

**CITY OF PEORIA, ARIZONA  
COUNCIL COMMUNICATIONS**

cc: 4C  
Amend No. \_\_\_\_\_

Date prepared: October 12, 2010

Council Meeting Date: November 16, 2010

**TO:** Carl Swenson, City Manager

**THROUGH:** Susan J. Daluddung, AICP, Deputy City Manager 

**FROM:** Glen Van Nimwegen, AICP, Planning and Community Development Director 

**SUBJECT:** (Z 10-0119): Rezone approximately 0.13 gross acres located south of the southwest corner of 67<sup>th</sup> Avenue & Happy Valley Road from SR-43 Suburban Ranch to C-2 Intermediate Commercial.

**RECOMMENDATION:**

The Mayor and Council concur with the Planning and Zoning Commission's recommendation to adopt the attached Ordinance to rezone approximately 0.13 gross acres located south of the southwest corner of 67<sup>th</sup> Avenue & Happy Valley Road from SR-43 Suburban Ranch to C-2 Intermediate Commercial.

**PLANNING & ZONING COMMISSION ACTION:**

On October 7, 2010, at a public hearing, the Commission voted unanimously in favor of recommending approval of this request with a minor revision to the condition of approval. The condition now reads: "A final plat will be required to combine this parcel (201-09-021Q) and the larger parcel to the north (201-09-959), and to dedicate all required easements and right-of-way needed on 201-09-021Q, subject to the site plan presented".

No one spoke in favor or against the request nor have any letters or calls of opposition been received.

**SUMMARY:**

Request to rezone a 15-foot wide by approximately 325-foot long strip of land from SR-43 Suburban Ranch to C-2 Intermediate Commercial for the purpose of future consolidation with a larger 4-acre C-2 property located immediately north of this site. Staff is currently reviewing a site plan and design review (Case No. PR08-04)

**CITY CLERK USE ONLY:**

- Consent Agenda
- Carry Over to Date: \_\_\_\_\_
- Approved
- Unfinished Business (Date heard previous: \_\_\_\_\_)
- New Business
- Public Hearing: No Action Taken

ORD. # 2010-34 RES. # \_\_\_\_\_  
LCON# \_\_\_\_\_ LIC. # \_\_\_\_\_  
Action Date: \_\_\_\_\_

application for the larger property.

**PROPOSITION 207 DISCUSSION:**

The applicant has provided an executed Proposition 207 waiver.

**ATTACHMENT:**

October 7, 2010 Planning & Zoning Commission Staff Report  
Ordinance 2010-34

**CONTACT:** Adam D. Pruett, AICP, Green Associate  
Senior Planner, 623-773-7565



# REZONING

## REPORT TO THE PLANNING AND ZONING COMMISSION

**CASE NUMBER:** Z 10-0119  
**DATE:** October 7, 2010  
**AGENDA ITEM:** 4R

**Applicant:** Beus Gilbert PLLC

**Request:** Rezone approximately 5,817 gross square feet from Suburban Ranch 43 (SR-43) to Intermediate Commercial (C-2) to expand an existing commercial property.

**Proposed Development:** The conceptual development plan proposes a multiple-building commercial center on approximately 4.32 gross acres.

**Location:** The site is generally located south of the southwest corner of 67<sup>th</sup> Avenue and Happy Valley Road (Assessor Parcel Number 201-09-021Q).

**Site Acreage:** 5,817 gross square feet (approximately 0.13 acres)

**Support / Opposition:** As of the date of this printing, staff has not received any public comment in support or opposition to this proposal.

