



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 11/7/2023

*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

***Title:**

P23RZ00004 BRACHT – N. MARLIN CANYON PLACE REZONING

***Introduction/Background:**

The owner requests a rezoning (waiver of the platting requirement of the Catalina Foothills Zoning Plan) of approximately 3.65 acres from the SR (Suburban Ranch) to the CR-1 (Single Residence) zone for two, single-family residential parcels.

***Discussion:**

The current SR zoning allows for one single-family residence on the 3.65-acre parcel. A rezoning to CR-1 will allow the property to be split into two parcels and allow the addition of one single-family residence.

***Conclusion:**

The proposed rezoning conform to the LIU-1.2 Comprehensive Plan designation.

***Recommendation:**

Staff and the Planning and Zoning Commission recommend APPROVAL of the rezoning subject to conditions.

***Fiscal Impact:**

0

***Board of Supervisor District:**


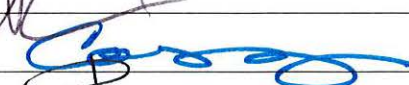

1 2 3 4 5 All

Department: Development Services - Planning

Telephone: 520-724-6675

Contact: Donna Spicola, Senior Planner

Telephone: 520-724-9513

Department Director Signature: _____		Date: <u>10-18-23</u>
Deputy County Administrator Signature: _____		Date: <u>10/18/2023</u>
County Administrator Signature: _____		Date: <u>10/19/2023</u>



TO: Honorable Rex Scott, Supervisor, District 1
FROM: Chris Poirier, Deputy Director
Public Works-Development Services Department-Planning Division
DATE: October 17, 2023
SUBJECT: **P23RZ00004 BRACHT – N. MARLIN CANYON PLACE REZONING**

The above referenced Rezoning is within your district and is scheduled for the Board of Supervisors' **TUESDAY, November 7, 2023** hearing.

REQUEST: For a rezoning (waiver of the platting requirement of the Catalina Foothills Zoning Plan) for approximately 3.65 acres from the SR (Suburban Ranch) to the CR-1 (Single Residence) zone on property located approximately 425 feet south of the T-intersection of N. Rock Canyon Road and N. Marlin Canyon Place, addressed as **5105 N. Marlin Canyon Place**.

OWNER: Michael & Leah Bracht
5105 N. Marlin Canyon Place
Tucson, AZ 85750

AGENT: Same

DISTRICT: 1

STAFF CONTACT: Donna Spicola, Senior Planner

PUBLIC COMMENT TO DATE: As of October 17, 2023, staff has received two letters of support and one letter from the Homeowner's Association allowing access for the new parcel from Marlin Canyon Place.

PLANNING & ZONING COMMISSION RECOMMENDATION: APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS 8-0 (Commissioners Truitt and Hook were absent).

STAFF RECOMMENDATION: APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS

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

TD/DS
Attachments



BOARD OF SUPERVISORS MEMORANDUM

SUBJECT: P23RZ00004

Page 1 of 2

FOR NOVEMBER 7, 2023 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS
FROM: Chris Poirier, Deputy Director
Public Works-Development Services Department-Planning Division
DATE: October 17, 2023

UNADVERTISED ITEM FOR PUBLIC HEARING

REZONING (WAIVER OF THE PLATTING REQUIREMENT)

P23RZ00004 **P23RZ00004 BRACHT – N. MARLIN CANYON PLACE REZONING**
Michael and Leah Bracht request a **rezoning (waiver of the platting requirement of the Catalina Foothills Zoning Plan)** for approximately 3.65 acres from the SR (Suburban Ranch) to the CR-1 (Single Residence) zone on property located approximately 425 feet south of the T-intersection of N. Rock Canyon Road and N. Marlin Canyon Place, addressed as **5105 N. Marlin Canyon Place**. The proposed rezoning conforms to the Pima County Comprehensive Plan which designates the property for Low Intensity Urban 1.2. On motion, the Planning and Zoning Commission voted to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS 8-0** (Commissioners Truitt and Hook were absent). Staff recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**.
(District 1)

Planning and Zoning Commission Public Hearing Summary (September 27, 2023)

The public hearing was held in person and virtually. Some commissioners were present while others attended virtually and through the telephonic option. Staff attended in person and virtually and the applicant attended in person.

Staff presented information from the staff report to the commission with a recommendation of approval subject to standard and special conditions.

