BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: May 19, 2020

Title: Co9-07-26 LAWYERS TITLE OF AZ TR 7992-T - MAGEE ROAD #2 REZONING (Closure/Time Extensions)

Introduction/Background:

A. Proposal to close rezoning case Co9-07-26 as required to be considered per code. B. If not closed, applicant requests two consecutive five-year time extensions for the rezoning from TR to CB-2 on 1.95 acres. The rezoning was approved on 10/7/08 and expired on 10/7/13. The site is located on the northwest corner of Magee Road and La Cholla Bouleverd.

Discussion:

Closure must be considered prior to consideration of a time extension because it has been more than 10 years since the date of rezoning approval. Because of the continued appropriateness of commercial use at the site's location, staff does not believe the case should be closed. The request letter indicates that improvements to the road intersection and then the economic recession have caused delay. Staff supports the rezoning time extensions because commercial use remains appropriate, conforms to the NAC comprehensive plan designation, is infill development, and infrastructure concurrency exists. There have been significant road capacity improvements for Magee Road. As part of the time extension, the applicant requests modifications to some rezoning conditions based on letter agreements by staff and a Development Agreement, all related to the Magee Road/La Cholla Boulevard intersection and drainage improvements. Most notably, recommendations for a Traffic Impact Study to determine possible offsite roadway improvements and for onsite detention/retention deviate from the past agreements.

Conclusion:

Business zoning and use remains appropriate for this site and infrastructure capacity exists to serve it. The time extensions will allow a total of 15 years to complete rezoning conditions.

Recommendation:

Staff recommends approval with modified standard and special conditions.

Fiscal Impact:

N/A

Board of Supervisor District:

☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

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

Contact: Mark Holden, Principal Planner Telephone: 520-724-6616

Department Director Signature/Date: 4/24/2020

Deputy County Administrator Signature/Date: 4/24/2020

County Administrator Signature/Date: C. Richebourg 4/24/20

PIMA COUNTY

DEVELOPMENT SERVICES

TO: Honorable Ally Miller, Supervisor, District 1

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

DATE: April 17, 2020

SUBJECT: **Co9-07-26 LAWYERS TITLE OF AZ TR 7992-T – MAGEE ROAD #2 REZONING**

The above referenced **Rezoning Closure / Time Extension** is within your district and is scheduled for the Board of Supervisors' **TUESDAY, MAY 19, 2020** hearing.

****This case will require 2 motions. 1 for the Closure and 1 for the Time Extensions.****

REQUEST:

A. Proposal to **close** a 1.95-acre rezoning from TR (Transitional) to CB-2 (General Business).

B. Two consecutive five-year **time extensions** of a 1.95-acre rezoning from TR (Transitional) to CB-2 (General Business).

OWNERS: Suki Investment Group, LLC
5600 E. Paseo de Manzanillo
Tucson, AZ 85750-1027

AGENT: Magee Como Development Association, LLC
Attn: Craig Courtney
5151 N. Oracle, Suite 210
Tucson, AZ 85701

DISTRICT: 1

STAFF CONTACT: Mark Holden, Principal Planner

PUBLIC COMMENT TO DATE: As of April 17, 2020, staff has received no public comments.

STAFF RECOMMENDATION: A) AGAINST CLOSURE. B) APPROVAL OF TWO CONSECUTIVE FIVE-YEAR TIME EXTENSIONS SUBJECT TO ORIGINAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS.

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

TD/MH/tt
Attachments

PIMA COUNTY

DEVELOPMENT SERVICES

BOARD OF SUPERVISORS MEMORANDUM

SUBJECT: Co9-07-26

FOR TUESDAY, MAY 19, 2020 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

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

DATE: April 17, 2020

ADVERTISED ITEM FOR PUBLIC HEARING

REZONING CLOSURE /TIME EXTENSION

A. Rezoning Closure

Co9-07-26 **LAWYERS TITLE OF AZ TR 7992-T – MAGEE ROAD #2 REZONING**
Proposal to **close** Co9-07-26, a 1.95-acre rezoning from TR (Transitional) to CB-2 (General Business) located on the northwest corner of Magee Road and La Cholla Boulevard and is **addressed as 7787 N. La Cholla Boulevard**. The rezoning was conditionally approved in 2008 and expired on October 7, 2013. Staff recommends **AGAINST CLOSURE**.
(District 1)

B. Rezoning Time Extension

Co9-07-26 **LAWYERS TITLE OF AZ TR 7992-T – MAGEE ROAD #2 REZONING**
Request of Suki Investment Group, LLC, represented by Magee Como Development Association, LLC, for two consecutive five-year **time extensions**, for the above-referenced rezoning from TR (Transitional) to CB-2 (General Business). The subject site was rezoned in 2008. The site is approximately 1.95 acres located on the northwest corner of Magee Road and La Cholla Boulevard and is **addressed as 7787 N. La Cholla Boulevard**. Staff recommends **APPROVAL** OF TWO CONSECUTIVE FIVE-YEAR TIME EXTENSIONS SUBJECT TO ORIGINAL AND MODIFIED STANDARD AND SPECIAL CONDITIONS.
(District 1)

STAFF RECOMMENDATION

Staff recommends **DENIAL of closure** of the rezoning and **APPROVAL of two consecutive five-year time extensions** to October 7, 2023 as per the applicant's request for the original 1.95-acre rezoning from TR (Transitional) to CB-2 (General Business) for use allowances for restaurants with associated bars permitted in CB-2 and CB-1 (Local Business) uses, subject to original and modified standard and special conditions as follows:

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

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

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

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

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

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

~~7~~2. Transportation conditions:

A. ~~Prior to approval of a development plan or revised subdivision plat, the owner(s)/developer(s) shall be required, by covenant, to participate in an improvement district for improvements for Magee Road and La Cholla Boulevard, or if no improvement district is formed, then appropriate impact fees shall apply.~~ Adherence to a development agreement for assessment and payment of all non-residential impact fees.

B. ~~If Pima County's improvements to Magee Road and/or La Cholla Boulevard have not been initiated prior to the property owner(s)/developer(s) starting construction on the first building within the rezoned property, then the property owner(s)/developer(s) shall provide off-site improvements to Magee Road or La Cholla Boulevard as determined necessary by the Pima County Department of Transportation.~~ 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(s)/developer(s). The traffic study shall include an analysis on storage length, taper lengths, and queuing analysis of the existing right turn lane including existing and proposed trips.

C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.

~~8~~3. Flood Control conditions:

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

B. ~~This development shall meet Critical Basin detention and retention requirements.~~ The site design must include detention and retention at the time of development.

C. ~~The property owner(s)/developer(s) shall provide necessary on-site and off-site drainage improvements at no cost to Pima County and as required by the Pima County Regional Flood Control District including but not limited to overflow facilities for the proposed water harvesting cisterns.~~ At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.

~~9~~4. Wastewater Reclamation conditions:

~~A. The owner(s)/developer(s) shall provide all weather, unrestricted vehicular access to all new, existing and/or relocated public sewer manholes within the rezoning area. The owner(s)/developer(s) shall also bring all existing public sewer easements (and/or public utility easements containing public sewer lines) within the rezoning area into accordance with the most recent Pima County Regional Wastewater Reclamation Department standards for such easements, as specified at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit. The owner(s)/developer(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner(s)/developer(s) to that effect.~~

~~B. The owner(s)/developer(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 Regional Wastewater Reclamation Department 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.~~

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.

~~10~~5. The property owner(s)/developer(s) shall 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. On-site wastewater

disposal shall not be allowed.

~~11~~6. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

~~12~~7. The property owner(s) shall execute ~~and record~~ the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

~~13~~8. ~~The developer(s) shall submit an Invasive Plant Eradication Plan as part of the Landscape Plan for the Development Plan, for the annual inspection and removal of invasive non-native plant species on the site, including but not limited to those listed below.~~

~~*Invasive Non-Native Plant Species Subject to Control:*~~

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

Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site; and Pima County may enforce this rezoning condition against any future property owner. ~~Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.~~

~~14~~9. The owner(s)/developer(s) shall adhere to the site plan as approved at public hearing (EXHIBIT B). The property shall be allowed CB-2 zoning uses for restaurants with

associated bars. All other uses shall be restricted to CB-1 zoning uses. Automotive-related uses, drive-~~thru~~through restaurants and stand-alone bars without restaurant facilities are prohibited.

~~15~~10. The maximum height of the west building shall be limited to 24 feet above the average grade within the site. The maximum height of the east building shall be limited to 34 feet above the average grade within the site including architectural features. This project will be subject to noise, odor and light trespass plans in accordance with Sections 18.39.030C.4, 5, 6 and 7.

Condition #'s 1-5 are recommended for deletion as they are no longer recommended as standard rezoning conditions as a measure to reduce redundant requirements and ease processes. Pertaining to condition #1, a development plan will be required per code for the proposed commercial development. Pertaining to condition #'s 2, 3, and 5, staff no longer recommends standard conditions which require an act of recordation. Pertaining to condition #'s 2 and 4, the requirements for recording of a hold harmless covenant against flooding and recording of assurances are typically associated with a subdivision plat. The subject property is Lot 5 of Magee Center II, Lots 1-6, a recently approved and recorded plat which contains a "hold harmless" statement in the Dedication.

The covenant requirement is also recommended for deletion pertaining to the Proposition 207 rights disclaimer per renumbered condition #7 and the requirement for on-going removal of buffelgrass per renumbered condition #8. The list of other invasive non-native species for removal per renumbered condition #8 is recommended for deletion as an update current protocols for rezoning sites requiring a development plan which are outside of the Maeveen Marie Behan Conservation Lands System (CLS).

Deletion of existing conditions and addition of new conditions under renumbered condition #4 are recommended to update Wastewater Reclamation Department conditions to current standards for the required use of sewerage. The deleted conditions are similar to several of the new conditions.

The aforementioned recommendations are relatively standard adjustments to the list of standard and common conditions that staff has been making for rezoning time extensions. However, as part of the time extension request, the applicant requests deletion or modification to original condition #'s 4, 7A & B, 8B & C, and 11. These requests are based on three letters created in 2011 by the applicant with stipulations to which County staff members concurred and on a recorded Development Agreement (Resolution 2011-122) (applicant provided Exhibits "D", "E", "G", and "I") . The stipulations in the letters pertain to certain rezoning conditions, and both the letters and the Development Agreement are based on matters related to the new alignment and improvement of the Magee Road/La Cholla Boulevard intersection which occurred after the 2008 rezoning approval. Staff is not in full agreement with the specific requests made for these conditions as detailed below.

