



# PLANNING

Development Services Department

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Glendale Planning Dep

## MASTER APPLICATION

Please check ALL of the applications that you are applying for:

- Administrative Relief
- Administrative Review
- Annexation
- Conditional Use Permit
- Design Review
- Final Subdivision Plat
- General Plan Amendment
- Glendale Centerline Overlay District
- Preliminary Subdivision Plat/Development Master Plan
- Rezoning
- Variance
- Zoning Interpretation
- Zoning Ordinance Text Amendment

**ATTACH AN ADDITIONAL SHEET DETAILING THE REQUEST OF EACH APPLICATION.**  
Individual application checklists are available at [www.glendaleaz.com/planning](http://www.glendaleaz.com/planning)

Project Name: (none)

Property Address: 7150 N. 57th Drive Gross Acres: unknown

Major Cross Streets: 59th Avenue/Myrtle

Council District: Ocotillo District - Catlin Court PAD Zone

Existing Land Use: professional office

### PROPERTY OWNER

Name: Coit & Valerie Burner Phone: 623-695-3342 Fax: \_\_\_\_\_

Address: 7146 N. 58th Drive

City: Glendale State: AZ Zip Code: 85301

Email: bearsmore@aol.com

### TO REPRESENT ME IN THIS APPLICATION, I GIVE AUTHORIZATION TO:

Representative Name: Jeffrey Koppelmaa Business Name: Jeffrey S. Koppelmaa, Legal Counsel

Address: P O BOX 926

City: Jerome State: AZ Zip Code: 86331

Phone: (415)717-7294 Fax: \_\_\_\_\_

Email: counsel@jisk.legal

Coit Burner \_\_\_\_\_ 2/4/2019

(Print or type name of owner of record) (Signature of owner of record) (Date)

**REQUEST FOR CITY OF GLENDALE  
ZONING ORDINANCE INTERPRETATION AND ENFORCEMENT**

**CATLIN COURT PLANNED AREA DEVELOPMENT ZONE  
FIRST FLOOR PROFESSIONAL OFFICE USE STANDARD**

Coit and Valerie Burner (“**petitioners**”), as property and business owners in the Catlin Court Planned Area Development Zone district (“**Catlin Court PAD Zone**” “**Catlin Court district**” or the “**district**”), submit this request pursuant to Section 3.101 and 3.401 of the Zoning Ordinance of the City of Glendale, Arizona (“**Zoning Ordinance**”) seeking (i) review of the prospective or actual commercial use of the premises at 7150 North 57th Drive (“**7150 North 57th Drive**” or the “**subject property**”) and (ii) enforcement of the approved Catlin Court PAD standards controlling commercial land use at the subject property.

The Catlin Court PAD Development Plan approved by the Glendale City Council and in effect now (“**approved Catlin Court Development Plan**” or “**Catlin Court PAD Plan**”) protects this historic neighborhood in accordance with the city’s Zoning Ordinance. First of all, the Catlin Court PAD Plan specifically establishes “**pedestrian oriented specialty retail**” as the primary land use within Catlin Court PAD Zone. To that end, the approved Catlin Court Development Plan includes “**maximum floor area ratios**” associated with commercial or industrial uses within the district as authorized under Section 5.912(B) of the Zoning Ordinance. (See §5.912(B) (emphasis added). Specifically, the Catlin Court PAD Plan unambiguously limits professional office space use<sup>1</sup> on the first floor of the buildings within the district to **no more than twenty-five percent of the total conglomerate first floor area of the district**. In this way, the Catlin Court PAD Plan land use standards specially preserve this historic neighborhood as the city’s Zoning Ordinance expressly intended.

Petitioners believe that (a) existing uses within the Catlin Court PAD Zone presently do **not** leave room under the professional office space limit to permit approval of additional first floor professional office land use within the Catlin Court district, and (b) the 7150 North 57th Drive premises are being prepared for use – or are now in use -- as a first floor accountancy office in contravention of the Catlin Court PAD Plan land use standards.

