



**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT

**Staff Report: Z-11-18-3**

June 13, 2019

Paradise Valley [Village Planning Committee](#) Hearing Date July 1, 2019

[Planning Commission](#) Hearing Date August 1, 2019

Request From [C-1](#) (2.22 acres)

Request To [C-2](#) (2.22 acres)

Proposed Use Intermediate commercial uses

Location Approximately 228 feet north of the northwest corner of Tatum Boulevard and Shea Boulevard

Owner 3503 RP Phoenix, LLC

Applicant Ambassador Fine Cigars

Representative Paul E. Gilbert, Beus Gilbert, PLLC

Staff Recommendation Approval, subject to stipulations

**General Plan Conformity**

**General Plan Land Use Map Designation**

Commercial

**Street Map Classification**

Tatum Boulevard

Major Arterial

55-foot west half street

***STRENGTHEN OUR LOCAL ECONOMY CORE VALUE; ENTREPRENEURS AND EMERGING ENTERPRISES; LAND USE PRINCIPLE: Encourage land uses that promote the growth of entrepreneurs or new businesses in Phoenix in appropriate locations.***

Rezoning to intermediate commercial will support opportunities for additional businesses to develop in an existing commercial center in close proximity to many community amenities.

***CONNECT PEOPLE AND PLACES; OPPORTUNITY SITES; LAND USE PRINCIPLE: Support reasonable levels of increased intensity, respectful of local conditions and surrounding neighborhoods.***

The proposed development will be compatible to the existing shopping center to the east across Tatum Boulevard as well as the surrounding C-1 uses on site. The proposed development will be compatible with the existing single-family residential development to the north and west as the plaza has developed pedestrian pathways.

***CELEBRATE OUR DIVERSE COMMUNITY; Certainty and Character; LAND USE PRINCIPLE: Locate land uses with the greatest height and most intense uses within limits based on village character, land use needs, infrastructure and transportation system capacity.***

In proximity to height the more sensitive residential land uses to the east are buffered by a large landscape strip and building setback.

#### **Applicable Plans, Overlays and Initiative**

[Tree and Shade Master Plan](#) – see background item No. 6 below.

[Guiding Principles for Complete Streets](#) – see background item No. 6 below.

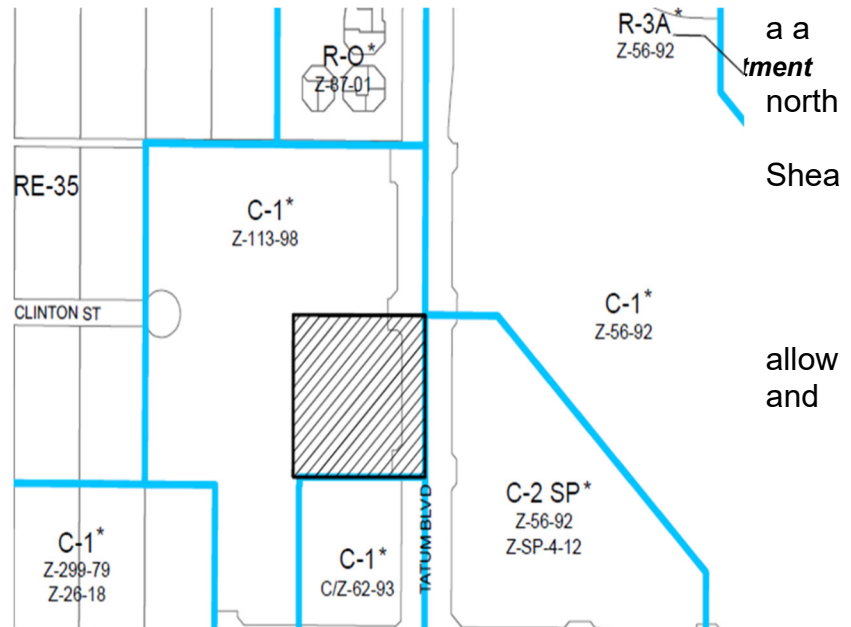
[Reimagine Phoenix](#) – see background item No. 12 below.

