



# MEMORANDUM

PUBLIC WORKS DEVELOPMENT SERVICES DEPARTMENT  
PLANNING DIVISION

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

**FROM:** Arlan M. Colton, Planning Director 

**DATE:** May 22, 2013

**SUBJECT:** Co9-07-29 VANDERKOLK TR – MONTEBELLA ROAD REZONING

The above referenced Rezoning Time Extension within your district is scheduled for the Board of Supervisors' **JUNE 4, 2013** hearing.

**REQUEST:** A five-year time extension of a rezoning from SR (Suburban Ranch) to TR (Transitional) zone (4.89 acres).

**OWNER:** Vanderkolk Jack L & Josephine L TR  
1880 W Rudasill Rd  
Tucson, AZ 85704

**AGENT:** None

**DISTRICT:** 1

**STAFF CONTACT:** Terrill Tillman

**PUBLIC COMMENT TO DATE:** Staff has received one written letter of protest as of May 21, 2013.

**STAFF RECOMMENDATION:** APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH STANDARD AND SPECIAL CONDITIONS.

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

CP/TT/ar  
Attachments



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# Board of Supervisors Memorandum

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Subject: Co9-07-29

Page 1 of 8

**FOR JUNE 4, 2013 MEETING OF THE BOARD OF SUPERVISORS**

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Arlan M. Colton, Planning Director  
Development Services Department-Planning Division

DATE: May 22, 2013

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**ADVERTISED ITEM FOR PUBLIC HEARING**

**REZONING TIME EXTENSION**

**Co9-07-29 VANDERKOLK TR – MONTEBELLA ROAD REZONING**

Request of Jack & Josephine Vanderkolk TR, for a five-year **time extension** for the above-referenced rezoning of approximately 4.89 acres from SR (Suburban Ranch) to TR (Transitional). The subject site was rezoned in 2008 and the rezoning expired on May 06, 2013. The property is located on the south side of the Hospital Drive Alignment at the southern terminus of Montebella Road, and approximately 600 feet north of Rudasill Road. Staff recommends **APPROVAL OF A FIVE-YEAR TIME EXTENSION WITH MODIFIED STANDARD AND SPECIAL CONDITIONS.**  
(District 1)

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**STAFF RECOMMENDATION**

Staff recommends **APPROVAL** of a **five-year rezoning time extension** to May 6, 2018 for the original 4.89 acres from SR (Suburban Ranch) to TR (Transitional) with original standard and special conditions and the addition of condition #22 which relates to the removal of buffelgrass. The additional condition does not constitute a substantial change requiring a Planning and Zoning Commission hearing.

If the decision is made to approve the time extension, the following standard and special conditions should be considered:

1. Submittal of a subdivision plat or 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 owner(s)/developer(s) shall construct Montebella Road. Improvements may include the extension of Montebella Road to the west property line as determined necessary by the Department of Transportation and require Department of Transportation approval prior to the approval of the final plat/development plan.
  - B. The owner(s)/developer(s) shall provide improvements to the proposed intersection with Montebella Road to allow the intersection to meet Subdivision and Development Street Standards requirements.
8. Flood Control conditions:
  - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. The owner(s)/developer(s) shall submit to the Flood Control District a master drainage plan and drainage report for the entire site.
  - C. The owner(s)/developer(s) shall comply with detention/retention conditions and restrictions, or provide an in-lieu fee, as stated in the Floodplain Management Ordinance since the property lies within a balanced basin.
  - D. The owner(s)/developer(s) shall provide all necessary on-site and off-site drainage related improvements at no cost to Pima County that are needed as a result of the proposed development of the subject property. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.

- E. All-weather access shall be provided to all lots to meet concurrency requirements.
9. Wastewater Management Reclamation conditions:
- A. The owner(s)/developer(s) shall construe no 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(s)/developer(s) shall obtain written documentation from the Pima County Regional Wastewater Management Reclamation Department 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, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner(s)/developer(s) shall have 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 Pima County Regional Wastewater Management Reclamation Department.
  - C. The owner(s)/developer(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Wastewater Management Reclamation Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
  - D. The owner(s)/developer(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
  - E. The owner(s)/developer(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, as determined necessary at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
10. Environmental Quality conditions:
- A. The owner(s)/developer(s), including the existing residence, 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. On-site wastewater disposal shall not be allowed for any of the proposed development.

- B. The proposed “common driveway” to serve the existing residence and two (2) additional home sites shall be improved to meet the paving requirements of Pima County.
11. Natural Resources, Parks and Recreation condition:
- A. The preliminary development plan does not provide for the required recreation area, with the development proposing less than 65 lots the developer shall pay the full in-lieu fee for off-site residential recreation areas.
12. Cultural Resources conditions:
- A. Prior to any ground disturbance in the project area, the project proponent shall ensure that the following occurs:
    - 1) An Arizona State Museum (ASM) permitted archaeologist shall prepare a draft mitigation plan for site AZ BB:13:718(ASM). The draft plan shall be submitted to Pima County Cultural Resources Office (CRO) for review and comments. A final mitigation plan, addressing any comments on the draft, shall then be submitted by the CRO to the Arizona State Historic Preservation Office (SHPO) for concurrence.
    - 2) The owner(s)/developer(s) shall consult with the Arizona State Museum, per A.R.S. 41-865, regarding this site prior to archaeological excavations.
    - 3) No archaeological excavations shall take place until the SHPO concurs with the mitigation plan and all the necessary permits have been acquired.
    - 4) The mitigation plan shall be implemented by an ASM permitted archaeologist. A preliminary report regarding the archaeological excavations shall be submitted to CRO. CRO will submit the preliminary report to the SHPO seeking concurrence that the mitigation plan fieldwork has been successfully concluded. Ground disturbance may commence only with SHPO concurrence.
  - B. Following archaeological analysis, a draft final report shall be submitted to CRO for review. Any comments shall be addressed and a final report shall be prepared and submitted to CRO.
13. The existing access to the existing residence shall be eliminated and no other access, other than that shown from Montebella Road, shall be allowed. The existing driveway shall be revegetated at densities and with plants similar to those existing on the property.
14. Design conditions:
- A. A single subdivision plat and native plant plan shall be submitted for the entire site, including the existing residence. The set-aside method shall be used to satisfy Native Plant Preservation Ordinance requirements.

