



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: April 7, 2020

Title: RESOLUTION: Co9-97-41 WESTERN CONTINENTAL LIMITED PARTNERSHIP/SHINER - ORACLE ROAD REZONING

Introduction/Background:

On November 19, 2019, the Board of Supervisors denied Closure this Rezoning, approved two consecutive five-year Rezoning Time Extensions, and approved a Modification (Substantial Change) of Rezoning Conditions subject to modified standard and special conditions.

Discussion:

The time limit and conditions contained in Rezoning Ordinance 1998-63 may be modified by resolution.

Conclusion:

This Resolution reflects the Board of Supervisors' approval.

Recommendation:

Approval of the Resolution.

Fiscal Impact:

N/A

Board of Supervisor District:

☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

Department: Development Services Department - Planning Telephone: 520-724-8800

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

Department Director Signature/Date:  3/11/2020

Deputy County Administrator Signature/Date:  3/13/2020

County Administrator Signature/Date:  3/16/20



Subject: Co9-97-41

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APRIL 7, 2020 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

Tom Drzazgowski

DATE: March 6, 2020

RESOLUTION FOR ADOPTION

Co9-97-41 **WESTERN CONTINENTAL LIMITED PARTNERSHIP/SHINER – ORACLE ROAD REZONING**

Owners: Mildred D. Clemovitz Family Trust
(District 1)

If approved, adopt RESOLUTION NO. 2020 - _____

OWNERS: Mildred D. Clemovitz Family Trust
Attn: David Christopher Clemovitz Trust
14515 N. Crown Point Drive
Oro Valley, AZ 85755-6660

AGENT: The Planning Center
Attn: Brian Underwood, Director of Planning
2 E. Congress Street, Ste. 600
Tucson, AZ 85701

DISTRICT: 1

STAFF CONTACT: David Petersen, Senior Planner

STAFF RECOMMENDATION: APPROVAL.

CP/DP/ar
Attachments

cc: Tom Drzazgowski, Chief Zoning Inspector
Co9-97-41 File

RESOLUTION 2020-_____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-97-41 WESTERN CONTINENTAL LIMITED PARTNERSHIP/SHINER – ORACLE ROAD REZONING; LOCATED ON THE WEST SIDE OF ORACLE ROAD, APPROXIMATELY ONE-FOURTH MILE NORTH OF PINAL STREET; AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 OF ORDINANCE 1998-63 AS AMENDED BY THE PIMA COUNTY BOARD OF SUPERVISORS ON APRIL 5, 2005.

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

1. On June 16, 1998, in rezoning case Co9-97-41, the Pima County Board of Supervisors approved the rezoning of approximately 2.34 acres located on the east side of Oracle Road approximately one-fourth mile north of Pinal Street, as shown on Exhibit A, from GR-1 (Rural Residential) to CB-2 (General Business), subject to standard and special conditions.
2. On October 6, 1998, the Pima County Board of Supervisors adopted rezoning Ordinance 1998-63, as recorded in Docket 10917 at Page 556, rezoning the approximate 2.34 acres described in rezoning case Co9-97-41 and memorializing the standard and special conditions.
3. The owner of the rezoning site applied for a seven-year extension of the time limit set forth in Section 3 of Ordinance 1998-63.
4. On April 5, 2005, the Pima County Board of Supervisors approved a seven-year time extension subject to modified standard and special conditions and a separate written resolution was not adopted memorializing the new time limit and modified conditions.
5. The owner of the rezoning site applied for a two consecutive five-year extensions of the time limit set forth in Section 3 of Ordinance 1998-63 as amended by the Pima County Board of Supervisors on April 5, 2005 and a modification (substantial change) of rezoning conditions.
6. On November 19, 2019, the Pima County Board of Supervisors denied closure of the rezoning and approved two consecutive five-year time extensions and a modification (substantial change) of rezoning conditions, subject to modified standard and special conditions.
7. Section 3 of Ordinance 1998-63 and the Pima County Code allow the Board of Supervisors to amend the rezoning time limit and conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance 1998-63, as amended by the Pima County Board of Supervisors on April 5, 2005, are restated and modified as follows:

