



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: January 2, 2018

Title: P17RZ00008 Landmark Title TR 7792-T – S. Nogales Highway Rezoning

Introduction/Background:

The applicant requests a rezoning of 1.64 acres from the GR-1 (Rural Residential) to the CB-1 (Local Business) zone for a Dollar General Store.

Discussion:

Current GR-1 zoning allows for one single-family residence to be developed. The Comprehensive Plan designation of Neighborhood Activity Center plans for low-intensity uses designed to provide services and goods to nearby residential neighborhoods.

Conclusion:

The requested rezoning conforms to the Comprehensive Plan and would allow an additional retail opportunity in an underserved area.

Recommendation:

Staff recommends approval of the rezoning subject to standard and special conditions. The Planning and Zoning Commission also recommends approval subject to standard and special conditions.

Fiscal Impact:

0

Board of Supervisor District:

- 1 2 3 4 5 All

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

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

Department Director Signature/Date:  12/4/17

Deputy County Administrator Signature/Date:  12/4/17

County Administrator Signature/Date:  12/5/17



PIMA COUNTY
DEVELOPMENT SERVICES

TO: Honorable Sharon Bronson, Supervisor, District 3
FROM: Chris Poirier, Planning Official *Tom Drzazgowski*
Public Works-Development Services Department-Planning Division
DATE: December 1, 2017
SUBJECT: P17RZ00008 LANDMARK TITLE TR 7792-T – S. NOGALES HIGHWAY REZONING

The above referenced Rezoning is within your district and is scheduled for the Board of Supervisors' **TUESDAY, JANUARY 2, 2018** hearing.

REQUEST: For a rezoning of approximately 1.64 acres from GR-1 (Rural Residential) to the CB-1 (Local Business) zone, parcel code 304-32-4640 located on the west side of the T-Intersection of W. Arivaca Road and S. Nogales Highway.

OWNERS: Landmark Title TR 7792-T
Attn: Pierce Construction
PO Box 8128
Tumacacori, AZ 85640-8128

AGENT: JAS Engineering
Attn: Jeffery A. Stanley, P.E.
PO Box 1888
Tucson, AZ 85702

DISTRICT: 3

STAFF CONTACT: Terrill Tillman

PUBLIC COMMENT TO DATE: As of December 1, 2017, staff has received one written comment in opposition to the rezoning citing concerns with the economic impact on two businesses in a small community and the possibility of a future defunct business and vacated building. One member of the public spoke in opposition to the request at the Planning and Zoning Commission public hearing.

PLANNING & ZONING COMMISSION RECOMMENDATION: APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS (6 – 1; Commissioner Gungle voted NAY, Commissioner Membrila voted in ABSTENTION, Commissioners Becker and Cook were absent).

STAFF RECOMMENDATION: APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS.

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

TD/TT/ar
Attachments



BOARD OF SUPERVISORS MEMORANDUM

Subject: P17RZ00008

Page 1 of 4

FOR JANUARY 2, 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: December 1, 2017

ADVERTISED ITEM FOR PUBLIC HEARING

REZONING

P17RZ00008 LANDMARK TITLE TR 7792-T – S. NOGALES HIGHWAY REZONING

Request of Landmark Title TR 7792-T, represented by JAS Engineering, for a rezoning of approximately 1.64 acres from GR-1 (Rural Residential) to the CB-1 (Local Business) zone, parcel code 304-32-4640 located on the west side of the T-Intersection of W. Arivaca Road and S. Nogales Highway. The proposed rezoning conforms to the Pima County Comprehensive Plan Neighborhood Activity Center designation. On motion, the Planning and Zoning Commission voted 6-1 to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS** (Commissioner Gungle voted **NAY**, Commissioner Membrilla voted in **ABSTENTION**, Commissioners Becker and Cook were absent). Staff recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**.
(District 3)

Planning and Zoning Commission Public Hearing Summary (November 29, 2017)

Staff presented information from the staff report to the commission with a recommendation of approval with conditions with a modification to rezoning condition #5.

The applicant's representative presented additional information for the proposed development.

A commissioner asked about the location and width of the proposed driveway and the coordination with Arizona Department of Transportation (ADOT). The applicant stated that ADOT is satisfied with the location of the driveway with a 36-foot width aligning with Arivaca Road to the east. The width of the driveway will accommodate delivery trucks.

Speaker #1 stated opposition to the rezoning citing concerns with the economic impact to existing business in a small community and the possibility of a future defunct business and vacated building. The speaker discussed the several defunct and struggling businesses in the community and questions the viability of a dollar store. The speaker further discussed that the area is an agricultural community and is not ready for this type of development. The speaker does not believe that a one-thousand foot notification is adequate in the rural area of the county and that much of the notification area is located in Santa Cruz County and requested more time.

The applicant addressed the speaker's concerns by discussing that the Dollar General Store completed a market analysis and finds a dollar store in this area would be viable and that most of the area residents that attended the neighborhood meeting support the request.

The public hearing was closed.

The commissioners agreed that this is a difficult decision and discussed whether the commission has purview to determine the marketability or economic impact to a community when the proposal is in conformance with the comprehensive land use plan and meets the requirements for a rezoning.

Commissioner Bain made a motion to **APPROVE** the rezoning subject to standard and special conditions with the modification to condition #5 as presented.

Commissioner Membrila gave second to the motion.

The commissioners and staff discussed the addition of a condition to mitigate the impact of the Dollar General store to the adjacent properties by requiring mature vegetation along the Nogales Highway frontage.

Commissioner Mangold offered a friendly amendment to the motion to add condition #10 requiring 4-foot high native trees in the bufferyard adjacent to Nogales Highway. Commissioner Bain accepted the amendment.

The commission voted to **APPROVE** the rezoning (6 – 1, Commissioner Gungle voted **NAY**, Commissioner Membrila voted in **ABSTENTION**, Commissioners Becker and Cook were absent) with the following conditions:

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

1. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
2. Transportation conditions:
 - A. Written certification from Arizona Department of Transportation, stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to approval of a Site Development Permit or Subdivision Plat.
 - B. The property shall be limited to one access point as shown on the preliminary development plan.

3. Regional Flood Control District conditions:
 - A. A drainage report shall be submitted at the time of development establishing a Base Flood Elevation (BFE).
 - B. 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 point and includes a combination of indoor and outdoor measures.
4. Regional Wastewater Reclamation conditions:
 - A. The owner 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 to that effect.
 - B. The owner 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 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 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 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 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 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.
5. Environmental Planning condition: Upon the effective date of the rezoning ordinance associated with this rezoning, 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 current 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.~~

6. Cultural Resources condition: In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
7. Adherence to the preliminary development plan as approved at public hearing.
8. 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.
9. The property owner shall execute the following disclaimer regarding Proposition 207 rights: "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."
10. The bufferyard along the Nogales Highway frontage shall install native trees 4-feet or greater in height.

