



DEVELOPMENT PROJECT FILE

for

DANARI TEMPE LLC
(PL160239)

ATTACHMENTS:

- 1-3. Waiver of Rights and Remedies form
4. Location Map
5. Aerial Photo
6. ZDC Map Exhibit
- 7-11. Letter of Explanation for Zoning Map Amendment
- 12-16. Letter of Explanation for Use Permit
17. Site Plan
18. Floor Plan
19. Oblique Imagery of Site (in lieu of elevations)
- 20-22. Public Involvement Final Report Summary for Neighborhood Meeting and Correspondence20-22.
23. Letter of Support
24. Email in Opposition

WHEN RECORDED RETURN TO:
City of Tempe
Community Development Department
31 E. 5th Street
Tempe, AZ. 85281

**WAIVER OF RIGHTS AND REMEDIES
UNDER A.R.S. §12-1134**

This Waiver of Rights and Remedies under A.R.S. § 12-1134 (Waiver) is made in favor of the City of Tempe (City) by DANARI TEMPE LLC (Owner).

Owner acknowledges that A.R.S. § 12-1134 provides that in some cases a city must pay just compensation to a land owner if the city approves a land use law that reduces the fair market value of the owner's property (Private Property Rights Protection Act).

Owner further acknowledges that the Private Property Rights Protection Act authorizes a private property owner to enter an agreement waiving any claim for diminution in value of the property in connection with any action requested by the property owner.

Owner has submitted Application No. PL160239 – **DANARI TEMPE LLC**, to the City requesting that the City approve the following:

- GENERAL PLAN AMENDMENT
- ZONING MAP AMENDMENT
- PAD OVERLAY
- HISTORIC PRESERVATION DESIGNATION/OVERLAY
- USE PERMIT
- VARIANCE
- DEVELOPMENT PLAN REVIEW
- SUBDIVISION PLAT/CONDOMINIUM PLAT
- OTHER _____

(Identify Action Requested))

for development of the following real property (Property):

Property Address: 1401 S Siesta Ln, Tempe, AZ 85281

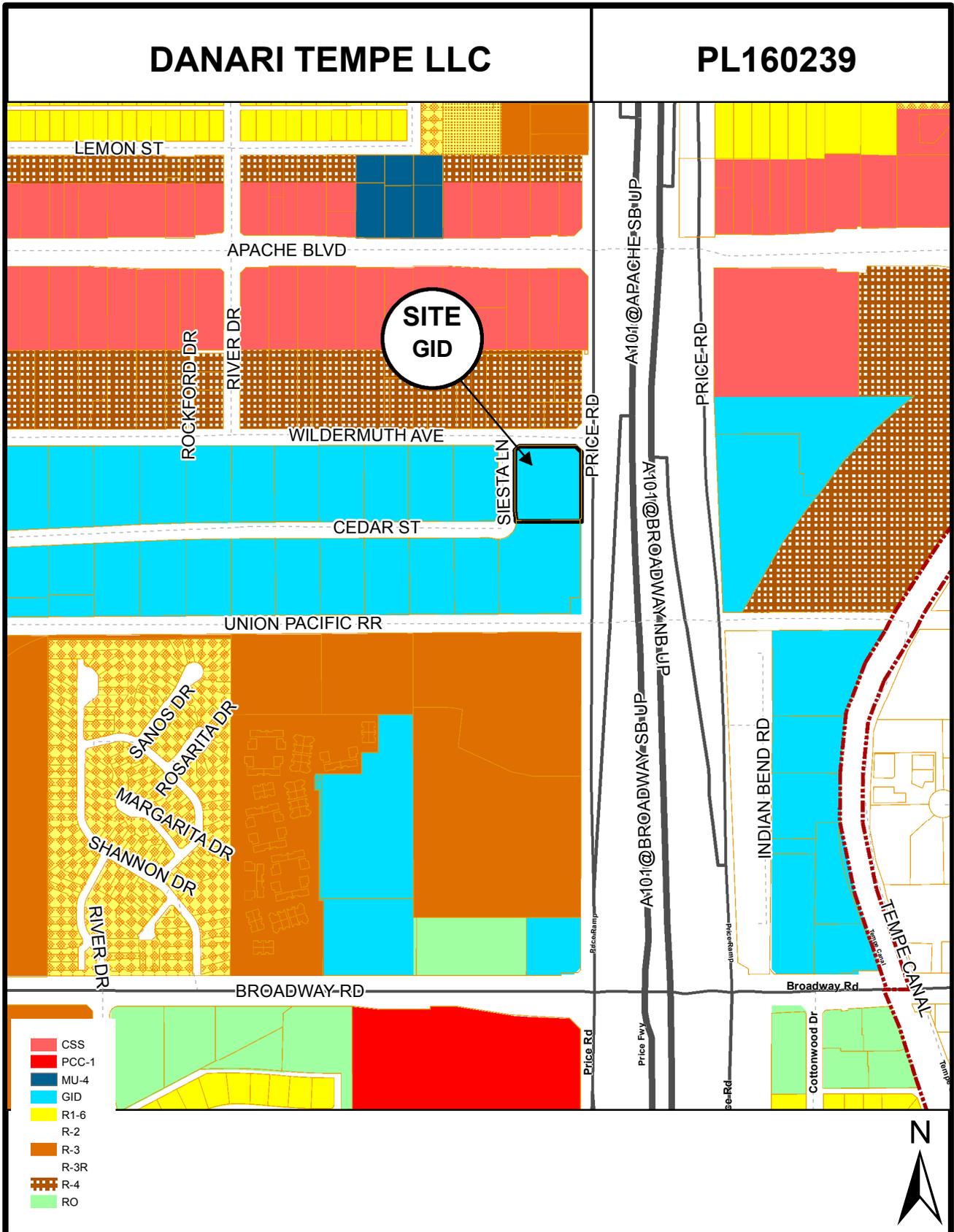
Legal description:

Lot 1, PRICE ROAD BUSINESS PARK PHASE ONE, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 247 of Maps, page 41;

EXCEPT that portion deeded to the State of Arizona, by and through its Department of Transportation, described as follows:

Those portions of Lots 1 and 2, PRICE ROAD BUSINESS PARK PHASE ONE, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 247 of Maps, page 41, which lies within the following described tract of land:

COMMENCING at the Southeast corner of Section 24, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;
THENCE along the East line of said Section 24, North 0 degrees 06 minutes 52 seconds East, a distance of 1355.72 feet;
THENCE South 89 degrees 53 minutes 08 seconds West, 55.00 feet to the Southeast corner of said Lot 2;
THENCE along the East line of said Lot 2, North 0 degrees 06 minutes 52 seconds East, 55.00 feet to the TRUE POINT OF BEGINNING;
THENCE continuing along the East line of said Lot 2 and Lot 1, North 0 degrees 06 minutes 52 seconds East, 280.00 feet;
THENCE North 89 degrees 53 minutes 08 seconds West, 5.00 feet;
THENCE South 0 degrees 06 minutes 52 seconds West, 280.00 feet;
THENCE South 89 degrees 53 minutes 08 seconds East, 5.00 feet to the TRUE POINT OF BEGINNING.



