



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: September 19, 2017

Title: P17CU00005 SMILEY/ROBERTS - N. SANDARIO ROAD

Introduction/Background:

The proposal is to allow a "restaurant" (per the zoning code) which is actually a food vending cart to operate during the day and a mobile mini (cargo container) to store the cart and related items while not in operation. The property is across Rudasill Road from an entrance to Saguaro National Park.

Discussion:

The food fending cart and mobile mini, parking, and seating would be focused on the eastern portion of the property. Minimal vegetation is proposed to be cleared for the use. The cart would operate during the day, six days per week.

Conclusion:

The conditional use subject to the recommended conditions appears appropriate given the proposed scale of the use and required maintenance of the property.

Recommendation:

The Pima County hearing administrator recommends approval subject to standard and special conditions.

Fiscal Impact:

None.

Board of Supervisor District:

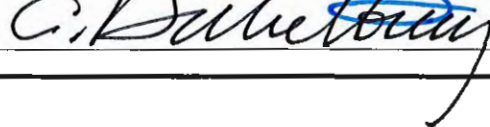
1 2 3 4 5 All

Department: Development Services Department Telephone: 520-724-9000

Contact: Tom Drzazgowski Telephone: 520-724-9000

Department Director Signature/Date:  8/14/17

Deputy County Administrator Signature/Date:  8/25/17

County Administrator Signature/Date:  8/25/17



PIMA COUNTY
DEVELOPMENT SERVICES

TO: Honorable Sharon Bronson, Supervisor, District # 3
FROM: Chris Poirier, Planning Official
Development Services Department – Planning Division

A handwritten signature in blue ink that reads "Tom Drzazgowski".

DATE: August 14, 2017

SUBJECT: P17CU00005 SMILEY/ROBERTS – N. SANDARIO ROAD

The above referenced Conditional Use Permit is within your district and is scheduled for the Board of Supervisors' **TUESDAY, SEPTEMBER 19, 2017** hearing.

REQUEST: Conditional Use – Restaurant (Food Vending Cart)

OWNERS: Charles Smiley & Murray Roberts
5419 N. Lak-A-Yucca Road
Tucson, AZ 85743

DISTRICT: 3

STAFF CONTACT: Tom Drzazgowski

PUBLIC COMMENT TO DATE: One written letter expressing no objection but recommending three conditions be considered was received from Saguaro National Park (after the Hearing Administrator and staff reports were completed). One written letter of opposition has been received on this case. Nine area residents spoke in opposition of the request at the 7/12/17 Hearing Administrator hearing.

HEARING ADMINISTRATOR RECOMMENDATION: **APPROVAL WITH STANDARD AND SPECIAL CONDITIONS.**

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM: A southern portion of the subject property is located within the Maeveen Marie Behan Conservation Land System and is designated Multiple Use Management Area.

CP/JE/ar
Attachments



PIMA COUNTY
DEVELOPMENT SERVICES

BOARD OF SUPERVISORS MEMORANDUM

Subject: P17CU00005

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FOR SEPTEMBER 19, 2017 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

DATE: August 14, 2017

ADVERTISED ITEM FOR PUBLIC HEARING
CONDITIONAL USE PERMIT
RESTAURANT (FOOD VENDING CART)

P17CU00005 SMILEY/ROBERTS – N. SANDARIO ROAD

Request of Charles Smiley and Murray Roberts on a site located at 6029 N. Sandario Road, in the RH zone, for a conditional use permit for a restaurant, in accordance with Section 18.13.030 of the Pima County Zoning Code as a Type II conditional use permit. The Hearing Administrator recommends **APPROVAL WITH STANDARD AND SPECIAL CONDITIONS.**
(District 3)

Per the Hearing Administrator’s separate memorandum of July 17, 2017, the Hearing Administrator recommends approval according to the following standard and special conditions:

Standard Conditions (per the Pima County Zoning Code)

1. The Pima County Zoning Code limits any Type II restaurant to a maximum of two thousand (2,000) square feet in floor area. The special conditions below reduce this limit even further.

Special Conditions

1. This conditional use permit is for the operation of a mobile food cart only, together with those ancillary activities that normally and routinely accompany such a food-vending use. No other or more intensive commercial uses are approved for the site. Any request to expand the proposed food-cart operation or establish any sort of permanent restaurant structure shall require a new conditional use permit application, public hearing, etc.
2. The proposed use shall generally conform with the location and particulars as shown on the conceptual site plan that was submitted by the applicant in conjunction with this conditional use permit application. Minor modifications to the layout are permitted to best minimize the disturbance of existing vegetation and protected plant species.

3. The proposed food-cart shall be positioned a minimum of one hundred feet (100') from the edge of Sandario Road pavement during all operations and food sales.
4. The property shall be operated in neat and tidy fashion and be kept clean of trash and debris at all times. Regular trash pick-up shall be arranged with a private hauler.
5. Hours of operation are limited to daylight hours only; Monday through Saturday.
6. A mobile-mini metal cargo container is allowed in the property, subject to: 1) it being located as shown on the submitted conceptual; 2) it is a minimum of one hundred feet (100') from the shared property line of the residential lot to the adjacent north; and 3) it is painted a desert tan or some other appropriate earth-tone color.
7. The driveway entry points onto Sandario Road and Rudasill Road, respectively, shall be in substantial conformance with the centerline separations from the Sandario/Rudasill intersection as shown on the submitted conceptual plan. Their final placement and compliance with applicable Department of Transportation (DOT) separation criteria shall be confirmed by DOT at the time of final issuance of this conditional use permit.
8. All driveways and parking areas shall be minimally surfaced with gravel so as to control the generation of dust.
9. This conditional use permit approval carries with it no requirement that the property be fenced. The owner/operator can pursue protective security fencing at their discretion.
10. No formal Development Plan is required in conjunction with this conditional use permit application. The Chief Zoning Inspector (CZI) shall review the conceptual site plan submitted with this application to determine its sufficiency and/or to effectuate any modifications necessary to fully comply with all applicable codes. The CZI will also coordinate with the Department of Transportation and the Regional Flood Control District as appropriate.

CP/JE/ar
Attachments

c: Charles Smiley & Murray Roberts, 5419 N. Lak-A-Yucca Road, Tucson, AZ 85743
Jim Portner, Pima County Hearing Administrator
P17CU00005 File



United States Department of the Interior
NATIONAL PARK SERVICE
Saguaro National Park
3693 South Old Spanish Trail
Tucson, Arizona 85730



IN REPLY REFER TO:

7/10/17

Janet Emel
Senior Planner
Pima County Development Services Department

Dear Ms. Emel,

Thank you for informing us of the Conditional Use Permit request (P17CU00005 Smiley/Roberts) submitted for approval of a restaurant/food cart at the NW corner of Sandario and Rudasill roads. We appreciate the opportunity to review and submit comments on this request.

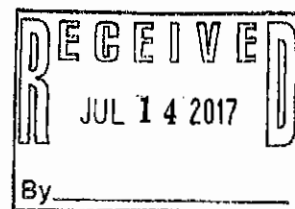
In concept, we do not see any reason to object to this request; however, we do ask that you take the following items into consideration during your review and approval process due to the proximity of this proposed conditional use to Saguaro National Park.

1. Require that all garbage, refuse, and food waste is secured in wildlife proof containers.
2. Ensure that if any landscaping is installed that only locally native vegetation is permitted for use.
3. Require that any exterior lighting be screened and minimized to reduce potential impacts to night sky resources.

Thank you again for notifying the park and including us in this process. If you have any questions, please contact me directly at 520-733-5101 or Scott Stonum, Chief of Science and Resource Management at 520-733-5170.

Sincerely,

Leah McGinnis
Superintendent





Board of Supervisors Memorandum

P17CU00005

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FOR BOARD OF SUPERVISORS SEPTEMBER 19, 2017 PUBLIC HEARING

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Jim Portner, Hearing Administrator

DATE: July 17, 2017

DOCUMENT: P17CU00005

CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING:

Request of Charles Smiley and Murray Roberts on a site located at 6029 N. Sandario Road, in the **RH (Rural Homestead) Zone**, for a conditional use permit for a restaurant, in accordance with Section 18.13.030 of the Pima County Zoning Code as a Type II conditional use.
(District 3)

CASE BACKGROUND AND PARTICULARS

The applicant's request is for a restaurant, as technically defined by the Pima County Zoning. In specific, the intent here is to operate a mobile food cart on the property to sell hot dogs and refreshments during daylight hours. Supporting improvements would also be made on the site to provide gravel entry/exit drives, designated parking spaces, trash receptacles, etc. The property has direct frontage on Sandario Road, the main north-south artery in the Picture Rocks area, and borders the northern property boundary of Saguaro National Park West.

SUMMARY OF THE HEARING ADMINISTRATOR MEETING

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on July 12, 2017. The applicant presented the case to the satisfaction of the hearing administrator and answered his questions.

Nine (9) members of the public attended the public hearing, all of whom elected to speak on the matter. Each of the speakers expressed their opposition to the request, with the following being the primary themes, concerns, and issues expressed: 1) the proposed use and its aesthetics were

viewed as inappropriate given the predominant residential character of the area; 2) perceived concerns with respect to potential vandalism, the presence of strangers, and security of the adjacent residences; 3) traffic congestion and accident potential due to the high-speed traffic on Sandario Road; 4) a private well agreement that includes the subject property and which, in the estimation of the speakers, allows residential uses only; and 5) the potential for undesirable sights, sounds and smells associated with the proposed use.

After hearing the above, the applicant was allowed the opportunity to respond to the public testimony and to answer a few follow-up questions from the Hearing Administrator.

Staff indicated that, prior to the public hearing, two (2) phone calls from residents who expressed concerns about a full-size restaurant being located on the property; staff clarified the specifics of the request. In addition, one (1) written protest letter had been received and provided to the Hearing Administrator.

After hearing all of the above, the Hearing Administrator closed the public hearing.

HEARING ADMINISTRATOR'S COMMENTS

The following comments are offered by the Hearing Administrator so that all concerned have an understanding as to the rationale and basis of the formal recommendation presented below. The following observations are offered in response to the various concerns and objections presented by members of the public at the July 12, 2017 public hearing:

Inappropriateness of the Proposed Use and Harm to Residential Character. The public testimony strongly asserted the established residential character and feel of the surrounding area, the need to preserve same, and the belief that the proposed food cart would severely damage this character. This Hearing Administrator conducted a second site following the July 12, 2017 public hearing to specifically assess this issue. While a purely residential feel does characterize those areas lying farther from Sandario Road, I would respectfully state that the immediate Sandario Road corridor itself – as the main north-south artery of the Picture Rocks community -- does not possess any overwhelming sense of pure residential character. The proposed use would be an element of this corridor and is not found to be inappropriate nor damaging to its established makeup or personality.

