



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: March 15, 2016

Title: Co9-03-32 LEE, ET AL. – ORANGE GROVE ROAD REZONING

Introduction/Background:

The Board of Supervisors approved a Modification of Rezoning Conditions for this Rezoning on November 17, 2015.

Discussion:

This Resolution reflects the Board of Supervisors' approval of the Modification of Rezoning Conditions.

Conclusion:

The conditions contained in Rezoning Ordinance No. 2004-67, as amended by Resolution No. 2009-129 and Resolution No. 2015-43, may be modified by resolution.

Recommendation:

Staff recommends that the Board of Supervisors approve this Resolution.

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: _____

[Signature]
[Signature] John Bernal 2/24/16
C. D. D. 2/24/16



Subject: Co9-03-32

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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

RESOLUTION FOR ADOPTION

Co9-03-32 **LEE, ET AL. – ORANGE GROVE ROAD REZONING**
Owner: Lee Tony & Bella Family TR ¾ & Lee Gregory & Julia Family TR ¼
(District 1)

If approved, adopt RESOLUTION NO. 2016 - _____

OWNER: Lee Tony & Bella Family TR ¾ & Lee Gregory & Julia Family TR ¼
c/o Jason Wong
3441 E. Speedway
Tucson, AZ 85716-3937

AGENT: Presidio Engineering, Inc.
Attn: John Wood, P.E., President
190 S. Stratford Dr., Ste. 105
Tucson, AZ 85716

DISTRICT: 1

STAFF CONTACT: David Petersen

STAFF RECOMMENDATION: APPROVAL.

CP/DP/ar
Attachments

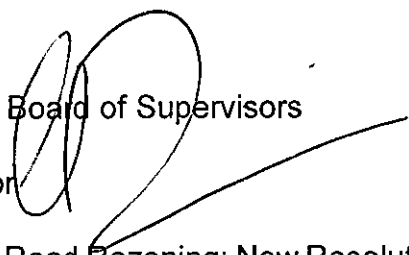
cc: Co9-03-32 File

MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES

DATE: February 10, 2016

TO: Honorable Chair and Members of the Board of Supervisors

FROM: Chris Poirier, Interim Planning Director 

SUBJECT: Co9-03-32 Lee, et al. – Orange Grove Road Rezoning; New Resolution for November 17, 2015 Board of Supervisors' Action for Modification of Rezoning Conditions

This memo is to inform the Board of a scrivener's error regarding previously adopted Resolution 2015-43 pertaining to rezoning condition #14. Condition #14 as shown in the resolution contains too much stricken text compared to the staff recommendation for modification of the condition as shown in the 4-15-2014 Board of Supervisors' Minutes for a rezoning time extension for this case. *However, the scrivener's error version of the condition is now the current standard that staff recommends for this site.*

The October 21, 2015 staff report for the Board's most recent action for this rezoning regarding a modification of rezoning conditions approved on 11-17-2015 contained the scrivener's error version of condition #14 in the list of rezoning conditions. Staff was unaware of the scrivener's error at the time the staff report was written, but had checked the condition to ensure it was the current standard for this site. (The condition regards buffelgrass removal for non-CLS sites where no subdivision is proposed.)

The new resolution recommended for adoption pertaining to the modification of rezoning conditions approved on 11-17-2015 contains the scrivener's error version of condition #14 that is in fact the current standard applicable to the subject property and that was reviewed for and shown in the staff report for the approved modification of rezoning conditions.

Attachments:

Board of Supervisors' Minutes 4-15-2014
Resolution 2015-43
Staff Report October 21, 2015
Board of Supervisors' Minutes 11-17-2015

Co9-03-32 Rezoning Time Extension

Approval BOS Minutes 4-15-14

unanimously carried by a 5-0 vote, to close the public hearing and approve the five-year time extension for Co9-96-09, subject to modified and additional standard and special conditions.

20. Co9-03-31, BACKUS - OLD SPANISH TRAIL REZONING

A. Closure

Proposal to close a 3.04 acre rezoning from the SR (Suburban Ranch) to CB-1 (Local Business) (.97 acres) and SR@ (Suburban Ranch-Restricted) (2.07 acres) zone. The 3.04 acre subject site was rezoned in 2003. The rezoning expired on January 20, 2014. The site is located on the southeast corner of Camino Del Garanon and Old Spanish Trail. Staff recommends AGAINST CLOSURE. (District 4)

B. Time Extension

Request of Peter and Deborah Backus, for a five-year time extension of a 3.04 acre rezoning from the SR (Suburban Ranch) to CB-1 (Local Business) (.97 acres) and SR@ (Suburban Ranch-Restricted) (2.07 acres) zone. The 3.04 acre subject site was rezoned in 2003. The rezoning expired on January 20, 2014. The site is located on the southeast corner of Camino Del Garanon and Old Spanish Trail. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH MODIFIED AND ADDITIONAL STANDARD AND SPECIAL CONDITIONS. (District 4)

It was moved by Supervisor Carroll, seconded by Supervisor Miller and unanimously carried by a 5-0 vote, to continue these items to the Board of Supervisors' Meeting of May 13, 2014.

→ 21. Co9-03-32, LEE, ET AL. - ORANGE GROVE ROAD REZONING

A. Closure

Proposal to close a 8.90 acre rezoning (approximately 9.55 original acres minus approximately .65 acres of dedicated right-of-way) from the SR (Suburban Ranch) to TR (Transitional) (5.11 acres) and SR@ (Suburban Ranch-Restricted) (4.44 acres) zone. The 9.55 acre subject site was rezoned in 2003. The rezoning will expire on April 13, 2014. The site is located on the southwest corner of Orange Grove Road and San Joaquin Avenue. Staff recommends AGAINST CLOSURE. (District 1)

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Miller, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to accept the recommendation against closure.

B. Time Extension

Request of Lee Family Trust 3/4, et al. represented by Presidio Engineering, Inc., for a five-year time extension of a 8.90 acre rezoning (approximately 9.55 original acres minus approximately .65 acres of dedicated right-of-way) from the SR (Suburban Ranch) to TR (Transitional) (5.11 acres) and SR@

(Suburban Ranch-Restricted) (4.44 acres) zone. The 8.90 acre subject site was rezoned in 2003. The rezoning will expire on April 13, 2014. The site is located on the southwest corner of Orange Grove Road and San Joaquin Avenue. Staff recommends APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH ADDITIONAL MODIFIED AND ADDITIONAL STANDARD AND SPECIAL CONDITIONS. (District 1)

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

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. 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.
6. There shall be no further lot splitting or subdividing of residential properties without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s)/developer(s) shall provide offsite improvements to Orange Grove Road as determined necessary by the Department of Transportation. These improvements shall include, but may not be limited to, construction of a right turn lane.
 - ~~B. The property owner(s) shall dedicate to Pima County 70 feet of right-of-way for Orange Grove Road and shall provide a building setback of 130 feet from the centerline of the right-of-way for Orange Grove Road.~~
 - ~~CB.~~ One access point shall be allowed on Orange Grove Road. No access shall be allowed via San Joaquin Avenue.
 - ~~DC.~~ Internal access shall be provided to the west of the property as shown on the Preliminary Development Plan.
8. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
 - C. The property owner(s) shall comply with detention/retention conditions and restrictions as stated in the Floodplain Management Ordinance since the property lies within a critical basin.
 - D. Post-development floodplains and flood control improvements shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for drainage and maintenance purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - E. Pima County Regulated Riparian Habitat, including mitigation areas shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for preservation, mitigation and monitoring purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - F. At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and

external water conservations measures and a site plan showing the location of external measures. First flush retention shall be provided.

9. Regional Wastewater Reclamation Department Management condition:
The property owner(s) shall connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit.
 - A. The owner/developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
 - B. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
 - C. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
 - E. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
 - F. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
10. Natural Resources, Parks and Recreation condition:
The property owner(s) shall provide a non-motorized public recreational trail easement over the entirety of the Pegler Wash corridor.
11. Adherence to the preliminary development plan as approved at public hearing on April 13, 2004 (EXHIBIT B).
12. A minimum of 95% of the Pegler Wash riparian area shall be preserved as natural open space as defined in the zoning code. The limits of the Pegler Wash riparian area shall be delineated using the Harris Riparian Maps generated for the Sonoran Desert Conservation Plan and shall be shown on all development plans, grading plans, and native plant preservation plans.
13. Detention/retention basins shall be revegetated with plant species native to the site. The plan for the revegetation of the basins shall be shown on the landscape plan(s) required to be submitted for review and approval by the Development Services Department.
14. Environmental Planning conditions:

- A. Plants to be used for landscaping and revegetation shall be drought tolerant native species which are compatible with native vegetation endemic to the project area. Revegetated areas shall establish multiple height layers of vegetation that create a ground cover layer, a shrub mid-story layer, and a canopy layer. The following plants are prohibited anywhere within the rezoning site.