Based on this request, the points and authorities submitted with this request, the accompanying evidence attached, incorporated and submitted, matters of public record, and such other evidence as the Planning Director and planning department may consider, petitioners request an interpretation and enforcement of the first floor professional office land use standard in the approved Catlin Court Development Plan with respect to land use at 7150 North 57th Drive in the City of Glendale, Arizona.<sup>2</sup>

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<sup>1</sup> Section 2.300 of the Zoning Ordinance defines a “Professional Office” to include “[o]ffices where services are provided that require specialized training or professional certification **including but not limited to accountant, appraiser, attorney, architect, landscape architect, engineer, surveyor, stockbroker, physician, dentist, chiropractor, massage therapist, psychologist, and optometrist. No goods or merchandise are sold or exchanged.**” (Section 2.300 at “Professional Office”; emphasis added.)

<sup>2</sup> The Planning Director is charged with administering and enforcing the Zoning Ordinance in response to petitioners’ request. (See Section 3.101.)

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Representing petitioners Coit and Valerie Burner

**MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF REQUEST FOR CITY OF GLENDALE  
ZONING ORDINANCE INTERPRETATION AND ENFORCEMENT**

**CATLIN COURT PLANNED AREA DEVELOPMENT ZONE  
FIRST FLOOR PROFESSIONAL OFFICE LAND USE STANDARD**

**I. INTRODUCTION**

Coit and Valerie Burner (“**petitioners**”), as property and business owners in the Catlin Court Planned Area Development Zone district (“**Catlin Court PAD Zone**” “**Catlin Court district**” or the “**district**”), submit this request pursuant to Section 3.101 and 3.401 of the Zoning Ordinance of the City of Glendale, Arizona<sup>1</sup> (“**Zoning Ordinance**”) seeking (i) review of the prospective or actual commercial use of the premises at 7150 North 57th Drive (“**7150 North 57th Drive**” or the “**subject property**”) *and* (ii) enforcement of the approved Catlin Court PAD standards controlling commercial land use at the subject property.

The Catlin Court PAD Development Plan approved by the Glendale City Council and in effect now (“**approved Catlin Court Development Plan**” or “**Catlin Court PAD Plan**”) protects this historic neighborhood in accordance with the city’s Zoning Ordinance. First of all, the Catlin Court PAD Plan specifically establishes “*pedestrian oriented specialty retail*” as the primary land use within Catlin Court PAD Zone. To that end, the approved Catlin Court Development Plan includes “*maximum floor area ratios*” associated with commercial or industrial uses within the district as authorized under Section 5.912(B) of the Zoning Ordinance. (See §5.912(B) (emphasis added).

Specifically, the Catlin Court PAD Plan unambiguously limits professional office space use<sup>2</sup> on the first floor of the buildings within the district to *no more than twenty-five percent of the total conglomerate first floor area of the district.* In this way, the Catlin Court

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<sup>1</sup> All citations in this memorandum are to sections of the Zoning Ordinance of the City of Glendale, Arizona unless otherwise noted.

<sup>2</sup> Section 2.300 of the Zoning Ordinance defines a “Professional Office” to include “[o]ffices where services are provided that require specialized training or professional certification *including but not limited to accountant, appraiser, attorney, architect, landscape architect, engineer, surveyor, stockbroker, physician, dentist, chiropractor, massage therapist, psychologist, and optometrist. No goods or merchandise are sold or exchanged.*” (Section 2.300 at “Professional Office”; emphasis added.)

PAD Plan land use standards specially preserve this historic neighborhood as the city's Zoning Ordinance expressly intended.

Petitioners believe that (a) existing uses within the Catlin Court PAD Zone presently do *not* leave room under the professional office space limit to permit approval of additional first floor professional office land use within the Catlin Court district, and (b) the 7150 North 57th Drive premises are being prepared for use -- or are now in use -- as a first floor accountancy office in contravention of the Catlin Court PAD Plan land use standards.

Based on the points and authorities below and the evidence attached and incorporated, petitioners request that the Planning Director enforce the approved Catlin Court Development Plan professional office space limit as applied to the land use within the district at 7150 North 57th Drive.<sup>3</sup>

## II. FACTS

### A. Catlin Court Significance

Catlin Court is a small, historically significant neighborhood initially developed in 1914. Catlin Court became the City of Glendale's first organized building expansion and development program.<sup>4</sup> The neighborhood was one of the early, fashionable neighborhoods of Glendale.<sup>5</sup> Catlin Court features the prominent architectural style from 1917 to 1930, the Craftsman Bungalow, as well as Spanish Eclectic and Minimal Traditional homes from the late 1930's.<sup>6</sup>

The Catlin Court district's listing on the National Register of Historic Places began on June 9, 1992, making this neighborhood the first of ten districts in Glendale that have received this designation. The Catlin Court's historic area boundary in the National Register expanded in 2007.<sup>7</sup>

The City of Glendale has also recognized the Glendale Townsite Catlin Court Historic District.<sup>8</sup> This Historic District designation is an overlay regulated by the underlying Catlin Court Planned Area Development Plan that is the subject of this request for interpretation and enforcement.

