



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:**

P16RZ00010 6500 WESTOVER AV, LLC – S. WESTOVER AVENUE REZONING

***Introduction/Background:**

The applicant requests a five-year time extension. The 0.91-acre rezoning was from GR-1 (Rural Residential) to the CB-1 (Local Business) zone, located on the southwest corner of W. Valencia Road and S. Westover Avenue. The rezoning was approved in 2016 and expired November 22, 2021.

***Discussion:**

Due to the rezoning case expiring in 2021, the applicant cites the need for a five-year time extension to move forward with the proposed business use.

***Conclusion:**

The proposed time extension will allow for 10 years from the original Board of Supervisors approval to complete rezoning conditions for a fast food restaurant.

***Recommendation:**

Staff recommends APPROVAL of a five-year time extension subject to modified standard and special conditions.

***Fiscal Impact:**

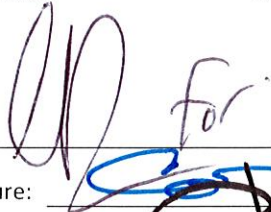


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***Board of Supervisor District:**

1 2 3 4 5 All

Department: Thomas Drzazgowski, Zoning Adm. Telephone: 724-6675

Contact: Donna Spicola, Senior Planner Telephone: 724-9513

Department Director Signature: _____		Date: <u>9/26/23</u>
Deputy County Administrator Signature: _____		Date: <u>9/28/2023</u>
County Administrator Signature: _____		Date: <u>9/28/23</u>



TO: Honorable Adelita Grijalva, Supervisor, District 5
FROM: Chris Poirier, Deputy Director
Public Works-Development Services Department-Planning Division
Tom Draczowski
DATE: September 26, 2023
SUBJECT: P16RZ00010 6500 WESTOVER AV, LLC – S. WESTOVER AVENUE REZONING

The above referenced **Rezoning Time Extension** is within your district and is scheduled for the Board of Supervisors' **TUESDAY, OCTOBER 17, 2023** hearing.

REQUEST: A **five-year time extension** for an approximate 0.91-acre rezoning (portion of parcel code 138-25-591A) from the GR-1 (Rural Residential) to the CB-1 (Local Business) zone, located on the southwest corner of W. Valencia Road and S. Westover Avenue. The subject site was rezoned in 2016 and expired November 22, 2021. (District 5)

OWNER: Valencia Westover LLC
Attn: Accounting Department
2870 N Swan Rd, Suite 100
Tucson, AZ 85712

AGENT: The Planning Center
Attn: Brian Underwood, Planning Director
2 E. Congress St, Suite 600
Tucson, AZ 85701

DISTRICT: 5

STAFF CONTACT: Donna Spicola, Senior Planner

PUBLIC COMMENT TO DATE: As of the date of writing this report, staff has received no written public comment.

STAFF RECOMMENDATION: APPROVAL OF A FIVE-YEAR TIME EXTENSION SUBJECT TO MODIFIED STANDARD AND SPECIAL CONDITIONS

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The site is located outside of the Maeveen Marie Behan Conservation Land System (CLS).

TD/DS
Attachments



BOARD OF SUPERVISORS MEMORANDUM

SUBJECT: P16RZ00010

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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

ADVERTISED ITEM FOR PUBLIC HEARING

REZONING TIME EXTENSION

P16RZ00010 **6500 WESTOVER AV, LLC – S. WESTOVER AVENUE REZONING** Valencia Westover LLC, represented by The Planning Center, requests a **five-year time extension** for an approximate 0.91-acre rezoning (portion of parcel code 138-25-591A) from the GR-1 (Rural Residential) to the CB-1 (Local Business) zone, located on the southwest corner of W. Valencia Road and S. Westover Avenue. The subject site was rezoned in 2016 and expired November 22, 2021. Staff recommends **APPROVAL OF THE FIVE-YEAR TIME EXTENSION SUBJECT TO MODIFIED STANDARD AND SPECIAL CONDITIONS.**
(District 5)

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of a **five-year time extension** to November 22, 2026 for the 0.91-acre rezoning (portion of parcel code 138-25-591A) from the GR-1 (Rural Residential) to the CB-1 (Local Business) zone subject to modified standard and special conditions as follows:

1. The owner shall:
 - A. Submit a development plan if determined necessary by the appropriate County agencies.
 - B. Record the necessary development related covenants as determined appropriate by the various County agencies.
 - C. Provide development related assurances as required by the appropriate agencies.
 - D. Submit a title report (current to within 60 days) evidencing ownership of the property prior to the preparation of the development related covenants and any required dedications.
21. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
32. Transportation conditions:
 - A. The property owner shall dedicate 25 feet of right-of-way for Valencia Road.
 - B. The property shall be limited to the existing access point on Westover Avenue and one off-site shared access drive with the property to the west on Valencia Road. The