#### **Surrounding Land Uses/Zoning**

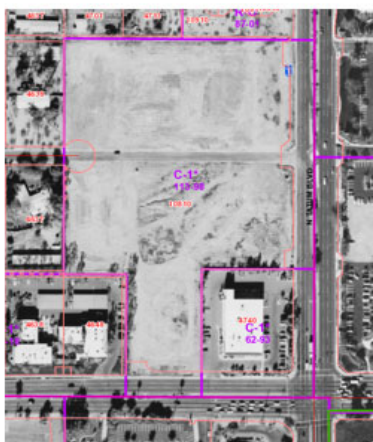
|                | <b><u>Zoning</u></b> | <b><u>Land Use</u></b>               |
|----------------|----------------------|--------------------------------------|
| <b>On Site</b> | C-1                  | Retail                               |
| <b>North</b>   | C-1                  | Retail, Grocery, Commercial Services |
| <b>South</b>   | C-1                  | Retail, Restaurants                  |
| <b>East</b>    | C-2 SP               | Retail, Bank, Cellular Provider      |
| <b>West</b>    | C-1                  | Retail, Bar/Restaurant               |

### **Background/Issues/Analysis**

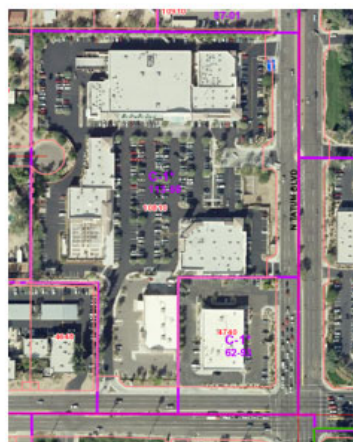
1. This request is to rezone 2.22 acre site located approximately 228 feet of the northwest corner of Tatum Boulevard and Boulevard from C-1 (Neighborhood Retail District) to C-2 (Intermediate Commercial District) to allow additional commercial retail uses.



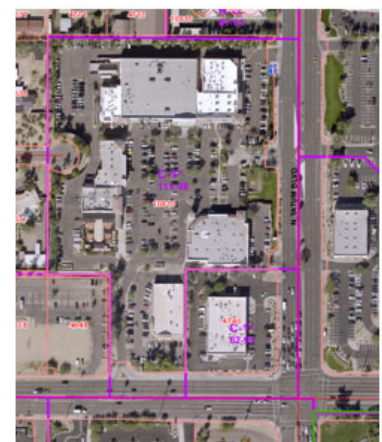
2. The subject site is under the ownership of Inland Western Phoenix, LLC. The subject site was annexed into the City of Phoenix in 1962 through Annexation No. 59. The majority of the area was vacant land in 1962 and Maricopa County Historical Aerial photographs illustrate that the subject site was not developed until 2002. The subject site was previously rezoned from RE-35 (Residential Estate District) and C-O (Commercial Office) to C-1 (Neighborhood Retail) in 1998 per Rezoning Case No. Z-113-98 to allow commercial uses.



2001



2009



2019

*Source: Maricopa County Historic Aerials*

## SURROUNDING ZONING AND USES

### 3. **North**

Directly to the north of the subject site is a Whole Foods grocery store and a few smaller retail users which are part of the larger Paradise Valley Marketplace. The property is zoned C-1.

