

# **BOARD OF SUPERVISORS AGENDA ITEM REPORT**

Requested Board Meeting Date: 11/16/2021

\*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

# \*Title:

RESOLUTION: Co9-88-80 LANDON - ORACLE ROAD REZONING

#### \*Introduction/Background:

The Board of Supervisors approved five (5), five-year time extensions subject to original and modified standard and special conditions.

### \*Discussion:

The time limit contained in Rezoning Ordinance 1993-102 may be modified by resolution.

# \*Conclusion:

The resolution reflects the Board of Supervisors' approval.

#### \*Recommendation:

Approval

- \*Fiscal Impact:
- 0
- \*Board of Supervisor District:

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

Telephone: 520-724-8800

Contact: Thomas Drzazgowski, Chief Zoning Inspector Telephone: 520-724-6675

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Department Director Signature:	Date:	10 26/21
Deputy County Administrator Signature:	Date:	10/27/2021
County Administrator Signature:	Date:	10/27/2021



Subject: Co9-88-80

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## NOVEMBER 16, 2021 MEETING OF THE BOARD OF SUPERVISORS

- TO: HONORABLE BOARD OF SUPERVISORS
- FROM: Chris Poirier, Deputy Director CCCC (MCCAL) Public Works-Development Services Department-Planning Division
- **DATE:** October 26, 2021

# **RESOLUTION FOR ADOPTION**

<u>Co9-88-80</u> <u>LANDON – ORACLE ROAD REZONING</u> Owner: Nanberry Investments Profit Sharing Plan 37.5%, et al. (District 1)

## If approved, adopt RESOLUTION NO. 2021 - \_\_\_\_

- OWNER: Nanberry Investments Profit Sharing Plan 37.5%, et al. PO Box 31058 Tucson AZ 85751
- AGENT: Perry Engineering, LLC Attn: Ken Perry, P.E., LEED AP, Principal 501 W. Wetmore Road Tucson, AZ 85705

DISTRICT:

**STAFF CONTACT:** Donna Spicola, Planner

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## STAFF RECOMMENDATION: APPROVAL

# TD/DS Attachments

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c: Perry Engineering, LLC, Attn. Ken Perry, P.E. LEED AP, Principal, 501 W. Wetmore Road, Tucson, AZ 85705

RESOLUTION 2021-\_\_\_\_

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; IN CASE Co9-88-80 LANDON – ORACLE ROAD REZONING; LOCATED ON THE WEST SIDE OF N. ORACLE ROAD APPROXIMATELY 650 FEET NORTH OF N. LUPINE PLACE; AMENDING REZONING CONDITIONS SET FORTH IN SECTION 2 AND TIME LIMITS SET FORTH IN SECTION 3 OF ORDINANCE NO. 1993-102.

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

- 1. On February 7, 1989, in case Co9-88-80, the Pima County Board of Supervisors approved the approximately 3.2 acre rezoning from the GR-1 (Rural Residential) to the CB-2 (General Business) zone subject to standard and special conditions.
- 2. On August 3, 1993, the Pima County Board of Supervisors adopted rezoning Ordinance No. 1993-102, as recorded in Docket 9607 at Page 799 and re-recorded in Docket 9612 at Page 1975, formalizing the rezoning of the approximate 3.2 acres described in rezoning case Co9-88-80 (as shown on the map attached as Exhibit A), memorializing the standard and special conditions, and including a time extension requiring that the rezoning conditions be completed by February 7, 1997.
- 3. On March 4, 2021, the owner of approximately 3.2 acres, applied for a time extension of the time limit set forth in Section 3 of Ordinance 1993-102.
- 4. On May 18, 2021, the Pima County Board of Supervisors denied closure of the rezoning and approved five five-year time extensions, extending the time limit to February 7, 2022, subject to original and modified standard and special rezoning conditions.
- 5. Section 3 of Ordinance No. 1993-102 and PCC Chapter 18.91 allow the Board of Supervisors to amend the rezoning conditions by resolution.

NOW, THEREFORE, IT IS RESOLVED:

Section 1: The rezoning conditions in Section 2 of Ordinance 1993-102, are restated and modified as follows:

- 1. Submittal of a complete hydraulic and hydrologic drainage report as determined necessary by the Department of Transportation and Flood Control.
- 2. Submittal of a development plan if determined necessary by the appropriate County agencies.
- 3. Dedication of necessary right-of-way for roads and drainage by separate instrument if the property is not to be subdivided.
- 4. Recording an acceptable plat which will provide for dedication of necessary right-ofway for roads and drainage if the property is to be subdivided.
- 5. Recording a covenant holding Pima County harmless in the event of flooding.

- 6<u>1</u>. Conformance with County paving policies as determined appropriate by the Department of Transportation and Flood Control.
- 7. Conformance with Chapter 18.81-(GRADING) of the Pima County Zoning Code.
- 8. Recording the necessary development related covenants as determined appropriate by the various County agencies.
- 9. Provision of development related assurances as required by the appropriate agencies.
- 102. Recording a covenant to the effect that t There will shall be no further subdividing or lot splitting without the written approval of the Board of Supervisors.
- 113. <u>Regional Wastewater Reclamation Management</u> Condition:
  - A. Connection to the public sewer system at the location and specified by Wastewater Management at the time of review of the tentative plat or development plan.
  - B. The property owner or his agent must construct the on-site sewers in a manner that will provide flow-through for tributary areas at points and with capacities as specified by Wastewater Management at the time of review of the tentative plat or development plan. The public flow through sewer must be designed and constructed in conformance with the applicable Pima County standards, and must be completed, inspected, and released for service prior to the issuance of any building permits.
  - <u>A.</u> <u>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.</u>
  - 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.