**Recommendation:** **Approve**, with conditions.

### AREA CONTEXT

*Table 1: Existing Land Use, Future Land Use, Current Zoning. (Exhibits B-D)*

	LAND USE	GENERAL PLAN	ZONING
<b>Subject Property</b>	Vacant	Low Density Residential (2-5 du/ac, target 3 du/ac)	Suburban Ranch 43 (SR-43)
North	Single Family Residential / Happy Valley Road	Low Density Residential (2-5 du/ac, target 3 du/ac)	Single Family (R1-6)
South	Vacant	Residential / Estate (0-2 du/ac, target 1 du/ac)	Suburban Ranch (SR-43)
East	Commercial Shopping Center (City of Phoenix)	Phoenix	Phoenix
West	Vacant / Christ's Church of the Valley	Low Density Residential (2-5 du/ac, target 3 du/ac)	Suburban Ranch (SR-43)

### *Annexation and Case History*

1. The parcel was annexed into the City in October of 1978. At that time, a zoning designation of Suburban Ranch 43 (SR-43) was assigned. In December 2001 the 4-acre parcel immediately north of this property was rezoned to Intermediate Commercial C-2 for a proposed pharmacy, which was never built.
2. A multiple-building site plan application was submitted for the 4-acre parcel to the north (PR08-04) and is currently under review. As indicated in Exhibit E, the site plan proposes a phased commercial center with an AutoZone occupying the southern portion of the site. This plan has seen several revisions as a result of the current market conditions. In this request, the applicant is seeking to extend the site 15 feet to the south, which under the original plan would have resolved an internal circulation issue. Due to the changes to the plan resulting from users backing out of the development, the circulation issue no longer exists; therefore, this request simply increases the area of the site.

## **PROJECT DESCRIPTION**

### *Site and Project Details*

3. The subject property is a 15-foot wide by 325-foot long strip of land situated between the existing commercially-zoned parcel to the north and SR-43 parcel(s) to the south. As indicated above, the subject property is being rezoned to become part of the commercial site plan currently under review.
4. The site plan being reviewed (PR08-04) was submitted in February 2008 and has undergone several reviews and subsequent revisions. As originally filed, this site was to be developed with a bank, a fast food restaurant and an AutoZone auto parts store.
5. During the review of the proposed site plan, it had become clear that proper internal circulation and adequate fire access could not be provided and that the simplest solution would be to acquire additional land.
6. The owner purchased a 15-foot 'strip' of land from Christ's Church of the Valley located immediately south of the larger parcel to increase the usability of the site. This strip is currently zoned SR-43 and in order to become part of the larger commercial development, it must be zoned C-2.
7. In the time it took to for the owner to acquire the subject property and to file this rezoning application, two of the users dropped out, leaving AutoZone as the only remaining user. This has resulted in a re-design of the site that places the AutoZone store to the southern end of the site. This redesign has created more developable area on the property and has eliminated the previous circulation and access issues.
8. Because the site is being redesigned, staff has used this opportunity to work with the applicant to make changes that will enhance this gateway into the City.

Though this will be a phased project, some of the agreed-upon changes are shown on the attached site plan (Exhibit E). Primarily, these changes include enhanced landscaping (materials and area) at the corner of 67<sup>th</sup> Avenue & Happy Valley Road, theme trees along the rights-of-way and in the parking areas, and well-defined pedestrian connectivity throughout the project. These site enhancements will be developed in greater detail as the site plan (PR08-04) continues through the review process.

9. As planned, the subject property (i.e. the 15-foot strip) will primarily serve as a landscape buffer and retention area. Currently, the Zoning Ordinance requires a 30-foot setback and landscape buffer between commercial and residential districts, which is the case between this property (C-2) and the adjacent property (SR-43). The applicant has filed a Variance request to reduce the building 30-foot setback and landscape buffer requirements, though as of the writing of this staff report, staff has not made a determination as to what would be an acceptable reduction nor has the Board of Adjustment hearing been scheduled.

## **DISCUSSION AND ANALYSIS**

### *Conformance with the General Plan*

10. The underlying land use designation for the property is Residential / Low Density (2-5 du/ac, target 3 du/ac). The same is true for the larger 4-acre commercial parcel to the north. Despite being a residential designation, when the 4-acre parcel was zoned C-2 in 2001, the General Plan did allow commercial development in these areas provided they were limited to arterial intersections and were no larger than 40 acres in size. Therefore, the larger parcel is clearly in compliance with the General Plan. This policy was removed approximately four years ago.
11. Staff has determined that the subject parcel is in compliance because it does not increase the developable parcel beyond the original four-acre site. Since this adjustment nets no gain in commercial area, staff has determined that this request complies with the General Plan Land Use Map.

