



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

May 31, 2018

*Revised June 4, 2018

C9-18-08 Clausen – E. Magdalena Road - SR to RX-1 (Ward 2)

BACKGROUND

This is a request by Michael Marks, AICP, of MJM Consulting, on behalf of the property owner, Cornelia Clausen Revocable Lifetime Trust, care of Cornelia Clausen, Trustee, to rezone approximately 4.62 acres from SR to RX-1 zoning.

The rezoning site is located at the northwest corner of E. Magdalena Road and S. Brown Avenue, approximately one-quarter mile west of S. Harrison Road (see Case Location Map).

The preliminary development plan proposes re-subdivision of Lot 33, 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 SUMMARY (Minutes Attached)

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 no written protests.

Meeting Summary:

The applicant, Mr. Mike Marks, spoke on behalf of the owner and discussed the proposed rezoning and described the surrounding area.

He talked about the other rezoning case (C9-18-07, Meyer and Pearson) which is located two (2) lots west of this subject property. He also discussed the similarities between the two rezoning requests stating that they both will add three (3) houses to an already existing single family residence and that they will both create 4 lots which will all exceed one (1) acre.

Mr. Marks stated that this rezoning request meets all codes and complies with all neighborhood area plans and *Plan Tucson*.

He said that there has been no negative feedback or comments.

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A neighborhood meeting was held in accordance with the City's requirements, the meeting included presentations and discussions on both rezoning cases and sites since they are so similar and near each other.

He said that the one major difference between this case and the case nearby is that on this property, all of the new lots created will still be owned by the same family who owns the existing single family residence on the property.

He also stated that he was agreeable with all of Staff's preliminary conditions.

When Mr. Marks concluded his presentation, I asked if there was anybody present who wished to speak in **favor** of this rezoning request.

The same neighbor who gave testimony and was neutral about the previous case regarding the Meyers and Pearson's property then spoke on behalf of this request. (This neighbor lives next to the subject property and his property is located between the two rezoning sites.)

The witness spoke in favor of this request, specifically because all of the newly created lots will be owned by the same family. He felt that this would help to insure the properties would all be developed in a cooperative spirit and probably would not include any 2-story construction.

I offered that applicant a chance to make any last statements. He simply confirmed that members of the same family will own all of the four (4) newly created lots should this rezoning request be granted.

Nobody else spoke on this matter and I closed the public hearing by thanking everybody for their time and patience and then telling them that I would have my preliminary report concluded within five (5) working days of tonight's hearing.

FINDINGS OF FACT

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

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The subject parcel is rectangular in shape with a north-south orientation, and consisting of 4.62 acres. As stated above the subject parcel is lot 33 of the Halcyon Acres Annex. It is important to note that Halcyon Acres Annex has 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 developments of varying densities. To the east, across Brown Avenue is a 115 lot single-family subdivision zoned R-1 and platted in 1961. Lot 116 of the subdivision, along Harrison Road, was subsequently rezoned to O-3 and platted into 50 townhomes. Lot 117 was rezoned to C-1. Immediately to the north of the subject property is the 13-lot Halcyon Highlands subdivision, zoned RX-1. Immediately south of the subject site, south of Magdalena Road, are multiple lots that were rezoned to RX-1 in 1985 and 2009. 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, have 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 Staff's report. 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*. 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 the 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 proposal 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 30 foot maximum in SR and compatible with the 25 foot maximum in R-1. Due to the 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 & Pedestrian Traffic Circulation

The property is bounded by Magdalena Road on the south and Brown Avenue on the east. Both roads are local 2-lane roads, with no curbs or sidewalks, and with 60 foot-wide rights-of-way. Brown Avenue extends north to Broadway Boulevard. Single-family detached homes generate approximately 9.55 vehicle trips per day. After the proposed subdivision, the total trip generation from the subject property will be approximately 38.2 per day. It is proposed that Lots 1 & 2 will access Magdalena Road, and Lots 3 & 4 will access Brown Avenue.

