



CITY OF
TUCSON
ZONING
EXAMINER'S
OFFICE

Zoning Examiner's Preliminary Report

May 24, 2018

Michael Marks, AICP, on behalf of:
Susan Meyer, Trustee
Meyer and Pearson Trust
6401 E. Shepherd Hills Drive
Tucson, AZ 85710

**SUBJECT: C9-18-07 Meyer and Pearson – E. Magdalena Road
SR to RX-1 (Ward 2)
Public Hearing: May 17, 2018**

Dear Mr. Marks,

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for rezoning case **C9-18-07 Meyer and Pearson – E. Magdalena Road**.

At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from the Planning and Development Services Department (PDS) 791-5550 or the City Clerk.

If you or any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

SUMMARY OF FINDINGS

This is a request by Michael Marks, AICP, of MJM Consulting, on behalf of the property owner, Meyer and Pearson Trust, care of Susan Meyer, Trustee, to rezone approximately 4.55 acres from SR to RX-1 zoning.

The rezoning site is located on the north side of E. Magdalena Road and is approximately 300 feet east of Gollob Road and 2,000 feet west of S. Harrison Road (see Case Location Map).

The preliminary development plan proposes re-subdivision of Lot 31, Halcyon Acres Annex, into four (4) lots.

Applicant's Request

“The owner wishes to divide the parcel into four lots of at least one acre in size each, with one home on each. That would amount to a total of four homes. This would comply with the Pantano East Area Plan and the developed nature of the neighborhood.”

Public Hearing

At the Zoning Examiner's Public Hearing held on May 17, 2018, Mr. John Beall (PDSD Staff) reported that they had received one (1) written approval and one (1) written protest. The protest was within the notification area.

Meeting Summary:

The applicant, Mike Marks, presented the case. He explained that there have been many similar rezoning cases in this area as stated in staff's report. He talked about the overall rezoning request including discussing the surrounding areas.

The applicant is requesting a similar rezoning on a nearby parcel which is extremely similar to this request. Because of the similarities in the cases and the proximity of two requests, the applicant held one (1) combined meeting with all of the neighbors for both cases. He said that nobody who attended the meeting had any objections to the rezoning requests, nor has he received any objections since.

He talked about how both project sites currently have one (1) existing single family residence (SFR) on each of the lots and that they were only proposing adding three (3) single family residences on each parcel.

In addition, he pointed out that each newly created lot, if approved, will be at least one (1) acre in size.

He clarified that this proposed rezoning request conforms to all existing area plans and that each new lot will confirm with all codes.

Nobody spoke in **favor** of this rezoning request.
Nobody spoke in **opposition** of this rezoning request.

One (1) person who lives next door to the subject property was **neutral** on this matter; however, he wanted to share his support while expressing his concerns. (This person owns the property which is located between the two similar rezoning sites.)

His main concern was about drainage and hydrology. He wanted to know more about the details concerning how the applicant proposed to keep the driveway along the east side of the property from soil erosion and how they would address all of the water which leaves his property and drains onto their site. He was not happy that the City would not give him this information and that there were no plans available to review.

I explained to this person that this was a rezoning request based on a very preliminary development plan. I told him that when the new properties are developed, they will individually be required to prepare and submit the engineering and design to the City for permit review. After the City approves all of the design and engineering drawings, they will all be available for review on the City's web site.

This property owner was also very concerned about how tall the proposed new houses were going to be, especially since the finish elevation grades had not been established for each of the three (3) new houses. He stated that there were no 2-story homes in the area and he wanted to maintain that.

After this person spoke, hearing and seeing that nobody else wanted to give any further testimony, I asked the applicant to address this neighbor's concerns.

Mr. Marks said that the subject property is lower than the neighbor's property and that there will be no adverse impacts created by these new proposed additional houses. He confirmed my statement regarding the City's review process and assured the neighbor that any new development will be required to submit for permits and meet all drainage and grading requirements.

