages)

Stipulated Site Plan for Z-32-13-1



# GENERAL PLAN AMENDMENT

CITY OF PHOENIX ♦ PLANNING DEPARTMENT ♦ 200 W WASHINGTON ST ♦ PHOENIX, AZ ♦ 85003 ♦ (602) 262-6882

APPLICATION NO: GPA-RV-1-14-1	ACRES: N/A
VILLAGE: Rio Vista	COUNCIL DISTRICT: 1
APPLICANT: Stephen C. Earl	

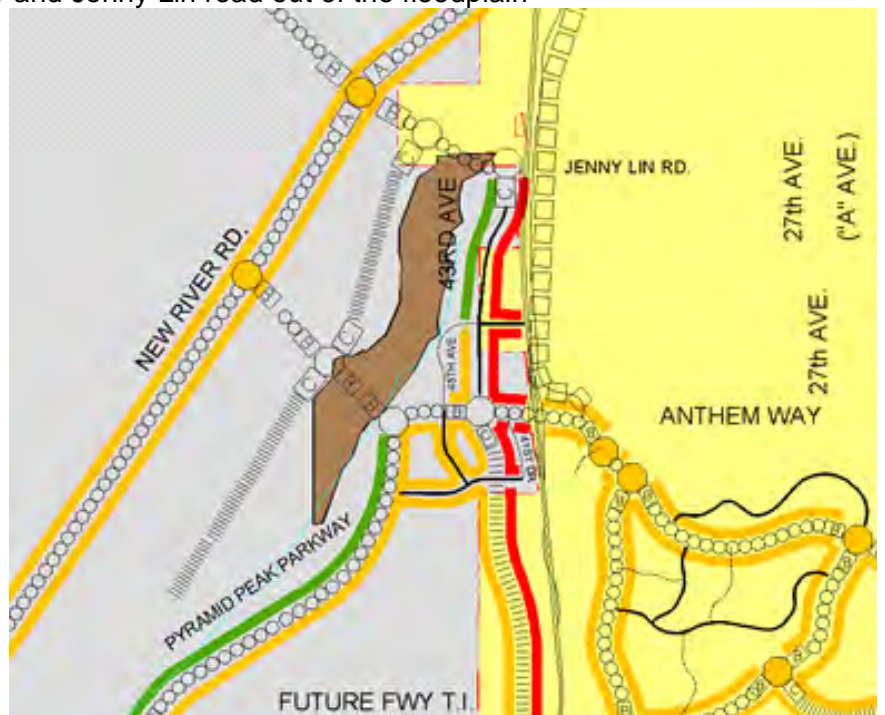
## EXISTING:

43rd Ave between Anthem Way and Jenny Lin Rd- Arterial road



## PROPOSED CHANGE:

Realign 43rd avenue between Anthem Way and Jenny Lin road out of the floodplain and reclassify from Arterial to a Collector



