

September 19, 2003

VIA HAND-DELIVERY

Mr. Glenn Moyer
Principal Planner, Rezoning
City of Tucson
201 North Stone Avenue, 2nd Floor
P.O. Box 27210
Tucson, Arizona 85726-7210

Re: Pulte Home Corporation; Civano Development Plan
amendment/change of rezoning condition

Dear Glenn:

Lewis and Roca represents the Pulte Home Corporation ("Pulte") in connection with land use issues at The Community of Civano. Pulte plans to purchase the remaining undeveloped residential portions of Neighborhoods 2 and 3 (approximately 476 acres) in Civano for future residential development. Pulte has prepared a tentative plat (the "Plan") for the initial development of "Civano II," an approximately 46-acre parcel located in Neighborhood 2 immediately east of Houghton Road. A complete copy of the Plan is attached hereto as Exhibit "1." A copy of the legal description/depiction of the 46-acre parcel is attached hereto as Exhibit "2." The Plan is the subject of this requested change of rezoning condition.

Background:

The City of Tucson ("City") adopted rezoning Ordinance No. 7697 on October 7, 1991, establishing zoning classifications for the approximately 818-acre Civano area. Rezoning condition D.1 tied subdivision plat or development plan approval to conformance with the July 1991 Civano Development Plan attached as Exhibit "A" to the ordinance.

Subsequently, on October 20, 1997, the City adopted Ordinance No. 8970, approving the Civano Specific Plan (now "PAD") that included a portion of what is termed "Neighborhood 1." At the same time, the City adopted Ordinance No. 8971 (attached hereto as Exhibit "3"), amending the 1991 rezoning conditions including rezoning condition D.1 (the "1997 Rezoning Conditions") as follows:

- D. No subdivision plat or development plan shall be approved until all the following conditions and requirements are met:
1. Conformance with the Civano Development Plan, dated July 1991, **and as amended on October 20, 1997**, attached hereto as Exhibit A and incorporated herein by this reference.

The 1997 Rezoning Conditions have never been amended.

Pulte began working on the Plan in early 2003. The Plan is based on the existing zoning designations and is designed to satisfy all current City zoning and development requirements on-site, although the development will be integrated and connected into and through the larger Civano community. Pulte's preparations included extensive review by and consultation with the current residents of Civano and the Civano Neighbors neighborhood association. Although Pulte continues to work closely with the neighbors to resolve certain design and technical issues (that will be reflected in the more detailed planning process to come), the neighbors have agreed to the proposed density and residential distribution as depicted in the Plan.

Development Issues:

Pulte and City Development Services and Planning Taskforce staff have met to review the Plan under the existing City zoning and development standards with the overlay of the Civano Development Plan. This review process has identified several areas in the Civano Development Plan with which the existing City zoning and development standards and planning policies appear to conflict, in part because of changes to City zoning and development standards over the past 12 or more years since the Civano Development Plan was prepared.

◆ **Scenic Corridor Regulations:** The City's Major Streets and Routes Plan designates Houghton Road running along the western edge of Civano as a "scenic route" subject to the requirements of Land Use Code ("LUC") Section 2.8.2, Scenic Corridor Zone ("SCZ"). These regulations are designed to preserve view corridors from the scenic route, and limit the available heights, building setbacks and density distribution for the residences in the area shown in the Plan. Unfortunately, the Civano Development Plan was adopted before the SCZ regulations existed; accordingly, the heights, setbacks and densities anticipated by the Civano Development Plan for the area shown in the plan are now over-ambitious.

◆ **WASH Ordinance Regulations.** The Mesquite Wash runs north through the western portion of the Civano property. The City intends to apply WASH Ordinance requirements and development standards that were not in effect in 1991,

including open space and setback regulations, to the Mesquite Wash. Accordingly, the Civano Development Plan development designations and densities do not take into account that portion of the property that will be subject to WASH Ordinance restrictions.

◆ **Definitions of Residential Densities:** In addition to the City zoning for the property, the Civano Development Plan designates areas for high, medium and low density residential uses and commercial uses. The Civano Development Plan does not define the density of residential uses consistent with existing LUC or City General Plan definitions. Additionally, although City staff typically interprets the LUC as establishing “maximum” residential development density limits, staff has decided to interpret the residential densities designated in the Civano Development Plan as “minimum” densities. The Plan includes an area at the north edge of the 46 acres designated by the Civano Development Plan for “high density residential.” This would require multi-family, multi-story development that the existing Civano neighbors oppose at this location. Pulte therefore proposes to modify the Civano Development Plan consistent with the density in the Plan.

