



**PIMA COUNTY**  
DEVELOPMENT SERVICES

DATE: May 24, 2017

TO: Julie Castañeda, Clerk of the Board

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

SUBJECT: June 6, 2017 Board of Supervisors Hearing  
Continuance from the May 16, 2017 Board of Supervisors Hearing  
**Co9-15-005 JT RP LLC – East Eagle Feather Road (Easement) Rezoning**

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The applicant has requested that an additional rezoning condition be added to the ordinance. This condition is self-imposed and more restrictive yet differs from the approved minutes. The applicant and neighbors assumed that this condition as presented at the Planning and Zoning Commission was carried over to the final Board motion. As a result, of the applicant's request, staff is proposing the following change as reflected in the revised ordinance:

6. Pima County Department of Transportation:

- A. East Eagle Feather Road (Easement) shall be paved to Pima County standards prior to issuance of any permits.
- B. The paved road will be maintained by agreement among the four new re-zoned lots and the existing home to the west. Neighbors will not be required to participate in the maintenance agreement.

c: Tom Drzazgowski, Principal Planner

ORDINANCE 2017-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA RELATING TO ZONING; REZONING APPROXIMATELY 3.81 ACRES OF PROPERTY, LOCATED APPROXIMATELY 800 FEET EAST OF NORTH BEAR CANYON ROAD ON THE SOUTH SIDE OF EAST EAGLE FEATHER ROAD (EASEMENT) FROM THE SR (SUBURBAN RANCH) ZONE TO THE CR-1 (SINGLE RESIDENCE) ZONE IN CASE Co9-15-005, JT RP, LLC – EAST EAGLE FEATHER ROAD (EASEMENT) REZONING, AND AMENDING PIMA COUNTY ZONING MAP NO. 52.

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

Section 1. The 3.81 acres located approximately 800 feet east of N. Bear Canyon Road, on the south side of East Eagle Feather Road (Easement) and illustrated by the shaded area on the attached rezoning ordinance map (Exhibit A), which amends Pima County Zoning Map No. 52, is rezoned from the SR (Suburban Ranch) zone to the CR-1 (Single Residence) zone subject to the conditions in this ordinance.

Section 2. Rezoning Conditions.

1. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
2. Provision of development related assurances as required by the appropriate agencies.
3. 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.
4. Adherence to the sketch plan (Exhibit B) as approved at public hearing.
5. There shall be no further lot splitting or subdividing of residential development without written approval of the Board of Supervisors.
6. Pima County Department of Transportation:
  - A. East Eagle Feather Road (Easement) shall be paved to Pima County standards prior to issuance of any permits.
  - B. The paved road will be maintained by agreement among the four new re-zoned lots and the existing home to the west. Neighbors will not be required to participate in the maintenance agreement.

7. Pima County Regional Wastewater Reclamation District:  
Pima County Regional Wastewater Reclamation Department (PCRWRD) requires the following conditions:
- A. 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.
  - B. The owner / developer shall obtain written documentation from 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.
  - 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 PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
  - E. The owner / 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.
  - 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.
8. Pima County Office of Sustainability:

An on-the-ground archaeological and historic site survey shall be conducted on the subject parcel(s) before any ground modifying activities occur. Any archaeological or historic sites that are recommended as eligible for Arizona or National Registers of

Historic Places shall require a cultural resources mitigation plan. The mitigation plan will need to be submitted to Pima County either before or at the time of the submittal of a site plan, tentative plat, or development plan. Any cultural resource survey and/or mitigation plan shall be conducted by an archaeologist permitted by the Arizona State Museum or registered architect as appropriate. Any subsequent development requiring a Type II grading permit will be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.

9. Upon the effective date of the Ordinance, the owner(s)/developer(s) of the rezoned property shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site; and, Pima County may enforce this rezoning condition against the property owner. Prior to issuance of the Certificate of Compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.
10. The property owner shall execute and record the following disclaimer regarding Prop 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)."
11. 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.
12. The unpaved portion of East Eagle Feather Road (Easement) and the north-south portion of East Eagle Feather Road (Easement) at the east site boundary shall be abandoned.
13. All buildings shall be limited to one story and oriented toward the cul-de-sac.
14. A six-foot wall, set back 20 feet along the north and east boundary of the rezoning site, shall be completed prior to the issuance of any permits.

A covenant shall be recorded restricting any rezoning on the adjoining parcel to the west for 50 years.

15.

Section 3. Time limits of conditions. Conditions 1 through 15 of Section 2 shall be completed no later than December 13, 2021.

