



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: August 2, 2016

Title: Co9-03-03 Lawyers Title of Arizona, Inc. 7638-T – La Cholla Boulevard Rezoning (Resolution)

Introduction/Background:

The Board of Supervisors approved a Time Extension subject to original and modified conditions for this Rezoning on March 15, 2016.

Discussion:

This Resolution reflects the Board of Supervisors' approval of the Rezoning Time Extension.

Conclusion:

The time limit and conditions contained in Rezoning Ordinance 2007-16 may be modified by resolution.

Recommendation:

Staff recommends that the Board of Supervisors approve this Resolution.

Fiscal Impact:

0

Board of Supervisor District:

☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

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

Department Director Signature/Date: _____

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: _____

[Handwritten signatures and dates]
7/11/16
7/12/16
C. DeChulavay 7/12/16



Subject: Co9-03-03

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FOR AUGUST 2, 2016 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS
FROM: Chris Poirier, Interim Planning Official 
Public Works-Development Services Department-Planning Division
DATE: July 11, 2016

RESOLUTION FOR ADOPTION

Co9-03-03 **LAWYERS TITLE OF ARIZONA, INC. 7638-T – LA CHOLLA BOULEVARD**
REZONING
Owner: Landmark Tilte TR18261, Attn.: Niner Holdings 1, LLP
(District 1)

If approved, adopt RESOLUTION NO. 2016 - _____

OWNER: Landmark Tilte TR18261
Attn.: Niner Holdings 1, LLP
12500 Cloud Lane
Los Angeles, CA 90049

AGENT: The Planning Center
Attn: Tim Craven, Planner
2 E. Congress Street, Suite 600
Tucson, AZ 85701

DISTRICT: 1

STAFF CONTACT: David Petersen

STAFF RECOMMENDATION: APPROVAL.

CP/DP/ar
Attachments

cc: Co9-03-03 File
Tom Drzazgowski, Principal Planner

RESOLUTION 2016-_____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-03-03 LAWYERS TITLE OF ARIZONA, INC. 7638-T – LA CHOLLA BOULEVARD REZONING; LOCATED ON THE NORTHEAST CORNER OF LA CHOLLA BOULEVARD AND OLD MAGEE TRAIL, AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE NO. 2007-16.

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

1. On January 17, 2006, in rezoning case Co9-03-03, the Pima County Board of Supervisors approved the rezoning of approximately 8.22 acres located on the northeast corner of La Cholla Boulevard and Magee Road, as shown on Exhibit A, from SR (Suburban Ranch) to CR-5 (Multiple Residence) for approximately 8.22 acres, subject to standard and special conditions.
2. On February 13, 2007, the Pima County Board of Supervisors adopted rezoning Ordinance 2007-16, recorded in Docket 12996 at Page 1553, rezoning the approximate 8.22 acres described in rezoning case Co9-03-03 and memorializing the standard and special conditions.
3. On January 4, 2016, the owner(s) of the rezoning site applied for two consecutive five-year extensions of the time limit set forth in Section 3 of Ordinance No. 2007-16 for approximately 7.63 acres of the rezoning (approximately 8.22 original acres minus approximately .59 acres of dedicated right-of-way);
4. On March 15, 2016, the Pima County Board of Supervisors denied closure of the rezoning and approved the two consecutive five-year time extensions subject to modified standard and special conditions;
5. Section 3 of Ordinance No. 2007-16 and the Pima County Code allow the Board of Supervisors to amend the rezoning conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance No. 2007-16 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.~~
32. Recording of the necessary development related covenants as determined appropriate by the various County agencies.

43. Provision of development related assurances as required by the appropriate agencies.
54. 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.
65. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
76. Transportation conditions:
- A. ~~The property owner(s)/developer(s) shall participate in the Improvement District for Magee Road/Carmack Wash and Drainage improvements.~~
- B. ~~The property owner(s)/developer(s) shall dedicate to Pima County appropriate right-of-way for La Cholla Boulevard adjacent to the subject property to allow for 100 feet east half right-of-way (200 feet total).~~
- CA. The property owner(s)/developer(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, parking areas, drives, physical barriers, drainageways and drainage easements.
- DB. The property owner(s)/developer(s) shall provide off-site improvements to La Cholla Boulevard and Old Magee Road Trail as determined necessary by the Traffic Impact Study and the Department of Transportation.
- EC. The owner(s)/developer(s) shall not use McCarty Road for construction or permanent access.
87. Flood Control conditions:
- A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
- B. The property owner(s)/developer(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.
- C. The property owner(s)/developer(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.
- D. The property owner(s)/developer(s) shall comply with detention/retention conditions and restrictions, or provide an in-lieu fee, as stated in the Floodplain Management Ordinance since the property lies within a balanced or critical basin.

