



**BOARD OF SUPERVISORS AGENDA ITEM REPORT**

Requested Board Meeting Date: December 12, 2017

**Title:** Co9-05-30 STEWART TITLE & TRUST #1580 - KINNEY ROAD REZONING (Resolution)

**Introduction/Background:**

The Board of Supervisors approved a five-year Time Extension subject to original and modified conditions for this Rezoning on August 21, 2017.

**Discussion:**

This Resolution reflects the Board of Supervisors' approval of the Rezoning Time Extension. Note that modification to condition #12B in the resolution is underlined. However, the same modification to condition #12B was not underlined in the staff report to the Board, nor the Board of Supervisors' minutes for the rezoning time extension approval. The modification to the condition was explained in the staff report.

**Conclusion:**

The time limit and conditions contained in Rezoning Ordinance 2009-85, as modified by Resolution 2014-111, may be modified by resolution.

**Recommendation:**

Approval of the Resolution.

**Fiscal Impact:**

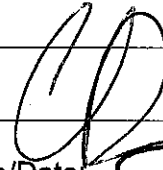
N/A

**Board of Supervisor District:**

1       2       3       4       5       All

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

Contact: David Petersen Telephone: 520-724-9000

Department Director Signature/Date:  11-17-17

Deputy County Administrator Signature/Date:  11/21/17

County Administrator Signature/Date:  11/21/17



Subject: Co9-05-30

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**FOR DECEMBER 12, 2017 MEETING OF THE BOARD OF SUPERVISORS**

**TO:** HONORABLE BOARD OF SUPERVISORS  
**FROM:** Chris Poirier, Planning Official  
Public Works-Development Services Department-Planning Division  
*(Handwritten signature and date 11-17-17)*  
**DATE:** November 20, 2017

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**RESOLUTION FOR ADOPTION**

**Co9-05-30 STEWART TITLE & TRUST #1580 – KINNEY ROAD REZONING**  
Owner: Stewart Title & Trust TR 1580  
(District 3)

**If approved, adopt RESOLUTION NO. 2017 - \_\_\_\_\_**

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**OWNERS:** Stewart Title & Trust TR 1580  
Attn.: Ted Elliot  
2238 Melford CT  
Thousand Oaks, CA 91361-5058

**AGENT:** The WLB Group  
Attn: Paul Oland, Sr. Project Manager  
4444 E. Broadway  
Tucson, AZ 85711

**DISTRICT:** 3

**STAFF CONTACT:** David Petersen

**STAFF RECOMMENDATION:** APPROVAL.

TD/DP/ar  
Attachments

cc: Co9-05-30 File  
Tom Drzazgowski, Chief Zoning Inspector

RESOLUTION 2017-\_\_\_\_\_

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-05-30 STEWART TITLE & TRUST #1580 – KINNEY ROAD REZONING; LOCATED ON THE NORTH SIDE OF IRVINGTON ROAD AND THE EAST AND WEST SIDES OF KINNEY ROAD; AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE NO. 2009-85 AS AMENDED BY RESOLUTION 2014-111.**

