

TO: BOB CARAVONA, JIM CRONK, THE REGIONAL PLAN FOCUS GROUPS
AND REGIONAL PLAN COMMITTEE;

THE NEIGHBORHOOD IMMEDIATELY NORTH OF DOWNTOWN - ZONED RM-L-E ON THE ATTACHED MAP - DOES NOT EXHIBIT ANY OF THE LEGAL REQUIREMENTS OF THE ARIZONA REVISED STATUTES FOR DESIGNATION AS AN 'INFILL' AND "REDEVELOPMENT" AREA. THIS IS A REQUEST THAT THIS NEIGHBORHOOD, WHICH HAS A NATIONAL HISTORIC DISTRICT, BE REMOVED FROM ALL DESIGNATIONS AND MAPS FOR "INFILL' OR "REDEVELOPMENT" FROM THE NEW REGIONAL PLAN.

FOLLOWING ARE THE QUOTED STATUTES:

I. THE ARIZONA REVISED STATUTES RESTRICT "INFILL INCENTIVE DISTRICTS" TO AREAS WHICH FULFILL STATE REQUIRMENTS:

"ARS 9-499.10. Infill Incentive Districts

A. The governing body of a city or town may designate and infill incentive district in an areas of the city or town that meets at least three of the following requirements:

1. There is a large number of vacant older or dilapidated buildings or structures.
2. There is a large number of vacant or underused parcels of property, obsolete or inappropriate lots or parcel sizes or environmentally contaminated sites.
3. There is a large number of buildings or other places where nuisances exist or occur.
4. There is an absence of development and investment activity compared to other areas in the city or town.
5. There is a high occurrence of crime.
6. There is a continuing decline in population.

B. If the governing body established an infill incentive district, it shall adopt and infill incentive plan to encourage redevelopment in the district. The plan may include;

1. Expedited zoning or rezoning procedures.
2. Expedited processing of plans and procedures.
3. Waivers of municipal fees for development activities a long as the waivers ae not funded by other developments fees.
4. Relief from Development Standards."

THE SUBJECT NORTH OF DOWNTOWN NEIGHBORHOOD:

1. Vacant and Dilapidated buildings; There are no vacant buildings. The word "dilapidated" according to Webster's Dictionary means : "Ruined, broken down." There is only one vacant lot.
2. Re: Underused Parcels. The total density is **6.88 units** (and grandfathered offices) per acre. That is a fairly high density.
3. Nuisances: The only nuisance in this neighborhood is the increasing parking congestion cause by employees going to work downtown or to the Beaver/Humphrey's adjacent commercial district.
4. Investment and Development: Since it is a built and established historic neighborhood, development and redevelopment are to be discouraged, in favor of support for historic preservation of the existing structures.
5. High Occurrence of Crime: There is NO high occurrence of crime.
6. The Population is not declining.

CONCLUSION; ACCORDING TO ARS REQUIREMENTS, THIS NEIGHBORHOOD SHOULD LEGALLY BE REMOVED FROM ALL DESIGNATIONS AND MAPS FOR 'INFILL.'

II. THE ARIZONA REVISED STATUTES CALL FOR "REDEVELOPMENT" IN AREAS WHICH ARE DECLARED "BLIGHTED" AND/OR "SLUMS."

1. ARS 36-1472: Legislative finding and declaration of necessity.

It is declared:

- (1) That there exist in municipalities of the state slum or blighted areas which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state.
- (2) That the existence of these areas contributes substantially and increasingly to the spread of disease and crime....., substantially impairs and arrests the sound growth of municipalities and retards the provision of housing accommodations.
- (3) That this menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided by this article.
- (4) That the acquisition of property for the purpose of eliminating the conditions or preventing recurrence of these conditions in the area, the removal of structures and the improvement of sites, the disposition of the property for redevelopment and any assistance which may be given by any public body in connection with these activities are public uses and purposes for which public money may be expended and the power of eminent domain exercised.
- (5) That the necessity in the public interest for the provisions of this article is declared as a matter of legislative determination.

3. ARS 36-1471: Definitions:

No. 2. "Blighted area" means an area, other than a slum area, where sound municipal growth and the provision of housing accommodations is substantially retarded or arrested in a predominance of the properties by any of the following:

- (a) A dominance of deflection or inadequate street layout.
- (b) Faulty lot layout in relation to size, adequacy, accessibility or usefulness.]
- (c) Unsanitary or unsafe conditions.
- (d) Deterioration of site or other improvements.
- (e) Diversity of ownership.
- (f) Tax or special assessment delinquency exceeding the fair value of the land.
- (g) Defective or unusual conditions of title.
- (h) Improper or obsolete subdivision platting.
- (i) The existence of conditions that endanger life or property by fire and other causes.

No. 18. "Slum" area means an area in which both the following are true:

- (a) There is a predominance of buildings or improvements, whether residential or non-residential.
- (b) The public health, safety and welfare is threatened because of any of the following;
 - (i) Dilapidated, deteriorated, aging or obsolescent buildings or improvements.
 - (ii) The inadequate provisions for ventilation, light, air, sanitation or open spaces.