- ~~1. Submittal of a development plan if determined necessary by the appropriate County agencies.~~
- ~~2. Recording of a covenant holding Pima County harmless in the event of flooding.~~
- ~~3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.~~
- ~~4. Provision of development related assurances as required by the appropriate agencies.~~
- ~~5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the 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.~~
- ~~7~~1. Transportation conditions:
 - A. Only one access point to Oracle Road shall be allowed from the rezoning site. The property owner shall provide for internal site access with the adjacent properties to the south and north.
 - B. The location and design of access to the subject property from the Tucson-Florence Highway (Oracle Road) will need written approval by the Arizona Department of Transportation before any plan approvals by Pima County.
 - C. A written certification from the Arizona Department of Transportation stating satisfactory compliance of all its requirements for access to the Tucson-Florence Highway (Oracle Road) shall need to be submitted to the Pima County Department of Transportation prior to the issuance of a certificate of occupancy.
 - D. The Development Plan shall provide for pedestrian access within the site and to the north and south.
- ~~8~~2. Flood Control conditions:
 - A. Drainage will not be altered, disturbed or obstructed without the written approval of the Flood Control District. No bank protection of the Big Wash shall be permitted.
 - B. The property owner(s) shall provide all necessary drainage related improvements created by the proposed development both on-site and off-site of the subject property. The location, design and construction of said improvements shall be subject to the approval of the Flood Control District.
 - C. Property owner(s) shall adhere to the required 250-foot erosion hazard building setback distance from the Big Wash, unless the Flood Control District approves a reduced erosion hazard setback distance.
 - D. At the time of development the applicant will be required to commit to water conservation measures identified in the Site Analysis Requirements in effect at that time sufficient to obtain 15 points.
- ~~9.~~ *Original condition #9 was deleted as part of the Board of Supervisors' rezoning time extension approval on April 5, 2005.*
- ~~40~~3. Adherence to the original preliminary development plan (Exhibit B) or the alternative preliminary development plan for RV/Boat storage (Exhibit C) as approved at public hearing. ~~GB-2 uses are restricted to a bar, lawnmower repair, motorcycle repair, refrigeration service, sign painting and a automatic carwash, and nonresidential CB-4 uses. There shall be no outside storage, display, or sale of goods or merchandise. Non-residential CB-2 uses are permitted.~~

414. The rezoning site (parcels 222-11-016A and 222-11-016B) shall be combined into one parcel prior to the approval of a development plan for the subject site.
425. The natural open space depicted on the approved preliminary development plans shall be set aside as a surveyed and legally described natural area in accordance with Section 18.61.0503.C of the Hillside Development Overlay Zone. The natural area shall not be divided between parcels.
13. ~~Concurrent with the tentative plat or development plan submittal, a plant preservation/mitigation study and plan shall be prepared by an independent horticulturalist or other qualified professional and submitted to the Planning Division for review and approval. The developer shall preserve in place, relocate or mitigate significant on-site cacti, trees, including ironwoods, as recommended by the preservation plan, including but not limited to: threatened or endangered plant species, plants on the Arizona Protected Plants List, areas of riparian vegetation, or significant wildlife habitat and corridors. In addition, if saguaros of six feet in height or greater are removed or relocated each saguaro removed shall be replaced, within the site area, with three additional saguaros. For each saguaro relocated on-site, one additional saguaro shall be planted within the site area. Such saguaros shall be nursery grown wherever possible. If the applicant can demonstrate that nursery grown saguaros are not available in the amount sufficient to comply with this policy, then saguaros which are authorized for transplanting through the State of Arizona Department of Horticulture permitting process will be allowed.~~
446. 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.
457. Building heights are limited to 24 feet and two stories.
46. ~~The proposed project shall be reviewed by the Pima County Design Review Committee pursuant to Comprehensive Plan Special Area Policy 2-07, Oracle Road, Northern Gateway.~~
17. ~~Environmental Quality condition:
The property owner shall connect to the public sewer in the manner specified by Wastewater Management.~~
488. Protect as natural space the large trees on the western portions of these parcels associated with Big Wash.
49. ~~Conduct pygmy owl surveys according to the approved protocol prior to any development of this site. If surveys are negative, development may proceed as planned. If surveys are positive, the developer should contact us to determine the appropriate course of action.~~
209. No disturbance of riparian habitat shall be allowed, including incidental disturbance during construction activities.
2410. Vertical retaining walls, screened as required by Chapter 18.61, Hillside Overlay Zone, shall be used to stabilize fill slopes.
2211. Notwithstanding the bufferyard shown on Tthe original preliminary development plan, shall be redesigned to show the a 20-foot wide bufferyard shall be provided along Oracle Road as required by Chapter 18.78, Gateway Overlay Zone, unless reduced or exempted by the Design Review Committee in accordance with Chapter 18.78, Gateway Overlay Zone provisions.

