



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

Preliminary Report

September 25, 2015

Fred Howard
American Lodgings, LLC
4728 East Broadway Boulevard
Tucson, AZ 85711

Kelly Lee and Michael Grassinger
The Planning Center
110 S. Church Avenue
Tucson, AZ 85701

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2102 N. Country Club Rd., #9
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**SUBJECT: C9-15-02 Broadway Village – Eastborne Avenue, O-3 to P
Public Hearing: September 17, 2015**

Dear Ms. Lee and Mr. Grassinger,

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for rezoning case C9-15-02 Broadway Village – Eastborne Avenue. At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

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

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

SUMMARY OF FINDINGS

This is a request by Kelly Lee of the Planning Center, on behalf of the property owners, Americana Lodgings LLC to rezone approximately 0.5 acres from O-3 to P (Parking) zoning. The rezoning site is located at the southeast corner of Eastbourne Avenue and Manchester Street. The preliminary development plan proposes a parking lot with 53 spaces to be incorporated into the Broadway Village shopping center to provide employee parking, customer parking, and parking for the general public for the immediate surrounding commercial businesses.

The Broadway Village PAD is adjacent to the rezoning site on the north and east. A request for a minor amendment to the Broadway Village PAD was submitted to satisfy the conditions placed on the amendment to the *Broadmoor-Broadway Village Neighborhood Plan*. The minor amendment was approved by the Planning and Development Services Director on July 2, 2015. The minor amendment will not take effect unless this rezoning case is approved by Mayor and Council.

The rezoning site is a pie-shaped parcel totaling 0.50 acres. The site is located at the southeast corner of the intersection of Eastbourne Avenue and Manchester Street. Properties to the immediate north and east are zoned PAD-19 and are developed with commercial/retail uses, including a commercial parking lot that abuts the rezoning site. The properties to the south are zoned R-1, single-family residential. The properties to the west are zoned O-3 and R-1, and developed with multi-family residential and single-family residential uses.

The proposed rezoning will allow construction of a 53 space parking lot and six additional spaces accessed directly from Manchester Street, increasing the overall parking supply for the Broadway Village shopping center to approximately 222 spaces. The Broadway Village PAD requires 125 parking spaces. Access to the proposed parking lot will be through the existing Broadway Village shopping center parking lot. No direct access is provided onto either Eastbourne Avenue or Manchester Street from the rezoning site. Both Eastbourne Avenue and Manchester Street are local streets. The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will have no impact traffic impact.

This specific access location of the parking lot promotes safety and reduces direct traffic onto Eastbourne and Manchester. Redevelopment of the rezoning site to parking use provides an opportunity for the shopping center to create a space for employee parking which will allow customers to park closer to businesses, and can be used by other adjacent businesses. To ensure its function as a transition buffer between the residential neighborhood and the shopping center is not compromised, buildings, loading zones and dumpsters are prohibited.

Land use policy direction for this area is provided by *Plan Tucson*, the *Arroyo Chico Area Plan* and the *Broadmoor-Broadway Village Neighborhood Plan*. The rezoning site is located within a Mixed-Use Corridor as identified on the Future Growth Scenario Map of *Plan Tucson*. Mixed-use corridors provide a higher intensity mix of jobs, services, and housing along major streets. The businesses and residences within these corridors will be served by a mix of high-frequency transit options, as well as pedestrian and bicycle facilities. *Plan Tucson* supports redevelopment and revitalization of existing commercial land use that will stabilize and enhance the transition edge when adjacent to existing residential uses.

Plan Tucson policy LT28.1.7 supports developments that preserve and strengthen the distinct physical character and identity of individual neighborhoods and commercial districts in the community, while policies BC8, BC5, and LT28.1.11 support the retention and expansion of existing businesses. *Plan Tucson* policy direction specific to mixed-use corridors includes policy LT28.6.3 which supports community commercial and office uses located at the intersections of arterial streets taking into consideration traffic safety and congestion issues. Policy LT28.6.7 supports the expansion of commercial areas into adjoining residential areas when logical boundaries, such as existing streets or drainageways, can be established, and adjacent residential property can be appropriately screened and buffered. Policy LT28 .6.13 provides direction to protect established residential neighborhoods by supporting compatible development, which may include residential, mixed-use infill and appropriate nonresidential uses.

