



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: June 7, 2016

Title: Co9-71-44 PARRISH - SAN JOAQUIN ROAD REZONING MODIFICATION OF REZONING CONDITIONS & Co12-72-81 TUCSON MOUNTAIN ESTATES (LOT 22) PLAT NOTE WAIVER

Introduction/Background:

The applicant requests a modification of rezoning condition #1 and a waiver of plat note #13, both of which limit residential use of lots to one dwelling per 36,000 square feet, in order to place a second dwelling on Lot 22 of the Tucson Mountain Park Estates subdivision. The lot is one acre and zoned SH (Suburban Homestead).

Discussion:

The 37-acre rezoning to SH was approved in 1972, subject to conditions including a limit of one dwelling per 36,000 square foot minimum lot. The subsequent 28-lot Tucson Mountain Estates subdivision has a plat note reflecting the same condition. The condition may be related to now outdated requirements for use of septic systems that typically required SH lots from this time frame to be limited to one residence and/or could be related to the site's location near Tucson Mountain Park one-fourth mile to the north. The plat note is more restrictive than SH development standards, which allow two units on an acre lot. A factor against the request is the down-planning of the site under Pima Prospers from Low Intensity Urban 3.0 to Medium Intensity Rural (MIR) which provides a maximum density of 1.2 RAC (1 unit/36,000 sq. ft.) for new rezonings.

Conclusion:

Staff has no objection to the waiver of the plat note for the subject lot since SH zoning is in place, the restriction may have been associated with standards for on-site sewage disposal which are no longer applied, and the subdivision has paved County-maintained roads. Staff notes that about a third of the lot has been disturbed post rezoning and is therefore non-compliant with original rezoning condition #2 and plat note #14 that require no more than 25% of desert vegetation on each lot to be removed.

Recommendation:

Staff recommends approval of a modification of rezoning condition #1 and a waiver of plat note #13 subject to conditions which include compliance with current standards for on-site sewage disposal and natural re-vegetation of a portion of the lot to comply with original rezoning condition #2 and plat note #14.

Fiscal Impact:

0

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] 5-16-16

Deputy County Administrator Signature/Date: [Signature] 5/18/16

County Administrator Signature/Date: [Signature] 5/19/16



PIMA COUNTY
DEVELOPMENT SERVICES

TO: Honorable Sharon Bronson, Supervisor, District 3

FROM: Chris Poirier, Planning Official
Public Works-Development Services Department-Planning Division

DATE: May 16, 2016

SUBJECT: Co9-71-44 PARRISH – SAN JOAQUIN ROAD REZONING &
Co12-72-81 TUCSON MOUNTAIN PARK ESTATES (LOT 22)

The above referenced Modification of Rezoning Conditions & Plat Note Waiver is within your district and is scheduled for the Board of Supervisors' **TUESDAY, JUNE 7, 2016** hearing.

REQUEST: For a modification of rezoning condition #1 and a waiver of plat note #13, both of which limit residential use of lots to one dwelling per 36,000 square feet, to place a second dwelling on Lot 22 of the Tucson Mountain Park Estates subdivision (Bk. 25, Pg. 39). The subject lot is approximately 1.0 acre zoned SH (BZ) (Suburban Homestead – Buffer Overlay Zone) and is located on the north side of W. Delfina Road, approximately 500 feet north of S. San Joaquin Road.

OWNER: Jose and Connie Franco
41264 Merriwood Drive
Hemet, CA 92544-6393

AGENT: Katie Reyes
9040 W. Delfina Drive
Tucson, AZ 85735

DISTRICT: 3

STAFF CONTACT: David Petersen

PUBLIC COMMENT TO DATE: As of May 16, 2016, staff has received no written public comment.

STAFF RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The subject property is located within of the Special Species Management designation of the Maeveen Marie Behan Conservation Lands System.

TD/DP/ar
Attachments



BOARD OF SUPERVISORS MEMORANDUM

Subject: Co9-71-44 & Co12-72-81

Page 1 of 5

FOR JUNE 7, 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: May 16, 2016

ADVERTISED ITEM FOR PUBLIC HEARING

MODIFICATION OF REZONING CONDITIONS & PLAT NOTE WAIVER

Co9-71-44 PARRISH – SAN JOAQUIN ROAD REZONING &
Co12-72-81 TUCSON MOUNTAIN PARK ESTATES (LOT 22)

Request of Connie Jose Franco, represented by Katie Reyes, for a **modification of rezoning condition #1 and a waiver of plat note #13**, both of which limit residential use of lots to one dwelling per 36,000 square feet, to place a second dwelling on Lot 22 of the Tucson Mountain Park Estates subdivision (Bk. 25, Pg. 39). The subject lot is approximately 1.0 acre zoned SH (BZ) (Suburban Homestead – Buffer Overlay Zone) and is located on the north side of W. Delfina Road, approximately 500 feet north of S. San Joaquin Road. Staff recommends **APPROVAL SUBJECT TO CONDITIONS**.
(District 3)

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the modification of rezoning condition #1 and a waiver of plat note #13 to allow a second residence (mobile home) on Lot 22 of Tucson Mountain Park Estates, subject to the following conditions:

1. Prior to development (issuance of building permits), the property owner shall submit a site plan to the Pima County Flood Regional Control District for review and approval.
2. The owner/developer must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal systems on the subject property at the time a request for a building permit is submitted for review.
3. All proposed residential lots must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.

4. The subject parcel shall be of sufficient size and designed in such a manner to accommodate the existing and proposed development, primary and reserve leach fields and septic tanks, while meeting all applicable setbacks for on-site sewage disposal.
5. The lot shall be revegetated with native vegetation to achieve 75% coverage with plant density and types consistent with the natural desert environment in the site's vicinity to achieve compliance with the original rezoning condition that limited the removal of desert vegetation to no more than 25% of each lot. The 75% coverage does not include pre-development road disturbance along the northern lot boundary.