While site-built and manufactured homes do front upon Sandario Road, metal accessory buildings with marginal “residential feel” are not uncommon with same. A Pima County Sheriff's sub-station lies just 1500' to the north of Rudasill Road and the Picture Rocks Hardware store lies 500' north of that. Continuing north, of course, is the main Picture Rocks business district. The factors in force here produce a corridor whose character is more mixed-use than exclusively residential. The proposed food-cart would be physically located immediately adjacent to this corridor and be separated substantially from any nearby residence. This Hearing Administrator finds it to be an acceptable corridor use and one which will not unduly impact any individual residence nor undermine the established character of Sandario Road.

Security and Safety of Nearby Residential Properties. The Hearing Administrator respectfully does not share the expressed belief that the presence of a business inherently brings unwanted and potentially harmful strangers into an otherwise safe and secure area and, therefore, represents a significant safety and security risk to surrounding property owners. The proposed use here is a hot dog stand. Given the significant physical distance between it and any nearby residence, the Hearing Administrator finds it to not be a threat to surrounding property owners and does not agree that some form or twenty-four security is necessary to ensure their safety.

Traffic Congestions and Safety. The proposed driveway locations have been sited in conformance with all applicable Department of Transportation (DOT) criteria for the separation of driveways from established public street intersections. The Hearing Administrator recognizes and respects DOT's authority in this regard and accepts their position on the matter.

Private Well Agreement. As mentioned at public hearing, Pima County has no standing in private matters between private parties. Whether the proposed use eventually does, or does not, connect to the private well system will be a matter settled between those private parties having a legal interest in the private well agreement.

Undesirable Sights, Sounds, Smells. The proposed use will be separated by a significant physical distance from any nearby residence. The intervening natural vegetation will screen it almost entirely from view, and the sounds and smells produced by a hot-dog stand are negligible.

HEARING ADMINISTRATOR'S RECOMMENDATION

After visiting the subject property, once before the public hearing and a second time after it, and after considering the facts and the testimony presented at the July 12, 2017 public hearing, the Hearing Administrator recommends **APPROVAL** of this request for a Type II conditional use permit for a restaurant (mobile food cart). The applicant is advised that this is a *recommendation* to the Board of Supervisors, who will make the ultimate and final decision on this CUP request.

Should the Board of Supervisors agree with the Hearing Administrator's recommendation for approval, it is suggested that this approval be granted subject to the following standard and special conditions:

Standard Conditions & Requirements per the Pima County Zoning Code

The Pima County Zoning Code limits any Type II restaurant to a maximum of two thousand (2,000) square feet in floor area. The special conditions below reduce this limit even further.

Special Conditions

1. This conditional use permit is for the operation of a mobile food cart only, together with those ancillary activities that normally and routinely accompany such a food-vending use. No other or more intensive commercial uses are approved for the site. Any request to expand the proposed food-cart operation or establish any sort of permanent restaurant structure shall require a new conditional use permit application, public hearing, etc.

2. The proposed use shall generally conform with the location and particulars as shown on the conceptual site plan that was submitted by the applicant in conjunction with this conditional use permit application. Minor modifications to the layout are permitted to best minimize the disturbance of existing vegetation and protected plant species.
3. The proposed food-cart shall be positioned a minimum of one hundred feet (100') from the edge of Sandario Road pavement during all operations and food sales.
4. The property shall be operated in neat and tidy fashion and be kept clean of trash and debris at all times. Regular trash pick-up shall be arranged with a private hauler.
5. Hours of operation are limited to daylight hours only; Monday through Saturday.
6. A mobile-mini metal cargo container is allowed in the property, subject to: 1) it being located as shown on the submitted conceptual; 2) it is a minimum of one hundred feet (100') from the shared property line of the residential lot to the adjacent north; and 3) it is painted a desert tan or some other appropriate earth-tone color.
7. The driveway entry points onto Sandario Road and Rudasill Road, respectively, shall be in substantial conformance with the centerline separations from the Sandario/Rudasill intersection as shown on the submitted conceptual plan. Their final placement and compliance with applicable Department of Transportation (DOT) separation criteria shall be confirmed by DOT at the time of final issuance of this conditional use permit.
8. All driveways and parking areas shall be minimally surfaced with gravel so as to control the generation of dust.
9. This conditional use permit approval carries with it no requirement that the property be fenced. The owner/operator can pursue protective security fencing at their discretion.
10. No formal Development Plan is required in conjunction with this conditional use permit application. The Chief Zoning Inspector (CZI) shall review the conceptual site plan submitted with this application to determine its sufficiency and/or to effectuate any modifications necessary to fully comply with all applicable codes. The CZI will also coordinate with the Department of Transportation and the Regional Flood Control District as appropriate.

REQUIRED STANDARDS AND FINDINGS

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. **It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

The Pima County Comprehensive Plan designates this site and the surrounding private properties as *Resource Sensitive (RS)*, the purpose of which is designate key larger parcels and land holdings with environmentally sensitive characteristics in close proximity to public preserves or other environmentally sensitive areas. Development of such land shall emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas. The *RS* designation in this particular case is derived from the subject property's adjacency to Saguaro National Park West.

It is the Hearing Administrator's finding that the proposed food-cart use can be effectuated on the property with minimal impacts and, if operated in neat and tidy fashion and in accordance with the *Special Conditions* prescribed above, will not be in conflict with the objectives of the *Comprehensive Plan*.

- 2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

It is the Hearing Administrator's position that the proposed conditional use, if conducted in conformance with the submitted conceptual site plan and the *Special Conditions* prescribed above, will satisfactorily safeguard the adjacent properties and their permitted uses of same.

- 3. It has adequate accessibility to the County road network.**

The site has direct access to N. Sandario Road, which is a paved, public street and designated "major street" on the Pima County Major Streets & Routes Plan. Access is found to be adequate, as long as the proposed driveways are sited in accordance with DOT criteria.

- 4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

Required parking shall be reviewed accordingly by staff at the time of final permitting.

- 5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

It is the Hearing Administrator's finding that the new use poses no significant public threat in any of the above ways, including noise and odors. Special conditions have been crafted to address the use's operation.

- 6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation are covered in the proposed Special Conditions.

- 7. Landscaping will be fully in conformance with zoning code regulations.**

Designated landscape buffers, etc. shall be delineated on the required site plan and reviewed by staff at the time of final permitting.

SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES

Comprehensive Plan Regional Environmental Policies — Conservation Lands System

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the

Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

1. Important Riparian Areas — 95% undisturbed natural open space
2. Biological Core Management Areas — 80% undisturbed natural open space
3. Special Species Management Areas — 80% undisturbed natural open space
4. Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The very southernmost portion of the subject site is located within the MULTIPLE USE MANAGEMENT AREA of the SDCP's Biologically-Preferred Reserve System.

Staff Commentary on Biological Impacts

Staff has reviewed this application and finds that, as long as it is placed on the site in conformance with the submitted conceptual site plan: 1) its approval is not expected to affect any resources essential to Pima County's biological conservation priorities; and 2) it would not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update. The proposed use will easily meet the above 66-2/3% preservation threshold of the CLS.

Facts Confirmed by the Pima County Geographic Information System (GIS)

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

Cactus Ferruginous Pygmy Owl. The subject property is located within an area that was designated as former critical habitat and is part of draft recovery area. It is within Survey Zone 2. This site is located within the Priority Conservation Area (PCA) for this species.

Western Burrowing Owl. The subject property is located within Survey Zone 1 for the Western Burrowing Owl. It is within the Priority Conservation Area for this species.

Pima Pineapple Cactus. The subject property is located within a general area outside of the known range for the Pima Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

Needle-Spined Pineapple Cactus. The subject property is located within an area that is designated as having low potential for the Needle-Spined Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

DEPT. OF TRANSPORTATION & FLOOD CONTROL RECOMMENDATION:

The Department of Transportation and the Regional Flood Control District will further review the project during the final permitting process.

attachments

cc: Carla Blackwell, Director, Development Services
Yves Khawam, Chief Building Official
Chris Poirier, Planning Official
Tom Drzazgowski, Chief Zoning Inspector
Charles Smiley, Owner/Applicant



MEMORANDUM

PUBLIC HEARING – July 12, 2017

DATE: June 29, 2017
TO: Jim Portner, AICP, Hearing Administrator
FROM: Janet Emel, Senior Planner
SUBJECT: **P17CU00005 – SMILEY/ROBERTS – N. SANDARIO ROAD**
Type II Conditional Use – Restaurant

LOCATION:

The subject site is located on the northwest corner of Rudasill and Sandario Roads across from Saguaro National Park (West) and approximately one mile south of Picture Rocks Road. The property is zoned RH (Rural Homestead).

SURROUNDING LAND USE OR CONTEXT:

The site is surrounded on the north and west sides by RH-zoned residential development, on the east side by Sandario Road with vacant property further east, and on the south by Rudasill Road and Saguaro National Park (West).

PUBLIC COMMENT:

To date, staff has received one call on the case expressing concern by several neighbors about use of a shared well and the potential for a full-size restaurant. Staff sent several neighbors copies of the application showing that the request is for a food cart, not a full-size restaurant. The applicant did verify that they will be "tying into the well" and that he would be speaking to the neighbors. No written protests have been received to date.

BACKGROUND INFORMATION

The request is for a Type II Conditional Use Permit to locate "street cart style food vending with patio/garden ambience adjacent to Saguaro National Park". The street cart is considered a "restaurant". The applicant states that this is a major tourist corridor and growing residential area.

The food vending cart (hot dogs, convenience snacks, non-alcoholic beverages) is approximately 5' X 8' and is towable. As proposed, the cart would operate 11 am to dusk daily. A mobile mini (cargo container) of size 8' X 8' X 30' would be placed on site to store the vending cart, tools and supplies. The mobile mini would be painted tan or sage to blend with the desert. Two accesses are proposed, one on Sandario Road and one on Rudasill Road. The areas proposed to be cleared are 240 sq. ft. for the mobile mini site and 400 sq. ft. for the cart site plus parking and access areas. The applicant proposes not to disturb any ironwood, Palo Verde, or mesquite trees, saguaros or barrel cactus. The applicant proposes selective clearing of creosote, prickly pear, jumping cholla, ratany, brittlebush and bursage for locating the cart, parking, and access.

Regarding the Maeveen Marie Behan Conservation Lands System, there is a strip of Multiple Use Management Area along the south side of the site. Also, the site is proposed habitat for the cactus ferruginous pygmy-owl and the western burrowing owl.

An area surrounding Saguaro National Park (West) is designated "Resource Sensitive" by the Pima County Comprehensive Plan. The objective of "Resource Sensitive" is to designate key larger parcels and land holdings with environmentally sensitive characteristics in close proximity to public preserves or other environmentally sensitive areas. Development of such land shall emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas.

DEPARTMENT OF TRANSPORTATION AND REGIONAL FLOOD CONTROL DISTRICT

The Department of Transportation and Regional Flood Control District will review this project as needed during the permit process.

