

CITY COUNCIL AGENDA

CITY COUNCIL CHAMBERS . 11465 WEST CIVIC CENTER DRIVE . AVONDALE, AZ 85323

REGULAR MEETING
May 4, 2009
7:00 PM

CALL TO ORDER BY MAYOR ROGERS
PLEDGE OF ALLEGIANCE
MOMENT OF REFLECTION

1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2 RECOGNITION ITEMS (MAYOR PRESENTATIONS)

- a. The Mayor and Council will recognize graduates of the third annual Avondale Citizen Leadership Academy program.

3 UNSCHEDULED PUBLIC APPEARANCES

(Limit three minutes per person. Please state your name.)

4 CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. APPROVAL OF MINUTES

1. Work Session of April 20, 2009
2. Regular Meeting of April 20, 2009

b. LIQUOR LICENSE - SCREWBALLS WINGS-PIZZA-N-THINGS

City Council will consider a request from Mr. Tracy Custar for a Series 16 (State Series 12) restaurant license to sell all spirituous liquors at Screwballs Wings-Pizza-N-Things located at 965 East Van Buren Street, Suites 124 and 125 in Avondale. The Council will take appropriate action.

c. APPROVAL OF AN IDENTITY THEFT PREVENTION PROGRAM

City Council will consider a request to approve an Identity Theft Prevention Program, in compliance with Part 681 of Title 16 of the Code of Federal Regulation. The Council will take appropriate action.

d. RESOLUTION 2823-509 - AUTHORIZING APPLICATION FOR TRANSPORTATION ENHANCEMENT FUNDS – AGUA FRIA UNDERPASS

City Council will consider a resolution authorizing the submittal of an application for Transportation Enhancement Funds Round 17 for the Agua Fria Underpass Crossing in the amount of \$430,219. The Council will take appropriate action.

e. RESOLUTION 2824-509 - GREEN FRIDAY SCHEDULE FOR THE AVONDALE CITY COURT

City Council will consider a resolution approving a Green Friday schedule setting court hours for the Avondale City Court effective June 29, 2009. The Council will take appropriate action.

5 RESOLUTION 2822-509 - IGA WITH THE CITY OF GLENDALE - 800 MHZ RADIO SYSTEM

City Council will consider a Resolution approving an IGA with the City of Glendale to add Avondale Police radio communications to Glendale's current radio system and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

6 PUBLIC HEARING, RESOLUTION 2821-509 AND ORDINANCE 1365-509 - CREATION OF CITY CENTER ZONING DISTRICT (TA-08-15)

City Council will hold a public hearing and consider a resolution declaring a public record the document entitled "City of Avondale City Center District Zoning Regulations" and an ordinance amending the Zoning Ordinance to create said district. The Council will take appropriate action.

7 PUBLIC HEARING AND ORDINANCE 1367-509 - CITY POINTE ZONING REVERSION

City Council will hold a public hearing and consider an ordinance reverting zoning from Planned Area Development (PAD) to Agricultural (AG) for an 18.14 acre parcel owned by Byrd Enterprises of Arizona Inc. located at the northwest corner of Avondale Boulevard and Corporate Drive alignment. The Council will take appropriate action.

8 PUBLIC HEARING AND ORDINANCE 1366-509 - AVONDALE TOWN CENTER ZONING REVERSION (Z-08-14)

City Council will hold a public hearing and consider an ordinance reverting zoning from Planned Area Development (PAD) to Agricultural (AG) for a 35.5 acre parcel owned by PCCP CS Empire Avondale LLC located at the northwest corner of Avonvale Boulevard and Van Buren Street. The Council will take appropriate action.

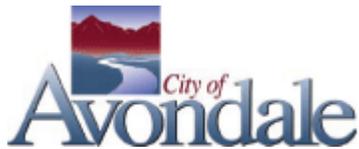
9 ADJOURNMENT

Respectfully submitted,



Carmen Martinez
City Clerk

Any individual with a qualified disability may request a reasonable accommodation by contacting the City Clerk at 623-333-1200 at least 48 hours prior to the council meeting.



CITY COUNCIL REPORT

SUBJECT:
Recognition of Citizen Leadership Academy
Graduates

MEETING DATE:
May 4, 2009

TO: Mayor and Council
FROM: Sammi Curless, Assistant to the Mayor and Council (623)333-1613
THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the Mayor and City Council recognize the graduates of the third annual Avondale Citizen Leadership Academy program.

BACKGROUND:

Avondale has hosted the Citizen Leadership Academy since 2007. The aim of the program is to provide participants with an interesting perspective into the workings of Avondale government. Through a series of interactive and informative workshops, participants gain valuable knowledge of Avondale to prepare them to become a more active member of their community. Several past graduates have since become members of Avondale's boards, commissions and committees. Many are also active in their homeowners associations.

DISCUSSION:

This year's Academy began on March 5 and was completed on April 29. Over the nine sessions of the Academy, the attendees received information from most of the City's departments and toured City facilities such as Crystal Gardens, the water reclamation facility, Fire Station #172, City Court, the Police Department, and the Sam Garcia Western Avenue Library to name a few.

The following 12 individuals completed the Academy:

- Frank Dilodivico
- Ed Eades
- Shari Jennings
- Jay Nagamalla
- Cathy Rudder
- Joe Rudder
- Clara Silba
- Roy Taniguchi
- Charlie Vierhout
- Nancy Wallace
- Kelly Watson
- Mike Watson

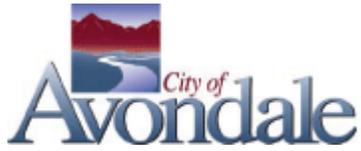
RECOMMENDATION:

No recommendation as this is a recognition item.

ATTACHMENTS:

Click to download

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:
APPROVAL OF MINUTES

MEETING DATE:
May 4, 2009

TO: Mayor and Council
FROM: Carmen Martinez, City Clerk (623) 333-1214
THROUGH: Charlie McClendon, City Manager

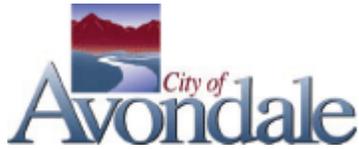
PURPOSE:

1. Work Session of April 20, 2009
2. Regular Meeting of April 20, 2009

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:

Liquor License - Screwballs Wings-Pizza-N-Things

MEETING DATE:

May 4, 2009

TO: Mayor and Council

FROM: Carmen Martinez, City Clerk, 623-333-1200

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council consider a request by Mr. Tracy Custar, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at Screwballs Wings-Pizza-N-Things located at 965 East Van Buren Street, Suites 124 and 125 in Avondale.

DISCUSSION:

The City Clerk's Department has received an application for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors from Mr. Tracy Custar, Screwballs Wings-Pizza-N-Things, 965 East Van Buren Street, Suite 124 and 125, Avondale, Arizona. Mr. Custar is the new owner of this restaurant. The establishment was previously licensed for a Series 16 license under the previous owner, Mr. Bjork. This is a new license. The required fee of \$1,100.00 has been paid.

As required by state law and city ordinance, the application was posted from April 1, 2009 through April 20, 2009 and a notice was published in the West Valley View on April 29, 2009 and May 1, 2009. No comments were received. The Arizona Department of Liquor License and Control has accepted this application as submitted as complete.

The Development Services, Fire, and Police Departments have reviewed the application and are recommending approval. Their comments are attached.

RECOMMENDATION:

Staff recommends that the City Council approve this request by Mr. Tracy Custar, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at Screwballs Wings-Pizza-N-Things located at 965 East Van Buren Street, Suites 124 and 125 in Avondale.

ATTACHMENTS:

Click to download

- [Application](#)
- [Comments](#)
- [Posting pictures](#)
- [Vicinity map](#)

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

APPLICATION FOR LIQUOR LICENSE

TYPE OR PRINT WITH BLACK INK

Notice: Effective Nov. 1, 1997, All Owners, Agents, Partners, Stockholders, Officers, or Managers actively involved in the day to day operations of the business must attend a Department approved liquor law training course or provide proof of attendance within the last five years. See page 5 of the Liquor Licensing requirements.

SECTION 1 This application is for a:

- INTERIM PERMIT Complete Section 5
 NEW LICENSE Complete Sections 2, 3, 4, 13, 14, 15, 16
 PERSON TRANSFER (Bars & Liquor Stores ONLY) Complete Sections 2, 3, 4, 11, 13, 15, 16
 LOCATION TRANSFER (Bars and Liquor Stores ONLY) Complete Sections 2, 3, 4, 12, 13, 15, 16
 PROBATE/WILL ASSIGNMENT/DIVORCE DECREE Complete Sections 2, 3, 4, 9, 13, 16 (fee not required)
 GOVERNMENT Complete Sections 2, 3, 4, 10, 13, 15, 16

SECTION 2 Type of ownership:

- J.T.W.R.O.S. Complete Section 6
 INDIVIDUAL Complete Section 6
 PARTNERSHIP Complete Section 6
 CORPORATION Complete Section 7
 LIMITED LIABILITY CO. Complete Section 7
 CLUB Complete Section 8
 GOVERNMENT Complete Section 10
 TRUST Complete Section 6
 OTHER Explain

SECTION 3 Type of license and fees

LICENSE #: 12077951
Department Use Only
1. Type of License: SERIES # 12 2. Total fees attached: \$

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE.
The fees allowed under A.R.S. 44-6852 will be charged for all dishonored checks.

SECTION 4 Applicant

- 1. Owner/Agent's Name: Ms. CUSTAR TRACY PHSUDDA LEE
2. Corp./Partnership/L.L.C.: TLC 1966 LLC
3. Business Name: B1035603 SCREWBALLS WINGS PIZZA & THINGS
4. Principal Street Location: 965 E. VAN BUREN ST. #124-125 AVONDALE MARICOPA 85323
5. Business Phone: 602-882-1222 Daytime Contact: 602-770-4277
6. Is the business located within the incorporated limits of the above city or town? YES NO
7. Mailing Address: 965 E. VAN BUREN ST. #124-125 AVONDALE, AZ 85323
8. Enter the amount paid for a bar, beer and wine, or liquor store license\$ (Price of License only)

DEPARTMENT USE ONLY
Fees: Application 100 Interim Permit 100 Agent Change Club 24 Finger Prints \$ 204 TOTAL OF ALL FEES
Is Arizona Statement of Citizenship & Alien Status For State Benefits complete? YES NO
Accepted by: J.W Date: 3/24/09 Lic. # 12077951

SECTION 5 Interim Permit:

1. If you intend to operate business when your application is pending you will need an Interim Permit pursuant to A.R.S. 4-203.01. 109 MAR 24 Lic. Dept PM 3 01
2. There **MUST** be a valid license of the same type you are applying for currently issued to the location.
3. Enter the license number currently at the location. 12077682
4. Is the license currently in use? YES NO If no, how long has it been out of use? _____

ATTACH THE LICENSE CURRENTLY ISSUED AT THE LOCATION TO THIS APPLICATION.

I, JEFFERY CRAIG BOEK declare that I am the CURRENT OWNER, AGENT, CLUB MEMBER, PARTNER, MEMBER, STOCKHOLDER, OR LICENSEE (circle the title which applies) of the stated license and location.

State of ARIZONA County of MARICOPA

x Jeffery Craig Boek
(Signature)

The foregoing instrument was acknowledged before me this

My commission expires on: April 24, 2010



14th Day of March, 2009
Month Year

Sonia Hernandez
(Signature of NOTARY PUBLIC)

SECTION 6 Individual or Partnership Owners:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$24 PROCESSING FEE FOR EACH CARD.

1. Individual:

Last	First	Middle	% Owned	Mailing Address	City State Zip

Partnership Name: (Only the first partner listed will appear on license) _____

General-Limited	Last	First	Middle	% Owned	Mailing Address	City State Zip
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						

(ATTACH ADDITIONAL SHEET IF NECESSARY)

2. Is any person, other than the above, going to share in the profits/losses of the business? YES NO
If Yes, give name, current address and telephone number of the person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City, State, Zip	Telephone#

STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES
AND CONTROL
ALCOHOLIC BEVERAGE LICENSE

License 12077682

Issue Date: 9/10/2008

Expiration Date: 3/31/2009

Issued To:

JEFFREY CRAIG BJORK, Agent
TJ FREEDOM2 LLC, Owner

Restaurant

Mailing Address:

JEFFREY CRAIG BJORK
TJ FREEDOM2 LLC
WINGS PIZZA N THINGS
965 E VAN BUREN ST #124-125
AVONDALE, AZ 85323

Location:

WINGS PIZZA N THINGS
965 E VAN BUREN ST #124-125
AVONDALE, AZ 85323



Jerry A. Oliver Sr.
JERRY A. OLIVER, SR.
DIRECTOR

EXP 3/31/2009

POST THIS LICENSE IN A CONSPICUOUS PLACE

SECTION 7 Corporation/Limited Liability Co.:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$24 PROCESSING FEE FOR EACH CARD.

- CORPORATION Complete questions 1, 2, 3, 5, 6, 7, and 8.
 L.L.C. Complete 1, 2, 4, 5, 6, 7, and 8.

1. Name of Corporation/L.L.C.: TLC1966 LLC
 (Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: 3-3-09 State where Incorporated/Organized: ARIZONA
3. AZ Corporation Commission File No.: _____ Date authorized to do business in AZ: _____
4. AZ L.L.C. File No: L 15089777 Date authorized to do business in AZ: 3-3-09
5. Is Corp./L.L.C. Non-profit? YES NO
6. List all directors, officers and members in Corporation/L.L.C.:

Last	First	Middle	Title	Mailing Address	City, State Zip
CUSTAR	TRACY	LEE	MANAGER OWNER		

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders who are controlling persons or who own 10% or more:

Last	First	Middle	% Owned	Mailing Address	City, State Zip
CUSTAR	TRACY	LEE	100		

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach a percentage of ownership chart, and a director/officer/member disclosure for the parent entity. Attach additional sheets as needed in order to disclose personal identities of all owners.

SECTION 8 Club Applicants:

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$24 PROCESSING FEE FOR EACH CARD.

1. Name of Club: _____ Date Chartered: _____
 (Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)

2. Is club non-profit? YES NO

3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Bar or Liquor Store License:

1. Current Licensee's Name: _____
(Exactly as it appears on license) Last First Middle
2. Assignee's Name: _____
Last First Middle
3. License Type: _____ License Number: _____ Date of Last Renewal: _____
4. ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE TO THIS APPLICATION.

SECTION 10 Government: (for cities, towns, or counties only)

1. Governmental Entity: _____
2. Person/designee: _____
Last First Middle Contact Phone Number

A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISES FROM WHICH SPIRITUOUS LIQUOR IS SERVED.

SECTION 11 Person to Person Transfer:

Questions to be completed by **CURRENT LICENSEE (Bars and Liquor Stores ONLY-Series 06,07, and 09).**

1. Current Licensee's Name: _____ Entity: _____
(Exactly as it appears on license) Last First Middle (Indiv., Agent, etc.)
2. Corporation/L.L.C. Name: _____
(Exactly as it appears on license)
3. Current Business Name: _____
(Exactly as it appears on license)
4. Physical Street Location of Business: Street _____
City, State, Zip _____
5. License Type: _____ License Number: _____
6. Current Mailing Address: Street _____
(Other than business) City, State, Zip _____
7. Have all creditors, lien holders, interest holders, etc. been notified of this transfer? YES NO
8. Does the applicant intend to operate the business while this application is pending? YES NO If yes, complete Section 5 of this application, attach fee, and current license to this application.

9. I, _____, hereby authorize the department to process this application to transfer the
(print full name)
privilege of the license to the applicant, provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, _____, declare that I am the CURRENT OWNER, AGENT, MEMBER, PARTNER
(print full name)
STOCKHOLDER, or LICENSEE of the stated license. I have read the above Section 11 and confirm that all statements are true, correct, and complete.

X _____
(Signature of CURRENT LICENSEE)

State of _____ County of _____
The foregoing instrument was acknowledged before me this

_____ day of _____
Day Month Year

My commission expires on: _____

(Signature of NOTARY PUBLIC)

SECTION 12 Location to Location Transfer: (Bars and Liquor Stores ONLY)

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE.

09 MAR 24 Licr. Dept. PM 3 01

1. Current Business: Name _____
(Exactly as it appears on license) Address _____
2. New Business: Name _____
(Physical Street Location) Address _____
3. License Type: _____ License Number: _____
4. What date do you plan to move? _____ What date do you plan to open? _____

SECTION 13 Questions for all in-state applicants excluding those applying for government, hotel/motel, and restaurant licenses (series 5, 11, and 12):

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

1. Distance to nearest school: 3800 ft. Name of school AQUA FRIA UNION HIGH SCHOOL
Address 530 E. RILEY DR. AVONDALE, AZ 85323
City, State, Zip
2. Distance to nearest church: 4000 ft. Name of church FIRST SOUTHERN BAPTIST CHURCH
Address 1001 N. CENTRAL AVE. AVONDALE, AZ 85323
City, State, Zip
3. I am the: Lessee Sublessee Owner Purchaser (of premises)
4. If the premises is leased give lessors: Name NANCY BARNES
Address P.O. BOX 400596 LAS VEGAS, NV 89140
City, State, Zip
- 4a. Monthly rental/lease rate \$ 4400.00 What is the remaining length of the lease 5 yrs. 0 mos.
- 4b. What is the penalty if the lease is not fulfilled? \$ BALANCE OF LEASE or other BALANCE OF LEASE
(give details - attach additional sheet if necessary)
5. What is the total business indebtedness for this license/location excluding the lease? \$ 0
Please list debtors below if applicable.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? FULL SERVICE RESTAURANT

SECTION 13 - continued

7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?

YES NO If yes, attach explanation.

8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business? YES NO

9. Is the premises currently licensed with a liquor license? YES NO If yes, give license number and licensee's name: _____

License # 12077682 (exactly as it appears on license) Name WINGS PIZZA N THINGS
JEFFERY CRAIG BJORK

SECTION 14 Restaurant or hotel/motel license applicants:

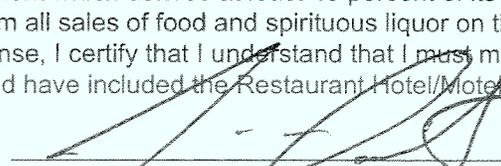
1. Is there an existing restaurant or hotel/motel liquor license at the proposed location? YES NO
If yes, give the name of licensee, Agent or a company name:

BJORK JEFFERY CRAIG and license #: 12077682
Last First Middle

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this hotel/motel restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.


applicant's signature

As stated in A.R.S. § 4-205.02 (B), I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing, specify why the extension is necessary, and the new inspection date you are requesting. To schedule your site inspection visit www.azliquor.gov and click on the "Information" tab.


applicants initials

SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)

1. Check ALL boxes that apply to your business:

- Entrances/Exits
- Liquor storage areas
- Patio: Contiguous
- Service windows
- Drive-in windows
- Non Contiguous

2. Is your licensed premises currently closed due to construction, renovation, or redesign? YES NO
If yes, what is your estimated opening date? _____
month/day/year

- 3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.
- 4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).
- 5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

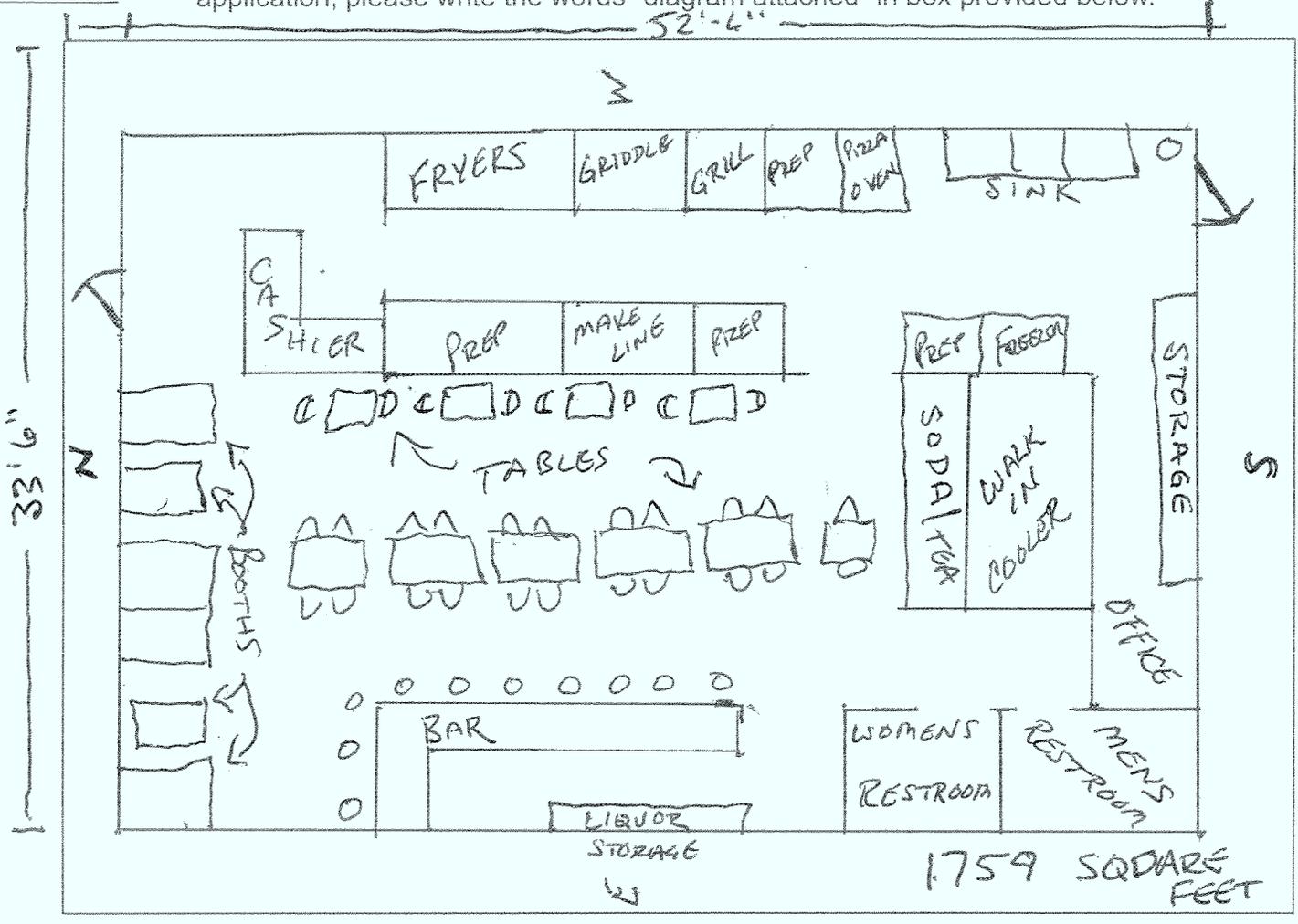
As stated in A.R.S. § 4-205.02 (F), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this initial drawing.


applicants initials

SECTION 15 Diagram of Premises

4. In this diagram please show only the area where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, bar stools, hi-top tables, dining tables, dining chairs, the kitchen, dance floor, stage, and game room. Do not include parking lots, living quarters, etc. When completing diagram, North is up ↑.

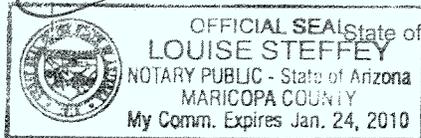
If a legible copy of a rendering or drawing of your diagram of premises is attached to this application, please write the words "diagram attached" in box provided below.



SECTION 16 Signature Block

I, TRACY LEE CUSTAR, hereby declare that I am the OWNER/AGENT filing this application as stated in Section 4, Question 1. I have read this application and verify all statements to be true, correct and complete.

X [Signature]
(signature of applicant listed in Section 4, Question 1)



ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this 16TH of MARCH, 2009 Day Month Year

My commission expires on: 1/24/2010 Day Month Year

[Signature]
signature of NOTARY PUBLIC

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

2009 APR 24 11:41:14 AM Dept. PM 3 01

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

HOTEL-MOTEL AND RESTAURANT LICENSES RECORDS REQUIRED FOR AUDIT OF SERIES #11 & #12 LICENSES MAKE A COPY OF THIS DOCUMENT AND KEEP IT WITH YOUR DLLC RECORDS

In the event of an audit, you will be asked to provide to the Department any documents necessary to determine compliance with A.R.S. §4-205.02(G). Such documents requested may include however, are not limited to:

1. All invoices and receipts for the purchase of food and spirituous liquor for the licensed premises.
2. A list of *all* food and liquor vendors
3. The restaurant menu used during the audit period
4. A price list for alcoholic beverages during the audit period
5. Mark-up figures on food and alcoholic products during the audit period
6. A recent, *accurate* inventory of food and liquor (taken within two weeks of the Audit Interview Appointment)
7. Monthly Inventory Figures - beginning and ending figures for food and liquor
8. Chart of accounts (copy)
9. Financial Statements-Income Statements-Balance Sheets
10. General Ledger
 - A. Sales Journals/Monthly Sales Schedules
 - 1) Daily sales Reports (to include the name of each waitress/waiter, bartender, etc. with sales for that day)
 - 2) Daily Cash Register Tapes - Journal Tapes and Z-tapes
 - 3) Dated Guest Checks
 - 4) Coupons/Specials/Discounts
 - 5) Any other evidence to support income from food and liquor sales
 - B. Cash Receipts/Disbursement Journals
 - 1) Daily Bank Deposit Slips
 - 2) Bank Statements and canceled checks
11. Tax Records
 - A. Transaction Privilege Sales, Use and Severance Tax Return (copies)
 - B. Income Tax Return - city, state and federal (copies)
 - C. Any supporting books, records, schedules or documents used in preparation of tax returns
12. Payroll Records
 - A. Copies of all reports required by the State and Federal Government

- B. Employee Log (A.R.S. §4-119)
 - C. Employee time cards (actual document used to sign in and out each work day)
 - D. Payroll records for all employees showing hours worked each week and hourly wages
13. Off-site Catering Records (must be complete and separate from restaurant records)

A. All documents which support the income derived from the sale of food off the license premises.

B. All documents which support purchases made for food to be sold off the licensed premises.

C. All coupons/specials/discounts

The sophistication of record keeping varies from establishment to establishment. Regardless of each licensee's accounting methods, the amount of gross revenue derived from the sale of food and liquor must be substantially documented.

REVOCAION OF YOUR LIQUOR LICENSE MAY OCCUR IF YOU FAIL TO COMPLY WITH A.R.S. §4-210(A)7 AND A.R.S. §4-205.02(G).

A.R.S. §4-210(A)7

The licensee fails to keep for two years and make available to the department upon reasonable request all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of spirituous liquors and, in the case of a restaurant or hotel-motel licensee, all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of food.

A.R.S. §4-205.02(G)

For the purpose of this section:

1. "Restaurant" means an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.
2. "Gross revenue" means the revenue derived from all sales of food and spirituous liquor on the licensed premises, regardless of whether the sales of spirituous liquor are made under a restaurant license issued pursuant to this section or under any other license that has been issued for the premises pursuant to this article.

I, (print licensee name):

CUSTAR TRACY LEE

 Last First Middle

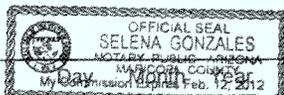
have read and fully understand all aspects of this statement.

[Signature]

 (Signature of Licensee)

State of Arizona County of Maricopa
 The foregoing instrument was acknowledged before me this
29th day of March 2009
 Day Month Year

My commission Expires on:



[Signature]

 (Signature of NOTARY PUBLIC)

MAKE A COPY OF THIS DOCUMENT AND KEEP IT WITH YOUR DLLC RECORDS

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141



400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

RESTAURANT OPERATION PLAN

LICENSE # 12077951

1. List by Make, Model and Capacity of your :

Grill	2 TRI-STAR
Over-FRYERS	5 TRI-STAR GAS
Freezer	COLD TECH CFD-2F FREEZER
Refrigerator	AMERI-COOLER 8X10
Sink	NISF TSA-1-11
Dish Washing Facilities	T&M RESOURCES
Food Preparation Counter (Dimensions)	2 COLD TECH 6'-3" & 4'-3"
Other PIZZA OVEN	1 XLT-3240-TS BOFI

2. Print the name of your restaurant: SCREWBALLS ^{WINGS} PIZZA & SPIRITS

3. Attach a copy of your menu (Breakfast, Lunch and Dinner including prices).

4. List the seating capacity for:

- a. Restaurant area of your premises [42]
- b. Bar area of your premises [+ 10]
- c. Total area of your premises [52]

5. What type of dinnerware and utensils are utilized within your restaurant?

Reusable Disposable

6. Does your restaurant have a bar area that is distinct and separate from the restaurant seating? (If yes, what percentage of the public floor space does this area cover). Yes 10 % No

7. What percentage of your public premises is used primarily for restaurant dining? (Does not include kitchen, bar, cocktail tables or game area.) 80 %

*Disabled individuals requiring special accommodations, please call the Department.

8. Does your restaurant contain any games or television? Yes No
If yes, specify what types and how many of each type (Televisions, Pool tables, Video Games, Darts, etc).
4 TELEVISIONS

9. Do you have live entertainment or dancing? Yes No
(If yes, what type and how often?)

10. Use space below or attach a list of employee positions and their duties to fully staff your business.
MARIL MILLS - COOK, BARTENDER, SERVER
EVELYN SAMSON - BARTENDER, SERVER, COOK
GLORIA - BARTENDER, SERVER, COOK
MARIO - COOK
JESSIE BORQUEZ - COOK

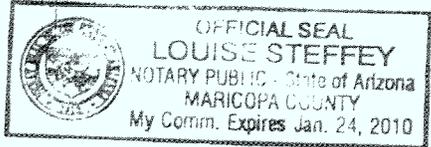
I, TRACY L. CUSTAR, hereby declare that I am the APPLICANT filing this application. I have
(Print full name)
read this application and the contents and all statements true, correct and complete.

X [Signature]
(Signature of APPLICANT)

State of ARIZONA County of MARICOPA
The foregoing instrument was acknowledged before me this
16TH day of MARCH, 2009.
Day of Month Month Year

My commission expires on: JAN 24, 2010

[Signature]
(Signature of NOTARY PUBLIC)



ATTM : L. HANCOCK

Screwballs

Wings Pizza & Things

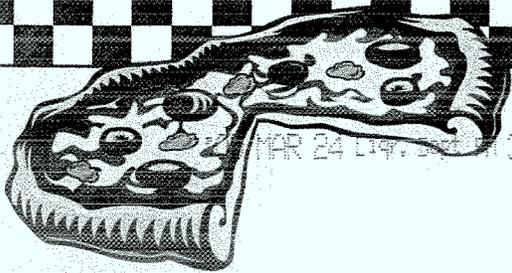
965 E. Van Buren St.
#124-125
Avondale, Az 85323

623-882-1222



Mon—Thurs 10:30am—11:00pm
Friday 10:30am—1:00am
Saturday 10:00am—1:00am
Sun 10:00am—10:00pm

09 MAR 24 11:47 AM '94



Warning: all items marked with asterisks (*) The new food code insists we inform you that consuming raw or under-cooked meats or eggs may increase your risk of food borne illness. More information available on request. All burgers are cooked to order

Appetizers & Salads

Onion Rings 5.99

Mozzarella Sticks 5.99

Served with marinara

Zucchini 5.99

Served with ranch

Jalapeno Poppers 5.99

Cream cheese stuffed jalapenos with ranch

***Combo Platter** 9.99

Onion rings, mozzarella sticks, zucchini,

Jalapeno poppers & 3 chicken wings

Cheese Crisp 3.99

Breadsticks 3.99

Served with marinara

Cheese Bread 4.99

Served with marinara

***Chicken Salad** 7.99

Grilled or Crispy Chicken with onion & tomato

Choice of dressing

Chef Salad 6.99

Ham, Turkey, American & Swiss Cheese,

Tomato & Onion. Choice of dressing

Dinner Salad 3.99

Tomato & Onion. Choice of dressing

Sides & Sodas

Extra Sauce50

Side of Fries 1.99

Kid's Drink99

Soft Drinks 2.29

Pizza & Wings Special

16" extra large one
topping pizza & 18 wings

\$21.99





99 APR 24 Wed. Dept. PM 3:02

Sandwiches

Served with lettuce, tomato, onion french fries & pickle

***Hamburger..... 5.99**

add cheese.....50

add bacon.....1.00

*extra patty.....2.00

***Patty Melt..... 6.99**

Sautéed onions, Swiss & American cheese on Rye bread

BLT..... 5.99

Club..... 6.99

Ham, Turkey, Lettuce & tomato

Grilled Cheese..... 5.49

add ham.....1.00

***Chicken..... 7.49**

Crispy or Grilled

Fish..... 7.49

Breaded & fried cod, tartar sauce and lettuce on hoagie roll

Philly Cheese Steak..... 8.49

Sliced rib eye steak, sautéed onions, green Peppers & mushrooms topped w/swiss cheese On hoagie roll

Turkey or Ham Hoagie .. 6.99

Served hot or cold

Favorites

***Chicken Basket..... 8.99**

Grilled or Crispy chicken and fries

Fish and Chips..... 8.99

Served with tartar sauce and fries

Shrimp Basket..... 9.99

Served with cocktail sauce and fries

***Chicken Quesadilla..... 7.99**

Grilled or Crispy, cheddar cheese & jalapenos

Ham or Turkey Wrap..... 6.49

Ham or Turkey, lettuce, tomato & mayo with fries

***Chicken Wrap..... 6.99**

Grilled or Crispy, lettuce, tomato & mayo with fries

FOR THE KIDS (12 and under)

(served with choice of fries or apple sauce)

***Wings..... 4.99**

4 chicken wings with choice of dipping sauce

Cheese Quesadilla..... 4.99

Kids Pizza..... 4.99

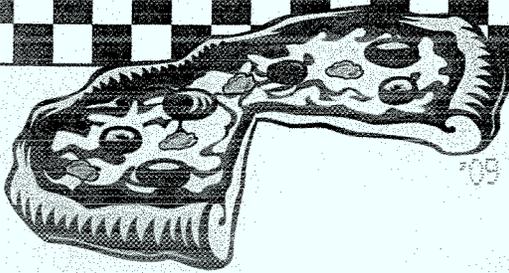
Kids size pizza with choice of 1 topping

*WINGS

6pc \$4.99 12pc \$7.99 18pc \$11.99 24pc \$13.99

mild, hot, fire, spicy bbq, barbeque, chipotle, lemon pepper, garlic parmesan or honey hot





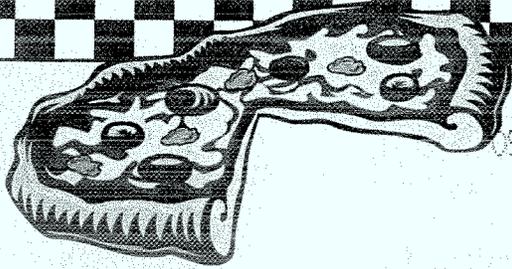
Your choice: hand tossed or thin crust
 Toppings: pepperoni, sausage, ground beef, Canadian bacon, bacon, jalapenos, grilled chicken, black olives, pineapple, mushrooms, onions, green peppers, tomatoes, cheddar cheese

Our pizzas

	12"	14"	16"
Cheese	7.99	9.99	11.99
Mozzarella cheese			
Additional Toppings	1.29	1.39	1.49
Hail Mary	10.99	12.99	14.99
Ground beef, cheddar cheese & bacon			
*Bullseye	12.99	14.99	16.99
Grilled Chicken, onion, barbecue sauce & extra cheese			
Matador	11.99	13.99	15.99
Thin Crust ONLY: bean sauce, ground beef, topped with shredded lettuce, black olives, tomatoes, jalapenos & cheddar cheese			
Artificial Turf	10.99	12.99	14.99
Green peppers, onions, black olives & mushrooms			
Hang Ten	10.99	12.99	14.99
Canadian bacon, pineapple & extra cheese			
Double Dribble	10.99	12.99	14.99
Double pepperoni & extra cheese			
Pile Driver	11.99	13.99	15.99
Pepperoni, sausage, ground beef, Canadian bacon & bacon			
Hat Trick	11.99	13.99	15.99
Pepperoni, sausage, mushrooms, onions & green peppers			
Grand Slam	13.99	15.99	17.99
Pepperoni, sausage, ground beef, Canadian bacon, bacon, mushrooms, onions, green peppers, black olives & extra cheese			

Dine In and Carry Out Only
 Sorry No Delivery





09 MAR 24 Libr Dept # 3102

DAILY SPECIALS

Monday thru Friday Lunch Special

(10:30am – 1:00pm)

10" One topping pizza & drink..... 4.99

Saturday (4:00pm – 7:00pm)

Calzone with two toppings 6.99

Sunday (10:00am – 3pm)

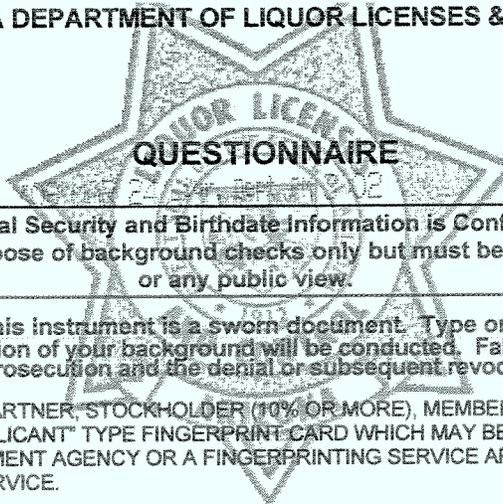
Chicken & Waffles..... 8.99



ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595



QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with black ink. An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH OWNER, AGENT, PARTNER, STOCKHOLDER (10% OR MORE), MEMBER, OFFICER OR MANAGER. ALSO EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT THE DEPT. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY THE DEPARTMENT OF LIQUOR. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Eff. 10/01/03 there is a \$29.00 processing fee for each fingerprint card submitted.

A service fee of \$25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

Liquor License #

12077951

(If the location is currently licensed)

1. Check appropriate box → Owner Partner Stockholder Member Officer Agent Manager(Only)
 Other _____ (Complete Questions 1-20 & 24) (Complete All Questions except # 14, 14a & 25)
 Licensee or Agent must complete # 25 for a Manager Licensee or Agent must complete # 25

2. Name: CUSTAR TRACY LGE Date of Birth: _____
 Last First Middle (This Will Not Become a Part of Public Records)

3. Social Security Number: _____ License _____ State: AZ
 (This Will Not Become a Part of Public Records)

4. Place of Birth: PHOENIX AZ U.S.A. Height: 6-1" Weight: 210 Eyes: BRN Hair: BRN
 City State Country (not county)

5. Marital Status Single Married Divorced Widowed Residence (Home) Phor _____

6. Name of Current or Most Recent Spouse: CUSTAR STACEY L. LAWLER Date of Birth: _____
 (List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden

7. You are a bona fide resident of what state? ARIZONA If Arizona, date of residency: 10-1-97

8. Telephone number to contact you during business hours for any questions regarding this document. (602) 770-4277

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SCREWBALLS WINGS PIZZA & THINGS Premises Phone: (623) 882-1222

11. Licensed Premises Address: 965 E. VAN BUREN ST. #124-125 AVONDALE MARICOPA 85323
 Street Address (Do not use PO Box #) City County Zip

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. List most recent 1st.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
02/07	CURRENT	OWNER AMT HILL	6522 N. 55TH AVE GLENDALE, AZ 85301
01-02	02-07	SWISSPORT FUELING SUPERVISOR	9200 AIRLANE PHOENIX, AZ 85032

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION ↑

13. Indicate your residence address for the last five (5) years: ↓

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address	City	State	Zip
04/03	CURRENT	OWN				

If you checked the Manager box on the front of this form skip to # 15

14. As an Owner, Agent, Partner, Stockholder, Member or Officer, will you be physically present and operating the the licensed premises? If you answered YES, how many hrs/day? 4, answer #14a below. If NO, skip to #15. YES NO
- 14a. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) YES NO
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.
15. Have you EVER been detained, cited, arrested, indicted or summoned into court for violation of ANY law or ordinance (regardless of the disposition even if dismissed or expunged)? For traffic violations, include only those that were alcohol and/or drug related. YES NO
16. Have you EVER been convicted, fined, posted bond, been ordered to deposit bail, imprisoned, had sentence suspended, placed on probation or parole for violation of ANY law or ordinance (regardless of the disposition even if dismissed or expunged)? For traffic violations, include only those that were alcohol and/or drug related. YES NO
17. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses PENDING against you or ANY entity in which you are now involved? YES NO
18. Have you or any entity in which you have held ownership, been an officer, member, director or manager EVER had a business, professional or liquor APPLICATION OR LICENSE rejected, denied, revoked, suspended or fined in this or any other state? YES NO
19. Has anyone EVER filed suit or obtained a judgment against you in a civil action, the subject of which involved fraud or misrepresentation of a business, professional or liquor license? YES NO
20. Are you NOW or have you EVER held ownership, been a controlling person, been an officer, member, director, or manager on any other liquor license in this or any other state? YES NO

If any answer to Questions 15 through 20 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved and dispositions.

If you checked the Manager box on the front of this form, fill in #21-23 and 24, all others skip the following box (21-23) and go to # 24

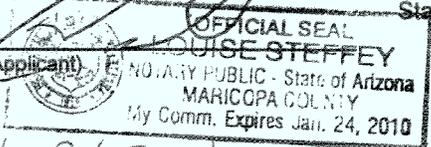
Manager Section

21. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) YES NO
If the answer to #21 is "NO" course must be completed BEFORE ISSUANCE of a new license OR APPROVAL on an existing license.
22. Do you make payments to the licensee? YES NO If "yes", how much? \$ _____ per month. Total debt to licensee \$ _____
23. Is there a formal written contract or agreement between you and the licensee relating to the operation or management of this business? YES NO If "yes", attach a copy of such agreement

24. I, TRACY LEO OSTAR, hereby declare that I am the APPLICANT filing this questionnaire.
(Print full name of Applicant)
I have read this questionnaire and the contents and all statements are true, correct and complete.

X [Signature] State of ARIZONA County of MARICOPA
(Signature of Applicant) The foregoing instrument was acknowledged before me this
16TH day of MARCH, 2009
Day Month Year
[Signature]
(Signature of NOTARY PUBLIC)

My commission expires on: JAN 24 2010
Day Month Year



FILL IN THIS SECTION ONLY IF YOU ARE A LICENSEE OR AGENT APPROVING A MANAGER APPLICATION Licensee or Agent Approval of Manager

25. I, (Print Licensee/Agent's Name): _____
Hereby authorize the applicant to act as manager for the named liquor license.
State of _____ County of _____
The foregoing instrument was acknowledged before me this
X _____ day of _____, _____
(Signature of LICENSEE/AGENT) Day Month Year
My commission expires on: _____ (Signature of NOTARY PUBLIC)
Day Month Year

#20

09 MAR 24 Mon. Dept PM 3 02

CURRENTLY HOLD SERIES # 12 LICENSE
#12077001, ANT HILL SPORTS BAR & GRILL
6522 N. 59TH AVE GLENDALE, AZ 85301
EXPIRES 3-31-09

TRACY L CUSTAR



ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141



400 W Congress #150
Tucson AZ 85701-1352
(520) 628-6595

CERTIFICATION OF COMPLETED ALCOHOL TRAINING PROGRAM(S)

OBTAIN ORIGINALS OF THIS FORM FROM DLLC-DO NOT PHOTOCOPY, DOCUMENT IS COMPUTER SCANNED. TYPE OR PRINT WITH BLACK INK.

ALCOHOL TRAINING PROGRAM INDIVIDUAL INFORMATION

TRACY CUSTAR
Individual Name (Print)

[Handwritten Signature]
Individual Signature

3-9-07
Date Training Completed

TYPE OF TRAINING COMPLETED
TRAINER MUST CHECK YES OR NO FOR EACH TYPE

LANGUAGE OF INSTRUCTION :

ENGLISH SPANISH

YES NO BASIC

YES NO MANAGEMENT

YES NO BOTH

YES NO ON SALE

YES NO OFF SALE

YES NO OTHER

IF TRAINEE IS EMPLOYED BY A LICENSEE:

NAME OF THE LICENSEE

BUSINESS NAME

LIQUOR LICENSE NUMBER

ALCOHOL TRAINING PROGRAM PROVIDER INFORMATION

Bartending Academy

Company or Individual Name

5135 W. Thunderbird Rd.

Address

Glendale, Arizona 85306 602-548-1300

City

State

Zip

Phone

I Certify the above named individual has successfully completed the specified program(s).

Dwayne Crissey

Trainer Name (Print)

[Handwritten Signature]
Trainer Signature

3-9-07
Date

Trainer give original of completed form to trainee, photocopy and maintain completed document for your records.