TD/TT/ar
Attachments

cc: Landmark Title TR 7792-T, Attn: Pierce Construction, PO Box 8128
Tumacacori, AZ 85640-8128
JAS Engineering, Attn: Jeffery A. Stanley, P.E., PO Box 1888, Tucson, AZ 85702
Tom Drzazgowski, Chief Zoning Inspector
P17RZ00008 File

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

HEARING November 29, 2017

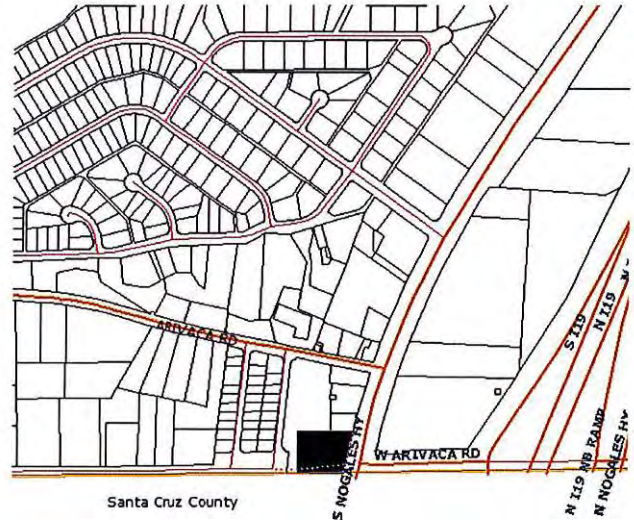
DISTRICT 3

CASE P17RZ00008 Landmark Title TR
7792-T – S. Nogales Highway
Rezoning

REQUEST GR-1 (Rural Residential Zone)
to CB-1 (Local Business Zone)
1.64 acres

OWNER Landmark Title TR 7792-T
Attn: Pierce Construction
PO Box 8128
Tumacacori, AZ 85640-8128

AGENT JAS Engineering
Attn: Jeffery A. Stanley, P.E.
PO Box 1888
Tucson, AZ 85702



APPLICANT'S PROPOSED USE

The applicant proposes a single-story, 9,100 square foot Dollar General retail store.

APPLICANT'S STATED REASON

"The addition of a retail store is expected to benefit the nearby residential areas."

STAFF REPORT SUMMARY

Staff recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**. The request is consistent with the Comprehensive Plan designation and the use should benefit an underserved area by providing an additional local retail opportunity.

PUBLIC COMMENT

Staff has not received any comments as of November 15, 2017.

COMPREHENSIVE PLAN

The comprehensive plan land use designates the property as Neighborhood Activity Center (NAC). NAC designates areas for lower intensity mixed-uses designed to provide goods and services within or near residential neighborhoods for day-to-day or weekly living needs such as a grocery market, drugstore, laundry and bank. NAC centers should contain direct pedestrian and bicycle access to the surrounding neighborhoods.

Individual rezoning requests do not have to be a mixed-use project, but should enhance the mixed-use character of the designated activity center. This project is an extension of the existing commercial uses to the north which contain auto service and repair, restaurant, pottery sales and convenience store. The rural character of the existing commercial development will be enhanced by the proposed split rail fencing around the subject property.

The proposed retail use is a compatible and suitable use to support the surrounding neighborhoods. There are no Special Area or Rezoning Policies pertaining to the property.

SURROUNDING LAND USES/GENERAL CHARACTER

North	GR-1/CB-2	Developed Residential/Developed Auto Repair/Restaurant
South	Santa Cruz County	Developed Solar Farm
East	RH	Undeveloped Residential
West	TH	Developed Residential

The immediate surrounding properties to the north are commercially developed with auto repair, the Cow Palace restaurant, the volunteer Elephant Head Fire Department, a gas/ convenience store and a low-density residential use. To the east is low-density undeveloped residential property and the defunct Amado Steakhouse, both bounded by Interstate 19 (I-19). South of the subject property is a large scale solar farm and low-density residential. Located to the west are higher-density, platted, developed residential properties and further west are low-density developed residential properties. A platted, developed, high-density subdivision lies north of Arivaca Road which is adjacent to the Sopori Elementary School.

PREVIOUS REZONING CASES ON PROPERTY

Rezoning case Co9-85-10 was approved for the subject property by the Board of Supervisors January 7, 1986 for CB-2© (General Business-Conditional) zone. Three time-extensions to the approved rezoning were granted and the fourth time-extension was denied by the Board of Supervisors on December 2, 1997. The denial caused reversion of the CB-2© zoning to the original GR-1 zone.

PREVIOUS REZONING CASES IN GENERAL AREA

Most of the area in the nearby vicinity has been rezoned over time from the 1960's through the year 2000 from the low density rural classifications of RH (Rural Homestead) and GR-1 (General Residential) to the higher density zoning designations of CR-3 (Single Residence), TH (Trailer Homesite), and CMH-1 (County Manufactured and Mobile Home-1) zones. The TH and CR-3 rezonings resulted in subdivision plats that are currently developed.

Some of the rezonings along the Nogales Highway and Interstate 19 frontages resulted in CB-1 and CB-2 zones for commercial uses. The most recent rezoning in 2006 resulted in CB-2 commercial zoning located east of the subject property and east of Interstate 19.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM (MMBCLS)

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

PLANNING REPORT

Staff supports the request because the proposed development is compatible with the surrounding existing residential and commercial uses and provides an underserved rural area with necessary

day-to-day supplies and goods. Dollar General stores provide canned and packaged foods of all types, milk, eggs, cold cuts, and over-the-counter medications, school supplies, gardening materials, and various other necessary goods that support area residents.

The nearby properties on the east side of Nogales Highway are bounded by Interstate 19. These properties and the subject property are not residentially compatible because of the limitation of available land necessary to create a residential subdivision and the noise generated by the highway. The area along Nogales Highway has been planned for more intensive development given the Neighborhood Activity Center (NAC) designation by the Comprehensive Plan.

The proposal demonstrates one access point off of Nogales Highway (I-19 frontage road) aligning with Arivaca Road to the west. The I-19 frontage road access will require approval and coordination with the Arizona Department of Transportation. A 20-foot building height is proposed even though the CB-1 zone allows a building height of 39 feet. Thirty parking spaces will be provided which is consistent with the parking requirements for a "general retail use". The development will connect to the sewer and water will be provided by Lakewood Water Company. A 20-foot bufferyard "D" is proposed along the west property line and along the north property line that abuts the residential use. No bufferyard is required along remaining northern boundary adjacent to the commercial use of the property. A 20-foot bufferyard "D" will be installed along the frontage of Nogales Highway. No buffering is proposed nor required along the south property boundary.

