SESSEN PRESENTENTED

Anzorn

BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: March 17, 2020

Title: Co9-99-46 HASTINGS - RIVER ROAD REZONING - MODIFICATION (SUBSTANTIAL CHANGE)
OF REZONING CONDITIONS

Introduction/Background:

The applicant requests modification (substantial change) of a rezoning condition which requires adherence to the approved preliminary development plan for a convenience store with fuel dispensers and a restaurant with a drive-through. The applicant proposes an additional restaurant with a drive-through and additional general retail space. The site is located on the south side of River Road, approximately 220 feet west of the intersection of W. River Road and N. La Cholla Boulevard.

Discussion:

Staff supports the request because the proposed additional development allowance provides efficient use of the rezoning site and additional amenities for users of the Rillito River Park section of the Chuck Huckelberry Loop which contains both bike and pedestrian trails. However, the site is narrow where the use expansion is proposed, resulting in the proposed placement of the restaurant drive-through lane near the trails. To ameliorate potential impacts of the drive-through and provide a more consistent bufferyard as exists in the eastern portion of the rezoning site, staff recommends condition #7 for the bufferyard between the site and the trails. However, the Planning and Zoning Commission recommends that no drive-through lane be permitted there based on its incompatibility with the trails.

Conclusion:

The expanded use allowance will provide potential for additional needed amenities in proximity to the river park section of Chuck Huckelberry Loop. However, it is reasonable to prohibit a drive-through for the use expansion area due to the narrowness of the portion of the site for which the expansion is sought which limits design options for placement of the drive-through away from the trails.

Recommendation:

Staff recommends approval of a modification (substantial change) of the rezoning conditions subject to conditions as recommended by the Planning and Zoning Commission.

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N/A						
Board of St	upervisor District:					
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Department	: Development Servi	ces Department	- Planning Tel	lephone: 520-724	1- 8800	
Contact:	David Petersen, Se	nior Plann ∉r ∖	Tel	lephone: 520-724	1-9508	
Department Director Signature/Date: 2-21-102						
Deputy County Administrator Signature/Date: 2/2//2020						
County Adm	ninistrator Signature/	Date:	De	WZZ	ww	



TO:

Honorable Ally Miller, Supervisor, District 1-

FROM:

Chris Poirier, Deputy Director <

Public Works-Development Services Department-Planning Divisio

DATE:

February 14, 2020

SUBJECT:

Co9-99-46 HASTINGS - RIVER ROAD REZONING

The above referenced Modification (Substantial Change) of Rezoning Conditions is within your district and is scheduled for the Board of Supervisors' TUESDAY, MARCH 17, 2020 hearing.

REQUEST:

For a modification (substantial change) of rezoning condition #12 which requires adherence to the approved preliminary development plan for a convenience store with fuel dispensers and a restaurant with a drive-through. The applicant proposes an additional restaurant with a drive-through and additional retail space. The subject site is an approximately 2.11-acre portion of the original 4.02-acre rezoning to CB-1 (Local Business) located on the south side of River Road, approximately 220 feet west of the intersection of W. River Road and N. La Cholla

Boulevard and is addressed as 2171 W. River Road.

OWNERS:

E & S Irving, LLC

P.O. Box 65837

Tucson, AZ 85728-5837

AGENT:

Gene Goldstein

Bramic Design Group, PLLC 9516 E. Ventaso Circle Tucson, AZ 85715

DISTRICT:

1

STAFF CONTACT: David Petersen, Senior Planner

PUBLIC COMMENT TO DATE: As of February 13, 2020, staff has not received any written public comment. No members of the public spoke at the Planning and Zoning Commission public hearing.

PLANNING & ZONING COMMISSION RECOMMENDATION: APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS (7 - 0, Commissioners Bain, Cook and Maese were absent).

STAFF RECOMMENDATION: APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS.

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM DESIGNATIONS: The subject property contains Important Riparian Area and a small area of Multiple Use Management Area within the Maeveen Marie Behan Conservation Lands System (CLS). Staff is not recommending natural area set aside or off-site mitigation based on the site's lack of on-site resources and the particular landscape context.

TD/DP/ar Attachments



BOARD OF SUPERVISORS MEMORANDUM

Subject: Co9-99-46

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FOR MARCH 17, 2020 MEETING OF THE BOARD OF SUPERVISORS

TO:

HONORABLE BOARD OF SUPERVISORS

FROM:

Chris Poirier, Deputy Director

Public Works-Development Services Department-Planning Division

DATE:

February 14, 2020

ADVERTISED ITEM FOR PUBLIC HEARING

MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS

Co9-99-46 HASTINGS – RIVER ROAD REZONING

Request of E & S Irving, LLC, represented by Gene Goldstein, for a modification (substantial change) of rezoning condition #12 which requires adherence to the approved preliminary development plan for a convenience store with fuel dispensers and a restaurant with a drive-through. The applicant proposes an additional restaurant with a drive-through and additional retail space. The subject site is an approximately 2.11-acre portion of the original 4.02-acre rezoning to CB-1 (Local Business) located on the south side of River Road, approximately 220 feet west of the intersection of W. River Road and N. La Cholla Boulevard and is addressed as 2171 W. River Road. On motion, the Planning and Zoning Commission voted 7-0 to recommend APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS (Commissioners Bain, Cook and Maese were absent). Staff recommends APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS. (District 1)

Planning and Zoning Commission Public Hearing Summary (January 29, 2020)

Staff presented information from the staff report to the Commission with a recommendation of approval subject to conditions found on pages 3 and 7 of the staff report. Staff noted that no written public comment had been received.

There was discussion concerning the location of a proposed restaurant drive-through adjacent to the Rillito River Park. A commissioner noted that there would be idling cars in close proximity to users of the bike and pedestrian trails. He indicated that a restaurant patio would be more appropriate in a pedestrian and cycle-friendly area. He stated that he was baffled that no developers were taking advantage of this type of commercial orientation with the popularity of the River Park where in 2014 some 2,000 people a day were utilizing it on week days and 5,000 a day on weekends and even more at present. He stated that this site appeared to be perfect for that.

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Staff stated that the drive-through in such close proximity was a topic of concern, and that the report noted potential impacts of exhaust fumes and noise for non-stationary users of the trails. The recommended special bufferyard condition was designed to ameliorate these impacts, but an alternative patio design is conceivably better for the site. Staff also noted that the site is near a major road intersection and that the trail paths are aligned adjacent to River Road west of the site.

Staff also noted that a graduate student intern is working on a project concerning promotion of private sector development along The Loop asset. By not rejecting the drive-through so close to the trails, staff was trying to promote development of an amenity for the trail system on a site for which development had not occurred. Staff was trying to balance the drive-through proximity to the trails with the need for some type of amenity to be developed.

A commissioner asked if there was sufficient parking for the proposal. Staff stated that there was excess parking proposed. The commissioner stated that the drive-through location would interfere with pedestrian access to the restaurant. Staff indicated that there are various parking locations proposed, but that parking areas are also pedestrian areas. The final design could include some type of pedestrian crossing delineation. Another commissioner noted that it is not uncommon for pedestrians to have to cross drive-through lanes to get to a restaurant. He also questioned whether the trails should have been located near the roadway if the intent is for exercise. Staff noted that the recommended bicycle entrance at the western end of the site positions it to avoid traffic within the site.

A commissioner noted that he has been on the path on the north side of the river and that it is mostly a quiet path. He said that he opposes the drive-through by the path and that there were not idling vehicles elsewhere along it. Near commercial areas, the path is typically along the back side of parking areas like the Tucson Mall or separated by elevation like near St. Phillips Plaza. He stated that commercial use near the path must be the right use or it defeats the purpose of The Loop.

The applicant stated that he was an architect with a firm representing the subject property's owner. He stated that he had no objections to the conditions recommended by staff. He noted that there is no restaurant user at present, but the allowance would give his client maximum flexibility for leasing with a mixture of use allowances. He stated that parking meets code. He also noted that he understands the concern with internal pedestrian accessibility and this would have to be considered with a final plan should a drive-through be allowed, but that the problem is not uncommon. He also stated sensitivity to the comments about the drive-through location relative to The Loop, noting that he also uses it. He said that they have offered an enhanced bufferyard for this area, more so than typical uses along the path. He offered a six-foot wall at grade level that would block all view of cars. He realized that noise, exhaust, and lights are not consistent with the concept of The Loop, but was trying to offer things that would mitigate these impacts. He also noted having a potential proposal that does not have a drive-through. He asked staff if the wall would be precluded.

Staff indicated that a six-foot wall is possible, but there is an elevation differential with the paths being lower than the site. Staff is recommending a 40-inch high wall in addition to vegetation that was felt to be sufficient. The wall height would capture vehicles lights, but possibly not large truck lights. Staff does not support a tall blocking wall, but a gentler shorter wall that people could view over with vegetation that would be more enjoyable.

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A commissioner agreed that a tall wall would move in the wrong direction. He noted it would be better to increase interaction between the restaurant and The Loop, such as a patio area as a destination.

The applicant noted that he would rather the drive-through be stricken rather than tabling the request. He stated that it may not be needed if a commercial project that could happen does happen.

A commissioner noted that the Board of Supervisors makes the final decision and that the applicant does not need to concede the drive-through yet. The applicant indicated a preference for a positive recommendation from the Commission.

Flood Control staff indicated that the proposed six-foot wall could not be placed in County owned area. The current wall is proposed at the edge of the drive-through lane. Planning staff noted that recommended condition #7 precludes the wall from County property (no closer than 50 feet from the top of the river bank (after additional property dedication). This would include the wall footing.

Staff also noted that the Commission could require a setback distance from The Loop for the drive-through lane under a different design.

The public hearing was opened to the public. There were no speakers. The hearing was closed.

Commissioner Gungle stated that he would vote against (an additional) fast-food use as it is less than compatible with The Loop. He encouraged greater commercial use along The Loop, but not just for profit and autos. He made a motion to deny the request. Commissioner Matter gave second to the motion.

A commissioner suggested a motion for no drive-through (for the westernmost building pad).

A commissioner stated that he was not in favor of the motion to deny. He stated that there are many factors for a developer to build on a site. He noted that Commissioner Gungle seemed willing to accept a restaurant with a patio. He said that it is possible that the site is still vacant due to risk aversion for something not done before. He stated that he likes the idea of development compatible with the bike path. But most developers don't think that way. They are looking to attract traffic from the road.

Commissioner Matter stated that the request could be continued or could be recommended for approval without a drive-through.

Commissioner Membrila offered a substitute motion to approve the request with a condition that the drive-through be located as far away from The Loop as feasible.

Staff stated that they would not recommend such a vague condition that may be hard to enforce. The site is narrow in this area and a developer could say that all that works is for the drive-through to be located next to the boundary adjacent to The Loop. Staff indicated that if the commissioners did not desire a drive-through, then a motion to prohibit it is recommended.

The applicant stated a desire for additional commercial use, with or without a drive-through. He would be okay with no drive-through.

