

201 NORTH STONE AVENUE

TUCSON, ARIZONA 85701-1207

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PH: (520) 724-6500 FAX: (520) 724-9635

July 18, 2015

то:	Mark Holden, Principal Planner Planning Division Pima County Development Services Department
FROM:	Mirela Hromatka, Senior Planner Planning and Engineering Section Pima County Regional Wastewater Reclamation Department
SUBJECT:	Co7-15-01 – Magee Como Development Association, LLC – N La Cholla Boulevard Comprehensive Plan Amendment From MHIU to NAC Tax Parcel #225-44-5470; 0.88 acres

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has received and reviewed the proposed amendment. The Plan Amendment would allow 0.88 acres to be in conjunction with the properties east and south of the subject parcel be developed as a mixed-use development subject to obtaining the proper zoning. The applicant is requesting the Neighborhood Activity Center (NAC) designation to support the proposed use, over the current designation of Medium High Intensity Urban (MHIU).

The plan amendment area is within the PCRWRD service area and is tributary to the Tres Rios Water Reclamation Facility via the Canada del Oro Interceptor.

The PCRWRD has no objection to the proposed comprehensive plan amendment but adds the following comment:

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. By accepting this plan amendment, the owner / developer acknowledges that 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.

If you wish to discuss the above comments/conditions, please contact me at 724-6488.

MH Copy: Project



SUSTAINABILITY & CONSERVATION Cultural Resources & Historic Preservation Division 201 NORTH STONE AVENUE, 6TH FLOOR TUCSON, ARIZONA 85701-1207 (520) 724-6940 FAX (520) 724-6451

DATE: July 7, 2015

TO: Mark Holden, Development Services

FROM: Loy Neff, Cultural Resources

SUBJECT: Co7-15-01 Magee Como Development Assn, LLC – N La Cholla Blvd and Magee – Comprehensive Plan Amendment – Parcel #225-44-5470 – Cultural Resources Comments

I conducted a cultural resources review of Co7-15-01 Magee Como Development Association, LLC – N La Cholla Blvd and Magee – Comprehensive Plan Amendment – Parcel #225-44-5470 (.88 acre). The request is to amend the Comprehensive Plan land use designations from Medium High Intensity Urban (MHIU) / Medium Intensity Urban (MIU) under 2015 Comprehensive Plan update, to Neighborhood Activity Center (NAC) for approximately 0.88 acres located at the north side of W. Magee Road, west of N. La Cholla Boulevard. The subject property is in Pima County, Section 33, Township 12 South, Range 13 East.

I reviewed County records, which indicate that the subject property lies within a High Archaeological Sensitivity zone, per the Sonoran Desert Conservation Plan, has not been previously surveyed for cultural resources, and has been subjected to land-leveling in recent times (surface disturbance appears to be extensive). Nearby cultural resources surveys indicate a low probability that future development would negatively impact intact buried cultural resources and the proposed Comprehensive Plan Amendment has a low potential to negatively affect significant cultural resources.

However, prior to ground modifying activities, the property should be assessed by a professional archaeologist to determine whether an on-the-ground archaeological and historic sites survey should be conducted and submitted to Pima County for review. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property should be submitted to Pima County at the time of, or prior to, the submittal of any tentative plat or development plan. All work should be conducted by an archaeologist permitted by the Arizona State Museum, or a registered architect, as appropriate. Any subsequent development requiring a Type II grading permit will be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code. A cultural resources survey and, if necessary, mitigation of any cultural resources by professional qualified archaeologists would be required.

Given this recommendation, the Pima County Office of Sustainability and Conservation has no objection to this request for Comprehensive Plan Amendment.



MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION

DATE: June 24, 2015

TO: United States Fish and Wildlife Service 201 N. Bonita Ave., Suite 141 Tucson, AZ 85745

FROM: Mark Holden, Principal Planner

SUBJECT: Comprehensive Plan Amendment request for your review and comments Case: Co7-15-01 Magee Como Development Assn., LLC – N. La Cholla Boulevard Plan Amendment

USFWS

Reviewer:	Scott Richardson
Address:	201 N. Bonita Ave., Suite 141 Tucson, AZ 85745
Phone:	(520) 670-6144 x 242
E-mail:	scott_Richardson@fws.gov

XX No Concerns relating to the subject property

Yes Concerns relating to the subject property

Description of species impacted, concerns and suggested mitigation measures:

None.