Location Map

DANARI TEMPE LLC

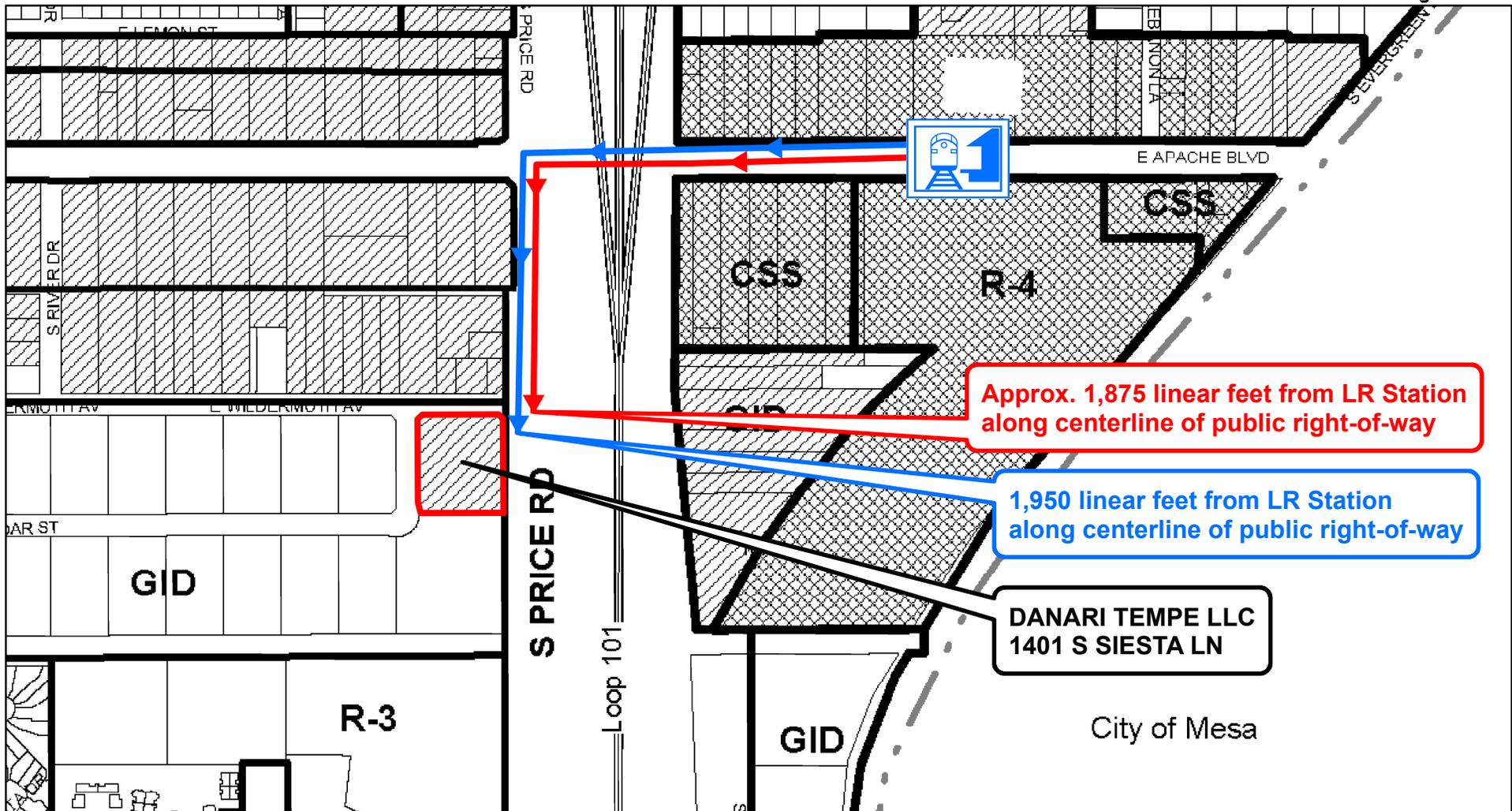
PL160239



Aerials2016



Aerial Map



Approx. 1,875 linear feet from LR Station along centerline of public right-of-way

1,950 linear feet from LR Station along centerline of public right-of-way

DANARI TEMPE LLC
1401 S SIESTA LN

NOTE: This map represents the zoning related to a parcel or lot, but the City of Tempe is not responsible for situations requiring a field verification or legal description. This information should not be relied upon without staff verification.

ZONING MAP LEGEND

<p>RESIDENTIAL AG: Agricultural R1-4: Single-Family Residential R1-5: Single-Family Residential R1-6: Single-Family Residential R1-7: Single-Family Residential R1-8: Single-Family Residential R1-10: Single-Family Residential R1-15: Single-Family Residential R1-PAD: Single-Family Residential</p>	<p>R-2: Multi-Family Residential R-3R: Multi-Family Residential Restricted R-3: Multi-Family Residential Limited R-4: Multi-Family Residential General R-5: Multi-Family Residential High Density MHS: Manufactured Housing Subdivision RMH: Mobile Home Residence TP: Trailer Park</p>	<p>COMMERCIAL / MIXED USE R/O: Residential/Office CSS: Commercial Shopping and Services CC: City Center PCC-1: Planned Commercial Center Neighborhood PCC-2: Planned Commercial Center General RCC: Regional Commercial Center MU-1: Mixed Use, Low-Medium Density MU-2: Mixed Use, Medium Density MU-3: Mixed Use, Medium-High Density MU-4: Mixed Use, High Density MU-Ed: Mixed Use Educational</p>	<p>INDUSTRIAL LI: Light Industrial District GID: General Industrial District HID: Heavy Industrial District</p> <p> TOD Corridor TOD Station Area (PAD): Planned Area Development Overlay (H): Historic Property City Limits </p>
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201 East Washington Street
Suite 1200
Phoenix, AZ 85004

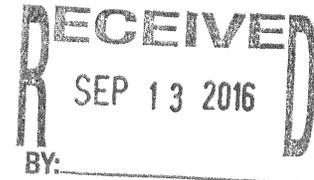
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Michael Phalen
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mphalen@lrrc.com

September 13, 2016

BY HAND DELIVERY

Ryan Levesque
Deputy Director - Planning
City of Tempe
Community Development Department
31 E. 5th Street
Tempe, AZ 85281



Re: Request for Zoning Map Amendment: Removal of Transportation Overlay District
Designation on 1401 S. Siesta Lane, Tempe Arizona

Dear Mr. Levesque:

Our firm represents the Danari Tempe, LLC (“Applicant”), the owner of the property located at 1401 S. Siesta Lane, Tempe, Arizona (“Property”). Danari has leased the property to JSL Enterprises, Inc. (“Tenant”) to use for the storage, warehousing, distribution, wholesaling, and ancillary retail sales of automobiles.

