BOARD OF SUPERVISORS AGENDA ITEM REPORT



Requested Board Meeting Date: August 16, 2021

#### Title: Co9-62-84 VALLEY VIEW ACRES SUBDIVISION REZONING

#### Introduction/Background:

Valley View Acres Subdivision Lot 63 is approximately 4.77 acres and was rezoned from RH (Rural Homestead) to SH (Suburban Homestead) zone, located on the north side of W. Hilltop Road approximately 660 feet east of S. Fullerton Road.

#### **Discussion:**

The applicant requests a non-substantial change to a rezoning condition to split Lot 63. Two residences currently exist on the 4.77-acre site and no new development is planned.

#### **Conclusion:**

The modification of a rezoning condition (non-substantial change) will allow for Lot 63 of Valley View Acres Subdivision to be split into two 2.38-acre lots with one residence on each lot.

#### **Recommendation:**

Staff recommends approval of the modification of a rezoning condition (non-substantial change) subject to modified standard conditions.

#### **Fiscal Impact:**

Board of Supervisor District:								
□ 1	□ 2	⊠ 3	<b>4</b>	<b>□</b> 5				
Department	t: <u>Development S</u>	ervices - Planning	Τε	elephone: <u>520-72</u> 4	I-8800			
Contact: Donna Spicola, Planner				Telephone: <u>520-724-9513</u>				
Department Director Signature/Date: 2620 2621								
Deputy County Administrator Signature/Date:								
County Adn	ninistrator Signati	ure/Date:	C. Auli	tany?	7-/19/21			
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TO: Honorable Sharon Bronson, Superviser, District 3

FROM: Chris Poirier, Deputy Director Public Works-Development Services Department-Planning Division

**DATE:** July 26, 2021

1

#### SUBJECT: <u>Co9-62-84</u> VALLEY VIEW ACRES SUBDIVISION REZONING (LOT 63)

The above referenced **Modification of Rezoning Condition (Non-Substantial Change)** is within your district and is scheduled for the Board of Supervisors' **MONDAY**, **AUGUST 16**, **2021** hearing.

- **REQUEST:** Modification of Rezoning Condition (Non-Substantial Change) to split Parcel 63 of the Valley View Acres subdivision into two parcels.
- OWNER: Donald and Dessie Adams 12450 W. Hilltop Road Tucson, AZ 85736-1630
- AGENT: Susan Adams 12450 W. Hilltop Road Tucson, AZ 85736-1630
- DISTRICT: 3

**STAFF CONTACT:** Donna Spicola, Planner

**<u>PUBLIC COMMENT TO DATE</u>**: As of July 26, 2021, staff has received no written public comment.

<u>STAFF RECOMMENDATION</u>: APPROVAL OF A MODIFICATION OF A REZONING CONDITION (NON-SUBSTANTIAL CHANGE) SUBJECT TO MODIFIED STANDARD CONDITIONS

**MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS:** The subject property is located within the Maeveen Marie Behan Conservation Land System (CLS) Multiple Use Management Area.

TD/DS Attachments



#### **BOARD OF SUPERVISORS MEMORANDUM**

#### SUBJECT: Co9-62-84

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#### FOR MONDAY, AUGUST 16, 2021 MEETING OF THE BOARD OF SUPERVISORS

- TO: HONORABLE BOARD OF SUPERVISORS
- FROM: Chris Poirier, Deputy Director Public Works-Development Services Department-Planning Division
- **DATE:** July 26, 2021

#### ADVERTISED ITEM FOR PUBLIC HEARING

#### **MODIFICATION OF REZONING CONDITION (NON-SUBSTANTIAL CHANGE)**

#### Co9-62-84 VALLEY VIEW ACRES SUBDIVISION REZONING (LOT 63)

Donald and Dessie Adams, represented by Susan Adams, request a **Modification** of a Rezoning Condition (non-substantial change) to split Lot 63 into two equalsized lots with one manufactured or mobile home on each lot. The subject property is approximately 4.77 acres, was rezoned from RH (Rural Homestead) to SH (Suburban Homestead) zone, located on the north side of W. Hilltop Road approximately 660 feet east of S. Fullerton Road, addressed as 12450 W. Hilltop Road. Staff recommends APPROVAL SUBJECT TO MODIFIED STANDARD CONDITIONS.

(District 3)

#### STAFF RECOMMENDATION

Staff recommends **APPROVAL of a modification of rezoning condition (non-substantial change)** as per the applicant's request for an approximately 4.77-acre rezoning from the RH (Rural Homestead) to SH (Suburban Homestead) zone, subject to modified standard conditions as follows:

- 1. The owner-shall record restrictive covenants against the use of more than two trailers (or manufactured or mobile homes) on Lot 63.
- 2. Owner shall record restrictive covenants against disturbance of natural drainage without approval from the Board of Supervisors.
- <u>1</u>. <u>There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.</u>
- 2. <u>The owner shall adhere to the sketch plan as approved at public hearing with a maximum of one dwelling unit per parcel.</u>
- 3. The property owner shall execute the following disclaimer regarding the Private Property Property Rights Protection Act: "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions

#### Co9-62-84

of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. §12-1134(I)."

4. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

#### STAFF REPORT:

Staff supports a modification of a rezoning condition that prohibits lots containing less than 5 acres. Rezoning case Co9-62-84 was a larger rezoning from SR (Suburban Ranch) and RH (Rural Homestead) to SH (Suburban Homestead) and included the Valley View Acres subdivision. The Valley View Acres subdivision was platted June 20, 1960, which preceded the 1962 rezoning. The larger rezoning prohibited lots less than 5 acres and allowed for a maximum of two dwelling units per five-acre parcel. This 4.77-acre lot is considered a legal sized parcel because it was part of the original plat at the current size when the rezoning occurred. This request will allow the lot to be split into two, approximately 2.38-acre parcels that contain one dwelling unit per parcel. The rezoning request does not increase the density allowed under the rezoning, it just allows for separate ownership of the future parcels of land. The rezoning case was approved by the Board of Supervisors on February 19, 1963 and a subsequent Ordinance 1997-66 was adopted for Lot 63. The Ordinance for Lot 63 did not reflect the larger rezoning case condition related to lot size, due to the property being considered to be conforming at the time of Ordinance.

The rezoning conditions from the approved 1997-66 Ordinance for Lot 63 are as follows:

- 1. The owner shall record restrictive covenants against the use of more than two trailers (or manufactured or mobile homes) on Lot 63.
- 2. Owner shall record restrictive covenants against disturbance of natural drainage without approval from the Board of Supervisors.

Because the request is for a lot split, a modification to the condition needs to be obtained. In this instance, both of the original rezoning conditions #1 and #2 will be amended to meet current Development Services Department standard conditions. The addition of conditions #1-4 are standard, updated rezoning conditions.

The recommended modification to conditions does not constitute a substantial change, which would require review by the Planning and Zoning Commission.

#### COMPREHENSIVE PLAN:

The SH zoning is compliant with the Medium Intensity Rural (MIR) plan designation. MIR designates areas for residential uses at densities consistent with rural settlements with a maximum density of 1.2 residents per acre (RAC) with no required minimum density. The proposed density for the subject property is approximately .42 RAC. The site is not subject to any special area policies or rezoning polices.

#### MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM:

The property lies within the Maeveen Marie Behan conservation lands system (CLS) designated as Multiple Use Management Area. The subdivision and existing area of disturbance pre-dated the inception of the CLS.

#### Co9-62-84

#### Page 3 of 4

#### SURROUNDING LAND USES/GENERAL CHARACTER:

North:	RH, SH	Subdivided Rural Residential
South:	RH	Vacant State Land
East:	SH, RH	Subdivided Rural Residential
West:	SH	Subdivided Rural Residential

Concurrency of infrastructure exists to serve the use:

CONCURRENCY CONSIDERATIONS						
Department/Agency	Concurrency Considerations Met: Yes / No / NA	Other Comments				
TRANSPORTATION	Yes	No Objection				
FLOOD CONTROL	Yes	No Objection				
WASTEWATER	N/A					
ENVIRONMENTAL QUALITY	Yes	The property is currently served by septic				
WATER	Yes	Property served by Tucson Water				
SCHOOLS	Yes	No increase to student population				

#### TRANSPORTATION DEPARTMENT:

The Department of Transportation has no objection to this request and recommends approval.

#### **REGIONAL FLOOD CONTROL DISTRICT:**

A regulatory wash bisects the site and the existing homes have been placed to avoid the wash. New development, including placement may require a permit due to the erosion hazard setback and unmapped floodplain associated with this wash.

The Pima County Regional Flood Control District has no objection or recommended special conditions.

#### **REGIONAL WASTEWATER RECLAMATION DEPARTMENT:**

The subject property is located outside of the PCRWRD service area.

The owner(s) must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal system at the time a tentative plat, development plan or request for building permit is submitted for review.

#### **CULTURAL RESOURCES:**

Cultural Resources has no comment.

#### Co9-62-84

#### UNITED STATES FISH AND WILDLIFE SERVICE:

United States Fish and Wildlife Service has no comment.

TRICO ELECTRIC POWER: Trico Electric Cooperative has no comment.

#### **TUCSON WATER COMPANY:**

Tucson Water Company has no comment.

#### PUBLIC COMMENT:

As of July 26, 2021, staff has received no written public comments.