CULTURAL RESOURCES

Please be aware that Pima County cultural resources requirements could apply to Pima County Conditional Use Permits. If cultural or historic sites will be impacted by the proposed use, mitigation of impacts on sites eligible to the National Register of Historic Places could be required before the County issues the building permit. A first step in identifying the cultural resources status of your property is to request an archaeological records review from the Arizona State Museum (ASM), at 621-2096, and submit it with the permit application. The Cultural Resources and Historic

Preservation Division of the Office of Sustainability and Conservation will review the ASM report and determine whether additional cultural resources actions are necessary.

STAFF REVIEW AND RECOMMENDATION

Staff is concerned that the proposed use not have any major negative effects on surrounding property owners and that minimal clearing of significant vegetation occur. Across Rudasill Road to the south is the entrance to Saguaro National Park (West).

Negative effects directly relate to how well the site is maintained, minimizing noise and dust, and minimal clearing of vegetation. As noted by the "Resource Sensitive" plan designation, design is very important. In this case, staff suggests "design" means keeping the property tidy, free of trash (regular trash pick-up) and structures properly maintained such as no tattered tarps or excessive paraphernalia or junk. Noise and dust should be minimized, that is not affecting surrounding properties.

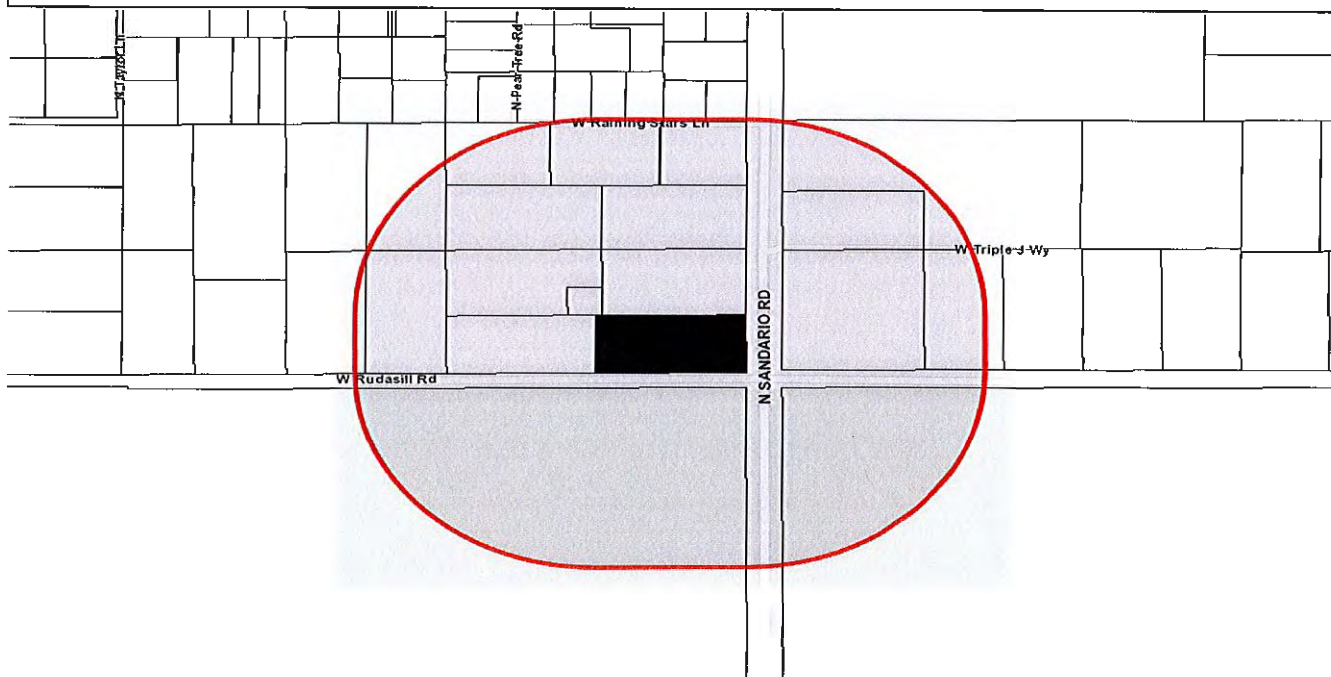
The applicant should be prepared to address the following issues at the hearing. Based on a site visit, there are many full grown trees along Sandario Road that would appear to be within the right-of-way, how does the applicant intend to make the use visible to potential customers? Additionally, the application references "casual outdoor dining" and "patio/garden ambience" however the parking spaces are noted as "15 minutes". And, whether any night lighting is proposed.

Subject to the applicant adequately addressing the above issues and any concerns presented by Saguaro National Park and other neighbors, staff recommends **APPROVAL** of the conditional use request subject to the following conditions:



1. The site shall be maintained properly including regular, frequent removal of trash, well-maintained site and structures, and dust control.
2. The operation shall be limited to and subject to the description proposed with the Conditional Use Permit application and site plan, including limits on clearing vegetation.

NOTIFICATION MAP



SMILEY/ROBERTS—N. SANDARIO ROAD



LEGEND

-  Petition Area
-  1000' Notification Area

NOTES

File no.:	P17CU00005	Tax Code(s):	213-13-091B
Application:	CONDITIONAL USE	Base Map:	154
		Drafter:	A.H.



6/26/2017





ZONING ENFORCEMENT DIVISION
201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207
(520) 724-6675

APPLICATION FOR CONDITIONAL USE PERMIT

OWNER: CHARLES P. SMILEY PHONE: _____
ADDRESS: 5419 N. LAK-A-YUCCA CITY: TUCSON, AZ. ZIP: 85743
APPLICANT (if not owner): SAME AS ABOVE PHONE: 520-977-8274
APPLICANT EMAIL ADDRESS: SMILEYSTONECLASSICS@GMAIL.COM
ADDRESS: SAME AS ABOVE CITY: _____ ZIP: _____
PROPERTY ADDRESS: NW CORNER OF SANDARIO AND RUDASILL ROADS ZONE: RH
TAX CODE(S): 213-13-091B 6029 N. Sandario Rd per email
TOWNSHIP, RANGE SEC.: sec 9-13-11
LOT DIMENSIONS: _____ LOT AREA: 4.28A per Assessor's info

TYPE OF USE PROPOSED FOR PROPERTY (BE SPECIFIC):
STREET CART STYLE FOOD VENDING WITH PATIO / GARDEN
AMBULANCE ADJACENT TO SAGUARO NAT. PARK

STATE THE REASONS WHY THE USE IS PROPOSED AND WHY YOU THINK IT WOULD BE COMPATIBLE WITH THE SURROUNDING AREA:
NATURAL DESERT ENVIRONMENT LOCATED WITHIN MAJOR
TOURIST CORRIDOR AND GROWING RESIDENTIAL AREA.
CASUAL OUTDOOR DINING AND PATIO EXPERIENCE FOR LOCALS
AND VISITORS Alike.

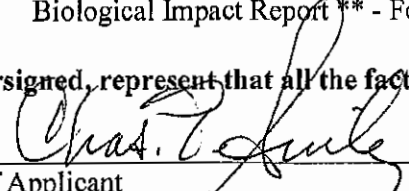
ESTIMATED STARTING DATE: 9/25/17 ESTIMATED COMPLETION DATE: 11/17/17

THE FOLLOWING DOCUMENTS ARE REQUIRED:

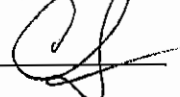
1. Preliminary Development Plan
 - a. 5 copies are needed for Type I (In accordance with Pima County Fee Schedule)
 - b. 10 copies are needed for Type II (In accordance with Pima County Fee Schedule)
 - c. 10 copies are needed for Type III (In accordance with Pima County Fee Schedule)
5 - 24" X 36" and 5 - 11" X 17"

(Make check payable to Pima County Treasurer)
2. Assessor's Map showing location and boundaries of the property.
3. Assessor's Property Information showing ownership of the property.
4. Letter of Authorization if applicant is not the owner
5. Floor Plan that pertains to interior access or use if required
6. Biological Impact Report ** - For Type 2 or 3 permit requests

I, the undersigned, represent that all the facts in this application are true to the best of my knowledge.


 Signature of Applicant _____ Date 6/14/17
CHARLES P. SMILEY
 Print Name _____ Applicant Phone Number 520.977.8274

Applicant agrees to provide staff with written proof of notice to the United States Fish and Wildlife Service of this conditional use request at least 15 days prior to the date of the public hearing. Failure to do so may result in cancellation of the public hearing. In addition, the applicant or authorized representative must appear in person at the public hearing to present the request, otherwise the case may be dismissed.

Please initial here: 

OFFICE USE ONLY

Case #: P17CU00005 Case Title: SMILEY/ROBERTS - N. SANDARLO ROAD

Type: 2 Fee: _____ Receipt Number: _____ Hearing Date: _____

Notification Area: 1000' Sections: 10.13.030 #12 restaurant

Zoning Approval: _____

Special Conditions: _____

Not w/in US

A request for continuance of an advertised application or a change in original request by applicant, must be accompanied by an additional fee.

** Applicant should consult with Pima County Planning staff to determine the extent to which this requirement applies to the subject property. The Biological Impact Report pertains to expected impacts on endangered and threatened species as identified in the Sonoran Desert Conservation Plan.

SMILEY AND ROBERTS

BOOK, MAP, PARCEL: 213-13-091B

TUCSON, ARIZONA 520-977-8274

DATE: 14 JUNE 2017

USE PROPOSED FOR PROPERTY

HOT DOG VENDING

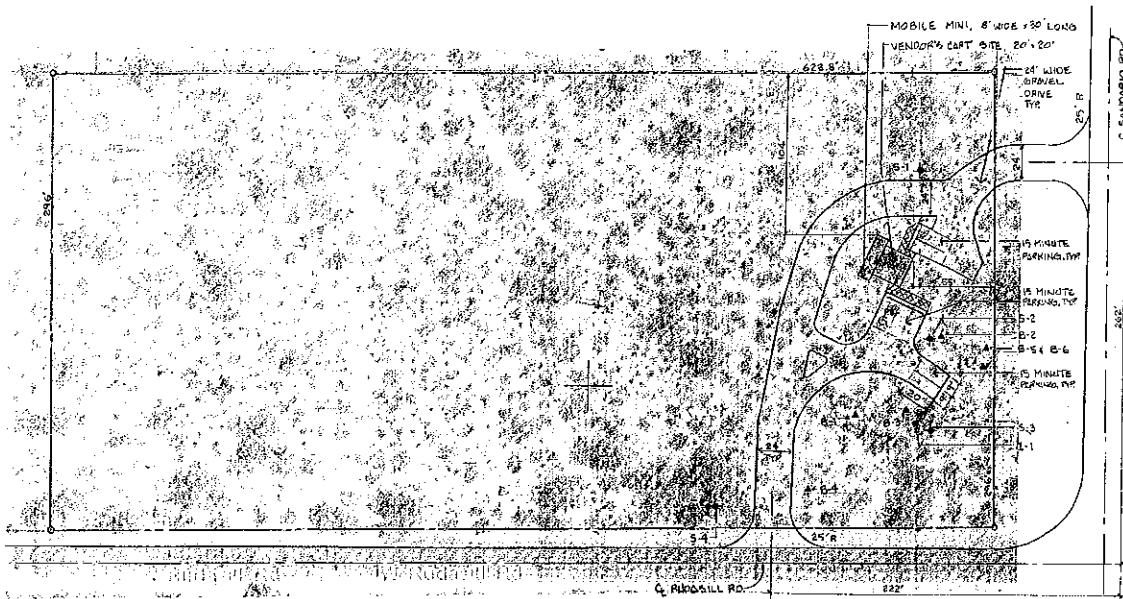
SITE DEVELOPMENT CONSISTS OF SELECTIVELY CLEARING CREOSOTE, PRICKLY PEAR, JUMPING CHOLLA, RATANY, BRITTLEBUSH AND BURSAGE FOR THE PURPOSE OF LOCATING A HOT DOG VENDING CART TO SELL HOT DOGS, CONVENIENCE SNACKS AND NON-ALCOHOLIC BEVERAGES.