Fountain grass (*Pennisetum setaceum*)
Buffelgrass (*Pennisetum ciliare*)
Johnson grass (*Sorghum halapense*)
Giant reed (*Arundo donax*)
Common crabgrass (*Digitaria sanguinalis*)
Pampas grass (*Cortaderia selloana*)
Red brome (*Bromus rubens*)
Mediterranean grass (*Schismus* spp.)
Tree of heaven (*Ailanthus altissima*)
African sumac (*Rhus lancea*)
Russian olive (*Eleagnus angustifolia*)
Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
Lovegrasses (*Eragrostis* spp.) excluding Plains lovegrass
(*Eragrostis intermedia*)

- B. ~~Should the Board approve the modification (substantial change) of rezoning conditions and subsequently the 5-year time extension, the~~ owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the current and any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.

15. Building heights shall be limited to a maximum of 34 feet. Building colors shall be earth tone and shall not exceed a light reflectivity of 60%.
16. A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
17. The property owner(s)/developer(s) 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)."

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Miller, seconded by Supervisor Carroll and unanimously carried by a 5-0 vote, to close the public hearing and approve the five-year time extension for Co9-03-32, subject to additional modified and additional standard and special conditions.

TRANSPORTATION

22. Traffic Ordinance

ORDINANCE NO. 2014 - 16, of the Board of Supervisors, regulating traffic at the intersection of Bayou Drive and Treece Way in Pima County, Arizona. Staff recommends APPROVAL. (District 1)

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Elías, seconded by Supervisor Miller and unanimously carried by a 5-0 vote, to adopt the Ordinance.

23. Traffic Ordinance

ORDINANCE NO. 2014 - 17, of the Board of Supervisors, establishing prima facie reasonable speed limits for motor vehicles on Hardy Road in Pima County, Arizona. Staff recommends APPROVAL. (District 1)

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Elías, seconded by Supervisor Miller and unanimously carried by a 5-0 vote, to adopt the Ordinance.

24. Traffic Ordinance

ORDINANCE NO. 2014 - 18, of the Board of Supervisors, repealing an ordinance establishing a non-abutting crosswalk on Kain Avenue in Pima County, Arizona. Staff recommends APPROVAL. (District 3)

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Elías, seconded by Supervisor Miller and unanimously carried by a 5-0 vote, to adopt the Ordinance.

25. Traffic Ordinance

ORDINANCE NO. 2014 - 19, of the Board of Supervisors, establishing prima facie reasonable speed limits for motor vehicles on Overton Road in Pima County, Arizona. Staff recommends APPROVAL. (District 1)

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Elías, seconded by Supervisor Miller and unanimously carried by a 5-0 vote, to adopt the Ordinance.

Co9-03-32 Modification of Rezoning Conditions Approval BOS Minutes 3-10-09

19. DEVELOPMENT SERVICES: MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS

Co9-03-32, LEE, ET. AL.-ORANGE GROVE ROAD REZONING

Request of Lee Family Revocable Trust, represented by Carolyn Laurie of Tierra Planning Services, for a modification (substantial change) of rezoning conditions for a rezoning of approximately 9.55 acres from SR (Suburban Ranch) to TR (Transitional) for approximately 5.11 acres and to SR @ (Suburban Ranch) (Restricted) for approximately 4.44 acres located on the southwest corner of Orange Grove Road and San Joaquin Avenue. The subject site was rezoned in 2003. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners Cook and Smith were absent) to recommend APPROVAL WITH MODIFIED CONDITIONS. Staff recommends APPROVAL WITH MODIFIED CONDITIONS. (District 1)

"IF THE DECISION IS MADE TO APPROVE THE 5-YEAR TIME EXTENSION TO A DATE CERTAIN OF APRIL 14, 2014, AND/OR IF THE DECISION IS MADE TO APPROVE THE MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS THEN THE FOLLOWING ADDITIONAL, MODIFIED STANDARD AND SPECIAL CONDITIONS SHOULD BE CONSIDERED:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. 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.
6. There shall be no further lot splitting or subdividing of residential properties without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s) shall provide pavement widening on Orange Grove Road to provide for a continuous center left turn lane from where the existing left turn/center lane ends to the west of the rezoning site (east of the Mona Lisa Road intersection) and tie the center left turn lane widening into the west edge of the La Cholla Boulevard improvements west of the La Cholla Boulevard and Orange Grove Road intersection, as approved by the Department of Transportation. The property owner(s)/developer(s) shall provide offsite improvements to Orange Grove Road as determined necessary by the Department of Transportation. These improvements shall include, but may not be limited to, construction of a right turn lane.
 - B. The property owner(s) shall dedicate to Pima County 70 feet of right-of-way for Orange Grove Road and shall provide a building setback of 130 feet from the centerline of the right-of-way for Orange Grove Road.
 - C. One access point shall be allowed on Orange Grove Road. No access shall be allowed via San Joaquin Avenue.
 - D. Internal access shall be provided to the west of the property as shown on the Preliminary Development Plan.
8. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
 - C. The property owner(s) shall comply with detention/retention conditions and restrictions as stated in the Floodplain Management Ordinance since the property lies within a critical basin.
9. Wastewater Management condition:

The property owner(s) shall connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit.
10. Natural Resources, Parks and Recreation condition:

The property owner(s) shall provide a non-motorized public recreational trail easement over the entirety of the Pegler Wash corridor.

11. Adherence to the preliminary development plan as approved at public hearing on April 13, 2004.
12. A minimum of 95% of the Pegler Wash riparian area shall be preserved as natural open space as defined in the zoning code. The limits of the Pegler Wash riparian area shall be delineated using the Harris Riparian Maps generated for the Sonoran Desert Conservation Plan and shall be shown on all development plans, grading plans, and native plant preservation plans.
13. Detention/retention basins shall be revegetated with plant species native to the site. The plan for the revegetation of the basins shall be shown on the landscape plan(s) required to be submitted for review and approval by the Development Services Department.
14. Environmental Planning conditions:
 - A. Plants to be used for landscaping and revegetation shall be drought tolerant native species which are compatible with native vegetation endemic to the project area. Revegetated areas shall establish multiple height layers of vegetation that create a ground cover layer, a shrub mid-story layer, and a canopy layer. The following plants are prohibited anywhere within the rezoning site.
 - Fountain grass (*Pennisetum setaceum*)
 - Buffelgrass (*Pennisetum ciliare*)
 - Johnson grass (*Sorghum halapense*)
 - Giant reed (*Arundo donax*)
 - Common crabgrass (*Digitaria sanguinalis*)
 - Pampas grass (*Cortaderia selloana*)
 - Red brome (*Bromus rubens*)
 - Mediterranean grass (*Schismus* spp.)
 - Tree of heaven (*Ailanthus altissima*)
 - African sumac (*Rhus lancea*)
 - Russian olive (*Eleagnus angustifolia*)
 - Salt cedar/Tamarisk (*Tamarix pterandra* & *T. ramosissima*)
 - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
 - Lovegrasses (*Eragrostis* spp.) excluding Plains lovegrass (*Eragrostis intermedia*)
 - B. Should the Board approve the modification (substantial change) of rezoning conditions and subsequently the 5-year time extension, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the current and any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.
15. ~~Unless the U.S. Fish & Wildlife Service provides information to the contrary, the site shall be surveyed for the presence/absence of the cactus ferruginous pygmy owl by an entity qualified to perform biological surveys and who possesses a valid permit from the U.S. Fish & Wildlife Service to perform such surveys. Surveys shall be done according to the most current protocol approved by the U.S. Fish & Wildlife Service. Or, heavy construction activity shall occur only between August 1 and January 31 of any given calendar year. If surveys are performed, results of these surveys and copies of any data collected shall be provided to Development Services.~~
46. Building heights shall be limited to a maximum of 24 34 feet. Building colors shall be earth tone and shall not exceed a light reflectivity of 60%."

Tom Hudson, Zoning Administrator, provided a report. The applicant requested a modification of rezoning Condition No. 16 to allow a building height of 34 feet. The Planning and Zoning Commission and staff recommended approval with modified conditions.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Valadez to close the public hearing, approve the request and modify Condition No. 16 to allow a maximum building height of 34 feet and include the Letter of Agreement dated June 18, 2008, from Casas Adobes II Neighborhood Coalition that contained assurances between the neighborhood and the applicant.