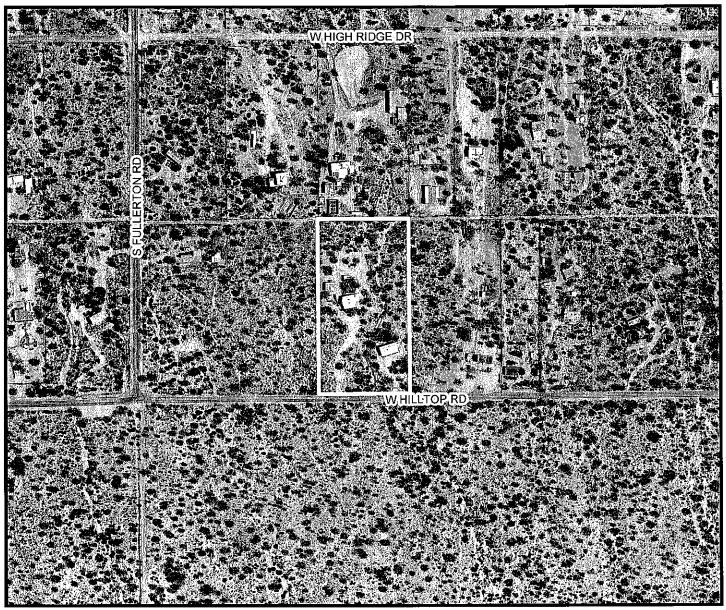
TD/DS Attachments

#### C: Susan Adams, 12450 W. Hilltop Road, Tucson, AZ 85736-1630

165.04 145.05 East 172 2017803 West 1/2 201#63  $3 \frac{ca}{l^{n_{\pm}}} \frac{b}{100}$ Existing 24<u>x48</u> 629.69 629.74 Existing 17870 Owner: Donald Dornald and Dornald Adams 12450 W HIHOP Ra Dorson Adams 12450 W HIHOP Ra Tucson, Hz 85736 Tax Code: 301-22-0630

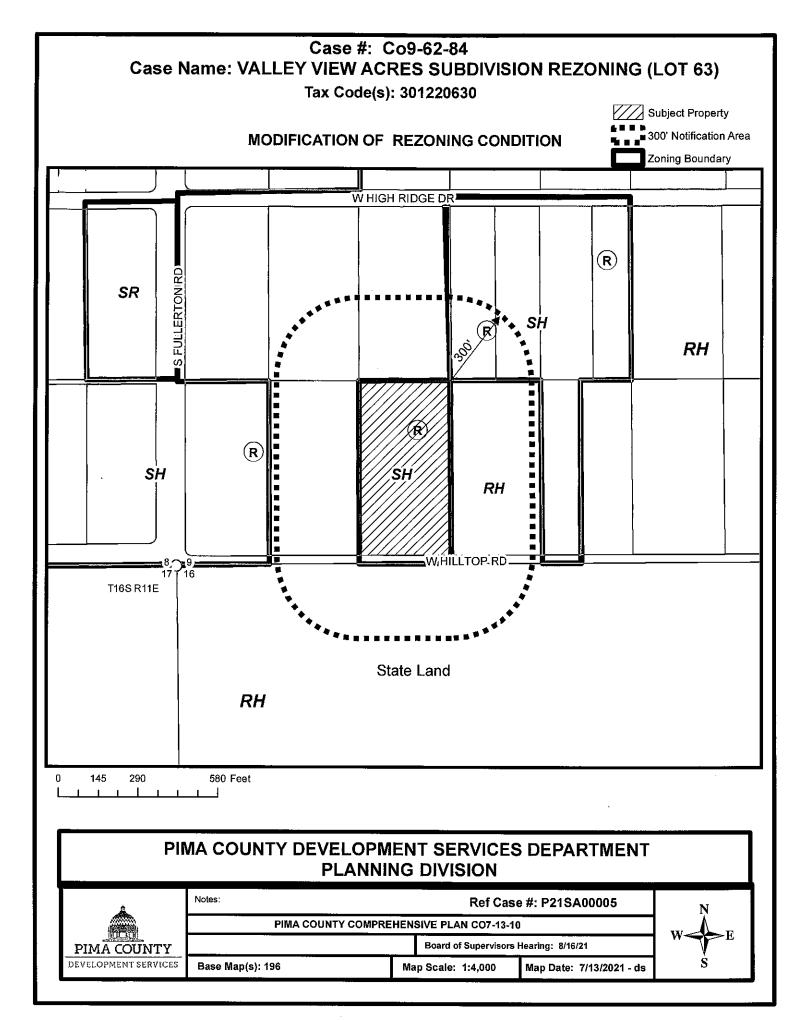
### Case #: Co9-62-84 Case Name: VALLEY VIEW ACRES SUBDIVISION REZONING (LOT 63) Tax Code(s): 301220630

**AERIAL EXHIBIT** 



0 145 290 580 Feet

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT PLANNING DIVISION						
<b>A</b>	Notes: Ref Case #: P21SA00005					
PIMA COUNTY DEVELOPMENT SERVICES		W				
	Map Scale: 1:4,000 Map Date: 7/13/2021 - ds	V S				