### **South**

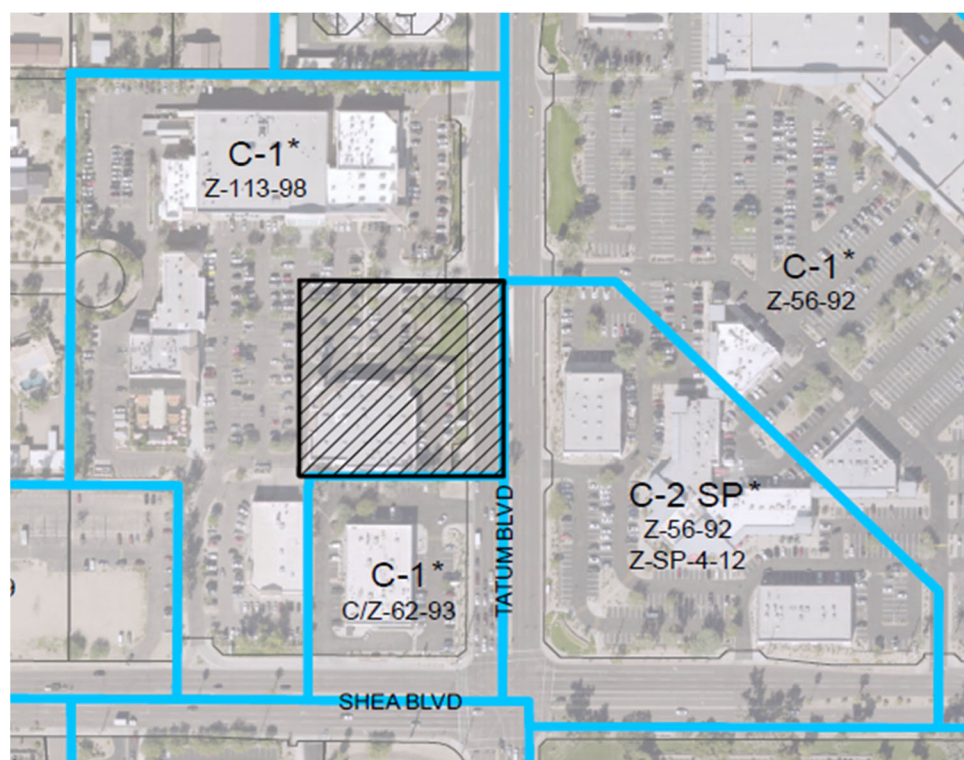
South of the subject site is Tatum Square shopping center which is located on the hard corner of two major arterial streets, Shea Boulevard and Tatum Boulevard. The shopping center is zoned C-1 per Rezoning Case No. Z-62-93 and includes restaurants and vacant tenant space.

### **East**

The eastern boundary is Tatum Boulevard. Across Tatum Boulevard is a shopping center zoned C-2 SP (Intermediate Commercial, Special Permit) through Rezoning Case No. Z-SP-4-12. The special permit is for a massage therapy facility. Other uses in the shopping center include restaurants, retail and other commercial services.