Co9-03-32 Original Rezoning Approval

BOS Minutes 4-13-04

acres located on the south side of River Road, approximately 600 feet west of Swan Road. This rezoning was approved in 1999 and expired on February 16, 2004. Staff recommends CLOSURE. (District 1)

Dave Petersen, Zoning Administrator, stated the applicant no longer seeks to rezone the property. The property reverts back to SR which would comply with the Comprehensive Plan. There has not been any public comment.

On consideration, it was moved by Supervisor Day, seconded by Chair Bronson, and unanimously carried by a five to zero vote, to close the public hearing and approve the closure of this rezoning case.

14. DEVELOPMENT SERVICES: REZONING

Co9-03-32. LEE, ET. AL. - ORANGE GROVE ROAD REZONING
Request of Tony and Bella Lee, et. al., represented by Stantec Consulting, Inc., for a rezoning of about 9.55 acres from SR (Suburban Ranch) to TR (Transitional) consisting of about 5.11 acres and SR Restricted (Suburban Ranch) consisting of about 4.44 acres located on the southwest corner Orange Grove Road and San Joaquin Avenue. The proposed rezoning conforms to the Pima County Comprehensive Plan, Co7-00-20. On motion, the Planning and Zoning Commission voted 8-0 (Commissioners RedDog and Staples were absent) to recommend **APPROVAL WITH AN ADDITIONAL CONDITION** and subject to standard and special requirements. Staff recommends **DENIAL.** (District 3)

"IF THE DECISION IS MADE TO APPROVE THE REZONING, THE FOLLOWING STANDARD AND SPECIAL REQUIREMENTS SHOULD BE CONSIDERED: COMPLETION OF THE FOLLOWING REQUIREMENTS WITHIN FIVE YEARS FROM THE DATE OF REZONING APPROVAL BY THE BOARD OF SUPERVISORS:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. 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.
6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s) shall provide pavement widening on Orange Grove Road to provide for a continuous center left turn lane from where the existing left turn/center lane ends to the west of the rezoning site (east of the Mona Lisa Road intersection) and tie the center left turn lane widening into

- the west edge of the La Cholla Boulevard improvements west of the La Cholla Boulevard and Orange Grove Road intersection, as approved by the Department of Transportation.
- B. The property owner(s) shall dedicate to Pima County 70 feet of right-of-way for Orange Grove Road and shall provide a building setback of 130 feet from the centerline of the right-of-way for Orange Grove Road.
 - C. One access point shall be allowed on Orange Grove Road.
 - D. Internal access shall be provided to the west of the property as shown on the Preliminary Development Plan.
-
8. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
 - C. The property owner(s) shall comply with detention/retention conditions and restrictions as stated in the Floodplain Management Ordinance since the property lies within a critical basin.
 9. Wastewater Management condition:
The property owner(s) must connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit.
 10. Natural Resources, Parks and Recreation condition:
The property owner(s) shall provide a non-motorized public recreational trail easement over the entirety of the Pegler Wash corridor.
 11. Adherence to the preliminary development plan as approved at public hearing.
 12. A minimum of 95% of the Pegler Wash riparian area shall be preserved as natural open space as defined in the zoning code. The limits of the Pegler Wash riparian area shall be delineated using the Harris Riparian Maps generated for the Sonoran Desert Conservation Plan and shall be shown on all development plans, grading plans, and native plant preservation plans.
 13. Detention/retention basins shall be revegetated with plant species native to the site. The plan for the revegetation of the basins shall be shown on the landscape plan(s) required to be submitted for review and approval by the Development Services Department.
 14. Plants to be used for landscaping and revegetation shall be drought tolerant native species which are compatible with native vegetation endemic to the project area. Revegetated areas shall establish multiple height layers of vegetation that create a ground cover layer, a shrub mid-story layer, and a canopy layer. The following plants are prohibited anywhere within the rezoning site.
 - Fountain grass (*Pennisetum setaceum*)
 - Buffelgrass (*Pennisetum ciliare*)
 - Johnson grass (*Sorghum halapense*)
 - Giant reed (*Arundo donax*)
 - Common crabgrass (*Digitaria sanguinalis*)
 - Pampas grass (*Cortaderia selloana*)
 - Red brome (*Bromus rubens*)
 - Mediterranean grass (*Schismus spp.*)
 - Tree of heaven (*Ailanthus altissima*)
 - African sumac (*Rhus lancea*)
 - Russian olive (*Eleagnus angustifolia*)
 - Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
 - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda

- Lovegrasses (Eragrostis spp.) excluding Plains lovegrass (Eragrostis intermedia)
15. Unless the U.S. Fish & Wildlife Service provides information to the contrary, the site shall be surveyed for the presence/absence of the cactus ferruginous pygmy-owl by an entity qualified to perform biological surveys and who possesses a valid permit from the U.S. Fish & Wildlife Service to perform such surveys. Surveys shall be done according to the most current protocol approved by the U.S. Fish & Wildlife Service. Or, heavy construction activity shall occur only between August 1 and January 31 of any given calendar year. If surveys are performed, results of these surveys and copies of any data collected shall be provided to Development Services.
16. Building heights shall be limited to a maximum of 24 feet along Orange Grove Road. Building colors shall not exceed a light reflectivity of 60%.

Dave Petersen, Zoning Administrator, stated the request is for development of offices and the preservation of Pegler Wash which runs through the site. The Planning and Zoning Commission recommended approval subject to standard and special requirements. Staff recommended denial due to lack of concurrency for transportation as the lack of road capacity and improvements are not planned until the year 2012. There has been one letter of public comment from a neighborhood representative who supports the rezoning but would like a height restriction added along with color and glare limitations which was added by the Planning and Zoning Commission.

Chair Bronson asked the applicant if the additional conditions set forth by the Planning and Zoning Commission regarding the height restriction and the limitation of colors to earth tone were acceptable?

Gordon Stone, applicant, replied the additional conditions were acceptable.

On consideration, it was moved by Chair Bronson, seconded by Supervisor Day, and unanimously carried by a five to zero vote, to close the public hearing and approve the rezoning subject to standard and special requirements and additional conditions regarding a 24 foot height restriction and limiting the color of the buildings to earthtone colors.

15. DEVELOPMENT SERVICES: REZONING AND EXTENSION

Co9-87-46, WESSEX DEVELOPMENT COMPANY - FLOWING WELLS ROAD

REZONING

Request of River Corners Pad Investments, L.L.C., et. al., represented by Bourne Properties, Inc., for a five-year time extension for the above referenced rezoning from SH (Suburban Home) to CB-1 (Local Business) for 2.73 acres located on the southwest corner of Flowing Wells Road and

F. ANN RODRIGUEZ, RECORDER
Recorded By: [Signature]
DEPUTY RECORDER
4935

P0230
PIMA CO CLERK OF THE BOARD
PICKUP



SEQUENCE: 20151730849
NO. PAGES: 8
RES 06/22/2015 18:00
PICK UP
AMOUNT PAID: \$0.00

Resolution 2015-43

RESOLUTION 2015- 43

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-03-32 LEE, ET AL. - ORANGE GROVE ROAD REZONING; LOCATED ON THE SOUTHWEST CORNER OF ORANGE GROVE ROAD AND SAN JOAQUIN AVENUE, AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE NO. 2004-67 AS AMENDED BY RESOLUTION 2009-129.

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

1. On April 13, 2004, in rezoning case Co9-03-32, the Pima County Board of Supervisors approved the rezoning of approximately 9.55 acres located on the southwest corner of Orange Grove Road and San Joaquin Avenue, as shown on Exhibit A from SR (Suburban Ranch) to TR (Transitional) for approximately 5.11 acres and to SR® (Suburban Ranch) (Restricted) for approximately 4.44 acres, subject to standard and special conditions.
2. On August 16, 2004, the Pima County Board of Supervisors adopted rezoning Ordinance No. 2004-67, recorded in Docket 12369 at Page 2801, rezoning the approximate 9.55 acres described in rezoning case Co9-03-32 and memorializing the standard and special conditions.
3. On August 22, 2008, the owner(s) of the approximately 9.55 acres applied for a modification (substantial change) of rezoning condition #16 and a five-year time extension.
4. On March 10, 2009, the Board of Supervisors approved a modification (substantial change) of rezoning condition #16 and a five-year time extension with standard and special rezoning conditions.
5. On January 3, 2014, the owner(s) of the rezoning site applied for a five-year extension for an 8.90 acre rezoning (approximately 9.55 original acres minus approximately .65 acres of dedicated right-of-way) of the time limit set forth in Section 3 of Ordinance No. 2004-67, as amended by Resolution No. 2009-129;
6. On April 15, 2014, the Pima County Board of Supervisors denied closure of the rezoning and approved the five-year time extension subject to modified standard and special conditions;
7. Section 3 of Ordinance No. 2004-67 and the Pima County Code allow the Board of Supervisors to amend the rezoning conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance No. 2004-67, as amended by Resolution 2009-129, are restated and modified as follows:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
- ~~3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.~~
4. Provision of development related assurances as required by the appropriate agencies.
5. 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.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s)/developer(s) shall provide offsite improvements to Orange Grove Road as determined necessary by the Department of Transportation. These improvements shall include, but may not be limited to, construction of a right turn lane.
 - ~~B. The property owner(s) shall dedicate to Pima County 70 feet of right-of-way for Orange Grove Road and shall provide a building setback of 130 feet from the centerline of the right-of-way for Orange Grove Road.~~
 - CB. One access point shall be allowed on Orange Grove Road. No access shall be allowed via San Joaquin Avenue.
 - DC. Internal access shall be provided to the west of the property as shown on the Preliminary Development Plan.
8. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
 - C. The property owner(s) shall comply with detention/retention conditions and restrictions as stated in the Floodplain Management Ordinance since the property lies within a critical basin.
 - D. Post-development floodplains and flood control improvements shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for drainage and maintenance purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - E. Pima County Regulated Riparian Habitat, including mitigation areas shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for preservation, mitigation and monitoring

purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.

