



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: April 17, 2018

Title: Co9-00-63 LA CHOLLA INVESTMENTS, LLC - LA CHOLLA BOULEVARD REZONING
[Modification (Substantial Change) of Rezoning Conditions]

Introduction/Background:

The applicant requests modification (substantial change) of a rezoning condition which requires adherence to the approved preliminary development plan for a proposed commercial/office building use and prohibits auto related uses and drive-through restaurants to allow a convenience store with gasoline sales from eight automotive fuel bays with 16 fuel pumps and a commercial/office building which is otherwise allowed. The site is located at the southwest corner of the intersection of Magee Road and La Cholla Boulevard.

Discussion:

Staff's main concern is the impact of the expected significant increase in traffic at the site on the safe and efficient functioning of vehicle movements relative to the street intersection area. It appears that the increase in traffic visits to the site (from less than 3,000 to over 9,000) can be accommodated by adjustments and additions to traffic signals at the intersection to allow traffic brakes for northbound left turns into the site from La Cholla Boulevard, and by a westward extension of right-turn lane on Magee Road for anticipated additional traffic queuing to enter the site from Magee. This right-turn lane to southbound La Cholla Boulevard may also become signalized (it currently is free-flowing). The specific provisions would be determined based on an update to the applicant's Traffic Impact Analyses.

Conclusion:

With provision of measures to accommodate increased traffic visits to the site relative to the intersection design, the proposed gas sales use will provide an apparent needed service in the area. The record indicates that the restriction against auto related uses was based in part on lack of road capacity at the time of the 2001 rezoning. Roads have since been improved, and road capacity is otherwise sufficient for the uses proposed.

Recommendation:

Staff recommends approval of a modification (substantial change) of the rezoning conditions subject to conditions as recommended by the Planning and Zoning Commission.

Fiscal Impact:

N/A

Board of Supervisor District:

- 1 2 3 4 5 All

Department: Development Services Department - Planning Telephone: 520-724-9000

Contact: David Petersen Telephone: 520-724-9000

Department Director Signature/Date: *[Signature]* 3/28/18

Deputy County Administrator Signature/Date: *[Signature]* 3/29/18

County Administrator Signature/Date: *C. D. [Signature]* 3/29/18



PIMA COUNTY

DEVELOPMENT SERVICES

TO: Honorable Ally Miller, Supervisor, District 1

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

DATE: March 26, 2018

SUBJECT: Co9-00-63 LA CHOLLA INVESTMENTS, LLC – LA CHOLLA BOULEVARD REZONING

The above referenced Modification (Substantial Change) of Rezoning Conditions is within your district and is scheduled for the Board of Supervisors' **TUESDAY, APRIL 17, 2018** hearing.

REQUEST: For a **modification (substantial change) of rezoning condition #11** which requires adherence to the approved preliminary development plan for a proposed commercial/office building use and prohibits auto related uses and drive-through restaurants. The applicant proposes a convenience store with a gasoline station. The subject property is 4.21 acres zoned CB-1 and is located at the southwest corner of W. Magee Road and N. La Cholla Boulevard.

OWNERS: Tucson Federal Credit Union
Attn: Ellen Yacovone
1610 N. Winstel Blvd.
Tucson, AZ 85716-4023

AGENT: The Planning Center
Attn: Brian Underwood, Project Manager
2 E. Congress Street, Ste. 600
Tucson, AZ 85701

DISTRICT: 1

STAFF CONTACT: David Petersen

PUBLIC COMMENT TO DATE: As of March 26, 2018, staff has received no written public comments.

PLANNING & ZONING COMMISSION RECOMMENDATION: APPROVAL WITH CONDITIONS (6 – 0; Commissioners Becker, Bain Gungle, and Matter were absent)

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The property lies outside of the Maeveen Marie Behan Conservation Lands System (CLS).



PIMA COUNTY

DEVELOPMENT SERVICES

BOARD OF SUPERVISORS MEMORANDUM

Subject: Co9-00-63

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FOR APRIL 17, 2018 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

DATE: March 26, 2018

ADVERTISED ITEM FOR PUBLIC HEARING

MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS

Co9-00-63 LA CHOLLA INVESTMENTS, LLC – LA CHOLLA BOULEVARD REZONING

Request of Tucson Federal Credit Union, represented by The Planning Center, for a **modification (substantial change) of rezoning condition #11** which requires adherence to the approved preliminary development plan for a proposed commercial/office building use and prohibits auto related uses and drive-through restaurants. The applicant proposes a convenience store with a gasoline station. The subject property is 4.21 acres zoned CB-1 and is located at the southwest corner of W. Magee Road and N. La Cholla Boulevard. On motion, the Planning and Zoning Commission voted 6-0 to recommend **APPROVAL WITH CONDITIONS** (Commissioners Becker, Bain Gungle, and Matter were absent). Staff recommends **APPROVAL WITH CONDITIONS**.
(District 1)

Planning and Zoning Commission Public Hearing Summary (February 28, 2018)

Staff presented information from the staff report to the commission. Staff noted that no written public comment had been received.

A commissioner asked staff why the invasive plant species prohibition condition was recommended for deletion and there was only the requirement to remove buffelgrass. Staff indicated that it was an old condition that has been refined to be applicable only to sites within the Conservation Lands System (CLS). The site is not within the CLS. The requirement for buffelgrass removal is applicable to all rezonings regardless of location.

The representative spoke about the requested modification of rezoning conditions and the background of the rezoning. He stated that the property was rezoned in 2001 and that there were associated drainage and road traffic capacity concerns that led to rezoning conditions. He cited both traffic capacity and drainage improvements that have occurred. But there were also concerns

about the types of uses to be allowed, particularly automotive type and drive-through restaurant uses that could bring noise, food smells, and trash. Long-time residents across La Cholla Boulevard and a representative of the La Canada-Magee Neighborhood Association were central to these concerns and meetings were held with these parties for this request. There was some reluctance for a drive-through restaurant, and staff also had concerns (related to traffic). Therefore, it was decided to not pursue this use as originally proposed for this request. So the modification request is only for a fuel service use and all other automotive-related uses would still be prohibited. He stated that the nearest gas station is on Ina Road approximately 1.5 miles to the southwest of the site. So there is a need for the use, and the residents that they met with also expressed a desire for the use. So the request is for a gas station with a convenience store. The gas station would have eight bays and 16 pumps. He described the access, with right-in and out on Magee Road with an extended deceleration lane. The uncontested right turn at the intersection would either need a stop sign or a traffic signal to avoid traffic conflicts. Left turns in from La Cholla would occur from an existing median break and there would also be right-in and right-out from the existing La Cholla access point. A cross access easement would be provided at the south boundary to existing businesses in the event that it can be secured on the other side.

A commissioner asked if there was a convenience store along Magee Road east of La Cholla that was nearer than described. The representative stated that there was not one with gas service as the neighbors indicated that they had to travel two miles in that direction for gas. The commissioner noted that the gas service would be large and asked how the size was determined as necessary. The representative indicated that it was based on the models and sizes of recently build QuikTrip and Circle K stores which have 5,000 square foot stores and gas service from eight bays and 16 pumps or larger. The applicant was not aware of a market study or which business would locate there. The site is comparable to the locations of recently built sites. The commissioner noted the traffic impact studies mentioned and asked if a full-blown traffic study would be done. The representative indicated that an updated traffic impact analysis would be done.

The meeting was opened to the public. There were no speakers. The meeting was closed to the public.

Commissioner Maese made a motion to recommend approval of the modification (substantial change) of rezoning conditions subject to the staff recommendations for conditions in the staff report.

Commissioner Hook gave second to the motion.

The commission voted to recommend **APPROVAL** of the modification (substantial change) of rezoning conditions (6 - 0, Commissioners Becker, Bain, Gungle, and Matter were absent), subject to the following conditions:

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 Department of Transportation, Real Property Division.~~
- 6. ~~There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.~~

71. Transportation conditions:

- A. ~~Provision of all necessary improvements on La Cholla Boulevard and/or Magee Road. These improvements shall need the approval of Pima County and meet appropriate standards prior to the issuance of any building permits for any portion of the subject property.~~

An updated traffic impact analysis (TIA) shall be completed and submitted with the development plan for the rezoning site. The TIA shall include assessment of the signalization at La Cholla Boulevard and Magee Road, including signalization of the right turning movement from eastbound Magee Road to southbound La Cholla Boulevard.

- B. ~~The property owner(s) shall dedicate additional right-of-way along the La Cholla Boulevard frontage of the property should the final design of the intersection of La Cholla Boulevard and Magee Road require the same.~~

The updated TIA shall include an analysis of the right turn lane on Magee Road to southbound La Cholla Boulevard. A reduction in the turn radius may be necessary to improve intersection safety.

- C. ~~The property owner(s) shall participate in Magee Road and Drainage Improvement District.~~

The right turn lane on Magee Road into the rezoning site shall be extended to the maximum feasible length to create additional storage.

- D. ~~The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, parking areas, drives, physical barriers, drainageways and drainage easements.~~

A cross access easement shall be granted between the rezoning site and the commercial development to the south.

- E. ~~Only one point of access will be allowed onto La Cholla Boulevard and onto Magee Road at the existing locations shown on the revised preliminary development plan.~~

82. Flood Control conditions:

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

- B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts caused by the proposed development shall be constructed at no cost to the Flood Control District.
- C. The property owner(s) shall dedicate right-of-way or easements for drainage purposes to Pima County Flood Control District, as determined necessary during the development plan review. Any such easements mandated by this rezoning condition shall only be those needed to address the drainage conditions at the time of development plan review. Any required drainage easements on the subject property attendant to the proposed culvert improvements associated with the La Cholla Boulevard/Magee Road improvement project shall be subject to separate negotiations and public acquisitions at the time that Pima County's proposed roadway construction plans have been completed.

93. Wastewater Management conditions:

~~The property owner must 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.~~

- A. The owner(s) shall not construe any 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) 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.
404. Prior to ground modifications activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.
415. Adherence to the revised preliminary development plan as approved at public hearing. Automotive-related uses, except for automotive fueling bays in association with a convenience store, and drive-through restaurants are prohibited.
426. Depressed diamond shaped planters or raised landscape planters shall be placed every three parking stalls and shall contain one canopy tree. Raised planters shall be used to define a hierarchy of circulation and be placed at the ends of parking area access lanes.
437. The following exotic and invasive plant species shall be prohibited anywhere on the property:
 Fountain grass (*Pennisetum setaceum*)
 Buffelgrass (*Pennisetum ciliare*)
 Johnson grass (*Sorghum halapense*)
 Giant reed (*Arundo donax*)
 Common crabgrass (*Digitaria sanguinalis*)
 Pampas grass (*Cortaderia selloana*)
 Red brome (*Bromus rubens*)
 Mediterranean grass (*Schismus spp.*)
 Tree of heaven (*Ailanthus altissima*)
 African sumac (*Rhus lancea*)
 Russian olive (*Eleagnus angustifolia*)
 Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
 Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
 Lovegrasses (*Eragrostis spp.*) excluding Plains lovegrass (*Eragrostis intermedia*)
 African rue (*Peganum harmala*)
 Iceplant (*Mesembryanthemum crystallinum*)
 Arabian Grass (*Schismus arabicus*)
 Natal Grass (*Melinis repens* = *Rhynchelythrum repens*)

Upon the effective date of the Resolution, 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 the property owner.

8. 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.

9. 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.

TD/DP/ar
Attachments

cc: Tucson Federal Credit Union, Attn: Ellen Yacovone, 1610 N. Winstel Blvd.
Tucson, AZ 85716-4023
The Planning Center, Attn: Brian Underwood, Project Manager,
2 E. Congress Street, Ste. 600, Tucson, AZ 85701
Tom Drzazgowski, Chief Zoning Inspector
Co9-00-63 File

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION
STAFF REPORT TO THE PLANNING AND ZONING COMMISSION

HEARING February 28, 2018

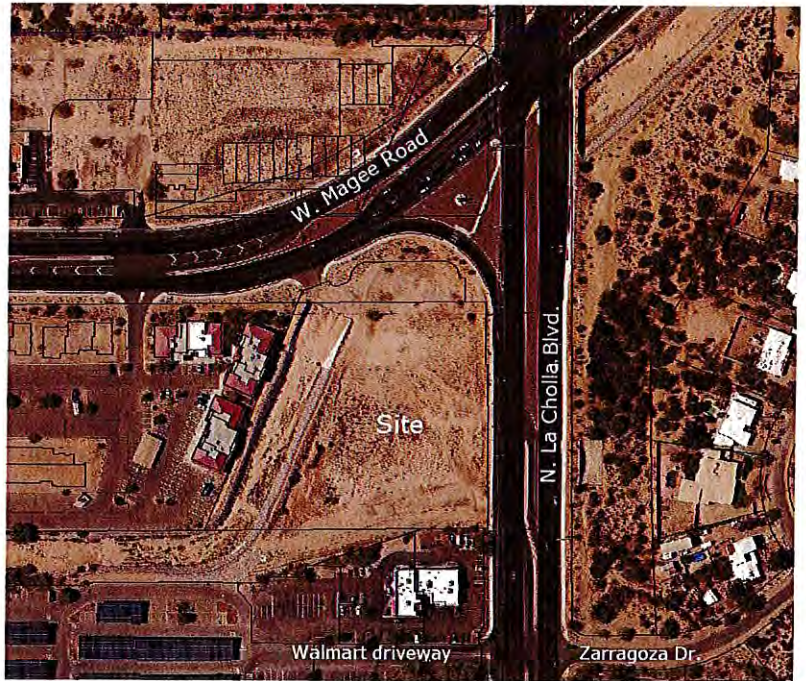
DISTRICT 1

CASES Co9-00-63 La Cholla Investments, LLC – La Cholla Boulevard Rezoning

REQUEST Modification of Rezoning Conditions - (Substantial Change) on 4.21 acres

OWNER Tucson Federal Credit Union
Attn: Ellen Yacovone
1610 N. Winstel Blvd.
Tucson, AZ 85716-4023

AGENT The Planning Center
Attn: Brian Underwood, Project Manager
2 E. Congress Street, Ste. 600
Tucson, AZ 85701



APPLICANT'S REQUEST

Modification (substantial change) of the CB-1 (Local Business) rezoning condition #11 which requires adherence to the approved preliminary development plan for a proposed commercial/office building use and prohibits auto related uses and drive-through restaurants to allow a proposed convenience store with a gasoline station and a commercial/office building.

COMPREHENSIVE PLAN DESIGNATION

The comprehensive plan designation of the site is Neighborhood Activity Center (NAC). The existing CB-1 zoning of the subject property complies with NAC. The objective of NAC is 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, such as a grocery market which anchors other neighborhood service businesses, and may contain medium-density residential uses along collector or arterial streets.

