



## **BOARD OF SUPERVISORS AGENDA ITEM REPORT**

Requested Board Meeting Date: August 17, 2020

**Title:** RESOLUTION: Co9-07-26 LAWYERS TITLE OF AZ TR 7992-T - MAGEE ROAD #2 REZONING (CLOSURE / TIME EXTENSIONS)

### **Introduction/Background:**

The Board of Supervisors approved the rezoning time extensions at the May 19, 2020 public hearing.

### **Discussion:**

Request of Magee Como Development Association, LLC to rezone approx. 1.95 acres from TR Transitional zoning to CB-2 General Business zoning located northwest of the intersection of N. La Cholla Boulevard and E. Magee Road. Rezoning required closure (DENIED) and APPROVAL of two (2) consecutive time extensions.

### **Conclusion:**

The Resolution reflects the Board of Supervisors' approval of the rezoning time extensions.

### **Recommendation:**

APPROVAL

### **Fiscal Impact:**

N/A

### **Board of Supervisor District:**

☒ 1      ☐ 2      ☐ 3      ☐ 4      ☐ 5      ☐ All

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

Contact: Mark Holden, AICP, Principal Planner Telephone: 520-724-6619

Department Director Signature/Date:  7/22/2020

Deputy County Administrator Signature/Date:  7/23/2020

County Administrator Signature/Date:  7/23/20

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Subject: Co9-07-26

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**AUGUST 17, 2020 MEETING OF THE BOARD OF SUPERVISORS**

**TO:** HONORABLE BOARD OF SUPERVISORS

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

*Tom Drzazgowski*

**DATE:** July 17, 2020

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**RESOLUTION FOR ADOPTION**

**Co9-07-26** **LAWYERS TITLE OF AZ TR 7992-T – MAGEE ROAD #2 REZONING**

Owners: Suki Investment Group, LLC  
(District 1)

**If approved, adopt RESOLUTION NO. 2020 - \_\_\_\_**

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**OWNERS:** Suki Investment Group, LLC  
5600 E. Paseo de Manzanillo  
Tucson, AZ 85750-1027

**AGENT:** Magee Como Development Association, LLC  
Attn: Craig Courtney  
5151 N. Oracle Road, Suite 210  
Tucson, AZ 85701

**DISTRICT:** 1

**STAFF CONTACT:** Mark Holden, AICP, Principal Planner

**STAFF RECOMMENDATION:** APPROVAL

CP/MH/ds  
Attachments

cc: Tom Drzazgowski, Chief Zoning Inspector  
Co9-07-26 File

RESOLUTION 2020-\_\_\_\_\_

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

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

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

NOW, THEREFORE, IT IS RESOLVED:

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

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

- ~~property shall be submitted to the Development Service Department, Document Services.~~
61. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
72. Transportation conditions:
- A. ~~Prior to approval of a development plan or revised subdivision plat, the owner(s)/developer(s) shall be required, by covenant, to participate in an improvement district for improvements for Magee Road and La Cholla Boulevard, or if no improvement district is formed, then appropriate impact fees shall apply. Adherence to a development agreement for assessment and payment of all non-residential impact fees.~~
  - B. ~~If Pima County's improvements to Magee Road and/or La Cholla Boulevard have not been initiated prior to the property owner(s)/developer(s) starting construction on the first building within the rezoned property, then the property owner(s)/developer(s) shall provide offsite improvements to Magee Road or La Cholla Boulevard as determined necessary by the Pima County Department of Transportation. Traffic Impact Study will be required if there is a substantial change that results in an increase in the buildable square footage over the current approved Preliminary Development Plan or there is not a sufficient reduction in the approved buildable area to accommodate a more intense parking use so as not to exceed the allowable building area under the current rezoning, based on a combined Development Plan for the subject property and the remnant parcel. Any Traffic Impact Study, whether it contains any portion of the Magee Center properties, including one from the adjacent development utilizing the Magee Center access point on Magee Road, that determines off-site improvements are necessary, will not be the responsibility of the Owner(s)/Developer(s) of any Magee Center properties.~~
  - C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.
83. Flood Control conditions:
- A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. ~~This development shall meet Critical Basin detention and retention requirements. The site is required to provide first flush retention of the first 0.5 inch of rainfall. In addition, the site is required to provide on-site detention to reduce the developed 10-year peak discharge to the undeveloped 10-year peak discharge at each outlet. However, should the adjacent Lot 6 be rezoned, the development of these two properties will be required to mitigate the 100-year peak discharge.~~
  - C. ~~The property owner(s)/developer(s) shall provide necessary on-site and off-site drainage improvements at no cost to Pima County and as required by the Pima County Regional Flood Control District including but not limited to overflow facilities for the proposed water harvesting cisterns. At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.~~
94. Wastewater Reclamation conditions:
- A. ~~The owner(s)/developer(s) shall provide all weather, unrestricted vehicular access to all new, existing and/or relocated public sewer manholes within the~~

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

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

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

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

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

427. The property owner(s) shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

438. ~~The developer(s) shall submit an Invasive Plant Eradication Plan as part of the Landscape Plan for the Development Plan, for the annual inspection and removal of invasive non-native plant species on the site, including but not limited to those listed below.~~

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

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

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

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

449. The owner(s)/developer(s) shall adhere to the site plan as approved at public hearing (EXHIBIT B). The property shall be allowed CB-2 zoning uses for restaurants with associated bars. All other uses shall be restricted to CB-1 zoning uses. Automotive-related uses, drive-thru through restaurants and stand-alone bars without restaurant facilities are prohibited.