### **West**

Directly to the west of the subject site is a bar/restaurant, a pet market, a medical supplies store and a bank which are part of the larger Paradise Valley Marketplace. The property is zoned C-1, per Rezoning Case No. Z-113-98.



Source: City of Phoenix Planning & Development Department

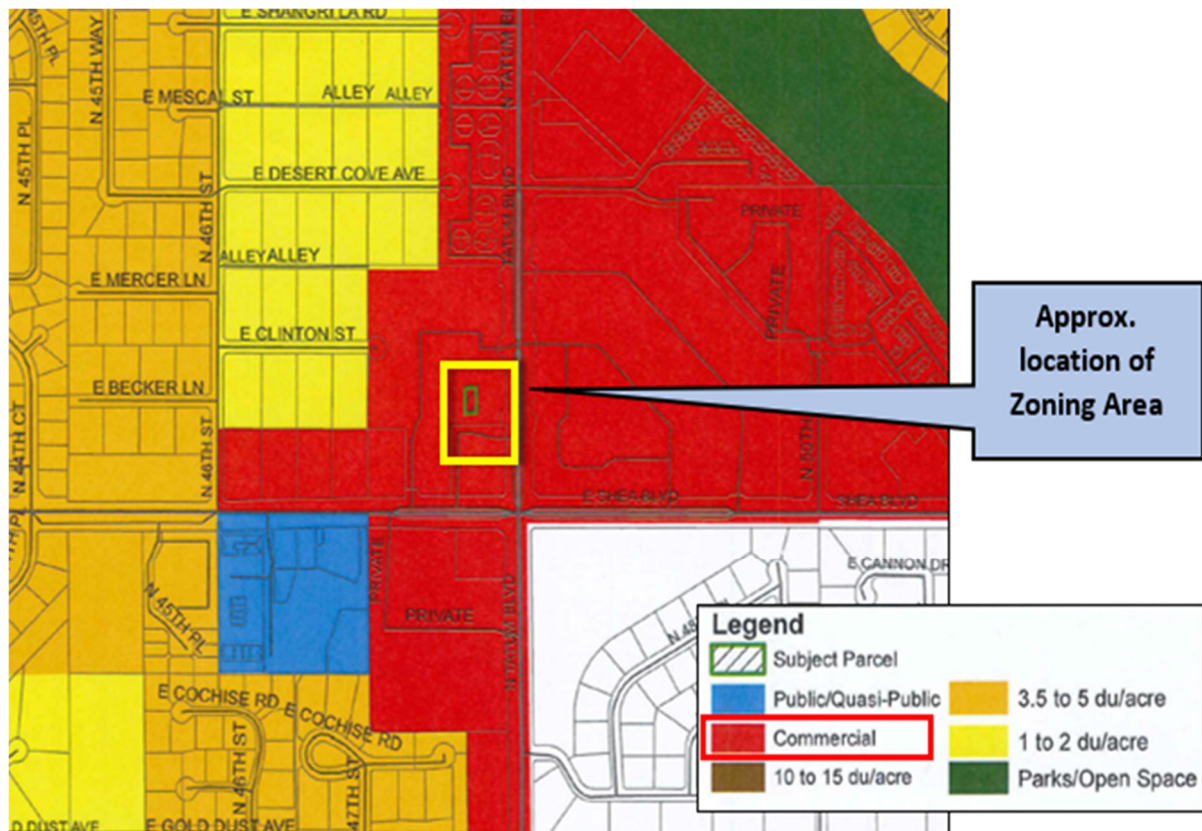
4. The General Plan Land Use Map designation for the subject site and surrounding the site is Commercial. The proposed rezoning is consistent with the General Plan Land Use Map designation. The General Plan designations surrounding the property area:

**North:** Commercial

**South:** Commercial

**East:** Commercial

**West:** Commercial



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

5. The existing development consists of a tobacco-oriented business with a bar. Although the bar is accessory to the tobacco-oriented business, the C-2 zoning is required to legally operate a bar at this location. The closest residential use is located 350 feet to the west and is buffered by C-1 uses. More sensitive C-2 uses have spacing requirements from residential uses. Therefore, more sensitive C-2 uses will not be permitted on this site due to these constraints.
6. Prior to permit issuance of any tenant improvements the developer will be required to upgrade the site landscape areas to C-2 standards. The requirement for landscape upgrades is addressed in Stipulation No. 1.

## STUDIES AND POLICIES

7. 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. A vision in the master plan is to raise awareness by leading by example. To accomplish the vision and goal of the policy document, Stipulation No. 1 require that the developer provide landscaping that will create a comfortable and pedestrian friendly environment for the shopping center prior to any future tenant improvements. The proposed stipulations require that the detached sidewalks along Tatum Boulevard remain and be replenished with 50% live ground cover. In addition, staff recommends that trees be planted close to the sidewalk and that the trees provide a minimum 75% shade of the adjacent sidewalk at maturity. Lastly, staff recommends that the shopping center provide 50% shade along pedestrian pathways within the site through a combination of landscaping and/or overhangs and canopies. As stipulated, this design is consistent with both the Tree and Shade Master Plan and the City Council adopted Guiding Principles for Complete Streets, one tenet of which is to make Phoenix more walkable.

## COMMUNITY INPUT

8. One citizen submitted a letter addressing concerns related to restricted uses in the applicant's public outreach letter to the surrounding area. The specific restricted uses of concern include adult uses and medical marijuana dispensary facilities. These uses are restricted at this site due to stringent separation requirements to residential uses outlined in the City of Phoenix Zoning Ordinance.

## INTERDEPARTMENTAL COMMENTS

9. The Street Transportation Department has no comments.
10. The City of Phoenix Floodplain Management division of the Public Works Department has determined that this parcel is not in a Special Flood Hazard Area (SFHA), but is located in a Shaded Zone X, on panel 1755 L of the Flood Insurance Rate Maps (FIRM) dated October 16, 2013.
11. The City of Phoenix Water Services Department has noted the site has water and sewer mains to serve this development.
12. The Fire Prevention division of the Fire Department has indicated no fire code issues are anticipated with this case and the site and/or buildings shall comply with the Phoenix Fire Code.

## OTHER

13. As part of the Reimagine Phoenix initiative, the City of Phoenix is committed to increasing the waste diversion rate to 40 percent by 2020 and to better manage its solid waste resources. Section 716 of the Phoenix Zoning Ordinances establishes standards to encourage the provision of recycling containers for multifamily,

commercial and mixed-use developments meeting certain criteria. The provision of recycling is not addressed in the rezoning request.