SURROUNDING LAND USES/GENERAL CHARACTER

North: TR & CB-2 / Magee Road, Undeveloped Remnant Townhome Lots & Proposed Commercial

South: CB-2 / Fast Food Restaurant w/ Drive-through & Large Retail

East: CR-1 / La Cholla Blvd., Residential Subdivision

West: TR / Office Complex (Partially Developed)

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the request to modify rezoning condition #11, which in part prohibits automotive related uses, to add the use of eight automotive fuel bays (16 fuel pumps) in association with a convenience store for this CB-1-zoned site at the southwest corner of the intersection of La Cholla Boulevard and Magee Road. Modified condition #11 is renumbered to condition #5 below. Directly related to this request, Transportation conditions are also recommended for modification under renumbered condition #1. These conditions are discussed further in the Staff Report section below.

Other conditions are also recommended for deletion or addition as an update to current standard recommendations for this 17-year rezoning. Condition #'s 1 – 6 are recommended for deletion based on a recent staff decision to reduce redundant requirements and ease processes. Pertaining to condition #1, a development plan is required by code for commercial site development. A development plan was previously approved for office, retail and restaurant uses, but the project was not constructed. Pertaining to condition #'s 2, 3, and 5, staff no longer recommends conditions which require recorded covenants. These conditions were, however, satisfied previously with CC&R's recorded at Sequence 20080020223. Pertaining to condition #4, assurances are typically associated with approved subdivision plats. Pertaining to condition #6, approval of further lot splitting is no longer recommended by staff for non-residential development proposals. It is likely the subject property will be split as two distinct uses are proposed.

Condition #9 pertaining to Wastewater requirements is recommended for deletion and replacement with new conditions under #3 as an update to current standard rezoning conditions for use of the public sewer system.

Condition #13, pertaining to a list of prohibited plant species, is recommended for deletion and replacement with the standard buffelgrass eradication condition under #7. Staff no longer recommends prohibition of the exotic and invasive plant species listed, other than continuous removal of invasive buffelgrass, for sites outside of the MMB Conservation Lands System.

New conditions #8 and #9 pertain to standard conditions related respectively to the Proposition 207 rights disclaimer and to continued adherence to rezoning conditions upon annexation.

The recommended modifications to the list of existing conditions are 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 Department of Transportation, Real Property Division.~~

~~6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.~~

~~71. Transportation conditions:~~

~~A. Provision of all necessary improvements on La Cholla Boulevard and/or Magee Road. These improvements shall need the approval of Pima County and meet appropriate standards prior to the issuance of any building permits for any portion of the subject property.~~

An updated traffic impact analysis (TIA) shall be completed and submitted with the development plan for the rezoning site. The TIA shall include assessment of the signalization at La Cholla Boulevard and Magee Road, including signalization of the right turning movement from eastbound Magee Road to southbound La Cholla Boulevard.

~~B. The property owner(s) shall dedicate additional right-of-way along the La Cholla Boulevard frontage of the property should the final design of the intersection of La Cholla Boulevard and Magee Road require the same.~~

The updated TIA shall include an analysis of the right turn lane on Magee Road to southbound La Cholla Boulevard. A reduction in the turn radius may be necessary to improve intersection safety.

~~C. The property owner(s) shall participate in Magee Road and Drainage Improvement District.~~

The right turn lane on Magee Road into the rezoning site shall be extended to the maximum feasible length to create additional storage.

~~D. The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, parking areas, drives, physical barriers, drainageways and drainage easements.~~

A cross access easement shall be granted between the rezoning site and the commercial development to the south.

~~E. Only one point of access will be allowed onto La Cholla Boulevard and onto Magee Road at the existing locations shown on the revised preliminary development plan.~~

~~82. Flood Control conditions:~~

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

~~B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts caused by the proposed development shall be constructed at no cost to the Flood~~

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- C. The property owner(s) shall dedicate right-of-way or easements for drainage purposes to Pima County Flood Control District, as determined necessary during the development plan review. Any such easements mandated by this rezoning condition shall only be those needed to address the drainage conditions at the time of development plan review. Any required drainage easements on the subject property attendant to the proposed culvert improvements associated with the La Cholla Boulevard/Magee Road improvement project shall be subject to separate negotiations and public acquisitions at the time that Pima County's proposed roadway construction plans have been completed.

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- A. The owner(s) shall not construe any 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) to that effect.
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- 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.
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415. Adherence to the revised preliminary development plan as approved at public hearing. Automotive-related uses, except for automotive fueling bays in association with a convenience store, and drive-through restaurants are prohibited.
426. Depressed diamond shaped planters or raised landscape planters shall be placed every three parking stalls and shall contain one canopy tree. Raised planters shall be used to define a hierarchy of circulation and be placed at the ends of parking area access lanes.
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Upon the effective date of the Resolution, 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 the property owner.

8. 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.

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

STAFF REPORT

Staff supports the request to modify condition #11, renumbered as condition #5, to allow the use of automotive fueling bays in association with a convenience store. It appears that the expected increase in traffic visits to the site from this use can be accommodated by adjustments to traffic signals at the intersection of La Cholla Boulevard and Magee Road to allow traffic brakes for northbound left turns into the site from La Cholla, and by a westward extension of the right-turn lane on Magee Road for anticipated additional traffic queuing to enter the site from Magee. This right-turn lane to southbound La Cholla Boulevard may also need a turn radius reduction to slow traffic to improve safety. These required and potential provisions are recommended by the Transportation Department as modifications to Transportation conditions under renumbered condition #1. The specific provisions would be determined based on an update to the Traffic Impact Analysis submitted by the applicant for this request.

The proposed 5,800 square foot convenience store with retail fuel sales from 16 pumps and the separate proposed 10,000 square foot commercial/office building (a current use allowance) present a substantial increase in potential traffic generation over the current use allowance of 29,900 square feet of commercial/office building space as shown on the approved rezoning preliminary development plan. In 2002, staff estimated 2,840 average daily trips (ADT) for this use. In 2006, based upon a more refined development plan submittal showing office/bank, retail, and restaurant buildings, staff estimated 1,900 to 2,000 ADT for this use. The current proposed use is estimated to generate 9,125 ADT. Area roads have the capacity to absorb increased traffic attraction, and concurrency of other infrastructure for the proposed uses either exists or will otherwise be met with recommended conditions.

The Transportation Department also recommends establishment of a cross-access easement along the south boundary of the site (condition #1D) for potential future vehicular connection to existing commercial uses, including a Walmart store and a Wendy's restaurant. This is depicted on the proposed revised preliminary development plan. This would allow internal traffic access to the various commercial sites without the need to access the adjacent arterial streets for cross boundary movements. Realization

of the cross-access would depend upon cooperation from the adjacent property owner(s). There is no reciprocal requirement for the rezoning (Co9-77-26) of that property.

Despite the intensive commercial development south of the site, including the Walmart, the Foothills Mall, offices, and restaurants pads, the site has remained vacant since the rezoning was approved in 2001. The applicant indicates that the proposed use improves the site's marketability as the area is underserved for retail fuel sales with the nearest gas station being over 1.5 miles away.

Rezoning Case History

The original 3.86-acre rezoning from TR to CB-1 was conditionally approved on May 15, 2001 for requested retail, restaurant, and office uses. The Board of Supervisors added a restrictive condition prohibiting automotive-related uses and drive-through restaurants. The Board minutes indicate that a supervisor asked staff whether a drive-through could be placed on the site. Staff responded that drive-through businesses were possible, but that automotive related uses would not be allowed because the site was illustrated for indoor retail with parking with no proposed automotive or convenience store uses. The prohibition of a drive-through *restaurant* (as opposed to a drive-through for a bank or pharmacy) was cited as related to traffic impacts. Capacity improvements to Magee Road and La Cholla Boulevard had not yet occurred and final design of the intersection was unknown. One speaker at the hearing expressed concerns with potential objectionable businesses, including fast food facilities and businesses that could impact a senior living facility that was proposed on an adjoining property. (The senior living facility proposed to the west was not built. An office complex, now partially developed, took its place.) Rezoning Ordinance 2001-104 was adopted July 17, 2001.

On August 6, 2002 the Board approved a substantial change modification to the rezoning preliminary development plan to increase building square footage from 16,000 to 30,000 square feet. Resolution 2003-69 memorializing the modified rezoning conditions was adopted April 8, 2003.

On July 11, 2006 the Board approved a three-year time extension with modified conditions. Resolution 2009-53 memorializing the time extension and modified rezoning conditions was adopted April 7, 2009.

A Certificate of Rezoning Compliance was issued on April 3, 2009 based in part on an approved development plan (P1206-078) for office, retail, and restaurant uses. The site remains undeveloped. However, as part of road capacity improvements, an eastern portion of original rezoning site was dedicated for right-of-way and a northern area was added to the site resulting in an acreage increase from 3.86 acres to 4.21 acres. Also, the western portion of the site now contains a drainage easement improvement for Carmack Wash.

TRANSPORTATION REPORT

The Department of Transportation has no objection to the modification request subject to conditions. The site is located on the southwest corner of La Cholla Boulevard and Magee Road. The applicant is requesting a modification of the rezoning conditions to allow a gas station to be located on the site. The applicant has submitted a preliminary traffic impact analysis as the proposed use will generate a significant amount of traffic.

Currently the site is accessed from two driveways. One is on Magee Road and one is on La Cholla Boulevard. There is a left turn lane on northbound La Cholla serving the existing driveway. There is a right turn lane on eastbound Magee Road at the other driveway. The driveways were built when the intersection was realigned in 2012 and were designed to accommodate an office use. Due to drainage infrastructure built with the realignment, moving the driveways is not an option for this site. The proposed gas station with additional specialty retail/office building will generate approximately 9,125 average daily trips (ADT).

Although the project will generate a significant number of trips per day, approximately 65% of those trips are "pass-by" trips. This means that 65% of those trips were already in route along either La Cholla or Magee and diverted to use the gas station. Those trips were already on the adjacent roadway network and stopped at that site to use the gas station on the way to their final destination. The remaining 35% of the trips are destination trips, meaning those trips were coming directly to the gas station as their destination. The net weekday trips is approximately 3,600 ADT. Trips associated with the rezoning site will be distributed on both La Cholla Boulevard and Magee Road in all directions. It is estimated that 21% and 25% of the traffic will go east and west on Magee Road respectively, and 22% and 32% north and south on La Cholla Boulevard respectively.

During the review of this modification request, the Department of Transportation worked with the applicant's traffic engineer to analyze different access scenarios and impacts to the adjacent roadway network. The right turn lane from eastbound Magee Road to southbound La Cholla Boulevard is a free flowing right turn. This means, that although there is a traffic signal at the intersection, the right turn movement is not signalized and thus not restricted. The left turn lane from northbound La Cholla onto the site is also not signalized. Traffic from eastbound Magee and from La Cholla onto the site will be in conflict with each other. Vehicles turning onto southbound La Cholla often make that turn at a higher speed than if the turn was signalized. Additional conflicts arise when the vehicles turning south on La Cholla from westbound Magee are added into the intersection. These three turning movements will happen at the same time and incidents will happen. Two solutions to this problem were examined. The first option would be to close the turn lane on northbound La Cholla onto the site. This option would create level-of-service problems at nearby intersections. The second option would be to signalize the right turn from eastbound Magee Road to southbound La Cholla Boulevard. This will create a break in the traffic, creating a gap where the traffic making the left turn off La Cholla onto the site will have time to execute the turning movement.

The rezoning site is located directly adjacent to commercial development. Because the proposed uses will generate a high volume of traffic, specifically pass-by trips, cross access to the adjacent commercial areas will be beneficial in creating optimal onsite circulation. Due to the constraints of negotiating with the adjacent property owner, constructing a cross access might not be feasible prior to the gas station opening. However, should the opportunity be available to construct a cross access, the layout of the site should accommodate a cross-access driveway. A condition requiring the dedication of a cross access easement is recommended.

The Magee Road access driveway poses some unique challenges to accommodating this intense of development on this site. Particularly, the existing right turn lane is less than 50 feet long. Standard turn lane length is 150 feet. To construct a 150 foot turn lane with the taper would require the turn lane and taper to begin west of the driveway to the adjacent office complex. The turn lane should be extended as much as possible, even if a reduction of the taper length is necessary, to maximize storage.

The Department of Transportation has been analyzing the intersection of La Cholla Boulevard and Magee Road for bike and pedestrian safety and has evaluated several designs for enhanced safety at this location. Safety improvements considered include the signalization of the eastbound right turn from Magee Road to southbound La Cholla, reducing the turn radius for the right-turn lane, restriping the bike lanes including the use of green striping, and relocating the bike lane into a safer location. Although no final design or funding decisions have been made, these safety elements will need to be evaluated when the development plan for this site is reviewed.

La Cholla Boulevard is a four-lane medium volume arterial north of Magee Road and a six-lane high volume arterial south of Magee Road as indicated on the Major Streets Plan. The posted speed is 45 mph. It is a major north/south arterial road that connects Oro Valley to the City of Tucson. It also serves as a commercial corridor. Pima County in conjunction with Oro Valley will be widening the section of La Cholla between Overton and Tangerine Road to a four-lane arterial. Bike lanes and sidewalks exist along the frontage of the rezoning site. North of Magee Road the current traffic volume is 14,938 ADT, and the capacity is 35,820 ADT. South of La Cholla the current traffic volume is 20,762 ADT, and the capacity is 53,910 ADT.

Magee Road is a four-lane medium volume arterial as indicated on the Major Streets Plan. It is also a scenic route as indicated on the Scenic Routes Plan. The posted speed is 45 mph. Sidewalks and bike lanes exist along the frontage of the rezoning site. The most recent traffic volume is 20,955 ADT west of La Cholla and 19,591 east of La Cholla. The capacity is 35,820 ADT.

Between 2014 and 2016 there were four crashes on La Cholla Boulevard between the entrance to the Foothills Mall and Magee Road. There were seven crashes on La Cholla within a half mile north of Magee Road during the same time period. Between 2014 and 2016 there were nine crashes on Magee Road between Mona Lisa and La Cholla, 3 of which caused bodily injury. There were four crashes between La Cholla and Old Magee Trail during the same time period. Between 2014 and 2016 there were 21 crashes at the intersection of Magee Road and La Cholla Boulevard, and 20 crashes at the intersection of La Cholla Boulevard and the entrance to Foothills Mall.

The Department of Transportation has no objection to the use modification request subject to the following conditions:

- The rezoning site is limited to one access point on Magee Road and one access point on La Cholla Boulevard at the existing locations.
- A cross access easement shall be granted between the rezoning site and the commercial development to the south.

- An updated traffic impact analysis (TIA) shall be completed and submitted with the development plan for the rezoning site. The TIA shall include assessment of the signalization at La Cholla Boulevard and Magee Road, including signalization of the right turning movement from eastbound Magee Road to southbound La Cholla Boulevard.
- The updated TIA shall include an analysis of the right turn lane on Magee Road to southbound La Cholla Boulevard. A reduction in the turn radius may be necessary to improve intersection safety.
- The right turn lane on Magee Road into the rezoning site shall be extended to the maximum feasible length to create additional storage.
- The rezoning shall continue to be restricted to exclude the fast food use.

FLOOD CONTROL REPORT

The Regional Flood Control District has reviewed the modification of rezoning conditions request and has no objection.

