



Zoning Examiner

REPORT TO MAYOR AND COUNCIL

July 13, 2023

SUBJECT: TP-ENT-0423-00019 W Grant Road – West Grant Road, C-2 (Ward 3)

Public Hearing: June 29, 2023

BACKGROUND

This is a request by Lindsay Schube of Gammage & Burnham, on behalf of the property owner Devine Holdings, LLC, for approval of a Special Exception Land Use to allow a marijuana dispensary, as permitted in the *Unified Development Code* (UDC). The project site, which is located at 225/247 W Grant Road, includes an existing 2,600-SF structure on 0.43-acres. The Applicant proposes to enclose an additional 952-SF that is under an existing overhang on the subject building, for a total of 3,552-SF of interior space. The project will maintain the current height of 21.25-feet. The site is zoned C-2 (Commercial) and located along the south side of Grant Road approximately 500-feet east of the intersection of N Oracle Road and W Grant Road (see Case Location Map).

On December 20, 2022, the Mayor & Council approved an amendment to the UDC relating to adult use and medical marijuana establishments. A marijuana dispensary may now be allowed in the C-2 zone as a Special Exception Land Use subject to approval through a Mayor & Council Special Exception Procedure (Section 3.4.4 and 5), and is subject to Sections 4.8.6 and 4.9.9 of the UDC. Mayor & Council is the final review authority to render a decision to grant the use with or without conditions, or to deny the use.

PUBLIC HEARING SUMMARY

June 29, 2023, Zoning Examiner Hearing

The Applicant's representative spoke in support of the requested rezoning at the Zoning Examiner hearing. No other person spoke.



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As of the date of the Zoning Examiner hearing, there was one (1) written approval and one (1) written protest.

FINDINGS OF FACT

Background Information

Existing Land Use:

Existing vacant building that was previously used as an accounting office and smoke shop.

Current Zoning:

C-2: This zone provides for general commercial uses that serve the community and region. Residential and other select agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

Surrounding Zoning and Land Use:

North: C-2 (*Commercial Zone*); Uses include an automotive repair facility/car lot and an office use.

South: O-3 (*Office Zone*). Uses include a single-story multi-family use and a vacant lot used for storage.

East: C-2 (*Commercial Zone*). Uses include a vacant lot with food trucks and outdoor dining.

West: C-2 (*Commercial Zone*). Uses include a fast-food restaurant with a drive through.

Planning Considerations – Land use policy direction for this area is provided by *Plan Tucson*. No neighborhood or area plans are in effect for this site.

Plan Tucson (PT)

Sensitivity to the adjacent residential neighborhoods is a high priority within *Plan Tucson* (PT). PT policy supports neighborhood commercial, and retail uses along arterial streets, taking into consideration traffic safety and congestion issues. PT guidelines support the location of employment, retail, and services in proximity to each other to allow easy access and reduce dependence on car travel, and support infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines.



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The Plan Tucson Future Growth Scenario Map illustrates different building blocks within the city that have specific policies to promote future growth opportunities. The proposed use lies within the Mixed-Use Centers building block of the Future Growth Scenario Map. Mixed-Use Centers combine a variety of housing options, retail, services, office, and public gathering places, located close to each other, providing occupants of the center and the residents and workers in the surrounding neighborhoods with local access to goods and services. The following specific strategies apply to the proposed special exception.

LT.28.5.1 Support development in or adjacent to existing regional and community-level activity centers that will:

- Integrate residential and nonresidential land uses and the mix of private and public land uses, including entertainment, recreation, retail, restaurants, offices, libraries, hotels, public meeting facilities, childcare, transit facilities, and other services into mixed-used activity.
- Encourage infilling vacant or underutilized parcels adjacent to existing regional and community level activity centers.

LT.28.5.3 Support neighborhood-scaled activity nodes that are designed to provide direct pedestrian and bicycle connections to the neighborhoods they serve.

LT.28.5.8 Support infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to relevant site and architectural design guidelines.

Project Background

The special exception site is located on W Grant Road, an arterial roadway, just east of the N Oracle Road, and W Grant Road intersection. The site is currently zoned C-2, and a Mayor & Council Special Exception is required for the proposed Marijuana Dispensary use. The Applicant is proposing to open the facility in an existing 3,552-SF building.

Design Considerations

Land Use Compatibility – The proposed land use is a Marijuana Dispensary as defined by Section 4.9.9.E.1 of the UDC. It is permissible in the C-2 Zone subject to review and approval per the Mayor & Council Special Exception Procedure established by Section 3.4.4 of the UDC.

The Preliminary Development Plan shows that the project includes a 3,552-SF building, which represents an expansion of an additional 952-SF on the existing structure. The building sits toward the western edge of the property and is encircled by a drive aisle.



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Paved parking will be located to the east of the building. There will be one entry point to the property, which will use the existing curb cut on W Grant Road, which will be retained. A total of 12 parking spaces will be provided, including two handicapped-accessible spaces. One of the handicapped-accessible spaces will also be van accessible. Spaces for four bicycles will also be provided. This meets the minimum parking requirements contained within the UDC. The site has been designed to meet or exceed all required landscaping, lighting, and retention requirements established by the UDC.

With an approved Special Exception, the Applicant will file a security plan with the State of Arizona to ensure compliance with A.R.S §36-2804(B)(1)(C). The security plan will include:

- Surveillance cameras covering all exterior and interior areas of the property, and all portions of the building used for storage and dispensary uses with a minimum backup storage of thirty (30) days;
- A 24-hour independently monitored security alarm system (with backup cellular communication capability, audible alarms, motion detectors, panic buttons, yard signs and window stickers);
- Controlled access to loading areas;
- Trackable and controlled keycard access to the building and all portions used for dispensary and secure storage purposes (with employees only given keycard access to areas where they work); and
- Secure and controlled access to all areas where marijuana products are stored or displayed.

In addition to the security plan filed by Applicant, A.R.S. § 36-2806(H) requires AZDHS to carry out a minimum of one unannounced inspection of the Project per year.

Use-Specific Standards

The following Use-Specific Standards under Section 4.9.9.E.1 of the UDC are applicable to the proposed Special Exception:

- *UDC 4.9.9.E.1.a – The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.* The project will only contain 3,552-SF of floor area.
- *UDC 4.9.9.E.1.b – A medical marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.* The project will be located in a permanent building already located on the property, after the building's expansion.



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- UDC 4.9.9.E.1.c – The permitted hours of operation of a marijuana dispensary are from 7:00 am to 10:00 pm. The project will operate only during permitted hours, never opening before 7:00 a.m. nor remaining open later than 10:00 p.m.
- UDC 4.9.9.E.1.d – A marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the sales floor area. The project will have an adequate interior waiting area. Once interior plans have been finalized, additional details will be provided to demonstrate compliance with the UDC.
- UDC 4.9.9.E.1.e – A marijuana dispensary shall not have outdoor seating areas. The project will not have any outdoor seating on the site.
- UDC 4.9.9.E.1.g – A marijuana dispensary shall be setback a minimum of 2,000 feet from any other marijuana dispensaries, measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries. The proposed use will be located greater than 3,400-feet from any other marijuana uses.
- UDC 4.9.9.E.1.h – a marijuana dispensary shall be setback a minimum of 500-feet from a K-12 public, private, or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school or childcare center. The proposed use will be located greater than 1,700-feet from any schools and childcare centers.
- UDC 4.9.9.E.1.i – a marijuana dispensary shall be setback a minimum of 500-feet from a public park listed in Section 6 of the Technical Standards Manual or library, and a minimum of 500-feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary, to the closes property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitee facility. - The proposed use will be located greater than 3,400-feet from any libraries, public parks, and licensed residential drug or alcohol rehabilitation facilities.
- UDC 4.9.9.E.1.k – A marijuana dispensary shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency. - The Applicant noted that approval of this Special Exception will conform with the UDC,



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and will provide for the use of the property according to the many rules and regulations promulgated by the Arizona Department of Health Services (AZDHS).

- UDC 4.9.9.E.1.1 – Odor Mitigation
 1. Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated.
 2. An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements.

The Applicant is an experienced operator and can ensure no odors emit from the proposed use. They will leverage their expertise gained from operating marijuana dispensaries in other jurisdictions to draft and implement an odor mitigation plan that will ensure adequate ventilation and filtration.

Special Exception Findings

Section 3.4.5.A of the UDC requires that Mayor and Council grant a special exception only after finding that the requested special exception:

1. Meets the standard expressly applied by all adopted codes and regulations for that type of land use, or for the land use class applicable to the proposed use. – The application materials demonstrate that the Project meets all applicable standards and regulations governing marijuana dispensaries. This is further shown by the Property’s previous approval for use as a marijuana dispensary—prior to the addition of the Mayor and Council Special Exception requirement.
2. Does not adversely affect adjacent land uses or the surrounding neighborhood; or that such adverse effects can be substantially mitigated through the use of additional conditions. - Use as a marijuana dispensary conforms to and complements adjacent land uses and the surrounding neighborhood because:
 - The Project represents an investment and improvement on a parcel that is currently not in use;
 - The expansion of the existing structure represents an addition of less than 950 sq. ft.;
 - The security plan required by the State of Arizona will ensure the Project is safe for its patients, employees, and neighbors, as well as increase the safety of the surrounding properties;
 - Mohave is an experienced operator, and can ensure no odors emit from the Project; and



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- The Project's character of use is less intensive than certain neighboring uses (e.g., gas station and fast food) and complements other neighboring uses (e.g., adjacent food peddler).

3. Provides for adequate and efficient vehicular and pedestrian access and circulation and vehicular parking. - The Property will include new paved off-street parking that meets the requirements of the UDC. The parking utilizes an existing entrance on a major thoroughfare, W Grant Road. The project is also situated on an existing bike path and includes dedicated bicycle parking.

4. Can be adequately and efficiently served by public facilities and services, such as water, storm water drainage, fire and police protection, and solid and liquid waste disposal and/or collection as may be required by the various public and private agencies. - This project requires no additional public facilities or services as compared to the property's previous uses. The project is located in Tucson Police Department's Operations Division West as well as by Tucson Fire. The project anticipates using weekly refuse collection and estimates generation of no more than 53 gallons of refuse per week.

5. Complies with the General Plan and any applicable sub-regional, area, or neighborhood plan. - The Project will be a retail establishment, and the property is already zoned C-2 Commercial. Further, the Property is situated in a Mixed-Use Center Future Growth Scenario Building Block. These areas are intended to provide "a variety of housing options, retail, services, office, and public gathering places, located close to each other, providing occupants of the center and the residents and workers in the surrounding neighborhoods with local access to goods and services." The Project complies with these goals because it is valuable infill development that will provide a unique and tasteful retail option to complement neighboring properties and uses.

Drainage/Grading/Landscape

The site has an existing building. All improvements will be designed to meet or exceed all required landscaping, lighting, and retention requirements established by the UDC.

Traffic/Circulation

The site will largely retain the existing traffic circulation and curb cut location. The site's Marijuana Dispensary use requires a minimum of 12 parking spaces, which includes 2 handicapped-accessible parking spaces, and the project will provide 4 bicycle parking spaces.



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Conclusion – The proposed special exception is consistent with *Plan Tucson*, and in compliance with performance criteria of UDC Sections 3.4.4, 3.4.5, 4.8.6 and 4.9.9. Subject to compliance with the preliminary conditions proposed by PDSO, approval of the special exception land use in the C-2 zone is appropriate.

RECOMMENDATION

The Zoning Examiner recommends approval of the special exception land use, subject to compliance with the preliminary conditions proposed by PDSO,

Sincerely,

A handwritten signature in black ink, appearing to read "John Iurino".