The applicant requests deletion of condition #4, which requires provision of appropriate development related assurances as required by agencies, on the basis that no off-site improvements will be required for roads and drainage and existing on-site improvements would preclude need for on-site assurances. As noted above, staff no longer recommends a rezoning condition for assurances as this is redundant to other code requirements for assurances. This does not address whether assurances will ultimately be required, but if no off-site improvement are ultimately necessary, then it would appear that assurances would not be necessary.

The assumption that no off-site improvements would be required as of 2011 was acknowledged by staff in the letter Exhibits "D", "E", and "G".

The applicant requests deletion of condition #7A which requires participation in an improvement district for Magee Road and La Cholla Boulevard or payment of appropriate impact fees if a district is not formed. The applicant requests that the specific impact fee provisions from the recorded Development Agreement (Exhibit "I") replace the language of condition #7A. With the improvements to Magee and La Cholla having been finished, staff recommends only that the replacement language allude to a development agreement for applicability of impact fees as a notice. If for some reason the Development Agreement is changed, then the generalized condition as recommended by staff would not need amendment.

The applicant requests deletion of condition #7B, which requires necessary off-site improvements to Magee Road or La Cholla Boulevard if Pima County's improvements to Magee Road and/or La Cholla Boulevard have not been initiated prior to the start of building construction within the rezoning site, because the improvements are complete. The applicant notes that improvements to these roads are completed and refers to an April 4, 2011 letter (Exhibit "G", paragraph 2) wherein the Deputy Director of the Transportation Department agreed that off-site road improvements and assurances for such are waived (essentially not necessary with the improvements as made including a right-turn lane to the site), thereby satisfying condition #7B and #'s 4 and 11. Staff recommends deletion of condition #7B, but with replacement language that requires a Traffic Impact Study, including analysis of the adequacy of the existing right turn lane, to determine if any mitigation for safety is necessary relative to the existing driveway location. The Transportation Report states that the recommendation will allow determination of whether the existing driveway meets safety standards based on the amount of vehicles on Magee Road and the roadway geometry at the access location.

The applicant requests deletion of condition #8B which requires the development to meet Critical Basin detention and retention requirements. The applicant requests that this condition be replaced with language agreed to by the Public Works Division Manager in an April 4, 2011 letter (Exhibit "E", paragraph 2) essentially not requiring on-site Critical Basin retention/detention and allowing site drainage to storm drains and inlet pipes provided by the Magee Road improvements. Staff recommends deletion of condition #8B, but with replacement language that requires a site design which includes detention and retention. The Flood Control Report states that due to changed conditions including floodplain studies completed by the District since the initial approval, detention and retention are required.

The applicant requests deletion of condition #8C which requires provision of on-site and off-site drainage improvements including but not limited to overflow facilities for the proposed water harvesting cisterns. The applicant requests that this condition be replaced with a requirement for on-site water harvesting as required per Flood Control standards in line with language agreed to by the Public Works Division Manager in an April 4, 2011 letter (Exhibit "E", paragraph 3). Staff recommends deletion of condition #8C, but with replacement language relative to the water conservation aspect that requires selection of a combination of Water Conservation Measures from Table B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures. This is an updated condition standardized for rezonings which require a site analysis and represents water conservation measures in response to policies, guidelines, and procedures adopted since the original rezoning approval.

The applicant requests deletion of condition #11, which requires adherence to rezoning conditions, including conditions which require financial contributions to, or construction of

infrastructure, including without limitation, transportation, flood control, or sewer facilities in the event of the property is annexed. The applicant requests that this condition be replaced with a simple requirement to adhere to rezoning conditions in the event the property is annexed, citing waiver of the condition per the Public Works Division Manager in an April 4, 2011 letter (Exhibit "E", paragraph 3) and the satisfaction of the condition in an April 4, 2011 letter agreed to by the Deputy Director of the Transportation Department (Exhibit G, paragraph 2). Staff recommends retention of the condition in whole (renumbered as condition #6) as this condition is standard to all rezonings. If financial contributions or construction of infrastructure is already satisfied upon any annexation, then the issue is moot.

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

STAFF REPORT:

Closure

Staff recommends against closure of the rezoning, but closure must be considered prior to consideration of a time extension because a time extension was not requested prior to the case expiration date of October 7, 2013, and because it has been more than 10 years since the date of rezoning approval, October 7, 2008. The Zoning Code requires consideration of closure in either of these instances. The initial time limit for approved rezonings is recommended by staff at five years; and five years is typically the maximum interval of staff recommended time extensions. Because of the continued appropriateness of proposed commercial use at the site's location, staff does not believe the case should be closed.

Time Extension

Because of the elapsed time, the applicant requests two (consecutive) five-year time extensions. The request letter provides a detailed explanation regarding the delay in satisfying the rezoning conditions. The applicant indicates that a development plan submittal for the site was delayed in 2009 at the County's request relative to the uncertainty of the final road and drainage design for the planned Magee Road/La Cholla Boulevard intersection improvements. The applicant notes that the County had concerns with the expense of removing improvements that would be made for the rezoning site and adjacent property within the overall Magee Center subdivision development if installed in areas that that would be needed for right-of-way for the road and drainage improvements. The applicant states that the design work and construction consumed three years (to 2012).

The final grade of the rezoning site and adjacent property awaited completion of the improvement project as site drainage would tie into county drainage improvements. By then, the applicant notes that the recession had impacted commercial property extending through the 2013 rezoning deadline. Further difficulty was experienced with the unusual design of the intersection improvements that complicated the attractiveness of the site for potential commercial users. The applicant notes that the current traffic counts are sufficient to attract commercial development.

Approval of the requested consecutive five-year time extensions will provide a total of 15 years to complete rezoning conditions from the initial approval date by extending the expiration date to October 7, 2023. The site remains vacant. It is Lot 5 of a resubdivision, Magee Center II, Lots 1-6 and Common Areas A & B, approved in May 2019.

Staff supports the requested time extensions because the proposed commercial use conforms to the site's Neighborhood Activity Center (NAC) comprehensive plan designation, the site is an infill development near other commercial and residential uses, and applicable concurrency of

infrastructure criteria are met. The applicant has also substantiated reasons for the delay in satisfying rezoning conditions as noted above.

Since the rezoning approval in 2008, there has been another similar rezoning from TR to CB-2 (P15RZ00009) for the .88-acre Lot 4 of Magee Center II adjacent to the subject site. This rezoning was approved in 2016 with the same use restrictions as the subject rezoning. It remains undeveloped and conditionally approved.

There is also a pending rezoning (P19RZ00010) from SR (Suburban Ranch) to CR-4 (Mixed-Dwelling Type) on 12.5 acres adjacent to the north of Lot 4. The rezoning is for 55 residences but has not yet been scheduled for Board of Supervisors hearing. The Planning and Zoning Commission has recommended denial.

Surrounding development remains similar to development existing at the time of rezoning; however, a TR-zoned office subdivision has been recorded but is only partially developed across Magee Road south of the site. The undeveloped property at the southwest corner of Magee Road and La Cholla Boulevard (adjacent to the office development) is zoned CB-1 (Local Business) and was approved for a substantial change modification of rezoning conditions in 2018 for a convenience store with fuel sales and additional commercial/office use. Also, the Foothills Mall further to the south was approved for rezoning to SP (Specific Plan) for redevelopment for mixed uses.

Denial of the time extensions will cause the site to revert to TR zoning which would also conform to the site's NAC plan designation. Closure of the rezoning would not preclude the possibility of a future CB-2 rezoning.

SURROUNDING LAND USES/GENERAL CHARACTER:

North:	SR/CR-5 (Multiple Residence)	Single Residence/Apartments
South:	TR/CB-1	Magee Road/Offices/Vacant
East:	TR	Vacant (Lot 6 of Magee Center II)
West:	CB-2/TR	Vacant (Lot 4)/Multi-family Residential

CONCURRENCY CONSIDERATIONS		
Department	Concurrency Considerations Met: Yes / No / N/A	Other Comments
TRANSPORTATION	Yes	A condition for a Transportation Impact Study is recommended to determine any necessary off-site improvements
FLOOD CONTROL	Yes	
WASTEWATER	Yes	Subject to capacity letter verification and condition for construction of on-site and off-site sewers as necessary

PARKS & RECREATION	N/A	Provision for potential trail path easement to be determined at time of development plan review
WATER	Yes	Information from 2008
SCHOOLS	N/A	
AIR QUALITY	Yes	

TRANSPORTATION DEPARTMENT REPORT:

The Department of Transportation has reviewed the request for rezoning time extension and rezoning condition modifications of Ordinance 2009-04. This request requires the review of Transportation conditions 7.A, 7.B and 7.C.

The rezoned site is located northwest of the intersection of Magee Road and La Cholla Boulevard. Magee Road is directly south and La Cholla Boulevard is directly west of the site.

Magee Road is a paved four-lane roadway maintained by the County with raised medians, dedicated left-turn lanes, pedestrian sidewalks and multi-use paths. Magee Road is a 45-mph (miles per hour) posted speed limit roadway with 150 feet of existing right-of-way. Magee Road is a Medium Volume Arterial and Scenic Route with a planned 150 feet right-of-way per the Pima County Major Streets and Scenic Routes Plan. The most recent traffic count for Magee Road within the vicinity of the site is 20,347 ADT (average daily trips) with an approximate capacity of 33,830 ADT.

La Cholla Boulevard, north of Magee Road, is a paved four-lane roadway and south of Magee Road is a paved six-lane roadway maintained by the County with raised medians, dedicated left-turn lanes and pedestrian sidewalks and multi-use paths. La Cholla Boulevard is a 45-mph posted speed limit roadway with 150 feet of existing right-of-way. North of Magee Road, La Cholla Boulevard is a Medium Volume Arterial with a planned 150 feet right-of-way per the Pima County Major Streets Plan.

South of Magee Road, La Cholla Boulevard is a High Volume Arterial with a planned 200 feet right-of-way per the Pima County Major Streets Plan. The most recent traffic count for La Cholla Boulevard is 26,177 ADT with an approximate capacity of 53,910 ADT.

Improvements have been recently completed for Magee Road and La Cholla Boulevard in the vicinity of the site by the County Capital Improvement Projects 4MMLIC and 4RTLTM-4LCIMR respectively, and there are no scheduled roadway projects. Letter of agreements with various departments and a development agreement with property owner and Pima County occurred after the completion of the rezoning as the result of conveying property to Pima County to facilitate roadway improvements in reference to the rezoned parcel and reflect the modification to rezoning conditions. Such documents shall be made available to the County staff during permitting process.

The approved Preliminary Development Plan is to allow CB-2 zoning uses for restaurants with associated bars and all other uses for CB-1 zoning. Without specific uses proposed, the ADT is

difficult to be determine. Considering that the roadways are well under capacity, the proposed site will not significantly impact the surrounding roadways.

