BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: September 17, 2019

Title: TIME EXTENSION: Co9-14-06 AZ SQUARE #7, LLC - S. NOGALES HIGHWAY REZONING

Introduction/Background:

Applicant requests a five-year time extension of the rezoning from GR-1 (Rural Residential) to CB-1 (Local Business) which was approved by the Board of Supervisors on September 3, 2014 and expired on September 3, 2019.

Discussion:

The applicant indicates that market conditions have delayed completion of rezoning conditions. The five-year time extension request will allow a total of 10 years to complete conditions. The proposed 6,689 square foot retail sales use on the .83-acre site remains a suitable use adjacent to this portion of Nogales Highway that contains a mix of small commercial and low density residential uses that are unchanged. The site abuts another retail space for which access shall be shared; and there remains an abutting residence to the west. Commercial viability may be more dependent on employment growth in the vicinity south of Tucson International Airport rather than residential growth. Concurrency of road infrastructure has been reported. The CB-1 rezoning remains compliant with the Multifunctional Corridor (MFC) plan designation which promotes integrated commercial and other non-residential uses and allows higher density residential uses. Closure of the rezoning would cause reversion to GR-1 which would generally not comply MFC, but would be consistent with prevalent GR-1 zoning in the area and permits limited commercial uses. Staff recommends modification of rezoning conditions to reflect current standard conditions and protocols and improvements to the intersection of Nogales Highway and Old Nogales Highway.

Conclusion:

A time extension is warranted because the proposed retail sales use remains suitable at this location. Concurrency of infrastructure exists. The rezoning remains compliant with the comprehensive plan. Reversion to GR-1 zoning with typical low-density residential use would not conform to the MFC planned land use designation.

Recommendation:

Staff recommends approval of a five-year rezoning time extension subject to conditions as modified.

Fiscal Impact:

N/A

Board of Supervisor District:

☐ 1 ☒ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

SEP 04 '19 PM 04:48 PC CLK OF BD

Department: Development Services Department - Planning Telephone: 724-8800

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

Department Director Signature/Date: 9-3-19

Deputy County Administrator Signature/Date: 9/5/19

County Administrator Signature/Date: 9/4/19

PIMA COUNTY

DEVELOPMENT SERVICES

TO: Honorable Ramon Valadez, Supervisor, District 2

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

DATE: August 29, 2019

SUBJECT: **Co9-14-06 AZ SQUARE #7, LLC – S. NOGALES HIGHWAY REZONING**

The above referenced Rezoning Time Extension is within your district and is scheduled for the Board of Supervisors' **TUESDAY, SEPTEMBER 17, 2019** hearing.

REQUEST: For a five-year **time extension** of a .83-acre rezoning from GR-1 (Rural Residential) to CB-1 (Local Business).

OWNERS: AZ Square #7, LLC
1437 Denver Avenue, Ste. 210
Loveland, CO 80538-5226

AGENT: MJM Consulting, Inc.
Attn: Michael Marks, President
6401 E. Shepherd Hills Drive
Tucson, AZ 85710

DISTRICT: 2

STAFF CONTACT: David Petersen, Senior Planner

PUBLIC COMMENT TO DATE: As of August 29, 2019, staff has received no written public comment.

STAFF RECOMMENDATION: **APPROVAL** OF A FIVE-YEAR TIME EXTENSION SUBJECT TO ORIGINAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The subject property is located outside of the Maeveen Marie Behan Conservation Land System (CLS).

TD/DP/ar
Attachments

PIMA COUNTY
DEVELOPMENT SERVICES

BOARD OF SUPERVISORS MEMORANDUM

FOR SEPTEMBER 17, 2019 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

DATE: August 29, 2019

ADVERTISED ITEM FOR PUBLIC HEARING

REZONING TIME EXTENSION

Co9-14-06 **AZ SQUARE #7, LLC – S. NOGALES HIGHWAY REZONING**
Request of AZ Square #7, LLC for a five-year **time extension** for the above-referenced .83-acre rezoning from GR-1 (Rural Residential) to CB-1 (Local Business). The rezoning was approved in 2014 and will expire on September 9, 2019. The site is located on the west side of Nogales Highway, approximately 150 feet south of Old Vail Connection Road and is addressed as **9770 S. Nogales Highway**. Staff recommends **APPROVAL** OF A FIVE-YEAR TIME EXTENSION SUBJECT TO ORIGINAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS.
(District 2)

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of a **five-year time extension** to September 9, 2024 for the .83-acre rezoning from GR-1 (Rural Residential) to CB-1 (Local Business) with modified standard and special conditions.

If the decision is made to approve the time extension, the following standard and special conditions should be considered:

~~1. The owner shall:~~
- ~~A. Submit a development plan if 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~~1. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.

~~3~~2. Transportation conditions:

A. Access shall be designed to provide cross access between the rezoning site and the adjacent property to the south and west.

B. The property shall be limited to one access point on S. Nogales Highway as shown on the preliminary development plan. ~~The existing easement serving the property (Dusty Lane) shall be closed prior to the issuance of the Certificate of Occupancy. Traffic from the easement shall be diverted through either the access point serving the rezoning site or through the access point for the proposed intersection improvement project at Old Nogales Highway, in a manner approved by the Department of Transportation.~~

~~4~~3. Regional Flood Control District conditions:

A. Detention shall be provided and sized to accept flows from the shared drive and parking, in addition to providing first flush retention throughout the site.

B. All weather access must be provided for the western access easement.

~~5~~4. ~~Cultural Resources condition:~~ A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that 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.

~~6~~5. Adherence to the sketch plan as approved at public hearing~~.~~ (Exhibit B).

~~7~~6. 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.

~~8~~7. The property owner 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)."

~~9~~8. Upon the effective date of the rezoning ordinance associated with this rezoning, 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 current any future 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.~~

Formerly standard conditions #1 A-D are recommended for deletion based on a recent staff decision to reduce redundant requirements and ease processes. Pertaining to condition #1A, a development plan will be required per code for the proposed commercial development. Pertaining to condition #'s 1B and 1D, staff no longer recommends conditions which require recorded covenants. Pertaining to condition #1C, the requirement for provision of assurances is usually associated with a subdivision plat which is not proposed for the rezoning site.