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A commissioner asked staff if no drive-throughs would be the language. Staff stated that the rezoning already allows one restaurant with a drive-through. The motion would be for no drive-through for the westernmost building pad (the area sought for the additional commercial use).

Commissioner Membrila amended his motion to include a special condition for no drive-through for the westernmost building pad but subject to other staff recommended conditions for Co9-99-46.

Commissioner Hook gave second to the motion.

A commissioner asked about the wall.

Staff stated that the lack of a drive-through frees up room for additional bufferyard, but that the recommended special bufferyard condition can remain as is and would not preclude additional buffering internal to the site. A commissioner mentioned that that area could also be used for a restaurant patio.

Commissioner Gungle indicated that he would vote in favor of the motion, but advised the applicant to speak with the owner and relay the Commission's discussion and encourage interactive use with the trails.

A commissioner agreed and noted The Loop's tremendous opportunity and the fact that there are long stretches of The Loop that have no food or drink amenities.

Another commissioner also agreed with the idea of interactive commercial use, but cautioned that if there was money in it, it would already have been done. He said that commercial uses that may developed along The Loop must be able to make a profit.

The Commission voted to **APPROVE** the substitute motion (7-0, Commissioners Bain, Cook, and Maese were absent).

- 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.
- 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 Department of Transportation, Real Property Division.
- 6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
- 71. Transportation conditions:
 - A. A maximum of two (2) access points to River Road and a maximum of one (1) access point to La Cholla Boulevard shall be permitted for the subject property. The location and design of said access points and on-site traffic circulation shall be subject to approval by the Department of Transportation at the time of development plan or subdivision plat approvals. Access to River Road shall not be permitted until the roadway construction is completed and the road is opened for use by the public.

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B. The property-owner(s) shall reach a financial contribution agreement with and acceptable to the Department of Transportation and Flood Control District prior to development plan or subdivision plat approvals. Said agreement shall address the amount of a fair share financial contribution required from the property owner(s) for readway capacity improvements to La Cholla Boulevard and/or River Read which are impacted by the proposed development; or if an improvement district is formed for said readway capacity improvements to La Cholla Boulevard and/or River Read, the property owner(s) shall participate in said improvement district.

B.C. Provision of all necessary access improvements to River Road and La Cholla Boulevard as determined during the plan review process. These improvements shall need the approval of Pima County and meet the appropriate standards prior to the issuance of any building permits for any portion of the subject property.

A Traffic Impact Study shall be submitted for review and approval by the Department of Transportation during the permitting process. Off-site improvements determined necessary as a result of the traffic impact study shall be the responsibility of the property owner/developer. The traffic study shall include an emphasis on storage length, taper lengths, and queuing analysis of the existing right turn lane including existing and proposed trips.

82. Flood Control conditions:

- Drainage will not be altered, disturbed or obstructed without the written approval of the Flood Control District.
- B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts that are needed as a result of the proposed development shall be constructed at no cost to the District.
- C. Buffering (landscape screening) plans and other site design features associated with the development of the subject property adjacent to the Rillito River Park shall need written approval by the Flood Control District and the Parks and Recreation Department prior to any development plan approvals.
- D. Fifty feet from the top of bank shall be dedicated, in fee, to the Pima County Regional Flood Control District.
- E. At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table A or B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.
- F. A Riparian Habitat Mitigation Plan, which may include payment of an in-lieu fee, shall be submitted with the Site Construction Permit.
- 93. Wastewater Management conditions:

The property owner must connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit.

- A. The owner(s) shall construe no action by Pima County as a commitment of capacity to serve 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.

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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.
- The site shall be surveyed for the presence or absence of the cactus ferruginous pygmy owl by a qualified biological consultant who has a permit from the U.S. Fish and Wildlife Service.
- 414. Prior to ground modifications activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.
- 425. Adherence to the <u>revised</u> preliminary development plan as approved at public hearing. <u>The westernmost building pad shall not have a drive-through lane.</u> The proposed location of the additional restaurant and general retail store as depicted in the revised preliminary development plan shall require a formal approval of a reduction to the minimum 25-foot rear setback requirement. Vehicular cross-access to the convenience store site shall be maintained.
- The owner/developer, by separate instrument approved by Pima County, shall dedicate to Pima County or the Pima County Flood Control District, as determined by Pima County, an ingress, egress and regress easement for a trail, at least 12 feet in width, through, over and across the subject property, to provide vehicular, pedestrian and bicycle access to, from and between the Pima County Rillito Linear Park and River Road and La Cholla Boulevard. Additionally, the owner/developer shall dedicate the area of the trail and the southernmost 37 feet of the subject property as an open space and park premises easement to Pima County for the benefit of recreational, pedestrian, and bicycle users of the linear park. The trail and open space easements are to be located substantially in conformance with the concept approved by the Board of Supervisors at public hearing.

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The owner/developer, by separate instrument(s) approved by Pima County, shall dedicate to Pima County or the Pima County Regional Flood Control District, as determined by Pima County, an ingress, egress and regress easement for a trail, at least 12 feet in width through, over and across the subject property, to provide pedestrian and bicycle access to, from and between the Pima County Rillito River Park and River Road and an ingress, egress and regress easement for a trail, at least eight feet in width through, over and across the subject property, to provide pedestrian access to, from and between the Pima County Rillito River Park and River Road. Additionally, the owner/developer shall dedicate the area of the trails as an open space and park premises easement to Pima County for the benefit of recreational, pedestrian, and bicycle users of the linear park. The minimum eight-foot pedestrian trail shall be surfaced with decomposed granite and located substantially in conformance with the location of the five-foot DG trail shown on the revised preliminary development plan. It shall connect to the existing decomposed granite trail path within the linear park. The minimum 12-foot trail shall be paved and located at the western end of the parking area and access lane shown on the revised preliminary development plan. It shall connect to the existing paved trail path within the linear park. The trails shall be constructed in accordance with the Natural Resources, Parks and Recreation Design Manual.

- 7. The required Bufferyard "D" landscape plantings along the Rillito River Park shall extend from the post dedication subject property boundary to within, but no closer than, five feet of the existing decomposed granite trail path. Plant densities shall be consistent with the code requirements for the width(s) of the bufferyard. Provision of canopy trees shall include placements to provide shading for the trail path. Plant materials shall be from the plant pallete used within the linear park and shall be irrigated for a minimum of five years. Unpaved portions of the site west of the westernmost building pad shall be re-vegetated with plant types and densities consistent with the Bufferyard "D" described herein. The bufferyard structural element shall be a 40-inch high decorative masonry wall. The wall shall not be located within property dedicated to Pima County.
- 8. Upon the effective date of the Resolution, the owner(s)/developer(s) shall have a continuing responsibility to remove invasive non-native species from the property, including those below. 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.

The following exotic and invasive plant species shall be prohibited anywhere on the property: Invasive Non-Native Plant Species Subject to Control

THE STATE OF THE S	it opening out to out their
<u>Ailanthus altissima</u>	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

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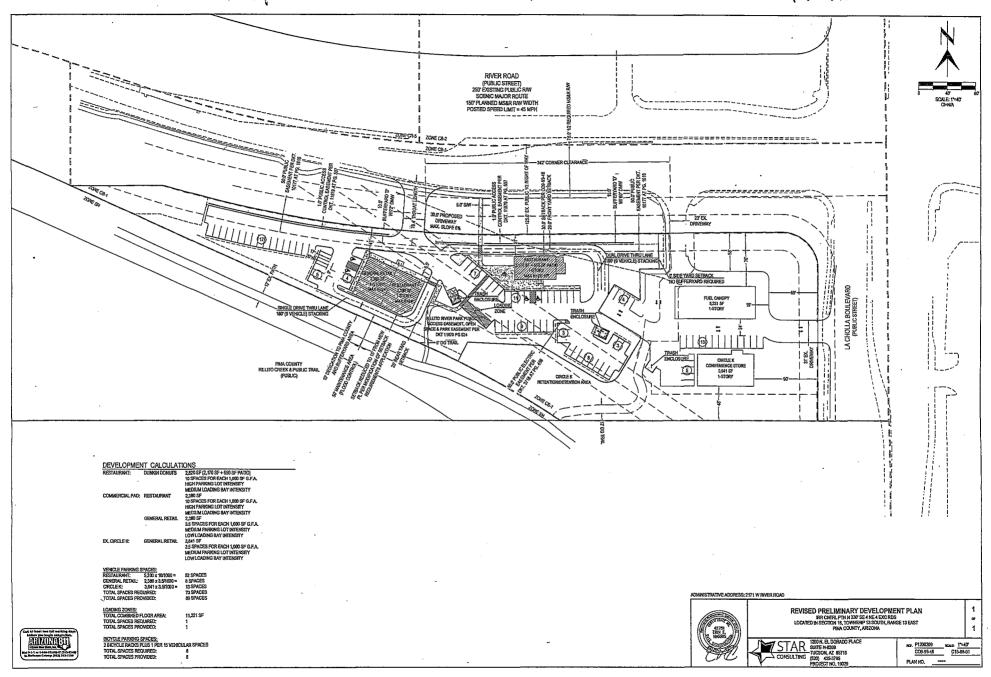
Mesembryanthemum spp. Iceplant		
Peganum harmala	African rue	
Pennisetum ciliare	Buffelgrass	
Pennisetum setaceum	Fountain grass	
Rhus lancea	African sumac	
Salsola spp.	Russian thistle	
Schinus spp.	Pepper tree	
Schismus arabicus	Arabian grass	
Schismus barbatus	Mediterranean grass	
Sorghum halepense	Johnson grass	
Tamarix spp.	<u>Tamarisk</u>	

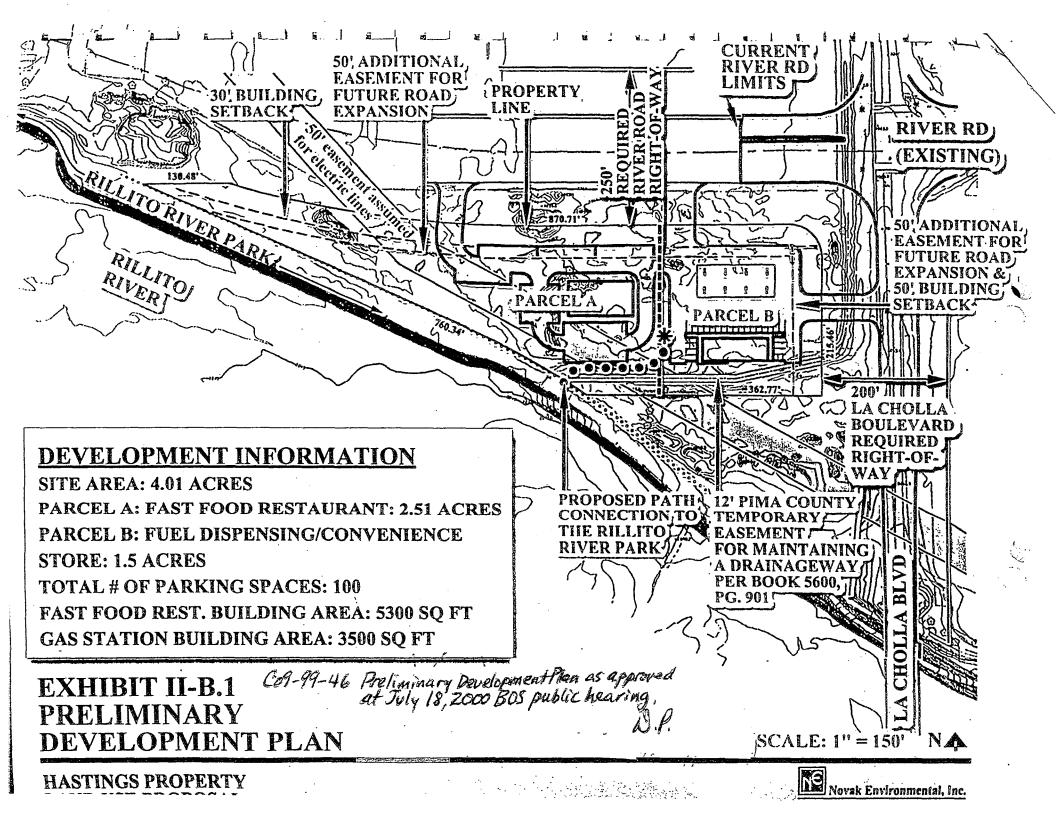
- 9. The property owner shall execute the following disclaimer regarding Proposition 207 rights:
 "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection 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.
- 10. 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.

