



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: January 5, 2021

Title: P20CR00003 SUKI INVESTMENT GROUP, LLC - W. MAGEE CONCURRENT PLAN AMENDMENT AND REZONING

Introduction/Background:

The applicant requests a plan amendment from the Medium Intensity Urban (MIU) to Neighborhood Activity Center (NAC) and a rezoning from TR (Transitional) to the CB-2 (General Business) zone for an approximately .88 acre (Lot 6 of Magee Center II) parcel of land to allow for restaurant with or without a bar and all CB-1 (Local Business) uses except for automotive related uses other than retain sales and fueling bays, and stand-alone bars.

Discussion:

The existing TR zoning entitlements allow for relatively intense commercial development of the property. The applicant proposes to share the existing CB-2 development rights from Lot 5 of Magee Center II with Lot 6 for a cohesive development.

Conclusion:

The proposed uses within the NAC conform to the Comprehensive Plan.

Recommendation:

Staff and the Planning and Zoning Commission recommend APPROVAL of the plan amendment and rezoning subject to standard and special conditions.

Fiscal Impact:

0

Board of Supervisor District:

1 2 3 4 5 All

Department: Development Services - Planning Telephone: 520-724-8800

Contact: Terrill L. Tillman, AICP, Principal Planner Telephone: 520-724-6921

Department Director Signature/Date: *[Signature]* 12/14/2020

Deputy County Administrator Signature/Date: *[Signature]* 12/14/2020

County Administrator Signature/Date: *C. Duveltony* 12/14/20



PIMA COUNTY

DEVELOPMENT SERVICES

TO: Honorable, Supervisor Rex Scott, District 1

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

DATE: December 15, 2020 *Tom Draczowski*

SUBJECT: P20CR00003 SUKI INVESTMENT GROUP, LLC – W. MAGEE ROAD
CONCURRENT PLAN AMENDMENT AND REZONING

The above referenced Concurrent Plan Amendment and Rezoning is within your district and is scheduled for the Board of Supervisors' **TUESDAY, JANUARY 5, 2021** hearing.

REQUEST: For a **Concurrent Plan Amendment and Rezoning** to amend the comprehensive plan from the Medium Intensity Urban (MIU) to the Neighborhood Activity Center (NAC) designation and to rezone from the TR (Transitional) to the CB-2 (General Business) zone on approximately .88 acres, parcel code 225-44-5770, located at the northwest corner of W. Magee Road and N. La Cholla Boulevard, in Section 33, Township 12 South, Range 13 East, in the Tortolita Planning Area. (District 1)

OWNERS: Suki Investment Group, LLC
340 N. Main Avenue
Tucson, AZ 85701-8222

AGENT: Property Development and Consultants, LLC
Attn: Craig Courtney
5151 N. Oracle Road, Suite 210
Tucson, AZ 85704

DISTRICT: 1

STAFF CONTACT: Terrill L. Tillman, AICP, Principal Planner

PUBLIC COMMENT TO DATE: As of December 15, 2020, staff has not any written comments.

PLANNING AND ZONING COMMISSION RECOMMENDATION: **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS** (8-0 Commissioners Bain and Hook were absent).

STAFF RECOMMENDATION: **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The subject property is located outside the Maeveen Marie Behan Conservation Land System (CLS).

TD/TT/ds
Attachments



BOARD OF SUPERVISORS MEMORANDUM

SUBJECT: P20CR00003

Page 1 of 4

FOR TUESDAY, JANUARY 5, 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: December 15, 2020

ADVERTISED ITEM FOR PUBLIC HEARING

CONCURRENT PLAN AMENDMENT AND REZONING

P20CR00003 SUKI INVESTMENT GROUP, LLC – W. MAGEE ROAD CONCURRENT PLAN AMENDMENT AND REZONING

Suki Investment Group, LLC represented by Craig Courtney, requests a **Concurrent Plan Amendment and Rezoning** to amend the comprehensive plan from the Medium Intensity Urban (MIU) to the Neighborhood Activity Center (NAC) designation and to rezone from the TR (Transitional) to the CB-2 (General Business) zone on approximately .88 acres, parcel code 225-44-5770, located at the northwest corner of W. Magee Road and N. La Cholla Boulevard, in Section 33, Township 12 South, Range 13 East, in the Tortolita Planning Area. On motion, the Planning and Zoning Commission voted to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS** (8 – 0 Commissioners Bain and Hook were absent). Staff recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**.
(District 1)

Planning and Zoning Commission Public Hearing Summary (November 25, 2020)

Chairman Johns and staff were present in the hearing room; the remaining seven commissioners participated via telephone as a public health precaution due to the COVID-19 pandemic.

Staff gave background about the land use changes at the property at the northwest corner of La Cholla and Magee, especially in regard to the road improvements made at that intersection, and presented information about this specific concurrent plan amendment and rezoning request.

A commissioner asked if there would be no change in ingress and egress onto Magee Road; staff responded yes. The commissioner continued asking if possible drive-through businesses on the site would use the same ingress and egress, or be granted more direct access; staff replied that the same access would be used, and referred the commissioner to the amended Transportation rezoning condition #2B.

A commissioner noted that the specific uses were not yet determined on the site, and asked if the requested Traffic Impact Study would affect impact and mitigation fees on the development; staff responded that the applicant had cooperated with the county on the Magee Road improvements, and that there had been agreements regarding entitlements on the site with no additional off-site improvements required, unless the use intensity on the site increased.

A commissioner asked what specific uses were now being permitted on the site; staff responded that there will be a wide range of uses. The commissioner asked if this would cause mitigation and impact fees to be variable; staff responded in the affirmative, but stated that an increase in use intensity generally meant higher fees.

A commissioner asked about the applicant's proposed concept for reducing the height of buildings on the site; staff asked that the question be deferred to the applicant.

The applicant then spoke and provided a detailed history of the rezonings on the site, and explained the arrangements made between the applicant and county regarding the improvements made to Magee Road. The applicant stated that property was provided to the county for the improvements, and lot 6, former common area for the commercial center, was now open space along Magee Road. This concurrent request would allow uses and square footages from lot 5 to be share with lot 6, while providing areas for drainage and retention along with a reduction in building height for buildings along Magee Road.

A commissioner asked for clarification that uses on lot 5 would be expanded on lot 6; the applicant concurred, stating that this would allow structures to be reduced from two-story to one-story, and provide areas for drainage and retention.

A commissioner asked about the loss of open space if lot 6 becomes developed; the applicant explained that lot 6 was a remnant parcel that was created following the Magee Road improvements, and that the design of development and subsequent locations of open space could not be completed until the Magee Road design was finalized. The commissioner repeated his question about the loss of open space; staff corrected that 'open space' in the applicant's context was areas lacking structures (e.g., parking) and not natural open space set-aside areas.

A commissioner asked if lots 5 and 6 were under the same ownership; the applicant answered in the affirmative. The commissioner asked why they were not brought in together earlier under the same case; the applicant reiterated the complex changes in lot orientation that accompanied the Magee Road improvements, and that lot 6 did not exist until after the rezoning was completed on lot 5.

The public hearing was opened. There were no speakers and the public hearing was closed.

Commissioner Gungle made a motion to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL REZONING CONDITIONS WITH REVISED TRANSPORTATION CONDITION #2B**; Commissioner Matter gave second.

A commissioner stated that he appreciated the explanation of the history of cases on the property, and that he felt comfortable in recommending approval to the Board.

The commission voted to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL REZONING CONDITIONS WITH REVISED TRANSPORTATION CONDITION #2B** (8-0, Commissioners Bain and Hook were absent) subject to the following conditions:

Completion of the following requirements within five years from the date the rezoning request is approved by the Board of Supervisors:

1. The property owner shall not further lot split or subdivide residential property without the written approval of the Board of Supervisors.
2. Transportation conditions:
 - A. Adherence to a development agreement for assessment and payment of all non-residential impact fees.
 - B. ~~Traffic Impact Study will be required if there is a substantial change that results in an increase in the buildable square footage over the current approved Preliminary Development Plan for Lot 5, or there is not a sufficient reduction in the approved buildable area to accommodate a more intense parking use so as not to exceed the allowable building area under the current rezoning, based on a combined Development Plan for the subject property and the remnant parcel. Any Traffic Impact Study, whether it contains any portion of the Magee Center properties, including one from the adjacent development utilizing the Magee Center access point on Magee Road, that determines off-site improvements are necessary, will not be the responsibility of the Owner(s)/Developer of any Magee Center properties. A traffic impact study will be required at time of development or building plan submittal to determine if mitigation is needed. Any mitigation required by the Traffic Impact Study for higher trip generating uses such as drive thru restaurants, convenience store and gasoline station will be the responsibility of the Owner(s)/Developer of any Magee Center properties.~~
 - C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.
 - D. No additional access to Magee Road is allowed from the site.
3. Flood Control condition: A drainage plan requiring on site detention and first flush retention for Lots 5 and 6 shall be designed and approved by Pima County Regional Flood Control District to mitigate the 100 year peak discharge.
4. Wastewater conditions:
 - A. The owner(s) shall construe no action by Pima County as a commitment of capacity to serve any new development within the plan amendment/rezoning area until Pima County executes an agreement with the owner(s) to that effect.
 - B. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the plan amendment/rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.

- C. The owner(s) shall time all new development within the plan amendment/rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner(s) shall connect all development within the plan amendment/rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
 - E. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the plan amendment/rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
 - F. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the plan amendment/rezoning area.
5. Environmental Planning conditions: Upon the effective date of the Ordinance, the owner(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner.
 6. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State Laws ARS 41-865 and/or ARS 41-844 require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that appropriate arrangements can be made for the repatriation and reburial of the remains by cultural groups who claim cultural or religious affinity to them. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
 7. Lot 5 and 6 shall be developed as an integrated site and subject to general adherence to the preliminary development plan for Lot 5 from Resolution 2020-061 as approved at public hearing.
 8. Less restrictive rezoning applications may not be submitted under the approved comprehensive plan designation. A separate comprehensive plan amendment and rezoning are required for less restrictive zoning.
 9. The use of the property is limited to restaurants with or without a bar and CB-1 zone uses except for automotive related uses other than retail sales and fueling bays, and stand-alone bars.
 10. 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.
 11. The property owner shall execute the following disclaimer regarding Proposition 207 rights: "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 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).”

TD/TT/ds
Attachments

cc: Property Development and Consultants, LLC, Attn: Craig Courtney, 5151 N. Oracle Road,
Suite 210, Tucson, AZ 85704
P20CR00003 Case File
Thomas Drzazgowski, Chief Zoning Inspector



DATE: November 24, 2020
Kathryn Skinner
FROM: Kathryn Skinner
Deputy Director
Transportation

TO: Chris Poirier
Deputy Director
Development Services

SUBJECT: P20CR00003 Updated DOT Comment with Revised Conditions

Magee Road is a paved four-lane roadway maintained by the County with raised medians, dedicated left-turn lanes, pedestrian sidewalks and multi-use paths. Magee Road is a 45 mile per hour (mph) posted speed limit roadway with 150-feet of existing right-of-way. Magee Road is a Medium Volume Arterial and Scenic Route with a planned 150-foot right-of-way per the Pima County Major Streets and Scenic Routes Plan. The most recent traffic counts for Magee Road within the vicinity of the site is 20,997 ADT with an approximate capacity of 33,830 ADT.

La Cholla Boulevard, north of Magee Road is a paved four-lane roadway, and south of Magee Road is a paved six-lane roadway maintained by the County with raised medians, dedicated left-turn lanes and pedestrian sidewalks and multi-use paths. La Cholla Boulevard is a 45 mph posted speed limit roadway with 150-feet of existing right-of-way. North of Magee Road, La Cholla Boulevard is a Medium Volume Arterial with a planned 150-foot right-of-way per the Pima County Major Streets Plan. South of Magee Road, La Cholla Boulevard is a High Volume Arterial with a planned 200-foot right-of-way per the Pima County Major Streets Plan. The most recent traffic count for La Cholla Boulevard is 24,885 ADT with an approximate capacity of 53,910 ADT.

Improvements have been recently completed for Magee Road and La Cholla Boulevard in the vicinity of the site by the County Capital Improvement Projects 4MMLIC and 4RTLTM-4LCIMR and there are no additional scheduled roadway projects. A letter of agreement and a development agreement with the property owner and Pima County occurred as the result of the right-of-way dedication to Pima County to facilitate the roadway improvements. Such documents shall be made available to the County staff during permitting process.

Magee Center II, lot 6 is proposed to be developed in conjunction with lot 5. The total building square footage on lots 5 and 6 combined is proposed to remain as approved for lot 5 rezoning preliminary development plan in Resolution No. 2020-61. While the total building square footage across lots 5 and 6 is known, the unknown number of uses and buildings makes it difficult to determine the ADT.

Access to the proposed rezoning site is via existing driveway(s) along Magee Road. There is an existing median opening in Magee Road that currently enables the existing eastern driveway to

Chris Poirier, Deputy Director, DSD

SUBJECT: P20CR00003 Updated DOT Comment with Revised Conditions

November 24, 2020

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function as a full access driveway. Due to the addition of the proposed uses identified in the site analysis which could include drive thru restaurants, convenience store and gasoline station, the amount of vehicles generated can affect the existing access location. A traffic impact study will be required at time of development or building plan submittal to determine if mitigation is needed to improve the safety of the existing driveway.

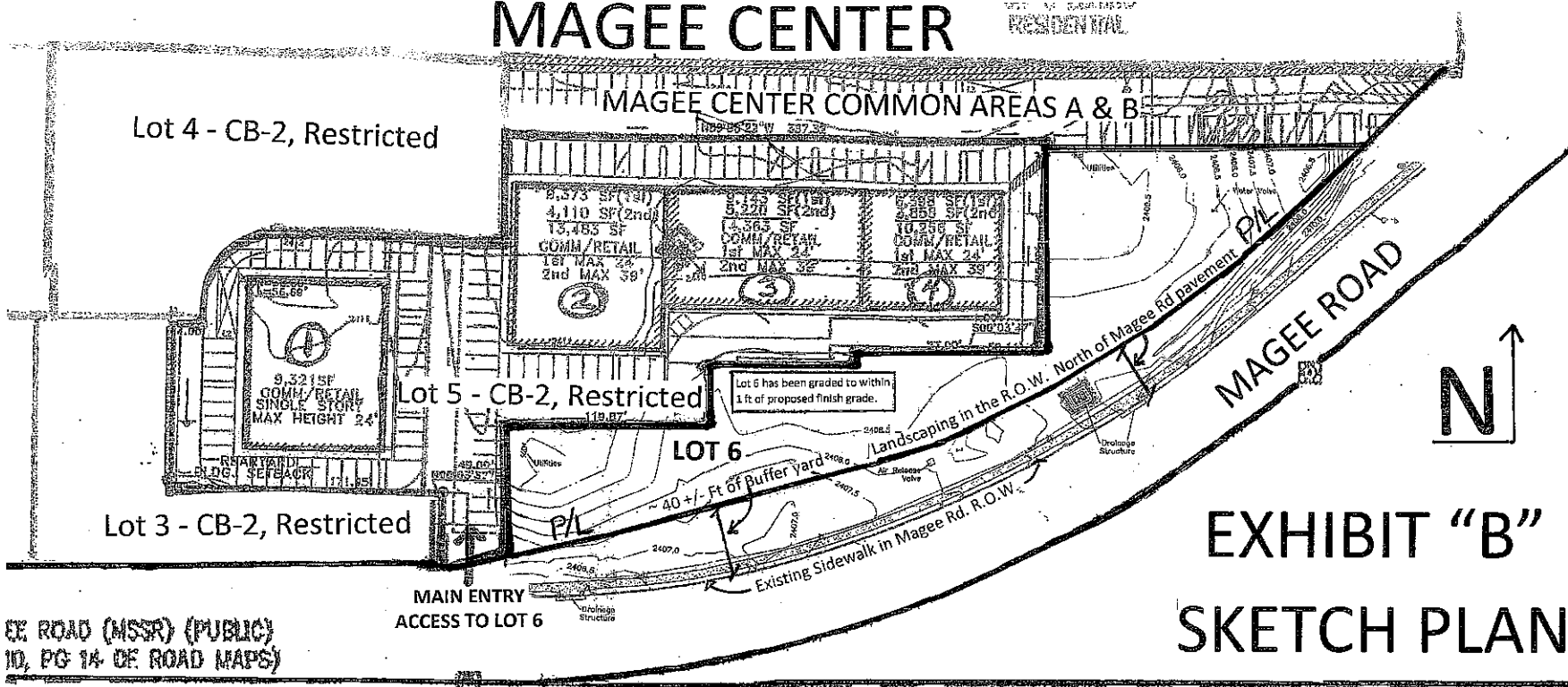
There are no concurrency concerns with this request. The Department of Transportation has no objection to this concurrent plan amendment and rezoning subject to rezoning conditions #2A-D.

