



City of Phoenix
PLANNING AND DEVELOPMENT DEPARTMENT

Staff Report
Zoning Ordinance Text Amendment
Z-TA-4-17 (Legal Protest)
July 25, 2017

Application No Z-TA-4-17 Amend Chapter 5, Section 506 (Text Amendments and Rezoning) of the Phoenix Zoning Ordinance to address changes to the Arizona Revised Statutes regarding filing a written protest to require a three-fourths vote (House Bill 2116).

Staff recommendation: Staff recommends approval of Z-TA-4-17 as shown in Exhibit A.

Purpose and Summary

The intent of these changes is to modify the Zoning Ordinance to be consistent with the Arizona Revised Statutes regarding filing a written protest (ARS Section 9-462.04). This clean-up text amendment will make the following changes:

- Changes the provision that requires a three-fourths vote by the City Council to approve a proposed amendment if 20% of the owners of the property by area **and** number of lots, tracts and condominium units within the *zoning petition area* file a protest against the change.
- Clarifies the *zoning petition area* as the area of the proposed amendment and the area within 150 feet of the proposed amendment, including all rights-of-way.
- Clarifies the three-fourths vote of the governing body is to be rounded to the nearest whole number.

Background

Under the current state statute, if the owners of 20% or more of either the area of the lots included in a proposed change, **or** those immediately adjacent in the rear or any side within 150 feet of the proposed change, **or** those directly opposite, extending 150 feet from the street frontage opposite the lots of the proposed change file a petition against a proposed zoning amendment, the change requires a favorable vote of three-fourths of all members of the City Council. Exhibit B depicts the current method to determine the zoning petition area and if a three-fourths vote is required.

On May 10, 2017, House Bill 2116 was signed by the Governor to amend ARS Section 9-462.04; relating to municipal zoning. The new state statute, effective August 9, 2017, requires a three-fourths vote of the City Council to approve a proposed amendment if 20% of property owners by area **and** number of lots, tracts and condominium units within the *zoning area* file a protest against the change. Exhibit C depicts the new method to determine the petition area and if a three-fourths vote is required.

The approved statute defines the “zoning area” as both the area of the proposed amendment and the area within 150 feet of the proposed amendment, including all rights-of-way. For clarity, staff is proposing to use the term “zoning petition area.”

Conclusion

This text amendment will amend Chapter 5, Section 506 (Text Amendments and Rezonings) to be consistent with the Arizona Revised Statutes regarding filing a written protest to require a three-fourths vote (House Bill 2116, ARS § 9-462.04).

Staff recommends approval of Z-TA-4-17 as proposed in Exhibit A.

Writer

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7/25/2017

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Exhibits

- A. Proposed Language
- B. Map depicting the current method to determine if three-fourths vote required
- C. Map depicting the new method to determine if three-fourths vote required

EXHIBIT A
Text Amendment Z-TA-4-17: Legal Protest

Proposed Language:

Amend Chapter 5, Section 506 (Text Amendments and rezonings) to read as follows:

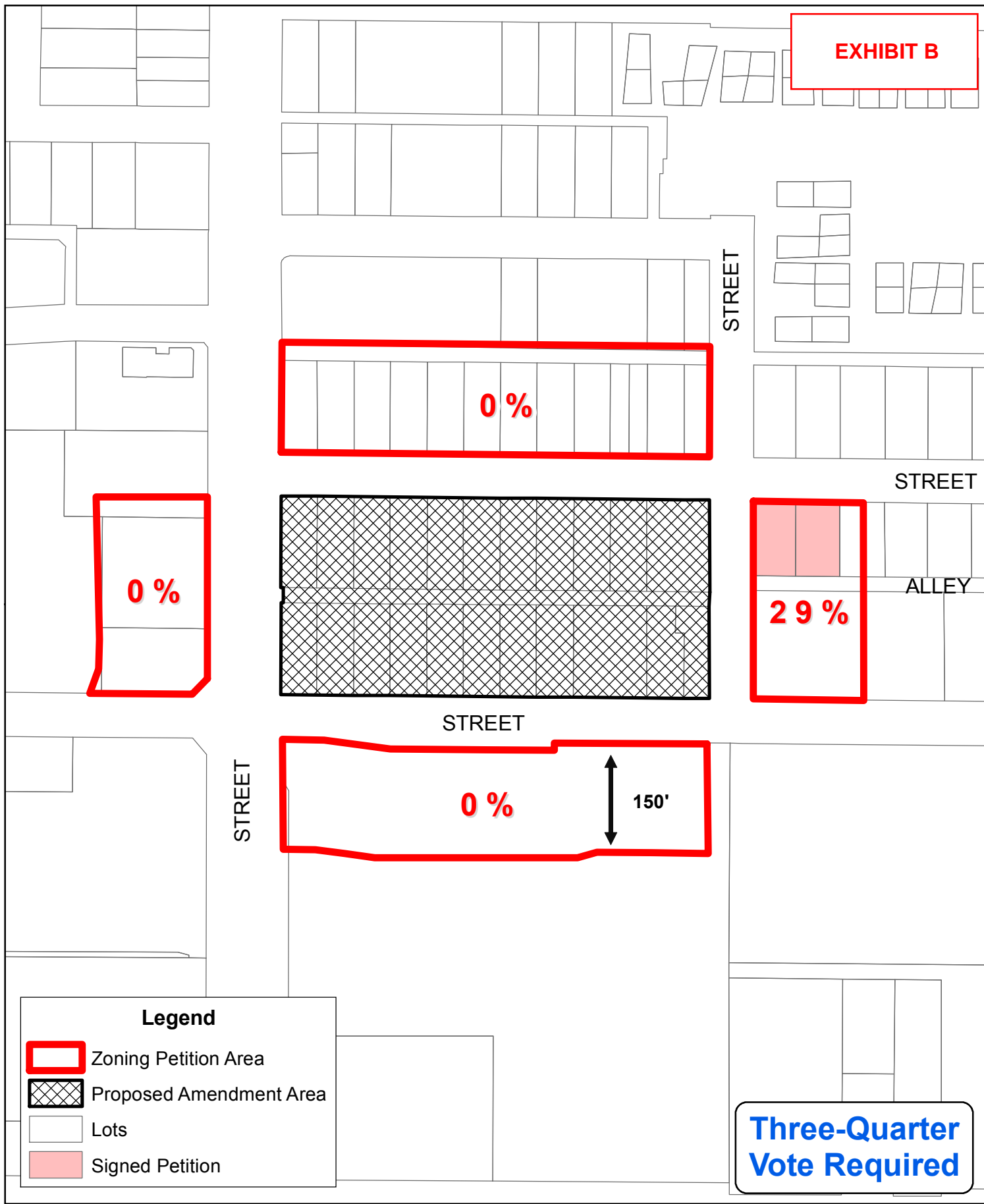
A. Amendments.

9. In the event that a written protest against a proposed amendment is filed in the office of the Planning and Development Department ~~or with the City Clerk~~ no later than seven days following Planning Commission action by the owners of twenty percent or more, ~~either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof extending one hundred fifty feet therefrom, or of those adjacent to any one side and extending one hundred fifty feet therefrom, or of those directly opposite thereto extending one hundred fifty feet from the street frontage of such opposite lots,~~ OF THE PROPERTY BY AREA AND NUMBER OF LOTS, TRACTS AND CONDOMINIUM UNITS WITHIN THE ZONING PETITION AREA, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council of the City of Phoenix. If any members of the City Council are unable to vote on any such amendment because of a conflict of interest, then the required number of votes for passage of such amendment shall be three-fourths of the remaining membership of the City Council, provided that such required number of votes shall not be less than a majority of the full membership of the City Council. FOR THE PURPOSES OF THIS SECTION, THE PERCENTAGE OF THE FAVORABLE VOTE SHALL BE ROUNDED TO THE NEAREST WHOLE NUMBER.

A. FOR THE PURPOSES OF THIS SECTION, THE ZONING PETITION AREA INCLUDES BOTH OF THE FOLLOWING:

- 1) THE AREA OF THE PROPOSED AMENDMENT, AND
- 2) THE AREA WITHIN 150 FEET OF THE PROPOSED AMENDMENT, INCLUDING ALL RIGHTS-OF-WAY.

