

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

HEARING July 30, 2014

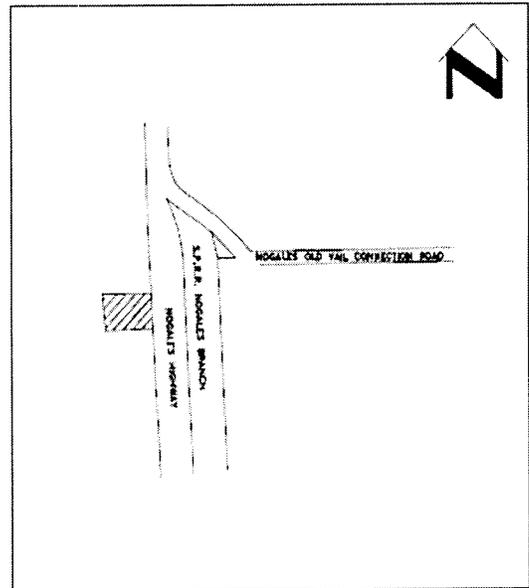
DISTRICT 2

CASE Co9-14-06 AZ Square #7, LLC
Nogales Hwy Rezoning

REQUEST GR-1 (Rural Residential Zone)
to CB-1 (Local Business Zone)
.83 acres

OWNER AZ Square #7, LLC
2235 N. Fair Oaks Avenue
Tucson, AZ 85712

AGENT Phil Williams, P.E., R.L.S.
646 W. Jasper Drive
Gilbert, AZ 85233



APPLICANT'S PROPOSED USE

A 6,889 square foot future retail store is planned for the project site.

APPLICANT'S STATED REASON

"There is a strong demand for the retail products in this area."

STAFF REPORT SUMMARY

The Development Services Department staff support the rezoning request and recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS**. The request is consistent with the Comprehensive Plan designation and the use should benefit the area by providing an additional local retail service.

COMPREHENSIVE PLAN

The subject property is designated as Multifunctional Corridor (MFC) by the Pima County Comprehensive Plan. A rezoning request to the CB-1 zone complies with the MFC designation. The property is subject to Special Area Policy S-18 which is the Lee Moore Wash Basin Special Area Policy. The policy states:

Development shall be regulated per the Lee Moore Wash Basin Management Study. This study provides hydrology and hydraulics to ensure consistency between land uses, identifies permanent natural flow corridors, and establishes Development Criteria in addition to those contained within Floodplain and Erosion Hazard Management Ordinances. This policy adopts by reference the entire Study including floodplain maps, flow corridor maps, flood hazard data,

and development criteria as described in Development Criteria for the Lee Moore Wash Basin Management Study, as adopted by the Pima County Flood Control District Board of Directors on June 1, 2010 (Resolution 2010-FC6).

The Regional Flood Control District has addressed this policy within its report.

MAEVEEN MARIE BEHAN CONSERVATION LAND SYSTEM (MMBCLS)

The subject property is located outside the MMBCLS.

SURROUNDING LAND USES/GENERAL CHARACTER

North	GR-1	Single family residential/City of Tucson small water utility station
South	CB-1/CB-2 GR-1	Dollar Store/Pepe's Tire Shop/Circle K
East	GR-1	Nogales Hwy, Railroad tracks, Single family residential
West	GR-1	Single family residential, Tohono O'Odham Nation

The immediate surrounding properties are developed as primarily low-density single family residences (mainly manufactured homes) and to the far north and south are manufactured home parks. Directly south of the subject property is a dollar store. Further south is a tire shop and a Circle K convenience store. There are additional commercial businesses along Nogales Highway including auto repair, feed store, pottery sales, a bar, and a large machinery sales and rental business. Off of Old Nogales Highway in the Summit Street area, there are several small, neighborhood markets, a meat store, churches, a few other unknown businesses and an elementary school.

PUBLIC COMMENT

Staff has not received any comments at the time of this writing.

PREVIOUS REZONING CASES ON PROPERTY

There have been no previous rezoning cases on the subject property.