The access to this rezoned site is from Magee Road via an existing driveway through the commercial development named Magee Center within the site. There is an existing median opening in Magee Road that enables the existing driveway to function as a full access driveway. Due the amount of vehicles on Magee Road and the roadway geometry of Magee Road at the access location, a safety analysis shall be performed to determine if mitigation is needed to improve the safety of the existing driveway to meet standards.

There are no concurrency concerns with this request. The Department of Transportation has no objection to this rezoning time extension and provides modifications and additions to the rezoning conditions under condition #2 above.

REGIONAL FLOOD CONTROL DISTRICT REPORT:
The Pima County Regional Flood Control District has reviewed the request and offers the following comments:

1. Due to changed conditions including floodplain studies completed by the District since the initial approval, detention and retention are required.
2. The District does not object to the proposed revised conditions.
3. One new condition is recommended below to ensure compliance with the Pima Prospers Water Policy.

The District **has no objection subject to** the following conditions (also listed under condition #3 above):

A. The site design must include detention and retention at the time of development.
B. At the time of development the developer shall be required to select a combination of Water Conservation Measures from Table B such that the point total equals or exceeds 15 points and includes a combination of indoor and outdoor measures.

REGIONAL WASTEWATER RECLAMATION DEPARTMENT REPORT:
The Planning Section of the Pima County Regional Wastewater Reclamation Department (PCRWRD) has reviewed the above referenced request and offers the following comments for your use. This is a request for two consecutive five-year time extensions for the above-referenced rezoning case.
The rezoning was conditionally approved in 2008 and expired in October of 2013. The subject property is located on the northwest corner of Magee Road and La Cholla Boulevard.

The Final Plat for Magee Center II, Lots 1-6, recorded on November 22, 2019, appears to show necessary sewer access easements and sewer easements as required by wastewater condition 9.A in the rezoning Ordinance 2009-4. The easements were recorded in Seq. #20032400006 and Seq. #20030390388.

PCRWRD has no objection to the request for the rezoning time extensions, but requests the existing wastewater conditions in rezoning Ordinance 2009-4 adopted January 13, 2009 by the Board of Supervisors be replaced with updated conditions (under renumbered condition #4 above).

PARKS AND RECREATION REPORT:
The Pima County Trails System Master Plan features a path trail running through the site as per

MapGuide. If required, an easement for the trail would be secured at the time of development plan review and approval.

METROPOLITAN WATER DISTRICT:
Metropolitan Water District has not responded to a request for comments. The District indicated that it is certified to serve the site in a 2008 water availability letter submitted for the rezoning.

GOLDER RANCH FIRE DISTRICT:
Staff has not received a response to a request for comments.

UNITED STATE FISH AND WILDLIFE SERVICE COMMENTS:
Staff has not received a response to a request for comments.

PUBLIC COMMENTS:
As of the writing of this report, staff has not received any written public comments.

TD/MH/tt
Attachments

cc: Suki Investment Group, LLC, 5600 E. Paseo de Manzanillo, Tucson, AZ 85750-1027
Magee Como Development Association, LLC, Attn: Craig Courtney, 5151 N. Oracle, Suite 210, Tucson AZ 85701
Tom Drzazgowski, Chief Zoning Inspector
Co9-07-26 File

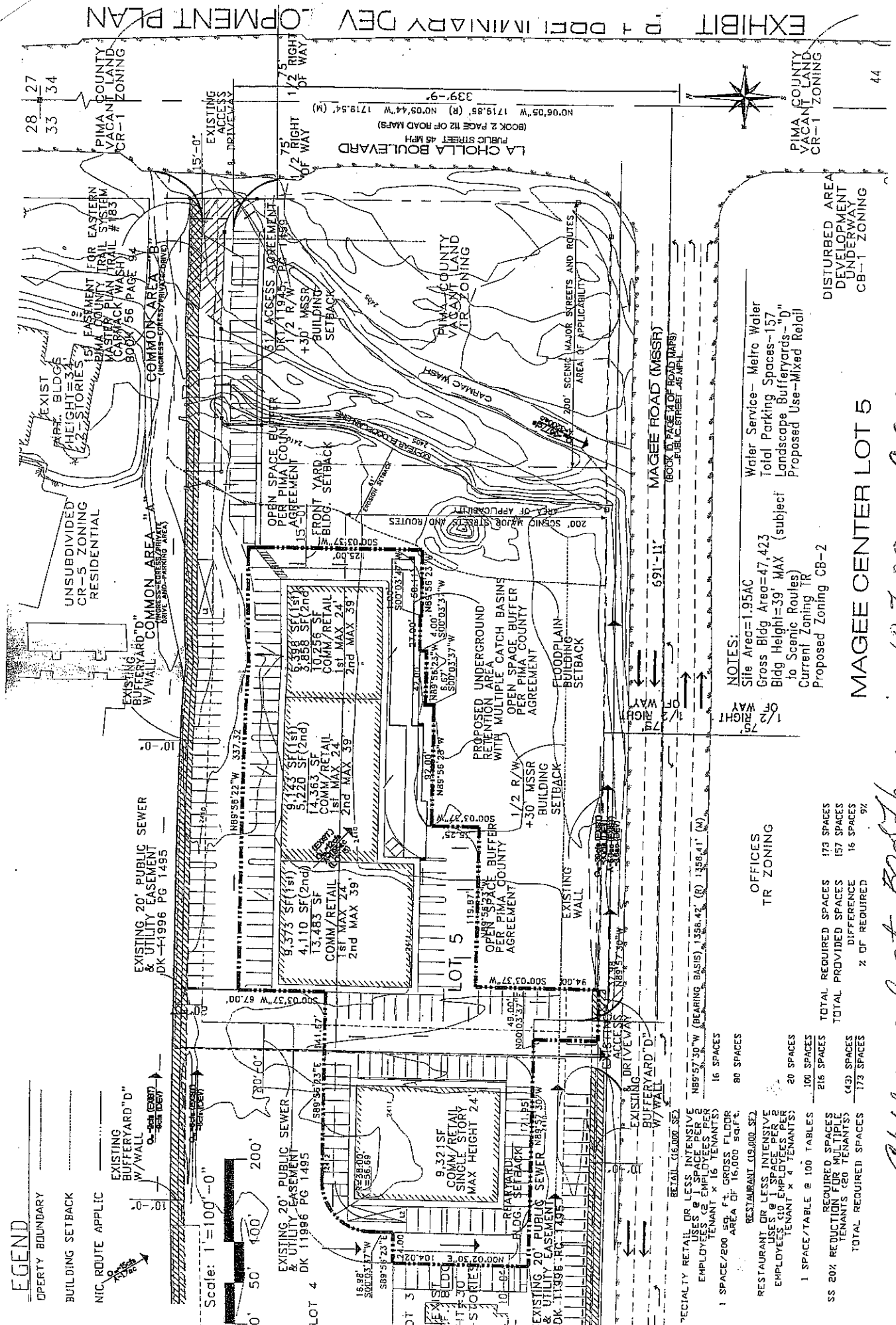
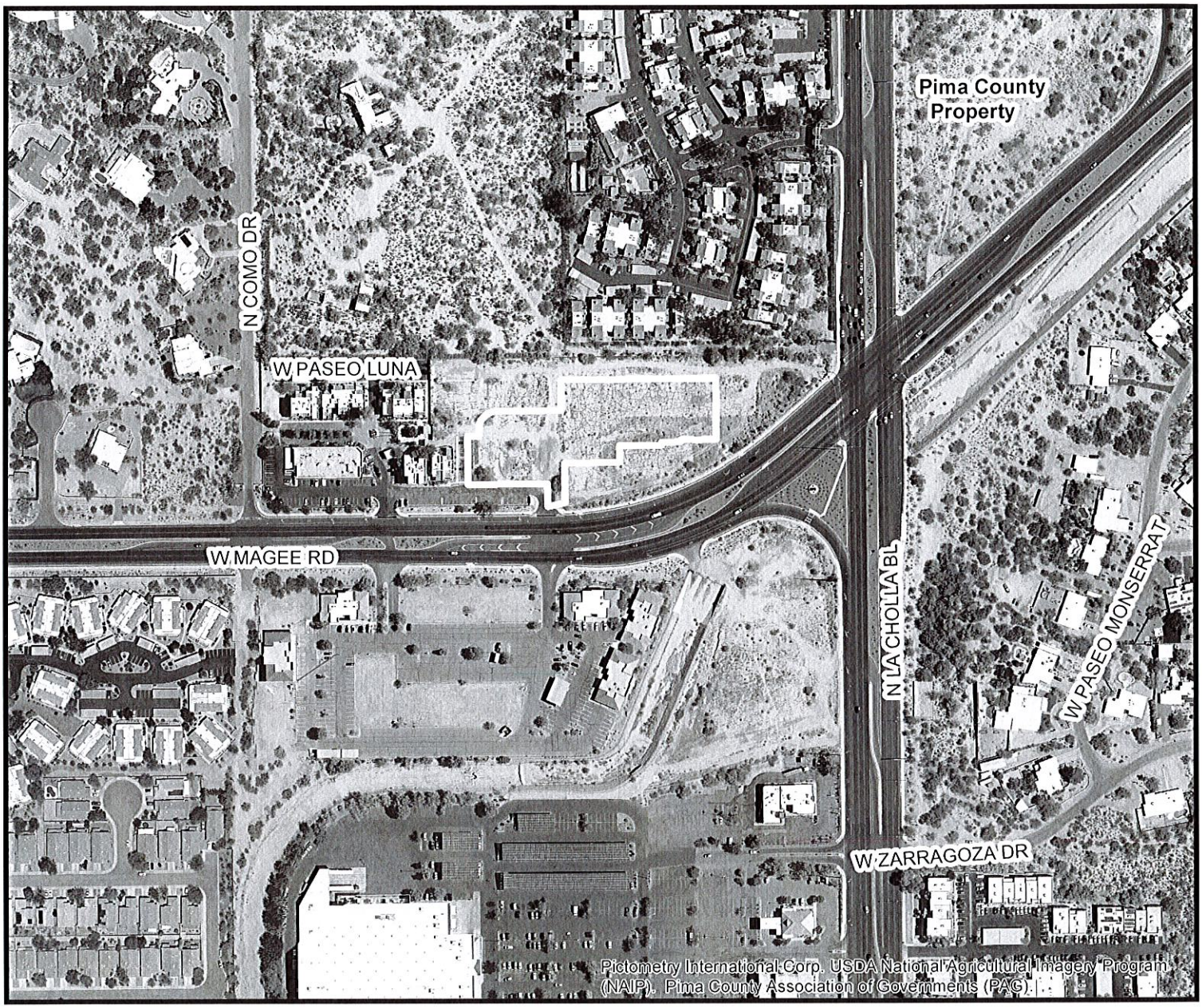