Request.

Please accept this letter as our client’s Application for a Zoning Map Amendment to remove the Property from the boundaries of City’s Transportation Overlay District (“TOD”). Section 6-304.C. of the City of Tempe Zoning & Development Code requires the Applicant to demonstrate that its request is consistent and in conformance with the City’s General Plan. This submittal will not only show that removing the Property from the TOD Map designation will put the Property back into conformance with the City’s General Plan, because the TOD map designation conflicts with the existing Industrial Use General Plan designation, but it will also demonstrate that the proposed map amendment will place the Property back in compliance with the current GID zoning, which permits Office/Warehouse uses. Further, with the proposed Zoning Map Amendment the Property will again comply with the historical and current use of the property as Office/Warehouse, and conform to the recently issued Zoning Interpretation finding the Property’s Office/Warehouse use to be a legal non-conforming use predating the City’s adoption of the TOD.

Pursuant to a separate filing with the City that we request be processed concurrently with this Application, Applicant has filed an Application for a Use Permit to allow vehicle sales to be conducted on the Property. As outlined in greater detail in the accompanying Use Permit Application, the vehicle sales will be limited to primarily wholesale vehicle sales transactions,

with ancillary retail sales of vehicles not exceeding 15% of the total building area of the Property, which is a permitted use for a use directly related to the primary industrial use under City of Tempe Zoning & Development Code, Table 3-302A.

The Property.

The property is located at the southeast corner of Wildermuth Drive and Siesta Lane south of Apache Boulevard and adjacent to Price Road which runs parallel to the 101 freeway in eastern Tempe. The General Plan designation for the Property is Industrial. It is zoned GID. The GID zoning district permits, among other things, office uses, warehousing, wholesaling, distribution, shipping, assembling, indoor storage, manufacturing, and accessory retail sales (the "Office/Warehouse Uses"). City of Tempe Zoning & Development Code §3-301 and Table 3-302A.

The 25,000+ square foot warehouse building currently located on the property was constructed in 1997. The property has been used for permitted Office/Warehouse Uses since it was constructed. As noted in the City Zoning Administrator's Zoning Interpretation letter, the Property's certificate of occupancy has listed the use as Office/Warehouse since 1997. See, copy of the Zoning Administrator's Zoning Interpretation letter dated September 8, 2016.

The Property is located within the TOD. The TOD was adopted by the Tempe City Council on November 17, 2005 and the TOD boundary map was established on June 1, 2006. City of Tempe Zoning & Development Code §5-602. The TOD conflicts with the General Plan Industrial Use designation and the GID zoning because it prohibits Office/Warehouse Uses within the TOD boundaries, prohibiting such uses as:

- 19. Shipping or distribution, warehouse transport center; ...
- 22. Vehicle sales, ...;
- 23. Warehouse or other indoor storage."

City of Tempe Zoning & Development Code §5-608B, 19, 22, and 23.

Non-Conforming Use.

Pursuant to our client's Application for a Zoning Interpretation letter, the City Zoning Administrator determined that the Office/Warehouse Uses are permitted as legal Non-Conforming Uses on the Property. The Zoning Administrator, however, determined that:

The result of the allowed uses would also allow a business to warehouse vehicles for storage and distribution, so long as vehicle sales and/or rentals does not occur. "Vehicle Sales/Rental (indoor or outdoor) is specifically identified within the GID, General Industrial District as requiring a use permit. This particular use would not be considered a legal non-conforming use. And as such, vehicle sales/rentals would be prohibited within the Transportation Overlay District.

In order for vehicle sales/rentals to occur on site or the city to authorize any required license for vehicles sales, the applicant may propose a zoning map amendment to remove the subject property from the Transportation Overlay District along with a request for a use permit to allow vehicle sales. (emphasis added).

Based on the forgoing Zoning Administrator determination, Applicant is submitting this Application for a Zoning Map Amendment and the accompanying Use Permit Application to permit vehicle sales on the Property.

Discussion.

Applicant seeks the City's approval of this Application for a Zoning Map Amendment because the Transportation Overlay District conflicts with the Industrial land use designation under the Tempe General Plan, as well as the GID – General Industrial Zoning on the Property. The City's approval of Applicant's proposed TOD Zoning Map Amendment Application will return the Property to conformance with the City's General Plan, in conformance with City of Tempe Zoning & Development Code 6-304.C. As noted herein, the Property was developed as a single building industrial warehouse building in 1997, consistent with the General Plan Industrial designation and the GID zoning. The building on the Property has been used for Office/Warehouse Uses for almost 20 years.

Although our client is supportive of the City's goal of encouraging use of the Valley's Light Rail system, the TOD Map designation makes it impractical, if not impossible, to use the Property in the manner it was intended. The very nature of Applicant's Property conflicts with the TOD Map designation. The warehouse use requires the product being warehoused on the Property to be shipped in and out of the warehouse building by separate vehicles. So the light rail system provides no commercial benefit to the Property or its Office/Warehouse Uses. The Office/Warehouse Uses conducted on the Property are not people or pedestrian oriented, so for commercial reasons, continuing to tie the Property to the TOD provides no benefit to the City, the Applicant or its Tenant.

We recognize that Tenant's employees could use the light rail to get to and from work. But retaining the TOD map designation on the Property will not necessarily encourage them to use the light rail any more than they otherwise would be motivated to use it. Retaining the TOD map designation will also not change their employee's behavior. The TOD map designation is not necessary to cause them to use the light rail system. In turn, the Tenant's operation employs very few employees, so the potential loss of their use of the light rail system will be inconsequential. The intent of the TOD Map Designation was to encourage land owners to change the underlying uses to more light rail friendly uses. Because of the way the Property was planned, zoned, developed and used, the TOD Map designation is not likely to ever have its desired effect. This is especially true now that Office/Warehouse Uses are recognized as legal nonconforming uses. Since the TOD map designation will not accomplish its intended purpose, it is time to remove the map designation to eliminate the cloud it creates on title and permit the Property to be used for its highest and best use.