A portion of condition #3B pertaining to temporary closure and diversion of traffic from the easement serving the property is recommended for deletion because the referenced improvement project for the intersection of Old Nogales Highway and S. Nogales Highway and adjacent to the site have been completed as part of County Capital Improvement Project 4OTNHS.

Covenant requirements are also recommended for deletion pertaining to the Proposition 207 rights disclaimer per renumbered condition #7 and to the on-going removal of buffelgrass per renumbered condition #8. The conditions otherwise remain in place.

The recommended modifications to conditions do not constitute a substantial change which would require review by the Planning and Zoning Commission.

STAFF REPORT:

Staff supports the requested five-year time extension to September 9, 2024. The proposed CB-1 6,689 square foot retail sales store still meets applicable concurrency of infrastructure criteria (Tucson Water did not respond) and conforms to the site's Multifunctional Corridor (MFC) comprehensive plan designation which promotes integrated commercial and other non-residential uses and allows higher density residential uses. Thus, commercial use at the site's location fronting Nogales Highway remains an appropriate use. Access will be shared with an adjacent existing retail sales use (dollar-type store) shown on the rezoning preliminary development plan. The applicant states that market conditions are not ripe for development of the site and that there has been no progress towards completing the rezoning conditions.

The site is in a narrow strip of privately-held land that contains a mix of low-density residential and small commercial uses that remain substantially the same as when the rezoning was approved. The area has not experienced significant residential growth that typically spurs commercial development. Residential development is inhibited by publically held property in the vicinity and by uses, such as Tucson International Airport and Raytheon manufacturing, which are not compatible with residential uses. However, market conditions could improve with future employment growth relative to the job center attraction of the airport.

The site is located on the west side of Nogales Highway, one mile south of Aerospace Parkway. The subject CB-1 rezoning was conditionally approved on September 9, 2014. Rezoning Ordinance 2015-9 was adopted on March 17, 2015. Denial of the time extension will cause the rezoning case to be closed and the site to revert to unrestricted GR-1 (Rural Residential) zoning. As a low density rural zone, GR-1 does not conform to the site's MFC plan designation which requires a minimum of six residences per acre for residential use proposals. However, GR-1 does allow a number of commercial Conditional Uses, but of limited size. Retail shops in GR-1 are limited to a maximum floor area of 2,000 square feet for example. Closure of the rezoning would not preclude the possibility of a similar future rezoning. The site is not within the Conservation Lands System.

SURROUNDING LAND USES/GENERAL CHARACTER:

North:	GR-1	City of Tucson Water Utility/Single Family Residential
South:	CB-1, CB-2, GR-1	Retail Store/Tire Store/Convenience Store
East:	GR-1	Nogales Highway/Railroad Tracks/Single Family Residential
West:	GR-1	Single Family Residential

There has been no change in zoning in the vicinity of the site since the initial rezoning approval. Residential uses on acre-plus sized GR-1 (Rural Residential) parcels in the vicinity appear to be largely unchanged.

CONCURRENCY CONSIDERATIONS		
Department	Concurrency Considerations Met: Yes / No / N/A	Other Comments
TRANSPORTATION	Yes	
FLOOD CONTROL	Yes	
WASTEWATER	N/A	
PARKS & RECREATION	N/A	
WATER		No response received to an information request.
SCHOOLS	N/A	
AIR QUALITY	Yes	

TRANSPORTATION REPORT:

Transportation concurrency has been met for the proposed rezoning site. The roadway network in the vicinity to the proposed project is operating below capacity.

Nogales Highway is a paved, two-lane (with a two-way left-turn lane), county maintained medium volume arterial with 150 feet of planned right-of-way per the Pima County Major Streets Plan. The existing right-of-way for S. Nogales Highway varies in this area from 105 feet at the intersection of S. Nogales Highway and Old Nogales Highway, to 158.50 feet directly adjacent to this site.

The current traffic count for S. Nogales Highway is 13,431 average daily trips (ADT) (2018), and the capacity is 15,930 ADT. No specific used has been provided for the proposed rezoning site. Assuming the site is to be developed as a specialty retail center, the trip generation would be approximately 305 ADT for the proposed 6,889 sq. ft. building. Improvements have been completed for the intersection of Old Nogales Highway and S. Nogales Highway and adjacent to the site by the County Capital Improvement Project 4OTNHS.

Conditions:
The Department of Transportation has no objection for approval of the rezoning extension of Co9-14-06 and recommends the following conditions:

A. Access shall be design to provide cross access between the rezoning site and the adjacent property to the south and west.
B. The property shall be limited to one access point on S. Nogales Highway as shown on the preliminary development plan. ~~The existing easement servicing the property (Dusty Lane) shall be closed prior to the issuance of the Certificate of Occupancy. Traffic from the easement shall be diverted through either the access point servicing the rezoning site or through the access point for the proposed intersection improvement project at Old Nogales Highway, in a manner approved by the Department of Transportation.~~

REGIONAL FLOOD CONTROL DISTRICT REPORT:
The Pima County Regional Flood Control District has no objection to the request and does not recommend any new conditions or amendments to the existing conditions.

REGIONAL WASTEWATER RECLAMATION DEPARTMENT REPORT:
The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the request for a rezoning time extension and offers the following comments for your use. The 0.83-acre subject site was conditionally rezoned from GR-1 (Rural Residential) to CB-1 (Local Business) in 2014 for retail use. The rezoning will expire on September 9, 2019. The site is located on the west side of Nogales Highway, approximately 150 feet south of Old Vail Connection Road.

The subject site is outside the PCRWRD service area. The proposed retail store will utilize a private on-site sewage disposal system. Lots for land uses other than single-family residential shall be of sufficient size to accommodate and meet minimum design criteria for installation of on-site disposal system (Pima County Code of Ordinance 7.21.027 minimum lot size). The subject site is less than one acre in size and needs to be reviewed by the Pima County Department of Environmental Quality to determine if it meets the minimum design criteria.

The PCRWRD has no objection to this request for a five-year rezoning time extension, but notes that the owner(s) will need to secure approval from Pima County Department of Environmental Quality to utilize on-site wastewater treatment facilities within the rezoning area at the time a development plan or request for building permit is submitted for review.

