



April 14, 2021

Dear Catlin Court District PAD Property Owners and Business Owners:

RE: Catlin Court District Public Meeting

The City of Glendale's Planning Division is hosting a meeting regarding a request to initiate an amendment to the Catlin Court District Planned Area Development (PAD). The purpose of the meeting is to gather information from property and business owners to memorialize the Board of Adjustment's decision to uphold the zoning interpretation rendered by the City's Planning Administrator.

During a Planning Commission Workshop, the Planning Division presented a request to initiate a rezoning application to amend the Catlin Court District PAD to memorialize the Board of Adjustment's upholding of a zoning interpretation made by the City's Planning Administrator.

Before Planning Commission decides if they will initiate a rezoning application, the Planning Commission directed staff to proactively engage property and business owners within the Catlin Court District. The objective of the meeting is to (1) provide transparency on the process to amend the Catlin Court District PAD and (2) listen to the community for feedback on the request.

The primary purpose of the meeting is for staff to listen to citizens express their thoughts and offer suggestions of resolution(s) that could satisfy all parties' concerns.

Timeline of Events:

- March 1, 2019** Jeffery S. Koppelmaa requested a zoning interpretation of the Catlin Court District PAD. The request was for an interpretation of the language of two portions of the Land Use section, (1) Professional Office Space Uses and (2) Residential Uses within the Catlin Court District PAD.
(Jeffery S. Koppelmaa, Legal Counsel, representative on behalf of individuals with vested interest in Catlin Court District.)
- April 19, 2019** The city's Planning Administrator issued an interpretation (attached) of the two requested provisions of the PAD, as permitted by the City's Zoning Ordinance (Section 3.401) and the PAD (page 31, Catlin Court PAD).
- May 22, 2019** Mr. Koppelmaa appealed the Planning Administrator's zoning interpretation to the Board of Adjustment.

- January 9, 2020** The Board of Adjustment voted to uphold the Planning Administrator's zoning interpretation of the Catlin Court District PAD regarding professional office space and residential uses.
- February of 2020** Mr. Koppelman filed a motion filed with the Superior Court to Appeal Board of Adjustment Decision.
- March 18, 2021** Planning staff requested Planning Commission to initiate a rezoning application to memorialize the Board of Adjustment's decision to uphold the Planning Administrator's zoning interpretation.
- April 1, 2021** During the Planning Commission Workshop, the Commission directed Planning Staff to meet with property owners and business owners to determine if there was a possibility to reach a shared resolution.

Attached is a copy of the Zoning Interpretation Letter (ZIL19-02) and a conceptual color-coded land use map.

If you are interested in attending the Catlin Court District Meeting, join Planning staff at:

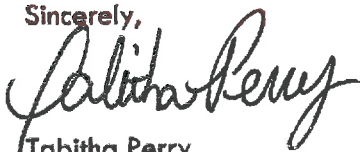
Meeting Date: Wednesday, April 28, 2021

Meeting Time: 5:30 P.M.

Meeting Location: City of Glendale Civic Center located at 5750 West Glenn Drive

If you cannot attend the meeting, please email me at tperry@glendaleaz.com or call (623) 930-2596 if you have comments. The deadline to receive comments is **5:00 p.m. on April 29, 2021**. Comments received by 4:00 p.m. on April 28, 2021 may be shared during the meeting. This deadline will allow adequate time to review and summarize all feedback received.

Sincerely,



Tabitha Perry
Executive Officer, Special Projects
Development Service Department-Planning Division



Planning Division

ZONING INTERPRETATION RECORD

ZIL19-02

April 19, 2019

SUBJECT OF INTERPRETATION:

Catlin Court District Planned Area Development (PAD)

ZONING CODE ORDINANCE SECTIONS:

Catlin Court PAD Sections: Land Use Standards for Office and Residential Uses

CAUSE FOR INTERPRETATION:

A zoning interpretation has been requested by Jeffrey Koppelmaa on behalf of owners of property, Coit and Valerie Burner, in the Catlin Court Planned Area Development Zoning District. This request is for an interpretation of the Planned Area Development (PAD) language in two portions of the Land Use section, 1) Professional Office Space Uses, and 2) Residential Uses.

INTERPRETATION:

Part 1- District-Wide Office Use Standard

Applicable PAD Section: **Land Use**, Subsection **Professional Office Space Use**
(p. 30 of the PAD)

“Professional office use 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.”

Planning Administrator Interpretation:

In summary, the land use standard that is the subject of this interpretation is substantially flawed and unenforceable because it creates a floating entitlement and attempts to apply a standard on a district-wide basis where standards such as maximum floor area ratio (FAR) are customarily applied to individual properties.

Background:

The stated intent of the Catlin Court District is “to develop a specialty retail district including a mix of retail stores, restaurants with a percentage of office and residential use.”

There are approximately 50 individual parcels or lots in the Catlin Court PAD district that are-- effectively-- permitted office uses. The restriction of 25% maximum office use does not apply to the individual lots but is intended to be applied on a district-wide basis according to the PAD (p.30-31).

The intended land use standard to control the land use mix in Catlin Court is a maximum amount (25%) of professional office use of the first floor of buildings in the Planned Area Development District. As a land use regulation, the accurate measurement (in square feet typically) of a specific land use, in this case ‘professional office,’ would be required on a district-wide basis. To be reasonably enforceable, an accurate inventory of first floor office use (as well as the total square footage existing in the District at a given point in time) would be required as a basis of approval or denial of office use in Catlin Court.

Analysis:

Typically, land use regulations regarding limitations on specific uses are applied and enforced across a single property. Limitations on floor area ratios are normally applied in Arizona to individual parcels, not conglomerate or entire zoning districts. There is no known precedent or practice supporting the enforceability of similar standards on interior space use such as the specialty retail and office use proportions described in the Catlin Court PAD.

The 25% standard is flawed as it creates a ‘floating’ entitlement that property owners possess one day, and then potentially lose the next day. Under the intended scheme in the PAD, as uses change over time on individual properties in Catlin Court, other property owners, practically speaking, are not able to ascertain whether professional office is an allowed use on their property as there is no reliable way to track or inventory the precise amount (and whether the 25% office use limit of the district has been reached) of professional office use at any one point in time.

Additionally, the amount of office use changes over time as property use changes with tenants, property owner interests, and market conditions, among other reasons. Property owners are not compelled to provide exact amounts of various permitted land uses because they are permitted (retail and office for example). Many owners change uses without the need for City building safety permits or other types of review and approval. Further, the 25% maximum also changes with new construction, demolitions, and modifications to existing buildings. It is therefore a constantly moving target- which, again, is highly unusual for a land use or zoning regulation. These dynamic conditions confirm the inability of any entity, public or private, to create a reliably accurate database of office use square footage in Catlin Court.

In good faith, the City has explored various methods of enforcing the land use mix regulation of Catlin Court including: 1) a city-conducted survey of existing buildings in the District, 2) requiring applicants to perform such a survey, and 3) adding additional approval processes for

affected property owners in the district would be required under Arizona law in approving such a change in zoning.

Part 2- Residential Use Limitation

Applicable PAD Section: **Land Use**, Subsection, **Residential Uses**
(p. 31 of the PAD)

“A person may live and work within the same building while conducting business.
Residential use is limited to one dwelling unit per land property.”

Analysis:

Analysis of the language of the PAD was done in a land use regulation context since the document is in effect a zoning code for Catlin Court. The language appears permissive rather than restrictive. The PAD does expressly limit each property to a single dwelling unit and in that regard is restrictive.

The text does not mandate that residential uses require an associated business use, nor does it state that residential use is permitted only when ancillary to a retail use. It appears to assume that residential uses are permitted and simply states, ‘a person may live and work in the same building.’ The second sentence, ‘residential use is limited to one dwelling...’ appears to clarify that residential use is permitted, however limited to a single dwelling unit. The second sentence of the PAD excerpt does not refer to or modify the first sentence and independently operates to allow residential uses in Catlin Court.

Upon review, the PAD document identifies that residential character exists and is intended to be maintained in Catlin Court (pgs. 1, 13, 14, 26, 31 and 32). Residential use logically is a part of residential character in a zoning district or in a neighborhood. To prohibit residential use in an area noted for residential character does not seem logical nor appear defensible.

The PAD does not state a business use is required on every property in the PAD district nor does it state that a residence is only permitted where a business is operated as read by the Planning Administrator. There is no language that states ‘solely residential use’ is prohibited as indicated by the applicant. Simply put, the suggestion that stand-alone residential uses are prohibited is not stated anywhere in the text of the PAD.

As read, the regulation appears to allow residential use in addition to specialty retail. The PAD text does not state, ‘only while conducting business.’ If the qualifier ‘only’ or similar language had been used the intent would be clear and there would be no need for interpretation. As written, the PAD supports multiple uses of the same building.

Summary:

The PAD contains no statement barring residential use unless it is an ancillary, supporting or secondary use to a companion retail uses. It does state that both retail and residential uses are permitted to exist at the same time. Experience with various land use regulations in Arizona shows that some commercial zoning districts also permit primary residential use.

This supports the interpretation that a single use structure (one that is solely residential) is intended and permitted.

Based on over 30 years' experience in writing, reviewing and interpreting land use regulations, the Planning Administrator does not believe the intent based on the language of the PAD was to prohibit residential use if no business was associated with it. The PAD language is interpreted to permit single family residential use of the property in Catlin Court.

Recommendation:

An amendment to the PAD would clarify the status of residential use as a primary or secondary or ancillary use. The concurrence of the affected property owners in the district would be required under Arizona statutes in approving such a zoning change.

CONCLUSION:

Regarding Part 1, Office Use, of this interpretation, the land use standard that is the subject of this interpretation is substantially flawed and unenforceable because it creates a floating entitlement a property owner could have one day and lose the next due to a neighbor's establishment of an office use. Further, the PAD attempts to apply this standard on a district-wide basis which would require an accurate inventory that is impractical to prepare and maintain. attempt

Regarding Part 2, Residential Use, the PAD contains no statement indicating residential use is allowed only as ancillary, supporting or secondary to retail uses. It does state that both retail and residential uses are permitted to exist at the same time in the same building.

Interpretation by:


David A. Williams, AICP

Planning Administrator

Date:

4.19.19

businesses in Catlin Court. None of these methods have provided a way to reasonably and reliably enforce the 25% office use standard.

Review of the records pertaining to the preparation and adoption of the Catlin Court PAD does not provide any clear information on how this provision was to be measured or enforced. Further, the PAD is silent with regard to measurement and enforcement methods, let alone providing any requirement for an inventory and the maintenance of an inventory.

Inventory:

A reliable inventory of retail and office use has never been completed in Catlin Court. In fact, the creation of such a database is impractical and perhaps impossible. An accurate survey of the square footage of office use would need to be conducted through inspection of the interior of 100% of the structures in the PAD district.¹ All 50 owners would need to provide access to their interior space in order to ascertain an accurate amount of office use- at the time of the inspection. Such an inspection for zoning compliance purposes would be, at a minimum, highly burdensome, if not illegal.