- location of the shared access drive on Valencia Road shall be determined at time of permit submittal.
- C. A Traffic Impact Study (TIS) shall be submitted for review and approval by the Department of Transportation with the development plan submittal. Offsite improvements determined necessary as a result of the TIS shall be provided by the property owner(s).
 - D. Coordination with the Department of Transportation is required to determine TIS assumptions and shall incorporate in the analysis any nearby and recently approved rezoning projects and developments.
 - E. Sidewalk and curbing requirements along the property frontage on Valencia Road and Westover Avenue shall be determined at time of permit submittal.
 - F. An ADA-accessible asphalt path or concrete sidewalk shall be provided, at least five-foot-wide, from the Valencia Road and Westover Avenue intersection to the bus stop located west of the project site adjacent to the Walmart. The location of the path or sidewalk shall be determined at the time of permitting.
 - G. The one-foot no access easement along the Valencia Road frontage may require abandonment or reconfiguration with Department of Transportation and Real Property Services.
3. Regional Flood Control conditions:
- A. A Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) are required. The CLOMR shall be approved by FEMA prior to start of grading.
 - B. The first one inch of Rainfall (first flush retention) shall be provided in Low Impact Development practices distributed throughout the site.
 - C. Impacts to Valencia Wash and the south offsite drainage infrastructure is prohibited.
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 Ordinance, the owner(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner. ~~Prior to issuance of the certificate of compliance, the owner shall record a covenant, to run with the land, memorializing the terms of this condition.~~
 6. Cultural Resources condition: ~~OSC review of submitted application has determined that the proposed development project has a potential to negatively affect significant cultural and/or historic resources. Cultural resources survey is required to assess archaeological site AZ AA:16:59(ASM) before clearance can be issued for the proposed development project. The applicant and/or project proponent should contact OSC at 520-724-6940, or email: Cultural.Resources.DSD@pima.gov, for assistance in complying with pertinent County, State, and/or Federal cultural resources requirements.~~
In the event that ancestral remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are encountered during construction, all ground disturbing activities must cease within 50 ft of the discovery. State Laws ARS 41-865 and/or ARS 41-844 require that the Arizona State Museum be notified of the encounter or disturbance of the remains at (520) 626-0320 so that appropriate arrangements can be made for the repatriation and reburial by cultural groups who claim cultural or religious affinity to them. The ancestral 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 (Exhibit B) 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 and record 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)."

As part of the current Development Services Department standard practice, conditions #1A-D as listed in Ordinance 2021-2 are recommended for deletion to reduce redundant requirements and ease processes.

Former Transportation conditions #3A-B are renumbered to conditions #2A-B and Transportation proposes the addition of conditions #2C-G due to current Development Street Standard requirements along with the need for a Traffic Impact Study.

Regional Flood Control District did not provide conditions during the original rezoning process but due to a need for this time extension the District requests the addition of conditions #3A-C due to the property being impacted by the Federal Emergency Management Area and requiring a first flush retention for this site along with prohibiting offsite drainage.

Cultural Resources condition #6 is being modified to a standard condition for remains. Additionally, conditions #5 and #9 are updated to current standard condition language.

STAFF REPORT:

Staff supports the five-year rezoning time extension requested by the applicant, which if approved, will provide a total of 10 years from the original Board of Supervisors approval to complete the rezoning conditions. The initial time limit for an approved rezoning is recommended by staff at five years; and five years is typically the maximum interval of staff recommended time extensions.

This rezoning consists of approximately 0.91 acres from the GR-1 (Rural Residential) to the CB-1 (Local Business) zone and was approved in 2016. The approved preliminary development plan (PDP) demonstrates a 4,300 square foot drive-through food restaurant. Since the approval of the 0.91-acre rezoning, the subject property was combined with the adjacent 1.89-acre, CB-1 zoned property to the west of the rezoning creating a 2.8-acre parcel. The time extension request letter mentions that the property owner is hiring a consultant to prepare development plans for three fast food restaurants creating a cohesive development on the 2.8-acre parcel of which .91 acres is the subject of this request.

The approved PDP demonstrates two access points onto Westover Avenue. The proposed northern access does not meet corner clearance from Valencia Road and will be removed per rezoning condition #2B. There will be an off-site shared access drive with the future development to the west. A 25-foot right-of-way dedication for Valencia Road is provided by condition #2A. The original request proposed a maximum building height of 30 feet. Due to Valencia Road being designated as a Major Street and Scenic Route, a viewshed analysis demonstrating a 20% clear view through the property will need to be provided for any building height over 24 feet. At this time, the property is undeveloped, and the majority of the sight is void of landscape.

Due to the continued appropriateness of the CB-1 rezoning along with the original and modified rezoning conditions and the approved PDP, staff supports the time extension. The rezoning supports the goals and policies of the Multifunctional Corridor (MFC) land use designation. MFC promotes integrated development of complementary uses along major transportation corridors.

The property lies within a designated growth area, the Southwest Focused Development Investment Area, which encourages growth by making infrastructure expansion more economical and provides a rational pattern of land development while conserving the nearby prominent natural resources. Special Area Policy S-29 Southwest Infrastructure Plan (SWIP) applies to the subject rezoning. Applicable portions of the S-29 policy guide the needs, obligations, funding, and provision of infrastructure and services related to transportation, flood control, wastewater, parks and recreation, and other governmental facilities. There are no associated Rezoning Policies applicable to the site.

The proposed use remains suitable for the area by providing an additional restaurant option for the growing residential development in the area.

Staff finds concurrency of infrastructure per reporting agencies with Transportation stating this development poses a secondary transportation concurrency concern due to roadway capacity; however, this project is an infill development. The Department of Transportation requires a Traffic Impact Study (TIS) to determine if offsite improvements are necessary, along with sidewalk, curbing and an ADA-accessible path. The Flood District and Cultural Resources have added new and modified conditions to meet up-to-date requirements for their respective departments. The remaining conditions are essentially the same conditions as approved by Ordinance 2021-2 but may be updated with current language.

Denial of the time extension will cause the site to revert to unrestricted GR-1 zoning. GR-1 zoning is intended for low-density housing in rural and semirural areas. GR-1 also allows commercial development only where appropriate to serve the needs of the rural area. Closure of the rezoning would not preclude the possibility of a future CB-1 zoning.