John Iurino

Zoning Examiner

ATTACHMENTS:

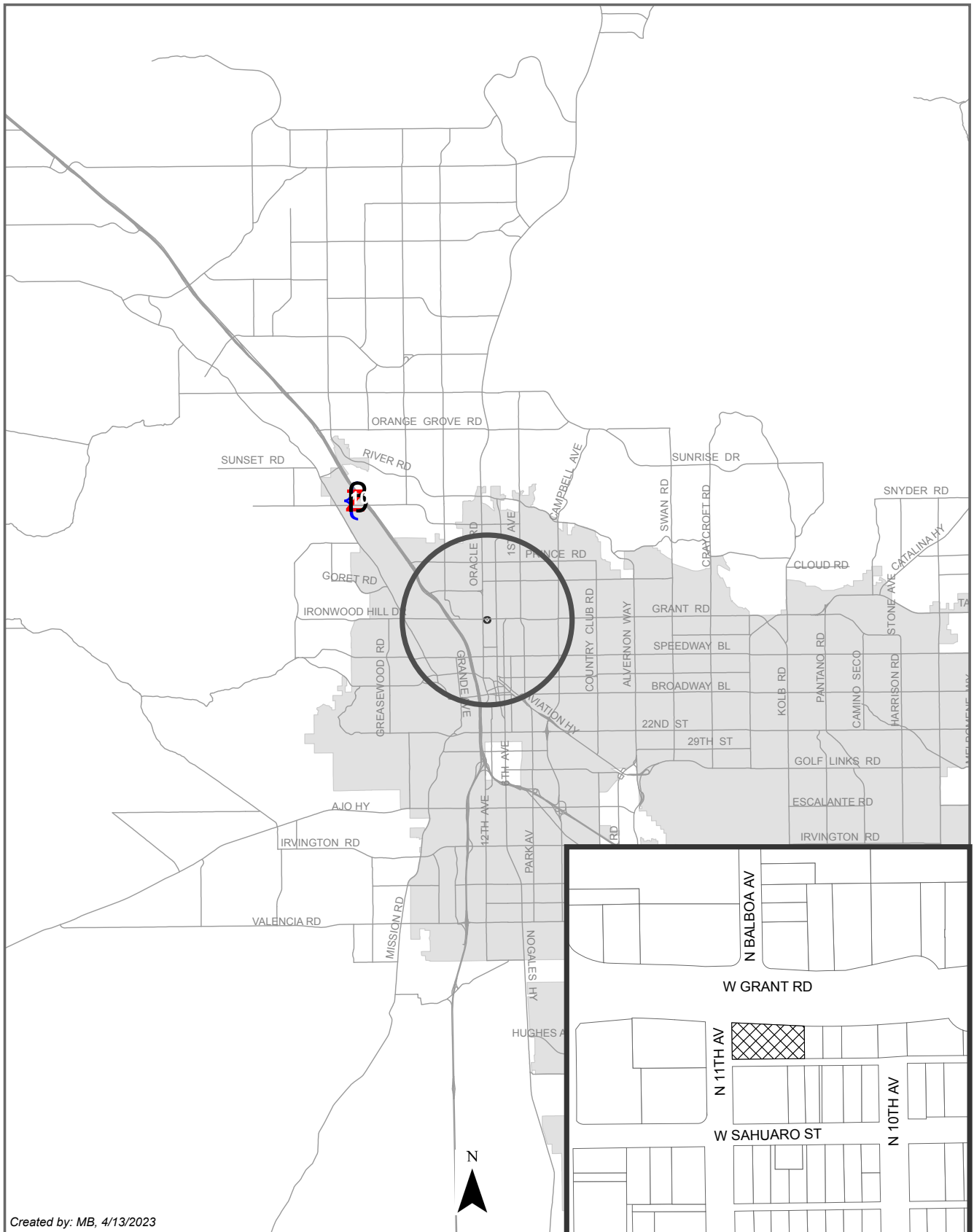
Case Location Map

Rezoning Case Map

Public Hearing Minutes

Cc: Mayor and Council

TP-ENT-0423-00019 Special Exception 255 W Grant Rd



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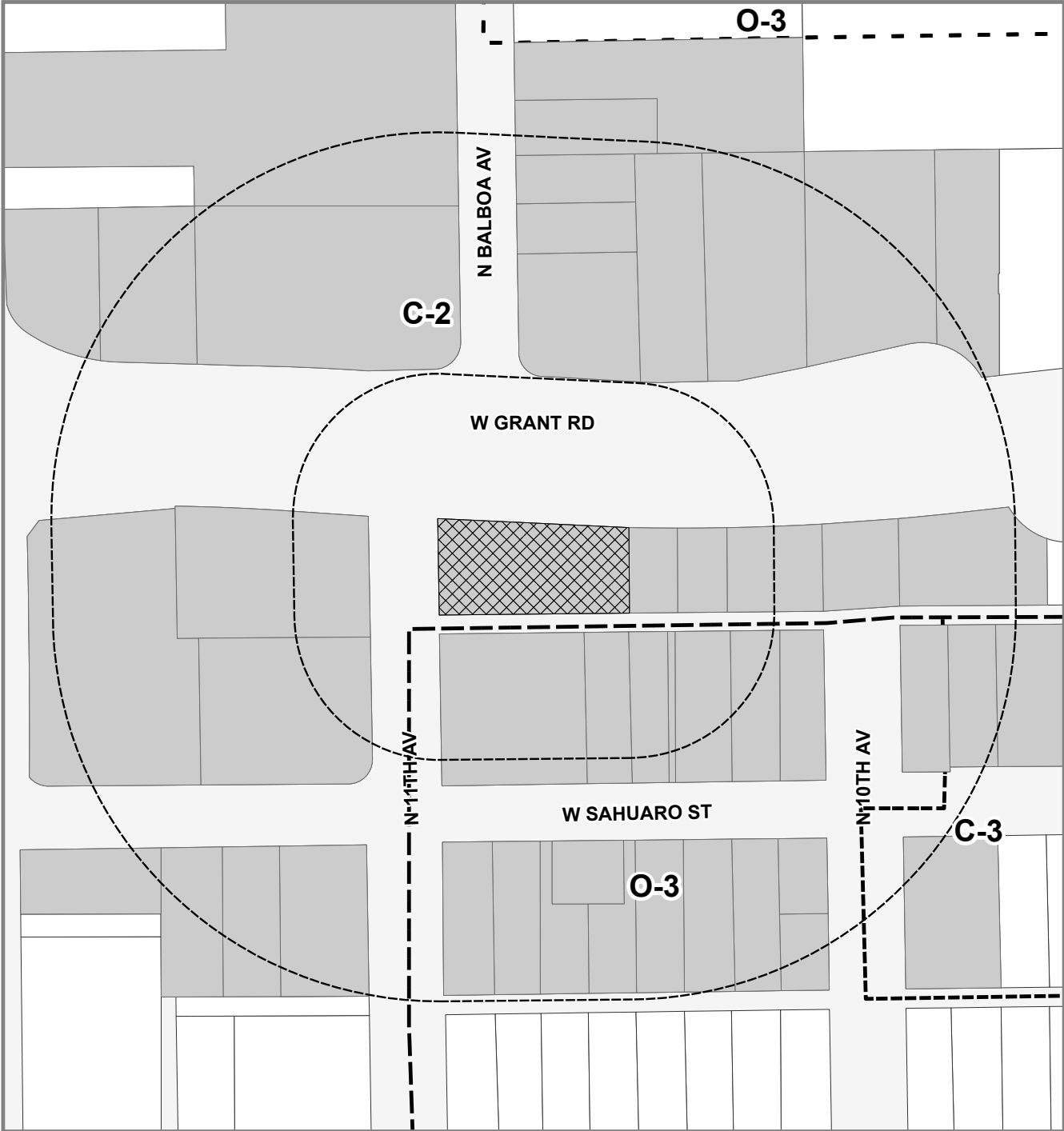
 Area of Special Exception Request






Address: 247 W GRANT RD
Base Maps: Twp. 1403 Range 1302 Sec. 01
Ward(s): 3

2020 Aerial
Created by: MB, 4/13/2023

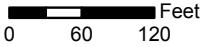


TP-ENT-0423-00019 Special Exception 255 W Grant Rd



-  Area of Special Exception Request
-  Properties Notified
-  Zone Boundaries
-  400' Notification Area
-  Protest Area (150 ft. Radius)

Address: 247 W GRANT RD
 Base Maps: Twp. 1403 Range 1302 Sec. 01
 Ward(s): 3



1:1,712

CITY OF TUCSON
ZONING EXAMINER PUBLIC HEARING
JUNE 29, 2023

ZONING EXAMINER:

- John Iurino

STAFF PRESENT:

- John Beall
Principal Planner, City of Tucson
Planning and Development Services Department
- J. Carver Struve
City of Tucson
Planning and Development Services Department

APPLICANTS/AGENTS PRESENT:

- Lindsay Schube
Gammage & Burnham
40 North Central, 20th Floor
Phoenix, Arizona 85004
- Adam Call
Brian Underwood
The Planning Center
2 East Congress, Suite 600
Tucson, Arizona 85701
- Rory Juneman
Lazarus & Silvyn, P.C.
5983 East Grant Road, Suite 290
Tucson, Arizona 85712

1 ZONING EXAMINER: It's 6:00 o'clock so we'll get
2 started. Good evening and welcome everyone to tonight's Public
3 Hearing. My name is John Iurino. I'm the Zoning Examiner for
4 the City of Tucson.

5 There's an announcement before we call the first case.

1 And the announcement is that the fourth case on the agenda this
2 evening, Case TP-ENT-0223-00012, Broadway/Rosemont Apartments,
3 the hearing on that case tonight will be rescheduled. A question
4 has been raised about the mailed notice for the hearing on that
5 case for this evening. To make certain that all parties who
6 should receive notice of the hearing do, in fact, receive such
7 notice, I'm cancelling the Public Hearing without taking any
8 action this evening. I will hold a Public Zoning Examiner
9 Hearing on July 20, 2023, at 6:00 p.m., and new notice will be
10 given of that hearing. All protests, approvals, and comments
11 that were given by the public to date will be carried forward and
12 considered at the July 20, 2023, hearing, along with any new
13 testimony, comments, protests, or approvals. So anyone who is
14 here for that case, please have a lovely evening and a lovely
15 holiday weekend.

16 And, with that, we'll go into the rest of the agenda.
17 And the first case on the agenda is Case TP-ENT-0423-0019, West
18 Grant Road, a special exception case. Mr. Struve, are you
19 presenting the case?

20 MR. STRUVE: Yes, I am, Mr. Iurino. Thank you.

21 ZONING EXAMINER: Thank you.

22 MR. STRUVE: This is a request by Michelle Santoro
23 of Gammage & Burnham on behalf of the property owner, Mr. Ronnie
24 Kassab of Divine Holdings, LLC. The request is for a Mayor and
25 Council special exception to permit a marijuana dispensary on a

1 .43-acre site that is zoned C-2 commercial. The project site is
2 located at 225 and 247 West Grant Road, approximately 500 feet
3 east of the intersection of North Oracle Road and West Grant
4 Road. The site includes an existing 2,600-square-foot structure,
5 and the Applicant proposes to enclose an additional 952 square
6 feet that is under an existing overhang, for a total of 3,552
7 square feet of interior space. The project will maintain the
8 current building height of 21.25 feet.

9 The proposed use will comply with all use-specific
10 standards established by the City's Uniform Develop- -- Uniform
11 Development Code -- Unified Development Code, including
12 limitations on the hours of operation and separation distances
13 from other marijuana dispensaries as -- and sensitive uses as
14 proscribed by the UDC. With an approval special exception, the
15 Applicant will file and implement a security plan that complies
16 with State of Arizona standards, as well as an odor mitigation
17 plan.

18 A total of one approval and one protest have been
19 received for this site. The Planning and Development Services
20 Department recommends approval of the requested Mayor and Council
21 special exception, subject to the submitted preliminary
22 conditions. Thank you.

23 ZONING EXAMINER: Thank you, Mr. Struve.

24 Would the Applicant like to be heard?

25 MS. SCHUBE: Mr. Iurino, Lindsay Schube with the

1 law firm of Gammage & Burnham. And I just got a new camera, so
2 if I -- if I seem a little -- this -- this virtual world we're
3 in, so if I'm looking at the wrong side at the wrong time, I
4 apologize. I've got --

5 ZONING EXAMINER: It all looks good to me. Thank
6 you.

7 MS. SCHUBE: Perfect. May I share my screen and
8 share a short presentation?

9 ZONING EXAMINER: Yes, please.

10 MS. SCHUBE: Perfect. Okay. Okay.

11 ZONING EXAMINER: That's a good camera you got,
12 too.

13 MS. SCHUBE: Oh, well, thank you. I will -- I
14 will compliment our -- our IT Department.

15 ZONING EXAMINER: Your vendor, yes.

16 MS. SCHUBE: Okay. Here we go. So -- and see if
17 I can play it from the beginning here. That works. Oh, what we
18 -- I'll just do -- it's just -- okay, hopefully, you're seeing
19 inside a baseball with the little things on the screen, but
20 technology is not exactly my -- or my -- my expertise.

21 So Lindsay Schube, Gammage & Burnham. As staff
22 introduced, Michelle Santoro is a planner who worked with us on
23 this case, she is enjoying vacation with her family, which is
24 lovely. So with me tonight is a Senior Land Use Planner Dennis
25 Newcomb, again on behalf of Mohave Cannabis Club; also Ronnie

1 Kassab and JARS Cannabis.

2 A little about JARS, they own and operate multiple
3 dispensaries nationwide, Michigan and Arizona, and they have won
4 multiple awards in Arizona for community involvement, retail
5 selection, and customer service, so they are not new to the
6 marijuana space. And I'll say even -- we've won over the hearts
7 of Payson, and they're a very conservative community up there, so
8 they -- they have a lot of familiarity with working in a bunch of
9 different jurisdictions in the State of Arizona. They are very
10 interested and concerned about compliance and security, and they
11 run a really fabulous business with high customer service.

