

**CITY OF TEMPE
BOARD OF ADJUSTMENT**
**Meeting Date: 11/25/2015
Agenda Item: 2**

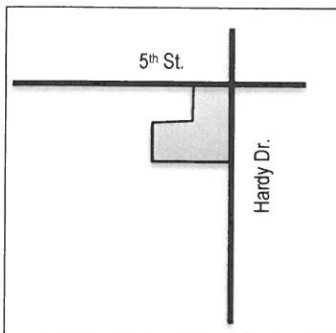
ACTION: Hold a public hearing for an appeal of the Hearing Officer decision to deny a Variance to reduce the front yard setback from 20 ft. to 10 ft. for HARDY TOWNHOMES, located at 506 South Hardy Drive. The applicant is Earl, Curley & Lagarde P.C.

FISCAL IMPACT: There is no fiscal impact on City funds.

RECOMMENDATION: Not applicable

BACKGROUND INFORMATION: HARDY TOWNHOMES (PL150108) is a proposed eight lot townhome development. The request includes the following:

1. Appeal Hearing Officer decision to deny a Variance to reduce the front yard setback from 20 ft. to 10 ft.



Property Owner	Highway Fourteen Inc.
Applicant	Stephen C. Earl, Earl, Curley & Lagarde P.C.
Zoning District	R-3, Multiple Family Residential Limited
Net Site Area	19,167 s.f.
Proposed Density/Units	18 du/ac / 8 units (20 du/ac max. permitted by code)
Total Building Area	7,161 s.f.
Lot Coverage	38% (50% max. permitted)
Building Height	33% requested by Use Permit (30' max permitted)
Building Setbacks	10' north (front), 22' west side, 10' east side, 21.5' south (rear) (20', 10', 10', 15' min. required)
Landscape Area	30.7% (25% min. required)

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Karen Stovall, Senior Planner (480-350-8432)

Department Director: Dave Nakagawara, Community Development Director
 Legal review by: N/A
 Prepared by: Karen Stovall, Senior Planner



DEVELOPMENT PROJECT FILE
for
HARDY TOWNHOMES
(PL150108)

ATTACHMENTS:

1. Letter of Appeal
- 2-4. Staff Report for Hardy Townhomes Hearing Officer Hearing October 20, 2015
5. Location Map
6. Aerial
- 7-12. Letter of Explanation
13. Site Plan
- 14-15. Building Elevations
- 16-17. Floor Plans
18. Public Involvement Summary of Outreach
- 19-20. Draft Hearing Officer Minutes of October 20, 2015

EARL, CURLEY & LAGARDE, P.C.
ATTORNEYS AT LAW

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Fax (602) 265-2195
www.ecllaw.com

3101 North Central Avenue
Suite 1000
Phoenix, Arizona 85012

October 23, 2105

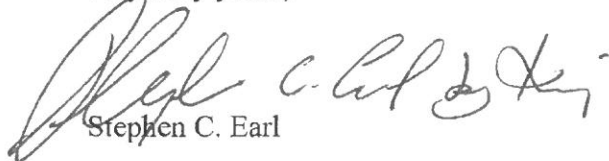
Mr. Steve Abrahamson
Planning and Zoning Coordinator
Community Development/Planning
City of Tempe
31 East Fifth Street
Tempe, AZ 85281

RE: Appeal of Hearing Officer Decision
Request for Variance at 506 South Hardy Drive; PL150108

Dear Mr. Abrahamson:

Please accept this letter as our formal appeal of the Hearing Officer's denial of the request for a reduction in the front yard setback of this very small multi-family site proposed for eight (8) ownership townhome residences. We respectfully disagree with the Hearing Officer's decision and believe that the request meets the test for the granting of a variance. We will present the details of our request to the Board of Adjustment.

Very truly yours,


Stephen C. Earl

cc: C. Kelner

**CITY OF TEMPE
HEARING OFFICER**
**Meeting Date: 10/20/2015
Agenda Item: 3**

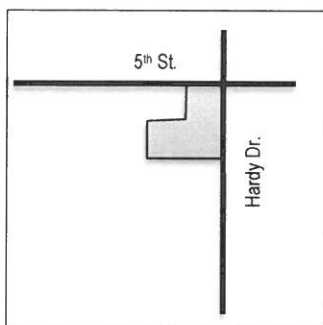
ACTION: Request approval for a Variance to reduce the front yard setback from 20 ft. to 10 ft. for HARDY TOWNHOMES, located at 506 South Hardy Drive. The applicant is Earl, Curley & Largarde P.C.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

BACKGROUND INFORMATION: HARDY TOWNHOMES (PL150108) is a proposed eight lot townhome development. The request includes the following:

1. Variance to reduce the front yard setback from 20 ft. to 10 ft.



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Applicant	Stephen C. Earl, Earl, Curley & Largarde P.C.
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ATTACHMENTS: Development Project File

STAFF CONTACT(S): Karen Stovall, Senior Planner (480) 350-8432

Department Director: Dave Nakagawara, Community Development Director

Legal review by: N/A

Prepared by: Karen Stovall, Senior Planner

Reviewed by: Steve Abrahamson, Planning & Zoning Coordinator

COMMENTS

This site is located at the southwest corner of Hardy Drive and 5th Street and is zoned R-3. It is surrounded on the west and south by apartments, to the east, across Hardy Drive, by Jaycee Park, and to the north, across 5th Street, by a new 19 unit apartment development currently under construction.

The site is currently vacant, and historical aerials show that it has been vacant since at least 1993. The project consists of two parcels that the applicant intends to replat into eight townhome lots. A Zoning Administrator Opinion pertaining to townhomes dated November 25, 2014 has the effect of measuring required building setbacks from the overall project boundaries instead of from individual townhome lot lines. Therefore, as a corner lot, the front property line for this project is the north property line on 5th Street.

The applicant has filed a Development Plan Review application for approval of a site plan, building elevations and landscape plan and a Use Permit application to increase the building height from 30' to 33'. These applications will be heard by the Development Review Commission at an undetermined future date.

PUBLIC INPUT

A neighborhood meeting was held on September 9, 2015. In addition to the applicant's team, two individuals were in attendance. Both individuals expressed support of the project. The applicant's meeting summary is attached.

On September 11, 2015, staff received a phone message from an individual who is opposed to the Use Permit request. Staff returned the phone message, explained that the project will go through two different hearing processes, and which hearing process is applicable to the Use Permit request.

VARIANCE

Per Table 4-202B of the Zoning and Development Code, the minimum required front yard setback in the R-3 zoning district is 20'. The applicant requests a Variance to reduce the front setback to 10'.

Section 6-309 D. Variance Approval Criteria (*in italics*):

1. *That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings;*

Individually, the two parcels are 6,970 square feet and 12,197 square feet in size. Combined, the project site is less than a half-acre, which is relatively small for a multi-family zoned site. By combining the two properties, the site is more developable but becomes irregularly shaped and narrower along the front property line than the along rear.

2. *The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;*

R-3 zoned properties along 5th Street have a variety of setbacks. Directly west of this site, the buildings are approximately 30' from 5th Street. On the north side of 5th Street and to the west, front setbacks vary from approximately 26' for the single-family home down to 11' for multi-family units.

3. *The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;*

A range of front building setbacks exist along 5th Street, and granting of this Variance would not create conditions that are inconsistent with other R-3 zoned properties in the vicinity.

4. *A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.*

The small size and shape of the project site are not self-imposed by the property owner. These infill parcels have been vacant for over 22 years, which speaks to the difficulty developing the site with the current R-3 development standards.

Conclusion

Based on the information provided by the applicant and the above analysis, staff recommends approval of the requested Variance. This request meets the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.**CONDITIONS OF APPROVAL:**

1. Development shall be in substantial conformance with the site plan dated September 1, 2015, subject to further review and approval by the Development Review Commission. The setback may not be reduced further without approval of another variance.
2. This Variance is valid only after a Building Permit has been obtained, the required inspections have been completed, and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention is required to be accomplished on this Site.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