- (iii) Overcrowding.
- (iv) The existence of conditions that endanger life or property by fire and other causes.

No. 16. Redevelopment Plan" means a plan, other than a preliminary or tentative plan, for the acquisition, clearance, reconstruction, rehabilitation or future use of a redevelopment project area.

No. 17. Redevelopment Project:

(a) means any work or undertaking:

i. to acquire slum or blighted areas or portions of these areas and lands, structures or improvements, the acquisition of which is necessary or incidental to the property clearance or redevelopment of these areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight in the area.

iii. To sell, lease or otherwise make available land in areas for residential, recreational, commercial, industrial or other use or for public use or to retain land for public use, in accordance with a redevelopment plan.

4. ARS 36-1474. Powers of municipalities

1. To prepare or cause to be prepared redevelopment plans and to undertake and carry out redevelopment projects within its area of operation."

5. ARS 36-1479. Preparation and approval of redevelopment plans.

A. A municipality shall not prepare a redevelopment plan for a redevelopment project area unless the local governing body, by resolution, has declared the area to be a slum or **BLIGHTED** area in need of **REDEVELOPMENT**. The local governing body shall not consider a redevelopment plan for approval until a **GENERAL PLAN** for the development of the municipality has been prepared."

CONCLUSION: THIS NEIGHBORHOOD NORTH OF DOWNTOWN FLAGSTAFF IS NEITHER "BLIGHTED" OR A "SLUM," ACCORDING TO ARS REGULATIONS. IN ACCORDANCE WITH STATE LAWS, THIS NEIGHBORHOOD MUST BE REMOVED FROM ALL WRITTEN AND MAPPING DESIGNATIONS FOR "REDEVELOPMENT" ON THE NEW REGIONAL PLAN.

III. ARS 12-1132 (PROPOSITION 207)

The existing Regional Plan was written in the early 2000's, which gave cities the right of eminent domain actions to clear "slum" areas for redevelopment. Under the 2006 new laws, voted in by the people under Proposition 207, the city must prove before the Court before it can exercise eminent domain for "Redevelopment."

This vote came before the public because of several occurrences;

1. Before Prop 207 was passed, cities could "take" properties by eminent domain to sell to developers for commercial and residential developments. This happened to existing homes and businesses in Mesa, Chandler and Tempe, and often the redevelopment did not happen, so the lots sit vacant.
2. The US Supreme Court ruled in Kelo v. City of New London in 2005 that the use of eminent domain to transfer land from one private owner to another was acceptable to further economic redevelopment- not just for the traditionally accepted public uses such as roads, schools, etc. The case concerned the city's condemnation of a private home so that it could be used as part of a commercial development.

In response, Arizona, and many other states enacted legislation to protect private property owners from losing their property against their will so that cities can build commercial or multi-residential buildings to further the cities "economic growth." Following are new regulations voted in by Proposition 207.

ARS 12-1132. Burden of Proof

A. In all eminent domain actions the judiciary shall comply with the state constitution's mandate that whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

B. In any eminent domain action for the purpose of slum clearance and redevelopment, this state or a political subdivision of this state shall establish by clear and convincing evidence that each parcel is necessary to eliminate a direct threat to public health or safety caused by the property in its current condition including the removal of structures that are beyond repair or unfit for human habitation or use, or to acquire abandoned property and that no reasonable alternative to condemnation exists.

CONCLUSIONS:

1. The neighborhood north of Downtown cannot be "taken" by the city using eminent domain, because it does not qualify as a "slum" as explained in Section II above, and under ARS 12-1132 above. Even if this neighborhood did qualify as a "slum" the homes could be "taken" only for public uses, such as schools, roads, etc., and NOT for commercial uses such as retail and offices, and/or multi-family projects - even if these projects could provide economic growth for the city.
2. This does not mean that homeowners cannot voluntarily sell their homes to the city or other developers. However the zoning of the property will restrict redevelopment uses.
3. Both the major consultants re-writing the Zoning Code, Lisa Wise, and Opticos **strongly recommended** to the City Council, that areas around Downtown currently zoned RM-L-E (One and two family residential) **remain** as one and two family residential under the new Form-Based Zoning options. This zoning includes the neighborhood north of Downtown, and the areas further from Downtown in the Westside neighborhood.
* (See their reports to confirm that retaining these historic areas as one and two family zoning are a prominent purpose of their plans.)

Therefore, since this neighborhood will remain residential there is no incentive for private redevelopment in this neighborhood, except for a single or two family residence.

FINALLY, BECAUSE THIS NEIGHBORHOOD IS HISTORIC, AND MUCH OF IT IS IN THE NATIONAL HISTORIC REGISTER, WHICH HAS BEEN PROVEN IN CITIES AROUND THE COUNTRY TO ENHANCE THE INTEREST AND DESIRABILITY OF THE ENTIRE COMMUNITY AND IT'S ECONOMIC VALUE, IT BEHOOVES THE STAFF AND CITIZENS RE-WRITING THE REGIONAL PLAN, TO PROTECT THIS NEIGHBORHOOD, AND PROMOTE PRESERVATION - RATHER THAN DESTRUCTION BY "INFILL" AND/OR "REDEVELOPMENT."