### *Land Use Compatibility*

12. As stated throughout this report, the subject parcel is adjacent to an existing commercially-zoned property of which it will become a part. The property is also adjacent to (south and west) two parcels currently zoned SR-43. The City's records show these properties under the ownership of Christ's Church of the Valley. However, staff has had two pre-application meetings with another party on the topic of developing these properties with a mixed-use project. Despite the current residential zoning on the adjacent properties, C-2 zoning is not an uncommon neighbor as seen throughout the City.

*Citizen Participation Plan - Neighborhood Meeting*

13. Section 14-39-6.E of the Peoria Zoning Ordinance requires the applicant of a rezoning request to hold at least one neighborhood meeting; however, Section 14-39-6.G.2 does allow an applicant to request from the Planning Manager a modification to the Citizen Participation Plan requirements, including the elimination of it. Such a request has been made and approved on the basis of the size of the request and the minimal number of surrounding properties within the required 300-foot notification radius, none of which are single-family residential.
14. In addition to the City's standard notification procedures, the applicant has also notified property owners within 300 feet to introduce the project and to provide contact information should any property owner have questions. No responses have been received.

*Engineering Requirements*

15. The Engineering Department had no specific review comments in conjunction with the rezoning request. There are conditions of approval that address standards and submittal requirements as the project is implemented.

*Fire Requirements*

16. The Fire Department had no comments or conditions of approval relative to this rezone request. However, with the subsequent Site Plan Review, the Fire Department will be evaluating compliance with the technical requirements including turnaround provisions, hydrant placement and other issues.

*Public Notice*

17. Public notice was provided in the manner prescribed under Section 14-39-6. Additionally, the site was posted on September 16, 2010 with a sign meeting the size and content requirements prescribed by the Planning Division. The applicant has provided a photo exhibit and signed affidavit attesting to the posting.

*Proposition 207*

18. The applicant has furnished a signed and notarized Proposition 207 Waiver for recordation pending the outcome of the City Council action.

**FINDINGS AND RECOMMENDATION**

19. Based on the following findings:
  - The proposed rezoning is consistent with the existing adjacent zoning and land uses.

- The proposed rezoning is consistent with the Goals, Objectives and Policies of the General Plan.
- The proposed rezoning does not result in any negative impacts to nearby properties, especially residential properties.
- The proposal will advance the City's goals and objectives by maintaining quality commercial areas to serve existing residential communities.

It is recommended that the Planning and Zoning Commission take the following action:

**Recommend approval to the City Council Case Z 10-0119, subject to the following condition:**

1. A final plat will be required to combine this parcel and the larger parcel to the north, and dedicate all required easements and right-of-way.

Attachments:

Exhibits A1-A3	Project Narrative
Exhibit B	Vicinity Map
Exhibit C	Land Use Map
Exhibit D	Zoning Map
Exhibit E	Site Plan
Exhibit F	Landscape Plan

Prepared by: Adam Pruett, AICP, LEED Green Associate  
Senior Planner

# *Southwest Corner Happy Valley Road and 67<sup>th</sup> Avenue*

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## **Rezoning**

Submitted by:  
LDR 67<sup>th</sup> Avenue & HV, LLC  
C/O Beus Gilbert, PLLC  
4800 N Scottsdale Road, Suite 6000  
Scottsdale, AZ 85251  
Contact: Andy Jochums  
480-429-3063

September 1, 2010

## **Project Narrative**

### **DRAFT**

#### **Overview**

On the behalf of the property owner, LDR 67<sup>th</sup> Avenue & HV LLC (“LDR”), Beus Gilbert, PLLC and Robert Kubicek Architects and Associates, Inc are requesting a rezoning from SR-43 (Suburban Ranch) to C-2 (Intermediate Commercial) for a 4,992 net square foot parcel located south of the southwest corner of Happy Valley Road and 67<sup>th</sup> Avenue.

#### **Existing Land Uses**

The subject parcel is currently vacant and undeveloped.