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<sup>3</sup> The Planning Director is charged with administering and enforcing the Zoning Ordinance in response to petitioners' request. (See Section 3.101; see also fn. 16, *infra*.)

<sup>4</sup> See "Glendale Historic Building Survey"; prepared by: Janus Associates for the City of Glendale (1980).

<sup>5</sup> See "Envision Glendale 2040 -- City of Glendale General Plan" Sept. 30, 2016 ("Glendale 2040 Plan"), pp. 1-

6; [http://www.glendale2040.com/images/documents/final\\_/envision\\_glendale\\_2040\\_general\\_plan\\_september\\_2016.pdf](http://www.glendale2040.com/images/documents/final_/envision_glendale_2040_general_plan_september_2016.pdf).

<sup>6</sup> See [http://www.goglendaleaz.com/about/about\\_catlin\\_court.html](http://www.goglendaleaz.com/about/about_catlin_court.html)

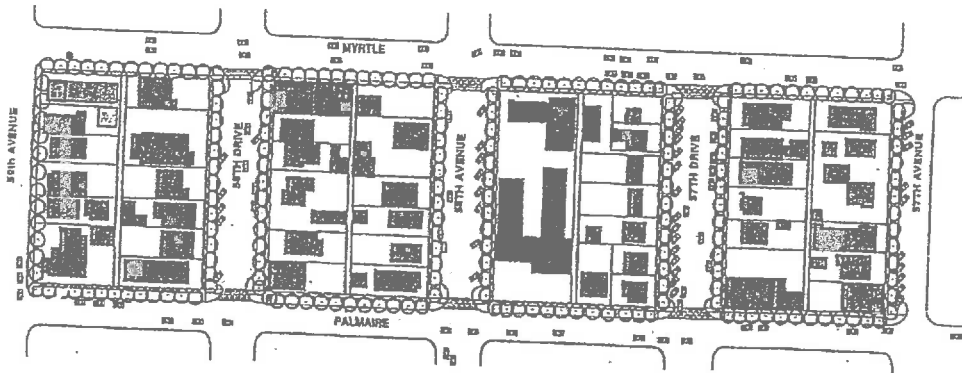
<sup>7</sup> See <https://nationalregisterofhistoricplaces.com/az/Maricopa/districts.html>

<sup>8</sup> The Catlin Court Historic District is located in the area bounded by Gardenia Ave., 59th Ave., Palmaire Ave. and 58th Ave.

**B. Catlin Court PAD Zoning History**

**1. Catlin Court PAD Regulatory Boundaries**

The Catlin Court district is an established Planned Area Development Zone in Glendale approved in accordance with Section 5.900 of the city's Zoning Ordinance. Catlin Court PAD Zone consists of four (4) blocks bounded by Myrtle Drive, 57<sup>th</sup> Avenue, Palmaire Drive, and 59<sup>th</sup> Avenue. The premises at 7150 North 57th Drive is within the Catlin Court PAD Zone.



Section 5.900 of the Zoning Ordinance expressly allows PADs to exercise local zoning control that “promotes flexibility and encourages variation in ... land uses.” (Section 5.901.) Planned Area Development Zones in Glendale like Catlin Court PAD Zone exist in part to “[e]ncourage innovative development or redevelopment concepts for all land use types to provide a greater variety and intensity of uses.” (Section 5.901(C).)

Furthermore, the City of Glendale encourages Planned Area Development zones like the Catlin Court PAD Zone to design innovative neighborhood land use limitations through standards that regulate based on conglomerate maximum floor area ratios devoted to non-residential uses. Section 5.912(B) states in pertinent part:

An applicant shall submit a detailed development plan for the area of the PAD request which shall include . . . [a d]escription of the proposed *land use areas and the specifications including use standards of each area* including:

- a. Proposed dwelling unit type, total land area, and maximum density of residential use areas.
- b. *Proposed uses other than residential, total land area, and maximum floor area ratios associated with commercial or industrial uses.*

(Section 5.912(B); emphasis added).