4510. The maximum height of the west building shall be limited to 24 feet above the average grade within the site. The maximum height of the east building shall be limited to 34 feet above the average grade within the site including architectural features. This project will be subject to noise, odor and light trespass plans in accordance with Sections 18.39.030C.4, 5, 6 and 7.

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

1. Conditions 1 through 4510 shall be completed no later than October 7, 20132023.
2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.
3. No building permits shall be issued based on the rezoning approved by this Ordinance until all conditions 1 through 4510 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 2 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Passed and adopted, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Chairman, Pima County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy County Attorney  
Lesley M. Lukach

APPROVED:

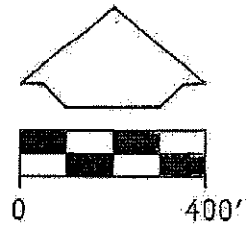


Executive Secretary  
Planning and Zoning Commission

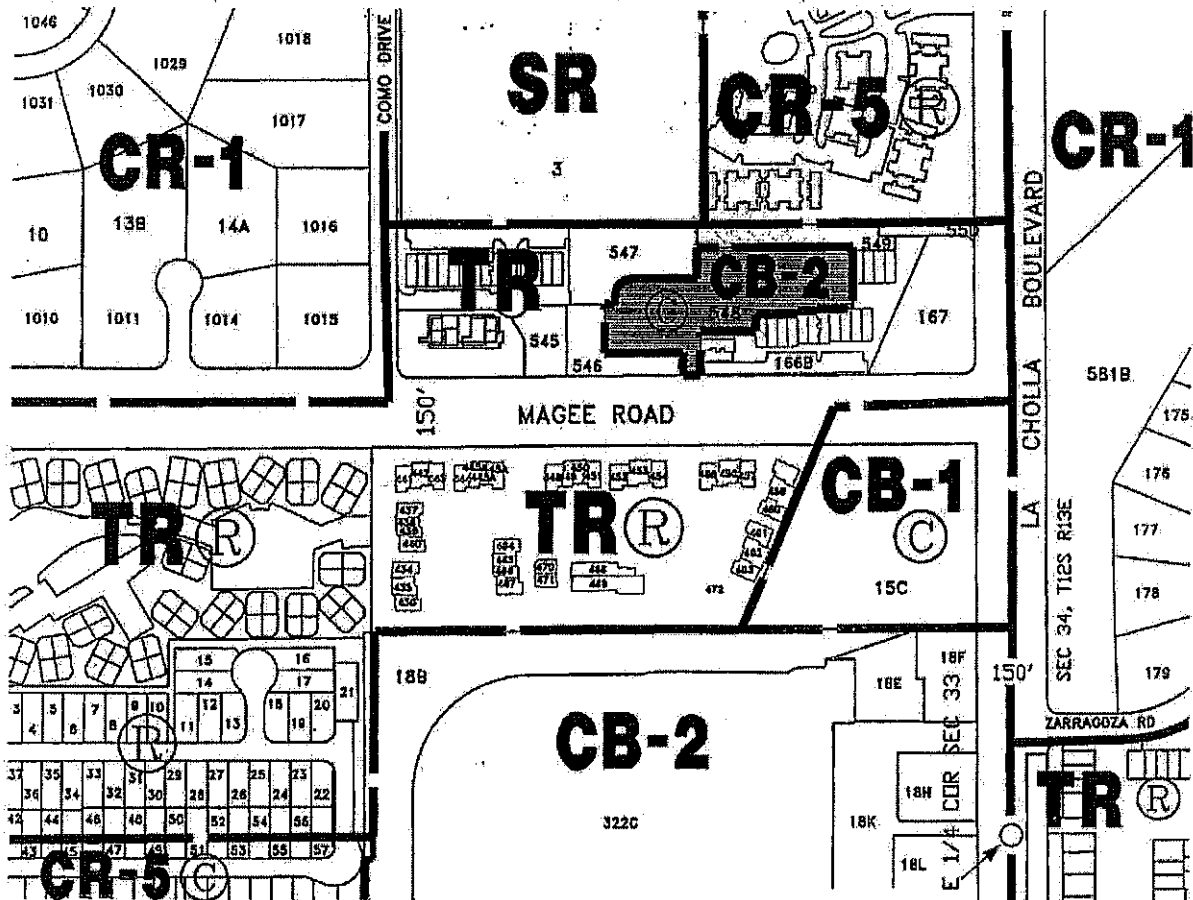


# EXHIBIT A

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



ADOPTED JANUARY 13, 2009 EFFECTIVE JANUARY 13, 2009



EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE  
FROM TR 1.95 ac±  
PJ-DECEMBER 4, 2008

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

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PIMA COUNTY PLANNING AND ZONING COMMISSION

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