TRANSPORTATION REPORT

Valencia Road, between Cardinal Avenue and Westover Avenue, is a paved four-lane divided roadway with curb and sidewalk, a raised median, dedicated left-turn lanes, and continuous right-turn lanes on both sides of the road. Valencia Road is maintained by the County and has a posted speed limit of 40 miles per hour (mph). Valencia Road transitions to a six-lane roadway east of Mission Road, which is maintained by the City of Tucson. Valencia Road is a Scenic Route and is classified as an Urban Minor Arterial by its Federal Functional Classification. The future right-of-way width for Valencia Road is 200 feet, but the current width is 175 feet, rezoning condition #2A that requires a 25 foot right-of-way dedication remains. The most recent traffic count is 46,092 average daily trips (ADT) and Valencia Road has an approximate traffic capacity of 35,820 ADT.

Adjacent to the rezoning site, Westover Avenue is a paved, two-lane curbed roadway with a two-way left-turn lane that transitions into a dedicated left-turn lane at the intersection with Valencia Road. There are no paved shoulders or sidewalks along the Westover Avenue frontage. Westover Avenue is maintained by the County and has a posted speed limit of 25 mph. Westover Avenue is classified as an Urban Minor Collector by its Federal Functional Classification. The most recent traffic count is 2,752 ADT and Westover Avenue has an approximate traffic capacity of 10,360 ADT.

The rezoning site remains undeveloped, but there is an existing shared access drive on the southern end of the site built by the adjacent Walmart development. Rezoning condition #2B indicates the rezoning site shall be limited to the existing access on Westover Avenue and a shared access point within the property to the west on Valencia Road, this condition remains. The location of the shared access drive on Valencia Road will be determined at time of permit submittal. There is a one-foot no-access easement along the Valencia Road frontage that may require partial abandonment or reconfiguration during permit submittal and shall be coordinated with the Department of Transportation and Pima County Real Property Services.

There is an existing public transit bus stop on Valencia Road, approximately 400 feet west of the site that serves Sun Tran Route 29. There is no sidewalk or pedestrian path that the public could use from the Valencia Road and Westover Avenue Intersection to the bus stop. An ADA-accessible asphalt path or sidewalk shall be provided, at least five-feet-wide, along the entire Valencia Road frontage unless otherwise determined by the Department of Transportation at time of permit submittal. The location of the path shall be determined at the time of permitting.

Valencia Road is functioning over capacity of a four-lane divided roadway, and the Valencia Road

and Westover Avenue intersection is functioning at an inadequate level of service. Without a traffic impact study, it is difficult to determine the traffic impact associated by this rezoning site. Therefore, a traffic impact study is required to be provided with the submittal of the development plan.

Staff acknowledges that this project is located within a developing urban area, along a bus transit route, and is an infill project not located in an environmentally sensitive area. Therefore, this project can be identified as a secondary transportation concurrency concern. Pima County will be widening Valencia Road from four-lanes to six-lanes, from Cardinal Avenue to Mission Road through a Capital Improvement Project in the near future. The department does not have a date, but the design process has started. Once Valencia Road is widened to six-lanes, the traffic capacity will increase to approximately 53,910 ADT.

Due to the planned and funded Valencia Road improvements adjacent to the project site, the property owner shall coordinate with the Department of Transportation for any traffic impact mitigation identified as a result of the Traffic Impact Study.

The Department of Transportation recommends approval subject to modifications and additions to rezoning conditions #2A-G.

FLOOD CONTROL REPORT

The Regional Flood Control District (District) has reviewed the request and offers the following information:

- * This property is impacted by a Federal Emergency Management Agency (FEMA) Special Flood Hazard Area (SFHA) Zone AH located within the northeast portion of the parcel. When improvements are proposed within the effective FEMA SFHA, both a Conditional Letter of Map Revision (CLOMR) and LOMR are required. The CLOMR shall be approved by FEMA prior to start of grading.
- * The subject parcel is within the boundaries of a Letter of Map Revision (LOMR) completed January 24th, 2014, case # 13-09-0833P.
- * The south side of the project also is impacted by a FEMA Special Flood Hazard Area Zone AE which is associated with the off-site named regulatory wash, Valencia Wash. Valencia Wash is located directly adjacent to the south property line of the subject parcel and has an estimated 100-year peak discharge between 5000 – 10,000 cfs. Valencia Wash has an associated erosion hazard setback of 100' where structures are prohibited within said setback. The approved Preliminary Development Plan (PDP) appears to show the structure outside of the setback. It should be noted that the floodplain within this area was recently revised due to the forementioned LOMR.
- * First Flush retention is a requirement, and the PDP does not indicate this requirement will be incorporated into the project. Rezoning condition #3B has been provided to assure First Flush retention will be used as a method of retention and distributed throughout the subject parcel in appropriate locations.

In conclusion, the District has no objection to the time extension. No rezoning conditions were provided with the original request. The District will now be providing conditions #3A-C.

WASTEWATER RECLAMATION REPORT

The Planning Unit of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the request and has no objection to the request for the five-year rezoning time extension subject to conditions. The existing wastewater conditions listed as #4A-F in rezoning Ordinance 2021-2 do not require revision.

DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department of Environmental Quality has no objection to the request subject to modified standard condition #5.

CULTURAL RESOURCES

Cultural Resources reviewed this request and had no objection to the time extension subject to modified rezoning condition #6.

UNITED STATES FISH AND WILDLIFE SERVICE

The United States Fish and Wildlife Service has no comment.

PASCUA YAQUI

Pascua Yaqui Tribe has no comment.

SAN XAVIER

San Xavier Indian Reservation has no comment.