◆ **Location of Commercial Development.** A small triangular area of the property in the northwest corner of the 46-acre parcel depicted in the Plan is zoned C-2 and extends south of the existing right-of-way into Pulte’s proposed residential neighborhood that is zoned R-2. Pulte is not a commercial developer and the C-2 zoned property lying north of the right-of-way is not available for Pulte’s purchase.

The mixture of C-2 and R-2 zoning shown in the Plan would not normally create a problem under the LUC, which allows for residential development in the C-2 zone (LUC Section 2.5.4.2.F). However, the Civano Development Plan designates this triangular area for commercial, office or employment and City staff has taken the position that residential development is not otherwise permitted, regardless of the underlying zoning. Accordingly, Pulte proposes to modify the Civano Development Plan for this triangular area to allow for residential development consistent with the Plan and with the triangular area’s actual ownership.

◆ **Future Civano Development Plan Amendment and PAD Adoption.** Pulte’s acquisition of the residential portions of Neighborhoods 2 and 3 includes the 46 acres contained in the Plan and the remaining 430 acres. Pulte’s intention is to initiate development of the 46 acres along the Houghton Road frontage to serve as a gateway to the larger future build-out of the Civano residential neighborhoods to the east. After significant input from the Civano neighbors and consultation with City staff, Pulte has agreed to initiate an amendment to the Civano Development Plan and adoption of a PAD zone for the remaining 430 acres to create consistency in the final build-out of the Civano residential neighborhoods. Pulte anticipates that the preparation and processing

of the amendment and PAD will occur over the next year to year and one-half after Pulte's acquisition of the Civano property.

* * * * *

Request for Change of Rezoning Condition:

Pulte and City staff have discussed at length the nature of the change of rezoning condition that will be needed to allow Pulte to proceed with development under the Plan, although City staff has not reached any final conclusions. For purposes of this submittal, therefore, Pulte requests that the City approve and adopt a change to the 1997 Rezoning Conditions D.1 that will allow for the proposed densities and distribution of residential development as depicted in the Plan. The proposed change of condition may include the following (in bold, double-underlined):

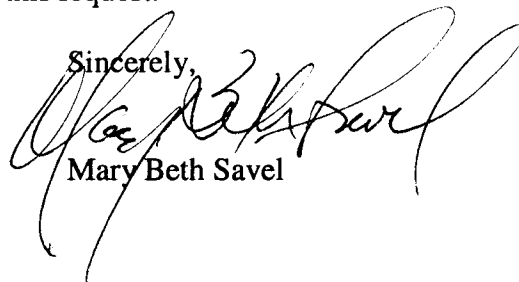
- D. No subdivision plat or development plan shall be approved until all the following conditions and requirements are met:
1. Conformance with the Civano Development Plan, dated July 1991, and as amended on October 20, 1997, attached hereto as Exhibit A and incorporated herein by this reference, **and as amended on _____, 2003, as to the densities and distribution of residential development as depicted in the plan attached hereto as Exhibit "1" and incorporated herein by this further reference.**

* * * * *

Conclusion:

Please feel free to contact me at your convenience if you have any questions about Pulte's request for change of rezoning condition or if you require any additional information to complete your review of this request.

Sincerely,



Mary Beth Savel

MBS/sdl
Attachments (3)

cc: Mr. Hector F. Martinez
Michael W. L. McCrory, Esq.
Ms. Patricia Gehlen
Mr. Simmons Buntin
Mr. Bruce Stokes
Ms. Paula Meade
Ms. Judith L. Kilroy
Ms. Sandra Jacobs, ASLD
(w/attachments)

bcc: Linda Morales, The Planning Center
Robert Tucker, MMLA
(w/attachments)

EXHIBIT “1”

EXHIBIT “2”

LEGAL DESCRIPTION

A portion of Block 79 of Civano: Master Block Plat, Blocks 79-82 as recorded in Book 50 of Maps and Plats at Page 36, Records of Pima County, Arizona.

