



## **BOARD OF SUPERVISORS AGENDA ITEM REPORT**

**Requested Board Meeting Date:** March 15, 2016

**Title:** Co9-78-32 MATYI - SWAN ROAD REZONING

### **Introduction/Background:**

The applicant requests to waive rezoning conditions to allow four residential lots rather than three on a 4.55-acre rezoning site on the west side of Swan Road north of River Road. The request includes waiver of a condition that requires minimum lot sizes of 43,560 square feet (one acre) exclusive of easements to allow minimum 43,560 square foot lots inclusive of easements relative to use of on site sewage (septic) disposal systems.

### **Discussion:**

The 1978 rezoning was a Waiver of the Platting Requirement of the Catalina Foothills Zoning Plan to obtain CR-1 zoning. Per statute, only three lots could be created without a subdivision plat. Also, standards for use of septic systems required full acre lots exclusive of easements. Current statute allows an owner to create five lots without a plat; and County regulation for use of septic systems allows use of easements within lots to count toward the one acre requirement. The LIU 1.2 plan designation allows the requested density. Concurrency of infrastructure exists. The site is undeveloped, allowing for an organized lot layout with a common driveway from Swan Road and contiguous HDZ Natural Open Space which will also contain most of the site's Regulated Riparian Habitat.

### **Conclusion:**

Staff supports the request on the bases that the conditions sought for waiver are outdated, the proposed density conforms to the comprehensive plan, concurrency of infrastructure exists, and the proposed site plan provides for organized and efficient development. Approval of the request will allow development of four residential lots utilizing septic systems rather than three residential lots utilizing septic systems as currently restricted.

### **Recommendation:**

Staff recommends approval of waiver of conditions 1A (the three-lot restriction) and 1B (the requirement for minimum acre-sized lots exclusive of easements), in addition replacements for conditions 1A and 1B, waiver and replacements for other conditions, modification of some conditions, and additional conditions in response to the applicant's proposal and to update conditions for this rezoning to reflect current standards, methods, and policies.

### **Fiscal Impact:**

0

### **Board of Supervisor District:**

☒ 1      ☐ 2      ☐ 3      ☐ 4      ☐ 5      ☐ All

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

Department Director Signature/Date: \_\_\_\_\_

Deputy County Administrator Signature/Date: \_\_\_\_\_

County Administrator Signature/Date: \_\_\_\_\_

*[Handwritten signatures and dates]*  
Deputy County Administrator Signature/Date: *W. Leuner for John Bernal 2/24/16*  
County Administrator Signature/Date: *C. Bullock 2/24/16*



**PIMA COUNTY**  
DEVELOPMENT SERVICES

**TO:** Honorable Ally Miller, Supervisor, District # 1

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

**DATE:** February 22, 2016

**SUBJECT:** Co9-78-32 MATYI – SWAN ROAD REZONING

The above referenced Modification (Substantial Change) of Rezoning Conditions is within your district and is scheduled for the Board of Supervisors' **TUESDAY, MARCH 15, 2016** hearing.

**REQUEST:** For a modification (substantial change) of the following rezoning conditions: #1A which requires that no more than three parcels be created. The applicant requests to waive the condition and proposes four parcels. #1B which requires that each parcel be a minimum of 43,560 square feet, exclusive of easements, rights-of-way, etc.. The applicant requests to waive this requirement and proposes parcels in excess of 43,560 square feet, inclusive of easements. The subject site is 4.55 acres zoned CR-1 and is located on the west side of Swan Road approximately one-fourth mile north of River Road.

**OWNER:** River and Swan Homes, LLC  
811 N. Grand Avenue  
Nogales, AZ 85621-2217

**AGENT:** SBBL Architecture + Planning, LLC  
Attn: Thomas Saylor-Brown  
15 E. Pennington Street  
Tucson, AZ 85701

**DISTRICT:** 1

**STAFF CONTACT:** David Petersen

**PUBLIC COMMENT TO DATE:** As of February 22, 2016, staff has received five written comments in opposition to the rezoning which cite concerns with proposed lot sizes, environmental impact, existing ample area home availability, area property devaluation, and motivations for financial gain. One written comment states no objection to the proposed lot layout subject to seeing the building envelopes.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** APPROVAL SUBJECT TO MODIFIED CONDITIONS (7 – 0, Commissioner Holdridge, Cook, and Bain were absent).

**STAFF RECOMMENDATION:** APPROVAL SUBJECT TO MODIFIED CONDITIONS.

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

CP/DP/ar  
Attachments

## **BOARD OF SUPERVISORS MEMORANDUM**

**Subject:** Co9-78-32

**Page 1 of 3**

**FOR MARCH 15, 2016 MEETING OF THE BOARD OF SUPERVISORS**

**TO:** HONORABLE BOARD OF SUPERVISORS

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

**DATE:** February 22, 2016

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**ADVERTISED ITEM FOR PUBLIC HEARING**

**MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS**

**Co9-78-32 MATYI – SWAN ROAD REZONING**

Request of **River and Swan Homes, LLC**, represented by **SBBL Architecture & Planning, LLC**, for a modification (substantial change) of the following rezoning conditions:

- #1A which requires that no more than three parcels be created. The applicant requests to waive the condition and proposes four parcels.
- #1B which requires that each parcel be a minimum of 43,560 square feet, exclusive of easements, rights-of-way, etc. The applicant requests to waive this requirement and proposes parcels in excess of 43,560 square feet, inclusive of easements.