- E. At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and external water conservations measures and a site plan showing the location of external measures. First flush retention shall be provided.

9. Regional Wastewater Reclamation Department Management condition:

The Property owner(s) shall connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of the review of the tentative plat, development plan or request for building permit.

- A. The owner/developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
- B. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
- C. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
- D. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
- E. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
- F. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.

10. Natural Resources condition:

The property owner(s) shall provide a non-motorized public recreational trail easement over the entirety of the Pegler Wash corridor.

11. Adherence to the preliminary development plan as approved at public hearing on April 13, 2004 (EXHIBIT B).
12. A minimum of 95% of the Pegler Wash riparian area shall be preserved as natural open space as defined in the zoning code. The limits of the Pegler Wash riparian area shall be delineated using the Harris Riparian Maps generated for the Sonoran Desert Conservation Plan and shall be shown on all development plans, grading plans, and native plant preservation plans.
13. Detention/retention basins shall be revegetated with plant species native to the site. The plan for the revegetation of the basins shall be shown on the landscape plan(s) required to be submitted for review and approval by the Development Services Department.



14. Environmental Planning conditions:
 - A. Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.

~~Plants to be used for landscaping and revegetation shall be drought tolerant native species which are compatible with native vegetation endemic to the project area. Revegetated areas shall establish multiple height layers of vegetation that create a ground cover layer, a shrub mid-story layer, and a canopy layer. The following plants are prohibited anywhere within the rezoning site.~~

~~Fountain grass (*Pennisetum setaceum*)
 Buffelgrass (*Pennisetum ciliare*)
 Johnson grass (*Sorghum halapense*)
 Giant reed (*Arundo donax*)
 Common crabgrass (*Digitaria sanguinalis*)
 Pampas grass (*Cortaderia selleana*)
 Red brome (*Bromus rubens*)
 Mediterranean grass (*Schismus spp.*)
 Tree of heaven (*Ailanthus altissima*)
 African sumac (*Rhus lancea*)
 Russian olive (*Eleagnus angustifolia*)
 Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
 Bermuda grass (*Cynodon dactylon*) excluding seed hybrid Bermuda
 Lovegrasses (*Eragrostis spp.*) excluding Plains lovegrass (*Eragrostis intermedia*)~~

- B. ~~Should the Board approve the modification (substantial change) of rezoning conditions and subsequently the 5-year time extension, the~~

~~owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the current and any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.~~

15. Building heights shall be limited to a maximum of 34 feet. Building colors shall be earth tone and shall not exceed a light reflectivity of 60%.
16. A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
17. The property owner(s)/developer(s) shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, Chapter 8, Article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

Section 2. Section 3 of Ordinance No. 2004-67, as amended by Resolution 2009-129, is amended and the time limit extended as follows:

1. Conditions 1 through ~~45~~ 17 shall be completed by April 13, 2014 2019.
2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.
3. No building permits shall be issued based on the rezoning approved by this Resolution until all conditions 1 through ~~45~~ 17 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 1 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Passed and adopted, this 16th day of June, 2015.

Sharon Benson
Chair, Pima County Board of Supervisors

ATTEST

Robert Briggall
Clerk of the Board

APPROVED AS TO FORM:

Lesley M. Lukach 4/24/15
Deputy County Attorney
Lesley M. Lukach

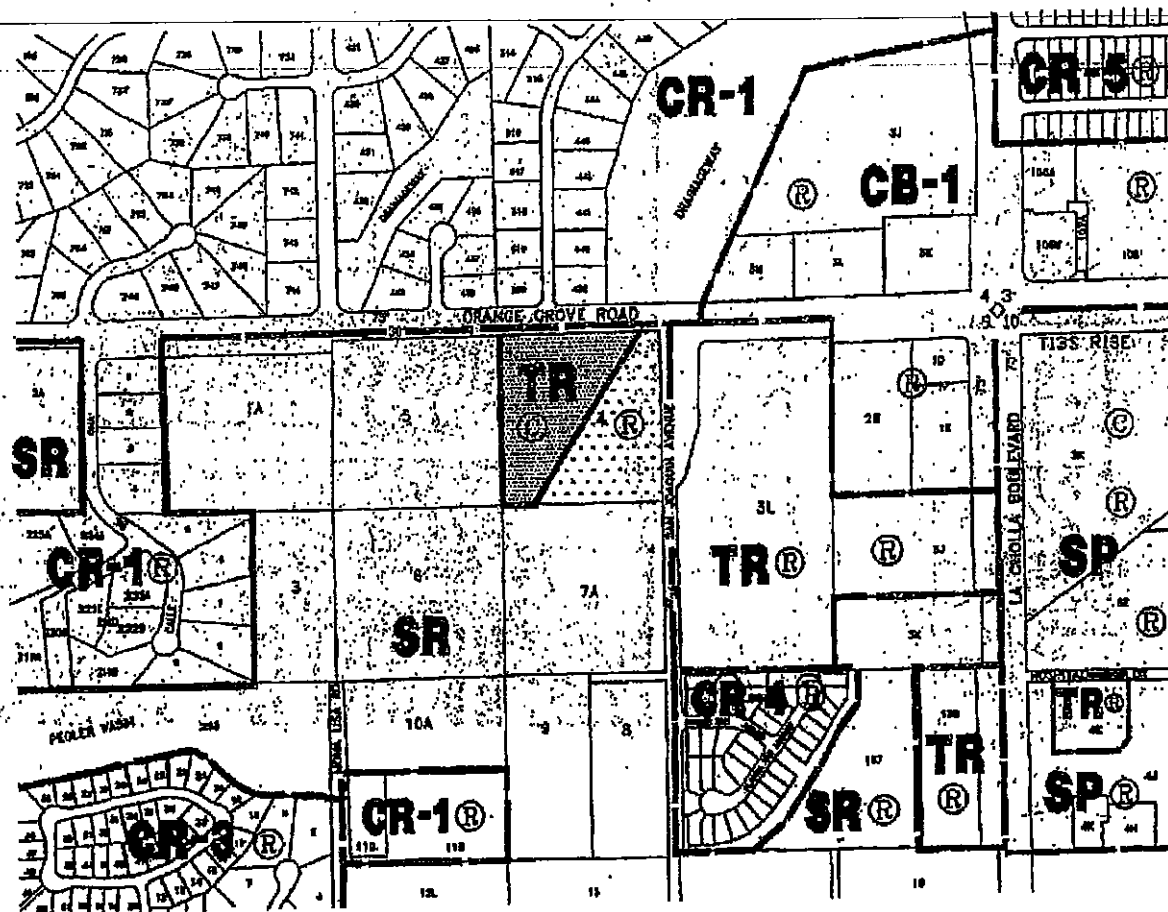
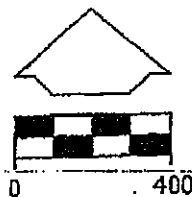
APPROVED

[Signature]
Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 38 BY ORDINANCE NO. 2004-67
TO PIMA COUNTY ZONING MAP NO. 76 TUCSON, AZ.
PARCEL 4 BEING A PART OF THE NW 1/4 OF THE NE 1/4 OF
SEC 9, T13S R13E.