THE HOT DOG VENDING CART IS A TOWABLE CART, APPROXIMATELY 5 FEET DEEP AND 8 FEET LONG. PROPANE, AT CART, WILL BE USED TO COOK AND HEAT FOOD. VENDING HOURS OF OPERATION ARE TO BE 11:00 A.M. TO DUSK DAILY. TRASH PICKUP WILL BE ESTABLISHED WITH WASTE MANAGEMENT.

A MOBILE MINI STORAGE UNIT, 8' X 8' X 30', IS PROPOSED TO BE PLACED ON SITE TO STORE VENDING CART, TOOLS AND SUPPLIES. SEE SITE PLAN, THIS SHEET. NO FOOD OR FOOD-RELATED ITEMS WILL BE STORED ON SITE. THE MOBILE MINI STORAGE UNIT WILL BE PAINTED TAN AND/OR SAGE COLOR TO BE UNOBTRUSIVE AND BLEND IN NATURALLY WITH THE SURROUNDING DESERT.

TWO ENTRY AND EGRESSES ARE PROPOSED. ONE ON SANDARIO ROAD AND ONE ON RUDASILL ROAD. DRIVE WIDTHS AT SANDARIO AND RUDASILL ROADS WILL BE 24 FEET WITH A MINIMUM TURNING RADIUS OF 25 FEET. THE DRIVEWAY WILL BE STABILIZED WITH 3/4" AGGREGATE BASE (AB).

NO IRONWOOD, PALO VERDE, MESQUITE, SAGUARO, OR BARREL CACTI WILL BE DISTURBED DUE TO SITE DEVELOPMENT. SEE ENVIRONMENTAL RESOURCE REPORT, THIS SHEET.



SITE DEVELOPMENT PROPOSAL

HOT DOG VENDING

SITE DEVELOPMENT CONSISTS OF SELECTIVE CLEARING CREOSOTE, PRICKLY PEAR, JUMPING CHICKLE, BANTAY, BUTTERFLISH AND BURSAGE FOR THE PURPOSE OF LOCATING A HOT DOG VENDING CART TO SELL HOT DOGS, CONVENIENCE SNACKS AND NON-ALCOHOLIC BEVERAGES.

THE HOT DOG VENDING CART IS A TOWABLE CART, APPROXIMATELY 5 FEET DEEP AND 8 FEET LONG. PROPER HEIGHTS WILL BE USED TO COOK AND HEAT FOOD. VENDING HOURS OF OPERATION ARE TO BE 11:00 A.M. TO 10:00 P.M. DAILY. TRASH PICKUP WILL BE ESTABLISHED WITH WASTE MANAGEMENT.

A MOBILE PAINT STORAGE UNIT, 8' X 8' X 30', IS PROPOSED TO BE PLACED ON SITE TO STORE VENDING CART, TOOLS AND SUPPLIES. SEE SITE PLAN, THIS SHEET. NO FOOD OR FOOD-RELATED ITEMS WILL BE STORED ON SITE. THE MOBILE PAINT STORAGE UNIT WILL BE PAINTED TAN AND/OR SAFFER COLOR TO BE UNOBTRUSIVE AND BLEND IN NATURALLY WITH THE SURROUNDING DESERT.

TWO INTRIT AND EGRESS ARE PROPOSED. ONE ON SANDBARO ROAD AND ONE ON RUDASILL ROAD. DRIVE WIDTHS AT SANDBARO AND RUDASILL ROADS WILL BE 28 FEET WITH A MINIMUM TURNING RADIUS OF 25 FEET. THE DRIVEWAY WILL BE STABILIZED WITH 3/4" AGGREGATE BASE (A.B.).

NO IRONWOOD, PALO VERDE, MESQUITE, SAGUARO, OR BARCEL CACTI WILL BE DISTURBED DUE TO SITE DEVELOPMENT. SEE ENVIRONMENTAL RESOURCE REPORT, THIS SHEET.

NOTES

DRIVEWAY LOCATIONS FOR ADJACENT PROPERTIES:

- DRIVEWAY LOCATION FOR PROPERTY TO THE WEST IS 200' WEST OF SHARED WEST PROPERTY LINE. THIS DRIVE PROVIDES RUDASILL ROAD ACCESS FOR NEIGHBOR TO THE WEST.
- DRIVEWAY LOCATION FOR PROPERTY TO THE NORTH IS 200' NORTH OF SHARED NORTH PROPERTY LINE. THIS DRIVE PROVIDES SANDBARO ROAD ACCESS FOR NEIGHBORS TO THE NORTH.

LEGAL DESCRIPTION

PARCEL 1

THE EAST HALF OF THE FOLLOWING DESCRIBED PROPERTY: THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 11 EAST, GILA AND SALT RIVER BASIN AND MERIDIAN, PIMA COUNTY, ARIZONA. EXCEPT ANY PORTION LYING WITHIN THE RIGHT OF WAY OF SANDBARO ROAD AS ESTABLISHED IN BOOK 8 OF ROAD MAPS 41 PAGES 185, PIMA COUNTY, ARIZONA, ALSO EXCEPT THE SOUTH 50 FEET. ALSO EXCEPT ALL COAL AND OTHER MINERALS AS RESERVED IN THE PATENT FROM THE UNITED STATES OF AMERICA.

PARCEL 2

AN UNDIVIDED 1/8 INTEREST IN THE SOUTH 150 FEET OF THE EAST 145 FEET OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 11 EAST, GILA AND SALT RIVER BASIN AND MERIDIAN, PIMA COUNTY, ARIZONA, HERINAFTER REFERRED TO AS THE WELLSITE.

PRELIMINARY DEVELOPMENT PLAN

SMILEY & ROBERTS
 3006 N. MARICOPA, PHOENIX, ARIZONA 85018, TUCSON, AZ 520-877-8376

JAZ LANDSCAPE DESIGN & CONSULTATION
 WILSON, JAMESON, S.A.
 4101 E. BELLVIEW STREET
 TUCSON, AZ 85711 • 520-477-7777

DATE: 11/11/11
 SHEET: 1 OF 1
 SCALE: 1" = 30' 0"

ENVIRONMENTAL RESOURCE REPORT

SITE IS UNDISTURBED DESERT LOCATED ON THE FAR EAST SIDE OF THE AVILA VALLEY AT THE NORTHWEST CORNER OF SANDBARO ROAD AND RUDASILL ROAD. SITE IS GENERALLY FLAT WITH A GENTLE SLOPE TO THE WEST/NORTHWEST. SOILS ARE SANDY. SITE IS SUBJECT TO SHEET FLOODING OF LESS THAN ONE INCH A FOOT OF WATER FLOODING THROUGHOUT THE ENTIRE SITE.

PREDOMINANT VEGETATION CONSISTS OF LITTLE LEAF PALM YUCCA, CREOSOTE, OPUNTIA SPP., IRONWOOD, SAGUARO, BAREIL CACTI AND WHITE THORN ACACIA. THERE ARE A FEW MESQUITE IN THE NORTH/CENTRAL PORTION OF THE SITE. UNDERSTORY CONSISTS OF ECHINOCELEUS SPP. (MEDICHOOD), RATANY, BUTTERBUSH, AND PUCHUNSON. VEGETATION IS IN GOOD TO EXCELLENT CONDITION. A FEW OLIVE TREES HAVE SOME MISTLETOE INFESTATION.

VIEWS TO THE NORTH AND WEST ARE OF MINIMALLY DEVELOPED RESIDENTIAL HOMESTEADS AND LANDS IN A DESERT. VIEWS TO THE EAST ARE OF UNDISTURBED DESERT. LAND TO THE EAST IS USED FOR PASTURE. VIEWS TO THE EAST ARE SUBJECT TO CHANGE. VIEWS TO THE SOUTH ARE OF SAGUARO NATIONAL MONUMENT.

CARNEGIA GIGANTEA, SAGUARO				FEROCACTUS WISLIZENII, BARREL			
I.D.	HEIGHT	ARMS	CONDITION STATUS	I.D.	HEIGHT	CONDITION STATUS	
S-1	48"	-	EXCELLENT PIP	B-1	18"	EXCELLENT PIP	
S-2	42"	-	EXCELLENT PIP	B-2	16"	EXCELLENT PIP	
S-3	32"	-	EXCELLENT PIP	B-3	28"	EXCELLENT PIP	
S-4	30"	7 W/ 5 ARMS > 6'	EXCELLENT PIP	B-4	24"	EXCELLENT PIP	
			EXCELLENT	B-5	24"	EXCELLENT PIP	
				B-6	24"	EXCELLENT PIP	
				B-7	32"	EXCELLENT PIP	

REQUIRED PARKING CALCULATIONS

MOBILE MINI 8' X 30' = 240 SQ. FT.
 VENDOR'S CART SITE .. 20' X 20' = 400 SQ. FT.
 VENDING AREA 640 SQ. FT.