He then addressed the neighbor's concern regarding the heights of each of the new houses. (I gave the applicant and the affected neighbor time to discuss this.) The applicant then told me that they both agreed that they would be okay with me placing a special condition which prohibits 2-story construction on the subject property. Staff then asked me to revise that condition to be a specific height in feet as measured from finished grade at each house. I asked the applicant if he would agree to that. Both the applicant and the adjacent home owner agreed to me placing a specific height in feet restriction on the subject property.

I asked the applicant what specific building height they would agree to. After another short discussion between the two, the applicant replied, "Twenty (20') feet". I clarified that the measurement shall be measured from finished grade to the highest point of the roof or parapet, not including a chimney.

I closed the public hearing and said that I would have my preliminary report completed within five (5) working days.

Existing and Surrounding Land Uses

Existing Land Use:

Single-family Dwelling

The existing surrounding zoning and land uses are:

North:	Zoned RX-1; Single-family dwellings
South:	Zoned RX-1; Single-family dwelling
East:	Zoned R-1; Single-family dwelling
West:	Zoned SR; Single-family dwellings

The subject parcel is rectangular in shape with a north-south orientation, and consisting of 4.55 acres. As stated above the subject parcel is lot 31 of the Halcyon Acres Annex. Halcyon Acres Annex includes lots of significantly different sizes. The subject parcel appears to be one of the three largest lots in the subdivision.

The surrounding land uses are all single-family residences (SFR). To the north and west are SFR on RX-1 zoned lots of various sizes, ranging from approximately one-acre to 3.5 acres. The property to the east is a 4.5 acre parcel, zoned SR. Immediately south of the subject site, south of Magdalena Road, is a SFR on 3.05 acres. The proposed density of less than one residence per acre complies with policies in both *Plan Tucson* and the *PEAP*.

Field inspection by staff indicates there are currently no billboards on the rezoning site.

Previous Rezoning Requests in this Area

The general area extending east of Gollob Road, to Harrison Road, between Broadway Boulevard and 22nd Street, has seen numerous rezoning requests from SR to RX-1 for the purposes of land division and infill development. Several of these rezoning took place approximately 10 years ago and are listed in the staff's report; however, these types of rezoning have occurred over the last 30 years in this area.

Land Use Plans

Land use policy direction for this area is provided by the *Pantano East Area Plan and Plan Tucson*. The rezoning site is located within an Existing Neighborhood Growth Scenario Building Block as identified on the Future Growth Scenario Map of *Plan Tucson*.

Plan Tucson

Existing neighborhoods are primarily developed and largely built-out residential neighborhoods and commercial districts in which minimal new development and redevelopment is expected in the next several decades. Within, Existing Neighborhoods, the *Plan Tucson* goal is to maintain the character of these neighborhoods, while accommodating some new development and redevelopment and encouraging reinvestment and new services and amenities that contribute further to neighborhood stability.

Pantano East Area Plan (PEAP)

Policies support preserving the integrity of established neighborhoods, and promote low-density residential developments within the interior of established low-density neighborhoods. The PEAP defines low-density residential as six (6) residences per acre or less. The proposed request meets the density requirement.

DESIGN CONSIDERATIONS

Land Use Compatibility

The property is currently developed with a single-family dwelling. Three additional single-family dwellings are proposed if the rezoning is approved. Each of the lots will exceed one acre, in character with the surrounding neighborhood. RX-1 allows a maximum building height of 30 feet, same as the maximum in SR and compatible with the 25 foot maximum in R-1. Due to the proposed lot sizes, extensive vegetation on the site and the overall moderate grading needed for development, staff does not foresee privacy issues due to development. No specific privacy conditions are proposed.

Road Improvements, Vehicular Access & Circulation

The property only has frontage on East Magdalena Road, consequently, all vehicle trips will begin on Magdalena Road. Lots 3 and 4 will have access by way of a new driveway along the east boundary of the site. Lots 1 and 2 will share the existing driveway. Three hundred (300') feet west of the parcel is Gollob Road which runs north-south and connects with Broadway Boulevard and Old Spanish Trail, respectively. Depending on the trip split, the traffic impact on Magdalena Road east of the rezoning may not be 100%. No trip split information has been made available.