With the proper buffering, the use should not significantly affect the neighboring residential properties to the west. Most of the site is intended to be graded with revegetated bufferyards; no viewsheds will be significantly impacted by the proposal. The property is located within 10 miles of the Whipple Observatory (comments attached). The lighting will be limited by the most restrictive building code for dark skies compliance which will be applicable at the time of permitting. The property is not within the Maeveen Marie Behan Conservation Lands System (MMBCLS) and there are no Pima pineapple cactus, saguaros, or ironwood trees on site.

Concurrency of Infrastructure:

Concurrency of infrastructure exists to serve the proposed development:

CONCURRENCY CONSIDERATIONS		
<i>Department/Agency</i>	<i>Concurrency Met: Yes/No/NA</i>	<i>Other Comments</i>
TRANSPORTATION	Yes	No objection, subject to conditions
FLOOD CONTROL	Yes	No objection, subject to conditions
WASTEWATER	Yes	No objection, subject to conditions
PARKS AND RECREATION	Yes	No objection

CONCURRENCY CONSIDERATIONS		
WATER	Yes	Lakewood Water "will serve" letter in site analysis.

TRANSPORTATION REPORT

The Pima County Department of Transportation has no objection to the request subject to the addition of rezoning conditions #2A-B. Concurrency considerations have been met, as roadways in the vicinity of this project are functioning below capacity. The proposed Dollar General is located on the I-19 frontage road. This road is under jurisdiction of the Arizona Department of Transportation (ADOT). ADOT approval will be needed for this use. The posted speed on the frontage road is 35 miles per hour. The dollar store will generate approximately 520 average daily trips (ADT). Access to the rezoning site is located along the southern portion of the site. The driveway aligns with Arivaca Road. Aligning the driveway with the adjacent road is a preferred location and is the safest option for this site.

The I-19 frontage road is a two-lane paved road with 150 feet of existing right-of-way. The existing traffic volume on the frontage road is 2,739 ADT. The capacity is 13,122 ADT. The nearest county maintained road is Arivaca Road which is located approximately 300 feet north of the rezoning site. The existing traffic volume on Arivaca Road is 1,562 ADT. The capacity is 13,122 ADT. No roadway improvements are scheduled at this time.

FLOOD CONTROL REPORT

Flood Control District has the following comments:

1. Base flood elevation (BFE) determination and encroachment analysis will be required at the time of development to establish minimum floor elevation and to prove that no adverse offsite impacts will occur, as well as whether or not a FEMA Letter of Map Revision may be required.
2. The Preliminary Integrated Water Management Plan identifies appropriate conservation measures. The applicant did not opt to submit demand estimates and the provider is not identified. Per staff analysis, the demand under existing zoning is 3.73 acre feet per year. With the information available the proposed use will demand about 3.1 acre feet per year, a decline. This will largely depend upon the landscaping and may be different. The recommended condition below will ensure the mitigation measures proposed by the applicant on Table B are implemented with the development.
3. As required, staff has conducted the Water Resources Impact Analysis (WRIA) as follows:
 - a. The site is not within the service area of a designated provider of renewable and potable water.
 - b. The site is not within the Tucson Active Management Area modeled by the Safe Yield Task Force.
 - c. The site is not located within a covered subsidence zone.
 - d. The site is within the Sopori Wash shallow Groundwater Area.
 - e. The site is not within an Isolated Basin, and the depth to bedrock ranges from 3200 to 4800 feet.

Staff finds that the project is *not expected to have adverse impacts on groundwater dependent ecosystems.*

The District has no objection subject to the addition of rezoning condition #3A-B.

WASTEWATER RECLAMATION REPORT

The rezoning area is within the Pima County Regional Wastewater Reclamation Department (PCRWRD) service area and is tributary to the Arivaca Junction Water Reclamation Facility. Capacity is currently available in the existing 12-inch public sewer line C-083.

PCRWRD has no objection to the proposed rezoning and recommends the addition of rezoning conditions #4A-F.

ENVIRONMENTAL PLANNING REPORT

Environmental Planning has no objection to the request subject to the addition of condition #5.

CULTURAL RESOURCES REPORT

Pima County's Cultural Resources has no objection to the rezoning request and recommend rezoning condition #6.

NATURAL RESOURCES, PARKS AND RECREATION REPORT

Pima County's Natural Resources, Parks and Recreation have no comment or objection to the rezoning request.

UNITED STATES FISH AND WILDLIFE SERVICE REPORT

United States Fish and Wildlife Service have no concerns related to the rezoning request.

ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT)

ADOT has no objection to the rezoning request.

WATER DISTRICT REPORT

Lakewood Water Company will supply water to the subject property. A will-serve letter is contained within the site analysis.

FIRE DISTRICT REPORT

Elephant Head Volunteer Fire Department has no comment on the rezoning request.

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

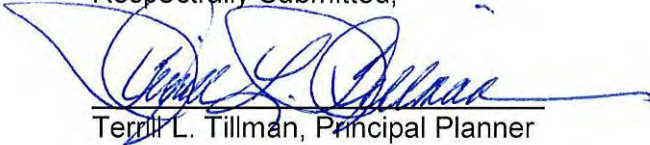
Completion of the following requirements within **five** years from the date the rezoning request is approved by the Board of Supervisors:

1. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
2. Transportation conditions:
 - A. Written certification from Arizona Department of Transportation, stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to approval of a Site Development Permit or Subdivision Plat.

- B. The property shall be limited to one access point as shown on the preliminary development plan.
- 3. Regional Flood Control District conditions:
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 - B. The owner 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 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 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 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 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 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.
- 5. Environmental Planning condition: Upon the effective date of the rezoning ordinance associated with this rezoning, 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 current 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.
6. Cultural Resources condition: In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
 7. Adherence to the preliminary development plan as approved at public hearing.
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 9. 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(l)."

Respectfully Submitted,



Terrill L. Tillman, Principal Planner

c: JAS Engineering, Attn: Jeffery A. Stanley, P.E., PO Box 1888, Tucson, AZ 85702



Smithsonian Astrophysical Observatory
Fred Lawrence Whipple Observatory

November 13, 2017

Ms. Terrill L. Tillman, Principal Planner
terri.tillman@pima.gov
Pima County Development Services
201 N. Stone Ave.
Tucson, AZ 85701

Pascal Fortin
670 Mount Hopkins Road
Amado, AZ 85645
(520) 879-4419
pafortin@cfa.harvard.edu

Dear Ms. Tillman:

Thank you for the opportunity to comment on rezoning case P17RZ00008 in Amado, Arizona. As always, we appreciate the support of Pima County as shown by its enforcement of the Tucson/Pima Outdoor Lighting Code (OLC).

The OLC designates the area within a 12.5-mile radius centered on the summit of Mt. Hopkins as protected lighting area E1a*. Parcel 304-32-4640, addressed as 28890 S. Nogales Highway, is located within E1a at a distance of 10.75 miles from Mt. Hopkins.