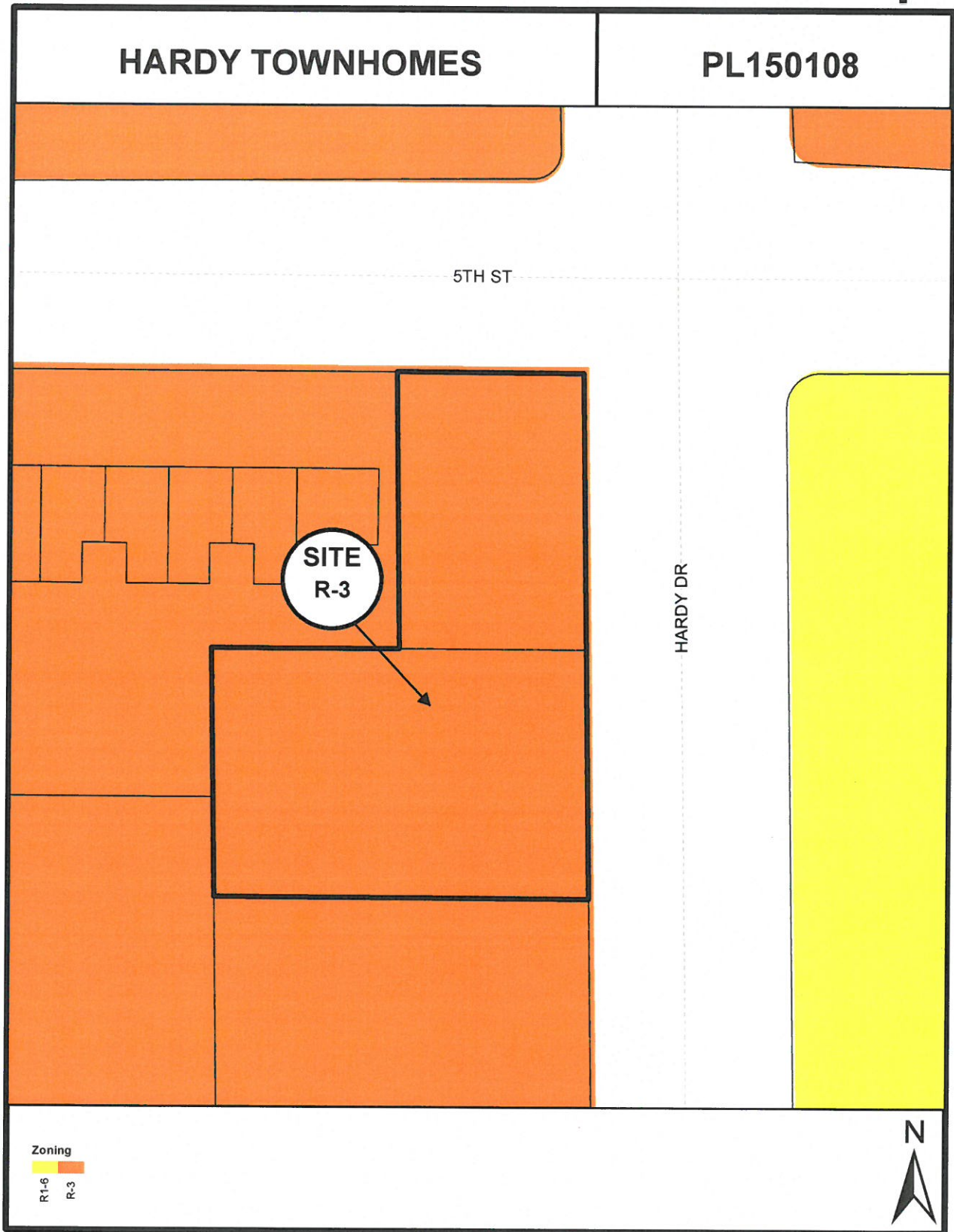
- Specific requirements of the **Zoning and Development Code (ZDC)** are not listed as a condition of approval, but will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check submittals, become familiar with the ZDC. Access the ZDC through www.tempe.gov/planning/documents.htm or purchase from Development Services.
- **SITE PLAN REVIEW:** Verify all comments by the Public Works Department, Community Development Department, and Fire Department given on the Preliminary Site Plan Reviews dated April 8, 2015 and August 13, 2015. If questions arise related to specific comments, they should be directed to the appropriate department, and any necessary modifications coordinated with all concerned parties, prior to application for building permit. Construction Documents submitted to the Building Safety Department will be reviewed by planning staff to ensure consistency with this Variance approval prior to issuance of building permits.

HISTORY & FACTS:

None pertinent to this request.

ZONING AND DEVELOPMENT CODE REFERENCE:

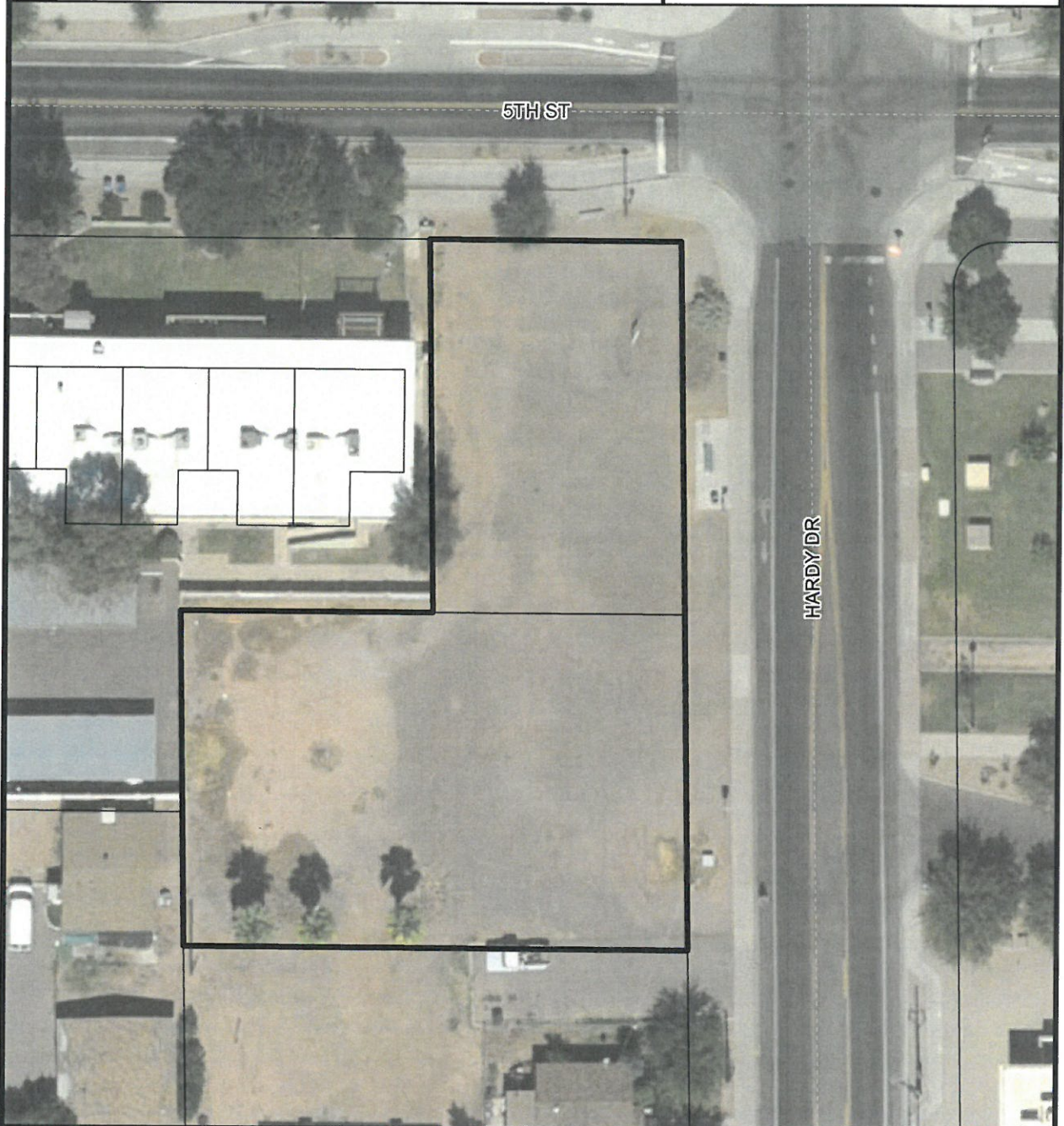
Section 4-202, Table 4-202B – Development Standards in Multi-Family Districts
Section 6-309 Variances



Location Map

HARDY TOWNHOMES

PL150108



Aerial Map

**LETTER OF EXPLANATION
VARIANCE**

Hardy Townhomes
506 South Hardy Drive
Revised September 2015

Project Description

The purpose of this application is to seek approval of a variance to reduce the required front yard setback from 20 ft. to 10 ft. An application for Development Plan and an application for approval of a Use Permit approval (to increase building height 10% or 3 ft.) will be submitted to the Development Review Commission.

Highway Fourteen, Inc. and Urban Heart Homes, are planning to develop eight (8) "for sale" townhomes on a vacant 0.44 acre site zoned R-3 at the southwest corner of West 5th Street and South Hardy Drive. The subject site is "L"-shaped and comprised of two small parcels that were each originally developed with a single structure prior to 1949 when much of this area was open fields being farmed. Today, the subject site is zoned R-3, which allows 20 du's/ac. and the City's General Plan designates the property for residential development of up to 25 du's/ac. Eighteen (18) du's/ac. are proposed.

The design of these townhomes is contemporary in nature with second and third floor balconies having inset windows and doors on the east façade facing the street. This encourages a visual connection between the townhomes and the street and fosters "eyes on the street" environment which increases safety for both pedestrians and other properties in the area.

The ground floor of each townhome is clad in brick, which, combined with the proposed landscaping, creates a very attractive pedestrian experience at the street level as well as a clearly defined base to the overall look of the townhomes. The entrance to each townhome is screened by landscaping and partial walls to ensure privacy from the street. For homeowner convenience, the refuse enclosures have been brought to the front of the units that face Hardy and are attractively screened.