In addition, there is little connection between the Property and the Price-101/Apache Blvd. Light Rail station. First, the Property just barely falls within the 1,950 foot distance requirement to be designated within the TOD on the City Zoning Map. Second, the light rail station is on the other side of the Price Road Freeway from the Property. The freeway acts as both a physical and psychological barrier to potential light rail users, at least from this Property. The distance and the difficulty of walking across an interstate-sized freeway to get to the light rail station are likely to keep a certain percentage of the Property employees from using the light rail station. As a practical matter, the Light Rail Station is too far away to justify the TOD map designation. The benefits of the TOD map designation offers to the Property are difficult to determine. But the burdens it places on the Property are great. The map designation is not, and should not change the fundamental Office/Warehouse use of the Property, but in fact it does. If it were not for the Zoning Administrator's recent ruling that the Office/Warehouse Uses are permitted as legal Non-Conforming Uses despite the TOD use restriction, the Property could not be used as a warehouse, even though it is zoned and developed for that use. Inexplicably, the TOD prohibits warehouse uses in a warehouse zoning district. These TOD provisions are expressly contrary to the City General Plan which calls for Industrial Uses on this Property. In order to bring the Property back into compliance with the City's General Plan, it is necessary for the TOD Map Designation to be removed from the Property. City of Tempe Zoning & Development Code 6-304.C.

Finally, as noted in our accompanying Use Permit Application, the Applicant's Tenant seeks to use the Property to store and wholesale vehicles. Wholesaling vehicles is prohibited under the TOD. Tenant has been wholesaling vehicles, pursuant to a Use Permit, at another location in Tempe for 9 years. Tenant's business has grown and it seeks to relocate its vehicle warehousing and wholesaling operations to the Property. In order to relocate, the TOD designation needs to be removed from the Zoning Map in order for the Applicant to obtain a Use Permit for vehicle sales.

Request.

Because the TOD use prohibitions directly conflict the City of Tempe General Plan, the GID Zoning designation, and the actual use and development of this Property as an Office/Warehouse building, we request that the City remove the TOD Map designation on the Property and bring it back into compliance with those land use regulations.

Thank you for the opportunity to submit these requests for your consideration. Please contact me with any questions or any requests for additional information.

Sincerely,



Michael Phalen
Lewis Roca Rothgerber Christie LLP

Attachments

cc: Alan Sher
Jim Lichty
Michael Fletcher

Lewis Roca Rothgerber Christie LLP
201 East Washington Street
Suite 1200
Phoenix, AZ 85004

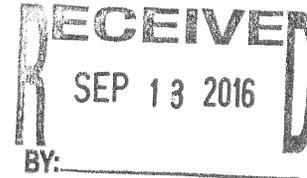
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Michael Phalen
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mphalen@lrrc.com

September 13, 2016

BY HAND DELIVERY

Ryan Levesque
Deputy Director - Planning
City of Tempe
Community Development Department
31 E. 5th Street
Tempe, AZ 85281



Re: Application for Use Permit - 1401 S. Siesta Lane, Tempe Arizona

Dear Mr. Levesque:

Our firm represents the Danari Tempe, LLC (“Applicant”), the owner of the property located at 1401 S. Siesta Lane, Tempe, Arizona (“Property”). Danari has leased the property to JSL Enterprises, Inc. (“Tenant”) to use for the storage, warehousing, distribution, wholesaling, and ancillary retail sales of automobiles. Tenant has been operating this same business at its current location located at 1769 W. University in Tempe, pursuant to Use Permit No. PL070406 / ZUP07143. Tenant seeks to operate the business in the same manner on the Property.

1. Request.

Please accept this letter as our client’s Application for a Use Permit on the Property to allow: (1) internet vehicle sales, (2) wholesaling of vehicles, and (3) ancillary retail sales related to the permitted wholesale industrial use, not to exceed 15% of the total building area’s primary industrial use (collectively “vehicle sales”). City of Tempe Zoning & Development Code §3-301 and Table 3-302A.

Applicant has filed an Application for a Zoning Map Amendment to remove the Property from the map showing the properties located within the City’s Transportation Overlay District (“TOD”) pursuant to a separate filing with the City that we request be processed concurrently with this Application.

2. The Property.

The property is located at the southeast corner of Wildermuth Drive and Siesta Lane south of Apache Boulevard and adjacent to Price Road which runs parallel to the 101 freeway in eastern Tempe. The General Plan designation for the Property is Industrial. It is zoned GID. The GID zoning district permits, among other things, office uses, warehousing, wholesaling, distribution, shipping, assembling, indoor storage, manufacturing, and accessory retail sales (the

“Office/Warehouse Uses”). City of Tempe Zoning & Development Code §3-301 and Table 3-302A.

The 25,570 square foot warehouse building currently located on the property was constructed in 1997. The property has been used for permitted Office/Warehouse Uses since it was constructed. As noted in the City Zoning Administrator’s Zoning Interpretation letter, the Property’s certificate of occupancy has listed the use as Office/Warehouse since 1997. See, copy of the draft Zoning Administrator’s Zoning Interpretation letter dated September 8, 2016.

The Property is located within the TOD. The TOD was adopted by the Tempe City Council on November 17, 2005 and the TOD boundary map was established on June 1, 2006. City of Tempe Zoning & Development Code §5-602. The TOD conflicts with the General Plan Industrial Use designation and the GID zoning because it prohibits Office/Warehouse Uses within the TOD boundaries, prohibiting such uses as:

- 19. Shipping or distribution, warehouse transport center; ...
- 22. Vehicle sales, ...;
- 23. Warehouse or other indoor storage.”

City of Tempe Zoning & Development Code §5-608B, 19, 22, and 23. (emphasis added).

In addition, “Vehicle Sales/Rental (indoor or outdoor)” is specifically identified within the GID as requiring a Use Permit.

3. Non-Conforming Use.

Pursuant to our client’s Application for a Zoning Interpretation letter, the City Zoning Administrator determined that the Office/Warehouse Uses are permitted as legal Non-Conforming Uses on the Property. The Zoning Administrator, however, determined that:

The result of the allowed uses would also allow a business to warehouse vehicles for storage and distribution, so long as vehicle sales and/or rentals does not occur. “Vehicle Sales/Rental (indoor or outdoor) is specifically identified within the GID, General Industrial District as requiring a use permit. This particular use would not be considered a legal non-conforming use. And as such, vehicle sales/rentals would be prohibited within the Transportation Overlay District.

In order for vehicle sales/rentals to occur on site or the city to authorize any required license for vehicles sales, the applicant may propose a zoning map amendment to remove the subject property from the Transportation Overlay District along with a request for a use permit to allow vehicle sales. (emphasis added).

Based on the forgoing Zoning Administrator determination, Applicant is submitting this Use Permit Application to permit vehicle sales on the Property, along with the accompanying Application for a Zoning Map Amendment.

4. Discussion.

The Property is an industrial property under the City General Plan and the zoning code. A warehouse building was constructed on the Property almost 20 years ago and has been consistently used for Office/Warehouse Uses since then. In turn, Applicant has leased the Property to Tenant who seeks to use the property to store its vehicle inventory, which is a permitted use under the GID zoning and the recent ZA Interpretation letter, and to conduct the wholesaling of vehicles, internet vehicle sales, and ancillary retail vehicle sales, not to exceed 15% of the total building area.