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

1. On March 6, 2007, in rezoning case Co9-05-30, the Pima County Board of Supervisors approved the rezoning of approximately 146.1 acres located on the north side of Irvington Road and the east and west sides of Kinney Road as shown on Exhibit A from GR-1 (Rural Residential Zone) and GR-1 (BZ) (Rural Residential – Buffer Overlay Zone) to CR-4 (Mixed-Dwelling Type Zone) and CR-4 (BZ) (Mixed-Dwelling Type – Buffer Overlay Zone), subject to standard and special conditions.
2. On September 15, 2009, the Pima County Board of Supervisors adopted rezoning Ordinance 2009-85, recorded at Sequence 20091820553, rezoning the approximate 146.1 acres described in rezoning case Co9-05-30 and memorializing the standard and special conditions.
3. The owner of the rezoning site applied for a five-year extension of the time limit set forth in Section 3 of Ordinance No. 2009-85.
4. On March 6, 2012, the Pima County Board of Supervisors approved a five-year time extension subject to modified standard and special conditions.
5. On November 18, 2014, the Pima County Board of Supervisors adopted Resolution 2014-111, recorded at Sequence 20143251414, memorializing the new rezoning time limit and modified standard and special conditions.
6. The owner of the rezoning site applied for a second five-year extension of the time limit set forth in Section 3 of Ordinance No. 2009-85, as amended by Resolution 2014-111.
7. On August 21, 2017, the Pima County Board of Supervisors denied closure of the rezoning and approved a five-year time extension subject to modified standard and special conditions.
8. Section 3 of Ordinance No. 2009-85 and the Pima County Code allow the Board of Supervisors to amend the rezoning time limit and conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance No. 2009-85, as amended by Resolution 2014-111, 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, Document Services.~~
61. The property owner shall not further lot split or subdivide the land without the written approval of the Board of Supervisors.
72. Pima County Department of Transportation (PCDOT) conditions:
  - A. ~~Provision of improvements to Irvington Road and Kinney Road, as determined necessary by the Department of Transportation, that may include, but are not limited to, appropriately designed continuous right turn deceleration lanes and appropriately designed acceleration lanes, and adjacent improvements such as pavement, curb, sidewalk, drainage, storm drains, etc. Specific improvements shall be determined when the required Traffic Impact Study is reviewed. Provision of improvements to Irvington Road and Kinney Road addressing pavement and necessary roadway conditions that will be impacted by the rezoning. Specifically, this includes necessary upgrades to pavement and areas where the infrastructure is deficient.~~
  - B. ~~The number, location and design of the access points to the subject property shall need the approval of the Department of Transportation at the time of submittal of a Development Plan or Subdivision Plat for the subject rezoning. Should the number of access points change, or access points be added to Sheridan Road, the rezoning conditions will need to be amended to address the conditions of Sheridan Road, necessary upgrades, and potential right-of-way dedications to mitigate the impact of a revised traffic pattern.~~
  - C. The property owner/developer shall dedicate 45 feet right-of-way for the north half right-of-way of on Irvington Road to meet the designated 150 feet right-of-way dedication per the Major Streets and Scenic Routes Plan.
  - D. The property owner/developer shall dedicate 30 feet right-of-way for the east and west half right-of-way respectively on Kinney Road to meet the designated 150 feet right-of-way dedication per the Major Streets and Scenic Routes Plan.
  - E. Pedestrian and bicycle connectivity shall be constructed between the parks.

adjacent pedestrian facilities and all residential areas. Connectivity between different residential areas shall be constructed in a way to maximize circulation of pedestrians, bicycles and vehicles to all local amenities.

83. ~~Pima County Flood Control District ("Flood Control")~~-conditions:
- A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
  - B. A drainage report shall be submitted during the platting process for Flood Control District to determine 100-year water surface elevations for all lots and to analyze detention/retention requirements. Channel and drainage design shall be addressed and a meeting prior to submittal is recommended.
  - C. A Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) are required due to changes to and development within a FEMA 100-year floodplain.
  - D. This development shall meet Critical Basin detention and retention requirements because of existing flooding problems.
  - E. The property owner(s) shall dedicate right-of-way or easements for drainage purposes to the Flood Control District, as determined necessary during the development plan/subdivision plat review.
  - F. The property owner(s) shall provide all necessary on-site and off-site drainage related improvements 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.
  - G. All-weather access shall be provided to all lots to meet concurrency requirements.
  - H. A riparian mitigation plan shall be required for development in designated riparian areas.
  - I. A Maintenance Agreement is necessary that identifies the responsibilities and funding of both private and public drainage improvements.
  - J. Encroachment into Flood Control Resource Areas as shown on the Pima Prospers Regional Hydrology Maps shall be allowed with justification for encroachment, or detailed analyses revising the approximate Federal Emergency Management Agency Special Flood Hazard Zone where base flood elevations have not been determined is approved by the Regional Flood Control District. However, encroachment into underlying mapped riparian areas should be minimized. Encroachment into the post-developed 10-year floodplain on the project site shall be avoided.
  - K. At the time of development the applicant will be required to commit to water conservation measures identified in the Site Analysis Requirements in effect

at that time sufficient to obtain 15 points.

