*AMENDED (12/3/12, 5:00 PM)
AGENDA
ORO VALLEY TOWN COUNCIL
REGULAR SESSION
December 5, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

REGULAR SESSION AT OR AFTER 5:00 PM

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

UPCOMING MEETING ANNOUNCEMENTS

COUNCIL REPORTS
- **Spotlight on Youth**

DEPARTMENT REPORTS

The Mayor and Council may consider and/or take action on the items listed below:

ORDER OF BUSINESS: MAYOR WILL REVIEW THE ORDER OF THE MEETING

CALL TO AUDIENCE – At this time, any member of the public is allowed to address the Mayor and Town Council on any issue ***not listed on today's agenda.*** Pursuant to the Arizona Open Meeting Law, individual Council Members may ask Town Staff to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "Call to Audience." In order to speak during "Call to Audience" please specify what you wish to discuss when completing the blue speaker card.

PRESENTATIONS

1. Presentation of Certificates to graduates of the Community Academy - Local Governance 101 class

CONSENT AGENDA
(Consideration and/or possible action)

A. Minutes - October 3 & October 17, 2012

B. Fiscal Year 2012/2013 Financial Update Through September 2012

C. Fiscal Year 2012/2013 Financial Update Through October 2012

D. Police Department Statistics - September 2012

E. Greater Oro Valley Chamber of Commerce Quarterly Report: July 1, 2012 - September 30, 2012

F. Metropolitan Tucson Convention and Visitors Bureau Quarterly Report: July 1, 2012 - September 30, 2012

G. Approval of 2013 Regular Town Council Meeting Schedule

H. (Re)appointments to various Boards and Commissions

I. Resolution No. (R)12-63, Authorizing and approving a subgrantee agreement between the Town of Oro Valley and the Arizona Department of Homeland Security to fund Overtime and Mileage under the Operation Stonegarden program

J. Resolution No. (R)12-64, Authorizing and approving a subgrantee agreement between the Town of Oro Valley and the Arizona Department of Homeland Security to fund the purchase of equipment under the Operation Stonegarden program

REGULAR AGENDA

1. DISCUSSION AND POSSIBLE ACTION - RESOLUTION NO. (R)12-65, AUTHORIZING AND APPROVING A PRE-ANNEXATION DEVELOPMENT AGREEMENT WITH TOHONO CHUL PARK, INC.

2. <u>TOHONO CHUL PARK PLANNED AREA DEVELOPMENT</u>

   a. RESOLUTION NO. (R)12-58, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT KNOWN AS TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A"

   b. PUBLIC HEARING: ORDINANCE NO. (O)12-19, APPROVING THE TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A" FOR 48.5 ACRES LOCATED ON THE NORTHEAST CORNER OF INA ROAD AND PASEO DEL NORTE

3. PUBLIC HEARING: RESOLUTION NO. (R)12-66, AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL, NEIGHBORHOOD COMMERCIAL / OFFICE, RESORT / GOLF COURSE TO LOW DENSITY RESIDENTIAL (1.3-2 DU/AC), MEDIUM DENSITY RESIDENTIAL (2.1 – 5 DU/AC), OPEN SPACE AND NEIGHBORHOOD COMMERCIAL /OFFICE (NC/O) AND AMEND THE SIGNIFICANT RESOURCE AREA AND SPECIAL AREA POLICIES AND TO AMEND THE URBAN SERVICES BOUNDARY FOR THE 110 ACRE PROPERTY KNOWN AS DESERT SPRINGS, LOCATED EAST OF THE INTERSECTION OF TANGERINE AND ORACLE ROADS

4. PUBLIC HEARING: RESOLUTION NO. (R)12-67, AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL/OFFICE FOR 8.6 ACRES OF THE 26.7 ACRE PROPERTY AND DESIGNATING THE ENTIRE PROPERTY A GENERAL PLAN GROWTH AREA FOR THE MERCADO MANDARINA PROPERTY, LOCATED ON THE NORTHEAST CORNER OF TANGERINE ROAD AND LA CHOLLA BOULEVARD

5. PUBLIC HEARING: RESOLUTION NO. (R)12-68, AMENDING THE GENERAL PLAN TO ADD A NEW ENERGY ELEMENT AND ASSOCIATED UPDATES TO THE STRATEGIC IMPLEMENTATION PLAN

6. *RESOLUTION NO. (R)12-69, AUTHORIZING THE EXECUTION OF THE UNDERGROUNDING AGREEMENT BETWEEN THE TOWN AND TUCSON ELECTRIC POWER COMPANY (TEP) FOR PAYMENT FOR INSTALLATION OF UNDERGROUND ELECTRIC FACILITIES ALONG ORACLE ROAD AND TANGERINE ROAD AND AUTHORIZING THE USE OF GENERAL FUND CONTINGENCY RESERVES FOR THIS PURPOSE (Item added on 12/3/12)

7. *DISCUSSION AND POSSIBLE ACTION REGARDING A MAY 21, 2013 SPECIAL ELECTION TO SEEK VOTER APPROVAL OF A FRANCHISE AGREEMENT WITH TUCSON ELECTRIC POWER (Item added on 12/3/12)

FUTURE AGENDA ITEMS (The Council may bring forth general topics for future meeting agendas. Council may not discuss, deliberate or take any action on the topics presented pursuant to ARS 38-431.02H)

CALL TO AUDIENCE – At this time, any member of the public is allowed to address the Mayor and Town Council on any issue ***not listed on today's agenda.*** Pursuant to the Arizona Open Meeting Law, individual Council Members may ask Town Staff to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during "Call to Audience." In order to speak during "Call to Audience" please specify what you wish to discuss when completing the blue speaker card.

ADJOURNMENT

POSTED: 11/28/12 at 5:00 p.m. by ms

AMENDED AGENDA POSTED: 12/3/12 at 5:00 p.m. by ms

When possible, a packet of agenda materials as listed above is available for public inspection at least 24 hours prior to the Council meeting in the office of the Town Clerk between the hours of 8:00 a.m. – 5:00p.m.

The Town of Oro Valley complies with the Americans with Disabilities Act (ADA). If any person with a disability needs any type of accommodation, please notify the Town Clerk's Office at least five days prior to the Council meeting at 229-4700.

INSTRUCTIONS TO SPEAKERS

Members of the public have the right to speak during any posted public hearing. However, those items not listed as a public hearing are for consideration and action by the Town Council during the course of their business meeting. Members of the public may be allowed to speak on these topics at the discretion of the Chair.

If you wish to address the Town Council on any item(s) on this agenda, please complete a speaker card located on the Agenda table at the back of the room and give it to the Town Clerk. **Please indicate on the speaker card which item number and topic you wish to speak on, or if you wish to speak during "Call to Audience", please specify what you wish to discuss when completing the blue**

speaker card.

Please step forward to the podium when the Mayor announces the item(s) on the agenda which you are interested in addressing.

1. For the record, please state your name and whether or not you are a Town resident.
2. Speak only on the issue currently being discussed by Council. Please organize your speech, you will only be allowed to address the Council once regarding the topic being discussed.
3. Please limit your comments to 3 minutes.
4. During “Call to Audience” you may address the Council on any issue you wish.
5. Any member of the public speaking must speak in a courteous and respectful manner to those present.

Thank you for your cooperation.

Town Council Regular Session **Item # 1.**

Meeting Date: 12/05/2012

Presentation of Certificates to graduates of the Community Academy - Local Governance 101 class

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Information

Subject

Presentation of Certificates to graduates of the Community Academy - Local Governance 101 class

Summary

The Town of Oro Valley is pleased to recognize the graduates of the Town's Community Academy-Local Governance 101 class.

The classes covered a variety of topics, including:

- Oro Valley history and how the town works
- The Town's vision for the future and our place in the region
- Conservation & sustainability
- Design excellence and regulation in the community
- Town finances and the Town's Water Utility
- The Town's Transportation System and Economic Development in the Town

The Community Academy provides residents with an opportunity to learn more about their community, including classes on Town organization, sustainability, and the role of citizens in Town governance. It serves to inform, educate, and engage residents to be active participants in building and sustaining their community. This semester's graduates includes Board and Commission members, Town residents and staff members. The 18 members of the graduating class are listed below:

- Karen Abrams
- Charlene Baker
- John Bohl*
- Laura Dore
- Mary Kay Durfee*
- Dawn Heinemann
- Kelly Huber
- Dan Huff
- Dexter Kenfield
- Marilyn Lane*
- Harold Linton*
- Lyn Mason
- Stephen Roach*
- Jack Stinnett*
- Dean Strandskov*
- Richard Verlaque*
- Williams Vicens
- Clifton Wickstrom*

*Town Board/Commission member

Community Academy classes specialized for each Board and Commission are scheduled to begin in the Spring.

Town Council Regular Session **Item # A.**

Meeting Date: 12/05/2012

Requested by: Julie Bower **Submitted By:** Mike Standish, Town Clerk's Office

Department: Town Clerk's Office

Information

SUBJECT:

Minutes - October 3 & October 17, 2012

RECOMMENDATION:

Staff recommends approval.

EXECUTIVE SUMMARY:

N/A

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to (approve, approve with the following changes) the October 3 and October 17, 2012 minutes.

Attachments

10/3/12 Draft Minutes

10/17/12 Draft Minutes

MINUTES
ORO VALLEY TOWN COUNCIL
REGULAR SESSION
October 3, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

REGULAR SESSION AT OR AFTER 5:00 PM

CALL TO ORDER

Mayor Hiremath called the meeting to order at 5:00 p.m.

ROLL CALL

PRESENT:	Satish Hiremath, Mayor Lou Waters, Vice Mayor Brendan Burns, Councilmember Joe Hornat, Councilmember Mary Snider, Councilmember Mike Zinkin, Councilmember
ABSENT:	Bill Garner, Councilmember

Vice Mayor Waters attended the meeting via telephone.

EXECUTIVE SESSION AT OR AFTER 5:00 PM - Pursuant to A.R.S. section 38-431.03(A)(4) for consultation and discussion with the attorneys for the Town in the matter of Chacon v. Town of Oro Valley and Drolet v. Town of Oro Valley

MOTION: A motion was made by Councilmember Zinkin and seconded by Councilmember Snider to go into Executive Session at 5:01 p.m. pursuant to A.R.S. section 38-431.03(A)(4) for consultation and discussion with the attorneys for the Town in the matter of Chacon v. Town of Oro Valley and Drolet v. Town of Oro Valley.

MOTION carried, 6-0.

Mayor Hiremath stated that the following staff members would join Council in Executive Session: Town Attorney Tobin Rosen, Town Manager Greg Caton and Town Clerk Julie Bower. He also reserved the right to call on Development and Infrastructure Services Director Paul Keesler and Police Commander Jason Larter and outside Counsel Marshall Humphrey from the firm Humphrey and Peterson.

DRAFT

RESUME REGULAR SESSION AT 6:00 PM

CALL TO ORDER

Mayor Hiremath called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT:

Satish Hiremath, Mayor
Lou Waters, Vice Mayor
Brendan Burns, Councilmember
Bill Garner, Councilmember
Joe Hornat, Councilmember
Mary Snider, Councilmember
Mike Zinkin, Councilmember

Vice Mayor Lou Waters and Councilmember Garner attended the meeting via telephone.

PLEDGE OF ALLEGIANCE

Mayor Hiremath led the audience in the Pledge of Allegiance.

UPCOMING MEETING ANNOUNCEMENTS

Communications Administrator Misti Nowak announced the upcoming Town meetings.

COUNCIL REPORTS

Councilmember Snider thanked all of the Town Departments that were represented at the National Night Out event last night.

DEPARTMENT REPORTS

Town Manager Greg Caton announced that the Vista Community Newsletter was now available in a quarterly limited print version but would continue to be available online as well.

Town Clerk Julie Bower announced that new artwork was on display in the Council chambers by artist Margaret Behrendt.

ORDER OF BUSINESS

Mayor Hiremath stated that item #6 would be heard before item #3 and the remaining agenda would stand as posted.

DRAFT

INFORMATIONAL ITEMS

PRESENTATIONS

1. Proclamation - Edward Jones Bag-A-Thon to benefit the Interfaith Community Services Food Bank

Mayor Hiremath proclaimed Oct. 3 - Nov. 3, 2012 as the 6th annual Edward Jones Bag-A-Thon.

Ken Blanchard, Edward Jones - Oro Valley, spoke about the Edward Jones Bag-A-Thon and urged the community to help meet the goal of 50,000 pounds of donated food.

CALL TO AUDIENCE

Oro Valley resident Jim Harrison urged Council to make sound decisions and avoid events that could damage the Town.

Oro Valley resident John Musolf encouraged Council to adopt a Code of Conduct and Ethics for elected officials.

Oro Valley resident Donald Bristow urged Council to reconsider establishing a fine structure for violating the Temporary Sign Code Section of the Town Code.

Oro Valley resident Bill Adler asked Council to avoid alienating one element of the population when favoring another regarding land use matters.

Oro Valley resident Richard Furash requested that Council consider paving the unfinished portion of the Canyon del Oro Wash bike trail from approximately Fry's grocery store to the Oro Valley Marketplace.

CONSENT AGENDA

Councilmember Zinkin requested that items (C) and (D) be removed from the Consent Agenda for discussion.

A. Minutes - June 20, 2012

B. Police Department Statistics - July 2012

MOTION: A motion was made by Councilmember Zinkin and seconded by Councilmember Snider to approve items (A)-(B).

MOTION carried, 7-0.

DRAFT

C. Resolution No. (R)12-55, Authorizing and directing the Water Utility Director to execute and file an application to modify the designation of Assured Water Supply filed with the Arizona Department of Water Resources

Councilmember Zinkin asked what the likelihood would be that the Arizona Department of Water Resources (ADWR) would not approve the application.

Water Utility Director Philip Saletta stated that the odds were extremely low that the ADWR would not approve the application.

MOTION: A motion was made by Mayor Hiremath and seconded by Councilmember Hornat to approve item (C).

MOTION carried, 7-0.

D. Appointment of Interim Town Attorney

Discussion ensued regarding the appointment of an Interim Town Attorney.

MOTION: A motion was made by Mayor Hiremath and seconded by Councilmember Snider to appoint Tobin Sidles as Interim Town Attorney effective October 8, 2012 until a new Town Attorney was hired and that Tobin Rosen continue to serve under the terms of his existing contract with the Town until his retirement on January 3, 2013.

MOTION carried, 4-3 with Councilmember Burns, Councilmember Garner, and Councilmember Zinkin opposed.

REGULAR AGENDA

1. POSSIBLE DIRECTION TO TOWN ATTORNEY WITH REGARD TO CHACON v. TOWN OF ORO VALLEY

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Zinkin to direct the Town Attorney to proceed as discussed in Executive Session with regard to the case of Chacon v. Town of Oro Valley.

MOTION carried, 7-0.

2. POSSIBLE DIRECTION TO TOWN ATTORNEY WITH REGARD TO DROLET v. TOWN OF ORO VALLEY

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Zinkin to direct the Town Attorney to proceed as discussed in Executive Session with regard to the case of Drolet v. Town of Oro Valley.

MOTION carried, 7-0.

6. DISCUSSION AND POSSIBLE ACTION REGARDING PROCEDURES FOR FUTURE AGENDA ITEMS

MOTION: A motion was made by Councilmember Snider and seconded by Mayor Hiremath to continue item #6 until after the Strategic Plan.

MOTION carried, 7-0.

3. ECONOMIC EXPANSION ZONE (EEZ) OVERLAY DISTRICT WITHIN RANCHO VISTOSO NEIGHBORHOOD 3 (INNOVATION PARK)

a. RESOLUTION NO. (R)12-56, DECLARING THE PROPOSED AMENDMENTS TO THE ORO VALLEY ZONING CODE REVISED SECTION 22.9 AND SECTION 24.9 AND THE ZONING MAP, ATTACHED HERETO AS EXHIBIT "A" AND FILED WITH THE TOWN CLERK, A PUBLIC RECORD

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Hornat to approve Resolution No. (R)12-56, declaring the proposed amendments to the Oro Valley Zoning Code Revised Section 22.9 and Section 24.9 and the Zoning Map, attached hereto as Exhibit "A" and filed with the Town Clerk as a public record.

MOTION carried, 7-0.

b. PUBLIC HEARING: ORDINANCE NO. (O)12-15, AMENDING THE ORO VALLEY ZONING CODE REVISED, CHAPTER 22.9, DESIGN REVIEW AND ADDING SECTION 24.9, ECONOMIC EXPANSION ZONE AND AMENDING THE ZONING MAP

Senior Planner Matt Michels gave an overview of item #3b.

Planning Manager David Williams addressed the following Administrative Procedures for EEZ implementation.
-Interactive webpage
-Listserv subscription
-Submittal Tracker Tool
-Council reporting
-Open house review & comment

Mayor Hiremath opened the public hearing.

The following individuals spoke in favor of item #3b.

DRAFT

Oro Valley resident Gil Alexander
President and CEO of the Greater Oro Valley Chamber of Commerce Dave Perry

The following individuals spoke in opposition to item #3b.

Oro Valley resident Shirl Lamonna
Oro Valley resident Donald Bristow

The following individuals were undecided on item #3b.

Oro Valley resident John Musolf
Oro Valley resident Bill Adler

Mayor Hiremath closed the public hearing.

MOTION: A motion was made by Councilmember Zinkin and seconded by Councilmember Burns to adopt Ordinance No. (O)12-15, amending the Zoning Code and Zoning Map to create an Economic Expansion Zone in Innovation Park, as shown in Exhibit "A", finding that:

1. The EEZ furthers the Town's goal of attracting and retaining targeted industries and businesses that produce high quality primary jobs

2. Innovation Park is the Town's primary employment area with substantial vacant land for development

3. Innovation Park is physically and visually buffered from nearby residential neighborhoods

4. The EEZ offers a significant time savings for applicants, thus improving our competitive position in attracting and retaining desired businesses and industries

5. All Zoning Standards and design standards relating to aesthetics and community fit will be upheld and maintained through the review process

6. The creation of high quality employment increases demand for housing, which in turn increases property values

7. Stakeholders are supportive of the EEZ overlay district

and adding the following public input procedures:
-Interactive webpage
-Listserv subscription
-Submittal Tracker tool
-Council reporting
-Open house review & comment

Councilmember Snider requested an amendment to the original motion to change the term "neighborhood meeting" to "open house". This amendment was agreed to by Councilmember Zinkin and Councilmember Burns.

MOTION carried, 7-0.

Mayor Hiremath recessed the meeting at 7:52 p.m.

Mayor Hiremath reconvened the meeting at 8:02 p.m.

4. PUBLIC HEARING - ORDINANCE NO. (O)12-16, AMENDING THE EL CONQUISTADOR PLANNED AREA DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF LA CANADA DRIVE AND LAMBERT LANE TO ALLOW TWO OFF-SITE COMBINATION FUEL/MONUMENT SIGNS LOCATED IN PROXIMITY TO THE NORTHEAST CORNER OF LA CANADA DRIVE AND LAMBERT LANE

Mr. Williams gave an overview of item #4.

Mayor Hiremath opened the public hearing.

The following individuals spoke in favor of item #4.

Representative of Fry's, Andy Gibson
Oro Valley resident Bill Adler

The following individuals spoke in opposition to item #4.

Oro Valley resident Donald Bristow
Oro Valley resident Jim Harrison

Mayor Hiremath closed the public hearing.

MOTION: A motion was made by Councilmember Zinkin and seconded by Councilmember Garner to adopt Ordinance No. (O)12-16 with the exception of removing the fuel pricing sign on Lambert Lane.

Councilmember Snider requested an amendment to the original motion to stipulate that the sign have architectural enhancements to help blend in with the remaining signage on the property. This amendment was agreed to by Councilmember Zinkin and Councilmember Garner.

MOTION failed, 3-3 with Mayor Hiremath, Councilmember Hornat, and Councilmember Snider opposed.

Vice Mayor Waters fell ill and was excused from the meeting.

DRAFT

MOTION: A motion was made by Mayor Hiremath and seconded by Councilmember Hornat to adopt Ordinance No. (O)12-16, amending the El Conquistador Planned Area Development located on the northeast corner of La Canada Drive and Lambert Lane to allow two off-site combination fuel/monument signs located in proximity to the northeast corner of La Canada Drive and Lambert Lane.

MOTION failed, 3-3 with Councilmember Burns, Councilmember Garner, and Councilmember Zinkin opposed.

MOTION: A motion was made by Councilmember Zinkin and seconded by Councilmember Hornat to continue item #5 until all seven members of the Council were present.

MOTION carried, 6-0.

5. REQUEST FOR APPROVAL OF A PLANNED AREA DEVELOPMENT EXEMPTION FROM THE ROONEY RANCH, AREA B SIGN GUIDELINES FOR THE TACO BELL RESTAURANT LOCATED ON THE NORTHEAST CORNER OF ORACLE ROAD AND FIRST AVENUE

Mr. Williams gave an overview of item #5.

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Burns to approve the PAD exemption from the Rooney Ranch, Area B Sign Guidelines for the Taco Bell restaurant subject to the conditions outlined in Attachment 1.

Attachment 1
Conditions of Approval
Rooney Ranch Area B
Request for Approval of PAD Sign Exemption
OV312-005

1. No more than three (3) elevations shall contain a wall sign.

2. The total wall sign area for the east elevation shall not exceed forty (40%) percent of the total allowable area.

MOTION carried, 6-0.

FUTURE AGENDA ITEMS

Councilmember Hornat requested a future agenda item to review Tobin Rosen's employment contract, seconded by Mayor Hiremath.

DRAFT

Mayor Hiremath requested that the Fry's fuel/monument sign agenda item be placed on the October 17, 2012 agenda, seconded by Councilmember Snider.

CALL TO AUDIENCE

No comments were received.

ADJOURNMENT

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Hornat to adjourn the meeting at 9:03 p.m.

MOTION carried, 6-0.

Prepared by:

_____
Michael Standish, CMC
Deputy Town Clerk

I certify that the foregoing minutes are a true and correct copy of the minutes of the regular session of the Town of Oro Valley Council of Oro Valley, Arizona held on the 3rd day of October 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ___ day of _____, 2012.

_____
Julie K. Bower, MMC
Town Clerk

DRAFT

MINUTES
ORO VALLEY TOWN COUNCIL
REGULAR SESSION
October 17, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

REGULAR SESSION

CALL TO ORDER

Mayor Hiremath called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT:

Satish Hiremath, Mayor
Lou Waters, Vice Mayor
Brendan Burns, Councilmember
Bill Garner, Councilmember
Joe Hornat, Councilmember
Mary Snider, Councilmember
Mike Zinkin, Councilmember

PLEDGE OF ALLEGIANCE

Mayor Hiremath led the audience in the Pledge of Allegiance.

UPCOMING MEETING ANNOUNCEMENTS

Communications Administrator Misti Nowak announced the upcoming Town meetings and events.

COUNCIL REPORTS

Councilmember Snider announced the grand opening of the Oro Valley Archery Course was scheduled for Thursday, November 1st at 5:00 p.m.

Vice Mayor Waters presented a video of Councilmembers jumping into the new pool at its dedication on October 5th.

Vice Mayor Waters and Councilmember Hornat attended a conference in Phoenix entitled "Realizing the Economic Strength of Our Border - Trade, Education and Jobs." He hoped everyone realized that the four U.S. border states and the six Mexican border states constituted the fourth largest economy in the world. Mexico was emerging as one of the biggest economic engines in the hemisphere. Vice Mayor Waters said

Arizona was way behind in its efforts to capitalize on the situation.

Councilmember Hornat said Mexico was the United States' second largest trading partner. There was work being done on the bottleneck at Nogales where $7.5 million worth of trade came through there each day. The jobs and money being created by trade with Mexico were very significant and important to the U.S. economy.

DEPARTMENT REPORTS

There were no department reports.

ORDER OF BUSINESS

Mayor Hiremath said the order would stand as posted.

INFORMATIONAL ITEMS

1. 2012 ASU 21st Century Border Trade Conference Trip Report

CALL TO AUDIENCE

Bill Adler, Oro Valley resident, related his concerns regarding public outreach and neighborhood meetings.

PRESENTATIONS

1. Presentation of National Purchasing Institute (NPI) Achievement of Excellence in Procurement Award to Brian Garrity, C.P.M., CPPB, Procurement Administrator

Mayor Hiremath presented Brian Garrity, the Town's Procurement Manager, with the National Purchasing Institute (NPI) Achievment of Excellence in Procurement Award.

CONSENT AGENDA

A. Fiscal Year 2012/2013 Financial Update Through August 2012

Councilmember Zinkin inquired about the drop in Bed Taxes for the past two months.

Stacey Lemos, Finance Director, said it was the year-to-date cumulative revenue that was down by $12,000. Summer was the slow season for hotels and resorts and staff was confident that the revenues would ramp up after the holidays.

Councilmember Garner asked when a report would be available regarding the self-funded insurance fund?

Greg Caton, Town Manager, said a report would be provided to Council.

DRAFT

MOTION: A motion was made by Councilmember Zinkin and seconded by Vice Mayor Waters to approve Fiscal Year 2012/2013 Financial Update Through August 2012.

MOTION carried, 7-0.

REGULAR AGENDA

1. <u>BUILDING SAFETY BOARD OF APPEALS</u>

a. RESOLUTION NO. (R)12-57 DECLARING THE PROPOSED AMENDMENT TO CHAPTER 6, ARTICLE 6-9, ATTACHED HERETO AS EXHIBIT "A," AND FILED WITH THE TOWN CLERK, AS A PUBLIC RECORD

MOTION: A motion was made by Councilmember Snider and seconded by Councilmember Zinkin to adopt Resolution No. (R)12-57, declaring as a public record that this certain document of the Oro Valley Town Code, Chapter 6, Article 6-9, entitled Building Codes Board of Appeals, attached hereto as Exhibit "A," and filed with the Town Clerk, as a public record.

MOTION carried, 7-0.

b. PUBLIC HEARING - ORDINANCE NO. (O)12-17 AMENDING CHAPTER 6, ARTICLE 6-9 ENTITLED "BUILDING SAFETY BOARD OF APPEALS"

David Williams, Planning Manager, gave an overview of item #1b.

Mayor Hiremath opened the public hearing.

Donald Bristow, Oro Valley resident, spoke in opposition to the proposed ordinance.

Bill Adler, Oro Valley resident, spoke in opposition of the proposed ordinance.

Mayor Hiremath closed the public hearing.

Council discussed the proposed ordinance.

MOTION: A motion was made by Councilmember Hornat and seconded by Mayor Hiremath to deny Ordinance No. (O)12-17, amending Chapter 6, Article 6-9, and look for alternative procedures or change the Code.

MOTION carried, 7-0.

2. PUBLIC HEARING: ORDINANCE NO. (O)12-18, AMENDING ORO VALLEY TOWN CODE SECTION 3-5-4 (A), CONCEPTUAL DESIGN REVIEW BOARD MEMBERSHIP

DRAFT

Mr. Williams gave an overview of item #2.

Mayor Hiremath opened the public hearing.

Donald Bristow, Oro Valley resident, spoke in opposition to the ordinance.

Mayor Hiremath closed the public hearing.

Council discussed the proposed ordinance.

MOTION: A motion was made by Councilmember Zinkin and seconded by Vice Mayor Waters to adopt Ordinance No. (O)12-18, amending the Town Code Article 3-5-4, changing the size of the Conceptual Design Review Board (CDRB) from nine (9) members to seven (7) members.

MOTION carried, 7-0.

3. *TOHONO CHUL PARK PLANNED AREA DEVELOPMENT

a. ***~~RESOLUTION NO. (R)12-58, DECLARING THAT CERTAIN DOCUMENT KNOWN AS THE TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A" AND FILED WITH THE TOWN CLERK, A PUBLIC RECORD~~** (Removed from agenda on 10/11/12)

b. ***~~PUBLIC HEARING: ORDINANCE NO. (O)12-19, TOHONO CHUL PARK PLANNED AREA DEVELOPMENT FOR 48.5 ACRES LOCATED ON THE NORTHEAST CORNER OF INA ROAD AND PASEO DEL NORTE~~** (Removed from agenda on 10/11/12)

FUTURE AGENDA ITEMS

Councilmember Zinkin requested that a discussion regarding the make-up of the CDRB be added to the list of future agenda items. Councilmember Snider seconded his request.

CALL TO AUDIENCE

No one wished to address Council.

ADJOURNMENT

MOTION: A motion was made by Councilmember Snider and seconded by Vice Mayor Waters to adjourn at 6:54 p.m.

MOTION carried, 7-0.

Prepared by:

_____
Julie K. Bower, MMC
Town Clerk

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular session of the Town of Oro Valley Council of Oro Valley, Arizona held on the 17th day of October 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2012.

_____
Julie K. Bower, MMC
Town Clerk

DRAFT

Town Council Regular Session **Item # B.**

Meeting Date: 12/05/2012

Requested by: Stacey Lemos **Submitted By:** Wendy Gomez, Finance

Department: Finance

Information

SUBJECT:

Fiscal Year 2012/2013 Financial Update Through September 2012

RECOMMENDATION:

This item is for information only.

EXECUTIVE SUMMARY:

In the General Fund (please see attachment A), revenues collected through September totaled $6.2 million, or 23.1% of the budget amount of $26.7 million. Year to date expenditures through September totaled $5.7 million, or 21.8% of the budget amount of $26.3 million.

In the Highway Fund (please see attachment B), revenues collected through September totaled $791,693, or 23.7% of the budget amount of $3.3 million. Year to date expenditures through September totaled $513,775, or 14.0% of the budget amount of $3.7 million.

In the Bed Tax Fund (please see attachment C), revenues collected through September totaled $147,700, or 18.7% of the budget amount of $788,000. Year to date expenditures through September totaled $50,066, or 10.6% of the budget amount of $472,000.

BACKGROUND OR DETAILED INFORMATION:

Attachment A shows General Fund revenues and expenditures through September, as well as year-end estimates for each category. The estimated year-end projections in the General Fund are as follows:

Revenues	$26,781,294
Less:	
Expenditures	($25,938,221)
Less:	
Other Financing Uses	($ 868,577)
Est. Decrease in Fund Balance	($ 25,504)

General Fund Revenues

• License & Permit revenues are estimated to come in over budget by $111,635 due to higher than anticipated commercial permit revenues. The Other Intergovernmental category has been reduced by $50,737 in the Pima County Library District Reimbursement line item to account for the vacancy savings in the Library budget. The Library personnel budget has been reduced by the same amount. Staff will continue to monitor revenue collections and may adjust the year-end estimates based on actual trends.
• Local sales tax collections in the General Fund total $2,865,925, which is $336,988 or 13% more than

the amount collected in FY 11/12 through September. This increase is due to the utility tax increase that became effective in August 2011.
• State shared revenue collections total $2,200,134, which is $170,311, or 8.4% more than the amount collected in FY 11/12 through September.

Highway Fund Revenues

• Construction tax revenues in the Highway Fund totaled $93,272 through September, which is $14,530 or 18.5% more than the amount collected in FY 11/12 through September.
• State shared highway user funds totaled $603,492 through September, which is $41,213 or 7.4% more than the amount collected in FY 11/12 through September.

Bed Tax Revenues

• Bed tax revenues totaled $145,622 through September, which is $8,408 or 5.4% less than the amount collected in FY 11/12 through September.

General Fund Expenditures

• Expenditures are estimated to come in under budget by $326,770 or 1.2%, due to projected vacancy savings. Please note that vacancy savings are estimates and are subject to change.

Highway Fund Expenditures

• Expenditures are estimated to come in under budget by $19,783 or 0.5%, due to projected vacancy savings.

Bed Tax Fund Expenditures

• Expenditures are estimated to come in under budget by $74,752 or 15.8%, due to projected vacancy savings and the discontinued contract payment to TREO.

Please see Attachments A, B, and C for additional detail on the General Fund, Highway Fund and Bed Tax Fund. See Attachment D for estimated vacancy savings, and Attachment E for a fiscal year-to-date consolidated summary of all Town Funds .

FISCAL IMPACT:
N/A

SUGGESTED MOTION:
N/A

Attachments

Attachment A General Fund
Attachment B Highway Fund
Attachment C Bed Tax Fund
Attachment D Vacancy Savings Report
Attachment E Consolidated Fund Summary

ATTACHMENT A

September YTD Financial Status

FY 2012/2013

General Fund

% Budget Completion through September --- 25%

	Actuals thru 09/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
REVENUES:						
LOCAL SALES TAX	2,865,925	12,327,995	23.2%	12,327,995	-	0.0%
LICENSES & PERMITS	402,052	936,469	42.9%	1,048,104	111,635	11.9%
FEDERAL GRANTS	132,598	983,000	13.5%	983,000	-	0.0%
STATE GRANTS	113,742	1,014,042	11.2%	1,023,373	9,331	0.9%
STATE/COUNTY SHARED	2,200,134	9,175,117	24.0%	9,175,117	-	0.0%
OTHER INTERGOVERNMENTAL	-	613,413	0.0%	562,676	(50,737)	-8.3%
CHARGES FOR SERVICES	332,855	1,217,556	27.3%	1,230,159	12,603	1.0%
FINES	43,560	190,000	22.9%	190,000	-	0.0%
INTEREST INCOME	32,563	89,000	36.6%	89,000	-	0.0%
MISCELLANEOUS	28,237	134,000	21.1%	151,869	17,869	13.3%
TOTAL REVENUES	**6,151,665**	**26,680,592**	**23.1%**	**26,781,294**	**100,702**	**0.4%**

	Actuals thru 09/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
EXPENDITURES:						
COUNCIL	85,223	224,618	37.9%	224,618	-	0.0%
CLERK	73,356	322,779	22.7%	321,989	(790)	-0.2%
MANAGER	133,974	728,645	18.4%	638,568	(90,077)	-12.4%
HUMAN RESOURCES	93,247	496,156	18.8%	464,107	(32,049)	-6.5%
FINANCE	173,777	744,111	23.4%	735,131	(8,980)	-1.2%
INFORMATION TECHNOLOGY	344,077	1,213,633	28.4%	1,213,633	-	0.0%
GENERAL ADMINISTRATION	330,018	1,859,094	17.8%	1,859,094	-	0.0%
LEGAL	167,480	816,559	20.5%	768,813	(47,746)	-5.8%
COURT	157,034	757,629	20.7%	726,527	(31,102)	-4.1%
DEV & INFRASTRUCTURE SVCS	727,801	3,803,751	19.1%	3,779,448	(24,303)	-0.6%
PARKS, REC, LIBRARY, & CULT RSCS	608,353	2,630,112	23.1%	2,572,640	(57,472)	-2.2%
POLICE	2,835,054	12,667,904	22.4%	12,633,653	(34,251)	-0.3%
TOTAL EXPENDITURES	**5,729,392**	**26,264,991**	**21.8%**	**25,938,221**	**(326,770)**	**-1.2%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**422,273**	**415,601**		**843,073**	**427,472**	
TRANSFERS IN						
Bed Tax Fund - Gen Fund Allocation	-	176,747	0.0%	176,747	-	0.0%
TRANSFERS OUT						
Aquatic Center Project Fund	(910,000)	(910,000)	100.0%	(910,000)	-	0.0%
Debt Service Fund	-	(135,324)	0.0%	(135,324)	-	0.0%
TOTAL OTHER FINANCING SOURCES (USES)	**(910,000)**	**(868,577)**	**104.8%**	**(868,577)**	**-**	**0.0%**
CHANGE IN FUND BALANCE	**(487,727)**	**(452,976)**		**(25,504)**	**427,472**	
BEGINNING FUND BALANCE						
Assigned - Comp. Absences & Unemploy Resrv		*1,608,035*		*1,608,035*	-	
Unassigned		*9,793,614*		*9,793,614*	-	
TOTAL BEGINNING FUND BALANCE		***11,401,649***		***11,401,649***	**-**	
ENDING FUND BALANCE **						
Assigned - Comp. Absences & Unemploy Resrv		*1,608,035*		*1,608,035*	-	
Unassigned		*9,340,638*		*9,768,110*	*427,472*	
TOTAL ENDING FUND BALANCE **		***10,948,673***		***11,376,145***	***427,472***	

* Year-end estimates are subject to further revision

** Ending Fund balance amounts are estimates and are subject to further revision

Highway Fund

% Budget Completion through September --- 25%

	Actuals thru 09/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
REVENUES:						
LOCAL SALES TAX	93,272	316,890	29.4%	316,890	-	0.0%
LICENSES & PERMITS	20,181	43,000	46.9%	47,475	4,475	10.4%
STATE GRANTS	8,395	260,000	3.2%	260,000	-	0.0%
STATE/COUNTY SHARED	603,492	2,480,005	24.3%	2,480,005	-	0.0%
CHARGES FOR SERVICES	57,373	229,493	25.0%	229,493	-	0.0%
INTEREST INCOME	1,906	7,000	27.2%	7,000	-	0.0%
MISCELLANEOUS	7,073	10,000	70.7%	15,014	5,014	50.1%
TOTAL REVENUES	**791,693**	**3,346,388**	**23.7%**	**3,355,877**	**9,489**	**0.3%**

	Actuals thru 09/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
EXPENDITURES:						
ADMINISTRATION	137,811	621,498	22.2%	621,498	-	0.0%
TRANSPORTATION ENGINEERING	124,950	1,616,873	7.7%	1,616,873	-	0.0%
PAVEMENT MANAGEMENT	22,133	102,051	21.7%	102,051	-	0.0%
STREET MAINTENANCE	131,029	784,005	16.7%	764,222	(19,783)	-2.5%
TRAFFIC ENGINEERING	97,852	545,402	17.9%	545,402	-	0.0%
TOTAL EXPENDITURES	**513,775**	**3,669,829**	**14.0%**	**3,650,046**	**(19,783)**	**-0.5%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**277,917**	**(323,441)**		**(294,169)**	**29,272**	
TRANSFERS IN	-	-	0.0%	-	-	0.0%
TRANSFERS OUT						
TOTAL OTHER FINANCING SOURCES (USES)	**-**	**-**	**0.0%**	**-**	**-**	**0.0%**
CHANGE IN FUND BALANCE	**277,917**	**(323,441)**		**(294,169)**	**29,272**	
BEGINNING FUND BALANCE						
Restricted		*3,017,431*		*3,017,431*	*-*	
TOTAL BEGINNING FUND BALANCE		***3,017,431***		***3,017,431***	***-***	
ENDING FUND BALANCE **						
Restricted		*2,693,990*		*2,723,262*	*29,272*	
TOTAL ENDING FUND BALANCE **		***2,693,990***		***2,723,262***	***29,272***	

* Year-end estimates are subject to further revision
** Ending Fund balance amounts are estimates and are subject to further revision

September YTD Financial Status

FY 2012/2013

Bed Tax Fund

% Budget Completion through September --- 25%

	Actuals thru 09/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
REVENUES:						
BED TAXES	145,622	782,283	18.6%	782,283	-	0.0%
INTEREST INCOME	2,078	5,700	36.5%	5,700	-	0.0%
TOTAL REVENUES	**147,700**	**787,983**	**18.7%**	**787,983**	**-**	**0.0%**

	Actuals thru 09/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
EXPENDITURES:						
ECONOMIC DEVELOPMENT	50,066	471,662	10.6%	396,910	(74,752)	-15.8%
TOTAL EXPENDITURES	**50,066**	**471,662**	**10.6%**	**396,910**	**(74,752)**	**-15.8%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**97,634**	**316,321**		**391,073**	**74,752**	
TRANSFERS IN						
TRANSFERS OUT						
General Fund/Debt Svc Transfer	-	(194,810)	0.0%	(194,810)	-	0.0%
Aquatics Center Project Fund	(300,000)	(300,000)	100.0%	(300,000)	-	0.0%
TOTAL OTHER FINANCING SOURCES (USES)	**(300,000)**	**(494,810)**	**60.6%**	**(494,810)**	**-**	**0.0%**
CHANGE IN FUND BALANCE	**(202,366)**	**(178,489)**		**(103,737)**	**74,752**	
BEGINNING FUND BALANCE						
Committed		*622,918*		*622,918*	*-*	
TOTAL BEGINNING FUND BALANCE		***622,918***		***622,918***	***-***	
ENDING FUND BALANCE **						
Committed		*444,429*		*519,181*	*74,752*	
TOTAL ENDING FUND BALANCE **		***444,429***		***519,181***	***74,752***	

* Year-end estimates are subject to further revision
** Ending Fund balance amounts are estimates and are subject to further revision

ATTACHMENT D

FY 12/13 Town Vacancy Report as of September 30, 2012		
Fund	**Vacant FTEs**	**Estimated FY 12/13 Savings**
General Fund	4.00	326,818
Highway Fund	0.00	19,783
Bed Tax Fund	0.00	33,741
Water Utility Fund	0.00	-
Stormwater Utility Fund	0.00	-

CONSOLIDATED YEAR-TO-DATE FINANCIAL REPORT THROUGH SEPTEMBER, 2012

ATTACHMENT E

Fund	Actual FY 12/13 Begin Bal.	Revenue	Other Fin Sources/Tfrs	Total In	Capital Leases/ Transfer Out	Personnel	O&M	Capital	Contingency	Debt Service	Total Out	Left in Accounts Thru Sept 2012
General Fund - Unassigned	9,793,614	6,151,665	-	6,151,665	919,177	4,371,980	1,092,142	247,136	8,957	-	6,639,392	9,305,887
General Fund - Assigned	1,608,035											1,608,035
Highway Fund - Restricted	3,017,431	791,693	-	791,693	-	398,934	114,749	93	-	-	513,775	3,295,348
Seizure & Forfeiture - State	464,183	25,719	-	25,719	-	-	9,508	-	-	-	9,508	480,394
Seizure & Forfeiture - Justice	593,904	2,054	-	2,054	-	-	3,987	-	-	-	3,987	591,971
Bed Tax Fund - Committed	622,918	147,700	-	147,700	300,000	41,668	8,398	-	-	-	350,066	420,552
Impound Fee Fund	-	10,950	-	10,950	-	10,920	-	-	-	-	10,920	30
Municipal Debt Service Fund	1,164,733	32,944	-	32,944	-	-	1,800	-	-	477,045	478,845	718,831
Oracle Road Debt Service Fund	3,592	870	-	870	-	-	-	-	-	-	-	4,462
Alternative Water Resources Dev Impact Fee Fund	1,735,163	842,924	-	842,924	-	-	16,944	-	-	-	16,944	2,561,143
Potable Water System Dev Impact Fee Fund	3,379,205	158,793	-	158,793	-	-	-	-	-	-	-	3,537,998
Townwide Roadway Development Impact Fee Fund	2,228,996	443,376	-	443,376	-	-	-	724,570	-	-	724,570	1,947,802
Parks & Recreation Impact Fee Fund	112,053	33,331	-	33,331	-	-	-	90,099	-	-	90,099	55,284
Library Impact Fee Fund	110,192	2,559	-	2,559	-	-	-	-	-	-	-	112,751
Police Impact Fee Fund	102,329	24,656	-	24,656	-	-	-	60,443	-	-	60,443	66,541
General Government Impact Fee Fund	119,993	5,319	-	5,319	-	-	-	-	619	-	619	124,693
Naranja Park Fund	258,821	-	-	-	250,000	-	-	-	-	-	250,000	8,821
Aquatic Center Project Fund	3,122,332	6,354	1,460,000	1,466,354	-	-	98	1,558,985	-	-	1,559,082	3,029,604
Benefit Self Insurance Fund	-	520,118	-	520,118	-	-	320,257	-	-	-	320,257	199,862
Recreation In-Lieu Fee Fund	155,830	-	-	-	-	-	-	9,682	-	-	9,682	146,148
Water Utility	10,002,917	2,560,656	-	2,560,656	-	577,553	1,209,656	635,337	-	-	2,422,547	10,141,027
Stormwater Utility	539,948	111,853	-	111,853	95,512	64,093	120,991	26,563	-	-	307,160	344,641
Fleet Maintenance Fund	-	159,697	-	159,697	-	18,235	127,599	-	-	-	145,834	13,863
Total	**39,136,190**	**12,033,230**	**1,460,000**	**13,493,230**	**1,564,689**	**5,483,384**	**3,026,129**	**3,352,908**	**9,576**	**477,045**	**13,913,732**	**38,715,687**

Town Council Regular Session **Item # C.**

Meeting Date: 12/05/2012

Requested by: Stacey Lemos **Submitted By:** Wendy Gomez, Finance

Department: Finance

Information

SUBJECT:

Fiscal Year 2012/2013 Financial Update Through October 2012

RECOMMENDATION:

N/A

EXECUTIVE SUMMARY:

In the General Fund (please see attachment A), revenues collected through October totaled $8.3 million, or 31.2% of the budget amount of $26.7 million. Year to date expenditures through October totaled $7.8 million, or 29.6% of the budget amount of $26.3 million.

In the Highway Fund (please see attachment B), revenues collected through October totaled $1.1 million, or 33.4% of the budget amount of $3.3 million. Year to date expenditures through October totaled $696,652, or 19.0% of the budget amount of $3.7 million.

In the Bed Tax Fund (please see attachment C), revenues collected through October totaled $194,852, or 24.7% of the budget amount of $788,000. Year to date expenditures through October totaled $89,337, or 18.9% of the budget amount of $472,000.

BACKGROUND OR DETAILED INFORMATION:

Attachment A shows General Fund revenues and expenditures through October, as well as year-end estimates for each category. The estimated year-end projections in the General Fund are as follows:

Revenues	$26,810,139
Less:	
Expenditures	($25,938,221)
Less:	
Other Financing Uses	($ 868,577)
Est. Increase in Fund Balance	$ 3,341

General Fund Revenues

• License and Permit revenues are estimated to come in over budget by $134,640 due to higher than anticipated commercial permit revenues. The Other Intergovernmental category has been reduced by $50,737 in the Pima County Library District Reimbursement line item to account for the vacancy savings in the Library budget. The Library personnel budget has been reduced by the same amount. Staff will continue to monitor revenue collections and may adjust the year-end estimates based on actual trends.
• Local sales tax collections in the General Fund total $3,830,987, which is $357,338 or 10% more than

the amount collected in FY 11/12 through October. This increase is due largely to the utility tax increase that became effective in August 2011.
• State shared revenue collections total $2,930,542, which is $236,011, or 9% more than the amount collected in FY 11/12 through October.

Highway Fund Revenues

• Construction tax revenues in the Highway Fund totaled $136,892 through October, which is $35,400 or 35% more than the amount collected in FY 11/12 through October.
• State shared highway user funds totaled $810,917 through October, which is $59,587 or 8% more than the amount collected in FY 11/12 through October.

Bed Tax Revenues

• Bed tax revenues totaled $192,774 through October, which is $4,036 or 2% less than the amount collected in FY 11/12 through October.

General Fund Expenditures

• Expenditures are estimated to come in under budget by $326,770 or 1.2%, due to projected vacancy savings. Please note that vacancy savings are estimates and are subject to change.

Highway Fund Expenditures

• Expenditures are estimated to come in under budget by $19,783 or 0.5%, due to projected vacancy savings.

Bed Tax Fund Expenditures

• Expenditures are estimated to come in under budget by $74,752 or 15.8%, due to projected vacancy savings and the discontinued contract payment to TREO.

Please see Attachments A, B, and C for additional detail on the General Fund, Highway Fund and Bed Tax Fund. See Attachment D for estimated vacancy savings, and Attachment E for a fiscal year-to-date consolidated summary of all Town Funds .

FISCAL IMPACT:
N/A

SUGGESTED MOTION:
N/A

Attachments

Attachment A - General Fund
Attachment B - Highway Fund
Attachment C - Bed Tax Fund
Attachment D - Vacancy Report
Attachment E - Consolidated Fund Summary

ATTACHMENT A

October YTD Financial Status

FY 2012/2013

General Fund

% Budget Completion through October --- 33.3%

	Actuals thru 10/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
REVENUES:						
LOCAL SALES TAX	3,830,987	12,327,995	31.1%	12,327,995	-	0.0%
LICENSES & PERMITS	545,884	936,469	58.3%	1,071,109	134,640	14.4%
FEDERAL GRANTS	165,486	983,000	16.8%	983,000	-	0.0%
STATE GRANTS	262,977	1,014,042	25.9%	1,028,968	14,926	1.5%
STATE/COUNTY SHARED	2,930,542	9,175,117	31.9%	9,175,117	-	0.0%
OTHER INTERGOVERNMENTAL	-	613,413	0.0%	562,676	(50,737)	-8.3%
CHARGES FOR SERVICES	449,219	1,217,556	36.9%	1,230,159	12,603	1.0%
FINES	58,942	190,000	31.0%	190,000	-	0.0%
INTEREST INCOME	32,563	89,000	36.6%	89,000	-	0.0%
MISCELLANEOUS	49,019	134,000	36.6%	152,115	18,115	13.5%
TOTAL REVENUES	**8,325,619**	**26,680,592**	**31.2%**	**26,810,139**	**129,547**	**0.5%**

	Actuals thru 10/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
EXPENDITURES:						
COUNCIL	96,823	224,618	43.1%	224,618	-	0.0%
CLERK	102,798	322,779	31.8%	321,989	(790)	-0.2%
MANAGER	187,370	728,645	25.7%	638,568	(90,077)	-12.4%
HUMAN RESOURCES	126,994	496,156	25.6%	464,107	(32,049)	-6.5%
FINANCE	223,081	744,111	30.0%	735,131	(8,980)	-1.2%
INFORMATION TECHNOLOGY	550,247	1,213,633	45.3%	1,213,633	-	0.0%
GENERAL ADMINISTRATION	440,203	1,859,094	23.7%	1,859,094	-	0.0%
LEGAL	221,795	816,559	27.2%	768,813	(47,746)	-5.8%
COURT	208,549	757,629	27.5%	726,527	(31,102)	-4.1%
DEV & INFRASTRUCTURE SVCS	987,710	3,803,751	26.0%	3,779,448	(24,303)	-0.6%
PARKS, REC, LIBRARY, & CULT RSCS	804,285	2,630,112	30.6%	2,572,640	(57,472)	-2.2%
POLICE	3,832,564	12,667,904	30.3%	12,633,653	(34,251)	-0.3%
TOTAL EXPENDITURES	**7,782,418**	**26,264,991**	**29.6%**	**25,938,221**	**(326,770)**	**-1.2%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**543,201**	**415,601**		**871,918**	**456,317**	
TRANSFERS IN						
Bed Tax Fund - Gen Fund Allocation	-	176,747	0.0%	176,747	-	0.0%
TRANSFERS OUT						
Aquatic Center Project Fund	(910,000)	(910,000)	100.0%	(910,000)	-	0.0%
Debt Service Fund	-	(135,324)	0.0%	(135,324)	-	0.0%
TOTAL OTHER FINANCING SOURCES (USES)	**(910,000)**	**(868,577)**	**104.8%**	**(868,577)**	**-**	**0.0%**
CHANGE IN FUND BALANCE	**(366,799)**	**(452,976)**		**3,341**	**456,317**	
BEGINNING FUND BALANCE						
Assigned - Comp. Absences & Unemploy Resrv		*1,608,035*		*1,608,035*	-	
Unassigned		*9,793,614*		*9,793,614*	-	
TOTAL BEGINNING FUND BALANCE		***11,401,649***		***11,401,649***	**-**	
ENDING FUND BALANCE **						
Assigned - Comp. Absences & Unemploy Resrv		*1,608,035*		*1,608,035*	-	
Unassigned		*9,340,638*		*9,796,955*	*456,317*	
TOTAL ENDING FUND BALANCE **		***10,948,673***		***11,404,990***	***456,317***	

* Year-end estimates are subject to further revision

** Ending Fund balance amounts are estimates and are subject to further revision

ATTACHMENT B

October YTD Financial Status

FY 2012/2013

Highway Fund

% Budget Completion through October --- 33.3%

	Actuals thru 10/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
REVENUES:						
LOCAL SALES TAX	136,892	316,890	43.2%	316,890	-	0.0%
LICENSES & PERMITS	28,100	43,000	65.3%	47,475	4,475	10.4%
STATE GRANTS	54,532	260,000	21.0%	260,000	-	0.0%
STATE/COUNTY SHARED	810,917	2,480,005	32.7%	2,480,005	-	0.0%
CHARGES FOR SERVICES	76,498	229,493	33.3%	229,493	-	0.0%
INTEREST INCOME	1,906	7,000	27.2%	7,000	-	0.0%
MISCELLANEOUS	8,501	10,000	85.0%	15,014	5,014	50.1%
TOTAL REVENUES	**1,117,346**	**3,346,388**	**33.4%**	**3,355,877**	**9,489**	**0.3%**

	Actuals thru 10/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
EXPENDITURES:						
ADMINISTRATION	184,704	621,498	29.7%	621,498	-	0.0%
TRANSPORTATION ENGINEERING	169,075	1,616,873	10.5%	1,616,873	-	0.0%
PAVEMENT MANAGEMENT	30,665	102,051	30.0%	102,051	-	0.0%
STREET MAINTENANCE	183,282	784,005	23.4%	764,222	(19,783)	-2.5%
TRAFFIC ENGINEERING	128,926	545,402	23.6%	545,402	-	0.0%
TOTAL EXPENDITURES	**696,652**	**3,669,829**	**19.0%**	**3,650,046**	**(19,783)**	**-0.5%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**420,694**	**(323,441)**		**(294,169)**	**29,272**	
TRANSFERS IN	-	-	0.0%	-	-	0.0%
TRANSFERS OUT						
TOTAL OTHER FINANCING SOURCES (USES)	**-**	**-**	**0.0%**	**-**	**-**	**0.0%**
CHANGE IN FUND BALANCE	**420,694**	**(323,441)**		**(294,169)**	**29,272**	
BEGINNING FUND BALANCE						
Restricted		*3,017,431*		*3,017,431*	*-*	
TOTAL BEGINNING FUND BALANCE		***3,017,431***		***3,017,431***	***-***	
ENDING FUND BALANCE **						
Restricted		*2,693,990*		*2,723,262*	*29,272*	
TOTAL ENDING FUND BALANCE **		***2,693,990***		***2,723,262***	***29,272***	

* Year-end estimates are subject to further revision
** Ending Fund balance amounts are estimates and are subject to further revision

October YTD Financial Status

FY 2012/2013

Bed Tax Fund

% Budget Completion through October --- 33.3%

	Actuals thru 10/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
REVENUES:						
BED TAXES	192,774	782,283	24.6%	782,283	-	0.0%
INTEREST INCOME	2,078	5,700	36.5%	5,700	-	0.0%
TOTAL REVENUES	**194,852**	**787,983**	**24.7%**	**787,983**	**-**	**0.0%**

	Actuals thru 10/2012	Budget	% Actuals to Budget	Year End Estimate *	YE $ Variance to Budget	YE % Variance to Budget
EXPENDITURES:						
ECONOMIC DEVELOPMENT	89,337	471,662	18.9%	396,910	(74,752)	-15.8%
TOTAL EXPENDITURES	**89,337**	**471,662**	**18.9%**	**396,910**	**(74,752)**	**-15.8%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**105,515**	**316,321**		**391,073**	**74,752**	
TRANSFERS IN						
TRANSFERS OUT						
General Fund/Debt Svc Transfer	-	(194,810)	0.0%	(194,810)	-	0.0%
Aquatics Center Project Fund	(300,000)	(300,000)	100.0%	(300,000)	-	0.0%
TOTAL OTHER FINANCING SOURCES (USES)	**(300,000)**	**(494,810)**	**60.6%**	**(494,810)**	**-**	**0.0%**
CHANGE IN FUND BALANCE	**(194,485)**	**(178,489)**		**(103,737)**	**74,752**	
BEGINNING FUND BALANCE						
Committed		*622,918*		*622,918*	*-*	
TOTAL BEGINNING FUND BALANCE		***622,918***		***622,918***	***-***	
ENDING FUND BALANCE **						
Committed		*444,429*		*519,181*	*74,752*	
TOTAL ENDING FUND BALANCE **		***444,429***		***519,181***	***74,752***	

* Year-end estimates are subject to further revision
** Ending Fund balance amounts are estimates and are subject to further revision

ATTACHMENT D

FY 12/13 Town Vacancy Report as of October 31, 2012		
Fund	**Vacant FTEs**	**Estimated FY 12/13 Savings**
General Fund	4.00	326,818
Highway Fund	0.00	19,783
Bed Tax Fund	0.00	33,741
Water Utility Fund	0.00	-
Stormwater Utility Fund	0.00	-

CONSOLIDATED YEAR-TO-DATE FINANCIAL REPORT THROUGH OCTOBER, 2012

ATTACHMENT E

Fund	Actual FY 12/13 Begin Bal.	Revenue	Other Fin Sources/Tfrs	Total In	Capital Leases/ Transfer Out	Personnel	O&M	Capital	Contingency	Debt Service	Total Out	Left in Accounts Thru Oct 2012
General Fund - Unassigned	9,793,614	8,325,619	-	8,325,619	919,177	5,903,528	1,553,602	307,010	9,100	-	8,692,418	9,426,815
General Fund - Assigned	1,608,035											1,608,035
Highway Fund - Restricted	3,017,431	1,117,346	-	1,117,346	-	547,222	149,337	93	-	-	696,652	3,438,125
Seizure & Forfeiture - State	464,183	25,719	-	25,719	-	406	12,055	24,930	-	-	37,391	452,511
Seizure & Forfeiture - Justice	593,904	2,054	-	2,054	-	811	3,987	8,002	-	-	12,801	583,158
Bed Tax Fund - Committed	622,918	194,852	-	194,852	300,000	57,370	31,967	-	-	-	389,337	428,433
Impound Fee Fund	-	13,050	-	13,050	-	14,591	-	-	-	-	14,591	(1,541)
Municipal Debt Service Fund	1,164,733	50,892	-	50,892	-	-	2,900	-	-	477,045	479,945	735,679
Oracle Road Debt Service Fund	3,592	870	-	870	-	-	-	-	-	-	-	4,462
Alternative Water Resources Dev Impact Fee Fund	1,735,163	1,227,238	-	1,227,238	-	-	16,944	1,857	-	-	18,801	2,943,600
Potable Water System Dev Impact Fee Fund	3,379,205	265,981	-	265,981	-	-	-	-	-	-	-	3,645,186
Townwide Roadway Development Impact Fee Fund	2,228,996	473,257	-	473,257	-	-	-	1,123,829	-	-	1,123,829	1,578,425
Parks & Recreation Impact Fee Fund	112,053	53,140	-	53,140	-	-	-	90,099	-	-	90,099	75,094
Library Impact Fee Fund	110,192	3,691	-	3,691	-	-	-	-	-	-	-	113,883
Police Impact Fee Fund	102,329	27,914	-	27,914	-	-	-	61,007	-	-	61,007	69,236
General Government Impact Fee Fund	119,993	5,694	-	5,694	-	-	-	-	774	-	774	124,914
Naranja Park Fund	258,821	-	-	-	250,000	-	-	-	-	-	250,000	8,821
Aquatic Center Project Fund	3,122,332	18,104	1,460,000	1,478,104	-	-	135	1,957,076	-	-	1,957,212	2,643,225
Water Utility	10,002,917	3,649,078	-	3,649,078	-	780,442	1,565,139	802,507	-	-	3,148,088	10,503,908
Stormwater Utility	539,948	197,315	-	197,315	95,512	85,757	159,775	26,563	-	-	367,607	369,655
Fleet Maintenance Fund	-	212,929	-	212,929	-	25,108	175,593	-	-	-	200,701	12,228
Benefit Self Insurance Fund	-	693,635	-	693,635	-	-	494,897	-	-	-	494,897	198,737
Recreation In-Lieu Fee Fund	155,830	-	-	-	-	-	-	103,764	-	-	103,764	52,066
Total	**39,136,190**	**16,558,380**	**1,460,000**	**18,018,380**	**1,564,689**	**7,415,235**	**4,166,332**	**4,506,738**	**9,874**	**477,045**	**18,139,913**	**39,014,656**

Town Council Regular Session **Item # D.**

Meeting Date: 12/05/2012

Requested by: Daniel G. Sharp **Submitted By:** Catherine Hendrix, Police Department

Information

SUBJECT:

Police Department Statistics - September 2012

Attachments

OVPD Stats 09-2012

Priority Calls 07-2012

Priority Calls 08-2012

ORO VALLEY POLICE DEPARTMENT POLICE ACTIVITY SUMMARY

2012	TOTAL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Total Calls	12522	1393	1281	1399	1395	1539	1323	1413	1430	1349			
Commercial Veh Enforcement	236	45	59	6	17	13	8	17	56	15			
Residential Burglaries****	49	7	1	6	6	7	7	5	5	5			
Non-Residential Burglaries****	11	1	2	1	1	2	0	0	2	2			
All Burglary Attempts****	9	0	1	1	0	1	0	2	2	2			
Thefts	410	52	40	54	52	48	39	38	41	46			
Vehicle Thefts****	25	3	3	2	1	8	4	2	2	0			
Recovered Stolen Vehicles****	8	1	1	2	0	0	1	0	3	0			
Attempted Vehicle Thefts****	4	0	3	0	1	0	0	0	0	0			
DUI	160	12	14	17	12	22	23	16	24	20			
Liquor Laws	22	0	2	4	5	4	2	2	2	1			
Drug Offenses	106	9	20	16	16	7	8	7	13	10			
Homicides	1	0	1	0	0	0	0	0	0	0			
Robbery	1	0	0	1	0	0	0	0	0	0			
Assault	94	11	11	8	5	21	11	7	8	12			
Total Arrests	1180	112	144	142	138	145	119	100	156	124			
Assigned Cases	528	60	59	66	35	62	53	65	65	63			
Alarms (Residential)	596	42	59	62	55	91	62	73	81	71			
Alarms (Business)	375	44	34	27	47	45	51	48	38	41			
K9 Searches	467	40	22	19	296	6	7	2	22	53			
First Aid Calls	1986	203	218	234	224	222	205	219	230	231			
Fatal Accidents***	2	1	0	0	1	0	0	0	0	0			
Accidents	343	40	38	41	47	33	27	45	37	35			
Citations (Traffic)**	2903	370	419	220	299	431	304	328	532	**			
Warnings	3696	417	431	271	401	463	333	446	467	467			
Repair Orders	311	51	39	21	41	53	35	16	30	25			
Public Assists*	1382	193	130	153	192	81	234	114	155	130			
Reserve Man Hours	327	0	0	0	0	28	73	72	81	73			
Dark House Checks*	14951	1431	1296	980	1201	1942	1718	2602	2180	1601			
Drug Task Force Arrest	18	3	2	0	0	2	1	1	4	5			
CVAP Dark House Cks	8467	437	349	297	480	1254	1096	1985	1469	1100			
CVAP Public Assists	748	89	63	76	65	75	183	64	71	62			
CVAP Total Hours	10935	1492.5	1142.5	1465	1303.5	1235	1018	1147.5	1102.5	1028.5			

Arrest totals updated 10/22/12. Drug Task Force Arrests adjusted 06/29/12. Some March citation counts adjusted.

** Total Includes CVAP. CVAP hours adjusted in July and again in August.*

*** Traffic data delayed 30 days due to data entry backlog*

**** As of 01/01/12, Fatal Accidents counted as a category separate of Accidents.*

***** As of August 2010, Burglary Attempts and Non-Residential Burglaries/Vehicle Theft Attempts and Stolen Vehicle Recoveries have been separated from total counts.*

Based on further investigation, actual classifications may change resulting in small variances of case counts. Arrest totals are subject to increase monthly.

	Jan-Sep 2010	Jan-Sep 2011	Jan-Sep 2012		September 2010	September 2011	September 2012
Total Calls	12941	12634	12522		1468	1397	1349
Commercial Veh Enforcement	136	222	236		57	37	15
Residential Burglaries	44	69	49		8	7	5
Non-Residential Burglaries****	15	15	11		0	2	2
All Burglary Attempts****	7	12	9		3	1	2
Thefts	483	447	410		64	54	46
Vehicle Thefts	21	22	25		1	0	0
Recovered Stolen Vehicles****	5	5	8		0	1	0
Attempted Vehicle Theft****	5	3	4		0	0	0
DUI	177	143	160		28	22	20
Liquor Laws	35	44	22		3	3	1
Drug Offenses	134	127	106		18	11	10
Homicides	0	1	1		0	0	0
Robbery	8	5	1		3	0	0
Assault	94	114	94		12	12	12
Total Arrests***	1532	1487	1180		168	171	124
Assigned Cases	557	600	528		67	50	63
Alarms (Residential)	674	619	596		66	63	71
Alarms (Business)	394	351	375		38	40	41
K9 Searches	214	220	467		35	35	53
First Aid Calls	1769	1892	1986		185	189	231
Fatal Accidents	1	0	2		1	0	0
Accidents***	365	369	343		50	33	35
Citations (Traffic)**	5065	3484	**		548	707	**
Warnings	5018	3736	3696		539	434	467
Repair Orders	1082	572	311		242	69	25
Public Assists*	1717	1346	1382		167	180	130
Reserve Man Hours	959	0	327		42	0	73
Dark House Checks*	12750	13002	14951		1735	1510	1601
Drug Task Force Arrest	91	57	18		5	2	5
CVAP Dark House Cks	8037	6898	8467		988	874	1100
CVAP Public Assists	672	496	748		40	61	62
CVAP Total Hours	12928.5	10289.5	10935		1205.5	1096.5	1028.5

** Totals include CVAP*

*** Traffic data delayed 30 days due to data entry backlog*

**** As of 01/01/12, Fatal Accidents counted as a category separate of Accidents.*

***** As of August 2010, Burglary Attempts and Non-Residential Burglaries/Vehicle Theft Attempts have and Stolen Vehicle Recoveries have been*

Drug Task Force Arrests adjusted 06/29/12

ORO VALLEY POLICE DEPARTMENT
MONTHLY BREAKDOWN OF CITATIONS BY VIOLATION

Citations 2012	TOTAL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
TOWN CODE	349	34	39	34	31	69	50	53	39				
TITLE 28 VIOLATIONS													
SIZE, WEIGHT, LOAD	2	0	0	1	0	0	0	0	1				
INSURANCE VIOLATION	642	85	84	45	72	94	76	78	108				
REGISTRATION VIOLATION	278	34	39	20	27	31	38	44	45				
DRIVERS LICENSE VIOLATION	240	20	37	16	27	44	28	28	40				
DUI	140	12	14	17	12	22	23	16	24				
RECKLESS/AGGRESSIVE DRIVING	7	2	2	1	0	1	1	0	0				
SPEEDING	1139	159	187	82	120	193	94	99	205				
LANE VIOLATIONS	122	16	15	7	16	18	13	15	22				
RED LIGHT	61	8	2	6	9	6	9	8	13				
STOP SIGN	32	2	7	0	2	3	1	5	12				
FAILURE TO YIELD	65	16	5	7	11	5	4	7	10				
SEATBELT VIOLATION	75	4	17	10	1	4	7	7	25				
CHILD RESTRAINT	3	0	0	1	2	0	0	0	0				
EQUIPMENT VIOLATIONS	22	1	2	0	5	1	1	2	10				
PARKING	5	0	1	1	0	0	0	2	1				
LITTERING	12	1	1	1	1	0	1	0	7				
OTHER CITATIONS	70	10	6	5	6	9	8	17	9				
Total Citations	2903	370	419	220	299	431	304	328	532				

Based on further investigation and updating of information, actual classifications may change resulting in small variances in counts.
Some March/April citation numbers adjusted

ORO VALLEY POLICE DEPARTMENT
September 2012

Priority 1		# of calls	%
Dispatch Time	< 1 minute	19	90%
	> 1 minute	2	10%
Travel Time	< 4 minutes	16	76%
	> 4 minutes	5	24%
Total Response Time			
	< 5 minutes	18	86%
	> 5 minutes	3	14%
Total Calls		21	

Average Overall Response Time 3:43

Priority 2		# of calls	%
Dispatch Time	< 2 minute	57	97%
	> 2 minute	2	3%
Travel Time	< 6 minutes	52	88%
	> 6 minutes	7	12%
Total Response Time			
	< 8 minutes	54	92%
	> 8 minutes	5	8%
Total Calls		59	

Average Overall Response Time 4:37

Priority 3		# of calls	%
Dispatch Time	< 5 minute	315	97%
	> 5 minute	9	3%
Travel Time	<10 minutes	295	91%
	>10 minutes	29	9%
Total Response Time			
	< 15 minutes	314	97%
	> 15 minutes	10	3%
Total Calls		324	

Average Overall Response Time 7:08

Priority 4		# of calls	%
Dispatch Time	< 10 minute	694	95%
	> 10 minute	34	5%
Travel Time	< 20 minutes	715	98%
	> 20 minutes	13	2%
Total Response Time			
	< 30 minutes	719	99%
	> 30 minutes	9	1%
Total Calls		728	

Average Overall Response Time 7:11

ORO VALLEY POLICE DEPARTMENT
July 2012

Priority 1		# of calls	%
Dispatch Time	< 1 minute	16	100%
	> 1 minute	0	0%
Travel Time	< 4 minutes	12	75%
	> 4 minutes	4	25%
Total Response Time			
	< 5 minutes	13	81%
	> 5 minutes	3	19%
Total Calls		16	

Average Overall Response Time 3:10

Priority 2		# of calls	%
Dispatch Time	< 2 minute	85	100%
	> 2 minute	0	0%
Travel Time	< 6 minutes	75	88%
	> 6 minutes	10	12%
Total Response Time			
	< 8 minutes	79	93%
	> 8 minutes	6	7%
Total Calls		85	

Average Overall Response Time 4:16

Priority 3		# of calls	%
Dispatch Time	< 5 minute	294	96%
	> 5 minute	11	4%
Travel Time	<10 minutes	282	92%
	>10 minutes	23	8%
Total Response Time			
	< 15 minutes	297	97%
	> 15 minutes	8	3%
Total Calls		305	

Average Overall Response Time 7:05

Priority 4		# of calls	%
Dispatch Time	< 10 minute	744	97%
	> 10 minute	20	3%
Travel Time	< 20 minutes	753	99%
	> 20 minutes	11	1%
Total Response Time			
	< 30 minutes	757	99%
	> 30 minutes	7	1%
Total Calls		764	

Average Overall Response Time 7:04

ORO VALLEY POLICE DEPARTMENT
August 2012

Priority 1		# of calls	%
Dispatch Time	< 1 minute	23	100%
	> 1 minute	0	0%
Travel Time	< 4 minutes	16	70%
	> 4 minutes	7	30%
Total Response Time			
	< 5 minutes	17	74%
	> 5 minutes	6	26%
Total Calls		23	

Average Overall Response Time 4:05

Priority 2		# of calls	%
Dispatch Time	< 2 minute	72	97%
	> 2 minute	2	3%
Travel Time	< 6 minutes	58	78%
	> 6 minutes	16	22%
Total Response Time			
	< 8 minutes	63	85%
	> 8 minutes	11	15%
Total Calls		74	

Average Overall Response Time 4:33

Priority 3		# of calls	%
Dispatch Time	< 5 minute	321	98%
	> 5 minute	6	2%
Travel Time	<10 minutes	300	92%
	>10 minutes	27	8%
Total Response Time			
	< 15 minutes	315	96%
	> 15 minutes	12	4%
Total Calls		327	

Average Overall Response Time 6:56

Priority 4		# of calls	%
Dispatch Time	< 10 minute	738	96%
	> 10 minute	30	4%
Travel Time	< 20 minutes	761	99%
	> 20 minutes	7	1%
Total Response Time			
	< 30 minutes	758	99%
	> 30 minutes	10	1%
Total Calls		768	

Average Overall Response Time 7:19

Town Council Regular Session **Item # E.**

Meeting Date: 12/05/2012

Requested by: Amanda Jacobs **Submitted By:** Amanda Jacobs, Town Manager's Office

Department: Town Manager's Office

Information

SUBJECT:

Greater Oro Valley Chamber of Commerce Quarterly Report: July 1, 2012 - September 30, 2012

RECOMMENDATION:

This report is for information only.

EXECUTIVE SUMMARY:

The 2012/13 Financial Participation Agreement (FPA) between the Town of Oro Valley and the Greater Oro Valley Chamber of Commerce (Chamber) stipulates that a quarterly report be compiled by the Chamber and submitted to the Economic Development division and the Town Council. The enclosed report satisfies the FPA requirement for the first quarter of FY 12/13.

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

The FY 12/13 FPA between the Town of Oro Valley and the Greater Oro Valley Chamber of Commerce is $25,000.

SUGGESTED MOTION:

This report is for information only.

Attachments

Chamber FPA

Chamber First Quarter Report

RESOLUTION NO. (R)12-26

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A FINANCIAL PARTICIPATION AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE GREATER ORO VALLEY CHAMBER OF COMMERCE

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, pursuant to A.R.S. § 9-500.11, the Town may appropriate public monies for and in connection with economic development activities as long as there is adequate consideration; and

WHEREAS, the Town desires to continue to promote a business environment in Oro Valley that enhances economic vitality and improves the quality of life for its residents; and

WHEREAS, the Town of Oro Valley desires to enter into a Financial Participation Agreement with the Greater Oro Valley Chamber of Commerce; and

WHEREAS, it is in the best interest of the Town to enter into the Financial Participation Agreement with the Greater Oro Valley Chamber of Commerce, attached hereto as Exhibit "A" and incorporated herein by this reference, to set forth the terms and conditions of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Oro Valley, Arizona, that:

SECTION 1. The Financial Participation Agreement between the Town of Oro Valley and the Greater Oro Valley Chamber of Commerce, attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby authorized and approved.

SECTION 2. The Mayor and other administrative officials are hereby authorized to take such steps as necessary to execute and implement the terms of the Agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona this 16th day of May, 2012.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

Julie K. Bower, Town Clerk

Date: 5/21/12

APPROVED AS TO FORM:

Tobin Rosen, Town Attorney

Date: 5/16/12

EXHIBIT "A"

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

THIS AGREEMENT is made and entered into this 14th day of June, 2012, by and between the Town of Oro Valley, a municipal corporation, hereinafter called the "Town" and the **Greater Oro Valley Chamber of Commerce,** a non-profit corporation, hereinafter called the "Agency".

WITNESSETH

WHEREAS, it has been determined that the activities of Agency are in the public interest, and are such as to improve and promote the public welfare of the Town; and

WHEREAS, the Mayor and Council have determined that to financially participate in the promotion of the activities of Agency is a public purpose in that the activities confer direct benefit of a general character to a significant part of the public.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto do mutually agree as follows:

Section 1: Statement of Purpose

Agency will provide tourism and visitor's services and information to Town residents and seasonal tourists and anyone indicating an interest in locating a business or residence in the Town.

Section 2: Services to be Performed by Agency

Agency performance measures for Fiscal Year 2012/13 are as follows:

1. Business Recruitment, Retention and Outreach
    a. The Chamber will continue to participate in the Town's Business Retention and Expansion (BR&E) Program, conducting at least two site visits per month.
    b. The Chamber will enhance the Town's existing Shop Oro Valley campaign by creating a Shop Oro Valley Coupon Book that will be distributed by the fourth quarter. The final draft of the Shop Oro Valley Coupon Book will be coordinated between the Chamber President/CEO and the Economic Development Manager.
    c. The Chamber will serve as a second distribution point for OV Dollars. The Chamber will have 5 new OV Dollars card activations each quarter.
    d. The Chamber shall work to assist the Town in emphasizing the importance of supporting local retailers/businesses through educational and promotional efforts and will display the following materials at the Chamber offices: Oro Valley Business Navigator, Shop Oro Valley Campaign and OV Dollars and other economic development related materials as deemed appropriate by the Chamber President/CEO and Economic Development Manager.
2. Special Events
    a. The Chamber will coordinate ribbon cuttings for new Oro Valley businesses.

b. The Chamber will host four quarterly Oro Valley educational forums that will be open to members and non-members.
c. During this Agreement, Town officials will attend Chamber breakfasts, luncheons and mixers free of charge as long as each official pre-registers for each event.
d. The Town will receive one complimentary table of 10 for the Annual Chamber meeting.
e. The Town will receive eight complimentary tables of 10 to the State of the Town of Oro Valley Address and Luncheon.
f. Annual Chamber membership dues to be paid by the Town shall be included as part of the monetary consideration of this Agreement.
g. During the term of this Agreement, the Agency will refrain from engaging in political activity relating to Town of Oro Valley elections, including but not limited to not endorsing any candidate for Mayor or Council member of the Town of Oro Valley.

Section 3: Services to be Provided by the Town

All funding is subject to the Town's budget appropriations. For this Agreement, up to Twenty-Five Thousand Dollars ($25,000) shall be allocated to Agency.

Section 4: Responsibility for Open Records

Agency agrees to open to the public all records relating to any funds directly received from the Town that Agency distributes to any organization and/or individual.

Section 5: Evaluation Criteria and Reporting

In order to assess the impact of Agency, the Town reserves the right to evaluate performance, and to have access to all pertinent information necessary to make evaluations.

A. Agency agrees to submit to the Town, through the Economic Development Division, quarterly reports addressing the progress of Agency in achieving its Program of Work. Reports shall be submitted within thirty (30) working days of the end of each calendar quarter.
B. Agency agrees to give explanations for any variance in the expected performance for each measure.
C. Agency agrees to give projected performance for each measure through the end of the fiscal year (June 30th).
D. Agency agrees to review and present such reports to the Town Council in open meetings on an "as requested" basis.

Section 6: Accountability

Agency shall maintain a true and accurate accounting system which meets generally accepted accounting principles, and which is capable of properly accounting for all expenditures and

receipts of Agency on a timely basis. In addition, Agency shall maintain evidence of its compliance with the nondiscrimination provisions of this Agreement.

Agency's accounting system shall permit separate, identifiable accounting for all funds provided by the Town pursuant to this Agreement.

Agency shall provide the Finance Department of the Town, within four (4) months after the close of Agency's fiscal year, a copy of the financial audit of Agency's operations by an independent certified public accountant, along with any management letter and, if applicable, Agency's plan for corrective action.

If Agency does not have an audit, it shall submit within three (3) months after the close of its fiscal year, a complete accounting of Town funds received. This accounting must be approved by the Finance Department of the Town as sufficiently descriptive and complete.

If for good reason Agency cannot meet the times established for submission of financial reporting, Agency shall notify the Finance Department in writing the reason for the delay, provide an expected completion date and request a waiver of the due date.

At any time during or after the period of this Agreement, the Town Finance Department and/or a Town agent may audit Agency's overall financial operation or compliance with the nondiscrimination clause of this Agreement for the Agreement period. Agency shall provide any financial reports, nondiscrimination policies and procedures or other documentation necessary to accomplish such audits.

Section 7: Matching Grants

Agency agrees to obtain Mayor and Council approval prior to applying for any matching grants involving the commitment of Town funds.

Section 8: Nondiscrimination

Agency, in its employment policies and practices, in its public accommodations and in its provision of services shall obey all relevant and applicable, federal, state, and local laws, regulations and standards relating to discriminations, biases, and/or limitations, including, but not limited to, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Arizona Civil Rights Act, the Arizonans with Disabilities Act, the Human Relations provisions of the Oro Valley Code, and the Mayor and Council policy adopted on September 25, 2000, prohibiting the direct or indirect grant of discretionary Town funds to organizations that have a policy of exclusionary discrimination on the basis of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status. See Administrative Guidance Re: Non-Discrimination Policy for Programs Funded by the Town of Oro Valley, attached and incorporated herein by this reference.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

Section 9: Sub-recipient Funding Agreements

Agency agrees to include in all of its sub-recipient funding agreements the nondiscrimination provisions contained in Section 8 herein.

Section 10: Term of Agreement

This Agreement shall be effective from July 1, 2012 through June 30, 2013. This Agreement may be extended at the sole option of the Town for additional fiscal year(s) only under the following conditions:

A. The Mayor and Council of the Town determine the services of Agency are in the public interest and allocate funds therefore; and
B. The parties mutually agree to a scope of services to be provided by Agency in any subsequent fiscal year.

Any extension of this Agreement shall be memorialized in writing and signed by the Parties.

Section 11: Payment Withholding, Reduction, or Termination

The Town may withhold whole or part of the scheduled payment, reduce, or terminate funding allocations to Agency if:

A. Services are not rendered.
B. Agency fails to supply information or reports as required.
C. Agency is not in compliance with agreed upon disbursement documentation and/or other project performance.
D. Agency fails to make required payments to subcontractors.
E. The Town has reasonable cause to believe Agency is not in compliance with the nondiscrimination clause of this Agreement.
F. The Mayor and Council fail to appropriate all or part of the funds for this Agreement.

Such payment reductions or payment termination may result in Agency receiving a lesser total Town allocation under this Agreement than the maximum funding allocated. If reasons for withholding payments other non-appropriation of funds have been corrected to the satisfaction of the Town, any amounts due shall be processed.

The Town will be reimbursed for any funds expended for services not rendered. In addition, Agency shall return to the Town any Town funds provided pursuant to this Agreement that have not been expended by June 30, 2013.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

Section 12: Termination of Agreement

This Agreement may be terminated at any time by mutual written consent, or by either party giving thirty (30) days written notice to the other party or at such time, as in the opinion of the Town, Agency's performance hereunder is deemed unsatisfactory.

Section 13: Method of Payment

The parties have agreed that Agency will receive up to $25,000. Disbursement of funds by the Town is subject to the annual appropriation by the Town Council and the limitations of the state budget law. Payments shall be made on a quarterly basis commencing July 1, 2012. Payments are to be made within forty (40) days after the close of each preceding quarter.

Section 14: Indemnification

Agency agrees to indemnify, defend and save harmless the Town, its Mayor and Council, appointed boards, committees, and commissions, officers, employees, and insurance carriers, individually and collectively, from all losses, claims, suits, demands, expenses, subrogations, attorney's fees, or actions of any kind and nature resulting from personal injury to any person, including employees of Agency or of any subcontractor employed by Agency (including bodily injury and death); claims based upon discrimination and/or violation of civil rights; or damages to any property, arising or alleged to have arisen out of the work to be performed hereunder, except any such injury or damages arising out of the sole negligence of the Town, its officers, agents, or employees. Workers' Compensation insurance and/or self-insurance carried by the Town do not apply to employees or volunteers acting in any capacity for Agency.

Section 15: Independent Contractor

The parties stipulate and agree that Agency is not an employee of the Town and is performing its duties hereunder as an Independent Contractor, supplying its own employees and maintaining its own insurance, workers' compensation insurance and handling all of its own internal accounting. The Town in no way controls, directs or has any responsibility for the actions of Agency.

Section 16: Insurance

Agency agrees to:

A. Obtain insurance coverage of the types and amounts required in this Section and keep such insurance coverage in force throughout the life of this Agreement. All policies will contain an endorsement providing that written notice be given to the Town at least thirty (30) calendar days prior to termination, cancellation, or reduction in coverage in any policy.

B. The Comprehensive General Liability Insurance policy will include the Town as an additional insured with respect to liability arising out of the performance of this Agreement.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

C. Agency will provide and maintain minimum insurance limits as follows:

COVERAGE AFFORDED	LIMITS OF LIABILITY
1. Workers' Compensation	Statute
2. Employer's Liability	$100,000
3. Comprehensive General Liability Insurance -- Including: (1) Products and Completed Operations (2) Blanket Contractual	$1,000,000 - Bodily Injury and Combined Single Limit $100,000 Property Damage

D. Agency shall adequately insure itself against claims based upon unlawful discrimination and violation of civil rights. The cost of this insurance shall be borne by Agency.

Section 17. Use of the Town Logo

The Town Logo shall be used for the recognition of the Town's contribution to Agency only.

Section 18: Conflict of Interest

This Agreement is subject to the conflict of interest provisions of A.R.S. § 38-511, *et seq.*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

TOWN OF ORO VALLEY, a municipal corporation

Dr. Satish I. Hiremath, as Mayor
and not personally

ATTEST:

Julie K. Bower, as Town Clerk
and not personally

Date: 5/21/12

APPROVED AS TO FORM:

Tobin Rosen, as Town Attorney
and not personally

Date: 5/16/12

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

GREATER ORO VALLEY CHAMBER OF COMMERCE., a non-profit Corporation

David P. Perry
Agency Representative
and not personally

Title President / CEO

State of Arizona)
) ss.
County of)

On this 14th day of June, 2012, David Perry, known to me to be the person whose name is subscribed to the within instrument, personally appeared before me and acknowledged that he/she executed the same for the purposes contained.

Given under my hand and seal on June 14, 2012.

Notary

My Commission Expires: August 14, 2014

DONNA MCCUE
Notary Public - Arizona
Pima County
My Commission Expires
August 14, 2014

QUARTERLY PROGRESS REPORT
July 2012 through September 2012
Submitted To: Amanda Jacobs, Economic Development Manager
By: Dave Perry, President/CEO
In accordance with Resolution No. (R) 12-26

A. Tourism, Visitors Services and General Information

The Greater Oro Valley Chamber of Commerce has provided tourism and visitor's services and information to Town residents and seasonal tourists and anyone indicating an interest in locating a business or residence in the Town over the past three months. Below is data on activity that the Chamber has addressed through this quarter:

Category	Jul'2012	Aug'2012	Sep'2012	Total
1. Business Retention Site Visits	1	3	2	6
2. OV Dollars Distribution	1	0	4	5
3. Ribbon Cuttings	1	0	2	3
4. Chamber breakfasts, luncheons and mixers	1	7	5	13
5. Relocation Packages	25	18	3	46

1. The Chamber President attended Business Retention Site Visits with the following businesses: Fry's Food & Drug Store (N. Oracle Road and La Canada Drive), Arizona Beds, Sabino Artisan Chocolates, Vestar, and Oro Valley Hospital.

2. OV Dollars: The Chamber is responsible for activating and distributing 5 OV Dollars cards per quarter. This quarter the 5 cards sold totaled $170.00.

3. Ribbon Cuttings were held for b2 salon, Desert Springs and Meritage Homes.

4. 13 Town officials took advantage of the free Chamber breakfasts, luncheons and mixers.
   Total Return on Investment (ROI) = $155

   The Town received a complimentary table of 10 at the Annual Chamber Meeting.
   Total ROI = $300

   The Town received eight (8) complimentary tables of 10 to the State of the Town Address & Luncheon.
   Total ROI = $4,000.

   The State of the Town Address & Luncheon had record-breaking attendance with over 500 elected officials and business leaders present.

5. 46 relocation packages were distributed in the first quarter.
   Total ROI = $290

Additional Information

- The Chamber President was contacted by Desert Springs to help facilitate a sign code issue between the business and the Town. A resolution was reached between the Town and the business.
- The Chamber President/ was contacted by Mister Car Wash to help facilitate a sign code issue between the business and the Town. A resolution was reached between the Town and the business.
- The Chamber President was contacted by Paradise Bakery who expressed an interest in locating in Oro Valley.
- The Chamber's annual Map & Guide that serves as our relocation guide, membership directory and all-in one resource guide was distributed in September.

Town Council Regular Session **Item # F.**

Meeting Date: 12/05/2012

Requested by: Amanda Jacobs **Submitted By:** Amanda Jacobs, Town Manager's Office

Department: Town Manager's Office

Information

SUBJECT:

Metropolitan Tucson Convention and Visitors Bureau Quarterly Report: July 1, 2012 - September 30, 2012

RECOMMENDATION:

This report is for information only.

EXECUTIVE SUMMARY:

The 2012/13 Financial Participation Agreement (FPA) between the Town of Oro Valley and the Metropolitan Tucson Convention and Visitors Bureau (MTCVB) stipulates that a quarterly report be compiled by MTCVB and submitted to the Economic Development Division and Town Council. The enclosed report satisfies the FPA requirement for the first quarter of FY 12/13.

BACKGROUND OR DETAILED INFORMATION:

N/A

FISCAL IMPACT:

The FY 2012/13 FPA between the Town of Oro Valley and MTCVB is $74,970.

SUGGESTED MOTION:

N/A

Attachments

MTCVB FPA

MTCVB First Quarter Report

RESOLUTION NO. (R)12-37

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A FINANCIAL PARTICIPATION AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE METROPOLITAN TUCSON CONVENTION AND VISITORS BUREAU

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, pursuant to A.R.S. § 9-500.11, the Town may appropriate public monies for and in connection with economic development activities as long as there is adequate consideration; and

WHEREAS, the Town desires to continue to promote a business environment in Oro Valley that enhances economic vitality and improves the quality of life for its residents; and

WHEREAS, the Town of Oro Valley desires to enter into a Financial Participation Agreement with the Metropolitan Tucson Convention and Visitors Bureau (MTCVB); and

WHEREAS, it is in the best interest of the Town to enter into the Financial Participation Agreement with the MTCVB, attached hereto as Exhibit "A" and incorporated herein by this reference, to set forth the terms and conditions of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Oro Valley, Arizona, that:

SECTION 1. The Financial Participation Agreement between the Town of Oro Valley and the Metropolitan Tucson Convention and Visitors Bureau, attached hereto as Exhibit "A", is hereby authorized and approved.

SECTION 2. The Mayor and other administrative officials are hereby authorized to take such steps as necessary to execute and implement the terms of the Agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona this 20th day of June, 2012.

TOWN OF ORO VALLEY

Dr. Satish I. Hiremath, Mayor

ATTEST:

Julie K. Bower, Town Clerk

Date: 6/21/12

APPROVED AS TO FORM:

Tobin Rosen, Town Attorney

Date: 6/20/12

EXHIBIT "A"

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of July, 2012, by and between the Town of Oro Valley, a municipal corporation, hereinafter called the "Town" and the **Metropolitan Tucson Convention and Visitors Bureau**, a non-profit corporation, hereinafter called the "Agency".

WITNESSETH

WHEREAS, it has been determined that the activities of Agency are in the public interest, and are such as to improve and promote the public welfare of the Town; and

WHEREAS, the Mayor and Council have determined that to financially participate in the promotion of the activities of Agency is a public purpose in that the activities confer direct benefit of a general character to a significant part of the public.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto do mutually agree as follows:

Section 1. Definitions

A. Tour Operator – a person who arranges and/or organizes groups of people to travel together to a destination and who also organizes tour packages and advertises them for people to buy.

B. Travel Agent Impressions – the number of travel agents who would likely read a tour brochure which a tour operator produced to promote tours that he or she organized.

Section 2. Statement of Purpose

Agency will initiate, implement and administer a comprehensive sales promotion and advertising program to attract an increasing number of convention delegates and vacationing tourists to the Town, thereby providing revenues to the community through transient rental and sales taxes, and contributing to the overall economic growth and continued viability of the tourism and hospitality industry.

Section 3. Services to be Performed by Agency

Agency performance measures outlined below are for FY 2012-13 (July 1, 2012 – June 30, 2013). The performance measures for FY 2013-14 (July 1, 2013 – June 30, 2014) will be determined at the end of FY 2012-13. The performance measures for FY 2014-15 (July 1, 2014 – June 30, 2015) will be determined at the end of FY 2013-2014.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

Convention Sales

1. Generate 275 convention sales leads for Oro Valley properties.
2. Conduct 35 customer interaction/site inspections for Oro Valley properties.
3. Confirm 12 convention bookings for future dates for Oro Valley properties.
4. Confirm convention bookings for future dates resulting in 6,000 room nights for Oro Valley properties.

Convention Services

1. Service a minimum of 25 Oro Valley meetings and conventions.

Travel Industry Sales

1. Generate 35 domestic and international tour program leads and services for Oro Valley properties/venues.
2. Promote Oro Valley as one of the world's top leisure destinations to 500 targeted tour operator clients.
3. Generate a minimum of 600,000 tour operators and travel agent impressions via destination product offering in domestic and international tour operator catalogues.

Communications

1. Feature Oro Valley within the first 10 pages of the Official MTCVB Visit Guide
2. Reach a minimum of 750,000 readers/viewers through editorial placement.
3. Generate publicity with an equivalent advertising value of at least $20,000.00.

Marketing

1. Feature Oro Valley's Aquatic Facility in the online edition of the Sports Facility Guide
2. Generate no less than a total of 75,000 inquiries from high demographic customers in primary markets i.e. (Chicago, Los Angeles, New York) secondary markets (including Denver, San Diego, San Francisco) and Canada.
3. Generate a minimum of 1,250,000 unique visitors to the MTCVB website (www.visitTucson.org).
4. Generate 10,000 unique visitors to the Town of Oro Valley's and Oro Valley properties website (www.orovalleyaz.gov) from the MTCVB website (www.visitTucson.org).
5. Town officials may attend trade shows with MTCVB staff at the expense of the Town.

General Support

1. Consult with Town staff and officials on tourism sales and marketing initiatives, including, but not limited to, promoting Town venues to special event operators, Mexico marketing, leisure marketing and group sales initiatives.
2. One Town official will serve on the MTCVB Board of Directors.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

Section 4. Services to be Provided by the Town

All funding is subject to the Town's budget appropriations. For this Agreement, up to Seventy Four Thousand Nine Hundred Seventy Dollars ($74,970) shall be allocated to Agency.

Section 5. Responsibility for Open Records

Agency agrees to open to the public all records relating to any funds directly received from the Town that Agency distributes to any organization and/or individual.

Section 6. Evaluation Criteria and Reporting

A. Agency agrees to submit to the Town, through the Economic Development Division, quarterly reports addressing the progress of the Agency in achieving its performance measures listed in Section 2. Reports shall be submitted to the Economic Development Manager within thirty (30) working days of the end of the calendar quarter.

B. Agency agrees to review and present such quarterly reports to the Town Council in open meetings on an "as requested" basis.

Section 7. Accountability

Agency shall maintain a true and accurate accounting system which meets generally accepted accounting principles, and which is capable of properly accounting for all expenditures and receipts of Agency on a timely basis. In addition, Agency shall maintain evidence of its compliance with the nondiscrimination provisions of this Agreement.

Agency shall provide the Finance Department of the Town, 15 days after MTCVB Board approval, a copy of the financial audit of Agency's operations by an independent certified public accountant, along with any management letter and, if applicable, Agency's plan for corrective action.

At any time during or after the period of this Agreement, the Town Finance Department and/or a Town agent may audit Agency's overall financial operation or compliance with the nondiscrimination clause of this Agreement for the Agreement period. Agency shall provide any financial reports, nondiscrimination policies and procedures or other documentation necessary to accomplish such audits.

Section 8. Matching Grants

Agency agrees to obtain Mayor and Council approval prior to applying for any matching grants involving the commitment of Town funds.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

Section 9. Nondiscrimination

Agency, in its employment policies and practices, in its public accommodations and in its provision of services shall obey all relevant and applicable, federal, state, and local laws, regulations and standards relating to discriminations, biases, and/or limitations, including, but not limited to, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Arizona Civil Rights Act, the Arizonans with Disabilities Act, the Human Relations provisions of the Oro Valley Code, and the Mayor and Council policy adopted on September 25, 2000, prohibiting the direct or indirect grant of discretionary Town funds to organizations that have a policy of exclusionary discrimination on the basis of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status or marital status. See Administrative Guidance Re: Non-Discrimination Policy for Programs Funded by the Town of Oro Valley, attached and incorporated herein by this reference.

Section 10. Sub-recipient Funding Agreements

Agency agrees to include in all of its sub-recipient funding agreements the nondiscrimination provisions contained in Section 8 herein.

Section 11. Term of Agreement

This Agreement between parties as described above shall be effective from July 1, 2012 through June 30, 2015.

A. The Mayor and Council of the Town determine the services of Agency are in the public interest and allocate funds therefore; and
B. The parties mutually agree to a scope of services to be provided by Agency in any subsequent fiscal year.

At the end of the third fiscal year referred to above, the provisions of this agreement will be subject to review and renegotiations by the Town and the Bureau.

Section 12. Payment Withholding, Reduction, or Termination

The Town may withhold whole or part of the scheduled payment, reduce, or terminate funding allocations to Agency if:

A. Services are not rendered.
B. Agency fails to supply information or reports as required.
C. Agency is not in compliance with agreed upon disbursement documentation and/or other project performance.
D. Agency fails to make required payments to subcontractors.
E. The Town has reasonable cause to believe Agency is not in compliance with the nondiscrimination clause of this Agreement.

F. The Mayor and Council fail to appropriate all or part of the funds for this Agreement.

Such payment reductions or payment termination may result in Agency receiving a lesser total Town allocation under this Agreement than the maximum funding allocated. If reasons for withholding payments other than non-appropriation of funds have been corrected to the satisfaction of the Town, any amounts due shall be processed.

The Town will be reimbursed for any funds expended for services not rendered. In addition, Agency shall return to the Town any Town funds provided pursuant to this Agreement that have not been expended by June 30, 2015.

Section 13. Termination of Agreement

This Agreement may be terminated at any time by mutual written consent, or by either party giving thirty (30) days written notice to the other party or at such time, as in the opinion of the Town, Agency's performance hereunder is deemed unsatisfactory.

Section 14. Method of Payment

A. The parties have agreed that Agency will receive from the Town an amount not to exceed $74,970 for FY2012-13. The Agency will receive an amount not to exceed $120,000 for FY2013-14 and an amount not to exceed $175,000 for FY2014-15. Disbursement of funds by the Town is subject to the annual appropriation by the Town Council and the limitations of the state budget law. Payments shall be made on a quarterly basis commencing July 1, 2012. Payments are to be made within forty (40) days after the close of each preceding quarter.

B. It shall be the responsibility of the Agency to obtain funding from sources other than the Town. Financial participation agreements with other governments and government agencies, grants, donations, memberships and any other sources of funding as may become available from time to time shall be included as part of the annual budget submission.

Section 15. Indemnification

Agency agrees to indemnify, defend and save harmless the Town, its Mayor and Council, appointed boards, committees, and commissions, officers, employees, and insurance carriers, individually and collectively, from all losses, claims, suits, demands, expenses, subrogations, attorney's fees, or actions of any kind and nature resulting from personal injury to any person, including employees of Agency or of any subcontractor employed by Agency (including bodily injury and death); claims based upon discrimination and/or violation of civil rights; or damages to any property, arising or alleged to have arisen out of the work to be performed hereunder, except any such injury or damages arising out of the sole negligence of the Town, its officers, agents, or employees. Workers' Compensation insurance and/or self-insurance carried by the Town do not apply to employees or volunteers acting in any capacity for Agency.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

Section 16. Insurance

Agency agrees to:

A. Obtain insurance coverage of the types and amounts required in this Section and keep such insurance coverage in force throughout the life of this Agreement. All policies will contain an endorsement providing that written notice be given to the Town at least thirty (30) calendar days prior to termination, cancellation, or reduction in coverage in any policy.

B. The Comprehensive General Liability Insurance policy will include the Town as an additional insured with respect to liability arising out of the performance of this Agreement.

C. Agency will provide and maintain minimum insurance limits as follows:

COVERAGE AFFORDED	LIMITS OF LIABILITY
1. Workers' Compensation	Statute
2. Employer's Liability	$100,000
3. Comprehensive General Liability Insurance -- Including: (1) Products and Completed Operations (2) Blanket Contractual	$1,000,000 - Bodily Injury and Combined Single Limit $100,000 Property Damage

D. Agency shall adequately insure itself against claims based upon unlawful discrimination and violation of civil rights. The cost of this insurance shall be borne by Agency.

Section 17. Use of the Town Logo

The Town Logo shall be used for the recognition of the Town's contribution to Agency only.

Section 18. Conflict of Interest

This Agreement is subject to the conflict of interest provisions of A.R.S. § 38-511, *et seq*.

Town of Oro Valley
FINANCIAL PARTICIPATION AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

TOWN OF ORO VALLEY, a municipal corporation

Dr. Satish I. Hiremath, as Mayor
and not personally

ATTEST:

Deputy Clerk FOR
Julie K. Bower, as Town Clerk
and not personally

Date: 7/2/12

APPROVED AS TO FORM:

Tobin Rosen, as Town Attorney
and not personally

Date: 7/2/12

METROPOLITAN TUCSON CONVENTION AND VISITORS BUREAU, a non-profit Corporation

Agency Representative
and not personally

Title President + CEO

State of Arizona)
) ss.
County of PIMA)

On this 23rd day of July, 2012, BRENT E. DERAAD, known to me to be the person whose name is subscribed to the within instrument, personally appeared before me and acknowledged that he/she executed the same for the purposes contained.

Given under my hand and seal on July 23, 2012.

Notary

My Commission Expires: 1/19/2015

"OFFICIAL SEAL"
Julie K. Bower
Notary Public Arizona
Pima County
My Commission Expires 1/19/2015

Tucson
Real. Natural. Arizona.

METROPOLITAN TUCSON CONVENTION & VISITORS BUREAU

ROI Report—Metropolitan Tucson Convention & Visitors Bureau
Oro Valley Town Council
July – September 2012

Mayor Satish Hiremath
Vice Mayor Lou Waters
Councilmember Brendan Burns
Councilmember Bill Garner
Councilmember Joe Hornat
Councilmember Mary Snider
Councilmember Mike Zinkin
Town Manager Greg Caton
Economic Development Manager Amanda Jacobs

Overview

The Metropolitan Tucson Convention & Visitors Bureau (MTCVB) is the sole organization responsible for marketing Pima County and its municipalities as a premier travel and meetings destination to national and international target audiences, including leisure visitors, meeting and incentive planners, travel agents, tour operators, and the media.

Before a visitor or meetings group decides where to stay in metro Tucson, they must first choose "Tucson" over competitive destinations. The MTCVB staff works to land as many of these visitor and group dollars as possible in metro Tucson, while allowing its partner hotels, resorts, golf courses, restaurants, etc..., to market themselves to these customers via the MTCVB's website and collateral materials.

Oro Valley Benefits

The Town of Oro Valley has a $74,970 destination marketing services contract with the MTCVB in 2012-13, which equates to roughly 1/2 of 1 percent of the Town's 6 percent bed-tax levy—or 8-10 percent of the Town's bed-tax collections. Oro Valley retains the remaining 90-92 percent of the Town's bed-tax revenue, along with all sales-tax revenue paid by visitors. Oro Valley's investment represents just over 1 percent of the MTCVB's $6.5 million budget in 2012-13. The Town's investment will provide the following benefits between July 1, 2012 and June 30, 2013:

- Hotel/Resort Eligibility: Oro Valley hotels and resorts are eligible to join the MTCVB and receive all benefits received by hotels and resorts in unincorporated Pima County and Tucson, including meetings and travel/tourism leads and opportunities to participate in the MTCVB's resort advertising co-op programs;
- Partnership for Tourism-Related Businesses: Tourism-related businesses in Oro Valley are eligible to join the MTCVB at the same partnership rates paid by partner businesses in Pima County and Tucson. More than 20 Oro Valley businesses are MTCVB members

Oro Valley Benefits (continued)

- Promotion: Oro Valley is promoted as a leisure and meetings destination within the MTCVB's website (www.visittucson.org), visitors guide and meeting planners guide;
- Marketing: Oro Valley and MTCVB-partner businesses in Oro Valley benefit from the MTCVB's "Real Southwest" marketing campaign, which drives potential visitors to the MTCVB's website;
- Convention Sales & Services: Oro Valley resorts and hotels that join the MTCVB are eligible to receive meetings leads, to take part in meeting planner familiarization tours and to participate in MTCVB sales missions and tradeshows. Oro Valley properties can also receive cash back from the MTCVB as part of the Bureau's "Master Account Incentive Program" for meetings. Additionally, the MTCVB provides complimentary services and materials to meeting planners who stage meetings in Oro Valley;
- Sports/Events: Oro Valley is eligible to host endurance and other events created or placed by Tucson Sports, which is a division of the MTCVB;
- Mexico Initiatives: Oro Valley is invited to participate in the MTCVB's Tucson-Mexico Trade Coalition meetings and Mexico marketing initiatives;
- Film Office: Oro Valley is promoted by the Tucson Film office, a division of the MTCVB, as a potential destination for television series & photo shoots; &
- Public Relations: Oro Valley & its MTCVB-partner businesses are promoted by MTCVB's public relations staff to national and international travel media

Oro Valley's 2012-13 Return on Investment

$735,460 economic impact of the 4 future meetings booked into the Hilton El Conquistador Resort from MTCVB leads between July 1-Sept. 30, 2012. These meetings represent 3,307 room nights

Added Value – MTCVB's marketing team created a logo for Oro Valley's new aquatic center in September 2012

Added Value – MTCVB traveled to Greensboro, N.C. in September 2012 with an Oro Valley official to promote the Town's new aquatic center to USA Swimming officials, which resulted in the attraction of the 2014 USA Synchronized Swimming National Championships. This is a combined age group event from youth through pre-college age swimmers. The event has historically attracted about 200 athletes for the youth and about 100 for the older age divisions. Since this is the first year they are combining the events, the MTCVB anticipates attracting a minimum of 180 out of town athletes and bringing 360 out of town visitors for a combined total of 540. This five day event will generate an estimated $429,000 economic impact.