The subject site is 4.55 acres zoned CR-1 and is located on the west side of Swan Road approximately one-fourth mile north of River Road. On motion, the Planning and Zoning Commission voted 7-0 to recommend **APPROVAL SUBJECT TO MODIFIED CONDITIONS** (Commissioners Holdridge, Cook, and Bain were absent). Staff recommends **APPROVAL SUBJECT TO MODIFIED CONDITIONS**.  
(District 1)

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**PUBLIC HEARING SUMMARY (JANUARY 27, 2016)**

Staff presented information from the staff report to the commission with a recommendation of approval of the waiver of conditions 1A and 1B with further recommendations for amendment of conditions, including replacements for conditions 1A and 1B, waiver and replacements for other conditions, modification of some conditions, and additional conditions in response to the applicant's proposal and to update conditions for this rezoning to reflect current standards, methods, and policies as shown on pages 2 and 3 of the staff report. Staff noted that one letter in opposition to the request was received from the adjacent property owner to the north of the site.

A commissioner inquired about the two-story residential setback requirement referenced on page 5 of the staff report. Staff stated that the setback applies where adjacent one-story residences exist. The two-story residential setback is either a minimum of 60 feet to the property line or 100 feet to the nearest one-story residence.

The applicant's representative spoke. He indicated concurrence with the staff report and submitted a written comment from a resident of the area who had to leave before the hearing for this item began. The Chair of the commission read the letter which stated no objection to the proposed lot layout subject to seeing the building envelopes. The Chair also noted the letter from the property owner to the north which stated strong opposition to the request for a fourth dwelling.

There were no other speakers.

The public hearing was closed.

Commissioner Johns made a motion to **APPROVE** the modification (substantial change) of rezoning conditions subject recommended modified conditions (shown below) as presented in the staff report.

Commissioner Gavin gave second to the motion.

The commission voted to **APPROVE** the motion (7 – 0, Commissioner Holdridge, Cook, and Bain were absent).

1. Wastewater Management Environmental Quality conditions:

- A. Covenant that no more than three parcels shall be created. The owner/developer must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal systems on the subject property at the time a request for a building permit is submitted for review.
- B. Covenant that each parcel shall be a minimum size of 43,560 square feet, exclusive of easements, rights-of-way, etc. All proposed residential parcels must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.
- C. Covenant that if individual sewage disposal systems are utilized, then percolation tests and soil boring requirements must be satisfied prior to the issuance of a building permit.
- D. Parcels shall be of sufficient size and designed in such a manner to accommodate the proposed development, primary and reserve leach fields and septic tanks, while meeting all applicable setbacks for on-site sewage disposal.

2. Transportation and Flood Control District conditions:

- A. Prior to the issuance of building permits, covenant to provide necessary rights-of-way for roads and drainage.
- B. Prior to the issuance of building permits, covenant to improve and pave adjacent streets and roads. The common driveway/roadway shall be paved (chip sealed) within six (6) months of the issuance of building permits.

- C. ~~Prior to the issuance of building permits, record the necessary covenants in conjunction with the approval of a development plan.~~ Floodplain and Pima County Regulated Riparian Habitat mitigation areas shall be contained in permanently identified open space through easement or dedication.
  - D. ~~Prior to the issuance of building permits, covenant that~~ There shall be no further subdividing or lot splitting of residential development without the written approval of the Board of Supervisors.
3. Submittal of a complete hydrologic and hydraulic drainage report.
  4. Recording of a covenant holding Pima County harmless in the event of flooding.
  5. Adherence to Pima County Flood Plain Management Ordinance and/or Hillside Development Zone Ordinance, if applicable.
  6. ~~Paving obligations for Swan Road must be met.~~ Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
  7. Adherence to the revised sketch plan as approved at public hearing (EXHIBIT B).
  8. Building heights are restricted to a maximum of 24 feet.
  9. All utility lines, including electric utility lines servicing individual parcels, shall be located underground.
  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(l)."

CP/DP/ar  
Attachments

c: River and Swan Homes, LLC, 811 N. Grand Avenue, Nogales, AZ 85621-2217  
SBBL Architecture + Planning, LLC, Attn: Thomas Sayler-Brown, 15 E. Pennington Street  
Tucson, AZ 85701  
Co9-78-32 File

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

**HEARING** January 27, 2016

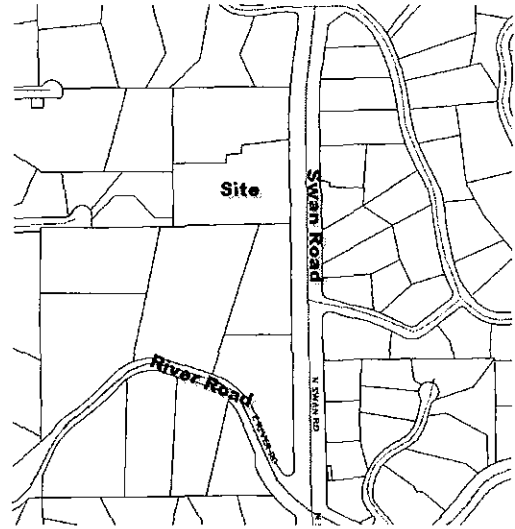
**DISTRICT** 1

**CASES** Co9-78-32 Matyi – Swan Road  
Rezoning

**REQUEST** Modification of Rezoning Conditions -  
(Substantial Change) on 4.55 acres

**OWNER** River and Swan Homes, LLC  
811 N. Grand Avenue  
Nogales, AZ 85621-2217

**AGENT** SBBL Architecture + Planning, LLC  
Attn: Thomas Saylor-Brown  
15 E. Pennington Street  
Tucson, AZ 85701



**APPLICANT'S REQUEST**

Modification (substantial change) of the following CR-1 rezoning conditions:

- #1A which requires that no more than three parcels be created. The applicant requests to waive the condition and proposes four parcels.
- #1B which requires that each parcel be a minimum of 43,560 square feet, exclusive of easements, rights-of-way, etc. The applicant requests to waive this requirement and proposes parcels in excess of 43,560 square feet, inclusive of easements.