94. Pima County Regional Wastewater Reclamation Department (RWRD) 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/developer 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 time the construction of 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(s)/developer(s) shall connect all new development within the rezoning area to Pima County's public sewer system 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.~~
  - E. ~~To serve new development within the rezoning area, and provide for future flow-through needs, the owner/developer shall fund, design and construct an on-site extension of the public sewerage system, and public flow-through sewers to the southernmost and easternmost boundaries of the rezoning area, as specified at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.~~
  - F. ~~All plans for landscaping, trails, etc. within the existing public sewer easement over existing 15" public sewer line (G-80-61) must be reviewed and approved by the Pima County Wastewater Management Department prior to construction.~~
  - G. ~~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.~~

- A. The owner(s) shall construe no action by Pima County as a commitment of capacity to serve any new development within the rezoning area until Pima County executes an agreement with the owner(s) to that effect.
- B. The owner(s) 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(s) 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(s) 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(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 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(s) 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. To serve new development within the rezoning area, and provide for future flow-through needs, the owner(s) shall fund, design and construct an on-site extension of the public sewerage system, and public flow-through sewers to the southernmost and easternmost boundaries of the rezoning area, as specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
- G. All plans for landscaping, trails, etc. within the existing public sewer easement over existing 15" public sewer line (G-80-61) must be reviewed and approved by the PCRWRD prior to construction.
- H. The owner(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.

405. Natural Resources, Parks and Recreation conditions:
- A. ~~A Recreation Area Plan (RAP) shall be submitted and approved by Natural Resources, Parks and Recreation staff prior to the approval of the Tentative Plat. Items to be included in the RAP are listed below.~~
- B. ~~The developer shall construct Trail #115 Irvington Road Trail. The ten-foot wide trail shall be two inches of decomposed granite compacted to 95% over native subgrade compacted to 95%.~~
- C. ~~The features required for six acres of recreation area include: water and electric lines to the park, 1 drinking fountain, trail linkage, signage, landscaping, irrigation, 30% turf area, 4 trash receptacles, 4 bicycle racks, 6 park benches, 1 shade structure, 4 picnic tables, 3 bar-b-que grills, 1 basketball court (56'x96'), 2 playground component, and 1 multi-use structure (5 piece).~~
- D. ~~The recreation features shall be completed prior to the release of assurances for 75% of the residential units.~~

The required recreational area and recreation features shall be constructed within the rezoning area.

416. Environmental Planning condition:
- Under no circumstances shall the following exotic plant species be planted anywhere on the 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 portandra* & *T. ramosissima*)
  - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
  - Lovegrasses (*Eragrostis spp.*) excluding Plains lovegrass (*Eragrostis intermedia*)
  - African rue (*Peganum harmala*)
  - Iceplant (*Mesembryanthemum crystallinum*)
  - Arabian grass (*Schismus arabicus*)
  - Natal grass (*Melinis repens*) (*Rhynchelythrum repens*)

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.

427. Landscaping conditions:
- A. Saguaros transplanted on site and introduced as mitigation plants shall be planted at a density of 1 saguaro per 60 square feet, on average, to be planted in groups of not more than 6 plants, and/or individual plants shall be staggered and spaced to avoid linear planting arrangements.
  - B. All transplanted and introduced saguaros should be placed outside of the drip line of the tree at planting size, but close enough to receive shade and protection from the tree at mature size (within 12' of the base of the tree). Smaller sized saguaros (4' and under) should be placed closer to the base of the nurse tree and large saguaros (over 4') should be placed further from the base.
- ~~13. 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.~~
448. In the event the subject property is annexed, the property owner(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.
459. Adherence to the preliminary development plan as approved at public hearing (Exhibit "B").
4610. The owner(s)/developer(s) shall enter into an acceptable Development Agreement with Pima County regarding park dedication and native plant preservation prior to the issuance of zoning and/or building permits.
4711. The property owner(s) shall execute and record a the following disclaimer regarding Proposition 207 rights. ~~The language is as follows:~~ "The property owner(s) acknowledges that neither the rezoning of the property nor the conditions of rezoning give the property owner(s) 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 the property owner(s) any rights or claims under the Private Property Rights Protection Act, property owner(s) hereby waives any and all such rights and/or claims pursuant to A.R.S. §12-1134(l)."
4812. Adherence to the policies of the Comprehensive Plan Special Area Policy S-29 Southwest Infrastructure Plan:
- A. The Southwest Infrastructure Plan (SWIP) shall be used to guide needs, obligations, funding, and provision of infrastructure and services related transportation, flood control, wastewater, parks and recreation, and other

governmental facilities.