The applicant had no additional comments.

The commissioners did not have any questions for staff or the applicant.

The hearing was opened to the public, there was no one to speak and the public hearing was closed.

Commissioner Matter made a motion to recommend **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**, Commissioner Hanna gave second.

The commission voted to recommend **APPROVAL** of the rezoning 8-0 (Commissioners Truitt and Hook were absent) subject to the following conditions:

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

1. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
2. Adherence to the sketch plan as approved at public hearing.
3. Transportation conditions:
 - A. A shared access easement for legal access between the properties is required prior to issuance of a building permit.
 - B. The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, drives, physical barriers, drainageways and drainage easements.
4. Upon the effective date of the Ordinance, the owner(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner.
5. 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.
6. The property owner shall execute the following disclaimer regarding the Private Property Protection Act. "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)."

TD/DS

Attachments

c: Michael & Leah Bracht

Case #: P23RZ00004
 Case Name: BRACHT - N. MARLIN CANYON PLACE REZONING
 Tax Code(s): 114-15-0730

Aerial Exhibit



PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION



Notes: WAIVER OF THE PLATTING REQUIREMENT



Map Scale: 1:6,000

Map Date: 9/6/2023 - ds

**PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION
STAFF REPORT TO THE PLANNING AND ZONING COMMISSION**

HEARING September 27, 2023

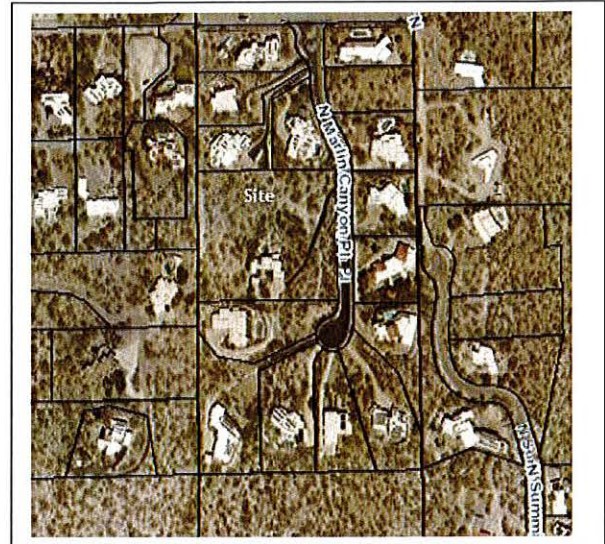
DISTRICT 1

CASE P23RZ00004 Bracht – N. Marlin
Canyon Place Rezoning

REQUEST Waiver of the Platting Requirements
of the Catalina Foothills Zoning Plan
(Co13-59-04) to Rezone from SR
(Suburban Ranch) to the CR-1
(Single Residence) zone on 3.65
acres

OWNER Michael & Leah Bracht
5105 N. Marline Canyon Place
Tucson, AZ 85750

APPLICANT Same



APPLICANT'S PROPOSED USE

The applicant proposes to create one additional lot on 3.65 acres of land for residential uses.

APPLICANT'S STATED REASON

The applicant proposes to split the lot into two parcels to allow one residence on each parcel with one residence existing and one residence proposed.

STAFF REPORT SUMMARY

Staff recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**. The applicant proposes a Waiver of the Platting Requirement of the Catalina Foothills Zoning Plan to rezone the property to the CR-1 zone and add a residence to the proposed vacant parcel. The proposal conforms to the Comprehensive Plan land use designation of Low Intensity Urban 1.2 (LIU-1.2).

PUBLIC COMMENT

As of the writing of this staff report, staff received two letters of support and one letter from the Homeowner's Association that provides permission to access the proposed parcels from Marlin Canyon Place.

Mailed notice of the proposal along with the website posting of staff's report will occur a minimum of fifteen days prior to public hearing. The website will be updated to include public comment throughout the process to the Planning and Zoning Commission and the Board of Supervisors.

COMPREHENSIVE PLAN

The Pima County Comprehensive Plan designates the subject property as Low Intensity Urban

1.2 (LIU-1.2), which designates areas for low-density residential and other compatible uses and provides incentives for residential conservation subdivisions to provide more natural open space. Density bonuses are provided in exchange for providing open space. There are no minimum residences per acre (RAC) and the maximum density is 1.2 RAC without a density bonus. The LIU-1.2 plan density bonus allows a maximum RAC of 2.5 with a minimum of 45% open space or 4 RAC with 60% open space. The proposed two lots conform to the LIU-1.2 land use designation without the density bonus.

