



**City of Phoenix**  
 PLANNING AND DEVELOPMENT DEPARTMENT

**Staff Report: Z-39-21-6**  
 August 30, 2021

[Camelback East Village Planning Committee Meeting Date](#) September 7, 2021  
[Planning Commission Hearing Date](#) October 7, 2021

**Request From:** [R1-10](#) (0.48 acres)  
**Request To:** [R-O](#) (0.48 acres)  
**Proposed Use** Office  
**Location** Approximately 180 feet south of the southeast corner of 44th Street and Clarendon Avenue  
**Owner/Applicant** High Place Investments, LLC  
**Representative/Applicant** Rod Jarvis, Earl & Curley P.C.  
**Staff Recommendation** Approval, subject to stipulations

General Plan Conformity			
<a href="#">General Plan Land Use Map Designation</a>		Residential 3.5 to 5 dwelling units per acre	
<a href="#">Street Map Classification</a>	44th Street	Major Arterial	40-foot east half street
<p><b>CONNECT PEOPLE AND PLACES CORE VALUE; OPPORTUNITY SITES; LAND USE PRINCIPLE: Support reasonable levels of increased intensity, respectful of local conditions and surrounding neighborhoods.</b></p> <p>The proposed development will allow for introduction of an office use while remaining consistent with the residential scale and character of the surrounding neighborhood. Landscape setbacks and buffering vegetation will further help minimize the impact of the new structure on adjacent single-family homes to the east.</p>			

**STRENGTHEN OUR LOCAL ECONOMY CORE VALUE; LOCAL & SMALL BUSINESS, LAND USE PRINCIPLE: Facilitate adaptive reuse of older, underutilized properties to create mechanisms for new local and small businesses to operate, thrive and grow.**

The conversion of the property to an office use encourages the growth of a local business that is appropriately located along a major arterial street.

**BUILD THE SUSTAINABLE DESERT CITY CORE VALUE; TREES AND SHADE; DESIGN PRINCIPLE: Integrate trees and shade into the design of new development and redevelopment projects throughout Phoenix.**

As stipulated, the development will provide mature shade trees along its 44th Street frontage, as well as throughout its surface parking lot.

**Applicable Plan, Overlays, and Initiatives**

[44th Street Corridor Specific Plan](#) – See Background Item No. 7.

[44th Street Corridor Residential Office Study](#) – See Background Item No. 8.

[Tree and Shade Master Plan](#) – See Background Item No. 9.

[Complete Streets Guiding Principles](#) – See Background Item No. 10.

[Zero Waste PHX](#) – See Background Item No. 11.

**Surrounding Land Uses/Zoning**

	<u>Land Use</u>	<u>Zoning</u>
<b>On Site</b>	Single-family residence	R1-10
<b>North</b>	Single-family residence	R1-10
<b>South</b>	Administrative and medical offices	R-O
<b>East</b>	Single-family residences	R1-10
<b>West (Across 44th Street)</b>	Real estate offices	C-O

<b>R-O (Residential Office)</b>		<i>*if modifications or variance required</i>
<b><u>Standards</u></b>	<b><u>Requirements</u></b>	<b><u>Provisions on the Proposed site Plan</u></b>
<i>Building Setbacks</i>		
Front	20 feet	20 feet – Met
Side	10 feet	20 feet (south) – Met 20 feet (north) – Met
Rear	25 feet	63 feet – Met
<i>Landscaping</i>	Minimum 3 feet wide landscape strip around principal structure	Met
Lot Coverage	30%	17.4% - Met
Building Height	15 feet, plus 1 foot in height per 1 foot additional setback to a maximum height of 25 feet	25 feet, with step-back requirements met – Met
Parking	1 per 250 square feet net floor area (16 spaces)	17 spaces – Met

**Background/Issues/Analysis**

**SUBJECT SITE**

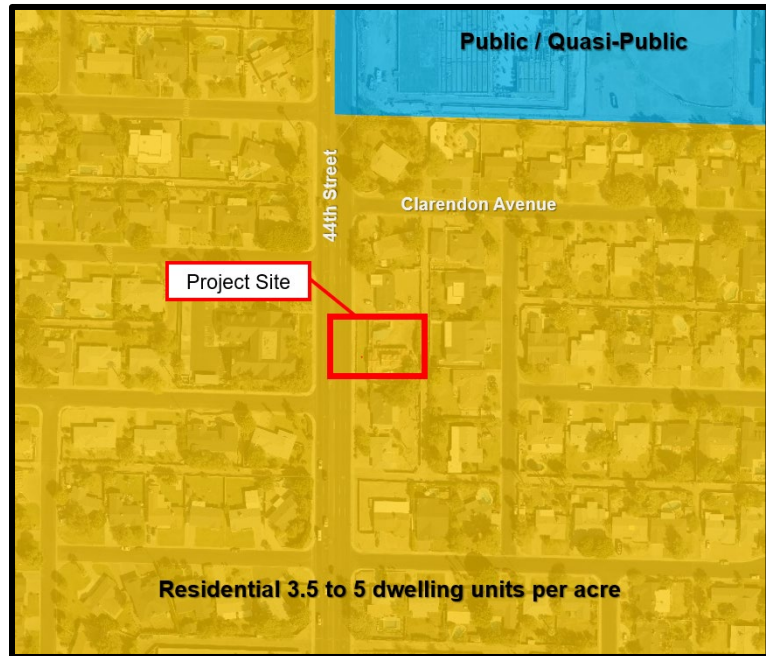
1. This request is to rezone a 0.48 acre site located approximately 180 feet south of the southeast corner of 44th Street and Clarendon Avenue from R1-10 (Single-Family Residence District) to R-O (Residential Office – Restricted Commercial District) to allow an office use.



**Aerial Map**

**Source: City of Phoenix Planning and Development Department**

2. The site has a General Plan Land Use Map designation of Residential 3.5 to 5 dwelling units per acre. The same designation exists on all sides of the site and extends to all four directions. Further north of the subject site, north of Clarendon Avenue, Public / Quasi Public General Plan Land Use Map designation exists on a school site.



**General Plan Land Use Map**

**Source: City of Phoenix Planning and Development Department**

The proposal is not consistent with the Residential 3.5 to 5 dwelling units per acre designation. However, as the site is under 10 acres, therefore, a General Plan Amendment is not required.

### EXISTING CONDITIONS & SURROUNDING ZONING

3. The site is currently a single-family residence, which was built in the late 1950s, according to historical aerial photos of the area. The original home had a significantly smaller footprint, occupying the southeastern portion of the site. The site underwent an addition in the late 1990s, and has remained unchanged since.