EXHIBIT B

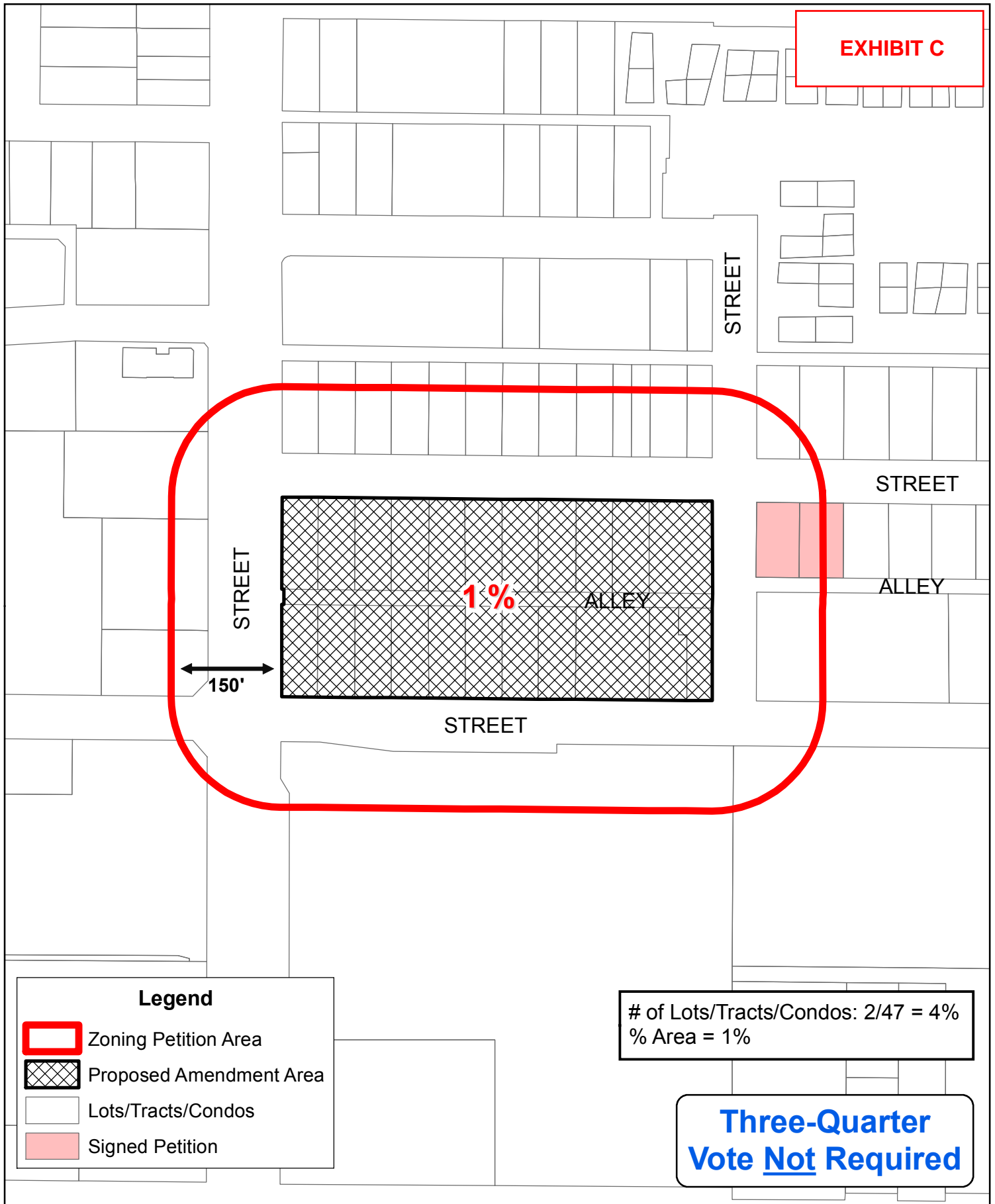


0 100 200 Feet

Petition Map for Z-XX-XX

Map prepared by City of Phoenix, Planning and Development Services Dept. Date

EXHIBIT C



0 100 200 Feet

Petition Map for Z-XX-XX

Map prepared by City of Phoenix, Planning and Development Services Dept. Date