The Catlin Court PAD Zone encompasses a unique specialty retail area in historic Glendale. There are less than 60 structures total in the four (4) city block district area. The procedures in the Zoning Ordinance for establishing PADs encourage land use standards -- *including the use of maximum floor area ratios* -- exactly like those the Catlin Court PAD Plan uses to define a specialty retail identity for this small, singular neighborhood in Glendale.

## 2. The Approved Catlin Court Development Plan

A copy of the approved Catlin Court Development Plan is attached to and incorporated in this submission as "**Attachment 1.**"

The principal purpose of the approved Catlin Court Development Plan is to establish and maintain a specific mix of businesses consistent with the pedestrian character of this unique Glendale neighborhood. The vision statement on the mantle page of the Catlin Court PAD Plan describes a small set of blocks "*Where people can walk, shop and eat in an earlier place in time.*" (Attachment 1 at p. 1; emphasis added). The approved Catlin Court Development Plan emphasizes:

- "The purpose of the Catlin Court District Plan is *to develop a specialty retail district with a unique sense of place, that is pedestrian oriented*, is a catalyst for the revitalization of the retail base of downtown, preserves the residential character of the homes and historic properties in the neighborhood, [and] is a *tourist attraction in downtown Glendale*[, Arizona.]" (Attachment 1 at p. 6; emphasis added.)<sup>9</sup>
- "*Pedestrian-oriented specialty retail is the primary land use for the area.* Specialty retail is defined as retail use that is pedestrian oriented rather than oriented to the use of the automobiles [sic][,] sells finished products, is destination oriented, and does not impact the safety or use of the pedestrian environment."<sup>10</sup> (Attachment 1 at p. 35; emphasis added.)
- The Catlin Court PAD aims to be "*a destination place for shoppers and tourists* and will help encourage new businesses that will enhance the retail base of downtown Glendale." (Attachment 1 at p. 6; emphasis added.)

<sup>9</sup> The Catlin Court PAD Zone still plays this important role in the Glendale 2040 Plan vision for the city's downtown area: "Understanding historical context provides an appreciation for historical and archaeological resources, creating a greater sense of place and enhanced community character. This understanding and appreciation is *especially important for downtown, including Catlin Court – one of Arizona's iconic historical and cultural destinations.*" (Glendale 2040 Plan at pp. 3-7; emphasis added.)

<sup>10</sup> "Permitted specialty retail uses include but are not limited in character to, working studio space for Artists, Bookstores, Old Time Photography Studios, Bakeries, Restaurants, Antique Shops, Museums, Ice Cream Parlors, Delicatessens, Candy Shops, Craft Shops, Quilt Shops, Ceramic Stores, Candle Shops, Card Shops, Clock Shops, Doll Shops, Florists (fresh and dried), Leather Shops, Specialty Clothing Boutiques, Toy Shops, Kitchen/Gourmet Shops, Travel Agency, Gift Shops, Art Galleries, China Shops, Linen Shops, Glass Shops, Special Holiday Shops, Wood Working Shops, Wedding Chapels, etc." (Attachment 1 at p. 35.)

- “Businesses in the district would *primarily include specialty retail stores* such as antique stores, restaurants, gift stores, etc. A *percentage of office space* would be included as well.” (Attachment 1 at p. 6; emphasis added.)
- Landscaping design, for instance, is intended “to create and reinforce a residential character with a sense of cool serenity that *encourages the flow of pedestrian traffic* through the area.” (Attachment 1 at p. 18; emphasis added.)
- “The intent of the Catlin Court District is to develop a *specialty retail district* that would include a mix of *specialty retail stores, and restaurants* with a *percentage of office and residential use.*” (Attachment 1 at p. 35; emphasis added.)

The Catlin Court project narrative – *including the limits on first floor professional office use* -- describes “conditions, performance standards, and other reasonable restrictions” approved as “necessary to *ensure the development and maintenance of the property in accordance with the approved development plan.*” (Section 5.912(C).)