**Historical Aerial Maps**

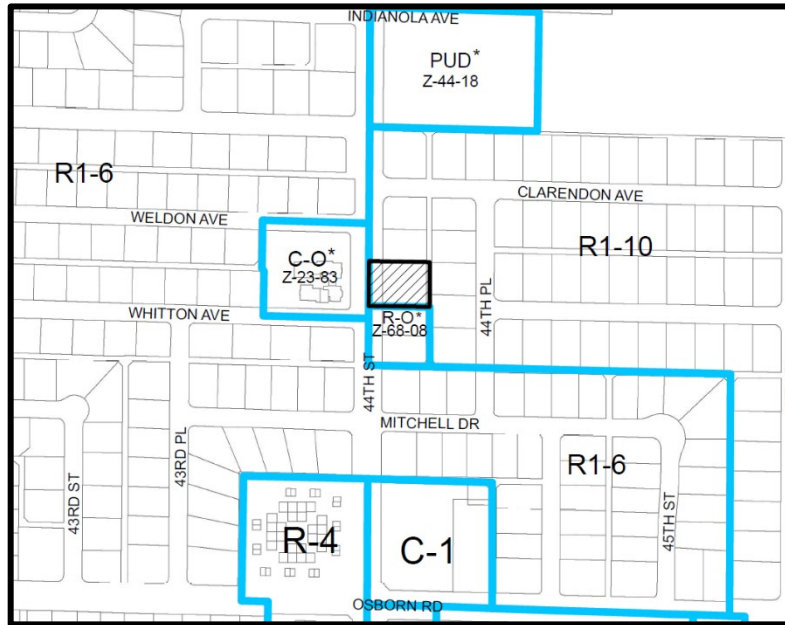
**Source: City of Phoenix Planning and Development Department**

The surrounding neighborhood was developed similarly as single-family residential. The character of this neighborhood has remained largely the same over the years, with the exception of gradual transitions from single-family homes to residential offices along 44th Street.



4. The current zoning of the subject site is R1-10 (Single-Family Residence District). The properties to the north and east of the site share the same zoning designation.

The two properties directly to the south of the subject site are zoned R-O (Residential Office – Restricted Commercial District), and the property to the west, across 44th Street, is zoned C-O (Commercial Office – Restricted Commercial District).



**Zoning Map**

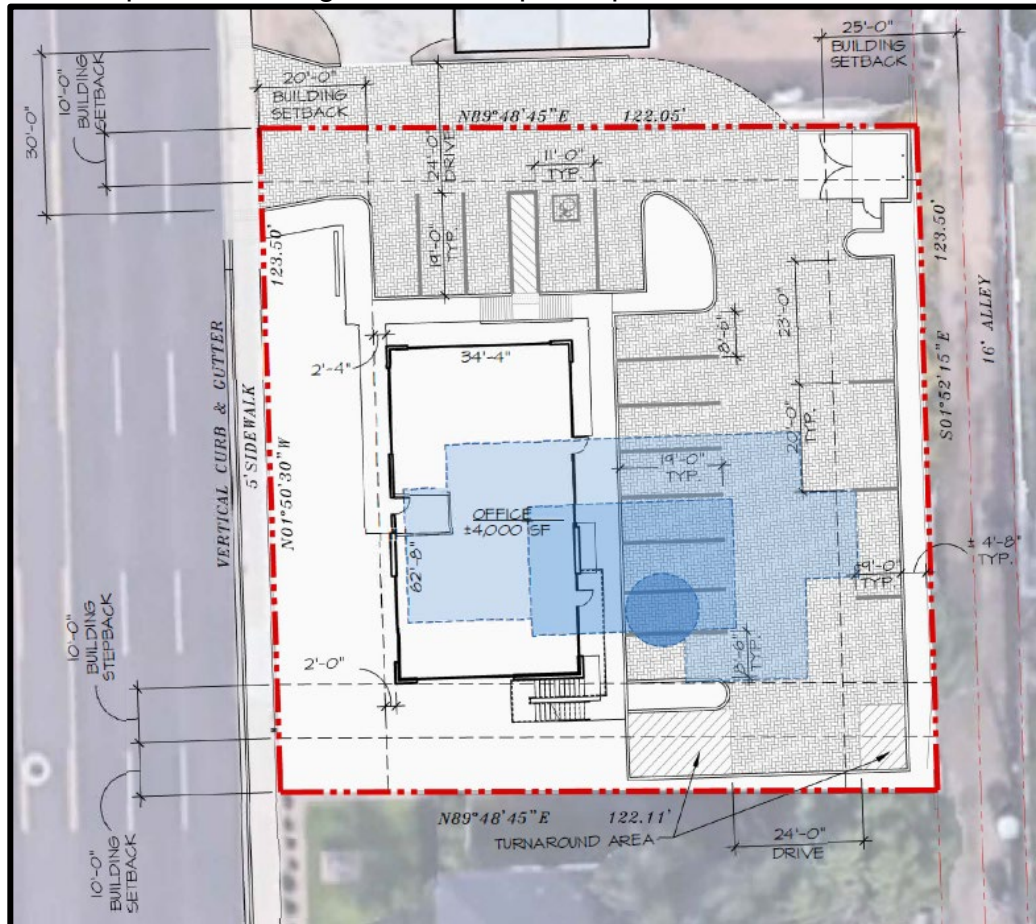
**Source: City of Phoenix Planning and Development Department**

The property to the west, across 44th Street, is zoned C-O (Commercial Office – Restricted Commercial District). The proposal is consistent with the gradual transition of land uses along 44th Street to low intensity office uses.

5. The proposed site plan depicts an approximately 4,000-square-foot building fronting 44th Street, with a surface parking lot in the rear of the property. The existing driveway on the southwestern portion of the site will be removed and new vehicular access is proposed via a shared driveway with the property to the north, which will connect to visitor parking spaces on the northern portion of the property and with the surface parking lot in the rear. The shared driveway configuration is desirable as it reduces the overall number of driveways along 44th Street and is consistent with the recommendations of the 44th Street Corridor Residential Office Study. However, the property to the north has R1-10 (Single-Family Residence District) zoning, which is a more restrictive district. Per Section 600 of the Phoenix Zoning ordinance, the proposed driveway will require a variance to allow vehicular access from and to a more restrictive district to a less restrictive district. As a variance is needed, staff is not recommending general conformance to the conceptual site plan.

The subject site abuts single-family residences along its rear property line, to the east of the proposed surface parking area. Given the parking requirements for the site and limited space to allow for a large landscape setback that could accommodate large buffer trees, staff is recommending that the landscape setback depicted on the site plan (minimum four feet) be planted with minimum 8-foot-tall shrubs or plants to provide a tall vegetative buffer from those residences. This is

addressed in Stipulation No. 4. Staff is further recommending that detached sidewalks be provided along 44th Street, per Stipulation No. 2.