Mandatory Liquor Law Training for all new applications submitted after Nov. 1, 1997. A.R.S. Section 4-112(G)(2).
Completion of the Liquor License Training Courses is required at the issuance of a license.

The person(s) required to attend both the Basic Liquor Law and Management Training, (either on-sale or off-sale), will include all of the following :
owner(s), licensee/agent or manager(s) **WHO ARE ACTIVELY INVOLVED IN THE DAY TO DAY OPERATION OF THE BUSINESS.**
Proof of attendance within the last five years for the required courses must be submitted to the Department before the license application is considered complete.

Before acceptance of a Manager's Questionnaire and/or Agent Change for an existing license, proof of attendance for the Basic Liquor Law and Management Training (either on-sale or off-sale) will be required.

AZ CORPORATION COMMISSION
FILED

09 MAR 24 11:41 AM '09



FEB 27 2009

FILE NO. L-1508977-7

DO NOT WRITE ABOVE THIS LINE, FOR ACC USE ONLY

ARTICLES OF ORGANIZATION

DO NOT FURNISH THIS SECTION
NOTE: A professional limited liability company is an LLC organized for the purpose of rendering one or more categories of professional services. Professional services are defined as a service that may be lawfully rendered only by a person licensed in this state to render the service.

1. The LLC name must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "L.C.", "LLC", or "LC". The Professional LLC name must contain the words "professional limited liability company" or the abbreviation "P.L.L.C.", "P.L.C.", "PLLC", or "PLC."

2. Must be an Arizona address. Do NOT LEAVE THIS SECTION BLANK.

3. If the statutory agent has a PO BOX then they must also provide a physical address by description of the location.

The agent must sign the articles or provide written consent to acceptance of the appointment.

Select one. This form may be used for:

ARIZONA LIMITED LIABILITY COMPANY (A.R.S. §29-832)

ARIZONA PROFESSIONAL LIMITED LIABILITY COMPANY (A.R.S. §29-841.01)

1. The name of the organization:

A. _____
 LLC Reserve Reservation File Number (if one has been obtained). If not, leave this line blank.

B. TLC 1906 LLC
 Limited Liability Company Name

2. Known place of business in Arizona (if address is the same as the street address of the statutory agent, write "same as statutory agent". DO NOT LEAVE THIS SECTION BLANK)

Address 965 E. VAN RUDEN # 124-125

City AVONDALE State AZ Zip 85323

3. The name and street address of the statutory agent in Arizona

Name TRACY L. CUSTAR

Acceptance of Appointment by Statutory Agent:
 I, TRACY L. CUSTAR, having been designated to act as
 (Print Name of the Statutory Agent)
 Statutory Agent, hereby consent to act in that capacity until notified or resignation is submitted in accordance with the Arizona Revised Statutes.

Agent Signature: _____

If signing on behalf of a company, please print the company name here.

LL-0004
Rev. 06/2008

Page 3 of 4

Arizona Corporation Commission
Corporations Division

09 MAR 24 10:02 AM '02

DO NOT FOLD HERE

THIS SECTION

4. Only required for professional limited liability company. The purpose must state the professional service or services that the company is organized to perform. Professional service is defined as a service that may be legally restricted only to persons licensed to perform the service.

5. The latest date, if any, on which the company must dissolve.

If a dissolution date should include the month, day and year. Perpetual means continuing forever or indefinitely.

6. Check which structure will be applicable to your company. Provide name, title and address for each person.

6A. If reserved to the member(s), check the member's box and provide the member's name, title and address for each member. If reserved to the manager(s) you must list any manager.

6B. If reserved to manager(s) check the manager's box and provide the name, title and address (or) of each manager and each member who owns a twenty (20%) percent or greater interest in the capital or profits of the LLC/PLLC.

The person(s) executing this document need not be a manager or member of the company.

4. Purpose of this (Professional) Limited Liability Company is to provide the following (professional) service(s): (Only required for a Professional LLC Company)

Empty box for purpose of the company.

5. Dissolution: The latest date of Dissolution

The latest date to dissolve: ___/___/___ (Please enter month, day and four digit year)
 The Limited Liability Company is Perpetual

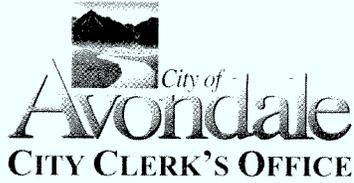
6. Management Structure: (Check one box only) A.R.S. §20-822(B)

A. RESERVED TO THE MEMBER(S)
IF RESERVED TO THE MEMBER(S), YOU MAY SELECT ONLY THE MEMBER BOX FOR EACH MEMBER LISTED.
B. VESTED IN MANAGER(S)
IF VESTED IN THE MANAGER(S), ALL LISTED MANAGER(S) BELOW MUST HAVE THE MANAGER BOX CHECKED.
Name: TRACY L. CUSTAR Name: _____
 Member Manager (only if "B" is selected above) Member Manager (only if "B" is selected above)
City: _____ State: _____ Zip: _____
Name: _____ Name: _____
 Member Manager (only if "B" is selected above) Member Manager (only if "B" is selected above)
Address: _____ Address: _____
City: _____ State: _____ Zip: _____ City: _____ State: _____ Zip: _____
IF YOU NEED MORE SPACE FOR LISTING MANAGER(S) PLEASE ATTACH THE ADDITIONAL PAGE TO THE BOTTOM OF THIS DOCUMENT.

Executed this 27 day of FEBRUARY, 2009.
Executed by: [Signature] Print Name: TRACY L. CUSTAR
If signing on behalf of a company, please print the company name here.

Phone Number: _____ Fax Number: _____

LL-30004
Rev. 08/2008



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT

APPLICANT'S NAME: TRACY CUSTAR

BUSINESS NAME: SCREWBALLS WINGS PIZZA & THINGS

ADDRESS: 965 EAST VAN BUREN STREET #124-125

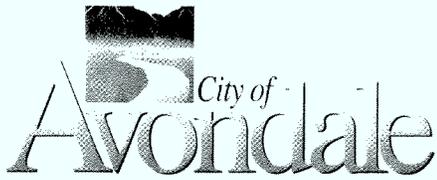
CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

APPROVED *Jim Moran* 4/14/2009
 DENIED SIGNATURE DATE
Planner II TITLE

APPROVED *Brian* 4/15/09
 DENIED SIGNATURE DATE
DEVELOPMENT SERVICES DIR TITLE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 4, 2009
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 14, 2009



DEVELOPMENT SERVICES

MEMORANDUM

DATE: April 14, 2009

TO: Carmen Martinez, City Clerk

PREPARED BY: Eric Morgan, Planner II

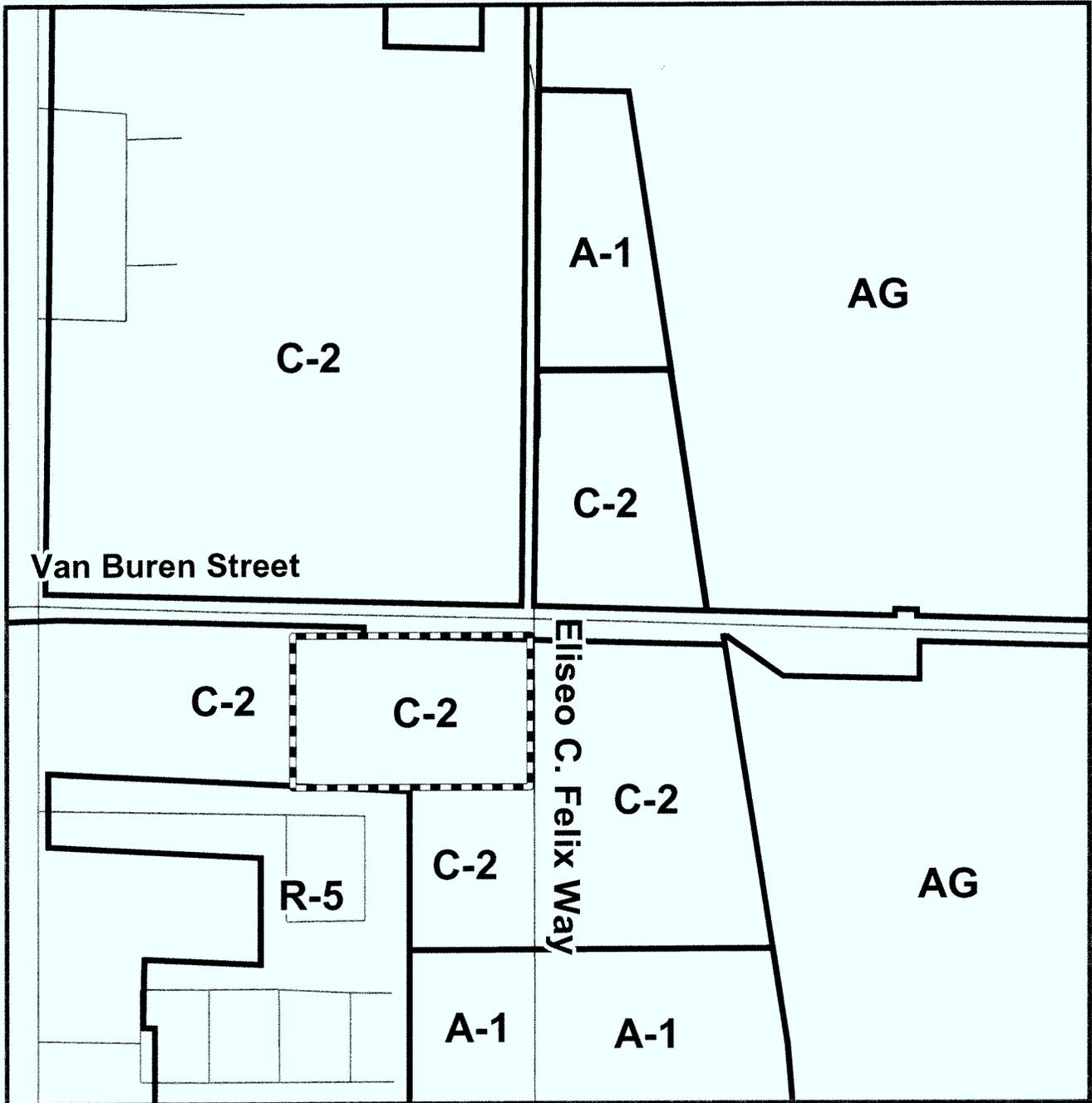
SUBJECT: Series 16 (State Series 12) Liquor License for Screwballs Wings, Pizza & Things
965 E Van Buren St, Ste 124-125

The site is generally located at the southwest corner of Dysart Road and Eliseo C. Felix Jr Way within the Fabric Depot shopping center. The building is existing.

A Series 16 (State Series 12) liquor license is exempt from the 300 foot separation requirement from a church, school, or fenced school recreational area.

The General Plan designates the property as employment. The subject property is zoned Community Commercial District (C-2). A restaurant is a permitted use within the C-2 zoning district.

Attachment: Aerial Photography
Zoning Vicinity Map



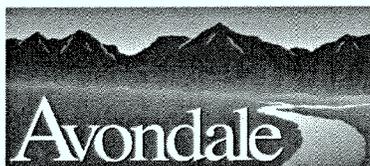
Zoning Vicinity Map



Fabric Depot Shopping Center

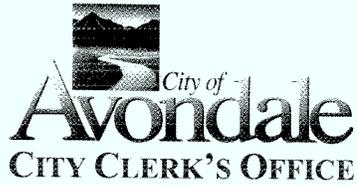


2008 Aerial Photograph



Subject Property





DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT

APPLICANT'S NAME: TRACY CUSTAR

BUSINESS NAME: SCREWBALLS WINGS PIZZA & THINGS

ADDRESS: 965 EAST VAN BUREN STREET #124-125

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

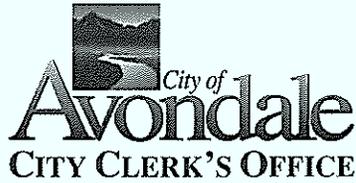
DEPARTMENTAL COMMENTS:

- APPROVED
- DENIED

Jose Y. Gomez
SIGNATURE
Fire Inspector
TITLE

4/7/09
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 4, 2009
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 14, 2009



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT

APPLICANT'S NAME: TRACY CUSTAR

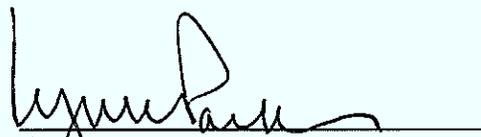
BUSINESS NAME: SCREWBALLS WINGS PIZZA & THINGS

ADDRESS: 965 EAST VAN BUREN STREET #124-125

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

- APPROVED
- DENIED



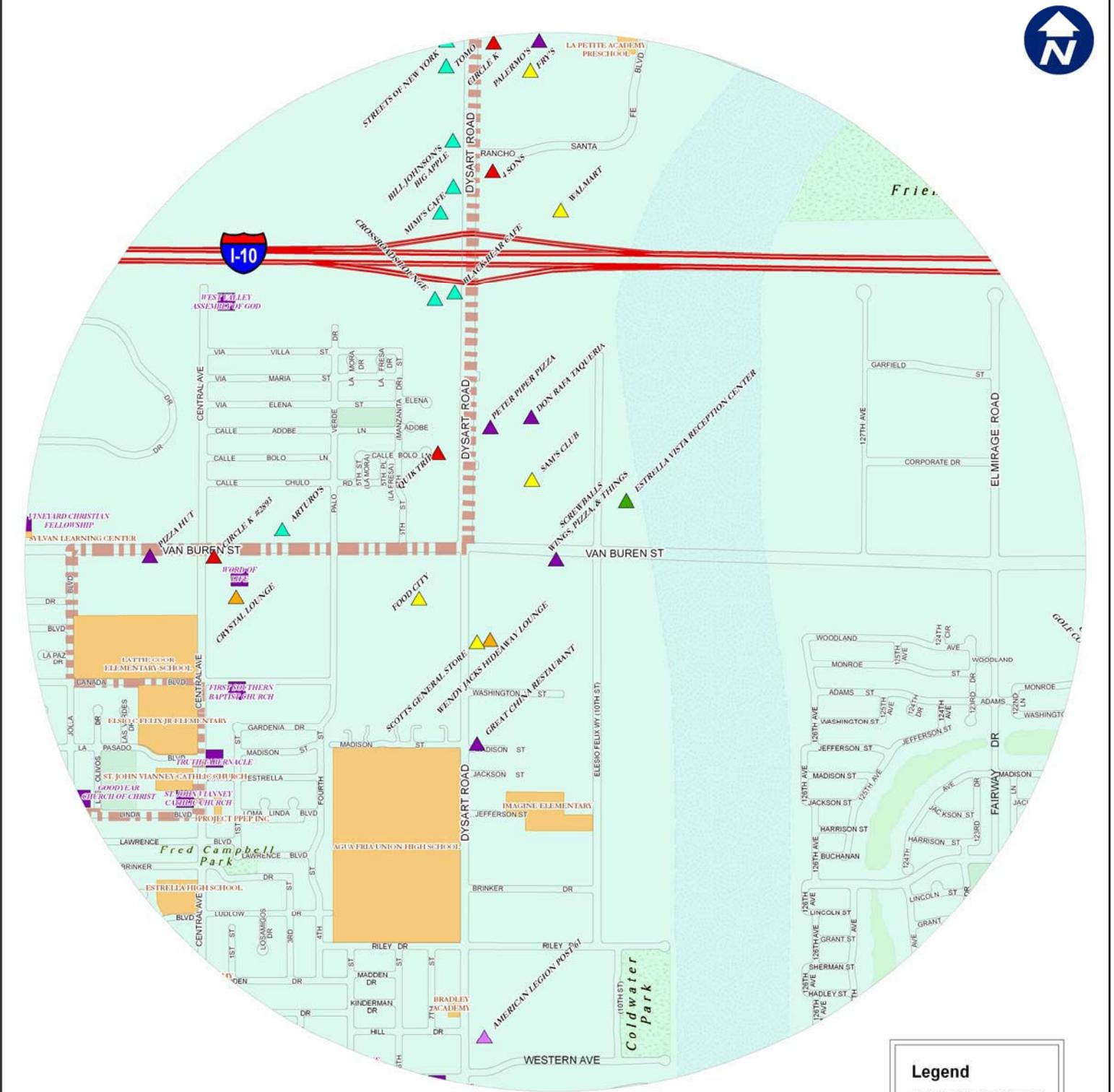
SIGNATURE
Assistant Chief of Police

TITLE

040709

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MAY 4, 2009
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: APRIL 14, 2009



Legend

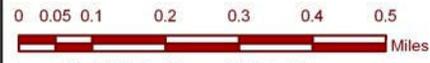
PLACES OF WORSHIP

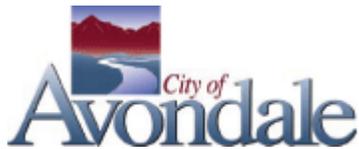
- CHURCH (Purple square)

LIQUOR LICENSE

- SERIES 6 (Yellow triangle)
- SERIES 7 (Green triangle)
- SERIES 9 (Light yellow triangle)
- SERIES 10 (Red triangle)
- SERIES 12 (Cyan triangle)
- SERIES 14 (Light purple triangle)
- SERIES 16 (Dark purple triangle)
- SCHOOLS (Orange square)

**SCREWBALLS
WINGS, PIZZA, & THINGS
965 W Van Buren St
1 Mile Buffer**





CITY COUNCIL REPORT

SUBJECT:
Approval of an Identity Theft Prevention Program

MEETING DATE:
May 4, 2009

TO: Mayor and Council
FROM: Kevin Artz, Finance and Budget Director (693)333-2011
THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve an Identity Theft Prevention Program, in compliance with Part 681 of Title 16 of the Code of Federal Regulation.

BACKGROUND:

Part 681 of Title 16 of the Code of Federal Regulations requires that a utility provider must establish a written identity theft prevention program, and the written program must be approved by the governing body.

The elements of the program must include the following:

1. Identify relevant red flags
2. Detect the red flags that have been incorporated into the program
3. Respond appropriately to any red flags that are detected
4. Ensure the Program is updated periodically, to reflect changes in risks

DISCUSSION:

In conformance with Federal regulations, the City of Avondale has established a written Identity Theft Prevention Program. The City's Program contains the mandatory elements required by Federal regulations. The Program is designed to help detect, prevent and mitigate identity theft in connection with opening a utility account with the City of Avondale.

City staff will monitor the program and periodically update the Program as necessary.

RECOMMENDATION:

Staff recommends that the City Council approve the City's Identity Theft Prevention Program, in compliance with Part 681 of Title 16 of the Code of Federal Regulation.

ATTACHMENTS:

Click to download

[Identity Theft Prevention Program](#)

CITY OF AVONDALE

IDENTITY THEFT PREVENTION PROGRAM

I. PURPOSE

The purpose of this Identity Theft Prevention Program (the “Program”) is to help detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003.

II. DEFINITIONS

A. Covered account means:

1. An account that the City offers or maintains, primarily for personal, family, or household purposes that involves or is designed to permit multiple payments or transactions including, primarily, utility accounts.
2. Any other account that the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from identity theft, including financial, operational, compliance, reputation or litigation risks.

B. Credit means the right granted by the City to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase services and defer payment therefor.

C. Entity or Personal Identifying information shall have the meanings as set forth in A.R.S. § 13-2001(4) and (10).

D. Identity theft means fraud committed or attempted using the identifying information of another person without authority.

E. Red Flag means a pattern, practice or specific activity that indicates the possible existence of identity theft.

III. PROGRAM CREATION

The Program is hereby created to detect, prevent and mitigate identity theft. The Program is designed to accomplish the following:

- A. Identify relevant Red Flags for covered accounts and incorporate those Red Flags into the Program.

- B. Detect Red Flags that have been incorporated into the Program.
- C. Respond appropriately to any Red Flags that are detected to prevent and mitigate identity theft.
- D. Ensure the Program is updated periodically to reflect changes in risks to customers and to the safety and soundness of the City from identity theft.

IV. **IDENTIFICATION OF RELEVANT RED FLAGS**

The identification of relevant Red Flags is based on the types of accounts the City offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts and its previous experience with identify theft. The following Red Flags are identified, for each of the listed categories:

A. **Notifications and Warnings from Credit Reporting Agencies**

1. Report of fraud accompanying a credit report.
2. Notice or report from a credit agency of a credit freeze on a customer or applicant.
3. Notice or report from a credit agency of an active duty alert for an applicant.
4. Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

B. **Suspicious Documents**

1. Identification document or card that appears to be forged, altered or inauthentic.
2. Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document.
3. Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged).
4. Application for service that appears to have been altered or forged.

C. Suspicious Personal Identifying Information

1. Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates).
2. Identifying information presented that is inconsistent with other sources of information (example: an address not matching an address on the credit report).
3. Identifying information presented that is the same as information shown on other applications that were found to be fraudulent.
4. Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address).
5. Social Security number presented that is the same as one given by another customer.
6. An address or phone number presented that is the same as that of another person.
7. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers may not be required).
8. A person's identifying information is not consistent with the information that is on file for the customer.

D. Suspicious Account Activity or Unusual Use of Account

1. Change of address for an account followed by a request to change the account holder's name.
2. Payments stop on an otherwise consistently up-to-date account.
3. Account used in a way that is not consistent with prior use (example: very high activity).
4. Mail sent to the account holder is repeatedly returned as undeliverable.
5. Notice to the City that a customer is not receiving mail sent by the locality.
6. Notice to the City that an account has unauthorized activity.

7. Breach in the City computer system security.
8. Unauthorized access to or use of customer account information
9. Occurrence of any transaction with respect to any account that has been inactive for two years.

E. Alerts from Others

Notice to the City from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

V. DETECTION OF RED FLAGS

A. New Accounts

In order to help detect any of the Red Flags identified above associated with the opening of a new account, the City staff shall take the following steps, as applicable, to obtain and verify the identity of the person opening the account:

1. Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification.
2. Verify the customer's identity (example: review a driver's license or other identification card).
3. Review documentation showing the existence of a business entity.
4. Independently contact the customer.

B. Existing Accounts

In order to help detect any of the Red Flags identified above for an existing account, the City staff shall take the following steps, as applicable, to monitor transactions with an account:

1. Verify the identification of customers if they request information, whether in person, via telephone, via facsimile or via e-mail.
2. Verify the validity of requests to change billing addresses.
3. Verify changes in banking information given for billing and payment purposes.

C. Inactive Accounts

In order to help detect any of the Red Flags identified above for an inactive account, the City shall take any of the foregoing steps identified in subsections (a) and (b), or any combination thereof, which are reasonably necessary to detect, respond to and mitigate or prevent possible instances of identity theft.

VI. RESPONSE TO SUSPECTED IDENTITY THEFT

A. Precautionary Measures

In order to prevent the likelihood of identity theft occurring with respect to utility accounts, the City will take the following steps, as applicable, with respect to its internal operating procedures to protect customer identifying information:

1. The City shall restrict its own use of personal identifying information in accordance with A.R.S. § 44-1373.
2. In the event that City staff detect any identified Red Flags, the staff shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:
 - a. Continue to monitor an account for evidence of identify theft.
 - b. Contact the customer.
 - c. Change any passwords or other security devices that permit access to accounts.
 - d. Not open a new account.
 - e. Close an existing account.
 - f. Reopen an account with a new number.
 - g. Notify the Program administrator for determination of the appropriate step(s) to take.
 - h. Notify law enforcement.
 - i. Determine that no response is warranted under the particular circumstances.

B. Additional measures

In order to further prevent the likelihood of identity theft occurring with respect to utility accounts, the City will take the following steps, as applicable, with respect to its internal operating procedures to protect customer identifying information:

1. Ensure that its website is secure or provide clear notice that the website is not secure.
2. Ensure complete and secure destruction of paper documents and computer files containing customer information.
3. Ensure that the office computers are password protected and that computer screens lock after a set period of time.
4. Keep offices clear of papers containing customer information.
5. Request only the last 4 digits of social security numbers (if any).
6. Ensure computer virus protection is up to date.
7. Require and keep only the kinds of customer information that are necessary for utility purposes.
8. Dispose of or discard records containing personal identifying information in accordance with A.R.S. § 44-7601 and the City's own procedures consistent therewith.
9. All City employees and all employees of any third-party provider or independent contractor who have access to the City's covered accounts may be required to sign confidentiality agreements describing the City's commitment, policies, and requirements related to protecting customer information.

VII. UPDATING THE PROGRAM

The Program shall be updated periodically to reflect changes in risks to customers or to the safety and soundness of the City from identity theft based on factors such as:

- A. The experiences of the City with identity theft
- B. Changes in methods of identity theft
- C. Changes in methods to detect, prevent and mitigate identity theft

- D. Changes in the types of accounts that the City offers or maintains
- E. Changes in the business arrangements of the City, including service provider arrangements.

VIII. ADMINISTRATION OF PROGRAM

- A. The City Manager, or designee, shall be responsible for the development, implementation, oversight and continued administration of the Program.
- B. The Program shall train staff, as necessary, to effectively implement the Program.
- C. The Program shall exercise appropriate and effective oversight of service provider arrangements.

IX. OVERSIGHT OF THE PROGRAM

A. Oversight of the Program

Oversight shall include:

- 1. Review of reports prepared by staff regarding compliance.
- 2. Approval of material changes to the Program as necessary to address changing risks of identity theft.

B. Reports

Reports shall be prepared as follows:

- 1. Staff responsible for development, implementation and administration of the Program shall report to the City Manager, or designee, at least annually on compliance with the Program.
- 2. The report shall address material matters related to the Program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts.
 - b. Service provider agreements, if any.
 - c. Significant incidents involving identity theft and the City response.
 - d. Recommendations for material changes to the Program.

X. OVERSIGHT OF SERVICE PROVIDER ARRANGEMENTS

In the event the City engages a service provider to perform an activity in connection with one or more accounts, it will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft:

- A. Require, by contract, that service providers have such policies and procedures in place.
- B. Require, by contract, that service providers review the City Program and report any red fags to the Program administrator.

XI. DUTIES REGARDING ADDRESS DISCREPANCIES

A. Address Verification

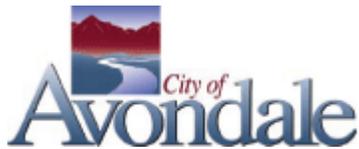
In the event the City receives a notice of address discrepancy from a nationwide consumer reporting agency indicating the address given by the consumer differs from the address contained in the consumer report, the City shall reasonably confirm that an address is accurate by any of the following means:

- 1. Verification of the address with the consumer.
- 2. Review of the utility's records.
- 3. Verification of the address through third-party sources.
- 4. Other reasonable means.

B. Address Furnished to Reporting Agency

If an accurate address is confirmed, the City shall furnish the consumer's address to the nationwide consumer reporting agency from which it received the notice of address discrepancy if:

- 1. The City establishes a continuing relationship with the consumer; and
- 2. The City, regularly and in the ordinary course of business, furnishes information to the consumer reporting agency.



CITY COUNCIL REPORT

SUBJECT:

Resolution 2823-509 - Authorizing Application for Transportation Enhancement Funds – Agua Fria Underpass

MEETING DATE:

May 4, 2009

TO: Mayor and Council

FROM: Janeen Gaskins, Grants Administrator (623)333-1025

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing the submittal of an application for Transportation Enhancement Funds for the Agua Fria Underpass Crossing in the amount of \$430,219.

BACKGROUND:

On October 30, 2006, the City of Avondale received a Design Assistance Grant for \$75,000 to provide the design for an alternative pedestrian crossing that would avoid the usage of McDowell Road. The consulting firm provided the city with three options. The preferred alternative suggested an underpass that would connect Friendship Park and the Future Environmental Park along the Agua Fria Levee. Avondale requested funding to support the construction of this project in 2008. The grant was denied due to a lack of funding.

DISCUSSION:

The City of Avondale would like to submit a new grant application for Transportation Enhancement Funds that will provide for the construction of the above mentioned preferred design. This project falls in line with the City Councils 2009-2010 Goals for optimizing multi-modal transportation and traffic flow in the community. This project would provide an alternative transportation pathway that would link recreation, and commercial/industrial sites.

This new type of corridor encourages the avid sportsman and the working poor to utilize alternative modes of transportation to reach their destinations. This project is appealing because it is safe and supports connections to places of work and to recreational parks. It will also provide a link to various commercial/industrial sites such as Wal-Mart, medical offices, commercial centers and schools.

The project will include the following elements:

- A 12-15 foot pathway that is 400 feet long and has an 8 foot clearance
- Handrails with an artistic element
- LED lighting to provide for safety
- Trash receptacles
- Art work along the internal wall
- An information Kiosk
- A resting node with benches

BUDGETARY IMPACT:

The estimated cost of the project is \$430,219 and the City match requirement is 5.7%. The City of

Avondale will provide the match from the Park Trails Budget. The matching amount would be \$26,000. If awarded the project would take three years to complete. The Parks Division will include the facility in their maintenance schedule.

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution authorizing the submittal of an application for Transportation Enhancement Funds for the Agua Fria Underpass Crossing in the amount of \$430,219.

ATTACHMENTS:

Click to download

 [Resoltuion 2823-509](#)

RESOLUTION NO. 2823-509

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR GRANT CONSIDERATION BY THE ARIZONA DEPARTMENT OF TRANSPORTATION AND THE MARICOPA ASSOCIATION OF GOVERNMENTS RELATING TO FREEWAY UNDERPASS CROSSING CONSTRUCTION.

WHEREAS, the Arizona Transportation Enhancement Program (“ATEP”), sponsored by the Arizona Department of Transportation in connection with the Maricopa Association of Governments, is seeking proposals from state and local agencies for projects relating to all aspects of transportation enhancement; and

WHEREAS, the Council of the City of Avondale (the “City Council”) desires to submit a project to be considered by ATEP for funding in the form of a reimbursable grant; and

WHEREAS, the ATEP procedures require that the City Council certify, by resolution, (i) its approval of submission of a revised application for grant funds in support of the City of Avondale Agua Fria Underpass Crossing Project (the “Project”) from ATEP (the “Application”), (ii) the availability of matching funds, including any overmatch that may be required, (iii) commitment that the Project will be ready for advertisement within three years, (iv) a commitment to pay for all cost overruns related to the Project and (v) a commitment to reimburse the Arizona Department of Transportation/Federal Highway Administration for all federal fund used in the event the Project is canceled by the City of Avondale.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That the City Council hereby (i) approves the submission of the Application to be considered by ATEP for funding in the form of a reimbursable grant and (ii) has identified available matching funds totaling 5.7% of the total grant amount and any overmatch required, (iii) commits to ensuring that the Project will be ready for advertisement within three years, (iv) authorizes payment for any cost overruns associated with the Project and (v) agrees to reimburse the Arizona Department of Transportation/Federal Highway Administration for all federal funds used in the event the Project is canceled by the City of Avondale.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit all documents and any other necessary or desirable instruments in connection with the Application and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

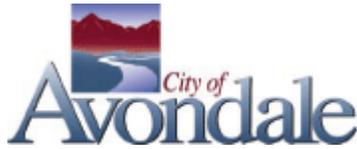
Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney



CITY COUNCIL REPORT

SUBJECT:

Resolution 2824-509 - Green Friday Schedule
for the Avondale City Court

MEETING DATE:

May 4, 2009

TO: Mayor and Council

FROM: Abril Ruiz-Ortega, Court Administrator (623) 333-5822

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a resolution establishing a Green Friday schedule and setting court hours effective June 29, 2009.

DISCUSSION:

The purpose of this agenda item is to request City Council approval of a resolution establishing a Green Friday schedule setting Avondale City Court hours Monday through Thursday (7 a.m. to 6 p.m.), beginning June 29th, 2009.

The Avondale City Court will test the new schedule throughout the summer months, and provide feedback to the City Council in October. The new schedule will be evaluated on its impact to residents and employees; cost savings in energy consumption, and its effectiveness in providing customer service.

Any impact of a Friday closure on customers will be closely monitored. Court staff will be evaluating operations to ensure services are provided in a timely and efficient manner.

RECOMMENDATION:

Staff recommends that City Council approve a resolution establishing a Green Friday schedule for the City Court. The Court will be closed on Friday in exchange for extended hours Monday through Thursday (7 a.m. to 6 p.m.), beginning June 29th, 2009.

ATTACHMENTS:

Click to download

 [Resolution 2824-509](#)

RESOLUTION NO. 2824-509

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ESTABLISHING A GREEN FRIDAY SCHEDULE FOR THE AVONDALE CITY COURT.

WHEREAS, the Council of the City of Avondale (the “City Council”) has determined that it is in the best interests of the citizens of the City of Avondale to establish an environmentally responsible schedule (the “Green Friday Schedule”) for municipal facilities and services whenever practicable; and

WHEREAS, the City Council desires to adopt a Green Friday Schedule for the City of Avondale City Court (the “City Court”).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That the City Council hereby approves the Green Friday Schedule for the City Court as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

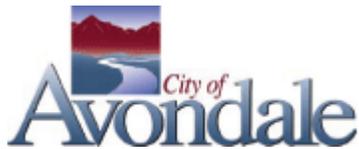
APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2824-509

The City of Avondale City Court, Maricopa County, State of Arizona
Green Friday Schedule
Effective June 29, 2009

Open: Monday through Thursday (7 a.m. to 6 p.m.), excluding legal holidays.
Closed: Friday through Sunday.



CITY COUNCIL REPORT

SUBJECT:

Resolution 2822-509 - IGA with the City of Glendale - 800 MHZ Radio System

MEETING DATE:

May 4, 2009

TO: Mayor and Council
FROM: Kevin Kotsur, Chief of Police (623)333-7201
THROUGH: Charlie McClendon, City Manager

PURPOSE:

The purpose of this request is for Council to consider an IGA between the City of Avondale and the City of Glendale to add Avondale Police radio communications to Glendale's current radio system.

BACKGROUND:

In June, 2006 the Avondale Police Department entered an IGA with Maricopa County to provide police radio services using their 800 MHZ system. While this system met our initial workload demands, increased growth and workload outpaced the ability of this system. The Maricopa County system was built to support primarily a mobile police radio system rather than a portable radio system. As a result coverage and capacity was eventually maximized and an alternative system is needed to meet the needs of the Avondale Police Department.

The City of Avondale has been utilizing the Glendale 800 MHZ radio system on a trial basis for the past six months. During this trial the level of coverage and quality of radio transmissions has improved when compared to the existing partnership with Maricopa County.

DISCUSSION:

Currently the Police Department has \$72,500 allocated for the annual user fee to partner with Maricopa County to utilize their existing police radio system. This fee covers the use of their system and technical support for portable radios and radio consoles used by police communications personnel. The IGA between Glendale and Avondale will result in an increase in annual fees as follows:

- Annual recurring fee to partner with Glendale for police communications - \$108,200
- Annual recurring fee to provide service to police portable radios and consoles - \$30,366
- One time fee of \$65,000 to transition communications lines and hardware from MCSO to Glendale PD.

The transition to the Glendale system provides improved police radio communication capacity, enhanced system functionality and improved transmission quality. The additional recurring funds required (\$64,366) will be funded in the FY09-10 budget.

BUDGETARY IMPACT:

Ongoing Costs:

- \$108,200 - Glendale PD starting Fiscal Year 09/10
- \$30,366 - Maintenance Costs starting fiscal year 09/10
- Total ongoing increase requested - \$138,566 less existing allocation (\$72,500) = \$66,066

One time costs:

- Approximately \$65,000 to Motorola for transition to Glendale

All of the above costs will be incurred by the City of Avondale effective July 1, 2009, and have been included in the City Manager's recommended budget for FY 09-10.

RECOMMENDATION:

Staff recommends that City Council adopt a Resolution approving an IGA between the City of Avondale and the City of Glendale to add Avondale Police radio communications to Glendale's current radio system.

ATTACHMENTS:

Click to download

 [Resolution 2822-509](#)

RESOLUTION NO. 2822-509

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GLENDALE RELATING TO THE USE OF THE SMARTZONE® INFRASTRUCTURE SYSTEM.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That the intergovernmental agreement with the City of Glendale relating to the use of the SmartZone® Infrastructure System (the “Agreement”) is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2822-509

[Intergovernmental Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT BETWEEN
CITY OF GLENDALE AND CITY OF AVONDALE**

This Intergovernmental Agreement (“Agreement”) is entered into between the City of Glendale, Arizona, a municipal corporation, “Glendale”, acting through the Glendale Police Department, “GPD”, and the City of Avondale, Arizona, a municipal corporation, “Avondale”, acting through the Avondale Police Department, “APD”. (Glendale and Avondale are referred to herein individually as a “Party” and collectively as the “Parties”).

WHEREAS, the City of Avondale desires to use the Glendale SmartZone® Infrastructure System; and

WHEREAS, the Parties desire to acknowledge that the QWEST Demarc it is the point at which the two systems are joined;

THEREFORE, the Parties agree:

I. Purpose

The purpose of this Agreement is to enable Avondale to contract with Glendale for use of the SmartZone® Infrastructure System.

II. Authority

Avondale and Glendale have authority to enter into this Agreement pursuant to A.R.S. § 11-952.

III. Definitions and Terms

A. “Access equipment” means the necessary equipment needed to interface a Motorola CENTRACOM Console to access the SmartZone® Infrastructure System. (i.e. equipment in the radio equipment room and the telephone room at GPD) Access equipment does not include towers and tower sites.

B. "Dead spot" means the area where service is not available or is unreliable. A dead spot is usually caused by hilly terrain and not being within a "line of sight" to the radio site supporting the radio. It can also occur in tunnels, heavily reinforced structures, and indoor parking garages. Excessive foliage or electronic interference can also cause dead spots.

C. "Fiscal year" or "FY" means from July 1st through June 30th. On the effective date of this Agreement, both Avondale and Glendale have the same Fiscal Year.

D. "Shall" means mandatory.

E. "SmartZone® Infrastructure System" refers to the Glendale 700/800 MHz communication network. SmartZone® is a registered trademark of Motorola.

F. "QWEST Demarc" means the boundary or demarcation between the carrier equipment and the customer purchased equipment. In this case, the carrier equipment is QWEST, and the customer purchased equipment is the SmartZone® Infrastructure System.

G. "A.R.S." means Arizona Revised Statute.

H. Anything stated in the singular includes the plural.

IV. Duration of Agreement, Effective Date

A. This Agreement shall become effective upon the execution of three (3) originals by each of the Parties. The agreement may be signed in counterpart.

B. This Agreement is for five (5) years with an unlimited number of five (5) year renewals at the end of every fifth year, after approval from the Councils of both Glendale and Avondale, unless otherwise terminated by either party.

V. Glendale's Responsibilities

A. SmartZone® Access Equipment:

1. Glendale agrees to allow Avondale use of the SmartZone® Infrastructure System.

2. Access equipment is that equipment which allows Avondale, acting through its APD, to use the Glendale SmartZone® Infrastructure System. It shall be purchased, installed and upgraded by Avondale using Motorola where necessary. APD shall maintain and replace all equipment required to transport data (e.g., T1 circuits). Other than the data transport equipment, if the Access equipment is installed on Glendale property then GPD shall maintain the Access equipment; otherwise APD shall maintain and replace the Access equipment. Access equipment on Avondale's property shall remain the property of Avondale. If after the termination of this Agreement, Glendale requires the use of the Access equipment because it cannot be uninstalled by Motorola as Avondale's agent, without affecting or degrading Glendale's SmartZone® Infrastructure System, Avondale and Glendale will enter into a separate License Agreement to determine the rights and responsibilities of each Party. GPD shall approve any system upgrades or additional equipment, but shall notify APD prior to installation.

3. GPD shall notify APD prior to commencing any work on the SmartZone® system that might impact the systems operation.

4. Glendale is not responsible for programming the radios. The radios will be programmed into the system upon the effective date of this Agreement or the agreed upon date of deployment.

B. Telecommunication Services GPD will provide APD under this Agreement are as follows:

1. Radio Elements included:

- a) Quarterly reporting and invoicing; and
- b) Coordination of 'owner requested' factory upgrades (upgrades that are requested by APD, but not by GPD).

2. Infrastructure Elements included assistance and/or coordination with:

- a) Licensing maintenance, liaison engineering;
- b) System expansion;
- c) System maintenance, diagnostics and testing;
- d) On-going monitoring agreements;

- e) Utilities; and
- f) Site rent.

3. On-site Maintenance Agreement

Standard maintenance of system and preventative maintenance and testing procedures are required to maintain the operability of the network.

4. Dead Spots

Upon adoption of this Agreement, APD will pay the expenses necessary to identify and eliminate Dead spots. GPD will cooperate with APD in identifying and eliminating these Dead spots.

- C. Budget. Should there be a need for expansion, repair or replacement in the SmartZone® Infrastructure System Glendale will provide Avondale with sufficient notice for Avondale to consider including those costs in their next fiscal year budget.

VI. Avondale's Responsibilities

A. SmartZone® Infrastructure System:

1. Avondale agrees to purchase any equipment needed by Glendale to provide access for APD radios to the SmartZone® Infrastructure System.
2. Avondale shall have its Systems Security Officer approve any reasonably-proposed upgrades to the radio equipment used by APD. APD agrees to properly maintain the radios that access the SmartZone® Infrastructure System.

3. Avondale will ensure the following procedure is complied with whenever a partial or full system telecommunications failure occurs on any communications equipment used by APD. APD will ensure their own telecommunications Infrastructure System is fully operational and verify their equipment did not cause or contribute to the failure. If APD's own radio network contributed to the failure, APD will correct the error or failure. Upon completion of either the verification or correction, APD will then notify GPD of the results.

4. Avondale agrees to utilize the radio system, as currently configured by Glendale, to support necessary radio communications. If there is a degradation in service quality due to increased urban growth and other technical factors that can reduce existing radio system performance, APD and GPD will work together to decide on a technical solution to improve performance or identify the best operational use of the system.

5. **Indemnification**

To the extent permitted by law, neither Glendale, GPD, its officers and employees, shall be deemed to assume any liability in the event of a SmartZone® System Infrastructure failure; and Avondale and APD shall hold Glendale and GPD officers and employees harmless from, and shall defend Glendale and GPD officers and employees against any claim for damages resulting from such failure or any other event arising under this Agreement.

VII. Insurance.

A. Avondale agrees to provide for its financial responsibilities with respect to liability arising out of this Agreement through either the purchase of insurance or the provision of the self-funded insurance program.

B. Glendale and Avondale agree that they are not joint employers for the purpose of workers compensation coverage and that any employee assigned to perform any work for this Agreement shall remain an employee of such Party. To the extent that employees one Party performs duties on behalf of another Party, such employee shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws.

The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-1022 in substantially the following form:

“All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of worker's compensation.”

VIII. Relationship of the Parties.

It is clearly understood that each Party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.

IX. Amount of Agreement; Payment; Invoicing Procedures

A. Avondale shall pay Glendale an annual total of \$108,200 for the use of the SmartZone® Infrastructure System. Any increase in this amount must be mutually agreed upon by Avondale and Glendale.

1. Avondale's annual total listed above is based on Avondale's usage not to exceed 10% of the SmartZone® Infrastructure System.

B. Glendale will bill Avondale on a quarterly basis for the use of Glendale's SmartZone® Infrastructure System.

X. Continuation Subject to Appropriation

The performance by each Party to this Agreement of its obligations under the Agreement is subject to actual availability of funds appropriated by each Party for such purposes. Each Party to the Agreement shall be the sole judge and authority in determining the availability of funds under the Agreement and each Party shall keep the other Party fully informed as to the availability of funds for its obligations. The obligation of each Party to fund any obligation pursuant to the Agreement is a current expense of such Party, payable exclusively from such annual appropriations, and is not a general

obligation or indebtedness of the Party. If the Council of a Party fails to appropriate money sufficient to meet its obligations as set forth in the Agreement during any immediately succeeding Fiscal Year, the Agreement shall terminate with respect to that Party at the end of the then-current Fiscal Year and such Party shall thereafter be relieved of any subsequent obligation under the Agreement.

XI. Glendale's Obligations

Nothing in this Agreement is intended to relieve or relinquish or delegate any obligation or responsibility imposed upon Glendale by law.

XII. Procedure to Amend this Agreement

This Agreement may be modified only with approval from the Councils of both Glendale and Avondale. Any fully-executed amendments shall be in writing and attached to this Agreement.

XIII. Termination

Avondale may terminate this Agreement for convenience or cause by providing a written notice of termination at least thirty (30) days in advance to Glendale. Glendale may terminate this Agreement for convenience or cause by providing a written notice of termination at least one (1) year in advance to Avondale.

XIV. Cancellation

Avondale and Glendale are hereby put on notice that this Agreement is subject to cancellation for conflicts of interest, pursuant to A.R.S. § 38-511.