98. Wastewater Management Reclamation conditions:

- A. ~~The owner(s)/developer(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner / developer to that effect.~~
- B. ~~The owner(s)/developer(s) shall obtain written documentation from the Pima County 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. ~~The owner(s)/developer(s) shall fund, design and construct all on-site sewers necessary to serve new development within the rezoning area.~~
- F. ~~The owner(s)/developer(s) shall design and construct the off-site and on-site sewers to accommodate flow-through from any properties adjacent and up-gradient to the rezoning area that do not have adequate access to Pima County's public sewer system and accommodate the anticipated wastewater flow from any properties down-gradient from the rezoning area that can reasonably be served by those sewers, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.~~
- 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/developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the

rezoning area until Pima County executes an agreement with the owner/developer to that effect.

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

409. Adherence to the preliminary development plan as approved at public hearing (Exhibit B).

~~1410. Plants to be used for landscaping and revegetation shall be drought tolerant native species which are compatible with native vegetation endemic to the project area. 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 pertandra* & *T. ramosissima*)
 Bermuda grass (*Cynodon dactylon*) excluding sed hybrid Bermuda
 Lovegrasses (*Eragrostis spp.*) excluding Plains lovegrass (*Eragrostis intermedia*)

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

- ~~12.~~ ~~The site shall be surveyed for the presence or absence of the cactus-ferruginous pygmy owl by an entity qualified to perform biological surveys and who possesses a valid permit from the U.S. Fish & Wildlife Service to perform such surveys. Surveys shall be done according to the most current protocol approved by the U.S. Fish & Wildlife Service, or a letter shall be provided from the U.S. Fish & Wildlife Service stating that a survey is not required.~~

- ~~1311.~~ The northern units shall be limited in height to one (1) story and a maximum of eighteen (18) feet with a minimum twenty (20) foot setback from the northern property line.

- ~~14.~~ ~~No building permits shall be issued until Magee Road is under construction.~~

- ~~1512.~~ The owner(s)/developer(s) shall provide a sixteen (16) foot Equestrian Easement by Garfield Wash; the underpass height shall be fourteen (14) feet to safely accommodate equestrian users.

13. In the event the subject property is annexed, the owner(s)/developer(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

14. The property owner(s) shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims, or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

Section 2. Section 3 of Ordinance No. 2007-16 is amended and the time limit extended as follows:

1. Conditions 1 through ~~45~~ 14 shall be completed by January ~~17, 2011~~ 2021.
2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.
3. No building permits shall be issued based on the rezoning approved by this Resolution until all conditions 1 through ~~45~~ 14 are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 1 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

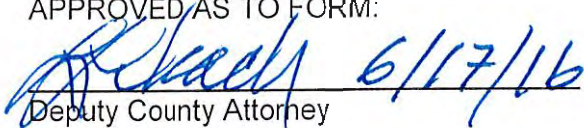
Passed and adopted, this _____ day of _____, 2016.

Chair, Pima County Board of Supervisors

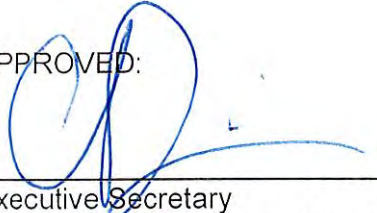
ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

 6/17/16
Deputy County Attorney
Lesley M. Lukach

APPROVED:

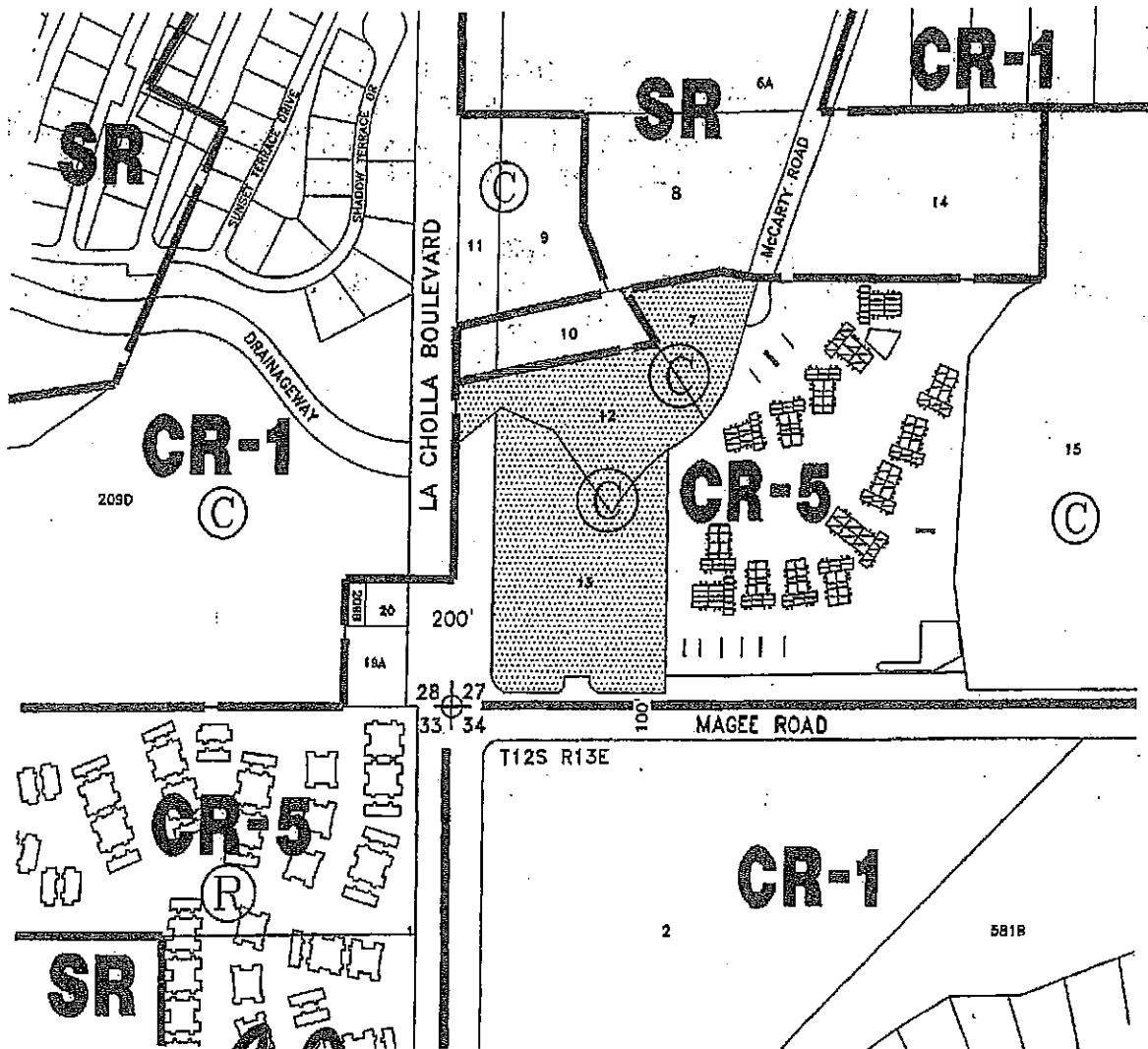
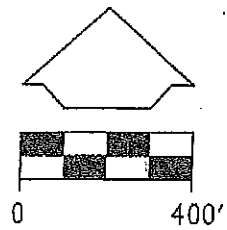


Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 75 BY ORDINANCE NO. 2007-16
TO PIMA COUNTY ZONING MAP NO. 115 TUCSON, ARIZONA
PARCELS 7, 12 & 13 BEING A PART OF THE SW 1/4 OF THE
SW 1/4 OF SECTION 27, T12S R13E.