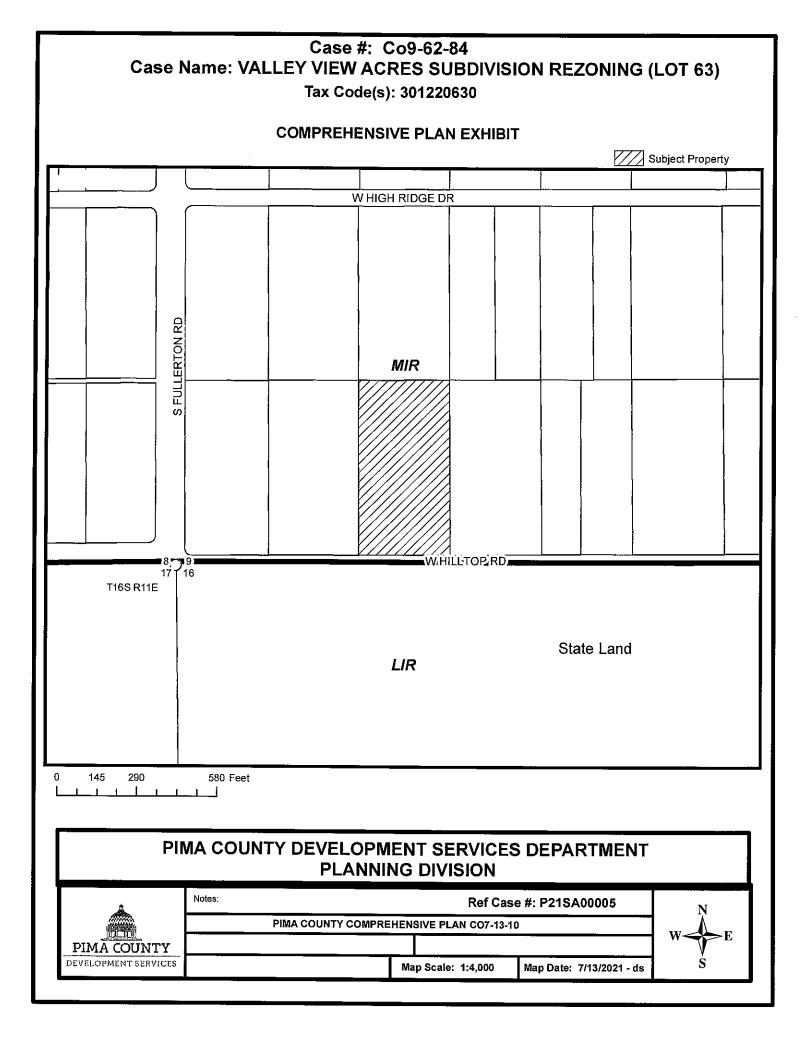


Land Use Legend and Map

#### **Medium Intensity Rural (MIR)**

Objective: To designate areas for residential uses at densities consistent with rural settlements in reasonable proximity to Rural Crossroads, arterials or suburban areas.

- Residential Gross Density: Minimum- none; Maximum- 1.2 RAC
- Residential Gross Densities for TDR Receiving Areas: Minimum- none; Maximum- 1.2 RAC



From: Susan Adams <<u>janeadams1313@yahoo.com</u>> Sent: Monday, April 19, 2021 2:51 PM To: DSD Planning <<u>DSDPlanning@pima.gov</u>> Subject: Property split for 12450 W Hilltop Rd Tucson, Az 85736

April 15, 2021

To Whom It May Concern;

Our parcel lot #63 was rezoned from RH to SH under rezoning Co9-62-084 in 1997. We are requesting a modification of the rezoning condition to permit us to split the 4.77 acres lot at 12450 W. Hilltop Rd, tax code# 301-22-0630 into 2 separate parcels with the existing dwellings on each parcel and no additional dwellings proposed. We would like to quit claim the parcel on the east side to our daughter as she already owns the mobile home that is on the property which is the purpose for the split of the property.

We will also need to obtain a new address for the west side of the property if it is approved to be split.

We have attached the biological impact report, property sketch plan and the 3 pages of the rezoning ordinance from 1997.

If you have any questions or concerns, please let us know.

Respectfully,

**Donald and Dessie Adams** 

12450 W Hilltop Rd

Tucson, Az. 85736

520-591-7867

June 21, 2021

To Pima County Development Dept. and Donna Spicola,

Per your phone call to my parents requesting written authorizations.

Donald L. and Dessie M. Adams do hereby grant Susan Jane Adams to represent them via email correspondence in regards to the property split at 12450 W Hilltop Rd. Tucson, Az. 85736.

If you have any further questions, please give us a call.

Grenald See adound

Donald L. Adams

Wenne Marie Adame

Dessie M. Adams

Respectfully, potral/apportDesster/Adams via Susan/Enter/Adams



201 N. Stone Avenue, Tucson, AZ 85701 (520) 724-9000 www.pima.gov/developmentservices

## **BIOLOGICAL IMPACT REPORT**

(Not applicable for rezonings that require a site analysis)

The Biological Impact Report assists staff in assessing a proposed project's potential to impact sensitive biological resources and is required by the Pima County Zoning Code Chapter 18.91. A project's design should conserve these important resources.

The report will include information provided by both Pima County Planning staff (Part I) and the Applicant (Part II).