- A. Adherence to a development agreement for assessment and payment of all non-residential impact fees.
- B. A traffic impact study will be required at time of development or building plan submittal to determine if mitigation is needed. Any mitigation required by the Traffic Impact Study for higher trip generating uses such as drive thru restaurants, convenience store and gasoline station will be the responsibility of the Owner(s)/Developer of any Magee Center properties.
- C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.
- D. No additional access to Magee Road is allowed from the site.

KS:dg

MAGEE CENTER

RESIDENTIAL



LA CHOLLA BOULEVARD (PUBLIC)
(BK 2, PG 112 OF ROAD MAPS)

LA CHOLLA BLVD

EXHIBIT "B" SKETCH PLAN

EE ROAD (MSR) (PUBLIC)
10, PG 14 OF ROAD MAPS)

MAGEE ROAD

NOTE:
LOT 5 ZONING SQ FT
APPROVED RETAIL, RESTAURANT & OFFICE
Pad 1 – 9,321 SF
Pad 2 – 13,483 SF
Pad 3 – 14,363 SF
Pad 4 – 10,256 SF
TOTAL 47,423 SF

LOT 5'S PADS 2, 3, & 4 (Adjacent to Lot 6)
= ~ 38,002 SF OF TOTAL BUILDING AREA
= ~ 24,914 SF 1ST FLOOR
= ~ 13,188 SF 2ND FLOOR

- LEGEND**
BUILDING SQ FT LIMITATIONS.
- The total Building SF on Lots 5 and 6 combined shall not exceed the existing approved Building SF for Lot 5's Preliminary Development Plan (PDP).
 - Any Building SF placed on Lot 6 shall be deducted first from Lot 5's 2nd floor, and
 - The maximum building height on Lot 6 shall be 24 feet.

INCREASED ON-SITE FLOOD CONTROL MEASURES
If Lot 6 is rezoned per the Applicant's request, then the development of Lot 5 requiring only on-site detention to reduce the undeveloped 10-year peak discharge at each outlet in Magee Rd. shall be combined with Lot 6 to mitigate the 100-year peak discharge.

- Buffer yard(s)**
Not required per the following:
 - North line of Lot 6 abuts Lot 5 and Magee Center Common Area, and
 - The Buffer yard requirement on the south line of Lot 6 adjacent to Magee Rd. is waived per the attached Development Agreement with Pima County recorded on July 25, 2011 in Seq # 20112060714.
- Building setbacks**
Per the attached April 5, 2011 Zoning Administrator Letter Agreement:
 - Front yard – La cholla Blvd – 15 ft., and
 - Rear yard – Como Drive - 10 ft.

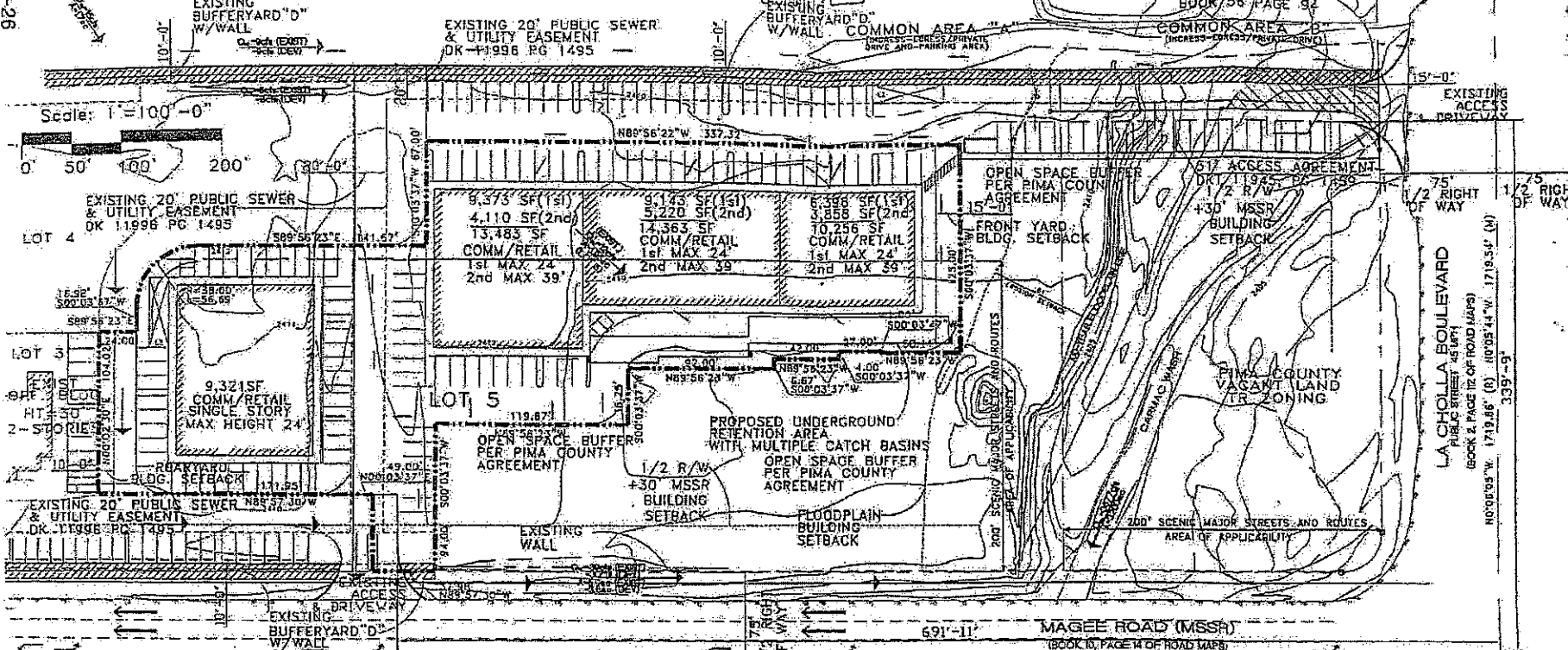
ENGINEERING
P.O. BOX 1038 TULSA, OKLAHOMA 74102
(918) 336-7420
P1511@TULSAENGINEERING.COM

P15P200000
C69-09-27
C620-02-004
P1202-049
P1202-015
P1202-015

FINAL PLAT
FOR
**MAGEE CENTER II, LOTS 1-6,
COMMON AREA A (PRIVATE
STREETS, UTILITIES, DRAINAGE, &
PARKING) AND COMMON AREA B
(PRIVATE STREETS, UTILITIES,
DRAINAGE, & PARKING)**
A RESUBDIVISION OF MAGEE CENTER (BK 06 PG 04)
SECTION 25, T15S, R15E
GREENSBORO, OKLAHOMA
DATE 02/19/19
SEQUENCE NO. 20193260717-1

LEGEND

- PROPERTY BOUNDARY
- BUILDING SETBACK
- NIC. ROUTE APPLIC.



RETAIL (1,000 SF)	OFFICES TR ZONING
RETAIL OR LESS INTENSIVE USES @ 1 SPACE PER 5 EMPLOYEES (2 EMPLOYEES PER TENANT x 16 TENANTS)	16 SPACES
1 SPACE/800 SQ. FT. GROSS FLOOR AREA @ 16,000 SQ. FT.	80 SPACES
RESTAURANT (1,000 SF)	
RESTAURANT OR LESS INTENSIVE USES @ 1 SPACE PER 2 EMPLOYEES (10 EMPLOYEES PER TENANT x 4 TENANTS)	20 SPACES
1 SPACE/TABLE @ 100 TABLES	100 SPACES
REQUIRED SPACES	216 SPACES
SS 20% REDUCTION FOR MULTIPLE TENANTS (20 TENANTS)	(43) SPACES
TOTAL REQUIRED SPACES	173 SPACES
TOTAL PROVIDED SPACES	157 SPACES
DIFFERENCE	16 SPACES
% OF REQUIRED	9%

NOTES:
 Site Area=1.95AC
 Grass Bldg Area=47,423
 Bldg Height=39' MAX (subject to Scenic Routes)
 Current Zoning TR
 Proposed Zoning CB-2

Water Service= Metro Water
 Total Parking Spaces=157
 Landscape Bufferyards-"D"
 Proposed Use=Mixed Retail

MAGEE CENTER LOT 5

DISTURBED AREA DEVELOPMENT UNDERWAY
 CB-1 ZONING



PIMA COUNTY VACANT LAND CR-1 ZONING

Approved at BOS Hearing 10-7-08 Co9-07-26

PLANNING DEPARTMENT

EXHIBIT B PRELIMINARY DEVELOPMENT PLAN

EXHIBIT B

28 27
33 34
PIMA COUNTY VACANT LAND CR-1 ZONING

EXISTING ACCESS DRIVEWAY

75' RIGHT OF WAY

LA CHOLLA BOULEVARD
 PUBLIC STREET AS SHOWN
 (BOOK 2, PAGE 12 OF ROAD MAPS)
 1719.66' (0) 10'08" 44" W. 1719.54' (N)
 339'-9"

PIMA COUNTY VACANT LAND TR ZONING

200' SCENIC MAJOR STREETS AND ROUTES AREA OF APPLICABILITY

691'-11" MAGEE ROAD (MSSH)
 (BOOK 15, PAGE 14 OF ROAD MAPS)
 PUBLIC STREET AS SHOWN

1/2 RIGHT OF WAY

1/2 RIGHT OF WAY

1/2 RIGHT OF WAY

1/2 RIGHT OF WAY

1/2 RIGHT OF WAY

1/2 RIGHT OF WAY

1/2 RIGHT OF WAY

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1/2 RIGHT OF WAY

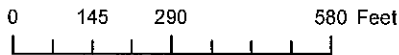
1/2 RIGHT OF WAY

Case #: P20CR00003
 Case Name: SUKI INVESTMENT GROUP, LLC - W. MAGEE ROAD
 CONCURRENT PLAN AMENDMENT & REZONING
 Tax Code(s): 225-44-5770



AERIAL EXHIBIT



Pictometry International Corp./USDA National Agricultural Imagery Program (NAIP) - Pima County Association of Governments (PAC)



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**

	Notes:		
	Map Scale: 1:4,000	Map Date: 11/4/2020 - ds	



**CONCURRENT PLAN AMENDMENT
AND REZONING
PLANNING AND ZONING COMMISSION
STAFF REPORT**

HEARING DATE	November 25, 2020
CASES	P20CR00003 Suki Investment Group, LLC – W. Magee Road Concurrent Plan Amendment/Rezoning
PLANNING AREA	Tortolita
DISTRICT	1
LOCATION	The property is located at the northwest corner of W. Magee Road and N. La Cholla Boulevard described as Lot 6 of Magee Center II.
ACREAGE	.88 acres (+/-)
REQUEST	To amend the Pima County Comprehensive Plan from Medium Intensity Urban (MIU) to Neighborhood Activity Center (NAC) and to rezone from the TR (Transitional) to CB-2 (General Business) zone.
OWNER	Suki Investment Group, LLC
AGENT	Craig Courtney, Property Development and Consultants, LLC

APPLICANT'S REQUEST

The applicant is requesting a concurrent comprehensive plan amendment and rezoning for Lot 6 of Magee Center II, a .88 (+/-) acres of land located on the northwest corner of W. Magee Road and N. La Cholla Boulevard to allow for restaurant with or without a bar and all CB-1 (Local Business) uses except for automotive related uses other than retail sales and fueling bays, and stand-alone bars. The applicant is proposing to share existing development rights demonstrated on the preliminary development plan for Lot 5 to be shared with Lot 6, the subject of this request. No revised preliminary development plan is required, but a shifting of square footages from the preliminary development plan for Lot 5 will occur to ensure that adequate infrastructure to develop Lots 5 and 6 as one cohesive development may be realized.

STAFF REPORT SUMMARY

Staff recommends **APPROVAL WITH CONDITIONS** for a plan amendment to Neighborhood Activity Center (NAC) and a rezoning to CB-2 (General Business) zone subject to standard and special conditions. The proposed uses are an expansion of the existing approved uses for Lot 6 within Magee Center II. Given the existing entitlements, the additional uses should have minimal impacts on the surrounding properties and are not in conflict with any of the policies of the Comprehensive Plan for the area. The proposal is equivalent in intensity and compatible with the surrounding commercial and apartment uses.

PUBLIC COMMENT

No public comment has been received as of November 10, 2020.

EXISTING LAND USE DESIGNATION AND ZONING

The current land use designation is Medium Intensity Urban (MIU) which designates areas for a

mix of medium-density residential, garden apartments, single-family and non-residential uses such as office, medical office, and hotel uses. There are no special area or rezoning policies applicable to the site. The proposed NAC designates areas designed to provide goods and services near residential neighborhoods and lower intensity commercial uses. The property lies adjacent to Magee Road and La Cholla Boulevard with direct pedestrian and bicycle access to the surrounding neighborhood. The rezoning request from Transitional (TR) to CB-2 conforms to the NAC land use designation.

SURROUNDING LAND USE DESIGNATIONS

North	NAC/MIU	Undeveloped Commercial/Medium to High Density Residential
South	NAC	Undeveloped and Developed Commercial
East	LIU 1.2	Developed, Low-Density Residential
West	NAC	Medical Office

SURROUNDING ZONING/EXISTING LAND USE

North	CB-2/SR/CR-5	Undeveloped Commercial/Vacant SR/High-Density Apartments
South	TR/CB-1	Magee Corporate Center/Vacant Commercial
East	CR-1	Developed Low-Density Residential
West	CB-2/TR/CR-1	Medical Office/High-Low Density Residential

The area is characterized by high- to low-density residential uses and mixed-commercial, retail and professional office uses. There are nearby parks, athletic fields, golfing course, a community center, the Chuck Huckelberry Loop, shopping and restaurants.

PREVIOUS COMPREHENSIVE PLAN AMENDMENT AND REZONING CASES ON THE PROPERTY AND THE GENERAL AREA

Magee Center was originally rezoned from SR (Suburban Ranch) to the TR zone in 1969 (Co9-69-27). One concurrent plan amendment, two comprehensive plan amendments, and two rezonings occurred within the subdivision over the years. A concurrent plan amendment and rezoning (Co7-13-09 and Co9-13-04) for Lot 3 of Magee Center II was approved in 2013 for NAC and CB-2. A comprehensive plan amendment (Co7-15-001) from MIU to NAC and subsequent rezoning for Lot 4 (P15RZ00009) from TR to CB-2 zoning were approved in 2015. A comprehensive plan amendment (Co7-03-011) from MIU to NAC for Lot 5 was approved in 2004. The rezoning (Co9-07-26) for Lot 5 from TR to CB-2 zoning was approved in 2009. The proposed concurrent plan amendment and rezoning for Lot 6 will bring all of the parcels in the subdivision to the equivalent land use designation and zoning.

The most recent rezoning case in the area was P19RZ00010 – N. Como Drive Rezoning for higher density residential was denied by the Board of Supervisors in October of 2020 due to neighborhood opposition and perceived safety issues. It is important to note that the planned access to the Como Drive rezoning exists through the Magee Center II.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM (MMBCLS)

The subject property lies outside the Maeveen Marie Behan Conservation Lands System.