XV. Access to Information

Subject to statutory confidentiality requirements and public records law, APD and GPD shall have full, complete and equal access to data and information prepared under this Agreement on a no-charge basis. APD and GPD shall protect any confidential records of their own or the other Party from disclosure to the greatest extent allowed by law.

XVI. Assignment

Neither Avondale nor Glendale may assign any rights hereunder without the written, prior consent of the other Party.

XVII. Severability

The provisions of this Agreement are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Agreement. If any provision of this Agreement is found in valid, then the remainder of the Agreement shall remain in effect without the invalid provision or application.

XVIII. Applicable Law

This Agreement shall be governed by the laws of the State of Arizona and any suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

XX. Record Retention and Audit

A. Glendale and Avondale shall retain all data, books and other records ("records") relating to this Agreement for a period of five (5) years after termination of the Agreement. All records shall be subject to inspection and audit by Glendale at reasonable times. Upon request, Avondale shall produce the original of any or all such records.

B. At any time during the term of this Agreement and five (5) years thereafter, Avondale shall be subject to audit by Glendale, and where applicable, the federal government, to the extent that the books and records relate to the performance of the Agreement.

XXI. Non-Discrimination

Glendale and Avondale agree to comply with Executive Order 75-5, the Americans with Disabilities Act, and any other applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, nondiscrimination and affirmative action.

XXII. Authority

This Agreement shall not be construed to imply authority to perform any tasks, or accept any responsibility, not expressly set forth herein. This Agreement shall be strictly constructed against the creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein. This Agreement shall not be modified or extended except by written instrument adopted in accordance with the requirements for adopting a new Agreement.

XXIII. Notices

All notices, requests for payment, or other correspondence between APD and GPD regarding this Agreement shall be mailed or delivered to the respective City Manager for that public agency.

XXIV. E-verify

To the extent applicable under A.R.S. § 41-4401, each Party and its respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to its employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). Each Party has the right to inspect the papers of the other Party or its subcontractors participating in this Agreement to ensure compliance with this paragraph. A Party's or its subcontractors' breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by a non-breaching Party under the terms of this Agreement.

XXV. Sudan and Iran

Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, the Parties certify that they do not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in A.R.S. § 35-391 or 35-393, as applicable. If one Party determines that the other Party submitted a false certification, the non-breaching Party may impose remedies as provided by law including terminating this Agreement.

[SIGNATURES ON FOLLOWING PAGES]

“Glendale”
CITY OF GLENDALE, an Arizona
municipal corporation

Ed Beasley, City Manager

Date: _____

ATTEST:

Pamela Hanna, City Clerk (SEAL)

CERTIFICATION BY LEGAL COUNSEL

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorneys acknowledge that (i) they have reviewed the above Agreement on behalf of their respective clients and that (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

APPROVED AS TO FORM:

Craig Tindall, City Attorney

“Avondale”
CITY OF AVONDALE, an Arizona
municipal corporation

Marie Lopez Rogers, Mayor

Date: _____

ATTEST:

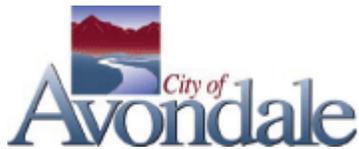
Carmen Martinez, City Clerk (SEAL)

CERTIFICATION BY LEGAL COUNSEL

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorneys acknowledge that (i) they have reviewed the above Agreement on behalf of their respective clients and that (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney



DEVELOPMENT SERVICES

SUBJECT:

Public Hearing, Resolution 2821-509 and Ordinance 1365-509 - Creation of City Center Zoning District (TA-08-15)

MEETING DATE:

May 4, 2009

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director 623-333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST: Amend the Zoning Ordinance to create the City Center Zoning District.

APPLICANT: Staff-initiated request

BACKGROUND:

On August 11, 2008, the Avondale City Council adopted the Avondale City Center Specific Plan (CCSP). The CCSP is a policy document that establishes a framework for building form, streets, recreation, and land uses for the City Center area along Avondale Blvd just south of Interstate 10 and bounded by 113th Avenue to 119th Avenue (north of Van Buren St.). The primary goal of the CCSP is to ensure the overall desired character and intensity of development is achieved and it establishes the City Center area as a first-class destination for hotels, restaurants, shopping, and high-quality housing that produces a pedestrian atmosphere of continuous activity.

In order to achieve the CCSP's vision, the plan includes guidelines for architecture, urban design and development, and land use that help make these policies a reality and complement this unique opportunity for the City. The CCSP includes an Implementation Chapter (6) that provides information and suggestions that direct Staff to create a new zoning district for the City Center, consistent with the provisions of the Specific Plan. The zoning shall include provisions for each of the land use classifications, as well as specific development guidelines and standards. Finally, the CCSP recommends the Staff "work to streamline the development review process" (Exhibit C).

SUMMARY OF REQUEST:

Staff is proposing an amendment to the City of Avondale Zoning Ordinance to form the City Center Zoning District (CCD). The CCD will be the primary instrument that will implement the land use, urban design, development, and design guidelines of the CCSP.

The proposed CCD will be placed in Section 5 (Overlay Districts) of the Zoning Ordinance. As a result of this proposal, the Overlay Districts will be moved to Section 13 (currently vacant).

PARTICIPATION:

Staff held a neighborhood meeting on February 26, 2009. Two interested parties representing two property owners within the City Center area attended the meeting. Items discussed included the development review and approval process, specific wording within the draft ordinance, and land uses allowed in the City Center Zoning District. Additionally, staff held a separate meeting with another property owner to discuss the proposed district. Items discussed included: Development guidelines within the Neighborhood Commercial Sub-District, the approval process time line for the proposed district, the relationship between the proposed district as an ordinance, the CCSP as a

policy document, and the effect of the proposed district on the conceptual street layout in the CCSP.

The Planning Division has received one letter expressing concern over the proposed district (Exhibit D). Staff has made the changes requested in numbers 1 and 2 of the letter. Staff has not made the change requested in number 3. The change would reduce or eliminate the authority of the proposed ordinance and would be contrary to the intent of the Zoning Ordinance.

A notice of the Planning Commission hearing was published in the West Valley View on March 31, 2009.

A notice of the City Council hearing was published in the West Valley View on April 14, 2009.

PLANNING COMMISSION ACTION:

At the April 16, 2009, Planning Commission meeting, the Planning Commission held a public hearing and voted 6-1 to forward a recommendation of APPROVAL for application TA-08-15.

ANALYSIS:

CCSP Goals and Objectives:

The CCSP establishes a comprehensive vision for how the City Center area should develop. In order to achieve this objective, a new zoning district needs to be created for the City Center area. The intent of the CCD is to implement the goals and objectives of the CCSP.

City Center Sub-Districts:

The CCD divides the City Center area into six Sub-Districts. The boundaries of the zoning Sub-Districts correspond directly to the Sub-Districts created in the CCSP. The six Sub-Districts are Gateway Employment, Employment Mixed-Use, Residential Mixed-Use, Neighborhood Commercial and Townhouse Residential as well as the locations of the Pedestrian Retail as shown on Fig 3-1 in the CCSP. While the CCSP did not designate Pedestrian Retail as a Sub-District (the CCSP shows these properties as part of the Employment Mixed-Use), it does include specific design and development criteria for these pedestrian areas. Due to this direction, Staff is proposing a Pedestrian Retail Sub-District for the purpose of the CCD. Please see Exhibits A and B for Sub-District boundaries in the CCSP and those that will be used in the CCD.

Each of the six Sub-Districts has proposed land uses that are listed as Permitted, Permitted with Conditions, and allowed with approval of a Conditional Use Permit.

Development and Design Guidelines:

Development Guidelines and Design Guidelines for each Sub-District are already established in Section 5 of the CCSP, such as building setback, open space, and building form. The CCD is written to incorporate those guidelines by reference.

The Development Guidelines and Design Guidelines in the CCSP were written to create the form of development envisioned by the City Council, while providing flexibility within the guidelines themselves. For example, the street setback in the Pedestrian Retail Sub-District is 0-8 feet. In order to achieve a zero front setback storefront form of development, a 0 foot setback would have been required. However, to provide flexibility in design, the CCSP allows up to an 8 foot setback in the Pedestrian Retail area. By adopting the Development Guidelines and Design Guidelines via reference in the CCD ordinance, the flexibility built into the CCSP is maintained and will be utilized by developments throughout the City Center area.

Review and Approval Process:

Development proposals within the City Center area will be processed in a manner very similar to other zoning districts. Properties may be rezoned to CCD according to the procedures outlined in Section 109 of the Zoning Ordinance. In addition to the CCD zoning, a Development Plan, including site layout, building architecture, open space design, parking, and utilities, will be required to be approved by the City Council prior to any application for a development permit within the City Center area. Development Plans are processed in accordance with Section 106 of the Zoning Ordinance, Site Plan Review, except that all Development Plans will be reviewed by the Planning Commission and reviewed and approved by the City Council. The proposed ordinance outlines the approval process and amendment process for CCD Development Plans.

Conclusion:

The proposed City Center Zoning District achieves the CCSP Work Plan objective of creating a zoning district to implement the vision of the CCSP. The City Center Zoning District will provide an entitlement and approval process to allow properties to develop in the City Center area in a manner that achieves the vision and form of development outlined in the CCSP.

FINDINGS:

1. The proposed amendment meets the intent of the General Plan.
2. The proposed amendment meets the intent of the City Center Specific Plan.
3. The proposed amendment meets the requirements and intent of the Zoning Ordinance.

RECOMMENDATION:

Conduct a public hearing and determine if this request is in the best long-term interest of the City and is consistent with the objectives of the Avondale General Plan.

PROPOSED MOTION:

I move that the City Council accept the findings **ADOPT** the ordinance approving application TA-08-15, a request for text amendment of Section 5, City Center Zoning District, of the Avondale Zoning Ordinance.

ATTACHMENTS:

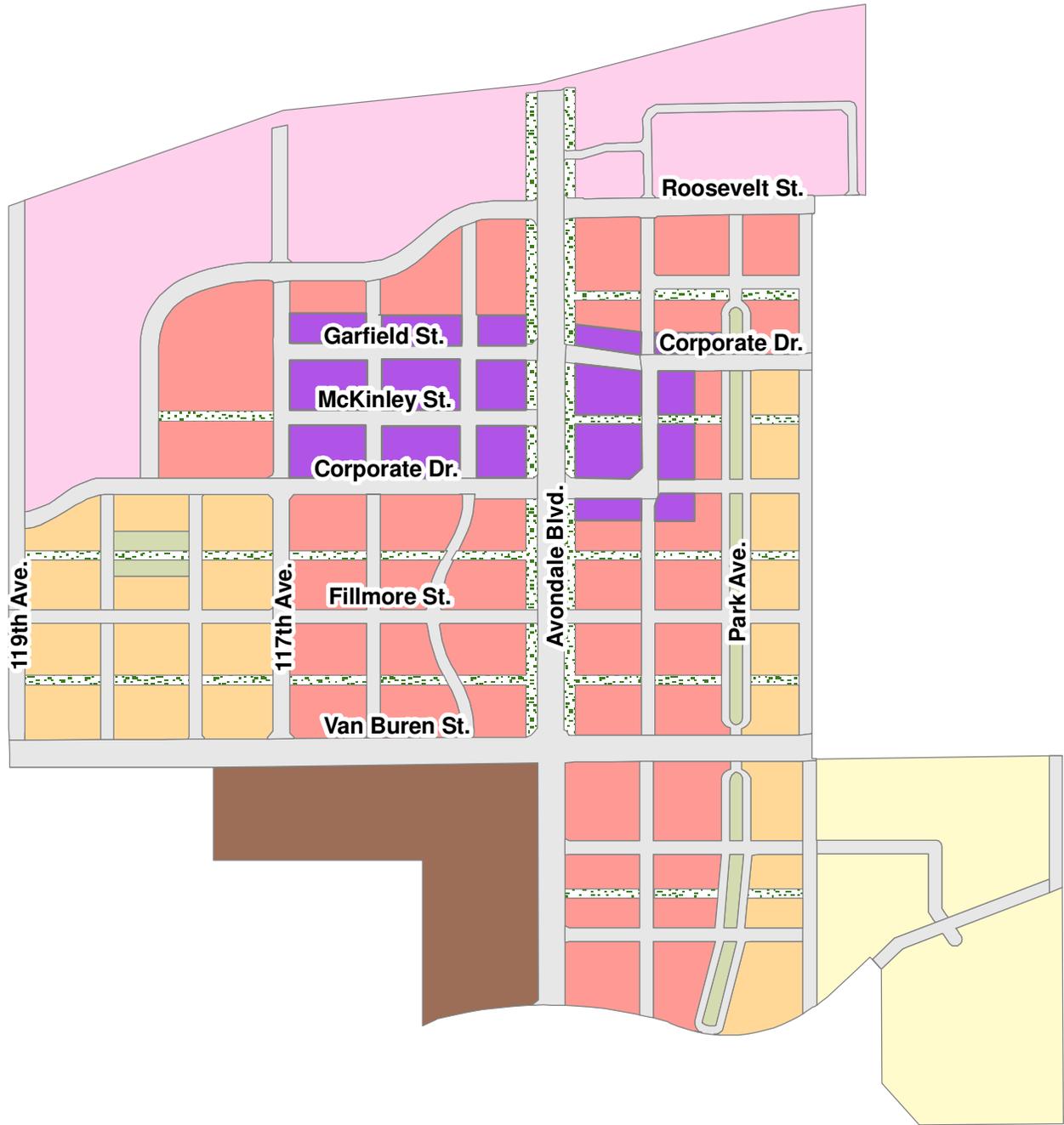
Click to download

- [Exhibit A - City Center Specific Plan Figure 3-1 \(CCSP Sub-District Boundaries\)](#)
- [Exhibit B - City Center Zoning District Sub-District boundaries](#)
- [Exhibit C - Page from CCSP Table 6-3 \(Staff Work Plan - Suggested Work Plan\)](#)
- [Exhibit D - Paul Gilbert March 19, 2009 letter](#)
- [Exhibit E - Draft 4/16/2009 PC Minutes](#)
- [Resolution 2821-509](#)
- [Chapter 5 - City Center District](#)
- [Ordinance 1365-509](#)

PROJECT MANAGER:

Scott Wilken, Senior Planner 623-333-4016

City Center Zone District Sub District Locations



Legend

	Employment Mixed-Use		Residential Mixed-Use
	Gateway Employment		Townhouse Residential
	Pedestrian Retail		Neighborhood Commercial



Table 6-3: Staff Work Program - Suggested Work Plan

SUGGESTED WORK PLAN	CITY CLERK	CITY MNGRS	OFFICE	COMMUNITY RELATIONS	DEVELOPMENT SERVICES	ECONOMIC DEVELOPMENT	ENGINEERING	FINANCE	LONG RANGE PLANNING	INFORMATION TECHNOLOGY	PARKS & RECREATION
	<p>1. Publish and distribute the City Center Specific Plan.</p> <p>2. Amend the General Plan and General Plan Land Use Map to reflect the provisions of the City Center Specific Plan.</p> <p>3. Prepare new zoning for the City Center area, consistent with the provisions of the Specific Plan. Include provisions for each of the land use classifications described in the plan as well as the development standards. Address detailed issues such as: the project review process for different types of projects; development standards calculations (e.g. how to measure the ratio of employment square footage and residential square footage in the employment mixed use area); and regulations for events and temporary uses.</p> <p>4. Encourage property owners that are not currently within the City boundaries to annex to the City and rezone their properties consistent with the Specific Plan. Assist property owners with their applications.</p> <p>5. Establish official plan lines for the collector streets and public parks.</p> <p>6. Study the formation of a public parking district for the City Center area, and various financing mechanisms such as in-lieu fees and/or improvement districts.</p> <p>7. Select a unique set of pedestrian street furnishings for the City Center area, including a pedestrian-scale light fixture, bench, and trash receptacle. Work closely with transportation, engineering, and maintenance staff in other departments.</p> <p>8. Review development projects as they are submitted for consistency with the City Center Specific Plan.</p> <p>9. Work to streamline the development review process for projects in the City Center area. Establish a team of City Center experts that includes planning, engineering, economic development, parks and recreation, and other departments as needed.</p> <p>10. Work to streamline the project review process. Figure out how projects can use the traffic analysis already completed for the City Center Specific Plan. Decide on a project by project basis whether any additional traffic analysis is needed. Establish more precisely the items that need to be studied in the traffic analysis for a development project.</p>									●	



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PLLC

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PAUL E. GILBERT
DIRECT (480) 429-3002

EMAIL: PGILBERT@BEUSGILBERT.COM
31101-010

March 19, 2009

VIA U.S. MAIL AND E-MAIL

Scott Wilken, AICP
Senior Planner
City of Avondale, Arizona
Planning Division
11465 W. Civic Center Drive
Avondale, AZ 85323

Re: Draft City Center Zone District Ordinance.

Dear Mr. Wilken:

Thank you for your time March 4th regarding the draft City Center Zone District Ordinance. As requested, we are putting in writing our serious concern with the speed at which this Ordinance is moving through the process, and not even having a draft copy of the new proposed "Design Guidelines" associated with the City Center District Ordinance to review. This is unacceptable and we request that this process be slowed down for proper review by the stakeholders within the City Center area. There are just too many potential impacts that need thorough review.

Moreover, and as you know, the Council approved and promised the stakeholders that the *City Center Area Plan* would be a flexible non-regulatory document and this proposed new Ordinance goes against that promise. Thus, we will oppose any Ordinance that would make the *City Center Area Plan* a regulatory document and we will voice that opposition throughout the public process if this is not changed. We would, however, be amicable to discussing an Ordinance that provides for specific zoning categories and development standards within the City Center area as long as it provides for flexibility as promised.

Finally, and for the record with regards to the current proposed Ordinance, we have additional concerns over the following items below.

1. Top of first page: **Section 502** states "Overlay District" and we were advised by you that was on oversight and it will be corrected with the correct wording of "Applicability" as identified in the body of the Ordinance on this same page.

2. Bottom of first page: Section 502 Applicability states the following below which we are proposing the first sentence be deleted, since the properties would have to be rezoned in order for the CCD to apply to a property.

~~The CCD shall be applied to all properties within the City Center boundary, as shown on Figure 3-1 of the CCSP.~~ Only properties within the City Center boundary will be permitted to rezone to the CCD.

3. Top of page 6: Section 506 Development Guidelines we are proposing changing the word "shall" to "should", since the "Development Guidelines" within the *City Center Area Plan* document is non-regulatory and the word "should" will continue to provide that flexibility envisioned when the *City Center Area Plan* was adopted.

Again, we thank you for your continued time and patience with regards to this matter. If you have any further questions, please feel free to contact me.

Very truly,

BEUS GILBERT PLLC



Paul E. Gilbert

cc: Jeff Schwartz
Dennis M. Newcombe
Charlie McClendon, Avondale City Manager (via fax)
Jim Buster, Avondale City Council (via fax)
Jason Earp, Avondale City Council (via fax)
Stephanie Karlin, Avondale City Council (via fax)
Jim McDonald, Avondale City Council (via fax)
Frank Scott, Avondale City Council (via fax)
Lisa Amos, Avondale Planning Commission (via fax)
Angela Cotera, Avondale Planning Commission (via fax)
Michael Demlong, Avondale Planning Commission (via fax)
David Iwanski, Avondale Planning Commission (via fax)
Al Lageschulte, Avondale Planning Commission (via fax)
Linda Webster, Avondale Planning Commission (via fax)
David Scanlon, Avondale Planning Commission (via fax)

Excerpt of the Draft Minutes of the regular Planning Commission meeting held April 16, 2009 at 6:30 p.m. in the Council Chambers.

COMMISSIONERS PRESENT

David Iwanski, Chairman
Michael Demlong, Vice Chair
Al Lageschulte, Commissioner
David Scanlon, Commissioner – Arrived late
Angela Cotera, Commissioner
Linda Webster, Commissioner
Lisa Amos, Commissioner

CITY STAFF PRESENT

Ken Galica, Planner II, Development Services Department
Brian Berndt, Development Services Director
Scott Wilken, Senior Planner, Development Services Department
Stacey Bridge-Denzak, Planner, Development Services Department
Chris Schmaltz, City Attorney

APPLICATION

TA-08-15

APPLICANT

Staff-initiated request

REQUEST

This is a public hearing before the Planning Commission to review and solicit public input on application TA-08-15, a City Council initiated request to amend Section 5 of the Avondale Zoning Ordinance to create a City Center Zoning District. Staff Contact: Scott Wilken.623-333-4016.

Scott Wilken, Senior Planner, Development Services Department, stated application TA-08-15 is a text amendment to Section 5 of the Zoning Ordinance to create the City Center Zoning District. On August 11, 2008, the City Council adopted the Avondale City Center Specific Plan (CCSP), which is located on the east and west sides of Avondale Blvd. just south of I-10 and Coldwater Springs Blvd. The CCSP consists of six subareas: The Gateway Employment area, the Employment Mixed-Use area, Pedestrian-Retail area, Residential Mixed-Use area, Neighborhood Commercial area, and Townhouse-Residential area. The CCSP includes development and design guidelines on building height, setbacks, parking, etc. Staff proposes that those standards be incorporated into the zoning standards for the City Center Zoning District rather than creating new standards. A development guidelines table is available in the CCSP. Incorporating the CCSP guidelines into the City Center Zoning District allows the zoning to remain consistent with the CCSP. The guidelines are created to provide flexibility. Mr. Wilken showed the Commission slides of varying building setbacks.

Staff has created a streamlined review process. Staff is proposing that rezoning will be required for a site plan to proceed, but rezoning can be done prior to or concurrent with the site plan. Site plans can follow the requirements of the zoning district rather than a lengthy PAD negotiation

Planning Commission Regular Meeting Minutes

April 16, 2009

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process. The Planning Commission and City Council would review the site plans, and the Council will approve the site plans for the City Center Zoning District.

Staff believes the proposed text amendment will create a zoning district that implements the City Center guidelines, maintains the City Center Specific Plan building form, and creates a site plan review process for City Center developments that meets the intent of the City Center Specific Plan and the Implementation Plan. Staff recommends approval.

Chairperson Iwanski invited questions.

Commissioner Scanlon referenced Exhibit B and asked for a definition for categories listed as "A." Mr. Wilken replied "A" designates "Accessory."

Vice Chair Demlong asked what is the difference between the Caretakers Quarters and Residential - occupied by owner or employee of the business on property. Mr. Wilken explained that the intent of the Caretakers Quarters is to denote somebody that is hired by the property or business owner to live on site. The intent of Residential - occupied by owner or employee of business on property, is only permitted in the Residential-Office (R-O) district. Vice Chair Demlong stated he does not see a difference between the two. Mr. Wilken replied that functionally one use is Accessory and the other use is permitted outright. If there is no business on the property, there can be no caretaker quarters, but they are very similar. Vice Chair Demlong suggested that Staff revisit that issue.

Vice Chair Demlong referenced the use of therefore (i.e.) at "Specialty Sales (i.e. used books or used records, excluding thrift stores and surplus stores," which could restrict businesses to those listed. Specialty Sales could be a candle store, a dog bone store, etc. Mr. Wilken replied that it should state e.g. (for example).

Vice Chair Demlong referenced "only properties within the City Center boundary will be permitted to rezone to the City Center District." He asked if a property owner on the fringe of the boundary wanted to match the quality and appearance of the City Center District, would that be allowed. Mr. Wilken replied that if a property adjacent to the City Center boundary to the west or east wants to match the look of the City Center, that property owner has the option to create a PAD that would mirror properties within the City Center District. The City Center Specific Plan was adopted through great study, to include economic analysis. Economic analysis revealed that there is a market share for a specified amount of business in the area. If the Council feels a proposal is worthy to extend the guidelines to surrounding properties, they can amend the plan or create a PAD, indicating that the standards for that property will be the same as in the City Center Zoning District.

Vice Chair Demlong asked where the indoor gymnasium will be located. Mr. Wilken stated the gymnasium is on the second block east off of Avondale Blvd. at Corporate Drive and 114th Avenue. Vice Chair Demlong asked if that is the Employment-Mixed Use area. Mr. Wilken stated the gymnasium would be located partially in the Pedestrian-Retail area and partially in the Employment Mixed-Use area.

Vice Chair Demlong asked for elaboration of the wording on page 4, "The use of significant...." Mr. Wilken replied that the term "significant" is very similar to the language for classifying major

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April 16, 2009

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and minor amendments of PADs. Vice Chair Demlong asked if the word “significant” is defined in the text amendment. Mr. Wilken replied that the Zoning Administrator will determine what is significant.

Vice Chair Demlong referenced page 5, Section 505, “Staff may add additional conditions.” He suggested the wording be “Staff may add conditions.”

Vice Chair Demlong referenced page 6 and asked if the nightclub and the bar restrictions in the City Center District are similar to those throughout the City. Mr. Wilken replied that the restrictions for nightclubs and bars are identical throughout the City.

Chairperson Iwanski referenced page 3, Section D, “Residential is appropriate on upper floors of multi-story buildings and may be approved as part of a development project containing multiple buildings.” He asked how many upper floors of a development can be residential and how many upper floors can be business. Mr. Wilken explained that the intent of the wording is to restrict residential only from the ground floor. Any combination of business and residential on the upper floors would be acceptable.

Chairperson Iwanski referenced page 7, Section 508, Parking, and asked regarding existing parking surveys as relates to special events. Mr. Wilken replied there are no parking studies for special events.

Vice Chair Demlong asked regarding the public process on the text amendment. Mr. Wilken replied that at the end of October 2008, Staff began drafting a City Center Zoning District and began studying the City Center Specific Plan in January 2009. A neighborhood meeting was held on February 26, 2009. The draft document was released very shortly before the neighborhood meeting. Two interested parties attended the neighborhood meeting. Staff met individually with Mr. Paul Gilbert and his client two working days later, as they could not attend the neighborhood meeting. The draft document was sent to everyone on the text amendment list who expressed interest in text amendments. The City advertised in the West Valley View. Staff hopes the Commission will make a recommendation tonight so the Council can hear the matter on May 4, 2009.

Vice Chair Demlong asked if citizens who provided comment, attended a meeting, or signed up on a list were given the opportunity to review the draft document. Mr. Wilken stated that Staff did not use the same mailing list that was used for the City Center Specific Plan public notification. People were notified who expressed interest in text amendments and specific interest in this particular text amendment. Vice Chair Demlong stated he was surprised that Staff had only received one comment and fears a large part of the public are unaware of this text amendment.

Chairperson Iwanski invited further questions, and hearing none, opened the public hearing.

Paul Gilbert, 4800 N. Scottsdale Rd., Scottsdale, AZ, stated that Mr. Wilken was very accommodating to his client, the Empire Group. Their first concern is they do not understand why the Planning Commission is considering this ordinance when it is incomplete. The Staff Report states that the Commercial, Industrial, Multi-Family Design Manual, which will help establish a design theme for the area, is not complete. Therefore, he feels it is hard to ask the

public to comment and the process is being bifurcated. He suggested that the City wait to develop the ordinance until the Commercial, Industrial, Multi-Family Design Manual is complete, as it is the design theme for the City Center.

Mr. Gilbert referenced Mr. Wilken's statement that Staff is incorporating the City Center Specific Plan (CCSP) into the City Center Zoning District (CCD). He submits that is incorrect. He was told the CCSP is a not regulatory plan, yet the CCD ordinance uses the word "shall" in very key places. He referenced Section 506 Development Guidelines "Properties...shall comply with the Development Guidelines as listed on Table 5-1 of the CCSP." This contradicts the notion of flexibility, and with adoption of this ordinance, the ordinance will be a regulatory plan while the CCSP is not. He referenced page 1-8 of the CCSP. "The City Center Plan is a policy plan. All of its provisions are guidelines which will serve as a guide for evaluating proposed developments. The quantitative provisions of the Plan establish targets and provide a basis for project review, but they are not mandatory standards." The CCD ordinance states "you shall comply" with every single item in Table 5-1. Section 506 A and B states neighborhood district "shall" comply with development guidelines. Section 507 states "unless specifically modified herein, all CCD developments shall comply with the Design Guidelines listed in Section 5.4 of the CCSP." Section 5.4 of the CCSP uses the word "should," rather than "comply." Mr. Gilbert stated he would be satisfied with the word "should."

Mr. Gilbert summarized that the City is taking a guideline and making it a regulatory ordinance, which flies in the face of what the City Council said they were going to do when they adopted this plan. He suggested that different language be provided in place of the word "shall."

Chairperson Iwanski invited questions.

Commissioner Cotera asked as the language reads you shall comply with the guideline, and the guideline states you should do what is in the table, if the guidelines are followed, would that not be compliance. Mr. Gilbert stated he has no problem complying with Table 5-1, but the use of the word "shall" in the CCD makes complying with Table 5-1 in the CCSP mandatory.

Chris Schmaltz, City Attorney, stated there is a key distinction between a General Plan level policy document, the CCSP, which was drafted as a regulatory document, with significant detail added to provide a guide for the development of the CCSP. Over time the CCSP developed into a specific area plan as a policy document, which is what the Council intended. The CCSP has an implementation section which calls for further regulations, etc., in implementing the standards identified within the CCSP. The CCD is only applicable to those properties that rezone to the ordinance. Properties that are rezoned to the CCD will have to comply with the provisions in the Zoning Ordinance. Attorney Schmaltz stated that Mr. Gilbert is absolutely correct. The CCSP is a general plan policy document and the intent of the CCD is to incorporate the valuable development standards in the CCSP, taking advantage of Table 5-1 and other provisions of the CCSP to directly incorporate those development standards in order to implement those standards in the CCD. The CCD ordinance is intended to use the word "shall" to incorporate Table 5-1 because it is a zoning document rather than a generalized guideline. The zoning category beneath a General Plan must be consistent with and conform to the General Plan designation, and that is what the zoning category is intended to do exactly. It is meant to make the CCD consistent with and conform to the CCSP.

Mr. Gilbert stated they would love to rezone their property to PAD or C-2, but that opportunity has been removed. They have no choice but to rezone to the CCD standards. He referenced the CCSP which states “applicants may submit projects that meet the overall intent of the plan, but do not comply with all of the development guidelines.” He loses the opportunity to submit a project that meets the overall intent of the plan but does not comply with all of the development guidelines if he has to rezone to CCD standards, which is not consistent with the flexibility of the CCSP.

Chairperson Iwanski asked Mr. Gilbert for an example of a project brought in under “shall” provisions versus a project brought in under “should” provisions. Mr. Gilbert reiterated that he cannot rezone his property to PAD or C-2. He will have to rezone to CCD, and therefore must comply with the CCD ordinance and every single provision under Table 5-1 in the CCSP.

City Attorney, Chris Schmaltz, stated that if the development guidelines permit flexibility, a developer would still be complying with the development guidelines even with the wording “shall comply with the development guidelines.” Complying with the flexible development guidelines in the CCSP is complying with the CCD ordinance. If the development guidelines are specific in the CCSP such as to height, setbacks, etc., then the use of the word “shall” requires compliance. There are portions of the development guidelines that are flexible and complying with the development guidelines via “shall” incorporates that flexibility.

Chairperson Iwanski stated that in Planning Commission discussions, there was a constant theme for the Commission to provide flexibility. The City Council meeting minutes reveal the Council’s motivation to provide flexibility.

Commissioner Cotera referenced the wording in Section 506 “shall comply with the Development Guidelines as listed in Table 5-1 of the CCSP.” She asked if the wording read “shall comply with the Development Guidelines as outlined in Table 5-1” would retain the desired flexibility. Attorney Schmaltz stated in his mind the wording “as outlined” would not constitute a fundamental change. If the Development Guidelines are in the table and are specific, they should be complied with. If the Development Guidelines in the table are flexible, they should be complied with in that manner of flexibility.

Commissioner Cotera stated Table 5-1 has specifics, but the flexibility is in the language leading up to the table. She asked if the language leading up to the table is part of the table. Attorney Schmaltz replied that the reference is just to Table 5-1.

Commissioner Cotera asked if the problem is that the wording refers only to Table 5-1 and does not include the caption above the table which states compliance with the table is flexible. Attorney Schmaltz stated the wording is intentional because the ordinance is a zoning regulatory document, not a guideline document.

Commissioner Cotera asked if the intention was to remove the flexibility. Attorney Schmaltz replied that the intention is to incorporate the very specific City Center development standards into a zoning document where people can rezone their property, follow the standards, and produce the City Center that the CCSP is intended to produce via the zoning.

Mr. Gilbert stated that Attorney Schmaltz had aptly summarized what the developers were afraid would happen and what they had been assured would not happen. He stated that Attorney Schmaltz had just said that the City is removing that flexibility; you have to comply with Table 5.1. He reiterated that is not what the CCSP said and that is not what the Planning Commission and the City Council adopted.

Commissioner Amos stated the issue is not confusing to her. Table 5-1 and the verbiage associated with the table are choices, and the CCD ordinance is just taking the developer to the table to view the choices.

Commissioner Cotera voiced concern that the CCD ordinance is removing the flexibility. Chris Schmaltz, City Attorney, stated that the development standards incorporate flexibility and the Zoning Ordinance requires compliance with the development standards. If the standards are flexible, you can comply with them in a flexible manner.

Commissioner Cotera stated that the statement “shall comply with the City Center Specific Plan” would incorporate flexibility. However, the CCD ordinance states “you shall comply with Table 5-1 of the City Center Plan,” thus removing the flexibility.

Mr. Gilbert stated that is his concern.

Commissioner Cotera stated the Planning Commission had made the decision that because the Plan was so ambitious, there would be flexibility involved and she is loath to remove the flexibility at this point. She would like to reach a legal compromise of compliance and flexibility.

Scott Wilken, Senior Planner, Development Services Department, stated that each of the statements within the development guidelines has built-in flexibility. Everything is based on a range. Typically there is a maximum and minimum, but there is still flexibility, which he believes accomplishes what the Commission was hoping for.

Mr. Gilbert stated that some of the items in Table 5-1 do allow flexibility, but he can quote some items that do not. He referenced Parking Structures and Lot Location. “No surface parking is allowed between the curb and buildings along Avondale Blvd.” and stated there is no flexibility there. He referenced Ground Floor Building Design – Floor to Ceiling Height “15 to 18 feet for retail. 12 to 15 feet for office. Should cover 60 percent of the ground floor area wall area.” “Should not exceed 30 percent of linear frontage feet....”

Commissioner Scanlon stated he thinks the language offers exactly the type of flexibility Mr. Gilbert is asking for. The obligatory “shall” in the proposed ordinance refers the developer to the range that offers the flexibility that the developer wants. Mr. Gilbert states that some items do offer flexibility, but some do not. He referenced “No surface parking is allowed between the curb and buildings along Avondale Blvd.” and asked if there is any flexibility there. Commissioner Scanlon stated he did not see flexibility there and that is a design guideline.

Commissioner Cotera asked is it not typical that some standards are inflexible and some standards are flexible. Attorney Schmaltz referenced the “no surface parking” language and stated that is a key component of the City Center Plan and it is a required element to produce the street scape

that the City Center plan is intended to produce. There are other elements to Table 5-1 that are flexible and do allow for a range of possible developments.

Mr. Gilbert referenced the statement “Applicants may submit projects that meet the overall intent of the Plan, but do not comply with all of the development guidelines” in the CCSP, and said that statement is no longer accurate.

Commissioner Lageschulte stated the Commission did adopt the CCSP as a guideline. If the City adopts the CCD ordinance, a developer has to abide by Table 5-1. That means there is no flexibility. If a developer brings in a project that does not comply with Table 5-1, the project will not be developed. That removes all flexibility even though that is what the Commission discussed for months. He thinks the CCD ordinance needs to be reworded to maintain the flexibility the City promised and wanted.

Commissioner Scanlon stated he was not present when the CCSP guidelines were developed and is uncomfortable making a decision without seeing the full CCSP. He would appreciate this item being tabled until he can review the full CCSP.

Commissioner Cotera stated it sounds to her that Staff has incorporated the flexibility. While there are areas where there is no flexibility, there is flexibility within guidelines. She wants to provide the developers with enough flexibility to get a good project, but with enough rigidity to meet the vision of the CCSP. She does not know if the CCD will incorporate the flexibility the Commission desires. She would like additional time to study the issue.

Chairperson Iwanski asked if Mr. Gilbert realized that some of the guidelines are non-negotiable, such as no parking on Avondale Blvd. He asked if the cumulative effect of that rigidity is fatal to Mr. Gilbert’s client’s project. Mr. Gilbert stated his client has no project, but they feel they were promised that when they do have a project, there will be flexibility. He is aware that some of the requirements are much more important than others, but the CCSP states “Applicants may submit projects that meet the overall intent of the Plan.”

Chairperson Iwanski stated he thinks the Commission and Council have provided some flexibility, but they did not promise developers absolute flexibility. Mr. Gilbert stated there is absolute flexibility in the CCSP, but the way the CCD ordinance is worded removes all flexibility.

Chairperson Iwanski asked if Mr. Gilbert believes all flexibility has been removed. Mr. Gilbert replied all flexibility has been removed as far as Table 5-1 is concerned and there are similar problems in Section 506 B and in Section 507. He committed to work with City Staff to arrive at language that offers more flexibility and yet protects the overall intent of the CCSP. The developers did not like the CCSP, but they lost. They know they have to deal with the basic contours of the CCSP, but there ought to be some flexibility. He agrees that certain provisions of the CCSP are key and sacrosanct, but other elements should have flexibility.

Chairperson Iwanski stated in his judgment enough work has been done to provide the flexibility developers need. His position is that some elements are absolute and non-negotiable. Otherwise the City cannot achieve the vision they hope will become a reality. Mr. Gilbert stated he did not disagree with that.

Vice Chair Demlong respectfully disagreed that the developers lost with adoption of the CCSP. The City Staff and citizens made a lot of compromises that benefitted developers and not necessarily the City. He thinks in the long run the property values in the City Center will be much higher than in other parts of the City. As someone who does planning, he views the CCSP as the most generous, flexible plan he has ever seen. The CCD ordinance was planned for all along and is the next logical step. If anybody is surprised, they were not paying attention. To achieve the goal of the CCSP, the City needs to be very stringent on some things, such as the parking, and needs to be flexible on other elements. The City needs the guidelines to achieve the vision of the CCSP. Without them, the effort should never have been made. He noted the Board of Adjustments is available for variances. Mr. Gilbert asked where in the CCD ordinance does it state that developers can ask for a variance.

Vice Chair Demlong stated that a property owner/developer has the right to go in front of the Council and the Planning Commission and ask for special exemptions. Mr. Gilbert stated he understood he could not ask for a variance. To ask for a variance, he would have to meet four standards, one of which is a property hardship, which almost disqualifies asking for a variance. The ability to request a variance is not in the CCD ordinance and maybe it should be. That would make him feel a lot more comfortable.

Vice Chair Demlong recalled that Council is concerned about the overall intent of the Plan, but is willing to make exceptions if the developer overcompensates in other areas. Mr. Gilbert stated that language is in the CCSP, but is not in the CCD ordinance. That would go a long way toward making him feel comfortable with the CCD ordinance.

Brian Berndt, Development Services Director, stated that the Board of Adjustments basically handles variances to any zoning. There is a standard set of criteria that must be met to have a variance approved. Mr. Gilbert stated if he could not establish a property hardship, he legally could not be granted a variance or receive use variances, as they are prohibited. If the Staff is willing to put such language into the CCD ordinance, that would go a long way toward solving his problems.

Chairperson Iwanski invited further comments, and hearing none, closed the public hearing. Chairperson Iwanski invited further questions and comments of Staff.

Commissioner Cotera stated she believes if the language reads you shall comply with the CCSP and the CCD ordinance reads you should follow these guidelines, that incorporates the flexibility required by a developer. Chris Schmaltz, City Attorney, replied he does not believe the language makes that broad of a statement. The CCD ordinance itself incorporates specific standards that are in the CCSP itself. If those standards are flexible, then it incorporates the flexibility. It would not be a good zoning document if it had one line that said "you shall comply with the CCSP." That is the distinction between a General Plan level document that is designed to be a flexible guideline and the next level of a zoning document, which always incorporates specific standards that must be complied with. The good thing about the CCD ordinance is that it incorporates those guidelines that are flexible in the tables. He summarized that if there is flexibility in the CCSP table, the developer complies with the CCD ordinance if the developer complies with the table. He pointed out that there are some aspects of the table which offer only one standard.

Commissioner Cotera stated there is flexibility and inflexibility in the tables and as long as the tables are complied with, then everything is good.

Chairperson Iwanski thinks the record is clearly established that if anyone wants to bring a project in and does not think they are going to get flexibility, it is obviously the clear intent that the City wants to provide flexibility. It is not in the City's best interest to be so rigid that quality projects are chased away. The theme of the Commission is that flexibility is something they feel needs to be shown as the projects come in. Underscored is the fact that some things are just so foundational to the CCSP, there is no flexibility.

Brian Berndt, Development Services Director, summarized that the CCSP is creating such an intense development environment, that there is flexibility throughout the CCSP built in. Heights are greater than any heights in the City. Setbacks are reduced to the highest degree. Parking and landscape reductions are offered throughout. The confusion may be over what is an appropriate flexible amount.

Scott Wilken, Senior Planner, Development Services Department, stated that some aspects of the Plan are absolute. In an urban-pedestrian development such as this, one would think one absolute would be Floor Area Ratio (FAR). The CCSP was originally proposed to have a required FAR in the neighborhood of 0.75 to 1, which is very dense. It now suggests a FAR of 0.5, which is a concession that the City Council made to property owners. That provides a great deal of flexibility. They hope a FAR of 0.5 will achieve the urban design that the CCSP envisions.

Chairperson Iwanski entertained a motion and a second.

Vice Chair Demlong moved that the Planning Commission accept the findings and recommend approval of application TA-08-15, a request for text amendment of Section 5, City Center Zoning District, of the Avondale Zoning Ordinance. Commissioner Cotera seconded the motion.

Chairperson Iwanski called for a vote.

ROLL CALL VOTE

Chairperson Iwanski	Aye
Vice Chair Demlong	Aye
Commissioner Lageschulte	Nay
Commissioner Scanlon	Aye
Commissioner Cotera	Aye
Commissioner Webster	Aye
Commissioner Amos	Aye

The motion passed - 6 Ayes, 1 Nay.

RESOLUTION NO. 2821-509

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "CITY OF AVONDALE CITY CENTER DISTRICT ZONING REGULATIONS."

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That certain document entitled the "City of Avondale City Center District Zoning Regulations," of which three copies are on file in the office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

**CITY OF AVONDALE
CITY CENTER DISTRICT
ZONING REGULATIONS**

SECTION 5 CITY CENTER DISTRICT

Sections

- 501 Purpose**
- 502 Applicability**
- 503 Sub-Districts**
- 504 Administration**
- 505 Land Uses**
- 506 Development Guidelines**
- 507 Design Guidelines**
- 508 Parking**
- 509 Necessary Amendments**

Section 501 Purpose.

The Avondale City Center Specific Plan, as amended (the “CCSP”) was created to implement the City Council’s vision of creating a high-density, mixed use environment that will become a premier destination for shopping, dining, entertainment, employment and various types of residential uses for the area of Avondale located between the Avondale Civic Center and Interstate Highway 10, commonly referred to as the City Center. The City Center Zoning District (the “CCD”) is intended to complete the vision expressed in the CCSP by prescribing building form, site design and architectural standards for the City Center. The CCD consists of two components approved by the City Council: (A) a legislatively approved base zone, the boundaries of which are consistent with Figure 3-1 of the CCSP, containing the basic performance standards and regulations for the respective Sub-Districts shown on Figure 3-1 of the CCSP and (B) an administratively approved (by the City Council), individualized Development Plan that selects the land uses from those allowed in the base zone sub districts and organizes such uses into a form-based Development Plan specific to a site. Accordingly, the Sub-District categories set forth in Section 503 below are intended to directly relate to and implement the provisions set forth in Section 3.2 of the CCSP for the corresponding Sub-District category. The CCD is intended to be flexible to allow for a parcel of land to be entitled in one step by combining the Development Plan with the base zone approval, much like a typical PAD rezoning, or to allow for the base zone to precede the Development Plan.

Section 502 Applicability.

- A. Only properties within the City Center boundary will be permitted to rezone to the CCD.
- B. The development regulations related to each Sub-District and the boundaries thereof shall correspond to the descriptions of the Land Use Categories of the same name in Section 3.2 of the CCSP and the boundaries and locations of the Land Use Categories as shown on Figure 3-1 of the CCSP.

Section 503 Sub-Districts.

