



## BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: June 7, 2016

**Title:** P15RZ00009 MAGEE COMO DEVELOPMENT ASSOC, LLC – N. LA CHOLLA BOULEVARD REZONING

**Introduction/Background:**

Rezoning Ordinance for Adoption

**Discussion:**

Rezoning Ordinance for Adoption with an edit to Wastewater standard condition #5E.

**Conclusion:**

A portion of the Wastewater standard condition #5E was inadvertently omitted. The omitted language is consistent with the intent of the condition and is not a substantial change. The additional language is as follows: ... "sewerage facilities as required by all applicable agreements with Pima County and all applicable"...

**Recommendation:**

Approval

**Fiscal Impact:**

N/A

**Board of Supervisor District:**

1       2       3       4       5       All

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

Department Director Signature/Date: CD 5/16/16

Deputy County Administrator Signature/Date: John M. Bal 5/18/16

County Administrator Signature/Date: C. Delteilbany 5/19/16

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Subject: P15RZ00009

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**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

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ORDINANCE FOR ADOPTION

**P15RZ00009 MAGEE COMO DEVELOPMENT ASSOC, LLC – N. LA CHOLLA BOULEVARD REZONING**

Owner: Magee Como Development Assoc, LLC  
(District 1)

If approved, adopt ORDINANCE NO. 2016 - \_\_\_\_\_

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**OWNER / AGENT:** Magee Como Development Assoc, LLC  
Attn: Craig Courtney  
5151 N. Oracle Road, #210  
Tucson, AZ 85704

**DISTRICT:** 1

**STAFF CONTACT:** Terrill Tillman

TD/TT/ar  
Attachments

cc: P15RZ00009 File  
Tom Drzazgowski, Principal Planner

ORDINANCE 2016-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING LOT 4 OF MAGEE CENTER (BOOK 56 AND PAGE 94), AN APPROXIMATELY .88 ACRES OF PROPERTY (PARCEL CODE 225-44-5470) FROM THE TR (TRANSITIONAL) ZONE TO THE CB-2 (GENERAL BUSINESS) ZONE, IN CASE P15RZ00009 MAGEE COMO DEVELOPMENT ASSOCIATION, LLC – NORTH LA CHOLLA BOULEVARD REZONING, LOCATED APPROXIMATELY 150 FEET NORTH OF WEST MAGEE ROAD AND 600 FEET WEST OF NORTH LA CHOLLA BOULEVARD, AND AMENDING PIMA COUNTY ZONING MAP NO. 115.

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

Section 1. The .88 acres located 150 feet north of Magee Road and 600 feet west of La Cholla Boulevard (Lot 4 of Magee Center) and illustrated by the shaded area on the attached rezoning ordinance map (Exhibit A), which amends Pima County Zoning Map No. 115, is rezoned from the TR (Transitional) zone to the CB-2 (General Business) zone subject to the conditions in this ordinance.

Section 2. Rezoning conditions.

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.
2. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
3. Transportation condition: The property shall be limited to the existing access points on Magee Road.
4. Regional Flood Control District conditions:
  - 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.

5. Regional Wastewater Reclamation conditions:
  - A. The owner 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 to that effect.
  - B. The owner shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner shall 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 shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
  - D. The owner shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the 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 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.
6. 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.
7. 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.

8. Adherence to the preliminary development plan as approved at public hearing. (Exhibit B)
9. 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.
10. 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.
11. The property owner shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

Section 3. Time limits of conditions. Conditions 1 through 11 of Section 2 shall be completed no later than February 2, 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. 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 \_\_\_\_\_, 2016.

