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**From:** Frank Sousa  
**To:** Craig Gross; Patricia Gehlen; William Balak  
**Date:** 06/05/2006 7:15:15 AM  
**Subject:** Re: NUOS

Thanks. I assume the same procedure would hold for an individual property owner.

I could not envision how such a land use restriction could eliminate the owners need for liability management, especially with the invasion of buffel and fountain grasses which are fire hazard producers. Speaking of which, if the owners/HOA wish to eradicate invasive species such as the two mentioned grasses, I assume the same procedure would hold?

>>> William Balak 6/2/2006 11:25:40 AM >>>

The NUOS areas in the Silverado Hills subdivisions were created as a result of the rezoning of the property in 1987. One of the conditions of the rezoning was the preservation of a portion of the site as natural, undisturbed, open space. These NUOS areas were delineated on the Tentative Plat, which followed the development concept plan submitted for review and approval to the City. The Mayor and Council adopted Ordinance number 6857 on November 23, 1987. Mayor and Council made the ordinance subject to a number of conditions, one of which is Section 2. Section 2 of the ordinance states:

The Final Plat was approved by Mayor and Council with the following condition listed in the General Notes:

13. All areas shown as natural undisturbed open space (N.U.O.S.) are restricted from any type of disturbance (Grading, grubbing, clearing, fences, structures, etc.) including disturbance by lot owners.

Under the Dedication section of the Final Plant the title to and the responsibility for control, maintenance, and liability of the NUOS Common Areas is with the Homeowners Association. Therefore any type of disturbance of these areas is the responsibility of the Homeowners Association.

The condition was included to protect the natural areas along the washes and was not meant to restrict issues involving health or safety such as fire hazards. If the Homeowners Association would send a letter to Walter Tellez detailing the proposed cleanup of the fire hazard along with a map of the area to be cleaned up, we can have our landscape section review the proposed work and send a landscape inspector out to make sure the work is done without undo damage to the NUOS. We would like to start as soon as possible therefore the Homeowners Association should fax their letter to Walter Tellez, Zoning Administrator at 791-2566 as soon as possible.

>>> Patricia Gehlen 06/02/06 10:40 AM >>>

William -  
Do you know the answer to this question?

>>> Frank Sousa 06/01/06 3:37 PM >>>

Got an inquiry from a resident in Silverado Hills area. Most of the washes have NUOS around them. Some are owned by an HOA. What does/can an HOA do when there is a fire hazard in the NUOS.

**CC:** Joaquin Solis; Walter Tellez

Resident's letter  
Native Plant

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**From:** "Silvyn, Keri" <KSilvyn@lrlaw.com>  
**To:** "Walter Tellez" <Walter.Tellez@tucsonaz.gov>  
**Date:** 12/06/2005 2:37:37 PM  
**Subject:** RE: Rezoning Condition C9-81-45 (Ordinance No. 5653)

Walter: Thank you. That is what we expected to hear.

Keri Lazarus Silvyn  
Of Counsel  
Lewis and Roca LLP  
One S. Church Avenue, Suite 700  
Tucson, Arizona 85701  
520-629-4438  
fax 520-879-4721  
ksilvyn@lrlaw.com

-----Original Message-----

**From:** Walter Tellez [mailto:Walter.Tellez@tucsonaz.gov]  
**Sent:** Tuesday, December 06, 2005 2:35 PM  
**To:** Silvyn, Keri  
**Cc:** Craig Gross; Ernie Duarte; Michael McCrory; Viola Romero  
**Subject:** Fwd: Rezoning Condition C9-81-45 (Ordinance No. 5653)

Keri,

I reviewed your attached letter with staff, including the City Attorney's office. It is staff's opinion that the condition of rezoning would not allow the separation of the duplex to separate owners. It would in affect create one unit on 18,000 square feet of lot area. You would need to have the condition of rezoning changed to accomplish your proposal.

Let me know if you have any further questions.

Walter Tellez.

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For more information about Lewis and Roca LLP, please go to  
[www.lewisandroca.com](http://www.lewisandroca.com).

Phoenix (602) 262-5311  
Tucson (520) 622-2090  
Las Vegas (702) 949-8200  
Albuquerque (505) 764-5400

Handwritten notes and signatures at the bottom right of the page, including the number 2006.