PREVIOUS REZONING CASES IN GENERAL AREA

A rezoning from GR-1(Rural Residential) to CB-1(Local Business) was approved by the Board of Supervisors in October of 2013 for the adjacent parcel of land to the south of the subject property for a dollar store. A second rezoning from GR-1 to CB-1 for a dollar store approximately 1,200 feet to the south was also approved by the Board in September of 2013. The tire shop to the south of the dollar store was rezoned in 1984. To the southwest of the subject property, two separate one-acre parcel residential rezonings were approved for GR-1 to SH (Suburban Homestead) zone in 1986.

CONCURRENCY CONSIDERATIONS		
<i>Department</i>	<i>Concurrency Considerations Met: Yes / No / NA</i>	<i>Other Comments</i>
TRANSPORTATION	Yes subject to conditions	Conditions recommended
FLOOD CONTROL	Yes subject to condition	Condition recommended
WASTEWATER/ ENVIRONMENTAL QUALITY	Yes - Proposing septic	None
PARKS AND RECREATION	N/A	N/A

PLANNING REPORT

The request is to rezone approximately .83 acres of land from the GR-1 (Rural Residential) zone to the CB-1 (Local Business) zone to allow a 6,889 square foot retail store. The subject property is currently vacant and adjacent to the recent rezoning to accommodate the Family Dollar store to the south. The Family Dollar store is retained by separate ownership. The current property owner (AZ Square #7, LLC) owns the adjacent residential properties to the west. No site analysis is required for this rezoning because according to policy none is required for a site that contains less than one acre.

The proposal demonstrates one shared access point off of Nogales Highway for the proposed retail store and dollar store under construction. Dusty Lane, the existing easement partially contained within the subject property and shared with the residential property to the north will be diverted through either the access point serving the rezoning site or through the access point for the proposed intersection improvement project at Old Nogales Highway. Cross access easements will be required to serve access to the properties to the north, south, and west.

Nogales Highway is a Major Route according to the Major Streets and Scenic Routes Plan, therefore a 30-foot building setback is required from the right-of-way line with a bufferyard Type "D". The setback should not be an issue for the proposed development because parking is proposed along Nogales Highway. The applicant proposes a 10-foot bufferyard along Nogales Highway.

A 28-foot building height is proposed even though the CB-1 zone allows for a building height of 39 feet. Twenty four parking spaces will be provided which is consistent with the parking requirements for a "general retail use". The development will rely on an on-site septic system due to the distance to an existing sewer connection (the nearest sewer is more than one mile away from the subject property). The septic disposal area, retention/detention basin and a 25-foot bufferyard Type "D" will be located to the west of the building. A bufferyard Type "D" is also required along the northern boundary of the site and will be met by increasing and decreasing the bufferyard for an average width of

10 feet since the bufferyard may not be located within the Dusty Lane easement. A release of easement may be required at the time of permitting for any encroachment into the 10-foot utility easement. No bufferyard is required along the south property line of the site because of the adjacent CB-1 zoning.

The proposed use should be a benefit to the area because there are limited retail services even though one of the proposed two new dollar stores has opened. The proposed dollar store adjacent to the site is currently under construction. There is a Circle K convenience store located approximately 300 feet to the south on Nogales Highway and two, small markets in the area. The area along Nogales Highway has been planned for intensive development given the Multifunctional Corridor (MFC) designation by the Comprehensive Plan. The MFC designation proposes uses along major transportation corridors. The Comprehensive Plan states:

These (*MFC*) areas contain commercial and other non-residential use services and high density residential clusters in a linear configuration along major transportation corridors. Potential adverse impacts of strip commercial development are mitigated through application of special design standards, such as standards for building setbacks, open space, signs, parking, and landscaping. Special attention is given in site design to provide an atmosphere that is pleasant to the pedestrian.

With the proper buffering and the proximity of the existing residential uses to the northwest and west, the use should not significantly affect the neighboring residential properties, but will otherwise provide a nearby service. The entire site is intended to be graded with revegetated bufferyards. A retention/detention basin is proposed. There are no slope issues, the site is not within the Maeveen Marie Behan Conservation Lands System (MMBCLS) and there is no significant on site vegetation. The site will be serviced by Tucson Water.

The applicant's preliminary sketch plan shows a sign in the bufferyard. Placing a sign in a bufferyard requires approval from the Design Review Committee (DRC).