UNITED STATE FISH AND WILDLIFE SERVICE REPORT:
The USF&WS reports "No concerns" relating to the subject property.

WATER DISTRICT REPORT:
Tucson Water did not respond to a request for comments.

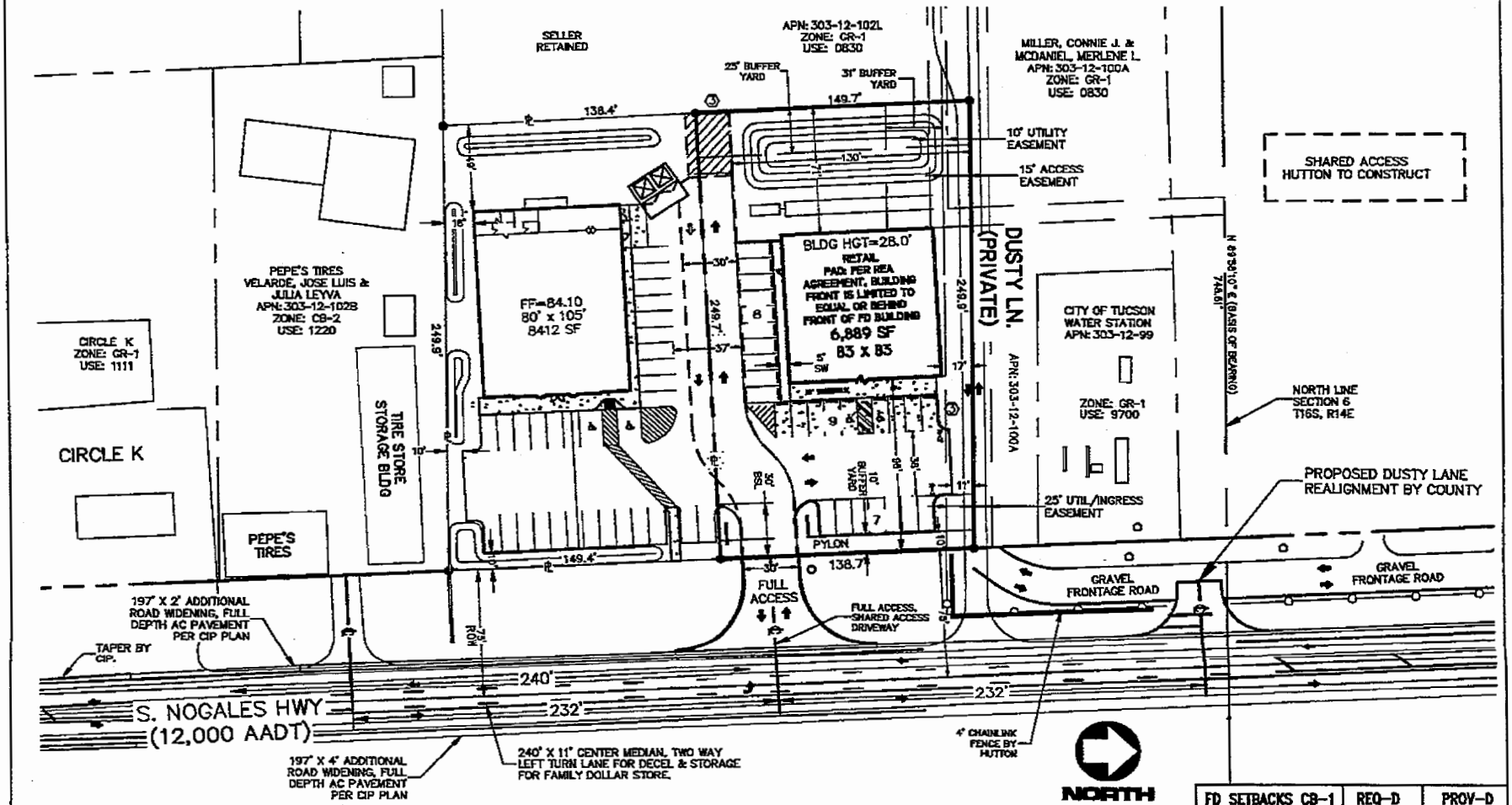
FIRE DEPARTMENT REPORT:
Rural Metro Fire Department did not respond to a request for comments.

PUBLIC COMMENTS:
Notice will be mailed to property owners within 1,000 feet of the rezoning site. As of the writing of this report, no written public comments have been received.

TD/DP/ar
Attachments

cc: Tom Drzazgowski, Chief Zoning Inspector
Co9-14-06 File

PRELIMINARY SITE SKETCH



FD SETBACKS CB-1	REQ-D	PROV-D
FRONT	30 FT	96 FT
REAR	40 FT	71 FT
SIDE (NORTH)	10 FT	17 FT
SIDE (SOUTH)	10 FT	43 FT

AREA SUMMARY

	SQUARE FOOTAGE	ACREAGE
NET AREA	36,000 SF	0.83
PAVING AREA	20,099 SF	0.46

NOTES:
1. PAINTED LINE, NO PARKING
2. DETENTION SWALE
3. CONDITIONS OF REZONE REQUIRE THAT A UNILATERAL CROSS ACCESS EASEMENT BE PROVIDED TO ALL ADJOINING PROPERTIES. CROSS ACCESS TO BE CONSTRUCTED UPON REDEVELOPMENT OF ADJACENT PROPERTIES.