Section 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 5. As directed by the Board of Supervisors, pages 1 and 8-11 of the approved minutes

of the December 13, 2016 Board of Supervisors meeting, which include the discussion of this rezoning, are attached to this Ordinance (Exhibit C).

Section 6. The effective date of this Ordinance is the date the Chair of the Board of Supervisors signs this Ordinance.

Passed and adopted by the Board of Supervisors of Pima County, Arizona, on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Chair, Pima County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk, Board of Supervisors

Approved As To Form:

  
Deputy County Attorney  
Lesley M. Lukach

Approved:

  
Executive Secretary,  
Planning and Zoning Commission

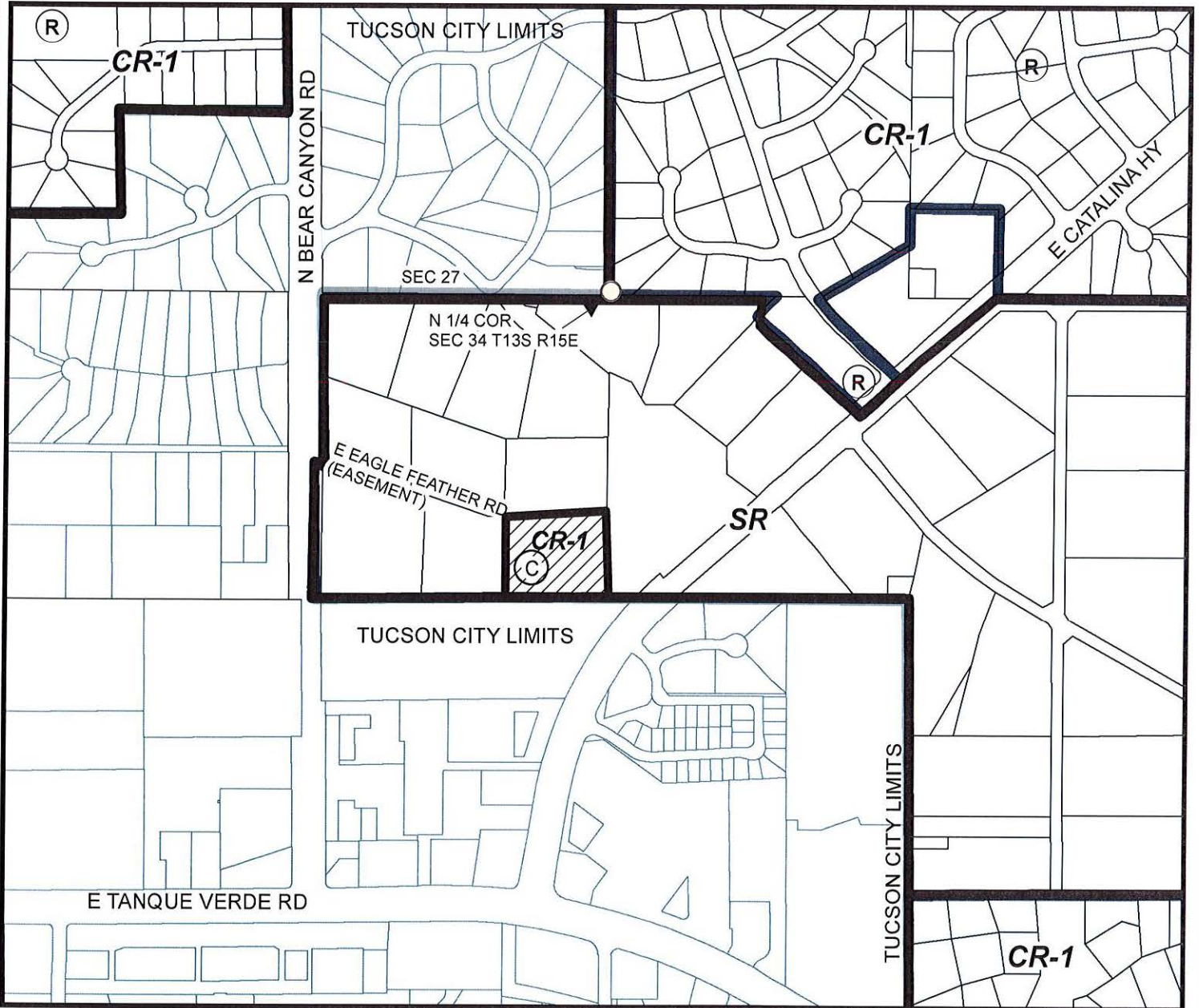
# EXHIBIT A

AMENDMENT NO. \_\_\_\_\_ BY ORDINANCE NO. \_\_\_\_\_  
TO PIMA COUNTY ZONING MAP NO. 52 TUCSON AZ.  
PARCEL 79 BEING A PART OF THE NE 1/4 OF THE NW 1/4  
OF SEC. 34 T13S R15E.