- B. A minimum of 30 percent of the site shall be preserved as natural open space.
  - C. Landscape bufferyards and dedicated natural open space shall be in areas designated as common areas and maintained by the homeowners' association.
  - D. The area of the highest concentration of saguaros, located east of the existing residence in the south-central portion of the property, shall be preserved.
15. The owner(s)/developer(s) shall execute and record a document acceptable to the Pima County Community Development and Neighborhood Conservation Department indicating that the owner/developer shall contribute to the affordable housing trust fund as adopted by the Pima County Board of Supervisors on December 13, 2005, before a certificate of compliance is issued.
  16. In the event the subject property is annexed, the owner(s)/developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
  17. The property owner(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)."
  18. Adherence to the sketch plan, including the natural open space shown, as approved at public hearing (EXHIBIT B).
  19. All new development shall be limited to one story and 24 feet in height.
  20. At least 50 percent of the multi-family units shall be ADA compliant and all electrical outlets and switches shall be located so as to be accessible to handicapped persons.
  21. A maximum of two new residences shall be permitted in the southern portion of the property.

22. Upon the effective date of the Resolution, 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.

### **STAFF REPORT:**

Staff supports the requested five-year time extension to May 6, 2018. The proposed TR (Transitional) zoned townhomes and residential development still meets all applicable concurrency of infrastructure criteria, lies outside of the Maeveen Marie Behan Conservation Lands System, and conforms to the Medium Intensity Urban (MIU) comprehensive plan designation of the site. The proposed use also remains compatible with surrounding land uses and is an infill opportunity adjacent to the Northwest Hospital and the high and low density residential uses. Additionally, staff recognizes the downturn in market conditions as a factor in the delay in completion of the rezoning conditions.

The rezoning was conditionally approved May 6, 2008 for 16 one-story townhomes and two one-story residential home sites in addition to the existing residential home. The 4.89-acre site is adjacent to the Northwest Medical Center and assisted living and medical office uses to the west. There is high density residential development to the north, lower density residential to the east, and behavioral health facilities to the southeast. The property to the south is vacant SR (Suburban Ranch) residential property. A wash runs through the very southeast corner of the site and will remain natural. The vegetative qualities are concentrated within the southern half of the site which contains several saguaros. Design guidelines were approved within the original rezoning which require a 30 percent set-aside native plant preservation plan and preservation of the highest concentration of saguaros east of the existing residence in the south-central portion of the property as natural open space. The use of the property is a good transition between the lower density residential uses to the east and the Northwest Hospital to the west.

If the Board of Supervisors deny the time extension, the rezoning case will be closed and the site will revert to unrestricted SR zoning. Closure of the rezoning would not preclude the possibility of a similar future rezoning. If the time extension is approved, a resolution will be forwarded to the Board of Supervisors for adoption to memorialize the new condition and rezoning time limit.

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

North:	TR, CR-2, SR	Office, Residential, Assisted Living
South:	SR, SP, CR-1	Vacant Residential, Medical Offices, Residential
East:	CR-1	Residential
West:	SR, SP, TR	Northwest Hospital, Medical Offices

Since the initial rezoning, land use changes in the vicinity of the site comprise of: 1) The construction of a 32,177 square foot memory care facility located near the northwest corner of Oracle Jaynes Station Road and La Cholla Boulevard by development plan P1211-033 approved in January of 2012; and 2) A rezoning (Co9-10-003) for the southeast corner of Fountain Avenue and La Cholla Boulevard from SR to TR zoning for medical offices and assisted living approved on October 4, 2011.

<b>CONCURRENCY CONSIDERATIONS</b>		
<i>Department</i>	<i>Concurrency Considerations Met: Yes / No/ N/A</i>	<i>Other Comments</i>
TRANSPORTATION	Yes	No objection
FLOOD CONTROL	Yes	No objection
WASTEWATER	Yes	No objection
PARKS & RECREATION	Yes	No objection
WATER	Yes	Within Metro Water's service area
SCHOOLS	N/A	No response
AIR QUALITY	Yes	No objection

#### **TRANSPORTATION REPORT:**

During the original rezoning, there were some minor transportation concerns due to Orange Grove Road functioning over capacity. The current and future improvements to Orange Grove Road help to alleviate this concern.

Staff has no objection to the requested five-year time extension subject to standard and special conditions remaining.

#### **REGIONAL FLOOD CONTROL DISTRICT (PCRFCDD) REPORT:**

The PCRFCDD has no objection to the request based upon the previously approved preliminary development plan demonstrating avoidance of the FEMA Special Flood Hazard Area Zone A and Pima County Regulated Riparian Habitat.

#### **REGIONAL WASTEWATER RECLAMATION DEPARTMENT (PCRWRD) REPORT:**

The PCRWRD has no objection to the request for a five-year rezoning time extension and considers the existing wastewater rezoning conditions to be sufficient.