Special Area Policy S-2 Catalina Foothills applies to the subject property which limits the height of the structures to 24 feet. The policy allows a height greater than 24 feet with Board of Supervisors' approval. There are no Rezoning Polices associated with the property.

SURROUNDING LAND USES/GENERAL CHARACTER

North:	CR-1	Developed Residential
South:	CR-1 / SR	Developed Residential / Vacant
East:	CR-1 / SR	Developed Residential / Vacant
West:	CR-1	Developed Residential

Within a mile north of the subject property, retail and personal services are available along the E. Sunrise Drive and N. Kolb Road corridors. The nearest public elementary school is located within an approximate one and one-quarter-mile travel distance located on N. Kolb Road. A middle school along and an additional elementary school are located on N. Sabino Canyon Road within an approximate two and one-half-mile travel distance. Catalina Foothills High School District is located within an approximate four-mile travel distance on E. Sunrise Drive. A fire station is located within an approximate four-mile travel distance. The nearest bus transit stop is located at E. Sunrise Drive and N. Kolb Road.

PREVIOUS REZONING CASES ON PROPERTY

The subject property lies within the area of the Catalina Foothills Zoning Plan (Co13-59-04). The plan provides for CR-1 zoning with an approved subdivision plat. The applicant seeks a waiver of the subdivision platting requirement.

PREVIOUS REZONING CASES IN GENERAL AREA

In the immediate area, approximately twenty-four rezoning requests under the Catalina Foothills Zoning Plan were approved between 1980 through 2014 from the SR to the CR-1 zone. Additionally, the area has platted CR-1 subdivisions under the zoning plan.

MAEVEEN MARIE BEHAN CONSERVATION LAND SYSTEM (CLS)

The subject property is located outside the Maeveen Marie Behan Conservation Lands System.

PLANNING REPORT

Staff supports the rezoning request to the CR-1 (Single Residence) zone. The proposed residential development is compatible with and equivalent to residential development in the area, and the proposed density complies with the Low Intensity Urban 1.2 plan designation. Relative to concurrency, the impact of the rezoning should be minimal as only one additional residence is proposed. The proposed site will be accessed from the existing driveway from N. Marlin Canyon Place. An additional residence should not impact the capacity of the adjacent roadways.

The request for CR-1 zoning is through a Waiver of the Platting Requirement of the Catalina Foothills Zoning Plan. A Subdivision Plat is required for six or more lots with paved access and underground utilities. One additional lot for a single-family residence is proposed and will utilize

an on-site septic system for wastewater. The nearest public sewer is located more than 300 feet to the north. The subject site is located within the Tucson Water Service obligation area.

The majority of the property lies within the Hillside Development Overlay Zone Impact Area (HDZ). Each proposed lot will be required to reduce average slope by establishing HDZ Natural Open Space (HDZ NOS) as demonstrated on the attached site plan. For the planned 1.67-acre, Parcel 1, the average cross slope calculation is 19%, after the NOS dedication the minimum slope density is 1.5-acres per dwelling unit. Parcel 2 contains a 15% average cross slope after the NOS dedication and meets the slope density requirement of 1-acre per dwelling unit.

The existing house on Parcel 2 was built prior to the HDZ Ordinance and generally complies with the maximum grading requirements. Due to new construction on Parcel 1, grading limits will be established during the building permitting process.

Allowing the CR-1 zoning on the 3.65-acre property to allow two parcels total with dedicated HDZ NOS along with meeting the minimum slope density requirements would allow one single-family residence per parcel.

Concurrency of Infrastructure

CONCURRENCY CONSIDERATIONS		
<i>Department/Agency</i>	<i>Concurrency Considerations Met: Yes / No / NA</i>	<i>Other Comments</i>
TRANSPORTATION	Yes	No objection, subject to conditions
FLOOD CONTROL	Yes	No objection
WASTEWATER	N/A	
PARKS AND RECREATION	N/A	
WATER	Yes	Tucson Water Obligated Area
SCHOOLS	N/A	
ENVIRONMENTAL QUALITY	Yes	No objection, property will be serviced by septic

TRANSPORTATION REPORT

Marlin Canyon Place is a private road of the Ventana Overlook subdivision, and it is not maintained by the County. The applicant provided a letter from the Homeowners Association providing permission of access through their private roads.