0 165 330 660 Feet  
[Scale bar with 4 segments]

ADOPTED: \_\_\_\_\_ EFFECTIVE: \_\_\_\_\_



## EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

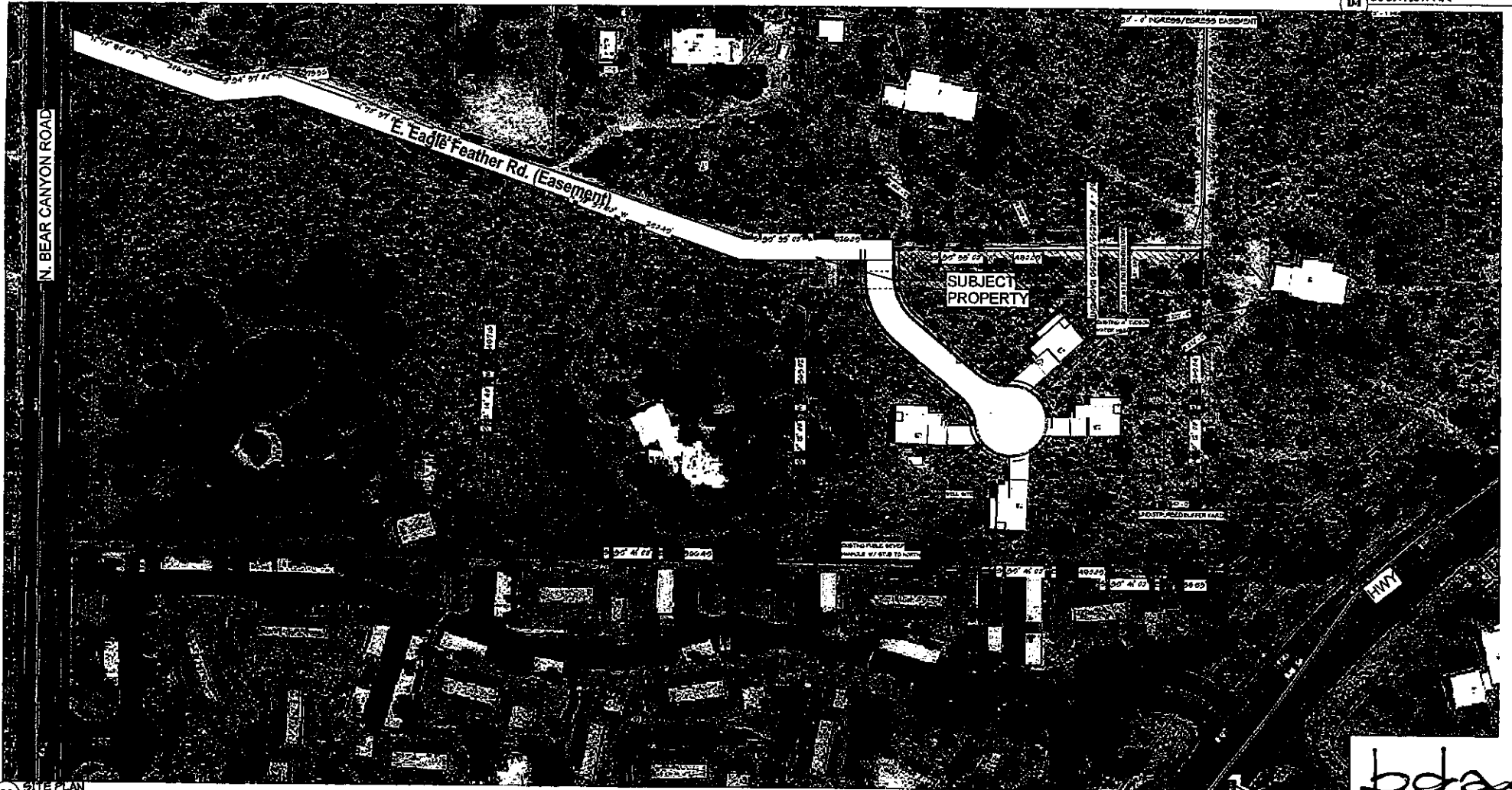
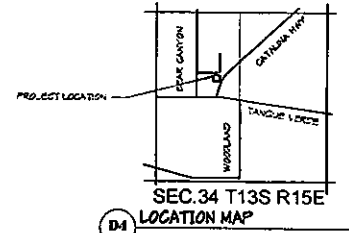
**(C)** NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE  
FROM SR 3.81 ac ±  
ds-January 18, 2017