In order to conduct the vehicle sale uses, Applicant must obtain City approval for its accompanying Zoning Map Amendment Application and this Use Permit Application. In the event the City approves Applicant's Zoning Map Amendment Application, Applicant requests approval of this Use Permit Application.

The City Zoning Code states that in order for a Use Permit Application to be granted, the City must find that:

the use covered by the permit, the manner of its conduct, and any building which is involved, will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirements, or standards prescribed therefore by this Code.

City of Tempe Zoning & Development Code §6-308.E.1.

This Use Permit Application meets these City requirements. The proposed vehicle sales use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general. First, vehicle storage, which is a part of Tenant's use, is a permitted use under the GID zoning. It would follow that any traffic generated by the vehicle storage activity would fall within the scope of this permitted use. Tenant's proposed vehicle sales use will be limited in scope to internet and wholesale sales, which require the use permit. Arguably, the ancillary retail vehicle sales falls within the Code limits (15%) as a permitted use (City of Tempe Zoning & Development Code, Table 3-302A), but in the event Staff disagrees, Applicant includes its ancillary retail vehicle sales within the scope of this Use Permit Application. Second, Tenant has a long history of conducting vehicle sales at its current location located on the west side of the City at 1769 W. University, in compliance with the applicable zoning laws. Its current parcel is zoned GID and a Use Permit was issued permitting its vehicle sales activity. Tenant's business has outgrown that location and it seeks to relocate its operations to the Property. Third, the Property is located adjacent to the Price Road Freeway on the east and other warehouse/industrial uses on the south and west. The proposed use is consistent with, and will not conflict with these surrounding industrial and freeway uses. Although the Property is located adjacent to property zoned R-4 (Multi-Family Residential General) on the north, the warehouse on the Property has been located adjacent to these multi-family residential parcels for almost 20 years, so this proposed use will not change the

neighborhood conditions, or the neighbor's expectations, that have existed over that same period of time. Further, the R-4 properties are either underutilized, under developed, or are in transition, so the reinvestment triggered by this use will help improve the neighborhood.

The City of Tempe Zoning & Development Code goes on to list a number of factors to measure the Use Permit proposal. City of Tempe Zoning & Development Code §6-308.E.2. The factors includes such things as vehicular and pedestrian traffic, nuisances caused by odor, dust, gas, noise, vibration, smoke, heat, or glare, deterioration or degradation of the neighborhood, compatibility with surrounding structures and uses, and adequate control of disruptive behavior. The proposed vehicle sales use will not conflict with any of these factors. The proposed use will not generate additional traffic. Since the proposed use involves internet vehicle sales and the wholesaling of vehicles, the use will generate a minimal amount of traffic. The traffic will primarily be limited to employees and vehicle deliveries. Since vehicle storage is already a permitted use on the Property, the traffic generated by vehicle deliveries will not be altered by the issuance of the Use Permit. Any traffic generated by ancillary retail sales will be minimal.

The use will not generate any of the nuisance activities listed in the City of Tempe Zoning & Development Code §6-308.E.2. The operations will be conducted exclusively inside the existing warehouse building. So no noise, dust, odor, etc. will be caused by the proposed use or generated from the Property. In turn, that building has been there for almost 20 years, so its use for Office/Warehouse Uses is, and will continue to be compatible with the surrounding structures and uses. Furthermore, The R-4 properties to the north are in transition. Applicant's and Tenant's investment in property improvements will actually improve the surrounding property values and help stabilize that neighborhood.

Contrary to certain preconceptions about vehicle sales businesses, the proposed use will be a fairly passive use. This is supported by Tenant's long history conducting internet vehicle sales at its current location. Because the proposed use will primarily involves internet sales and the wholesaling of vehicles, it will not attract the public and therefore will not result in an increase of traffic, noise, nor what is otherwise considered retail sales types of activity. For example, vehicles will not be on display on the Property, no sales people will be walking around the Property looking for or waiting on customers, and there will be no signs, banners, flyers or flags on the site. The proposed vehicle sales use will be conducted in conformity to any conditions, requirements, or standards prescribed therefore by the City Code, just as it has been conducted by Tenant at its existing location for 9 years.

5. Request.

Because the proposed vehicle sales use conforms to the criteria and factors listed in the City of Tempe Zoning & Development Code, and because Tenant has a long history of operating its existing vehicle sales activities at another location in Tempe in compliance with the parcel's GID Zoning and its approved Use Permit, we request that the City remove approve a Use Permit for vehicle sales for the Property limited to internet sales, wholesaling of vehicles, and ancillary retail sales not to exceed 15% of the total building area's primary industrial use.

Thank you for the opportunity to submit these requests for your consideration. Please contact me with any questions or any requests for additional information.