23. ~~The owner / developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system. The owner / developer 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 owner / developer to that effect.~~
24. ~~The owner / developer shall obtain written documentation from the Pima County Wastewater Management Department that treatment and conveyance capacity for the proposed new development within the rezoning area is available, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and / or conveyance capacity not be available at that time, the owner / developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the Pima County Wastewater Management Department.~~
25. ~~The owner / developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Wastewater Management Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.~~
26. ~~The owner / developer shall fund, design and construct all necessary on-site sewers to serve the rezoning area at his or her sole expense, to be privately maintained, unless otherwise directed at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.~~
27. ~~The owner / developer shall complete the construction of all necessary public and/or private sewerage facilities as required by the applicable regulations, including the Clean Water Act and those promulgated by ADEQ, and all applicable agreements with Pima County, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for new development within the rezoning area.~~
12. Wastewater Management conditions:
- 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.
28. ~~Unless Development Services is provided with information from the U.S. Fish & Wildlife Service which indicates a site survey is not necessary, the site shall be surveyed for the presence/absence of the cactus ferruginous pygmy owl by an entity qualified to perform biological surveys and who possesses a valid permit from the U.S. Fish & Wildlife Service to perform such surveys. Surveys shall be done according to the most current protocol approved by the U.S. Fish & Wildlife Service. If surveys are performed, results of these surveys and copies of any data collected shall be provided to Development Services.~~
2913. Under no circumstances shall the following exotic plant species be planted anywhere on the site:
- Fountain grass (*Pennisetum setaceum*)
 - Buffelgrass (*Pennisetum ciliare*)
 - Johnson grass (*Sorghum halapense*)
 - Giant reed (*Arundo donax*)
 - Common crabgrass (*Digitaria sanguinalis*)
 - Pampas grass (*Cortaderia selloana*)
 - Red brome (*Bromus rubens*)
 - Mediterranean grass (*Schismus spp.*)
 - Tree of heaven (*Ailanthus altissima*)
 - African sumac (*Rhus lancea*)
 - Russian olive (*Eleagnus angustifolia*)
 - Salt cedar/Tamarisk (*Tamarix pertandra* & *T. ramosissima*)
 - Bermuda grass (*Cynodon dactylon*) excluding sod hybrid Bermuda
 - Lovegrasses (*Eragrostis spp.*) excluding Plains lovegrass (*Eragrostis intermedia*)
 - African rue (*Peganum harmala*)
 - Iceplant (*Mesembryanthemum crystallinum*)
 - Arabian grass (*Schismus arabicus*)
 - Natal grass (*Melinis repens* [*Rhynchelythrum repens*])
14. 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.

15. 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.

Section 2. Section 3 of Ordinance No. 1998-63, as amended by the Pima County Board of Supervisors on April 5, 2005, is restated and modified as follows:

1. Conditions 1 through ~~2015~~ shall be completed no later than June 16, 2010~~2020~~.
2. The time limit may be extended by the Board of Supervisors by adoption of a resolution in accordance with Chapter 18.91 of the Pima County Zoning Code.
3. No building permits shall be issued based on the rezoning approved by this Ordinance until all conditions 1 through ~~2015~~ are satisfied and the Planning Official issues a Certificate of Compliance.
4. The rezoning conditions of Section 2 may be amended or waived by resolution of the Board of Supervisors in accordance with Chapter 18.91 of the Pima County Zoning Code.

Passed and adopted, this _____ day of _____, 2020.

