



CITY COUNCIL AGENDA

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

REGULAR MEETING
July 6, 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 UNSCHEDULED PUBLIC APPEARANCES

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

3 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 June 15, 2009
2. Special Meeting of June 15, 2009
3. Regular Meeting of June 15, 2009

b. APPOINTMENTS TO THE CITY'S BOARDS, COMMISSIONS AND COMMITTEES

City Council will consider the Council Subcommittee's recommendations for appointment to the City's Boards, Commissions and Committees. The Council will take appropriate action.

c. LIQUOR LICENSE - CIRCLE K STORE #9186

City Council will consider a request from Mr. Kim Kwiatkowski for a Series 10 Off-Sale Retailer's license to sell beer and wine at Circle K, located at 1595 North Avondale Boulevard. The Council will take appropriate action.

d. RESCHEDULING OF THE AUGUST 17, 2009 CITY COUNCIL MEETING

City Council will consider a request to reschedule the regularly scheduled meeting of August 17th to August 10, 2009. The Council will take appropriate action.

e. RESOLUTION 2841-709 - SUPPORTING SUBMISSION OF A GRANT PROPOSAL TO THE GILA RIVER INDIAN COMMUNITY - STRUGGLING STUDENT PROGRAM

City Council will consider a resolution supporting the submission of a grant to the GRIC to support the Struggling Student Program and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. RESOLUTION 2840-709 - IGA 2ND AMENDMENT - MARICOPA LIBRARY DISTRICT

City Council will consider a resolution authorizing Amendment No.2 to the Intergovernmental Agreement with the Maricopa County Library District decreasing the Reciprocal Borrowing Program reimbursement rate to \$26.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. RESOLUTION 2839-709 - INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY CRIMINAL JUSTICE DEPARTMENT FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

City Council will consider a resolution authorizing an Intergovernmental Agreement with the Maricopa County Criminal Justice Department for the purpose of accepting a grant in the amount of \$12,245 for the Avondale Police Department's radio connection fees and authorize the Mayor or City Manager and City Clerk to execute all the necessary documents. The Council will take appropriate action.

h. RESOLUTION 2838-709 - PROPERTY TAX LEVY FOR FISCAL YEAR 2009-2010

The City Council will consider a resolution setting forth the City of Avondale property tax levy for the fiscal year 2009-2010 in the amount of \$6,853,940. The Council will take appropriate action.

i. ORDINANCE 1377-709 - AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR RIGHT-OF-WAY FOR THE AVONDALE AND ENCANTO BOULEVARD IMPROVEMENT PROJECT

City Council will consider an ordinance authorizing the acquisition by purchase, condemnation, or dedication of two (2) parcels of land for right-of-way required for the Avondale Boulevard and Encanto Boulevard Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents. The Council will take appropriate action.

4 RESOLUTION 2832-709 - AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES A (2009)

City Council will consider a resolution authorizing the issuance of City of Avondale General Obligation Bonds, Series A (2009), in an amount not to exceed \$30,000,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

5 PUBLIC HEARING - PROPOSED EXTENSION OF THE ALTERNATIVE EXPENDITURE LIMITATION (HOME RULE)

City Council will hold a Public Hearing on the proposed extension of the Alternative Expenditure Limitation (Home rule).

6 ORDINANCE 1378-709 AND 1879-709 - ACQUISITION OF PROPERTY - NEIGHBORHOOD STABILIZATION PROGRAM (NSP)

City Council will consider two ordinances authorizing the acquisition of two pieces of real property (APN 500-53-068 AND 500-17-100) eligible for purchase with Neighborhood Stabilization Program funds and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

7 SITE PLAN APPROVAL - CVS PHARMACY (DR-08-16)

City Council will consider a request from Mr. Steven Bowser of MetroLand Consultants, LLC on behalf of the property owner, Empire Center at Coldwater Springs, LLC for a site plan approval of a retail store and pharmacy located at the southwest corner of Avondale Boulevard and Van Buren Street. The Council will take appropriate action.