**COMPREHENSIVE PLAN DESIGNATION**

The comprehensive plan designation of the site is Low Intensity Urban 1.2 (LIU 1.2). The existing CR-1 zoning of the subject property complies with LIU 1.2. The objective of LIU 1.2 is to designate areas for low-density residential and other compatible uses and to provide incentives for residential conservation subdivisions to provide more natural open space. Density bonuses are offered in exchange for the provision of natural and/or functional open space. Natural open space must be set aside, where applicable, to preserve land with the highest resource value and to be contiguous with other dedicated natural open space and public preserves. The maximum density is 1.2 residences per acre (R/AC) with allowance of density bonuses of 2.5 RAC with 45 percent open space and 4.0 RAC with 60 percent open space.

Special Area Policy S-2 (attached) applies to the site and the Catalina Foothills area generally. This policy limits building construction to a maximum of 24 feet unless otherwise authorized by the by the Board of Supervisors which also reserves the right to limit constriction to one story.

## **SURROUNDING LAND USES/GENERAL CHARACTER**

North:	CR-1 (Single Residence)	Residential
South:	SR (Suburban Ranch)	Residential
	CR-1	Church
East:	CR-1	Swan Road/Residential
West:	SR	Residential
	CR-1	Residential

## **STAFF RECOMMENDATION**

Staff recommends **APPROVAL** of the request to waive rezoning conditions 1A and 1B to allow four CR-1 residential parcels to be created rather than only three (1A) and to allow lifting of the requirement to have minimum acre-sized (43,560 square feet) lots inclusive rather than exclusive of easements and rights-of-way (1B).

Staff further recommends amendment of conditions, including replacements for conditions 1A and 1B, waiver and replacements for other conditions, modifications to some conditions, and additional conditions in response to the applicant's proposal and to update conditions for this 1978 rezoning to reflect current standards, methods, and policies as follows:

1. ~~Wastewater Management Environmental Quality~~ conditions:
  - A. ~~Covenant that no more than three parcels shall be created. The owner/developer must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal systems on the subject property at the time a request for a building permit is submitted for review.~~
  - B. ~~Covenant that each parcel shall be a minimum size of 43,560 square feet, exclusive of easements, rights-of-way, etc. All proposed residential parcels must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.~~
  - C. ~~Covenant that if individual sewage disposal systems are utilized, then percolation tests and soil boring requirements must be satisfied prior to the issuance of a building permit.~~
  - D. ~~Parcels shall be of sufficient size and designed in such a manner to accommodate the proposed development, primary and reserve leach fields and septic tanks, while meeting all applicable setbacks for on-site sewage disposal.~~
2. Transportation and Flood Control District conditions:
  - A. Prior to the issuance of building permits, ~~covenant to provide necessary rights-of-way for roads and drainage.~~
  - B. ~~Prior to the issuance of building permits, covenant to improve and pave adjacent streets and roads. The common driveway/roadway shall be paved (chip sealed) within six (6) months of the issuance of building permits.~~

- C. ~~Prior to the issuance of building permits, record the necessary covenants in conjunction with the approval of a development plan. Floodplain and Pima County Regulated Riparian Habitat mitigation areas shall be contained in permanently identified open space through easement or dedication.~~
- D. ~~Prior to the issuance of building permits, covenant that t~~There shall be no further subdividing or lot splitting of residential development without the written approval of the Board of Supervisors.
3. Submittal of a complete hydrologic and hydraulic drainage report.
4. Recording of a covenant holding Pima County harmless in the event of flooding.
5. Adherence to Pima County Flood Plain Management Ordinance and/or Hillside Development Zone Ordinance, if applicable.
6. ~~Paving obligations for Swan Road must be met. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.~~
7. Adherence to the revised sketch plan as approved at public hearing (EXHIBIT B).
8. Building heights are restricted to a maximum of 24 feet.
9. All utility lines, including electric utility lines servicing individual parcels, shall be located underground.
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)."

#### **STAFF REPORT**

Staff supports this request to waive conditions **1A** and **1B** because they are outdated and no longer reflect current law and regulation. When the CR-1 residential rezoning (Waiver of the Platting Requirement of the Catalina Foothills Zoning Plan) was approved in 1978, only three lots could be created without a subdivision plat. The request was for three parcels and it was restricted accordingly per condition **1A**. Current statute allows an individual to create five small parcels without a subdivision plat. The current applicant requests four parcels. (The applicant indicates that the rezoning was approved in 1999, but that is when the site was ordinated. The site remains undeveloped.)

Condition **1B** requires each parcel to have a minimum size of 43,560 square feet (one acre), *exclusive* of easements, rights-of-way, etc. The current standard for use of on-site sewage disposal systems does not exclude on-site easements and allows use of half of adjacent rights-of-way and easements that can suitably absorb effluent.