The expectation that every property owner would submit to such an inspection is unrealistic. The inspection could not be compelled by the City without first obtaining an administrative search warrant (which requires probable cause that an inspection is required, a difficult if not impossible effort given the legal murkiness of finding probable cause based on an alleged violation of a zoning document (the PAD), Even if the City could make such a showing and obtain warrants, it is extremely unlikely it could obtain warrants or consent to enter every property in Catlin Court, as would be required in order to discern the actual amount of first-floor square footage in the district.²

Concerns regarding the enforceability of this regulation were identified by City staff in 2015 and 2016 as evidenced in public records provided by the applicant. At that time, it was publicly stated that there was no reliable official inventory and no way to maintain one. Attempts to create such an inventory and update or maintain it have proven unsuccessful and impractical.

¹ No party can confidently rely on data from the Maricopa County Assessor's Office. Upon entering the Assessor's parcel viewer database, users are greeted by a screen that states "CAUTION: USERS SHOULD INDEPENDENTLY RESEARCH AND VERIFY INFORMATION WITHIN THIS DATASET OR MAP BEFORE RELYING ON IT." The 12-sentence disclaimer stresses the lack of reliability of the information the database provides, and the disclaimer later notes, among other cautionary statements, that "[t]he Assessor does not guarantee that any information contained within this dataset map is accurate, complete or current...the original information may have contained errors and omissions. Errors and omissions may have occurred in the process of gathering, interpreting and reporting the information."

² For example, take the situation of the first property owner to operate an office use in Catlin Court and assume that person operates a home-based business that is not open to the public and that person simply does not wish to consent to the City entering his property to inspect the first floor of his building. There is no dispute that the PAD is not violated by the owner's office use and therefore no way for the City to establish the probable cause it would need to enter the property (even assuming a violation of a PAD gives rise to probable cause to conduct a search). As stated, the City cannot obtain consent to enter the property. One instance such as this one renders it impossible to calculate the total first-floor square footage in Catlin Court.

Observations from the public right of way, as has been attempted, are insufficient to determine interior floor area use in Catlin Court. This method, previously attempted by the City, would not be defensible as accurate.

Although previously attempted by city staff and private property owners, a complete inventory of office use in Catlin Court has never been successfully completed. The methods used in previous attempts are unreliable and not defensible in the Planning Administrator's opinion. The City attempted to complete a database over an approximate ten-year period, from 2007 to 2017, as public records appear to document. As indicated in public records of this effort, the results of the inventory were not clear or concise enough to deny an owner's reasonable use (professional office use in this case) of the owner's private property.

A private database being prepared by private parties with vested interest in the PAD would not be verifiable or reliable. Such an undertaking would not only encounter the same or even greater difficulties with respect to compliance but would also potentially have the effect of pitting one property owner against another over a regulation supposedly based in public health, safety and welfare. This is not a supportable method of enforcement.

Without a reliable database, the city has no factual basis for denial of office use, and further no evidence exists that specialty retail space is not available for those desiring to use it in Catlin Court.

Summary:

City staff is committed to enforce all land use regulations, however in this specific case, the regulation is deemed unenforceable because it creates a floating entitlement, it attempts to apply a standard suited for individual parcels to an entire district, and there is no practical way to compile an inventory of properties that would be needed in order to employ this land use system.

For these reasons, the land use mixture standard contained in this PAD District is unenforceable. Applications for permits involving professional office use in the Catlin Court PAD should not be denied based on the 25% professional office use cap included in the Catlin Court Planned Area Development District³.

Recommendations:

One potential solution to the applicant's intent to control office use is to amend the Catlin Court PAD so that the land use restriction applies to each individual property as it is improved, redeveloped or otherwise altered. At the time of building permit, each building or property could be limited through the application of permit conditions, to 25% ground floor office use. This would align with standard land use regulation practices in Arizona. The concurrence of the

³ Historically, limited demand has existed for specialty retail property in downtown Glendale, and current conditions are no different as demonstrated by the several properties that are vacant and available for specialty retail use in Catlin Court. As such, any property owner or business interested in operating a specialty retail business has the opportunity to do so- today. The existing office uses in Catlin Court have not 'squeezed out' potential or desired retail uses.



Legend

 Catlin Court PAD (Z-90-31)

Land Use

 Educational

 Medical Offices

 Mixed Use

 Multi Family (6 Parcels)

 Office

 Retail (14 Parcels)

 Single Family (12 Parcels)

 Parking

 Vacant

April 28, 2021

Re: Catlin Court Planned Area Development (PAD)

Dear Tabitha Perry,

We are writing to you concerning the down-zoning of Catlin Court Specialty Retail district governed by the PAD. We are business and property owners of Evergreen Center of Oriental Medicine located at 7150 N. 58th Avenue in Catlin Court. We purchased the property on April 30, 2007 with a business plan of opening a Chinese Herbal Pharmacy / Acupuncture Clinic serving the Phoenix Valley area.

The Lending institution at that time required us to obtain a commercial business loan, not a residential loan due to the district zoning. We were successful in acquiring the loan, but it was a risky investment for us. At that time, our financial situation did not afford us a separate living space. We had planned to live with relatives until we were referred to Ron Short, the deputy director of Planning at that time. He presented the PAD documents to us and explained that the PAD allows for property owners to live while conducting a business on site! We shared our business plan with him, of which he stated the PAD required our type of business to include retail space as well.

Learning this detail, we modified our business plan to include retail space. We also were very happy that we could live there as well. 150 sq. ft. of the back corner of our building was converted into our living space. For three years we lived on premises while building our business, until we had saved enough money to purchase a residential home in the neighboring Floralcroft Historic District.

We believe our story is a perfect example of how the PAD was created to assist fledgling business owners to create a start-up business. Evergreen has been successful for 14 years now!

In 2016, due to the reduced interest rates, we applied for re-financing. The lending institution pulled a comparison that was actually sold for residential use, 7150 N. 58th Drive (our address is 7150 N. 58th Ave.). This was alarming for us! The property was purchased for less than half of what we paid for our commercial property. For us, this signified the beginning of the down-zoning agenda of Catlin Court, and has caused us constant worry over our investment.

Residential and office space owners are not driven to increase retail traffic to benefit of all Catlin Court businesses, including those in Downtown. For example, our business draws up to 200 patrons monthly, many of them asking for referrals to other area businesses. They shop, they dine – they spend money! In addition, the businesses have a long history of drawing in the community to attend events created, coordinated, and financed by them. These events create better opportunities for increase business growth in our business community. On the contrary, residential and office owners have voiced their opposition to such events.

We hope it has now become obvious that enforcing the PAD regulations can only benefit area businesses and city government from taxes gleaned through retail spending, which will only serve to improve our community.

Thank you,

Hsiao Hsien Chu

Roger L. Fenneman

Perry, Tabitha

From: mbsaliba@cox.net
Sent: Tuesday, April 27, 2021 9:07 PM
To: Perry, Tabitha
Cc: mbsaliba@cox.net
Subject: RE: Catlin Court PAD

From: mbsaliba@cox.net <mbsaliba@cox.net>
Sent: Tuesday, April 27, 2021 8:57 PM
To: 'tperry@glendaleaz.com.' <tperry@glendaleaz.com.>
Cc: 'mbsaliba@cox.net' <mbsaliba@cox.net>
Subject: Catlin Court PAD

Dear Ms.Perry,

We have lived in Glendale for thirty-seven years and Catlin Court is a part of many memories for our family. We went to many special dinners at the Spicery when it was in their former house. We would bring many out -of-town guests to browse and eat lunch or dinner. The Chocolate Affair was a favorite of my daughter. We had our company Christmas party at the Civic Center and then many of us would walk to see the lights, shop or get a hot drink in the downtown. We took my eighty year old grandmother for a horse and carriage ride. This was something she had never done before and it was a favorite story she told until she died. The Spicery is a special spot where we have had many enjoyable lunches and then walked around for a fun afternoon. I was very lucky to find Evergreen Center of Oriental Medicine. It has helped improve my health and the sense of community has always made me feel better. My friends and family look forward to the unique and local gifts they get from me and marvel at their specialness. Please keep the PAD Plan as it is. Thank you.

Most sincerely,

John and Marybeth Saliba

Date: April 26, 2021

To: Glendale Arizona Planning Commission

From: Ron Short

Subject: Proposal to amend the Catlin Court District PAD

The proposal by the city of Glendale asking the Planning Commission to initiate changing the Catlin Court District PAD may be premature and potentially place the city in a difficult situation.

The *Arizona Republic* published an article on April 24, 2021 regarding the potential rezoning of the Catlin Court District PAD. There are seven business owners that have filed a "special - action" No. LC2020-000065-001 with the Maricopa County Superior Court challenging the decision of the Glendale Board of Adjustment. There is a scheduling hearing with the Superior Court April 30, 2021 to be followed by discovery and a decision probably in the fall of 2021. Any initiation of rezoning of Catlin Court District PAD by the Planning Commission is premature.

These business owners are defending the "value" the current Catlin Court District PAD provides to their businesses and property, stating "specialty retail is the primary land use of the area". The removal of the "primary" use status of specialty retail for a lesser single- family use may be considered a "downzoning". Proposition 207 (2006) (ARS 12-1134) requires local government to compensate a private property owner if the "value" of a person's property is reduced by enactment of a land use law. There are over 50 properties within the Catlin Court District PAD.

The current Catlin Court District PAD has been in existence for thirty years without problems, until recently when the Planning Administrator made an interpretation regarding professional office and residential uses. Any change to the Catlin Court District PAD that lessens the status of "specialty retail" as the primary use with office and residential appears to be downzoning. It would be helpful if all formal enforcement requests and actions to Code Compliance in the Catlin Court District PAD, over the thirty-year period, could be made public and provided to the Planning Commission. This would allow the Planning Commission a better understanding.

The staff report of April 1, 2021 indicates "staff to review the Catlin Court District PAD in its entirety to determine if there are other areas where suggestions for modifications to allow for a more cohesive and enforceable PAD document" The Planning Commission should know most buildings are conforming and listed on the National Register of Historic Places, but there is no HP district overlay. The PAD provides strong protection to the historic buildings.

It would be helpful if the Planning Commission waited in initiating the city rezoning request, until the Maricopa County Superior Court case has been decided and the Glendale City Attorney issues a formal opinion answering, if taking away the prominence of specialty retail, is a downzoning, in violation of ARS 12-1134.

Perry, Tabitha

From: Karen Carrillo <kcarrillo@cox.net>
Sent: Monday, April 26, 2021 12:30 PM
To: Perry, Tabitha
Subject: Catlin Court PAD Meeting tonight

Importance: High

Hi Ms. Perry

I will not be available to attend the Catlin Court PAD meeting this afternoon. I do have strong feelings against the proposed zoning changes.