TD/DP/ar Attachments

cc: Tom Drzazgowski, Chief Zoning Inspector Co9-99-46 File

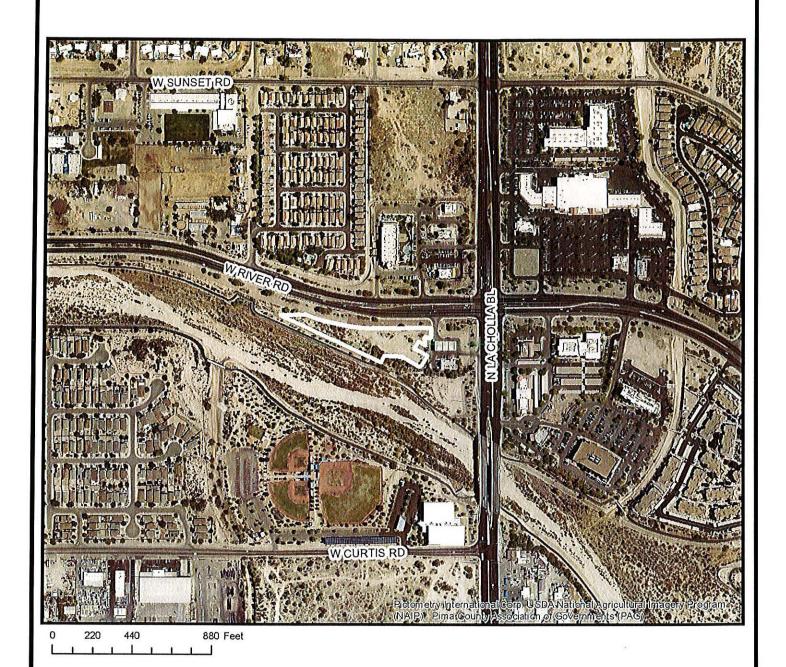
Proposed Revised Preliminary Development Plan Coq-99-46





Case #: CO9-99-046 (P19SA00007) Case Name: HASTINGS - W. RIVER ROAD REZONING

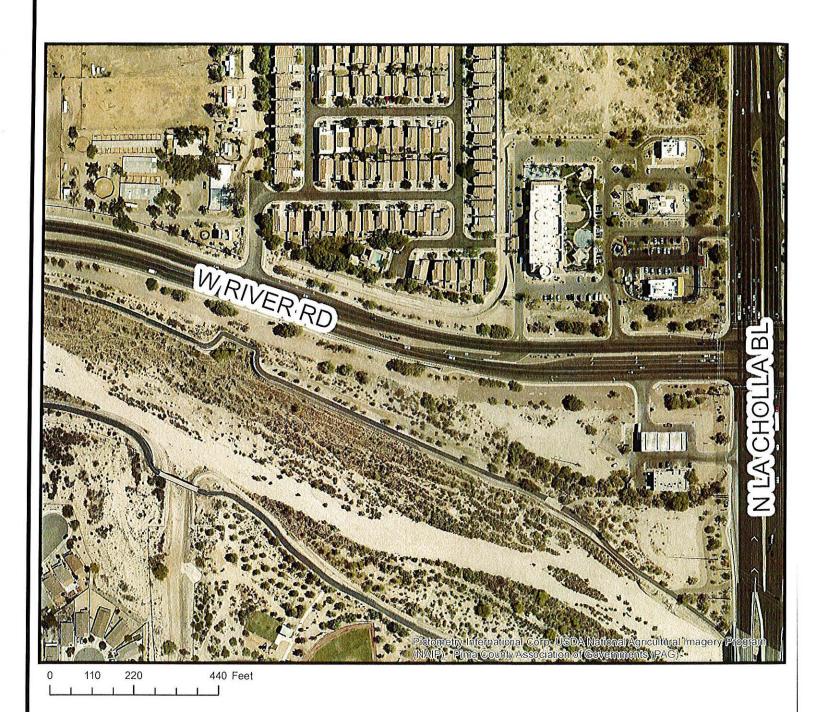
Tax Code(s): 101-13-014E

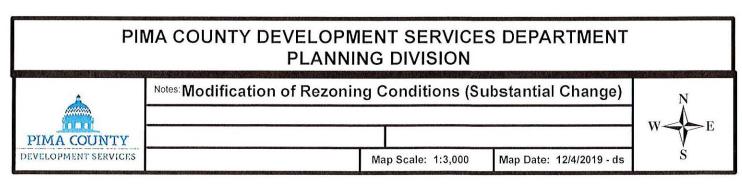


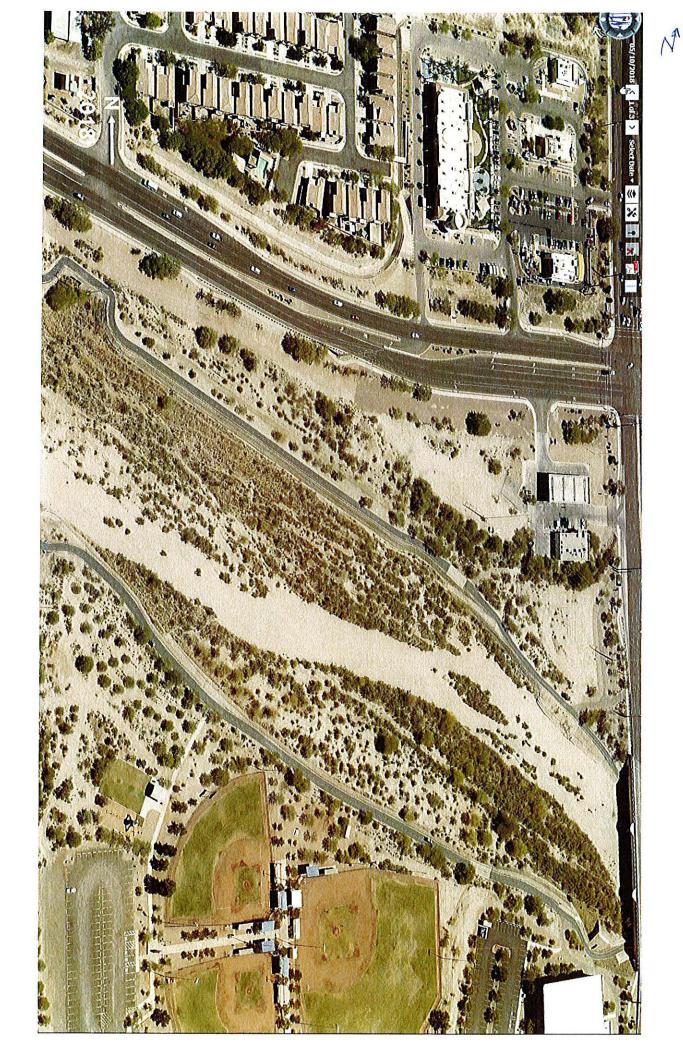
PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT PLANNING DIVISION Notes: Modification of Rezoning Conditions (Substantial Change) PIMA COUNTY DEVELOPMENT SERVICES Map Scale: 1:6,000 Map Date: 12/4/2019 - ds

Case #: CO9-99-046 (P19SA00007)
Case Name: HASTINGS - W. RIVER ROAD REZONING

Tax Code(s): 101-13-014E







PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION STAFF REPORT TO THE PLANNING AND ZONING COMMISSION

HEARING January 29, 2020

DISTRICT 1

CASES Co9-99-46 Hastings –

River Road Rezoning

REQUEST Modification of

Rezoning Conditions (Substantial Change) on a 2.11-acre portion of the original 4.02-

acre rezoning

OWNER E & S Irving, LLC

P.O. Box 65837

Tucson, AZ 85728-5837

AGENT Gene Goldstein

Bramic Design Group, PLLC 9516 E. Ventaso Circle Tucson, AZ 85715

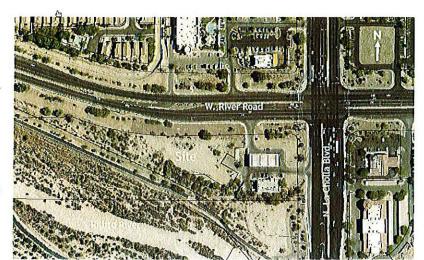
APPLICANT'S REQUEST

Modification (substantial change) of the CB-1 (Local Business) rezoning condition #12 which requires adherence to the approved preliminary development plan for a convenience store with fuel dispensers and a restaurant with a drive-through. The applicant proposes an additional restaurant with a drive-through and additional general retail space.

COMPREHENSIVE PLAN DESIGNATION

The site has two comprehensive plan designations, the majority being Neighborhood Activity Center (NAC) and a lesser area being Resource Sensitive (RS). The site was rezoned to CB-1 under the NAC designation. The objective of NAC is to designate lower intensity mixed-use areas designed to provide goods and services within or near residential neighborhoods for day-to-day and weekly living needs. Neighborhood Activity Centers provide lower-intensity commercial services, such as a grocery market which anchors other neighborhood service businesses, and may contain medium-density residential uses along collector or arterial streets.

The RS designation within the western portion of the site is relative to the adjacent Rillito River. The river corridor was designated Resource Conservation (RC) at the time of the rezoning. The river's RC designation was replaced with the RS designation under the Pima Prospers Comprehensive Update. The RS designated portion of the site may have been RC at the time of the rezoning in 1999, but RC was not identified, possibly due to less precise mapping at the parcel level at the time.



Per Pima Prospers, "The objective of RS is to designate key larger parcels and land holdings with environmentally sensitive characteristics in close proximity to public preserves or other environmentally sensitive areas. Development of such land shall emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas." This guidance is reflected in staff's recommendations for this request.

