BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: August 6, 2019

Title: RESOLUTION: Co9-03-31 BACKUS - OLD SPANISH TRAIL REZONING

Introduction/Background:

On March 5, 2019, the Board of Supervisors approved a five-year Time Extension for this rezoning subject to original and modified conditions.

Discussion:

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

Conclusion:

The time limit and conditions contained in Rezoning Ordinance 2009-71, as amended by Resolution 2015-66, may be modified by resolution.

Recommendation:

Approval of the Resolution.

Fiscal Impact:

N/A

Board of Supervisor District:

☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ All

JUL 22 '19 AM 11:50 PCA DEPUTY CLERK BD

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

Contact: David Petersen, Senior Planner Telephone: 520-724-9508

Department Director Signature/Date: 7/17/19

Deputy County Administrator Signature/Date: 7/18/19

County Administrator Signature/Date: C. Richard Bury 7/18/19

PIMA COUNTY
DEVELOPMENT SERVICES

Subject: Co9-03-31

FOR AUGUST 6, 2019 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

DATE: July 11, 2019

RESOLUTION FOR ADOPTION

Co9-03-31 **BACKUS – OLD SPANISH TRAIL REZONING**
Owners: Scott Strum
(District 4)

If approved, adopt RESOLUTION NO. 2019 - _____

OWNER: Scott Strum
12620 E. Camino del Garagon
Tucson, AZ 85747-9396

AGENT: Peter Backus
14901 E. Old Spanish Trail
Vail, AZ 85641

DISTRICT: 4

STAFF CONTACT: David Petersen

STAFF RECOMMENDATION: **APPROVAL.**

CP/DP/ar
Attachments

cc: Co9-03-31 File

RESOLUTION **2019-_____**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-03-31 BACKUS – OLD SPANISH TRAIL REZONING; LOCATED ON THE SOUTHEAST CORNER OF CAMINO DEL GARANON AND OLD SPANISH TRAIL; AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND THE TIME LIMIT SET FORTH IN SECTION 3 OF ORDINANCE 2009-71 AS AMENDED BY RESOLUTION 2015-66.

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

1. On January 20, 2004, in rezoning case Co9-03-31, the Pima County Board of Supervisors approved the rezoning of approximately 3.04 acres on the southeast corner of Camino del Garanon and Old Spanish Trail as shown on Exhibit A from SR (Suburban Ranch) to CB-1 (Local Business) (.97 acres) and SR ® (Suburban Ranch - Restricted) (2.07 acres), subject to standard and special conditions.
2. The owner of the rezoning site applied for a five-year extension of the time limit approved by the Pima County Board of Supervisors on January 20, 2004.
3. On May 19, 2009, the Pima County Board of Supervisors approved a five-year time extension subject to modified standard and special conditions.
4. On August 4, 2009, the Pima County Board of Supervisors adopted rezoning Ordinance 2009-71, recorded at Sequence 20091560739, rezoning the approximate 3.04 acres described in rezoning case Co9-03-31 and memorializing the standard and special conditions.
5. The owner of the rezoning site applied for a five-year extension of the time limit set forth in Section 3 of Ordinance No. 2009-71.
6. On May 13, 2014, the Pima County Board of Supervisors denied closure of the rezoning and approved a five-year time extension subject to modified standard and special conditions.
7. On September 15, 2015, the Pima County Board of Supervisors adopted Resolution 2015-66, recorded at Sequence No. 20152600564, memorializing the new time limit and modified standard and special conditions.
8. The owner of the rezoning site applied for a five-year extension of the time limit set forth in Section 3 of Ordinance No. 2009-71, as amended by Resolution 2015-66.
9. On March 5, 2019, the Pima County Board of Supervisors approved a five-year time extension subject to modified standard and special conditions.
10. Section 3 of Ordinance No. 2009-71 and the Pima County Code allow the Board of Supervisors to amend the rezoning time limit and conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance No. 2009-71, as amended by Resolution 2015-66, are restated and modified as follows:

~~1. Submittal of a development plan if determined necessary by the appropriate County agencies.~~

~~2. Recording of a covenant holding Pima County harmless in the event of flooding.~~

~~3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.~~

~~4. Provision of development related assurances as required by the appropriate agencies.~~

~~5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.~~

~~6~~1. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.