Staff further recommends that conditions **1A** and **1B** be replaced with conditions common to low-density residential rezonings where on-site sewage disposal systems will be utilized to ensure compliance with current Pima County Department of Environmental Quality standards. This includes allowing easements within the parcels to count toward the minimum acre requirement for use of on-site sewage disposal systems as is proposed. Staff also recommends additional condition **1D** as another common condition for use of on-site sewage disposal systems. Condition **1C** is recommended for slight modification to delete the covenant requirement aspect as it is an approach to rezoning condition "compliance" via recorded covenants to allow rezoning ordinances to be adopted circa 1978. Current policy and regulation provide for adoption of rezoning ordinances prior to compliance with rezoning conditions without the need for initial covenants.

Similarly, staff recommends deletion of the covenant requirement aspect of condition **2A** which provides for necessary road and drainage rights-of-way. Additional road right-of-way is not currently required.

Condition **2B**, which requires a covenant to improve and pave adjacent streets and roads, is recommended for waiver. The one adjacent street, Swan Road, has undergone major improvement since the 1978 rezoning approval. The condition is, however, recommended for replacement with a condition which requires a minimum of chip seal pavement of the proposed common driveway (potential cul-de-sac) within the rezoning site. This is a commonly recommended condition for rezonings in which multiple unsubdivided lots with a single access drive are proposed. It serves to reduce dust generated by the additional residential lots granted.

The proposed common access drive from Swan Road will serve all four proposed parcels as an easement within the two proposed eastern-most parcels. The potential cul-de-sac design may be required to serve emergency vehicles turn-around maneuverability.

Condition **2C**, which requires recording of necessary covenants in conjunction with the approval of a development plan is recommended for waiver. The proposed development of four residential lots does not require a development plan. In its place, an unrelated condition is recommended by Flood Control to require floodplain and riparian habitat mitigation areas to be contained in permanently identified open space through easement or dedication.

Condition **2D** regarding permission for further lot splitting also has the covenant aspect that it recommended for deletion to align the condition with the current standard.

Condition **6**, which addresses paving obligations for Swan Road, is recommended for waiver. As noted, Swan Road has been fully improved since the rezoning approval. In its place, an unrelated condition is recommended pertaining to title report information required for any dedication or other recording requirements.

Additional condition 7 requires adherence to the four-parcel sketch plan proposed. The sketch plan depicts four parcels in excess of one acre each. Based on Mapguide, the non-surveyed average cross-slope is approximately 11.47 percent. The two proposed western-most parcels contain the majority of the steepest slopes. As a result, they feature proposed Hillside Development Overlay Zone Natural Open Space (HDZ NOS) set-aside to reduce the higher individual average cross slopes of each proposed parcel to allow the proposed unit density. The proposed set-aside will also capture the larger natural drainage course within the site and most of the Regulated Riparian Habitat that will be re-mapped to correct mapping error as per the Flood Control Report below.

Additional condition 8 limits building heights to 24 feet as per Special Area Policy S-2 (attached) that applies to the Catalina Foothills area. The sketch plan also indicates a private agreement for a 24-foot maximum building height limit. In addition, residences within the two proposed eastern-most parcels are limited by code to a maximum height of 24 feet as they will be within 200 feet of the Swan Road scenic route.

Policy S-2 also provides the Board the option of limiting building heights to one story. However, the applicant notes that area assigned on the sketch plan to be preserved as HDZ NOS provides a view corridor for the neighbor to the west. Additionally, the zoning code has provisions for a two-story setback requirement to promote privacy adjacent to existing one-story development. Homes to the north, west, and northwest are one-story. A two-story home exists to the southwest. Policy S-2 did not exist at the time of original rezoning approval.

Additional condition 9 requires underground utilities consistent with requirements for a subdivision plat and provides elements of safety, weather resilience, and aesthetics.

Additional condition 10 is a more recent standard condition for adherence to rezoning conditions should the subject property be annexed.

Additional condition 11 is also a more recent standard condition related to recording a disclaimer pertaining to Proposition 207 rights.

With exception of parcels directly west of the site, parcels adjacent to the site are as large as or larger than the site in its current undivided form. However, the four smaller parcels proposed will not be unusual in the general vicinity of the site where similar sized parcels and subdivided lots are present. The sizes of the proposed parcels range from approximately 1.0 to 1.26 acres.

### **Concurrency**

The site meets applicable Concurrency Review Criteria for infrastructure availability or conditional provision requirements for a recommendation of approval (see Concurrency summary table below). The Tucson Unified School District was not contacted for this proposal for one additional residence.

<b>CONCURRENCY CONSIDERATIONS</b>		
<i>Department</i>	<i>Concurrency Considerations Met: Yes / No / NA</i>	<i>Comments</i>
TRANSPORTATION	Yes	No objection
FLOOD CONTROL	Yes	No objection
WASTEWATER	N/A	No objection
PARKS AND RECREATION	Yes	No objection
WATER	Yes	Subject to water line extension
SCHOOLS		
AIR QUALITY	Yes	None

#### **Maeveen Marie Behan Conservation Lands System**

The site is not within the MMB Conservation Lands System.

#### **Rezoning Case History**

The 4.55-acre rezoning (Waiver of the Platting Requirement of the Catalina Foothills Zoning Plan) from SR to CR-1 was conditionally approved on May 1, 1978. Rezoning Ordinance #1999-23 was adopted on March 16, 1999. The rezoning is not subject to a time limit to complete conditions.

#### **TRANSPORTATION REPORT**

The Pima County Department of Transportation has no objection to the modification of rezoning conditions #1A and #1B. The request would allow one additional residential unit to be built on the rezoning site. The original rezoning was approved for three residential lots; this request would increase it to four lots. As originally approved, the rezoning site would generate approximately 30 ADT. The addition of one residential lot would generate 10 additional daily trips for a total of 40 ADT. This minimal addition will not significantly impact traffic in the vicinity.