The CCD is divided into six Sub-Districts. Properties within each Sub-District shall comply with the Land Uses and Development Standards set forth in this section in accordance with the standards in the CCSP for each such Sub-District. The six Sub-Districts are described below:

- A. Gateway Employment. The Gateway Employment (GE) Sub-District is designed to place primary land uses close to the freeway, to maximize opportunities for business exposure to the freeway and to ensure that residential uses are not located within 600 feet of freeway traffic. Primary uses in Gateway Employment Sub-District include retail, office, and hotel. In this Sub-District, residential, industrial, manufacturing, and warehouse uses are not permitted. Uses may be served by surface and/or structured parking. Building heights shall not exceed 10 stories. However, a building may be built up to 16 stories with City Council approval as part of the Development Plan process. A variety of Mid-rise and high-rise office, pedestrian-oriented retail, large floor plate uses and big box uses are permitted in the Gateway Employment Sub-District, subject to an appropriate Development Plan.

- B. Employment Mixed-Use. The Employment Mixed-Use (EMU) Sub-District is designed to emphasize employment uses, including retail, professional office, hotel, and personal service uses. Residential units may be built on upper floors throughout the Employment Mixed-Use Sub-District if built in conjunction with employment uses; provided, however, that residential units fronting on Park Avenue may be built on the ground floor. The minimum ratio is one square foot of employment use for every two square feet of residential development, except for those properties fronting Park Avenue which may be exclusively residential. The mix of uses may be provided horizontally or vertically, and may be distributed across multiple properties, subject to Development Plan approval. Residential units may be incorporated throughout the first floor when it can be shown that such units support and heighten the purpose of the district.

The Employment Mixed-Use Sub-District is intended to include mid-rise and high-rise buildings of three to ten stories, predominantly served by structured parking. For a development project containing multiple buildings, the minimum average height shall be two stories and the minimum floor area ratio shall be 0.5 at build out of all uses approved as part of the Development Plan, provided that the target floor area ratio should be 0.75 – 1.0. Building heights shall not exceed 10 stories. However, a building may be built up to 16 stories along Avondale Boulevard north of Van Buren Street with City Council approval as part of the Development Plan process.

- C. Pedestrian Retail. The Pedestrian Retail (PR) Sub-District includes all properties with frontage along pedestrian retail streets, as shown on Figure 3-1 of the CCSP. The land uses on the ground floor of buildings in the Pedestrian Retail Sub-District shall be restricted to those types of active uses that create a lively street environment. Professional offices and residential uses are not permitted in these ground floor locations, but are permitted on upper floors; provided, however, that residential uses fronting Park Avenue are permitted on the ground floor.

The form of development shall be compact building footprints, with small street setbacks and wide sidewalks designed to facilitate pedestrian activity. Buildings with first floor restaurants shall include outdoor seating areas that do not conflict with pedestrian areas. For a development project containing multiple buildings, the minimum average height shall be two stories and the minimum floor area ratio shall be 0.5 at build out of all uses approved as part of the Development Plan, provided that the target floor area ratio should be 0.75 – 1.0.

- D. Neighborhood Commercial. The Neighborhood Commercial (NC) Sub-District is designed to allow for a suburban-type of development on the fringe of the City Center area, while still contributing to the intent of the look and feel of the City Center. Buildings along arterial streets shall conform to specific setbacks to provide the intended streetscape for the City Center area, while buildings at the interior of a site may have larger street setbacks. Uses allowed in the Neighborhood Commercial Sub-District are retail, restaurant, office, and personal service. Residential is appropriate on upper floors of multi-story buildings and may be approved as part of a development project containing multiple buildings.
- E. Residential Mixed-Use. The Residential Mixed-Use (RMU) Sub-District is designed to provide a transition between the Employment Mixed Use areas and residential neighborhoods. While residential is the primary land use, small office, retail, and personal service uses may be located on the ground floor of multi-story buildings. Non-residential uses such as small office buildings or boutique hotels may be permitted. Such non-residential uses shall be compatible in scale with nearby residential development and shall not adversely impact the quiet enjoyment of residential uses. Parking shall be located underneath or behind the units. Residential uses shall be developed at a minimum of 15 units per acre, and a maximum of 45 units per acre. Building heights shall range from two to five stories.
- F. Townhouse Residential. The Townhouse Residential (TR) Sub-District is designed to provide a transition between the Residential Mixed-Use Sub-District and neighboring single-family residential development. Townhouse residential units shall be attached units with separate individual entrances fronting a public street and private open space attached to the individual unit in the form of patios or balconies. Parking shall be either attached or located on the same lot. Townhouse residential development may include interlocking units, but may not include buildings with common stairways serving multiple units. The minimum

density shall be 12 units per acre and the maximum density shall not exceed 20 units per acre. Building heights are two to three stories.

Section 504 Administration.

- A. Establishment. CCD base zoning may be established on property within the City Center according to the procedures outlined in Section 109 of this Zoning Ordinance. In addition to the approved CCD base zoning, a City Council approved Development Plan is required prior to any application for a development permit within the City Center area.
 - 1. Development Plans may be filed for all or part of the property zoned or to be zoned CCD. Development Plans shall be submitted in accordance with Section 106, Site Plan Review; provided, however that the Planning Commission shall review, and City Council shall review and approve, all Development Plans for properties zoned CCD.
 - 2. The ordinance approving the rezoning of a property to CCD shall indicate, both by narrative text and a map, the location and boundaries of the Sub-Districts that are included in the area to be rezoned.

- B. Amendment. The Zoning Administrator or designee shall determine whether a proposed amendment to an approved Development Plan is a Major or Minor Amendment. Major Amendments shall require City Council approval with a recommendation of the Planning Commission. Minor Amendments shall require administrative approval by the Zoning Administrator or designee only.
 - 1. Major Amendment: Any one of the following shall be considered a Major Amendment of a Development Plan:
 - a. A significant change in boundary lines of the development. Minor and technical adjustments to the boundary lines within the Development Plan are permitted without a Major Amendment so long as (i) the adjustments do not divide zoning Sub-Districts, (ii) the area affected by the boundary change does not exceed 15% of the total area subject to the Development Plan, (iii) the adjustments do not significantly alter the traffic or pedestrian circulation system for the Development Plan and (iv) in the reasonable opinion of the Zoning Administrator, the overall character of the Development Plan, if modified, will remain in substantial conformance with the CCSP and the Development Plan as originally approved. Any expansion or relocation of a boundary line not within the scope of this exception shall be considered a major amendment of the Development Plan. Such boundary line changes may also require an amendment to the CCSP prior to any City Council consideration of the change to the Development Plan.

- b. Any change that could have significant negative impact on uses adjoining the development.
 - c. Any change that could have a significant impact on roadways adjacent or external to the development.
 - d. Any change that could have a significant negative impact on the amount of parking required or provided by the development.
 - e. Any change to a phasing plan that could have a significant negative impact on adjacent or surrounding developments.
2. Minor Amendment: All amendments to a Development Plan not determined by the Zoning Administrator to be Major Amendments according to the criteria set forth in subsection (1) above shall be Minor Amendments.

Section 505 Land Uses.

Land uses for each Sub-District shall comply with the Land Use Matrix set forth below:

P = Permitted

C = Conditional Use

PC = Permitted with Conditions

FF = First Floor Only

A = Accessory

- = Not Allowed

LAND USE	City Center Sub-Districts					
	GE	EMU	PR	NC	RMU	TR
Amusement parks, outdoor	C	-	-	-	-	-
Antique Store	P	P	P	P	FF	-
Aquarium	C	-	-	-	-	-
Art gallery	P	P	P	P	FF	-
Art studio	P	P	P	P	FF	-
Automobile rental facility with no on-site storage	P	P	P	P	FF	-
Banks and financial institutions without drive-through, excluding non-chartered financial institutions	P	P	P	P	FF	-
Bar	PC	PC	P	-	-	-
Barber shop	P	P	P	P	FF	-
Beauty salon	P	P	P	P	FF	-
Bingo Hall	P	-	-	-	-	-
Bowling alley	P	-	-	-	-	-
Brewery, ancillary to a bar or restaurant	P	P	P	P	FF	-
Bus terminals	P	-	-	-	-	-
Business, technical, or vocational school	P	P	P	P	-	-
Caretakers quarters	A	A	A	A	-	-
Child care center	C	C	C	C	C	C
Cigar Bar or tobacco lounge	P	P	P	-	-	-
Clothing alteration, custom dressmaking or tailor shop	P	P	P	P	FF	-
College or university	P	P	P	P	PC	PC

P = Permitted
 C = Conditional Use
 PC = Permitted with Conditions

FF = First Floor Only
 A = Accessory
 - = Not Allowed

LAND USE	City Center Sub-Districts					
	GE	EMU	PR	NC	RMU	TR
Commercial sporting complexes	C	-	-	-	-	-
Concert facilities, outdoor	C	-	-	-	-	-
Consignment shops	P	P	P	P	-	-
Convention centers and exhibition halls	P	-	-	-	-	-
Dance studio	P	P	P	P	FF	-
Drive-through uses, including restaurants and financial institutions	P	PC	-	P	-	-
Dry cleaning and laundry establishment, pick-up and drop-off only	P	P	P	P	FF	-
Emergency medical care facility	P	P	P	P	FF	-
Employment agencies excluding day labor	P	P	P	P	FF	-
Funeral Home	P	-	-	-	-	-
Health and exercise center	P	P	P	P	FF	-
Hospitals	P	-	-	-	-	-
Hotel or motel	P	P	P	P	PC	PC
Ice skating rink, indoor	P	-	-	-	-	-
Indoor commercial recreation/entertainment uses not otherwise listed	P	P	P	P	-	-
Laboratory for bio-science, dental, medical and research & development	P	P	P	P	-	-
Libraries	P	P	P	P	FF	-
Liquor stores	C	C	C	C	-	-
Massage therapy (medical)	P	P	P	P	FF	-
Massage or day spa	P	P	P	P	FF	-
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	P	P	P	PC	-
Museum and cultural centers	P	P	P	P	FF	-
Movie theater, indoor	P	P	P	P	-	-
Music studio	P	P	P	P	FF	-
Nail salon	P	P	P	P	FF	-
Night Club	PC	PC	P	-	-	-
Outdoor Dining, ancillary to a restaurant	A	A	A	A	A	-
Parking Lot, surface	A	A	A	A	A	A
Parking Structure	A	A	A	A	A	A
Pet boarding and day care facility	PC	PC	PC	PC	-	-
Photographic developing and printing studio	P	P	P	P	FF	-
Places of worship	P	P	P	P	P	P
Pre-schools and similar uses	C	C	C	C	C	C
Professional offices	P	P	P	P	PC	-
Public uses	P	P	P	P	P	P
Public utility buildings, structures, uses, facilities and equipment	PC	PC	PC	PC	PC	PC
Real Estate office	P	P	P	P	FF	-
Reception centers	P	-	-	-	-	-
Residential	-	PC	PC	-	P	P
Resorts	P	P	-	-	-	-
Restaurants, without drive-thru	P	P	P	P	FF	-

P = Permitted
 C = Conditional Use
 PC = Permitted with Conditions

FF = First Floor Only
 A = Accessory
 - = Not Allowed

LAND USE	City Center Sub-Districts					
	GE	EMU	PR	NC	RMU	TR
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	P	P	P	P	FF	-
Roller rink, indoor	P	-	-	-	-	-
Sidewalk Café	P	P	P	P	FF	-
Social/private clubs	P	P	P	P	FF	-
Specialty retail, indoor, excluding liquor stores	P	P	P	P	FF	-
Specialty sales (e.g. used books or used records, excluding thrift stores and surplus stores)	P	P	P	P	FF	-
Specialty services	P	P	P	P	FF	-
Stadiums	C	-	-	-	-	-
Swimming club, outdoor	C	-	-	-	-	-
Tanning salon	P	P	P	P	FF	-
Telecommunication Tower	PC	PC	PC	PC	PC	PC
Theater, excluding movie theaters	P	P	P	P	-	-
Ticket and travel agency	P	P	P	P	FF	-
Veterinary hospital, offices and clinics, excluding animal boarding	PC	PC	PC	PC	-	-
Video arcade or game room	P	P	P	P	FF	-
Video Rental	P	P	P	P	FF	-
Wine Bar	P	P	P	P	FF	-
Zoo	C	-	-	-	-	-

Land uses listed in the land use matrix above as Permitted with Conditions are permitted by right only if the conditions listed below for the individual uses are met. Based on Development Plan review, staff may add additional conditions of approval deemed necessary to protect the health, safety and public welfare.

- A. A college or university is allowed in all CCD Sub-Districts provided that, in RMU and TR Sub-Districts, colleges and universities shall only be permitted if the buildings (1) are in scale with nearby residential development and (2) do not adversely impact current or future residential uses.
- B. Drive-through uses, including restaurants and financial institutions, are allowed in GE, NC and EMU Sub-Districts. However, in EMU Sub-Districts, stand-alone drive-through uses shall be prohibited; Drive-through uses in such EMU Sub-Districts shall only be permitted as part of multi-use buildings.
- C. A hotel is allowed in all CCD Sub-Districts; provided, however, that in RMU and TR, hotels shall be limited to a maximum of 50 rooms and shall be constructed so that the buildings are in scale with nearby residential development and do not adversely impact current or future residential uses.

- D. Medical, dental or health offices, clinics and laboratories, excluding plasma centers, are allowed in the RMU Sub-District; provided, however, that unless located entirely on the first floor of a mixed use building, medical office buildings shall be constructed so that the buildings are in scale with nearby residential development and do not adversely impact current or future residential uses.
- E. A professional office is allowed in the RMU Sub-District; provided, however, that unless located entirely on the first floor of a mixed use building, professional office buildings shall be constructed so that the buildings are in scale with nearby residential development and do not adversely impact current or future residential uses.
- F. Bars are allowed in the GE and EMU Sub-Districts; provided, however, that (1) the exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, other bar or night club, (2) closing time for dance floors or other accessory uses to a bar shall coincide with the closing time for the bar and (3) with respect to GE Sub-Districts only, exits and entrances to a bar shall not be located within three hundred (300) feet of a residential district.
- G. Night clubs are allowed in the GE and EMU Sub-Districts; provided, however, that (a) the exterior building wall of a night club shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, bar or other night club, (2) closing time for dance floors or other accessory uses to a night club shall coincide with the closing time for the night club and (3) with respect to GE Sub-Districts only, exits and entrances to a night club shall not be located within three hundred (300) feet of a residential district.
- H. Residential Uses are allowed in EMU and PR Sub-Districts; provided, however, that, except for residential uses fronting on Park Avenue, such residential uses are only permitted on the upper floors.

Section 506 Development Guidelines.

- A. Properties within the Gateway Employment, Employment Mixed-Use, Residential Mixed-Use, and Townhouse Residential Sub-Districts shall comply with the Development Guidelines as listed in Table 5-1 of the CCSP. The Pedestrian Retail Sub-District shall comply with the Development Guidelines as listed for the Employment Mixed-Use Sub-District, except to the extent such guidelines are determined by the Zoning Administrator to be inapplicable.
- B. Properties within the Neighborhood Commercial Sub-District shall comply with the Development Guidelines listed for the Gateway Employment Sub-District, except as follows: (1) maximum building height: 5 stories; (2) setbacks on Van Buren Street: Minimum 20' to buildings, 30' to parking (maximum 40'); and (3)

setbacks on Avondale Boulevard: Minimum 30' to building, 40' to parking (maximum 60').

Section 507 Design Guidelines.

Unless specifically modified herein, all CCD developments shall comply with the Design Guidelines listed in Section 5.4 of the CCSP and the Streetscape Design Guidelines listed in Section 4.2 of the CCSP. Any design issues not addressed in the CCSP or in this Zoning Ordinance shall be subject to the design guidelines listed in the Commercial/Industrial/Multi-Family Design Manual. While specific architectural themes, color palettes, and material palettes are not dictated by the CCSP or this Zoning Ordinance, individual buildings shall be designed to complement other buildings within a block or Sub-District.

Section 508 Parking.

Parking for each land use shall be provided by a combination of on-street parking, off-street surface parking and parking structures based on the following:

- A. A parking demand analysis prepared by a qualified parking or traffic consultant, a licensed architect, or civil engineer shall be submitted with each Development Plan. The parking demand analysis, as approved by the Zoning Administrator or designee, shall determine the number of parking spaces required for each use within the Development Plan.
- B. The parking demand analysis shall analyze the needs of every proposed use in the Development Plan, using the Required Parking Schedule in Section 8 of the Zoning Ordinance as a starting point.
 1. Provided parking shall not exceed the 110% of the number listed in the Parking Schedule.
 2. Provided parking for a single use may be up to 20% less than the amount required by the Parking Schedule based on the parking analysis.
- C. The amount of required parking may be reduced by up to 50% where it can be determined that the peak requirements of the several occupancies occur at different times and where a shared parking operations plan, approved by the Zoning Administrator or designee, shows that this reduction in parking will not cause conflicts among nearby uses. Such a shared parking analysis may be based on:
 1. Intermittent non-conflicting uses. When required parking reductions are predicted as a result of sharing between intermittent uses with non-conflicting parking demands (e.g. a nightclub and a bank), then the reduction can be considered.

2. Parking occupancy rates. When the parking reduction has been shown to be feasible by using the demand calculations as determined by an analysis of typical local parking demand.
 3. Existing parking surveys. When a study of existing parking shows parking occupancy rates of morning, afternoon and evening peaks on all seven days of the week. The seven days of observation may take place over the span of two consecutive, typical weeks. A combination of similar circumstances may be necessary to cover all the proposed land uses. The approximate square footages of the various land uses of the specimen projects shall be compared to the proposed project to allow the ratios of uses to be rated accordingly.
- D. Off-street surface parking and parking structures counted towards the required parking shall be within 400' of the use, measured from the exterior wall of the use to the closest perimeter of the surface parking or parking structure.
- E. On-street parking counted towards the required parking shall be adjacent to the property for which the parking is intended.

Section 509 Necessary Amendments.

In the event that any of the provisions of the CCSP referred to herein are amended, the Zoning Administrator shall concurrently give notice of and process an amendment to this Section 5, in accordance with the procedures outlined in Section 109 of this Zoning Ordinance.

ORDINANCE NO. 1365-509

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE ZONING ORDINANCE BY ADDING A NEW SECTION 13, OVERLAY DISTRICTS; RELOCATING THE TEXT OF SECTION 5, OVERLAY DISTRICTS, IN ITS ENTIRETY TO SECTION 13; AND ADDING A NEW SECTION 5, CITY CENTER DISTRICT, RELATING TO THE REGULATION OF CERTAIN SPECIFIC LAND USES.

WHEREAS, all due and proper notices of public hearings on this Ordinance held before the City of Avondale Planning and Zoning Commission (the “Commission”) and the Council of the City of Avondale (the “City Council”) were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-462.04, the Commission held a public hearing regarding the subject matter of this Ordinance on April 16, 2009; and

WHEREAS, the Commission recommended to the City Council that the actions contemplated by this Ordinance be approved; and

WHEREAS, the City Council held a public hearing on this Ordinance on May 4, 2009.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AVONDALE, ARIZONA as follows:

SECTION 1. That the City of Avondale Zoning Ordinance (the “Zoning Ordinance”), is hereby amended by adding a new Section 13, Overlay Districts.

SECTION 2. That the Zoning Ordinance is hereby amended by (i) relocating the entire text of Section 5, Overlay Districts, to Section 13, Overlay Districts and renumbering all subsections therein accordingly and (ii) amending all references to former Section 5.1 in the Zoning Ordinance to the appropriate counterpart sections in Section 13.

SECTION 3. That certain document known as the “City of Avondale City Center District Zoning Regulations,” three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 2821-509 of the City of Avondale, Arizona (the “City Center Regulations”), is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 4. That the Zoning Ordinance, Section 5, is hereby amended by (i) renaming such section as the “City Center Zoning District” and (ii) inserting therein the City Center Regulations in its entirety.

SECTION 5. That any person who fails to comply with any provision of the City Center Regulations shall be subject to civil and criminal penalties as set forth in Section 114 of the Zoning Ordinance. Civil penalties shall not exceed \$1,000.00. Criminal penalties shall constitute a class one misdemeanor, punishable by a fine not to exceed \$2,500.00 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

SECTION 6. That if any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the City of Avondale City Center District Ordinance adopted herein by reference is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 7. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

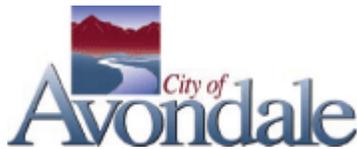
Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney



DEVELOPMENT SERVICES

SUBJECT:

Public Hearing and Ordinance 1367-509 - City
Pointe Zoning Reversion

MEETING DATE:

May 4, 2009

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director 623-333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST: Revert zoning from Planned Area Development (PAD) to Agricultural (AG)

PARCEL SIZE: 18.14 acres

LOCATION: Northwest corner of Avondale Boulevard and the Corporate Drive alignment

APPLICANT: City of Avondale

OWNER: Byrd Enterprises of Arizona Inc

BACKGROUND:

The subject property was annexed into the City on June 28, 1978. The General Plan identifies the subject property as Freeway Commercial. The subject property lies within the Avondale City Center Specific Plan, which identifies the property as Employment Mixed Use. The City Council approved a rezoning from AG (Agricultural) to PAD (Planned Area Development) on March 20, 2006. A site plan was approved on July 17, 2006. The reversion process was initiated by the City Council on December 8, 2008. The Planning Commission approved the request on February 19, 2009. The City Council continued the request on March 9, 2009 to the May 4, 2009 regular meeting.

SUMMARY OF REQUEST:

This is a request to amend the zoning map to revert the zoning classification from PAD back to the original zoning, AG. The City of Avondale Zoning Ordinance, Section 6, Planned Area Development, states that a PAD is required to commence development within two years of the date of the amendment approval or will become null and void. Thereafter, the City Council shall initiate an amendment to the zoning map to revert the zoning classification to its prior designation.

PARTICIPATION:

The applicant invited 10 property owners and other interested parties to neighborhood meetings held on December 3, 2008, and January 6, 2009. Three property owners attended the meeting on December 3, 2008. Two property owners and one interest party attended the January 6, 2009, meeting.

The Planning Division has received numerous phone calls, but has not received any opposition in reference to the proposed reversion.

A notice was published in the West Valley View on November 18, 2008 and December 16, 2008. The property was posted on November 16, 2008 and December 15, 2008. Letters were sent to 13 property owners on November 16, 2008 and December 15, 2008.

A notice of the Planning Commission hearing was published in the West Valley View on February 3, 2009. The posting on the property was updated on February 3, 2009. Letters were mailed out to the 10 property owners on February 3, 2009. No comments have been received to date.

A notice of the City Council hearing was published in the West Valley View on February 17, 2009. The posting on the property was updated on February 17, 2009. Letters were mailed out to the 10 property owners on February 17, 2009. No comments have been received to date.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on February 19, 2009, and voted 6-0 to recommend APPROVAL of this request.

ANALYSIS:

- Development of the first development unit shall commence within two years of the date upon which the PAD District amendment was approved. Failure to commence development within the time limits shall cause the PAD District classification to become null and void. Thereafter, the City Council shall initiate an amendment to the zoning map to revert the zoning classification to its prior designation. The PAD District classification for the subject property became null and void on March 20, 2008.
- The purpose of expiration and reversion is to ensure that developments remain consistent with current standards and expectations of the City.
- The site plan expired on July 17, 2007.
- To date, no construction plans have been approved; no permits have been issued for the property.
- The Avondale Zoning Ordinance states that the AG zoning district serves as a holding zone for land until suitable for rezoning and development.
- The reversion will not preclude the property owner from seeking to rezone the property again in the future.
- Thus far, this project has not satisfied its requirements and therefore needs to be reclassified to its prior designation.

FINDINGS:

1. The proposed zoning meets the General Plan.
2. No development has occurred on the property between March 20, 2006, and the present.
3. The PAD zoning is null and void.

RECOMMENDATION:

The City Council should APPROVE application Z-08-16 with no stipulations.

PROPOSED MOTION:

I move that the City Council accept the findings and ADOPT the Ordinance approving application Z-08-16, a request to revert the zoning from Planned Area Development (PAD) to Agricultural (AG).

ATTACHMENTS:

Click to download

- 📄 [Exhibit A - Zoning Vicinity Map](#)
- 📄 [Exhibit B - Aerial Photograph](#)
- 📄 [Exhibit C - Summary of Related Facts](#)
- 📄 [Exhibit D - General Plan Map](#)
- 📄 [Exhibit E - Development Plan](#)
- 📄 [Exhibit E - Development Plan](#)
- 📄 [Exhibit F - Ordinance](#)
- 📄 [Exhibit G - Site Plan](#)

- ▢ [Exhibit H - Excerpt of the Draft Minutes of the February 19, 2009 Planning Commission Meeting](#)
- ▢ [Exhibit I - Excerpt of City Council March 9, 2009 meeting](#)
- ▢ [Ordinance 1367-509](#)

FULL SIZE COPIES (Council Only):

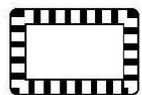
None

PROJECT MANAGER:

Jennifer Fostino, Zoning Specialist 623-333-4022



2008 Aerial Photograph



Subject Property

ORDINANCE NO. 1367-509

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 18.14 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF AVONDALE BOULEVARD AND THE CORPORATE DRIVE ALIGNMENT, AS SHOWN IN FILE NAME Z-08-16, REVERTING THE ZONING ON SUCH PROPERTY FROM PLANNED AREA DEVELOPMENT (PAD) TO AGRICULTURAL (AG).

WHEREAS, the Council of the City of Avondale (the “City Council”) approved Ordinance No. 1176-306 on March 20, 2006, rezoning that certain ± 18.14 acre parcel of land located generally at the northwest corner of Avondale Boulevard and the Corporate Drive alignment, as more particularly described and depicted in Ordinance No. 1176-306 (the “Subject Property”), from AG (Agricultural) to PAD (Planned Area Development) and imposing conditions upon such rezoning (the “Rezoning”); and

WHEREAS, the Rezoning was subject to Section 607 of the City of Avondale Zoning Ordinance (the “Zoning Ordinance”), which requires that the development of the first development unit on the Subject Property must have occurred prior to two years from the Rezoning approval date (the “Time Condition”); upon failure to meet the Time Condition the Rezoning (i) becomes null and void and (ii) is required to be reverted by the City Council; and

WHEREAS, the Time Condition upon the Rezoning has not been met and the City Council desires to comply with the provisions of the Zoning Ordinance by reverting the zoning on the Subject Property from Planned Area Development (PAD) to Agricultural (AG); and

WHEREAS, the City Council desires to amend the City of Avondale Zoning Atlas (the “Zoning Atlas”) pursuant to ARIZ. REV. STAT. § 9-462.04 to reflect the change in zoning on the Subject Property due to the Rezoning reversion; and

WHEREAS, all due and proper notices of public hearings on the intended Rezoning reversion and Zoning Atlas amendment held before the City of Avondale Planning and Zoning Commission (the “Commission”) and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, February 19, 2009, on the Rezoning reversion and amendment to the Zoning Atlas as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission recommended approval of the Rezoning reversion and accompanying Zoning Atlas map amendment; and

WHEREAS, the City Council held a public hearing regarding the Rezoning reversion and amendment to the Zoning Atlas on May 4, 2009.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That the approximately 18.14 acre parcel of real property located at the northwest corner of Avondale Boulevard and the Corporate Drive alignment, as shown in filename Z-08-16, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from Planned Area Development (PAD) to Agricultural (AG).

SECTION 2. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1367-509

(Legal Description and Map)

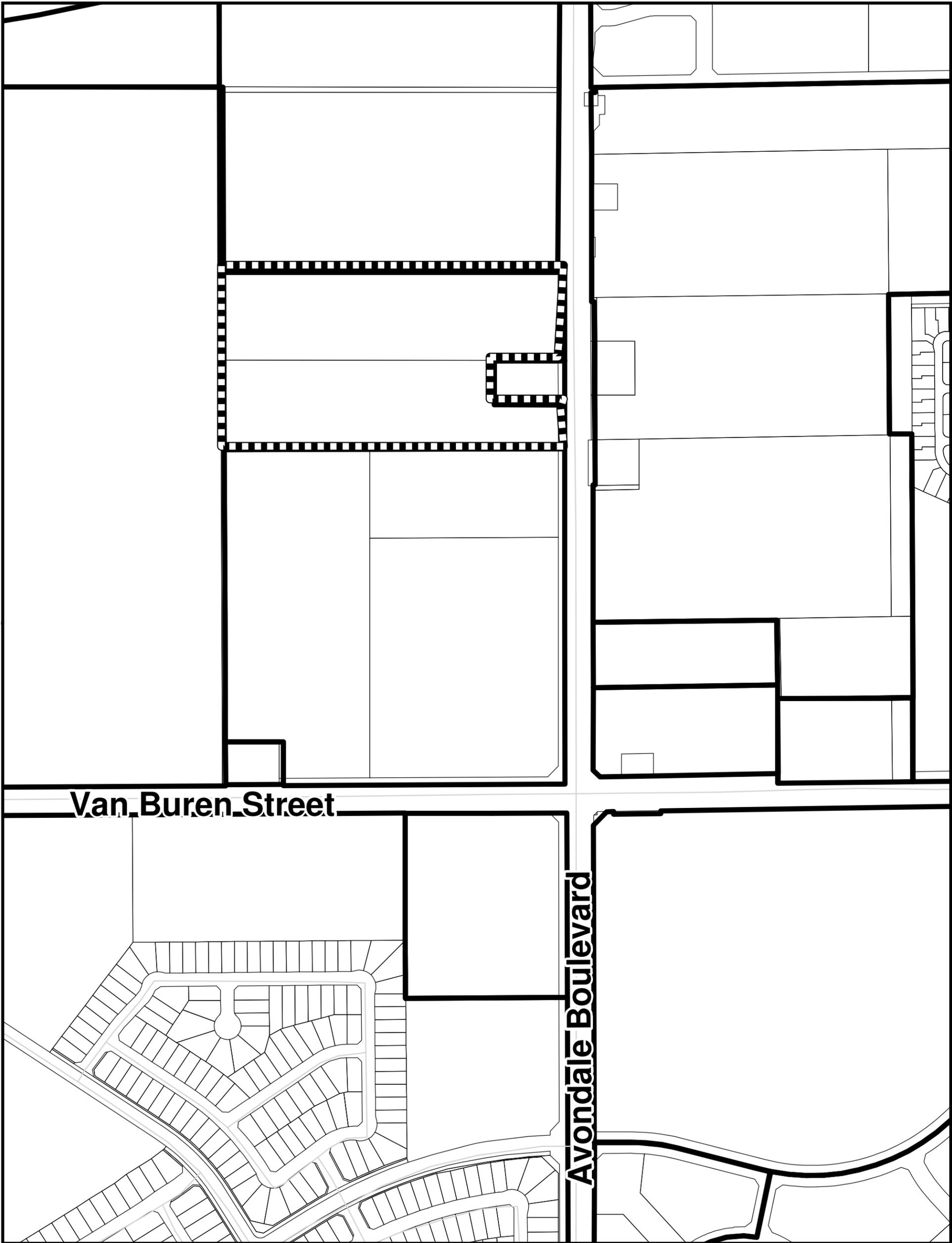
See following pages.

Legal Description For The Overall Project Of City Pointe

Commencing from a found brass cap in hand hole at the East Quarter Corner of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Thence S 00°02'19" E a distance of 682.48' along the east line of said section 1, also being the centerline of 115th Ave., also known as Avondale Boulevard; Thence N 89°53'20" W a distance of 65.00 feet to the True Point Of Beginning.

Thence S 00°02'08" E a distance of 332.92 feet;
Thence N 89°52'34" W a distance of 235.94 feet;
Thence S 00°02'32" E a distance of 162.75 feet;
Thence S 89°54'34" E a distance of 235.85 feet;
Thence S 00°03'03" E a distance of 170.75 feet;
Thence N 89°53'18" W a distance of 1,244.02 feet;
Thence N 00°05'23" W a distance of 333.30 feet
Thence N 00°00'21" E a distance of 332.97 feet;
Thence S 89°53'20" E a distance of 1,244.12 feet to the True Point Of Beginning, containing approximately 790,601 square feet or 18.1497 acres.



Van Buren Street

Avondale Boulevard

Application Z-08-16



Subject Property

SUMMARY OF RELATED FACTS

APPLICATION Z-08-16

<i>THE PROPERTY</i>	
PARCEL SIZE	18.14 acres
LOCATION	Northwest corner of Avondale Boulevard and the Corporate Drive Alignment
PHYSICAL CHARACTERISTICS	Rectangular and relatively level surface
EXISTING LAND USE	Vacant
EXISTING ZONING	PAD (Planned Area Development)
ZONING HISTORY	Annexed 6/28/1978– Rezoned from AG (Agricultural) to PAD on 3/20/2006
DEVELOPMENT AGREEMENT	There is not a development agreement.

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	PAD – Undeveloped (Summit at Avondale)
EAST	County – Undeveloped
SOUTH	PAD – Undeveloped (Avondale Town Center)
WEST	AG - Undeveloped
<i>GENERAL PLAN</i>	
The subject property is designated as Freeway Commercial on the General Plan Land Use Map.	

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Littleton Elementary School District Tolleson Union High School District
ELEMENTARY SCHOOLS	Littleton Elementary School (K-8)
HIGH SCHOOL	La Joya Community High School

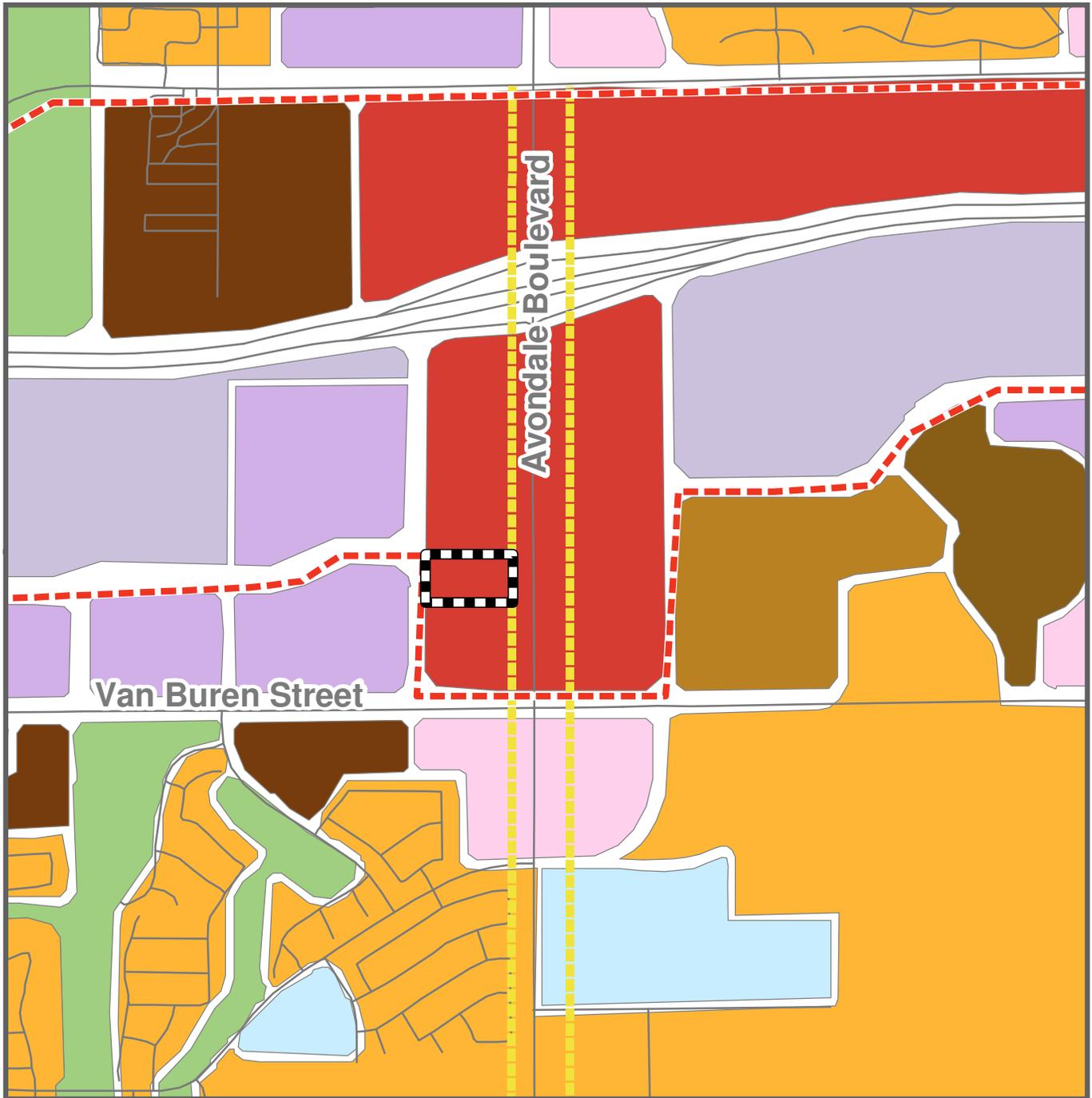
STREETS

Avondale Boulevard

Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	Three traffic lanes, ½ median, street light
Standard half street improvements	Three lanes plus half landscape median, bike lane, curb and gutter, detached sidewalk, right-of-way landscaping, street lights.

UTILITIES

There is a 16" water line along Avondale Boulevard.
There is a 27" sewer line along Avondale Boulevard



General Plan Land Use

- | | |
|--|---|
|  Commercial Corridor, Commercial Corridor |  Medium Density Residential |
|  Growth Area, Growth Area |  Medium High Density Residential |
|  Commercial |  Mixed Use |
|  Employment |  Multi Family Residential |
|  Freeway Commercial |  Open Space |
|  High Density Residential |  Public Facilities |
|  Low Density Residential |  Subject Property |

City Pointe



A Destination Mixed-Use Development

Z-05-20

Proposed by

Byrd Enterprises of Arizona, Inc.

and

LandKin Development, Inc.



Project Narrative for PAD Rezoning Application

December 2, 2005

Rev 1: January 20, 2006

Rev 2: January 31, 2006

Rev 3: February 6, 2006

Rev 4: February 24, 2006

City Pointe

PAD Rezoning Application

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Context Plan
Legal Descriptions
Proposed PAD Site Plan
Conceptual Site Plan – Phase 1
Access & Circulation Plan
Architectural Rendering
Color and Materials
500-Foot Radius Map
Notification Mailing List
Affidavit of Notification
Ownership Verification (Deeds)
Project Boundary & Topographic Survey
Flood Zone Determination
School District Notification Letters
Comprehensive Sign Program (separate booklet)

City Pointe

Introduction

Byrd Enterprises of Arizona, Inc. and LandKin Development propose to develop the subject 18.07-acre (gross) property, which is located at the northwest corner of Avondale Boulevard and Corporate Drive (McKinley Street alignment), with a variety of mixed uses including hotels, offices, restaurants, and retail uses that are compatible with both the City of Avondale's General Plan and other recently zoned properties in the area. The end result, City Pointe, will be a high-end development serving the needs of the growing residential communities in the immediate area, the surrounding vicinity and region as a whole.

Project Team

Property Owner:	Byrd Enterprises of AZ, Inc. c/o Ms. Dianna K. Morrow, CPA, IAR 2000 N. Litchfield Rd. Goodyear, AZ 85338
Developer:	LandKin Development, Inc. c/o Mr. Kevin Helland 250 N. Litchfield Road, Suite 250 Goodyear, AZ 85338
Entitlement Consultant & Civil Engineer:	L.E.A.D.S., Inc. c/o Richard B. Lloyd, AICP 2400 N. Central Avenue, Suite 203 Phoenix, AZ 85004 602-254-2600 ext 104
Architect:	Lamb Architects c/o Paul L. Carlson 7038 E. 5 th Avenue Scottsdale, AZ 85251
Sign Company:	Young Electric Sign Company c/o Tricia Traylor 6725 West Chicago Street Chandler, AZ 85226
Transportation Engineer:	TASK Engineering Inc. c/o Ken Howell, P.E., PTOE 3707 N 7 th Street, Suite 235 Phoenix, AZ 85014

Landscape Architect: T. J. McQueen & Associates, Inc.
1121 E. Missouri Avenue, Suite 218
Phoenix, AZ 85014

Primary City Contact: Ms. Connie Randall
Planner II
City of Avondale
11465 W. Civic Center Drive, Suite 110
Avondale, AZ 85323-6804

Property Description

The subject property is located on the west side of Avondale Boulevard, approximately 1,300 feet south of the Interstate 10 freeway (I-10) in the City of Avondale. The enclosed Context Plan illustrates the subject site in relation to the surrounding area. The property measures approximately 18.07 gross acres in size and consists of two separate tax parcels (APN# 500-01-020 and 500-01-007Y).

As illustrated on the enclosed PAD Site Plan, there is an exception parcel located between the two subject parcels along the Avondale Boulevard frontage. The exception parcel is approximately 1 acre in size and is currently not available for acquisition by the owners of this project. However, provisions will be made for the potential future incorporation of this parcel into the City Pointe project should the parcel become available for acquisition.

The parcels immediately north of the subject property to the I-10 are zoned PAD and slated for freeway commercial uses. Land to the immediate west from the I-10 south to Van Buren Street is currently zoned AG. Land on the east side of Avondale Boulevard from the I-10 to Van Buren Street is a combination of properties zoned PAD and AG (agriculture), some of which are located within unincorporated Maricopa County. Land south of Van Buren Street is a combination of existing and developing single-family residential communities.

The subject property has been used for agricultural purposes, as have others in the immediate area. However, as indicated above, a significant amount of land along Avondale Boulevard is zoned PAD and are planned for a variety of mixed uses including *Avondale Gateway*, located on the southeast corner of Avondale Boulevard and I-10, *Avondale Town Center* located on the northwest corner of Van Buren Street and Avondale Boulevard, and the *Shops at Avondale Boulevard* located on the southwest corner of I-10 and Avondale Boulevard.

Project Description

This is a request for a rezone of the subject property from AG to PAD for the development of a mixed-use hospitality, office and retail destination to serve the surrounding community. As indicated by the PAD Site Plan, the intent is to rezone the entire site to PAD with master site plan approval for two hotels and an adjacent restaurant to follow shortly thereafter. The site is anticipated to be developed in separate phases, which shall be referred to as Hospitality and Mixed Use Commercial. The Hospitality area is planned to be developed in two sub-phases. The first sub-phase will consist of a Holiday Inn and attached sit-down restaurant. The second sub-phase will consist of an additional hotel. The balance of the site will be developed with office and commercial uses as specific tenants are identified (see *Master Site Plan and Site Plan Review* section for more discussion).

Data Table	
Total Gross Area	18.14 acres (790,601 sq. ft.)
Area Devoted to Street Rights-of-Way	2.41 acres (104,974 sq. ft.)
Total Net Area (gross area minus perimeter streets)	15.73 acres (685,627 sq. ft.)

Proposed Land-Use Development Map

The general arrangement of proposed land uses within the site is depicted on the enclosed PAD Site Plan. As noted previously, the site will be divided into two primary PAD areas. Lists of the specific land uses for each PAD area are listed in the *Land Uses* section of this narrative.

The first development phase of the project, Hospitality Area I, is depicted on the enclosed Conceptual Site Plan. The applicant intends to submit a Master Site Plan application for the first hotel and the adjacent sit-down restaurant soon after the submittal of this PAD rezoning application.

Land Uses

The Freeway Specific Corridor Plan and 2002 General Plan identifies several land use categories which City Pointe incorporates into its plan including hospitality, office, and retail uses including restaurants.

The Freeway Specific Corridor Plan and 2002 General Plan defines freeway commercial uses as follows:

This designation is to accommodate the more intense uses of the I-10 and Loop 101 corridors. It is intended that this category would allow flexibility for development by allowing regional retail, family entertainment, office and employment uses.

The Freeway Specific Corridor Plan defines commercial uses as follows:

Provides for the daily needs of goods and services of the residents within the surrounding area. The types of uses allowed in this category include grocery stores, gas stations, neighborhood services, and office. Preferred locations are major arterial intersections, although other locations may be deemed acceptable based on the merits of the project. In addition, services that provide shopping and basic services for the immediate area (i.e. "neighborhood commercial") may be allowed in any land use classification based upon the merits of the development proposal. Generally neighborhood commercial development would be greater than five acres, and would required adequate buffering to protect surrounding land uses.

The Freeway Specific Corridor Plan defines mixed use uses as follows:

The use provides for a mix of high intensity uses with a retail commercial emphasis. The designation may include a maximum of 45% residential use. Mixed uses may include neighborhood and community retail, residential, hotel/motel, and employment.

A variety of land uses for City Pointe were discussed with City planning staff subsequent to the Pre-application Meeting. The following is the staff recommended proposed uses within each of the PAD areas.

Hospitality Element

The purpose of the Hospitality area is to provide for quality hotel development with supporting restaurant uses that will serve the existing and future residents and visitors in the region.