SURROUNDING LAND USES/GENERAL CHARACTER

North: CB-2 & CR-5 / River Road, Three Fast Food Restaurants, Day Care Center, Residential Subdivision

South: SH / Rillito River & Linear Park, Curtis Community Park

East: CB-1 & SP / Convenience Store w/ Gasoline Sales (part of subject rezoning), La

Cholla Blvd., Bank, Office Buildings, Hotel

West: SH & CR-5 / Rillito River & Linear Park, Residential Subdivision

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the request to modify rezoning condition #12, which requires adherence to the approved rezoning preliminary development plan (PDP) for a convenience store with gasoline sales and a restaurant with a drive-through, to allow a second restaurant with a drive-through and additional retail space on a third building pad for this CB-1 rezoning site at the southwest corner of the intersection of River Road and La Cholla Boulevard.

A number of original rezoning conditions are recommended for deletion or modification, and new conditions are also recommended as shown below. Changes to conditions will apply only to the subject 2.11-acre portion of the rezoning.

Directly related to this request, modifications to Transportation and Flood Control conditions under renumbered condition #'s 1 and 2 respectively, and modification to renumbered condition #'s 5 and 6 and the addition of condition #7 are discussed in the Staff Report section below.

Indirectly related to this request, other conditions are also recommended for deletion or addition as an update to current standard recommendations for this nearly 20-year-old rezoning. Condition #'s 1 - 6 are recommended for deletion as these conditions are no longer standard for new rezonings. Pertaining to condition #1, a development plan is required by code for commercial site development. A development plan was previously approved for the site which resulted in the construction of the convenience store, but not the restaurant. A new or revised development plan will be required for the proposed development. Pertaining to condition #'s 2, 3, and 5, staff no longer recommends standard conditions which require recorded covenants. These conditions were, however, satisfied previously with CC&R's recorded at Sequence 20010440347. Pertaining to condition #4, assurances are typically associated with approved subdivision plats. Pertaining to condition #6, approval of further lot splitting is no longer recommended by staff for non-residential development proposals.

Condition #9 pertaining to Wastewater requirements is recommended for deletion and replacement with new conditions under #3 as an update to current standard rezoning conditions for use of the public sewer system.

Condition #10, pertaining to a survey requirement for the cactus ferruginous pygmy owl, is recommended for deletion. The U.S. Fish and Wildlife Service, in past correspondence for this rezoning, has stated that a survey is not necessary due to lack of suitable habitat and distance from any known pygmy owl sites.

New condition #8, pertaining to a list of prohibited invasive non-native plant species, is recommended as the standard condition for sites within the MMB Conservation Lands System.

New conditions #9 and #10 pertain to standard conditions related respectively to the Proposition 207 rights disclaimer and to continued adherence to rezoning conditions upon annexation.

The recommended modifications to the list of existing conditions are 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.
- 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 Department of Transportation, Real Property Division.
- 6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.
- 71. Transportation conditions:
 - A. A maximum of two (2) access points to River Road and a maximum of one (1) access point to La Cholla Boulevard shall be permitted for the subject property. The location and design of said access points and onsite traffic circulation shall be subject to approval by the Department of Transportation at the time of development plan or subdivision plat approvals. Access to River Road shall not be permitted until the roadway construction is completed and the road is opened for use by the public.
 - B. The property owner(s) shall reach a financial contribution agreement with and acceptable to the Department of Transportation and Flood Control District prior to development plan or subdivision plat approvals. Said agreement shall address the amount of a fair share financial contribution required from the property owner(s) for roadway capacity improvements to La Cholla Boulevard and/or River Road which are impacted by the proposed development; or if an improvement district is formed for said roadway capacity improvements to La Cholla Boulevard and/or River

Road, the property owner(s) shall participate in said improvement district.

B.C. Provision of all necessary access improvements to River Road and La Cholla Boulevard as determined during the plan review process. These improvements shall need the approval of Pima County and meet the appropriate standards prior to the issuance of any building permits for any portion of the subject property.

A Traffic Impact Study shall be submitted for review and approval by the Department of Transportation during the permitting process. Off-site improvements determined necessary as a result of the traffic impact study shall be the responsibility of the property owner/developer. The traffic study shall include an emphasis on storage length, taper lengths, and queuing analysis of the existing right turn lane including existing and proposed trips.

82. Flood Control conditions:

- A. Drainage will not be altered, disturbed or obstructed without the written approval of the Flood Control District.
- B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts that are needed as a result of the proposed development shall be constructed at no cost to the District.
- C. Buffering (landscape screening) plans and other site design features associated with the development of the subject property adjacent to the Rillito River Park shall need written approval by the Flood Control District and the Parks and Recreation Department prior to any development plan approvals.
- D. Fifty feet from the top of bank shall be dedicated, in fee, to the Pima County Regional Flood Control District.
- E. At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table A or B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.
- F. A Riparian Habitat Mitigation Plan, which may include payment of an inlieu fee, shall be submitted with the Site Construction Permit.

93. Wastewater Management conditions:

The property owner must connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request for building permit.

A. The owner(s) shall construe no action by Pima County as a commitment of capacity to serve 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.
- The site shall be surveyed for the presence or absence of the cactus ferruginous pygmy owl by a qualified biological consultant who has a permit from the U.S. Fish and Wildlife Service.
- Prior to ground modifications activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.
- 425. Adherence to the <u>revised</u> preliminary development plan as approved at public hearing. <u>The proposed location of the additional restaurant and general retail</u> store as depicted in the revised preliminary development plan shall require a

formal approval of a reduction to the minimum 25-foot rear setback requirement. Vehicular cross-access to the convenience store site shall be maintained.

The owner/developer, by separate instrument approved by Pima County, shall dedicate to Pima County or the Pima County Flood Control District, as determined by Pima County, an ingress, egress and regress easement for a trail, at least 12 feet in width, through, over and across the subject property, to provide vehicular, pedestrian and bicycle access to, from and between the Pima County Rillito Linear Park and River Road and La Cholla Boulevard. Additionally, the owner/developer shall dedicate the area of the trail and the southernmost 37 feet of the subject property as an open space and park premises easement to Pima County for the benefit of recreational, pedestrian, and bicycle users of the linear park. The trail and open space easements are to be located substantially in conformance with the concept approved by the Board of Supervisors at public hearing.

The owner/developer, by separate instrument(s) approved by Pima County, shall dedicate to Pima County or the Pima County Regional Flood Control District, as determined by Pima County, an ingress, egress and regress easement for a trail, at least 12 feet in width through, over and across the subject property, to provide pedestrian and bicycle access to, from and between the Pima County Rillito River Park and River Road and an ingress, egress and regress easement for a trail, at least eight feet in width through, over and across the subject property, to provide pedestrian access to, from and between the Pima County Rillito River Park and River Road. Additionally, the owner/developer shall dedicate the area of the trails as an open space and park premises easement to Pima County for the benefit of recreational, pedestrian, and bicycle users of the linear park. The minimum eight-foot pedestrian trail shall be surfaced with decomposed granite and located substantially in conformance with the location of the five-foot DG trail shown on the revised preliminary development plan. It shall connect to the existing decomposed granite trail path within the linear park. The minimum 12foot trail shall be paved and located at the western end of the parking area and access lane shown on the revised preliminary development plan. It shall connect to the existing paved trail path within the linear park. The trails shall be constructed in accordance with the Natural Resources, Parks and Recreation Design Manual.

7. The required Bufferyard "D" landscape plantings along the Rillito River Park shall extend from the post dedication subject property boundary to within, but no closer than, five feet of the existing decomposed granite trail path. Plant densities shall be consistent with the code requirements for the width(s) of the bufferyard. Provision of canopy trees shall include placements to provide shading for the trail path. Plant materials shall be from the plant pallete used within the linear park and shall be irrigated for a minimum of five years. Unpaved portions of the site west of the westernmost building pad shall be re-vegetated with plant types and densities consistent with the Bufferyard "D" described herein. The bufferyard structural element shall be a 40-inch high decorative masonry wall. The wall shall not be located within property dedicated to Pima County.

8. Upon the effective date of the Resolution, the owner(s)/developer(s) shall have a continuing responsibility to remove invasive non-native species from the property, including those below. 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.

The following exotic and invasive plant species shall be prohibited anywhere on the property:

Invasive	Non-Native	Plant Species	Subject to	Control
ILLACIAC	TAOLI LAGUAC	Tiditi Opcolos	Oubject to	COLLIG

HIVASIVE INUITINALIVE FIAH	t Species Subject to Control
<u>Ailanthus altissima</u>	Tree of Heaven
Alhagi pseudalhagi	Camelthorn
<u>Arundo donax</u>	Giant reed
Brassica tournefortii	Sahara mustard
Bromus rubens	Red brome
Bromus tectorum	<u>Cheatgrass</u>
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)
<u>Melinis repens</u>	Natal grass
Mesembryanthemum spp	<u>. Iceplant</u>
Peganum harmala	African rue
Pennisetum ciliare	<u>Buffelgrass</u>
Pennisetum setaceum	Fountain grass
Rhus lancea	African sumac
Salsola spp.	Russian thistle
Schinus spp.	Pepper tree
Schismus arabicus	Arabian grass
Schismus barbatus	Mediterranean grass
Sorghum halepense	Johnson grass
Tamarix spp.	<u>Tamarisk</u>

- 9. 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.
- 10. 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.

STAFF REPORT

Staff supports the request to modify condition #12, which requires adherence to the rezoning preliminary development plan (PDP) approved in 2000, to allow a second restaurant with a drive-through and additional retail space within a 2.11-acre portion of the original 4.02-acre rezoning to CB-1. The proposed additional development allowance provides efficient use of the rezoning site and additional amenities for users of the Rillito River Park trails in particular. Concurrency of infrastructure to service the additional uses is met and otherwise assured for certain infrastructure per recommended conditions. The site is within the Flowing Wells Focused Development Investment Area which is a growth area where efficient use of land and infrastructure is encouraged.

The approved PDP allows a convenience store with gas pumps that were developed on 1.91 acres at the southwest corner of River Road and La Cholla Boulevard. The subject 2.11-acre portion of the rezoning west of the convenience store was approved for a restaurant with a drive-through which remains undeveloped. The applicant requests to add the allowance of a second restaurant with a drive-through in addition to small retail space on a separate (third) building pad in the westerly portion of the 2.11 acres as shown on the revised PDP.

Issues of concern with the expanded use allowance pertain to the second proposed access from River Road and the development's location relative to the Rillito River Park. Regarding the proposed access, the Transportation Report indicates that the estimated trip generation of the proposed uses warrants a right-turn lane on River Road for the proposed driveway access to/from the subject site. A Traffic Impact Study is required to determine what off-site improvements may be warranted by the proposed uses as recommended in condition #1.B. (A right turn lane already exists for the approach to the entrance to the convenience store and the intersection. And there is cross access to the subject site from the convenience store as originally proposed. Staff recommends addition of an explicit cross access requirement as part of recommended modification to condition #5.)

