



MEMORANDUM

PUBLIC WORKS DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

TO: Honorable Richard Elías, Supervisor, District # 5

FROM: Arlan M. Colton, Planning Director *AMC*

DATE: July 23, 2014

SUBJECT: Co9-07-10 **CARDINAL AVE & IRVINGTON RD. LLC-CARDINAL AVENUE REZONING**

The above referenced Rezoning Time Extension within your district is scheduled for the Board of Supervisors' **AUGUST 5, 2014** hearing.

REQUEST: For a five-year time extension of a 14.42 acre rezoning from SH (Suburban Homestead) and TDR-RA (Transfer of Development Rights Receiving Area) to CR-4 (Mixed Dwelling Type) and TDR-RA (Transfer of Development Rights Receiving Area), on property located on the southwest corner of Cardinal Avenue and Irvington Road.

OWNER: Cardinal Avenue & Irvington Road LLC
2700 W. Sahara Avenue, Suite 100
Las Vegas, NV 89102

AGENT: Keri L. Silvyn
Lazarus, Silvyn & Bangs
4733 East Camp Lowell Drive
Tucson, AZ 85712

DISTRICT: 5

STAFF CONTACT: Thomas Coyle

PUBLIC COMMENT TO DATE: As of July 23, 2014, no written public comments have been received.

STAFF RECOMMENDATION: APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH ADDITIONAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM: The subject property lies outside of the Maeveen Marie Behan Conservation Lands System (MMBCLS).

CP/TC/ar
Attachments



Board of Supervisors Memorandum

Subject: Co9-07-10

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FOR AUGUST 5, 2014 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Arlan M. Colton, Planning Director 
Development Services Department, Planning Division

DATE: July 23, 2014

ADVERTISED ITEM FOR PUBLIC HEARING

REZONING TIME EXTENSION

Co9-07-10 CARDINAL AVE & IRVINGTON RD. LLC-CARDINAL AVENUE REZONING
Request of **Cardinal Ave & Irvington Rd. LLC** for a five-year time extension of a 14.42 acre rezoning from SH (Suburban Homestead) and TDR-RA (Transfer of Development Rights Receiving Area) to CR-4 (Mixed Dwelling Type) and TDR-RA (Transfer of Development Rights Receiving Area), on property located on the southwest corner of Cardinal Avenue and Irvington Road. The 14.42 acre subject site was rezoned in 2010. The rezoning expired on May 12, 2014. Staff recommends **APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH ADDITIONAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS.**
(District 5)

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of a **five-year time extension to May 12, 2019** for the approximately 14.42 acres with **additional and modified standard and special conditions**. Condition 9H was added from the original approval for purpose of requiring a Final Integrated Water Management Plan and 11A, 11B, 11D, and 11E were modified slightly to reflect current practice. Condition 17 was omitted responsive to recent case law relating to exactions.

Upon application for a time extension, staff reassesses the standard and special conditions that were originally imposed on the project and review of current Comprehensive Plan policies and rationale for applicant hardship. The Development Services staff distributed the time extension request for comment and possible revision to conditions. The following conditions represent the outcome of that consultation:

1. Submittal of a subdivision plat if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. The Landscape Plan submitted for subdivision plat approval shall reflect variances approved by the Board of Adjustment in the Native Plant Preservation site inventory and mitigation chart sections of the Landscape Plan.
8. Transportation conditions:
 - A. No access shall be allowed directly onto Irvington Road.
 - B. Improvements shall be provided by the property owner/developer as determined necessary by the Department of Transportation.
 - C. Provision of pedestrian and bicycle access to adjacent properties, trails, streets and pedestrian ways, whenever possible.
9. Regional Flood Control conditions:
 - A. A drainage study shall be submitted for review and approval with the Tentative Plat that addresses the impacts of development to the federally mapped floodplain and local area drainage. This report shall include an encroachment analysis. A reduction in number or reconfiguration of lots and/or reconfiguration of the project entrance shall be required to reduce encroachment to the level allowed by the Floodplain Ordinance effective at the time of submittal of the Tentative Plat, as determined to be necessary by the Flood Control District.
 - B. This development shall meet Critical Basin detention and retention requirements, as determined to be necessary by the Flood Control District.
 - C. Bank protection shall be required along the southern bank wherever bank protection is proposed along the northern bank of the Dakota Wash as determined to be necessary by the Flood Control District.
 - D. The property owner(s) shall dedicate right-of-way or easements (onsite and offsite) for drainage purposes to the Flood Control District, as determined necessary during the development plan/subdivision plat review.