The Catlin Court PAD Plan vision for a specialty retail district intentionally does *not* include a co-equal place for first floor professional office space uses but rather imposes a district-wide standard limiting this non-retail use.<sup>11</sup>

### 3. The Catlin Court PAD First Floor Professional Office Space Limit

As authorized by Section 5.912(B)(4), the approved Catlin Court Development Plan includes a specific land use standard regulating a “maximum floor area ratio” to limit first floor professional office space uses within the district. (See Section 5.912(B)(4).) Specifically, the Catlin Court PAD Plan declares:

*Professional office space on the first floor of the buildings shall be limited to no more than twenty-five percent of the total conglomerate first floor area of the district.* Professional office use is permitted on the second floors and in basements. In addition to professional offices, service retail such as travel agencies are permitted under this category. (Attachment 1 at p. 35; emphasis added.)

The Development Plan reiterates:

Land Use Mix: *Professional office use on the first floors of buildings shall be limited to a maximum of twenty-five percent of the gross square footage of first floor space*

<sup>11</sup> The flexibility to authorize land use regulations setting a limit on office space use distinguishes PAD zoning from more general zoning designations in Glendale that allow office space uses to develop within the zone without restriction, such as R-O Residential Office Zone District, C-O Commercial Office Zone District, P-R Pedestrian Retail Zone District, C-1 Neighborhood Commercial Zone District. (See e.g. Envision Glendale 2040 Plan, Fig. 2, p. 2-5; <https://www.glendaleaz.com/planning/documents/EnvisionGlendale2040GeneralPlan-August2016.pdf>.)

*within the district. Professional office, residential, and retail uses are allowed in basements and second floors.* (Attachment 1 at p. 36; emphasis added.)

The planning department evaluated the Catlin Court PAD application and Development Plan, and found that both were consistent with the purpose of the district. (See Sections 5.912 and 5.913.) The City Council approved the Catlin Court Development Plan – including the district’s first floor professional office use limit – thereby establishing the Catlin Court PAD Plan standards with the force of law.<sup>12</sup>

### **C. Catlin Court Development Plan Enforcement**

For many years, the Planning Director and planning department engaged in a co-operative effort with Catlin Court PAD property owners to enforce the approved PAD professional office space limit. True and correct copies of documents reflecting this co-operative effort are attached to this submission and incorporated as “Attachment 2.”

The planning department’s enforcement of the approved professional office space limit in the Catlin Court district includes:

#### **1. 2007 Data Gathering on First Floor Uses**

In 2007, the planning department (per Mr. Ron Short) and property owners within the Catlin Court PAD Zone worked together to gather data on first floor uses within the district for to maintain this lawful zoning regulation for their neighborhood. (Attachment 2 at p. 1.)

#### **2. Approval in 2013 Based On District-Wide Office Space Use**

In May 2013, the owner of the property at 7142 North 58<sup>th</sup> Drive (Mr. David Chang) sought approval for a first floor office space use at a different property within Catlin Court PAD. His application was approved after a specific finding that the use would be in compliance with the Catlin Court PAD Plan’s first floor professional office space limit. (Attachment 2 at p. 3.)

#### **3. Co-operative Enforcement Between 2015 and November 2017**

From 2015 until November 2017, the planning department and the resident business owners within Catlin Court PAD met regularly to build a reliable database of first floor uses within the PAD. (Attachment 2 at pp. 4-49, 53-58; *see esp.* Petitioners’ summary at pp. 9-13, emails to Councilman Aldama at pp. 31-36 and pp. 47-48.)

#### **4. Stated Enforcement Commitment in January 2016**

Ms. Jean Moreno, the planning department’s then-serving Economic Development Officer, wrote a January 7, 2016 email to Catlin Court PAD Zone property owners as part of a chain of correspondence confirming the planning department’s commitment to

<sup>12</sup> See Sections 1.208, 1.301, 1.402, 1.404, 5.902, 5.907, discussed *infra*.

enforcing the land use standards in the district's approved Development Plan pursuant to the Zoning Ordinance. (See Attachment 2 at pp. 9-19, 54-58.)

This commitment clearly includes enforcing the limit on first floor professional office space use within the Catlin Court PAD Zone. Ms. Moreno's email includes a draft "Catlin Court PAD Use Classification Summary" for enforcing the PAD professional office space limit.<sup>13</sup> In this regard, Ms. Moreno promised that planning department would "keep an eye on percentages in Catlin Court" based on inquiries received "at the counter and on the telephone and meetings[.]"<sup>14</sup> (Attachment 2 at p. 55.)