EXHIBIT B
PRELIMINARY DEVELOPMENT PLAN
MAGEE CENTER LOT 5
Water Service- Metro Water
Total Parking Spaces-157
Landscape Bufferyards-"D"
Proposed Use-Mixed Retail
NOTES:
Site Area=1.95AC
Gross Bldg Area=47,423
Bldg Height=39' MAX (subject to Scenic Routes)
Current Zoning TR
Proposed Zoning CB-2
MAGEE ROAD (MSSR)
LA CHOLLA BOULEVARD
PIMA COUNTY VACANT LAND CR-1 ZONING
PIMA COUNTY VACANT LAND TR ZONING
DISTURBED AREA DEVELOPMENT UNDERWAY CB-1 ZONING
UNSUBDIVIDED CR-5 ZONING RESIDENTIAL
COMMON AREA "B"
COMMON AREA "A"
EXIST. BLDGS. HEIGHT=34' 2 STORIES
EXISTING BUFFERYARD "D" W/WALL
EXISTING 20' PUBLIC SEWER & UTILITY EASEMENT DK 11996 PG 1495
OPEN SPACE BUFFER PER PIMA COUNTY AGREEMENT
FRONT YARD BLDG. SETBACK
PROPOSED UNDERGROUND RETENTION AREA WITH MULTIPLE CATCH BASINS
FLOODPLAIN BUILDING SETBACK
+30' MSSR BUILDING SETBACK
1/2 R/W
LOT 5
LOT 4
LOT 3
OFFICES TR ZONING
EXISTING WALL
EXISTING ACCESS DRIVEWAY
REARYARD BLDG. SETBACK
9,321SF COMM/RETAIL SINGLE STORY MAX HEIGHT 24'
9,373 SF(1st) 4,110 SF(2nd) 13,483 SF COMM/RETAIL 1st MAX 24' 2nd MAX 39'
9,143 SF(1st) 5,220 SF(2nd) 14,363 SF COMM/RETAIL 1st MAX 24' 2nd MAX 39'
6,398 SF(1st) 3,858 SF(2nd) 10,256 SF COMM/RETAIL 1st MAX 24' 2nd MAX 39'
SPECIALTY RETAIL OR LESS INTENSIVE USES @ 1 SPACE PER 2 EMPLOYEES (2 EMPLOYEES PER TENANT × 16 TENANTS) 16 SPACES
1 SPACE/200 sq. ft. GROSS FLOOR AREA OF 16,000 sq.ft. RESTAURANT (19,000 SF) 80 SPACES
RESTAURANT OR LESS INTENSIVE USES @ 1 SPACE PER 2 EMPLOYEES (10 EMPLOYEES PER TENANT × 4 TENANTS) 20 SPACES
1 SPACE/TABLE @ 100 TABLES 100 SPACES
TOTAL REQUIRED SPACES 216 SPACES
TOTAL PROVIDED SPACES 173 SPACES
DIFFERENCE 157 SPACES
% OF REQUIRED 16 SPACES 9%
REQUIRED SPACES REDUCTION FOR MULTIPLE TENANTS (20 TENANTS) (43) SPACES
TOTAL REQUIRED SPACES 173 SPACES
EGEND
OPERTY BOUNDARY
BUILDING SETBACK
NIC ROUTE APPLIC
Scale: 1"=100'-0"
Approved at BOS Hearing 10-7-08
Co9-07-26

Case #: Co9-07-026
Case Name: LAWYERS TITLE OF AZ TR 7992-T - MAGEE ROAD #2 REZONING
Tax Code(s): 225-44-548A

Aerial Exhibit



0 145 290 580 Feet

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

PIMA COUNTY
DEVELOPMENT SERVICES

Notes: **Rezoning Closure/Time Extension**

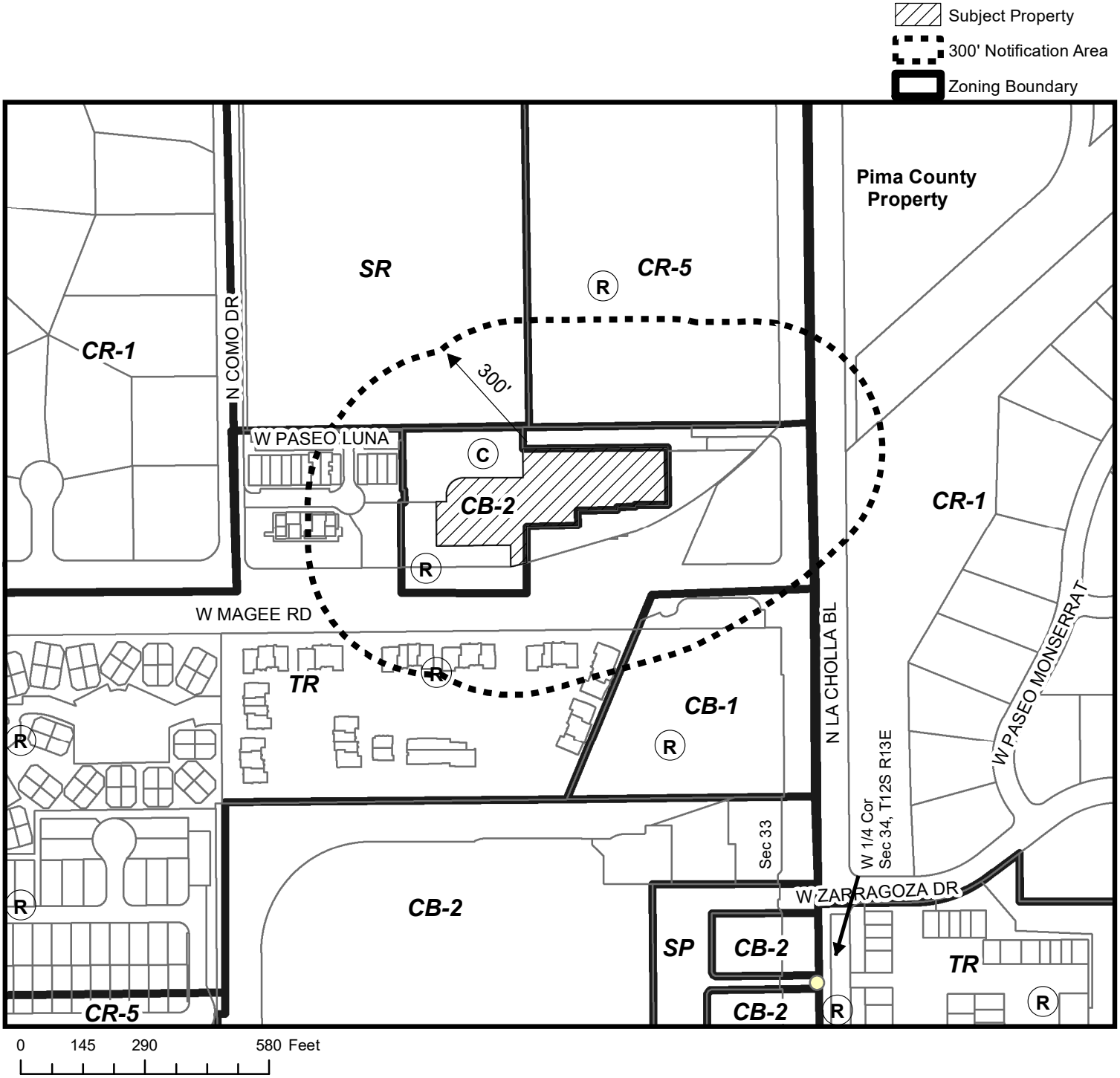
PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Board of Supervisors Hearing: 5/19/20 | Ref Case: P20SA00001

Base Map(s): 115 | Map Scale: 1:4,000 | Map Date: 4/10/2020 - ds

N W E S

Case #: Co9-07-026
Case Name: LAWYERS TITLE OF AZ TR 7992-T - MAGEE ROAD #2 REZONING
Tax Code(s): 225-44-548A



PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

PIMA COUNTY DEVELOPMENT SERVICES

Notes: **Rezoning Closure/Time Extension**

PIMA COUNTY COMPREHENSIVE PLAN CO7-13-10

Board of Supervisors Hearing: 5/19/20	Ref Case: P20SA00001	
Base Map(s): 115	Map Scale: 1:4,000	Map Date: 4/10/2020 - ds

N W E S

TIME EXTENSION REQUEST

FOR

REZONING CASE # Co 9-07-026

ORDINANCE 2009 – 4

TABLE OF CONTENTS FOR TIME EXTENSION - REZONING CASE # C0 9-07-026; ORD. # 2009 – 4.

I. OWNERSHIP AND LETTER OF AUTHORIZATION

II. PROPERTY DESCRIPTION
- A. Zoning Case Information **(See Exhibit "A")**
- B. Final Plat Information **(See Exhibit "B")**
- C. Development Plan Information **(See Exhibit "C")**

III. CIRCUMSTANCES CREATING DELAY IN MEETING INITIAL TIME EXTENSION:

IV. TIME EXTENSION REQUEST AND MODIFICATION OF ZONING CONDITIONS PER AGREEMENTS WITH PIMA COUNTY:

A. The following five letters (Letters) are related to the development requirements for the Magee Property referenced in a) the Rezoning Case, b) the recorded Development Agreement, and c) Pima County's Development Standards.

1. Development Services- Chris Poirier's April 11, 2011 Planning Letter (**See Exhibit "D"**),
2. Public Works Division – William Zimmerman's April 4, 2011 Letter (**See Exhibit "E"**),
3. Subdivision Coordination-Deborah J. Marchbanks' Dec. 19, 2011 Letter (**See Exhibit "F"**),
4. Transportation – Ben Goeff's April 4, 2011 Letter (**See Exhibit "G"**),
5. Zoning – Tina Whittemore's April 5, 2011 Letter (**See Exhibit "H"**).

B. DEVELOPMENT AGREEMENT
Pima County Development Agreement recorded in Seq. # 20112060714 (**Exhibit "I).**

V. SITE PLAN.

VI. TIME EXTENSION FEE.

VII. BIOLOGICAL IMPACT REPORT. (See attached)

Magee Como Development Association, LLC
5151 North Oracle Rd., Suite 210, Tucson, AZ 85701
Phone: 520-247-3306
Email: ccourtney@azredco.com

February 24, 2020

Mr. Chris Poirier
Pima County Planning Division
201 North Stone Ave. 1st floor
Tucson, Arizona 85701
Phone: 724-9000

Re: Lot 5 of Magee Center II "Time Extension Request" for Rezoning Case # Co 9-07-026; Ordinance 2009 - 4 in Docket 13478, Page 2815.

