

Staff Summary Report



Development Review Commission Date: 02/09/2010

Agenda Item Number: ___

SUBJECT: Hold a public hearing for a Development Plan Review including reconsideration of a condition of approval for **T30 LLC CANAL GATE REMOVAL** located at 2085 South Cottonwood Drive.

DOCUMENT NAME: DRCr_T30llcCanalGate_020910 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request for **T30 LLC CANAL GATE REMOVAL (PL090484)** (John M. Earl, T30 LLC, owner; Brandi Decker, Trident Security Services, Inc., applicant) to eliminate existing condition of approval # 9 from the Site Plan (SIP-99.67) for Broadway Office Plaza in order to remove an existing gate between the site and the Tempe Canal. The 0.49 acre site is located at 2085 South Cottonwood Drive in the R/O, Residential/Office District. The request includes the following:

DPR09243 – Development Plan Review including site plan.

PREPARED BY: Kevin O'Melia, Senior Planner (480-350-8432)

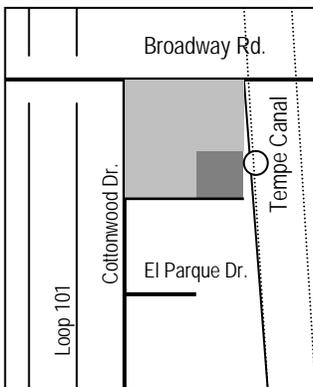
REVIEWED BY: Lisa Collins, Development Services Planning Director (480-350-8989) 

LEGAL REVIEW BY: Teresa Voss, Assistant City Attorney (480-350-8814)

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO: Gross/Net site area 0.49 acres (Lot 3)



The applicant is requesting elimination of existing condition of approval # 9 from the Site Plan (SIP-99.67) for Broadway Office Plaza and Development Plan Review approval for removal of an existing pedestrian gate between the Lot 3 site and the Tempe Canal.

The case has been advertised in the newspaper, neighboring property owners have been notified of the Hearing by mail and the site has been posted. A neighborhood meeting is not required and was not held for this request. Staff has received communication from the public indicating opposition to the request. The case itself stems from a public complaint regarding unauthorized closure of the gate.

- PAGES:**
1. List of Attachments
 - 2-3. Comments
 4. Reasons for Approval / Conditions of Approval / Code-Ordinance Requirements
 - 5-6. History & Facts / Zoning & Development Code Reference

- ATTACHMENTS:**
1. Location Map
 2. Aerial Photo
 3. Letter of Explanation
 4. Site Vignette Sketch of Canal Gate and Adjacent Parking Lot alongside Aerial Photos
 - 5-7. City Council Approval Letter (file copy) of SIP-99.67, dated September 24, 1999, including Ten Conditions of Approval.
 8. Arizona Crime Search azcentral.com: for Property Vicinity.
 9. Canal Gate Photo (View from Site, Looking East toward Multi-Use Path and Tempe Canal)
 - 10-13. Electronic Communications from Neighbors Concerning the Canal Gate

COMMENTS:

The site, Lot 3 of 101 & Broadway Corporate Center, is part of an existing professional office complex that is located on the south of Broadway Road. Cottonwood Drive is to the west. The Tempe Canal and an adjacent multi-use path are to the east. The office complex is bounded on the south by a public alley and to the south of the alley is the Broadway Palms single-family residential subdivision. Within the area described, there are four inter-related office properties, each containing a one-story office building. Lot 3 is the southeastern of these properties, with a southern border on the alley and an eastern border on the multi-use path and canal.

Existing entitlements that apply directly to Lot 3 and will remain in effect are as follows:

- Zoning Map Amendment from R1-6 Single-Family Residential District to R/O Residential/Office District.
- Variance to allow ornamental iron fence along eastern property line in lieu of masonry wall.
- Variance to waive the required 25'-0" west front yard landscape setback at buildings 3 and 5 (Lot 3 contains building 5).
- Final Subdivision Plat for 101 & Broadway Corporate Center. This plat includes reference to public access allowed on site. The reference is as follows: "Cross access easement agreements for drainage, vehicular and pedestrian ingress and egress and parking across Lots 1, 2, 3 and 4 will be as set forth in the 'Reciprocal Easement and Maintenance Agreement' prepared for 101 & Broadway Corporate Center."

The existing Site Plan condition of approval that the applicant seeks to remove is as follows:

- The Site Plan (SIP-99.67) includes ten conditions of approval. The applicant seeks to remove condition # 9. Condition # 9 reads as follows: "Applicant shall install an on-site ramp and a gate along the canal frontage to accommodate bicycle and pedestrian access to the canal and any future multi-use path. Details to be resolved through the Design Review Board / CPTED process."

The applicant, on behalf of the property owner, seeks to remove the existing canal gate in order to limit access through the site by individuals with criminal intent. This desire is two-fold: to protect business employees, clients and citizens on site and to limit liability for crimes committed on site. The applicant understands that the removal of the alley gate does not completely secure the site but it does remove a route through private property that connects two public walkways. The applicant considers a public path around the office complex that includes the sidewalks along Broadway Road and Cottonwood Drive to be a safer alternative route for the public, given the amount of visual surveillance along Broadway and Cottonwood, than a route through the site.