##### Surrounding zoning:

North – C-2 (PR08-04 Owned by the Same Property Owner)  
East – C-2 (City of Phoenix Across 67<sup>th</sup> Avenue)  
South – SR-43 (CCV Planned Commercial/Office)  
West – SR-43 (CCV Planned Commercial/Office)

The current existing land uses are as follows. To the north is the planned retail center (PR08-04) of which the subject property will be incorporated. A Fry’s Marketplace and other miscellaneous retail shops are currently located to the east across 67<sup>th</sup> Avenue in the City of Phoenix. To the south lies a vacant parcel of land owner by Christ’s Church of the Valley. The Church also owns the land to the west which is vacant but under the same tax parcel as the existing church improvements. Plans for this property are for commercial and/or office in nature.

## **Project Description**

During the design review of a 3 acre parcel directly to the north (PR08-04) staff suggested that LDR should acquire an additional 15 feet of property along the southern boundary and incorporate that land within the planned retail development. The additional land was needed to offset the impacts of widening the pavement section of Happy Valley Road. If the rezoning of the property to C-2 is granted, the subject 4,992 square feet will be included into the design review being considered under PR08-04. The additional property will allow for a more orderly and well planned retail center at the corner of this prominent intersection.

The site plan for the future retail neighborhood center includes a 7,400 square foot AutoZone retail store as a part of phase one, limited to the southern portion of the property. Originally the center included three individual buildings and users but with the economic downturn, two of those users withdrew from the site leaving only AutoZone. Instead of not developing the property, we have chosen to move forward with a phased development in order to allow for the construction of AutoZone, a user that wants to open in Peoria.

In addition to the AutoZone building, phase one of the center will also include all street frontage landscaping. As required pursuant to Peoria Code, a minimum 15' landscaped frontage will be provided along both 67<sup>th</sup> Avenue and Happy Valley Road. In addition to this minimum, phase one will include an additional 10' x 160' landscape buffer along 67<sup>th</sup> Avenue in front of the AutoZone and an approximately 1,700 square foot enhanced landscaping element at the prominent corner of 67<sup>th</sup> Avenue and Happy Valley Road; an entrance to the City of Peoria. Future phases will likely include additional frontage landscaping as determined by review of future submittals.

Pursuant to the City's Design Principles and Guidelines, the entrance to the AutoZone retail store is located at the northeast corner of the building, closest to 67<sup>th</sup> Avenue and the building frontage along that arterial is enhanced with upgraded architectural elements and windows in order to provide a human scale to the building. Landscaping, including planting boxes at the building's base will provide a pedestrian/public space along the frontage and further define the human scale.