WASTEWATER MANAGEMENT REPORT

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the above referenced request for a modification of rezoning condition #11 which requires adherence to the approved preliminary development plan for a proposed commercial/office building use and prohibits auto related uses and drive-through restaurants. The applicant proposes a convenience store with a gasoline station and a commercial/office building. The subject property is located at the southwest corner of Magee Road and La Cholla Blvd. and is tributary to the Tres Rios Water Reclamation Facility via the Canada del Oro Interceptor. The development will likely connect to the existing 8-inch public sewer in La Cholla Blvd.

The PCRWRD has no objection to the above referenced request for modification of rezoning conditions, but requests the existing wastewater condition stated in Ordinance 2001-104 adopted on July 17, 2001 by the Board of Supervisors be replaced with the conditions under renumbered #4 above.

NATURAL RESOURCES, PARKS AND RECREATION REPORT

NRPR has no objection to the applicant's request.

FIRE DISTRICT REPORT

Northwest Fire District in review of the referenced rezone, for compliance with the internationally recognized codes and standards as adopted by Northwest Fire District in the 2012 International Fire Code and amendments, has no objections to the proposed rezone for this project.

WATER DISTRICT REPORT

As of the writing of this report, no comments have been received from Metro Water District.

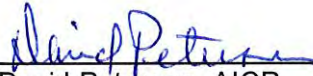
U.S. FISH & WILDLIFE SERVICE REPORT

As of the writing of this report, no comments have been received from the USFWS.

PUBLIC COMMENT

As of the writing of this report, staff has not received any written public comments pertaining to this request. The applicant held a neighborhood meeting on February 8, 2018.

Respectfully Submitted,

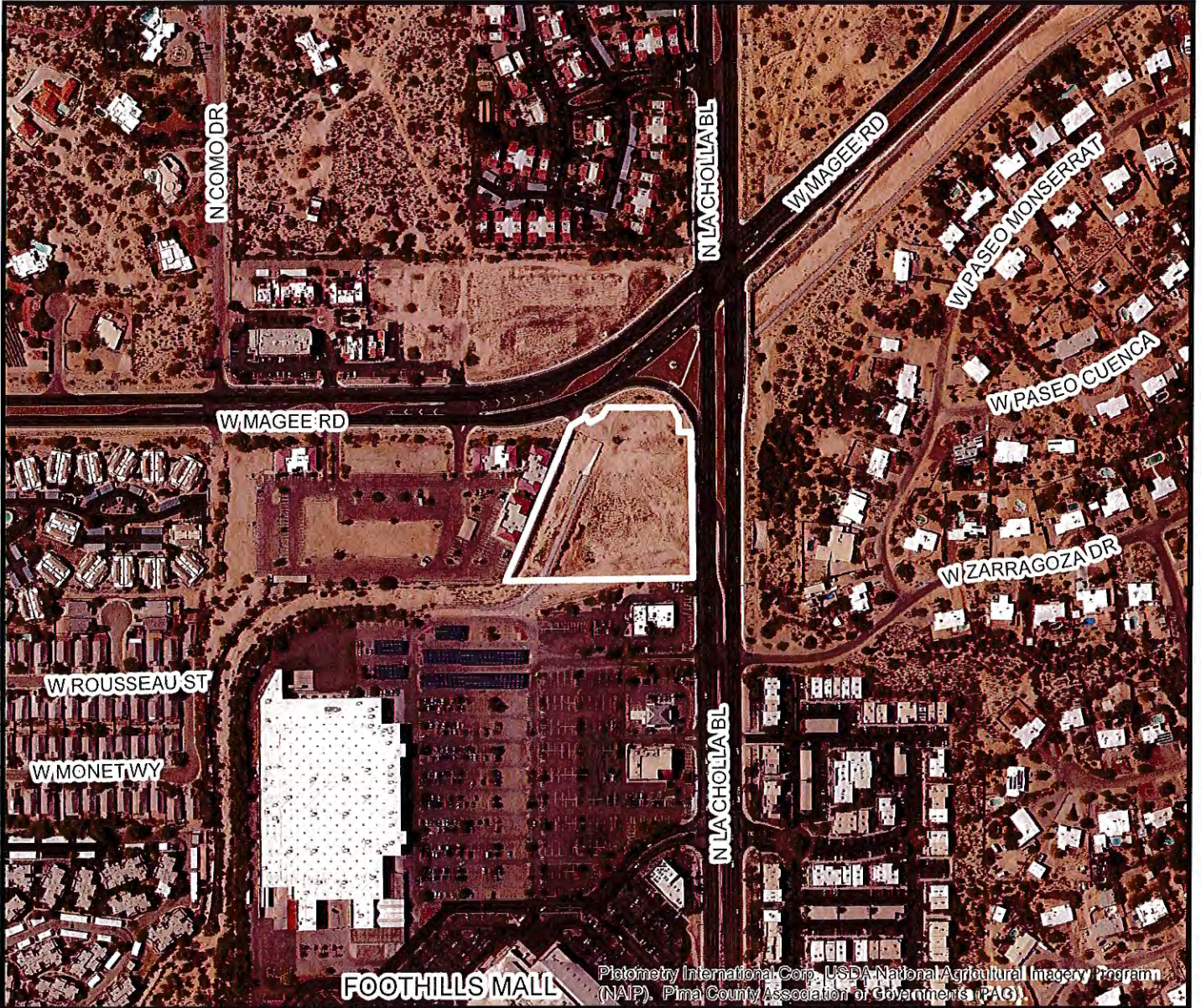


David Petersen, AICP
Senior Planner

CP/DP

c: The Planning Center, Attn: Brian Underwood, Project Manager, 2 E. Congress Street, Ste. 600, Tucson, AZ 85701



Case #: Co9-00-63
 Case Name: LA CHOLLA INVESTMENTS LLC -
 LA CHOLLA BOULEVARD REZONING
 Tax Code(s): 225-43-015E, 225-43-5100



Photometry International Corp., USDA National Agricultural Imagery Program (NAIP), Pima County Association of Governments (PAG)

0 180 360 720 Feet

**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**

	Notes: Modification (Substantial Change) of Rezoning Condition #11		
	PIMA COUNTY COMPREHENSIVE PLAN C07-13-10		
	Base Map(s): 115	Map Scale: 1:5,000	



N
↑
2016




W. Magee Road

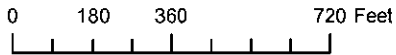
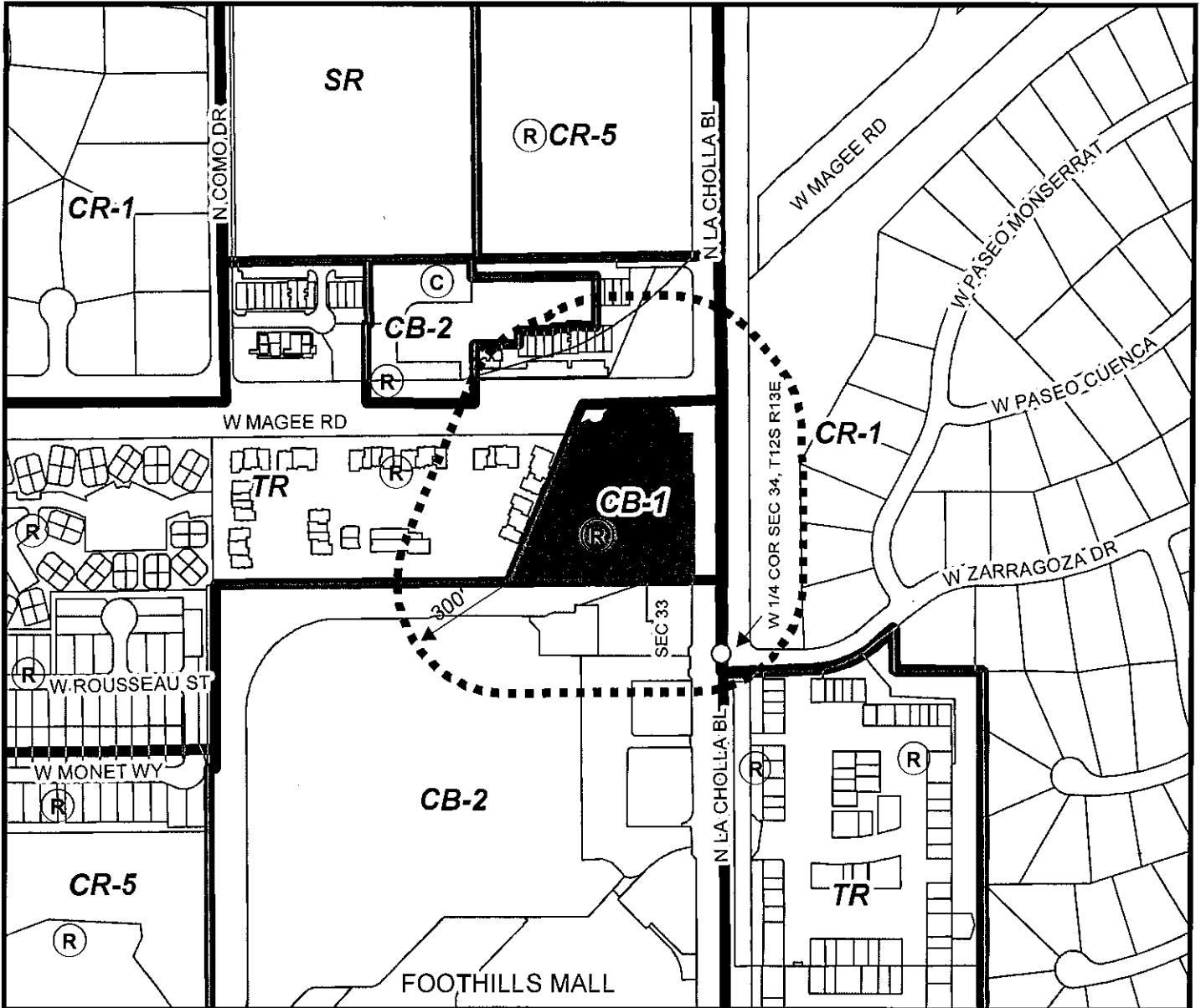
Site

N. La Cholla Blvd.



W. Ina Road

Case #: Co9-00-63
 Case Name: LA CHOLLA INVESTMENTS LLC -
 LA CHOLLA BOULEVARD REZONING
 Tax Code(s): 225-43-015E, 225-43-5100

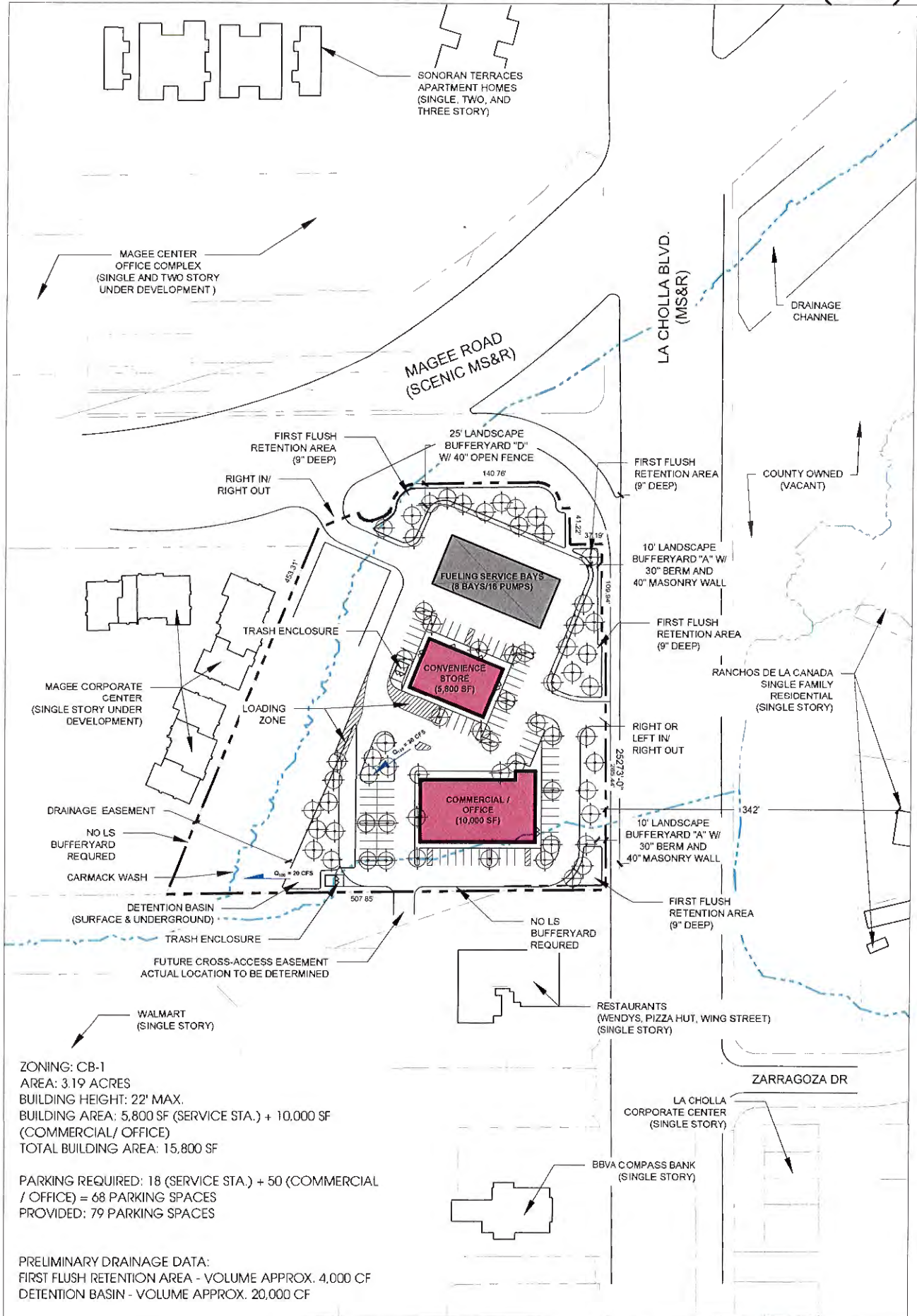
-  300' Notification Area
-  Subject Property
-  Zoning Boundary



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**

	Notes: Modification (Substantial Change) of Rezoning Condition #11		
	PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10		
	Planning & Zoning Hearing: 02/28/18	Board of Supervisors Hearing: 4/17/18	
	Base Map(s): 115	Map Scale: 1:5,000	

REVISED PRELIMINARY DEVELOPMENT PLAN (PDP)



ZONING: CB-1
 AREA: 3.19 ACRES
 BUILDING HEIGHT: 22' MAX.
 BUILDING AREA: 5,800 SF (SERVICE STA.) + 10,000 SF (COMMERCIAL/ OFFICE)
 TOTAL BUILDING AREA: 15,800 SF

PARKING REQUIRED: 18 (SERVICE STA.) + 50 (COMMERCIAL / OFFICE) = 68 PARKING SPACES
 PROVIDED: 79 PARKING SPACES

PRELIMINARY DRAINAGE DATA:
 FIRST FLUSH RETENTION AREA - VOLUME APPROX. 4,000 CF
 DETENTION BASIN - VOLUME APPROX. 20,000 CF