~~7~~2. Transportation conditions:

A. The property owner(s)/developer(s) shall construct offsite improvements to Camino Del Garanon and Old Spanish Trail as determined necessary by the Department of Transportation.

B. 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.

C. No access shall be allowed on Old Spanish Trail.

~~8~~3. 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 obtain a Floodplain Use Permit for any development on the subject property.

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 basin.

E. ~~The property owner(s)/developer(s) shall contact the Flood control District to determine whether a Conditional Letter of Map Revision (CLOMR) and a Letter of Map Revision (LOMR) are required due to the impact of the federally mapped floodplain (FEMA) on the proposed development.~~ A Conditional Letter of Map Revision (CLOMR) shall be submitted to the Flood Control District with the Site Plan prior to any development.

F. All-weather access shall be provided to the development to meet concurrency requirements.

G. A riparian mitigation plan shall be required for development in designated riparian areas.

H. At the time of development, the applicant shall submit a Final Integrated Water Management Plan consisting of the table identifying internal and external water conservations measures and a site plan showing the location of external measures. First flush retention shall be provided.

~~9~~4. Regional Wastewater Reclamation Department Management conditions:

A. The owners~~/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 owners~~/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/or 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 owners~~/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 owners~~/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 owners~~/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 owners~~/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.

~~10~~5. Cultural Resources and Historic Preservation 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.

~~11~~6. Adherence to the ~~preliminary development~~ sketch plan as approved at public hearing (EXHIBIT B). Uses are restricted to offices, commercial retail, and non-drive-thru restaurants. The subject property shall remain as one parcel.

~~12~~7. Environmental Planning conditions:

A. 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(s). ~~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.~~

B. Invasive Non-Native Plant Species Subject to Removal:

Ailanthus altissima	Tree of Heaven
Alhagi pseudalhagi	Camelthorn
Arundo donax	Giant reed
Brassica tournefortii	Sahara mustard
Bromus rubens	Red brome
Bromus tectorum	Cheatgrass
Centaurea melitensis	Malta starthistle
Centaurea solstitalis	Yellow starthistle
Cortaderia spp.	Pampas grass
Cynodon dactylon	Bermuda grass (excluding sod hybrid)
Digitaria spp.	Crabgrass
Elaeagnus angustifolia	Russian olive
Eragrostis spp.	Lovegrass (excluding E. intermedia, plains lovegrass)
Melinis repens	Natal grass
Mesembryanthemum spp.	Iceplant
Peganum harmala	African rue
Pennisetum ciliare	Buffelgrass
Pennisetum setaceum	Fountain grass
Rhus lancea	African sumac
Salsola spp.	Russian thistle
Schismus arabicus	Arabian grass
Schismus barbatus	Mediterranean grass
Sorghum halepense	Johnson grass
Tamarix spp.	Tamarisk

C. The 2.07 acres of SR® (Suburban Ranch) (Restricted) shall, in perpetuity, remain as "natural open space" as defined in the zoning code. Natural open space shall be protected from intentional disturbances including, but not limited to, grading, brush clearing, pruning, and deposition of debris.

~~13~~8. Structures are limited to a maximum of 24 feet and one story.

~~14~~9. In the event the subject property is annexed, the property owner(s) shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

~~15~~10. 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. 2009-71, as amended by Resolution 2015-66, is restated and modified as follows:

1. Conditions 1 through ~~15~~10 shall be completed by January 20, ~~2019~~2024.

2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.

3. No building permits shall be issued based on the rezoning approved by this Ordinance until all conditions 1 through ~~15~~10 are satisfied and the Planning Official issues a Certificate of Compliance.

4. The rezoning conditions of Section 2 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Passed and adopted, this _____ day of _____, 2019.