I have lived in Glendale for most my life and have sold real estate in Glendale for over 40 years. I have sold several properties in the Catlin Court Historic District. The Catlin Court Shops and Retail PAD bring a very unique charm to Downtown Glendale one that would be totally destroyed if the zoning laws were changed. These small business owners have invested their lives into making these businesses flourish and creating a special walkable shopping experience in the area. The Catlin Court PAD has definitely helped revitalized the Downtown Glendale area over the past 20+ years. Why destroy something that is making your Downtown experience a success?

Changing the zoning laws to allow single family homes and more than 25% professional building would destroy everything Catlin Court stands for. The City of Glendale needs to enforce the existing zoning rules and leave Catlin Court PAD alone so it can continue to thrive as a specialty retail district unique to the City of Glendale.

Sincerely
Karen Carrillo, REALTOR
The Melcher Agency
A Glendale Supporter

P.S. you have my permission to read aloud at the meeting

Perry, Tabitha

From: Carol Migray <cmigray@cox.net>
Sent: Wednesday, April 28, 2021 10:06 AM
To: Perry, Tabitha
Subject: Catlin Court PAD

Ms. Perry my name is Carol Migray and I have owned 2 retail business in the Catlin Court area for the last 24 years. When I decided to open a retail store, downtown Glendale was my number 1 choice. I shopped and dined with my friends there and it was such an enjoyable experience. It was perfect choice to be part of the downtown Glendale family of shop owners.... there was such an energy back then and so many people visiting the shops year after year... BUT as time passed the energy and number of businesses have diminished... even the customers have asked what has happened to the area. Where are all the shops and there are not as many people walking around and where are all the events that use to be!!!! ... We have a very unique area that people really flocked to shop and dine and we so enjoyed the atmosphere that is like you are not in the desert of Arizona... they loved walking and shopping in the houses and the downtown areas old buildings.... we need to preserve this precious area that is like no other... I love having my shops in the area but i am so sad what is happening to the area because our governing body is forgetting about us and not keeping our area for what it is meant to be.... a destination for people to enjoy with shopping and dining. When people shop in a small business that we put our heart and soul into they are able to see unique products in our shops and get personal attention. We are soooo unlike the Mall where you walk in and out of stores that are the same products.... PLEASE keep us as a shopping destination and preserve our area as it is intended to be.....thank you for reading my email... Carol Migray owner of The Cottage Garden 1 and 2....

April 25, 2021

VIA EMAIL

Ms. Tabitha Perry
Executive Officer, Special Projects
Development Service Department
City of Glendale Planning Division
5850 W. Glendale Avenue, Suite 212
Glendale, Arizona 85301-2599

Re: Catlin Court District PAD Public Meeting

Dear Ms. Perry:

Each of us is a merchant in the Catlin Court PAD Zone who has relied in good faith on the rules of the PAD Plan designed to protect our specialty retail businesses. We are also the plaintiffs in a pending Special Action filed to force the City to enforce the same two PAD Plan provisions the city wants to change – the cap on professional office uses and the ban on residential only uses in our four-square block district.

We each received your April 4, 2021 letter to Catlin Court District PAD Property Owners and Business Owners notifying us of the Planning Commission's Public Meeting on April 28, 2021 to make changes in the current Catlin Court PAD Plan. As you know, the majority of us attended the first Planning Commission "workshop" on April 1, 2021 announced in the attached March 18, 2021 notice.

Your April 4 letter and March 18 "workshop" notice each ask for our input as merchants directly affected by the PAD Plan changes in the proposed application. Your April 4 letter goes further to promise "transparency" in this application to change the rules of our specialty retail district.

In this spirit, we appeared in person at the April 1 workshop and raised specific topics of concern with the application. We would like to have received responses from your office on these important issues since then, but we have not heard from you on behalf of the city.

So, in advance of the April 28 hearing, we have attached written versions of each of the question/comment topics we raised at the April 1 "workshop" in person. Please include these materials in the record for the next hearing. Please also be prepared on behalf of the applicant to address each of these questions expressly and forthrightly on April 28.

Ms. Tabitha Perry
City of Glendale, Arizona
April 25, 2021
P.2

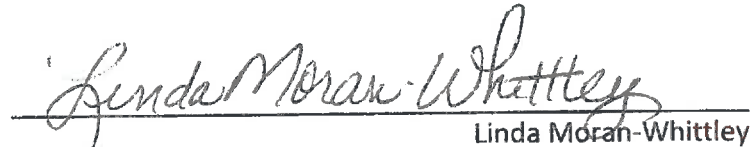
We are including Councilmember Jaime Aldama representing our Ocotillo District with a courtesy copy of this letter and all attachments.

Thank you for your invitation to participate at the April 28 Catlin Court District PAD Public Meeting in opposition to the city's application to change the Catlin Court PAD Plan. We look forward to engaging with you and the city's other representatives about each of the questions/topics attached.

Sincerely,



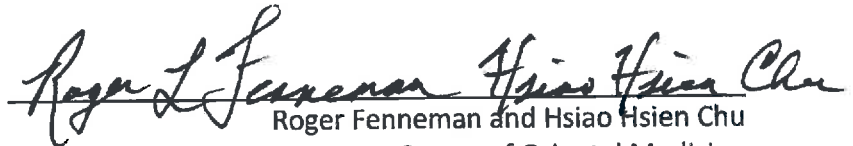
Coit and Valerie Burner
Bears & More
7146 N. 58th Drive
Glendale, AZ 85301



Linda Moran-Whittley
Papa Ed's Ice Cream Parlor
7146 N. 58th Avenue
Glendale, AZ 85301



Bud and Lorraine Zomok
Memory Lane Trinkets and Treasures
5836 W. Palmaire Avenue
Glendale, AZ 85301



Roger Fenneman and Hsiao Hsien Chu
Evergreen Center of Oriental Medicine
7150 N. 58th Avenue
Glendale, AZ 85301

Ms. Tabitha Perry
City of Glendale, Arizona
April 25, 2021
P.3

Enclosures
Cc (w/enc.) Councilmember Aldama
Joshua Bowling



City of Glendale

5750 West Glenn Drive
Glendale, AZ 85301

PLANNING COMMISSION SPECIAL WORKSHOP Agenda

*Vern Crow, Chairperson (Cactus District)
Edwin Nyberg, Vice Chairperson (Cholla District)
Martin Nowakowski, Commissioner (Yucca District)
Warren Wilfong, Commissioner (Ocotillo District)
Tom Cole, Commissioner (Barrel District)
John Crow, Commissioner (Mayoral District)
Vacant, Commissioner (Sahuaro District)*

March 18, 2021

6:15 PM

Civic Center
5750 West Glenn Drive
Glendale, AZ 85301

1. CALL TO ORDER

2. ITEMS

1. **REQUEST TO INITIATE A REZONING APPLICATION TO AMEND THE CATLIN COURT DISTRICT PAD (PLANNED AREA DEVELOPMENT):** Tabitha Perry, Executive Officer, Special Project, 623-930-2596 CITYWIDE

[Click to View](#)

2. **PROCESS AND STATUS OF THE UNIFIED DEVELOPMENT CODE** *[Click to View](#)*

3. OTHER BUSINESS

4. NEXT MEETING

The next regular Workshop of the Planning Commission is scheduled for Thursday, April 1, at 5:00 p.m., at the Civic Center located at 5750 West Glenn Drive, Glendale, Arizona, 85301.

5. ADJOURNMENT

SUBJECT

REQUEST TO INITIATE A REZONING APPLICATION TO AMEND THE CATLIN COURT DISTRICT PAD (PLANNED

AREA DEVELOPMENT): Tabitha Perry, Executive Officer, Special Project, 623-930-2596 CITYWIDE

REQUEST

This is a request for the Planning Commission to initiate a Rezoning Application to amend the Catlin Court District PAD (Planned Area Development).

Over the years, City staff attempted to enforce the Catlin Court District PAD. However, the PAD document contains verbiage that is not clearly defined and/or measurable, thus rendering sections of the PAD to have unenforceable regulations.

In February of 2019, a zoning interpretation was requested of the PAD language in two portions of the Land Use section, (1) Professional Office Space Use, and (2) Residential Uses.

In April of 2019, the Planning Administrator issued the findings of the zoning interpretation request as follows:

Professional Office Space Uses:

The Catlin Court District PAD states that "Professional office use on the first floor of the buildings shall be limited to no more than twenty-five (25) 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."

Planning Administrator's interpretation states "Professional Office uses are allowed throughout the Catlin Court District PAD with no limitation."

Professional Office Space Uses allowed on a percentage of the first-floor area for the entire district cannot be enforced. There can be no assurance that at any point in time, there is a specific percentage of an individual building being used for office space. The regulation is unenforceable and is stricken from the PAD.

Residential Uses:

The Catlin Court District PAD states "A person may live and work within the same building while conducting business. Residential use is limited to one dwelling unit per land property."

Planning Administrator interpretation states "A person is not required to work in a building in order to live in that same building."

Residential Uses allow that "a person may live and work within the same building while conducting business". This language does not require that business be conducted in order to qualify to live in a building that was constructed as a residence.

In September of 2019, the applicant appealed the Planning Administrator's zoning interpretation.

On January 9, 2020, the Board of Adjustment upheld the Planning Administrator's zoning interpretation of the Catlin Court District PAD regarding Professional Office Space and Residential uses.

The City intends to enforce the Board of Adjustment's January 9, 2020, decision to uphold the Planning Administrator's zoning interpretation.

City Council provided direction to memorialize the decision of the Board of Adjustment by amending the PAD.

ZON21-XX would amend the PAD to substantiate the decision of the Board of Adjustment. The proposal for a PAD amendment also allows for an opportunity for staff to review the Catlin Court District PAD in its entirety to determine if there are other areas where suggestions for modifications to allow for a more cohesive and enforceable PAD document.

SUMMARY:

Staff is requesting the Planning Commission initiate a rezoning application so that City staff can prepare an amendment to the Catlin Court District PAD. The amendment will require research, vetting during the Citizen Participation Process, and presentations at a Planning Commission Public Hearing for a recommendation that will be forwarded to City Council for a Public Hearing and a final vote.

If the Commission votes in the affirmative, it would indicate that Planning Commission agrees to initiate the application.

REQUIRED ACTION

The Planning Commission must decide whether to initiate a zoning application. In doing so, the Commission should consider whether or not a public purpose would be served.

RECOMMENDATION:

Staff recommends the Planning Commission should initiate the request.

PROPOSED MOTION:

Move to initiate ZON21-XX in preparation of a future public hearing.

SUBJECT

REQUEST

REQUIRED ACTION

SPECIAL ACCOMMODATIONS

For special accommodations, please contact Diana Figueroa at (623) 930-2808 or dfigueroa@glendaleaz.com at least three (3) business days prior to the meeting. Hearing impaired persons may use the Arizona Relay Service by dialing 711.