Condition #1 is recommended by the Regional Flood Control District. It reemphasizes need for Flood Control review of the site plan because the site is subject to sheet flooding.

Condition #2 requires the owner to secure approval of on-site sewage disposal (septic) systems as recommended by the Regional Wastewater Reclamation Department due to the continued lack of sewer service for the subdivision.

Condition #'s 3 and 4 relate to code requirements for use of septic systems. (Existing or proposed septic systems are not shown on the site plan.)

Condition #5 is recommended to ensure compliance with original rezoning condition #2 that required a covenant that no more than 25% of the desert vegetation be removed from any lot area.

REQUEST OF APPLICANT

The applicant requests modification of rezoning condition #1 and a waiver of plat note #13, both of which limit residential use of lots to one dwelling per 36,000 square feet, to place a second dwelling on Lot 22 of the Tucson Mountain Park Estates subdivision. The applicant indicates that the proposed mobile home was placed on the lot with an understanding that the SH zone allowed one dwelling per 18,000 square feet. The request stems from a zoning violation for placement of the second dwelling on the lot without required approval and permits.

PLANNING REPORT

Staff supports the request because the current zoning and standards for use of on-site sewage (septic) systems allow the use of two dwellings on the one-acre lot. The Suburban Homestead (SH) zone allows two residences per 36,000 square feet, but restricts manufactured and mobile homes to a maximum of two on a parcel, no matter how large. One manufactured home exists and the requested mobile home has also been placed on the lot.

The rezoning condition and plat note are similar to plat notes placed on other SH subdivisions approved in the early 1970's where the Sanitation Department recommended plat notes to limit such subdivisions to one residence per acre until sewers became available. However, the condition/plat note in this instance does not address sewer availability. Lots intended for residential use within the subdivision are a minimum of one acre in size; and the Sanitation Department commented that sewers would be required if lots were developed at less than 43,560 square feet net area. Current Pima County Department of Environmental Quality (PCDEQ) regulations allow more than one dwelling unit on an acre lot subject to limitations which may include maximum amounts of daily wastewater disposal. The area is not currently served by public sewers. Staff typically recommends approval of these types of plat note waivers.

Staff's recommendation is, however, tempered by the subdivision's location near to Tucson Mountain Park and its current Medium Intensity Rural (MIR) comprehensive plan designation. The 1971 rezoning file information does not directly indicate why staff recommended a rezoning condition limiting dwelling density to one unit per 36,000 square feet. The condition could be related to former standards for use of septic systems and/or could be related to the site's proximity to Tucson Mountain Park which is located approximately one-quarter mile to the north. Staff noted the site's close proximity to Tucson Mountain Park at the March 28, 1972 Planning and Zoning Commission hearing. The site's GR zoning at that time required a minimum 36,000 square feet per dwelling unit, but did not allow subdivision.

Also, the comprehensive plan designation of the lot and subdivision is now Medium Intensity Rural which limits residential density to 1.2 residences per acre (RAC), consistent with current dwelling unit restriction to one residence per 36,000 square feet. The site was rezoned prior to the adoption of the Comprehensive Plan in 1992. The initial plan designation was Low Intensity Urban 3.0 (3.0 RAC). The SH zone allows one dwelling per 18,000 square feet or 2.42 R/AC. While the MIR designation would prevent future higher density rezoning in this rural area, staff is less concerned with an additional residence being placed on the existing lot given the existing zoning, the current allowances for use of septic systems, and the existence of paved, County-maintained road access. There are higher density minimum 8,000 square foot lots in the Millstone Manor subdivision located adjacent to the south boundary of the subject subdivision. Lower density GR-1-zoned residential lots are located to the north extending to the Tucson Mountain Park boundary. Undeveloped lower density RH-zoned Federal Land exists to the east and west.

As with some other lots within the subdivision, the subject lot is non-compliant with rezoning condition #2 and plat note #14 which require that no more than 25% of the desert vegetation be removed from any lot area. It appears that approximately one-third of the site has been disturbed *post* rezoning and subdivision plat approval. (There was already road disturbance on the northern boundary of the site, including the subject lot, at the time of the rezoning based on the original aerial photograph.) The proposed mobile home has been placed within a more densely vegetated portion of the lot. Therefore, staff recommends condition #5 which requires revegetation of the subject lot with native vegetation to achieve 75% coverage excluding the existing road disturbance. Staff assumes that this condition relates to the site's proximity to Tucson Mountain Park. The area is now part of the Buffer Overlay Zone related to the park and is designated as Special Species Management Area in the Maeveen Marie Behan Conservation Lands System.

The Board approved a similar modification of rezoning conditions/plat note waiver request for a second dwelling for Lot 4 within the subdivision on July 1, 1997. That request was to allow placement of a second dwelling unit for a care provider for the lot owner who was in poor health. The Board approved the request subject to conditions including meeting standards for a Secondary Dwelling for use of an ill, handicapped, or elderly person in need of special care or supervision or for the care provider of such person. This implies possibly long-term, but not permanent, use.

The 37-acre rezoning from GR to SH was approved by the Board of Supervisors in April, 1972. The subsequent 28-lot Tucson Mountain Park Estates subdivision (Book 25, Page 39) was approved by the Board in July, 1973.

Staff's review of original deed restrictions (Book 6030, Page 458) for the subdivision found no restrictions relative to the number of dwellings on a lot. Staff does not know if the CC&R's have ever been amended or rescinded.

Public notice has been sent to all property owners within, and within 300 feet of the subdivision. No public comment concerning this request has been received to date. The applicant should note that a property owner within the subdivision may privately enforce the plat note, even if the Board of Supervisors grants the waiver.