The site accesses Swan Road, which is a medium volume arterial with 150 of planned right-of-way. Swan Road is also designated as a scenic route. The road is built to its full cross section including four travel lanes, a multi-use paved lane and a raised median. Due to the raised median, the driveway to this site will be a right-in right-out access point. The current traffic volume for this segment of Swan Road is 22,892 average daily trips (ADT), and the capacity is 35,820 ADT.

The only other major road within one mile of this project is River Road which is a two-lane low volume arterial. The current traffic volume is 12,045 ADT and the capacity is 13,122 ADT.

The Department of Transportation has no objection to the modification and offers no additional changes beyond those requested.

### **FLOOD CONTROL REPORT**

Regional Flood Control District staff has reviewed the request and has the following comments:

1. The site is impacted by a regulatory watershed which is within the open space set-aside.
2. Pima County Regulated Riparian Habitat (PCRRH) classified as Xeroriparian C has been mapped in an additional area central to the site on which all the lots and proposed cul-de-sac encroach substantially. The District has determined that this map is inaccurate and has initiated a change. The applicant is advised to obtain this revision from the District for planning purposes. The boundary revision removes the habitat from the proposed area of development with the exception of the northwest corner the building area on Parcel A. Modification of development standards may be pursued as provided for in PCC Section 18.07.080 to facilitate development as needed or the applicant may wish to configure the lot(s) slightly differently.

In conclusion the District finds that the project meets concurrency requirements and has no objection subject to the recommended conditions.

- a. Floodplain and Pima County Regulated Riparian Habitat mitigation areas shall be contained in permanently identified open space through easement or dedication.

### **WASTEWATER MANAGEMENT REPORT**

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the applicant's request for modification/removal of rezoning conditions #1A and #1B and offers the following comments for your use. Approval of this request would allow the subject site to be divided into four CR-1 lots as opposed to three lots as originally planned with this rezoning case. The conditions for a three-lot restriction (condition 1A) and minimum 43,560 square foot lots exclusive of easements and right-of-way (condition 1B) are sought for waiver.

There is currently no public sewer system available to serve the subject property. Adjacent properties of residential uses are served by private on-site disposal septic systems.

The PCRWRD has no objection to the above referenced request for modification/removal of rezoning conditions.

### **DEPARTMENT OF ENVIRONMENTAL QUALITY REPORT**

On behalf of Pima County Department of Environmental Quality (PDEQ), the Modification (Substantial Change) of Rezoning Conditions request has been reviewed for compliance with PDEQ requirements for on-site sewage disposal and air quality.

The Department has no objection to the proposed Plat Note Waiver provided the following:

1. All proposed residential lots must have a minimum area of 43,560 square feet. A maximum of one-half of adjacent rights-of-way or easements may be used in the calculation of the area. The adjacent rights-of-way or easements must be suitable to absorb effluent; and all other design requirements must be satisfied.

2. Parcels shall be of sufficient size and designed in such a manner to accommodate the existing and proposed development, primary and reserve leach fields and septic tanks, while meeting all applicable setbacks for on-site sewage disposal.

The Department's Air Quality Control District requires that air quality activity permits be secured by the developer or prime contractor before constructing, operating or engaging in an activity, which may cause or contribute to air pollution.

#### **NATURAL RESOURCES, PARKS AND RECREATION REPORT**

NRPR has no objection to the applicant's request.

#### **U.S. FISH AND WILDLIFE SERVICE REPORT**

The only potential issue with this location would be the loss of any saguaros that may be on the property. This area is used by foraging lesser long-nosed bats, an endangered bat species, that forages on saguaro pollen, nectar, and fruits. We recommend that any saguaros be protected and the Pima County Native Plant Preservation Ordinance be implemented on this site.

#### **TUCSON WATER REPORT**

Tucson Water has no objections to the proposed Modification of Rezoning Conditions for this parcel located along the west side of Swan Road approximately 1600 feet north of the intersection of Swan Road and River Road.

However, an off-site main extension of approximately 450 feet will have to be constructed in order to bring water to this site. An existing 8" main within Swan Road to the north would have to be extended southward to achieve this end. All required improvements are paid for by the developer.

All water services/meters must front the parcel they are to serve.

#### **RURAL/METRO FIRE DEPARTMENT REPORT**

The Rural/Metro Fire Department has reviewed the submittal for the above referenced case and has no objections to the rezoning request.

The following condition will apply:

1. As the development continues into the plan stage, the applicant will be required to submit plans to our fire prevention department for review of fire code compliance. This review will cover fire flow and fire hydrant requirements, fire department access, fire sprinkler systems and all other applicable fire code requirements. As of April 7, 2007 the 2003 edition of the International Fire Code shall be the applicable fire code for this project.

#### **TUCSON ELECTRIC POWER COMPANY REPORT**

To date, staff has not received a response to a request for comments.

#### **PUBLIC COMMENT**

To date, staff has not received any public comments pertaining to this request.