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**From:** Wayne Bogdan  
**To:** dbstewart@dplacecom.com  
**Date:** 11/26/2004 9:59:41 AM  
**Subject:** Tohono Tadaï Transit Ctr 50' Monopole - Zoning Information

November 26, 2004

Douglas B. Stewart RCDD/NTS/OSP  
Dplace Communications Consulting  
11740 North Joi Drive  
Tucson, AZ 85737

**Subject:** Tohono Tadaï Transit Center -- Proposed new 50' monopole  
Land Use Code (LUC) Information

Dear Mr. Stewart:

Thank you for your letter, dated October 22, 2004, regarding the above referenced project. Per your letter, the City of Tucson proposes to construct a 50' high monopole at the Tohono Tadaï Transit center nearby the Tucson Mall. A 24" directional antenna will be mounted at about the tower's 42' high level. The sole purpose of the tower and antenna is to transmit City of Tucson data and video Public Safety information. This tower is not a distribution system but only a point to point communication link. You are requesting staff's verification that this project, as described, will not be considered, for zoning purposes only, a "Distribution System" land use classification nor will it be subject to the LUC regulations and reviews applicable to new telecommunication cell towers.

The Zoning Administration Division has reviewed the information provided in your letter and the LUC regulations applicable to new telecommunication cell towers. Based on this review, staff concurs that this project, as described, will not be considered, for zoning purposes, a "Distribution System" land use classification nor will it be subject to the LUC regulations and reviews applicable to new telecommunication cell towers. Please note, a copy of this letter must be attached to the project's plans when submitted to the Development Services Department, 1st Floor, 201 North Stone Avenue for the permit review process. Should you require further information from the Zoning Administration Division, please contact either William Balk (ext. 1168) or myself (1116) at (520) 791-4541.

Sincerely,

**Bogdan**

Wayne F. Bogdan  
Principal Planner  
Zoning Administration Division  
Development Services Department  
City of Tucson

**CC:** Glenn Moyer; Michael McCrory; Patricia Gehlen; Viola Romero; Walter Tellez

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**From:** Walter Tellez  
**To:** Torres, Aline  
**Date:** 09/08/2004 9:59:59 AM  
**Subject:** Re: Audio Express

Hi Aline,

Only the area, inside or out, that has the auto use occurring on it needs C-2. Does not include parking, loading or p.a.l.'s. Parking areas needs only C-1. This is how we originally did Costco and K-marts with auto repair. I have told Trish and David R. already.

>>> Aline Torres 09/08/2004 9:50:34 AM >>>

Hi, Walter - Glenn would like me to get something in writing from you regarding the Audio Express rezoning request. Our question was if they should rezone the building square footage or a portion of the site covering the parking, loading, access areas. Can you please provide us with some form of written statement? Thanks.

**CC:** McCrory, Michael; Moyer, Glenn; Romero, Viola

C-1 = 2.5.3  
C-2 = 2.5.4  
C-3 = 6.3 5.5  
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# MEMORANDUM

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**DATE:** March 10, 2004

**TO:** Zoning Administration Division  
DSD Zoning Review Section

**FROM:** Walter Tellez  
Zoning Administrator

**SUBJECT:** LUC 5.3.2 Rezoning  
Land Use Code: Zoning Administrator Determination

A property that has gone through the rezoning process but has not yet completed the requirements for the rezoning can not be used for the proposed use until the rezoning requirements are met.

s:zoning administration/za determination/LUC5.3.2.doc



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# MEMORANDUM

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**DATE:** February 13, 2004

**TO:** Zoning Administration Division  
DSD Zoning Review Section

**FROM:** Walter Tellez  
Zoning Administrator

**SUBJECT:** LUC 5.3.2 Rezoning, Stockpiling Permit  
Land Use Code: Zoning Administrator Determination

Applicant applied for a stockpile permit to store a large amount of dirt on an SR property that had gone through the rezoning and authorized for R-1. The tentative plat is in review and has not been approved therefore the zoning ordinance has not been adopted. A basic grading plan and NPPO for the stockpile area have been completed.

The Zoning Administrator has determined that no activity can be conducted on a property based upon the possible future rezoning until the rezoning actually becomes effective.

s:zoning administration/za determination/LUC5.3.2.a.doc

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CITY OF  
TUCSON

PLANNING  
DEPARTMENT

May 3, 2002

Carl Winters  
Planning Resources  
270 North Church Avenue  
Tucson Arizona 85701

SUBJECT: ZV-02-187, 221 South Swan Road

Dear Mr. Winters:

Thank you for your letter, dated 4/17/02, regarding holding the existing zoning violation in abeyance until the rezoning process can be completed. The Planning Department's policy on zoning violation cases is to have our staff work with the business or property owner to abate the violation in a timely manner. Section 1.1.4 of the Land Use Code (LUC) states that the violation of any provision of the LUC shall be considered a civil infraction subject to the enforcement proceedings provided in the Tucson Code. The LUC has no provision to allow delaying or ignoring enforcement of zoning regulations while in the process of beginning an administrative process, such as applying to rezone the property.