In part to protect the dark skies for Southern Arizona's astronomy industry, the OLC places limits on the amount of lumens per acre, the type of lighting, and types of luminaires that can be used (full cut-off or unshielded) for both residential and commercial developments. The OLC also places limits on the types of lighting and on the hours of operation for all outdoor illuminated signs.

While the rezoning request from residential to commercial use is for a small area, commercial property generates more nighttime light on average than residential uses. The subject parcel is in the Observatory's most sensitive E1a area. With that in mind, we respectfully request that the OLC and any applicable portions of the Sign Code be closely followed. (The unshielded light from electronic signs is adding more and more to the light background.) While we do not oppose the rezoning or proposed use, we would not support any subsequent requests for Code variances for that property that would not maintain the E1a night sky protections.

We invite you and any member of the development staff to visit the Observatory at your convenience for a better understanding of our operations. Please contact us to make arrangements.

We stand ready to answer any questions you may have.

Best Regards,

Dr. Pascal Fortin
Site Director
Fred Lawrence Whipple Observatory



Smithsonian Astrophysical Observatory

Fred Lawrence Whipple Observatory

***301.1.4 Lighting Area E1a.** Lighting areas E1a are special areas around astronomical observatories and include all areas within 15 miles of the summit of Kitt Peak and 12.5 miles of the summit of Mount Hopkins, and those areas within any national park, monument, or forest boundary. The area in the northeast corner of Pima County bounded to the north by Pinal County, to the west by the Santa Catalina District of Coronado National Forest, to the south by Saguaro National Park East and to the east by Cochise County is also included in Lighting Area E1a. In these areas, the preservation of a naturally-dark environment, both in the sky and in the visible landscape, is considered of paramount concern.

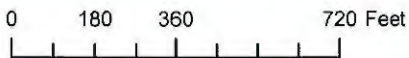
The F. L. Whipple Observatory (FLWO) is located on Mt. Hopkins, about 40 miles south of Tucson. It is a world-renowned astronomical facility managed by the Smithsonian Astrophysical Observatory (Cambridge, MA).

The telescopes at FLWO include the MMT on the 8600 ft. summit of Mt. Hopkins, as well as three smaller telescopes and three telescope arrays located at the 7600 ft. level of the mountain. In addition, the VERITAS array with four 12-meter-diameter gamma-ray telescopes is located at 4300 ft., near the FLWO visitor center and administrative offices.

Case #: P17RZ00008

Case Name: LANDMARK TITLE TR 7792-T - S. NOGALES HIGHWAY REZONING

Tax Code(s): 304324640



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**



Notes:





PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

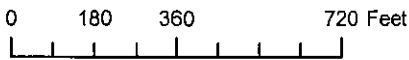
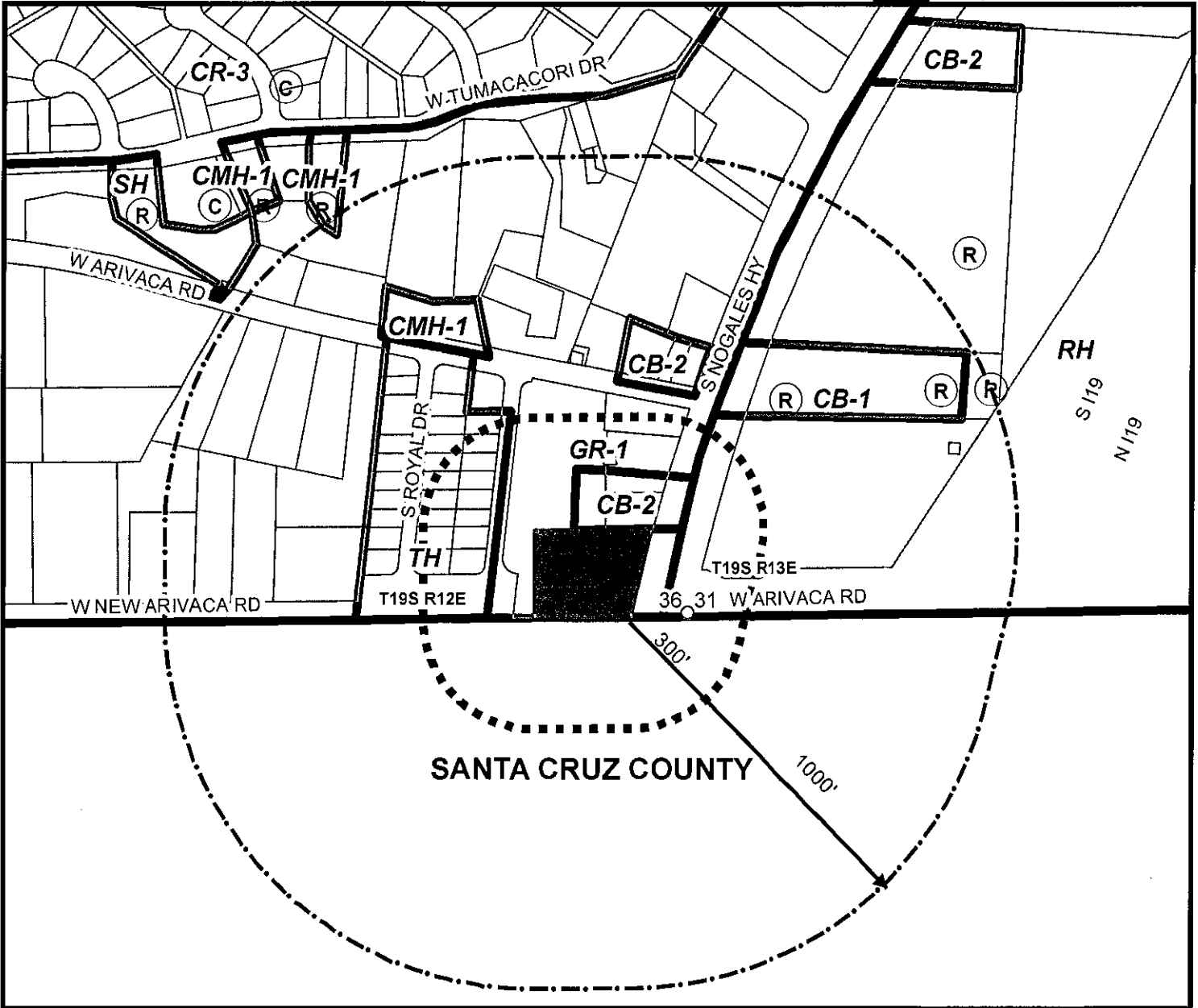
Map Scale: 1:5,000