This request includes the following:

1. Eliminate condition # 9 of the Site Plan (SIP-99.67) approval.
2. Development Plan Review to remove the concrete ramp to the canal gate, remove the existing gate and replace with a section of steel picket fence that matches the detail of the existing fence.

The applicant, of behalf of the property owner, is requesting the Development Review Commission take action on the two items listed above.

PUBLIC INPUT

- A neighborhood meeting is not required in conjunction with this request.
- Staff has received neighborhood input in opposition to the closure of the canal gate. Written communication received as of the finalization of this staff summary report has been included in the report attachments.
- Neighbor communication (refer to Attachment 10), dated January 19, 2010, includes a note that the neighbor has spoken directly with the applicant concerning the gate closure.

PROJECT ANALYSIS

- Staff has visited the site during daylight and has interviewed the applicant. The applicant stated that she has picked up debris on site that indicates illegal drug use and that passage through the gate to the canal is associated with this activity.
- After review of the subdivision plat for 101 & Broadway Corporate Center, staff observes there is reference to vehicular and pedestrian site access that connects the four properties to the public right of way on Cottonwood Drive. There is no specific access easement on the plat that allows public passage through the site between Cottonwood and the Tempe Canal.

- Staff has reviewed the request with the Crime Prevention Unit of the Tempe Police Department. The site is part of Beat 17. The Police Department Crime Prevention Unit has reviewed the crime report map supplied by the applicant and has indicated there is not a lot of documented crime in the area. Two calls for service on site were checked, with the following result: "Upon review of the two calls in question (08-013827 & 09-112417), both were false alarm/Panic calls coming from business within the complex. They were attributed to human error. All were cleared with no incident." The Crime Prevention Unit is not opposed to gate removal in order to improve access control to the site.
- Staff has visited the site during night time to determine the existing light level at the gate. Staff observes that while the parking area is well-illuminated, the canal gate does not have a dedicated light source. Ambient light reading by light meter taken on the site side of the alley gate on January 27, 2010 varied due to movement of adjacent tree branches but at no time reached 0.5 foot-candles. Under the current security illumination standard, 0.5 foot-candles is the minimum required for pedestrian pathways and 5.0 foot-candles is the minimum required for entrances—refer to ZDC Sec. 4-803 (D).
- During the January 27, 2010 night time visit, staff observed two additional items that concern the sidewalk around the site:
 - Staff observes that illumination is poor on the Broadway public sidewalk and particularly at the bus stop near the southeast corner of Broadway and Cottonwood. Staff has contacted Transit Studies on January 28, 2010 to request a public works remedy for the lack of public illumination at the stop. Transit Studies on January 29, 2010 issued a "street light out" notice.
 - Staff observes that the wall-mount security lights on the office building at 2055 S. Cottonwood Drive are not illuminated. These lights are required to be illuminated from dusk to dawn. Staff will separately issue a Code Compliance Activity to remedy this non-illumination of site landscape areas surrounding the building.

Section 6-306(D) applicable Approval Criteria for Development Plan Review

1. The gate removal does not significantly inconvenience access to multi-modal transportation options. Neighborhood access to the multi-use path by the side of the Tempe Canal is provided via the Cottonwood and Broadway sidewalks around the office complex. Also connected on this path between the canal path and the neighborhood is a public transit bus stop (on Broadway), which strengthens the relationship between walking, bicycling and bus use in the area.
2. Relocation of access to the canal via the Cottonwood and Broadway public sidewalks helps to minimize conflicts between vehicular circulation on site for business purposes and pedestrian circulation on site from surrounding residential uses;
3. Relocation of canal path access to the public sidewalks appropriately integrates *Crime Prevention Through Environmental Design* principles such as territoriality, natural surveillance, access control, activity support, and maintenance;
4. Level of security lighting is compatible with the proposed canal path relocation except on Broadway Road immediately east of Cottonwood. Lighting improvement is required at the public transit bus stop on Broadway Road. To remedy this deficiency, Transit Studies staff submitted a "street light out" form for the non-functioning luminary above the bus stop on January 29, 2010.

Section 6-312(D) applicable Approval Criteria for Elimination of Condition of Approval

1. The condition cannot continue to be implemented because it is beyond the reasonable control of the applicant to monitor pedestrian traffic through the canal gate and separate legitimate and criminal activity.

Conclusion

Based on the information provided by the applicant, the public input received and the above analysis, staff recommends approval of elimination of condition # 9 from the Site Plan (SIP-99.67) and Development Plan Review to replace the canal gate with a matching steel picket fence section. This request meets the applicable required Development Plan Review approval criteria and will conform to the conditions stipulated.

REASONS FOR APPROVAL:

1. The proposal to remove the alley gate and replace with a matching fence does not disturb the projected land use goals and element objectives of General Plan 2030.
2. The proposal meets the development standards required under the Zoning and Development Code.
3. The proposal meets the applicable approval criteria for a Development Plan Review.

