



# MEMORANDUM

**DATE:** March 20, 2017

**TO:** Honorable Chair and Members of the Board of Supervisors

**FROM:** Thomas Drzazgowski, Deputy Chief Zoning Inspector

**SUBJECT:** P16RZ00011 Ajo Camino De Oeste LLC – W. Ajo Hy. Rezoning – Additional and Modified Conditions

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Since the Planning and Zoning Commission hearing on January 11, 2017, the owner's representative and neighboring property owners have met and worked together to address concerns of neighbors. The two parties have agreed to an additional condition, as such, staff is proposing condition #15 be added should the Board of Supervisors decide to approve the rezoning.

Condition #13 has been modified and the proposed conditions with all additions and modifications are as follows:

Completion of the following requirements within five years from the date the rezoning request approved by the Board of Supervisors:

1. The owner shall:
  - A. Submit a development plan and subdivision as determined necessary by the appropriate County agencies.
  - B. Record the necessary development related covenants as determined appropriate by the various County agencies.
  - C. Provide development related assurances as required by the appropriate agencies.
  - D. Submit a title report (current to within 60 days) evidencing ownership of the property prior to the preparation of the development related covenants and any required dedications.
2. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
3. Transportation conditions:
  - A. Written certification from Arizona Department of Transportation, stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to approval of a Site Development Permit or Subdivision Plat.

- B. The property shall be limited to 5 access points, two serving the commercial site on SR-86, two serving the commercial site on Camino de Oeste, and one access point serving the residential site on Camino de Oeste.
4. Regional Flood Control District condition:
- A. Water conservation measures that provide 15 points per the Preliminary Integrated Water Management Plan methodology in place at the time of development shall be submitted by the applicant with the Site Construction Permit for approval by the Pima County Regional Flood Control District.
5. Regional Wastewater Reclamation conditions:
- A. The owner (s) 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(s) to that effect.
  - B. The owner(s) shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, preliminary sewer layout, sewer improvement plan, or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner(s) shall enter into a written agreement addressing the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
  - C. The owner(s) shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
  - D. The owner(s) shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the PCRWRD in its capacity response letter and as specified by PCRWRD at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan, or request for building permit.
  - E. The owner(s) shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, preliminary sewer layout, sewer construction plan or request for building permit.
  - F. The owner(s) shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by ADEQ, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.
6. Environmental Planning conditions: Upon the effective date of the Ordinance, 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.

7. Cultural Resources condition: Prior to ground modifying activities, an on-the-ground archaeological and historic sites survey shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted at the time of, or prior to, the submittal of any tentative plan or development plan. All work shall be conducted by an archaeologist permitted by the Arizona State Museum, or a registered architect, as appropriate. Following rezoning approval, 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.
8. Natural Resources, Parks and Recreation conditions:
  - A. Construct Ajo Way Greenway G003 with a 30-foot buffer along Ajo Way for the multi-use path, a decomposed path being 15-foot width on the east property line to the wash and 20-foot width along Camino de Oeste to the wash, and a 20-foot path from the eastern boundary to western boundary between the commercial development and residential subdivision, using the Pima County Greenway cross-section details.
  - B. Construct a pedestrian link from the residential subdivision to the commercial development.
9. Adherence to the preliminary development plan as approved at public hearing.
10. The property is subject to both Gateway Overlay Zone and Buffer Overlay Zone.
11. No access is permitted from Avenida Paisano to the residential or commercial development.
12. The area rezoned to SR-® shall remain natural as depicted on the Preliminary Development Plan (exclusive of the bank protection along the commercial and residential edges as well as the equestrian trail). The applicant shall provide adequate signage and barriers to restrict access to the natural area from the west and east. In addition, barriers are required, where necessary to prevent access to the natural area, along the subdivision lots to the south and commercial areas to the north that abut the natural area.
13. ~~For development of retail stores in excess of 40,000 square feet as outlined in a development agreement recorded at Book 12939 Pages 7309-7306 shall be required. Should the development agreement be extinguished, this requirement would not apply. If any retail store in excess of 40,000 square feet is proposed to be developed on the property, the owner must enter into a development agreement that applies the same Operating Constraints and Enhancement Contribution described in Articles 4 and 7 of the Development Agreement recorded in the Office of the Pima County Recorder at Book 12939, Page 7309-7376. This condition will not apply to the property if the Enhancement Contribution is terminated as provided in Article 8 of that Development Agreement.~~
14. During the development plan process, the applicant shall contact Tucson Unified School District concerning the provision of adequate space for safe bus stops, bus turnarounds and pedestrian access to the appropriate schools.

15. Neighbor/Owner conditions:
- A. The owner shall install a barrier, where necessary, along both the Avenida Paisano and the Camino de Oeste frontages for the purposes of preventing vehicles, including automobiles and ATVs, from entering the open space. The barrier shall consist of boulders and/or of post & cable, or other such similar & equally effective forms. The barrier shall be installed at strategic locations, identified as the most likely entrance points into the open space. The Regional Flood Control District shall review these locations prior to installation to insure that there will be no negative drainage impacts. This condition shall be satisfied by the time of release of assurances for the residential subdivision, or prior to the final inspection for the first commercial building.
  - B. The owner shall install signage along both the Avenida Paisano and the Camino de Oeste frontages to indicate that the open space property is privately owned, that there should be no trespassing, and specifically that no vehicles or ATVs are allowed. This condition shall be satisfied by the time of release of assurances for the residential subdivision, or prior to the final inspection for the first commercial building.
  - C. The owner shall plant at least 5 trees, similar in type as those which already exist on the subject property, within the residential development 50 foot bufferyard, along Avenida Paisano. This condition shall be satisfied by the time of release of assurances for the residential subdivision.
  - D. Where there is a driveway or parking spaces adjacent to the south boundary of the commercial development the owner shall build a barrier to prevent vehicles from driving directly into the open space. The barrier shall be a sufficient curb or some other form to accomplish the goal stated above. This condition shall be satisfied prior to the final inspection for the first commercial building.
  - E. The agreement between the owner and neighboring property owners, as represented by the document dated March 10, 2017, shall be recorded with the Pima County Recorder's Office.
4516. In the event the subject property is annexed, the property owner 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.
4617. The property owner shall execute 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)."