TOHONO O'ODHAM

Tohono O'Odham has no comment.

WATER DISTRICT

Tucson City Water has no comment.

FIRE DISTRICT

Drexel Heights Fire District has reviewed the request and has no objection. Drexel Heights Fire District will require any building to meet fire flow and access for fire apparatus.

TUCSON ELECTRIC POWER

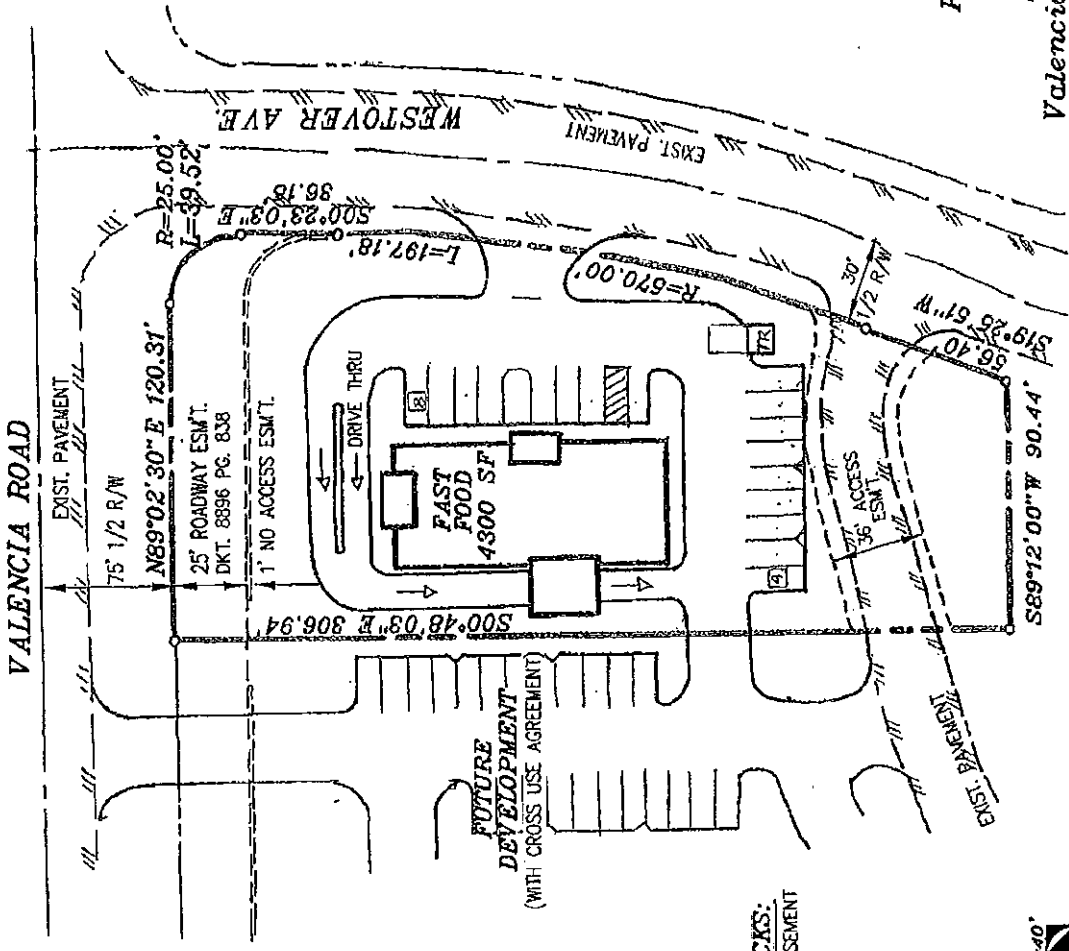
Tucson Electric Power (TEP) has no objection to this rezoning time extension. The site is located within TEP's service territory and will require a new service application from the owner/developer to extend service to the new location.

TD/DS

c: The Planning Center, Attn: Brian Underwood, Planning Director

EXHIBIT B

Original PDP



PROPOSED BUILDING SETBACKS:
 FRONT: ...30' FROM EXIST. 25' ROADWAY EASEMENT
 SIDE:0'
 REAR:25'