LA CHOLLA AND MAGEE

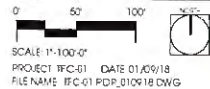
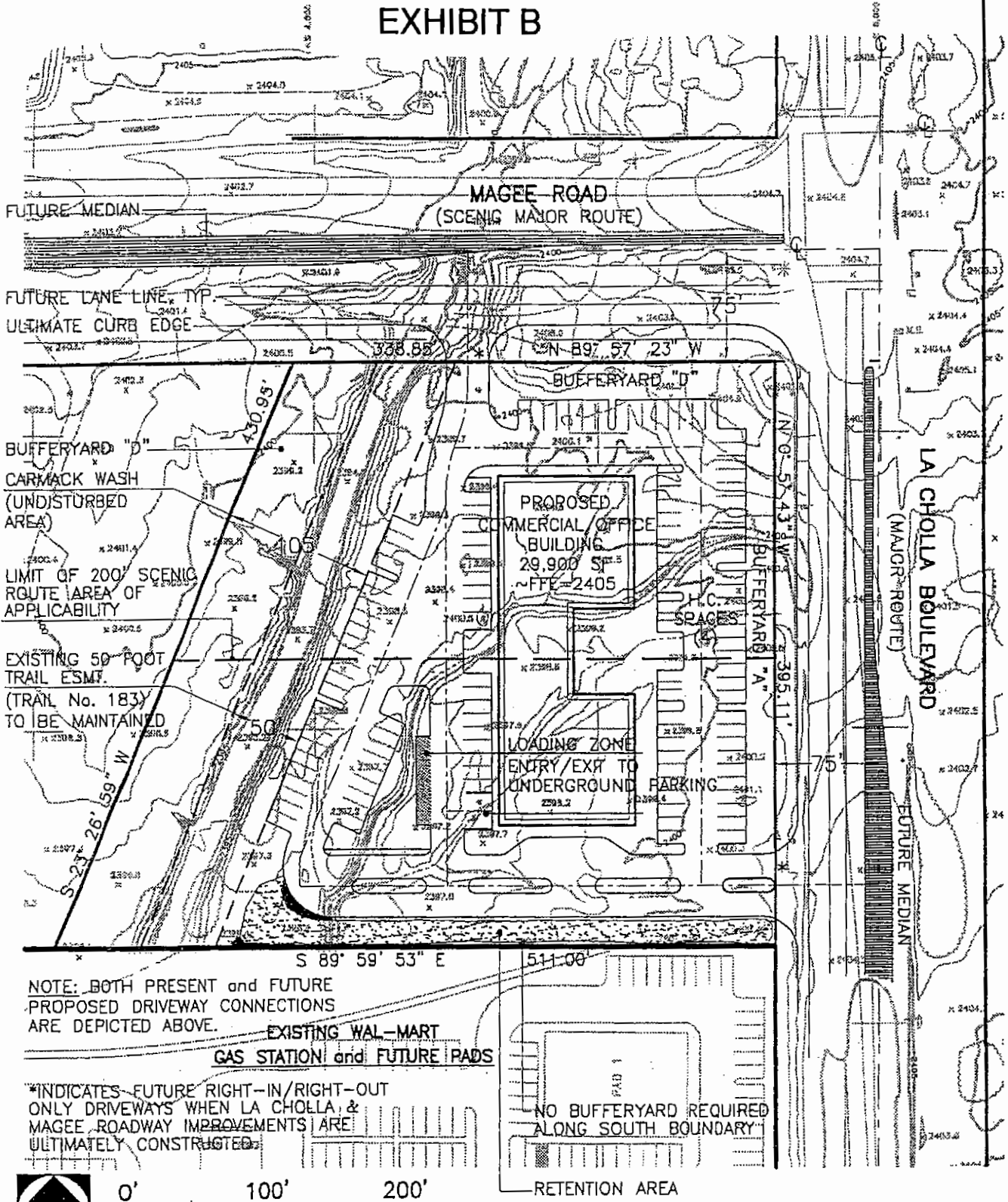


EXHIBIT B



NOTE: BOTH PRESENT and FUTURE PROPOSED DRIVEWAY CONNECTIONS ARE DEPICTED ABOVE.

*INDICATES FUTURE RIGHT-IN/RIGHT-OUT ONLY DRIVEWAYS WHEN LA CHOLLA, & MAGEE ROADWAY IMPROVEMENTS ARE ULTIMATELY CONSTRUCTED.



SCALE: 1" = 100'
C.I. = 1 FOOT

*Approved at BOJ Public Hearing
of 8-6-02 DP*

REZONING:
SWC MAGEE RD.
LA CHOLLA BLVD.

MAY 10 2002

EXHIBIT B-B
PRELIMINARY
REVISED DEVELOPMENT PLAN

REVISED 5/02

Projects International, Inc.
Project Development
Tur



January 11, 2018

Mr. Chris Poirier, Planning Director
Pima County Development Services
201 N. Stone Avenue
Tucson, AZ 85701

Subject: **Southwest Corner of La Cholla & Magee (APNs: 225-43-5100 & 225-43-015E) Modification of Rezoning Condition Request**
TPC Project No: TFC-01

Dear Mr. Poirier:

On behalf of Tucson Federal Credit Union (1160 N Winstel Blvd. Tucson, AZ 85716), this letter is to respectfully request the Board of Supervisors to modify condition #11 from Pima County Ordinance 2001-104 approving the rezoning of approximately 4.22 acres of land located at the southwest corner of La Cholla Boulevard and Magee Road from TR to CB-1 (Rezoning Case Co9-00-63).

Tucson Federal Credit Union currently owns the subject property and has contracted The Planning Center to carry out this request. As demonstrated on the revised site plan, the property owner is proposing a 5,800 square foot gas station and convenience store with eight (8) fueling bays and a 10,000 square foot commercial/office building as well as associated parking, loading and refuse areas. The newly proposed site plan will be subject to Pima County Development Standards as well as the outstanding rezoning conditions stated in Ordinance 2001-104. We ask that this request be placed on the Planning and Zoning Commission Agenda for the February 28, 2018 hearing.

Per the published minutes from the Board of Supervisors meeting on May 15, 2001, three individuals spoke in opposition to the project. Their concerns largely revolved around:

- Traffic congestion at the intersection of La Cholla Boulevard and Magee Road;
- Carmack Wash flooding and overall drainage of the area; and
- Uncertainty of end-users.

The following provides a justification for the modification of condition #11 from Pima County Ordinance 2001-004.

Condition #11 stipulates conformance to the preliminary development plan as approved at public hearing and further prohibits automotive-related uses and drive-through restaurants from being developed on the subject property. It reads, "*Adherence to the preliminary development plan as approved at public hearing. Automotive-related uses and drive-through restaurants are prohibited.*"

Through consultation with concerned neighbors and review of the published minutes from the original rezoning, it is our understanding that this condition was drafted with the intent of alleviating concerns largely associated with increased traffic on La Cholla Boulevard. At the time of approval for the subject rezoning, the La Cholla Boulevard and Magee Road intersection widening project was being contemplated to accommodate additional traffic capacity on La Cholla Boulevard. In 2012, the improvements were completed adding two travels and raised medians along La Cholla Boulevard, as well as a traffic diverging mechanism at the intersection of La Cholla Boulevard and Magee Road to ultimately increase traffic fluidity and reduce congestion. Additionally, as part of the original rezoning, the property owner dedicated a significant portion of the property for the installation of a drainage channel to mitigate some of the flooding issues associated with the Carmack Wash.

On November 10, 2016, a meeting was held with Donna Heidinger and Betsy Sandlin of the La Canada / Magee Neighborhood Association. Per our conversation with Ms. Heidinger and Ms. Sandlin, the La Canada / Magee Neighborhood Association has nearly disbanded due to the lack of neighborhood participation since the number of rezonings in the area has declined in the recent years. Generally, Ms. Heidinger and Ms. Sandlin were amenable to automotive-related uses so long as they were limited to gas stations and similar less noise intensive automotive uses.

On February 8, 2017, a meeting was held with Christine Hagen Curtis and her husband, Bill, (owners of the most adjacent residential property), Linda Morales (CEO/Owner of The Planning Center) and Brian Underwood (Project Manager for The Planning Center) to further discuss concerns associated with automotive-related uses. Generally, Bill and Christine were open to the idea of having automotive-related uses, like a gas station, developing across La Cholla Boulevard rather than a "business park" consisting of offices and asked to be kept informed throughout the change of condition process. Moreover, it was discussed that a Walmart gas station had already operated next door and subsequently closed because of poor visibility from La Cholla. It was further discussed that this is a more appropriate location for a gas station given that it will fulfill the current need for a gas station in the area. The nearest gas station is over 1.5 miles away south of the property.

Similar to her position in 2001, Christine expressed concerns related to the uncertainty of end-users, traffic and the trespassing of noise and debris into the approximately 150-foot drainage area located behind her backyard wall. However, they noted that their concerns associated with noise and debris were related to the absence of a berm and sound walls that were included in the original plans for the La Cholla Boulevard and Magee Road improvement project. In order to mitigate debris collecting in the right-of-way and drainage area located behind the Curtis residence, the property owner is amenable to including the following condition if deemed necessary: *"Employees will be required to make sure the parking areas are free of litter and debris at least three times a day."*

Per our discussion with representatives from the La Canada / Magee Neighborhood Association and the most affected residential property owners, it appears that this condition has created an unnecessary restriction on the proposed gas station use. This property is one of the last remaining vacant properties in an area that was burgeoning with new development and rezoning activity prior to the economic downturn but has since slowed down. The site is also fully graded and provides access to two major arterial streets given its prominent location on the southwest corner of La Cholla Boulevard and Magee Road. Moreover, we are requesting modification of this

condition given the current marketability of the subject property and the proximity of the proposed use relative to other gas stations in the area. The broker representing the subject property is actively working to secure an end-user for the proposed use as a means of alleviating the uncertainty concerns expressed in 2001 and reiterated by Ms. Curtis in 2017.

Attached to this correspondence is the revised site plan based on the requested rezoning condition modification.

We are prepared to meet to discuss any questions you may have regarding this request. Please feel free to contact me at (520) 623-6146. Thank you for your consideration.

Best regards,



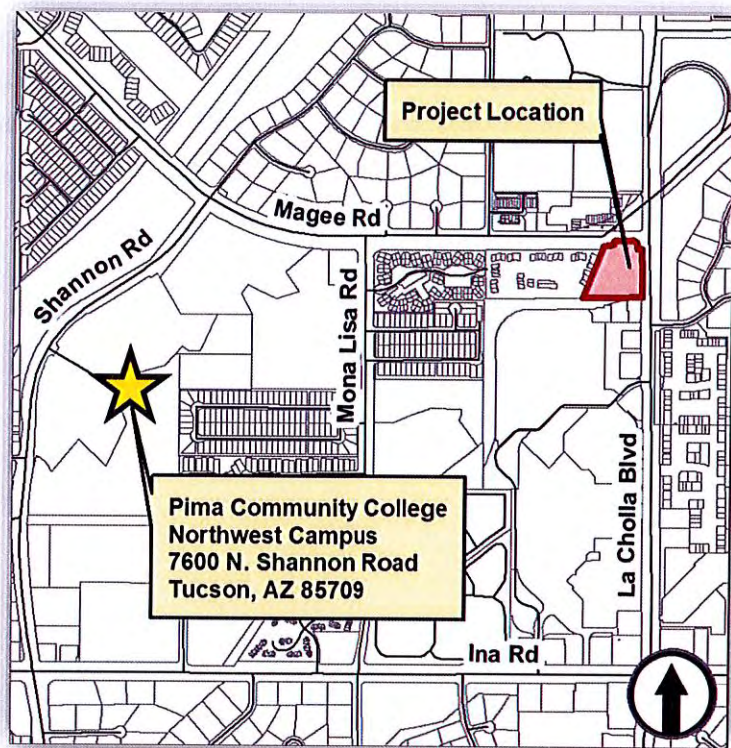
Brian Underwood, Project Manager
The Planning Center

January 26, 2018

Dear Neighbor:

The Planning Center invites you to attend a neighborhood meeting regarding a proposal to change a rezoning condition for a 4.22-acre property located at the southwest corner of North La Cholla Boulevard and West Magee Road (see location map).

In May 2001, Pima County Board of Supervisors rezoned this property from TR (Transitional Zone) to CB-1 (Local Business Zone). The site was initially rezoned to accommodate approximately 29,900 square feet of commercial and office uses. However, due to the lack of market demand for these uses at this location and the economic recession, the property remains undeveloped.



In 2015, Tucson Federal Credit Union acquired this property and has had it on the market for potential commercial and office uses since then. As of recent, Tucson Federal Credit Union has received significant interest from the fuel service industry given the property's prominent location at the intersection of La Cholla Boulevard and Magee Road and lack of other fuel service stations in the general project vicinity.

While fuel services stations are typically allowed in the CB-1 zone, the initial rezoning precluded automotive-related uses, along with drive-through restaurants, largely in response to traffic and drainage concerns that existed in this area at the time of the rezoning. Since then, the intersection of La Cholla Boulevard and Magee Road has been reworked to accommodate additional traffic capacity and improve traffic flow. Moreover, the property owner dedicated a significant portion of the property for the installation of a drainage channel to mitigate the flooding issues associated with the Carmack Wash.

This proposal is to respectfully request the removal of the rezoning condition precluding automotive-related uses to allow for fuel service stations to be built on this property. No change in zoning is proposed. The property owner is proposing a 5,800 square foot gas station and convenience store with eight (8) fueling service bays (16 fuel pumps) and potential opportunities for permitted commercial and office uses (*see reverse side*).

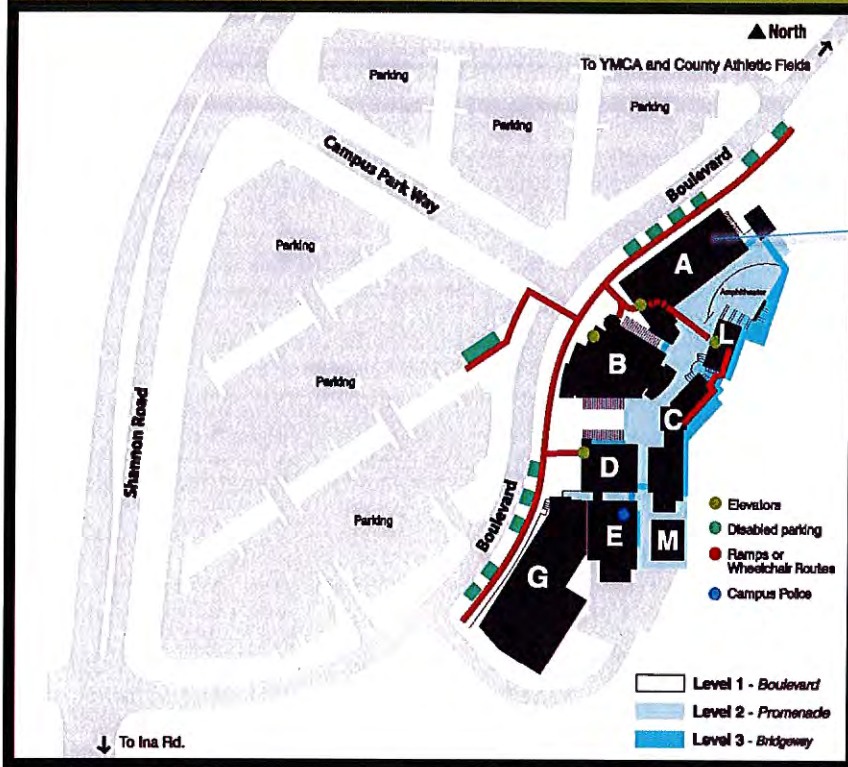
In keeping with the agreements that were made during the original rezoning, access will be limited to a single location on La Cholla Boulevard and a single location on Magee Road and building heights will be limited to one-story. The project is compatible with the surrounding land uses and will feature colors and materials that are complementary to the surrounding neighborhoods.