CONDITIONS OF APPROVAL

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

DPR09243 CONDITIONS OF APPROVAL

1. Complete gate removal and re-installation of matching fence section by April 12, 2010 or the Development Plan approval will expire.
2. Prior to fabrication, submit fence shop drawings to Planning staff for planning plan check approval of matching height and detail to that of existing fence.
3. Remove concrete walkway ramp between gate site and head of adjacent parking space. Re-grade this area and top dress with decomposed granite of material that matches existing.

CODE/ORDINANCE REQUIREMENTS:

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

- **ZONING AND DEVELOPMENT CODE:** Requirements of the Zoning and Development Code apply to any application. Become familiar with the ZDC to avoid unnecessary review time and reduce the potential for multiple plan check submittals. The ZDC may be accessed through www.tempe.gov/zoning or purchased at Development services.
- **SITE PLAN REVIEW:** Verify all comments by the Public Works Department, Development Services Department, and Fire Department given on the Preliminary Site Plan Review dated December 30, 2009. Direct questions related to specific comments to the appropriate department, and coordinate any necessary modifications with all concerned parties prior to application for building permit and/or completion of work.
- **BUILDING PERMIT:**
 - The Building Safety Division has indicated a building permit is not required for replacement of the gate with a section of fence of matching height and construction, despite the fence height in excess of 6'-0". Verify the building permit waiver with Building Safety Division (Lisa Loyd, 480-350-8644) prior to removal and replacement.
 - Modifications to site lighting (if any) will require a building permit.
- **SECURITY REQUIREMENTS:**
 - Follow the design guidelines listed under appendix A of the Zoning and Development Code. In particular, reference the CPTED principal listed under A-II Building Design Guidelines and A-IV Landscape Design Guidelines as these relate to the location of pedestrian environments and places of concealment.
 - Owner shall have management contact the Crime Prevention Unit of the Police Department (480-858-6330) if needed to discuss trespassing after business hours or related issues concerning crime prevention.

HISTORY & FACTS:

- June 14, 1973 The City Council approved a Zoning Map Amendment from AG, Agricultural District to R1-6, Single-Family Residential District and a Final Subdivision Plat for Broadway Palms. This subdivision consists of 210 single family lots and two tracts. Each of the tracts has a frontage on Broadway Road.
Note: Tract 'A' and Tract 'B' of Broadway Palms were developed for one story business offices. Tract 'B' (west of Cottonwood) remained as one lot. Tract 'A' of Broadway Palms was eventually subdivided into four lots (the 101 & Broadway Corporate Center) and includes the subject site (Lot 3).
- May 15, 1997 The City Council approved a Zoning Map Amendment and a Site Plan with Variances for Price/Broadway Professional Office Buildings at 2305, 2325 and 2333 East Broadway Road. The approval includes the following:
(ZON-97.07) Ordinance No. 808.9707 Zoning Map Amendment from R1-6 Single-Family Residential District to R/O Residential/Office District on 2.79 net acres.
(SIP-97.27) Site Plan for Price/Broadway Professional Office Buildings consisting of 30,530 sf. total building area on 2.79 net acres, including the following:
Variance:
a. Delete required 6 ft. landscape buffer between office and residential uses for a certain distance at the SWC of Tract 'B' for gate access only.
b. Allow ornamental iron fence along eastern property of parcel A2 in lieu of masonry wall.
Note: The site plan included in this approval was not developed. This plan included Tract 'B' between Cottonwood and the Loop 101 with one office building and Tracts 'A1' and 'A2' between Cottonwood and the Tempe Canal with a total of three office buildings. The zone change and the variances included in this approval remain with the land.
- May 6, 1999 The City Council approved a two (2) year time extension for a Zoning Map Amendment from R1-6, Single-Family Residential District to R/O, Residential/Office District and re-approval of a Site Plan with Variances for an office project consisting of 30,530 sf. located at 2305, 2325 and 2333 East Broadway Road.
Note: The site plan included in this re-approval was the same as before and was not developed.
- September 1, 1999 The Design Review Board approved the building elevations, site plan and landscape plan for Broadway Plaza – Lot 'A' located at 2325 East Broadway Road in the R/O, Residence/Office District.
Note: the site plan represented in this Design Review approval was developed.
- September 23, 1999 The City Council approved the request by Broadway Office Plaza for a revised Site Plan with variances for a 32,676 sf. office project located at 2305, 2325, and 2333 East Broadway Road. The approval includes the following:
(SIP-99.67) Site Plan for Broadway Office Plaza consisting of 32,676 sf. total building area on 2.79 net acres, including the following:
Variance:
1. Reduce the minimum required landscape setback on both street side yards from 25 ft. to 20 ft.
2. Waive the requirement that the site be completely landscaped in the first phase of construction on commercial development sites.
Note: the site plan included in this approval was developed.
Note: Condition 9 of this approval reads as follows: **"Applicant shall install an on-site ramp and a gate along the canal frontage to accommodate bicycle and pedestrian access to the canal and any future multi-use path. Details to be resolved through the Design Review Board / CPTED process."**
- January 11, 2001 The City Council approved a Final Subdivision Plat for 101 & Broadway Corporate Center (a Re-subdivision of Part of Tract 'A', Broadway Palms). Tract 'B' is not included. This subdivision consists of

four lots. The subject site is Lot 3, in the southeast corner of this subdivision.