**INSTRUCTIONS FOR SAVING FORM:** 1) Download form to computer. 2) Fill out form as applicable. 3) Save completed form to computer. 4) Submit completed form to Pima County Development Services. If you fill out the form before you download it, the info you entered will not be saved.

Project ID (case no., APN no., address, or other identifying info):

Adams property, 12450 W Hilltop Road

Part I. Information Provided by Pima County Staff Pima County Planning staff will provide the following information for the project site, as applicable:

1. Is the project located within any Maeveen Marie Behan Conservation Lands System (CLS) designation(s)? (Hold SHIFT for multiple selections) NA

Important Riparian Area Biological Core Multi-Use Management Area

- 2. Is the project within a CLS Special Species Management Area? No
- 3. Is the project in the vicinity of any of the six Critical Landscape Linkages? No
- 4. Is the project designated for acquisition as a Habitat Protection or Community Open Space property? No
- 5. Is the project located within a Priority Conservation Area for any of the following species?
  - a. Cactus ferruginous pygmy-owl: No
  - b. Western burrowing owl: No
  - c. Pima pineapple cactus: Yes
  - d. Needle-spined pineapple cactus: No

#### Part II. Information Provided by the Applicant

The Applicant will provide the following information to the best of their knowledge, as applicable:

- Has the owner of the project site had any communications with County staff about Pima County potentially acquiring the property? No If yes, provide a summary of those communications:
- 2. The following species are of particular interest to Pima County conservation efforts; please fill out the following table to the best of your knowledge:

Species	Ever found on project site?	If yes, date of last observation/survey?	Future surveys planned?
Cactus ferruginous pygmy owl	No		No
Western burrowing owl	No		No
Pima pineapple cactus	No		No
Needle-spined pineapple cactus	No		No

Questions about this form? Contact the Office of Sustainability and Conservation at (520) 724-6940.

	F. ANN RODRIGUEZ, RECORDED BY: DSC DEPUT 1212 PO230 PIMA CO CLERK DF	Y RECORDER ROOF	AND	DOCKET: PAGE: NO. OF PAGES: SEQUENCE: ORDIN	10619 295 3 97138318 08/28/97 10:40:00	
')	TUCSON	AZ 85701		PICKUP AMOUNT PAID	\$ 3.00	

#### ORDINANCE 1997-<u>66</u>

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING PROPERTY (TAX CODE 301-22-0630) IN CASE CO9-62-84 VALLEY VIEW ACRES SUBDIVISION REZONING (LOT 63); LOCATED ON THE NORTH SIDE OF HILLTOP ROAD, APPROXIMATELY 660 FEET EAST OF FULLERTON ROAD; AMENDING PIMA COUNTY ZONING MAP NO. 196.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA: Section 1. The 4.77 acres (Lot 63) described on the attached rezoning ordinance map, which amends Pima County Zoning Map No. 196, are hereby rezoned from RH to SH.

#### Section 2. Rezoning Conditions.

- 1. Owner shall record restrictive covenants against the use of more than two trailers (or manufactured or mobile homes) on Lot 63.
- 2. Owner shall record restrictive covenants against disturbance of natural drainage without approval from the Board of Supervisors.

Section 3. Certificate of Compliance and Amendments of Conditions.

- 1. No building permits shall be issued based on the rezoning approved by this Ordinance until conditions 1 and 2 are satisfied and the Planning Official issues a Certificate of Compliance.
- 2. The rezoning condition of Section 2 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Co9-62-84

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**Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

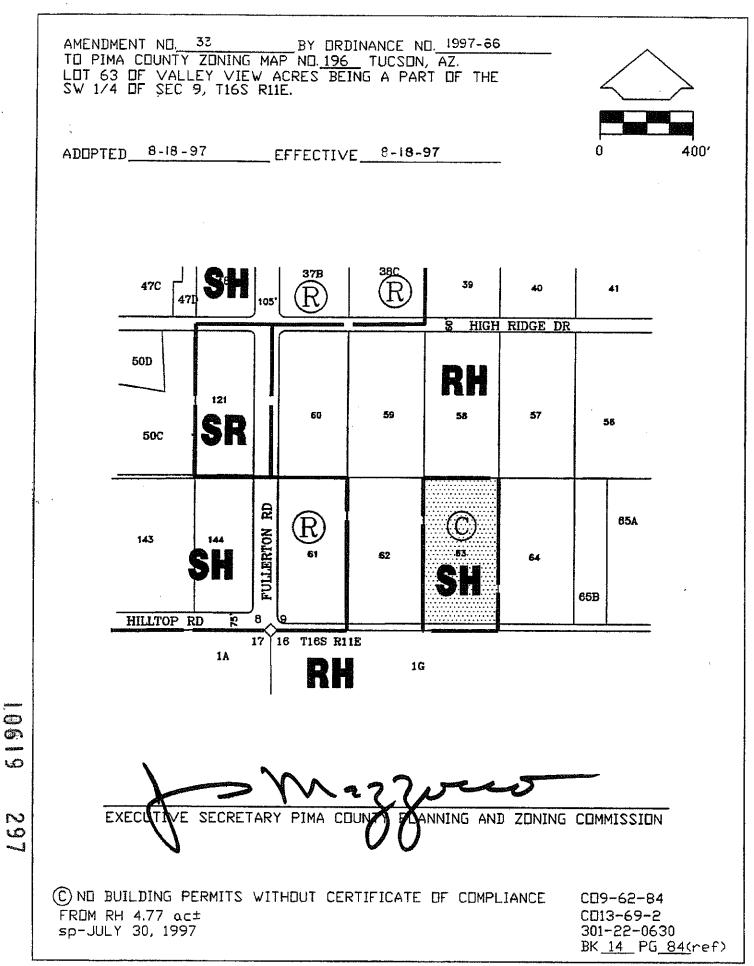
Section 5. The effective date of this Ordinance shall be on the date of signing of this Ordinance by the Chairman of the Board of Supervisors.