OFFICE OF SUSTAINABILITY AND CONSERVATION - ENVIRONMENTAL PLANNING REPORT

The approval of the original rezoning (Co9-71-44) occurred prior to the effective date of the 2001 Comprehensive Plan Update which initiated implementation of the Maeveen Marie Behan Conservation Lands System (CLS). The current conditions of the subject property were present at the time the CLS was developed and as the requested second residence does not significantly affect that baseline condition, OSC Environmental Planning staff does not recommend application of the Special Species Management Area Conservation Guideline in this case.

However, we do support DSD Planning staff's recommendation to replant native vegetation to improve compliance with an original rezoning condition that limited the removal of desert vegetation to no more than 25% of each lot.

TRANSPORTATION REPORT

The Department of Transportation has no objection to this special action request. The additional residential unit will have a minimal impact on the local streets. Roads in the vicinity of this site are functioning below capacity. The additional unit could add an additional 10 average daily trips (ADT).

Delfina Drive is a paved local neighborhood street that connects to San Joaquin Road. It serves 10 residential lots. San Joaquin is a low volume arterial road as shown on the Major Streets and Scenic Routes Plan. It is also designated as a scenic route.

FLOOD CONTROL REPORT

The Pima County Regional Flood Control District has reviewed the request and has the following comments:

The site is impacted by sheet flooding estimated to be 1 foot deep during a 100-year event.

The District has no objection subject to the following condition:

Prior to development (issuance of building permits), the property owner shall submit a site plan to the Pima County Flood Regional Control District for review and approval.

WASTEWATER RECLAMATION REPORT

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the above referenced request for a modification of rezoning condition #1 and a waiver of plat note #13, both of which limit residential use of lots to one dwelling, to place a second dwelling on Lot 22 of the Tucson Mountain Park Estates Subdivision (Bk. 25, Pg. 39), allowed by the SH zoning. The second dwelling is the existing mobile home.

This subdivision is outside of the area served by Pima County's public sewer system. The subject lot is served by on-site sewage disposal system. Therefore, this matter falls primarily within the regulations enforced by the Pima County Department of Environmental Quality (PDEQ).

The PCRWRD has no objection to the requested modification of rezoning condition or requested waiver of plat note, provided that PDEQ has no objection to it.

The owner/developer must secure approval from the PDEQ to use on-site sewage systems on subject property the time a request for a building permit is submitted for review.

ENVIRONMENTAL QUALITY REPORT

On behalf of Pima County Department of Environmental Quality (PCDEQ), the requested Modification of Rezoning Condition/Plat Note Waiver request has been reviewed for compliance with PCDEQ requirements for on-site sewage disposal and air quality.

The Department has no objection to the proposed request for a second dwelling provided the following:

1. All proposed residential lots must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.
2. The subject parcel shall be of sufficient size and designed in such a manner to accommodate the existing and proposed development, primary and reserve leach fields and septic tanks, while meeting all applicable setbacks for on-site sewage disposal.

The Department's Air Quality Control District requires that air quality activity permits be secured by the developer or prime contractor before constructing, operating or engaging in an activity, which may cause or contribute to air pollution.

TUCSON WATER COMMENTS

Tucson Water has no objection to the proposed Modification of Rezoning Conditions for Co9-71-44 or the Plat Not Waiver for Co12-72-81.

UNITED STATES FISH & WILDLIFE SERVICE

To date, staff has not received a response to a request for comments.

DREXEL HEIGHTS FIRE DISTRICT COMMENTS

To date, staff has not received a response to a request for comments.

TUCSON UNIFIED SCHOOL DISTRICT COMMENTS

To date, staff has not received a response to a request for comments.

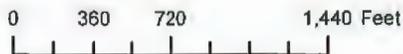
TRICO ELECTRIC COOPERATIVE COMMENTS

To date, staff has not received a response to a request for comments.

TD/DP/ar
Attachments

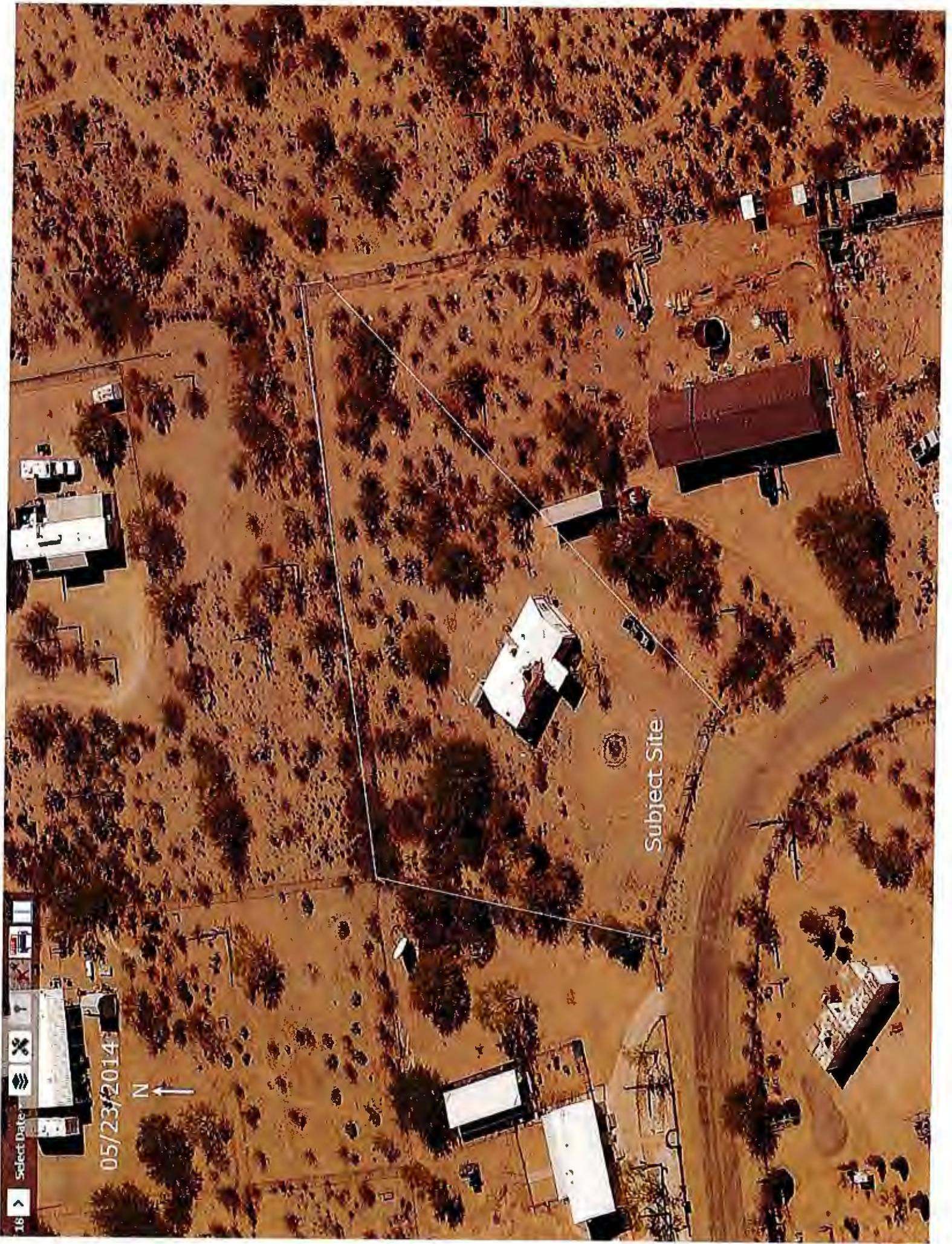
c: Jose and Connie Franco, 41264 Merriwood Drive, Hemet, CA 92544-6393
Katie Reyes, 9040 W. Delfina Drive, Tucson, AZ 85735
Tom Drzazgowski, Principal Planner
Co9-71-44 File & Co12-72-81 File