12 So, as described, we're talking about the southeast
13 corner of Grant and 11th Avenue, just east of Oracle. I'm sure,
14 Mr. Iurino, you have done a site visit and read the Staff report
15 as -- as any good hearing officer would, so I'm sure you're
16 familiar with this area. We are aware of the challenges that are
17 in this area right now, and that doesn't deter us from being
18 there. We believe that we can be an asset to the community.

19 So why am I here as Carver described? I'm here for a
20 request -- a recommendation of approval of the Mayor and Council
21 special exception to allow construction and operation of a 3,552-
22 square-foot dispensary. Again, we have the existing building. I
23 love it. This is a prime example of adaptive reuse and bringing
24 the building back up to code. We have a condition of approval
25 for the cool roof and -- and all those other code -- we're not

1 asking for any exceptions or deviations. We also are going to
2 add a small extension on the property you'll see in the next
3 exhibit, and bring landscaping up to code, which I think will
4 help in terms of shade and heat island and all of those things.

5 As described, the property is zoned C-2. According to
6 Plan Tucson, the land use designation is commercial and it's
7 situated in the mixed-use center, so future -- future growth
8 scenario. There was an approval for dual licensee on here, but
9 there has been a code change that now requires dispensaries to
10 move forward with the special exception.

11 So, again, as described, 3,522 (sic) square-foot
12 building. With that, we will operate between the hours of 7:00
13 a.m. and 10:00 p.m., in conformance with the Tucson code; not
14 asking for any variation. We are compliant with the code: 12
15 parking spots, as well as four bicycle spots, two handicapped,
16 one -- one available for van accessibility as well. We'll remain
17 in conformance with all of the City's performance standards for
18 dispensaries and upgrade in site landscaping. Again, not only
19 the adaptive reuse of the building, but improving kind of the
20 shade and walkability in the area we believe will be of benefit
21 to the area and some of the challenges that they are seeing.

22 As described, JARS Cannabis, they're a fabulous
23 retailer. I -- I have to admit, I -- I've worked with them for
24 years. And -- and Gammage & Burnham, we are very fortunate that
25 we don't -- we don't represent people who we don't believe are --

1 are of benefit to the State of Arizona. We care very much about
2 -- about that.

3 Safety is very important to them. It is regulated by
4 Arizona Department of Health Services, but we do tend to -- to go
5 above and beyond. If we are approved by -- for this Mayor and
6 Council special exception, we'll have surveillance cameras
7 covering the entire exterior and interior. We have found that
8 the placement of dispensaries in areas that are facing some of
9 the challenges that this area has, it really does decrease crime.
10 JARS has worked with first responders. Even if there is a
11 situation that has nothing to do with our dispensary, our -- our
12 security footage has to maintain -- we have to maintain it for 30
13 days, and we welcome any involvement from -- from first
14 responders who want to come in and look at our -- look at our
15 footage if we can help with anything in the area.

16 Twenty-four-hour independent monitored security alarm
17 system, trackable and controlled key card access. As you know,
18 everyone who works at a dispensary must have a facility agent
19 card, that's a full background check, and -- and security safety
20 very important. And there are two unannounced inspections a year
21 by the State of Arizona. So, not only do we have to be compliant
22 with everything with the City of Tucson, but also the State of
23 Arizona. Like I said, we are aware of -- of some of the
24 challenges, but we really like this building and -- and -- and we
25 like what -- what we can do here.

1 So I know for you to recommend approval tonight, you
2 have to find that we meet five of the special exception findings.
3 I'll run through those quickly. I submit to you that we meet the
4 standards express- -- expressly applied by the adopted codes. We
5 do meet all the -- you know, not only are there regular land use
6 issues with C-2, or any type of commercial zoning, but then you
7 add the marijuana section and we have so many more proscribed
8 standards that we do meet, and it already does have an existing
9 approval onsite.

10 I submit to you we will not have an adverse impact on
11 adjacent land uses surrounding the neighborhood. I actually
12 would say to you that I think we will do the opposite. I think
13 that this project represents an investment and an improvement in
14 a parcel that's currently very under-utilized. The security
15 onsite I think will be a benefit. Mohave JARS is an experienced
16 operator in the State of Arizona and, frankly, this is far less
17 intensive than many surrounding neighborhood land uses and/or
18 land uses that would be permitted by right on this site.

19 It provides for adequate and efficient vehicular and
20 pedestrian access. As discussed, there new paved off-street
21 parking. We utilize our -- our existing curb cut on Grant Road.
22 And we are situated along an existing bike path.

23 Condition No, 4, we can adequately and efficiently be
24 served by public services. Yes, this is an adaptive reuse, that
25 we require no additions to City -- to City services, so we meet

1 that.

2 And, No. 5, complies with the general plan and
3 applicable subregional area or neighborhood plan. It is already
4 zoned and designated for commercial use. We are situated, like I
5 said, in that mixed-used center for future growth and we comply
6 with all the goals as set forth. I believe this is a valuable
7 infill development that will provide unique and tasteful option
8 in the area.

9 So, with that, we did have a neighborhood meeting. I'm
10 sure you read that in the -- in the minutes. We had one
11 participant. He was fabulous -- frankly, just our neighbor to
12 the southwest -- and welcomes us in the neighborhood. I believe
13 he submitted a letter of support and -- and that's in your file.

14 So, with that, with a recommendation of approval from
15 Staff, with one member at our neighborhood meeting who's
16 supportive of our application, I respectfully request a
17 recommendation of approval.

18 ZONING EXAMINER: Thank you, Ms. Schube. Nice
19 presentation. Appreciate it.

20 Would anyone else in the audience like to be heard on
21 this case? Hearing no one, I'll close the Public Hearing.

22 And, Ms. Schube, you may understand this is a Mayor and
23 Council special exception, so I make a recommendation. And our
24 standard practice here is I prepare a preliminary report within
25 five business days and, five business days thereafter, a final

1 report. You can coordinate with PDSO on the time and what
2 happens after that, though.

3 Thank you very much for joining us tonight and have a
4 good holiday weekend. Thank you.

5 MS. SCHUBE: Absolutely. You too. Thank you.

6 ZONING EXAMINER: Okay. So our next case is Case
7 TP-MOD-0423-000009 -- may have been one too many zeros -- Prince
8 10 PAD, Major Change. Mr. Beall, are you presenting the Staff
9 report?

10 MR. BEALL: Yes, I am.

11 ZONING EXAMINER: Thank you.

12 MR. BEALL: So this is a request by Brian
13 Underwood and Adam Call of The Planning Center for a major change
14 to the Prince 10 PAD, PAD-43, to add approximately 3.3 acres from
15 O-3 office to PAD planned arid development. The initial parcel
16 is within Planning Block 4, and would be designated for
17 interstate commerce IC land use designation, as outlined in the
18 PAD document. Planning Block 4 has a goal of providing high-
19 tech, high-rise development that includes office, commercial,
20 industrial, and high-density residential uses. The site is the
21 former location of the Tra-Tel Tucson RV Park, and located at
22 2070 West Fort Lowell Road, approximately 560 feet west of the
23 intersection of Fort Lowell Road and North Business Center Drive.

24 The City of Tucson Mayor and Council approved the
25 Prince 10 PAD in August of 2021. It comprises 110 acres between

1 the Santa Cruz River, Interstate 10, Prince Road, and Miracle
2 Mile. During the initial rezoning process, several neighboring
3 properties outside the PAD boundary were examined as part of the
4 site analysis in anticipation of any future acquisition and
5 inclusion within the PAD. These properties were identified
6 within the PAD as potential future PAD expansion land use plans;
7 most of the PAD site analysis exhibits outline that.

8 This plan amendment -- or amendment to the plan
9 proposes incorporating the Tra-Tel property into Planning Block 4
10 of Exhibit 2.B.1 of the Land Use Plan. And this land use again
11 designation and regulations will be applied to this property as
12 part of the expanding -- expanded planning block. Amending the
13 PAD requires text and exhibit revisions that will -- of the
14 newly-acquired property, and the submitted documentation outlines
15 specific modifications necessary to amend the Prince 10 PAD and
16 to also clarify and streamline the amendment process.

17 The proposed rezoning major change to the PAD is
18 consistent with, and supported by, the policy direction provided
19 in Plan Tucson and the Santa Cruz Area Plan, and approval of the
20 requested major change is appropriate. As of today's date, there
21 have been no approvals and no protests.

22 ZONING EXAMINER: Thank you, Mr. Beall.

23 Would the Applicant like to be heard?

24 MR. CALL: Yes, this is Adam Call from The
25 Planning Center. I'm here with Brian Underwood, a Director of

1 Planning here. Thank you, Mr. Beall, for your Staff report and
2 your help through this project. It's been great working with the
3 folks from the City on moving this one forward.

4 Mr. Iurino, I have a presentation if -- if I'm going to
5 be able to share my screen.

6 ZONING EXAMINER: Of course, please go ahead.

7 MR. CALL: All right. Let me pull this up for
8 you. So just a brief overview. What Mr. Beall had -- had
9 provided was that the Prince 10 PAD was originally approved in
10 August, 2021. It's 110 acres and it's located west of Interstate
11 10, between Miracle Mile and Prince Road, it -- and it runs along
12 the Santa Cruz River.

13 Here's a couple examples of views of the property we're
14 looking at. So, when it was originally -- when we originally had
15 this PAD approved, we identified several properties between the
16 property and the freeway that could be potential expansion areas
17 for future acquisition. And the subject parcel that we are
18 requesting today, the 3.3 acres, former home of the Tra-Tel RV
19 site, has been acquired by Brav Holdings, and Gary Brav is here,
20 the property owner of Prince 10, and we want to include it into
21 the -- into the PAD; but this constitutes a major plan amendment,
22 so we are moving through that process and seeking approval for
23 incorporating this into -- into the Prince 10 PAD.

24 Additionally, there are a few minor cleanup items that
25 we're also putting into the PAD. There is a small remnant parcel

1 that was not included in the original boundary, and we're
2 requesting that this approximately one acre along the Santa Cruz
3 River be included so it's not an isolated spot zoning in the --
4 in the area.

5 Additionally, we processed a minor administrative
6 amendment, including language for drainage improvements along the
7 Santa Cruz River. We're incorporating that language into the --
8 into the PAD here as well. And we also made some minor
9 modifications to two land use categories allowing for food truck
10 park and gem show temporary use in -- in the entire PAD as well.

11 So we wanted to memorialize all those here and give --
12 give you an example of what was originally in the PAD, and then
13 what we're actually proposing. The Tra-Tel piece would be
14 incorporated into -- into Planning Block 4 and assume the
15 interstate commerce land use designation. The one-acre piece
16 would be incorporated into Planning Block 8 and assume that same
17 interstate commerce designation. So, really trying to keep it
18 straightforward and keep it clean and consistent with the rest of
19 the PAD, having this amendment would actually relieve a pinch
20 point in -- in the middle of the PAD, making for a better
21 transition from north to south, and also a larger development
22 area for Planning Area 4.

23 And just to summarize, adding the 3.3-acre piece, we
24 would rezone it from its current zoning of O-3 to the PAD through
25 this major amendment. It would be added to Block 4 and assume

1 the IC designation. Like I mentioned, it eliminates the pinch
2 point and makes more consistent development throughout, and also
3 adjusts the southern boundary along Block 8 and incorporates the
4 minor amendment language for the drainage improvements along the
5 Santa Cruz River. We also clarified the food truck park as a
6 permitted use and the gem show space as a temporary use. We want
7 to make sure these were memorialized on the record so that
8 everything in the PAD can be moving forward. We noticed that
9 some of this may have not been included in some of the -- the
10 documentation in the agenda, so we want to make sure that we
11 presented that to you tonight.

12 So, with that --

13 ZONING EXAMINER: Thank you, Mr. Call. That's
14 very helpful.

15 MR. CALL: -- with that, we're happy to answer any
16 questions you may have.

17 ZONING EXAMINER: I don't have any. Your
18 presentation was very clear and the need for the PAD amendment is
19 also very clear. Thank you very much, though.

20 MR. CALL: Thank you.

21 ZONING EXAMINER: Would anyone else in the
22 audience like to be heard on this case? Hearing no one, I'm
23 closing the Public Hearing on Prince 10 PAD, Major Change.

24 I hope both of you gentlemen, and Mr. Brav as well
25 who's with us, have a good holiday weekend. Stay safe. Thank

1 you.