Pursuant to A.R.S. 38-431(4), one or more members of the Planning Commission may be unable to attend the meeting in person and may participate telephonically.

In accordance with Title 38 of the Arizona Revised Statutes (A.R.S.), upon a public majority vote of a quorum of the Planning Commission, the Commission may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (i) discussion or consideration of records exempt by law from public inspection (A.R.S. 38-431.03(A)(2))
- (ii) discussion or consultation for legal advice with the city's attorneys (A.R.S. 38-431.03(A)(3))
- (iii) discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolved litigation (A.R.S. 38-431.03(A)(4))

Confidentiality requirements pursuant to A.R.S. 38-431.03(C)(D): Any person receiving executive session information pursuant to A.R.S. 38-431.02 shall not disclose that information except to the Attorney General or County Attorney by agreement of the Planning Commission, or as otherwise ordered by a court of competent jurisdiction.

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W3C WAI-AA
WCAG 2.0

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To: Ms. Tabitha Perry
Executive Officer, Special Projects
Development Service Department
City of Glendale Planning Division

APRIL 28, 2021
Catlin Court PAD Public Hearing

COMMENT/QUESTION TOPIC: DOES THE CITY WANT TO ELIMINATE CATLIN COURT PAD AS A SPECIALTY RETAIL AREA?

The Catlin Court PAD Plan puts specialty retail first by limiting both first floor professional office space and residential only uses.

The limit on professional office space is in place so that ground floor space in these four blocks of bungalows can be more available for specialty retail. The change in the PAD Plan in this application doesn't clarify the limit, it eliminates this protection for specialty retail uses completely.

And the limit on residential only uses is essential to keeping the PAD from just becoming a residential neighborhood completely. Without the limit requiring a business in conjunction with someone residing in the PAD, people will eventually buy the specialty retail store properties and convert them to residential only. (This deterioration will only accelerate if it's easier for a Catlin Court property buyer to get a residential loan than a commercial one.)

I believe these facts show that the changes to the PAD Plan in this application are intended to eliminate the preference for specialty retail use in the Catlin Court PAD.

- Do you admit that the decline of specialty retail in Catlin Court is likely if the City makes these two changes to the PAD Plan in the application? Why or why not?
- Is the decline of specialty retail in Catlin Court the intended outcome of the application and the changes it proposes for the Catlin Court PAD Plan?

To: Ms. Tabitha Perry
Executive Officer, Special Projects
Development Service Department
City of Glendale Planning Division

APRIL 28, 2021
Catlin Court PAD Public Hearing

COMMENT/QUESTION TOPIC: HAVE IMPROPER POLITICAL INTERESTS INFLUENCED THESE SAME TWO PROPOSED CHANGES IN THE CATLIN COURT PAD THAT ARE ALREADY THE SUBJECT OF THE INTERPRETATION AND SPECIAL ACTION?

The Special Action lawsuit challenges the Planning Department and the Board of Adjustment determination that the Catlin Court PAD Plan as it is written now does not put any limit on professional office space use or any limit on residential only uses at all.

The court case is in the "discovery" stage now. Some documents the City and the other defendants have produced imply that Catlin Court property interests may have exerted improper influence on City officials and representatives to eliminate these same two provisions in the Catlin Court PAD Plan.

In the interests of transparency and public accountability please review the attached documents and respond to these questions:

- Can each of you affirm individually on the record that no Catlin Court property owner has communicated with you at all or with your staff at any level in relation to this application?
- And if a Catlin Court property owner did so communicate with any of you, will you disclose all of those interactions and communications publicly?

[Attachments: 2/04/19 Master Application, Att.2, p.3; COG000043-048; 000039-043, 000038-039; 00005-06; 000013; 000076-077; 000062-067; 000073-074; 000056-058; 00001-3; 000078]



May 23, 2013

David Chang
12491 North 71st Drive
Peoria, AZ 85381

RE: 7142 North 58th Drive - Proposed Office Uses in Catlin Court

Dear Mr. Chang:

Thank you for your letter requesting approval from the City of Glendale Planning Division to be able to lease the property at 7142 North 58th Drive for office space.

The property is zoned Planned Area Development (PAD). The Catlin Court District Plan provides the requirements for land use for this property.

Concerning Professional Office Space Use, the requirements are as follows:

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.

Following the receipt of your letter, Planning staff surveyed the existing land uses within the Catlin Court PAD. Presently Catlin Court has less than maximum amount of active professional office space area allowed, therefore presently the use of 7142 North 58th Drive for office space is permitted.

I look forward to the completion of the project. Please call me at (623) 930-2588 or email at tritz@glendaleaz.com if you have any questions.

Sincerely,

Thomas Ritz, AICP
Senior Planner
Planning Division

TR/tr

Dave Chang
623 570 8880

On Fri, Jul 6, 2018 at 5:27 AM, David Chang <dave.changproperties@gmail.com> wrote:

David

I'll come over to the second floor.

Dave

On Thu, Jul 5, 2018 at 5:26 PM, Williams, David <DWilliams1@glendaleaz.com> wrote:

Hi Dave,

Tuesday, 10 am is good for me.
Do you want to meet here or elsewhere?

Thanks,
David

David Williams, AICP
Planning Administrator
Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Thursday, July 05, 2018 4:34 PM

To: Williams, David <DWilliams1@GLENDALEAZ.COM>
Subject: Re: Meeting Friday and Tour

Hi David,

I think you made the best call you can as to the office space. it is totally unenforceable, a big waste of time for the city.

As for my violation, there is nothing in the Glendale code Chapter 25 and article II about the height of the grass or weeds, again it just says you need to maintain your landscape. This 6" thing came about because a few of the Catlin Court merchants badgered Tim Boling, Code Compliance Official and Mark Nelson, Code Compliance Administrator about how low is acceptable. Like so many things in Catlin Court. A few people just makes up their interpretation of the code. Then they keep complaining and then expect Code Compliance and zoning to enforce their version of the interpretation.

For me I just don't have the time to waste, I'll just have my gardener cut the grass shorter. I just feel that the Catlin Court group do not like me to be owning property, so they will keep complaining about my property being vacant (any anything else they can cook up to

complain about) and calling Code Compliance on me. I'll just convert the three houses I own in Catlin Court to residential, sell them and take my investment elsewhere. Its a better ROI for my investment. I already have a landscape designer and an Architect and engineers working on a concept to renovate these two houses [7153/7157 N 58th Drive](#), next year I'll work on [7142 N 58th Drive](#). In Catlin Court.

How does Tuesday 10: AM look for you.

Thanks
DAve

On Thu, Jul 5, 2018 at 11:51 AM, Williams, David <DWilliams1@glendaleaz.com> wrote:

Dave,

That is an interesting story. I miss so much being cooped up in this office all day....

I am glad you find the interpretation reasonable. I did think about regulating each property to limit to 25% originally. But the reality is people could expand the office use to larger areas or even the whole building without the City being aware unless we performed regular inspections or had a complaint-which might lead to neighbors going after neighbors.

Sorry about the grass violation, at least we don't discriminate about who we issue violations to.... (probably a bad joke, sorry, couldn't resist)

Let me know when you want to get together next week or whenever. I will be here.

Cheers,
David

Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, July 03, 2018 2:21 PM

To: Williams, David <DWilliams1@GLENDALEAZ.COM>
Subject: Re: Meeting Friday and Tour

Hi David,

Just read through your interpretation. Totally agree, this 25% thing is totally impossible to enforce. I do not think this ruling will neither help nor hinder merchants from running their business.. I could see taking the total sq feet of each building and not allowing more than 25% of the usable spaces of all the property to be offices use. So this way we will have may be 5 or 6 properties used for office space in Catlin Court. Cities do this all the to create mix use. It is more manageable and can be enforced.

For your information, if you have not already received any calls again about the PAD.. A couple of days ago a sign was put up on the building at [7149 N 48th Drive](#), use to be where the Shick Law Office use to operate out of. This is the building north of the Flower shop and across the street from Bears and More.. The sign is advertising that a Colonic business is moving in. Interesting that the next day the sign was taken down.

Reading your interpretation the Colonic Office use is allowed. I am wondering if someone in Catlin Court told the Colonic business that they are not allowed because they are not retail...

So much wasted time using the City Staff such as code enforcement, as a tool to discourage businesses from operating out of Catlin Court, or getting even with fellow property owners.

I just received a violation notice that the grass on my property needs to be shorter than 6". Go figure.

Thanks, have a Happy 4th of July.

Dave
623 570 8880

On Tue, Jul 3, 2018 at 1:45 PM, David Chang <dave.changproperties@gmail.com> wrote:

Hi David

Thanks, let catch up next week after the holiday week.

Thank
Dave

On Tue, Jul 3, 2018 at 9:05 AM, Williams, David <DWilliams1@glendaleaz.com> wrote:

Hi Dave,

I am sorry I missed your phone call.

I'm running around on a couple items this morning but wanted to reply with some information. Attached is the Zoning Interpretation for Catlin Court, primarily regarding office use- which is determined to be allowable on your properties. Single family residential use (one dwelling per parcel) is permitted as well as I think you already know.

I am happy to get together to discuss this and other uses, etc. Let me know what day your are thinking.

Best,
David

Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, July 03, 2018 8:51 AM

To: Williams, David <DWilliams1@GLENDALEAZ.COM>
Subject: Re: Meeting Friday and Tour

Hi David,

Have not talked to you for a while, I am starting to work on the two houses I have in Catlin Court 7153 and [7157 N 58th Drive](#).

Just want to confirm what your position is on the Retail/Residential. This will influence my restoration work on the buildings. I would consider putting a restaurant, however, there are too many negatives:

1. Restaurants are risky financially, it is tough to get employees and time consuming to baby sit the operation.
2. The other business owners harassing other business owner by calling Code Enforcement constantly. I just received a violation on the height of the grass being over 6' on my property.

From a Return of Investment, converting it to a Residential is an easy flip, and the ROI numbers work, and there is a market demand for it.

So I am still struggling to bring business to Catlin Court, I am going to move in the direction of a residential and do Air BnB. Guess it is semantics, if I call it a Bed and Breakfast, I will have a lot of hoops to jump through.

What are your thoughts. How about a cup of coffee or tea so we can brain storm what would work..

Thanks
Dave
623 570 8880

On Fri, Jun 1, 2018 at 4:14 PM, Williams, David <DWilliams1@glendaleaz.com> wrote:

Dave,
You are most welcome.
I'm glad you are feeling better and the tour was great for me!
Happy Friday,
David

David Williams, AICP
Planning Administrator
Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Friday, June 01, 2018 3:53 PM

To: Williams, David <DWilliams1@GLENDALEAZ.COM>
Subject: Re: Meeting Friday and Tour

Hi David

Thanks so much for your time.

Have a great week-end.

Dave

On Fri, Jun 1, 2018 at 10:03 AM, David Chang <dave.changproperties@gmail.com> wrote:

Hi Dave,

I feel better so I can still meet you at 10:30 AM. The room stopped spinning, I had to lay down.