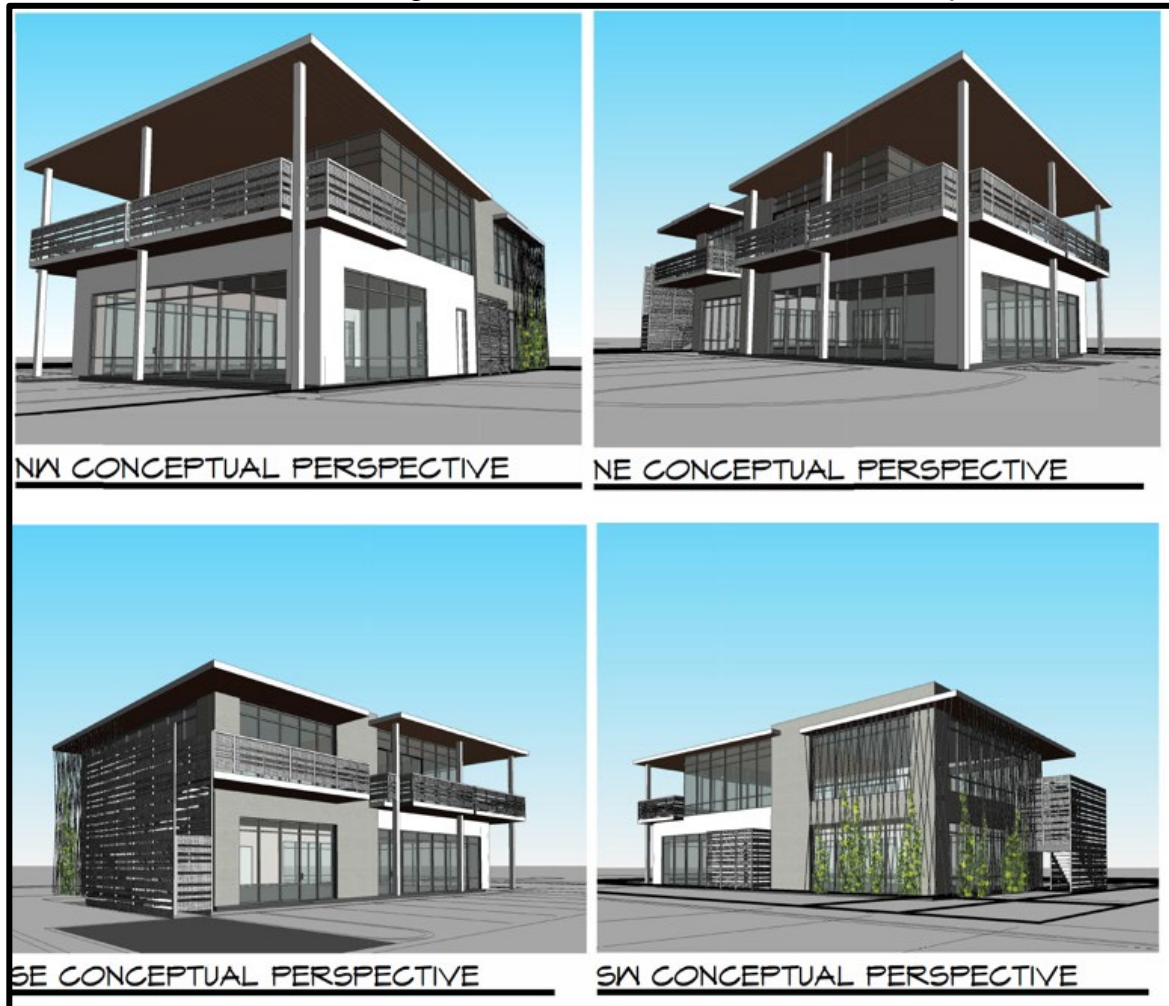


**Conceptual Site Plan**  
**Source: Pinnacle Design Inc.**

Although no signage is currently proposed, a stipulation prohibiting internally lit signs is recommended to help maintain the residential character of the area. This is addressed in Stipulation No. 6. Non-internally illuminated signage is also a recommended design feature of the 44th Street Corridor Residential Office Study, which is further discussed in Item No. 8. More information on the 44th Street Corridor Residential Office Study can be found in Background Item No. 7.

6. The proposed conceptual building elevations depict a two-story building with a maximum height of 25 feet. The elevations include several architectural design elements that break up the building mass, such as expansive glass windows, vegetative trellis that extends to the second story, balconies, variation in roof height, and columns. The proposed building design is in keeping with the contemporary architectural style that is becoming increasingly more widespread in the Camelback East Village and the proposed building height is in keeping with the permitted height of a single-family residential zoning district. As such, staff is recommending general

conformance to these building elevations, which is addressed in Stipulation No. 1.



*Conceptual Elevations*  
*Source: Pinnacle Design Inc.*

#### AREA PLANS, OVERLAY DISTRICTS, AND INITIATIVES

7. [44th Street Corridor Specific Plan](#)

Completed in 1991, the 44th Street Corridor Specific Plan established a framework to provide compatibility of new development along 44th Street from McDonald Drive to Sky Harbor International Airport. The plan acknowledges that existing conditions are not favorable for single-family residential land use along 44th Street due to increasing traffic. Similarly, these properties are candidates for change of use in order to create a physical buffer between the established residential neighborhood and the street.

Design guidelines contained in the plan recommend providing a 10-foot minimum landscape setback along 44th Street between Camelback and Osborn Roads. The proposed development exceeds this recommendation, providing a minimum 20-foot

landscape setback. In addition, implementation strategies encourage providing increased pedestrian connectivity along the corridor in addition to the canal edges. By detaching the sidewalk along 44th Street and providing mature trees to shade the sidewalk, the project is consistent with the recommendations of the plan.

8. **44th Street Corridor Residential Office Study**

The 44th Street Corridor Residential Office Study was completed in 1997 to determine the applicability of the Residential Office Zoning District for properties within the 44th Street Corridor. The plan details that a combination of high traffic volumes, closeness of houses to the street and difficulty of driveway access are poor livability factors for the continuation of residential uses adjacent to 44th Street.

A property inventory and analysis was completed as part of the study. The 111 residential properties along 44th Street were assigned a score level of 1 through 3. A level 1 score indicated that the site was suitable for standalone office. Level 2 specified that a consolidation of two or more properties would be necessary for R-O development, whereas a score of level 3 indicated that a site was not suitable for conversion to office development. The subject site was assigned a level 2 score, with a note that the size of the lot can accommodate parking needs. The Study encourages the use of shared driveways to ultimately reduce the number of driveways along 44th Street. The proposal is consistent with this recommendation, with the removal of the southernmost driveway and a new, shared driveway with the property to the north.