2 MR. CALL: Thank you. Same to you.

3 ZONING EXAMINER: The next case is Case TP-ENT-
4 1122-0003, Sixth at Campbell PAD. Before we go to the Staff
5 report, Mr. Juneman, are you present?

6 MR. JUNEMAN: Yes, Mr. Iurino, I'm here.

7 ZONING EXAMINER: Thank you. Good evening, Mr.
8 Juneman. I -- I saw in some of the correspondence that was
9 shared with me before the hearing today that there may be ongoing
10 discussions with the Rincon --

11 MR. JUNEMAN: I got that.

12 ZONING EXAMINER: -- Heights Association. And I
13 just wanted to -- to know whether it made sense to you to go
14 forward with the hearing now or have a short continuance so you
15 can conclude. I'm not leaning you in either direction. I'm just
16 asking the question for you, sir.

17 MR. JUNEMAN: Sure, sure. Thank you, Mr. Iurino.
18 So I think we'd like to move forward with the -- the hearing. I
19 mean, we're here, Mr. Cummings here. I -- I think at the end, if
20 -- if you -- if you feel that it's -- it's -- you know, if you'd
21 like, we're happy to do that, but --

22 ZONING EXAMINER: Got it.

23 MR. JUNEMAN: -- I think at least do the -- do the
24 hearing.

25 ZONING EXAMINER: Sounds good. Thank you. Then,

1 with that, Mr. Beall, would you go ahead and present the Staff
2 report, sir?

3 MR. BEALL: Yes. This is a request by Lazarus &
4 Silvyn, P.C., on behalf of the property owner, Scott Cummings, SJ
5 Cummings Properties, to rezone approximately 2.36 acres from C-1,
6 R-2 and P to PAD zoning. The rezoning site is located on the
7 southwest corner of Sixth Street and Campbell Avenue, immediately
8 adjacent to the University of Arizona campus which is located to
9 the north across Sixth Street.

10 The preliminary development plan proposes the
11 development of a mixed-use, multistory development comprised of
12 storefront retail, commercial, restaurant uses, with multifamily
13 dwelling units and/or offices above, and potential land uses
14 permitted within the PAD include a hotel. The project building
15 heights range from 28 and 50 feet along Campbell Avenue to 70 and
16 80 feet moving west on the Sixth Street frontage. The PAD is
17 comprised of 14 parcels, 12 of which are owned by SJ Cummings
18 Properties, and two parcels are not owned by the Applicant; one
19 is owned by a private entity, and the other parcel is owned by
20 Arizona Board of Regents.

21 It should be noted that the PAD rezoning request was
22 originally denied by Mayor and Council on November 9th, 2021, and
23 the UDC requires that a rezoning request to wait a year until it
24 can come back for submittal. The Applicant has met this request,
25 and the project team has continued to work with the community,

1 and the PAD request reflects their engagement and revisions to
2 the -- to the PAD since that time.

3 As of today's date, there have been 25 approvals and 23
4 protests. And, again, as you called out, Mr. Iurino, there is a
5 letter from the Rincon Neighborhood Association which talked
6 about things that they're still working out, so I think I would
7 defer to the -- maybe the Applicant to maybe go over sort of the
8 changes that have occurred since then and maybe outline a little
9 more things they're working on. But that's the Staff's report to
10 date.

11 ZONING EXAMINER: Thank you, Mr. Beall.

12 Mr. Juneman, please go ahead.

13 MR. JUNEMAN: All right. Great. Mr. Iurino, are
14 you okay if I share my screen?

15 ZONING EXAMINER: Absolutely.

16 MR. JUNEMAN: All right. Can -- can you see that?

17 ZONING EXAMINER: I can.

18 MR. JUNEMAN: All right. Well, first, thank you
19 very much for allowing us to present tonight. And I also want to
20 thank Staff for all their -- their help throughout as always.

21 There's a few people here that I -- I want to
22 introduce. First of all, Scott Cummings, the Applicant's here.
23 Our property owner's here. From FORS Architecture, Miguel
24 Quintanilla and Richard Wiege, they're our project architects.
25 And then I believe Darlene (unintelligible) from Psomas, she's

1 our traffic engineer. So if you have any questions kind of for
2 those -- in those areas, they're available to answer those.

3 I'm -- I think by now you probably know where this
4 property is.

5 ZONING EXAMINER: I remember.

6 MR. JUNEMAN: -- (audio cuts out) on this case
7 that I did, so --

8 ZONING EXAMINER: Right.

9 MR. JUNEMAN: And then the -- the current zoning
10 is described in the Staff report. The -- the -- I just wanted to
11 -- to note in the -- both our application and the Staff report,
12 there's quite a bit of justification for this rezoning under the
13 applicable plan, for Plan Tucson, and the University Area Plan;
14 particularly Plan Tucson has a lot of policies that encourage
15 what we're proposing: urban development, kind of taking old --
16 old parcels and assembling them for more of an urban forum and --
17 and infill. The -- although the UA Comprehensive Campus Plan
18 doesn't apply necessarily to the City rezoning, it does also
19 contemplate this area being a mixed-use residential and
20 commercial-type -- -type project. So I'm happy -- if you have
21 any questions about any of those, I -- I don't think it's -- a
22 need to go into it, but I'm happy to answer your questions.

23 ZONING EXAMINER: Thank you. I'm good.

24 MR. JUNEMAN: So I -- I think I want to jump off,
25 before we start talking about the specifics in the project, and

1 just -- just talk a little bit about the vision here. Scott has
2 really been assembling these parcels, the 12 out of 14 that he
3 owns, for a couple of decades. And I think over the last few
4 years, he's -- he's developed this -- this vision of -- of a --
5 of a -- of an urban project, a mixed-use project, but really a
6 gateway kind of project to the University of Arizona. For -- for
7 a town with a major university, we really don't have those kind
8 of really strong gateways at the -- at the four corners of
9 campus. I think that's really part of his vision. And -- and,
10 really for this part of town, with all of the U of A athletics
11 that go on, with the proximity to the University, this really is
12 -- is an appropriate project for the site. It's particularly
13 appropriate I think because of the opportunity for multimodal
14 transportation, walking, biking, transit. I'll talk a little bit
15 about that in a minute.

16 Because we're not in the IID here, we're not in
17 Sunshine Mile or Main Gate, really our only option to do a
18 project like this is a PAD, because it's -- as you know, it's
19 going to give us flexibility to -- on design criteria,
20 development standards. It gives us flexibility in working with
21 the neighborhood, maybe implement things that -- that we
22 negotiate with them. So that's -- I think it's kind of obvious
23 why we're using the PAD; it's -- it's really kind of our only
24 tool to -- to -- to be able to accomplish what we want.

25 I mentioned transit, we are in a great location for --

1 for a multimodal project. There's four transit stops that are
2 just really at our -- at our doorstep; and -- and those are bus
3 lines that go from -- from all ends of town, from -- up to
4 Catalina Highway to -- to Banner South, from Pima College East to
5 downtown; that -- that -- they're really good bus lines for
6 somebody that wants to get downtown or other parts -- parts of
7 town. We're half a mile from the streetcar and just feet from --
8 from really I'd say one of Tucson's primary activity centers, the
9 University. So -- so it really is a perfect site for a -- for a
10 pedestrian/transit-oriented type of project.

11 So, now, I want to focus on our -- on our site plan and
12 talk a little bit more in detail about the project. Starting off
13 with uses, again, I think the -- the -- the anticipated uses are
14 ground floor commercial, retail, definitely some restaurants,
15 maybe some other type of complementary retail uses.

16 Above ground likely would be apartments. We've written
17 into the PAD the ability to do -- to do travel accommodation, do
18 -- do a hotel, that's limited to the -- the western portion of
19 our project that's the tallest, but there's still the ability to
20 do that. I think there's potential for some demand here.

21 What we have limited, though, is some uses that the
22 neighbors feel are problematic; one is roof dwelling. So this is
23 going to be a project that's rented by the unit. We've actually
24 wrote in that you can't have more than three deckerings (ph.), so
25 even a little bit more strict than the base code for multifamily.

1 So it's -- it will definitely be a multifamily use.

2 Also, one of the concerns -- and we'll talk a little
3 bit more later about -- in our -- in our discussions with the
4 neighbors was the -- the restaurant versus bar use at the ground
5 floor. So one of the early things we did in starting to work
6 with the neighborhood was just restrict stand-alone bars, so
7 that's -- in the PAD that is not allowed. Any kind of alcohol
8 service use has got to be coupled with a food service use as
9 well.

10 Oh, one thing I did want to mention, we -- we've got a
11 requirement of having half of the ground floor along Sixth be
12 some sort of a commercial or retail use as well to really
13 encourage that and help activate that -- that area. And I -- and
14 I think, based on the location near Rincon Heights, near Sam
15 Hughes, obviously we're going to have traffic from outside the
16 area, but this really does lend itself as a -- a project that
17 will be a neighborhood amenity. Across the street to the east,
18 those -- those restaurants are -- at least it looks like Cheba
19 Hut's doing well, Trident Pizza's doing well. I think there's
20 opportunity for -- for more restaurants in this area to do well.

21 The heights of our project are -- are pretty similar to
22 what was proposed last time. On our corner of Campbell and Sixth
23 is a 50-foot-height maximum; go a little bit east -- or west,
24 excuse me -- and that goes -- raises to 70 feet; and then the
25 western-most portion is at 80 feet. I will mention -- I'm sure

1 you're aware of this -- that the site actually drops a
2 significant amount from its eastern edge to its western edge,
3 it's about a 12-foot drop from one side to the other, and I think
4 it's about an eight-foot drop between Campbell and -- and Martin.
5 So I think that does have some impact on the -- on sort of how --
6 how that height will end up appearing once it's constructed.

7 Parking, we have in the PAD a -- for residential units,
8 we've got a minimum of .9 spaces per unit, but you'll see when we
9 talk about our -- our discussions with Rincon Heights, there's
10 another sort of alternative on the table. Parking for -- for
11 commercial, one per 400 spaces. One thing we've done in the PAD
12 to -- to sort of promote people maybe not bringing cars or using
13 -- using our -- living here without a car is to decouple the
14 leases for -- for the apartments from the actual parking spaces.
15 That's something that is commonly proposed to -- again, to help
16 kind of discourage people from actually using cars and -- and
17 just go straight transit or -- or walking and biking; so that's
18 in the PAD.

19 The -- the parking area -- oh, I forgot to mention the
20 height on -- on Area D, that's a maximum of 28 feet. This whole
21 Area D will be a parking structure and 90-percent of the -- the
22 top of that will be covered by solar panels for covered parking.
23 And we also will, obviously, comply with the City's electric
24 vehicle ordinance that was passed last year.

25 Circulation, pretty straightforward. We'll have two

1 access points on Sixth Street. We've also provided the ability
2 to do a loading area on -- on Sixth, but this wouldn't be, you
3 know, a regular traffic access point. Two access points for
4 vehicles on -- on Campbell. The blue lines are vehicle access,
5 and then the -- the green lines here are pedestrian access. The
6 one thing -- and then we'll also have some access from Warren as
7 well.

8 The one thing I wanted to point out is -- one of the
9 things we proposed in the PAD -- not -- not as a requirement,
10 because this is really a separate process with the City -- but
11 our project, and really the feedback we've gotten from the
12 neighbors and even the University, they all seem to like this
13 idea, is to -- to work with the City to try to acquire the Martin
14 right-of-way that's -- that's sort of due south of the project.
15 And what the -- the benefits of this are our -- you know, any --
16 when the project -- when it's our project traffic or U of A
17 students, or mainly kind of game day traffic that -- that uses
18 the south stadium garage, by blocking that area off, it'll force
19 that traffic out directly to Campbell and have less of an impact
20 on the neighborhood. It's not going to solve the entire problem
21 of -- of post-game or pre-game traffic in the neighborhood, but I
22 think it'll -- it'll help significantly.

23 The -- what we would do in this area is make it sort of
24 a landscaped pedestrian/bike path that would connect to Seventh
25 Street from -- from the project, so there'd still be neighborhood

1 accessibility through there, whether it's bike or pedestrian, but
2 it would block off vehicle traffic. We've also kind of reserved
3 the ability to potentially use that for -- for maybe a drainage
4 facility if we need to for the project, but that -- you know,
5 that's just speculative, that's -- that's pretty far down the
6 line, so -- but -- but at least we -- we've sort of saved that to
7 have the ability to use that.

8 And then I mentioned the pedestrian connections are
9 really just along the edge. We've got some illustrations that
10 show sort of the pede- -- the look and feel of what -- what we
11 want. We want to create a pedestrian-friendly environment to --
12 and I'll show you that in a minute.

13 We did do a traffic study for the -- for the project.
14 A couple things about this study is we used actually the data
15 that we collected in 2019 for the first rezoning. The City was
16 comfortable with us using that because that data had more traffic
17 than -- and that was pre-pandemic -- so that was -- that study
18 had more traffic than -- than has been collected since, so the
19 City was -- was agreeable to use that -- those counts.