The Department of Transportation recommends approval of the rezoning subject to conditions #3A-B.

FLOOD CONTROL REPORT

The Regional Flood Control District has no objection for the proposed request. Floodplain and Regulated Riparian Habitat do not impact this property.

WASTEWATER RECLAMATION REPORT

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) reviewed the submittal and has no objection. PCRWRD states that the nearest public sewer appears to be more than 300 feet from the property. The existing residence utilizes an on-site disposal system and according to the submittal, the new residence will also utilize an on-site disposal system.

The owner must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal system at the time a tentative plat, development plan or request for building permit is submitted for review.

DEPARTMENT OF ENVIRONMENTAL QUALITY REPORT

Environmental Quality has no comment.

WATER DISTRICT REPORT

Tucson Water has no objection to the request to waive the platting requirement, however, in order for the current owner to secure water under the Water Service Area Policy, it is advised that the necessary water infrastructure be installed prior to the lot split. If the lot is split prior to opening the additional water account, the project will need to meet the requirements of the Water Service Area Policy for each lot.

RURAL METRO FIRE DEPARTMENT REPORT

Rural Metro Fire has no comment.

TUCSON ELECTRIC POWER COMPANY REPORT

Tucson Electric Power stated that this property is located within their service territory and will require a new service application from the owner to extend service to the new location.

UNITED STATES FISH AND WILDLIFE SERVICE REPORT

United States Fish and Wildlife Service has no concerns related to the subject property.

IF THE DECISION IS MADE TO APPROVE THE REZONING (WAIVER OF THE PLATTING REQUIREMENT), THE FOLLOWING STANDARD AND SPECIAL CONDITIONS SHOULD BE CONSIDERED:

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

1. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
2. Adherence to the sketch plan as approved at public hearing.
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Respectfully Submitted,





