



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: November 22, 2016

Title: Co9-07-10 Cardinal Irvington Homes, LLC - Cardinal Ave Rezoning 5-Year Time Extension Resolution

Introduction/Background:

Applicant's request for a 5-year time extension for a rezoning from Suburban Homestead (SH) zone to Mixed-Dwelling Type (CR-4) zone on 14.42 acres located at the SW corner of the intersection of Irvington Rd and Cardinal Ave was approved by Pima County Board of Supervisors on August 5, 2014.

Discussion:

The applicant requested the rezoning in 2007, which was approved by the Board on May 12, 2009, to develop a 34-lot subdivision. Applicant now has until May 12, 2019 to complete all conditions of rezoning.

Conclusion:

Five-year rezoning time extension Resolution memorializes Board's decision from August 5, 2014 hearing.

Recommendation:

Staff recommends APPROVAL of the 5-year rezoning time extension Resolution.

Fiscal Impact:

N/A

Board of Supervisor District:

1 2 3 4 5 All

Department: Pima County Development Services, Planning Telephone: 520-724-9000

Department Director Signature/Date: [Signature] 10-31-16

Deputy County Administrator Signature/Date: [Signature] 11/1/16

County Administrator Signature/Date: C. DeLuca 11/2/16



Subject: Co9-07-10

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FOR NOVEMBER 22, 2016 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS
FROM: Chris Poirier, Planning Official
Public Works-Development Services Department-Planning Division
DATE: October 31, 2016

RESOLUTION FOR ADOPTION

Co9-07-10 **CARDINAL IRVINGTON HOMES, LLC – CARDINAL AVE REZONING**
Owner: Western Alliance Bank
(District 5)

If approved, adopt RESOLUTION NO. 2016 - _____

OWNER: Western Alliance Bank
(current) 2700 W Sahara Avenue
Las Vegas, NV 89102-1700

AGENT: Cardinal Irvington Homes, LLC
(original) 2524 N Walnut Avenue
Tucson, AZ 85712-2415

DISTRICT: 5

STAFF CONTACT: Mark Holden

STAFF RECOMMENDATION: APPROVAL.

CP/MH/ar
Attachments

cc: Co9-07-10 File
Tom Drzazgowski, Principal Planner

RESOLUTION 2016-_____

A RESOLUTION 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 REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE NO. 2010-52.

The Board of Supervisors of Pima County, Arizona finds that:

1. On April 12, 2007, the owner of approximately 14.42 acres located on the southwest corner of Cardinal Avenue and Irvington Road (the "Property") (as shown on the attached Exhibit A) applied for a 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);
2. On May 12, 2009, the Pima County Board of Supervisors approved rezoning the Property 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), subject to standard and special conditions;
3. On August 16, 2010 the Pima County Board of Supervisors adopted Ordinance No. 2010-52, recorded in Docket 13880 at Page 2727 of the Pima County Recorder's Office, rezoning the Property subject to the completion of standard and special conditions by May 12, 2014;
4. On May 6, 2014 the owner applied for a five-year time extension;
5. On August 5, 2014 the Pima County Board of Supervisors approved a five-year time extension with additional, modified standard and special rezoning conditions;
6. Ordinance No. 2010-52 allows the Board of Supervisors to amend the rezoning conditions by resolution.
7. The Pima County Board of Supervisors may adopt this Resolution for a new time limit under the authority of Pima County Code 18.91.100(C)(7).

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions represented in Section 2 of Ordinance No. 2010-52 are restated and modified as follows:

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 an 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 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 Co20-07-20:
 - 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 even that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State

Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.

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(l)."
- ~~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.~~ 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.~~ 18. This project is limited to single family detached residences and associated recreational facilities only.

Section 2. The time limit in Paragraph 1 of Section 3 of Ordinance 2010-52 is amended and extended as follows:

1. Conditions 1 through ~~18~~ shall be completed by May 12, 2014~~19~~.

Section 3. The rezoning conditions of Section 1 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Passed and adopted, _____, 2016.