Added Value to Oro Valley

- All items listed on attached quarterly performance report, including metrics for convention sales, convention services, travel industry sales, communications & marketing; and
- Tucson Sports, a division of the Metro Tucson CVB, will work with Town officials to market Oro Valley's aquatic center

METROPOLITAN TUCSON CONVENTION AND VISITORS BUREAU
Oro Valley

QUARTERLY PERFORMANCE REPORT – First Quarter **July - September, 2012**

KEY MEASURES OF PEFORMANCE	ADOPTED FY 2013	CURRENT Quarter	YEAR TO DATE	FYTD 2011	COMMENTS
Convention Sales					
Sales Leads	275	64	64	92	
Site Inspections	35	8	8	11	
Future Bookings	12	4	4	6	
Room Nights of future bookings	6,000	3,307	3,307	1,914	
Convention Services					
Meetings/Conventions serviced	25	11	11	7	
Travel Industry Sales					
Leads/Services	35	3	3	3	
Promote to targeted tour operator clients	500	175	175	266	
Impressions via tour operator catalogs	600,000	351,600	351.600	293,300	
Communications					
Travel Articles	31	0	0	9	
Readers/viewers through editorial placement	750,000	0	0	75,307	
Publicity Value	$20,000	0	0	$4,399	
Marketing					
Generate Inquiries from primary markets	75,000	13,378	13,378	18,727	
Unique visitors to MTCVB website	1.25M	257,839	257,839	239,164	
Unique visitors to Oro Valley via MTCVB website	10,000	3,165	3,165	3,161	

Town Council Regular Session **Item # G.**

Meeting Date: 12/05/2012
Submitted By: Julie Bower, Town Clerk's Office
Department: Town Clerk's Office

Information

SUBJECT:
Approval of 2013 Regular Town Council Meeting Schedule

RECOMMENDATION:
The attached document lists the proposed dates for regular meetings of the Town Council for 2013.

EXECUTIVE SUMMARY:
If the Mayor and Council approves the 2013 Regular Town Council Meeting Schedule, the Council will meet on the dates listed in the attached meeting schedule.

BACKGROUND OR DETAILED INFORMATION:
N/A

FISCAL IMPACT:
N/A

SUGGESTED MOTION:
I MOVE to approve the 2013 Regular Town Council Meeting Schedule as presented.

or

I MOVE to approve the schedule with the following modifications....

Attachments

Draft 2013 Meeting Schedule

ORO VALLEY TOWN COUNCIL
REGULAR MEETING SCHEDULE
2013

~~January 2, 2013~~	HOLIDAY BREAK
January 16, 2013	
February 6, 2013	
February 20, 2013	
March 6, 2013	
March 20, 2013	
April 3, 2013	
April 17, 2013	
May 1, 2013	
May 15, 2013	
June 5, 2013	
June 19, 2013	
July 3, 2013	
July 17, 2013	
~~August 7, 2013~~	SUMMER BREAK
~~August 21, 2013~~	SUMMER BREAK
September 4, 2013	
September 18, 2013	
October 2, 2013	
October 16, 2013	
November 6, 2013	
November 20, 2013	
December 4, 2013	
~~December 18, 2013~~	HOLIDAY BREAK

DRAFT

Town Council Regular Session **Item # H.**

Meeting Date: 12/05/2012
Submitted By: Julie Bower, Town Clerk's Office
Department: Town Clerk's Office

Information

SUBJECT:
(Re)appointments to various Boards and Commissions

RECOMMENDATION:
The following board and commission members are eligible for and are requesting reappointment:

Nathan Basken, Conceptual Design Review Board

Ellen Guyer, Historic Preservation Commission
Dean Strandskov, Historic Preservation Commission

Mary Kay Durfee, Parks and Recreation Advisory Board
John Hickey, Parks and Recreation Advisory Board

John Buette, Planning and Zoning Commission
Don Cox, Planning and Zoning Commission
Bill Leedy, Planning and Zoning Commission

Richard Honn, Storm Water Utility Commission
Leo Leonhart, Storm Water Utility Commission

Water Utility Commission (WUC)
Richard Reynolds has requested reappointment to the Water Utility Commission. He has attended the Community Academy but due to work travel conflicts, has not been able to complete it. If reappointed, Mr. Reynolds would complete the Community Academy during his second term. He has attended several WUC-specific training sessions and has an excellent meeting attendance record. Philip Saletta, Water Utility Director, supports Mr. Reynolds reappointment.

The WUC also has a vacancy as a result of Commissioner John Hoffmann having reached his term limit. To date, the Town has not received any applications from residents interested in serving on the WUC. Staff recommends that Mr. Hoffmann's term be extended for an additional 1-year term to allow the WUC to maintain its full membership. Mr. Hoffman is willing to serve the one (1) year extension. During this year, staff will make a concerted effort to encourage residents interested in serving on the WUC to complete an application.

Storm Water Utility Commission (SWUC)
The SWUC has three vacancies in addition to the reappointments indicated above. A selection committee conducted interviews to fill the vacancies. The committee is recommending the following appointments:

Michael Stankiewicz to a term expiring 12/31/14
David Parker to a term expiring 12/31/13*
Jim Mikolaitis to a term expiring 12/31/13*

*All of the current terms on the SWUC expire at the same time, instead of being staggered as required. To remedy this situation and create staggered terms, staff recommends appointment of two new members to 1-year terms. Staff also recommends that the 1-year terms not count toward the new members' term limits and that they be allowed to request reappointment to two additional 2-year terms.

Public Safety Personnel Retirement System Board (PSPRS) ***ADDED ON 11/30/12**
Per A.R.S. 38-847, the committee is recommending the following reappointment and appointment to the PSPRS Board:

Reappointment of Richard Tracy to a term expiring 9/30/2016
Appointment of Andrew Lopez to a term expiring 5/31/2016

EXECUTIVE SUMMARY:

N/A

BACKGROUND OR DETAILED INFORMATION:

The requests for reappointment and the applications for the prospective new board and commission members are attached.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE that the following appointments be made:

Conceptual Design Review Board
Reappointment of Nathan Basken to a term expiring 12/31/15

Historic Preservation Commission
Reappointment of Ellen Guyer to a term expiring 12/31/15
Reappointment of Dean Strandskov to a term expiring 12/31/15

Parks and Recreation Advisory Board
Reappointment of Mary Kay Durfee to a term expiring 12/31/14
Reappointment of John Hickey to a term expiring 12/31/14

Planning and Zoning Commission
Reappointment of John Buette to a term expiring 12/31/14
Reappointment of Don Cox to a term expiring 12/31/14
Reappointment of Bill Leedy to a term expiring 12/31/14

Storm Water Utility Commission
Reappointment of Richard Honn to a term expiring 12/31/14
Reappointment of Leo Leonhart to a term expiring 12/31/14
Appointment of Michael Stankiewicz to a term expiring 12/31/14
Appointment of David Parker to a term expiring 12/31/13*
Appointment of Jim Mikolaitis to a term expiring 12/31/13*

Water Utility Commission

Extend John Hoffman's term until 12/31/13
Reappointment of Richard Reynolds to a term expiring 12/31/15

Public Safety Personnel Retirement System Board
Reappointment of Richard Tracy to a term expiring 9/30/2016
Appointment of Andrew Lopez to a term expiring 5/31/2016

Attachments

Nathan Basken - CDRB
Ellen Guyer - HPC
Dean Strandskov - HPC
Mary Kay Durfee - PRAB
John Hickey - PRAB
John Buette - P & Z
Don Cox - P & Z
Bill Leedy - P & Z
Richard Honn - SWUC
Leo Leonhart - SWUC
Richard Reynolds - WUC
Michael Stankiewicz - SWUC
David Parker - SWUC
Jim Mikolaitis - SWUC
Richard Tracy - PSPRS

Standish, Michael

From: Nathan Basken <nbasken@yahoo.com>
Sent: Thursday, October 04, 2012 7:12 PM
To: Bower, Julie
Subject: Re: Expiration of term on Conceptual Design Review Board

Julie-

I would definitely like to be considered for another term if the council will have me serve.

Thanks-
Nathan

From: "Bower, Julie" <jbower@orovalleyaz.gov>
To: "'gilalex@q.com'" <gilalex@q.com>; "'nbasken@yahoo.com'" <nbasken@yahoo.com>; "'richardluckett@arizonadelegate.com'" <richardluckett@arizonadelegate.com>
Cc: "Williams, David" <dwilliams@orovalleyaz.gov>
Sent: Thursday, October 4, 2012 2:05 PM
Subject: Expiration of term on Conceptual Design Review Board

Gentlemen:

Your current terms on the CDRB will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.

Thanks, Julie

Julie K. Bower, MMC
Oro Valley Town Clerk
11000 N. La Canada Dr.
Oro Valley, AZ 85737
520-229-4740

Standish, Michael

From: Ellen Guyer <guyer@macalester.edu>
Sent: Monday, October 08, 2012 10:52 AM
To: Bower, Julie
Subject: Re: Expiration of term on the Historic Preservation Commission

Dear Ms. Bower,

I would very much like to serve another term on HPC. I am hereby requesting reappointment. Please let me know if there is anything else I need to do.
Regards,
Ellen Guyer

Sent from my iPad

On Oct 8, 2012, at 8:48 AM, "Bower, Julie" <jbower@orovalleyaz.gov> wrote:

> Hello:
>
> Your current terms on the HPC will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Town Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.
>
> Thanks, Julie
>
> Julie K. Bower, MMC
>
> Oro Valley Town Clerk
>
> 11000 N. La Canada Dr.
>
> Oro Valley, AZ 85737
>
> 520-229-4740

Standish, Michael

To: Email (jbower@orovalleyaz.gov)
Subject: FW: REAPPOINTMENT

-----Original Message-----
From: DEAN STRANDSKOV [mailto:FERNDEAN@AOL.COM]
Sent: Tuesday, October 16, 2012 1:22 PM
To: Bower, Julie
Cc: Tanner, Danielle
Subject: REAPPOINTMENT

HI:
GO AHEAD AND SUBMIT MY NANE FOR ANOTHER TERM - DEAN STRANDSKOV

Standish, Michael

From: mkdurfee@comcast.net
Sent: Monday, October 08, 2012 4:22 PM
To: Bower, Julie
Subject: Re: Expiration of term on the Parks & Recreation Advisory Board

I am interested in continuing on the board and am planning to take the citizen's class- starts this week. (last year, I was on call for during every class.) Thanks for your consideration. Mary Kay Durfee M.D.
Sent from my Verizon Wireless BlackBerry

From: "Bower, Julie" <jbower@orovalleyaz.gov>
Date: Mon, 8 Oct 2012 08:45:04 -0700
To: mkdurfee@comcast.net<mkdurfee@comcast.net>; 'jfhicke@q.com'<jfhicke@q.com>
Cc: Legner, Ainsley<alegner@orovalleyaz.gov>
Subject: Expiration of term on the Parks & Recreation Advisory Board

Ms. Durfee & Mr. Hickey:

Your current terms on PRAB will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Town Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.

Thanks, Julie

Julie K. Bower, MMC
Oro Valley Town Clerk
11000 N. La Canada Dr.
Oro Valley, AZ 85737
520-229-4740

Standish, Michael

From: jfhicke@q.com
Sent: Monday, October 08, 2012 10:13 AM
To: Bower, Julie
Subject: Re: Expiration of term on the Parks & Recreation Advisory Board

Ms. Bower,

I am interested in serving another term on the Oro Valley Parks & Recreation Advisory Board & am requesting a reappointment.

thank you

John Hickey

----- Original Message -----
From: Julie Bower <jbower@orovalleyaz.gov>
To: mkdurfee@comcast.net, 'jfhicke@q.com' <jfhicke@q.com>
Cc: Ainsley Legner <alegner@orovalleyaz.gov>
Sent: Mon, 08 Oct 2012 11:45:04 -0400 (EDT)
Subject: Expiration of term on the Parks & Recreation Advisory Board

Ms. Durfee & Mr. Hickey:

Your current terms on PRAB will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Town Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.

Thanks, Julie

Julie K. Bower, MMC

Oro Valley Town Clerk

11000 N. La Canada Dr.

Oro Valley, AZ 85737

520-229-4740

Standish, Michael

From: John Buette <buette@bcrep.com>
Sent: Friday, October 05, 2012 9:46 AM
To: Bower, Julie
Subject: RE: Expiration of term on Planning & Zoning Commission

Importance: High

Hello Julie,

I am very interested in being reappointed as a Planning & Zoning Commissioner and would appreciate your acknowledging and accepting this email as my formal request for consideration.

Thank you very much!

John C. Buette

From: Bower, Julie [mailto:jbower@orovalleyaz.gov]
Sent: Thursday, October 04, 2012 1:57 PM
To: 'buette@bcrep.com'; 'tucsonbass@aol.com'; Bill Leedy (leedyjr@yahoo.com)
Cc: Williams, David
Subject: Expiration of term on Planning & Zoning Commission

Gentlemen:

Your current terms on the Planning & Zoning Commission will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.

Thanks, Julie

Julie K. Bower, MMC
Oro Valley Town Clerk
11000 N. La Canada Dr.
Oro Valley, AZ 85737
520-229-4740

Standish, Michael

From: TUCSONBASS@aol.com
Sent: Tuesday, October 16, 2012 9:21 AM
To: Bower, Julie
Subject: Re: Expiration of term on Planning & Zoning Commission

Hi Julie.

Pardon my slow response. I am definitely interested in serving once again.

Don

In a message dated 10/16/2012 9:14:37 A.M. US Mountain Standard Time, jbower@orovalleyaz.gov writes:

> Hi, Don
>
> I hadn't heard from you so I'm just following up to see if you are interested in reappointment to the Planning & Zoning Commission. Your current term expires on December 31, 2012. If you are interested in serving another term, please notify me by responding to this email. Requests for reappointment are tentatively scheduled to be considered by Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.
>
> Thanks, Julie
>
> Julie K. Bower, MMC
>
> Oro Valley Town Clerk
>
> 11000 N. La Canada Dr.
>
> Oro Valley, AZ 85737
>
> 520-229-4740
>
> =

Standish, Michael

From: Bill Leedy <leedyjr@yahoo.com>
Sent: Thursday, October 04, 2012 3:21 PM
To: Bower, Julie
Subject: RE: Expiration of term on Planning & Zoning Commission

Good afternoon Julie!!

I am indeed interested in continuing to serve on the P&Z Commission and therefore request reappointment.

Cheers,
Bill

_____

WG Leedy Consulting LLC
12222 N Cloud Ridge Dr
Tucson, AZ 85755-6559
520.344.9759 Home/Office
520.837.9468 Mobil

From: Bower, Julie [mailto:jbower@orovalleyaz.gov]
Sent: Thursday, October 04, 2012 1:57 PM
To: 'buette@bcrep.com'; 'tucsonbass@aol.com'; Bill Leedy (leedyjr@yahoo.com)
Cc: Williams, David
Subject: Expiration of term on Planning & Zoning Commission

Gentlemen:

Your current terms on the Planning & Zoning Commission will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.

Thanks, Julie

Julie K. Bower, MMC
Oro Valley Town Clerk
11000 N. La Canada Dr.
Oro Valley, AZ 85737
520-229-4740

Standish, Michael

From: Dick Honn <dickhonn@hotmail.com>
Sent: Thursday, October 11, 2012 8:35 PM
To: Bower, Julie
Cc: Jungen, Paul
Subject: RE: Expiration of term on the Storm Water Utility Commission/Dick Honn

Yes, I would like to be considered for reappointment as a Commissioner on the Storm Water Utility.

My apologies for being so tardy in responding but my wife and I have just returned from two weeks of travel with limited email access.

Dick Honn

From: Bower, Julie [mailto:jbower@orovalleyaz.gov]
Sent: Monday, October 08, 2012 8:38 AM
To: 'dickhonn@hotmail.com'; 'lleonhart@hargis.com'
Cc: Jungen, Paul
Subject: Expiration of term on the Storm Water Utility Commission

Gentlemen:

Your current terms on the Storm Water Utility Commission will expire on December 31, 2012. Your service is greatly appreciated and you are eligible to request reappointment. If you are interested in serving another term, please notify me in writing, either by responding to this email or by letter by October 15th. Requests for reappointment are tentatively scheduled to be considered by Town Council at their December 5th meeting. If you have any questions, please don't hesitate to contact me.

Thanks, Julie

Julie K. Bower, MMC
Oro Valley Town Clerk
11000 N. La Canada Dr.
Oro Valley, AZ 85737
520-229-4740

11435 N. Flying Bird Drive
Oro Valley, Arizona 85737
October 4, 2012

Mr. Paul Jungen, P.E., CFM
Stormwater Utility Engineer
Development & Infrastructure Serv. Dept.
TOWN OF ORO VALLEY
11000 N. La Canada Drive
Oro Valley, AZ 85737

Re: Town of Oro Valley Stormwater Commission Term

Dear Mr. Jungen:

Pursuant to your letter notification of this date, I am writing to inform you of my interest in serving a second term on the Oro Valley Stormwater Utility Commission (the Commission). I have enjoyed my participation in the Commission through the recent years and my association with you, the staff, and the other members of the Commission, and I hope that in the next term, I can continue to offer substantive contributions towards the mission of the Stormwater Utility.

Thank you for the opportunity to serve.

Sincerely,

Leo S. Leonhart, PhD, RG, CHG

October 15, 2012

Mr. Philip C. Saletta, P.E.
Water Utility Director
Town Of Oro Valley
11000 N. La Canada Drive
Oro Valley, AZ 85737

SUBJECT: Request for Reappointment to the Oro Valley Water Utility Commission

Dear Philip:

Please consider this letter as a request for the Town Council to consider my reappointment to the Oro Valley Water Utility Commission. I understand that my current term expires on December 31, 2012. It is also my understanding that I am eligible to serve another term on the Commission.

I am interested in continuing to serve on the Commission. I currently serve on the Water Resources Subcommittee and I am currently enrolled in the Community Academy. I have also attended other training sessions, seminars and field tours to learn more about our water supply and water resources in Arizona. My involvement on the Commission has been rewarding and I hope to be reappointed and participate in future activities.

Please let me know if there is any further information you need to process my request for reappointment to the Oro Valley Water Utility Commission. I look forward to hearing from you regarding my reappointment.

Sincerely,

Rick Reynolds

C: Robert Milkey, Chair of the OVWUC
Greg Caton, Town Manager
Julie Bower, Town Clerk

ORO VALLEY VOLUNTEER APPOINTMENT APPLICATION

Dear Oro Valley Citizen:

We appreciate your interest in the Town of Oro Valley. This informational form, when completed, will allow us to quickly process your application by assisting us in understanding how we can best use your talents and experience. A list describing the Town's Boards and Commissions is attached for your reference. Information reflecting the procedures surrounding the appointment process to Boards is also attached. Your application will remain on file for two years from the date of receipt. We thank you kindly for volunteering to serve the Town!

Please note: No volunteer shall serve on more than one standing Board at any time.

Return this application to the Town Clerk's Office, 11000 N. La Cañada Drive, Oro Valley, Arizona 85737.

Name: Stankiewicz (Last) Michael (First) R. (Middle) ____ (Suffix)

Address: 14570 N. Chalk Creek Dr. (Street) Oro Valley, AZ 85755 (City, State, Zip)

Home Phone: 520-818-1605 Business Phone: ____ Cellular Phone: ____

Number of Years in Oro Valley: 7.5 PT + 1.5 FT Email Address: mrstanki@gmail.com

Signature: [signature] Date: ____

Please indicate the board or commission you wish to join: Storm Water Utility Commission

Please list your volunteer services in Oro Valley and with other organizations (including any boards or commissions on which you have served: (board/commission, civic, educational, cultural, social, etc.)

Sun City Vistoso Emergency Preparedness Committee, member 1/2012 - present; National Committee on Levee Safety, member 10/2008 - present; National Association of Flood and Stormwater Management Agencies, board member 2008-10; Association of State Dam Safety Officials, board member *2003-06 (*approx. dates)

How does your previous volunteer service prepare you for the board or commission appointment for which you have applied? Please describe an issue considered at a meeting of the Board or Commission for which you are applying.

SCV Committee helps me understand local residents' attitudes toward flood issues and local government. Other committee, board and work experience gives me solid understanding of technical, political and social aspects of flooding and flood damage reduction. I also think I've developed a modest amount of ability to work with people to get positive results. An issue the Commission recently considered is an HOA application for renewal of Stormwater Credit.

Have you attended the Community Academy or CPI? N What Year? ____ If not, are you willing to attend? Y

Briefly describe your educational/vocational background.

BS Civil & Env. Eng. 1973; MS Civil Eng. 1989; Licensed Professional Engineer, NY State; 33 years professional experience in private and public sector including management of Dam Safety Program, Flood Protection Program and Shore Protection Program for State of NY.

IF DESIRED, ADDITIONAL INFORMATION MAY BE ATTACHED

www.orovalleyaz.gov

SEP 12'12 PM 1:04 TOV

14570 N. Chalk Creek Drive
Oro Valley, AZ 85755
September 11, 2012

Town Clerk's Office
Town of Oro Valley
11000 N. La Cañada Drive
Oro Valley, AZ 85737

Re: Storm Water Utility Commission

To the Town Clerk's Office:

Please find enclosed my Volunteer Appointment Application for the Storm Water Utility Commission. The form accommodates a limited amount of information, and I can provide more detail if desired.

My wife and I bought a house in Oro Valley in 2003, where we vacationed until we moved here full time in January 2011. My first interest in the Commission came from a suggestion by Dave Parker, at a NAFSMA meeting about three years ago.

I am interested in Town government and have attended meetings or presentations on CAP Water Supply, FEMA Flood Maps, Town Budget and Intro to Town Government in recent months. I believe the Storm Water Utility Commission has scheduled a September 20 meeting, which I plan to attend.

If I would be a good fit for this Commission, I am willing to participate. You can call me at 520-818-1605 if you need more information.

Yours truly,

Michael Stankiewicz

SEP 17'12am11:05 TOV

ORO VALLEY VOLUNTEER APPOINTMENT APPLICATION

Dear Oro Valley Citizen:

We appreciate your interest in the Town of Oro Valley. This informational form, when completed, will allow us to quickly process your application by assisting us in understanding how we can best use your talents and experience. A list describing the Town's Boards and Commissions is attached for your reference. Information reflecting the procedures surrounding the appointment process to Boards is also attached. Your application will remain on file for two years from the date of receipt. We thank you kindly for volunteering to serve the Town!

Please note: No volunteer shall serve on more than one standing Board at any time.

Return this application to the Town Clerk's Office, 11000 N. La Cañada Drive, Oro Valley, Arizona 85737.

Name PARKER (Last) DAVID (First) B. (Middle) _____ (Suffix)

Address 960 W. TURNSTONE PLACE (Street) OV (City) AZ (State) 85737 (Zip)

Home Phone 520-498-9932 Business Phone 520-878-1141 Cellular Phone 520-975-0122

Number of Years in Oro Valley 18 Email Address dparker@comcast.net

Signature [signature] Date 9/26/12

Please indicate the board or commission you wish to join: STORMWATER UTILITY

Please list your volunteer services in Oro Valley and with other organizations including any boards or commissions on which you have served: (board/commission, civic, educational, cultural, social, etc.)

STORMWATER UTILITY COMMISSION 2005-2008

TOWN STORMWATER MANAGER 2008-2011

How does your previous volunteer service prepare you for the board or commission appointment for which you have applied? Please describe an issue considered at a meeting of the Board or Commission for which you are applying.

SERVED ON SAME BOARD AND MANAGED BOARD AS TOWN EMPLOYEE.

Have you attended the Community Academy or CPI? NO What Year? _____ If not, are you willing to attend? YES

Briefly describe your educational/vocational background.

B.S. CIVIL ENGINEERING, M.B.A, and M.A. IN MINISTRY

28 years experience in all facets of civil, stormwater and environmental engineering.

IF DESIRED, ADDITIONAL INFORMATION MAY BE ATTACHED

www.orovalleyaz.gov

2/23/11

SEP 19 '12 PM 1:05 TOV

ORO VALLEY VOLUNTEER APPOINTMENT APPLICATION

Dear Oro Valley Citizen:

We appreciate your interest in the Town of Oro Valley. This informational form, when completed, will allow us to quickly process your application by assisting us in understanding how we can best use your talents and experience. A list describing the Town's Boards and Commissions is attached for your reference. Information reflecting the procedures surrounding the appointment process to Boards is also attached. Your application will remain on file for two years from the date of receipt. We thank you kindly for volunteering to serve the Town!

Please note: No volunteer shall serve on more than one standing Board at any time.

Return this application to the Town Clerk's Office, 11000 N. La Cañada Drive, Oro Valley, Arizona 85737.

Name Mikolaitis (Last) Jim (First) C. (Middle) _____ (Suffix)

Address 1125 W. Smokethorn Dr. (Street) Oro Valley (City) AZ (State) 85737 (Zip)

Home Phone 520-575-8069 Business Phone _____ Cellular Phone _____

Number of Years in Oro Valley 17 Email Address mik001@comcast.net

Signature [signature] Date 9/18/12

Please indicate the board or commission you wish to join: Storm Water Utility Commission

Please list your volunteer services in Oro Valley and with other organizations including any boards or commissions on which you have served: (board/commission, civic, educational, cultural, social, etc.)

None, but I have been involved with environmental citizen's committees for the City of Tucson Department of Environmental Services and the Tucson/Pima County Household Hazardous Waste Program

How does your previous volunteer service prepare you for the board or commission appointment for which you have applied? Please describe an issue considered at a meeting of the Board or Commission for which you are applying.

Have you attended the Community Academy or CPI? No What Year? _____ If not, are you willing to attend? Yes

Briefly describe your educational/vocational background.

BSCE in Civil Engineering (Univ. of Illinois), MSEnvE Illinois Inst. of Tech. Prof Eng in State of Arizona. Proj. Mgr. Eng. Mgr. and Administrator last 22 years involved in stormwater controls, pollution prevention plans.

IF DESIRED, ADDITIONAL INFORMATION MAY BE ATTACHED

www.orovalleyaz.gov

2/23/11

From: Richard [mailto:rjtracy55@aol.com]
Sent: Wednesday, September 26, 2012 2:30 PM
To: Seder, Lauren
Subject: Re: PSPRS Local Board

Lauri I would like to continue on the board. Are we going to have a meeting soon?
Regards Richard "Dick"Tracy
-----Original Message-----
From: Seder, Lauren <lseder@orovalleyaz.gov>
To: 'rjtracy55@aol.com' <rjtracy55@aol.com>
Sent: Wed, Sep 26, 2012 11:12 am
Subject: PSPRS Local Board

Dick,

Your term on the PSPRS Local Board will expire on 9/30/12. Please let me know if you would like to continue serving on the board.

Thank you and have a great day.

Lauri

Lauren Seder
Human Resources Specialist
(520) 229-4753
lseder@orovalleyaz.gov

Caring for our heritage, our community, our future.

Town Council Regular Session **Item # I.**

Meeting Date: 12/05/2012

Requested by: Daniel G. Sharp **Submitted By:** Colleen Muhr, Police Department

Department: Police Department

Information

SUBJECT:

Resolution No. (R)12-63, Authorizing and approving a subgrantee agreement between the Town of Oro Valley and the Arizona Department of Homeland Security to fund Overtime and Mileage under the Operation Stonegarden program

RECOMMENDATION:

Staff recommends approval.

EXECUTIVE SUMMARY:

The Town of Oro Valley wishes to enter into a Subgrantee Agreement with the Arizona Department of Homeland Security (AZDOHS) to fund overtime and mileage for officers deployed under the Operation Stonegarden program.

This partnership between the Town, U.S. Customs and Border Protection and other federal and local law enforcement agencies brings unique benefits to the Town and the Oro Valley community.

BACKGROUND OR DETAILED INFORMATION:

Grant application was made to work in a regional partnership with other local law enforcement agencies and the U.S. Border Patrol Tucson Sector to reduce crime and improve quality of life for the residents and visitors of Oro Valley. This grant will use targeted deployments of officers and canine units to impact the flow of smugglers bringing humans and illegal contraband, and possible terrorists who intend to cause harm or commit crimes against this nation.

FISCAL IMPACT:

Fiscal impact is $73,920.00 received by the Town through grant funding which is available through December 31, 2013.

This funding is in addition to $73,920.00 in AZDOHS grant funding approved on February 15, 2012 by Resolution (R)12-10, which will expire March 31, 2013.

SUGGESTED MOTION:

I MOVE to (approve or deny) Resolution No. (R)12-63, Authorizing and approving a subgrantee agreement between the Town of Oro Valley and the Arizona Department of Homeland Security to fund Overtime and Mileage under the Operation Stonegarden program.

Attachments

R12-63 AZDOHS Subgrantee Agmt - Overtime & Mileage

Subgrantee Agreement

RESOLUTION NO. (R)12-63

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A SUBGRANTEE AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE ARIZONA DEPARTMENT OF HOMELAND SECURITY TO FUND OVERTIME AND MILEAGE UNDER THE OPERATION STONEGARDEN PROGRAM

WHEREAS, the Arizona Department of Homeland Security (AZDOHS) requires participating jurisdictions to enter into a Subgrantee Agreement to receive the funds granted under the Operation Stonegarden Program; and

WHEREAS, the Town of Oro Valley's allocation under the grant is a maximum of $73,920.00 which will be used to fund overtime and mileage under the Operation Stonegarden Program for deployments with the U.S. Department of Homeland Security Bureau of Customs and Border Protection; and

WHEREAS, it is in the best interest of the Town of Oro Valley to enter into the Subgrantee Agreement (attached hereto as Exhibit "A" and incorporated herein by this reference) in order to receive funds which will be used to fund overtime and mileage under the Operation Stonegarden Program for deployments with the U.S. Department of Homeland Security Bureau of Customs and Border Protection.

NOW THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley, Arizona, that:

1. The Subgrantee Agreement between the Town of Oro Valley, for the benefit of the Oro Valley Police Department and the Arizona Department of Homeland Security, attached hereto as Exhibit "A" and incorporated herein by this reference, to fund overtime and mileage under the Operation Stonegarden Program for deployments with the U.S. Department of Homeland Security Bureau of Customs and Border Protection is hereby authorized and approved.

2. The Mayor and other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Subgrantee Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY, ARIZONA

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

EXHIBIT “A”

SAVE FORM PRINT FORM RESET FORM

SUBGRANTEE AGREEMENT
OPSG OVERTIME AND MILEAGE

12-AZDOHS-OPSG- 999432-01
Enter Grant Agreement Number above (e.g., 999xxx-xx)

Between

The Arizona Department of Homeland Security
And

Oro Valley Police Department
Enter the Name of the Subrecipient Agency Above

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the
Oro Valley Police Department
Enter the Name of the Subrecipient Agency Above
(subrecipient) for services under the terms of this Grant Agreement.

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS

This Agreement shall become effective on **November 1, 2012** and shall terminate on **December 31, 2013**. The obligations of the subrecipient as described herein will survive termination of this agreement.

III. DESCRIPTION OF SERVICES

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled
" Overtime and Mileage "
Enter Title of Application
and funded at $ 73920 (as may have been modified by the award letter).
Enter Funded Amount above

IV. MANNER OF FINANCING

The AZDOHS shall:

a) Provide up to $ 73920 to the subrecipient for services provided under Paragraph III.
Enter Funded Amount above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

V. FISCAL RESPONSBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application. Any modification to quantity or scope of work must be preapproved in writing by the AZDOHS. Therefore, should the project not be completed, the subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the subrecipient shall be for only the amount of dollars actually spent by the subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year and subsequent years within the period of performance is due annually to AZDOHS by March 31st.

b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (A-87 OMB Circular), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html. Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations. OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

NIMSCAST
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

Environmental Planning and Historic Preservation
The subrecipient shall comply with all applicable Federal, State, and Local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Procurement and construction activities shall not be initiated prior to the full environmental and historic preservation review.

Consultants/Trainers/Training Providers
Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 44 CFR Chapter 1, Part 13; and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed

reasonable travel, lodging, and per diem not to exceed the state rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

Contractors/Subcontractors
The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which in the opinion of the subrecipient may result in litigation related in any way to the Agreement with the AZDOHS.

Personnel and Travel Costs
All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures and must be applied uniformly to both federally financed and other activities of the agency. At no time will the subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: http://www.gao.state.gov.

Procurement
The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

Training and Exercise
The subrecipient agrees that any grant funds used for training and exercise must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) Toolkit for exercise design, development and scheduling. Subrecipient agrees to:

a) Submit the HSEEP Toolkit Exercise Summary to AZDOHS with all Exercise Reimbursement Requests.
b) Post all exercises, documentation and After Action Reports/Improvement Plans via the HSEEP Toolkit.
c) Within 60 days of completion of an exercise, the exercise host subrecipent is required to upload the AAR/IP into the HSEEP Toolkit and email the AAR/IP to the local County Emergency Manager, the FEMA Region IX Exercise POC, HSEEP@dhs.gov, the AZDOHS Strategic Planner, and the Arizona Department of Emergency Management (ADEM) Exercise Officer.

Nonsupplanting Agreement
The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

E-Verify
Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).

b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

Property Control
Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

a) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately.

b) Nonexpendable Property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $300 (Three Hundred Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

c) A Capital Asset is any personal or real property, or fixture that has an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year. When use of the Capital Asset for project activities is discontinued, the subrecipient shall request/receive authorization from AZDOHS prior to disposition.

d) A Property Control Form shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. Nonexpendable Property and Capital Assets must be included on the Property Control Form. When disposition of Nonexpendable Property and Capital Assets occurs the subrecipient shall submit an updated Property Control Form to AZDOHS.

e) Upon submission of the final quarterly programmatic report the subrecipient must file with the AZDOHS a copy of the Property Control Form. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.

f) A physical inventory of the Nonexpendable Property and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.

(1) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(2) Adequate maintenance procedures must be developed to keep the property in good condition.

Allowable Costs
The allowability of costs incurred under this agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable OMB Circulars, Code of Federal Regulations, authorized equipment lists and guidance documents referenced above.

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.
b) The subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with Grant Guidance.

VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions."

IX. FUNDS MANAGEMENT

The subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. The subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits.

The subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report Format template, which is posted at www.azdohs.gov. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed

b) Quarterly Programmatic Reports are due:
January 15 (period October 1– December 31)
April 15 (period January 1 – March 31)
July 15 (period April 1 – June 30)
October 15 (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) calendar days** after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc...or in person. Reimbursements submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation it feels necessary in order to process reimbursements.

All reports shall be submitted to the contact person as described in Paragraph XXXIX, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The subrecipient may not assign any rights hereunder without the express, prior written consent of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the subrecipient's compensation if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding sentence. The subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XV. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the subrecipient give a written assurance of intent to perform. If the subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVI. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVII. THIRD PARTY ANTITRUST VIOLATIONS

The subrecipient assigns the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to subrecipient toward fulfillment of this Agreement.

XVIII. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the subrecipient in the execution of this Agreement.

XIX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XX. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXI. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

XXII. GOVERNING LAW AND CONTRACT INTERPRETATION

a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.

b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.

c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIII. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph X, REPORTING REQUIREMENTS; provided; however, that the AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement. The subrecipient agrees to comply with any such amendment within ten (10) business days of receipt of a fully executed amendment. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXIV. RESTRICTIONS ON LOBBYING

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

XXV. LICENSING

The subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVI. NON-DISCRIMINATION

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order2009-09.

XXVII. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXVIII. SEVERABILITY

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

XXIX. ADVERTISING AND PROMOTION OF AGREEMENT

The subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the AZDOHS.

XXX. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

> "This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential sub-recipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

XXXI. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the subrecipient shall include closed captioning of the verbal content of such announcement.

XXXII. INDEMNIFICATION

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

XXXIII. TERMINATION

a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the subrecipient or the grantor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses and permits or to make satisfactory progress in performing the Agreement. The staff of either party shall provide a written thirty (30) day advance notice of the termination and the reasons for it.

b) If the subrecipient chooses to terminate the contract before the grant deliverables have been met then the AZDOHS reserves the right to collect all reimbursements distributed to the subrecipient.

c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the subrecipient.

XXXIV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXV. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXVI. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

XXXVII. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the subrecipient represents and warrants that he or she is duly authorized to execute this Agreement.

XXXVIII. SPECIAL CONDITIONS

a) The subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements

b) The subrecipient acknowledges that U.S. Department of Homeland Security and the AZDOHS reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

c) The subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

d) The subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

XXXIX. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing be delivered in person or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic notices relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov.

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

The AZDOHS shall address all notices relative to this Agreement to:

Commander Jason Larter
Enter Title, First & Last Name above
Oro Valley Police Department
Enter Agency Name above
11000 N. LaCañada Drive
Enter Street Address
Oro Valley, AZ 85737
Enter City, State, ZIP

XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Oro Valley Police Department

Enter Agency Name above

Authorized Signature above

Mayor Satish I. Hiremath, D.D.S.

Print Name & Title above

Enter Date above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia

Director

Date

SAVE FORM PRINT FORM RESET FORM

(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)

Town Council Regular Session **Item # J.**

Meeting Date: 12/05/2012

Requested by: Daniel G. Sharp **Submitted By:** Colleen Muhr, Police Department

Department: Police Department

Information

SUBJECT:

Resolution No. (R)12-64, Authorizing and approving a subgrantee agreement between the Town of Oro Valley and the Arizona Department of Homeland Security to fund the purchase of equipment under the Operation Stonegarden program

RECOMMENDATION:

Staff recommends approval.

EXECUTIVE SUMMARY:

The Town of Oro Valley wishes to enter into a Subgrantee Agreement with the Arizona Department of Homeland Security (AZDOHS) to fund the purchase of equipment to support officers deployed under the Operation Stonegarden program.

This partnership between the Town, U.S. Customs and Border Protection and other federal and local law enforcement agencies brings unique benefits to the Town and the Oro Valley community.

BACKGROUND OR DETAILED INFORMATION:

At the April 18, 2012 Town Council meeting, Informational Item #4 provided information to the Town Council of the Police Department's application to AZDOHS for funding the purchase of additional equipment.

As a result, AZDOHS has awarded funding for portable video scopes, infrared vehicle lights, in-car repeaters, and binoculars to support officers deployed under the Operation Stonegarden program, which targets border issues including, but not limited to drug and human trafficking interdiction.

FISCAL IMPACT:

FY 2012/2013 = $12,600 currently budgeted.

SUGGESTED MOTION:

I MOVE to (approve or deny) Resolution No. (R)12-64, Authorizing and approving a subgrantee agreement between the Town of Oro Valley and the Arizona Department of Homeland Security to fund the purchase of equipment under the Operation Stonegarden program.

Attachments

R12-64 AZDOHS Subgrantee Agmt - Equipment

Subgrantee Agreement

RESOLUTION NO. (R)12-64

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING A SUBGRANTEE AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE ARIZONA DEPARTMENT OF HOMELAND SECURITY TO FUND THE PURCHASE OF EQUIPMENT UNDER THE OPERATION STONEGARDEN PROGRAM

WHEREAS, the Arizona Department of Homeland Security requires participating jurisdictions to enter into a Subgrantee Agreement to receive the funds granted under the Operation Stonegarden Program; and

WHEREAS, the Town of Oro Valley's allocation under the grant is a maximum of $12,600.00 which will be used to fund the purchase of equipment under the Operation Stonegarden Program for deployments with the U.S. Department of Homeland Security Bureau of Customs and Border Protection; and

WHEREAS, it is in the best interest of the Town of Oro Valley to enter into the Subgrantee Agreement (attached hereto as Exhibit "A" and incorporated herein by this reference) in order to receive funds which will be used to fund the purchase of equipment under the Operation Stonegarden Program for deployments with the U.S. Department of Homeland Security Bureau of Customs and Border Protection.

NOW THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley, Arizona, that:

1. The Subgrantee Agreement between the Town of Oro Valley, for the benefit of the Oro Valley Police Department and the Arizona Department of Homeland Security, attached hereto as Exhibit "A" and incorporated herein by this reference, to fund the purchase of equipment under the Operation Stonegarden Program for deployments with the U.S. Department of Homeland Security Bureau of Customs and Border Protection is hereby authorized and approved.

2. The Mayor and other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Subgrantee Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY, ARIZONA

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

EXHIBIT “A”

SAVE FORM PRINT FORM RESET FORM

SUBGRANTEE AGREEMENT
OPSG EQUIPMENT

12-AZDOHS-OPSG- 999432-02
Enter Grant Agreement Number above (e.g., 999xxx-xx)

Between

The Arizona Department of Homeland Security
And

Oro Valley Police Department
Enter the Name of the Subrecipient Agency Above

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the
Oro Valley Police Department
Enter the Name of the Subrecipient Agency Above
(subrecipient) for services under the terms of this Grant Agreement.

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to specify the responsibilities and procedures for the subrecipient's role in administering homeland security grant funds.

II. TERM OF AGREEMENT, TERMINATION AND AMENDMENTS

This Agreement shall become effective on **November 1, 2012** and shall terminate on **October 31, 2013**. The obligations of the subrecipient as described herein will survive termination of this agreement.

III. DESCRIPTION OF SERVICES

The subrecipient shall provide the services for the State of Arizona, Arizona Department of Homeland Security as approved in the grant application titled
" Equipment "
Enter Title of Application
and funded at $ 12600 (as may have been modified by the award letter).
Enter Funded Amount above

IV. MANNER OF FINANCING

The AZDOHS shall:

a) Provide up to $ 12600 to the subrecipient for services provided under Paragraph III.
Enter Funded Amount above

b) Payment made by the AZDOHS to the subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the subrecipient under this Agreement.

V. FISCAL RESPONSBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application. Any modification to quantity or scope of work must be preapproved in writing by the AZDOHS. Therefore, should the project not be completed, the subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the subrecipient shall be for only the amount of dollars actually spent by the subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMATIC MONITORING

The subrecipient agrees to terms specified in A.R.S. § 35-214 and § 35-215.

a) In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par. 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), the subrecipient must have an annual audit conducted in accordance with OMB Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if the subrecipient expends more than $500,000 from Federal awards. If the subrecipient has expended more than $500,000 in Federal dollars, a copy of the subrecipient's audit report for the previous fiscal year and subsequent years within the period of performance is due annually to AZDOHS by March 31st.

b) Subrecipients will be monitored periodically by the AZDOHS staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed.

VII. APPLICABLE FEDERAL REGULATIONS

The subrecipient must comply with the grant guidance Office of Management and Budget (OMB) Circulars Code of Federal Regulations (CFR) and other Federal guidance including but not limited to:

a) 44 CFR Chapter 1, Federal Emergency Management Agency, Department of Homeland Security at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

b) 2 CFR 225 Cost Principles for State, Local & Indian Tribal Governments (A-87 OMB Circular), at http://www.access.gpo.gov/nara/cfr/waisidx_07/2cfr225_07.html.
Cost Principles: 2 CFR Part 225, State and Local Governments; 2 CFR Part 220, Educational Institutions; 2 CFR Part 230, Non-Profit Organizations; Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, at http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c) 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (formerly OMB Circular A-102), at http://149.168.212.15/mitigation/Library/44_CFR-Part_13.pdf. U.S. Department of Homeland Security Authorized Equipment List (AEL), at https://www.rkb.mipt.org/ael.cfm 2 CFR Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

d) 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office of Management and Budget Circulators; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence System Operating Policies; Part 42, Non-discrimination Equal Employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Part 66, Uniform Administrative Requirements for Grants and Co-operative Agreements to State and Local Government.

Included within the above mentioned guidance documents are provisions for the following:

NIMSCAST
The subrecipient agrees to complete the National Incident Management System Compliance Assistance Support Tool (NIMSCAST) and remain in compliance.

Environmental Planning and Historic Preservation
The subrecipient shall comply with all applicable Federal, State, and Local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of AZDOHS/FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings that are 50 years old or greater. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Procurement and construction activities shall not be initiated prior to the full environmental and historic preservation review.

Consultants/Trainers/Training Providers
Billings for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the subrecipient and 44 CFR Chapter 1, Part 13; and shall not exceed the maximum of $450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. In addition to the per day $450 maximum amount, the consultant/trainer/training provider may be reimbursed

reasonable travel, lodging, and per diem not to exceed the state rate. Itemized receipts are required for lodging and travel reimbursements. The subrecipient will not be reimbursed costs other than travel, lodging, and per diem on travel days for consultants/trainers/training providers.

Contractors/Subcontractors
The subrecipient may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the OMB Circulars, Code of Federal Regulations, DHS Guidance and DHS Program Guide. The subrecipient agrees and understands that no subcontract that the subrecipient enters into with respect to performance under this Agreement shall in any way relieve the subrecipient of any responsibilities for performance of its duties. The subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the subrecipient by any subcontractor or vendor which in the opinion of the subrecipient may result in litigation related in any way to the Agreement with the AZDOHS.

Personnel and Travel Costs
All grant funds expended for personnel, travel, lodging, and per diem must be consistent with the subrecipient's policies and procedures and must be applied uniformly to both federally financed and other activities of the agency. At no time will the subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: http://www.gao.state.gov.

Procurement
The subrecipient shall comply with all internal agency procurement rules/policies and must also comply with Federal procurement rules/policies as outlined in section VII and all procurement must comply with Arizona State procurement code and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The subrecipient shall not enter into a Sole or Single Source procurement agreement, unless prior written approval is granted by the AZDOHS.

Training and Exercise
The subrecipient agrees that any grant funds used for training and exercise must be in compliance with grant guidance. All training must be approved through the ADEM/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) Toolkit for exercise design, development and scheduling. Subrecipient agrees to:

a) Submit the HSEEP Toolkit Exercise Summary to AZDOHS with all Exercise Reimbursement Requests.
b) Post all exercises, documentation and After Action Reports/Improvement Plans via the HSEEP Toolkit.
c) Within 60 days of completion of an exercise, the exercise host subrecipent is required to upload the AAR/IP into the HSEEP Toolkit and email the AAR/IP to the local County Emergency Manager, the FEMA Region IX Exercise POC, HSEEP@dhs.gov, the AZDOHS Strategic Planner, and the Arizona Department of Emergency Management (ADEM) Exercise Officer.

Nonsupplanting Agreement
The subrecipient shall not use funds to supplant State or Local funds or other resources that would otherwise have been made available for this program/project. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the subrecipient may resume charging for the grant position.

E-Verify
Compliance requirements for A.R.S. § 41-4401—immigration laws and E-Verify requirement.

a) The subrecipient warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program).

b) A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the subrecipient may be subject to penalties up to and including termination of the Agreement.

c) The AZDOHS retains the legal right to inspect the papers of any employee who works on the Agreement to ensure that the subrecipient is complying with the warranty under paragraph (a) above.

Property Control
Effective control and accountability must be maintained for all property. The subrecipient must adequately safeguard all such property and must assure that it is used solely for authorized purposes as described in the guidance and application. The subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

a) Equipment shall be used by the subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Theft, destruction, or loss of property shall be reported to the AZDOHS immediately.

b) Nonexpendable Property is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of $300 (Three Hundred Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or plant.

c) A Capital Asset is any personal or real property, or fixture that has an acquisition cost of $5,000 (Five Thousand Dollars) or more per unit and/or a useful life of more than one year. When use of the Capital Asset for project activities is discontinued, the subrecipient shall request/receive authorization from AZDOHS prior to disposition.

d) A Property Control Form shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. Nonexpendable Property and Capital Assets must be included on the Property Control Form. When disposition of Nonexpendable Property and Capital Assets occurs the subrecipient shall submit an updated Property Control Form to AZDOHS.

e) Upon submission of the final quarterly programmatic report the subrecipient must file with the AZDOHS a copy of the Property Control Form. The subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.

f) A physical inventory of the Nonexpendable Property and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.

(1) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(2) Adequate maintenance procedures must be developed to keep the property in good condition.

Allowable Costs

The allowability of costs incurred under this agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable OMB Circulars, Code of Federal Regulations, authorized equipment lists and guidance documents referenced above.

a) The subrecipient agrees that grant funds are not to be expended for any indirect costs that may be incurred by the subrecipient for administering these funds.
b) The subrecipeint agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with Grant Guidance.

VIII. DEBARMENT CERTIFICATION

The subrecipient agrees to comply with the Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions."

IX. FUNDS MANAGEMENT

The subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. The subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits.

The subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the subrecipient shall include:

a) Programmatic Reports
The subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) working days of the last day of the quarter in which services are provided. The subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The subrecipient shall use the Quarterly Programmatic Report Format template, which is posted at www.azdohs.gov. If the scope of the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire scope of the project is completed

b) Quarterly Programmatic Reports are due:
January 15 (period October 1– December 31)
April 15 (period January 1 – March 31)
July 15 (period April 1 – June 30)
October 15 (period July 1 – September 30)

c) Financial Reimbursements
The subrecipient shall provide as frequently as monthly but not less than quarterly requests for reimbursement. Reimbursements shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The subrecipient shall submit a final reimbursement for expenses received and invoiced prior to the end of the termination of this Agreement no more than **forty-five (45) calendar days** after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.

The AZDOHS requires that all requests for reimbursement are submitted via U.S. mail (United States Postal Service), FedEx, UPS, etc...or in person. Reimbursements submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation it feels necessary in order to process reimbursements.

All reports shall be submitted to the contact person as described in Paragraph XXXIX, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The subrecipient may not assign any rights hereunder without the express, prior written consent of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representative of the subrecipient and the AZDOHS.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the subrecipient's compensation if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding sentence. The subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

XIV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period.

XV. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the subrecipient give a written assurance of intent to perform. If the subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVI. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVII. THIRD PARTY ANTITRUST VIOLATIONS

The subrecipient assigns the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to subrecipient toward fulfillment of this Agreement.

XVIII. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the subrecipient in the execution of this Agreement.

XIX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XX. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXI. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) days of the events giving the rise to the dispute. The subrecipient agrees to terms specified in A.R.S. § 12-1518.

XXII. GOVERNING LAW AND CONTRACT INTERPRETATION

a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.

b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.

c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIII. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph X, REPORTING REQUIREMENTS; provided; however, that the AZDOHS shall have the right to immediately amend this Agreement so that it complies with any new legislation, laws, ordinances, or rules affecting this Agreement. The subrecipient agrees to comply with any such amendment within ten (10) business days of receipt of a fully executed amendment. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXIV. RESTRICTIONS ON LOBBYING

The subrecipient shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State or Federal government.

XXV. LICENSING

The subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVI. NON-DISCRIMINATION

The subrecipient shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including the Americans with Disabilities Act, in accordance with A.R.S. title 41, Chapter 9, Article 4 and Executive Order2009-09.

XXVII. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXVIII. SEVERABILITY

The provisions of this Agreement are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Agreement.

XXIX. ADVERTISING AND PROMOTION OF AGREEMENT

The subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the AZDOHS.

XXX. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The AZDOHS reserves the right to review and approve any publications funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the AZDOHS and the U.S. Department of Homeland Security. The U.S. Department of Homeland Security and the AZDOHS shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.

The subrecipient agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the subrecipient describing programs or projects funded in whole or in part with Federal funds shall contain the following statement:

> "This document was prepared under a grant from U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Homeland Security."

The subrecipient also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the AZDOHS to be placed on file and distributed as appropriate to other potential sub-recipients or interested parties. The AZDOHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the subrecipient.

The AZDOHS and the subrecipient recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the subrecipient agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the AZDOHS and possibly the U.S. Department of Homeland Security. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the subrecipient.

XXXI. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the subrecipient shall include closed captioning of the verbal content of such announcement.

XXXII. INDEMNIFICATION

To the extent permitted by law, each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

XXXIII. TERMINATION

a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the subrecipient or the grantor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses and permits or to make satisfactory progress in performing the Agreement. The staff of either party shall provide a written thirty (30) day advance notice of the termination and the reasons for it.

b) If the subrecipient chooses to terminate the contract before the grant deliverables have been met then the AZDOHS reserves the right to collect all reimbursements distributed to the subrecipient.

c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Agreement. The subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the subrecipient.

XXXIV. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXV. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXVI. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

XXXVII. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the subrecipient represents and warrants that he or she is duly authorized to execute this Agreement.

XXXVIII. SPECIAL CONDITIONS

a) The subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements

b) The subrecipient acknowledges that U.S. Department of Homeland Security and the AZDOHS reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

c) The subrecipient agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: **"Purchased with funds provided by the U.S. Department of Homeland Security."**

d) The subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.

e) The subrecipient is prohibited from transferring funds between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, Operation Stonegarden, and Metropolitan Medical Response System).

XXXIX. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing be delivered in person or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington, Suite 210
Phoenix, AZ 85007

The subrecipient shall address all programmatic notices relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov.

The subrecipient shall submit reimbursement requests relative to this Agreement to the appropriate the AZDOHS staff; contact information at www.azdohs.gov

The AZDOHS shall address all notices relative to this Agreement to:

Commander Jason Larter
Enter Title, First & Last Name above
Oro Valley Police Department
Enter Agency Name above
11000 N. LaCañada Drive
Enter Street Address
Oro Valley, AZ 85737
Enter City, State, ZIP

XXXX. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Oro Valley Police Department
Enter Agency Name above

Authorized Signature above

Mayor Satish I. Hiremath, D.D.S.
Print Name & Title above

Enter Date above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

SAVE FORM PRINT FORM RESET FORM

(Please be sure to complete and mail two original documents to the Arizona Department of Homeland Security.)

Town Council Regular Session **Item # 1.**

Meeting Date: 12/05/2012
Submitted By: Kevin Burke, Town Manager's Office
Department: Town Manager's Office

Information

SUBJECT:

DISCUSSION AND POSSIBLE ACTION - RESOLUTION NO. (R)12-65, AUTHORIZING AND APPROVING A PRE-ANNEXATION DEVELOPMENT AGREEMENT WITH TOHONO CHUL PARK, INC.

RECOMMENDATION:

Staff recommends approval.

EXECUTIVE SUMMARY:

Tohono Chul Park, Inc. is the owner of approximately 48.6 acres of real property, located at 7366 N. Paseo del Norte, in unincorporated Pima County. Tohono Chul Park and the Town desire that the property be annexed into the corporate limits of the Town and that future improvements to the property be developed as part of the Town. Annexation of the property by the Town will provide for high-quality development in the area, ensure orderly, controlled and quality growth and facilitate preservation of open space, sensitive habitat and cultural resources.

A.R.S. § 9-500.05 authorizes the Town to enter into development agreements with any real property owner to provide for the annexation and development of that property. This pre-annexation development agreement is a contract between the Town and Tohono Chul Park, Inc. that specifies the standards and conditions governing development of the property upon annexation into the Town. In return the Park agrees to sign a petition in support of the Town's pending Oracle and Ina annexation.

BACKGROUND OR DETAILED INFORMATION:

The pre-annexation development agreement, included as attachment B, is a standard legal agreement; however, it also contains a number of unique provisions regarding future improvements to the Tohono Chul Park property:

Section 2 - Annexation and zoning
The agreement states that the Town Council will consider concurrent adoption of this agreement and translational zoning to Planned Area Development (PAD). Tohono Chul Park representatives and Town staff worked collaboratively to develop a PAD for the property, which will be presented for public hearing before the Town Council as the next item on this agenda. The PAD provides for future development in accordance with the Park's master plan, and is recommended for approval by the Planning & Zoning Commission.

Section 8.g - Infrastructure. Northern Avenue Improvements
The agreement states that within on year the Town shall perform initial basic maintenance on Northern Avenue between Ina and Chapala Drive. Additionally, Town shall perform roadway and drainage improvements to the portion of Northern Avenue between Ina Road and Chapala Drive necessary to bring the roadway into compliance with Town pavement standards. Upon completion of the

improvements, to occur no later than three (3) years following the date of annexation and subject to the availability of funds, the Town will accept that portion of the roadway into the Town's road maintenance system. The Town's agreement to improve Northern Avenue has been a key element of negotiations with property owners in the annexation area.

Section 10.a - Development Fees and Credits
The agreement states that impact fees will not be required for improvements to the Property permitted under the PAD. Should the property owner institute a subsequent amendment to that PAD that is not consistant with the scope and mission of the Park, the property owner shall pay impact fees to the Town.

Section 12 - Identification Signs
The agreement states that the property owner may construct and maintain community identification signs in accordance with the Town's sign code, rules and regulations or the PAD if the PAD provides for a specific sign program. The PAD does contain a specific sign program, the details of which are described under the next agenda item.

Section 17 - Cooperation, Marketing and Promotion
The agreement states that the Town and the Park will cooperate in good faith with each other to pursue the development of the Property as contemplated by this Agreement. The Town shall include the Park in reasonable future Town marketing, economic development, tourism and related promotional materials as a destination attraction, which may include Town participation in the development of joint signage on the Property. This provision is the cornerstone of the agreement between Tohono Chul Park and the Town of Oro Valley. The Park recognizes the numerous benefits of developing as a part of the Town, and the Town recognizes that Tohono Chul Park is a tremendous cultural asset that will enhance our community and reinforce the Oro Valley brand - It's in our nature!

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to (adopt or deny) Resolution No. (R)12-65, Authorizing and approving a pre-annexation development agreement with Tohono Chul Park, Inc.

Attachments

R12-65 Pre-Annexation Agmt - Tohono Chul Park

Pre-annexation Agreement

RESOLUTION NO. (R)12-65

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, REGARDING THE PRE-ANNEXATION AGREEMENT BETWEEN THE TOWN OF ORO VALLEY (THE "TOWN") AND TOHONO CHUL PARK, INC. (THE "OWNER")

WHEREAS, the Arizona Revised Statutes A.R.S. § 9-471 describes procedures for annexation; and

WHEREAS, the Town is currently pursuing annexation of unincorporated property owned by Tohono Chul Park, Inc.; and

WHEREAS, the General Plan encourages the annexation of unincorporated areas surrounding the Town to better serve the public, facilitate infrastructure expansion, and improve operational efficiencies of municipal services; and

WHEREAS, the proposed uses on the property are in conformance with the General Plan.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Town Council of the Town of Oro Valley as follows:

SECTION 1. The Pre-annexation Agreement between the Town and the Owner attached hereto and incorporated herein by this reference is hereby authorized and approved.

SECTION 2. Subsequent to the effective date of an ordinance annexing this property into the Town, the Town Council will adopt such ordinances and take such administrative actions as may be necessary to translate the County zoning to an equivalent Oro Valley Planned Area Development (PAD).

SECTION 3. This Resolution will become immediately operative and in force thirty (30) days from the date of its adoption in accordance with State law and the Oro Valley Town Code.

SECTION 4. This Resolution shall become null and void if the annexation process is not completed within the time allowed. Any legal delay and/or challenge, however, will extend the effective date of the Resolution the same number of days (or months) as the legal delay.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of nay court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Acting Town Attorney

Date: _____

When recorded return to:

Town Clerk
Town of Oro Valley
11000 N. La Canada Drive
Oro Valley, Arizona 85737-4700

PRE-ANNEXATION AGREEMENT
TOHONO CHUL PARK

THIS PRE-ANNEXATION AGREEMENT ("*Agreement*") is entered into by and between the TOWN OF ORO VALLEY, an Arizona municipal corporation (the "*Town*") and Tohono Chul Park, Inc. (the "*Owner*"). The Town and Owner are sometimes referred to herein individually as a "*Party*" and collectively as the "*Parties*."

RECITALS

A. The Owner is the owner of approximately 48.6 acres of real property located in unincorporated Pima County, Arizona, as legally described in **Exhibit "A"** and depicted in **Exhibit "B"** attached hereto (the "*Property*").

B. Owner and the Town desire that the Property be annexed into the corporate limits of the Town and be developed as part of the Town. The annexation of the Property by the Town would provide for high-quality development in the area, ensure orderly, controlled and quality growth and facilitate preservation of open space, sensitive habitat and cultural resources.

C. The Property is currently located within the municipal planning area of the Town and is commonly known and referred to as "*Tohono Chul Park*".

D. A.R.S. § 9-500.05 authorizes the Town to enter into an agreement with any person or entity having an interest in real property providing for the annexation and development of such property and certain development rights thereon. The Parties understand and acknowledge that this Agreement is a "*Development Agreement*" within the meaning of and entered into pursuant to the terms of A.R.S. § 9-500.05, in order to facilitate the annexation, proper planning and development of the Property by providing for, among other things (i) conditions, terms, restrictions, and requirements for the annexation of the Property by the Town, (ii) conditions, terms, restrictions and requirements for the construction and installation of public services/infrastructure improvements, (iii) the permitted uses for the Property and the densities and intensities of such uses, and (iv) other matters related to the development of the Property.

The terms of this Agreement shall constitute covenants running with the Property as more fully described in this Agreement.

E. Annexation shall further assist the Town to grow in accordance with the visions for growth adopted in the General Plan, and by encouraging orderly, controlled, and quality development of the Property by: (i) encouraging investment in and commitment to comprehensive planning, which will result in efficient utilization of municipal and other public resources; (ii) requiring development of the Property to be consistent with the General Plan; (iii) providing for the planning, design, engineering, construction, acquisition, installation and dedication of public infrastructure and public sites in order to support anticipated development of the Property; (iv) increasing tax and other revenues to the Town based on improvements to be constructed on the Property; (v) creating employment through development of the Property consistent with this Agreement; (vi) creating improved uses for residents of the Town, and (vii) increasing the demand for Town services during and after the development of the Property.

F. The Town and the Owner acknowledge that the development of the Property pursuant to this Agreement will result in benefits to the Owner through, among other things, the provision of Town services to the Property, the provision of certainty in order to avoid the waste of resources, including assurances to the Owner that it will have the ability to develop the Property in accordance with this Agreement, the General Plan and, as a result of the adoption of the General Plan, the applicability of the Town's development standards, the provision of Town services and the desirability of developing in the Town, increased property values.

G. In exchange for the Town's agreement to provide the Owner with the foregoing benefits, Owner has agreed to sign and the Town will file an annexation petition with Pima County and a hearing will be scheduled and held in connection with the annexation of the Property into the Town.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, the Parties hereto state, confirm and agree as follows:

1. Incorporation of Recitals.

The foregoing Recitals are hereby incorporated into this Agreement by reference as though fully restated.

2. Annexation and zoning.

(a) Annexation. Owner will provide the approval to the Town and the Town will thereafter initiate the process for annexing the Property into the Town. The Town agrees to comply with the provisions of A.R.S. § 9-471, *et seq.*, as amended, regarding the annexation process, including filing with the Pima County Recorder an annexation petition and the written approvals of the Owner and noticing and holding a public hearing to discuss the proposed annexation. If determined to be in the best interest of the Town, the Town will adopt a final ordinance annexing the Property into the corporate limits of the Town (the "*Annexation*

Ordinance"). The Town Council will consider concurrent adoption of this Agreement and translational zoning to Planned Area Development ("PAD"). The Town and Owner hereby acknowledge and agree that this Agreement shall automatically terminate and be of no force or effect if the Town's annexation of the Property does not become effective and final pursuant to A.R.S. § 9-471(D) on or before April 20, 2013.

3. General Plan.

All development of the Property shall be consistent with and in conformance to the General Plan.

4. Specific PADs and Vested Rights.

(a) Specific PAD(s). Town will develop draft language for a PAD zoning amendment to apply to the Property, which will represent a significant commitment of Town resources. The Town will introduce the zoning case to pursue the PAD zoning amendment. As such, the Town's PAD application fee will not apply to this case.

(b) Vested Rights.

(i) The Parties agree that pursuant to this Agreement, the only development rights vested in connection with the Property shall relate to the land uses and densities and intensities of such uses set forth in the translational zoning PAD approved by the Town (the "*Vested Rights*") and that all other rights, standards and requirements pertaining to the development of the Property are not vested by this Agreement and are subject to the changes caused by any changes to the Rules or enactment of Rules permitted pursuant to Section 5 of this Agreement unless and until such other rights vest pursuant to then existing Arizona law.

(ii) Owner agrees and consents to all the conditions imposed by this Agreement and by signing this Agreement waives any and all claims, suits, damages, compensation and causes of action for diminution in value of the Property the owner of the Property may have under the provisions of A.R.S. §§ 12-1134, *et sec.*, stemming from this Agreement, zoning translation, any Specific PAD, or from any "land use law" (as such term is defined in the aforementioned statute sections) expressly provided for under this Agreement to be enacted, adopted or applied by the Town now and in the future. Owner acknowledges and agrees the terms and conditions set forth in this Agreement cause an increase in the fair market value of the Property and such increase exceeds the possible reduction in the fair market value of the Property caused by land use laws, rules, ordinances, resolutions or actions expressly provided for under this Agreement and adopted or applied by the Town to the Property.

5. <u>Regulation of Development</u>.

(a) <u>The Applicable Rules</u>. With respect to the development of the Property as contemplated by this Agreement, the codes, ordinances, rules, regulations, permit requirements, exactions, fees, development fees (as defined in A.R.S. § 9-463.05) other requirements, and/or official policies of the Town (collectively, the "*Rules*") which apply to the development of the Property, shall mean those Rules in existence from time to time. The Town reserves, exercising its sole and absolute discretion, the right to amend existing or to adopt new Rules and such Rules as amended or adopted shall be applicable to and binding on the Property. Notwithstanding the foregoing, any change in the Rules in existence on the date of this Agreement or any Rules enacted after the date of this Agreement shall not be enforced against any development of the Property if such enforcement would materially and adversely limit or change the development of the Property consistent with the Vested Rights described in this Agreement.

(b) <u>The Permissible Additions to the Rules Impacting Vested Rights</u>. Notwithstanding the provisions of subsection (a) above, the Town may change, enact and enforce Rules against the Property and development thereof which may have an adverse impact on the Vested Rights as follows:

(i) Rules which the Owner may agree in writing apply to the development of the Property.

(ii) In the event that a federal grant, subsidy or other financial award or form of financial assistance would become available to the Town (whether directly from a federal agency or department or indirectly from a federal agency or department through the State of Arizona or Pima County), and if such award or form of assistance is only available if the Town were to adopt certain land use ordinances, rules, regulations and permit requirements, the Town may request that the Owner approve such adoption, which approval shall not be unreasonably withheld;

(iii) Rules of the Town enacted as necessary to comply with mandatory requirements imposed on the Town by the state or federal governments, including court decisions, and other governmental authorities beyond the control of the Town, provided that in the event any such mandatory requirement prevents or precludes compliance with this Agreement, if permitted by law, such affected provisions of this Agreement shall be modified as may be necessary to achieve compliance with such mandatory requirement;

(iv) Rules of the Town reasonably necessary to alleviate threats to public health and safety, provided such Rules shall be applied uniformly and not arbitrarily to all areas that are subject to the similar threat;

(v) Future updates of, and amendments to, existing building, construction, plumbing, mechanical, electrical, drainage, dangerous building, and similar construction and safety related codes, such as the International Building Code, which updates and amendments are generated by a nationally recognized construction/safety organization, or by

the county, state or federal governments or an applicable Association of Governments, provided, such code updates and amendments shall be applied uniformly and not arbitrarily; or

(vi) Amendments to such construction and safety codes generated by the Town for the purposes of conforming such codes to the conditions generally existing in the Town, provided that such code amendments shall be applied uniformly and not arbitrarily.

(vii) Application fees, permit fees, sales taxes, construction sales taxes, utility taxes, stormwater utility fees, and other fees and taxes that apply to the properties generally within the Town.

6. <u>Anti-Moratorium</u>.

The Parties agree that for the Term of this Agreement as defined in Section 27 below, no moratorium shall be imposed except as permitted by A.R.S. § 9-463.06, as amended from time to time.

7. <u>Right to Develop</u>.

The Town agrees that, for the term of this Agreement, Owner shall have the right to develop the Property in accordance with this Agreement and the Vested Rights set forth in this Agreement. The determinations of the Town memorialized in this Agreement, together with the assurances provided to Owner in this Agreement are provided pursuant to and as contemplated by A.R.S. § 9-500.05.

8. <u>Infrastructure</u>.

(a) <u>Design, Construction and Installation</u>.

(i) The design, construction and installation of all water facilities, public streets, parkways, alleys, curbs, gutters, sidewalks and traffic control, directional signs and other public infrastructure and public facilities in connection with the development of the Property as required by the Rules (collectively, the "*Infrastructure*") shall be in conformance with plans and specifications (the "*Technical Specifications*") submitted to and approved by the Town in its sole and absolute discretion, and shall be subject to and in compliance with the Rules. Owner acknowledges and agrees that the Technical Specifications may be modified by the Town from time to time in order to comply with the Rules or to enhance operating efficiency. Any modification by the Town to the Technical Specifications shall not be applied retroactively to any Infrastructure to the extent the Town has already granted approval for construction based on prior Technical Specifications and Owner has materially and substantially acted on such approval. To the extent Owner develops the Property, Owner shall have the right and the obligation under this Agreement to construct or cause to be constructed and installed, in accordance with the Technical Specifications and the Rules, all Infrastructure required by the Rules. Except as provided in Section 8(g) of this Agreement, Owner shall construct and install, or cause to be constructed and installed, all Infrastructure at no cost to the Town. The phrase "at no cost to the Town" in the preceding sentence shall not prevent Owner from receiving credits or

reimbursements as may be available to the Owner pursuant to the Rules or Section 5 of this Agreement.

(ii) The Parties hereby acknowledge that development of the Property may occur in phases. Infrastructure may be constructed in segments that correspond to the phases, if any, unless the Town determines that the phasing of such Infrastructure adversely affects the Town's ability to provide municipal services to the phase. In such event, the Town may require that additional Infrastructure be provided by the owner or developer of the phase and such owner or developer shall be eligible to receive reimbursement for the costs of the additional Infrastructure in accordance with Section 10 below. All Infrastructure shall be installed in a good and workmanlike manner in conformity with the Technical Specifications that are submitted to and approved by the Town in connection each phase of development. Dedication of Infrastructure or construction of Infrastructure within public rights-of-way or easements by the Owner shall not constitute acceptance of the Infrastructure by the Town or for purposes of starting any warranty period. Acceptance of any and all Infrastructure by the Town for purposes of the Town assuming maintenance and repair obligations and for purposes of commencing the warranty period shall be expressly evidenced by the Town as provided herein.

(iii) Owner, its agents and employees, upon submission of a request for an encroachment permit pursuant to the Rules, shall have the additional right, upon receipt from the Town of an appropriate encroachment permit, to enter and remain upon and cross over any Town easements or rights-of-way, now or hereafter existing, to the extent set forth in the terms of such permit and as reasonably necessary to facilitate such construction, or to perform necessary maintenance or repairs of such Infrastructure. Owner's use of such easements and rights-of-way, pursuant to an encroachment permit, shall not impede or adversely affect the Town's use and enjoyment thereof.

(iv) Owner shall restore such Town easements and rights-of-way, used pursuant to the encroachment permit, to their condition prior to Owner's entry upon completion of such construction, repairs, or maintenance. Owner, its agent, and employees, also shall have the right, upon receipt from the Town of an appropriate encroachment permit, to enter and remain upon and cross over any Town easements or rights-of-way to the extent reasonably necessary to install and maintain landscaping material within the portion of the Town right-of-way not used for vehicular travel.

(b) **Infrastructure Assurance.** The parties hereto acknowledge and agree that the Town shall require the Owner to provide appropriate assurances in such form and amount as required by the Rules to assure that the installation of the Infrastructure is completed.

(c) **Dedication and Acceptance.** Upon completion by Owner of any Infrastructure, or any portion thereof, Owner shall promptly dedicate and convey to the Town, at no cost to the Town, such Infrastructure lien and debt free. The phrase "at no cost to the Town" in the preceding sentence shall not prevent Owner from receiving credits or reimbursements as may be available to Owner pursuant to the Rules or Section 10 of this Agreement. The dedication of the Infrastructure shall not constitute acceptance by the Town of the Infrastructure. Owner shall notify the Town Engineer or designee in writing of the presumptive completion of such Infrastructure. Owner shall give the Town Engineer or designee written notice ("*Notice to*

Confirm") promptly following completion of the Infrastructure or any portion thereof so long as any portion of completed Infrastructure is a discrete portion relating to a completed Phase and its suitability for its purpose can be adequately determined. Within thirty (30) business days after its receipt of the Notice, the Town Engineer or designee shall inspect the Infrastructure identified therein as to whether it has been constructed in accordance with the Technical Specifications and Rules as verified by the inspection of the completed Infrastructure by the Town Engineer or designee. Upon completion of the inspection, the Town Engineer or designee shall deliver written notice to Owner within thirty (30) business days of the inspection either (1) approving construction and agreeing to accept conveyance of such Infrastructure, or portion thereof ("*Acceptance Letter*"); or (2) identifying, through a punch list, all specific items that are not in accordance with the Technical Specifications and Rules and that are to be corrected by Owner. Owner shall make all such corrections within the time period determined by the Town Engineer or designee. So long as such Infrastructure is constructed in accordance with the Technical Specifications and Rules as evidenced by a written document or agreement issued by the Town Engineer, the Town will accept the Infrastructure through an Acceptance and Service Agreement, unless such Infrastructure is to be owned or accepted by some other governmental entity. Acceptance of any Infrastructure is expressly conditioned upon Owner providing the warranties for such Infrastructure, as provided in Section 8(d), below. Except as provided in Section 8(e) below, after acceptance of any Infrastructure, the Town thereafter shall maintain, repair and operate such Infrastructure at its own cost.

(d) <u>Warranty</u>. Owner shall give to Town a two (2) year warranty for all Infrastructure, which warranty shall begin on the date that Town accepts the Infrastructure as provided in this section or on such other date as set forth in the Service Agreement. Any material deficiencies in material or workmanship identified by Town's staff during the two (2) year warranty period shall be brought to the attention of Owner(s) who provided the warranty, who shall promptly remedy or cause to be remedied such deficiencies to the reasonable satisfaction of Town's staff. Continuing material deficiencies in a particular portion of the Infrastructure shall be sufficient grounds for Town to require (i) an extension of the warranty for an additional two (2) year period or, (ii) the proper repair of, or (iii) the removal and reinstallation of that portion of the Infrastructure that is subject to such continuing deficiencies. Regardless of whether the two (2) year warranty period has expired, the Owner agrees to repair any damage to the Infrastructure caused by Owner's construction activities on the Land. Nothing contained herein shall prevent the Town or Owner from seeking recourse against any other third party for damage to the Infrastructure caused by such third party.

(e) <u>Maintenance</u>. Owner shall maintain and repair all Infrastructure comprised of streets, parkways, alleys, curbs, gutters, sidewalks and all appurtenances thereto at its expense, for a period of two (2) years from the date the Town accepts the Infrastructure. Such maintenance shall consist of all maintenance and repair actions reasonably required by customary engineering industry standards for each item of Infrastructure. Notwithstanding the foregoing, Owner agrees to forever maintain all landscaping located within the public easements and rights-of-way located on the Property and such obligation shall survive the termination or expiration of this Agreement; provided, however, such obligation may, with the consent of the Town, be transferred to the immediately adjacent property owner or Owner may assign this obligation to one or more home owners associations ("***HOA***") provided such HOA is legally bound to such landscaping maintenance obligation and has adequate financial ability, acceptable

to the Town, to bear such obligation. Once the Town has consented to the assignment of this obligation to an HOA, Owner shall be relieved of any further obligation to maintain the landscaping.

(f) <u>Necessary Property and Easements</u>. Prior to or contemporaneous with the transfer of the Infrastructure to the Town in accordance with the terms and conditions of this Agreement and the Rules, Owner, at no cost to the Town, shall convey to the Town, by special warranty deed, plat or map of dedication, all real property necessary for the Town to own, operate, and maintain the Infrastructure (the "*Necessary Property*") together with all of the property and equipment comprising the Infrastructure that may properly be characterized as fixtures located thereon. In addition, Owner shall grant to the Town, at no cost to the Town, all rights-of-way, easements, access rights, and other interests in real property necessary for the ownership, construction, installation, operation, maintenance and repair of the Infrastructure as required by the Town including easements: (i) as are necessary for the operation, maintenance and repair of the Infrastructure as part of the Town's infrastructure systems, including easements for ingress, egress, utilities, and, if necessary, noise and odor; and (ii) from the Infrastructure to the point of connection to the then existing or proposed infrastructure system for the Property at the nearest point of interconnection in a public right-of-way or such other location approved by the Town and as are necessary for the purpose of construction, installation, operation, maintenance and repair of the property and equipment comprising Infrastructure (collectively, "*Easements*"). The phrase "at no cost to the Town" in the preceding two sentences shall not prevent Owner from receiving credits or reimbursements as may be available to Owner pursuant to the Rules or Section 5 of this Agreement. Owner shall provide to the Town, at Owner's cost, extended coverage title insurance policies for the Necessary Property and the Easements, which policies shall be approved by the Town and which policies shall be subject only to those conditions and exceptions as the Town shall approve. Any endorsements requested by the Town shall be paid by Owner. Prior to transfer of the Infrastructure and the conveyance of the Necessary Property and Easements to the Town, Owner shall provide the Town, at no cost to the Town, with such studies, reports and other information required by the Town including, without limitation: (i) a title report for the Necessary Property and Easements in a form satisfactory to the Town that shall be updated prior to conveyance of the Necessary Property and Easements to the Town; and (ii) an environmental site assessment upon which the Town may rely, that has been performed and reported in compliance with 40 CFR Part 312, as amended, that concludes no conditions were identified at the Necessary Property or within the Easements indicative of releases and threatened releases of hazardous materials on, at, in, or to the Necessary Property or Easements.

(g). <u>Northern Avenue Improvements</u>. Notwithstanding the remaining provisions of this Section, within one year of this agreement Town shall perform initial basic maintenance on Northern Avenue between Ina and Chapala Drive. Additionally, Town shall perform roadway and drainage improvements to the portion of Northern Avenue between Ina Road and Chapala Drive necessary to bring the roadway into compliance with Town pavement standards. Upon completion of the improvements, to occur no later than three (3) years following the date of annexation and subject to the availability of funds, the Town will accept that portion of the roadway into the Town's road maintenance system.

9. Town Services.

(a) In General. Upon annexation, the Town will provide all Town services, including Police Service, to the developed phase of the Property, the same as is typically provided by the Town to its residents to the same extent and upon the same terms and conditions as those services are being provided to other similarly situated properties throughout the Town. The Town will assess and collect user fees or rates for each municipal service provided by the Town consistent with the fees or rates established by the Town and applied for other similarly situated property and projects in areas of the Town receiving similar municipal services. Failure by the Owner to promptly pay any amount owed will constitute a breach of this Agreement and the Town may collect such amounts owing by utilizing the remedies set forth in Section 7 of this Agreement, and further may withhold the issuance of building permits for improvements on such phase of the Property until such amount is paid.

(b) Water Service. The Parties acknowledge that the Metro Water District is and will be the sole provider of water service to the Property unless and until the Town acquires that portion of the Metro Water system that serves the Property.

(c) Inability to Serve. To the extent a court or other governmental agency determines the Town shall not provide one or more municipal services to all or part of the Property, the Town shall not be liable for any damages, costs or expenses incurred or suffered by Owner of the Property as a result of the Town's inability to serve.

10. Development Fees and Credits.

(a) Development Fees. Development impact fees will not be required for improvements to the Property permitted under the PAD to be developed by the Town pursuant to Section 4(a) of this Agreement or any amendments to the PAD specifically provided for under this agreement. If Owner institutes a subsequent amendment to that PAD that is not consistant with the scope and mission of the Park, Owner shall pay to Town what are commonly referred to as development, or impact, and hookup fees (collectively, "*Development Fees*") that are imposed by Town as of or after the date of this Agreement, including any increases to Development Fees, subject to offsets and credits as provided herein, and as allowed by law for all subsequent improvements pursuant to the amended PAD.

(b) Credits. If Owner provides, dedicates or pays for any public sites or public infrastructure, and such category of sites or infrastructure is included as a component of the Development Fees, Owner shall be entitled to receive a credit for the sites or infrastructure against the applicable component of such Development Fees (the "*Development Fee Credits*"). In no event shall the amount of Development Fee Credits for each component of the Development Fees exceed the amount of Development Fees actually paid or payable by Owner in connection with development of the Property.

11. Town's Failure to Perform.

Except as otherwise permitted pursuant to Section 5 above, if the Town does not allow the Property to be developed in accordance with this Agreement or any approved

preliminary plats consistent with the General Plan and this Agreement, then the Owner shall be entitled to petition an arbitrator in accordance with Section 6 of this Agreement to specifically enforce the provisions of this Agreement.

12. Plan Submittal

Owner shall submit all plats and plans to Town staff in accordance with the approved PAD.

13. Identification Signs

Owner may construct and maintain community identification signs in accordance with the Town's sign code, rules and regulations or the PAD if the PAD provides for a specific sign program.

14. Town Decisions and Inspections.

(a) Decisions. The Parties agree that if at any time an impasse has been reached with the Town staff on any issue affecting the Property, the Owner shall have the right to appeal to the Town Representative (for purposes of this Agreement the Town Representative shall be the Town Planning and Zoning Administrator) for a decision pursuant to this paragraph. If the issue on which an impasse has been reached is an issue where a final decision can be reached by the Town staff, the Town Representative shall give the Owner a final decision within fifteen (15) business days after the request for a decision is made. If the issue on which an impasse has been reached is one where a final decision requires action by the Town Council, the Town Representative shall use best reasonable efforts to schedule the matter for a Town Council hearing within four (4) weeks after the request for an expedited decision is made; provided, however, that if the issue is appropriate for review by the Town Manager, the matter shall be submitted to the Town Manager first, and then to the Town Council. Adverse decisions of the Town Staff pursuant to the development review and approval process as set forth in the applicable Town ordinances and State law may be submitted by the Owner to the Town Council, or to the Town Manager first, if appropriate, for consideration, review and decision. If the parties do not satisfactorily resolve the impasse pursuant to this paragraph, then Section 16 shall apply.

(b) Reviews and Inspections. Town does and will from time to time, at the election of Town use the assistance of private independent attorneys, architects, engineers, inspectors and other outside professionals and consultants to assist Town in the process of administering the development of Property within the boundaries of Town, including the Property. If the Town retains additional outside professionals and consultants in connection with the Property, Owners shall reimburse Town for all reasonable fees and costs of the professionals and consultants. Although Town shall have the right to retain and control the professionals and consultants, Town, prior to such selection, shall provide the Owner with notice of its intent to retain outside consultants and shall consider Owners' recommendation in connection with the selection of the additional professionals and consultants.

15. **Defaults.**

Failure or delay by either party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of thirty (30) days after written notice thereof from the other party ("*Cure Period*"), shall constitute a default under this Agreement; provided, however, that if the failure or delay is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then such party shall have such additional time as may be necessary to perform or comply so long as such party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible. In the event such default is not cured within the Cure Period, the non-defaulting party shall have all rights and remedies that are set forth in Section 16 of this Agreement. In addition to the dispute resolution process and remedies set forth in Section 16 of this Agreement and **Exhibit "C"** hereto, and notwithstanding anything in this Agreement to the contrary, Town shall have the right to withhold the issuance of building permits for improvements on the Property affected by such default (regardless of Property ownership) until the Default is cured by Owner. Nothing contained in this section shall prevent Town from using any remedies or imposing any fines available to it under the Rules for a violation or breach by Owner of any Rules.

16. **Dispute Resolution Remedies.**

With respect to all disputes, claims or allegations of default under this Agreement, the Parties shall be limited to the remedies and dispute resolution process set forth in **Exhibit "C"** and in this Section. Any dispute, controversy, claim, or cause of action arising out of or relating to this Agreement shall be governed by Arizona law. The Owner and the Town agree that any award rendered by the arbitrator (as defined in **Exhibit "C"**) pursuant to the provisions of **Exhibit "C"** shall be binding on both Parties, and if either party does not abide by the award rendered by the arbitrator, the provisions of **Exhibit "C"** shall apply.

17. **Cooperation, Marketing and Promotion**

The Town and Owner hereby acknowledge and agree that they will cooperate in good faith with each other to pursue the development of the Property as contemplated by this Agreement. Town shall include the Property in reasonable future Town marketing, economic development, tourism and related promotional materials as a destination attraction, which may include Town participation in the development of a joint monument sign on the Property.

18. **Waiver.**

No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Town or the Owner of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

19. **Binding Effect and Successors**.

(a) All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereof including, without limitation, to third party developers and builders; provided, however, the Owner's rights and obligations hereunder may only be assigned to a person or entity that has acquired the Property or a portion thereof and only by a written instrument, recorded in the Official Records of Pima County, Arizona, expressly assigning such rights and obligations.

(b) Notwithstanding the foregoing, the Town agrees that the ongoing ownership, operation and maintenance obligations provided by this Agreement may be assigned to one or more homeowners associations to be established by the Owner. The Owner agrees to provide the Town with written notice of any assignment of the Owner's rights or obligations within fifteen (15) days after such assignment. In the event of a complete assignment by Owner of all rights and obligations of Owner hereunder, Owner's liability hereunder shall terminate effective upon the assumption by Owner's assignee. As a condition precedent to the release of the Owner as contemplated by this Section, the Town shall determine, exercising its reasonable discretion, that the homeowner's association is capable of performing and paying for the obligations assigned to it. Nothing in this Agreement shall operate to restrict the Owner's ability to assign any of its rights and obligations under this Agreement to those entities that acquire any portion of the Property.

20. Entire Agreement.

This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understanding of the Parties, oral or written, are hereby superseded and merged herein.

21. Amendment.

No change or addition is to be made to this Agreement except by a written amendment executed by the Owner and the Town. Within ten (10) days after any amendment to this Agreement has been executed, such amendment shall be recorded in the official records of Pima County, Arizona.

22. Severability.

If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. If any applicable law or court of competent jurisdiction prohibits or excuses the Town from undertaking any contractual commitment to perform any act hereunder, this Agreement shall remain in full force and effect, but the provision requiring such action shall be deemed to permit the Town to take such action at its discretion, if such a construction is permitted by law.

23. <u>Governing Law</u>.

This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of Arizona. The provisions of A.R.S. § 38-511 are incorporated herein and made a part hereof.

24. <u>Recordation</u>.

This Agreement shall be recorded in its entirety in the official records of Pima County, Arizona, not later than ten (10) days after this Agreement is executed by the Town and the Owner.

25. <u>Notices and Requests</u>.

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

<u>The Town</u>: Town Manager
Town of Oro Valley
11000 N. La Cañada Drive
Oro Valley, Arizona 85737-7015
(520) 229-4700 (Telephone)
(520) 297-0428 (Facsimile)

<u>With Copy To</u>: Town Attorney
Town of Oro Valley
11000 N. La Cañada Drive
Oro Valley, Arizona 85737-7015
(520) 229-4760 (Telephone)
(520) 229-4774 (Facsimile)

<u>Owner</u>: Tohono Chul Park, Inc.
Dr. Christine Conte
Executive Director
7366 N. Paseo del Norte
Pima County, Arizona 85704

Or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (a) when delivered to the party, (b) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (c) the following business day after being

given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (d) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

26. Exhibits and Recitals.

Any Exhibit attached hereto shall be deemed to have been incorporated herein by this reference with the same force and effect as if fully set forth in the body hereof. The Recitals set forth at the beginning of this agreement are hereby acknowledged and incorporated herein and the Parties hereby confirm the accuracy thereof.

27. Term.

The term of this Agreement shall commence and become effective on the date that it is signed by the Parties, and shall automatically terminate on the fifteenth (15th) anniversary of such date. However, if any of the Property still is subject to this Agreement fifteen (15) years after the effective date of this Agreement, this Agreement shall automatically extend without the necessity of any notice, agreement, or recording by or between the Parties an additional ten (10) years, for a total of twenty-five (25) years, at which time this Agreement shall automatically terminate as to the Property without the necessity of any notice, agreement, or recording by or between the Parties unless the Agreement terminates earlier pursuant to Section 2(a).

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates written below.

TOWN OF ORO VALLEY, ARIZONA, a municipal corporation

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Acting Town Attorney

Date: _____

OWNER:

TOHONO CHUL PARK, INC

_____
Name and Title

Date:_____

STATE OF ARIZONA)
) ss:
COUNTY OF PIMA)

On this _____ day of _____, 20___ before me personally appeared _____ _____ to me known, who, being by me duly sworn, did depose and say that he/she is the _____

of the _____, the corporation which executed the Agreement; that he/she knows the seal of the corporation; that the seal affixed to the instrument is the corporate seal; that is/was so affixed by order of the Board of Directors of the corporation, and that he/she signed his/her name to the instrument by like order.

_____
NOTARY PUBLIC

My Commission Expires: _____

EXHIBITS

Exhibit "A"	**-**	**Legal Description of the Property**
Exhibit "B"	**-**	**Depiction of the Property**
Exhibit "C"	**-**	**Dispute Resolution/Remedies**

EXHIBIT "A"
TO
PRE-ANNEXATION AGREEMENT
Tohono Chul Park

[Legal Description of the Property]

See following page(s)

225-14-237D TOHONO CHUL PARK INC
7366 N PASEO DEL NORTE TUCSON AZ 85704

Legal description

CATALINA CITRUS ESTATES PTN LOTS 13 & 16
LYG W & ADJ NORTHERN AVE

EXHIBIT "B"
TO
PRE-ANNEXATION AGREEMENT
Tohono Chul Park
[Depiction of the Property]

See following page.

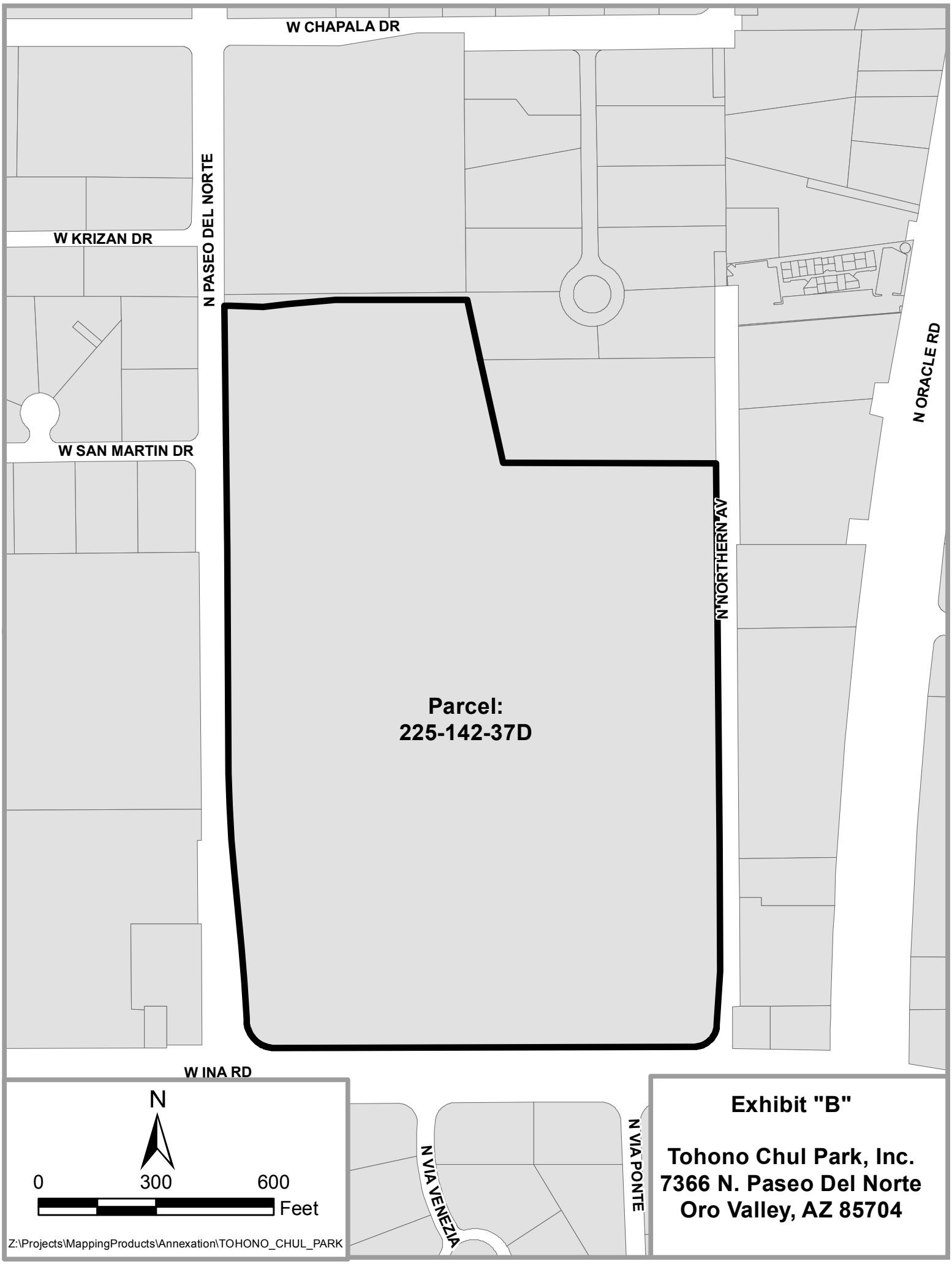

Exhibit "B"

Tohono Chul Park, Inc.
7366 N. Paseo Del Norte
Oro Valley, AZ 85704

EXHIBIT "C"
TO
PRE-ANNEXATION AGREEMENT
Tohono Chul Park

Dispute Resolution/Remedies

A. The dispute resolution process ("*Process*") and remedies set forth herein shall not apply to an action by the Town to condemn or acquire by inverse condemnation all or any portion of the Property, and in the event of any such action by the Town, Owner shall have all rights and remedies available to it at law or in equity.

B. If an event of default is not cured within the Cure Period, as defined at Section 16 of this Agreement, the non-defaulting party may institute the Process, pursuant to Paragraph C below.

C. Any controversy or claim subject to the Process shall be settled by an arbitration administered by the American Arbitration Association ("*AAA*") in accordance with its Commercial Arbitration Rules ("*Rules*") (except that the terms of this Agreement and this Exhibit shall control over conflicting rules), and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

D. The dispute shall be heard by a single arbitrator from a panel of qualified arbitrators located within the Tucson metropolitan area.

E. The place of arbitration shall be Oro Valley, Arizona unless the Parties agree to another location.

F. The Parties agree that the remedies available for the award by the arbitrator shall be limited to specific performance and declaratory relief and that under no circumstances shall the arbitrator issue an award of monetary damages, whether characterized as actual, consequential or otherwise, provided, however, the arbitrator may award the payment of an amount owed, or enjoin the withholding of amounts due pursuant to this Agreement.

G. The Parties have structured this Process with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this Process. The hearing of any dispute shall be expedited and will commence as soon as practicable, but no later than forty-five (45) days after selection of the arbitrator. This deadline can be extended only with the consent of both Parties to the dispute, or by decision of the arbitrator upon a showing of emergency circumstances.

H. The arbitrator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the Parties' objective that the disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The arbitrator, upon proper

application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary, or sensitive materials or information from public disclosure or other misuse.

I. In order to effectuate the Parties' goals, the hearing, once commenced, will proceed from business day to business day until concluded, absent a showing of good cause.

J. The arbitrator shall, within thirty (30) days from the conclusion of the hearing, issue the award.

K. The arbitrator may determine how the costs and expenses of the arbitration shall be allocated between the Parties, and may award attorneys' fees to either party.

L. The award of the arbitrator shall be accompanied by a reasoned opinion.

M. The award of the arbitrator shall be final and binding. Except as otherwise provided in this Agreement, this Exhibit D and the Commercial Arbitration Rules of the AAA, the Process shall be subject to the provisions of the Arizona Arbitration Act (A.R.S. §§ 12-1501 through and including 1518). In the event a party seeks confirmation of an award, or if there is a failure to abide by any award, either party may seek any remedy at law or equity for failure to comply with the award, but in no event shall the award be reviewed de novo or consequential monetary damages be ordered by the court.

Town Council Regular Session **Item # 2. a.**

Meeting Date: 12/05/2012

Requested by: Kevin Burke **Submitted By:** Mike Standish, Town Clerk's Office

Department: Development Infrastructure Services

Information

SUBJECT:

RESOLUTION NO. (R)12-58, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT KNOWN AS TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A"

RECOMMENDATION:

Staff recommends approval.

EXECUTIVE SUMMARY:

This is a procedural item to declare the draft ordinance a matter of public record. The draft ordinance has been posted on-line and made available in the Town Clerk's office. If adopted, the final version, as approved by Town Council, will be made available in the same manner.

BACKGROUND OR DETAILED INFORMATION:

This proposed resolution will become a public record upon adoption by Town Council. The Town will save on advertising costs, since if the Town Council adopts this resolution, the Town will forgo publishing the entire draft ordinance in print form. The adopted version will be published on the Town website. The current draft version of the ordinance has been posted on-line on the Town website and a printed version is available for public inspection at the Town Clerk's office.

FISCAL IMPACT:

The Town will save on advertising costs by meeting publishing requirements by reference, without including the pages of amendments.

SUGGESTED MOTION:

I MOVE to (adopt or deny) Resolution No. (R)12-58, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT KNOWN AS TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A".

Attachments

R12-58 Tohono Chul Park PAD

R12-58 Exhibit A - Tohono Chul Park PAD

RESOLUTION NO. (R)12-58

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT KNOWN AS TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A".

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, that certain document entitled Tohono Chul Park Planned Area Development, attached hereto as Exhibit "A", three copies of which are on file in the Office of the Town Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk and declaring an emergency to exist, and this resolution shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

9/7/12 DRAFT

TOHONO CHUL PARK
PLANNED AREA DEVELOPMENT

September, 2012

ATTACHMENT 1

Tohono Chul Park
Planned Area Development
7366 N. Paseo Del Norte

Prepared for:

TOHONO CHUL PARK
7366 North Paseo Del Norte
Tucson, AZ 85704

Prepared by:

Town of Oro Valley
11000 N. La Canada Dr
Oro Valley, AZ 85737

With assistance from:

John Douglas Architects
4400 N. Civic Center Plaza
Scottsdale, AZ 85251

Racy Associates
535 W. Burton Dr.
Tucson, AZ 85704

September 2012

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I. Site Analysis

A. Project Overview

The Tohono Chul Park Planned Area Development (PAD) encompasses approximately 48.5 acres located on to the northeast corner of Ina Road and Paseo Del Norte (See Exhibit 1: Regional Location). The project site is currently zoned Pima County CR-1 (Single Residence Zone) and CB-1 (Local Business Zone). The use of this site as a museum/botanical garden was permitted in accordance with non-conforming use permit #P99CP04979, issued on May 14, 1999. A change in zoning to Planned Area Development (PAD) is requested for future development of the site.

The mission of Tohono Chul Park is:

> ***To enrich people's lives by providing them the opportunity to find peace and inspiration in a place of beauty, experience the wonders of the Sonoran Desert, and to gain knowledge of the natural and cultural heritage of this region.***

The Park has grown and expanded over the years to become a nationally recognized showcase for Sonoran Desert and Southwest Region plants, arts, and culture.

Previous zoning and development approvals for the property include Pima County case numbers:

- Co9-71-73
- Co9-80-140
- Co9-84-13
- P1200-176

The purpose of the following Site Analysis is to identify the opportunities, constraints and physical characteristics of the site. The analysis is intended to guide future development in a manner that is sensitive and responsive to the physical conditions of the site. Since most of
the site has already been developed, this Site Analysis will focus primarily on existing development and site conditions, including:

- Existing land uses
- Hydrology
- Scenic Resources
- Traffic Circulation
- Existing infrastructure

Exhibit 1: Regional Location

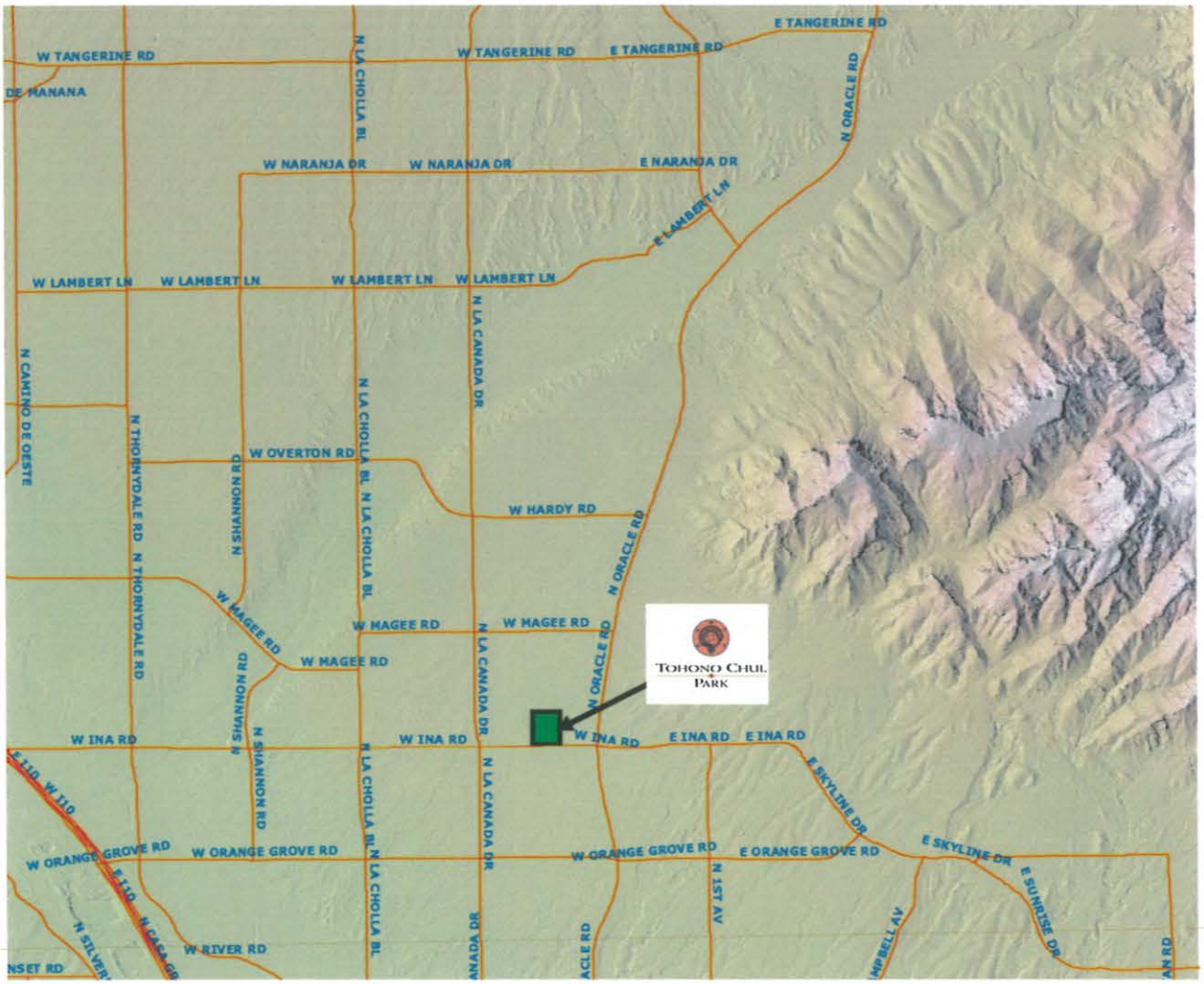


Exhibit 2: Aerial View

B. Existing Land Uses

This section identifies existing zoning, land use and structures on-site and on surrounding properties, as well as other proposed development in the project vicinity.

1. Existing On-Site Land Use & Zoning

The majority of the PAD District (approx. 47.2 acres) is currently zoned Pima County CR-1 (Single Residence Zone), which permits single-family residential development and ancillary uses. Approximately 1.42 acres of the eastern portion of the property is zoned Pima County CB-1 (Local Business Zone), which permits neighborhood scale commercial uses.

