

ORDINANCE G-6059

AN ORDINANCE AMENDING CHAPTER 41, PART II, OF THE PHOENIX CITY CODE (ZONING ORDINANCE) BY AMENDING SECTION 601 (ZONING MAP) TO CHANGE THE ZONING DISTRICT CLASSIFICATION FOR THE PARCEL DESCRIBED HEREIN (CASE Z-8-15-4) FROM C-1 (NEIGHBORHOOD RETAIL) TOD-1 (INTERIM TRANSIT-ORIENTED ZONING OVERLAY DISTRICT ONE) AND P-1 (PASSENGER AUTOMOBILE PARKING, LIMITED) TOD-1 (INTERIM TRANSIT-ORIENTED ZONING OVERLAY DISTRICT ONE) TO PUD (PLANNED UNIT DEVELOPMENT).

---

WHEREAS, on February 12, 2015, the City of Phoenix Planning and Development Department received a written request for rezoning from Gammage & Burnham, having authorization to represent the owner, Stewart Title & Trust, of an approximately 3.17 acre property located at the northeast corner of 3rd Avenue and Osborn Road in a portion of Section 29, Township 2 North, Range 3 East, as described more specifically in Attachment "A", attached hereto and incorporated herein by this reference; and,

WHEREAS, pursuant to A.R.S. § 9-462.04, the Planning Commission held a public hearing on August 11, 2015 at which it recommended that the City Council approve this rezoning request with the recommended staff conditions, as modified; and,

WHEREAS, the City Council, at their regularly scheduled meeting held on September 30, 2015, has determined that, in accordance with A.R.S. § 9-462.01.F, this rezoning request, with the appropriate site specific requirements provided in Section 2, is consistent with and conforms to the General Plan, will conserve and promote the public health, safety and general welfare, and should be approved, subject to the conditions herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as follows:

SECTION 1: The zoning of an approximately 3.17 acre property located at the northeast corner of 3rd Avenue and Osborn Road in a portion of Section 29, Township 2 North, Range 3 East, as described more specifically in Attachment "A", is hereby changed from "C-1" (Neighborhood Retail) "TOD-1" (Interim Transit-Oriented Zoning Overlay District One) and "P-1" (Passenger Automobile Parking, Limited) "TOD-1" (Interim Transit-Oriented Zoning Overlay District One) to "PUD" (Planned Unit Development) and that the Planning and Development Director is instructed to modify the Zoning Map to reflect this use district classification change as shown in Attachment "B".

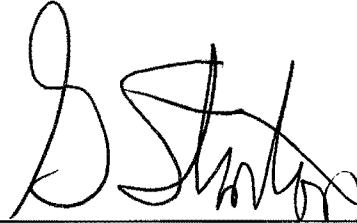
SECTION 2: The specific nature of the subject property and of the rezoning request is more particularly described in case file Z-8-15-4 on file with the Planning and Development Department. Due to the site's specific physical conditions and the use district applied for by the applicant, this rezoning is subject to compliance with the PUD narrative and the following stipulations, violation of which shall be treated in the same manner as a violation of the Zoning Ordinance:

1. An updated Development Narrative for the 3rd on Osborn PUD reflecting the changes approved through this request shall be submitted to the Planning and Development Department within 30 days of City Council approval of this request. The updated Development Narrative shall be consistent with the Development Narrative date stamped June 18, 2015, as modified by the following stipulations:
  - a. Page 24, Sustainability, third paragraph: Applicant shall replace word "preserve" with "retain."
2. The property owner shall complete documentation of the existing buildings prior to the approval of any demolition permits. The documentation shall be completed in a manner consistent with Part IV of the *Arizona Reporting Standards for Cultural Resources* as approved by the Historic Preservation Office.
3. Fences or walls adjacent to Osborn shall be a maximum of 40-inches in height. Fences or walls shall be constructed utilizing view fencing materials, as approved by the Planning and Development Department.
4. The property owner shall record documents that disclose the existence, and operational characteristics of, Phoenix Sky Harbor International Airport to future owners or tenants of the property. The form and content of such documents shall be according to the templates and instructions provided.
5. Prior to preliminary site plan approval, the landowner shall execute a Proposition 207 Waiver of Claims in a form approved by the City Attorney's Office. The waiver shall be recorded with the Maricopa County Recorder's Office and delivered to the City to be included in the rezoning application file.