ADOPTED February 13, 2007 EFFECTIVE February 13, 2007



EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

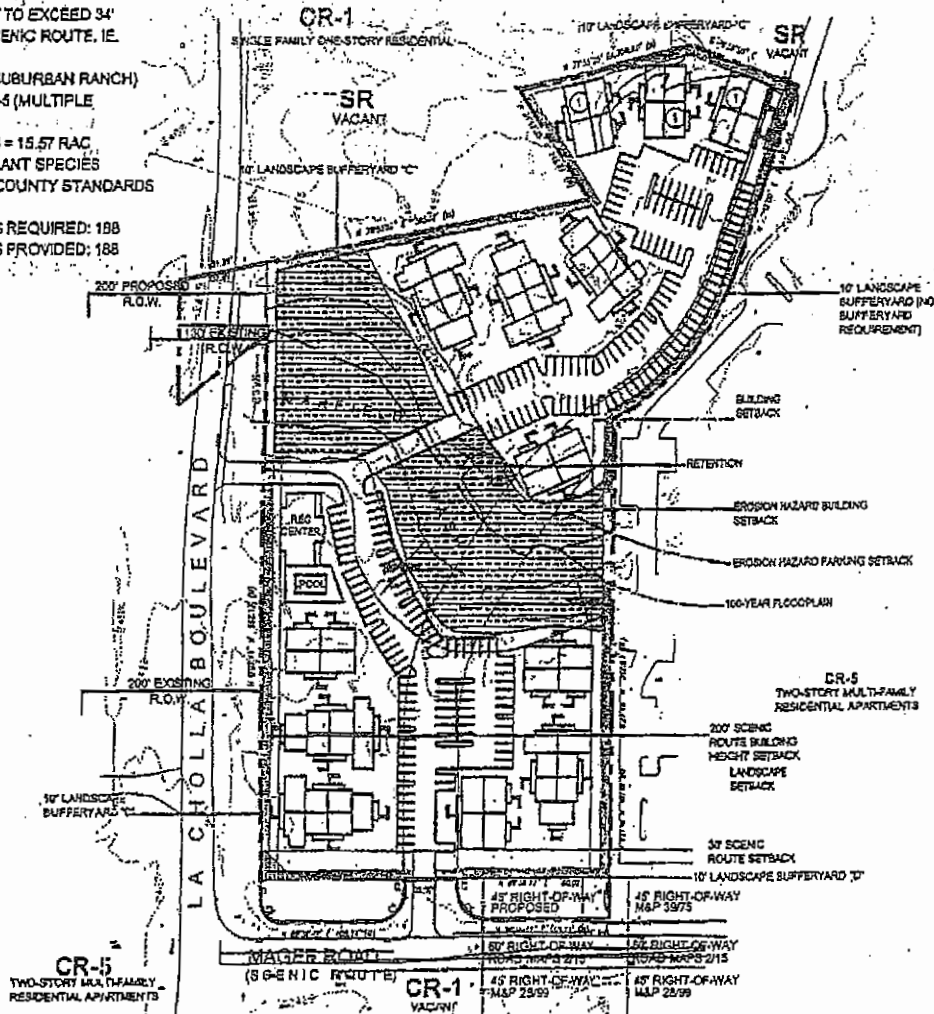
© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM SR 8.22 ac±
MA - JANUARY 24, 2007

Co9-03-03
Co7-00-20
225-21-0070,
00120 & 0130

EXHIBIT "B"

SITE DATA

1. PROPERTY AREA: 8.22 AC
2. TOTAL NATURAL AREA: 70,094 S.F.
3. NO. OF DWELLING UNITS: 128
4. BUILDING HEIGHTS NOT TO EXCEED 34' (24' WITHIN 200' OF A SCENIC ROUTE, I.E. MAGEE ROAD)
5. EXISTING ZONING: SR (SUBURBAN RANCH)
6. PROPOSED ZONING: CR-4 (MULTIPLE RESIDENCE ZONE)
7. RESIDENTIAL DENSITIES = 15.57 RAC
8. DROUGHT TOLERANT PLANT SPECIES COMPLIANT WITH PIMA COUNTY STANDARDS WILL BE UTILIZED.
9. TOTAL PARKING SPACES REQUIRED: 188
TOTAL PARKING SPACES PROVIDED: 188



LEGEND

- REZONING BOUNDARY
- 10' LANDSCAPE BUFFER
- RETENTION BASIN
- NATURAL AREA

① ONE-STORY BUILDINGS

CONTOUR INTERVAL = 1'



THE PLANNING CENTER

710 S. CHURCH AVE., SUITE 1000
TUCSON, AZ 85701 (520) 622-1144
Date: 11/2/03
Project #100002
By: [Signature]

609-03-03
Preliminary Development Plan
BOS public hearing 1-17-06