Map Date: 11/08/2017 - ds



Case #: P17RZ00008
 Case Name: LANDMARK TITLE TR 7792-T - S. NOGALES HIGHWAY REZONING
 Tax Code(s): 304324640

-  1000' Notification Area
-  300' Notification Area
-  Subject Property
-  Zoning Boundary



Area of proposed rezoning from GR-1 to CB-1 

**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**



Notes: Ref: Co9-85-10

PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Planning & Zoning Hearing: 11/29/17 (scheduled)

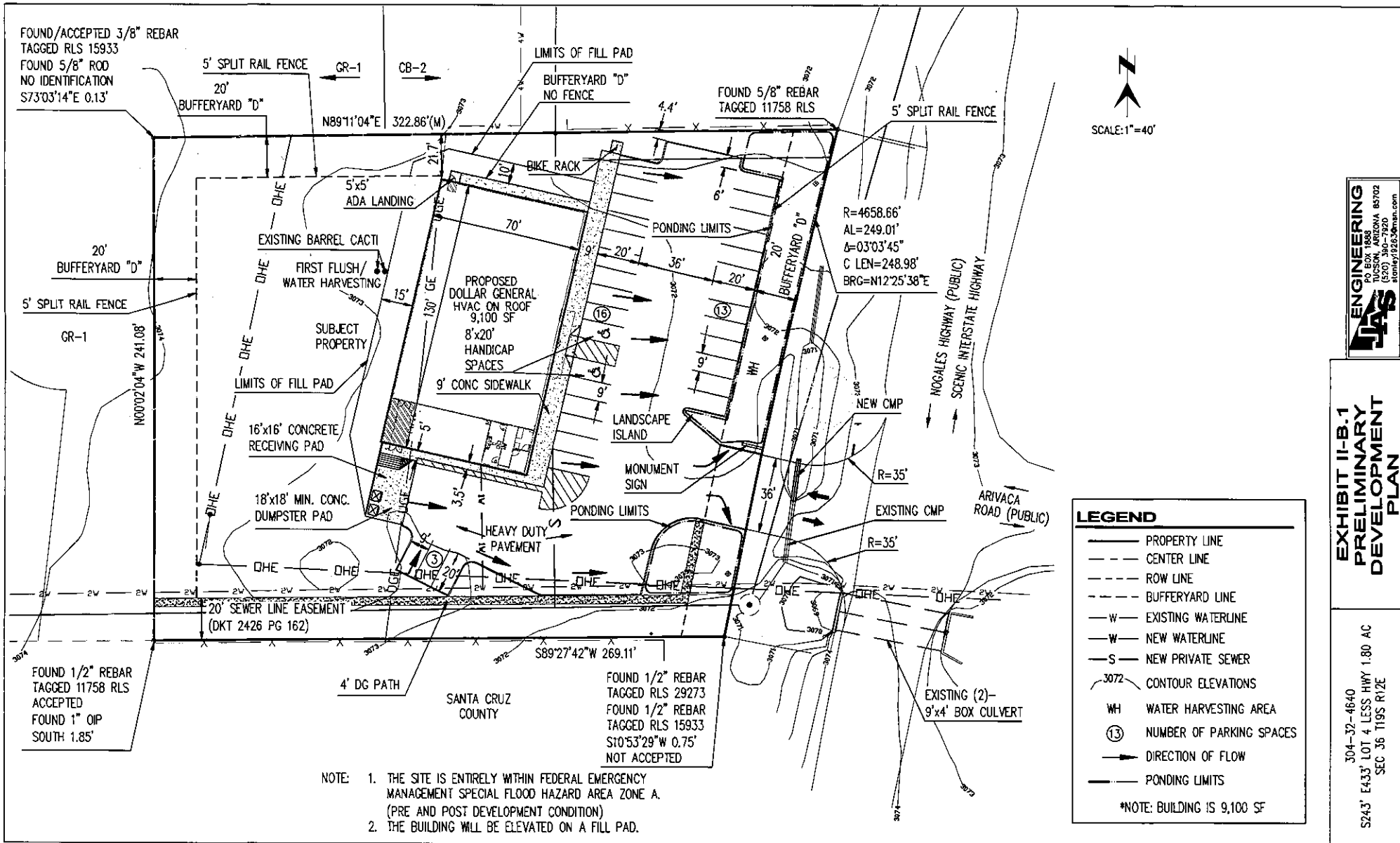
Board of Supervisors Hearing: TBA

Base Map(s): 1583

Map Scale: 1:5,000

Map Date: 11/07/2017 - ds





SCALE: 1"=40'

LEGEND	
	PROPERTY LINE
	CENTER LINE
	ROW LINE
	BUFFERYARD LINE
	EXISTING WATERLINE
	NEW WATERLINE
	NEW PRIVATE SEWER
	CONTOUR ELEVATIONS
	WATER HARVESTING AREA
	NUMBER OF PARKING SPACES
	DIRECTION OF FLOW
	PONDING LIMITS
*NOTE: BUILDING IS 9,100 SF	

NOTE: 1. THE SITE IS ENTIRELY WITHIN FEDERAL EMERGENCY MANAGEMENT SPECIAL FLOOD HAZARD AREA ZONE A. (PRE AND POST DEVELOPMENT CONDITION)
 2. THE BUILDING WILL BE ELEVATED ON A FILL PAD.



**EXHIBIT II-B.1
 PRELIMINARY
 DEVELOPMENT
 PLAN**

304-32-4640
 S243' E433' LOT 4 LESS HWY 1.80 AC
 SEC 36 T19S R12E



Neighborhood Activity Center (NAC)

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

Residential Gross Density: Residential gross density, if applicable, shall conform to the following:

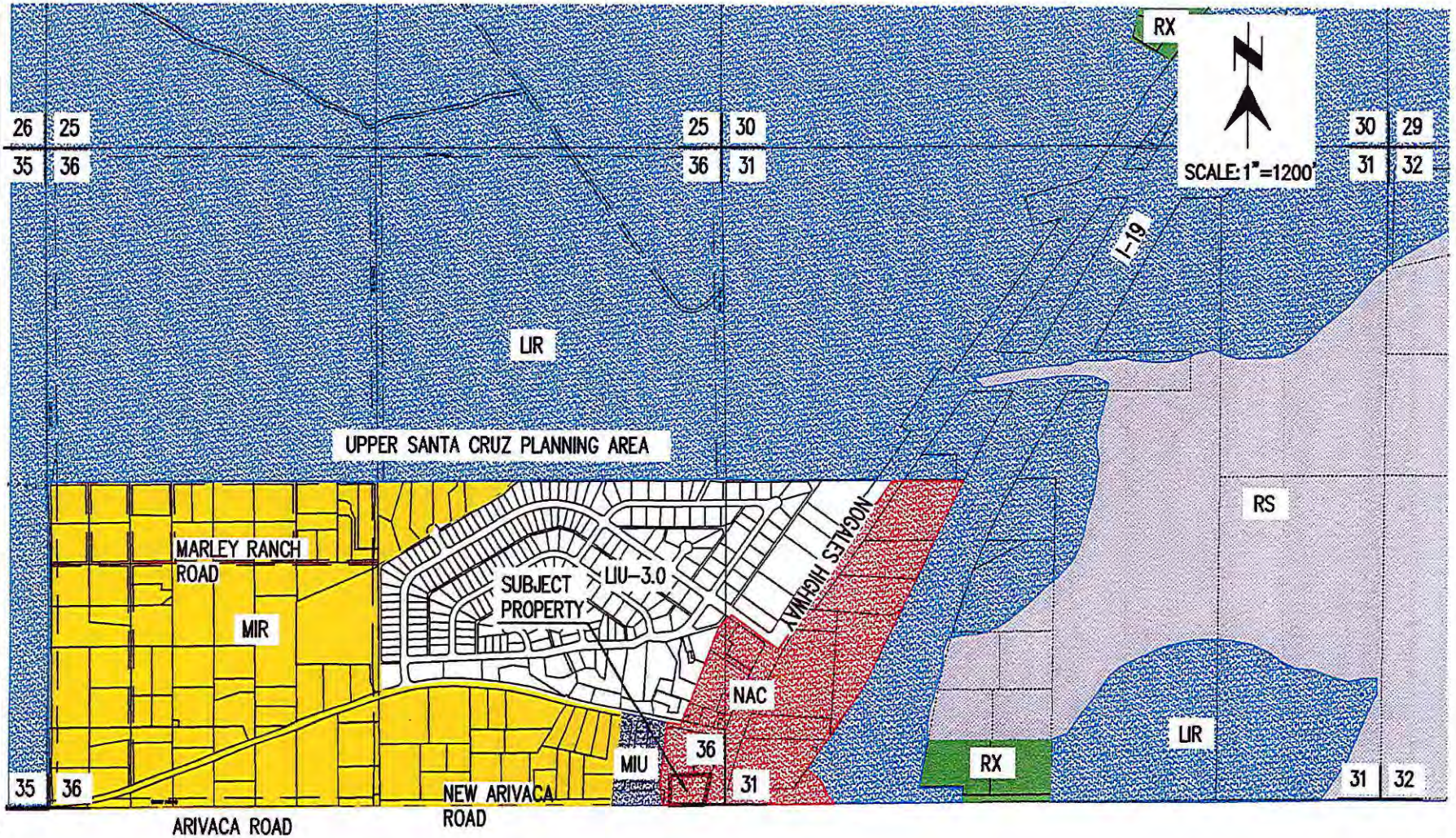
- 1) Minimum – 5 RAC
- 2) Maximum – 12 RAC.

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.

304-32-4640
 S243' E433' LOT 4 LESS HWY 1.80 AC
 SEC 36 T19S R12E

EXHIBIT I-A.2c4e
COMPREHENSIVE
PLAN MAP



SANTA CRUZ COUNTY

LEGEND

	LOW INTENSITY RURAL		MEDIUM INTENSITY RURAL
	RESOURCE SENSITIVE		MEDIUM INTENSITY URBAN
	RURAL CROSSROADS		LOW INTENSITY URBAN 3.0
	NEIGHBORHOOD ACTIVITY CENTER		

DCM Development Co. LLC

4122 E. Grant road
Tucson, Arizona 85712
Telephone (520) 888-1212
Fax (520) 888-1216

10-24-17

28890 S. Nogales Hwy Amado, AZ

Dear Neighbor:

This letter was written to make you aware of a proposed re-zoning of a property that is located within 1,000' of your property. Said property is Pima County parcel number 304-32-4640. The parcel is currently zoned GR-1, the intent is to re-zone the property to CB-1(Commercial Business), the subject parcel is located at 28890 S. Nogales Hwy Amado, AZ.

I would like to hold a meeting at 28890 S. Nogales Hwy at 4:00PM on Monday, November 27th, 2017. Please feel free to attend the meeting to discuss any concerns you may have regarding the proposed re-zoning. If you prefer, please call me at 520-888-1212 with any concerns or comments you may have.




Sincerely,


Chris Lechner

DCM Development Co. LLC

Neighborhood Rezoning Meeting
 Date: Monday, November 27, 2017 @ 4pm
 Location: 28890 S. Nogales HWY Amado, AZ
 Called By: Chris Lechner

Attendees:

Name & Address:	Arrival Time:
1. Silvia Valdez Svaldez08@gmail.com	4:00 p.m.
2. Amelia Sotelo	4:00 p.m.
3. 	4:00
4. Marco Pung	4:00 p.m.
5.  4720 W. Arivaca Rd Amado	4 p.m.
6. CAROL WELCH PO BOX 6309 AMADO AZ 85645	4 P.M.
7.  Jim Buehler	4 P.M.
8. Karissa Nave	4: P.M.
9. Emily Thurlay Green valley news	

Name & Address:	Arrival Time:
10. H. B. Molina P.O. Box 512 Amado	4:12
11. BILL + ELLEN KURTZ	4:10
12. Xiomara Fierro	4:05
13. Jesus Fierro	4:05
14. Edgardo Fierro	4:05
15. Francisco Molina	4:05
16. America Molina P	4:05
17. Perla Islaya	4:05
18. Jaime Abel	4:05
19. Manny Silva MANNY.SILVA@ME.COM	4:05
20. MANUEL ANTONIO RASCON	4:43 PM
21. Olivia Molina P.	4:46 pm
22. SR MEDINA	4:55 PM
23. JOSE M. ACOSTA	5:15 PM
24.	
25.	

NEIGHBORHOOD MEETING SUMMARY

South Nogales Highway Rezoning

P17RZ00008

Meeting Date: November 27, 2017

Time: 4:00

The meeting started promptly at 4:00. There were 10 people present. By 4:05 there were a total of 19 people. All total 23 people came to the meeting with the last person arriving at 5:15. After waiting until 5:40 with no new people arriving the meeting was adjourned.

Concerns:

There were a number of issues that the neighbors had questions about. These items were:

- The residents were concerned about property taxes. They wanted to know if their property taxes would increase. They were told that the taxes for the property being rezoned would expect to rise, but we did not believe that the rezoning would affect their property taxes.
- Residents were concerned with access and if we were going to cut off access to their property. They were told that they would continue to have legal access to their property via Arivaca Road to Arivaca Place and also from Royal Drive. The last couple of visitors also asked about the access. They were shown where the County right-of-way limits are located.
- Water -- a couple of residents asked about water service, which will be provided from the north. We explained that the Dollar General Store typically does not use a lot of water.
- Items for sale -- a list of items was on hand for the people to look over.
- A concern was raised regarding what would happen if the store fails like a Family Dollar store did in Green Valley. We explained that Dollar General does extensive market research and that this area fit their model. Dollar General expects that this location will serve the local community well.
- Neighbors were concerned with employment opportunities. They were told that a Dollar General Store employs 10 full-time employees as well as some part time employees.