Dear Mr. Poirier,

Please accept this letter as our application for a "Time Extension Request" for Rezoning Case # Co9-07–026, Ordinance 2009 – 4 recorded in Docket 13478, Page 2815. We would like to request the time extension be granted through October 7, 2023. To assist you in evaluating our request, I have included the following information for easy reference.

I. *OWNERSHIP AND LETTER OF AUTHORIZATION*:

A. Suki Investment Group, LLC, an Arizona limited liability company is a single member, Manager Managed company. The sole principle is G. Lawrence Schubart at 340 North Main Ave., Tucson, Az. 85701, and

B. The "Letter of Authorization" is attached. It appoints Magee Como Development Association, LLC, as agent directed by its members Craig R. Courtney (520-247-3306) and Michael G. Byrne (520-307-1290).

II. *PROPERTY DESCRIPTION*:

A. Zoning:

Lot 5, a 1.95-acre parcel located at the northwest corner of Magee Road and La Cholla Boulevard, was rezoned to CB-2 (General Business) with conditions referenced in Ordinance 2009 – 4 recorded on January 21, 2009 in Docket 13478, Page 2815 **(See attached Zoning Ordinance - Exhibit "A")**,

Zoning Case Files (See Page 6 of **Exhibit "A"**):

1) Co 9 – 07 – 026,
2) Co 7 – 03 – 11, and
3) Co 9 – 69 – 27,

B. Final Plat:

Magee Center's Final Plat for Lots 1-5 and Common Areas A and B was recently re-platted to include Lot 6, the adjoining remaining parcel on the north side of the new Magee Road alignment. The Final Plat is now referred to as "Magee Center II, Lots 1- 6, and Common Areas A and B (Private Streets, Utilities, Drainage, and Parking), **(See Final Re-Plat - Exhibit "B")**

Final Plat Case Files – Not noted in the Rezoning Case above.

1) P16R200004,
2) Co20-02-004,
3) P1202-049,

4) P1202-015, and
5) P18FP0029,

C. Development Plan:
The Development Plan for Magee Center-Revision 1 (**See attached approved Development Plan - Exhibit "C")** was approved on December 18, 2003 and covered Lots 1, 2 and 3 of Magee Center.

Development Plan Case Files - Not noted in the Rezoning Case or the Magee Center II Final Plat above.
1) P1203-063
2) Co – 10(3)02 – 57, and
3) Co – 10(3)02 – 51,

III. *CIRCUMSTANCES CREATING DELAY IN MEETING INITIAL TIME EXTENSION:*

A. This rezoning was completed in early January 2009 during the preliminary design phase for the restructuring of the T intersection at Magee Road and La Cholla Blvd.
B. In March 2009 a preliminary development plan for Lots 1-5, revising the Dec. 18, 2003 "Magee Center – Revision 1" Development Plan for Lots 1-3, was completed. Per their request several Pima County departments asked for an initial review of this plan that was to satisfy the remaining development items for Magee Center and the rezoning conditions for Lot 5. During those discussions the County realized it might need some of Lot 5's property incorporated into the roadway and drainage easements to properly design the road widening at this corner. Even though this plan would have been approved at that time, the county asked for a delay in submitting it, since they were still evaluating different road designs. The installation of Lot 5's improvements would likely add to the county's cost, if they were installed in areas that would need to be incorporated into the right of way.
C. This Development Plan submittal was put on hold for approximately 3 years pending the final roadway design, which occurred in late 2011. The County finally decided on a plan that needed a contribution of land from Lot 5 at its main entrance and a large drainage easement at its NE corner to control the flow of water traveling south in the Carmac wash. This coordinated effort avoided the need for a condemnation action and resulted in the 5 letter agreements and the recorded Development Agreement referenced below.
D. The construction of the roadway improvements on and adjacent to Lot 5, completed in 2012, further delayed its development, since Lot 5 would now need to reconstruct its existing grade elevations to tie into the county's drainage improvements.
E. By 2013 Tucson's commercial properties were significantly impacted by a recession. This forced this project to be put on hold, making it impractical to meet the Oct. 7, 2013 rezoning deadline.
F. The unique drive pattern at this intersection, (referred to as the Michigan Turn) eliminated the west bound left turn onto Magee Rd from La Cholla Blvd in favor of a right turn only clover leaf. This design proved to be too foreign for commercial users. The response was a "wait and see" approach. By 2019 the traffic count at the intersection reached approximately 18,000+ cars east/west on Magee Rd and the same number north/south on La Cholla Blvd.; well below the planned amounts at above 30,000 each. However, the 7-year growth of the traffic count on Magee Rd. showed the public has accepted this road design in front of Lot 5 and is sufficient to warrant commercial development.
G. This is the reason for requesting the time extension now. Without interest in this corner the request would still be premature.

IV. *TIME EXTENSION REQUEST AND MODIFICATION OF ZONING CONDITIONS:*

A. A Time Extension request through October 7, 2023, and

B. Requested modification to zoning conditions listed in Lot 5's rezoning (Rezoning Case) per the attached development agreements with Pima County referenced below, which were agreed to after the completion of its 2009 rezoning approval and prior to the final design for the new Magee Road alignment in 2011. The following modifications were granted to Lot 5 in consideration of it deeding both easements and land to pima county to benefit its design for widening Magee Road along the south line of Lot 5. Our request along with a time extension is to update the current zoning conditions as indicated below per the attached Pima County Development Agreement recorded in Seq. # 20112060714 (**Exhibit "I"**) and the five letter agreements with various Pima County Development Services Departments.

The following five letters (Letters) are related to the development requirements for the Magee Property referenced in a) the Rezoning Case, b) the recorded Development Agreement, and c) Pima County's Development Standards.

1) Development Services - Chris Poirier's April 11, 2011 Planning Dept Letter (**See Exhibit "D"**),
2) Public Works Division – William Zimmerman's April 4, 2011 Letter (**See Exhibit "E"**),
3) Subdivision Coordination – Deborah J. Marchbanks' Dec. 19, 2011 Letter (**See Exhibit "F"**),
4) Transportation – Ben Goeff's April 4, 2011 Letter (**See Exhibit "G"**), and
5) Zoning – Tina Whittemore's April 5, 2011 Letter (**See Exhibit "H"**).

Our application includes a request that the provisions in the attached recorded Development Agreement and in these 5 Letters be applied to the Rezoning Case, as indicated below, and be used to comply with all other Pima County standards and development related documents, including but not limited to the County's procedure for approving a Concept Development Plan.

Requested Modifications To Zoning Conditions:

I believe the following agreements with Pima County directly affect the existing zoning conditions:

1. Condition # 4. Delete this item per Para. 2 of the Development Services' April 11, 2011 Planning Dept.'s Letter (**Exhibit "D"**), Para. 3 of the Public Works Division's April 4, 2011 Letter (**Exhibit "E"**), and Para. 2 of the Transportation Deputy Director's April 4, 2011 letter **(Exhibit "G")**, since off-site development related assurances are waived. These cover any requirement to provide off-site improvements, including drainage, and/or financial contributions to Magee Road and/or La Cholla Boulevard.

   No on-site development assurances are necessary since:
   a) The property is completely graded to within 1+/- foot of final grade,
   b) Underground utility distribution lines are installed in and around Lot 5, including electric, gas, sewer, telephone, and water, and
   c) A 24 FT paved common area roadway with sidewalks has been constructed through the interior of Lot 5.

2. Condition # 7. Transportation Conditions.
   a) Condition # 7.A.
      1) Delete the requirement to participate in an improvement district for the improvements of Magee Road per Paragraph 1 of the Transportation's Deputy Director's April 4, 2011 letter, **(Exhibit "G")**, and
      2) Insert, along with the existing language to participate in the then appropriate non-residential impact fees, the following italicized provisions described in

Paragraph 5 of the Deputy Director's April 4, 2011 letter (**Exhibit "G"**) and Paragraph 3 of the recorded Development Agreement (**Exhibit "I"**),

that any impact fees are to be assessed at the time the building permit is issued and to be paid upon the earlier of:

i) "any portion of a building on the property is sold to a bona fide third-party purchaser as evidenced by a transfer document recorded in the office of the Pima County Recorder", and

ii) "any portion of the building on the property is leased by a tenant as evidenced by the issuance of a Certificate of Occupancy by Pima County."

b) Condition # 7.B.
Delete this item since the Magee Road and La Cholla Boulevard improvements have been completed per the agreement in Para. 2 of the Deputy Director's April 4, 2011 letter (**Exhibit "~~D~~"**). G D.P.

c) Condition # 7.D.
Insert the following two italicized conditions that are referenced in Paragraph 3 of Development Services' April 11, 2011 Planning Dept.'s Letter (**Exhibit "D"**) and Paragraph 3 of the Deputy Director's April 4, 2011 letter (**Exhibit "G"**),

i) *"So long as the current approved Preliminary Development Plan for Lot 5 with the addition of Lot 6, (Collectively the "Magee Property"), does not substantially change, a Traffic Impact Analysis will not be required"*, and

ii) *"Any Pima County plan, study and/or report generated as a result of the Magee Road and La Cholla Boulevard improvements that include portions or all of the Magee Property may be used and/or substituted for a similar report required by either the Pima County Transportation or the Development Services Departments for the Magee Property's on site or off-site development information."*

3. Condition # 8. Flood Control Conditions. (See **Exhibit "E"**)

a) Condition # 8.B.

i) Delete - The requirement for meeting Critical Basin detention and retention requirements has been waived per Paragraph 1 of the Public Works Division's April 4, 2011 Letter and

ii) Insert - *"The Drainage Plan for the undeveloped portion of the Magee Property shall be reflected in a Development Plan such that the on-site hydrology is designed not to retain or detain its water, but direct its flow through the site and interface with the appropriate storm drains and inlet pipes provided by Pima County per the Magee Road Improvements to the southern boundary of the Magee Property".*

b) Condition # 8.C.

i) Delete - The requirement for contribution or construction of off-site drainage improvements, development related assurances and the reference to requiring overflow facilities for proposed water harvesting cisterns has been waived per Paragraph 3 of the Public Works Division's April 4, 2011 Letter, and

ii) Insert - *"On-site water harvesting will be required per Pima County Flood Control standards.*

4. Condition # 11. Annexation of Property.

Per Paragraph 3 of the Public Works Division's April 4, 2011 Letter (**Exhibit "E"**) and Paragraph 2 of the Transportation's April 4, 2011 Letter (**Exhibit "G"**)

a) Delete - Item #11, and
b) Insert - *"In the event the Subject Property is annexed, the property owner shall adhere to all applicable rezoning conditions."*

V. *SITE PLAN.*

The site plan in the original Rezoning Case shall serve as the applicant's site plan requirement.

VI. *TIME EXTENSION FEE.*

To be determined by Pima County.

VII. *BIOLOGICAL IMPACT REPORT.* (See attached)

If you have any questions regarding this matter, please contact Craig Courtney direct at 520-247-3306.