Chairman, Pima County Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:



Deputy County Attorney
Lesley M. Lukach

APPROVED:

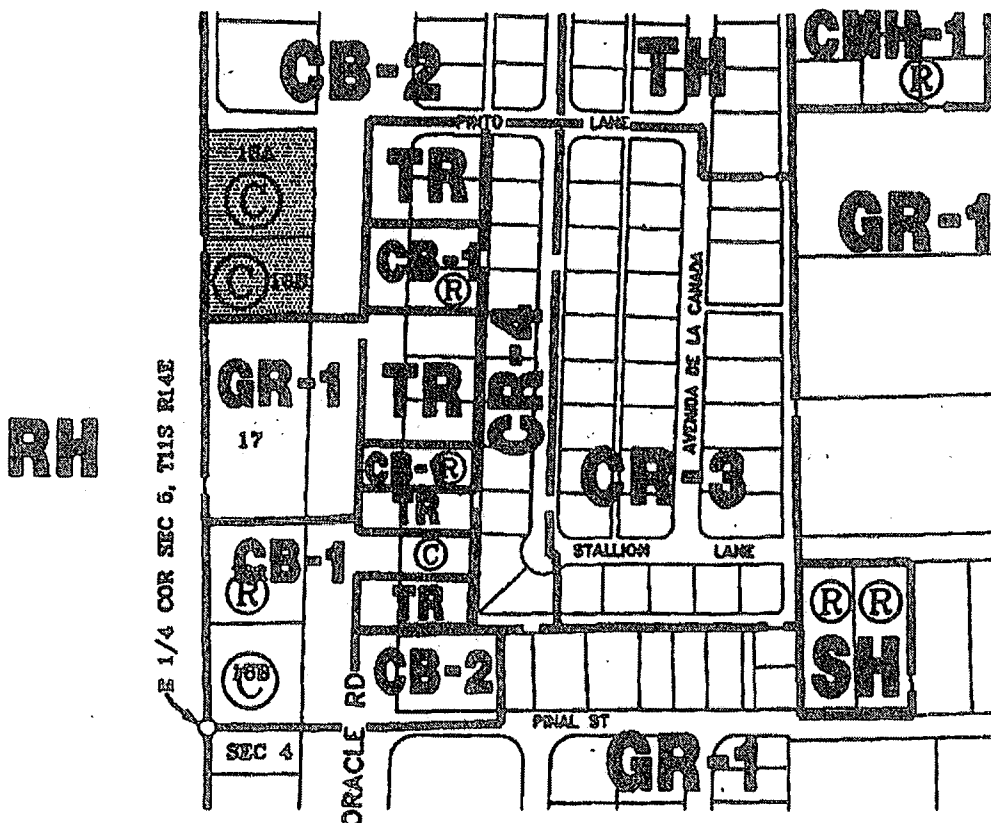
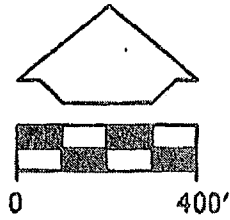


Executive Secretary
Planning and Zoning Commission

EXHIBIT A

AMENDMENT NO. 69 BY ORDINANCE NO. 1998-63
TO PIMA COUNTY ZONING MAP NO. 519 TUCSON, AZ.
PARCELS 16A AND 16B BEING A PART OF THE SW 1/4 OF
THE NW 1/4 OF SEC 4, T11S R14E.

