



**PIMA COUNTY  
DEVELOPMENT SERVICES DEPARTMENT**

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May 30, 2015

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**HEARING ADMINISTRATOR'S FINDINGS AND DECISION**

**P21-15-011**

**AGAVE RESIDENTIAL PROPERTIES, LLC — W. INA ROAD  
Type I Conditional Use – Adaptive Reuse**

**Background/Authority**

Chapter 18.97, in accordance with Section 18.09.020.R of the Pima County Zoning Code, requires a Type I conditional use permit for an adaptive reuse on property zoned CR-1 (Residential). This particular request is to use an existing single-family residence structure for the office functions of a non-profit entity that provides international adoption services. The property in question is approximately 0.80 acres in area and is located on the north side of Ina Road, approximately 1,700 feet west of La Canada Drive.

**Public Hearing**

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on May 27, 2015. The applicant (Jackie Semar, Executive Director of International Child Foundation, Inc.) presented the application to the Hearing Administrator and answered his various questions on the application.

Two (2) members of the public attended the hearing to speak on the matter. The first speaker was a nearby property owner, who advised the hearing administrator that formal private Covenants, Conditions & Restrictions (CC&R's) were in force for all lots within the Casa Roma Estates subdivision and that these CC&R's prohibited any commercial uses within the subdivision. The hearing administrator acknowledged their existence, advised the applicant that they may have a private issue to deal with in this regard, and further explained that Pima County would not take a position one way or another on the matter of private agreements between private parties. The conditional use process, he stressed, was one concerned with whether a specific requested use was acceptable and appropriate on a given property in a given context.

The second speaker was the owner of the subject property, who stated that, in his opinion, the CC&R's wouldn't be problem, since the proposed use was no more intense than a typical residence. During her rebuttal, the applicant stated that she was unaware of the CC&R's and any restrictions they might contain.

Staff reported that they had received no (0) telephone inquiries prior to the public hearing, but did receive two pieces of written correspondence. One was an objection letter; the other proposed certain conditions if the use was ultimately approved. Staff also mentioned that the applicant had made an attempt to canvass the surrounding neighbors, but did not hold any formal neighborhood meeting.

After hearing all of the above and asking some final questions to the applicant, the Hearing Administrator closed the public hearing and thanked those in attendance for their testimony.

### **Hearing Administrator's Comments**

It is my conclusion that the use being proposed here is, for all intents and purposes, a low-intensity office one. The adoption agency employs three to four individuals and most of the day-to-day activity occurring at the office would be primarily by the employees themselves. While occasional client meetings might occur at the office, it has been the past history of the agency that the majority of these meetings take place at off-site locations of the client's choosing. The Board meetings mentioned by the applicant (which may involve the attendance of more than a dozen individuals) will occur approximately six to seven times per year. This size and frequency is viewed as something that might occur at any residential private party or social gathering and is not viewed as something that materially disrupts or alters the basic character of the neighborhood, especially given the fact that the subject property fronts on a major arterial street (Ina Road) and will take its access solely from this major transportation artery and not from any neighborhood streets.

It is also my finding that no medical activities or practice will occur at the office location. The work that takes place at the office is administrative, clerical, and counseling in nature, with no medical procedures offered. Furthermore, no overnight lodging or accommodations of employees or clients will be permitted.

Lastly, with respect to the aforementioned deed restrictions and CC&R's, Pima County will take no position on the matter one way or another and will not insert itself into a private matter between private parties. The decision rendered here is one regarding the appropriateness of the proposed use on this specific property and in this specific context. Any legal matters regarding the applicant or property owner's perceived violation of the recorded CC&R's must take place in a forum outside of this conditional use permit process.

### **Required Standards and Findings**

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

**1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

The Comprehensive Plan presently places the subject property within an area designated *Low Intensity Urban (LIU)*, the purpose of which is to, "designate low-intensity residential areas, together with other compatible uses."

Given the above designation, the Hearing Administrator finds that the proposed adaptive re-use is low in its intensity and that, when operated properly and in accordance with the special conditions which have been crafted, it will not alter the single-family residential character of the subject property or the surrounding area. With this in mind, the proposed use is found to be appropriate in this location and in not in conflict with the Comprehensive Plan.