**DEPARTMENT OF ENVIRONMENTAL QUALITY (PCDEQ) REPORT:**

The Department has no objection to the proposed rezoning time extension provided the property is served by public or private sewer.

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

**NATURAL RESOURCES, PARKS AND RECREATION (PCNRPR) REPORT:**

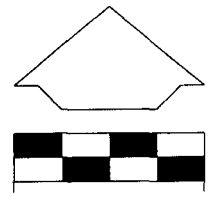
PCNRPR has no comment to the time extension request.

**PUBLIC COMMENTS**

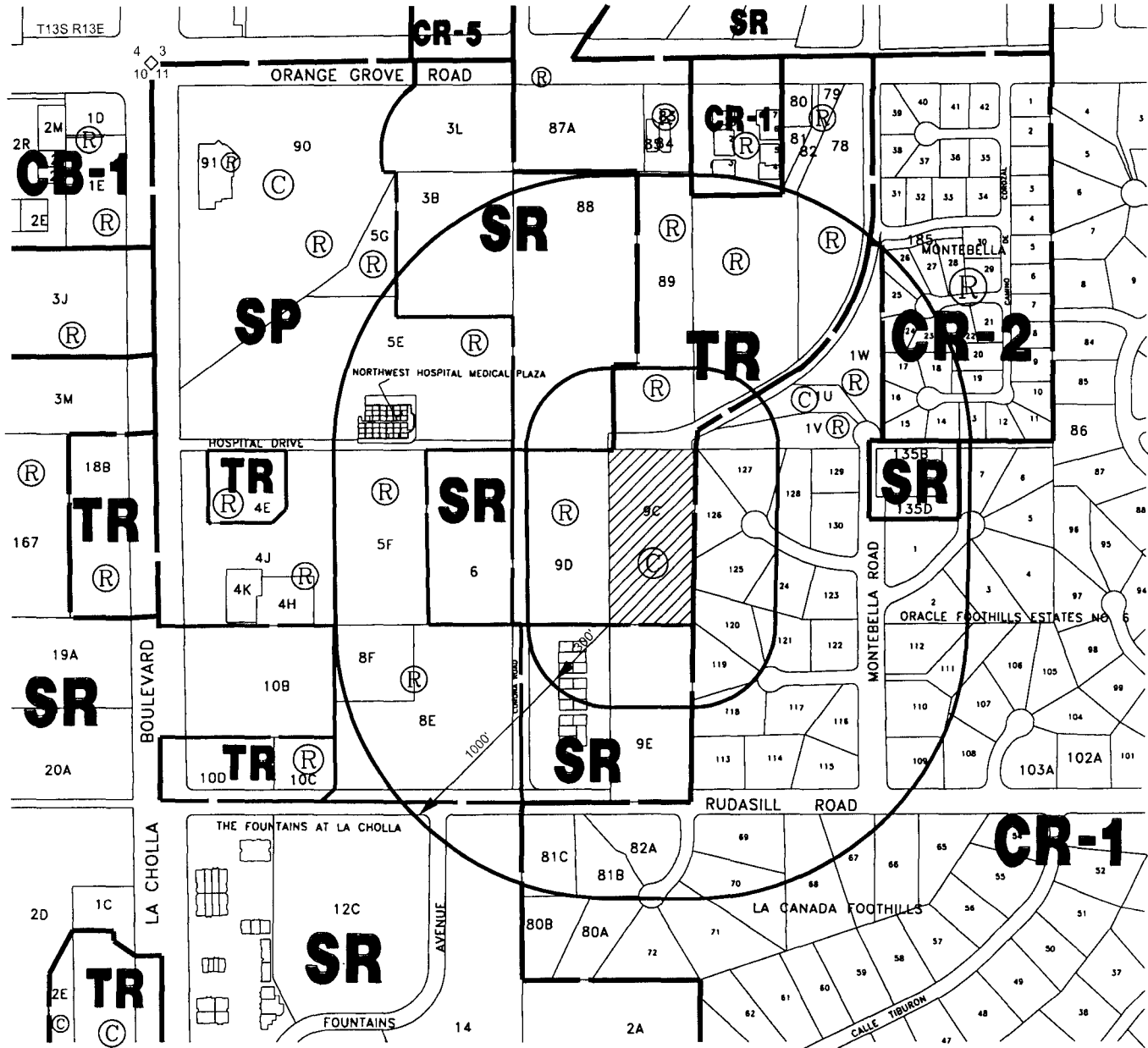
Staff has received one written letter of protest as of May 21, 2013.

CP/TT/ar  
Attachments

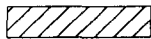
c: Vanderkolk Jack L & Josephine L TR, 1880 W Rudasill Rd, Tucson, AZ 85704  
Chris Poirier, Assistant Planning Director  
Co9-07-29 File



0 600'



