

BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 3/15/2022

*= Mandatory, information must be provided

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

*Title:

RESOLUTION: P15RZ00009 MAGEE COMO DEVELOPMENT ASSOC. LLC - N. LA CHOLLA BOULEVARD REZONING

*Introduction/Background:

The Board of Supervisors approved a five-year time extension subject to original and modified standard and special conditions on September 7, 2021.

*Discussion:

The time limit contained in Rezoning Ordinance 2016-32 may be modified by resolution.

*Conclusion:

The Resolution reflects the Board of Supervisors' approval.

*Recommendation:

Approval

*Fiscal Impact:

0

*Board of Supervisor District:

Department: Development Services - Planning

Telephone: 520-724-8800

Contact: Donna Spicola, Senior Planner

Telephone: 520-724-9513

Deputy County Administrator Signature:

Date: 2/23/2022

Date: 2/23/2022

Date: 2/23/2022



Subject: P15RZ00009

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MARCH 15, 2022 MEETING OF THE BOARD OF SUPERVISORS

TO:

HONORABLE BOARD OF SUPERVISORS

FROM:

Chris Poirier, Deputy Director

Public Works-Development Services Department-Planning Division

DATE:

February 22, 2022

RESOLUTION FOR ADOPTION

P15RZ00009 MAGEE COMO DEVELOPMENT ASSOC. LLC - N. LA CHOLLA BOULEVARD

REZONING

Owner: Magee Como Development Assoc. LLC

(District 1)

If approved, adopt RESOLUTION NO. 2022 - ___

OWNERS:

Magee Como Development Assoc. LLC

5151 N. Oracle Road, Suite 210

Tucson, AZ 85704-3757

AGENT:

Magee Como Development Assoc. LLC

Attn: Craig Courtney, Manager 5151 N. Oracle Road, Suite 210

Tucson, AZ 85704-3757

DISTRICT:

1

STAFF CONTACT: Donna Spicola, Senior Planner

STAFF RECOMMENDATION: APPROVAL

TD/DS

Attachments

c: Magee Como Development Assoc. LLC, Attn: Craig Courtney, Manager

RESOLUTION 2022-

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN REZONING CASE P15RZ00009 MAGEE COMO DEVELOPMENT ASSOC. LLC – N. LA CHOLLA BOULEVARD REZONING; LOCATED APPROXIMATELY 150 FEET NORTH OF W. MAGEE ROAD AND 600 FEET WEST OF N. LA CHOLLA BOULEVARD, ON PARCEL CODE 225-44-5470; AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND TIME LIMITS SET FORTH IN SECTION 3 OF ORDINANCE NO. 2016-32.

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

- 1. On February 2, 2016, in rezoning case P15RZ00009, the Pima County Board of Supervisors approved the rezoning of approximately 0.88 acres located 150 feet north of W. Magee Road and 600 feet west of N. La Cholla Boulevard (Lot 4 of Magee Center, Bk 56/Pg 94), as shown on Exhibit A, from the TR (Transitional) zone to the CB-2 (General Business) zone, subject to standard and special conditions.
- 2. On June 7, 2016, the Pima County Board of Supervisors adopted rezoning Ordinance No. 2016-32, as recorded in Sequence No. 20161620543, rezoning the approximate 0.88 acres described in rezoning case P15RZ00009 and memorializing the standard and special conditions.
- 3. On June 22, 2021, the owner of approximately 0.88 acres applied for a five-year rezoning time extension of the time limit set forth in Section 3 of Ordinance 2016-32.
- 4. On September 7, 2021, the Pima County Board of Supervisors approved a five-year rezoning time extension for approximately 0.88 acres, subject to original and modified standard and special conditions.
- 5. Section 3 of Ordinance No. 2016-32 allows the Board of Supervisors to amend the rezoning conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance 2016-32, are restated and modified as follows:

1. The owner shall:

- A. Submit a development plan if determined necessary by the appropriate County agencies.
- B. Record the necessary development related covenants as determined appropriate by the various County agencies.
- C. Provide development related assurances as required by the appropriate agencies.

- D. Submit a title report (current to within 60 days) evidencing ownership of the property prior to the preparation of the development related covenants and any required dedications.
- 21. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
- 32. Transportation condition: The property shall be limited to the existing access points on Magee Road.
- 43. Regional Flood Control District conditions: <u>First flush retention shall be provided in Low Impact Development practices distributed throughout the site.</u>
 - A. First flush retention (retention of the first ½ inch of rainfall) shall be provided for all newly disturbed and impervious surfaces. This requirement shall be made a condition of the Site Construction Permit.
 - B. On-site retention/detention shall be provided.
- 54. Regional Wastewater Reclamation conditions:
 - A. The owner(s) 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(s) to that effect.
 - B. The owner(s) 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 rezoning, 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(s) 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(s) 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(s) 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 owners(s) 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.
 - EF. The owner(s) 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.
- 65. Environmental Planning condition: 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. Prior to issuance of the certificate of compliance, the owner(s) shall record a covenant, to run with the land, memorializing the terms of this condition.