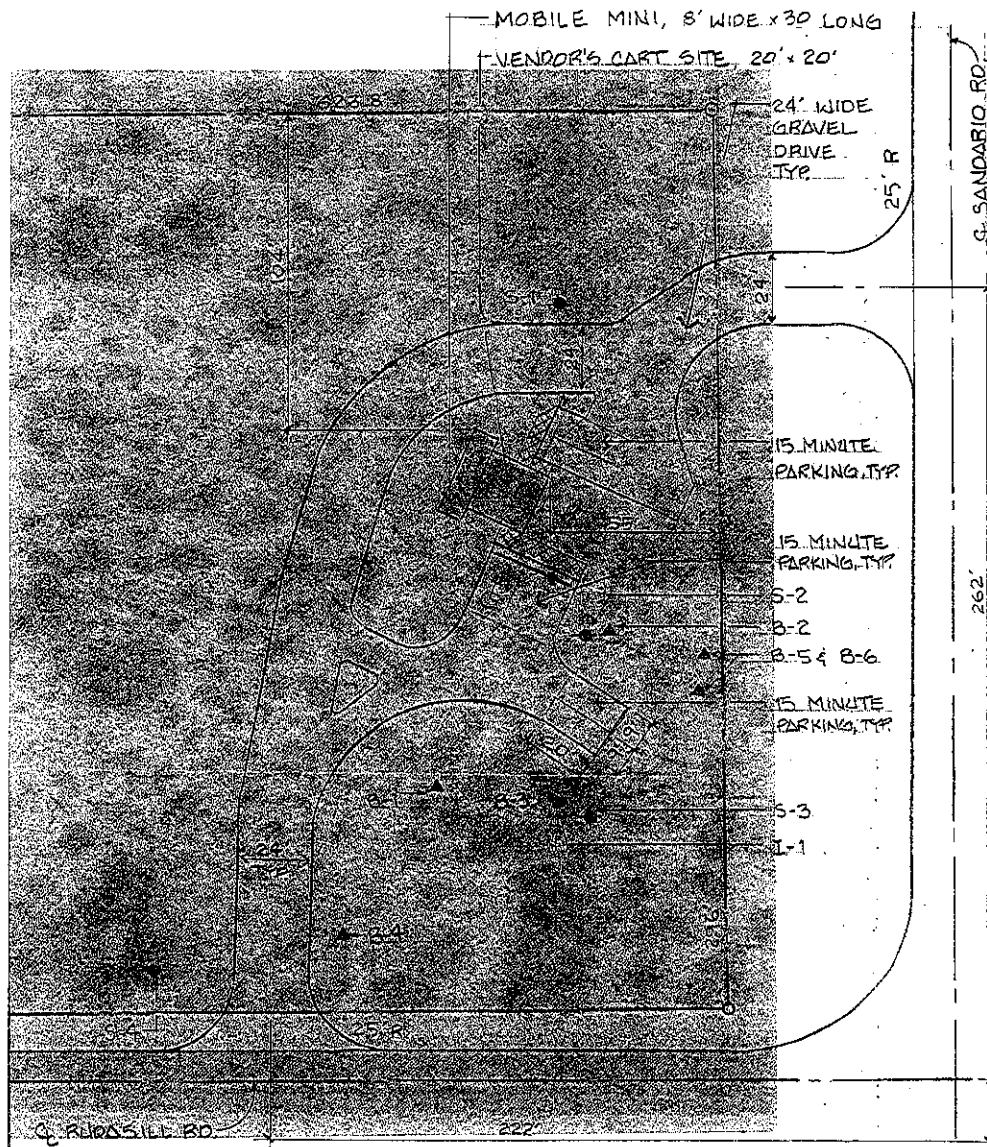
- ONE PARKING REQUIRED SPACE PER 100 SQ. FT.
- SEVEN (7) PARKING SPACES PROVIDED ON SITE.
- ONE (1) HANDICAP PEG. SPACE PROVIDED @ 12' X 20'.
- SOLID WALKABLE, WHEELCHAIR ACCESSIBLE SURFACE TO BE PROVIDED AT HANDICAP PARKING FOR SAFE EASE OF USE.
- SIX (6) STANDARD PEG. SPACES PROVIDED @ 9' X 20'.

OLIVEA TESOTA, IRONWOOD

I.D.	HEIGHT	CONDITION STATUS
I-1	48"	EXCELLENT PIP

LEGEND - PIP: PRESERVED IN PLACE

NORTH
 SCALE: 1" = 30' 0"



**PRELIMINARY
DEVELOPMENT
PLAN**

SCALE: 1" = 30'-0"
NORTH

SMILEY & ROBERTS

BOOK, MAP, PARCEL: 213-13-091B
(520) 977-8274

PREPARED BY: J.A. ZAPOLSKI
DATE: 6/13/17 PAGE 2 OF 2

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VENDING AREA 640 SQ. FT.

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- ONE (1) HANDICAP PKG. SPACE PROVIDED @ 12' x 20'.
SOLID WALKABLE, WHEELCHAIR FRIENDLY SURFACE TO BE PROVIDED AT HANDICAP PARKING FOR SAFE, EASE OF USE.
- SIX (6) STANDARD PKG. SPACES PROVIDED @ 9' x 20'.

July 01, 2017

Pima County
Development Services
201 North Stone Avenue, 2nd Floor
Tucson, AZ 85701

ATTN: Ms. Janet Emel
Senior Planner

RE: Conditional Use Permit Application
P17CU00005: Smiley/Roberts North Sandario Road



Dear Ms. Emel:

My wife and I are residents/owners of Parcel # 213-13-0880 located at 6055 North Sandario Road. We write this letter in response to the received notice of a public hearing on the above referenced Conditional Use Permit application for Parcel (# 213-13-091B) located at 6029 North Sandario Road. We will attempt to voice our thoughts, concerns, and provide additional information for consideration with this public process.

Our first thoughts are that this application for roadside “vending” at this location, while well presented, is not appropriate or necessary for this location. One need only to drive Sandario Road or Rudasill Road for more than a mile east, west, or south; and more than ½ mile north of this Parcel to conclude this proposed type of transient roadside business is “out of character” with the surrounding area rural residences.

A mile to the north at Sandario Road and Picture Rocks road, this type of roadside vending has been visibly evident the entire 12 years we have lived here, but never this far south. On any given day, 2 or 3 roadside vendors, including food trucks, would occupy the SE Corner of Sandario Road & Picture Rocks Road. On weekends this activity would mushroom to 5 to 8 roadside vendors. Only the County could confirm if this was permitted activity at that location.

At any rate, all of that changed a month ago when the new DOLLAR GENERAL store site development commenced and evicted all of these roadside vendors. Some disappeared, some relocated to adjacent commercial zoned properties, and at least one has relocated on the west side of Sandario Road within the public right-of-way.

Our concern is that if this application is approved it will be a potential magnet to attract these type of transient roadside vendors south one mile to Sandario Road & Rudasill Road. A quick review of the application drawing reveals no site secure fencing to prevent others from migrating to this site, or nearby.

Of significant importance to this particular parcel # 213-13-091B is a “Shared Water Well” that is legally conveyed with five (5) other resident occupied parcels: 213-13-086; 213-13-087; 213-13-088; 213-13-090, and 213-13-091A. The referenced “Shared Water Well” is located on the ½ acre Parcel # 213-13-089.

This "Shared Water Well" was established in the early 1960's when the original four parcels (086; 087; 088; 90) were developed and family residences built. When the last parcel adjacent to Rudasill Road was split into 213-13-091A & 21-13-091B with a family residence constructed on Parcel 213-13-091A in the late 1990's, the original Parcel owners established and recorded a WELL OWNERSHIP and WELL SITE AGREEMENT. I have attached a copy of this document, executed in 1999, and included a covenant with the land. This copy is provided for your convenience and review. Please note that all covered parcels have established rural residences, some with numerous animals, with the sole exception of this undeveloped Parcel # 213-13-091B. A review of the WELL OWNERSHIP AGREEMENT should pretty well conclude the previous six (6) parcel owners enacted & recorded this AGREEMENT to set the ground rules for providing & maintaining a water system for DOMESTIC, RESIDENTIAL use only.

The Conditional Use Permit does not include any on-site residence; only a proposed commercial use. I do not believe the other shared well owners would be receptive to providing water to other than an on-site fixed residence as originally intended. To do otherwise would place the security and health of our water system in potential peril. An on-site residence provides a 24/365 yearly visible security presence for these security/health concerns for an activated parcel water source.

I am hopeful this information and concerns will be helpful and sufficient to deny this Conditional Use Permit. If not, and due to no on-site residence; then at a minimum the following security & safety measures need to be incorporated to protect the other (5) parcel owners and the well site:

- 1) West and north property lines fenced with minimum six (6) foot security fence to prevent transient encroachment onto Parcel # 213-13-090 that has numerous animals including horses, Parcel # 213-13-091A, and "shared well" parcel #213-13-089.
- 2) Security fencing for east and south Conditional Use Permit area, with access gates to be locked when applicant is not present to prevent other transient vendors from occupying site in owners absence.
- 3) If water service from this well is planned for this permit, then specific plan conditions and or stipulations regarding water service given no residence accompanies this application; to include stipulations in case of property transfer.

These are our thoughts and concerns regarding this issue. Please advise in writing of the final process determinations. Thank you.