I am good to go.

Dave

On Fri, Jun 1, 2018 at 8:59 AM, Williams, David <DWilliams1@glendaleaz.com> wrote:

Dave,
No worries.
I hope you feel better soon.

Just let me know on the reschedule, I will be here.

Best,
David

David Williams, AICP
Planning Administrator
Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Friday, June 01, 2018 8:21 AM

To: Williams, David <DWilliams1@GLENDALEAZ.COM>
Subject: Re: Meeting Friday and Tour

Hi Dave,

I need to reschedule, I am having a case of vertigo, not feeling well today.

So sorry

DAve

On Thu, May 31, 2018 at 4:14 PM, Williams, David
<DWilliams1@glendaleaz.com> wrote:

Dave,

That sounds good. I'll be there at 10:30 unless I hear from you sooner.

David

David Williams, AICP
Planning Administrator
Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Thursday, May 31, 2018 2:30 PM
To: Williams, David <DWilliams1@GLENDALEAZ.COM>
Subject: Re: Meeting Friday and Tour

Hi Dave,

How about we shoot for 10:30 AM. I generally start at 5:00 am and I have a couple of crews working on two location. I generally have to go collect materials for them. The chamber breakfast is also tomorrow morning at OFF the CUFF. If I can I'll call or text you if I can meet at 10:00 AM. How about you meet me at CUFF and I'll drive you to the lot and the houses in Catlin Court.

Thanks

Dave
623 570 8880

On Thu, May 31, 2018 at 11:38 AM, Williams, David
<DWilliams1@glendaleaz.com> wrote:

Hi David,

I have us down for 10:30 but I am available at 10 if that is better.
Where would you like me to meet you?

Thanks,
David

David Williams, AICP

On Fri, Oct 19, 2018 at 8:41 AM David Chang <dave.changproperties@gmail.com> wrote:

Hi David,

Need your help. The folks in Catlin Court have filed another code compliance on my behalf. Now it is because I have dirt and not grass on my property. I am getting to renovate the property and it includes the landscape. Got a question. Can I put fake grass, the PAD only recommends grass, I am being told that the city code requires grass on the front lawn.

Thanks
Dave

On Wed, Sep 19, 2018 at 8:03 AM Williams, David <DWilliams1@glendaleaz.com> wrote:

See you Friday !

David Williams, AICP
Glendale Planning Administrator
Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Wednesday, September 19, 2018 2:08 AM
To: Williams, David <DWilliams1@GLENDALEAZ.com>
Subject: Re: Meeting Friday and Tour

Hi Dave,
3:30 PM will be fine. meet at 7157 N 58th Drive, white and Green house.

Thanks
Dave
623 570 8880

On Tue, Sep 18, 2018 at 12:29 PM Williams, David <DWilliams1@glendaleaz.com> wrote:

Dave,

I have a meeting until 3 pm (I suggested 3:30) but am ok for trying for 3 pm. I may run a few minutes behind but will try to be there as close to 3 pm as possible. I can text and let you know if I'm running

late. Otherwise, I'll see you at 7142.

Thanks,
David

David Williams, AICP

Glendale Planning Administrator

Office: 623-930-2585

Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>

Sent: Tuesday, September 18, 2018 12:21 PM

To: Williams, David <DWilliams1@GLENDALEAZ.com>

Subject: Re: Meeting Friday and Tour

Hi Dave

3:00 PM works I'll meet you at 7142 N 58th Drive.

I did not talk to the code enforcement officers, I heard from another merchant who happens to think they know what is going on. It's the Catlin Court old style gossip communication system.

Thanks

Dave

623 570 8880

On Tue, Sep 18, 2018 at 11:56 AM Williams, David <DWilliams1@glendaleaz.com> wrote:

Hi Dave,

Let's meet at 11 am or 3:30 pm on Friday if that works for you. I do want to catch a photo in the afternoon showing the reflection if we can capture it which I can do separately to our meeting.

Did the Code Compliance folks tell you why the fence standards did not apply? Are they considering them guidelines only? Do you **have** the name of the Compliance officer you spoke **with**? I am **curious** and will be discussing **this** item with their group.

Thanks,

David

David Williams, AICP

Glendale Planning Administrator

Office: 623-930-2585

Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>

Sent: Friday, September 14, 2018 3:27 PM

To: Williams, David <DWilliams1@GLENDALEAZ.com>

Subject: Re: Meeting Friday and Tour

Hi David

Yes let meet you tell me what works, I can meet anytime Tuesday, Thursday or Friday.

Look at page 17 of the PAD in reference to Fences:

'Rear fences within ten feet of the alley property line shall be designed in the architectural character of the corresponding building and shall be constructed of natural material that result in a fence that is transparent in nature. Some examples are, wrought-iron or open wood picket fences. Chain link fences are not allowed.

Fences over the height of three feet and less than ten feet from the rear alley property line shall be constructed preferably of wrought iron or of material to avoid potential hiding and sleeping areas within alley, as illustrated in Figure 17. '

Ironically Cottage Garden has a position is that they had to install corrugated material over their chain link fence to keep the homeless away.

Looking forward to catching up with you next week

Have a great week end.

We have comedy at OFF the CUFF Saturday at 8:00 PM

Thanks

Dave

623 570 8880

On Fri, Sep 14, 2018 at 10:02 AM Williams, David <DWilliams1@glendaleaz.com> wrote:

Hi Dave,

I got your message and will look into the application of the PAD. The building material section of the PAD is usually a guideline which can be difficult to enforce. I will look into this specific case. I think the reflection is a nuisance and the issue is nuisance, not zoning. But again, I will check into it.

Yes, let's get together and get caught up. Maybe we can meet at one of your house in Catlin. I should take some pictures of the fence- in the afternoon when the sun is hitting it. We can also catch up on other things.

Best,

David

David Williams, AICP

Glendale Planning Administrator

Office: 623-930-2585

Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>

Sent: Thursday, September 13, 2018 2:31 PM

To: Williams, David <DWilliams1@GLENDALEAZ.com>

Subject: Re: Meeting Friday and Tour

Hi Dave,

Hope you have settled in Glendale. Just a follow up on the shiny fence behind my property in Catlin Court 7157 N 58th Drive. Glendale. I just heard from one of the neighbours that Code Compliance met with the owner of Cottage Garden II, 7162 N 58th Avenue, Glendale and said that light and heat reflecting corrugated fence is acceptable and the PAD does not apply.. since it is not enforceable. Can you please verify. The word in Catlin Court is that the PAD is not enforceable and does not apply. I doubt it is true so I am coming to the source.

FYI, Bears and More my neighbour next to my house 7142 N 58th Drive is encroaching on my property by about 3 feet. I hired a survey company and identified the boundary of my property. I am working on getting them to get off my property and will construct a fence to separate our properties per the survey. If indeed the PAD does not apply, it means I can install a corrugated metal fence.

If you have time lets catch up.

Thanks

DAve Chang, Chang Properties

On Sat, Jul 14, 2018 at 7:16 PM David Chang <dave.changproperties@gmail.com> wrote:

Hi David,

Thanks so much for your time, I appreciate you listening to my plans and concerns about restoring my historic homes in Catlin Court.

I re-read the PAD, there is no restrictions of landscaping the front yard and having brick or masonry paver pathway or patio. I am surprised it does have a restriction of desert landscape, like anything else it is a matter of degree, I can see not allowing people to spread gravel on their front yard and call it landscaping. However I can see a manicured rock garden with plants that are native to Arizona. I have a professional landscape Designer and **we will take all this into consideration.**

Attached are pictures of the chain link fence covered over with reflective galvanized corrugated metal put up by the Cottage Garden II, 7162 N 58th Drive, Glendale. At about 2 to 3 PM this fence is like a mirror shining into the back of my house 7157 N 58th Drive in Catlin Court. In the pad it specifies on page 17 of the Catlin Court PAD 'Rear fences within 10 feet of alley property line shall be designed in the architectural character of the corresponding building and shall be constructed of natural materials that result in a fence that is transparent in nature. Some examples are, wrought-iron or open wood picket fences. Chain link fences are not allowed.' The issue here is not only is the chain link fence **on the property line** instead of being 10 feet of the alley property it is also reflective and shining into my property on 7157 N 58th Drive.

Thanks very much for looking into this matter.

Sincerely,

Dave Chang
623 570 8880

COG000043

From: Williams, David
Sent: 3/4/2019 5:32:15 PM
To: David Chang
Subject: RE: Meeting Friday and Tour

Dave,

You are most welcome.

Thank you for providing Robert's contact info. I will be having a Catlin Court month as I prepare to evaluate the office and residential use aspects of the PAD.

As of today, as provided for in the PAD and the Zoning Interpretation from 2018, a single residence is permitted on each property and office use is permitted. It may be advisable to limit the office use to 25% of the floor area of your building. If this is a concern for you, or you intend a larger office use, please contact me and I can help. You do not need a formal approval for the office use at this time.

Thanks,
David

David Williams, AICP
Glendale Planning Administrator
Office: 623-930-2585
Cell: 602-909-5203

From: David Chang <dave.changproperties@gmail.com>
Sent: Monday, March 04, 2019 12:43 PM
To: Williams, David <DWilliams1@GLENDALEAZ.com>
Subject: Re: Meeting Friday and Tour

Hi David,

Thanks for sharing a few minutes with me this morning.

I got a chance to take a look at what Robert Robinson, the attorney I am buying the 5724 W. Palmyra Ave building from. Turns out what he gave is a copy of the final of the PAD, he also gave me a copy of the Downtown Master Plan, it dates back to 2012. You probably have a copy in the city.

The only document (attached) that he sent me that may be of interest is the office space calculations

Here is contact info for Robert Robinson, attorney
Office phone 623 937 1609 may not be good when he moves out
Cell 623435 6633
email: robinsonandassociates@outlook.com

Here is my request for approval for use of the 7157 N 58th Drive in the Catlin Court house. I am restoring this

property currently, it is 1,100 square Feet. I am planning to use it as as residential /office space.
Let me know if you need a formal letter for request

Thanks for your assistance

Dave Chang
623 570 8880

From: David Chang [dave.changproperties@gmail.com]
Sent: 7/26/2019 8:57:04 AM
To: Tolmachoff, Lauren
Subject: Fwd: Madison House
Attachments: Burner law to Tom 62519.pdf; Burner law to Chang Equity 61819 pg1.pdf; Burner law to Chang Equit 61819 pg2.pdf; Roberson to Burner law7319.pdf; ZIL18-04 Catlin Court Office Use Interp Final.pdf; ZIL19-02 Catlin Court Interp Office Use & Residential Use- Final.pdf;

Attached is the letter from Coit and Valerie Bruner, Bears and More's Attorney sent to my buyer Tom Smith, and the email from Tom Smith terminating the purchase agreement for 7157 N 58th Drive, the house I restored in Catlin Court.