Co9-15-05  
Co7-00-20  
114-51-1790



As Approved by B.O.S. on 12-13-16

Co9-15-05 JT RP, LLC - E Eagle Feather Rd (Easement) sketch plan



A1 SITE PLAN  
11-10-09

BRIGHT DESIGN ASSOCIATES

## **BOARD OF SUPERVISORS' MEETING MINUTES**

The Pima County Board of Supervisors met in regular session at their regular meeting place in the Pima County Administration Building (Hearing Room), 130 West Congress Street, Tucson, Arizona, at 9:00 a.m. on Tuesday, December 13, 2016. Upon roll call, those present and absent were as follows:

Present: Sharon Bronson, Chair  
Richard Elías, Vice Chair  
Ramón Valadez, Acting Chair  
Ray Carroll, Member

Absent: Ally Miller, Member

Also Present: Chuck Huckelberry, County Administrator  
Thomas Weaver, Chief Civil Deputy County Attorney  
Robin Brigode, Clerk of the Board  
Charles Lopiccolo, Sergeant at Arms

### **1. INVOCATION**

The invocation was given by Pastor Steve Van Kley, Canyon Del Oro Baptist Church.

### **2. PLEDGE OF ALLEGIANCE**

All present joined in the Pledge of Allegiance.

### **3. PAUSE 4 PAWS**

The Pima County Animal Care Center showcased an animal available for adoption.

### **4. POINT OF PERSONAL PRIVILEGE**

Supervisor Elías welcomed the Most Reverend Bishop Gerald Kicanas, Bishop of Tucson. Bishop Kicanas provided a blessing to both Supervisor Carroll, John Bernal and their families, on the occasion of their retirement.

### **PRESENTATION**

#### **5. Recognition of Supervisor Carroll's years of service to Pima County and congratulations on his retirement.**

The Board and County Administrator recognized Supervisor Carroll by thanking him for his years of service and his commitment to the community.

12-13-16 (1)



The following speakers addressed the Board regarding both the modification of rezoning conditions and the conditional use permit.

Donna Hoch expressed concern regarding the proposed parking lot location. She requested that if the tower location was the parking lot that the cell tower be moved to the corner of the parking lot located near the intersection of Desert Jewell and Camino del Sol.

Kristen Dyrud supported the parking lot location and felt that the Green Valley Council chose the best location for the cell tower.

Anthony Zabicki offered support for the parking lot location and that he felt the maintenance shed site would significantly impact a greater number of homes.

Steve Mongeon supported the maintenance shed location because it would have the least impact on the neighborhood.

Cathy Cain stated the parking lot location would decrease property values.

MaryAnn Rueger spoke regarding health concerns related to cell towers.

Supervisor Carroll asked if there was flexibility of the cell tower site in the parking lot. Mr. Drzazgowski confirmed that flexibility onsite would be acceptable relating to the rezoning conditions.

Kimberly Allen, Wireless Policy Group, stated she would not have authority to move the cell tower to any location other than the specific parking lot location presented.

Supervisor Elías questioned the usefulness of the tower given the location change.

Chair Bronson clarified that the Board provided flexibility to move the cell tower within the proposed parking lot location if agreed upon by the landlord and the applicant.

It was moved by Supervisor Carroll, seconded by Chair Bronson and carried by a 4-0 vote, to close the public hearing and approve Co9-89-21, subject to the conditions.

## 20. **Hearing - Rezoning**

The Board of Supervisors on November 22, 2016, continued the following:

### Co9-15-005, JT RP, L.L.C. - EAST EAGLE FEATHER ROAD (EASEMENT) REZONING

Request by JT RP, L.L.C., represented by Brent Davis, for a rezoning of approximately 3.81 acres from SR (Suburban Ranch) zone to CR-1 (Single  
12-13-16 (8)

Residence) zone on property located approximately 800 feet east of Bear Canyon Road on the south side of East Eagle Feather Road (Easement). The proposed rezoning conforms to the Pima County Comprehensive Plan (Co7-00-20). On motion, the Planning and Zoning Commission voted 6-2 (Commissioners Cook and Membrilla were absent) to recommend DENIAL. Staff recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 4).