The 44th Street Residential Office Study also outlines recommended design guidelines for R-O properties, which include enhancing the appearance of the property while still conforming to the character and size of adjacent residential properties and limiting the visible commercial aspects of the R-O site. The proposed development will replace the existing structure on the site with a two-story building that will have a maximum height of 25 feet. Single-family residence districts permit a maximum height of two stories and 30 feet. The building will be of a contemporary architectural style while maintaining a residential character. Further, as stipulated, the development will not have any internally lit signage, which will minimize the commercial aspect of the site.

9. **Tree and Shade Master Plan**

The Tree and Shade Master Plan has a goal of treating the urban forest as infrastructure to ensure that trees are an integral part of the city's planning and development process. By investing in trees and the urban forest, the city can reduce its carbon footprint, decrease energy costs, reduce storm water runoff, increase biodiversity, address the urban heat island effect, clean the air, and increase property values. In addition, trees can help to create walkable streets and vibrant pedestrian places. Staff is recommending that robust landscaping be planted along 44th Street, along with vegetative groundcovers to provide a minimum of 75 percent ground coverage. Staff is also recommending that the



surface parking lot area be planted with trees to provide minimum 25 percent shade at maturity, with the flexibility to utilize structural shade where trees can't be planted. Finally, staff is recommending that all pedestrian pathways be shaded at 75 percent at maturity to ensure shade and thermal comfort for pedestrians. These recommendations are addressed in Stipulation Nos. 3, 5, and 10.

10. **Complete Streets Guiding Principles**

In 2014, the City of Phoenix City Council adopted the Complete Streets Guiding Principles. The principles are intended to promote improvements that provide an accessible, safe, connected transportation system to include all modes, such as bicycles, pedestrians, transit, and vehicles. To provide a safe pedestrian streetscape along 44th Street, staff is recommending detached sidewalks shaded with trees on both sides, as well as bicycle parking located near the building entrance. These are addressed in Stipulation Nos. 2 and 7.

11. **Zero Waste PHX**

The City of Phoenix is committed to its waste diversion efforts and has set a goal to become a zero waste city, as part of the city's overall 2050 Environmental Sustainability Goals. One of the ways Phoenix can achieve this is to improve and Section 716 of the Phoenix Zoning Ordinance expand its recycling and other waste diversion programs. Section 716 of the Phoenix Zoning Ordinance establishes standards to encourage the provision of recycling containers for multifamily, commercial and mixed-use developments meeting certain criteria. The proposal will utilize regular trash and recycling bins.

COMMUNITY INPUT SUMMARY

12. At the time this staff report was written, staff received two letters in opposition and one letter in support of the project. Those opposed cited concerns with traffic generation and two-story building height. The letter of support came from representatives of the Arcadia Osborn Neighborhood Association.

INTERDEPARTMENTAL COMMENTS

13. The Phoenix Fire Department has noted that they do not anticipate any problems with this case and that the site and/or buildings shall comply with the Phoenix Fire Code.
14. The Public Transit Department has requested that the developer provide clearly defined, accessible pathways that connect all building entrances and exits, and public sidewalks, and, where pedestrian paths cross drive aisles, that they be constructed of materials that visually contrast with parking and drive aisle surfaces. These are addressed in Stipulation Nos. 8 and 9. This department has further requested that all pedestrian paths and sidewalks be shaded at 75 percent at maturity. This is addressed in Stipulation No. 10.
15. The Street Transportation Department has required that the developer provide a 10-foot sidewalk easement along the east side of 44th Street, that a minimum 5-

foot-wide detached sidewalk be provided along the east side of 44th Street, that a shared access agreement be recorded for the shared drives, and that all streets be constructed with all required improvements and comply with current ADA standards. These are addressed in Stipulation Nos. 2, 11, 12, and 13.

#### OTHER

16. The site has not been identified as being archaeologically sensitive. However, in the event archaeological materials are encountered during construction, all ground disturbing activities must cease within 33 feet of the discovery and the City of Phoenix Archaeology Office must be notified immediately and allowed time to properly assess the materials. This is addressed in Stipulation No. 14.
17. Development and use of the site is subject to all applicable codes and ordinances. Zoning approval does not negate other ordinance requirements. Other formal actions such as, but not limited to, zoning adjustments and abandonments, may be required.

#### **Findings**

1. The proposal is consistent with recommendations of the 44th Street Corridor Specific Plan and the 44th Street Corridor Residential Office Study.
2. The proposal will provide an opportunity for a new small business to locate in the Camelback East area and serve the surrounding neighborhood.
3. The proposed rezoning will allow for conversion of a residential property adjacent to a major arterial to a viable office use.

#### **Stipulations**

1. The development shall be in general conformance with the elevations date stamped June 14, 2021, as modified by the following stipulations and approved by the Planning and Development Department.
2. The public sidewalk along 44th Street shall be detached with a landscape strip located between the sidewalk and back of curb following the most recent Cross Section of the Street Classification Map and planted to the following standards, as approved by the Planning and Development Department.
  - a. Minimum 2-inch caliper shade trees that provide a minimum 75 percent shade at maturity.
  - b. Drought tolerant vegetation maintained at a maximum mature height of 24 inches and achieve minimum 75 percent live coverage.

3. A minimum 20-foot landscape setback shall be required adjacent to 44th Street and shall include large canopy shade trees 20 feet on center or in equivalent groupings between the sidewalk and proposed site development, as approved by the Planning and Development Department. Twenty-five percent of the trees shall be minimum four-inch caliper and 75 percent of the trees shall be minimum three-inch caliper. Five, five-gallon shrubs per tree, and additional shrubs or live groundcover, shall provide minimum 75 percent live cover at mature size, as approved by the Planning and Development Department.
4. A minimum 4-foot landscape setback shall be required along the eastern property line. This setback shall be planted with minimum 8-foot-tall shrubs or plants to provide a tall vegetative buffer from adjacent single-family residences to the east, as approved by the Planning and Development Department.
5. All uncovered surface parking lot areas shall be landscaped with minimum 2-inch caliper drought-tolerant shade trees. Landscaping shall be dispersed throughout the parking area and achieve 25 percent shade at maturity, as approved by Planning and Development Department. Shade may be provided with a combination of trees and structural shade.
6. There shall be no internally lit signs on the site. Signage shall be approved by the Planning and Development Department.
7. A minimum of four bicycle parking spaces shall be provided through Inverted U and/or artistic racks located near building entrances and installed per the requirements of Section 1307.H. of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K of the Comprehensive Bicycle Master Plan.
8. Clearly defined, accessible pedestrian pathways shall be provided to connect building entrances and public sidewalks, using the most direct route for pedestrians, as approved by the Planning and Development Department.
9. Where pedestrian pathways cross drive aisles, they shall be constructed of decorative pavers, stamped or colored concrete, or other pavement treatments that visually contrast with the adjacent parking and drive aisle surfaces, as approved by the Planning and Development Department.
10. Trees shall be placed to provide 75 percent shade coverage on all pedestrian paths and sidewalks at full maturity, as approved by the Planning and Development Department. Shade structures may be used to meet the shade requirement in places where trees are unable to be located.
11. The developer shall record a cross-access agreement for any shared access drives along 44th Street.