ADOPTED 8-16-04 EFFECTIVE 8-16-04

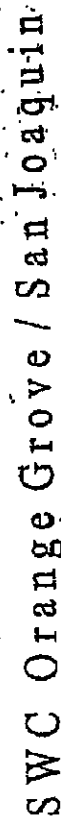


EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM SR 9.55 ac± (TR, 5.11ac - SR(R), 4.44ac)
ds-JULY 2, 2004

CO9-03-32
CO7-00-20
101-09-0040

2005 11.13.01



Staff Report October 21, 2015



PIMA COUNTY DEVELOPMENT SERVICES

TO: Honorable Ally Miller, Supervisor, District # 1

FROM: Arlan M. Colton, Planning Director

DATE: October 21, 2015

SUBJECT: Co9-03-32 LEE, ET AL. – ORANGE GROVE ROAD REZONING

The above referenced Modification of Rezoning Conditions is within your district and is scheduled for the Board of Supervisors' **TUESDAY, NOVEMBER 17, 2015** hearing.

REQUEST: The applicant requests to modify rezoning conditions to change the restricted use of an undeveloped TR and SR-Restricted rezoning site from an office complex to an assisted living center. As part of this request, waiver of the requirements to construct a right turn lane and to provide internal cross-access to the property to the west is sought.

OWNER: Lee Tony & Bella Family TR $\frac{3}{4}$ & Lee Gregory & Julia Family TR $\frac{1}{4}$
c/o Jason Wong
3441 E. Speedway
Tucson, AZ 85716-3937

AGENT: Presidio Engineering, Inc.
Attn: John Wood, P.E., President
190 S. Stratford Dr., Ste. 105
Tucson, AZ 85716

DISTRICT: 1

STAFF CONTACT: David Petersen

PUBLIC COMMENT TO DATE: As of October 21, 2015, staff has received no public comments.

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of modification of condition #'s 7A and 11 and waiver of condition #7C in accordance with the applicant's request.

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

CP/DP/ar
Attachments



BOARD OF SUPERVISORS MEMORANDUM

Subject: Co9-03-32

Page 1 of 8

FOR NOVEMBER 17, 2015 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Arlan M. Colton, Planning Director *[Signature]*
Public Works-Development Services Department-Planning Division

DATE: October 21, 2015

ADVERTISED ITEM FOR PUBLIC HEARING

MODIFICATION OF REZONING CONDITIONS

Co9-03-32 LEE, ET AL. – ORANGE GROVE ROAD REZONING

Request of Lee Family Trust ¼, et al., represented by Presidio Engineering, Inc., for a modification of the following rezoning conditions:

- #7A which requires provision of improvements to Orange Grove Road as determined by the Department of Transportation to include construction of a right turn lane. The applicant requests to modify the condition to waive the requirement to construct a right turn lane.
- #7C which requires provision for internal access to the west of the subject property. The applicant requests to waive this requirement.
- #11 which requires adherence to the preliminary development plan as approved at public hearing. The applicant requests to modify the plan which depicts one- and two-story office buildings totaling a maximum of 30,000 square feet to allow a plan for a two-story assisted living center building totaling 94,626 square feet.

The subject site is 8.90 acres zoned TR © and SR © located on the southwest corner of Orange Grove Road and San Joaquin Avenue. Staff recommends **APPROVAL** of modification of condition #'s 7A and 11 and waiver of condition #7C in accordance with the applicant's request.

(District 1)

STAFF RECOMMENDATION

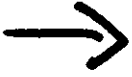
Staff recommends **APPROVAL** of modification of condition #'s 7A and 11 and waiver of condition #7C in accordance with the applicant's request as follows:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.

2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. 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.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s)/developer(s) shall provide off-site improvements to Orange Grove Road as determined necessary by the Department of Transportation. ~~These improvements shall include, but may not be limited to, construction of a right-turn lane.~~
 - B. One access point shall be allowed on Orange Grove Road. No access shall be allowed via San Joaquin Avenue.
 - C. ~~Internal access shall be provided to the west of the property as shown on the Preliminary Development Plan.~~
8. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
 - B. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
 - C. The property owner(s) shall comply with detention/retention conditions and restrictions as stated in the Floodplain Management Ordinance since the property lies within a critical basin.
 - D. Post-development floodplains and flood control improvements shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for drainage and maintenance purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - E. Pima County Regulated Riparian Habitat, including mitigation areas shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for preservation, mitigation and monitoring purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - F. At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and external water conservations measures and a site plan showing the location of external measures. First flush retention shall be provided.

9. Regional Wastewater Reclamation Department conditions:
 - A. The owner/developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
 - B. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
 - C. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
 - E. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
 - F. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
10. Natural Resources condition:

The property owner(s) shall provide a non-motorized public recreational trail easement over the entirety of the Pegler Wash corridor.
11. Adherence to the preliminary development plan as approved at public hearing on April 43, 2004 November 17, 2015 (EXHIBIT B).
12. A minimum of 95% of the Pegler Wash riparian area shall be preserved as natural open space as defined in the zoning code. The limits of the Pegler Wash riparian area shall be delineated using the Harris Riparian Maps generated for the Sonoran Desert Conservation Plan and shall be shown on all development plans, grading plans, and native plant preservation plans.
13. Detention/retention basins shall be revegetated with plant species native to the site. The plan for the revegetation of the basins shall be shown on the landscape plan(s) required to be submitted for review and approval by the Development Services Department.

- 
14. Environmental Planning conditions:
A. Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.
15. Building heights shall be limited to a maximum of 34 feet. Building colors shall be earth tone and shall not exceed a light reflectivity of 60%.
16. A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS § 41-865 and ARS § 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
17. The property owner(s)/developer(s) 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)."

STAFF REPORT**Request**

The applicant requests to allow the use of an assisted living center on an 8.90-acre TR and SR restricted (Pegler Wash Open Space) rezoning site. This requires the modification of **condition #11** which requires adherence to the rezoning preliminary development plan for offices. The current preliminary development plan provides for 30,000 square feet of one- and two-story office space divided among three buildings. The proposed plan provides for a 94,626 square foot two-story assisted living facility within a single building surrounding an interior courtyard. It proposes approximately half the parking area of the office building plan, but more total asphalt surface with a perimeter parking area and access lane surrounding the building. Both plans depict a 34-foot maximum building height, the maximum allowed for the TR zone and per condition #15. The site is undeveloped.

Due to less traffic expected to be generated by the proposed use change, the applicant requests waiver of the requirement to provide a right turn lane that is part of the **condition #7A** requirement to provide off-site improvements to Orange Grove Road as determined necessary by the Department of Transportation. The applicant notes that the actual improvement needs will be determined during the Site Construction Permit process when a Traffic Memorandum and possibly a Traffic Impact Study may be submitted for review.

With the development of casitas along the entire east boundary of the adjacent parcel to the west with no commensurate internal cross access provision to the subject property, the applicant requests waiver of **condition #7C** which requires provision for internal cross access to the property to the west.

Analysis

Staff supports the requested change in proposed use of the site from offices to an assisted living center. Staff recommends modification of **condition #11** to require adherence to the revised preliminary development plan for an assisted living center. While the site remains suitable for offices as a transitional use along the Orange Grove Road major thoroughfare, an assisted living center is also a suitable transitional use at this location. The center will provide care for residents; and demographic trends of an aging population and greater longevity are increasing demand for resident care services.

The proposed assisted center will benefit from location near Northwest Hospital and other medical offices located along La Cholla Boulevard within a quarter-mile of the site. At least three other assisted living centers have located near Northwest Hospital along La Cholla Boulevard including two within a quarter-mile of the subject property. Another is located within three-fourths-mile and another assisted living center south of it is planned under rezoning case Co9-10-03. The general area, however, is predominately residential. Locations of assisted living centers in the area provide opportunity for assisted living residents to live near extended family members as well as health care services.

The subject property is an infill site that is not located within the Maeveen Marie Behan Conservation Lands System. It has some previous disturbance, but is mostly vegetated. The approximately four-acre portion that contains most of the 100-year floodplain of the Pegler Wash is restricted to SR-zoned open space. This area buffers the TR development portion of the site from two-story apartments across San Joaquin Road to the east. The property adjacent to the west is densely developed with one-story rental casitas. A comparison of the existing approved preliminary development plan for offices to the proposed plan for the assisted living center shows a larger building mass closer to the casitas development with the assisted living center. The casitas did not exist at the time of the original rezoning. The offices were to be one- and two-story buildings and the assisted living center is proposed for two stories. However, as proposed, the assisted living center will meet the Two-Story Residential Buffer Setback requirement of sixty feet as measured from the assisted living center to the single-story residential development's property line. This area includes a proposed 20-foot-wide landscape bufferyard. Most of the residential area to the south of the site is buffered by Pegler Wash, with exception of a couple of casitas at the southwest corner. The low-density residential area to the north is separated by Orange Grove Road.