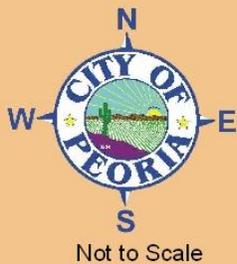
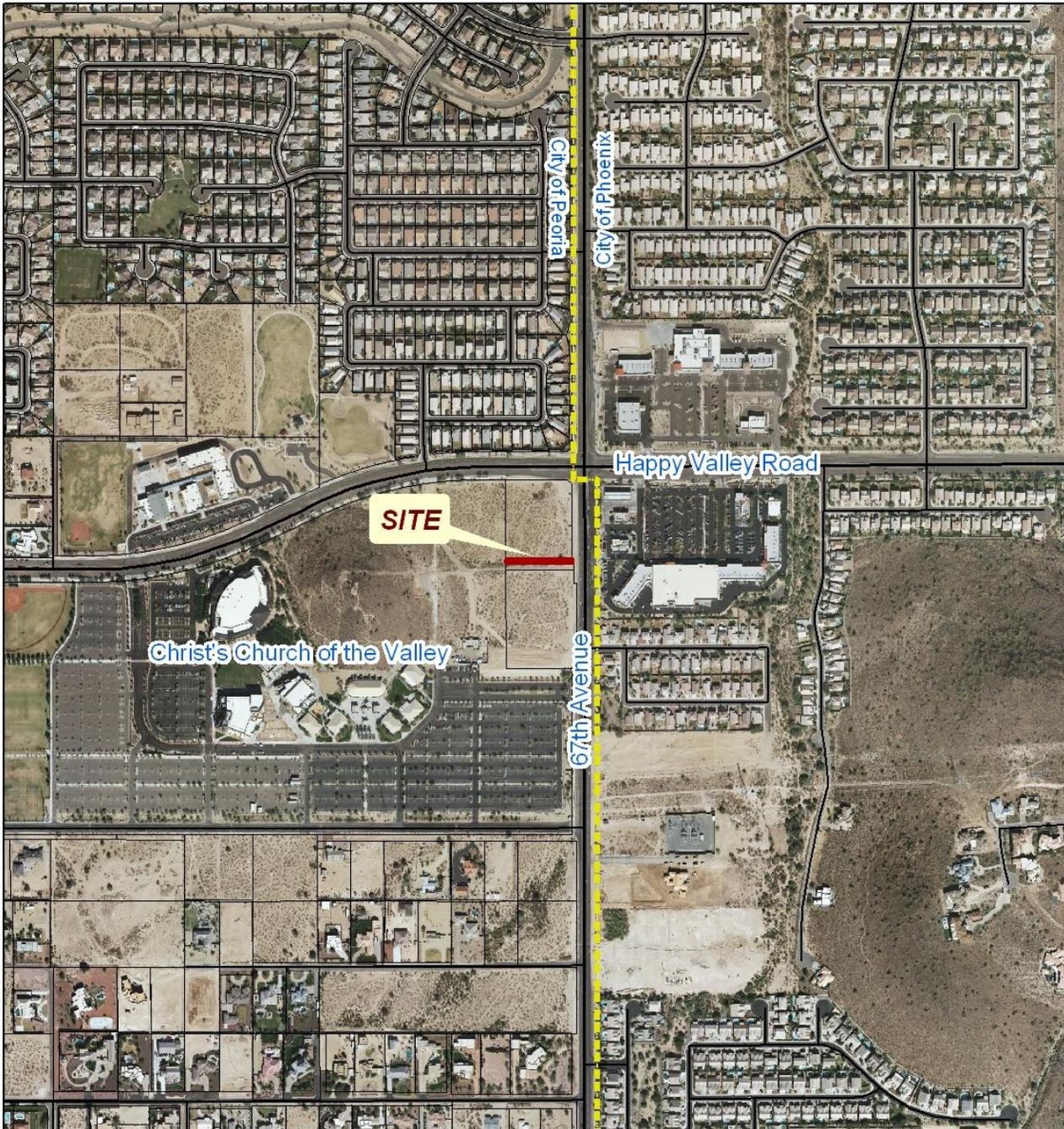
The pedestrian/public space in front of AutoZone will be linked to phase two developments by way of a pedestrian walkway leading north from the AutoZone. While phase two development specifics are not known at this time, any development presented to the City for Design Review approval will exhibit the following:

- Conformance with the Design Principles and Guidelines for Non-Residential Development.
- Continuation of the pedestrian walkway to the north from the AutoZone and inclusion of additional pedestrian/public spaces next to future buildings.
- A common architecture theme as that set by the contemporary design and color palette of the AutoZone.
- Uniform building accent lighting and parking lot lighting.
- Uniform signage.
- Common landscape theme and palette.

**Summary**

In summary, we are requesting a rezoning of a very small parcel from residential to commercial, at the request of staff, to incorporate the additional land into the adjacent planned commercial development. That development is of a high quality which is in compliance with the Design Principles and Guidelines as adopted in the Design Review Manual, and will enhance this entry point into Peoria and provide additional retail opportunities to Peoria residents who must leave the City for daily services.

# Z10-0119 Vicinity Map

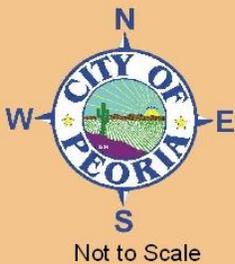


**Z10-0119**

South of the southwest corner of 67th Ave & Happy Valley Rd

Request for rezoning of approximately .13 acres from SR-43 to C-2 to expand an existing C-2 zoned property.

# Z10-0119 Land Use Map

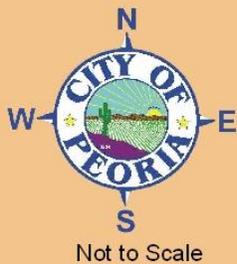


**Z10-0119**

South of the southwest corner of 67th Ave & Happy Valley Rd

Request for rezoning of approximately .13 acres from SR-43 to C-2 to expand an existing C-2 zoned property.