12. The developer shall dedicate a 10-foot sidewalk easement and construct a minimum 5-foot-wide sidewalk and landscape strip along 44th Street, as approved by the Planning and Development Department.
13. The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with the current ADA Guidelines.
14. In the event archaeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archaeologist, and allow time for the Archaeology Office to properly assess the materials.

**Writer**

Sofia Mastikhina

August 23, 2021

**Team Leader**

Samantha Keating

**Exhibits**

Sketch Map

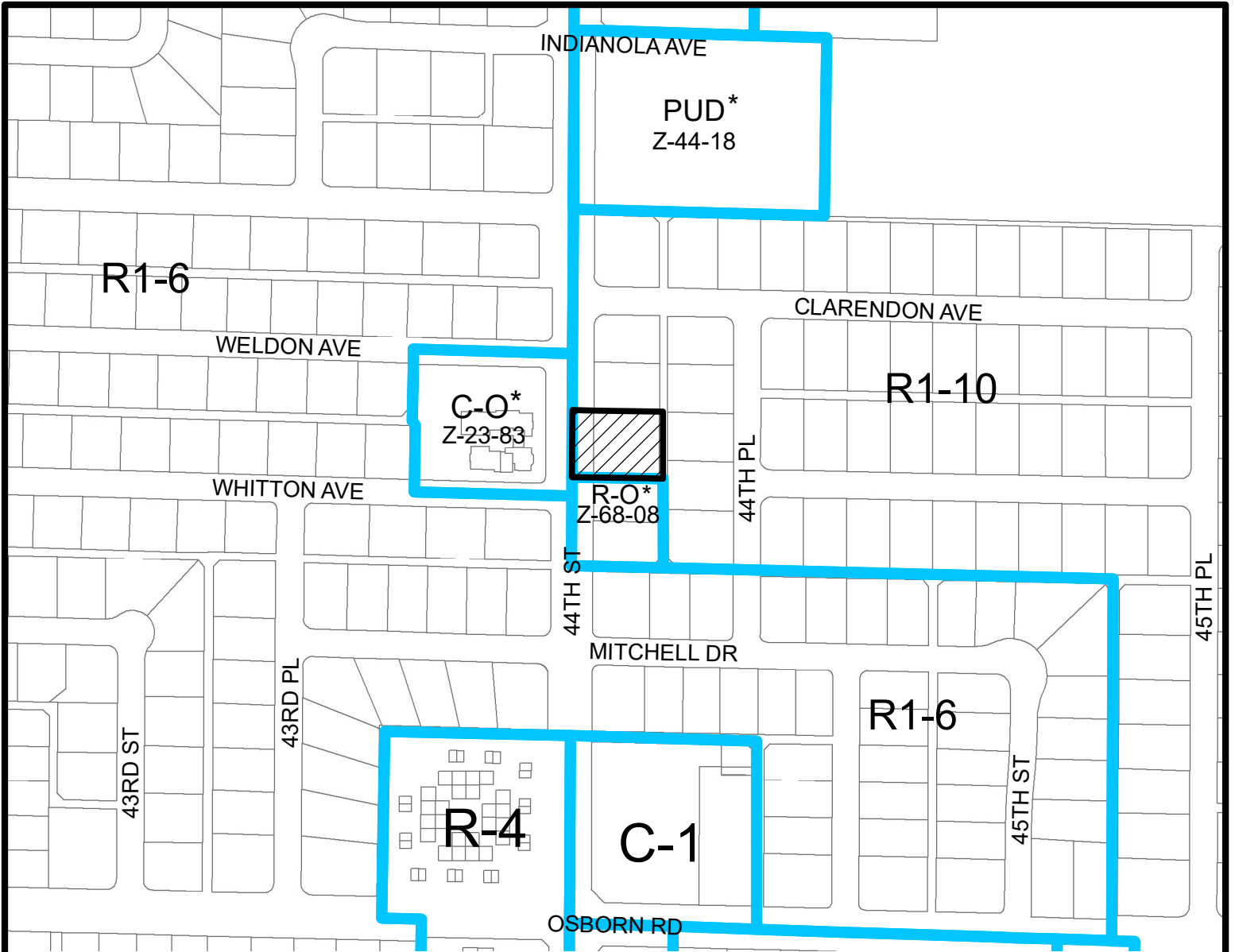
Aerial

Site plan date stamped June 14, 2021

Elevations date stamped June 14, 2021

Community correspondence (6 pages)





Miles

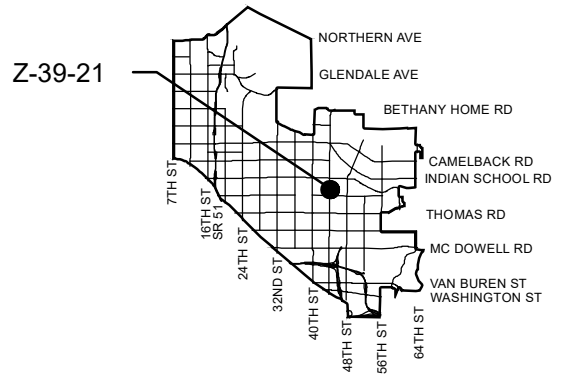
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**CAMELBACK EAST VILLAGE**