The site is composed primarily of undisturbed natural desert and cultivated gardens, with a number of accessory uses including:

- Plant nursery with retail sales
- Tea Room (restaurant)
- Visitor Center
- Book Store
- Educational facility with classrooms

There are currently approximately 40,320 square feet of structures on the property, including:

- Main Building- Including Exhibits & Museum Shop (6,441 square feet)
- Desert Discovery Education Center
- Offices (2,674 square feet)
- Tea Room (4,361 square feet)
- Book Shop (6,764 square feet)
- Wildlife observation structure (491 square feet)
- Shade structures, canopies, and ramadas (5,966 square feet total)
- Greenhouses and shade houses (5,560 square feet total)
- Meeting Rooms
- Maintenance Buildings

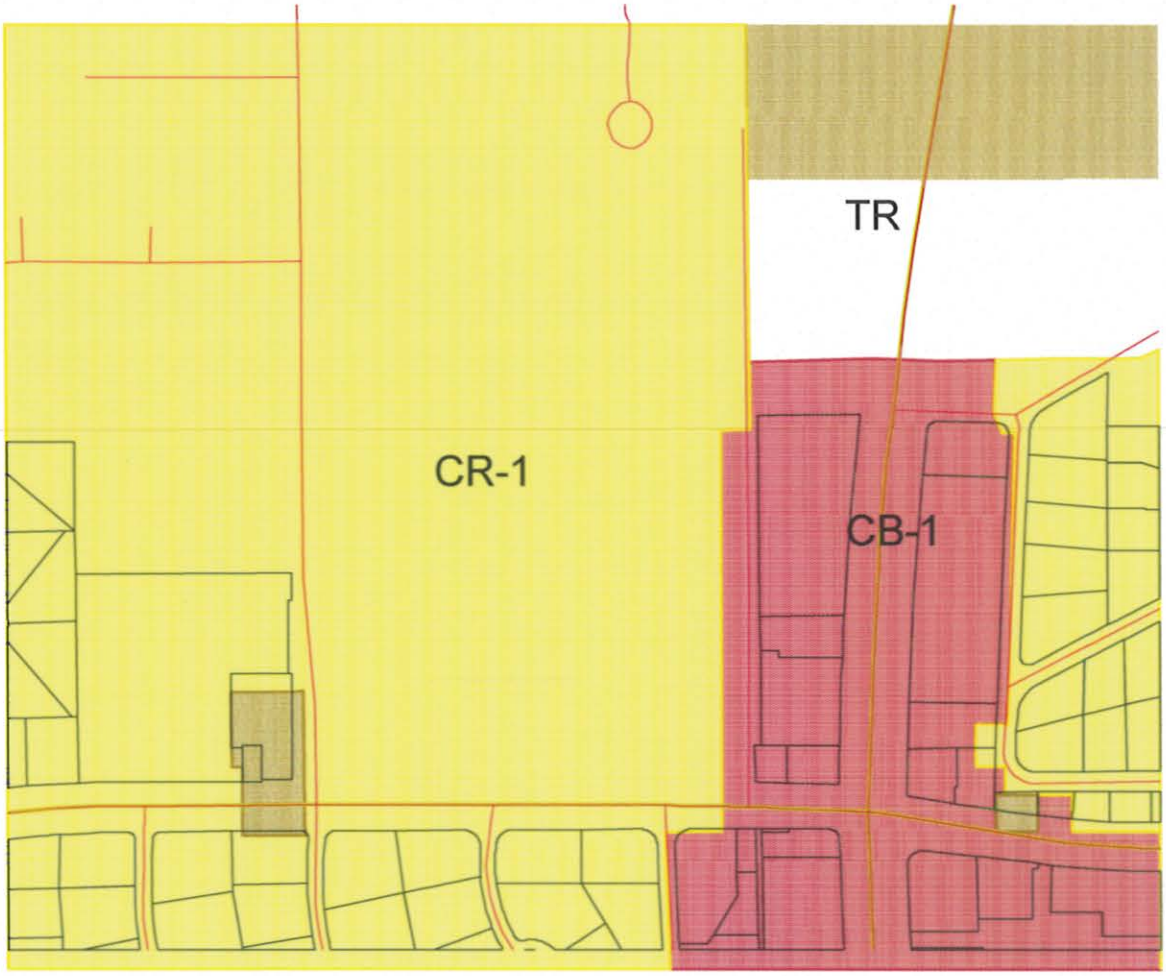
2. Existing Zoning on Properties within a One-Quarter Mile Radius

a. Zoning

The zoning designations of surrounding properties, as depicted in Exhibit 3, are as follows:

North:	Pima County CR-1 (Single Residence Zone) and Pima County SR (Suburban Ranch Zone)
South:	Pima County CR-1 (Single Residence Zone) and Pima County CB-1 (Local Business Zone)
East:	Pima County CB-1 (Local Business Zone) and Pima County TR (Transitional Zone)
West:	Pima County CR-1 (Single Residence Zone)

Exhibit 3: Existing Zoning



b. Land Use

The PAD District is surrounded by single-family homes to the north, west and south, and commercial development on the east and northwest. Exhibit 4: Existing Land Uses displays the following surrounding land uses:

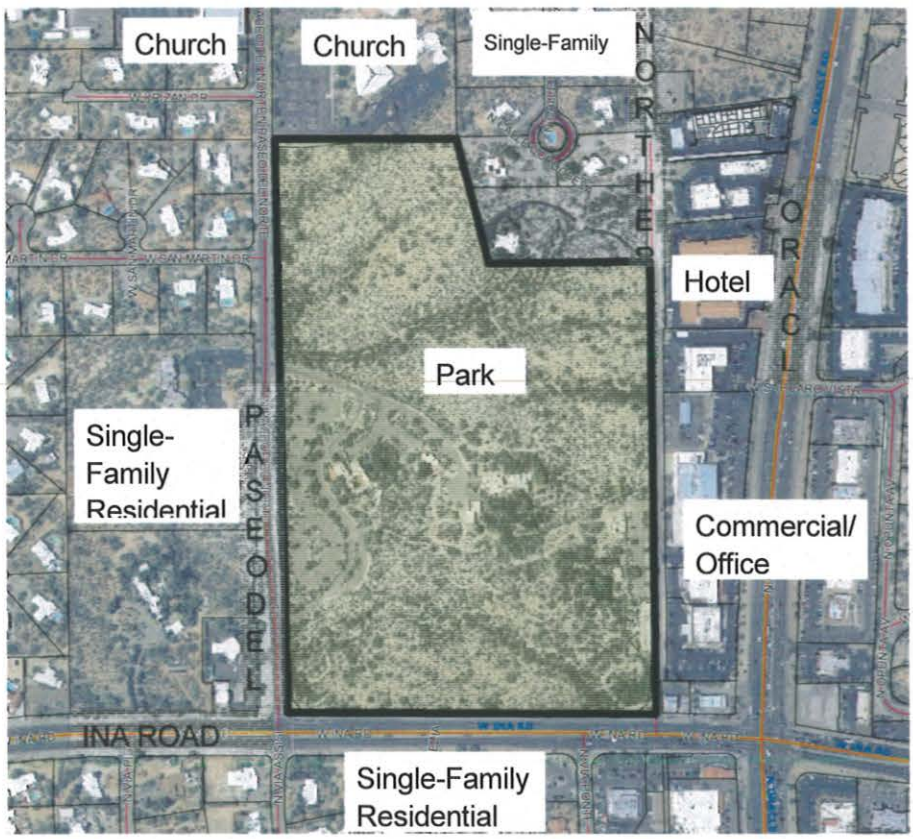
North: St. Odilia Roman Catholic Church and Single-Family Residences

South: Ina Road: Single-Family Residences

East: Northern Ave; Commercial Development

West: Paseo Del Norte; Single-Family Residences & Commercial

Exhibit 4: Existing Land Uses



c. Pending and Conditional Rezonings

There are no pending or conditional rezonings within a one-quarter mile radius of the site.

d. Architectural Styles of Adjacent Development

The prevailing general architectural style for adjacent properties is Southwestern contemporary. Buildings typically feature flat roofs or gable and hip roofs with Spanish tile. Exterior stucco colors feature a range of light desert earth tones.

C. Hydrology

1. **Off-Site Watersheds:** The subject property is impacted by four main off-site watersheds that drain mostly in an easterly to westerly direction. The off-site watersheds contribute to four main washes that drain through the subject property.

2. **Off-Site Features:** Single family residential, commercial, and church uses exist adjacent to the upstream boundaries of the subject property. Northern Avenue separates the subject property from commercial development along the east boundary. Off-site flows enter the subject property from the adjacent uses, mostly through existing natural washes.

3. **On-Site Hydrology:** There are five main watersheds located within the subject property. The watersheds drain to four main natural washes that slope in a mostly easterly to westerly direction. Three of the main washes convey 100-year peak flows of greater than 50 cfs and are considered local floodplains. The largest of the three washes is named the Nanini Wash and ultimately discharges into the Rillito River. The subject parcel is located in FEMA Zone X per FIRM Panel #04019C1680L; therefore, there are no areas of federally mapped floodways or floodplains located on the site.

4. **Downstream Drainage Conditions:** The parcels to the west are separated from the subject property by Paseo Del Norte and have similar terrain and vegetation. The on-site drainage continues through the downstream properties within existing, natural drainageways.

D. Scenic Resources

1. Viewsheds

The site is highly visible from the southern boundary (Ina Road), western boundary (Paseo del Norte), and eastern boundary (Northern Avenue). However, the property is well buffered with vegetation and walls which effectively mitigate negative view impacts. The property appears as a unique "oasis" of gardens and open space amidst urban and suburban development.

2. Site Photos

As demonstrated in the photographs on the following pages (Exhibit 7: Site Photos) views of the Santa Catalina Mountains are prominent from the project site to the east. The Photo Key Map indicates the locations from which each of the photos was taken.

Exhibit 5: Photo Key Map

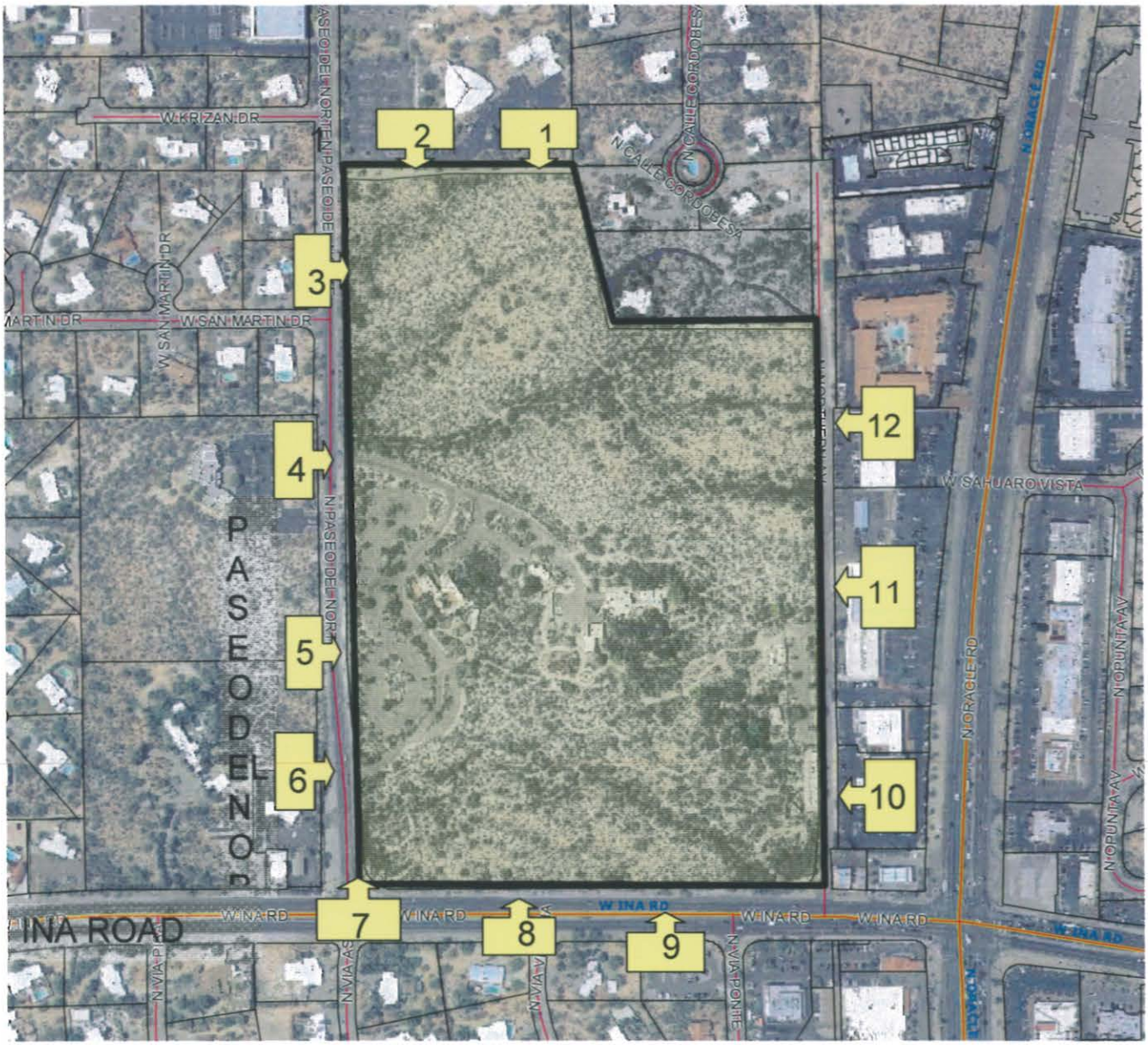


Exhibit 6: Site Photos

Photo 1: View looking south

Photo 2: View looking south

Photo 3: View looking east

Photo 4: View looking east

Photo 5: View looking east

Photo6: View Looking northeast

Photo 7: View looking northeast

Photo 8: View looking north

Photo 9: View looking north

Photo 10: View looking northwest

Photo 11: View looking west

Photo 12: View looking west

E. Traffic Circulation and Road System

1. Existing Off-Site Streets

Paseo del Norte and Northern Avenue are currently the only roadways that provide access to Tohono Chul Park. Paseo del Norte runs north/south along the western border and Northern Avenue runs north-south along the eastern border the subject property. Ina Road is a major 4-lane arterial that runs east-west providing access from I-10 from the west and areas to the east such as the Catalina Foothills area.

Additional notable roadways within a one-mile vicinity of the site include Oracle Road to the east, La Canada Drive to the west, and Magee Road to the north.

Table E.1: Roadway Inventory gives details on the adjacent roadways within a one-mile radius of the project site.

	Paseo Del Norte	Northern Avenue	Ina Road
Major Routes Classification	Minor Collector	Minor Local	Major Arterial (PC Scenic Major Route)
Existing R.O.W. (feet)	Varies (70'-115')	60	150
Number of Lanes	2	2	4
Speed Limit	45	25	45
Ownership	Pima Co.	Pima Co.	Pima Co.
ADT (Source, Year)	Unavailable	Unavailable	29,000 (PAG 2010)
Surface Conditions	Paved w/ bike path and shoulders Fair	Paved with curbed edges Fair	Paved w/ bike path and shoulders Good

2. Roadway Improvements

The following surrounding roadway improvements are either underway or are listed in the PAG Transportation Improvement Plan:

- Oracle Road/Ina Road Intersection – Improvement to construct a "Michigan Left" at grade intersection improvement to increase capacity of the intersection. Construction is not yet underway but is scheduled to begin soon.
- Magee Road (La Canada to Oracle Road) – Improvement to construct a four lane divided roadway. Construction is not yet underway but is scheduled to begin soon.
- La Canada Road (River Road to Ina Road) – Improvement to construct a four lane divided roadway. Construction is currently underway.

3. Intersections

The intersections of Ina Road/Oracle Road, Ina Road/La Canada Drive, Ina Road/Northern Avenue, Ina Road/Paseo Del Norte and Magee Road/Paseo Del Norte are all located within one mile of the project site. The intersections of Ina Road/Oracle Road, Ina Road/Paseo Del Norte, and Ina Road/La Canada Drive are signalized.

4. Alternate Modes

Fixed-route transit stops are currently located on southbound Oracle Road at the Casas Adobes Plaza and on westbound Ina Road just west of Oracle Road.

The subject property is within the regional Sun Shuttle Dial-a-Ride service area.

Designated bike routes with striped shoulders run along both sides of Ina Road and Paseo Del Norte.

There are no sidewalks that connect to the subject property.

F. Existing Infrastructure

1. Sewer

The property is served by the Pima County Regional Wastewater Reclamation Department (PCRWRD). An 8" sewer line (G-2000-127) runs along a portion of the western edge of the property boundary and an 8" sewer line (M-546) runs the length of the eastern property line (See Exhibit 7: Existing Sewer Network).

Exhibit 7: Existing Sewer Network

2. Water

Tohono Chul Park is located within the Metropolitan Water District. An assured water supply exists to serve the property.

II. Land Use Proposal

A. Planning Considerations

The Tohono Chul Park PAD is intended to provide a guide for the future expansion of park facilities consistent with the master plan.

1. Rationale for Use of a PAD

The Planned Area Development (PAD) zoning designation is intended to provide land use guidance for the future development of Tohono Chul Park. It will allow for the expansion of existing facilities and completion of additions included in the master plan. These improvements include:

Tea Room Addition & Remodel	
New construction – Dining Room/ Service area	977 SF
Kitchen Addition	900 SF
Remodel Construction – Dining Room	640 SF
Covered Patios	560 SF
Retail Store Addition & Remodel	
New Construction - Retail Store/ Entry Foyer	2669 SF
New Group Entrance	
New Shade Structure at Retail	610 SF
New Shade Structure at Bus Bay	530 SF
Performance Garden	
New Storage Structure	352 SF
New Shade Structure	4,676 SF
Lomaki House	
New Covered Patios	410 SF
New Admin. Offices	
New Offices for Admin.	2,730 SF
New Covered Breezeway	620 SF
Greenhouse Expansion (Northern)	
New Retail Greenhouse Expansion	3,500 SF
Exhibit House Patio	
New Covered Patio Structure:	1175 SF
Catering/Delivery Area	650 SF
Total Planned New Construction Area:	**20,999 SF**

The proposed additions represent an increase to the existing building area of approximately 53%. In addition, Tohono Chul Park proposes to incorporate a number of other improvements, including:

- New pathways and trails
- A children's ramada
- A catering area
- Covered patios
- Performance stage and seating
- Additional parking

The primary objective of the PAD is to ensure that Tohono Chul Park is able to develop in accordance with their master plan in an efficient, coordinated, and timely manner while ensuring that the development is context-sensitive and appropriate for the community. The following goals will guide future development:

- Protect the privacy and integrity of adjacent neighborhoods;
- Promote high aesthetic standards through the use of the Town's Addendum "A" Design Standards while providing latitude to maintain the unique qualities and character of the Park;
- Minimize adverse environmental impacts of development;
- Design circulation and access points to provide for safe vehicular and pedestrian interaction within the interior of the development and adjacent development.

2. Conformance with General Plan

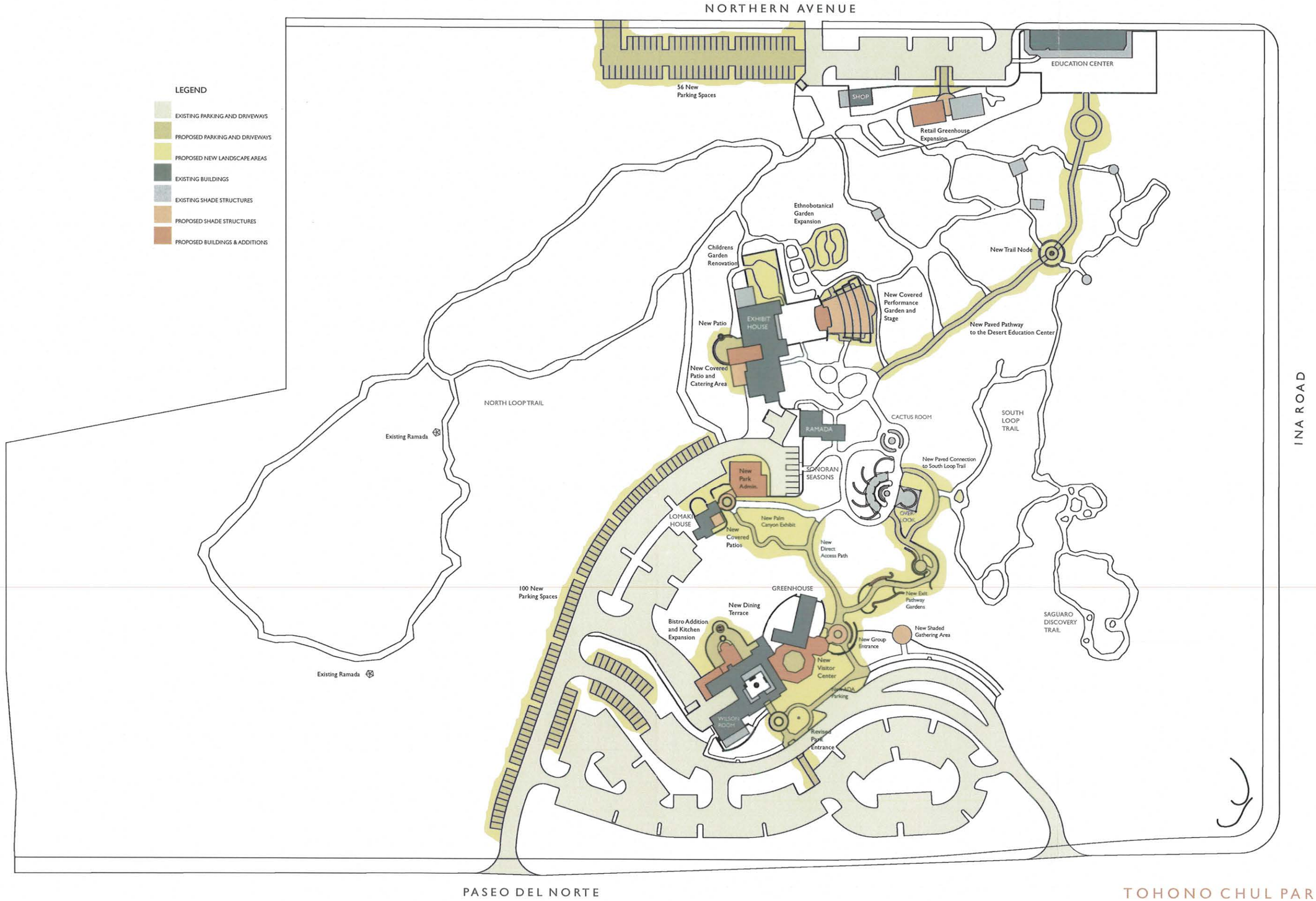
The Oro Valley General Plan designates the property as Park, which denotes area that have been developed or set-aside as public/semi-public recreational facilities.

This PAD is consistent with the General Plan future land use designation and the long range vision for the Town.

3. Conceptual Land Use Plan

A Conceptual Land Use Plan is provided in *Exhibit 8: Conceptual Land Use Plan*. This plan depicts future expansion plans for the Park. It is intended to serve as a general guide and minor deviations shall be permitted, as determined by the Planning & Zoning Administrator. This illustration is not to scale and should not be relied upon to establish the relative locations of, or distances between, any depicted facilities. The plan does not include any engineering or hydrology features, is subject to change without notice, and must be in accordance with the rules and regulations of this PAD.

EXHIBIT 8



TOHONO CHUL PARK
SITE MASTER PLAN

JOHN DOUGLAS ARCHITECTS

May 16, 2012

Exhibit 9: Future Expansion Concept

Exhibit 9-A: Visitor Center Overview

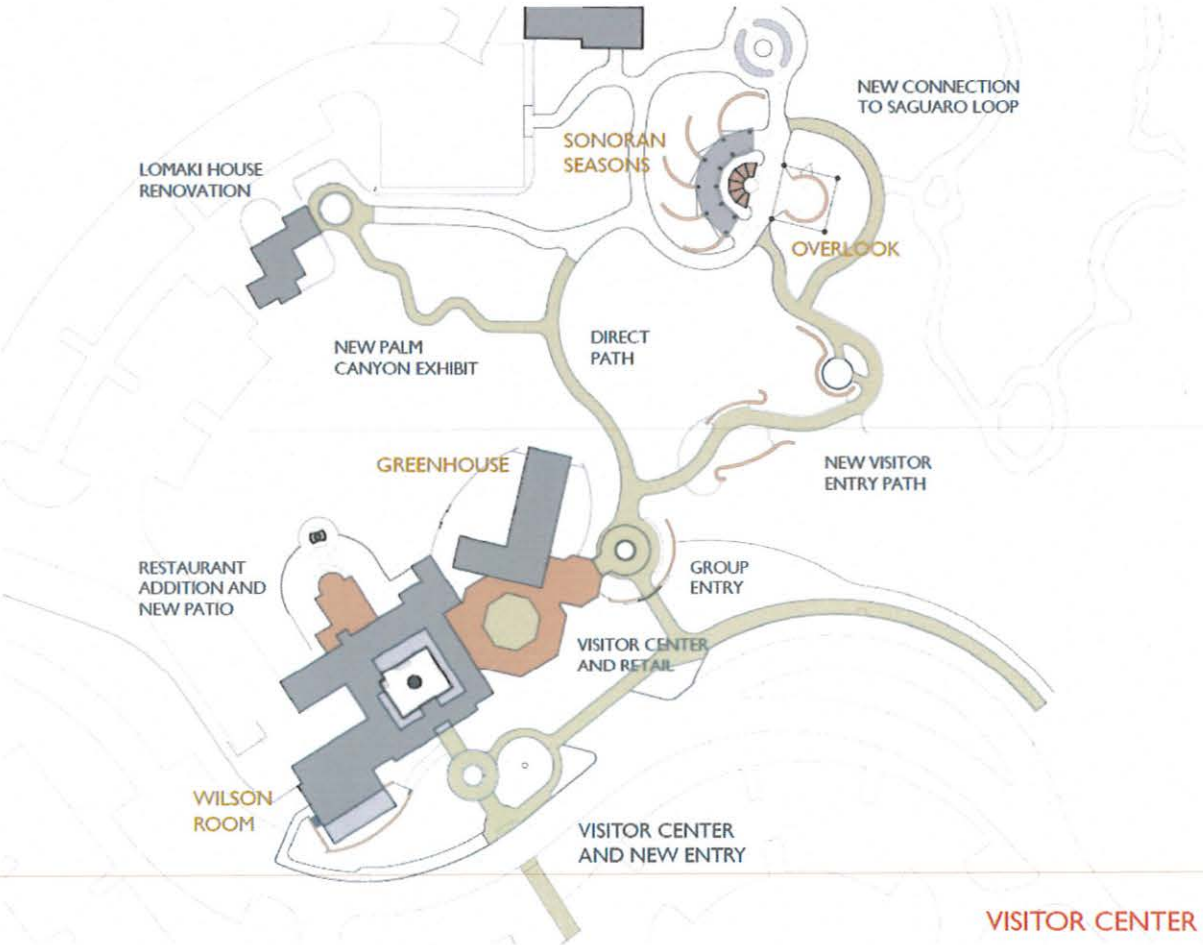


Exhibit 9-B: Visitor Center Conceptual Floor Plan

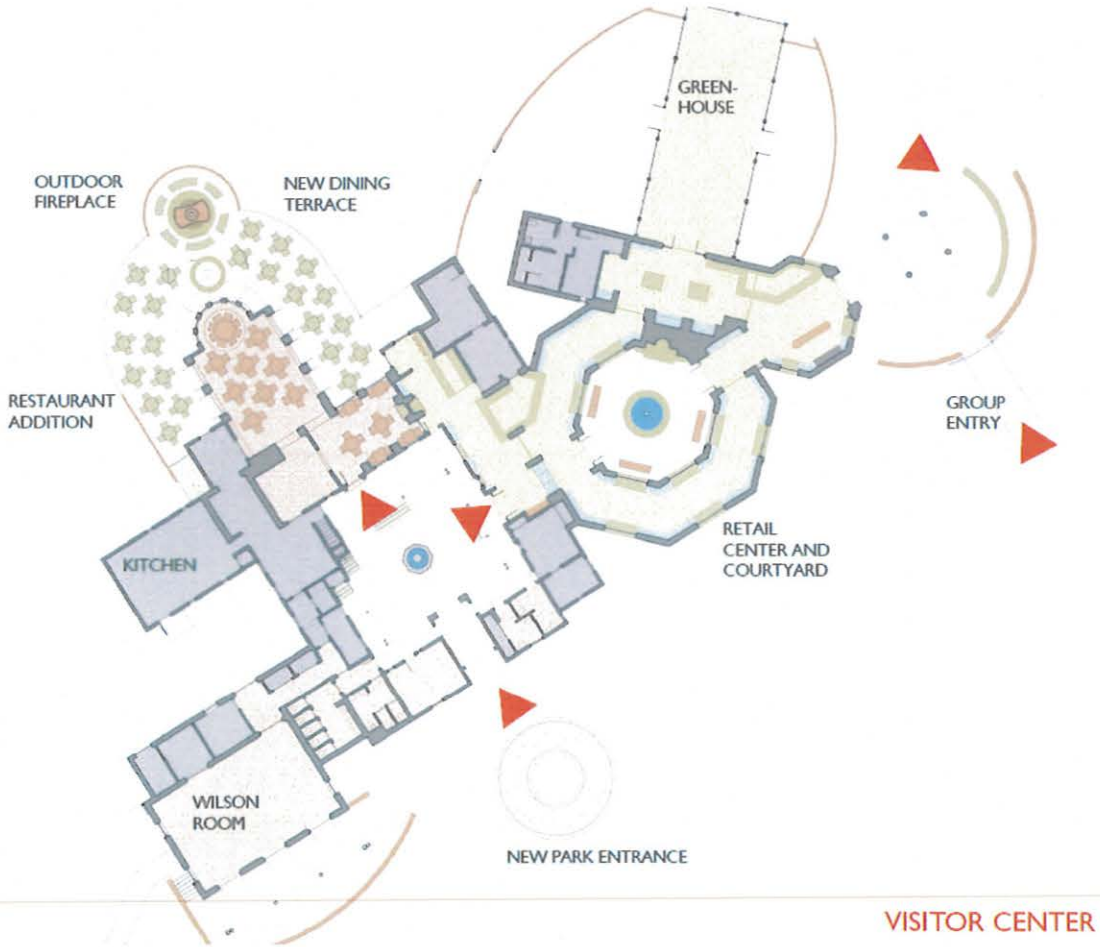
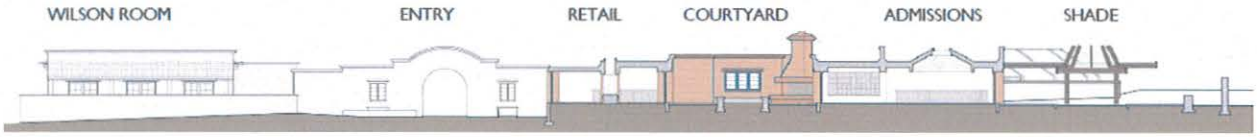


Exhibit 9-C: Visitor Center Conceptual Elevations

VISITOR CENTER ADDITION ELEVATION



VISITOR CENTER ADDITION SECTION

VISITOR CENTER

RESTAURANT ADDITION
SOUTH ELEVATION

RESTAURANT ADDITION
WEST ELEVATION

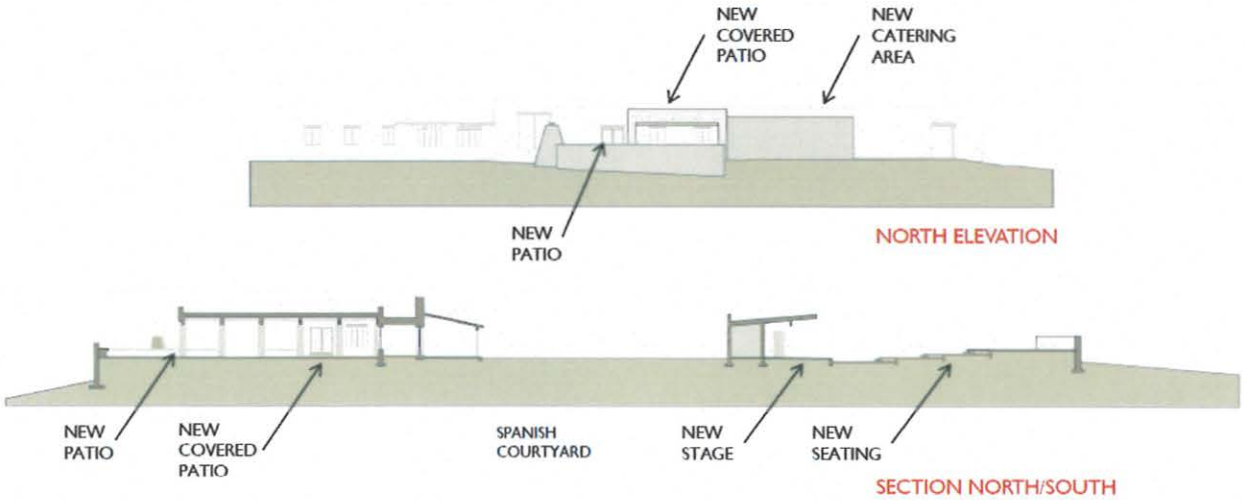
RESTAURANT ADDITION
NORTH ELEVATION

VISITOR CENTER

Exhibit 9-D: Center for the Arts Overview

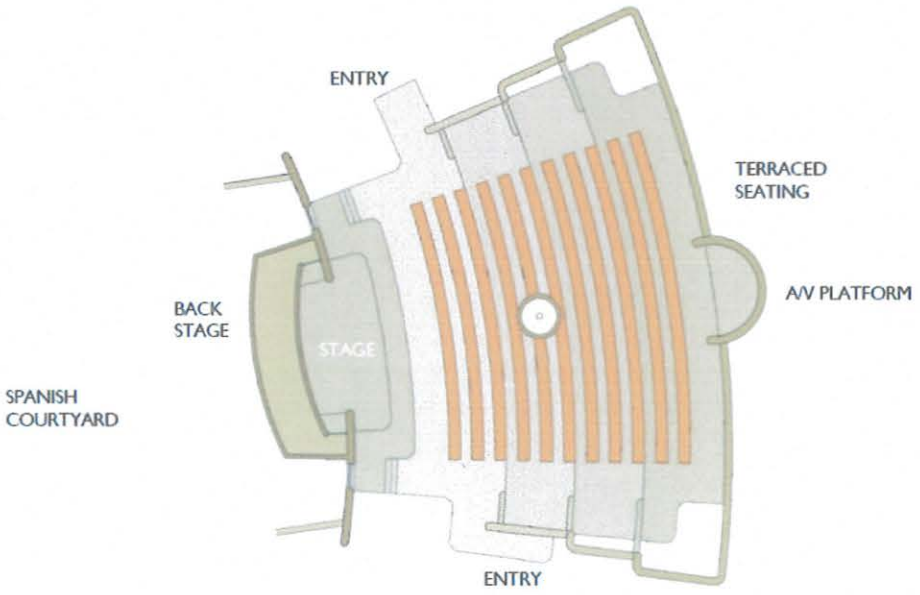
CENTER FOR THE ARTS

Exhibit 9-E: Center for the Arts Conceptual Elevations



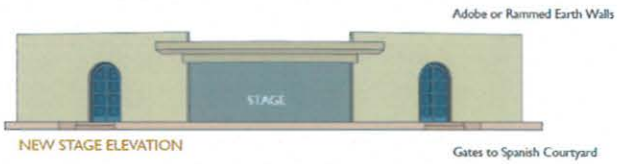
CENTER FOR THE ARTS

Exhibit 9-F: Center for the Arts Performance Garden Concept

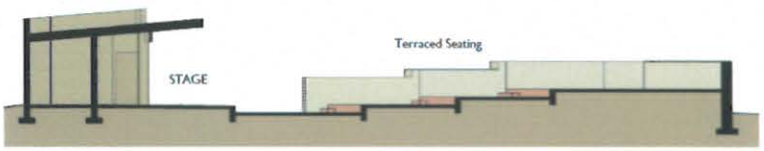


PLAN AT STAGE AND TERRACED SEATING

PERFORMANCE GARDEN



NEW STAGE ELEVATION



SECTION THROUGH STAGE AND TERRACE SEATING

PERFORMANCE GARDEN

B. Permitted and Excluded Uses

Tohono Chul Park proposes a single zoning district based on a modified Parks & Open Space (POS) zone to allow for the future expansion and growth of the park. The PAD shall include all those uses permitted by Town of Oro Valley Zoning Code Section 23.3 under POS zoning. All future development within the PAD shall conform to the regulations and standards set forth in this PAD. Where these regulations and standards vary from the Oro Valley Zoning Code or other City standards, the PAD regulations and standards shall prevail.

1. Permitted Uses

All POS permitted shall be allowed and subject to all use regulations found in Section 25 of the Town of Oro Valley Zoning Code.

2. Accessory Land Uses

The following uses shall be permitted, by right, in the PAD district:

a. Restaurant, café, or delicatessen, with or without entertainment/alcohol
b. Gift shop
c. Book store
d. Museum
e. Studio for professional work or teaching of any form of commercial or fine arts
f. Theater
g. Plant nursery
h. Art gallery
i. Wedding chapel
j. Education, conference, meeting and performing arts facilities

3. Excluded Land Uses

Land uses not listed as a Permitted use, or land uses that are not an accessory to the Primary Use are prohibited within the Tohono Chul Park PAD.

C. Development Standards

The PAD district shall be governed by the following development standards, which are derived from the Parks and Open Space (POS) District in Section 23.9 of the Oro Valley Zoning Code. Specific modification have been made to accommodate the unique programmatic needs of the Park and to ensure that development rights enjoyed in Pima County are preserved.

The PAD shall be considered a single parcel for the purpose of building setback, buffer requirements and other similar development standards that would otherwise apply to separately owned lots or parcels under the Oro Valley Zoning Code. All new development within the PAD shall conform to applicable building, fire and other life safety standards.

These development standards shall supersede the standards in the Town of Oro Valley Zoning Code Chapter 23, *Zoning Districts* and Chapter 25, *Use Regulations*, except where specific references to such standards are provided in this section of the document.

1. Site Development Standards

Development Standard	PAD Standard	Oro Valley POS Standard
Maximum Building Height	36 feet	25 feet/1 story Gymnasiums- up to 36 feet Community center auditoriums- up to 45 feet
Maximum Lot Coverage	20%,excluding parking areas	15%, excluding parking areas
Minimum Open Space	20% of gross acreage of PAD district	N/A

2. Vehicular Parking

The park currently has 303 regular parking spaces and 4 ADA accessible spaces. The master plan will add 156 new parking spaces, with 100 spaces accessible from Paseo del Norte and 56 spaces accessed from Northern Avenue.

ADA parking will be provided pursuant to Federal ADA Standards for Accessible Design, latest edition. Accessible spaces and "Van Accessible" spaces will connect to the accessible route as required by the ADA

Standards for Accessible Design. Newly constructed sidewalks and curb ramps will comply with accessibility requirements as required.

3. Lighting

All lighting shall be in conformance with the Oro Valley Lighting Code, Section 27.5.

4. Signage

The objectives of the Tohono Chul Park sign standards are to:

- Increase tourism
- Build community
- Increase community conservation efforts
- Increase awareness of local art & music offerings

All new permanent and temporary signs shall conform to the Town of Oro Valley Sign Code, Chapter 28, with the following exceptions:

a. Permanent Signage

Existing permanent signs include monument entry signs at Ina & Northern, at the Northern Avenue entrance and at the main entrance and exit on Paseo del Norte.

These signs may be replaced in the same locations with signs of the same size, area, height, and illumination.

b. Temporary Signage

Festival Banner Signs
Up to ten (10) light poles or banner mounting poles up to 20 feet shall be permitted on the south (Ina Rd.) and west (Paseo del Norte) perimeters of the property. The locations and pole height are subject to approval by the Planning & Zoning Administrator (PZA), the Town Engineer, and Tucson Electric Power (TEP). Additional poles may be located in the parking areas subject to PZA and Town Engineer approval.

Festival banner signs will be mounted on the poles, subject to the Festival Banner Sign Standards contained in this section. The signs will be replaced seasonally to reflect current offerings including classes, festivals, events and for general awareness. These signs shall be maintained in good condition and shall be removed or replaced if they are determined to be in disrepair by the Town.

Festival Banner Sign Standards

- Maximum Dimension: 54" x 18"
- An addition 18" x 18" area below the Park banner may be utilized by the Town to promote Oro Valley branding with cost share
- Cost share of associated expenses may include but are not limited to: design, printing, installation and equipment
- Each festival banner sign design shall be reviewed and approved by the Town prior to use
- Approved festival banner sign designs shall not expire or require additional permits once approved
- Banner signs may be replaced if Town light poles are replaced

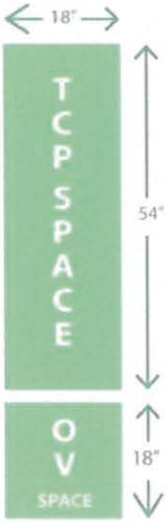


Exhibit 10: Map of Proposed Sign Placement

location map (approximate)

Exhibit 11: Mock up of Permanent Signage

C. Special Event Signage

Banner Signs
Banner signs shall be subject to the Town's sign code, with the following exceptions:

Quantity: Up to four (4) seasonal or event banners may be used at a time in the following locations:

- The intersection of Ina and Paseo del Norte
- The intersection of Ina and Northern Avenue
- Public entrance off of Paseo del Norte
- Delivery Entrance off of Paseo del Norte

Duration: Seasonal or event banners may be displayed for the duration of up to two weeks prior to the class, festival, or event being advertised, with a maximum period of 90 days.

A-Frame Signs
Up to three (3) A-frame signs may be used subject to the following standards:

1. The purpose of A-frame signs is to direct pedestrian traffic and shall not be oriented toward vehicular traffic.
2. Maximum height is 42" including sign legs.
3. Maximum sign area is 6 sq. ft.

4. Shall be located on private property or in the right of way.
5. Shall not be displayed in such a manner as to constitute a hazard to public safety.
6. Must allow for a 4' unobstructed pathway for pedestrians.
7. Signs shall be located within 20' of park entrances.
8. A-frame may be displayed during business hours only.
9. Fluorescent and iridescent colors are not allowed.
10. A-frame copy and graphics must be professionally designed and applied.
11. Hand lettered and hand painted signs are not permitted.
12. No illumination, noise or flashing, rotation, or moving elements are permitted.

D. Landscape Standards

Landscaping shall be in conformance with Oro Valley Zoning Code, Section 27.6 with the following exceptions:

1. Plant Palette

a. Tohono Chul Park is an internationally-recognized botanical garden with a diverse palette of native and exotic plants. In order to remain a showcase for a diverse array of plants, the PAD district shall be exempt from the Oro Valley Approved native Plant List (Zoning Code Addendum C) and Prohibited Plant List (Zoning Code Addendum E).

Species listed in the USDA list of *Invasive and Noxious Weeds* (http://plants.usda.gov/java/noxious?rptType=State&statefips=04) shall be prohibited.

b. In keeping with the intent of Section 27.6 of the Oro Valley Zoning Code, the plant palette will consist of predominately low water use, native and regionally adapted plants. The PAD district shall not be subject to the plant palette, prohibited plans, or native seed mix Zoning Code standards.

2. Bufferyards

Natural and landscaped bufferyards have been provided on all sides of the project site in order to screen uses from neighbors and enhance the "urban oasis" ambiance of the park.

No additional disturbance shall be allowed within a 20-foot buffer area on each side of the property, as measured from the property line, except for the

eastern side of the property (Northern Avenue frontage) that front commercial properties.

E. Open Space

Open space requirements shall be a minimum 20 percent of the gross area of the PAD District. Open space areas may include, but not limited to: general use pathways, ramadas, turf areas, patios, balconies, recreational areas, landscape bufferyards, hardscape courtyards, and landscaped areas. All open space areas shall be maintained by the property owner.

F. Water & Wastewater Plan

The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any expansion phase, no more than 90 days before submitting any Conceptual Site 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.

G. Infrastructure Phasing Plan

All necessary infrastructure will be provided to accommodate each phase of the development.

H. Design Review

The Conceptual and Final Site Plan, Conceptual and Final Architecture for each project or phase of future development, as shown on the Conceptual Site Plan and Master Plan exhibits (Exhibits 8&9-9F), shall be subject to administrative review and approval by the Planning & Zoning Administrator and Town Engineer. The PAD is exempt from the Oro Valley Addendum A Design Standards as the Future Expansion Concept set forth the design concepts for future expansions.

Significant deviations from the Conceptual Site Plan or Master Plan exhibits, as determined by the Planning & Zoning Administrator or Town Engineer, shall be subject to review by the Conceptual Design Review Board (CDRB) and approval by the Town Council.

Development within this PAD is not subject to Section 27.3, Public Art requirements as the Park makes a unique contribution to the community's arts and culture that exceeds the Town's requirements for number and quality of artworks.

I. Interpretations and Amendments

1. Interpretation

The regulations and guidelines provided within this PAD supersede existing regulations within the Town of Oro Valley Zoning Code. If an issue arises regarding definitions, conditions, standards and/or situations not addressed in this PAD, those in the Zoning Code, or other Town regulations shall prevail, as interpreted by the Planning & Zoning Administrator.

2. Amendments

Amendments to this PAD may be necessary over time to respond to the changing market or financial conditions, or to respond to the unanticipated needs of the Park. Non-substantial changes to the PAD shall be approved by the Town of Oro Valley Planning & Zoning Administrator may include the following:

- Modifications to the permitted and accessory uses that do not change the overall intent of the PAD.
- Modifications to the proposed site plan provided the Development Standards set forth in the PAD are maintained.

Town Council Regular Session **Item # 2. b.**

Meeting Date: 12/05/2012
Requested by: Kevin Burke
Submitted By: Matt Michels, Development Infrastructure Services
Department: Development Infrastructure Services

Information

SUBJECT:

PUBLIC HEARING: ORDINANCE NO. (O)12-19, APPROVING THE TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A" FOR 48.5 ACRES LOCATED ON THE NORTHEAST CORNER OF INA ROAD AND PASEO DEL NORTE

RECOMMENDATION:

The Planning & Zoning Commission recommends approval of the Tohono Chul Park Planned Area Development, subject to the conditions in Attachment 3.

EXECUTIVE SUMMARY:

Tohono Chul Park, Inc. is the owner of approximately 48.5 acres of real property, located at 7366 N. Paseo del Norte, in unincorporated Pima County. As provided in the Tohono Chul Park pre-annexation development agreement, the Town Council will consider concurrent adoption of the pre-annexation agreement and translational zoning to Planned Area Development (PAD). Tohono Chul Park representatives and Town staff worked collaboratively to develop a PAD for the property, as shown in Attachment 2.

Tohono Chul Park has developed a long-term master plan to expand and grow within their existing boundaries. This master plan envisions expansions totaling about 21,000 square feet. The PAD incorporates the master plan and will serve as the primary zoning document, with the Town Zoning Code prevailing where the PAD is silent. If approved, the PAD will go into effect upon approval of he Oracle / Ina Area Annexation.

The Planning & Zoning Commission held public hearings on September 18 and October 2. The Commission recommends approval subject to two minor amendments to Section II.C.1 of the PAD. These conditions are shown in Attachment 3.

BACKGROUND OR DETAILED INFORMATION:

ANALYSIS OF PROPOSED PAD

Section 24.4 of the zoning code provides the requirements for new PAD zoning, including General Plan conformance and specific criteria required for PAD approval. A full analysis of the zoning code PAD criteria is provided in Attachment 4.

UNDERLYING ZONING DISTRICT

A Planned Area Development must include the underlying zoning designations. The Tohono Chul Park PAD proposes a single zoning district based on a modified Parks and Open Space (POS) zoning district.

The POS district standards are provided in Attachment 5. Tohono Chul Park proposes several modifications to the base POS zoning standards to maintain development rights enjoyed in Pima County.

- Max. building height of 36'
- Max. lot coverage of 20% (excluding parking areas)
- Minimum open space of 20%

The Planning & Zoning Commission recommended modification of these standards as shown in Attachment 3.

SIGNAGE

Tohono Chul Park has proposed specific permanent and temporary sign standards to aid in the promotion of the Park and its programs and events (see Section II.C.4 of the PAD). The PAD would be subject to the Town Sign Code (Chapter 28) with several exceptions, including provisions for:

- Festival Banner Signs
- Special Event Banners
- A-Frame Signs

SITE CONDITIONS

- Property is approximately 48.5 acres
- Oro Valley General Plan designation is Park (P). Note: Although the property is currently outside of Town boundaries, it is within the Town's planning area.
- Pima County Zoning is CR-1 (Single Residence Zone) and CB-1 (Local Business Zone)
- Property is developed as a park and botanical garden with a number of accessory uses, including restaurant, educational facilities, gift shop, and administrative offices
- Pima County has permitted the continued expansion of the Park under a non-conforming use permit
- Master plan includes new or upgraded facilities, including the visitor center, park entrance, administration building, performance garden and stage, and other expansions of existing facilities

PROPOSED IMPROVEMENTS

Approximately 21,000 s.f. of additional structures, including additions, remodels a new performance garden, exhibit house patio, and other improvements (see Section II.A.1 of the PAD for additional details). Other improvements include new pathways and trails, a children's ramada, a catering area, and additional parking

Please refer to the 9/18/12 PZC report, included as Attachment 6, for additional information.

DESIGN REVIEW

The Conceptual and Final Site Plan, Conceptual and Final Architecture for each project or phase of future development will be subject to administrative review and approval by the Planning & Zoning Administrator and Town Engineer. The PAD is exempt from the Oro Valley Addendum A Design Standards as the Future Expansion Concept set forth the design concepts for future expansions.

Significant deviations from the Conceptual Site Plan or Master Plan exhibits, as determined by the Planning & Zoning Administrator or Town Engineer, will be subject to review by the Conceptual Design Review Board (CDRB) and approval by the Town Council.

Tohono Chul Park is a non-profit organization that continues to make a significant contribution to arts and culture in our region. The proposed development standards were developed in discussions between the Town and the property owner, and will serve to promote the long-term growth and expansion of an important regional asset while maintaining reasonable development standards that will not have a negative impact on the community. The unique aspects of Tohono Chul Park, including the role it will play in enhancing tourism and bolstering the Town's brand, justify the additional latitude provided by the PAD.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to adopt Ordinance No. (O)12-19, Planned Area Development for Tohono Chul Park, as shown in Exhibit "A" and subject to the conditions in Attachment 3, finding that:

- All applicable General Plan criteria are met
- Required PAD findings are met
- PAD standards preserve character of the park
- PAD maintains zoning entitlements enjoyed in Pima County

OR

I MOVE to deny Ordinance No. (O)12-19, Planned Area Development for Tohono Chul Park, finding that the PAD does not meet all Zoning Code requirements.

Attachments

Attachment 1 - O12-19 Tohono Chul Park PAD

Attachment 2 - Exhibit "A" PAD

Attachment 3 - Conditions of Approval

Attachment 4 - PAD Analysis

Attachment 5 - POS Standards

Attachment 6 - 9/18/12 PZC Staff Report

Attachment 7 - 10/2/12 PZC Staff Report

Attachment 8 - Draft 9/18/12 & 10/2/12 PZC Minutes

ORDINANCE NO. (O)12-19

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, APPROVING THE TOHONO CHUL PARK PLANNED AREA DEVELOPMENT, ATTACHED HERETO AS EXHIBIT "A" FOR 48.5 ACRES LOCATED ON THE NORTHEAST CORNER OF INA ROAD AND PASEO DEL NORTE

WHEREAS, the Applicant has requested that approximately 48.5 acres of real property as described in that document known as the Tohono Chul Park Planned Area Development, attached hereto as Exhibit "A," be rezoned from Pima County CR-1 and CB-1 to Planned Area Development (PAD) in accordance with the land use designations contained therein, said zoning to become effective in the event of annexation of the subject property into the Town; and

WHEREAS, the 47.2 acres of the subject property is currently zoned Pima County CR-1 (Single Residence Zone) and 1.42 acres of the eastern portion of the subject property is currently zoned Pima County CB-1 (Local Business Zone); and

WHEREAS, the Applicant's request for a rezoning to PAD complies with the Oro Valley Zoning Code Revised and is found to be in conformance with the Town's adopted General Plan, including future land use designations; and

WHEREAS, the Planning and Zoning Commission held duly noticed public hearings on September 18, 2012 and October 2, 2012 and voted to recommend approval to the Town Council with conditions, and

WHEREAS, the Town Council has duly considered the Applicant's proposal for the Tohono Chul Park Planned Area Development.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona that:

Section 1. The Tohono Chul Park Planned Area Development, attached hereto as Exhibit "A" for 48.5 acres located on the northeast corner of Ina Road and Paseo del Norte, as authorized and approved.

Section 2. All Oro Valley ordinances, resolutions or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provision of this Ordinance are hereby repealed.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

9/7/12 DRAFT

TOHONO CHUL PARK
PLANNED AREA DEVELOPMENT

September, 2012

Tohono Chul Park
Planned Area Development
7366 N. Paseo Del Norte

Prepared for:

TOHONO CHUL PARK
7366 North Paseo Del Norte
Tucson, AZ 85704

Prepared by:

Town of Oro Valley
11000 N. La Canada Dr
Oro Valley, AZ 85737

With assistance from:

John Douglas Architects
4400 N. Civic Center Plaza
Scottsdale, AZ 85251

Racy Associates
535 W. Burton Dr.
Tucson, AZ 85704

September 2012

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I. Site Analysis

A. Project Overview

The Tohono Chul Park Planned Area Development (PAD) encompasses approximately 48.5 acres located on to the northeast corner of Ina Road and Paseo Del Norte (See Exhibit 1: Regional Location). The project site is currently zoned Pima County CR-1 (Single Residence Zone) and CB-1 (Local Business Zone). The use of this site as a museum/botanical garden was permitted in accordance with non-conforming use permit #P99CP04979, issued on May 14, 1999. A change in zoning to Planned Area Development (PAD) is requested for future development of the site.

The mission of Tohono Chul Park is:

> ***To enrich people's lives by providing them the opportunity to find peace and inspiration in a place of beauty, experience the wonders of the Sonoran Desert, and to gain knowledge of the natural and cultural heritage of this region.***

The Park has grown and expanded over the years to become a nationally recognized showcase for Sonoran Desert and Southwest Region plants, arts, and culture.

Previous zoning and development approvals for the property include Pima County case numbers:

- Co9-71-73
- Co9-80-140
- Co9-84-13
- P1200-176

The purpose of the following Site Analysis is to identify the opportunities, constraints and physical characteristics of the site. The analysis is intended to guide future development in a manner that is sensitive and responsive to the physical conditions of the site. Since most of
the site has already been developed, this Site Analysis will focus primarily on existing development and site conditions, including:

- Existing land uses
- Hydrology
- Scenic Resources
- Traffic Circulation
- Existing infrastructure

Exhibit 1: Regional Location

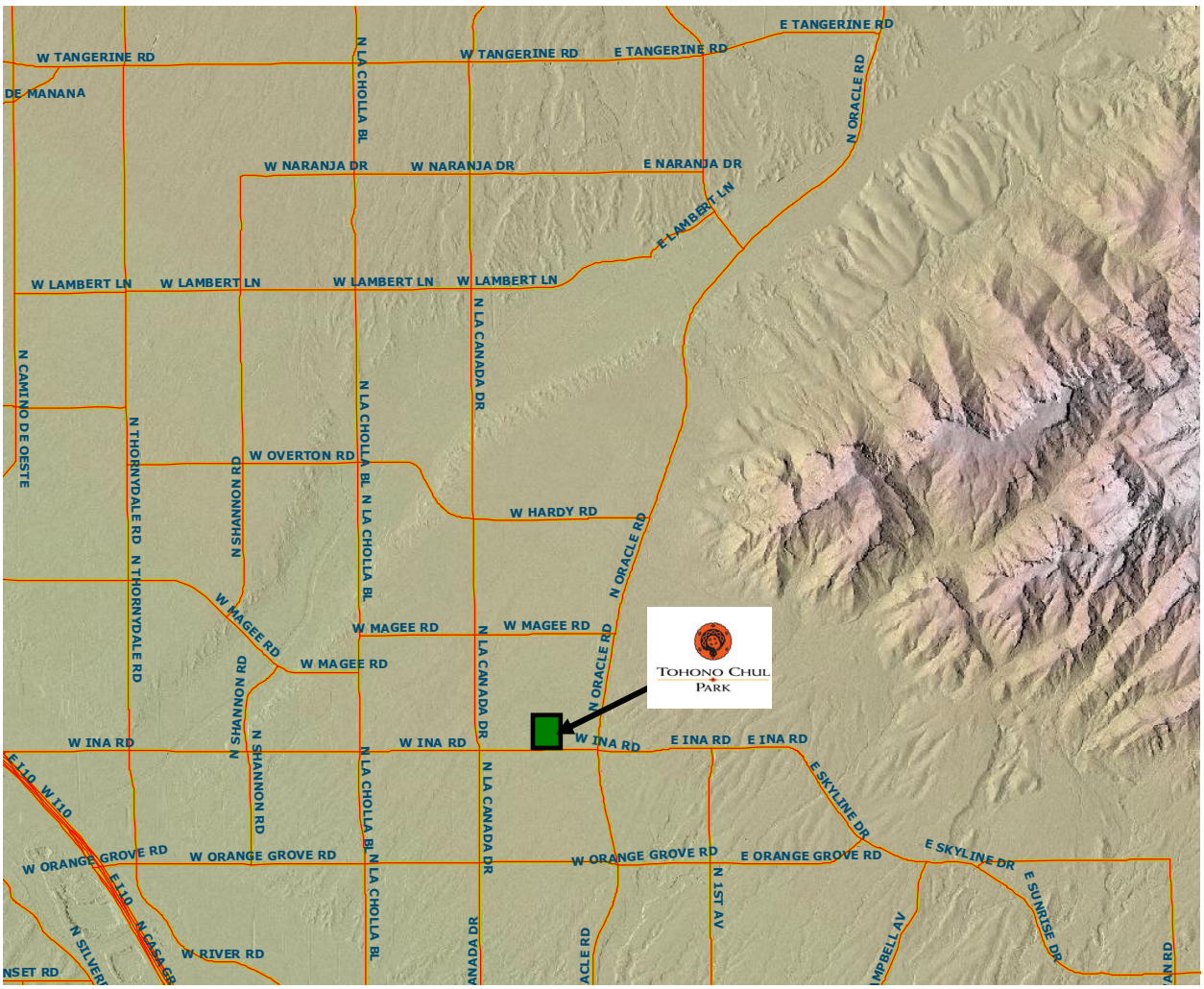


Exhibit 2: Aerial View

B. Existing Land Uses

This section identifies existing zoning, land use and structures on-site and on surrounding properties, as well as other proposed development in the project vicinity.

1. Existing On-Site Land Use & Zoning

The majority of the PAD District (approx. 47.2 acres) is currently zoned Pima County CR-1 (Single Residence Zone), which permits single-family residential development and ancillary uses. Approximately 1.42 acres of the eastern portion of the property is zoned Pima County CB-1 (Local Business Zone), which permits neighborhood scale commercial uses.

The site is composed primarily of undisturbed natural desert and cultivated gardens, with a number of accessory uses including:

- Plant nursery with retail sales
- Tea Room (restaurant)
- Visitor Center
- Book Store
- Educational facility with classrooms

There are currently approximately 40,320 square feet of structures on the property, including:

- Main Building- Including Exhibits & Museum Shop (6,441 square feet)
- Desert Discovery Education Center
- Offices (2,674 square feet)
- Tea Room (4,361 square feet)
- Book Shop (6,764 square feet)
- Wildlife observation structure (491 square feet)
- Shade structures, canopies, and ramadas (5,966 square feet total)
- Greenhouses and shade houses (5,560 square feet total)
- Meeting Rooms
- Maintenance Buildings

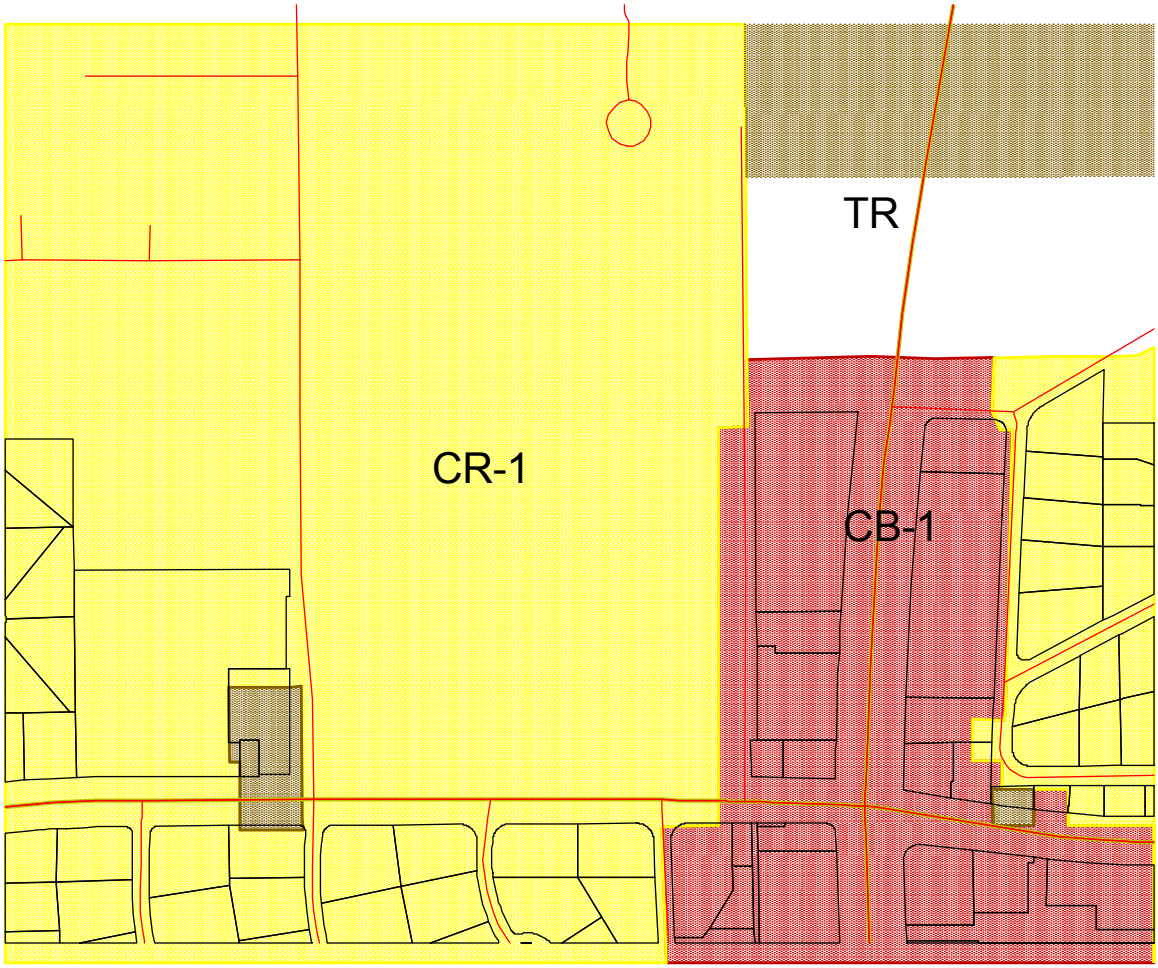
2. Existing Zoning on Properties within a One-Quarter Mile Radius

a. Zoning

The zoning designations of surrounding properties, as depicted in Exhibit 3, are as follows:

North:	Pima County CR-1 (Single Residence Zone) and Pima County SR (Suburban Ranch Zone)
South:	Pima County CR-1 (Single Residence Zone) and Pima County CB-1 (Local Business Zone)
East:	Pima County CB-1 (Local Business Zone) and Pima County TR (Transitional Zone)
West:	Pima County CR-1 (Single Residence Zone)

Exhibit 3: Existing Zoning



b. Land Use

The PAD District is surrounded by single-family homes to the north, west and south, and commercial development on the east and northwest. Exhibit 4: Existing Land Uses displays the following surrounding land uses:

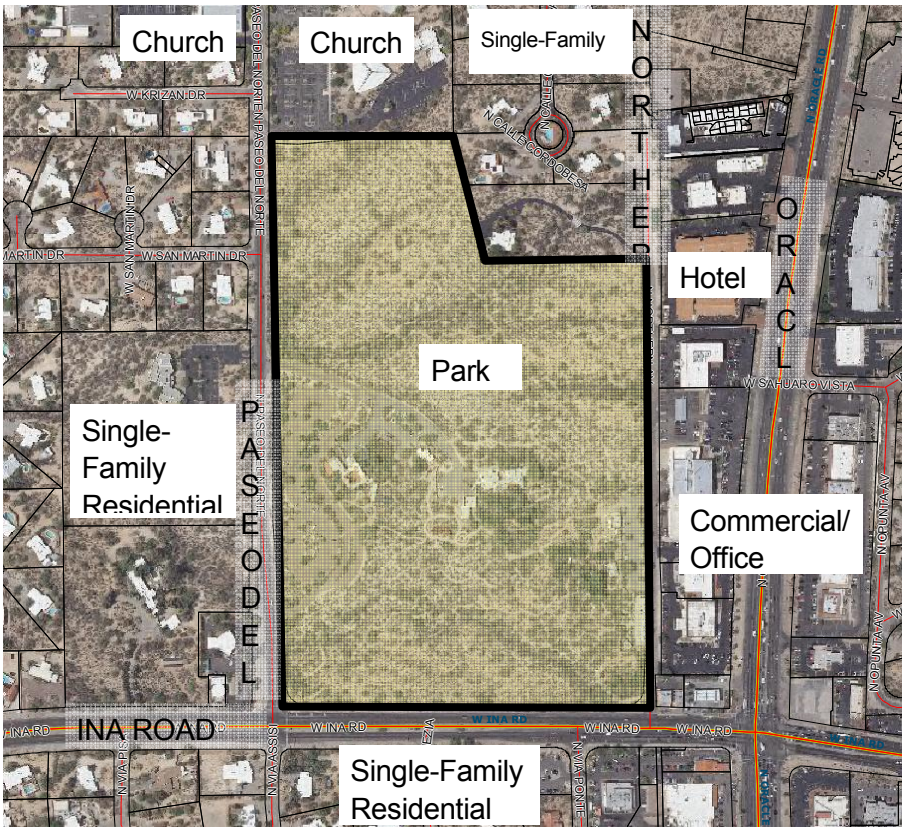
North: St. Odilia Roman Catholic Church and Single-Family Residences

South: Ina Road: Single-Family Residences

East: Northern Ave; Commercial Development

West: Paseo Del Norte; Single-Family Residences & Commercial

Exhibit 4: Existing Land Uses



c. Pending and Conditional Rezonings

There are no pending or conditional rezonings within a one-quarter mile radius of the site.

d. Architectural Styles of Adjacent Development

The prevailing general architectural style for adjacent properties is Southwestern contemporary. Buildings typically feature flat roofs or gable and hip roofs with Spanish tile. Exterior stucco colors feature a range of light desert earth tones.

C. Hydrology

1. **Off-Site Watersheds:** The subject property is impacted by four main off-site watersheds that drain mostly in an easterly to westerly direction. The off-site watersheds contribute to four main washes that drain through the subject property.

2. **Off-Site Features:** Single family residential, commercial, and church uses exist adjacent to the upstream boundaries of the subject property. Northern Avenue separates the subject property from commercial development along the east boundary. Off-site flows enter the subject property from the adjacent uses, mostly through existing natural washes.

3. **On-Site Hydrology:** There are five main watersheds located within the subject property. The watersheds drain to four main natural washes that slope in a mostly easterly to westerly direction. Three of the main washes convey 100-year peak flows of greater than 50 cfs and are considered local floodplains. The largest of the three washes is named the Nanini Wash and ultimately discharges into the Rillito River. The subject parcel is located in FEMA Zone X per FIRM Panel #04019C1680L; therefore, there are no areas of federally mapped floodways or floodplains located on the site.

4. **Downstream Drainage Conditions:** The parcels to the west are separated from the subject property by Paseo Del Norte and have similar terrain and vegetation. The on-site drainage continues through the downstream properties within existing, natural drainageways.

D. Scenic Resources

1. Viewsheds

The site is highly visible from the southern boundary (Ina Road), western boundary (Paseo del Norte), and eastern boundary (Northern Avenue). However, the property is well buffered with vegetation and walls which effectively mitigate negative view impacts. The property appears as a unique "oasis" of gardens and open space amidst urban and suburban development.

2. Site Photos

As demonstrated in the photographs on the following pages (Exhibit 7: Site Photos) views of the Santa Catalina Mountains are prominent from the project site to the east. The Photo Key Map indicates the locations from which each of the photos was taken.

Exhibit 5: Photo Key Map

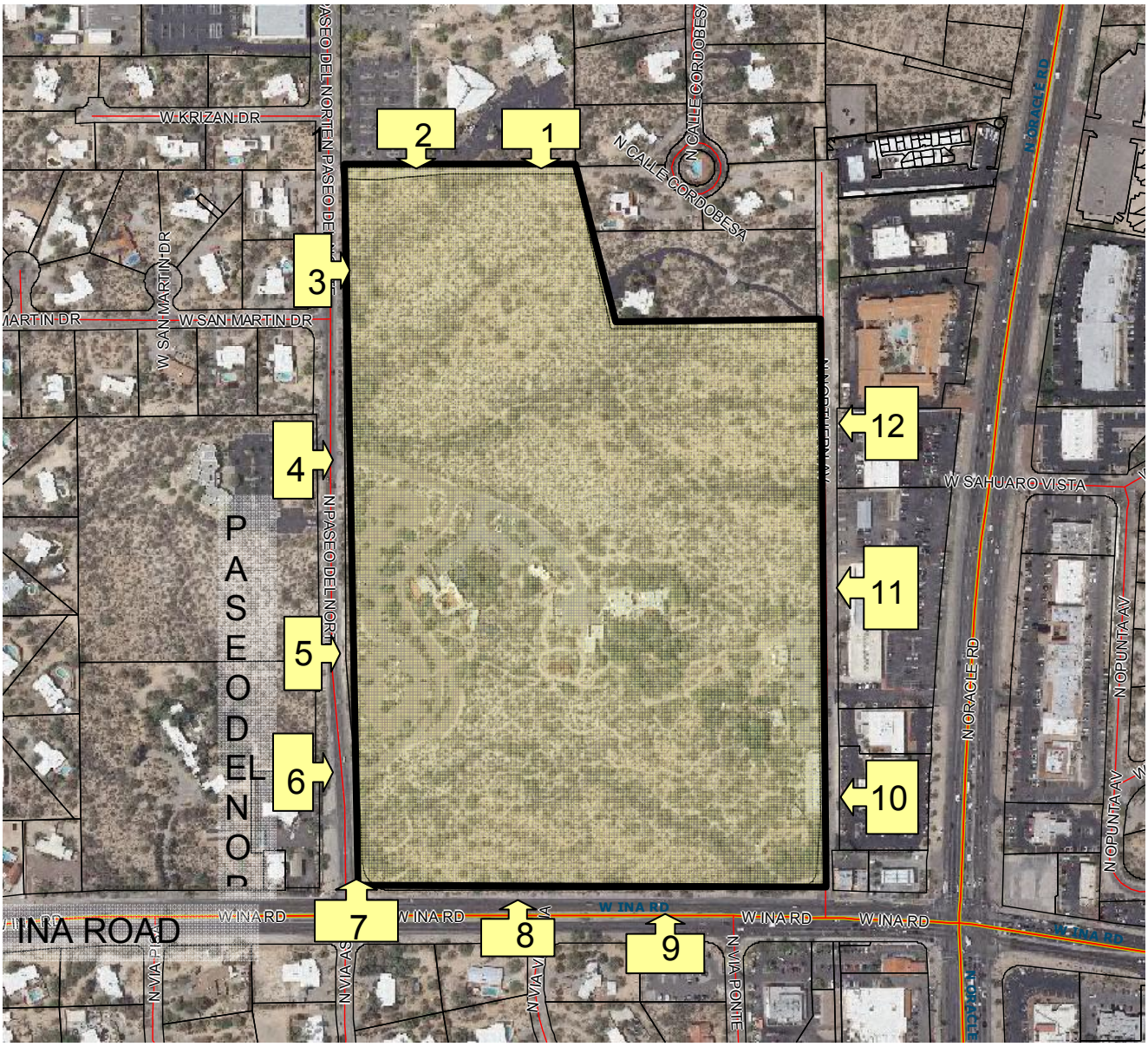


Exhibit 6: Site Photos

Photo 1: View looking south

Photo 2: View looking south

Photo 3: View looking east

Photo 4: View looking east

Photo 5: View looking east

Photo6: View Looking northeast

Photo 7: View looking northeast

Photo 8: View looking north

Photo 9: View looking north

Photo 10: View looking northwest

Photo 11: View looking west

Photo 12: View looking west

E. Traffic Circulation and Road System

1. Existing Off-Site Streets

Paseo del Norte and Northern Avenue are currently the only roadways that provide access to Tohono Chul Park. Paseo del Norte runs north/south along the western border and Northern Avenue runs north-south along the eastern border the subject property. Ina Road is a major 4-lane arterial that runs east-west providing access from I-10 from the west and areas to the east such as the Catalina Foothills area.

Additional notable roadways within a one-mile vicinity of the site include Oracle Road to the east, La Canada Drive to the west, and Magee Road to the north.

Table E.1: Roadway Inventory gives details on the adjacent roadways within a one-mile radius of the project site.

	Paseo Del Norte	Northern Avenue	Ina Road
Major Routes Classification	Minor Collector	Minor Local	Major Arterial (PC Scenic Major Route)
Existing R.O.W. (feet)	Varies (70'-115')	60	150
Number of Lanes	2	2	4
Speed Limit	45	25	45
Ownership	Pima Co.	Pima Co.	Pima Co.
ADT (Source, Year)	Unavailable	Unavailable	29,000 (PAG 2010)
Surface Conditions	Paved w/ bike path and shoulders Fair	Paved with curbed edges Fair	Paved w/ bike path and shoulders Good

2. Roadway Improvements

The following surrounding roadway improvements are either underway or are listed in the PAG Transportation Improvement Plan:

- Oracle Road/Ina Road Intersection – Improvement to construct a "Michigan Left" at grade intersection improvement to increase capacity of the intersection. Construction is not yet underway but is scheduled to begin soon.
- Magee Road (La Canada to Oracle Road) – Improvement to construct a four lane divided roadway. Construction is not yet underway but is scheduled to begin soon.
- La Canada Road (River Road to Ina Road) – Improvement to construct a four lane divided roadway. Construction is currently underway.

3. Intersections

The intersections of Ina Road/Oracle Road, Ina Road/La Canada Drive, Ina Road/Northern Avenue, Ina Road/Paseo Del Norte and Magee Road/Paseo Del Norte are all located within one mile of the project site. The intersections of Ina Road/Oracle Road, Ina Road/Paseo Del Norte, and Ina Road/La Canada Drive are signalized.

4. Alternate Modes

Fixed-route transit stops are currently located on southbound Oracle Road at the Casas Adobes Plaza and on westbound Ina Road just west of Oracle Road.

The subject property is within the regional Sun Shuttle Dial-a-Ride service area.

Designated bike routes with striped shoulders run along both sides of Ina Road and Paseo Del Norte.

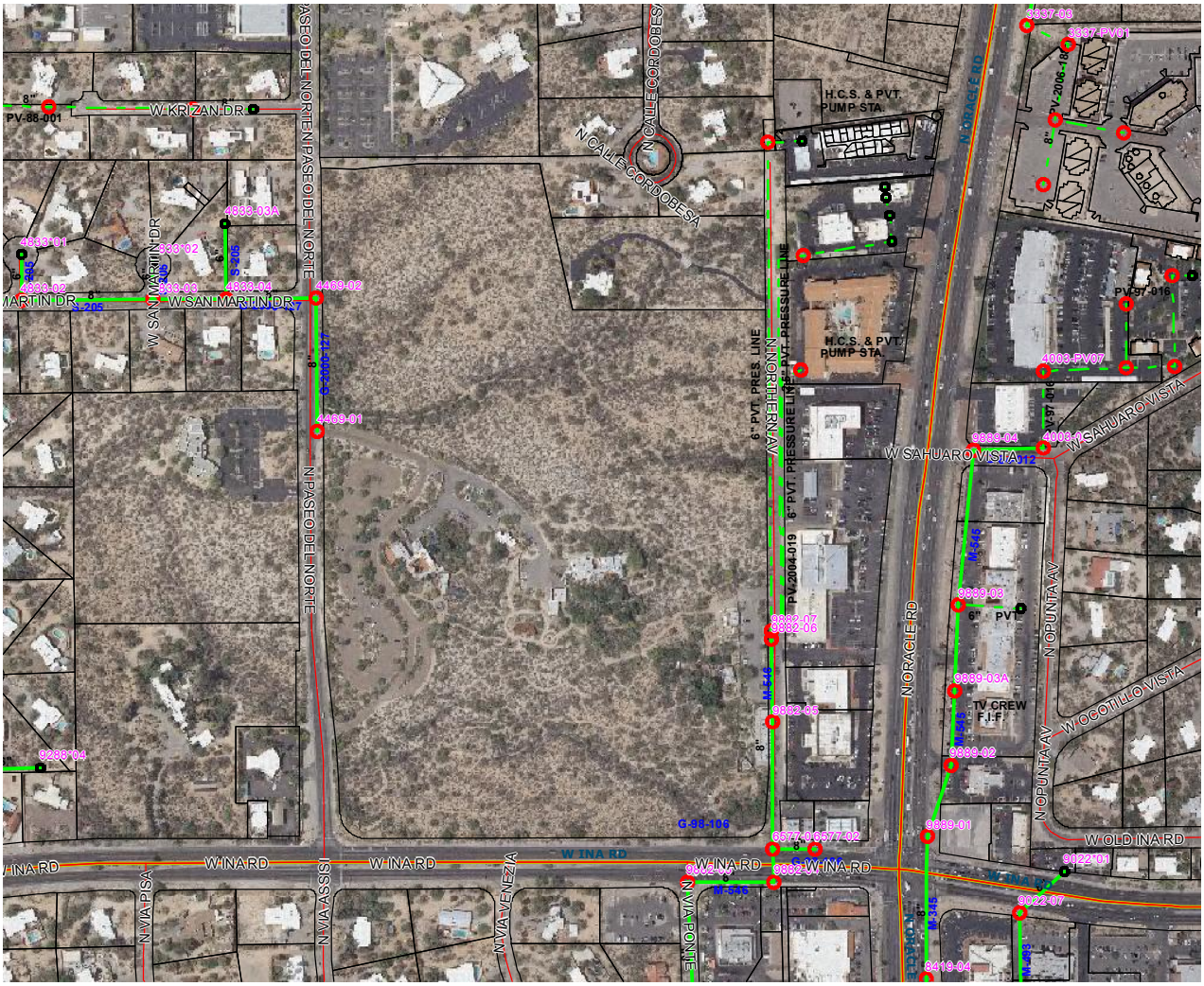
There are no sidewalks that connect to the subject property.

F. Existing Infrastructure

1. Sewer

The property is served by the Pima County Regional Wastewater Reclamation Department (PCRWRD). An 8" sewer line (G-2000-127) runs along a portion of the western edge of the property boundary and an 8" sewer line (M-546) runs the length of the eastern property line (See Exhibit 7: Existing Sewer Network).

Exhibit 7: Existing Sewer Network



2. Water

Tohono Chul Park is located within the Metropolitan Water District. An assured water supply exists to serve the property.

II. Land Use Proposal

A. Planning Considerations

The Tohono Chul Park PAD is intended to provide a guide for the future expansion of park facilities consistent with the master plan.

1. Rationale for Use of a PAD

The Planned Area Development (PAD) zoning designation is intended to provide land use guidance for the future development of Tohono Chul Park. It will allow for the expansion of existing facilities and completion of additions included in the master plan. These improvements include:

Tea Room Addition & Remodel	
New construction – Dining Room/ Service area	977 SF
Kitchen Addition	900 SF
Remodel Construction – Dining Room	640 SF
Covered Patios	560 SF
Retail Store Addition & Remodel	
New Construction - Retail Store/ Entry Foyer	2669 SF
New Group Entrance	
New Shade Structure at Retail	610 SF
New Shade Structure at Bus Bay	530 SF
Performance Garden	
New Storage Structure	352 SF
New Shade Structure	4,676 SF
Lomaki House	
New Covered Patios	410 SF
New Admin. Offices	
New Offices for Admin.	2,730 SF
New Covered Breezeway	620 SF
Greenhouse Expansion (Northern)	
New Retail Greenhouse Expansion	3,500 SF
Exhibit House Patio	
New Covered Patio Structure:	1175 SF
Catering/Delivery Area	650 SF
Total Planned New Construction Area:	**20,999 SF**

The proposed additions represent an increase to the existing building area of approximately 53%. In addition, Tohono Chul Park proposes to incorporate a number of other improvements, including:

- New pathways and trails
- A children's ramada
- A catering area
- Covered patios
- Performance stage and seating
- Additional parking

The primary objective of the PAD is to ensure that Tohono Chul Park is able to develop in accordance with their master plan in an efficient, coordinated, and timely manner while ensuring that the development is context-sensitive and appropriate for the community. The following goals will guide future development:

- Protect the privacy and integrity of adjacent neighborhoods;
- Promote high aesthetic standards through the use of the Town's Addendum "A" Design Standards while providing latitude to maintain the unique qualities and character of the Park;
- Minimize adverse environmental impacts of development;
- Design circulation and access points to provide for safe vehicular and pedestrian interaction within the interior of the development and adjacent development.

2. Conformance with General Plan

The Oro Valley General Plan designates the property as Park, which denotes area that have been developed or set-aside as public/semi-public recreational facilities.

This PAD is consistent with the General Plan future land use designation and the long range vision for the Town.

3. Conceptual Land Use Plan

A Conceptual Land Use Plan is provided in *Exhibit 8: Conceptual Land Use Plan*. This plan depicts future expansion plans for the Park. It is intended to serve as a general guide and minor deviations shall be permitted, as determined by the Planning & Zoning Administrator. This illustration is not to scale and should not be relied upon to establish the relative locations of, or distances between, any depicted facilities. The plan does not include any engineering or hydrology features, is subject to change without notice, and must be in accordance with the rules and regulations of this PAD.

Exhibit 8: Conceptual Site Plan

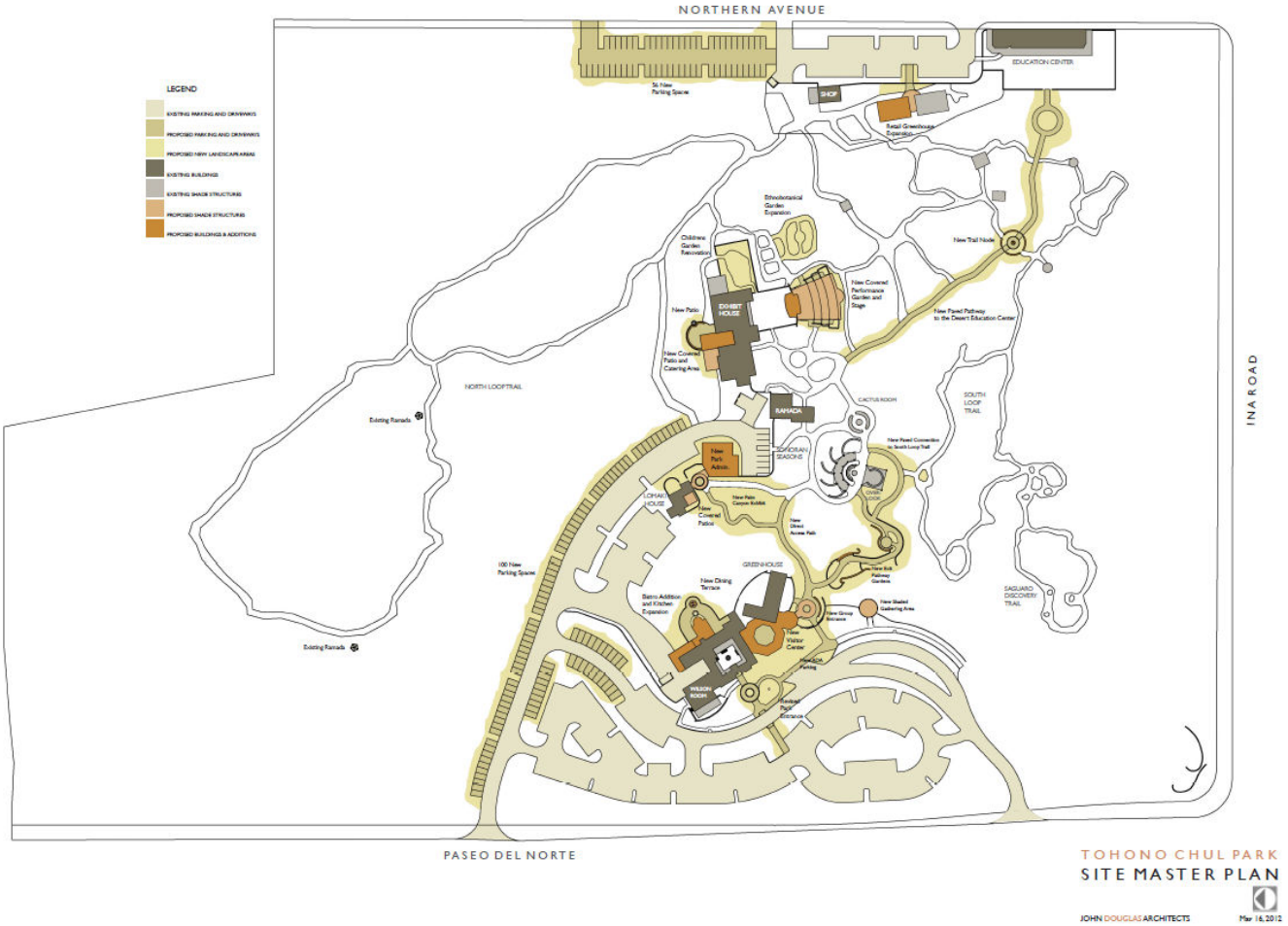


Exhibit 9: Future Expansion Concept

Exhibit 9-A: Visitor Center Overview

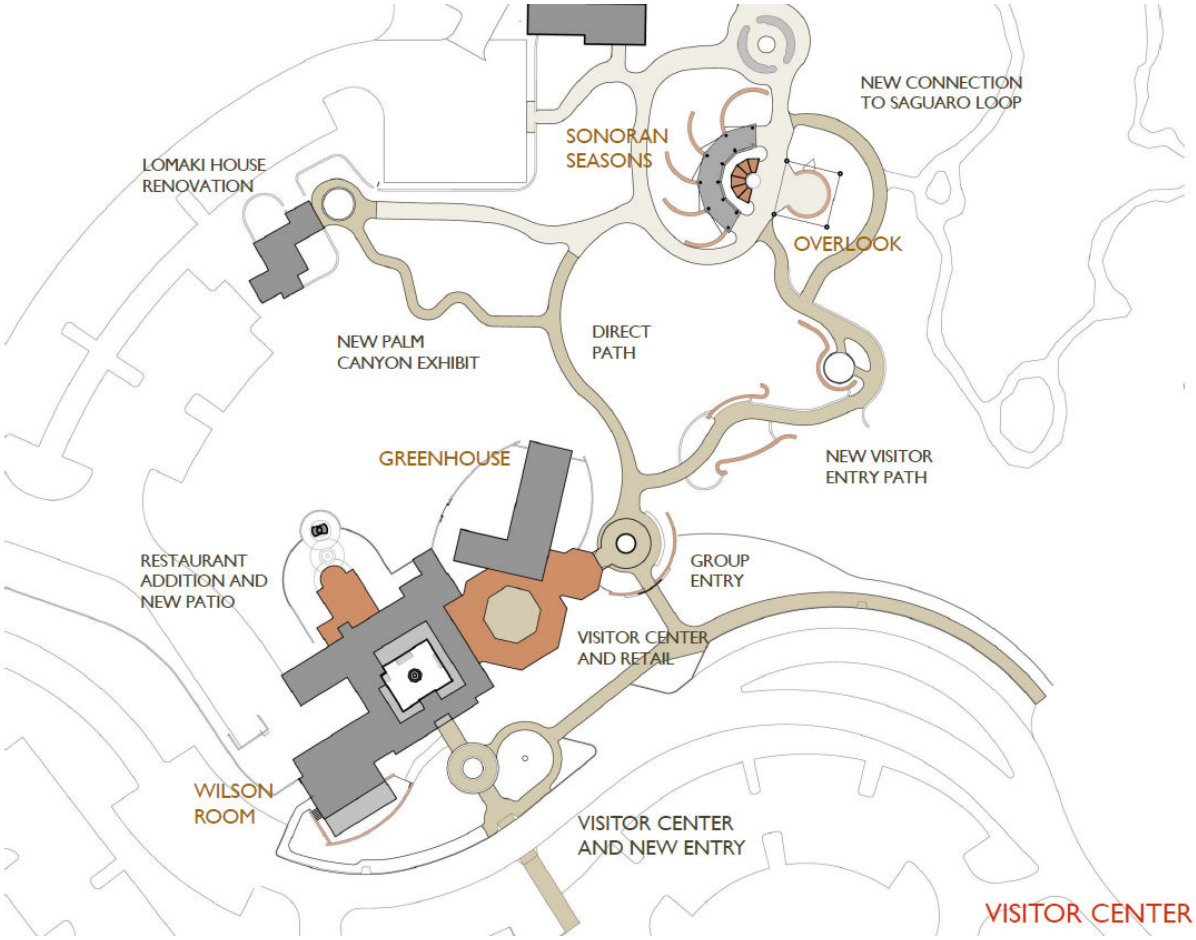


Exhibit 9-B: Visitor Center Conceptual Floor Plan

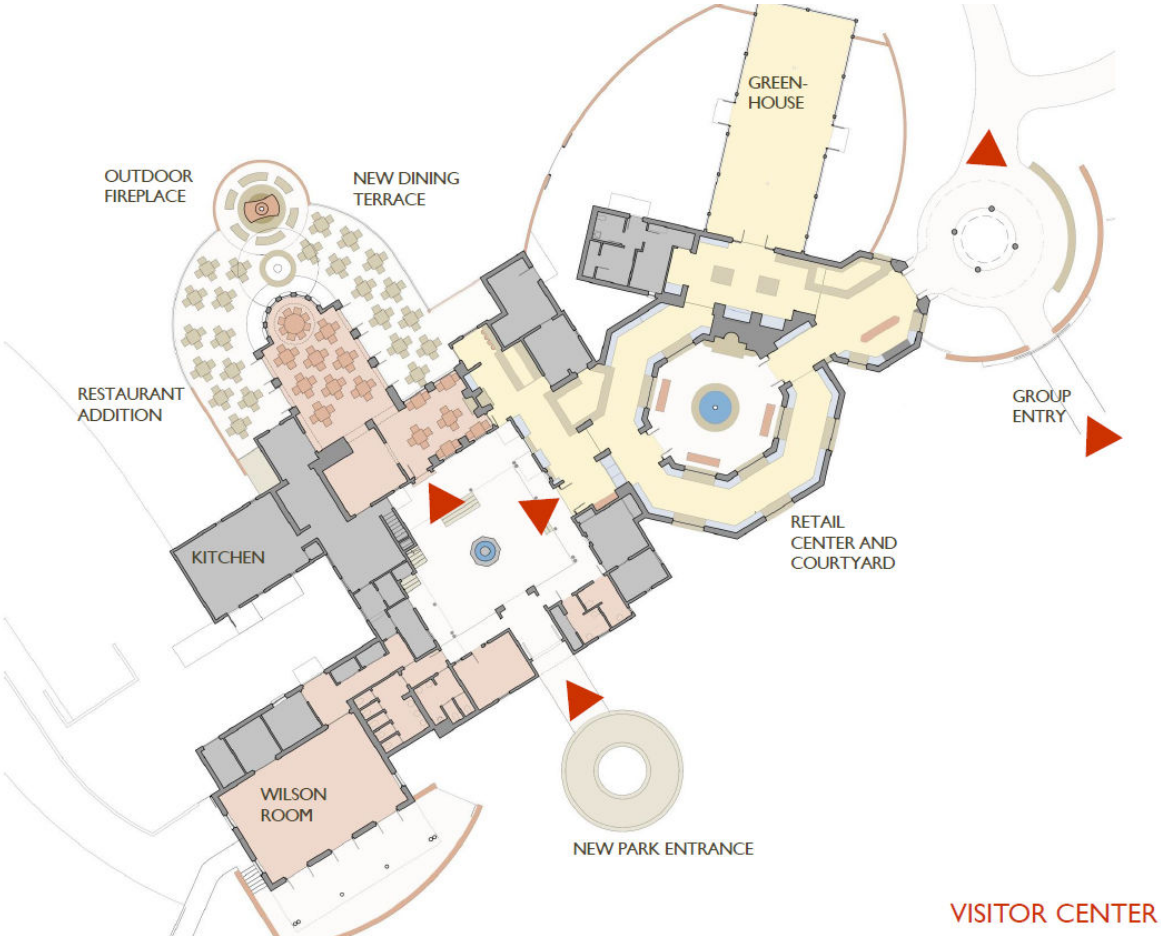
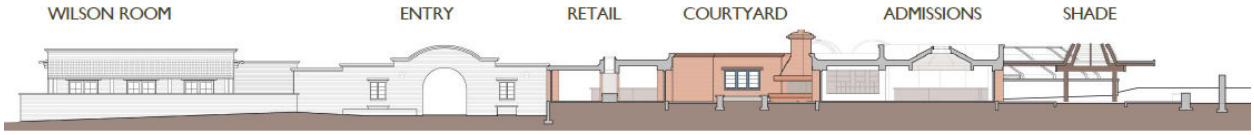


Exhibit 9-C: Visitor Center Conceptual Elevations

VISITOR CENTER ADDITION ELEVATION



VISITOR CENTER ADDITION SECTION

VISITOR CENTER

RESTAURANT ADDITION
SOUTH ELEVATION

RESTAURANT ADDITION
WEST ELEVATION

RESTAURANT ADDITION
NORTH ELEVATION

VISITOR CENTER

Exhibit 9-D: Center for the Arts Overview

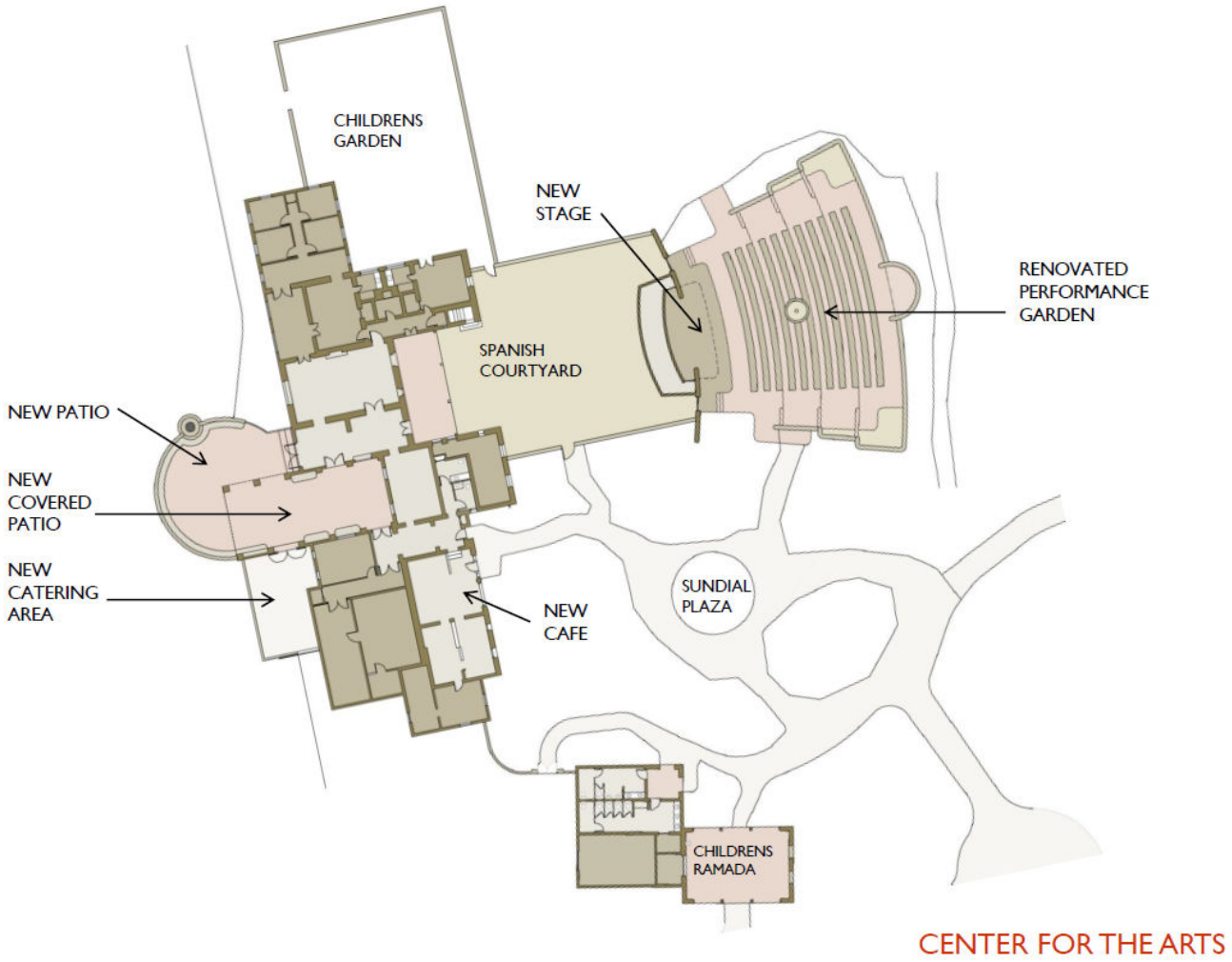
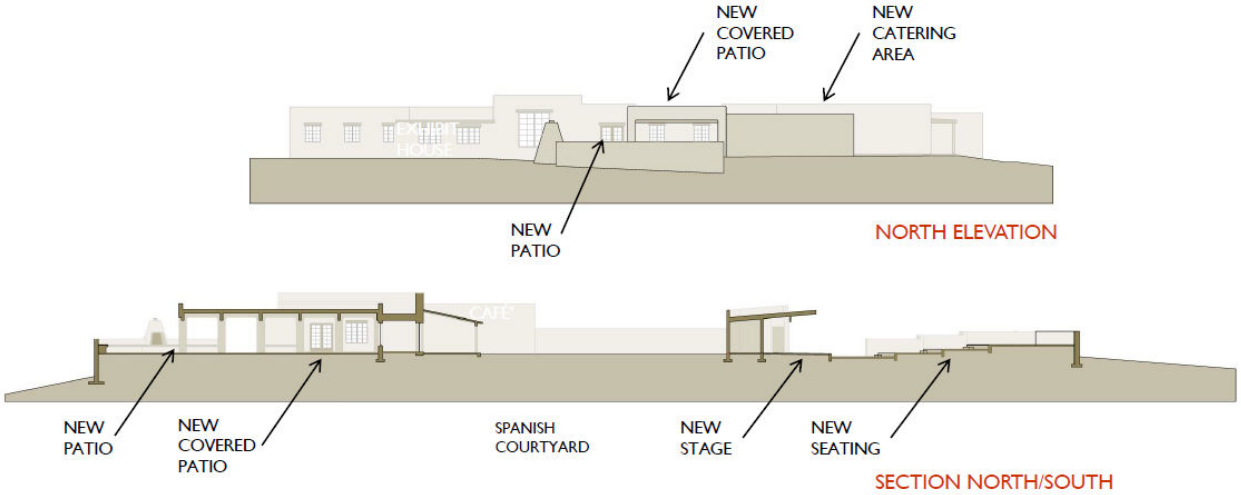
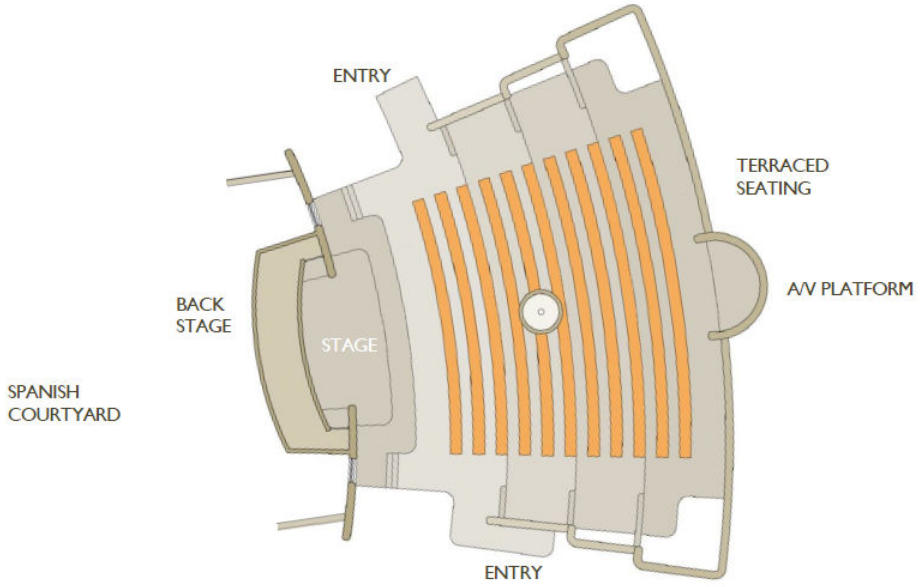


Exhibit 9-E: Center for the Arts Conceptual Elevations



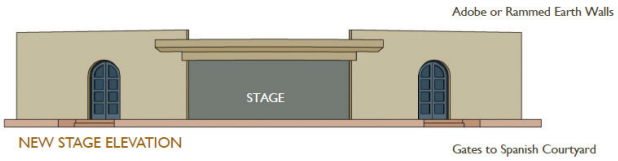
CENTER FOR THE ARTS

Exhibit 9-F: Center for the Arts Performance Garden Concept

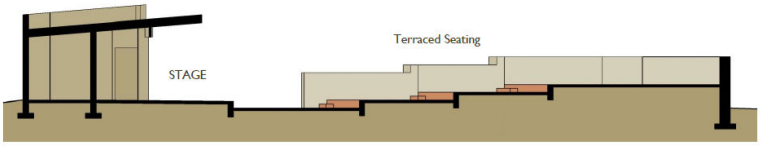


PLAN AT STAGE AND TERRACED SEATING

PERFORMANCE GARDEN



NEW STAGE ELEVATION



SECTION THROUGH STAGE AND TERRACE SEATING

PERFORMANCE GARDEN

B. Permitted and Excluded Uses

Tohono Chul Park proposes a single zoning district based on a modified Parks & Open Space (POS) zone to allow for the future expansion and growth of the park. The PAD shall include all those uses permitted by Town of Oro Valley Zoning Code Section 23.3 under POS zoning. All future development within the PAD shall conform to the regulations and standards set forth in this PAD. Where these regulations and standards vary from the Oro Valley Zoning Code or other City standards, the PAD regulations and standards shall prevail.

1. Permitted Uses

All POS permitted shall be allowed and subject to all use regulations found in Section 25 of the Town of Oro Valley Zoning Code.

2. Accessory Land Uses

The following uses shall be permitted, by right, in the PAD district:

a. Restaurant, café, or delicatessen, with or without entertainment/alcohol
b. Gift shop
c. Book store
d. Museum
e. Studio for professional work or teaching of any form of commercial or fine arts
f. Theater
g. Plant nursery
h. Art gallery
i. Wedding chapel
j. Education, conference, meeting and performing arts facilities

3. Excluded Land Uses

Land uses not listed as a Permitted use, or land uses that are not an accessory to the Primary Use are prohibited within the Tohono Chul Park PAD.

C. Development Standards

The PAD district shall be governed by the following development standards, which are derived from the Parks and Open Space (POS) District in Section 23.9 of the Oro Valley Zoning Code. Specific modification have been made to accommodate the unique programmatic needs of the Park and to ensure that development rights enjoyed in Pima County are preserved.

The PAD shall be considered a single parcel for the purpose of building setback, buffer requirements and other similar development standards that would otherwise apply to separately owned lots or parcels under the Oro Valley Zoning Code. All new development within the PAD shall conform to applicable building, fire and other life safety standards.

These development standards shall supersede the standards in the Town of Oro Valley Zoning Code Chapter 23, *Zoning Districts* and Chapter 25, *Use Regulations*, except where specific references to such standards are provided in this section of the document.