**2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The Zoning Code has built-in safeguards for the adaptive reuse of existing single-family residential structures, including no aesthetic alteration of the structure's exterior, minimal parking allowances, access only to and from a major arterial, and generally maintaining the look and feel of a single-family residence. These standing Code prescriptions are found to be significant in safeguarding the surrounding properties. Additional *Special Conditions* have been crafted by the Hearing Administrator to address other particulars of this specific use so as to more fully safeguard the neighboring property owners.

**3. It has adequate accessibility to the County road network.**

The site has direct access to Ina Road, which is a designated "major street" on the Pima County Major Streets & Routes Plan (MSRP). Access is therefore found to be adequate.

**4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

Sufficient on-site parking, loading, etc. will be provided and verified by staff during the permitting process.

**5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The proposed use is found to not threaten the surrounding properties in any of the above ways, including noise. Standard Zoning Code requirements (i.e. setback, buffering, etc.), together with the supplemental *Special Conditions* crafted by the Hearing Administrator, are considered sufficient to address these matters.

**6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation are addressed in the *Special Conditions* crafted by the Hearing Administrator.

**7. Landscaping will be fully in conformance with zoning code regulations.**

Applicable landscaping requirements will be verified by staff during the permitting process.

**Hearing Administrator's Decision**

This application for a Type I conditional use permit for an adaptive reuse, on property zoned CR-1, is hereby approved by the Hearing Administrator. This approval is subject to the *Standard Code Requirements* outlined below, as well as the supplemental *Special Conditions* crafted by the hearing administrator. Conditions of approval are therefore as follows:

**Standard Conditions & Zoning Code Requirements**

1. The proposed use shall conform with all requirements of Section 18.09.020.R (Adaptive Reuse) of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit is approved for the office uses and administrative functions of a child adoption agency, all of which shall occur within the confines of the existing residential structure. No other commercial uses are implied or allowed.
2. Non-residential uses which are found to depart substantially from the above shall require a new conditional use permit application, public notice, and public hearing process.
3. This adaptive reuse approval applies to the subject property (1662 W. Ina Road) only. Any acquisition of adjacent properties to expand the approved office use or agency operations shall require a formal rezoning and attendant public process encompassing all the properties involved, to an appropriate new zoning district, prior to any expansion of the use.
4. Based upon the testimony of the applicant at public hearing, the hours of operation by the core employees are expected to be primarily daytime in nature, with the understanding that, due to the basic nature of the business and its international focus, one or more employees may need to be at the office during evening or even late-night hours. The latter is found to be acceptable to the extent that it does not constitute the primary hours of operation. In the event that evening or late-night hours by employees becomes more frequent or substantial than anticipated here, and has a material impact upon or constitutes a nuisance to the neighbors, the Hearing Administrator reserves the right to revisit this *Special Condition* and stipulate a more restrictive framework.
5. No outdoor office, meeting, or administrative activities are allowed.
6. No overnight accommodations or lodging are permitted, specifically by employees or agency clients. In accordance with the Zoning Code, overnight lodging is only allowed for individuals whose permanent residence and primary address is that of the subject property (1662 W. Ina Road).
7. No formal Pima County Development Plan or review process is required. The owner/applicant shall submit a final Site Plan for the property, which shall be reviewed and approved by the Deputy Chief Zoning Inspector, who shall work with the owner to insure that all pertinent annotations regarding dimensions, setbacks, required parking spaces, etc. are provided thereon.

Appeal Procedures

The owner, applicant, or any owner-of-record within the legal notification area can appeal this decision, which will result in a subsequent public hearing on this matter before the Pima County Board of Supervisors. The appeal must be filed, in writing, within thirty (30) days of the Hearing Administrator's rendering of this written decision (May 30, 2015).

Any party interested in filing an appeal should contact Mr. Tom Drzazgowski, Pima County Deputy Chief Zoning Inspector, at phone number 724.6675. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.

Respectfully Submitted:



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Jim Portner  
Pima County Hearing Administrator

May 30, 2015

Date