



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 10/17/2023

**= Mandatory, information must be provided*

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

***Title:**

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

***Introduction/Background:**

The Board of Supervisors approved a five-year time extension subject to modified standard and special rezoning conditions on July 11, 2023.

***Discussion:**

The time limit and rezoning conditions contained in Rezoning Ordinance 2009-04, amended by Resolution 2020-61 may be modified by resolution.

***Conclusion:**

The resolution reflects the Board of Supervisors' approval.

***Recommendation:**

Approval

***Fiscal Impact:**

0

***Board of Supervisor District:**

1 2 3 4 5 All

Department: Development Services - Planning

Telephone: 520-724-6675

Contact: Donna Spicola, Senior Planner

Telephone: 520-724-9513

Department Director Signature: _____

Date: _____

9/26/23

Deputy County Administrator Signature: _____

Date: _____

9/28/2023

County Administrator Signature: _____

Date: _____

9/28/23



Subject: Co9-07-26

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OCTOBER 17, 2023 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS
FROM: Chris Poirier, Deputy Director
Public Works-Development Services Department-Planning Division
DATE: September 26, 2023

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. 2023 - _____

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

AGENT: Kale Investment Company, LLC
Attn: Craig Courtney, Manager
5151 N Oracle Road, Suite 210
Tucson, AZ 85701

DISTRICT: 1

STAFF CONTACT: Donna Spicola, Senior Planner

STAFF RECOMMENDATION: APPROVAL

TD/DS
Attachments

c: Kale Investment Company, LLC, Attn: Craig Courtney, Manager

RESOLUTION 2023-_____

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 TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE NO. 2009-04 AS AMENDED BY RESOLUTION NO. 2020-61.

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 the TR (Transitional) to the CB-2 (General Business) zone, subject to standard and special conditions.
2. On January 13, 2009, the Pima County Board of Supervisors adopted rezoning Ordinance 2009-04, 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 2009-04.
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. On August 17, 2020, the Pima County Board of Supervisors adopted rezoning Resolution No. 2020-61, recorded at Sequence 20202400226, memorializing the new rezoning time limit and modified standard and special conditions.
6. The owner of the rezoning site applied for a five-year extension of the time limit as set forth in Section 3 in Ordinance 2009-04, as amended by Resolution 2020-61;
7. On July 11, 2023, the Pima County Board of Supervisors approved a five-year extension subject to modified standard and special conditions.
8. Section 3 of Ordinance No. 2009-04, as amended by Resolution No. 2020-61 allows 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 2009-04, as amended by Resolution No. 2020-61, are restated and modified as follows:

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. Adherence to a development agreement for assessment and payment of all non-residential impact fees.
 - B. Traffic Impact Study will be required if there is a substantial change that results in an increase in the buildable square footage over the current approved Preliminary Development Plan 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.
 3. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. 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. 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.
 4. Wastewater Reclamation conditions:
 - 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.
5. ~~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.
6. 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.
7. The property owner(s) shall execute the following disclaimer regarding the Private Property Rights Protection Act ~~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)."
8. 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 ~~the any future~~ property owner.
9. The owner(s)/developer(s) shall adhere to the Preliminary Development 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-through restaurants and stand-alone bars without restaurant facilities are prohibited.
10. 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. The time limit in Section 3 of Ordinance 2009-04, as amended by Resolution No. 2020-61 is amended and extended as follows:

1. Conditions 1 through 10 shall be completed by October 7, ~~2023~~ 2028.

Section 3. The rezoning conditions 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 _____, 2023.