1. Site Development Standards

Development Standard	PAD Standard	Oro Valley POS Standard
Maximum Building Height	36 feet	25 feet/1 story Gymnasiums- up to 36 feet Community center auditoriums- up to 45 feet
Maximum Lot Coverage	20%,excluding parking areas	15%, excluding parking areas
Minimum Open Space	20% of gross acreage of PAD district	N/A

2. Vehicular Parking

The park currently has 303 regular parking spaces and 4 ADA accessible spaces. The master plan will add 156 new parking spaces, with 100 spaces accessible from Paseo del Norte and 56 spaces accessed from Northern Avenue.

ADA parking will be provided pursuant to Federal ADA Standards for Accessible Design, latest edition. Accessible spaces and "Van Accessible" spaces will connect to the accessible route as required by the ADA

Standards for Accessible Design. Newly constructed sidewalks and curb ramps will comply with accessibility requirements as required.

3. Lighting

All lighting shall be in conformance with the Oro Valley Lighting Code, Section 27.5.

4. Signage

The objectives of the Tohono Chul Park sign standards are to:

- Increase tourism
- Build community
- Increase community conservation efforts
- Increase awareness of local art & music offerings

All new permanent and temporary signs shall conform to the Town of Oro Valley Sign Code, Chapter 28, with the following exceptions:

a. Permanent Signage

Existing permanent signs include monument entry signs at Ina & Northern, at the Northern Avenue entrance and at the main entrance and exit on Paseo del Norte.

These signs may be replaced in the same locations with signs of the same size, area, height, and illumination.

b. Temporary Signage

Festival Banner Signs
Up to ten (10) light poles or banner mounting poles up to 20 feet in height shall be permitted on the south (Ina Rd.) and west (Paseo del Norte) perimeters of the property. The locations and pole height are subject to approval by the Planning & Zoning Administrator (PZA), the Town Engineer, and Tucson Electric Power (TEP). Additional poles may be located in the parking areas subject to PZA and Town Engineer approval.

Festival banner signs will be mounted on the poles, subject to the Festival Banner Sign Standards contained in this section. The signs will be replaced seasonally to reflect current offerings including classes, festivals, events and for general awareness. These signs shall be maintained in good condition and shall be removed or replaced if they are determined to be in disrepair by the Town.

Festival Banner Sign Standards

- Maximum Dimension: 54" x 18"
- An addition 18" x 18" area below the Park banner may be utilized by the Town to promote Oro Valley branding with cost share
- Cost share of associated expenses may include but are not limited to: design, printing, installation and equipment
- Each festival banner sign design shall be reviewed and approved by the Town prior to use
- Approved festival banner sign designs shall not expire or require additional permits once approved
- Banner signs may be replaced if Town light poles are replaced

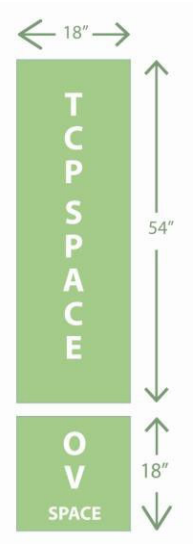


Exhibit 10: Map of Proposed Sign Placement

Exhibit 11: Mock up of Permanent Signage

C. Special Event Signage

Banner Signs
Banner signs shall be subject to the Town's sign code, with the following exceptions:

Quantity: Up to four (4) seasonal or event banners may be used at a time in the following locations:

- The intersection of Ina and Paseo del Norte
- The intersection of Ina and Northern Avenue
- Public entrance off of Paseo del Norte
- Delivery Entrance off of Paseo del Norte

Duration: Seasonal or event banners may be displayed for the duration of up to two weeks prior to the class, festival, or event being advertised, with a maximum period of 90 days.

A-Frame Signs
Up to three (3) A-frame signs may be used subject to the following standards:

1. The purpose of A-frame signs is to direct pedestrian traffic and shall not be oriented toward vehicular traffic.
2. Maximum height is 42" including sign legs.
3. Maximum sign area is 6 sq. ft.

4. Shall be located on private property or in the right of way.
5. Shall not be displayed in such a manner as to constitute a hazard to public safety.
6. Must allow for a 4' unobstructed pathway for pedestrians.
7. Signs shall be located within 20' of park entrances.
8. A-frame may be displayed during business hours only.
9. Fluorescent and iridescent colors are not allowed.
10. A-frame copy and graphics must be professionally designed and applied.
11. Hand lettered and hand painted signs are not permitted.
12. No illumination, noise or flashing, rotation, or moving elements are permitted.

D. Landscape Standards

Landscaping shall be in conformance with Oro Valley Zoning Code, Section 27.6 with the following exceptions:

1. Plant Palette

a. Tohono Chul Park is an internationally-recognized botanical garden with a diverse palette of native and exotic plants. In order to remain a showcase for a diverse array of plants, the PAD district shall be exempt from the Oro Valley Approved native Plant List (Zoning Code Addendum C) and Prohibited Plant List (Zoning Code Addendum E).

Species listed in the USDA list of *Invasive and Noxious Weeds* (http://plants.usda.gov/java/noxious?rptType=State&statefips=04) shall be prohibited.

b. In keeping with the intent of Section 27.6 of the Oro Valley Zoning Code, the plant palette will consist of predominately low water use, native and regionally adapted plants. The PAD district shall not be subject to the plant palette, prohibited plans, or native seed mix Zoning Code standards.

2. Bufferyards

Natural and landscaped bufferyards have been provided on all sides of the project site in order to screen uses from neighbors and enhance the "urban oasis" ambiance of the park.

No additional disturbance shall be allowed within a 20-foot buffer area on each side of the property, as measured from the property line, except for the

eastern side of the property (Northern Avenue frontage) that front commercial properties.

E. Open Space

Open space requirements shall be a minimum 20 percent of the gross area of the PAD District. Open space areas may include, but not limited to: general use pathways, ramadas, turf areas, patios, balconies, recreational areas, landscape bufferyards, hardscape courtyards, and landscaped areas. All open space areas shall be maintained by the property owner.

F. Water & Wastewater Plan

The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department (PCRWRD) that treatment and conveyance capacity is available for any expansion phase, no more than 90 days before submitting any Conceptual Site 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.

G. Infrastructure Phasing Plan

All necessary infrastructure will be provided to accommodate each phase of the development.

H. Design Review

The Conceptual and Final Site Plan, Conceptual and Final Architecture for each project or phase of future development, as shown on the Conceptual Site Plan and Master Plan exhibits (Exhibits 8&9-9F), shall be subject to administrative review and approval by the Planning & Zoning Administrator and Town Engineer. The PAD is exempt from the Oro Valley Addendum A Design Standards as the Future Expansion Concept set forth the design concepts for future expansions.

Significant deviations from the Conceptual Site Plan or Master Plan exhibits, as determined by the Planning & Zoning Administrator or Town Engineer, shall be subject to review by the Conceptual Design Review Board (CDRB) and approval by the Town Council.

Development within this PAD is not subject to Section 27.3, Public Art requirements as the Park makes a unique contribution to the community's arts and culture that exceeds the Town's requirements for number and quality of artworks.

I. Interpretations and Amendments

1. Interpretation

The regulations and guidelines provided within this PAD supersede existing regulations within the Town of Oro Valley Zoning Code. If an issue arises regarding definitions, conditions, standards and/or situations not addressed in this PAD, those in the Zoning Code, or other Town regulations shall prevail, as interpreted by the Planning & Zoning Administrator.

2. Amendments

Amendments to this PAD may be necessary over time to respond to the changing market or financial conditions, or to respond to the unanticipated needs of the Park. Non-substantial changes to the PAD shall be approved by the Town of Oro Valley Planning & Zoning Administrator may include the following:

- Modifications to the permitted and accessory uses that do not change the overall intent of the PAD.

- Modifications to the proposed site plan provided the Development Standards set forth in the PAD are maintained.

Conditions of Approval
Tohono Chul Park Planned Area Development
OV912-002

Planning & Zoning Commission Conditions

1. The minimum open space standard contained in Section II.C.1 shall be removed.

2. The maximum building height shown in Section II.C.1 shall be 34'.

SECTION 24.4.G & H PAD CRITERIA

SECTION 24.4.G: GENERAL PLAN CRITERIA

The Oro Valley Zoning Code states, "*In order to approve a PAD, the Town Council must find eighty percent (80%) of the applicable criteria are adequately addressed in the PAD plan and text documents*."

Staff has reviewed the applicant's responses to these criteria and finds that the PAD is in a high degree of conformance with applicable General Plan criteria.

In addition, staff has identified the following General Plan policies as being applicable for the Tohono Chul Park PAD. The numbers (e.g. 1.a) correspond to the numbering in Section 24.4.G of the Zoning Code.

All 5 policies determined applicable have been met, which equates to 100% conformance. This meets the requirement of Section 24.4.G.

1. <u>Land Use Element</u>
   b. Site analysis information completely supports the land use proposals contained in the PAD.

2. <u>Transportation Element</u>
   h. All new roadway and future pedestrian-bicycle improvements meet public design standards.

5. <u>Community Design Element</u>
   a. Building height and bulk are moderate to low intensity, in harmony with individual site attributes.
   b. Parking lots with greater than 20 car capacity are screened from adjacent uses and public thoroughfares.

7. <u>Natural Resources Conservation Element</u>
   g. Indigenous (native desert) vegetation and riparian habitats are maintained and enhanced where possible.

SECTION 24.4.H.1: REQUIRED FINDINGS

In addition to General Plan Conformance required by Section 24.4.G, "*the Planning and Zoning Commission and Town Council shall make the following required findings.*" Following is a list of each required finding (***bold and in italics)*** followed by staff's analysis. The applicant's response to each finding is contained in Attachment #2:

- ***The PAD demonstrates innovative design in site planning.***
  Tohono Chul Park is widely renown for its create site design, which creates a peaceful "urban oasis" amidst the busy activity centers around Oracle and Ina Roads. The Park appears primarily as open space from the outside and maintains a peaceful and tranquil ambiance inside. The master plan maintains

this by maintaining large expanses of open space and buffering around the perimeter of the Park.

- ***The PAD fosters safe and efficient use of the land.***
  The PAD conserves large areas of natural and landscaped open space. The proposed expansions shown in the Conceptual Site Plan (see Exhibit in the PAD) will significantly increase building footprint while not greatly increasing the overall development envelop.

- ***The development facilitates efficient design of public services and all infrastructure.***
  Tohono Chul Park has adequate infrastructure to serve future growth.

- ***The development provides for adequate drainage and reduction of flood damage.***
  All expansion phases will be required to conform with the Town's grading and drainage criteria.

- ***The PAD encourages reduction in automobile trip lengths and trip consolidation as measured against development under conventional zoning.***

- ***Public access to mass transit, pedestrian and bicycle circulation systems is provided and designed to assure that pedestrians can move safely and easily to properties and activities in the site and in the neighborhood.***
  The site is highly accessible by alternative modes of transportation, including bus an bicycle, which reduces auto dependence. The Park is located in proximity to the Sun Tran bus stop on the northwest corner of Oracle and Ina, and is also served by the Sun Shuttle, Dial-a-Ride, and is along bicycle routes.

- ***The design and arrangement of elements of the site plan contribute to the overall reduction of energy use by the project as measured against development under conventional zoning.***
  Tohono Chul Park is primarily a botanical garden which showcases best practices in desert landscaping. Development in the Park is context sensitive and the site layout and construction methods are appropriate for the Sonoran Desert environment and serve to conserve energy.

- ***The design and arrangement of elements of the site plan minimize adverse impacts to the existing natural topography, natural water courses, existing desirable vegetation, and views.***
  The proposed development will not adversely impact natural features or views from nearby homes or roadways.

- ***The elements of the site plan display a rational relationship (e.g., buildings, circulation, open space, and landscaping) between land uses for the mutual benefit of the community and neighborhood.***
  Tohono Chul Park is unique in that it is primarily "inward oriented" with virtually all development out of view from adjacent development and roadways. The expansion of the Park will be mostly internal to the site and will not directly impact the neighborhood or community.

- ***The PAD protects, in a manner equal or superior to existing zoning, existing neighborhoods from harmful encroachment by intrusive or disruptive development.***
  The PAD will protect nearby neighborhoods from harmful encroachment as well or better than existing Pima County zoning by requiring that future development be designed in accordance with Future Expansion Concept (see PAD Exhibits 9-9f), as well as Town development standards and other zoning requirements, such as grading, sign regulations, lighting requirements, etc.

- ***Overall, the entire PAD represents an improvement to living, work, and recreational conditions superior to that which would be produced by development under conventional zoning districts.***
  This standard is difficult to apply to Tohono Chul Park as it is not a multiple use development, but a single facility and because it is mostly built out. The PAD allows the Town to evaluate the Park's master plan and require development standards to ensure high quality development. As discussed, the Park has already demonstrated a strong commitment to design excellence and is the finest facility of its kind in the community and region.

c. The courtyard/mall requirement may be waived by Town Council based on a suitable alternative design solution being presented to and approved by the Conceptual Design Review Board.

4. Yards and Setbacks

a. Front Yard: A ratio of three to one (3:1) shall be used. For buildings less than a height of twenty-five (25) feet, a ratio of two to one (2:1) will be permitted.

b. Side and Rear Setbacks

Fifty (50) feet or a three to one (3:1) ratio (setback to building height), whichever is greater, where the lot abuts a residential district or abuts an alley that is adjacent to a residential district.

((O)11-15, Amended, 5/18/11; (O)11-01, Amended, 2/16/11)

G. Parks and Open Space District

1. Open Space Requirements

The aggregate area of the building(s) shall not occupy more than fifteen percent (15%) of the lot, excluding parking areas.

2. Building Height

No building shall exceed one (1) story and the exterior height shall not exceed twenty-five (25) feet. The following increased building heights are subject to DRB approval.

a. Gymnasiums up to thirty-six (36) feet.

b. Community center auditoriums up to forty-five (45) feet.

3. Setbacks

All recreational facilities (excluding trails, par courses, bikeways and similar amenities) and related apparatus shall be a minimum of fifty (50) feet from all property lines. When adjacent to preserved open space, the Town Council may reduce the setback to ten (10) feet.

((O)11-01, Amended, 2/16/11)

Section 23.9 Property Development Standards for Planned Districts

A. Common Regulations of Planned Districts

Alternative development standards in Section 27.10.B.3 (environmentally sensitive lands) may be applied at the request of the property owner upon satisfaction of applicable ESL review criteria.

(Ord. (O)11-01, Added, 2/16/11)

ATTACHMENT 2

TABLE 23-1: PERMITTED USES																					
		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
RESIDENTIAL USES																					
Residential	Community residences	P	P	P	P	P					P	P									25.1.E
	Dwelling units, multi-family													P	P						
	Dwelling units, single-family	P	P	P	P	P	P	P	P				P	P				P*			*23.6(D)(1)
	Home occupations	P	P	P	P	P	P	P	P	P	P	P	P	P							25.2.C
	Independent living facility										C		C	P	C						
	Model homes	C	C	C	C	C	C	C	C	C		C	C								
	Single-family dwellings having either party walls or walled courtyards										P	P									
	Site-built, site-delivered dwelling units, single-family									P											
	Temporary real estate offices	P	P	P	P	P	P	P	P	P	P	P	P								25.1.Q

TABLE 23-1: PERMITTED USES																					
		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
PUBLIC, INSTITUTIONAL, AND CIVIC USES																					
Public, Institutional, Civic	Business schools or similar private schools														C	P	P				
	Cemetery, including funeral chapel		C															C			
	Community buildings and recreational facilities, private, not-for-profit, such as athletic fields and boy's clubs	C	C	C	C	C	C	C	C	C			C	C	C					C	
	Community buildings other than hospitals, parks, and playgrounds												P		C	P	P				
	Flood control facilities and water recharge areas																			C	
	General aviation airstrip	P																			
	Golf course (except miniature golf course or commercial driving range)	C	C	C	C	C	C	C	C												24.6 25.1.J
	Golf driving range																C				
	Hospitals																C				
	Municipal services														P	P	P		P		
	Museum														C	P	P				
	New utility poles and above ground wires	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	25.1.N
	Community-owned recreation facilities and buildings other than hospitals	P	P	P	P	P	P	P	P	P											
	Fire stations and rescue facilities														P	P	P		P		25.1.I

TABLE 23-1: PERMITTED USES

USE CATEGORY	SPECIFIC USE TYPE	Single-Family									Multi-Family				Commercial			Other			ADDL REGS
		R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	
	Post office (substation)														P	P	P				
	Private college or university having a regular curriculum																	P			
	Private garages										P	P									
	Private schools having a curriculum equivalent to public schools																	P			
	Private tennis courts (unlighted)	P	P	P	P	P	P	P	P				P								
	Public parks and recreational facilities																			P	
	Public swimming pools, tennis courts or sport courts													C						P	25.2.D
	Religious institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25.1.A
	Tennis courts (lighted) and sports clubs	C	C	C	C	C	C	C	C												25.1.R
	Transit center																C				
	Utilities either publicly or privately owned														C	C	C				
COMMERCIAL USES																					
Automobile Related	Parts store														C	P	P				25.1.B
	Sales																C				
	Car rental establishments															C	C				25.1.C
	Car washes/detailing															C	C				25.1.G
	Gas stations and/or automotive service															C	C				25.1.G

TABLE 23-1: PERMITTED USES																					
		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
Food and Beverage Related	Bakery														P	P	P				
	Bars and cocktail lounges with live entertainment or patron dancing																C				
	Bars and cocktail lounges without live entertainment or patron dancing																P				
	Candy shop														P	P	P				
	Concession facilities																			P	
	Grocery store														P	P	P				23.8.B
	Ice cream parlor														P	P	P				
	Restaurant, cafe, or delicatessen without entertainment/alcohol														P	P	P		A		23.8.F 25.1.O
	Restaurant, cafe, or delicatessen with outside seating														P	P	P		A		23.8.F 25.1.O
	Restaurant, cafe, or delicatessen with entertainment/alcohol														C	C	C				25.1.O
Manufacturing and Processing	Art needlework, hand weaving, tapestries, books (hand binding and tooling), jewelry, medical, dental, and drafting instruments, optical goods and equipment, watches, clocks, and other similar precision instruments, small electrical or electronic apparatus, musical instruments, games or toys																		P		

TABLE 23-1: PERMITTED USES																					
		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH 6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
Office and Professional	Broadcasting station and studio, radio or television (excluding towers and communication facilities)															P	P		P		
	Business and professional offices (including medical and dental)												P	P	P	P	P		P		
	Optician														P	P	P				
	Office, laboratory and manufacturing uses which do not pose a danger to the health and safety in surrounding areas and which do not create any excessive traffic, offensive noise, vibration, smoke, radioactivity, electromagnetic interference, dust, odor, heat or glare and which, by reason of high value in relation to size and weight of merchandise received and shipped, generate a minimum of truck traffic																		P		
	Office, laboratory and manufacturing uses which do pose a danger and create negative impacts (per above)																		C		

TABLE 23-1: PERMITTED USES																					
		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
Retail Sales	Antique store														P	P	P				
	Art gallery												C	C	P	P	P				
	Bicycle shop														P	P	P				
	Book or specialty paper store														P	P	P				
	Camera store														P	P	P				
	Clothing store															P	P				
	Convenience uses (not specifically addressed elsewhere)														C	C	C				25.1.G
	Craft shop														P	P	P				
	Drug store														P	P	P				23.8.B
	Fabric store														P	P	P				
	Florist														P	P	P				
	Furniture store															P	P				
	General merchandising, including variety and specialty stores														P	P	P			A	23.8.F
	Gift/hobby shop														P	P	P				
	Hardware store														P	P	P				23.8.B
	Medical marijuana dispensary															P	P				25.1.V
	Video store														P	P	P				

TABLE 23-1: PERMITTED USES

		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
Service Related	Appliance repair shop															P	P				
	Banks or financial institutions												C		P	P	P		A		
	Barber or beauty shop or day spa														P	P	P				
	Blueprinting, printing, lithograph, publishing or photostating														P	P	P		P		
	Clinic with urgent care facilities															C	P				
	Dry cleaners and laundromats, excluding industrial cleaning and dyeing plants														P	P	P		A		
	Communications, informational, and other technical service																		P		
	Day nursery or preschool (drop-off > 100' from residential district)												C	C	P	P	P	P	A		
	Day nursery or preschool (drop-off ≤ 100' from residential district)												C	C	C	C	C	P	C		
	Funeral chapel and mortuary															P	P				
	Indoor recreation, health spa, health studio or fitness center														P	P	P		P		25.1.K
	Hospital for animals including boarding and lodging														P	P	P				25.1.L
	Mail service														P	P	P				
	Pet grooming														P	P	P				
	Private clubs with entertainment/alcohol																C				

TABLE 23-1: PERMITTED USES

		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
	Private clubs without entertainment/alcohol															P	P				
	Rehabilitative care facility												C	C	C						
	Self storage																C		C		
	Sexually-oriented businesses																				
	Shoe repair shop														P	P	P				
	Skilled nursing care facility												C	C	C						
	Studio for professional work or teaching of any form of commercial or fine arts												P	P	P	P	P				
	Telephone answering service															P	P		P		
	Theater															C	P				
	Utility payment store														P	P	P				
Visitor Accommodation	Boarding house or lodging house											C	C	C							25.1.T
	Guest ranches											P									25.1.T
	Hotels/motels											P				C	P				25.1.T
	Resorts											P									25.1.T
	Short-term rental properties											C	C	C							
	Timeshare units											C	C	C							25.1.S
AGRICULTURE USES																					
Agriculture	Farms and ranches	C	P	C	C	C	C	C	C												
	Marketing of products raised on the premises		P																		25.1.M
	Medical marijuana dispensary off-site cultivation location															P	P				25.1.V

TABLE 23-1: PERMITTED USES																					
		Single-Family									Multi-Family				Commercial			Other			
USE CATEGORY	SPECIFIC USE TYPE	R1-300	R1-144	R1-72	R1-43	R1-36	R1-20	R1-10	R1-7	SDH6	R-4	R-4R	R-S	R-6	C-N	C-1	C-2	PS	T-P	POS	ADDL REGS
	Medical marijuana designated caregiver cultivation location															P	P				25.1.V
	Medical marijuana designated qualifying patient cultivation location															P	P				25.1.V
	Plant nursery														C	C	P				
OTHER USES																					
Other	Antennas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		25.1.F
	Major communications facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	25.1.F
	Minor communications facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	25.1.F
	Motion picture production																		P		
	Outdoor displays														A	A	A				25.1.A
ACCESSORY USES																					
Accessory Uses	Accessory buildings and uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	25.2

((O)11-23, Amended, 9/21/11*; (O)11-02, Amended, 2/2/11; (O)10-13, Amended, 10/27/10; (O)07-33, Amended, 9/19/07)

* Code Reviser's Note: Ord. No. (O)11-23 provides that its amendments expire on February 1, 2013.

Section 23.4 Table of Dimensional Requirements

All primary and accessory structures shall be subject to the intensity and dimensional standards set forth in the following Tables 23-2. These intensity and dimensional standards may be further limited or modified by other applicable Sections of this Code. Additional regulations and rules of measurement are set forth immediately following the table. A "*" indicates that these additional regulations and rules of measurement are applicable.

TABLE 23-2A: DIMENSIONAL REQUIREMENTS (Residential)

Zoning District	Minimum Property Size	Minimum Lot Area (square feet)		Yard Setbacks (feet)			Building Height	Minimum Distance Between Bldgs	Addl Regs
		Area	Width	Front	Side	Rear		(feet)	
R1-300	-	300,000	300	50	20	50	34	10	23.6.B
R1-144	-	144,000	150	50	20	50	18	10 *	23.6.C
R1-72	-	72,000	150	50	35	50	22	10 *	23.6.D
R1-43	-	43,560	150	30	20	40	18	10 *	23.6.E
R1-36	-	36,000	120	30	15	40	18	10 *	23.6.F
R1-20	-	20,000	80	30	15	30	18 ft. or 2 stories	10 *	23.6.G
R1-10	-	10,000	80	25	10	25	25 ft. or 2 stories	10 *	23.6.H
R1-7	-	7,000	70	20	7.5	20	25 ft. or 2 stories	10 *	23.6.I
SDH-6	-	6,000	50	20 *	15 * (1st side) 5 * (2nd side)	25 *	18 *	20 *	23.6.J
R-4	1 acre	*	-	*	*	*	25 feet or 2 stories	10 *	23.7.B
R-4R	50 acres prior to street dedications	*	-	*	*	*	34 feet	10 *	23.7.C
R-S	-		-	*	*	*	25 feet or 2 stories*	10 *	23.7.D 23.7.E
R-6	5 acres (residential) 1 acre (business and professional offices or other permitted or conditional use)	*	-	30	20	20	25 feet or 2 stories *	*	23.7.E

(Rev. 1/4/06 (O)06-02)

Zoning District	Minimum Property Size	Yard Setbacks (feet)			Maximum Building Height	Min. Open Space	Max. Floor Area Ratio	Addl Regs
		Front	Side	Rear				
CN	0 acres	20*	0-50*	0-50*	25 feet or 2 stories	25%	.25	23.8.B
C-1	5 acres	20	0-50*	0-50*	25 feet or 2 stories	20%	.30	23.8.C
C-2	10 acres	20	0-50*	0-50*	30 feet or 2 stories	20%	.40	23.8.D
PS	5 acres (schools only)	*	*	*	1 story and 24-45 feet *	25%		23.8.E
T-P	3 acres	3:1*	0-50*	0-50*	34 feet *	25%	.50*	23.8.F
POS		0-50*	0-50*	0-50*	1 story and 25-45 feet *	*	.15*	23.8.H

((O)11-02, Amended, 2/2/11; (O)07-33, Amended, 9/19/07)

Section 23.5 Measurements and Exceptions

A. **Lots**

1. Measurement

a. Lot Area

The same as "net lot area."

b. Net Lot Area

The area included within lot lines after all right-of-way dedications have been made as required by the Town.

c. Lot Width

The width of the lot is determined as follows:

i. If the side property lines are parallel, the shortest distance between these side lines,

ii. If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the required front or rear building setback line whichever is the lesser. The axis of a lot shall be a line generally perpendicular to the fronting street, which divides the lot into two (2) equal parts.

d. Minimum lot width

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TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: September 18, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Matt Michels, AICP, Senior Planner**
mmichels@orovalleyaz.gov

SUBJECT: **Public Hearing: Tohono Chul Park Planned Area Development (PAD)**, located on the northeast corner of Ina Road and Paseo del Norte, OV912-002.

SUMMARY

As part of the effort to annex Tohono Chul Park (TCP) into the Town, a Planned Area Development has been developed to ensure that their long-term master plan can be achieved. A PAD is a zoning tool permitted by the Zoning Code to provide for development proposals which are superior to that which may occur under conventional zoning regulations. A PAD is similar to a rezoning in that it establishes zoning districts, development standards, and provides a conceptual site plan depicting the proposed development. Unlike a rezoning, a PAD provides additional flexibility to modify certain development standards, such as permitted and conditional uses, density, building height, and standards for signage. The objective of the PAD is to ensure compatibility with adjacent uses and improve community fit as well as preserve development rights currently enjoyed in Pima County.

The TCP PAD district consists of approximately 48.5 acres of property at the northeast corner of Ina Road and Paseo del Norte. TCP has developed a long-term master plan to expand and grow within their existing boundaries. This master plan envisions a new visitor center, a new administration building, a new entrance, a new performance garden and stage, and a number of expansions of existing facilities. The PAD includes a Conceptual Site Plan (see Exhibit 8 in the PAD; Attachment 1) depicting the proposed Park master plan as well as proposed development standards and sign standards.

The PAD base zoning is Parks and Open Space (POS; see Attachment 2 for base zoning standards), with specific modifications that will be discussed in this report. If approved, the PAD document will serve as the primary zoning document, with the Town Zoning Code prevailing where the PAD is silent. If the PAD is approved, new development will be required to follow the Town's Design Review process for approval of each phase of the project.

BACKGROUND

Site Conditions

- Property is approximately 48.5 acres
- Oro Valley General Plan designation is Park (P). Note: Although the property is outside of Town boundaries, it is within the Town's planning area.
- Pima County Zoning is CR-1 (Single Residence Zone) and CB-1 (Local Business Zone)
- Property is developed as a park and botanical garden with a number of accessory uses, including restaurant, educational facilities, retail sales, and administrative offices
- Pima County has permitted the continued expansion of the Park under a non-conforming use permit

Proposed Improvements

- Approx. 20,999 s.f. of additional structures, including additions, remodels a new performance garden, exhibit house patio, and other improvements (see Section II.A.1 of the PAD for additional details)

- Other improvements include new pathways and trails, a children's ramada, a catering area, and additional parking

Approvals to Date
Previous zoning and development approvals were all completed in Pima County, the most recent in 2000. See *Project Overview* in Section I.A of the PAD for additional details.

Surrounding Land Uses

North:	St. Odilia Roman Catholic Church and Single-Family Residences
South:	Ina Road, Single-Family Residences
East:	Commercial Development
West:	Paseo Del Norte; Single-Family Residences & Commercial

Process to Date and Projected Schedule

- Neighborhood Meeting September 13, 2012
- First P&ZC Public Hearing September 18, 2012
- Second P&ZC Public Hearing October 2, 2012
- TC Public Hearing October 17, 2012

Pima County Zoning
The majority of the site (47.2 acres) is zoned Pima County CR-1 (Single Residence Zone). This zone allows single-family homes, agricultural and horticultural activities, colleges, government facilities, and museums. The maximum building height in the district is 34'.

A small area (1.42 acres) of the eastern portion of the property is zoned Pima County CB-1 (Local Business Zone). This zone allows a variety of office, retail, and food service uses. The maximum building height in the district is 34'.

Although the permitted uses within these zoning districts differ somewhat from those found in Tohono Chul Park, they both provide for similar density and intensity as the Park proposes. The Park has been able to grow through the years in the County with a non-conforming use permit.

Existing General Plan Land Use Designations

The General Plan defines the land use category for the PAD area as follows:

- Park (P)
  This designation denotes areas that have been developed or set-aside as public/semi-public recreational facilities

ANALYSIS OF PROPOSED PAD

Section 24.4 of the Zoning Code provides the requirements for new PADs, including General Plan conformance and specific criteria required for PAD approval. A full analysis of the Zoning Code criteria is contained in Attachment 3. Following is a discussion of the proposed underlying zoning district and proposed modifications thereto.

I. UNDERLYING ZONING DISTRICT

According to the Zoning Code, all PADs shall include underlying zoning designations. The underlying, or base, zoning districts are to be derived from existing Oro Valley zones and reflect the most logical designation in consideration of the proposed land use for a particular parcel. Further, "*The development standards of the underlying zoning districts will prevail where the PAD does not specifically modify said standards.*"

The Tohono Chul Park PAD proposes a single zoning district based on a modified POS (Parks and Open Space) zone. Following is the purpose of the zoning district:

- The POS zoning district is "*primarily for those areas of the Town where it is desirable and necessary to provide permanent park, public open space, and in general, areas to be preserved in their present or managed state.*"

The PAD proposes to include all those uses permitted by Zoning Code Section 23.3 under POS zoning (see Section II.B.1 of the PAD). Many of these uses, including restaurant and gift shop, are already established at the Park and are considered appropriate accessory uses in the POS zoning district.

Several currently existing and proposed uses, including the performance garden and stage, studios, theater, art gallery, and educational and performing arts facilities (see Section II.B.2 of the PAD), are not explicitly permitted in the POS zoning district, but are appropriate uses in the Park and are necessary amenities to achieve the Park's long-term development goals.

Staff supports the requested permitted and accessory uses as the Town and the neighborhood has been provided an opportunity to evaluate the appropriateness of the site for these uses and believes the range of uses is appropriate for this site.

II. MODIFICATIONS TO DEVELOPMENT STANDARDS

According to the Zoning Code, "*Modifications to the development standards of the underlying district may be permitted if they are found to offer a desirable improvement over the conditions produced by conventional zoning standards.*

The applicant has requested changes to the following development standards, as shown on the following table:

	OV POS Zone	TCP PAD Requirements	Pima County CR-1 Zone
Building Height	25 feet/1 story Gyms up to 36 feet Comm. Ctr./Auditoriums up to 45 feet	36 feet	34 feet/2 stories
Max. Lot Coverage	15%, excluding parking areas	20%, excluding parking areas	N/A
Min. Open Space	N/A	20% of gross PAD district acreage	N/A

As shown, the proposed maximum building height of 36 feet is within the range of the POS zoning district. The maximum lot coverage is somewhat higher than the POS district, but TCP is a different type of park than the Zoning Code envisions and 20% is a reasonable lot coverage for a facility of this type. Further, the minimum 20% open space requirement helps to preserve the "oasis" ambiance the Park currently enjoys.

Signage

In addition, TCP has requested specific temporary sign standards to aid in the promotion of the Park and its programs and events (see Section II.C.4 of the PAD). The PAD would be subject to the Town Sign Code (Chapter 28) with the following exceptions:

Permanent Signs

Existing permanent signs include monument entry signs at Ina & Northern, at the Northern Avenue entrance and at the main entrance and exit on Paseo del Norte.

The applicant proposes that these signs may be replaced in the same locations with signs of the same size, area, height, and illumination, if needed. Staff supports this request as it doesn't add any additional sign area or increase illumination.

Temporary Signs

- Festival Banner Signs: Up to ten (10) Festival Banner signs would be permitted on light poles or banner mounting poles up to 20 feet would be permitted on the south and west perimeters of the property, as approved by the Planning & Zoning Administrator (PZA), the Town Engineer, and TEP. Additional poles could be placed in the parking lot subject to PZA and Town Engineer approval.

- Special Event Signage: Up to four (4) seasonal or event banners could be used at a time at four (4) designated locations (see Page 34 of the PAD), for a duration of up to 90 days for each event.

- A-Frame Signs: Up to three (3) A-frame signs may be used to direct pedestrian traffic and could be located in the right-of-way, subject to Town Engineer approval. The proposed sign standards are contained on Pages 34-35 of the PAD.

In sum, staff supports the proposed development standards as they serve to promote the long-term growth and expansion of an important regional asset while maintaining reasonable development standards that do not negatively impact the community. The unique aspects of the Park, including the role it would play in enhancing tourism and bolstering community image for the Town, justify the additional latitude requested.

V. PUBLIC NOTICE AND COMMENT

This project has been noticed in accordance with Town procedures, which includes the following:

- Notification of all property owners within 600 feet
- Homeowners Association mailing
- Notice in The Daily Territorial newspaper
- Post on property
- Post at Town Hall and on website

A neighborhood meeting will be held on September 13, 2012. A summary of the neighborhood meeting will be provided prior to the September 18 hearing.

No correspondence has been received in support or opposition to the proposal to date.

SUMMARY/CONCLUSION

The proposed PAD has been evaluated using the criteria in Section 24.4 of the Zoning Code, including applicable General Plan goals and policies. Following is a summary of the factors for and against the proposal:

Factors for:

1. Tohono Chul Park has a well established track record as a good neighbor and important regional asset.
2. The PAD provides preserves the development rights enjoyed in Pima County and provides assurance that the Park's master plan can be achieved when annexed into the Town.
3. The requested development standards will not adversely impact neighboring properties.
4. The Park will be an important asset to bring tourism into the Town and bolster the Town's identity.

Factors Against:

1. None

RECOMMENDATION

The proposed PAD is in conformance with the Zoning Code PAD criteria. Future development will be evaluated using the PAD and Town Zoning Code to ensure that the impacts of the development, including views, noise, light, and traffic, will be mitigated and that the Park will continue to be a good neighbor. Staff recommends approval of the proposed PAD.

SUGGESTED MOTION

Two Planning & Zoning Commission public hearings are required by the Zoning Code. Therefore, no recommendation will be made at this meeting. Motions will be included in the October 2, 2012, report.

Attachments:

1. PAD document
2. Parks & Open Space Zoning District Standards
3. Analysis of PAD Criteria

cc: Christine Conte, Ph.D., christineconte@tohonochulpark.org
Michael Racy, Michael@RacyAssociates.com
John Douglas, AIA, johndouglas@douglasarchitects.com
Kevin Burke, kburke@orovalleyaz.gov

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Chad Daines, AICP, Principal Planner

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: October 2, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Matt Michels, AICP, Senior Planner**

SUBJECT: **Public Hearing: Tohono Chul Park Planned Area Development (PAD)**, located on the northeast corner of Ina Road and Paseo del Norte, OV912-002.

SUMMARY

The Planning and Zoning Commission held the first of two required public hearings on September 18, 2012. No action was taken at that hearing. Several issues were discussed, including:

- Removing the minimum open space and maximum lot coverage standards (Section II.C.1). Staff supports removing these standards.
- Modifying the proposed maximum building height to 34' (from 36') to be in line with the existing Pima County CR-1 standard. Staff supports this change.

Please refer to the September 18, 2012 packet for additional background information and discussion of the PAD proposal. A recommendation to Town Council is requested at this hearing. Staff recommendation and suggested motions are provided below.

RECOMMENDATION

The proposed PAD is in conformance with the Zoning Code PAD criteria. Staff recommends approval of the proposed PAD.

SUGGESTED MOTIONS

The Planning & Zoning Commission may wish to consider one of the following suggested motions:

I move to recommend approval of the Tohono Chul Park Planned Area Development (PAD) located on the northeast corner of Ina Road and Paseo del Norte, subject to the following conditions:

1. The minimum open space and maximum lot coverage standards contained in Section II.C.1 shall be removed
2. The maximum building height shown in Section II.C.1 shall be 34'

finding that:

- All applicable General Plan criteria are met
- Required PAD findings are met
- PAD standards preserve character of the park
- PAD maintains development rights enjoyed in Pima County

OR

I move to recommend denial of the Tohono Chul Park Planned Area Development (PAD) located on the northeast corner of Ina Road and Paseo del Norte, finding that the PAD does not meet all Zoning Code requirements.

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MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
September 18, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chair Swope called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT:	Robert Swope, Chair Don Cox, Vice Chair John Buette, Commissioner Alan Caine, Commissioner Bill Rodman, Commissioner
EXCUSED:	Bill Leedy, Commissioner

PLEDGE OF ALLEGIANCE

Chair Swope led the audience in the Pledge of Allegiance.

CALL TO AUDIENCE - One comment was received by Bill Adler, resident, regarding risk of objectivity in being an advisory board member in valuing responsible growth by retaining personal integrity vs. allowing to be influenced.

COUNCIL LIAISON COMMENTS - None by Council Member Joe Hornat.

2. PUBLIC HEARING: TOHONO CHUL PARK PLANNED AREA DEVELOPMENT (PAD), LOCATED ON THE NORTHEAST CORNER OF INA ROAD AND PASEO DEL NORTE (OV912-002)

Matt Michels, Planner, presented:

Location and context
Existing Pima County Zoning
Current Oro Valley General Plan Future Land Use
Proposed Base Zoning District
Proposed Permitted uses
Proposed Modifications to POS
Conceptual Site Plan

Temporary Signage Section
Festival Banner Signs Section
Neighborhood Meeting/Public Input on 9/13/12 at Tohono Chul Park
Conclusion

Michael Racy, resident and Member/Director's Committee/Board of Trustees of Tohono Chul Park, discussed their purpose as private, non-profit with deed-restricted uses. Their Master Plan for Tohono Chul Park will not change whether they remain in Pima County or are annexed into Oro Valley. Community input is very important to Tohono Chul Park.

Gil Alexander, resident, supported the Tohono Chul PAD.

This was the first of two public hearings on this case.

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
REGULAR SESSION
October 2, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chair Swope called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Robert Swope, Chair
Don Cox, Vice Chair
John Buette, Commissioner
Alan Caine, Commissioner
Thomas Drzazgowski, Commissioner
Bill Leedy, Commissioner
Bill Rodman, Commissioner

PLEDGE OF ALLEGIANCE

CALL TO AUDIENCE - One comment was received by Bill Adler, resident, about land use issues.

2. PUBLIC HEARING: TOHONO CHUL PARK PLANNED AREA DEVELOPMENT (PAD), LOCATED ON THE NORTHEAST CORNER OF INA ROAD AND PASEO

DEL NORTE (OV912-002)

Matt Michels, Planner, presented:

Location and context
Existing Pima County Zoning CR1 Single family residential
Current Oro Valley General Plan and future land use
Proposed Base Zoning District
Proposed Permitted Uses
Proposed Modifications to POS
Lot Coverage
Temporary Signage
Festival Banner Signs
Conclusion

Bill Adler, resident, had concerns on zoning regarding the master plan for the Tohono Chul Park.

Jeffrey Ives, Pima County resident, asked about property tax impacts of Oro Valley annexation for residents.

Michael Racy, representative of Tohono Chul Park, spoke about the master plan for the Tohono Chul Park.

MOTION: A motion was made by Commissioner Rodman and seconded by Commissioner Buette with two amendments: minimum open space being removed under Section 11.C.1 and maximum building height to be 34 feet. Commissioner Leedy made a friendly motion to reduce the maximum lot coverage from 20% to 15%. Mr. Racy indicated that any limit puts them in legal gray area if 20% isn't proposed. A deviation hasn't been accepted by the park's Board of Directors. Commissioner Leedy withdrew his friendly motion.

MOTION carried, 7-0.

DRAFT

Town Council Regular Session **Item # 3.**

Meeting Date: 12/05/2012
Requested by: David Williams
Submitted By: Chad Daines, Development Infrastructure Services
Department: Development Infrastructure Services

Information

SUBJECT:

PUBLIC HEARING: RESOLUTION NO. (R)12-66, AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL, NEIGHBORHOOD COMMERCIAL / OFFICE, RESORT / GOLF COURSE TO LOW DENSITY RESIDENTIAL (1.3-2 DU/AC), MEDIUM DENSITY RESIDENTIAL (2.1 – 5 DU/AC), OPEN SPACE AND NEIGHBORHOOD COMMERCIAL /OFFICE (NC/O) AND AMEND THE SIGNIFICANT RESOURCE AREA AND SPECIAL AREA POLICIES AND TO AMEND THE URBAN SERVICES BOUNDARY FOR THE 110 ACRE PROPERTY KNOWN AS DESERT SPRINGS, LOCATED EAST OF THE INTERSECTION OF TANGERINE AND ORACLE ROADS

RECOMMENDATION:

The Planning & Zoning Commission recommended approval.

EXECUTIVE SUMMARY:

Desert Springs is a 110 acre property located east of the intersection of Tangerine and Oracle Roads in unincorporated Pima County, within the Town of Oro Valley planning area boundary. The General Plan currently designates the property for low density residential, commercial, office, resort and golf course uses. The current General Plan also designates the property Significant Resource Area.

The proposed Major General Plan Amendment would amend the land use designation to allow low to medium density residential, neighborhood commercial, professional office and open space uses. The applicant also proposes to amend the Significant Resource Area designation, amend the Special Area Policies and expand the Urban Services Boundary to encompass the entire property. The existing and proposed General Plan designations are shown in Attachment 2. The proposed Special Area Policies and Figure addressing bufferyards are provided in Attachment 3.

The application was considered by the Planning & Zoning Commission at two separate public hearings. On November 5th, the Commission voted to recommend approval of the amendment.

BACKGROUND OR DETAILED INFORMATION:

The Planning & Zoning Commission staff reports from the October 16th and November 5th public hearings are provided in Attachments 4 and 5 respectively. Please refer to the October 16th staff report (Attachment 4) for background on the property, existing General Plan, zoning history and other relevant issues.

Land Use Map Amendment

The Land Use Map Amendment requested by the applicant is depicted in Attachment 2 and summarized

by the following comparative analysis with the existing Pima County zoning and current Oro Valley General Plan designations on the property:

Existing OV General Plan	Existing Pima County Zoning	Proposed General Plan Amendment
Neighborhood Commercial Office 31 Acres	Rural Village Center (commercial) 18 Acres	Neighborhood Commercial Office 24 Acres
Resort / Golf Course 24 Acres	Major Resort 44 Acres	Medium Density (2.1 - 5.0 du/ac) 60 Acres
Low Density (1.3 - 2.0 du/ac) 54 Acres	Suburban Ranch (.3 du/ac) 47 Acres	Low Density (1.3 - 2.0 du/ac) 13 Acres
		Open Space 13 Acres
Total Units 108*	Total Units: 14 Guest Units: 154	Total Units: Maximum 250 units per Special Area Policy

* = Total units calculated using upper end of density range

Summary Observations:

- Reduction of low density residential uses in the Oro Valley General Plan; from 54 to 13 acres
- Increase in overall number of single family residential units from current Oro Valley General Plan; 108 to 250 units
- Moderate decrease in commercial and office uses from the current Oro Valley General Plan; from 31 to 24 acres
- Elimination of the planned resort use designated by the current Oro Valley General Plan and Pima County zoning entitlements (including elimination of 154 guest units) on the property
- Elimination of the golf course use designated by the Oro Valley General Plan
- Preservation of 13 acres of ridgelines and steep hillsides as Open Space

The reduction in commercial acreage and elimination of the resort / guest units and golf course is generally off-set by increases in overall density and decreased lot sizes from 3.3 acres to 5,000 sq. ft. As an overall comment; considering the reductions in non-residential intensity (resort and golf course) and increase in residential density, the request represents moderate increase in overall impact on the property.

To lessen the impact of increased density, particularly on the immediate Talante Estates subdivision, the applicant has proposed a number of mitigation measures. These include establishment of landscaped buffers, maximum lot count limitation, and limitations on building heights / number of lots immediately adjacent to the existing subdivision. These mitigation measures are addressed in Attachment 3.

Significant Resource Area

The property contains a variety of sensitive environmental resources including archaeological resources, the historic Joesler House, native vegetation, hillsides and ridgelines, valleys and habitats. Based on preliminary assessments of these environmental resources, the entire property was designated Significant Resource Area (SRA) on the 2005 General Plan.

The applicant originally proposed removal of the Significant Resource Area designation from the entire property. Based on review of a preliminary environmental analysis and field work, staff recommended and the applicant agreed to retain the SRA designation on portions of the property containing visible ridgelines and hillsides with 25% and greater slopes, the historic Joesler House and archaeological sites. The additional SRA areas are primarily around the Joesler House, which occupies the highest and most visible portion of the property from the public roadways and from Catalina State Park. The

preliminary environmental analysis and other supplemental information can be accessed at the Planning Division website.

It should be emphasized that the Significant Resource Area (SRA) designation serves as an alert that substantial environmental resources may be present and is not a “no-build” designation or open space preservation area. The SRA description in the General Plan indicates that these areas should be developed at the lowest density of the current land use designations. Retention of the SRA designation on the most sensitive portions of the property will serve as additional guidance during any subsequent zoning of the property relative to density and the need for sensitive design methods.

To this end, the SRA areas in the vicinity of the Joesler House have been designated Low Density (1.3-2.0 du/ac). To clarify the intent to preserve a majority of the visible ridgelines and steeper sloped areas, the applicant also modified the proposed Land Use Plan to designate a majority of the previously designated SRA areas as Open Space.

The Environmentally Sensitive Lands (ESL) Ordinance is fully applied during the subsequent rezoning of the property. As this area is outside Town limits, it was not included in the ESL Planning Map and conservation categories were not established specific to the property. Any subsequent rezoning will involve a detailed submittal and review for full compliance with the Town's adopted ESL regulations.

Amended Special Area Policies

The General Plan contains a Special Area Policy supporting acquisition of the property by the Town and other agencies. The applicant proposes to delete this existing policy. For the reasons outlined in Attachments 4 and 5, staff is not opposed to deletion of this policy. The applicant proposes a number of Special Area Policies to implement the proposed development and to address neighborhood and community concerns. The proposed Special Area Policies are provided in Attachment 3.

Urban Services Boundary

The General Plan includes the northern portion of the development within the Urban Services Boundary. Extension of water and sewer service across Oracle Road to this un-served site will entail substantial costs. Potentially, such utility service extensions could serve the Talante Estates development and Catalina State Park. As the property is across the street from utilities and transportation facilities appropriate to accommodate urban development, staff supports the inclusion of the entire property within the Urban Services Boundary.

GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that “the disposition of the General Plan amendment proposed shall be based on consistency with the vision, goals, and policies of the General Plan, with special emphasis on the specific criteria. The applicant for the amendment has the burden of presenting facts and other materials to address these criteria. Attachment 6 contains the applicant's response to the criteria and staff commentary. The Planning & Zoning Commission and staff believe the proposed development generally meets the criteria for amendments and many of the applicable policies within the General Plan.

PUBLIC NOTICE AND COMMENT

Notice has been provided in accordance with Town procedures, which includes the following:

- Notice to property owners within 1,000 feet of property (boundary expanded)
- 60-Day notification and review opportunity for outside agencies
- Homeowners Association mailing
- Notice in The Daily Territorial and Arizona Daily Star newspaper six (6) times
- Notice to interested parties
- Post at Town Hall and on website
- Posting on the property

60 Day Review Comments

As required by State Law, the application was routed to outside agencies for review and comment. Comments from Pima County, Arizona State Parks, Pima Association of Governments, Arizona Department of Transportation and Tucson Electric Power were received. The outside agency review comments are provided on Attachment 7 and summarized as follows:

- Concern over densities and intensities greater than what is currently entitled by Pima County.
- Impact of the development on the environmental resources of the site.
- Protection of the historic Joesler House and archaeological sites on the property.
- Maximize open space areas on the north and northeastern portion of the site to preserve known wildlife corridors.
- Negative impact of the development on recreational experience at Catalina State Park.
- Prohibit access to Catalina State Park.
- Lighting impacts on Catalina State Park
- ADOT, TEP and PAG comments are informational in nature.

Neighborhood Meeting Issues

Neighborhood meetings were held on April 12th, September 20th and October 24th. The summary notes from the neighborhood meetings are provided as Attachment 8. A summary of issues discussed at the neighborhood meetings is as follows:

- Deletion of the Significant Resources Area designation and implications to environmental resources, including wildlife movement corridors.
- Density too high adjacent to existing homes and the Catalina State Park.
- Impact of development to property values.
- Buffering adjacent to existing homes.
- Pima County should purchase the property for open space purposes.
- Visual impact on the Catalina State Park and the need to buffer land uses.
- Concern over cuts and fills into the hillside portions of the development.
- Concern that there is not a current market for new home construction.

Applicant Responses to Issues

The applicant modified the proposed Land Use Map to retain the SRA designation on the most sensitive areas of the site including historic and archaeological resources, hillsides 25% or greater and ridgelines. Additionally, the applicant designated a majority of these sensitive areas as Open Space, which will ensure preservation of these areas.

Regarding the overall project density, the applicant modified the request to delete the originally proposed high density area for apartments and the amount of Medium Density Residential has been reduced in the revised submittal. The applicant has developed and refined mitigation measures to lessen the impact on adjoining residential areas.

Public acquisition of this property is a goal for Sonoran Coalition for Desert Protection. Currently, there is no bond money available or earmarked for acquisition of this property and no public commitment exists to acquire this private property. Several public hearing participants have erroneously stated the property is public open space.

Comments from Interested Parties

Comments from interested parties have been received and are provided as Attachment 9. Issues raised in these letters include impact to the environment (including habitat, slopes and wildlife movement) and Catalina State Park, increased density resulting in more traffic and burden on schools.

Planning and Zoning Commission Public Hearings

The Planning and Zoning Commission held two required public hearings on the application on October 16th and November 5th. The draft minutes from these hearings are provided as Attachment 10. In summary, issues raised at the public hearing included impact to the environment, impact to Catalina

State Park, protection of the ridgelines and steep slope areas and impact to wildlife corridors adjacent to the property.

SUMMARY/CONCLUSION
Following is a summary of the factors for and against the proposal:

Factors for:

1. The proposed amendment represents a moderate increase in overall project intensity when compared to the current General Plan.
2. The applicant has developed effective mitigation measures in consultation with immediate neighbors including buffer yards, lot size and number restrictions and building height limitations.
3. Changes in the area including the expansion of Oracle Road, growth of regional commercial and employment centers substantiate residential and employment development on the property.
4. Plans for public agency acquisition of the property have changed, substantiating a need to develop an updated plan for development that reflects current conditions.
5. Resource sensitive site planning is proposed and application of the Environmentally Sensitive Lands ordinance will yield conservation of environmental resources.

Factors Against:

1. The proposed amendment represents a potential impact on the sensitive resources on the site and there remains a strong need for sensitive site planning to minimize environmental impact.
2. Concern from Pima County, Coalition for Sonoran Desert Protection, Friends of Catalina State Park and the public over the project impact on the environmental resources of the site.
3. Potential visual impact to significant slopes visible from Catalina State Park and Oracle Road.

This project is significant and has generated concerns from Pima County, regional environmental groups, immediate neighbors and Arizona State Parks. The applicant and the immediate neighbors have worked diligently to develop mitigation measures to address project impacts on this existing residential area. The property contains significant environmental resources requiring sensitive site planning to conserve resources on the site.

FISCAL IMPACT:
N/A

SUGGESTED MOTION:
I MOVE to approve Resolution No. (R)12-66, amending the Oro Valley General Plan for the property known as Desert Springs, based on the findings included in this Council Communication.

- The proposed amendment meets the criteria for a Major General Plan amendment and advances many applicable policies in the General Plan.
- The proposed amendment represents a moderate increase in overall project intensity when compared to the current General Plan.
- The applicant has developed effective mitigation measures in consultation with immediate neighbors including buffer yards, lot size and number restrictions and building height limitations.
- Changes in the area including the expansion of Oracle Road, growth of regional commercial and employment centers substantiate residential and employment development on the property.
- Plans for public agency acquisition of the property have changed, substantiating a need to develop an updated plan for development that reflects current conditions.
- Resource sensitive site planning is proposed and application of the Environmentally Sensitive Lands ordinance will yield conservation of environmental resources.
- Visible ridgelines and hillside areas of the site with slopes 25% and greater have been retained as Significant Resource Area.

- A majority of the ridgelines and steeper sloped areas have been designated Open Space and preserved as natural area open space.
- An appropriate urban level infrastructure exists in proximity to the site.

OR

I MOVE to deny Resolution No. (R)12-66, finding that the proposed amendment does not meet the criteria for evaluating Major General Plan Amendments.

Attachments

Attachment 1 - R12-66 Desert Springs GPA
Attachment 2 - Existing and Proposed Land Use Map
Attachment 3 - Special Area Policies and Figure
Attachment 4 - October 16th Planning and Zoning Commission Report
Attachment 5 - November 5th Planning and Zoning Commission Report
Attachment 6 - General Plan Amendment Criteria Analysis
Attachment 7 - Outside Agency Review Comments
Attachment 8 - Neighborhood Meeting Summaries
Attachment 9 - Interested Parties Comments
Attachment 10 - Oct.16 and Nov. 5 Draft planning and Zoning Commission Minutes

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RESOLUTION NO. (R)12-66

A RESOLUTION OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL, NEIGHBORHOOD COMMERCIAL/OFFICE, RESORT/ GOLF COURSE TO LOW DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL, OPEN SPACE, AND NEIGHBORHOOD COMMERCIAL/ OFFICE AND AMEND THE SIGNIFICANT RESOURCE AREA AND SPECIAL AREA POLICIES AND TO AMEND THE URBAN SERVICES BOUNDARY FOR THE 110 ACRE PROPERTY KNOWN AS DESERT SPRINGS

WHEREAS, the Town of Oro Valley residents ratified the Oro Valley General Plan on November 8, 2005; and

WHEREAS, SunChase Holdings, ("applicant") is requesting a Major General Plan Amendment to change the Land Use Designation from low density residential, neighborhood commercial/office, resort/ golf course to low density residential, medium density residential, open space, and neighborhood commercial/ office and amend the Significant Resource Area and Special Area Policies and to amend the Urban Services Boundary for the 110 acres located on the east side of Oracle Road at the Tangerine Road intersection; and,

WHEREAS, pursuant to A.R.S. § 9-461, *et seq*. and OVZCR, Section 22.2, the Planning and Zoning Commission held two (2) duly noticed public hearings, the first on October 16, 2012, and the second on November 5, 2012, at which the Planning and Zoning Commission recommended approval of the application requesting an Amendment to the General Plan to change the Land Use Designation for 110 acres located on the east side of Oracle Road at the Tangerine Road intersection, as depicted on Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, pursuant to Oro Valley Zoning Code Revised, Section 22.1, General Plan Amendment Procedures, upon recommendation by the Planning and Zoning Commission of any amendment to the General Plan, a public hearing before the Mayor and Council shall be scheduled; and

WHEREAS, Mayor and Council duly considered the proposed General Plan Amendment to change the Land Use Designation from low density residential, neighborhood commercial/office, resort/golf course to low density residential, medium density residential, open space, and neighborhood commercial/ office and amend the Significant Resource Area and Special Area Policies and to amend the Urban Services Boundary for 110 acres located on the east side of Oracle Road at the Tangerine Road intersection at a public hearing on December 5, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley that:

SECTION 1. The Mayor and Council hereby adopts the General Plan Amendment to change the Land Use Designation from low density residential, neighborhood commercial/office, resort/ golf course to low density residential, medium density residential, open space, and neighborhood commercial/ office and amend the Significant Resource Area and Special Area Policies and to amend the Urban Services Boundary as depicted on Exhibit "A".

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of the resolution or any part of the General Plan Amendment adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

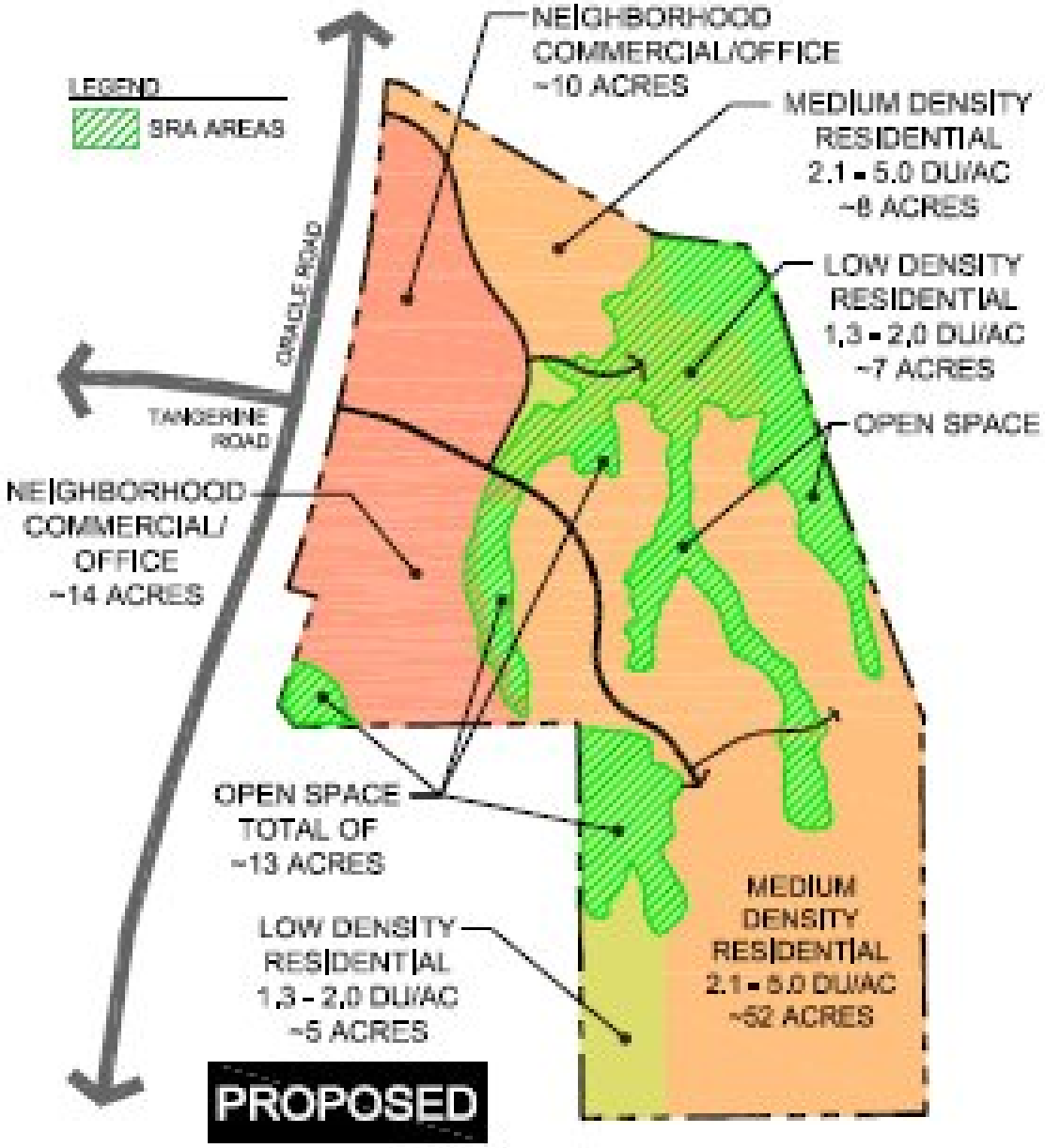
Date: _____

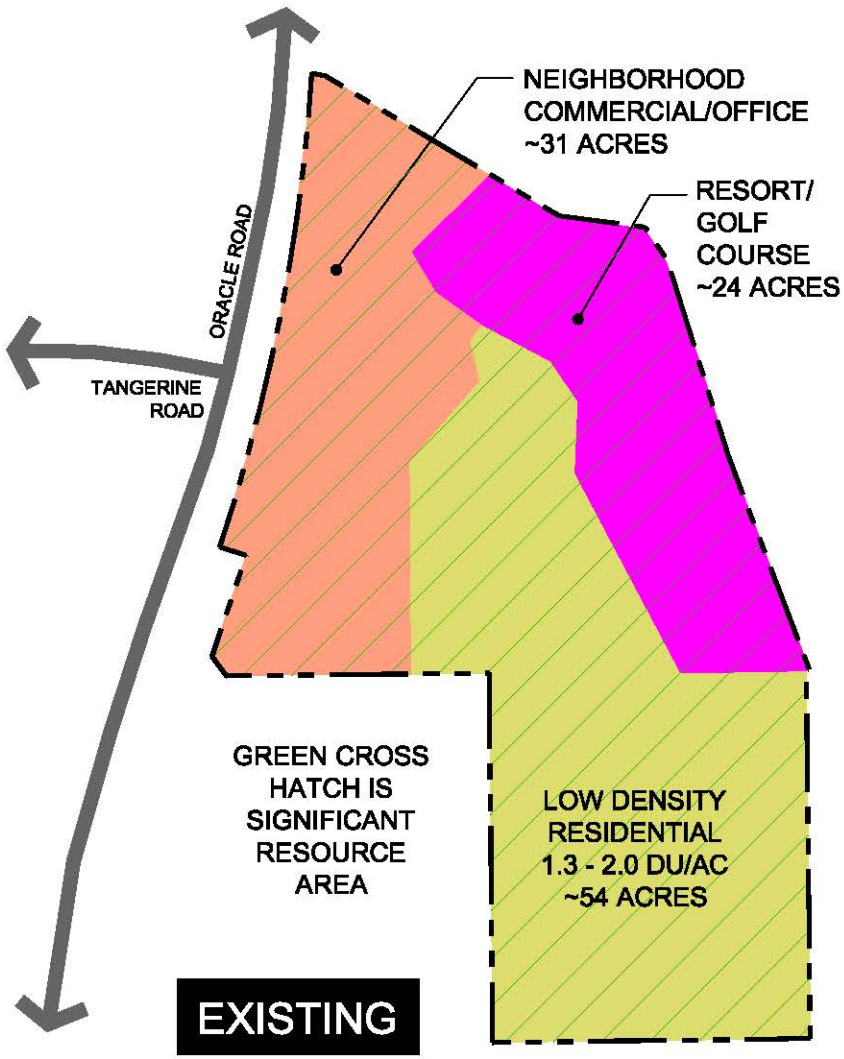
APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

EXHIBIT "A"


LEGEND
SRA AREAS
NEIGHBORHOOD COMMERCIAL/OFFICE ~10 ACRES
MEDIUM DENSITY RESIDENTIAL 2.1 - 5.0 DU/AC ~8 ACRES
LOW DENSITY RESIDENTIAL 1.3 - 2.0 DU/AC ~7 ACRES
OPEN SPACE
CRADLE ROAD
TANGERINE ROAD
NEIGHBORHOOD COMMERCIAL/ OFFICE ~14 ACRES
OPEN SPACE TOTAL OF ~13 ACRES
LOW DENSITY RESIDENTIAL 1.3 - 2.0 DU/AC ~5 ACRES
MEDIUM DENSITY RESIDENTIAL 2.1 - 5.0 DU/AC ~52 ACRES
PROPOSED



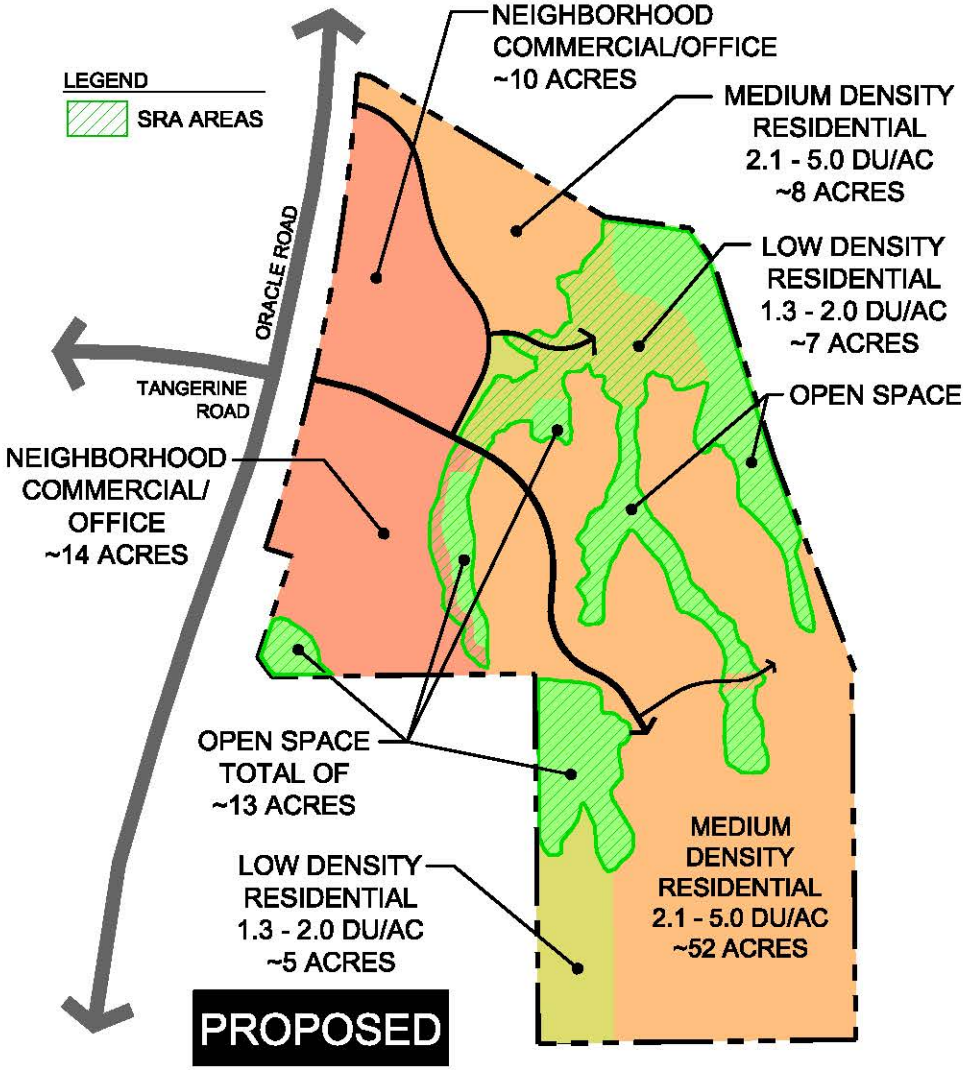


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EXHIBIT E: EXISTING AND PROPOSED GENERAL PLAN LAND USE DESIGNATIONS

4.6.2012
REV 9.20.2012
REV 10.1.2012
REV 10.15.2012
REV 10.24.2012
WLB No. 111020-A-001

L:\111020\GP Amend\Exhib. E_X and P GP Rev 10.25.12.dwg Plotted: Oct. 26, 2012

Desert Springs
Attachment 3

Amended Special Area Policies

The applicant proposes a number of Special Area Policies to implement the proposed development and to address neighborhood and community concerns with the request. The amended Special Area Policies as recommended by the Planning and Zoning Commission are provided below. Staff commentary on the proposed Special Area Policies is provided following each of the policies below:

Desert Springs Special Area Polices

Desert Springs ~~*Kelly Ranch*~~

~~*Seek to acquire the Kelly Ranch property through a joint effort with the National Forest Service, Arizona State Parks, and Pima County, monitor the Kelly Nursery property, and maintain the Significant Resource Area designation on the whole property.*~~

The applicant has proposed deletion of the existing Special Area Policy relative to acquisition of the property by the Town and other State and County agencies. Based on the apparent shift in regional priorities for open space acquisition and other reasons outlined in the Planning and Zoning Commission staff report, staff does not object to the deletion of the existing policy relative to acquisition.

These Special Area Policies are established for all future project design and permitting (PAD, Conceptual Design, Final Design, building permits, etc.) related to the Desert Springs project, a multiple use village concept that incorporates neighborhood retail, professional office, passive recreation and a diversity of housing opportunities:

Staff Comment: Minor revisions to this paragraph reflect the correct application types within Oro Valley.

1. *Prior to development of the project the property owner shall obtain Town PAD zoning that includes a quality,* ~~*indigenous*~~ *master architectural and landscape design theme and standards indigenous to the Oro Valley area, which exceed the Town's adopted design standards and relate to the natural context.*

Staff Comment: Minor changes to this policy clarify the intent for the future architectural theme for the project.

2. *The maximum number of residential units shall be 250.*

   Staff Comment: By way of comparison, development under the current land use designations would yield 108 residential units.

3. *There shall be no apartment uses permitted.*

   Staff Comment: The application has been modified to delete the originally requested High Density land use category. Although this policy is unnecessary, it is understood that this is important clarification for the adjacent neighborhood.

4. *In general, more intensive land uses shall be located on the western side of the property along Oracle Road and transition to lower intensity uses (i.e. detached residential uses) along the south and eastern portions of the property.*

   The project shall provide for a transition in density and other buffer techniques between existing and proposed residential development as graphically depicted on figure 2.1 and described as follows:

   a. *Native trees will be planted along the east side of the Talante Estates entry road on the Property near Oracle Highway in order to screen the view of the adjacent office buildings, the extent of which will be defined during the PAD process. The installation timing will correspond with the installation of infrastructure and project landscaping in that vicinity or phase of the project. Irrigation will be provided temporarily to allow the native trees to establish themselves. Developer will consult with the Talante Estates property owners ("Neighbors") during the PAD process in establishing setbacks for buildings in this area.*

   b. *A bufferyard of 150 feet will be created in Area B and a bufferyard of 100 feet will be created in Area D, to include additional native vegetation and possibly some drainage facilities and other underground utilities. Developer will make every effort to not locate utilities in the bufferyard. However, if such utilities are required, the disturbance will be minimized as much as possible and the bufferyard will be restored to a naturalized condition. Developer will work with the Neighbors on a landscape plan and plant palette for the bufferyard that will be presented to the Neighbors in conceptual drawings prior to submittal of the rezoning application for PAD zoning.*

      1) *Within the bufferyard, developer will install, in coordination with the Neighbors and the above-referenced landscape plan, additional native landscaping including trees and shrubs to help screen the project, and provide temporary irrigation as needed for the native*

vegetation to establish itself. The timing of installation will correspond with the installation of adjacent project infrastructure and landscaping.

2) *Private deed restrictions will be recorded related to the preservation of the bufferyard at the time of final plat recording that includes this specific area of the project.*

3) *No roads shall be permitted within the bufferyard, except as required for bufferyard or infrastructure maintenance.*

c. *The approximate southern half of the office parcel, designated as Area A, (estimated to be approximately 325 north of the bufferyard subject to final parcel configuration) will remain single story. Developer will consult with the Neighbors during the PAD process to establish height limitations for single-story.*

d. *In the 50 feet north of the 100-foot bufferyard area, designated as Area C, height of any building will remain single story. Developer will consult with the Neighbors during the PAD process to establish height limitations for single-story*

e. *Architectural design of the project will comply with the Oro Valley architectural guidelines. Any roof top equipment will be screened. Architecture will include a color palette and architectural design that is indigenous and tasteful.*

f. *A bufferyard of 150 feet will be created in Area E, to include additional native vegetation, the potential of a 4-5-foot berm in strategic locations, possibly some drainage facilities and other underground utilities. Developer will make every effort to not locate utilities in the bufferyard. However, if such utilities are required, the disturbance will be minimized as much as possible and the bufferyard will be restored to a naturalized condition. Developer will work with the Neighbors on a landscape plan and plant palette for the bufferyard that will be presented to the Neighbors in conceptual drawings prior to submittal of the rezoning application for PAD zoning. In the southern area along the eastern property line where the vegetation is sparse, the bufferyard shall be designed with vegetation to create a solid vegetative border.*

1) *Within the 150-foot bufferyard, developer will install additional native landscaping including trees and shrubs to help screen the project and provide temporary irrigation as needed for the native vegetation to establish itself. The timing of installation will correspond with the installation of adjacent project infrastructure and landscaping.*

2) *Private deed restrictions will be recorded related to the preservation of the bufferyard at the time of final plat recording that includes this specific area of the project.*

3) *No roads shall be permitted within the bufferyard, except as required for bufferyard or infrastructure maintenance.*

g. *Directly adjacent to bufferyard E discussed above, there shall be only 3 single-family residential lots.*

h. *In the area noted on ~~the General Plan~~ FIGURE 2.1 as Area G east of the bufferyard, all residential lots shall be limited to single-story. Developer will consult with the Neighbors during the PAD process to establish height limitations for single-story.*

i. *Area F on ~~the General Plan~~ FIGURE 2.1 shall remain in its natural condition.*

Staff Comment: The Talante Estate neighborhood is most directly impacted by the development. Additionally, the proposed residential and non-residential development without any transition in intensity would create an abrupt boundary with the very low density of the existing residential area. The applicant and the existing residents have worked cooperatively to identify significant project impacts and associated mitigation measures to address these project impacts.

Special Area Policy 4 is a result of this work to find acceptable buffering and transitional land use measures which create a logical transition between the planned intensity and density of the project and the existing neighborhood. Some minor amendments have been incorporated to move the notes relative to bufferyards and building heights to a separate Figure within the Special Area Policies, rather than the notes appearing on the Land Use Map. Although this policy is more detailed than typical at the General Plan stage, it is understood that this language is important to the neighborhood and therefore staff supports its inclusion.

5. *It is acknowledged that grading disturbances in areas with slopes 25% and greater, and cuts or fill slopes in excess of requirements in the Oro Valley Zoning Code Revised will be necessary to support the development. The location, amount and extent of grading disturbances and cuts or fill slopes shall be defined through the subsequent PAD zoning. It is intended that grading disturbances will be primarily limited to internal areas of the development that are not visible from the existing public roadways, and trails identified in the Oro Valley Trails Master Plan.*

Staff Comment: The modified language addresses concerns with the broad language in the previous draft policy and clarifies that the location, amount and extent of grading disturbances and cuts and fill slopes must be addressed during a subsequent PAD zoning case, during formal hillside and grading analysis required at the rezoning stage.

6. *Regional transit connectivity shall be accommodated by incorporating transit access and stops, for existing and future transit networks, at key location along the property frontage on Oracle Road.*

   Staff Comment: Part of the regional function of Oracle Road and multi-modal transportation facilities planned in the future, this Special Area Policy is supported and necessary to ensure connectivity of the property with the larger regional transportation network.

7. *Pedestrian and cyclist connectivity shall be accommodated by incorporating walkways, bikeways and natural open space trail corridors that connect uses within the site to the oracle Road and Tangerine Road corridors.*

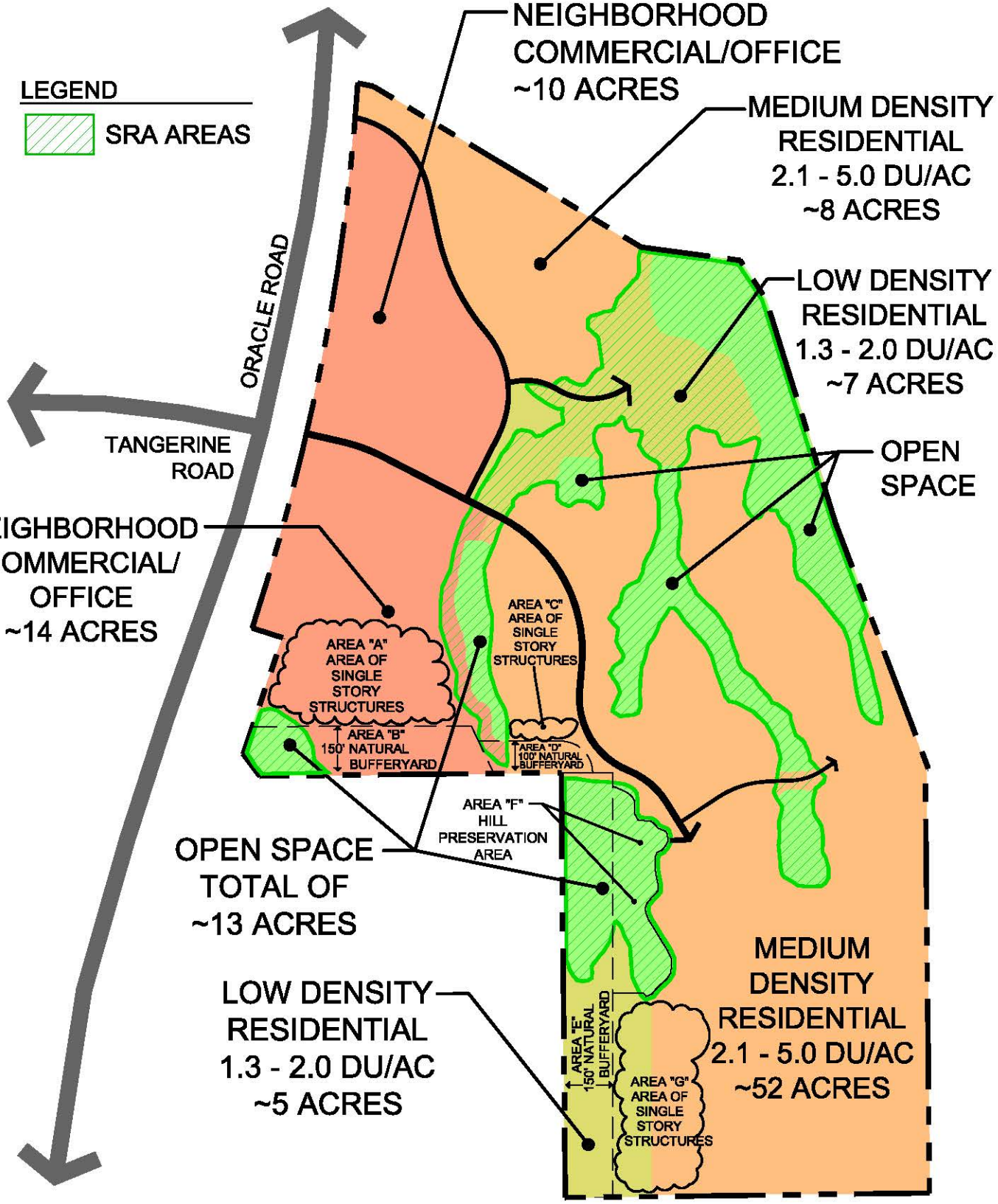
   Staff Comment: This Special Area Policy is supported and necessary to ensure connectivity of the property with the larger pedestrian and bicycle transportation network.

8. *SRA areas may be crossed with access roads and utilities and shall be treated aesthetically with native/natural appearing vegetation. Specific grading and treatment conditions shall be defined and addressed within the subsequent PAD zoning district.*

   Staff Comment: The policy clarifies that SRA areas can be crossed with roadways and utility infrastructure, depending on the ultimate circulation system which will serve the development. The specific grading and treatment of the crossings shall be defined within the subsequent PAD zoning district.

9. *Designation of SRA within this General Plan Amendment does not preclude alterations or modifications to any existing structures within the SRA. The PAD rezoning will address treatment of the existing structures.*

   Staff Comment: The applicant desires this clarification relative to future alterations and modifications to the existing structure on the site, which staff does not oppose. The treatment of the existing structures will be further addressed as part of the subsequent PAD zoning district.



The WLB Group WLB

FIGURE ___
DESERT SPRINGS - MAJOR GENERAL PLAN AMENDMENT

10.25.2012
Not to Scale
WLB No. 111020-A-001

L:\111020\GP Amend\P GP Rev 10.25.12 w/ Talania Commitments.dwg Plotted: Oct. 25, 2012

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: October 16, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Chad Daines, AICP, Principal Planner**

SUBJECT: **Public Hearing:** Desert Springs. Major General Plan Amendment changing the Land Use Map from Low Density Residential, Neighborhood Commercial / Office, Resort / Golf Course and Significant Resource Area to Medium Density Residential (2.1 – 5 du/ac), Low Density Residential (1.3-2 du/ac) and Neighborhood Commercial /Office (NC/O) and amend the Special Planning Area Policies and the Urban Services Boundary to include the entire property. (OV1112-002)

SUMMARY

The property is currently outside Town limits in unincorporated Pima County, but is within the planning area boundary covered by the Oro Valley General Plan. The General Plan currently designates the property for low density residential, commercial, office, resort and golf course uses. The current General Plan also designates the property Significant Resource Area, includes the northern portion within the Urban Services Boundary and contains a special area policy applicable to the property.

The proposed Desert Springs project includes low to medium density residential, neighborhood commercial and professional office uses on 108 acres located on the east side of Oracle Road at the Tangerine Road intersection. The applicant also proposes to remove the Significant Resource Area designation, amend the special area policies and expand the Urban Services Boundary to encompass the entire property. The existing and proposed general plan designations are depicted on Attachment 1. The applicant's proposed land use plan, proposed special area policies and response to evaluation criteria is provided within Attachment 2. The applicable land use category descriptions are provided on Attachment 3

BACKGROUND

General Site Conditions: The Desert Springs property is 108 acres located east of the intersection of Tangerine and Oracle Roads. The property has historically been known as Kelly Ranch and contains a historic Joesler house built in the 1940's and a maintenance building. The balance of the property is vacant land. The property is located at the base of the Catalina mountain range adjacent to the Catalina State Park and has unrestricted views of the entire mountain range.

Surrounding Land Uses: The property is generally bounded by Oracle Road and the Talante Estates subdivision on the south and west, the Catalina State Park on the north, east and south. The Talante Estates subdivision consists of 7 custom home sites ranging in size from 3.3 to 12 acres. Across Oracle to the west is the Oro Valley Marketplace, a regional commercial center. To the northwest across Oracle Road is Innovation Park, a bio-medical employment campus.

Topography: Topography on the site is characterized by ridges, valleys and hillside areas ranging from 0% to over 25% sloped areas within the northern portion of the property. The southern portion of the

property is relatively flat, which has been fenced and utilized for agricultural purposes in the past. The topography of the site and adjacent major washes are depicted on Attachment 4.

Access: Existing access to the site includes a gated access point from Oracle Road into the northern portion of the property.

Environmental Resources: Based on preliminary environmental assessment, the property is designated a Significant Resource Area (SRA) on the General Plan. The Significant Resource Area (SRA) was established based on biological and cultural research analysis completed in 2001 – 2005. The site contains environmentally sensitive resources including historic, cultural, hillside and habitat areas.

As the property is not within Oro Valley, it was not included on the adopted Environmentally Sensitive Lands Planning Maps. The property is within unincorporated Pima County and is designated Biological Core Management Area on the Conservation Land System (CLS), which is part of the Sonoran Desert Conservation Plan, adopted by Pima County in 2005. Details of County CLS designations are included in Attachment 5. The environmental issues relative to the property and the proposed amendment are further analyzed in the Analysis section of this report.

Current General Plan

The current Oro Valley General Plan designates the property as depicted within Attachment 1 and described as follows:

Neighborhood Commercial / Office	31 acres
Low Density Residential (1.3 to 2.0 du / ac)	54 acres
Resort / Golf Course	24 acres
Significant Resource Area	Entire Site
Urban Services Boundary	Northern Portion

The Significant Resource Area designation denotes areas that contain key historic or archeological sites or other environmentally sensitive lands. The description in the General Plan indicates that "Any development that takes place in these areas should be at the lowest density allowable in the underlying designation..."

The Urban Services Boundary (USB) description in the General Plan indicates "The Town does not intend to provide urban infrastructure to areas outside the USB. These areas should not receive any increase in density or land use intensity over what currently exists."

The General Plan also contains a Special Area Policy relative to the property as follows:

"Kelly Ranch: Seek to acquire the Kelly Ranch property through a joint effort with the National Forest Service, Arizona State Parks, and Pima County, monitor the Kelly Nursery property, and maintain the Significant Resource Area designation on the whole property."

Public acquisition of this property is discussed below under 2004 Bond Issue section.

Oracle Road Scenic Corridor Overlay District (ORSCOD)

As the property is located outside of Oro Valley, it is not subject to the provisions of ORSCOD which is parcel specific and only includes` properties within the Town. Given the scenic and native vegetation resources present, extension of ORSCOD to include the property is supportable. As this is a zoning issue, it will be addressed during any subsequent rezoning of the property.

Pima County Comprehensive Plan

The property is covered by the Pima County Comprehensive Plan. The property is designated Resource Transition (RT) which denotes private land with environmentally sensitive characteristics. This designation indicates that "Development of such land shall emphasize design that blends with the natural landscape and supports environmentally sensitive linkages in developing areas."

Current Pima County Zoning

The property is within Pima County and has the following zoning entitlements:

Suburban Ranch (SR)	45.9 acres
Major Resort (MR)	43.8 acres
Rural Village Center	18.3 acres

The existing Pima County zoning entitlements are subject to a number of conditions included in Attachment 8. Notable conditions include:

- No access to Catalina State Park
- Grading is limited to 30% of the site
- No single commercial building in the RVC area shall exceed 40,000 sq. ft.
- Building heights shall be limited to 20 feet in the SR zoned area

The existing County zoning was established prior to the Resource Transition (RT) designation being adopted into the Pima County Comprehensive Plan. Any development within the County under the existing zoning entitlements would not require conformance with the Pima County Comprehensive Plan. The Conservation Lands System (CLS) guidelines serve as primary rezoning policy and are only applied is the property were to be rezoned within Pima County.

A comparative analysis of the existing Pima County zoning entitlements and the proposed Major General Plan Amendment is provided in the Analysis section of this report.

2004 Bond Issue

In 2004, Pima County voters approved a multi-million dollar bond issue, which included $2.5 Million for the acquisition of the Kelly Ranch property. In the years following the bond approval, it was discovered

that the $2.5M would only purchase a portion of the Kelly Ranch property and the property owners were only willing to sell the property as a whole. In 2009, $1 Million was transferred for acquisition of a land adjacent to Oracle Road to facilitate the development of wildlife crossings. In 2011, the remaining $1.5 Million was transferred to acquire additional property in the Arroyo Grande area for open space purposes

Pima County completed the acquisition of the Treehouse parcels in 2010. The Oracle Road wildlife crossings are currently in the planning stage in conjunction with ADOT's Oracle Road widening project. The remaining funds, approximately $1.5M, allowed the County to successfully apply for matching funds through the Growing Smarter State Trust Land conservation program. The County expects to acquire approximately 1,400 acres of natural open space in the Arroyo Grande area by the end of the calendar year.

AMENDMENT REQUEST

The first submittal of the amendment requested Medium Density (2.1 – 5.0 du/ac), High Density (5+ du/ac) and Neighborhood Commercial / Office. It should be noted that the original request was the plan reviewed and commented on by outside agencies and therefore the outside agency review comments are based on the first submittal.

After working with the properties immediate neighbors, the applicant modified the request to reduce the density. The High Density area was removed and replaced with Neighborhood Commercial / Office. An area of Low Density was retained adjacent to the existing large lot residential area and a buffer yard ranging from 100 to 150 feet included on the northern and eastern border of the existing Talante neighborhood to provide a transition in density between the project and the larger lots within the Talante Estates subdivision. In addition, the applicant has drafted a number of Special Area Policies to address specific issues, which are further described in the Analysis section of this report.

The Land Use Map Amendment request from the applicant is depicted in Attachment 1 and summarized as follows:

Neighborhood Commercial / Office	24 acres
Medium Density Residential (2.1-5.0 du/ac)	67 acres
Low Density Residential (1.3 – 20 du/ac)	18 acres

<u>Amended Special Area Policies</u>

The applicant proposes a number of Special Area Policies to implement the proposed development and to address neighborhood and community concerns with the request. The amended special area policies are provided within Attachment 1 and analyzed further in the Analysis section of this report. In summary, the amended Special Area Policies propose the following:

- Deletion of the existing special area policy that recommends acquisition of the parcel jointly with other agencies and retention of the SRA designation on the property.

- Limiting the maximum number of residential units to 250 units.
- Establishes transitional density and buffering standards between the project site and the Talante Estates subdivision.
- Provides limitations and allowances for grading disturbances above 25% sloped areas.
- Provides for transit, pedestrian and cyclist connectivity.

Significant Resource Area

The entire property is designated Significant Resource Area (SRA) on the General Plan. The General Plan description of SRA is provided on Attachment 3. The applicant proposes deletion of the SRA designation, which is analyzed further in the Analysis section of this report.

Urban Services Boundary

The northern portion of the property is within the Urban Services Boundary. The applicant has requested that the entire property be included within the USB, which is further analyzed in the Analysis section of this report.

ANALYSIS OF PROPOSED AMENDMENT

Land Use Plan

The request proposes modifications to the existing General Plan which supports the applicant's current vision for the property. It should be noted that the existing General Plan land use designations provide for moderate intensity on the site including commercial, low density residential and resort uses. As the property could be developed with the existing Pima County zoning with limited grading, the existing entitlements should also be accounted for in the context of the existing request.

For evaluation purposes, staff has analyzed the request in relation to the current Oro Valley General Plan designations and the existing Pima County zoning to broadly understand the degree of intensification proposed by the application. A comparative summary of the current Oro Valley General Plan, the current Pima County zoning and the proposed General Plan Amendment is as follows:

Existing OV General Plan	Existing Pima County Zoning	Proposed General Plan Amend.
Neighborhood Comm. Office 31 Acres	Rural Village Center 18 Acres	Neighborhood Comm. Office 11 Acres
Resort / Golf Course 24 Acres	Major Resort 44 Acres	Medium Density (2.1 – 5 du/ac.) 67 Acres
Low Density (1.3 – 2.0 du/ac.) 54 Acres	Suburban Ranch 47 Acres	Low Density (1.3 – 2.0 du/ac.) 18 Acres
Total Units*: 81	Total Units*: 11 Guest Units: 154	Total Units: Maximum 250 per special area policy

* = Total units calculated deducting 25% for roads, drainage and utilities and using upper end of density range

Staff Observations:

- ☐ Reduction of low density residential uses on the Oro Valley General Plan (from 54 to 18 Acres)
- ☐ Significant increase in overall number of residential units from existing Pima County zoning entitlements and Oro Valley General Plan (81 to 250 units)
- ☐ Moderate reduction in commercial and office uses from the Pima County entitlements and Oro Valley General Plan from 31 acres down to 11 acres
- ☐ Elimination of the planned resort use contemplated by the existing Oro Valley General Plan and Pima County zoning entitlements (including elimination of 154 guest units) on the property.
- ☐ Elimination of the golf course use designated by the Oro Valley General Plan.

The reduction in commercial acreage and elimination of the resort / guest units and golf course is generally off-set by increases in overall density and decreased lot sizes from 3.3 acres to 5,000 sq. ft. As an overall generalized comment; considering the reductions in non-residential intensity and increase in density in planned project components, the request represents a moderate increased impact on the property.

To lessen the impact of increased density, particularly on the immediate Talante Estates subdivision, the applicant has proposed a number of mitigation measures. These include establishment of natural open space buffers, maximum lot count limitation, and limitations on building heights / number of lots immediately adjacent to the existing subdivision. These mitigation measures are further addressed in the special area policy section below. As information, the applicant and the neighborhood continue discussions on the final form of the mitigation measures as of the writing of this report. Staff will provide an update when available relative to any changes agreed to following the publishing of this report.

Significant Resource Area (SRA)

As indicated in the Background section of this report, the property contains a variety of sensitive environmental resources including archeological resources, the historic residence, native vegetation, hillsides and ridgelines, valleys and habitats. Based on preliminary assessments of these environmental resources, the entire property was designated Significant Resource Area (SRA) on the 2005 General Plan. The land use description for SRA is provided in Attachment 3.

Subsequent to the 2005 General Plan adoption, the sensitivity of the property was reconfirmed through the adoption of the Sonoran Desert Conservation Plan (SDCP) in 2005 by Pima County. The SDCP designates the property Biological Core Management Area. The County's review comments relative to the environmental features of the property as well as the larger request are provided as Attachment 5. Pima County has indicated that as the existing Pima County zoning was established

prior to the SDCP, the applicant could develop the property under the existing Pima County zoning and not require conformance with the CLS

The Town adopted the Environmentally Sensitive Lands Ordinance in 2010. The ESL establishes conservation categories based on the level of environmental resources present on the property. Based on the conservation category assigned, the required open space for the property is established. The ESL category is applied to a property during the rezoning process, based on a comprehensive environmental analysis of the property. Should the General Plan Amendment be approved, the applicant will need to prepare comprehensive environmental analysis in conjunction with a future rezoning case.

The applicant has requested deletion of the SRA designation from the entire property. Based on the proposed deletion of the SRA designation, staff requested and the applicant submitted a preliminary environmental analysis. The applicant's preliminary environmental analysis challenged the existence of riparian areas and a number of habitat designations of the Pima County SDCP. As stated previously, this issue is more applicable during the rezoning process when a full ESL mapping of resources is required.

Based on review of the environmental analysis and field work, staff believes the SRA designation should remain on portions of the property containing:

- ☐ Hillsides with slopes greater than 25% and visible to the public from Tangerine Road and from Catalina State Park.
- ☐ Ridgelines
- ☐ The historic Joesler house
- ☐ Archeological Sites

It is anticipated the applicant will submit a revised request retaining the SRA designation on portions of the property with the features listed above.

Urban Services Boundary (USB)

The General Plan includes the northern portion of the development within the Urban Services Boundary. The property is adjacent to utilities and transportation facilities appropriate to accommodate urban development; staff supports the inclusion of the entire property within the USB.

Special Area Policies

The applicant has proposed deletion of the special area policy relative to the acquisition of the property jointly by the Town and other agencies. Based on the apparent shift in regional priorities for open space acquisition, staff does not object to the deletion of the existing policy relative to acquisition.

The applicant has proposed the addition of eight new Special Area Policies. The proposed polices are provided below in italics, followed by staff commentary.

1. *Prior to development of the project the property owner shall obtain Town PAD zoning that includes a quality, indigenous master architectural and landscape design theme and standards, which exceeds the Town's adopted design standards.*

Utilization of a Planned Area Development zoning district provides the opportunity to establish a cohesive and integrated set of zoning standards which are tailored to address the unique aspects of the property and proposed development. Enforceability is limited to a rezoning process; property could be developed with existing zoning. Staff is supportive of this policy.

2. *Development of the project shall comply with all elements of the Oro Valley Zoning Code Revised, except as expressly permitted by the adopted PAD zoning district.*

The PAD zoning district enables modification of zoning standards otherwise applicable from the Zoning Code. The policy simply reiterates this fact and is not needed and should be removed.

3. *The maximum number of residential units shall be 250.*

After deducting an assumed 25% area for roadways, drainage and utilities, the proposed residential land use categories would yield roughly 275 units, if developed at the upper end of the density range within the requested residential land use categories. By way of comparison, development under the current land use designations would yield 81 residential units. Limiting the residential units to 250 is a slight reduction from the otherwise achievable density for the project using the proposed land use categories without limitation.

4. *There shall be no apartment uses permitted.*

The application has been modified to delete the originally requested High Density land use category and therefore this policy is unnecessary and should be removed.

5. *In general, more intensive land uses shall be located on the western side of the property along Oracle Road and transitition to lower intensity uses (i.e. detached residential uses) along the southern and eastern portions of the property.*

   The project shall provide for a transition in density and other buffer techniques between existing and proposed residential development.

   a. *In Area "A" as shown on Exhibit "E" (Proposed Land Use Plan) in this application packet, there shall be a 150-foot natural buffer yard. Additional native vegetation, drainage facilities, and other underground infrastructure facilities as required for the project are permitted within the natural buffer yard in coordination with the directly adjacent neighbors. Proposed office buildings immediately north of the Talante Estates boundary in this area shall be limited to single story and all mechanical equipment shall be screened from view.*

b. *In Area "B" as shown on Exhibit "E" (Proposed Land Use Plan) n this application packet, there shall be a 150-foot natural buffer yard. Additional native vegetation and strategically placed berming may be utilized to help screen views of the project from directly adjacent existing homes. Drainage facilities and other underground infrastructure as required for the project are permitted in this natural buffer yard.*

c. *Directly adjacent to the 150-foot buffer yard on the eastern boundary of the existing Talante Estates neighborhood, there shall be no more than 4 residential lots permitted.*

d. *Additional native trees shall be provided along the project boundary adjacent to the Talante Estates entry road off Oracle Road, in a location coordinated with the Talante Estates neighbors.*

The Talante Estate neighborhood is most directly impacted by the development. Additionally, the proposed residential and non-residential development without any transitional standards would create an abrupt boundary with the very low density of this existing neighborhood. The applicant and the existing residents have worked cooperatively to identify significant project impacts and associated mitigation measures to address these project impacts. Special Area Policy 5 is a result of this work to find acceptable buffering and transitional land use measures to create a logical transition between the planned intensity and density of the project and the existing neighborhood. The applicant and neighborhood continue to work to refine these transitional standards and it is anticipated the applicant will submit a revised set of special area policies prior to the Commission hearing. Staff will provide an update with regard to any revision to these standards.

6. *Grading disturbances in areas with slopes greater than 25%, and cut or fill slopes up to 20 feet in height, shall be permitted, provided that disturbances are restricted to utilities, roadways, or areas internal to the development that are not visible from existing public roadways, and trails identified in the Oro Valley Trails Master Plan. Additional grading disturbances may also be permitted in visible portions of the property when such areas can be restored to a native and natural-appearing condition. Specific grading and treatment conditions shall be defined and addressed in the subsequent PAD zoning district.*

As identified in the report section on the SRA deletion, staff believes that portions of the property containing visible hillsides above 25%, ridgelines and other environmental resources must remain within the SRA designation. Certain slopes from 15% to 25% should also be protected as well. It is anticipated that a revised land use plan will be submitted by the applicant identifying areas of the property which will be retained as SRA based on the existence of sensitive resources including but not limited to hillsides above the 25% slope line and ridgelines which are visible from the public roadways and the Catalina State Park. Staff may suggest revisions to the above Special Area Policy based on review of the anticipated resubmitted land use plan by the applicant. An additional comment is the use of the word "permitted" in the first sentence. This word should be changed to "supported" to be consistence with the General plan context. Cuts should only be allowed if hidden by buildings or other methods.

7. *Regional transit connectivity shall be accommodated by incorporating transit access and stops, for existing and future transit networks, at key locations along the property frontage on Oracle Road.*

Part of the regional function of Oracle Road and multi-modal transportation facilities planned in the future, this special area policy is staff supported and necessary to ensure connectivity of the property with the larger regional transportation network

8. *Pedestrian and cyclist connectivity shall be accommodated by incorporating walkways, bikeways and natural open space trail corridors that connect uses within the site to the Oracle Road and Tangerine Road corridors.*

This special area policy is staff supported and necessary to ensure connectivity of the property with the larger pedestrian and bicycle transportation network.

Engineering Comments

Oro Valley Engineering staff has provided information relative to existing roads, utilities and other infrastructure serving the development (Attachment 9). These comments also contain information which will be addressed during the rezoning process.

GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "the disposition of the General Plan amendment proposed shall be based on consistence with the vision, goals, and policies of the General Plan, with special emphasis on the following criteria. The applicant for the amendment has the burden of presenting facts and other materials to address these criteria.

The applicant's complete response to each of the criteria is attached for your reference (see Attachment 2). Following is a summarization of the applicant response and staff's analysis of each criterion:

1. *The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.*

The subject property is located in an area that has experienced growth and development over the last few years. The following projects are located in the area immediate to the project site, and have developed significantly since the original General Plan designations were created:

• *The Oro Valley Marketplace is the largest commercial center in Oro Valley and is located at the southwest corner of Oracle Road and Tangerine Road. It contains a variety of businesses, including retail, restaurants and banking facilities. It is planned to contain over 850,000 square feet of gross leasable area at the time of project build out.*

• The Oro Valley Hospital is located north of Tangerine Road, approximately one mile west of Oracle Road. It is located within the approximately 535-acre Innovation Park. This facility offers a full range of medical and surgical services and is the primary medical facility in Oro Valley. With the introduction of the hospital in the community, medical offices and related services have now located in Innovation Park located just north of the hospital, and additional medical offices are expected in the future. Innovation Park is also home to the biosciences industry and pharmaceutical industry- Sanofi Aventis and Ventana Medical Systems are located within the business park. Ultimately, Innovation Park will contain up to 2.5 million square feet of professional office, medical and businesses uses, making this the premier employment center in the area. The changes discussed above indicate a clear intention to develop this area with a mix of uses for residents that balances respect for the environment and interaction with that environment (the Catalina State Park) with development of jobs, healthcare and residential/commercial to support those jobs.

• Another change in conditions involves the property itself. At the time of the original General Plan designation, the Town was focused on the potential acquisition of this entire property (formerly referred to as Kelly Ranch) through a joint effort with the National Forest Service, Arizona State Parks and Pima County. At this time, it is our understanding that the Town is no longer actively interested in acquiring this property, and the Special Area Policy is no longer applicable.

The applicant identifies a number of adjacent large scale projects which have developed in the area over the past number of years including the Oro Valley Marketplace, Oro Valley Hospital and Innovation Park. The development of these regional commercial, service and employment uses are changes which supports the amendment to provide a mixture of housing and commercial uses to complement the employment and healthcare uses within the immediate area. The applicant further contends that the lack of Town and other agency interest in acquiring the property is a change which supports the amendment.

Staff agrees that the development of regional commercial, healthcare and employment opportunities in the vicinity are changes which support reconsideration of the planned land uses and policies on the property. The lack of interest to acquire the property also is a significant change which supports updating the land use plan. However, environmental concerns remain and the amendment needs to adequately address those concerns.

2. *The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.*

As previously mentioned in this application, this site is proposed as a multiple use development, consisting of residential, commercial, office and open space uses. It will assist in maintaining and adding to the high quality of life in Oro Valley by providing quality and diverse types of housing (this project objective is consistent with the Goals and Policies in the Housing Element of the General Plan), commercial services and jobs, thereby maintaining and improving the social well being of the community and its residents. Consistent with the Goals and Policies of the General Plan, this community will be a high quality neighborhood.

This property is located in an area that is relatively close to existing infrastructure capable of supporting the proposed development. Both dry and wet utilities are in the area and can be extended to the property. Oracle Road and Tangerine Road are capable of handling additional traffic volume in this area. The Arizona Department of Transportation (ADOT) is in the process of preparing construction documents to make improvements to Oracle Road from Tangerine Road north to the Pinal County line. Improvements will include widening Oracle Road from two to three lanes, raised center medians, traffic signal improvements, a shared use path and noise walls. These improvements will enhance safe ingress and egress to and from the property.

During the General Plan amendment process, the property will be analyzed and address the provisions of the Environmentally Sensitive Lands Ordinance (ESLO) of the Town of Oro Valley. A professional environmental consultant has been hired to prepare an environmental review report to address the current biological conditions of the property as it relates to the ESLO. Based on the findings of this report, the property will be assigned land use designations in accordance with ESLO. This analysis of the property addresses some of the applicable Goals and Objectives in the Open Space and Natural Resource Conservation Element of the General Plan.

Staff would generally agree that the addition of housing in this area would support the existing employment uses and add to a sustainable, balanced land use mixture. The environmental resources on this site are significant and the anticipated resubmittal to include some areas of the property as Significant Resource Area will identify areas to be conserved.

3. *The proposed change reflects market demand which leads to viability and general community acceptance.*

The current land use designations in the Oro Valley General Plan and the Pima County Comprehensive Plan, as well as the current Pima County zoning districts, are not consistent with the development vision for this property and are not aligned with market demand.