Passed and adopted by the Board of Supervisors of Pima Co	unty,
Arizona, this <u>eighteenth</u> day of <u>August</u>	_, 1997.
	1 8 1997
ATTEST: Chairman, Board of Supervisors Dat	e
Ann Modernan	
Clerk, Board of Supervisors	
and a second second The second se The second se	
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Executive Secretary Planning and Zohing Commission	

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Co9-62-84

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#### DP&Z-Z: C09-62-34, TUCSON TITLE INSURANCE COMPANY (TRUST 10234) AND FRANK A. ARLES PETITION

**BOS MINUTES 1**/

The Chairman announced that this is the time and the place for hearing on the petition of Tueson Title Insurance Company (Trust 10234) and Frank A. Aries (representing Valley View Acres Subdivision) to rezone from GR and SR to SH property east and west of Fullerton Road between Hilltop Road and Castle Drive. The Planning Director reported that the petition is in order. The Planning and Zoning Commission unanimously recommends that the rezoning be approved subject to recording an acceptable plat. The Chairman inquired whether anyone wished to be heard on this matter.

Mr. Aries stated that the rezoning was petitioned to accomodate trailer home sites on property which is already developed for such use. The County Engineer reported that a plat of a portion of the property was recorded without County approval and developed under GR zoning and that a subsequent plat was recorded, with County approval, for development under SR zoning. He pointed out that denser development creates problems which do not exist in five-acte lots.

A lengthy discussion ensued among the Board members, the County Engineer, the Planning Director, the Special Deputy County Attorney, and Mr. Arles relative to the previously recorded plats covering areas where trailers are established. In answer to questions from the Special Deputy County Attorney, Mr. Arles expressed his willingness to restrict use of each five-acre lot to one trailer, except in the few instances where individual property owners have installed two trailers. The Planning Director stated that if each property owner wished to utilize the maximum zoning permitted under SH, each five-acre lot would have to be petitioned individually for resubdivision. In answer to questions from the Chairman, the Planning Director expressed his opinion that the Board could approve the Commission's recommendation with the understanding that both the County Engineer and the Planning Department staff make analyses of the recorded plats and point up the problems existing in SH zoning which do not arise under SR use. Mr. Aries protested delay in Board action because of the time element involved in selling the remainder of his property.

The Chairman Suggested that Mr. Aries meet with the County Engineer, a representative of the Planning Department, and the Special Deputy County Attorney to work out proper convenants and to resolve the problems which arise in denser use of the land. As there was no objection, hearing was continued to February 19, 1963.

#### DP&Z-P: C13-60-6, PANTANO-SPE DWAY NEIGHBORHOOD PLAN DP&Z-Z: C09-2-85, FREMMING ISSOCIATES, INC., PETITION

7.

The Chaiman announced that this is the time and the place for hearing on a proposal to amena the Speedway-Pantano Neighborhood Plan to provide for lense residential and commercial uses west of North Camino Seco and on the petition of Fremming Associates. Inc., to rezone from SR to R-3 and CB-1 proferty west of North Camino Seco between East Speedway Boulevard and East Pima Street extinded (within the boundary of the Neighborhood Alan). The Planning Diffector reported that the petition is in order and that a tentative plat of Echo Hills Estates (12-62-66) has been filed at the Planning Department. The Planning and Zoning Commission recommends that the Plan be amended and that the rezoning be approved subject to recording an acceptable plat "including satisfactory drainage and restriction that lots be cleared only for the streets and house itself." The Chairman inquired whether anyone wishes to be heard on this matter.

1-22-63 (3)

3/5 min

It was further moved by Mr. Weaver, seconded by Mr. Jay, and carried that low bids for furnishing fittings, rings, valves, and valve boxes (B. 2315) be accepted in amounts as follows: \$1,102.07 (Group A) and \$205.67 (Group B) - Copper State Water Company; \$186.03 (Group C) - Keenan Pipe & Supply Company.