- 76. Cultural Resources condition: In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
- 87. Adherence to the preliminary development plan as approved at public hearing. (Exhibit B)
- 98. The uses of the property are limited to restaurants with/without a bar and CB-1 zone uses except for automotive related uses, drive-thru restaurants, and stand-alone bars.
- 409. 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.
- 4410. The property owner shall execute and record the following disclaimer regarding the Private Property Rights Protection Act: Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

Section 2. The time limit in Section 3 of Ordinance 2016-32 is amended and extended as follows:

1. Conditions 1 through <u>1410</u> shall be completed by February 2, 20212026.

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

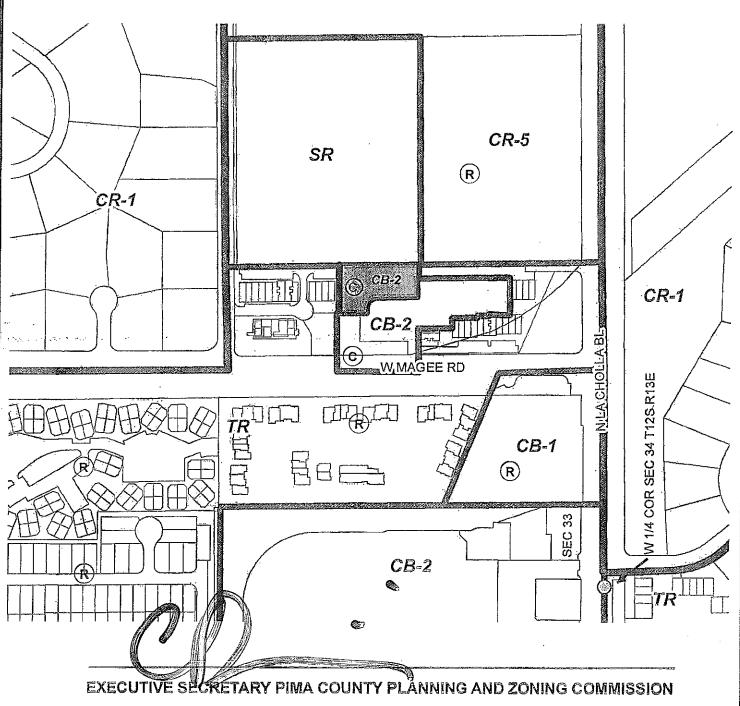
Passed and adopted, this	day of	, 2022.
	Chair, Pima County	Board of Supervisors

ATTEST:		
Clerk, Board of Supervisors		
APPROVED AS TO FORM:	APPROVED:	
A Gael		
Deputy County Attorney	Executive Secretary	
Lesley M. Lukach	Planning and Zoning Commission	

EXHIBIT A AMENDMENT NO. 80 BY ORDINANCE NO. 2016-032 TO PIMA COUNTY ZONING MAP NO. 115 TUCSON AZ. LOT 4 OF MAGEE CENTER BEING A PART OF SEC. 33 T12S R13E. ADOPTED: June 7, 2016 EFFECTIVE: June 7, 2016



0 80 160 320 Feet



© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE FROM TR 0.88 ac±
ds-March 14, 2016

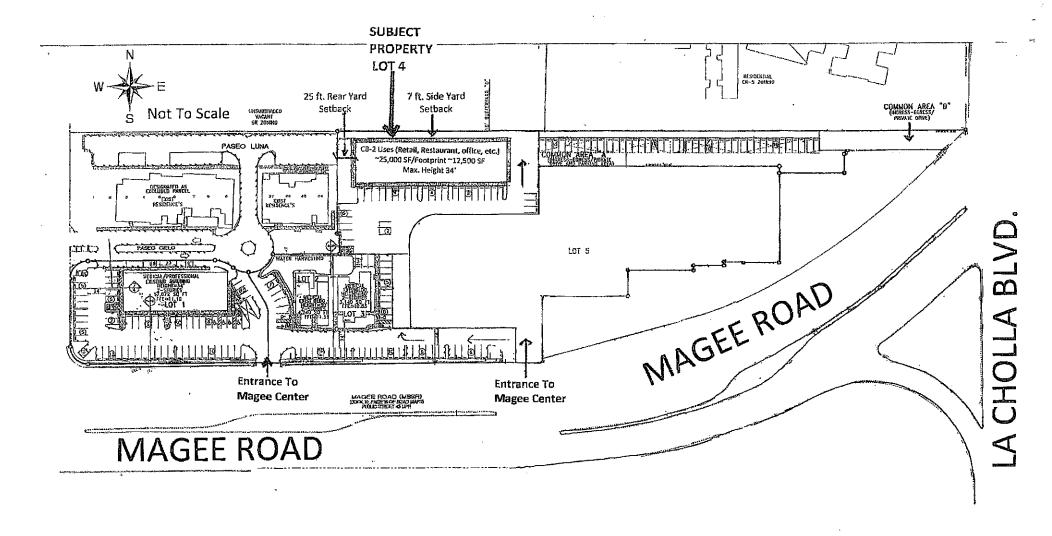
PIMA COUNTY

DEVELOPMENT SERVICES

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Exhibit B



REZONING CONCEPT SITE PLAN

Exhibit 8 Preliminary Development Plan Page 6 of 6