



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 4/16/2024

*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

***Title:**

P23CA00004 VICKERY - S OLD SPANISH TRAIL PLAN AMENDMENT

***Introduction/Background:**

Christopher and Lori Vickery, represented by KAEKO, Inc., request a comprehensive plan amendment of approximately 6.18 acres (parcel code 205-65-009A) from the Resource Sensitive (RS) to the Rural Crossroads (RX) land use designation. The site is located northwest of the intersection of S. Old Spanish Trail and E. Saguaro Crest Place, addressed as 5400 S. Old Spanish Trail in Section 5, Township 15 South, Range 16 East, in the Catalina Foothills Planning Area.

***Discussion:**

The owner requests the plan amendment to RX as a first step to rezone the property to a compatible zoning district.

***Conclusion:**

Approval of the plan amendment would allow the owner to request rezoning to a compatible zoning district that will allow the historic restaurant use again on the subject property.

***Recommendation:**

Staff and the Planning and Zoning Commission recommend APPROVAL subject to a rezoning policy.

***Fiscal Impact:**

None

***Board of Supervisor District:**

1 2 3 4 5 All

Department: Development Services

Telephone: (520) 724-6675

Contact: Anita McNamara, AICP, Senior Planner

Telephone: (520) 724-6692

Department Director Signature:		Date:	<u>3/26/24</u>
Deputy County Administrator Signature:		Date:	<u>3/28/2024</u>
County Administrator Signature:		Date:	<u>3/28/2024</u>



TO: Honorable Steve Christy, Supervisor, District 4

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

DATE: March 26, 2024

SUBJECT: **P23CA00004 VICKERY - S OLD SPANISH TRAIL PLAN AMENDMENT**

The above referenced Comprehensive Plan amendment is within your district and is scheduled for the Board of Supervisors' **TUESDAY, APRIL 16, 2024** hearing.

REQUEST: For a **Comprehensive Plan amendment** of approximately 6.13 acres from Resource Sensitive (RS) to Rural Crossroads (RX), located northwest of the intersection of S. Old Spanish Trail and E. Saguaro Crest, addressed as 5400 S. Old Spanish Trail. Section 5, Township 15 South, Range 16 East, in the Catalina Foothills Planning Area.

OWNER/ Vickery Christopher & Lori CP/RS
23898 E Cienega Creek
Vail, AZ 85641

AGENT: KAEKO, Inc.
4655 N. Flowing Wells Rd
Tucson, AZ 85705

DISTRICT: 4

STAFF CONTACT: Anita McNamara, AICP, Senior Planner

PUBLIC COMMENT TO DATE: As of March 26, 2024, staff has received public comment including one letter in support and six letters in opposition.

PLANNING & ZONING COMMISSION RECOMMENDATION: **APPROVAL SUBJECT TO REZONING POLICY 9-1** (Commissioner Cook voted nay)

STAFF RECOMMENDATION: **APPROVAL SUBJECT TO REZONING POLICY**

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The subject site is located in the Multiple Use Management Areas of the Maeveen Marie Behan Conservation Lands System.

TD/AM/ds
Attachments



BOARD OF SUPERVISORS MEMORANDUM

SUBJECT: P23CA00004

Page 1 of 2

FOR APRIL 16, 2024 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

DATE: March 26, 2024

ADVERTISED ITEM FOR PUBLIC HEARING

COMPREHENSIVE PLAN AMENDMENT

P23CA00004 VICKERY – S. OLD SPANISH TRAIL PLAN AMENDMENT

Christopher and Lori Vickery, represented by KAEKO Inc., request a comprehensive plan amendment on approximately 6.13 acres (parcel code 205-65-009A) from the Resource Sensitive (RS) to the Rural Crossroads (RX) land use designation. The site is located northwest of the intersection of S. Old Spanish Trail and E. Saguaro Crest Place, and addressed as 5400 S. Old Spanish Trail, in Section 05, Township 15 South, Range 16 East in the Catalina Foothills Planning Area. On motion, the Planning and Zoning Commission voted to recommend **APPROVAL SUBJECT TO REZONING POLICY 9-1** (Commissioner Cook voted nay). Staff recommends **APPROVAL SUBJECT TO REZONING POLICY**. (District 4)

Planning and Zoning Commission Public Hearing Summary (February 28, 2024)

Staff presented information on the plan amendment request and stated that the recommendation was approval of the plan amendment subject to a rezoning policy.

A commissioner asked about the rezoning policy language related to bars. Staff replied that the intent of this language is to clarify that stand alone bars are prohibited but will allow for a restaurant with a bar.

The applicant spoke regarding the history of the restaurant that had been on the property and the plan to re-open a restaurant on the site.

A commissioner asked if the existing building will be kept or if a new building is proposed and asked for an overview of the plans. The applicant talked about the current owners' proposal for the property to open a restaurant on site. The existing building is in poor condition as the building was abandoned. The owners want to construct a new building in approximately the same location to minimize disturbance beyond the existing disturbed area.

A commissioner asked about the live music that had occurred on the property as part of the

previous restaurant. The applicant responded that any live music would be indoors only.

The commission opened the public hearing. Members of the public spoke regarding the previous restaurant use and the noise from live music at the outdoor venue, bright lights around the building, vehicle headlights, and trash from the subject property getting on their property. A member of the public also spoke about water use of the restaurant and it being on a shared well with neighbors and the property has access to Tucson Water and should be connected. Another neighbor spoke about buying a house at this location because of the peace and quiet and that he wanted that to be maintained and that he is opposed because a restaurant will bring unwanted nuisance such as deliveries, garbage pickups, parking lot noise like engine noise and slamming doors, plus regular landscape service activities like weed-whacking and using leaf blowers. He also stated that food waste will encourage wildlife like coyotes, javalina and pack rats and that traffic generated by the use will create a dangerous situation. A neighbor spoke about moving here because there was no commercial business in the area and Saguaro National Park is a major resource. A member of the public spoke regarding the change of ownership and who will be responsible if this passes and the ownership changes again. A neighbor asked if this gets approved if the applicant can be required to install a similar fence to what the Barnyard has.

Staff responded to the question of ownership changes to say that it does not matter who the owner is because the approval is tied to the property not the owner. Staff also clarified that what is under review now is a comprehensive plan amendment. A rezoning will be required, which will have much more detail and will require at least two more public hearings that will be noticed.

The commission closed the public hearing.

A commissioner asked the applicant how long the restaurant has been closed. The applicant stated that the restaurant has been closed for about 7 years. A commissioner stated that historically there has been a commercial use on this property. The neighbors moved here afterwards and are now complaining about the commercial use. A commissioner stated remote development encourages car culture. For this reason, he will not be voting for it. Another commissioner stated that unlike when the original restaurant opened many people now live near the restaurant.