Petition area



Notification area

BASE MAP 76

Notes REZONING TIME EXTENSION

Tax codes 102-12-009C

Date 05/07/13

File no. C09-07-29

Drafter DS

VANDERKOLK TR

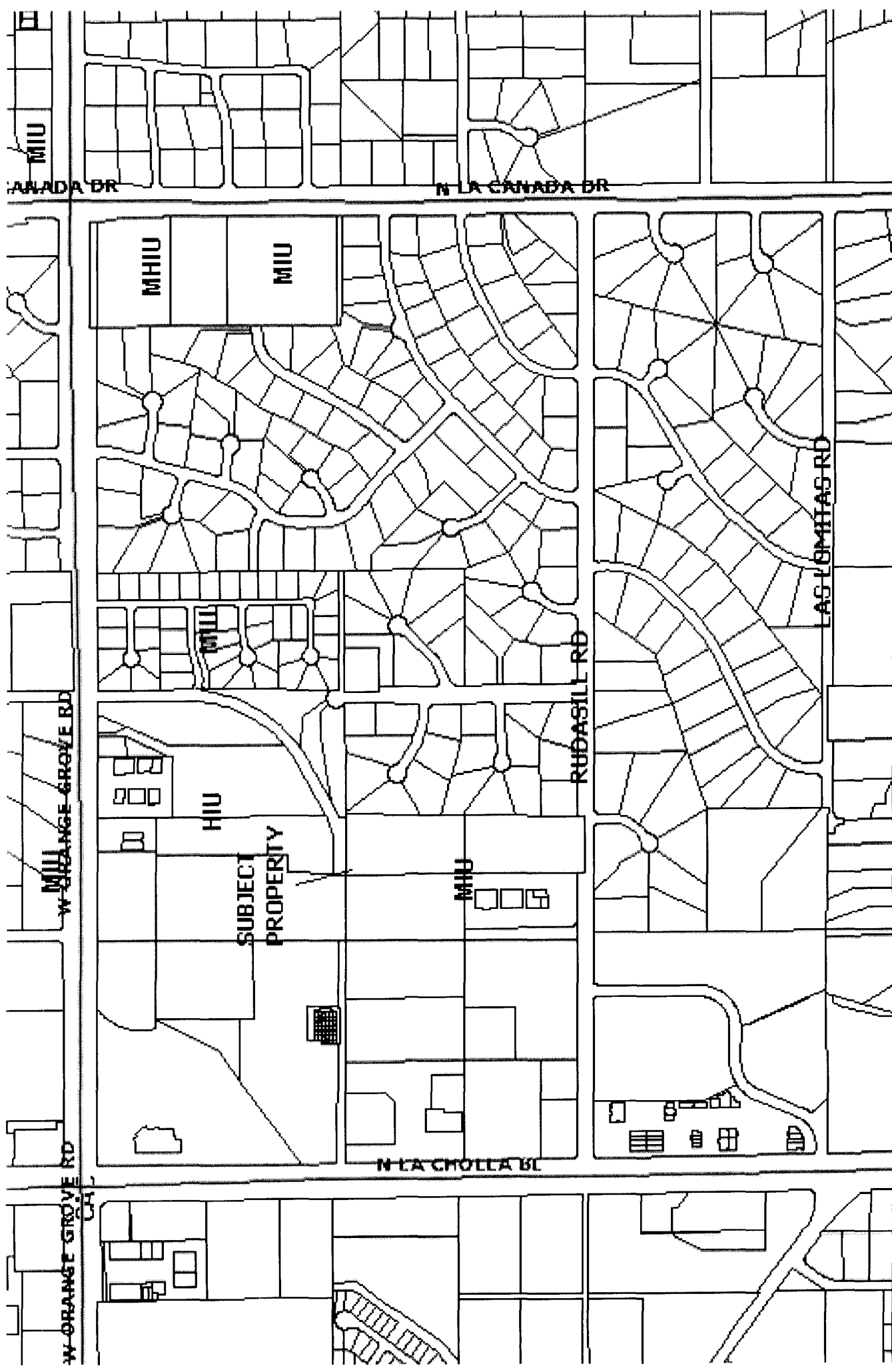
MONTEBELLA ROAD REZONING

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT  
PLANNING DIVISION

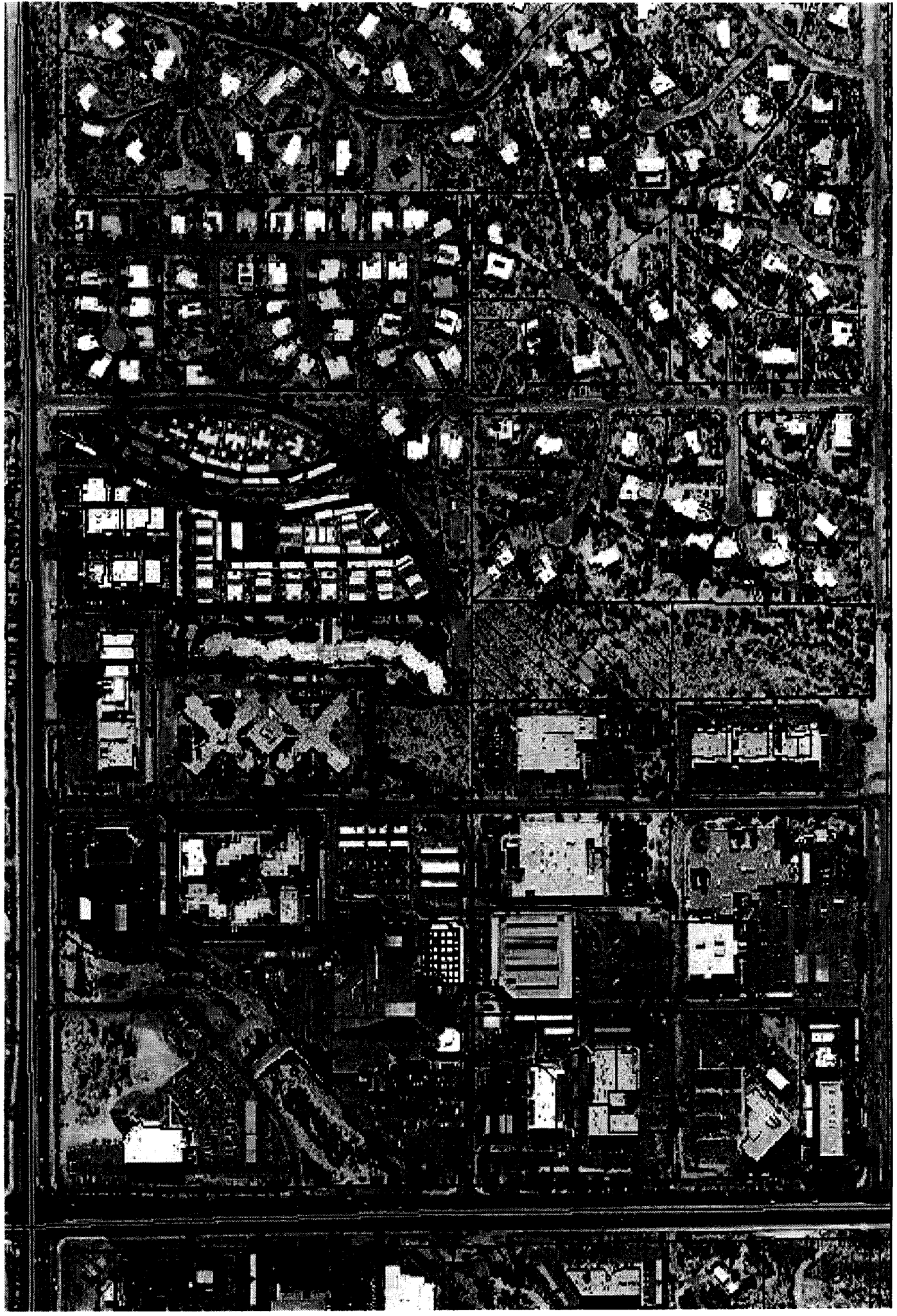
## **Medium Intensity Urban**

## **MIU (or D) on the Land Use Plan Maps**

- a. Purpose: To designate areas for a mix of medium density housing types and other compatible uses.
- b. Objective: These areas provide an opportunity for a variety of residential types, including cluster option developments, and single family attached dwellings. Special attention should be given in site design to assure that uses are compatible with adjacent lower density residential uses.
- c. Residential Gross Density: Only land area zoned and planned for residential use, or natural or cluster open space areas, shall be included in gross density calculations. Natural and cluster open space shall be defined as set forth in Section 18.09.040B, except that cluster open space shall not include land developed under the GC Golf Course Zone. Residential gross density shall conform with the following:
  - 1) Minimum - (none)
  - 2) Maximum - 10 RAC
- d. Residential Gross Densities for Developments Using Transfer of Development Rights (TDR's): Projects within designated Receiving Areas utilizing TDR's for development (refer to Chapter 18.92 of the Zoning Code) shall conform to the following density requirements, however the Board of Supervisors, on appeal at public hearing, may modify the required minimum density if environmental site constraints preclude the ability to achieve the minimum density.
  - 1) Minimum – 3 RAC
  - 2) Maximum – 5 RAC