The second and third floors of each townhome are a combination of stucco, Trex, and glass. The Trex cladding articulates the more utilitarian elements within each unit (such as kitchens, bathrooms and storage), clearly separating the living spaces and providing articulation for the east elevations facing the street. The main living space on the second floor of each townhome features a glass roll-up door which opens to a small balcony. This feature provides a unique selling point for each unit and, during times of excellent weather, a great connection to the street and the outdoors.

The garages of each home are oriented to and accessed only from the interior of the site, which leaves the streetscape to the pedestrian and hides most of the vehicular activity from street view. This also minimizes the conflicts between pedestrian and vehicles. Fire truck access is provided on the north side of the site, but the entry/exit

for all other vehicles is in the southeast corner of the site, directly across from the driveway to the nearby park. Although not required, the project provides three (3) visitor parking spaces.

These proposed eight (8) high quality townhomes comply with the General Plan's designation of residential development up to 25 units per acre on the property and, at 18 du's/ac. is less than the 20 units per acre allowed by the site's existing R-3 zoning.

Unfortunately, the site is small and irregularly shaped with the portion of the site fronting onto Hardy Dr. narrow and shallow. The property has been passed over for redevelopment for approximately 25 years. The reasons for the site remaining vacant and unused during the decade long revitalization of Tempe's beautiful downtown area relate to its size, which cannot be enlarged, narrowness and irregular shape. No one has been willing to creatively tackle these issues until now.

It is a City goal to develop infill residential properties, where appropriate, with ownership housing. This design is the only legitimate way to develop the property in a manner encouraged by the General Plan and allowed by the existing zoning. Driveways for these eight units are placed internal to the project thus consolidating what would otherwise be a series of residential driveways accessing directly onto Hardy. This design is consistent with Sec. 30-24 of the Subdivision Ordinance, which discourages driveways backing onto to thoroughfares. The project's creative design also eliminates the typical garage dominant approach. Dropping another unit to pick up 10 ft. of setback would eliminate the viability of the project. This single family, urban style, ownership redevelopment project is already below both the allowed zoning and the General Plan density designations.

In order to develop the site in its current design, relief from one development standard is necessary. Specifically, we are requesting:

- 1) Approval of a variance to allow a 10 ft. deep front yard on 5th St.

The 10 ft. setback on 5th Street is not inconsistent with other properties developed along 5th St. where there is a variety of larger and smaller front yards and 10 ft. deep side yards. This project's design also provides almost 6,000 square feet of landscaped open space, which is 5.7% greater than the area required by ordinance.

Very small and irregularly shaped infill sites like this one are the most difficult types of properties to redevelop as evidenced by the site's vacant, blighted condition over the decades, while numerous beautiful new downtown projects have been constructed. In some cases, there is market pressure to develop such challenges infill sites with much higher apartment level density that is not complimentary to the surrounding area.

In this instance, this redevelopment proposal is consistent with the new development coming into this area of the Downtown and these ownership style townhouses are consistent with City Council's goals and the design is complimentary to the area. Long

vacant property developed as proposed here will have a positive influence on both livability and property values of the area.

Variance vs. PAD Overlay

Entitlements to develop and/or use property come in various forms and types. A PAD overlay is certainly an appropriate entitlement to modify development standards for unique developments and situations. However, rezoning property to a PAD is utilized when a number of development standard deviations that are necessary for the project because it just can't fit in the underlying zoning. In this case, however, the property owners worked diligently with the City in the design phase to eliminate all of the original deviations to just the one setback issue. The effort to eliminate those original deficiencies was challenging given the properties small size, limited depth and configuration. These property dimensions, even after the assemblage of two parcels, would make virtually any attempt to develop the property under the existing R-3 impossible and in fact, the property lay vacant as a blighting eyesore for decades. We felt these property constraints constituted a valid basis for a single deviation, so this approach made much more sense to pursue.

The area has a mix of smaller and larger lots, smaller and larger developments; all a result of this area's conversion from agriculture uses in the 1930 and 40's to a suburban style of development and now to a semi-urban setting. Relief granted through a PAD or a variance entitlement process is still relief if granted for the same purpose – to overcome a hardship. Approval of this variance will also not constitute the conferring of special privileges because it is also being granted to help enable the private sector to make progress in advancing the City Council's goal to add high quality home ownership opportunities in the City especially in and near Downtown.

Reduce the Front Setback to 10 ft., 20 ft. Required:

1. *That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings.*
- Property is narrow, small and irregularly shaped. The site cannot be increased in size.

In our view, the property is small at .44 acres. The Zoning Ordinance does set forth standards for "net site area" (as in the single-family districts) or "lot area" (as in the multi-family districts) to regulate density. While a 6,000 or 7,000 sq. ft. single-family net site area can be developed with a reasonably sized house, the lot area requirement in R-3, 2,180 sq. ft., won't yield a reasonably sized or functional group of multi-family ownership townhome units after the front side and rear yards are applied. In fact, after those

setbacks are applied to a 2,180 sq. ft. lot, only 400 sq. ft. would remain which is clearly not a reasonably sized structure for buyers in this day and age and semi-urban setting.

So these are very small lots for a multi-family development either as separate lots or combined. By combining lots, more lot design efficiencies can be achieved including a density consistent with the R-3 zoning district and the General Plan. The granting of this one variance helps overcome a property hardship and helps the City achieve a goal of more home ownership at the higher density envisioned by the City in the R-3 district, especially just west of the Downtown.

In terms of the properties being irregularly shaped, this is really a Catch-22. Should these lots be redeveloped as they exist today with a few units at a density far below the City's General Plan designation and the underlying zoning? Obviously, if feasible development could occur on either of the two parcels under the R-3 zoning, it would have occurred over the last decades. So, the alternative chosen here is to assemble the parcels into one parcel to gain site planning efficiencies and build ownership housing much closer to the General Plan density.

The redevelopment or revitalization of this type of blighted infill parcel is a very challenging task. The City raised expectations by adopting an allowed density of up to 25 units/acre in the area. The City has long encouraged higher density ownership housing in this area of the City, just $\frac{3}{4}$ of a mile from all of the retail, restaurant, recreation and government venues of the Downtown – along with the City's desire to foster use of alternate modes of transportation, including the mass transit line.

If in the analysis of hardship for a variance, small parcels can't be combined, the City will likely end up entertaining development proposals for much lower density since the sites are so small as to not be attractive development sites and also wouldn't warrant a full rezoning effort. Developing these properties individually, would reduce site planning efficiencies substantially and result in roughly 4 fewer units being built; and those units would be duplex rental units- not ownership.

Once built, these lower density developments can be expected to last for another 30 plus years thus defeating the General Plan density goals. The prospects of the property continuing to be a blight would be high given that it has remained vacant through an intense and extended period of growth for Tempe.

Consolidating the lots is the only realistic way to attempt to implement the City's General Plan designation and its many downtown and multi-modal transportation goals and objectives.

Without this relief on just one development standard, this development will not be feasible. All of these factors constitute a unique hardship that has defied development of the site for decades and which can be expected to continue without this single variance.

2. *The strict application of the Ordinance will deprive such property, of privileges enjoyed by other properties in the same classification in the same zoning district.*