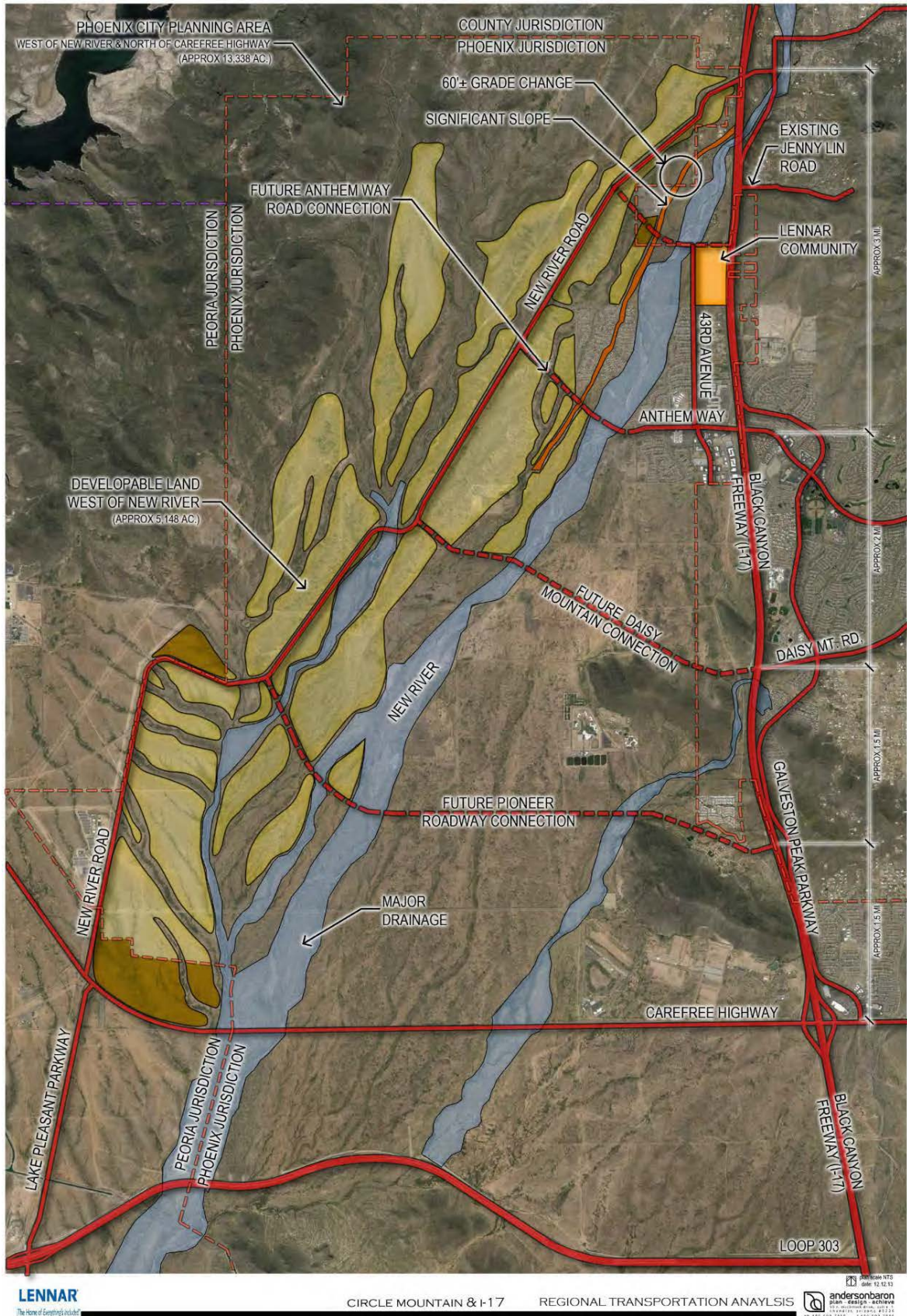


# Aerial Photograph of Physical Constraints





# City Planned Connectivity



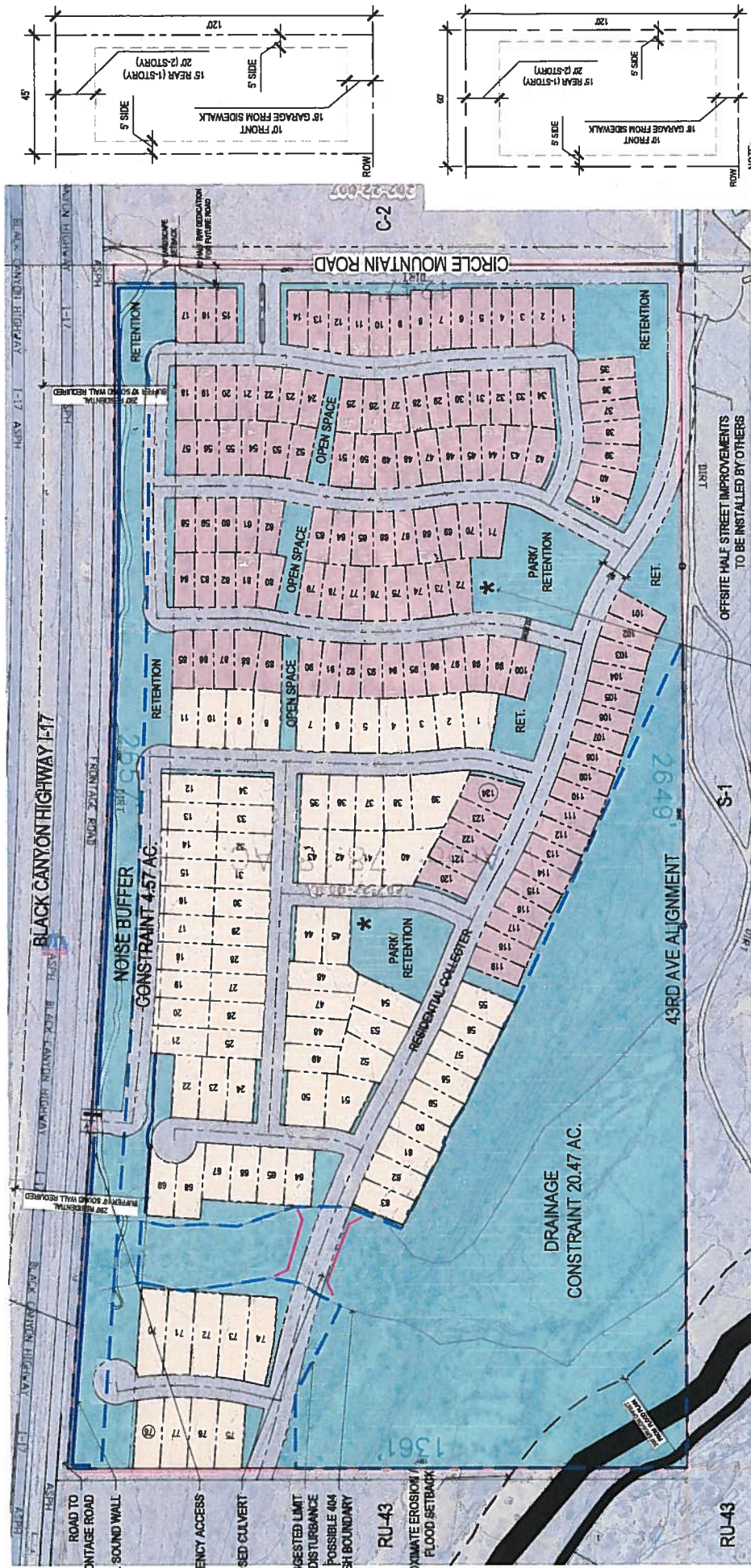
**LENNAR**  
The Home of Everything's included