- 74. Transportation conditions:
  - A. Proposed access to the subject property shall need the approval of the Subdivision Engineer, Pima County Department of Transportation, prior to the submittal of a development plan or subdivision plat for any portion of the subject property.
  - BA. Access to the subject property from Tucson-Florence Highway shall need written approval by Arizona Department of Transportation (ADOT) prior to issuance of a Certificate of Compliance development plan approval. Proof of coordination with ADOT shall be submitted to Development Services Department.
  - CB. A wWritten certification from the Arizona Department of Transportation stating satisfactory compliance with all of its requirements shall need to be submitted to the Department of Transportation prior to the issuance of a Certificate of Compliance Development Services Department prior to development plan approval.
  - ĐC. Owner shall covenant to provide and establish joint use access <u>easement</u> with adjacent properties to the north and to the south if deemed necessary by Pima County in order to allow for a continuous common (two-way) access lane across the property and running parallel to Tucson-Florence Highway. <u>The location and design of said joint access easement shall be determined during the development plan permitting process.</u>
  - <u>D.</u> <u>The property owner(s) shall accept responsibility for the maintenance, control, safety and liability of privately owned roads, drives, physical barriers, drainageways and drainage easements.</u>
- 13. Flood Control conditions:
  - A. The property owner must dedicate all rights-of-way and/or grant flowage casements for drainage purposes to Pima County, as determined necessary by the Flood Control District during the plan review process.
  - B. The property-owner must submit all required drainage reports and plans, and receive approval by the Flood Control District prior to the issuance of a Certificate of Compliance.—In-developing the reports and plans, the requirements and regulations incorporated in the following reports must be satisfied.
    - 1. Floodplain Management Ordinance
    - 2. Drainage and Channel Design Standards
    - 3. Flood Control Policies
    - 4. Detention/Retention-Manual
  - C. On-site retention of the difference-between the existing and the five (5) year event will be required because of the requested land use and density.
- 5. Cultural Resources condition: A caution must be noted concerning human burials. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State

Museum and the concerned cultural groups.

Upon the effective date of the Ordinance, the owner(s) shall have a continuing responsibility to remove invasive non-native species from the property, including those below. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation also transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the property owner.

	to recoming condition agains				
	Invasive Non-Native Plant Species Subject to Control				
	<u>Ailanthus altissima</u>	Tree of Heaven			
	<u>Alhagi pseudalhagi</u>	<u>Camelthorn</u>			
	Arundo donax	Giant reed			
	Brassica tournefortii	Sahara mustard			
	Bromus rubens	Red brome			
	Bromus tectorum	Cheatgrass			
	Centaurea melitensis	Malta starthistle			
	Centaurea solstitalis	Yellow starthistle			
	<u>Cortaderia</u> spp.	Pampas grass			
	Cynodon dactylon	Bermuda grass (excluding sod hybrid)			
	<u>Digitaria spp.</u>	Crabgrass			
	Elaeagnus angustifolia	Russian olive			
	Eragrostis spp.	Lovegrass (excluding E. intermedia, plains lovegrass)			
	Melinis repens	Natal grass			
	Mesembryanthemum spp.	Iceplant			
	Oncosiphon piluliferum	Stinknet			
	Peganum harmala	African rue			
	Pennisetum ciliare	Buffelgrass			
	Pennisetum setaceum	Fountain grass			
	Rhus lancea	African sumac			
	Salsola spp.	Russian thistle			
	Schinus spp.	Pepper tree			
	Schismus arabicus	Arabian grass			
	Schismus barbatus	Mediterranean grass			
	Sorghum halepense	Johnson grass			
	Tamarix spp.	Tamarisk			
Lar	Landscaping to consist of low water use and low pollen producing vegetation.				

- 158. Tentative plat or development plan when filed per Chapter 18.69 must adhere Adherence to the preliminary development plan as presented approved at public hearing. (Exhibit B)
- 169. No more than one (1) parcel.
- 47<u>10</u>. Heights shall be limited to two stories or 24 feet in height.
- 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 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

Co9-88-80

<del>14</del>7.

<u>6.</u>

Statutes Title 12, Chapter 8, Article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

Section 2. The time limit in Section 3 of Ordinance 1993-102 is amended and extended as follows:

1. Conditions 1 through <u>1712</u> shall be completed by February 7, <u>19972022</u>.

Section 3. The rezoning conditions 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 \_\_\_\_\_, 2021.

Chair, Pima County Board of Supervisors

ATTEST:

Clerk, Board of Supervisors

APPROVED AS TO FORM:

Deputy County Attorney Lesley M. Lukach

APPROVED:

Executive Secretary Planning and Zoning Commission





Approved preliminary development plan. Bos hearing 2-7-89.