Permitted Uses

The following uses are permitted within the Hospitality area:

- Hotels
- Full-service restaurants and other sit down restaurants, delis, coffee shops, and similar eating establishments without drive-thrus

Accessory Uses

The following uses are permitted as accessory uses directly related to an approved use in the Hospitality area:

- Outdoor dining
- Sidewalk café
- Conference, banquet and convention facilities
- Gift Shops
- Personal service facilities such as barber shops, beauty shops, day spas, nail salons, tanning salons, and other personal service facilities excluding massage parlors, tattoo and piercing establishments

Prohibited Uses

The following Uses are prohibited in the Hospitality area:

- Automotive parts and supply, tire stores, auto repair, car washes
- Check cashing, bondsman, pawn shops, plasma centers, thrift stores
- Convenience stores, gasoline stations
- Day labor centers
- Drive-thru or drive-in facilities
- Freestanding pharmacies
- Outdoor display or storage
- Sexually oriented businesses
- Any use not expressly permitted herein

Mixed Use Commercial Element

The purpose of the Mixed Use Commercial area is to provide employment uses within a planned office park environment that provides for office and service uses with supporting retail and restaurant development.

Permitted Uses

The following uses are permitted within the Mixed Use Commercial area:

- Banks and financial institution without drive-thru facilities
- Business services including, but not limited to, copy centers, travel agencies, ticket sales, and employment agencies (not including day labor)
- Cocktail lounges, taverns, and brewpubs
- Full-service restaurants and other sit down restaurants, delis, coffee shops, and similar eating establishments without drive-thrus
- Medical, dental, or health offices or clinics
- Personal service facilities such as barber shops, beauty shops, day spas, nail salons, tanning salons, and other similar personal service facilities excluding massage parlors, tattoo, and body piercing establishments
- Professional, administrative, corporate, or business offices
- Retail sales of new merchandise in buildings up to 30,000 sq. ft. in gross floor area for single users

Uses Permitted Subject to Conditions

The following uses are permitted subject to conditions in the Mixed Commercial area:

- Banks and financial institutions with drive-thru facilities subject to the following conditions:
 - Drive-thru windows shall not front onto a public street and shall be set back at least 150 feet from Avondale Boulevard;
 - Drive-thrus shall be fully integrated into the design of the building;
 - A minimum of 100 feet of vehicle stacking shall be provided;
 - The drive-thru shall be reviewed and approved concurrent with the Master Site Plan for the subject property.

Uses Permitted With A Conditional Use Permit

The following uses are permitted with a Conditional Uses Permit in the Mixed Use Commercial Element of the PAD:

- Nightclubs (not including adult live entertainment as defined in Section 10 of the Avondale Zoning Ordinance)
- Childcare Centers
- Health and exercise facilities as part of a multi-tenant building.
- Drive-thru or drive-in facilities
- Retail sales of new merchandise in buildings greater than 30,000 sq. ft. in gross floor area for single users

Accessory Uses

The following uses are permitted as accessory uses directly related to an approved permitted use in the Mixed Use Commercial Element of the PAD:

- Outdoor dining
- Sidewalk café
- Walk-up automatic teller machines (ATM)

Prohibited Uses

The following uses are prohibited in the Mixed Use Commercial Element of the PAD:

- Automotive parts and supply, tire stores, auto repair, car washes
- Check cashing, bondsman, pawn shops, plasma centers, thrift stores
- Convenience stores, gasoline stations
- Day labor centers
- Freestanding pharmacies
- Outdoor display or storage
- Sexually oriented businesses
- Any use not expressly permitted herein

Conformance with Established Plans

As indicated in the City's General Plan, the subject property, as well as land immediately adjacent to Avondale Boulevard from the I-10 to Van Buren Street, is designated as Freeway Commercial on the Land Use Map. This designation is intended to accommodate a variety of regional retail, light industrial, family entertainment and office uses. Furthermore, the Land Use Map identifies Avondale Boulevard as a Commercial and Employment Corridor which encourages employment and commercial uses along this arterial. By providing opportunities for office, retail, restaurant and hotel uses within the subject development, two goals of the General Plan are met: (1) to provide economic sustainability for the community and (2) to develop Avondale Boulevard as a commercial corridor.

City Pointe is also subject to the City's Freeway Corridor Specific Plan and is designated for freeway commercial uses. This plan recognizes the subject site and the surrounding freeway corridor as an area that best represents the long term economic, social and community interests of the City of Avondale. In addition, this corridor has been determined to be well suited for intense urban development given its close proximity to the I-10 and ability to accommodate a variety of land uses such as commercial, office, mixed-use, high-density and moderate density residential, regional open space and transitional uses.

One of the plan's primary goals is to establish a distinctive image for this corridor and for the City through the use of an established street tree theme of Southern Live Oak along Avondale Boulevard. This project will incorporate this theme for continuity of landscape all along this corridor.

A key element of the Freeway Corridor Specific Plan is the designation of a Regional Commercial Node along Avondale Boulevard and the I-10. In addition to the envisioned land uses mentioned above, this corridor encourages more intense uses such as hotels, business parks and related commercial uses.

Part of the City Pointe development request is to obtain approval for an increased height allowance. As such, certain findings must be met prior to Council approval. City Pointe meets the following findings:

- a) The proposal conforms to the intent and objectives of the Freeway Corridor Specific Plan to create a regional commercial and office corridor in the vicinity of Avondale Boulevard and I-10.
- b) The request meets the corridor design standards and principles.
- c) The request supports the Boulevard streetscape concept and provides street and landscaping improvements which exceed the minimum requirements.
- d) The project provides a mix of land uses which include office, retail, hotel and employment uses.

- e) Extraordinary architectural and design criteria are included to ensure quality development.
- f) The project is pedestrian friendly by providing pedestrian plazas and enhanced pedestrian walkways.
- g) The project incorporates unique signage, monuments and other improvements to announce entry into the City of Avondale.

City Pointe is a project which complies with the objectives, goals and required findings of both the General Plan and the Freeway Specific Corridor Plan.

Development Standards

Lot Development Standards

Minimum Lot Width and Area	None
Front setback from Avondale Blvd.	40' to parking; 30' to building
Front setback from all other public streets	20' to parking; 20' to building
Interior side setback	None (shall comply with Building Code)
Rear yard setback	None (shall comply with Building Code)
Building Height	150'
Lot Coverage	No maximum subject to meeting minimum development standards including parking, landscaping, and setback requirements.
Right-of-Way Dedications	40' along southern property line; 30' along western and northern property lines

Lighting

At a minimum, all on-site light shall conform to *Section 707:Outdoor Lighting*, of the City of Avondale Zoning Ordinance. In addition, the following provisions shall apply:

- Accent lighting of selected architectural, landscape and/or hardscape features will be allowed and is encouraged. Such lights shall be shielded and directed downward;
- Exterior lighting shall be located and oriented to focus light inward from property boundaries;
- All primary light fixtures shall be metal halide;
- The design of lighting fixtures and their structural supports shall be of a scale and architectural design that is compatible with the buildings within the project;

- All concrete light pole basis shall be designed to match the standard set forth for the entire development;
- Light fixtures that illuminate large areas from a single fixture are prohibited;
- Pedestrian scale lighting fixtures will be provided in all areas designed for pedestrian activities, such as plazas, courtyards, pathways and seating areas, but excluding parking only areas. Such pedestrian lighting fixtures shall complement the architectural character of the project;
- The use of decorative wall-mounted fixtures or sconces is encouraged;

Screening

Where screening is required by development regulations, a combination of masonry walls, landscape materials and earth berms will be utilized. The particular method of screening shall be consistent with the adjoining architecture and landscape themes.

Parking Areas

All parking areas shall be screened from public rights-of-way by a minimum 3-foot high wall, landscape berm, or combination thereof. Screen walls shall be constructed of commercial grade masonry and of a color and texture to complement adjacent buildings.

All parking areas adjacent to Avondale Boulevard shall be screened from the right-of-way by a minimum 3-foot high wall, landscape berm, or combination thereof. Walls may not be used for more than 25% of the total frontage of the parking area along Avondale Boulevard.

Service Areas

Loading and/or service areas shall not be located on the front of buildings where they are difficult to adequately screen from view. Such areas shall be limited to the side or rear areas of buildings and shall be screened with walls or landscaping. The minimum height for screening of service areas shall be 6 feet.

Utility and Mechanical Equipment

Utility and Mechanical equipment shall be screened as required by City of Avondale ordinances. All roof mounted equipment, satellite dishes, and ventilators projecting above roof line shall be either recessed or screened by a building parapet. No secondary screen elements are permitted unless they are specifically complimentary to the design of the overall building.

Trash Enclosures

All trash enclosures shall be constructed per the standard City of Avondale trash enclosure detail. Trash enclosures shall be of a material and color that compliments adjacent buildings.

Walls and Fences

Walls and fences shall only be utilized for screening and security purposes and shall not enclose individual parcels. Landscaping shall be used in conjunction with all walls. The master site plan shall indicate the approximate location of all walls and depict their architectural theme.

Architectural Design Criteria

Architectural Character

The desired architectural character of City Pointe is that of a high quality, vibrant mixed use commercial center that is attractive and inviting to tenants, visitors, and the general public. The project is intended to complement other recently approved mixed-use projects that neighbor the site. The project will have an interesting variety of forms, materials, colors and details that are coordinated to create an inviting and dynamic focal point for the community.

Style

City Pointe will develop with a blend of architectural styles. The various styles, primarily contemporary in nature, will be compatible through the use of common materials and colors while creating a strong individual identity consistent with their individual use and purpose. An example of the project's architectural style is depicted on the attached architectural rendering of the Holiday Inn hotel, planned as the first phase of this project.

Required Features & Common Design Elements

All buildings, including office and commercial space constructed in later phases, located within the City Pointe project shall have the following features:

- Variations in roofline and form;
- Ground level arcades or other shaded areas;
- Use of vertical elements, projections of a change of wall planes by articulation to prevent large expanses of blank walls;
- A clear distinction between roof, body and base of the building;
- Use of protected and recessed entries clearly identified and emphasized by architectural detailing and specimen landscaping;
- Inclusion of shaded windows, varied shapes, and accent mullions on elevations facing streets and pedestrian areas;
- A complementary mixture of exterior finish materials;
- Four sided architecture; and
- Internalized downspouts

Building Mass

The visual impact of buildings is not only determined by their size but also by the proportional relationship of the building's height, width and length. Therefore, buildings within City Pointe shall be designed with proportions that are appropriate for the building itself and for the building's relationship with other structures in the project. The common design elements of wall articulation, window details, vertical elements and variations in roofline will all contribute to a visual reduction in building mass.

Building Materials

Buildings within City Pointe shall be constructed of first-quality, commercial grade materials. The creative blending of appropriate materials to complement and accent the overall architecture is required. The innovated use of construction detailing should enhance the material selections and their interplay. Contemporary metalwork such as stainless steel, fabricated iron work and perforated metal screens as limited accents is encouraged but such materials shall not be used for screening purposes. Approved primary building materials include but are not limited to concrete masonry units with integral color or exposed aggregate installed with architectural relief, stucco, plaster, and concrete if the building is highlighted with architectural features. Materials that are specifically prohibited include wood (except for limited amounts of trim), exposed plain concrete block, and pre-engineered metal buildings. Final building material selections will be reviewed and approved with the Master Site Plan.

Color Palette

The City Pointe color palette shall consist of non-reflective, neutral desert or earth tones. Accent colors found in the surrounding agricultural areas and native desert locations should be used freely to provide design interest and diversity. All colors and color combinations shall be reviewed and approved by the City of Avondale prior to construction. Bright or intense primary and secondary colors are specifically prohibited except for limited use as accents. Final building color palette will be reviewed and approved with the Master Site Plan.

Enhanced Design Standards

The required features and common design elements proposed for City Pointe are intended to guide development of the project so that at build-out the entire project will be an attractive, high quality mixed use center. City Pointe will be a vibrant and active focal point befitting of its location at the gateway entry into the City of Avondale. The project team and City staff will have several opportunities to guide the implementation of project design standards during the municipal approval process. The project's high design expectations will be further bolstered by the establishment of a property owner's architectural review committee that will review and approve projects subsequent to the first phase.

Site Design Criteria

It is anticipated that City Pointe will develop over several phases in an urban campus style. Buildings shall be connected with pedestrian walkways and limited vehicular circulation, through the center of the site. In the urban campus setting placement of individual buildings will be import both for functional objectives as well as for attaining a sense of an integrated whole. The first phase of the project will be developed at the site's western end to set the tone for the development of the balance of the site. A water feature, sculpture or special landscape plantings will be provided as a focal point of the first phase of the project. Preservation of a view corridor from Avondale Boulevard to the first-phase focal point will be an important consideration during design and development of future phases of the project.

Building Orientation

Hospitality Area I buildings will face Avondale Boulevard and the proposed Phase I focal point. Mixed Use Office Park Area II buildings will face internal pedestrian areas to accentuate and define a view corridor towards the Phase I focal point. Commercial Center Area III buildings will face Avondale Boulevard framing the view to the internal pedestrian area.

Parking

Parking shall be provided per Section 804 of the Avondale Zoning Ordinance ("Required Parking Schedule") except for those uses as specified below:

Hotels	1 space per 1 rental room
Restaurant/Bar within Hotel*	1 space per 200 square feet
Banquet/Meeting Rooms within Hotel	1 space per 300 square feet

*Additional parking is not required for a hotel restaurant/bar if it is completely internal to the hotel (no separate entry) and has no signage on the exterior of the building.

The size of all parking spaces, driveways, parking lot islands and other improvements in the parking areas shall conform to the Avondale Zoning Ordinance. For all parking lots directly adjacent and visible from Avondale Boulevard, a minimum of 15% of the total parking lot area shall be landscaped.

Parking structures are allowed. Said parking structures shall be designed to be architecturally compatible with the buildings including, but not limited to, the use of similar colors, materials, and architectural features.

Canopy or shade type parking structures are allowed. Parking canopies shall not exceed 12 cars in length. No canopies shall be installed in front of buildings or along street frontages. The design of the canopies shall be upgraded through the use of fascia skirts or upgraded details compatible with building architecture and columns painted to match the buildings. Under canopy lighting shall be screened to limit visual distraction from the surrounding environment. Canopies shall be cantilever-type.

Special paving treatment shall be provided at site entrances into parking lots.

Landscaping, Pedestrian Open Space and Amenities

The landscape theme for City Pointe will accentuate desert trees, shrubs and ground covers. Accent plantings will be utilized to identify site access points, pedestrian ways and seating areas. All plant materials will be appropriately irrigated and maintained. A specific palette of plant materials will be provided for review and approval in the master site plan application. Internal drives will incorporate a common tree/landscape theme to tie all phases of development together and ensure a continuity of development. The use of the City of Avondale street tree theme of Southern Live Oaks along the Avondale Boulevard frontage is required.

An important part of developing a cohesive urban campus setting for the project will be the provision of adequate pedestrian open space. To be useable year round the majority of public open spaces should be shaded, either by landscaping, structures, or a combination thereof. These shaded pedestrian areas will link the varying on-site land uses and offer convenient and inviting opportunities for informal gatherings and interaction among users of the site. Amenities to be provided in the pedestrian open space areas may include various forms of seating, small tables; water features, drinking fountains, public art, and focal landscape plantings.

Signs

The Comprehensive Sign Program included with the PAD Application is conceptual. The sign guidelines for City Pointe have been designed to ensure continuity within the development while allowing individual projects to maintain their own architectural uniqueness. The intent; however, is to ensure that sign materials and finishes are integrated with the balance of the site.

A complete sign package will be submitted to the City of Avondale for review in conjunction with each Final Site Plan Review within each PAD area. Signage for this project is very important and will be unique for each of the proposed land use needs.

The sign package for City Pointe has been designed with an awareness of the surrounding community, including other mixed-use projects in the area, the proximity to the I-10 and within the freeway corridor. All signage elements are designed with complementary architectural elements including forms, massing, colors, materials and finishes that complement the building architectural theme of the development.

Variations to the City Sign Ordinance as provided in the Comprehensive Sign program allow for the adequate identification of the development due to the size of the overall development and the increased setback from Avondale Boulevard of 40 feet and the increased setback of 20 feet from all other streets.

Sign Type Quantity and Size

TYPE	QTY	AREA SF	HEIGHT F
Center Identification	2	9	9
Pad Tennant Identification	1	95	16
Multi-Tenant Monument	4	48	10
Pad Building Wall Storefront	1 per wall	2/lineal foot	4 (letters)
Pad Building Wall Other	1 per wall	1/lineal foot	4 (letters)
Shop Building Wall	1 per wall	200	2 (letters)
Window Graphics	1	(name address hours)	.33 Max
Rear Service Entrance	1	1.5	1
Arcade	1	Less than 8	
Directional Signage Per Code			
Fire Signage Per code			

Infrastructure

Circulation

Avondale Boulevard, a fully developed major arterial roadway, will provide general vehicular access to the site. Corporate Drive, a major collector street, will be developed along the site's south property line and minor collector streets will be developed along the site's west and north property lines. Full turning movements will be provided from Avondale Boulevard to the planned Corporate Drive with a signalized intersection. Access from Avondale Boulevard to the proposed local collector street on the sites north property line will allow right-in, right-out, and left-in from north bound Avondale Boulevard.

It is anticipated that the primary vehicular entrances to the site will be from the new east/west streets along the north and south property lines. These east west streets will provide full access by all turning movements at the two locations shown on the *Access & Circulation Plan* included in this application. Secondary vehicular entrances may be located along the Avondale Boulevard frontage and / or the new minor collector street to be developed along the site's west property line. The backbone of the internal vehicular circulation system is depicted in the *Access & Circulation Plan*. Additional vehicular circulation internal to the site will be determined as tenants / end users of the site are identified.

Pedestrians will access the site from public sidewalks around the perimeter of the site connecting with the internal walkways as shown on the *Access & Circulation Plan*. An important part of developing a cohesive urban campus setting for the project will be the provision of adequate pedestrian open space and walkways. The shaded pedestrian walkways adjacent to the internal private streets will link the varying on-site land uses.

The one-acre parcel that fronts on Avondale Boulevard that is an exception to this application may, in the future, be integrated into the City Pointe project through the use of cross-access and parking easements.

Utilities

Water service for the project will be provided by an existing 16-inch water line located within the western right-of-way of Avondale Boulevard. A looped water main system will be extended from two existing 8-inch taps in the existing water main to the buildings within the project. This looped system will provide both domestic and fire protection water service to the project.

Sanitary sewer service for the project will be provided by an existing 8-inch tap in a sewer main located within the western right-of-way of Avondale Boulevard. New sewer laterals will be extended to buildings within the project.

Electric power will be provided by Arizona Public Service from existing aerial powerlines located along Avondale Boulevard. All on-site powerlines will be located underground.

Grading and Drainage

The surface of the site slopes gently downward to the southwest at an approximate gradient of less than one percent. Stormwater runoff from the site and adjacent half-streets will be collected and retained in a combination of above ground retention basins and underground storage structures.

The Hospitality Area I will provide retention to accommodate on site and off-site runoff for the area of Area I during the first phase of construction. The remaining sites will share temporary retention basins until the permanent basins and/or underground structures are approved and installed in subsequent development phases.

Required Off-Site Improvements

Right-of-way dedications and corresponding half street improvements will be required along the site's north, south and west property lines. A traffic signal is anticipated to be required at the future intersection of Avondale Boulevard and Corporate Drive. This project will share in a portion of the traffic signals cost.

Phasing of Improvements

It is anticipated that the ½ streets improvements, including landscaping along the full length of the new streets, and deceleration lanes as required, will be constructed with development of the first phase of the project (i.e. the first hotel and sit-down restaurant). The traffic signal will be installed at such time as the signal is warranted based on actual traffic volumes and/or as directed by the City of Avondale.

Ownership and Maintenance

The site is presently owned by Byrd Enterprises of Arizona, Inc. Byrd Enterprises intends to retain ownership of at least the Hospitality Area I of the project. Remaining portions of the project will be either sold or leased to individual end users.

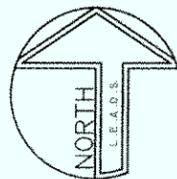
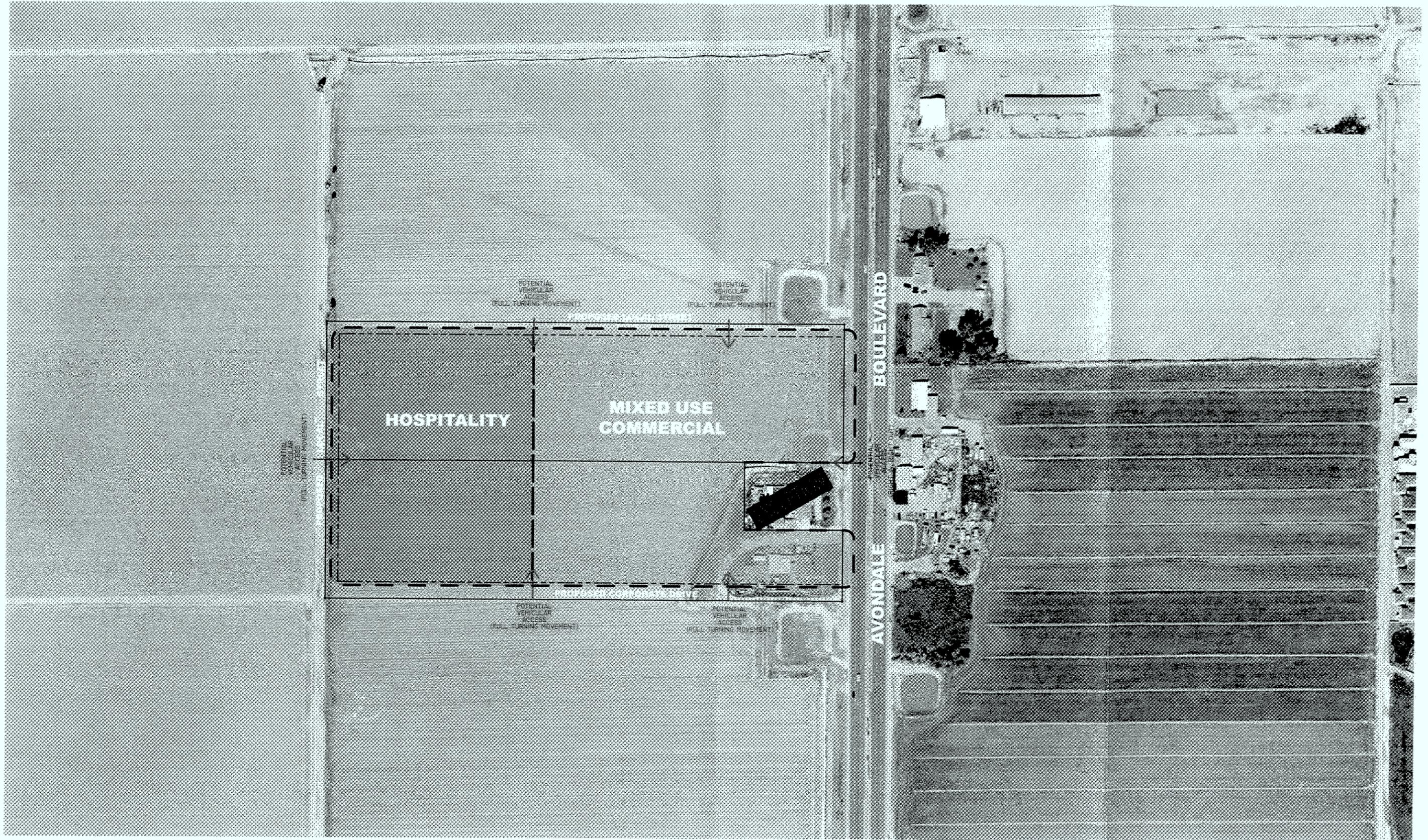
In order to maintain the continued high project quality and assure adequate maintenance and upkeep, a set of Covenants, Conditions and Restrictions ("CC&Rs") will be established and recorded on title to the site. Among other things, the CC&Rs will require the establishment of an owner's association who in turn will be charged with establishing an Architectural Review Committee to review all future development and renovation activities on the site. The CC&Rs will also establish a cost sharing arrangement for future common area site improvements and the maintenance of all common area facilities and amenities. Finally, the CC&Rs will establish cross access and parking easements to insure that the entire site functions as an integrated whole.

Master Development Plan and Site Plan Review

A Master Site Plan is required for each PAD area within City Pointe. Each Master Site Plan shall include harmonious architectural themes, building materials and colors, internal circulation, parking lot configurations, signage, landscape theme and maximum building footprints. All Master Site Plans shall be reviewed by the Planning Commission and approved by the City Council. The master site plan submittal area for phase one of City Pointe development is 7.78 acres. The minimum size of future master site plan area submittals shall be 7.78 Acres.

As users are identified within each PAD area, the Master Site Plan may need to be amended or updated to illustrate changes within the area and other factors. Areas submitted in one Master Site Plan may also be amended by inclusion in a subsequent Master Site Plan submittal. Changes that increase traffic, significantly change building square footage, building orientation or footprints, have impact on adjacent users or include changes that alter the character of the Master Site Plan, including changes to approved building architecture or materials will be considered Major Amendments to the Master Site Plan. Major Amendments shall be reviewed by the Planning Commission and approved by the City Council. All other changes will be considered Minor Amendments and shall be reviewed and approved administratively.

Following approval of a Master Site Plan, individual final site plans may be submitted for administrative review and approval for each building within the PAD area. All individual site plans shall be in substantial conformity with the Master Site Plan.



City Pointe
Avondale, Arizona
12-28-05

LEADS[®]
Land Entitlement And Development Services, Inc.
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City Pointe



A Destination Mixed-Use Development

Z-05-20

Proposed by

Byrd Enterprises of Arizona, Inc.

and

LandKin Development, Inc.



Project Narrative for PAD Rezoning Application

December 2, 2005

Rev 1: January 20, 2006

Rev 2: January 31, 2006

Rev 3: February 6, 2006

Rev 4: February 24, 2006

City Pointe

PAD Rezoning Application

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City Pointe

Introduction

Byrd Enterprises of Arizona, Inc. and LandKin Development propose to develop the subject 18.07-acre (gross) property, which is located at the northwest corner of Avondale Boulevard and Corporate Drive (McKinley Street alignment), with a variety of mixed uses including hotels, offices, restaurants, and retail uses that are compatible with both the City of Avondale's General Plan and other recently zoned properties in the area. The end result, City Pointe, will be a high-end development serving the needs of the growing residential communities in the immediate area, the surrounding vicinity and region as a whole.

Project Team

Property Owner:	Byrd Enterprises of AZ, Inc. c/o Ms. Dianna K. Morrow, CPA, IAR 2000 N. Litchfield Rd. Goodyear, AZ 85338
Developer:	LandKin Development, Inc. c/o Mr. Kevin Helland 250 N. Litchfield Road, Suite 250 Goodyear, AZ 85338
Entitlement Consultant & Civil Engineer:	L.E.A.D.S., Inc. c/o Richard B. Lloyd, AICP 2400 N. Central Avenue, Suite 203 Phoenix, AZ 85004 602-254-2600 ext 104
Architect:	Lamb Architects c/o Paul L. Carlson 7038 E. 5 th Avenue Scottsdale, AZ 85251
Sign Company:	Young Electric Sign Company c/o Tricia Traylor 6725 West Chicago Street Chandler, AZ 85226
Transportation Engineer:	TASK Engineering Inc. c/o Ken Howell, P.E., PTOE 3707 N 7 th Street, Suite 235 Phoenix, AZ 85014

Landscape Architect: T. J. McQueen & Associates, Inc.
1121 E. Missouri Avenue, Suite 218
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Planner II
City of Avondale
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Avondale, AZ 85323-6804

Property Description

The subject property is located on the west side of Avondale Boulevard, approximately 1,300 feet south of the Interstate 10 freeway (I-10) in the City of Avondale. The enclosed Context Plan illustrates the subject site in relation to the surrounding area. The property measures approximately 18.07 gross acres in size and consists of two separate tax parcels (APN# 500-01-020 and 500-01-007Y).

As illustrated on the enclosed PAD Site Plan, there is an exception parcel located between the two subject parcels along the Avondale Boulevard frontage. The exception parcel is approximately 1 acre in size and is currently not available for acquisition by the owners of this project. However, provisions will be made for the potential future incorporation of this parcel into the City Pointe project should the parcel become available for acquisition.

The parcels immediately north of the subject property to the I-10 are zoned PAD and slated for freeway commercial uses. Land to the immediate west from the I-10 south to Van Buren Street is currently zoned AG. Land on the east side of Avondale Boulevard from the I-10 to Van Buren Street is a combination of properties zoned PAD and AG (agriculture), some of which are located within unincorporated Maricopa County. Land south of Van Buren Street is a combination of existing and developing single-family residential communities.

The subject property has been used for agricultural purposes, as have others in the immediate area. However, as indicated above, a significant amount of land along Avondale Boulevard is zoned PAD and are planned for a variety of mixed uses including *Avondale Gateway*, located on the southeast corner of Avondale Boulevard and I-10, *Avondale Town Center* located on the northwest corner of Van Buren Street and Avondale Boulevard, and the *Shops at Avondale Boulevard* located on the southwest corner of I-10 and Avondale Boulevard.

Project Description

This is a request for a rezone of the subject property from AG to PAD for the development of a mixed-use hospitality, office and retail destination to serve the surrounding community. As indicated by the PAD Site Plan, the intent is to rezone the entire site to PAD with master site plan approval for two hotels and an adjacent restaurant to follow shortly thereafter. The site is anticipated to be developed in separate phases, which shall be referred to as Hospitality and Mixed Use Commercial. The Hospitality area is planned to be developed in two sub-phases. The first sub-phase will consist of a Holiday Inn and attached sit-down restaurant. The second sub-phase will consist of an additional hotel. The balance of the site will be developed with office and commercial uses as specific tenants are identified (see *Master Site Plan and Site Plan Review* section for more discussion).

Data Table	
Total Gross Area	18.14 acres (790,601 sq. ft.)
Area Devoted to Street Rights-of-Way	2.41 acres (104,974 sq. ft.)
Total Net Area (gross area minus perimeter streets)	15.73 acres (685,627 sq. ft.)

Proposed Land-Use Development Map

The general arrangement of proposed land uses within the site is depicted on the enclosed PAD Site Plan. As noted previously, the site will be divided into two primary PAD areas. Lists of the specific land uses for each PAD area are listed in the *Land Uses* section of this narrative.

The first development phase of the project, Hospitality Area I, is depicted on the enclosed Conceptual Site Plan. The applicant intends to submit a Master Site Plan application for the first hotel and the adjacent sit-down restaurant soon after the submittal of this PAD rezoning application.

Land Uses

The Freeway Specific Corridor Plan and 2002 General Plan identifies several land use categories which City Pointe incorporates into its plan including hospitality, office, and retail uses including restaurants.

The Freeway Specific Corridor Plan and 2002 General Plan defines freeway commercial uses as follows:

This designation is to accommodate the more intense uses of the I-10 and Loop 101 corridors. It is intended that this category would allow flexibility for development by allowing regional retail, family entertainment, office and employment uses.

The Freeway Specific Corridor Plan defines commercial uses as follows:

Provides for the daily needs of goods and services of the residents within the surrounding area. The types of uses allowed in this category include grocery stores, gas stations, neighborhood services, and office. Preferred locations are major arterial intersections, although other locations may be deemed acceptable based on the merits of the project. In addition, services that provide shopping and basic services for the immediate area (i.e. "neighborhood commercial") may be allowed in any land use classification based upon the merits of the development proposal. Generally neighborhood commercial development would be greater than five acres, and would required adequate buffering to protect surrounding land uses.

The Freeway Specific Corridor Plan defines mixed use uses as follows:

The use provides for a mix of high intensity uses with a retail commercial emphasis. The designation may include a maximum of 45% residential use. Mixed uses may include neighborhood and community retail, residential, hotel/motel, and employment.

A variety of land uses for City Pointe were discussed with City planning staff subsequent to the Pre-application Meeting. The following is the staff recommended proposed uses within each of the PAD areas.

Hospitality Element

The purpose of the Hospitality area is to provide for quality hotel development with supporting restaurant uses that will serve the existing and future residents and visitors in the region.

Permitted Uses

The following uses are permitted within the Hospitality area:

- Hotels
- Full-service restaurants and other sit down restaurants, delis, coffee shops, and similar eating establishments without drive-thrus

Accessory Uses

The following uses are permitted as accessory uses directly related to an approved use in the Hospitality area:

- Outdoor dining
- Sidewalk café
- Conference, banquet and convention facilities
- Gift Shops
- Personal service facilities such as barber shops, beauty shops, day spas, nail salons, tanning salons, and other personal service facilities excluding massage parlors, tattoo and piercing establishments

Prohibited Uses

The following Uses are prohibited in the Hospitality area:

- Automotive parts and supply, tire stores, auto repair, car washes
- Check cashing, bondsman, pawn shops, plasma centers, thrift stores
- Convenience stores, gasoline stations
- Day labor centers
- Drive-thru or drive-in facilities
- Freestanding pharmacies
- Outdoor display or storage
- Sexually oriented businesses
- Any use not expressly permitted herein

Mixed Use Commercial Element

The purpose of the Mixed Use Commercial area is to provide employment uses within a planned office park environment that provides for office and service uses with supporting retail and restaurant development.

Permitted Uses

The following uses are permitted within the Mixed Use Commercial area:

- Banks and financial institution without drive-thru facilities
- Business services including, but not limited to, copy centers, travel agencies, ticket sales, and employment agencies (not including day labor)
- Cocktail lounges, taverns, and brewpubs
- Full-service restaurants and other sit down restaurants, delis, coffee shops, and similar eating establishments without drive-thrus
- Medical, dental, or health offices or clinics
- Personal service facilities such as barber shops, beauty shops, day spas, nail salons, tanning salons, and other similar personal service facilities excluding massage parlors, tattoo, and body piercing establishments
- Professional, administrative, corporate, or business offices
- Retail sales of new merchandise in buildings up to 30,000 sq. ft. in gross floor area for single users

Uses Permitted Subject to Conditions

The following uses are permitted subject to conditions in the Mixed Commercial area:

- Banks and financial institutions with drive-thru facilities subject to the following conditions:
 - Drive-thru windows shall not front onto a public street and shall be set back at least 150 feet from Avondale Boulevard;
 - Drive-thrus shall be fully integrated into the design of the building;
 - A minimum of 100 feet of vehicle stacking shall be provided;
 - The drive-thru shall be reviewed and approved concurrent with the Master Site Plan for the subject property.

Uses Permitted With A Conditional Use Permit

The following uses are permitted with a Conditional Uses Permit in the Mixed Use Commercial Element of the PAD:

- Nightclubs (not including adult live entertainment as defined in Section 10 of the Avondale Zoning Ordinance)
- Childcare Centers
- Health and exercise facilities as part of a multi-tenant building.
- Drive-thru or drive-in facilities
- Retail sales of new merchandise in buildings greater than 30,000 sq. ft. in gross floor area for single users

Accessory Uses

The following uses are permitted as accessory uses directly related to an approved permitted use in the Mixed Use Commercial Element of the PAD:

- Outdoor dining
- Sidewalk café
- Walk-up automatic teller machines (ATM)

Prohibited Uses

The following uses are prohibited in the Mixed Use Commercial Element of the PAD:

- Automotive parts and supply, tire stores, auto repair, car washes
- Check cashing, bondsman, pawn shops, plasma centers, thrift stores
- Convenience stores, gasoline stations
- Day labor centers
- Freestanding pharmacies
- Outdoor display or storage
- Sexually oriented businesses
- Any use not expressly permitted herein

Conformance with Established Plans

As indicated in the City's General Plan, the subject property, as well as land immediately adjacent to Avondale Boulevard from the I-10 to Van Buren Street, is designated as Freeway Commercial on the Land Use Map. This designation is intended to accommodate a variety of regional retail, light industrial, family entertainment and office uses. Furthermore, the Land Use Map identifies Avondale Boulevard as a Commercial and Employment Corridor which encourages employment and commercial uses along this arterial. By providing opportunities for office, retail, restaurant and hotel uses within the subject development, two goals of the General Plan are met: (1) to provide economic sustainability for the community and (2) to develop Avondale Boulevard as a commercial corridor.

City Pointe is also subject to the City's Freeway Corridor Specific Plan and is designated for freeway commercial uses. This plan recognizes the subject site and the surrounding freeway corridor as an area that best represents the long term economic, social and community interests of the City of Avondale. In addition, this corridor has been determined to be well suited for intense urban development given its close proximity to the I-10 and ability to accommodate a variety of land uses such as commercial, office, mixed-use, high-density and moderate density residential, regional open space and transitional uses.

One of the plan's primary goals is to establish a distinctive image for this corridor and for the City through the use of an established street tree theme of Southern Live Oak along Avondale Boulevard. This project will incorporate this theme for continuity of landscape all along this corridor.

A key element of the Freeway Corridor Specific Plan is the designation of a Regional Commercial Node along Avondale Boulevard and the I-10. In addition to the envisioned land uses mentioned above, this corridor encourages more intense uses such as hotels, business parks and related commercial uses.

Part of the City Pointe development request is to obtain approval for an increased height allowance. As such, certain findings must be met prior to Council approval. City Pointe meets the following findings:

- a) The proposal conforms to the intent and objectives of the Freeway Corridor Specific Plan to create a regional commercial and office corridor in the vicinity of Avondale Boulevard and I-10.
- b) The request meets the corridor design standards and principles.
- c) The request supports the Boulevard streetscape concept and provides street and landscaping improvements which exceed the minimum requirements.
- d) The project provides a mix of land uses which include office, retail, hotel and employment uses.

- e) Extraordinary architectural and design criteria are included to ensure quality development.
- f) The project is pedestrian friendly by providing pedestrian plazas and enhanced pedestrian walkways.
- g) The project incorporates unique signage, monuments and other improvements to announce entry into the City of Avondale.

City Pointe is a project which complies with the objectives, goals and required findings of both the General Plan and the Freeway Specific Corridor Plan.

Development Standards

Lot Development Standards

Minimum Lot Width and Area	None
Front setback from Avondale Blvd.	40' to parking; 30' to building
Front setback from all other public streets	20' to parking; 20' to building
Interior side setback	None (shall comply with Building Code)
Rear yard setback	None (shall comply with Building Code)
Building Height	150'
Lot Coverage	No maximum subject to meeting minimum development standards including parking, landscaping, and setback requirements.
Right-of-Way Dedications	40' along southern property line; 30' along western and northern property lines

Lighting

At a minimum, all on-site light shall conform to *Section 707:Outdoor Lighting*, of the City of Avondale Zoning Ordinance. In addition, the following provisions shall apply:

- Accent lighting of selected architectural, landscape and/or hardscape features will be allowed and is encouraged. Such lights shall be shielded and directed downward;
- Exterior lighting shall be located and oriented to focus light inward from property boundaries;
- All primary light fixtures shall be metal halide;
- The design of lighting fixtures and their structural supports shall be of a scale and architectural design that is compatible with the buildings within the project;

- All concrete light pole basis shall be designed to match the standard set forth for the entire development;
- Light fixtures that illuminate large areas from a single fixture are prohibited;
- Pedestrian scale lighting fixtures will be provided in all areas designed for pedestrian activities, such as plazas, courtyards, pathways and seating areas, but excluding parking only areas. Such pedestrian lighting fixtures shall complement the architectural character of the project;
- The use of decorative wall-mounted fixtures or sconces is encouraged;

Screening

Where screening is required by development regulations, a combination of masonry walls, landscape materials and earth berms will be utilized. The particular method of screening shall be consistent with the adjoining architecture and landscape themes.

Parking Areas

All parking areas shall be screened from public rights-of-way by a minimum 3-foot high wall, landscape berm, or combination thereof. Screen walls shall be constructed of commercial grade masonry and of a color and texture to complement adjacent buildings.

All parking areas adjacent to Avondale Boulevard shall be screened from the right-of-way by a minimum 3-foot high wall, landscape berm, or combination thereof. Walls may not be used for more than 25% of the total frontage of the parking area along Avondale Boulevard.

Service Areas

Loading and/or service areas shall not be located on the front of buildings where they are difficult to adequately screen from view. Such areas shall be limited to the side or rear areas of buildings and shall be screened with walls or landscaping. The minimum height for screening of service areas shall be 6 feet.

Utility and Mechanical Equipment

Utility and Mechanical equipment shall be screened as required by City of Avondale ordinances. All roof mounted equipment, satellite dishes, and ventilators projecting above roof line shall be either recessed or screened by a building parapet. No secondary screen elements are permitted unless they are specifically complimentary to the design of the overall building.

Trash Enclosures

All trash enclosures shall be constructed per the standard City of Avondale trash enclosure detail. Trash enclosures shall be of a material and color that compliments adjacent buildings.

Walls and Fences

Walls and fences shall only be utilized for screening and security purposes and shall not enclose individual parcels. Landscaping shall be used in conjunction with all walls. The master site plan shall indicate the approximate location of all walls and depict their architectural theme.

Architectural Design Criteria

Architectural Character

The desired architectural character of City Pointe is that of a high quality, vibrant mixed use commercial center that is attractive and inviting to tenants, visitors, and the general public. The project is intended to complement other recently approved mixed-use projects that neighbor the site. The project will have an interesting variety of forms, materials, colors and details that are coordinated to create an inviting and dynamic focal point for the community.

Style

City Pointe will develop with a blend of architectural styles. The various styles, primarily contemporary in nature, will be compatible through the use of common materials and colors while creating a strong individual identity consistent with their individual use and purpose. An example of the project's architectural style is depicted on the attached architectural rendering of the Holiday Inn hotel, planned as the first phase of this project.

Required Features & Common Design Elements

All buildings, including office and commercial space constructed in later phases, located within the City Pointe project shall have the following features:

- Variations in roofline and form;
- Ground level arcades or other shaded areas;
- Use of vertical elements, projections of a change of wall planes by articulation to prevent large expanses of blank walls;
- A clear distinction between roof, body and base of the building;
- Use of protected and recessed entries clearly identified and emphasized by architectural detailing and specimen landscaping;
- Inclusion of shaded windows, varied shapes, and accent mullions on elevations facing streets and pedestrian areas;
- A complementary mixture of exterior finish materials;
- Four sided architecture; and
- Internalized downspouts

Building Mass

The visual impact of buildings is not only determined by their size but also by the proportional relationship of the building's height, width and length. Therefore, buildings within City Pointe shall be designed with proportions that are appropriate for the building itself and for the building's relationship with other structures in the project. The common design elements of wall articulation, window details, vertical elements and variations in roofline will all contribute to a visual reduction in building mass.

Building Materials

Buildings within City Pointe shall be constructed of first-quality, commercial grade materials. The creative blending of appropriate materials to complement and accent the overall architecture is required. The innovated use of construction detailing should enhance the material selections and their interplay. Contemporary metalwork such as stainless steel, fabricated iron work and perforated metal screens as limited accents is encouraged but such materials shall not be used for screening purposes. Approved primary building materials include but are not limited to concrete masonry units with integral color or exposed aggregate installed with architectural relief, stucco, plaster, and concrete if the building is highlighted with architectural features. Materials that are specifically prohibited include wood (except for limited amounts of trim), exposed plain concrete block, and pre-engineered metal buildings. Final building material selections will be reviewed and approved with the Master Site Plan.

Color Palette

The City Pointe color palette shall consist of non-reflective, neutral desert or earth tones. Accent colors found in the surrounding agricultural areas and native desert locations should be used freely to provide design interest and diversity. All colors and color combinations shall be reviewed and approved by the City of Avondale prior to construction. Bright or intense primary and secondary colors are specifically prohibited except for limited use as accents. Final building color palette will be reviewed and approved with the Master Site Plan.

Enhanced Design Standards

The required features and common design elements proposed for City Pointe are intended to guide development of the project so that at build-out the entire project will be an attractive, high quality mixed use center. City Pointe will be a vibrant and active focal point befitting of its location at the gateway entry into the City of Avondale. The project team and City staff will have several opportunities to guide the implementation of project design standards during the municipal approval process. The project's high design expectations will be further bolstered by the establishment of a property owner's architectural review committee that will review and approve projects subsequent to the first phase.

Site Design Criteria

It is anticipated that City Pointe will develop over several phases in an urban campus style. Buildings shall be connected with pedestrian walkways and limited vehicular circulation, through the center of the site. In the urban campus setting placement of individual buildings will be import both for functional objectives as well as for attaining a sense of an integrated whole. The first phase of the project will be developed at the site's western end to set the tone for the development of the balance of the site. A water feature, sculpture or special landscape plantings will be provided as a focal point of the first phase of the project. Preservation of a view corridor from Avondale Boulevard to the first-phase focal point will be an important consideration during design and development of future phases of the project.