Case #: Co9-71-44
 Case Name: PARRISH - SAN JOAQUIN ROAD REZONING
 Case #: Co12-72-81
 Case Name: TUCSON MOUNTAIN PARK ESTATES - LOT 22
 Tax Code(s): 212-36-0310



**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**

	Notes: Modification of Rezoning Condition/Plat Note Waiver	
	PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10	
	Board of Supervisors Hearing: 06/07/16 (scheduled)	
Base Map(s): 67	Map Scale: 1:10,000	Map Date: 04/28/2016



Subject Site

Select Date

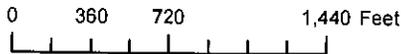
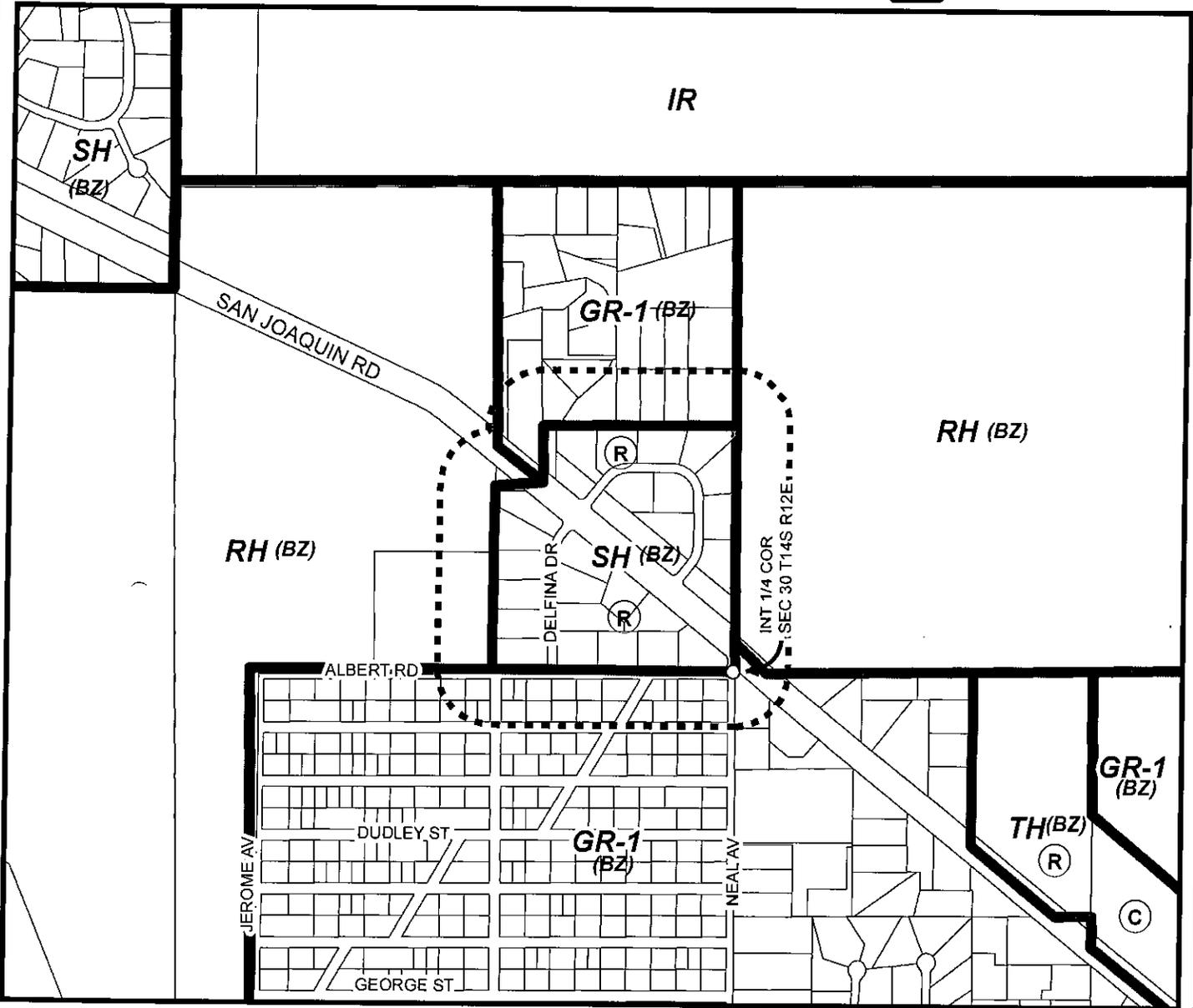
05/23/2014