Chair, Pima County Board of Supervisors

ATTEST:

Clerk, Board of Supervisors

APPROVED AS TO FORM:



Deputy County Attorney
Jacob Kavkewitz

APPROVED:



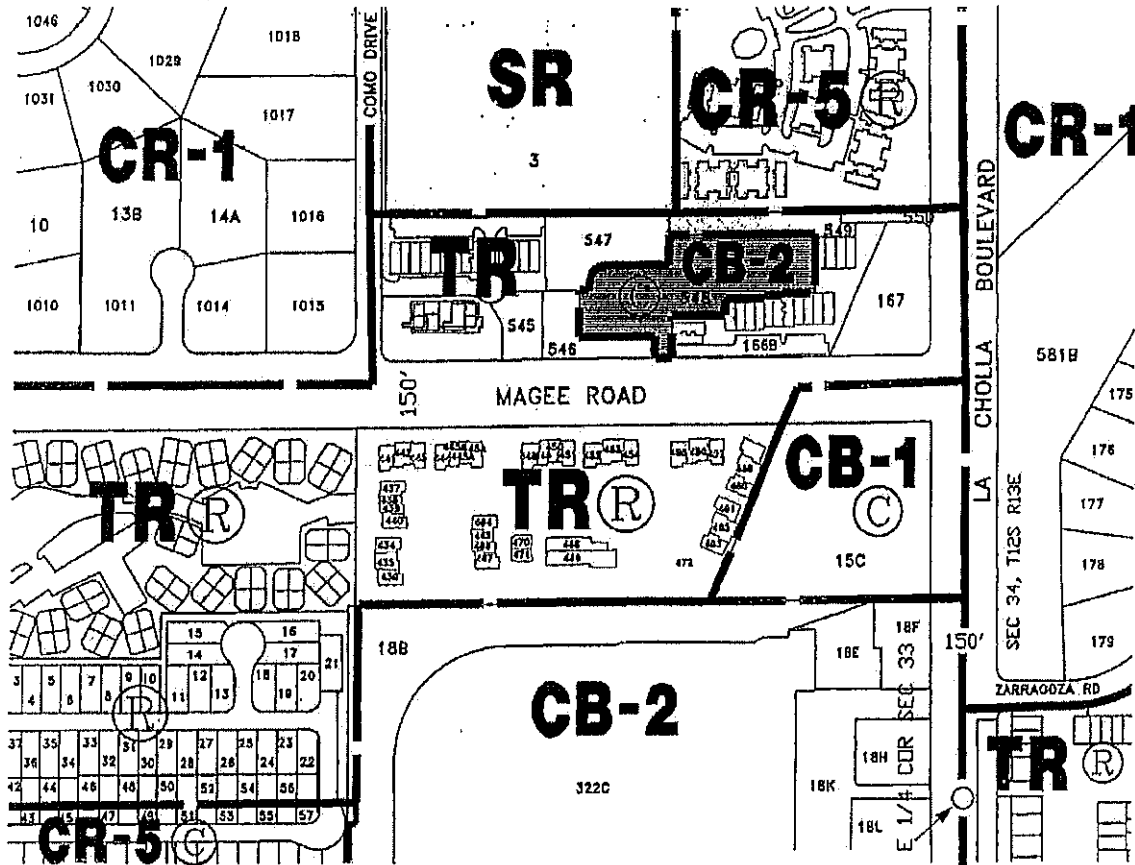
Executive Secretary
Planning and Zoning Commission

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



Handwritten signature of the Executive Secretary.