Building Orientation

Hospitality Area I buildings will face Avondale Boulevard and the proposed Phase I focal point. Mixed Use Office Park Area II buildings will face internal pedestrian areas to accentuate and define a view corridor towards the Phase I focal point. Commercial Center Area III buildings will face Avondale Boulevard framing the view to the internal pedestrian area.

Parking

Parking shall be provided per Section 804 of the Avondale Zoning Ordinance ("Required Parking Schedule") except for those uses as specified below:

Hotels	1 space per 1 rental room
Restaurant/Bar within Hotel*	1 space per 200 square feet
Banquet/Meeting Rooms within Hotel	1 space per 300 square feet

*Additional parking is not required for a hotel restaurant/bar if it is completely internal to the hotel (no separate entry) and has no signage on the exterior of the building.

The size of all parking spaces, driveways, parking lot islands and other improvements in the parking areas shall conform to the Avondale Zoning Ordinance. For all parking lots directly adjacent and visible from Avondale Boulevard, a minimum of 15% of the total parking lot area shall be landscaped.

Parking structures are allowed. Said parking structures shall be designed to be architecturally compatible with the buildings including, but not limited to, the use of similar colors, materials, and architectural features.

Canopy or shade type parking structures are allowed. Parking canopies shall not exceed 12 cars in length. No canopies shall be installed in front of buildings or along street frontages. The design of the canopies shall be upgraded through the use of fascia skirts or upgraded details compatible with building architecture and columns painted to match the buildings. Under canopy lighting shall be screened to limit visual distraction from the surrounding environment. Canopies shall be cantilever-type.

Special paving treatment shall be provided at site entrances into parking lots.

Landscaping, Pedestrian Open Space and Amenities

The landscape theme for City Pointe will accentuate desert trees, shrubs and ground covers. Accent plantings will be utilized to identify site access points, pedestrian ways and seating areas. All plant materials will be appropriately irrigated and maintained. A specific palette of plant materials will be provided for review and approval in the master site plan application. Internal drives will incorporate a common tree/landscape theme to tie all phases of development together and ensure a continuity of development. The use of the City of Avondale street tree theme of Southern Live Oaks along the Avondale Boulevard frontage is required.

An important part of developing a cohesive urban campus setting for the project will be the provision of adequate pedestrian open space. To be useable year round the majority of public open spaces should be shaded, either by landscaping, structures, or a combination thereof. These shaded pedestrian areas will link the varying on-site land uses and offer convenient and inviting opportunities for informal gatherings and interaction among users of the site. Amenities to be provided in the pedestrian open space areas may include various forms of seating, small tables; water features, drinking fountains, public art, and focal landscape plantings.

Signs

The Comprehensive Sign Program included with the PAD Application is conceptual. The sign guidelines for City Pointe have been designed to ensure continuity within the development while allowing individual projects to maintain their own architectural uniqueness. The intent; however, is to ensure that sign materials and finishes are integrated with the balance of the site.

A complete sign package will be submitted to the City of Avondale for review in conjunction with each Final Site Plan Review within each PAD area. Signage for this project is very important and will be unique for each of the proposed land use needs.

The sign package for City Pointe has been designed with an awareness of the surrounding community, including other mixed-use projects in the area, the proximity to the I-10 and within the freeway corridor. All signage elements are designed with complementary architectural elements including forms, massing, colors, materials and finishes that complement the building architectural theme of the development.

Variations to the City Sign Ordinance as provided in the Comprehensive Sign program allow for the adequate identification of the development due to the size of the overall development and the increased setback from Avondale Boulevard of 40 feet and the increased setback of 20 feet from all other streets.

Sign Type Quantity and Size

TYPE	QTY	AREA SF	HEIGHT F
Center Identification	2	9	9
Pad Tennant Identification	1	95	16
Multi-Tenant Monument	4	48	10
Pad Building Wall Storefront	1 per wall	2/lineal foot	4 (letters)
Pad Building Wall Other	1 per wall	1/lineal foot	4 (letters)
Shop Building Wall	1 per wall	200	2 (letters)
Window Graphics	1	(name address hours)	.33 Max
Rear Service Entrance	1	1.5	1
Arcade	1	Less than 8	
Directional Signage Per Code			
Fire Signage Per code			

Infrastructure

Circulation

Avondale Boulevard, a fully developed major arterial roadway, will provide general vehicular access to the site. Corporate Drive, a major collector street, will be developed along the site's south property line and minor collector streets will be developed along the site's west and north property lines. Full turning movements will be provided from Avondale Boulevard to the planned Corporate Drive with a signalized intersection. Access from Avondale Boulevard to the proposed local collector street on the sites north property line will allow right-in, right-out, and left-in from north bound Avondale Boulevard.

It is anticipated that the primary vehicular entrances to the site will be from the new east/west streets along the north and south property lines. These east west streets will provide full access by all turning movements at the two locations shown on the *Access & Circulation Plan* included in this application. Secondary vehicular entrances may be located along the Avondale Boulevard frontage and / or the new minor collector street to be developed along the site's west property line. The backbone of the internal vehicular circulation system is depicted in the *Access & Circulation Plan*. Additional vehicular circulation internal to the site will be determined as tenants / end users of the site are identified.

Pedestrians will access the site from public sidewalks around the perimeter of the site connecting with the internal walkways as shown on the *Access & Circulation Plan*. An important part of developing a cohesive urban campus setting for the project will be the provision of adequate pedestrian open space and walkways. The shaded pedestrian walkways adjacent to the internal private streets will link the varying on-site land uses.

The one-acre parcel that fronts on Avondale Boulevard that is an exception to this application may, in the future, be integrated into the City Pointe project through the use of cross-access and parking easements.

Utilities

Water service for the project will be provided by an existing 16-inch water line located within the western right-of-way of Avondale Boulevard. A looped water main system will be extended from two existing 8-inch taps in the existing water main to the buildings within the project. This looped system will provide both domestic and fire protection water service to the project.

Sanitary sewer service for the project will be provided by an existing 8-inch tap in a sewer main located within the western right-of-way of Avondale Boulevard. New sewer laterals will be extended to buildings within the project.

Electric power will be provided by Arizona Public Service from existing aerial powerlines located along Avondale Boulevard. All on-site powerlines will be located underground.

Grading and Drainage

The surface of the site slopes gently downward to the southwest at an approximate gradient of less than one percent. Stormwater runoff from the site and adjacent half-streets will be collected and retained in a combination of above ground retention basins and underground storage structures.

The Hospitality Area I will provide retention to accommodate on site and off-site runoff for the area of Area I during the first phase of construction. The remaining sites will share temporary retention basins until the permanent basins and/or underground structures are approved and installed in subsequent development phases.

Required Off-Site Improvements

Right-of-way dedications and corresponding half street improvements will be required along the site's north, south and west property lines. A traffic signal is anticipated to be required at the future intersection of Avondale Boulevard and Corporate Drive. This project will share in a portion of the traffic signals cost.

Phasing of Improvements

It is anticipated that the ½ streets improvements, including landscaping along the full length of the new streets, and deceleration lanes as required, will be constructed with development of the first phase of the project (i.e. the first hotel and sit-down restaurant). The traffic signal will be installed at such time as the signal is warranted based on actual traffic volumes and/or as directed by the City of Avondale.

Ownership and Maintenance

The site is presently owned by Byrd Enterprises of Arizona, Inc. Byrd Enterprises intends to retain ownership of at least the Hospitality Area I of the project. Remaining portions of the project will be either sold or leased to individual end users.

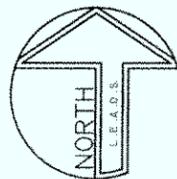
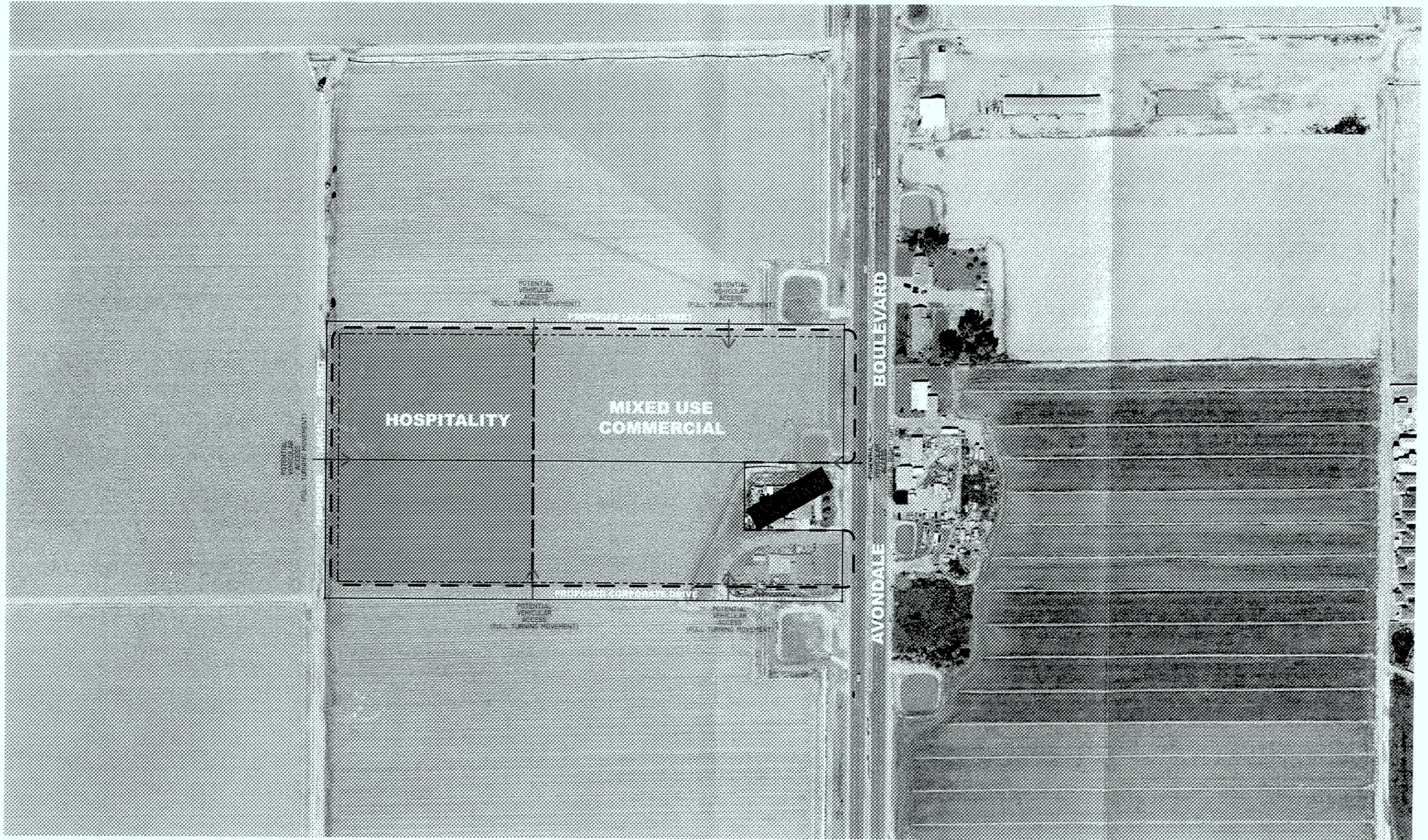
In order to maintain the continued high project quality and assure adequate maintenance and upkeep, a set of Covenants, Conditions and Restrictions ("CC&Rs") will be established and recorded on title to the site. Among other things, the CC&Rs will require the establishment of an owner's association who in turn will be charged with establishing an Architectural Review Committee to review all future development and renovation activities on the site. The CC&Rs will also establish a cost sharing arrangement for future common area site improvements and the maintenance of all common area facilities and amenities. Finally, the CC&Rs will establish cross access and parking easements to insure that the entire site functions as an integrated whole.

Master Development Plan and Site Plan Review

A Master Site Plan is required for each PAD area within City Pointe. Each Master Site Plan shall include harmonious architectural themes, building materials and colors, internal circulation, parking lot configurations, signage, landscape theme and maximum building footprints. All Master Site Plans shall be reviewed by the Planning Commission and approved by the City Council. The master site plan submittal area for phase one of City Pointe development is 7.78 acres. The minimum size of future master site plan area submittals shall be 7.78 Acres.

As users are identified within each PAD area, the Master Site Plan may need to be amended or updated to illustrate changes within the area and other factors. Areas submitted in one Master Site Plan may also be amended by inclusion in a subsequent Master Site Plan submittal. Changes that increase traffic, significantly change building square footage, building orientation or footprints, have impact on adjacent users or include changes that alter the character of the Master Site Plan, including changes to approved building architecture or materials will be considered Major Amendments to the Master Site Plan. Major Amendments shall be reviewed by the Planning Commission and approved by the City Council. All other changes will be considered Minor Amendments and shall be reviewed and approved administratively.

Following approval of a Master Site Plan, individual final site plans may be submitted for administrative review and approval for each building within the PAD area. All individual site plans shall be in substantial conformity with the Master Site Plan.



City Pointe
Avondale, Arizona
12-28-05

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Land Entitlement And Development Services, Inc.
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ORDINANCE NO. 1176-306

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 18.14 ACRES OF LAND LOCATED AT THE NORTHWEST CORNER OF AVONDALE BOULEVARD AND CORPORATE DRIVE AS SHOWN IN FILENAME Z-05-20, REZONING SUCH PROPERTY FROM AGRICULTURAL (AG) TO PLANNED AREA DEVELOPMENT (PAD) AND IMPOSING CONDITIONS UPON SUCH CHANGE.

WHEREAS, the Council of the City of Avondale (the "City Council") desires to amend the City of Avondale Zoning Atlas (the "Zoning Atlas") pursuant to ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, all due and proper notices of public hearings on the intended amendment held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, February 16, 2006, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the City Council held a public hearing regarding the amendment to the Zoning Atlas on March 20, 2006.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That ± 18.14 acres of real property located at the northwest corner of Avondale Boulevard and Corporate Drive as shown in filename Z-05-20 (the "Property"), more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from Agricultural (AG) to Planned Area Development (PAD), subject to the following conditions:

1. Development shall be in substantial conformance with the City Pointe development plan and narrative dated February 6, 2006, except as modified by these stipulations.
2. The required development standards shall be as shown in the City Pointe narrative request dated February 6, 2006, except as modified by these stipulations.
3. To the extent allowed by law, all Type 1 and Irrigation Grandfathered Groundwater Rights appurtenant to the property shall be properly extinguished and the resulting Assured Water Supply credits pledged to the City of Avondale's account at the Arizona Department of Water Resources prior to recordation of the final plat.

4. The developer will allocate any SRP surface water rights or any other surface water rights to the City prior to recordation of the final plat.
5. The developer will abandon any existing registered or unregistered wells using ADWR's well abandonment rules prior to recordation of the final plat.
6. Perimeter street improvements along Avondale Boulevard, Corporate Drive, 117th Avenue, and the new public street along the northern boundary of the property shall be constructed with the first phase of development.
7. The developer shall be responsible for 25% of the cost of a traffic signal at the intersection of Avondale Boulevard and Corporate Drive as determined by the City Engineer.
8. Street improvements shall be required as follows, as determined by the City Engineer:

<i>Street</i>	<i>Required ROW Width</i>	<i>Required Improvements</i>
Avondale Boulevard	65' (half-street)	Detached sidewalk and landscaping. Deceleration lanes if deemed necessary by City Engineer at the time of master site plan approval
Corporate Drive	40' (half-street)	Paving, curb, gutter, sidewalks, street lights, landscaping.
117th Avenue	30' (half-street)	Paving, curb, gutter, sidewalks, street lights, landscaping.
Collector Street	30' (half-street)	Paving, curb, gutter, sidewalks, street lights, landscaping.

9. The required half-width street right-of way shall be dedicated at the time of final plat, approval as determined by the City Engineer.
10. Street improvements shall comply with the recommendations outlined in the City Pointe Traffic Impact Study dated January 20, 2006.
11. A final plat shall be approved by the City Council and recorded prior to the issuance of the first building permit.
12. A cross-access easement shall be provided between the subject property and the one-acre exception parcel to the east. The exact location of the cross-access easement shall be determined at the time of Master Site Plan approval for the Mixed Use Commercial area.
13. All proposed buildings, including those of franchise users, shall substantially conform to the architectural character and design criteria defined in the PAD narrative dated February 6, 2006.
14. Restaurants with drive-thru or drive-in facilities shall be prohibited.

15. Coffee shops with drive-thru facilities shall require a Conditional Use Permit.
16. The developer shall provide at least one (1) pedestrian refuge area and outdoor plaza per building. Pedestrian refuge areas shall consist of a minimum of 50 square feet, one (1) seating bench, two (2) trees, and six (6) shrubs. Shade canopies may be provided in lieu of trees. Each area shall be separate and distinct.
17. The developer shall provide at least one (1) outdoor plaza or courtyard per lot. Each plaza or courtyard shall be a minimum of 500 square feet. Plazas and courtyards shall include landscaping, planters, specialty pavers or enhanced concrete, pedestrian seating areas, pedestrian scale lighting, on-site furniture and shade coverage.
18. Parking canopy lights shall be fully screened.
19. The hotel elevations and site layout included in the PAD narrative are provided as an illustration of potential concept only and is not approved with the zoning. The hotel elevations and site layout shall be reviewed and approved at the time of master site plan approval.
20. Air conditioning units for the hotels shall be in-wall units and screened or camouflaged as determined at the time of master site plan approval. Window air conditioning units are prohibited.
21. A Master Site Plan for the "Mixed Use Commercial Area" shall be submitted for City Council review and approval prior to or concurrent with the first Individual Site Plan for development of the Mixed Use Commercial area. Individual Site Plans shall be approved administratively once the Master Site Plan has been approved.
22. A Master Internal Circulation Plan for the "Mixed Use Commercial Area" shall be submitted for staff review and approval prior to approval of the Master Site Plan for development of the Mixed Use Commercial area.
23. Signs shall conform to the City Pointe Comprehensive Sign Program date stamped February 6, 2006, except as follows:
 - a. The final design of all freestanding signs shall be determined at the time of Master Site Plan approval.
 - b. The sign area for pad building wall signs shall be 1 square foot of sign area per linear foot of building frontage for the front elevation and ½ square foot of sign area per linear foot of building frontage for additional elevations.
 - c. The proposed standards for shop building wall signs shall apply to all multi-tenant buildings, including retail shop and office buildings.
 - d. The height of the multi-tenant identification sign on Avondale Boulevard shall be 10 feet.
24. Multi-story office buildings shall be developed in the mixed use commercial area as determined at the time of master site plan review.

SECTION 2. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, March 20, 2006.


Marie Lopez Rogers, Mayor

ATTEST:


Linda M. Farris, City Clerk

APPROVED:

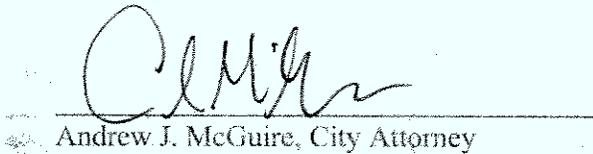

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1176-306

[Legal description and map of the Property]

See following pages.

EXHIBIT A
TO
ORDINANCE NO. 1176-306

[Legal description and map of the Property]

See following pages.

Legal Description For The Hospitality Area Of City Pointe

Commencing from a found brass cap in hand hole at the East Quarter Corner of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Thence S 00°02'19" E a distance of 682.48' along the east line of said section 1, also being the centerline of 115th Ave., also known as Avondale Boulevard; Thence N 89°53'20" W a distance of 810.61 feet to the True Point Of Beginning.

Thence S 00°06'46" W a distance of 332.92 feet;
Thence S 00°14'46" E a distance of 333.36 feet;
Thence N 89°53'18" W a distance of 508.97 feet;
Thence N 00°05'23" W a distance of 333.30 feet
Thence N 00°00'21" E a distance of 332.97 feet;
Thence S 89°53'20" E a distance of 508.68 feet to the True Point Of Beginning, containing approximately 338,803 square feet or 7.7778 acres.

Legal Description For The Mixed Use Commercial Area Of City Pointe

Commencing from a found brass cap in hand hole at the East Quarter Corner of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Thence S 00°02'19" E a distance of 682.48 feet along the east line of said section 1, also being the centerline of 115th Ave., also known as Avondale Boulevard; Thence N 89°53'20" W a distance of 65.00 feet to the True Point Of Beginning.

Thence S 00°02'08" E a distance of 332.92 feet;
Thence N 89°52'34" W a distance of 235.94 feet;
Thence S 00°02'32" E a distance of 162.75 feet;
Thence S 89°54'34" E a distance of 235.85 feet;
Thence S 00°03'03" E a distance of 170.75 feet;
Thence N 89°53'18" W a distance of 735.05 feet;
Thence N 00°3'42" W a distance of 333.36 feet;
Thence N 00°04'20" E a distance of 332.92 feet;
Thence S 89°53'20" E a distance of 735.44 feet to the True Point Of Beginning, containing approximately 451,798 square feet or 10.3719 acres.

SITE DATA

ZONING:

EXISTING: AG
 PROPOSED: PAD

SITE AREA:

GROSS SITE AREA: APPROX. 790,601 SQ. FT. / 18.14 ACRES
 R.O.W. DEDICATION: APPROX. 107,149 SQ. FT. / 2.46 ACRES
 NET SITE AREA: APPROX. 683,452 SQ. FT. / 15.68 ACRES

HOTEL #1 SITE:

HOTEL #1 GROSS AREA: APPROX. 169,543.29 SQ. FT. / 3.89 ACRES
 HOTEL #1 R.O.W. DEDICATION: APPROX. 29,475.35 SQ. FT. / 0.68 ACRES
 HOTEL #1 NET AREA: APPROX. 140,067.94 SQ. FT. / 3.21 ACRES

HOTEL #2 SITE:

HOTEL #2 GROSS AREA: APPROX. 169,259.55 SQ. FT. / 3.88 ACRES
 HOTEL #2 R.O.W. DEDICATION: APPROX. 24,660.05 SQ. FT. / 0.57 ACRES
 HOTEL #2 NET AREA: APPROX. 144,599.5 SQ. FT. / 3.31 ACRES

NET PHASE I ON-SITE AREA: APPROX. 198,544 SQ. FT. / 4.55 ACRES

PARKING:

REQUIRED PARKING:

HOTEL 1:		
110 ROOMS (1 SPACE PER ROOM)		110
CONVENTION AREA 5,000 S.F. (1 SPACE PER 300 S.F.)		17
RESTAURANT 7,656 S.F. (1 SPACE PER 200 S.F.)		40
TOTAL SPACES REQUIRED:		167

HOTEL 2:

100 ROOMS (1 SPACE PER ROOM)		100
TOTAL SPACES REQUIRED:		100

PROVIDED PARKING:

HOTEL 1:		168
HOTEL 2:		149

GENERAL PROJECT INFORMATION

HOTEL AND RESTAURANT FOOTPRINT: 24,868 S.F.
 PERCENT OF BUILDING COVERAGE: 17.7%

PHASE I OF THIS DEVELOPMENT INCLUDES ALL HALF STREET IMPROVEMENTS AND PERIMETER LANDSCAPING

SEAL:

© L.E.A.D.S. 2006

**CITY
 POINTE**

Avondale Blvd. South of I-10
 Avondale, AZ



REVISIONS:

11-28-05	CITY SUBMITTAL
1-20-06	PAD RE-SUBMITTAL
1-31-06	PAD RE-SUBMITTAL
2-28-06	MASTER S.P. RE-SUBMITTAL

CHECKED BY: R.Lloyd

DRAWING BY: B.Bauer

DATE: 10/06/05

JOB NUMBER: BE01

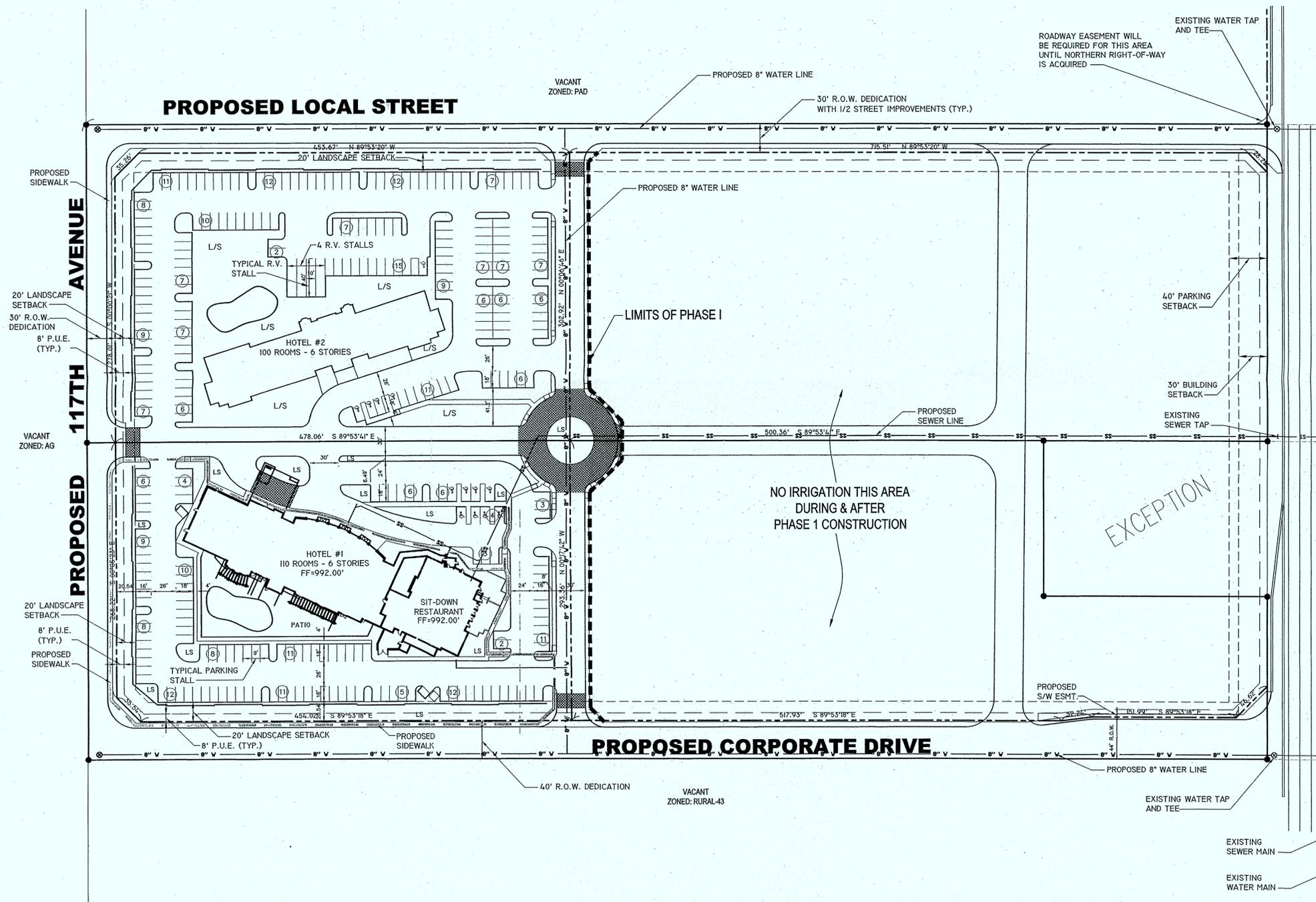
TITLE:

**MASTER SITE PLAN-
 PHASE I**

SHEET NUMBER:

C-2
 2 OF 2

COMMENTS:

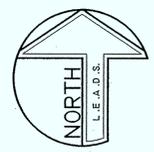


AVONDALE BOULEVARD

PROPOSED 117TH AVENUE

PROPOSED CORPORATE DRIVE

PROPOSED LOCAL STREET



THIS DRAWING IS A PRELIMINARY EXHIBIT ONLY
 AND IS NOT SUITABLE FOR CONSTRUCTION

TSPHLE 0301006-0310m TAB: MASTER SITE PLAN
 S:\CLIENT PROJECT FILES\BYRD ENTERPRISES\BYRD CAD FILES\BE01-AVONDALE POINTE\BE01-S12.DWG
 3/17/2006 3:10:22 PM

3. Z-08-16: This is a public hearing before the Planning Commission to review and solicit public input on application Z-08-16, a request by the City of Avondale to revert the zoning of approximately 18.14 acres of property located at the northwest corner of Avondale Blvd. and Corporate Drive alignment from PAD (Planned Area Development) to AG (Agricultural). Staff Contact: Jennifer Fostino

Jennifer Fostino, Zoning Specialist, stated this is a request to revert the zoning on approximately 18.14 acres from PAD (Planned Area Development) to AG (Agricultural). The subject property is located at the northwest corner of Avondale Blvd. and the Corporate Drive alignment. The General Plan identifies the subject property as Freeway Commercial. The Avondale City Center Specific Plan designates the property as Employment Mixed Use. The zoning to the east consists of an undeveloped County parcel. To the north is an undeveloped PAD known as Summit at Avondale. To the south is an undeveloped PAD known as Avondale Town Center. To the west is undeveloped agricultural.

The approved development plan consists of Hospitality and Mixed Use Commercial. The property was annexed in 1978 and was rezoned to PAD on March 20, 2006. A site plan was approved on July 17, 2006 and expired on July 17, 2007. The PAD expired on March 20, 2008. The City Council initiated the reversion process on December 8, 2008.

Staff recommends approval with no stipulations.

Chairperson Iwanski invited questions.

Vice Chair Demlong asked if this property was the one with a beautiful hotel in the back with nice commercial, boutiques and gift shops in the front. Ms. Fostino replied she was not on staff at that time, but she did know that two hotels were supposed to be in the back of the property. Vice Chair Demlong stated he was sorry to see the project go.

Commissioner Amos asked if the property owner had been in contact with the City. Ms. Fostino replied she had no contact whatsoever from anyone regarding this property.

Chairperson Iwanski asked Ms. Stevens if she had had any contact with the property owner. Tracy Stevens, Planning Manager, Development Services Department, replied that she had no contact with the property owner.

Vice Chair Demlong asked if the property owners were notified by certified mail that their zoning was reverting, which Ms. Fostino confirmed.

Chairperson Iwanski invited further questions, and hearing none, opened Item Z-08-16 for public hearing. There were no requests to speak and Chairperson Iwanski closed the public hearing.

Chairperson Iwanski entertained a motion.

Commissioner Amos moved that the Planning Commission accept the findings and recommend approval of application Z-08-16, a request to revert the zoning from PAD (Planned Area Development) to AG (Agricultural). Vice Chair Demlong seconded the motion.

Chairperson Iwanski invited further discussion.

Commissioner Lageschulte stated he thinks extensions should be granted to developers on a case-by-case basis. In this case, it does not sound like the property owner cares if the zoning reverts.

Chairperson Iwanski called for a roll call vote.

ROLL CALL VOTE

Chairperson Iwanski	Aye
Vice Chair Demlong	Aye
Commissioner Lageschulte	Aye
Commissioner Scanlon	Aye
Commissioner Cotera	Excused
Commissioner Webster	Aye
Commissioner Amos	Aye

The motion passed unanimously.

5 CONTINUANCE - PUBLIC HEARING AND ORDINANCE FOR ZONING REVERSION (Z-08-16)

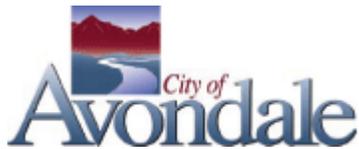
A request to continue the public hearing and ordinance for the zoning reversion from Planned Area Development (PAD) to Agricultural (AG) a property located at the northwest corner of Avondale Boulevard and Corporate Dr. alignment to the regular meeting of May 4, 2009.

Vice Mayor moved to continue the public hearing to the May 4, 2009 as requested by staff; Council Member Earp seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Council Member Scott	Aye
Council Member Buster	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor Weise	Aye
Council Member Earp	Aye
Council Member Karlin	Aye
Council Member McDonald	Aye

Motion carried unanimously.



DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Ordinance 1366-509 -
Avondale Town Center Zoning Reversion (Z-08-14)

MEETING DATE:
May 4, 2009

TO: Mayor and Council
FROM: Brian Berndt, Development Services Director 623-333-4011
THROUGH: Charlie McClendon, City Manager

REQUEST: Reversion of zoning from Planned Area Development (PAD) Zoning District to Agricultural (AG) Zoning District

PARCEL SIZE: 35.5 acres

LOCATION: Northwest corner of Avondale Boulevard and Van Buren Street

APPLICANT: City of Avondale

OWNER: PCCP CS Empire Avondale LLC

BACKGROUND:

The subject property was annexed into the City on June 28, 1978. The property lies within the Avondale City Center Specific Plan, which identifies the property as Employment Mixed Use. The City Council approved a rezoning request from AG (Agricultural) to PAD (Planned Area Development) with C-2 (Community Commercial) and CP (Commerce Park) uses on June 19, 2000. On December 8, 2009 the City Council initiated a reversion of the zoning on the property. On March 9, 2009 the City Council approved a request by the property owner to continue the application to the May 4, 2009 Council meeting.

SUMMARY OF REQUEST:

This is a request to amend the zoning map to revert the zoning classification from PAD to the original zoning district of AG. The City of Avondale Zoning Ordinance, Section 6, Planned Area Development, states that a PAD is required to commence development within two years of the date of the amendment approval or will become null and void. Thereafter, the City Council initiated an amendment to the zoning map to revert the zoning classification to its prior designation.

PARTICIPATION:

The applicant invited 13 property owners and other interested parties to a neighborhood meeting on December 3, 2008, and January 6, 2009. Three property owners attended the meeting on December 3, 2008. Two property owners and one interested party attended the January 6, 2009, meeting. The Planning Division received two letters from the property owner requesting an extension of the reversion.

A notice was published in the West Valley View on November 18, 2008 and December 16, 2008. The property was posted on November 16, 2008 and December 15, 2008. Letters were sent to 13 property owners on November 16, 2008 and December 15, 2008.

A notice of the February 19, 2009 Planning Commission public hearing was published in the West

Valley View on February 3, 2009. The posting on the property was updated on February 3, 2009. Letters were mailed to the 13 property owners on February 3, 2009. No comments were received.

A notice of the City Council hearing was published in the West Valley View on February 17, 2009. The posting on the property was updated on February 17, 2009. Letters were mailed out to the 13 property owners on February 17, 2009. No comments were received.

At the February 19, 2009 Planning Commission meeting Mr. Paul Gilbert spoke on behalf of the owner of the property. He indicated he is in favor of continuing the zoning reversion, but would like it to be continued for one year. At the March 9, 2009 City Council meeting the reversion was continued to the May 4, 2009 City Council meeting.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on February 19, 2009, and voted 6-0 to recommend APPROVAL of this request.

ANALYSIS:

- Development of the first development unit shall commence within two years of the date upon which the PAD District amendment was approved. Failure to commence development within the time limits shall cause the PAD District classification to become null and void. Thereafter, the City Council shall initiate an amendment to the zoning map to revert the zoning classification to its prior designation. The PAD District classification for the subject property became null and void on June 19, 2002.
- The purpose of expiration and reversion is to ensure that developments remain consistent with current standards and expectations of the City.
- To date, no application for site plan has been made by the developer. No plans have been approved; no permits have been issued for the property.
- Requests for an extension of the PAD from the property owner were submitted and attached as Exhibits G and H.
- The Avondale Zoning Ordinance states that the AG zoning district serves as a holding zone for land until suitable for rezoning and development.
- The reversion will not preclude the property owner from seeking to rezone the property again in the future.
- Thus far, this project has not satisfied its requirements and therefore needs to be reclassified to its prior designation.
- Staff recommended a 90 day continuance before the reversion of the zoning goes into affect. On March 9, 2009 City Council approved a continuance to the May 4, 2009 Council Meeting.

FINDINGS:

1. The proposed zoning meets the General Plan and the City Center Specific Area Plan.
2. No development has occurred on the property between June 19, 2000, and the present.
3. The PAD zoning is null and void.

RECOMMENDATION:

The City Council should APPROVE application Z-08-14 with no stipulations.

PROPOSED MOTION:

I move that the City Council accept the findings and ADOPT the Ordinance application Z-08-14, a request to revert zoning from Planned Area Development(PAD) to Agricultural (AG).

ATTACHMENTS:

Click to download

[Exhibit A - Zoning Vicinity Map](#)

[Exhibit B - Aerial Photograph](#)

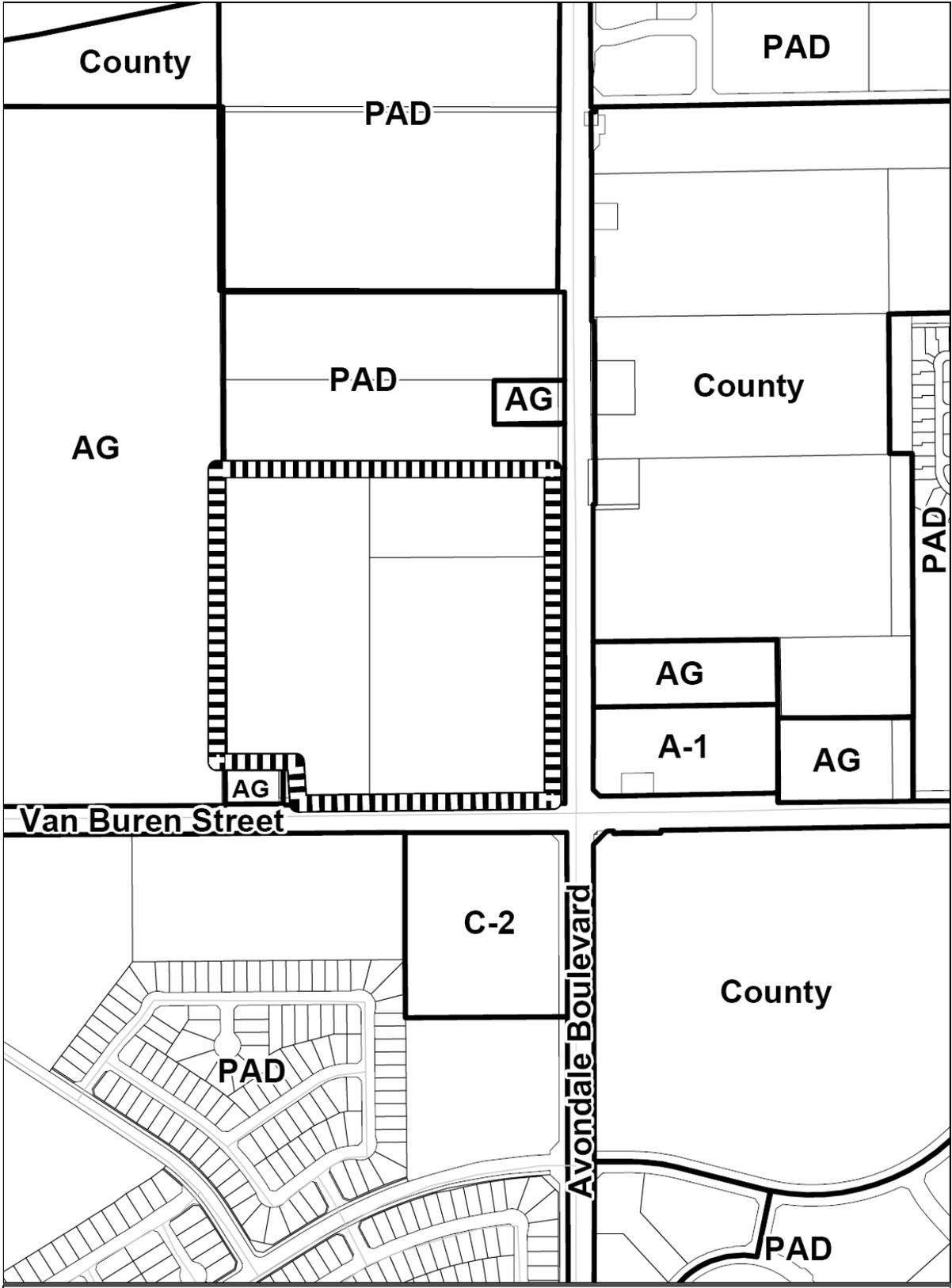
- ▢ [Exhibit C - Summary of Related Facts](#)
- ▢ [Exhibit D - General Plan Map](#)
- ▢ [Exhibit E - Master Development Plan](#)
- ▢ [Exhibit F - Ordinance](#)
- ▢ [Exhibit G - December 3, 2008 Letter](#)
- ▢ [Exhibit H - December 19, 2008 Letter](#)
- ▢ [Exhibit I - Excerpts of the Planning Commission February 19, 2009 meeting](#)
- ▢ [Exhibit J - Excerpt of the City Council March 9, 2009 meeting](#)
- ▢ [Ordinance 1366-509](#)

FULL SIZE COPIES (Council Only):

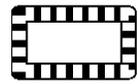
None

PROJECT MANAGER:

Jennifer Fostino, Zoning Specialist 623-333-4022



2008 Zoning Vicinity Map



Subject Property



2008 Aerial Photograph



Subject Property

ORDINANCE NO. 1366-509

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 35.5 ACRES LOCATED AT THE NORTHWEST CORNER OF AVONDALE BOULEVARD AND VAN BUREN STREET, AS SHOWN IN FILE NAME Z-08-14, REVERTING THE ZONING ON SUCH PROPERTY FROM PLANNED AREA DEVELOPMENT (PAD) TO AGRICULTURAL (AG).

WHEREAS, the Council of the City of Avondale (the “City Council”) approved Ordinance No. 738-00 on June 19, 2000, rezoning that certain ± 35.5 acre parcel of land located generally at the northwest corner of Avondale Boulevard and Van Buren Street, as more particularly described and depicted in Ordinance No. 738-00 (the “Subject Property”), from AG (Agricultural) to PAD (Planned Area Development) and imposing conditions upon such rezoning (the “Rezoning”); and

WHEREAS, the Rezoning was subject to Section 607 of the City of Avondale Zoning Ordinance (the “Zoning Ordinance”), which requires that the development of the first development unit on the Subject Property must have occurred prior to two years from the Rezoning approval date (the “Time Condition”); upon failure to meet the Time Condition the Rezoning (i) became null and void and (ii) is required to be reverted by the City Council; and

WHEREAS, the Time Condition upon the Rezoning has not been met and the City Council desires to comply with the provisions of the Zoning Ordinance by reverting the zoning on the Subject Property from Planned Area Development (PAD) to Agricultural (AG); and

WHEREAS, the City Council desires to amend the City of Avondale Zoning Atlas (the “Zoning Atlas”) pursuant to ARIZ. REV. STAT. § 9-462.04 to reflect the change in zoning on the Subject Property due to the Rezoning reversion; and

WHEREAS, all due and proper notices of public hearings on the intended Rezoning reversion and Zoning Atlas amendment held before the City of Avondale Planning and Zoning Commission (the “Commission”) and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, February 19, 2009, on the Rezoning reversion and amendment to the Zoning Atlas as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission recommended approval of the Rezoning reversion and accompanying Zoning Atlas map amendment; and

WHEREAS, the City Council held a public hearing regarding the Rezoning reversion and amendment to the Zoning Atlas on May 4, 2009.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That the approximately 35.5 acre parcel of real property located at the northwest corner of Avondale Boulevard and Van Buren Street, as shown in filename Z-08-14, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from Planned Area Development (PAD) to Agricultural (AG).

SECTION 2. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, May 4, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1366-509

(Legal Description and Map)

See following pages.

EXHIBIT "A"

PARCEL NO. 1:

That portion of the Southeast quarter of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, bounded on the East, Southeast and South sides by the right-of-way lines for 115th Avenue and Van Buren Street according to Document No. 2002-1304452, more particularly described as follows:

COMMENCING at the Southeast corner of said Section 1;

thence North along the East line of said Southeast quarter, a distance of 65.00 feet to a point on the North line of the South 65.00 feet of said Southeast quarter;

thence South 89 degrees 42 minutes 27 seconds West, along said North line, a distance of 65.00 feet to a point on the West line of the East 65.00 feet of said Southeast quarter;

thence continuing South 89 degrees 42 minutes 27 seconds West along said North line, a distance of 40.00 feet to a point on the North right-of-way line of Van Buren Street according to said Document No. 2002-1304452, said point also being the TRUE POINT OF BEGINNING;

thence continuing South 89 degrees 42 minutes 27 seconds West along said North right-of-way line, a distance of 658.64 feet;

Unofficial Document

thence North leaving said North right-of-way line, a distance of 890.01 feet;

thence North 89 degrees 42 minutes 27 seconds East, 698.64 feet to a point on the West right-of-way line of 115th Avenue according to said Document No. 2002-1304452;

thence South along said West right-of-way line, a distance of 850.01 feet;

thence South 44 degrees 51 minutes 13 seconds West, continuing along said right-of-way line, a distance of 56.71 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

That portion of the East half of the Southeast quarter of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, bounded on the East side by the West right-of-way line for 115th Avenue according to Document No. 2002-1304452, and on the North side by the South line of the North 1348.34 feet of said East half of the Southeast quarter of Section 1, more particularly described as follows:

COMMENCING at the Southeast corner of said Section 1;

thence North along the East line of said Southeast quarter, a distance of 65.00 feet to a point on the North line of the South 65.00 feet of said Southeast quarter;

thence South 89 degrees 42 minutes 27 seconds West, along said North line, a distance of 65.00 feet to a point on the West line of the East 65.00 feet of said Southeast quarter;

thence North along said West line and the West right-of-way line of 115th Avenue, according to said Document No. 2002-1304452, a distance of 890.01 feet to the POINT OF BEGINNING;

thence South 89 degrees 42 minutes 27 seconds West, leaving said right-of-way line, a distance of 698.64 feet;

thence North 328.99 feet to a point on said South line of the North 1348.34 feet of said East half of the Southeast quarter of Section 1;

thence South 89 degrees 51 minutes 25 seconds East, along said South line, a distance of 698.63 feet to a point on said West right-of-way line;

thence South along said West right-of-way line, a distance of 323.68 feet to the POINT OF BEGINNING.