Note: in the Dedication of this plat, there is a reference to public access allowed on site. "Cross access easement agreements for drainage, vehicular and pedestrian ingress and egress and parking across Lots 1, 2, 3 and 4 will be as set forth in the 'Reciprocal Easement and Maintenance Agreement' prepared for 101 & Broadway Corporate Center."

January 24, 2001

The Board of Adjustment approved the request by Broadway Office Building at 2305 E. Broadway Rd. in the R/O, Residence/Office District for the following:

- a. Variance to reduce the required rear yard setback at Building 4 from 15'-0" to 11'-8".
- b. Variance to waive the required 25'-0" west front yard landscape setback at buildings 3 and 5.

Note: This request was continued from the December 19, 2000 Hearing Officer meeting.

Note: Three other variances proposed with this request were withdrawn by the applicant. The two variances granted were required to reconcile the previously approved site plan with the property lines established for four lots for the 101 & Broadway Corporate Center.

October 2, 2009

A Zoning Violation (CM091789) courtesy letter was issued to T3O LLC under Zoning and Development Code Section 6-309 (E) indicating a violation of conditions of approval letter dated September 24, 1999. Condition 9 of the September 23, 1999 City Council approval is violated by the closure of the canal gate. Action required is indicated as follows: "Comply with conditions or obtain city approval (allow bicycle and pedestrian access through gate)."

December 16, 2009

A Zoning Violation (CM091789) follow up letter was issued to T3O LLC.

Note: the applicant's submittal to "close the onsite ramp and gate along canal frontage to control property access" was made on December 18, 2009.

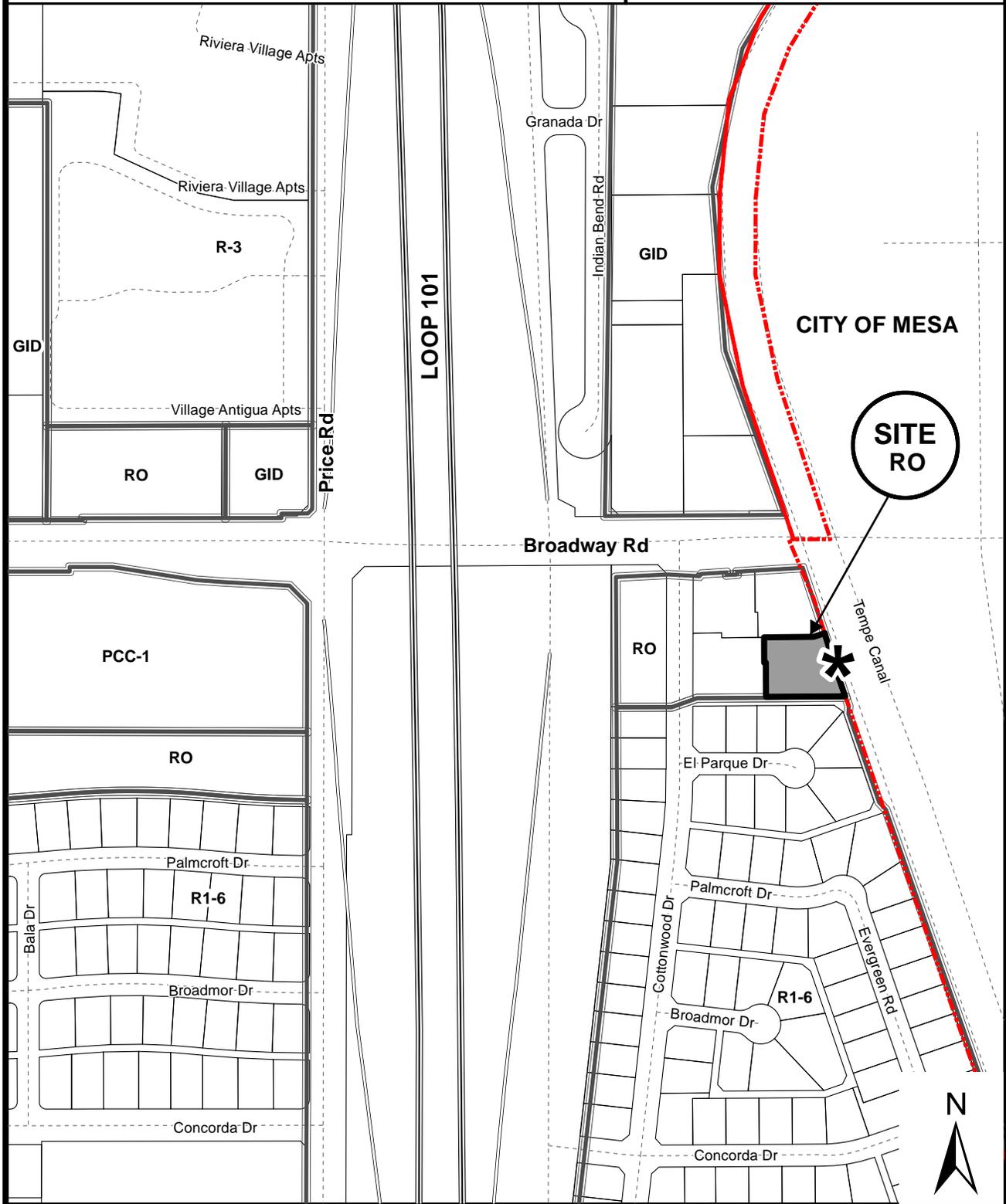
ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-306, Development Plan Review

Section 6-312, Modify approved Development Plan, Use Permit or Condition of Approval

T30 LLC CANAL GATE REMOVAL

PL090484



Location Map



T30 LLC CANAL GATE REMOVAL (PL090484)

TRIDENT SECURITY SERVICES, INC.