Resort/ Golf Course

Approximately 24 acres of this property is designated by the Oro Valley General Plan as Resort/Golf Course. This acreage is not sufficient for an 18-hole golf course and golf course operators have not pursued this property as a potential site for a golf course. In fact, there is evidence that the golf courses in Oro Valley may not receive enough play to support them. For instance, the Golf Club at Vistoso is in foreclosure after the owner defaulted on a loan. A resort on this property is not currently demanded by the market or resort developers. Also, the Hilton El Conquistador resort is located near this property, lying approximately 3 miles to the south. Due to the site's close proximity to the Hilton El Conquistador, and due to the lack of consumer demand for additional resort hotels in Oro Valley, this site is not a logical one for a resort hotel. Furthermore, the demand for resort accommodations in the area is already served by other resorts within the region, including Westward Look, La Paloma and the Ritz-Carlton at Dove Mountain. The area on the site designated for the resort also does not make sense from a physical land use perspective. This area contains some of the most significant topographic relief on the property, with areas of slope exceeding 25%. As such, this area would be challenging to develop as a resort site.

Neighborhood Commercial/ Office

The Neighborhood Commercial/Office land use designation in the Oro Valley General Plan on this property consists of approximately 31 acres. With the introduction of the Oro Valley Marketplace, the overall need for commercial at the intersection of Oracle Road and Tangerine has been reduced, and 31 acres of commercial is no longer needed on this property. Commercial is still appropriate for a portion of this property, but on a smaller scale. The commercial area on this site is anticipated to fulfill a different commercial need for the community. It is anticipated to contain higher end restaurants, boutique retail shops and perhaps provide venues that offer the community some night life. Also, commercial services, particularly those envisioned for this project, are encouraged in the General Plan in order to provide conveniently located services and amenities, as well as a means of contributing to the financial stability of the Town of Oro Valley through the generation of sales tax revenue.

Low Density Residential

This property is capable of supporting higher densities of residential, particularly in areas closer to Oracle Road and in areas that contain slopes of less than 15% (which comprises approximately two-thirds of the site). With the introduction of the Oro Valley Marketplace and Innovation Park, the general area is developing in an intense manner capable of accepting higher density residential development. As previously mentioned, both wet and dry utilities are in relatively close proximity to the site; however, they are generally not adjacent to the site and must be extended in order to reach the site. In fact, the majority of existing utilities are located west of Oracle Road and boring beneath the road will be required to extend utilities to the site. The cost of extending utilities to the site is high and increased levels of density are required in order to pay for the infrastructure and make the project viable.

Staff is in general agreement with the applicant's analysis relative to the flat market demand for resort / golf course and the reduced demand for commercial due to the proximity of the Oro Valley Marketplace and Stream Pump Ranch commercial developments. In terms of the residential components, staff believes there is market demand for new and diverse housing types in proximity to the Town's employment core area at Innovation Park.

4. *The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.*

This amendment is the first step in the entitlement process for this property. Following the amendment to the General Plan, the property is anticipated to be annexed into the Town of Oro Valley and likely at the same time, a Planned Area Development (PAD) would be prepared and processed to rezone this property for the intended uses. The General Plan encourages annexations that are economically beneficial to the Town, and this project would certainly meet that objective. While the General Plan amendment will provide some general guidance with regard to the development strategy for this property, the primary regulations governing its development will be

included within the PAD. The PAD will encourage innovative site planning and address such major issues as follows: variety of land uses, variety of lot sizes, landscaping, grading, open space, vehicular and pedestrian circulation and phasing of development. Once the PAD is approved, then the development of the site would be implemented through the platting and/or development plan process.

These processes discussed above involve public input where surrounding property owners will be actively involved in the planning process to ensure that their input is received and concerns are addressed. More specifically, there are two primary issues concerning this property and its interface with adjacent properties. The first involves Talante Estates, a cluster of low density single family residential lots located to the southwest of the property. The property owner and its consultants have already begun working with these adjacent property owners to plan for appropriate buffers and/or lot size transitions between these lots and the subject property. This would meet the applicable Goals and Objectives of the Housing Element of the General Plan which include the provision of appropriate transitions between neighborhoods. The second issue is related to Catalina State Park, which borders the property on three sides. We will be working with Arizona State Parks to discuss the interface between the two projects.

Given the sensitivity of this site, portions of the site should remain SRA and be preserved. The residential development needs to be planned in a manner that recognizes and complements the natural setting. The applicant has developed and continues to refine mitigation measures including lot size and number requirements, buffer yard and building height limitations to address and mitigate project impacts on the existing residential area.

GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

This amendment proposal has been reviewed in light of the General Plan Vision and all applicable General Plan goals and policies. The following Goals and Policies are notable for this application. Each General Plan goal/policy is shown in italics followed by staff's commentary:

General Plan Vision

To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town.

The applicant's response to conformance with the General Plan Vision is as follows:

The Desert Springs project will assist Oro Valley in achieving their Vision for the Future. The project is envisioned as an opportunity to plan and develop a project that will implement several sustainable growth principles contained in the Oro Valley General Plan, to complement the Town's vision of attracting and supporting a broader tax base and providing development that will support technology/bioscience companies and their work forces. The development of

this project will translate these principles into reality, and contribute to a stable Town environment and provide the type of diverse community that makes Oro Valley desirable and attractive.

The Desert Springs project will involve a multiple use village concept that incorporates neighborhood retail, professional office, passive recreation and a diversity of housing opportunities. This mixture of land uses will serve well those wishing to live in Oro Valley in the immediate future, providing them with a unique setting where one might live, work, shop and play. Since the project will be constructed using high quality materials and will adhere to applicable codes and standards for its buildings, roads, utilities and other site facilities, it will endure time and provide this unique lifestyle for generations to come.

This project will also be considerate of the environmental and cultural resources on the site and development will be clustered in the areas of the site that are most suitable for development. Where appropriate, significant land forms, such as steeper slopes or ridge tops, will remain in their natural condition. As a result, balance will be achieved between the built and natural environment. This balance will afford the future residents of the Desert Springs community, and the greater community of Oro Valley, the opportunity to live in a truly unique place.

Staff Commentary: The development of additional residential areas to serve regional commercial and the Town's employment core is important to the development of a well planned and balanced community. Environmentally sensitive design seems to be intended by the applicant and ensuring that the project design conserves most of the important environmental resources aligns with the community vision for environmental excellence.

General Plan Policies

The request was analyzed for conformance with applicable General Plan Policies as follows. Staff commentary is provided following the applicable policies.

Policy 1.1.1. The Town shall promote clustering of development to protect environmentally sensitive areas and to preserve significant, passive use, natural open space within residential neighborhoods…

Policy 1.1.3. The Town shall continue to avoid development encroachment into washes, riparian areas, designated natural open space and environmentally sensitive lands…

The above policies suggest approaches to protect environmentally sensitive areas. The retention of the SRA designation on sensitive portions of the property will enable more detailed analysis of these areas during the rezoning stage of development to ensure the environmental resources on the property are preserved.

Policy 1.2.1 The Town shall encourage the location of residential neighborhoods close to activity centers compatible with residential uses, and visa versa.

Policy 7.3.1 To the extent feasible, given the high land costs, The Town shall encourage the development of a variety of residential choices consistent with the Land Use Element to meet the housing needs of employees of existing and future Oro Valley employers.

The property is immediately east of Innovation Park, the Town's primary employment core. Proximity of new residential will support this important employment center.

Policy 1.3.6 The Town shall encourage new developments to incorporate accommodations for non-motorized travel in their design.

The applicant has incorporated several Special Area Policies which serve to implement this General Plan policy.

Policy 1.4.2. The Town shall continue to ensure that zoning near natural open space, parks, washes, trails, trailheads, schools, recreation areas, Tortolita Mountain Park, Catalina State Parks and Pusch Ridge Wilderness provides adequate buffers and compatible uses.

The distance and intervening vegetation between the campgrounds for the Catalina State Park and the proposed development provide an adequate buffer to the proposed low density residential area.

Policy 7.1.1. The Town shall continue to strive to protect the integrity and aesthetic context of existing neighborhoods through the use of appropriate buffers or other means of land use transition between incompatible uses.

Policy 7.2.3. The Town shall allow and encourage master planned communities that offer high-quality neighborhoods with a variety of residential densities and appropriately located commercial uses to serve the community. In these developments, ensure there are adequate transitions and buffers between uses.

The mitigation measures proposed by the applicant including natural landscape area, lot count limitations and building height limitation provide adequate transition between the proposed development and the adjacent residential area.

Policy 10.1.3 The Town shall continue to consider the potential effect of development projects on significant prehistoric and historic resources during the planning and design processes…

Retention of the SRA designation on portions of the site containing sensitive resources including historic and archeological resources will address this policy.

PUBLIC NOTICE AND COMMENT

This project has been noticed in accordance with Town procedures, which includes the following:

- Notice to property owners within 1,000 feet of property (boundary expanded)
- 60-Day notification and review opportunity for outside agencies.
- Homeowners Association mailing
- Notice in The Daily Territorial and Arizona Daily Star newspaper
- Notice to interested parties
- Post at Town Hall and on website
- Posting on the property

60 Day Review Comments

As required by State Law, the application was routed to outside agencies for review and comment. Comments from Pima County, Arizona State Parks, Pima Association of Governments, Arizona Department of Transportation and Tucson Electric Power were received. The outside agency review comments are provided on Attachment 5 and summarized as follows:

- ☐ Concern over densities and intensities greater than what is currently entitled by Pima County.
- ☐ Impact of the development on the environmental resources of the site.
- ☐ Protection of the historic Joesler House and archeological sites on the property.
- ☐ Maximize open space areas on the north and northeastern portion of the site to preserve known wildlife corridors.
- ☐ Negative impact of the development on recreational experience at Catalina State Park.
- ☐ Prohibit access to Catalina State Park.
- ☐ Lighting impacts on Catalina State Park
- ☐ ADOT, TEP and PAG comments are informational in nature.

Neighborhood Meeting Issues

The Town conducted neighborhood meetings on April 12th and September 20th. The applicant has scheduled a neighborhood meeting on October 24th. The summary notes from the neighborhood meetings are provided as Attachment 6. A summary of issues discussed at these meetings is as follows:

- ☐ Deletion of the Significant Resources Area designation and implications to environmental resources.
- ☐ Density too high adjacent to existing homes and the Catalina State Park.
- ☐ Impact of development to property values.
- ☐ Buffering adjacent to existing homes.
- ☐ Pima County should purchase the property for open space purposes.
- ☐ Concern over deletion of the Significant Resource Area designation and implications to environmental resources.
- ☐ Impact on the Catalina State park and the need to buffer land uses.
- ☐ Concern over cuts and fills into the hillside portions of the development.

In terms of the SRA and environmental resources on the site, the applicant is in the process of

developing a modified land use map to retain the SRA designation on sensitive areas of the site including historic and archeological resources, hillsides over 25% slope and ridgelines. Regarding the overall project density, the applicant modified the request to delete the originally proposed high density area for apartments. The applicant has developed and refined mitigation measures to lessen the impact on adjoining residential areas.

Additional Letters from Interested Parties

Four additional letters have been received from interested parties and are provided as Attachment 7. Issues raised in these letters include impact to the environment and Catalina State Park, increased density resulting in more traffic and burden on schools.

SUMMARY/CONCLUSION

This project is significant and has generated concern from Pima County, regional environmental groups and the immediate neighborhood. The applicant and the immediate neighborhood have worked diligently to develop mitigation measures to address project impacts on this existing residential area. The property contains significant environmental resources requiring sensitive site planning to conserve the most sensitive portions of the site.

The proposed amendment has been evaluated using the criteria in Section 22.4 of the Zoning Code, General Plan Goals and Policies as well as neighborhood and outside agency input. Following is a summary of the factors for and against the proposal:

Factors for:

1. The proposed amendment moderately increases the overall project intensity when compared to the current General Plan and current Pima County zoning entitlements.
2. The applicant has developed effective mitigation measures in consultation with the immediate neighborhood including natural buffer yards, lot size and lot number restrictions and building height limitations.
3. Changes in the area including the development of regional commercial and employment centers substantiate the addition of residential development to support these uses.
4. Changes in the intention for agency acquisition of the property support addressing an updated plan for development reflecting current conditions.
5. Sensitive site planning seems to be intended and will yield conservation of the most sensitive areas of the site.

Factors Against:

1. Significant regional concern from outside agencies and environmental groups over the project impact on the environmental resources of the site.
2. Concern regarding the impact of the proposed project on Catalina State Park.

RECOMMENDATION

Land Use Plan Amendment

The proposed amendment conforms to many General Plan policies and amendment criteria. The density and intensity of the proposed development represents a moderate increase above current Pima County zoning entitlements and the current General Plan designations. The applicant has incorporated meaningful and significant measures which help mitigate the impact of the development on the adjoining area including landscaped buffer yards, lot count and lot size restrictions, and building height limitations. Staff recommends approval of the proposed Land Use Plan amendments.

Significant Resource Area Designation

Based on review of the preliminary environmental and archeological reports, staff recommends denial of the applicant's request to delete the Significant Resource Area (SRA) designation on the property. It anticipated that the applicant will provide a modified proposal to retain the SRA designation on sensitive portions of the property including hillside areas with slopes greater than 25%, ridgelines, the historic home site and archeological resources present on the property. Staff is in general support of an appropriately modified SRA. Following review of any modified proposal; staff will evaluate this portion of the recommendation for any changes based on a modified proposal.

Urban Services Boundary (USB)

Given the proximity of utilities and transportation facilities to accommodate urban development, staff recommends approval of extending the USB to encompass the entire property boundary.

SUGGESTED MOTION

Two Planning & Zoning Commission public hearings are required by the Zoning Code. Therefore, no recommendation will be made at this meeting. Motions will be included in the November 5, 2012, report.

ATTACHMENTS:

1. Existing and Proposed General Plan
2. Applicant Request
3. Land Use Category Descriptions
4. Topography and Major Washes Map
5. Outside Agency Review Comments
6. Neighborhood Meeting Summary Notes
7. Additional Letters from Interested Parties
8. Pima County Zoning Conditions
9. Informational Engineering Comments

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David A. Williams, AICP, Planning Division Manager

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: November 5, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Chad Daines, AICP, Principal Planner**

SUBJECT: **Public Hearing: Desert Springs**. Major General Plan Amendment changing the Land Use Map from Low Density Residential, Neighborhood Commercial / Office, Resort / Golf Course to Medium Density Residential (2.1 – 5 du/ac), Low Density Residential (1.3-2 du/ac) Open Space and Neighborhood Commercial /Office (NC/O) and amend the Significant Resource Area and Special Area Policies and to amend the Urban Services Boundary to include the entire property. (OV1112-002)

SUMMARY

The Planning and Zoning Commission held the first of two required public hearings on October 16, 2012. No action was taken at that hearing. 8 residents and interested parties spoke at the hearing. Several issues were discussed, including:

- ☐ Density of the project
- ☐ Proposed removal of the Significant Resource Area designation
- ☐ Visual impact on Catalina State Park
- ☐ The productive work the applicant had done with the adjacent neighborhood
- ☐ Impact of proposed development on the ridgelines and hillside areas
- ☐ Wildlife movement on and adjacent to the property

Please refer to the October 16, 2012 packet for additional background information and discussion of the proposal. The analysis of the General Plan Amendment criteria and the Vision, Goals and Policy Conformance discussion from the October 16th staff report is contained below for your reference. A recommendation to Town Council is requested at this hearing. Staff recommendations and suggested motions are provided within this report.

BACKGROUND

The Desert Springs property is currently outside Town limits in unincorporated Pima County, but is within the planning area boundary covered by the Oro Valley General Plan. The General Plan currently designates the property for low density residential, commercial, office, resort and golf course uses. The current General Plan also designates the property Significant Resource Area, includes the northern portion within the Urban Services Boundary and contains a Special Area Policy applicable to the property.

The proposed Desert Springs project includes open space, low to medium density residential, neighborhood commercial and professional office uses on 110 acres located on the east side of Oracle Road at the Tangerine Road intersection. The applicant also proposes to modify the Significant Resource Area designation, amend the Special Area Policies and expand the Urban Services Boundary to encompass the entire property.

The existing and proposed General Plan designations are depicted on Attachment 1. The applicant's response to evaluation criteria is provided within Attachment 2. The revised Special Area Policies are provided on Attachment 3. The Special Area Policy Figure addressing building heights and bufferyards is provided on Attachment 4. The applicable land use category descriptions are provided on Attachment 5.

The October 16, 2012 staff report contains an extensive background and analysis of the property and the proposed amendment. Please refer to this previous report for comprehensive background relative to this property. This report will address staff analysis of the revised Land Use Plan and Significant Resource Area Boundary (SRA) (Attachment 1), revised Special Area Policies and Special Area Policy Figure (Attachments 3 and 4).

ANALYSIS OF PROPOSED AMENDMENT

Land Use Map Amendment - Revised

The Land Use Plan has been revised by the applicant following the October 16th Commission meeting to retain additional areas of the property as SRA and to provide an Open Space designation on ridgelines and steep hillside areas of the site. In summary, the primary changes to the application include the following:

- Retention of the Significant Resource Area (SRA) designation on a larger portion of the property to include the higher elevations around the historic Joesler House.
- Redesignation of the area under some of the SRA areas from Medium Density (2.1 – 5 du/ac) to Low Density (1.3 – 2.0 du/ac)
- Redesignation of a majority of the proposed SRA areas as Open Space to preserve these areas as natural open space.
- Amendment to the Special Area Policies to clarify that roads and utilities can cross SRA areas and to clarify grading issues related to the planned development.
- Separation of building heights and bufferyard notes from the Land Use Map to a Figure within the Special Area Policies.

The revised Land Use Map Amendment request from the applicant is depicted in Attachment 1 and summarized as follows:

Neighborhood Commercial / Office	24 acres
Medium Density Residential (2.1-5.0 du/ac)	60 acres
Low Density Residential (1.3 – 20 du/ac)	13 acres
Open Space	13 acres

A comparative analysis of the existing Pima County zoning and current Oro Valley General Plan designations on the property is as follows:

Existing OV General Plan	Existing Pima County Zoning	Proposed General Plan Amend.
Neighborhood Comm. Office 31 Acres	Rural Village Center 18 Acres	Neighborhood Comm. Office 24 Acres
Resort / Golf Course 24 Acres	Major Resort 44 Acres	Medium Density (2.1 – 5 du/ac.) 60 Acres
Low Density (1.3 – 2.0 du/ac.) 54 Acres	Suburban Ranch (.3 du/ac) 47 Acres	Low Density (1.3 – 2.0 du/ac.) 13 Acres
		Open Space 13 Acres
Total Units: 108*	Total Units: 14 Guest Units: 154	Total Units: Maximum 250 per Special Area Policy

* = Total units calculated using upper end of density range

Staff Observations:

- ☐ Reduction of low density residential uses in the Oro Valley General Plan; from 54 to 13 acres
- ☐ Significant increase in overall number of single family residential units from current Oro Valley General Plan; 108 to 250 units
- ☐ Moderate decrease in commercial and office uses from the current Oro Valley General Plan; 31 down to 24 acres
- ☐ Elimination of the planned resort use designated by the current Oro Valley General Plan and Pima County zoning entitlements (including elimination of 154 guest units) on the property.
- ☐ Elimination of the golf course use designated by the Oro Valley General Plan.
- ☐ Preservation of 13 acres of ridgelines and steep hillsides as Open Space

The reduction in commercial acreage and elimination of the resort / guest units and golf course is generally off-set by increases in overall density and decreased lot sizes from 3.3 acres to 5,000 sq. ft. As an overall comment; considering the reductions in non-residential intensity (resort and golf course) and increase in residential density, the request represents moderate increase in overall impact on the property.

To lessen the impact of increased density, particularly on the immediate Talante Estates subdivision, the applicant has proposed a number of mitigation measures. These include establishment of landscaped buffers, maximum lot count limitation, and limitations on building heights / number of lots immediately adjacent to the existing subdivision. These mitigation measures are further addressed in the Special Area Policy section below.

The notes addressing building height limitations and landscaped buffers, which are the result of neighborhood work with the Talante Estates property owners have been provided on a separate Figure within the Special Area Policies (Attachment 4).

Significant Resource Area

As indicated in the October 16th report, the property contains a variety of sensitive environmental resources including archeological resources, the historic Joesler House, native vegetation, hillsides and ridgelines, valleys and habitats. Based on preliminary assessments of these environmental resources, the entire property was designated Significant Resource Area (SRA) on the 2005 General Plan. The land use description for SRA is provided within Attachment 5.

The applicant originally proposed to delete the Significant Resource Area designation from the entire property. Based on review of the preliminary environmental analysis and field work, staff recommended and the applicant agreed to retain the SRA designation on portions of the property containing visible ridgelines and hillsides with 25% and greater slopes, the historic Joesler House and archeological sites. The SRA boundary has been modified since the October 16th Commission meeting and now includes additional visible ridgelines and hillsides with 25% and greater slopes. The additional SRA areas are primarily around the Joesler House, which is at the highest elevation and the most visible portion of the property from the public roadways and from Catalina State Park.

It should be emphasized that the Significant Resource Area (SRA) designation serves as an alert that substantial environmental resources are present and is not a “no-build” designation or open space preservation area. The SRA description in the General Plan indicates that these areas should be developed at the lowest density of the current land use designations. Retention of the SRA designation on the most sensitive portions of the property will serve as guidance during any subsequent zoning of the property relative to density and the need for sensitive design methods.

To this end, the underlying land use designations to the SRA areas in the vicinity of the Joesler House have been redesignated Low Density (1.3-2.0 du/ac). To clarify the intent to preserve a majority of the visible ridgelines and steeper sloped areas, the applicant also modified the proposed Land Use Plan to redesignate a majority of the previously designated SRA areas as Open Space.

Amended Special Area Policies

The applicant proposes a number of Special Area Policies to implement the proposed development and to address neighborhood and community concerns with the request. The amended Special Area Policies are provided on Attachment 4, and shown in italics below. Revisions to the October 16th draft Special Area Policies are shown in all caps and strikethrough font below. Commentary on the proposed Special Area Policies is provided following each of the policies below:

Desert Springs Special Area Polices

Desert Springs ~~*Kelly Ranch*~~

~~*Seek to acquire the Kelly Ranch property through a joint effort with the National Forest Service, Arizona State Parks, and Pima County, monitor the Kelly Nursery property, and maintain the Significant Resource Area designation on the whole property.*~~

The applicant has proposed deletion of the existing Special Area Policy relative to acquisition of the property by the Town and other State and County agencies. Based on the apparent shift in regional priorities for open space acquisition and other reasons outlined in the October 16th staff report, staff does not object to the deletion of the existing policy relative to acquisition.

These Special Area Policies are established for all future project design and permitting (PAD, CONCEPTUAL DESIGN, FINAL DESIGN, ~~subdivision,~~ building permits, etc.) related to the Desert Springs project, a multiple use village concept that incorporates neighborhood retail, professional office, passive recreation and a diversity of housing opportunities:

Staff Comment: Minor revisions to this paragraph reflect the correct application types within Oro Valley.

1. *Prior to development of the project the property owner shall obtain Town PAD zoning that includes a quality, ~~indigenous~~ master architectural and landscape design theme and standards INDIGENOUS TO THE ORO VALLEY AREA, which exceed the Town's adopted design standards AND RELATE TO THE NATURAL CONTEXT.*

Staff Comment: Minor changes to this policy clarify the intent for the future architectural theme for the project.

~~2. *Development of the project shall comply with all elements of the Oro Valley Zoning Code Revised, except as expressly permitted by the adopted PAD zoning district.*~~

Staff Comment: The PAD zoning district enables modification of zoning standards otherwise applicable from the Zoning Code. The policy simply reiterates this fact, is not needed and has been removed.

2. *The maximum number of residential units shall be 250.*

Staff Comment: By way of comparison, development under the current land use designations would yield 108 residential units.

3. *There shall be no apartment uses permitted.*

Staff Comment: The application has been modified to delete the originally requested High Density land use category. Although this policy is unnecessary, it is understood that this is important clarification for the neighborhood.

4. In general, more intensive land uses shall be located on the western side of the property along Oracle Road and transition to lower intensity uses (i.e. detached residential uses) along the south and eastern portions of the property.

The project shall provide for a transition in density and other buffer techniques between existing and proposed residential development as GRAPHICALLY DEPICTED ON FIGURE 2.1 AND DESCRIBED AS follows:

a. Native trees will be planted along the east side of the Talante Estates entry road on the Property near Oracle Highway in order to screen the view of the adjacent office buildings, the extent of which will be defined during the PAD process. The installation timing will correspond with the installation of infrastructure and project landscaping in that vicinity or phase of the project. Irrigation will be provided temporarily to allow the native trees to establish themselves. Developer will consult with the Talante Estates property owners ("Neighbors") during the PAD process in establishing setbacks for buildings in this area.

b. A bufferyard of 150 feet will be created in Area B and a bufferyard of 100 feet will be created in Area D, to include additional native vegetation and possibly some drainage facilities and other underground utilities. Developer will make every effort to not locate utilities in the bufferyard. However, if such utilities are required, the disturbance will be minimized as much as possible and the bufferyard will be restored to a naturalized condition. Developer will work with the Neighbors on a landscape plan and plant palette for the bufferyard that will be presented to the Neighbors in conceptual drawings prior to submittal of the rezoning application for PAD zoning.

1) Within the bufferyard, developer will install, in coordination with the Neighbors and the above-referenced landscape plan, additional native landscaping including trees and shrubs to help screen the project, and provide temporary irrigation as needed for the native vegetation to establish itself. The timing of installation will correspond with the installation of adjacent project infrastructure and landscaping.

2) Private deed restrictions will be recorded related to the preservation of the bufferyard at the time of final plat recording that includes this specific area of the project.

3) No roads shall be permitted within the bufferyard, except as required for bufferyard or infrastructure maintenance.

c. The approximate southern half of the office parcel, designated as Area A, (estimated to be approximately 325 north of the bufferyard subject to final parcel configuration) will remain single story. Developer will consult with the Neighbors during the PAD process to establish height limitations for single-story.

d. In the 50 feet north of the 100-foot bufferyard area, designated as Area C, height of any building will remain single story. Developer will consult with the Neighbors during the PAD process to establish height limitations for single-story

e. Architectural design of the project will comply with the Oro Valley architectural guidelines. Any roof top equipment will be screened. Architecture will include a color palette and architectural design that is indigenous and tasteful.

f. A bufferyard of 150 feet will be created in Area E, to include additional native vegetation, the potential of a 4-5-foot berm in strategic locations, possibly some drainage facilities and other underground utilities. Developer will make every effort to not locate utilities in the bufferyard. However, if such utilities are required, the disturbance will be minimized as much as possible and the bufferyard will be restored to a naturalized condition. Developer will work with the Neighbors on a landscape plan and plant palette for the bufferyard that will be presented to the Neighbors in conceptual drawings prior to submittal of the rezoning application for PAD zoning. In the southern area along the eastern property line where the vegetation is sparse, the bufferyard shall be designed with vegetation to create a solid vegetative border.

1) Within the 150-foot bufferyard, developer will install additional native landscaping including trees and shrubs to help screen the project and provide temporary irrigation as needed for the native vegetation to establish itself. The timing of installation will correspond with the installation of adjacent project infrastructure and landscaping.

2) Private deed restrictions will be recorded related to the preservation of the bufferyard at the time of final plat recording that includes this specific area of the project.

3) No roads shall be permitted within the bufferyard, except as required for bufferyard or infrastructure maintenance.

g. Directly adjacent to bufferyard E discussed above, there shall be only 3 single-family residential lots.

h. In the area noted on ~~the General Plan~~ FIGURE 2.1 as Area G east of the bufferyard, all residential lots shall be limited to single-story. Developer will consult with the Neighbors during the PAD process to establish height limitations for single-story.

i. Area F on ~~the General Plan~~ FIGURE 2.1 shall remain in its natural condition.

Staff Comment: The Talante Estate neighborhood is most directly impacted by the development. Additionally, the proposed residential and non-residential development without any transition in intensity would create an abrupt boundary with the very low density of the existing residential area. The applicant and the existing residents have worked cooperatively to identify significant project impacts and associated mitigation measures to address these project impacts.

Special Area Policy 4 is a result of this work to find acceptable buffering and transitional land use measures which create a logical transition between the planned intensity and density of the project and the existing neighborhood. Some minor amendments have been incorporated to move the notes relative to bufferyards and building heights to a separate Figure within the Special Area

Policies, rather than the notes appearing on the Land Use Map. Although this policy is more detailed than typical at the General Plan stage, it is understood that this language is important to the neighborhood and therefore staff supports its inclusion.

~~*5. Grading disturbances in areas with slopes greater than 25%, and cuts or fill slopes up to 20 feet in height, shall be permitted, provided that disturbances are restricted to utilities, roadways, or areas internal to the development that are not visible from the existing public roadways, and trails identified in the Oro Valley Trails Master Plan. Additional grading disturbances may also be permitted in visible portions of the property when such areas can be restored to a native and natural appearing condition.*~~

5. IT IS ACKNOWLEDGED THAT GRADING DISTURBANCES IN AREAS WITH SLOPES 25% AND GREATER, AND CUTS OR FILL SLOPES IN EXCESS OF REQUIREMENTS IN THE ORO VALLEY ZONING CODE REVISED WILL BE NECESSARY TO SUPPORT THE DEVELOPMENT. THE LOCATION, AMOUNT AND EXTENT OF GRADING DISTURBANCES AND CUTS OR FILL SLOPES SHALL BE DEFINED THROUGH THE SUBSEQUENT PAD ZONING. IT IS INTENDED THAT GRADING DISTURBANCES WILL BE PRIMARILY LIMITED TO INTERNAL AREAS OF THE DEVELOPMENT THAT ARE NOT VISIBLE FROM THE EXISTING PUBLIC ROADWAYS, AND TRAILS IDENTIFIED IN THE ORO VALLEY TRAILS MASTER PLAN.

Staff Comment: The modified language addresses concerns with the broad language in the previous draft policy and clarifies that the location, amount and extent of grading disturbances and cuts and fill slopes must be addressed during a subsequent PAD zoning case, during formal hillside and grading analysis required at the rezoning stage.

6. Regional transit connectivity shall be accommodated by incorporating transit access and stops, for existing and future transit networks, at key location along the property frontage on Oracle Road.

Staff Comment: Part of the regional function of Oracle Road and multi-modal transportation facilities planned in the future, this Special Area Policy is supported and necessary to ensure connectivity of the property with the larger regional transportation network.

7. Pedestrian and cyclist connectivity shall be accommodated by incorporating walkways, bikeways and natural open space trail corridors that connect uses within the site to the oracle Road and Tangerine Road corridors.

Staff Comment: This Special Area Policy is supported and necessary to ensure connectivity of the property with the larger pedestrian and bicycle transportation network.

~~*8. Area H ON FIGURE __, located within the Significant Resource Area ("SRA") designation, permits development of roadways and new/relocated utilities. Should such roadways/utilities be construction in these areas, development shall be treated aesthetically with native/natural*~~

~~*appearing vegetation. Specific grading and treatment conditions shall be defined and addressed within the subsequent PAD zoning district.*~~

8. *SRA AREAS MAY BE CROSSED WITH ACCESS ROADS AND UTILITIES AND SHALL BE TREATED AESTHETICALLY WITH NATIVE/NATURAL APPEARING VEGETATION. SPECIFIC GRADING AND TREATMENT CONDITIONS SHALL BE DEFINED AND ADDRESSED WITHIN THE SUBSEQUENT PAD ZONING DISTRICT.*

   Staff Comment: The applicant's original language is restricted to one particular area where a planned crossing may occur. SRA areas can be crossed with roadways and the revision clarifies that roads and utilities may cross SRA areas, depending on the ultimate circulation system which will serve the development. The specific grading and treatment of the crossings shall be defined within the subsequent PAD zoning district.

9. *Designation of SRA within this General Plan Amendment does not preclude alterations or modifications to any existing structures within the SRA. The PAD rezoning will address treatment of the existing structures.*

   Staff Comment: The applicant desires this clarification relative to future alterations and modifications to the existing structure on the site, which staff does not oppose. The treatment of the existing structures will be further addressed as part of the subsequent PAD zoning district.

Urban Services Boundary

The General Plan includes the northern portion of the development within the Urban Services Boundary. Extension of water and sewer service across Oracle Road to this un-served site will entail substantial costs. Potentially, such utility service extensions could serve the Talante Estates development. As the property is across the street from utilities and transportation facilities appropriate to accommodate urban development; staff supports the inclusion of the entire property within the Urban Services Boundary.

Engineering Comments

Oro Valley Engineering staff has provided information relative to existing roads, utilities and other infrastructure serving the development (Attachment 6). These comments also contain information which will be addressed during the rezoning process.

GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "the disposition of the General Plan amendment proposed shall be based on consistence with the vision, goals, and policies of the General Plan, with special emphasis on the following criteria. The applicant for the amendment has the burden of presenting facts and other materials to address these criteria.

The applicant's complete response to each of the criteria is attached for your reference (see Attachment 2). Following is a summation of the applicant response and staff's analysis of each criterion:

1. **The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.**

Applicant Response: *The subject property is located in an area that has experienced growth and development over the last few years. The following projects are located in the area immediate to the project site, and have developed significantly since the original General Plan designations were created:*

• The Oro Valley Marketplace is the largest commercial center in Oro Valley and is located at the southwest corner of Oracle Road and Tangerine Road. It contains a variety of businesses, including retail, restaurants and banking facilities. It is planned to contain over 850,000 square feet of gross leasable area at the time of project build out.

• The Oro Valley Hospital is located north of Tangerine Road, approximately one mile west of Oracle Road. It is located within the approximately 535-acre Innovation Park. This facility offers a full range of medical and surgical services and is the primary medical facility in Oro Valley. With the introduction of the hospital in the community, medical offices and related services have now located in Innovation Park located just north of the hospital, and additional medical offices are expected in the future. Innovation Park is also home to the biosciences industry and pharmaceutical industry-Sanofi Aventis and Ventana Medical Systems are located within the business park. Ultimately, Innovation Park will contain up to 2.5 million square feet of professional office, medical and businesses uses, making this the premier employment center in the area. The changes discussed above indicate a clear intention to develop this area with a mix of uses for residents that balances respect for the environment and interaction with that environment (the Catalina State Park) with development of jobs, healthcare and residential/commercial to support those jobs.

• Another change in conditions involves the property itself. At the time of the original General Plan designation, the Town was focused on the potential acquisition of this entire property (formerly referred to as Kelly Ranch) through a joint effort with the National Forest Service, Arizona State Parks and Pima County. At this time, it is our understanding that the Town is no longer actively interested in acquiring this property, and the Special Area Policy is no longer applicable.

Staff Comment: The applicant identifies a number of adjacent large scale projects which have developed in the area over the past number of years including the Oro Valley Marketplace, Oro Valley Hospital and Innovation Park. The development of these regional commercial, service and employment uses are changes that support the amendment to provide a mixture of housing and commercial uses to complement the employment and healthcare uses within the immediate area. The applicant further contends that the lack of Town and other agency interest in acquiring the property is a change which supports the amendment.

Staff agrees that the development of regional commercial, healthcare and employment opportunities in the vicinity are changes which support reconsideration of the planned land uses and policies on the property. The concern for conservation of sensitive resources has not changed. The lack of activity to acquire the property also is a significant change which supports updating the land use plan.

2. The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.

Applicant Response: *As previously mentioned in this application, this site is proposed as a multiple use development, consisting of residential, commercial, office and open space uses. It will assist in maintaining and adding to the high quality of life in Oro Valley by providing quality and diverse types of housing (this project objective is consistent with the Goals and Policies in the Housing Element of the General Plan), commercial services and jobs, thereby maintaining and improving the social well being of the community and its residents. Consistent with the Goals and Policies of the General Plan, this community will be a high quality neighborhood.*

This property is located in an area that is relatively close to existing infrastructure capable of supporting the proposed development. Both dry and wet utilities are in the area and can be extended to the property. Oracle Road and Tangerine Road are capable of handling additional traffic volume in this area. The Arizona Department of Transportation (ADOT) is in the process of preparing construction documents to make improvements to Oracle Road from Tangerine Road north to the Pinal County line. Improvements will include widening Oracle Road from two to three lanes, raised center medians, traffic signal improvements, a shared use path and noise walls. These improvements will enhance safe ingress and egress to and from the property.

During the General Plan amendment process, the property will be analyzed and address the provisions of the Environmentally Sensitive Lands Ordinance (ESLO) of the Town of Oro Valley. A professional environmental consultant has been hired to prepare an environmental review report to address the current biological conditions of the property as it relates to the ESLO. Based on the findings of this report, the property will be assigned land use designations in accordance with ESLO. This analysis of the property addresses some of the applicable Goals and Objectives in the Open Space and Natural Resource Conservation Element of the General Plan.

Staff Comment: Staff would generally agree that the addition of housing in this area would support the existing employment uses and add to a sustainable, balanced land use mixture. The environmental resources on this site are significant and the revised plan retains the Significant Resource Area designation and/or establishes an Open Space designation on the most sensitive areas of the site.

3. The proposed change reflects market demand which leads to viability and general community acceptance.

Applicant Response: *The current land use designations in the Oro Valley General Plan and the Pima County Comprehensive Plan, as well as the current Pima County zoning districts, are not consistent with the development vision for this property and are not aligned with market demand.*

Resort/ Golf Course

Approximately 24 acres of this property is designated by the Oro Valley General Plan as Resort/Golf Course. This acreage is not sufficient for an 18-hole golf course and golf course operators have not pursued this property as a potential site for a golf course. In fact, there is evidence that the golf courses in Oro Valley may not receive enough play to support them. For instance, the Golf Club at Vistoso is in foreclosure after the owner defaulted on a loan. A resort on this property is not currently demanded by the market or resort developers. Also, the Hilton El Conquistador resort is located near this property, lying approximately 3 miles to the south. Due to the site's close proximity to the Hilton El Conquistador, and due to the lack of consumer demand for additional resort hotels in Oro Valley, this site is not a logical one for a resort hotel. Furthermore, the demand for resort accommodations in the area is already served by other resorts within the region, including Westward Look, La Paloma and the Ritz-Carlton at Dove Mountain. The area on the site designated for the resort also does not make sense from a physical land use perspective. This area contains some of the most significant topographic relief on the property, with areas of slope exceeding 25%. As such, this area would be challenging to develop as a resort site.

Neighborhood Commercial/ Office

The Neighborhood Commercial/Office land use designation in the Oro Valley General Plan on this property consists of approximately 31 acres. With the introduction of the Oro Valley Marketplace, the overall need for commercial at the intersection of Oracle Road and Tangerine has been reduced, and 31 acres of commercial is no longer needed on this property. Commercial is still appropriate for a portion of this property, but on a smaller scale. The commercial area on this site is anticipated to fulfill a different commercial need for the community. It is anticipated to contain higher end restaurants, boutique retail shops and perhaps provide venues that offer the community some night life. Also, commercial services, particularly those envisioned for this project, are encouraged in the General Plan in order to provide conveniently located services and amenities, as well as a means of contributing to the financial stability of the Town of Oro Valley through the generation of sales tax revenue.

Low Density Residential

This property is capable of supporting higher densities of residential, particularly in areas closer to Oracle Road and in areas that contain slopes of less than 15% (which comprises approximately two-thirds of the site). With the introduction of the Oro Valley Marketplace and Innovation Park, the general area is developing in an intense manner capable of accepting higher density residential development. As previously mentioned, both wet and dry utilities are in relatively close proximity to the site; however, they are generally not adjacent to the site and must be extended in order to reach the site. In fact, the majority of existing utilities are located west of Oracle Road and boring beneath the road will be required to extend utilities to the site. The cost of extending utilities to the site is high

and increased levels of density are required in order to pay for the infrastructure and make the project viable.

Staff Comment: Staff is in general agreement with the applicant's analysis relative to the flat market demand for resort / golf course and the reduced demand for retail commercial due to the proximity of the Oro Valley Marketplace and Stream Pump Ranch commercial developments. Staff questions the sustainability of an additional golf course and supports its removal. In terms of the residential components, staff believes there will be market demand for new and diverse housing types in proximity to the Town's employment core area at Innovation Park within the next 3 to 5 years.

4. The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.

Applicant Response: *This amendment is the first step in the entitlement process for this property. Following the amendment to the General Plan, the property is anticipated to be annexed into the Town of Oro Valley and likely at the same time, a Planned Area Development (PAD) would be prepared and processed to rezone this property for the intended uses. The General Plan encourages annexations that are economically beneficial to the Town, and this project would certainly meet that objective. While the General Plan amendment will provide some general guidance with regard to the development strategy for this property, the primary regulations governing its development will be included within the PAD. The PAD will encourage innovative site planning and address such major issues as follows: variety of land uses, variety of lot sizes, landscaping, grading, open space, vehicular and pedestrian circulation and phasing of development. Once the PAD is approved, then the development of the site would be implemented through the platting and/or development plan process.*

These processes discussed above involve public input where surrounding property owners will be actively involved in the planning process to ensure that their input is received and concerns are addressed. More specifically, there are two primary issues concerning this property and its interface with adjacent properties. The first involves Talante Estates, a cluster of low density single family residential lots located to the southwest of the property. The property owner and its consultants have already begun working with these adjacent property owners to plan for appropriate buffers and/or lot size transitions between these lots and the subject property. This would meet the applicable Goals and Objectives of the Housing Element of the General Plan which include the provision of appropriate transitions between neighborhoods. The second issue is related to Catalina State Park, which borders the property on three sides. We will be working with Arizona State Parks to discuss the interface between the two projects.

Staff Comment: Given the sensitivity of the property, portions of the site are being retained as SRA and/or preserved through an Open Space designation. The residential development needs to be planned in a manner that recognizes and complements the natural setting. The applicant has developed mitigation measures including lot size and number requirements,

buffer yard and building height limitations to address and mitigate project impacts to the existing residential area.

GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

This amendment proposal has been reviewed in light of the General Plan Vision and all applicable General Plan goals and policies. The following Policies are notable for this application. Several General Plan policies are shown in italics followed by staff's commentary:

General Plan Vision

To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town.

Applicant Response: *The Desert Springs project will assist Oro Valley in achieving their Vision for the Future. The project is envisioned as an opportunity to plan and develop a project that will implement several sustainable growth principles contained in the Oro Valley General Plan, to complement the Town's vision of attracting and supporting a broader tax base and providing development that will support technology/bioscience companies and their work forces. The development of this project will translate these principles into reality, and contribute to a stable Town environment and provide the type of diverse community that makes Oro Valley desirable and attractive.*

The Desert Springs project will involve a multiple use village concept that incorporates neighborhood retail, professional office, passive recreation and a diversity of housing opportunities. This mixture of land uses will serve well those wishing to live in Oro Valley in the immediate future, providing them with a unique setting where one might live, work, shop and play. Since the project will be constructed using high quality materials and will adhere to applicable codes and standards for its buildings, roads, utilities and other site facilities, it will endure time and provide this unique lifestyle for generations to come.

This project will also be considerate of the environmental and cultural resources on the site and development will be clustered in the areas of the site that are most suitable for development. Where appropriate, significant land forms, such as steeper slopes or ridge tops, will remain in their natural condition. As a result, balance will be achieved between the built and natural environment. This balance will afford the future residents of the Desert Springs community, and the greater community of Oro Valley, the opportunity to live in a truly unique place.

Staff Commentary: The development of additional residential areas to serve regional commercial and the Town's employment core is important to the development of a well-planned and balanced community. Environmentally sensitive design is intended by the applicant to ensure that the project

design conserves the important environmental resources, which aligns with the community vision for environmental excellence. Appropriate zoning controls will be important in achieving optimal residential and grading designs.

General Plan Policies

The request was analyzed for conformance with applicable General Plan Policies as follows. Staff commentary is provided following the applicable policies.

Policy 1.1.1. The Town shall promote clustering of development to protect environmentally sensitive areas and to preserve significant, passive use, natural open space within residential neighborhoods…

Policy 1.1.3. The Town shall continue to avoid development encroachment into washes, riparian areas, designated natural open space and environmentally sensitive lands…

Staff Comment: The above policies suggest approaches to protect environmentally sensitive areas. The retention of the SRA designation and Open Space designation on sensitive portions of the property will enable more detailed analysis of these areas during the rezoning stage of development to ensure the environmental resources on the property are designed sensitively and/or preserved.

Policy 1.2.1 The Town shall encourage the location of residential neighborhoods close to activity centers compatible with residential uses, and visa versa.

Policy 7.3.1 To the extent feasible, given the high land costs, The Town shall encourage the development of a variety of residential choices consistent with the Land Use Element to meet the housing needs of employees of existing and future Oro Valley employers.

Staff Comment: The property is immediately east of Innovation Park, the Town's primary employment core. Proximity of new residential will support this important employment center.

Policy 1.3.6 The Town shall encourage new developments to incorporate accommodations for non-motorized travel in their design.

Staff Comment: The applicant has incorporated several Special Area Policies which serve to implement this General Plan policy.

Policy 1.1.2. The Town shall continue to consider development impacts on natural rolling terrain and emphasize low-density developments in these areas. This will include evaluating areas with 15 percent and greater for development compatibility and safety, with the possibility of preserving them as natural open space.

Policy 2.1.5. The Town shall continue to require that all development proposals employ design strategies that minimize changes to existing topography and the disturbance of existing vegetation.

Staff Comment: The revised Land Use Plan, SRA boundary and Open Space designations are consistent with the above referenced policies.

Policy 1.4.2. The Town shall continue to ensure that zoning near natural open space, parks, washes, trails, trailheads, schools, recreation areas, Tortolita Mountain Park, Catalina State Parks and Pusch Ridge Wilderness provides adequate buffers and compatible uses.

Staff Comment: The distance and intervening vegetation between the campgrounds for the Catalina State Park and the proposed development provide an adequate functional and visual buffer to the proposed low density residential area. Additional vegetative screening may be necessary to minimize visual impact in key locations and is best assessed during the rezoning process.

Policy 7.1.1. The Town shall continue to strive to protect the integrity and aesthetic context of existing neighborhoods through the use of appropriate buffers or other means of land use transition between incompatible uses.

Policy 7.2.3. The Town shall allow and encourage master planned communities that offer high-quality neighborhoods with a variety of residential densities and appropriately located commercial uses to serve the community. In these developments, ensure there are adequate transitions and buffers between uses.

Staff Comment: The mitigation measures proposed by the applicant including natural landscape area, lot count limitations and building height limitation provide adequate transition between the proposed development and the adjacent residential area. The zoning process should ensure buffering is adequate for adjacent residential and park areas.

Policy 10.1.3 The Town shall continue to consider the potential effect of development projects on significant prehistoric and historic resources during the planning and design processes…

Staff Comment: Retention of the SRA designation and Open Space designation on portions of the site containing sensitive resources including historic and archeological resources addresses this policy.

PUBLIC NOTICE AND COMMENT

This project has been noticed in accordance with Town procedures, which includes the following:

- Notice to property owners within 1,000 feet of property (boundary expanded)
- 60-Day notification and review opportunity for outside agencies.
- Homeowners Association mailing
- Notice in The Daily Territorial and Arizona Daily Star newspaper
- Notice to interested parties
- Post at Town Hall and on website
- Posting on the property

60 Day Review Comments

As required by State Law, the application was routed to outside agencies for review and comment. Comments from Pima County, Arizona State Parks, Pima Association of Governments, Arizona Department of Transportation and Tucson Electric Power were received. The outside agency review comments are provided on Attachment 7 and summarized as follows:

- Concern over densities and intensities greater than what is currently entitled by Pima County.
- Impact of the development on the environmental resources of the site.
- Protection of the historic Joesler House and archeological sites on the property.
- Maximize open space areas on the north and northeastern portion of the site to preserve known wildlife corridors.
- Negative impact of the development on recreational experience at Catalina State Park.
- Prohibit access to Catalina State Park.
- Lighting impacts on Catalina State Park
- ADOT, TEP and PAG comments are informational in nature.

Neighborhood Meeting Issues

Neighborhood meetings were held on April 12th, September 20th and October 24th. The summary notes from the neighborhood meetings are provided as Attachment 8. A summary of issues discussed at the neighborhood meetings is as follows:

- Deletion of the Significant Resources Area designation and implications to environmental resources.
- Density too high adjacent to existing homes and the Catalina State Park.
- Impact of development to property values.
- Buffering adjacent to existing homes.
- Pima County should purchase the property for open space purposes.
- Visual impact on the Catalina State Park and the need to buffer land uses.
- Concern over cuts and fills into the hillside portions of the development.
- Concern that there is not a current market for new home construction.

Responses to Issues

In terms of the SRA and environmental resources on the site, the applicant modified the proposed Land Use Map to retain the SRA designation on the most sensitive areas of the site including historic and archeological resources, hillsides 25% or greater and ridgelines. Additionally, the applicant redesignated a majority of these sensitive areas as Open Space, which will ensure preservation of these areas.

Regarding the overall project density, the applicant modified the request to delete the originally proposed high density area for apartments and the amount of Medium Density Residential has been reduced in the revised submittal. The applicant has developed and refined mitigation measures to lessen the impact on adjoining residential areas.

Public acquisition of this property is a goal for Sonoran Coalition for Desert Protection. Currently, there is no bond money available or earmarked for acquisition of this property and no public commitment exists to acquire this private property.

Comments from Interested Parties

Comments from interested parties have been received and are provided as Attachment 9. Issues raised in these letters include impact to the environment (including habitat, slopes and wildlife movement) and Catalina State Park, increased density resulting in more traffic and burden on schools.

SUMMARY/CONCLUSION

This project is significant and has generated concerns from Pima County, regional environmental groups the immediate neighborhood and State Parks Director. The applicant and the immediate neighborhood have worked diligently to develop mitigation measures to address project impacts on this existing residential area. The property contains significant environmental resources requiring sensitive site planning to conserve resources on the site.

The proposed amendment has been evaluated using the criteria in Section 22.4 of the Zoning Code, General Plan Goals and Policies as well as neighborhood and outside agency input. Following is a summary of the factors for and against the proposal:

Factors for:

1. The proposed amendment moderately increases the overall project intensity when compared to the current General Plan.
2. The applicant has developed effective mitigation measures in consultation with the immediate neighborhood including buffer yards, lot size and number restrictions and building height limitations.
3. Changes in the area including the expansion of Oracle Road, development of regional commercial and employment centers substantiate the addition of residential development to support these uses.
4. Changes in the apparent intention for agency acquisition of the property support addressing an updated plan for development reflecting current conditions.
5. Sensitive site planning is proposed and should yield conservation of sensitive areas of the site.

Factors Against:

1. Concern from staff about the project impact on the sensitive resources on the site and the need for sensitive site planning to minimize environmental impact.
2. Concern from Pima County, Coalition for Sonoran Desert Protection, friends of Catalina State Park over the project impact on the environmental resources of the site.
3. Concern regarding the visual impact of the proposed project on Catalina State Park.

4. Impact to sensitive slopes.

RECOMMENDATIONS

Land Use Plan Amendment

The proposed amendment conforms to many General Plan policies and amendment criteria. The density and intensity of the proposed development represents a moderate increase above the current Oro Valley General Plan designations. The applicant has incorporated meaningful and significant measures which help mitigate the impact of the development on the adjoining Talante Estates neighborhood including landscaped buffer yards, lot count and size restrictions, and building height limitations. Staff recommends approval of the proposed Land Use Plan amendments.

Significant Resource Area Designation

The original application requested deletion of the SRA area from the entire property. The applicant has revised the application to retain the SRA designation on sensitive portions of the property including hillside areas with slopes 25% and greater, ridgelines, the historic Joesler House and archeological resources present on the property. The revised plan has redesignated a majority of the ridgelines and steeper slope areas as Open Space which will preserve these areas as natural open space. The application of the ESL requirements to the property during the rezoning process will confirm the appropriate level of development based on biological assessment specific to the subject property and ESL open space requirements. Staff recommends approval of the modified SRA boundary.

Special Area Policies

The applicant has developed meaningful and effective policies which respond to the unique and sensitive nature of the site and the surrounding area and will serve as appropriate guidance during any subsequent rezoning of the property. Staff recommends approval of the proposed Special Area Policies.

Urban Services Boundary (USB)

Given the proximity of utilities and transportation facilities to accommodate urban development, staff recommends approval of extending the USB to encompass the entire property boundary.

SUGGESTED MOTIONS

Land Use Map Amendment

I move to recommend approval of the Desert Springs Major General Plan Amendment from Low Density Residential, Neighborhood Commercial / Office, Resort / Golf Course to Medium Density Residential (2.1 – 5 du/ac), Low Density Residential (1.3-2 du/ac) Open Space and Neighborhood Commercial /Office (NC/O) finding that:

- ☐ The proposed amendment moderately increases the overall project intensity when compared to the current General Plan.
- ☐ The applicant has developed effective mitigation measures in consultation with the immediate neighborhood including buffer yards, lot size and number restrictions and building height limitations.
- ☐ Changes in the area including the development of regional commercial and employment centers substantiate the addition of residential development to support these uses.
- ☐ Changes in the intention for agency acquisition of the property support addressing an updated plan for development reflecting current conditions.
- ☐ Sensitive site planning is intended and should yield conservation of sensitive areas of the site.

OR

I move to recommend denial of the Desert Springs Major General Plan Amendment finding that the proposed amendment does not meet the criteria for evaluating Major General Plan Amendments.

Significant Resource Area

I move to recommend approval of the modified Significant Resource Area designation for the Desert Spring property, finding that:

- ☐ Visible ridgelines and hillside areas of the site with slopes 25% and greater have been retained as Significant Resource Area.
- ☐ A majority of the ridgelines and steeper sloped areas have been designated Open Space and preserved as natural area open space.

OR

I move to recommend denial of the modified Significant Resource Area designation for the Desert Springs property finding that the proposed amendment does not meet all Zoning Code requirements.

Special Area Policies

I move to recommend approval of the revised Special Area Policies and Figure 2.1 as provided on Attachments 3 and 4 finding that the policies and figure will provide for sensitive design and mitigation of project impacts on adjacent areas.

OR

I move to recommend denial of the revised Special Area Policies and Figure 2.1 finding that the proposed amendment does not meet all Zoning Code requirements.

Urban Services Boundary

I move to recommend approval of modifying the Urban Services Boundary to encompass the entire property finding that appropriate urban level infrastructure exists in proximity to the site.

OR

I move to recommend denial of modifying the Urban Services Boundary to encompass the entire property finding that appropriate urban level infrastructure does not exist in proximity to the site.

ATTACHMENTS:

1. Existing and Proposed General Plan
2. Applicant's Response to Evaluation Criteria
3. Revised Special Area Policies
4. Special Area Policy Figure – Building Heights and Bufferyards
5. Land Use Category Descriptions
6. Informational Engineering Comments
7. Outside Agency Review Comments
8. Neighborhood Meeting Summary Notes
9. Additional Letters from Interested Parties

_____

David A. Williams, AICP, Planning Division Manager

DESERT SPRINGS
ATTACHMENT 7

GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "the disposition of the General Plan amendment proposed shall be based on consistence with the vision, goals, and policies of the General Plan, with special emphasis on the following criteria. The applicant for the amendment has the burden of presenting facts and other materials to address these criteria."

Following is the applicant response and staff's comment of each criterion:

1. **The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.**

Applicant Response: *The subject property is located in an area that has experienced growth and development over the last few years. The following projects are located in the area immediate to the project site, and have developed significantly since the original General Plan designations were created:*

• *The Oro Valley Marketplace is the largest commercial center in Oro Valley and is located at the southwest corner of Oracle Road and Tangerine Road. It contains a variety of businesses, including retail, restaurants and banking facilities. It is planned to contain over 850,000 square feet of gross leasable area at the time of project build out.*

• *The Oro Valley Hospital is located north of Tangerine Road, approximately one mile west of Oracle Road. It is located within the approximately 535-acre Innovation Park. This facility offers a full range of medical and surgical services and is the primary medical facility in Oro Valley. With the introduction of the hospital in the community, medical offices and related services have now located in Innovation Park located just north of the hospital, and additional medical offices are expected in the future. Innovation Park is also home to the biosciences industry and pharmaceutical industry- Sanofi Aventis and Ventana Medical Systems are located within the business park. Ultimately, Innovation Park will contain up to 2.5 million square feet of professional office, medical and businesses uses, making this the premier employment center in the area. The changes discussed above indicate a clear intention to develop this area with a mix of uses for residents that balances respect for the environment and interaction with that environment (the Catalina State Park) with development of jobs, healthcare and residential/commercial to support those jobs.*

• *Another change in conditions involves the property itself. At the time of the original General Plan designation, the Town was focused on the potential acquisition of this entire property (formerly referred to as Kelly Ranch) through a joint effort with the National Forest Service, Arizona State Parks and Pima County. At this time, it is our understanding that the Town is no longer actively interested in acquiring this property, and the Special Area Policy is no longer applicable.*

Staff Comment: The applicant identifies a number of adjacent large scale projects which have developed in the area over the past number of years including the Oro Valley Marketplace, Oro Valley Hospital and Innovation Park. The development of these regional commercial, service and employment uses are changes that support the amendment to provide a mixture of housing and commercial uses to complement the employment and healthcare uses within the immediate area.

The applicant further contends that the lack of Town and other agency interest in acquiring the property is a change which supports the amendment. Staff agrees that the development of regional commercial, healthcare and employment opportunities in the vicinity are changes which support reconsideration of the planned land uses and policies on the property. The concern for conservation of sensitive resources has not changed. The lack of activity to acquire the property also is a significant change which supports updating the land use plan.

2. **The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.**

Applicant Response: *As previously mentioned in this application, this site is proposed as a multiple use development, consisting of residential, commercial, office and open space uses. It will assist in maintaining and adding to the high quality of life in Oro Valley by providing quality and diverse types of housing (this project objective is consistent with the Goals and Policies in the Housing Element of the General Plan), commercial services and jobs, thereby maintaining and improving the social well being of the community and its residents. Consistent with the Goals and Policies of the General Plan, this community will be a high quality neighborhood.*

This property is located in an area that is relatively close to existing infrastructure capable of supporting the proposed development. Both dry and wet utilities are in the area and can be extended to the property. Oracle Road and Tangerine Road are capable of handling additional traffic volume in this area. The Arizona Department of Transportation (ADOT) is in the process of preparing construction documents to make improvements to Oracle Road from Tangerine Road north to the Pinal County line. Improvements will include widening Oracle Road from two

to three lanes, raised center medians, traffic signal improvements, a shared use path and noise walls. These improvements will enhance safe ingress and egress to and from the property.

During the General Plan amendment process, the property will be analyzed and address the provisions of the Environmentally Sensitive Lands Ordinance (ESLO) of the Town of Oro Valley. A professional environmental consultant has been hired to prepare an environmental review report to address the current biological conditions of the property as it relates to the ESLO. Based on the findings of this report, the property will be assigned land use designations in accordance with ESLO. This analysis of the property addresses some of the applicable Goals and Objectives in the Open Space and Natural Resource Conservation Element of the General Plan.

> Staff Comment: Staff would generally agree that the addition of housing in this area would support the existing employment uses and add to a sustainable, balanced land use mixture. The environmental resources on this site are significant and the revised plan retains the Significant Resource Area designation and/or establishes an Open Space designation on the most sensitive areas of the site.

3. The proposed change reflects market demand which leads to viability and general community acceptance.

Applicant Response: *The current land use designations in the Oro Valley General Plan and the Pima County Comprehensive Plan, as well as the current Pima County zoning districts, are not consistent with the development vision for this property and are not aligned with market demand.*

Resort/ Golf Course

Approximately 24 acres of this property is designated by the Oro Valley General Plan as Resort/Golf Course. This acreage is not sufficient for an 18-hole golf course and golf course operators have not pursued this property as a potential site for a golf course. In fact, there is evidence that the golf courses in Oro Valley may not receive enough play to support them. For instance, the Golf Club at Vistoso is in foreclosure after the owner defaulted on a loan. A resort on this property is not currently demanded by the market or resort developers. Also, the Hilton El Conquistador resort is located near this property, lying approximately 3 miles to the south. Due to the site's close proximity to the Hilton El Conquistador, and due to the lack of consumer demand for additional resort hotels in Oro Valley, this site is not a logical one for a resort hotel. Furthermore, the demand for resort accommodations in the area is already served by other resorts within the region, including Westward Look, La Paloma and the Ritz-Carlton at Dove Mountain. The area on the site designated for the resort also does not make

sense from a physical land use perspective. This area contains some of the most significant topographic relief on the property, with areas of slope exceeding 25%. As such, this area would be challenging to develop as a resort site.

Neighborhood Commercial/ Office

The Neighborhood Commercial/Office land use designation in the Oro Valley General Plan on this property consists of approximately 31 acres. With the introduction of the Oro Valley Marketplace, the overall need for commercial at the intersection of Oracle Road and Tangerine has been reduced, and 31 acres of commercial is no longer needed on this property. Commercial is still appropriate for a portion of this property, but on a smaller scale. The commercial area on this site is anticipated to fulfill a different commercial need for the community. It is anticipated to contain higher end restaurants, boutique retail shops and perhaps provide venues that offer the community some night life. Also, commercial services, particularly those envisioned for this project, are encouraged in the General Plan in order to provide conveniently located services and amenities, as well as a means of contributing to the financial stability of the Town of Oro Valley through the generation of sales tax revenue.

Low Density Residential

This property is capable of supporting higher densities of residential, particularly in areas closer to Oracle Road and in areas that contain slopes of less than 15% (which comprises approximately two-thirds of the site). With the introduction of the Oro Valley Marketplace and Innovation Park, the general area is developing in an intense manner capable of accepting higher density residential development. As previously mentioned, both wet and dry utilities are in relatively close proximity to the site; however, they are generally not adjacent to the site and must be extended in order to reach the site. In fact, the majority of existing utilities are located west of Oracle Road and boring beneath the road will be required to extend utilities to the site. The cost of extending utilities to the site is high and increased levels of density are required in order to pay for the infrastructure and make the project viable.

> Staff Comment: Staff is in general agreement with the applicant's analysis relative to the flat market demand for resort / golf course and the reduced demand for retail commercial due to the proximity of the Oro Valley Marketplace and Stream Pump Ranch commercial developments. Staff questions the sustainability of an additional golf course and supports its removal. In terms of the residential components, staff believes there will be market demand for new and diverse housing types in proximity to the Town's employment core area at Innovation Park within the next 3 to 5 years.

4. **The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.**

Applicant Response: *This amendment is the first step in the entitlement process for this property. Following the amendment to the General Plan, the property is anticipated to be annexed into the Town of Oro Valley and likely at the same time, a Planned Area Development (PAD) would be prepared and processed to rezone this property for the intended uses. The General Plan encourages annexations that are economically beneficial to the Town, and this project would certainly meet that objective. While the General Plan amendment will provide some general guidance with regard to the development strategy for this property, the primary regulations governing its development will be included within the PAD. The PAD will encourage innovative site planning and address such major issues as follows: variety of land uses, variety of lot sizes, landscaping, grading, open space, vehicular and pedestrian circulation and phasing of development. Once the PAD is approved, then the development of the site would be implemented through the platting and/or development plan process.*

These processes discussed above involve public input where surrounding property owners will be actively involved in the planning process to ensure that their input is received and concerns are addressed. More specifically, there are two primary issues concerning this property and its interface with adjacent properties. The first involves Talante Estates, a cluster of low density single family residential lots located to the southwest of the property. The property owner and its consultants have already begun working with these adjacent property owners to plan for appropriate buffers and/or lot size transitions between these lots and the subject property. This would meet the applicable Goals and Objectives of the Housing Element of the General Plan which include the provision of appropriate transitions between neighborhoods. The second issue is related to Catalina State Park, which borders the property on three sides. We will be working with Arizona State Parks to discuss the interface between the two projects.

Staff Comment: Given the sensitivity of the property, portions of the site are being retained as SRA and/or preserved through an Open Space designation. The residential development needs to be planned in a manner that recognizes and complements the natural setting. The applicant has developed mitigation measures including lot size and number requirements, buffer yard and building height limitations to address and mitigate project impacts to the existing residential area.

GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

This amendment proposal has been reviewed in light of the General Plan Vision and all applicable General Plan goals and policies. The following Policies are notable for this application. Several General Plan policies are shown in italics followed by staff's commentary:

General Plan Vision

To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town.

Applicant Response: *The Desert Springs project will assist Oro Valley in achieving their Vision for the Future. The project is envisioned as an opportunity to plan and develop a project that will implement several sustainable growth principles contained in the Oro Valley General Plan, to complement the Town's vision of attracting and supporting a broader tax base and providing development that will support technology/bioscience companies and their work forces. The development of this project will translate these principles into reality, and contribute to a stable Town environment and provide the type of diverse community that makes Oro Valley desirable and attractive.*

The Desert Springs project will involve a multiple use village concept that incorporates neighborhood retail, professional office, passive recreation and a diversity of housing opportunities. This mixture of land uses will serve well those wishing to live in Oro Valley in the immediate future, providing them with a unique setting where one might live, work, shop and play. Since the project will be constructed using high quality materials and will adhere to applicable codes and standards for its buildings, roads, utilities and other site facilities, it will endure time and provide this unique lifestyle for generations to come.

This project will also be considerate of the environmental and cultural resources on the site and development will be clustered in the areas of the site that are most suitable for development. Where appropriate, significant land forms, such as steeper slopes or ridge tops, will remain in their natural condition. As a result, balance will be achieved between the built and natural environment. This balance will afford the future residents of the Desert Springs community, and the greater community of Oro Valley, the opportunity to live in a truly unique place.

Staff Commentary: The development of additional residential areas to serve regional commercial and the Town's employment core is important to the development of a well-planned and balanced community. Environmentally sensitive design is intended by the applicant to ensure that the project design conserves the important environmental resources, which aligns with the community vision for environmental excellence. Appropriate zoning controls will be important in achieving optimal residential and grading designs.

General Plan Policies

The request was analyzed for conformance with applicable General Plan Policies as follows. Staff commentary is provided following the applicable policies.

Policy 1.1.1. The Town shall promote clustering of development to protect environmentally sensitive areas and to preserve significant, passive use, natural open space within residential neighborhoods…

Policy 1.1.3. The Town shall continue to avoid development encroachment into washes, riparian areas, designated natural open space and environmentally sensitive lands…

Staff Comment: The above policies suggest approaches to protect environmentally sensitive areas. The retention of the SRA designation and Open Space designation on sensitive portions of the property will enable more detailed analysis of these areas during the rezoning stage of development to ensure the environmental resources on the property are designed sensitively and/or preserved.

Policy 1.2.1 The Town shall encourage the location of residential neighborhoods close to activity centers compatible with residential uses, and visa versa.

Policy 7.3.1 To the extent feasible, given the high land costs, The Town shall encourage the development of a variety of residential choices consistent with the Land Use Element to meet the housing needs of employees of existing and future Oro Valley employers.

Staff Comment: The property is immediately east of Innovation Park, the Town's primary employment core. Proximity of new residential will support this important employment center.

Policy 1.3.6 The Town shall encourage new developments to incorporate accommodations for non-motorized travel in their design.

Staff Comment: The applicant has incorporated several Special Area Policies which serve to implement this General Plan policy.

Policy 1.1.2. *The Town shall continue to consider development impacts on natural rolling terrain and emphasize low-density developments in these areas. This will include evaluating areas with 15 percent and greater for development compatibility and safety, with the possibility of preserving them as natural open space.*

Policy 2.1.5. *The Town shall continue to require that all development proposals employ design strategies that minimize changes to existing topography and the disturbance of existing vegetation.*

Staff Comment: The revised Land Use Plan, SRA boundary and Open Space designations are consistent with the above referenced policies.

Policy 1.4.2. *The Town shall continue to ensure that zoning near natural open space, parks, washes, trails, trailheads, schools, recreation areas, Tortolita Mountain Park, Catalina State Parks and Pusch Ridge Wilderness provides adequate buffers and compatible uses.*

Staff Comment: The distance and intervening vegetation between the campgrounds for the Catalina State Park and the proposed development provide an adequate functional and visual buffer to the proposed low density residential area. Additional vegetative screening may be necessary to minimize visual impact in key locations and is best assessed during the rezoning process.

Policy 7.1.1. *The Town shall continue to strive to protect the integrity and aesthetic context of existing neighborhoods through the use of appropriate buffers or other means of land use transition between incompatible uses.*

Policy 7.2.3. *The Town shall allow and encourage master planned communities that offer high-quality neighborhoods with a variety of residential densities and appropriately located commercial uses to serve the community. In these developments, ensure there are adequate transitions and buffers between uses.*

Staff Comment: The mitigation measures proposed by the applicant including natural landscape area, lot count limitations and building height limitation provide adequate transition between the proposed development and the adjacent residential area. The zoning process should ensure buffering is adequate for adjacent residential and park areas.

Policy 10.1.3 *The Town shall continue to consider the potential effect of development projects on significant prehistoric and historic resources during the planning and design processes…*

Staff Comment: Retention of the SRA designation and Open Space designation on portions of the site containing sensitive resources including historic and archeological resources addresses this policy.

Pima County
Development Services

Carmine DeBonis Jr.
Director

Office: 520.740.6506
fax: 520.740.6878

August 7, 2012

Planning Department Town of Oro Valley
Attn: Chad Daines
11000 N. La Canada Drive
Oro Valley, AZ 85737

Subject: OV1112-002 Desert Springs Major General Plan Amendment

Dear Mr. Daines:

Thank you for the opportunity to review the proposed General Plan Amendment. The proposed Amendment contains Special Area Policies that can promote innovative, flexible, and progressive development, such as the regional transit, pedestrian, and bicycle connectivity policies. It is possible that development under the proposed Amendment could lower the intensity of development after annexation by the Town below that allowed under the current designation in the Oro Valley General Plan by removing the Resort/Golf Course designation and by reducing the acreage of the Neighborhood Commercial/office designation. However the amendment could also have the opposite effect and result in an increase in the intensity of development. We recognize that the Town has development regulations in place, such as the Environmentally Sensitive Lands Ordinance, to allow development to occur in a manner that protects environmental and cultural resources while protecting resident's quality of life. However, since this will be developed as a Planned Area Development (PAD), many of the elements of the Town's development regulations will not be determined until the final approval of the PAD. The final level of development is still unknown. The County has concerns about the intensities of development that would be allowed over what is now approved by the County on the site. The following comments have been compiled from County Departments for your consideration when reviewing the proposed General Plan Amendment:

PLANNING REPORT

Description of Proposed Amendment

The subject property is currently within the jurisdiction of Pima County. The Town of Oro Valley included the area in the 2005 Oro Valley General Plan. The proposed General Plan Amendment changes the current Town designations of Resort/Golf Course to Medium Density Residential (2.1-5.0 DU/AC), Low Density Residential (1.3-2.0 DU/AC) to Medium Density Residential (2.1-5.0 DU/AC), and a portion of Neighborhood Commercial/Office to High Density Residential (5+ DU/AC) and lastly changes another portion of the Neighborhood Commercial/Office to a Medium Density Residential.

The amendment is in anticipation of annexation of the subject property by the Town, a rezoning within the Town to Planned Area Development (PAD), preliminary to development of the subject property as commercial, apartments, and single-family residential land uses.

The Special Area Policies that are part of the Amendment require the adoption of PAD zoning with a maximum of 194 units in the High Density Residential (HDR) designation and 299 units in the Medium Density Residential (MDR) designations. The Policies will also provide for grading on slopes, require transit connectivity by providing for future transit stops on Oracle Road, and require pedestrian, bikeways, and trails to connect to adjacent uses and to the Catalina State Park.

Oro Valley General Plan

The proposed Amendment and subsequent proposed development are not consistent with the Land Use Standards of the General Plan. The subject property is designated as a Significant Resource Area (SRA) on the Oracle Road Overlay Zoning and General Plan Significant Resources Areas Map. Page 33 of the General Plan states that development in an SRA should be at the "lowest densities allowable" by the underlying designation. The Conceptual Land Use Plan indicates that development in the residential areas at the highest possible density. The subject property is subject to a General Plan Special Area Policy on Page 36, the Kelly Ranch Special Area Policy, which states that the Town will "seek" to acquire the property and to maintain the SRA status. Consistent with this, the Town had also identified the conservation of this property as a priority in the 2004 Bond Program. Additionally, a list of priority projects for the future bond election was developed and adopted by the Town Council in April 2007. This property was ranked as the highest priority for conservation. The proposed Plan amendment does not propose an amendment to these sections of the Plan, or place limits on intensity of development, or mitigate development consistent with Plan policies.

Oro Valley Zoning Code - Environmentally Sensitive Lands (Section 27.10)

As previously noted the subject property is not currently within the Town limits but will be subject to the Oro Valley Zoning Code after annexation, including the Environmentally Sensitive Lands (ESL) requirements. The stated purpose of the ESL is to conserve the Town's natural, scenic, hillside, and cultural resources. Application materials indicate that the amendment process will include determining the appropriate ESL map designation(s). The designations will in turn determine conservation requirements to be applied to future development. The biological and natural resource aspects of the ESL provide definitive evidence to conclude that the entire site fulfills the criteria for Core Resource Area designation and that a restricted area in the northeast quadrant should be designated as a Major Wildlife Linkage. Characteristics of the site that support these designations are:

- Its status under the Conservation Lands System (CLS) as adopted by the Board of Supervisors in June 2005.
- The presence of Special Status Species Habitats for five or more priority vulnerable species; and
- Its relationship to documented wildlife linkages. (Survey information regarding the presence of Distinctive Native Plant Stands was unavailable for review at this time.)

In addition, comments from Pima County's Cultural and Historic Preservation Division clearly establish the cultural and archaeological richness of the site and identify those resources needing further attention should the development process continue.

ESL criteria (Section 27.10.D.3.c.i. and iii.) clearly define *all* areas designated as Biological Core Management Area in the Pima County CLS, as adopted by the Board of Supervisors in June 2005, as ESL Core Resource Areas. With its adoption of the CLS in June 2005, the Board designated the site as Biological Core Management Area. Certain areas were also designated as Important Riparian Area. Along with CLS status, areas with Special Status Species Habitats, as defined in Addendum G, Section 2 (attached), that include five or more priority vulnerable species are to be defined as Core Resource Areas. The site contains five of the eight types of Special Status Species Habitats listed in attached Addendum G and, according to Sonoran Desert Conservation Plan habitat models, provides high value habitat for at least 13 priority vulnerable species. Clearly, the site exceeds the threshold of habitat for five or more priority vulnerable species.

Regarding the site's relationship to documented wildlife linkages and designation as ESL Major Wildlife Linkage, ESL criteria (Section 27.10. D. 3.a.i. and iii) define Major Wildlife Linkages as those areas that provide documented linkages between public preserves and opens spaces as well as those that are included in the Santa Catalina – Tortolita Mountains linkage and regional roadway crossings. The following provide evidence that the site meets the criteria for designation as a Major Wildlife Linkage:

- A strip of up to nearly 300 feet running along the northeastern boundary falls within the Santa Catalina – Tortolita Mountains linkage[1].
- The December 2006 Arizona Game and Fish report, *Wildlife Mortality and Corridor Use near Highway 77, Oro Valley to Catalina, Pima County, Arizona,* further documents that the general area is an important wildlife linkage and is a 'hot spot' for wildlife attempting to cross SR 77.
- Recent photographic evidence collected by the Coalition for Sonoran Desert Protection as part of their current monitoring project along SR 77 demonstrates that a diversity of wildlife use the area as a movement corridor between the National Forest and Catalina State Park to open space areas west of SR 77 including the Tortolita Mountains and Big Wash. Within only a few months, at least 23 different species have been observed moving through the area, with 15 different mammal species that include deer, javelina, mountain lion, coyote, and badgers.
- The Regional Transportation Authority in 2009 awarded the Arizona Department of Transportation $8.2 million to incorporate three wildlife crossing structures (including sound walls, wildlife exclusionary fencing, and cattle guards) into their SR 77 widening project between Tangerine Road and the Pinal County line. This project is currently in the planning stages and is scheduled for construction in 2014 (The amendment site is located at the southern terminus area of this project and will, if not planned appropriately, have a profound adverse impact on the success of the southern-most crossing structure.)

[1] Beier, P.E., E. Garding, and D. Majka. 2006. Arizona Missing Linkages: Tucson-Tortolita-Santa Catalina Mountains Linkage Design. Report to Arizona Game and Fish Department. School of Forestry, Northern Arizona University.

Based on strict application of the ESL, it would appear that the entire site is subject to designations that require significant amounts of Environmentally Sensitive Open Space. The currently proposed concept plan does not appear to incorporate nearly the amount of open space necessary to comply with the ESL. Any reconfiguration of the open space needs to accommodate ESL open space thresholds and recognize the site's relationship to a critical wildlife crossing

Pima County Comprehensive Plan

The subject property is designated as Resource Transition (RT). The designation was adopted in 1992, after a 1990 rezoning approved a change in zoning on portions of the subject property from Suburban Ranch (SR) to Rural Village Center (RVC), Major Resort (MR). Only SR and MR is consistent with the RT designation. Any development within the County under existing zoning would not be subject to the Comprehensive Plan and by extension the RT designation or the CLS guidelines.

Previous Rezoning History

A rezoning application was submitted to Pima County to change portions of the subject property from Suburban Ranch (SR) zoning designation to Major Resort (MR), Rural Village Center (RVC) and General Business (CB-1) to allow the development of a resort, eight single family homes, and two commercial shopping centers on 75 acres.

The rezoning request was contentious and attracted opposition from private organizations, private citizens, and public municipalities, including the Town of Oro Valley (see attached letter), who felt that the proposed development was too intensive in a sensitive environmental area close to the Catalina State Park and to significant wildlife habitat and movement corridors.

The proposed rezoning was located within the Pima County Buffer Overlay Zone (BOZO). In 1990 only parcels larger than 80 acres were subject to restrictions on rezoning imposed by the BOZO section of the Pima County Zoning Code (the Code was amended to remove the size limitation on parcels requesting a rezoning). The Board initially approved only the MR and RVC requests and denied CB-1. Two weeks later the Board reversed its decision on the CB-1 denial and approved CB-1 zoning. A referendum was placed on the November 1990 election ballot after a court determination that the required number of signatures on a petition requesting the referendum was valid. The result of the election was that the CB-1 rezoning was overturned with 147,892 opposed and 37,569 in support.

A rezoning time extension was approved by the Board on October 10, 1995 to allow additional time for the owner to satisfy the conditions of the rezoning approval.

On November 21, 1995 the Board adopted Ordinance 1995-100 memorializing the rezoning approval and the conditions of approval.

Conditions, Covenants and Restrictions were recorded with the County Clerk on May 15, 1998 and a block plat was approved by the County and recorded on June 5, 1998 to satisfy rezoning conditions and the rezoning case was closed by issuing a Certificate of Compliance.

Current County Approved Development

The current approved development within the County contains the following (but is not limited to) the following restrictions;

1. No access is allowed into Catalina State Park (the Oro Valley amendment documents show access to the Park through the southern boundary)
2. Restoration of the SR zoned properties to a natural state, excepting the areas to be developed
3. Commercial uses within RVC cannot include car parts stores, hardware stores, ice stations, library, fish, meat, or poultry markets, self-serve car washes, or laundromats
4. Grading is limited to 30% of the site
5. No single commercial building in the RVC portion can exceed 40,000 square feet

In addition, the block plat restricts the amount of grading on each block (which is allowed to be changed administratively by modifying the plat as long as total grading does not exceed 30% of the rezoned area) as follows:

BLOCK	TOTAL ACRES	AREA TO BE GRADED	
1	4.93 AC.	1.70 AC.	
2 (MR PORTION ONLY)	31.29 AC.	13.51 AC.	
2 (SR PORTION ONLY)	N/A (12.09 AC.)	N/A TO GRADING CALCULATION	
3	13.06 AC.	7.27 AC.	
4	12.76 AC.	.87 AC.	
5	34.[illegible] AC.	4.84 AC.	
TOTAL	96.22 AC.	28.19 AC.	% GRADED = 29.2

The block plat restricted grading to less than 30% of the site within the 96.22 acres of the rezoning site. The amount of open space that will be provided as shown on the proposed Conceptual Land Use Plan is almost a mirror image with less than 30% open space to be preserved.

Pima County Transfer of Development Rights

The subject parcel is designated by the County Zoning Code as within a Transfer of Development Rights Sending Area (TDR-SA). Pima County added Chapter 18.92 (Transfer of Development Rights) to the County Code to allow property owners to sell development rights of parcels within a mapped Sending Area to owners of properties within mapped Receiving Areas. The purposed transfer of development rights was adopted to provide the opportunity for owners of properties with environmental or other resources to protect that property from development while also being able to realize economic benefits from the property. The designation of the subject property as a TDR Sending Area recognized the benefits of conserving this site.

REGIONAL FLOOD CONTROL DISTRICT REPORT

Staff has reviewed the proposed amendment and has the following comments:

1. The site includes fragmented areas of Important Riparian Habitat. Avoidance is encouraged. Sensitive site design may help mitigate the impact on these areas and enhance the viability of the important associated wildlife corridor.

2. Water levels in the area have declined in the last 10 years 4-6 ft./yr, according to the Arizona Department of Water Resources data from a City of Tucson observation well near 1st and Oracle. Any groundwater pumping will have the potential to negatively impact riparian habitat both on and off-site. The Sutherland Shallow Groundwater Area (SGWA) is about 4500 feet east of the site and the closest Oro Valley Water Company (OV) supply well is approximately ½-mile southwest of the site. Additional pumping of this well may have an effect on the Sutherland SGWA of increasing the water decline in the area. Minimizing the amount of additional water pumped from this well is critical. Recently, OV has contracted with Tucson Water to wheel recharged CAP water in parts of its system which should help to reduce the water level declines.
3. Increases in site runoff and decreases in recharge associated with increased impervious surfaces and the channelization of storm water surface flows should be mitigated using low impact site design and water harvesting to ensure the continued viability of connected natural resources.
4. Much of the site drains across the CDO geologic floodplain without a defined outlet. The District recommends that the site be treated as a balanced basin, at a minimum, in order to prevent an increased flood risk downstream within the County.
5. Staff recommends that EPA water sense toilets at 1.28 gallons per flush (gpf), low flow faucets, and LEED indoor and outdoor water conservation standards be applied to the maximum extent possible. Passive water harvesting of the commercial and apartment rooftops and parking lots for landscape irrigation is also recommended. A water conservation plan should be presented to the Town of Oro Valley at the time of rezoning to demonstrate an overall reduction in water demand for all commercial and residential uses.

OFFICE OF SUSTAINABILITY – CULTURAL RESOURCES REPORT

Currently, the land is occupied by a single-family residence and guest house designed by the well-known and historically important architect, Josiah Joesler. Since the "Joesler House" was constructed in 1940, it exceeds 50 years in age and requires consideration as an historic property under the eligibility criteria of the Arizona and National Registers of Historic Places (ARHP and NRHP). Most of the property remains vacant, under the Pima County low-density zoning districts of Rural Village Center Zone, Suburban Ranch Zone, and Major Resort Zone.

Records Search Results: A search by staff of Pima County cultural resources' records reveals that the subject property is located within an archaeologically and historically rich area. The area is designated by the Sonoran Desert Conservation Plan to have High Archaeological Sensitivity because of the proximity of archaeologically important reaches of the Cañada Del Oro Wash and a major tributary, the Big Wash. All or portions of three archaeological sites are recorded within the property. They include AZ BB:9:213, AZ BB:9:319, and AZ BB:9:320 (all ASM). Three recorded linear sites are immediately adjacent to the west side of the property within and near the alignment of Oracle Road, They include the historic alignment of State Route 80 (recorded as linear site, AZ FF:9:17[ASM]), the Cañada Del Oro Site (AZ BB:9:41[ASM]), and site AZ BB:9:385(ASM). Several other sites are also recorded in the vicinity, but outside the property. The records search identified that the northern portion of the subject property was previously surveyed for cultural resources as part of the Desert Springs Survey conducted in 1997 (Project #1997-311.ASM). The Catalina State Park Survey,

conducted by the State Historic Preservation Office in 1987 (Project #1987-123.ASM), provides information about two additional archaeological sites in lands to the south-southwest of the subject property, adjacent to the southern portion of the subject property, which has not been surveyed for cultural resources (including most of parcel #222-46-016; approximately 34.7 acres).

The subject property was formerly identified as the Kelly Ranch, a 2004 Pima County Bond issue proposed acquisition of the site on behalf of the Town to preserve its important historic resources, including the recorded archaeological sites and the historic "Joesler House." The Pima County Office of Sustainability and Conservation (PC-OSC) has long identified the rich cultural and historic heritage preserved in these resources for protection, preservation, and conservation.

Preserving the historic heritage need not unduly limit development, and a compromise between preservation and development can be reached by avoiding impacts to historic resources and/or minimizing impacts on the resources when ever and where ever possible. Avoidance of impacts to cultural resources and adaptive use of historic buildings are strategies preferred by PC-OSC to limit or minimize impacts on resources.

Recommendations: The archaeological and historic resources should be evaluated to determine their significance and integrity so that eligibility for listing on the ARHP and NRHP can be identified. The "Joesler House" should be recorded using a Historic Property Inventory Form so that it may be evaluated to determine whether it meets local, regional, or national levels of significance to determine its eligibility for listing.

Should the Town proceed with annexation and rezoning to support future development, it should implement its cultural resources ordinance and require development to meet the provisions of a revised General Plan Amendment that honors the area's rich heritage and avoids significant cultural and historic resources by limiting development to a lower density and less intense use to allow for preservation, conservation, and adaptive use or continued residential use of the Joesler house and other important historic resources within the property.

In particular, it is important to avoid impacts to the "Joesler House" and other resources identified to be eligible for listing on the ARHP and NRHP. In some cases, it may not be possible to avoid all impacts and construction will proceed. In these cases, appropriate mitigation measures should be taken to recover and preserve the historic information contained in the impacted resources before construction begins. Such measures should initiate with comprehensive cultural resources survey to identify and evaluate the significance of all archaeological and historic resources within the subject property.

It is recommended that prior to ground modifying activities, an on-the-ground Class III archaeological and historic sites survey should be conducted on the subject property to confirm site locations and fully record these sites. A cultural resources mitigation treatment plan for any identified archaeological and historic sites on the subject property should be submitted at the time of, or prior to, the submittal of any tentative plat or development plan. The treatment plan should be implemented before construction begins, and all work should be conducted by an archaeologist, architectural historian, or other cultural resources professional, and permitted by the Arizona State Museum.

REGIONAL WASTEWATER RECLAMATION DEPARTMENT REPORT

The project site is within the area served by the Pima County's public sewer system and is tributary to the Ina Road Wastewater Reclamation Facility via the Canada del Oro (CDO) Interceptor. The nearest existing public sewer consists of the 8 to 10-inch lines serving the Market Place commercial center on the west side of Oracle Road, and a 21-inch trunk line conveying flows southerly to the CDO Interceptor.

The Pima County Regional Wastewater Reclamation Department (PCRWRD) offers the following comments/conditions should the Town of Oro Valley be inclined to approve this plan amendment:

1. The property owner will be required to construct a public sewer extension to serve the subject property. The use of a pumping station is generally discouraged unless otherwise the public sewer is inaccessible by gravity.
2. The owner / developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the plan amendment area until Pima County executes an agreement with the owner / developer to that effect.
3. The development will be required to connect to the existing public gravity sewer in Oracle Road south of the project site.
4. The owner / developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department that treatment and conveyance capacity is available for any new development within the plan amendment 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 Pima County Regional Wastewater Reclamation Department.
5. The owner / developer shall time all new development within the plan amendment area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
6. The owner / developer shall connect all development within the plan amendment area to Pima County's public sewer system at the location and in the manner specified by the Regional Wastewater Reclamation Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
7. The owner / developer shall fund, design and construct all off-site and on-site sewers necessary to serve the plan amendment area, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
8. The owner / developer 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 plan amendment area.

SUMMARY OF RECOMMENDATIONS

If the Town Council approves this General Plan Amendment, Pima County recommends the following, given that the site is subject to the ESL and subject to Core Resource Area and Major Wildlife Linkage designations for substantial preservation of undeveloped open space, and that it is the subject of previous and long-standing opposition to intensive land uses (including the Town's historic opposition) for this site and is located adjacent to a regionally-important, publicly-supported wildlife crossing project;

Planning

1. Reconfigure the Concept Plan to maximize the provision of required Environmentally Sensitive Open Space on the northern and northeastern portions of the site to preserve known wildlife movement corridors.
2. Coordinate with the U.S. Forest Service and Catalina State Park personnel to determine and apply appropriate buffers to Catalina State Park.
3. Prohibit internal access to Catalina State Park, unless approved by Park managers..
4. Prohibit planting of exotic and/or invasive species that could spread and adversely impact the watershed and downstream habitats.
5. Give consideration to the existing approved development within Pima County for this site and the existing restrictions and conditions, including the restriction to limit grading to less than 30% of the site within the 96.22 acres of the rezoning site.

Flood Control

1. The site includes fragmented areas of Important Riparian Habitat. Avoidance is encouraged. Sensitive site design may help mitigate the impact on these areas and enhance the viability of the important associated wildlife corridor.
2. Water levels in the area have declined in the last 10 years 4-6 ft./yr, according to the Arizona Department of Water Resources data from a City of Tucson observation well near 1st and Oracle. Any groundwater pumping will have the potential to negatively impact riparian habitat both on and off-site. The Sutherland Shallow Groundwater Area (SGWA) is about 4500 feet east of the site and the closest Oro Valley Water Company (OV) supply well is approximately ½-mile southwest of the site. Additional pumping of this well may have an effect on the Sutherland SGWA of increasing the water decline in the area. Minimizing the amount of additional water pumped from this well is critical. Recently, OV has contracted with Tucson Water to wheel recharged CAP water in parts of its system which should help to reduce the water level declines.
3. Increases in site runoff and decreases in recharge associated with increased impervious surfaces and the channelization of storm water surface flows should be mitigated using low impact site design and water harvesting to ensure the continued viability of connected natural resources.
4. Much of the site drains across the CDO geologic floodplain without a defined outlet. The District recommends that the site be treated as a balanced basin, at a minimum, in order to prevent an increased flood risk downstream within the County.

5. Staff recommends that EPA water sense toilets at 1.28 gallons per flush (gpf), low flow faucets, and LEED indoor and outdoor water conservation standards be applied to the maximum extent possible. Passive water harvesting of the commercial and apartment rooftops and parking lots for landscape irrigation is also recommended. A water conservation plan should be presented to the Town of Oro Valley at the time of rezoning to demonstrate an overall reduction in water demand for all commercial and residential uses.

Cultural Resources

1. Archaeological and historic resources on the subject property should be evaluated to determine their significance and integrity so that eligibility for listing on the ARHP and NRHP can be identified.
2. The General Plan as amended should honor the area's rich heritage and avoid significant cultural and historic resources and allow for avoidance, preservation, conservation, and adaptive use of the Joesler house and other significant resources.
3. Prior to ground modifying activities, an on-the-ground Class III archaeological and historic sites survey should be conducted on the subject property to confirm site locations and fully record these sites. A cultural resources mitigation treatment plan for any identified archaeological and historic sites on the subject property should be submitted at the time of, or prior to, the submittal of any tentative plat or development plan. The treatment plan should be implemented before construction begins. All work should be conducted by an archaeologist, architectural historian, or other cultural resources professional, and permitted by the Arizona State Museum.

Wastewater

1. The property owner will be required to construct a public sewer extension to serve the subject property. The use of a pumping station is generally discouraged unless otherwise the public sewer is inaccessible by gravity.
2. The owner / developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the plan amendment area until Pima County executes an agreement with the owner / developer to that effect.
3. The development will be required to connect to the existing public gravity sewer in Oracle Road south of the project site.
4. The owner / developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department that treatment and conveyance capacity is available for any new development within the plan amendment 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 Pima County Regional Wastewater Reclamation Department.
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6. The owner / developer shall connect all development within the plan amendment area to Pima County's public sewer system at the location and in the manner specified by the

Regional Wastewater Reclamation Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.

7. The owner / developer shall fund, design and construct all off-site and on-site sewers necessary to serve the plan amendment area, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.
8. The owner / developer 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 plan amendment area.

Thank you for the opportunity to review the proposed General Plan Amendment. County staff hopes these comments assist you in your deliberations. If you need further information, please contact Daniel Signor at daniel.signor@pima.gov or by phone at 740-6792.

Sincerely,

Chris Poirier
Assistant Planning Director
Pima County Development Services

---

c: C.H. Huckelberry, County Administrator
Diana Durazo, Special Staff Assistant to the County Administrator

2. Special Status Species Habitat

Special Status Species Habitat is comprised of the following:

a. Breeding, foraging, cover, and dispersal habitat for common and special-status species as designated by Pima County at the time of adoption of this ordinance.

b. Wildlife habitat includes all areas identified as Significant Vegetation, Rock Outcrops and Boulders, Riparian Areas, Distinct Habitat Resources or Major and Minor Wildlife Linkages.

c. Pima County Conservation Land System Biological Core and Important Riparian Areas.

d. Nature Conservancy Conservation Target #18 (Tortolita Mountains).

e. Priority Conservation Areas (PCAs) for Priority Vulnerable Species.

f. Designated Critical Habitat for ESA Threatened and Endangered species.

g. Sonoran Desert Conservation Plan Priority Vulnerable Species (AZ WFSC, and ESA T&E).

h. Habitat for threatened and endangered species, if designated, is to be regulated by State and Federal law.

TOWN OF ORO VALLEY ARIZONA

FOOTHILLS BUSINESS PARK 10900 NORTH STALLARD PLACE-SUITE 128-A
ORO VALLEY, ARIZONA 85737 (602) 797-9797

CLERK'S NOTE:
COPY TO SUPERVISORS
COUNTY MANAGER - PDS

DATE 4-26- 19 90 dk

April 24, 1990

Pima County Board of Supervisors
ATTN: Chairman Reg Morrison
130 W. Congress
Tucson, AZ 85701

RE : Co9-89-66 Pioneer Trust No. 11960 Oracle Road Rezoning
AKA Desert Springs Rezoning

Dear Mr. Morrison:

Mr. John Bernal, a representative of the owners of the Desert Springs parcel, has met with our Planning Staff, members of our Development Review Board, Planning Commission and our Town Council on three different occasions in order to solicit comments relative to the above-referenced rezoning which is currently in progress in Pima County. The Council and Staff were most appreciative for the opportunity to review and discuss a development project located in the County and adjacent to our Town limits. Projects of this type will have long-term impacts on both our jurisdictions.

We were quite happy to see that a large portion of the property is to remain SR and to be subdivided into eight ranchettes. We also feel that the MR, Major Resort, portion of this property to be the best possible land use, aside from the suburban ranchettes, adjacent to a State Park. The land use proposal for the major resort appears to be environmentally sound and the method of developing the resort in the valleys rather than on top of the ridges will minimize the impacts of this development on the State Park and to the Oracle Road highway.

The Rural Village Center, as presented, appears architecturally very attractive and, if developed in the manner presented, it should provide uses compatible to the resort. We are concerned, however, that the permitted uses listed in the Pima County Zoning Code for the RVC Zoning District differ very little from the CB-1 permitted uses in your code. It would be our recommendation that the Board of Supervisors limit the permitted uses within the RVC portion of this rezoning to those uses which are ancillary to a major resort use. We have included a copy of the permitted uses portion of the RVC center, as listed in the Pima County Zoning Code, and would respectfully request that you consider limiting the permitted uses in that area as noted.

E.J. "STEVE" ENGLE, Mayor CATHY HUFAULT, Vice Mayor CHERYL SKALSKY, Councilmember

We feel the CB-1 commercial portion of this proposal to be incompatible with a major resort and with the existing State Park land uses surrounding this project. Based on this fact, and the fact that there is much land along Oracle Road already slated for CB-1 type development, we would urge the Board of Supervisors to deny the CB-1 portion of this rezoning request and remand that portion of the rezoning back to the Planning and Zoning Commission for consideration as additional MR zoning.

The main project entry for this property is proposed to be aligned with the future Tangerine Road/Oracle Road intersection. Buildings and any other major improvements for this project should not be constructed within the area proposed for future right-of-way improvements associated with that intersection's construction and/or upgrades. The developer's 'fair share' costs relative to the project's proportionate use of that intersection should be required in the form of an impact fee.

The developer's presentation to our Council indicated that an existing ridge line was located between the Oracle Road right-of-way and the proposed commercial and RVC uses on this subject property. Further analysis of the proposal reveals, however, that the existing ridge line is quite limited and, in fact, the bulk of the highway frontage is taken up by large, open washes which extend beneath Oracle Road. These wash areas, rather than screening the proposed commercial development, actually provide large view corridors into the property. Therefore, it would also be our recommendation to the Board that additional berming be required along the right-of-way to block the view corridors into the project.

The Oro Valley Town Council is grateful for the opportunity to comment on the Desert Springs rezoning case. Your willingness to review and consider these comments is a clear demonstration of the continuing cooperation and communication between our jurisdictions.

Sincerely,

E. S. "Steve" Engle
Mayor
Town of Oro Valley

ESE:lmf

Cathy Hufault, Vice-Mayor
Did not sign due to conflict of interest

Bill Scroggins, Councilman

Steve Rennecker, Councilman

Cheryl Skafsky, Councilwoman

Lee Elliott, Councilwoman Elect

Ken Karol, Councilman Elect

B. Restaurant or tea room:

1. Including a cocktail lounge or bar in connection therewith:

2. Subject to the provisions of Section 18.43.030F (CB-1 Local Business Zone): and

3. But not to include drive-in restaurants. (Ord. 1985-82 (part), 1985)

18.41.040 Conditional uses.

Reserved.

18.41.050 Development standards—General.

A. Area:

1. The maximum area of each RVC zone shall not exceed twenty acres.

2. This area shall be apportioned as evenly as consideration of streets, topography and other unique factors affecting individual sites will permit.

B. Site coverage: All buildings within a site as shown on the development plan shall not cover more than twenty-five percent of the area of such site.

C. Yards:

1. No building shall be erected within one hundred fifty feet of the centerline of scenic routes as designated on the major streets and routes plan:

2. Buildings shall not be constructed within:

a. Twenty-five feet of any district zoned TR, nor

b. Seventy-five feet of any residential district.

D. Building height limitations:

1. Maximum height: Thirty-four feet:

2. Maximum stories: Two.

E. Screening: Refer to Section 18.73.100 (Landscaping Standards).

F. Parking and loading requirements: Refer to Section 18.75.050 (Off-street Parking and Loading Standards).

G. Signs: Refer to Section 18.79.050 (Sign Standards). (Ord. 1985-82 (part), 1985)

18.41.060 Development standards—Detached accessory buildings.

Reserved.

Chapter 18.43

CB-1 LOCAL BUSINESS ZONE

Sections:

18.43.010 Purpose.
18.43.020 Performance standards.
18.43.030 Permitted uses.
18.43.040 Conditional uses.
18.43.050 Development standards—Nonresidential.
18.43.060 Development standards—Residential.
18.43.070 Development standards—Detached accessory buildings.
18.43.080 Lot development option.

18.43.010 Purpose.

Reserved.

18.43.020 Performance standards.

A. All Section 18.43.030B uses shall be conducted wholly within a completely enclosed building unless otherwise specified and any use operating as a store, shop, or business shall be a retail establishment. All products produced on the premises shall be sold at retail on the premises.

B. Performance standards:

1. The following performance standards shall apply to the uses of Section 18.43.030H:

a. Noise or vibration: No noise or vibration shall be permitted which is discernible beyond the lot line to the human sense of feeling for three minutes or more duration in any one hour of the day between the hours of seven a.m. and seven p.m., or of thirty seconds or more duration in any one hour during the hours of seven p.m. to seven a.m.:

b. Smoke: No emission of smoke from any source shall be permitted:

c. Odors: No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be offensive in such a manner as

10. Bicycle shop: No sales or servicing of motor scooters or motorcycles;

11. Book store;

12. Cafe or lunchroom:

a. Provided no dancing is allowed and no alcoholic beverages sold except beer and wine,

b. The "patio" architectural design concept is allowed;

[redacted]

16. Cigar store;

[redacted]

19. Confectionery store;

20. Custom dressmaking, millinery, hemstitching or pleating;

21. Custom weaving or mending;

* 22. Dealers in coins, stamps or similar collector's items;

23. Delicatessen store: The "patio" architectural design concept is allowed;

[redacted]

29. Florist shop;

[redacted]

31. Gift, curio or novelty shop;

[redacted]

35. Ice cream store: The "patio" architectural design concept is allowed;

[redacted]

38. Jewelry and watch repair;

39. Jewelry store; *

40. Leather goods store;

[redacted]

45. Museum;

[redacted]

48. Office: Business, professional or semi-professional;

49. Photograph studio;

50. Photographic supply store;

51. Picture frame shop: The "patio" architectural design concept is allowed;

[redacted]

59. Tailor shop;

60. Toy or hobby shop;

[redacted]

* We recommend that no shutters, blinds, expanding gates, bars or other security devices in view of an observer be permitted.

NOTE: We would recommend that no outside display of merchandise be permitted.

18.40.030 Development standards.

A. Minimum Site Area. Twenty acres.

B. Maximum Density. One guest room per four thousand three hundred fifty-six square feet of site area.

C. Maximum Height. Thirty-four feet.

D. Maximum Site Coverage. Thirty-three percent of the site.

E. Minimum Site Setbacks. Fifty feet.

F. Landscaping, Buffering and Screening. Refer to Chapter 18.73 (Landscaping Standards).

G. Off-street Parking. Refer to Chapter 18.75 (Off-street Parking and Loading Standards).

H. Exterior Lighting. In accordance with the County Light Pollution Code (Title 15).

I. Signs. Refer to Section 18.79.050 O (Signs). (Ord. 1985-153 § 1 (part), 1985)

18.40.040 Development review.

A. Design Review. In accordance with Section 18.99.030 (Design Review Committee). Following the procedures of Section 18.71.050 (RVC Zoning).

B. Development Plan. In accordance with Chapter 18.71 (Development Plan). (Ord. 1985-153 § 1 (part), 1985)

Chapter 18.41

RVC RURAL VILLAGE CENTER ZONE

Sections:

18.41.010	Purpose.
18.41.020	Performance standards.
18.41.030	Permitted uses.
18.41.040	Conditional uses.
18.41.050	Development standards—General.
18.41.060	Development standards—Detached accessory buildings.

18.41.010 Purpose.

A. The purpose of this zone is to provide retail shopping facilities, planned and designed for the convenience and necessity of a suburban or rural neighborhood.

B. Such rural village centers shall be developed according to an approved plan and located in accordance with adopted neighborhood, community or area plans.

C. The regulations are designed to maintain the suburban character of duly designated commercial areas located along scenic routes as designated, and to provide safe ingress and egress to and from the village center. (Ord. 1985-82 (part), 1985)

18.41.020 Performance standards.

A. All Section 18.41.050A uses shall be conducted wholly within a completely enclosed building unless otherwise specified and any use operating as a store, shop or business shall be a retail establishment, and all products produced on the premises shall be sold at retail on the premises.

B. Architectural Review. Each development, building, addition and alteration within this zone shall be subject to review with regard to the architectural design in accordance with Section 18.71.050 (Development Plan Standards). (Ord. 1985-82 (part), 1985)

18.41.030 Permitted uses.

A. The following uses, as restricted in Section 18.41.020A:

1. Antique store;
2. Apparel store;
3. Art needlework or hand-weaving establishment;
4. Art store or gallery; The "patio" architectural design concept is allowed;

[redacted]

6. Bakery;
7. Bank;
8. Barber;
9. Beauty shop;

TOWN OF ORO VALLEY · ARIZONA ·

TELECOPIER COVER SHEET

DATE: 4/25/90

TO: NAME: Lori Hadoshian - Deputy Clerk

FIRM: Pima County

CITY/STATE:

TELECOPIER PHONE: 884-1157

FROM: NAME: Judy Deters

Town of Oro Valley
10900 N. Stallard Pl., Ste. 100
Oro Valley, AZ 85737

IF YOU DO NOT RECEIVE ALL PAGES, CALL: Judy

(602)297-2591
FAX NUMBER: (602)297-0428

TOTAL # OF PAGES (INCLUDING COVER PAGE): 6

FOOTHILLS BUSINESS PARK 10900 NORTH STALLARD PLACE-SUITE 128 A
ORO VALLEY, ARIZONA 85737 (602) 797-9797

March 8, 1990

Mr. Russ Sorenson
Pima County Planning and Development Services
130 W. Congress 9th floor
Tucson, AZ 85701

RE : Desert Springs Rezoning
Co9-89-66

Dear Mr. Sorenson:

This letter is in response to your request for input from the Town of Oro Valley Planning Department regarding existing and proposed land uses within the Rancho Vistoso Planned Area Development .