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Chair, Pima County Board of Supervisors

ATTEST:

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Clerk, Board of Supervisors

Approved As To Form:

 4/8/16

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Deputy County Attorney  
Lesley M. Lukach

Approved:

 5-12-16

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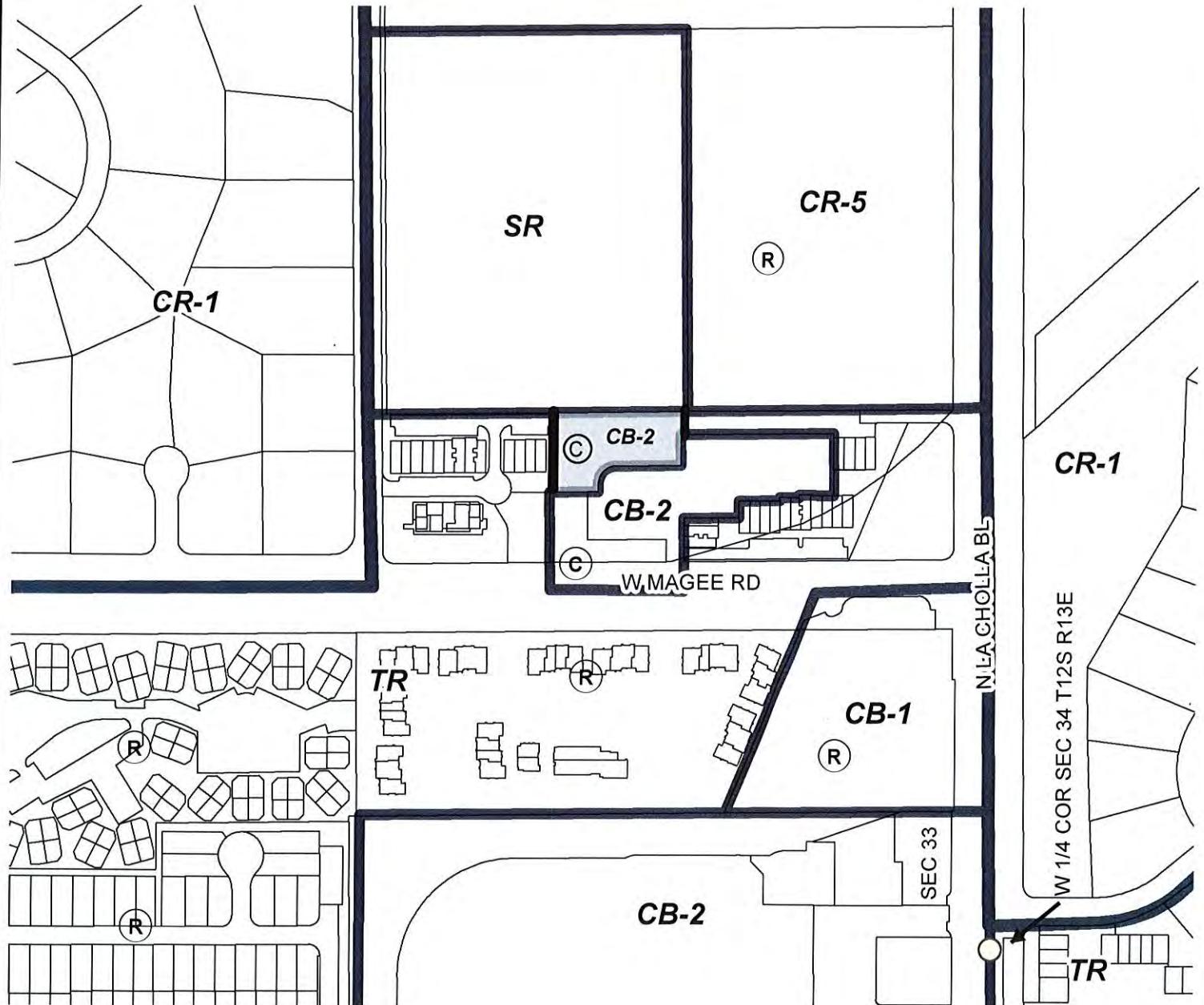
Executive Secretary  
Planning and Zoning Commission

# EXHIBIT A

AMENDMENT NO. \_\_\_\_\_ BY ORDINANCE NO. \_\_\_\_\_  
TO PIMA COUNTY ZONING MAP NO. 115 TUCSON AZ.  
LOT 4 OF MAGEE CENTER BEING A PART OF SEC. 33 T12S R13E.



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



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EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

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

P15RZ00009  
Co7-15-01  
225-44-5470