It should be noted that the owners of the lot, two properties west of the subject parcel, have also submitted a rezoning request (C9-18-07) for RX-1 zoning, to create 4-lot subdivision from a 4.55 acre parcel. These proposals, taken together, will generate approximately 57.3 additional vehicle trips per day in this immediate area, which is approximately eight (8) peak hour vehicle trips. The C9-19-07 property only has frontage on Magdalena Road, consequently, all vehicle trips will begin on Magdalena Road. Three hundred 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 C9-18-07 rezoning may not be 100%. No trip split information has been made available at this time, 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 extreme northeast corner of the site, flowing from the southeast to the northwest, and bisecting proposed Lot 4. The wash enters the site at 74 CFS in a 100 year event and leaves the site at 97 CFS. The wash is unregulated, and the lot configuration provides an adequate building pad. A hydrology and hydraulic report substantiating the information shown on the preliminary development plan will be required with the Development Package submittal.

CONCLUSION

The rezoning and subsequent development proposal is in compliance with the policies of Plan Tucson and the Pantano East Area Plan which support infill development that

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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 RX-1 zoning subject to the attached conditions.

Respectfully Submitted,

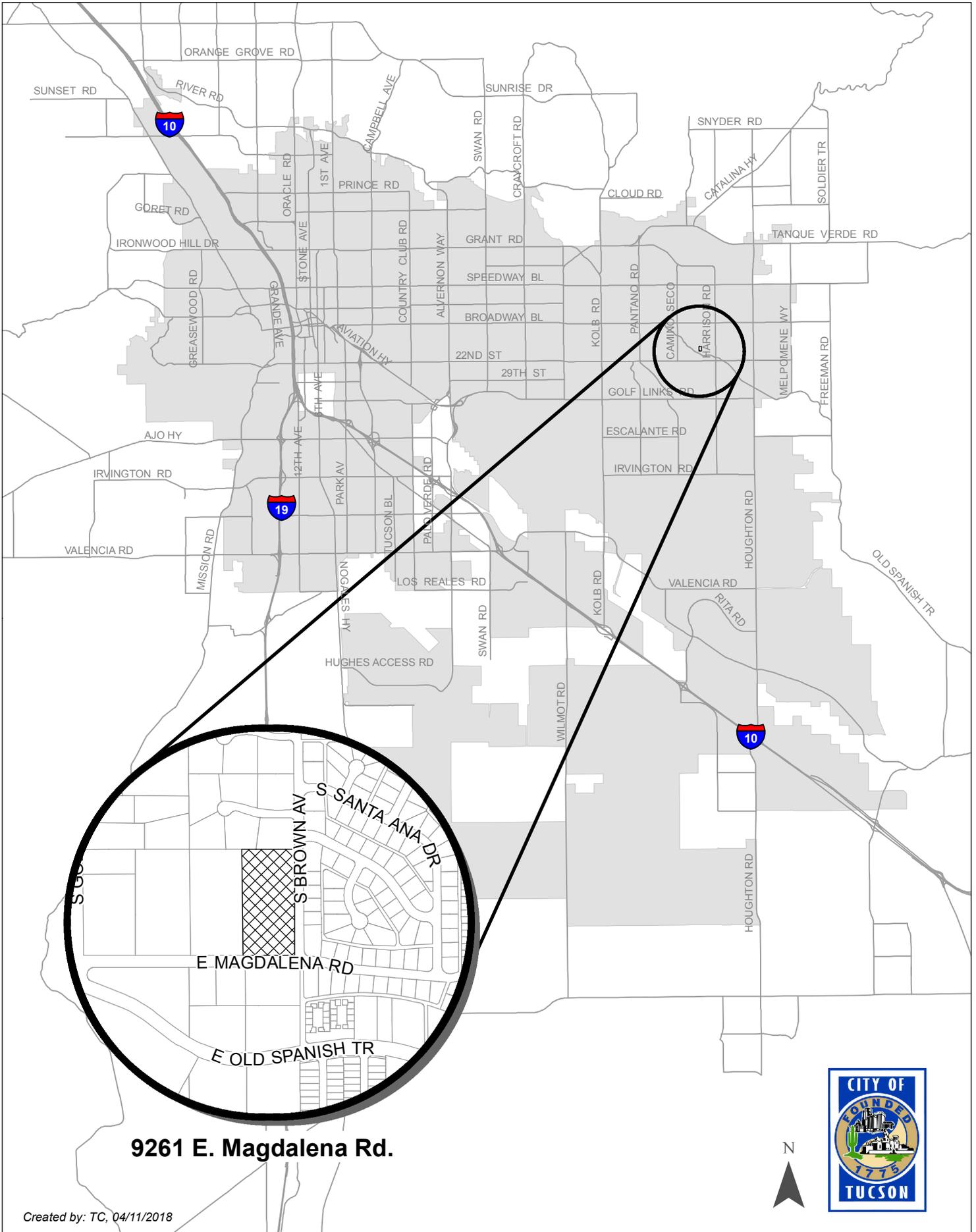


Steven C. Shell
Zoning Examiner

ATTACHMENTS:

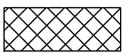
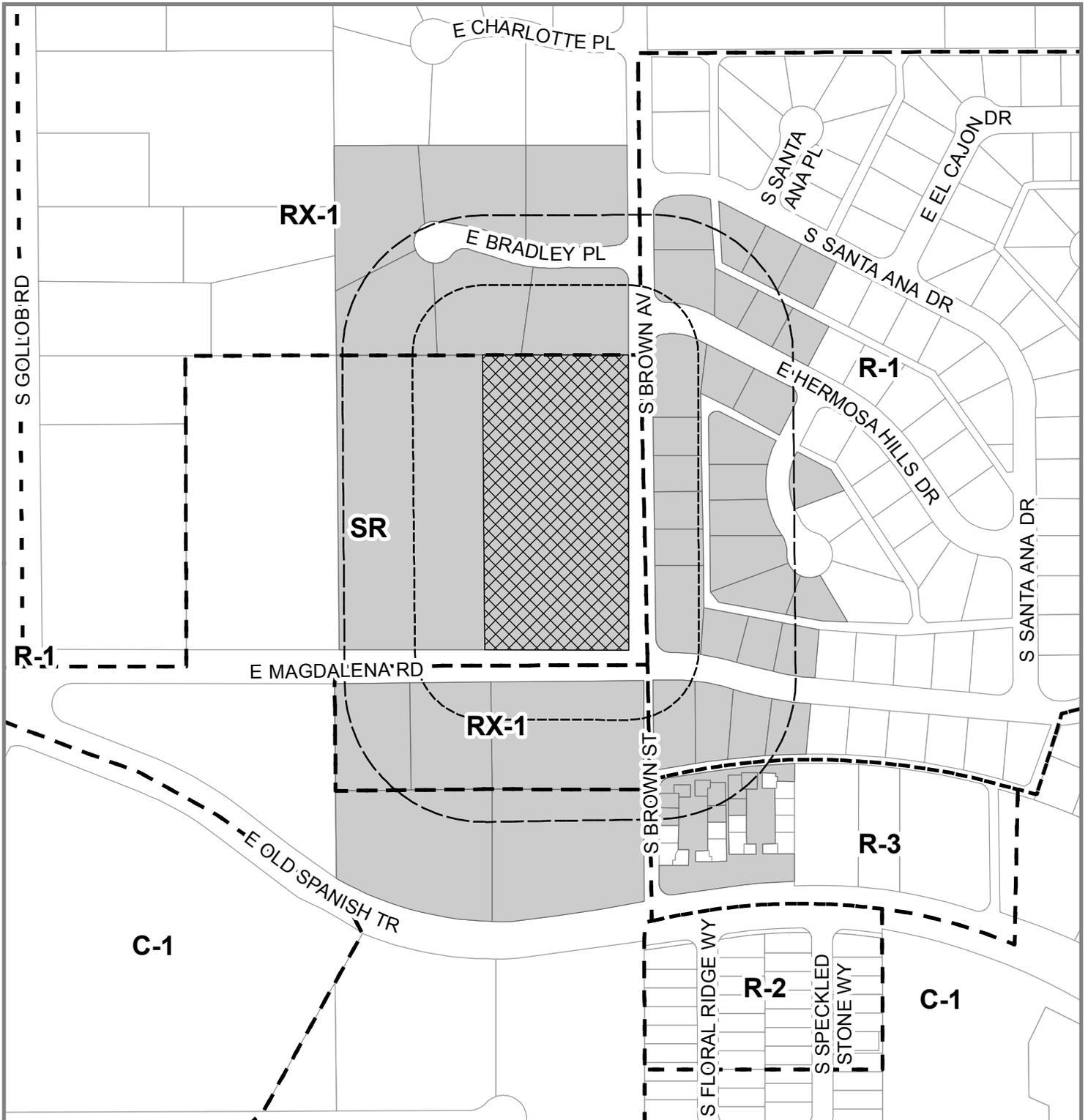
Case Location Map
Case Aerial Photo
Zoning Examiner's Final Conditions
Public Hearing Minutes