PLANNING REPORT

The Pima County Zoning Code Section 18.89.041.C allows for a concurrent comprehensive plan amendment and rezoning if there will be minimal impacts to surrounding properties. A concurrent application may be submitted outside of the standard plan amendment application cycles. The concurrent comprehensive plan amendment and rezoning may not be in conflict with any special area or rezoning policies, nor had a previous concurrent plan amendment/rezoning for the subject property. A concurrent request is permitted for non-residential uses when a preliminary

development plan is not required and five percent of the perimeter of the property adjoins a zone or designation of similar or greater intensity. The property abuts the perimeter of Lot 5, which has a comprehensive plan designation of NAC and CB-2 zoning which are equivalent to the requested concurrent plan amendment/rezoning. No special area or rezoning policies apply to the property nor has the property had a previous concurrent plan amendment and rezoning. A concurrent plan amendment/rezoning would preclude future applications for a zoning district that is more intense. Any future changes would require a separate comprehensive plan amendment and rezoning.

Comprehensive Plan Amendment from MIU to NAC

Staff *recommends approval* to amend the planned land use designation to NAC for the subject property, Lot 6 of the Magee Center development. The NAC designation promotes mixed-use intensity and provides for convenience goods and services within residential neighborhoods. The proposal is consistent with the adjacent lots land use designation.

Rezoning from TR to CB-2

Staff *recommends approval* of the rezoning from TR to CB-2 zoning. The transferring or sharing the development rights with Lot 5 is appropriate. The applicant has requested to limit the uses of the property to restaurants with/without a bar and CB-1 zone uses except for automotive related uses other than retail sales and fueling bays, and stand-alone bars. Within the Magee Center II, lots 3, 4 and 5 were approved for restaurants with/without a bar and CB-1 zone uses except for automotive related uses, drive-through restaurants, and stand-alone bars. The applicant has requested additional allowances for automotive related retail sales and fueling bays along with drive-through restaurants. To be consistent with previous Board of Supervisors actions within the same subdivision and to allow for a cohesive development, it seems appropriate to limit the uses to conform with lots 3, 4 and 5. High turn-over trip generation at this given location does not seem to be appropriate unless the applicant can demonstrate compliance with traffic safety and trip generation for the overall Magee Center II site at the time of development.

Analysis

The subject property is located within Magee Center II, Lots 1-6. Lots 1, 2, and 3 are part of the existing Magee Center medical office building development. Lot 4 is a vacant parcel of land approved for the same uses as lots 3 and 5. Lots 5 and 6 are undeveloped remnant parcels created as a result of the Magee Road alignment. An approved development agreement with Pima County allows for the landscaping within the County right-of-way to act as the front yard bufferyard. Building setbacks are also established for the subdivision, the front abutting La Cholla Boulevard, the Magee Road frontage is considered a side yard and the Como Drive frontage is considered the rear. Magee Road is a designated as a Major Street and Scenic Route which allows a maximum building height of 24 feet unless a clear view corridor of 20 feet is provided. The buildings will be required to be earth tone in color to meet the scenic route requirements. Paved access to the site exists. The undeveloped lots would be better served by becoming part of a cohesive, planned use utilizing the existing shared easternmost access onto Magee Road with shared drainage infrastructure. The change of land use would allow for a development that has the potential to create live/work spaces and provide essential neighborhood retail, restaurant and personal services.

The property is not located within the Maeveen Marie Behan Conservation Lands System nor is located within a growth area. The request promotes the Growing Smarter acts by the compact, mixed-use planning of adjacent residential uses with the proposed limited commercial uses. The recent Magee Road improvements provide an opportunity for the expansion and establishment of a compatible, neighborhood-scale development suitable to the surrounding business and residential area. Multi-modal forms of transportation include a Sun Tran bus stop adjacent to the subject property and walking paths nearby. The recent Magee Road improvements have

provided adequate infrastructure including sidewalk connectivity to nearby residences, businesses, and community services. This is a prime locale and a good infill project for an existing, diverse neighborhood.

Concurrency of Infrastructure

Concurrency of infrastructure exists to serve the proposed development:

CONCURRENCY CONSIDERATIONS		
<i>Department/Agency</i>	<i>Concurrency Considerations Met: Yes / No / NA</i>	<i>Other Comments</i>
TRANSPORTATION	Yes	No objection subject to conditions
FLOOD CONTROL	Yes	No comment
WASTEWATER	Yes	No objection subject to conditions
PARKS AND RECREATION	Yes	No comment
WATER	Yes	No comment
SCHOOLS	N/A	

FLOOD CONTROL REPORT

The Regional Flood Control District (District) has no objection subject to rezoning condition #3.

TRANSPORTATION REPORT

Magee Road is a paved four-lane roadway maintained by the County with raised medians, dedicated left-turn lanes, pedestrian sidewalks and multi-use paths. Magee Road is a 45 mile per hour (mph) posted speed limit roadway with 150-feet of existing right-of-way. Magee Road is a Medium Volume Arterial and Scenic Route with a planned 150-foot right-of-way per the Pima County Major Streets and Scenic Routes Plan. The most recent traffic counts for Magee Road within the vicinity of the site is 20,997 ADT with an approximate capacity of 33,830 ADT.

La Cholla Boulevard, north of Magee Road is a paved four-lane roadway, and south of Magee Road is a paved six-lane roadway maintained by the County with raised medians, dedicated left-turn lanes and pedestrian sidewalks and multi-use paths. La Cholla Boulevard is a 45 mph posted speed limit roadway with 150-feet of existing right-of-way. North of Magee Road, La Cholla Boulevard is a Medium Volume Arterial with a planned 150-foot right-of-way per the Pima County Major Streets Plan. South of Magee Road, La Cholla Boulevard is a High Volume Arterial with a planned 200-foot right-of-way per the Pima County Major Streets Plan. The most recent traffic count for La Cholla Boulevard is 24,885 ADT with an approximate capacity of 53,910 ADT.

Improvements have been recently completed for Magee Road and La Cholla Boulevard in the vicinity of the site by the County Capital Improvement Projects 4MMLIC and 4RTLTM-4LCIMR and there are no additional scheduled roadway projects. A letter of agreement and a development agreement with the property owner and Pima County occurred as the result of the right-of-way dedication to Pima County to facilitate the roadway improvements. Such documents shall be made available to the County staff during permitting process.

Magee Center II, lot 6 is proposed to be developed in conjunction with lot 5. The total building square footage on lots 5 and 6 combined is proposed to remain as approved for lot 5 rezoning preliminary development plan in Resolution No. 2020-61. Transportation rezoning conditions per Resolution No. 2020-61 apply to the proposed rezoning and remain unchanged. While the total building square footage across lots 5 and 6 is known, the unknown number of uses and buildings makes it difficult to determine the ADT. Considering that the roadways are well under capacity, the proposed site is not expected to significantly impact surrounding roadways.

Access to the proposed rezoning site is via existing driveway(s) along Magee Road. There is an existing median opening in Magee Road that enables the existing eastern driveway to function as a full access driveway. Due to the unknown specific uses proposed for lots 5 and 6 and the amount of vehicles and roadway geometry of Magee Road at the access location, a traffic impact study may be required at time of development or building plan submittal to determine if mitigation is needed to improve the safety of the existing driveway.

There are no concurrency concerns with this request. The Department of Transportation has no objection to this concurrent plan amendment and rezoning subject to rezoning conditions #2A-D.

WASTEWATER RECLAMATION REPORT

The public sewer system consists of the existing 8" sewer line that runs across the Magee Center and provides service to the area north of the subject property. A capacity letter must be obtained from Pima County Regional Wastewater Reclamation Department (PCRWRD) that confirms the capacity is available in the downstream system before submitting any development plan, preliminary sewer layout, sewer improvement plan, or request for a building permit for review and approval.

PCRWRD has no objection to the proposed comprehensive plan amendment and rezoning request subject to rezoning conditions #4A-F.

CULTURAL RESOURCES REPORT

Cultural Resources has no objection subject to condition #6.

NATURAL RESOURCES, PARKS AND RECREATION REPORT

Natural Resources, Parks and Recreation has no comment.

US FISH & WILDLIFE SERVICE REPORT

US Fish & Wildlife Service has no comment.

METRO WATER DISTRICT REPORT

Metropolitan Water District has no comment.

FIRE DISTRICT REPORT

Golder Ranch Fire District has no comment.

IF THE DECISION IS MADE TO APPROVE THE REZONING, THE FOLLOWING STANDARD AND SPECIAL CONDITIONS SHOULD BE CONSIDERED:

Completion of the following requirements within five years from the date the rezoning request is approved by the Board of Supervisors:

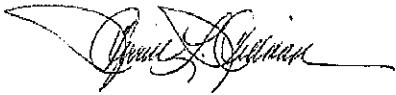
1. The property owner shall not further lot split or subdivide residential property without the written approval of the Board of Supervisors.

2. Transportation conditions:
 - A. Adherence to a development agreement for assessment and payment of all non-residential impact fees.
 - B. Traffic Impact Study will be required if there is a substantial change that results in an increase in the buildable square footage over the current approved Preliminary Development Plan for Lot 5, or there is not a sufficient reduction in the approved buildable area to accommodate a more intense parking use so as not to exceed the allowable building area under the current rezoning, based on a combined Development Plan for the subject property and the remnant parcel. Any Traffic Impact Study, whether it contains any portion of the Magee Center properties, including one from the adjacent development utilizing the Magee Center access point on Magee Road, that determines off-site improvements are necessary, will not be the responsibility of the Owner(s)/Developer of any Magee Center properties.
 - C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.
 - D. No additional access to Magee Road is allowed from the site.
3. Flood Control condition: A drainage plan requiring on site detention and first flush retention for Lots 5 and 6 shall be designed and approved by Pima County Regional Flood Control District to mitigate the 100 year peak discharge.
4. Wastewater conditions:
 - A. The owner(s) shall construe no action by Pima County as a commitment of capacity to serve any new development within the plan amendment/rezoning area until Pima County executes an agreement with the owner(s) to that effect.
 - B. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the plan amendment/rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
 - C. The owner(s) shall time all new development within the plan amendment/rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner(s) shall connect all development within the plan amendment/rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
 - E. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the plan amendment/rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
 - F. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public

sewerage system will be permanently committed for any new development within the plan amendment/rezoning area.

5. Environmental Planning conditions: Upon the effective date of the Ordinance, the owner(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner.
6. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State Laws ARS 41-865 and/or ARS 41-844 require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that appropriate arrangements can be made for the repatriation and reburial of the remains by cultural groups who claim cultural or religious affinity to them. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
7. Lot 5 and 6 shall be developed as an integrated site and subject to general adherence to the preliminary development plan for Lot 5 from Resolution 2020-061 as approved at public hearing.
8. Less restrictive rezoning applications may not be submitted under the approved comprehensive plan designation. A separate comprehensive plan amendment and rezoning are required for less restrictive zoning.
9. The use of the property is limited to restaurants with or without a bar and CB-1 zone uses except for automotive related uses other than retail sales and fueling bays, and stand-alone bars.
10. 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.
11. The property owner shall execute the following disclaimer regarding Proposition 207 rights: "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 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)."

Respectfully,



Terrill L. Tillman
Principal Planner

c: Craig Courtney, Property Development and Consultants, LLC, 5151 N. Oracle Road, Ste. 210, Tucson, AZ 85704



Neighborhood Activity Center (NAC)

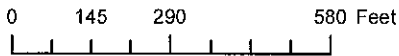
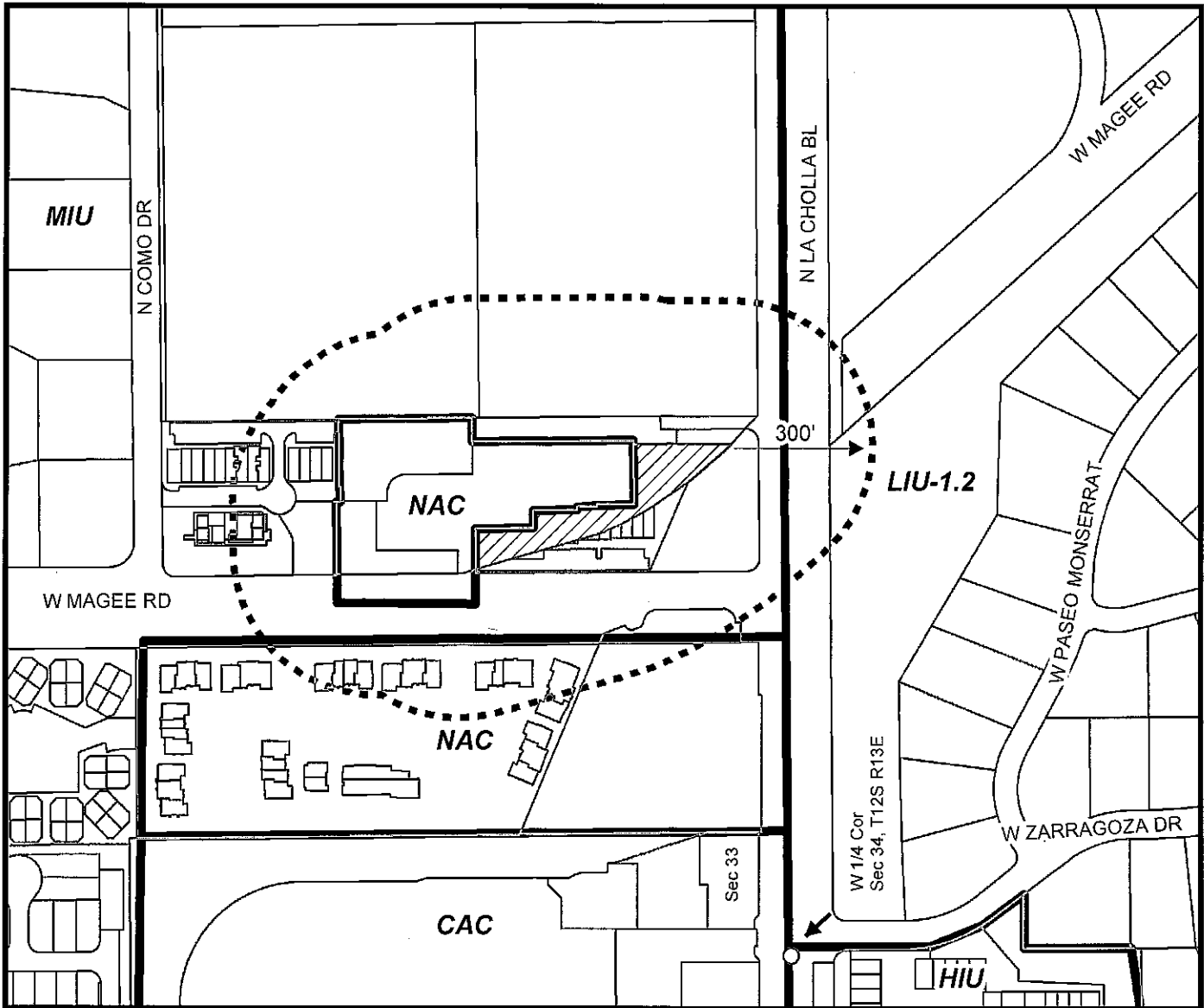
Objective: To designate lower intensity mixed use areas designed to provide goods and services within or near residential neighborhoods for day-to-day and weekly living needs. Neighborhood Activity Centers provide lower-intensity commercial services. For example a grocery market may be the principle anchor tenant along with other neighborhood services, such as a drugstore, variety/hardware store, self-service laundry, and bank. The center may include a mix of medium-density housing types. Neighborhood Activity Centers are generally less than 25 acres in size. Larger centers provide opportunity for a mix of intensive non-residential uses and medium-density residential uses, and are to be located on arterials. Smaller mixed use centers may contain medium density residential uses and may be located along collector or arterial streets. All centers will have direct pedestrian and bicycle access to the surrounding neighborhoods. Individual rezoning requests do not necessarily have to be a mixed use project; however, the application must demonstrate how the project serves to create or enhance the mixed use character of the designated activity center as a whole.