SECTION 3: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions hereof.

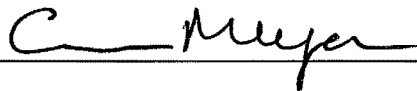
PASSED by the Council of the City of Phoenix this 30th day of September,

2015.



MAYOR

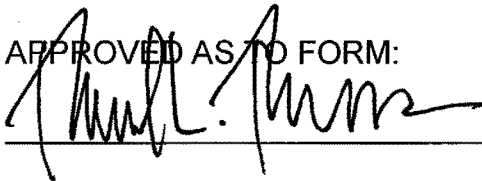
ATTEST:



City Clerk

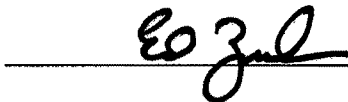


APPROVED AS TO FORM:



Acting City Attorney

REVIEWED BY:



City Manager

PL:tml:1201732v1(CM#59) (Item #93) - 9/30/15

Attachments:

A - Legal Description (3 Pages)

B - Ordinance Location Map (1 Page)

ATTACHMENT A

LEGAL DESCRIPTION FOR Z-8-15-4

PARCEL NO. 1: The South 588 feet of the following described property: That part of the Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the South line of the said Northwest quarter 1330.34 feet East from the Southwest corner thereof (said point being the Southeast corner of Smith Tract, a subdivision recorded in the Maricopa County Recorder's Office in Book 13 of Maps, page 20); Run thence North along the East boundary line of said Smith Tract 1000.75 feet, more or less, to the South boundary line of Matthie Tract (according to the map on file in Book 6 of Maps, page 20, Maricopa County Recorder's Office); Run thence East along the South boundary line of said Matthie Tract 217.66 feet; Thence South 1000.75 feet, more or less, to the South boundary line of said Northwest quarter; Thence West along said boundary line 217.66 feet to the point of beginning; Except the East 90 feet thereof; and Except the South 30 feet thereof as conveyed to the City of Phoenix by Deed recorded December 9, 1950 in Docket 659, page 382; and Except any portion thereof lying within the following described property; Beginning at a point on the North line of Osborn Road which is 1330.34 feet East and 30 feet North of the Southwest corner of the Northwest quarter of said Section 29; Thence North 970.75 feet; Thence East 40 feet; Thence South 945.75 feet to a point which is 40 feet East and 25 feet North of the Point of Beginning; Thence Southeasterly to a point which is 55 feet East and 10 feet North of the Point of Beginning; Thence East 162.66 feet parallel to the North line of Osborn Road, to a point; Thence South 10 feet to the North line of Osborn Road; Thence 217.66 feet to the Point of Beginning as conveyed to the City of Phoenix by Deed recorded March 26, 1956, in Docket 1861, page 577.

PARCEL NO. 2: The North 588 feet of the South 628 feet of the East 90 feet of the following described property: That portion of that Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the South line of said Northwest quarter 1330.34 feet East from the Southwest corner thereof; (said point being further described as the Southeast corner of Smith Tract a plat of which is recorded in Book 13 of Maps, page 20, records of Maricopa County, Arizona); Thence North along the East boundary line of said Smith Tract, 1000.75 feet, more or less, to the South boundary line of Matthie Tract, a plat of which is recorded in Book 6 of Maps, page 21, records of Maricopa County, Arizona; Thence East along the South boundary line of said Matthie Tract 217.66 feet; Thence South 1000.75 feet, more or less, to the South boundary line of said Northwest quarter; Thence West along said South boundary line, 217.66 feet to the Point of Beginning.