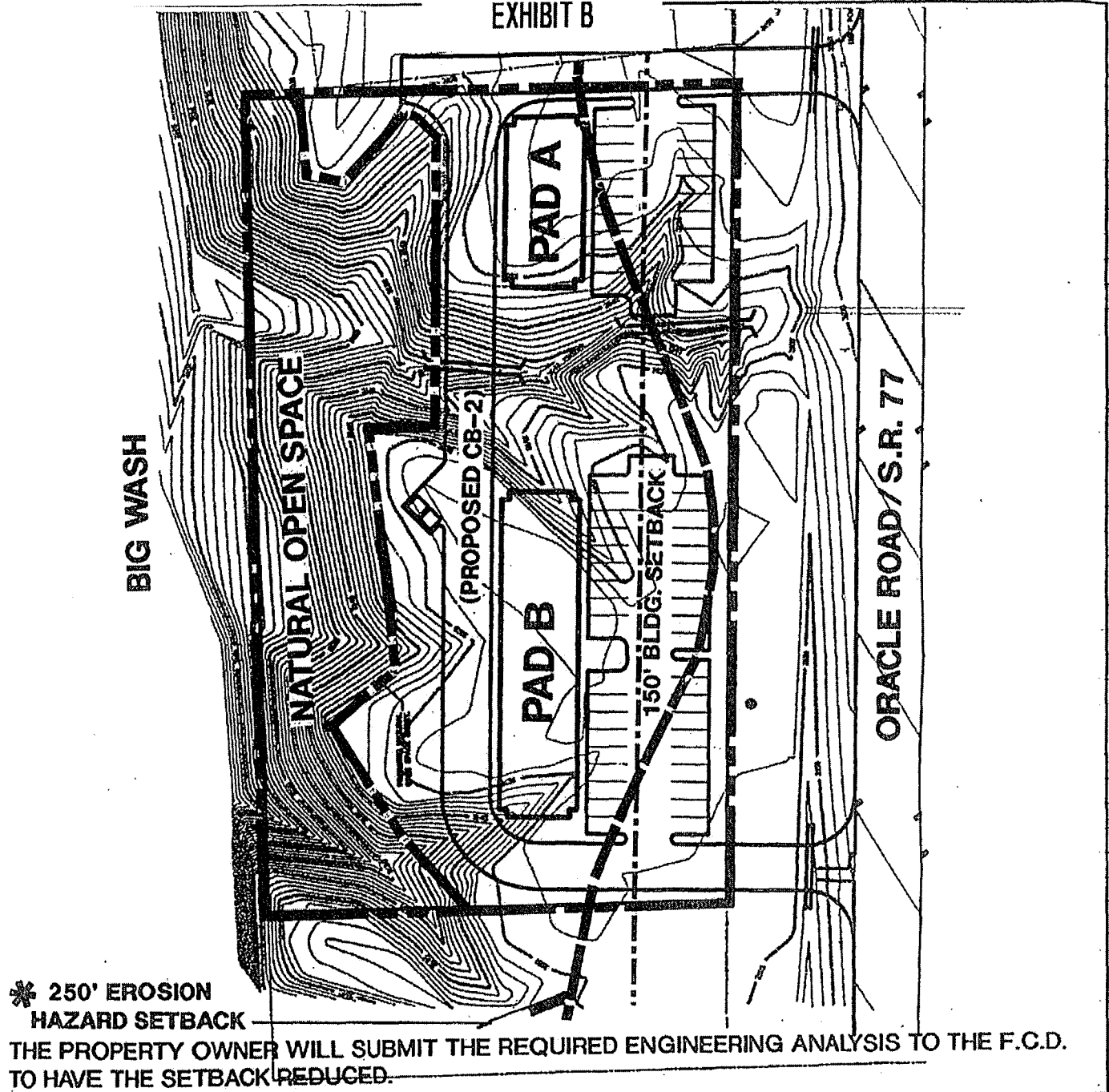
ADOPTED 10-6-98 EFFECTIVE 10-6-98



[Signature]
EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM GR-1 2.34 ac±
sp-SEPTEMBER 7, 1998

CD9-97-41
CD7-89-2
222-11-016A-016B



PLAN SUMMARY

GROSS SITE AREA:	2.34 ACRES
NET DEVELOPABLE AREA:	1.64 ACRES
NATURAL OPEN SPACE:	0.7 ACRES
GROSS BLDG. AREA:	10,101 SQ.FT.
BUILDING HEIGHTS:	24' MAX.
PARKING SPACES PROVIDED:	58
PARKING SPACES REQUIRED:	51