Section 1.2.5 of the LUC applies land use restrictions by zoning categories or districts and only those land uses listed for the zone are permitted within the zone. The LUC does not permit your commercial business to be located on a residentially zoned property. If the property is rezoned and all LUC and Building Code requirements are met then the business can legally operate at this location. Until all requirements are met, the Pueblo Mortgage business must cease operation at 221 South Swan Road immediately to abate the current zoning violation. Failure to abate the violation will result in issuance of a Zoning Notice. A Zoning Notice is the first step toward issuance of a civil citation that can result in fines of up to \$2500 per day the violation exists. Please contact the zoning inspector, Richard Diaz at 791-4541 with the

CITY HALL • 255 W. ALAMEDA • P.O. BOX 27210 • TUCSON, AZ 85726-7210  
(520) 791-4505, 791-4571, 791-4541 • FAX (520) 791-4130 OR 791-2663  
Website: <http://www.ci.tucson.az.us/planning> • E-Mail: [comments\\_planning@ci.tucson.az.us](mailto:comments_planning@ci.tucson.az.us)

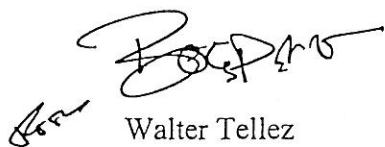
1901

April 29, 2002

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new business location by June 1, 2002. Building or Fire Code information relating to this project can be obtained by contacting a project manager at the Development Services Center, 201 North Stone Avenue, Tucson, Arizona 85701 at (520) 791-5550. Should you require further zoning information regarding this matter, please contact William Balak, Wayne Bogdan or myself at 791-4541.

Sincerely,



Walter Tellez  
Zoning Administrator

s:\zoning\2002\221 South Swan Rd.doc

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From: Walter Tellez  
To: Craig Gross; GEHLEN, Patricia  
Date: 1/16/02 11:59AM  
Subject: Re: Apache Business Park

Trish and Craig

I don't necessarily agree, we have done rezonings with 2 or 3 zones for one use, as long as the zone allows the use as a principle use, it can be used as accessory to the higher zone. Lets discuss.

>>> Patricia GEHLEN 01/16/02 11:27AM >>>

Hello Mike and Walter,

If I recall our meeting correctly, the principal use of the site is not "commercial storage". I do believe it was some type of industrial use which is permitted in the I-1 zone and not the C-2. The already developed lot is zoned I-1 and may be used for the principal use. Since the commercial storage which is to occur on the C-2 lot is secondary to the industrial use it is not permitted.

The code does allow for a principal land use of "commercial storage" in a C-2 zone but not a principal use of industrial.

I discussed and confirmed this with Craig.

Let me know if this helps and the end result.

Patricia

PS My fax number is 791-5559

>>> "mjm122762" <mjm122762@cox.net> 01/16/02 11:26AM >>>

Patricia,

I couldn't fax my memo to you, so I'm trying to email it. I'm not certain I have your correct address, so if this gets through, would you call me (885-5021 or 241-8876), or send an email in reply, to confirm your receipt. Thanks.

I-2 zone: 4.5.4  
Comm Storage: 4.3.11.2  
I-1 zone: 7.0.2  
Residential: 5.0.2

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**From:** Walter Tellez  
**To:** Gross, Craig  
**Date:** 12/20/01 1:35PM  
**Subject:** Re: Setback

The LUC only provides for "height" exception in a rezoning (3273.H). Change of use, with or without rez, has to meet setbacks (e.g. charter schools). If they have to dedicate R/W, the resulting setback does not need a variance.

>>> Craig Gross 12/20/01 01:22PM >>>

Don't we typically accept an existing setback on an existing structure that is rezoning? Especially when one of the conditions is that the rezoning is for the existing structures with no expansion?

**CC:** McCrory, Michael

12/20/01 1:35 PM  
S.B.S.



