

AGENDA MATERIAL

DATE 3/7/23 ITEM NO RA-10



PIMA COUNTY DEVELOPMENT SERVICES

DATE: March 2, 2023
TO: Honorable Chair and Members of the Board of Supervisors
FROM: Chris Poirier, Planning Director *CCP* *Tom Drargowski*
SUBJECT: Co9-11-04 HENNESSY TR – MISSION ROAD REZONING
Closure/Time Extension
March 7, 2023, Board of Supervisors Meeting, Agenda Item 40

The applicant has requested a closure/five-year time extension for an approximately 6.1-acre rezoning from SH (BZ) (Suburban Homestead – Buffer Overlay) to the CB-1 (BZ) (Local Business – Buffer Overlay) zone located on the west side of S. Mission Road, approximately 2,000 feet south of W. Ajo Way.

On March 2, 2023, the Tucson Airport Authority (TAA), provided agency comments. TAA has provided the following comment regarding the closure/time extension:

This site is within the 1) Tucson International Airport avigation easement requirements and public disclosure area and 2) FAA traffic pattern airspace.

The Tucson Airport Authority conditionally approves the subject request contingent upon the following conditions of approval, as noted below. These conditions shall be included in the rezoning conditions for this rezoning request.

11. Tucson Airport Authority conditions:

- A. An Avigation Easement must be executed and recorded with the Pima County Recorder's Office, by the property owner/developer/applicant or other person authorized to sign on behalf of the current property owner, to cover the entire project area and in accordance with the requirement of the Tucson Airport Authority. The Avigation Easement must run with the property and will serve to educate future purchasers and tenants of the property of potential aviation impacts.
- B. Applicable to residential uses only: The property owner/developer/applicant must provide the Airport Disclosure Statement form, at time of sale, to the new property owners with all new unit purchases. In the event the development of any residential uses does not involve the sale of new units, but is instead offering rental residential units to the public, the new tenant of the rental unit must be provided a copy of the Airport Disclosure Statement form. The intent of the Airport Disclosure Statement form is to educate and notify the new residents that they are living near an airport. The content of such documents shall be according to the form and instructions provided.

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MAR 09 2023 08:03 P.M. CLK OF ED

The property owner (for itself or its tenants) must forward a signed copy of the Airport Disclosure Statement form to the Tucson Airport Authority within ten (10) days of signature, using the mailing address provided below:

Scott Robidoux
Manager of Planning
Tucson Airport Authority
7250 South Tucson Boulevard, Suite 300
Tucson, AZ 85756

Staff supports the closure/time extension rezoning conditions as stated in staff's report along with the addition of conditions #11A-B as provided to the Board of Supervisors.

March 2, 2023

Donna Spicola
Pima County Development Services
201 North Stone Avenue
Tucson, AZ. 85701

RE: Co9-11-04 Hennessy TR – Mission Rd Rezoning Closure / Time Extension Request; Parcel 119-41-266L, 119-41-2710, and 119-41-274A, Received March 2, 2023

Dear Ms. Spicola,

Thank you for the opportunity to comment Co9-11-04 Hennessy TR – Mission Rd Rezoning Closure / Time Extension Request; Parcel 119-41-266L, 119-41-2710, and 119-41-274A. This rezoning request is for an approximately 6.1 acre site which is located approximately 2,000 feet south of West Ajo Way and on the western side of South Mission Road. This rezoning closure / time extension request is associated with a project which proposes to change the zoning from Pima County Suburban Homestead Zone (SH) to Pima County Local Business Zone (CB-1) to support the establishment for future commercial uses.

This site is within the 1) Tucson International Airport avigation easement requirements and public disclosure area and 2) FAA traffic pattern airspace.

The Tucson Airport Authority conditionally approves the subject request contingent upon the following conditions of approval, as noted below. These conditions shall be included in the rezoning conditions for this rezoning request.

Condition of approval:

1. "An Avigation Easement must be executed and recorded with the Pima County Recorder's Office, by the property owner/developer/applicant or other person authorized to sign on behalf of the current property owner, to cover the entire project area and in accordance with the requirement of the Tucson Airport Authority. The Avigation Easement must run with the property and will serve to educate future purchasers and tenants of the property of potential aviation impacts.
2. "Applicable to residential uses only
 - a. The property owner/developer/applicant must provide the Airport Disclosure Statement form, at time of sale, to the new property owners with all new unit purchases. In the event the development of any residential uses does not involve the sale of new units, but is instead offering rental residential units to the public, the new tenant of the rental unit must be provided a copy of the Airport Disclosure Statement form. The intent of the Airport Disclosure Statement form is to educate and notify the new residents that they are living near an airport. The content of such documents shall be according to the form and instructions provided.

The property owner (for itself or its tenants) must forward a signed copy of the Airport Disclosure Statement form to the Tucson Airport Authority within ten (10) days of signature, using the mailing address provided below.