We provide what others can only promise. ®

TO: City of Tempe Development Review Commission:

CC: Kevin O'meila

From: Cottonwood Building Owners

Date: January 18, 2009

Re: Gate Access to the Canal

Development Review Commission:

The gate in question is located on the eastern boundary of the property. This gate was originally intended to grant residents in the adjoining neighborhood access to the Tempe canal in September 24, 1999. Due to several incidents that have occurred during the past year and crime statistics for the area, we are requesting to permanently secure the gate in order to restrict access to and from the property. The Cottonwood Building Owners believe that this gate poses a significant security liability to our visitors, property, and personnel. Access to the canal be still be achieved by walking an additional 52 paces north, past the west entrance of the property then continuing along the northern boundary of the property to the canal.

Thank you in advance for you allowing us to moving forward in permanently securing our property and our personnel.

Thank you,

Brandi Decker
Trident Security Services

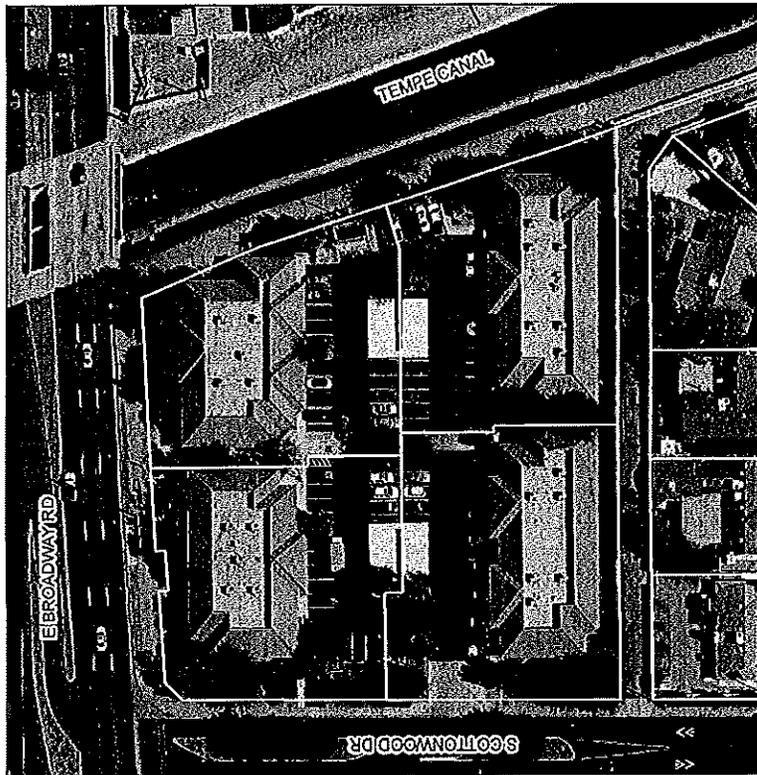
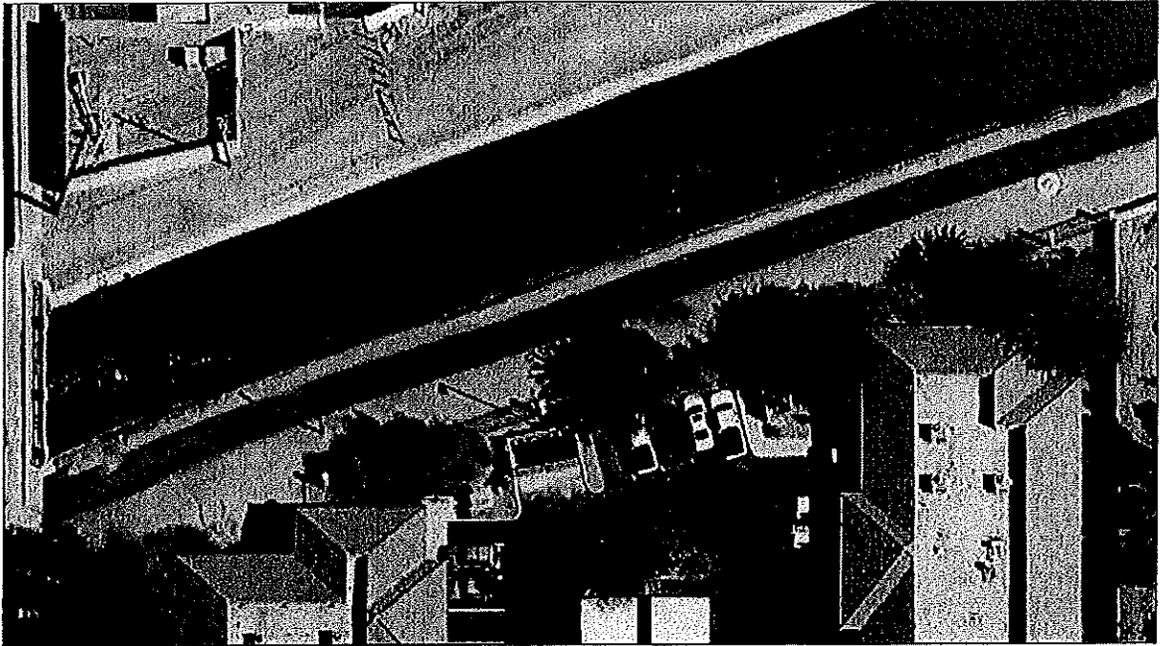
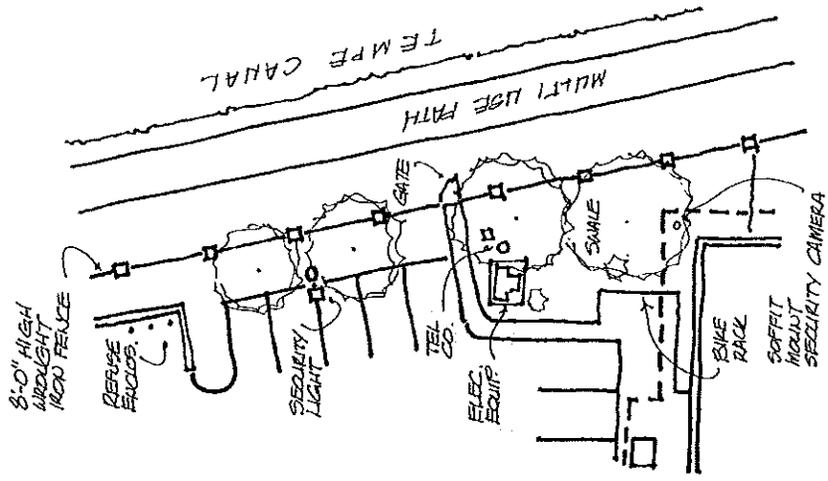
JAN. 1 9 2010