The proposed development's location relative to Rillito River Park must also be considered. The additional use allowances (the third building pad and related parking and access lanes including the drive-through lane) are being sought for an area of the rezoning site that progressively narrows to the west and was left vacant on the original approved PDP. This narrowing prevents extensive landscape buffering adjacent to the Rillito River Park that was provided, per original rezoning condition #'s 8.C and 13, in the easterly portion of the rezoning site where development was to be located as shown on the original PDP.

Additionally, the Flood Control recommendation (condition #2.D) for dedication of the southern portion of the subject site equal to 50 feet from the top of the northern bank of the Rillito River will take approximately 10 feet of the site, further narrowing it. As a result, formal approval of a rear building setback reduction from the required minimum 25 feet to approximately 15 feet will be necessary as shown on the PDP and required per recommended condition #5.

The dedication requirement has also caused the proposed placement of the required southern Bufferyard "D" to be within Flood Control District property. The Flood Control District has indicated that this is acceptable. Staff therefore recommends special condition #7 to ensure an effective bufferyard that not only buffers the proposed additional uses, but also serves to enhance the quality of use of the trails, especially the soft walking path closest to the subject site that will benefit from additional canopy tree shading for the length of the site. It appears that the width of the bufferyard will be approximately 15 feet. (The drive-through is proposed along the south site boundary with potential visual, noise, and vehicular exhaust impacts. The trails have non-stationary users, so any potential negative impacts would be of short duration.)

Users of the trail may benefit from the adjacent proposed uses which offer places for rest, refreshments, food, and even bathroom facilities for patrons. Staff recommends special condition #6 which requires a second paved bike path connection to the river park bike path at the western end of the site (one already exists from the convenience store site) and a soft (decomposed granite) pedestrian path nearer to the proposed restaurants that will connect to the soft path within the park.

Condition #7 also requires unpaved areas within the western portion of the site to be revegetated with native plant types and densities consistent with the required south bufferyard. This requirement, along with the special bufferyard requirement and additional trail path connections, recognizes the Resource Sensitive (RS) plan designation of this western portion of the rezoning site that calls for development to emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas.

Rezoning Case History

The original 4.02-acre rezoning from SH (Suburban Homestead) to CB-1 (Local Business) was conditionally approved on July 18, 2000 for a convenience store with gasoline sales and a fast food restaurant. Rezoning Ordinance 2001-28 was adopted February 20, 2001.

On September 11, 2002 a development plan (P1200-209) was approved for the entire rezoning site for a convenience store with gasoline sales and a fast food restaurant. On May 5, 2005 a Certificate of Compliance with rezoning conditions was issued for the entire rezoning site. The convenience store was developed and is operating. The restaurant was not developed.

TRANSPORTATION REPORT

The Department of Transportation has reviewed the modification request of rezoning condition #12 of Ordinance 2001-28. This request is a substantial change from the current rezoning ordinance and required the review of transportation conditions 7.A, 7.B and 7.C.

The site is served directly by River Road and it is located approximately 260 feet west of the intersection of La Cholla Blvd. and River Road. The modification proposes an additional restaurant with a drive-through and general retail space.

With the modification, the site will generate approximately 3,524 average daily trips (ADT). The most recent traffic count for River Road is 19,576 ADT with a traffic capacity

of 35,820 ADT. The most recent traffic count for La Cholla Blvd. is 28,044 ADT with a traffic capacity of 53,910 ADT. Considering that the roadways are well under capacity, the proposed site will not significantly impact the surrounding roadways. There are no scheduled Capital Improvement Projects for any of these roads.

Based on the traffic letter provided by the applicant, the trip generation of the site warrants a right-turn lane at the proposed driveway that will have to be built to Pima County standards. The proposed driveway is located within the taper section of the existing right-turn lane for the Circle K east of the site that continues through to the intersection of La Cholla Blvd. and River Road. The 2016 Subdivision and Development Street Standards (SDSS) has requirements for driveway. Based upon our observation of peak hour traffic flow in this area it appears that the continuous turn lane for Circle K and La Cholla Blvd. is at or exceeding capacity. Therefore any additional development will need a queuing analysis to determine if adequate storage and taper lengths are provided. Should the developer wish to proceed with the proposed driveway location without a turn lane as shown on the revised PDP, a formal SDSS modification request must be submitted for review by the SDSS Modification Committee.

The Department of Transportation has no objection to the proposed rezoning modification request, subject to modifications to the Transportation-related conditions under renumbered condition #1 in the list of conditions above.

FLOOD CONTROL REPORT

The Regional Flood Control District has reviewed the request and offers the following comments:

- 1. The entire site is within FEMA Zone Shaded X 500 year floodplain. While insurance is not required, it is recommended as the site may be subject to flooding in events greater than the regulatory 100 year flood.
- 2. Much of the site is within Important Riparian Area (IRA). Disturbance of more than 1/3 of an acre or 5% of the IRA will require the submittal of riparian habitat mitigation plan at the time of development.
- 3. The site is adjacent to the Rillito River, therefore per Pima County Code Section 16.36.090, dedication of 50 feet from the top of bank is required as has been shown on the revised PDP. The final configuration shall be determined at the time of development.
- 4. Since the time of the original rezoning, the County has adopted the Pima Prospers Water Policy requiring the recommended condition (B) below related to water conservation.

The District has no objection subject to the following additional conditions (also listed under renumbered condition #2 in the list of conditions above).

- A) Fifty feet from the top of bank shall be dedicated, in fee, to the Pima County Regional Flood Control District.
- B) At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table A or B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.

C) A Riparian Habitat Mitigation Plan, which may include payment of an in-lieu fee, shall be submitted with the Site Construction Permit.

WASTEWATER MANAGEMENT REPORT

The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has received the above referenced request and offers the following comments for your use. This is a request to modify the rezoning condition #12 which requires adherence to the approved preliminary development plan for a convenience store with fuel dispensers and a restaurant with a drive-through. The applicant proposes an additional restaurant with a drive-through and general retail space. The subject site is located approximately 200 feet west of the intersection of River Road and La Cholla Blvd.

PCRWRD has no objections to the above referenced request for modification of the rezoning condition #12, but requests the existing wastewater conditions in rezoning Ordinance 2001-28 adopted February 20, 2001 by the Board of Supervisors be replaced with the conditions under renumbered #3 above.

NATURAL RESOURCES, PARKS AND RECREATION REPORT

The Development Services Department, on behalf of NRPR, has no objection to the applicant's request, subject to revised condition #6 and new condition #7 above pertaining to landscape buffering and trails connections.

ENVIRONMENTAL PLANNING REPORT

This is a request for modification (substantial change) of a rezoning condition that requires adherence to the approved preliminary development plan (PDP) to allow for an additional drive-through restaurant and general retail space. The subject property is located near the corner of N. La Cholla Blvd. and W. Overton Road. Portions of the property are within the Maeveen Marie Beehan Conservation Lands System (CLS) Important Riparian Area (IRA) and Multiple Use Management Area (MUMA) designations.

The approval of the original rezoning (Co9-99-46) occurred prior to the effective date of the 2001 Comprehensive Plan Update which initiated implementation of the CLS and was thus not subject to the CLS. Per Pima Prospers, Pima County's 2015 Comprehensive Land Use Plan (Section 3.4, Policy 1), requests for substantial change/modification of rezoning conditions made after the CLS adoption date are subject to CLS designations and associated guidelines.

CLS guidelines for the MUMA designation call for every disturbed acre to be mitigated with two (2) acres of natural open space. Here, the MUMA designation affects approximately 2,152 square feet (.05 acre), or 2.34%, of the 2.11-acre property; however, the entirety of the MUMA designation contiguous to the on-site portion is itself only 1.39 acres and encompasses River Road almost exclusively. Because of its extremely small size and location, it is possible the MUMA designation affecting the subject property may simply be a "sliver area" resulting from geometry inaccuracies in overlaid GIS layers.

Considering the site's on-site resources and landscape context, as well as the questionable significance of the MUMA designation in this specific location, this project is not expected to significantly alter the condition or integrity of biological resources in the area or the viability of the CLS, regardless of whether the CLS guidelines for the

MUMA designation are met. In light of this, a special condition requiring compliance with the CLS Conservation Guidelines for the MUMA designation is not necessary.

Disturbances within the Important Riparian Area designation are regulated by the Regional Flood Control District according to the Watercourse and Riparian Protection and Mitigation Requirements of Pima County Code Title 16.

FIRE DISTRICT REPORT

As of the writing of this report, no comments have been received from Northwest Fire District.

WATER DISTRICT REPORT

Metro Water has issued a will-serve to the property per the attached letter on April 5, 2019.

As stated in the letter, on-site and off-site requirements for domestic and fire flow water supply will need to be evaluated within our hydraulic model when master and/or water improvement plans are being reviewed, and design and construction of these needs will be the financial responsibility of the owner/developer.

Metro Water has no objection to the modification of rezoning conditions request, subject to the previous requirements.

U.S. FISH & WILDLIFE SERVICE REPORT

As of the writing of this report, no comments have been received from the USFWS.

PUBLIC COMMENT

As of the writing of this report, staff has not received any written public comments pertaining to this request.

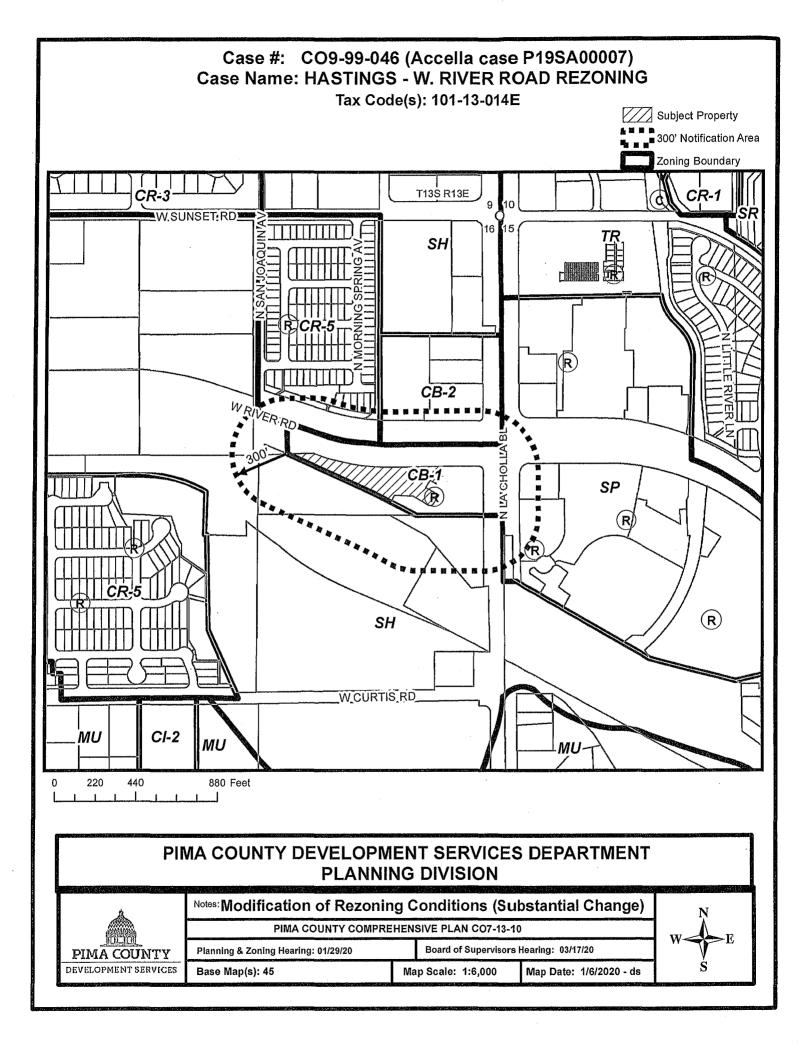
Respectfully Submitted.