Donna Spicola

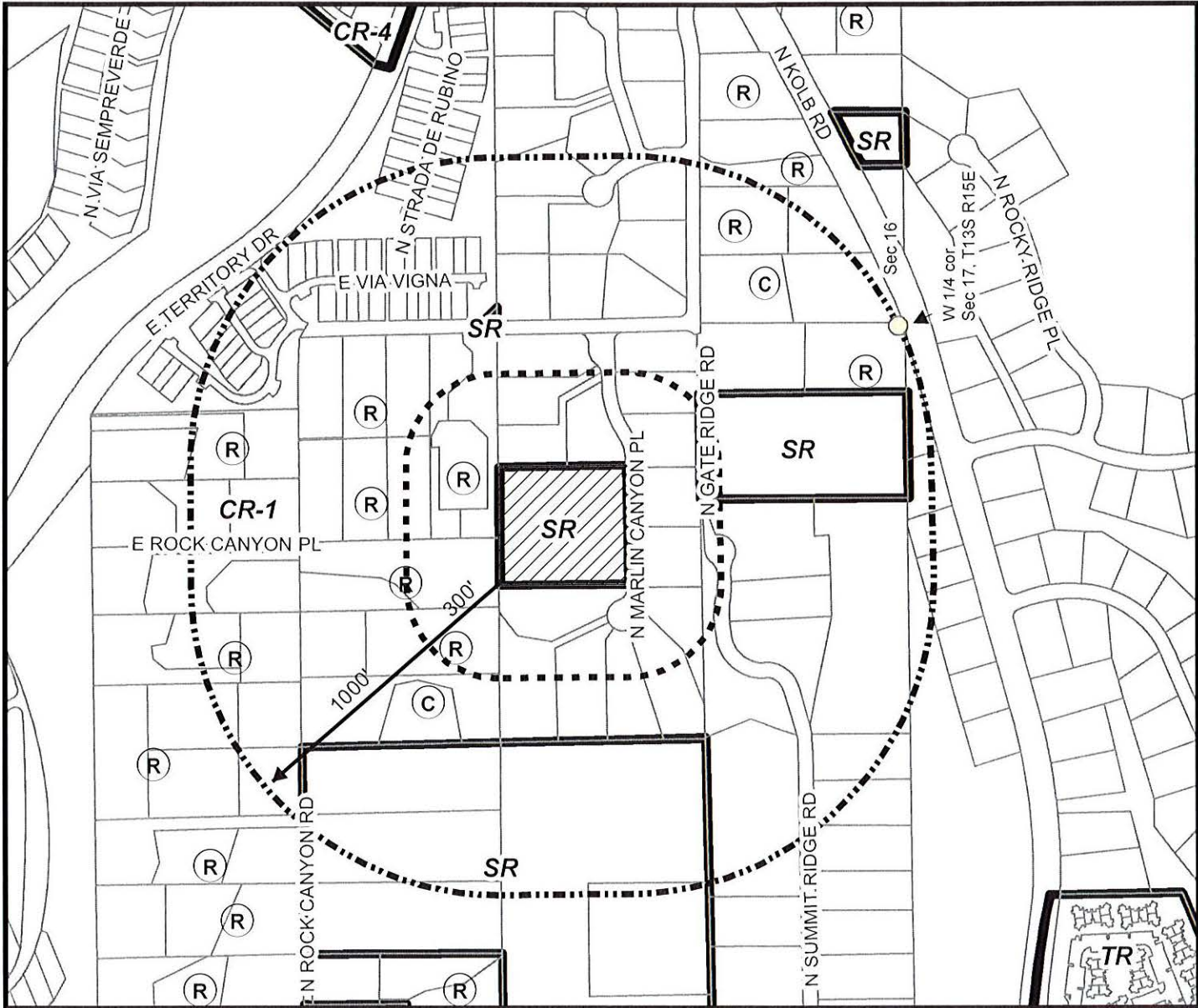
Donna Spicola
Senior Planner


TD/DS
Attachments

cc: Michael & Leah Bracht

Case #: P23RZ00004
 Case Name: BRACHT - N. MARLIN CANYON PLACE REZONING
 Tax Code(s): 114-15-0730

-  Subject_Site
-  300' Notification Area
-  1000' Notification Area
-  Zoning Boundary



Area of proposed rezoning from SR to CR-1 

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT PLANNING DIVISION				
	Notes: WAIVER OF THE PLATTING REQUIREMENT			
	PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10			
	Planning & Zoning Hearing: 9/27/23 (scheduled)	Board of Supervisors Hearing: TBA		
	Base Map(s): 49	Map Scale: 1:6,000	Map Date: 9/6/2023 - ds	



Low Intensity Urban (LIU)

Low Intensity Urban includes four land use categories designations ranging from a maximum of 3 RAC stepped down to 0.3 RAC. The Low Intensity Urban categories are LIU3.0, LIU1.2, LIU0.5, and LIU-0.3.


Objective: To designate areas for low density residential and other compatible uses and to provide incentives for residential conservation subdivisions to provide more natural open space. Density bonuses are offered in exchange for the provision of natural and/or functional open space. Natural open space must be set aside, where applicable, to preserve land with the highest resource value and be contiguous with other dedicated natural open space and public preserves.

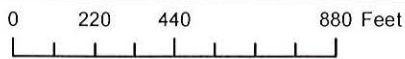
Low Intensity Urban 1.2 (LIU-1.2)

- Residential Gross Density: Minimum- none; Maximum- 1.2 RAC; 2.5 RAC with 45 percent open space; or 4 RAC with 60 percent open space
- Residential Gross Densities for TDR Receiving Areas: Minimum- none; Maximum- 1.2 RAC; 2 RAC with 50 percent open space

Case #: P23RZ00004
 Case Name: BRACHT - N. MARLIN CANYON PLACE REZONING
 Tax Code(s): 114-15-0730

Comprehensive Plan Exhibit

 Subject_Site



PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION



Notes: **WAIVER OF THE PLATTING REQUIREMENT**

PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Map Scale: 1:6,000

Map Date: 9/6/2023 - ds





DEVELOPMENT SERVICES

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

BIOLOGICAL IMPACT REPORT

(Not applicable for rezonings that require a site analysis)

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

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

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

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

5105 N Marlin Canyon, waiver of Co13-59-04 platting requirement, SR to CR-1 zoning on 3.67 acres

Part I. Information Provided by Pima County Staff

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

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

Part II. Information Provided by the Applicant

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

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

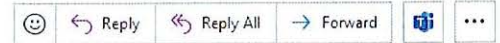
Species	Ever found on project site?	If yes, date of last observation/survey?	Future surveys planned?
Cactus ferruginous pygmy owl	No		No
Western burrowing owl	No		No
Pima pineapple cactus	No		No
Needle-spined pineapple cactus	No		No

Questions about this form?
Contact the Office of Sustainability and Conservation at (520) 724-6940.