PARCEL NO. 3: A perpetual easement to be and remain appurtenant thereto for the purpose of ingress and egress for tenants of the above described property, over and across the North 20 feet of the South 496.35 feet as set forth in Docket 6243, page 379, records of Maricopa County, Arizona, and over and across the North 20 feet of the South 284 feet, as set forth in instrument recorded in Docket 4198, page 45, records of Maricopa County, Arizona, of the following described property: That portion of the Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, described as follows: Beginning at a point on the South line of said Northwest quarter 1330.34 feet East from the Southwest corner thereof; (said point being further described as the Southeast corner of Smith Tract, a plat of which is recorded in Book 13 of Maps, page 20, records of Maricopa County, Arizona); Thence North along the East boundary line of said Smith Tract, 1000.75 feet, more or less, to the South boundary line of Matthie Tract, a plat of which is recorded in Book 6 of Maps, page 21, records of Maricopa County, Arizona; Thence East along the South boundary line of said Matthie Tract 217.66 feet; Thence South 1000.75 feet, more or less, to the South boundary line of said Northwest quarter; Thence West, along said South boundary line, 217.66 feet to the Point of Beginning; Except therefrom the East 90 feet; and Except that portion thereof lying within the right-of-way of Third Avenue, on the West as quit claimed to the City of Phoenix by Quit Claim Deed recorded in Docket 1861, page 577, records of Maricopa County, Arizona.

PARCEL NO. 4:

The North 588 feet of the South 628 feet of the following described property: That part of the Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the South line of the Northwest quarter of said Section 29, which is 1548 feet East of the Southwest corner of the Northwest quarter of said Section 29; said point of beginning being the Southeast corner of that certain tract of land conveyed to Peter Tomaras by Deed recorded in Book 208 of Deeds, page 506, records of Maricopa County, Arizona; and Running thence North along the East line of aforesaid Tomaras Tract 1000.75 feet to the South line of Lot 11, of Matthie Tract, according to Book 6 of Maps, page 21, records of Maricopa County, Arizona; Thence East along the South line of Lot 11 of said Matthie Tract, 4.1 feet to the Northwest corner of that certain tract of land conveyed to Mark J. Kellogg, et ux, by Deed recorded in Book 345 of Deeds, page 358, records of Maricopa County, Arizona; Thence South along the West line of aforesaid Kellogg Tract, 340 feet to a corner thereof; Thence East along a boundary line of aforesaid Kellogg Tract 1.1 feet, more or less, to the Northwest corner of that certain tract of land conveyed to Edith Taylor by Deed recorded in Docket 2068, page 363, records of Maricopa County, Arizona; Thence South along the West line of aforesaid Taylor Tract, 660 feet to the South line of the Northwest quarter of said Section 29; Thence West along said South line, 4.6 feet to the Point of Beginning.

x



ATTACHMENT A

LEGAL DESCRIPTION FOR Z-8-15-4

PARCEL NO. 1: The South 588 feet of the following described property: That part of the Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the South line of the said Northwest quarter 1330.34 feet East from the Southwest corner thereof (said point being the Southeast corner of Smith Tract, a subdivision recorded in the Maricopa County Recorder's Office in Book 13 of Maps, page 20); Run thence North along the East boundary line of said Smith Tract 1000.75 feet, more or less, to the South boundary line of Matthie Tract (according to the map on file in Book 6 of Maps, page 20, Maricopa County Recorder's Office); Run thence East along the South boundary line of said Matthie Tract 217.66 feet; Thence South 1000.75 feet, more or less, to the South boundary line of said Northwest quarter; Thence West along said boundary line 217.66 feet to the point of beginning; Except the East 90 feet thereof; and Except the South 30 feet thereof as conveyed to the City of Phoenix by Deed recorded December 9, 1950 in Docket 659, page 382; and Except any portion thereof lying within the following described property; Beginning at a point on the North line of Osborn Road which is 1330.34 feet East and 30 feet North of the Southwest corner of the Northwest quarter of said Section 29; Thence North 970.75 feet; Thence East 40 feet; Thence South 945.75 feet to a point which is 40 feet East and 25 feet North of the Point of Beginning; Thence Southeasterly to a point which is 55 feet East and 10 feet North of the Point of Beginning; Thence East 162.66 feet parallel to the North line of Osborn Road, to a point; Thence South 10 feet to the North line of Osborn Road; Thence 217.66 feet to the Point of Beginning as conveyed to the City of Phoenix by Deed recorded March 26, 1956, in Docket 1861, page 577.