REF.: R.O.S. BK 76 PG 72



WLB 116744-001-0100

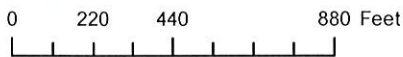
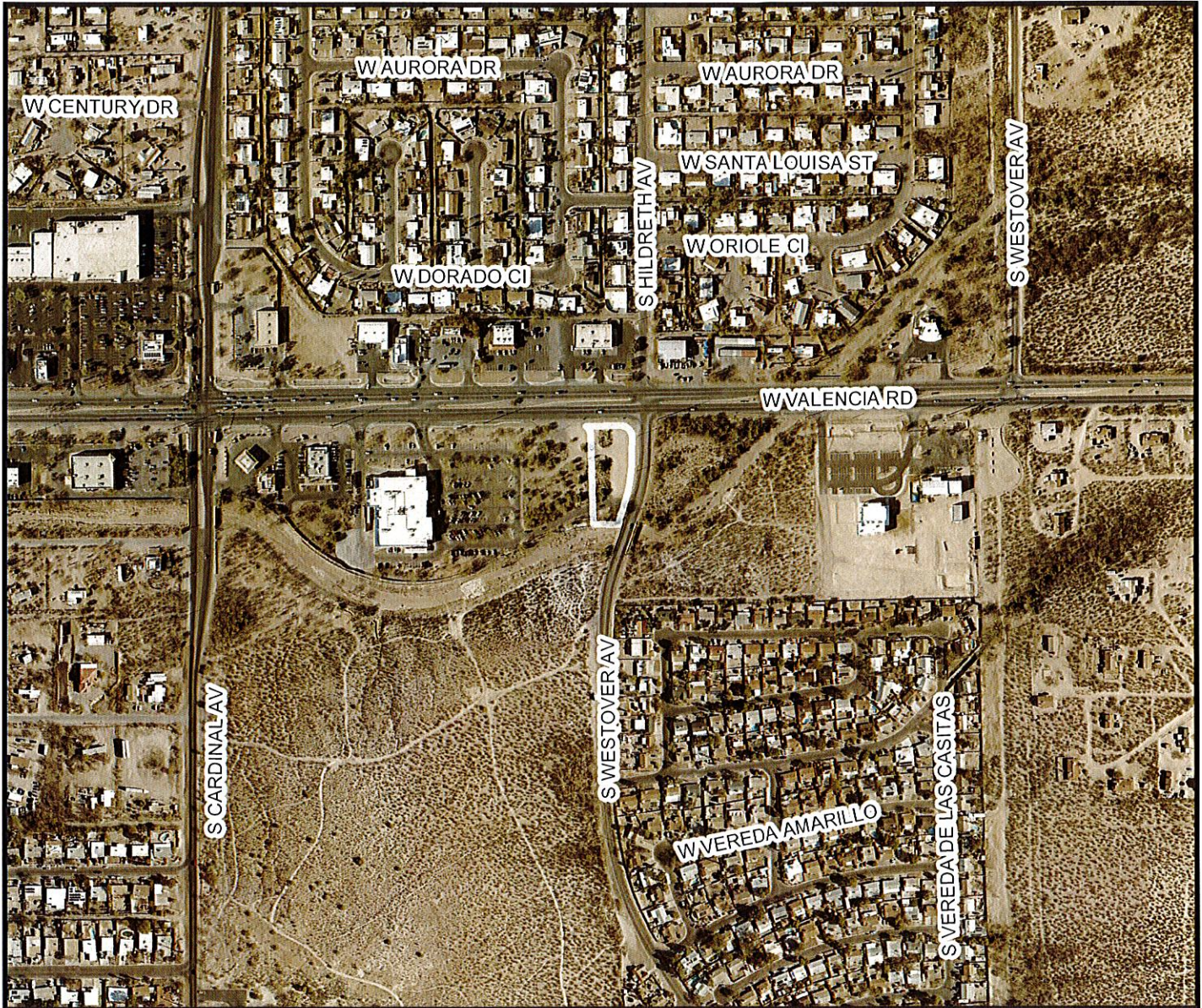
REZONING SKETCH
 0.91 Acre Parcel
 Southwest Corner
 Valencia Rd. and Westover Ave.
 Page 6 of 6

WLB 116744-001-0100 VALENCIA & WESTOVER\CI PLANNING\04 REZONING OR CPA\MISC EXHIBITS\REZONING SKETCH

**Case #: P16RZ00010 - 6500 WESTOVER AVE LLC -
S. WESTOVER AVENUE REZONING**

Tax Code(s): Ptn of 138-25-591A

Aerial Exhibit



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**

Notes: **Rezoning Time Extension**



Ref Case #: P23SA00010




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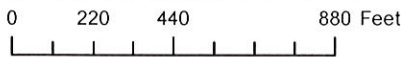
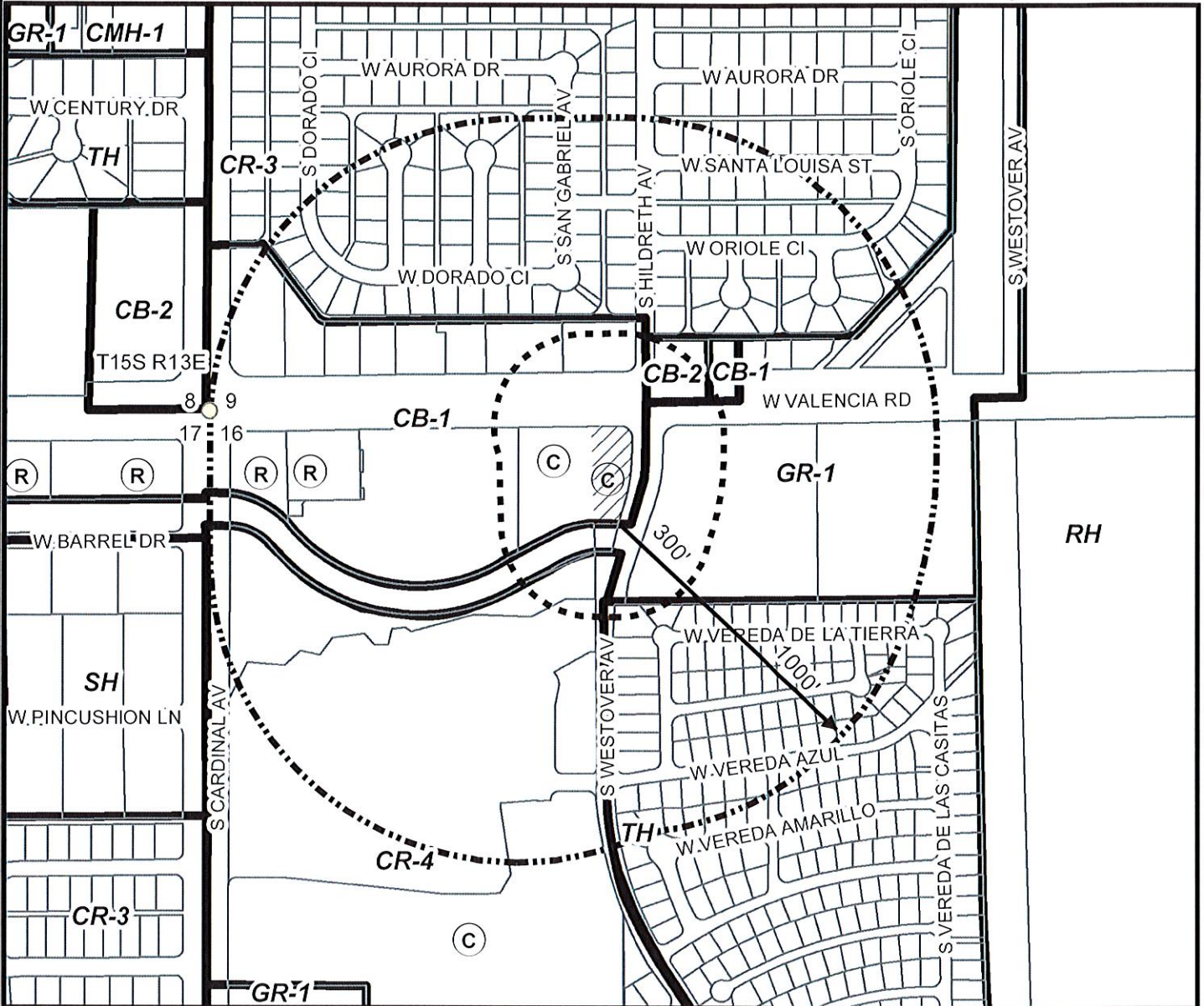
Map Date: 9/19/2023 - ds