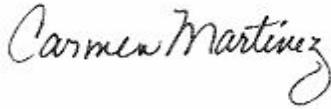
8 EXECUTIVE SESSION

- a.** The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(3) for discussion or consultation for legal advice with the City's Attorney.
- b.** The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City Attorney regarding the Council's position regarding a potential economic development agreement.

- c. The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(7) for discussion or consultation with City representatives in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

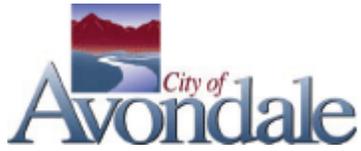
9 ADJOURNMENT

Respectfully submitted,

A handwritten signature in cursive script that reads "Carmen Martinez".

Carmen Martinez
City Clerk

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.



CITY COUNCIL REPORT

SUBJECT:
APPROVAL OF MINUTES

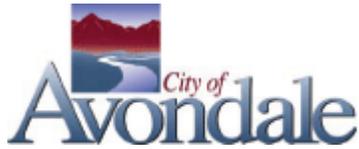
MEETING DATE:
July 6, 2009

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

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:

Appointments to the City's Boards, Commissions and Committees

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Carmen Martinez, City Clerk (623) 333-1214

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Council will consider the Council Subcommittee's recommendations for appointment to the City's Boards, Commissions and Committees.

DISCUSSION:

The Subcommittee on Boards, Commissions and Committees met on Monday, June 15, 2009 to review three applications for appointment to the City's Boards, Commissions and Committees. Their recommendations are as follows:

Environmental Affairs Commission

Richard Cofield 7/6/2009 - 12/31/2012

Kelan Markey 7/6/2009 - 12/31/2012

Joe Rudder 7/6/2009 - 12/31/2012

Parks and Recreation Advisory Board

Richard Cofield 7/6/2009 - 12/31/2012

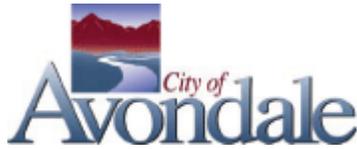
RECOMMENDATION:

Staff recommends that the City Council approve the Subcommittee's recommendations for appointments to the City's Boards, Commissions and Committees.

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:

Liquor License - Circle K Store #9186

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Carmen Martinez, City Clerk (623) 333-1214

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council consider a request by Mr. Kim Kwiatkowski for a Series 10 Off-Sale Retailer's license to sell beer and wine at Circle K, located at 1595 North Avondale Boulevard.

DISCUSSION:

The City Clerk's Department has received an application for a Series 10 Off-Sale Retailer's license to sell beer and wine from Mr. Kim Kwiatkowski, Circle K, located at 1595 North Avondale Boulevard, Avondale, Arizona. The required fee of \$450.00 has been paid.

The establishment was previously operated and licensed as Mobil on the Run. ExxonMobil's On the Run has been acquired by Alimentation Couche-Tard Inc. which operates various retail convenience stores in the United States including Circle K.

As required by state law and city ordinance, the application was posted for 20 days from June 8th through June 29th and a notice was published in the West Valley View on June 12th and June 29th. No comments were received.

The Arizona Department of Liquor License and Control has accepted the submitted application as complete. The Development Services, Finance, Fire and Police Departments have reviewed the application and are recommending approval. Their comments are attached.

RECOMMENDATION:

Staff recommends that the City Council approve the request by Mr. Kim Kwiatkowski for a Series 10 Off-Sale Retailer's license to sell beer and wine at the Circle K store, located at 1595 North Avondale Boulevard in Avondale.