A commissioner asked if the land use designation stayed Resource Sensitive if the owner could still use the property for a commercial use. Staff stated not for a restaurant but there are other nonresidential uses in the area such as a church that are allowed under Resource Sensitive.

Commissioner Maese made a motion to recommend **APPROVAL** of the plan amendment to the RX land use designation subject to a rezoning policy; Commissioner Becker gave second.

The commission voted to recommend **APPROVAL** of the comprehensive plan amendment 9-1 (Commissioner Cook voted nay) subject to the following rezoning policy language:

“Future rezoning will be restricted to CB-1 (Local Business Zone). Use of the property is limited to a restaurant with/without a bar as described in 18.43.030.G. Drive-through restaurants, stand-alone bars and event centers/venues are prohibited.”

TD/AM/ds
Attachments

c: Christopher and Lori Vickery
John McColgin, FORS Architecture+Interiors and KAEKO, Inc.



2023 PLAN AMENDMENT PROGRAM
PLANNING AND ZONING COMMISSION
STAFF REPORT



HEARING DATE	February 28, 2024
CASE	P23CA00004 VICKERY - S OLD SPANISH TRAIL PLAN AMENDMENT
PLANNING AREA	Rincon Valley
DISTRICT	4
LOCATION	Northwest of the intersection of S. Old Spanish Trail and E. Saguaro Crest Place, and addressed as 5400 S. Old Spanish Trail
REQUEST	Resource Sensitive (RS) to Rural Crossroads (RX) for approximately 6.13 acres
OWNER	Vickery Christopher & Lori CP/RS
AGENT	Kaeko, Inc.

APPLICANT’S STATED REASONS TO AMEND THE COMPREHENSIVE PLAN:

“Our proposed amendment seeks to bring the land use designation in line with the most recent and historical use of the property, which has operated as a restaurant since as early as the 1950’s. It is intended to remain restricted to restaurant use only after the Comprehensive Plan Amendment approval. This change in zoning will help to meet the evolving needs of the community while fostering the principles of Arizona Growing Smarter (1998) and Growing Smarter Plus (2000) legislation.”

STAFF REPORT:

Staff recommends **APPROVAL** of the comprehensive plan amendment subject to the following Rezoning Policy:

Future rezoning will be restricted to CB-1 (Local Business Zone). Use of the property is limited to a restaurant with/without a bar as described in 18.43.030.G. Drive-through restaurants, stand-alone bars and event centers/venues are prohibited.

The requested comprehensive plan amendment to the Rural Crossroads (RX) land use designation prepares the site for a rezoning that will allow a restaurant use to operate after the previous restaurant use lost its non-conforming status when the business was discontinued.

The amendment site is located in the Multiple Use Management Area (MUMA) of the Maeveen Marie Behan Conservation Lands System (CLS).

Background

The applicant proposes the comprehensive plan amendment to address an existing non-conforming use. The intent of the Rural Crossroads (RX) land use designation is to designate mixed-use areas where basic goods and services are provided to rural settlements and rural residents as conveniently as possible. Residential densities slightly higher than the surrounding rural neighborhoods are allowed to provide opportunities especially for certain housing types such

as those serving the elderly, single, and low-income residents. Smaller rural crossroads will generally be located at rural roadway intersections of collector or arterial roads for the provision of limited commercial services to rural residents and travelers.

The amendment site is located at the northwest corner of S. Old Spanish Trail and E. Saguaro Crest Place and is surrounded on the north, south and west by large lot single-family residences. The properties adjacent to the amendment site to the north and west are zoned SR (Suburban Ranch), while properties to the south are zoned SR in the city of Tucson. To the east, across S. Old Spanish Trail is Saguaro National Park East, zoned IR (Institutional Reserve).

The amendment site's Resource Sensitive (RS) land use designation is intended to designate key larger parcels and land holdings with environmentally sensitive characteristics in close proximity to public preserves or other environmentally sensitive areas. Development of such land shall emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas. The amendment site is also located in the Buffer Overlay Zone.

Staff recommends the addition of the following rezoning policy should this amendment be approved:

Future rezoning will be restricted to CB-1 (Local Business Zone). Use of the property is limited to a restaurant with/without a bar as described in 18.43.030.G. Drive-through restaurants, stand-alone bars and event centers/venues are prohibited.

The staff recommended rezoning policy specifically addresses the non-conforming restaurant use/building on the property only. More intense commercial uses including more intense restaurant uses such as those with a drive-through would be wholly inappropriate for this location.

Plan Amendment Criteria

Staff has reviewed this plan amendment request to determine if one or more of the following criteria have been adequately met:

1a. Growing Smarter Acts

- The amendment site is located on S. Old Spanish Trail, designated as a Low Volume Arterial in the Major Streets Plan.
- Direct development toward existing communities: the amendment site has been developed with a restaurant since the 1950s.

1b. Comprehensive Plan Policies, Special Area Policies, and Rezoning Policies

The amendment site is not covered under comprehensive plan policies or rezoning or special area policies.

1c. Maeveen Marie Behan Conservation Lands System

The amendment site is located in the MUMA. In keeping with the CLS guidelines, the applicant's narrative assures that two acres of natural open space will be set aside for each acre disturbed.

2. Oversight, Inconsistencies, or Land Use Related Inequities/Changes

While the amendment site is surrounded on the north, south and west by residential uses and is located across S. Old Spanish Trail from Saguaro National Park East, it has been developed with a commercial use since approximately the 1950s. The requested Rural Crossroads land use designation is appropriate for the restaurant use on the property.

DEPARTMENT/AGENCY COMMENTS:

Department of Transportation

A restaurant has historically operated on-site with an existing access at the northeast corner of the site onto S. Old Spanish Trail. Restaurant use will remain with this comprehensive plan amendment and future rezoning.

The existing access on Old Spanish Trail will remain. The preliminary development plan indicates the existing access is utilized by the property owners to the north and west of the site, but a legal access easement has not been demonstrated. A legal access easement shall be provided at the time of permit submittal.

An additional, gated emergency access for the fire jurisdiction north of Saguaro Crest Place is proposed, but the applicant has not provided proof of coordination with the fire jurisdiction. The applicant shall provide written requirements from the fire jurisdiction at the time of rezoning application or remove the additional gated emergency access from the preliminary development plan with the rezoning application.

Old Spanish Trail is a paved, two-lane roadway maintained by Pima County with a speed limit of 50 miles per hour (mph). Old Spanish Trail is classified as a Rural Minor Collector per its federal functional classification. The most recent traffic count for Old Spanish Trail is 5,802 ADT with an approximate capacity of 11,340 ADT. The existing right-of-way width of Old Spanish Trail is 80 feet, but the future right-of-way is 90 feet per the Major Streets Plan. Right-of-way dedication will be a condition of approval for future rezoning.