- B. At the discretion of the Planning Official, pProposed development shall be planned, designed, and constructed to implement the sustainability principles as described in the Southwest Infrastructure Plan (Exhibit "C").
- C. At a minimum, the majority of infrastructure and transportation costs shall be self-funded by the developer.

Section 2. Section 3 of Ordinance No. 2009-85, as amended by Resolution 2014-111, is restated and modified as follows:

1. Conditions 1 through ~~4812~~ shall be completed by March 6, ~~2017~~2022.
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 ~~4712~~ 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.


Passed and adopted, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Chair, Pima County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

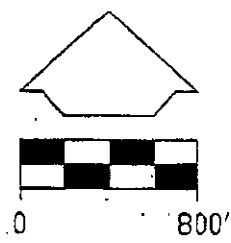
 10/23/2017  
Deputy County Attorney  
Lesley M. Lukach

APPROVED:

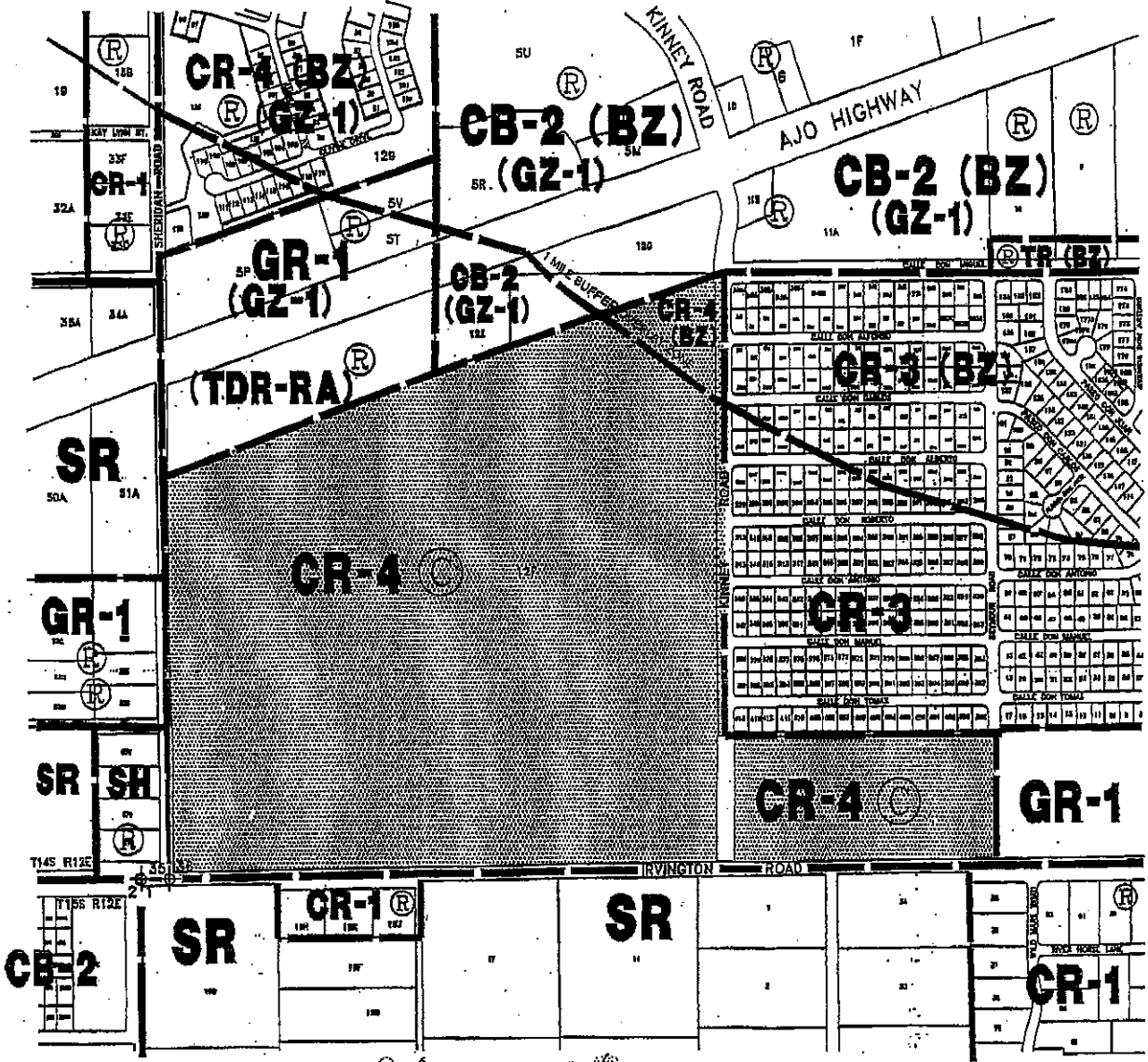
 11-9-17  
Executive Secretary  
Planning and Zoning Commission