Case #: Co9-71-44
 Case Name: PARRISH - SAN JOAQUIN ROAD REZONING
 Case #: Co12-72-81
 Case Name: TUCSON MOUNTAIN PARK ESTATES - LOT 22

Tax Code(s): 212-36-0310

 Zoning Boundary



Subject Site 

**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION**



Notes: **Modification of Rezoning Condition/Plat Note Waiver**

PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Board of Supervisors Hearing: 06/07/16 (scheduled)

Base Map(s): 67

Map Scale: 1:10,000

Map Date: 04/27/2016





Lot 22
1 Acre
44,000 sqft

Main Dwelling
(Existing)

Trailer
(Proposed)

Entrance

W. Delfina Drive



270.00'

306.11'

306.11'

40FT →

10FT →

189.97'

104.10'

9040

March 17, 2016

To the Pima County Board of Supervisors:

I am requesting a Modification of Rezoning Condition for Condition #1 of Co9-71-44 and Plat Note Waiver for Tucson Mountain Park Estates Subdivision Plat Note #13 (Co12-72-81) to allow a second dwelling on the one acre property at 9040 W. Delfina Drive. The reason for the request is I was told I could move the mobile home to this location with authorization from the property owner because it was the SH zone and one dwelling per every 18,000 square feet was allowed. The mobile home is now on the property and is not an easy move due to its age and condition.

Thank you,

We are working on condition of mobile home.

Applicant:
Katie Reyes
9040 W. Delfina Dr.
Tucson, AZ 85735
(520) 809-3113

Property Owner:
Connie Franco
41264 Merriwood Dr.
Hemet, CA 92544
(951) 443-7003

Katie Reyes



Building & Site Development
201 N. Stone Avenue, 1st Floor
Tucson, AZ 85701-1207

LETTER OF AUTHORIZATION

As required by Arizona Revised Statutes I hereby certify that I am the owner of the property referenced below and that the party whose name is listed below is authorized to take out Development Services permits in my name:

7040 W. Delfina Dr Tucson AZ 85735
Property Address

Modification of zoning condition Plat note waiver
Type of Permit Applied for: (SFR/MF/Remodel/Addition/Fence or Wall/Home Occupation/Child Care/Secondary Dwelling/Assisted Living Home/Group Home)

Kate Repp
Signature of Applicant

3/16/16
Date

AUTHORIZED BY:

Connie Fransa (951) 443-7003
Signature of Property Owner

03/14/16
Date

Per Board of Technical Registration and Registrar of Contractors regulation, Registrants and Licensed Contractors may apply for building permits without use of this form.

**Pima County Comprehensive Plan
Southwest Planning Area
Plan Designation: MIR
Special Area Policy S-29 (SWIP)**



Resource Conservation (RC)

Resource Sensitive (RS)

Flood Control Resource Area

Flood Control Resource Area

**Medium Intensity Rural
(MIR)**

RS

Subject Site

W. Delfina Dr.

S. San Joaquin Road

3. Medium Intensity Rural (MIR)

a. Objective: To designate areas for residential uses at densities consistent with rural settlements in reasonable proximity to Rural Crossroads, arterials, or suburban areas.

b. Residential Gross Density: Residential gross density shall conform to the following:

- 1) Minimum – none
- 2) Maximum – 1.2 RAC.

c. Residential Gross Densities for Developments Using Transfer of Development Rights (TDRs): Projects within designated Receiving Areas utilizing TDRs for development shall conform to the following density requirements:

- 1) Minimum – none
- 2) Maximum – 1.2 RAC.

MMB Conservation Lands System



**Special Species
Management Area**

Subject Site

W. Delfina Drive

S. San Joaquin Road

Outside

Modification of Rezoning Condition / Plat Note Waiver Approval for Lot 4 for Second Dwelling BOS Minutes

7-1-97

1. Construction drawings are submitted for approval;
2. The three support columns not encroach into any part of the designated natural lot area;
3. The portion of the deck over the natural lot area will be cantilevered - it is to extend into air space with no part touching the ground;
4. A landscape plan is to be submitted with the construction drawings;
5. The staircase feature, which would allow access to the natural lot area, was unanimously denied, with no possibility of a compromise;
6. Receipt of copies of the letters of approval from the neighbors;
7. Subject to the Pima County Board of Supervisors' waiver of the Plat Note, and the County indicate that this waiver is site and job specific, and will not be construed as precedent-setting.

Mr. Laidlaw, applicants' representative, stated the applicant was willing to abide by the conditions.

On consideration, it was moved by Supervisor Boyd, seconded by Supervisor Grijalva, and unanimously carried by a five to zero vote, to close the public hearing and to approve petitioners' request subject to the additional conditions.