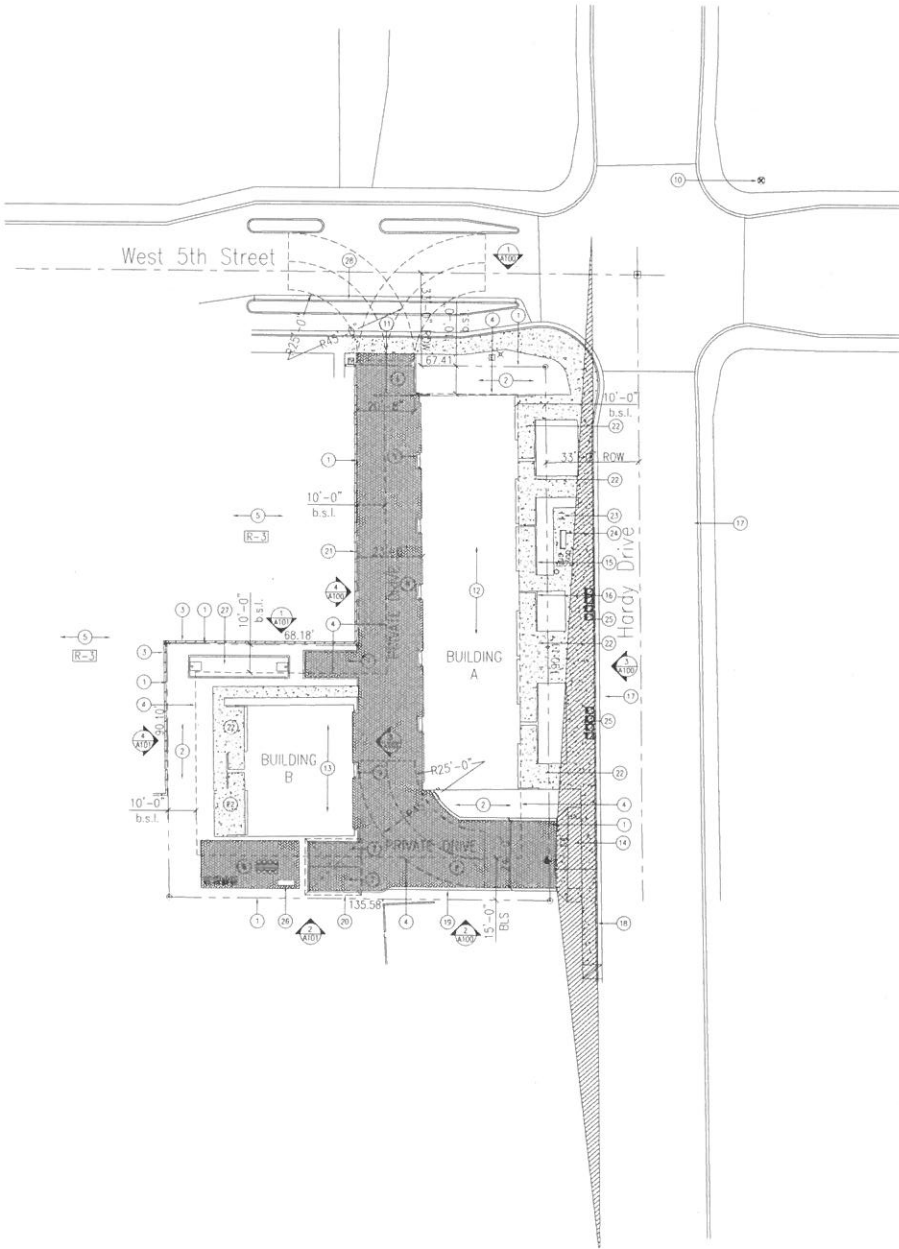
- The General Plan and the existing zoning allow density that cannot be achieved thru the strict application of the Ordinance.
- Tremendous effort has gone into this design by both Staff and the applicant to comply with the Ordinance in all respects but this one element. Reducing the overall unit count of only eight townhomes or reducing the width of the units to compensate for the 10 ft. reduction will in turn reduce the size and quality of the units and make this home ownership project no longer economically viable.

3. *The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;*

- Approval of the variance will not result in a density increase. It may be possible for an alternate rental product to be designed on the property, but that would be inconsistent with City Council objectives for ownership infill development. This proposal will make an excellent re-use of this long vacant and blighted property at 5th Street and Hardy that may serve as a catalyst for continuing beautification of the area.
- We accept that many R-3 zoned properties do not achieve the maximum density allowed by the R-3 zoning district and neither does this development proposal. The R-3 zoning allows up to 20 units per acre; this development is proposing 18 units per acre. The area has a mix of smaller and larger developments. This is a result of the conversion from agriculture or ranch uses in the 1930 and 40's to a suburban and then now a semi-urban setting. Approval of this variance will not constitute the conferring of special privileges because it would be granted on a case by case basis to overcome a hardship and advancing the City Council's goal to add high quality home ownership opportunities in this area near Downtown, with all of the City objections previously returned.

4. *A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.*

- First, no improvements on the property currently exist that require this variance. However, the size and narrow, shallow nature of this parcel make it extremely challenging to design any type of higher density ownership housing that would be compatible with the high quality City's General Plan or design objectives.
- Secondly, the development standard for which we are seeking relief is a standard designed for a suburban setting. In this instance, we not only have a property hardship that warrants a variance, we have a suburban development standard being applied to a development proposed in an area transitioning to a semi-urban setting. Requiring the applicant to seek the relief that is being requested thru an entire rezoning process is a burden on the applicant and the City when actually the variance process is appropriate and feasible.
- Thirdly, approval of the variance does not increase density, it helps achieve City goals and objectives for infill property by vastly improving the quality of the type of housing that would be developed on the property.



PROJECT TEAM

OWNER Hardy Townhomes
506 South Hardy Drive
Tempe, Arizona 85281

ARCHITECT TOMCAK DESIGN, P.C.
4368 North Civic Center Plaza Suite 201
Scottsdale, Arizona 85251
phone: 602.751.2543
contact: jae@tomecak.com

SCOPE OF WORK

(B) Eight dwelling unit townhome development.

Site Plan Notes:

1. Property line.
2. Provide landscape area.
3. Existing 6'-0" high CMU wall.
4. Building setback line.
5. Not part of this project.
6. Emergency vehicle exit only.
7. Guest parking.
8. Decorative pavers.
9. Landscape planter, typical.
10. Existing fire hydrant.
11. Emergency exit gate, 20'-0" wide wheel open with Fire Dept. system.
12. Proposed six (6) unit building.
13. Proposed two (2) unit building.
14. New driveway per City of Tempe standard detail 1-100.
15. 8'-0" high green screen wall, typical.
16. 8'-0" high brick refuse enclosure, typical.
17. Existing brick fence.
18. Sight visibility triangle.
19. New curb.
20. Shade canopy over parking spaces.
21. Existing CMU wall, paint color to match building.
22. Concrete pads.
23. Bike rack.
24. Existing bus stop.
25. Designated trash bin location on pickup days only.
26. Building on BRD.
27. Sport court.
28. Replace existing vertical curb with rolled curb.

PROJECT DATA

PROJECT NAME: Hardy Townhomes
ADDRESS: 506 South Hardy Drive
Phoenix, Arizona 85281
APN: 124-36-008 and 124-36-017
PROJECT SITE AREA: 19,167 s.f. (0.44 acres)
PROPOSED USE: Townhome
BUILDING AREA:
EAST BUILDING: 5,374 s.f. footprint
WEST BUILDING: 1,787 s.f. footprint
TOTAL: 7,161 s.f.
SPRAWLNESS: Yes
LANDSCAPE STANDARDS:
LANDSCAPE AREA REQUIRED: 4,792 s.f. (min. 20%)
LANDSCAPE AREA PROVIDED: 5,888 s.f. (50.7% provided)
LANDSCAPE AREA IN R.O.W.: 0
LOT COVERAGE: 38%
BUILDING SETBACKS:
REQUIRED: 10'-0"
PROVIDED: 10'-0"
ZONING: R-3
CONSTRUCTION TYPE: V-B
STORIES: Three
TOTAL NUMBER OF UNITS: (8) = eight
DENSITY:
ALLOWED: 20 DU/acre
PROVIDED: 18 DU/acre

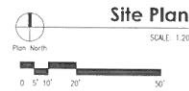
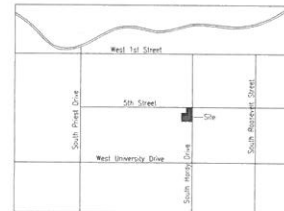
PARKING REQUIRED:
RESERVED PARKING (2.0 PER UNIT) 16 spaces
GUEST PARKING (0 PER UNIT) 0 spaces
TOTAL PARKING REQUIRED: 16 spaces
PARKING PROVIDED:
RESERVED PARKING PROVIDED: 16 spaces
GUEST PARKING PROVIDED: 3 spaces
TOTAL PARKING PROVIDED: 19 spaces

VARIANCES: Front yard setback reduction from 20'-0" to 10'-0"
BUILDING HEIGHT: Allowable Bldg. Height: 30'-0"
Actual Bldg. Height: 33'-0"
REFUSE: Street pickup

CODE REVIEW

AUTHORITY: City of Tempe, Arizona
CODE: 2012 International Building Code w/Amendments
2012 International Fire Code
2012 International Mechanical Code
2012 International Plumbing Code
2011 National Electrical Code
2012 International Conservation Code
OCCUPANCY USE: Non-separated

VICINITY MAP



PROJECT: Hardy Townhomes
506 South Hardy Drive
Tempe, Arizona 85281

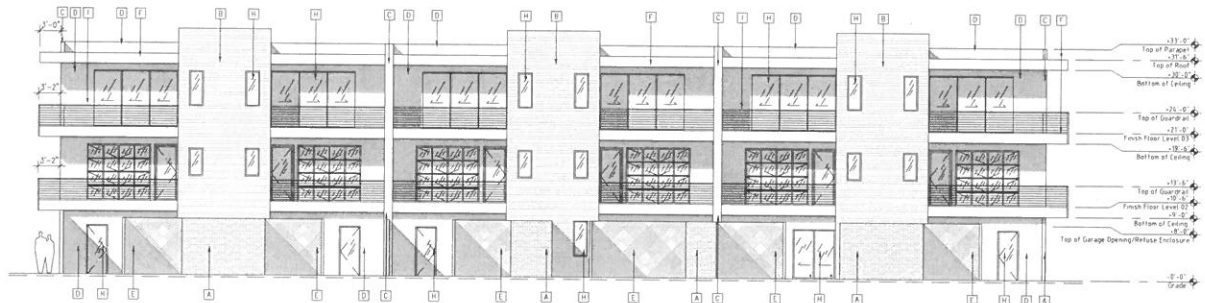
CONTRACT: SITE PLAN

REV. #: 1505

DATE: 09.07.2015

VERSION:

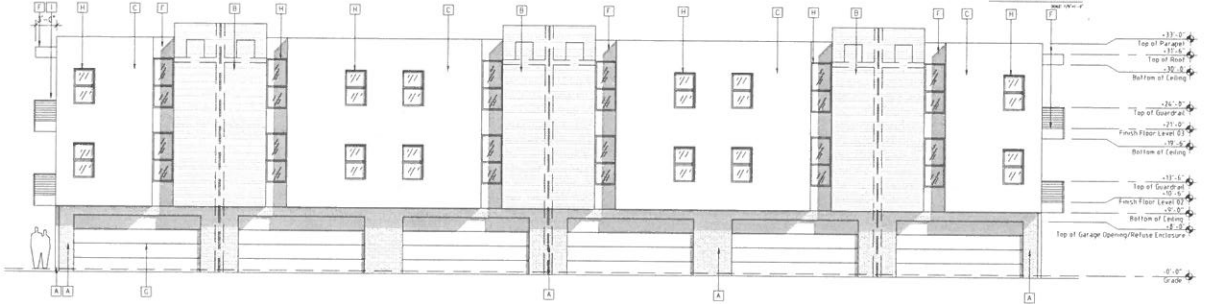
Sheet No. SP 100



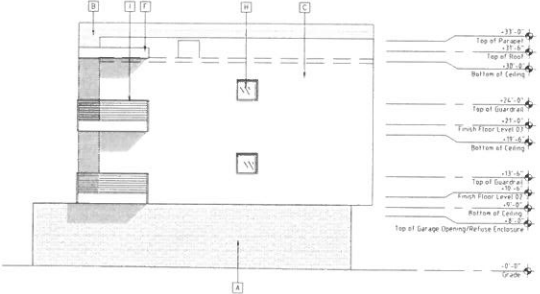
3 East Elevation Enclosures & Walls



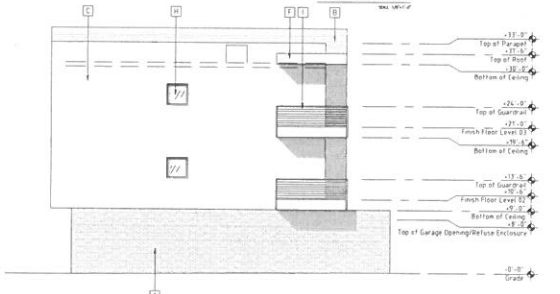
3 East Elevation



4 West Elevation



1 North Elevation



2 South Elevation

MATERIAL SCHEDULE

	MATERIAL
A	2 1/4" Modular Brick - typ. Imperial Brick Arctc. White
B	Composite Planks - typ. Trox Winchester Grey
C	Painted Stucco - typ. Dunn Edwards Antique Paper DE6218
D	Painted Stucco - typ. Dunn Edwards Porous Stone DE6220
E	Freestanding Green Facade Trellis Panel - typ. GreenScreen Green S1320
F	Metal Trim - typ. Color: hot roll sanded
G	Garage door - typ. Dunn Edwards black jute DE6311
H	Aluminum floor & window - typ. Dark bronze
I	48" high railing (typ.) with Acrylic cable @ 3" o.c.



**TOMECAK
DESIGN**

4368 North Civic Center Plaza, Suite 201
Scottsdale, Arizona 85251
TEL: 480.519.7755 | FAX: 480.718.8387



EXPIRES: 3.31.2017

PROJECT: **Hardy Townhomes**

505 South Hardy Drive
Tempe, Arizona 85281

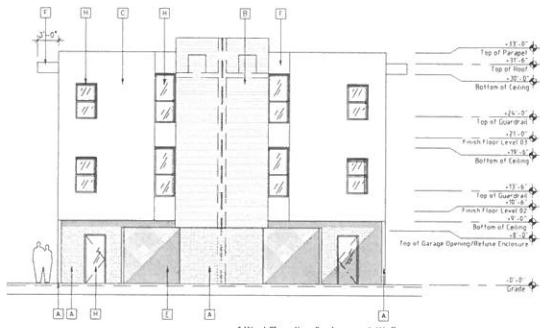
CONTENTS: **BUILDING ELEVATIONS
BUILDING A**

JOB #: 1505

DATE: 09.21.2015

PREPARED:

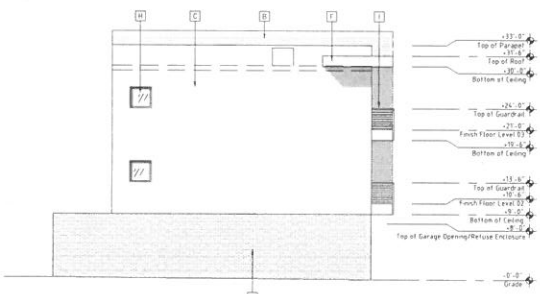
SHEET NO: **A 100**



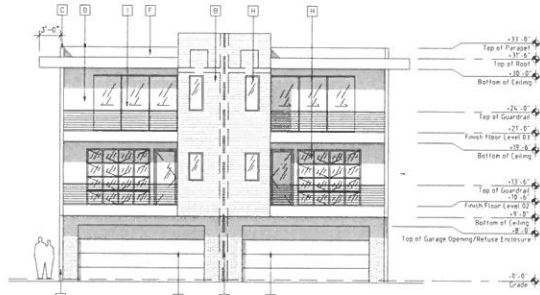
4 West Elevation Enclosures & Walls
Scale: 1/8" = 1'-0"



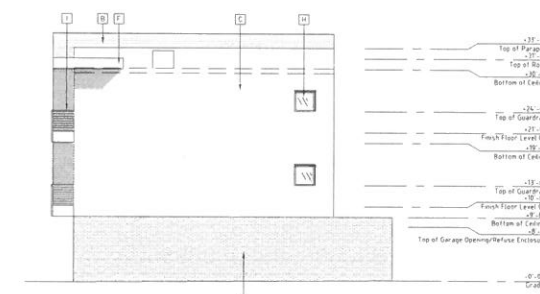
4 West Elevation
Scale: 1/8" = 1'-0"



2 South Elevation
Scale: 1/8" = 1'-0"

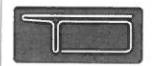


3 East Elevation
Scale: 1/8" = 1'-0"



1 North Elevation
Scale: 1/8" = 1'-0"

MATERIAL SCHEDULE	
	MATERIAL
A	2 1/4" Modular Brick - typ. Interstate Brick Arctic White
B	Composite Planks - typ. Trex Winchester Grey
C	Painted Sluice - typ. Dunn Edwards Antique Paper DE6218
D	Painted Sluice - typ. Dunn Edwards Porous Stone DE6220
E	Freestanding Green Facade Trex Panel - typ. Greenscreen Green S1328
F	Metalsim - typ. Color: red oak stained
G	Garage door - typ. Dunn Edwards black jack DE6371
H	Aluminum door & window - typ. Dark bronze
I	48" high railing (typ.) with Arccraft cable @ 3" o.c.



TOMECAK DESIGN
4368 North Civic Center Plaza, Suite 201
Scottsdale, Arizona 85251
TEL: 602.919.7151 | FAX: 480.718.8387



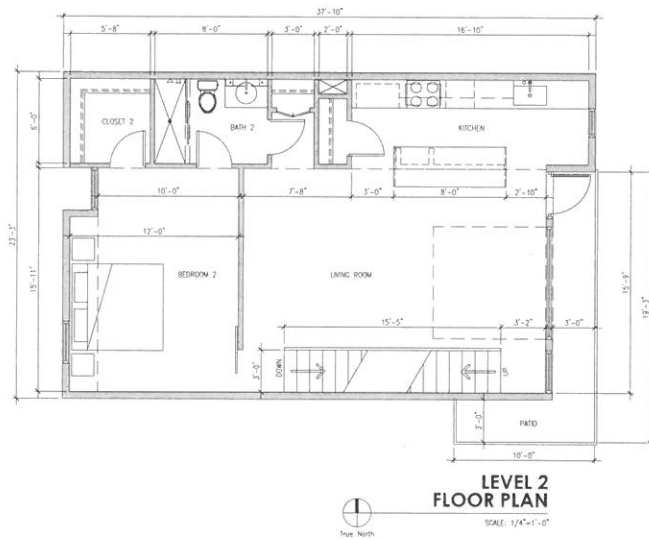
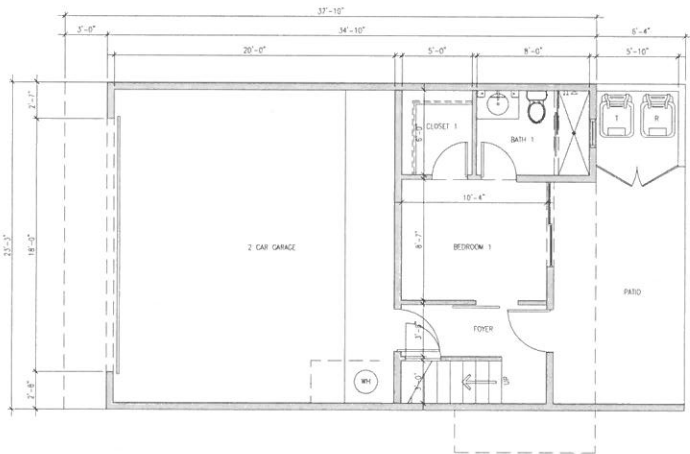
PROJECT: **Hardy Townhomes**
554 South Hardy Drive
Tempe, Arizona 85281