# Z10-0119 Zoning Map

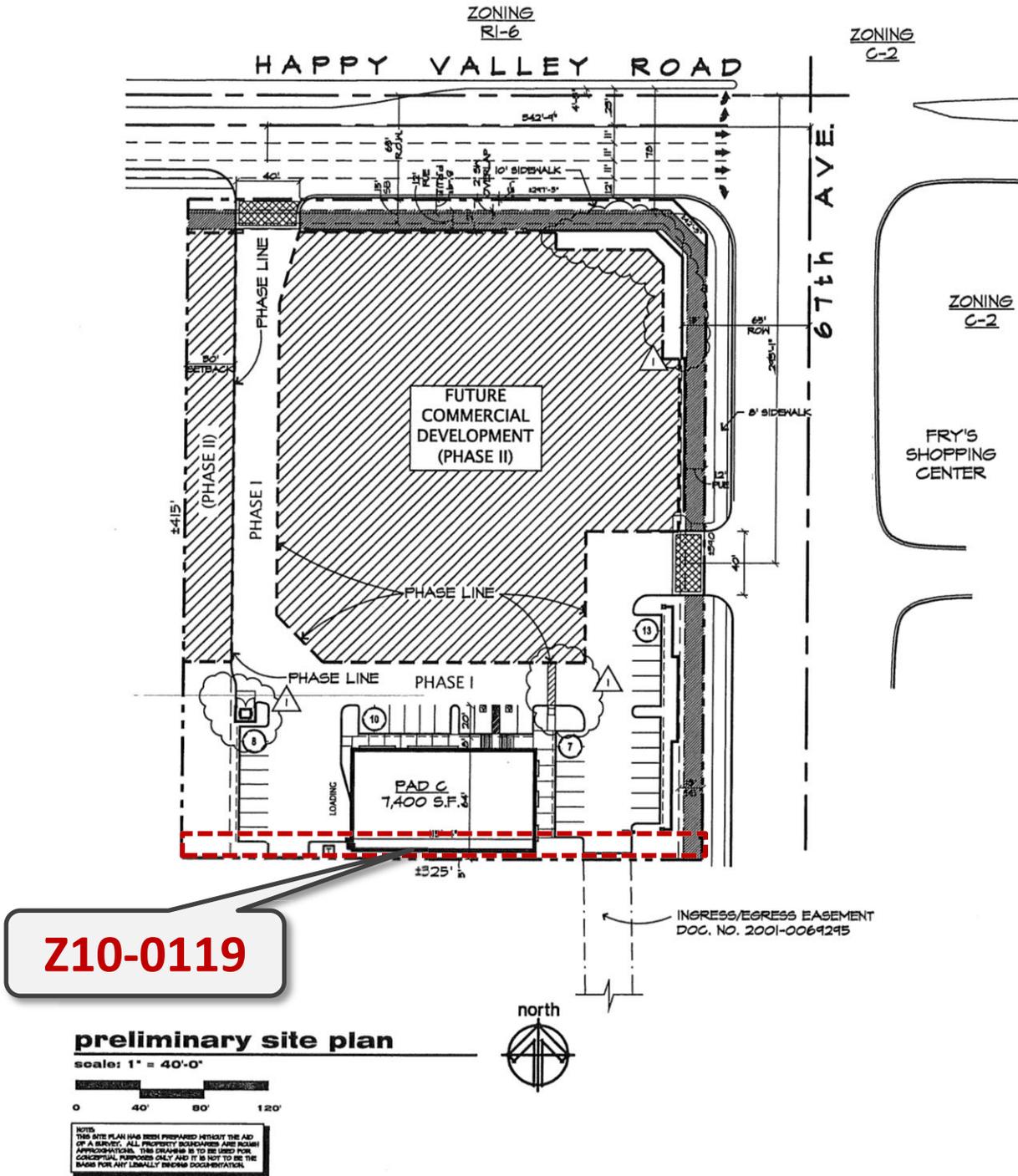


## Z10-0119

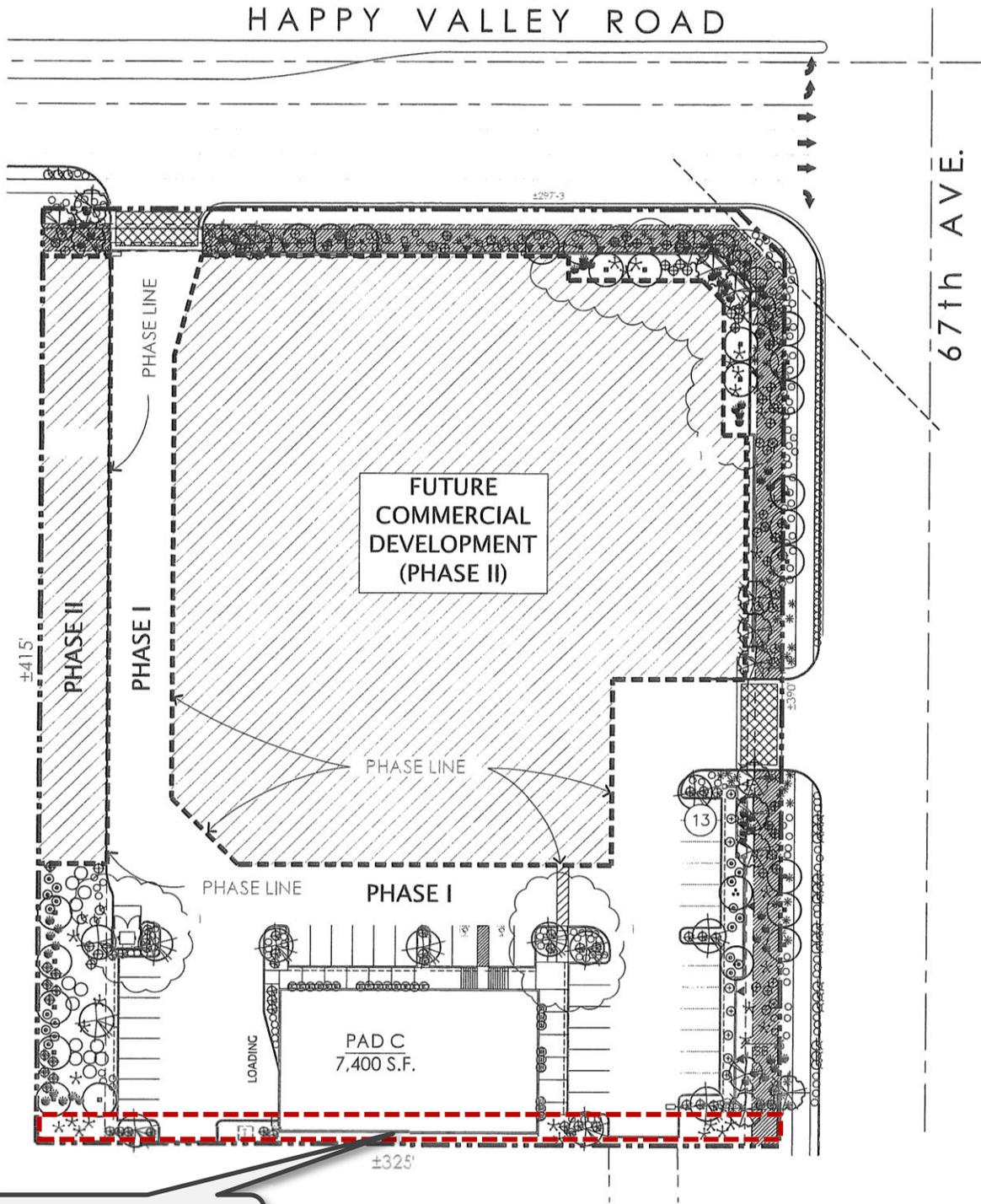
South of the southwest corner of 67th Ave & Happy Valley Rd

Request for rezoning of approximately .13 acres from SR-43 to C-2 to expand an existing C-2 zoned property.