→ 27. DEVELOPMENT SERVICES: MODIFICATION OF REZONING CONDITIONS AND PLAT NOTE WAIVERS

The Board of Supervisors on June 3, 1997, continued the following to this date:

Co9-71-44, PARRISH - SAN JOAQUIN ROAD REZONING
(REF. Co12-72-81 TUCSON MOUNTAIN PARK ESTATES)

Request of Jerry N. Dayton, Sr. for a modification of Rezoning Condition No. 1 and a waiver of Subdivision Plat Note No. 13, both of which limit residential use of lots to one dwelling unit per 36,000 square feet. The applicant requests the modification/waiver for Lot No. 4 of the Tucson Mountain Park Estates Subdivision (Bk. 25, Pg. 39) to allow a second dwelling unit on the lot. The subject lot comprises 1.05 acres zoned SH (Suburban Homestead) and is located on the west side of Delfina Drive, approximately 150 feet south of the intersection of Delfina Drive and San Joaquin Road. Staff recommends **APPROVAL**. (District 3)

Frank Behlau, Principal Planner, reported this case was continued from June 3, 1997. It is a modification of a rezoning condition and a plat note waiver to allow a second residence on the property. It is zoned SH which allows two units but there was a separate restriction allowing only one unit on the property. At the June 3, 1997, meeting there were objections to the request. There was a request the parties get back together to discuss this issue. As noted in my memo from June 26, 1997, neither side has wanted to meet. At this point, staff is recommending a condition that may bridge some of the issues and it is this item be treated as a temporary use on the property that would be analogous to the secondary dwelling process that is allowed otherwise. The condition is spelled out at the top of my memo of June 26, 1997.

Nancy Watchman, neighbor, expressed support of the rezoning saying that she did not have a problem with the request.

Patricia Overmeyer, neighbor, spoke in opposition due to the CC&R restrictions which do not allow RV camper trailers.

Supervisor Bronson asked Mr. Behlau to address that issue.

Mr. Behlau stated at the time of application there is the letter from the doctor verifying there is a need for a medical care giver. Then every three years there has to be a renewal of the permit. The process out of the zoning inspectors office is to send notice in advance of expiration asking the person with that permit to come back and provide proof that the medical condition still exist.

Ms. Overmeyer submitted an exhibit to the Clerk stating that it was a photo showing two additional electrical boxes on Mr. Daytons property. Ms. Overmeyer said if the Board grants this rezoning, she would request the Board demand Mr. Daytons property be in compliance with the CC&R's, including no travel trailers or RV's. She requested no exemption be given to Mr. Daytons wife. She also asked the Board to request proof of the care givers license and payment arrangements to provide for the care giver be given to the Board and made available for her to ensure Mr. Dayton is complying.

Supervisor Bronson asked staff to comment on Ms. Overmeyers requests.

Katrina Richter, County Attorney, replied the zoning has no effect on the CC&R's. The Board cannot enforce private CC&R's, however, the Board can enforce conditions placed on the plat note waiver.

Mr. Behlau pointed out under the zoning code an RV is considered a trailer and it is allowed as a permanent dwelling. To say no RV allowed would have to be said as no trailer allowed on the property. Language in the CC&R's state there are camper trailers and that these units may not exceed 20 feet in length and may not be lived in during a period of storage.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Boyd, and unanimously carried by a five to zero vote, to close the public hearing and to approve petitioners' request subject to the following additional conditions:

1. Second unit cannot be a camper, RV, or trailer as defined in the zoning code.
2. Attach the staff letter of June 26, 1997 to the plat.

28. ~~DEVELOPMENT SERVICES: APPEAL OF HEARING OFFICER DECISION~~

~~The Board of Supervisors on June 3, 1997, continued the following to this date:~~

~~Co22-96-27, Co22-96-28, Co22-96-31, Co22-96-32, Co22-96-37 and Co22-96-38, B/BALCONY ENTERPRISES (JACK AND CELIA BUTLER)~~

~~In accordance with Pima County Zoning Code 18.95.030C, B/Balcony Enterprises (Jack and Celia Butler), on properties located at 12101 E. Ponce de Leon Road (Lot 42); 12060 E. Ponce de Leon Road (Lot 41); and 12001 E. Ponce de Leon Road (Lot 28); appeals the decision of the Hearing Officer regarding violations to Section 18.61.080 (Hillside Development Zone Ordinance) with respect to Case Nos. Co22-96-27 and Co22-96-28 (Lot 42) and Co22-96-31 and Co22-96-32 (Lot 41), vertical distance of exposed slope and constructed pad is in substantial non-conformance with the originally approved grading permit; Co22-96-37 and Co22-96-38 (Lot 28), exposed slopes appear to be in excess of fifteen feet and the driveway was in substantial non-conformance with the originally approved grading permit. (District 4)~~

~~On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll, and unanimously carried by a five to zero vote, to continue this item to the Board of Supervisors regular meeting of September 2, 1997.~~



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION
201 N. Stone Avenue, 2nd Floor
Tucson, Arizona 85701-1207**

JUDITH A. PATRICK
Director

PHONE: (520) 740-6800
FAX: (520) 623-5411

To: Honorable Chairman and Members,
Pima County Board of Supervisors

From: Frank P. Behlau, Zoning Administrator
for Jim Mazzocco, Planning Official

Date: June 26, 1997

Re: **Agenda Item #15, July 1, 1997 Board of Supervisors Meeting
Modification of Rezoning Condition/Plat Note Waiver
(Co9-71-44 Parrish - San Joaquin Road Rezoning)**

Staff recommends that this item be **APPROVED**, subject to the following condition:

A use permit may be issued by the Zoning Inspector for a second dwelling unit on Lot #4 provided that the standards of section 18.09.020.J of the Pima County Zoning Code have been met. The permit shall be valid for three years and may be renewed by the Zoning Inspector in accordance with 18.09.020.J.

This condition is derived from section 18.09.020.J of the Zoning Code, which is a secondary dwelling mechanism allowing for medical caregiver residences in the RH and GR-1 zones.

At its June 3, 1997 meeting, the Board of Supervisors continued to July 1, 1997 this request by Jerry Dayton, Sr. to waive certain restrictions in order to allow a second dwelling unit on the property. Several neighboring property owners objected to the request and the Board continued the item to allow a meeting between the applicant, neighbors and staff.

Planning Official Jim Mazzocco spoke with both the applicant and an attorney, Drue Morgan-Birch, representing a protesting neighbor. Both sides said that they did not want to meet with each other. Staff has since prepared a condition based on those used for "secondary dwellings" in the RH and GR-1 zones. This mechanism allows a second, caregiver residence for renewable three-year periods until the residence is no longer occupied by the person specified in the permit.