#### **D. Current Database of Catlin Court PAD Zone First Floor Uses**

More recently, the planning department and the Planning Director have not maintained this co-operative commitment and have not worked to administer and enforce the first floor professional office space limit in the approved Catlin Court Development Plan. Even so, Petitioners and other Catlin Court district property owners have continued to refine the database of current first floor uses in the PAD that had been undertaken in co-operation with planning department representatives.

Attached to and incorporated in this submission as "Attachment 3" is a true and correct copy of Petitioners' spreadsheet reflecting readily available data on current first floor uses for structures within the Catlin Court PAD Zone.

#### **E. District First Floor Office Limit Applied to the Subject Property**

Petitioners submit that the data reflected in Attachment 3 is sufficient to show that any professional office space use on the first floor of the subject property at 7150 North 57th Drive violates the approved Catlin Court Development Plan and thus also the city's Zoning Ordinance. (Attachment 3 at pp. 1-3.) The ratio of (i) the gross square footage of current first floor professional office space uses in the Catlin Court PAD Zone (excluding the subject property) to (ii) the gross square footage of all current first floor office space uses of any kind in the district (including the subject property) exceeds the 25% maximum. This fact prohibits any first floor professional office space use at 7150 North 57th Drive.

Prior to the updates reflected in Attachment 3, the data collected in co-operation with the planning department through November 2017 also show that the Catlin Court Development Plan first floor office use ratio does *not* allow *any* new first floor professional office use within the district. (Attachment 2 at pp. 29, 54-58.)

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<sup>13</sup> The "Catlin Court PAD Use Classification Summary" the Planning Division's EDO drafted includes data entries for owner names, addresses, "square footage" and classifications such as "office," "Residential/Retail/Restaurant," "Office," or "Vacant." (Attachment 2 at pp. 56-58.)

<sup>12</sup> Also pertinent to this request for enforcement, Ms. Moreno emphasized the importance of Catlin Court property owner/occupant vigilance in enforcing the approved Catlin Court Development Plan regulations "especially as you notice properties being actively posted for sale/lease[.]" (Attachment 2 at p. 55.)

### III. ARGUMENT

#### A. The District First Floor Professional Office Space Limit Has Force of Law

The City Council's approval of the Catlin Court PAD application and Development Plan gave the Catlin Court PAD Plan the force of law within the district. Section 1.208 on "Applicability" at subsection C states:

*Any use not described and included by this ordinance as being a permitted use, a use subject to conditions, or a use subject to conditional use permit within a specific zoning district is prohibited within that zoning district, and is a violation of this ordinance.*" (Section 1.208(C); emphasis added.)

Under the Zoning Ordinance, performance standards for Catlin Court PAD are "[e]stablished by development plan either by referral to zoning districts or *specific standards*." (Section 5.907; emphasis added). Also, Section 5.902 "Permitted Uses" states that "[a]ny permitted land use within the ordinance is allowed *as defined by the General Plan, Specific Area Plan, and Specific Land Use Designations within the approved Development Plan*. Unless a combination of other zoning districts are [sic] referenced for the definition of permitted uses, *all permitted uses must be specifically defined in the approval of the PAD*." (Section 5.902; emphasis added.)

The first floor professional office limit in the approved Catlin Court Development Plan defines a specific commercial use standard using a maximum floor area ratio authorized for PADs under Section 5.912(B). Therefore, the Zoning Ordinance of the City of Glendale does not allow first floor office space land uses within the Catlin Court PAD Zone district that exceed this 25% ratio.

#### B. Planning Director's Duty to Enforce the District Office Space Limit

Since the establishment of the Catlin Court PAD Zone, the planning department and the Planning Director have had responsibility for enforcing the Catlin Court PAD Plan regulations. The Planning Director has a *present duty* to administer and enforce first floor professional office land use<sup>15</sup> within the modest, four block area of the Catlin Court PAD Zone in compliance with the approved Catlin Court Development Plan.<sup>16</sup> Fundamentally, the Planning Director has duties specified in Section 3.101, which include but are not limited to:

A. Administration and interpretation of this ordinance, including: *clarification of the intent, review of land uses described and included in a zoning district, and delegation of responsibilities for administering procedures and requirements of the ordinance;*

<sup>15</sup> Notably, professional office land uses on second floors of structures or in basements is *unlimited* in the Catlin Court PAD Zone.