The *Arroyo Chico Area Plan (ACAP)* also identifies Broadway Boulevard as a major street corridor where commercial developments should be consolidated at major street intersections and integrated with adjacent commercial development (including joint access and shared parking) when designed to be compatible with adjacent residential uses. *ACAP Residential Subarea 2 Map* identifies the proposed rezoning site for "parking" as a permitted use. The *Arroyo Chico Area Plan* design guidelines and policy supports the maintaining of existing mature vegetation.

The *Broadmoor-Broadway Village Neighborhood Plan (BBVNP)* recognizes Broadway Boulevard as an appropriate location for commercial development with the focus on compatibility of nonresidential development with adjacent single-family residential uses. *BBVNP* supports buffering between higher density land uses and less intense development. The *Broadmoor-Broadway Village*

Neighborhood Plan allows for a parking use on the proposed rezoning site, along with the "Recommended" Land Use Map which also designates the site with "Parking" as a permitted land use.

The *BBVNP* also specifies that a parking use shall be allowed only if three conditions of "any approved rezoning becoming effective" are met. These are:

- (1) that the "Broadway Village Shopping Center shall agree to a designation as a City historic landmark" and complete the process for that designation;
- (2) that the Broadway Village Shopping Center "shall contribute" \$10,000 to the Broadmoor-Broadway neighborhood to fund National Historic District designation efforts; and
- (3) that Broadway Village Shopping Center will not build out an additional 10,000 square feet that they are otherwise entitled to under the Plan.

The Broadway Village PAD states that there are three commercial structures in the "shopping center." However, in the rezoning request for the parking lot parcel and the related amendment to the PAD, the applicant only agreed to designate two of the buildings as Historic Landmarks. The applicant has not included the Werner Baz designed building on the west side of the shopping center (designated as Building A in the PAD) in its Historic Landmark designation. Applicant indicates that the Baz building was a later annex to the shopping center and not part of the definition of Broadway Village Shopping Center. Moreover, it is noted that the Baz building was not eligible for historic status at the time the application for the Broadway Village Shopping Center PAD was initiated. Damian Clinco of the Tucson Historic Preservation Foundation urges that the term "Broadway Village Shopping Center" used in the *BBVNP* includes the Werner Baz building (and this is supported by the PAD language); that the building itself has become eligible for individual listing on the Historic Register since the approval of the Broadway Village PAD, and that the rezoning is thus not consistent with the conditions spelled out in the *BBVNP*.

The Mayor and Council adopted the amendments to the *BBVNP* regarding the Broadway Village Shopping Center Historic Landmark designations. The amendments adopted specify that an approved rezoning shall not become effective until Historic Landmark designation processes for the shopping center are complete. The Plan amendment, however, does not identify which buildings need to be included in the designation or that the conditions must be met prior to a Zoning Examiner recommendation. It only requires that the conditions must be met for any approval to become effective. Thus, if Mayor and Council intended the Baz building to be included in the plan amendment conditions of the *BBVNP* amendment, they may require historic landmark designation of that building prior to the approved rezoning becoming effective by way of ordinance adoption. An analysis of whether P zoning can be recommended for the subject parcel does not

require a determination by the Zoning Examiner of which buildings are to be included as Historic Landmarks in the adjacent PAD.

CONCLUSION

The proposed land use is consistent with the *Plan Tucson*, the *Broadmoor-Broadway Village Neighborhood Plan* and the *Arroyo Chico Area Plan*, as amended February 4, 2015. Subject to compliance with the attached preliminary conditions, P zoning is appropriate.

RECOMMENDATION

The Zoning Examiner recommends approval of P zoning.