PARCEL NO. 3:

That portion of the Southeast quarter of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, bounded on the South sides by the North right-of-way line for Van Buren Street according to Document No. 2002-1304452 on the North side by the South line of the North 1348.34 feet of said East half of the Southeast quarter of Section 1, and on the West side by the West line of said East half, more particularly described as follows:

COMMENCING at the Southeast corner of said Section 1;

thence North along the East line of said Southeast quarter, a distance of 65.00 feet to a point on the North line of the South 65.00 feet of said Southeast quarter;

thence South 89 degrees 42 minutes 27 seconds West, along said North line, and the North line of said Van Buren Street, a distance of 763.64 feet to the POINT OF BEGINNING;

thence continuing South 89 degrees 42 minutes 27 seconds West, along said North right-of-way line, a distance of 336.76 feet to a point on the East line of the West 210 feet of said East half of the Southeast quarter of Section 1;

Unofficial Document

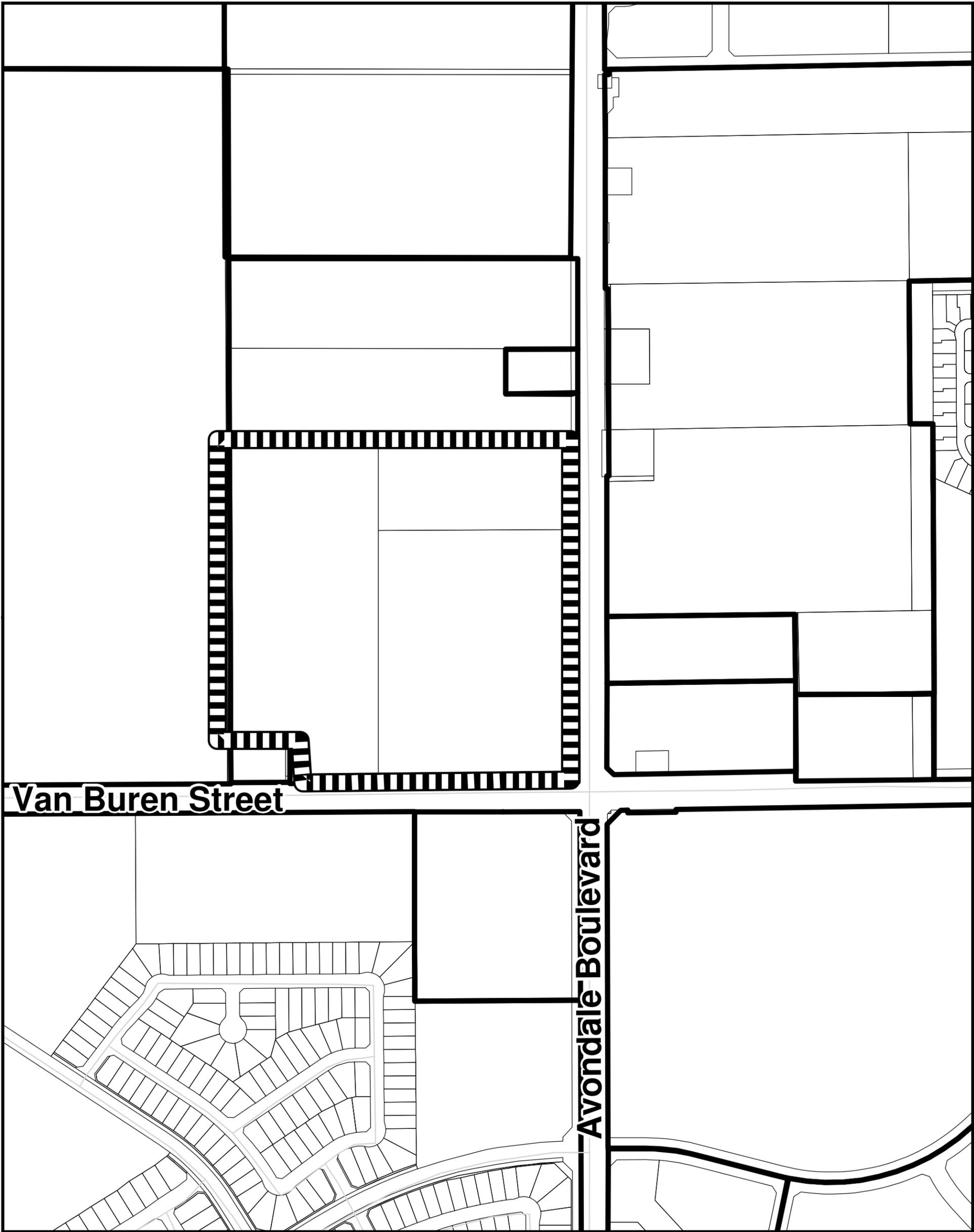
thence North 00 degrees 02 minutes 22 seconds East, along said East line, a distance of 145.00 feet to a point on the North line of the South 210 feet of the said East half of the Southeast quarter of Section 1;

thence South 89 degrees 42 minutes 27 seconds West, along said North line, a distance of 210.00 feet to a point on said West line of the East half of the Southeast quarter of Section 1;

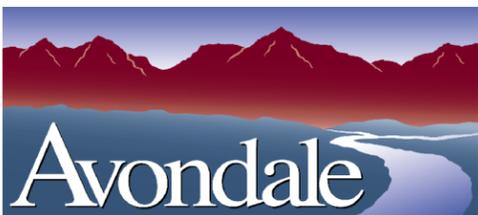
thence North 00 degrees 02 minutes 22 seconds East, along said West line, a distance of 1078.16 feet to a point on said South line of the North 1348.34 feet of said East half of the Southeast quarter of Section 1;

thence South 89 degrees 51 minutes 25 seconds East, along said South line, a distance of 545.91 feet;

thence South leaving said South line, a distance of 1219.00 feet to the POINT OF BEGINNING.



Application Z-08-14



Subject Property

SUMMARY OF RELATED FACTS

APPLICATION Z-08-14

<i>THE PROPERTY</i>	
PARCEL SIZE	35.5 acres
LOCATION	Northwest corner of Avondale Boulevard and Van Buren Street
PHYSICAL CHARACTERISTICS	Square and relatively level surface
EXISTING LAND USE	Vacant
EXISTING ZONING	PAD (Planned Area Development)
ZONING HISTORY	Annexed 6/28/1978– Rezoned from AG (Agricultural) to PAD on 6/19/2000
DEVELOPMENT AGREEMENT	There is not a development agreement.

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	PAD – Undeveloped
EAST	County – Undeveloped; R1-6 (Single Family Residential) – Trucking Company
SOUTH	PAD – Coldwater Springs Promenade
WEST	AG - Undeveloped

<i>GENERAL PLAN</i>	
The subject property is designated as Freeway Commercial on the General Plan Land Use Map.	

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Littleton Elementary School District Tolleson Union High School District
ELEMENTARY SCHOOLS	Littleton Elementary School (K-8)
HIGH SCHOOL	La Joya Community High School

STREETS

Avondale Boulevard

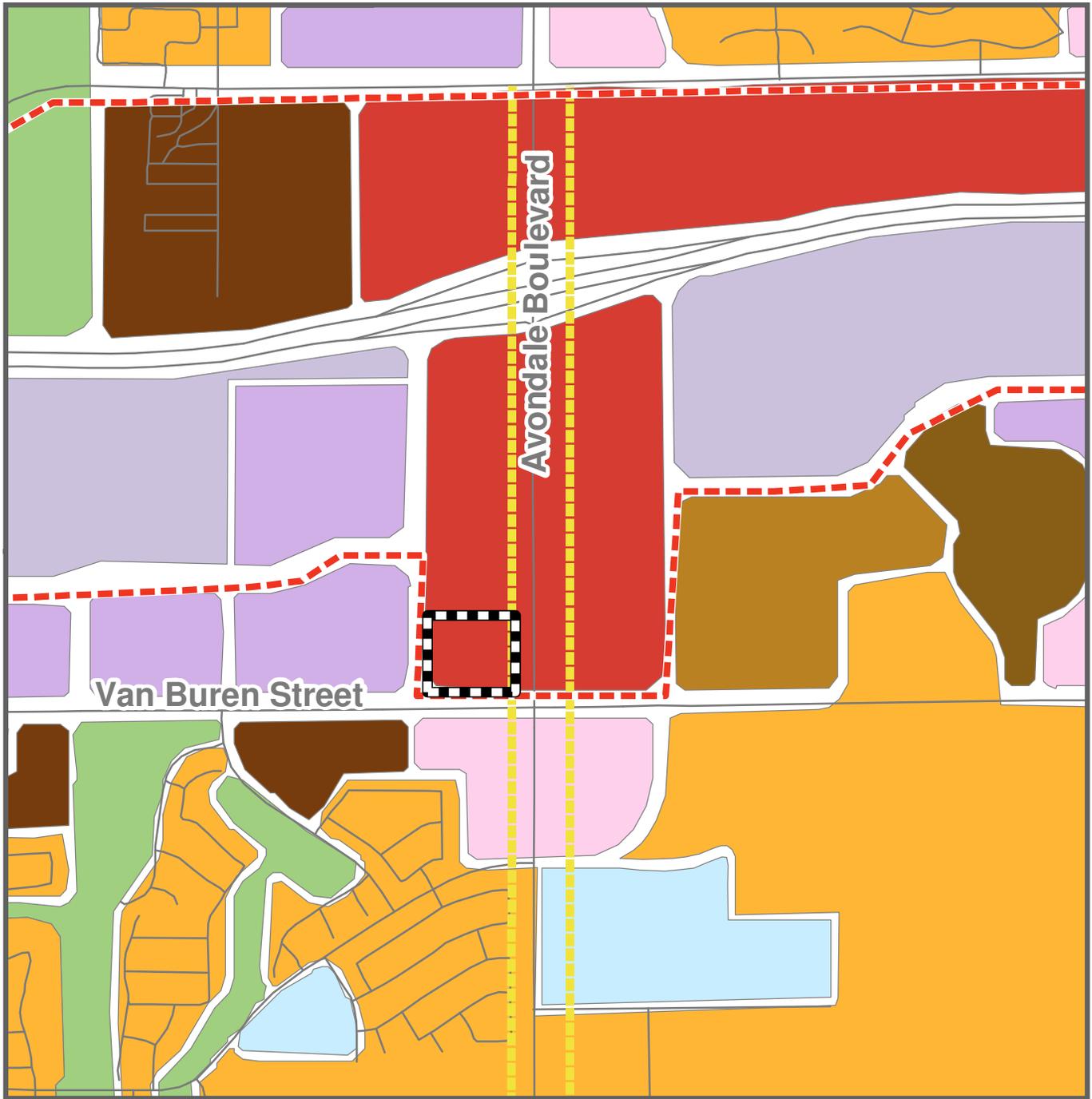
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	Three traffic lanes, ½ median, street light
Standard half street improvements	Three lanes plus half landscape median, bike lane, curb and gutter, detached sidewalk, right-of-way landscaping, street lights.

Van Buren Street

Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	Two traffic lanes, ½ turning lane, street light
Standard half street improvements	Three lanes plus half landscape median, bike lane, curb and gutter, detached sidewalk, right-of-way landscaping, street lights.

UTILITIES

There is a 36" water line along Van Buren Street.
There is a 16" water line along Avondale Boulevard.
There is a 27" sewer line along Avondale Boulevard



General Plan Land Use

- | | |
|--|---|
|  Commercial Corridor, Commercial Corridor |  Medium Density Residential |
|  Growth Area, Growth Area |  Medium High Density Residential |
|  Commercial |  Mixed Use |
|  Employment |  Multi Family Residential |
|  Freeway Commercial |  Open Space |
|  High Density Residential |  Public Facilities |
|  Low Density Residential |  Subject Property |

200-427

**115th Avenue and Van Buren
Master Development Plan**

**Rezoning Application
For a
Planned Area Development District**

February 2000

Submitted to:
City of Avondale
1225 S. 4th Street
Avondale, Arizona 85323
623-932-6088

Submitted by:
Don Bennett & Associates, Inc.
501 W. Van Buren, Suite T
Avondale, Arizona 85338
623-932-2000

Prepared by:
Don Bennett & Associates, Inc.
501 W. Van Buren, Suite T
Avondale, Arizona 85338
623-932-2000

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PLAT MAP

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SITE PLAN

- 5. RESUMES**
DON H. BENNETT
GEORGE QUINIF

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RENDERINGS
NOTICES

CARL J. KUNASEK
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER



ARIZONA CORPORATION COMMISSION

BRIAN C. MCNEIL
EXECUTIVE SECRETARY

JOANNE C. MACDONNELL
DIRECTOR, CORPORATIONS DIVISION

CORPORATIONS DIVISION
1300 West Washington
Phoenix, Arizona 85007-2929

AVONDALE CITY CENTER
DON H BENNETT
501 W VAN BUREN STE T

AVONDALE AZ 85323-

Effective Date: 04/27/2000
File No: N-0948154-2

You have reserved the name of:
AVONDALE CITY CENTER

Name Reservation is granted for a period not to exceed one hundred and twenty(120) days and may not be reserved again.
This name reservation was received on 04/21/2000 and will expire on 08/20/2000 (A.R.S. SECTION 10-402).

AMOUNT RECEIVED \$10.00

RECEIPT No. 35341

Corporations Division
Telephone: 602-542-3285

CF: 0012
REV. 01/1996

CARL J. KUNASEK
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER



ARIZONA CORPORATION COMMISSION

BRIAN C. MCNEIL
EXECUTIVE SECRETARY

JOANNE C. MACDONNELL
DIRECTOR, CORPORATIONS DIVISION

CORPORATIONS DIVISION
1300 West Washington
Phoenix, Arizona 85007-2929

AVONDALE COMMERCE CENTER
DON H BENNETT
501 W VAN BUREN STE T

AVONDALE AZ 85323-

Effective Date: 04/27/2000
File No: N-0948152-0

You have reserved the name of:

AVONDALE COMMERCE CENTER

Name Reservation is granted for a period not to exceed one hundred and twenty(120) days and may not be reserved again.
This name reservation was received on 04/21/2000 and will expire on 08/20/2000 (A.R.S. SECTION 10-402).

AMOUNT RECEIVED \$10.00

RECEIPT No. 35340

Corporations Division
Telephone: 602-542-3285

CF: 0012
REV. 01/1996

CARL J. KUNASEK
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER



BRIAN C. MCNEIL
EXECUTIVE SECRETARY

JOANNE C. MACDONNELL
DIRECTOR, CORPORATIONS DIVISION

ARIZONA CORPORATION COMMISSION

CORPORATIONS DIVISION
1300 West Washington
Phoenix, Arizona 85007-2929

AVONDALE TOWN CENTER
DON H BENNETT
501 W VAN BUREN STE T

AVONDALE AZ 85323-

Effective Date: 04/27/2000
File No: N-0948151-0

You have reserved the name of:

AVONDALE TOWN CENTER

Name Reservation is granted for a period not to exceed one hundred and twenty(120) days and may not be reserved again.
This name reservation was received on 04/21/2000 and will expire on 08/20/2000 (A.R.S. SECTION 10-402).

AMOUNT RECEIVED \$10.00

RECEIPT No. 35339

Corporations Division
Telephone: 602-542-3285

CF: 0012
REV. 01/1996

CITY OF AVONDALE
 Community Development Department
 1225 South Fourth Street
 Avondale, Arizona 85323
 (623) 932-6088 Fax (623) 932-6119

Fax Cover: If you receive this message in error, please forward it to the correct person, or fax it back to us. Thank You.

Date: March 12, 2000

To: George Quinif

Company: Don Bennett & Assoc.

Fax Number: 932-1661

From: Christina C.

Subject: _____

Pages: 3 (including the cover sheet)

Message:

Have a Nice Day!

CITY OF AVONDALE COMMUNITY DEVELOPMENT DEPARTMENT

DEVELOPMENT APPLICATION

General Information

- P.A.D.D.
- CUP/SUP
- Abandonment
- Variance
- Appeal
- APPLICANT
- Rezoning/Zoning Ordinance Amendment
- Subdivision Preliminary Plat Review
- Subdivision Final Plat Review/Final PADD
- Plan Map or Text Amendment
- Extension

Application No. 700-010-A
 Receipt No. 01-0060917
 Amount \$1,710.00
 Date 3/6/00

Name Don Bennett & Associates
 Address 501 W. Van Buren Suite T
Avondale, AZ 85323
 Phone # 623-932-2000
 Signature 

OWNER
 Name west 40 Limited Liability Partnership
 Address 4730 E. Indian School Rd #120-260
Phoenix, AZ 85018
 Phone # 480-481-9190
 Signature See letter attached

- Location and Area Northwest Corner of 115th Avenue and Van Buren St
- Legal Description See Survey attached 35.5 +/- Acres.

Public Consideration

- Names and addresses of surrounding property owners within ³⁰⁰ ~~150~~ feet on mailing labels.
- Rezoning Change (if applicable) _____
- Reason for Request (all development) Proposed multi use 35.5 Acre Commercial Complex
- Conformance with General Plan/Zoning Ordinance _____

=====

CITY OF AVONDALE
 114 EAST WESTERN AVENUE
 AVONDALE, ARIZONA 85323
 FINANCE DEPARTMENT
 REG-RECEIPT:01-0068917 C:Mar 09 2000
 CASHIER ID:C 9:24 am A:Mar 09 2000

=====

8888 REVENUE (ACCOUNT R	\$1,710.00
PLAN REV	
TOTAL DUE	\$1,710.00

RECEIVED FROM:
 MARWEST ENTERPRISES, L.L.C.

CHECK:	\$1,710.00
TOTAL TENDERED	\$1,710.00
CHANGE DUE	\$0.00

=====

CITY OF AVONDALE
COMMUNITY DEVELOPMENT DEPARTMENT

DEVELOPMENT APPLICATION

General Information

- P.A.D.D.
- Rezoning/Zoning Ordinance Amendment
- Application No. _____
- CUP/SUP
- Subdivision Preliminary Plat Review
- Receipt No. _____
- Abandonment
- Subdivision Final Plat Review/Final PADD
- Amount _____
- Variance
- Plan Map or Text Amendment
- Date _____
- Appeal
- Extension

APPLICANT

Name Don Bennett & Associates
Address 501 W. Van Buren Suite T
Avondale, AZ 85323
Phone # 623-932-2000
Signature 

OWNER

Name West 40 Limited Liability Partnership
Address 4730 E. Indian School Rd #120-260
Phoenix, AZ 85018
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Signature See letter attached

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- Reason for Request (all development) Proposed multi use 35.5 Acre Commercial Complex
- Conformance with General Plan/Zoning Ordinance _____

CITY OF AVONDALE

COMMUNITY DEVELOPMENT DEPARTMENT

SCHEDULE OF FEES

B. Fees

1. The following processing fees shall apply:

a. Rezoning applications

Single Family Residential Districts	\$500 + \$20/acre
Multi Family Residential Districts	\$500 + \$40/acre
Commercial Districts	\$750 + \$40/acre
Industrial Districts	\$750 + \$40/acre
Planned Area Development Districts	\$1000 + \$20/acre
PADD Amendment (major)	50 % of current fee

b. PADD Plan/Subdivision Plat review

Preliminary	\$1000 + \$5/lot
Final	\$500

c. Conditional Use Permits, Appeals, Variances, Extensions and Continuances

Conditional Use Permit	\$500
Appeal	\$200
Variance:	
Residential	\$100
Non-residential	\$500
Extension	\$250
Continuance	\$250

2. If more than one (1) type of application is requested, the fee shall be the total of all fees for all applications.

3. Fees are non-refundable once submitted to the City.

FEEES AND REQUIREMENTS FOR REZONING PROPERTY

- *Legal description, conceptual site plan, narrative, and mailing labels of surrounding property owner's addresses within 300' of property* to be submitted with an application and one-time plan review fee (see Fee Schedule) to the COMMUNITY DEVELOPMENT DEPARTMENT. Site Plan or Preliminary Plat submittals may be submitted at the time of REZONING submittal.
 - Review of plans shall not be scheduled until appropriate fees are received.
 - REZONING HEARING will be legally advertised for the Planning and Zoning Commission meeting at the time when all outstanding issues have been resolved.
 - The legal advertisement deadlines are on Fridays—the advertisement is posted the following Wednesday.
 - Planning and Zoning meets every third Monday.
 - The Mayor and City Council meets every 1st and 3rd Monday.
-

Project: NWC 115th Ave & Van Buren Reviewed By: _____

Location: Northwest Corner 115th Avenue & Van Buren Date: _____

Section: 1 Township: 1N Range: 1W

REZONING

Information required for Rezoning submission:

A. It is required that REZONING information shall be presented in a written document ("Development Plan and Program") including a narrative, a conceptual site map or plat, legal description, and all other necessary data relating to the site and project.

B. All of the following is required to be provided for a rezoning:

Note: ✓ - Information provided is satisfactory.
X - Information provided is insufficient or inadequate, see attached comments.

1. Legal description.
2. Addresses of all property owners located within 300 feet of the property.
3. The name, address and phone number of developer and person preparing documentation.
4. The scale, north point and date of preparation, including any revision dates.
5. Vicinity map and site map.
6. Conceptual master water and sewer maps with appropriate documentation.
7. Conceptual master drainage map with appropriate documentation.
8. Conceptual open space and trail plan, including recreational area and details (for Subdivisions).
9. Provide tot lot detail (for Subdivisions).
10. Provide entry treatment/fountain detail (for Subdivisions).

_ 11. Provide documentation on improvements.

_ 12. Street layout.

_ 13. Lot layout, including scaled dimensions of typical lots; width and depth; setbacks; total number of lots.

_ 14. Location and boundary of all existing and proposed zoning classifications.

C. Additional requirements:

_ 1. Enter into a Development Agreement with the City, prior to Final Plat approval.

_ 2. Final landscape plans and entry treatments shall be approved prior to Final Plat approval.

xc: Community Development
Public Works Department

(11/4/98)

West 40 Limited Liability Limited Partnership
4730 E. Indian School Rd. # 120-260
Phoenix, AZ 85018

February 3, 2000

Planning Department
City of Avondale
1211 S 4th St.
Avondale, AZ 85323

Re: 35.5 +/- acres northwest corner of 115th Avenue & Van Buren St.

Dear Sir:

We have entered into an agreement to sell the property referenced above. This letter shall serve as our consent to allow Don Bennett & Associates to apply for a zoning change on the property to Planned Area Development District, PADD, for commercial, retail, office and commerce park as shown on the conceptual site plan done by Robert Kubichek Architects.

Sincerely,

WEST 40 LIMITED LIABILITY LIMITED PARTNERSHIP
An Arizona limited liability limited partnership

By: Hilby Land Investment Corporation
As General Partner

By: 

Bruce Hilby, President

Planning and Zoning Commission Meeting Agenda
 May 17, 2000
 Page 2 of 3

- 3. Z00-010-A Rezoning approval for 35.5 + acres located at the NWC of 115th Avenue and Van Buren Street.

Don Bennett & Associates, 501 W. Van Buren, Ste. T, Avondale, AZ 85323, is requesting the rezoning for a project called 115th Avenue & Van Buren, for 35.5 + acres from AG (Agriculture) to C-2 (Community Commercial) & CP (Commerce Park) P.A.D.D. (Planned Area Development District) at the NWC of 115th Avenue and Van Buren Street.

- 4. Z00-009-A Rezoning approval for 3.25 acres located at the NEC of 109th Avenue and Apache Street.

Whitneybell Architects Inc., 1102 E. Missouri Avenue, Phoenix, AZ 85014 is requesting the rezoning for Avondale Senior Village for 3.25 acres from R1-6 (Single-Family Residential) to R-3 (Multi-Family Residential) located at the NEC of 109th Avenue and Apache Street.

NEW BUSINESS: PUBLIC HEARINGS and/or ACTION:

- 5. Z00-374-AM Amendment to P.A.D.D. (Planned Area Development District) located at the surrounding property of the SEC of 107th Avenue and Thomas Road.

The DeHaven Company, 2632 S. 24th Street, Ste. B, Phoenix, AZ 85034, is requesting an amendment to P.A.D.D. (Planned Area Development District) for Los Arbolitos Ranch located at the surrounding property of the SEC of 107th Avenue and Thomas Road.

- 6. Z00-318-AM Amendment to P.A.D.D. (Planned Area Development District) located approximately at the southwest corner of 115th Avenue and Van Buren.

Curtis Krausman for Fulton Homes, CMX Group Inc., 1515 E. Missouri, Ste. 115, Phoenix, AZ 85014, is requesting an amendment to P.A.D.D. (Planned Area Development District) for Coldwater Springs located approximately at the southwest corner of 115th Avenue and Van Buren Street.

- 7. Z99-411-AM Amendment to P.A.D.D. (Planned Area Development District) located at the East ½ of the southeast ¼ of Sec. 5 Township 1 North Range 1 East G&SRBM, at the northwest corner of 99th Avenue and the proposed Roosevelt Street right-of-way.

Williams Travel Centers, Inc., 1101 Kermit Drive, Nashville, TN 37217, is requesting an amendment to the P.A.D.D. (Planned Area Development District) for Williams Travel Center located at the East ½ of the southeast ¼ of Sec. 5 Township 1 North Range 1 East G&SRBM, at the northwest corner of 99th Avenue and the proposed Roosevelt Street right-of-way.

115th Avenue & Van Buren Street

35.5 +/- Acres, Northwest corner

Avondale, Arizona

Preliminary Development Plan

1. Introduction:

Don Bennett & Associates is making a proposal for a mixed-use development located in Avondale, Arizona. The development plan for the project emphasizes mixed uses on the northwest corner of a main intersection in Avondale. Within the 35.5 Acre plan, Commercial, Retail, Office and Commerce Park uses are proposed. Don Bennett & Associates will provide a needed neighborhood shopping center, office and commerce park properties for the current and future residents of Avondale. The ownership entity of the property will be a partnership between Don Bennett & Associates and Marwest Enterprises.

2. Site Location:

This proposed commercial development is an approximately 35.5 acre site located on the northwest corner of 115th Avenue & Van Buren Street. The site is currently undeveloped and under cultivation. The site is surrounded by agriculture land uses with an industrial use to the east.

3. Existing Zoning:

The current zoning is Agriculture. The current zoning of the property north is Agriculture, south is C-3 Maricopa County, and PADD Commercial. A-1 Industrial and Agriculture to the west.

This subject property is proposed as high intensity in the Avondale General Plan. The Freeway Corridor specific plan has this subject parcel as office and transition. Our position and that of the Avondale planning staff is that the proposed use is in compliance with both plans.

4. Proposed Zoning:

Don Bennett & Associates is presenting a proposal for Planned Area Development District, P.A. D. D. Approximately 22+- acres is proposed for Commercial (C-2) and 13 +- acres is proposed for Commerce Park (CP) designation.

Anticipated uses within the Commercial designated properties will be primarily Retail & Office and other uses allowed in the C-2 designation of the City of Avondale. The uses of the Commerce Park designation will be allowable uses as defined in the zoning ordinance.

5. Project Philosophy & Description:

Don Bennett & Associates plan is to create a Commercial oriented development that will have two main components.

A). A Commerce Park designated area that will help bring employment and jobs to Avondale. Possible uses within the Commerce Park designation will be office, medical, and small wholesale & retail sales and distribution.

This parcels close proximity to Interstate 10 and ease of accessibility will create demand for the Commerce Park properties.

B). The other component will be a Commercial or (C-2) designated area. Permitted uses within the C-2 designation are primarily retail & office.

The corner parcel (Parcel 4) is planned for a neighborhood shopping center with

boundary by 115th Avenue which intersects with Interstate 10 with a full diamond interchange ½ mile north. Regional circulation is provided by Interstate 10 to the north and Highway 85 one mile south.

7. Proposed Project Circulation:

This project will be serviced by four ingress/egress points along 115th Avenue. The most northerly access point will be at the northeast corner of the project ¼ mile north of Van Buren St. This is proposed as an east/west collector street with full movement, a median break and an eventual traffic signal. This project has another full movement ingress/egress point with a median break approximately 660' north of Van Buren St. Right in/Right out accesses are proposed at approximately the 330' and 990' points north of Van Buren St.

The project will have only two access points along Van Buren St. A right in/right out is proposed approximately 400' west of 115th Avenue and a full movement ingress/egress with median break is proposed approximately 800' west of 115th Avenue. Specific circulation, ingress/egress issues will conform to the development standards of the Public Works Department of the City of Avondale.

8. Utilities:

16" water lines are currently in 115th Avenue and Van Buren St.

Sewer is ¼ mile west of the property (119th Avenue alignment). The developer will be required to extend the sewer to the site.

Electricity is provided by SRP.

Telephone is provided by US West.

9. Grading and Drainage Concept:

The grading and drainage concept for this project consists of providing detention basins at various locations throughout the project. The natural fall of the property is from north to south and from east to west. Landscaped detention basins will be along the peripheral streets (115th Ave. & Van Buren St.). There may also be detention basins on the interior of the site. The building and paved parking areas will be graded to drain toward these basins. The site will be graded to convey stormwater runoff to the detention basins. The peripheral and interior streets will be designed per the city of Avondale criteria. All drainage facilities will be designed based on generally accepted engineering practices and in accordance with the City of Avondale requirements.

10. Conclusion:

Don Bennett & Associates is requesting a zoning change that is in compliance with the anticipated uses for the subject area. Our desire is to create a multi-use development that will create convenience for services and an employment center for residents of Avondale.

115th Avenue and Van Buren
Landscaping Designation

	PARCEL 1 12.8 ACRES COMMERCE PARK (CP)	PARCEL 2 3.4 ACRES COMMUNITY COMMERCIAL (C-2)	PARCEL 3 2.1 ACRES COMMUNITY COMMERCIAL (C-2)	PARCEL 4 14.2 ACRES COMMUNITY COMMERCIAL (C-2)	PARCEL 5 1.6 ACRES COMMUNITY COMMERCIAL (C-2)
Landscaped Area					
Minimum landscaped area required by zoning ordinance	5%	10%	10%	10%	10%
Minimum open space required by zoning ordinance	0	0	0	0	0
Required in this project (Inclusive of improved/landscaped rights of way)	Minimum 12% Gross Area (inclusive of improved/landscaped rights of way) 1.53 Acres	Minimum 12% Gross Area (inclusive of improved/landscaped rights of way) .4 Acres	Minimum 12% Gross Area (inclusive of improved/landscaped rights of way) .25 Acres	Minimum 12% Gross Area (inclusive of improved/landscaped rights of way) 1.70 Acres	Minimum 12% Gross Area (inclusive of improved/landscaped rights of way) .19 Acres
Useable open space	Minimum of 8% of Gross Area	Minimum of 8% of Gross Area	Minimum of 8% of Gross Area	Minimum of 8% of Gross Area	Minimum of 8% of Gross Area
**B	*A Over Four Acres of Landscaped area will be incorporated into this project. (1.53 + .4 + .25 + 1.7 + .19 = 4.07)				
**B	*A Areas of open spaces will be made usable to the tenants & visitors of this project by incorporating sidewalks, benches, pavers, pedestrian scale/landscape lighting (in designated areas), and pavers transversing traffic areas.				

115th Avenue and Van Buren
Land Use Breakdown by Parcel

	PARCEL 1 12.8 ACRES	PARCEL 2 3.4 ACRES	PARCEL 3 2.1 ACRES	PARCEL 4 14.2 ACRES	PARCEL 5 1.6 ACRES
ZONING DESIGNATION	COMMERCE PARK (CP)	COMMUNITY COMMERCIAL (C-2)	COMMUNITY COMMERCIAL (C-2)	COMMUNITY COMMERCIAL (C-2)	COMMUNITY COMMERCIAL (C-2)
ALLOWED USES	ALL USES AS STATED IN SECTION 403 OF CITY OF AVONDALE ZONING ORDINANCES	ALL USES AS STATED IN SECTION 305 OF THE ZONING ORDINANCE EXCEPT AS NOTED BELOW	ALL USES AS STATED IN SECTION 305 OF THE ZONING ORDINANCE EXCEPT AS NOTED BELOW	ALL USES AS STATED IN SECTION 305 OF THE ZONING ORDINANCE EXCEPT AS NOTED BELOW	ALL USES AS STATED IN SECTION 305 OF THE ZONING ORDINANCE EXCEPT AS NOTED BELOW
PROHIBITED USES	NONE	A) MINI STORAGE OR VEHICLE STORAGE B) ADULT BOOKSTORE, THEATER, LIVE ENTERTAINMENT C) DRIVE IN THEATERS D) FARM IMPLEMENTS & MACHINERY E) ANIMAL KENNELS C) TRUCK STOP D) MESSAGE PARLOR E) RV PARK	A) MINI STORAGE OR VEHICLE STORAGE B) ADULT BOOKSTORE, THEATER, LIVE ENTERTAINMENT C) DRIVE IN THEATERS D) FARM IMPLEMENTS & MACHINERY E) ANIMAL KENNELS C) TRUCK STOP D) MESSAGE PARLOR E) RV PARK	A) MINI STORAGE OR VEHICLE STORAGE B) ADULT BOOKSTORE, THEATER, LIVE ENTERTAINMENT C) DRIVE IN THEATERS D) FARM IMPLEMENTS & MACHINERY E) ANIMAL KENNELS C) TRUCK STOP D) MESSAGE PARLOR E) RV PARK	A) MINI STORAGE OR VEHICLE STORAGE B) ADULT BOOKSTORE, THEATER, LIVE ENTERTAINMENT C) DRIVE IN THEATERS D) FARM IMPLEMENTS & MACHINERY E) ANIMAL KENNELS C) TRUCK STOP D) MESSAGE PARLOR E) RV PARK

115TH AVENUE & VAN BUREN STREET
 NORTHWEST CORNER, 35.5 +/- ACRES

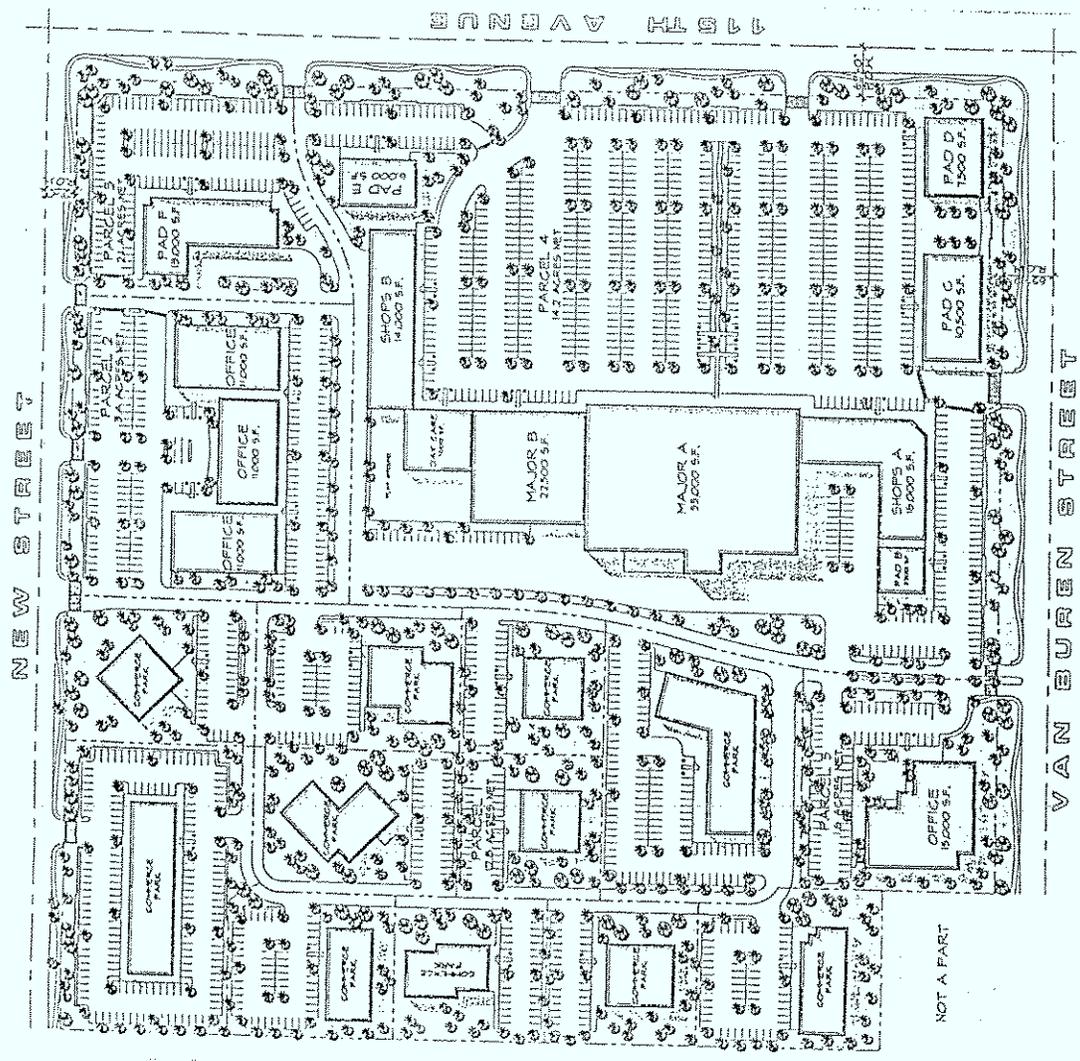
PLANNED AREA DEVELOPMENT DISTRICT (P.A.D.D.)

PARCEL BREAKDOWN:

Parcel	Size *	Zoning Designation
Parcel # 1	12.8 +/- acres	Commerce Park (CP)
Parcel # 2	3.4 +/- acres	Commercial (C-2)
Parcel # 3	2.1 +/- acres	Commercial (C-2)
Parcel # 4	14.2 +/- acres	Commercial (C-2)
Parcel # 5	1.6 +/- acres	Commercial (C-2)
Total	34.1 +/- acres	
Future ROW	1.4 +/- acres	

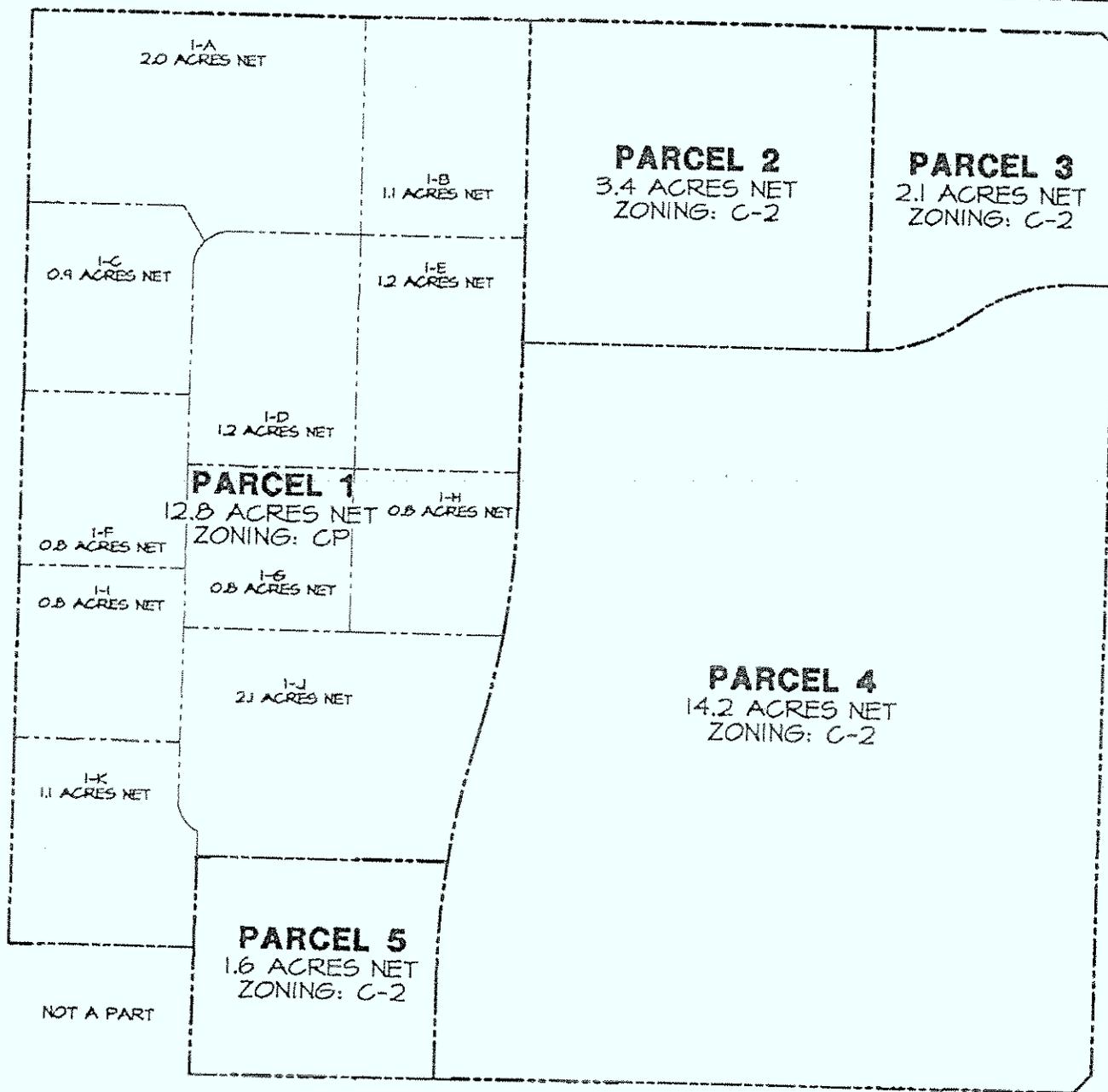
Total gross site is 35.5 +/- acres.