It should be noted that the owners of the lot, two properties east of the subject parcel, have also submitted a rezoning request (C9-18-08) for RX-1 zoning, to create 4-lot subdivision from a 4.62 acre parcel. These proposals, taken together,

may generate 57.3 additional vehicle trips per day (approximately eight (8) additional peak-hour trips) in this immediate area, however, there is no indication the additional traffic will create significant problems.

Drainage/Grading/Vegetation

The rezoning site is relatively flat and is fairly heavily vegetated. An unmapped wash crosses the south one-half of the property, flowing from the southeast to the northwest, and bisecting proposed Lots 1 and 2. The area inundated by the wash appears to be riparian in character. The wash enters the site at 108 c.f.s in a 100 year event and leaves the site at 152c.f.s. Due to the flow exceeding 100 c.f.s., the wash is a regulated 100-year floodplain. The existing driveway that will serve Lots 1 and 2 crosses the wash. Staff is recommending a condition that the existing driveway and the proposed easement along the eastern property line will be the only wash crossings allowed in development of the site. A hydrology and hydraulic report, substantiating the information shown on the preliminary development plan, will be required at the time of Development Package review.

CONCLUSION

The rezoning and subsequent development proposal is in compliance with the planning polices of *Plan Tucson* and the *Pantano East Area Plan* which support infill development that preserves the character of the neighborhood. Subject to compliance with the attached preliminary conditions, approval of the requested RX-1 zoning is appropriate.

RECOMMENDATION

The Zoning Examiner recommends **approval** of the C-2 zoning subject to the attached special conditions.