CIRCLE MOUNTAIN & I-17

REGIONAL TRANSPORTATION ANALYSIS

andersonbaron  
plan design archive  
1000 N. CENTRAL EXPRESSWAY, SUITE 200  
PHOENIX, AZ 85004  
PH: 602.955.1100  
WWW.ADBARON.COM





NOTE: ALL LOTS HAVE A MINIMUM 10' BUILDING SEPARATION

OPTION 5B SITE DATA	
APPROXIMATE GROSS AREA	77.88 AC.
APPROXIMATE NET AREA	73.15 AC.
APPROXIMATE NET AREA WITHOUT CONSTRAINTS	48.11 AC.
OPEN SPACE	33.12 AC.
45'x120' LOTS	124 UNITS
60'x120' LOTS	78 UNITS
LOTS TOTAL	202 UNITS
CIRCLE MOUNTAIN RD	1,271 L.F.
COLLECTOR ROAD	2,861 L.F.
PARCEL ROADS	7,870 L.F.



plan scale: 1/100'  
date: 10.21.13

**andersonbaron**  
plan · design · achieve  
1400 West Camelback Road, Suite 100  
Phoenix, AZ 85015 · 602.998.7355 · FAX: 602.998.7356

**SITE PLAN OPTION 8**

**CIRCLE MOUNTAIN & I-17**

**CITY OF PHOENIX**  
OCT 28 2013  
Planning & Development  
Department

- ROAD TO FRONTAGE ROAD
- 10' TALL SOUND WALL
- EMERGENCY ACCESS
- PROPOSED CULVERT
- SUGGESTED LIMIT OF DISTURBANCE POSSIBLE 404 WASH BOUNDARY
- RU-43
- APPROXIMATE EROSION / FLOOD SETBACK

OFFSITE HALF STREET IMPROVEMENTS TO BE INSTALLED BY OTHERS

AMENITY LOCATION, TYP.

\* = AMENITY



## Village Planning Committee Meeting Summary GPA-RV-1-14-1

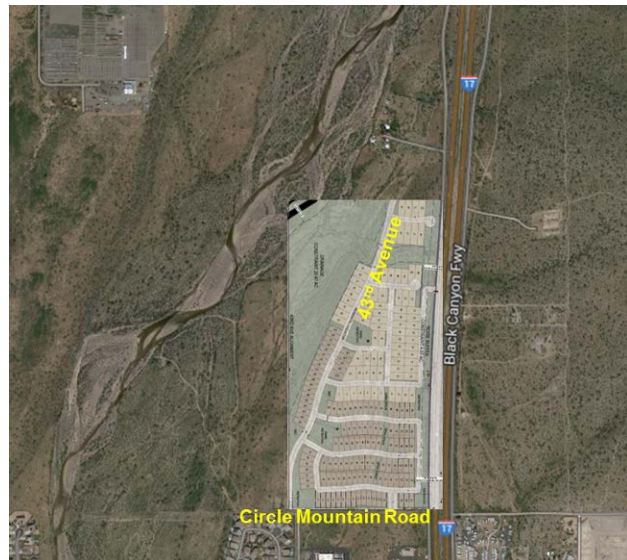
<b>Date of VPC Meeting</b>	March 24, 2014
<b>Request From</b>	Realign and reclassify 43rd Avenue from an Arterial
<b>Request To</b>	Collector Street
<b>Location</b>	43rd Avenue, between Circle Mountain Road and Jenny Lin Road.
<b>VPC Recommendation</b>	Approval
<b>VPC Vote</b>	3:0:1 (Abstained- Cody)

### VPC DISCUSSION & RECOMMENDED STIPULATIONS:

**Staff** presented a brief history of the project. GPA-RV-1-14-1 is associated with a previous rezoning case Z-32-13-1; a request to rezone 77.88 acres from S-1 to R1-6 for the development of 202 single family homes.