EXHIBIT "A"

AMENDMENT NO.'S 24, 33, 57, 100 BY ORDINANCE NO. 2009-85  
TO PIMA COUNTY ZONING MAP NO.'S. 17, 36, 37, 38 TUCSON,  
ARIZONA, A PORTION OF PARCEL 12F BEING A PART OF THE  
S 1/2 OF SECTION 36, T14S R12E.



ADOPTED SEPTEMBER 15, 2009 EFFECTIVE SEPTEMBER 15, 2009



EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE  
FROM GR-1 143.0 ac± & GR-1 (BZ) 3.1 ac±  
DS - AUGUST 3, 2009

Co9-05-30  
Co7-00-20  
212-50-012F PTN.

# EXHIBIT "B"

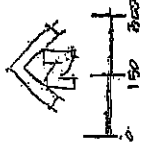
## PRELIMINARY DEVELOPMENT PLAN

APPROVED AT BOS PUBLIC HEARING 03-06-07

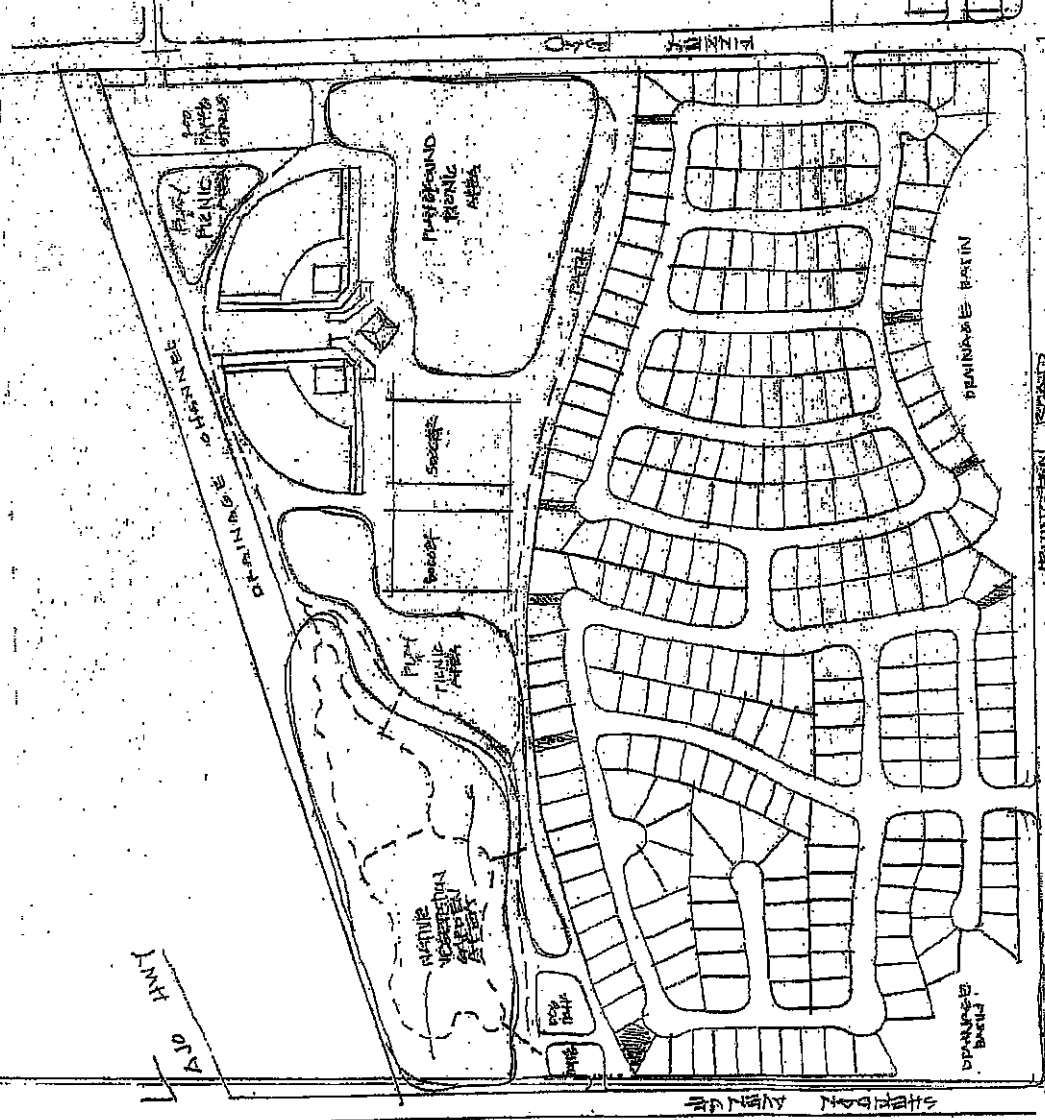
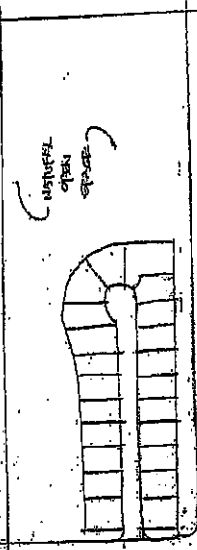
*CP*