I spoke with the applicant on June 18th and he was amenable to the proposal, but asked that his ex-wife, who jointly owns the property with him, be an additional party to the agreement. He stated that she also has a medical condition requiring special care; I asked that he provide a letter from a doctor for her as well. As of this date, I have not heard anything further from him in regard to the request.

I spoke with Ms. Morgan-Birch on June 19th. She was noncommittal about the suggested "secondary dwelling unit" conditions. She has since submitted a letter (attached) on behalf of her clients which rejects any approval of a second residence and states that the CCRs are violated both by a second residence and by use of an RV as a residence.

Staff has received one additional letter of protest on this matter.

Attachments

c: Jim Mazzocco, Planning Official
Frank P. Behlau, Zoning Administrator
Ted Payne, Development Review
Janet Russell, Real Property Division, DOTFCD
Jerry N. Dayton, Sr., 3060 S. Delfina Drive, Tucson, AZ 85735
Drue Morgan-Birch, 548 E. Speedway, Tucson, AZ 85705
Co9-71-44 File
Book

Original Rezoning Approval Co9-71-44

BOS minutes 4-17-72

~~Palace Entertainment Corporation (Kenneth C. Chivers, owner-president), 4606 North Oracle Road. The application was posted on March 21, 1972, and no written protests were filed. The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Mr. Weaver, seconded by Mr. Jay, and carried that the Board recommend to the State Department of Liquor that the application be approved.~~

23. DP&Z-Z: Co9-71-44, LOU PARRISH BUILDERS, INC., PETITION

The Chairman stated that this is the time and the place designated and legally advertised for hearing on the petition (Co9-71-44) of Lou Parrish Builders, Inc., to rezone from GR to SH property (approximately 37 acres) on both sides of San Joaquin Road one-half mile north of Bopp Road, within the Ryan Air Field Area Plan, Part I (Col3-71-2). The Zoning Analyst (Lance MacVittie) reported that the petition is in order and that the Planning and Zoning Commission unanimously recommends that the petition be approved subject to:

- (1) Recording a covenant limiting the density to one residential unit per 36,000 square feet of minimum lot area;
- (2) Recording a covenant stipulating that no more than 25% of the desert vegetation will be removed from any lot area;
- (3) Recording an acceptable plat that will provide necessary rights-of-way for roads and drainage;
- (4) Completion of the requirements for a zoning ordinance within two years from the date of approval by the Board of Supervisors;
- (5) A suitable arrangement with the Pima County Department of Sanitation regarding sanitary facilities; and,
- (6) Recording a covenant holding Pima County harmless in the event of flooding."

The Chairman inquired whether anyone wished to be heard. No one appeared. It was thereupon moved by Mr. Jay, seconded by Mr. Weaver, and carried that the rezoning from GR to SH be approved subject to the Commission's recommendations and that the necessary ordinance be drawn for presentation to the Board upon compliance with the requirements.

24. DP&Z-Z: Co9-71-60, TRANSAMERICA TITLE & TRUST COMPANY (LEO RICH) PETITION

The Chairman stated that this is the time and the place designated and legally advertised for hearing on the petition (Co9-71-60) of Transamerica Title & Trust Company (Leo Rich) to rezone from GR to SH property (approximately 100 acres) at the southwest corner of Valencia and Mark Roads, within the Saginaw Hill Area Plan (Col3-70-3). The Zoning Analyst reported that the petition is in order and that the Planning and Zoning Commission unanimously recommends that the petition be approved subject to:

- "(1) Recording an acceptable plat that will provide for necessary rights-of-way for roads and drainage;
- (2) Completion of the requirements for a zoning ordinance within three (3) years from the date of approval by the Board of Supervisors;
- (3) A suitable arrangement with the Pima County Department of Sanitation regarding sanitary facilities; and,
- (4) Recording a covenant holding Pima County harmless in the event of flooding."

B/S min

2-3, 506-2200,
TUCSON, ARIZ. 85733-7007

DECLARATION OF CONDITIONS AND RESTRICTIONS
OF TUCSON MOUNTAIN PARK ESTATES, LOTS 1 to 15 and 19 to 28 INCLUSIVE

25/39

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned STEVARY TITLE AND TRUST OF TUCSON, an Arizona corporation, as Trustee under Trust No. 1947 is the owner in fee simple of all that tract of land situated in the County of Pima, State of Arizona, and described as follows to wit:

Lots 1 to 15 and 19 to 28 inclusive, TUCSON MOUNTAIN PARK ESTATES, Pima County, Arizona according to the map thereof of record in the office of the County Recorder of Pima County, Arizona in Book 25 of Maps and Plats at page 39 thereof.

That the undersigned hereby certifies and declares that it has and does hereby establish a general plan for the improvement, development, ownership, use, sale and conveyance of said property, and does hereby establish certain restrictions, conditions, and covenants upon and subject to which lots located within said property as above described shall henceforth be occupied, used, owned, sold and conveyed. That said provisions, conditions and restrictions shall each and all apply to and bind the respective successors in interest of the present and/or covenants and restrictions shall impose upon each and all of said lots a servitude in favor of each and every lot in said property as the dominant tenement or covenants. That said provisions, restrictions, conditions and covenants are as follows, to wit:

1. Arbitrary restrictions as to size, costs, location or exterior appearance of any building project whatsoever are not herein imposed, it being the intention of the undersigned to encourage complete freedom in design and development of each site so long as improvements therein are logical and suitable and do not intrude upon the privacy or become objectionable to the owners of adjacent property. The use of any used or sub-standard building material or the design of any structure which may be objectionable to others in the sub-division is strongly discouraged.

2. No noxious or offensive trade or activity shall be carried on, nor shall anything be done thereon which may be a nuisance to the neighborhood. No commercial car repairs will be permitted on said property.