TRANSPORTATION REPORT

Concurrency criteria have been met for the proposed rezoning. The roadway network in the vicinity to the proposed project is operating below capacity and the proposed use will serve the residents living in the area, thereby eliminating trips to services further away.

Nogales Highway is a paved, two-lane, county maintained road with 150 feet of planned right-of-way. The existing right-of-way for S. Nogales Highway varies in this area from 110 feet at the intersection of S. Nogales Highway and Old Nogales Highway, to 150 feet directly adjacent to this site. S. Nogales Highway is designated as a major route on the Major Streets and Scenic Routes plan, and thus a setback 105 feet from the centerline will apply.

The current traffic count for S. Nogales Highway is 10,227 ADT (2010), and the capacity is 15,930. Without a specific use stated, it is difficult to estimate the trip generation for the proposed 6,889 sq/ft building. If it were to develop as a specialty retail store, the trip generation would be approximately 305 ADT. Intersection improvements are underway for the intersection of Old Nogales Highway and S. Nogales Highway. Included in the improvements is a left turn lane into the site that was required as part of the rezoning of the dollar store site to the south.

Should the Planning and Zoning Commission be inclined to approve this request, the Department of Transportation recommends the addition of conditions #7A and #7B.

REGIONAL FLOOD CONTROL DISTRICT (RFCD) REPORT

RFCD staff has reviewed the request and have the following comments:

1. The site is entirely within a Special Study floodplain.
2. The project is the second phase of three lots connected by cross access easements. A rezoning and development plan has already been approved for an adjacent building on one of these three lots. That site was granted a detention waiver and only first flush retention was required because the developed area was less than one acre. Additional developed area within the three lots requires detention and first-flush retention.
3. No site analysis has been submitted, therefore drainage details are unclear. However, although not labeled, the Preliminary Site Sketch appears to show a detention basin. While a numbered symbol for "Detention Swale" is provided in the legend no such symbol callout is shown on the plan for either project. Swales and the basin appear to be shown by contour lines. The sketch also shows a cross access easement to the parcel to the west at a location that is shown as a settling basin and drainage improvement for the project to the south.
4. No Preliminary Integrated Water Management Plan or Water Resources Impacts Assessment is required as no Site Analyses has been submitted.

In conclusion, the District has no objection to this request, subject to the addition of conditions #8A and #8B.

WASTEWATER MANAGEMENT REPORT

The Pima County Regional Wastewater Reclamation Department has no objection to the proposed rezoning but adds the following comment:

The owner must secure approval from the Pima County Department of Environmental Quality to use on-site sewage disposal systems within the rezoning area at the time a tentative plat, development plan or request for building permit is submitted for review.

ENVIRONMENTAL QUALITY REPORT

The Pima County Department of Environmental Quality has no objection to the proposed rezoning and has the following comment:

The Department's Air Quality Control District requires that air quality activity permits be secured by the developer or prime contractor before constructing, operating or engaging in an activity, which may cause or contribute to air pollution.

CULTURAL RESOURCES REPORT

An Arizona State Museum Site Records Search report form was submitted with the rezoning application. A review of County records confirmed the ASM report and is supported by the cultural resources documents submitted for the adjacent Family Dollar Store development review, which has been approved through the Permits Plus automated review, under *P13BS00001 Building Permit application for Family Dollar Store at 9770 S Nogales Highway at parcel 303-12-102J*. This application included the same ASM site records check report submitted for the current request and a cultural resources survey report (PAST Report #132019, 8/19/2013), which documented a finding of no sites. Portions of the adjacent highway alignment are recorded as a historic archaeological site, but because of extensive reconstruction and modification, the highway segment in this area lacks historic integrity and is, therefore, not considered eligible for listing on the National Register of Historic Places. The previous reviews resulted in approvals in Permits Plus for the construction permit and associated highway access. The cultural resources documents apply to the current rezoning request as well.

As far as Pima County's Cultural Resources & Historic Preservation Division is concerned, the adjacency of the currently submitted development property with the Family Dollar Store property means they share the same cultural resources status. It is unlikely that the proposed commercial development will have a negative effect on cultural resources. Therefore, County cultural resources requirements have been met. Condition #9 applies to the rezoning request.