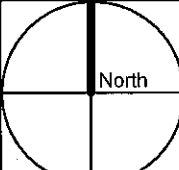
- Residential Gross Density: (if applicable) Minimum- 5 RAC; Maximum- 12 RAC
- Residential Gross Densities for TDR Receiving Areas: Minimum- 5 RAC; Maximum- 8 RAC

COMPREHENSIVE PLAN AMENDMENT

Planned Land Use




 300' Notification Area
 Subject Property

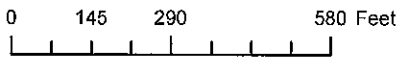
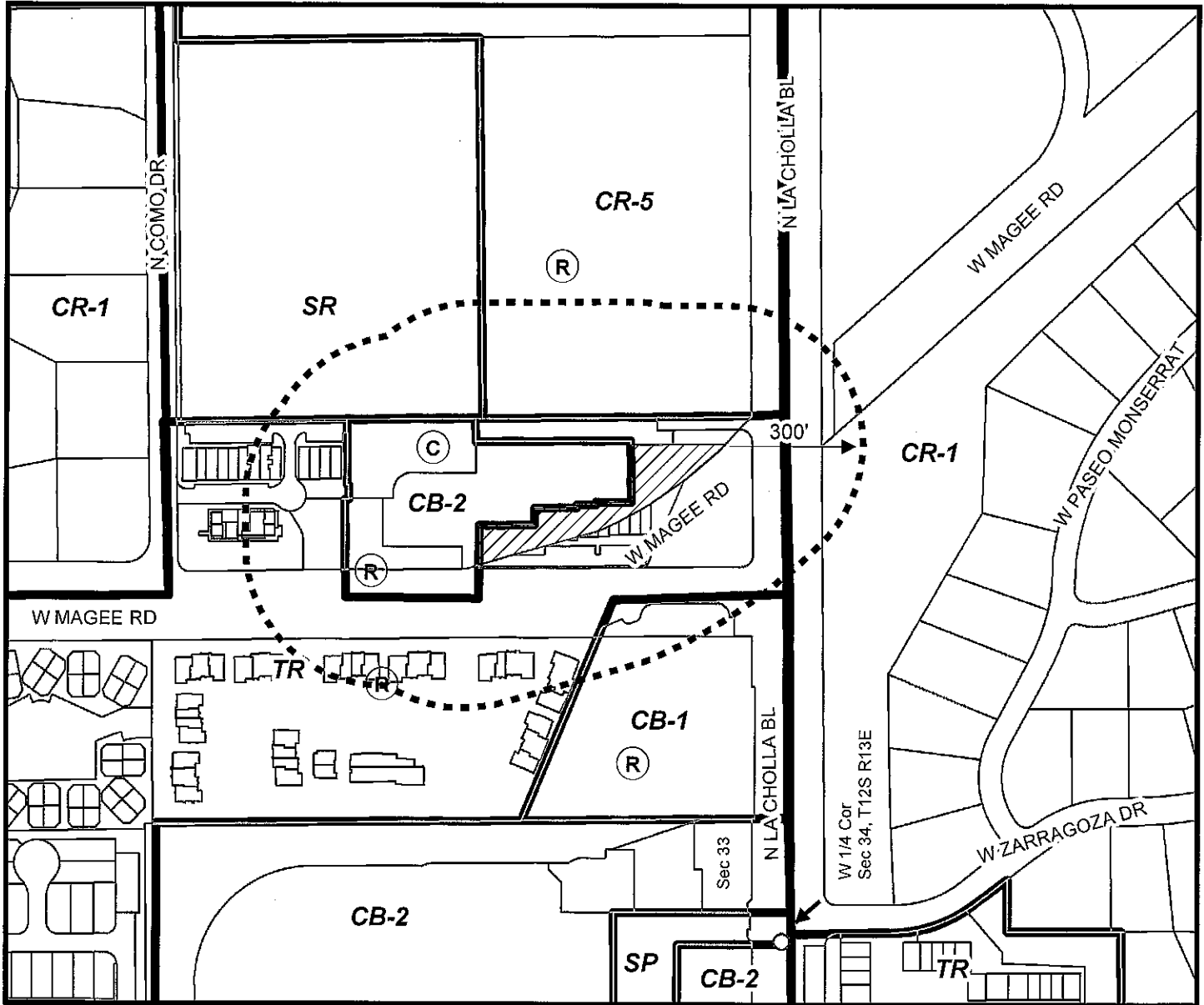


<p>Taxcode: 225-44-5770</p>	<p>P20CR00003 SUKI INVESTMENT GROUP, LLC - W. MAGEE ROAD CONCURRENT PLAN AMENDMENT & REZONING</p> <p>Request Medium Intensity Urban (MIU) to Neighborhood Activity Center (NAC) 0.88 Acres +/-</p>	<p>District 1 Location: Located at the northwest corner of W. Magee Road and N. La Cholla Boulevard</p>	
	<p>Northwest Planning Area under Pima Prospers Section 33, Township 12 South, Range 13 East</p>		
<p>Planning and Zoning Commission Hearing: November 25, 2020</p>	<p>Map Scale: 1:4,000</p>		
<p>Board of Supervisors Hearing:TBA</p>	<p>Map Date: November 4, 2020 / dms</p>		

Case #: P20CR00003
 Case Name: SUKI INVESTMENT GROUP, LLC - W. MAGEE ROAD
 CONCURRENT PLAN AMENDMENT & REZONING



Tax Code(s): 225-44-5770

-  300' Notification Area
-  Subject Property
-  Zoning Boundary



Area of proposed rezoning from TR to CB-2 

**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**

	Notes:		
	PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10		
	Planning & Zoning Hearing: 11/25/20 (scheduled)	Board of Supervisors Hearing: TBD	
	Base Map(s): 115	Map Scale: 1:4,000 Map Date: 11/4/2020 - ds	

Property Development & Consultants, LLC,
An Arizona Limited Liability Company
5151 N. Oracle Rd., Ste. 210,
Tucson, Arizona 85704
Phone: 520-247-3306
Email: ccourtney@azredco.com

November 3, 2020

Via Email Only

Ms. Terrill L. Tillman, AICP
Principal Planner
Pima County Planning Division
201 North Stone Ave. 1st floor,
Tucson, Arizona 85701
Phone: 724-6921/ Email: terri.tillman@pima.gov

Re: "Summary of Neighborhood Meetings for Lot 6 Of Magee Center Rezoning Application to CB-2.

Dear Terri:

Please accept the following summary and attachments to fulfill Lot 6's neighborhood meeting requirement which includes:

1. A copy of the letter sent to each neighbor on the prescribed notice list received from Pima County,
2. Sign in sheets for our two neighborhood meetings; 2 PM on October 31, 2020 and 5:30 PM on November 2, 2020, and
3. A copy of the material provided to each respondent, which occurred via email or hand delivery.

We received 2 responses, one from Raymond Predenkiewicz, owner of Lot 3 of the Como Del Sol Subdivision and Dr. David Jacobs, the owner of Lot 2 of the Magee Center Commercial Development. I personally responded to both of their request for information by covering the following points:

- A. the history of this parcel from the private sector conveyed to Pima County in 2000 for the widening of Magee Road and back to private ownership in 2011,
- B. how its configuration was determined after accommodating the design and construction of the Magee Road and La Cholla Boulevard widening from 2010 to 2012,
- C. its incorporation into Magee Center in 2019 to bring this parcel's use under the umbrella of the recorded Magee Center Property Owner's Associations Covenants, Conditions and Restriction, and
- D. the reason for rezoning Lot 6 to a similar zoning classification currently approved for the adjoining Lots with the idea of combining it with Lot 5's existing approved commercial uses, such that no additional building Square Footage is created over and above the approved densities for Lot 5, thereby creating more open space for drainage control and less 2 story-product.

Both parties were positive with these conditions and agreed to support our request.

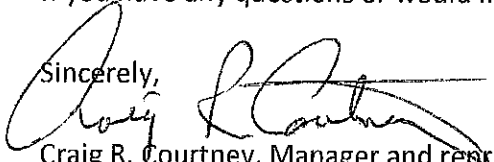
Also, I was able to meet with the representative of the Como Del Sol Townhouse Property Owners' Association, Linda McAlister (the owner of Lot 26), a few times before the Yates property rezoning to discuss

our up coming neighborhood meetings for Lot 6. The same information was presented and her response was positive. Especially the idea of combining Lot 5's building pad design with Lot 6 to create more open space.

We agreed to stay in touch with each party as we receive more feedback from Pima County and other neighbors.

If you have any questions or would like additional information, please contact me at 520-247-3306.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig R. Courtney". The signature is written in a cursive style with a large initial "C".

Craig R. Courtney, Manager and representative for Lot 6
Property Development & Consultants, LLC,

Example Letter

Property Development and Consultants, LLC
5151 N. Oracle, Suite 210
Tucson, Arizona 85704
Tel: (520) 293-8280; Fax: (520) 293-7728

October 21, 2020

Re: Rezoning of the remnant parcel (Lot 6) left after the new Magee Rd alignment was constructed.

BIEDE II ROGER C DEVELOPMENT ASSOC LLC
6865 N NANINI DR
TUCSON AZ 85704-6129

Dear Neighbor:

We are revisiting our desire to meet with you and your neighbors to discuss the rezoning of Lot 6 of Magee Center shown on the attached plan. This was the remaining parcel left over after Pima County completed the construction of the new Magee Road alignment. It has been included in Magee Center as Lot 6.

Since our last letter, we have been reevaluating several development items that affect the current approved design for this corner. If the change in use being requested for Lot 6 is approved, the added area will offer the owners of this corner the opportunity to take the existing approved building pad design for the adjoining Lots in Magee Center and redistribute them to allow for lower building heights and more distance from the neighboring properties by adding open areas.

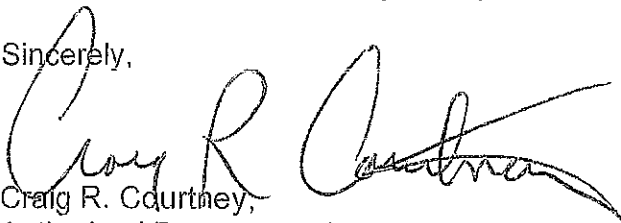
For your convenience we will be holding two meetings, one on Saturday, October 31, 2020 at 2:00 PM and one on Monday, November 2, 2020 at 5:30 PM. Both meetings will be held at 5151 N. Oracle Road, Ste. 206, Tucson, Arizona at the Plaza Vega Commercial Center. At that time, we will explain the plan for this property and answer any questions you may have.

In addition, since we are using a large conference room, we will be observing social distancing and provide disposable masks along with hand sanitizers for everyone's safety.

Please RSVP at our office at 520-293-8280 as to which date works best for you. If you are unable to attend this meeting, please let us know as well. We will be happy to make other arrangements.

To discuss this matter at any time, please feel free to contact me at the above number.

Sincerely,


Craig R. Courtney,
Authorized Representative

11/2/2020

5:30 p.m.

Neighborhood Meeting
Sign-in Sheet
Lot 6 of Magee Center Rezoning

11/1/20
11/2/20

	Name	Address, Zip Code	Phone	Email Address
1	Dr. David Jacobs (2hr Phone call 2:15-3:45)	2262 W. Magee Rd	954-2727	DAVID.JACOBS@mccl-dj
2	Raymond Predenkiewicz	Lot 3 Pimento Sol	325-3711	@gmail.com
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October 31, 2020

2 p.m.

**Neighborhood Meeting
Sign-in Sheet
Lot 6 of Magee Center Rezoning**

	Name	Address, Zip Code	Phone	Email Address
1	CRAIG COURTNEY	515 N. DEADE Rd	520 247 3304	_____
2	MICHAEL BYRNE	5184 VIA VERA ZURQUEZ	(520) 307-1290	_____
3				
4	Meeting Closed @ 2:40 pm			
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DEDICATION X10538
 WE, THE UNDERSIGNED, HEREBY WARRANT THAT WE ARE THE PARTY HAVING THE RIGHT AND INTEREST TO DEDICATE THE LAND SHOWN ON THIS PLAN, AND WE CONSENT TO THE SUBDIVISION OF SAID LAND BY THE MAJOR SHOWN HEREON.

WE, THE UNDERSIGNED DO HEREBY HOLD HARMLESS PIMA COUNTY AND PIMA COUNTY FLOOD CONTROL DISTRICT, THEIR SUCCESSORS, AGENTS, EMPLOYEES, OFFICERS, AND AGENTS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF THE PROPERTY DEPICTED ON THIS PLAN NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOODING, EROSION, OR DAMAGES CAUSED BY WATER, HIGHER SURFACE, FLOOD OR RAINFALL.

COMMON AREAS (AND PRIVATE EASEMENTS), AS SHOWN HEREON ARE RESERVED FOR THE PRIVATE USE AND CONFORMANCE OF ALL OWNERS OF PROPERTY AND ANY THIRD PARTY FOR RECORDED UTILITIES, STREETS, DRAINAGE, AND ACCESS EASEMENTS WITHIN THE SUBDIVISION.

TITLE TO THE LAND OF ALL COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER SEQUENCE NUMBER 20040371493, 20050008085, 20051504623 AND 201123462026 IN THE OFFICE OF THE PIMA COUNTY RECORDER. THIS ASSOCIATION SHALL ACCEPT THE RESPONSIBILITY FOR CONTROL, MAINTENANCE, AND REPAIR, TAKES AND LIABILITY FOR THE COMMON AREAS, TO INCLUDE PRIVATE STREETS, PRIVATE DRAINAGES, PRIVATE SEWERS AND PRIVATE EASEMENTS WITHIN THE SUBDIVISION.

By: [Signature]
 JAMES EDWIN DEWITT ASSOCIATION, LLC AN ARIZONA LIMITED LIABILITY COMPANY, AS DECLARANT UNDER THE COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER SEQUENCE NUMBER 20040371493, 20050008085, 20051504623 AND 201123462026 IN THE OFFICE OF THE PIMA COUNTY RECORDER.

STATE OF ARIZONA)
 COUNTY OF PIMA) SS.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 3rd DAY OF July BY [Signature] NOTARY PUBLIC

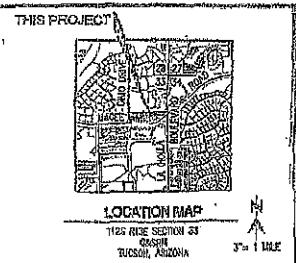
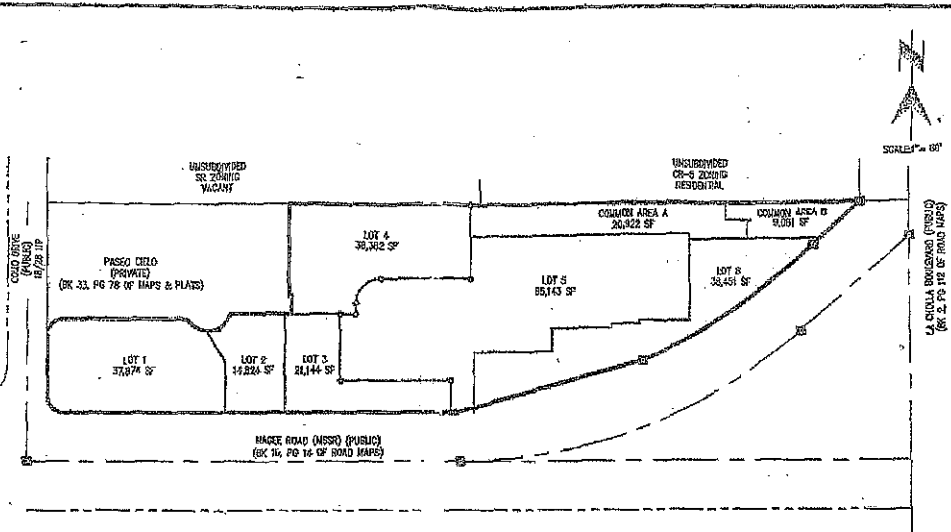
MY COMMISSION EXPIRES: [Signature]
 [Notary Seal]

ASSURANCE
 NO ASSURANCES ARE REQUIRED FOR THIS SUBDIVISION AS IT IS A COMMERCIAL DEVELOPMENT.