RE: Comprehensive Plan amendment request Co7-15-01

Lisa Douglas <ldouglas@mountainvistafire.org>

Sent: Fri 06/19/2015 9:29 AM To: Mark Holden

The Mountain Vista Fire District approves without comment.

Lisa Douglas Fire Inspector

Mountain Vista Fire District 1175 West Magee Road | Tucson, AZ 85704 Direct: 520-328-8230 | Cell: 520-307-5273 Fax: 520-441-5386 Email: ldouglas@mountainvistafire.org | mountainvistafire.org CO7-15-01

From:David Jacobs [davidjacobsmd.dj@gmail.com]To:Mark HoldenDate:Mon 08/17/2015 9:23 AM

Mark Thank you for taking time to speak with me today. I can't make it to the meeting. I am a medical/commercial (tr) user. My address is 2262 w magee. From what you described, I would support a NAC ie restaurants, hotel use etc..

Thank you David Jacobs 520-219-0482



August 21, 2015

Chairperson Jenny Neeley Pima County Planning & Zoning Commission Tucson, Arizona 85701

Subject: Co7-15-01 Magee Como Development Association N. La Cholla Blvd. Plan Amendment

Chairperson Jenny Neeley & Fellow Planning & Zoning Commissioners:

As representative of a property owner, Ira Yates, at 7801 North La Cholla Boulevard, we are writing to express our concerns regarding the proposed plan amendment. Ira Yates, owns approximately 12 acres located directly north of the plan amendment property. The Yates parcel consists of one single family residential homesite, one accessory structure, restricted access to Como Drive and legal access by easement to La Cholla Blvd bordering the southern edge of the Sonoran Terrace Apartments. Our concern is that over the past several years, this 12-acre property has been surrounded by higher density development and landlocked for future development that is compatible with the surrounding land uses (See Exhibit A). The following developments contributed to the elimination of access:

- Legal access from La Cholla Boulevard was diminished by the Magee/La Cholla Boulevard intersection improvements (See Exhibit A). Emergency and service vehicle access has been significantly impaired as a result.
- Sonoran Terrace apartments were built to the north and east of the Yates Parcel without cross access agreements to La Cholla Boulevard.
- Magee Center Development Plan (Bk. 56, Pg. 94) located directly south of the site was approved in 2003 with access to La Cholla Boulevard. (See Exhibit B) However, the recent improvements made to Magee Road eliminated this access due to the distance requirements from the new intersection at La Cholla Boulevard and Magee Road.
- A 10-foot strip of land was retained by Tucson National Development along Como Drive adjacent to the Yates parcel (see Exhibit A & C) to the west. Access is permitted for the current single family residential use but may not permit any access for future development that is more compatible with the development surrounding the Yates parcel.

Furthermore, as shown on the Exhibit A, the surrounding land uses consist of high density apartments to the north and east, single family residential to the west and townhomes and office to the south. If the Magee Como Development Association plan amendment proposal is approved, the large lot single family residential will be even less compatible with the area and bordered by higher intensity retail, office, hotel and restaurant development.

The Yates Family has been involved in the Magee Road/Cortaro Farms Road Improvement Project since 2007. Communications with the Magee Road Improvement Citizen Advisory Committee and County Transportation staff initially indicated that the legal La Cholla access

- a 110 s church ste 6320 tucson az 85701
- o 520.623.6146
- f 520.622.1950
- w azplanningcenter.com

August 21, 2015 Jenny Neeley, Chairperson Planning & Zoning Commission Co7-15-01 Page 2 Job #/location code

would be eliminated and alternative access would be provided to Yates as part of the realignment project, which failed to occur.

More recently, the Magee Como Development Association approached Mr. Yates regarding his access concerns and sold him an access easement to supplement his legal access off of La Cholla Boulevard that was significantly diminished by the Magee/La Cholla improvements. Exhibit D is the recorded access easement identifying two 12-foot unimpeded drive lanes from the south boundary of the Yates Parcel through the plan amendment property to Magee Road. The recorded document reserves the right for Ira Yates to install the easement improvements in advance of any future development of the Magee Center.

As part of this plan amendment approval, we ask that you consider our concerns and help to secure access for this landlocked parcel with a policy and/or condition requiring this access agreement be included in the development plans for the property.

If you have any questions, please don't hesitate to contact me.

Sincerely, THE PLANNING CENTER

indu S. Unda

Linda Morales, AICP Principal

cc: Ira Yates

Enclosures





IRA YATES PROPERTY





THE PLANNING CENTER a division of TPC Group Inc 110s church ste 5520 tucson of 55701

EXHIBIT A



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EXHIBIT C

Sec. 2.