Hutton
REAL ESTATE DEVELOPMENT CONSTRUCTION

PARKING SUMMARY

	TOTAL BLDG SF	REQ-D SPACES	FD PROV-D	SPACE SIZE
PROPOSED	6,889 SF	3.5/1000SF	24	9' x 20'

PLAN WAS PRODUCED WITH THE BENEFIT OF AN SIR? YES ☒ NO ☐

LOCATION: 9770 S. NOGALES HWY TUCSON, AZ 85756

DRAWN BY: PCW

SCALE: 1"=80'

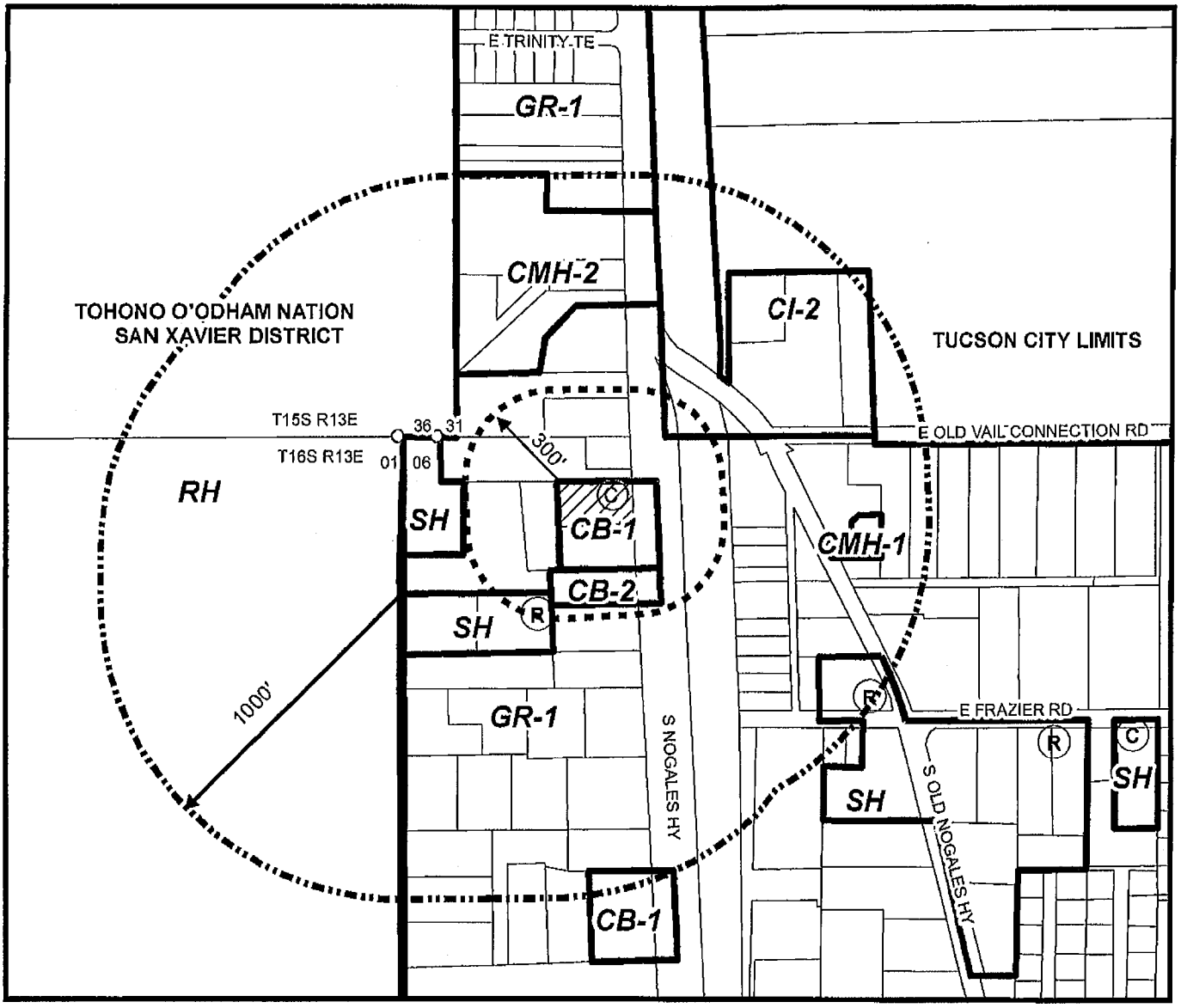
LAT/LONG: 32.0429/-110.5732

DATE: MAY 23, 2014

N
2018
E. Old Vail Connection Road
S. Old Nogales Highway
E. Frasier Road
Union Pacific Railroad
S. Nogales Highway
Site

Case #: Co9-14-006
Case Name: AZ SQUARE #7 LLC - S NOGALES HIGHWAY REZONING
Tax Code(s): 303-12-102Q

1000' Notification Area
300' Notification Area
Subject Property
Zoning Boundary



0 220 440 880 Feet

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

PIMA COUNTY
DEVELOPMENT SERVICES

Notes: Rezoning Time Extension

PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Board of Supervisors Hearing: 9/17/19 | Ref Case: P19SA00003

Base Map(s):139 | Map Scale: 1:6,000 | Map Date: 8/19/2019 - ds

N W E S

MJM
CONSULTING, INC.

MICHAEL MARKS, AICP
Land Planner

May 15, 2019

Mr. Thomas Drzazgowski, Zoning Administrator
Pima County Department of Development Services –
Planning Division
201 N. Stone Ave, 2nd Floor
Tucson, Arizona 85701

Re: Co9-14-06 AZ Square #7 LLC – South Nogales Highway Rezoning

Dear Mr. Drzazgowski:

This is a request for a 5-year time extension for the referenced rezoning case. The current expiration is September 9, 2019. The rezoning conditions have not been satisfied and will not be satisfied by this expiration date. The market conditions are not yet ripe for the development of this parcel, but there is still confidence that conditions will be right soon. It is felt that the property is just as appropriate for CB-1 now as it was when the rezoning was approved. The location of this property along the Nogales Highway and adjacent to other CB-1 zoning makes commercial development appropriate.

For the record, the subject property is located on the west side of the Nogales Highway and approximately 150 feet south of Old Vail Connection Road. The area of the property is 0.83 acres. The Assessor Number is 303-12-102Q. The title of the property is with AZ Square #7 LLC, and the General Member of that entity Beverly Hansen.

Attached are several items, those being 1) the submittal fee of $3,036.00, 2) the authorization letter, 3) the Assessor ownership printout, 4) the Assessor's Map, and 5) the Biological Impact Report. Thank you.