Thank you, Charlotte Welch, 507 N. Leroux St. charlottewelch@npgcable.com

Attached: Zoning and Historic District map of North End Neighborhood.

NORTH END: CHERRY TO DE SILVA AVE.

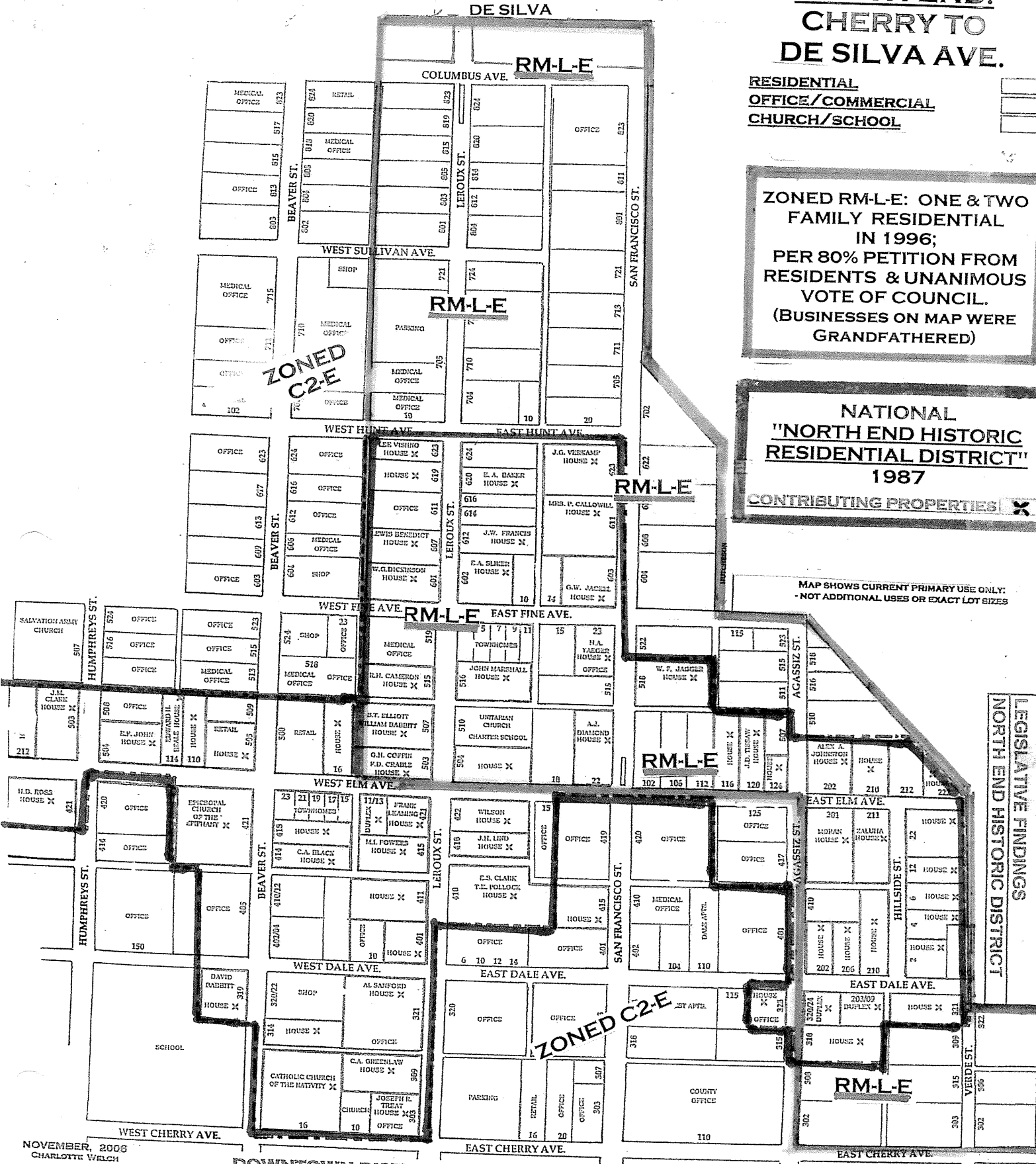
RESIDENTIAL
OFFICE/COMMERCIAL
CHURCH/SCHOOL

**ZONED RM-L-E: ONE & TWO
FAMILY RESIDENTIAL
IN 1996;
PER 80% PETITION FROM
RESIDENTS & UNANIMOUS
VOTE OF COUNCIL.
(BUSINESSES ON MAP WERE
GRANDFATHERED)**

**NATIONAL
"NORTH END HISTORIC
RESIDENTIAL DISTRICT"
1987**

CONTRIBUTING PROPERTIES X

MAP SHOWS CURRENT PRIMARY USE ONLY.
- NOT ADDITIONAL USES OR EXACT LOT SIZES



LEGISLATIVE FINDINGS
NORTH END HISTORIC DISTRICT

NOVEMBER, 2008
CHARLOTTE WELCH

DOWNTOWN DISTRICT

DOWNTOWN DISTRICT