David Petersen, AICP

Senior Planner

TD/DP

c: Gene Goldstein, Bramic Design Group, PLLC, 9516 E. Ventaso Circle, Tucson, AZ 85701





Bramic Design Group PLLC 9516 E. Ventaso Circle Tucson, AZ 85715

November 27, 2019

Mr. Chris Poirer Pima County Development Services 201 N. Stone Ave. Tucson, AZ

Re:

River Rd. & La Cholla Blvd.

2171 W. River Rd. Tucson, AZ

Dear Chris,

Submittal

request

This shall serve as a letter of request for Pima County's consideration to review our preliminary development package and accompanying information as our client would like to seek approval for allowing a 3rd building pad to this property, previously rezoned per the case noted above.

Owner

E & S Irving, LLC

C/O Lee Family Property Management, LLP

P.O. Box 65837 Tucson, AZ

Ph. - 520.954.8008

Email - Davidlee@yahoo.com

Property size

2.104 acres

APN

101 - 13 - 014E

Property

zoning

CB - 1

Rezoning case C09 - 99 - 46 - Hastings

DISCLOSURE OF OWNERSHIP

Property Address: 2171 W. River Road Tucson, AZ 85741

Project Name: Dunkin Donuts, 2171 W. River Road Development Concept Permit

Current Property Ownership: E & S Irving LLC, an Arizona limited liability company

Members:

David Lee, as trustee and beneficiary of the David Lee Revocable Trust; Irving Living Trust, Edmund and Suzanne Irving, co-trustees and beneficiaries.

<u>Applicant/Future Property Ownership</u>: KPP Properties, LLC, an Arizona limited liability company

Manager and sole member: Rohit Patel

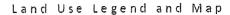
December 12, 2019

RE: La Cholla/River Road Bufferyard Narrative

The bufferyard along the river park will consist of a varying-width Bufferyard "D" as required by code. South of the proposed "Pad 3," the bufferyard will be 15' wide, located within the land dedicated to Pima County. As an enhancement, the 15' wide bufferyard will be planted at the higher density 10' wide requirement. The increased density will provide trees every 10 LF along this buffer. A 40" high screen wall, as negotiated with staff, will provide additional screening from cars in the drive-through lane. Additionally, all plant material in this bufferyard will be from the plant palette used in the adjacent river park. The applicant will provide irrigation for establishment for two years. At that time, the plant material will be turned over to the river park.

Respectfully, GRS LANDSCAPE ARCHITECTS, LLC

Gregory R. Shinn, RLA





Neighborhood Activity Center (NAC)

Objective: To designate lower intensity mixed use areas designed to provide goods and services within or near residential neighborhoods for day-to-day and weekly living needs. Neighborhood Activity Centers provide lower-intensity commercial services. For example a grocery market may be the principle anchor tenant along with other neighborhood services, such as a drugstore, variety/hardware store, self-service laundry, and bank. The center may include a mix of medium-density housing types. Neighborhood Activity Centers are generally less than 25 acres in size. Larger centers provide opportunity for a mix of intensive non-residential uses and medium-density residential uses, and are to be located on arterials. Smaller mixed use centers may contain medium density residential uses and may be located along collector or arterial streets. All centers will have direct pedestrian and bicycle access to the surrounding neighborhoods. Individual rezoning requests do not necessarily have to be a mixed use project; however, the application must demonstrate how the project serves to create or enhance the mixed use character of the designated activity center as a whole.

- Residential Gross Density: (if applicable) Minimum- 5 RAC; Maximum- 12 RAC
- Residential Gross Densities for TDR Receiving Areas: Minimum- 5 RAC; Maximum- 8 RAC

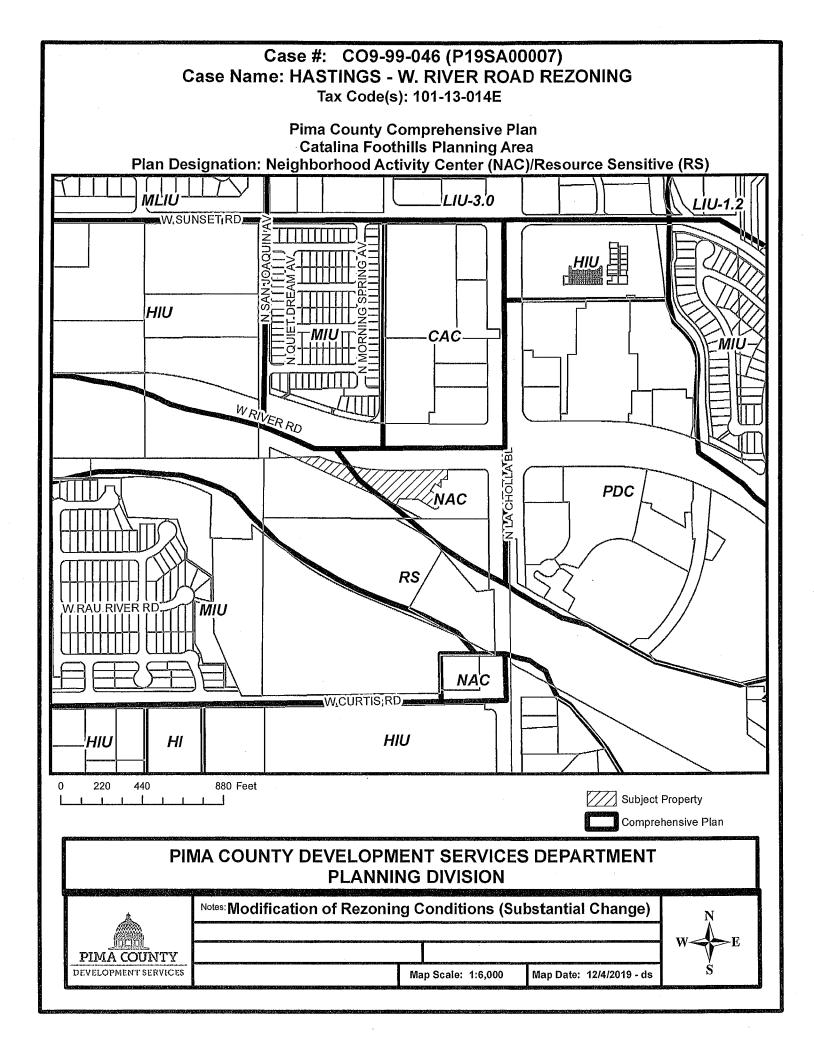


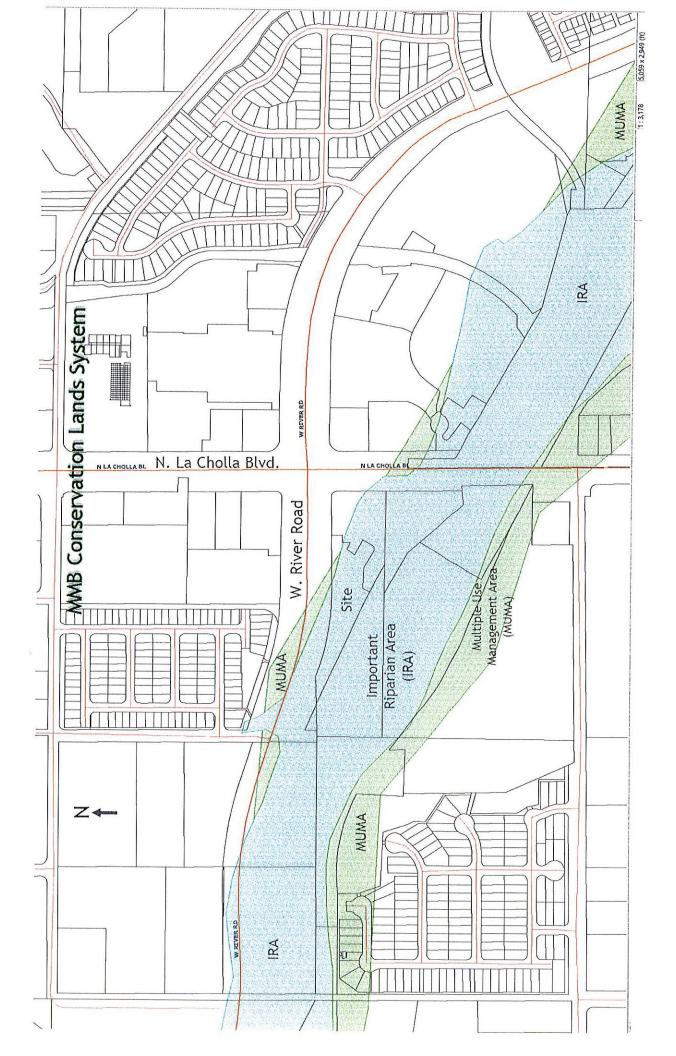
Land Use Legend and Map

Resource Sensitive (RS)

Objective: To designate key larger parcels and land holdings with environmentally sensitive characteristics in close proximity to public preserves or other environmentally sensitive areas. Development of such land shall emphasize design that blends with the surrounding natural desert and provides connectivity to environmentally sensitive linkages in developing areas.

- Residential Gross Density: Minimum- none; Maximum- 0.3 RAC
- Residential Gross Densities for TDR Receiving Areas: Minimum- none; Maximum- 0.3 RAC







April 5, 2019

Gene Goldstein Bramic Design Group PLLC 9516 E. Ventaso Circle Tucson, AZ 85715

Re:

±2.11 Acres at 2171 W. River Road

CAP19-01

Dear Mr. Goldstein,

The Metropolitan Domestic Water Improvement District (District) is certified to provide water to the above referenced development and is designated as having a 100-year assured water supply.

Any onsite or offsite requirements deemed necessary to provide the domestic and fire flow water supply will be determined at the time of master plan submittal or whenever application for water service is received, and will be the financial responsibility of the owner or those developing the property. Pipe sizing and system augmentation, if necessary, will be based on calculated demand for both domestic and fire flows as needed to adequately supply this area.

If an improvement plan has not been submitted within 2 years after the date of this letter, a reevaluation and reissuance of this will-serve letter will be necessary.

Please let me know if you have any questions or concerns at 575-8100.