Given that Old Spanish Trail is well under capacity, there will not be concurrency concerns at the time of rezoning. The Department of Transportation has no objection to the proposed comprehensive plan amendment and recommends approval.

Regional Flood Control District

The District has reviewed the site conditions for a comprehensive plan amendment.

1. This property is designated as a Federal Emergency Management Agency Special Flood Hazard Area Zone D. The Federal Insurance Rate Map definition is, "Areas in which flood hazards are undetermined but possible." At the time of permitting a drainage report that provides an engineering analysis of existing and developed conditions will be required. If the engineer of record determines that regulatory flow exists on this property, the drainage report and construction plan set will provide said information and demonstrate how the project will comply with the Floodplain Ordinance.
2. This property is not impacted by a local floodplain and does not have mapped Regulated Riparian Habitat.
3. Staff has conducted the Water Resources Impact Analysis:
 - a. The site is adjacent to Tucson Water service area. Tucson Water serves the parcel directly to the to the west and three parcels to the south. This property has a private well registered with the Arizona Department of Water Resources (registry #55-807185).
 - b. A demand projection has not been completed.
 - c. The site is not located within a covered subsidence zone.
 - d. The site is within a mile of a shallow groundwater area.
 - e. The site is not within an Isolated Basin and depth to bedrock is from 400-800'.

The District has no objection to this Comprehensive Plan Amendment.

Regional Wastewater Reclamation Department

The Planning Unit of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the request and offers the following comments for your use. The subject property is located at 5400 S. Old Spanish Trail and is occupied by an existing restaurant business served by septic.

The subject property is outside the PCRWRD service area. Any modification or addition to the existing septic system will require approval from the Pima County Department of Environmental Quality. PCRWRD has no objection to the area plan amendment.

Environmental Planning Division

The site is entirely within the Multi-use Management Area (MUMA) designation of the Maeveen Marie Behan Conservation Lands System (CLS). The CLS Guidelines for the MUMA designation call for setting aside two acres of natural open space for each acre disturbed. The applicant has committed to full compliance with these guidelines.

The site is located less than 1,000 feet from two wildlife corridors identified by the Arizona Game and Fish Dept. (AGFD): the Pantano Wash Riparian Wildlife Movement Area located west and south of the property, and the Saguaro National Park Landscape Wildlife Movement Area, located east and south of the property (AGFD 2013). It is not within any CLS Critical Landscape Connection.

The site was not identified as a Habitat Protection Priority under the 2004 Open Space Bond Program and it is not considered a current Habitat Protection Priority.

The site is approx. 2,500-3,500 feet northeast of a contiguous block of Preserves owned by the Pima County Regional Flood Control District (RFCD) located along Pantano Wash and Rincon Creek.

The site is within a Priority Conservation Area (PCA) for the Cactus ferruginous pygmy-owl; it is outside PCAs for the Western burrowing owl, Pima pineapple cactus and Needle-spined pineapple cactus.

There do not appear to be any washes or riparian habitat on the site. Disturbances to these resources are regulated by the RFCD according to the Watercourse and Riparian Protection and Mitigation Requirements (Pima County Code Chapter 16.30).

The western portion of the site is largely undisturbed while the eastern portion is almost completely denuded of native vegetation and includes several structures, dirt trails, and dirt parking areas. Disturbances to native vegetation are regulated by the Development Services Dept. according to the Native Plant Preservation Ordinance (Pima County Code Chapter 18.72).

No Special Area or Rezoning Policies are recommended at this time.

Potential impacts to the CLS and compliance with the CLS Guidelines will be addressed at subsequent development approval stages. Any required mitigation will conform to the CLS Conservation Guidelines established in Pima Prospers (Sec. 3.4, Policies 1-12). The applicant has committed to full compliance with these guidelines.

Cultural Resources & Historic Preservation Division

In the event 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.

Natural Resources, Parks and Recreation

NRPR had no comments.

Saguaro National Park

The park was contacted but had no comments.

U.S. Fish and Wildlife Service

USFWS has no concerns regarding the proposed amendment. This site is located within the Priority Conservation Area for the cactus ferruginous pygmy-owl. However, USFWS does not believe the proposed project will affect the pygmy-owl because the site lacks suitable habitat and the lower intensity of the existing land use.

Tucson Electric Power Co.

The utility had no comments.

Tucson Water

The utility had no comments.

Rural Metro and Rincon Valley Fire Districts

The districts had no comments.

PUBLIC COMMENTS:

As of February 13, 2024, staff has received public comments regarding this amendment request related to activity on the property and timing of development.

Published and mailed notice of the proposal along with the website posting of this staff report will occur a minimum of fifteen (15) days prior to the public hearing. The website will be updated to include public comment throughout the process to the Planning and Zoning Commission and the Board of Supervisors.

Respectfully submitted,



Anita McNamara, AICP
Senior Planner

c: Kimberly Schroeder and Rachel Jacob, Kaeko, Inc.

P23CA00004 VICKERY - S OLD SPANISH TRAIL PLAN AMENDMENT

***Current:* Resource Sensitive (RS)**

Objective: To designate key larger parcels and land holdings with environmentally sensitive characteristics in close proximity to public preserves or other environmentally sensitive areas. Development of such land shall emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas.

- Residential Gross Density: Minimum- none; Maximum- 0.3 RAC
- Residential Gross Densities for TDR Receiving Areas: Minimum- none; Maximum- 0.3 RAC