14. No known archaeological work is necessary for this project. In the event archaeological materials are encountered during construction, all ground disturbing activities must cease within 33-foot radius 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. 2.
15. 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 the Commercial General Plan Land Use Map designation.
2. The proposal is compatible with the surrounding land uses.
3. The development, as stipulated, will provide shade and enhanced pedestrian amenities.

### **Stipulations**

1. Prior to permit issuance of any tenant improvements, the developer shall update the existing landscape areas along the Tatum Boulevard frontage per the C-2 streetscape landscape standards for planting type, size and quantity, unless underground utilities and/or drainage are found to conflict subject to the following requirements, as approved by the Planning and Development Department.
  - a) All required trees in the Tatum Boulevard landscape setback shall be planted adjacent to the sidewalk to provide shade/thermal comfort for pedestrians.
  - b) The sidewalk along Tatum Boulevard shall remain detached and the existing landscaped strip located between the sidewalk and the back of curb shall be planted to provide a minimum of 50% live ground cover.
2. 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.

Staff Report: Z-11-18-3

June 13, 2019

Page 8 of 8

**Writer**

David Simmons

June 13, 2019

**Team Leader**

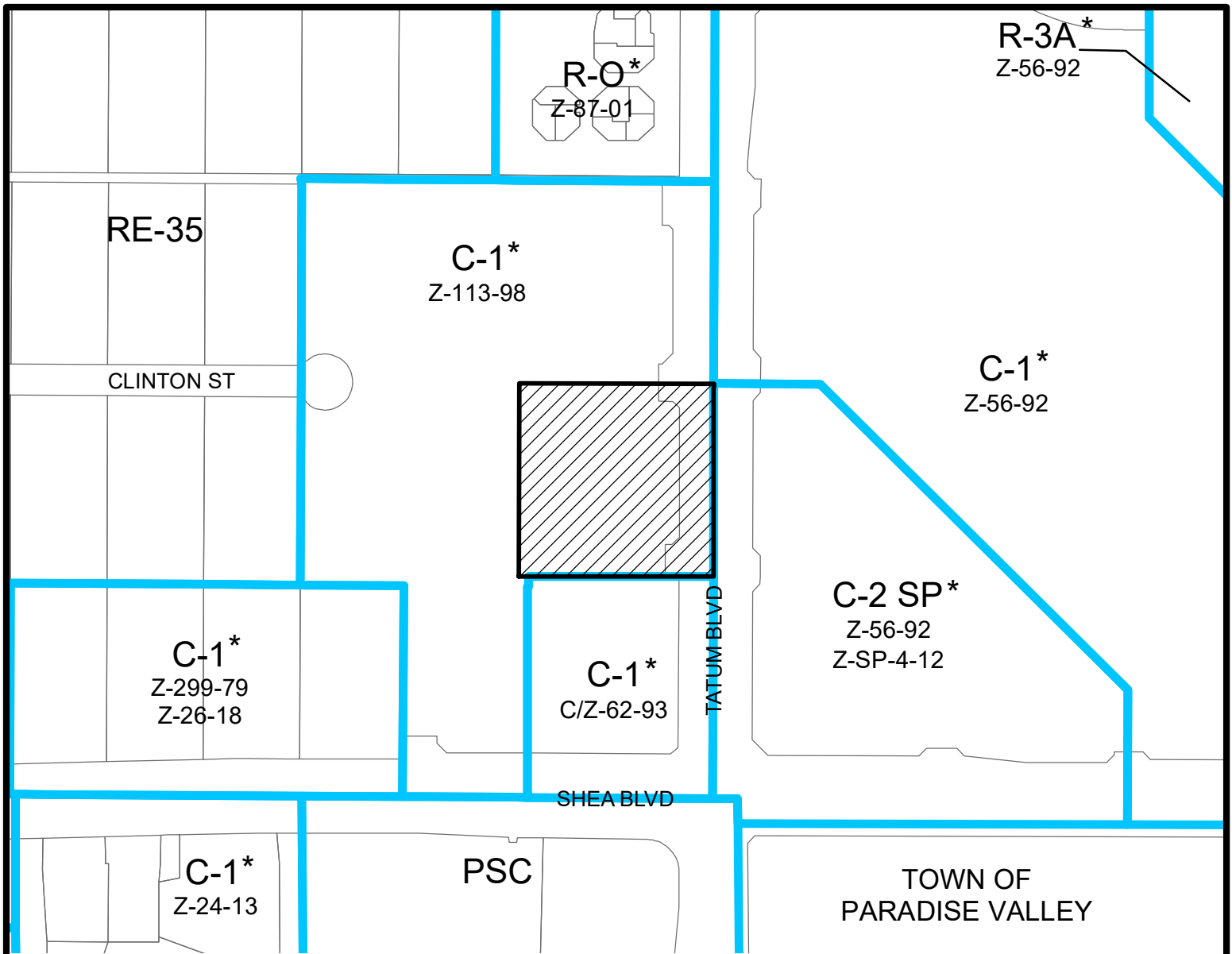
Samantha Keating

**Exhibits**

Sketch Map

Aerial

Community Correspondence (3 pages)



Miles

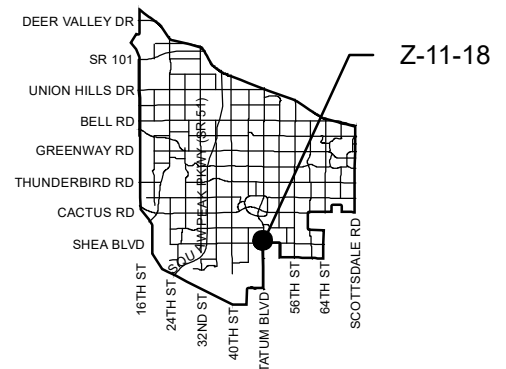
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## PARADISE VALLEY VILLAGE

CITY COUNCIL DISTRICT: 3



**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT



APPLICANT'S NAME: Ambassador Fine Cigars

### REQUESTED CHANGE:

FROM: C-1 ( 2.22 a.c.)

APPLICATION NO. Z-11-18

DATE: 5/7/2019  
REVISION DATES:

GROSS AREA INCLUDING 1/2 STREET  
AND ALLEY DEDICATION IS APPROX.

2.22 Acres

AERIAL PHOTO &  
QUARTER SEC. NO.

QS 29-38

ZONING MAP

K-11

TO: C-2 ( 2.22 a.c.)