The following are to be completed within five years from the date the rezoning request is approved by the Board:

1. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
2. Provision of development related assurances as required by the appropriate agencies.
3. 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.
4. Adherence to the sketch plan as approved at public hearing.
5. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
6. Pima County Department of Transportation:  
~~Any common, private roadway/driveway serving more than one dwelling unit~~ East Eagle Feather Easement shall be paved (chip sealed) to Pima County standards prior to (chip sealed) within six (6) months of the issuance of building any permits.
7. Pima County Waste Water Reclamation District:  
Should the Board of Supervisors be inclined to approve this rezoning, the Pima County Regional Wastewater Reclamation Department (PCRWRD) recommends the following conditions:
  - A. 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.
  - B. 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.
  - 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 PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
  - E. The owner / 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.
  - F. The owner / developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with

12-13-16 (9)

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.

8. Pima County Office of Sustainability:  
An on-the-ground archaeological and historic site survey shall be conducted on the subject parcel(s) before any ground modifying activities occur. Any archaeological or historic sites that are recommended as eligible for Arizona or National Registers of Historic Places shall require cultural resources mitigation plan. The mitigation plan will need to be submitted to Pima County either before or at the time of the submittal of a site plan, tentative plat, or development plan. Any cultural resource survey and/or mitigation plan shall be conducted by an archaeologist permitted by the Arizona State Museum or registered architect as appropriate. Any subsequent development requiring a Type II grading permit will be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.
9. Upon the effective date of the Ordinance, the owner(s)/developer(s) of the rezoned property shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site; and, Pima County may enforce this rezoning condition against the property owner. Prior to issuance of the Certificate of Compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.
10. The property owner shall execute and record the following disclaimer regarding Prop 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)."
11. 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.
12. The unpaved portion of East Eagle Feather Road Easement and the north-south portion of Eagle Feather Easement at the east site boundary shall be abandoned.
13. All buildings shall be limited to one-story and oriented toward the cul-de-sac.
14. A six-foot wall, set back 20 feet along the north and east boundary of the rezoning site, shall be completed prior to the issuance of any permits.
15. A covenant shall be recorded restricting any rezoning on the adjoining parcel to the west for 50 years.

Brent Davis reported this matter had been heard several times by both the Board and the Planning and Zoning Commission, and stated that agreements had been reached with the adjoining property owners on three sides.

Kent Moeckly spoke in opposition to the rezoning citing traffic, people, crime and water control issues. He asked that the eight proposals made by the developer be enforced upon approval.

Monica Hills opposed the rezoning and presented concerns for the existing wildlife corridor in the neighborhood.

12-13-16 (10)

Larry Willingham opposed the rezoning stating this would be a wildcat subdivision and that the developer had not worked in good faith with the neighbors and that it was feared the property that was to be redone and occupied by the developer would be subdivided to allow additional homes in the future to circumvent procedures.

Mac Summer stated he would no longer object to the rezoning if the following were done to protect the neighbors: installation of 6 foot walls on the north and east sides prior to construction; installation of a paved road; do away with easements that were no longer required; work on water diversion efforts; and that the abandoned house and property be fixed and a 10-year restriction be placed on the property so that no further subdividing could occur.

Brent Davis reviewed the conditions that had been agreed upon by stating they would be abandoning their rights of way and easement; that a road be constructed that was not chip and seal; that rezoning or subdivision of the separate property would not be sought for at least 10 years; the four new homes would be limited to one story and oriented to the cul-de-sac; and the north/south and east/west block walls with 20 foot setbacks would be installed prior to construction.

Supervisor Carroll stated the property owner had submitted a letter stating the additional 4 acres she owned would not be subdivided and he requested some type of insurance that the land would not be subdivided for at least 50 years.

Chris Poirier, Chief Planning Official, suggested a separate and voluntary easement be placed on the land by the property owner.

Brent Davis stated his client agreed to the terms and conditions presented.

Chris Poirier stated all obligations of the rezoning must be completed prior to the issuance of any permits, therefore the pavement, walls and voluntary easement on the land needed to be completed prior to the issuance of any building permits.

It was moved by Supervisor Carroll and seconded by Supervisor Valadez to close the public hearing and approve Co9-15-005, subject to standard and special conditions and including all other new conditions as discussed. Upon roll call vote, the motion carried 3-1, Supervisor Elías voted "Nay,"

Chair Bronson requested that a copy of these minutes accompany the Planning record for this rezoning.