[Signature] CHAIRMAN, BOARD OF SUPERVISORS PIMA COUNTY, ARIZONA
 MAY 13 2019 DATE

ATTEST
 I, SAUL CASARETO, CLERK OF THE BOARD OF SUPERVISORS, HEREBY CERTIFY THAT THIS PLAN WAS APPROVED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, ON THIS 11th DAY OF November 2019.
 [Signature] CLERK, BOARD OF SUPERVISORS DATE: MAY 13 2019

GENERAL NOTES
 1. THE GROSS AREA OF THIS SUBDIVISION IS 6.19 ACRES.
 2. THE TOTAL MILES OF NEW PRIVATE STREET IS 0.007 MILES.
 3. THE TOTAL MILES OF NEW PUBLIC STREET IS 0.00 MILES.
 4. BASIS OF MEASUREMENT: HORIZON 40 DEGREES 43 MINUTES 30 SECONDS EAST AS MEASURED ACCORDING TO THE HORIZONTAL CONTROL POINTS AND MONUMENTS OF MAGEE ROAD WITHIN PIMA COUNTY RECORDS.
 5. THIS SUBDIVISION LIES WITHIN AN AREA DESIGNATED AS HAVING AN ASSIGNED WATER SUPPLY.



LEGEND
 - - - - - BOUNDARY LINE
 - - - - - RIGHT-OF-WAY LINE
 - - - - - CENTER LINE
 - - - - - EASEMENT LINE
 - - - - - FENCED AS NOTED
 * SET 2" REBAR "XLS 33361"
 * DRAINAGE LOCATION
 (C) CALCULATED
 (R) RECORDED

SHEET INDEX
 SHEET 1 COVER SHEET
 SHEETS 2-3 SUBDIVISION BOUNDARY

RECORDING
 STATE OF ARIZONA) SS:
 PIMA COUNTY

THIS INSTRUMENT WAS FILED FOR RECORD AT THE OFFICE OF THE CLERK OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, ON THIS 22nd DAY OF September 2019. AT SEQUENCE NUMBER 20273262722.
 PIMA COUNTY RECORDS: 22 10:00

C. ANN RODRIGUEZ COUNTY RECORDER
 My commission expires on 10-27-22
 DATE

PERMITTING NOTES
 1. LOTS 1-3 ARE ZONED CE-2. LOTS 4-6 ARE ZONED CE-2 CONTIGUOUS.
 2. THIS SUBDIVISION IS SUBJECT TO BOARD OF SUPERVISORS RECORDING CONDITIONS AS FOUND IN CASE NUMBER 2004-02-007 AS APPROVED BY ALEY 21/1598.
 3. THIS DEDICATION IS SUBJECT TO DESIGN REVIEW COMMITTEE REQUIREMENTS AS FOUND IN CASE NUMBER 2020-02-004 AS APPROVED ON APRIL 16, 2022.
 4. THIS SUBDIVISION IS SUBJECT TO BOARD OF SUPERVISORS RECORDING CONDITIONS AS FOUND IN CASE NUMBER 2008-02-004 AS APPROVED ON JUNE 7, 2008. THE MAIN RECORDING CONDITION IN LOT 4 IS RESTRICTED TO THE FOLLOWING: THE USES OF THE PROPERTY ARE LIMITED TO RESTAURANTS WITH/WITHOUT A BAR AND AD-1 ZONE USES EXCEPT FOR AUTOMOBILE RELATED USES, DRIVE-THRU RESTAURANTS, AND STAND-ALONE BARS.

CERTIFICATION
 I HEREBY CERTIFY THAT THE PRECEDING LOTS ON THIS PLAN WERE PREPARED BY ME OR UNDER MY SUPERVISION

[Signature] JEFFREY K. BISHALL, PE #19283
 EXP. 04-30-2019

CERTIFICATION
 I HEREBY CERTIFY THAT THIS PLAN REPRESENTS A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT ALL BOUNDARY INDUMENTS INDICATED HEREON ACCURATELY EXIST, AND THEIR LOCATION, SIZE, AND MATERIAL ARE CORRECTLY SHOWN.

[Signature] JEFFREY K. BISHALL, PLS #33708
 DATE: 02/19/20

ENGINEERING
 20 BOX 1784 TUCSON, ARIZONA 85702
 (520) 364-7910
 SURETY@TUCSONENGINEERING.COM

P158204000
 C-4-03-27
 C-202-02-004
 P4202-049
 P4202-049
 P48FP00020

FINAL PLAT
 FOR
**MAGEE CENTER II, LOTS 1-6,
 COMMON AREA A (PRIVATE
 STREETS, UTILITIES, DRAINAGE, &
 PARKING) AND COMMON AREA B
 (PRIVATE STREETS, UTILITIES,
 DRAINAGE, & PARKING)**
 A RESUBDIVISION OF MAGEE CENTER (EX 55 PG 94)
 SECTION 23, TIES, RISE
 GERMANTOWN, TUCSON, ARIZONA

DATE: 02/19/20 SHEET 1 OF 3
 SEQUENCE NO. 20193260717-1

SEQUENCE NO. 20193260717-1

MAGEE CENTER LOTS 1 - 6

Como Del Sol
Townhomes

Common Areas A and B

Como Drive

LA CHOLLA BLVD.

Lot 4

Lot 1

Lot 2

Lot 3

Lot 5

Lot 6

MAGEE ROAD

Center Magee Corporate

RESOLUTION 2020- 61

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-07-26 LAWYERS TITLE OF AZ TR 7992-T – MAGEE ROAD #2 REZONING; LOCATED ON THE NORTHWEST CORNER OF W. MAGEE ROAD AND N. LA CHOLLA BOULEVARD; AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE 2009-4.

The Board of Supervisors of Pima County, Arizona finds that:

1. On October 7, 2008, in rezoning case Co9-07-26, the Pima County Board of Supervisors approved the rezoning of approximately 1.95 acres located on the northwest corner of W. Magee Road and N. La Cholla Boulevard, as shown on Exhibit A, from TR (Transitional) to CB-2 (General Business), subject to standard and special conditions.
2. On January 13, 2009, the Pima County Board of Supervisors adopted rezoning Ordinance 2009-4, as recorded in Docket 13478 at Page 2815, rezoning the approximate 1.95 acres described in rezoning case Co9-07-26 and memorializing the standard and special conditions.
3. The owner of the rezoning site applied for two consecutive five-year extensions of the time limit set forth in Section 3 of Ordinance 2009-4.
4. On May 19, 2020, the Pima County Board of Supervisors denied closure of the rezoning and approved two consecutive five-year time extensions, subject to modified standard and special conditions.
5. Section 3 of Ordinance 2009-4 and the Pima County Code allow the Board of Supervisors to amend the rezoning time limit and conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance 2009-4 are restated and modified as follows:

1. ~~Submittal of a development plan if determined necessary by the appropriate County agencies.~~
2. ~~Recording of a covenant holding Pima County harmless in the event of flooding.~~
3. ~~Recording of the necessary development related covenants as determined appropriate by the various County agencies.~~
4. ~~Provision of development related assurances as required by the appropriate agencies.~~
5. ~~Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the~~

~~property shall be submitted to the Development Service Department, Document Services.~~

61. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.

72. Transportation conditions:

A. ~~Prior to approval of a development plan or revised subdivision plat, the owner(s)/developer(s) shall be required, by covenant, to participate in an improvement district for improvements for Magee Road and La Cholla Boulevard, or if no improvement district is formed, then appropriate impact fees shall apply. Adherence to a development agreement for assessment and payment of all non-residential impact fees.~~

B. ~~If Pima County's improvements to Magee Road and/or La Cholla Boulevard have not been initiated prior to the property owner(s)/developer(s) starting construction on the first building within the rezoned property, then the property owner(s)/developer(s) shall provide offsite improvements to Magee Road or La Cholla Boulevard as determined necessary by the Pima County Department of Transportation. Traffic Impact Study will be required if there is a substantial change that results in an increase in the buildable square footage over the current approved Preliminary Development Plan or there is not a sufficient reduction in the approved buildable area to accommodate a more intense parking use so as not to exceed the allowable building area under the current rezoning, based on a combined Development Plan for the subject property and the remnant parcel. Any Traffic Impact Study, whether it contains any portion of the Magee Center properties, including one from the adjacent development utilizing the Magee Center access point on Magee Road, that determines off-site improvements are necessary, will not be the responsibility of the Owner(s)/Developer(s) of any Magee Center properties.~~

C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.

83. Flood Control conditions:

A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.

B. ~~This development shall meet Critical Basin detention and retention requirements. The site is required to provide first flush retention of the first 0.5 inch of rainfall. In addition, the site is required to provide on-site detention to reduce the developed 10-year peak discharge to the undeveloped 10-year peak discharge at each outlet. However, should the adjacent Lot 6 be rezoned, the development of these two properties will be required to mitigate the 100-year peak discharge.~~

C. ~~The property owner(s)/developer(s) shall provide necessary on-site and off-site drainage improvements at no cost to Pima County and as required by the Pima County Regional Flood Control District including but not limited to overflow facilities for the proposed water harvesting cisterns. At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.~~

94. Wastewater Reclamation conditions:

A. ~~The owner(s)/developer(s) shall provide all weather, unrestricted vehicular access to all new, existing and/or relocated public sewer manholes within the~~

~~rezoning area. The owner(s)/developer(s) shall also bring all existing public sewer easements (and/or public utility easements containing public sewer lines) within the rezoning area into accordance with the most recent Pima County Regional Wastewater Reclamation Department standards for such easements, as specified at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit. The owner(s)/developer(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner(s)/developer(s) to that effect.~~

- ~~B. The owner(s)/developer(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Regional Wastewater Reclamation Department and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.~~
- A. The owner(s) shall construe no action by Pima County as a commitment of capacity to serve any new development within the rezoning area until Pima County executes an agreement with the owner(s) to that effect.
- B. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
- C. The owner(s) shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
- D. The owner(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
- E. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
- F. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.

405. The property owner(s)/developer(s) shall connect to the public sewer system at the

location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit. On-site wastewater disposal shall not be allowed.

416. 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.
427. The property owner(s) shall execute and record the following disclaimer regarding Proposition 207 rights. "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 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)."
438. ~~The developer(s) shall submit an Invasive Plant Eradication Plan as part of the Landscape Plan for the Development Plan, for the annual inspection and removal of invasive non-native plant species on the site, including but not limited to those listed below.~~

~~*Invasive Non-Native Plant Species Subject to Control:*~~

<i>Ailanthus altissima</i>	Tree of Heaven
<i>Alhagi pseudalhagi</i>	Camelthorn
<i>Arundo donax</i>	Giant reed
<i>Brassica tournefortii</i>	Sahara mustard
<i>Bromus rubens</i>	Red brome
<i>Bromus tectorum</i>	Cheatgrass
<i>Centaurea melitensis</i>	Malta starthistle
<i>Centaurea solstitialis</i>	Yellow starthistle
<i>Cortaderia</i> spp.	Pampas grass
<i>Cynodon dactylon</i>	Bermuda grass (excluding sod hybrid)
<i>Digitaria</i> spp.	Crabgrass
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Eragrostis</i> spp.	Lovegrass (excluding <i>E. intermedia</i>, plains lovegrass)
<i>Molinis repens</i>	Natal grass
<i>Mesembryanthemum</i> spp.	Iceplant
<i>Peganum harmala</i>	African rue
<i>Pennisetum ciliare</i>	Buffelgrass
<i>Pennisetum setaceum</i>	Fountain grass
<i>Rhus lancea</i>	African sumac
<i>Salsola</i> spp.	Russian thistle
<i>Schismus arabicus</i>	Arabian grass
<i>Schismus barbatus</i>	Mediterranean grass
<i>Sorghum halopense</i>	Johnson grass
<i>Tamarix</i> spp.	Tamarisk

Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site; and Pima County may enforce

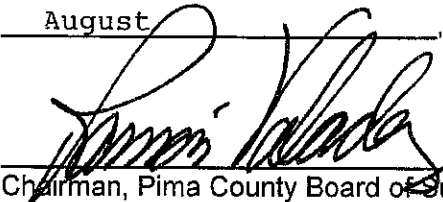
~~this rezoning condition against any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.~~

449. The owner(s)/developer(s) shall adhere to the site plan as approved at public hearing (EXHIBIT B). The property shall be allowed CB-2 zoning uses for restaurants with associated bars. All other uses shall be restricted to CB-1 zoning uses. Automotive-related uses, drive-thru through restaurants and stand-alone bars without restaurant facilities are prohibited.
4510. The maximum height of the west building shall be limited to 24 feet above the average grade within the site. The maximum height of the east building shall be limited to 34 feet above the average grade within the site including architectural features. This project will be subject to noise, odor and light trespass plans in accordance with Sections 18.39.030C.4, 5, 6 and 7.

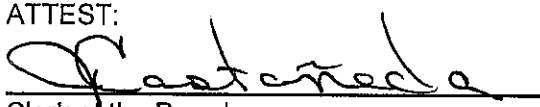
Section 2. Section 3 of Ordinance No. 2009-4 is restated and modified as follows:

1. Conditions 1 through 4510 shall be completed no later than October 7, ~~2013~~2023.
2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.
3. No building permits shall be issued based on the rezoning approved by this Ordinance until all conditions 1 through 4510 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions 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.

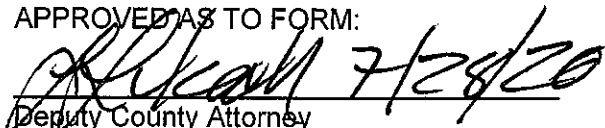
Passed and adopted, this 17th day of August, 2020.


AUG 17 2020
Chairman, Pima County Board of Supervisors

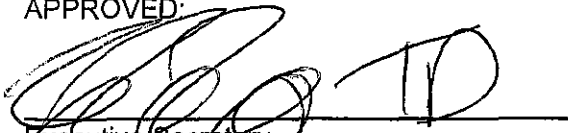
ATTEST:


Clerk of the Board

APPROVED AS TO FORM:


7/28/20
Deputy County Attorney
Lesley M. Lukach

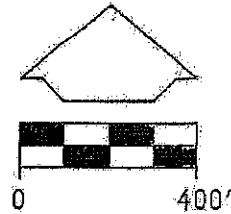
APPROVED:

A handwritten signature in black ink, consisting of several loops and a final vertical stroke, positioned above a horizontal line.