The assisted living center proposes 107 units with 123 beds and 30 employees. The office development proposed general and/or medical and dentist offices. The number of potential employees of the office complex was not stated.

Traffic generated will come mainly from resident visitation, staff, and service deliveries that will include trucks and could be less than that estimated for the office use [337 average daily trips (ADT) compared to 330 for general office use or up to 1,080 ADT for medical office use as per the original staff report information]. Despite staff support for modification of **condition #7A** to waive the absolute requirement for construction of a right turn lane on Orange Grove Road, the lane may still be required for traffic safety. This would be determined with additional information provided and analyzed at the time of development plan review; and condition #7A as modified would not preclude this. The Transportation comments below provide additional detail.

The **condition 7C** requirement to provide internal access to the property to the west is not currently possible with development of residential casitas that has occurred since the rezoning was originally approved. There is no commensurate internal access connection to the subject property within the casitas development. Therefore, staff recommends waiver of the condition. The commensurate connection may have been a missed opportunity when the rezoning (Co9-10-02) for the casitas development was approved in 2011. However, detrimental "cut-through" traffic within the residential development may have been avoided with the omission. With the nature of the change of use to an assisted living center, the need for internal vehicular connection is also diminished. A wall separating the properties would appear to preclude any bicycle or pedestrian passage. The proposed assisted living center will have a fire sprinkler system which is required with the singular access point from Orange Grove Road.

Transportation review notes a Secondary Concurrency Concern with major roads in the vicinity operating near capacity. Flood Control review finds requirements for concurrency are met. Wastewater Reclamation review notes that sewer capacity exists.

The TR zoning of the area proposed for development conforms to the Medium Intensity Urban comprehensive plan designation of the site. The SR portion technically does not conform, but is restricted to open space.

TRANSPORTATION REPORT

There is a Secondary Concurrency Concern since major roads within two miles of the proposed development are operating near capacity. The rezoning is located within an infill area near Northwest Hospital and many other residential, commercial and office/transitional developments. Most surrounding or adjacent parcels have been rezoned or developed, with only a few residual low density residential sites remaining. The site is located 1,300 feet west of the intersection of Orange Grove Road and La Cholla Boulevard and is on the south side of Orange Grove Road. San Joaquin Avenue is located along the east property boundary; however, Pegler Wash runs diagonally from the northeast corner of the rezoning site to the southwest corner, eliminating access from the site to San Joaquin Avenue.

Orange Grove has been widened to a five-lane, urban principal arterial. The current traffic count is 23,283 ADT, and the capacity is 37,600 ADT. La Cholla is a six-lane urban principal arterial. The current traffic count is 24,952 ADT, and the capacity is 53,910 ADT. La Canada is a four-lane, divided, urban minor arterial. The current traffic count is 14,631 ADT, and the capacity is 35,820 ADT. Ina Road is a four-lane, divided, urban principal arterial. The current traffic count is 35,416 ADT, and the capacity is 35,800 ADT. River Road is a four-lane, divided, urban principal arterial. The current traffic count is 35,703 ADT, and the capacity is 35,800 ADT. With the exception of a portion of Ina Road and a portion of River Road, these major roads are county maintained within a two mile buffer of the site.

A Traffic Memorandum was submitted with this request. The proposed development would generate about 337 ADT based the Assisted Living land use (ITE Land Use 254). The number of peak hour right turns does not meet the current warrants for a right turn lane. Due to safety concerns on Orange Grove Road, the Pima County DOT Traffic Engineering Division conducted a Safety Operations Analysis Review (SOAR) for the proposed development (memo attached). Traditionally, turn lane warrants were determined strictly by trip generation. Pima County DOT is moving to a more holistic view on turn lanes, specifically factoring in safety considerations.

The SOAR analyzes the existing crash rate under current conditions and compares it to the predicted crash rate after the development is completed. Under the SOAR, a 20% or greater increase in crashes indicates that safety mitigation should be considered. For this proposal, the predicted crash rate increased by 78%. Installation of a right-turn lane is projected to reduce crashes by 25%. Both roadway segments of Orange Grove (La Cholla to La Canada; Shannon to La Cholla) have experienced relatively high crash frequency rates (42 crashes per mile and 31 crashes per mile respectively) according to the 2014 crash statistics. Most recently, a fatal bike crash happened in the vicinity of this site (9/29/2015). Therefore, the Department of Transportation highly recommends factoring safety into the need for a right turn lane.

Understanding the need for further negotiation on this issue, while respecting the request of the property owner to move forward, DOT is amenable to modifying condition 7A as follows:

"The property owner(s)/developer(s) shall provide off-site improvements to Orange Grove Road as determined necessary by the Department of Transportation. ~~These improvements shall include, but may not be limited to, construction of a right turn lane.~~"

This will allow further discussion on the turn lane, as well as any other off-site improvements, to take place upon submittal of the development plan for this site. The developer will need to meet the requirements of the Traffic Engineering Division at that time.

The Department of Transportation has no objection to deleting condition 7C as requested. Because the property to the west was developed without provisions for internal circulation, cross access to the west is not feasible.

Staff has no objections to the following changes to the rezoning conditions:

7.A. The property owner(s)/developer(s) shall provide off-site improvements to Orange Grove Road as determined necessary by the Department of Transportation. ~~These improvements shall include, but may not be limited to, construction of a right turn lane~~

7.B. Remain

7.C. Delete

FLOOD CONTROL REPORT

Regional Flood Control District staff has reviewed the request and finds that it meets flood control concurrency requirements. The District has no objection and has the following comments:

1. FEMA SFHA Zone A floodplain associated with the Peglar Wash, a regulatory watercourse, impacts the entire eastern half of the site which is being set-aside as open space. There is also Pima County Regulated Riparian area associated with this wash. Only minor habitat encroachments are proposed.

2. The old PDP maintained a strip for detention and landscaping whereas the revised PDP has a larger footprint and therefore as noted on it, may need underground drains and detention. It is unclear if the flows to be conveyed within these drains are regulatory. Please note that underground drains are prohibited for regulatory flows. At the time of development, alternative designs may be needed including addition of first flush retention as required by Resolution 2015-43, Rezoning Condition 8F.

WASTEWATER 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 7A (transportation), 7C (access), and #11 (adherence to PDP) and offers the following comments for your use. Approval of this request would allow construction of an assisted living facility as opposed to the originally planned office complex on the property.

Type I Capacity Letter (2015-151, dated July 23, 2015) indicates capacity for this development is currently available in the public sewer G-2012-012, downstream from manhole 3018-01.

The PCRWRD has no objection to the above referenced request for modification of rezoning conditions. The existing wastewater conditions in rezoning case Co9-03-32 adopted June 16, 2015 by the Board of Supervisors do not require any revision.

FIRE DISTRICT REPORT

Northwest Fire/Rescue District indicates in the attached comments having no objection to waiver of the internal access requirement to the west provided that Section D104.2 of the 2012 International Fire Code is met. (These code sections require a sprinkler system based on the proposed building size and single point of vehicular access.)

NATURAL RESOURCES, PARKS AND RECREATION REPORT

Natural Resources, Parks and Recreation staff has no objection to this request.

WATER DISTRICT REPORT

The Metropolitan Water District did not respond to a request for comments.

PUBLIC COMMENT

As of the writing of this report, no written public comments have been received.

CP/DP/ar
Attachments

- c: Lee Tony & Bella Family TR ¾ & Lee Gregory & Julia Family TR ¼, c/o Jason Wong
3441 E. Speedway, Tucson, AZ 85716-3937
Presidio Engineering, Inc., Attn: John Wood, P.E., President
190 S. Stratford Dr., Ste. 105, Tucson, AZ 85716
Chris Poirier, Assistant Planning Director
Co9-03-32 File

BOS Minutes 11-17-15



16.

Hearing - Modification of Rezoning Conditions

Co9-03-32, LEE, ET AL. - ORANGE GROVE ROAD REZONING

Request of Lee Family Trust 3/4, et al., represented by Presidio Engineering, Inc., for a modification of the following rezoning conditions:

- No. 7A which requires provision of improvements to Orange Grove Road as determined by the Department of Transportation to include construction of a right turn lane. The applicant requests to modify the condition to waive the requirement to construct a right turn lane.
- No. 7C which requires provision for internal access to the west of the subject property. The applicant requests to waive this requirement.
- No. 11 which requires adherence to the preliminary development plan as approved at public hearing. The applicant requests to modify the plan which depicts one- and two-story office buildings totaling a maximum of 30,000 square feet to allow a plan for a two-story assisted living center building totaling 94,626 square feet.