Chair, Board of Supervisors

ATTEST:

Clerk, Board of Supervisors

APPROVED AS TO FORM:

Lesley M. Lukach 10/7/16

Deputy County Attorney
Lesley M. Lukach

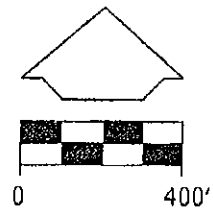
APPROVED:

[Signature] 10-31-16

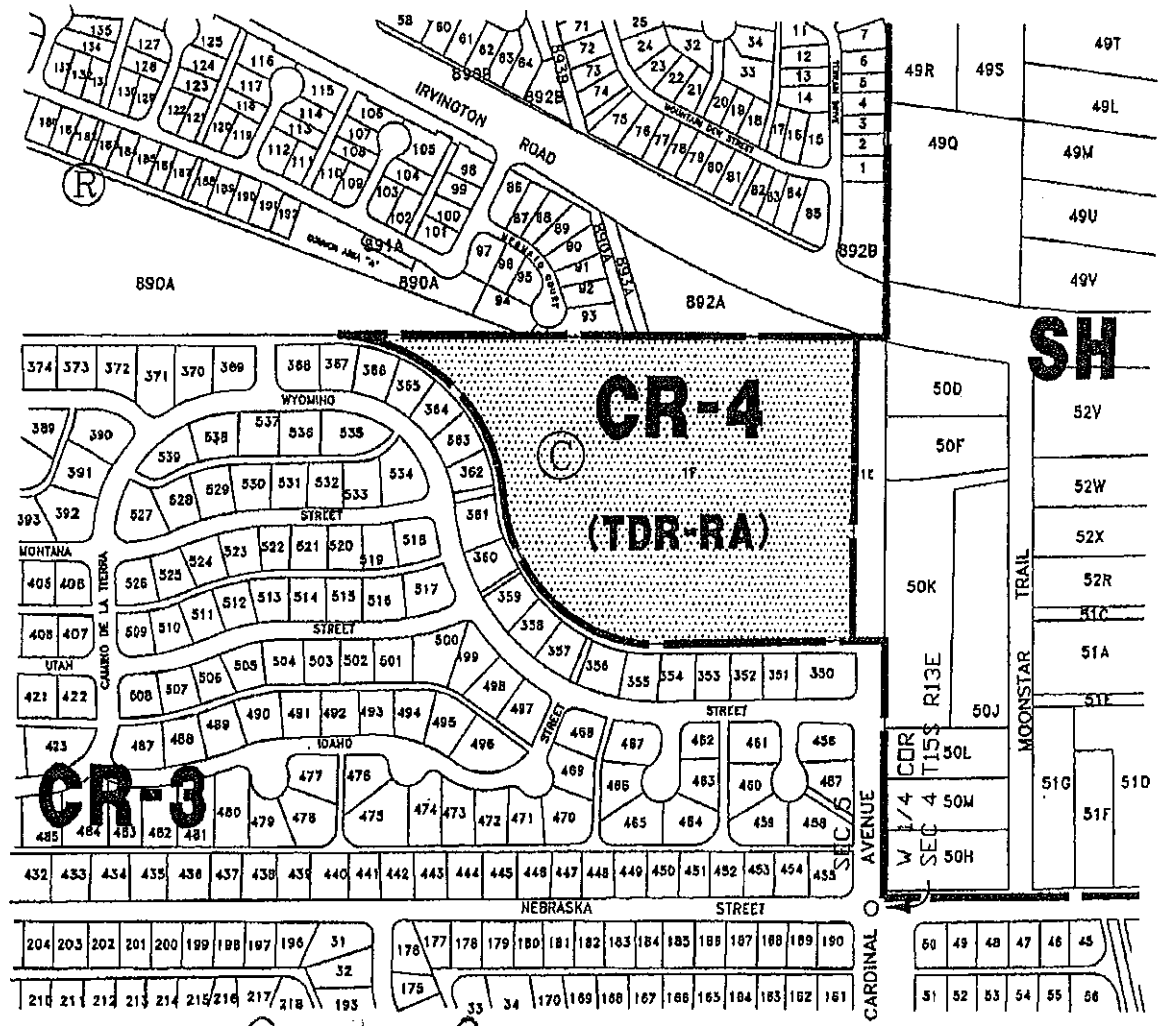
Executive Secretary
Planning and Zoning Commission

