

PETITION OF PROTEST

We the undersigned are protesting the substantial change in the case of Co9-78-32 MATYI - SWAN ROAD REZONING. The following list includes, but is not limited to, the reasons the homeowners request the Board of Supervisors deny this request:

THE BOARD CANNOT REZONE BECAUSE THE MANDATED REQUIREMENTS HAVE NOT BEEN MET UNDER TITLE 18

1. Rezoning Swan Road in Case # C09-78-032 MATYI constitutes a special privilege to the petitioners which is inconsistent with adjacent homeowners and is thus prohibited.

- **16.56.030 - Authority to issue variances.**

To the extent permitted by A.R.S. Section 48-3609, the board shall hear and decide all requests for variances from the requirements of this title. A variance is subject to conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations on similar property in a regulatory floodplain or erosion hazard area.

(Ord. 2005 FC-2 § 2 (part), 2005; Ord. 1999 FC-1 § 1 (part), 1999; Ord. 1988 FC-2 Art. 17 (A), 1988)

2. The requirements the Board must make in order to rezone this parcel are not met and thus to rezone would be an act in direct conflict with the legally mandated regulations the Board must act under.

16.56.040 - Issuance of variances—Required findings.

Variances may only be issued if the board makes the following five determinations:

A.

A determination that the variance is the minimum necessary to afford relief, considering the flood hazards; (*NOT FOUND*)

B.

A determination of good and sufficient cause; (*NOT FOUND*)

C.

A determination that failure to grant the variance would result in exceptional hardship to the applicant; (*NOT FOUND*)

D.

A determination that the granting of the variance will not create a danger or hazard to persons or property in a regulatory floodplain or erosion hazard area in the area of jurisdiction or result in increased flood heights, additional threats to public safety, the creation of a nuisance, the victimization of or fraud on the public, or that the variance is not in conflict with other local laws or titles; and (*NOT FOUND*)

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E.

Special circumstances, such as size, shape, topography, location, or surroundings of the property, would cause strict application of the regulations to deprive the property of the privileges enjoyed by similar property in a regulatory floodplain or erosion hazard area. A variance is subject to conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations on similar property in the regulatory floodplain. (*NOT FOUND*)

F.

Variances within special flood hazard areas as designated by FEMA shall conform to the variance requirements of the Federal Flood Insurance Program as provided within 44 CFR, 60.6.

(Ord. 2010-FC5 § 1 (part), 2010; Ord. 2005 FC-2 § 2 (part), 2005; Ord. 1999-FC-1 §§ 1 (part) 1999; Ord. 1988-FC2 Art. 17 (B), 1988)

INTENT AND PURPOSE OF ZONING LAWS

Pima County has enacted laws for the citizens and wildlife as a whole, not to promote individual interest. Moreover, Tucson has always has a larger environmental view in its management and to deviate from that based upon individual interests is not only arbitrary and capricious it is in direct contravention with the philosophy of this city. With respect to zoning the code states that zoning is:

For the promotion and protection of the public health, peace, safety, comfort, convenience and general welfare, and in order to secure for the citizens of Pima County, Arizona, the social and economic advantages of an orderly, efficient use of land, and as a part of the master plan for said county, there is hereby adopted and established an official land use plan and zoning code for Pima County, Arizona, and rules, regulations and plans by which the future growth and development of said county may be directed in accordance with said plan and code, as provided in A.R.S. Section 11-801, et seq.

Thus development is to occur in accordance with the plan and code. The purchasers of the property in question were aware of the zoning regulations and plans and must be held to develop in accordance with them. No special favors granting sporadic and uncontrolled development should be granted by the Board of Supervisors.

RELIANCE ON CITY ZONING

With respect to rezoning the code states:

No special favors or privileges shall be granted to any individual or group of property owners and no permit shall be issued under the terms of this code which will or might reasonably tend to destroy the established economic or social uses and values of adjacent or surrounding properties. A.R.S. Section 11-18.01.0303A. 6

The surrounding homeowners are of the opinion that a modification in the current zoning to allow for additional homes would detrimentally impact the current property values in violation of the above code provision. The increase of homes built on smaller lots will reduce the cost of the homes and thus decrease the value of the homes built in accordance with the code.

The affected homeowners have purchased homes with an understanding of the zoning rules and regulations that affect them. We did so in reliance on the fact that the Board of Supervisors would not make arbitrary and capricious modifications based upon individual interests while opposing the interest of the community at large.

NO NEED FOR ADDITIONAL HOUSING

There is no need for additional housing in this area. There are over 400 homes for sale in the 85718 zip code on [zillow.com](https://www.zillow.com) alone. One real estate broker from Long has over 250 homes listed in the area. There is even a house for sale across the street on Swan. Thus there is not any need in the community as a whole for additional housing, as Tucson has traditionally and recently been overbuilt. It is clearly not in the best interest of the area to modify zoning to appease one requestor's whim.

ENVIRONMENTAL IMPACT

Environmental concerns include but are not limited to the fact that this land has been unoccupied and preserved up to this point. It has become a home to animals that forage and exist here which are unique to Tucson such as gila monsters, javelinas, bobcats, roadrunners and Harris hawks to name a few. While we can not prohibit building on this area, any additional modification to allow more housing encroaches even more into the habitat of the flora and fauna that reside here. While an incomplete environmental impact study was done, it did not consider these factors.

Respectfully Submitted,

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