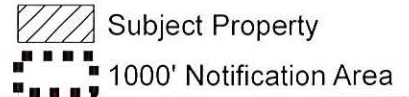
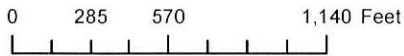
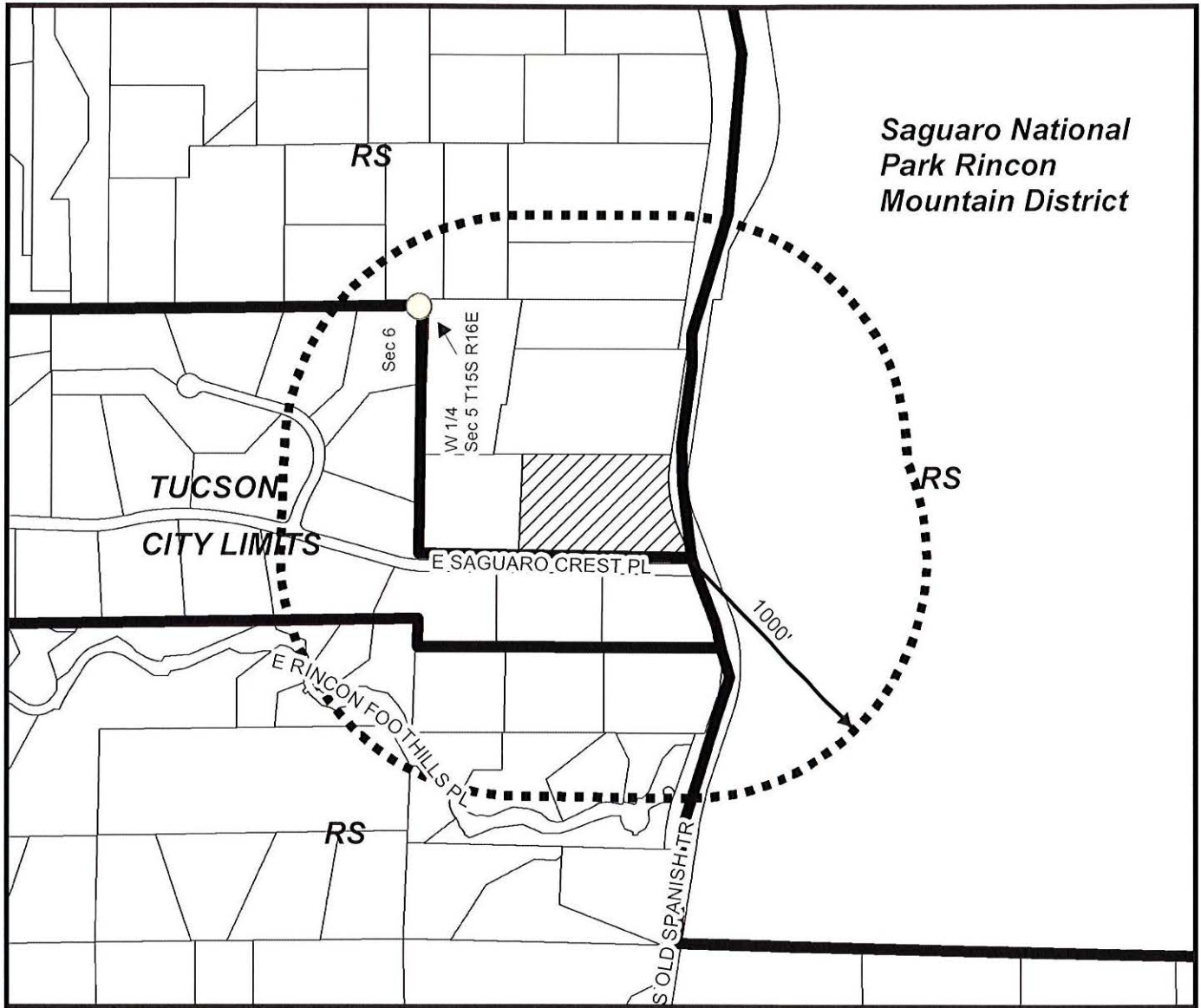
***Requested:* Rural Crossroads (RX)**


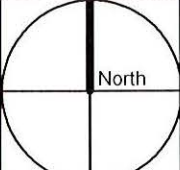
Objective: To designate mixed use areas where basic goods and services are provided to rural settlements and rural residents as conveniently as possible. Residential densities slightly higher than the surrounding rural neighborhoods are allowed to provide opportunities especially for certain housing types such as those serving the elderly, single, and low income residents. In more developed communities, a grocery may be the principal anchor tenant, along with other uses such as a drugstore, variety/hardware store, self-service laundry, bank, and other similar uses. Such areas will generally be less than twenty acres. Smaller rural crossroads will generally be located at rural roadway intersections of collector or arterial roads for the provision of limited commercial services to rural residents and travelers.

- Residential Gross Density: Minimum- 1.2 RAC; Maximum- 10 RAC
- Residential Gross Densities for TDR Receiving Areas: Minimum- 1.2 RAC; Maximum- 5 RAC

COMPREHENSIVE PLAN AMENDMENT

Planned Land Use

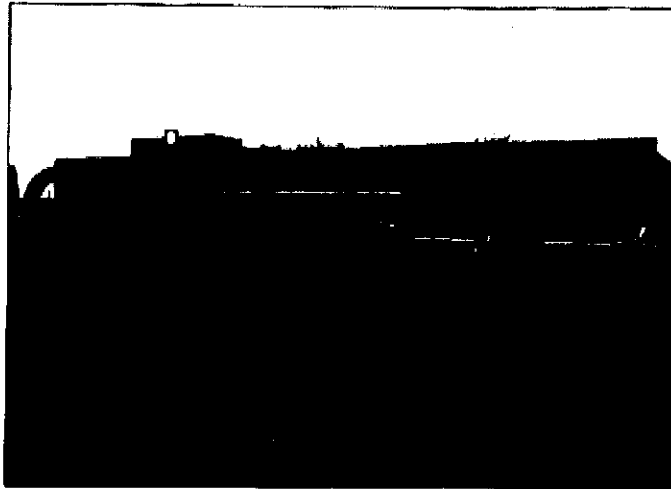


Taxcodes: 205-65-009A	P23CA00004 VICKERY - S. OLD SPANISH TRAIL PLAN AMENDMENT	District 4 Location: Northwest corner of S. Old Spanish Trail and E. Saguario Crest Place Intersection	
Request: Resource Sensitive (RS) to Rural Crossroads (RX) 6.13 Acres +/-			
	Rincon Planning Area under Pima Prospers Sections 5, Township 15 South, Range 16 East		
	Planning and Zoning Commission Hearing: January 31, 2024 Board of Supervisors Hearing: TBD	Map Scale: 1:8,000 Map Date: December 29, 2023 / dms	

**RESTORATION/REOPENING OF THE OLD STEAK HOUSE at
5400 S. OLD SPANISH TRAIL**

Neighbors,

We wish to reopen the abandoned restaurant at 5400 S. Old Spanish Trail. Even though it was a restaurant, it is currently zoned "SR" which does not allow for a restaurant. In order to reopen, per compliance with Pima County regulations, it is necessary that we obtain a zoning change. We are sending you this letter in accordance with the County process to inform you of our intent.



Goals for the Property-

- New ownership desires to have a family friendly establishment.
- Reopen the restaurant as a steak house similar to the previous one.
- Environmentally friendly elements will be incorporated into the reopening such as forested parking and EV Charging Stations.
- Proposed 68% of site will remain undisturbed, or re-created undisturbed, natural desert landscaping.
- The property is currently zoned SR which does not allow for a restaurant, rezone to allow for restaurant and amend the Pima County Comprehensive Plan to allow for the proper zoning.