- E. The property owner(s) shall provide all necessary on-site and off-site drainage related improvements at no cost to Pima County that are needed as a result of the proposed development of the subject property, as determined to be necessary by the Flood Control District. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.
 - F. A Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) are required due to changes to and development within a FEMA 100-year floodplain. Approval by PCRFC and FEMA of the CLOMR shall be required prior to approval of grading permits.
 - G. A riparian mitigation plan shall be required for development in designated riparian areas.
 - H. At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and external water conservation measures and a site plan showing the location of external measures. First flush retention shall be provided.
10. Environmental Planning Conditions:
- A. 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 current and 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.
 - B. The following shall be incorporated into the recorded Private Subdivision Covenants, Conditions, and Restrictions (CC&Rs) that govern the Homeowners' Associations (HOAs) and the actions of private property owners within the Subdivision:
 - 1. Maintenance of Common Area by Association: The HOA shall be responsible for the removal of buffelgrass from Common Areas.
 - 2. Maintenance of Lots by Owners: Lot Owners shall keep private lots free of buffelgrass.
11. Wastewater Management conditions:
- A. The owner shall not construe the 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 / developer 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 / developer shall have 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 ~~Pima County Regional Wastewater Reclamation Department~~.

- 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 ~~Regional Wastewater Reclamation Department~~ PCRWRD in its capacity response letter and as specified by the ~~Development Services Department~~ 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.
12. Natural Resources, Parks, and Recreation Conditions
- A. The developer shall provide a 15-foot easement for the Dakota Wash Trail #103, as shown on the Eastern Pima County Trail System Master Plan (EPCTSMP). This easement shall be labeled as "Public Non-Motorized Trail Easement" and include a legal description of the easement, a location map, and a description of the materials proposed for the trail. Staff will prepare and record the easement
 - B. The recreational facilities, including the trail, shall be constructed by the developer and completed by the release of assurances for 75% of the lots.
 - C. The developer shall adhere to the Design Review Committee conditions as stated in the C020-07-20:
 - 1. The developer shall obtain the appropriate permit from the Arizona Department of Agriculture prior to transporting any saguaro.
 - 2. Saguaros shall be transplanted and transported at the expense of the developer.
 - 3. Saguaros shall be salvaged and transplanted by hand.
 - 4. Saguaros may need to have shade provided; the type and amount of shade will be determined at the time of transplanting.
 - 5. All saguaros shall be transplanted with the same sun orientation as their original location.
 - 6. A landscape contractor licensed in the State of Arizona shall perform all salvage and transplanting operations.
 - 7. Final location shall be as determined by Natural Resources, Parks & Recreation.

13. Cultural Resources Condition:
A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt any development from compliance State burial protection laws. 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 ART 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.
14. Adherence to the preliminary development plan, as approved at public hearing.
15. 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.
16. 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)."
- ~~17. The owner/developer shall execute and record a document acceptable to the Pima County Department of Community Services indicating that the owner/developer shall contribute to the affordable housing trust fund as adopted by the Pima County Board of Supervisors on December 13, 2005, before a certificate of compliance is issued.~~
17. Prior to the approval of the tentative plat, the applicant(s)/owner(s) shall provide, at applicant(s)/owner(s) expense, a third party hydrologic analysis of the rezoning site prepared by a certified hydrologist not associated with the preparation of the original rezoning site analysis. The purpose of the analysis is to verify whether or not the site can accommodate the number (34) and configuration of lots being proposed while meeting all floodplain ordinance requirements. The analysis must be reviewed and if acceptable, approved by the flood control district. If the number of lots proposed cannot be accommodated, a reduction in the number or reconfiguration of lots will be required, substantially in conformance with the preliminary development plan, as shown at the Board of Supervisors public hearing.
18. This project is limited to single family detached residences and associated recreational facilities only.

STAFF REPORT

The rezoning was conditionally approved by the Board of Supervisors on August 16, 2010. If approved, this action will extend the rezoning action for a period of 5 years to May 12, 2019.

The rezoning time extension is for a 14.42 acre site on the southwest corner of Cardinal Avenue and Irvington Road in Supervisor District 5. The rezoning initially provided a change from SH (Suburban Homestead) to CR-4 (Mixed Dwelling Type) and also included a transfer of development rights. The site is currently vacant and is surrounded by residential uses, to the north is the Mountain View single –family residential subdivision (CR-3), to the east is low density residential (SH), and to the south and west is Manzanita Terrace subdivision (CR-3).

Staff supports the requested five-year time extension. The conditions of approval have been reviewed and updated by the advisory agencies. Also, there has not been a material change to land use or development policies in this area, nor is one in the upcoming Pima Prospers Comprehensive Plan Amendment. Lastly, down turns in economic conditions have served as a detriment to property development since 2006-2007.

Comments from advisory agencies have been incorporated into the revised conditions and are attached.