NATURAL RESOURCES, PARKS AND RECREATION REPORT

Pima County's Natural Resources, Parks and Recreation have no comment.

TUCSON WATER

City of Tucson water has not commented.

RURAL/METRO FIRE DEPARTMENT

The Rural/Metro Fire Department has no objection to the rezoning request per the attached comments.

IF THE DECISION IS MADE TO APPROVE THE REZONING, THE FOLLOWING STANDARD AND SPECIAL CONDITIONS SHOULD BE CONSIDERED:

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

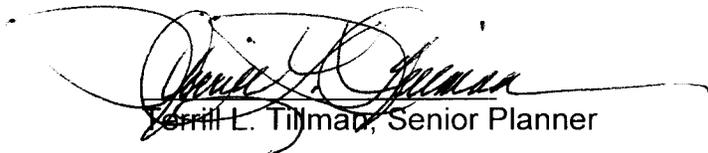
1. The owner shall:
 - A. Submit a development plan if determined necessary by the appropriate County agencies.
 - B. Record the necessary development related covenants as determined appropriate by the various County agencies.

- C. Provide development related assurances as required by the appropriate agencies.
 - D. Submit a title report (current to within 60 days) evidencing ownership of the property prior to the preparation of the development related covenants and any required dedications.
2. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
3. Transportation conditions:
 - A. Access shall be designed to provide cross access between the rezoning site and the adjacent property to the south and west.
 - B. The property shall be limited to one access point on S. Nogales Highway as shown on the preliminary development plan. The existing easement serving the property (Dusty Lane) shall be closed prior to the issuance of the Certificate of Occupancy. Traffic from the easement shall be diverted through either the access point serving the rezoning site or through the access point for the proposed intersection improvement project at Old Nogales Highway, in a manner approved by the Department of Transportation.
4. Regional Flood Control District conditions:
 - A. Detention shall be provided and sized to accept flows from the shared drive and parking, in addition to providing first flush retention throughout the site.
 - B. All weather access must be provided for the western access easement.
5. Cultural Resources condition: A caution must be noted concerning human burials. Archaeological clearance recommendations do not exempt the construction from compliance with State burial protection laws. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State laws ARS 41-865 and ARS 41-844, require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that cultural groups who claim cultural or religious affinity to them can make appropriate arrangements for the repatriation and reburial of the remains. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.
6. Adherence to the sketch plan as approved at public hearing.
7. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