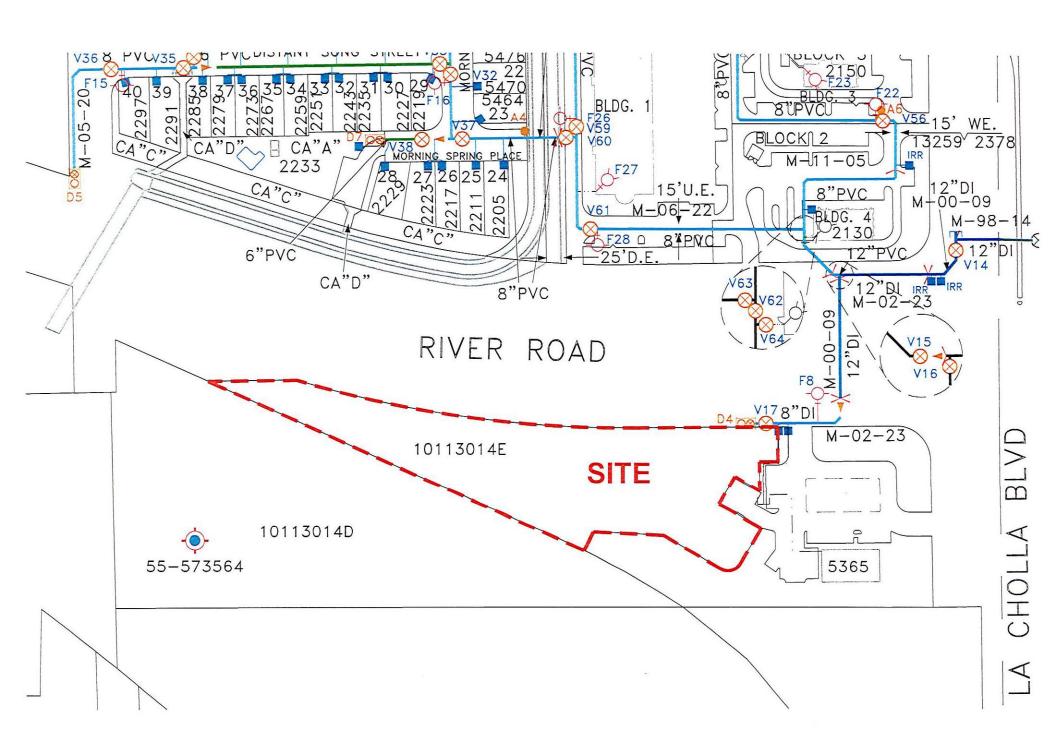
Sincerely,

Timothy Dinkel, P.E.

Civil Engineer

Enclosure

c: Project File





201 N. Stone Avenue, 2nd Floor Tucson, AZ 85701-1207 (520) 724-9000

Biological Impact Report

(Not Applicable for Rezonings that Require a Site Analysis)

The Biological Impact Report assists staff in assessing a proposed project's potential to impact sensitive biological resources and is required by the Pima County Zoning Code Chapter 18.91. A project's design should conserve these important resources.

This report will include information provided by both Pima County Planning staff (Part I) as well as the applicant (Part II).

Part I. Information Provided by Pima County staff:

Pima County Planning staff will provide the following information for the proposed project site as applicable.

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1.	Is the project located in the Maeveen Marie Behan Conservation Lands System? IRA 4/Any Special Species Management Areas? No 🔀	NUMA -
2.	Is the project in the vicinity of any of the six Critical Landscape Linkages? No	ν
3.	Is the project Designated for acquisition as a Habitat Protection or Community Open	
	Space property? No 🔀	
4.	Is the project located within the Priority Conservation Area for any of the following	
	species?	
	a. Cactus ferruginous pygmy-owl	
	b. Western burrowing owl No 🔼	
	c. Pima pineapple cactus № 🔻	
	d. Needle-spined pineapple cactus No 🖃	
Da	ort II Information Provided by the Applicant:	

1.	Has the owner of the project site had any communications with Pima County about the County potentially acquiring the property? No 🔀
	If yes, provide a summary of those communications:



2. Several species are of particular interest. Please fill out the following table to the best of your ability.

Species	Ever found on project site?	Date of last observation if found on project site?	Future surveys planned?		
Cactus ferruginous pygmy owl	No 😨	NA	No 🖫		
Western burrowing owl	No 🖫	NA	No 🔣		
Pima pineapple cactus	No 🔀	NA	No 🛣		
Needle-spined pineapple cactus	No 💆	NA	No 🛂		

Contact the Office of Sustainability and Conservation at 520-724-6940 if you have any questions about this report.

Biological Impact Report Notes Parcel 10113014E

Part I - Comments on Staff-Provided Information

 The site is located within an Important Riparian Area (IRA), however most of the vegetation on the parcel was removed prior to 2005. We have been in contact with Flood Control (Patricia Gilbert) to coordinate mitigation.
 Additionally, a small part of the site (<2000 SF) is designated as Multiple Use Management Area.

Part II – Information Provided by the Applicant

- The site does not fall within the 2004 Bond program as a target for acquisition by Pima County. The applicant has not had any communications with Pima County about County acquisition of the property.
- Species of Particular Interest
 Cactus ferruginous pygmy owl Not found on the site No future surveys are planned.
 Western burrowing owl Not found on the site No future surveys are planned.
 Pima pineapple cactus Not found on the site No future surveys are planned.
 Needle-spined pineapple cactus Not found on the site No future surveys are planned.

ORIGINAL REZONING APPROVAL - BOS MINUTES 7-18-00

DEVELOPMENT SERVICES: REZONING

Co9-99-46, HASTINGS - RIVER ROAD REZONING Request of Thomas and Patricia Hastings, represented by Stubbs & Schubart, L.L.C., for a rezoning of 4.02 acres from SH (Suburban Homestead) to CB-1 (Local Business), located on the southwest corner of River Road and La Cholla Boulevard. On motion, the Planning and Zoning Commission voted 8-1, (Commissioner Staples voted NAY; Commissioner Storm was absent) to recommend APPROVAL, subject to standard and special conditions and special directive. Staff recommends APPROVAL, subject to standard and special requirements. (District 1)

"IF THE DECISION IS MADE TO APPROVE THE REZONING, THE FOLLOWING STANDARD AND SPECIAL REQUIREMENTS SHOULD BE CONSIDERED: Completion of the following requirements within five years from the date of rezoning approval by the Board of Supervisors:

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.

Recording of the necessary development related covenants as determined appropriate by the various County agencies. Provision of development related assurances as required by the

4.

appropriate agencies.

Prior to the preparation of the development related covenants and any required dedication, a title report (ourrent to within 60 days) evidencing ownership of the property shall be submitted to the bepartment of Transportation, Real Property Division.
There shall be no further lot splitting or subdividing without written approval of the Board of Supervisors.
Transportation conditions:

6.

A maximum of two (2) access points to River Road and a maximum of one (1) access point to La Cholla Boulevard shall be permitted for the subject property. The location and design of said access points and on-site traffic circulation shall be subject to approval by the Department of Transportation at the time of development plan or subdivision plat approvals. Access to River Road shall not be permitted until the roadway construction is completed and the road is opened for use by the public.

В. The property owner(s) shall reach a financial contribution agreement with and acceptable to the Department of Transportation and Flood Control District prior to development plan or subdivision plat approvals. Said agreement shall address the amount of a fair share financial contribution required from the property owner(s) for roadway capacity improvements to La Cholla Boulevard and/or River Road which

improvements to La Cholla Boulevard and/or River Road which are impacted by the proposed development; or if an improvement district is formed for said roadway capacity improvements to La Cholla Boulevard and/or River Road, the property owner(s) shall participate in said improvement district. Frovision of all necessary access improvements to River Road and La Cholla Boulevard as determined during the plan review process. These improvements shall need the approval of Pima County and meet the appropriate standards prior to the issuance of any building permits for any portion of the subhect property. c. subject property.

8. Flood Control conditions:

Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.

All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts that are needed as a result of the proposed development shall be constructed at no cost to the District.

Buffering (landscape screening) plans and other site design features associated with the development of the subject property adjacent to the Rillito River Park shall need written approval by the Flood Control District and the Parks and

Recreation Department prior to any development plan approvals.
Wastewater Management condition: 9. The property owner must connect to the public sewer system at the location and in the manner specified by Wastewater Management at the time of review of the tentative plat, development plan or request

for building permit. The site shall be surveyed for the presence or absence of the cactus 10. ferruginous pygmy owl by a qualified biological consultant who has a permit from the U.S. Fish and Wildlife Service.

permit from the U.S. Fish and wildlife Service.

Prior to ground modification activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property, shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.

12. Adherence to the preliminary development plan as approved at public

hearing."

Jim Mazzocco, Planning Official, stated this is a rezoning regarding a fast food restaurant and a convenience There has been no protest on this case. special condition that has been added. Condition No. 13 reads as follows:

13. The owner/developer, by separate instrument approved by Pima County, shall dedicate to Pima County or the Pima County Flood Control District, as determined by Pima County, an ingress, egress and regress easement for a trail, at least 12 feet in width, through, over and across the subject property, to provide vehicular, pedestrian and bicycle access to, from and between the Pima County Rillito Linear Park and River Road and La Cholla Boulevard. Additionally, the owner/developer shall dedicate the area of the trail and the southernmost 37 feet of the subject property as an open space and park premises easement to Pima County for the benefit of recreational, pedastrian, and biovole users of the linear park. The trail and open space easements are to be located substantially in conformance with the concept approved by the Board of Supervisors at public hearing.

On consideration, it was moved by Supervisor Boyd, seconded by Chair Bronson, and unanimously carried by a five to zero vote, to close the public hearing and approve subject to standard and special conditions with the addition of Condition No. 13.

RECORDED BY: LMD

DEPUTY RECORDER 1963 RO09

P0230

PIMA CO CLERK OF THE BOARD



DOCKET: PAGE: 11499 1613

NO. OF PAGES: SEQUENCE: 2

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PICKUP

AMOUNT PAID \$ 0.00

ORDINANCE 2001- 28

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING PROPERTY (TAX CODE 101-13-014C) IN CASE Co9-99-46 HASTINGS - RIVER ROAD REZONING; LOCATED ON THE SOUTHWEST CORNER OF RIVER ROAD AND LA CHOLLA BOULEVARD; AMENDING PIMA COUNTY ZONING MAP NO. 45.

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

Section 1. The 4.02 acres described on the attached rezoning ordinance map, which amends Pima County Zoning Map No. 45 is hereby rezoned from SH to CB-1.

Section 2. Rezoning Conditions.

- 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 Department of Transportation, Real Property Division.
- 6. There shall be no further lot splitting or subdividing without the written approval of the Board of Supervisors.

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7. Transportation conditions:

- A. A maximum of two (2) access points to River Road and a maximum of one (1) access point to La Cholla Boulevard shall be permitted for the subject property. The location and design of said access points and on-site traffic circulation shall be subject to approval by the Department of Transportation at the time of development plan or subdivision plat approvals. Access to River Road shall not be permitted until the roadway construction is completed and the road is opened for use by the public.
- B. The property owner(s) shall reach a financial contribution agreement with and acceptable to the Department of Transportation and Flood Control District prior to development plan or subdivision plat approvals. Said agreement shall address the amount of a fair share financial contribution required from the property owner(s) for roadway capacity improvements to La Cholla Boulevard and/or River Road which are impacted by the proposed development; or if an improvement district is formed for said roadway capacity improvements to La Cholla Boulevard and/or River Road, the property owner(s) shall participate in said improvement district.
- C. Provision of all necessary access improvements to River Road and La Cholla Boulevard as determined during the plan review process. These improvements shall need the approval of Pima County and meet the appropriate standards prior to the issuance of any building permits for any portion of the subject property.