CONTRACT: **BUILDING ELEVATIONS
BUILDING B**

DATE: 09/17/2015

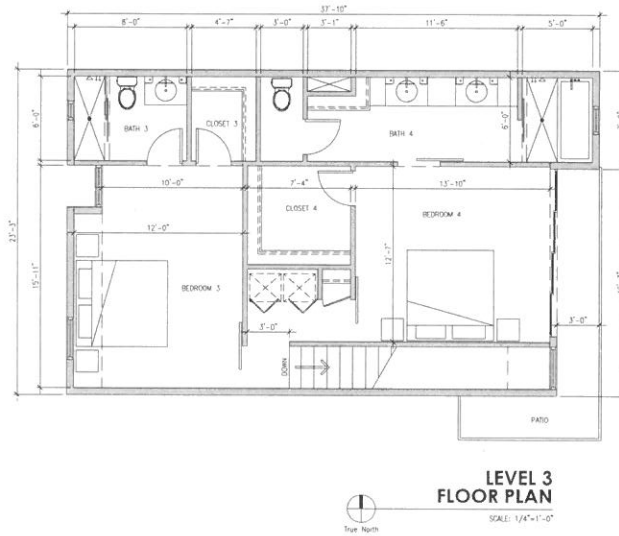
ISSUED:

SHEET NO: **A 101**



UNIT A

Level 1 Livable	245 sf
Level 2 Livable	770 sf
Level 3 Livable	770 sf
Total Livable	1,785 sf



4368 North Civic Center Plaza, Suite 201
Scottsdale, Arizona 85251
TEL: 602.619.7751 | FAX: 480.718.8387

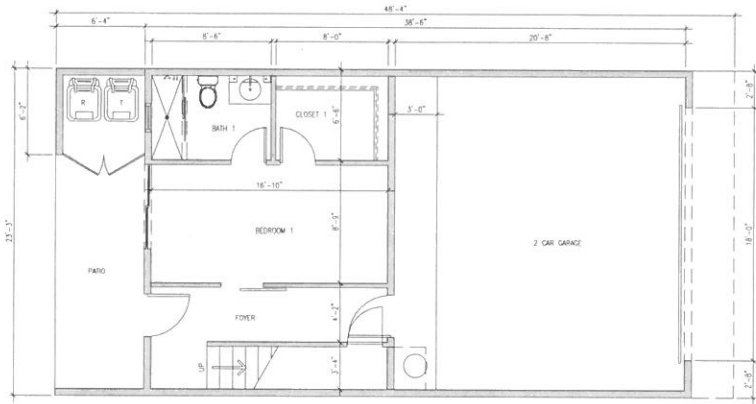


PROJECT: Hardy Townhomes
550 South Hinkle Drive
Tempe, Arizona 85281

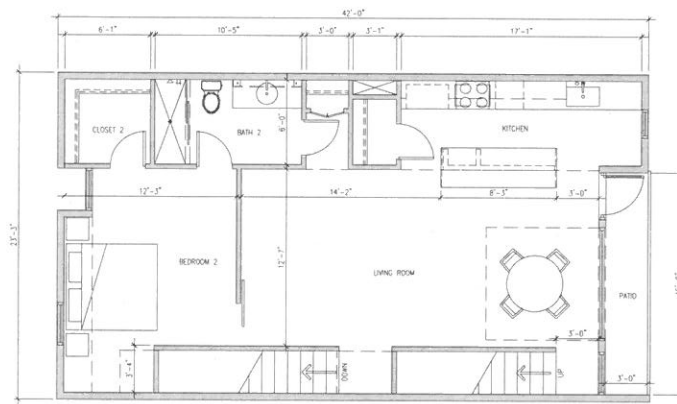
COMPANY: FLOOR PLAN
UNIT A

DATE: 10/31/2015

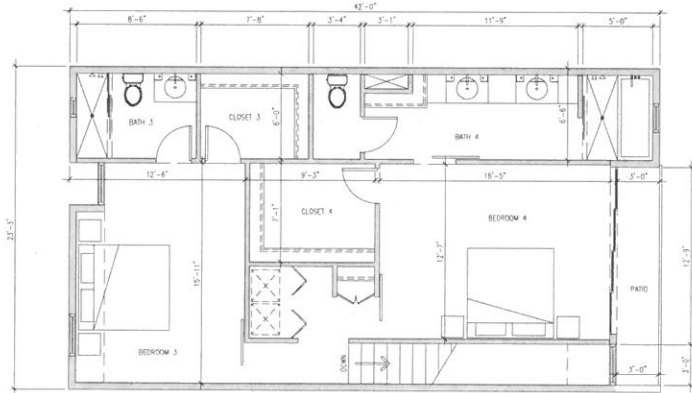
GRAPHIC: A 200



**LEVEL 1
FLOOR PLAN**
SCALE: 1/4"=1'-0"
True North



**LEVEL 2
FLOOR PLAN**
SCALE: 1/4"=1'-0"
True North



**LEVEL 3
FLOOR PLAN**
SCALE: 1/4"=1'-0"
True North

UNIT B

Level 1 Livable	274 sf
Level 2 Livable	862 sf
Level 3 Livable	863 sf
Total Livable	2,100 sf



PROJECT: **Hardy Townhomes**
108 South Wrentham Place
Phoenix, Arizona 85028

CONTRACT: **FLOOR PLAN
UNIT B**

REV. P: 1505

DATE: 09.01.2015

REVISED:

Overview: The purpose of this Public Involvement Report is to summarize efforts to inform surrounding property owners of the merits of this request for approval an 8 unit townhome development. This project seeks approval of a variance to reduce the front setback from 20 ft. to 10 ft. With this variance application, we are processing concurrent applications for Development Plan Review for a new townhome development and a Use Permit to increase building height from 30 ft. to 33 ft.

Contact:

Stephen C. Earl

3101 N. Central Ave. #1000

Phoenix, Arizona 85012

(602) 265-0094; (602) 265-2195 (FAX)

Email: gking@ecllaw.com

Pre-Application Meeting:

The first preliminary site plan review meeting on this site was held on April 8, 2015. Subsequent meetings and conversations have been held with Staff to address as many details of the project design as is possible at this stage of the entitlement process.

Summary of Outreach to Date: One neighborhood meeting has been held to provide an opportunity for surrounding owners to hear details about the proposal and ask questions to understand the elements of the proposed project and address any real or perceived impacts that the development might have on them. All persons listed on the contact list received a letter describing the proposed development and inviting them to the neighborhood meeting.

- The attached letter invitation letter was mailed August 24th to property owners within 600 ft. and registered neighborhood associations and HOA's within ¼ mile. The property was posted on August 21st.
- The Neighborhood Meeting was held at 310 South Mill Ave., Suite A-103 on September 9, 2015 at 6:00 p.m. for the adjacent property owners/residents and registered associations. Three (3) people attended, Karen Stovall of the City and a couple who live on Robert Road to the west.

Stephen Earl opened the meeting, reviewed the details of the proposal and entertained questions.

The couple listened to the presentation and made several comments:

1. We attended to make sure this proposal was a quality development. It seems that it is.
2. We really want to see something happen on that property; we are tired of it being vacant; they have lived in the area for 7 years.
3. What is the value?
Answer: The price is projected to be in the low \$400,000's.
4. We are in favor, this looks perfect.

A copy of the neighborhood meeting notification letter will include a description of requests, applicant contact information, the date, time and location of the meeting and sign-in sheet are attached.

Attachments:

- Copy of Final Neighborhood Meeting Invitation Letter
- Meeting Sign In Sheet
- Map of Properties Invited to Neighborhood Meeting and List of Same
- Affidavit of Sign Posting

3. Request approval for a variance to reduce the front yard setback from 20 ft. to 10 ft. for **HARDY TOWNHOMES (PL150108)** located at 506 South Hardy Drive. The applicant is Stephen Earl/Earl, Curley & Lagarde P.C.

Karen Stovall, Senior Planner, gave an overview of this case. She noted that Hardy Townhomes is a proposed eight lot townhome development located at the southwest corner of Hardy Drive and 5th Street and is zoned R-3, Multi-Family Residential Limited District. It is surrounded on the west and south by apartments, to the east, across Hardy Drive, by Jaycee Park, and to the north, across 5th Street by a new 19 unit apartment development currently under construction. This site has been vacant since 1993. The project consists of 2 parcels that the applicant intends to replat into 8 townhome lots. A DPR for approval of a site plan, building elevations and landscape plan and a use permit to increase the building height from 30 ft. to 33 ft. will be heard by the DRC at an undetermined future date.

Ms. Stovall explained that a Zoning Administrator Opinion pertaining to townhomes dated November 25, 2014 has the effect of measuring required building setback from the overall project boundaries instead of from individual townhome lot lines. As a corner lot, the front property line for this project is the north property line on 5th Street. A neighborhood meeting was held on September 9, 2015.