Sincerely,



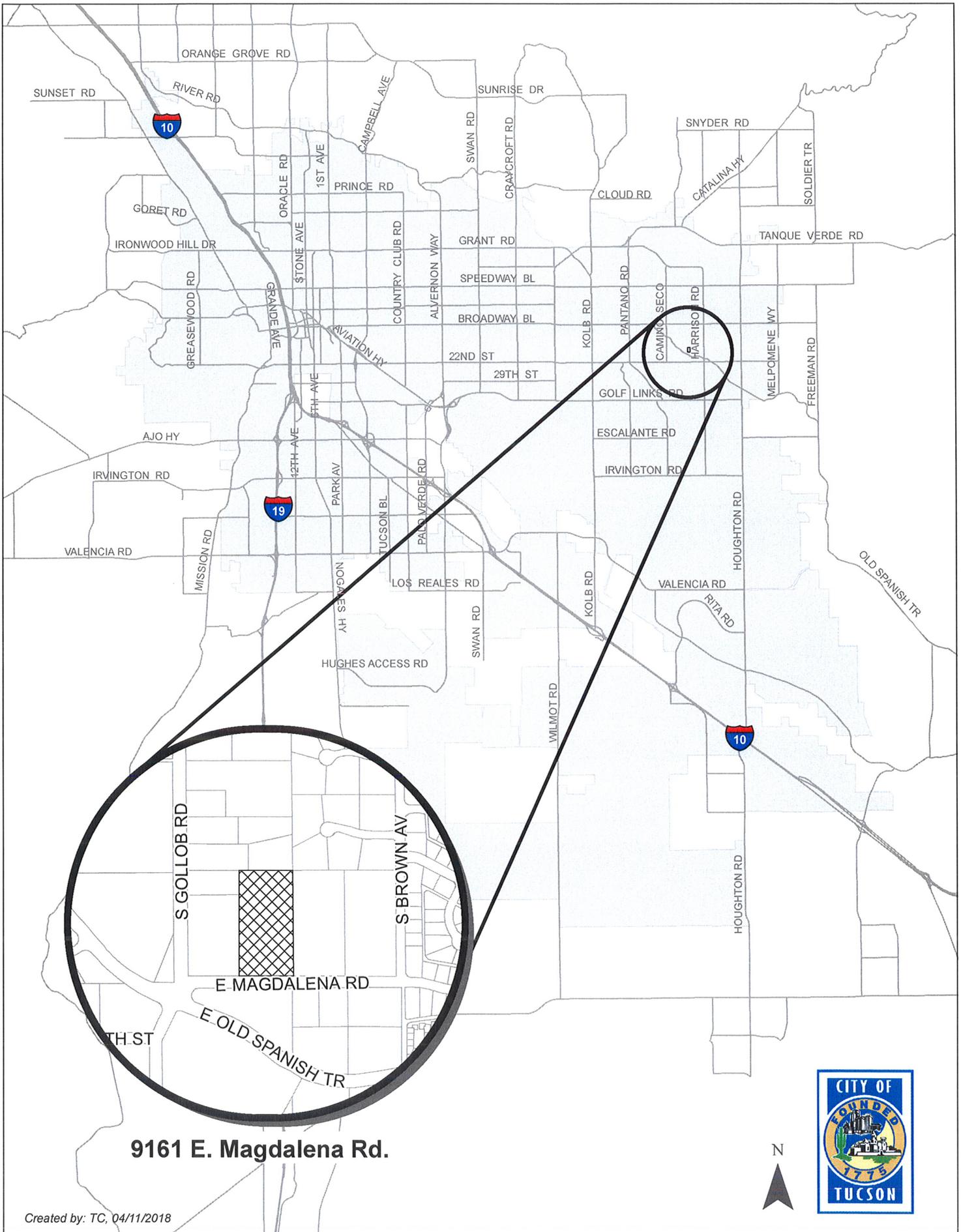
Steven C. Shell
Zoning Examiner

ATTACHMENTS:

- Case Location Map
- Case Aerial Photo
- Zoning Examiner's Preliminary Conditions