TRIDENT CONFIDENTIAL

2085 S. Cottonwood Dr. • Tempe, Arizona 85282 • Office (480) 736-1221 • Fax (480) 545-8850

ATTACHMENT 3

DESIGN NARRATIVE
 APPLICANT WANTS TO
 CLOSE EXISTING CANAL
 GATE DUE TO CRIMINAL
 ACTIVITY IN AREA.



10001944 / 11000454 / 3PR08114
 TRIDENT SECURITY SERVICES
 2085 S Cottonwood Dr. Tempe

City of Tempe
P.O. Box 5002
31 East Fifth Street
Tempe, AZ 85280
480-350-8872 (FAX)



Development Services
Department
480-350-8331 (Phone)

September 24, 1999

FILE COPY

Mark Abel
Mark Abel Architect & Assoc
4500 S. Lakeshore Drive
Tempe, Az 85282

Re: #SIP-99.67

Dear Mr. Abel:

At their regular meeting of September 23, 1999, the City Council approved the request by BROADWAY OFFICE PLAZA (Jerry Vaughn, property owner) for a site plan with variances for a 32,676 s.f. office project located at 2305, 2325 & 2333 E. Broadway Road. The applicant seeks the following approvals from the City of Tempe:

- a. (SIP-99.67) Site Plan for Broadway Office Plaza consisting of 32,676 s.f. total building area on 2.79 net acres, including the following:
Variance:
 1. Reduce the minimum required landscape setback on both street side yards from 25' to 20'.
 2. Waive the requirement that the site be completely landscaped in the first phase of construction on commercial development sites.

The approval was subject to the following conditions:

1. a. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.
- b. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants
 - (2) Sewer lines
 - (3) Storm drains
 - (4) Roadway improvements including street lights, curb, gutter, bikepath, sidewalk, bus shelter, and related amenities.
- c. Fees to be paid with the development of this project include:
 - (1) Water and sewer development fees
 - (2) Water and/or sewer participation charges
 - (3) Inspection and testing fees

- d. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
2. a. All street dedications shall be made within six (6) months of Council approval.
b. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
c. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this (re)development in accordance with the code of the City of Tempe - Section 25.120.
3. If new property lines are created on this site, the approval of CC&R's in a form acceptable to the City Attorney and the Development Services Director must take place prior to issuance of Certificate of Occupancy. These CC&R's should provide that a single entity will ultimately be responsible for maintaining all landscaping, both required by Ordinance and in the common area on site, according to the landscape plan approved by the City, and that such provision may not be amended without prior approval by the City Attorney and the Development Services Director.
4. No variances may be created by future property lines without the prior approval of the City of Tempe.
5. A valid building permit shall be obtained and substantial construction commenced on or before 9/23/2000 or the variance(s) shall be deemed null and void.
6. All previous applicable conditions of approval from 5/15/97 & 5/6/99 (#ZON-97.09 & SIP-97.27) shall be adhered to.
7. Developer shall provide an easement for a bus pullout and shelter along Broadway Road, East of Cottonwood Road. Details to be resolved with Public Works Transit Staff.
8. Landscaping for Phase I shall be installed at the time the building is constructed for Phase I. Landscaping for Phase II shall be installed for Phase II, the east parcel (Lot A) at the time the building is constructed for Phase II. Details to be resolved with Planning Staff.
9. Applicant shall install an on-site ramp and a gate along the canal frontage to accommodate bicycle and pedestrian access to the canal and any future multi-use path. Details to be resolved through the Design Review Board / CPTED process.