Sincerely,

Michael Marks, AICP
President

6401 E. Shepherd Hills Drive • Tucson, AZ 85710 • Office: 520-885-5021 • Cell: 520-241-8876 • mjmconsulting@cox.net

May 13, 2019

Mr. Thomas Drzazgowski, Zoning Administrator
Pima County Department of Development Services –
Planning Division
201 N. Stone Ave, 2nd Floor
Tucson, Arizona 85701

Re: Co9-14-06 AZ Square #7 LLC – South Nogales Highway Rezoning

Dear Mr. Drzazgowski:

Please consider Michael Marks, AICP of MJM Consulting, Inc. as duly authorized to act on behalf of the ownership in processing a time extension request for the subject property. The subject property is Parcel 303-12-102Q which is owned by the AZ Square #7 LLC. The General Member of that entity Beverly J. Hansen.

Thanks.

Sincerely,

Beverly J. Hansen

Beverly J. Hansen
General Member of the AZ Square #7 LLC

F. ANN RODRIGUES, RECORDER
Recorded By: KMS
DEPUTY RECORDER
4935

P0230
PIMA CO CLERK OF THE BOARD
PICKUP

SEQUENCE: 20150790608
NO. PAGES: 5
ORDIN 03/20/2015
16:18
PICK UP
AMOUNT PAID: $0.00

ORDINANCE 2015-9

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING APPROXIMATELY .83 ACRES OF PROPERTY LOCATED ON THE WEST SIDE OF NOGALES HIGHWAY APPROXIMATELY ONE-HUNDRED FIFTY FEET SOUTH OF OLD VAIL CONNECTION ROAD, PARCEL CODE 303-12-102Q FROM THE GR-1 (RURAL RESIDENTIAL) ZONE TO CB-1 (LOCAL BUSINESS) ZONE, IN CASE CO9-14-06 AZ SQUARE #7, LLC – SOUTH NOGALES HIGHWAY REZONING, AMENDING PIMA COUNTY ZONING MAP NO. 139.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Section 1. The .83 acres located on the west side of Nogales Highway approximately one-hundred fifty feet south of Old Vail Connection Road and illustrated by the shaded area on the attached rezoning ordinance map (Exhibit A), which amends Pima County Zoning Map No. 139, is rezoned from the GR-1 (Rural Residential) zone to the CB-1 (Local Business) zone subject to the conditions in this ordinance.

Section 2. Rezoning conditions.

1. The owner shall:
   A. Submit a development plan if 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. Access shall be designed to provide cross access between the rezoning site and the adjacent property to the south and west.
   B. The property shall be limited to one access point on S. Nogales Highway as shown on the preliminary development plan. The existing easement serving the property (Dusty Lane) shall be closed prior to the issuance of the Certificate of Occupancy. Traffic from the easement shall be diverted through either the access point serving the rezoning site or through the access point for the proposed intersection

improvement project at Old Nogales Highway, in a manner approved by the Department of Transportation.

4. Regional Flood Control District conditions:
   A. Detention shall be provided and sized to accept flows from the shared drive and parking, in addition to providing first flush retention throughout the site.
   B. All weather access must be provided for the western access easement.

5. Cultural Resources condition: A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that 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.

6. Adherence to the sketch plan as approved at public hearing. (Exhibit B)

7. 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.

8. The property owner 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)."

9. Upon the effective date of the rezoning ordinance associated with this rezoning, 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 current any future 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.

Section 3. Time limits of conditions. Conditions 1 through 9 of Section 2 shall be completed no later than September 9, 2019.

Section 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.

Section 5. The effective date of this Ordinance is the date the Chair of the Board of Supervisors signs this Ordinance.

Passed and adopted by the Board of Supervisors of Pima County, Arizona, on this 17th day of March, 2015.

Sharon Bronson

Chair, Pima County Board of Supervisors

ATTEST:

Robin Brigode

Clerk, Board of Supervisors

Approved As To Form:

Deputy County Attorney

MICHAEL LEBLANC

Approved:

Executive Secretary
Planning and Zoning Commission

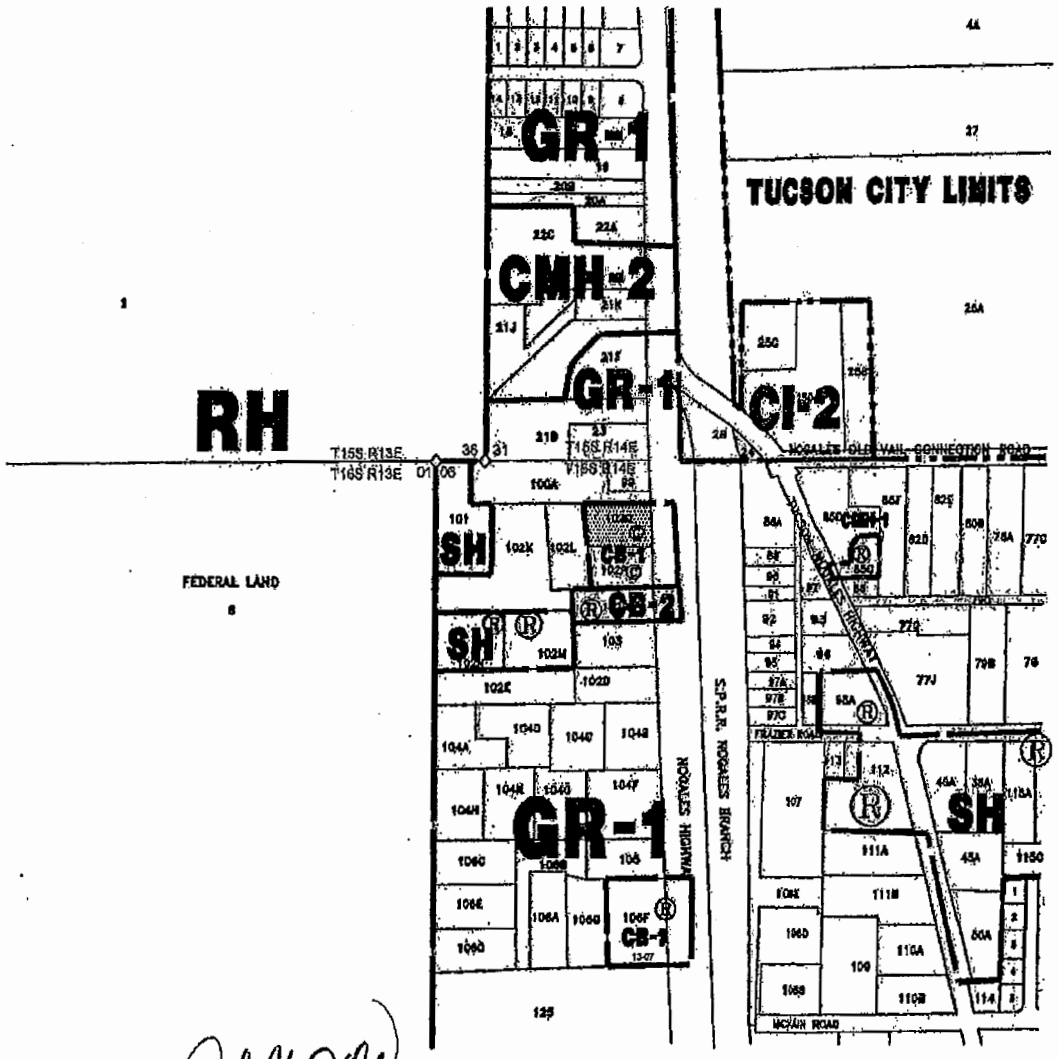
Co9-14-06

EXHIBIT A

AMENDMENT NO. 83 BY ORDINANCE NO. 2015-009
TO PIMA COUNTY ZONING MAP NO. 139 TUCSON, AZ.
PARCEL 2Q BEING A PART OF THE NW 1/4 OF THE NW 1/4 OF SEC. 6, T16S R13E.

0 600'

ADOPTED March 17, 2015 EFFECTIVE March 17, 2015



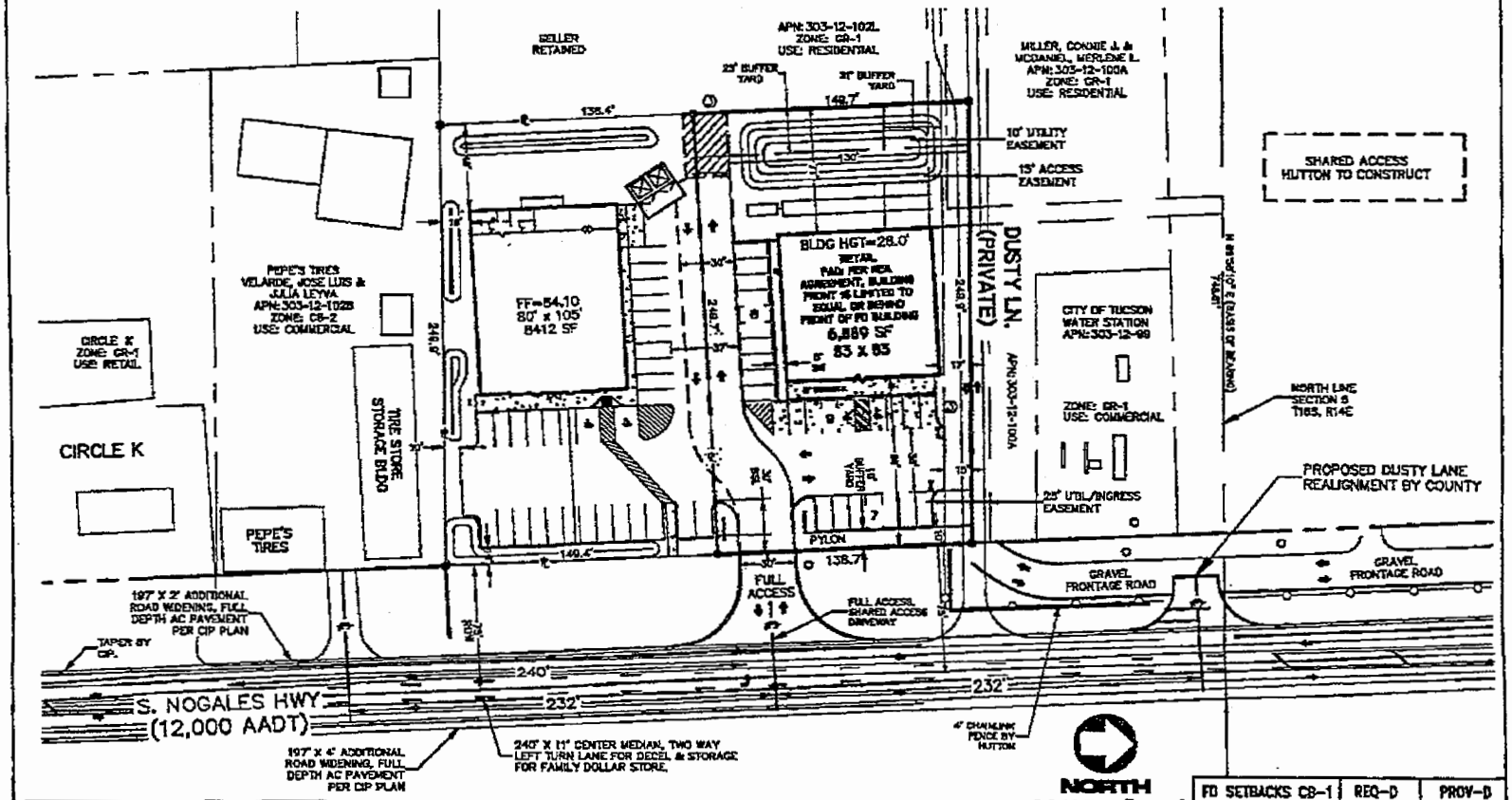
EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM GR-1 0.83 ac±
ds-JANUARY 23, 2015

CO9-14-06
303-12-102Q

EXHIBIT B

PRELIMINARY SITE SKETCH



AREA SUMMARY	SQUARE FOOTAGE	ACREAGE
NET AREA	36,000 SF	0.83
PAVING AREA	20,099 SF	0.46

NOTES:
1. PAINTED LINE, NO PARKING
2. DETENTION SWALE
3. CONDITIONS OF REZONE REQUIRE THAT A UNILATERAL CROSS ACCESS EASEMENT BE PROVIDED TO ALL ADJOINING PROPERTIES. CROSS ACCESS TO BE CONSTRUCTED UPON REDEVELOPMENT OF ADJACENT PROPERTIES.