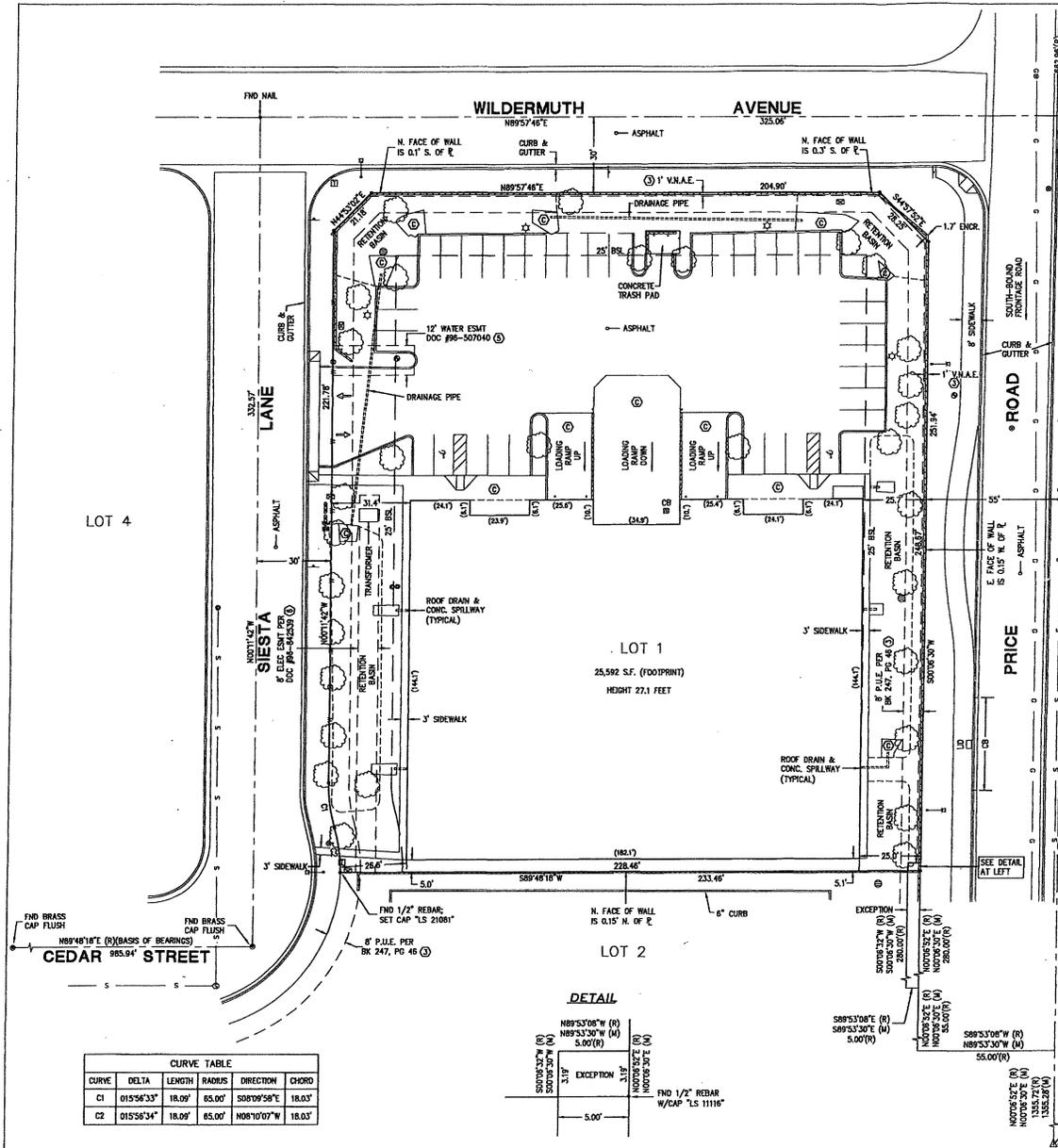
Sincerely,



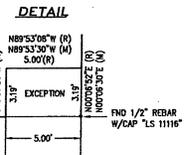
Michael Phalen
Lewis Roca Rothgerber Christie LLP

Attachments

cc: Alan Sher
Jim Lichty
Michael Fletcher



CURVE TABLE				
CURVE	DELTA	LENGTH	RADIUS	CHORD
C1	015°56'33"	18.09'	85.00'	S89°09'59"E 18.03'
C2	015°56'34"	18.09'	85.00'	N08°10'07"W 18.03'



LEGAL DESCRIPTION

Lot 1, PRICE ROAD BUSINESS PARK PHASE ONE, according to the plot of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 247 of Maps, page 41; EXCEPT that portion donated to the State of Arizona, by and through its Department of Transportation, described as follows:

These portions of Lots 1 and 2, PRICE ROAD BUSINESS PARK PHASE ONE, according to the plot of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 247 of Maps, page 41, which lies within the following described tract of land:

COMMENCEMENT of the Southeast corner of Section 24, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

THENCE along the East line of said Section 24, North 0 degrees 06 minutes 52 seconds East, a distance of 1353.72 feet;

THENCE South 89 degrees 53 minutes 08 seconds West, 55.00 feet to the Southeast corner of said Lot 2;

THENCE along the East line of said Lot 2, North 0 degrees 08 minutes 52 seconds East, 55.00 feet to the TRUE POINT OF BEGINNING;

THENCE continuing along the East line of said Lot 2 and Lot 1, North 0 degrees 06 minutes 52 seconds East, 262.00 feet;

THENCE North 89 degrees 53 minutes 08 seconds West, 5.00 feet;

THENCE South 08 degrees 06 minutes 52 seconds West, 280.00 feet;

THENCE South 89 degrees 53 minutes 08 seconds East, 5.00 feet to the TRUE POINT OF BEGINNING.

APN: 133-01-423

SCHEDULE B EXCEPTIONS

- Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the year 2014.
- The liabilities and obligations imposed upon said land by reason of (a) inclusion thereof within the boundaries of the Salt River Project Agricultural Improvement and Power District; (b) membership of the owner therein of the Salt River Valley Water Users' Association, an Arizona corporation and (c) the terms of any Water Right Application made under the reclamation laws of the United States for the purposes of obtaining water rights for said land.
- Easements, covenants, conditions and restrictions on set forth on the plot recorded in Book 247 of Maps, Page 41.
- Covenants, conditions and restrictions on set forth in Document No 83-110617, re-recorded in 83-14653, Amended in 84-277874, Second Amendment in 2004-1150193. Liens and charges set forth in the above mentioned documents, payable to Price Road Business Park Property Owners Association.
- Easement for water line and fire hydrant per Document No. 86-4507040.
- Easement for underground power per Document No 86-0842539.
- Resolution of Establishment per Document No 83-330699, 87-350447, and 87-742087. Reference is hereby made to said document for full particulars.
- An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document entitled Memorandum of Lease - Lease: D.F. Sauer Properties, LLC, an Arizona limited liability company Lease: Educational Sales Company, Inc. as of 10/02/2010, 10/02/2010; Recording No: Document No 2002-020110.

NOTES

- This survey is based upon a title commitment prepared by Fidelity National Title Agency, Order No. 7100289-071-001, dated April 15, 2015.
- The Surveyor has relied on said title commitment to disclose all matters of record affecting the subject property. The Surveyor has made no investigation or independent search for encumbrances of record, encumbrances, restrictive covenants, ownership title evidence, or any other matters that may affect the property.
- This property lies in Flood Zone X-Dated according to FIRM No. 04013248E, as published by FEMA on October 18, 2013.
- This property is zoned General Industrial District (G.I.D.) by the City of Tempe.
- The Basis of Bearings shown hereon is the monument line of Cedar Street as taken from plot of said subdivision.
- © Copyright 2015. These drawings are an instrument of service and are the property of Land Survey Services, PLLC. No reproduction or use of design concepts are allowed without written permission of Land Survey Services. Any Violation of this copyright shall be subject to legal action.

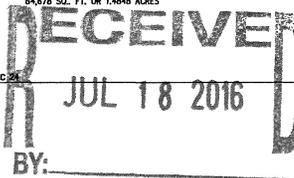
CERTIFICATION

To Fidelity National Title Agency, Ador Realty Investments, Inc. and Danari Temple, LLC:

This is to certify that this map or plot and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 5, 4, 6(a), 7(a)(1), 8, 9, 11(a), 16, 18 and 20 from Table A thereof. The field work was completed on August 26, 2014.