#### 5. DP&Z-Z: Co9-62-61, D. M. HELTON AND C. H. CHITWOOD PETITION

On January 22, 1953, the Board of Supervisors continued to this date hearing on the petition of D. M. Helton and C. H. Chitwood to rezone from GR to CB-1 property south of Frazier Road east of the old Tucson-Nogales Highway. The Planning and Zoning Commission unanimously recommends that CB-1 zoning be desied. The Chairman inquired whether anyone wished to be heard on this matter.

Petitions with twenty-five and twenty-four signatures of residents of the area requesting approval of the rezoning were filed by Mr. Chitwood and S. L. Ford, respectively. During a discussion among the Board members, the Flanning Director (A. M. Faure), the Special Deputy County Attorney, Gene E. Anderson (engineer for the petitioners), both petitioners, and the County Engineer (Walter A. Burg), the latter recommended a ninety-foot-wide right of way for the Old Nogales Highway, which will serve as a collector street. In answer to questions from the Chairman, the Planning Director reported that the Commission recommended denial of business zoning on the premise that the area is basically residential in character.

T. J. Magdalenski (owner of property near the petitioned area) requested that his land also be zoned CB-1; and he was advised by the Planning Director that any such rezoning request would have to be processed through established channels.

46 there was no objection, hearing on the petition was further continued to March 19, 1963, pending the presence of full Board membership.

#### 6. DP&Z-Z: Co9-62-84, TUCSON TITLE INSURANCE COMPANY (TRUST 10234) AND FRANK A. ARLES PETITION

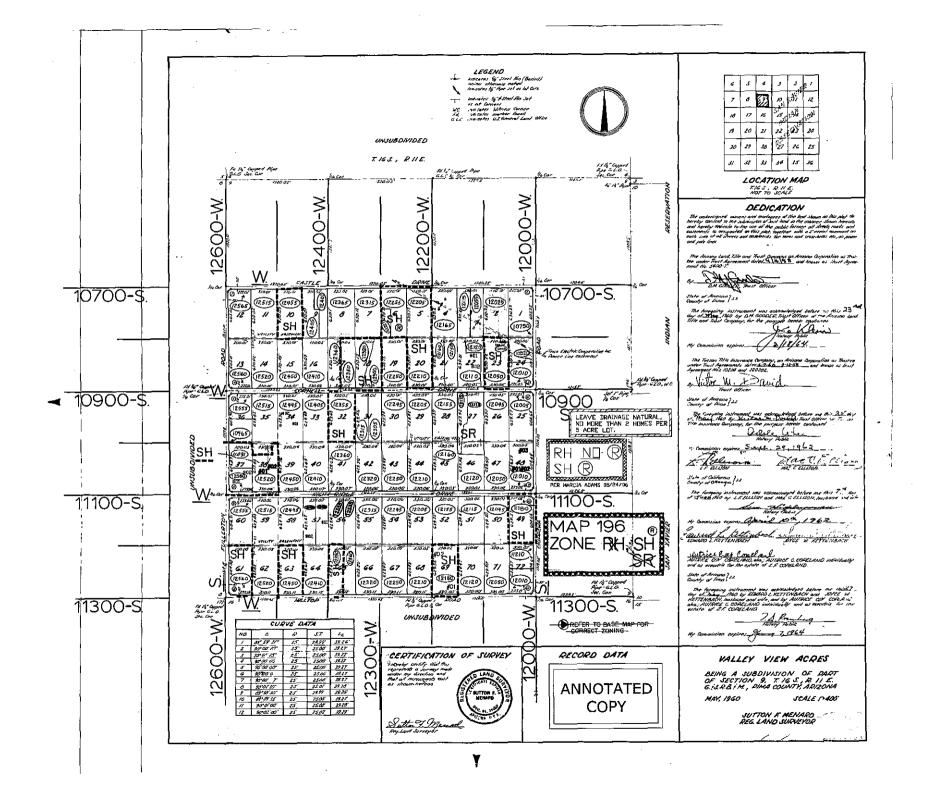
On January 22, 1963, the Board of Supervisors continued to this date hearing on the petition of Tucson Title Insurance Company (Trust 10234) and Frank A. Aries (representing Valley View Acres subdivisions) to rezone from GR and SR to SH property east and west of Fullerton Road between Hilltop Road and Castle Drive. The Planning and Zoning Commission unanimously recommends that the rezoning be approved. The Chairman inquired whether anyone wished to be heard on this matter.

After a brief discussion and on recommendation of the Special Deputy County Attorney and the County Engineer, it was moved by Mr. Weaver, seconded by Mr. Jay, and carried that the Board (1) approve the proposed rezoning in accordance with the Commission's recommendations subject to recording restrictive convenants against the use of more than two trailers on each five-acre lot and disturbance of natural drainage without Board approval and (2) order the necessary ordinance drawn.