_____
Chair, Pima County Board of Supervisors

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM:

6/13/2019
Deputy County Attorney
Lesley M. Lukach

APPROVED:

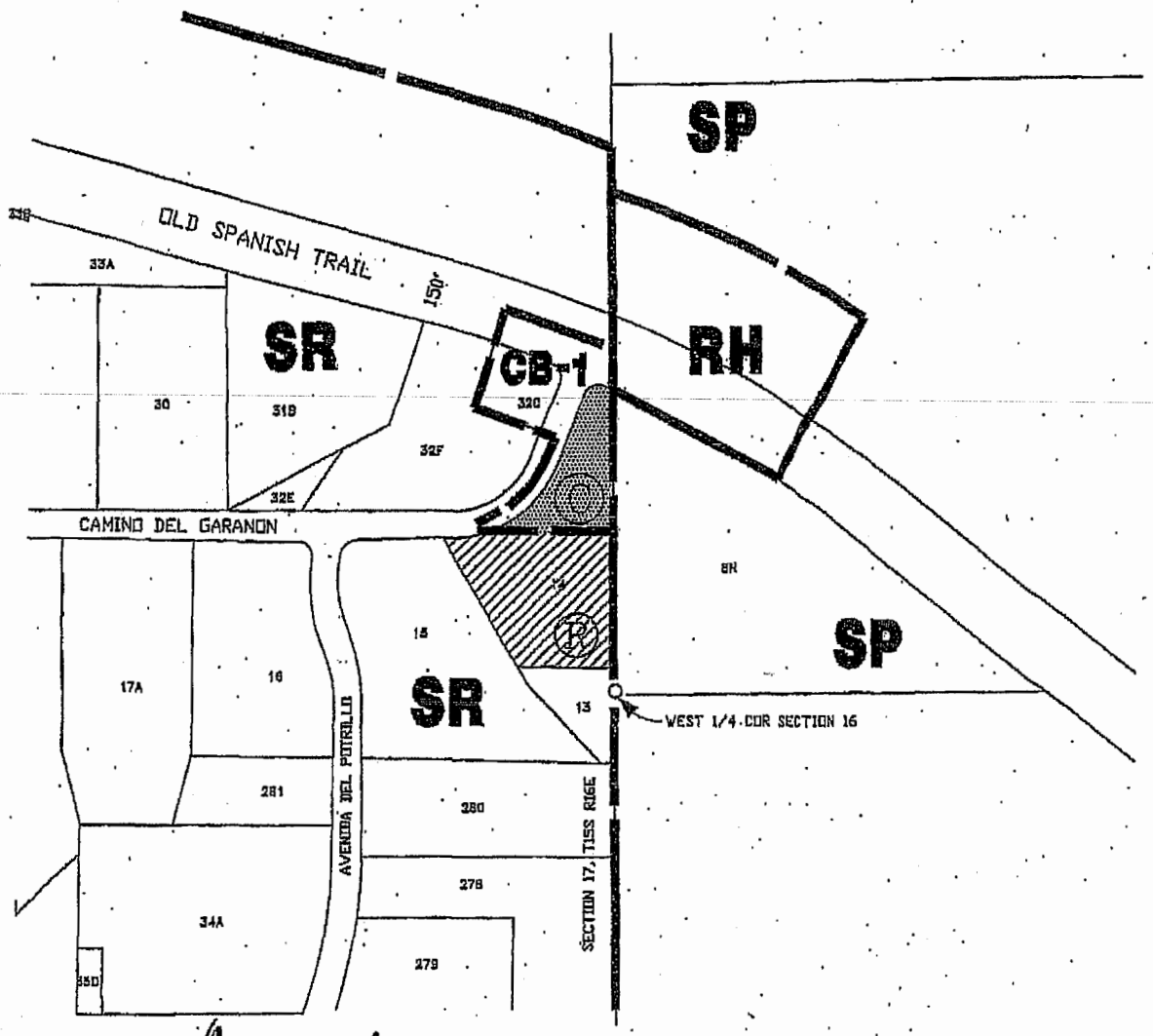
_____
Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 8 BY ORDINANCE NO. 2009-71
TO PIMA COUNTY ZONING MAP NO. 131 TUCSON, ARIZONA
LOT 1 OF RANCHOS PEQUENOS BEING A PART OF THE SE 1/4 OF THE NE 1/4 OF SECTION 17, T15S R16E.