🐝, Pg:2 of 2

EXHIBIT A

The North 30 feet of the South 324 feet of Lot 1082, The Tucson Naional Estates according to the plat of record in the office of the County Recorder of Pima County, Arizona, recorded in Book 18 of Maps, page 28.

361.1

709

I. P. Nai

EXHIBIT C

TANIS A. DUNCAN

Attorney at Law Arizona Certified Real Estate Specialist Admitted in Arizona & Colorado 5+8 E. Speedway - Tucson, AZ 85705 Arizona: (520) 624-8730 ~ FAX (520) 628-9752 Colorado: (800) 382-9659 ~ FAX (970) 385-4995 <u>E-mail: tanislaw@carthlink.nct</u>

December 3, 2001

Joan Caruso c/o Long Realty 5605 E. River Road Tucson, AZ 85750

Re: 7850 N. Como Drive

Dear Ms. Caruso:

This letter confirms our discussion today concerning the access granted by Tucson National Estates Improvement Association to the owner of the property located at 7850 N. Como Drive. You indicated that the quit claim deed executed by Steve Nanini in 1992 was actually recorded and you have indicated that you will be faxing me a copy of that deed.

As I stated to you on the telephone, the Association's position with regard to this easement is that it was created as an accommodation to the owner of the property at 7850 N. Como Drive to be used in conjunction with the use of the property as a single family residence. The Association is opposed to the use of this easement for any other purpose and takes the position that such other uses would overburden the easement,

The purpose of this letter is to let you know my client's position concerning this easement so that you may disclose this information to any potential purchaser. In the event that any purchaser desires to expand the use of the property for other than one single-family residence, the Association will need to be contacted if that person intends to use the current access. This does not, by any means, negate the fact that any owner of this property has a 30' legal access off of La Cholla Blvd.

If you need additional information, please feel free to contact me.

Very Truly Yours

Tanis A. Duncan

TAD/dt cc: Tucson National Estates Improvement Association



No. Pages: 9/26/2014

6 4:00 PM

F. ANN RODRIGUEZ, RECORDER

When recorded please return to: Magee Como Development Association, LLC 5151 N. Oracle Road, Ste 210 Tucson, AZ 85704

Exempt per A.R.S. § 11-1134(A)(2)

DEED OF EASEMENT AND MAINTENANCE/INSTALLATION AGREEMENT

For the consideration of \$10.00 and other good and valuable consideration, which is hereby acknowledged, Magee Como Development Association, LLC (the "Grantor") is the owner of record of that certain easement dated the 28th day of March 2012 and recorded on March 29, 2012 at sequence 20120890545 (Easement) which is across the real property identified in said Easement and pursuant to the rights granted in the Easement in order to replace access taken by Pima County, hereby conveys the right to use a portion of the Easement as provided below to <u>Ira Jon Yates</u>, <u>his successors- in -interest, assigns and heirs</u> (the "Grantee") for the present use and benefit of Grantee's property located at 7801 N. La Cholla Blvd., Tucson, Arizona; also known as Pima County Assessor Parcel Number 225-43-0030, and more specifically described in the legal description attached hereto as Schedule "A" and made apart hereof by this reference (Grantee's Property).

This Easement, which shall be limited to only accessing Grantee's Property shall contain two 12 Foot unimpeded drive lanes with protective edging, as needed, as established by Grantor (24 Foot PAAL), where the conveyance of the 24 Foot PAAL to the Grantee's Property shall a) begin along the North Right of Way line of Magee Road and go north connecting to the south line of the Grantee's Property, and b) be irrevocable and perpetual. The 24 Foot PAAL is for the non-exclusive purpose of ingress and egress (Access Easement) where the Access Easement is for the sole use and benefit of the Grantee's Property. Upon the grant of this Access Easement Grantee, its successors, assigns, heirs, tenants and visitors, shall have the right to use the 24 Foot PAAL as access in such a manner so as to not require Magee Center to incur any additional cost over and above those items described herein. If at any time Grantee's use of the Access Easement exceeds normal wear and tear (Disturbance) as determined by Magee Center, then Grantee shall promptly repair, at its sole cost and expense, the 24 Foot PAAL and any other affected improvements such that it is placed in the same condition prior to the Disturbance . Any such repairs shall be completed so as not to cause damage or disturb the current use of this Easement. For specifics on the 24F PAAL Legal Description see attached Schedule"B".