C9-18-08 Clausen - Magdalena Road Rezoning Request: From SR to RX-1



C9-18-08 Clausen – Magdalena Road

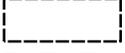
Rezoning Request: From SR to RX-1



Subject Property



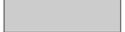
Notification Area (300-foot Radius)



Protest Area (150-foot Radius)

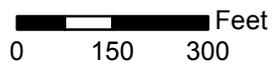


Zone Boundaries



Properties Notified

Address: 9261 E. Magdalena Rd.
Base Maps: Twp. 14 R. 15 Sec. 15
Ward: 2



1 inch = 300 feet



C9-18-08 Clausen - Magdalena Road
Rezoning Request: From SR to RX-1



 Area of Rezoning Request



Address: 9261 E. Magdalena Rd.
Base Maps: Twp. 14 R. 15 Sec. 15
Ward: 2

 Feet
0 150 300

1 inch = 300 feet



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.

DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

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

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(I).

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

ZONING MEMBERS PRESENT

Steven Shell, Zoning Examiner
Michael Wyneken, Planning & Development Services
Rick Guerra, City Recording Clerk

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1 ZONING EXAMINER: Could we get our presentation on our next
2 case, please, Mr. Wyneken, when you're done making your notes.

3 MR. WYNEKEN: This case is C9-18-08 Clausen-East Magdalena
4 Road. This is a request by Michael Marks of MJM Consulting on behalf
5 of the property owner, Cornelia Clausen, Revocable Lifetime Trust,
6 care of Cornelia Clausen, Trustee, to rezone approximately 4.62 acres
7 from SR to RX-1 zoning.

8 Rezoning site is located at the northwest corner of East
9 Magdalena Road-South Brown Avenue, approximately one-quarter, quarter
10 mile west of South Harrison Road. Preliminary Development Plan
11 proposes re-subdivision of Lot 33, Halcyon Acres Annex into four lots.

12 Land use policy direction for this area is provided by the
13 Pantano East Area Plan and Plan Tucson. Rezoning site is located
14 within an existing neighborhood growth scenario building block as
15 identified on the Growth Scenario Map of Plan Tucson.

16 Existing neighborhoods are primarily developed and largely
17 built-out residential neighborhoods and commercial districts in which
18 minimum new development and re-development is expected in the next
19 several decades. Within existing neighborhoods, the Plan Tucson goal
20 is to maintain the character of these neighborhoods while
21 accommodating some new development and re-development and encouraging

1 re-development and new services and amenities that contribute further
2 to neighborhood stability.

3 Pantano East Area Plan policy support the preserving the
4 integrity of established neighborhoods and promote low-density
5 residential developments within the interior of established low-
6 density neighborhoods. Pantano East Area Plan defines low-density
7 residential as six residences per acre or less. Proposal meets the
8 density requirement.

9 Again, this general area has undergone quite a few SR to
10 RX-1 rezonings for the purposes of land division, especially in the
11 last ten years. But these types of rezonings have been occurring for
12 the last 30 years or so.

13 The surrounding land uses to this property are all single-
14 family developments of varying densities. They range from traditional
15 R-1, 7,000-square-foot lots to larger three, three-acre lots.

16 This property has an unmapped wash that crosses the extreme
17 northeast corner of the site, flowing from the southeast to the
18 northwest and bisecting proposed Lot 4. The lot - or the, the wash in
19 a 100-year event is less than 100-cubic feet per second and is,
20 therefore, unregulated. And it appears the lot configuration
21 provides, still provides for an adequate building pad regardless of
22 the wash.

23 Again, hydrology and hydrologic report substantiating the
24 information shown on the Preliminary Development Plan will be required
25 with the development package submittal.

1 This property is bounded by Magdalena Road on the south and
2 Brown Avenue on the east. Both are two-lane local roads with no curbs
3 or sidewalks, 60-foot right-of-way. As proposed, Lots 1 and 2 will
4 access Magdalena Road. Lots 3 and 4 will access Brown Avenue. No, no
5 road improvements are required for the proposal.