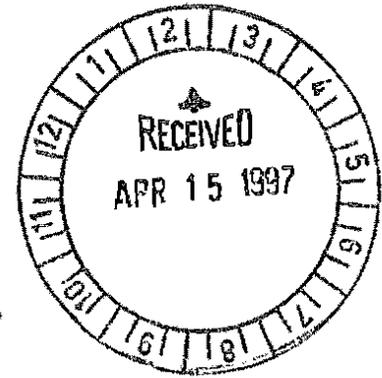
3. No refuse or junk shall be kept on any lot and no fuselages, jalopies or other junk shall be permitted to remain on said property except when stored in an enclosed building.

4. No cattle, sheep, hogs, rabbits, poultry, horses or any other livestock shall be kept or maintained on any lot for commercial purposes or livestock operation. Livestock used for domestic use will be allowed, with the exception of hogs, as provided for in this instrument, provided that said livestock will be kept and maintained in a reasonable number and in a reasonably clean and sanitary condition, which shall include, but not be limited to, the disposal of manure on a regular basis. Lot occupants who keep any animals whatsoever on the premises shall comply with the requirements provided by the Pima County Zoning Ordinance pertaining to the keeping of animals on SM zoned property.

5. Horse trailers, boat trailers, campers and similar camper trailers not to exceed 20 feet in length may be stored on the residence lot. Under no circumstances may these units be lived in during the period of storage.

6. Corrals must be a minimum of 400 square feet per animal and must be constructed of the following materials or any combination of them: pipe, wood, railroad ties, wood posts, 4 mesh wire or cyclone wire. Corral gates shall be constructed of the same material. Minimum acceptable size of planking used in construction of corrals of corrugated metal, barbed wire, single strand wire fencing or range wire is prohibited.

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7. Stables and stalls or shelter roofs shall have minimum size of 12' X 12' per horse and should be constructed to blend architecturally with the construction of the residence on the property.

8. Perimeter fencing shall be of approved and acceptable stock fencing, except that barbed wire shall not be used.

9. No trailer, building, or structure upon any building site, lot or parcel covered by this Declaration shall be permitted to fall into disrepair and each such trailer, building or structure shall be at all times kept in good conditions and repair and adequately painted.

10. A dedicated easement and right-of-way in perpetuity is hereby reserved for the benefit of all lots herein for the erection, construction, maintenance and operation of systems for the transmission of electrical energy and for telephone lines and telegraph lines, and for the laying and maintenance of pipes, mains and conduits for the furnishing of water, gas sewer service or for other purposes, together with the right of entry for the purpose of installing, maintaining and reading of gas, electric and water service meter, providing that the placement of all such utilities on each lot shall be only on the approval of the owner.

11. Once construction is commenced of any building or structure it shall be prosecuted diligently and continuously from the time of commencement until the same shall be fully completed and all buildings or other structures must be completed within 24 months from the date of commencement of construction, provided, however, that additional time will be allowed in the event that there are any strikes, shortages or materials or acts of God which interfere with the construction of any building or structure.

12. No obstruction, diversion, bridging or confining of existing channels through which water in time of storms naturally flows upon, under, in or across any portion of said property shall be made by any person in such manner as to cause damage to any other property.

13. Violation of any one or more of the deed restrictions may be restrained by any court of competent jurisdiction and damages awarded against such violator, provided, however, that violation of these restricted covenants or any one of them shall not affect the lien of any mortgage of record. The cost of any action instituted to enforce any of these restrictions, including all legal and court cost, shall be borne by the violator.

14. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

15. It is further provided that the aforesaid provisions, restrictions, and conditions shall continue and remain in full force and effect at all times as against any owner of any building site or lot, however the title thereto may have been acquired, until January 1, 1990 A.D., at which time said covenants shall be automatically extended for successive periods of five (5) years each, unless, by mutual agreement between the undersigned or its designated agent and the owners of a majority in number of lots, at or prior to the end of the initial term or any successive period of five (5) years, said covenants shall be amended, changed or terminated in whole or in part. Such amendments, changes or terminations shall be effected by instruments in recordable form, executed by the undersigned or designated agent and filed in the proper office of record.

16. It is further provided that the rights, obligations and conditions which run with the covenants herein set forth be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of any of the parties affected hereby.

17. These restrictions may be waived by Stewart Title and Trust of Tucson, as Trustee, when in the sole discretion of said Trustee good cause for such waiver is shown. Restrictions 1 59 15 inclusive.

IN WITNESS WHEREOF, the undersigned has hereinto affixed its signature and seal
on the 15th day of May, 19 79.

STEWART TITLE & TRUST OF TUCSON, an
Arizona corporation, as Trustee under
Trust No. 1947, as Trustee only and
not in its Corporate Capacity.

BY: [Signature]
Trust Officer

STATE OF ARIZONA)
COUNTY OF PIMA)

This instrument was acknowledged before me this 15th day of May,
19 79, by Wanda Dennenfaiser, as Trust Officer for Stewart Title & Trust
of Tucson, an Arizona corporation, as Trustee only.

[Signature]
NOTARY PUBLIC

My Commission Expires: 9/10/82

Pursuant to Section 33-401, AAS, the names and addresses of the beneficiaries as
disclosed by the records of said Trust are as follows:

Stewart Title & Trust of Tucson
as Trustee under Trust #1947
P.O. Box 42200
Tucson, Arizona 85733

Alan R. Friedman
Gay W. Friedman
3400 W. Sorek
Tucson, Arizona 85705

Don Allen
Shirley Allen
Richard Retundo
Mary Retundo
2125 S. Craycroft Rd.
Tucson, Arizona 85706

056248



INDEXED	CLERK	RECORDED

State of Arizona
County of Pima
I, [Signature], Notary Public for Arizona, do hereby certify that the foregoing is a true and correct copy of the original instrument recorded in my office on this 17th day of May, 1979.
My Commission Expires 9/10/82
By: [Signature]
Deputy