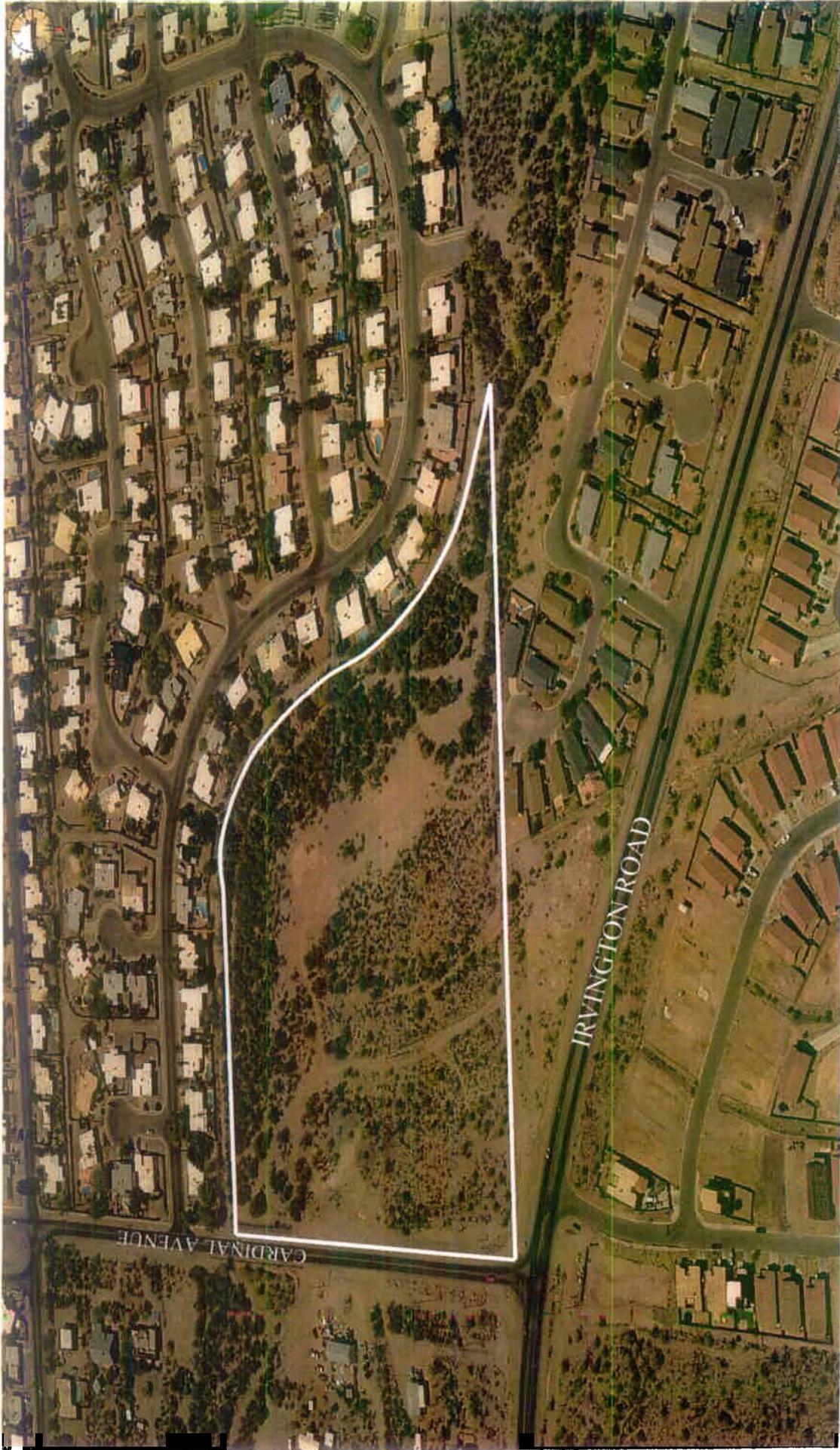
MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM (MMBCLS)

The site lies outside the Maeveen Marie Behan Conservation Lands System.