Please join us at a meeting on **Thursday, February 8th at 5:45 p.m.** to discuss project details, the change of condition process and to provide feedback on the proposal. The meeting will be held in the **Community Room (A207) at Pima Community College – Northwest Campus (7600 N. Shannon Road, Tucson, AZ 85709)**. Please see attached location map. In the meantime, if you have any questions, please contact Brian Underwood or Lexy Wellott at (520) 623-6146 or bunderwood@azplanningcenter.com or lwellott@azplanningcenter.com.



Northwest Campus

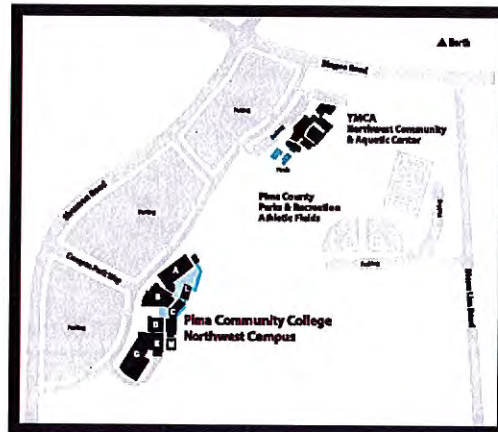
7600 NORTH SHANNON ROAD, TUCSON, AZ 85709



Community Room A-207 is located on the north end of the building 'A' on the 2nd Floor.

7600 North Shannon Road
 Tucson, AZ 85709-7200
 (520) 206-2200

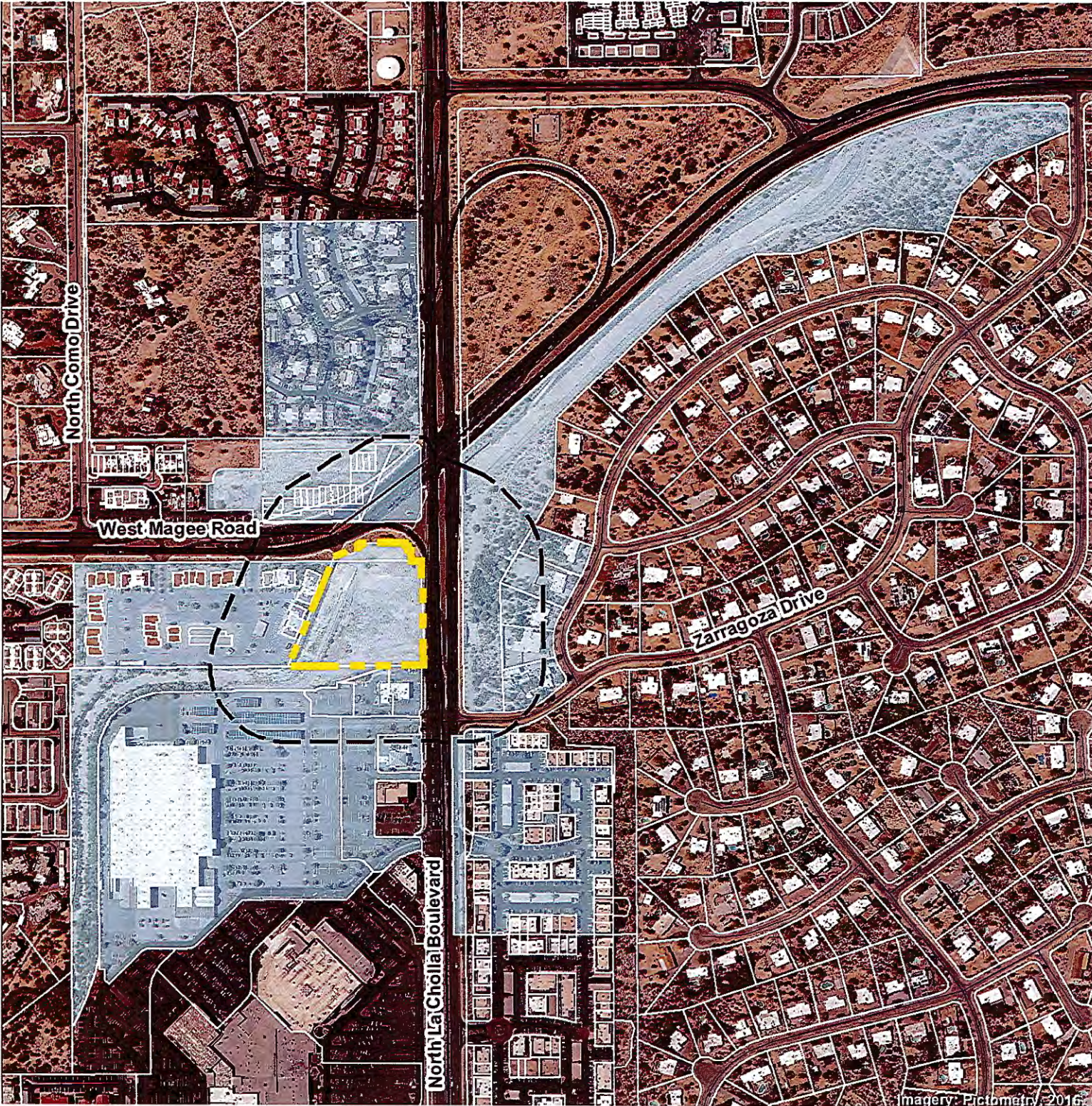
Directions: Located between Shannon and Mona Lisa Roads, south of Magee Road.



(520) 206-4500
www.pima.edu

Pima Community College is an equal opportunity, affirmative action employer and educational institution committed to excellence through diversity. Upon request, reasonable accommodations will be made for individuals with disabilities. Every effort will be made to provide reasonable accommodations in a timely manner. For public and employee accommodation requests, contact the College ADA Coordinator at (520) 206-4530. For PCC student accommodation requests, please contact the appropriate campus Disabled Student Resource office (520) 206-4500 (TTY: 520-206-4530).



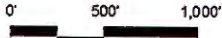


LEGEND

 TUCSON FEDERAL CREDIT UNION PROPERTY

 PARCELS WITHIN 300 FEET OF SUBJECT PROPERTY

NORTH



FILE NAME: Mailing_Labels.mxd
SOURCE: Pima County GIS, 2016



ALEJANDRO WILLIAM H SR
2040 W PASEO MONSERRAT
TUCSON AZ 85704-1330

BENNETT FAMILY LIVING TR
RODNEY T & PATRICIA C BENNETT TR
ATTN: Pizza Hut
5902 E PIMA ST
TUCSON, AZ 85712-4322

COMMUNITY EXTENSION PROGRAMS INC
7634 N LA CHOLLA BLVD
TUCSON AZ 85741-4201

COOK FAMILY REVOCABLE A-B TR
ATTN: JEFF CHRIS & DEBRA ANN COOK TR
2030 W PASEO MONSERRAT
TUCSON, AZ 85704-1330

CURTIS CHRISTINE K & WILLIAM
2050 W PASEO MONSERRAT
TUCSON AZ 85704-1330

EGG YOLK PROPERTIES LLC
2915 E BASELINE RD STE 122
GILBERT AZ 85234-2475

HILLMAN CLIFFORD D
2020 W PASEO MONSERRAT
TUCSON, AZ 85704-1330

HUMAN RESOURCES SUPPORT INC
ATTN: DIANA SEALE ACCT DEPT
PO BOX 10566
BIRMINGHAM, AL 35296-0002

J FOOTHILLS LLC
PO BOX 24550
COLUMBUS OH 43224-0550

LA CHOLLA CORPORATE CENTER OWNERS
ASSN
6007 E GRANT RD
TUCSON AZ 85712-2316

LANDMARK TITLE TR 18183-T
ATTN: MAGEE CORPORATE CENTER LLC
(FOR GIS PURPOSES ONLY)
PO BOX 397
SAHUARITA, AZ 85629-0397

MAGEE COMO DEVELOPMENT ASSN LLC
5151 N ORACLE RD STE 210
TUCSON AZ 85704-3757

MAGEE CORPORATE CENTER LLC
PO BOX 397
RILLITO AZ 85654-0397

N/A SONORAN TERRACE 51
ATTN: THOMSON REUTERS PROPERTY TAX
SVC
PO BOX 847
CARLSBAD, CA 92018-0847

NATIONAL BORDER PATROL COUNCIL
0832185 MAGEE RD #125
TUCSON, AZ 85742-4328

RREF II DFC-AZ IBC LLC
790 NW 107TH AVE STE 400
MIAMI FL 33172-3159

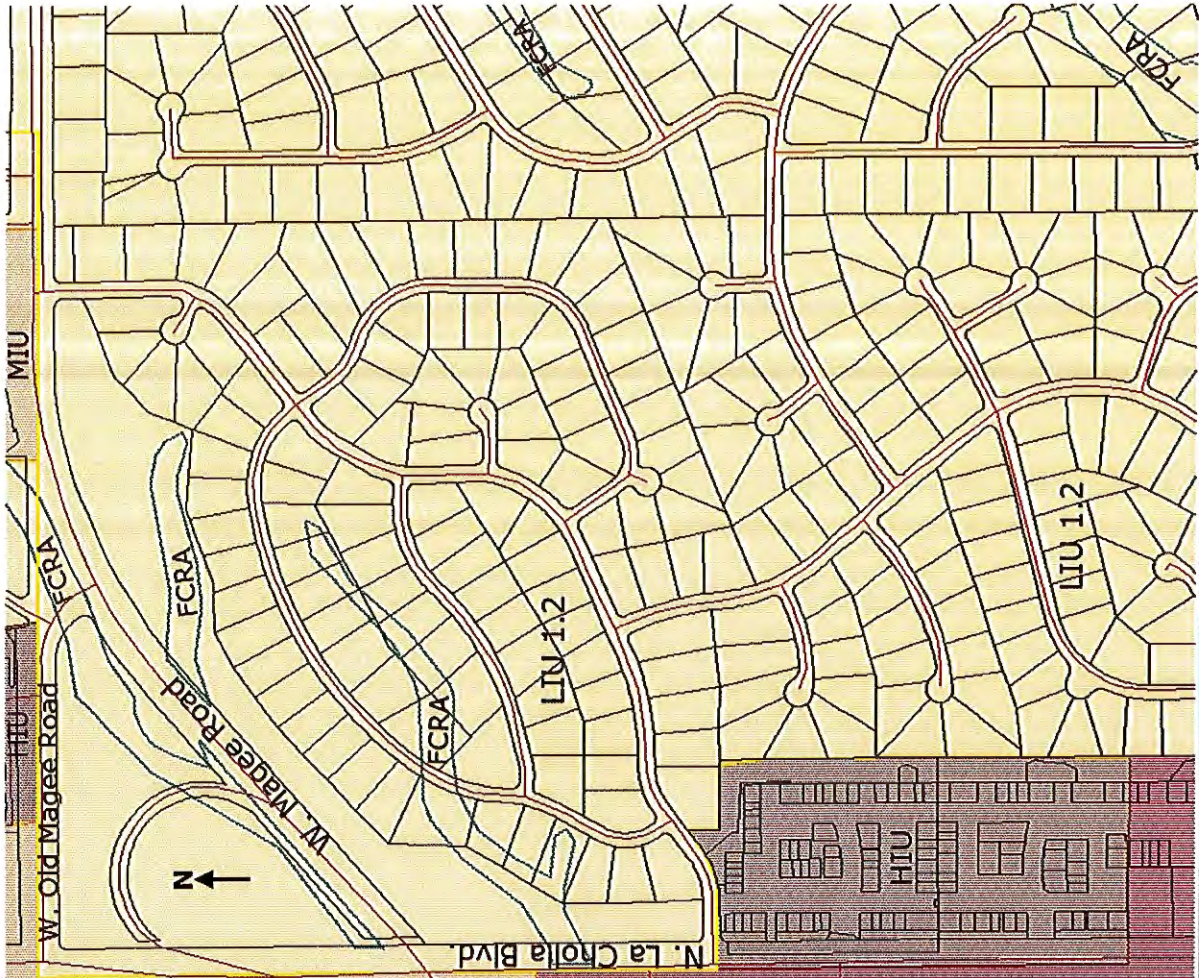
SUNSET DENTAL ASSOC
2205 W MAGEE RD STE 124
TUCSON, AZ 85742-4330

TEAM SO-CAL INC
1811 KNOLL DR STE A
VENTURA CA 93003-7321

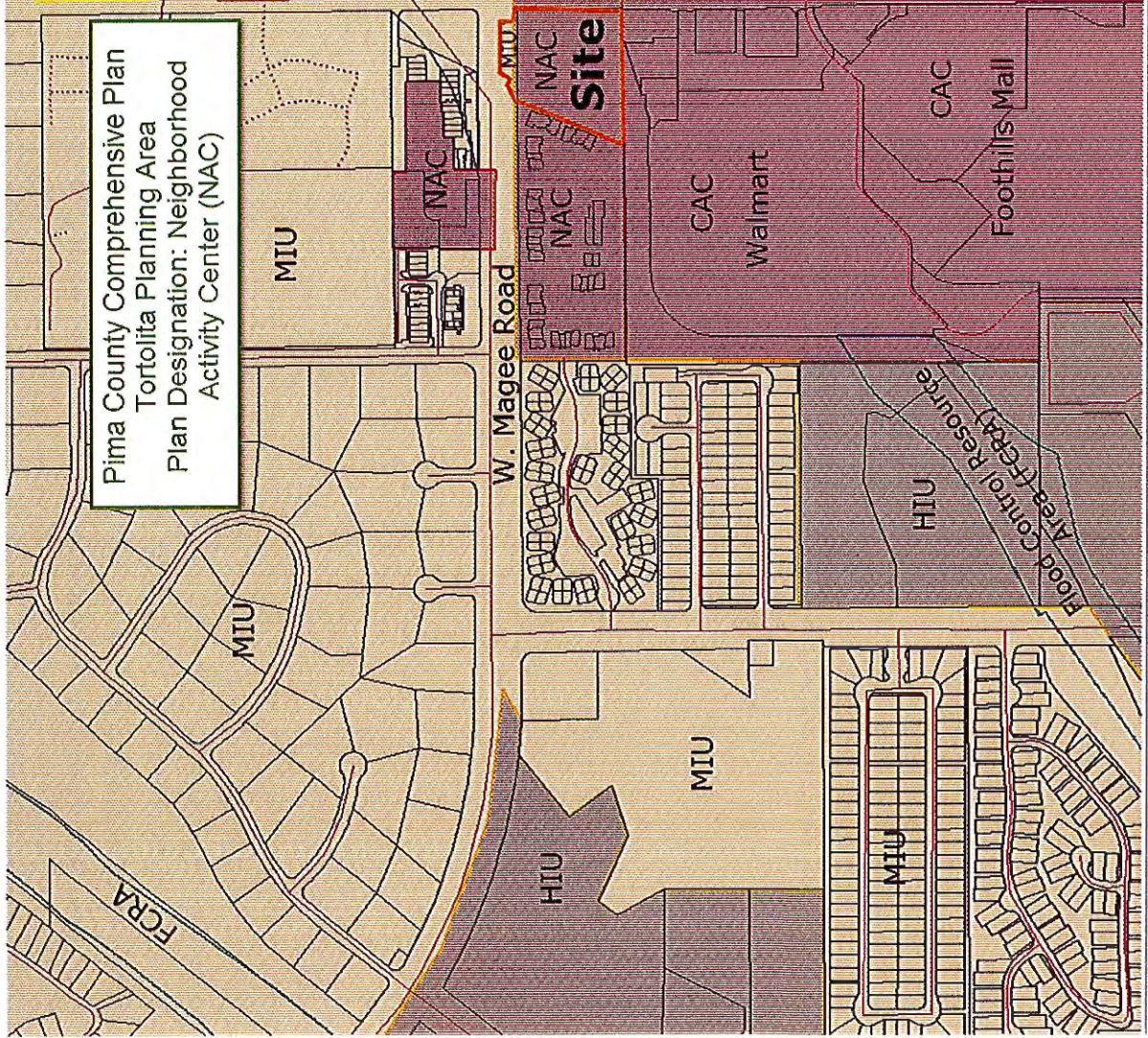
WAL-MART STORES INC
STORE #01-2922
ATTN: PROPERTY TAX #05551301 5E 10TH
STBENTONVILLE, AR 72712-7998