Request Letter



Michael Bracht <candmn@me.com>
To: Donna Spicola



Mon 7/24/2023 3:23 PM

Follow up. Start by Tuesday, July 25, 2023. Due by Tuesday, July 25, 2023.

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Donna,

This letter is a request for a waiver of the Catalina Foothills Zoning Plan (Co13-59-04) to re-zone parcel 114-15-0730 from SR to CR-1. The current parcel is 3.654 acres.

The address of the existing 2-story home on the current parcel is [5105 N. Marlin Canyon Place, Tucson, AZ, 85750](#). The owners of the parcel and home are Michael and Leah Bracht, a married couple.

This request is being made in order to create a second parcel capable of accommodating a single-family home.

Thank you for your consideration.

Sincerely,

Michael and Leah Bracht

07/18/23

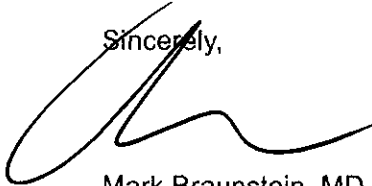
Subject: Approval of Minor Land Division in Rock Canyon Estates

Re: Parcel 114-15-0730 located at 5105 N. Marlin Canyon Place. The current property is 3.654 and is owned by Mike and Leah Bracht.

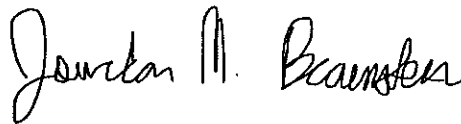
I am writing to express my support and provide my formal approval for the proposed minor land division within Rock Canyon Estates.

I am in favor of rezoning parcel 114-15-0730 to create two CR-1 parcels and building on any location of the newly created parcel.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Braunstein', with a large, sweeping flourish at the end.

Mark Braunstein, MD

A handwritten signature in black ink, appearing to read 'Jourdan M. Braunstein', with a large, sweeping flourish at the end.

Jourdan Braunstein

5153 N. Marlin Canyon Place
Tucson, AZ 85750

07/18/23

Subject: Approval of Minor Land Division in Rock Canyon Estates

Re: Parcel 114-15-0730 located at 5105 N. Marlin Canyon Place. The current property is 3.654 and is owned by Mike and Leah Bracht.

I am writing to express my support and provide my formal approval for the proposed minor land division within Rock Canyon Estates.

I am in favor of rezoning parcel 114-15-0730 to create two CR-1 parcels and building on any location of the newly created parcel.

Sincerely,

A handwritten signature in black ink, appearing to read "Albert A. Callie". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Albert A. Callie, MD

5165 N. Marlin Canyon Place
Tucson, AZ 85750

Rock Canyon Estates
Approval of Minor Land Division

07/18/23

Re: Waiver of the Catalina Foothills Zoning Plan (Co13-59-04) to re-zone parcel 114-15-0730 from SR to Cr-1.

To whom it may concern:

The address of the existing home on this parcel is 5105 N. Marlin Canyon Pl, Tucson AZ 85750. The owners of the parcel and the home are Michael and Leah Bracht, a married couple. The current parcel is 3.654. It will be rezoned to CR-1 and divided into parcel 1 and parcel 2.

Rock Canyon Estates Home Owner's Association gives permission that provides access to proposed parcels from Marlin Canyon Place.

The Rock Canyon Estates HOA approves of the re-zoning of parcel 114-15-0730 from SR-1 to CR-1 parcel 1 and CR-1 parcel 2.

Sincerely,

A handwritten signature in blue ink that reads "David Sorkow". The signature is written in a cursive style and is underlined.

David Sorkow

President of Rock Canyon Estates HOA

Delivery has failed to these recipients or groups:

'lorenzo@rubinbersteinlaw.com' (lorenzo@rubinbersteinlaw.com)

Your message couldn't be delivered. The Domain Name System (DNS) reported that the recipient's domain does not exist.

Contact the recipient by some other means (by phone, for example) and ask them to tell their email admin that it appears that their domain isn't properly registered at their domain registrar. Give them the error details shown below. It's likely that the recipient's email admin is the only one who can fix this problem.

For more information and tips to fix this issue see this article:

<https://go.microsoft.com/fwlink/?LinkId=389361>.