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



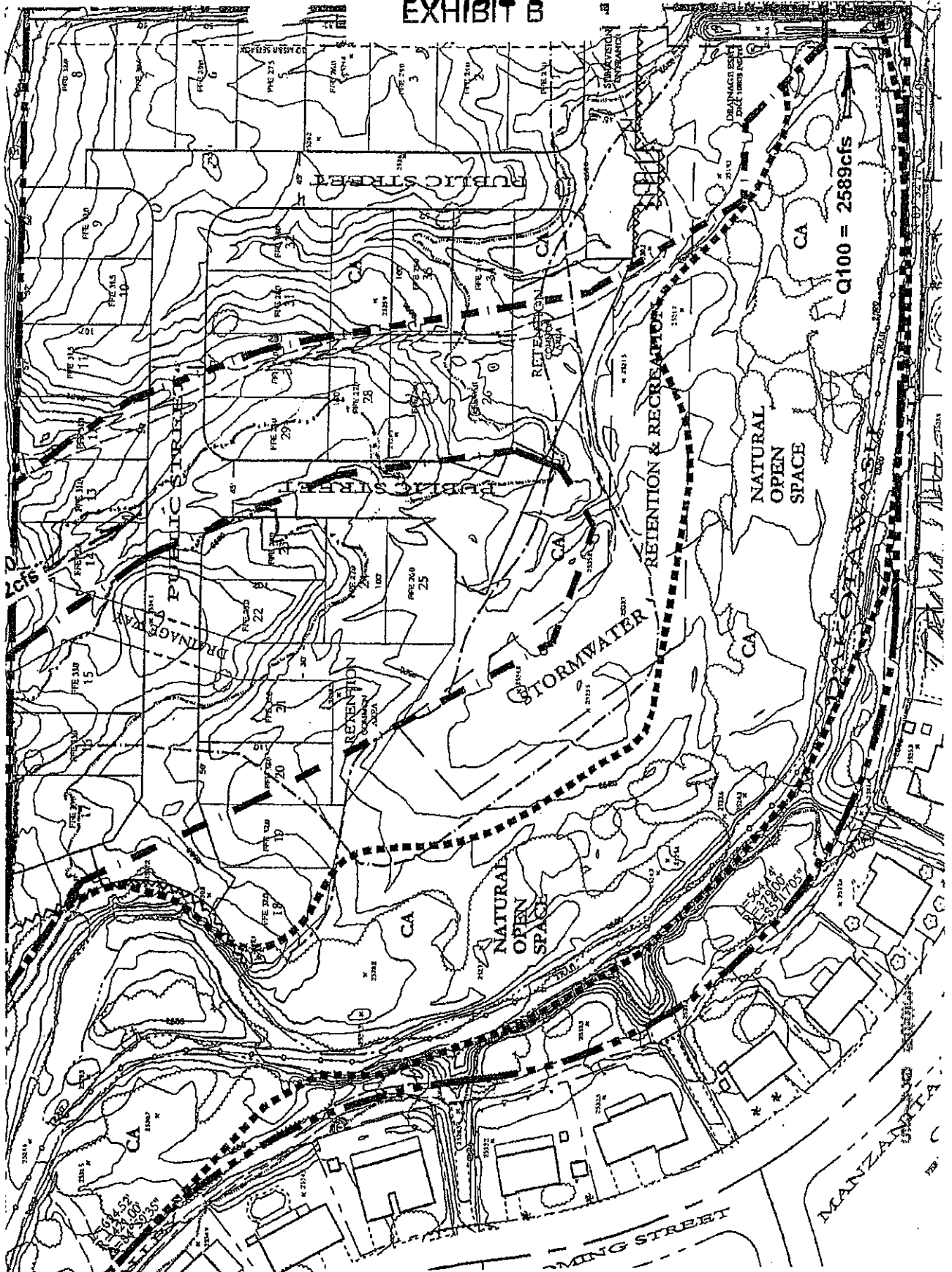
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EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

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

C09-07-010
 C07-00-20
 137-16-001F

EXHIBIT B



APPROVED BY BOS 5/12/09