Respectfully Submitted,



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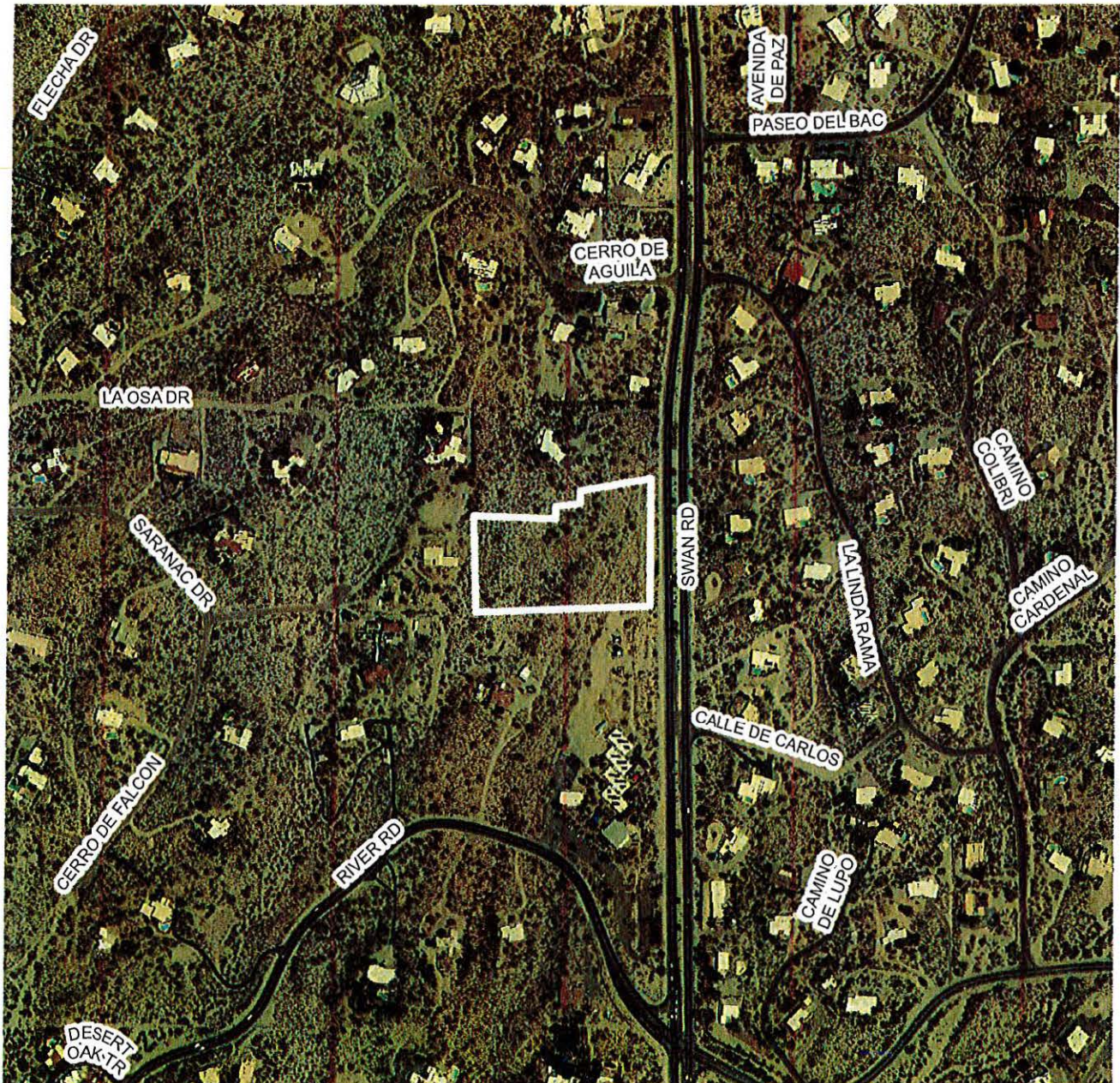
David Petersen, AICP  
Senior Planner

CP/DP

c: River and Swan Homes, LLC, 811 N. Grand Avenue, Nogales, AZ 85621-2217  
SBBL Architecture + Planning, LLC, Attn: Thomas Sayler-Brown, 15 E.  
Pennington Street, Tucson, AZ 85701