Ms. Stovall noted that there are several R-3 zoned properties along 5th Street that have a variety of setbacks that vary from approximately 30 ft. to 26 ft. to 11 ft.

Ms. Stovall noted that staff had recommended that the applicant process an application for a P.A.D. overlay, but it was the applicant's decision to apply for a variance instead.

Ms. MacDonald questioned what was the main distinction between a variance and a P.A.D. overlay.

Ms. Stovall responded that for a P.A.D. they have to show that it is a unique development and, based on their proposal, a deviation from the code would not provide a hardship on the neighborhood. Because of the quality of development it allowed deviation from the code.

Ms. MacDonald stated that when you talk about the quality of development justifying deviations from the development standards it sounds like a P.A.D. She noted that she did go to the ZDC and looked at the purpose and intent language of the P.A.D. and this would appear to be made for this process. Ms. MacDonald stated that she is going to talk to the applicant about this, but the letter of explanation went into why this is a variance, although a lot of the justifications seem to be related to a P.A.D. Even though the applicant is here this evening asking for a single variance for the setback, they are also asking for a height deviation at the DRC.

Ms. Stovall explained that next month they will take forward a development plan review and a use permit standard request to increase the building height by 3 feet.

Ms. Macdonald stated that, out of curiosity, why was the use permit standard not sought at the Hearing Officer?

Ms. Stovall responded that staff determined it would be best to go to the DRC because it is more of a design issue since it would change the height of the building. The Commission could look at that deviation along with the building elevations.

Attorney Earl was present to represent this case. He acknowledged his receipt of the Staff Summary Report and his understanding of the assigned Conditions of Approval provided within that report. The size and shape of the project site are not self-imposed by the property owner. He explained that the infill parcels have been vacant for over 22 years which indicates difficulty developing the site with the current R-3 development standards, and stated that a range of front building setbacks exist along 5th Street and this variance would not create conditions that are inconsistent with other R-3 zoned properties in the vicinity.

Attorney Earl stated that he had worked with Community Development staff for several months on this project and recognized that they had an unusual situation and setback challenges when they started the process. He presented a site plan that depicted the proposed project and stated that these eight (8) townhomes would beautify the area as well as develop an urban infill project that has been vacant for 22 years. In addition, Attorney Earl presented a photo simulation of the completed project to justify the quality of the proposed project. He stated that when combining the two (2) parcels, the project site is less than a half-acre and is irregularly shaped and narrower along the front property line than along the rear and that this results in a special circumstance.

Ms. MacDonald noted that she had been in her present position as Hearing Officer for 5 years and prior to that she had been a member of the Development Review Commission so she was well aware of the criteria for project(s) of this nature as well as the stipulations for variances. She questioned whether the other setbacks in the immediate area, which varied in dimensions, had been processed as variances.

Ms. MacDonald asked Ms. Stovall what recourse the applicant would have, should this request be denied. Ms. Stovall responded that the denial could be appealed to the Board of Adjustment, or the applicant could process a P.A.D. through the Development Review Commission.

Attorney Earl stated that it leads one to question why, when everything around it has been developed, why this property has remained vacant for so long and not been developed also. He explained that this was also an indication of special circumstances which would justify the granting of the requested variance.

Ms. MacDonald stated that she understood the economics of the case and loved the project; however she did not feel she had the flexibility to approve this request as she did not feel it met the criteria requirements for a variance. She indicated that this request could possibly be rolled into the existing DRC submittal process in some manner. She stated that she would deny the request, and the applicant could appeal to the Board of Adjustment, which was a larger body of seven (7) members who could determine the validity of whether the variance was applicable.

DECISION:

Ms. MacDonald denied the variance request for PL150108.

-
4. Request approval for a use permit to allow a rental storage facility for **US STORAGE CENTERS (PL150388)** located at 7310 South Priest Drive. The applicant is Manjula Vaz/Gammage and Burnham PLC.

Obenia Kingsbury II, Planner I, gave an overview of this case. He noted that this will be a self-storage facility in which customers can access from 7 AM to 10 PM daily and which is staffed from 9 AM to 5 PM Monday through Saturday and from 10 AM to 1 PM on Sunday. The site is located north of West Elliot Road on the east side of South Priest Drive in the PCC-1, Planned Commercial Center Neighborhood District. This project will convert a 2 story building that was originally built for a retail use into a rental storage facility. The applicant has a letter of support from Tom Angsted, the secretary for the Grove Parkway Homeowners Association.

Ms. Lindsay Schube of Gammage & Burnham PLC was present to represent this case. She acknowledged the proposed Conditions of Approval and receipt of the Staff Summary Report for this case.

Ms. MacDonald noted that she felt this was a well located project.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed use is not in conflict with the General Plan or the surrounding neighborhood.

ATTACHMENT ADDENDA NO. 1

- **Letter dated November 18, 2015 from Stephan C. Earl / Earl, Curley & LaGarde P.C. addressing appeal issue. (9 pages including attachments)**

EARL, CURLEY & LAGARDE, P.C.
ATTORNEYS AT LAW

Telephone (602) 265-0094
Fax (602) 265-2195
www.ecllaw.com

3101 North Central Avenue
Suite 1000
Phoenix, Arizona 85012

November 18, 2015

Mr. Jan Sell
Chairman of the Tempe Board of Adjustment
City of Tempe
Planning Division
31 East Fifth Street
Tempe, Arizona 85281

Re: PL150108; Hardy Townhomes 506 South Hardy Drive

Dear Mr. Sell and Members of the Tempe Board of Adjustment:

On Wednesday November 25, 2015, the Board of Adjustment will consider our appeal of the Hearing Officers denial of a request to reduce the required 20 feet front yard on 5th Street to 10 feet. The purpose of this letter is to supplement the narrative we submitted with our variance application to add information and perspective on the variance tests.

Background

Our client, Highway Fourteen, Inc. and Urban Heart Homes, are planning to develop eight (8) “for sale” townhomes on a vacant 0.44 acre site zoned R-3 at the southwest corner of West 5th Street and South Hardy Drive. The subject site is “L”-shaped and initially comprised of two small long vacant parcels. Today, the subject site is zoned R-3, which allows 20 du’s/ac., while the City’s General Plan designates the property for residential development of up to 25 du’s/ac. Eighteen (18) du’s/ac. are proposed.

This variance was requested only after working at length with Staff to bring the proposed site plan into conformance with the Zoning and Development Code, except for this one element. Over months of effort, the owners were able to refine the site plan such that only this one development standard adjustment was needed; a setback reduction not unlike others the City has approved in similar unique circumstances.

Unique Circumstances

As noted, the subject site is small and irregularly shaped with the portion of the site fronting onto Hardy Drive being shallow and narrow. If these long vacant and blighted parcels are not able to be redeveloped together it would be virtually impossible to develop them under the underlying R-3 zoning, in a manner consistent with the area and General Plan. That is especially true of the corner parcel at 5th Street and Hardy Drive, and located at the intersection of two collector streets. That is why the property has been passed over for redevelopment for

approximately 25 years. The reasons for the site remaining vacant and unused during the decades of revitalization of Tempe's beautiful downtown area relate back to its size, which cannot be enlarged, narrowness and irregular shape. The subject property cannot be expanded as it is completely surrounded by the Hardy Village apartments and the Town Lake Condominiums.

Housing choices have evolved significantly in the last 25 years – especially ownership housing as is being proposed here. Given the choices available to the owners of these two parcels, the only reasonable choice was to combine them to create a slightly larger parcel with a chance for infill redevelopment, even though oddly shaped. With all the design effort for this infill ownership project to seek compliance with all development standards (except one), it would be burdensome to then require this challenged parcel to seek a PAD overlay to obtain relief from one setback standard for 5th Street that was consistent with other setbacks on 5th Street.

The ownership units being proposed have 1,800 and 1,900 livable sq. feet and will be priced at roughly \$400,000-450,000. These proposed units are designed with most of the livable space above the 2 car garage in a total of 3 floors. The adjacent condominium units to the west are 864 sq. feet in size, were built in 1962 and were converted to condominiums in 2000. The addition of these eight quality ownership townhouse units on a small downtown infill parcel will be a significant lifestyle boost to the area.

The pre-existing location of the off-site driveway to the south is a significant impediment to redevelopment. That off-site driveway is located very close to the subject site. Because of that driveway's proximity to the subject site, the City is requiring the new proposed driveway to be located ten (10) feet farther north than anticipated. This is to maintain a flat section of sidewalk to meet ADA requirements. This in-turn shifts the six (6) units 10 feet closer to 5th Street. The City has already agreed to allow a 24 feet wide driveway, when it would have preferred a 30 feet wide, because Staff is cognizant of the constraints associated with such small parcels. The width of the proposed units cannot be reduced in size because the garages are at the minimum garage width required by the City.

Compounding this property hardship is the requirement to meet the required turning radius on site for a fire truck. Even though Fire Staff has indicated the site is so small, they may actually fight any fire from the two adjacent streets, an on-site fire lane and turning radius must still be provided.