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

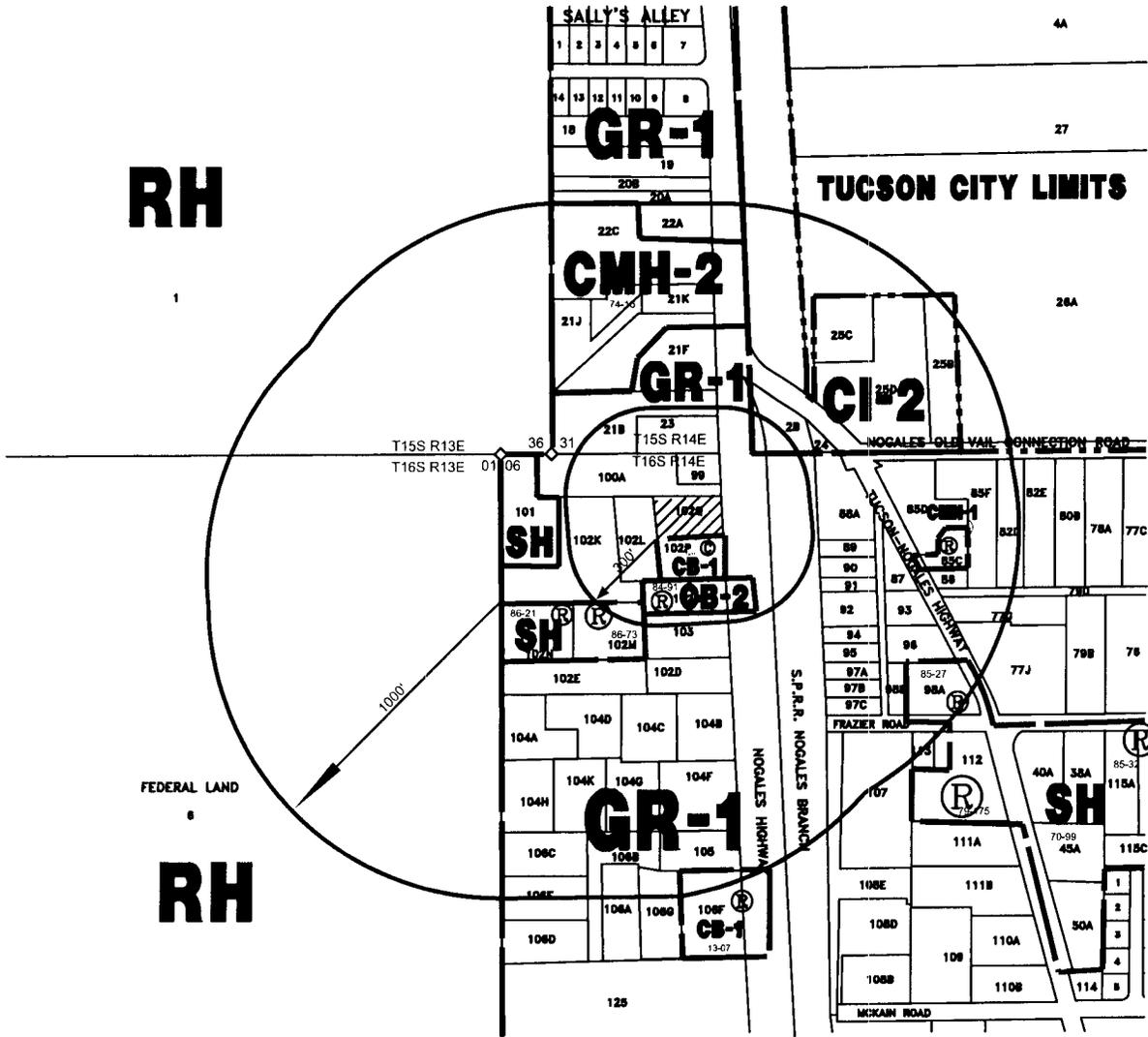
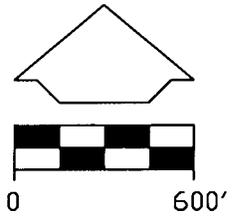
9. Upon the effective date of the rezoning ordinance associated with this rezoning, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known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

Respectfully Submitted,



Terrill L. Tillman, Senior Planner

PIMA COUNTY COMPREHENSIVE PLAN
(C07-00-20)