20 And then the other thing that the -- that our traffic
21 study actually doesn't do is give credit for those multimodal
22 trips. So the study was based on an apartment complex. We used
23 323 units for -- for the -- the project, that's -- that's
24 probably higher than we're anticipating, and -- and we didn't --
25 we didn't build in any credits for pedestrians, bicycles, or

1 transit. So our traffic study is really very conservative, it's
2 kind of a worst-case scenario. We're pretty confident that once
3 this -- this is built, that there's going to be a lot of
4 residents that use transit, that -- that use bikes, that -- that
5 walk, particularly those that are working or -- or maybe
6 attending school at U of A. There's no real reason to get in
7 your car on this site. So -- so it real- -- I think it really is
8 a traffic study that -- that's fairly conservative.

9 Even with it being conservative, the levels of service
10 at -- particularly at Sixth and Campbell didn't really change
11 much. We will have to fill -- to extend the turn lane on Sixth
12 going eastbound that turns north onto Campbell; that lane -- turn
13 lane right now is pretty short, it's 65 feet, it'll have to be
14 extended to over 200 feet.

15 We might also have to build a turn lane into the
16 project, but DTM is willing to sort of put that on hold and not
17 make it necessarily a requirement, to really look to see what our
18 -- our -- our site design will be at the time of development, but
19 it's -- it's potentially something that they may require. The
20 down side is that would take away sidewalk space and -- and
21 really maybe not be advantageous to that pedestrian environment
22 in that area. So those are the kind of concerns that we balance
23 at that time. But, again, that's something that's -- that's down
24 the road.

25 ZONING EXAMINER: So really -- if I could ask real

1 quick.

2 MR. JUNEMAN: Yes, sir.

3 ZONING EXAMINER: So folks come up from Broadway
4 to come to the project, they're coming up Campbell, how are they
5 getting in?

6 MR. JUNEMAN: If you're going north on Campbell,
7 you could --

8 ZONING EXAMINER: Yeah.

9 MR. JUNEMAN: -- do a U-turn at Sixth and then
10 there's two entrances on Campbell, or you could do a left-hand
11 turn going westbound on Sixth. The Martin -- the -- there's an
12 entrance there at Martin and there's another entrance there that
13 -- well, at the Martin entrance we did anticipate there being a
14 left-hand turn there, but we also don't think that -- that --
15 that there'll be restrictions to it. I think the main area we
16 thought there would be a left-hand turn into the project off of
17 Sixth is here at the -- in this area, a little bit beyond Martin.
18 And then the other option is to go down to Warren and enter
19 through sort of the back -- the back of the project.

20 ZONING EXAMINER: So it's a U-turn -- primarily a
21 U-turn off Campbell?

22 MR. JUNEMAN: But the -- the -- the fastest,
23 closest access would be a U-turn, but then I think there's
24 multiple access points below.

25 ZONING EXAMINER: 'Cause there's no median cut

1 there, right?

2 MR. JUNEMAN: There's a turn lane, it's -- there
3 it's two lanes with a turn lane.

4 UNIDENTIFIED MALE: But he said on Campbell.

5 MR. JUNEMAN: Oh, on -- there's no -- yeah.

6 ZONING EXAMINER: Yeah, I'm still on Campbell.

7 MR. JUNEMAN: All right. There's no -- there's no
8 median cut there, yeah.

9 ZONING EXAMINER: Got it. Go -- go ahead.

10 MR. JUNEMAN: The final thing the traffic study
11 recommended was on -- it was to have a ride share space, not at
12 -- at the exterior of Sixth or Campbell, but sort of interior to
13 the project. So I'm going to go back to our site plan. So this
14 is the most likely area for ride share is within this Martin --
15 what's now the Martin right-of-way area. Likely how this is
16 going to function -- well, there's two possible ways this
17 functions, but both of them will keep Martin open. There's
18 currently a lot of utilities and easements that run through here,
19 so we will not be blocking off Martin; it'll be open for -- for
20 traffic.

21 What could happen is we build over it so it's similar
22 to over at -- I think it's Hub 4 near Park and Speedway. There's
23 an alley there where the alley access is open, public access is
24 maintained through easements, all of the utility easements are
25 maintained, but -- and, you know, you work with -- you work with

1 fire and we make sure we have enough clearance, but you
2 essentially have a tunnel there that has units on top and allows
3 for clearance at the bottom. We could -- it's also possible that
4 you have two buildings and you don't have that. But -- but, in
5 either instance, Martin is going to remain open so where you do
6 have -- maintain connectivity to this -- the south stadium
7 parking, connectivity to our parking garages and that alley as
8 well, so --

9 The -- just a few other things to point out. Trash --
10 the trash area would be between our -- our Building A or our Area
11 A and the south parking garage, because that's in an area that
12 really has -- that -- that's -- that -- the parking garage will
13 insulate the Rincon Heights palms and -- and cut -- help cut down
14 on noise.

15 And I'm moving to the top of the building. We did
16 write into the PAD, and we've continued to have some discussions
17 with the neighborhood, on -- on upper-story amenities. The way
18 we structured those in the PAD is we would not allow an amenity
19 on the very top of either of these -- of any of the sections of
20 the project, A, B, or C, and not -- and, obviously, not on the
21 roof of the parking -- yeah, 'cause that's all going to be
22 parking. But we would allow rooftop amenities that are sort of
23 below that top level. So what that does is it creates a natural
24 sound barrier and insulates those rooftop amenities from the
25 south and east and the west and really kind of directs those

1 amenities to the north towards campus where there's less -- you
2 know, less -- obviously, less homes and a lot more space for that
3 noise to -- to travel and not affect anybody.

4 We've also committed to some safety measures to either
5 have buffering on the edges or -- and/or sort of canopies down
6 below that would protect the pedestrians from anything that --
7 that might accidentally fall from the roof. And -- and then --
8 yeah, and then that -- that's really -- that's really the main --
9 the main things related to upper -- upper-level amenities.

10 We -- we also included some things in the PAD related
11 to water conservation. One of those things was water fixtures,
12 but that just got adopted -- or approved I think last month by
13 Mayor and Council as -- as a code change, so we've got it in our
14 PAD, but it's -- it's now code. But also including things like
15 no water features and just committing to sort of a water --
16 water-conservative design throughout the project.

17 I wanted to point out on height -- this is just an
18 exhibit that -- that I wanted to show. We -- the highest portion
19 of our -- our building is adjacent to the existing south stadium
20 garage. So, if you're on Seventh Street and you're looking
21 north, that garage really blocks all viewshed impacts from our --
22 from our highest point. So it's just -- you know, we -- I think
23 we've done a lot with this design to try to limit the impacts on
24 the surrounding neighbors, putting the -- the parking garage next
25 to the existing homes with a 28-foot height to kind of break up

1 that massing so you don't have as much massing next to the -- the
2 homes; and then building up from the corner that 50 feet to 70
3 feet to 80 feet at our highest point, there really isn't any
4 viewshed impacts from -- from the project.

5 We did just a couple of conceptual renderings -- or our
6 architects here -- a great job showing what this could look like.
7 Scott doesn't have any (unintelligible) partners, this is just --
8 this really just conceptual just to give an idea of what that --
9 that massing could look like. So, again, 50 feet at this corner,
10 going up to 70 to 80 feet as you move to the west.

11 And then we wanted to illustrate really what, you know,
12 the -- the vision of -- of what happens at the pedestrian level.
13 We've got a minimum of eight-foot sidewalks requirements and
14 eight-foot clear at all building -- or all business entrances.
15 But, then, also tree -- tree landscaping requirements throughout
16 the -- the Campbell and the Sixth frontages, lower-level
17 landscaping to help sort of insulate from the traffic or create a
18 safer feel from -- from the Sixth Street traffic. Restaurants
19 (unintelligible) you know, but just a lot of things that are --
20 that make a building that -- that is sort of large for this area,
21 but it creates a very pedestrian feel at the ground level and
22 really is kind of inviting. If -- if you build these kind of
23 spaces I think people definitely -- definitely come.

24 I also wanted to note that we have -- we built in a
25 design review aspect of -- of the project, so when we get closer

1 to the build and we have drawings like this of what it'd actually
2 look like, maybe it'll look close to this, we have a design
3 review committee set up that will ensure -- and some design
4 standards built into the PAD -- and ensure that what's built is
5 -- looks good and -- both at a pedestrian level and throughout
6 the entire building -- has, you know -- it's up to certain set of
7 standards that we've created in the PAD.

8 So, finally, I just wanted to talk about our outreach.
9 We had our neighborhood meeting on March 30th. We had about 40
10 people show up. It was a really good meeting. We had people
11 that had concerns, had a lot of questions. We had people who
12 were supportive of it. And even some of the people who had
13 concerns, were not opposed. They -- they just wanted to make
14 sure that -- that this is a project that fits in with the area.

15 Before that meeting, though, we started outreach to
16 both Sam Hughes and Rincon Heights. We met late last year with
17 Sam Hughes, went to their board meeting. I met with their
18 leadership early this year and really they were deferring to
19 Rincon Heights because that's -- that's the neighborhood that we
20 are closest -- that will -- that this project will have the most
21 impact on. I know they -- you know, those associations are
22 communicating, but really our focus has been to work with Rincon
23 Heights. We started I think it was late last year. We've had
24 probably five in-person meetings. And we've been negotiating
25 pretty actively up until today. Mr. Kinney, their

1 representative, and I had a -- had a conversation. And -- and it
2 -- it -- I think these negotiations have really produced some --
3 some good things. I think both sides are definitely negotiating
4 in good faith.

5 So I wanted to go through at sort of a high level what
6 the -- what the subjects are that -- that we're negotiating, and
7 most of these we've come to -- to, you know, initial agreement
8 on, subject to getting final agreement on everything, but I'll
9 kind of walk through this. But on building heights, the
10 neighborhood has -- has said if we can come to agreement on -- on
11 everything else, they're comfortable with the heights that are
12 proposed in the PAD.

13 We've had some discussions about Martin Avenue. This
14 -- this has been an area, like I said, that I think there's been
15 a lot of consensus on, but we'd be agreeable to sort of
16 committing to that -- that -- that real estate services process
17 and -- and Scott would apply and go through that process.
18 There's no -- there's no guarantees, because in that process you
19 end up working with some specific neighbors, not necessarily the
20 neighborhood association, so we can't -- we can't guarantee it,
21 but what we can do it commit to I think work in good faith to try
22 to -- to acquire that area of Martin.

23 There was a request for a monument sign initially, but
24 Rincon Heights has said, again, if we agree to everything else,
25 that they won't -- they won't request that.

1 We've made some changes to the DRC. We actually did
2 some of those changes early on in the negotiations and those are
3 in our -- our PAD document, but then there were some subsequent
4 requests, mainly to have Sam Hughes as a -- as a member.

5 Some of the rooftop amenity requirements are also --
6 that we negotiated are also already in the PAD, but there's a few
7 that -- that we've added after that are -- that are kind of
8 minor, but things that were important to the neighborhood.

9 Residential parking has been interesting because
10 there's -- there's certain people within the -- the neighborhood
11 that would like to see sort of a limit on parking, not only a
12 minimum but a maximum. And so, again, subject to -- to a full
13 agreement, we've agreed to that, to create both a minimum and a
14 maximum parking amount.

15 And then there's another group within the neighborhood
16 that's concerned about parking spillover, so we've -- we've
17 address that by agreeing to have a traffic and parking mitigation
18 fee, and part of that fee would go to help existing residents in
19 Rincon Heights who have parking permits or parking passes that --
20 that are now just from 8:00 to 5:00 p.m. -- 8:00 a.m. to 5:00
21 p.m., that they would make those 24-hour, and it, at least for a
22 few years, sort of help them to -- to do that.

23 And -- and then one of the bigger things is if we've
24 come to an agreement, you know, in principle, on -- on affordable
25 housing -- basically, a donation to the City's Housing and

1 Community Development Department for -- to help with other
2 affordable -- or help with projects that are affordable,
3 preferably in the area, but it might end up being throughout --
4 in other parts of the city.

5 The area that -- that we're still -- we haven't reached
6 agreement on is related to having a Series 6 license. Scott
7 wants to -- wants the ability to have a Series 6 license for --
8 for a few reasons: One, it's not uncommon in restaurants. If --
9 if you look at Feast and Flora's and The Monica downtown, Reilly
10 Pizza downtown, there's quite a few restaurants that have Series
11 6 licenses because it's just more flexible. They can do package
12 liquor sales. They can -- they don't have to -- it's
13 administratively easier to do. It's just -- there's -- there's
14 multiple reasons why it's a good thing.