ATTACHMENTS:

Click to download

- [☐ Liquor License Application](#)
- [☐ Departmental Comments](#)
- [☐ Vicinity Map](#)
- [☐ Posting Pictures](#)

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 #: 10075823
Department Use Only
1. Type of License: BEER WINE - SERIES 10 2. Total fees attached: \$ 200.00

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

- Owner/Agent's Name: Mr. KWIATKOWSKI Kim KENNETH
2. Corp./Partnership/L.L.C.: CIRCLE K STORES INC
3. Business Name: CIRCLE K STORE # 9186
4. Principal Street Location: 1595 N 115th AVE AVONDALE MARICOPA 85323
5. Business Phone: (623) 907-3909 Daytime Contact: (602) 728-4783
6. Is the business located within the incorporated limits of the above city or town? YES
7. Mailing Address: LICENSING DC-36 PO BOX 52085 PHOENIX, AZ 85072-2085
8. Enter the amount paid for a bar, beer and wine, or liquor store license \$ N/A

DEPARTMENT USE ONLY
Fees: Application 100.00 Interim Permit 100.00 Agent Change Club Finger Prints \$ 200.00 TOTAL OF ALL FEES
Is Arizona Statement of Citizenship & Alien Status For State Benefits complete? YES NO
Accepted by: DC Date: 5/27/09 Lic. # 10075823

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.
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. 10074178
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, Randy D. Nations, 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.

(Print full name)

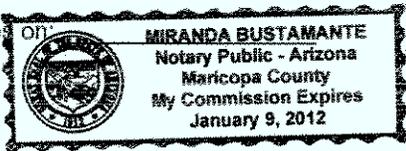
State of Arizona County of Maricopa

X 
(Signature)

The foregoing instrument was acknowledged before me this

6th day of May, 2009
Day Month Year

My commission expires on




(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 10074178

Issue Date: 10/4/2001

Expiration Date: 12/31/2009

Issued To:
RANDY D NATIONS, Agent
STATION OPERATORS INC, Owner

Beer & Wine Store

Mailing Address:

Location:
MOBIL ON THE RUN #18769
1595 N 115TH AVE
AVONDALE, AZ 85323

RANDY D NATIONS
STATION OPERATORS INC
MOBIL ON THE RUN #18769
P O BOX 2502
CHANDLER, AZ 85244



EXP 12/31/2009

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

POST THIS LICENSE IN A CONSPICUOUS PLACE

EXP 10/4/2001 to 12/31/2009

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.: CIRCLE K STORES INC.
(Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: 06/08/1951 State where Incorporated/Organized: TEXAS
3. AZ Corporation Commission File No.: F-0006598-D Date authorized to do business in AZ: 04/08/1957
4. AZ L.L.C. File No: NA Date authorized to do business in AZ: NA
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 |
|-------------|----------|---------|-----------------------|-----------------|----------------|
| Hannasch | Brian | Patrick | President / Secretary | | |
| Abernathy | Daniel | Adolph | Treasurer / Asst Sec | | |
| Haxel | Geoffrey | Charles | Vice President | | |
| Kwiatkowski | Kim | Kenneth | Asst Secretary | | |

(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 |
|------------------------|-------|--------|---------|-------------------|-----------------|
| CIRCLE K DELAWARE INC. | | | 100% | 1130 W WARNER Rd, | TEMPE, AZ 85284 |
| | | | | | |
| | | | | | |
| | | | | | |

(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)