ADOPTED August 4, 2009 EFFECTIVE August 7, 2009

0 400'



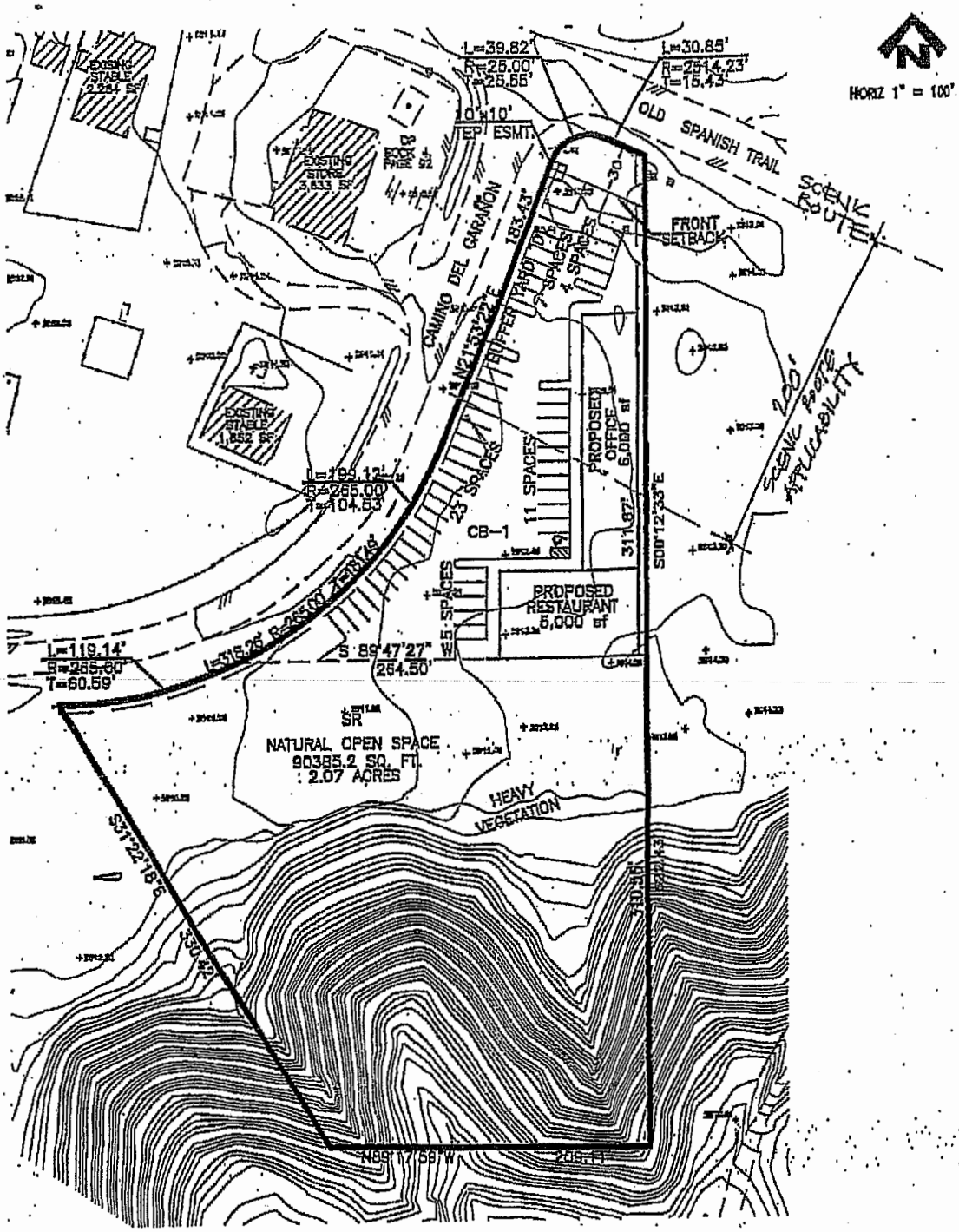
EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

SURVERYED ZONING BOUNDARIES BETWEEN THE CB-1 AND THE SR(R) ZONING SHALL BE DETERMINED DURING THE DEVELOPMENT PLAN REVIEW.

Co9-03-31
Co7-00-20
205-81-0140
BK 21 PG 98

(C) NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM SR 3.10 ac±
MA - JUNE 24, 2009

EXHIBIT B



Sketch Plan
C09-03-31

SITE PLAN
FOR
OLD SPANISH TRAIL

CB-1	.97	ACRES
SR	2.07	ACRES
TOTAL	3.04	ACRES

MMLA
McGovern MacMillan Lodge & Associates, Inc.
800 EAST WETMORE SUITE 110 TUCSON AZ, 85719
(520) 292-2300 FAX (520) 292-1290

PROJ NO: 01044-01
DATE: AUGUST 2003