15 One of the reasons -- what's -- you know, Scott plans
16 to be the operator of at least several restaurants that are in --
17 in this center and that, having a Series 6 license, would allow
18 him to not have -- to -- to basically sort of share alcohol
19 service between all of those restaurant concepts.

20 And -- and -- and the neighborhood, I think they --
21 they understand this -- and we've come to some -- some agreement
22 on this -- where we're still apart is sort of the areas, the
23 sizes of the -- of those restaurant -- the total restaurants and
24 those individual concepts and hours of operation. But I -- I
25 will say I think we're -- we're pretty pleased with what -- where

1 we've come and how much we've -- we've agreed to. We just still
2 have a little bit to go, so --

3 And that is it for my presentation. And I'm happy to
4 answer any questions that you have.

5 ZONING EXAMINER: Well -- so as to that last
6 point, which is sort of where we began as well, what's your
7 timeline look like? I mean, these issues have all been raised,
8 right?

9 MR. JUNEMAN: The issues have all -- yes, I think
10 we have -- I don't -- I do not anticipate any other issues coming
11 up. I think we've been talking about what you saw on that list
12 for -- for quite a while, and -- and I -- and so really I think
13 it's trying to work through those last things.

14 ZONING EXAMINER: Okay. Well, let's -- we'll just
15 continue with the hearing right now and we'll see -- at the end,
16 maybe I'll have another question for you, but I'm good. Thank
17 you very much for your presentation, Mr. Juneman, Mr. Cummings.
18 Good to see you and appreciate it.

19 So we have a list of folks who have emailed in and
20 asked to speak and we'll start with those. And then, after that,
21 I'll open it up to anybody else who's in the audience who wants
22 to speak.

23 The first is Rick Unklesby. Mr. Unklesbay?

24 MR. UNKLESBAY: Hi there. Thank you. I live --
25 my name's Rick Unklesbay. I live one block away from the

1 project. I'm one block north on the other side of Campbell, so
2 I'm as -- I'm as -- about as close as you can get to -- to the
3 project and I've looked at it a lot.

4 That -- that corner is really desperate for renovation
5 and getting something new in there. Anybody that's seen that
6 corner -- and not to be offensive to anything that's there -- but
7 it really is -- it's pitiful for a gateway to the University.
8 You look over across the street at the Sam Hughes place and it's
9 done remarkably well. It's got much of the same features. It's
10 got restaurants. It's got residential areas. And it's been very
11 successful and it's been a real contribution to the neighborhood.

12 So, being a block away, I'm very much in favor of -- of
13 Scott's plan. I -- I think it would enhance the whole area
14 around this gateway to the University. We know, from seeing Sam
15 Hughes, that people frequent the restaurants there. People live
16 there. They walk to the University. And it's just an astounding
17 project that has been developed and I think it would be a great
18 contribution to the neighborhood, so I'm just really in favor of
19 it just being a block away.

20 ZONING EXAMINER: Thank you very much, sir.

21 Dave Chupeta (ph.)? Close enough probably. Mr.
22 Chupeta, are you with us? Perhaps not.

23 David Armett (ph.)?

24 Darrel Dobris (ph.)?

25 Todd Eanes, E-a-n-e-s?

1 Okay. I'll continue down my list. Colby Henley. Mr.
2 Henley are you present?

3 MR. HENLEY: Yes, I am. Can you hear me?

4 ZONING EXAMINER: Yes, I can. Please start with
5 your address, Mr. Henley. I know you've said it before at our
6 prior hearings, but makes a good record.

7 MR. HENLEY: Sure. My address is 1140 East Tenth
8 Street.

9 ZONING EXAMINER: Thank you. Go right ahead, sir.

10 MR. HENLEY: Yeah, I guess I just wanted to speak
11 primarily to the issue around the liquor license, the Class 6,
12 which was a major concession on behalf of the neighborhood, with
13 the understanding that there would be kind of some guardrails
14 around that; and this was a big point of discussion in our
15 previous hearings and in our discussions with Mr. Cummings. He's
16 repeatedly, you know, stated that he does not intend to have a
17 rowdy bar, and this is primarily around a restaurant, and that
18 it's for ease of accounting and those kind of things. And so the
19 closing time is one of the primary guardrails that we're looking
20 for around that liquor license -- again referencing these as
21 restaurants and not bars.

22 And Mr. Juneman has referenced a few places that he
23 said are doing well and/or mimic or are kind of examples maybe of
24 what they're looking at as a restaurant that uses a Class 6. He
25 mentioned Trident and Cheba Hut directly across the street as

1 successful and doing well; both of those places are restaurants.
2 Trident closes at 11:00 p.m. on Friday and Saturday. Cheba Hut
3 closes 10:00 p.m. every night. Mentioned Flora -- Flora's Market
4 closes at 9:00 p.m. Friday and Saturday. The Monica downtown
5 closes at 10:00 p.m. Friday and Saturday. Feast closes at 8:00
6 p.m. So just some examples of -- if this is truly meant to be
7 restaurants in this development, then our request for a
8 reasonable closing time is reasonable I guess. So that's --
9 that's all I wanted to say. Thanks.

10 ZONING EXAMINER: Thank you, Mr. Henley.

11 Mark Holman (ph.). Mr. Holman?

12 MR. HOLMAN: Thank you, Mr. Iurino. Would it be
13 okay if I -- I would still like to speak -- but as Rory was able
14 to set the stage for the Applicant, I'm wondering if it would be
15 okay with you to call on Mr. Kinney who has worked with Rory as
16 our representative, and have him set the stage for the
17 conversations between the neighborhood and the -- and the
18 developer.

19 ZONING EXAMINER: That's certainly fine by me.
20 Mr. Kinney was next on my list. Mr. Kinney?

21 MR. HOLMAN: I would still like to speak at some
22 point if I may.

23 ZONING EXAMINER: Yes, I've noted that, Mr.
24 Holman. We'll come back to you right after Mr. Kinney.

25 MR. HOLMAN: Many thanks.

1 ZONING EXAMINER: You bet.

2 MR. KINNEY: Good evening. And thank you, Mark,
3 and thank you, Mr. Iurino. My name is Tim Kinney. I'm an
4 attorney representing the Rincon Heights Neighborhood
5 Association. I'm sure I'm familiar because I was before you
6 during the previous several hearings that we had during the last
7 round.

8 I want to kind of start by -- by saying that we have
9 made a lot of progress in our negotiations with the Applicant
10 through Mr. Juneman, and we are very grateful for that and we
11 want to give credit to Mr. Cummings and Mr. Juneman for coming to
12 the table this time. We are -- we are very close to having a
13 project that the neighborhood not only can tolerate, but -- but
14 wants, and we're very close.

15 Mr. Juneman showed on his last slide that there were
16 two sub-issues to the Series 6 restaurant/bar issue and that are
17 -- that are outstanding that -- that we're still discussing and
18 going back and forth on. And -- and, as Mr. Juneman said, he and
19 I talked this morning, we talked several times yesterday, we
20 talked earlier in the week as well, and at the time same I've
21 been working, you know, with -- with my client back and forth all
22 day, every day this week on these things. And we're very close.

23 So those two sub-issues that he said were potentially
24 still outstanding, you know, it -- it may even be one of those
25 issues that -- that is outstanding -- and it's really the closing

1 time of those Series 6 restaurants. I know that we can figure
2 something out. I know that we're close. I think we just need a
3 little more time, you know. The thing is, if we have a little
4 bit more time, maybe two to three more weeks, to negotiate with
5 the Applicant, and -- and I can have more time to negotiate with
6 -- with the neighborhood as well, perhaps we can figure that last
7 remaining issue out and come before you again, not only kind of,
8 you know, halfheartedly opposing this, but actually in support of
9 this; and we would like to do that because, as we've said many
10 times, we -- we want something to happen on this corner. We just
11 want it to be compatible with the neighborhood and we're very,
12 very close.

13 I want to also be clear that a lot of the concessions
14 and compromises that the neighborhood has made -- and -- and
15 there are a lot, some of them are very big, like the building
16 heights and allowing a Class 6 license -- all of these offers and
17 compromises are conditioned on all of these issues being
18 resolved, including this last issue of hours of operation. So,
19 potentially, if we were -- like, hypothetically, if -- if -- if
20 you were to approve -- recommend approval of this application,
21 and then something happens and we're not able to come to an
22 agreement on that last issue, we're pretty much back to square
23 one where we were several months ago, with no agreement on -- on
24 really anything and full objection from the neighborhood; and we
25 don't want to do that. And -- and we don't want to lose out on

1 our ability to speak up for ourselves at the Zoning Examiner
2 Hearing if that happens. I don't think it'll happen, but I want
3 to be clear that that is one of the reasons that we're
4 respectfully requesting that you continue this.

5 I know there's a lot of -- a lot of issues, I'm not
6 sure we need to get into all the different details of the things
7 that possibly we've come to agreement on, but if there are any
8 questions on the neighborhood's position on anything, I am happy
9 to speak on their behalf and answer any questions that you may
10 have.

11 ZONING EXAMINER: Thank you, Mr. Kinney. I've
12 read the entire record, including all the protests, so I think I
13 have a fair sense of that. Obviously, I don't know as much as
14 you know or Mr. Juneman knows.

15 So I saw in your letter the issues of closing times and
16 also I'd say -- I call it piped music, outdoor music, was that
17 also still on the table being discussed or is it just the closing
18 time issue then?

19 MR. KINNEY: Well, we -- we might have agreement
20 on that one as well if we can come to an agreement on the closing
21 time.

22 ZONING EXAMINER: Okay. And just so I have it in
23 hand and in mind, what are the closing times that you're
24 advocating for?

25 MR. KINNEY: The neighborhood would be okay with a

1 closing time -- Sunday through Thursday of 10:00 p.m.; Friday and
2 Saturday, 11:00.

3 ZONING EXAMINER: Okay. Thank you. And thank you
4 for your participation tonight again.

5 MR. KINNEY: Thank you.

6 ZONING EXAMINER: Okay. Mr. Holman, let's go back
7 to you, sir.

8 MR. HOLMAN: Thank you, Mr. Iurino. My name is
9 Mark Holman as you well know now. And my wife, Barbara, and I
10 have lived at 1619 -- let me show you my face here, too -- so she
11 and I have lived at 1619 East Eighth Street for 47 years. We
12 have raised our children here. And we've seen many, many changes
13 to our neighborhood; some good, many good, some not so good.

14 I was really hoping I'd be able to come in support of
15 this project. I, and my neighbors, understand that some
16 reasonable urban density is good for the community and for the
17 neighborhood itself. Sure beats urban sprawl. In order to help
18 the project move forward, we made some huge, very difficult
19 concessions. You can only imagine the internal discussions
20 there. Among them, height. Way higher than I and many others
21 would like. A Series 6 liquor license which would allow Mr.
22 Cummings to sell packaged liquor and have some greater
23 flexibility in serving alcohol, among other concessions we've
24 made.

25 After waiting weeks to hear from Mr. Cummings, last

1 Friday -- no, excuse me -- last Monday night, he finally gave us
2 a response that seemed to have us moving in the right direction.
3 There seemed to be some light coming to -- or the end of this
4 very long tunnel. Then, apparently, he had a Series 6 in hand,
5 he now rejected our reasonable stance on the closing hours of the
6 restaurants, 10:00 p.m., and 11:00 p.m. for the weekends, Friday
7 and Saturday. Instead, he wants to open as late as 11:00, Sunday
8 through Thurs- -- Wednesday, midnight on Thursday, and 1:00 a.m.
9 on Friday and Saturday. Very different from the places that Mr.
10 Juneman had cited. This gives the truth to the lie that this is
11 merely restaurant space. While he might keep a kitchen late,
12 these are bars that would be serving a little bit of food, not
13 restaurants serving some drinks. I can't imagine saying to my
14 wife, "Honey, it's only midnight, how about we go out for
15 dinner?"

16 Given the other agreements that seemed to be in place,
17 if we can resolve this matter, we may be able to move forward.
18 Please direct Mr. Cummings to accept reasonable closing times.
19 This is a residential area. This is not downtown. Thank you
20 very much.

21 ZONING EXAMINER: Thank you, Mr. Holman. I'll
22 come and cut your backyard if you want to by the way.

23 Next on my list is Laura Tibelli (ph.). Ms. Tibelli, I
24 may have mispronounced your again more than a year later, so I
25 apologize.

1 MS. TIBELLI: Hey, close enough.

2 ZONING EXAMINER: Thank you.

3 MS. TIBELLI: Can you hear me?

4 ZONING EXAMINER: I can. Thanks.

5 MS. TIBELLI: Yeah. Well, someone recently told
6 me that -- who was from the old country, that we've all been
7 mispronouncing our names all our life.