Area of proposed rezoning from **GR-1 to CB-1**

Notification area BASE MAP 139

Notes _____

Tax codes 303-12-102Q

Date 06/24/14
Drafter DS

File no. C09-14-06
AZ SQUARE #7 LLC
NOGALES HIGHWAY REZONING

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION



Co9-14-06 AZ SQUARE #7 LLC — NOGALES HIGHWAY REZONING

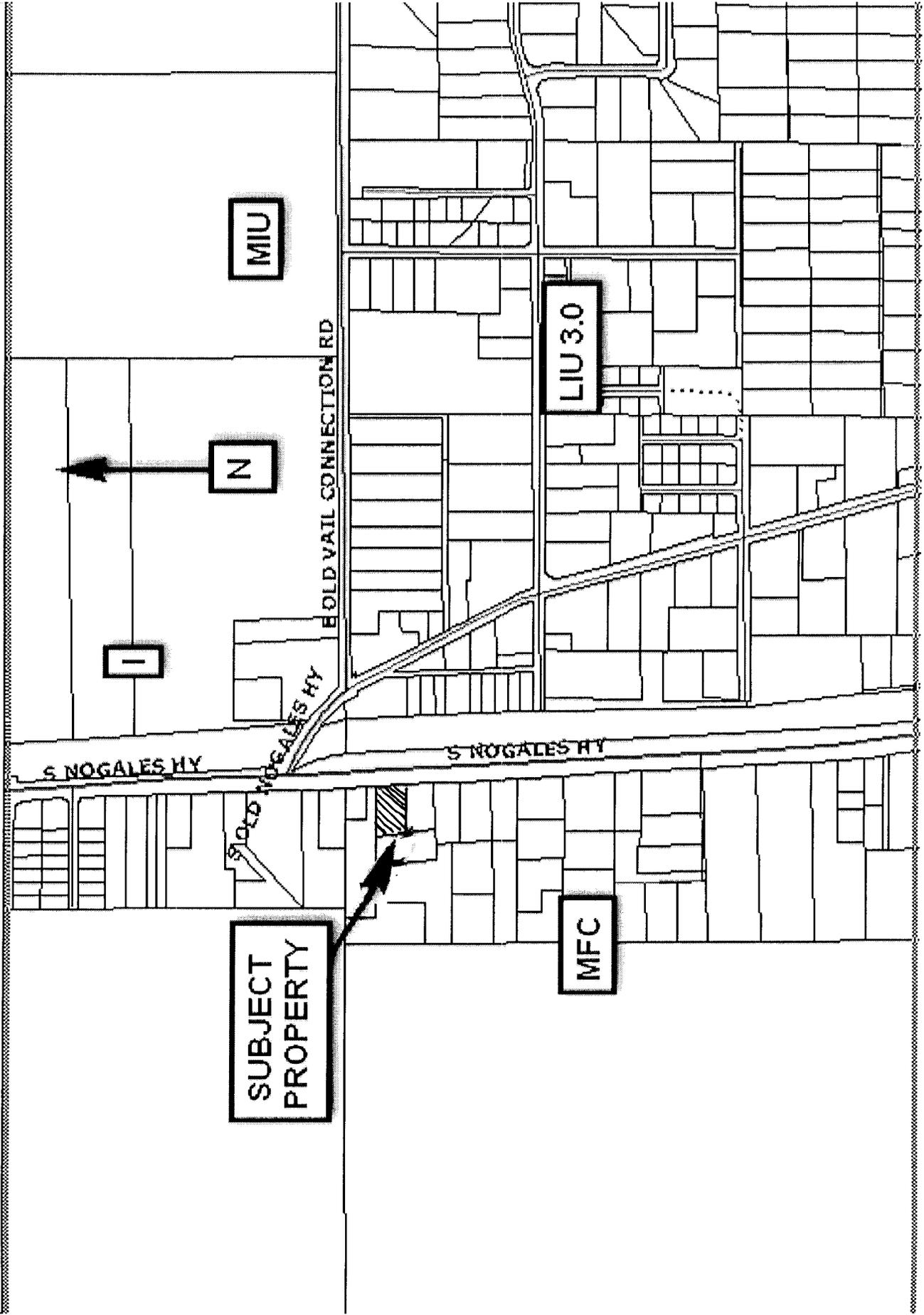
2012

Pima County Comprehensive Plan

Land Use Designation: Multifunctional Corridor (MFC)

Subregion: Rincon Southeast/Santa Rita (RSSR)