The subject site is 8.90 acres zoned TR © and SR © located on the southwest corner of Orange Grove Road and San Joaquin Avenue. Staff recommends APPROVAL of the modifications to Condition Nos. 7A and 11, and a waiver of Condition No. 7C in accordance with the applicant's request. (District 1)

Arlan Colton, Planning Director, provided the staff report and stated the request was to modify zoning restrictions, which were an allowed change of use. The request was to modify three rezoning conditions: No. 7A had been worked out with the Transportation Department, and that the terms of modifying the condition to waive the requirement to construct a right turn lane would be followed by decisions from the Department of Transportation with the applicant to decide if it was necessary or not; No. 7C should be waived as there would be no way to connect to the property from the west because it had been cut off. No. 11 was allowed and would be less intense in terms of parking and traffic than the originally approved use.

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Miller, seconded by Supervisor Elias and unanimously carried by a 5-0 vote, to close the public hearing and approve the modification of rezoning conditions for Co9-03-32.

TRANSPORTATION

17. Hearing - Traffic Resolution

RESOLUTION NO. 2015 - 87, of the Board of Supervisors, permitting the temporary closure of portions of Bowman Road from Pelham Road to Golder Ranch Road and Golder Ranch Road from Twin Lakes Drive to Coronado Forest Drive in Pima County, Arizona, for the Tucson Marathon on Sunday, December 6, 2015. Staff recommends APPROVAL. (District 1)

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Miller, seconded by Supervisor Carroll and unanimously

RESOLUTION 2016-_____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-03-32 LEE, ET AL. – ORANGE GROVE ROAD REZONING; LOCATED ON THE SOUTHWEST CORNER OF ORANGE GROVE ROAD AND SAN JOAQUIN AVENUE, AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE NO. 2004-67 AS AMENDED BY RESOLUTION 2009-129 AND BY RESOLUTION 2015-43.

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

1. On October 3, 2003, the owner(s) of approximately 9.55 acres applied for a rezoning from SR (Suburban Ranch) to TR (Transitional) for approximately 5.11 acres and to SR® (Suburban Ranch) (Restricted) for approximately 4.44 acres;
2. On April 13, 2004, in rezoning case Co9-03-32, the Pima County Board of Supervisors approved the rezoning of approximately 9.55 acres located on the southwest corner of Orange Grove Road and San Joaquin Avenue, as shown on Exhibit A from SR (Suburban Ranch) to TR (Transitional) for approximately 5.11 acres and to SR® (Suburban Ranch) (Restricted) for approximately 4.44 acres, subject to standard and special conditions;
3. On August 16, 2004, the Pima County Board of Supervisors adopted rezoning Ordinance 2004-67, recorded in Docket 12369 at Page 2801, rezoning the approximate 9.55 acres described in rezoning case Co9-03-32 (as shown on the map attached hereto as EXHIBIT A) and memorializing the standard and special conditions;
4. On August 22, 2008, the owner(s) of the rezoning site applied for a modification (substantial change) of rezoning condition number 16 and a five-year time extension;
5. On March 10, 2009, the Board of Supervisors approved a modification (substantial change) of rezoning condition number 16 and a five-year time extension subject to modification of rezoning conditions numbered 6, 7(A), 7(C), and 11, deletion of condition number 15 with renumbering of condition number 16 to 15, and additional rezoning condition number 14(B) with renumbering condition number 14 to 14(A);
6. On June 16, 2009, the Board of Supervisors adopted Resolution 2009-129, recorded in Docket 13588 at Page 4395, to memorialize the amendments to Ordinance No. 2000-67;
7. On January 8, 2014, the owner(s) of the rezoning site applied for a five-year extension for an 8.90 acre rezoning (approximately 9.55 original acres minus approximately .65 acres of dedicated right-of-way) of the time limit set forth in Section 3 of Ordinance No. 2004-67, as amended by Resolution No. 2009-129;
8. On April 15, 2014, the Pima County Board of Supervisors denied closure of the rezoning and approved a five-year time extension subject to modification of rezoning condition number 14(B), deletion of conditions numbered 7(B) and 9 with

- renumbering of conditions numbered 7(C) to 7(B) and 7(D) to 7(C), and additional rezoning conditions numbered 8(D), 8(E), 8(F), 9(A), 9(B), 9(C), 9(D), 9(E), 9(F), 16, and 17;
9. On June 16, 2015, the Board of Supervisors adopted Resolution 2015-43, recorded in Sequence 20151730849, to memorialize the amendments to Ordinance No. 2000-67, as amended by Resolution 2009-129;
 10. On August 20, 2015, the owner(s) of the rezoning site applied for a modification of rezoning conditions numbered 7(A), 7(C), and 11;
 11. On November 17, 2015, the Board of Supervisors approved a modification of rezoning conditions numbered 7(A) and 11 and deletion of rezoning condition number 7(C); and
 12. Section 3 of Ordinance No. 2004-67 and the Pima County Code allow the Board of Supervisors to amend the rezoning conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance 2004-67, as amended by Resolution 2009-129 and Resolution 2015-43, are restated and modified as follows:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. 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.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation conditions:
 - A. The property owner(s)/developer(s) shall provide off-site improvements to Orange Grove Road as determined necessary by the Department of Transportation. ~~These improvements shall include, but may not be limited to, construction of a right turn lane.~~
 - B. One access point shall be allowed on Orange Grove Road. No access shall be allowed via San Joaquin Avenue.
 - C. ~~Internal access shall be provided to the west of the property as shown on the Preliminary Development Plan.~~
8. Flood Control conditions:
 - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.

- B. The property owner(s) shall provide necessary on-site and off-site drainage improvements as required by the Flood Control District.
 - C. The property owner(s) shall comply with detention/retention conditions and restrictions as stated in the Floodplain Management Ordinance since the property lies within a critical basin.
 - D. Post-development floodplains and flood control improvements shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for drainage and maintenance purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - E. Pima County Regulated Riparian Habitat, including mitigation areas shall be identified on the Plat or Development Plan as separate open space parcels and/or where they are contained within development parcels dedicated as right-of-way or easements for preservation, mitigation and monitoring purposes to the Pima County Regional Flood Control District and/or the Homeowners Association.
 - F. At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and external water conservations measures and a site plan showing the location of external measures. First flush retention shall be provided.
9. Regional Wastewater Reclamation Department condition:
- A. The owner/developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
 - B. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
 - C. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
 - E. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the

time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.

- F. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
10. Natural Resources condition:
The property owner(s) shall provide a non-motorized public recreational trail easement over the entirety of the Pegler Wash corridor.
11. Adherence to the preliminary development plan as approved at public hearing on ~~April 13, 2004~~ November 17, 2015 (EXHIBIT B).
12. A minimum of 95% of the Pegler Wash riparian area shall be preserved as natural open space as defined in the zoning code. The limits of the Pegler Wash riparian area shall be delineated using the Harris Riparian Maps generated for the Sonoran Desert Conservation Plan and shall be shown on all development plans, grading plans, and native plant preservation plans.
13. Detention/retention basins shall be revegetated with plant species native to the site. The plan for the revegetation of the basins shall be shown on the landscape plan(s) required to be submitted for review and approval by the Development Services Department.
14. Environmental Planning conditions:
A. Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.
15. Building heights shall be limited to a maximum of 34 feet. Building colors shall be earth tone and shall not exceed a light reflectivity of 60%.
16. A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS § 41-865 and ARS § 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains

will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.

17. The property owner(s)/developer(s) 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)."

Passed and adopted, this _____ day of _____, 2016.