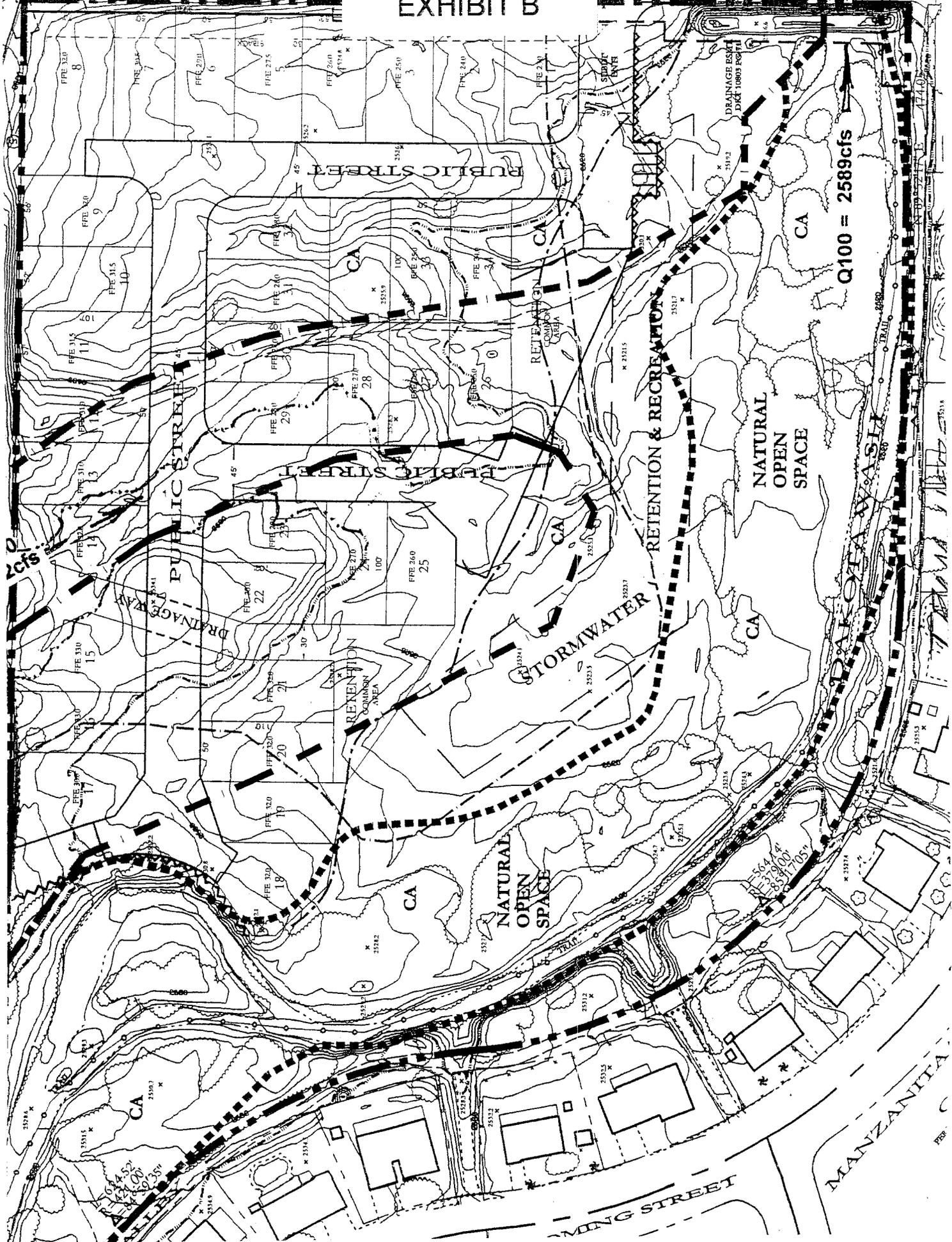
CONCURRENCY CONSIDERATIONS		
Department	Concurrency Considerations Met: Yes / No / N/A	Other Comments
TRANSPORTATION	Yes	No objection
FLOOD CONTROL	Yes	No objection
WASTEWATER	Yes	No objection
PARKS	Yes	No comment
WATER	Yes	No comment

CP/TC/ar
Attachments

c: Cardinal Avenue & Irvington Road LLC, 2700 W. Sahara Avenue, Suite 100
Las Vegas, NV 89102
Keri L. Silvyn, Lazarus, Silvyn & Bangs, 4733 East Camp Lowell Drive,
Tucson, AZ 85712
Chris Poirier, Assistant Planning Director
Co9-07-10 File



Co9-07-010 CARDINAL IRVINGTON HOMES LLC—CARDINAL AVENUE REZONING 05/08



APPROVED BY BOS 5/12/09

DATE: June 5, 2014



TO: Thomas Coyle, DSD
Principal Planner

FROM: Greg Saxe, Ph.D
Env. Plg. Mgr

SUBJECT: Co9-07-10 Cardinal Ave & Irvington LLC – Rezoning Time Extension

I have reviewed the request and have the following comments:

1. Much of the site is impacted by the Dakota Wash and one tributary including channels, floodplains, erosion hazard setbacks and riparian habitat.
2. Existing conditions are in place to address these resources and should be continued.
3. Since the original rezoning the County adopted the Comprehensive Plan Regional Water Policy. While the requirement for a Preliminary Integrated Management Plan is not applicable as the Site Analysis was submitted prior to adoption of the policy, when the development plan is submitted the applicant will be required to adopt water conservation measures consistent with this policy and a Final Integrated Water Management Plan consisting of Table B identifying selected measures shall be required. Furthermore new standards requiring first flush retention have been adopted.

Recommended Condition:

At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and external water conservations measures and a site plan showing the location of external measures. First flush retention shall be provided.

In conclusion the District has no objection to time request subject to the new recommended condition.

GS/sm

cc: File



DEPARTMENT OF TRANSPORTATION
201 NORTH STONE AVENUE, FOURTH FLOOR
TUCSON, ARIZONA 85701-1207

PRISCILLA S. CORNELIO, P. E.
DIRECTOR

(520) 724-6410
FAX (520) 724-6439

Memorandum

Date: June 19, 2014
To: Thomas Coyle, AICP, Pima County Development Services Department
From: Jeanette DeRenne, AICP, Pima County Department of Transportation
Subject: Co9-07-10 Cardinal Irvington Homes – Cardinal Ave Time Extension

Concurrency Criteria have been met since area roads are operating below capacity and the rezoning generates only 340 additional ADT from the 34 single family residences proposed. The property is located adjacent to and west of Cardinal Avenue, with Irvington Road adjacent to a very small portion of the northeast property corner. One access is proposed on Cardinal Avenue approximately 500 feet south of Irvington Road. A modification to Subdivision and Development Street Standards was approved for the intersection distance within the subdivision on 7/28/08 to allow the first interior intersection to be located 135 feet west of Cardinal Avenue instead of the required 150 feet per Subdivision and Development Street Standards Section 3.2.4.1.