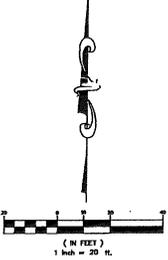
Thomas L. Rope, R.L.S., No. 21081

AREA
64,678 SQ. FT. OR 1,4848 ACRES



LEGEND

- ▲ BRASS CORNER
 - BRASS CAP FLUSH
 - REBAR W/CAP "LS 11116"
 - SANITARY SEWER MANHOLE
 - SEWER CLEANOUT
 - WATER METER
 - WATER VALVE
 - FIRE HYDRANT
 - WATER CHECK VALVE
 - STREET LIGHT
 - LIGHT POLE
 - IRRIGATION CONTROL BOX
 - TELEPHONE BOX
 - DRY WELL
 - SIGN
 - DRIVEWAY ENTRANCE/EXIT
 - CONCRETE
 - SCHEDULE B ITEM NO.
 - V.M.A.E. *VEHICLE NON-ACCESST
 - ENCR. ENCROACHMENT
 - (B.D.) BUILDING DIMENSION
 - (M) MEASURED
 - (R) RECORD PER LEGAL DESC.
 - CB CATCH BASIN
 - MASONRY WALL
 - *BLDG SETBACK LINE
 - EASEMENT LINE
 - GAS LINE
 - SEWER LINE
 - WATER LINE
 - MISC. TREE
- *PER BK 247 MAPS, PG 41



G.I.D. ZONING STANDARDS

Max. Building Height:	35 feet
Maximum Lot Coverage:	No Standard
Minimum Landscape Area:	10%
Front Setback:	25 feet
Parking:	20 feet
Side Setback:	0 feet
Rear Setback:	0 feet
Side Street Parking:	25 feet
Parking:	20 feet

Land Survey Services PLC
 Thomas L. Rope, R.L.S.
 3160 North 302nd Lane
 Buckeye, AZ 85386-3186
 602.703.7010 Fax 623.243.4117

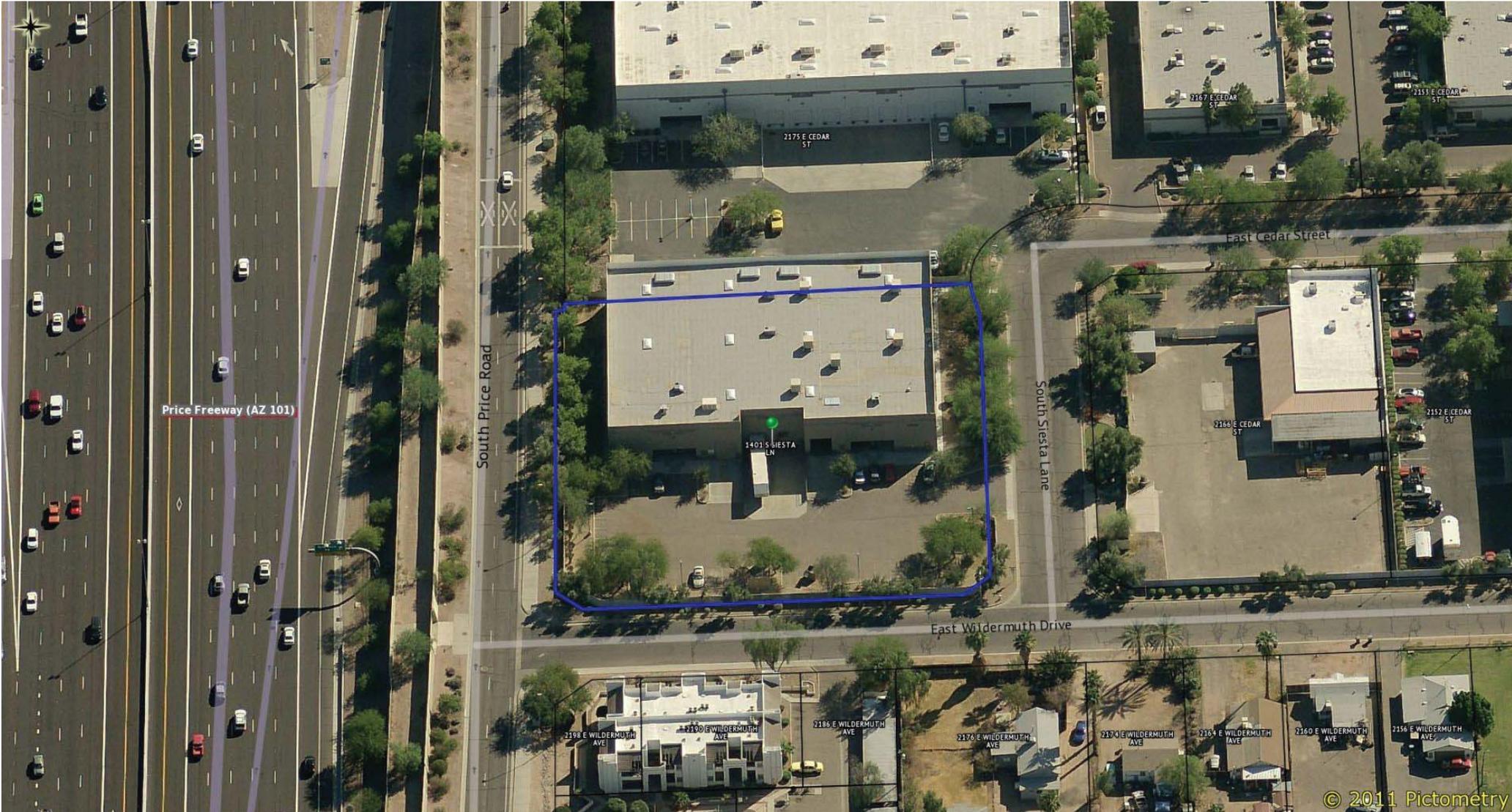
ALTA/ACSM LAND TITLE SURVEY
 A PORTION OF THE SOUTHEAST QUARTER OF SECTION 24,
 T1N, R4E, G.&S.R.B.M., MARICOPA COUNTY, ARIZONA

Revised 5/7/2015

Drawn By: Thomas Rope
 Expires: 3/31/2016

Date: AUG 2014
 Job No.: 14079
 Sheet No.: 1 of 1

Oblique Imagery of Site Looking South



Public Involvement Plan
Final Report

DANARI TEMPE LLC

Danari Tempe, LLC
1401 S. Siesta Lane
Tempe, AZ

Located on the south side of Wildermuth between Siesta Lane and the Price Road frontage road.

Case No. PL 160239



Michael J. Phalen
Lewis Roca Rothgerber Christie LLP
201 East Washington Street, Suite 1200
Phoenix, Arizona 85004-2595
mphalen@lrrc.com

Final Report

Lewis Roca Rothgerber Christie LLP (“Lewis & Roca”) mailed out its neighborhood notification letters on Monday, August 1, 2016 and provided the City with its affidavit on August 3, 2016 confirming the date the letters were mailed. The letters were mailed out to the property owners within 600 feet of the Property located at 1401 S. Siesta Lane (see map of notification area below) as well as to the representatives of the three registered neighborhood associations, homeowners associations and affiliate associations located within $\frac{1}{4}$ mile of the Property. The registered associations receiving the notice were based on the list provided to Applicant on July 26, 2016 by City of Tempe Senior Planner, Lee Jimenez.