8. Flood Control conditions:

- A. Drainage shall not be altered, disturbed or obstructed without the written approval of the Flood Control District.
- B. All internal drainage improvements and any external drainage improvements required to mitigate drainage impacts that are needed as a result of the proposed development shall be constructed at no cost to the District.
- C. Buffering (landscape screening) plans and other site design features associated with the development of the subject property adjacent to the Rillito River Park shall need written approval by the Flood Control District and the Parks and Recreation Department prior to any development plan approvals.

Service.

- 11. Prior to ground modification activities, an on-the-ground archaeological survey and appropriate mitigation measures shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological sites on the subject property, shall be submitted at the time of, or prior to the submittal of any tentative plat or development plan. The mitigation plan shall be prepared and reviewed as described in the Pima County Site Analysis Requirements.
- 12. Adherence to the preliminary development plan as approved at public hearing.
- 13. The owner/developer, by separate instrument approved by Pima County, shall dedicate to Pima County or the Pima County Flood Control District, as determined by Pima County, an ingress, egress and regress easement for a trail, at least 12 feet in width, through, over and across the subject property, to provide vehicular, pedestrian and bicycle access to, from and between the Pima County Rillito Linear Park and River Road and La Cholla Boulevard. Additionally, the owner/developer shall dedicate the area of the trail and the southernmost 37 feet of the subject property as an open space and park premises easement to Pima County for the benefit of recreational, pedestrian, and bicycle users of the linear park. The trail and open space easements are to be located substantially in conformance with the concept approved by the Board of Supervisors at public hearing.

Section 3. Time limits, extensions and amendments of conditions.

- 1. Conditions 1 through 13 shall be completed by July 18, 2005.
- 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.

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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 4. The effective date of this Ordinance shall be on the date of signing of this Ordinance by the Chair of the Board of Supervisors.

Passed	and	adopted	by	the	Board	of	Supervisors	of	Pima	Count	Ξy,
Arizona	t, th	is <u>twe</u> n	tiet	h	day	of	February				2001

Chair, Board of Supervisors

FEB 2 0 2001

Date

ATTEST:

Clerk, Board of Supervisors

Deputy County Attorney

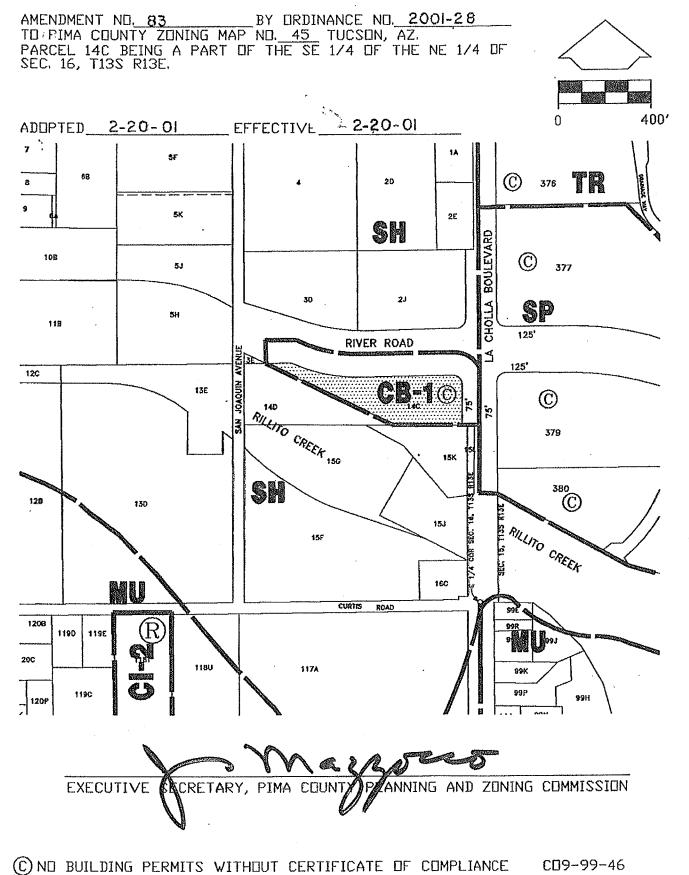
Executive Secretary,

Planning and Zoning Commission

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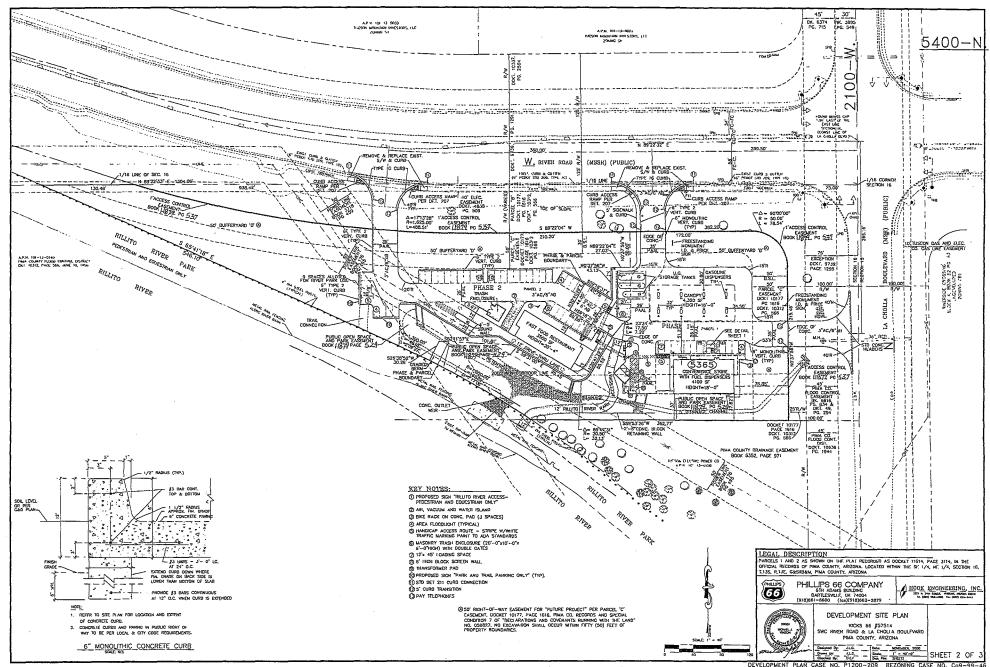
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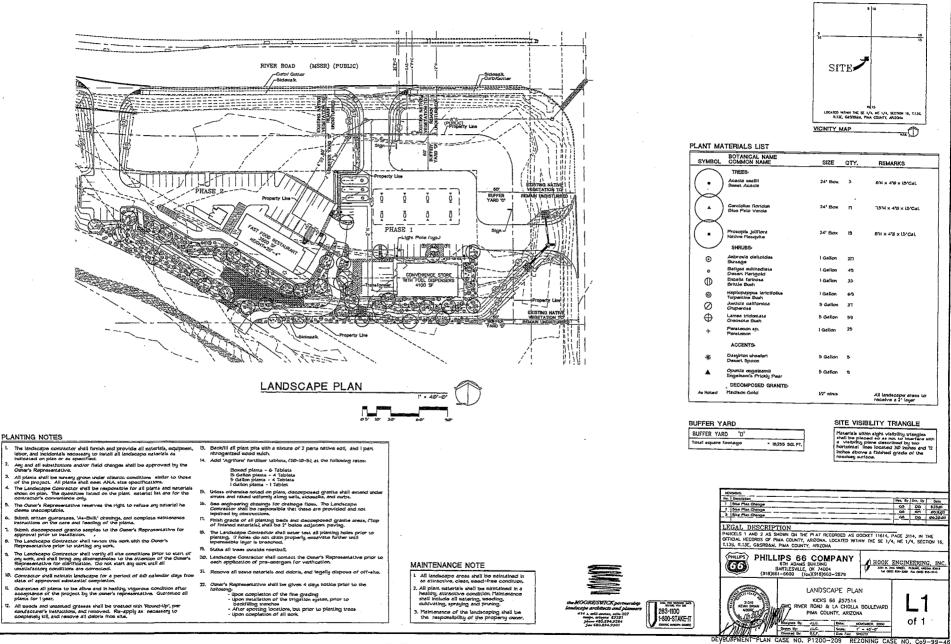
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P1200-209 Development Plan Approved 9-11-02



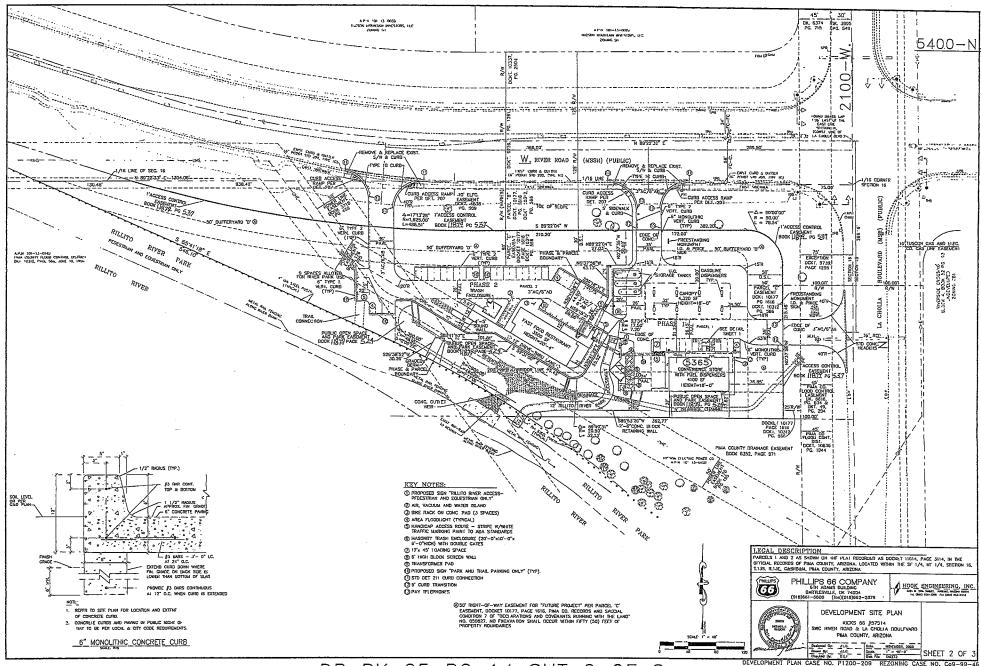
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P1200-209 Development Plan Landscape Plan Approved 9-11-02



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P1200-209 Development Plan Approved 9-11-02



P1200-209 Development Plan Landscape Plan Approved 9-11-02