PARCEL NO. 2: The North 588 feet of the South 628 feet of the East 90 feet of the following described property: That portion of that Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the South line of said Northwest quarter 1330.34 feet East from the Southwest corner thereof; (said point being further described as the Southeast corner of Smith Tract a plat of which is recorded in Book 13 of Maps, page 20, records of Maricopa County, Arizona); Thence North along the East boundary line of said Smith Tract, 1000.75 feet, more or less, to the South boundary line of Matthie Tract, a plat of which is recorded in Book 6 of Maps, page 21, records of Maricopa County, Arizona; Thence East along the South boundary line of said Matthie Tract 217.66 feet; Thence South 1000.75 feet, more or less, to the South boundary line of said Northwest quarter; Thence West along said South boundary line, 217.66 feet to the Point of Beginning.

PARCEL NO. 3: A perpetual easement to be and remain appurtenant thereto for the purpose of ingress and egress for tenants of the above described property, over and across the North 20 feet of the South 496.35 feet as set forth in Docket 6243, page 379, records of Maricopa County, Arizona, and over and across the North 20 feet of the South 284 feet, as set forth in instrument recorded in Docket 4198, page 45, records of Maricopa County, Arizona, of the following described property: That portion of the Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, described as follows: Beginning at a point on the South line of said Northwest quarter 1330.34 feet East from the Southwest corner thereof; (said point being further described as the Southeast corner of Smith Tract, a plat of which is recorded in Book 13 of Maps, page 20, records of Maricopa County, Arizona); Thence North along the East boundary line of said Smith Tract, 1000.75 feet, more or less, to the South boundary line of Matthie Tract, a plat of which is recorded in Book 6 of Maps, page 21, records of Maricopa County, Arizona; Thence East along the South boundary line of said Matthie Tract 217.66 feet; Thence South 1000.75 feet, more or less, to the South boundary line of said Northwest quarter; Thence West, along said South boundary line, 217.66 feet to the Point of Beginning; Except therefrom the East 90 feet; and Except that portion thereof lying within the right-of-way of Third Avenue, on the West as quit claimed to the City of Phoenix by Quit Claim Deed recorded in Docket 1861, page 577, records of Maricopa County, Arizona.