In addition, Dynamite Signs posted two notification signs on the Property on Tuesday, August 2, 2016. Per Mr. Jimenez’s direction, one sign was placed at the northwest corner of the Property at Siesta Land and Wildermuth Avenue. The second sign was located at the northeast corner of the Property at the Price Road frontage road and Wildermuth Avenue.

As of this point in time, Lewis & Roca has not received any inquiries regarding the proposed project. However, Mr. Jimenez received one call on August 17th, the day of the neighborhood meeting, from Mr. Andrew Murch, the lessee of the Office/Warehouse parcel located to the west of the Property, across Siesta Lane, within the same Price Road Business Park as the Property.

The neighborhood meeting for the Danari Tempe Property took place as scheduled on Wednesday, August 17, 2016 at 6:00 pm at Tempe Police Department – Apache Substation, 1855 E. Apache Boulevard, Tempe, Arizona 85281. Michael Phalen from Lewis & Roca arrived at approximately 4:30 pm to meet with Police Department staff to open up the meeting room and set up the computer and projector for the PowerPoint presentation. The Applicant was represented by Mr. Jim Lichty, the lessee of the Property. Mr. Lichty arrived shortly before 6:00 pm.

One member of the public attended the meeting – Mr. Andrew Murch – who arrived shortly before 6:00 pm. Messrs. Lee Jimenez, Steve Abrahamson and Paul Hickey from the City of Tempe Community Development Department, Planning Division, also attended. They arrived at approximately 5:50 pm.

Mr. Murch asked a series of questions regarding why a Use Permit was necessary to permit vehicle sale on the Property. He also asked why the Use Permit could not be issued by the City without having to remove the Transportation Overlay District (TOD) designation on the subject Property. Messrs. Phalen, Lichty and Jimenez explained that the removal of the TOD overlay was necessary because the TOD prohibited a number of Office/Warehouse related uses otherwise permitted by the underlying General Industrial District (GID), and because the TOD not only expressly prohibited vehicle sales uses, it also did not offer the Use Permit alternative provided under the GID zoning district. So removal of the TOD overlay on the Property was necessary to remove the cloud the TOD created on Office/Warehouse uses adversely impacting the Property generally, and to allow the Applicant to apply for a Use Permit for vehicle sales under the provisions of the GID zoning district.

While Mr. Murch stated that he could support the Use Permit for Mr. Lichty’s proposed type of vehicle sales, he was concerned about how the next owner/lessee of the Property might operate its vehicle sale operation as a successor to the Use Permit. After much discussion, an understanding

was reached that the proper method for Mr. Murch to address that concern was to draft conditions, or stipulations, to the Use Permit that would limit the scope of the permit to the type of vehicle sale operation Mr. Lichty proposes. Specifically, it was agreed that the Use Permit conditions would be that the vehicle sales would be limited to (1) wholesale vehicle sales, (2) internet vehicle sales, and (3) ancillary retail sales of vehicles not exceeding 15% of the total building area of the Property (in conformance with Retail Use provisions of the Tempe Zoning and Development Code, Table 3-302A).

At the end of the meeting, Mr. Murch stated that he supported the removal of the TOD from the Property, and supported the Use Permit subject to the Conditions that would limit the vehicle sales to (1) wholesale vehicle sales, (2) internet vehicle sales, and (3) ancillary retail sales of vehicles not exceeding 15% of the total building area of the Property.

The meeting concluded and everyone left the meeting room at approximately 7:30 pm.



September 26, 2016

Subject: Danari - City of Tempe Zoning

To whom it may concern,

EST Companies LLC(EST) is a long term leasee of a property at 2166 East Cedar Street, adjacent to the subject property at 1401 South Siesta Lane, Tempe AZ 85281. EST is in the process of negotiating the purchase of the leased property and is a concerned party.

The above mentioned property, 1401 South Siesta Lane, Tempe AZ 85281, has two zoning requests before the council. One is to remove the TOD and the second is to allow a use permit. EST is in support of both requests based on discussion and agreement at the neighborhood meeting August 17, 2016 and the results of said meeting as noted in the City of Tempe, Development Review Commission recommendation document dated September 27, 2016.

First I would like to commend those in attendance, of the above referenced meeting, from the city of Tempe, for really soliciting input from those in the area; very refreshing. Secondly, to those in attendance from those requesting consideration of these changes, for working with future neighbors to ensure support for these alterations in the area. The property has been the subject of much discussion at EST. This vacant property has been residence to a number of homeless for quite some time, creating an environment with abandoned shopping carts, clothing and litter throughout the area, not to mention many other physical items on the subject property. We have several times opened our front door to find items left from someone having been on our property for the weekend or longer. Changes are needed to improve the comfort and safety of those working in the area.

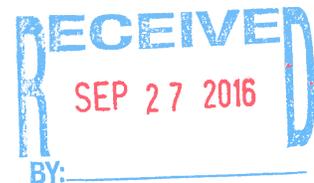
We fully support the lifting of the TOD and the granting of the Use Permit Requested with the terms noted in the above referenced recommendation document dated September 27, 2016.

I would be happy to discuss any of the issues outlined above as needed. Please contact me as noted below.

Regards,

Andrew Murch

Andrew Murch
Managing Member
EST Companies LLC



EST Companies LLC - 2166 E. Cedar Street – Tempe, AZ 85281
Phone 623-535-3060 www.estcos.com Fax 623-535-0207

From: [Matthew Salenger](#)
To: [Dasgupta, Suparna](#)
Subject: Danari Tempe, LLC
Date: Tuesday, September 27, 2016 2:57:52 PM

To the Development Review Commission,

The main issue is that a corner of the property is within ¼ mile of the light rail station, making this a TOD overlay site. And the new owner, Danali Tempe, llc, wants to have the overlay permanently removed. While it sits in an industrial area, directly to the north of the site, across Wildermuth, the properties are designated R-4 for dense housing options. There are two apartment buildings to the north with a developer looking to develop the site north of them. Once (recently approved by the DRC) Eastline Village is completed, this area could be quick to develop, bringing real positive change to the area. If that occurs, the property Danali is asking to have the TOD overlay removed will become less likely to also develop.

I have an issue with the removal of the TOD designation for Danari. Mainly because it makes it harder for Danali's property to be developed in the future- but also because even if it stayed industrial, their stated use (to sell wholesale autos on the property) does not provide a good service for the neighborhood now or in the future. With that entire area ripe for redevelopment, this property should remain in the TOD overlay to attract further development everywhere we can get it, or at least remain to allow this site to provide more urban uses intended for TOD areas.

Thank you for considering my objection to this application.

Matthew Salenger, AIA
[REDACTED] E. Cedar Street
Tempe, Arizona 85281

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]