BEGINNING at the southwest corner of said Block 79;

THENCE upon the west line of said Block 79, N 00°02'50" E a distance of 1539.10 feet;

THENCE leaving said west line, S 69°57'10" E a distance of 198.30 feet to a point on the arc of a non-tangent curve concave northwesterly, a radial line of said curve through said point having a bearing of S 09°09'52" E;

THENCE northeasterly upon the arc of said curve, to the left, having a radius of 1163.98 feet and a central angle of 33°37'56" for an arc distance of 683.25 feet to a non-tangent line;

THENCE N 30°55'31" E a distance of 203.56 feet to a point on an arc of a non-tangent curve concave northerly, a radial line of said curve through said point having a bearing of S 23°58'12" W;

THENCE easterly upon the arc of said curve, to the left, having a radius of 751.10 feet and a central angle of 03°08'53" for an arc distance of 41.27 feet to a non-tangent line;

THENCE S 29°13'19" E a distance of 818.78 feet;

THENCE S 15°03'00" E a distance of 357.37 feet;

THENCE S 19°02'20" W a distance of 260.34 feet;

THENCE S 01°41'31" W a distance of 609.59 feet to the south line of said Block 79;

THENCE upon said south line, S 89°34'13" W a distance of 1325.37 feet to the **POINT OF BEGINNING**.

Containing an area of 49.45 acres more or less.

See attached Exhibit "B"

Prepared by:
MMLA Inc.

Ernest Gomez AZ. R.L.S. 27739

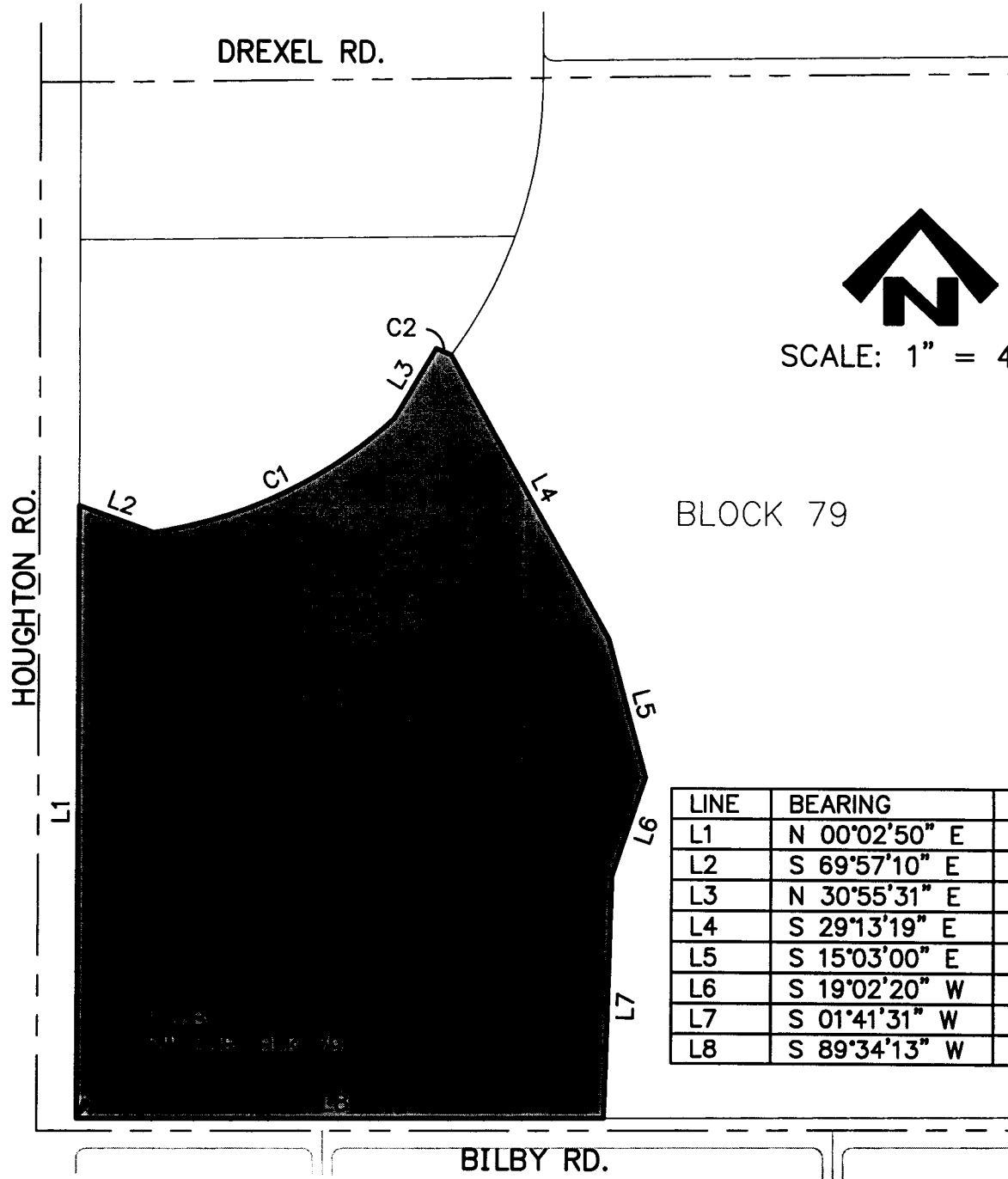
DREXEL RD.