In order to maintain its rights set forth in this Easement, Grantee shall have the obligation, upon receipt of a written notice from Magee Center, to promptly pay, concurrent with the funds paid by Magee Center, two/thirds (2/3rds) the cost for installing within the Easement, to the then current Pima County standards, the 24 Foot PAAL roadway and related improvements designed by the Magee Center development, such as curbing, sidewalks, walls, landscaping, irrigation, and drainage areas, (collectively Roadway Improvements) as well as its share of the maintenance, repair and replacement of the Roadway Improvements (collectively referred as Maintenance/Installation Items). Said Maintenance/Installation Items shall be designed and installed per the approval of all appropriate governmental entities and agencies, public and private utility companies, and the Grantor or its assigns.

At any time after the design of the 24 Foot PAAL is approved by Pima County and Magee Center (PAAL Approval), the Grantee shall have the right, at its sole cost and expense, to initiate and independently install in accordance with the PAAL Approval and under the supervision and control of the Magee Center the improvements related to the 24 Foot PAAL, whereupon the Grantee shall be relieved of the requirement to participate in the cost of installing any other required improvements within the Easement. If the 24 Foot PAAL is constructed in advance of the

(Continued on Page 2)

other required improvements within the Easement, then it shall be installed with protective edging and any other improvements necessary to sustain this installation in accordance with its original design until the other improvements

within the Easement is installed. Once any improvements are constructed within the Easement the obligation to maintain, repair and replace same shall immediately become effective under the terms and conditions described herein.

All provisions of this DEED OF EASEMENT AND MAINTENANCE/INSTALLATION AGREEMENT shall be binding upon the Grantor and Grantee, their successors and assigns and constitute a covenant running with the land for the benefit of Grantee, Grantor, their successors and assigns. This grant of a DEED OF EASEMENT AND MAINTENANCE/INSTALLATION AGREEMENT is subject to all matters of record.

STATE OF ARIZONA)) ss. County of Pima)

GRANTON: Magee Com? Development Association, LLC BY: Mage Com? Development Association, LLC

Craig R. Courtney, Member

The Grantor has executed this Deed of Easement and Maintenance/Installation Agreement before me this $26 \frac{7}{14}$ day of September 2014, by Craig R. Courtney, authorized Member of Magee Como Development Association, LLC, an Arizona Limited Liability Company.

Notary Public

(Continued from Page-1)-----

My Commission Expires: 9/2-0/15

0000000 Official Seal NOTARY PUBLIC STATE OF ARIZONA County of Pima MARIA B. ARELL Commission Expires September

Magee Como Development Association. LLC J151 North Oracle Rd., Suite 210 Tucson, AZ. 85704 Phone: (520) 293-8280/Fax: (520) 293-7728

April 30, 2015

Mr. Jim Veomett, Senior Planner Pima County Development Services Planning Division 201 North Stone Ave. 2nd floor Tucson, Arizona 85701

Re: Comprehensive Plan Amendment for Lot 4 from MHIU to NAC

Dear Mr. Veomett:

Please accept this letter as the Owner's written request to initiate a Comprehensive Plan Amendment for Lot 4 of Magee Center from MHIU to NAC.

The property, currently zoned TR, is approximately .88 acres in size and located at 7791 La Cholla Blvd. Tucson, Arizona. The Tax Code Parcel # is 225-44-5470. The Property is owned by Magee Como Development Association, LLC, An Arizona Limited Liability Company with the following members:

1. Craig R Courtney, (520-247-3306)

2. Janine C Courtney,

3. M. Beth Haas, and

4. Michael G Byrne.

In addition, please accept this letter as the Owners' authorization and your notification that Michael G Byrne (520-3071290), Craig R Courtney (520-247:3306), and/or M. Beth Haas (520-850-7121) are authorized and instructed by Magee Como Development Association, LLC, to represent the company in all matters necessary to achieve a Comprehensive Plan, Rezoning and Development Plan for Lot 4 of Magee Center.

Please accept any of the above parties' written instructions, and/or request as those of the owner's directly.

Thank you for your cooperation in this matter.

Sincerely

Craig R. Courtney, Member

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²⁰¹⁵ Pima County Comprehensive Plan Amendment Program Plan Amendment Application Packet Pima County Development Services Department – Planning Division, 201 N. Stone Avenue, 2nd Floor, Tucson, Arizona 85701 Phone: 520-724-9000



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