6 Rezoning and subsequent development proposal is in
7 compliance with the policies of Plan Tucson and the Pantano East Area
8 Plan, which support in-fill development that preserves the character
9 of the neighborhood. Subject to compliance with the proposed
10 Preliminary Conditions, approval of the requested RX-1 zoning is
11 appropriate.

12 To date, we have one approval and zero protests on file
13 which means a simple majority vote of the Mayor and Council would be
14 required to adopt an ordinance rezoning the property. And that
15 concludes the report.

16 ZONING EXAMINER: Thank you very much. Is the Applicant
17 here? It's always such a dumb question. I apologize.

18 MR. MARKS: I'm here again.

19 ZONING EXAMINER: I just get in that mode.

20 MR. MARKS: For the record, Michael Marks, MJM Consulting,
21 6401 East Shepherd Hills Drive. I'm here representing the owner whose
22 name is Connie Clausen. She's unable to attend, but her son, Mark
23 Machen (ph.), is present. And the, the circumstances are almost
24 identical as those in the last case.

1 The property is in compliance with the area plan, or the
2 proposal is. The proposal is in compliance with the adjacent zoning.
3 The property is served by all the utilities necessary and the property
4 is an in-fill property.

5 You can see on that site plan that there are four lots, one
6 containing the existing residence. Three new lots, one off of
7 Magdalena and two off of Brown. We got no negative impacts, or
8 comments from neighbors regarding this proposal. And we believe it's
9 gonna be an asset to the area and we ask for your support.

10 We have no issue with any of the conditions that Staff has
11 presented to you. We would be agreeable to all of those conditions.
12 If you have any questions, I'll be happy to respond.

13 ZONING EXAMINER: At this point, I, I probably do, but I'm
14 gonna wait and see who else speaks before I say what's on my mind.

15 MR. MARKS: Okay. Very good.

16 ZONING EXAMINER: The obvious, obviously. Thank you very
17 much. Who here is wishing to speak in favor of this request?

18 MR. SPOHN: Edward Spohn.

19 ZONING EXAMINER: Wonderful. And I know, would you go
20 ahead and introduce yourself and, and your, your address, please?

21 MR. SPOHN: 9207 East Magdalena.

22 ZONING EXAMINER: Thank you.

23 MR. SPOHN: I'm in favor of this dividing of their
24 property. I've already talked to them a number of times. It's
25 staying in the family, so that's a real big draw for me. Sounds like

1 it's a little more, you know, they're gonna kind of be more
2 accommodating to each other that way I'm sure.

3 ZONING EXAMINER: Okay.

4 MR. SPOHN: As long as they get along with each other.

5 ZONING EXAMINER: I'm sure you'll get along with the
6 others, too.

7 MR. SPOHN: Pick your friends, but you're stuck with your
8 family.

9 ZONING EXAMINER: Thank you very much. Is there anybody
10 else wishing to speak in favor of this? Seeing and hearing none, is
11 there anybody here wishing to speak in opposition of this request?
12 Seeing and hearing none, is there anyone who's neutral? Seeing and
13 hearing none, I'm not hearing anything that you need to rebut to, if
14 that's a word.

15 MR. MARKS: It's a word.

16 ZONING EXAMINER: It is a word, to rebut to. Wonderful.
17 Is there anything you would like to add, Mr. Marks?

18 MR. MARKS: Probably not. But it is true, in this project,
19 the lots will be going to family members, as Mr. Spohn indicated. So,
20 they all have a stake in making sure they all build out in a favorable
21 way.

22 I would just say, we are happy that you're, you're able to
23 hear this case tonight. We think it's a good case, as the last one
24 is. And we'd like your support.

1 ZONING EXAMINER: Thank you very much for making the time.

2 Seeing and hearing no other people to speak, I'm gonna go ahead and

3 close the public hearing. I'll release my decision in five working

4 days and have a wonderful evening. And you better hurry 'cause the

5 parking garage closes at 8:00. So, don't mill around too much.

6 Thank you very much. That'll close tonight's public hearing.

7 (Case: C9-18-08 was closed.)

I hereby certify that, to the best of my ability the foregoing is a true and accurate transcription of the original tape-recorded conversation in the case reference on page 1 above.

Transcription Completed: 05/26/18

Kathleen R. Krassow
KATHLEEN R. KRASSOW - Owner
M&M Typing Service