Cardinal Avenue and Irvington Road are both paved, two lane, County maintained, urban minor arterials that are designated as major routes per the Major Streets and Scenic Routes Plan with planned 150 feet right-of-way. Irvington Road is also designated a scenic route. Cardinal Avenue existing right-of-way varies between 75 to 150 feet, with only 75 feet dedicated adjacent to the rezoning site. There is a 105 feet building setback per the Major Streets and Scenic Routes Plan that affects the site as measured from the future centerline of Cardinal Avenue. This measures 30 feet into the property and is shown on the Preliminary Development Plan. Irvington Road existing right-of-way is 150 feet wide continuously and there is also a 105 feet Major Streets and Scenic Routes Plan building setback which affects only the very northern property corner and is also labeled on the Preliminary Development Plan.

The most recent traffic count on Irvington Road is 6,127 ADT west of Cardinal Avenue and 9,668 ADT east of Cardinal Avenue, with a posted speed limit of 45 mph for both segments. The most recent traffic count on Cardinal Avenue is 7,066 ADT, with a posted speed limit of 30 mph. The traffic capacity for both Cardinal Avenue and Irvington Road is 15,930 ADT and both roads are operating below their capacities.

There are no funded major roadway improvements planned for Cardinal Avenue or Irvington Road. Improvements to Irvington Road are slated as a future RTA project; however, no funding has been allocated at this time. The Southwest Infrastructure Plan shows Irvington Road needing improvements to a four lane cross section.

Staff does not recommend any changes to the existing rezoning conditions.



REGIONAL WASTEWATER RECLAMATION DEPARTMENT
201 NORTH STONE AVENUE
TUCSON, ARIZONA 85701-1207

JACKSON JENKINS
DIRECTOR

PH: (520) 724-6500
FAX: (520) 724-9635

June 19, 2014

TO: Thomas Coyle, AICP, Principal Planner
Planning Division
Pima County Development Services Department

FROM: _____
Mirela Hromatka, Program Manager
Planning and Engineering Section
Pima County Regional Wastewater Reclamation Department

SUBJECT: **Co9-07-10 - Cardinal Irvington Homes LLC – Cardinal Avenue Rezoning**
Request for Time Extension – Ordinance 2010-52
Tax Parcel #137-16-001F; 14.42 acres

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the request for a five year time extension for the above referenced rezoning case and offers the following comments for your use.

The PCRWRD has no objection to the proposed 5 year extension of the rezoning, but offers the following conditions that should replace the existing wastewater conditions in the Ordinance 2010-52:

REZONING CONDITIONS

Should the Board of Supervisors be inclined to approve this time extension, the Pima County Regional Wastewater Reclamation Department (PCRWRD) recommends the following conditions:

1. The owner / developer 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 / developer to that effect.
2. The owner / developer 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 / developer 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.

3. The owner / developer 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.
4. The owner / developer 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.
5. The owner / developer 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.
6. The owner / developer 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.

If you wish to discuss the above comments/conditions, please contact me at 724-6488.

MH

| Copy: Project

F. ANN RODRI... , RECORDER
RECORDED BY: ...
DEPUTY RECORDER
1861 PE-2

P0230
PIMA CO CLERK OF THE BOARD
PICKUP



CKET: 13880
PAGE: 2727
NO. OF PAGES: 9
SEQUENCE: 20101640639
08/25/2010
ORDIN 18:00
PICKUP
AMOUNT PAID \$ 0.00

ORDINANCE 2010- 52

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING PROPERTY (PARCEL CODE 137-16-001F) OF 14.42 ACRES FROM SH (SUBURBAN HOMESTEAD) AND TDR-RA (TRANSFER OF DEVELOPMENT RIGHTS RECEIVING AREA) TO CR-4 (MIXED DWELLING TYPE) AND TDR-RA (TRANSFER OF DEVELOPMENT RIGHTS RECEIVING AREA) IN **CASE Co9-07-10 CARDINAL IRVINGTON HOMES LLC – CARDINAL AVENUE REZONING**; ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF CARDINAL AVENUE AND IRVINGTON ROAD; AMENDING PIMA COUNTY ZONING MAPS NO. 35 AND 36.

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

Section 1. The approximate 14.42 acres, located on the southwest corner of Cardinal Avenue and Irvington Road, illustrated by the shaded area on the attached rezoning ordinance map (EXHIBIT A), which amends Pima County Zoning Maps No. 35 and 36 is hereby rezoned from SH (Suburban Homestead) And TDR-RA (Transfer of Development Rights Receiving Area) To CR-4 (Mixed Dwelling Type) And TDR-RA (Transfer Of Development Rights Receiving Area).