Mark Abel
#SIP-99.67

3

10. Landscaping will replace one parking space at the entrance of each lot. Details to be approved by Design Review.

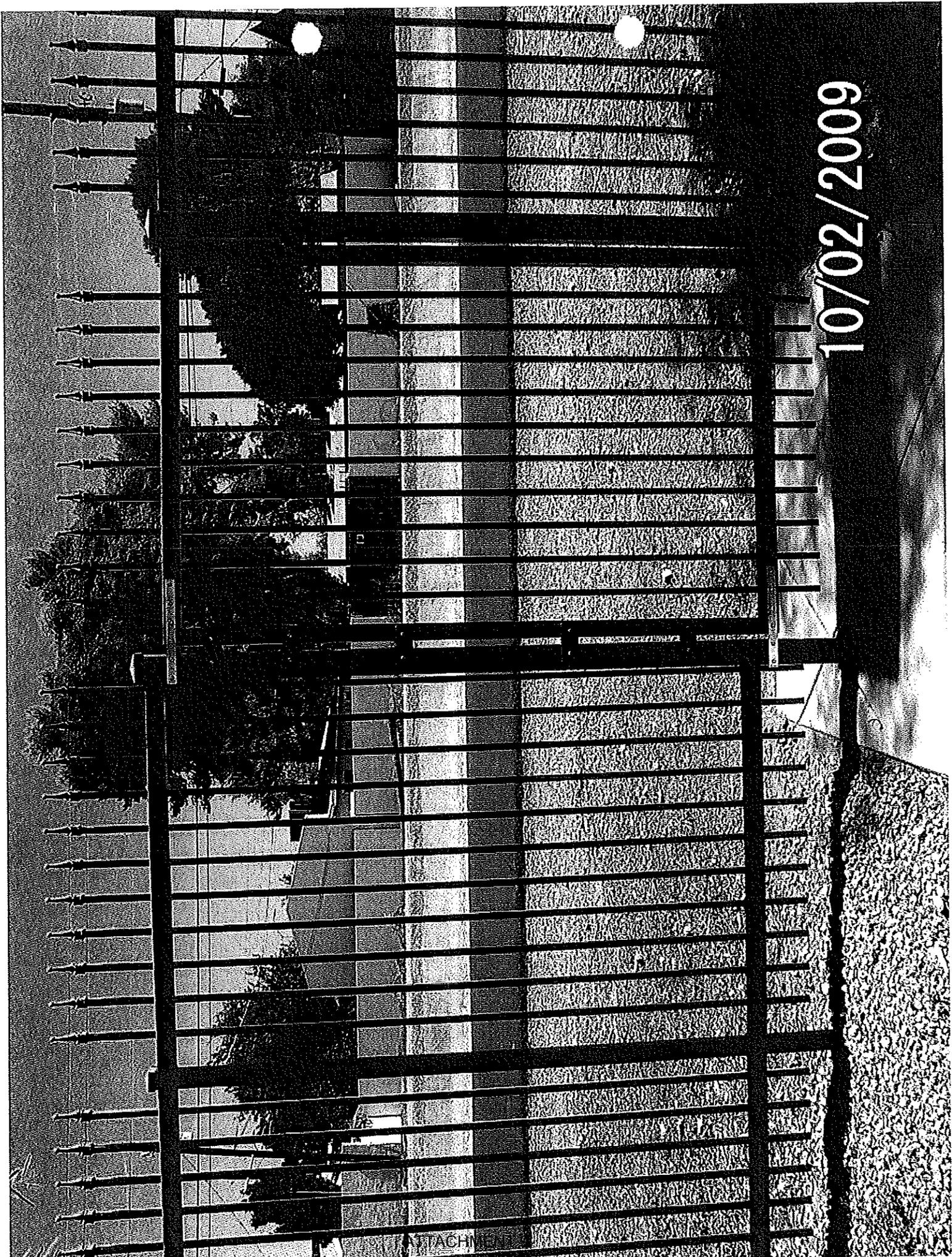
Sincerely,


Terry L. Mullins
Deputy Director

TLM:jrh

cc: File
Jerry Vaughn
Traffic Engineer

10/02/2009



O'Melia, Kevin

From: wendy.marshall@cox.net
Sent: Wednesday, January 20, 2010 9:59 AM
To: O'Melia, Kevin
Subject: Re: Locked gate at business / CM091789 / PL090484

Thanks. Will pass along.

