



July 14, 2022

**VIA EMAIL**

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RE: Comments on PL220082 and Modera Rio Salado

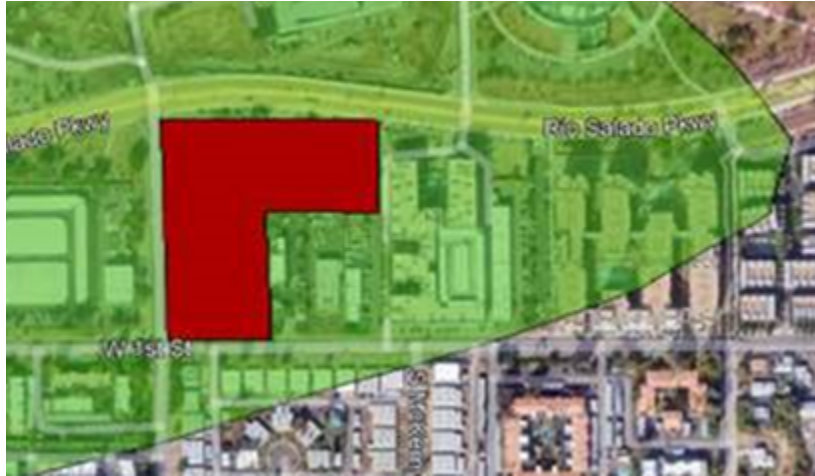
On behalf of the City of Phoenix, I thank you for the opportunity to comment on PL220082, the City of Tempe’s proposed amendment to Tempe’s General Plan 2040 relating to the proposed mixed-use development Modera Rio Salado (the “Proposal”). As explained below, Phoenix objects to the Proposal because its approval would violate the 1994 Intergovernmental Agreement between Phoenix and Tempe (the “IGA”).

In the IGA, Tempe has committed both (1) to “take all actions necessary . . . to implement the land use management strategies recommended in the F.A.R. Part 150 [Plan],” and (2) to “take such measures as are necessary to ensure that new development undertaken in connection with the Rio Salado project or in noise sensitive environs within [Tempe’s] jurisdiction will be compatible with the noise levels predicted in the [Part 150 Plan].” IGA, art. III, sec. 3. These two obligations, among others, prohibit Tempe from approving or allowing new residential developments within the noise contours for the 65 day-night average sound level (“DNL”). Tempe has an affirmative obligation under the IGA to ensure that such projects are not approved.

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The Proposal, however, proposes to authorize a seven-story building with 319 multi-family units—entirely within the current 65 DNL contour, as shown in the map below:



By approving the Proposal with its residential component—as currently contemplated—Tempe will violate its obligations and will breach the IGA with Phoenix. For this reason, Phoenix objects to the Proposal and urges Tempe not to proceed with the Proposal. While this objection is based on the well-known provisions of the IGA, Phoenix reserves the right to bring additional challenges or objections to the Proposal, if it moves forward.

Phoenix has previously raised concerns to Tempe about other projects also being in violation of the IGA, including the proposed Tempe Entertainment District (“TED”). Phoenix emphasizes Tempe’s obligation to notify Sky Harbor airport management of any other proposed development that includes noise sensitive uses, as is required in the 1999 Part 150 Program. 1999 Part 150, at 6-25.

If you have any questions or if you would like to discuss, I welcome the opportunity for a meeting at your convenience.

Sincerely,



Chad R. Makovsky, C.M.  
Director of Aviation Services

CC: Tempe City Council  
Sonia Blain, Tempe City Attorney  
Jeffrey Barton, Phoenix City Manager  
Mario Paniagua, Phoenix Deputy City Manager