Coit and Valerie's attorney is also demanding that the City of Glendale enforce the PAD and not allow residence for Jim and Xan Hummel, 7150 N. 58th Drive, office use of the Real Estate office at 7150 N 57th Drive, (next to Touch of European). Attached are interpretations from David Williams addressing that Residential and Office use are allowed for properties in Catlin Court.

Not only do these people interfere with other people doing business, they continue to put a negative cloud in the business community, as well waste a lot of the city's resources. Perhaps the PAD needs to be reviewed by City Council.

Please let Kevin know Chris, assistant City Manager, Eric and Jessie Pederson have been extremely helpful, along with City Attorney Micheal Bailey.

Thanks
Dave
623 570 8880

----- Forwarded message -----

From: Thomas Smith <tsmithcpaaz66@gmail.com>
Date: Wed, Jul 24, 2019 at 5:35 PM
Subject: Madison House
To: DaveChang <dave.changproperties@gmail.com>

Hey Dave,

It breaks my heart to not be able to finalize the Madison House deal but it is what it is. The appraisal issues with the 7/31/19 deadline quickly approaching was part of the decision but I would be lying if I said that the neighborhood issues weren't a big part of the problem.

The letter I received from the attorney in Jerome really shook me up

as evidenced by my visit to the planning department the very next morning for clarification. Being warned that a 58th Drive "neighbor" was petitioning the city to disallow the use I was counting on was alarming to say the least. I would have been investing a great deal of money with this hanging over my head. I envisioned a future lunatic city council deciding that I can no longer live or work in my home based on some idiotic rule.

I wish it would have worked out for both of us.

Take care,

Tom
Thomas A Smith, Cpa
Work 623-435-9580
Fax 623-435-6462

From: David Chang [dave.changproperties@gmail.com]
Sent: 9/15/2019 4:43:20 PM
To: thebeautywaves@yahoo.com; Pederson, Jessi; Rastovsky-Collins, Lisa
Subject: Catlin Court PAD Zoning
Attachments: CatlinCourtPAD.pdf; ZIL18-04 Catlin Court Office Use Interp Final.pdf; ZIL19-02 Catlin Court Interp Office Use & Residential Use- Final.pdf;

Hi Jessica G. Lopez Canales,

Attached are three documents

1. Catlin Court PAD Zoning
2. Interpretation about Residential Use
3. Interpretation about Office Use.

for more questions about zoning issue you may contact

Jessi Pederson - Assistant Director of Economic of Development JPederson@glendaleaz.com
623-930-2996

Lisa Collins - Director of Planning responsible for zoning Interim Planning Administrator
lcollins@glendaleaz.com
623-930-2800

I will be happy to help you set up meeting with the associated Glendale Department to answer your questions you may have about your Hair Dressing Salon business moving to 7142 N. 58th Drive,
Glendale - 85310

Sincerely
Dave Chang
623 570 8880

<JPederson@GLENDALEAZ.COM>

Subject: RE: Board of Adjustment

Hi David,

Thank you! It's an honor to be here! I'm looking forward to working with everyone to help make Glendale grow!

Lisa

From: David Chang <dave.changproperties@gmail.com>

Sent: Thursday, October 31, 2019 1:08 PM

To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>; Pederson, Jessi

<JPederson@GLENDALEAZ.COM>

Subject: Re: Board of Adjustment

Hi Lisa,

So glad you decided to stay and help Glendale grow. Congratulations

Best Regards,

Dave Chang

623 570 8880

On Wed, Oct 16, 2019 at 7:40 AM David Chang <dave.changproperties@gmail.com> wrote:

Hi Lisa,

Thanks for the update. Have you been able to give it some thought about alternative use for my property on 5724 and 5714 W. Palmyra Avenue.

I am working to attract a profitable and suitable business use for the property. It was used as office space. There is an over supply of office space and I don't believe it is the best economic use of the space. I would like to attract either a day care or convert the property to residential. It is right behind the civic center, a small hotel would be a good complement to the the business use for the Civic Center.

I am wondering if I can convert it to residential, which I believe under the current Catlin Court PAD I can. The interesting thing is if I do convert it to residential I can do Air BnB, based on Arizona regulations.

How about we meet to discuss this when I return from Singapore?

Best Regards,

Dave Chang

Chang Properties, LLC

On Wed, Oct 16, 2019 at 7:02 AM Rastovsky-Collins, Lisa <lcollins@glendaleaz.com> wrote:

Hi David,

I think the meeting was good, everything was "put on the table", so to speak. The attorney appealing the interpretation made his presentation, I presented the city's interpretation along with my own interpretation of the PAD and about 8 citizens spoke. The BOA delayed their decision to November. The two people speaking on your behalf did a great job.

Thanks,

Lisa Collins
Interim Planning Administrator
City of Glendale
623-930-2585

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, October 15, 2019 2:53 PM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Subject: Board of Adjustment

Hi Lisa,

How did the Board of Adjustment meeting go?? I understand you did a great job presenting the City's case on the use of properties for residential and office use.

Thanks
Dave Chang
623 570 8880

On Tue, Nov 5, 2019 at 10:14 AM Rastovsky-Collins, Lisa <lcollins@glendaleaz.com> wrote:

Great – thank you!

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, November 5, 2019 9:58 AM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Subject: Re: Board of Adjustment

Tomorrow is fine. I'll come to the 2nd floor.

Thanks

Dave

623 570 8880

On Tue, Nov 5, 2019 at 9:53 AM Rastovsky-Collins, Lisa <lcollins@glendaleaz.com> wrote:

Hi David,

Are you available at 1:30 tomorrow? I can meet you in our offices or if there is an other place that's better for you, please let me know.

Thanks,

Lisa

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, November 5, 2019 8:38 AM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Subject: Re: Board of Adjustment

What is your schedule like this week? Can we meet for about an hour? I have zoning questions.

Thanks

Dave Chang

623 570 8880

On Thu, Oct 31, 2019 at 1:58 PM Rastovsky-Collins, Lisa <lcollins@glendaleaz.com> wrote:

Perfect -- I'll look for the meeting! Thank you!

From: dave.changproperties <dave.changproperties@gmail.com>
Sent: Thursday, October 31, 2019 1:54 PM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.COM>
Subject: RE: Board of Adjustment

I am ready to go back to work. Just returned from Asia. I asked Jessi to set up a meeting with you to discuss live work project. Thanks. Dave

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: "Rastovsky-Collins, Lisa" <lcollins@GLENDALEAZ.COM>

Date: 10/31/19 1:42 PM (GMT-07:00)

To: David Chang <dave.changproperties@gmail.com>, "Pederson, Jessi" <JPederson@GLENDALEAZ.COM>

Subject: RE: Board of Adjustment

Hi David,

Thank you! It's an honor to be here! I'm looking forward to working with everyone to help make Glendale grow!

Lisa

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Thanks,

Lisa Collins

Interim Planning Administrator

City of Glendale

623-930-2585

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, October 15, 2019 2:53 PM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Subject: Board of Adjustment

Hi Lisa,

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Thanks

Dave Chang

623 570 8880

From: Figueroa, Diana
Sent: 11/14/2019 10:15:48 AM
To: Cope, Samantha
Subject: FW: Board of Adjustment
Attachments: Board of Adjustment Catlin PAD.docx;

Fyi, I have the copies and file copy. Let me take them over to you.

From: David Chang <dave.changproperties@gmail.com>
Sent: Thursday, November 14, 2019 8:57 AM
To: Figueroa, Diana <DFigueroa@glendaleaz.com>
Subject: Re: Board of Adjustment

Hi Diana,
There was just a typo on the date, it should have been 2019 instead of 1019.
Here is the updated.
Thanks for all your help.
Dave

On Thu, Nov 14, 2019 at 8:39 AM Figueroa, Diana <DFigueroa@glendaleaz.com> wrote:

Good morning David. As I mentioned I did forward the Board your email. I made printed copies as well, but you mentioned you had a new version. Could you send that one to me please?

Diana

From: Figueroa, Diana
Sent: Wednesday, November 13, 2019 4:29 PM
To: David Chang <dave.changproperties@gmail.com>
Subject: RE: Board of Adjustment

No worries, David. I have forwarded your correspondence to them.

Diana

From: David Chang <dave.changproperties@gmail.com>
Sent: Wednesday, November 13, 2019 4:20 PM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Cc: Figueroa, Diana <DFigueroa@glendaleaz.com>
Subject: Re: Board of Adjustment

Thank you! Samantha is out of the office. Please help make sure this gets to the BOA before tomorrow's meeting. I plan to attend.

Thanks
Dave

On Wed, Nov 13, 2019 at 4:06 PM Rastovsky-Collins, Lisa <lcollins@glendaleaz.com> wrote:

Hi David,

Thank you for your letter. I know that Diana has this too and will forward on to the Board.

Thank you,

Lisa Collins
Planning Administrator
City of Glendale
623-930-2585

From: David Chang <dave.changproperties@gmail.com>
Sent: Wednesday, November 13, 2019 12:56 PM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Subject: Re: Board of Adjustment

Hi Lisa.

Updated, found a typo with the date.

Thanks
Dave

On Wed, Nov 13, 2019 at 12:53 PM David Chang <dave.changproperties@gmail.com> wrote:

Hi Lisa,

Attached is my letter for the Board of Adjustment members. Can you please have staff get copies of this letter to the Board of Adjustment members before the meeting tomorrow.

If I am required to do anything to get this letter to BOA for tomorrow's meeting please let me know.

Thanks
Dave Chang
623 570 8880

On Tue, Nov 5, 2019 at 10:14 AM Rastovsky-Collins, Lisa <lcollins@glendaleaz.com> wrote:


Great -- thank you!

From: David Chang <dave.changproperties@gmail.com>
Sent: Tuesday, November 5, 2019 9:58 AM
To: Rastovsky-Collins, Lisa <lcollins@GLENDALEAZ.com>
Subject: Re: Board of Adjustment

From: Figueroa, Diana
Sent: 11/13/2019 4:28:31 PM
To:
Subject: CORRESPONDENCE RE: CATLIN COURT
Attachments: Board of Adjustment Catlin PAD.docx;image003.jpg;

Good afternoon Board members. I have received correspondence form Mr. David Chang and he has asked that I forward you the attached.

Diana


Diana Figueroa
Management Assistant
Planning Division
P.O. Box 650
2000 West Gloucester Avenue, 3rd Fl.
Gloucester, NJ 08030
We improve the lives of the people we serve every day.
Community • Integrity • Excellence • Innovation • Efficiency

David Chang
Glendale Resident/Business Owner
Date: 11/13/2019

Mr. Erminie P. Zarra, Chair and
Board of Adjustment Members
City of Glendale,
5850 W. Glendale Avenue,
Glendale, Arizona - 85301

Dear Mr. Erminie P. Zarra, Chair and Board of Adjustment Members

This is in response to the ZIL-19-02 Catlin Court District PAD - Appeal of Planning
Administrator Decision/Interpretation

- I. Professional Office Space Use
- II. Residential Use

Others have spoken to the Board of Adjustment about the impossibility of enforcing the limitation of 25% of usable space in a property and the various deviation of the interpretation of Residential use. From information collected from some of the original members of the community who created the Catlin Court PAD, it was a way to allow people who lived in Catlin Court to be able to start a small business out of their homes (cottage industry). This mixed use is what makes Catlin Court unique.