Current Conditions-

- The site is abandoned with evidence of homeless staying in the area at times.
- It appears that garbage is being dumped at the site on a regular basis.
- The restaurant has not been open since prior to the pandemic.
- The property is currently zoned SR which does not allow for a restaurant.

Questions or concerns please reach out to kimberly.schroeder@kaekoinc.com or 623-536-1993 ext. 200.



DEVELOPMENT SERVICES

201 N. Stone Avenue, Tucson, AZ 85701

(520) 724-9000

www.pima.gov/developmentservices

BIOLOGICAL IMPACT REPORT

(Not applicable for rezonings that require a site analysis)

The Biological Impact Report assists staff in assessing a proposed project's potential to impact sensitive biological resources and is required by the Pima County Zoning Code Chapter 18.91. A project's design should conserve these important resources.

The report will include information provided by both Pima County Planning staff (Part I) and the Applicant (Part II).

INSTRUCTIONS FOR SAVING FORM: 1) Download form to computer. 2) Fill out form as applicable. 3) Save completed form to computer. 4) Submit completed form to Pima County Development Services. **If you fill out the form before you download it, the info you entered will not be saved.**

Project ID (*case no., APN no., address, or other identifying info*):

Vickery - S Old Spanish Trail Comprehensive Plan Amendment - 6.13 acres, 5400 S Old Spanish Tr.

Part I. Information Provided by Pima County Staff

Pima County Planning staff will provide the following information for the project site, as applicable:

1. Is the project located within any Maeveen Marie Behan Conservation Lands System (CLS) designation(s)? (Hold SHIFT for multiple selections) NA
 - Important Riparian Area
 - Biological Core
 - Multi-Use Management Area
2. Is the project within a CLS Special Species Management Area? No
3. Is the project in the vicinity of any of the six Critical Landscape Linkages? No
4. Is the project designated for acquisition as a Habitat Protection or Community Open Space property? No
5. Is the project located within a Priority Conservation Area for any of the following species?
 - a. Cactus ferruginous pygmy-owl: Yes
 - b. Western burrowing owl: No
 - c. Pima pineapple cactus: No
 - d. Needle-spined pineapple cactus: No

Part II. Information Provided by the Applicant

The Applicant will provide the following information to the best of their knowledge, as applicable:

1. Has the owner of the project site had any communications with County staff about Pima County potentially acquiring the property? No
If yes, provide a summary of those communications:

2. The following species are of particular interest to Pima County conservation efforts; please fill out the following table to the best of your knowledge:

Species	Ever found on project site?	If yes, date of last observation/survey?	Future surveys planned?
Cactus ferruginous pygmy owl	No		No
Western burrowing owl	No		No
Pima pineapple cactus	No		No
Needle-spined pineapple cactus	No		No

Questions about this form?
Contact the Office of Sustainability and Conservation at (520) 724-6940.



September 18, 2023

Development Services- Planning
Pima County
115 N. Church Avenue
2nd Floor, Suite 231
Tucson, Arizona 85701

**RE: TYPE DOC: Comprehensive Plan Amendment – Request Letter
For 5400 S. Old Spanish Trail
KAEKO #752301400**

To Whom It May Concern:

We are writing on behalf of KAEKO Inc, FORSarchitecture+interiors and the property owners of 5400 S. Old Spanish Trail, to formally request a Comprehensive Plan Amendment for the proposed change of zoning from SR (Suburban Ranch) to RX (Mixed-Use Residential) for the subject property references above within Pima County.

Our proposed amendment seeks to bring the land use designation in line with the most recent and historical use of the property, which has operated as a restaurant since as early as the 1950's. It is intended to remain restricted to restaurant use only after the Comprehensive Plan Amendment approval. This change in zoning will help to meet the evolving needs of the community while fostering the principles of Arizona Growing Smarter (1998) and Growing Smarter Plus (2000) legislation. Our request aligns with the following key aspects of comprehensive planning and development process:

Implementation of Adopted Plan Policies: We believe that the proposed change in zoning is consistent with the adopted plan policies of Pima County. It will promote mixed-use, compact development and rational infrastructure expansion.

Consistency with Sonoran Desert Conservation Plan (SDCP) Maeveen Marie Behan Conservation Lands System: Our proposed re-development plan includes a commitment to preserving and restoring natural resources. We will ensure that there are two acres of undisturbed area for each acre of disturbed area, as outlined in the 2002 Multiple Use Management Area Designation. We intend to restore and re-vegetate any disturbed areas, contributing to the conservation goals of the SDCP Maeveen Marie Behan Conservation Lands System. We expect to work closely with both Pima County Office of Sustainability and Conservation and the Saguaro National Park to meet the unique needs of this area.

Addressing Plan Oversights, Inconsistencies, or Land Use Inequities: We believe that the current RS zoning designation is an oversight that does not accurately reflect the current and future use of the property. By changing the zoning to RX, we aim to rectify this inconsistency and ensure that the land use designation aligns with the property's intended use.

We are committed to working closely with the County and other stakeholders throughout this process to ensure that our proposed re-development is in the best interest of the community and adheres to all relevant regulations and guidelines. We request you consider our application and initiate the necessary steps to process this Comprehensive Plan Amendment.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Ross Lamberson'.

Ross Lamberson, P.E. – Operations Manager
KAEKO

5400 S. Old Spanish Trail

07 September 2023

Affidavit of Authorization to Act for Property Owner

1. This affidavit concerns the following parcel of land:
 - a) Street Address: 5400 S. Old Spanish Trail, Tucson AZ 85747
 - b) County Tax Assessor's Parcel Number: 20565009A
 - c) General Location: Old Spanish Trail, across from Sagaro National Park, South of Broadway (this is commonly known as the former Webb Steak House)
 - d) Parcel Size: 189,404 SQ. FT.
 - e) Legal Description: S416' N1064' NW4 SW4 LYG W OF OLD SPANISH TRAIL EXC W418.85' THEREOF 6.13 AC SEC 5-15-16
2. I am the owner of the land. If the land has more than one owner, then I am the agent for all of the owners, and the word "owner" in this affidavit refers to all of them.
3. Those signed below have authority from the owner to act for the owner in front of Pima County with regard to any and all reviews, zoning map amendments, general plan amendments, development variances, abandonments, plats, use permits, building permits and other land use regulatory or related matters of every description involving the land, or involving adjacent or nearby lands in which the owner has (or may acquire) an interest, and all applications, dedications, payments, assurances, decisions, agreements, legal documents, commitments, waivers and other matters relating to any of them.
4. I will immediately deliver to Pima County, Planning & Development Services Department, written notice of any change in the ownership of the land or in my authority to act for the owner.
5. If more than one person signs this affidavit, each of them, acting alone, shall have the authority described in this affidavit, and each of them warrant to the City of Scottsdale the authority of the others.