Sincerely,

Craig R. Courtney, Magee Como Development Association, LLC,

CC. G. Lawrence Schubart, Manager of Suki Investment Group, LLC,
Michael G. Byrne, Member of Magee Como Development Association, LLC

EXHIBIT "A"

REZONING CASE
ORDINANCE 2009-4

RECORDED BY: LAM
DEPUTY RECORDER
6545 AS2
P0230
PIMA CO CLERK OF THE BOARD
PICKUP

DOCKET: 13478
PAGE: 2815
NO. OF PAGES: 7
SEQUENCE: 20090130633
01/21/2009
ORDIN 18:00

PICKUP
AMOUNT PAID $ 0.00

ORDINANCE 2009- 4

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; REZONING PROPERTY (PARCEL CODE 225-44-5480) OF APPROXIMATELY 1.95 ACRES FROM TR (TRANSITIONAL) TO CB-2 (GENERAL BUSINESS) IN **CASE Co9-07-26 LAWYERS TITLE OF AZ TR 7992-T – MAGEE ROAD #2 REZONING**; LOCATED ON THE NORTHWEST CORNER OF MAGEE ROAD AND LA CHOLLA BOULEVARD; AMENDING PIMA COUNTY ZONING MAP NO. 115.

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

Section 1. The 1.95 acres, located on the northwest corner of Magee Road and La Cholla Boulevard, illustrated by the shaded area on the attached rezoning ordinance map (EXHIBIT A), which amends Pima County Zoning Map No. 115 is hereby rezoned from TR (Transitional) to CB-2 (General Business).

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 Development Services Department, Document Services.

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

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5. EXHIBIT C1- Lot 5's 2009 Rezoning, Site Plan, and Building Envelopes

7. Transportation conditions:

A. Prior to approval of a development plan or revised subdivision plat, the owner(s)/developer(s) shall be required, by covenant, to participate in an improvement district for improvements for Magee Road and La Cholla Boulevard, or if no improvement district is formed, then appropriate impact fees shall apply.

B. If Pima County's improvements to Magee Road and/or La Cholla Boulevard have not been initiated prior to the property owner(s)/developer(s) starting construction on the first building within the rezoned property, then the property owner(s)/developer(s) shall provide offsite improvements to Magee Road or La Cholla Boulevard as determined necessary by the Pima County Department of Transportation.

C. Access and maintenance agreements shall be required between the rezoning and adjacent properties.

8. Flood Control conditions:

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

B. This development shall meet Critical Basin detention and retention requirements.

C. The property owner(s)/developer(s) shall provide necessary on-site and off-site drainage improvements at no cost to Pima County and as required by the Pima County Regional Flood Control District including but not limited to overflow facilities for the proposed water harvesting cisterns.

9. Wastewater Management conditions:

A. The owner(s)/developer(s) shall provide all weather, unrestricted vehicular access to all new, existing and/or relocated public sewer manholes within the rezoning area. The owner(s)/developer(s) shall also bring all existing public sewer easements (and/or public utility easements containing public sewer lines) within the rezoning area into accordance with the most recent Pima County Regional Wastewater Reclamation Department standards for such easements, as specified at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit. The owner(s)/developer(s) shall construe no action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner(s)/developer(s) to that effect.

B. The owner(s)/developer(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 Regional Wastewater Reclamation

13478 0281 6

Department 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.

10. The property owner(s)/developer(s) shall 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. On-site wastewater disposal shall not be allowed.

11. 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.

12. The property owner(s) shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

13 The developer(s) shall submit an Invasive Plant Eradication Plan as part of the Landscape Plan for the Development Plan, for the annual inspection and removal of invasive non-native plant species on the site, including but not limited to those listed below.

Invasive Non-Native Plant Species Subject to Control:

Ailanthus altissima	Tree of Heaven
Alhagi pseudalhagi	Camelthorn
Arundo donax	Giant reed
Brassica tournefortii	Sahara mustard
Bromus rubens	Red brome
Bromus tectorum	Cheatgrass
Centaurea melitensis	Malta starthistle
Centaurea solstitalis	Yellow starthistle
Cortaderia spp.	Pampas grass
Cynodon dactylon	Bermuda grass (excluding sod hybrid)
Digitaria spp.	Crabgrass
Elaeagnus angustifolia	Russian olive
Eragrostis spp.	Lovegrass (excluding *E. intermedia*, plains lovegrass)
Melinis repens	Natal grass
Mesembryanthemum spp.	Iceplant
Peganum harmala	African rue

Pennisetum ciliare	Buffelgrass
Pennisetum setaceum	Fountain grass
Rhus lancea	African sumac
Salsola spp.	Russian thistle
Schismus arabicus	Arabian grass
Schismus barbatus	Mediterranean grass
Sorghum halepense	Johnson grass
Tamarix spp.	Tamarisk

Upon the effective date of the Ordinance, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.

14. The owner(s)/developer(s) shall adhere to the site plan as approved at public hearing (EXHIBIT B). The property shall be allowed CB-2 zoning uses for restaurants with associated bars. All other uses shall be restricted to CB-1 zoning uses. Automotive-related uses, drive-thru restaurants and stand alone bars without restaurant facilities are prohibited.

15. The maximum height of the west building shall be limited to 24 feet above the average grade within the site. The maximum height of the east building shall be limited to 34 feet above the average grade within the site including architectural features. This project will be subject to noise, odor and light trespass plans in accordance with Sections 18.39.030C.4, 5, 6 and 7.

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

1. Conditions 1 through 15 shall be completed by October 7, 2013.

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

3. No building permits shall be issued based on the rezoning approved by this Ordinance until all conditions 1 through 15 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.

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

Passed and adopted by the Board of Supervisors of Pima County, Arizona, this 13th day of January, 2009.

Chairman of the Board of Supervisors

JAN 13 2009

ATTEST:

Clerk, Board of Supervisors

APPROVED AS TO FORM:

Deputy County Attorney

ANDREW FLAGG

Executive Secretary,
Planning and Zoning Commission

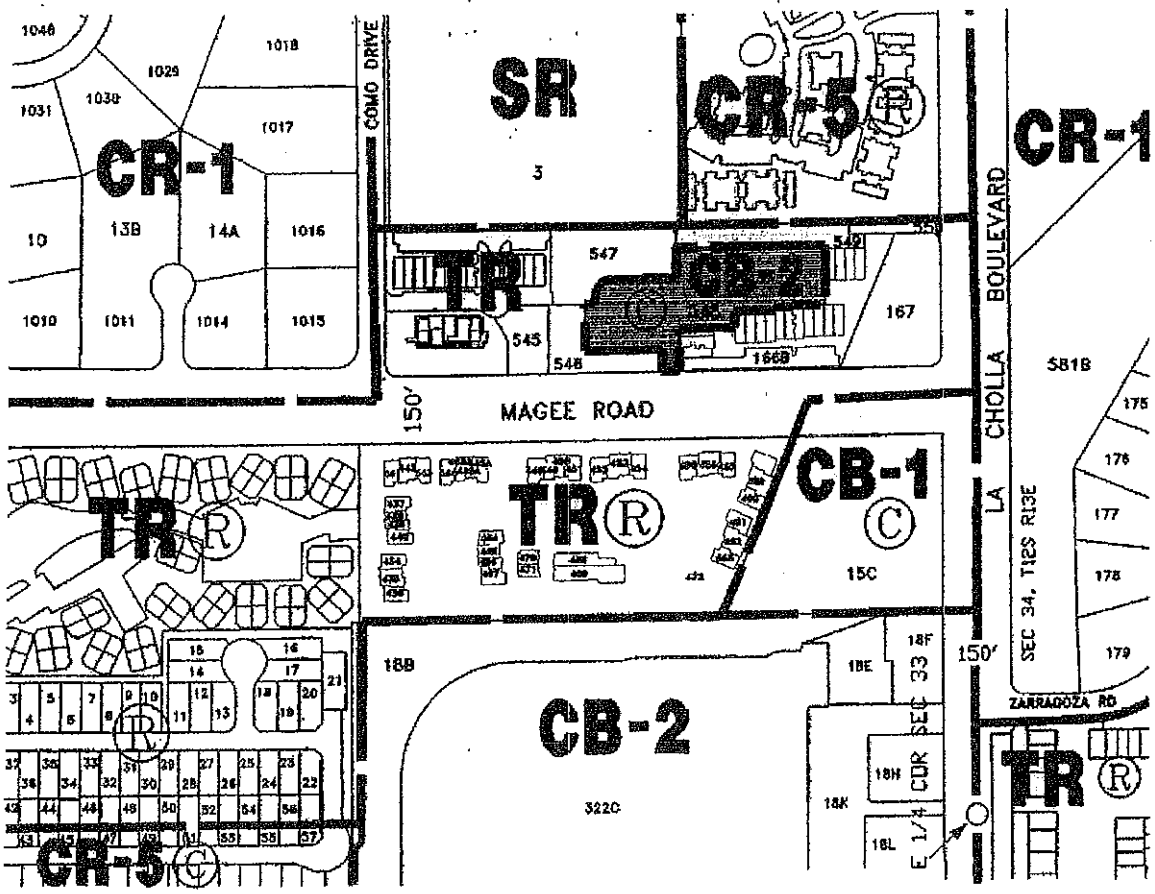
13478 028 19

EXHIBIT A

AMENDMENT NO. 78 BY ORDINANCE NO. 2009-4
TO PIMA COUNTY ZONING MAP NO. 115 TUCSON, ARIZONA.
LOT 5 OF MAGEE CENTER, BEING A PART OF THE SE 1/4
OF THE NE 1/4 OF SECTION 33, T12S, R13E.

0 400'

ADOPTED JANUARY 13, 2009 EFFECTIVE JANUARY 13, 2009



EXECUTIVE SECRETARY PIMA COUNTY PLANNING AND ZONING COMMISSION

Co9-07-026
Co7-03-11
Co9-69-27 REF
225-44-5480

© NO BUILDING PERMITS WITHOUT CERTIFICATE OF COMPLIANCE
FROM TR 1.95 ac±
PJ-DECEMBER 4, 2008

EXHIBIT "B"

FINAL PLAT
FOR
MAGE CENTER II, LOTS 1-6
AND
COMMON AREAS A AND B

DEDICATION

X10530

WE, THE UNDERSIGNED, HEREBY WARRANT THAT WE ARE THE PARTY HAVING THE RIGHT AND INTEREST TO DEDICATE THE LAND SHOWN ON THIS PLAT, AND WE CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON.

WE, THE UNDERSIGNED DO HEREBY HOLD HARMLESS PIMA COUNTY AND PIMA COUNTY FLOOD CONTROL DISTRICT, THEIR SUCCESSORS, ASSIGNS, EMPLOYEES, OFFICERS, AND AGENTS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF THE PROPERTY DEPICTED ON THIS PLAT NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOWAGE, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE, FLOOD OR RAINFALL.