Section 2. Rezoning Conditions

1. Submittal of a subdivision plat if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.

ORIGINAL

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4. Provision of development related assurances as required by the appropriate agencies.
5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. The Landscape Plan submitted for subdivision plat approval shall reflect variances approved by the Board of Adjustment in the Native Plant Preservation site inventory and mitigation chart sections of the Landscape Plan.
8. Transportation conditions:
 - A. No access shall be allowed directly onto Irvington Road.
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 - C. Provision of pedestrian and bicycle access to adjacent properties, trails, streets and pedestrian ways, whenever possible.
9. Regional Flood Control conditions:
 - A. A drainage study shall be submitted for review and approval with the Tentative Plat that addresses the impacts of development to the federally mapped floodplain and local area drainage. This report shall include an encroachment analysis. A reduction in number or reconfiguration of lots and/or reconfiguration of the project entrance shall be required to reduce encroachment to the level allowed by the Floodplain Ordinance effective at the time of submittal of the Tentative Plat, as determined to be necessary by the Flood Control District.
 - B. This development shall meet Critical Basin detention and retention requirements, as determined to be necessary by the Flood Control District.
 - C. Bank protection shall be required along the southern bank wherever bank protection is proposed along the northern bank of the Dakota Wash as determined to be necessary by the Flood Control District.
 - D. The property owner(s) shall dedicate right-of-way or easements (onsite and offsite) for drainage purposes to the Flood Control District, as determined necessary during the development plan/subdivision plat review.
 - E. The property owner(s) shall provide all necessary on-site and off-site drainage related improvements at no cost to Pima County that are needed as a result of the proposed development of the subject property, as determined to be necessary by the Flood Control District. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.

2025 RELEASE UNDER E.O. 14176

- F. A Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) are required due to changes to and development within a FEMA 100-year floodplain. Approval by PCRFC and FEMA of the CLOMR shall be required prior to approval of grading permits.
 - G. A riparian mitigation plan shall be required for development in designated riparian areas.
10. Environmental Planning Conditions:
- A. 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 current and 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.
 - B. The following shall be incorporated into the recorded Private Subdivision Covenants, Conditions, and Restrictions (CC&Rs) that govern the Homeowners' Associations (HOAs) and the actions of private property owners within the Subdivision:
 - 1. Maintenance of Common Area by Association: The HOA shall be responsible for the removal of buffelgrass from Common Areas.
 - 2. Maintenance of Lots by Owners: Lot Owners shall keep private lots free of buffelgrass.
11. Wastewater Management conditions:
- A. The owner / developer shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner / developer to that effect.
 - B. The owner / developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department 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, sewer improvement plan or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner / developer shall have 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 Pima County Regional Wastewater Reclamation Department.

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- C. The owner / developer 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 / developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Regional Wastewater Reclamation Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
- E. The owner / developer 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, sewer construction plan or request for building permit.
- F. The owner / developer 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.

12. Natural Resources, Parks, and Recreation Conditions

- A. The developer shall provide a 15-foot easement for the Dakota Wash Trail #103, as shown on the Eastern Pima County Trail System Master Plan (EPCTSMP). This easement shall be labeled as "Public Non-Motorized Trail Easement" and include a legal description of the easement, a location map, and a description of the materials proposed for the trail. Staff will prepare and record the easement
- B. The recreational facilities, including the trail, shall be constructed by the developer and completed by the release of assurances for 75% of the lots.
- C. The developer shall adhere to the Design Review Committee conditions as stated in the C020-07-20:
 - 1. The developer shall obtain the appropriate permit from the Arizona Department of Agriculture prior to transporting any saguaro.
 - 2. Saguaros shall be transplanted and transported at the expense of the developer.
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 - 4. Saguaros may need to have shade provided; the type and amount of shade will be determined at the time of transplanting.
 - 5. All saguaros shall be transplanted with the same sun orientation as their original location.
 - 6. A landscape contractor licensed in the Sate of Arizona shall perform all salvage and transplanting operations.
 - 7. Final location shall be as determined by Natural Resources, Parks & Recreation.

SALVAGE EVIDENCE

13. Cultural Resources Condition:
A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt any development from compliance State burial protection laws. 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 ART 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.
14. Adherence to the preliminary development plan, as approved at public hearing (EXHIBIT B).
15. 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.
16. 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)."
17. The owner/developer shall execute and record a document acceptable to the Pima County Department of Community Services indicating that the owner/developer shall contribute to the affordable housing trust fund as adopted by the Pima County Board of Supervisors on December 13, 2005, before a certificate of compliance is issued."
18. Prior to the approval of the tentative plat, the applicant(s)/owner(s) shall provide, at applicant(s)/owner(s) expense, a third party hydrologic analysis of the rezoning site prepared by a certified hydrologist not associated with the preparation of the original rezoning site analysis. The purpose of the analysis is to verify whether or not the site can accommodate the number (34) and

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configuration of lots being proposed while meeting all floodplain ordinance requirements. The analysis must be reviewed and if acceptable approved by the flood control district. If the number of lots proposed cannot be accommodated, a reduction in the number or reconfiguration of lots will be required, substantially in conformance with the preliminary development plan, as shown at the Board of Supervisors public hearing.