The WLB Group **WLB**



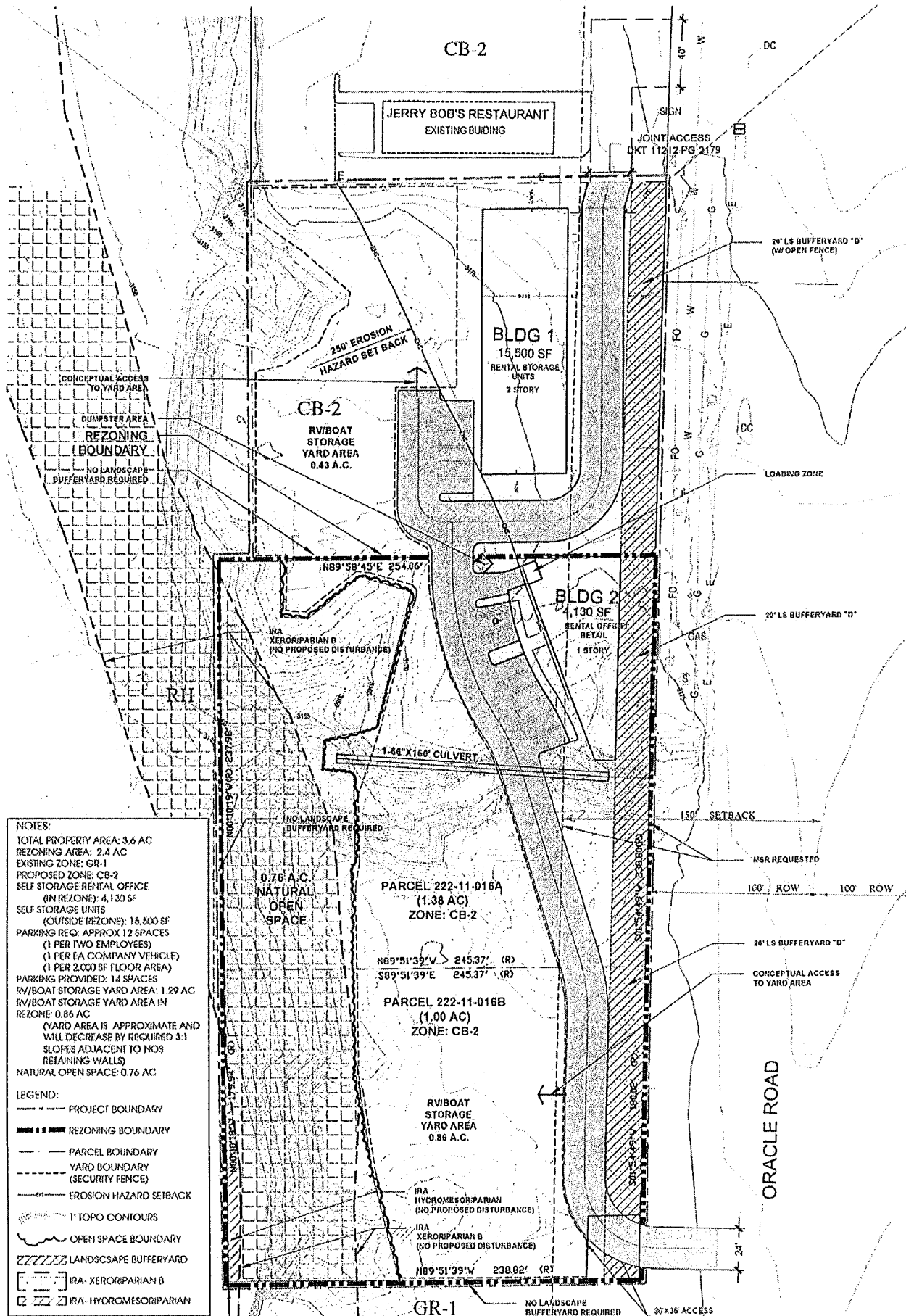
SCALE: 1" = 80'

EXHIBIT II B.1

PRELIMINARY DEVELOPMENT PLAN

Original Approved at 6-16-98 BOS 30 Hearing

PRELIMINARY DEVELOPMENT PLAN



Co9-97-41 REZONING TIME EXTENSION
MODIFICATION OF ZONING CONDITIONS

PROJECT: CH-01 DATE: 11/28/18
FILE NAME: CH-01_P01PLAN_07/25/19.DWG