Sent from my BlackBerry® smartphone with SprintSpeed

From: "O'Melia, Kevin" <kevin_omelia@tempe.gov>
Date: Wed, 20 Jan 2010 09:45:42 -0700
To: Wendy Marshall <wendy.marshall@cox.net>
Subject: RE: Locked gate at business / CM091789 / PL090484

Wendy,

The case will be agenized soon. When the case is agenized, I will contact you and let you know the evening of the Hearing. Code compliance staff is waiting for completion of this process before proceeding with enforcement.

thanks,

Kevin O'Melia

From: Wendy Marshall [mailto:wendy.marshall@cox.net]
Sent: Tuesday, January 19, 2010 4:32 PM
To: O'Melia, Kevin
Subject: RE: Locked gate at business / CM091789 / PL090484

Kevin,

In previous emails with Sherri Lesser, Code Enforcement had already contacted the businesses and was supposed to assess a fine if the paperwork to request a change to the original agreement was not submitted by a set date. It appears the paperwork is still not completed or submitted. I'm getting a few phone calls from neighbors regarding the futility of hammering out the original agreement since the new occupants of the buildings have chosen to not follow it, and there appears to be no enforcement anyway. Per my conversation with the owner of Trident Security over a year ago, she was not given any documents regarding the agreement when she moved into the building and she was planning on contacting all the owners at that time to weld the gate shut. It stayed open until the latch broke or was broken, and has been bolted shut ever since. Is there a deadline imposed on this so that Code Enforcement can proceed if that deadline is not met?

Wendy

From: O'Melia, Kevin [mailto:kevin_omelia@tempe.gov]
Sent: Tuesday, January 19, 2010 12:12 PM
To: Wendy Marshall
Cc: Abrahamson, Steve; Scofield, Jack
Subject: RE: Locked gate at business / CM091789 / PL090484

Wendy,

At this time city staff is working to agenize and process the request through the Development Review Commission. Code compliance staff is waiting for completion of this process before proceeding with enforcement.

thanks,

Kevin O'Melia

From: Wendy Marshall [mailto:wendy.marshall@cox.net]
Sent: Friday, January 15, 2010 9:59 PM
To: O'Melia, Kevin
Subject: RE: Locked gate at business

Kevin,

Until the proposal is presented and approved, don't they have to comply with the existing agreement and unlock the gate? They've taken several straps of metal and screwed the gate shut, which by the time this thing gets before the Development Review Commission they can argue that it's already been closed and the commission just needs to formalize a decision they made without that approval. Previous emails suggested the businesses would be fined or be forced to comply until their request was evaluated. What happened to that action?

Please let me know so that I can inform the neighbors.
Wendy Marshall

From: O'Melia, Kevin [mailto:kevin_omelia@tempe.gov]
Sent: Friday, January 15, 2010 3:05 PM
To: wendy.marshall@cox.net
Cc: Collins, Lisa; Abrahamson, Steve
Subject: FW: Locked gate at business

Wendy,

Thank you for your 1/14/10 e-mail regarding the locked gate at 2085 S Cottonwood. The business owner on that property is processing a request to remove the Site Plan condition of approval for the canal gate. The case will go to the Development Review Commission. The case has not yet been agenized because some of the submittal items have not yet arrived. When it is agenized, the case will be advertised and neighbors within 300 ft of the property will be notified of the hearing.

I am the planner on the case. Feel free to contact me directly at (480) 350-8432 or kevin_omelia@tempe.gov.

thanks,

Kevin O'Melia

From: Lesser, Sherri
Sent: Friday, January 15, 2010 1:50 PM
To: O'Melia, Kevin
Subject: FW: Locked gate at business

FYI

From: Wendy Marshall [mailto:wendy.marshall@cox.net]

Sent: Thursday, January 14, 2010 8:15 PM

To: Lesser, Sherri

Subject: Locked gate at business

Sherri,

What's the decision on the locked gate at the 4-building plaza at Cottonwood and Broadway. It's been several months now with it bolted shut. When I last contacted you, you mentioned that the businesses were proposing a change to the agreement approved between the original developer, the city and the neighborhood. Was that done? Since they are they in violation of the past agreement, what happens now?

Thanks for your help.

Wendy Marshall

O'Melia, Kevin

From: Larry and Patty [larryandpatty@cox.net]
Sent: Wednesday, January 27, 2010 7:12 PM
To: O'Melia, Kevin
Subject: Canal Gate Removal

I prefer the gate be repaired and operable. It's not safe for the community that uses the canal for biking/running to have to access it from Broadway. I do run this occasionally, and, with the traffic and characters that roam that area, it would be great if the property owner own up to the agreement they had and fix it.

Larry
4807205778
2324 e concordia dr.

Request for **T3O LLC CANAL GATE REMOVAL (PL090484)** (John M. Earl, T3O LLC, owner; Brandi Decker, Trident Security Services, Inc., applicant) to eliminate existing condition of approval # 9 from the Site Plan (SIP-99.67) for Broadway Office Plaza in order to remove an existing gate between the site and the Tempe Canal. The 0.49 acre site is located at 2085 South Cottonwood Drive in the RO, Residential/Office District. The request includes the following:

DPR09243 - Development Plan Review including site plan.

10 years ago the neighborhood, City of Tempe and original owner/developer of the parcel at Broadway and Cottonwood made an agreement regarding public access to the canal and notification of after hours events that might impact parking in the neighborhood. New owner/tenant wants to remove canal access from the site plan. She has already bolted the gate shut.