In general, there was a positive feeling by the neighbors about the prospect of the Dollar General Store locating at the site. They seemed really excited about the goods and services as well as the potential employment opportunities.

Terri Tillman

From: Angie Rangel
Sent: Tuesday, November 28, 2017 2:37 PM
To: Terri Tillman
Subject: FW: Nov 27, 2017 agenda #8 S. Nogales Highway Rezoning

From: Ellen Kurtz [mailto:soporibell@msn.com]
Sent: Tuesday, November 28, 2017 2:33 PM
To: Angie Rangel <Angie.Rangel@pima.gov>
Subject: Nov 27, 2017 agenda #8 S. Nogales Highway Rezoning

To members of the Planning & Zoning Commission:

Regarding item #8 on the Nov 27 agenda we wish to present our thoughts.

While this rezoning has no environmental effect other than adding another water user to the area we feel it **will have a great economic impact on two businesses in this small community: The Amado Mini Market and the Amado Feed Store.** It also may affect businesses in Arivaca and Tubac as well.

The description of the Dollar Store is like a mini Walmart. There is a Dollar store on the old Nogales Highway south of Tucson as well as a Family Dollar. A Family Dollar store located in the Green Valley mall closed last year for lack of business.

Our area is a low income and low population area and it is doubtful that the franchisee will succeed. We already have three buildings which are now empty: the Longhorn Café, the Ranchers Mercantile and several small businesses next to the Cow Palace. The stores located behind the Amado Mini-Market stood empty for many years until the Elephant Head Fire Department took them over. Our concern is that we will have another empty building- and a 9100 square foot one at that.

We have lived in this area for over 41 years and watched businesses come and go. The Cow Palace, the Mini-Market and the Feed Store have all prevailed and all are owned and run by locals.

We feel that bringing in a corporate business is a mistake and a threat to the local businesses.

We ask that you deny this application.

Sincerely,

William L. and Ellen L. Kurtz
HC 65 Box 7990
Amado, AZ 85645-9645

soporibell@msn.com

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: RBJ
DEPUTY RECORDER
2234 RD15
F0230
PIMA CO CLERK OF THE BOARD



DOCKET: 9848
PAGE: 782
NO. OF PAGES: 6
SEQUENCE: 94151380
08/03/94
ORDIN 11:33:00

TUCSON AZ 85701

PICKUP
AMOUNT PAID \$ 3.50

ORDINANCE 1994- 102

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING PROPERTY (TAX CODE 304-32-4640) IN CASE Co9-85-10 BAKER - TUCSON/NOGALES HIGHWAY REZONING; AMENDING PIMA COUNTY ZONING MAP NO. 1583 LOCATED ON THE WEST SIDE OF TUCSON/NOGALES HIGHWAY AND NORTH OF THE PIMA COUNTY LINE.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Section 1. The property described on the attached rezoning ordinance map, amends Pima County Zoning Map No. 1583 and is hereby rezoned from GR to CB-2.

Section 2. Rezoning Conditions.

1. Submittal of a complete hydraulic and hydrologic drainage report as determined necessary by the Department of Transportation and Flood Control.
2. Submittal of a development plan if determined necessary by the appropriate County agencies.
3. Dedication of necessary right-of-way for roads and drainage by separate instrument if the property is not to be subdivided.
4. Recording an acceptable plat which will provide for dedication of necessary right-of-way for roads and drainage if the property is to be subdivided.
5. Recording a covenant holding Pima County harmless in the event of flooding.
6. Conformance with County paving policies as determined appropriate by the Department of Transportation and Flood Control.

7. Prior to grading or clearing of land, a grading plan will be submitted and approved by the Department of Transportation and Flood Control District for the purpose of determining the extent and effect of such grading.
8. Recording the necessary development related covenants as determined appropriate by the various County agencies.
9. Provision of development related assurances as required by the appropriate agencies.
10. Recording a covenant to the effect that there will be no further subdividing or lot splitting without the written approval of the Board of Supervisors.
11. Wastewater Management Conditions:
 - A. Connection 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 or development plan.
 - B. "Any wastewater discharged into the public sanitary sewerage system shall meet the requirements of the Industrial Waste Ordinance" (Pima County Ordinance No. 1982-154, as amended.)
12. Transportation Conditions:
 - A. All parking and access shall be paved to the applicable Pima County standards prior to the issuance of any building permits.
 - B. Proposed access to the subject property shall need the approval of the Subdivision Engineer, Pima County Department of Transportation prior to the submittal of a development plan or subdivision plat for any portion of the subject property.

- C. A written certification from the Arizona Department of Transportation stating satisfactory compliance of all its requirements shall need to be submitted to the Department of Transportation prior to the issuance of the Certificate of Compliance

13. Flood Control Conditions:

- A. The property owner must submit all required drainage reports and plans, and receive approval by the Flood Control Section prior to the issuance of the Certificate of Compliance. In developing the reports and plans, the requirements and regulations incorporated in the following reports must be satisfied.

- 1) Flood Plain Management Ordinance
- 2) Drainage and Channel Design Standards
- 3) Flood Control Policies

- B. The property owner must dedicate all rights-of-way and/or grant flowage easements for drainage purposes to Pima County, as determined necessary by the Flood Control District during the review process.

- C. The property owner must comply with the retention conditions and restrictions as stated in the Flood Plain Management Ordinance because of requested land use.

- D. The property owner must contribute his "fair share" of financial contributions toward drainage improvements as determined necessary by the Flood Control District.

- E. The Hydrologic and Hydraulic Drainage Report must address how the conveyance of surface runoff under Nogales Highway from the site will be improved and drain the parcel to a logical conclusion.

- 14. Tentative Plat or Development Plan when filed per Chapter 18.69 must adhere to the preliminary development plan as accepted at public hearing.

15. Provision of a six-foot masonry wall with exterior drip-irrigated landscaping along the west property line, set back at least three feet from the property line.
16. Existing trees along the north property line are to be preserved.
17. Provision of landscaping along the east and south property lines in accordance with Sections 18.73.030 and 18.73.040 of the Pima County Zoning Code.

Section 3. Time limits, extensions and amendments of conditions.

1. Conditions 1 through 17 shall be satisfied by January 7, 1997.
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 conditions 1 through 17 are satisfied and the Planning Director 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.

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

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

Passed and adopted by the Board of Supervisors of Pima County, Arizona, this fifth day of July, 1994.