WENDYS OF COLORADO SPRINGS INC
1515 N ACADEMY BLVD STE 400
COLORADO SPRINGS CO 80909-2749

WRIGHT VIOLET A REVOT TR
2010 W PASEO MONSARRAT
TUCSON, AZ 85704-1330



Pima County Comprehensive Plan
 Tortolita Planning Area
 Plan Designation: Neighborhood
 Activity Center (NAC)



Pima County Comprehensive Plan

Neighborhood Activity Center (NAC)

- a. 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.
- b. Residential Gross Density: Residential gross density, if applicable, shall conform to the following:
 - 1) Minimum – 5 RAC
 - 2) Maximum – 12 RAC.
- c. Residential Gross Densities for Developments Using Transfer of Development Rights (TDRs): Projects within designated Receiving Areas utilizing TDRs for development shall conform to the following density requirements:
 - 1) Minimum – 5 RAC
 - 2) Maximum – 8 RAC.

RESOLUTION 2009- 53

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING IN CASE **Co9-00-63 LA CHOLLA INVESTMENTS LLC – LA CHOLLA BOULEVARD #2 REZONING** LOCATED ON THE SOUTHWEST CORNER OF MAGEE ROAD AND LA CHOLLA BOULEVARD; AMENDING CONDITIONS SET FORTH IN SECTION 2 AND TIME LIMITS SET FORTH IN SECTION 3 OF ORDINANCE NO. 2001-104 AND RESOLUTION NO. 2003-69.

WHEREAS, on December 1, 2000, the owner(s) of approximately 3.86 acres applied for a rezoning from TR (Transitional) to CB-1 (Local Business);

WHEREAS, on May 15, 2001 the Pima County Board of Supervisors approved the rezoning, subject to standard and special conditions;

WHEREAS, on July 17, 2001 the Pima County Board of Supervisors adopted rezoning Ordinance No. 2001-104, as recorded in Docket 11597 at Page 1986, rezoning the approximate 3.86 acres described in rezoning case Co9-00-63 (as shown on the map attached hereto as EXHIBIT A) and memorializing the standard and special conditions;

WHEREAS, on May 10, 2002 the owner(s) of approximately 3.86 acres applied for a modification (substantial change) of rezoning conditions;

WHEREAS, on August 6, 2002 the Pima County Board of Supervisors approved a modification (substantial change) or rezoning conditions subject to modified standard and special conditions;

WHEREAS, on April 8, 2003 the Pima County Board of Supervisors adopted Resolution No. 2003-69 memorializing the modified standard and special conditions;

WHEREAS, on April 26, 2006 the owner(s) of approximately 3.86 acres applied for a three-year time extension;

WHEREAS, on July 11, 2006 the Pima County Board of Supervisors approved a three-year time extension subject to modified standard and special conditions;

WHEREAS, Ordinance No. 2001-104 allows the Board of Supervisors to amend the rezoning time limit by resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Pima County Board of Supervisors hereby reaffirms the rezoning conditions represented in Ordinance No. 2001-139 and Resolution No. 2003-69 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 Department of Transportation, Real Property Division.
6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. ~~Prior to the approval of the development plan, the owner shall be required, by covenant, to participate in an improvement district for improvements to La Cholla Boulevard as determined by the Department of Transportation. The financial contribution, to be consistent with properties in the district, shall be based on the assessed property value once the property is developed. An estimated property value will be determined for this property and used to calculate a financial contribution.~~
 - B. ~~In the event that the improvement district is not formed, prior to approval of the development plan, the owner shall be required, by covenant, to provide a fair share financial contribution for improvements to La Cholla Boulevard and Magee Road.~~
 - C.A. Provision of all necessary ~~interim access~~ improvements on La Cholla Boulevard and/or Magee Road. These improvements shall need the approval of Pima County and meet appropriate standards prior to the issuance of any building permits for any portion of the subject property.

~~D.B.~~ The property owner(s) shall dedicate additional right-of-way along the La Cholla Boulevard frontage of the property should the final design of the intersection of La Cholla Boulevard and Magee Road require the same. ~~The final configuration of any necessary right-of-way dedication shall be based on the particulars of the final roadway design and any such dedication shall not exceed 25 feet in width. In the event that additional right-of-way is so dedicated, the developer shall be allowed to place one-half of any required bufferyard along La Cholla Boulevard within Pima County right-of-way.~~

C. The property owner(s) shall participate in Magee Road and Drainage Improvement District.

~~E.D.~~ The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, parking areas, drives, physical barriers, drainageways and drainage easements.

~~F.E.~~ Only one point of access will be allowed onto La Cholla Boulevard and onto Magee Road.

8. Flood Control conditions:

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

B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts caused by the proposed development shall be constructed at no cost to the Flood Control District.

C. The property owner(s) shall dedicate right-of-way or easements for drainage purposes to Pima County Flood Control District, as determined necessary during the development plan review. Any such easements mandated by this rezoning condition shall only be those needed to address the drainage conditions at the time of development plan review. Any required drainage easements on the subject property attendant to the proposed culvert improvements associated with the La Cholla Boulevard/Magee Road improvement project shall be subject to separate negotiations and public acquisitions at the time that Pima County's proposed roadway construction plans have been completed.

9. Wastewater Management condition:

The property owner must 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.

10. Prior to ground modifications activities, an on-the-ground archaeological survey

and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.

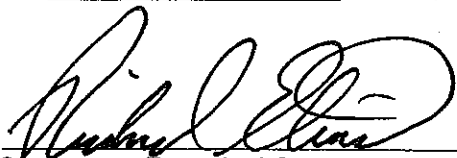
11. Adherence to the revised preliminary development plan as approved at public hearing. Automotive-related uses and drive-through restaurants are prohibited (from the Board of Supervisors public hearing on August 6, 2002, EXHIBIT B).
12. Depressed diamond shaped planters or raised landscape planters shall be placed every three parking stalls and shall contain one canopy tree. Raised planters shall be used to define a hierarchy of circulation and be placed at the ends of parking area access lanes.
13. The following exotic and invasive plant species shall be prohibited anywhere on the property:
 - Fountain grass (Pennisetum setaceum)
 - Buffelgrass (Pennisetum ciliare)
 - Johnson grass (Sorghum halapense)
 - Giant reed (Arundo donax)
 - Common crabgrass (Digitaria sanguinalis)
 - Pampas grass (Cortaderia selloana)
 - Red brome (Bromus rubens)
 - Mediterranean grass (Schismus spp.)
 - Tree of heaven (Ailanthus altissima)
 - African sumac (Rhus lancea)
 - Russian olive (Eleagnus angustifolia)
 - Salt cedar/Tamarisk (Tamarix pertandra & T. ramosissima)
 - Bermuda grass (Cynodon dactylon) excluding sod hybrid Bermuda
 - Lovegrasses (Eragrostis spp.) excluding Plains lovegrass (Eragrostis intermedia)
 - African rue (Peganum harmala)
 - Iceplant (Mesembryanthemem crystallinum)
 - Arabian Grass (Schisums arabicus)
 - Natal Grass (Melinis repens =Rhynchelythrum repens)

NOW, THEREFORE, BE IT RESOLVED, that the Pima County Board of Supervisors hereby modifies the time limits represented in Ordinance No. 2001-104 and Resolution No. 2003-69 as follows:

1. Conditions 1 through 13 shall be completed by May 15, 200~~6~~ 09.
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 Resolution until all conditions 1 through 13 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 1 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 7th day of April, 2009, by the Board of Supervisors of Pima County, Arizona.

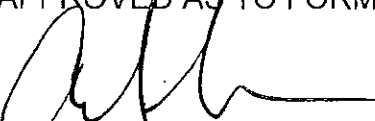

Chairman, Board of Supervisors

ATTEST:

APR 07 2009


Clerk, Board of Supervisors

APPROVED AS TO FORM:


Deputy County Attorney
ANDREW FLAGG

APPROVED:

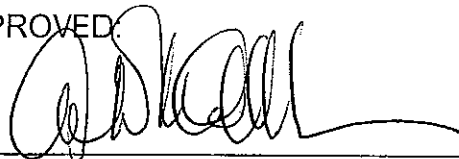
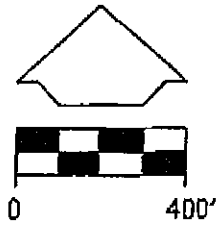
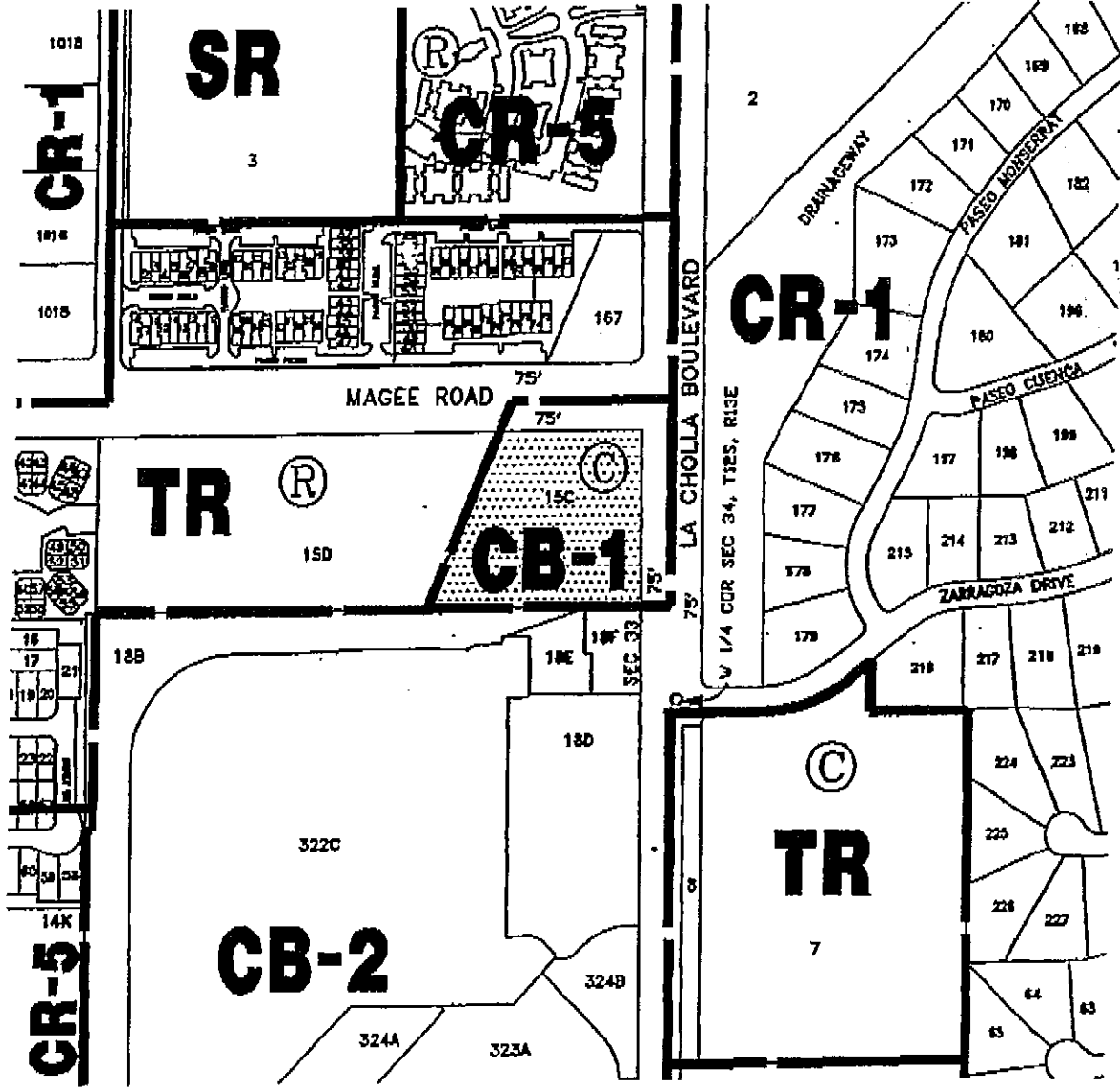

Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 71 BY ORDINANCE NO. 2001-104
TO PIMA COUNTY ZONING MAP NO. 115 TUCSON, AZ.
PARCEL 15C BEING A PART OF THE SE 1/4 OF THE NE 1/4
OF SECTION 33, T12S, R13E



ADOPTED 7-17-01 EFFECTIVE 7-17-01



J. Mezzano
EXECUTIVE SECRETARY, PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM TR 3.86 ac±
ds-JUNE 26, 2001

C09-00-63
C07-96-05
225-43-015C

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Rezoning Time Extension Approval

Co9-00-63 BOS Minutes 7-11-06

microwaves or any other kind of interference that is believed to be a health hazard.

The Board received a graph from Declan Murphy, representing T-Mobile, on what the FCC would allow and explained the type of energy this site would emit. He stated he exchanged contact information with one of the speakers from the last meeting to arrange a meeting with the neighborhood but he did not receive any further contact from them. He had personally contacted everyone who signed the petition to address their concerns.

The Chairman inquired whether anyone wished to be heard.