**Case #: P16RZ00010 - 6500 WESTOVER AVE LLC -
S. WESTOVER AVENUE REZONING**

Tax Code(s): Ptn of 138-25-591A

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



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**

	Notes: Rezoning Time Extension		
	PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10		
	Board of Supervisors Hearing: 10/17/2023	Ref Case #: P23SA00010	
	Base Map(s): 62	Map Scale: 1:6,000	



Multifunctional Corridor (MFC)

Objective: To designate areas for the integrated development of complementary uses along major transportation corridors. The MFC designation serves a similar purpose as the CAC plan designation. These areas contain commercial and other non-residential use services, research and development and similar uses (as delineated in the CPI zoning district) and medium to high density residential clusters in a linear configuration along major transportation corridors. Potential adverse impacts of strip commercial development are mitigated through application of special design standards, in the zoning code and design manuals such as standards for access management, building setbacks, open space, signs, parking, and landscaping.

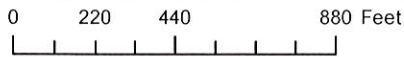
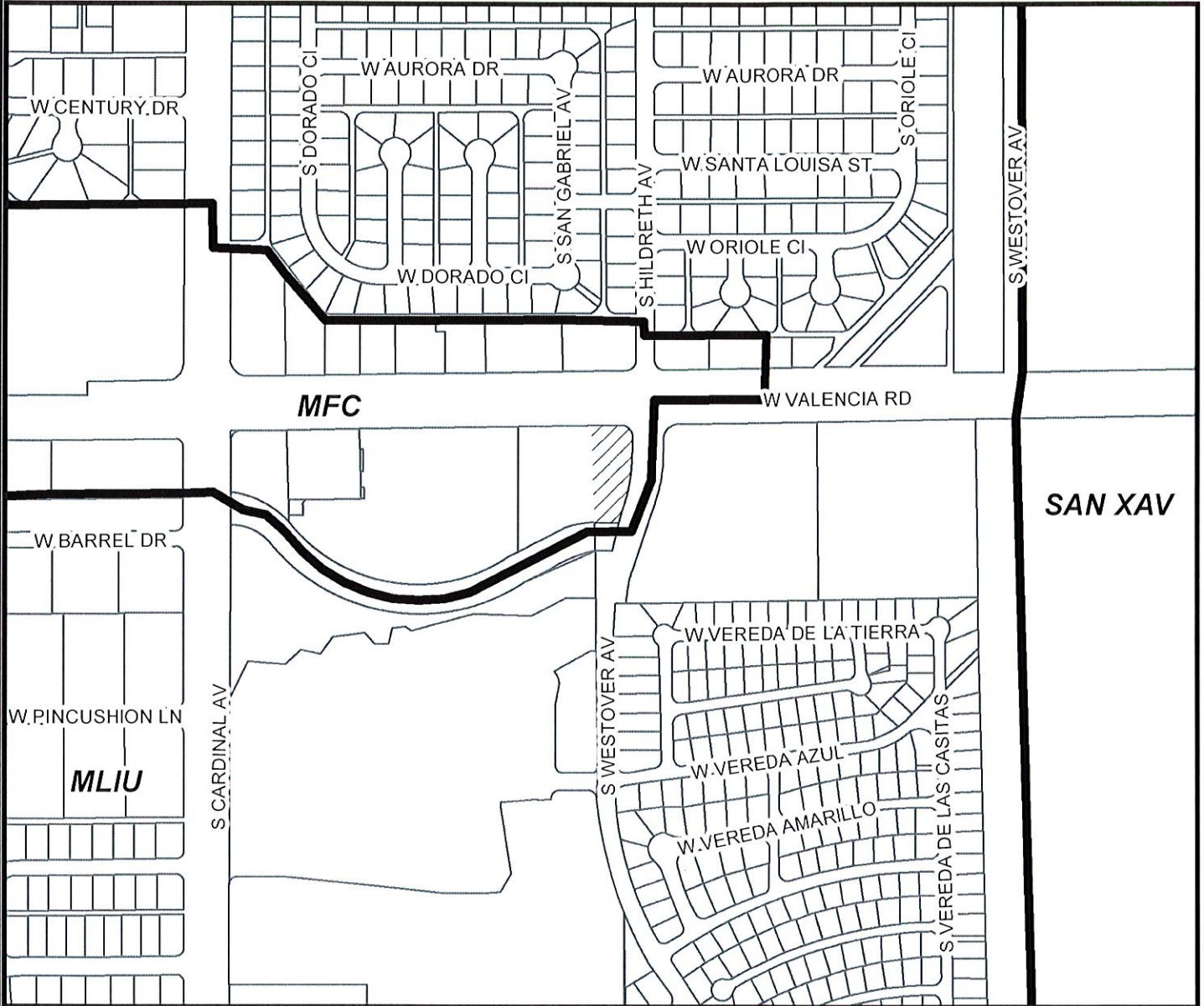
- Residential Gross Density: (if applicable) Minimum- 6 RAC; Maximum- as allowed by the requested conforming zoning district
- Residential Gross Densities for TDR Receiving Areas: Minimum- 6 RAC; Maximum- 18 RAC