FD SETBACKS CB-1	REQ-D	PROV-D
FRONT	30 FT	96 FT
REAR	40 FT	71 FT
SIDE (NORTH)	10 FT	17 FT
SIDE (SOUTH)	10 FT	43 FT

SITE Hutton REAL ESTATE DEVELOPMENT CONSTRUCTION

PARKING SUMMARY	TOTAL BLDG SF	REQ-D SPACES		FD PROV-D	SPACE SIZE
PROPOSED	6,889 SF	3.5/1000SF	24	24	9' x 20'

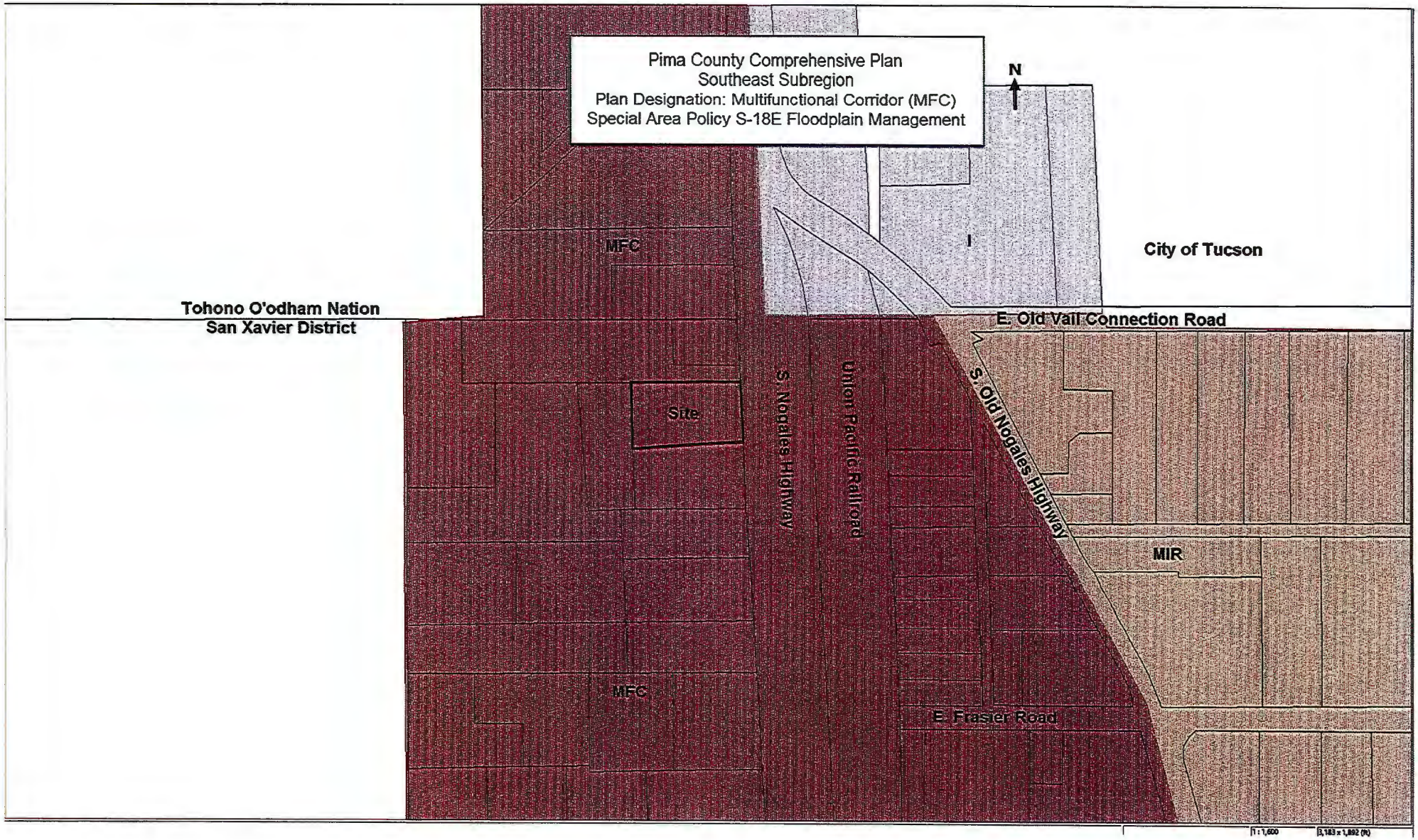
PLAN WAS PRODUCED WITH THE BENEFIT OF AM SIR? YES ☒ NO ☐

LOCATION 9770 S. NOGALES HWY TUCSON, AZ 85756

DRAWN BY PCW

SCALE 1"=80' LAT/LONG: 32.0429/-110.5732

DATE JUNE 05, 2014


Pima County Comprehensive Plan
Southeast Subregion
Plan Designation: Multifunctional Corridor (MFC)
Special Area Policy S-18E Floodplain Management
N
MFC
I
City of Tucson
Tohono O'odham Nation
San Xavier District
E. Old Vail Connection Road
Site
S. Nogales Highway
Union Pacific Railroad
S. Old Nogales Highway
MIR
MFC
E. Frasier Road

Excerpt from Pima Prospers FINAL (as adopted 2015)

Land Use Legend

The Land Use Intensity Legend is composed of a number of "urban/suburban", "rural" land use, and general categories. Urban/suburban designations are usually used in the metropolitan areas of Tucson, Green Valley and certain unincorporated communities. Rural land uses are generally used in exurban and rural locales. General categories can be found throughout the unincorporated county. Each category includes a description of the objectives and the types of uses intended for that category. In addition, most categories that allow residential uses include a minimum and maximum gross density, defined as residences per acre (RAC). Only land area zoned and planned for residential use or open space areas not including golf courses, shall be included in gross density calculations.

Effective densities throughout the rezoning process may be constrained by hydrology, open space requirements, overlay zones, cultural resources, and many other factors.