The following speakers addressed the Board:

1. Stephanie Torres
2. Maria Chirivilla

The speakers provided the following comments:

1. The proposed tower would affect property values.
2. There is concern about health hazards.

Chairman Elías inquired if the antenna was going to be attached to an existing light pole on school grounds?

Mr. Portner stated that was correct. There is a planned light pole designed to illuminate the school's play field that will be 65 feet tall. The light fixtures will be at the top of the pole and the antenna will be at approximately the 35 foot level.

Chairman Elías stated the school was going to build the light pole anyway, and the Board had no jurisdiction over them.

On consideration it was moved by Chairman Elías, seconded by Supervisor Bronson and unanimously carried by a five to zero vote to close the public hearing and approve the Conditional Use Permit subject to standard requirements.

31. DEVELOPMENT SERVICES: REZONING TIME EXTENSION

Co9-00-06, GOLDER - ORACLE ROAD NO. 3 REZONING

Without objection this item was continued to the Board of Supervisors Meeting of August 21, 2006.

→ 32. DEVELOPMENT SERVICES: REZONING TIME EXTENSION

Co9-00-63, LA CHOLLA INVESTMENTS, L.L.C. - LA CHOLLA BOULEVARD NO. 2 REZONING

Request of Arizona La Cholla, L.L.C., represented by David V. Garcia of Architectural Design Group, Inc., for a three-year time extension for the above referenced rezoning from TR (Transitional) to CB-1 (Local Business) of 3.86 acres. The subject site was rezoned in 2001. The rezoning expired on May 15, 2006. The site is located on the southwest corner of Magee Road and La Cholla Boulevard. Staff recommends APPROVAL WITH CONDITIONS. (District 1)

"Staff recommends APPROVAL WITH CONDITIONS of a three-year rezoning time extension to May 15, 2009. Should the Board of Supervisors be inclined to approve this request, staff recommends the following revised and additional conditions:

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 Department of Transportation, Real Property Division.
6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - ~~A.~~ Prior to the approval of the development plan, the owner shall be required, by covenant, to participate in an improvement district for improvements to La Cholla Boulevard as determined by the Department of Transportation. The financial contribution, to be consistent with properties in the district, shall be based on the assessed property value once the property is developed. An estimated property value will be determined for this property and used to calculate a financial contribution.
 - ~~B.~~ In the event that the improvement district is not formed, prior to approval of the development plan, the owner shall be required, by covenant, to provide a fair share financial contribution for improvements to La Cholla Boulevard and Magee Road.
 - ~~C-A.~~ Provision of all necessary interim access improvements on La Cholla Boulevard and/or Magee Road. These improvements shall need the approval of Pima County and meet appropriate standards prior to the issuance of any building permits for any portion of the subject property.
 - ~~D-B.~~ The property owner(s) shall dedicate additional right-of-way along the La Cholla Boulevard frontage of the property should the final design of the intersection of La Cholla Boulevard and Magee Road require the same. The final configuration of any necessary right-of-way dedication shall be based on the particulars of the final roadway design and any such dedication shall not exceed 25 feet in width. In the event that additional right-of-way is so dedicated, the developer shall be allowed to place one half of any required bufferyard along La Cholla Boulevard within Pima County right-of-way.
 - C. The property owner shall participate in Magee Road and Drainage Improvement District.
 - ~~E-D.~~ The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, parking areas, drives, physical barriers, drainageways and drainage easements.
 - ~~F-E.~~ Only one point of access will be allowed onto La Cholla Boulevard and onto Magee Road.
8. Flood Control conditions:
 - A. Drainage will not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts caused by the

- proposed development shall be constructed at no cost to the Flood Control District.
- C. The property owner(s) shall dedicate right-of-way or easements for drainage purposes to Pima County Flood Control District, as determined necessary during the development plan review. Any such easements mandated by this rezoning condition shall only be those needed to address the drainage conditions at the time of development plan review. Any required drainage easements on the subject property attendant to the proposed culvert improvements associated with the La Cholla Boulevard/Magee Road improvement project shall be subject to separate negotiations and public acquisitions at the time that Pima County's proposed roadway construction plans have been completed.
9. Wastewater Management condition:
The property owner must 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.
10. Prior to ground modifications activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property, shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.
11. Adherence to the revised preliminary development plan as approved at public hearing. Automotive-related uses and drive-through restaurants are prohibited.
12. Depressed diamond shaped planters or raised landscape planters shall be placed every three parking stalls and shall contain one canopy tree. Raised planters shall be used to define a hierarchy of circulation and be placed at the ends of parking area access lanes.
13. The following exotic and invasive plant species shall be prohibited anywhere on the property:
Fountain grass (Pennisetum setaceum)
Buffalo grass (Pennisetum ciliare)
Johnson grass (Sorghum halapense)
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Bermuda grass (Cynodon dactylon) excluding sod hybrid Bermuda
Lovegrasses (Eragrostis spp.) excluding Plains lovegrass (Eragrostis intermedia)
African rue (Peganum harmala)
Iceplant (Mesembryanthemem crystallinum)
Arabian Grass (Schismus arabicus)
Natal Grass (Melinis repens (=Rhynchelythrum repens))"

Chris Poirier, Zoning Administrator, stated this was a request for a three year time extension. The 3.8 acre site was rezoned from TR to CV-1 in 2001 and the rezoning expired on May 16, 2006. The approved uses in this zone are restaurants, retail and offices. Staff has received no public comment to date.

The Chairman inquired whether anyone wished to be heard.

Peter Vokac, citizen, stated the neighbors had no objection to the rezoning.

On consideration it was moved by Supervisor Day, seconded by Supervisor Carroll, and unanimously carried by five to zero vote to close the public hearing and approve the three year time extension subject to conditions.

33. DEVELOPMENT SERVICES: REZONING CLOSURE

Co9-86-109, STEWART TITLE TRUST NO. 2549 - VALENCIA ROAD REZONING

Proposal to close Co9-86-109, a rezoning from CR-3 to CI-1 of approximately 89.33 acres located on the northwest, northeast, and southeast corners of the intersection of I-10 and Valencia Road. This rezoning was approved in 1987 and expired on May 5, 2004. Staff recommends CLOSURE. (District 2)

Chris Poirier, Zoning Administrator, stated this was a request to close the remaining 89.33 acre portion of Co9-86-109. This will result in the property reverting back to the CR-3 zone. Staff has received no public comment to date and recommends closure.

The Chairman inquired whether anyone wished to be heard. No one appeared

On consideration it was moved by Supervisor Valadez, seconded by Supervisor Bronson, and unanimously carried by five to zero vote, to close the public hearing and approve the closure.

34. DEVELOPMENT SERVICES: PLAT NOTE MODIFICATION

P1203-090, SANTA RITA RANCH II, LOTS 1-169 AND 234-301

Request of KB HOME Tucson, Inc., for a Plat Note Modification of Santa Rita Ranch II, Lots 1-169 and 234-301, Common Areas A - F (Drainage) and G - Q (Open Space), Subdivision Plat, Bk. 59, Pg. 63-1 to modify:

1. Permitting Note No. 4: Medium Density Residential (MDR) Development Standards A.1, which requires a rear yard setback of fifteen (15) feet (specifically for Lots 1-9, 74-91, 131-147, 151-169, and 234-301) and;
2. Permitting Note No. 4: Low Density Residential (LDR) Development Standards A.1, which requires a rear setback of fifteen (15) feet (Lots 10-73, 92-130, and 148-150).

The applicant requests a reduction to the rear setback to 10 feet from 15 feet on lots 1-169 and 234-301. The subdivision is approximately 101.9 gross acres, zoned SP and is located on the south side of Camino Del Toro, approximately 1/2 mile east of South Houghton Road. Staff recommends APPROVAL of

Modification of Rezoning Conditions Approval Co9-00-63 BOS Minutes 8-6-02

"The above conditions regarding this rezoning modification will satisfy the conditions under the Small Lot Option - dedication of recreation lands."

Jim Mazzocco, Planning Official, stated the request is to reduce the number of units from 302 dwelling units to 127 dwelling units with corresponding reductions in transportation, flood control and park conditions. The Planning and Zoning Commission and staff recommend approval subject to the conditions and the August 2, 2002, memorandum from the Parks and Recreation Department. There is one letter of concern that has been received.

Supervisor Day asked what type of condition the land was in?

Mr. Mazzocco replied the land would need to be cleaned up if the request is approved.

Lawrence Harvey, citizen, stated he is opposed to the request of having this many dwelling units in the industrial area. This would create a great concern for the public's safety.

On consideration, it was moved by Chair Bronson, seconded by Supervisor Carroll, and unanimously carried by a five to zero vote, to close the public hearing and approve the modification/waiver or rezoning conditions as presented by the petitioner subject to staff's recommendations and the August 2, 2002, memorandum from the Parks and Recreation Department.

21. MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS

Co9-00-63, LA CHOLLA INVESTMENTS, L.L.C. - LA CHOLLA BOULEVARD NO. 2 REZONING

Request of La Cholla Investments, L.L.C., represented by Projects International, Inc., for a modification (substantial change) of Rezoning Condition No. 11, to substitute a revised preliminary development plan to show a larger building envelope and increase the building square footage from 16,000 to 30,000. Rezoning Condition No. 11 states, "Adherence to the preliminary development plan as approved at public hearing. Automotive-related uses and drive-through restaurants are prohibited." The subject site is 3.86 acres rezoned to TR (Transitional) in 2000 and is located on the southwest corner of Magee Road and La Cholla Boulevard. On motion, the Planning and Zoning Commission voted 3-2 (Commissioners Gungle and Hirsh voted NAY; Commissioners Membrila, Poulos and Williams were absent;

Commissioner Staples abstained) to recommend **APPROVAL** with conditions. Staff recommends **APPROVAL** with conditions. (District 1)

"IF THE SUBSTANTIAL CHANGE OF REZONING CONDITIONS IS APPROVED, THE FOLLOWING AMENDED AND ADDED CONDITIONS SHOULD BE CONSIDERED:

11. Adherence to the revised preliminary development plan as approved at public hearing. Automotive-related uses and drive-through restaurants are prohibited.
- ~~13. A 10-foot trail be constructed along the east side of the 50-foot trail easement area abutting the parking area boundary as shown on the Preliminary Development Plan. The trail shall be 2 inches compacted to 95 percent stabilized decomposed granite material over native soil."~~

Jim Mazzocco, Planning Official, stated the request is to increase the square footage to 30,000 feet for a proposed restaurant and office use. The property was rezoned to CB-1 in May, 2001. The Planning and Zoning Commission and staff recommended approval. Four letters in opposition were received and two speakers protested against this request at the Planning and Zoning Commission hearing.

Jim Portner, petitioner, stated he is not requesting any changes to the verbiage of rezoning conditions but is requesting to substitute the original plan with another one.

Supervisor Day asked where the access will be from La Cholla Blvd., and how the traffic would flow? How would it work if people are traveling north on La Cholla Blvd. and how would they access the property? She would also like an explanation on how the opening would ducktail with the opening of La Cholla Blvd.?

Mr. Portner replied the access points are identical to the original plans and will work closely with the Department of Transportation officials to come up with a plan to have a left turn access to the property. La Cholla is being widened to six lanes to accommodate the increase in traffic in that area.

Donna Heidinger, citizen, stated she is representing the La Canada and Magee Association, and they are opposed to the proposed development. Approval of this request would overburden La Cholla Blvd. and create higher risks for that area. She urged the Board to deny this request.

On consideration, it was moved by Supervisor Day, seconded by Chair Bronson, and unanimously carried by a five to zero vote, to close the public hearing and approve the modification of rezoning conditions subject to conditions.

Original Rezoning Approval Co9-00-63

BOS Minutes 5-15-01

right to use the easement for ingress/egress, but they use it occasionally and would probably continue using it once it was paved. The Comprehensive Plan supports their plan to build at a higher density. She reviewed every zoning map for the entire Tucson Mountain area and there was one SR-2 request approved five years ago which does not support the idea that approval of their request would cause an influx of rezoning requests. They intend to maintain a higher integrity than is currently displayed by some of their neighbors by not having horse corrals and old sheds sitting in the set aside area. If a financial gain was not acceptable, she reasoned no real estate agent should be able to sell land, zoned or not, for the intent.

Supervisor Bronson stated for the record she was previously a member of the Board of Adjustment and hardship could not be financial hardship. Hardship had to be something beyond financial hardship for variance approval.

Mrs. Barghout stated the Tucson Mountains Association mentioned the applicants should not rezone for financial gain. She commented everyone does things for financial gain so that should not be an issue.

Mr. Barghout presented pictures of the surrounding properties to the Board illustrating the presence of sheds all over including open space. The pictures also represented neighborhoods with dirt roads which their property would not have.

On consideration, it was moved by Chairman Grijalva, seconded by Supervisor Carroll, and unanimously carried by a five to zero vote, to close the public hearing and deny the rezoning request for Co9-00-66.

14. DEVELOPMENT SERVICES: REZONING

Co9-00-63, LA CHOLLA INVESTMENTS, L.L.C. - LA CHOLLA BOULEVARD NO. 2 REZONING

Request of La Cholla Investments, L.L.C., represented by Jim Portner of Projects International, Inc., for a rezoning of 3.86 acres from TR (Transitional) to CB-1 (Local Business), located on the southwest corner of Magee Road and La Cholla Boulevard. The proposed rezoning conforms to the Pima County Comprehensive Plan Co7-89-2. On motion, the Planning and Zoning Commission voted 5 - 3, (Commissioners Gungle, Staples and Storm voted NAY; Commissioners Matter and Willsey were absent) to recommend **APPROVAL WITH CONDITIONS.** Staff recommends **APPROVAL WITH CONDITIONS** and standard and special requirements. (District 1)

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

Completion of the following requirements within five years from the date of rezoning approval by the Board of Supervisors:

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 Department of Transportation, Real Property Division.
6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. Prior to the approval of the development plan, the owner shall be required, by covenant, to participate in an improvement district for improvements to La Cholla Boulevard as determined by the Department of Transportation. The financial contribution, to be consistent with properties in the district, shall be based on the assessed property value once the property is developed. An estimated property value will be determined for this property and used to calculate a financial contribution.
 - B. In the event that the improvement district is not formed, prior to approval of the development plan, the owner shall be required, by covenant, to provide a fair share financial contribution for improvements to La Cholla Boulevard and Magee Road.
 - C. Provision of all necessary interim access improvements on La Cholla Boulevard and/or Magee Road. These improvements shall need the approval of Pima County and meet appropriate standards prior to the issuance of any building permits for any portion of the subject property.
 - D. The property owner(s) shall dedicate to Pima County the easterly 25 feet along the La Cholla Boulevard frontage of the property and a 25 foot radius spandrel at the northeast corner of the property for the intersection of La Cholla Boulevard and Magee Road.
 - E. The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, parking areas, drives, physical barriers, drainageways and drainage easements.
 - F. Only one point of access will be allowed onto La Cholla Boulevard and onto Magee Road.
8. Flood Control conditions:
 - A. Drainage will not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts caused by the proposed development shall be constructed at no cost to the Flood Control District.
 - C. Provision of an appropriate financial contribution from the property owner towards drainage crossing improvements on La Cholla Boulevard and Magee Road. The amount of contribution shall be established by the Flood Control District and shall be paid prior to issuance of building permits.