Case #: CO9-78-032 MATYI - SWAN ROAD REZONING

Tax Code(s): 109-17-0230



0 220 440 880 Feet

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT  
PLANNING DIVISION



Notes: MODIFICATION OF REZONING CONDITIONS

Planning & Zoning Hearing: 1/27/16

Base Map(s): 25

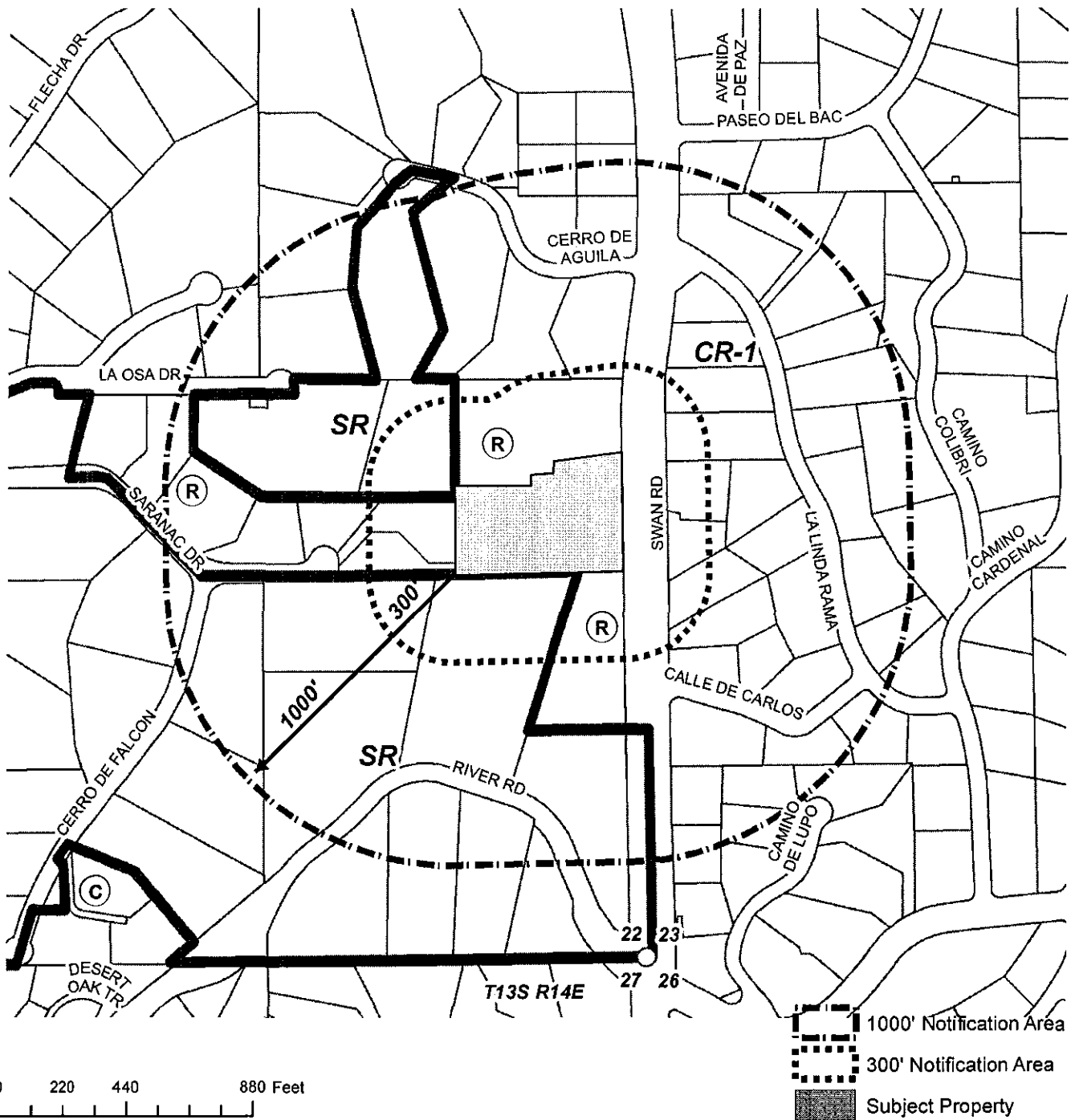
Map Scale: 1:6,000

Map Date: 12/31/2015



Case #: CO9-78-032 MATYI - SWAN ROAD REZONING

Tax Code(s): 109-17-0230



PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT  
PLANNING DIVISION



Notes: MODIFICATION OF REZONING CONDITIONS

Planning & Zoning Hearing: 1/27/16

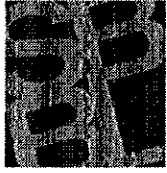
Base Map(s): 25

Map Scale: 1:6,000

Map Date: 12/22/2015







ARCHITECTURE  
& PLANNING

SBBL Architecture & Planning, LLC  
15 E. Pennington Street, Tucson, AZ 85701

October 21, 2015

*Revised: December 16, 2015*

Pima County Development Services Department – Planning Division  
201 N. Stone, 2<sup>nd</sup> floor  
Tucson, AZ 85701

Re: Parcel 109-17-0230

To Whom It May Concern:

With this letter, we are requesting modification of zoning conditions 1.A and 1.B (described below) that were established in case number CO9-78-32 (Docket 11011, Page 354).

The above-referenced property area is approximately 4.47 acres and is located just north of River Road on the west side of Swan Road. It was rezoned CR-1 (Single Residence Zone) in 1999 which allows single family homes served by septic on 1-acre parcels. Most of the properties within 300 feet of the property are also CR-1-(Single Residence Zone), and some of the properties to the northwest, south, and southwest of the site are zoned SR (Suburban Ranch Zone).

Our plan is to divide the property into four separate acre-sized lots. We will be providing a single drive from Swan Road to access all four sites. We are also designating a portion of the site on the west as a no-build area to preserve the existing natural features and to provide the neighbor to the west with a "protected" view corridor. Attached to this request is a preliminary site plan showing the proposed lots. After accounting for the proposed HDZ natural open space set aside (referred on site plan as "HDZ N.O.S"), each lot has +/-15% average cross slope to achieve the four-lot density desired at +/- 1 unit/acre.

The two conditions in question that we want to modify include:

- 1.A: Covenant that no more than three parcels can be created.
- 1.B: Covenant that each parcel shall be a minimum size of 43,560 square feet, exclusive of easements, rights-of-way, etc.

#### Condition 1.A

In 1999, when this site was rezoned, State law limited property splits to three per property as long as the new properties met the requirements of the particular zone. This would explain the restriction in 1.A. Today, properties can be re-described with up to five splits. We request that this condition be deleted.

Condition 2.A

The Zoning Code allows properties that face a major street to use up to one half of the right-of-way in calculating site area. While we may not need to include a portion of the right of way in our site areas, this second condition precludes the possibility. Also, easements typically do not impact the areas of sites. There are currently no easements on the site, but new easements will be created with our new development. We request that the condition be deleted, since the Zoning Code already establishes the minimum development requirements.

Prior to submitting this request, we sent letters to each of the property owners within 300 feet of the property advising that we want to divide the property for four home sites. We also met with or spoke with Ally Miller, three adjacent property owners, and a few of the property owners who called for more information.