Sincerely,

Linus Kafka
Zoning Examiner

ATTACHMENTS:

Case Location Map

Rezoning Case Map

cc: City of Tucson Mayor and Council

PROCEDURAL

1. The development package, in accordance with the *Administrative Manual*, Section 2-06, shall be in substantial compliance with the Preliminary Development Plan submitted on June 22, 2015 which clearly illustrates compliance with all conditions through the use of details, diagrams and/or notes.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. An archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as needed. Copies of testing plans, testing reports, data recovery plans and final reports shall be submitted to and approved by the City Historic Preservation Office prior to construction work commencing. If, during construction, human remains and/or associated burial items are discovered, ground disturbing activities in the vicinity of the discovery will cease, the discovery site will be secured, and the Arizona State Museum will be immediately notified as required under A. R. S. 41-865.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. "Safe by Design" concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for any new development requiring connection within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

8. No dumpster, loading zones, or buildings allowed in the parking lot.
9. Outdoor lighting to be downward-facing and shielded away from neighborhood, with even lighting for site and only minor incidental spill-over lighting. Maximum height of light poles to light source shall be 18 feet. Provide low-level pedestrian lighting on the southeast corner of the intersection of Eastbourne Avenue and Manchester Street. All outdoor lighting fixtures should be reviewed by City of Tucson Historic Preservation Office for design compatibility with adjacent Broadway Village shopping center and the Broadmoor-Broadway Village neighborhood. Building Plans Review shall include Photometric Plan that 1) demonstrates compliance with Rezoning Condition 9; and 2) labels Rezoning Condition 9 on the Photometric Plan.
10. Prior to Mayor and Council consideration of C9-15-02, per conditions placed on plan amendment PA-13-02 *Broadmoor-Broadway Village Neighborhood Plan Amendment*, the Broadway Village shopping center property owner shall provide documentation that a State of Arizona Historic Property Inventory form has been submitted to and reviewed by the City of Tucson Historic Preservation Office and Tucson-Pima County Historical Commission Plans Review Subcommittee with a recommendation for Historic Landmark designation of the Broadway Village PAD, Buildings B and C.
11. Prior to Mayor and Council consideration of C9-15-02, per conditions placed on plan amendment PA-13-02 *Broadmoor-Broadway Village Neighborhood Plan Amendment*, the Broadway Village shopping center property owner shall place \$10,000.00 in an escrow account to help fund efforts to secure the designation of Broadmoor-Broadway Village neighborhood as a National Register Historic District. The funds in the escrow account shall be released to the Broadmoor-Broadway Neighborhood Association which will be used to match funds contributed by the neighborhood for expenses related to securing designation for the Broadmoor-Broadway Village neighborhood as a National Register Historic District. Any unused portion of the funds shall be released to the Broadway Village shopping center property owner at the end of five years or if the rezoning case is denied or withdrawn, then funds will be released back to the Broadway Village shopping center property owner.

DRAINAGE/VEGETATION/BUFFERS

12. Provide a drainage statement demonstrating the maximization of water harvesting for the parking lot site.
13. Existing mature mesquite tree to remain; or if removed then perimeter landscaping to include 10 canopy trees, 24 inch box.
14. Perimeter screening along the north, west and south boundary shall be five foot high wrought iron fencing with 30 inch tall vegetative screen.

15. Provide a minimum of two canopy trees at southeast corner of the parking lot adjacent to residential uses.
16. Perimeter parking spaces shall have wheels stops to prevent vehicle overhang into landscape and planting areas.