- e. Zoning Districts: Only the following zoning districts shall be deemed in conformance with the land use plan, except as provided for under the Major Resort Community designation, Section 18.89.030C plan policies, or Section 18.90.030E specific plans:
  - 1) GC Golf Course Zone
  - 2) CR-1 Single Residence Zone
  - 3) CR-2 Single Residence Zone
  - 4) CR-3 Single Residence Zone
  - 5) SH Suburban Homestead Zone
  - 6) CR-4 Mixed-Dwelling Type Zone
  - 7) CR-5 Multiple Residence Zone
  - 8) CMH-1 County Manufactured And Mobile Home-1 Zone
  - 9) CMH-2 County Manufactured And Mobile Home-2 Zone
  - 10) MR Major Resort Zone
  - 11) TR Transitional Zone



PIMA COUNTY COMPREHENSIVE PLAN  
NORTHWEST SUBREGION  
MEDIUM INTENSITY URBAN (MIU)



Co9-07-026 VANDERKOLK TR - MONTEBELLA ROAD REZONING  
TIME EXTENSION

**Jack & Josephine Vanderkolk**

**1880 W. Rudasill Rd.**

**Tucson AZ 85704**

520 742-7732

**3/25/2013**

Pima County Development Services  
201 N Stone Avenue, 2<sup>nd</sup> Floor  
Tucson AZ 85701

Tax Code 102-12-009C

Re:Co9-07-29 Vanderkolk TR-Montebella Road Rezoning

Mr. Chris Poirier

Dear Sir:

We request a time extension for our above mentioned rezoning permit. Included we submit our payment for extension in the amount of \$2,537.25

Ownership of the involved property has not changed as evidenced by a copy of Residential Notice of Value recently received from the county assessor. Owners are Jack L and Josephine L Vanderkolk, trustees for The Vanderkolk Family trust. Jack Vanderkolk is the president of the trust. The trust address is 1880 W Rudasill Rd. Tucson, AZ 85704. We have no agent in behalf of the corporation in this matter.

No physical work has been to the property, however we are anticipating continuing the project in the near future.

Three copies of the biological impact are enclosed. If there is anything further required please advise.