HOUGHTON RD.



SCALE: 1" = 400'

BLOCK 79



LINE	BEARING	DISTANCE
L1	N 00°02'50" E	1539.10'
L2	S 69°57'10" E	198.30'
L3	N 30°55'31" E	203.56'
L4	S 29°13'19" E	818.78'
L5	S 15°03'00" E	357.37'
L6	S 19°02'20" W	260.34'
L7	S 01°41'31" W	609.59'
L8	S 89°34'13" W	1325.37'

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE
C1	1163.98'	683.25'	33°37'56"
C2	751.10'	41.27'	03°08'53"

BILBY RD.



A PORTION OF BLOCKS 79 OF CIVANO MASTER
BLOCK PLAT, BLOCKS 79-82, RECORDED IN BOOK
50 MAPS AND PLATS AT PAGE 36, RECORDS OF
PIMA COUNTY, ARIZONA

EXHIBIT “3”

Adopted by the
Mayor and Council on:

OCT 20 1997

ORDINANCE NO. 8971

RELATING TO ZONING; AMENDING ORDINANCE NO. 7697 TO CHANGE CERTAIN
CONDITIONS IN REZONING CASE NO. C9-91-14, ADOPTION OF THE
REVISED CIVANO MASTER DEVELOPMENT PLAN.

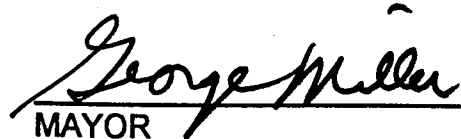
BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON,
ARIZONA, AS FOLLOWS:

SECTION 1. The conditions for rezoning stated in Ordinance No. 7697 are
amended to conform to the rezoning conditions set forth in Exhibit A, attached hereto
and incorporated herein.

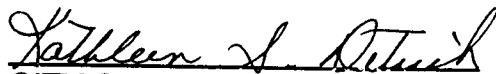
SECTION 2. These amendments to the conditions for rezoning become effective
upon adoption by Mayor and Council of a Master Block plat for the property subject to
the rezoning.

SECTION 3. WHEREAS, it is necessary for the preservation of the peace, health
and safety of the City of Tucson that this ordinance become immediately effective, an
emergency is hereby declared to exist and this ordinance shall be effective immediately
upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of
Tucson, Arizona, OCT 20 1997.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

REVIEWED BY:


CITY MANAGER

MWLM:lr
10/7/97 V:\work\lrc9-91-14.doc



CHANGE OF CONDITIONS OF REZONING

To provide consistency between the present goals for Civano, the Development Agreement and the Specific Plan, the original rezoning conditions should be amended as follows:

MODIFY:

A. A State-Plat Master Block Plat for the Property shall be recorded in the Pima County Recorder's Office in lieu of a subdivision master block plat. ~~A State-Plat The Master Block Plat~~ is a map delineating the subdivision of certain Arizona State Trust Lands into development blocks. ~~The State-Plat Master Block Plat~~ for the Property shall show all the following:

1. Property boundary lines for the Property and for each development block.
2. Zoning designations and zoning boundary lines.
3. Notation of the rezoning case number, rezoning ordinance number and a statement that all development on to Property is subject to the specific conditions contained in the rezoning ordinance.
4. Planned utility infrastructure corridors for each development block shown on ~~the State-Plat-~~ Master Block Plat.
5. Major street system.
6. Future right-of-way width and centerline for Civano Blvd.
7. Specific future right-of-way widths as follows:
 - a. Houghton Road - 100 foot half right-of-way width;
 - b. Melpomene Way - 90 foot total right-of-way or 45 foot half right-of-way, depending on existing location of Melpomene Way relative to the easterly property line;
 - c. Bilby Road - 32 foot half right-of-way.