Respectfully,



Ron & Ida M. Casper
6055 North Sandario Road
Tucson, AZ 85743-9672

Home: 520-883-6874
E-Mail: idacasper@msn.com

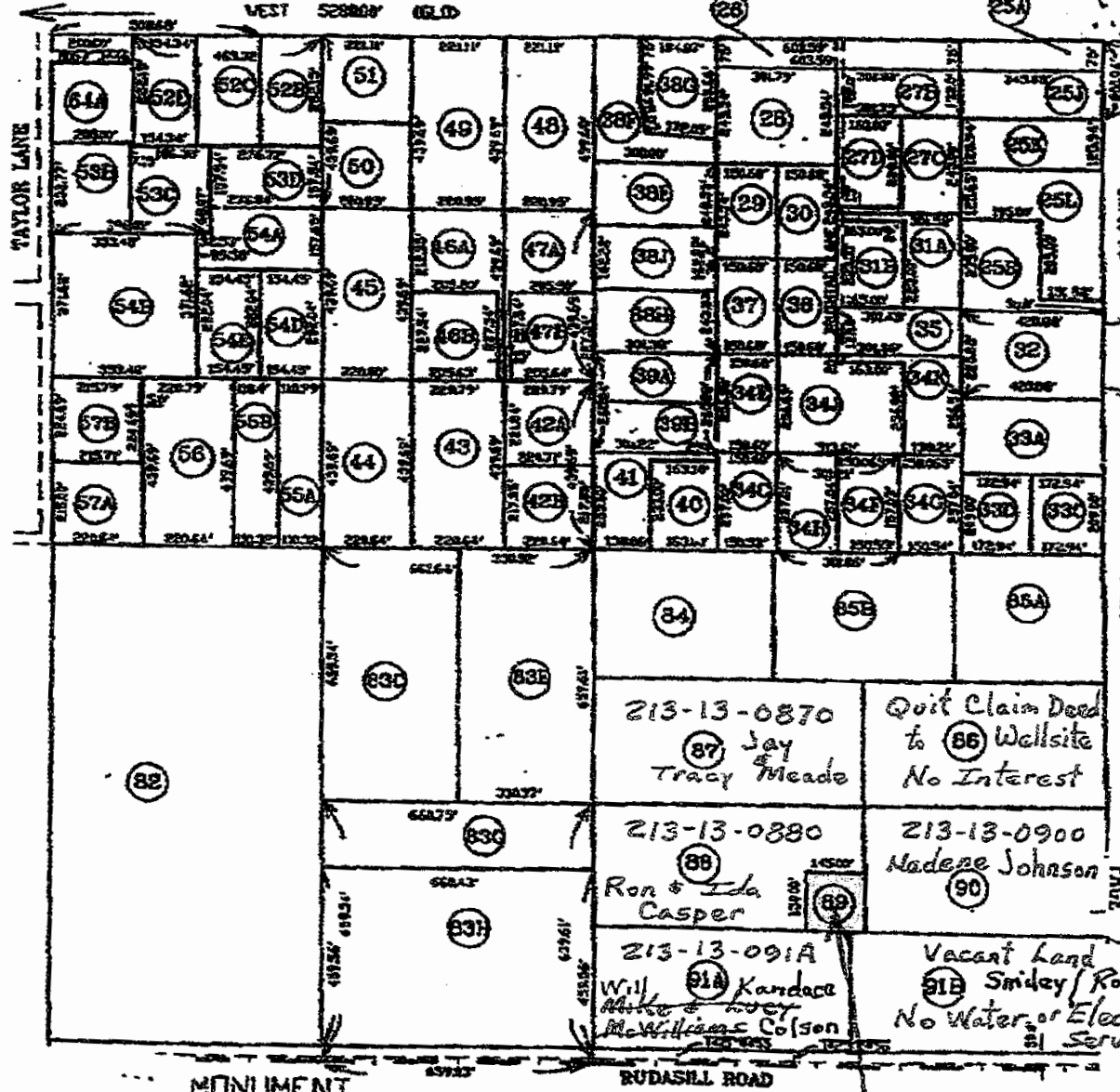
c: Pima County Hearing Administrator

ASSESSOR'S RECORD MAP

213-13

SECTION 09, TOWNSHIP 13 SOUTH, RANGE 11 EAST

FORMERLY
204-05



SEP-15-09 WED 08:53 AM

PAGE:

PAGE:

Well site Parcel
213-13-0890

PG: 22 OF 24

UTW-1 2007

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: KJM
DEPUTY RECORDER
8013 RO45
REEMS
EZ MESSENGER ATTORNEY SERVICE
EZ-BLOCK



DOCKET: 11672
PAGE: 1714
NO. OF PAGES: 24
SEQUENCE: 20012170569
11/08/2001
19:49
AG
PICKUP
AMOUNT PAID \$ 28.00

WELL OWNERSHIP AND
WELL SITE AGREEMENT

THIS AGREEMENT made and entered into this 19th day of October, 1999, by and between PAUL D. BREWER and IRMGARD H. BREWER, husband and wife, MICHAEL Mc WILLIAMS and LUCY McWILLIAMS, husband and wife, PEGGY L. HORTON and LEONARD B. COLLARD, MIKE McKENNA and DAWN McKENNA, husband and wife, CHARLES ARTHUR SHEARER and MARCIA ANN SHEARER, husband and wife, and ROBERT F. SNYDER and LINDA SNYDER, husband and wife, (collectively referred to as "Land Owners"), individual owners of parcels of property which comprise a collective parcel of property (referred to as the "Property") more fully described in Exhibit "A" attached hereto.

WHEREAS, a well-site and operating well exist on the Property for the purpose of providing water service to the individual parcels owned by the Land Owners; and

WHEREAS, the parties to this Agreement desire to provide a permanent means whereby Land Owners will obtain the right to the use of the water from the well. Land Owners and any other subsequent co-owners of the well improvements will be required to pay their reasonable and fair share of the cost of operation, maintenance, repair, replacement, improvements, property taxes, and other costs associated with the availability of water from the well and well-site; and

WHEREAS, it is the intent and purpose of this Agreement to reconfirm to the Land Owners an undivided one-sixth (1/6) interest in the well and well-site and to establish certain rights and obligations in the use, operation, and maintenance of that certain domestic water well located on the following described real property:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "B"
(Well-site Location)

for the use and benefit of the real property described in Exhibit "A".

This Agreement supersedes all previous agreements and provisions contained in recorded deeds and documents referencing the property described in Exhibit "A" and the well-site described in Exhibit "B".

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. (a) The Land Owners, by deed to the property described in Exhibit "A", were conveyed an undivided one-sixth (1/6) interest in the well-site described on Exhibit "B", for the sole purpose of owning, operating, maintaining, repairing and replacing the well improvements and any appurtenant facilities (including but not limited to pipes, booster pumps and storage tanks) located on the well-site.

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(b) The Land Owners were further conveyed an undivided one-sixth (1/6) interest in all personal property and improvements located at the well-site, including but not limited to the pump, casing, electrical equipment, water mains and valves, and all other appurtenances relating to the well (the "well improvements").

(c). It is understood and agreed upon by the parties that each individual Land Owner has paid the sum of One Dollar (\$1.00) and other good and valuable consideration for this Agreement, for and in the consideration of the one-sixth (1/6) interest in the well improvements and the well-site.

2. It shall be the respective Land Owner's sole responsibility and cost to install, maintain and repair the water line(s) located on their property and within the easement located on the respective Land Owner's Property up to and including the respective Land Owner's water meter.

3. Each Land Owner shall share any and all costs of repair, maintenance, renewal and replacement of the well, the well casing, any improvements on the well-site, mains, including but not limited to pumps, electrical equipment, valves, and other appurtenances necessary to the continued production and delivery of water from the well and storage of water produced by the well, and all other costs associated with redrilling or replacing the well, on the basis that each Land Owner shall be liable for the fractional share of the cost equal to their fractional ownership interest in the well. Cost shall also mean and include any property taxes levied on the well improvements.

4. Each Land Owner of the well shall pay on a monthly basis the pro-rated cost of water produced by the well. The meter to the Land Owner's Property shall be read on or about the 1st day of each month. The monthly pro-rated cost for water used from the well shall include all operating costs such as, but not limited to, electrical service to the well, routine repairs, water quality testing, plus the amount of \$10.00 per month as a contingency for repairs and maintenance and bookkeeping expenses.

5. Each Land Owner who is not currently hooked up shall pay a hookup fee of \$500.00 per connection authorized to be collected from any party connecting to the well or any water line connected to the well, said hookup fee to be deposited in a trust account for the benefit of all Land Owners of the well. The proceeds of the hookup fee are to be used solely for the purposes of upgrading or increasing the capacity of the well, including installation of booster pumps or storage facilities, necessary to serve all Land Owners of the well.

6. Any capital cost share as provided for hereinabove shall be invoiced to the Land Owner itemizing the cost elements, and the Land Owner shall pay its allocated share of such costs within thirty (30) days of receipt of such invoice. In the event the

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Land Owner does not pay its allocated share of the capital costs, its rights and interests in the use of the well shall cease and terminate.

7. It is expressly understood and agreed by all Land Owners that each Land Owner shall be liable for all capital costs and improvement costs, including but not limited to water main extensions and increasing the production and storage capacity of the well and water system to provide water service needed to serve each Land Owner's Property. Each subsequent Land Owner shall be liable for all capital costs and improvement costs, including but not limited to water main extensions and increasing the production and storage capacity of the well to provide water service to their separate properties.

8. The Land Owners pledge that they will maintain the well, all pumps and controller, the storage tank and any other equipment used in said water well, in good condition and working order and the respective Land Owners shall each pay one-sixth (1/6) the costs of maintenance, operation, repair or other costs incurred to keep the equipment and well in good working order.

9. Each Land Owner shall be responsible for their own delivery system from the well to their separate properties.

10. The water from said well shall be used solely for domestic purposes only. No other connections shall be permitted except with the unanimous consent of the other Land Owners hereunder. It is further expressly understood and agreed that the Land Owners shall not cause a fractional interest in the well-site and well improvements to be further divided or fractioned to any other party beyond a one-sixth (1/6) share, without the express written consent of all ownership interests in the well-site and well improvements.

11. The Land Owners shall have access to the well-site at all times for the purpose of operation and maintenance of the well.

12. In the event any Land Owner fails to pay for their pro-rated share of costs and expenses or capital improvements within thirty (30) days of receipt of a statement, the defaulting Land Owner shall have no continuing right to the use of water from the well until all back payments and arrearages, together with any cost and legal fees, have been paid. The defaulting Land Owner shall not have any right to the use of water from the well during any period when the defaulting party's pro-rated share of the water costs and expenses or any capital cost payment share remains unpaid.

13. The Land Owners do not warrant that there will be at any time sufficient water of a quantity or quality produced by said well for the needs or demands of the Land Owners, and the Land Owners expressly do not warrant that the water produced by said well shall be of a quality fit for human consumption and/or domestic use.

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14. The Land Owners shall elect a Manager who shall serve until a successor is elected or until the Manager submits a written resignation to the Land Owners. The Manager shall be a Land Owner who shall own a minimum of one-sixth (1/6) undivided interest in the well and well-site. The Manager shall be responsible for the collection of funds for the usage and capital costs and for the payments of expenses and costs for the continued operation, maintenance and repair of the well, including insurance and property taxes. The Manager shall provide a written report to the Land Owners annually on the financial matters and the condition of the well and appurtenant equipment. Any capital costs to be expended must be approved by the majority of the Land Owners. All repair and maintenance work and the costs therefor shall be at the sole discretion of the Manager. The Manager shall establish a separate bank account for the deposit of collected funds and payment of costs and expenses and shall maintain the bank statements and other records pertaining to the well. In the event insufficient funds are available, the Manager is permitted to defer or delay repairs, maintenance or replacement until sufficient funds are available.

15. This Agreement shall be binding upon the heirs, assigns, trustees, and successors in interests of the parties hereto; provided however, that no such assignment shall be valid without the express written assumption of this Agreement by the parties to whom this Agreement is being assigned or otherwise assumed and provided further that rights conveyed by this Agreement shall be limited to the Property described in Exhibit "A" hereto. It is further agreed that this Agreement shall at all times be considered as a covenant running with the land, binding all successors, heirs, and assigns to the Property herein described, provided, however, that this Agreement may be terminated by express mutual written termination agreement between all the owners of the properties, their successors, heirs, or assigns and provided that such mutual termination agreement is recorded in the Office of the Pima County Recorder, Arizona.

16. This Agreement shall not become effective until executed by all parties, and a copy of this Agreement is recorded in the Office of the Pima County Recorder.

17. This Agreement is expressly for the purpose of providing water availability to the property described in Exhibit "A" and it is expressly understood and agreed upon by the parties that this water availability is intended solely for not more than a total of six (6) single family residences and appurtenant uses connected to the well. Any cost of increasing the capacity of the well improvements to serve Land Owner's property shall be the sole cost and liability of Land Owners. The ownership interest in the well improvements are being conveyed "as is".