8 So I'm here to reinforce what Colby Henley and Mark
9 Holman had to say -- and, for that matter, Tim Kinney -- and that
10 is that we have, in fact, been in protracted negotiations with
11 this developer, which I think you know because you're probably
12 getting sick of seeing us. And we -- we seem to have been very
13 close to a resolution, partly because, as Mark said, we gave
14 ground on a number of things that many of us had reservations
15 about, including building heights.

16 And many of us still aren't very happy about the Class
17 6 liquor license; however, we were assured it was for purposes of
18 having alcohol in restaurants. And so much to my surprise, to
19 just speak for myself, the hours of -- the closing hours that Mr.
20 Cummings wants are just really completely unacceptable. And it
21 seems to me a 1:00 -- 1:00 a.m. closing is not a closing time for
22 a restaurant. And I appreciate that Colby actually did the
23 research on the other comparable restaurants in town. One a.m.
24 is not a closing time for a restaurant. And the idea that
25 midnight is an acceptable closing time in a residential area for

1 a restaurant is also, I think, way out of line.

2 And to speak as a faculty member at U of A, I -- I
3 personally do not consider starting -- starting to party on
4 Thursday night to be a very responsible practice for students.
5 And no other place where I have taught or studied was Thursday
6 night a party night, because we still have Friday classes, not to
7 mention those people in the neighborhood who work regular jobs
8 have to be up and at work on Friday. And so excessive noise on
9 -- on -- on Thursday nights isn't really acceptable.

10 So I'm asking you, as my neighbors have asked you, to
11 limit the hours of opening of the restaurants from Sunday night
12 to Thursday night to 10:00; and Saturday night and Sunday -- or
13 Friday night and Saturday night to 11:00. And thank you for
14 hearing me.

15 ZONING EXAMINER: Thank you for coming tonight.

16 The next person on the list is Stacy Plasman (ph.). Ms
17 Plasman, are you present?

18 MS. PLASMAN: Yes, I am. I was just trying to
19 figure out how to unmute.

20 ZONING EXAMINER: Well, you did it.

21 MS. PLASMAN: Thank you. I'm Stacy Plasman. I
22 live at 1803 East Ninth Street, so I'm less than three blocks
23 away from the -- from the development and in Rincon Heights as
24 well.

25 And I -- I -- I just want to reiterate just the same as

1 what Colby said, what Mark said, what Tim said, and what Laura
2 said, these concessions that -- that we've made, the building
3 heights which just, you know, they shock me, but, okay, you know,
4 we did say a concession on the building heights.

5 The Class 6, I never could really understand that. I
6 mean, a Class 12 is the restaurant one. And if this is supposed
7 to be a restaurant, okay, I'm all for a restaurant. But, like
8 Mark has said before, we don't want a bar that serves a few curly
9 fries rather than a restaurant that -- that serves some alcohol
10 with the -- with the meal. So the closing times are of -- of
11 10:00 for the weekdays, which includes Thursday, and 11:00 for
12 weekends is imminently reasonable.

13 Furthermore, I have some history -- when I was going to
14 CCRC as the representative -- now, CCRC is the Campus Community
15 Relations Committee, and it has as parties the U of A, the City
16 of Tucson and, of course, the neighborhoods that are surrounding
17 the U of A. And this was many years ago, but there was a time
18 when, for several meetings, they were -- presentation was about
19 the well-being of students, and one of the -- the things that was
20 detrimental to students was to have bars right on the edge,
21 lurking right on the edge of campus. This could lead to students
22 falling into alcoholism. It's not -- it turns out it's not just,
23 you know, a phase; that up to a third of students have a lifetime
24 handicap of alcoholism if they -- you know. And so these --
25 these -- these -- these -- these bars that are lurking right at

1 the close -- to the edge of campus is -- is just not good. And I
2 don't think that a bar -- bars like that are -- would be
3 considered a -- an -- a benefit or a good thing to have as an
4 entrance to the -- to the University.

5 Now, I know that the developers, them saying since they
6 -- one, that he wants to make a development that is a nice
7 entrance to the -- to the University -- and I even heard Rory
8 June- -- Juneman mentioning that was one of the things that was
9 -- wanting to be done with this. Well, I just don't see how bars
10 is beneficial in a situation like that.

11 So, as a neighborhood, we've been trying to make sure
12 that -- that this does not turn into -- yeah, bars serving a few,
13 you know, bowls of popcorn, along with a bunch of drinks, you
14 know -- and even calling the popcorn and curly fries food -- but
15 is really actually, indeed, truly a restaurant. And if it's
16 truly a restaurant, it should have things that go with a
17 restaurant, including reasonable closing times. So anything that
18 you could do to -- to make these restaurant closing times rather
19 than bar closing times would be much appreciated. Thank you.

20 ZONING EXAMINER: Thank you, Ms. Plasman.

21 Molly McKasson (ph.). Ms. McKasson, are you present?

22 MS. PLASMAN: You can't -- oh, I need to mute.

23 MS. MCKASSON: I -- actually, I didn't expect you
24 to call on me because I got my name in late yesterday --

25 ZONING EXAMINER: Oh --

1 MS. McKASSON: -- but --

2 ZONING EXAMINER: -- there's no --

3 MS. McKASSON: -- thank you.

4 ZONING EXAMINER: -- there's no cutoff. If you
5 show up at the hearing, you get to talk.

6 MS. McKASSON: All right. Thank you, Mr. Zoning
7 Examiner. Thanks to everybody who's out for this -- this
8 meeting, it shows a lot of -- a lot of passion about the inner
9 city and the preserving of it as a residential haven in Tucson.

10 So I live in nearby Sam Hughes. And I really don't
11 have much more to add than what's already been said by -- by Mark
12 and Colby and Tim and Laura and everybody, that this should be a
13 real restaurant serving alcohol and not a bar in the midst of a
14 heavily residential area not in need of any more bars. And I
15 don't -- I don't really have much more to say.

16 I think that it's unfortunate that, after all of this
17 time of the neighborhood association, and residents in Rincon
18 Heights in particular, negotiating on this, it's a shame that Mr.
19 Cummings has not been keeping his word. So I'm -- I'm really
20 sorry to see that, and it seems like it doesn't bode well for the
21 project in the future. Thank you so much.

22 ZONING EXAMINER: Thank you for participating.

23 Would anyone else in the audience like to be heard on
24 this matter?

25 MR. CRAIG: I would.

1 ZONING EXAMINER: Go right ahead, sir. Start with
2 your name and address.

3 MR. CRAIG: My name is Bill Craig. I live at 2043
4 East Third Street.

5 ZONING EXAMINER: Yep.

6 MR. CRAIG: I'm a part of Sam Hughes Neighborhood.
7 We're adjacent to this new program, this big (unintelligible)
8 being put in. We're not opposed to this, but we -- I am
9 seriously opposed to the Series 6 liquor license.

10 The vast majority of restaurants in this city use a
11 Series 12 and do quite well with it; that only asks you for 40-
12 percent food sales. However, if you need a Series 6, it used to
13 be that you're more interested in selling alcohol than you are in
14 selling food; and that's a bar.

15 Mr. Cummings has two bars right now. He's in the bar
16 business. I understand that the bar is the most lucrative of the
17 ways to make money; restaurants are much more iffy. But we're
18 not here to make Mr. Cummings money, we're here to protect our
19 neighborhood and to take care of the University of Arizona as
20 well, and the students as was stated by at least one other
21 speaker.

22 If you would please help us to understand that this is
23 really in the bene- -- for the benefit of Tucson and the benefit
24 of the neighbors who live adjacent to this -- this possible
25 building structure. So a Series 12 is quite acceptable. Series

1 6 absolutely not. Thank you for your time.

2 ZONING EXAMINER: Thank you for your time, sir.

3 Would anyone else like to be heard from?

4 MS. DeFEO: Yes, I would.

5 ZONING EXAMINER: Yeah. Okay. So one of you
6 please let the other ones -- we'll have two folks wait and one
7 talk. Go right ahead. Go ahead.

8 MS. DeFEO: Who is that?

9 MR. CHUPETA: Can you hear me?

10 ZONING EXAMINER: Yes.

11 MR. CHUPETA: My name is David Chupeta and I live
12 at 1809 East Ninth Street -- if you can hear me.

13 ZONING EXAMINER: Yes, I can. Go ahead, sir.

14 MR. CHUPETA: Okay. Great. So I am directly
15 adjacent to the project and I am totally in favor of a Series 6
16 license, and I can't wait for this project to happen. It's been
17 a long time in the making. I applaud Mr. Cummings for putting
18 this together. It's taken him decades, as you guys said earlier,
19 and I just want it to happen. Let's get it through -- let's get
20 it passed through tonight. Thank you.

21 ZONING EXAMINER: Thank you, Mr Chupeta.

22 Next person, please.

23 MS. DeFEO: Hi, can I speak?

24 ZONING EXAMINER: Yes, you may.

25 MS. DeFEO: I'm Nancy DeFeo (ph). I live on Sixth

1 Street. And I have two things that I'm concerned about; one is
2 the lack of a direct turn from Campbell into the back of the
3 property, as you kind of pointed out tonight. Requiring people
4 to go up to Campbell -- I mean, up to Sixth Street and make a U-
5 turn to get in there, I don't feel that that's going to make
6 things any safer with all of the traffic; since they decided not
7 to put Sixth Street on a road diet.

8 And my second thing is talking about an eight-foot
9 pedestrian walkway in front of the building is very little, and
10 the picture they show is at least twice that; because they are
11 assuming the building to be pushed back and there to be an
12 overhang, which I don't see any requirement of that. So eight
13 feet is not a lot on a busy street in terms of being hospitable
14 to pedestrian traffic or to having any kind of outdoor amenities
15 in front of the building. So those two things really stuck out
16 to me tonight. So that's all I have to say.

17 ZONING EXAMINER: Thank you, Ms. DeFeo.

18 I see Mr. Kozachik's hand up and I see Ms. Peterson's
19 hand up. Ms. Peterson, please go ahead first.

20 MS. PETERSON: Thank you. Because Steve is
21 definitely going to say more poignant important things, but just
22 -- don't shake your head. (Laughing.)

23 Anyway, this is -- actually, you know, as Molly said
24 it's very exciting. This is a city standing up and joining hands
25 and talking to each other and I think it's really important. I

1 have a lot of disagreements -- I had a lot of disagreements with
2 Mr. Cummings in the previous -- in his previous proposal. I
3 think it's quite amazing that Rincon Heights has opened its doors
4 and windows and said, okay, guys, let's see what we can do. We
5 know -- we believe in more density. We believe in the need for
6 that corner to be developed.

7 I'm -- I've been here for a long time, I grew up here,
8 and so I remember when that corner was Sandy Rosenthal's studio;
9 and it was, you know, the -- the height of the new and the most
10 amazing and he happened to be -- you're shaking your head.
11 You're agreeing with Mr. Urning (ph.) (sic)?

12 ZONING EXAMINER: It's close enough, whatever you
13 say.

14 MS. PETERSON: No --

15 ZONING EXAMINER: Please go ahead.

16 MS. PETERSON: -- I want to say it, Iurino.

17 ZONING EXAMINER: That's -- that's good.

18 MS. PETERSON: No, no --

19 ZONING EXAMINER: Yahtzee.

20 MS. PETERSON: Anyway, Sandy was, you know, this
21 amazing forerunner for his time. He began -- he start -- he was
22 one of the people for -- who started ATC, which was -- for him,
23 it was A-C-T, act, so it was -- you know, he was -- and it's --
24 it's been all kinds of other things and it's now time to change.

25 I have one or two things that were upsetting to me

1 tonight when I heard -- one of you smart guys, maybe it was Mr.
2 Juneman who said, you know, if you build it, they'll come. Yeah,
3 lots of -- lots of things to say about that. I'm going to stop
4 right there. I'm not so sure that all of Rincon Heights or that
5 Sam Hughes -- I didn't -- I forgot to tell you, I'm sorry. We
6 live at Ninth Street and Treat, Sam Hughes -- lived here for 30-
7 some-odd years and seen all kinds of wonderful changes, and we'll
8 see more. It worries -- that -- that worried me for him to say,
9 "If you build it, they'll come." Just to -- just think about
10 that for a second, okay?

11 Nancy, I loved what you brought up about the -- having
12 to do a U-turn; that worried me. It most worries me, though, the
13 idea -- and our, you know, we had teenagers right here. I went
14 to the University of Arizona. I remember what that was. To say,
15 hey, 12:00 o'clock, 11:00 o'clock on weekdays, we all -- people
16 work, people go to school, people -- 11:00 o'clock is late for a
17 weekday, even -- especially in Tucson. Maybe it's not in the big
18 city, but it is still here. And to be 12:00 o'clock on the week-
19 -- it's -- it's late. Okay. So I'm wishing with all my heart
20 that everybody will come together and make these changes. I
21 mean, the heights have changed; that was amazing. I -- the times
22 could change also. The 6, the license, that we'll say -- yeah,
23 you get a 6 instead of a 12, that's hard for me to swallow, too,
24 okay?