Special Area Policy: S-18E, Floodplain-Leelmoore



Comprehensive Plan Land Use Designation

Multifunctional Corridor

'MFC' on the Land Use Plan Maps

- a. Purpose: To designate areas for the integrated development of complementary uses along major transportation corridors.
- b. Objective: These areas contain commercial and other non-residential use services and high density residential clusters in a linear configuration along major transportation corridors. Potential adverse impacts of strip commercial development are mitigated through application of special design standards, such as standards for building setbacks, open space, signs, parking, and landscaping. Special attention is given in site design to provide an atmosphere that is pleasant to the pedestrian.
- c. Residential Gross Density: Only land area zoned and planned for residential use, or natural or cluster open space areas, shall be included in gross density calculations. Natural and cluster open space shall be defined as set forth in Section 18.09.040B, except that cluster open space shall not include land developed under the GC Golf Course Zone. Residential gross density shall conform with the following:
 - 1) Minimum - none
 - 2) Maximum - 44 RAC
- d. Residential Gross Densities for Developments Using Transfer of Development Rights (TDR's): Projects within designated Receiving Areas utilizing TDR's for development (refer to Chapter 18.92 of the Zoning Code) shall conform to the following density requirements, however the Board of Supervisors, on appeal at public hearing, may modify the required minimum density if environmental site constraints preclude the ability to achieve the minimum density.
 - 1) Minimum – 6 RAC
 - 2) Maximum – 18 RAC
- e. Zoning Districts: Only the following zoning districts shall be deemed in conformance with the land use plan, except as provided for under the Major Resort Community designation, Section 18.89.030C plan policies, or Section 18.90.030E specific plans:
 - 1) GC Golf Course Zone
 - 2) TH Trailer Homesite Zone
 - 3) CR-3 Single Residence Zone
 - 4) CR-4 Mixed-Dwelling Type Zone
 - 5) CR-5 Multiple Residence Zone
 - 6) TR Transitional Zone
 - 7) CMH-2 County Manufactured and Mobile Home-2 Zone
 - 8) MR Major Resort Zone
 - 9) CB-1 Local Business Zone
 - 10) CB-2 General Business Zone
 - 11) CPI Campus Park Industrial Zone

Special Area Policy S-18 Floodplain Management

General location

There are several sites within eastern Pima County designated as Floodplain Management Special Areas by the Pima County Flood Control District. They are: Upper Santa Cruz River (Upper Santa Cruz Valley Subregion); Rillito Creek Overbank Storage (Catalina Foothills Subregion); Cienega Creek (Rincon Southeast/Santa Rita Subregion); Wakefield and Anderson Washes (Rincon Southeast/Santa Rita Subregion) and Lee Moore Wash, including eight tributaries: Gunnery Range Wash, Sycamore Canyon Wash, Fagan Wash, Cuprite Wash, Petty Ranch Wash, Franco Wash, Flato Wash, and Summit Wash (Rincon-Southeast/Santa Rita and Upper Santa Cruz Subregions). (Rev Co7-10-03 to add section E, Lee Moore Wash, Resolution 2011-31).

Policies

- A. Upper Santa Cruz River Special Area Policy: Land use planning in the Santa Cruz River floodplain from the Santa Cruz County line downstream to the Tohono O'odham Nation shall be based on a river management study. Channelization, encroachment, development or rezoning shall not be permitted within the Santa Cruz River 100-year floodplain or erosion hazard area, whichever is greater, west of the Southern Pacific Railroad, until completion of the river management study. A landowner proposing to modify the Santa Cruz River floodplain prior to the completion of said study shall be responsible for providing a comparable study addressing impacts of the proposed development, based on a scope of work acceptable to the Flood Control District. The study scope and results shall be submitted to the District for review and approval.
- B. Rillito Creek Overbank Storage Special Area Policy: Proposed improvements in the floodplain designated to be preserved for overbank storage and located on the north side of Rillito Creek between Country Club Boulevard and Columbus Boulevard or between La Cholla Boulevard and the Southern Pacific Railroad shall not unreasonably diminish existing overbank storage volumes.
- C. Cienega Creek Special Area Policy: No channelization or bank stabilization shall be permitted along Cienega Creek upstream of Colossal Cave Road to the Empire-Cienega Resource Conservation Area. Cienega Creek's regulatory floodplain and/or erosion hazard area, whichever is greater, shall be dedicated in fee simple to the Pima County Flood Control District upon approval of any tentative plat or development plan.
- D. Wakefield and Anderson Wash Special Area Policy: The Wakefield and Anderson Washes' 100-year floodplains and/or erosion hazard areas, whichever is greater, shall be dedicated in fee simple to the Pima County Flood Control District upon approval of any tentative plat or development plan.
- E. **Lee Moore Wash Basin Special Area Policy: Development shall be regulated per the Lee Moore Wash Basin Management Study. This study provides hydrology and hydraulics to ensure consistency between land uses, identifies permanent natural flow corridors and establishes Development Criteria in addition to those contained within Floodplain and Erosion Hazard Management Ordinances. This policy adopts by reference the entire Study including floodplain maps, flow corridor maps, flood hazard data, and development criteria as described in Development Criteria for the Lee Moore Wash Basin Management Study, as adopted by the Pima County Flood Control District Board of Directors on June 1, 2010 (Resolution 2010-FC6).**