Again, the pinch point is the required 20 feet deep front yard setback on 5th St. All other setbacks have been met and in this instance the street cross section is a bit unusual. There is actually 21 feet of excess right-of-way from the property line of the subject site to the actual street curb for 5th Street and 9-10 feet from the subject site's north property line to the inside curb of a bike lane pull-out lane. Functionally, this equals a setback from 5th Street of approximately 19-20 feet from the inside curb of the bike lane, which is an unusual configuration being separated from the street. Thus, the full setback from street curb to the first building is close to 31 feet. We believe these unique circumstances justify a reduced townhouse building

setback to 10 feet to the property line, because the functional appearance of the building setback is almost 31 feet from the street curb, which meets the purpose of a setback.

No one has been willing to creatively tackle the challenging site issues associated with these blighted properties until now. The area has a mix of smaller and larger developments; all the result of this area's conversion from agriculture uses in the 1930's and 40's to a suburban setting and now to a semi-urban setting. Approval of this variance will also not constitute the conferring of special privileges, because other properties in the City have obtained various levels of setback variance relief. In addition, several other properties in the immediate area of this property along 5th Street and Hardy Drive (including City property) have street setbacks similar to this request (see attached Area Map with Dimensions).

Finally, this relief will enable the private sector to fulfill a long held City goal to bring new, high-quality home ownership opportunities to infill sites in and near the Downtown. This design is the only legitimate way to develop the property in a manner encouraged by the General Plan and allowed by the existing zoning. Removing a unit just to pick up 10 feet of setback in these very unusual circumstances would eliminate the viability of the project, leaving these parcels vacant and blighted. And this single family, urban style, ownership townhome project is already below both the allowed zoning and the General Plan density designations.

In summary, our satisfaction of the four variance tests is as follows:

1. That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings.

- Property is narrow, small and irregularly shaped. The site cannot be increased in size. The proximity of the off-site driveway to the south causes the subject site's new driveway to be 10 feet farther north than would otherwise be necessary – the same amount of setback reduction being requested. Even with this setback reduction of 10 feet, the unique street configuration at this corner with a protected bike lane and large amount of excess right-of-way will still allow the building to be 31 feet from the street curb, meeting the intent of the setback.

2. The strict application of the Ordinance will deprive such property, of privileges enjoyed by other properties in the same classification in the same zoning district.

- Similar variances have been granted by the City for unique circumstances¹. The subject site is the only irregularly shaped vacant site in the area. Without relief the subject site, and even the individual parcels, will not be developed – it just isn't feasible from a market standpoint as well as the location – at the intersection of two collector streets.

¹ A variance was approved to reduce the require front yard of a single family lot from 20 feet to 10 feet at 534 W. 15th Street and variance relief was granted for a new multi-family development to reduce rear yard and side yards from 30 feet to 10 feet at 1245 E. Broadway.

Without relief, 25 years of history tells us that the property will remain vacant and blighted, which in turn hurts the values and livability of the area.

- Reducing the overall unit count of only eight townhomes or reducing the width of the units to compensate for the 10 foot reduction will in turn reduce the size and quality of the units (and compromise the garages) thus making this home ownership project no longer viable.

3. The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

- The City has approved similar requests for limited relief through the variance process. Moreover, other nearby properties on 5th Street and Hardy (including a City owned parcel) have street setbacks similar and/or less than proposed (see Area Map with Dimensions).
- Approval of this variance will not constitute the conferring of special privileges because it would be granted on a case by case basis to overcome a unique property hardship and advancing the City Council's goal to add high quality home ownership opportunities in this area near the Downtown. And again, the density being sought of eight townhomes is greatly below both the allowed density of the underlying R-3 and the General Plan density.

4. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.

- The unusually small size and narrow, shallow nature of this passed over infill parcel make it extremely challenging to design any type of higher density ownership housing that would be compatible with the City's high-quality design objectives. In fact, the fact that the site has remained a vacant, blighted site for decades, evidences the difficulty of development. The property owner did not cause the existing off-site driveway to the south to be located so close to the subject site forcing this project's driveway to be pushed 10 feet to the north.
- Secondly, the setback standard from which we are seeking relief is actually a standard designed for a suburban setting. In this instance, we not only have a property hardship that warrants a variance, we have a suburban development standard being applied to a development proposed in an area transitioning to a semi-urban setting. Requiring the applicant to seek the relief that is being requested thru an entire rezoning process is an unnecessary burden on the applicant where the variance process is appropriate and justified as noted above.

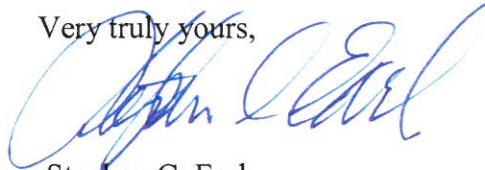
November 18, 2015

Page 5

- Thirdly, approval of the variance does not increase density; it helps achieve City goals and objectives for ownership housing on infill properties without increasing the density through rezoning or general plan amendment.
- Finally, developing the two elements of the property separately with multi-family project isn't feasible as they are far too small for viable development. The only legitimate chance for redevelopment comes with the combination of the parcels into one.

We hope you find this information helpful to you as you consider this request. We look forward to presenting this request to you on November 25th.

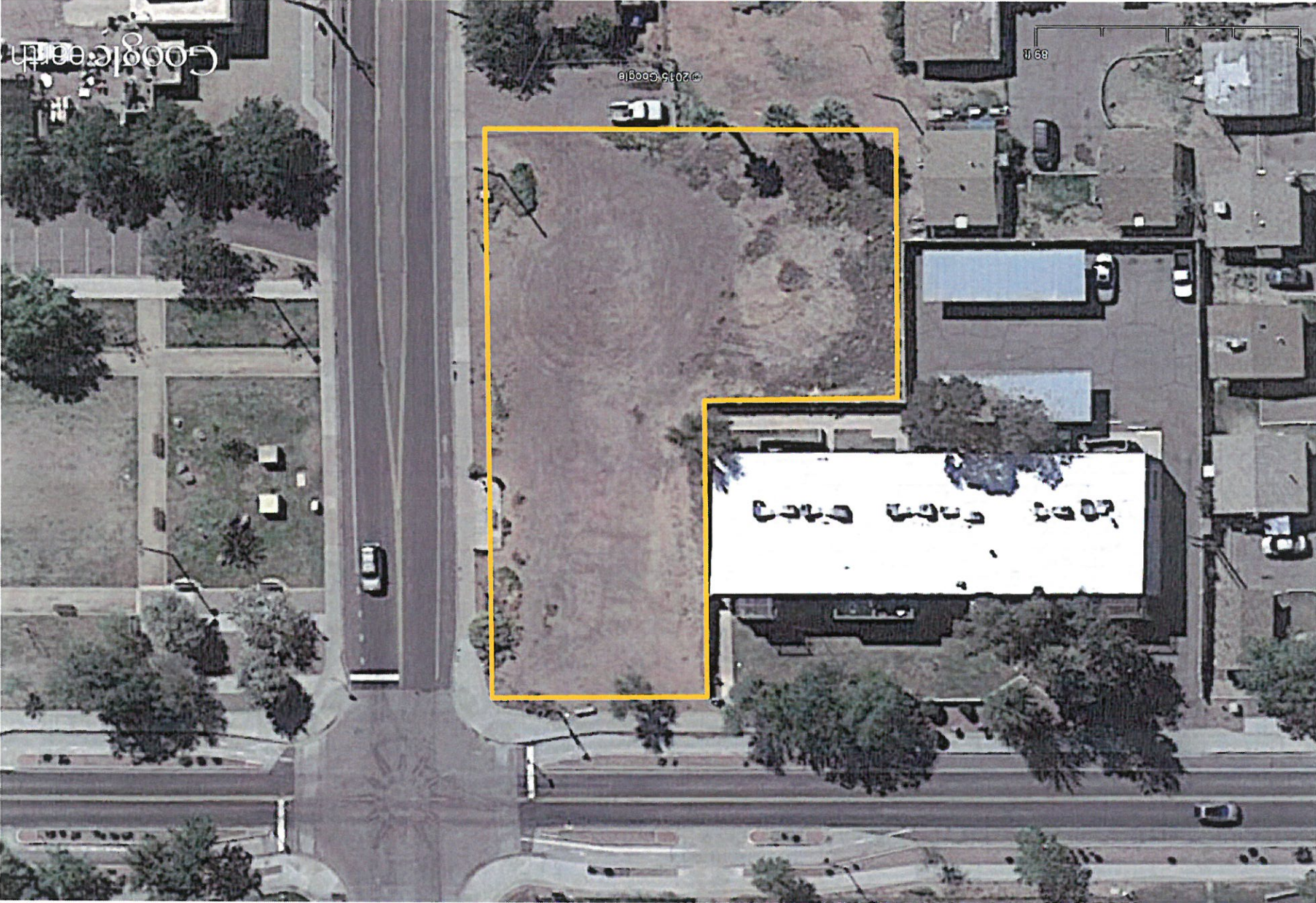
Very truly yours,



Stephen C. Earl

Area Map with Dimensions





Aerial of Protected Bike Lane

506 South Hardy Drive
Tempe, AZ 85281

October 20, 2015

colored site plan
not to scale

exhibit 01



T
D
10