**Mr. Stephen Earl** presented on behalf of the applicant. He noted that given the geographic constraints and the limited number of homes proposed, approval of the request would enable the construction of 43rd Avenue as part of the subdivision. The reclassification of the road would ensure that the applicant be responsible for the design and improvements associated with the reconfiguration of 43rd Avenue.

He explained that the existing Street Classification map showed 43<sup>rd</sup> Avenue built through the New River Wash, an existing drainage corridor with a drop of 18 feet. The existing geographic conditions would indicate an increased cost associated with bridges needed to construct 43rd Avenue as depicted on the Street Classification Map. Additionally, the realignment of the road would allow the roadway to develop in a manner that would not require construction through a floodplain.



Based on a traffic generation study and the limited amount of land east of the New River Wash, the currently proposed 110 foot



Arterial cross section map would not be necessary. Given the limited development at this location, a 60 ft. wide Residential Collector was proposed to address the traffic volumes. He felt that approval of this request will allow for the development of 43<sup>rd</sup> Avenue in a manner that enhances the character of the area while working with the geographic physical constraints of the New River Wash.

**Mr. Virgil** asked for clarification that the reclassification of 43<sup>rd</sup> Avenue from an arterial to a collector did not extend south of Circle Mountain Road. Staff clarified that the request was for 43<sup>rd</sup> Avenue between Circle Mountain Road and Jenny Lin Road only.

**Vice Chair Cody** asked for a clarification of the roadway section configuration proposed. **Mr. Earl** clarified that a 60 foot wide road was proposed; 2 lanes in either direction with a center lane and bicycle lanes on both sides.

**Mr. Bob Beletz** was in favor of the item and felt that a collector road was sufficient to service the new homes proposed.

**Chairman Holton** asked about new signalization of the roads and speed limits. He inquired about the limited connectivity to I-17 and future ADOT connections at Jenny Lin and along I-17. He noted that ADOT interchanges could be facilitated by the construction of arterials such as Anthem Way and discussed whether this new cross section would limit those opportunities.

**Mr. Todd Skoro (with Lennar)** referenced ADOT's regional transportation plan through 2025. He indicated that the plan made no reference to any future I-17 connections to Jenny Lin Road.

**Mr. Earl** remarked that the speed for 43<sup>rd</sup> Avenue would be the typical speed for a collector (35 MPH); a stop sign would be placed on Circle Mountain Road to control traffic.

**Vice Chair Cody** discussed that a bridge crossing west of Anthem Way would make sense from a connectivity stand-point. **Mr. Earl** added the District 1 office was studying future connection opportunities at Daisy Mountain.

**MOTION:**

**Mr. Bob Beletz** motioned to recommend approval of **GPA-RV-1-14-1** as written, with a second from **Mr. Ozzie Virgil**. The committee voted 3-0-1 (Cody abstained) to approve the motion.

**VOTE: 3-0-1**

**STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:**

Staff has no comments.

**GENERAL PLAN AMENDMENTS AND COMPANION REZONING CASES**

Item #: 1  
Application #: GPA-RV-1-14-1  
Request: Street Classification - Map Amendment  
From: Arterial  
To: Collector  
Location: 43rd Avenue, between Circle Mountain Road and Jenny Lin Road  
Proposal: Amend the Street Classification Map to realign and reclassify 43rd Avenue from an Arterial to a Collector  
Applicant: Stephen C. Earl, Earl, Curley & Lagarde, PC  
Owner: John Schimpf  
Representative: Stephen C Earl, Earl, Curley & Lagarde, PC

Ms. Tricia Gomes presented GPA-RV-1-14-1; an amendment to the Street Classification Map to realign and reclassify 43rd Avenue from an Arterial to a Collector, between Circle Mountain Road and Jenny Lin Road. The Rio Vista Village Planning Committee recommended approval 3-0. Staff recommended approval per the recommendation of the Rio Vista Village Planning Committee.

Commission Heck made a MOTION to approve GPA-RV-1-14-1 as recommended by the Rio Vista Village Planning Committee.

Commissioner Beletz SECONDED.

There being no further discussion, Chairwoman Katsenes called for a vote and the MOTION PASSED 8-0 (Davis absent)

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