19. This project is limited to single family detached residences and associated recreational facilities only.

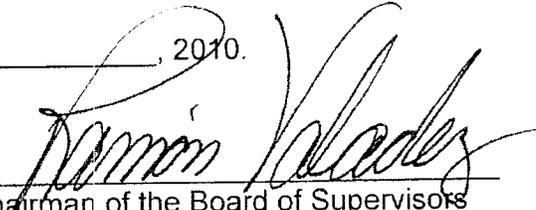
Section 3. Time limits, extensions and amendments of conditions.

1. Conditions 1 through 19 shall be completed by May 12, 2014.
2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.
3. No building permits shall be issued based on the rezoning approved by this Ordinance until all conditions 1 through 19 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 2 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Section 4. 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 16th day of August, 2010.


Chairman of the Board of Supervisors

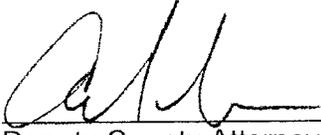
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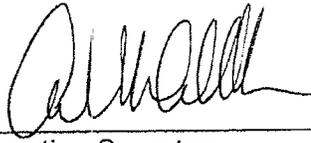

Clerk, Board of Supervisors

2010 AUG 16 10:00 AM

APPROVED AS TO FORM:



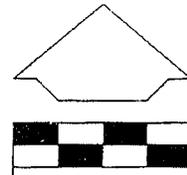
Deputy County Attorney
ANDREW FLAGG



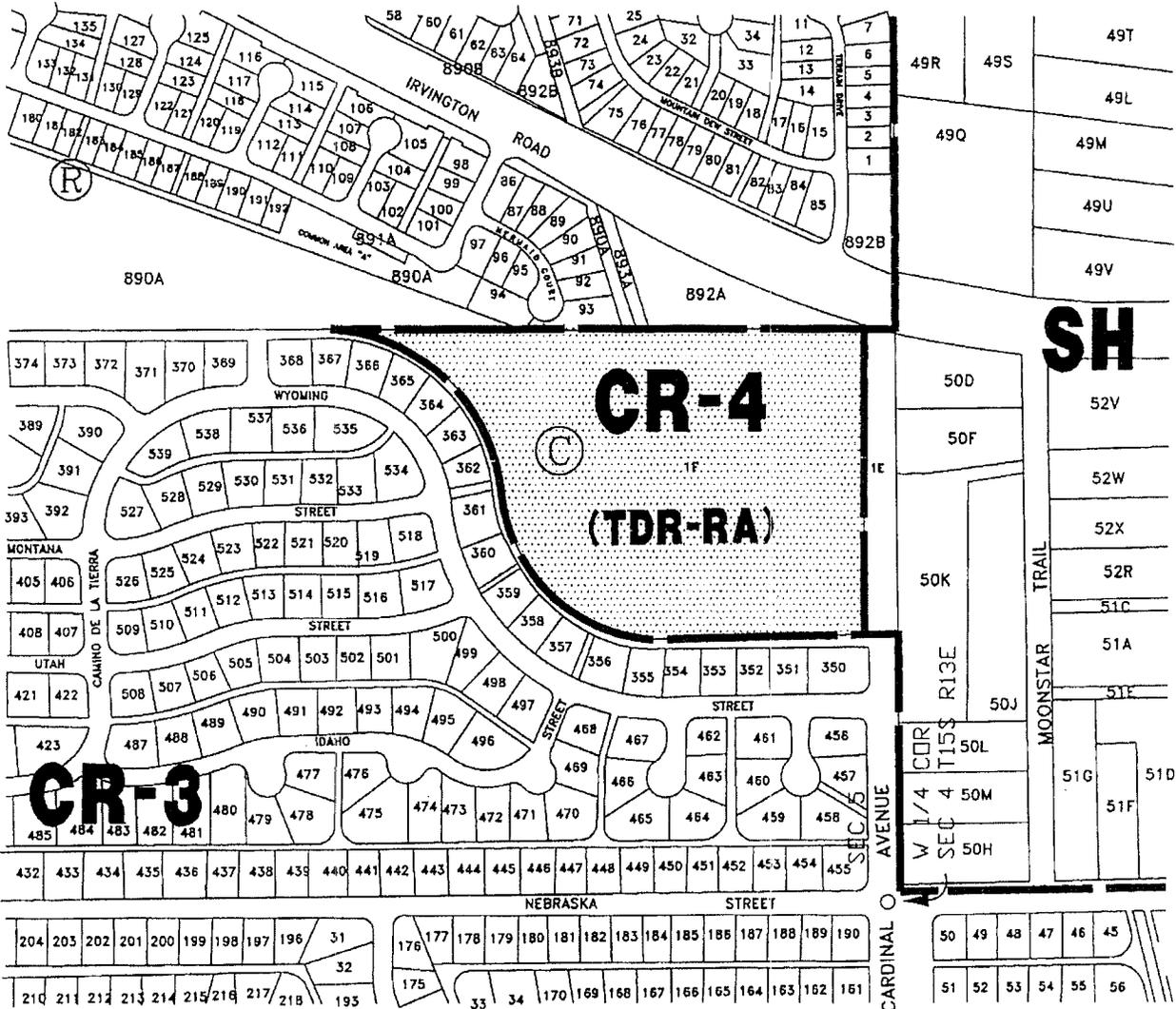
Executive Secretary,
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO'S 54, 34 BY ORDINANCE NO. 2010-52
TO PIMA COUNTY ZONING MAP NO'S 35, 36 TUCSON, AZ.
PARCEL 1F BEING A PORTION OF THE SE 1/4 OF THE NE 1/4 OF
SEC. 5, T15S R13E.