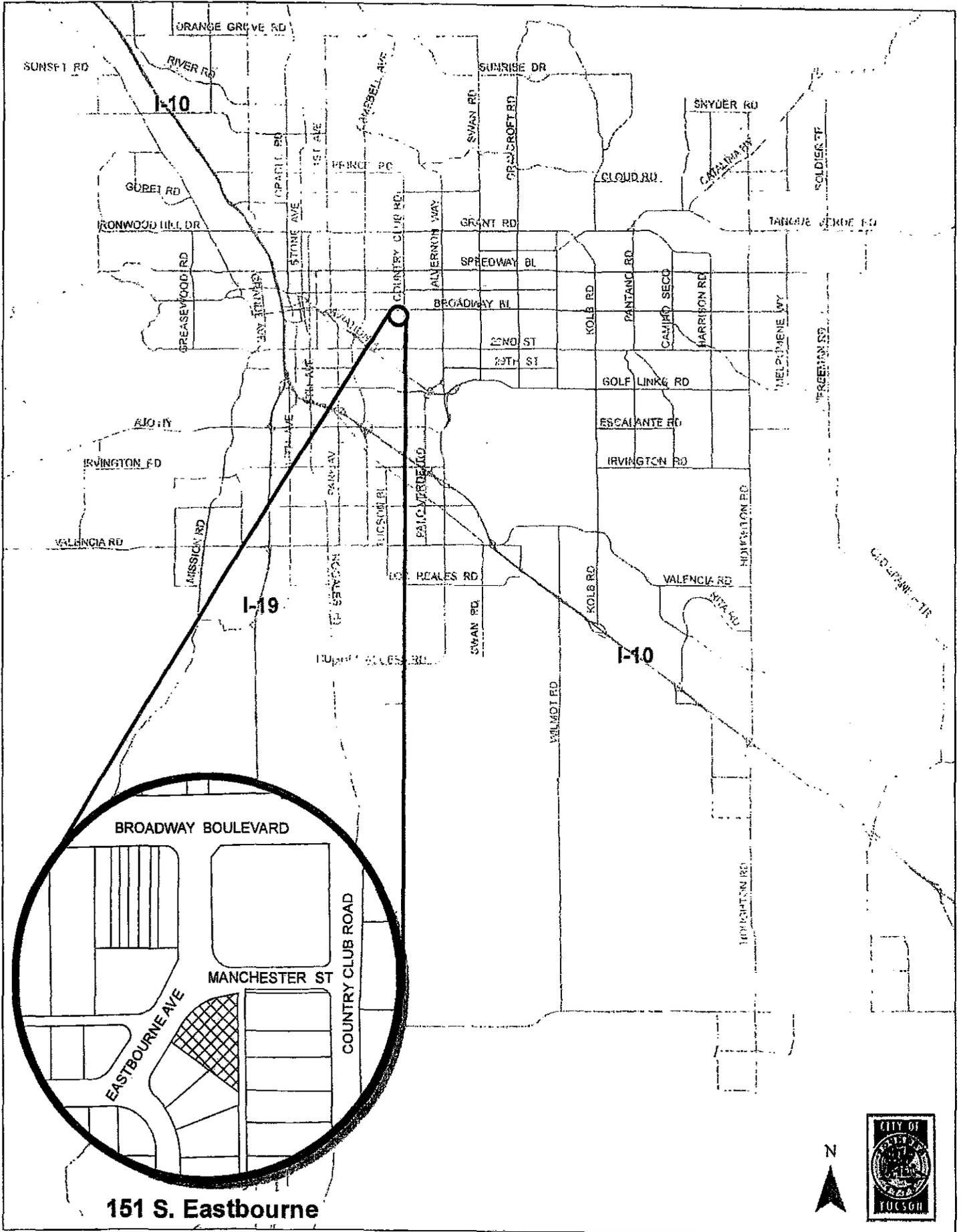
VEHICULAR ACCESS/PEDESTRIAN CIRCULATION

17. No vehicular access onto Eastbourne Avenue or Manchester Street. One foot no access easement along the north, west, and south boundaries of the parking lot site.
18. Provide pedestrian crossing at intersection of Eastbourne Avenue and Manchester Street. Pedestrian crossing shall have a change in paving texture or color that distinguishes it as a pedestrian crossing. All pedestrian crossings that cross Eastbourne Avenue and Manchester Street to have similar change in paving color or texture.

ALLEY VACATION AND ABANDONMENT

19. Prior to construction permitting of the parking lot, the Broadway Village shopping center property owner shall have completed the alley exchange, vacation and realignment with the City of Tucson.
20. Prior to construction permitting of the parking lot, the Broadway Village shopping center property owner shall provide documentation to Planning and Development Services Department that all agreements with adjacent property owners as per the alley exchange, vacation and realignment shall be completed prior to construction permitting of the parking lot.

C9-15-02 Broadway Village - Eastbourne Avenue



151 S. Eastbourne



C9-15-02 Broadway Village - Eastbourne Avenue
2014 Aerial

0 50 100 200 Feet
1 inch = 200 feet