**Case #: P16RZ00010 - 6500 WESTOVER AVE LLC -
S. WESTOVER AVENUE REZONING**

Tax Code(s): Ptn of 138-25-591A

Comprehensive Plan Exhibit

////// Subject Property



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**



Notes: **Rezoning Time Extension**

PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Ref Case #: P23SA00010

Map Scale: 1:6,000

Map Date: 9/19/2023 - ds



BOS APPROVED MINUTES 11/22/16

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.

6. Adherence to the preliminary development plan as approved at public hearing.
7. All lighting sources within 50 feet of the southern property boundary shall be located at a maximum height of 5 feet.
- 7-8. 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.
- 8-9. The property owner 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)."

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Miller, seconded by Supervisor Elías and unanimously carried by a 5-0 vote, to close the public hearing and approve P16RZ00009, subject to standard and special conditions.

29. **Hearing – Rezoning**

P16RZ00010, 6500 WESTOVER AV, L.L.C. - S. WESTOVER AVENUE REZONING

Request of 6500 Westover Av, L.L.C., represented by The WLB Group, Inc., for a rezoning of approximately .91 acres from GR-1 (Rural Residential) to the CB-1 (Local Business), located on the southwest corner of W. Valencia Road and S. Westover Avenue. The proposed rezoning conforms to the Pima County Comprehensive Plan which designates the property Multifunctional Corridor. On motion, the Planning and Zoning Commission voted 9-0 (Commissioner Cook was absent) to recommend APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 5)

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

1. The owner shall:
 - A. Submit a development plan if determined necessary by the appropriate County agencies.
 - B. Record the necessary development related covenants as determined appropriate by the various County agencies.
 - C. Provide development related assurances as required by the appropriate agencies.

- D. Submit a title report (current to within 60 days) evidencing ownership of the property prior to the preparation of the development related covenants and any required dedications.
2. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
3. Transportation conditions:
 - A. The property owner shall dedicate 25 feet of right-of-way for Valencia Road.
 - B. The property shall be limited to the existing access point on Westover Avenue and one off-site shared access drive with the property to the west on Valencia Road.
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 Ordinance, the owner shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner. Prior to issuance of the certificate of compliance, the owner shall record a covenant, to run with the land, memorializing the terms of this condition.
6. Cultural Resources condition: OSC review of submitted application has determined that the proposed development project has a potential to negatively affect significant cultural and/or historic resources. Cultural resources survey is required to assess archaeological site AZ AA:16:59(ASM) before clearance can be issued for the proposed development project. The applicant and/or project proponent should

contact OSC at 520-724-6940, or email: Cultural.Resources.DSD@pima.gov, for assistance in complying with pertinent County, State, and/or Federal cultural resources requirements.

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 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)."

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Elías, seconded by Chair Bronson and unanimously carried by a 5-0 vote, to close the public hearing and approve P16RZ00010, subject to standard and special conditions.

30. **Hearing - Hillside Development Overlay Zone (HDZ) Special Use Permit/Plat Note Waiver**

- A. **Hillside Development Overlay Zone (HDZ) Special Use Permit**
P16SA00011, MOUSSA - N. ENCLAVE PLACE HILLSIDE DEVELOPMENT OVERLAY ZONE (HDZ) SPECIAL USE PERMIT
Request of Renee Moussa, represented by Burton and Associates Architects, for a Hillside Development Overlay Zone (HDZ) Special Use Permit. The applicant requests a special use permit to construct a single residence, pool, and driveway within a designated HDZ Level One protected ridge area on Lot 9 of The Enclave at Gates Pass subdivision. Nearly all of Lot 9 lies within the protected ridge area. Subdivision plat Permitting Note No. 12(f) subjects the development of lots 8, 9, 10, and 11 to all requirements in effect that are based upon the proximity of the lots to the protected peak and ridge line in the event that a building permit is not obtained within two years from the date of final subdivision plat approval (November 18, 2003). Pima County Zoning Code Section 18.61.041(A) (1) prohibits development within the protected area of a (Level One) peak or ridge except with a special use permit which may be granted by the Pima County Board of Supervisors as set forth in Section 18.61.042(A). The subject lot is approximately 1.46 acres zoned CR-1(BZ)(PR-1) (Single Residence-Buffer Overlay-Protected Peaks and Ridges Level 1) and is located on the north side of the terminus of N. Enclave Place, approximately 1,400 feet north of the intersection of W. Speedway Boulevard and N. Enclave Place. Staff recommends APPROVAL SUBJECT TO CONDITIONS. (District 5)



201 N. Stone Avenue, Tucson, AZ 85701
(520) 724-9000
www.pima.gov/developmentservices

BIOLOGICAL IMPACT REPORT

(Not applicable for rezonings that require a site analysis)

The Biological Impact Report assists staff in assessing a proposed project's potential to impact sensitive biological resources and is required by the Pima County Zoning Code Chapter 18.91. A project's design should conserve these important resources.