18. This Agreement constitutes the sole Agreement between the parties and there are no other agreements or understandings existing between the parties not expressed within this Agreement. This Agreement shall not be modified or amended except by a written instrument executed by the parties hereto.

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19. Time is of the essence of this Agreement.

20. This Agreement shall be construed pursuant to the laws of the State of Arizona.

21. In the event any party to this Agreement seeks to enforce this Agreement against another party in a court of law, the party deemed to have substantially prevailed in its cause of action shall have the right to recover its costs and reasonable attorney's fees from the other party.

22. In the event of default of this Agreement, in addition to the rights and remedies provided herein, the parties shall have all rights and remedies one against another available at law or equity.

23. This Agreement may be executed in counterparts.

THIS AGREEMENT was made and executed on the day and date first above written.

LAND OWNERS:

Paul D. Brewer
PAUL D. BREWER

Irmgard H. Brewer
IRMGARD H. BREWER

MICHAEL McWILLIAMS

LUCY McWILLIAMS

PEGGY L. HORTON

LEONARD B. COLLARD

MIKE McKENNA

DAWN McKENNA

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(Continued)

CHARLES ARTHUR SHEARER

MARCIA ANN SHEARER

ROBERT F. SNYDER

LINDA SNYDER

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LAND OWNERS:

PAUL D. BREWER

IRMGARD H. BREWER

Michael & McWilliams
MICHAEL McWILLIAMS signed by *Lucy McWilliams*
POA

Lucy B. McWilliams
LUCY McWILLIAMS

PEGGY L. HORTON

LEONARD B. COLLARD

MIKE McKENNA

DAWN McKENNA

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IRMGARD H. BREWER

MICHAEL McWILLIAMS

LUCY McWILLIAMS

Peggy L. Horton

PEGGY L. HORTON

Leonard B. Collard

LEONARD B. COLLARD

MIKE McKENNA

DAWN McKENNA

(Continued)

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19. Time is of the essence of this Agreement.

20. This Agreement shall be construed pursuant to the laws of the State of Arizona.

21. In the event any party to this Agreement seeks to enforce this Agreement against another party in a court of law, the party deemed to have substantially prevailed in its cause of action shall have the right to recover its costs and reasonable attorney's fees from the other party.

22. In the event of default of this Agreement, in addition to the rights and remedies provided herein, the parties shall have all rights and remedies one against another available at law or equity.

23. This Agreement may be executed in counterparts.

THIS AGREEMENT was made and executed on the day and date first above written.

LAND OWNERS:

PAUL D. BREWER

IRMGARD H. BREWER

MICHAEL McWILLIAMS

LUCY McWILLIAMS

PEGGY L. HORTON

LEONARD B. COLLARD

Sherry Eisler

SHERRY EISLER, successor in
Interest to MIKE McKENNA and
DAWN McKENNA

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(Continued)



CHARLES ARTHUR SHEARER



MARCIA ANN SHEARER

ROBERT F. SNYDER

LINDA SNYDER

11672
1723

CHARLES ARTHUR SHEARER

MARCIA ANN SHEARER

Robert F. Snyder

ROBERT F. SNYDER

Linda Snyder

LINDA SNYDER

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STATE OF ARIZONA)

)ss.
County of Pima)

October SUBSCRIBED AND ACKNOWLEDGED before me this 19 day of
1999, by PAUL D. BREWER and IRMGARD H. BREWER.

Leonardo Quiroga
Notary Public

My Commission Expires:



MORTGAGEE CONSENT

The foregoing Well Ownership & Well Site Agreement for property commonly known as 6115 N. Sandario Road, Tucson, AZ, 85743, is hereby consented to by the undersigned, the first mortgagee of the above-described property owned by PAUL D. BREWER and IRMGARD H. BREWER, husband and wife, this 19 day of October, 1999.

By: Paul D. Brewer
Its: Irmgard H. Brewer

1110221221

STATE OF ARIZONA)
)ss.
County of Pima)

SUBSCRIBED AND ACKNOWLEDGED before me this _____ day of _____, 1999, by PAUL D. BREWER and IRMGARD H. BREWER.

Notary Public

My Commission Expires:

MORTGAGEE CONSENT

The foregoing Well Ownership & Well Site Agreement for property commonly known as 6115 N. Sandario Road, Tucson, AZ, 85743, is hereby consented to by the undersigned, the first mortgagee of the above-described property owned by PAUL D. BREWER and IRMGARD H. BREWER, husband and wife, this 26th day of July, 2000 ~~2000~~.



MANHATTAN MORTGAGE CORPORATION

By: *Tamara M. Aziz*
Its: Assistant Vice President
Tamara M. Aziz

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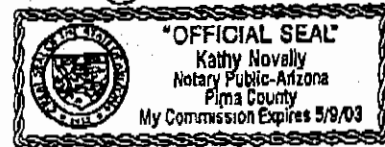
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STATE OF ARIZONA)
)ss.
County of Pima)

SUBSCRIBED AND ACKNOWLEDGED before me this 26th day of
October, 1999, by MICHAEL McWILLIAMS and LUCY McWILLIAMS.

Kathy Novally
Notary Public

My Commission Expires: 5/9/03



MORTGAGEE CONSENT - No Mortgage

The foregoing Well Ownership & Well Site Agreement for property
commonly known as 11950 W. Kulasill Tucson, AZ, 85743, is hereby
consented to by the undersigned, the first mortgagee of the above-described property
owned by MICHAEL McWILLIAMS and LUCY McWILLIAMS, this 26 day of
October, 1999.

By: Lucy A. McWilliam
Michael E. McWilliam
By POA Lucy A. McWilliam

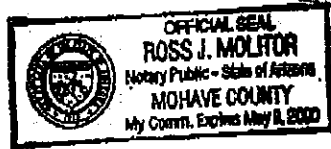
116721727

STATE OF ARIZONA)
MOHAVE) ss.
County of Mohave)

SUBSCRIBED AND ACKNOWLEDGED before me this 8th day of NOVEMBER, 1999, by PEGGY L. HORTON and LEONARD B. COLLARD.

[Handwritten Signature]
Notary Public

My Commission Expires: May 8th 2000



MORTGAGEE CONSENT

The foregoing Well Ownership & Well Site Agreement for property commonly known as 6121 N. Sandario Road, Tucson, AZ, 85743, is hereby consented to by the undersigned, the first mortgagee of the above-described property owned by PEGGY L. HORTON and LEONARD B. COLLARD, this _____ day of _____, 1999.

By: N/A / There is no Mortgage
Its: _____

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STATE OF ARIZONA)
County of Pima)ss.
)

SUBSCRIBED AND ACKNOWLEDGED before me this 22 day of
October, 1999, by CHARLES ARTHUR SHEARER and MARCIA ANN
SHEARER.

Robbin M. Smith
Notary Public

My Commission Expires: July 14, 2002



MORTGAGEE CONSENT

The foregoing Well Ownership & Well Site Agreement for property
commonly known as 6111 N. Sandario Road, Tucson, AZ, 85743, is hereby consented
to by the undersigned, the first mortgagee of the above-described property owned by
CHARLES ARTHUR SHEARER and MARCIA ANN SHEARER, this _____ day of
_____, 1999.

By: _____
Its: _____
*Don't have a
Mortgage*

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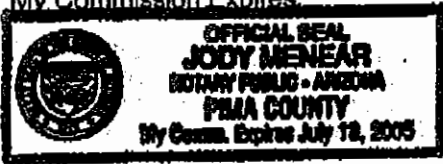
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STATE OF ARIZONA)
County of Pima)ss.
)

SUBSCRIBED AND ACKNOWLEDGED before me this 1 day of October, 2001, by SHERRY EISLER, successor in interest to MIKE McKENNA and DAWN McKENNA.

Jody Menear
Notary Public

My Commission Expires:



MORTGAGEE CONSENT - no mortgage


The foregoing Well Ownership & Well Site Agreement for property commonly known as 11625 W. Massingill Road, Tucson, AZ, 85743, is hereby consented to by the undersigned, the first mortgagee of the above-described property owned by SHERRY EISLER, successor in interest to MIKE McKENNA and DAWN McKENNA, this 1 day of October, 2001.

By: Sherry L. Eisler
Its: _____

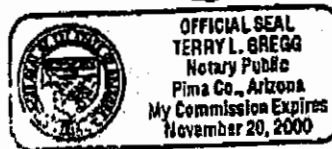
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STATE OF ARIZONA)
)ss.
County of Pima)

SUBSCRIBED AND ACKNOWLEDGED before me this 24 day of July 1999, by ROBERT F. SNYDER and LINDA SNYDER.


Notary Public

My Commission Expires:



MORTGAGEE CONSENT — no mortgage

The foregoing Well Ownership & Well Site Agreement for property commonly known as 6055 Sandario Road, Tucson, AZ, 85743, is hereby consented to by the undersigned, the first mortgagee of the above-described property owned by ROBERT F. SNYDER and LINDA SNYDER, this _____ day of _____, 1999.

By: _____
Its: _____

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EXHIBIT "A" LEGAL DESCRIPTION OF SEPARATE PROPERTIES

1. Brewer Property:

The North half of the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 9, Township 13 South of Range 11 East, G.&S.R.B.&M., Pima County, Arizona;
EXCEPT any part thereof lying within the right of way of Sandario Road as shown on road map recorded in the office of the County Recorder of Pima County, Arizona, in Book 8 of Road Maps at Page 18, and reserving an easement for ingress and egress over the north 15 feet of said property.

2. McWilliams Property:

The South half of the South half of the Southeast quarter of the Northeast quarter of Section 9, Township 13 South, Range 11 East, Gila and Salt River Base and Meridian, Pima County, Arizona;
EXCEPT any portion lying within the right of way of Sandario Road as established in Book 8 of Road Maps at page 18, Pima County, Arizona;
EXCEPT, the South 30 feet;

EXCEPT the East half thereof of the above-described property.

3. Horton/Collard Property:

The South half of the Northwest quarter of the Southeast quarter of the Northeast quarter of Section 9, Township 13 South, Range 11 East, G.&S.R.B.&M., Pima County, Arizona.

4. McKenna Property:

The East half of the following described Property:

The South half of the South half of the Southeast quarter of the Northeast quarter of Section 9, Township 13 South, Range 11 East, Gila and Salt River Base and Meridian, Pima County, Arizona;
EXCEPT any portion lying within the right of way of Sandario Road as established in Book 8 of Road Maps at page 18, Pima County, Arizona;
ALSO EXCEPT, the South 30 feet;

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(Continued on Page 14)

5. Shearer Property

The South half of the Northeast quarter of the Southeast quarter of the Northeast quarter of Section 9, Township 13 South, Range 11 East, Gila and Salt River Base and Meridian, Pima County, Arizona; EXCEPT any portion lying within Sandario Road, as it existed on March 29, 1961;

6. Snyder Property:

The North half of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 9, Township 13 South, Range 11 East, Gila and Salt River Base and Meridian, Pima County, Arizona; EXCEPT the South 150 feet of the East 145 feet thereof.