CITY COUNCIL DISTRICT: 6

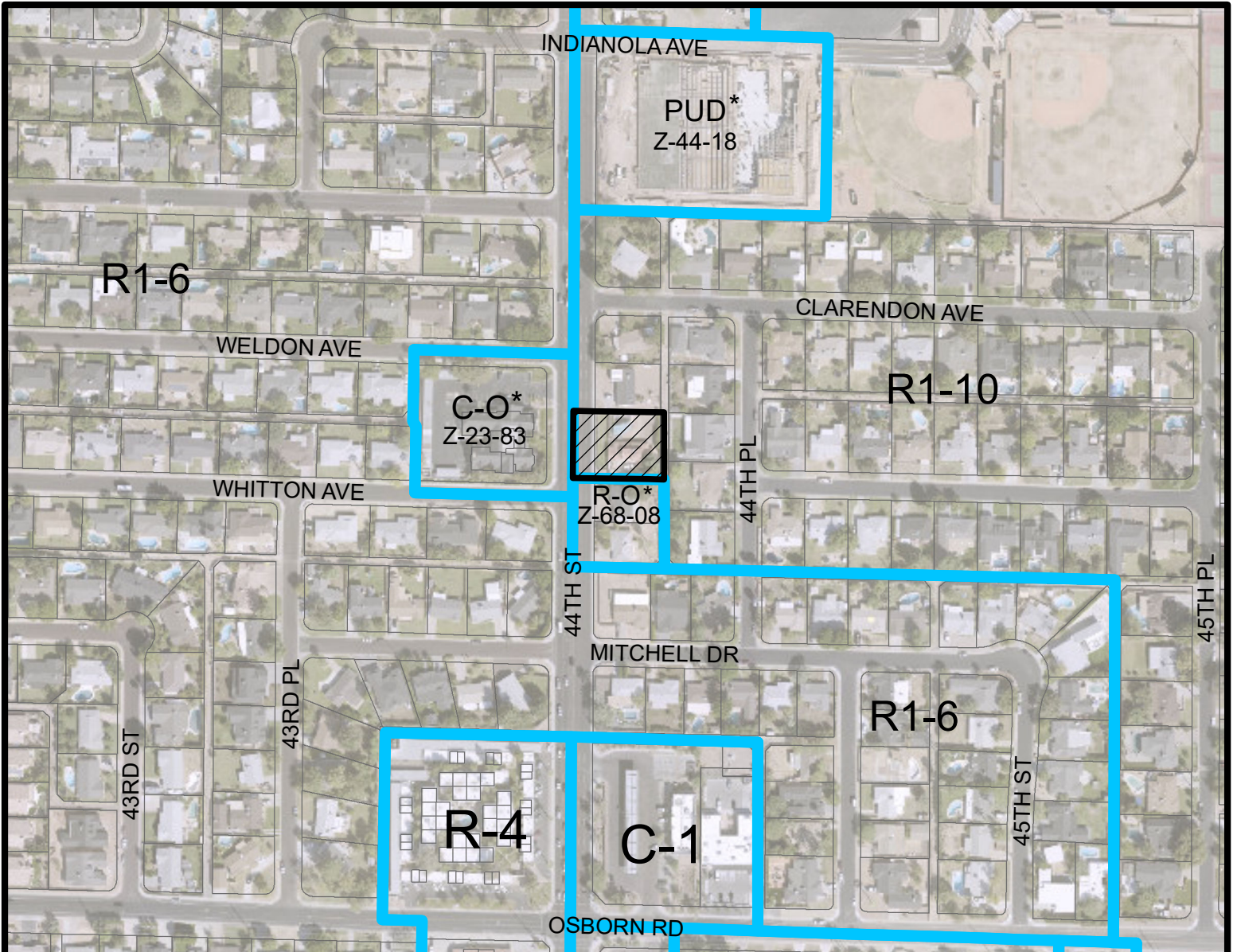


**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT



<b>APPLICANT'S NAME:</b> High Place Investment- Brent Nardecchia		<b>REQUESTED CHANGE:</b>	
<b>APPLICATION NO.</b> Z-39-21		<b>FROM:</b> R1-10 ( 0.48 a.c.)	
<small>GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX.</small> <b>0.48 Acres</b>		<b>TO:</b> R-O ( 0.48 a.c.)	
<small>DATE:</small> 7/2/2021 <small>REVISION DATES:</small>			
<small>AERIAL PHOTO &amp; QUARTER SEC. NO.</small> QS 16-38		<small>ZONING MAP</small> H-11	
<b>MULTIPLES PERMITTED</b>		<b>* UNITS P.R.D. OPTION</b>	
R1-10		2	
R-O		N/A	

\* Maximum Units Allowed with P.R.D. Bonus

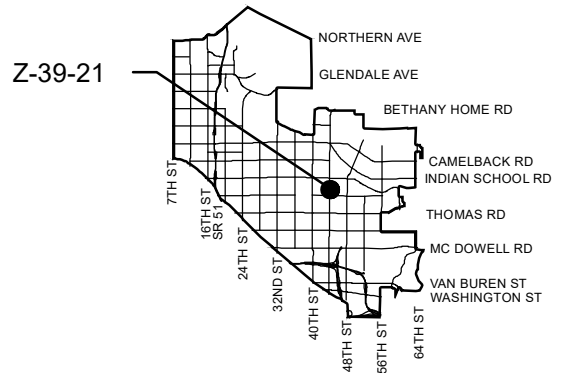


Miles

0.05 0.025 0 0.05

**CAMELBACK EAST VILLAGE**

CITY COUNCIL DISTRICT: 6



<b>APPLICANT'S NAME:</b> High Place Investment- Brent Nardecchia		<b>REQUESTED CHANGE:</b>	
<b>APPLICATION NO.</b> Z-39-21		<b>FROM:</b> R1-10 ( 0.48 a.c.)	
<b>DATE:</b> 7/2/2021 <small>REVISION DATES:</small>		<b>TO:</b> R-O ( 0.48 a.c.)	
<small>GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX.</small> <b>0.48 Acres</b>			
<small>AERIAL PHOTO &amp; QUARTER SEC. NO.</small> <b>QS 16-38</b>		<small>ZONING MAP</small> <b>H-11</b>	
<b>MULTIPLES PERMITTED</b>		<b>* UNITS P.R.D. OPTION</b>	
R1-10		2	
R-O		N/A	