Sincerely,

The Vanderkolk Family Trust,

*Jack L. Vanderkolk*  
Jack L. Vanderkolk, Trustee,

*Josephine L. Vanderkolk*  
Josephine L. Vanderkolk, Trustee

*Josephine L. Vanderkolk*

April 5, 2013

Mr. Mark Fink  
Pima County Planning Division  
201 N. Stone Avenue, 2<sup>nd</sup> Floor  
Tucson, AZ 85701-1207

Subject: Co9-07-29 Vanderkolk TR – Montebella Road Rezoning  
Biological Impact Report – 1880 West Rudasill Road

Dear Mr. Fink,

I have reviewed original Biological Impact Report for this rezoning case, and have made a field visit to the subject property. My observations include the following:

1. No appreciable disturbances of vegetation, drainage or landforms were noted within the subject property.
2. Site conditions/vegetation has not been noticeably altered or changed since the preparation of the Biological Impact Report prepared in November 2007.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim McCann', with a horizontal line above it.

Tim McCann, AICP

## **Biological Impact Report**

### **Landscape Resources**

1. The southeast corner of the proposed project site lies within a tributary of Casas Adobes Wash. This wash is part of the Conservation Land System (CLS) Category, and its associated 100-year peak discharge is between 1,000-2,000sfs according to Pima County Regional Flood Control District mapping. The floodplain is considered an Important Riparian Area as Xeroriparian "C". Accordingly the associated conservation level for this wash is 95% as identified in the Comprehensive Plan.
2. The land use Sketch Plan proposes to avoid the floodplain/riparian area, thus achieving a 100% conservation level. The recommended setback of 50-feet will be maintained.
3. The proposed project site is situated within the watershed of Casas Adobes Wash. A tributary of that wash is located to the east of the proposed project site with portions of the floodplain and vegetation present at the southeast corner of the site. The Special Element designation in this portion of the site is Xeroriparian "C", and is approximately 1,200 square feet in area.
4. The proposed project site is located approximately 1.25 miles north of the Rillito River and 3.0 miles east of the Santa Cruz River, which are components of Critical Landscape Linkage No. 1 – Across the Interstate 10/Santa Cruz River corridors in the northwest.

### **Federally Listed Threatened/Endangered Species**

#### **Cactus Ferruginous Pygmy-Owl**

1. The proposed project site does not occur within Survey Zone 1 for the Cactus Ferruginous Pygmy-Owl.
2. The proposed project does not occur in an area identified as Proposed Critical Habitat (11/27/02) or Draft Recovery Area for the Cactus Ferruginous Pygmy-Owl.
3. The proposed project has not been surveyed for Pygmy-Owls
  - a. N/A
  - b. Depending upon USFW comment a survey may be conducted in the future.
4. Not Applicable

#### **Pima Pineapple Cactus**

1. The proposed project site does not occur within the Modeled Potential Habitat for the Pima Pineapple Cactus.
2. Pima Pineapple Cactus has not been found on the proposed project site.
3. The proposed project site has not been surveyed for Pima Pineapple Cactus.
  - a. No further surveys are planned for the future.



P0230

PIMA CO CLERK OF THE BOARD

PICKUP



DOCKET: 13565  
GE: 2602  
NO. OF PAGES: 8  
SEQUENCE: 20091000516  
05/26/2009  
ORDIN 16:39  
PICKUP  
AMOUNT PAID \$ 0.00

ORDINANCE 2009- 50

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING PROPERTY (PARCEL CODE 102-12-009C) OF 4.89 ACRES FROM SR (SUBURBAN RANCH) TO TR (TRANSITIONAL) IN **CASE Co9-07-29 VANDERKOLK TR – MONTEBELLA ROAD REZONING**; LOCATED ON THE SOUTH SIDE OF THE HOSPITAL DRIVE ALIGNMENT AT THE SOUTHERN TERMINUS OF MONTEBELLA ROAD, APPROXIMATELY 600 FEET NORTH OF RUDASILL ROAD; AMENDING PIMA COUNTY ZONING MAP NO. 76.

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

**Section 1.** The 4.89 acres, located on the south side of the Hospital Drive alignment at the southern terminus of Montebella Road, approximately 600 feet north of Rudasill Road, illustrated by the shaded area on the attached rezoning ordinance map (EXHIBIT A), which amends Pima County Zoning Map No. 76 is hereby rezoned from SR (Suburban Ranch) to TR (Transitional).

**Section 2. Rezoning Conditions.**

1. Submittal of a subdivision plat or 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 owner(s)/developer(s) shall construct Montebella Road. Improvements may include the extension of Montebella Road to the west property line as determined necessary by the Department of Transportation and require Department of Transportation approval prior to the approval of the final plat/development plan.
  - B. The owner(s)/developer(s) shall provide improvements to the proposed intersection with Montebella Road to allow the intersection to meet Subdivision and Development Street Standards requirements.
8. Flood Control conditions:
  - A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. The owner(s)/developer(s) shall submit to the Flood Control District a master drainage plan and drainage report for the entire site.
  - C. The owner(s)/developer(s) shall comply with detention/retention conditions and restrictions, or provide an in-lieu fee, as stated in the Floodplain Management Ordinance since the property lies within a balanced basin.
  - D. The owner(s)/developer(s) shall provide all necessary on-site and off-site drainage related improvements at no cost to Pima County that are needed as a result of the proposed development of the subject property. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.
  - E. All-weather access shall be provided to all lots to meet concurrency requirements.
9. Wastewater Management conditions:
  - A. The owner(s)/developer(s) shall construe no 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(s)/developer(s) shall obtain written documentation from the Pima County Wastewater Management Department 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, sewer improvement plan or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s)/developer(s) shall have 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 Pima County Wastewater Management Department.