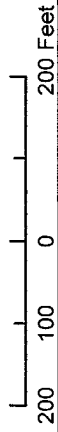
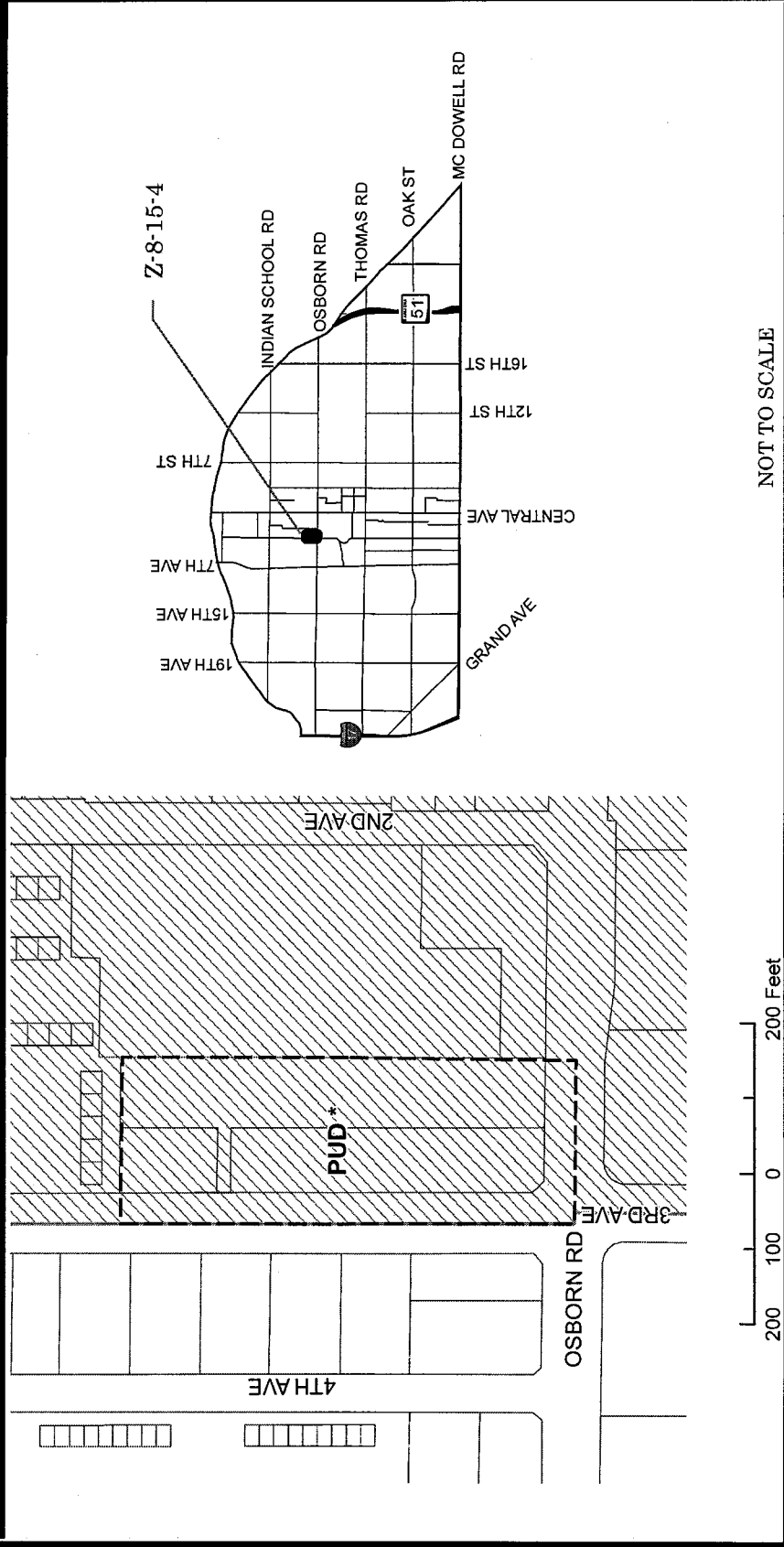
PARCEL NO. 4:

The North 588 feet of the South 628 feet of the following described property: That part of the Southeast quarter of the Northwest quarter of Section 29, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Beginning at a point on the South line of the Northwest quarter of said Section 29, which is 1548 feet East of the Southwest corner of the Northwest quarter of said Section 29; said point of beginning being the Southeast corner of that certain tract of land conveyed to Peter Tomaras by Deed recorded in Book 208 of Deeds, page 506, records of Maricopa County, Arizona; and Running thence North along the East line of aforesaid Tomaras Tract 1000.75 feet to the South line of Lot 11, of Matthie Tract, according to Book 6 of Maps, page 21, records of Maricopa County, Arizona; Thence East along the South line of Lot 11 of said Matthie Tract, 4.1 feet to the Northwest corner of that certain tract of land conveyed to Mark J. Kellogg, et ux, by Deed recorded in Book 345 of Deeds, page 358, records of Maricopa County, Arizona; Thence South along the West line of aforesaid Kellogg Tract, 340 feet to a corner thereof; Thence East along a boundary line of aforesaid Kellogg Tract 1.1 feet, more or less, to the Northwest corner of that certain tract of land conveyed to Edith Taylor by Deed recorded in Docket 2068, page 363, records of Maricopa County, Arizona; Thence South along the West line of a aforesaid Taylor Tract, 660 feet to the South line of the Northwest quarter of said Section 29; Thence West along said South line, 4.6 feet to the Point of Beginning.

# ORDINANCE LOCATION MAP

Zoning Case Number: Z-8-15-4  
Zoning Overlay: Transit Overlay District (TOD-1)  
Planning Village: Encanto

ZONING SUBJECT TO STIPULATIONS: \*  
SUBJECT AREA: ■ ■ ■ ■ ■



NOT TO SCALE



Drawn Date: 8/7/2015

S:\Department Share\IS Share\PL GIS\IS\_Team\Core\_Functions\Zoning\OrdMaps\2015\_Ord\Formal\_Sep\_4\_2015\Z-8-15-4.mxd