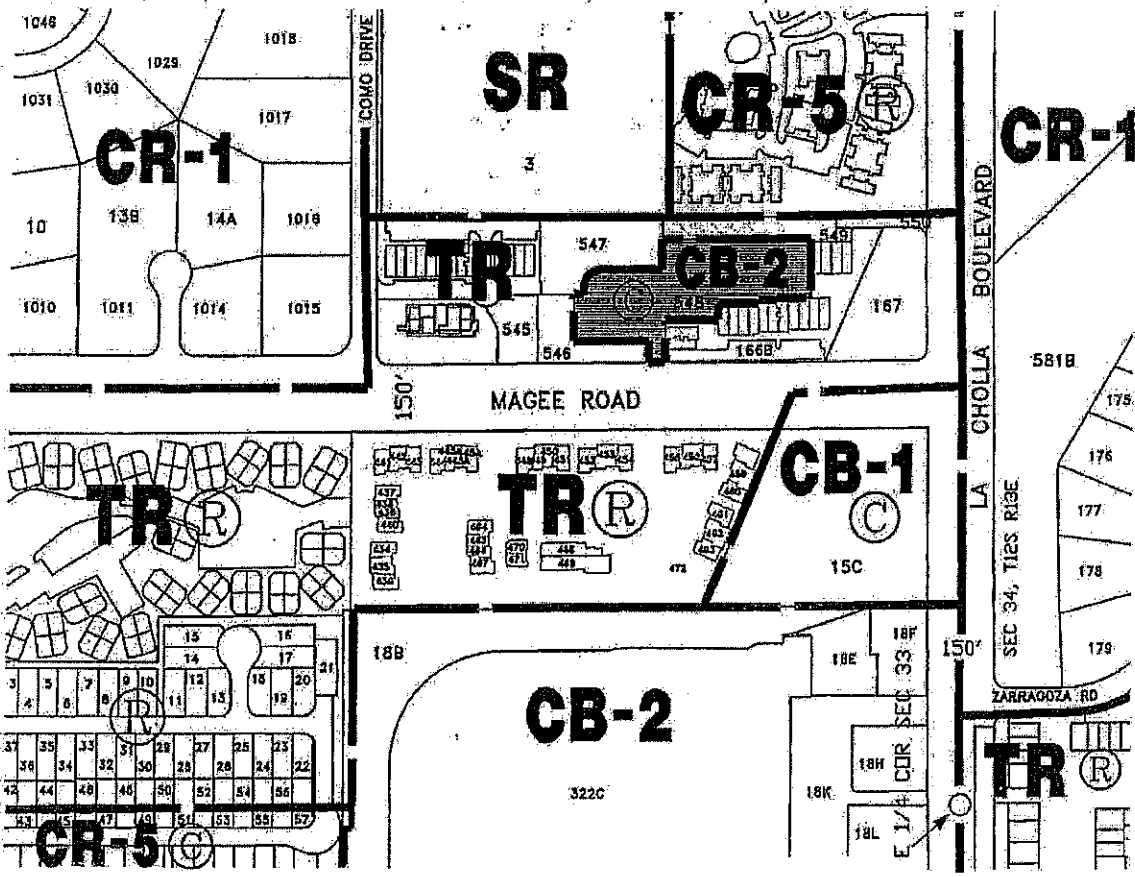
Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 78 BY ORDINANCE NO. 2009-4
 TO PIMA COUNTY ZONING MAP NO. 115 TUCSON, ARIZONA,
 LOT 5 OF MAGEE CENTER, BEING A PART OF THE SE 1/4
 OF THE NE 1/4 OF SECTION 33, T12S, R13E.



ADOPTED JANUARY 13, 2009 EFFECTIVE JANUARY 13, 2009



Calvin Call

EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
 FROM TR 1.95 o.c.#
 PJ-DECEMBER 4, 2008

Co9-07-026
 Co7-03-11
 Co9-69-27 REF
 225-44-5480

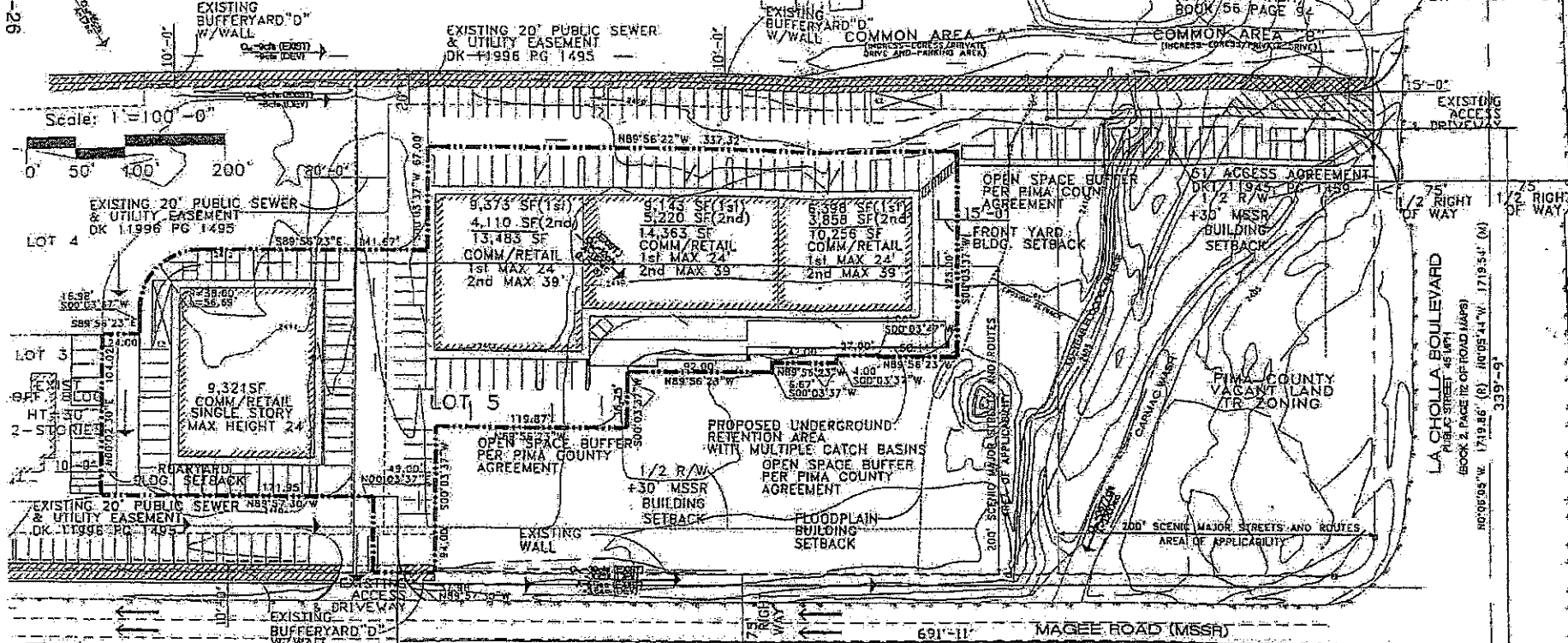
PIMA COUNTY PLANNING AND ZONING COMMISSION

26

Co9-07-26

LEGEND

- PROPERTY BOUNDARY
- BUILDING SETBACK
- NIC ROUTE APPLIC



Scale: 1" = 100'-0"



EXISTING 20' PUBLIC SEWER & UTILITY EASEMENT DK 11996 PG 1495

LOT 4

LOT 3

LOT 5

EXISTING 20' PUBLIC SEWER & UTILITY EASEMENT DK 11996 PG 1495

EXISTING 20' PUBLIC SEWER & UTILITY EASEMENT DK 11996 PG 1495

EXISTING DRIVEWAY

EXISTING BUFFERYARD "D" W/WALL

EXISTING BUFFERYARD "D" W/WALL

EXISTING BUFFERYARD "D" W/WALL

EXISTING BUFFERYARD "D" W/WALL

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EXISTING 20' PUBLIC SEWER & UTILITY EASEMENT DK 11996 PG 1495

NOTES:
 Site Area=1.95AC
 Grass Bldg Area=47,423
 Bldg Height=39' MAX (subject to Scenic Routes)
 Current Zoning TR
 Proposed Zoning CB-2

Water Service= Metro Water
 Total Parking Spaces=157
 Landscape Bufferyards="D"
 Proposed Use=Mixed Retail

MAGEE CENTER LOT 5

DISTURBED AREA DEVELOPMENT UNDERWAY CB-1 ZONING

PIMA COUNTY VACANT LAND CR-1 ZONING

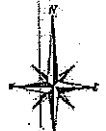


EXHIBIT B P 1 PRELIMINARY DEVELOPMENT PLAN

EXHIBIT B

Approved at BOS Hearing 10-7-08 Co9-07-26

MADE IN CALIFORNIA

Exhibit "G"



PIMA COUNTY

DEVELOPMENT SERVICES

201 N. Stone Avenue, 2nd Floor
Tucson, AZ 85701-1207
(520) 724-9000

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.

This report will include information provided by both Pima County Planning staff (Part I) as well as the applicant (Part II).

Part I. Information Provided by Pima County staff:

Pima County Planning staff will provide the following information for the proposed project site, as applicable:

1. Is the project located in the Maeveen Marie Behan Conservation Lands System? *No*
Any Special Species Management Areas? *No*
2. Is the project in the vicinity of any of the six Critical Landscape Linkages? *No*
3. Is the project Designated for acquisition as a Habitat Protection or Community Open Space property? *NO*
4. Is the project located within the Priority Conservation Area for any of the following species? *NO*
 - a. Cactus ferruginous pygmy-owl
 - b. Western burrowing owl
 - c. Pima pineapple cactus
 - d. Needle-spined pineapple cactus

Part II. Information Provided by the Applicant:

1. Has the owner of the project site had any communications with Pima County about the County potentially acquiring the property? *NO*

If yes, provide a summary of those communications: _____



PIMA COUNTY
DEVELOPMENT SERVICES

2. Several species are of particular interest. Please fill out the following table to the best of your ability.

Species	Ever found on project site?	Date of last observation if found on project site?	Future surveys planned?
Cactus ferruginous pygmy owl	No	<input type="text"/>	<input type="text"/>
Western burrowing owl	No	<input type="text"/>	<input type="text"/>
Pima pineapple cactus	No	<input type="text"/>	<input type="text"/>
Needle-spined pineapple cactus	No	<input type="text"/>	<input type="text"/>

Contact the Office of Sustainability and Conservation at 520-724-6940 if you have any questions about this report.

ANSWERED for Suki Investment Group

Property Development & Consultants, LLC,
An Arizona Limited Liability Company
5151 N. Oracle Rd., Ste. 210, Tucson, Arizona 85704
Phone: 520-247-3306/ Email: ccourtney@azredco.com

August 24, 2020

Ms. Terrill L. Tillman, AICP

Via Email Only

Principal Planner

Pima County Planning Division

201 North Stone Ave. 1st floor,

Tucson, Arizona 85701

Phone: 724-6921/ Email: terri.tillman@pima.gov

Mr. Chris Poirier

Development Service Administrator

201 North Stone Ave. 1st floor,

Tucson, Arizona 85701

Phone: 724-6596/Email: chris.poirier@pima.gov

Re: "Concurrent Plan Amendment and Rezoning Application for Lot 6 Of Magee Center to NAC and CB—2, Restricted.

Dear Terri and Chris:

Consistent with emails and recent discussions, this correspondence and the attached "Concurrent Plan Amendment and Rezoning Application" constitutes our request to change the Comprehensive Plan to Neighborhood Activity Center (NAC) and to rezone Lot 6 of Magee Center II from Transitional to CB-2, restricted (See Below).

As you can see from the attached Magee Center II Final Plat – Lots 1-6 cover sheet (**See Exhibit "C"**), this is an infill parcel on the northwest corner of La Cholla Blvd. and Magee Rd that completes the assemblage of the undeveloped property at this high-profile intersection. Since Lot 6 fronts on both La Cholla Blvd. and Magee Rd and is the only parcel on this corner that is not commercially zoned, it makes sense to request this change now so it can be incorporated post rezoning into a Concept Development Plan with Lot 5 that will make the existing businesses within Magee Center into a more functional mixed-use commercial project. As a result, this CB-2 rezoning request will have a minimal impact on surrounding properties. The concept of creating a mix use development of residential, office, medical, retail, restaurant, and financial that provides for pedestrian, bicycle and vehicular access promotes Pima County's AZ Growing Smarter program.

We propose establishing a set of standard and specific conditions that will define how Lot 6 is to be improved and what adjustments must occur to Lot 5 to enable both lots to be developed as one part of the Magee Center corner. Once these restrictions are incorporated into an approved conditional rezoning ordinance, a site plan showing all the existing and new improvements to these Lots can be provided to development services and the other related departments for their review. Pima County's input and the owner's commitment will provide the impetus for Lot 5 to reduce its entitlements in favor of Lot 6. The final development plan for the a) location and amount of Building SF in Lots 5 and 6, b) drive patterns, c) open space, d) parking, and e) drainage can be established in a joint effort with staff's experts to create the most efficient design that the owners, potential lenders, users and contractors can commit to how they will participate in completing their portion of the approved Concept Development Plan. This review would include but not be limited to Pima County Flood Control, Transportation, Wastewater, Environmental Quality, etc.

The following is a summary of the Property and Application Information:

1. The Owner (**See Assessor's Record in Exhibit "D"**) of Lot 6 is Suki Investment Group, LLC, an Arizona Limited Liability Company (**See Az Corporation Commission record in Exhibit "E"**).
2. Lot 6 of Magee Center II is a 38,451 SF improved vacant parcel at the NW corner of La Cholla Blvd. and Magee Rd. (**See Magee Center Final Plat II, Cover Sheet- Exhibit "C"**).
3. Any driveway, pavement areas, sidewalks, cubing, landscaping, drainage areas and utility easements established within Lot 6 as part of a Concept Development Plan post rezoning along with their maintenance, shall be an extension of the existing Magee Center interior utility and road system.
4. The property and the other Lots in Magee Center are currently served by existing utilities that include Metropolitan Water Company, Pima County Wastewater Management, Tucson Electric Power Company, Southwest Gas, and cable companies.
5. Lot 6 was graded in the 1990s and is within approximately 1 foot of proposed finish grade (**See Sketch Plan – Exhibit "B"**).
6. The surrounding properties are zoned as follows (**See Sketch Plan – Exhibit "B"**):
 - a. To the West is Lot 3 - CB-2, restricted,
 - b. To the North is Lot 5 - CB-2, restricted and Magee Center's Common Areas A & B,
 - c. To the East is La Cholla Blvd and an expansive roadway and drainage system beyond,
 - d. To the South is Magee Rd and to the south of it is a commercial property on the SW corner.

7. Building setbacks for Lot 6 and Magee Center (**See description in Exhibit "H" - April 5, 2011 Zoning Administrator Letter Agreement**):
 - a. Front yard – La cholla Blvd – 15 ft.,
 - b. Rear yard – Como Drive - 10 ft., and
 - c. Side yard – 0

8. No landscaping Buffer yards are required (**See Exhibit "I" describing the Buffer yards and the use of the landscaped area within the Magee R.O.W. in the Development Agreement with Pima County recorded on July 25, 2011 in Seq # 20112060714**):
 - a. North line of Lot 6 abuts Lot 5,
 - b. The Buffer yard requirement on the south line of Lot 6 adjacent to Magee Rd. is waived, and
 - c. Pima County has established an ~ 40 + Ft Buffer yard/Landscaping area in the R.O.W on the north side of the Magee Road pavement.

9. No areas of Lot 6 are designated within Pima County's CLS,

PROPOSED SPECIAL CONDITIONS - SITE DESIGN

To ensure the compatibility of combining Lot 6 with Lot 5's approved rezoning conditions for a final Concept Development Plan, Lot 6's CB-2 rezoning could include specific restrictions that require:

- a) The total Building SF on Lots 5 and 6 combined shall not exceed the existing approved Building SF for Lot's 5 Preliminary Development Plan (PDP), where there will be sufficient reduction in the PDP's approved building area to accommodate a more intense parking use,
- b) Any Building SF placed in Lot 6 shall be deducted first from Lot 5's 2nd floor,
- c) The maximum building height on Lot 6 shall be 24 feet,
- d) A drainage plan requiring on-site detention that combines lots 5 and 6 will be designed by the owner and approved by Pima County Flood Control to mitigate the 100-year peak discharge,
- e) The height of the improvements within Lot 6 will be limited to 24 ft., and
- f) Lot 6 shall be allowed CB-2 zoning design standards and uses limited to restaurants with associated bars. All other uses shall be restricted to CB-1 zoning uses, without a) Automotive-related uses other than retail sales and fueling bays, and b) stand allow bars without restaurant facilities.

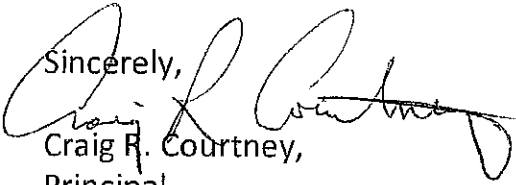
Exhibits attached to this Concurrent Plan Amendment and Rezoning Application as support documents:

1. Exhibit "A" – Completed Concurrent Plan Amendment and Rezoning Application Form,
2. Exhibit "B" – Sketch Plan,
3. Exhibit "C" - Magee Center Final Plat II Cover Sheet with the location and size of Lot 6,
4. Exhibit "D" – Pima County Assessor's Ownership printout for Lot 6,
5. Exhibit "E" – Az Corporation Entity Identity printout for the Owner of Lot 6,
6. Exhibit "F" – Lot 6 Owner's Property Development & Consultants, LLC's Authorization Letter to Pima County,
7. Exhibit "G" – Owner's Completed Biological Impact Report for Lot 6,
8. Exhibit "H" - April 5, 2011 Zoning Administrator Letter Agreement for the Magee Center and Lot 6 set-backs,
9. Exhibit "I" – Development Agreement with Buffer yard and landscaping requirements recorded July 25, 2011 in Seq # 20112060714.