# Site Plan



# Landscape Plan



**Z10-0119**

**Exhibit F**

ORDINANCE NO. 2010- 34

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA REZONING CERTAIN PROPERTY FROM SUBURBAN RANCH (SR-43) TO C-2 INTERMEDIATE COMMERCIAL; AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Peoria Planning and Zoning Commission held a public hearing on October 7, 2010 in zoning case Z 10-0119 in the manner prescribed by law for the purpose of considering an amendment to the district boundaries of property within the City of Peoria, Arizona to provide for rezoning of the subject parcel as described below from Suburban Ranch (SR-43) zoning district to C-2 Intermediate Commercial zoning district as provided in Section 14-39 of Chapter 14 of the Peoria City Code (1977 edition);

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance and manner provided by law including publication of such notice in the Peoria Times Newspaper on September 17, 2010; and

WHEREAS, the City of Peoria Planning and Zoning Commission has recommended to the Mayor and the Council of the City of Peoria, Arizona, the zoning of property as aforesaid and the Mayor and the Council of the City of Peoria, Arizona desires to accept such recommendation and rezone the property as described below as aforesaid.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona that:

SECTION 1. A parcel of land in Peoria, Maricopa County, Arizona, which is more accurately described in Exhibits A and B to this Ordinance, is hereby rezoned from Suburban Ranch (SR-43) zoning district to C-2 Intermediate Commercial zoning district.

SECTION 2. The amendment to the zoning herein provided be conditioned and subject to the following stipulation:

1. A final plat will be required to combine this parcel (201-09-021Q) and the larger parcel to the north (201-09-959), and to dedicate all required easements and right-of-way needed on 201-09-021Q , subject to the site plan presented.

SECTION 3. Amendment of Zoning Map. The City of Peoria zoning map is herewith amended to reflect the change in districts referred to in Section 1 above and as defined by the Legal Description as represented in Exhibit A and the corresponding parcel map as shown as Exhibit B.

SECTION 4: Effective Date. This Ordinance shall become effective at the time and in the manner prescribed by law.

PASSED AND ADOPTED by the Mayor and Council for the City of Peoria, Arizona this 16<sup>th</sup> day of November, 2010.

\_\_\_\_\_  
Bob Barrett, Mayor

\_\_\_\_\_  
Date Signed

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stephen M. Kemp, City Attorney

Published in: Peoria Times

Pub. Dates: November 19, 2010 and November 26, 2010

Effective Date: \_\_\_\_\_

## **Exhibit A Property Description**

### **Parcel #201-09-21Q**

A portion of the Southeast quarter of Section 1, Township 4 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, being a portion of that certain parcel of land described in Recording No. 2001-0267868, records of Maricopa County, Arizona, being more particularly described as follows:

Commencing at the Southeast corner of said Section 1, a brass cap in handhole from which the East quarter corner of said section, a brass cap in handhole, bears North 00 degrees 05 minutes 21 seconds West (basis of bearing), a distance of 2639.93 feet;

THENCE along the East line of said section, North 00 degrees 05 minutes 21 seconds West, a distance of 32.09 feet, to the POINT OF BEGINNING;

THENCE leaving said East line, South 89 degrees 50 minutes 52 seconds West, a distance of 392.27 feet, to an Easterly line of Lot 1 of Christ's Church of the Valley Amended, according to Book 680 of Maps, Page 34, records of Maricopa County, Arizona;

THENCE along said easterly line, North 00 degrees 05 minutes 18 seconds West, a distance of 15.00 feet to the Southwest corner of Lot 1 of 67<sup>th</sup> Avenue and Happy Valley Road Osco store No. 9331, according to Book 584 of Maps, Page 37, records of Maricopa County, Arizona;

THENCE leaving said Easterly line, along the Southerly line of said Lot 1 of 67<sup>th</sup> Avenue and Happy Valley Road Osco Store No. 9331, and the Easterly prolongation thereof, North 89 degrees 50 minutes 52 seconds East, a distance of 392.27 feet, to said East line of section;

THENCE leaving said Southerly line and Easterly prolongation, along said East line, South 00 degrees 05 minutes 21 seconds East, a distance of 15.00 feet to the POINT OF BEGINNING.

**Exhibit B  
Parcel Map**