### MULTIPLES PERMITTED

C-1

C-2

### CONVENTIONAL OPTION

32

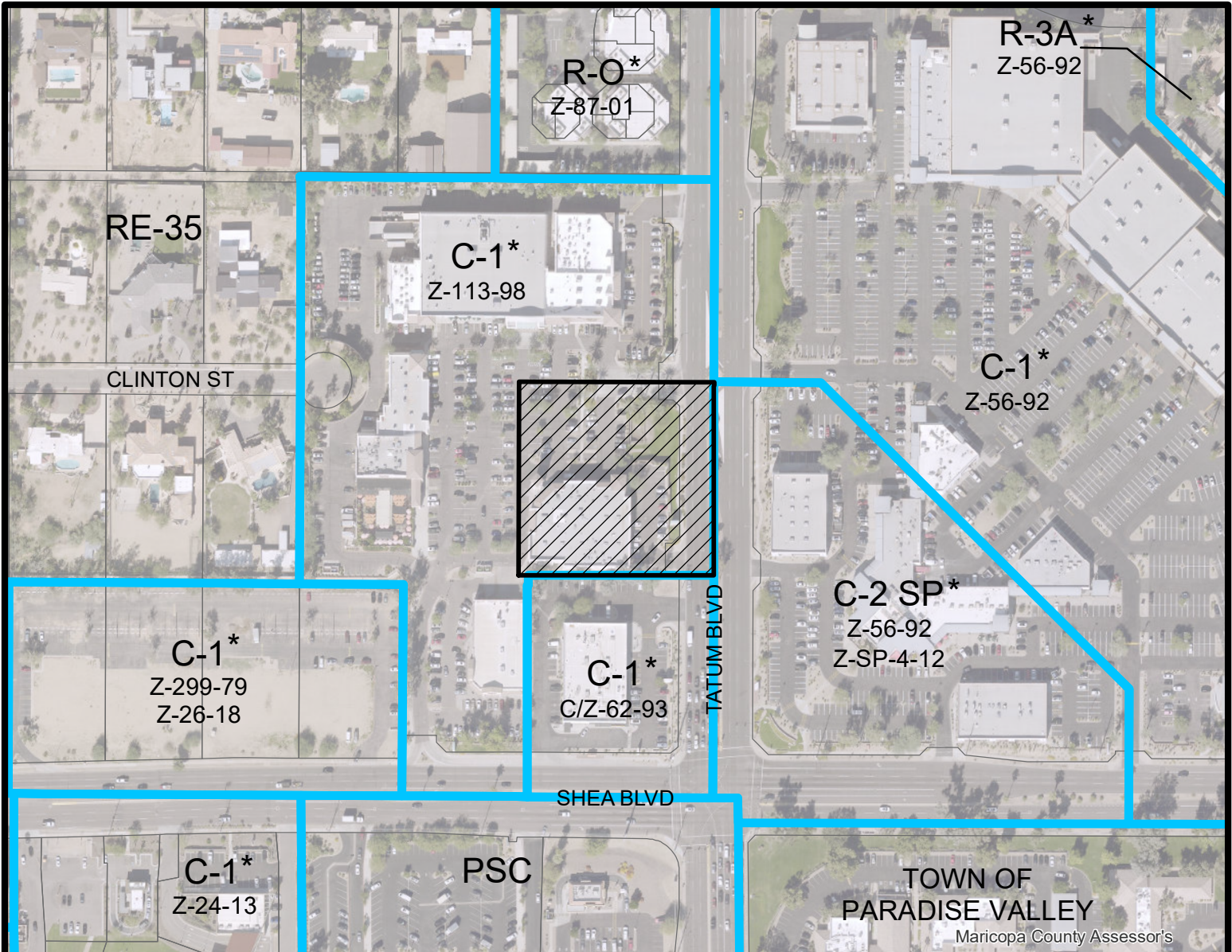
32

### \* UNITS P.R.D. OPTION

38

38

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



Miles

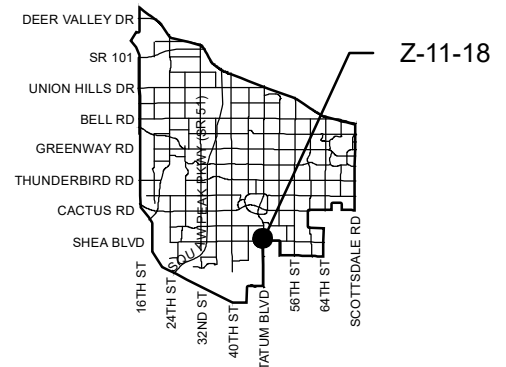
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**City of Phoenix**  
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APPLICANT'S NAME: Ambassador Fine Cigars

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C-1

C-2

### CONVENTIONAL OPTION

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

## David O Simmons

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**From:** David O Simmons  
**Sent:** Thursday, May 16, 2019 8:56 AM  
**To:** Toby  
**Subject:** RE: Z-11-18 Scan\_0353.pdf

Toby,

I have pasted for your review the code sections related to the restricted uses in the applicants letter. The distance measured from an adult oriented business to the nearest residential district is 0 feet, prohibiting an adult oriented business from located there in the event the C-2 application is approved. The distance to the nearest residential district for a medical marijuana use is 416 feet, measured from the suite wall, also restricting such a use from located there if the C-2 application is approved. The distance to the nearest residential district for a pawn shop use is 375 feet away measured from the building wall, also restricting such a use if the C-2 application were to be approved. It is safe to say that the three uses the applicant has outlines as restricted uses are, in fact, restricted by code based on proximity to the residentially zoned district to the west. Therefore, there is no need to stipulate this as it is covered by code. However, if the neighbors find that other C-2 uses are a potential nuisance you can always express your concerns to both me and the applicant and we can address these moving through the process. You can review the complete list of allowed uses in the C-2 zoning district here: <https://www.codepublishing.com/AZ/Phoenix/>

The City's notification requirement for a rezoning case is a 600 foot radius for property owners and a one mile radius for registered neighborhood associations. If your home is more than 600 feet away from the property boundary of the request you will not receive a notice.