<sup>16</sup> The Catlin Court PAD Plan also states, "Interpretation: Interpretation of acceptable land uses and PAD requirements shall be administered by the City of Glendale Planning Director." (Attachment 1, p. 36.)

B. Authorizing administrative relief;

C. *Enforcement of this Zoning Ordinance*, and;

D. *Preparing application guidelines, forms, and administrative procedures.*” (Section 3.101; emphasis added.)

Beyond preparing appropriate guidelines, forms, and procedures, the Planning Director’s primary enforcement duty requires action to prohibit new land uses that violate the first floor professional office limit within the Catlin Court PAD. (See Section 1.208(C), *supra.*) Section 1.301 on “Compliance - Generally” at subsection B declares:

*No building permit may be lawfully issued nor shall a Certificate of Occupancy be granted until the Planning Director or his designee has given authorization indicating all requirements of this Zoning Ordinance, all conditions and stipulations of approval, and any other specific project related requirements have been met.*” (Section 1.301(B); emphasis added.)

Section 1.402 on “Limitations on Nonconforming Buildings and Uses” at subsection B states:

*No expansion shall be made of any nonconforming building, structure, or use unless such expansion conforms to the regulations specified for the district in which it is located.* In cases where the nonconforming use occupies a building, structure, or any portion of a site, expanding the use into additional building or land area shall constitute an extension and shall not be allowed.” (Section 1.402(B): emphasis added)

Finally, Section 1.404 on “Development Standards” at subsection A states *“No change of use or change to a building structure shall be permitted which creates a deficit or increases an existing deficit in off-street parking spaces, loading areas, or other development standards.”* (Section 1.404(A); emphasis added.)

These provisions of the Zoning Ordinance fully empower the Planning Director to enforce the Catlin Court PAD Plan first floor office land use standard at the subject property and all other buildings in the district.

**C. Enforcing the District First Floor Office Limit at the Subject Property**

Catlin Court PAD is a neighborhood of four blocks in area total. The planning department is fully capable of developing “application guidelines, forms, and administrative procedures” to enforce a clear and valid “maximum floor area ratio” standard capping first floor professional office use within this small district. As Attachment 2 shows, the planning department and Planning Director enjoy the support and participation of property owners personally committed to preserving the vision for the specialty retail district detailed and approved through the Catlin Court Development Plan.

The planning department's reduced enforcement effort after November 2017 did not reduce its legal enforcement duties. By law, the Planning Director has a present duty to determine if a new first floor professional office use is planned or has been implemented at 7150 North 57th Drive within the Catlin Court PAD Zone district.

If so, the Planning Director must determine in good faith whether such proposed use would exceed the "maximum of twenty-five percent of the gross square footage of first floor space within the district." Petitioners submit that verifiable facts known to the planning department and the Planning Director show that the Catlin Court PAD Zone first floor professional office use standard, as presently applied, does not permit new land uses of this kind within the district.

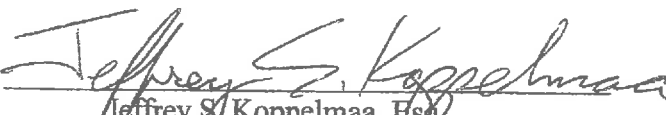
Petitioners submit that, upon such finding, the Zoning Ordinance of the City of Glendale requires the Planning Director to take such enforcement action as is necessary to prohibit a new first floor professional office space land use at the subject property within Glendale's Catlin Court Planned Area Development Zone district.

#### IV. CONCLUSION AND PETITION

By reason of the foregoing points and authorities, and in consideration of the documents attached, incorporated and submitted, matters of public record, and such other evidence as the Planning Director and planning department may consider, petitioners request an interpretation and enforcement of the first floor professional office land use standard in the approved Catlin Court Development Plan with respect to land use at 7150 North 57th Drive in the City of Glendale, Arizona.

Respectfully submitted this 4<sup>th</sup> day of February, 2019

JEFFREY S. KOPPELMAA, LEGAL COUNSEL

By:   
Jeffrey S. Koppelmaa, Esq.  
representing petitioners  
Coit and Valerie Burner.