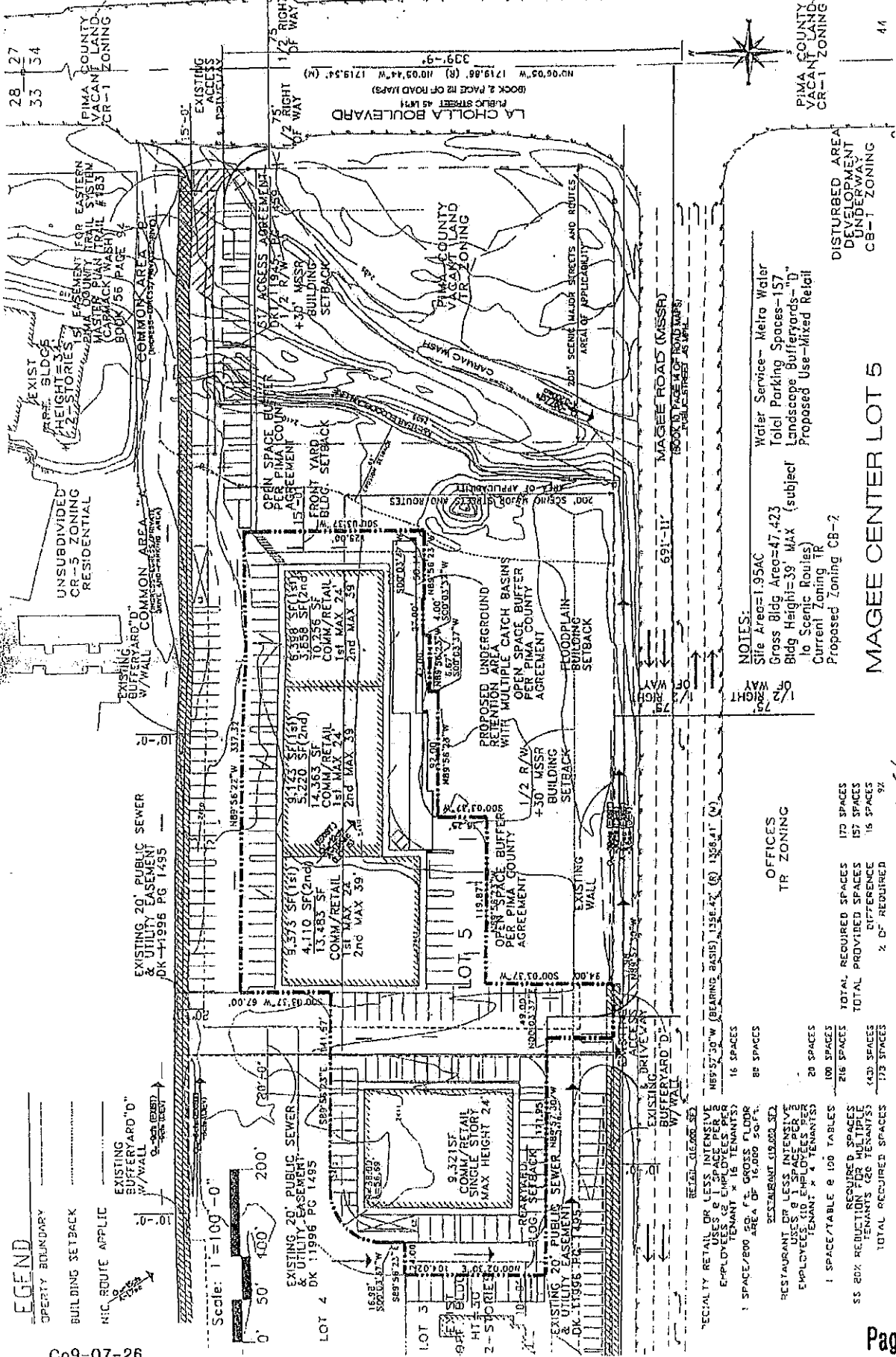
EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© 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

PIMA COUNTY PLANNING AND ZONING COMMISSION

26



EGEND

- PROPERTY BOUNDARY
- BUILDING SETBACK
- REC. ROUTE APPLIC
- EXISTING BUFFERYARD "D" W/WALL
- EXISTING BUFFERYARD "D" W/WALL

Scale: 1" = 100'-0"

0' 50' 100' 200'

OFFICES	TR ZONING
16 SPACES	170 SPACES
88 SPACES	157 SPACES
	DIFFERENCE 13 SPACES
	% OF REQUIRED 9%

RESTAURANT (20,000 SQ. FT.)	RESTAURANT (10,000 SQ. FT.)
1 SPACE/TABLE @ 100 TABLES	216 SPACES
1 SPACE/TABLE @ 100 TABLES	100 SPACES
55 20% REDUCTION FOR MULTIPLE TENANTS (20 TENANTS)	140 SPACES
	TOTAL REQUIRED SPACES 173 SPACES

NOTES:

- Site Area=1.95AC
- Water Service- Metro Water
- Gross Bldg Area=47,423
- Total Parking Spaces-157
- Proposed Use-Mixed Retail
- Landscaping Bufferyards-"D"
- Rldg Height=39' MAX (subject to Scenic Routes)
- Current Zoning TR
- Proposed Zoning CB-2

Approved at Board Meeting 10-7-08 C09-07-26