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1999 Parcel

EXHIBIT "B"

NAME/ADDR BOOK-MAP-PARCEL 213 13 0890 TAX AREA 0602 DATE 11/02/98
 RICHARDS GEORGE E RECORDING INFO
 & SHEARER CHARLES & MARCIA 1/6 ET AL (DOC 03374 PG 0390 DATE 111968)
 ATTN: PAUL BREWER ZONING INFO
 6115 N SANDARIO CURRENT AUTH FLAG
 TUCSON AZ 857439672 MISC INFO

LEGAL DESCRIPTION LD MS 0.50 MS TYPE A
 WELLSITE S 150' OF E 145' OF N2 SW4 SE4 NE4 STR 09 T13S R11E FILE ID 1
 .50 AC SEC 9-13-11 (FORMERLY 204-05-012A) MAP/PLAT 00/000 MK AR 410
 (CONT 3889/346 4978/470 TRM 7021/791) (6304/73) TBL GRP CD 000
 CENS TR 4409 USE CD 8800
 DATE OF LAST CHG 082198
 VALUE SOURCE: Land

(FORMERLY 204-05-0890) EXEMPT 0 AUXILIARY 0
 PROPERTY ADDRESS

SECONDARY VALUATION DATA // LIMITED USE-WELL/TOWER SITES, PVT RDS, ETC

CLASS	FULL CASH	PCNT	ASSESSED
LAND 88/ 4 0	500	16.0	80
IMPROVEMENTS			
98 PERSONAL PROPERTY			
GROSS VALUE TOTALS	500		80
98 LMTD/SCND EXEMPTIONS			
NET VALUE TOTALS	500		80
PRIOR LIMITED FCV	500	CURRENT LIMITED FCV	500

Today 11/02/98 4:19 pm
 PS1 FY 10.29.98 Find Next Prev Exit

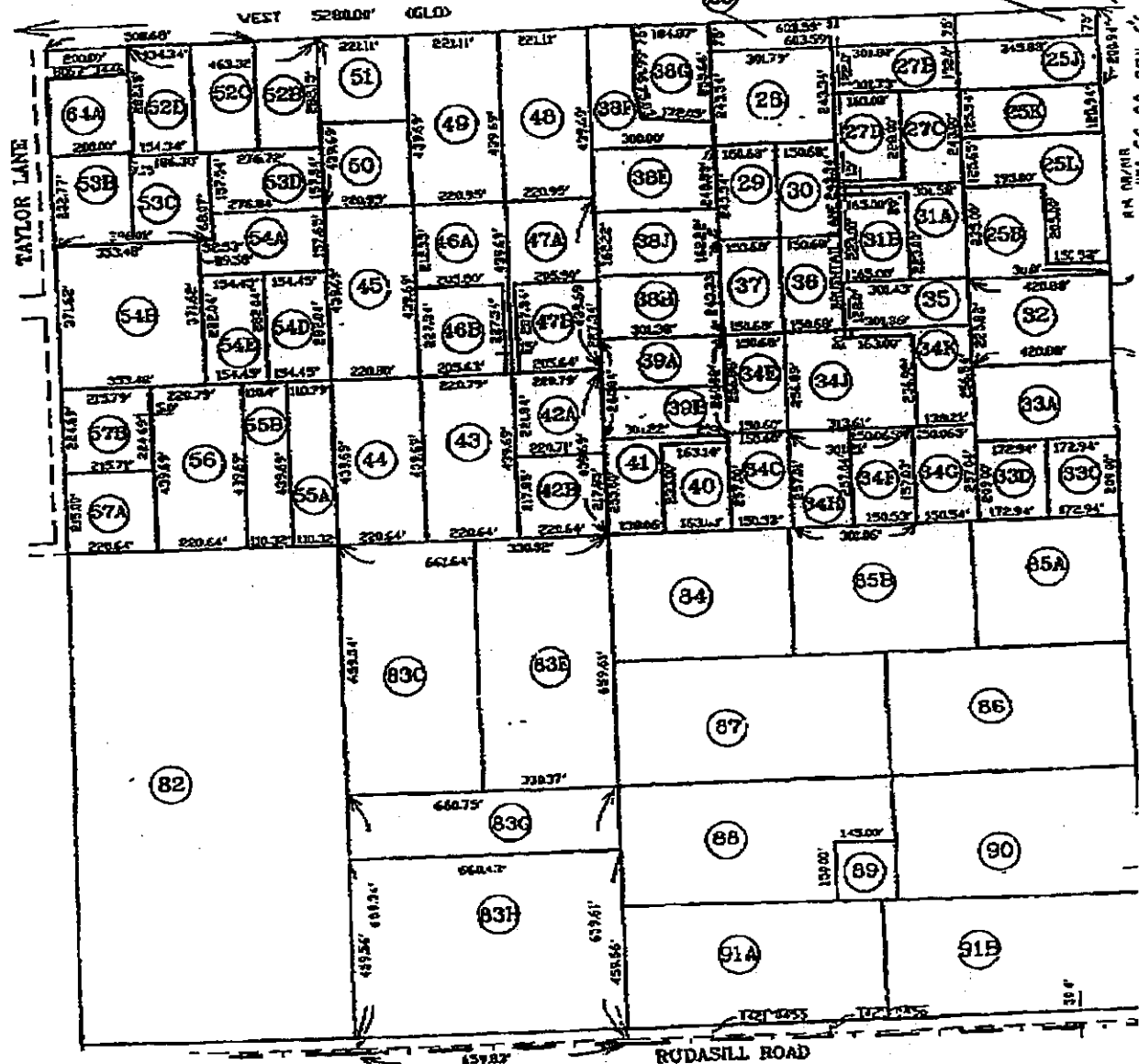
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ASSESSOR'S RECORD MAP
SECTION 09, TOWNSHIP 13 SOUTH, RANGE 11 EAST

213-13

FORMERLY
204-05



SEP-15-09 WED 08:53 AM

PAGE:

PAGE 2

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

SEP-04-99 SAT 09:40 AM

0135477 AV

1997 PROPERTY TAX STATEMENT

JAMES LEE KIRK
PIMA COUNTY TREASURER
 Pima County Treasurer's Office
 115 N. Church Avenue
 Tucson, Arizona 85701-1199

PLEASE SEND
 PAYMENT
 TO

MAP	PARCEL	STATE CODE NUMBER	PROPERTY TAX RATE PER \$100 ASSESSED VALUE	SECONDARY POLYMER PER \$100 ASSESSED VALUE	INFLATION ADJUSTMENT
13	08901 0602		6.67	9.7850	6.9042

PROPERTY TYPE	NET ASSESSED VALUE	EXEMPTIONS	NET ASSESSED VALUE
D	80		80
CASH	500	18.0	80
REAL PROP	600	18.0	80
PROPERTY TAX SUMMARY			
PRIMARY PROPERTY TAX		7.83	7.83
SECONDARY PROPERTY TAX		.00	7.83
EXEMPTIONS		7.83	5.51
PRIMARY PROPERTY TAX		5.51	13.34
SECONDARY PROPERTY TAX		13.34	
TOTAL TAX DUE FOR 1997			

LL SITE S 150' OF E 145' OF N2 SW4 SE4 NE4
 0 AC SEC 9-13-11 (FORMERLY 204-05-012A)
 MOUNT 3889/348 4978/470 TRM 7021/791 (6304/73)
 (FORMERLY 204-05-0890)

JURISDICTION	1996 TAXES	1997 TAXES	DIFFERENCE
PIMA COUNTY PRI	2.14	2.24	.10
*STATE MANDATED	1.09	1.05	-.04
COUNTY BONDS SEC	.79	.80	.01
MARANA DST#6 PRI	3.76	3.65	-.11
MARANA DST#6 SEC	1.84	1.67	-.17
PIMA COLLEGE PRI	.94	.89	-.05
PIMA COLLEGE SEC	.08	.05	-.01
PICT ROCK FD SEC	2.40	2.40	0.00
CEN ARIZ WTR SEC	.11	.11	0.00
PIMA CO FLD SEC	.29	.26	-.03
LIBRARY DISTRICT	.18	.18	0.00
FIRE DIST ASSIST	.04	.04	0.00
TOTAL	13.84	13.34	-.30

RICHARDS GEORGE E
 SHEARER CHARLES & MARCIA 1/8 ET AL
 1111 N SANDARIO RD
 TUCSON AZ 85743-9672

Pg: 23 of 24

OWNERS

FAX PAGE 2

PIMA COUNTY TAX RECEIPT



			ARIZONA		
CO	BULK	MAP	PARCEL	1998 FIRST HALF	1998 SECOND HALF
10	213	13	08901	PAID	\$6.83

PROPERTY ADDRESS: _____ RECEIPT FOR PAYMENT OF: FIRST HALF 1998

LEGAL DESCRIPTION: _____ TAXES PAID: \$6.82

WELLSITE S 150' OF E 145' OF N2 SW4 SE4 NE4 INTEREST PAID: \$0.00

.50 AC SEC 9-13-11 (FORMERLY 204-05-012A)

(CONT 3889/346 4978/470 TRM 7021/791)(6304/73) TOTAL AMOUNT PAID: \$6.83

(FORMERLY 204-05-0890) DATE PAID: 11/02/1998

RICHARDS GEORGE E
 % SHEARER CHARLES & MARCIA 1/6 ET AL
 ATTN: PAUL BREWER
 6115 N SANDARIO
 TULSON AZ 857439672
 CU Paid By Code:

Thank you for your payment.
 JAMES LEE KIRK
 PIMA COUNTY TREASURER

PIMA COUNTY TAX RECEIPT



			ARIZONA		
CU	BULK	MAP	PARCEL	1998 FIRST HALF	1998 SECOND HALF
10	213	13	08901	PAID	\$2.25

PROPERTY ADDRESS: _____ RECEIPT FOR PAYMENT OF: PARTIAL 2ND 1998

LEGAL DESCRIPTION: _____ TAXES PAID: \$4.58

WELLSITE S 150' OF E 145' OF N2 SW4 SE4 NE4 INTEREST PAID: \$0.00

.50 AC SEC 9-13-11 (FORMERLY 204-05-012A)

(CONT 3889/346 4978/470 TRM 7021/791)(6304/73) TOTAL AMOUNT PAID: \$4.58

(FORMERLY 204-05-0890) DATE PAID: 11/02/1998

RICHARDS GEORGE E
 % SHEARER CHARLES & MARCIA 1/6 ET AL
 ATTN: PAUL BREWER
 6115 N SANDARIO
 TULSON AZ 857439672
 CU Paid By Code:

Thank you for your payment.
 JAMES LEE KIRK
 PIMA COUNTY TREASURER

11521 12511