# VALLEY VIEW ACRES MP 14084

## RECORDED: JUNE 8, 1960

\*\*\* THE FOLLOWING PLAT IS AN ANNOTATED VERSION OF THE ORIGINAL DOCUMENT. IT HAS BEEN ALTERED BY PIMA COUNTY DEVELOPMENT SERVICES TO SHOW ADDITIONAL INFORMATION. ORIGINAL COPIES MAY BE OBTAINED FROM THE PIMA COUNTY RECORDER\*\*\*



фон	F. ANN RODRI RECORDED BY: P1600 PIMA-CO DE	: KLK \ DEPUTY REC 0681	CORDER ROOC	ALL OF PIANA CO	DOCKET: GE: NO. OF PAGES: SEQUENCE: REST	971 077	10597 675 5 19017 29/97 36:00	
•	TUCSON	AZ	85701		PICKUP AMOUNT PAID	\$	3.00	

#### DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS RUNNING WITH THE LAND (DEVELOPMENT PLAN)

This Declaration of Covenants, Conditions and Restrictions ("CCRs") is made by Donald Lee Adams and Dessie Marie Adams, husband and wife, as joint tenants with right of survivorship (hereinafter whether singular or plural, called "Declarant").

#### ARTICLE 1 GENERAL

Section 1.1. Affected Property. Declarant is the owner of the land referred to in these CCRs as the Affected Property and more particularly described in Exhibit A, which is attached to these CCRs and incorporated by reference here.

Section 1.2. Purpose. These CCRs are executed in order to satisfy declarant's obligations arising from the approval of a development plan, Pima County file number arising from rezoning approval, Pima County file number CO9-62-84, Valley View Acres Lot 63 - Adams.

Section 1.3. Declaration. Declarant, for itself and its successors and assigns, hereby declare that all of the Affected Property and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions and other provisions set forth in these CCRs for the period these CCRs are in effect.

<u>Section 1.4.</u> Common and General Plan. These CCRs are declared to be part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Affected Property.

Section 1.5. Effect. The provisions of these CCRs are not personal and are intended to and shall run with the land and, until their expiration or termination, shall bind, be a charge upon and inure to the mutual benefit of (a) the owners of all or a portion of the Affected Property, (b) declarant and its successors and assigns, and (c) Pima County and any successor governmental entity.

#### ARTICLE 2

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#### ARTICLE 2 RESTRICTIONS

Section 2.1. Indemnification; Hold Harmless. Declarant, its successors and assigns hereby hold Pima County and the Pima County Flood Control District and their officers, employees, agents and assigns harmless from and against any and all claims or demands of any kind and character which may arise by reason of the use by declarant, its successors and assigns or their invitees of the Affected Property or of any highways, roads, streets, alleys or thoroughfares located on the Affected Property and against flooding, flowage, erosion, sheet flow, damage to property, injury. or death caused by water on or from the Affected Property. Notwithstanding the foregoing, the indemnification obligations of declarant and its successors and assigns shall not include any claim or demand arising, or alleged to arise, out of (a) the condition of any highway, road, street, alley, or thoroughfare after the same has been dedicated to Pima County and Pima County has accepted such dedication for maintenance, or (b) any flood or other hydraulic occurrence (i) resulting exclusively from rainfall or stormwater flowage on or through unaltered natural terrain, or (ii) caused by any modification of or improvement on the Affected Property required by Pima County and objected to by declarant in writing, explaining fully the nature of the anticipated problem that gives rise to the liability being claimed.

<u>Section 2.2</u>. <u>General Restrictions</u>. Declarant shall comply with the following:

2.2.1

The declarant covenants against the use of more than two trailers (or manufactured or mobile homes) on the herein described property. (Lot 63)

2.2.2

The declarant against distrubance of natural drainage without approval from the Board of Supervisors.

#### ARTICLE 3 MISCELLANEOUS

<u>Section 3.1</u>. <u>Effective Date</u>. These CCRs shall be effective on the date they are recorded in the Office of the Pima County Recorder.

<u>Section 3.2</u>. <u>Duration</u>. Unless amended as provided in Section 3.3, all provisions, covenants, conditions and restrictions contained in these CCRs shall continue in full force and effect for a period of ninety-nine years from the effective date of these CCRs.

<u>Section 3.3.</u> <u>Amendment</u>. These CCRs may be amended only upon the concurrence of both Pima County or any successor governmental entity and declarant or its successors and assigns.

<u>Section 3.4.</u> <u>Enforcement</u>. These CCRs may be enforced only by the parties listed in Section 1.5 above.

S. adams no and adama By: Donald Lee Adams

By

STATE OF ARIZONA SS ) County of Pima )

This instrument was acknowledged before me, the undersigned authority, on this 22nd day of July, 1997, by Donald Lee Adams and Dessie Marie Adams.

Notary Publi

My Commission Expires:



Re: CO9-62-84 JR

DEVCCRS.MST

SCHEDULE A

ORDER NO. 97901882

LOT 63 OF VALLEY VIEW ACRES, PIMA COUNTY, ARIZONA, ACCORDING TO THE MAP OF RECORD IN THE PIMA COUNTY RECORDER'S OFFICE IN BOOK 14 OF MAPS AT PAGE 84.

10597 679

STEWART TITLE GUARANTY COMPANY