* Acreage is approximate



north
 PRELIMINARY SITE PLAN
 SCALE 1" = 100'-0"

NEW STREET



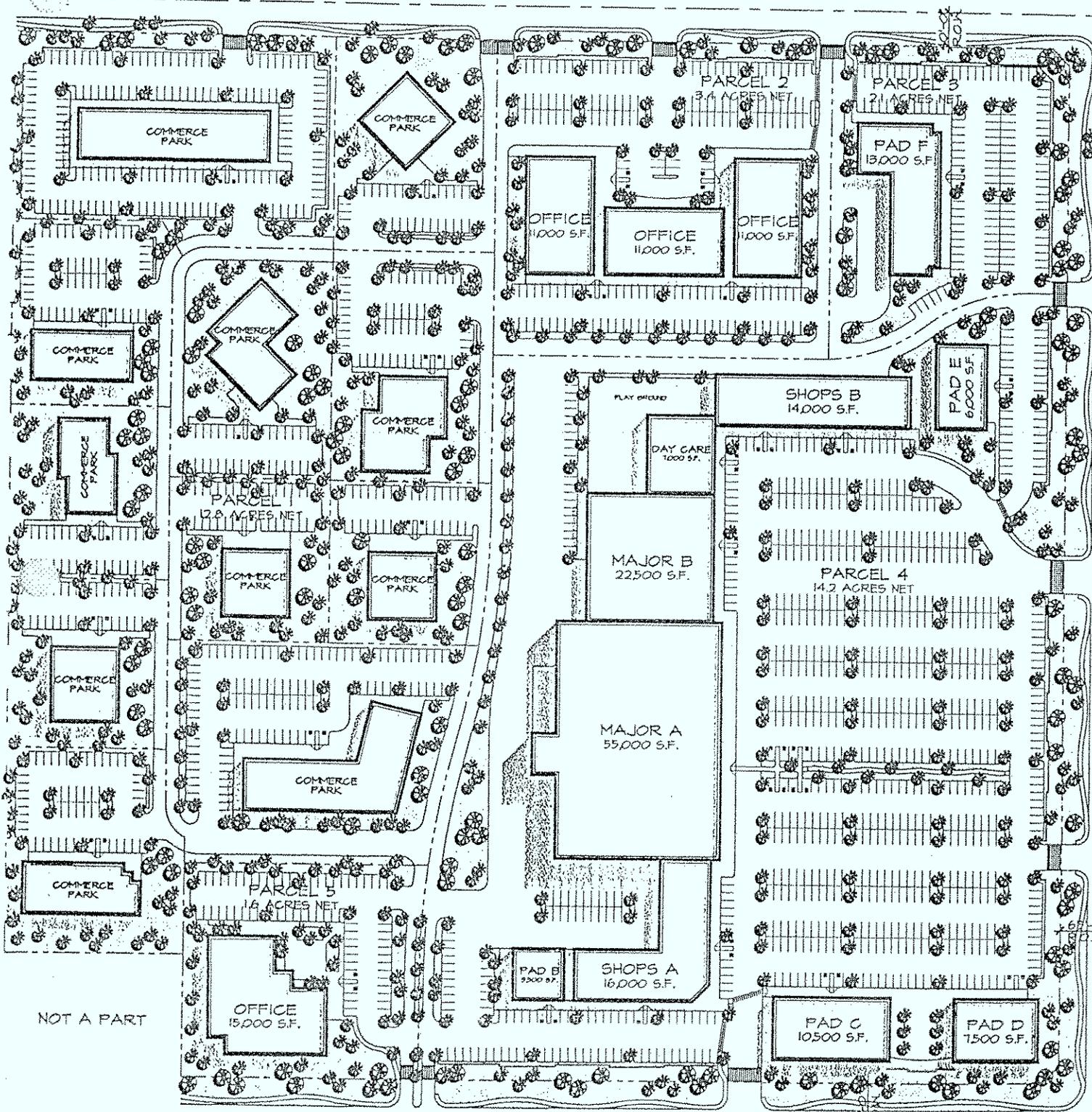
115TH AVENUE

VAN BUREN STREET

EXHIBIT



NEW STREET



NOT A PART

VAN BUREN STREET

north

PRELIMINARY SITE PLAN

SCALE 1" = 100'-0"



EXHIBIT "A"

That portion of the East half of the Southeast quarter of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Southeast corner of said Section 1;

thence North 00 degrees 00 minutes 00 seconds East along the East line of said Southeast quarter a distance of 40.00 feet to a point on the North line of the South 40.00 feet of said Southeast quarter;

thence along said line, South 89 degrees 42 minutes 27 seconds West a distance of 40.00 feet to a point on the West line of the East 40.00 feet of said Southeast quarter and the TRUE POINT OF BEGINNING;

thence continuing along said line, South 89 degrees 42 minutes 27 seconds West a distance of 1060.42 feet to a point on the East line of the West 210.00 feet of said East half of the Southeast quarter;

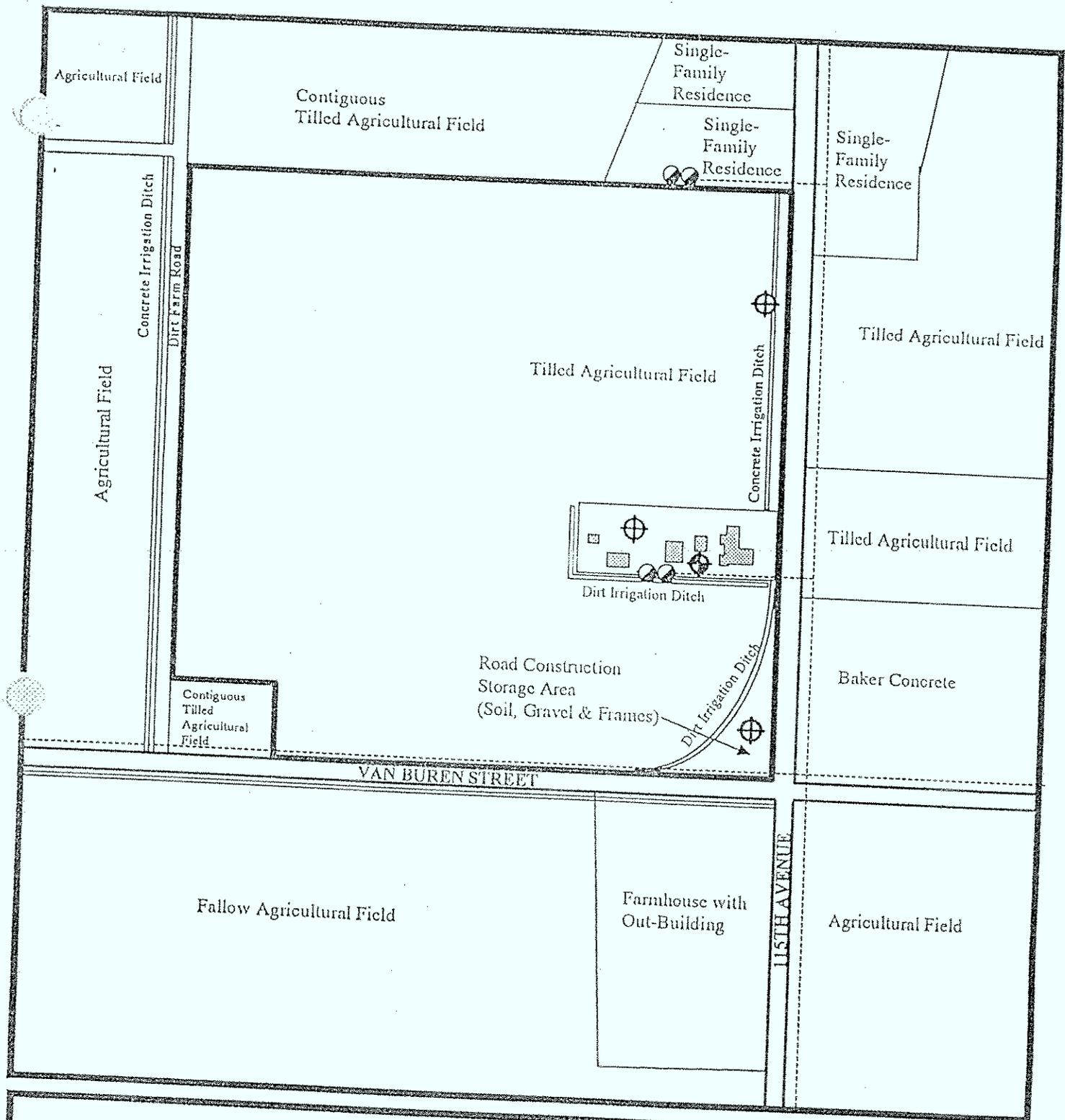
thence along said line North 00 degrees 02 minutes 22 seconds East a distance of 170.00 feet to a point on the North line of the South 210.00 feet of said East half of the Southeast quarter;

thence along said line, South 89 degrees 42 minutes 27 seconds West a distance of 210.00 feet to a point on the West line of the East half of said Southeast quarter;

thence along said line, North 00 degrees 02 minutes 22 seconds East a distance of 1078.16 feet to a point on the South line of the North 1348.34 feet of said East half of the Southeast quarter;

thence along said line, South 89 degrees 51 minutes 25 seconds East a distance of 1269.55 feet to a point on the West line of the East 40.00 feet of said Southeast quarter;

thence along said line, South 00 degrees 00 minutes 00 seconds West a distance of 1238.50 feet to the TRUE POINT OF BEGINNING.

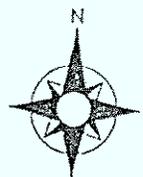


KEY

- Subject Site Boundaries
- Subject Site Building
- Transformer
- Water Supply Well
- Groundwater Monitoring Well

Site Map

Single-Family Residence
and Agricultural Land
510 North 115th Avenue
Avondale, Arizona 85323



Scale: 1" = 300'

FOREE & VANN, INC.
Project: 10767
Prepared by: SOI



115TH AVENUE & VAN BUREN STREET
 NORTHWEST CORNER, 35.5 +/- ACRES

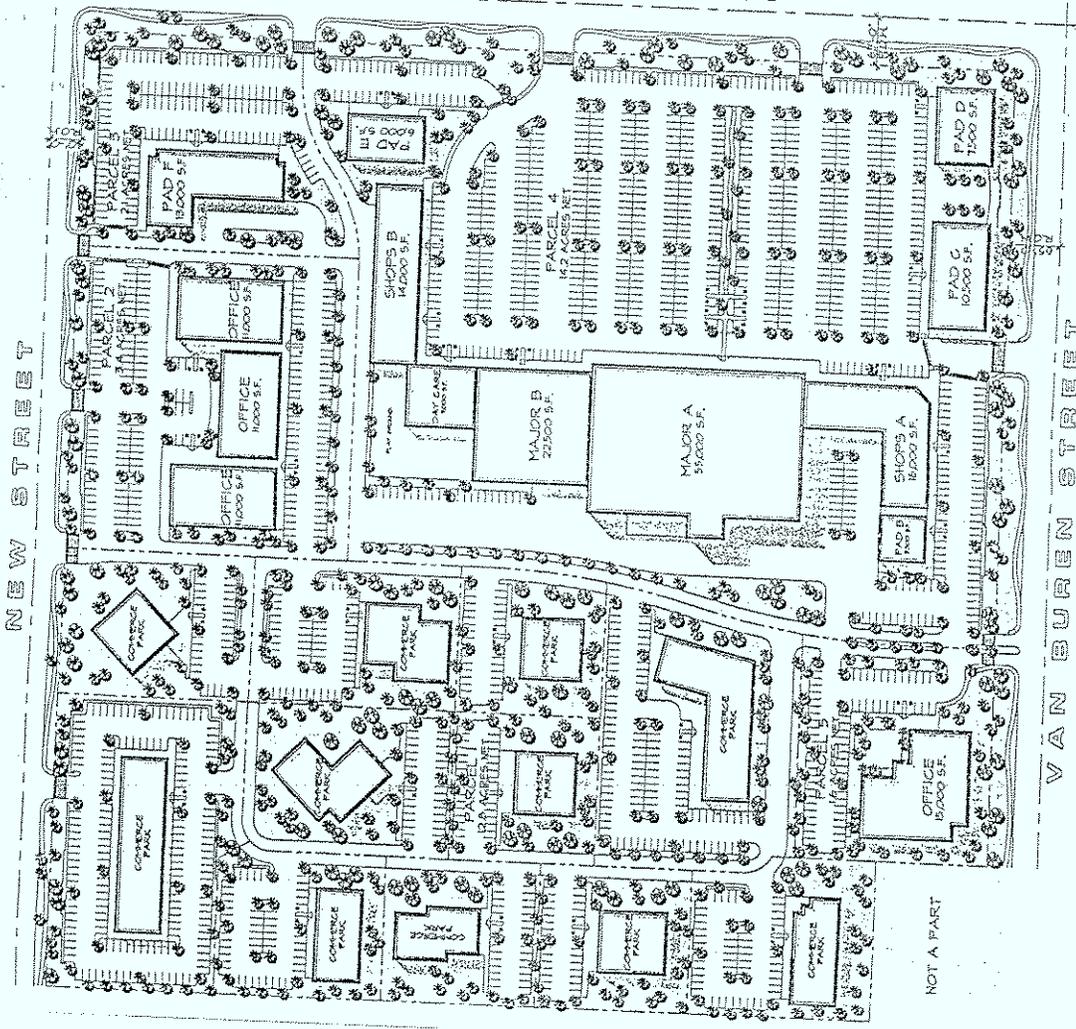
PLANNED AREA DEVELOPMENT DISTRICT (P.A.D.D.)

PARCEL BREAKDOWN:

Parcel	Size *	Zoning Designation
Parcel # 1	12.8 +/- acres	Commerce Park (CP)
Parcel # 2	3.4 +/- acres	Commercial (C-2)
Parcel # 3	2.1 +/- acres	Commercial (C-2)
Parcel # 4	14.2 +/- acres	Commercial (C-2)
Parcel # 5	1.6 +/- acres	Commercial (C-2)
Total	34.1 +/- acres	
Future ROW	1.4 +/- acres	

Total gross site is 35.5 +/- acres.

* Average is approximate



north
 PRELIMINARY SITE PLAN
 SCALE 1" = 100'

Don H. Bennett
501 West Van Buren, Suite T
Avondale, AZ 85323
Tel: (623) 932-2000
Fax: (623) 932-1661

BUSINESS BACKGROUND

1. FARMING

Self-Employed: 1960-1968. Farmed in Eloy, Arizona and Harquahala Valley, Arizona.

2. REAL ESTATE

Shamrock Realty & Investment Company, Phoenix, Arizona: 1971-1972. Partner. I represented agricultural land sales and management, and was involved in the development of medical office buildings in the Phoenix area.

Tres Realty, Inc. 1972-June of 1996. I founded and was the owner/designated broker. I established and maintained a full service real estate organization with a sales staff of twenty-five associates and a support staff of four. The company is located in Goodyear, Arizona. Transactions included the sale of commercial, industrial, residential properties, farms and ranches. The company was also involved in the development of commercial and industrial projects.

Don Bennett & Associates. June of 1996 to Present. I sold the residential division and the "Tres" name, renamed the corporation and formed a new company, Don Bennett & Associates, Inc. - Commercial development and Real Estate, where I am continuing in the brokerage and development of Commercial, Industrial, Acreage(s), Farms and Ranches.

Other projects in which I am the principal owner is the Crystal Clean Car Wash #1, built and opened for business in 1987 and located at 121 East Van Buren, Avondale, Arizona. Crystal Clean Car Wash #2, built and opened for business in October of 1996 and is located at 8365 West McDowell, Tolleson, Arizona. Crystal Clean Car Wash #3, built and opened for business in October of 1997 and is located in Payson, Arizona.

EDUCATION

1. Fresno State College. 1956-1959

PERSONAL

Sixty-one years old. Married for forty plus years to Lavonne who is a housewife. We have two grown children.

February 9, 2000

Don H. Bennett

Many of my real estate & land developments, and involvement as a developer/owner include the following:

REAL ESTATE & LAND DEV.

DEVELOPER/OWNER

Arturo's Restaurant	Tres Building-820 E. Van Buren
Arnold Manor	Peter Piper Pizza Restaurant
The Tappan Company	Westside Mini Storage
W.R. Meadows	Crystal Clean Car Wash, Inc.
Waffle House Restaurant	Manzanita Heights
McLane Sunwest	Primrose Estates
Avondale Lanes Bowling Alley, Restaurant, & Movie Theater	Arizona Manufactured Home Sales
Airport Commercenter	
Circle K Store-SEC Western & Central	
Circle K Store-Van Buren & Central	
Poore Brothers Potato Chips	
Community Bank of Arizona	
Rubbermaid	
Walle Corporation	
Abco Store-SEC Litchfield & Van Buren	
Mobile Station-now Chevron	
Snyders of Hanover	
Southwest Specialty Foods	
Del Monte Facility	
Storage Solutions-on Van Buren	
Litchfield Garden Apartments	
Mountain View Apartments	
Comfort Inn-Dysart Road	
S & S Tires	
West Valley Animal Clinic-Dysart Road	

RESUME

MR. GEORGE QUINIF

BROKER ASSOCIATE
Don Bennett & Associates, Inc.

Personal Residence: 7038 N. 12th Way, Phoenix, AZ 85020

Telephone: (602) 944-3515

Place of Birth: Phoenix, Arizona

Education: Southern Methodist University, Dallas, Texas. Bachelor of Business Administration 1984. Concentrations in Finance - Real Estate.

1984-1988: Weatherford Company, Dallas, Texas. Commercial Real Estate-Agent/Broker for Commercial land sales. Gross sales averaged over \$6 million per year.

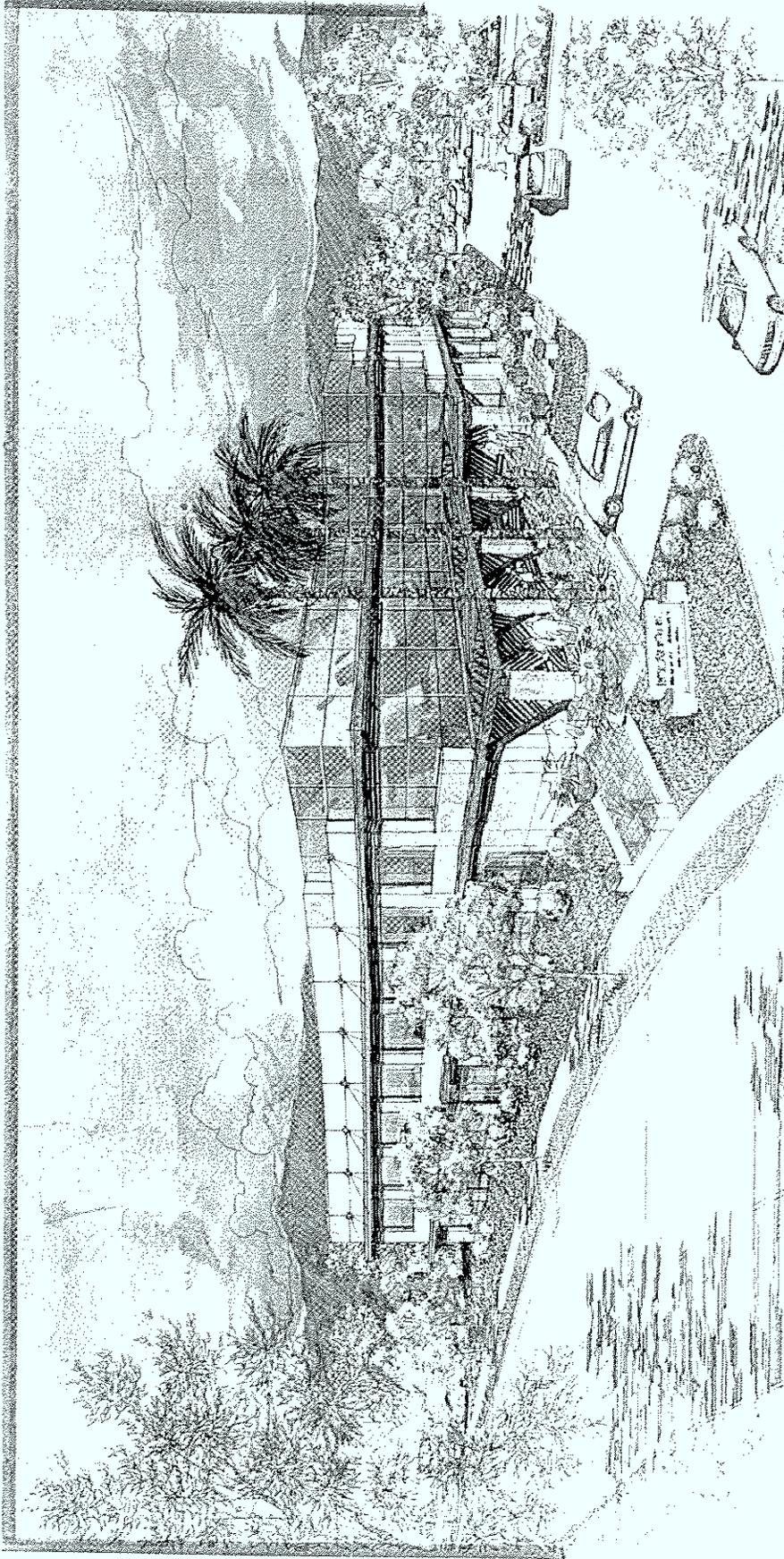
1988: Obtained Broker's license with State of Arizona.

1988-1992 Walled Lake Door Co. Phoenix, Arizona.
Vice President. Interior Door Manufacturing Company with annual sales of \$20 million and 140+ employees.

1993 - 1996 Tres Realty, Inc.
1993, 1994, 1995 President's Roundtable for Commercial Sales, Gross sales over \$7 million in 1993-1999.

1997- Present Don Bennett & Associates. Associate Broker.
Member of Valley Commercial Division of Phoenix Board Realtors.
Member of the Arizona Commercial Brokers Association. Currently markets over \$17 million of properties in the western region of the valley.
Works diligently with Investors, Residential Developers, Industrial\ Commercial users on sites in the West Valley.

1997 - Formed Sunrise Holdings LLC development company.
Current projects are Primrose Estates & Dove Creek Ranch.



Avondale Town Center
Avondale, AZ





Avondale Town Center Avondale, AZ



Emory Thomas Hurley
134 E Palm Ln
Phoenix, AZ 85004

Emory Thomas Hurley
134 E Palm Ln
Phoenix, AZ 85004

~~Title Ins Arizona
NO STREET NAME or NUMBER
, AZ~~

Forrest & Gloria Allison
2512 N 27Th Ave
Phoenix, AZ 85009

Val-Mar Investments
9572 Woodridge Cir
Fredericktown, OH 43019

Asset Wwc:Tmc
2224 Port Durness Pl
Newport Beach, CA 92660

~~A J & Virginia Tr Mortensen
PO Box 274
Tolleson, AZ 85353~~

Frank Vidal Valenzuela
801 N 115Th Ave
Avondale, AZ 85323

Frank Vidal Valenzuela
801 N 115Th Ave
Avondale, AZ 85323

West-40 Ltd Partnership
4730 E Indian School Rd #120-26
Phoenix, AZ 85018

Geraldine Wood
5021 W Tuckey Ln
Glendale, AZ 85301

West-40 Ltd Partnership
4730 E Indian School Rd #120-26
Phoenix, AZ 85018

Ten West A Limited Partnership
PO Box 4138
Tubac, AZ 85646

William & Linda Summers
618 N 115Th Ave
Avondale, AZ 85323

John & Thelma Louise Summers
612 N 115Th Ave
Avondale, AZ 85323

Patricia Ruth Curtis & Mary A Hunt
PO Box 1564
Litchfield Park, AZ 85340

115Th Avenue & Van Buren St
7505 E 6Th Ave #100
Scottsdale, AZ 85251

Carl & Patricia Weiler
110 W Northview Ave
Phoenix, AZ 85021

Carl & Patricia Weiler
110 W Northview Ave
Phoenix, AZ 85021

Coldwater Springs Development Co L L C
7505 E 6Th Ave #100
Scottsdale, AZ 85251

Walter Charamza
Loren Heather
2224 Port Durness Pl
Newport Beach, CA 92660

Clifford & Sylvia Mortensen
10326 W. Thomas Rd.
Avondale, AZ 85323-4607

ORDINANCE NO. 738-00

AN ORDINANCE OF THE CITY OF AVONDALE, MARICOPA COUNTY, ARIZONA, AMENDING THE ZONING MAP FOR PROPERTY AS SHOWN IN FILENAME Z00-010-A FROM AG (AGRICULTURAL) TO PADD (PLANNED AREA DEVELOPMENT DISTRICT), C-2 (COMMUNITY COMMERCIAL) AND CP (COMMERCE PARK) AND IMPOSING CONDITIONS UPON SUCH CHANGE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council of the City of Avondale, approved the City of Avondale Zoning Map and the City of Avondale now desires to amend the City of Avondale Zoning Map pursuant to A.R.S. Section 9-462.04; and,

WHEREAS, all due and proper notices of public hearings on the intended amendment to be held before the City of Avondale Planning and Zoning Commission and the Mayor and Council of the City of Avondale, Arizona were given in the time, form, substance and manner provided by A.R.S. Section 9-462.04; and

WHEREAS, the City of Avondale Planning and Zoning Commission held a public hearing on Wednesday, May 17, 2000, on the amendment to the City of Avondale Zoning Map as pursuant to such notices and as required by A.R.S. Section 9-462.04; and

WHEREAS, the City of Avondale Mayor and Council held a public meeting hearing on June 19, 2000, on the amendment to the City of Avondale Zoning Map; and

WHEREAS, the City of Avondale Planning and Zoning Commission recommends to the Avondale Mayor and Council that the proposal to amend the City of Avondale Zoning map be approved to change the designation from AG (Agricultural) to PADD (Planned Area Development District), C-2 (Community Commercial) and CP (Commerce Park) and imposing conditions.

NOW, THEREFORE, be it Ordained by the Mayor and Council of the City of Avondale, Maricopa County, Arizona as follows:

SECTION 1: AMENDMENT OF THE ZONING MAP. A Parcel of land, as shown in filename Z00-010-A, more accurately described in Attachment A, in Avondale, Maricopa County, Arizona located at the northwest corner of 115th Avenue and Van Buren Street, is hereby conditionally rezoned from AG (Agricultural) to PADD (Planned Area Development District), C-2 (Community Commercial) and CP (Commerce Park) subject to the following conditions:

1. Project shall comply with the rezoning application and project narrative.
2. Project shall accommodate a 40' half-street alignment on the north property line as determined by the City Engineer.
3. Project shall provide a 20' landscaped setback along 115th Avenue and Van Buren Street.
4. Main Project Monument to match project theme shall be designed and constructed as part of Phase I. Main Project Monument shall be located at the southeast corner of the project boundary and shall comply with the City's design review requirements.
5. All development shall meet design requirements as provided for in the City of Avondale Zoning Ordinance and the Freeway Corridor Specific Plan.

SECTION 2: SEVERABILITY. If any provision of this resolution is for any reason held by any court of competent jurisdiction to be unenforceable, such provision of portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3: EFFECTIVE DATE. This amendment herein shall become effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Avondale, Arizona this 19th day of June 2000.



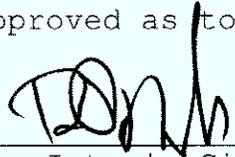
Mayor

Attest:



City Clerk

Approved as to form:



Interim City Attorney

December 3, 2008

Jennifer Fostino
Zoning Specialists
City of Avondale
11465 W. Civic Center Drive
Avondale, Arizona 85323

Re: Z-08-14

Dear Jennifer,

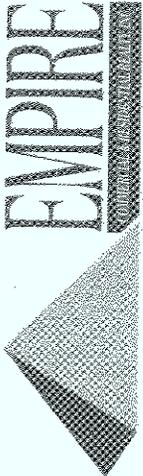
On behalf of PCCP CS Empire Avondale LLC, I am submitting this letter outlining our concerns with the City of Avondale initiated rezone of our property.

Our firm purchased the property in December of 2006 with the understanding that the property was zoned PAD. We understand that the PAD zoning includes a development plan and that the development plan approved with the PAD zoning for our property has not been executed, in part because the City did not like the plan or its relation to the new vision for the City Center Plan. We nevertheless have been trying to work out an acceptable plan with the City. All of a sudden a unilateral decision has been made by the City to revert the zoning

We don't understand the City's desire to initiate the rezoning and reversion of zoning to AG. Frankly, it doesn't make much sense. The development plan has been expired for some time and if it is so important to the City to revert the zoning, we are wondering why it wasn't already done. If the City ultimately wants to rezone our property to the new City Center Zoning category that it is currently working on, then why doesn't the City wait until that zoning category is created and rezone our property then. I am sure that we can agree that the AG zoning is not consistent with the City Center Plan and the uses allowed under AG zoning category are not the uses anyone wants to see developed within our property. Rezoning our property to AG will require the City to rezone our property a second time once the City Center Zoning category is adopted. Why should we waste the time on this interim step?

In addition, State law requires that all rezones shall be consistent with and conform to the adopted General Plan. The uses permitted under the AG zoning category are not consistent with allowable uses identified under the Freeway Commercial land use category which covers our property and allows for "Regional Commercial, Light Industrial and Office" uses. Even as a "holding zoning category," we don't believe that AG zoning is consistent with the City's General Plan and thus this rezone is not in accordance with State law. If the City is adamant about rezoning our property today, then we would request that they rezone it to something that is actually consistent with the City's General Plan. We believe C-2 or C-3 zoning would be much more appropriate and be in conformance with both the City's General Plan and State law.

The bottom line is we don't see the urgency to rezone our property to AG. AG is not an appropriate zoning category for the near or long term development of our property and rezoning of our property to AG is an unnecessary interim step in the ultimate process.



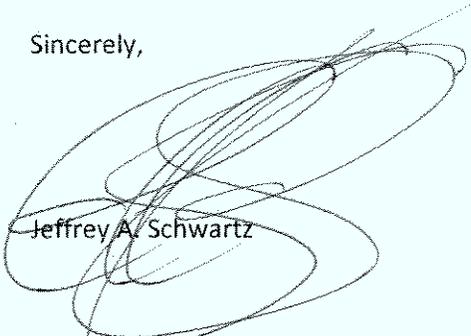
6617 N. Scottsdale Road, Suite 101
Scottsdale, Arizona 85250
Phone 480.951.2207
FAX 480.951.3023

31933 Hwy K
Chenequa, Wisconsin 53029
Phone 262.369.7809
FAX 262.369.7811

We would appreciate your written response to our concerns as noted above.

If you would, upon receipt of this letter, please forward our comments to the members of the Planning Commission and City Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Schwartz". The signature is highly stylized and somewhat illegible due to overlapping loops and lines.

Cc: Paul Gilbert, Beus Gilbert

December 19, 2008

VIA US MAIL / VIA EMAIL

Mayor Marie Lopez Rogers
City of Avondale
11465 W. Civic Center Drive
Avondale, AZ 85323

Brian Berndt, Development Services Director
City of Avondale
11465 W. Civic Center Drive
Avondale, AZ 85323

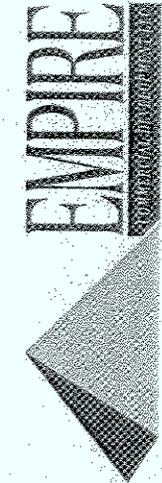
Re: Request for an Extension of the PAD for the NWC of Van Buren Street
and Avondale Boulevard, filename Z-08-14

Dear Mayor Rogers and Mr. Berndt:

We are the managing member of PCCP PS Empire Avondale, LLC ("Empire"), the owner of the property located at the NWC of Van Buren Street and Avondale Boulevard. We have recently become aware that the City Council has initiated the process to revert the zoning on Empire's property.

Empire purchased the property located at the NWC of Van Buren Street and Avondale Boulevard approximately 2 years ago and since purchasing the property Empire has been diligently pursuing its development.

Coincidentally, during the past 2 years, the City of Avondale and its Planning Department have been concurrently working on the creation and adoption of the City Center Plan. The City Center Plan consists of a new set of development policy guidelines that apply to an area in the City referred to as the Avondale City Center. The Avondale City Center includes Empire's property.



6617 N. Scottsdale Road, Suite 101
Scottsdale, Arizona 85250
Phone 480.951.2207
FAX 480.951.3023

31933 Hwy K
Chenega, Wisconsin 53029
Phone 262.369.7809
FAX 262.369.7811

Mayor Rogers / Brian Berndt

December 16, 2008

Page 2

The development of the City Center Plan has been a major hurdle impeding Empire's efforts to timely develop our property. The lack of a formally adopted plan coupled with staff's presumed direction from the City Council regarding future development within the Avondale City Center put Empire in a difficult position. Empire would submit plans that it felt were consistent with its approved PAD (including submittals that tried to address City staff suggestions as to mixed use), yet staff would provide comments based on its interpretation of the yet to be approved City Center Plan and little if any progress was made as to an acceptable development plan for the parcel.

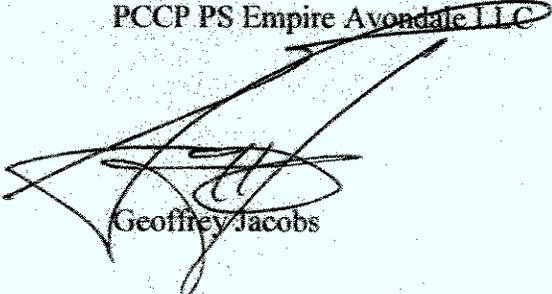
The City Center Plan has now been adopted by the City Council, and both City staff and Empire have a clearer understanding of the newly adopted regulations governing development in the Avondale City Center. We believe that we should be given additional time to process a plan under the existing PAD and the newly adopted development policy guidelines before the efforts are made to revert the zoning of the property to a category that is clearly not consistent with the City Center Plan.

For the reasons listed above we would like to request that the reversion process for PAD, Z-08-14 be deferred and that the PAD be extended for a period of 1 year.

We appreciate your consideration.

Sincerely,

PCCP PS Empire Avondale LLC



Geoffrey Jacobs

cc: Paul Gilbert, Beus, Gilbert

**PLANNING COMMISSION
REGULAR MEETING**

**CITY COUNCIL CHAMBERS
11465 W. CIVIC CENTER DR.
AVONDALE, AZ 85323**

**Thursday, February 19, 2009
6:30 P.M.**

I. CALL TO ORDER

The regular meeting was called to order at approximately 6:30 p.m. by Chairperson Iwanski.

II. ROLL CALL

The following members and representatives were present:

COMMISSIONERS PRESENT

David Iwanski, Chairman
Michael Demlong, Vice Chair
Al Lageschulte, Commissioner
Linda Webster, Commissioner
Lisa Amos, Commissioner
David Scanlon, Commissioner – Arrived after Roll Call

COMMISSIONER ABSENT

Angela Cotera, Commissioner

Chairperson Iwanski and Chris Schmaltz, City Attorney, discussed that it is not necessary to move to excuse absent Commissioners, as that is not an agenda item.

CITY STAFF PRESENT

Jennifer Fostino, Zoning Specialist, Development Services Department
Tracy Stevens, Planning Manager, Development Services Department
Chris Schmaltz, City Attorney

III. OPENING STATEMENT

Chairperson Iwanski read the Opening Statement.

IV. APPROVAL OF MINUTES

- **January 15, 2009 Regular Meeting**

Chairperson Iwanski invited a motion to approve the minutes. Vice Chair Demlong moved to accept the minutes of Thursday, January 15, 2009 as written. Commissioner Lageschulte seconded the motion. The motion passed unanimously.

V. UNSCHEDULED PUBLIC APPEARANCES

There were no requests to speak.

VI. WITHDRAWALS AND CONTINUANCES

There were no withdrawals or continuances.

VII. PUBLIC HEARING ITEMS

Chairperson Iwanski asked to hear item Z-08-14.

2. Z-08-14: This is a public hearing before the Planning Commission to review and solicit public input on application Z-08-14, a request by the City of Avondale to revert the zoning of approximately 35.5 acres of property located at the northwest corner of Avondale Blvd. and Van Buren Street from PAD (Planned Area Development) to AG (Agricultural). Staff Contact: Jennifer Fostino

Jennifer Fostino, Zoning Specialist, stated this is a request to revert zoning on approximately 35.5 acres from PAD (Planned Area Development) back to AG (Agricultural). The subject property is located at the northwest corner of Avondale Blvd. and Van Buren Street. The General Plan designates the property as Freeway Commercial. The Avondale City Center Specific Plan designates the property as Employment Mixed Use. The property to the north is zoned PAD and is undeveloped. The property to the south is zoned PAD and C-2, and consists of Coldwater Springs and Coldwater Springs Promenade. The property to the east is an undeveloped County parcel, an undeveloped AG parcel, and an A-1 City-owned parcel, which was previously a trucking company. The property to the west is zoned AG and is undeveloped.

The approved development plan consists of five parcels: Parcel 1 for Commerce Park uses and Parcels 2 through 5 for Commercial uses. The development plan requires that development of the first development unit shall commence within two years of the date upon which the PAD District amendment was approved. Failure to commence development within the time limits shall cause the PAD District classification to become null and void. Thereafter, the City Council shall initiate an amendment to the zoning map to revert the zoning classification to its prior designation. The subject property was

annexed in 1978 and was rezoned to PAD in June 2000. The PAD zoning expired on June 19, 2002. The City Council initiated the reversion on December 8, 2008 and a PAD extension was requested by the property owner on December 19, 2008.

Staff recommends approval of application of Z-08-14, a request to revert the zoning from PAD to AG.

Chairperson Iwanski invited questions.

Commissioner Webster noted a long period of time has passed since the expiration of the PAD zoning and asked why the City waited so long to initiate a reversion of the zoning. Ms. Fostino explained that the Zoning Ordinance gives no time limit during which the City must initiate a reversion of the zoning classification.

Vice Chair Demlong asked how many PAD expirations were occurring. Ms. Fostino stated the three zoning reversions on the agenda tonight are the first reversions the City has seen.

Vice Chair Demlong asked if the Planning Commission recommends extension of the PAD zoning, what would be the drawbacks to the City. Ms. Fostino deferred the question.

Chris Schmaltz, City Attorney, stated that the property owner's request for an extension of the PAD zoning is not before the Planning Commission tonight. The item before the Planning Commission is a request to revert the zoning from PAD to AG.

Vice Chair Demlong asked if the City Council is evaluating the issue of reverting PAD zonings in light of the economy. Ms. Fostino stated that the City Council gave Staff direction to bring three PAD reversions before the Planning Commission tonight and the Council has been studying the issue PAD expirations. The Council will consider the property owner's request for an extension of the PAD zoning for the subject property when the item comes before the Council.

Chairperson Iwanski invited further questions, and hearing none, opened Item Z-08-14 for public hearing.

Jeff Biley, 4800 N. Scottsdale Rd., Scottsdale, AZ, stating he is representing the property owner, PCCP CS Empire Avondale, LLC. He stated they have been working on development plans; however, until the City adopted the City Center Specific Plan, they had no clear direction in order to move forward. Now that the City Center Plan has been adopted, they have better direction. However, now that the City is going to initiate a reversion of their PAD zoning, they have requested that their PAD zoning be extended to allow them to work through the City Center Plan and submit a new development plan. It has come to their attention that Staff is working on a new zoning category that would better mesh with the new City Center Plan. The reversion entertained tonight would revert the property back to AG zoning, which is not consistent with the City Center Plan.

While he understands that the City considers AG zoning as a holding zone until the land is suitable for rezoning and development, it cannot be developed while zoned AG, and upon reversion of the zoning to AG, they would have to rezone the property again. Therefore, they request extension of the PAD zoning for 12 months. They do not understand why it is so pressing to revert the zoning now when the PAD expired years ago under statute. If the Planning Commission moves to approve the request to revert the zoning from PAD to AG tonight, they would like to see a stipulation by the Commission recommending a one year extension for the City Council's consideration. Otherwise, they would like the Planning Commission not to recommend approval of the rezoning.

Chairperson Iwanski invited questions for Mr. Biley.

Commissioner Scanlon asked what would be the cost to the property owner to go through the process again if the zoning reverts to AG. Mr. Biley stated it could cost \$50,000 to \$100,000.

Chairperson Iwanski asked if Mr. Biley had any suggestions given the fact that the City Attorney has informed the Commission that the request for an extension of the PAD zoning is not before the Planning Commission tonight. Mr. Biley replied that if the Planning Commission is going to approve the application to revert the zoning from PAD to AG, he would recommend that the Commission approve the application with a stipulation that a one year extension of the PAD zoning be granted.

Vice Chair Demlong asked if the current PAD is consistent with the City Center Plan, as the current PAD zoning was granted before the City Center Plan was adopted. Christ Schmaltz, City Attorney, explained that the PAD zoning became null and void in 2002 and the next step is reversion of the zoning. When the property owner purchased the property two years ago, the PAD zoning had already expired.

Vice Chair Demlong asked if the PAD zoning before it expired was consistent with the City Center Plan. Ms. Fostino stated she could not make that determination tonight without having the plans in front of her; however, it was probably not consistent with the adopted City Center Plan.

Commissioner Amos asked since the property was purchased with an expired PAD, was it inevitable that the new owners would have to rezone the property in any case. Ms. Fostino replied that anyone who purchased the subject property after 2002 would have to go through the rezoning process because the development plan had expired.

Mr. Biley replied that his client did purchase the property after the PAD zoning had expired. He informed the Commission that he was present at the City Council meeting where five expired PAD cases were presented to the Council, and the Council elected to extend two of the PAD zoning cases. He would argue that it is within the Commission's purview to recommend to the Council to extend their PAD zoning since the Council just elected to extend two PAD zoning cases. He argues that the PAD zoning remains in effect until the zoning is reverted.

Chairperson Iwanski stated that the Commission does not have the option to extend the PAD zoning tonight. He asked what the justifications were for Council extending two of the PAD zoning cases. Mr. Biley responded that to his recollection, he believes that based upon where the properties were in their development process, the Council felt that they merited an extension.

Ms. Fostino explained there were four PAD reversions before the City Council. Avalon Estates was given a six month grace period before the City would begin the reversion process because Avalon Estates had gone through the final plat stage and they had pulled a couple of permits through the Civil Department.

City Attorney Chris Schmaltz added it is the Zoning Code that states that the PAD zoning on the subject property is null and void.

Chairperson Iwanski stated it sounds as if there are no other options except to move forward with reversion of the zoning without a stipulation. City Attorney Schmaltz stated that the City Council has the legislative authority to grant PAD extensions.

Chairperson Iwanski asked if the Planning Commission has the authority to add a stipulation to its recommendation to approve the request to revert the zoning from PAD to AG. City Attorney Schmaltz replied that the Commission can state on the record that they urge the City Council to grant the extension. However, it would be incongruous in his mind to recommend to revert the zoning and then add a stipulation for extension of the PAD zoning. Certainly a statement by a one of more of the Commissioners urging the Council to extend the PAD zoning would be appropriate.

Commissioner Scanlon stated he understands that the current City Center Plan may be inconsistent with the impediments placed on the prior PAD zoning. City Attorney Schmaltz stated that the current City Center Specific Plan is a policy document and it is part of the General Plan. It may be inconsistent with AG zonings or other zonings. The idea is for a forward-looking plan that is intended to change the development patterns in the area. The next step is the City Center zoning category that would make the zoning of the properties consistent with the Plan in the long term.

Commissioner Scanlon asked if it is necessary to put a developer through the rezoning process. City Attorney Schmaltz stated the developer would need to go through the zoning process in any case. Council has followed the Code requirements and initiated a reversion of the zoning. Staff is back before the Planning Commission to obtain a decision to revert the zoning or not in order to give developers due process under State Statute with regard to reversions of zoning that are subject to time conditions.

Commissioner Amos asked if the four cases that were brought up before the City Council for extensions had been before the Planning Commission. Ms. Fostino explained that the four cases were brought before the City Council to obtain direction for Staff regarding reversions of PAD zoning. At that point the applicant for the Avalon property had

already requested an extension, and it was granted. The three remaining cases are at the Planning Commission stage and are before the Commission tonight.

Vice Chair Demlong asked why these three cases are before the Commission tonight. Ms. Fostino explained that the first step was to obtain direction from the Council on the reversion process for four properties. Three of the properties were directed for the Planning Commission to consider reversion of the zoning and are before the Planning Commission tonight.

Chairperson Iwanski invited further comments, and hearing none, closed the public hearing and called for a motion.

Vice Chair Demlong moved that the Planning Commission accept the findings and recommend approval of application Z-08-14, a request to revert zoning from PAD (Planned Area Development) to AG (Agricultural). Commissioner Scanlon seconded the motion.

Chairperson Iwanski invited discussion.

Commissioner Lageschulte suggested that the City Council propose an extension for the PAD zoning on this subject property to save the developer the costs.

Commissioner Amos suggested that the process be tightened so that projects are not bounced from the Council to the Commission and back to the Council. She opined that in this economic time there needs to be leniency and the zoning expiration times lengthened, particularly if the developer has been in contact with the City.

Vice Chair Demlong pointed out this process is straightforward to him, and per City Ordinance, Staff is following the process. A change in the City Ordinance would have to come from the City Council. This matter should be moved forward to the Council and he is confident they will take care of it.

Chairperson Iwanski added that even though no plans have been approved or permits issued for this particular site, the property owner showed good faith in trying to move their plans forward during the delay of the City Center Specific Plan adoption. He echoed Commissioners Lageschulte and Amos that this developer needs to have an extension granted by the City Council.

Chairperson Iwanski called for a roll call vote.

ROLL CALL VOTE

Chairperson Iwanski	Aye
Vice Chair Demlong	Aye
Commissioner Lageschulte	Aye
Commissioner Scanlon	Aye

Commissioner Cotera	Excused
Commissioner Webster	Aye
Commissioner Amos	Aye

The motion passed unanimously.

4 CONTINUANCE - PUBLIC HEARING AND ORDINANCE - ZONING REVERSION (Z-08-14)

A request to continue the public hearing and ordinance for the zoning reversion of the property located at the northwest corner of Avondale Boulevard and Van Buren Street to the regular meeting of May 4, 2009.

Paul Gilbert, spoke on behalf of the owner of the property and indicated he is in favor of continuing the zoning reversion, but would like it to be continued for a year. He indicated that in his opinion reversion would cause a diminution of value.

Vice Mayor moved to continue the public hearing to the May 4, 2009 as requested by staff; Council Member Earp seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Council Member Scott	Aye
Council Member Buster	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor Weise	Aye
Council Member Earp	Aye
Council Member Karlin	Aye
Council Member McDonald	Aye

Motion carried unanimously.