# MEMORANDUM

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OFFICE OF  
THE  
CITY ATTORNEY  
CIVIL DIVISION  
(520) 791-4221

DATE: September 27, 2001

TO: Paul Swift  
Development Services Director

FROM: Michael W. L. McCrory *M. McCrory*  
Principal Assistant City Attorney

RE: 5190 E. WOODGATE LANE – BUILDING SETBACK



A question has been raised by Bob Patrick regarding a proposed residential dwelling at 5190 E. Woodgate Lane. This property is Lot 26 of the Hill Farm Subdivision on Fort Lowell Road east of Swan. The plat for this subdivision has a 50 foot building setback from Fort Lowell which crosses Lot 26 and which would affect the location of the proposed residential dwelling.

Mr. Patrick has informed me that he was originally involved in platting this subdivision when it was in unincorporated Pima County. At the time it was platted, Fort Lowell Road was listed on the County's major streets and routes plan as a major street. The setback was included on the plat to reflect the potential expansion of Fort Lowell Road. Since that time the area has been annexed into the City and Fort Lowell Road has been taken off of the major streets and routes plan as a major street.

This subdivision was part of an annexation in 1992. At that time it was subject to Pima County rezoning case Co9-83-150. The plat also states, in a general note, that it is subject to the conditions in rezoning case Co9-83-150. Those conditions do not include either the requirement for the 50 foot building setback from Fort Lowell Road or the compliance with any potential future right-of-way as designated by a major streets and routes plan.

After annexation, the County zoning is superceded by City zoning. Conditions or regulations applicable under County provisions do not apply after the adoption of original City zoning unless they are specifically incorporated into the City zoning.

The subdivision was given original City zoning in Ordinance 7902 adopted on September 8, 1992. That Ordinance specifies some of the conditions from the Pima County rezoning case as restrictions on the properties but does not include any requirement for the 50 foot building setback from Fort Lowell Road, any specification of potential future right-of-way or any requirement regarding future major streets and routes. In addition, Fort Lowell has been taken off the City's Major Streets and Routes Plan as a major street. Thus, even if there had been a requirement to leave the future area for street widening free from

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Building plans, City Development Services Department activity number \_\_\_\_\_, for a residential dwelling at 5190 E. Woodgate Lane, Lot 26 of the Hill Farm Subdivision, Tucson, Arizona, have been approved by the City of Tucson without requiring compliance with the fifty (50) foot building setback from Fort Lowell Road designated the plat recorded at Book 33, Page 99 of the Pima County Records. The City's approval of the dwelling is based upon the conclusion that the setback is not a development or zoning condition imposed by the City and will not be enforced by the City. The property owner acknowledges that this City approval does not in any way effect whether or not a private party may enforce the setback or claim any legal rights as a result of the designation of the setback on the plat for this subdivision.

i:\mwl\PlatSetback.doc

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The Sunshine City •

# CITY OF TUCSON

CITY HALL  
P.O. BOX 27210  
TUCSON, ARIZONA 85726-7210

DEPARTMENT OF PLANNING  
791-4505 • 791-4571 • 791-4541  
FAX (520) 791-4130 OR 791-2663

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August 24, 2001

Peter Nielson  
Infranext  
3333 East Camelback Road, Suite 280  
Phoenix, AZ 85018

Subject: AT&T Wireless Exterior Coaxial Cable - Proposal For Existing Monopoles  
Land Use Code (LUC) Information

Dear Mr. Nielson:

Thank you for your letter dated August 20, 2001 regarding your proposal to add exterior cabling to existing monopoles located at the following sites:

1. Palo Verde Park, 501 S. Mann Ave. (Special Exception Case SE-99-13).
2. Joaquin Murrieta Park, 1400 N. Silverbell Ave. (Special Exception Case SE-99-14).
3. U of A Sancet Field, 1701 E. 6th Street (Special Exception Case SE-00-05).

Per staff's direction at our previous meeting, the exterior cabling proposed for these monopoles must be enclosed by metal chase, dimensioned not more than 3" x 8", and painted to match the existing pole in order to ensure the potential visual impact of the exterior cabling is kept to a minimum. With these preconditions, staff has not objections to the proposal. Please note that a copy of this letter must be attached to any plans submitted to the Development Services Department (DSD), 201 North Stone Avenue for the zoning compliance review process. If you have any further zoning questions for the Planning Department, please contact Bill Balak, Wayne Bogdan or myself at (520) 791-4541.

Sincerely,

Walter Tellez  
Zoning Administrator

s:zoning/2001/attexteriorcable.doc

cc: Case Files SE-99-13, SE-99-14 and SE-00-5.

Spec Exempt = 2015

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