As I am sure you are aware, the Rancho Vistoso Planned Area Development lies directly west of the proposed Desert Springs rezoning. These two areas are separated by the Oracle Road/U.S. 89 Highway which has a 200 to 300 foot right-of-way. The Rancho Vistoso Planned Area Development was adopted by the Mayor and Council on August 6, 1987. That PAD included several General Policies which apply to the development of the entire Planned Area Development as well as a Tentative Development Plan approved with that rezoning. The proposed land uses directly west of the Desert Springs property include a combination of C-2, Regional Commercial zoning, Campus Park Industrial and undisturbed natural open space. The land uses south of the proposed Tangerine Road alignment with Oracle Road are C-2 Regional Commercial. The land uses north of this alignment are Campus Park Industrial. You should be aware that access into both of those zoned areas is internal from the rest of Rancho Vistoso. There are only three ingress/egress points along the west side of Oracle Road into Rancho Vistoso. One of these lies approximately 3,000 feet south of the Tangerine Road alignment and this access point will service the C-2 Regional Commercial areas. The second ingress/egress point along Oracle Road, Rancho Vistoso Blvd., lies approximately 4,500 feet north of the Tangerine Road alignment and is the major access to the project. The third access point will be Tangerine Road itself.

In addition to the Tentative Development Plan which outlines the previously described land uses, the PAD also included a series of general policies governing development within the Planned Area Development. Of special note is General Policy No. E 12a which states that, "There shall be a 100 foot natural area setback from the planned right-of-way line of Oracle Road".

I have included a copy of the General Policies for Rancho Vistoso for your information. In addition, I have included, for clarification purposes, a copy of the Development Plan for Rancho Vistoso which has been color-coded to show the land uses along Oracle Road. You may also find useful the Special Conditions for Rezonings checklist we currently use on all rezonings.

Planning staff has done a tentative review of the Desert Springs Site Analysis submitted to us by your department. The developers of Desert Springs have also met with our staff and have scheduled a study session with the Town Council for March 28, 1990. Planning staff would like to reserve comment on the proposed land uses and proposed specific conditions for the Desert Springs property until after we have received input from our Council at this study session. Those comments will be forwarded prior to your Board of Supervisors hearing.

I hope this information proves useful to your staff and Planning Commission in the review of the rezoning request. If we may be of further assistance prior to your Planning Commission meeting, please call on me.

Sincerely,

Steve Hagedorn

Steve Hagedorn
Zoning Administrator
Town of Oro Valley

SH:lf

ORO VALLEY PLANNING AND DEVELOPMENT SERVICES
SPECIAL CONDITIONS FOR REZONINGS CHECKLIST

The following items, in addition to the Standard Conditions, should be considered and possibly established for each rezoning case, either through Tentative Development Plan commitment or special conditions:

Open Space

_____ 1. Significant and/or unique riparian habitat shall be maintained as natural open space.

_____ 2. Due to the location along _____, a major route, 25% of the net lot area shall be meaningful open space, as defined by Oro Valley Zoning Code Revised, exclusive of rights-of-way and roads, unless otherwise provided for in these conditions.

_____ 3. Slopes in excess of 15% to be designated as natural open space.

_____ 4. _____ wash(es) shall be preserved as natural open space due to the Planning Commission having found that one or all of the following criteria to exist:

a) Uniquely high density and/or quality of vegetation
b) High quality of wildlife habitat per the Arizona Department of Game and Fish
c) Linkages to public preserves and major washes
d) Continuity of the wash through developed areas

The area to be preserved shall include the 100 year floodplain unless otherwise stipulated in these conditions.

Landscaping

_____ 5. Any restrictions on specific plants for use in landscaping (Palm Trees, Bermuda Grass, Mulberry Trees, Olive Trees).

_____ 6. Along _____, a major route, a 25 foot landscaped strip to be provided; one-third of this may be within the right-of-way if approved by the Zoning Administrator and Town Engineer.

_____ 7. No parking or circulation drives shall occur within the required landscape strip described above (access points are excluded).

_____ 8. Along _____, a major route within the landscape strip, a 3 foot berm and/or 4 foot masonry wall will be required.

Daines, Chad

From: Ann Chanecka [achanecka@pagnet.org]
Sent: Monday, August 13, 2012 10:27 AM
To: Daines, Chad
Cc: 'John Llosatos'
Subject: General Plan Review - Desert Springs

Good morning Chad,

I reviewed the proposed general plan amendment on behalf of Pima Association of Governments and have a couple supportive comments. In general, the proposed plan amendments are consistent with the 2040 Regional Transportation Plan. In fact, the special area policies 7 and 8 are positive steps to providing multi-modal access throughout the region. We support these policies incorporating provisions for transit, pedestrians and bicyclists.

If you have any questions don't hesitate to contact me.

Ann Chanecka
Senior Transportation Planner

Pima Association of Governments

177 N. Church Ave., Suite 405
Tucson, AZ 85701

520-792-1093 [tel]
520-620-6981 [fax]
www.PAGnet.org

Daines, Chad

From: Vicens,William
Sent: Tuesday, July 24, 2012 11:18 AM
To: Daines, Chad
Subject: FW: Desert Springs - General Plan Amendment - OV1112-002
Attachments: Desert_Springs_Amendment.pdf

FYI. I printed a color copy and comments for the file.

Thanks,

William Vicens
Permit Technician
Development & Infrastructure Services Department
11000 N La Canada Dr., Oro Valley, AZ 85737
520-229-4833 (Office) • 520-742-1022 (Fax)
http://www.orovalleyDIS.com
Caring for our heritage, our community, our future.
FIND THE STATUS OF YOUR PLAN REVIEW, REVIEW COMMENTS AND INSPECTIONS ON-LINE
http://www.orovalleyaz.gov/Town_Government/Development_Infrastructure_Services_Dept/Inspections_and_Con

Please consider the environment before printing this message.

From: MBurke@tep.com [mailto:MBurke@tep.com]
Sent: Tuesday, July 24, 2012 8:09 AM
To: Vicens,William
Subject: Desert Springs - General Plan Amendment - OV1112-002

From: Eddy, Steven
Sent: Friday, July 20, 2012 4:15 PM
To: Burke, Mary
Cc: Eamick, Cheryl
Subject: RE: Desert Springs - General Plan Amendment

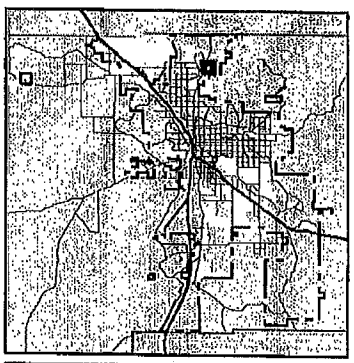
TEP does not have any comments at this time; however, it should be noted that TEP has a 46kV subtransmission line in the northern portion of the proposed amendment. Although there are no conflicts with the General Plan Amendment, a future rezoning and preliminary development plan will need to account for this line and any other existing TEP easements. Please see attached map for your reference. If you have any questions, please let me know.

Thank you!

Steven C Eddy, AICP
TEP Land Management
520-918-8315 (O)
520-401-1165 (C)

Tucson Electric Power

Desert Springs General Plan Amendment



Legend

- Existing TEP 46 Kv Lines
- Amendment Boundary
- Pima County Parcels
- CCN (TEP Service Area)
- Pima County Jurisdictions

This map is for general planning purposes only.
TEP and UniSource makes no warranty of it

Created by: UA50403 on 7/20/2012

Amendment.mxd

Janice K. Brewer
Governor

Bill Feldmeier
Interim Executive Director

Arizona State Parks
AZStateParks.com

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Alan Everett, Sedona
Larry Landry, Phoenix
William C. Scalzo, Phoenix
Tracey Westerhausen, Phoenix
Reese Woodling, Tucson

In reply, refer to SHPO-2012-0410(101002)

May 16, 2012

Charlene Baker
Permit Technician
Development Infrastructure Services
Town of Oro Valley
11000 N. La Canada Drive
Oro Valley, AZ 85737

Re: OV1112-002 Desert Springs Major General Plan Amendment

Dear Ms. Baker:

Thank you for submitting information on the above-referenced project for comment in support of the Town of Oro Valley's Historic Preservation Code. I have reviewed this information and inspected the subject property using the online cultural resources database AZSITE and Google Earth. I found that the property has only been partially surveyed for cultural resources. The survey was conducted in 1997, and two prehistoric and one historic sites were identified. I cannot find a copy of the report in our library. The sites have not been evaluated for their eligibility for listing on either the Arizona or National Register of Historic Places. Several large prehistoric Hohokam sites have been recorded in vicinity of the subject property. It is highly likely that additional sites may exist in the unsurveyed area. Additionally, it is the policy of the State Historic Preservation Office and the Arizona State Museum that areas be resurveyed if the previous surveys are over ten years old. Therefore, I recommend that a cultural resources survey be conducted of the entire subject property by a permitted archaeologist and that a report on this survey be submitted to this office for review. Additional recommendations may be made based on the results of the survey.

If human burials are encountered during project development, they are subject to Arizona State Law ARS §41-865 and must be treated appropriately. Furthermore, if there are state or federal agencies involved in this project, such as for permitting, licensing, or funding, those agencies will need to consult with this office in conformity with the Arizona State Historic Preservation Act or the National Historic Preservation Act, as appropriate. This consultation must be conducted prior to any ground-disturbing activities, and ideally as soon as possible in the planning process.

I appreciate your continued cooperation with this office in support of historic preservation. If you have any questions or concerns, please feel free to contact me at 602/542-7142, or email me at jcogswell@azstateparks.gov.

Sincerely,

James Cogswell
Planner-Archaeologist
State Historic Preservation Office

Arizona Department of Transportation

Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janice K. Brewer
Governor

John S. Halikowski
Director

Jennifer Toth
State Engineer

May 30, 2012

Ms. Shirley Gay
Planning and Zoning Division
Town of Oro Valley
11,000 N. La Canada Drive
Oro Valley, AZ 85737

Re: SR 77 (Oracle Road) @ SR 989 (Tangerine Road), MP 81.82
Project Title: Desert Springs – Major General Plan Amendment
Project Number: OV 1112-002

Dear Ms. Gay:

We have reviewed the Application for Major General Plan Amendment (dated April 20, 2012) for the proposed Multi Use Village with residential, commercial, office and open space to be located on the east side of SR 77 (Oracle Road) at the Oracle Road/Tangerine Road intersection. The following comments are provided:

1. ADOT has "No Comment" regarding the Application for Major General Plan Amendment for Desert Springs.

2. The developer should be made aware that the intersection of Oracle Rd. and Tangerine Rd. is considered to be a **temporary** at-grade intersection. In accordance with the 1987 Tangerine Road Location and Design Study Report (Second Draft), the Oracle Rd./Tangerine Rd. intersection was constructed as a **temporary**, signalized, at-grade intersection in the initial and interim construction phases. The Report states that when funds become available and when traffic volumes on Tangerine Rd. demand a six-lane divided highway, a **grade-separated interchange** will be constructed at the Oracle Rd./Tangerine Rd. intersection.

3. The transportation conditions for Desert Springs, Case Number Co9-89-66, recorded in the Pima County Recorder's Office in Docket 10191, Page 587, shall remain in force. Section 8. Transportation Conditions, Item C. states: "Recording a covenant, running with the land, stating that the property owner(s) shall not seek financial compensation of the loss of direct access to the Tangerine Road/Oracle Highway intersection should the Arizona Department of Transportation proceed with a proposed grade separated intersection." Furthermore, Section 23 on Page 589 of the document states: "No buildings or major improvements for this project are to be constructed in the proposed right-of-way for the Tangerine Road/Oracle Road intersection. Any additional right-of-way required for the intersection shall be dedicated to the Arizona Department of Transportation at their request."

4. The Oracle Road/Tangerine Road intersection area may require future changes due to the proposed grade-separated interchange. That is specifically why a proposed east leg at the Oracle Rd./Tangerine Rd. intersection and the existing access to the development at the median opening 1,000 feet north of Tangerine Road are considered temporary.

Thank you for giving us the opportunity to review the "Desert Springs – Major General Plan Amendment" application submittal. We are looking forward to working with the Town of Oro Valley and the developer toward the satisfactory completion of the development.

Sincerely,

Maria Deal

Maria Deal
Southern Regional Traffic Engineering
Arizona Department of Transportation
1221 S. 2nd Ave.
Tucson, AZ 85713
Phone #: 520-388-4235

C: Mick Hont, P.E., Tucson Assistant District Engineer - Operations, ADOT
Scott Beck, P.E., Southern Regional Traffic Engineer, ADOT
Donna Jones, Tucson District Senior Permits Technician, ADOT
Franklin Smith, Transportation Engineering Specialist, ADOT
Craig Civalier, P.E., Town Engineer, Public Works Department, Town of Oro Valley
Paul Keesler, P.E., Interim Director, Development & Infrastructure Services Department, Town of Oro Valley

Janice K. Brewer
Governor

Bryan Martyn
Executive Director

Arizona State Parks
AZStateParks.com

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RECEIVED
JUN 14 2012
Town of Oro Valley

June 11, 2012

Permit Technician
Development Review Transmittal
Town of Oro Valley Development Infrastructure Services
11000 N. La Canada Drive
Oro Valley, AZ 85737

Re: Project Number: OV1112-002 and Project Title: Desert Springs-Major Plan Amendment

Arizona State Parks appreciates the opportunity to comment on this Proposed General Plan Amendment. Staff, as operating entity of Catalina State Park (Park), has reviewed the Proposed Amendment covering the adjacent Desert Springs Property. We recommend that you also solicit comments from the United States Forest Service, as they are the primary owner of the lands within the Park. They may have concerns about the effect on the National Forest overall, and other issues such as watershed/wildlife/fire.

The proposed change to Medium Density Residential will greatly increase the number of housing units visible from the Park. This is further complicated by the elimination of the resort/golf course land, which would have provided a needed buffer to the Park.

Residential development, created by the more intense zoning, will negatively impact the recreational experiences of visitors to the Park. Beginning on the Park entrance road and continuing throughout the various campgrounds and at the equestrian center, the close proximity of residential development to the Park will be painfully obvious. The impact will be most significant from the campgrounds and the equestrian area; however, the loss of pristine viewshed will impact all park visitors. On-park staff housing will also be impacted by creation of the new housing. Opportunities for solitude experiences in the wild will be diminished.

A large portion of the south part of the Desert Springs property is subject to flooding, as was experienced in 1983 and later. The berm located on the west side of the Canada del Oro wash has not prevented flooding of this area of the Park, including Park residences, in the past. Arizona State Parks has a grave concern that this situation will reoccur. Has the developer completed a new floodplain study to quantify the flooding danger to this area? What mitigation is proposed for the portion of the proposed development located in the 100-year flood zone? Regardless of other considerations, Catalina State Park must be protected from impacts caused by changes to the floodplain.

The proposed development will increase the number of potential homeowners who will want access to the Park. State Parks are fee areas and thus, management becomes a major concern. The developer must be required to provide a secure perimeter wall along the Desert Springs property adjacent to the Park boundary, to prohibit any form of access to the Park. The developer should complete an accurate boundary survey prior to the construction of the wall to ensure its proper location.

The Park is in the process of becoming certified as a Dark Sky Park. Staff is working with the local astronomy club and the International Dark-Sky Association toward this goal. The Park has hosted 4 Star Parties on site to date.

The impact of lighting from a development with such intense density, as is proposed, would affect more than just the Park's astronomy programs. Nocturnal and other animals in the Park would experience changes in their behaviors due to the introduction of additional light at night to this area. It is important that this project not only complies with the Oro Valley Outdoor Lighting Code, but also insures that any developer lives up to the spirit of the ordinance, which seeks to "preserve the relationship of the residents to their unique desert environment through protection of access to the dark night sky." Lighting plans for any proposed development must address potential impact on the Park, its wildlife and "Dark Skies" concept.

Another concern is the impact the proposed development will have on the Institute for Desert Ecology (IDE). The Audubon, University of Arizona, Prescott College, and State Parks are active partners in facilitating the annual, acclaimed, and multi-disciplinary program. The IDE has experienced four decades of professional and community service in the multiple arenas of resource management, land use and conservation. It is an excellent example of a science-based and societal-focused partnership program that entails world-class hands-on instruction and educational outreach and research. The value of the IDE rests largely on maintaining the unique and relatively undisturbed and diverse ecological setting (biological and geological) that the Park offers. It accomplishes this efficiently from a scientific and logistical perspective because of its relatively small but important geographic location. The proximity of the Park and program to a major urban setting makes it idea for local and participants who travel great distances to Tucson for the program. The Park hosts and showcases an inordinate amount of bio-diversity and lateral and vertical linkages and distributions of fauna and flora, that are linked also in their co-evolution and function over time and space. The IDE emphasizes the need for inventory and monitoring for protection, advocacy and enjoyment of the fragile Sonoran Desert ecosystem. Lessons learned in this program, and professional and personal relationships made on site, are applicable to the conservation and advocacy of ecosystem functionality and conservation elsewhere. Urban encroachment and industrialization of open spaces elsewhere within the greater Tucson area continues to offer fewer and fewer cost-effective venues that can so efficiently nurture a partnership program of this caliber.

If development of Desert Springs is approved, the land annexed by Oro Valley, and public utilities are provided to the development, the design of those utilities should also include provisions to connect those utilities to the Park.

I am interested in working with Oro Valley, Pima County, and the developer in during this planning process. I would be willing to meet with you at your convenience.

Sincerely,

Bryan Martyn, Executive Director

Cc: Jay Ream, Deputy Director – Parks
Kent Ennis, Deputy Director – Administration
Lee Eseman, Chief of Operations
Paul Govino – Chief of Development
Randy Furnish – Regional Manager
Steve Haas, Park Manager
Bob Cassavant – Science and Research Manager
Jim Sutton-USFS

Daines, Chad

From: Keri Silvyn [ksilvyn@lsblandlaw.com]
Sent: Tuesday, October 30, 2012 11:02 AM
To: Daines, Chad; Williams, David
Cc: 'Eric Bose (ebose@suncap.com)'; Robert Longaker
Subject: FW: Desert Springs

Chad and David: Please see the correspondence below. Mr. Martyn has confirmed that Desert Springs is addressing the park's concerns through plantings on the east border of the site and they are not going to take a position against Desert Springs. Mr. Martyn cannot be at the Commission meeting, but confirmed that I can recite the information below and the position of the Arizona State Parks.

Keri Lazarus Silvyn, Esq.
Lazarus, Silvyn and Bangs PC
4733 East Camp Lowell Drive
Tucson, Arizona 85712
ksilvyn@lsblandlaw.com
520-207-4464

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From: Bryan Martyn [mailto:bmartyn@azstateparks.gov]
Sent: Monday, October 29, 2012 8:12 AM
To: Keri Silvyn
Cc: Morgan Bartkowski; 'Eric Bose (ebose@suncap.com)'; Robert Longaker; Jay P Ream; Kent T Ennis
Subject: RE: Desert Springs

Keri,
Thanks again for taking the time to meet in Phx. I believe you've accurately captured ASP's position on the issue. Please let me know if you foresee any new challenges.

See you Thursday..

Bryan

From: Keri Silvyn [mailto:ksilvyn@lsblandlaw.com]
Sent: Friday, October 26, 2012 2:17 PM
To: Bryan Martyn
Cc: Morgan Bartkowski; 'Eric Bose (ebose@suncap.com)'; Robert Longaker; Keri Silvyn
Subject: Desert Springs

Bryan: Thank you very much for meeting with me yesterday morning. I hope you made it to your 1:00 meeting safely and on time! I am attaching the updated plans we sent to the Town with our General Plan amendment request. You will see the additional designation of "Open Space" within some of the Special Resource Area to indicate our commitment to preservation of the open space on ridgelines and hillsides.

The main purpose of this email is to confirm my understanding of our discussion from yesterday. In addition, I

will be at the State Parks Board meeting on the 1st and available to talk if needed about the Desert Springs project and our mitigation discussions as outlined below. I understand you are not going to be able to make the Nov. 5th Planning Commission hearing. I am hopeful you will be able to attend the December 5th Mayor and Council hearing. I would appreciate you confirming this email is correct, or providing any clarifications needed so that I can accurately represent our conversations to date at the Nov. 5th hearing.

Below I have listed the concerns from your June 11, 2012 letter and the results of our discussion. As you indicated at the Oct. 15 hearing and reiterated yesterday, Arizona State Parks is not taking a position on this project, acknowledges the private property rights of neighbors, and requests mitigation on adjacent projects to protect the natural resources of the parks.

1. The existence of residential development diminishes the experience at the Park. *As we discussed, the focus of the Arizona Parks Department is not on restricting adjacent property rights, but on mitigating any adverse effects of development on adjacent parks. We also discussed the fact that growth and more residences near and adjacent to the park can help to support the parks with additional paid visitors, annual passes, etc.*

2. Flood mitigation strategy. *As part of our development process, we will need to demonstrate that we are handling flood waters in such a way that we are not allowing any additional sheet flow from our property after development. Any other issues related to the mapped floodplain would have to be handled through a FEMA Letter of Map Revision process.*

3. Prohibit access to the park. *As you know, our original submittal indicated we were going to permit access to the park from the development – not understanding that the Arizona State Parks department would actually prefer restricting and regulating access. Therefore, we have removed that language and will work with you on a barrier (barbed wire fence is sufficient for your concerns) on the east and south sides of the Property. As you are aware, there is significant topography in the northeast section of the Property, so the topography acts as the barrier. The areas that will need barbed wire fencing are along the east boundary and south of the topography and along the south boundary.*

4. Impacts of lighting. *As we discussed, compliance with the Oro Valley Outdoor Lighting Code will be required. We will comply with those requirements and will discuss our lighting plans when we are at more of a design stage of the development process – zoning and development plan/plat.*

5. IDE program. *Per our discussion, you have requested we work with the Park to develop a landscape buffer plan along the southern ½ of the eastern boundary of our site to include large, native trees to help to mitigate impacts from the residential development. We have committed to working with you on the plant palette and plans for those buffer yards as part of the rezoning process, where this level of detail is appropriate. We also discussed the idea of the trees being planted on the Park side of the property line, as long as irrigation is provided by the Desert Springs development. We will know better how best to approach this issue as we move toward the rezoning and PAD process.*

Please let me know if this is accurate. Thanks again for your time. I will see you Thursday. If you need me to be prepared with anything specifically, please let me know.

Keri Lazarus Silvyn, Esq.
Lazarus, Silvyn and Bangs PC
4733 East Camp Lowell Drive
Tucson, Arizona 85712
ksilvyn@lsblandlaw.com
520-207-4464

Development and Infrastructure Services Department

Desert Springs Summary Notes
April 12, 2012, 6:00 – 7:30 PM

12 Interested parties were in attendance.

Introductions

David Williams, Planning Division Manager, provided a meeting overview and explained the meeting format.

Part I Zoning and General Plan Overview:

Chad Daines, Principal Planner provided a power point presentation on the following topics:

- Location
- Background
- Current General Plan Designations
- Significant Resource Area designation
- Special Area Policies
- General Plan Amendment Evaluation Criteria

Concern was expressed over deletion of the Significant Resource Area designation and the implications of deleting this designation. It was explained that as part of the application, the applicant would be required to submit and comprehensive environmental analysis for evaluation.

Annexation of the property was discussed. The applicant and the Town have been in discussions regarding the potential annexation of this area.

Part II Applicant Presentation

Eric Bose, Sun Chase Holdings, gave an overview on the history of the property, property characteristics and the proposed development plan.

Questions were posed regarding the infrastructure to serve the development. Specifically, water and sewer. The applicant outlined the proposed plan to provide water and sewer to the

site. The neighbors indicated that they were not interested in converting from septic to sewer.

A number of neighbors expressed concern over the proposed density for the project and the impact on their property values. Neighbors felt that restricting the development of the southern parcel to one acre lots would provide a compatible development with their area. Discussion ensued regarding possible ways to mitigate concerns over density, including buffering the existing residential areas with low density along the borders of the southern parcel and through the use of landscape buffers. Other residents commented that the density was also too high adjacent to the State Park.

One resident expressed concern that development of the property could be considered a taking of their properties given the significant negative impact on property values. He submitted a response to the development proposal in writing, which will be placed in the amendment file.

One resident questioned whether the proposed demographic for the neighborhood would support nighttime uses like a nightclub?

Concerns were expressed with the apartment project, specifically with respect to rentals vs. ownership, impact on property values and perceived increase in crime.

Concerns were expressed regarding the impact the proposed development would have on wildlife in the area. Several neighbors felt there were serious implications with changing from Significant Resource Area to a development category under the General Plan. It was explained that a comprehensive environmental assessment would be completed, including wildlife corridors and the presence of threatened species.

Several neighbors indicated that when they built their homes, they expected the area to be developed under the existing zoning, which would allow one home per 3.3 acres. They questioned why the developer could not build under the existing zoning entitlements on the property.

The meeting was adjourned at 8:20 pm.

Development and Infrastructure Services Department

Desert Springs Summary Notes
September 20, 2012
6:00 – 7:30 PM

37 Interested parties were in attendance.

Introductions

Bayer Vella, Conservation and Sustainability Manager, provided a meeting overview and explained the meeting format.

Part I Zoning and General Plan Overview:

Chad Daines, Principal Planner provided a power point presentation on the following topics:

- Purpose of Neighborhood Meeting
- What is the General Plan
- Location and Context Map
- Background
- Existing Zoning
- Existing General Plan
- Significant Resource Area
- ~~Existing Special Area Policy~~
- General Plan Amendment Process
- How does the Town evaluate the amendment

Part II Applicant Presentation

Keri Silvyn, Lazarus, Silvyn and Bangs PC, provided an overview of the project and the effort to work with the immediately adjacent neighbors to address concerns raised. The revised land use plan was presented.

The comment was made that the property has long been earmarked for purchase and preservation and Pima County should purchase the property and maintain it as open space.

Several interested parties stated that the environmental resources on the property are rich and questioned the proposed deletion of the Significant Resource Area designation on the property. Staff explained the SRA designation and stated that the environmental analysis submitted by the applicant is under review.

Several comments were made regarding the impact of the proposed development on Catalina State Park and the need to buffer land uses adjacent to the park boundary.

A comment was made that the property should develop in accordance with the designation in the Pima County Comprehensive Plan.

One interested party questioned whether a traffic study had been completed. This party expressed concern that the significant increase in density would have a significant impact on traffic. Staff commented that a full Traffic Impact Analysis would be required at the rezoning and conceptual design phase, if the general plan amendment was approved.

A number of interested parties expressed concern with the overall project density and felt that given the environmental resources present on the property that the density should not be increased.

One interested party explained that she just learned of the request and tonight's meeting and felt there should be more opportunities for public input. This party felt that the project was being rushed with public hearings one month away and the Town should delay the application so more time can be given for public input. Staff explained the overall major general plan amendment process, the required neighborhood meetings and the requirement under State Law that all Major General Plan Amendments be considered at a single public hearing before Town Council in the calendar year the application was filed. In response to a follow up comment, staff confirmed that the application does not need to be acted on this calendar year and could be continued by Town Council to allow additional time if that was Council's preference.

Several questions were raised concerning the annexation process and any public input opportunities during that process. Staff explained that if the property owner desired annexation, there would be a public hearing held by Town Council on the annexation which would provide public input opportunities relative to the annexation.

Several interested parties expressed the desire to hold additional neighborhood meetings on the request.

One interested party expressed concern with the impact on the wildlife corridors and the planned wildlife crossings of Oracle Road.

One resident expressed that the purpose of the neighborhood meeting was to evaluate the proposed amendment against the five evaluation criteria for General Plan Amendments and there has been no discussion tonight relative to the evaluation criteria. The applicant indicated that they had submitted a five page analysis as to how they comply with the evaluation criteria, which is available for public review.

Concerns were expressed over the impact to the hillsides and the significant cuts and fills that would be required to accommodate the development. The applicant provided an overview of the proposed development areas within the project and how the applicant is attempting to build in less sensitive areas of the property with less impact to the hillsides. The applicant explained that there would be some encroachments into the 25% slope and above areas for utilities and roads.

The facilitator asked the audience whether there was a need to hold another neighborhood meeting and the response from a majority of the audience was yes. The facilitator stated that it would be up to the applicant whether or not to hold another neighborhood meeting.

The meeting was adjourned at 7:45 PM.

Development and Infrastructure Services

Desert Springs Summary Notes
October 24th, 2012, 6:00-8:00 PM

30 Interested parties were in attendance.

Introductions

David Williams, Planning Division Manager, provided a meeting overview and explained the meeting format.

Part I Zoning and General Plan Overview:

Chad Daines, Principal Planner, provided a power point presentation on the following topics:

- Location
- Process
- Public Participation Opportunities
- General Plan Amendment Evaluation Criteria

Concerns about frequent changes to the applicants proposal was discussed, and a question was raised about available information on the Town's website.

Part II Applicant Presentation

Keri Silvyn, from Lazarus, Silvyn & Bangs, gave an overview on the history of the property, property characteristics, the development plan, and recent changes to the development plan specifically concerning the retention of additional portions of the property as Significant Resource Area.

Mrs. Silvyn was asked by an audience member to address all four of the criteria for General Plan Amendments.

Chad Daines read Criteria A, and Mrs. Silvyn gave a brief explanation about how the proposed development satisfies this criteria.

A question was posed as the specific changes that have occurred in the Oro Valley to warrant a General Plan Amendment. Specifically, is there or will there be a need for new homes?

A question was posed regarding the timeframe for development.

An audience member asked why a resort wouldn't be considered a good use down the road.

Questions about General Plan revisions were raised, specifically why changes to this property were not addressed in the 2005 revision.

Chad Daines read Criteria B, and Mrs. Silvyn gave a brief explanation about how the proposed development satisfies this criteria.

It was announced by an audience member that the Arizona State Parks would be holding a public meeting on November 1st, 2012 where this project would be discussed.

An audience member asked what the applicants understanding was of environmental compatibility, specifically as it related to the ridgelines of the property.

A question was raised about the archeological significance of the site, and who was responsible for doing the archeological research.

An audience member asked where the project would be getting its water, and would they be using reclaimed water for the plants and grass?

A question was raised about whether the applicant and the Town had considered that the proposed development may have a negative economic impact due to decreased visitors to the park.

A question was raised about how the applicant would ensure that the development was going to be upscale.

A question was raised about how the applicant would provide screening and buffing to the neighbors and the park.

An audience member informed the applicant that they should be using the SCP wildlife corridor maps, and clarified to the audience that some animals do not prefer to use washes for their main movement corridors.

It was pointed out by an audience member that the guidelines included in the significant resource area (SRA) are flexible, and why did the applicant not keep the property designated as SRA and use the flexibility to design their development?

A question was raised about why the property was not acquired by the Town, and why it was first designated as a SRA?

A question was raised about what parts of the SRA would be preserved and at what level?

The question of visibility of the project from higher areas of the park was posed. Some neighbors wondered why they had not seen height poles placed throughout the development area.

An audience member pointed out that the motor home park located on the park was also highly visible.

A question was raised about what would happen if they found archeology on the site.

A question was posed about development assurances.

Chad Daines read Criteria C, and Mrs. Silvyn gave a brief explanation about how the proposed development satisfies this criteria.

Several questions were raised concerning future market demand, specifically how a new project could survive in this market.

Chad Daines read Criteria D, and Mrs. Silvyn gave a brief explanation about how the proposed development satisfies this criteria.

A question was raised concerning what would the developers be bound to if the general plan was revised during the planned General Plan update that is scheduled for 2015.

The meeting was adjourned at 8:30PM.

September 5, 2012

Mr. Chad Daines, AICP, Principal Planner
Oro Valley Town Hall
11000 N. LaCanada Drive
Oro Valley, AZ 85737

Dear Mr. Daines:

We have recently become aware that the Desert Springs property owned by Sun Chase Holdings at North Oracle Rd. and Tangerine is being considered for a Major General Plan Amendment and Rezoning. This property is surrounded by Talante Estates which is a private home development of one home per 3.3 acres and Catalina State Park. We own and live in one of these homes in Talante Estates and are very concerned about this major change.

Currently the Desert Springs property is bound by the Pima County General Plan. That General Plan is what we relied upon to know what would be developed around us when we purchased our property in 1999. Such a drastic change from current Pima County zoning in the residential area of SR, 1 house per 3.3 acres, to Oro Valley's high density of 5 or more houses per acre is inconceivable. Not only will Talante Estates and each homeowner be impacted, but what about Catalina State Park? The high density will severely affect the wildlife in the area and in the Park. High density will no doubt change the watershed of the Desert Springs development to negatively impact Talante Estates, other private property to the southwest and Catalina State Park. The views from Catalina State Park will be greatly affected as this subject area is visible from most of the trails in the Park and especially from the campgrounds and the equestrian center. 520 new residences with families will overburden our schools. The increased traffic will overburden our roads. Bringing nightlife, i.e. bars, will overburden the police department. Are you sure Oro Valley needs more high density housing and commercial? This parcel is only 108 acres.

We are very concerned about such a large development on the Desert Springs property. This letter is to let you know some of our reasons for objecting to this Major General Plan Amendment and Rezoning as it is currently being proposed. Thank you for your consideration.

Best regards,

Robert and Myrta Townsend

Robert and Myrta Townsend
12995 N. Oracle Rd., #141-311
Oro Valley, AZ 85739

September 10, 2012

Mr. Chad Daines, AICP, Principal Planner
Oro Valley Town Hall
11000 N. LaCanada Drive
Oro Valley, AZ 85737

Dear Mr. Daines:

We are from out of state, but when we visit Oro Valley we stay in the Catalina State Park campground. It is a beautiful area and so peaceful, yet so close to the amenities of Oro Valley and Tucson. We were told of the pending discussions to amend the General Plan and rezoning for the area known as Desert Springs to the west of the park. That area would be right along side the campground and equestrian center. If a 500 plus residential development plus commercial stores is build here, the whole feel of the Park will change. What we have enjoyed so much will be changed forever. The peacefulness, the view, and the wildlife will never be the same.

I know we are from out of state and you probably don't listen to us, but we spend our money in Oro Valley when we are there. Is this rezoning really a good idea for Oro Valley? We are certainly not in favor of such a major change in zoning. Please consider very carefully when you vote on this.

Lloyd and Marlene Florence
1011 Old Highway 4
Council Grove, Kansas 66846

Lloyd & Marlene Florence

MaryAnn Baumrind
2565 East Talante Canyon Place
Tucson Arizona 85737

SEP 12 2012

DISTRIBUTED TO:
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☐ DEPT HEADS ☐ OTHER

September 3, 2012

Councilmember Joe Harnat
Town Hall
11000 N La Canada Drive
Oro Valley AZ 85737

Dear Councilmember:

I am writing to apprise you of my very strong objection to the proposed SunChase development project that abuts Catalina State Park. This Park is a national gem and to see high density development on the Park side of Oracle Road, that would be clearly visible from the Park, is a tragedy.

There are so many troublesome aspects: the visual impact on the Park, the impact on the wildlife that presently reside in that area and have established movement corridors, the impact on the water levels in the area, impact on the flood plain, impact on Riparian Habitat, and the impact on what is an archeologically sensitive cultural and historical site.

This is a project that should not become a reality.

Yours truly,

MAB

MaryAnn Baumrind

From: Susan Bell [spspirit27@aol.com]
Sent: Wednesday, September 05, 2012 6:55 AM
To: Daines, Chad; rlongaker@wlbgroup.com
Subject: Desert Springs Development

Dear Mr. Daines:

Thank you again for taking time to converse with me yesterday and to answer some of my questions.

Unfortunately I will not be able to attend the September 20th meeting, and I realize how informative it will be. My concerns are those from a resident not having all the knowlege of the intricacies of city and development planning, but they are basic thoughts of possible impact on our community.

First, population change in their plan from low density to medium and high density. The high density appears to be right on Oracle, and it is adjacent to planned commercial/office space. Tangerine and Oracle is already busy and getting worse. Of course there are forthcoming developments in the Rancho Vistoso area which add more density. I foresee many problems with this high density plan.

The resort/golf course area was deleted in the new plan. How awful, why? Looks like they want to stuff the area with buildings and people. How will that impact our environment and traffic? Sadly, I now see mammoth homes invading the hillsides in Oro Valley. Will Desert Springs creep closer to the hills in the future? I would like to know the honest rationale for the changing of the original plan. The developer needs to fully explain that to the public in a forthright manner void of embellished words to convice people. We deserve that.

Please, please ask the leaders of Oro Valley to carefully decide the outcome of this proposed plan. It appears to be a monetary making proposition to get as many people residing there as possible. With no golf course greenbelt area, less maintenance, more living spaces will pay the mortgage on the land and provide the developers with more profit. Seems like the plan needs more consideration of the people it affects.

I have now lived in Oro Valley for two years and am aware of the future plans for the Oracle corridor.

Progress is necessary and important. Nevertheless we need to be extremely cautious not to overdo anything to spoil the ambiance and beauty of our city for the sake of making money.

Thanks again for your attention, and I wish you the very best in your project management efforts. I hope your meeting goes well. Feel free to inform me of anything I need to know. I am always open to acquiring more knowledge.

Respectfully,

Susan Bell
Oro Valley

Daines, Chad

From: Anne Leonard new [anne@alartworks.com]
Sent: Thursday, October 11, 2012 4:58 PM
To: Daines, Chad
Cc: admin@sonorandesert.org
Subject: Desert Springs Development at Kelly Ranch

To whom It May Concern

As residents of neighboring Black Horse Ranch development we are writing this to, yet again, protest the proposed development of the remaining open area next to Catalina State Park. This has been a long running issue that the developers won't leave alone.

The following points have been made before, but:

<!--[if !supportLists]-->• <!--[endif]-->The Town of Oro Valley's General Plan designates this location as a **Significant Resource Area**. Town policy dictates that any development in a Significant Resource Area should be at the lowest density allowable (i.e. the smallest number of homes/businesses per acre of land allowed under the current zoning). The applicant proposes to disregard the Significant Resource Area designation and the policies that apply.

<!--[if !supportLists]-->• <!--[endif]-->The proposed Desert Springs development sits squarely within a **Critical Landscape Connection, or wildlife linkage,** of the Sonoran Desert Conservation Plan. Local policies recommend that wildlife movement barriers in these areas be removed and that habitat connectivity be restored.

<!--[if !supportLists]-->• <!--[endif]-->The public process regarding this proposal has been significantly flawed.

<!--[if !supportLists]-->• <!--[endif]-->The proposed Desert Springs development is in Pima County's Conservation Lands System (the land is currently in unincorporated Pima County). Both **Important Riparian Areas** and **Biological Core Management Areas** are found on this site. If these two designations were applied to Oro Valley's rules and guidelines, this project would be required to have at least 80% open space!

<!--[if !supportLists]-->• <!--[endif]-->The proposed Desert Spring development is in close proximity to **three soon-to-be-built wildlife crossings** along Oracle Road. Minimal night-time light, buffered open space, and fencing to funnel animals to the crossings are all critical elements that will lead to their success.

<!--[if !supportLists]-->• <!--[endif]-->The Coalition recently launched a volunteer-driven **remote wildlife camera monitoring project** in the Santa Catalina – Tortolita Mountains wildlife linkage. Three of our cameras are currently located in Catalina State Park and they have documented at least 17 species of wildlife, including bobcat, coyote, javelina, badger, deer, skunk, and other small mammals and birds. We know that Catalina State Park is a healthy, biologically diverse, active, functional protected area that plays an integral part in the functioning of the larger wildlife linkage between the Santa Catalina and Tortolita Mountains.

Anne and Judy Leonard

15139 N. Pelham Rd., Tucson, AZ 85739

Daines, Chad

From: Wendy Russell [wendyrussell@rocketmail.com]
Sent: Thursday, October 11, 2012 3:26 PM
To: Daines, Chad; Cornelison, Chris
Subject: General Plan Amendment for the proposed Desert Springs development at Kelly Ranch

To Whom it may concern:

I am writing to express my objections to the Town of Oro Valley's General Plan Amendment for the proposed Desert Springs development at Kelly Ranch adjacent to the Catalina State Park.

The Catalina State Park is an important area for wildlife. Development around the Park should not be taken lightly. The Park provides a proven linkage for wildlife between the Santa Catalina Mountains and the Tortolita Mountains. Increasing home density is a bad idea in an area rich with wildlife. Conflicts between humans and wildlife are inevitable. Unfortunately, it's usually the wildlife that loses in these conflicts. We have a choice where we want to live and have homes. Wildlife does not have that choice.

Thank you for your consideration.
Wendy Russell

May you be filled with loving-kindness
May you be well
May you be peaceful & at ease
May you be happy

Daines, Chad

From: Michael M. Racy [Michael@RacyAssociates.com]
Sent: Tuesday, October 16, 2012 3:21 PM
To: Daines, Chad
Cc: ksilvyn@lsblandlaw.com
Subject: Desert Springs

Chad,

The purpose of this note is to let you know that the additions and revisions requested by the neighbors have been included in the revised Special Area Policies.

Feel free to call with any questions.

Thank you,
Michael

Michael M. Racy
Racy Associates
535 W. Burton Drive
Tucson, AZ 85704-4201
Michael@RacyAssociates.com
520-906-4646 phone
520-742-5843 fax

Daines, Chad

From: Flores, Roseanne
Sent: Tuesday, October 16, 2012 2:00 PM
Cc: Daines, Chad; Williams, David
Subject: FW: Desert Springs Development Additional correspondence

Attached please find an additional email received regarding the Desert Springs application.

Thank you,

Roseanne Flores
Office Specialist
Development & Infrastructure Services Department
Town of Oro Valley
520-229-4832 (office); 520-742-1022 (fax)
www.orovalleyDIS.com

Caring for our heritage, our community, our future.

From: Cheryl Cage [mailto:cherylcageaz@gmail.com]
Sent: Monday, October 15, 2012 4:11 PM
To: Daines, Chad; Cornelison, Chris
Cc: Cheryl Cage
Subject: Desert Springs Development

Dear Oro Valley leadership:

It was with great dismay that I learned about a potential development ajacent to Catalina State Park. (called Desert Springs).

~~Having lived in the Oro Valley area for twelve years I have visited Catalina State Park many, MANY~~ times. It is unique in that it is close to town, yet truly feels 'away from it all'

In addition to the connection to nature the park provides people in our area, it is equally important because of the wildlife linkage that it provides our wildlife.

It is VITAL VITAL VITAL that you do NOT allow such a development to occur. This step will impact the quality of life for the PEOPLE who use the park, it will be a blow to our tourism industry to have a such a development overtake this gorgeous park, and
it will damage the health of our wildlife and natural environment FOREVER.

Thank you for your time and consideration. I will be sharing this letter with many of my friends and colleagues.

Sincerely,

Cheryl Cage

Daines, Chad

From: Paul Mercer [pawmerc@gmail.com]
Sent: Monday, October 15, 2012 3:05 PM
To: Daines, Chad; Cornelison, Chris
Subject: Desert Springs Planning Meeting on Oct 16

My wife Judy and I are planning on attending the planning meeting tomorrow night.

Our concerns rank from disallowing ANY kind of development on the subject property to permitting the least intrusive development possible. We think the highest and best use of the property is park land, specifically an annexation to Catalina State Park.

At the September neighborhood meeting there was a ranger from a state agency (we think) who was to submit a report to the town and it was to be posted the next day. Not only can we not recall who he represented but we cannot find the report. The Oro Valley web site is comprehensive, to say the least, but trying to find a report like this is a daunting task.

Can you help us find the report as its contents may be pertinent to the next few meetings?

We are interested in answers to questions raised by the Desert Coalition: Does the Town consider the property a significant resource area? Is the proposed wildlife corridor on the property, and if so, how will this be addressed?

The Desert Coalition contends there are Important Riparian Areas and Biological Core Management Areas to be considered on this site. What are the town's thoughts about this since if there is agreement here, development must be minimal.

Thanks for your time...we will see you tomorrow night.

Judy Mercer
Paul Mercer
1837 E. Lone Rider Way
Oro Valley, AZ
520-333-3490

Daines, Chad

From: lmsonora@msn.com
Sent: Monday, October 15, 2012 1:48 PM
To: Daines, Chad; Cornelison, Chris
Subject: Development project

Having been recently made aware of the development plans and unable to attend the meetings (was in an accident, am not close and cannot drive), I wish to make my voice heard. Must we cover the desert with houses? There are places for sale, foreclosures, houses sitting vacant, short-sales, etc. Can't we stop filling in every square inch of animal habitat, wildlife corridors, open space for recreation, etc.? Please, reconsider this project. It is a potential endangerment to the wildlife that lives and roams the area. It will crowd the area making recreation access more challenging and less of a "wild" experience. Kinda hard to think your in the wilderness when you are staring at a high -density subdivsions and hear cars coming and going, etc. Please reconsider this move.

Thanks from someone who values wildlife and nature and knows the necessity of saving natural areas for people and critters alike. Kym M. Knebel

Dear CouncilMembers,

I hope this email finds you well. I am writing to express my opposition to the Desert Springs Major General Plan Amendment.

Soon after the election in 2010 the majority of the Council expressed an interest in the possible long-term goal of realizing an Aerial Tram from the Catalina State Park area to the top of Mount Lemmon. This idea was actually presented to the Oro Valley Council in my first term, but put to rest due to a myriad of factors not the least of which was funding and the need to build a coalition of support from the entire region including Pima County and the State of Arizona. I appreciate that Councilmember Solomon along with Vice Mayor Waters have put substantial effort into this idea, but I must be clear in stating that the consideration of a General Plan Amendment is a serious mistake for Oro Valley and the Southern Arizona region. Let me explain my position.

1. First and foremost; amending the General Plan and eventually rezoning the property will, in my view, damage Oro Valley's long-term economic development efforts! For Oro Valley's economic development plans to work it is crucial that Catalina State Park (CSP) remain as perceived; a place for escape, relaxation and connection with the natural environment. Higher density residential development as proposed in the General Plan amendment will damage this value and eventually threaten the existence of CSP. You can be sure that future decisions on funding for CSP will be influenced by surrounding land-use, especially over-time.
2. The proposed General Plan Amendment gives no value to the Town of Oro Valley. Can there really be an argument made for the tax revenues of new development when considering that, at the same time, the Town may lose tourism dollars and have a new mandate to expand public services?
3. An amendment to the General Plan as precursor to annexation is extremely premature! Tram feasibility, at the very minimum, is many years off. Federal (exhaustive), state and local approvals are mandatory and will require comprehensive evaluations, public involvement and transparency. Not to mention that the cost for such an endeavor would likely be in the tens of millions if not hundreds of millions of dollars. Can we really expect public participation in this type of expense in the foreseeable future?
4. It is not the place of the Oro Valley Town Council to engage in the speculation of land values for the benefit of a property owner by amending the General Plan and eventually rezoning the property. The work has not been done to the necessary level for the Oro Valley Council to enable this land-use change. Please don't take a misstep on the Town's economic future with this vote.

Council members it is with the greatest respect that I request that you consider not offering your support for the Desert Springs Major General Plan Amendment.

Sincerely,
Barry Gillaspie

Daines, Chad

From: jleonard@math.arizona.edu
Sent: Sunday, October 14, 2012 5:18 PM
To: Cornelison, Chris
Cc: Daines, Chad
Subject: Desert Springs development

Gentlepersons:

Please do not give approval to the proposed Desert Springs development. This development will be a detriment to both the Catalina State Park and the proposed wildlife crossings of Oracle Road.

The development to the south of Catalina State Park is a great distraction to the park. It is a pity that that area was developed with a hotel, residences and businesses. We have a chance to avoid such degradation to the north of the park. Please take this opportunity to protect the park.

Cordially,

John L. Leonard, Ph.D.

Daines, Chad

From: Kimiekgill@aol.com

Sent: Sunday, October 14, 2012 3:45 PM

To: Daines, Chad

Cc: Cornelison, Chris

Subject: Sprawl threatens Catalina State Park & Wildlife Corridors

I am writing to express my concern about the spread of development and it's repercussions on the zones surrounding Catalina State Park. Sprawl in this area would block wildlife corridors linking the Catalinas to the Tortallino Mountains. The biodiversity of this sensitive Sonoran desert and Sky Island habitat is certain to be adversely impacted. Stop the sprawl and let's give it our all to contain commercial and residential developement before it wreaks further havoc on our precious Southwest environs. Thank you for this opportunity to make a comment on this important issue.

Sincerely,
Kimie Gill

Kimie Gill
3427 E. Choctaw Dr.
Sierra Vista, AZ 85650-8649
520-452-9156
kimiekgill@aol.com

Daines, Chad

From: Sally Hills [raptorridge@q.com]
Sent: Sunday, October 14, 2012 11:18 AM
To: Cornelison, Chris; Daines, Chad
Subject: Desert Springs Development Amendment

I am opposed to any increase in density for the proposed Desert Springs Development for the following reasons:

Oro Valley's General Plan designates this location as a Significant Resource Area, therefore, any development here should be at the lowest density allowable under the current zoning.

This development is within a wildlife linkage area of the Sonoran Desert Conservation Plan.

This proposed development is in Pima County's Conservation Lands System. The Important Riparian Area and Biological Management Area designations indicated by the County System require that 80% of the land is left as open space.

This development is very close to the three wildlife crossings along Oracle Road which have been approved and planned for by the The Arizona State Department of Transportation and could have severe negative impact on The movement of the area's wildlife.

The development is bordered by Catalina State Park on four sides and would negatively effect the wildlife, land, air quality and possible flood control measures along the Canada del Oro and Big Wash.

The Pima County Regional Park located North of Catalina State Park would also be affected as the Canado del Oro drainage and wild life movement effect and are effected by any development which negatively impacts Catalina State Park.

Thank you.

Sally Hills
raptorridge@q.com
P.O. Box 8656
16,000 N. Sotol Ave.
Catalina, AZ 85739

Daines, Chad

From: Matt & Holly Finstrom [bambooranch@juno.com]
Sent: Saturday, October 13, 2012 9:15 PM
To: Daines, Chad; Cornelison, Chris
Cc: admin@sonorandesert.org
Subject: Desert Springs Proposed Plan Amendment

Dear Oro Valley Zoning:

I hike at Catalina Park once or twice a week. I see a rich diversity of mammals, reptiles and amphibians, - deer, javelina, snakes, lizards, desert tortoise, Gila monster, frogs - and of course, birds.

I would prefer that you not allow amendment of the General Plan. It was written carefully and deserves to be adhered to. The area under consideration is a precious wildlife linkage, and without linkage to other plant and animal communities & mountain ranges, Catalina's wildlife would slowly decline, cut off from meaningful migration and breeding opportunities.

Please keep the setting for the "gem" intact, or at least minimize development around the Park.

Holly Finstrom
1901 N. Avenida Azahar
Tucson AZ 85745

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Tucson Arizona 520-743-9879 phone/fax

Daines, Chad

From: Kimiekgill@aol.com

Sent: Saturday, October 13, 2012 3:02 PM

To: Daines, Chad

Subject: Put the brakes on developement near Catalina State Park

We already have enough of a problem with sprawl in the greater Tucson area. We certainly don't need more of it particularly so close to one of the most scenic parks in Arizona. I ask you to protect this ecologically important area and it's wildlife corridors from the encroachment of further development in this vitally important Sonoran habitat with it's wealth of desert wildlife and plants.

Daines, Chad

From: Alan Adler [ahadler@cox.net]
Sent: Saturday, October 13, 2012 10:59 AM
To: Daines, Chad; Cornelison, Chris
Subject: Objection to the General Plan Amendment for the Desert Springs development
Attachments: DesertSpringsLetter.docx

Embodied in this email is my letter objecting to the General Plan Amendment re the Desert Springs Development, a copy of which I have also attached hereto.
--- Alan Adler

Alan H. Adler

1601 E. Waverly Street

Tucson, AZ 85719

October 13, 2012

Oro Valley Planning and Zoning Commission:

Re: Objection to a General Plan Amendment for the proposed Desert Springs development at Kelly Ranch

As residents of Tucson, my wife and I have for the past 12 years enjoyed the use of Catalina State Park, but we have been dismayed at the large amount of development of the shopping center that has taken place in Oro Valley adjacent to the park. Therefore, we are opposed to the proposed Desert Springs development at Kelly Ranch for the following reasons:

1. The Town of Oro Valley's General Plan designates this location as a Significant Resource Area, and its policy dictates that any development in a Significant Resource Area should be at the lowest density allowable. Applicant's proposal disregards the Significant Resource Area designation and the policies that apply.

2. The proposed Desert Springs development sits squarely within a Critical Landscape Connection, or wildlife linkage, of the Sonoran Desert Conservation Plan. Local policies recommend that wildlife movement barriers in these areas be removed and that habitat connectivity be restored.

3. The public process regarding this proposal has been significantly flawed.

4. The proposed Desert Springs development is in Pima County's Conservation Lands System. Important Riparian Areas as well as Biological Core Management Areas are found on this site. If these two designations were applied to Oro Valley's rules and guidelines, this project would be required to have at least 80% open space.

5. The proposed Desert Spring development is in close proximity to three soon-to-be-built wildlife crossings along Oracle Road. Minimal night-time light, buffered open space, and fencing to funnel animals to the crossings are all critical elements that will lead to the success of these crossings.

Thank you for your careful attention to my objection to the proposed Amendment.

Sincerely,

Alan Adler

Daines, Chad

From: StFatha@aol.com

Sent: Friday, October 26, 2012 11:15 AM

To: Council; Williams, David; Daines, Chad; Michels, Matthew

Cc: kathleen.kennedy@sonorandesert.org

Subject: Desert Springs

My life is somewhat complicated right now, and the former Kelly Ranch property is on my mind. Perhaps these thoughts could be forwarded to the Commission in advance of the next meeting.

I agree that the current General Plan Land Use Map designation that places SRA over a Resort - Golf Course is silly and even contradictory. However, that mistake doesn't justify what is being proposed now.

Reducing the SRA is not supported by evidence obtained from walking the property. I hope the Town proceeds to schedule a walk/site tour for Commissioners and Council members along with a staff member who can point out significant elements on the property.

The applicant has not, and cannot, meet the required criteria. Conditions in the community have not changed to necessarily require the amendment. The applicant cites changes that they anticipate or expect over time. So, this project is speculative. The applicant cannot cite market demand for anything proposed. The applicant can only opine on market demand they hope will develop if other changes in the community occur. The applicant cannot confirm that the proposed amendment is environmentally compatible, and achieves community acceptance. Even if approved at the lowest range of the density designation, the destruction of significant natural habitat and visual resources is disproportionate.

My suggestion is that the residential portion of the project be approved with a minimum of 3 acre lots in the area between the 25% slopes and ridge lines. The ridges are to be left undisturbed, which the developer stated at the final neighborhood meeting. In the flat, less contoured portion of the property to the south the density ought to be 1.3 per acre per the lower range of the low density designation. Medium density on this property adjacent to the park is disrespectful to that Open Space, and would serve to discourage wildlife seeking a safe passage across Oracle.

The NCO portion of the property needs some intensity specifications. In the first place this is not a "neighborhood commercial" property. There are insufficient neighbors to support any office or retail use. The only use I feel can be supported is regional. A WLB representative indicates a "blossoming" demand for senior living use. A WLB representative is involved in this property also. If demand is blossoming for senior living/care, this frontage on Oracle with low density housing behind is a superior location for senior housing - care than the one further west on Tangerine. A full service care center such as Splendido or a combination of independent and assisted living (minus Skilled Nursing) would be well suited. If there is apparent demand - according to our staff and Council's approval of EEZ - this frontage could become part of that overlay Zone for incubator or small corporate locations.

Bill Adler

Coalition for
Sonoran Desert Protection
300 E. University Blvd., Suite 120
Tucson, Arizona 85705
p (520) 388-9925 • f (520) 791-7709
www.sonorandesert.org

Arizona Center for Law in the Public Interest
Arizona League of Conservation Voters Education Fund
Arizona Native Plant Society
Bat Conservation International
Center for Biological Diversity
Center for Environmental Connections
Center for Environmental Ethics
Defenders of Wildlife
Desert Watch
Drylands Institute
Empire Pagan Coalition
Environmental and Cultural Conservation Organization
Environmental Law Society
Friends of Cabeza Prieta
Friends of Ironwood Forest
Friends of Madera Canyon
Friends of Saguaro National Park
Friends of Tortolita
Gates Pass Area Neighborhood Association
Native Seeds/SEARCH
Neighborhood Coalition of Greater Tucson
Northwest Neighborhoods Alliance
Protect Land and Neighborhoods
Safford Peak Watershed Education Team
Save the Scenic Santa Ritas
Sierra Club--Grand Canyon Chapter
Sierra Club--Rincon Group
Silverbell Mountain Alliance
Sky Island Alliance
Sky Island Watch
Society for Ecological Restoration
Sonoran Arthropod Studies Institute
Sonoran Permaculture Guild
Southwestern Biological Institute
Tortolita Homeowners Association
Tucson Audubon Society
Tucson Herpetological Society
Tucson Mountains Association
Wildlands Network
Women for Sustainable Technologies

October 15, 2012

Chairman Robert Swope and Commissioners
Oro Valley Planning and Zoning Commission
11000 N. La Cañada Drive
Oro Valley, AZ 85737

RE: Proposed Major General Plan Amendment for the Desert Springs Project (OV112-02)

Dear Chairman Swope and Commissioners:

I submit the enclosed comments on behalf of the Coalition for Sonoran Desert Protection, founded in 1998 and comprised of 40 environmental and community groups working in Pima County. Our mission is to achieve the long-term conservation of biological diversity and ecological function of the Sonoran Desert through comprehensive land-use planning. We achieve this mission by primarily advocating for: 1) the protection and conservation of Pima County's most biologically rich areas, 2) directing development to appropriate land, and 3) requiring appropriate mitigation for impacts to habitat and wildlife species.

This letter serves as an initial response to a request for a Major General Plan Amendment for 108 acres located in unincorporated Pima County on the east side of Oracle Road, at the Tangerine Road Intersection (OV112-02). We have reviewed the submitted proposal, along with other relevant planning documents such as the Oro Valley General Plan, the Oro Valley Zoning Code, and the Environmentally Sensitive Lands Ordinance.

In summary, significant revisions need to be made to this plan amendment in order to be compatible with the natural, historical, and cultural resource values of this sensitive property. As such, we request that the Planning and Zoning Commission delay this amendment until the issues are resolved, and request that the applicant work with the Coalition for Sonoran Desert Protection, neighbors, and others to create a better proposal. If that is not possible due to the accelerated timeframe of the Town's process, we respectfully recommend denial of this application to the Town Council. We request this for the following reasons:

- The Town's General Plan land use designation of Significant Resource Area and associated policies should be adhered to, and this appropriate designation should not be removed.
- The applicant has failed to adequately and appropriately analyze the property with regard to the Town's Environmentally Sensitive Lands Ordinance as is required by Town Code.

- The Town should not extinguish the opportunity to acquire this property for permanent protection and preservation, which has been a long-term goal of the citizens in this community and the Town's elected bodies.
- The proposal fails to comprehensively consider development implications on regional wildlife connectivity goals and the soon-to-be-built wildlife crossing infrastructure along Oracle Road.
- The proposal fails to buffer Catalina State Park, a healthy, biodiverse, active, and functional protected open space providing important value to the entire region, and one of the many reasons for the property's designation as a Significant Resource Area.
- The public process regarding this proposal has been both flawed and rushed.

We understand that no decision will be made at the October 16, 2012 Planning and Zoning Commission meeting. As such we outline conditions and actions that would help to mitigate impacts of the proposed amendment. We request that you consider these suggestions thoughtfully during your deliberations. Our complete Analysis and Recommendation is enclosed (**Attachment A**).

Attachment B provides you with detailed background information on the community developed and widely supported Sonoran Desert Conservation Plan (SDCP) and its components; Oro Valley's formal endorsement of the SDCP and ongoing commitment to protecting the Santa Catalina – Tortolita Mountains wildlife linkage; and commitments made by Pima County, the Regional Transportation Authority, and the Arizona Department of Transportation to construct three wildlife crossings along Oracle Road in the project vicinity. This letter was initially provided to the US Forest Service (USFS) from the Coalition during the Town's agency review period for this request. We transmitted these comments to USFS District Ranger Stan Helin on July 27, 2012. These comments attempted to provide a thorough context for the project in relation to the regionally important wildlife linkage in which the project is located. Since the USFS did not submit comments during the Town's agency review period, we ask that this set of comments be considered by the Planning and Zoning Commission and the Town Council during review of this proposed amendment.

We appreciate the opportunity to submit these comments. If there are substantive changes prior to the November 5, 2012 Planning and Zoning Commission meeting, we will revise our comments accordingly. Please feel free to contact me if you have any questions.

Sincerely,

Carolyn Campbell

Carolyn Campbell
Executive Director

cc: David Williams, Oro Valley Planning Director
Greg Caton, Oro Valley Town Manager

Attachments:
A. CSDP Analysis and Recommendations
B. CSDP Letter to USFS dated July 27, 2012

ATTACHMENT A

Coalition for Sonoran Desert Protection

ANALYSIS AND RECOMMENDATIONS

To: Oro Valley Planning and Zoning Commission

Date: October 15, 2012

Re: Proposed Major General Plan Amendment for the Desert Springs Project

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Significant Resource Area Designation

The Town General Plan includes an important Land Use Designation – the Significant Resource Area (SRA). The proposed Desert Springs development would be located entirely within this overlay area, which is appropriate for this parcel. As stated in the Town's General Plan regarding SRAs:

> **This designation denotes areas that contain key historic or archeological sites or other environmentally sensitive lands. It is an overlay that includes areas that have been preserved and those that should be preserved through the methods listed in the Open Space and Natural Resources Conservation Element. Any development that takes place in these areas should be at the lowest density allowable in the underlying designation and should include mitigation measures consistent with the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA) and other laws, as appropriate, to a specific resource area. Mitigation of development impacts should also blend with the natural landscape, promote preservation of scenic vistas, protect wildlife habitat and cluster development within the least sensitive portions of the SRA.**

In order to preserve property within an SRA overlay zone, densities may be transferred from within the SRA overlay zone to other areas of a property. The transferable density (TD) within the SRA overlay shall: 1) for residential areas, be the lowest density allowable in the underlying land use designation(s); and 2), for non-residential areas, be at an FAR of .10. However, no TD credit shall be given for areas, such as slopes over 15%, floodways, significant vegetation, or riparian habitat, that are already restricted relative to densities by the Zoning Code. This density transfer may increase the allowable density in those portions of the property to which density is transferred above the stated density range for the land use designation(s) in that area. However, density transfers must meet the following criteria:

> **1. The density at the periphery of the property shall not exceed either that of the underlying designation or the adjoining property, whichever is greater.**
>
> **2. The resultant land use within any designation on the property must be consistent with the description of the housing type provided in the land use section. Thus if an area is described as single-family detached housing, the density transfer could not effectuate a single-family attached development. Or if the area is designated for single-family housing of any kind, it could not be developed for multi-family uses.** (pages 33-34)

For development within SRAs, the applicable guidelines are very clear. Additionally, the policies provide landowners with quite a bit of flexibility in developing their properties.

In their narrative and application, the applicant provides no justification for removing the SRA designation. The Coalition entirely agrees with the SRA land use designation for the entire Desert Springs property.

Recommendation:

Because of this parcel's designation as a Significant Resource Area, we request that the Planning and Zoning Commission either delay or recommend denial of this application to the Town Council. Alternatively, if the Planning and Zoning Commission decides to recommend approval of this application, we request that the Significant Resource Area designation remain on the *entire* property, and that the associated guidelines as delineated in the General Plan be applied to this property prior to the Town Council hearing of this item.

Oro Valley's Environmentally Sensitive Lands Ordinance and Pima County's Conservation Lands System

The Coalition was involved in crafting the Town's Environmentally Sensitive Lands Ordinance (ESLO) as a member of the Technical Advisory Committee and we applaud the Town's action in adopting the ordinance.

The applicant has failed to adequately and appropriately apply ESLO guidelines in the development of this application. We note that in ESLO **Table 27.10-18,** the ESLO outlines which provisions of ESL must be applied to the development process during General Plan Amendments. The notable provisions/categories that must be followed for General Plan Amendments include: Major Wildlife Linkage, Critical Resources Areas, Core Resource Areas, Resource Management Areas, Cultural Resources, Scenic Resources, Hillside Area Category, Open Space Requirements, among other provisions. We understand that under Town Code, many of these provisions are *specifically applied* at later stages in the development process – as opposed to now during the General Plan Amendment process. However, it is clear from our reading of the Town Code that a thorough and comprehensive analysis of the biological factors is required now, prior to a General Plan Amendment, in order to ensure that environmentally sensitive lands are properly protected from the outset of the development process. The applicant must complete the due diligence needed in order to meet Town Code and associated guidelines.

The applicant commissioned SWCA to write a Technical Memorandum evaluating the Desert Springs property in light of the ESLO. The SWCA memo fails to address all of the applicable ESLO provisions. The SWCA essentially disregards the Core Resource Area attributes, and questions the biological basis for the designation, ***even though SWCA was involved in the peer review process that initially developed the habitat models on which the designations are based.*** While the SWCA memo concludes that the Desert Springs project area does not meet ESLO definitions to qualify as a Core Resource Area – a conclusion that we disagree with – ***the memo fails to even consider any of the other applicable categories*** in the ESLO. We recognize that since this property is outside of the Town's boundaries, no ESL designations have yet been formally established for the area. The ESLO accounts for this however, by stating that "The provisions of ESL only apply to properties where specified environmental conditions are identified on the ESL Planning Map ***or described herein***" (emphasis added, OV Code Section 27.10 B.1.a.). Thus, when considering actions on lands outside of the Town boundaries, the applicant must rely on the descriptions of each of the ESL categories to thoroughly analyze the property.

In 2008 the Town of Oro Valley officially endorsed Pima County's Sonoran Desert Conservation Plan. A critical component and implementation tool of the Sonoran Desert Conservation Plan (SDCP) is the Conservation Lands System, a scientifically designed map with associated land use guidelines that was adopted into Pima County's Comprehensive Land Use Plan in 2001. In crafting its own Environmentally Sensitive Lands Ordinance, the Town of Oro Valley recognized the sound, robustly generated, and peer-reviewed science that went into the development of both the SDCP and the Conservation Lands System. The ESLO used the land categories of the Conservation Lands System as its basis, with some categories, such as Biological Core and Important Riparian Areas, used in full. Both of these land use categories are found on the Desert Springs property.

The SWCA memo goes at great length to dispute Pima County's Biological Core Management Areas, the backbone of the ESLO's Core Resource Area designation, which would require 80% of

the property to be set aside as Environmentally Sensitive Open Space. By doing so, the applicant denounces the rigorous scientific evaluation and contributing biologists' expertise that created Pima County's Conservation Lands System. It should be noted that the habitat models for these priority vulnerable species were rigorously determined and peer-reviewed *(again, including assistance from SWCA).*

The SWCA memo also refutes the riparian habitat designation on the property. The SWCA memo states that "prior to development, a complete and thorough plant inventory will be conducted to map these areas and apply the guidance set forth in the ESLO" (page 9). Without this assessment however, the memo goes on to state that the project area does not meet the requirements for a Distinctive Native Plant Stand (page 18), one of the three standards used to establish the Core Resource Area category. To discredit the Distinctive Native Plant Stand resource without a complete and thorough plant inventory is not credible.

The SWCA memo fails to identify ESLO applicability with regard to any of the other conservation categories with Environmentally Sensitive Open Space requirements: Major Wildlife Linkage, Critical Resource Area, and Resource Management Areas.

> **Recommendation:**
> Given the significant flaws in the application of the ESLO guidelines, we request that the Planning and Zoning Commission either delay or recommend denial of this application to the Town Council. Alternatively, if the Planning and Zoning Commission decides to recommend approval of this application, we request that the applicant work with Town Staff and the Coalition for Sonoran Desert Protection prior to the Town Council hearing of this item to determine proper application of the ELSO, particularly the identification of conservation categories and associated open space requirements.

Town of Oro Valley Commitment to Acquire Property

The Town historically has been committed to preserving this property as open space. We refer to and support Pima County's August 7, 2012 letter and attachments reviewing this proposed amendment with regard to the historical efforts to protect and preserve this property. As recently as the 2004 open space bond, the Town requested and received monies to aid in the acquisition of the land. These monies have since been transferred to other worthy projects at the direction of the Town, in response to "failed negotiations" with the owner.

The former Town Manager, Mr. Chuck Sweet, engaged in documented negotiations with the property owner over the years. The citizens of this community, and the Town itself, have long hoped that this property will someday be permanently protected. As the applicants themselves have stated that there has never been a "formal offer" to purchase the property, it seems that the Town and/or County should attempt to reach an agreement prior to consideration of any significant plan amendment. Additionally, Pima County is planning for a November 2013 bond election, which will again include funding for open space.

There is clear citizen support for the permanent preservation of this property. The 1990 proposed rezoning of this property was defeated by a voting margin of nearly 4 to 1. The 2004 Pima County bond that included $2.5 million for the acquisition of the Kelly Ranch/Desert Springs property passed by a margin of 2 to 1. In November 2005, the Town of Oro Valley General Plan, including the language, "Seek to acquire the Kelly Ranch property...," was ratified by the voters by a margin of 3 to 1. **Citizens have clearly voiced their support time and time again for the permanent protection of this property. Approving this General Plan Amendment would effectively extinguish any opportunity in the future to preserve the property as protected open space.**

Recommendation:
We request that the Planning and Zoning Commission either delay or recommend denial of this application in order to give the Town and the County an opportunity to negotiate with the property owners in order to make a "formal offer" to acquire this property for permanent protection as open space.

Compatibility with Wildlife Crossing Project
In 2010, the Regional Transportation Authority approved $8.2 million of the voter approved $45 million specifically dedicated to wildlife linkages to construct three wildlife crossings along Oracle Road. The crossings, two underpasses and one overpass, will be incorporated into a larger road widening project being planned by the Arizona Department of Transportation. Design is well underway with construction scheduled to begin in Fall of 2013. The southernmost underpass is located just north of and adjacent to the Desert Springs project at milepost 81.9.

The placement of the wildlife crossings was based on a variety of factors, including land topography; roadkill surveys conducted by the Arizona Game and Fish Department that identified "hotspots" along the roadway where large numbers of wildlife were already trying to cross the road; adjacent land uses, including existing and planned development and protected open space; and the modeled Santa Catalina – Tortolita Mountains wildlife linkage design.

Protected open space would be the most compatible adjacent land use for this property with respect to the wildlife crossing project. Any significant development would have detrimental impacts on the effectiveness of the wildlife crossings project.

Recommendation:
If the Planning and Zoning Commission decides to recommend approval of this application, we request that the applicant work with Town Staff, Arizona Game and Fish Department, and the Coalition for Sonoran Desert Protection prior to the Town Council hearing of this item to determine Special Area Policies that can be incorporated into the General Plan to ensure that the Desert Springs project will embrace and enhance the nearby wildlife underpass and implement project components that support, rather than detract from, the use of the underpass by wildlife. This would include restrictions minimizing and specifically directing night-time lighting, incorporating appropriate buffers on the edge of the project area to address both visual and noise impacts, and

constructing appropriate perimeter fencing or walls to funnel wildlife away from the project area and towards the underpass. In general, the location of commercial development in the northwest section of the project area (as outlined in the Desert Springs conceptual plan), and the previous plan's inclusion of a golf course, are both potentially more amenable to wildlife movement than residential development, especially the higher densities included in the newest proposal.

Impacts on Catalina State Park

We wholeheartedly agree with the comments provided by Arizona State Parks on June 11, 2012 regarding this proposal. Catalina State Park and the Santa Catalina – Tortolita Wildlife Linkage that transverses it are regional biological gems. This public land supports our economy through outdoor recreational experiences, promotes our natural heritage, and ensures that we continue to have an enviable quality of life by providing essential ecosystem services.

One of the most important tenets of conservation biology is that of buffering biological core areas. Catalina State Park, which sits upon US Forest Service land, is indisputably a core biological area. The Coalition's new wildlife camera project, launched in Spring 2012, continues to gather valuable wildlife species data in Catalina State Park, supporting the contention that this is a healthy, biologically diverse, active, functional protected area. Our three wildlife cameras in the park have documented at least 17 species of wildlife, including bobcat, javelina, badger, deer, skunk, and other small mammals and birds.

The Town of Oro Valley's General Plan Policy 1.4.2 states that: "The Town shall continue to ensure that zoning near natural open spaces, parks, washes, trails, trailheads, schools, recreation areas, Tortolita Mountain Park, Catalina State Park and Pusch Ridge Wilderness provides adequate buffers and compatible uses." The staff report for this item states that: "The distance and intervening vegetation between the campgrounds for the Catalina State Park and the proposed development provide an adequate functional and visual buffer to the proposed low density residential area." This analysis is completely faulty. **Essentially, this argues that Catalina State Park is its own buffer, a complete mis-reading and incorrect interpretation of the term "buffer" and the Town's policies for buffers.** Rather, the proposed development needs to include adequate buffers within the development itself to minimize impacts to adjacent natural open space within Catalina State Park. Adjacent land uses should remain at the lowest density levels possible. Any land use above the lowest density allowable severely encroaches on the idea of "buffering" the park.

Recommendation:

Given our significant concerns about the impact of this proposal on Catalina State Park, we request that the Planning and Zoning Commission either delay or recommend denial of this application to the Town Council.

This mountain lion, photographed in Catalina State Park within a half mile of the Desert Springs property by one of the Coalition's remote wildlife cameras, further demonstrates that the Park and adjacent open spaces are healthy and biologically diverse open spaces.

Public Process

The Coalition has been aware of this Major General Plan Amendment request since May 2012. We were not informed about the April 12, 2012 Neighborhood Meeting and were thus not able to attend. Coalition staff and representatives were present at the September 20, 2012 Neighborhood Meeting.

In reviewing and acting upon this Major General Plan Amendment, we believe that the Town has the duty to conduct a process in line with all Town rules, guidelines and regulations. Failure to comply with these measures of transparency will result in a loss of credibility among constituents and stakeholders. The Town may also render itself vulnerable to actions requesting remedy for its failure to follow due process. Thus, it is imperative the Town seek to address and remedy public process concerns as they are presented.

We have identified three significant flaws in the public process to date:

1. Oro Valley Zoning Code Section 22.2 General Plan Amendments Procedures under D.2.b.iii Neighborhood Meetings states **"a) At least two neighborhood meeting must be provided prior to submittal of a formal application to the Land Use Map."**

   According to our review of the publicly accessible information, the applicant provided only *one* neighborhood meeting – on April 12, 2012 – prior to submittal of a formal application. The formal application was received by the Town on April 20, 2012. A second neighborhood meeting prior to the first submittal was never held.

2. Oro Valley Zoning Code Section 22.2 General Plan Amendments Procedures under D.2.b.iii Neighborhood Meetings also states **"a) ... If there are any substantive changes to the application after formal submittal, an additional neighborhood meeting will be required."**

   At the September 20, 2012 Neighborhood Meeting, the applicant unveiled a substantively *and substantially* changed Land Use Map for the property. According to Town records, the revised application, including these substantive changes, was not received until September 27, 2012. These changes necessitate, at a very minimum, another neighborhood meeting.

3. Oro Valley Zoning Code Section 22.15 Public Participation under F.1. Number of Meetings states **"iii. It should be determined at the meeting if additional time or information is needed to develop solutions. The decision about whether to hold an additional meeting should be made at this meeting."**

   At the outset of the September 20, 2012 neighborhood meeting the facilitator indicated that at the end of the meeting he would ask those in attendance if they would be interested in an additional neighborhood meeting to discuss issues. Coalition staff and representatives recall a strong if not unanimous support for an additional neighborhood meeting to discuss issues. This sentiment is also recorded in the Summary Notes from the September 20, 2012 neighborhood meeting provided by the Town.

   We appreciate that an additional neighborhood meeting has been scheduled for October 24, 2012, though we are concerned that given the compressed timeframe for public hearings, it will difficult for all neighborhood and environmental issues to be adequately addressed before Town Council consideration of this proposal.

Since the Land Use Map for this project was substantively revised and presented on the same day as the September 20, 2012 neighborhood meeting, the majority of the time was spent presenting and clarifying the changes. There was little opportunity for the public to discuss actual issues with the project. Anyone who had downloaded materials from the Town's website

about the Neighborhood Meeting had out-of-date information. Additionally, while the Land Use Map was updated on the Town's website on September 21, 2012, the accompanying application and narrative were not even received by the Town until September 27, 2012.

Recommendation:

Given the significant flaws in the public process to date, we request that the Planning and Zoning Commission either delay or recommend denial of this application to the Town Council. We do recognize that an additional neighborhood meeting has been scheduled for October 24, 2012. This additional meeting, though welcomed, does not adequately make up for the ongoing flawed public process. The applicant failed to provide a second neighborhood meeting *prior* to their initial submittal, a clear violation of Oro Valley Code. Also, given the constant revisions to the proposed Land Use Map and the Application and Narrative, there has not been any consistency in the information presented at the neighborhood meeting.

We request that the applicant pull this proposed General Plan Amendment, work with the public, the Coalition, and other key stakeholders to craft workable solutions for all, and then consider resubmission in the future. We note that in Arizona Revised Statutes §9-461.06, there is *no prohibition* on applicants withdrawing a General Plan Amendment once submitted.

ATTACHMENT B

Coalition for
Sonoran Desert Protection
300 E. University Blvd., Suite 120
Tucson, Arizona 85705
p (520) 388-9925 • f (520) 791-7709
www.sonorandesert.org

Arizona Center for Law in the Public Interest
Arizona League of Conservation Voters Education Fund
Arizona Native Plant Society
Bat Conservation International
Center for Biological Diversity
Center for Environmental Connections
Center for Environmental Ethics
Defenders of Wildlife
Desert Watch
Drylands Institute
Empire Pagan Coalition
Environmental and Cultural Conservation Organization
Environmental Law Society
Friends of Cabeza Prieta
Friends of Ironwood Forest
Friends of Madera Canyon
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Tucson Mountains Association
Wildlands Network
Women for Sustainable Technologies

July 27, 2012

Stan Helin, District Ranger
Santa Catalina Ranger District
5700 N. Sabino Canyon Road
Tucson, AZ 85750

RE: Proposed Major General Plan Amendment for the Desert Springs Project in Oro Valley, Arizona

Dear Mr. Helin:

I am writing on behalf of the Coalition for Sonoran Desert Protection. Founded in 1998 and comprised of 40 organizations, the Coalition is dedicated to creating a community where ecosystem health is protected; nature and healthy wild animal populations are valued; and where visitors, children and future generations can all drink clean water, breathe clean air, and find wild places to roam. We achieve this vision by concentrating on the long-term conservation of biological diversity and ecological function of the Sonoran Desert through comprehensive land-use planning, with a primary emphasis on Pima County's Sonoran Desert Conservation Plan.

This letter is in response to a request for comments on the proposed Major General Plan Amendment for the Desert Springs Project in Oro Valley, AZ. We have reviewed the submitted proposal, along with other relevant planning documents such as the Oro Valley General Plan and Environmentally-Sensitive Lands Ordinance.

In summary, our comments try to provide a thorough context for the project in relation to the regionally important wildlife linkage in which the project is located. We provide detailed background on the Sonoran Desert Conservation Plan (SDCP) and its components; Oro Valley's formal endorsement of the SDCP and ongoing commitment to protecting the Santa Catalina – Tortolita Mountains wildlife linkage; and commitments made by Pima County, the Regional Transportation Authority, and the Arizona Department of Transportation to construct three wildlife crossings across Oracle Road in the project vicinity. We hope this information is useful to you as you develop comments from the U.S. Forest Service on this project.[1]

Sonoran Desert Conservation Plan

Since Pima County has such a long and accomplished history of regional conservation planning, it is important to understand the larger context of new large planned developments such as the Desert Springs project, especially when they are

[1] Once the public comment period is opened, the Coalition will be submitting our own formal comments to the Town of Oro Valley on this project.

located in biologically sensitive areas. This context provides a crucial framework when evaluating all the community resources, efforts, and voter-designated monies that have been directed towards protecting the Sonoran Desert and promoting balanced land use planning in Pima County. Throughout the description of the main components of the Sonoran Desert Conservation Plan, we include additional information on how these components relate to the Desert Springs project. If you would like more detailed maps or explanation of any of this information, please let us know and we would be happy to provide it to you.

The Sonoran Desert Conservation Plan (SDCP) was initially adopted by Pima County in 1998 and is nationally-recognized and emulated. It is a regional vision for intelligent development within the context of conservation that encompasses a variety of implementation tools, with a goal of "ensuring the long-term survival of the full spectrum of plants and animals that are indigenous to Pima County through maintaining or improving the habitat conditions and ecosystem functions necessary for their survival."

These implementation tools include:

- **The Conservation Lands System (CLS)**, a scientifically designed map with associated land use guidelines that was adopted into Pima County's Comprehensive Land Use Plan in 2001. The CLS "perpetuates the comprehensive conservation of vulnerable species; retains those areas that contain large populations of focal vulnerable species; provides for the adjacency and proximity of habitat blocks; preserves the contiguity of habitat at the landscape level; and retains the connectivity of reserves with functional corridors."

  Seven land use categories make up the CLS, including Important Riparian Areas, Biological Core Management Areas, Scientific Research Areas, Multiple Use Management Areas, Agriculture In-holdings, Special Species Management Areas, and Critical Landscape Connections. Each of these land categories is represented on a map and has associated open space guidelines. The CLS is only applied to discretionary actions of the Pima County Board of Supervisors. It has been a valuable tool for Pima County and is integrated into other planning documents such as Riparian Habitat Mitigation Guidelines and the County's draft Multi-Species Conservation Plan.

  The proposed Desert Springs project has underlying CLS categories of Important Riparian Area and Biological Core Management Area, the two most biologically-rich CLS categories, with open space guidelines of 95% open space and 80% open space, respectively. This means that if this development were being submitted to Pima County, then the CLS would recommend that only 5% of the Important Riparian Area be developed and only 20% of the Biological Core be developed, much in keeping with the current zoning designation of the Desert Springs proposal. On-site and/or off-site mitigation can be implemented to address additional development above and beyond those thresholds. Given the Town of Oro Valley's official endorsement of the Sonoran Desert Conservation Plan in 2008 and passage of their Environmentally-Sensitive Lands

Ordinance in 2011, we hope that adequate and connected open space is set-aside on this property in perpetuity.

- An expansive and geographically diverse **Open Space Preserve System**, funded by two open space bonds overwhelmingly approved by voters in 1997 and 2004. These bonds, totaling over $200 million, have conserved over 200,000 acres of open space throughout the County, including lands purchased in fee simple and State Trust Land grazing leases.

  The Treehouse parcels, 13 acres straddling both sides of Oracle Road just north of the Desert Springs project area, were purchased with open space bond funds in 2010 to protect important open space adjacent to a planned wildlife overpass.

- The development of a **Multi-Species Conservation Plan (MSCP)**, currently in final draft form, that was submitted to the U.S. Fish and Wildlife Service with an application for an Incidental Take Permit in December 2010. The MSCP focuses on the protection of threatened and endangered species in Pima County and mitigation for any incidental take of these species during any of the otherwise lawful "activities," such as capital improvement projects and private development, outlined in the plan. It also includes a thorough monitoring and management plan.

The SDCP has been embraced and endorsed in various ways by other local jurisdictions. The City of Tucson has an official policy to apply the Conservation Lands System in all annexations. The Town of Oro Valley officially endorsed the SDCP in 2008 and included the CLS as a Special Area Policy in the Arroyo Grande General Plan Amendment in 2008. Both the City of Tucson and the Town of Marana are finalizing Habitat Conservation Plans that complement the County's Multi-Species Conservation Plan.

One component of the SDCP, the protection of Critical Landscape Connections (or more generally, wildlife linkages), has also received considerable attention and regional resources over the past decade. This is especially true in the case of the Santa Catalina – Tortolita Mountains wildlife linkage, surrounded on three sides by Catalina State Park and the Coronado National Forest, where the proposed Desert Springs project is located.

Santa Catalina – Tortolita Mountains Wildlife Linkage

The wildlife linkage that connects the Santa Catalina and Tortolita Mountains has a long history of being targeted for protection and conservation. Dating back to the 1980s, this linkage has been identified as biologically rich and important to the overall health of the Sonoran Desert and the Sky Island ecoregion. Important milestones related to this linkage include:

- It is one of six "Critical Landscape Connections" identified in the SDCP.

- In 1999, Pima County submitted an application under the Arizona Preserve Initiative to reclassify 9,280 acres of State Trust land between Tortolita Mountain Park and Oracle Road for conservation. This area was called "Biological Corridor East." The State Land

Department requested that Pima County split the application into two smaller applications. Eventually, 4,915 acres of State Trust Land were re-classified for conservation. These lands comprise roughly the western half of the original application. Due to shifting legalities at the State Land Department and the shelving of the Arizona Preserve Initiative, the eastern half of these lands was not re-classified for conservation. However, the intent to preserve them still stands. In addition, a third application was submitted in 2000 for 2,320 acres of State Trust Land on the east side of Oracle Road north of Catalina State Park. This application has also not been formally responded to because of the shelving of the Arizona Preserve Initiative. In general, by submitting these applications, Pima County recognized the biological importance of these lands and their critical contribution to a functioning ecosystem in this part of the region.

- In 2006, this wildlife linkage was identified as one of only 16 "high priority linkages" in the entire state by the *Arizona Wildlife Linkages Assessment*, an effort undertaken by the Arizona Department of Transportation, Arizona Game and Fish Department, and many other public agencies and non-profit organizations.[2]

- A detailed "linkage design" for the Santa Catalina – Tortolita Mountains wildlife linkage was created by Dr. Paul Beier and colleagues at Northern Arizona University in 2008.[3] Their report describes a linkage design as "a science-based starting point for conservation actions." It consists of mapped wildlife linkage corridors and an accompanying scientific report. The report outlines how the linkage design was created, the existing conditions and barriers within the linkage, and recommendations for how to best incorporate the linkage design into local land use planning. Pima County, the Town of Oro Valley, the Town of Marana, Arizona Department of Transportation, Arizona State Land Department, and local conservation organizations have all used this linkage design in their planning processes in various ways over the last four years.

- In 2008, the Town of Oro Valley adopted a General Plan Amendment for the Arroyo Grande area. Arroyo Grande encompasses 9,000 acres of State Trust Lands between the current town boundary and the Pima County-Pinal County line to the north, on the west side of Oracle Road. Although Arroyo Grande is currently part of unincorporated Pima County, Oro Valley has officially noticed its intention to annex this area when the land is disposed of by the State Land Department. As part of the General Plan Amendment, a 1-kilometer wide wildlife linkage was designated through the southern portion of the planning area. This linkage will consist of natural undisturbed open space with buffers to adjacent development. The size and configuration of the linkage was based on the best available science, including Beier's linkage design and the underlying CLS designation of Multiple Use Management Area which recommends a 66 2/3 % open space set-aside. This General Plan amendment was the result of cooperative planning among the Town

[2] More information on the Arizona Wildlife Linkages Assessment can be found at http://www.azdot.gov/Inside_adot/OES/AZ_WildLife_Linkages/assessment.asp

[3] The full linkage design report can be found at: http://corridordesign.org/linkages/arizona

of Oro Valley, Pima County, the Arizona State Land Department, Arizona Game and Fish Department, and the Coalition for Sonoran Desert Protection.

In the larger context of this linkage, Arroyo Grande will provide a critical connecting block of protected open space on the west side of Oracle Road leading to the Tortolita Mountains. Catalina State Park will provide a significant block of protected open space on the east side of Oracle Road connecting, as a gateway, to the Coronado National Forest within the Santa Catalina Mountains. Thus, it is critical that the wildlife habitat in Catalina State Park remain as undisturbed and intact as possible. Adjacent development must provide an adequate buffer to the park and not negatively impact existing habitat and ecosystem function.

- In 2010, the Regional Transportation Authority approved $8.2 million of the voter-approved $42 million specifically dedicated to wildlife linkages to construct three wildlife crossings along Oracle Road. The crossings, two underpasses and one overpass, will be incorporated into a larger road widening project being planned by the Arizona Department of Transportation. Design is well underway with construction scheduled to begin in Fall of 2013. The southernmost underpass is located just north of and adjacent to the Desert Springs project at milepost 81.9.

  The placement of the wildlife crossings was based on a variety of factors, including land topography; roadkill surveys conducted by the Arizona Game and Fish Department that identified "hotspots" along the roadway where large numbers of wildlife were already trying to cross the road; adjacent land uses, including existing and planned development and protected open space; and Beier's linkage design.

  We hope that the Desert Springs project will choose to embrace and enhance the nearby wildlife underpass and implement project components that support, rather than detract from, the use of the underpass by wildlife. This includes minimizing and specifically directing night-time lighting, incorporating appropriate buffers on the edge of the project area to address both visual and noise impacts, and constructing appropriate perimeter fencing or walls to funnel wildlife away from the project area and towards the underpass. In general, the location of commercial development in the northwest section of the project area (as outlined in the Desert Springs conceptual plan), and the previous plan's inclusion of a golf course, are both potentially more amenable to wildlife movement than residential development, especially the higher densities included in the newest proposal.

Town of Oro Valley Support for Conservation

The Town of Oro Valley has a strong history of supporting regional conservation and the Sonoran Desert Conservation Plan. In 2004, Oro Valley identified the Desert Springs property (then known as "Kelly Ranch") as a top priority for acquisition with open space bond funds. Pima County voters approved $174.3 million in open space bond funds in 2004, a certain percentage of which were allocated to local jurisdictions to use for acquisitions in their area.

Oro Valley recognized the biological importance of this property and expressed a strong desire to purchase the property for open space. Unfortunately, the property owners were not inclined to sell. Thus, in 2010, Oro Valley approved the use of a portion of their open space bond funds (originally allocated for Kelly Ranch/Desert Springs) to purchase the Treehouse parcels near the wildlife overpass location along Oracle Road. However, at the same time, they publicly expressed their continued desire to purchase the Kelly Ranch/Desert Springs property, again acknowledging the high biological value of this parcel.

In August 2008, Oro Valley officially endorsed the SDCP and in February 2011 Oro Valley adopted an Environmentally-Sensitive Lands Ordinance (ESLO). According to the ESLO, "Known, biologically-based, sensitive resources and associated conservation categories are consistent with Pima County's Sonoran Desert Conservation Plan." The land categories in the Conservation Lands System were used as the basis for the categories outlined in the ESLO, with some, like Biological Core and Important Riparian Areas, used in full, and others, like Multiple Use Areas, used in modified form.

As mentioned above, Oro Valley adopted a General Plan Amendment in 2008 for the Arroyo Grande area. This amendment incorporated the Conservation Lands System as a Special Area Policy and further solidified Oro Valley's support for the SDCP and the CLS. Given the downturn in the housing market and the economy over the past five years, the State Land Department has not moved forward with disposing of Arroyo Grande; however, the area remains on the State Land Department's list of areas it hopes to sell in the next five years. When that happens, Oro Valley will be poised and ready to preserve a critical piece of the regionally critical Santa Catalina – Tortolita Mountains wildlife linkage.

Catalina State Park

We have reviewed the letter submitted to Oro Valley from Arizona State Parks (attached) in regards to impacts to Catalina State Park from the proposed Desert Springs development. We appreciate Arizona State Parks' discussion of impacts to the Institute for Desert Ecology, developed and run by Coalition member group, the Tucson Audubon Society, for the past 42 years; avoiding inappropriate access by homeowners into the park; and consideration given to designing the development to adhere to "dark skies" principles. While "dark skies" are important to astronomers, they are also crucial to healthy wildlife habitat and the movement of wildlife across the landscape. This will be especially true for the wildlife underpass that is planned for just north of the Desert Springs project along Oracle Road.

Recently, the Coalition launched a volunteer-driven remote wildlife camera monitoring project in the Santa Catalina – Tortolita Mountains wildlife linkage. Three of our cameras are currently located in Catalina State Park and have documented at least 17 species of wildlife, including bobcat, coyote, javelina, badger, deer, skunk and other small mammals and birds. We know that Catalina State Park is a healthy, biologically diverse, active, functional protected area that plays an integral part in the functioning of the larger wildlife linkage between the Santa Catalina and Tortolita Mountains. We hope that the Desert Springs project is developed with this in

mind and makes every effort to minimize impacts to Catalina State Park and this regionally important and imperiled wildlife linkage.

In summary, as you develop comments from the U.S. Forest Service/Catalina Ranger District regarding the proposed Desert Springs Major General Plan Amendment, we hope you take into consideration the larger context of this proposed development. As we have described above, millions of dollars of community resources have been either spent or dedicated to preserving the Santa Catalina – Tortolita Mountains wildlife linkage. There is also long-standing and overwhelming community support for connected, protected wildlife habitat in this area of Pima County.

Thank you for requesting and reading our comments on this project. If you have any questions or need any further clarification or information, please let me know.

Sincerely,

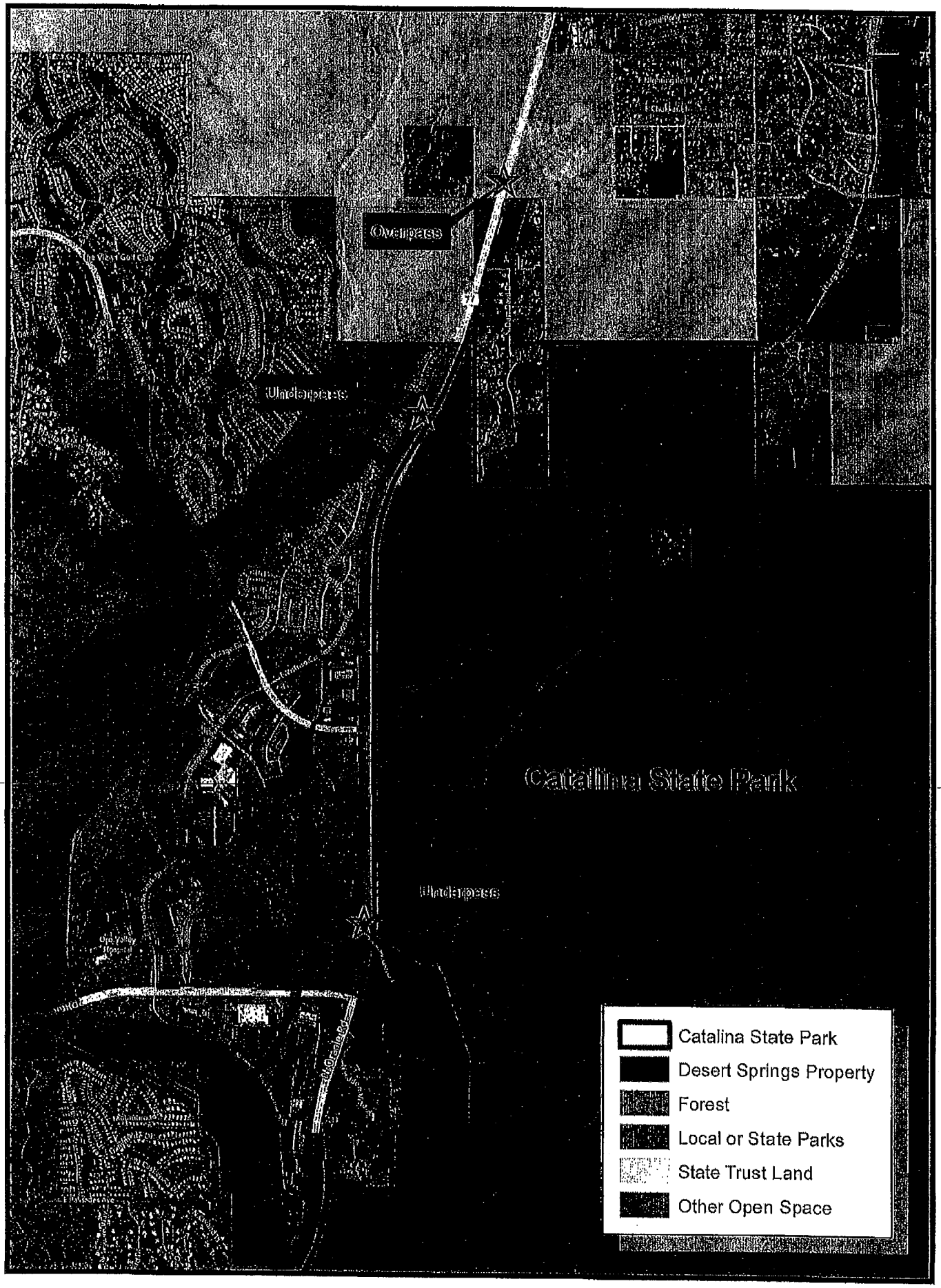
Carolyn Campbell

Carolyn Campbell
Executive Director

Cc: Steve Haas, Park Manager, Catalina/Oracle State Parks
Walt Keyes, Road Manager, Coronado National Forest, Supervisor's Office

Attachments:

Map – Desert Springs property, open space, and wildlife crossing locations
June 11, 2012 Letter from Arizona State Parks to the Town of Oro Valley



Map. Desert Springs property, open space, and crossing locations.

Janice K. Brewer
Governor

Bryan Martyn
Executive Director

Arizona State Parks
AZStateParks.com

Board Members

Walter D. Armer, Jr., Vail, *Chair*
Maria Baier, State Land Commissioner, *Vice Chair*
Kay Daggett, Sierra Vista
Alan Everett, Sedona
Larry Landry, Phoenix
William C. Scalzo, Phoenix
Tracey Westerhausen, Phoenix

June 11, 2012

Permit Technician
Development Review Transmittal
Town of Oro Valley Development Infrastructure Services
11000 N. La Canada Drive
Oro Valley, AZ 85737

Re: Project Number: OV1112-002 and Project Title: Desert Springs-Major Plan Amendment

Arizona State Parks appreciates the opportunity to comment on this Proposed General Plan Amendment. Staff, as operating entity of Catalina State Park (Park), has reviewed the Proposed Amendment covering the adjacent Desert Springs Property. We recommend that you also solicit comments from the United States Forest Service, as they are the primary owner of the lands within the Park. They may have concerns about the effect on the National Forest overall, and other issues such as watershed/wildlife/fire.

The proposed change to Medium Density Residential will greatly increase the number of housing units visible from the Park. This is further complicated by the elimination of the resort/golf course land, which would have provided a needed buffer to the Park.

Residential development, created by the more intense zoning, will negatively impact the recreational experiences of visitors to the Park. Beginning on the Park entrance road and continuing throughout the various campgrounds and at the equestrian center, the close proximity of residential development to the Park will be painfully obvious. The impact will be most significant from the campgrounds and the equestrian area; however, the loss of pristine viewshed will impact all park visitors. On-park staff housing will also be impacted by creation of the new housing. Opportunities for solitude experiences in the wild will be diminished.

A large portion of the south part of the Desert Springs property is subject to flooding, as was experienced in 1983 and later. The berm located on the west side of the Canada del Oro wash has not prevented flooding of this area of the Park, including Park residences, in the past. Arizona State Parks has a grave concern that this situation will reoccur. Has the developer completed a new floodplain study to quantify the flooding danger to this area? What mitigation is proposed for the portion of the proposed development located in the 100-year flood zone? Regardless of other considerations, Catalina State Park must be protected from impacts caused by changes to the floodplain.

The proposed development will increase the number of potential homeowners who will want access to the Park. State Parks are fee areas and thus, management becomes a major concern. The developer must be required to provide a secure perimeter wall along the Desert Springs property adjacent to the Park boundary, to prohibit any form of access to the Park. The developer should complete an accurate boundary survey prior to the construction of the wall to ensure its proper location.

The Park is in the process of becoming certified as a Dark Sky Park. Staff is working with the local astronomy club and the International Dark-Sky Association toward this goal. The Park has hosted 4 Star Parties on site to date.

The impact of lighting from a development with such intense density, as is proposed, would affect more than just the Park's astronomy programs. Nocturnal and other animals in the Park would experience changes in their behaviors due to the introduction of additional light at night to this area. It is important that this project not only complies with the Oro Valley Outdoor Lighting Code, but also insures that any developer lives up to the spirit of the ordinance, which seeks to "preserve the relationship of the residents to their unique desert environment through protection of access to the dark night sky." Lighting plans for any proposed development must address potential impact on the Park, its wildlife and "Dark Skies" concept.

Another concern is the impact the proposed development will have on the Institute for Desert Ecology (IDE). The Audubon, University of Arizona, Prescott College, and State Parks are active partners in facilitating the annual, acclaimed, and multi-disciplinary program. The IDE has experienced four decades of professional and community service in the multiple arenas of resource management, land use and conservation. It is an excellent example of a science-based and societal-focused partnership program that entails world-class hands-on instruction and educational outreach and research. The value of the IDE rests largely on maintaining the unique and relatively undisturbed and diverse ecological setting (biological and geological) that the Park offers. It accomplishes this efficiently from a scientific and logistical perspective because of its relatively small but important geographic location. The proximity of the Park and program to a major urban setting makes it idea for local and participants who travel great distances to Tucson for the program. The Park hosts and showcases an inordinate amount of bio-diversity and lateral and vertical linkages and distributions of fauna and flora, that are linked also in their co-evolution and function over time and space. The IDE emphasizes the need for inventory and monitoring for protection, advocacy and enjoyment of the fragile Sonoran Desert ecosystem. Lessons learned in this program, and professional and personal relationships made on site, are applicable to the conservation and advocacy of ecosystem functionality and conservation elsewhere. Urban encroachment and industrialization of open spaces elsewhere within the greater Tucson area continues to offer fewer and fewer cost-effective venues that can so efficiently nurture a partnership program of this caliber.

If development of Desert Springs is approved, the land annexed by Oro Valley, and public utilities are provided to the development, the design of those utilities should also include provisions to connect those utilities to the Park.

I am interested in working with Oro Valley, Pima County, and the developer in during this planning process. I would be willing to meet with you at your convenience.

Sincerely,

Bryan Martyn, Executive Director

Cc: Jay Ream, Deputy Director – Parks
Kent Ennis, Deputy Director – Administration
Lee Eseman, Chief of Operations
Paul Govino – Chief of Development
Randy Furnish – Regional Manager
Steve Haas, Park Manager
Bob Cassavant – Science and Research Manager
Jim Sutton-USFS

November 3, 2012

The Honorable Satish Hiremath
Mayor of Oro Valley, AZ
Town Hall
11000 N LaCanada Dr
Oro Valley AZ 85737

NOV 6 2012

Dear Mayor Hiremath:

We are long time residents of beautiful Oro Valley, living at 9420 N Calle El Milagro since 1984. For all those years we have enjoyed the beautiful Catalina State Park for horseback riding, hiking, picnicking and even educational opportunities. Rosemary also volunteers at the Park on a regular basis. We have always considered the Park one of the "Crown Jewels" of the Oro Valley area.

We are now writing to express our opposition to **the Desert Springs Major General Plan Amendment.**

We are opposed to **the Desert Springs development because:**

- of the negative impact the proposed development will have on Catalina State Park.
- It will be so devastating to Catalina State Park, which attracts visitors from all over the world to Oro Valley.
- of the effect the development will have on the campgrounds and equestrian area at Catalina State Park.
- of the impact that lighting from the development will have on the astronomy programs at Catalina State Park.
- it would seriously compromise plans to build wildlife corridors in that area.
- of the impact it will have on wildlife in the area.
- We don't think the developer has made a good case for changing the zoning of this area from Low Density Residential/Resort/Golf Course to Medium and High Density Residential.

Many of our friends and neighbors, both from Oro Valley and the general Northwest area have also expressed concerns for this development and believe the proposed Desert Springs development will detract greatly from this beautiful and pristine area.

We rarely ask anything special of the Oro Valley Council, but on this matter, we are pleading with you and the other members of the Oro Valley Town Council to vote against the Desert Springs Major General Plan Amendment.

Sincerely,

Rosemary Minter

Rosemary Minter

Sam G. Minter

Sam G. Minter

From:	Daines, Chad
To:	Flores, Roseanne
Subject:	FW: Desert Springs Input
Date:	Monday, November 19, 2012 8:23:36 AM

From: Cornelison, Chris
Sent: Tuesday, November 06, 2012 4:46 PM
To: Daines, Chad
Subject: Desert Springs Input

Chad,

The below message was submitted via the Constituent Services Portal.