Under penalty of perjury, I warrant and represent to Pima County that this affidavit is true and complete. I understand that people who have not signed this form may be prohibited from speaking for the owner at public meetings or in other city processes.

FORS

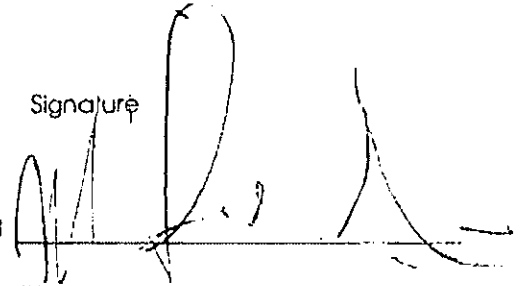
Name

Date

Signature


Miguel Fuentevilla, FORS Architecture

07 September 2023



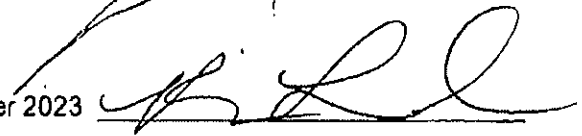
John McColgin, FORS Architecture

07 September 2023



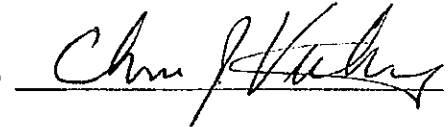
Ross Lamberson, KAEKO Civil Engineer.

07 September 2023



Chris Vickery, Property Owner

07 September 2023



From: [FORSjohn](#)
To: [Thomas Drzazgowski](#); [Anita McNamara](#)
Cc: [Mark Holden](#); [FORSmiguel](#); [Rachel Jacob](#); [Kimberly Schroeder](#); [Nathan Cottrell](#)
Subject: P23CA00004 - 5400 S Old Spanish Trail Comp Plan Amendment - letter from the Owner
Date: Wednesday, February 21, 2024 5:44:27 PM
Attachments: [letter from Owner_2024_0221_5400 S. Old Spanish Trail.pdf](#)

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Ms. McNamara and Mr. Drzazgowski,

Attached is a letter from the property owner addressing a comment that work that is occurring on the site.

There is an 8-yard dumpster on the site. The Owner was fatiguing at picking up bulk format trash being dumped on-site. The Owner shared with me that recently someone dropped off a couch. Others, instead of dumping their yard waste in the arroyo are now putting their yard waste into the dumpster.

Do not hesitate to contact me with any questions.

Regards,

John

John McColgin
Project Senior Manager

FORSarchitecture+interiors

520.795.9888

2020 e broadway blvd, tucson, az, 85719

www.forsarchitecture.com

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Mr. Chris Vickery
5400 S. Old Spanish Trail
Tucson, Arizona 85747
chrisvickery61@gmail.com

21 February 2024

Anita McNamara, AICP, Senior Planner
Thomas Drzazgowski, Chief Zoning Inspector

Pima County Development Services, Planning Division
201 N. Stone Ave
Tucson, AZ 85701

Dear Ms. McNamara and Mr. Drzazgowski,

It has come to my attention that Pima County has received a complaint regarding trash clean up and yard maintenance from a neighbor.

People have been dumping garbage on the site behind and in front of the building and in the arroyo behind the building. Garbage seems to attract more garbage. I have hauled away and paid to haul away several loads of trash which included an old range and mattresses as well as bagged and unbagged sanitary trash.

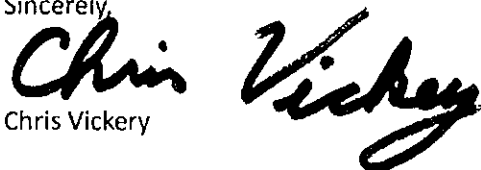
In the arroyo behind the building and also in the courtyard there was also evidence of displaced persons camping and defecating. Those remnants have also been hauled away.

There were also 3 dead trees in the front of the site that had a trunk diameter of less than 3". These dead trees seemed to be providing an anchor for trash dumping. Those have also been removed and hauled to the county solid waste landfill. There was also a portion of a site wall that was offering concealment from the Pima County Sheriff patrols, and a portion of that wall was also removed allowing for visual control for local law enforcement.

In my research of this site there had been a dead body discovered on the site prior to my purchase. My clean-up efforts are a good-hearted attempt to dissuade illicit and illegal activity and be a good neighbor.

Please do not hesitate to contact me with any questions.

Sincerely,


Chris Vickery

Public Comment

March 26, 2024

From: [Kelly Williams](#)
To: [DSD Planning](#)
Subject: P23CA00004 VICKERY-S OLD SPANISH TRAIL PLAN AMENDMENT
Date: Tuesday, February 27, 2024 7:55:09 PM

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Pima County Planning and Zoning Commission,

Hello and thank you for your time, my name is Kelly Williams. I live at 5360 S Old Spanish Trail. Adjacent to the planned development site on the North side.

This restaurant has been occupied and operational as a restaurant twice since we moved into our home 11 years ago. Based on the previous negative impact by the prior two occupants on this site, I have concerns I would like addressed.

First, in the past, patrons of the restaurant would come up and sometimes onto our property. This occurred during all hours of operation of the restaurant. Those wandering around were even found walking inside our fenced property. Second, we were constantly disturbed by the noise late into the night from the restaurant. Third, trash from the restaurant plagued both our property and the road continuously that either blew onto our property or that was thrown into our property. Finally, the lights from the restaurant and the vehicles were always a disturbance..

My ask, first and foremost, would be an 8 foot solid steel fence on the north side of the restaurant from the road to the end of the parking area, this should help keep the patrons confined to the restaurant and help with some of the disturbance issues. I would also ask that outdoor lighting be limited, and a noise restriction after 10pm be put in place. We are the closest neighbors to this property and therefore the most affected.

I am happy that this local business will be running again, and understand the effort going into renovating the property. I gladly support local business, but just ask that our home and privacy be respected as this moves forward. I would like to see similar restrictions put on this property as were put on The Barnyard on Tanque Verde next to the surrounding homes. Great lengths went into ensuring a mutually beneficial construction plan was agreed upon and in place during that build, to a successful end.

As a final note- the traffic on Old Spanish has greatly increased since we moved to this area 11 years ago. I know of several car accidents on this corner both with and without a restaurant operational, I do hope the drunk driving policies and speed are thoroughly enforced now that there are multiple restaurants in the area.