Upon your receipt of this package, please let me know if you need any further information to process this application.

We appreciate you setting our Pre-Application meeting for September 2, 2020.

Sincerely,



Craig R. Courtney,
Principal

EXHIBIT "A"



PIMA COUNTY

Concurrent Comprehensive Plan and Rezoning Application

[Back to Pima.gov](#) | [Development Services Home](#) | [Send](#)

Comprehensive Plan Amendment Application OR Concurrent Comprehensive Plan Amendment and Rezoning or Specific Plan Application (this application is for either application types)

Required fields are indicated by *.

Owner Information

Owner's Name: * **SUKI INVESTMENT Group, LLC**
 Mailing Address: * **340 N. MAIN AVE.** City: * **TUCSON**
 State: * **Arizona** Zip code: * **85701** Phone: * **520-247-3306**
 Owner's Email Address: * **LSchubart@yahoo.com**

Applicant Information (if other than owner)

Applicant's Name: **PROPERTY DEVELOPMENT AND CONSULTANTS, LLC**
 Applicant's Address: **5151 N. ORACLE Rd, Ste 210** City: **TUCSON**
 State: **Arizona** Zip code: Phone: **520-2938280**
 Applicant's Email Address: **ccourtney@azredco.com**

Property Information

Property Address: **7787 N. LA CHOLLA BLVD, TUCSON, AZ**
 Tax Parcel Number: * **225-44-5770**
 Acreage: * **38,451 SF** Current Land Use Designation(s) and Acreage: * **TRANSITIONAL (TR)**
 Proposed Land Use Designation(s) and Acreage: * **CB-2, RESTRICTED**
 Comprehensive Plan Subregion / Category / Policies: * **NAC**

For Concurrent Comprehensive Plan and Rezoning Only:

Acreage: **38,451 SF** Present Zone: **(TR)** Proposed Zone: **CB-2, RESTRICTED**

Attach requested documents if applicable.

A total of 8 MB of files can be uploaded in a single form submission. There is no restriction on file types.

- ✓ 1. Letter of Authorization: If the applicant is not shown as the owner of the subject parcel a letter of authorization with a signature matching the APIQ must accompany the application at the time of submittal. For example, if the APIQ indicates ownership in a numbered trust such as Chicago Title and Trust #700, a signature of the Trust Officer is required along with a disclosure of the beneficiaries of the trust. If the APIQ indicates ownership to be in an LLC, LP, corporation or company, a signature from an officer with his/her title is required along with a disclosure of the officers of the entity.

No file chosen **(SEE EXHIBIT "F" ATTACHED)**

2. Submit an electronic version of the site analysis document for a Site Analysis Rezoning or Specific Plan OR submit an electronic versions of the required submittal documents.

No file chosen

A total of 8 MB of files can be uploaded to this form. If your submission exceeds 8MB please upload documents to an FTP site such as dropbox.com and paste the access link here:

3. An ESRI Shapefile or AutoCad DWG file referenced to the Pima County GIS coordinate system for any zoning and/or land use boundary contained within a portion of a parcel or parcels that creates its own unique boundary that is not legally described.

No file chosen

SEE ATTACHED SKETCH PLAN, FINAL PLAT & OTHER BACKUP SUPPORT DOCUMENTS

Terms and Conditions

* I confirm the information provided is true and accurate to the best of my knowledge. I am the owner of the above described property or have been authorized by the owner to make this application. (By checking the box, I am electronically signing this application.)

Date: * August 24, 2020

Craig R. Courtney Principal
for Property Development AND CONSULTANTS

For Electronic Submittal:

A case will be opened and an email containing an invoice with the case number and instructions for making payment through the online payment portal will be sent to the applicant within 2 business days.

Attendance to a Pre-Application meeting is a pre-requisite to application submittal. The Pre-Application meeting is scheduled at 201 N. Stone Avenue, 2nd floor on the 3rd Wednesday of the month beginning at 9:00 am.



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- Accessibility
- HIPAA/Privacy Statement
- Security
- Sitemap
- Terms of Use
- Website Feedback

DEDICATION X10638

WE, THE UNDERSIGNED, HEREBY WARRANT THAT WE ARE THE PARTY HAVING THE BEST AND NEAREST INTEREST TO RESOLVE THE LAND SHOWN ON THIS PLAN, AND WE CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON.

WE, THE UNDERSIGNED DO HEREBY HOLD HARMLESS PIMA COUNTY AND PIMA COUNTY FLOOD CONTROL DISTRICT, THEIR SUCCESSORS, ASSIGNS, EMPLOYEES, OFFICERS, AND AGENTS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF THE PROPERTY DEPICTED ON THIS PLAN NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOODING, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE FLOOD OR CANALWALL.

CORNER AREAS (AND PRIVATE EASEMENTS), AS SHOWN HEREON ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY AND ANY THIRD PARTY FOR RECORDING UTILITY, SEWER, DRAINAGE, AND ACCESS EASEMENTS WITHIN THIS SUBDIVISION.

TITLE TO THE LAND OF ALL COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER SEQUENCE NUMBER 2003037483, 20030901083, 2005040493 AND 200512260162 IN THE OFFICE OF THE PIMA COUNTY RECORDER. THIS ASSOCIATION SHALL ACCEPT THE RESPONSIBILITY FOR CONSTRUCTION, MAINTENANCE AND UTILITY TRUNK AND UTILITY FOR THE COMMON AREAS, TO INCLUDE PRIVATE STREETS, PRIVATE PARKING AREAS, PRIVATE SEWERS AND PRIVATE EASEMENTS, WITHIN THE SUBDIVISION.

By: James P. Stanish, Manager
MAGEE ROAD DEVELOPMENT ASSOCIATION, LLC AN ILLINOIS LIMITED LIABILITY COMPANY, AS INCALCULATED UNDER THE COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER SEQUENCE NUMBER 2003037483, 20030901083, 2005040493 AND 200512260162 IN THE OFFICE OF THE PIMA COUNTY RECORDER.

STATE OF ARIZONA)
COUNTY OF PIMA) SS.
I, James P. Stanish, Manager
of MAGEE ROAD DEVELOPMENT ASSOCIATION, LLC
do hereby certify that the foregoing instrument was acknowledged before me this 3rd day of July, 2019, by James P. Stanish,
James P. Stanish
NOTARY PUBLIC

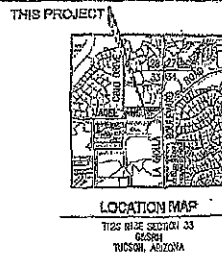
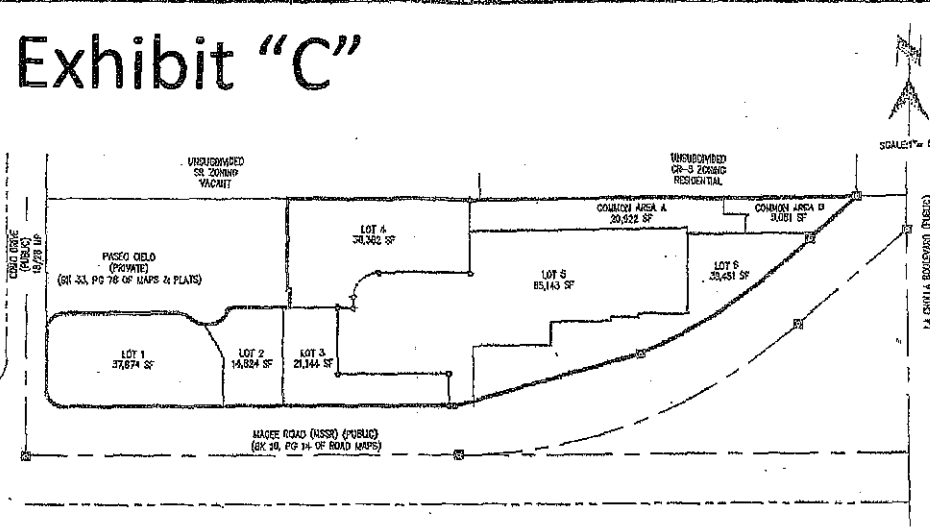
ASSURANCE
NO ASSURANCES ARE REQUIRED FOR THIS SUBDIVISION AS IT IS A COMMERCIAL DEVELOPMENT.

James P. Stanish
CHAIRMAN, BOARD OF SUPERVISORS
PIMA COUNTY, ARIZONA
NOV 19 2019
DATE

ATTEST
I, Julie Eastburn, CLERK OF THE BOARD OF SUPERVISORS, HEREBY CERTIFY THAT THIS PLAN WAS APPROVED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, ON THIS 19th DAY OF November, 2019.
Julie Eastburn
CLERK, BOARD OF SUPERVISORS
NOV 19 2019
DATE

GENERAL NOTES
1. THE GROSS AREA OF THIS SUBDIVISION IS 5.10 ACRES.
2. THE TOTAL LENGTH OF NEW PRIVATE STREET IS 0.00 MILES.
3. THE TOTAL LENGTH OF NEW PRIVATE STREET IS 0.00 MILES.
4. BASES OF BEARING: NORTH 48 DEGREES 43 MINUTES 30 SECONDS EAST AS MEASURED BETWEEN THE NOTIFIED CORNER CENTER LINE INTERSECTION OF MAGEE ROAD WHICH BETWEEN THE NOTIFIED CORNER CENTER LINE INTERSECTION OF MAGEE ROAD WHICH
5. THIS SUBDIVISION LIES WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.

Exhibit "C"



- LEGEND
- BOUNDARY LINE
 - RIGHT-OF-WAY LINE
 - CENTER LINE
 - EASEMENT LINE
 - FOUND AS NOTED
 - SET 2' REBAR T/S 33318'
 - ★ DRIVEWAY LOCATION
 - (C) CALCULATED
 - (R) RECORDED

SHEET INDEX
SHEET 1 COVER SHEET
SHEETS 2-3 SUBDIVISION BOUNDARY



P18F00006
C04-09-27
C020-02-004
P1202-049
P1208-018
P18FP00029

FINAL PLAN

FOR
**MAGEE CENTER II, LOTS 1-6,
COMMON AREA A (PRIVATE
STREETS, UTILITIES, DRAINAGE, &
PARKING) AND COMMON AREA B
(PRIVATE STREETS, UTILITIES,
DRAINAGE, & PARKING)**

A RESUBDIVISION OF MAGEE CENTER (EX 56 PG 04)
SECTION 33, TIGER HOLE
QUAD 68309A, TUCSON, ARIZONA

DATE 02/12/19 SHEET 1 of 3

RECORDING
STATE OF ARIZONA) S.S.
PIMA COUNTY)

THIS INSTRUMENT WAS FILED FOR RECORD AT THE OFFICE OF JAMES P. STANISH, ENGINEER, ON THIS 22nd DAY OF November, 2019, AT SERVICENUMBER 20190426222.
PIMA COUNTY RECORDS, AT 11:52
P. 06/0100

F. AND R. ROSSITER
COUNTY RECORDER
DATE 11-27-19



PERMITTING NOTES

1. LOTS 1-3 ARE ZONED OR-2. LOTS 4-6 ARE ZONED OR-3 CORONAL.
2. THIS SUBDIVISION IS SUBJECT TO BOARD OF SUPERVISORS RECORDING CONDITIONS AS FOUND IN CASE NUMBER 009-00-07 AS APPROVED ON JULY 22, 1983.
3. THIS SUBDIVISION IS SUBJECT TO DESIGN REVIEW CONCRETE REQUIREMENTS AS FOUND IN CASE NUMBER 028-02-004 AS APPROVED ON APRIL 18, 2002.
4. THIS SUBDIVISION IS SUBJECT TO BOARD OF SUPERVISORS RECORDING CONDITIONS AS FOUND IN CASE NUMBER 11800000 AS APPROVED ON JUNE 7, 2016, WITH RECORDING CONDITIONS FOR LOT 4 IS RESTRICTED TO THE FOLLOWING: THE USES OF THE PROPERTY ARE LIMITED TO RESTAURANTS WITH/WITHOUT A BAR AND C-1 ZONE USES EXCEPT FOR AUTOMOTIVE RELATED USES, DRIVE-THRU RESTAURANTS, AND STAND-ALONE BARS.

CERTIFICATION
I HEREBY CERTIFY THAT THE INTERIOR LOTS ON THIS PLAN WERE PREPARED BY ME OR UNDER MY SUPERVISION.

James P. Stanish
JAMES P. STANISH, P.E.
DATE: 08-30-2019

CERTIFICATION
I HEREBY CERTIFY THAT THIS PLAN REPRESENTS A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT ALL BOUNDARY MONUMENTS INDICATED HEREON ACTUALLY EXIST, AND THEIR LOCATION, SIZE, AND MATERIAL ARE CORRECTLY SHOWN.

Mark Blid
MARK K. BRIDGEMAN, RLS 48303
DATE: 12-10-19



SEQUENCE NO. 2019326077-1

Drawn 4 of 9

Exhibit "F"

Suki Investment Group, LLC,
an Arizona limited liability company
340 North Main Ave.,
Tucson, AZ 85701

July 7, 2020

Mr. Chris Poirier
Pima County Planning Division
201 North Stone Ave. 1st floor
Tucson, Arizona 85701
Phone: 724-9000

Re: letter of authorization for Property Development & Consultants, LLC to request a concurrent plan amendment/rezoning for Lot 6 of Magee Center II to CB-2.

Dear Mr. Poirier:

I hereby certify that Suki Investment Group, LLC, (Suki) is the sole owner of Lot 6 of Magee Center II, a commercial subdivision in Pima County, AZ. (Property). Property Development & Consultants, LLC (PD&C) located at 5151 North Oracle Rd., Suite 210, Tucson, AZ 85704 is Suki's authorized agent to request and sign all necessary documentation on our behalf, as if it came directly from us, in order to initiate and complete a "Concurrent Plan Amendment and Rezoning Application" for our Property per Chapter 18.89.041, Section C. This authorization shall include but not be limited to PD&C being authorized to obtain Development Services permits in our name.

The persons representing PD&C will be Craig R Courtney (520-247-3306) and/or Michael G Byrne (520-307-1290).

Please be advised that we believe our Property (less than 38,500 SF) meets all the requirements for this type of application described in Pima County's "Comprehensive Plan Amendment and Concurrent Plan Amendment Rezoning Application and Submittal Guidelines" (Application). Upon review of our Application, you will see it a) is surrounded by Magee Center properties that are similarly zoned on its north, west and east sides and b) fronts on Magee Road to the south.

My consultant will be submitting a package for your review that proposes a rezoning process that will incorporate this frontage property into the surrounding Magee Center parcels so that it supports your Az Growing Smarter policy.

Thank you for your cooperation in this matter.

Sincerely,

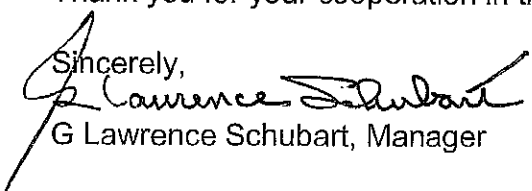

G Lawrence Schubart, Manager

Exhibit "H"

ZONING ADMINISTRATOR LETTER AGREEMENT

Magee Como Development Services, LLC

5151 N. Oracle Rd., Suite 210

Tucson, Arizona 85704

Phone: (520) 293-8280/Fax: (520) 293-7728

April 5, 2011

Tina Whittemore, Zoning Administrator
Pima County Development Service
201 N. Stone Ave., 1st Floor
Tucson, Arizona 85701
Phone: 740-6441

Re: Development conditions for Magee Center and the remaining property between the new Magee Road alignment and Lot 5 of Magee Center (Remnant Parcel)

Dear Tina:

In our last meeting we appreciated you clarifying the front, rear and side yard setbacks for each new building constructed within a Magee Center Lot as well as the remaining property between the new Magee Road alignment and Lot 5 of Magee Center described as the Remnant Parcel (collectively referred to as the Magee Subdivision).