Chris Cornelison
Constituent Services Coordinator/Management Assistant
Town of Oro Valley
11000 N. La Cañada Drive
Oro Valley, Arizona 85737
office: 520.229.4711
ccornelison@orovalleyaz.gov

We were unable to attend the public meeting on November 5th, but we would like to comment on the proposed development of the Kelly Ranch area, adjacent to Catalina State Park. We are avid birders, and regularly use the Catalina State Park area to bird by ourselves and to lead birding groups. The birding populations, both resident and migratory, of the park do not use the borders, and their nesting areas spill over the entire area. We are concerned that any additional development near the park will suburbanize the area east of Oracle Road, rather than remain as open space with large ranches. The housing development and accompanying traffic will definitely affect the attraction of the Catalina State Park area both for tourism and wildlife. PLEASE Reconsider the approval of this development and take into account all the opposition from proponents of open space and natural habitats.
Thank you,
Prudy & Bob Bowers

From:	Daines, Chad
To:	Flores, Roseanne
Subject:	FW: Desert Springs development
Date:	Monday, November 19, 2012 8:24:17 AM

Chad Daines, AICP
11000 N. La Canada Drive, Oro Valley, Arizona 85737
Phone (520) 229-4896
cdaines@orovalleyaz.gov

www.orovalleyDIS.com

From: Mary Walker [mailto:sonoranmary@yahoo.com]
Sent: Monday, November 05, 2012 2:11 PM
To: Daines, Chad; Cornelison, Chris
Subject: Desert Springs development

To Oro Valley Town Council:

Dear Sirs:

Please do not amend the General Plan to increase development density near Catalina State Park, an extremely important biological and recreational treasure in our community. The park is a remarkable asset to residents and visitors, and its biodiversity and function will be seriously impaired by the proposed development.

The proposed development area is within Pima County's Conservation Lands System. Important Riparian Areas and Biological Core Management Areas are found on this site. If these two designations were applied to Oro Valley's rules and guidelines, this project would be required to have at least 80% open space. Lands adjacent to the Park are critical part of wildlife corridors that are slated to be built soon. Their development would ndestroy the effectiveness of such corridors connecting the Catalinas and the Tortolitas.

Increasing development density in this area is inconsistent with the present and future needs of our town.

Sincerely yours,

Winston and Mary Walker
13450 N. Kachina Drive
Oro Valley

From: Daines, Chad
To: Flores, Roseanne
Subject: FW: Comments on Desert Springs Development
Date: Monday, November 19, 2012 8:24:31 AM

Chad Daines, AICP
11000 N. La Canada Drive, Oro Valley, Arizona 85737
Phone (520) 229-4896
cdaines@orovalleyaz.gov

www.orovalleyDIS.com

From: Josh Schachter [mailto:joshsch@cox.net]
Sent: Monday, November 05, 2012 8:47 AM
To: Daines, Chad
Subject: Comments on Desert Springs Development

Dear Mr. Daines,

I can not attend the public hearings on Desert Springs so would like to submit comments via email.

As a frequent hiker. photographer and birder in the Catalina State Park region, I am very concerned about the potential impacts of Desert Springs on the ecological integrity and recreational opportunities in the region. These are my concerns:

- **Catalina State Park needs to be appropriately buffered from development** in order to preserve important wildlife habitat and recreational opportunities for people.
- The proposed Desert Springs development sits squarely within a **Critical Landscape Connection, or wildlife linkage,** of the Sonoran Desert Conservation Plan. Local policies state that land use changes in these areas should protect existing wildlife linkages, and that "high priority shall be given to identifying, preserving and re-establishing the connections between native biological communities especially where natural connectivity is *most constrained*."
- The proposed Desert Springs development is in Pima County's Conservation Lands System (the land is currently in unincorporated Pima County). Both **Important Riparian Areas** and **Biological Core Management Areas** are found on this site. If these two designations were applied to Oro Valley's rules and guidelines, this project would be required to have at least 80% open space.
- The proposed Desert Springs development is in close proximity to **three soon-to-be-built wildlife crossings** along Oracle Road - this area is "*most constrained*." Minimal night-time light, buffered open space, and fencing to funnel animals to the crossings are all critical elements that will lead to their success.

I thank you for considering my comments and hope you will ensure that this ecological gem of a region will not be compromised for future generations.

Sincerely.
Josh Schachter

Josh Schachter
120 E. 16th St. Apt. B
Tucson, AZ 85701
650-678-4891

From: Daines, Chad
To: Flores, Roseanne
Subject: FW: Catalina State Park - Desert Springs
Date: Monday, November 19, 2012 8:24:49 AM

Chad Daines, AICP
11000 N. La Canada Drive, Oro Valley, Arizona 85737
Phone (520) 229-4896
cdaines@orovalleyaz.gov

www.orovalleyDIS.com

From: Diane Bristow [mailto:dianebristow@hotmail.com]
Sent: Sunday, November 04, 2012 11:49 PM
To: Daines, Chad; Cornelison, Chris; admin@sonorandesert.org
Subject: Catalina State Park - Desert Springs

Recently, I attended the 1st Public Hearing at the P & Z regarding the Desert Springs Master General Plan Amendment. Now, having read all the information on the Oro Valley website regarding this issue, I am writing to you.

It seems to me there are many significant unanswered issues about this plan. Bryan Martyn, Executive Director of AZ State Parks mentions some: necessary comments from the US Forest Service; the intense zoning (even the newest changes have this) will negatively impact the recreational experiences to visitors; the 100-year flood zone; the effect on the Dark Sky Park; the effect on nocturnal and other animals in the Park; the effect on ecology within the Park. Having searched for responses to these issues, I found none.

Pima County stated issues about intensities; the land being ranked as highest priority for conservation; the site exceeds the threshold of habitat for five or more priority vulnerable species; this site is subject to designations that require significant amounts of ESL. The State Historic Preservation Office asked if a Class III archaeological and historic site survey been conducted. I did not find any of this specifically addressed by the applicant.

At one point, even the Town of Oro Valley opposed rezoning the land as it was too intensive in a sensitive environmental area close to Catalina State Park and to significant wildlife habitat and movement corridors.

Under further studies and research are done to answer the majority of questions, this should not be approved. I know the AZ law makes it necessary for the Town Council to hear this Major General Plan Amendment this year. **However, there is no need for the Council to take action this year.** It would be in the best interest of the Town and the citizens of Oro Valley to deny this at this point in time.

This Master General Plan Amendment is important to all Arizonans. This is extremely important to every citizen in Oro Valley, not just the small number of neighbors who were notified of the Plan. This is Oro Valley's neighborhood State Park.

I just want our amazing, neighboring Catalina State Park to be protected!

Thank you,
Diane Bristow
Oro Valley Resident

From: Daines, Chad
To: Flores, Roseanne
Subject: FW: Save Catalina State Park
Date: Monday, November 19, 2012 8:25:02 AM

Chad Daines, AICP
11000 N. La Canada Drive, Oro Valley, Arizona 85737
Phone (520) 229-4896
cdaines@orovalleyaz.gov

www.orovalleyDIS.com

-----Original Message-----
From: Mona Gentz [mailto:azmona@comcast.net]
Sent: Saturday, November 03, 2012 2:13 PM
To: Daines, Chad; Cornelison, Chris; admin@sonorandesert.org
Subject: Save Catalina State Park

As a resident of Oro Valley...I am asking that you Save Catalina State Park from Desert Springs development. Building so close to the park will definitely destroy the beauty of the area and adversely affect this protected area.

Thank you for your consideration,
Mona Gentz
Oro Valley

10/25/2012

NOV 1 2012

Mayor Satish Hiremath
Town Hall
11000 N LaCanada Dr
Oro Valley AZ 85737

Dear Mayor Hiremath,

I am writing to tell you that I oppose **the Desert Springs Major General Plan Amendment.**

I am opposed to **the Desert Springs development because:**

- of the negative impact the proposed development will have on Catalina State Park.
- it will be so devastating to Catalina State Park, which attracts visitors from all over the world to Oro Valley.
- of the effect the development will have on the campgrounds and equestrian area at Catalina State Park.
- of the impact that lighting from the development will have on the astronomy programs at Catalina State Park.
- we don't need any more development in Oro Valley.
- it would seriously compromise plans to build wildlife corridors in that area.
- of the impact it will have on wildlife in the area.
- I don't think the developer has made a good case for why it's necessary to change the zoning of this area from Low Density Residential/Resort/Golf Course to Medium and High Density Residential.
- I'm concerned about the risk of flooding in that area if this proposed new development were to go forward.

I know that many Oro Valley residents are opposed to this development. Although I do not oppose all development plans, I think that the proposed Desert Springs development is a bad idea.

I urge you and the other members of the Oro Valley Town Council to vote against the Desert Springs Major General Plan Amendment. Please do whatever you can to stop the proposed Desert Springs development.

Sincerely,

Carrie Haas

Ms. Carrie Haas
11576 N Cradle Rd
Tucson, AZ 85737-9689

Mayor Satis
Oro Valley Tou

30October12

To: Mayor Hiremath
Members of Council
Planning Commission members

RE: OV 1112-02 Desert Springs

Dear Leaders of Oro Valley;

I am writing on the subject of the proposed rezoning near Tangerine and Oracle Road. Though I try to avoid the NIMBY (not in my backyard) syndrome, I find the scope and intent of this rezoning to be so substantial that I have come to oppose the project. I (like many area residents) am a frequent and grateful user of the gem we call Catalina State Park. I have long marveled that we could have such a recreation area so close to highly populated neighborhoods. I greatly value the opportunity to access such an area in a short drive and find myself carried back to the days of the Steam Pump Ranch as I hike up the Sutherland Wash. Were this rezoning be approved, I would be observing the buildings and associated activities as I hiked up the wash. It just seems too extreme a change for the area.

I accept the right of the property owner to develop the area, and I am not objecting to such eventual results. But it seems to me that the existing zoning offers sufficient incentive and profit opportunity while protecting as well as we can hope the solitude and beauty of the Park.

I urge you to deny the rezoning in favor of encouraging development within the existing rules.

Thank you for serving our community and doing a great job of making and keeping it the premier community it is.

Sincerely;

John (Jack) F. Evert

SEP 19 2012

September 20, 2012

Dear Mr. Mayor and Council:

After reading the article in the AZ Daily Star, I would like to let my feelings be known. I am unable to attend the Meeting on Sept. 20th, but trust you will take my letter as my serious protest to such a drastic change in zoning. Before changing the General Plan and Rezoning the Desert Springs property, please listen to what the people want. The comments on line to the Arizona Daily Star article were nearly all for leaving the General Plan as it is. People, myself included, don't want to see a 500 plus home development right next to the Park. It would be ideal if this property could be added to Catalina State Park. If this cannot happen, at the very least, please don't change the General Plan and Rezone to high density.

Sincerely,

Gwen Morris

Gwen Morris

October 30, 2012

OCT 31 2012

Mayor Satish Hiremath
Councilmember Brendan Burns
Councilmember William Garner
Councilmember Joe Harnat
Vice Mayor Lou Waters
Councilmember Mary Snider
Councilmember Mike Zinkin
Town Hall
11000 N LaCanada Dr
Oro Valley AZ 85737

Dear Members of the Oro Valley Town Council:

I am writing to express my strong opposition to the Desert Springs Major General Plan Amendment.

Although I appreciate the benefits of development, there are a number of reasons why I think the Desert Springs development that is now under consideration is a bad idea. I am particularly worried about the impact that it will have on Catalina State Park, which so many people who live and work in this community enjoy.

I know from my many conversations with friends, neighbors, and regular Park visitors that many people are completely unaware of the Major General Plan Amendment that is now under consideration – and the impact it will have on **their** park. They are stunned when they learn that the Oro Valley Town Council is considering rezoning this area in a way that allows even more houses and removes the current zoning for resort/golf course land. They are concerned not just about the impact this change will have on Catalina State Park, but also on the adverse impact that this development will have on the quality of life that we all enjoy in Oro Valley.

I urge you to do whatever you can to stop the proposed Desert Springs development – and to vote against it when the Town Council considers it at its meeting on December 5th. Thank you.

Sincerely,

Susanne Lane

Susanne Lane
957 W Leatherleaf Drive
Oro Valley, AZ 85755

Tucson Mountains
ASSOCIATION
SINCE 1934

PO BOX 86117 • TUCSON, AZ 85754-6117

September 17, 2012

Dear Oro Valley Council Members:

Tucson Mountains Association is very concerned about plans to amend the General Plan and annex the proposed Desert Springs development.

The Tucson Mountains Association (TMA) is the resident association of record for a large area spanning portions of the City of Tucson, unincorporated Pima County, and Marana. TMA is the oldest resident organization in the State of Arizona (established in 1934). It includes the area bounded on the north by Twin Peaks Road, on the east by Silverbell Road, on the south by the 22nd Street Alignment/Starr Pass Boulevard, and on the west by Saguaro National Park and Tucson Mountain Park.

These actions would dramatically increase the density of allowable development adjacent to Catalina State Park. These lands are vital to the wildlife linkage between the Santa Catalina and Tortolita Mountains. This proposed development is located in Pima County's Conservation Lands System. In addition, three planned wildlife crossings along Oracle Road are very close to this development.

The Town of Oro Valley's General Plan designates this location as a **Significant Resource Area**. According to Town policy, any development that takes place in these areas should be at the lowest density allowable in the underlying designation. Mitigation of development impacts should also blend with the natural landscape, promote preservation of scenic vistas, and protect wildlife habitat and cluster development within the least sensitive portions of the property.

An amendment of the General Plan would not only harm wildlife habitat and linkages, but it would also negatively impact residents' enjoyment of the Catalina State Park and harm tourism, an important engine of economic growth in Southern Arizona.

We urge you to maintain the current General Plan and preserve these valuable natural resources that make Oro Valley and Southern Arizona distinctive.

Sincerely,

Ivy Schwartz

President

www.tucsonmountainsassoc.org • TMA@TucsonMountainsAssoc.org

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
October 16, 2012
BASIS CHARTER SCHOOL
11155 N. ORACLE RD.

CALL TO ORDER AT OR AFTER 6:00 P.M.

Vice Chair Cox called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Vice Chair Don Cox
Commissioner Alan Caine
Commissioner Thomas Drzazgowski
Commissioner Bill Leedy
Commissioner William Rodman
Commissioner John Buette

EXCUSED: Chair Robert Swope

PLEDGE OF ALLEGIANCE

Vice Chair Cox led the audience in the Pledge of Allegiance.

CALL TO AUDIENCE

Comments were received by two individuals:

Gabe Wigtil, non-resident, announced the Wild Connections community wildlife event at Catalina State Park on November 10-11, 2012.

Don Bristow, resident, commented that, in regard to the previous meeting concerning the Fry's Planned Area Amendment for signs. Mr. Bristow stated that the Commission should make recommendations based on Town Codes and the merits of the application.

COUNCIL LIAISON COMMENTS

Council Member Joe Hornat was present and had no comments.

Vice Chair Cox recommended changing the order of the Agenda items as follows:

1. Desert Springs Major General Plan Amendment.

2. Mercado Mandarina Major General Plan Amendment.

3. Energy Element.

There were no objections to change the order of the agenda items.

Vice Chair Cox also advised that this hearing was the first of two public hearings on the agenda items and that no action would be taken until the next scheduled Planning and Zoning meeting on Monday, November 5, 2012 at 6:00 p.m. in the Council Chambers. The meeting has been moved to that Monday night due to the national election on the regular scheduled Planning and Zoning meeting on Tuesday, November 5, 2012.

1. **PUBLIC HEARING: DESERT SPRINGS MAJOR GENERAL PLAN AMENDMENT CHANGING THE LAND USE MAP FROM LOW DENSITY RESIDENTIAL, NEIGHBORHOOD COMMERCIAL / OFFICE, RESORT / GOLF COURSE AND SIGNIFICANT RESOURCE AREA TO MEDIUM DENSITY RESIDENTIAL, LOW DENSITY RESIDENTIAL AND NEIGHBORHOOD COMMERCIAL /OFFICE AND AMEND THE SPECIAL PLANNING AREA POLICIES AND THE URBAN SERVICES BOUNDARY TO INCLUDE THE ENTIRE PROPERTY (OV1112-002)**

Chad Daines, Town Planner, presented:

Applicant's request
Location and Context Map
Background
Site Conditions
Major Washes
Planned Wildlife Overpass/Underpass
Hillside Areas
Existing Pima County Zoning
Current General Plan
Proposed General Plan Amendment
How the Town evaluates the request
Existing and Proposed Lane Use Comparison
Significant Resource Areas (SRA) Modification
Special Area Policies
Urban Services Boundary
General Plan Amendment Evaluation Criteria
Neighborhood Meetings/Public Input
Neighborhood Meeting Issues
Public Input Opportunities in Review Process
Summary

Applicant Keri Silvyn of Lazarus, Silvyn and Bangs, PC spoke on Desert Springs. Also present were Eric Bose and Brad Jarvies of Sun Chase Holdings/Desert Springs owners, and Rob Longaker of WLB Group.

Ms. Silvyn said Sun Chase has owned the property for 24 years and has been working with Town staff, adjoining neighbors and other constituents for months balancing the issues for the site. They propose developing with retail, residential, office, passive recreation and housing that complements development that's occurred in the area over the last 15 years. Following the amendment will be potential annexation and zoning. After meeting with Town staff and adjacent neighbors from Talante Estates, they revised the plan to be 67 acres of Medium Density Residential, 18 acres of Low Density Residential, and 24 acres of Neighborhood Commercial/ Office. They made changes to Special Area Policies regarding buffer yards, height limitations, prohibiting high density residences and apartments, and establishing a maximum of 250 residential units of low and medium density for the project. They eliminated access to the Catalina State Park which was shown on the original plan. They talked with the Coalition for Sonoran Desert Protection (CSDP) group and were planning to meet with the Director of Catalina State Park.

The buffer areas are proposed for the north and east sides of Talante Estates, and mitigation measures have been included establishing height restrictions, dedicated open space and types of vegetation in the buffer areas.

The commercial and office space is proposed adjacent to Oracle Road.

The property is presently planned for a major golf course and resort with convention facilities, 108 low density homes, and retail commercial space. Their proposal would be a less intense use of the land than what it is currently planned for.

Vice Chair Cox opened the discussion to public speakers.

Michael Racy, non-resident, was representing the Home Owners Association of Talante Estates. He doesn’t favor the densities proposed next to the Catalina State Park but has worked with the developer on issues related to Special Area Policies.

Edie Behr, non-resident, asked what the benefit would be for the Town of Oro Valley for this development. She also asked about the timing of this proposal since Town Council has approved the Pima County Sonoran Conservation Plan to take effect in January, 2013. Vice Chair Cox indicated by law, amendments must be considered by the Commission and Town Council in the year they are filed. Planning Manager David Williams further reiterated the basis for the timing of Public Hearings in State law.

Bill Adler, resident, is against the proposal and commented that the Significant Resource Areas (SRA) portion doesn't prevent ridgelines from being developed, and those areas should be protected for neighbors and wildlife.

Carolyn Campbell, non-resident and representative of the Coalition for Sonoran Desert Protection (CSDP) opposes the plan. Their goal is to protect and restore the wildlife connectivity in the area. The parcel's been designated as a Significant Resource Area by the Town. The site has been designated a high biological core and a critical landscape linkage by teams of biologists. She provided eleven (11) photographs of the wildlife in the area. They believe the buffer near the park is inadequate for wildlife, and they have a different proposal. CSDP stated they provided written information to the Commissioners prior to this meeting.

Carl Boswell, resident, opposes the plan and said he believes the plan only benefits Sun Chase Holdings who is looking for profit, and the property could be sold to another speculator.

Jan Johnson, non-resident, opposes the plan due to the density of 250 homes proposed and is concerned about wildlife being able to travel in the area.

Kathie Schroeder, non-resident, is opposed to the plan and believes there are other places to develop since the other development across the street has empty stores.

Bryan Martyn, non-resident and Executive Director of Arizona State Parks. He said the Catalina State Park has existed for over 30 years. The park has not taken a position either for/against the plan, and they have voiced their concerns. They respect the rights of property owners/neighbors and want to work with the community. Their job is to protect the resources they are responsible for and provide access to those resources.

Vice Chair Cox closed the discussion for the public.

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
November 5, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chair Swope called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Chair Robert Swope
Vice Chair Don Cox
Commissioner Buette
Commissioner D. Alan Caine
Commissioner Thomas Drzazgowski
Commissioner Bill Leedy
Commissioner William Rodman

ALSO PRESENT: Council Member Joe Hornat
Council Member Lou Waters
Council Member Brendan Burns

PLEDGE OF ALLEGIANCE

Chair Swope led the audience in the Pledge of Allegiance

CALL TO AUDIENCE - Two comments were received:

Shirl Lamonna, resident, said the audio on the Town website from the last Planning and Zoning Commissioner meeting at Basis School was hard to hear due to public speakers at the podium not speaking directly into the microphone, and she asked that speakers position themselves closer to the microphone for future meetings.

Gabe Wigtil, non-resident, reminded the audience about the Wild Connection Community Wildlife event at Catalina State Park on November 10-11, 2012.

COUNCIL LIAISON COMMENTS

Council Member Joe Hornat was present and had no comments. Council Members Lou Waters, Mary Snider and Brendan Burns were also present.

1. **REVIEW AND/OR APPROVAL OF THE SEPTEMBER 18, 2012 SPECIAL SESSION AND OCTOBER 2, 2012 REGULAR MEETING MINUTES**

MOTION: A motion was made by Vice Chair Cox and seconded by Commissioner Caine to approve the September 18, 2012 Special Session meeting minutes and the October 2, 2012 Regular Session meeting minutes.

Commissioner Rodman amended the September 18, 2012 Special Session meeting minutes in regard to Item 1 on the Agenda about not approving the sign ordinance fines.

MOTION carried, 7-0.

2. **PUBLIC HEARING: DESERT SPRINGS MAJOR GENERAL PLAN AMENDMENT CHANGING THE LAND USE MAP FOR A 110 ACRE PROPERTY LOCATED ON THE EAST SIDE OF ORACLE ROAD AT THE TANGERINE INTERSECTION FROM LOW DENSITY RESIDENTIAL,NEIGHBORHOOD COMMERCIAL / OFFICE, RESORT / GOLF COURSE TO MEDIUM DENSITY RESIDENTIAL, LOW DENSITY RESIDENTIAL, OPEN SPACE AND NEIGHBORHOOD COMMERCIAL / OFFICE AND MODIFY THE SIGNIFICANT RESOURCE AREA BOUNDARY, AMEND THE SPECIAL PLANNING AREA POLICIES AND EXPAND THE URBAN SERVICES BOUNDARY TO INCLUDE THE ENTIRE PROPERTY (OV1112-002)**

Chad Daines, Principal Planner, presented:

Applicant's Request
Modify The SRA
Expand the USB

Location and Context Map
Background
Site Photography
Site Conditions
Major Washes
Hillside Areas
Planned Wildlife Overpass/Underpass
Existing Pima County Zoning
Current General Plan
Proposed General Plan Amendment
Existing and Proposed Lane Use Comparison
Significant Resource Areas (SRA) Modification
Special Area Policies
Urban Services Boundary
General Plan Amendment Evaluation Criteria
Neighborhood Meetings/Public Input
Neighborhood Meeting Issues
Public Input Opportunities in Review Process
Summary
Recommendation - Lane Use Plan
Recommendation - SRA

Recommendation - Special Area Policies
Recommendation - Urban Services

Applicant Keri Silvyn of Lazarus Silvyn Bangs presented. Brad Jarvies, Rob/WLB, Eleanor Gladding SLBA were also in attendance.

Ms. Silvyn provided Commissioners with an e-mail from Bryan Martyn of Arizona State Park the park's which outlined position relative to the project.

In terms of what the benefits are for Oro Valley: residential located near jobs and retail; balance on topography for ESL with SRA and open space and increased sales tax for commercial and sales tax. Mrs. Silvyn provided an overview of how the project met the required criteria for General Plan Amendments.

Rob Lonaker/WLB Group presented an overview of the properties visibility from various vantage points in Catalina State Park.

Keri Silvyn discussed the biological corridors and critical habitat identified on the SDCP Sonoran Desert Conservation Plan. The developer disagreed with 200' natural buffer for wildlife movement requested by the Coalition.

Eleanor Gladding, SDCA, discussed biological corridors and critical habitat and wildlife movements throughout Pima County.

Chair Swope opened the public hearing

Kathy Anne Whitmore, non-resident, opposes the plan.

Dave Cooper, non-resident, opposes the plan.

John Musolf, resident, opposes the plan.

Steven Wind, non-resident, opposes the plan.

Mike Motherway, non-resident, opposes the plan.

Pamela Ludwig, non-resident, opposes the plan.

William Scott, non-resident, opposes the plan for health reasons.

Marsha Hartz, resident, opposes the plan for light pollution.

Pat Kinsman, resident, opposes the plan for animal corridors.

Bill Adler, resident, opposes intensity--not whether it is developed.

Kathie Schroeder, non-resident, opposes the plan due to wanting to conserve the area.

Carolyn Campbell, non-resident and representative of Coalition for Sonoran Desert Protection, opposes the plan. The coalition believes conditions have changed since 1990 to protect wildlife movement including $9 million spent on a wildlife crossing plan and open space acquisition by the County.

Carl Boswell, resident, is opposed to the plan and worries about wildlife.

Diane Bristow, resident, is opposed to the plan.

Richard Furash, resident, is opposed to the plan because he doesn't believe there's an urgency for this plan.

Chair Swope closed the public hearing and opened discussion for Commissioners.

MOTION: A motion was made by Commissioner Caine and seconded by Vice Chair Cox to recommend approval of the requested General Plan Amendments under case OV1112-02.

MOTION carried, 4-3 with Chair Swope, Commissioner Buette, and Commissioner Rodman opposed.

Town Council Regular Session **Item # 4.**

Meeting Date: 12/05/2012
Requested by: David Williams
Submitted By: Matt Michels, Development Infrastructure Services
Department: Development Infrastructure Services

Information

SUBJECT:

PUBLIC HEARING: RESOLUTION NO. (R)12-67, AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL/OFFICE FOR 8.6 ACRES OF THE 26.7 ACRE PROPERTY AND DESIGNATING THE ENTIRE PROPERTY A GENERAL PLAN GROWTH AREA FOR THE MERCADO MANDARINA PROPERTY, LOCATED ON THE NORTHEAST CORNER OF TANGERINE ROAD AND LA CHOLLA BOULEVARD

RECOMMENDATION:

The Planning & Zoning Commission recommends approval of the proposed amendment.

EXECUTIVE SUMMARY:

The proposed Major General Plan Amendment (GPA) entails amending the land use category from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial-Office (NCO) for 8.6 acres of the 26.7 acre property and designating the entire 26.7 acre property as a Growth Area (see Attachment 9). The property is located on the northeast corner of Tangerine Road and La Cholla Blvd. The proposed development of the property includes retail, office, and senior care facilities.

At the conclusion of the second public hearing on November 5, 2012, the Commission recommended approval of the proposed change to NCO and the addition of the Growth Area designation over most of the property, excepting the northern 200 feet in proximity to Limewood Drive.

BACKGROUND OR DETAILED INFORMATION:

The property is generally bounded by Limewood Dr. on the north, Wildlife Ave. on the east, Tangerine Road on the south, and La Cholla Boulevard on the west. Surrounding land uses include low density residential to the north and east, vacant (future neighborhood commercial) and church to the west, and vacant (future neighborhood commercial and medium density residential) to the south.

The Mercado Mandarina property is 26.7 acres. Approximately 18 acres is designated Neighborhood Commercial Office (NCO). The 8.6-acre amendment area is designated Low Density Residential (LDR; 1.3-2.0 du/ac).

	Existing GP	**Proposed GP**
NCO	18 acres	26.7 acres
LDR	8.6 acres	0 acres
Growth Area	NONE	26.7 acres

Intended uses in NCO include neighborhood scale retail, services and office .

ENVIRONMENTAL RESOURCES

The two washes on the site are designated as Significant Resource Areas (SRAs) on the General Plan. The Significant Resource Area (SRA) was established based on biological and cultural research analysis completed in 2001 – 2005. The Environmentally Sensitive Lands (ESL) Ordinance, adopted by the Town of Oro Valley designates the washes as Critical Resource Areas (CRA's). Specific guidance for 95% conservation of CRA's is contained in the ESL. The balance of the property is designated Resource Management Area Tier 2 where the ESL requires 25% open space.

GENERAL PLAN AMENDMENT CRITERIA

Analysis of the proposal is based on the following:

I. General Plan Land Use Plan Analysis/Growth Area Designation
II. General Plan Amendment criteria contained in the Zoning Code
III. General Plan Vision, Goals and Polices
IV. Public comments, including neighborhood meetings and correspondence

Please refer to the October 16, 2012 and November 5, 2012 Planning and Zoning Commission reports (Attachments 4 & 5) and the applicant's narrative (Attachment 1) for a detailed analysis of the General Plan amendment criteria, General Plan Vision, Goals and Policies, and Growth Area request. The draft PZ Commission minutes are also attached for your reference (Attachment 12).

PUBLIC HEARINGS AND COMMENT

The Planning and Zoning Commission held two public hearings on the request; the first on October 16, 2012 and the second on November 5, 2012. Several neighbors and interested parties spoke at each hearing. The neighbors who spoke at the first hearing were generally opposed to the proposal. Their concerns included:

- Proposed buffering between Limewood Road and single-family homes
- The type of senior care facility that would be built and the possible impacts on the neighborhood
- Increased land use intensity along the northern portion of the amendment area (adjacent to Limewood Road)
- Appropriateness of General Plan Growth Area Designation for the northern portion of the amendment area

Correspondence received prior to the first hearing is attached for your reference (see Attachment 7).

Subsequent to the first hearing the neighbors met with staff and the applicant and resolved many of their concerns. The parties in opposition have retracted their opposition and are now supportive of the proposed Major General Plan Amendment subject to a mutually-acceptable agreement (see Attachment 8).

Please note that the agreement outlined in the correspondence were entered into the public record and the project file with the intent that they be refined and included at the rezoning stage for consistency with Town Codes and policy.

<u>FISCAL IMPACT:</u>

N/A

<u>SUGGESTED MOTION:</u>

The Town Council may wish to consider one of the following suggested motions:

I MOVE to adopt Resolution No. (R)12-67, a Major General Plan Amendment from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial/Office (NCO) for 8.6 acres and the designation as Growth Area for the property, except the northern 200 feet, of the Mercado Mandarina property as shown on Exhibits "A" and "B", finding that:

- The General Plan Amendment criteria have been met.
- The Tangerine and La Cholla corridors are regionally-significant transportation corridors that are both identified for future expansion in the Regional Transportation Plan.
- The property fronting on Tangerine Road is particularly suitable for planned multi-modal transportation and infrastructure expansion and improvements to support a planned concentration of a variety of commercial and office uses.
- The proposed Growth Area configuration provides a transition to less intense uses moving away from Tangerine Road.
- There are no commercial services in close proximity to the subject property and the project would provide services to nearby neighborhoods.
- The negative impacts of the proposal can be substantially mitigated through sensitive design and buffering.

OR

I MOVE to deny Resolution No. (R)12-67, a Major General Plan Amendment for the Mercado Mandarina property located on the northeast corner of Tangerine Road and La Cholla Blvd., finding that the proposed amendment does not meet General Plan Amendment criteria.

Attachments

Attachment 1 - R12-67 Mercado Mandarina

Attachment 2 - Application & Exhibits, including applicant's response to amendment criteria

Attachment 3 - General Plan Future Land Use Map

Attachment 4 - 10/16/12 PZC Staff Report

Attachment 5 - 11/5/12 PZC Staff Report

Attachment 6 - 9/26/12 Neighborhood Meeting Summary

Attachment 7 - Emails received prior to 10/16/12 PZC hearing

Attachment 8 - Emails received prior to 11/5/12 PZC hearing

Attachment 9 - Growth Area designation request

Attachment 10 - ESL Map

Attachment 11 - Zoning Code Table 27.10-2 & 3

Attachment 12 - 10/16/12 & 11/5/12 DRAFT PZC Minutes

RESOLUTION NO. (R)12-67

A RESOLUTION OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL/OFFICE FOR 8.6 ACRES OF THE 26.7 ACRE PROPERTY AND DESIGNATING THE ENTIRE PROPERTY A GENERAL PLAN GROWTH AREA FOR THE MERCADO MANDARINA PROPERTY, LOCATED ON THE NORTHEAST CORNER OF TANGERINE ROAD AND LA CHOLLA BOULEVARD

WHEREAS, the Town of Oro Valley residents ratified the Oro Valley General Plan on November 8, 2005; and

WHEREAS, T/F Tangerine Group, LLC, and TLC Investment Group, LLC, ("applicant") is requesting a Major General Plan Amendment to change the Land Use category from Low Density Residential to Neighborhood Commercial/Office for 8.6 acres of the 26.7 acre property located on the northeast corner of Tangerine Road and La Cholla Boulevard; and

WHEREAS, Applicant is also requesting to amend the designation to a General Plan Growth Area, located on the northeast corner of Tangerine Road and La Cholla Boulevard; and

WHEREAS, pursuant to A.R.S. § 9-461, *et seq*. and OVZCR, Section 22.2, the Planning and Zoning Commission held two (2) duly noticed public hearings, the first on October 16, 2012, and the second on November 5, 2012, at which the Planning and Zoning Commission recommended approval of the application requesting Major General Plan Amendment to change the Land Use category from Low Density Residential to Neighborhood Commercial/Office for 8.6 acres of the 26.7 acre property located on the northeast corner of Tangerine Road and La Cholla Boulevard as depicted on Exhibit "A", and amend the designation to a General Plan Growth Area, excepting the northern 200 feet of the property in proximity to Limewood Drive, as depicted on Exhibit "B, attached hereto and incorporated herein by this reference; and

WHEREAS, pursuant to Oro Valley Zoning Code Revised, Section 22.1, General Plan Amendment Procedures, upon recommendation by the Planning and Zoning Commission of any amendment to the General Plan, a public hearing before the Mayor and Council shall be scheduled; and

WHEREAS, Mayor and Council duly considered the proposed Major General Plan Amendment to change the Land Use category from Low Density Residential to Neighborhood Commercial/Office for 8.6 acres of the 26.7 acre property and amend the designation to a General Plan Growth Area, located on the northeast corner of Tangerine Road and La Cholla Boulevard; at a public hearing on December 5, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley that:

SECTION 1. The Mayor and Council hereby adopts the Major General Plan Amendment to change the Land Use category from Low Density Residential to Neighborhood Commercial/Office for 8.6 acres of the 26.7 acre property located on the northeast corner of Tangerine Road and La Cholla Boulevard as depicted on Exhibit "A" and amend the designation to a General Plan Growth Area, as depicted on Exhibit "B".

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of the resolution or any part of the General Plan Amendment adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

Exhibit "A"

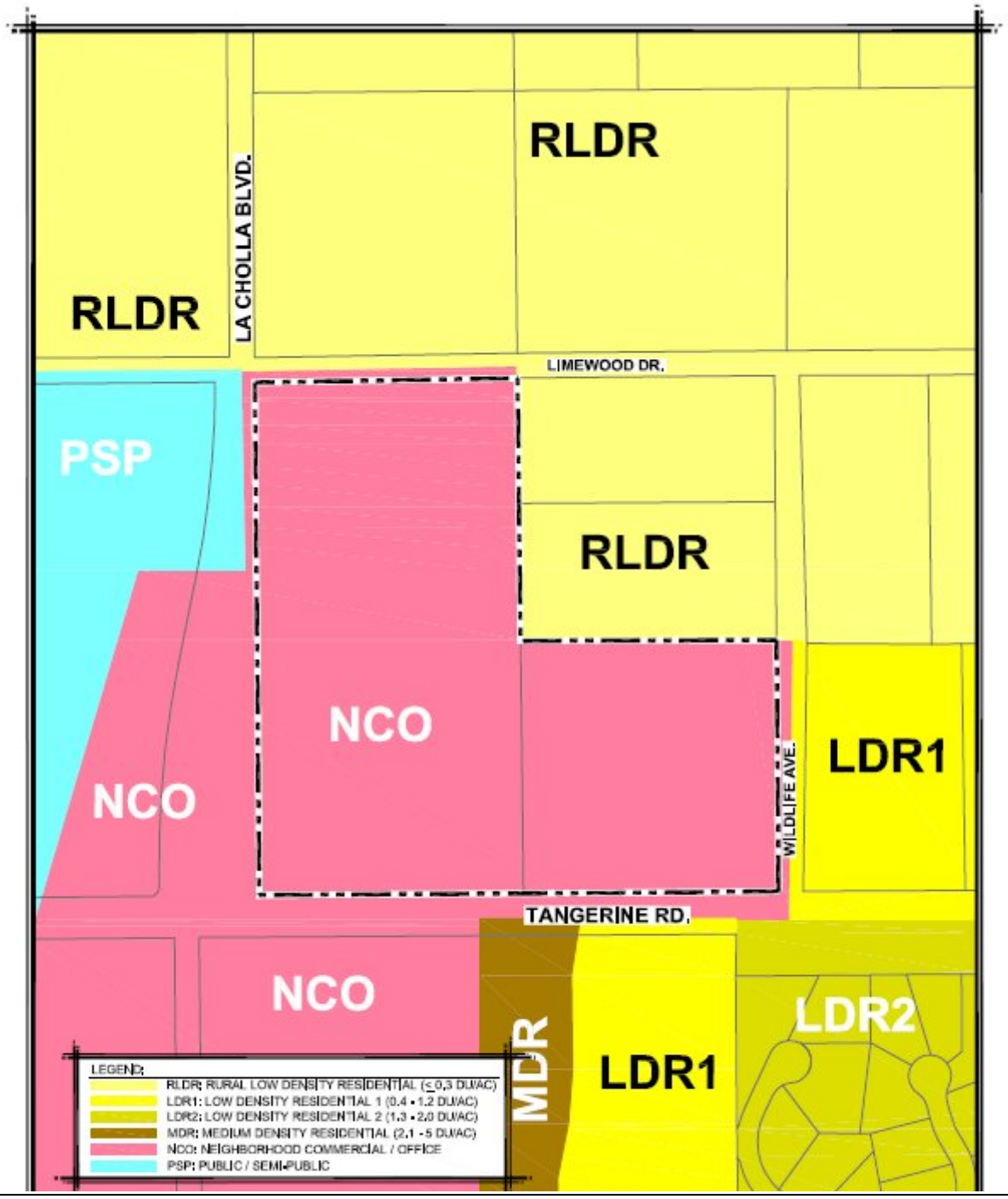
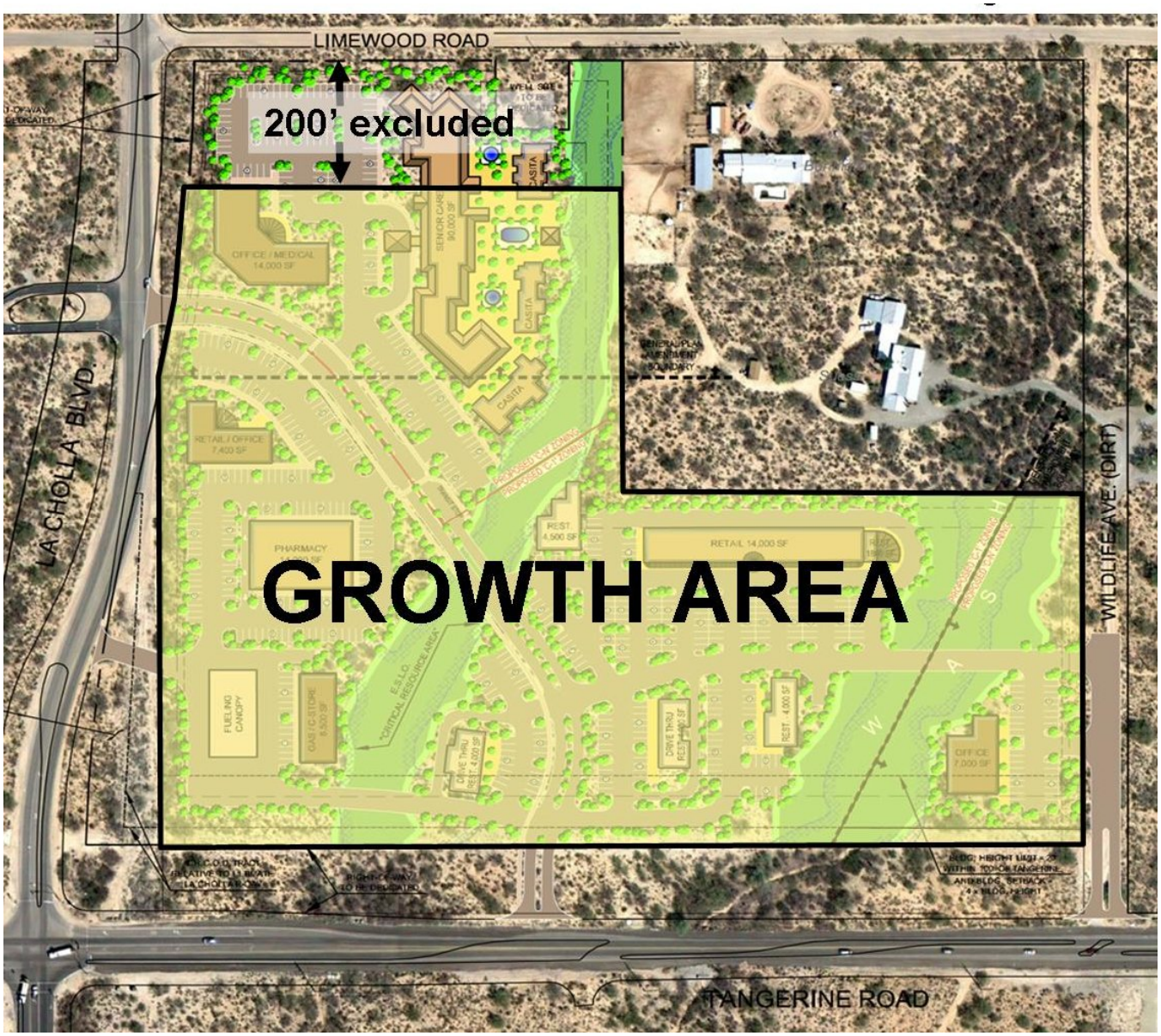

RLDR
RLDR
LA CHOLLA BLVD.
LIMEWOOD DR.
PSP
RLDR
NCO
NCO
WILDLIFE AVE.
LDR1
TANGERINE RD.
NCO
MDR
LDR1
LDR2
LEGEND:
RLDR: RURAL LOW DENSITY RESIDENTIAL (≤ 0.3 DU/AC)
LDR1: LOW DENSITY RESIDENTIAL 1 (0.4 - 1.2 DU/AC)
LDR2: LOW DENSITY RESIDENTIAL 2 (1.3 - 2.0 DU/AC)
MDR: MEDIUM DENSITY RESIDENTIAL (2.1 - 5 DU/AC)
NCO: NEIGHBORHOOD COMMERCIAL / OFFICE
PSP: PUBLIC / SEMI-PUBLIC

Exhibit "B"


LIMEWOOD ROAD
200' excluded
LA CHOLLA BLVD.
WILDLIFE AVE. (DIRT)
TANGERINE ROAD
GROWTH AREA
OFFICE / MEDICAL 14,000 SF
SENIOR CARE 90,000 SF
CASITA
RETAIL / OFFICE 7,400 SF
PHARMACY
REST 4,500 SF
RETAIL 14,000 SF
FUELING CANOPY
GAS / C-STORE 6,500 SF
DRIVE THRU REST - 4,000 SF
REST - 4,000 SF
OFFICE 7,000 SF
GENERAL PLAN AMENDMENT BOUNDARY

OV908-003

MERCADO MANDARINA

GENERAL PLAN NARRATIVE

2012.07.12

Property Owner
T/F Tangerine Group LLC &
TLC Investment Group LLC
Post Office Box 31987
Tucson, Arizona 85751-1987
(520) 721-6614

Prepared By
The WLB Group, Inc.
Paul Oland, Sr. Project Manager
4444 East Broadway Boulevard
Tucson, Arizona 85711
520.881.7480

WLB No. 192062-A003

The WLB Group Inc. WLB

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Exhibit 4: Conceptual Site Plan 8

INTRODUCTION

This document has been prepared in support of a proposed amendment to the existing Oro Valley General Plan 2020. The 26.7-acre subject property is located at the northeast corner of Tangerine Road and La Cholla Boulevard. Once Tangerine Road and La Cholla Boulevard right-of-way expansions have been dedicated, the remaining property will be 23.3 acres. The General Plan designates most of the property as Neighborhood Commercial/Office (NCO), with the remainder designated as Low Density Residential 2 (LDR2). We propose to amend the 8.6-acre LDR2 portion to NCO, and rezone the entire resulting 23.3-acre NCO area to C-N Neighborhood Commercial and C-1 Commercial.

GENERAL PLAN POLICY CONFORMANCE

A number of General Plan goals and policies will be met by this development. Below are a few key points.

Land Use

- The design of this development avoids significant encroachment into sensitive biological areas as defined by the Environmentally Sensitive Lands Ordinance. In fact, we hired RECON Environmental to delineate the biological corridors on site before the ESLO was drafted. RECON's delineations for this site were incorporated into the biological mapping that they prepared for the entire Town, and appear as such on the site plan.
- This project will adhere to the Environmentally Sensitive Lands Ordinance and Tangerine Road Corridor Overlay District regulations.
- The requested Neighborhood Commercial / Office (NCO) designation is more appropriate for this location than Community Commercial (CC) due to the site's close proximity to an existing lower density residential area, and is an extension of the adjacent acreage already designated as NCO.
- This commercial development is proposed at the intersection of two primary arterial streets where regional accessibility is good and supporting infrastructure is already available.
- This development conforms to the General Plan's identification of the Tangerine / La Cholla intersection as a major commercial node. The proposed senior care facility is a good transitional land use that will provide buffering to residential areas to the north.

Community Design

- All architecture will be designed with consideration given to visibility from adjacent parcels. Parking lots and other less aesthetic elements will be screened.
- Building heights and massing will diminish in areas close to existing adjacent residential parcels, particularly where the senior care facility is proposed nearby to two existing 5-acre home sites.
- The centrally located wash running through the project will largely be maintained in its natural state, providing a natural aesthetic not routinely found in commercial activity centers.
- All outdoor lighting will be shielded.

Economic Development

- This development will include a diversity of commercial uses, which will help bolster long-term economic stability.
- All retail and service categories are "underrepresented" in this immediate vicinity due to the

void of any commercial establishments in the five-mile stretch between Thornydale Road and First Avenue. This development will provide a much more convenient shopping option not only for residents in nearby neighborhoods but also for the thousands of residents to the north along the La Cholla corridor, most of whom are at least five or six miles away from any goods and services.

- Additionally, the nearest shopping center to this area is in Marana, and currently siphons potential tax revenues from many nearby Oro Valley and County residents. This project will curtail that revenue leakage and keep more tax dollars under Oro Valley's control.

Cost of Development

- The project's location at the intersection of two major roadway corridors is convenient to existing and planned / funded RTA infrastructure.
- Design is already underway to widen Tangerine Road to a 4-lane divided parkway from Interstate-10 to La Canada Drive.
- All new infrastructure required by this development will be installed at the developer's expense.

Transportation / Circulation

- Pedestrian / bicycle pathways will be constructed within this development and will connect to the nearby Oro Valley trail system. We will work with Town Transit staff to determine the logistics, feasibility, and utility of providing various multimodal transportation facilities within this development.
- This project is located along an established transportation corridor, thus eliminating the need for extensive infrastructure extension.

Public Facilities, Services & Safety

- Being located along Tangerine Road and within the Town's Urban Services Boundary, no significant expansion of public facilities or services is needed. Necessary utility extensions will be funded by the developer.

Open Space & Natural Resources Conservation

- Except for necessary roadway crossings, the ESLO riparian areas bisecting the property will be preserved in their natural state.
- All utilities will be installed underground.

Water Resources

- All Town regulations regarding preservation of floodway capacities will be followed so as not to negatively impact downstream characteristics, natural / xeroriparian areas, water quality or natural groundwater recharge areas.
- Existing flood conditions downstream of this property will be fully analyzed as part of this development, and mitigation measures will be designed in cooperation with Town staff to ensure that exiting storm water flows are designed to match their historical patterns.

GENERAL PLAN 'FINDINGS OF FACT'

The Oro Valley General Plan describes several "findings of fact" that need to be supported during the review of a proposed amendment. They are:

1. The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.

   This is an amendment to expand an existing commercial node already shown in the General Plan. As such, the justification for non-residential development at this major roadway intersection has already been established. Several "conditions in the community have changed" since the existing General Plan land uses were established. First, the demand for senior care facilities has blossomed. This previously small market segment is a transitional land use that is perfectly suited for areas between commercial and residential areas, and is proposed as such in this case. Second, the Town has adopted the Environmentally Sensitive Lands Ordinance, which represents a significant change in development opportunities and constraints. Third, The RTA Plan was approved by voters, plans for the expansion of Tangerine Road are now underway, and construction is imminent. The widening of Tangerine Road from Interstate 10 to La Canada significantly changes the viability of increased land use intensity along the Tangerine corridor.

2. The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.

   This amendment will allow the rezoning request that will lead to the development of a non-residential use that, through screening, buffering, preservation of the primary washes and compliance with the ESLO and Tangerine Road Corridor Overlay District, will have a low impact on nearby land owners yet will function as a viable enterprise that will serve as an asset to the Oro Valley tax base. In addition, the Environmentally Sensitive Lands Ordinance will apply to this development through the General Plan Amendment and Rezoning processes.

3. The proposed change reflects market demand which leads to viability and general community acceptance.

   Although the economy is down at the moment, demand is improving for goods and services typically found at neighborhood-scale shopping centers. However, since the majority of the Mercado Mandarina property is already designated for commercial development, this amendment is sought primarily due to demonstrated demand for senior care facilities in the Tucson metropolitan area that had not materialized when the General Plan land uses in this area were established. Examples include: Desert Springs Retirement Living on Lambert Lane (under construction), Villa Fatima Alzheimer's Care on Rancho Vistoso Blvd. (Opened 2009, and recently expanded), Desert Springs Alzheimer's Care at La Cholla and Rudasill (under construction), Splendido (Opened 2007), Villa Hermosa at Speedway & Wilmot (Opened 2009), and a continuous stream of inquiries from local, regional and national senior care companies seeking to establish or

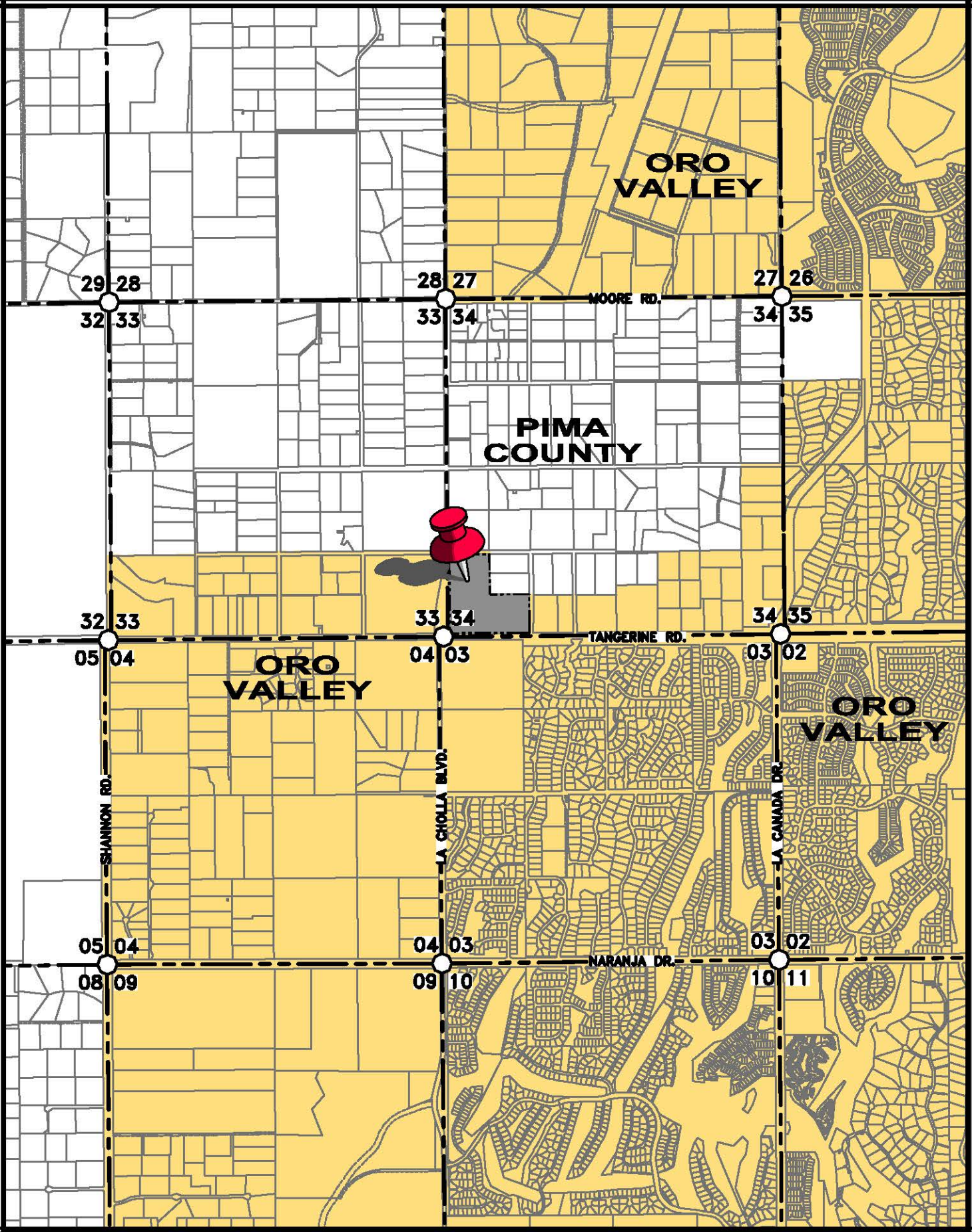
expand their presence in Southern Arizona. A logical place for such facilities is near major transportation corridors and commercial uses. The Tangerine and La Cholla corridors are established, and the senior care element is proposed along with commercial uses as part of the overall development outlined in the rezoning request. It is to these two market segments that we respond with Mercado Mandarina, an activity center featuring a mix of land uses including neighborhood grocery, shops, pharmacy, gas station, professional offices and senior care. By providing a variety of locally needed goods and services at a convenient location, the development as a whole will attract a broader range of customers, thus creating sustainable viability where other, less diversified shopping centers struggle during tough economic times.

An additional argument for the marketability of this proposal is based in the much lower or even non-marketability of development under the existing General Plan land use designation. That is, low-density residential development is just not suitable for this location along La Cholla Boulevard, whereas non-residential development designed with sensitivity to existing surrounding residential areas would be a much more appropriate land use. The Rancho del Cobre subdivision, directly across Tangerine Road from Mercado Mandarina, and the Rancho de Plata subdivision further south on La Cholla Blvd., both serve as recent evidence that land along the Tangerine Road corridor is not suitable for low density residential development.

It is a fact that the days of having business tenants lined up awaiting rezoning approval are, for the most part, a thing of the past. The area proposed for General Plan amendment will primarily serve the senior care market, but is an integral aspect of creating the larger, diversified neighborhood center we call Mercado Mandarina. Unfortunately the General Plan amendment and rezoning processes are lengthy and unpredictable, but we believe that the demonstrated demand in the target market sectors will still be robust next year.

4. The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development process.

The Tangerine Road Corridor Overlay District and Environmentally Sensitive Lands Ordinance place restrictions on this and other properties in the Tangerine Road corridor. These restrictions protect sizeable washes, significant vegetation and view corridors. Additional building setbacks and height restrictions are also added by TRCOD. As part of the rezoning process we will demonstrate compliance with the various ESLO and TRCOD restrictions. At neighborhood meetings this property was generally acknowledged as being appropriate for commercial development. In fact, several of our immediate neighbors even expressed interest in having their properties included in this proposal, but we feel that the subject property is amply sized to accommodate immediate demand. We have also provided additional buffering between this project and adjacent residential properties.



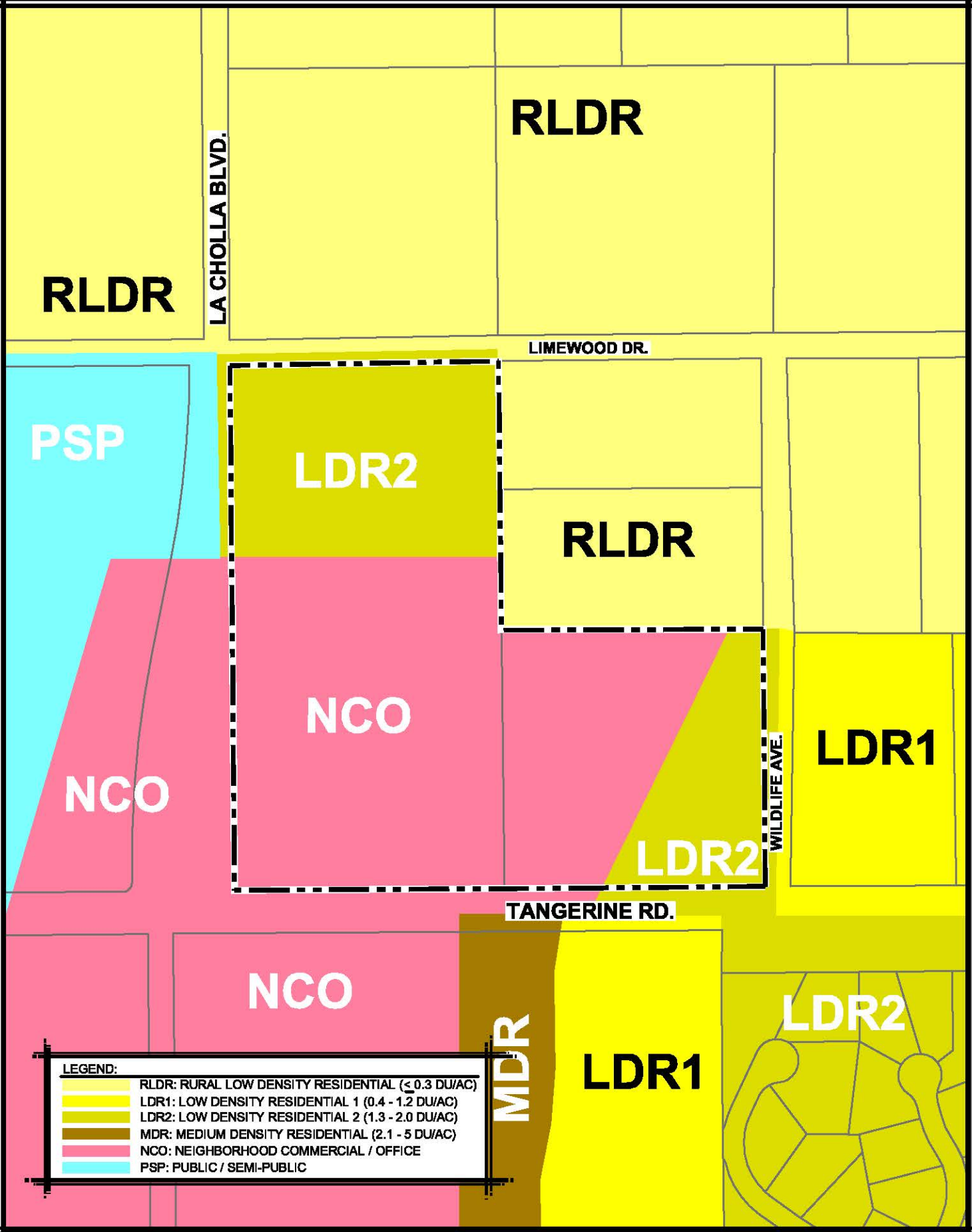
The WLB Group WLB

EXHIBIT 1:
LOCATION MAP

WLB No. 192062-A003

0' 2000'

L:□192062□A003 Gen Plan Amend□Gen Plan Narrative□Exh 1 Loc Map.dwg Plotted: Jul 12, 2012



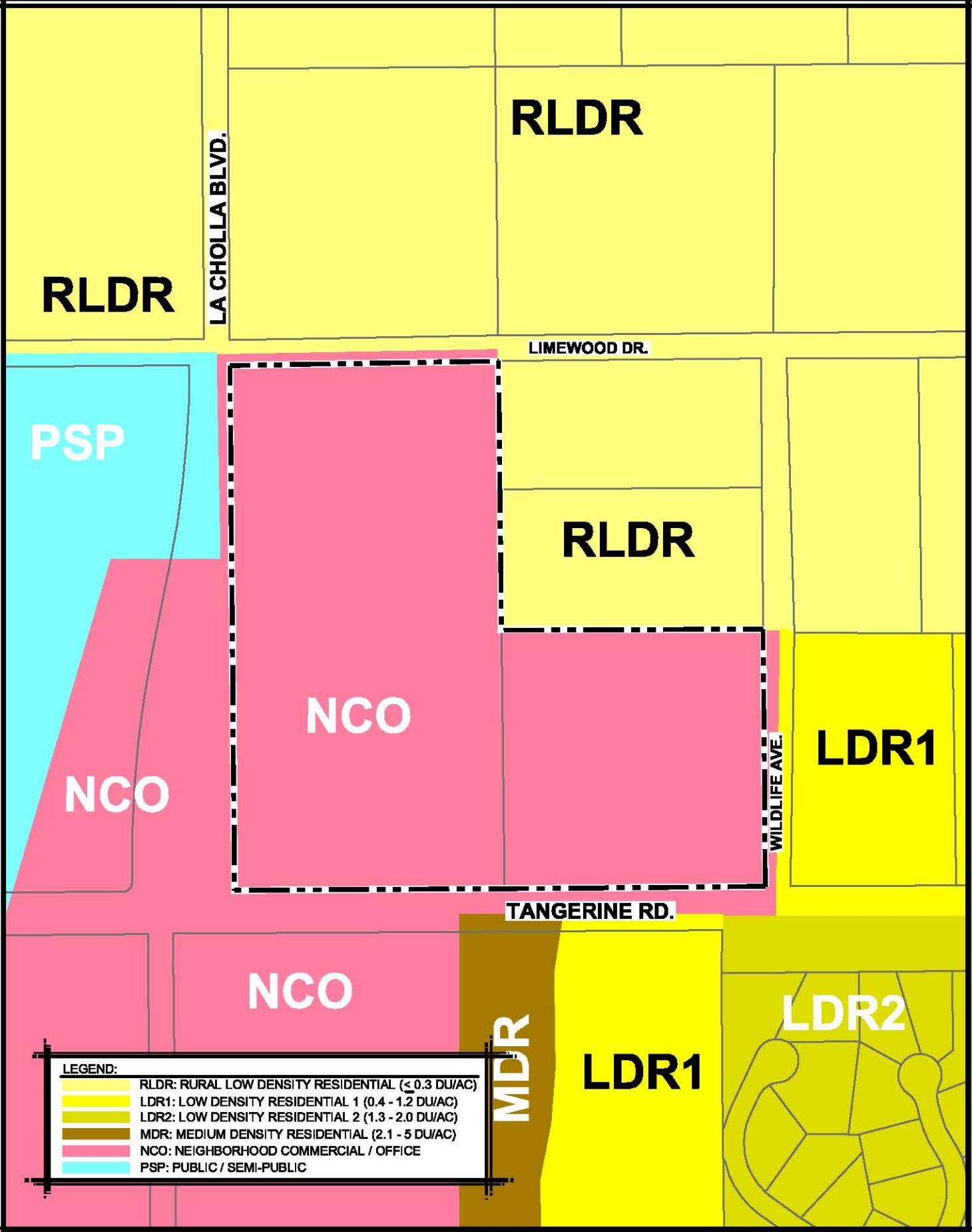
The WLB Group WLB

EXHIBIT 2:
EXISTING GENERAL PLAN

WLB No. 192062-A003

0' 300'

L:□192062□A003 Gen Plan Amend□Gen Plan Narrative□Exh 2 Existing General Plan.dwg Plotted: Jul 12, 2012



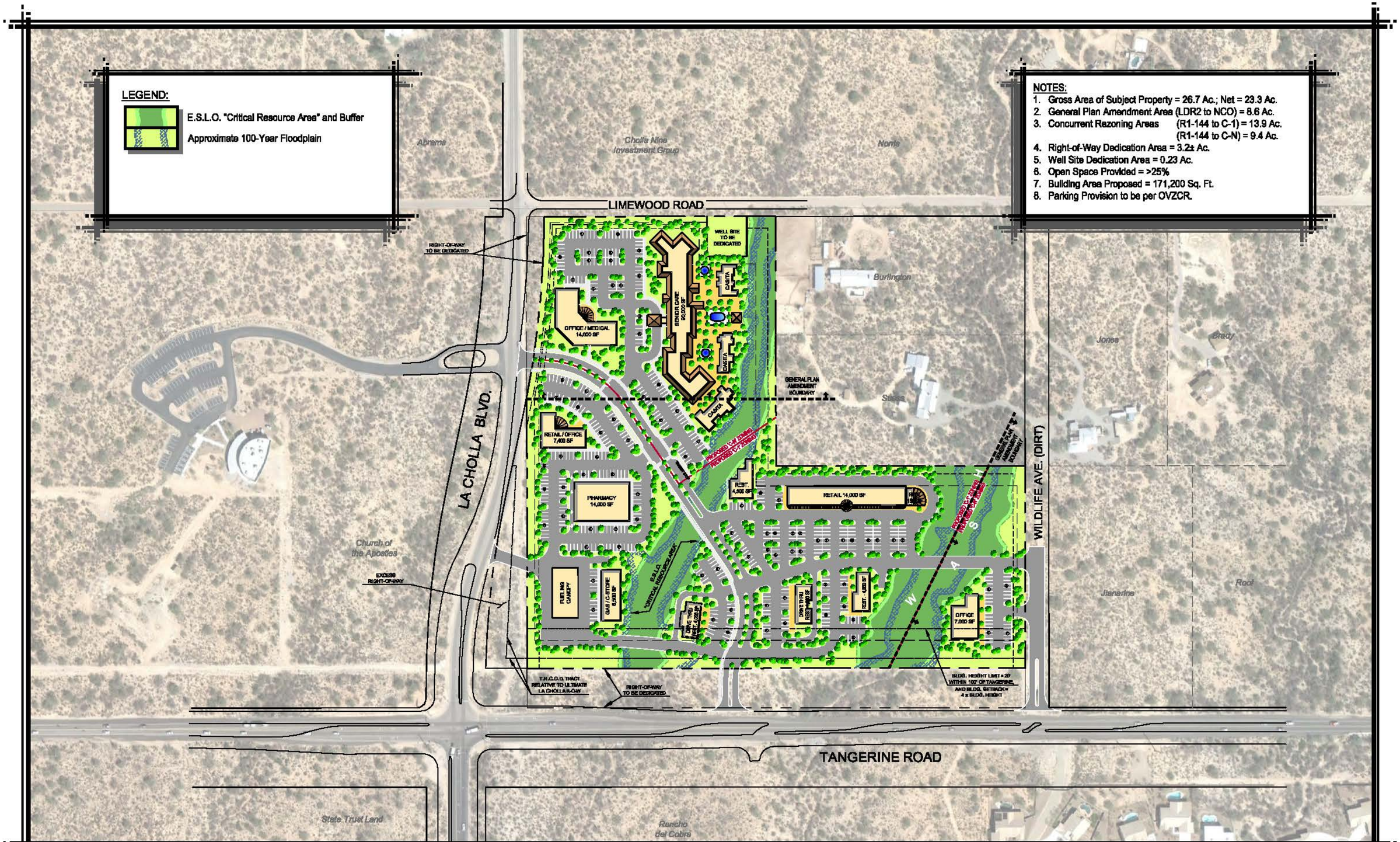
The WLB Group WLB

EXHIBIT 3:
PROPOSED GENERAL PLAN

WLB No. 192062-A003

0' 300'

L:\192062\A003 Gen Plan Amend\Gen Plan Narrative\Exh 3 Proposed General Plan.dwg Plotted: Jul 12, 2012



The WLB Group WLB
TUCSON - PHOENIX - LAS VEGAS - FLAGSTAFF
520.881.7480 - tucson@wlbgroup.com

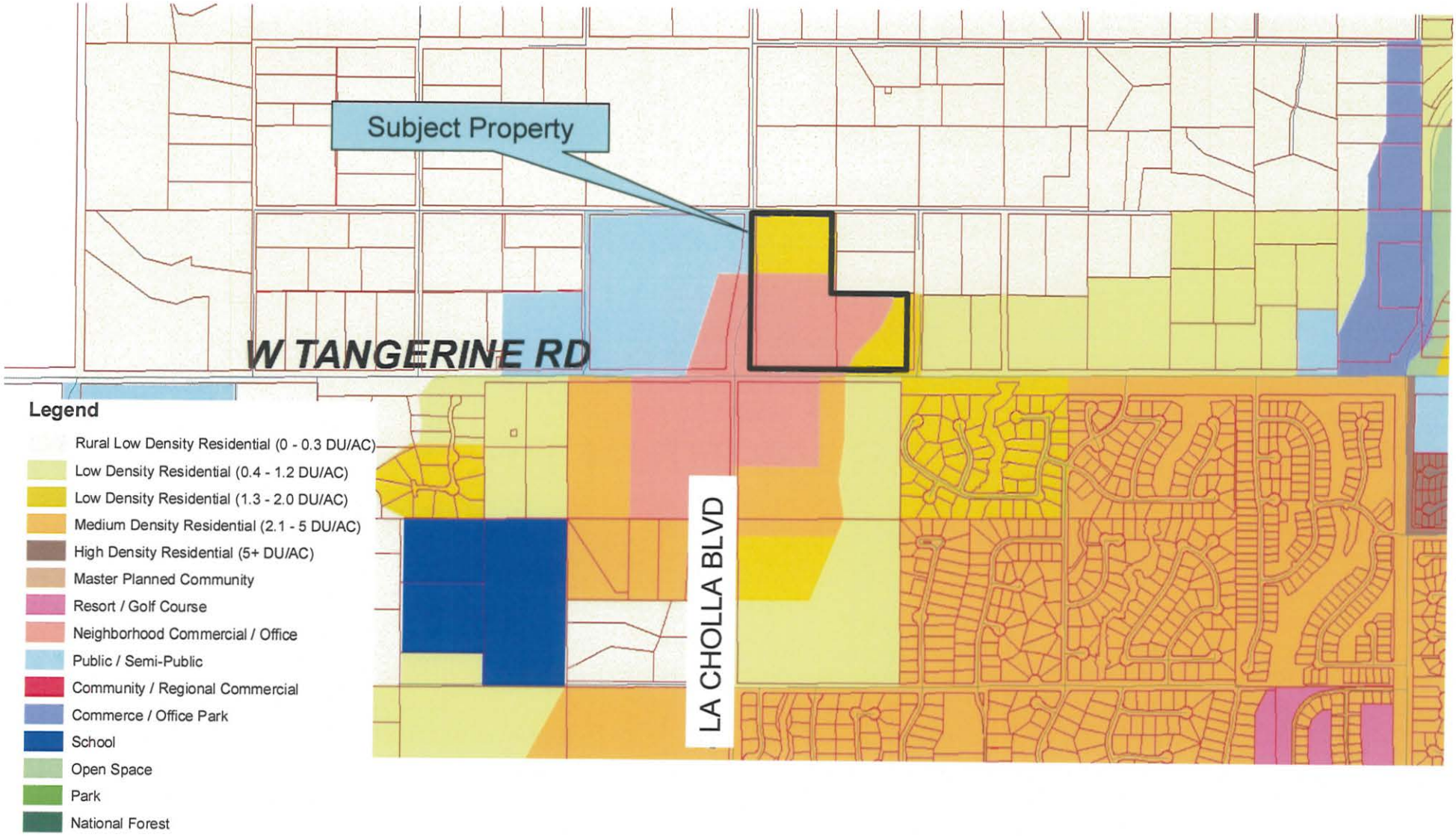
EXHIBIT 4: CONCEPTUAL SITE PLAN

2012.07.12
Aerial Photo Date = 2011
WLB No. 192062-A003

0' 100' 200' 300'

L:\192062\A003-Gen Plan Amend\Gen Plan Narrative\Exh 4 Conceptual Site Plan.dwg Plotted: Jul. 13, 2012

General Plan Future Land Use



TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: October 16, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Matt Michels, AICP, Senior Planner**

SUBJECT: **Public Hearing: Mercado Mandarina Major General Plan Amendment** from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial/Office (NCO) and designation as a General Plan Growth Area, located on the northeast corner of Tangerine Road and La Cholla Blvd, OV1111-005.

SUMMARY

The proposed Major General Plan Amendment (GPA) entails amending the land use category from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial-Office (NCO) for 8.6 acres of the 26.7 acre property and designation as a Growth Area, located on the northeast corner of Tangerine Road and La Cholla Blvd. The proposed development of the property includes retail, office, and senior care facilities. If approved, a subsequent rezoning to a commercial zoning district and a full design review process would be required. In addition, the applicant is requesting that the property be designated as a General Plan Growth Area.

BACKGROUND

General Site Conditions: The Mercado Mandarina property is 26.7 acres. Approximately 18 acres is designated Neighborhood Commercial Office (NCO). The 8.6-acre amendment area is designated Low Density Residential (LDR; 1.3-2.0 du/ac).

Approved uses in NCO include neighborhood scale retail and office and multi-family residential. Approved uses In LDR include single-family residential and accessory uses. Zoning of the vacant property is R1-144 (Single-Family Residential 144,000 square foot minimum lot size).

Surrounding Land Uses: The property is generally bounded by Limewood Dr. on the north, Wildlife Ave. on the east, Tangerine Road on the south, and La Cholla Boulevard on the west. Surrounding land uses are summarized in the table below:

Direction	General Plan Designation	Land Use
North	LDR (Low Density Residential)	Single-Family Residences (.3 du/ac)
South	NCO (Neighborhood Commercial-Office); LDR (Low Density Residential); MDR (Medium Density Residential)	Vacant (.3 du/ac)
East	LDR (Low Density Residential)	Single-Family Residences (.3 du/ac))
West	NCO (Neighborhood Commercial-Office); PSP (Public/Semi-Public)	Church of the Apostles/vacant

Access: Planned access to the site will be from La Cholla Blvd., Tangerine Road, and Wildlife Ave.

Environmental Resources: The two north-south oriented washes are designated as Significant Resource Areas (SRAs) on the General Plan. The Significant Resource Area (SRA) was established based on biological and cultural research analysis completed in 2001 – 2005. The Environmentally Sensitive Lands (ESL) Ordinance, adopted by the Town of Oro Valley after the SRA, designates the washes as Critical Resource Areas. Specific guidance for 95% conservation of CRA's is contained in the ESL.

Current General Plan: The current Oro Valley General Plan designates the property as depicted within Attachment 1 and described as follows:

Neighborhood Commercial / Office	18.1 acres
Low Density Residential (1.3 to 2.0 du / ac)	8.6 acres

The General Plan defines these land use categories for the proposed amendment area as follows:

- Neighborhood Commercial and Office (NCO)
  This designation denotes commercial and office areas located with good arterial that are close to residential areas. Within these areas, uses such as grocery stores, drugstores, and offices tend to serve the surrounding neighborhoods and are integrated with those neighborhoods. Offices include professional offices, tourism-related businesses, and services. The recommended floor area ratio (FAR) in the NCO designation is .30 which is consistent with the C-1 zoning district.

- Low Density Residential (1.3-2.0 du/ac)
  This district denotes areas where single-family detached residential development is desirable, but only if it is at a density that will permit retention of an open character. Low-density residential designation areas range up to 2.0 dwelling units per acre. Delineation of building envelopes on individual lots is also encouraged to clearly indicate which areas will be disturbed and which will not.

ANALYSIS OF PROPOSED AMENDMENT

Staff's analysis of the proposal is based on the following:

I. Land Use Plan Analysis
II. General Plan Amendment criteria contained in the Zoning Code
III. General Plan Vision, Goals and Polices
IV. Public comments, including neighborhood meetings and correspondence

I. LAND USE PLAN ANALYSIS/GROWTH AREA DESIGNATION

The Conceptual Site Plan (CSP; see Exhibit 4 in Attachment 1) depicts approximately 171,200 square feet of building area, including office, retail, and a senior care facility. As depicted, the project provides approximately 25% open space, primarily through the preservation of the Critical Resource Areas (the washes). The layout places the less intensive senior care and retail/office uses in closer proximity to existing homes while placing the more intensive pharmacy, fuel station/convenience store, and convenience uses closer to Tangerine Road and the intersection of Tangerine and La Cholla. Landscaped buffers are provided around the perimeter of the property, with additional buffer along Tangerine Road to meet the requirements of the Tangerine Road Scenic Corridor Overlay District (TRCOD).

The applicant is requesting that the property be designated as a General Plan Growth Area, which is defined by the Oro Valley General Plan and state statute as areas "that are particularly suitable for planned multi-modal transportation and infrastructure expansion and improvements designed to support a planned concentration of a variety of uses, such as residential, office, commercial, tourism and industrial uses". According to the applicant,

> *"Because of the property's location at the intersection of two regionally significant roadways, we believe it would be appropriate for the property (and eventually the other corners of the intersection as well) to*

be designated as a general plan growth area. Our site plan proposes more than 95% preservation of the two environmentally sensitive washes onsite, and will likely end up yielding nearly 25% open space overall. We believe this level of preservation strikes a responsible balance with the economic importance of the corner, and bolsters the growth area request.

Staff concurs that the property meets the criteria for the Growth Area designation, based primarily on the regional significance of the Tangerine Road corridor as a primary east-west transportation corridor in the northern Tucson metropolitan area and the planned expansion of the roadway in the Regional Transportation Plan. La Cholla Boulevard is also planned for future widening to four lanes and is a regionally important north-south corridor.

The Growth Area designation would have the effect of eliminating the open space requirements associated with ESL Resource Management Areas (RMAs), Tier 2 which would require 25% open space in areas rezoned to C-1 (see Attachment 6). Since the minimum open space requirements are associated with the General Plan land use designation, the non-riparian portions of the property would be designated for 0% open space requirement when rezoned (Table 27.10-3 of the Zoning Code; see Attachment 7).

As stated by the applicant, the Critical Resource Areas (the washes) would be preserved per ESL requirements (95% open space minimum) and the site would likely yield 25% open space overall including the washes, which is consistent with typical commercial developments in the Town. The granting of the Growth Area designation would provide a balance between providing greater intensity in use of the property while preserving the most critical resources on the site, the riparian areas which serve as open space linkages.

II. SECTION 22.2.D.3 GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "the disposition of the General Plan amendment shall be based on consistency with the Vision, Goals, and Policies of the General Plan, with special emphasis on the following criteria." The applicant shall have the burden of presenting facts and other materials to support these criteria in writing. The applicant's full response to each of the criteria is attached for your reference (see Attachment 1). Following is the applicant's response (*in italics*) followed by staff's analysis of each criterion:

1. *The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.*

   Applicant's Response: *"This is an amendment to expand an existing commercial node already shown in the General Plan. As such, the justification for non-residential development at this major roadway intersection has already been established. Several "conditions in the community have changed" since the existing General Plan land uses were established. First, the demand for senior care facilities has blossomed. This previously small market segment is a transitional land use that is perfectly suited for areas between commercial and residential areas, and is proposed as such in this case. Second, the Town has adopted the Environmentally Sensitive Lands Ordinance, which represents a significant change in development opportunities and constraints. Third, the RTA Plan was approved by voters, plans for the expansion of Tangerine Road are now underway, and construction is imminent. The widening of Tangerine Road from Interstate 10 to La Canada significantly changes the viability of increased land use intensity along the Tangerine corridor."*

   Staff Comment: Tangerine Road is one of the few major east-west transportation routes in the Northern Tucson region. It will double it's capacity with a widening from two to four lanes in the next 5-10 years. Further, La Cholla Blvd. is also planned for a major widening from two to four lanes in the same period. There is currently need for commercial services along both these corridors which will only increase in the

future. The current and future importance of the corridor supports the applicant's GPA proposal as well as the Growth Area Designation request.

2. *The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.*

   Applicant's Response: *"This amendment will allow the rezoning request that will lead to the development of a non-residential use that, through screening, buffering, preservation of the primary washes and compliance with the ESLO and Tangerine Road Corridor Overlay District, will have a low impact on nearby land owners yet will function as a viable enterprise that will serve as an asset to the Oro Valley tax base. In addition, the Environmentally Sensitive Lands Ordinance will apply to this development through the General Plan Amendment and Rezoning processes."*

   Staff Comment: Staff concurs that the provision of neighborhood-scale retail and professional services will positively contribute to the community and that the Town will ensure compatibility with environmental ordinances and review processes.

   The Tangerine Road Corridor Overlay District (TRCOD) was adopted in the mid 1990's. Since that time and as the Town approaches build-out, non-residential development opportunities in the corridor have become increasingly important. Development potential is particularly high the major intersections of La Canada, La Cholla and Shannon Roads. Several provisions of TRCOD may be inconsistent with significant retail, office and commercial development. It may be time for the Town to consider an update to this overlay district. Considering regional infrastructure investments, and the Community's adopted economic development goals to expand employment and other commercial development, the appropriateness of the provisions of TRCOD should be evaluated in the near term.

3. *The proposed change reflects market demand which leads to viability and general community acceptance.*

   Applicant's Response: *"Although the economy is down at the moment, demand is improving for goods and services typically found at neighborhood-scale shopping centers. However, since the majority of the Mercado Mandarina property is already designated for commercial development, this amendment is sought primarily due to demonstrated demand for senior care facilities in the Tucson metropolitan area that had not materialized when the General Plan land uses in this area were established. Examples include: Desert Springs Retirement Living on Lambert Lane (under construction), Villa Fatima Alzheimer's Care on Rancho Vistoso Blvd. (Opened 2009, and recently expanded), Desert Springs Alzheimer's Care at La Cholla and Rudasill (under construction), Splendido (Opened 2007), Villa Hermosa at Speedway & Wilmot (Opened 2009), and a continuous stream of inquiries from local, regional and national senior care companies seeking to establish or expand their presence in Southern Arizona. A logical place for such facilities is near major transportation corridors and commercial uses. The Tangerine and La Cholla corridors are established, and the senior care element is proposed along with commercial uses as part of the overall development outlined in the rezoning request. It is to these two market segments that we respond with Mercado Mandarina, an activity center featuring a mix of land uses including neighborhood grocery, shops, pharmacy, gas station, professional offices and senior care. By providing a variety of locally needed goods and services at a convenient location, the development as a whole will attract a broader range of customers, thus creating sustainable viability where other, less diversified shopping centers struggle during tough economic times.*

   An additional argument for the marketability of this proposal is based in the much lower or even non-marketability of development under the existing General Plan land use designation. That is, low-density residential development is just not suitable for this location along La Cholla Boulevard, whereas non-

residential development designed with sensitivity to existing surrounding residential areas would be a much more appropriate land use. The Rancho del Cobre subdivision, directly across Tangerine Road from Mercado Mandarina, and the Rancho de Plata subdivision further south on La Cholla Blvd., both serve as recent evidence that land along the Tangerine Road corridor is not suitable for low density residential development.

It is a fact that the days of having business tenants lined up awaiting rezoning approval are, for the most part, a thing of the past. The area proposed for General Plan amendment will primarily serve the senior care market, but is an integral aspect of creating the larger, diversified neighborhood center we call Mercado Mandarina. Unfortunately the General Plan amendment and rezoning processes are lengthy and unpredictable, but we believe that the demonstrated demand in the target market sectors will still be robust next year."

Staff Comment: The proposed uses, including pharmacy, medical offices, restaurants, fuel station, and senior care facility are not currently found in this part of the Town. As this area continues to grow and the Tangerine Road and La Cholla Blvd. corridors expand, the market demand for retail and services will increase. For example, there are two new residential subdivisions under development, Rancho del Cobre (68 lots) and Rancho de Plata (50 lots) in the immediate vicinity.

4. *The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.*

   Applicant's Response: *"The Tangerine Road Corridor Overlay District and Environmentally Sensitive Lands Ordinance place restrictions on this and other properties in the Tangerine Road corridor. These restrictions protect sizeable washes, significant vegetation and view corridors. Additional building setbacks and height restrictions are also added by TRCOD. As part of the rezoning process we will demonstrate compliance with the various ESLO and TRCOD restrictions. At neighborhood meetings this property was generally acknowledged as being appropriate for commercial development. In fact, several of our immediate neighbors even expressed interest in having their properties included in this proposal, but we feel that the subject property is amply sized to accommodate immediate demand. We have also provided additional buffering between this project and adjacent residential properties."*

   Staff Comment: The impacts of the development will be substantially mitigated through adherence to the Town's environmental ordinances, proposed buffering, and Zoning Code requirements such as screening, building height and bulk restrictions, and the Design Standards.

III. GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

This amendment proposal has been reviewed in light of the General Plan Vision and all applicable General Plan Goals and Policies and the following are notable for this application. Each Goal or Policy is shown in italics followed by staff's commentary. Please note that the applicant has also provided a discussion of applicable General Plan goals and policies on Pages 1 & 2 of the narrative (Attachment 1):

General Plan Vision

To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working

together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town.

There is an emphasis on balancing the "needs of today against the potential impacts to future generations". This necessitates that we take a long-term view of all land use decisions and favor future benefits over short term expediency. In this case, the proposal will likely entail retail uses that generate sales tax, which is the Town's primary revenue source. The future land use plan for the Town envisions neighborhood commercial uses on all four corners around the intersection of Tangerine Road and La Cholla Blvd. This node is planned to be an important commercial/office area in the future. The placement of revenue-generating uses in this area will have a positive impact on the fiscal health of the community.

Goal 1.3, *Promote a compatible mix of land uses through the Oro Valley Planning Area.*

While the need for neighborhood scale retail and services exists, there are currently no retail or office developments in close proximity to Tangerine and La Cholla. As the Tangerine and La Cholla corridors expand with the road widening, the need for services will increase.

As discussed, senior living facilities are considered an appropriate land use transition between single-family residential and neighborhood commercial uses. The project can be compatible with the neighborhood through sensitive site planning and buffering.

Policy 1.3.2, *Encourage new development to locate uses that depend on convenient transportation access (e.g. higher density residential and commercial) near major arterial streets.*

This property is located at a major intersection with road widening projects planned. It is a viable location from a transportation standpoint and the roadways have sufficient capacity to serve the proposed uses. Traffic impacts will be further assessed through a Traffic Impact Analysis (TIA) during the rezoning and design review phases.

Policy 3.1.2, *Strive for a diverse economic base that will help reduce Oro Valley's dependence on revenues derived from growth-related sources.*

This proposal is supported by this policy as commercial uses generate sales tax revenues for the community.

Policy 7.1.1, *Protect the integrity and aesthetic context of existing neighborhoods through the use of appropriate buffers.*

The Zoning Code requires landscaped bufferyards between non-residential and single-family development, as well as appropriate screening. The Design Standards require the architecture to be appropriate for the context and environment.

Policy 5.4.4, *Ensure that sufficient buffer zones and/or buffering techniques are employed for all land developed adjacent to arterials and collectors*

The property will be developed consistent with the Tangerine Road Corridor Overlay District (TRCOD) standards, which require additional setbacks and screening from Tangerine Road, as well as building height restrictions in proximity to Tangerine Road.

Policy 7.2.1, *The Town shall encourage the development of a variety of types of homes to accommodate the varied needs of residents, including single-family attached and detached, townhomes, small apartments (3-4 units), condominiums, active retirement communities and congregate housing, with accessible options integrated among all types to accommodate the special needs of elderly or disabled residents.*

The provision of senior housing is supported by a number of factors, including demographic trends, such as an increase in senior population, as well as demonstrated market demand for senior housing that provides some level of assisted living or nursing care. There will inevitably be more senior housing projects as demand increases.

IV. PUBLIC NOTICE AND COMMENT

This project has been noticed in accordance with Town procedures, which includes the following:

- Notification of all property owners within 1,000 feet
- Homeowners Association mailing
- Notices in The Daily Territorial and Arizona Daily Star newspapers
- Post on property
- Post at Town Hall and on website

Two neighborhood meetings were held. The first meeting was held in December, 2011. Approximately 10 residents and interested parties attended the meeting. A second neighborhood meeting was held on September 26, 2012. Approximately 10 residents and interested parties attended the meeting. A number of issues were discussed at each meeting, including the following:

- Senior care building height
- Frequency of emergency response (lights and sirens) to senior care
- Timing of Tangerine Rd. and La Cholla Blvd. widening
- Buffer width proposed on Limewood
- Lighting on site
- Additional traffic on Limewood and Wilderness Rd.
- Desire to expand commercial area to include additional properties

The summary notes from the meeting are attached for your reference (see Attachment 3).
One e-mail has been received with suggestions related to the proposal (Attachment 4).

SUMMARY/CONCLUSION

The proposed amendment has been evaluated using the criteria in Section 22.4 of the Zoning Code, General Plan goals and policies as well as neighborhood and outside agency input. Following is a summary of the factors for and against the proposal:

Factors for:

1. The majority of the project site is currently designated for neighborhood commercial development.
2. The Tangerine and La Cholla corridors are regionally-significant transportation corridors that are both identified for future expansion in the Regional Transportation Plan.

3. The proposed site plan provides a transition to less intense uses moving away from Tangerine Road.
4. There are no commercial services in close proximity to the subject property.
5. The project would provide services to nearby neighborhoods.
6. The negative impacts of the proposal can be substantially mitigated through sensitive design and buffering.

Factors Against:

1. Nearby residents have expressed concerns with certain aspects of the proposal, especially the proposed senior living facility.

RECOMMENDATION

General Plan Amendment
The proposed amendment conforms with many General Plan policies and amendment criteria. The impacts of the development, including lighting and traffic, can be sufficiently mitigated and would not likely result in greater impacts on the adjacent low density residential area. Staff recommends approval of the proposed General Plan Amendment.

Growth Area Designation
The Mercado Mandarina property meets the General Plan and definition of a Growth Area since it is located at the intersection of two major transportation corridors which are both planned for future expansion. The Tangerine and La Cholla area is planned for a concentration of commercial and residential uses. Staff recommends approval of the proposed Growth Area designation.

SUGGESTED MOTION

Two Planning & Zoning Commission public hearings are required by the Zoning Code. Therefore, no recommendation will be made at this meeting. Motions will be included in the November 5, 2012, report.

Attachments:

1. Application and exhibits, including applicant's response to GP amendment criteria
2. General Plan Future Land Use map
3. September 26, 2012, Neighborhood meeting summary
4. Resident email
5. General Plan Growth Area Request
6. ESL Map
7. Zoning Code Table 27.10-3

cc: Paul Oland, gpoland@wlbgroup.com

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TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: November 5, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Matt Michels, AICP, Senior Planner**

SUBJECT: **Public Hearing: Mercado Mandarina Major General Plan Amendment** from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial/Office (NCO) and designation as a General Plan Growth Area, located on the northeast corner of Tangerine Road and La Cholla Blvd, OV1111-005.

SUMMARY

The Planning and Zoning Commission held the first of two required public hearings on October 16, 2012. No action was taken at that hearing. Four residents and interested parties spoke at the hearing. Several issues were discussed, including:

- Proposed buffering between Limewood Road and single-family homes
- Concern with the type of senior care facility that would be built and the possible impacts on the neighborhood
- Concern with increased land use intensity along the northern portion of the amendment area (adjacent to Limewood Road)
- Appropriateness of General Plan Growth Area Designation for the northern portion of the amendment area

Please refer to the October 16, 2012 packet for additional background information and discussion of the proposal. The analysis of the General Plan Amendment criteria and the Vision, Goals and Policy Conformance discussion from the October 16 staff report is contained below for your reference. A recommendation to Town Council is requested at this hearing. Staff recommendation and suggested motions are provided below.

SECTION 22.2.D.3 GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "the disposition of the General Plan amendment shall be based on consistency with the Vision, Goals, and Policies of the General Plan, with special emphasis on the following criteria." The applicant shall have the burden of presenting facts and other materials to support these criteria in writing. The applicant's full response to each of the criteria is attached for your reference. Following is the applicant's response (*in italics*) followed by staff's analysis of each criterion:

1. *The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.*

   Applicant's Response: *"This is an amendment to expand an existing commercial node already shown in the General Plan. As such, the justification for non-residential development at this major roadway intersection has already been established. Several "conditions in the community have changed" since the existing General Plan land uses were established. First, the demand for senior care facilities has blossomed. This previously small market segment is a transitional land use that is perfectly suited for areas between commercial and residential areas, and is proposed as such in this case. Second, the Town has adopted the Environmentally Sensitive Lands Ordinance, which represents a significant change in development opportunities and constraints. Third, the RTA Plan was approved by voters, plans for the expansion of Tangerine Road are now underway, and construction is imminent. The widening of Tangerine Road from Interstate 10 to La Canada significantly changes the viability of increased land use intensity along the Tangerine corridor."*
   Staff Comment: Tangerine Road is one of the few major east-west transportation routes in the Northern Tucson region. It will double it's capacity with a widening from two to four lanes in the next 5-10 years.

Further, La Cholla Blvd. is also planned for a major widening from two to four lanes. There is currently need for commercial services along both these corridors which will only increase in the future. The current and future importance of the corridor supports the applicant's GPA proposal as well as the Growth Area Designation request.

2. *The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.*

   Applicant's Response: *"This amendment will allow the rezoning request that will lead to the development of a non-residential use that, through screening, buffering, preservation of the primary washes and compliance with the ESLO and Tangerine Road Corridor Overlay District, will have a low impact on nearby land owners yet will function as a viable enterprise that will serve as an asset to the Oro Valley tax base. In addition, the Environmentally Sensitive Lands Ordinance will apply to this development through the General Plan Amendment and Rezoning processes."*

   Staff Comment: Staff concurs that the provision of neighborhood-scale retail and professional services will positively contribute to the community and that the proposed level of intensity is environmentally compatible.

   The Tangerine Road Corridor Overlay District (TRCOD) was adopted in the mid 1990's. Since that time and as the Town approaches build-out, non-residential development opportunities in the corridor have become increasingly important. Development potential is particularly high at the major intersections of Tangerine and Shannon Road, La Canada Drive, La Cholla Blvd. and First Avenue. Several provisions of TRCOD may be inconsistent with significant retail, office and commercial development. It may be time for the Town to consider an update to this overlay district. Considering regional infrastructure investments, and the Community's adopted economic development goals to expand employment and other commercial development, the appropriateness of the provisions of TRCOD should be evaluated in the near term.

3. *The proposed change reflects market demand which leads to viability and general community acceptance.*

   Applicant's Response: *"Although the economy is down at the moment, demand is improving for goods and services typically found at neighborhood-scale shopping centers. However, since the majority of the Mercado Mandarina property is already designated for commercial development, this amendment is sought primarily due to demonstrated demand for senior care facilities in the Tucson metropolitan area that had not materialized when the General Plan land uses in this area were established. Examples include: Desert Springs Retirement Living on Lambert Lane (under construction), Villa Fatima Alzheimer's Care on Rancho Vistoso Blvd. (Opened 2009, and recently expanded), Desert Springs Alzheimer's Care at La Cholla and Rudasill (under construction), Splendido (Opened 2007), Villa Hermosa at Speedway & Wilmot (Opened 2009), and a continuous stream of inquiries from local, regional and national senior care companies seeking to establish or expand their presence in Southern Arizona. A logical place for such facilities is near major transportation corridors and commercial uses. The Tangerine and La Cholla corridors are established, and the senior care element is proposed along with commercial uses as part of the overall development outlined in the rezoning request. It is to these two market segments that we respond with Mercado Mandarina, an activity center featuring a mix of land uses including neighborhood grocery, shops, pharmacy, gas station, professional offices and senior care. By providing a variety of locally needed goods and services at a convenient location, the development as a whole will attract a broader range of customers, thus creating sustainable viability where other, less diversified shopping centers struggle during tough economic times.*
   An additional argument for the marketability of this proposal is based in the much lower or even non-marketability of development under the existing General Plan land use designation. That is, low-density

residential development is just not suitable for this location along La Cholla Boulevard, whereas non-residential development designed with sensitivity to existing surrounding residential areas would be a much more appropriate land use. The Rancho del Cobre subdivision, directly across Tangerine Road from Mercado Mandarina, and the Rancho de Plata subdivision further south on La Cholla Blvd., both serve as recent evidence that land along the Tangerine Road corridor is not suitable for low density residential development.

It is a fact that the days of having business tenants lined up awaiting rezoning approval are, for the most part, a thing of the past. The area proposed for General Plan amendment will primarily serve the senior care market, but is an integral aspect of creating the larger, diversified neighborhood center we call Mercado Mandarina. Unfortunately the General Plan amendment and rezoning processes are lengthy and unpredictable, but we believe that the demonstrated demand in the target market sectors will still be robust next year."

Staff Comment: The proposed neighborhood commercial and office uses are not currently found in this part of the Town. As this area continues to grow and the Tangerine Road and La Cholla Blvd. corridors expand, the market demand for retail and services will increase. For example, there are two new residential subdivisions under development, Rancho del Cobre (68 lots) and Rancho de Plata (50 lots) in the immediate vicinity in addition to the residential growth over the last ten years between Naranja and Tangerine.

4. *The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.*

   Applicant's Response: *"The Tangerine Road Corridor Overlay District and Environmentally Sensitive Lands Ordinance place restrictions on this and other properties in the Tangerine Road corridor. These restrictions protect sizeable washes, significant vegetation and view corridors. Additional building setbacks and height restrictions are also added by TRCOD. As part of the rezoning process we will demonstrate compliance with the various ESLO and TRCOD restrictions. At neighborhood meetings this property was generally acknowledged as being appropriate for commercial development. In fact, several of our immediate neighbors even expressed interest in having their properties included in this proposal, but we feel that the subject property is amply sized to accommodate immediate demand. We have also provided additional buffering between this project and adjacent residential properties."*

   Staff Comment: The impacts of the development will be substantially mitigated through the rezoning process and adherence to the Town's environmental ordinances, proposed buffering, and Zoning Code requirements such as screening, building height and bulk restrictions, and the Design Standards.

GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

This amendment proposal has been reviewed in light of the General Plan Vision and all applicable General Plan Goals and Policies and the following are notable for this application. Each Goal or Policy is shown in italics followed by staff's commentary. Please note that the applicant has also provided a discussion of applicable General Plan goals and policies on Pages 1 & 2 of the narrative:

General Plan Vision

To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town.

There is an emphasis on balancing the "needs of today against the potential impacts to future generations". This necessitates that we take a long-term view of all land use decisions and favor future benefits over short term expediency. In this case, the proposal will likely entail retail uses that generate sales tax, which is the Town's primary revenue source. The future land use plan for the Town envisions neighborhood commercial uses on all four corners around the intersection of Tangerine Road and La Cholla Blvd. This node is planned to be an important commercial/office area in the future. The placement of revenue-generating uses in this area will have a positive impact on the fiscal health of the community.

Goal 1.3, *Promote a compatible mix of land uses through the Oro Valley Planning Area.*

While the need for neighborhood scale retail and services exists, there are currently no retail or office developments in close proximity to Tangerine and La Cholla. As the Tangerine and La Cholla corridors expand with the road widening, the need for services will increase.

As discussed, senior living facilities are considered an appropriate land use transition between single-family residential and neighborhood commercial uses. The project can be compatible with the neighborhood through sensitive site planning and buffering.

Policy 1.3.2, *Encourage new development to locate uses that depend on convenient transportation access (e.g. higher density residential and commercial) near major arterial streets.*

This property is located at a major intersection with road widening projects planned. It is a viable location from a transportation standpoint and the roadways have sufficient capacity to serve the proposed uses. Traffic impacts will be further assessed through a Traffic Impact Analysis (TIA) during the rezoning and design review phases.

Policy 3.1.2, *Strive for a diverse economic base that will help reduce Oro Valley's dependence on revenues derived from growth-related sources.*

This proposal is supported by this policy as commercial uses generate sales tax revenues for the community.

Policy 7.1.1, *Protect the integrity and aesthetic context of existing neighborhoods through the use of appropriate buffers.*

The Zoning Code requires landscaped bufferyards between non-residential and single-family development, as well as appropriate screening. The Design Standards require the architecture to be appropriate for the context and environment.

Policy 5.4.4, *Ensure that sufficient buffer zones and/or buffering techniques are employed for all land developed adjacent to arterials and collectors*

The property will be developed consistent with the Tangerine Road Corridor Overlay District (TRCOD) standards, which require additional setbacks and screening from Tangerine Road, as well as building height restrictions in proximity to Tangerine Road.

Policy 7.2.1, *The Town shall encourage the development of a variety of types of homes to accommodate the varied needs of residents, including single-family attached and detached, townhomes, small apartments (3-4 units), condominiums, active retirement communities and congregate housing, with accessible options integrated among all types to accommodate the special needs of elderly or disabled residents.*

The provision of senior housing is supported by a number of factors, including demographic trends, such as an increase in senior population, as well as demonstrated market demand for senior housing that provides some level of assisted living or nursing care. There will inevitably be more senior housing projects as demand increases.

RECOMMENDATION

Major General Plan Amendment
The proposed amendment from LDR to NCO conforms with many General Plan policies and amendment criteria. The impacts of the development, including lighting and traffic, can be sufficiently mitigated and would not likely result in significant impacts to the adjacent low density residential area. Staff recommends approval of the proposed General Plan Amendment.

Growth Area Designation
The Mercado Mandarina property meets the General Plan and definition of a Growth Area since it is located at the intersection of two major transportation corridors which are both planned for future expansion. The Tangerine and La Cholla area is planned for a concentration of commercial and residential uses.

An issue of concern is the appropriate extent of non-residential land use away from Tangerine Road. The application proposes to extend non-residential uses approximately one-quarter (1/4) mile from Tangerine Road.

Based on comments received and public testimony given at the October 16 PZ Commission hearing, the Commission may wish to consider excluding the northern 300 feet of the subject property (see Attachment 9 – Growth Area Map) near Limewood Road be excluded from the Growth Area designation. This area is an appropriate transition between more intense neighborhood commercial development to the south and low- or rural-density development to the north and east. Excluding this area from the Growth Area Designation would have the effect of increasing open space and decreasing intensity when the property is rezoned under ESL. Staff suggests that exempting a portion of the property from the Growth Area designation is appropriate to maintain the "transitional" character of the portion of Mercado Mandarina in proximity to Limewood Road.

SUGGESTED MOTIONS

The Planning & Zoning Commission may wish to consider one of the following suggested motions:

General Plan Amendment
I move to recommend approval of the Mercado Mandarina Major General Plan Amendment from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial/Office (NCO), as shown in Attachment 8, finding that:

- The Tangerine and La Cholla corridors are regionally-significant transportation corridors that are both identified for future expansion in the Regional Transportation Plan.

- The proposed site plan provides a transition to less intense uses moving away from Tangerine Road.
- There are no commercial services in close proximity to the subject property.
- The project would provide services to nearby neighborhoods.
- The negative impacts of the proposal can be substantially mitigated through sensitive design and buffering.

OR

I move to recommend denial of the Mercado Mandarina Major General Plan Amendment from Low Density Residential (1.3-2.0 du/ac) to Neighborhood Commercial/Office (NCO), finding that the proposed amendment does not meet all Zoning Code requirements.

General Plan Growth Area Designation

I move to recommend approval of the General Plan Growth Area designation for the Mercado Mandarina property, excepting the portion within 300 feet of Limewood Drive, as shown on Attachment 9, finding that:

- The Tangerine Road corridor is regionally significant and is identified for future expansion in the Regional Transportation Plan.
- The property fronting on Tangerine Road is particularly suitable for planned multi-modal transportation and infrastructure expansion and improvements to support a planned concentration of a variety of commercial and office uses.

OR

I move to recommend denial of the General Plan Growth Area designation for the eastern portion of the Mercado Mandarina Major General Plan Amendment area along Tangerine Road, finding that the Mercado Mandarina property does not meet the criteria for a Growth Area.