A. Urban/Suburban Intensity Categories

The following land use intensity categories shall be applied to designate planned land use within urban and suburban areas only:

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3. Multifunctional Corridor (MFC)

a. Objective: To designate areas for the integrated development of complementary uses along major transportation corridors. The MFC designation serves a similar purpose as the CAC plan designation. These areas contain commercial and other non-residential use services, research and development and similar uses (as delineated in the CPI zoning district), and medium- to high-density residential clusters in a linear configuration along major transportation corridors. Potential adverse impacts of strip commercial development are mitigated through application of special design standards in the zoning code and design manuals, such as standards for access management, building setbacks, open space, signs, parking, and landscaping.

b. Residential Gross Density: Residential gross density, if applicable, shall conform to the following:
   1) Minimum – 6 RAC
   2) Maximum – As allowed by the requested conforming zoning district.

c. Residential Gross Densities for Developments Using Transfer of Development Rights (TDRs): Projects within designated Receiving Areas utilizing TDRs for development shall conform to the following density requirements:
   1) Minimum – 6 RAC
   2) Maximum – 18 RAC.

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Pima County Comprehensive Plan Special Area and Rezoning Policies

Chapter 9: Special Area Policies - General Location, Description and Policy

Special Area Policies (SAP) are one of the two types of mapped plan policies (along with Rezoning Policies (RP), covered in a following section of this chapter. SAPs apply to sites typically composed of multiple parcels that share a unique physical feature or location over a relatively large area. They overlay larger areas such as transportation gateways into metro Tucson, significant floodplains, or areas covering a significant portion of a planning area carried forward from a previous (rescinded) area, neighborhood, or community plan.

They are used to help guide the creation of rezoning conditions, but also may serve as general policy for the area they cover such as the Community Development Target Areas.

Special Area Policies are labeled as "S" and are numbered individually on the plan's land use maps. In parenthesis next to the policy title is the referenced map in which the special area lies.

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S-18 Floodplain Management (Multiple Maps)

General Location

There are several sites within eastern Pima County designated as Floodplain Management Special Areas by the Pima County Regional Flood Control District. They are: Upper Santa Cruz River; Rillito Creek Overbank Storage; Cienega Creek; Wakefield and Anderson Washes and Lee Moore Wash, including eight tributaries: Gunnery Range Wash, Sycamore Canyon Wash, Fagan Wash, Cuprite Wash, Petty Ranch Wash, Franco Wash, Flato Wash and Summit Wash.

Policies

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E. Lee Moore Wash Basin Special Area Policy: Development shall be regulated per the Lee Moore Wash Basin Management Study. This study provides hydrology and hydraulics to ensure consistency between land uses, identifies permanent natural flow corridors, and establishes Development Criteria in addition to those contained within Floodplain and Erosion Hazard Management Ordinances. This policy adopts by reference the entire Study including floodplain maps, flow corridor maps, flood hazard data, and development criteria as described in Development Criteria for the Lee Moore Wash Basin Management Study, as adopted by the Pima County Regional Flood Control District Board of Directors on June 1, 2010 (Resolution 2010-FC6).

Co9-14-06 Original Rezoning Approval
BOS Minutes 9-9-14

It was moved by Supervisor Elías, seconded by Supervisor Miller and carried by a 4-0 vote, to close the public hearing and approve the permit.

19. **Extension of Premises/Patio Permit**

03103000, James C. Counts, Nimbus Brewing Company, 3850 E. 44th Street, No. 138, Tucson, Temporary Extension of Premises for September 20, 2014.

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Elías, seconded by Supervisor Miller and carried by a 4-0 vote, to close the public hearing, approve the permit and forward the recommendation to the Arizona Department of Liquor Licenses and Control.

DEVELOPMENT SERVICES

20. **Rezoning**

Co9-14-06, AZ SQUARE NO. 7, L.L.C. - S. NOGALES HIGHWAY REZONING
Request of AZ Square No. 7, L.L.C., represented by Phil Williams, for a rezoning of approximately .83 acres from the GR-1 (Rural Residential) zone to the CB-1 (Local Business) zone, on property located on the west side of Nogales Highway, approximately 150 feet south of Old Vail Connection Road. The proposed rezoning conforms to the Multifunctional Corridor designation of the Pima County Comprehensive Plan. On motion, the Planning and Zoning Commission voted 9-0 (Commissioner Mangold was absent) to recommend APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. Staff recommends APPROVAL WITH STANDARD AND SPECIAL CONDITIONS. (District 2)

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

1. The owner shall:
   - A. Submit a development plan if 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. Access shall be designed to provide cross access between the rezoning site and the adjacent property to the south and west.
   - B. The property shall be limited to one access point on S. Nogales Highway as shown on the preliminary development plan. The existing easement serving the property (Dusty Lane) shall be closed prior to the issuance of the Certificate of Occupancy. Traffic from the easement shall be diverted through either the access point serving the rezoning site or through the access point for the proposed intersection improvement project at Old Nogales Highway, in a manner approved by the Department of Transportation.

4. Regional Flood Control District conditions:
   A. Detention shall be provided and sized to accept flows from the shared drive and parking, in addition to providing first flush retention throughout the site.
   B. All weather access must be provided for the western access easement.
5. Cultural Resources condition: A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that 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.
6. Adherence to the sketch plan as approved at public hearing.
7. 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.
8. The property owner 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)."
9. Upon the effective date of the rezoning ordinance associated with this rezoning, 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 current any future 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.

Chris Poirier, Assistant Planning Director, reported the land was adjacent to a rezoning the Board had approved for a Family Dollar and that staff had received no public comment to date.

The Chair inquired whether anyone wished to address the Board. No one appeared. It was moved by Supervisor Valadez, seconded by Supervisor Miller and carried by a 4-0 vote, to close the public hearing and approve C09-14-06, with standard and special conditions.

21. **Waiver of Platting Requirements**

Co9-14-05, BOZZELLI - NORTH FORECASTLE AVENUE REZONING (LARGO DEL ORO ZONING PLAN WAIVER OF PLATTING REQUIREMENTS)
Request of Louise Bozzelli for a waiver of the platting requirements of the Lago Del Oro Zoning Plan. The applicant requests the waiver on approximately 1.00 acre from the GR-1 (Rural Residential) zone to the SH (Suburban Homestead)