Thank you.

Sincerely,

SBBL Architecture + Planning, LLC

A handwritten signature in black ink, appearing to read "Sayler-Brown". The signature is fluid and cursive, with the first name "Sayler" and last name "Brown" clearly distinguishable.

Thomas Sayler-Brown, AIA, President

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F. ANN RODRIGUEZ, RECORDER  
Recorded By: SAF  
DEPUTY RECORDER  
4942

CATAL  
CATALINA TITLE AGENCY  
1580 N KOLB RD 110  
TUCSON AZ 85715



SEQUENCE: 20152670689  
NO. PAGES: 3  
WTDEED 09/24/2015  
AFFIDAVIT 16:11  
MAIL  
AMOUNT PAID: \$17.00

ESCROW NO.: 600-48572-TLF  
600-48572-TLF

SPACE ABOVE THIS LINE FOR RECORDER'S USE

900-020702AM

### SPECIAL WARRANTY DEED

For the consideration of Ten Dollars, and other valuable considerations, I or we,

**Church of St Francis in the Foothills, Methodist, an Arizona Corporation**

do/does hereby convey to

**River And Swan Homes, LLC, an Arizona limited liability company**

the following real property situated in **Pima** County, Arizona:

See Exhibit "A" attached hereto and made a part hereof.

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record.

And the Grantor hereby binds itself and its successors to warrant and defend the title, against all acts of the Grantor herein, and no other, subject to the matters set forth.

The subject property is hereby DEED RESTRICTED to a maximum Building Height of 24 feet, and a building setback of 20 feet from the southern boundary.

Dated: September 10, 2015

Grantor(s):

Church of St Francis in the Foothills United Methodist

BY:

  
Art Evans, President

**EXHIBIT A**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PIMA, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

All that certain real property situate in the County of Pima, State of Arizona, recorded in Sequence 20120800678, records of said Pima County, describing a portion of the South half of the Northeast Quarter of the Southeast Quarter of Section 22, Township 13 South, Range 14 East, Gila and Salt River Meridian;

More particularly described as follows:

Beginning at the Southeast corner of said Section 22, a brass survey monument in a hand-well;

Thence North 00 degrees 51 minutes 55 seconds East, 1703.33 feet from said Point of Beginning, Northerly along the East line of the Southeast Quarter of said Section 22, to a point thereon;

Thence North 88 degrees 57 minutes 21 seconds West, 75.00 feet Westerly from said East line to the Northeast corner of said recorded parcel and the True Point of Beginning of Exhibit A herein described, marked by a No. 4 rebar to which an acceptance tag was attached by RLS 26932;

Thence South 00 degrees 51 minutes 55 seconds West, 373.12 feet from said True Point of Beginning, Southerly along the West right-of-way line of Swan Road, common with the east line of said recorded parcel to the Southeast corner thereof, marked by a No. 4 rebar with registration tag, RLS 23956;

Thence North 88 degrees 57 minutes 30 seconds West, 584.86 feet; Westerly from said Southeast corner along the measured South line of said recorded parcel to a No. 5 rebar to which an acceptance tag was attached by RLS 26932 at the Southwest corner thereof;

Thence North 01 degrees 00 minutes 13 seconds East, 292.56 feet Northerly from said Southwest corner along the measured West line of said recorded parcel to a No. 4 rebar to which an acceptance tag was attached by RLS 26932 at the Northwest corner thereof;

Thence South 88 degrees 57 minutes 22 seconds East, 251.86 feet Easterly from said Northwest corner along the measured North line of said recorded Parcel to a No. 5 rebar to which an acceptance tag was attached by RLS 26932 at an angle point;

Thence North 00 degrees 51 minutes 55 seconds West, 40.00 feet Northerly from said angle point along the measured boundary of said recorded parcel to a No. 5 rebar to which an acceptance tag was attached by RLS 26932 at an angle point;

Thence South 88 degrees 57 minutes 21 seconds East, 80.00 feet Easterly from said angle point along the measured North line of said recorded parcel to a No. 5 rebar to which an acceptance tag was attached by RLS 26932 at an angle point;

Thence North 00 degrees 51 minutes 55 seconds West, 40.00 feet Northerly from said angle point along the measured boundary of said recorded parcel to a No. 5 rebar to which an acceptance tag was attached by RLS 26932 at an angle point;

Thence South 88 degrees 57 minutes 21 seconds East, 251.84 feet Easterly from said angle point along the measured North line of said recorded parcel the True Point of Beginning.

EXCEPT all coal and other minerals as reserved in the Patent from the United States of America in Deed Book 168, page 285.

Agent Last Updated: 08/24/2015

Additional Entity Information 

Entity Type: DOMESTIC L.L.C.

Business Type:

Incorporation Date: 8/10/2015

Corporation Life Period: PERPETUAL

Domicile: ARIZONA

County: SANTA CRUZ

Approval Date: 8/24/2015

Original Publish Date:

Manager/Member Information 

Name	ISAAC ZAIED
Title	MEMBER
Address	811 N GRAND AVE NOGALES, AZ 85621
Date of Taking Office	08/10/2015
Last Updated	08/24/2015

Name	JORGE ZAIED
Title	MEMBER
Address	811 N GRAND AVE NOGALES, AZ 85621
Date of Taking Office	08/10/2015
Last Updated	08/24/2015

Scanned Documents 

Click on a gold button below to view a document. If the button is gray, the document is not yet available. Please check back again later.