Chair, Pima County Board of Supervisors

ATTEST:

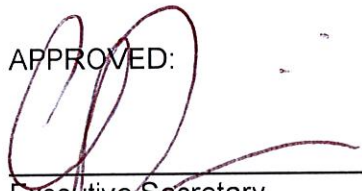
Clerk of the Board

APPROVED AS TO FORM:

 1/12/16

Deputy County Attorney
Lesley M. Lukach

APPROVED:

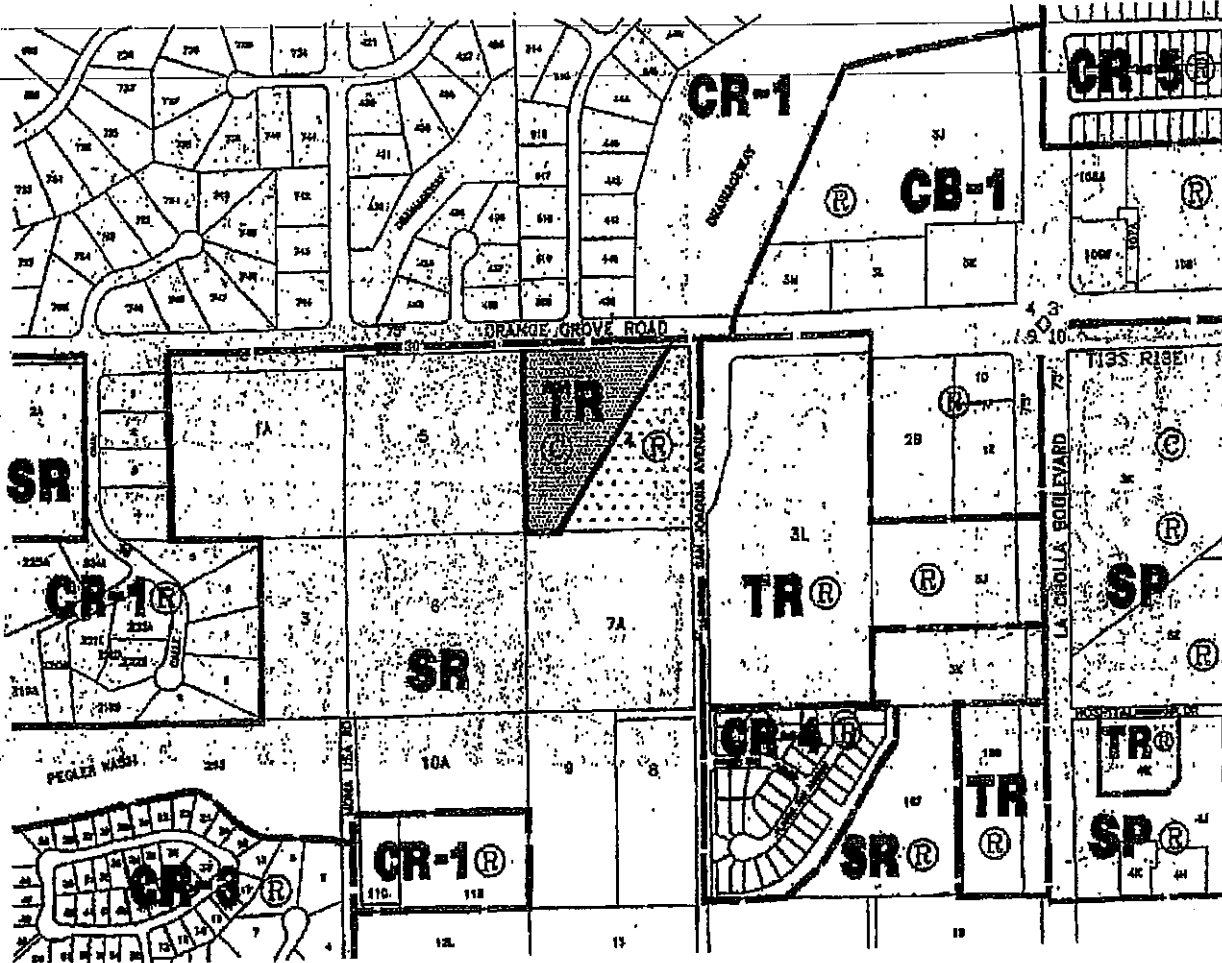


Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 88 BY ORDINANCE NO. 2004-67
 TO PIMA COUNTY ZONING MAP NO. 76 TUCSON, AZ.
 PARCEL 4 BEING A PART OF THE NW 1/4 OF THE NE 1/4 OF
 SEC 9, T13S R13E.

ADOPTED 8-16-04 EFFECTIVE 8-16-04

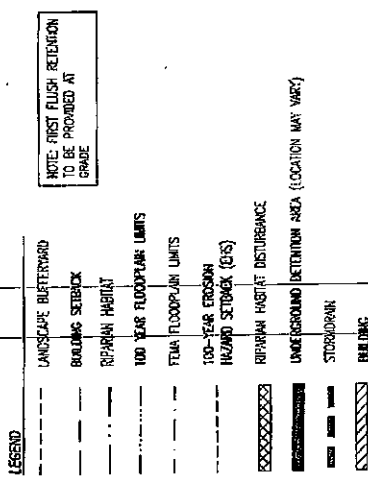


EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
 FROM SR 9.55 ac± (TR, 5.11ac - SR(R), 4.44ac)
 ds-JULY 2, 2004

CD9-03-32
 CD7-00-20
 101-09-0040

EXHIBIT B



SITE AREA:
 TR 8.33 AC
 SR(R) 4.48 AC
 3.85 AC

TOTAL BUILDING AREA:
 94,526 S.F.

BUILDING HEIGHT:
 TWO STORY
 (MAXIMUM 34')

PARKING REQUIRED:
 46 SPACES

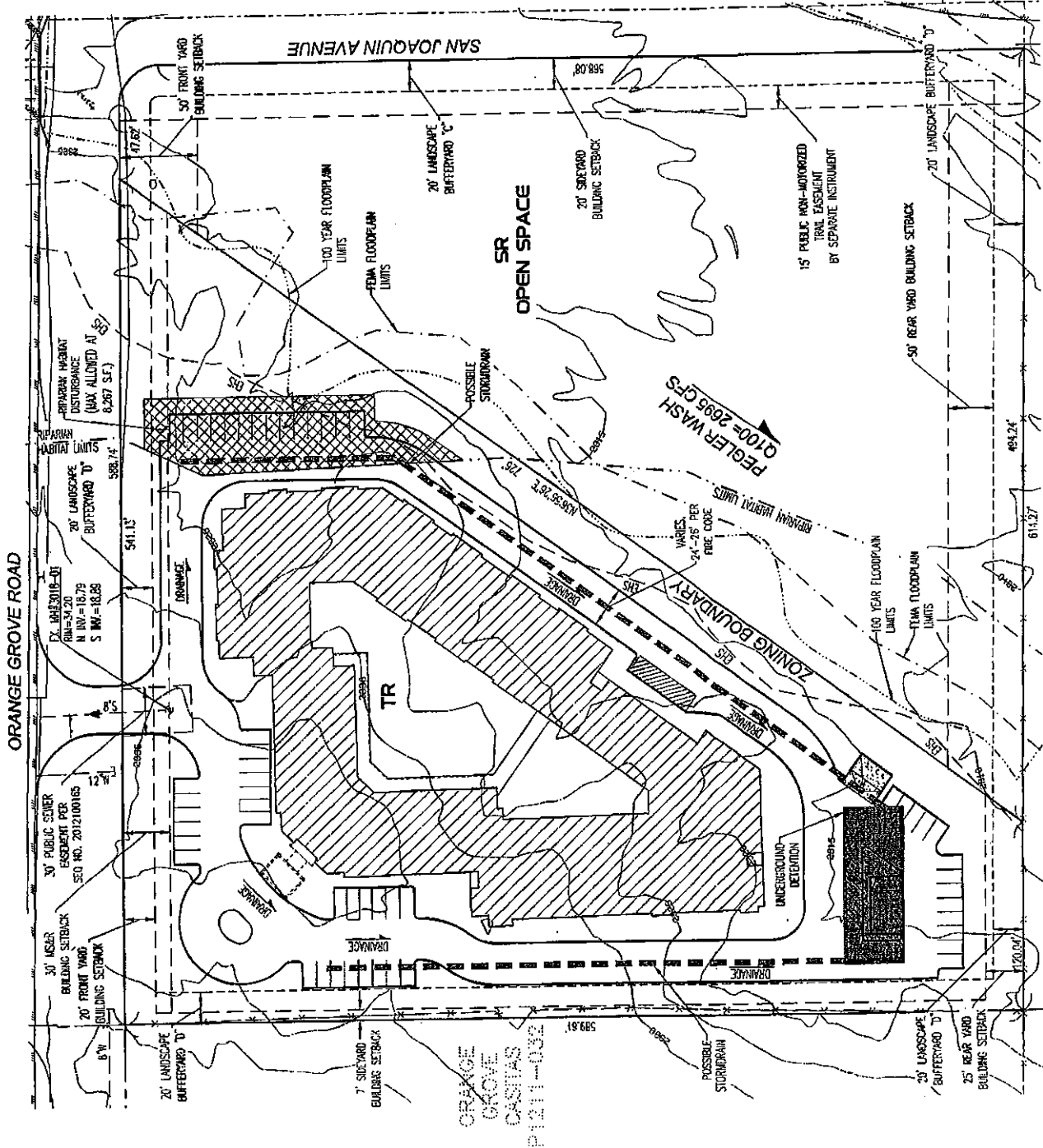
PARKING TO BE PROVIDED:
 49 SPACES

REVISED PRELIMINARY DEVELOPMENT PLAN



C09-03-32

OCTOBER 1, 2015



SWC ORANGE GROVE/SAN JOAQUIN
Preliminary Development Plan (2015)