Again, Thank you for your time,

Kelly Williams

Kwilliams409@gmail.com

From: [Timothy Brown](#)
To: [DSD Planning](#)
Subject: P23CA00004- VICKERY PLAN AMENDMENT
Date: Tuesday, February 27, 2024 6:52:45 PM

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

To whom it may concern:

We are writing to oppose Christopher and Lori Vickery's request for a comprehensive plan amendment on approximately 6.13 acres, parcel code 205-65-009A, addressed as 5400 South Old Spanish Trail, from the Resource Sensitive (RS) to the Rural Crossroads (RX) land use designation.

We have lived next to this property for 22 years and have watched 4 separate restaurants fail at this location. We have witnessed and endured light and noise pollution, loud patrons, public urination and drunk driving. We have called police numerous times when the restaurant was vacant for theft, vandalism and loitering. The current owner recently took the doors off the building and these issues have gotten progressively worse. We fear this is a prelude for what's to come if another restaurant is attempted. We also have major concerns about the addition of an outdoor awning and expanded parking lot to the south side of the property. These developments will undoubtedly have a negative impact on our home values, result in a loss of buffer zone for Saguaro National Park and lead to increased traffic. Traffic is already a serious issue due to the Rocking K Development.

We are urging the Planning and Zoning Commission to reconsider their recommendation to approve the zoning change of designation to rural Crossroads.

Sincerely,

Timothy and Stefanie Brown
12046 E Saguaro Crest PLC

From: [DSD Planning](#)
To: [Anita McNamara](#); [Mark Holden](#)
Subject: FW: P23CA0004 Vickery - S Old Spanish Trail Plan Amendment
Date: Wednesday, February 21, 2024 11:09:55 AM

Terrill L. Tillman, AICP
Principal Planner
Pima County Development Services
201 N. Stone Avenue, 1st Floor
Tucson, AZ 85701
520-724-6921

From: Nancy Owens <owensn856@gmail.com>
Sent: Wednesday, February 21, 2024 10:39 AM
To: DSD Planning <DSDPlanning@pima.gov>
Subject: P23CA0004 Vickery - S Old Spanish Trail Plan Amendment

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

We are sending this e-mail regarding Christopher and Lori Vickery's request for a comprehensive plan amendment on parcel 205-65-009A to reopen the restaurant as a steakhouse. Even though we don't understand why rezoning is required since it has been a restaurant of some type for 40 years.

We have lived in the area for 25 years. When it was Webb's Steakhouse, over the years it was our favorite place to eat. The food and service was great. *It was a neighborhood gathering place. When Webbs sold out, we were sad. We were happy when new owners took over on at least 3 occasions only to close.*

It has been very sad to see the restaurant deteriorate after the last closure to what it is today.

We wish to let you know that we 100% support Vickery's plan to reopen it as a steakhouse again. To us this is a historical site. When we lived in Tucson city limits we remember driving out Old Spanish Trail and it being really out in the country.

We feel there is a need for an additional local restaurant nearby in addition to Saguaro Corners, which is very crowded. With all the growth in Rocking K there certainly is the need for an additional restaurant.

From: [DSD Planning](#)
To: [Anita McNamara](#); [Mark Holden](#)
Subject: FW: P23CA00004- VICKERY PLAN AMENDMENT
Date: Wednesday, February 21, 2024 8:30:45 AM

Terrill L. Tillman, AICP
Principal Planner
Pima County Development Services
201 N. Stone Avenue, 1st Floor
Tucson, AZ 85701
520-724-6921

-----Original Message-----

From: RICHARD BROWN <reddroks1@aol.com>
Sent: Wednesday, February 21, 2024 8:17 AM
To: DSD Planning <DSDPlanning@pima.gov>
Cc: Patty Brown <pattibrown413@gmail.com>; Richard Brown <reddroks1@aol.com>
Subject: P23CA00004- VICKERY PLAN AMENDMENT

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Richard & Patricia Brown
5358 S. Old Spanish Trail
Tucson AZ 85747

Planning & Zoning Commission,

We would request that the Commission DECLINE this application.

This proposed restaurant would jeopardize the community lifestyle and devalue property values. It is inappropriate in this residential community.

Why do think individuals and families invest 6, 7, or 800,000 dollars to live in this location? I'll tell you why, they VALUE PRIVACY and PEACE & QUIET. These residential homes are situated on a minimum of 3 acres and many are on 5 to 8 acre sites. Why would you want to surround your home with this amount of property? To ASSURE your PRIVACY and PEACE & QUIET. I think you are getting my point.

The proposed restaurant would introduce unwanted nuisance noise and additional traffic to the neighborhood. Examples: Regular and numerous vendor deliveries, many more scheduled dumpster and garbage pickups, general parking lot noise (doors slamming, engine's starting) and commotion throughout the day and evening hours, regular Landscaping services, noise pollution (weed wackers and power blowers),

Increased populations of Javelina, Coyotes, and Pack Rats brought on by food waste, even if it is in Dumpsters or containers. Would that be a welcomed addition to the community?

Increased Traffic and unsafe Parking Lot entrance and exit. In order to safely enter this Proposed business off of a posted 50 -35 MPH roadway which is generally driven somewhere above 55 MPH you need to put your directional blinkers on a good 700 - 1000 feet before the entrance in order to alert the cars behind you that you intend to turn. How do I know this? I do it everyday entering my driveway off Old Spanish Trail.

Putting your blinker on that early is not a common practice, in every day driving you generally put your blinker on 100 to 70 feet before your turn. I speak from experience on this. More than one very close high speed incident made me realize that you have to follow that procedure. Drivers unaccustomed to this are at risk when turning into the entrance of the proposed business. Very unsafe.

The dangers exiting are no less severe. From a dead stop in the parking lot to merging on to a posted 35 MPH

and more probably 40 to 50 MPH stream of traffic that is rounding a corner. I can hear the squealing brakes as I write this, even worse at night. Very unsafe.

All the factors I have mentioned also have a disruptive impact on the animal habitat in the Saguaro National Park which is a stones throw, across the street from the proposed restaurant. The park is a Federally protected animal sanctuary.

This park is a major tourist destination in Tucson.

Please consider, when making your decision, what you are Taking Away from the families in this community who simply want to protect and preserve their rural way of life. Thank You, Richard & Patricia Brown

From: [DSD Planning](#)
To: [Anita McNamara](#); [Mark Holden](#)
Subject: FW: P23CA00004VICKERY- S. OLD SPANISH TRAIL PLAN AMENDMENT
Date: Tuesday, February 27, 2024 2:22:24 PM

Terrill L. Tillman, AICP
Principal Planner
Pima County Development Services
201 N. Stone Avenue, 1st Floor
Tucson, AZ 85701
520-724-6921

From: JOE MCCAUSLIN <fjmccauslin@gmail.com>
Sent: Tuesday, February 27, 2024 1:52 PM
To: DSD Planning <DSDPlanning@pima.gov>
Subject: P23CA00004VICKERY- S. OLD SPANISH TRAIL PLAN AMENDMENT

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

Pima County Planning and zoning Commission,

My name is Francis Joseph McCauslin. I live at 5360 S. Old Spanish Trail, immediately north and adjacent to the planned development site. I have been at this residence for two of the most recent iterations of a restaurant at this location. Based on these previous experiences I would prefer the zoning to remain as Resource Sensitive land use designation rather than Rural Crossroads.