The report will include information provided by both Pima County Planning staff (Part I) and the Applicant (Part II).

INSTRUCTIONS FOR SAVING FORM: 1) Download form to computer. 2) Fill out form as applicable. 3) Save completed form to computer. 4) Submit completed form to Pima County Development Services. **If you fill out the form before you download it, the info you entered will not be saved.**

Project ID *(case no., APN no., address, or other identifying info):*

Case No. P16RZ00010, APN: 138-25-591A

Part I. Information Provided by Pima County Staff

Pima County Planning staff will provide the following information for the project site, as applicable:

1. Is the project located within any Maeveen Marie Behan Conservation Lands System (CLS) designation(s)? (Hold SHIFT for multiple selections) **NA**
Important Riparian Area
Biological Core
Multi-Use Management Area
2. Is the project within a CLS Special Species Management Area? **No**
3. Is the project in the vicinity of any of the six Critical Landscape Linkages? **No**
4. Is the project designated for acquisition as a Habitat Protection or Community Open Space property? **SELECT**
5. Is the project located within a Priority Conservation Area for any of the following species?
 - a. Cactus ferruginous pygmy-owl: **SELECT**
 - b. Western burrowing owl: **SELECT**
 - c. Pima pineapple cactus: **SELECT**
 - d. Needle-spined pineapple cactus: **SELECT**

Part II. Information Provided by the Applicant

The Applicant will provide the following information to the best of their knowledge, as applicable:

1. Has the owner of the project site had any communications with County staff about Pima County potentially acquiring the property? No
If yes, provide a summary of those communications:
2. The following species are of particular interest to Pima County conservation efforts; please fill out the following table to the best of your knowledge:

Species	Ever found on project site?	If yes, date of last observation/survey?	Future surveys planned?
Cactus ferruginous pygmy owl	No		No
Western burrowing owl	No		No
Pima pineapple cactus	No		No
Needle-spined pineapple cactus	No		No

Questions about this form?

Contact the Office of Sustainability and Conservation at (520) 724-6940.

August 22, 2023

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

SUBJECT: VALENCIA-WESTOVER REZONING TIME EXTENSION REQUEST (TPC Job No. 4DP-04)

Dear Mr. Poirier:

On behalf of the property owner, Valencia Westover L.L.C., we are requesting a denial of the rezoning closure and a five-year time extension for case P16RZ00010, 6500 Westover Av, L.L.C. - S. Westover Avenue Rezoning. The subject site is approximately 0.91 acres of a larger 2.8-acre parcel (APN 138-25-591A) located at the southwest corner of West Valencia Road and South Westover Avenue in Township 15S, Range 13E, Section 16.

The land is currently vacant, but the property owner is hiring consultants to prepare development plans for three fast food restaurants on the 2.8-acre parcel, with one located on the eastern 0.91-acres. Fast food was initially planned for the property during the 2016 rezoning, and the fast food restaurant proposed on the rezoning site substantially conforms to Exhibit B (the "Original PDP") in Ordinance 2021-2. Additionally, the remainder of the site is already zoned for the proposed use, and the property owner is currently negotiating with future end users.

If you have any questions, please feel free to contact me.

Sincerely,

THE PLANNING CENTER



Brian Underwood
Director of Planning

4-D PROPERTIES, LLP

Patrick DeConcini
Managing Partner
2870 N Swan Rd, Suite 100
Tucson, Arizona 85712
Cell: (757) 412-5101



August 17, 2023

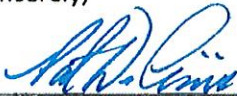
Pima County
Pima County Development Services
201 North Stone Avenue
Tucson, AZ 85701

**Subject: Rezoning Time Extension at 6500 South Westover Avenue
On Tax Parcel: 138-25-591A**

Pima County Development Services:

As the owners of the above-referenced tax parcel, I hereby authorize The Planning Center to act as our agent throughout the rezoning time extension application process.

Sincerely,



Patrick DeConcini
4-D Properties LLP, Partner

Property Owner: VALENCIA WESTOVER LLC
ATTN: ACCOUNTING DEPARTMENT
2870 N SWAN RD STE 100
TUCSON AZ 85712-6303

Property Ownership Description:

Valencia Westover LLC Members:

- 4-D Properties LLP
- La Nonna, LLC
- 6500 Westover Ave. LLC

- DecoConcini Family Trust
- 2006 Thu Family Trust
- Dennis W. DeConcini 2007 Revocable Trust
- Eric Thu

4-D Properties LLP Partners:

- Patrick DeConcini
- Dino J DeConcini
- Evo David DeConcini
- Dennis W DeConcini
- Mary Danielle Thu
- Steven W Thu
- Dino J. DeConcini Family Trust

La Nonna, LLC Members:

- Nina Maria DeConcini, Manager
- Dino T DeConcini
- Vivian A DeConcini
- The DeConcini Heninger Trust

6500 Westover Ave. LLC Members:

- 4-D Properties LLP
- DeConcini Family Trust