cc: City of Tucson Mayor and Council

C9-18-07 Meyer and Pearson - Magdalena Road Rezoning Request: From SR to RX-1

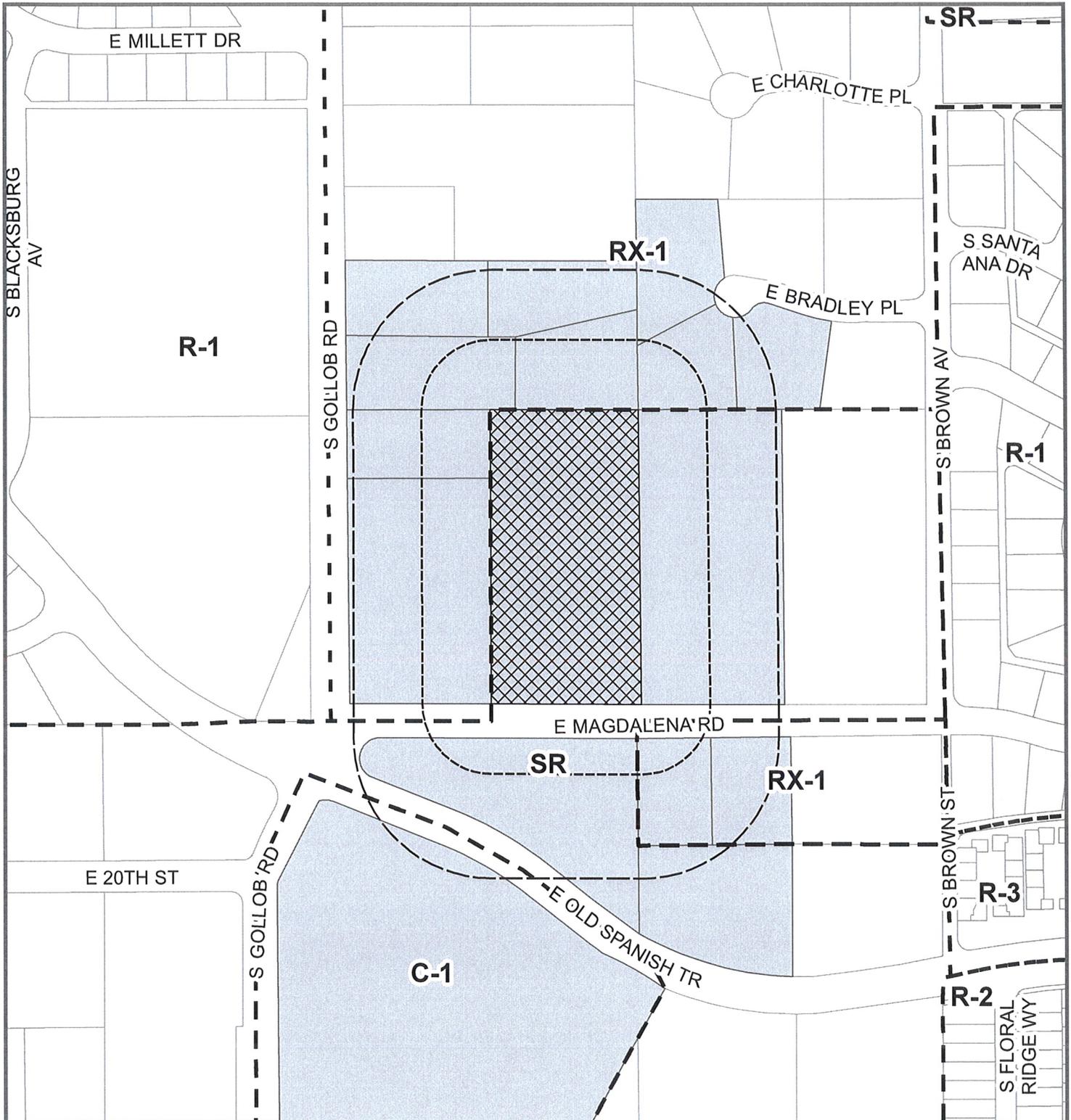


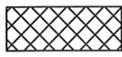
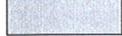
9161 E. Magdalena Rd.



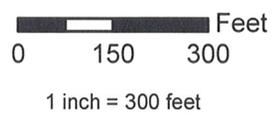
C9-18-07 Meyer and Pearson – Magdalena Road

Rezoning Request: From SR to RX-1



-  Subject Property
-  Notification Area (300-foot Radius)
-  Protest Area (150-foot Radius)
-  Zone Boundaries
-  Properties Notified

Address: 9161 E. Magdalena Rd.
Base Maps: Twp. 14 R. 15 Sec. 15
Ward: 2



C9-18-07 Meyer and Pearson - Magdalena Road

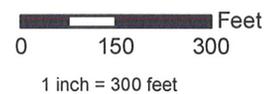
Rezoning Request: From SR to RX-1



 Area of Rezoning Request



Address: 9161 E. Magdalena Rd.
Base Maps: Twp. 14 R. 15 Sec. 15
Ward: 2



PROCEDURAL

1. A development package in substantial compliance with the preliminary development package and required reports dated March 29, 2018 is to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (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, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
6. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

7. All walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall

surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.

8. Six (6) inch wide masonry block or greater shall be used for perimeter walls.
9. The maximum building height for any structure shall be twenty (20') feet, as measured from finish grade to the highest point of any roof or parapet, not including a chimney.

DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

10. A hydrology and hydraulic report, substantiating the information shown on the preliminary development plan, will be required at the time of Development Package review.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

11. Wash crossings shall be limited to the existing driveway and the proposed easement along the eastern property line.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(l).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case _____ and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case _____.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify

and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case _____.

Dated this _____ day of _____, 20__.

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona)
County of _____)

On this _____ day of _____, 20__, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires:

City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

This form has been approved by the City Attorney.