- D. The property owner(s) shall dedicate right-of-way or easements for drainage purposes to Pima County Flood Control District, as determined necessary during the development plan review.
9. Wastewater Management condition:
The property owner must 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.
 10. Prior to ground modifications activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property, shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.
 11. Adherence to the preliminary development plan as approved at public hearing.
 12. The site shall be surveyed for the presence or absence of the cactus ferruginous pygmy owl by a qualified biological consultant who has a permit from the U.S. Fish and Wildlife Service.
 13. Building height is limited to 24 feet and one story.
 14. Depressed diamond shaped planters or raised landscape planters shall be placed every three parking stalls and shall contain one canopy tree. Raised planters shall be used to define a hierarchy of circulation and be placed at the ends of parking area access lanes."

Jim Mazzocco, Planning Official, reported this is a rezoning from TR to CB-1 on 3.86 acres for a commercial retail building. The Planning and Zoning Commission and Planning staff recommended approval. Seven letters of protest were received by staff and three speakers expressed their opposition at the Planning and Zoning Commission hearing.

Jim Portner, Projects International, Inc., described projects either built or planned to the south of the proposed project site. The developer has a site plan that would balance what they plan to do and what Pima County plans to do for roadway and drainage improvements in the area. Pima County plans to improve La Cholla Boulevard to Magee Road North and would ultimately go into design for another project to improve Magee Road while retaining the intersection or bring it up in a sweeping fashion to connect with North Magee Road. The developer met with the Department of Transportation who expressed concerns about the developer doing things that would preclude or take away options for future improvements. The developer has a site plan that would allow them to move forward to get a productive use out of the site but, at the same time, would not preclude or take away options for future improvements in the area.

Supervisor Bronson asked staff if they were comfortable with the proposed site plan?

John Bernal, Deputy County Administrator, responded yes from the audience.

Mr. Portner stated the proposed site plan shows a full six lane, divided improvement on both La Cholla Boulevard and Magee Road. Magee Road may not even remain at the intersection in the future because it may be bent to the north away from the property. If the County decides to keep this intersection location, it can be accommodated in the full six lane cross section for both La Cholla and Magee. Carmack Wash was a major flooding problem for quite some time, but the County is looking at a variety of alternatives to address that issue. If the County decides to keep water in the existing wash which goes through the western portion of the proposed project site, the developer would leave it alone. If the County decides instead to build a regional detention basin upstream, they would need to outlet that water southward along the southern portion of the project site into the WalMart channel. The developer shifted the building far enough forward and away from the wash to prevent the County from having to purchase it in the future. The project site is located in Zone 1 which is not in the pygmy owl critical habitat area, however, he said the developer has been engaged in the Federal process for well over one year. The developer already has conducted two years of owl surveys. Those surveys verified no sightings or finding of a pygmy owl anywhere within a large area surrounding the property. The developer has had a 404 Permit application on file since January which establishes a Federal nexus with the U.S. Fish and Wildlife Department. When the developer was at the Planning and Zoning Commission hearing, they were asked whether they were happy with the conditions as written. The developer forwarded a letter dated April 26, 2001, to the Board indicating the developer's desire to work with staff on several conditions they thought needed to be modified and refined. The letter requested the modification of five conditions including the rationale for those changes. Ben Goff, Manager of the Transportation Systems Division, and Leo Smith, Flood Control, signed off on the proposed changes that affected their departments. The proposed changes to the five conditions are as follows:

"CONDITION NO. 7.D (TRANSPORTATION)

The property owner(s) shall dedicate additional right-of-way along the La Cholla Boulevard frontage of the property should the final design for the intersection of La Cholla Boulevard and Magee Road require same. The final configuration of any necessary right-of-way dedication shall be based upon the particulars of the final roadway design and any such dedication shall not exceed 25" in width. In the event that additional right-of-way is so dedicated, the developer shall be allowed to place one-half of any required bufferyard along La Cholla Boulevard with Pima County right-of-way.

DELETION OF CONDITION NO. 8.C (FLOOD CONTROL)

Provision of an appropriate financial contribution from the property owner towards drainage crossing improvements on La Cholla Boulevard and Magee Road. The amount of contribution shall be established by the Flood Control District and shall be paid prior to the issuance of building permits.

CONDITION NO. 8.D (FLOOD CONTROL)

The property owner(s) shall dedicate right-of-way or easements for drainage purposes to Pima County Flood Control District, as determined necessary during the development plan review. Any such easements mandated by this rezoning condition shall only be those needed to address the drainage conditions at the time of development plan review. Any required drainage easements on the subject property attendant to proposed culvert improvements associated with the La Cholla Boulevard/Magee Road improvement project shall be subject to separate negotiations and public acquisitions at the time that the County's proposed roadway construction plans have been completed.

DELETION OF CONDITION NO. 12 (DEVELOPMENT SERVICES)

The site shall be surveyed for the presence or absence of the cactus ferruginous pygmy owl by a qualified biological consultant who has a permit from the U.S. Fish and Wildlife Service.

CONDITION NO. 13 (DEVELOPMENT SERVICES)

The building height and aesthetics shall adhere to all requirements and stipulations of Sec. 18.77 (Scenic Routes) of the Pima County Zoning Code. Building height shall be limited to 24', unless a qualified visual/viewshed analysis is submitted by the owner and is found by staff, during the development plan review process, to meet all prescribed viewshed criteria per Sec. 18.77.040.E as necessary to allow a greater building height. In no case shall the allowed building height exceed 39'."

Planning staff did not sign off on the proposed changes to Conditions No. 12 and No. 13. In discussions with Mr. Mazzocco and Mr. Behlau, he was asked to address the conditions in his presentation. The requested changes for Development Services conditions were included in the letter but no rationale was provided.

Supervisor Bronson asked Mr. Portner to discuss the rationale for the proposed changes.

Mr. Portner requested the deletion of Condition No. 12 involving the pygmy owl survey because information and documentation were provided showing the developer was currently involved in that Federal process. The developer has a 404 Permit application on file with plans to continue the survey process.

Mr. Portner stated Condition No. 13 would limit building height to 24 feet due to the Scenic Routes Ordinance. The developer requested the condition be modified to allow placement of the building farther south on the site which would take it wholly out of the Scenic Routes area. The developer requested to be held to all of the

constraints and additional restrictions that go with the Scenic Routes Ordinance including an approved development plan. They believe the existing Scenic Routes Ordinance was restrictive enough at this location.

The Chairman inquired whether anyone wished to address the Board regarding this request?

Diana Boros, citizen, asked whether the site plan was a definite plan or just a footprint? Would the rezoning restrictions apply to a new owner?

Mr. Mazzocco responded when staff states "adherence to a preliminary development plan," they are usually speaking about the type of proposed use and the developer would be held to that. For example, if the preliminary development plan stated a specific square footage for development, the developer would be held to that stated square footage. The developer could go with a smaller square footage but they could not exceed that footage. The developer can move the building location as long as the location was not an issue at the Board hearing but the developer would be held to the basic issues.

Ms. Boros stated the major concern for the area was the issue of transportation because the roadways are currently a nightmare. There was an accident in close proximity to the proposed project recently making it important for the neighbors to know exactly what was going to happen and whether mitigation plans were in place for the proposed development. Other than the concerns about transportation, she had no objections to a commercial development on the property. However, she urged the Board not to approve the project until they have a firm development plan.

Person Jeffries, citizen, expressed his opposition to this project. His concerns included the fact that the property in question was zoned TR which does not permit CB-1 development. If the Board approves this request, it could open the site to the development of any one of more than 100 types of businesses or enterprises. Those businesses could duplicate other nearby retail outlets, fast food facilities, restaurants and potentially unwanted businesses operating on a 24 hour basis. The building that has already occurred over the last one or two years has caused traffic problems to rise significantly. He noted it was a dangerous traffic situation with merging traffic from the Foothills Mall expansion onto La Cholla Boulevard. There is no clear cut right-of-way direction causing significant control problems for people entering or leaving Foothills Mall, driving down La Cholla and trying to enter or exit to Zaragoza Drive or Magee Road. Even though the roadway problems would be

addressed in the future, he currently must wait at least three to four minutes to enter Magee Road from his home between the hours of 6:30 a.m. and 9:30 a.m. and from 3:00 p.m. to 6:00 p.m. The waiting Monday through Friday occurred between the hours of 8:00 a.m. to 9:00 a.m. and from 4:15 to 5:00 p.m. It takes approximately ten minutes to go one or two miles from his home due to the traffic. The traffic and right-of-way situation was not going to improve with the proposed building plans for the Northwest Community Center in the area bounded by Magee, Shannon and Mona Lisa Roads because there were no plans to provide any traffic or light relief. The proposed project did not mention specific types of business restrictions other than building height. If the Board approves the request and the property was then sold, there would be no restrictions or conditions to bind the new owner to restrict the type of businesses, hours of operation or the concerns and consideration of neighborhood associations. The zoning request lacked information regarding who the prospective buyer(s) might be or any detail of the proposed commercial usage and that could impact the senior living facility on the adjoining property. In conclusion, Mr. Jeffries stated the plan does not benefit or relieve the current problems in the community, therefore, he recommended the Board deny the rezoning request.

Donna Heidinger, Secretary of the La Canada/Magee Neighborhood Association, also appeared on behalf Ms. Christine Hagen Curtis, the most adjacent residential property to the proposed project. Ms. Curtis and her neighbors were concerned about the proposed rezoning due to the uncertainty about how the property would be used. Another issue causing concerns was the center median strip when the roadway was completed with the Magee Alignment. It was her understanding there would not be a median strip completed with the La Cholla Phase I roadway improvement. Traffic problems abound in this area and there are drainage issues as well. Ms. Curtis has vacant property behind her parcel where a potential retention basin could be moved since that occurred in other places when final studies revealed that plan was not disclosed initially.

Supervisor Day asked why would the Board want to approve this request without Conditions No. 12 and No. 13? Was staff's recommendation based on those conditions being included?

Mr. Mazzocco explained Condition No. 12 related to the pygmy owl survey which came from an old policy the Board had before the County learned more about how to handle pygmy owl issues. The applicant has already conducted owl surveys and they are currently in the 404 Permit process which would

require them to continue conducting surveys per the U.S. Fish and Wildlife Service request. Since the developer has to meet the 404 Permit requirements, staff offered no objection to the removal of that condition. Condition No. 13 related to the Major Streets and Routes Ordinance for which the County has two options in CB-1. The Board can either approve a 24 foot building height limit or a 39 foot height limit with a viewshed analysis requirement. Condition No. 13 would restrict the building height to 24 feet, however, it was not known what impact the building height would have on the viewshed. If the developer elects to go with a higher building height, the Zoning Code would require them to justify that higher building height.

Supervisor Day asked what was staff's recommendations for these two conditions?

Mr. Mazzocco responded staff had no objection to the removal of Condition No. 12 due to 404 Permit requirements having to be met. Since the developer would still be required to meet the Zoning Code requirement by conducting a viewshed analysis if they go beyond the 24 foot height limit, staff had no objection.

Supervisor Day asked whether the developer could place drive through uses on this site?

Mr. Mazzocco responded drive through businesses were a possibility at this site, however, he pointed out the one type of business that would not be allowed was automotive use. The developer illustrated the site as an indoor retail site with parking with no proposed automotive or convenience store uses. The Board can opt to add the condition that a drive through use or automotive use would not be permitted as conditions of approval in CB-1.

Supervisor Day asked whether the site would be developed before the road widening occurred?

Mr. Mazzocco explained the planned improvements on La Cholla are scheduled to occur in December 2001, and the developer has five years to use the rezoning once it was approved. It usually takes at least three to four months to do a development plan and due to the time frame in which the developer can use the zoning, their construction could coincide with the road widening. He did not believe construction would begin prior to the road widening improvement.

Mr. Portner explained that due to the time involved with development plan preparation, the County review and building plan review, he did not envision construction

beginning until the road widening began. The completion of the road widening and construction of the project would most likely coincide to prevent unsafe traffic conditions.

Supervisor Day asked whether the developer agreed to the condition prohibiting a drive through use?

Mr. Portner responded the developer agreed with the condition prohibiting automotive use, but the owner was approached on numerous occasions by fast food restaurants. The owner turned them down because he had no interest in developing fast food establishments in this location. He said there were commercial uses consistent with drive through use including drug stores and banks so the owner did not want to be precluded from drive through uses. The owner agreed not to place fast food drive through or automotive uses at this location.

Chairman Grijalva asked whether he could furnish any details regarding proposed commercial uses at this site?

Mr. Portner explained the developer had queries from high end restaurants, drug stores and standard commercial uses. The developer had no plans to construct a business area, make their money and leave. The owner has the opportunity to be selective so they intend to select tenants they believe would be a different character of commercial development than their adjacent neighbor who is WalMart.

Mr. Portner stated drainage was one of the concerns expressed by the neighbors and the developer intends to comply with all County development standards to prevent drainage impact to surrounding neighbors.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson, to close the public hearing.

No vote was taken at this time.

It was thereupon moved by Supervisor Day, seconded by Supervisor Eckstrom, to approve Co9-00-63, subject to conditions and standard and special requirements including the deletion of Condition No. 12 and No. 13 and the addition of conditions to disallow automotive uses and drive through service.

No vote was taken at this time.

Mr. Mazzocco stated if the intent of the motion was to disallow drive through restaurants, it should simply be stated that way because banks and drug stores have drive through service which could be allowed.

Supervisor Day stated she would include that verbiage of no drive through restaurants in her motion.

Katharina Richter, Chief Civil Deputy County Attorney, stated the motion should state the basis for the differentiation between the two types of drive through uses. Drive through restaurants would generate more traffic than drive through banks or drug stores.

Supervisor Day concurred with Ms. Richter's analysis and added no drive through restaurant use would be permitted at this site to her motion for approval.

Supervisor Bronson asked whether there were other conditions changed by the developer?

Mr. Portner stated those changes were outlined in a letter dated April 26, 2001. He suggested the motion could include the verbiage, "subject to the conditions as amended in the April 26, 2001, memorandum including the deletion of Condition No. 12 and No. 13."

Supervisor Bronson stated she did not believe the motion to close the public hearing was acted upon by the Board which was a separate motion.

Supervisor Eckstrom asked to incorporate closing the public hearing into the motion for approval.

Supervisor Day concurred.

Upon the vote being taken, the motion carried unanimously by a five to zero vote.

15. RECESS

Without objection, the Chairman declared a closed captionist recess at 10:42 a.m.

16. RECONVENE

The Board of Supervisors meeting reconvened at 10:52 a.m. All members were present.

~~17. DEVELOPMENT SERVICES: REZONING~~

~~Co9-00-64, MYERS - CAMINO DE OESTE NO. 2 REZONING Request of H. Lee Myers, represented by James Rossi, for a rezoning of 0.91 acres from CR-1 (Single Residence) to CR-3 (Single Residence), located on the west side of Camino de Oeste, approximately 500 feet north of Cortaro Farms Road. The proposed rezoning conforms to the Pima County Comprehensive~~