25 I think everybody else has said all the important

1 things to say. Please, Mr. John, and the rest of you guys, think
2 hard about this. If they have a few more weeks, maybe they can
3 come to it. I don't think -- it doesn't sound to me like we're
4 there yet. It does sound to me like people could get there.
5 Thank you very, very much to all of you for -- there's a lot of
6 people here on a Thursday night. Thank you. Okay --

7 ZONING EXAMINER: Thank you.

8 MS. PETERSON: -- Steve.

9 ZONING EXAMINER: Mr. Kozachik, please go ahead.

10 MR. KOZACHIK: Thanks. First of all, I want to
11 acknowledge all the work that both sides have done.

12 MS. PETERSON: Yeah.

13 MR. KOZACHIK: We've been -- you remember a year
14 ago this was like a Hatfields-and-McCoys conversation. People
15 were in complete disagreement about heights, about the bar versus
16 restaurant, about affordability, about traffic issues, and we are
17 like that close now.

18 Some of the -- some of the issues that are being --
19 that are being kicked around right now are not germane to a PAD,
20 though. Some of it has got to be reduced to writing in a site
21 agreement, which you don't, Mr. Iurino, have -- have control
22 over, but I think that prior to your ruling on this, the other --
23 the other elements of the conversation that have been reduced to
24 a site agreement should have those boxes checked so that
25 everyone's comfortable. And I'll give you one example is that

1 when we -- when Mayor and Council approved a PAD over on -- or a
2 project over on Fourth Avenue called Opus, the commitment was
3 made to follow through and -- and do -- in that -- in that case
4 it was called a community benefits agreement, not necessarily so
5 here. Once the PAD was approved, there was no leverage left for
6 the -- for the developer to agree to the CBA and, frankly, it
7 never got done.

8 So I -- I think -- I think it's great that everybody's
9 so -- everybody's so close. I think it will be a shame if we --
10 if it went off the rails at this point. I think that the points
11 were well made about the fundamental difference between a true
12 restaurant and a true bar in terms of people's intent in being
13 there. I get home pretty late at night, but I'm never still
14 (unintelligible) at midnight or later, and I think that the --
15 the hours of operation that the residents have proposed are
16 reasonable. I would love to see Mr. Cummings get to that point
17 as well. I don't think it happens tonight, though, because, as I
18 say, the -- the other elements of the -- of the site agreement
19 need to be hammered out and reduced to writing, perhaps brought
20 back to you in a couple of weeks, and so you can see people are
21 left arm-in-arm in support of this thing instead of still a lot
22 of distension.

23 And, frankly, I'll -- I'll close with saying this:
24 You've heard a lot of distension tonight, too. I mean, there are
25 still -- there's still disagreement within the neighborhood.

1 Some people don't like the heights, some people don't like 6 --
2 Series 6 or a Series 12, some people don't like the U-turn.
3 There's never going to be unanimity in this thing, but we are so
4 close to getting the major points down, that I would suggest it
5 might be -- might be wise to let the -- let the sides have a
6 little more time and work it out.

7 ZONING EXAMINER: Thank you. Mr. Armett, I see
8 you have a hand up.

9 MR. ARMETT: Thank you so much for letting me
10 speak here. And thank you everyone for letting me come on.

11 I want to just say I am very much pro having a larger
12 license, like the Series 6 license, the reason for this is it
13 offers more flexibility. And I believe that the fears of later
14 hours and bar-like atmosphere are far, far overblown. This is a
15 development that is pointing out onto Sixth Street and Campbell.

16 And, you know, I live in Sam Hughes just around the
17 corner and I want to have amenities on my doorstep and I think
18 this is step in building (audio cuts out) urban city. I think
19 that, you know, many restaurant-like places have Series 6
20 licenses because it offers more flexibility. I do think that
21 there could be a bar there, but I don't picture the playground
22 being an economic business model on that corner.

23 So I want -- I want to see something that people can
24 walk to. I think it's ridiculous to care about a U-turn when we
25 want to build this for people that can arrive at this on foot or

1 on bicycle or on other things. Traffic volumes on Sixth Street
2 and Speedway have been declining year after year for 20 years. I
3 mean, we know that traffic is going down in the city because mode
4 share is increasing to other forms of transit. People are taking
5 the trolley. I want to be able to walk to something. And I walk
6 by that corner pretty much every day when I walk from Sam Hughes
7 to the -- the rec center and there's not much there. And if
8 there was more there and more people there, I don't really care
9 what it is. And I don't think that the license is going to cause
10 any problems. I think that restrictive hours are just going to
11 stifle innovation and stifle Scott's ability to provide something
12 that's actually good. That's my personal opinion.

13 I've lived in -- born and raised in Tucson. Lived in
14 Sam Hughes. Owned my house for about 19 years now. But I've had
15 the opportunity to live abroad in London, central London. And,
16 you know, I found that the benefits of density are fine and it's
17 not a big deal. Tucson is changing. It's having a suburban code
18 and now it's changing to more -- you know, central bits of it are
19 becoming a bit more urban. But I'm okay with that. There's
20 still plenty of suburban stuff.

21 And if people really don't like central Tucson becoming
22 a little bit more lively, they can take their money -- I mean, it
23 increases the value in central Tucson so much to have options,
24 things to go to that you don't need to get in a car to go to.
25 That's what I really feel strongly about is being able to go to

1 something not in my car, on foot, on bike, things like that. So
2 thank you so much for letting me speak.

3 ZONING EXAMINER: Thank you for participating.

4 Would anyone else in the audience like to be heard?

5 Mr. Juneman, I think it's back to you.

6 (Feedback.)

7 MR. JUNEMAN: Yeah (unintelligible). Okay. Good.

8 Thank you, Mr. Iurino.

9 So I -- I guess, I -- I first do want to sort of
10 reiterate -- I had mentioned earlier that we've had a really good
11 working relationship so far. I'm -- I'm eager to hopefully, you
12 know, kind of reach the finish line on this. I -- I do want to
13 -- to sort of explain, though, where Mr. Cummings is -- comes
14 from.

15 MR. CUMMINGS: I wouldn't mind talking.

16 MR. JUNEMAN: You -- do you want to talk or do you
17 --

18 MR. CUMMINGS: Well, I just -- if I could just add
19 one thing, and I'm not getting into the hours right now. But
20 I've -- I've been located in that area for 38 years, at Tucson
21 and Sixth, and know the -- that area of town pretty well and have
22 been a pretty integral part I think of that -- the meet-up -- or
23 Sam Hughes -- between the market -- the -- the Rincon Market had
24 been there for years and now Flora's. I -- you know, I -- I've
25 never had issues. I mean, we don't -- just because we can stay

1 open late at night doesn't mean we do it every night. I mean,
2 we're next to a -- we're at -- we're at -- next to an activity
3 center, University of Arizona. We're on the way home for a lot
4 of people that are downtown that may be out for an evening.

5 I -- I just, you know -- and I -- and I negotiate with
6 the hours, but I just -- I -- I -- I think that I have a track
7 record of -- of being reasonable and been a good tenant in the
8 Sam Hughes area, once again since August 6th of 1984, and haven't
9 had noise complaints, haven't had problems with the Sam Hughes
10 Neighborhood. So just kind of keep that in the back of your mind
11 as we keep moving forward and hopefully get something negotiated.

12 MR. JUNEMAN: And to kind of play off on that, Mr.
13 Cummings is a restaurant operator, right, restaurant/bar
14 operator. And so I think part of the reason -- I mean, the main
15 reason why he's been sort of passionate about -- about trying to
16 stay open a little bit later is that for every hour that they're
17 open, that's another hour of revenue. For every hour closed,
18 it's an hour of lost revenue. And I -- you know, I know that
19 that's not the neighbors' problem, but -- but he's in a business
20 that, especially over the last few years, is a tough business.
21 So I -- I just want you -- I guess I just want you to understand
22 that's -- that's where he's coming from. In addition to the fact
23 that he is a successful operator. He doesn't have complaints at
24 Bob Dobb's. He doesn't have complaint at his other -- his other
25 restaurants, because he -- he operates a good business. He's --

1 he's conscientious about the impact on the surrounding -- on the
2 surrounding areas.

3 I think the other concern with this location and
4 shutting down early is the fact that there are football games,
5 there are basketball games, and those are open late and there's
6 an ability to capture sort of post- -- some post-game people that
7 want to stop in and grab something to eat and have a beer before
8 they go home. So that's all -- you know, that's -- that's --
9 that's a good and -- kind of a natural business in that area and
10 -- and he wants to be able to capture that. So -- and I don't
11 think that's necessarily unreasonable, especially if you've got
12 an operator that's good.

13 We have proposed some things to help mitigate the
14 concerns, like we proposed doing a noise study at the time of the
15 development approvals, because at that point we'll know what the
16 building will look like, we'll know where the outdoor spaces are
17 and the -- and the indoor spaces are. That noise study will --
18 would be able to really confirm that the noise impacts won't be
19 significant. We -- we're -- we're almost positive they won't be
20 significant on Rincon Heights because there's a huge building
21 between those outdoor spaces that are facing north. But, you
22 know, we understand the residents in Sam Hughes, their concern.
23 But I think a noise study would go a long way to -- to relieving
24 those concerns.

25 We've -- we've also proposed sort of a structure where

1 -- that after the -- the project's open for a certain period of
2 time, first few years, we set up regular meetings with -- with
3 Scott and the neighborhood associations to discuss any issues;
4 and, if there's issues, he'll be willing to resolve those. So I
5 think there's some -- some ideas out there that I think we can
6 help kind of come to -- to -- to a solution. But I -- we -- and
7 Scott did and I at least wanted to explain sort of where he's
8 coming from on this. It's -- it's -- it's got -- he's got good
9 reasons for it, I guess. And the neighborhood concerns, you
10 know, those are reasonable, too. And I -- and I think everybody
11 really wants to find a solution and hopefully will.

12 So, anyhow, unless you have any other questions, Mr.
13 Iurino, I think we're -- I think we're done.

14 ZONING EXAMINER: I don't, Rory. Mr. Juneman,
15 thank you. And, Mr. Cummings, thank you for sharing your views
16 on that as well. I know you've been I think a very successful
17 operator of very fine establishments in the neighborhood area.
18 I've been here since 1980, so, you know, you -- you are in the
19 same time as me, more or less.

20 Look, here's what I think we need to do -- and, Mr.
21 Juneman, I -- I -- you know, you have from before -- on the
22 liquor license issue, you have from before what my recommendation
23 was. And, look, let's get real, I make a recommendation, Mayor
24 and Council makes the decision, right? You have from before what
25 my recommendation was and it was not to have a Class 6.

1 So you guys have reached in your discussions with the
2 neighborhood association farther than I was going to go last time
3 around.

4 So what I propose is -- since it seems like you guys
5 are down to the short strokes of wrapping the entire thing, what
6 I'm going to do is I'm going to not close the Public Hearing
7 tonight, but it sounds like -- and I don't believe in long
8 delays, because I think the longer people have, sometimes the
9 worse off they are -- so I have a hearing on July 13th on another
10 matter, I'm going to add this case -- instead of kicking it out
11 longer than that, I'm going to add this case to that -- that --
12 if that works for your schedules, July 13th. If it doesn't, I'm
13 happy to kick it over to the 20th.

14 MR. JUNEMAN: That's actually -- that works out
15 for both of us, so --

16 ZONING EXAMINER: All right. So that's what we're
17 going to do. So I'm not closing the hearing, but I want to thank
18 everyone for their participation tonight.

19 And I just want to make one more announcement -- you
20 don't have to listen to this -- but I had the case -- we had
21 another case on the agenda for tonight, and I announced at the
22 beginning, but for anyone who may have come late, Case TP-ENT-
23 0223-00012, Broadway/Rosemont Apartments, we did not go forward
24 with the hearing tonight. The hearing tonight was cancelled.
25 It's going to be heard instead on July 20, 2023, at 6:00 p.m.,

1 via Zoom as these all are.

2 I want to thank everyone for their participation
3 tonight. And I hope everyone has a safe evening and a lovely and
4 safe 4th of July holiday. Good night everyone.

5 (Conclusion of the hearing.)

6 * * * * *

CERTIFICATE

I hereby certify that, to the best of my ability, the foregoing is a true and accurate transcription of the digitally-recorded City of Tucson Zoning Examiner Public Hearing held via video on June 29, 2023.

Transcription completed: July 12, 2023.

/S/ Danielle L. Krassow
DANIELLE L. KRASSOW
Legal Transcriptionist