My family has done business in Downtown Glendale for over 80 years. My wife's family operated Gene's Modern Market since the 1930s. My family has restored some of the most iconic historic buildings in Downtown Glendale.

Coury Building - 6835 N 58th Drive. - Casa Terra Vegan Restaurant
Humphrey Davidson Building - 5817 and 5819 W. Glendale Avenue. - CUFF Bistro
and OFF the CUFF Venue
Madison House - 7157 N 58th Drive - Residential and Office Use
Marshall House - 7153 N 58th Drive, Residential/Retail (Future Vinyl Record sales)
C. L. Gillett Building - 5825 W. Glendale Avenue. Renovation for Live/Work use

My motivation for the restoration activities is to preserve the historic buildings of Downtown Glendale and create a livelihood for residence of Glendale as well as a retirement for my family.

As an investor there has to be a reasonable return on the cost of doing the restoration work to finance future restoration work of other properties. If not, it is better to park the money in a savings account.

Currently, The C. E. Allen House, 7142 N. 58th Drive, Glendale is for rent in Catlin Court. The market value is \$200,000, as a residential, commercial and or Office use. As a retail use the market rent is less than \$1,000 per month. After paying for Insurance, Property Taxes, and Maintenance the Return on Investment is about

3.5%. Most commercial investors look for a Cap Rate of about 6.5% making the value of the property at about \$109,076 to \$150,000 (significantly lower).

When a property is designated as commercial only, it becomes harder to sell the property because the hurdles to get financing are many and is extremely high.

- The property requires a commercial appraisal generally over \$2,000
- The business Tax Returns for 2 to 3 years to show profitability
- The down payment is generally 25% or higher generally 50%

The typical retail operator in Catlin is a new business or an existing business that cannot show profitability to qualify for a loan to purchase the building.

Most of the properties in Catlin Court were built for use as residence and the average square footage is about 1,200 square feet. As a retail operation in order to make enough profit to replace a minimum wage job the average selling price of the items has to be high or if the item price is low the retail operation has to sell a large volume of goods.

The reality of the current rental market in Catlin Court is, retail tenants want to sell antiques (limited demand), gifts and trinkets that have a low average selling prices. The property is not large enough to have a large diversity of items and inventory to result in high volume of sales. Because of this equation; the amount of rent that the retail operator can afford is below market rate for retail space in Glendale.

So, going back to my goal of preserving my investment and setting myself up for a good affordable retirement. Collecting a 3.5% Return on Investment, working long hours at or below minimum wage and having a hard time to sell my property at a fair price is not my idea of a good way to go off into the sunset.

Currently, the dark cloud that hangs over Catlin Court due to the Appeal of Planning Administrator Decision/Interpretation has stopped all Real Estate activities. No one wants to rent or purchase a property when there is a threat of being removed.

I request an efficient process to come to a decision of a future allowable Residential and Office use in Catlin Court PAD as well as a Grand Father clause to allow current occupants of buildings to continue to live and do business in Catlin Court.

I thank every one on the Board of Adjustment for your service to the City of Glendale.

Sincerely,



David Chang,

Chang Properties, LLC, 623 570 8880

From: David Chang [dave.changproperties@gmail.com]
Sent: 11/24/2019 1:59:26 AM
To: Rastovsky-Collins, Lisa
Subject: Fwd: Catlin Court PAD info

I just found this email in my Zang Asian Bistro (my restaurant) email received Jan 31, 2018 from Council Member Aldama's assistant Sam Pena.

Interesting that back in Jan 2018 the interpretation on the Catlin Court PAD concerning Residential and Office use is exactly the same from Sam McAllen as David Williams, Director of Planning in April of 2019. Yet these individuals in Catlin Court provided comments to the BOA that they invested their 'hard earned money' with the understanding that the Catlin Court PAD is strictly for retail and that you can only live on the property only if it is also occupied by a 'speciality retail'.

Incredible these people have been at this for so long.

Regards
Dave Chang

----- Forwarded message -----

From: David Chang <zangasianbistrocox@gmail.com>
Date: Sun, Nov 24, 2019 at 1:43 AM
Subject: Fwd: Catlin Court PAD info
To: <dave.changproperties@gmail.com>

----- Forwarded message -----

From: Pena, Samuel <SPenal@glendaleaz.com>
Date: Wed, Jan 31, 2018 at 5:00 PM
Subject: Catlin Court PAD info
To: zangasianbistro@cox.net <zangasianbistro@cox.net>

Mr. Chang,

On behalf of Councilman Aldama he wanted to thank you for contacting our office. I appreciate the opportunity to provide you the information received from staff regarding the Catlin Court PAD. As mentioned, several business owners and residents have asked Councilman Aldama to research the PAD regarding enforcement, residential occupancy and enforcement of limiting commercial and office space.

Office staff and Councilmember Aldama held a community meeting on November 15th, 2017 and the topic was the PAD. Sam McAllen was in attendance and provided the information below. Please feel free to contact us should you require further assistance. I will include you in future meetings if you desire. Those who reside and or have businesses in the Catlin Court PAD will determine whether a change is needed.

From: Sam McAllen:

The Catlin Court District Plan, a Planned Area Development, is 25 years old. It appears that a resident committee (18 members) and a private design and planning consultant were assisted by City of Glendale staff on creating this document. The city staff, identified in the document, represented the Economic Development, Marketing and Neighborhood Resources Departments. I have been unable to determine the level, if any, of involvement by the Planning Department and/or City Attorney's Office.

Like the Zoning Ordinance, the provisions of the Catlin Court District Plan can be updated through the city's established re-zoning process. That process includes requiring 75% or more of the property owners indicating they want to change the plan. Once the required number of property owners are on-board, the Catlin Court District Plan can begin being amended through the city's re-zoning process. The current fee for rezoning a PAD is \$1,616.25 + \$106.32 per acre. The process would involve the property owners and then would need to be presented to the Planning Commission and approved by the City Council.

The two hot topics identified at the Community meeting I attended included pure residential uses and limiting the amount of commercial/professional office space uses in the Catlin Court neighborhood.

- **Residential Uses:** During the meeting, some attendees believed that pure residential uses were not allowed by the Catlin Court District Plan. The Zoning Administrator clarified that the plan does not prohibit 100% residential uses.

- **Office Space Limit:** During the meeting I clarified that the wording of the plan makes it virtually impossible to enforce the 25% office space limitation as the plan limits professional office space on the first floor to no more than 25% of the total

conglomerate first floor area of the district. The real challenge is floor space limit is tied to all

properties in the district. I followed up with the City Attorney's Office on this item and they agreed that the wording of this item makes the provision virtually unenforceable. The language associated with this provision would need to be clarified, with input from Planning, Code Compliance and the City Attorney's Office, to ensure enforceability if/when the plan is amended.

Since the Catlin Court District Plan was established 25 years ago, it does not contemplate some of the new trends in retail business (i.e. internet sales) nor the way the city's Signature Events impact the Catlin Court neighborhood. I know you were going to share your list of "weak points" with the meeting's attendees. Other items that should be considered include: signage, use of lawn space, clarifying residential use allowances, modifying office space limitations to floor space at individual properties, adding a "definitions" portion to the amended plan, clarifying if items made of plastic are permitted to be displayed, and clarifying if/when and how a business must begin operating from a Catlin Court location.

The City Attorney's Office did indicate that if the city initiated amending the Catlin Court District Plan, we would have Proposition 207 exposure. There would be less Proposition 207 liability if the amendment was initiated by at least 75% of the property owners, however there may be Proposition 207 liability even with the proposed amendments being requested by less than 100% of the property owners.

Samuel Peña

Council Assistant

City of Glendale

Barrel & Ocotillo Districts

Office: (623) 930-2230

From: Pederson, Jessi
Sent: 1/8/2020 5:22:51 PM
To: Cope, Samantha
Cc: Rastovsky-Collins, Lisa
Subject: Board of Adjustment Meeting - for the screen
Attachments: CAAt Court DC.pdf;image001.png;

Hi Sam!

Lisa and I were just chatting about the BOA meeting tomorrow – we had received a request from David Chang who plans to speak during public testimony (should that take place at the meeting tomorrow) and he asked that the attached file be loaded on the computer so that it can be pulled up during his public comments. Would you be able to assist us with this request?

Thanks!
JP



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To: Ms. Tabitha Perry
Executive Officer, Special Projects
Development Service Department
City of Glendale Planning Division

APRIL 28, 2021
Catlin Court PAD Public Hearing

COMMENT/QUESTION TOPIC: WHY DOES THE CITY WANT TO CHANGE THE CATLIN COURT PAD PLAN TO “MEMORIALIZE” OR “SUBSTANTIATE” THE BOARD OF ADJUSTMENT’S INTERPRETATION OF THE PLAN AS IT IS NOW?

The Special Action lawsuit challenges the Planning Department and the Board of Adjustment determination that the Catlin Court PAD Plan as it is written now does not put any limit on professional office space use or any limit on residential only uses at all.

The notice for the April 1 hearing said that the “*City Council provided direction to memorialize the decision of the Board of Adjustment by amending the PAD.*” And it also says that “*ZON21-XX would amend the PAD to substantiate the decision of the Board of Adjustment.*” The notice for this hearing also says your goal is to “memorialize” the Board of Adjustment decision after the fact.

- In what way is the application changing the PAD Plan after the interpretation intended to “*memorialize*” the Board of Adjustment’s decision about the PAD Plan language as it is before these changes the City now wants to make? What is the advantage to the City?
- In what way is the application changing the PAD Plan after the interpretation intended to “*substantiate*” the Board of Adjustment’s decision about the current PAD Plan language before the changes the City now wants to make? What is the advantage to the City?
- What effect do you intend this application to have on the Special Action court case challenging the ZIL19-02 interpretation?

To: Ms. Tabitha Perry
Executive Officer, Special Projects
Development Service Department
City of Glendale Planning Division

APRIL 28, 2021
Catlin Court PAD Public Hearing

COMMENT/QUESTION TOPIC: THE TIMING OF THIS APPLICATION IN THE MIDST OF A SPECIAL ACTION ABOUT THESE SAME TWO (and only two) PROPOSED CHANGES MAKES NO SENSE. WHY ARE YOU CONSIDERING THIS CHANGE IN THE PAD PLAN NOW?

The Special Action lawsuit challenges the Planning Department and the Board of Adjustment determination that the Catlin Court PAD Plan as it is written now does not put any limit on professional office space use or any limit on residential only uses at all.