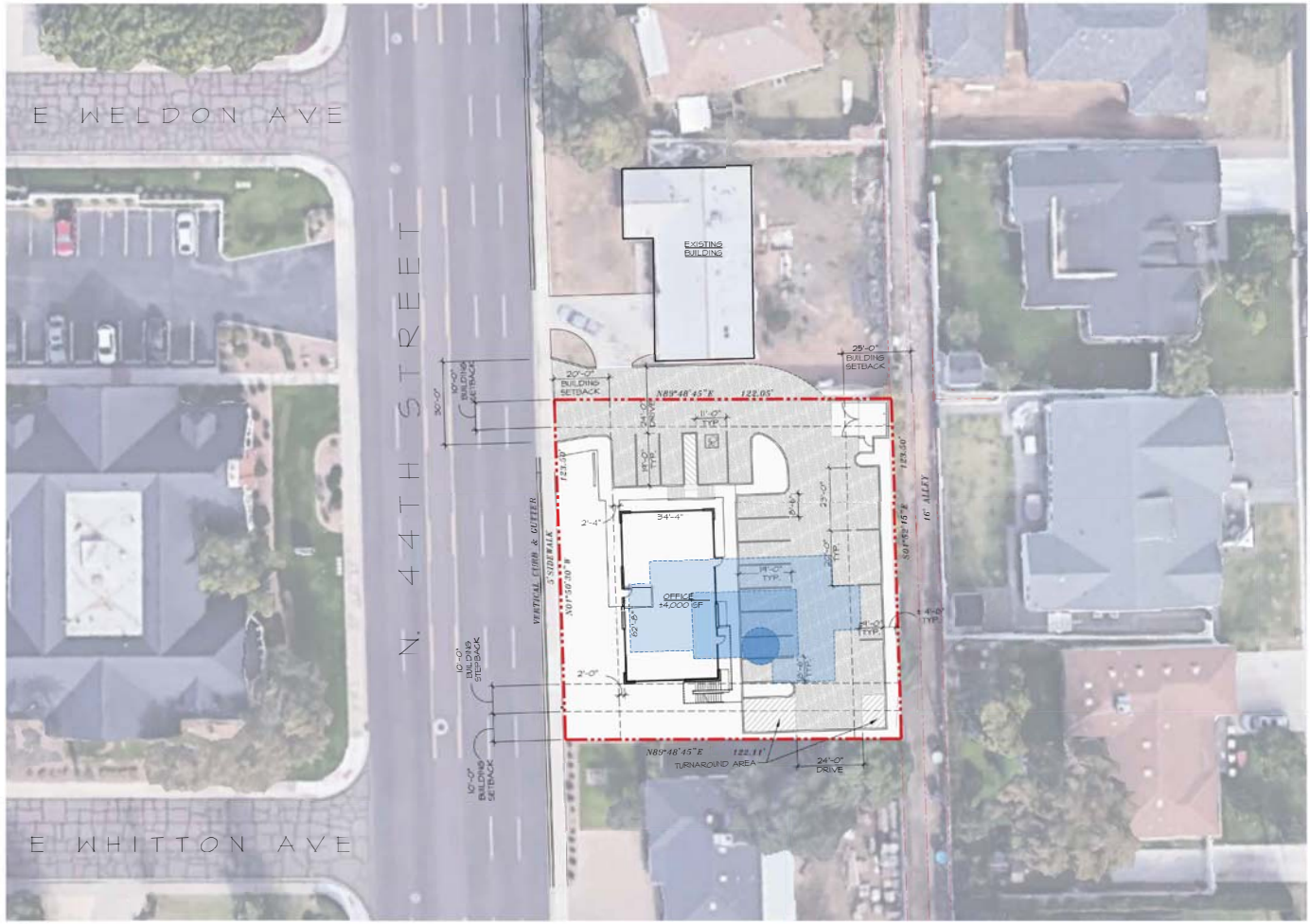
\* Maximum Units Allowed with P.R.D. Bonus



**CITY OF PHOENIX**

JUN 14 2021

Planning & Development  
Department



DRIVEWAY PAVER

CONCEPTUAL SITE PLAN  
SCALE: 1/8\"/>

PROJECT	DATA
SITE AREA	+ 35 AC
BUILDING SF	+ 4,000 SF
COVERARGE	+ 14.4%
PARKING REQ.	+ 16 (1/250 SF)
PARKING PROVIDED:	17
PROJECT #:	21-026.0
DATE:	5.20.21



**NW CONCEPTUAL PERSPECTIVE**



**NE CONCEPTUAL PERSPECTIVE**



**SE CONCEPTUAL PERSPECTIVE**



**SW CONCEPTUAL PERSPECTIVE**



**WEST ELEVATION**

3/32" = 1'-0"



**NORTH ELEVATION**

3/32" = 1'-0"



**SOUTH ELEVATION**

3/32" = 1'-0"



**EAST ELEVATION**

3/32" = 1'-0"

**3609 N 44th STREET**

PHOENIX, AZ 85018

**CONCEPTUAL ELEVATIONS - CRISS CROSS CABLES**

21-005-00

6.8.21

**CITY OF PHOENIX**

JUN 14 2021

Planning & Development  
Department

EL-4

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## Sofia Mastikhina

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**From:** Aaron Carpenter <accadpi@gmail.com>  
**Sent:** Thursday, June 24, 2021 10:07 AM  
**To:** Sofia Mastikhina  
**Subject:** Kiva # 21-50 Rezoning of 3609 N 44th St

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To: Sofia Mastikhina  
From: Aaron Carpenter

Dear Ms. Mastikhina,

I am a long-time resident of the neighborhood just east of 44th street near the proposed rezoning of 3609 N 44th to a two-story office building and would like to voice my opposition to the project.

There are two main oppositions I have to this project:

First: Over the last several years, commercial businesses have encroached into our neighborhood bringing dangerous traffic and increased trespassing. We have many small children who used to enjoy playing outside, riding bikes etc. Now we are more concerned than ever because there is more traffic each day using our neighborhood to cut through to 44th street in efforts to bypass intersections and areas where commercial businesses have built large complexes. Another two-story complex will undoubtedly add to these dangerous and unwanted traffic concerns.

Second: There are homes that would be directly impacted by anything other than a single-story building on 44th street. We have multiple multiple-story commercial businesses surrounding our once peaceful neighborhood (Hospice of the Valley at Indianola and 44th street being the most recent). Having a multiple-story buildings with office space overlooking private backyards is unacceptable. These homes have small children who play in their backyards and families who bought their lifetime homes long before a two-story commercial business were built or zoned. To have either the blight of the back of a building or strangers looking into their backyards where small children and families play is unacceptable and potentially dangerous.

Please do not approve the rezoning of 3609 N 44th Street, it is completely unwanted and wholly unsupported by the surrounding neighborhood. Furthermore, it sets a dangerous precedence to have more large commercial buildings where there are still residential homes established.

Could you please put me on the list for the zoning hearings and if I need to redirect my concerns to another representative please let me know.

Sincerely,  
Aaron Carpenter  
3625 N 45th Place  
Phoenix, AZ 85018  
(602)751-8848

## Sofia Mastikhina

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**From:** Tracy Snelling <tsnelling3@yahoo.com>  
**Sent:** Thursday, June 24, 2021 10:32 AM  
**To:** Sofia Mastikhina  
**Subject:** Kiva # 21-50 Rezoning of 3609 N 44th St

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

to: Sofia Mastikhina  
From: Tracy Snelling

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Sincerely,  
Tracy Snelling  
3625 N 45th Place  
Phoenix, AZ 85018  
(978)-844-2728

## Sofia Mastikhina

---

**From:** Rod Jarvis <rjarvis@EarlCurley.com>  
**Sent:** Thursday, June 24, 2021 1:19 PM  
**To:** Sofia Mastikhina  
**Cc:** msantoro@earlcurley.com  
**Subject:** FW: neighborhood meeting

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sofia,

Please note the email trail set forth below. AONA, through its representatives, Neal Haddad and Wally Graham, will be supporting our request for R-O zoning at 3609 N 44<sup>th</sup> St.