SITE STATISTICS

SITE AREA: 146 AC  
 • 94 AC  
 • 52 AC  
 - PARK  
 LOTS: 302  
 LOT SIZE: 46' x 95'



CONCEPT PLAN  
 DESERT MOUNTAINS WEST  
 2.22.07



410 HWY

PLAN SHEET A

## EXHIBIT C

### **S-29 Southwest Infrastructure Plan (SWIP) Area (SW)**

#### **General location**

Generally bounded by Tucson Mountain Park on the north, Mission Road on the east, the Tohono O'odham Nation – San Xavier District on the south, and Sandario Road on the west, in Sections 22, 23, 24, 25, 26, 27, 34, 35, and 36 of Township 14 South, Range 11 East; Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, and 24 of Township 15 South, Range 11 East; Sections 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 of Township 14 South, Range 12 East; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 of Township 15 South, Range 12 East; Sections 30, 31, 32, 33, and 34 of Township 14 South, Range 13 East; and Sections 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, and 21 of Township 15 South, Range 13 East (Ref. Co7-07-31, Resolution 2009-24).

#### **Policies**

##### **A. Comprehensive Planning:**

1. The Southwest Infrastructure Plan (SWIP) shall be used to guide needs, obligations, funding, and provision of infrastructure and services related transportation, flood control, wastewater, parks and recreation, and other governmental facilities.
2. New residential uses are incompatible within the one-half mile area from the bounds of the Tucson Trap and Skeet Club (Tax Code 210-12-0420). Any conflicts with policies approved under previous plan amendments shall be resolved at the time of the rezoning or specific plan.
3. Proposed development shall be planned, designed, and constructed to implement the sustainability principles as described in the Southwest Infrastructure Plan.

##### **B. Environmental Planning:**

At a minimum, applicable Conservation Lands System Conservation Guidelines shall be complied with by providing for mitigation onsite, offsite, or in some combination thereof.

##### **C. Flood Control District:**

1. No building permits shall be issued until offsite flood control improvements are constructed to remove proposed development out of the FEMA 100-year floodplain.
2. Development shall not occur within the Black Wash Administrative Floodway.

##### **D. Wastewater Management:**

No person shall construe any action by Pima County as a commitment to provide sewer service to any new development within the plan amendment area until Pima County executes an agreement with the owner/developer to that effect. Adequate treatment and conveyance capacity to accommodate this plan amendment in the downstream public sewerage system may not be available when new development within the plan amendment area is to occur, unless it is provided by the owner/developer and other affected parties.

##### **E. At a minimum, the majority of infrastructure and transportation costs shall be self-funded by the developer.**