- C. The owner(s)/developer(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Wastewater Management Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
  - D. The owner(s)/developer(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
  - E. The owner(s)/developer(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, as determined necessary at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
10. Environmental Quality conditions:
- A. The owner(s)/developer(s), including the existing residence, 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. On-site wastewater disposal shall not be allowed for any of the proposed development.
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- A. The preliminary development plan does not provide for the required recreation area, with the development proposing less than 65 lots the developer shall pay the full in-lieu fee for off-site residential recreation areas.

12. Cultural Resources conditions:

A Prior to any ground disturbance in the project area, the project proponent shall ensure that the following occurs:

- 1) An Arizona State Museum (ASM) permitted archaeologist shall prepare a draft mitigation plan for site AZ BB:13:718(ASM). The draft plan shall be submitted to Pima County Cultural Resources Office (CRO) for review and comments. A final mitigation plan, addressing any comments on the draft, shall then be submitted by the CRO to the Arizona State Historic Preservation Office (SHPO) for concurrence.
- 2) The owner(s)/developer(s) shall consult with the Arizona State Museum, per A.R.S. 41-865, regarding this site prior to archaeological excavations.
- 3) No archaeological excavations shall take place until the SHPO concurs with the mitigation plan and all the necessary permits have been acquired.
- 4) The mitigation plan shall be implemented by an ASM permitted archaeologist. A preliminary report regarding the archaeological excavations shall be submitted to CRO. CRO will submit the preliminary report to the SHPO seeking concurrence that the mitigation plan fieldwork has been successfully concluded. Ground disturbance may commence only with SHPO concurrence.

B. Following archaeological analysis, a draft final report shall be submitted to CRO for review. Any comments shall be addressed and a final report shall be prepared and submitted to CRO.

13. The existing access to the existing residence shall be eliminated and no other access, other than that shown from Montebella Road, shall be allowed. The existing driveway shall be revegetated at densities and with plants similar to those existing on the property.

14. Design conditions:

- A. A single subdivision plat and native plant plan shall be submitted for the entire site, including the existing residence. The set-aside method shall be used to satisfy Native Plant Preservation Ordinance requirements.
- B. A minimum of 30 percent of the site shall be preserved as natural open space.
- C. Landscape bufferyards and dedicated natural open space shall be in areas designated as common areas and maintained by the homeowners' association.

- D. The area of the highest concentration of saguaros, located east of the existing residence in the south-central portion of the property, shall be preserved.
15. The owner(s)/developer(s) shall execute and record a document acceptable to the Pima County Community Development and Neighborhood Conservation Department indicating that the owner/developer shall contribute to the affordable housing trust fund as adopted by the Pima County Board of Supervisors on December 13, 2005, before a certificate of compliance is issued.
  16. In the event the subject property is annexed, the owner(s)/developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.
  17. The property owner(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)."
  18. Adherence to the sketch plan, including the natural open space shown, as approved at public hearing (EXHIBIT B).
  19. All new development shall be limited to one story and 24 feet in height.
  20. At least 50 percent of the multi-family units shall be ADA compliant and all electrical outlets and switches shall be located so as to be accessible to handicapped persons.
  21. A maximum of two new residences shall be permitted in the southern portion of the property.

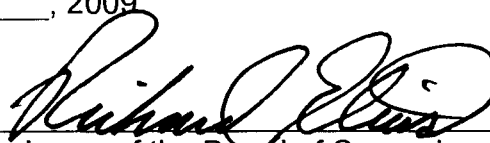
### **Section 3. Time limits, extensions and amendments of conditions.**

1. Conditions 1 through 21 shall be completed by May 6, 2013.
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 Ordinance until all conditions 1 through 21 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 2 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

**Section 4.** The effective date of this Ordinance shall be on the date of signing of this Ordinance by the Chairman of the Board of Supervisors.

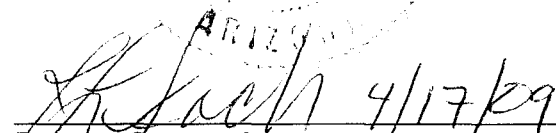
Passed and adopted by the Board of Supervisors of Pima County, Arizona, this  
19th day of May, 2009


  
Chairman of the Board of Supervisors  
MAY 19 2009

ATTEST:

  
Clerk, Board of Supervisors

APPROVED AS TO FORM:

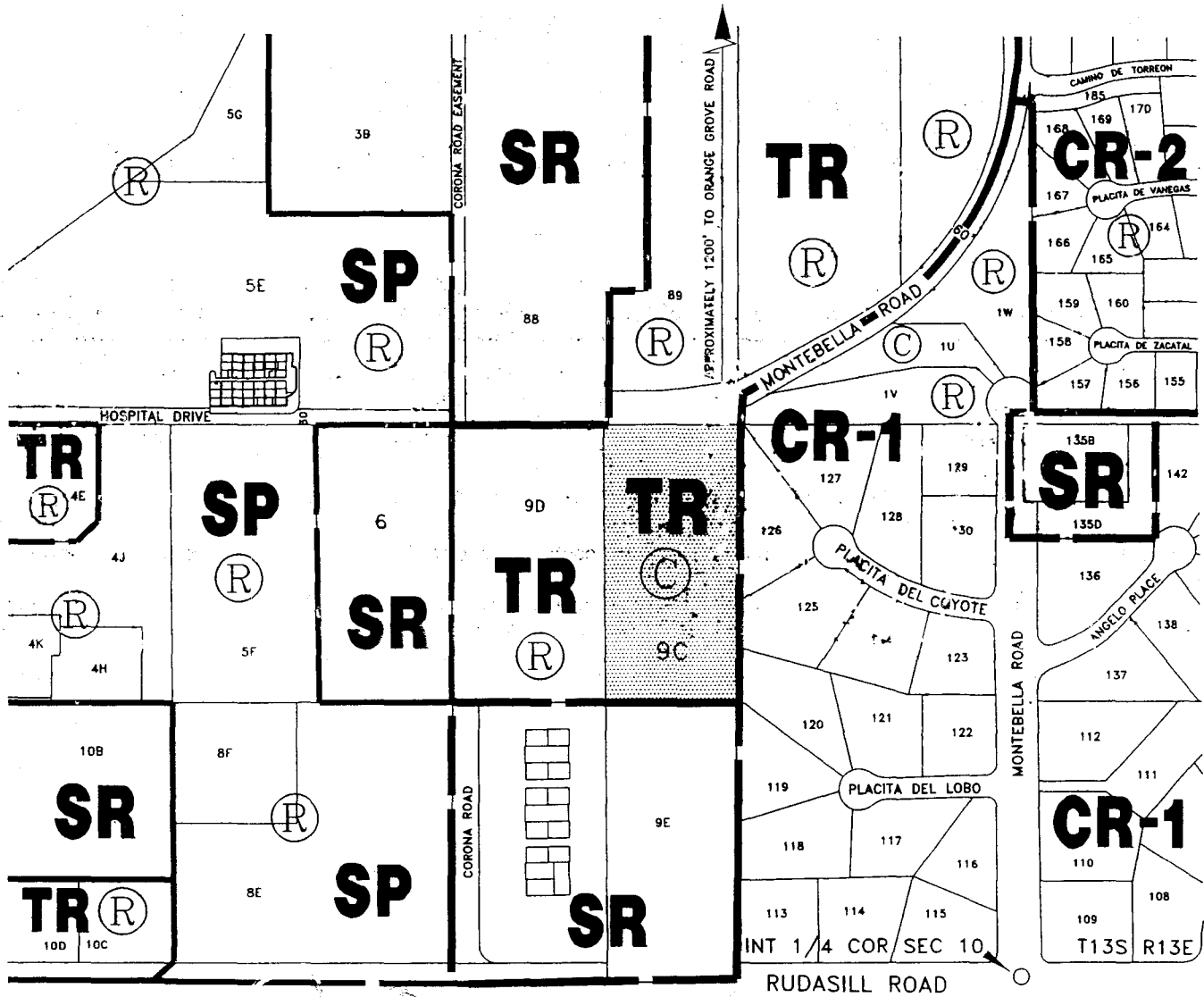
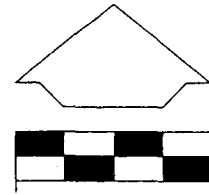
  
Deputy County Attorney 4/17/09

  
Executive Secretary,  
Planning and Zoning Commission

# EXHIBIT A

AMENDMENT NO. 93 BY ORDINANCE NO. 2009-50  
TO PIMA COUNTY ZONING MAP NO. 76 TUCSON, ARIZONA.  
PARCEL 9C BEING A PART OF THE SE 1/4 OF THE NW 1/4 OF  
SECTION 10, T13S R13E.

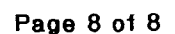
ADOPTED May 19, 2009 EFFECTIVE May 19, 2009



EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE  
FROM SR 4.89 ac±  
MA - APRIL 9, 2009

Co9-07-29  
Co7-00-20  
102-12-009C





## Terri Tillman

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**From:** Martin Tiernan <stiernan9@comcast.net>  
**Sent:** Tuesday, May 21, 2013 2:31 PM  
**To:** Terri Tillman  
**Cc:** Angie Rangel  
**Subject:** File No. Co9-07-29 Vanderkolk Tr. Montebella Road Rezoning

Re: Co9-07-29 VANDERKOLK TR – MONTEBELLA ROAD REZONING

Dear Ms. Tillman,

I just received a notice from Pima County Development Services regarding a request by Jack and Josephine Vanderkolk TR for a five-year time extension for rezoning of property in my neighborhood (tax codes 102-12-009C) from SR to TR. The letter explains that written protests to this rezoning may be filed with the Pima County Development Services Department, Planning Division, and that there would be a hearing at 9 AM Tuesday June 4.

I would like this letter to be filed as a formal protest to the above rezoning time extension. There is no way that I can attend the public hearing, but I do want my voice to be heard and counted. This is the first I have heard of this request; my reasons for protesting it are as follows:

- This rezoning would destroy the character of this neighborhood which is primarily single family homes on one acre lots.
- Zoning this land to TR (Transitional) would allow it to be used for motel/hotel, offices, mixed dwellings, health care center, etc. (CR-3, CR-4, CR-5). This is a residential area, not a business area. Although the plot maps show TR zoned areas seemingly close to Rudasill Rd. and Montebella Rd., there is a wash which isolates the SR residential zone from the TR zone which is mainly Northwest Medical Center and other medical offices; there is no way to get from Rudasill/Montebella to this TR zoned area from the SR zoned area – it is only accessible via Orange Grove Rd. and La Cholla Blvd.
- Rezoning from SR to TR would adversely affect the property values of numerous home owners in order to allow a single property owner to profit from the rezoning. One owner will profit at the expense of many property owners.
- Finally, the owners of this property have had 5 years to act on this rezoning, and now are asking for an additional 5 year extension. They have been given a more than fair time period to act, and have allowed that time to expire.

I implore the Pima County Board of Supervisors to consider how this rezoning will forever destroy the character of this purely residential neighborhood. I ask that you reject this time extension and act in the interests of all who live here, not just a single property owner.

Sincerely,

Martin Tiernan