DELETE:

~~B. When a development block (or blocks), or a portion of a development block (or blocks) is (are) purchased from the State, all legal access and utility infrastructure corridors~~

~~—shown on the State Plat, at the minimum right-of-way widths as specified on the~~
~~—State Plat, and all other rights-of-way necessary to provide legal access shall be~~
~~—included in the purchase if not already provided by a previous sale.~~

MODIFY:

- C. Prior to development of a development block (or blocks) or any portion of a development block (or blocks), a subdivision plat, or a development plan in compliance with Section 5.3.8. of the Tucson Land Use Code, or both, as appropriate, shall be submitted to the City of Tucson for review and approval for the block or blocks to be developed.
- D. No subdivision plat or development plan shall be approved until all the following conditions and requirements are met:

MODIFY

1. Conformance with the Civano Development Plan, dated July 1991, and as amended on October 20, 1997, attached hereto as Exhibit A and incorporated herein by this reference.
 - a. The Planning Director may approve minor modifications to the Civano Development Plan.
 - b. Substantial design modifications which, in the opinion of the Planning Director, do not meet the intent of the Civano Development Plan shall require Mayor and Council action to amend the rezoning ordinance.

MODIFY

2. Dedication, by subdivision plat or by separate instrument if the property is not to be subdivided, of rights-of way for the major street system shown on the ~~State Plat~~ Master Block Plat, at the minimum right-of-way widths as specified on the ~~State Plat~~ Master Block Plat, and all other necessary rights-of-way to provide legal access.
3. Provision of public access to the proposed regional linear park system along the Pantano Wash.
4. Submittal of master grading, drainage and open space plans for the entire proposed development. The master grading, drainage and open space plans shall conform to the Civano Grading & Drainage Master Development Plan and the Civano Open Space System Master Development Plan, identified as Exhibit 5 and Exhibit 6 in the Civano Development Plan, as amended under condition D.1 of this ordinance, and must include the following:

- a. Undisturbed natural areas as shown in the Civano Environmental Resources Report submitted to the City by the rezoning applicant.
 - b. A mitigation plan for natural areas identified as Class I and Class II habitat in the Critical and Sensitive Wildlife Habitats of Eastern Pima County Map (Shaw Map) that will be disturbed as a result of the proposed development. The mitigation plan must show the techniques that will be used to minimize disturbances of the habitat, to replace or restore, where possible, the habitat areas destroyed during construction, and to protect the remaining undisturbed habitat areas. The plan shall also include salvage or revegetation techniques, or both, where appropriate.
 - c. The drainage plan must address both on-site and off-site effects of the proposed development.
 - d. All phases of a multi-phase development must be included.
5. Submittal of a study evaluating the historical significance of all documented archaeological sites impacted by development grading.
 6. Completion of all infrastructure improvements necessary to serve the proposed development, improvements, drainage and flood control improvements, or provision of assurances acceptable to the City Engineer for the Completion of the infrastructure improvements.
 7. Submittal of a report stating the energy and resource conservation measures that will be implemented in the development.
- E. Reasonable alternative access shall be provided to the existing adjacent sand and gravel operations if the existing access is altered or impaired.
- F. A fence, wall or vegetation screen, a minimum of five feet high shall be provided along any development site boundary adjacent to a sand and gravel operation.
- G. All uses in the I-1 zone shall comply with the design and performance standards of the P-I zone as set forth in Zoning Code Section 23-303 in effect on the date of adoption of rezoning Ordinance No. 7697.
- H. Any relocation or other modification of existing utilities or public improvements or both, necessitated by the proposed development shall be at no expense to the public.

DELETE

~~I. Improvements to the existing public sewer system necessitated by the proposed development and as required by Pima County Wastewater shall be provided prior to the issuance of building permits not at taxpayers expense.~~

DELETE

~~AMENDED: issuance of building permits NOT AT TAXPAYERS EXPENSE.~~