Scott Robidoux
Manager of Planning
Tucson Airport Authority
7250 South Tucson Boulevard
Suite 300
Tucson, AZ 85756"

Please do not hesitate to contact me if you have any questions or concerns regarding this comment letter. I can be reached by email at srobidoux@flytucson.com or by telephone at 520-573-4811.

Respectfully,



Scott Robidoux,
Manager of Planning, C.M.

cc file

DECLARATION OF AVIGATION EASEMENT

THIS DECLARATION OF AVIGATION EASEMENT ("Declaration"), is made this _____ day of _____, 20__ by _____, a(n) _____ ("Declarant").

A. Declarant is the sole record owner in fee simple of certain real property (the "Property") located in Pima County, Arizona which is more particularly described in Exhibit "A" attached hereto; and

B. The Property is located in the proximity of Tucson International Airport (as it now exists or may hereafter be enlarged and/or developed, the "Airport"); and

C. The Property is now and in the future will be subject to noise and other effects emanating from aircraft operating at or departing from or arriving at the Airport, and changes in airport layout or operating procedures could result in increased noise influences.

NOW THEREFORE, for good and sufficient consideration, the receipt and adequacy of which Declarant hereby acknowledges, Declarant hereby covenants and declares that all of the Property shall be held, sold, used and conveyed subject to the following avigation easement, which shall run with the Property and be binding on all occupants thereof and on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, grantees, invitees and tenants.

DECLARANT HEREBY DECLARES, ESTABLISHES, GRANTS AND CONVEYS to the Tucson Airport Authority, the City of Tucson and all persons lawfully using the Airport ("Benefited Parties") the right to operate aircraft in and the right to cause in the airspace above or near the Property such noise, vibrations, fumes, vapors, smoke, deposits of dust or other particulate matter, fuel particles and all other effects as may be inherent in the operation of aircraft, now known or hereafter used, while landing on, taking off from, or operating at the Airport, as long as such operations are in compliance with applicable federal, state and local regulations concerning operation of aircraft and use of the Airport.

As used herein, the term "aircraft" shall mean any and all types of aircraft, whether not in existence or hereafter manufactured and developed, to include without limitation, jet aircraft, propeller driven aircraft, civil aircraft, military aircraft, commercial aircraft, helicopters and all types of aircraft or vehicles now in existence or hereafter developed, regardless of existing or future noise levels, for the purpose of transporting persons or property through the air.

EXHIBIT A

(Legal Description)

AIRPORT DISCLOSURE STATEMENT

The undersigned owner(s) of a lot in the subdivision known as _____, a Pima County subdivision recorded in Book _____ at Page _____ of Maps and Plats, acknowledges that the property lies in proximity to Tucson International Airport and that the property is subject to aircraft overflight and noise that may be annoying or objectionable to some persons.

Flight patterns within 5 nautical miles of Tucson International Airport (TIA) are controlled by the Federal Aviation Administration (FAA) Air Traffic Control Tower (ATCT) according to rules and guidelines for maintaining aircraft separation. The ATCT at TIA is in operation 24 hours per day. According to FAA rules, except when necessary for takeoff and landing, aircraft may not fly below 1000 ft. above ground level in populated areas.

While air traffic may be generalized into tracks, it is, by nature, dispersed. Aircraft may approach and depart the airports from any number of directions. Flight paths vary depending on a variety of factors including origin/destination, wind conditions and other aircraft in the traffic pattern. As a result, any property in the vicinity of an airport is likely to be subject to aircraft overflight and its impacts to some degree.

As traffic approaches or departs from an airport, it is lower to the ground, more concentrated and more frequent. The area where air traffic converges as it approaches and departs the airport is represented by the FAA Traffic Pattern Airspace. This area is shown on exhibit A, attached. Lower altitudes and more frequent activity increase the impacts of aircraft on the ground within this area.

The most significant impacts occur within noise contours. Noise contours depict the area where average noise exposure over a 24 hour period is considered "significant" by FAA standards. Measures such as sound insulation of structures and land use planning to exclude noise sensitive uses are required to maintain compatibility within these areas. As explained, aircraft approach and depart the airport on dispersed paths. As a result, a property that is outside established noise contours may still be impacted by the effects of periodic aircraft overflights.

Flight patterns are apt to shift or change over time. Changes in operations may occur due to weather, changes in users, changes in aircraft type, military missions, weather conditions, etc. Similarly, TIA has a master plan that identifies plans for future expansion and development needs. These plans are updated every several years to respond to the needs of the aviation community.

The undersigned acknowledges the Owner(s) is aware of these impacts and that the Tucson Airport Authority and all persons lawfully using the Airport have the right to operate aircraft in the airspace above and near the property.

Dated this _____ day of _____, 20_____.

Owner _____ Date

Owner _____ Date

Tucson International Airport