ADOPTED August 16, 2010 EFFECTIVE August 16, 2010



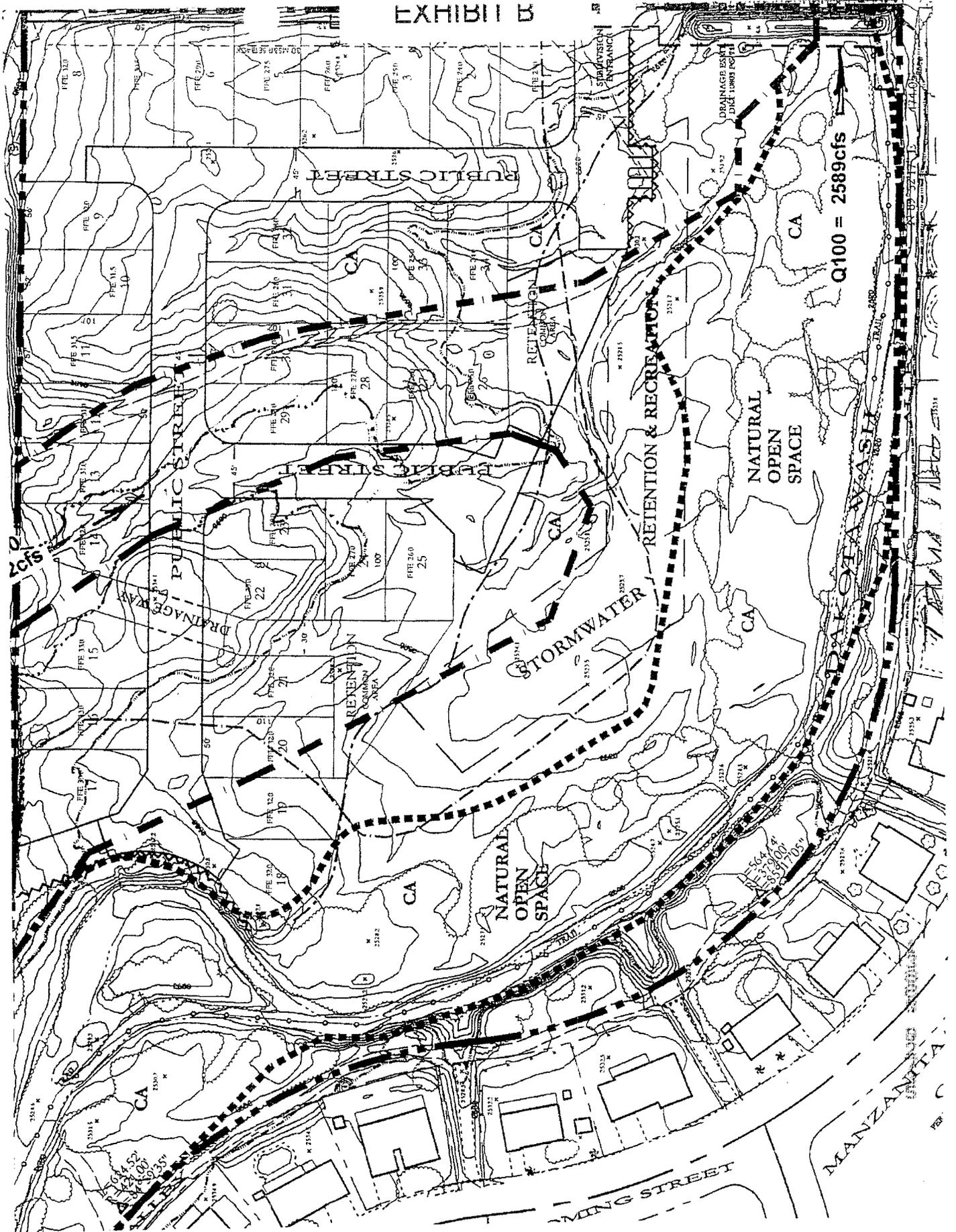
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EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM SH (TDR-RA) 14.42 ac±
ds-JUNE 16, 2010

CD9-07-010
CD7-00-20
137-16-001F

EXHIBIT B



APPROVED BY BOS 5/12/09