COMMON AREAS (AND PRIVATE EASEMENTS), AS SHOWN HEREON ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY AND ANY THIRD PARTY PER RECORDED UTILITY, SEWER, DRAINAGE, AND ACCESS EASEMENTS WITHIN THIS SUBDIVISION.

TITLE TO THE LAND OF ALL COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER SEQUENCE NUMBER 20083371483, 20050881085, 20051430463 AND 20192360717 IN THE OFFICE OF THE PIMA COUNTY RECORDER. THE ASSOCIATION SHALL ACCEPT THE RESPONSIBILITY FOR CONTROL, MAINTENANCE, AD VALOREM TAXES AND LIABILITY FOR THE COMMON AREAS, TO INCLUDE PRIVATE STREETS, PRIVATE DRAINAGEWAYS, PRIVATE SEWERS AND PRIVATE EASEMENTS, WITHIN THE SUBDIVISION.

BY: [signature], MANAGER

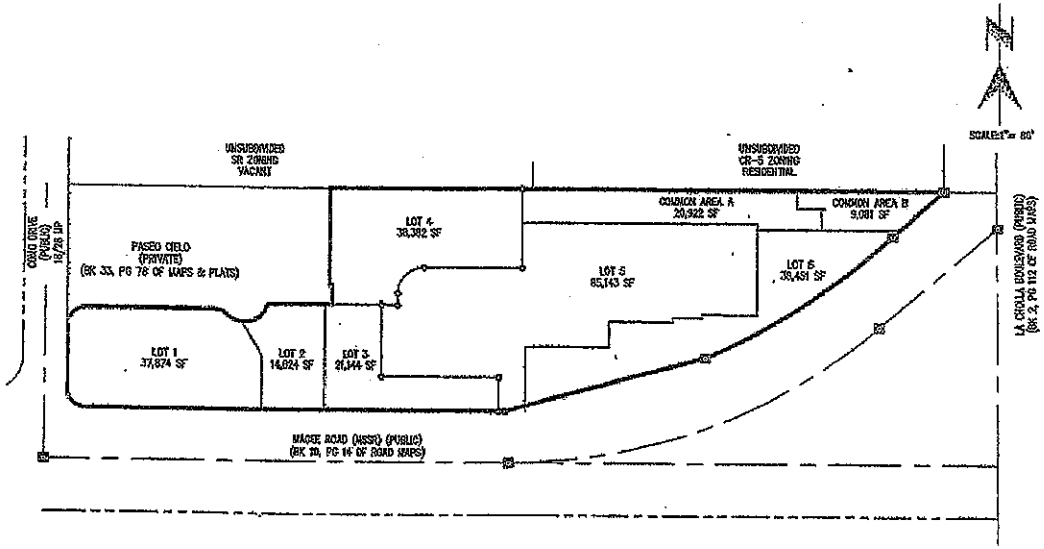
MAGEE CORO DEVELOPMENT ASSOCIATION, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS DECLARANT UNDER THE COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER SEQUENCE NUMBER 20083371483, 20050881085, 20051430463 AND 20192360717 IN THE OFFICE OF THE PIMA COUNTY RECORDER.

STATE OF ARIZONA)
} SS.
COUNTY OF PIMA)

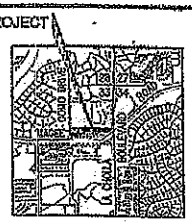
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 3rd DAY OF July
BY [signature]

[signature]
NOTARY PUBLIC

MY COMMISSION EXPIRES



THIS PROJECT



LOCATION MAP
T12S R13E SECTION 33
G&SRBM
TUCSON, ARIZONA
N
3/4 = 1 MILE

LEGEND

- BOUNDARY LINE
- RIGHT-OF-WAY LINE
- CENTER LINE
- EASEMENT LINE
- FOUND AS NOTED
- SET ½" REBAR "RLS 33308"
- DRIVEWAY LOCATION
- (C) CALCULATED
- (R) RECORDED

SHEET INDEX

SHEET 1 COVER SHEET
SHEETS 2-3 SUBDIVISION BOUNDARY

ASSURANCE

NO ASSURANCES ARE REQUIRED FOR THIS SUBDIVISION AS IT IS A COMMERCIAL DEVELOPMENT.

BY: [signature]
CHAIRMAN, BOARD OF SUPERVISORS
PIMA COUNTY, ARIZONA

NOV 19 2019
DATE

ATTEST

I, JOJE CASTAÑEDA, CLERK OF THE BOARD OF SUPERVISORS, HEREBY CERTIFY THAT THIS PLAT WAS APPROVED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, ON THIS 19th DAY OF November, 2019.

[signature]
CLERK, BOARD OF SUPERVISORS

NOV 19 2019
DATE

GENERAL NOTES

1. THE GROSS AREA OF THIS SUBDIVISION IS 6.19 ACRES.
2. THE TOTAL MILES OF NEW PRIVATE STREET IS 0.00 MILES.
   THE TOTAL MILES OF NEW PUBLIC STREET IS 0.00 MILES.
3. BASIS OF BEARING: NORTH 48 DEGREES 43 MINUTES 30 SECONDS EAST AS MEASURED BETWEEN THE MONUMENTED CONSTRUCTION CENTER LINE MONUMENTS OF MAGEE ROAD WITH
4. THIS SUBDIVISION LIES WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.

(a) County of Recordation: PIMA
(b) Date of Recording: 11/22/2019
(c) Fee/Recording Number: 20192360717

RECORDING

STATE OF ARIZONA } S.S.:
PIMA COUNTY }

THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF JAS ENGINEERING, ON THIS 22nd DAY OF November, 2019, AT SEQUENCE NUMBER 20192360717, PIMA COUNTY RECORDS, at page 36400

F. ANN RODRIGUEZ
COUNTY RECORDER

Maps not picked up in 45 days will be recorded. Interest

DATE

PERMITTING NOTES

1. LOTS 1-3 ARE ZONED CB-2. LOTS 4-6 ARE ZONED CB-2 CONDITIONAL.
2. THIS SUBDIVISION IS SUBJECT TO BOARD OF SUPERVISORS REZONING CONDITIONS AS FOUND IN CASE NUMBER Co9-89-27 AS APPROVED ON JULY 22,1985.
3. THIS SUBDIVISION IS SUBJECT TO DESIGN REVIEW COMMITTEE REQUIREMENTS AS FOUND IN CASE NUMBER Co20-02-004 AS APPROVED ON APRIL 16, 2002.
4. THIS SUBDIVISION IS SUBJECT TO BOARD OF SUPERVISORS REZONING CONDITIONS AS FOUND IN CASE NUMBER P18RZ00009 AS APPROVED ON JUNE 7, 2018. THE REZONING CONDITION #1: LOT 4 IS RESTRICTED TO THE FOLLOWING: THE USES OF THE PROPERTY ARE LIMITED TO RESTAURANTS WITH/WITHOUT A BAR AND CB-1 ZONE USES EXCEPT FOR AUTOMOTIVE RELATED USES, DRIVE-THRU RESTAURANTS, AND STAND-ALONE BARS.

CERTIFICATION

I HEREBY CERTIFY THAT THE INTERIOR LOTS ON THIS PLAT WERE PREPARED BY ME OR UNDER MY SUPERVISION

[signature]
JEFFREY M. STANLEY, PE # 19263

EXP. 6-30-2019

CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY SUPERVISION AND THAT ALL BOUNDARY MONUMENTS INDICATED HEREON ACTUALLY EXIST, AND THEIR LOCATION, SIZE, AND MATERIAL ARE CORRECTLY SHOWN.

[signature]
GEOFFREY K. BISCHALL, RLS #33308

12-10-19

JAS ENGINEERING
PO BOX 1808 TUCSON, ARIZONA 85702
(520) 390-7820
STANLEY@JASENGINEER.COM

P18RZ00009
Co9-89-27 REZONING
Co20-02-004
P1202-049
P1202-015
P18FP00029

FINAL PLAT
FOR
MAGEE CENTER II, LOTS 1-6, COMMON AREA A (PRIVATE STREETS, UTILITIES, DRAINAGE, & PARKING) AND COMMON AREA B (PRIVATE STREETS, UTILITIES, DRAINAGE, & PARKING)

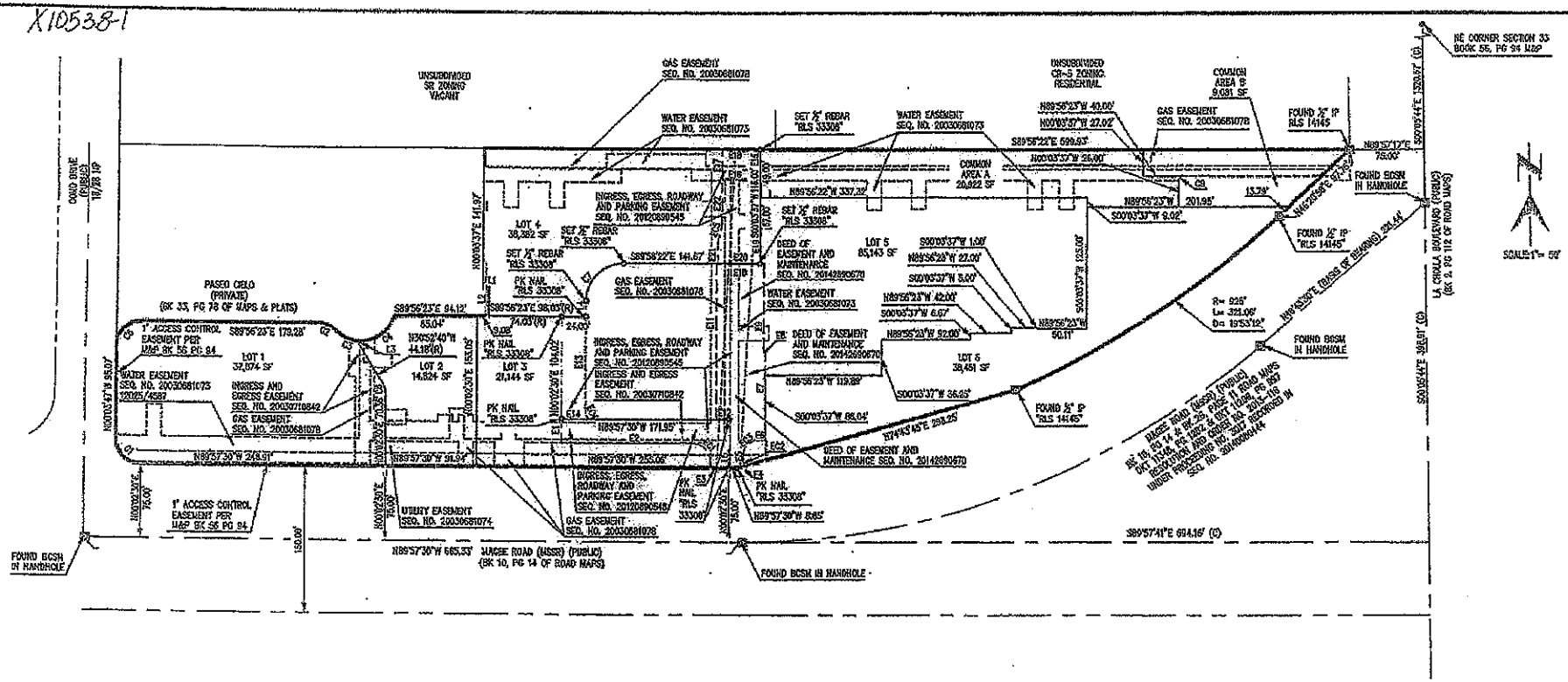
A RESUBDIVISION OF MAGEE CENTER (BK 56 PG 91)
SECTION 33, T12S, R13E
G&SRB&M, TUCSON, ARIZONA