Please note also their concerns regarding the property to the north of us. We will do all in our legal power to help with the issue Mr. Graham outlines below, however, as noted, that power will be limited. It may be that the City of Phoenix yet has some legal power to require a grading and drainage plan from this property owner, as the owner has undertaken some construction work on site. That is not within our purview to determine, however. We will ensure we have an adequate plan in place for our site.

Thanks for the City's work on this case—Rod Jarvis

**From:** Wallyz Wallyzzgram [mailto:wallyzzgram@gmail.com]  
**Sent:** Wednesday, June 23, 2021 1:03 PM  
**To:** Rod Jarvis  
**Cc:** Neal Haddad  
**Subject:** Re: neighborhood meeting

Rod:

I appreciate your response. Not trying to make things harder for you or your client. Just trying to ensure the city's Planning and Development Department does its job to ensure there is proper water retention design on both lots. The owner of 3623 may be a buddy of your client; however, he has not been responsible in terms of following codes and ordinances. He has occupied the building for over a year, and vehicles appear there every day. The building is being used for some purpose. and I assume whatever he is doing is a legal use. But the windows are still covered with construction plastic and they are filthy. Although the building itself looks nice, it still looks like the building is under construction. Perhaps he does not have the money to get a drainage plan completed, but if he applies for an RO rezoning, you can bet your ass AONA is going to ask the PDD for a certified drainage plan.

I am hoping your clients can talk with your neighbor and get him to do a certified drainage plan in advance of construction of your project. My biggest concern for your guys is that a site drainage plan will be required at 3623 N. 44th. after you've completed your construction of the shared driveway and your parking lot. If there is a drainage issue that driveway may have to be taken out and regraded. Your guys should ask and answer the question of who is going to pay for that if it happens.

If he applies for RO, I don't expect him to work with us as you did, but we are going to insist he follows the rules. Just because the other units have been converted to RO, there is no precedent or guarantee that says every

building can convert to RO. He must apply and meet the specifications for a rezoning. As you know, every case stands on its own.

Wally.

On Wed, Jun 23, 2021 at 11:26 AM Rod Jarvis <[rjarvis@earlcurley.com](mailto:rjarvis@earlcurley.com)> wrote:

Hi Wally,

Thanks for your very kind words of encouragement. I am grateful to be able to work with you and Neal, as you serve your neighbors and candidly communicate your concerns with me. Moreover, I must point out my client deserves the bulk of any credit in this matter; I do not always have a client who is willing to commit to work in this way.

I will relay your concerns to my client and we will see what cooperation we can get from the neighbor to the north. As you have indicated, that might present some challenges. Whatever plan our engineer comes up with will have to be approved by him.

However, I do believe we can adequately demonstrate what we will do on our site to handle run-off from his site that comes to our site. Beyond that, I don't know that we have much leverage. As you point out, however, it may be the City has some leverage if there is illegal construction on his site, through the enforcement powers of the City.

I will confer with my client and get back to you.

Thanks again. And let's plan on getting together to break bread at Kneader's soon—Rod Jarvis

On Jun 23, 2021, at 10:58 AM, Wallyz Wallyzzgram <[wallyzzgram@gmail.com](mailto:wallyzzgram@gmail.com)> wrote:

Hi Rod:

Neal and I talked yesterday. We agreed AONA can support you and your client with the application to rezone the property at 3601 N 44th St. from R1-10 to RO.

The discussions we have had, your continuous engagement in sharing what your client intends to build on the property helped us decide that AONA can support the project with one exception; and that is there is a lack of detail with regard to drainage and water retention of the property north of your client's property, 3623 N 44th St. (Lockett Investments). That property, as you know slopes from northwest to southwest back toward the alley. That means in heavy rain conditions, water will flow across that property into the alley.

Your final plan shows a shared driveway with the northern neighbor. In earlier discussions, you showed the shared driveway, and a single driveway as options. As you know, we have some concerns about the 3623 N. 44th St. property that has been under construction for almost three years. As we said, that project was begun without a permit. It took neighborhood intervention for the owner to be forced to meet zoning and construction requirements. When we discussed the shared driveway concept late this spring, we shared our concerns. In this note you restated your assumption that the property owner will also apply for a rezoning at



some point in the future. AONA will deal with that when it comes up; however, we will raise our concerns now because we are not confident that adjacent owner will deal with the issues and address the matter. Since your plans show a joint driveway between your properties and your client is working in conjunction with Lockett Investments on the design (and I assume a mutual agreement use contract) to share property driveways, we think this is one small matter that should be raised and resolved as part of your client's application. Our interests are in getting something in writing and having a drainage plan before the shared driveway is approved. That shared driveway impacts water retention and water flow to the alley and onto your clients' property, so it is part of your design and a matter of discussion that hopefully will be resolved as we go through your rezoning hearings. I am certain we will work that out if the process continues as well as it has gone over the past few months. Is it possible to get a certified drainage and water retention plan for that northern property and your client's shared driveway?

We've appreciated your active engagement with us since you approached AONA last spring. We also valued your client's willingness to listen to and consider our input and answer our questions on things such as landscaping; screening the properties along the eastern edge; on-site water retention basin; maximum height, lighting; and heat sink considerations your client made by deciding to go with pavers instead of asphalt in the parking lot. These may be small things, however, it showed you and your client's willingness to open your design before it became stuck in the mind, and to resolve concerns before the design was etched in stone and much harder to change. In our opinion, that is the type of communication rezoning projects should have between neighbors, zoning attorneys, and their clients. The process worked for everyone. It has been a pleasure to work with you. I wish more attorneys and developers would take time to respectfully work to inform neighbors in advance of hearings. You did an excellent job. Thank you.

Regards,  
Wally Graham  
AONA Zoning Committee Member

On Jun 21, 2021, at 12:57 PM, Rod Jarvis <[rjarvis@earlcurley.com](mailto:rjarvis@earlcurley.com)> wrote:

Gentlemen,

You may have seen the notice go out for the virtual neighborhood meeting.

At this point, we seem to be in a reasonable place relative to our immediate neighbors, east, northeast and southeast. At least, we have heard nothing further, though I have reached out repeatedly.

I gather the information I've forwarded to you from the engineer and architect has adequately answered the questions you both have raised.

As this proceeds, if you become aware of any concerns I need to address, either your own, or those of some neighbor(s), please let me know.

Thanks again for your labors on this case, and on behalf of the area generally.

--Rod Jarvis

**Rodney Q. Jarvis**

Partner

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