Attachments:

Attachment 8. Proposed General Plan Land Use Map
Attachment 9. Proposed Growth Area Map

cc: Paul Oland, gpoland@wlbgroup.com

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Mercado Mandarina Major General Plan Amendment
Neighborhood Meeting Summary
September 26, 2012
Hopi Conference Room

Following is a list of questions and issues discussed at the September 26 neighborhood meeting. Responses to questions, where known, are (in parentheses):

1. Is the rezoning being processed now? (it will follow the General Plan Amendment, if approved)

2. What is the notice area for the neighborhood meeting & public hearings? (1000 feet)

3. How many were notified? (80 notices were sent)

4. What is the buffer width on Limewood? (as shown, it will be approx. 30 ft.)

5. Will the development generate more traffic on Limewood? (No. No driveways are proposed onto Limewood)

6. Will the project generate additional traffic on Wildlife Rd? (Wildlife will be improved to the driveway accessing the development. No additional through traffic is anticipated)

7. What is the timing of the development? (if the General Plan Amendment is approved, the applicant will move forward with the rezoning and design review processes.)

8. What is the timing of Tangerine Road and La Cholla Blvd. widening? (Tangerine Road & La Cholla Blvd. widening projects are both in Period 2 of the RTA program, which goes through 2016 or so).

9. What type of lighting will be used on site? (the project will conform to the Oro Valley lighting code, which requires down shielding of lights, limitations of light generation, and containment of light to the property).

10. What is the building height for the senior care facility shown on the north side of the property? (Main building: 1-2 stories, with 1-story casitas behind (to the east)).

11. What is the existing zoning on the property? (R1-144, Single-Family Residential, 144,000 sq. ft. minimum lot size).

12. How often will emergency services be called to the senior care facility?

October 11, 2012

Mr. Mayor and Council Members,

As residents on Limewood, at La Cholla, our families selected this rural neighborhood to live in due to the rural lifestyle and large lots within minutes of commercial development, retail stores, grocery stores, gas stations and other local services. Some of us have lived on this street for more than 20-years while others recently moved to the neighborhood. While we knew the Tangerine corridor would develop over the next several decades, we are concerned with the type of development that occurs in our immediate backyard and along our street.

The request for a General Plan Amendment for the project called Mercado Mandarina, is the first step in a two-step process that ultimately can lead to ***drastic, negative impacts*** on nearby residents like ourselves. The General Plan identifies the area in question as NCO with Low-Density Residential acting as a transitional piece to the north of the corner between the small commercial site and immediate residents. NCO is a compatible and expected use at the corner of Tangerine and La Cholla.

Regarding this particular site, it is our argument that the corner in question should remain NCO in the General Plan with Neighborhood Commercial as the highest intensity of use for several reasons:

Neighborhood Commercial is a much higher intensity of use compared to neighboring rural residents.

> *C-N zoning may be found along multi-use paths, near parks, immediately between or among higher density residential developments and municipal service sites. It is most appropriate at the intersection of collector streets or a collector street and an arterial road.*
> (Oro Valley Zoning Code, Section 23.1 B14, Purpose of Districts)

The site in question is certainly not *"between or among higher density residential developments."* The location is among one of the most rural areas in Pima County, and especially in Oro Valley. As you head north on La Cholla from Tangerine, the rural lifestyle continues with some neighbors like Gary Abrams having their residential home on more than 50 acres that directly accesses off of La Cholla Blvd at Limewood. All residential lots in this area are a minimum of 3.3 acres with a rural lifestyle to include dirt neighborhood roads, horses and gardens. However, as residents, we recognize the site is along an arterial road connecting I-10 and Oracle Road. Therefore, we believe the NCO designation along the Tangerine frontage as outlined in the General Plan, is appropriate and should be the ***absolute highest intensity of use***. The current General Plan denotes this area as a neighborhood commercial intersection and ***not*** a major commercial node as stated by the applicant. Any intensity of use higher than neighborhood commercial would be in complete conflict with adjoining uses and have negative impacts on the immediately surrounding neighborhood community north of Tangerine, at La Cholla Boulevard.

Commercial development directly next to rural, residential development is a drastic change of use and any rezoning should be limited in its intensity.

The developer proposes a gas station on the southwest corner of the development site as allowed by C-1 Commercial. The intent of the developer is to immediately rezone the entire site following an Amendment to the General Plan. Presently, the entire site in question is zoned R-144 limiting one residential home to every 3-acres. Rezoning this site to C-1 Commercial would allow for intense uses like gas stations, car washes, drive thrus and large grocery stores- all of which is in extreme contrast to the immediately adjacent rural lifestyle of our community within feet of the project. As previously stated, should the southern portion of the proposed site request a change in zoning to Neighborhood Commercial/Office (NCO) as allowed by the

From: StFatha@aol.com [mailto:StFatha@aol.com]
Sent: Wednesday, September 26, 2012 8:08 PM
To: Williams, David
Cc: Michels, Matthew; Keesler, Paul
Subject: Re: Missed you

Sorry I missed the meeting...I had to visit the ER for help in stabilizing my heart, which remains a problem.

My focus was intended to be on the criteria for approval.

a) there was no reference in the written material from the applicant with regard to "consistency with the vision, goals and policies"
b) declaring that the uses were "established" by the General Plan is deceiving. The Plan doesn't "establish" anything, as we all understand, but residents may not.
c) Socio-economic betterment is debatable since proposal acknowledges that screening, buffering divides rather than is compatible with near by residential uses. The economic viability is also debatable since "senior care" is undefined. Is the proposal talking about independent living like the new place on Lambert; assisted living such as a small segment of Splendido or Memory Care living such as an Alzheimer's - Hospice operation on Oracle? We know the difference, and whether one or all three is economical viable depends very much on the campus style, facility components. It appears to me that insufficient space is allocated to all three, so I assume the use is independent. But that's important to clarify.
d) Certainly demand for retail - office is questionable. Innovation Park EEZ may include small office uses, as we've discussed. I don;'t think it should, but staff hasn't made a distinction. In any case, I question the economic viability of professional office construction in the foreseeable future.
e) Rather than debating specific use, I think this is a perfect place for an adaptation of our Mixed Use draft concept. Incorporating condo/office and some retail in a village setting would be compatible with the nearby existing neighborhoods.
f) Serving the "senior care" market needs discussion. Seniors need convenience....at least those seniors who select a senior care facility. Unlike Splendido, Desert Springs, where seniors need a van or personal car to get to grocery, drug, medical, entertainment opportunities, a <u>service</u> would be Mixed Use that incorporates those uses into the complex.

Sorry I missed the meeting... I was looking forward to it as I look forward to most.

Bill

Attachment 4

From: Jon.Roof@mutualofomahabank.com
Sent: Thursday, September 27, 2012 10:07 AM
To: Michels, Matthew
Subject: Mandarina

Follow Up Flag: Follow up
Flag Status: Completed

Attachments: pic18716.gif

Dear Matt,

Thank you for facilitating the discussion on the Madarina project at Tangerine and LaCholla on September 26th. I thought the event was well organized and executed. Please record me as being in favor of the proposed project. As the property owner two parcels to the east (219-46-023B), I would particularly like to advocate for the acceptance of the plan change on the southeast most part of the proposed plan. I think the inclusion of the proposed office use and the road improvement to the project off of Wildlife Road is very important to the area and to the property owners to the east of the project. I think this access off of Tangerine road to the commercial properties on the northeast corner of Tangerine and LaCholla is important to traffic flow and to future development to the east of the subject parcel. Thank you for your consideration.

Regards, Jonathan Roof

Jonathan L. Roof, Vice President, Private Banking | Wealth Management Group located at Mutual of Omaha Bank NMLS#422473

Address: 4514 E. Camp Lowell Drive, Tucson, AZ 85712
(520) 229-8262 W | (602) 636-7307 F | (520) 405-0506 M |
Jon.Roof@mutualofomahabank.com

Attachment 4

current General Plan, there would be less concerns regarding issues that arise from projects with more intense uses. For example, a gas station would bring with it unsavory elements negatively impacting the quality of life of nearby residents. Gas stations bring with them multiple issues including safety concerns, as there is a higher risk for robberies and increased foot traffic. Additionally, once installed, gas stations remain for decades unable to be easily redeveloped. As supply and demand ebbs and flows and national auto fuel policies change, these facilities will be abandoned and create eyesores for us, the neighboring community and nearby commercial projects. In fact, there are presently four (4) fuel stations within four (4) miles of this site increasing this possibility. Once you add one station in this rural area, you will destroy the character of the area and rural lifestyle of the local community.

Fuel stations have appropriate places in the community and are a need of society; however, directly within a rural neighborhood, is not one of them. We conveniently have access to multiple stations within minutes of our homes. The uses as permitted in Neighborhood Commercial like offices, bakeries and drug stores, do not share the negative connotations and impacts of fuel stations allowed in C-1 zoning districts.

Expansion of commercial development into rural, residential development is burdensome on existing and future residents.

The proposed use of assisted living facilities on the proposed northern parcel of the Mercado Mandarina project is, on the surface, a preferable option to commercial development; however, while this use is low volume traffic and more likened to residential development then that of commercial development, our general concern is the frequency of ambulances and fire trucks leaving the site with lights and sirens at all hours of the night. Fire departments actively run to assisted living facilities due to the nature of the facility. The lights and sounds brought with ambulances and fire trucks would create light and noise pollution to this rural neighborhood on a frequent basis.

Even after considering this particular use as proposed, it is questionable as to why the need to expand the General Plan commercial designation of this particular corner. The density along the La Cholla corridor, north of Lambert, is fairly low compared to other corridors like La Canada. Developed primarily with schools and rural development from Lambert, past Moore Road, The density north of Tangerine is nearly the lowest on the spectrum of land development. At this time, it is unreasonable to change R-144, 3.3-acre residential lots to commercial development when the area is surrounded by rural development. Many of us own horses on our properties and we ride along the dirt road Limewood to access several trails and washes in the area. This proposed density and use is completely incompatible with the character of our community.

Requests:

1. Neighborhood Commercial is an appropriate use along the frontage of Tangerine Road. Not unlike most neighbors that do not want their surrounding area changed, we prefer no development in this area; however, in having reasonable expectations, we strongly encourage the Town to limit the commercial zoning to Neighborhood Commercial in the area as already allowed by the General Plan. We support expanding this area along Tangerine Road to include the applicant request for a General Plan Amendment for the parcel to the east along the frontage.

2. Any development that is allowed in the proposed area should have strict design guidelines and limitations on operating hours. Long hours of operations that go into the evening and late evening add the potential for crime, increased light pollution and more traffic congestion and activity. Placing limitations to prevent operations dusk to dawn will ensure that the uses within the Neighborhood Commercial zoning area remain appropriate to nearby residents.

3. We agree that types of Independent and Assisted Living facilities may be a good transitional use between Tangerine Road and residential development; however, we will not support any change in the General Plan for the northern portion of the proposed property.

4. We absolutely protest any fuel station or car wash going into this location. The list of negative impacts created by these types of facilities cannot be mitigated enough. The quality of life of the neighboring residents living a rural lifestyle would be lowered drastically with this type of use.

Thank you so much for taking our concerns into consideration.

Sincerely yours,

Gary Abrams
2350 W. Limewood Dr.
and
12255 N. La Cholla Blvd.
Gary@abrams.com

Dr. Kimy and Rachel Charani
1601 W. Limewood Dr.
r.charani@aol.com

Gary and Laurie Dunham
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Burglar1@aol.com

Rust and Carrie Gilchrest
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ABRAMS FAMILY
DUNHAM FAMILY
W Limewood Dr
SMITH FAMILY
GILCHREST FAMILY
PEARSON FAMILY
CHARANI
McCOY FAMILY
N Wild Life Ave
N La Cholla Blvd, AZ, USA
W Tangerine Rd

Matt- After our meeting with you, and then subsequently with the developer, Greg Wexler and his planner, Paul Oland, some concessions and common ground was found between the potential future development and the existing residents.

We will not protest the development, provided assurances are put in place related to the following conditions as discussed with the developer and Mr. Oland:

- **A 50' undisturbed open space buffer will be provided along Limewood Road.**
- **A 90' building setback will be provided from Limewood Road.**
- **Senior care facilities in the northern portion of site will be limited to Independent Living and NOT Assisted Living, which further limits the presence of 911 calls, but is a heavier use than typical residential development.**
- **Developer will contribute $50,000 to the Town for the purpose of improving the two drainage crossings on Limewood Road north of the project. Funds will be transferred to the Town upon issuance of the building permit for the independent living facility.**
- **Developer will remove request for Growth Area designation on the northern 200 feet of the site, thus requiring 25% open space within the Resource Management Area.**

There was no discussion regarding the commercial uses of the property, with the exception of the change to Independent Living. We still maintain that certain uses like fuel stations and other related auto uses would be inappropriate, but we recognize this discussion can be had later in the process.

We appreciate the developers attempt to achieve more than the required amount of open space throughout the project. The neighbors have been communicated these changes via email and phone. The neighbors in agreement to these concessions are copied on this email. Those in support include:

Robert & Amber Smith
Rust & Carrie Gilchrest
Gary & Laurie Dunham
Dr. Kim & Rachel Charani
Gary Abrams

We do not feel the need to testify tonight, provided the above concessions are made. Thank you so much for your time and efforts.

--
COMMON GROUND NOVEMBER 30TH! SELLING OUT FAST!
http://mpaaz.org/events/common-ground

Amber Smith, MPA
Executive Director
Metropolitan Pima Alliance
Amber@mpaaz.org
(c) 520.878.8811

Michels, Matthew

From: Gustav Paul Oland [gpoland@wlbgroup.com]
Sent: Friday, September 28, 2012 2:33 PM
To: Michels, Matthew
Cc: Williams, David
Subject: Mercado Mandarina GPA Clarification

Hi Matt,
We'd like to clarify our general plan amendment request for the Mercado Mandarina project. As you know, we are currently requesting that the existing NC/O designation be expanded to cover the entire property. Because of the property's location at the intersection of two regionally significant roadways, we believe it would be appropriate for the property (and eventually the other corners of the intersection as well) to be designated as a general plan growth area. Our site plan proposes more than 95% preservation of the two environmentally sensitive washes onsite, and will likely end up yielding nearly 25% open space overall. We believe this level of preservation strikes a responsible balance with the economic importance of the corner, and bolsters the growth area request. Please let me know if you have any questions.

Thanks,
Paul

Gustav Paul Oland
Sr. Project Manager / LEED-AP
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gpoland@wlbgroup.com

Mercado Mandarina Environmentally Sensitive Lands

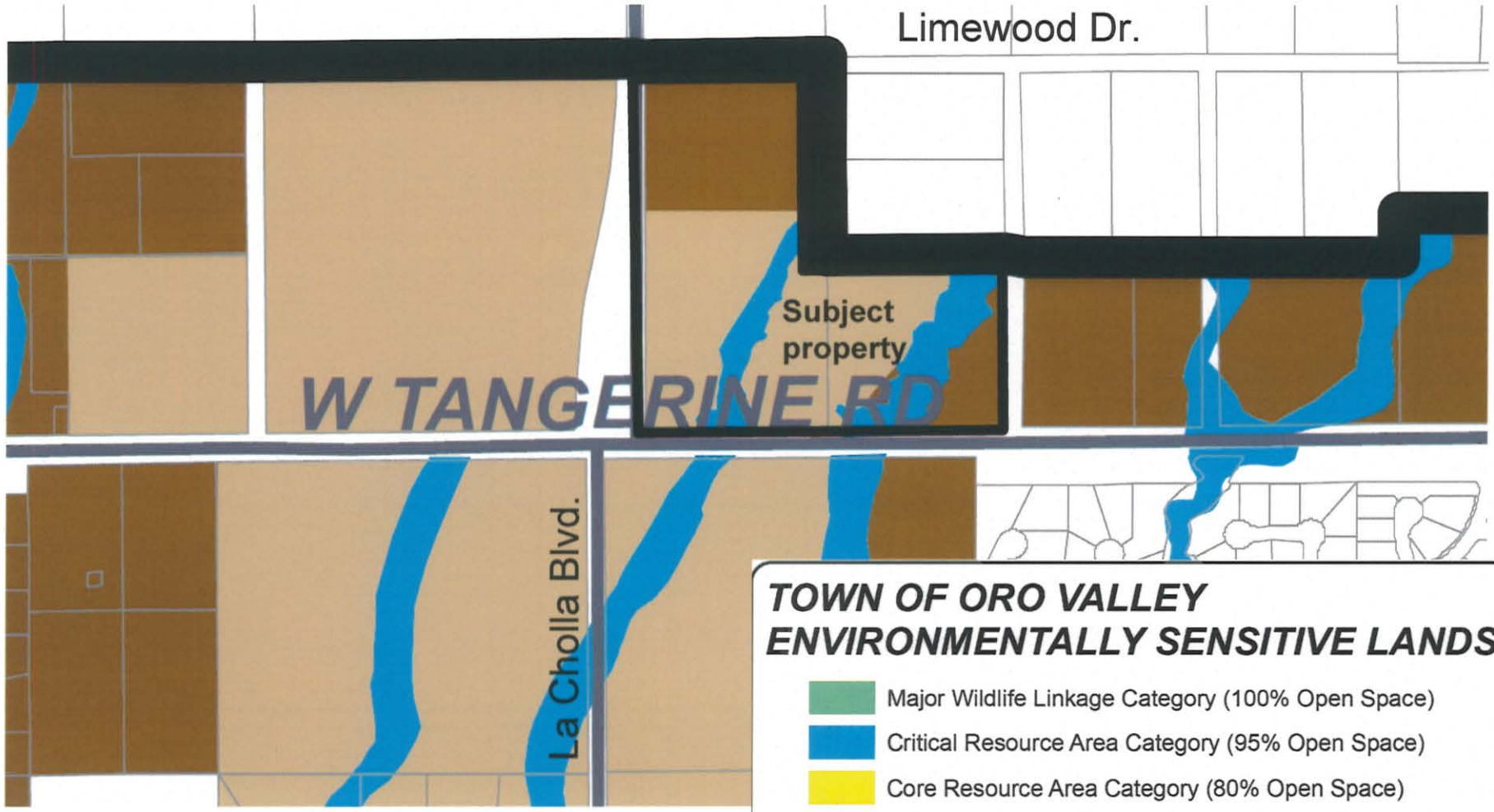


TABLE 27.10-2: ESL Categories: Minimum ESOS

Category	Minimum ESOS Percentage
Resource Management Area-2	25
Resource Management Area-3	0

TABLE 27.10-3:
Resource Management Area
Minimum ESOS by General Plan Designation

RMA Areas	Area 1	Area 2	Area 3
Minimum ESOS	66%	25%	0%
General Plan Land Use Designation	Rural Low Density Residential 0 – 0.3	Neighborhood Commercial / Office	Growth Areas
	Low Density Residential 0.4 – 1.2	Community / Regional Commercial	
	Low Density Residential 1.3 – 2.0	Commercial / Office Park	
	Resort/Golf Course	High Density Residential	
	Open Space	Medium Density Residential	
	School, Park	Public/Semi Public	
		MPC Rooney	
		MPC Kai Capri	

e. Cultural Resources Category

"Cultural resources," as defined in Chapter 31, include a variety of historic sites and buildings, prehistoric sites, archaeological sites and supporting materials and records.

i. Purpose

The cultural resources category is intended to:

a) Implement the Town's General Plan goals and policies for conservation of cultural resources; and

b) Protect cultural resources that are recognized to have enduring value in advancing education, general welfare, civic pride and appreciation of the Town's heritage in order to perpetuate the unique character of Oro Valley; and

c) Establish regulatory criteria for the identification, assessment and protection of significant cultural resources; and

d) Prevent or reduce adverse impacts to significant cultural resource sites by employing treatments that range from in-place preservation to various degrees of mitigation; and

e) Integrate cultural resources in the environmentally sensitive lands system to provide for the conservation of significant cultural resources in concert with other sensitive resources.

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
October 16, 2012
BASIS CHARTER SCHOOL
11155 N. ORACLE RD.

CALL TO ORDER AT OR AFTER 6:00 P.M.

Vice Chair Cox called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Vice Chair Don Cox
Commissioner Alan Caine
Commissioner Thomas Drzazgowski
Commissioner Bill Leedy
Commissioner William Rodman
Commissioner John Buette

EXCUSED: Chair Robert Swope

PLEDGE OF ALLEGIANCE

Vice Chair Cox led the audience in the Pledge of Allegiance.

CALL TO AUDIENCE

Comments were received by two individuals:

Gabe Wigtil, non-resident, announced the Wild Connections community wildlife event at Catalina State Park on November 10-11, 2012.

Don Bristow, resident, commented that, in regard to the previous meeting concerning the Fry's Planned Area Amendment for signs. Mr. Bristow stated that the Commission should make recommendations based on Town Codes and the merits of the application.

COUNCIL LIAISON COMMENTS

Council Member Joe Hornat was present and had no comments.

Vice Chair Cox recommended changing the order of the Agenda items as follows:

1. Desert Springs Major General Plan Amendment.

DRAFT

2. Mercado Mandarina Major General Plan Amendment.

3. Energy Element.

There were no objections to change the order of the agenda items.

Vice Chair Cox also advised that this hearing was the first of two public hearings on the agenda items and that no action would be taken until the next scheduled Planning and Zoning meeting on Monday, November 5, 2012 at 6:00 p.m. in the Council Chambers. The meeting has been moved to that Monday night due to the national election on the regular scheduled Planning and Zoning meeting on Tuesday, November 5, 2012.

2. PUBLIC HEARING: MERCADO MANDARINA MAJOR GENERAL PLAN AMENDMENT FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL/OFFICE (NCO) FOR 8.6 ACRES OF THE 26.7 ACRE PROPERTY, LOCATED ON THE NORTHEAST CORNER OF TANGERINE ROAD AND LA CHOLLA BLVD (OV1111-005)

Matt Michels, Town Planner, presented:

Applicants Request
Neighborhood Commercial Office (NCO) General Plan Land Use Designation
Location and Context
General Plan Future Land Use
Tangerine Road Corridor Overlay District (TRCOD) requirements
Environmentally Sensitive Lands
Site view looking north from Tortolita Mountains
How does the town evaluate
General Plan Evaluation Criteria
General Plan Vision, Goals and Policies
Public Input
Growth Area
Land Use Intensity
Neighborhood Meetings/Public Input
Neighborhood Issues
Public Input Opportunities in Review Process
Summary

Applicant Paul Oland of WLB Group elaborated on the site plan and justifications for the amendment request.

Vice Chair Cox opened the public hearing.

Carolyn Campbell, non-resident and representative of the Coalition for Sonoran Desert Protection (CSDP) was concerned that the property owner wouldn't have to comply with the Environmental Sensitive Land Ordinance (ESLO).

Bill Adler, resident, had comments about the planned senior care use and 5 acres of land not being sufficient to facilitate it.

Amber Smith, non-resident, doesn't object to the parcel but isn't supportive of the northern parcel adjacent to Limewood.

Jon Roof, non-resident, supports the plan.

Vice Chair Cox closed the public discussion.

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
November 5, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chair Swope called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT:
Chair Robert Swope
Vice Chair Don Cox
Commissioner Buette
Commissioner D. Alan Caine
Commissioner Thomas Drzazgowski
Commissioner Bill Leedy
Commissioner William Rodman

ALSO PRESENT:
Council Member Joe Hornat
Council Member Lou Waters
Council Member Brendan Burns

PLEDGE OF ALLEGIANCE

Chair Swope led the audience in the Pledge of Allegiance

CALL TO AUDIENCE - Two comments were received:

Shirl Lamonna, resident, said the audio on the Town website from the last Planning and Zoning Commissioner meeting at Basis School was hard to hear due to public speakers at the podium not speaking directly into the microphone, and she asked that speakers position themselves closer to the microphone for future meetings.

Gabe Wigtil, non-resident, reminded the audience about the Wild Connection Community Wildlife event at Catalina State Park on November 10-11, 2012.

COUNCIL LIAISON COMMENTS

Council Member Joe Hornat was present and had no comments. Council Members Lou Waters, Mary Snider and Brendan Burns were also present.

3. **PUBLIC HEARING: MERCADO MANDARINA MAJOR GENERAL PLAN AMENDMENT FROM LOW DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL/OFFICE (NCO) AND REDESIGNATE AS A GROWTH AREA FOR 8.6 ACRES OF THE 26.7 ACRE PROPERTY, LOCATED ON THE NORTHEAST CORNER OF TANGERINE ROAD AND LA CHOLLA BLVD (OV1111-005)**

Matt Michels, Senior Planner, presented:

Applicant's request
General Plan Amendment from Low-density Residential (LDR) to Neighborhood Commercial/Office (NCO) General Plan Land Use Designation
Location and Context
General Plan Future Land Use
Tangerine Road Corridor Overlay District (TRCOD) requirements
Environmentally Sensitive Lands
Site View Looking North from Tangerine Road
General Plan Amendment Evaluation Criteria
Growth Area
Neighborhood Meetings/Public Input
Neighborhood Meeting Issues:
Senior care building height
Frequency of emergency response
Tangerine/La Cholla widening timing
Buffer width
Site lighting
Additional traffic

Public Input
Summary
Recommendation: Major General Plan Amendment
Recommendation: Growth Area

DRAFT

Applicant Paul Oland representing Townsend Family/property owner indicated they were in agreement with the neighbors regarding the following:

- A 50' undisturbed open space buffer on Limewood
- A 90' building setback on Limewood
- Northern portion of the site restricted to Independent Living (not Assisted Living)
- Improvement of two drainage areas

Chair Swope opened the public hearing:

Donald Bristow, resident, didn't like the lack of residential property in the plan.

Bill Adler, resident, believes low density residential isn't realistic but is concerned about Senior Living ideal and doesn't believe it shouldn't be part of retail. Senior Living is the wrong use but likes the neighborhood commercial.

John Musolf, indicated that resident, separating zoning versus plan amendments is wrong. The change in C-1 is the ultimate plan of the applicant.

Chair Swope closed the public hearing

Chair Swope opened the floor for the applicant.

Applicant Paul Oland agrees that LDR is unrealistic and they have garnered neighbor support. Mr. Oland indicated that they are not mingling zoning and plan amendment isn't occurring.

Chair Swope opened the discussion to Commissioners.

Commissioner Rodman asked about LDR and thinks independent living is appropriate. Mr. Williams responded that specific uses best fit the property with Town Council review.

MOTION: A motion was made by Commissioner Caine and seconded by Vice Chair Cox recommend approval of the General Plan Amendment under case OV1111-005.

MOTION carried, 7-0.

DRAFT

Town Council Regular Session **Item # 5.**

Meeting Date: 12/05/2012
Requested by: Bayer Vella
Submitted By: Bayer Vella, Development Infrastructure Services
Department: Development Infrastructure Services

Information

SUBJECT:

PUBLIC HEARING: RESOLUTION NO. (R)12-68, AMENDING THE GENERAL PLAN TO ADD A NEW ENERGY ELEMENT AND ASSOCIATED UPDATES TO THE STRATEGIC IMPLEMENTATION PLAN

RECOMMENDATION:

On November 5, 2012, the Planning & Zoning Commission voted to recommend approval of the new General Plan Energy Element and associated Strategic Implementation Plan.

EXECUTIVE SUMMARY:

The proposed major General Plan Amendment entails adding an Energy element to the current General Plan (see Attachment I, Exhibit A). The draft Energy element provides a road map to address a broad range of energy-related issues. The following is a list of key topics addressed:

• Recognition of economic development opportunities
• Collaborative planning with energy providers and surrounding jurisdictions
• Promotion of energy efficiency and renewable energy
• Emergency preparedness and contingency planning

Over the course of this project, outreach was provided to insure consideration by a broad array of stakeholders. The community conversation included residents, board and commission members, building industry and business representatives, Amphitheater School District, surrounding jurisdictions, utility providers, and Homeowner's Associations.

At the November 5th Planning & Zoning Commission hearing, two residents spoke in favor of the amendment and two others expressed concerns. Representatives from the Southern Arizona Home Builders Association and Greater Oro Valley Chamber of Commerce also testified. Three commissioners spoke in favor of the amendment and one voiced dissent. The minutes and staff report are provided as Attachments 2.c and 2.d.

By adopting a General Plan energy element, the Town will be catching up to regional partners that have all made this step. Marana, Sahuarita, City of Tucson, Pinal County and Pima County have General Plan Energy Elements in place. A regional focus on energy issues will best ensure tangible results.

BACKGROUND OR DETAILED INFORMATION:

Amendment Request

This project was initiated via the FY 10-12 Planning & Zoning work plan. More recently, the Town Council affirmed the need for the project on April 4, 2012.

The Town's draft Energy element is structured in the same manner as others in the current General Plan. Key policy issues are identified under the headings of Economy, Awareness, Education, Delivery Infrastructure, and Community Resiliency. Issues are addressed with six goals and corresponding policies. Furthermore, a new section of the Strategic Implementation Plan has been developed to ensure that energy polices result in action.

State law mandates establishment of an Energy element for communities over 50,000 persons. At this time, the Town is exempt due to a lower population. As with five other current General Plan elements, the Town has elected to achieve beyond the minimum standards. The draft element is designed to meet and exceed state requirements – and carry forward into the next General Plan update cycle.

The goals and policies include a heavy emphasis on increasing awareness and educational opportunities to promote energy planning and conservation. The tangible benefits include opportunities for financial savings, economic development, reduced air pollution, timely infrastructure planning and emergency preparedness.

Because the entire General Plan will be reconsidered by 2015, this work effort will be merged into the larger update. Town projects listed in the draft Strategic Implantation Plan (SIP) will have a ten year time horizon for completion. The SIP elements will be accomplished without use of consultants and/or additional staff.

General Plan Amendment Process

The first draft was compiled after evaluating similar community plans in Arizona, California, Oregon, and Washington. A total of five drafts were vetted over the course of six meetings with an ad hoc Energy Policy Committee (EPC). The ten person committee includes residents, facility managers from key employers (Ventana, OV Hospital, and Amphitheater School District), Tucson Electric Power and SW Gas representatives, Planning & Zoning Commission members, and emergency response staff. Please see Attachment III for a complete list of participants.

The Planning & Zoning Commission held public hearings on October 16th and November 5th. At the first hearing, commissioners sought more information relative to business/building industry outreach efforts, state planning requirements, and clarification relative to the promise of fuel use reduction due to better traffic signal coordination. One resident spoke in favor of the amendment. The minutes and staff report are provided as Attachments II.a and II.b.

At the November 5th Planning & Zoning Commission hearing, representatives from the Southern Arizona Homebuilders Association and the Greater Oro Valley Chamber of Commerce reported appreciation for the Town's outreach efforts. Favor was expressed for proposed reductions to existing regulatory barriers, voluntary green building programs, and recognition of model energy-saving building efforts. Both opined that the "devil is in the details" relative to degree of policy implementation. In particular, SAHBA noted that caution should be exercised when translating policy into specific action.

The final draft improved through a community outreach process involving residents, utility providers, surrounding jurisdictions, homeowner's associations, staff, building industry representatives, and the Greater Oro Valley Chamber of Commerce. Attachment IV includes a list of specific outreach efforts. Letters from participants are included as Attachments V.a and V.b.

General Plan Amendment Review Criteria and Conformance

The Oro Valley Zoning Code specifies that "*the disposition of the General Plan amendment proposed shall be based on consistence with the vision, goals, and policies of the General Plan, with special emphasis on the...criteria":*

The formal General Plan criteria are best suited to review and analysis of a General Plan land use proposal; however, they remain applicable to this proposed amendment. The proposal satisfies each of the criteria and marries well with the General Plan Vision Statement. Specifics are provided in Attachment VI.

FISCAL IMPACT:

The current Plan includes approximately 130 polices that entail both community and municipal action. As with all General Plan goals and polices, the specific fiscal impact varies by extent of implementation by Town Council. Efforts entailing code updates or budgetary outlay are all reviewed and acted upon by Town Council on a case by case basis.

The proposed General Plan Energy element is designed to be implemented using current staff levels.

SUGGESTED MOTION:

I MOVE to approve Resolution No. (R)12-68, AMENDING THE GENERAL PLAN TO ADD A NEW ENERGY ELEMENT AND ASSOCIATED UPDATES TO THE STRATEGIC IMPLEMENTATION PLAN,

Finding that:

• Planning for energy infrastructure is an important facet of community development;
• It is important for the Town to join regional partners, Sahuarita, Marana, City of Tucson, and Pima County in planning for our energy future;
• Promoting energy efficiency and use of renewable energy contributes to the environmental and economic well being of the community;
• The Town should continue to demonstrate leadership through energy conservation projects that improve the Town's fiscal health;
• Increasing community resiliency through emergency preparedness and planning for a changing environment is necessary to safeguard the community; and
• All applicable General Plan criteria are met.

OR

I MOVE to deny the proposed General Plan Energy Element and associated updates to the Strategic Implementation Plan.

Attachments

Attachment I - R12-68 General Plan Energy Element
Attachment II.a - 10-16-12 Planning & Zoning Commission Minutes
Attachment II.b - 10-16-12 Planning & Zoning Commission Staff Report
Attachment II.c - 11-5-12 Planning & Zoning Commission Draft Minutes
Attachment II.d - 11-5-12 Planning & Zoning Commission Staff Report
Attachment III - Energy Policy Committee
Attachment IV - Community Outreach
Attachment V.a - Business Owner Letter
Attachment V.b - SAHBA Comments
Attachment VI - General Plan Review Criteria & Conformance

RESOLUTION NO. (R)12-68

A RESOLUTION OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE GENERAL PLAN TO ADD A NEW ENERGY ELEMENT AND ASSOCIATED UPDATES TO THE STRATEGIC IMPLEMENTATION PLAN

WHEREAS, the Town of Oro Valley residents ratified the General Plan on November 8, 2005; and

WHEREAS, the Town desires to amend the General Plan, attached hereto as Exhibit "A", to add a new energy element and associated updates to the strategic implementation plan; and

WHEREAS, the Planning and Zoning Commission held a meeting on December 5, 2012 and voted to recommend approval of the new General Plan Energy Element and associated Strategic Implementation Plan, and

WHEREAS, by adopting a General Plan energy element, the Town will be catching up to regional partners that already have this element in their General Plans, and

WHEREAS, pursuant to Oro Valley Zoning Code Revised, Section 22.1, General Plan Amendment Procedures, upon recommendation by the Planning and Zoning Commission of any amendment to the General Plan, a public hearing before the Mayor and Council shall be scheduled; and

WHEREAS, Mayor and Council duly considered the proposed amendment to General Plan to add a new energy element and associated updated to the strategic implementation plan and affirmed the project need on April 4, 2012.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Oro Valley that:

SECTION 1. The Mayor and Council hereby adopts the amendment to the General Plan, attached hereto as Exhibit "A", to add a new energy element and associated updates to the strategic implementation plan.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of the resolution or any part of the General Plan Amendment adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

_____
Julie K. Bower, Town Clerk

Date: _____

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

Date: _____

EXHIBIT "A"

14. ENERGY

STATEMENT

Energy use is a component of all aspects of community well being. It has a direct impact on the Town's economic development interests, public health and safety, air quality, and environment. As a result, it is essential that we plan for the energy resources upon which we depend, how they get to us, how we can cost effectively manage their use, and how we can respond when the supply of vital energy resources are suddenly and unexpectedly curtailed or interrupted.

The Energy Element includes goals and policies focusing on energy used to (a) condition the spaces in which we live, work and play, (b) deliver water, power machinery and cook food, and (c) fuel the vehicles we drive. The primary energy resources upon which the Town currently relies include electric power, natural gas and transportation fuels. The role of locally-derived solar energy is greatly expanding.

Energy planning entails making sound land use, transportation and infrastructure decisions as well as promoting gains in energy efficiency and encouraging the development of renewable energy sources. The benefits of long-term energy sustainability include improvements to our local economy, reliable and secure energy supplies, emergency preparedness, and reduced environmental impacts.

GROWING SMARTER/PLUS REQUIREMENTS

Managing energy resources wisely is increasingly important to the well-being of Oro Valley. Additionally, Growing Smarter/Plus statutes include requirements for Energy Elements. They are as follows:

- A component that identifies policies that encourage and provide incentives for efficient use of energy.
- An assessment that identifies policies and practices that provide for greater uses of renewable energy sources.

While these requirements are mandated only for communities of 50,000 or more, the Town has chosen to address them as optional elements.

GENERAL PLAN POLICY APPROACH TO ADDRESSING ENERGY ISSUES

Because energy is a significant factor in all aspects of community well being, the Energy Element interrelates with the following General Plan components: Community Design, Economic Development, Housing, Transportation/Circulation, Water Resources, Environmental Planning and Public Safety.

KEY POLICY ISSUES

ECONOMY– Forward thinking and vibrant businesses are gaining an advantage over competitors by investing in energy efficiency and renewable energy. Both large and small businesses are reducing their energy costs and capitalizing on consumer interest in green operations, products and services. The benefits are furthered by enhanced employee recruitment and retention.

AWARENESS – Enhancing public awareness of the need for and benefits of cost-effective management of energy resources is critically important to the future success of Oro Valley.

EDUCATION – The Town has a great opportunity to help its residents and businesses assess and implement measures which cost-effectively conserve energy, utilize renewable resources and otherwise manage energy use wisely.

DELIVERY INFRASTRUCTURE – The Town has an obligation to work with energy suppliers to ensure that the energy delivery infrastructure (a) is upgraded and expanded as required to meet the current and reasonably-anticipated future needs of the Town and its residents and businesses, (b) mitigates the adverse impacts of sudden, unexpected, prolonged supply shortages or outages, and (c) is compatible with the Town's objectives for preserving views of its natural beauty and community aesthetics.

COMMUNITY RESILENCY – Protecting public health and safety requires that the Town be prepared for (a) sudden, unexpected, prolonged shortages, or outages of the supply of critical energy resources and (b) the potential public safety-related impacts of a changing climate.

GOALS AND POLICIES

14.1 To promote use of renewable energy.

The Town shall:

14.1.1 Advocate increased use of renewable energy by the Town's residents, major employers, schools, and key regional stakeholders.

14.1.2 Support renewable energy technology research industries, manufacturers, and commercial scale providers as an economic development strategy.

14.1.3 Support installation of renewable energy through expedited permitting and technical assistance.

14.1.4 Work collaboratively with regional partners to create and maintain web-based information portals such as Solar One Stop, uniform renewable energy standards, submittal requirements, electronic permitting, and inspection procedures.

14.1.5 Identify potential locations for large and/or utility scale renewable energy projects and adopt a renewable energy development district to attract industry, develop standards, and streamline the review process.

14.1.6 Support regional and state programs, policies, and legislation that promote viable renewable energy deployment, financing, and markets.

14.1.7 Protect sunlight access for established residential and commercial solar systems by avoiding potential shade impacts of new vegetation and structures on adjoining properties.

14.1.8 Ensure new residential, multi-family, and commercial buildings, as appropriate, are constructed with cost effective measures to accommodate future solar systems.

14.1.9 Develop design guidelines and incentives to encourage the passive and active solar orientation of lots during the planning stages of new subdivisions.

14.1.10 Review, identify and address Town polices and ordinances that are potentially detrimental to renewable energy production.

14.1.11 Establish design guidelines to address the positioning of pole-mounted solar systems.

14.1.12 Assess emerging renewable technologies for potential application in Oro Valley.

14.2 To further energy savings through gains in efficiency and conservation.

The Town shall:

14.2.1 Promote land use, water conservation, and transportation planning practices that reduce energy consumption and provide economic and environmental benefits.

(See also Policy 1.3, Development Density; Policy 1.5, Land Use and Air Quality; Policy 2.1, Built Environment; Policy 5.3, Transportation Efficiency; Policy 5.6 Multi-Modal Transportation; Policy 5.8 Transit Connectivity; Policy 5.9 Bicycling; Policy 12.3, Water Conservation)

14.2.2 Reduce heat absorption for buildings, parking surfaces, and outdoor public areas by employing appropriate building, surfacing, and planting strategies.

14.2.3 Adopt the most up-to-date International Energy Conservation Code in concert with regional jurisdictions and stakeholders.

14.2.4 Provide builders an array of opportunities to stand out in the marketplace by promoting model green building and energy innovation efforts .

14.2.5 Enable voluntary participation in regional green building programs and use of a net zero energy building code.

14.2.6 Implement methods to reduce fuel consumption in the design of all new public streets and significant transportation investments.

14.2.7 Improve Intelligent Transportation Systems by coordinating the timing of traffic signals to minimize congestion and the number of vehicle stops and starts.

14.2.8 Promote development of electric vehicle, biofuel, and CNG infrastructure.

14.3 To develop and implement educational and collaborative outreach opportunities.

The Town shall:

14.3.1 Provide educational opportunities and assistance to residents, businesses and schools regarding energy conservation strategies in coordination with existing programs offered by the utilities.

14.3.2 Promote buyer awareness of building energy costs as a key factor in purchasing a home.

14.3.3 Increase awareness of the substantial energy involved in water delivery and opportunities to reduce consumption of both resources.

14.3.4 Develop and implement an educational program to ensure individual, family and business preparedness for short- and long-term energy shortages and outages.

14.3.5 Seek funding opportunities and partnerships to ensure continued energy conservation and emergency preparedness outreach efforts.

14.4 To enhance cooperative working relationships with energy and utility providers.

The Town shall***:***

14.4.1 Hold periodic “energy summits” by bringing together providers, key landowners, businesses, and Town staff to identify and resolve issues and discuss plans for future growth.

14.4.2 Work closely with energy providers and property owners to evaluate land use and development proposals to assess infrastructure needs.

14.4.3 Forge cooperative agreements with utility providers that articulate Town expectations, procedures and requirements for new installations and upgrades.

14.4.4 Develop a means to equitably implement General Plan policy 11.3.2 (promoting placement of utility lines underground) and protect the visual character of the Town.

14.4.5 Facilitate replacement and timely upgrade of aging infrastructure to eliminate and prevent electricity overload issues.

14.4.6 Support economic development by coordinating with energy providers to plan for future utility services in Innovation Park and other key employment and commerce sites.

14.4.7 Provide the community up to date information about proposals for new booster or transmission facilities.

14.4.8 Participate in short and long range energy infrastructure planning to maximize community compatibility.

14.5 To provide leadership by implementing model energy efficiency, water conservation, alternative fuel and solar projects in all municipal facilities and operations.

The Town shall*:*

14.5.1 Provide an annual energy report card to track savings and integration of energy considerations into Town operations, purchasing and operational practices.

14.5.2 Support workforce training for the installation and maintenance of energy technologies.

14.6 To increase community resiliency by preparing for shortages or outages of critical energy resources and potential vulnerabilities.

The Town shall:

14.6.1 Continue emergency preparedness planning to address energy shortages or outages in collaboration with all emergency responders and utility providers.

14.6.2 Build redundancy in energy sources for key government and emergency response facilities and strategic community-gathering areas.

14.6.3 Increase awareness that residential structures designed for low energy use serve as ideal shelters during an extended loss of power or extraordinary weather events.

14.6.4 Participate in a regionally-coordinated plan that addresses all potential safety risks associated with changes in local climate.

14.6.5 Seek local reductions to energy-related air pollution and greenhouse gas emissions.

14.6.6 Protect energy infrastructure in collaboration with property owners and utility providers.

DEFINITIONS:

Renewable Energy - an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.

Energy Efficiency - all changes that result in a reduction in the energy used for a given energy service (heating, lighting...) or level of activity.

Attachment II, Appended Planning & Zoning Commission Minutes

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
October 16, 2012
BASIS CHARTER SCHOOL
11155 N. ORACLE RD.

CALL TO ORDER AT OR AFTER 6:00 P.M.

Vice Chair Cox called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT: Vice Chair Don Cox
Commissioner Alan Caine
Commissioner Thomas Drzazgowski
Commissioner Bill Leedy
Commissioner William Rodman

EXCUSED: Chair Robert Swope

PLEDGE OF ALLEGIANCE

Vice Chair Cox led the audience in the Pledge of Allegiance.

CALL TO AUDIENCE

Comments were received by two individuals:

Gabe Wigtil, non resident, announced the Wild Connections community wildlife event at Catalina State Park on November 10-11, 2012.

Don Bristow, resident, commented that, in regard to the previous meeting concerning the Fry's Planned Area Amendment for signs. Mr. Bristow stated that the Commission should make recommendations based on Town Codes and the merits of the application.

COUNCIL LIAISON COMMENTS

Council Member Joe Hornat was present and had no comments.

Vice Chair Cox recommended changing the order of the Agenda items as follows:

1. Desert Springs Major General Plan Amendment.

2. Mercado Mandarina Major General Plan Amendment.

3. Energy Element.

There were no objections to change the order of the agenda items.

Vice Chair Cox also advised that this hearing was the first of two public hearings on the agenda items and that no action would be taken until the next scheduled Planning and Zoning meeting on Monday, November 5, 2012 at 6:00 p.m. in the Council Chambers. The meeting has been moved to that Monday night due to the national election on the regular scheduled Planning and Zoning meeting on Tuesday, November 5, 2012.

3. PUBLIC HEARING: A MAJOR GENERAL PLAN AMENDMENT TO ADD A NEW ENERGY ELEMENT AND ASSOCIATED UPDATES TO THE STRATEGIC IMPLEMENTATION PLAN. THE PROPOSAL INCLUDES GOALS AND POLICIES THAT ADDRESS A BROAD RANGE OF ENERGY-RELATED ISSUES (OV1112-03)

Bayer Vella, Conservation and Sustainability Manager, presented the following:

General Plan - Energy Element

Key Ingredients
Opportunities
Energy Efficiency
Regulations & Voluntary Programs
Transportation Systems
Barriers to Energy Efficiency
Renewable Energy
Benefits to Southern Arizona Economy for Promoting Solar
Barriers in Town Codes
Additions to Town Code
Community Leadership by Example
Environmental Leadership by Example
Cost-Saving Opportunities
Education Outreach
Energy Infrastructure Planning
Infrastructure Planning - the Grid
Forecast Substation Load
Community Resiliency
Emergency Preparation
By the end of the century - temperatures rising by 10 degrees

Process
The Town's Vision

Vice Chair Cox opened the discussion for Commissioner's questions.

Vice Chair Cox indicated that the Energy Element is important, but felt that the timing was not now. He sees government dictating how people live, the kinds of homes they live in, the types of light bulbs they have, etc. and believes individuals need to make those kinds of decisions. He doesn't see the five (5) evaluation criteria for General Plan Amendments answered in the proposal at this time.
Commissioner Drzazgowski commented that he was impressed with the roundabout and its gas-saving result. He wanted to know if there are similar methods for traffic signals in the Town and sees a value in that and other transportation ideas that would enhance the environment for all of the residents.

Commissioner Leedy disagreed with Vice Chair Cox's opinion since Commissioner Leedy participated in the development of the document and has spent his career pursuing energy conservation, demand-side management and renewable power development, and still has a consulting practice doing that. The intent of the document was to encourage through education and example meaningful ways that are economical. The document was not trying to expand the power of government but to help people understand that people don't live in bubbles, and everything people do affects the environment around us.

Commissioner Caine indicated that the planning needs to be done upfront so we are not playing catch up later.

Commissioner Rodman asked about the business input with the Energy Element. His concern was that it looks good on paper but may have unintended consequences. There weren't developers on the committee, and he'd like to get developers' input.

Vice Chair Cox opened the public hearing.

Bill Adler, resident, indicated that the Town Council wanted this new Element added to the General Plan, and it provides direction. The Commissioners need to decide if this is the right direction.

Donald Bristow, resident, was not present to speak when his name was called by Vice Chair Cox.

Vice Chair Cox closed the public hearing.

Vice Chair Cox opened the public hearing.

Bill Adler, resident, indicated that the Town Council wanted this new Element added to the General Plan and it provides direction but the Commissioners need to decide if this is the right direction.

Donald Bristow, resident, was not present to speak when his name was called by Vice Chair Cox.

Vice Chair Cox closed the public hearing.

PLANNING UPDATE (INFORMATIONAL ONLY)

This was not discussed at the meeting.

ADJOURNMENT

MOTION: A motion was made by Vice Chair Don Cox Cox and seconded by Commissioner William Rodman Rodman adjourn the meeting.

MOTION carried, 5-0.

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: October 16, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Bayer Vella, LEED AP, AICP, Conservation & Sustainability Manager**

SUBJECT: **Public Hearing: A Major General Plan Amendment to add a new Energy Element** and associated updates to the Strategic Implementation Plan. The proposal includes goals and policies that address a broad range of energy-related issues. OV1112-03.

SUMMARY

The proposed major General Plan Amendment entails adding an Energy element to the current General Plan. The draft Energy element provides a roadmap to address a broad range of energy-related issues. The following is a list of key topics addressed:

- Recognition of economic development opportunities
- Collaborative planning with energy providers and surrounding jurisdictions
- Energy efficiency objectives and programs
- Promotion of renewable energy
- Emergency preparedness and contingency planning

All General Plan elements include goals and policies to guide community decision-making. There are currently thirteen elements in the General Plan ranging from Land Use, Economic Development, Arts & Culture, to Environmental Planning. An Energy Element, if approved, will be the fourteenth.

BACKGROUND

Amendment Request

This project was initiated via the Fy 10-12 Planning & Zoning Division Workplan. More recently, the Town Council affirmed project need on 4/4/12.

By adopting a General Plan energy element, the Town will be catching up to regional partners that have already made this step. Marana, Sahuarita, City of Tucson, and Pima County have General Plan Energy Elements in place. A regional focus on energy issues will best insure tangible results.

The Town's draft Energy element is structured in the same manner as others in the current General Plan. Key policy issues are identified under the headings of *Economy, Awareness, Education, Delivery Infrastructure*, and *Community Resiliency*. Issues are addressed with six goals and corresponding policies. Furthermore, a new section of the Strategic Implementation Plan has been developed to help insure that energy polices result in action. .

State law mandates establishment of an Energy element for communities over 50,000 persons. The Town, however, is exempt due to a lower population. Nonetheless, the draft element is designed to meet state requirements – and carry forward into the next General Plan Update cycle.

The goals and policies include a heavy emphasis on increasing awareness and educational opportunities to promote energy planning and conservation. The tangible benefits include opportunities for financial savings, economic development, reduced air pollution, timely infrastructure planning and emergency preparedness.

Because the entire General Plan will be reconsidered by 2016, this work effort will absorbed into the bigger update. Town projects listed in the draft Strategic Implantation Plan (SIP) will have a ten year time horizon for completion. The SIP elements will be accomplished without use of consultants and additional staff.

General Plan Amendment Process

This proposal meets the criteria for a major "text" amendment as defined in the Town's zoning code. The process requires community involvement opportunities, two public hearings before the Planning and Zoning Commission, and one public hearing before Town Council.

The first draft was compiled after evaluating similar plans in Arizona, California, Oregon, and Washington. A total of five drafts were vetted over the course of six meetings with an ad hoc Energy Policy Committee (EPC). The EPC was assembled by staff to garner community and technical input. The ten person committee includes residents, facility managers from key employers (Ventana, OV Hospital, and Amphitheater School District), Tucson Electric Power and SW Gas representatives, Planning & Zoning Commission members, and emergency response staff. Please see Attachment III for a complete list of participants.

Additional community involvement opportunities were provided by:

- Community Workshop at the Oro Valley Library
- Community Workshop at Sun City Vistoso Center
- Presentation to the Sun City Vistoso HOA Board
- Presentation to the Rancho Vistoso HOA Board
- Review meetings with Southern Arizona Homebuilder Association & Metropolitan Pima Alliance representatives

The Planning and Zoning Commission will consider the final draft and public testimony. At their second public hearing, the Commission will vote to provide a formal recommendation. Town Council will deliberate in a similar manner - and render a final determination.

ANALYSIS OF PROPOSED AMENDMENT

Staff's analysis of the proposal is based on the following:

I. SECTION 22.2.D.3 GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "*the disposition of the General Plan amendment proposed shall be based on consistence with the vision, goals, and policies of the General Plan, with special emphasis on the following criteria":*

1. *The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.*
   - The development of a new General Plan energy element was initiated via the adopted Fy 10-12 Planning & Zoning Division Workplan. The necessity of the amendment was reaffirmed by Town Council on April 4, 2012.
   - There has been a significant change in the community and regional awareness of energy costs (financial and environmental), market importance of green branding, volatility of energy prices, and desirability of domestic energy independence.
   - There is a new awareness of energy infrastructure issues in specific areas of Town.
   - The importance of emergency preparedness has been heightened by power disruption events.

2. *The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.*
   - Promotion of renewable energy contributes to Arizona's national ranking as #2 in the number of jobs related to the solar industry.
   - The Arizona solar industry employs more people than all of SRP or 3.5X Tucson Electric Power.
   - The Town can better prepare for growth by insuring adequacy of energy infrastructure
   - On average, a homeowner can decrease energy use by 25% through simple measures. Town participation in education efforts with the utilities is an economic service.
   - Improving access to renewable energy helps define Oro Valley as a progressive community.
   - The environmental benefits of energy conservation include reduced air pollution, lower impacts associated with resource extraction and stewardship relative to greenhouse gas emissions.
   - Emergency preparedness helps insure care for vulnerable populations.

3. *The proposed change reflects market demand which leads to viability and general community acceptance.*
   - Market demand is reflected in the actions of homebuilders. The Southern Arizona Homebuilders Association supports increased energy efficiency requirements in the 2012 version of the building code.
   - Demand is also represented by significant renewable and/or energy efficiency investments by organizations in Oro Valley:

     Kohl's, Wal-Mart, Ventana Roche, Best Buy, Oro Valley Hospital, Sanofi Adventis, Kevin Howard Architecture, Amphitheater School District and the Town of Oro Valley.

4. *The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.*
   - The amendment betters the community without adverse impact. Please see criterion #2.
   - Specific actions derived from goals and policies will be translated into plans, zoning, or existing departmental programs. Mitigation, as needed, will be addressed in specific proposals.

II. GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

The community vision in the General is as follows:

> *To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town.*

Energy is clearly a natural resource issue. The following proposed polices help "*balance the needs of today against the potential impacts to future generations*".

- *To promote use of renewable energy.*
- *To further energy savings through gains in efficiency and conservation.*
- *To develop and implement educational and collaborative outreach opportunities.*

The proposed energy element address the need for the *"highest standard of environmental integrity, education, infrastructure, services, and public safety."* Relevant goals proposed include:

- *To develop and implement educational and collaborative outreach opportunities.*
- *To enhance cooperative working relationships with energy and utility providers.*
- *To increase community resiliency by preparing for shortages or outages of critical energy resources and potential vulnerabilities.*

Provisions in the proposed draft relate to the final statement in the Vision. *" It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town".*

- *To provide leadership by implementing model energy efficiency, water conservation, alternative fuel and solar projects in all municipal facilities and operations.* The Town continues to develop cost saving measures that are a model to the region, state and nation.

III. PUBLIC NOTICE AND COMMENT

This project has been noticed in accordance with Town procedures.

Community Workshops: The majority of questions were oriented toward specific measures to improve home energy efficiency and solar opportunities. Participants appreciated the education opportunity. Two mentioned a desire for homes to be constructed to easily accomodate potential solar applications.

HOA Board Meetings: Concerns about aesthetics of pole mounted solar panels were expressed. Board members requested participation in future projects to update the zoning regulations.

Local Business: A business owner related a strong desire to review zoning codes to elimate barriers to energy conservation. Specifically, the requirement to use earth tone roof paint is a concern.

Builders Associations: SAHBA and MPA requested flexibility in achieving energy conservation goals. They have requested participation in future projects to implement proposed goals and polcies.

RECOMMENDATION & SUGGESTED MOTION

Two Planning & Zoning Commission public hearings are required by the Zoning Code. Therefore, no recommendation will be made at this meeting. Motions will be included in the November 5, 2012, report.

ATTACHMENTS

1. Proposed General Plan Energy Element
2. Proposed updates to the Strategic Implementation Plan
3. Energy Policy Committee Members

Attachment II, Appended Planning & Zoning Commission Minutes

MINUTES
ORO VALLEY PLANNING AND ZONING COMMISSION
SPECIAL SESSION
November 5, 2012
ORO VALLEY COUNCIL CHAMBERS
11000 N. LA CAÑADA DRIVE

CALL TO ORDER AT OR AFTER 6:00 P.M.

Chair Swope called the meeting to order at 6:00 p.m.

ROLL CALL

PRESENT:
Chair Robert Swope
Vice Chair Don Cox
Commissioner Buette
Commissioner D. Alan Caine
Commissioner Thomas Drzazgowski
Commissioner Bill Leedy
Commissioner William Rodman

ALSO PRESENT:
Council Member Joe Hornat
Council Member Lou Waters
Council Member Brendan Burns

PLEDGE OF ALLEGIANCE

Chair Swope led the audience in the Pledge of Allegiance

CALL TO AUDIENCE - Two comments were received:

Shirl Lamonna, resident, said the audio on the Town website from the last Planning and Zoning Commissioner meeting at Basis School was hard to hear due to public speakers at the podium not speaking directly into the microphone, and she asked that speakers position themselves closer to the microphone for future meetings.

Gabe Wigtil, non-resident, reminded the audience about the Wild Connection Community Wildlife event at Catalina State Park on November 10-11, 2012.

COUNCIL LIAISON COMMENTS

Council Member Joe Hornat had no comments.

1. REVIEW AND/OR APPROVAL OF THE SEPTEMBER 18, 2012 SPECIAL

SESSION AND OCTOBER 2, 2012 REGULAR MEETING MINUTES

MOTION: A motion was made by Vice Chair Don Cox and seconded by Commissioner D. Alan Caine approve the September 18, 2012 Special Session meeting minutes and the October 2, 2012 Regular Session meeting minutes.

Commissioner Rodman amended the September 18, 2012 Special Session meeting minutes in regard to Item 1 on the Agenda about not approving the sign ordinance fines.

MOTION carried, 7-0.

4. PUBLIC HEARING: A MAJOR GENERAL PLAN AMENDMENT TO ADD A NEW ENERGY ELEMENT AND ASSOCIATED UPDATES TO THE STRATEGIC IMPLEMENTATION PLAN. THE PROPOSAL INCLUDES GOALS AND POLICIES THAT ADDRESS A BROAD RANGE OF ENERGY-RELATED ISSUES (OV1112-03)

Bayer Vella, Conservation and Sustainability Manager, presented the following:

General Plan - An Energy Element Process
EPC SAHBA & MPA
Oro Valley Chamber of Commerce
Boards & Commissions
Utilities Town Residents Surrounding Jurisdictions Specific Outreach Efforts with Business Community General Plan
Energy Element: key ingredients:
1. Opportunities to better the bottom-line: energy efficiency, renewable energy
2. Cost-saving opportunities & community Leadership
3. Education outreach
4. Infrastructure Planning 5. Community Resiliency the Town's Vision

Chair Swope opened the Public Hearing

Dave Perry, OV Chamber of Commerce, asked a few people what they thought about it. Will energy element practices be rules or ... Beige vs. white roofs or solar panels on roofs? Will OV accept white roofs for aesthetic values? He would put burden on utilities directly for conservation to occur. He supports roundabouts. John Musolf, resident, discussed air conditioning that wasn't done in 1970 but no one in government came around to tell people what to put in their homes. When government gets involved, he won't live in democracy.

Bill Adler, resident, discussed costs associated with innovation that consumer pays for. Availability and affordability are issues now. He believes it's wise to educate the community with availability and affordability and to save from emergencies.

DRAFT

Jack Stinnell, resident, saw the presentation and made sense to him when building a house here. Global warming is an issue. He worries about coal making pollution like in Springer as well as high water use by them. He got solar at his home and had to fight the HOA about the solar panels. He feels it's economical to have solar. He support energy element.

Shirl Lamonna, resident, supports the energy element since the plan is directional not mandatory. Historically, seat belts, motorcycle helmets, and light bulbs are examples that were nudges and became mandatory. She worries about unintended consequences of energy plan.
David Godlewski, SAHBA and resident, builders are building more energy efficient homes.

Chair Swope closed the public hearing

MOTION: A motion was made by Commissioner D. Alan Caine Caine and seconded by Commissioner Bill Leedy Leedy accept amendment.

MOTION carried, 6-1 with Vice Chair Don Cox opposed.

PLANNING UPDATE (INFORMATIONAL ONLY)

Fall community on Thursday town finances and water utility.

Neighborhood meetings CVS Pharmacy and Paradise Bakery on November 14th, cell tower on November 20th and second cell tower case on November 27th.

Future agenda for December 4th regular meeting. GP strategic report of how we progressed over 10 years. January meeting will fall on New Year's Day so has been scheduled for January 9th and expect election of officers on that agenda.

Town council will hear San Dorado this Wednesday. 3 items heard tonight will be heard at that meeting. PAD amendment as well for Fry's signs on that agenda.

ADJOURNMENT

MOTION: A motion was made by Commissioner Bill Leedy Leedy and seconded by Commissioner William Rodman Rodman adjourn.

MOTION carried, 7-0.

DRAFT

TOWN OF ORO VALLEY

PLANNING & ZONING COMMISSION **MEETING DATE: November 5, 2012**

TO: **PLANNING & ZONING COMMISSION**

FROM: **Bayer Vella, LEED AP, AICP, Conservation & Sustainability Manager**

SUBJECT: **Public Hearing: A Major General Plan Amendment to add a new Energy Element** and associated updates to the Strategic Implementation Plan. The proposal includes goals and policies that address a broad range of energy-related issues. OV1112-03.

PURPOSE

This item was considered at the October 16 Planning & Zoning Commission hearing. A summary, background information, analysis of the proposed amendment, and a copy of the latest draft was provided as part of the original report. The purpose of this report is to provide information requested by Commissioners on October 16 and a formal recommendation.

NEW INFORMATION

The following are specific questions asked by Commissioner's on Oct 16 - with a formal staff response.

Commissioner Drazzgowski: Does the Policy address the timing of traffic signals?

Yes. The following two polices are germane:

> *14.2.6 Implement methods to reduce fuel consumption in the design of all new public streets and significant transportation investments.*
>
> *14.2.7 Improve Intelligent Transportation Systems by coordinating the timing of traffic signals to minimize congestion and the number of vehicle stops and starts.*

Much of our region utilizes a common Intelligent Transportation System (ITS) to coordinate signals. Per the Town Engineer, the system needs to be improved.

Commissioner Rodman: What specific measures have been taken to reach out to the business and development community?

The following is a list of outreach efforts:

1. Southern Arizona Homebuilders Association (SAHBA)
   - Three meetings with David Godlewski, SAHBA Governmental Liaison, to review and discuss polices. All recommended changes from SAHBA have been incorporated.
   - Email notice of all Oro Valley community workshops and public hearings has been provided.
   - One presentation and discussion before the SABHA Technical Review Committee.

2. Metropolitan Pima Alliance (MPA)
   - Two meetings with Matt Stuart, MPA Public Policy Liaison, were held to discuss polices.
   - Staff directly offered to present at any future MPA workshops.
   - Email notice of all Oro Valley community workshops and public hearings has been provided.

3. Greater Oro Valley Chamber of Commerce (GOVCC)
   - One meeting with David Perry, staff representative for GOVCC.

- Staff has directly offered to present at any future Chamber meetings.
- Email notice of all Oro Valley community workshops and public hearings.
- Publication of community workshops on GOVCC website.
- A presentation to the Chamber Policy Committee will be provided on November 1.

SUGGESTED MOTION

The Planning & Zoning Commission may wish to consider one of the following suggested motions:

I move to recommend approval of the proposed General Plan Energy Element and associated updates to the Strategic Implementation Plan.

Finding that:

- Planning for energy infrastructure is an important facet of economic development
- It is important for the Town to join regional partners, Sahuarita, Marana, City of Tucson, and Pima County in planning for our energy future.
- Promoting energy efficiency and use of renewable energy contributes to the environmental and economic well being of the community.
- The Town should continue to show leadership through energy conservation projects that better the fiscal bottom-line.
- Increasing community resiliency through emergency preparedness and planning for a changing environment is necessary to safeguard the community.
- All applicable General Plan criteria are met.

OR

I move to recommend denial of the proposed General Plan Energy Element and associated updates to the Strategic Implementation Plan.

ATTACHMENTS

1. Please see the original Planning & Zoning Commission Memorandum, dated October 16, 2012, for all relevant attachments.

Attachment III: Energy Policy Committee

- Rick Reynolds, Sr. Manager, Facilities, Ventana Medical Systems, Inc.,a member of the Roche Group
- Rebecca Hudson, Corporate Public Affairs, Southwest Gas Corporation
- Charles Spencer, Resident, Facilities Manager at Oro Valley Hospital
- Betty Stamper, Resident, Pima County Regional Solar Coordinator
- Joe Salkowski, Manager of Government Relations at Tucson Electric Power
- Anthony Young, Energy & Resource Management Coordinator for the Amphitheater Unified School District
- Alan Caine, Resident, OV Planning & Zoning Commission member
- Bill Leedy, Resident, OV Planning & Zoning Commission member, Energy Consultant
- Bill Alder, Resident, OV Board of Adjustment
- Charlotte Ackerman, OVPD staff, Emergency Response Planner

Attachment IV: Community Outreach

Community involvement opportunities were provided by:

- Community Workshop at the Oro Valley Library
- Community Workshop at Sun City Vistoso Center
- Presentation to the Sun City Vistoso HOA Board
- Presentation to the Rancho Vistoso HOA Board
- Invitations to provide presentations to all HOA's
- Invitation to all surrounding jurisdictions for review and comment
- Request for participation to all OV Boards and Commissions

The following building and business community leadership were engaged as follows:

1. Southern Arizona Homebuilders Association (SAHBA)
   - Three meetings with David Godlewski, SAHBA Governmental Liaison, to review and discuss polices. All recommended changes from SAHBA have been incorporated.
   - Email notice of all Oro Valley community workshops and public hearings has been provided.
   - One presentation and discussion before the SABHA Technical Review Committee.

2. Metropolitan Pima Alliance (MPA)
   - Two meetings with Matt Stuart, MPA Public Policy Liaison, were held to discuss polices.
   - Staff directly offered to present at any future MPA workshops.
   - Email notice of all Oro Valley community workshops and public hearings has been provided.

3. Greater Oro Valley Chamber of Commerce (GOVCC)
   - One meeting with David Perry, staff representative for GOVCC.
   - Staff presentation at the November 1 Chamber meeting.
   - Email notice of all Oro Valley community workshops and public hearings.
   - Publication of community workshops on GOVCC website.

From: Barry Kitay [Barry@whirlygig.com]
Sent: Wednesday, October 10, 2012 5:38 PM
To: Vella, Bayer
Subject: Roof Coatings, White vs. Beige

Bayer,
I wanted to share a real world experience regarding the differences between the colors of roof coatings. The Mercado at Canada Hills Shopping Center was required to have a beige color roof coating applied to the roofs. At another center that we built around the same time at Houghton and Valencia in the City of Tucson, we were allowed to use a white roof coating. The roofs at both projects were installed by the same roofing company, Headlee Roofing.

The beige roof needed recoating after about 2 1/2 years, but the white lasted four years and could have lasted longer. It was in better condition than the beige when it was recoated. The beige had deteriorated so much it required two coats to seal and the white only required one coat.

Hmm, the white reflects more, saves more on cooling costs and lasts almost twice as long….. Sounds like an easy decision; I vote for WHITE !!!!!

I hope this is helpful,
Barry

SAHBA
the community builder
Southern Arizona Home Builders Association

Southern Arizona Home Builders Association

2840 N. Country Club Road
Tucson, Arizona 85716
Phone: (520) 795-5114
Fax: (520) 326-8665
Web: www.sahba.org

President
David M. Godlewski

2012 Executive Officers

Chairman
Al LeCocq
A.B. LeCocq Construction

1st Vice Chairman
Ron Teaney
Miramonte Homes

2nd Vice Chairman
Mike Leung
Terrazzo Homes

Secretary/Treasurer
Lisa Rankin
Southwest Gas

Immediate Past Chairman
Charlie Bowles
Diamond Ventures

Affiliated With
NAHB

SENT VIA ELECTRONIC MAIL

November 5, 2012

Mr. Robert Swope
Chair
Planning & Zoning Commission
Town of Oro Valley
11000 N. La Canada Dr.
Oro Valley, AZ 85737

RE: Proposed General Plan Amendment to add a new Energy Element
Planning & Zoning Commission Agenda Item #4

Dear Mr. Swope:

Thank you for the opportunity to provide comment on the proposed Energy Element for the Town's General Plan. SAHBA understands and appreciates the Town's goals for a more sustainable energy future. We support green and energy efficient construction. In fact we have worked to support the City and County in the development and adoption of the voluntary residential green building program and are currently working with them on the 2012 International Building Codes. Homes built under the new code will be 30% more energy efficient than homes built to the current code (a standard that many builders are meeting already voluntarily).

With respect to the proposed Energy Element for the General Plan, SAHBA has been working with Town staff to address specific issues that impact home builders. Some positive changes have been made. However, at the macro-level, we are concerned the ambitious objectives of the proposal (particularly 14.1.8. 14.1.9 and 14.2.2) could be used as mandates or requirements as a condition of development approval and ultimately deter residential construction in the Town.

We ask the Planning & Zoning Commissioners to consider this as it deliberates the merits of the proposal.

Regards,

David

David M. Godlewski
President, SAHBA

cc: Mr. Bayer Vella

Attachment VI: General Plan Amendment Review Criteria and Conformance

I. SECTION 22.2.D.3 GENERAL PLAN AMENDMENT CRITERIA

The Oro Valley Zoning Code states that "*the disposition of the General Plan amendment proposed shall be based on consistence with the vision, goals, and policies of the General Plan, with special emphasis on the following criteria":*

1. *The proposed change is necessary because conditions in the community have changed to the extent that the plan requires amendment or modification.*

- The necessity of the amendment was reaffirmed by Town Council on April 4, 2012.
- There has been a significant change in the community and regional awareness of energy costs (financial and environmental), market importance of green branding, volatility of energy prices, and desirability of domestic energy independence.
- There is a new awareness of energy infrastructure issues in specific areas of Town.
- The importance of emergency preparedness has been heightened by power disruption events.

2. *The proposed change is sustainable by contributing to the socio-economic betterment of the community, while achieving community and environmental compatibility.*

- Promotion of renewable energy contributes to Arizona's national ranking as #2 in the number of jobs related to the solar industry.
- The Arizona solar industry employs more people than all of SRP or 3.5X Tucson Electric Power.
- The Town can better prepare for growth by insuring adequacy of energy infrastructure.
- On average, a homeowner can decrease energy use by 25% through simple measures. Town participation in education efforts with the utilities is an economic service.
- Improving access to renewable energy helps define Oro Valley as a progressive community.
- The environmental benefits of energy conservation include reduced air pollution, lower impacts associated with resource extraction and stewardship relative to greenhouse gas emissions.
- Emergency preparedness helps insure care for vulnerable populations.

3. *The proposed change reflects market demand which leads to viability and general community acceptance.*

- Market demand has been reflected in the actions of homebuilders. The Southern Arizona Homebuilders Association supports increased energy efficiency requirements in the 2012 version of the building code.
- Demand is also represented by significant renewable and/or energy efficiency investments by organizations in Oro Valley:

Kohl's, Wal-Mart, Ventana Roche, Best Buy, Oro Valley Hospital, Sanofi Adventis, Kevin Howard Architecture, Amphitheater School District and the Town of Oro Valley.

4. *The amendment will not adversely impact the community as a whole, or a portion of the community without an acceptable means of mitigating these impacts through the subsequent zoning and development processes.*

- The amendment betters the community without adverse impact. Please see criterion #2.
- Specific actions derived from goals and policies will be translated into plans, zoning, or
- existing departmental programs. Mitigation, as needed, will be addressed in specific proposals.

II. GENERAL PLAN VISION, GOALS AND POLICY CONFORMANCE

The community vision is as follows:

"*To be a well planned community that uses its resources to balance the needs of today against the potential impacts to future generations. Oro Valley's lifestyle is defined by the highest standard of environmental integrity, education, infrastructure, services, and public safety. It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town."*

Energy is clearly a natural resource issue. The following proposed polices help "*balance the needs of today against the potential impacts to future generations*".

- *To promote use of renewable energy.*
- *To further energy savings through gains in efficiency and conservation.*
- *To develop and implement educational and collaborative outreach opportunities.*

The proposed energy element address the need for the "*highest standard of environmental integrity, education, infrastructure, services, and public safety*." Relevant goals proposed include:

- *To develop and implement educational and collaborative outreach opportunities.*
- *To enhance cooperative working relationships with energy and utility providers.*
- *To increase community resiliency by preparing for shortages or outages of critical energy resources and potential vulnerabilities.*

Provisions in the proposed draft relate to the final statement in the Vision. "*It is a community of people working together to create the Town's future with a government that is responsive to residents and ensures the long-term financial stability of the Town*". The following proposed goal applies:

- *To provide leadership by implementing model energy efficiency, water conservation, alternative fuel and solar projects in all municipal facilities and operations.*

Town Council Regular Session **Item # 6.**

Meeting Date: 12/05/2012
Submitted By: Kevin Burke, Town Manager's Office
Department: Town Manager's Office

Information

SUBJECT:

*RESOLUTION NO. (R)12-69, AUTHORIZING THE EXECUTION OF THE UNDERGROUNDING AGREEMENT BETWEEN THE TOWN AND TUCSON ELECTRIC POWER COMPANY (TEP) FOR PAYMENT FOR INSTALLATION OF UNDERGROUND ELECTRIC FACILITIES ALONG ORACLE ROAD AND TANGERINE ROAD AND AUTHORIZING THE USE OF GENERAL FUND CONTINGENCY RESERVES FOR THIS PURPOSE (Item added on 12/3/12)

RECOMMENDATION:

Staff recommends taking resident comment regarding this important community issue.

EXECUTIVE SUMMARY:

Staff recently met with representatives of Tucson Electric Power (TEP) to discuss electric infrastructure needs within the Town and the underground utility requirements of the Town Code. Discussions have centered on three projects, as shown in Attachment 2. Projects A and B are directly related to the long-standing issue of electric service adequacy in Oro Valley, while the third is a result of the ADOT Oracle Road widening project.

Project A: Oracle Road feeder tie
This project is intended to tie together two circuits in the Rancho Vistoso area, allowing TEP to accommodate electrical loads in this area without overloading any individual circuit. TEP proposes placing the feeder tie on above ground poles, along the west side of Oracle Road, between Rancho Vistoso Blvd. and Vistoso Commerce Loop.

Project B: Tangerine Road feeder tie
This project is intended to perform the same function as Project A. TEP proposes placing the feeder tie on above ground poles, along the south side of Tangerine Road, between La Canada and La Cholla. This project was the subject of the 2009 conditional use permit application.

Project C: Oracle Road feeder tie relocation
This project is intended to replace an existing underground line along Oracle Road. The differential cost of installing the existing underground line was paid by Rancho Vistoso developers. TEP proposes placing the new line on above ground poles, along the west side of Oracle Road, between Tangerine Road and the Pinal County line.

In order to move forward with design and construction of these projects TEP has requested a Memorandum of Understanding (MOU) between the Town and the utility, which is included as Attachment 3. Under the terms of the agreement, TEP will install the three projects underground, and the Town will pay TEP the differential cost between installing lines underground versus overhead. The Town would be responsible for the full differential cost of Projects A and B, and one-half of the differential cost

of Project C. The total estimated cost to the Town for these three projects is approximately $2.1 million.

BACKGROUND OR DETAILED INFORMATION:

The Oro Valley Zoning Code Revised requires that all electric utility lines be located underground. Per OVZCR 25.1(N), “It is unlawful to erect, possess or maintain any utility poles or wires above the surface of the ground except after obtaining a Conditional Use Permit.” The full text of section 25.2(N) is included as Attachment 4.

The Town considers the zoning code, adopted by Ordinance, to be legally valid and binding on TEP. To date, TEP has been unwilling to locate lines underground without up-front payment for the differential cost of above ground versus underground installation. Typically, the developers of new commercial and residential projects are responsible for the provision of infrastructure needed to support those projects, and the developer pays to install new electrical facilities underground. For infrastructure improvements not associated with any particular development, TEP has placed the burden of paying the differential cost on the Town. A full explanation of TEP's position can be found in the document, “Frequently Asked Questions about Underground Electrical Facilities,” included as Attachment 5.

The Town Council has previously discussed the issue of electric service adequacy and the Town's underground utility requirements with TEP. In 2006 and 2008 the Town Council convened study sessions to discuss electrical infrastructure issues, including undergrounding and the adequacy and reliability of TEP service within the Town. These Council Communications are included as Attachment 6. In 2009, TEP applied for, and later withdrew, an application for a conditional use permit for installation of above ground facilities along Tangerine Road; a project substantially the same as Project B, above.

FISCAL IMPACT:

Under the terms of the MOU, Oro Valley will pay TEP for the differential cost of the Rancho Vistoso Project, an amount currently estimated at $1,350,000, plus one-half of the underground differential cost of the Oro Valley portion of the ADOT project, an amount currently estimated at $750,000, for a total cost of $2.1 million.

Should Council wish to approve this agreement, authorization for the use of contingency reserves in the amount of $2.1 million is required. The current General Fund contingency reserve balance is $11.0 million. Expenditure of $2.1 million for underground electric facilities would reduce the balance to $8.9 million. The minimum balance required by policy is $6.7 million, or 25% of FY 2012/13 General Fund expenditures of $26.8 million.

SUGGESTED MOTION:

I MOVE to (adopt or deny) Resolution No. (R)12-69, Authorizing and approving an agreement between the Town of Oro Valley and Tucson Electric Power regarding payment for installation of underground electric facilities along Oracle Road and Tangerine Road and authorizing the use of General Fund contingency reserves for this purpose.

Attachments

Attachment 1 - (R)12-69 Undergrounding Agreement w/ TEP

Attachment 2 - Project Map

Attachment 3 - Memorandum of Understanding

Attachment 4 - OVZCR Section 25.1

Attachment 5 - Frequently Asked Questions

Attachment 6 - Previous Council Communications

RESOLUTION NO. (R)12-69

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING THE EXECUTION OF THE UNDERGROUNDING AGREEMENT BETWEEN THE TOWN AND TUCSON ELECTRIC POWER COMPANY (TEP) FOR PAYMENT FOR INSTALLATION OF UNDERGROUND ELECTRIC FACILITIES ALONG ORACLE ROAD AND TANGERINEE ROAD AND AUTHORIZING THE USE OF GENERAL FUND CONTINGENCY RESERVES FOR THIS PURPOSE

WHEREAS, on September 19, 2007, the Town Council approved Ordinance No. 07-33, approving OVZCR Section 25.1, stating that it is unlawful to erect, possess or maintain any utility poles or wires above the surface of the ground except after obtaining a Conditional Use Permit, and

WHEREAS, electrical improvements within the Town's Right-of-Way are necessary to the public health, safety, and welfare of the residents of the Town; and

WHEREAS, the Council deems it necessary, in the interest of providing for the health, safety, and welfare of the citizens of Oro Valley, to authorize the Mayor to contract with Tucson Electric Power Company (TEP) for payment for installation of underground electric facilities along Oracle road and Tangerine road and authorizing the use of General Fund contingency reserves for this purpose, and

THEREFORE, BE IT RESOLVED, by The Mayor and Council of The Town of Oro Valley, Arizona as follows

SECTION 1. The agreement between Tucson Electric Power Company and the Town of Oro Valley for payment for installation of underground electric facilities along Oracle road and Tangerine road and authorizing the use of General Fund contingency reserves for this purpose, attached hereto and incorporated herein by this reference is hereby authorized and approved.

BE IT FURTHER RESOLVED that the Mayor and any other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona, this 5th day of December, 2012.

TOWN OF ORO VALLEY, ARIZONA

_____
Dr. Satish I. Hiremath, Mayor

ATTEST:

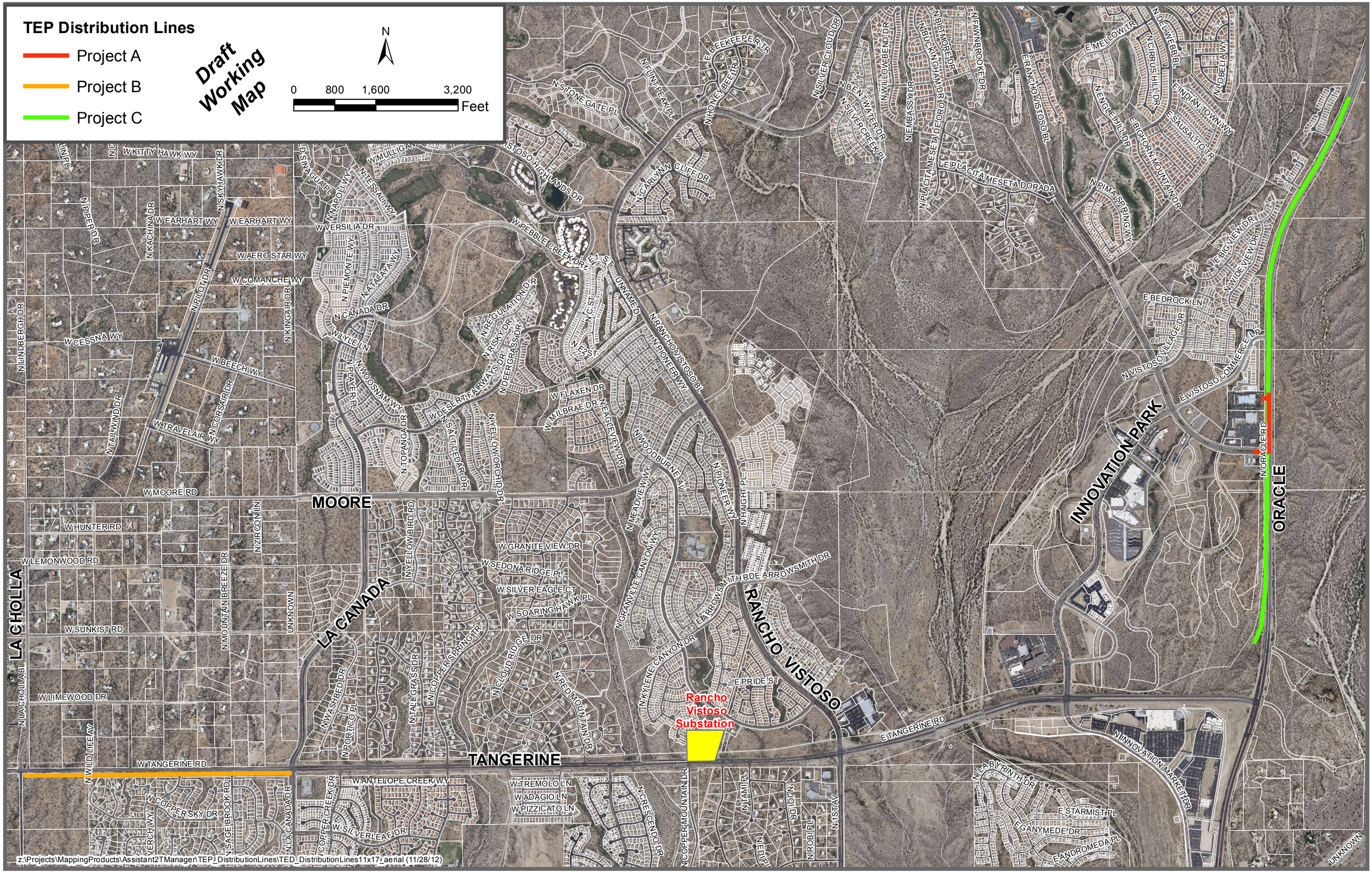
_____
Julie K. Bower, Town Clerk

_____
Date

APPROVED AS TO FORM:

_____
Tobin Sidles, Interim Town Attorney

_____
Date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AGREEMENT BETWEEN
THE TOWN OF ORO VALLEY
AND
TUCSON ELECTRIC POWER COMPANY

Oracle Road and Tangerine Road Undergrounding Projects

This Agreement is made and entered into this ____ day of _____, by and between The Town of Oro Valley, (hereinafter "ORO VALLEY"), a political subdivision of the State of Arizona, and Tucson Electric Power Company ("TEP"), an Arizona public service corporation.

RECITALS

WHEREAS:

A. The Arizona Department of Transportation (ADOT) intends to construct roadway improvements along Oracle Road/State Route 77 (SR77) from Tangerine to the Pinal County Line as described in its Stage III, 60% plans dated February 2012, hereinafter referred to as the "ADOT Project" (Project C on Exhibit A).

B. TEP owns and maintains overhead and underground facilities within the ADOT Project limits along SR77.

C. TEP owns and maintains overhead and underground facilities within the ADOT Right-of-Way along Tangerine Road. TEP, in the public interest to improve reliability, intends to construct additional electrical improvements along SR77 and along Tangerine Road as described in TEP Engineering Final Planning Memo 09-20 dated March 31, 2011, with revisions dated August 12, 2012, hereinafter referred to as the "TEP Rancho Vistoso Project" (Projects A&B on Exhibit A).

D. ORO VALLEY, in its interest, is requesting the underground relocation and installation of all 13.8kV distribution facilities within the Oro Valley Town limits portion of the ADOT Project and the TEP Rancho Vistoso Project (the "Undergrounding").

NOW THEREFORE, based on the foregoing recitals, and for and in consideration of the mutual covenants, stipulations and conditions hereinafter contained, ORO VALLEY and TEP agree as follows:

1.

a. TEP and its subcontractors, shall furnish civil design and install the pads and bases for transformers and associated equipment, conduit, risers, pull boxes, and perform other civil system work related to structures and substructures, including but not limited to breaking of pavement, trenching, bedding, shading, backfilling and concreting, according to the applicable Town of Oro Valley's and/or ADOT's and TEP's construction specifications.

b. ORO VALLEY shall provide TEP with appropriate and necessary easement rights along the limits of the Undergrounding.

DRAFT

c. TEP shall provide and install all new underground cable and associated aboveground appurtenances, including all associated labor and materials, to complete the new underground systems.

d. ORO VALLEY will pay TEP for the underground differential cost of the TEP Rancho Vistoso Project, an amount currently estimated at $1,350,000, plus one-half of the underground differential cost of the Oro Valley portion of the ADOT Project, an amount currently estimated at $750,000. The sum of these two estimates, $2,100,000, represents ORO VALLEY's "Estimated Total Cost Share." ORO VALLEY's "Final Total Cost Share" will reflect the differential costs actually incurred by TEP to complete underground construction of both projects and may vary from the estimated amount.

e. ORO VALLEY will pay one-half of its Estimated Total Cost Share, or $1,050,000, upon execution of this agreement and prior to commencement of design and construction. ORO VALLEY will pay the remaining balance of the Final Total Cost Share upon completion of construction.

2. Indemnification. TEP shall indemnify, defend and hold harmless ORO VALLEY, its agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of TEP, its Contractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not is caused in part by a party indemnified hereunder.

ORO VALLEY shall indemnify, defend and hold harmless TEP, its agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of ORO VALLEY, its Agents, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not is caused in part by a party indemnified hereunder.

3. Termination. ORO VALLEY reserves the right to terminate this agreement for cause or no cause at any time, with 30 days written notice to TEP. Upon termination TEP shall submit documentation of all work completed up to that time, and ORO VALLEY shall reimburse TEP for those costs actually incurred and reimbursable to TEP under the terms of this agreement, including but not limited to any delay claims incurred as a result of the termination of this agreement.

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4. Paragraph Headings. Paragraph headings are for convenience only and are not intended to affect the meaning of any provision of this agreement.

5. Entire Agreement. This instrument contains the entire agreement between the parties, and shall not be amended, altered or changed except by written agreement signed by the parties.

6. Notices. Any notice, request, demand, consent, approval or other communication required or permitted under this agreement or law shall be given, in writing as follows:

Tucson Electric Power Company
Attention: Legal Department
88 East Broadway Boulevard
P.O. Box 711
Tucson, Arizona 85702

Town of Oro Valley
Attention: Town Manager
11000 North La Canada Drive
Oro Valley, Arizona 85737

All notices shall be hand delivered, mailed with postage prepaid, Return Receipt Requested or sent by established overnight delivery service (e.g. Federal Express, UPS, DHL). Either party may change the location for receipt of notices by written notice to the other party. The sender of any notice bears and accepts the risk of non-delivery by the means chosen.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of the day and year first above written.

Tucson Electric Power Company

By: _____

Title: _____

Town of Oro Valley

By: _____

Title: _____

DRAFT

Oro Valley Zoning Code Revised

Chapter 25 USE REGULATIONS

Section 25.1 Requirements for Specific Uses

N. New Utility Poles and Wires

1. Applicability

    a. It is unlawful to erect, possess or maintain any utility poles or wires above the surface of the ground except after obtaining a Conditional Use Permit therefor.

    b. Exceptions

        i. Utility poles and wires erected prior to December 31, 1983.

        ii. New utility poles and wires erected for temporary use for periods not in excess of 4 months for purely temporary purposes such as for providing temporary building construction power or for emergency power or telephone service, or for the furnishing of power to temporary outdoor activities. This 4-month period may be extended by the Town Council if good cause is shown.

        iii. Replacements involving less than 600 feet of continuous poles and wires on any transmission or distribution line in any 12 month period where the remainder of such transmission or distribution line is not also being replaced within said period; such replacement excluded from being new utility poles under the latter clause must be poles of the same or less size, diameter, height and in the same location as the pole or poles being replaced, and in addition, must be of the same classification as to strength and purpose within the utility industry as pole or poles being replaced.

        iv. Erection on the ground surface and flush to the ground of transformers, pullboxes, service terminals, pedestal type telephone facilities normally used with and as a part of an underground distribution system. The size, type and design of these are to be approved by the Town Engineer.

        v. Erection on the ground surface and flush to the ground of wires in encased concrete or conduit where underground wire installation is not feasible due to special features of the terrain.

2. Approval Criteria

    a. A Conditional Use Permit for the erection of new utility poles and wires will be granted in accordance with Section 22.5.

    b. In addition, the primary consideration shall be aesthetics with the following factors also considered:

        i. The location and height of such poles and wires and the relation to the present or potential roads;

        ii. The crossing of such lines over much traveled highways and streets;

        iii. Proximity of such lines to schools, religious institutions and other places where people may congregate;

iv. Fire or other accidental hazards from the presence of such poles and wires and the effect, if any, of the same upon the effectiveness of fire fighting equipment;

v. The availability of a suitable right-of-way for the installation;

vi. Future conditions which may be reasonably anticipated in the area in view of a normal course of development;

vii. The type of terrain;

viii. The practicality and feasibility of underground installation of such poles and wires with due regard for the comparative costs between underground and overground installations (provided, however, that a mere showing that an underground installation shall cost more than an overground installation shall not, in itself, necessarily require issuance of a permit).

c. In the event such poles and wires are for the sole purpose of carrying electricity or power or for transmitting of telephone, telegraph, or television communication through or beyond the Town's boundaries or from one major facility to another, the practicality or feasibility of alternative or other routes shall also be considered.

((O)07-33, Amended, 9/19/07)

http://www.codepublishing.com/az/orovalley/

Frequently Asked Questions about Underground Electrical Facilities

Tucson Electric Power typically installs transmission and distribution equipment above ground. Lower-voltage distribution facilities can be installed underground if customers, developers or other parties agree to pay the higher cost associated with such installations.

Q: Why does it cost more to install facilities underground?
A: The higher cost typically reflects civil engineering expenses, right-of-way acquisition, additional labor and materials such as conduit and pull-boxes that are not required for overhead projects. These costs vary by project, though, and underground installations may sometimes prove cost-effective in certain circumstances.

Q: When will TEP pay to place facilities underground?
A: Engineering and safety concerns sometimes justify the additional cost of installing facilities underground. For example, the lower voltage "feeder" lines that emerge from TEP's distribution substations are typically installed underground until these "getaways" reach a point where they can be safely brought above ground. In most cases, though, engineering concerns can be satisfied more cost-effectively through an overhead installation.

Q: What if customers, developers or others want facilities to be installed underground?
A: Unless the expense is justified by engineering or safety concerns, TEP will not install facilities underground unless a customer, developer or other party agrees to pay the additional cost. These costs are typically paid through a process defined in TEP's rules and regulations for new line extensions, or through a special contract with developers or municipalities.

Q: Why does TEP insist that the additional cost of underground facilities be borne by those who request such installations?
A: This practice avoids passing along unnecessary costs to customers through our rates. It also ensures that all of our customers are not asked to subsidize a discretionary expenditure that primarily benefits residents of one small area of our service territory. The Arizona Corporation Commission (ACC) has supported this practice by approving rules that allow for recovery of costs from those who request underground facilities. By enforcing those rules and allowing only prudently incurred costs to be recovered through rates, the ACC has ensured that TEP is not billing customers for unnecessary undergrounding expenses they did not themselves request.

Q. What if TEP must relocate an underground line due to a road project or for some other reason?
A. Relocated lines must be rebuilt in compliance with TEP's current engineering standards, which accommodate current system needs and safety concerns. As such, they represent new projects that, in most cases, will be developed overhead unless an interested party pays the additional underground costs. This is true even if the additional cost of placing the original line underground was borne by a third party.

TOWN OF ORO VALLEY

COUNCIL COMMUNICATION **MEETING DATE: December 10, 2008**

TO: **HONORABLE MAYOR AND COUNCIL**

FROM: **Sarah S. More, Planning and Zoning Director**

SUBJECT: **Study Session – Discussion of Electrical Undergrounding and Tucson Electric Power's (TEP) Service Adequacy and Reliability**

SUMMARY:

Over the past two years, the Town has discussed the issue of electric service adequacy and the Town's undergrounding requirement with TEP. On October 25, 2006, the Town Council held a study session to meet with TEP and on July 11, 2007, the Town Council discussed utility franchise agreements in study session (see attached reports). Since that time, on several occasions, TEP has indicated that they are unable to assure service to new developments in Town, most recently the technological park development at La Cañada and Tangerine Road and a subdivision plat in Rancho Vistoso.

DISCUSSION OF ISSUE:

The Town of Oro Valley's Zoning Code requires that new utility lines be located underground. Further, a conditional use permit is required for new and replacement utility lines. TEP maintains that they will share the cost of undergrounding with the Town, in the amount an aboveground placement would cost. No agreement between the Town and TEP has been reached.

Our initial discussion was focused on an existing situation with overloaded circuits at Tangerine and La Cholla and Tangerine and La Cañada. TEP indicated that these circuits were overloaded, and to remedy the situation, TEP intends to run a new line to connect these two circuits to provide backup. There are existing aboveground power poles on the south side of the Tangerine right-of-way, that TEP indicates will remain aboveground. The TEP proposal was to build a new aboveground line, on the south side of Tangerine Road for that one mile length. This Conditional Use Permit was not granted, but a request to replace the line on existing aboveground poles on La Cholla was approved by the Town Council. That line work has been completed.

The Town of Oro Valley does collect a utility tax (see attached report for details). TEP has indicated that their rate structure does not accommodate the cost of undergrounding in one part of their service area. They have indicated support for continuing the collection of the utility tax and dedicating some portion of those funds to the cost of undergrounding.

TEP works in cooperation with the Public Works department to coordinate roadway improvements and utility relocations. Those type of projects are most likely to provide some cost savings. Tangerine Road is scheduled for widening, as an RTA project, but not for several years.

The issue of service availability and reliability remains unchanged. This issue may affect both current customers as well as proposed new developments. TEP has short-term and long-range plans to address service to Oro Valley and nearby customers. They include new transmission and distribution lines, upgrades of existing lines and new substations.

ATTACHMENTS:

1. Town Council Communication, Electric Infrastructure Issues, dated October 25, 2006
2. Town Council Communication, Public Utility Franchise Agreements, dated July 11, 2007

C: Larry Lucero, TEP
F:/INDIV/SarahM/TEP TC ss 121008.doc

Sarah S. More, Planning and Zoning Director

Jerene Watson, Assistant Town Manager

David Andrews, Town Manager

ATTACHMENT 1

TOWN OF ORO VALLEY

COUNCIL COMMUNICATION MEETING DATE: October 25, 2006

TO: HONORABLE MAYOR & COUNCIL

FROM: Sarah S. More, FAICP, Planning and Zoning Administrator

SUBJECT: Study Session – Electric Infrastructure Issues

BACKGROUND:

Staff recently met with Tucson Electric Power (TEP) representatives to discuss issues related to electric infrastructure needs within the Town. Both TEP and staff agree that it is in the best interest of the Town to plan together for the future to assure reliable service for the Town residents and businesses. The Town Manager suggested that all parties discuss the issues in a study session with Town Council. TEP representatives will make a presentation at the study session.

DISCUSSION OF ISSUES:

1. Immediate Need to Update Circuits

Our initial discussion has focused on an existing situation with overloaded circuits at Tangerine and La Cholla and Tangerine and La Cañada. TEP indicates that these circuits were overloaded the past two summers. In order to address this issue, TEP intends to run a new line to connect these two circuits to provide backup. There are existing above-ground power poles on the south side of the Tangerine right-of-way. According to TEP, the original plan to use the existing poles for the new lines will not work. The current TEP proposal, not formally submitted, is to build a new above-ground line, on the south side of Tangerine Road for that one mile length. Previous Conditional Use Permits to allow above ground lines have not been approved by the Town Council.

Part of that discussion concerned the Town's code requirement for locating new utility lines underground. The Oro Valley Zoning Code requires a conditional use permit for new utility poles and above ground wires (see Attachment). Another issue is coordinating with the future roadway widening of Tangerine Road (in the adopted Regional Transportation Plan) and avoiding duplicative work. One option might be to allow TEP to construct the above ground line on an interim basis pending the Tangerine Road widening and requiring that it be placed underground at that time, as a condition of a Conditional Use Permit. At this time, staff does not know whether the RTA funds will cover any of the cost of utility line relocation and undergrounding. Another option might be to require that the new line be placed underground, hopefully in a location that will not be disturbed by future roadway widening. Neither the Town nor TEP has identified funding for utility line undergrounding. TEP estimates the cost of undergrounding over that of putting in a new above ground line, for this one project is approximately $433,500.

In addition, there is a current need to upgrade the wires along four existing routes within the Town that TEP has delayed due to the Town ordinance requiring that new wires be placed underground. According to TEP, upgrading old wires will increase capacity without increasing voltage, thus providing better service to Town residents. For example, lines on La Cholla are 40 years old and in serious need of replacement. As TEP replaces lines they are upgrading to steel poles that are weathered to appear the same color as the older wooden poles. Steel poles last longer and are less susceptible to storm damage.

2. Addressing Growth and Development Issues Related to TEP Service

Typically, all new development – subdivisions, shopping centers, etc. – is responsible for all infrastructure needs generated by the new development. The developer pays to underground the new utilities. TEP reviews all new development proposals in the Town and provides comments regarding electric service and easements. The following is a quote from a recent TEP comment on a subdivision plat:

"A conditional approval is being given because of the uncertainty that TEP will be able to make necessary modifications to its electrical system in order to provide service to this project. The Town of Oro Valley has established an ordinance which restricts the upgrading of any overhead electrical power facilities within the town limits. Such restrictions may prohibit TEP from rendering service under its filed rules and regulations."

TEP advises that the utility rate structure approved by the Arizona Corporation Commission does not include an allowance to cover the cost of undergrounding utilities. TEP has indicted that they do not have the capacity to cover such costs.

When the Town makes roadway widening improvements that necessitate utility relocation, the Town is responsible for extra costs related to undergrounding the utilities. In the recent case of Town improvements at Tangerine and 1st Avenue, the Town chose not to underground utilities due to the lack of funding to cover such costs.

Given the amount of planned and approved development that will be occurring over the next few years in Oro Valley, TEP and Town staff believe that we must work together to address service needs before the issue becomes critical. Both interruption of service to existing Town residents and business as well as the potential of lack of service to new developments is of concern to us all.

3. Planning for the Future

Cities and towns in Arizona are given exclusive control over all rights-of-way dedicated to the municipality. This exclusive control enables the municipality to grant franchise agreements to utilities using the city or town's streets in the distribution of utility services. As an example, many cities and towns have granted franchises to electric companies to place power lines within the public right-of-way. In conjunction with this franchise, a franchise tax can be charged by the municipality to the utility users. While there is no specific amount or limitation in State law, the traditional amount for a franchise tax is usually between 2% and 5% of the gross proceeds from the sale of utility services within the city or town. The Town of Oro Valley does not currently have a franchise agreement with our electric provider, TEP. To grant a franchise, the municipality must place the question before the voters of the community for approval. This can be done at any one of the four primary/general election dates designated.

TEP estimates that the cost to underground one mile of 48 kV line is $1,000,000 and $500,000 for a lower voltage line. Establishing a franchise tax could fund that portion of the cost of new or replaced electricity lines not covered by TEP, i.e. the difference between the cost to relocate an above ground line and placing the line underground. Franchise taxes can also fund other utility costs over and above normal service – for example, providing new solar power to the Town.

Looking ahead even further, TEP plans a new transmission substation just outside of the current Town limits to the north, located on state trust land. This substation will help address current service issues as well as future development to the north. It will take about 3 years to bring the substation on line.

CONCLUSION

Staff and TEP agree that there are both immediate and long-term issues related to growth and development and the provision of reliable electric service that must be addressed for the Town. Staff suggests that the Town Council discuss this matter with TEP and provide direction to staff regarding:

1. Options for an above ground line along Tangerine Road between La Cañada and La Cholla, including a possible temporary CUP.
2. Whether the Town should work with TEP to develop a franchise agreement.
3. And, whether to pursue a franchise tax to fund projects unique to the Town, such as undergrounding.
4. Alternatively, identifying another funding source for utility undergrounding.
5. Other mechanisms for planning for future growth and development with TEP to assure adequate service.

_____
Planning and Zoning Administrator

_____
Community Development Director

_____
Acting Assistant Town Manager

_____
Town Manager

Attachments:

1. OV Zoning Code Section 25.1.N
2. TEP Handout

Town Council Regular Session **Item # 7.**

Meeting Date: 12/05/2012
Submitted By: Kevin Burke, Town Manager's Office
Department: Town Manager's Office

Information

SUBJECT:

*DISCUSSION AND POSSIBLE ACTION REGARDING A MAY 21, 2013 SPECIAL ELECTION TO SEEK VOTER APPROVAL OF A FRANCHISE AGREEMENT WITH TUCSON ELECTRIC POWER (Item added on 12/3/12)

RECOMMENDATION:

This item is for discussion only.

EXECUTIVE SUMMARY:

Pursuant to A.R.S. §§ 9-501 and 9-502, Arizona municipalities are authorized to grant a franchise to a public utility for use of municipal rights-of-way for utility location. Franchise agreements are negotiated between a municipality and a public utility, and adopted by a resolution of the governing body. The franchise agreement and resolution are then presented to the voters at the following regular election, or a special election called for that purpose.

Should Council wish to pursue a franchise agreement with Tucson Electric Power, staff will prepare a resolution and full report for consideration at the January 16, 2013 Town Council regular session. The report will include the terms of such an agreement, statutory requirements for holding a special election on this matter, and the fiscal impacts of the special election and the franchise agreement.

BACKGROUND OR DETAILED INFORMATION:

The two significant topics that are typically addressed by a franchise agreement are: (1) regulation by the municipality of the use of public rights-of-way by the utility; and (2) payment made by the utility to the municipality for such use, referred to as a franchise fee.

The franchise agreement will spell out the rights of both the municipality and utility with regard to use of public rights-of-way. Such an agreement is mutually beneficial in that the utility favors a consistent regulatory environment in which to conduct business, while the municipality endeavors to protect the health, safety, and welfare of the community. Regulatory issues typically addressed by a franchise agreement include, but are not limited to, the following:

• Authorization to construct and operate relevant infrastructure in compliance with municipal codes, standards, and permitting procedures
• Relocation procedures and responsibility for relocation expense
• Indemnification, to hold the municipality harmless from liability resulting from the actions of the utility
• Due diligence and regard for the expeditious completion of work that disturbs the public right-of-way

The franchise agreement will also prescribe a franchise fee to be paid by the utility to the municipality in

return for access to public rights-of-way. This provides a sustainable source of revenue for the municipality and is generally agreeable to the utility because, regardless of how the fee is structured, when a franchise fee is levied on a utility the fee is passed on directly to the customer and itemized on their bill as a municipal fee.

Franchise fee revenues may be placed in the municipal general fund, or may be dedicated for a specific purpose, such as underground installation of electrical facilities. A utility may require the municipality to set up a retainer account in order to reimburse the utility for certain expenditures as defined by the franchise agreement.

FISCAL IMPACT:

N/A

SUGGESTED MOTION:

I MOVE to place the following items on the January 16, 2013 Town Council regular session agenda:

1. A resolution authorizing a franchise agreement with Tucson Electric Power, and
2. A public hearing for the purpose of calling a special election to seek voter approval of that franchise agreement.