My personal objections to rezoning are as follows:

1. Noise associated with the restaurant. Outdoor music has been previously played loudly.
2. Trash thrown on to my property (whole and broken beverage containers, take home containers, bags, plastic utensils, household trash, etc). We have had to pick this refuse up ourselves
3. Trespassing. Since we are next door to the restaurant, people have wandered onto my property to look around and to visit our horses when we had them.
4. Lights emanating from the vehicles and the building illuminating our house at night. If rezoned, I would appreciate that building security lights and parking spaces be oriented with vehicle headlights away from our house .
5. Additional depletion of the local water table. We are on a well. The restaurant has previously utilized well water. The depth to water on our well has diminished by approximately 51 feet from 1995 to 2020 (Well registry GWSI # 320917110440301). Since the restaurant also has city water. If it is approved for rezoning, I would prefer for that source to be utilized.
6. Food odors. Who doesn't enjoy the smell of delicious cooked food? Except when you are subject to it all day long. The restaurant previously smoked meat. I was hungry all day long.
7. Diminished property value. I perceive that not many people (including myself) want to live next

door to a busy restaurant.

I am also concerned about restaurant traffic ingress and egress. There have been numerous accidents at this location due to the undulating road contour and prolific speeding in this area. It is noted in the restaurant planning information that Old Spanish Trail is considered to have light traffic. When was this assessment completed? There has been a significantly increased vehicle volume since the continued Rocking K development. A northbound left turn lane into the restaurant should be considered.

Thank you,
Francis Joseph McCauslin.

From: [nancy meister](#)
To: [DSD Planning](#)
Cc: [Anita McNamara](#)
Subject: P23CA00004- VICKERY PLAN AMENDMENT
Date: Tuesday, February 27, 2024 3:06:40 PM

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

We are writing to oppose Christopher and Lori Vickery's request for a comprehensive plan amendment on approximate 6.13 acres, parcel code 205-65-009A, addressed as 5400 South Old Spanish Trail, from the Resource Sensitive (RS) to the Rural Crossroads (RX) land use designation.

We agree with and support the public comments submitted by Richard and Patricia Brown, who are opposing the zoning request. Our concerns parallel theirs; noise and light pollution, home values, loss of buffer zone for the National Park, increased traffic. We are urging the Planning and Zoning Commission to reconsider their recommendation to approve the zoning change of designation to rural Crossroads.

As stated in the definition of Rural Crossroads (RX), "located at rural roadway intersections of collector or arterial roads", this property is not at an intersection. The property is located on Old Spanish Trail, north of/ adjacent to Saguaro Crest Place which is a private gated drive as shown on the site plan.

The county changed the property back to the Resource Sensitive (RS) designation. This was not an oversight as stated in the amendment request letter. We assume the current owners, Christopher and Lori Vickery, purchased the property knowing it was a Resource Sensitive (RS) designation and we feel it should remain that way. The original restaurant was listed on the Pima County website as one acre commercial, created 4/23/2003 and 5.13 ac residential (2007). Created 8/24/2011; 42-12003, Class three property, real and personal property and improvements to the property that are used for residential purposes and is occupied by the owner as the owner's primary residence as described in section 42-12053. It would only be right to hold the new restaurant to the same requirement.

It is a fact; the nationwide failure rate of restaurants in the first 5 years is 80%. This said, if the zoning is passed for a proposed restaurant, there is a four out of five chance of having the property vacant in five years.

If the county insists on approving this Comprehensive Plan Amendment we would like to suggest a few more restrictions to the rezoning policy. Restrict the outdoor patio area to the east side of the restaurant. This restriction would force most of the noise pollution to be directed away from residential properties. In addition, we recommend the County Department of Transportation to lower the speed limit on Old Spanish Trail from 50 MPH to 40 MPH or lower. The curve on Old Spanish Trail at said property site is currently a safety hazard, without additional increases in traffic. Require the new restaurant to include a masonry wall that would surround the perimeter of the parking area. This would reduce noise and light pollution from the residents surrounding this property.

Please consider the negative impact the zoning designation has on residents living in the area. Please protect and preserve the peace and beauty of our rural community.

Respectfully,

Mel and Nancy Meister

TO: Pima County Planning and Zoning Commission

FROM: WAKE, AKIO & JUDY - P23CA00004
11855 E SAGUARO CREST PLACE
TUCSON, AZ 85747-9056

RE: P23CA0004-VICKERY - S. OLD SPANISH TRAIL PLAN AMENDMENT

WE HEREBY EXPRESS OUR OPPOSITION TO THE COMPREHENSIVE PLAN AMENDMENT REGARDING REZONING OF THE PROPERTY AT 5400 S OLD SPANISH TRAIL. WE HAVE LIVED NEAR THAT PROPERTY FOR 20 YEARS, PAYING EVER-RISING PROPERTY TAXES. THE ORIGINAL OWNER, WHO RECEIVED RECONING APPROVAL, SHOWED RESPECT FOR THE SURROUNDING AREA. THIS HAS NOT BEEN THE CASE WITH SUBSEQUENT RESTAURANT MANAGERS AND WE ARE APPREHENSIVE ABOUT GRANTING SUCH APPROVAL AGAIN.

WHILE THE NEW OWNERS PAINT A ROSY PICTURE OF THEIR GOALS FOR "RESTORING AND REOPENING" THE RESTAURANT, WE ARE CONCERNED THAT, ONCE APPROVAL IS GRANTED, THOSE GOALS COULD CHANGE AND WE WOULD HAVE NO INPUT AS TO THE TYPE/SIZE OF ANY NEW CONSTRUCTION.

WE STRONGLY BELIEVE THAT THE PROPERTY SHOULD BE ZONED RESIDENTIAL, AS ORIGINALLY INTENDED, FOR THE WELFARE OF BOTH RESIDENTS AND WILDLIFE AT SAGUARO NATIONAL PARK EAST. PLEASE SERIOUSLY CONSIDER OUR PROTEST AGAINST THE REZONING, THANK YOU.

RESPECTFULLY SUBMITTED,

Aki Wake
AKIO WAKE

Judy Wake
JUDY WAKE