DATE 02/19/19

SHEET 1 OF 3

SEQUENCE NO. 20193260717-1

X10538-1



EASEMENTS SHOWN THIS SHEET:
UTILITY EASEMENT
WATER EASEMENTS
GAS EASEMENT
ACCESS EASEMENT

LINE TABLE:

NO	BEARING	DISTANCE
L1	N89°56'23"W	3.30'
L2	N00°03'37"E	39.01'
L3	S00°03'37"W	3.45'
L4	S00°03'37"W	16.98'
L5	S00°02'27"W	49.00'

CURVE TABLE:

NO	DELTA	RADIUS	LENGTH	TANGENT
C1	89°52'45"	25.00'	39.22'	24.96'
C2	45°33'25"	25.00'	19.88'	10.50'
C3	54°41'56"	25.00'	23.86'	12.75'
C4	75°08'22"	25.00'	32.80'	19.02'
C5	89°52'39"	25.00'	39.20'	24.95'
C6	90°07'20"	25.00'	39.32'	25.05'
C7	90°00'00"	25.00'	39.27'	25.00'
C8	90°00'00"	30.00'	47.12'	30.00'
C9	90°00'00"	5.00'	7.85'	5.00'

EASEMENT LINE TABLE:
EASEMENT 1:

NO	BEARING	DISTANCE
E1	S00°02'30"W	24.00'
E2	N89°57'30"W	133.82'
E3	N89°57'30"W	20.39'(M)

EASEMENT CURVE TABLE:
EASEMENT 1:

NO	DELTA	RADIUS	LENGTH
EC1	112°53'07"	16.00'	20.68'(M)

EASEMENT LINE TABLE:
EASEMENT 2:

NO	BEARING	DISTANCE
E4	N74°43'45"E	2.95'
E5	S00°00'15"W	4.94'
E6	N90°00'00"W	7.70'
E7	S00°03'37"W	89.36'
E8	S89°56'23"W	1.47'
E9	S00°03'37"W	89.86'
E10	S89°56'22"E	43.88'
E11	N00°03'37"E	158.97'
E12	N89°57'30"E	12.45'

EASEMENT CURVE TABLE:
EASEMENT 2:

NO	DELTA	RADIUS	LENGTH
EC2	21°24'46"	18.00'	6.72'(M)
EC3	89°59'33"	15.00'	23.56'(M)

EASEMENT LINE TABLE:
EASEMENT 3:

NO	BEARING	DISTANCE
E13	N00°02'30"W	93.20'
E14	N89°57'30"W	28.52'

EASEMENT CURVE TABLE:
EASEMENT 3:

NO	DELTA	RADIUS	LENGTH
EC4	50°37'42"	24.50'	11.21'

EASEMENT LINE TABLE:
EASEMENT 4:

NO	BEARING	DISTANCE
E15	S00°03'37"W	30.60'
E16	N90°00'00"W	39.78'
E17	N00°03'37"E	30.64'
E18	S89°56'22"E	39.78'

EASEMENT LINE TABLE:
EASEMENT 5:

NO	BEARING	DISTANCE
E19	S00°03'37"W	85.40'
E20	S89°56'22"E	44.02'
E21	N90°00'00"W	22.41'
E22	N00°03'37"E	44.01'

EASEMENT CURVE TABLE:
EASEMENT 5:

NO	DELTA	RADIUS	LENGTH
EC5	11°11'26"	85.40'	16.83'

ENGINEERING
PO BOX 1888 TUCSON, ARIZONA 85702
(520) 320-7920
SHANE@SBSCMSR.COM

EXP. 8-30-2019

P15R200099
Co9-09-27
Co20-02-004
P1202-049
P1202-015
P18FP00029

FINAL PLAT
FOR
MAGEE CENTER II, LOTS 1-6, COMMON AREA A (PRIVATE STREETS, UTILITIES, DRAINAGE, & PARKING) AND COMMON AREA B (PRIVATE STREETS, UTILITIES, DRAINAGE, & PARKING)

A RESUBDIVISION OF MAGEE CENTER (BK 55 PG 94)
SECTION 33, T12S, R13E
GASBARM, TUCSON, ARIZONA

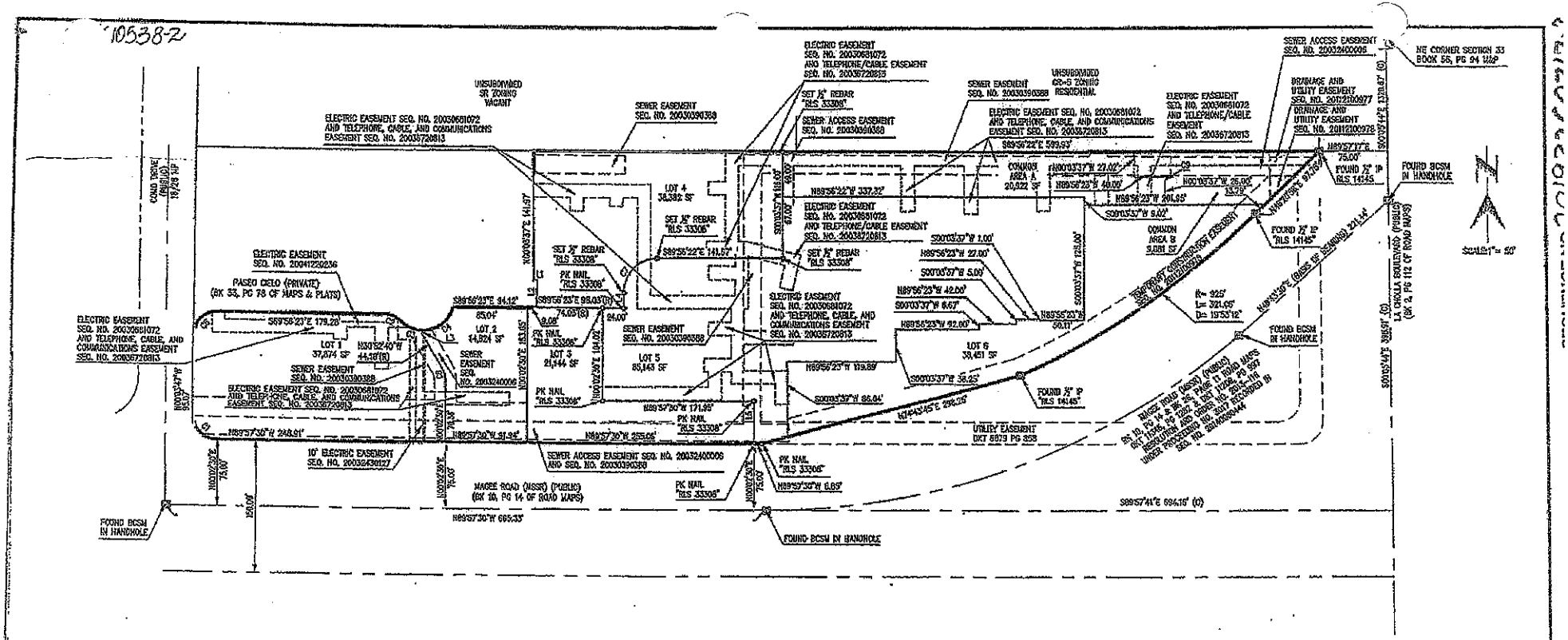
DATE: 02/19/19

SHEET 2 OF 3

SEQUENCE NO. 20193260717-2

C7L2U7E 0IUL UN BUNEHUES

10538-2



EASEMENTS SHOWN THIS SHEET:
SEWER EASEMENT
ELECTRIC EASEMENT
DRAINAGE EASEMENT

BLANKET EASEMENT
ELECTRIC- DKT 342 PG 232

LINE TABLE:

NO	BEARING	DISTANCE
L1	N89°56'23"W	5.00'
L2	N00°03'37"E	29.00'
L3	S00°03'37"W	3.45'
L4	S00°03'37"W	16.98'
L5	S00°02'27"W	49.60'

CURVE TABLE:

NO	DELTA	RADIUS	LENGTH	TANGENT
C1	39°53'49"	25.00'	39.22'	24.92'
C2	41°04'23"	25.00'	18.88'	10.00'
C3	65°41'36"	35.00'	27.91'	14.75'
C4	75°08'22"	35.00'	45.92'	26.92'
C5	69°50'39"	25.00'	30.20'	17.53'
C6	90°07'20"	25.00'	39.32'	25.05'
C7	90°00'00"	38.00'	59.69'	38.00'
C8	30°58'10"	30.00'	16.19'	8.30'
C9	90°00'00"	5.00'	7.85'	5.00'

ENGINEERING
PO BOX 1588 TUCSON, ARIZONA 85702
(520) 390-7920
STANLEYENGINEERING.COM

P15RZ00009
Co9-69-27
Co20-02-004
P1202-049
P1202-015
P18FP00029

FINAL PLAT
FOR

MAGEE CENTER II, LOTS 1-6, COMMON AREA A (PRIVATE STREETS, UTILITIES, DRAINAGE, & PARKING) AND COMMON AREA B (PRIVATE STREETS, UTILITIES, DRAINAGE, & PARKING)

A RESUBDIVISION OF MAGEE CENTER (BK 56 PG 94)
SECTION 33, T12S, R13E
GASSBAUM, TUCSON, ARIZONA

EXP. 6-30-2019

DATE: 02/19/19

SHEET 3 OF 3

SEQUENCE NO. 20193260773

EXHIBIT "C"

APPROVED DEVELOPMENT PLAN