1. **Adult (uses)** bookstore, adult novelty store, adult theatre, adult live entertainment establishment, erotic dance or performance studio, subject to the following conditions or limitations: \*15

a. None of the above listed uses may be located within 1,000 feet of the same type of adult use or any of the other adult uses listed above. This distance shall be measured from the exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted. \*42

b. None of the above listed uses may be located within 1,320 feet of a child care facility licensed by the State, private, public or charter school, a publicly owned playground, a publicly owned park recreation facility, or place of worship. This distance shall be measured from the nearest point on the property line of a parcel containing an adult oriented business to the nearest point on the property line of a parcel containing the specified use. In addition an adult use shall not locate within 1,320 feet of any of the following use districts: RE-43, RE-35, RE-24, R1-18, R1-14, R1-10, R1-8, R1-6, R-2, R-3, R-3A, R-4, R-4A, R-5, S-1, PAD-1 through PAD-15. This distance shall be measured from the nearest point on the property line of a parcel containing an adult oriented business to the nearest zoning district line. \*5 \*42

124. **Nonprofit medical marijuana dispensary facility**, subject to the following conditions and limitations; failure to comply with the below regulations and requirements is subject to revocation per Section 307. +38 \*39 \*46 \*52 \*54

- a. A use permit shall be obtained in accordance with standards and procedures of Section 307 and the following: +38 \*39
  - 1. Shall be reviewed every 365 calendar days. +38 \*39
  - 2. Provide name(s) and location(s) of the off-site cultivation location. +38 \*39
  - 3. Include a copy of the operating procedures adopted in compliance with Section 36-2804(B)(1)(c), Arizona Revised Statutes. +38 \*39
  - 4. A survey sealed by a registrant of the State of Arizona shall be submitted to show compliance with the distance requirements listed below. +38 \*39 \*52
- b. Cultivation of medical marijuana is prohibited. +38 \*39
- c. Shall be located in a closed building and may not be located in a trailer, cargo container, motor vehicle or similar structure or motorized or non-motorized vehicle. +38 \*39
- d. Shall not exceed 2,000 square feet of net floor area dedicated exclusively to the nonprofit medical marijuana dispensary; this shall include all storage areas, retail space and offices for the nonprofit medical marijuana dispensary. +38 \*39
- e. Shall not be located within 5,280 feet of the same type of use or a medical marijuana cultivation or infusion facility. This distance shall be measured from the exterior wall of the building or portion thereof in which the business is conducted or proposed to be conducted to the nearest exterior wall or portion thereof of another medical marijuana dispensary, cultivation, or infusion facility. +38 \*39
- f. Shall not be located within 500 feet of the following residentially zoned districts: S-1, S-2, RE-43, RE-35, R1-18, R1-14, R1-10, R1-8, R1-6, R-2, R-3, R3-A, R-4, R-4A, R-5, and PAD-1 through PAD-15. This distance shall be measured from the exterior walls of the building or portion thereof in which the dispensary business is conducted or proposed to be conducted to the zoning boundary line of the residentially zoned district. +38 \*39 \*52

134. **Pawn Shop**. Subject to the following limitations: \*32 \*35 \*38 \*46 \*54

- a. A use permit shall be obtained subject to the standards and procedures of Section 307.
- b. The exterior walls of the building in which the use is located shall be at least five hundred (500) feet from a residential district. \*3

Let me know if you have further questions.

David Simmons, MA  
 Planner II\* Village Planner  
 200 West Washington Street  
 3<sup>rd</sup> Floor  
 Phoenix, AZ 85003

602-262-4072  
david.simmons@phoenix.gov

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**From:** Toby <tovamirriam@cox.net>  
**Sent:** Wednesday, May 15, 2019 9:18 PM  
**To:** David O Simmons <david.simmons@phoenix.gov>  
**Subject:** Z-11-18 Scan\_0353.pdf

Hi, David,

Would you please let me know wther the information regarding C-2 contained in this page accurate?

I am not certain it is correct regarding the adult store, marijuana dispensary or pawn shop. The visual does not appear to depict visuals as close as is noted in the letter.

I picked up the letter today at out Block Watch postal box.

Meeting Thursday May 16 @ 6:00 p.m.  
Ambassador Fine Cigars  
20810 N. Tatum Blvd #140  
Phoenix, Arizona 85028