It is our understanding that regardless any of other County regulations or policies regarding the designation of front, rear and side yard setbacks, these setbacks are solely determined using ~~the exterior boundary of the Magee Subdivision~~ as they relate to the adjacent public streets, not determined using interior lot lines of the Magee Subdivision. As a result, the location of the front, rear and side yard setbacks for any new building within the Magee Subdivision, will be determined as follows:

1. the front yard set back will be measured from the eastern boundary line of the Magee Subdivision, La Cholla Boulevard side,
2. the rear yard set back will be measured from the western boundary line of the Magee Subdivision, Como Drive side, and
3. the side yard set backs will be measured from the northern line of the Magee Road right of way and the northern boundary line of Magee Center.

If, after reviewing the above, it is an accurate description of the method of determining the front, rear and side yard setbacks for our commercial development, please sign where indicated below. If you have any questions regarding this correspondence, please contact me at 247-3306 at your earliest opportunity.

Thank you for your prompt attention to this matter.

Sincerely,



Craig R. Courtney
Managing Member

The above is approved and agreed to:

By 
Tina Whittemore, Zoning Administrator

4/11/11

*Office Boundaries
of Development 1.*

Exhibit "I"

**DEVELOPMENT AGREEMENT
RECORDED IN SEQ # 2011206714**

F. ANN RODRIGUEZ, RECORDER
Recorded By: JCC

DEPUTY RECORDER
305

P0230
PIMA CO CLERK OF THE BOARD
PICKUP



SEQUENCE: 20112060714
NO. PAGES: 9
RES 07/25/2011 18:00
PICK UP
AMOUNT PAID: \$0.00

RESOLUTION NO. 2011 - 122

**RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS APPROVING AND
AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN
PIMA COUNTY AND MAGEE COMO DEVELOPMENT ASSOCIATION, LLC**

WHEREAS, on February 1, 2011, the Office of the Pima County Attorney commenced an Eminent Domain lawsuit against MAGEE COMO DEVELOPMENT ASSOCIATION, LLC, an Arizona limited liability company ("*Magee Como*") seeking to obtain title to several small parcels of land needed by County to effectuate a road improvement project (the "*Condemnation Action*");

WHEREAS, Magee Como and County are desirous of settling the Condemnation Action in order to avoid the time, expense and uncertainty of litigation;

WHEREAS, Magee Como and County have agreed upon the terms of an Exchange Agreement to effectuate the resolution of the Condemnation Action; and

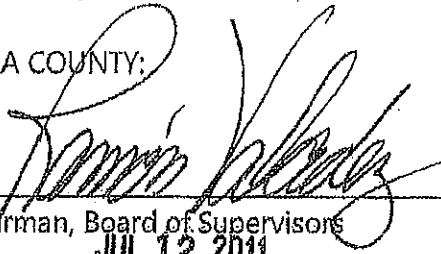
WHEREAS, as a condition to the Exchange Agreement, Magee Como and County have agreed upon the terms of a Development Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Development Agreement is hereby approved.
2. The Chairman of the Board is hereby authorized and directed to sign the Development Agreement, and any and all additional documents related to the implementation of the Development Agreement.
3. The various officers and employees of Pima County are hereby authorized and directed to perform all acts necessary and desirable to give effect to this Resolution.

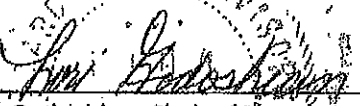
PASSED by the Board of Supervisors of Pima County, this 12 day of July, 2011.

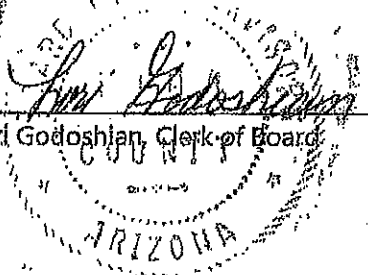
PIMA COUNTY:



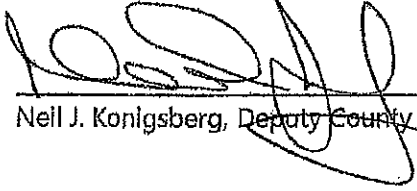
Chairman, Board of Supervisors
JUL 12 2011

ATTEST:



Lori Godoshjan, Clerk of Board


APPROVED AS TO FORM:



Neil J. Konigsberg, Deputy County Attorney

When Recorded Return to:

Magee Como Development Association
515 N. Oracle Rd., Suite 210,
Tucson, Arizona 85704

For Recorder's Use

DEVELOPMENT AGREEMENT

1. **Parties.** This Development Agreement ("Agreement") is entered into by and between Pima County, Arizona, a political subdivision of the State of Arizona ("County"), and Magee Como Development Association, LLC., an Arizona limited liability company ("Developer"); County and Developer are collectively referred to as "the Parties."

2. **Background and Purpose.**

2.1. A.R.S. § 11-1101 authorizes County to enter into development agreements with landowners and persons having an interest in real property that is located in the County and outside the incorporated area of a city or town.

2.2. Developer is the developer and owner of Lots 3, 4, 5, and Common Areas "A" and "B" of Magee Center, Pima County Arizona, legally described on the Final Plat for Magee Center, recorded in Book 56 at Page 94 of Maps and Plats in the Pima County Recorder's Office in Pima County, Arizona, (the "Property"). The Property is currently planned for commercial and retail development.

2.3. County is constructing improvements to Magee Road and La Cholla Boulevard for the Magee/Cortaro Farms Road: Thornydale to La Canada Project (the "Project"). For purposes of constructing those improvements, County has filed an action to condemn a portion of the Property for the Project (the "Project Property"), Pima County Superior Court case number C20110766.

2.4. Developer and County have entered into an Exchange Agreement pursuant to which Developer will exchange real property owned by County, legally described in attached Exhibit "A" (the "Adjacent Property"), for the Project Property. Developer and County have also agreed to certain terms with respect to the development of the remaining Property, not including the Project Property,

not including the Project Property, and the Adjacent Property (collectively, the "Developer's Property"), which are set forth in this Agreement.

3. Development Fees. As authorized by Pima County Code § 19.03.060(B), all non-residential development impact fees owed with respect to the Developer's Property shall be assessed at the time a building permit is issued with respect to any portion of the Developer's Property, and shall be paid upon the *earlier* to occur of the following for each building or proportionate share thereof:

3.1. any portion of a building on the Developer's Property is sold to a bona fide third-party purchaser in an arms-length transaction, as evidenced by a transfer document recorded in the office of the Pima County Recorder; or

3.2. any portion of a building on the Developer's Property is leased for occupancy by a tenant, as evidenced by the issuance of a Certificate of Occupancy by Pima County.

4. Landscaping, buffering, and screening requirements. The Parties agree that:

4.1 The County right-of-way adjacent to the Developer's Property shall, at the option of the Developer, be utilized to satisfy any landscaping, buffering, screening requirements, as well as their maintenance, (collectively referred to as "Landscaping") required of the Developer's Property, under the Pima County Zoning Code.

4.2 With the use of the County right of way referenced to Section 4.1 above Developer shall have the right to develop Developer's Property directly adjacent to County right-of-way without the Landscaping requirement; and at no cost to the Developer, the landscaping improvements installed and maintained by the County within County right-of-way adjacent to Developer's Property, shall serve to satisfy the County's Landscaping requirement in effect at the time this Agreement is executed for the Developer's Property.

4.3 In compliance with the County codes in effect at the time this Agreement is executed, the Developer shall have the right within the County right of way to add additional Landscaping to the County's landscaping improvements referenced in Section 4.2 above.

5. General Provisions.

5.1. Binding Effect and Recording. This Agreement shall run with the Developer's Property and is binding upon and shall inure to the benefit of the successors, assigns, heirs and personal representatives of Developer and Pima County; Within ten days after the parties execute this Agreement, any amendment, or cancellation, this Agreement, any amendment, or cancellation shall be recorded in the Office of the Pima County Recorder for Pima County, Arizona.

5.2. Amendments. This Agreement may be amended, in whole or in part and with respect to all or any portion of the Property, only with the mutual written consent of the parties to this Agreement or by their successors in interest or assigns. The amendment or cancellation shall be recorded in the Office of the Pima County Recorder.

5.3. Effective Date and Term. The effective date of this Agreement (the "Effective Date") is the date the fully executed Agreement is recorded in the Office of the Pima County Recorder. The provisions of Paragraph 3 above This Agreement shall expire 15 years from the date of this Agreement's execution. All others provisions of this Agreement are perpetual.

5.4. Authority. Developer represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. Developer warrants that the individual executing this Agreement on behalf of Developer is authorized and empowered to bind Developer. Developer represents to the County that by entering into this Agreement, Developer has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of this Agreement.

5.5. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the County or Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

5.6. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.7. Notices. Any notice or demand that a party is required or may desire to serve on another party must be in writing, and shall be sufficiently served if (i) personally delivered; (ii) sent by registered or certified mail, postage prepaid; or (iii) sent by commercial overnight carrier; and addressed to:

DEVELOPER

Magee Como Development
Association, LLC.
5151 N. Oracle Road #210
Tucson, Arizona 85704

COUNTY

Pima County Administrator
130 West Congress, 10th Floor
Tucson, Arizona 85701-1207

A party may change the address at which the party shall receive notice pursuant to this Agreement by giving written notice of such new address in the same manner as any other notice shall be given in accordance with this section.

5.8. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

5.9. Entire Agreement. This Agreement constitutes the entire agreement between the parties to this Agreement regarding the subject matter of this Agreement. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, regarding the subject matter of this agreement, are hereby superseded and merged into this Agreement. This Agreement does not replace, supersede or amend the conditions of rezoning of the Property.

5.10. Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Pima County, Arizona, and the parties hereby waive any right to object to such venue.

5.11. Conflict of Interest. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of County is, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

5.12. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.

5.13. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement other than as provided in this Agreement.

5.14. Default. In the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity.

5.15. Non-Liability of County Officials and Employees. Except for mandamus and other special actions, no member, official or employee of the County shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the County.

5.16. Attorney Fees. If any party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party will be entitled to reasonable attorney fees and court costs.

5.17. Further Assurance. Each party agrees to execute such further documents, instruments and other writings and to perform such acts as either party may reasonably request in order to fully effectuate the purpose of this Agreement.

5.18. Construction. The terms and provisions of this Agreement represent the results of negotiations between County and Developer, each of which has been

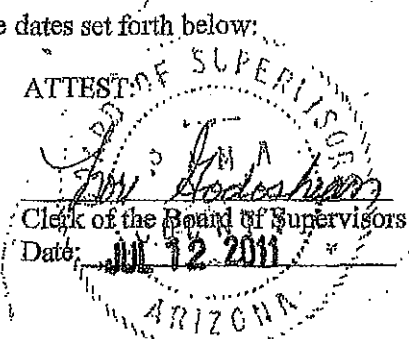
represented by counsel of its own choosing, and none of which have acted under any duress or compulsion, whether legal, economic, or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and no party shall be deemed to have drafted this Agreement for purposes construing any portion of this Agreement for or against any party.

5.19. Severability. If any provision of this Agreement is declared void or unenforceable, such declaration shall have no effect on those portions of the Agreement not declared void.

The parties have executed this Agreement as of the dates set forth below:

PIMA COUNTY, ARIZONA

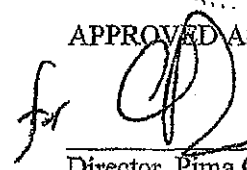

Chair, Pima County Board of Supervisors
Date: JUL 12 2011

ATTEST OF SUPERVISORS

Clerk of the Board of Supervisors
Date: JUL 12 2011

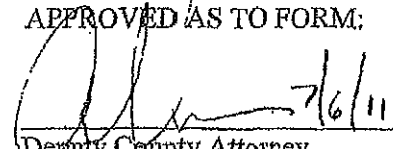
APPROVED AS TO CONTENT:


for Director, Pima County Department of
Transportation

APPROVED AS TO CONTENT:


for Director, Pima County Development
Services

APPROVED AS TO FORM:


Deputy County Attorney
ANDREW FLAGG

MAGEE COMO DEVELOPMENT ASSOCIATION, LLC

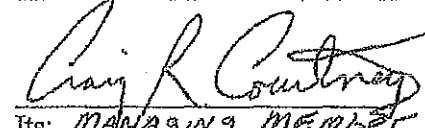

Its: MANAGING MEMBER
Date: 7/6/11



Exhibit A

LEGAL DESCRIPTION

That portion of Como Del Sol Amended, a sub-division of record in the office of the Pima County, Arizona Recorder, in Book 33 of Maps and Plats at Page 78, Section 33, Township 12 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

COMMENCING at the Northeast corner of said Section 33;

THENCE S 00°04'38" E, along the East line of the Northeast Quarter of said Section 33, a distance of 1320.66 feet;

THENCE S 89°55'22" W a distance of 75.00 feet to the Northeast corner of Common Area "B" of Magee Center, a sub-division of record in the office of the Pima County, Arizona Recorder, in Book 56 of Maps and Plats at Page 94;

THENCE S 46°22'04" W, a distance of 39.11 feet to a point on the Southerly line of said Common Area "B", said point being the **POINT OF BEGINNING**;

THENCE N 89°56'22" W along said Southerly line, a distance of 137.37 feet to the beginning of a curve, concave to the Southeast, having a radius of 5.00 feet;

THENCE Southwesterly along said curve and Easterly line of Common Area "A" of said sub-division of Magee Center, through a central angle of 90°00'00" a distance of 7.85 feet;

THENCE S 00°03'37" W along the Easterly line of said Common Area "A", a distance of 26.00 to the Southeast corner of said Common Area "A"

THENCE N 89°56'23" W along said Southerly line, a distance of 92.00 feet to a point on the Easterly line of Lot 5 in said sub-division Magee Center;

THENCE S 00°03'37" W along said Easterly line, a distance of 125.00 feet to a point on the Southerly line of said Lot 5;

THENCE N 89°56'23" W along said Southerly line, a distance of 50.11 feet;

THENCE N 00°03'47" E along said Easterly line, a distance of 1.00 feet;

THENCE N 89°56'23" W along said Southerly line, a distance of 27.00 feet;

THENCE S 00°03'37" W along said Easterly line, a distance of 5.00 feet;



THENCE N 89°56'23" W along said Southerly line, a distance of 42.00 feet;
THENCE S 00°03'37" W along said Easterly line, a distance of 6.67 feet;
THENCE N 89°56'23" W along said Southerly line, a distance of 92.00 feet;
THENCE S 00°03'37" W along said Easterly line, a distance of 36.25 feet;
THENCE N 89°56'23" W a distance of 119.75 feet to a point on the Easterly line of Lot 5 in said sub-division Magee Center;

THENCE S 00°03'37" W along said Easterly line, a distance of 86.70 feet to a point on the Northerly right-of-way line of Magee Road as described by James L. Dean, R.L.S., Arizona Registration Number 14145, on January 7, 2010, project number Set 126 and shown on the Pima County Magee Road Improvements, Mona Lisa Rd. to La Canada Dr., Project Number 4RTMLI;

THENCE N 74°43'45" E along said Northerly line, a distance of 266.78 feet to the beginning of a non-tangent curve, concave to the Northwest, having a radius of 925.00 feet, a radial line passing through said point bears S 23°45'50" E;

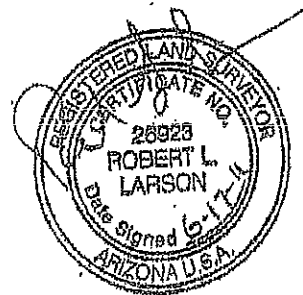
THENCE Northeasterly along said curve and Northerly line, through a central angle of 19°53'13" a distance of 321.06 feet to a point of tangency;

THENCE N 46°20'58" E along said Northerly line, a distance of 58.64 feet to the POINT OF BEGINNING;

Prepared By:

THE WLB GROUP, INC.

Robert L. Larson, RLS
RLl:rl



EXPIRES 3-31-2014