M. L. Ed
Chairman, Board of Supervisors

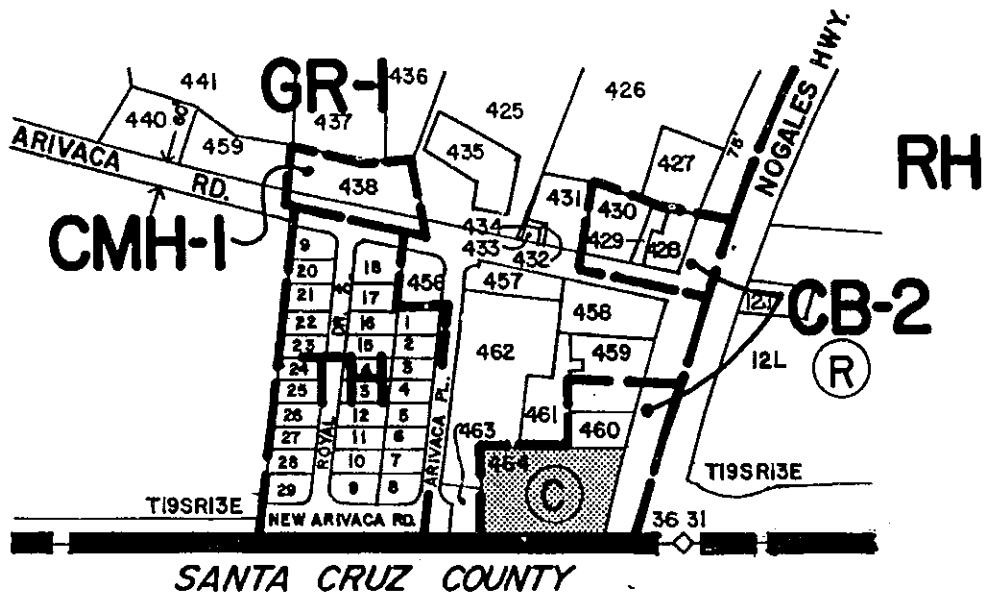
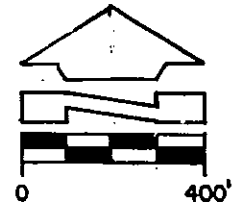
JUL 05 1994
Date

ATTEST:

Jane S. Williams
Clerk, Board of Supervisors
[Signature]
Executive Secretary
Planning and Zoning Commission

AMENDMENT NO. 7 BY ORDINANCE NO. 1994-102
 TO PIMA COUNTY ZONING MAP NO. 1583 TUCSON, AZ.
 PARCEL 464 BEING A PART OF THE SE 1/4 OF THE
 SE 1/4 OF SECTION 36, T19S R12E.

APPROVED 7-5-94 EFFECTIVE 7-5-94



[Handwritten Signature]
 EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

(C) NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
 from GR-1 1.80acs
 db — JUNE 14, 1994

C09-85-10
 C013-64-7
 304-32-4640

**PIMA COUNTY PLANNING DIVISION
APPLICATION FOR REZONING**

DCM DEVELOPMENT

4122 E. GRANT 85712

Chris@lechnerconstruction.us

Owner Mailing Address Email Address/Phone daytime / (FAX)
JEFFREY A. STANLEY **P.O. Box 1888 85702** **stanley19263@msn.com**

Applicant (if other than owner) Mailing Address Email Address/Phone daytime / (FAX)
5243' E433' LOT 4 SEC 36 T19S R1E **304-32-4640**

Legal description / property address Tax Parcel Number
1.8 ac GR-1 CB-1 UPPER SANTA CATALINA / NAC / NONE

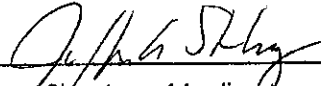
Acreage Present Zone Proposed Zone Comprehensive Plan Subregion / Category / Policies

The following documentation must be attached:

1. **Assessor's map** showing boundaries of subject parcel and **Assessor's Property Inquiry (APIQ) printout** showing current ownership of subject parcel. **DEEDS AND/OR TITLE REPORTS WILL NOT BE ACCEPTED.** If the applicant is not shown as the owner of the subject parcel a letter of authorization with an **original signature** matching the APIQ must accompany the application at the time of submittal. For example, if the APIQ indicates ownership in a numbered trust such as Chicago Title and Trust #700, an **original signature** of the Trust Officer is required along with a disclosure of the beneficiaries of the trust. If the APIQ indicates ownership to be in an LLC, LP, corporation or company, an **original signature** from an officer with his/her title is required along with a disclosure of the officers of the entity.
2. Submit the site analysis fee and eight (8) copies of the site analysis document. If the proposed project will use an on-site wastewater treatment and disposal system (such as a septic system), nine (9) copies of the site analysis document must be submitted. Also submit one CD of the site analysis document.
3. For all rezonings, submit the entire rezoning fee.

This application is true and correct to the best of my knowledge. I am the owner of the above described property or have been authorized by the owner to make this application.

9-28-17
Date


Signature of Applicant

FOR OFFICIAL USE ONLY

Co9-

Case name

Rezoning from Rezoning to Official Zoning Base Map Number Fee Supervisor District

Conservation Land System category

Cross reference: Co9-, Co7-, other Comprehensive Plan Subregion / Category / Policies

Received by _____ Date _____ Checked by _____ Date 9-29-17

11/10/2017

TO: City of Amado
Pima County Development Services
Pima County Health Department
ADEQ
ADOT

FROM: Landmark Title, as Trustee under Trust No. TR 7792-T

RE: Authorization – JAS Engineering, Inc.

To Whom It May Concern:

As the owner of Pima County parcel number #304-32-4640 located at 28890 South Nogales Highway, Landmark Title, as Trustee under Trust No. TR 7792-T ("Owner"), hereby authorizes JAS Engineering, Inc. to act on Owners behalf in submitting items for development of said parcel to The City Amado, Pima County Development Services, Pima County Health Department, ADEQ, and ADOT.

Thank you.

Landmark Title, as Trustee under Trust No. TR 7792-T

By: Pierce Construction Ltd.

By: 

Name: Roland A. Freeland
Its: President

6/22/2017

**TO: City of Amado
Pima County Development Services
Pima County Health Department
ADEQ
ADOT**

FROM: Landmark Title, as Trustee under Trust No. TR 7792-T

RE: Authorization – DCM Development Company, LLC

To Whom It May Concern:

As the owner of Pima County parcel number #304-32-4640 located at 28890 South Nogales Highway, Landmark Title, as Trustee under Trust No. TR 7792-T ("Owner"), hereby authorizes DCM Development Company, LLC to act on Owners behalf in submitting items for development of said parcel to The City Amado, Pima County Development Services, Pima County Health Department, ADEQ, and ADOT.

Thank you.

Landmark Title, as Trustee under Trust No. TR 7792-T

By: Pierce Construction Ltd.

By: 

Name: Roland A. Freeland
Its: President