If the court upholds the ZIL19-02 interpretation, the decision in that case would make this application totally unnecessary. The timing of this application during the pending court case on these exact issues requires public transparency. Why not wait until the court decides if the planning administrator's interpretation of the PAD Plan as written now is correct?

- What is the benefit to the City of initiating this pre-emptive step now to change the Catlin Court PAD Plan before the court's decision on the same two (and only two) changes proposed in this application?
- If the Planning Department really believes that the Board of Adjustment was right, then why not wait for the court decision that you believe will uphold these same rules anyway without a change in the PAD Plan?
- On the other hand, if the court decides that the Board's decision to uphold the interpretation is not correct in whole or in part, then why not wait for that court decision to guide the application and the PAD Plan amendment process from the outset?

To: Ms. Tabitha Perry
Executive Officer, Special Projects
Development Service Department
City of Glendale Planning Division

APRIL 28, 2021
Catlin Court PAD Public Hearing

COMMENT/QUESTION TOPIC: APPLICATION OF PROPOSITION 207 (A.R.S section 12-1134) TO THESE PROPOSED CHANGES IN THE CATLIN COURT PAD PLAN.

Some of the neighborhood group that worked with the City to enforce the professional office space limit in the PAD in 2015 worked against the City when the Planning Department decided not to enforce this use limit. At that time, the City was concerned that Prop. 207 would factor into their enforcement of the PAD Plan. Prop. 207 (A.R.S section 12-1134) did not come into play then, though, because the City would be enforcing the terms of a pre-Prop. 207 law (the PAD Plan) not changing the law.

But now this application is intended to change the PAD Plan so that the use limits on residential only and professional office space in place to benefit specialty retail business would be officially gone. The City has produced documents indicating that the proposed change in the application would make the City liable under A.R.S section 12-1134. (See attached.)

My questions concern the Prop. 207 effects of proceeding with this application.

- How has the City considered whether the changes in this application would result in Prop. 207 liability to the specialty retail property owners in Catlin Court?
- If a decision in the City's favor in the pending special action would implement these same changes in Catlin Court as an interpretation of the PAD Plan as it is now (no Prop. 207 liability), then why is the City risking Prop. 207 liabilities with this change in the law before the Special Action case is decided?

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Sent: 11/24/2019 1:59:26 AM
To: Rastovsky-Collins, Lisa
Subject: Fwd: Catlin Court PAD info

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conglomerate first floor area of the district. The real challenge is floor space limit is tied to all

properties in the district. I followed up with the City Attorney's Office on this item and they agreed that the wording of this item makes the provision virtually unenforceable. The language associated with this provision would need to be clarified, with input from Planning, Code Compliance and the City Attorney's Office, to ensure enforceability if/when the plan is amended.

Since the Catlin Court District Plan was established 25 years ago, it does not contemplate some of the new trends in retail business (i.e. internet sales) nor the way the city's Signature Events impact the Catlin Court neighborhood. I know you were going to share your list of "weak points" with the meeting's attendees. Other items that should be considered include: signage, use of lawn space, clarifying residential use allowances, modifying office space limitations to floor space at individual properties, adding a "definitions" portion to the amended plan, clarifying if items made of plastic are permitted to be displayed, and clarifying if/when and how a business must begin operating from a Catlin Court location.

The City Attorney's Office did indicate that if the city initiated amending the Catlin Court District Plan, we would have Proposition 207 exposure. There would be less Proposition 207 liability if the amendment was initiated by at least 75% of the property owners, however there may be Proposition 207 liability even with the proposed amendments being requested by less than 100% of the property owners.

Samuel Peña

Council Assistant

City of Glendale

Barrel & Ocotillo Districts

Office: (623) 930-2250

Good evening –

My name is Valerie Burner and I own Bears & More.

There have been many opportunities for business owners to engage with new people wishing to operate in the Catlin Court District Pad Plan and many opportunities to meet with city representatives regarding the Catlin Court PAD. My journey began when we moved officially into the PAD in 2002. My earliest digital record is from 2007 from Ron Short who worked in the planning department 14 years ago. I do have boxes of printed records ~~as well~~. too.

Found in my personal archives is an article from the Glendale Star dated October 2003. The headline reads "Downtown Church Forced to Move". There are many notable quotes from Ray Jacobs who was a city zoning administrator. When referring to the Catlin Court PAD he said, "It was established for retail shops" and "Basically, things that contribute to a pedestrian street environment are allowed" and "It's supposed to be retail sales. That's the intent of the district." The church was given 30 days to move. The Catlin Court PAD plan was enforced.

In 2013 (10 years later) a letter was sent to a property owner from then Senior Planner Thomas Ritz. A request had been made seeking city approval for the owner to lease the property in question as office space. The letter states "The Catlin Court District Plan provides requirements for land use for this property." Staff surveyed the existing land uses and determined that less than the maximum amount of active professional office space was in use and granted permission to lease that space for office use. The PAD was followed as it is currently written.

In 2015 a group of Catlin Court merchants met several times with city staff and that culminated in a meeting at the Glendale Woman's Club in April 2016. Jon Froke and Jean Moreno were the city representatives. The meeting was highly attended by property and business owners. The concerns at that time were professional office use and residential only use.

In November 2017 a meeting was held by Councilmember Aldama. Sam McAllen attended as well as a smaller contingent of business and property owners, one being the new residential only occupant. In a follow-up email from Samuel Pena (Councilmember Aldama's assistant) Mr. McAllen identified two hot topics, which were the same in 2015 and today in 2021.

In that January 2018 email there is a paragraph that reads, "The City Attorney's Office did indicate that if the city initiated amending the Catlin Court District Plan, we would have Proposition 207 exposure. There would be less Proposition 207 liability if the amendment was initiated by at least 75% of the property owners, however there may be Proposition 207 liability even with the proposed amendments being requested by less than 100% of the property owners.

Mr. Bailey clearly stated that if the city initiates an amendment to the Catlin Court PAD Plan, (which is exactly what is being proposed today) the city would have Proposition 207 exposure. This is exactly what is being proposed today and it could potentially cost the citizens of Glendale hundreds of thousands if not millions of tax dollars.

I suspect even those commercial property owners and/or users here tonight speaking in support of amending the Catlin Court PAD Plan would not turn away a financial windfall caused by the city initiating a Catlin Court Pad Plan amendment resulting in Proposition 207 liabilities.

Yesterday at the council workshop Rick St. John with assistance from Tim Bolling gave a presentation on residential parking regulations. The proposal is for every 500 square feet of livable space the driveways will be allowed 1 vehicle. How will the livable space be determined? It may seem that this has nothing to do with the Catlin Court PAD, but it does. At the whim of the current administration the city has told us that it is impossible to determine the square footage without physically going into the structure to measure, and if denied access, the city would have to get warrants to go inside. Is the city going to get warrants to access homes to determine how many cars can park in the driveway? Or is the city going use the property information from the Maricopa County Assessors Office? If yes, why is that same information considered unreliable and cannot be used for the structures within the Catlin Court PAD?

In 2019 Coit & I as part of a coalition requested two individual interpretations of the Catlin Court PAD, one for professional office use and one for residential use only. The city decided to rule on the two together and determined at that time it was impossible to enforce the professional office space limits and residential only use was allowed. As you all know our coalition now has a special

action working its way through Maricopa County Superior Court. ~~Our Coalition consists of~~
~~Linda Moran, Wendy Pappe, Ed's Tolson, Rick St. John and Tim Bolling~~
Amending the Catlin Court District PAD plan is not in the best interests of the city nor the city taxpayers. Let the court decide.

Original signatures
Bruce Louque Tolson
Merrylene Supt of
Fireworks
And Coit & I -

~~The Republic Bank~~
~~Order Book~~

Good evening,

My name is Coit Burner and I own Bears & More with my wife Valerie.

We opened our business in 1992 in a building that is on the south side of Palmaire, which is adjacent to the Catlin Court PAD. In 2002 we moved our business to its current location within the Catlin Court PAD boundaries. We made the decision to purchase the property based on the protections the PAD provided and we witnessed those being enforced for over a decade.

We have been part of many meetings over the years regarding the Catlin Court PAD Plan.

In 2015 at the Glendale Woman's Club, city representatives fielded many questions after their presentation. Worth mentioning the city cited Proposition 207 as to why they could not enforce the Catlin Court PAD. When I asked Mr. Froke during that meeting if I could bring legal action against the city for non-enforcement of the Catlin Court PAD Plan, his response was "yes".

We attended a Planning Commission meeting in 2016 and at that meeting there was a petition for a business (a tree farm) to open in the residential area around 59th Avenue and Northern. Let me restate that - a business wanted to open in a residential neighborhood. The application was unanimously denied, as it should have been.

This is no different – a commercial property in a commercially zoned area that had operated as businesses since at least 1992 without any Planning Commission hearing, rezoning, or any notifications, literally flipped residential overnight with a change in ownership. Worth a mention, the property taxes also decreased by \$1100/annually on this single parcel. This property sold in 2016 – the very same year as the tree farm denial. The new owners met with several business owners, us included and were undecided about what type of business they were going to open.

We have since learned that there was never any intent to open a business and they were coached on what to say to the planning department. This same property owner was at the 2017 meeting with Councilmember Aldama and told the business owners in attendance to "get on board, the area is turning back residential". And this same property owner was heard saying to yet another property owner in 2019 "read between the lines, we are flipping this back residential" referring to the 4 blocks of the Catlin Court District PAD. These statements have been made on more than a few occasions and at different times to different people. They do not seem to be in the spirit of compromise, co-operation or co-existing together. In fact, it seems to be a veiled threat to my business and all other business models in the Catlin Court District PAD Plan.

Surprisingly, this is the same property owner who at the planning commission meeting held on April 1, 2021 spoke about how businesses and residents can co-habitate together, survive together and work together with one another. This is contradictory, it must be one or the other, it cannot be both.

Why would someone knowingly move into a commercial district area? Why wouldn't they purchase one of the over 75 homes in the Catlin Court Homes District, literally 100 yards away? Or one in Floralcroft?

What protections do I have a business owner should the number of residents in this 4-block commercial area of Catlin Court outnumber the businesses one day and decide to petition the city to do what they have already threatened to do many times – flip the Catlin Court Shops district back to residential?

We have tried to compromise on the office space limitations many times with the city. Each time we were stonewalled.

We are not asking the city to do anything special or any special treatment. We are asking the city to do what the city has done – enforce the Catlin Court District PAD Plan as written.

The pending application to change the Catlin Court District PAD Plan is exposing the city to Proposition 207 liabilities. It is not in the city's best interest to pursue this amendment. If a decision in the City's favor in the pending special action would implement these same changes in Catlin Court as an interpretation of the PAD Plan as it is now (no Proposition 207 liability), then why is the City risking Proposition 207 liabilities with this change in the law before the Special Action Case is decided?