Circle K Stores Inc.
Texas 6/8/51
Charter No. 0010697700
FIN# 74-1149540

| OFFICE | Name | BUSINESS ADDRESS | PHONE |
|-------------------------------------|------------------------|--|----------------|
| * President and Secretary | Brian Hannasch | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| * Vice President | Geoffrey C. Haxel | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| Vice President | Timothy Shawn Tourek | 495 E Rincon, Suite 150, Corona, CA 92879 | (951) 270-5129 |
| Vice President | Robert G. Campau | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| Vice President | Michael L. Struble | 12911 Telecom Parkway, Tampa, FL 33637 | (813) 910-6882 |
| Vice President | Lou Valdes | 3001 Gateway Dr., #130, Irving, TX 75063 | (602) 728-8000 |
| Vice President | Jason Broussard | 12911 Telecom Parkway, Tampa, FL 33637 | (850) 454-1073 |
| Vice President | Matt McCure | 2440 Whitehall Park Dr., #800, Charlotte, NC 28273 | (704) 583-5700 |
| * Treasurer and Assistant Secretary | Daniel A. Abernathy | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| Assistant Secretary | Scott J. Stevenson | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| Assistant Secretary | Kim Kwiatkowski | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| Assistant Secretary | Sylvain Aubry | 1600 St. Martin Blvd East, Tower B, Suite 200, Laval, Quebec H7G 4S7 | (450) 662-6632 |
| Assistant Secretary | Richard Douglas Hamlin | 1130 W Warner Rd, Tempe, AZ 85284 | (602) 728-8000 |
| Assistant Secretary | Marc Lee Flanary | 495 E Rincon, Suite 150, Corona, CA 92879 | (951) 270-5136 |
| Assistant Secretary | Mathew Levi Hermansen | 2440 Whitehall Park Dr., #800, Charlotte, NC 28273 | (704) 583-5716 |
| Assistant Secretary | David G. Morgan | 3001 Gateway Dr., #130, Irving, TX 75063 | (602) 728-8000 |
| Assistant Secretary | David O. Wilkins | 12911 Telecom Parkway, Tampa, FL 33637 | (813) 910-6816 |
| Assistant Secretary | Robert J. Kittlason | 12911 Telecom Parkway, Tampa, FL 33637 | (813) 910-6878 |

* Director

Business Address: 1130 W. Warner Road, Bldg B, Tempe, AZ 85284 (602) 728-8000

Domicile Address: % CSC-Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, TX 78701

12,000,000 Shares Authorized, 1,000 issued at \$1.00 Par. 100% owned by Circle K Delaware Inc. (FIN: 46-0520672)

Circle K Stores Inc. is qualified in:

AL, AZ, AR, CA, CO, FL, GA, , ID, KS, LA, MS,

MO, NV, NM, NC, OK, OR, SC, TN, TX, UT, WA

Corporate Structure:

Circle K Delaware Inc. is 100% owned by The Circle K Corporation

The Circle K Corporation is 100% owned by Couche-Tard U.S. LP

Couche-Tard U.S. LP (the General partner is 3055854 Nova Scotia Company; the limited partner is Mac's Convenience Stores Inc.)

3055854 Nova Scotia Company is 100% owned by Mac's Convenience Stores Inc.

Mac's Convenience Stores Inc. is 100% owned by Couche-Tard Inc.

Couche-Tard Inc. is 100% owned by Depan-Escompte Couche-Tard Inc.

Depan-Escompte Couche-Tard Inc. is 100% owned by Alimentation Couche-Tard Inc.

Alimentation Couche-Tard Inc. is a publicly traded company

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.

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: 1,980 ft. Name of school CANYON BREEZE ELEMENTARY
Address 11675 W ENCANTO BLVD, AVONDALE, AZ 85323
City, State, Zip
2. Distance to nearest church: 4,092 ft. Name of church CHURCH of GOD
Address 2605 N 115th 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 N/A
Address N/A
City, State, Zip
- 4a. Monthly rental/lease rate \$ N/A What is the remaining length of the lease N/A yrs. N/A mos.
- 4b. What is the penalty if the lease is not fulfilled? \$ N/A or other N/A
(give details - attach additional sheet if necessary)
5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 2,200,000
Please list debtors below if applicable.

| Last | First | Middle | Amount Owed | Mailing Address | City | State | Zip |
|-----------------------|----------------|--------|-------------|------------------|-------------|-------|-------|
| MELLON BANK | ACCT: 164-3796 | | 100% | 500 ROSS STREET, | PITTSBURGH, | PA | 15262 |
| CONTACT: RAMY CINDOME | (412) 236-7462 | | | | | | |
| | | | | | | | |
| | | | | | | | |

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? RETAIL CONVENIENCE STORE

SECTION 13 - continued

AMENDMENT *K.B.*

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 # 10074178 (exactly as it appears on license) Name RANDY D. NATIONS

09 MAY 26 11:49 AM '15

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:

_____ and license #: _____
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

AMENDMENT

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 # 10074178 (exactly as it appears on license) Name MOBIL ON THE RUN #18769
STATION OPERATORS INC

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:

_____ and license #: _____
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? N/A
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.

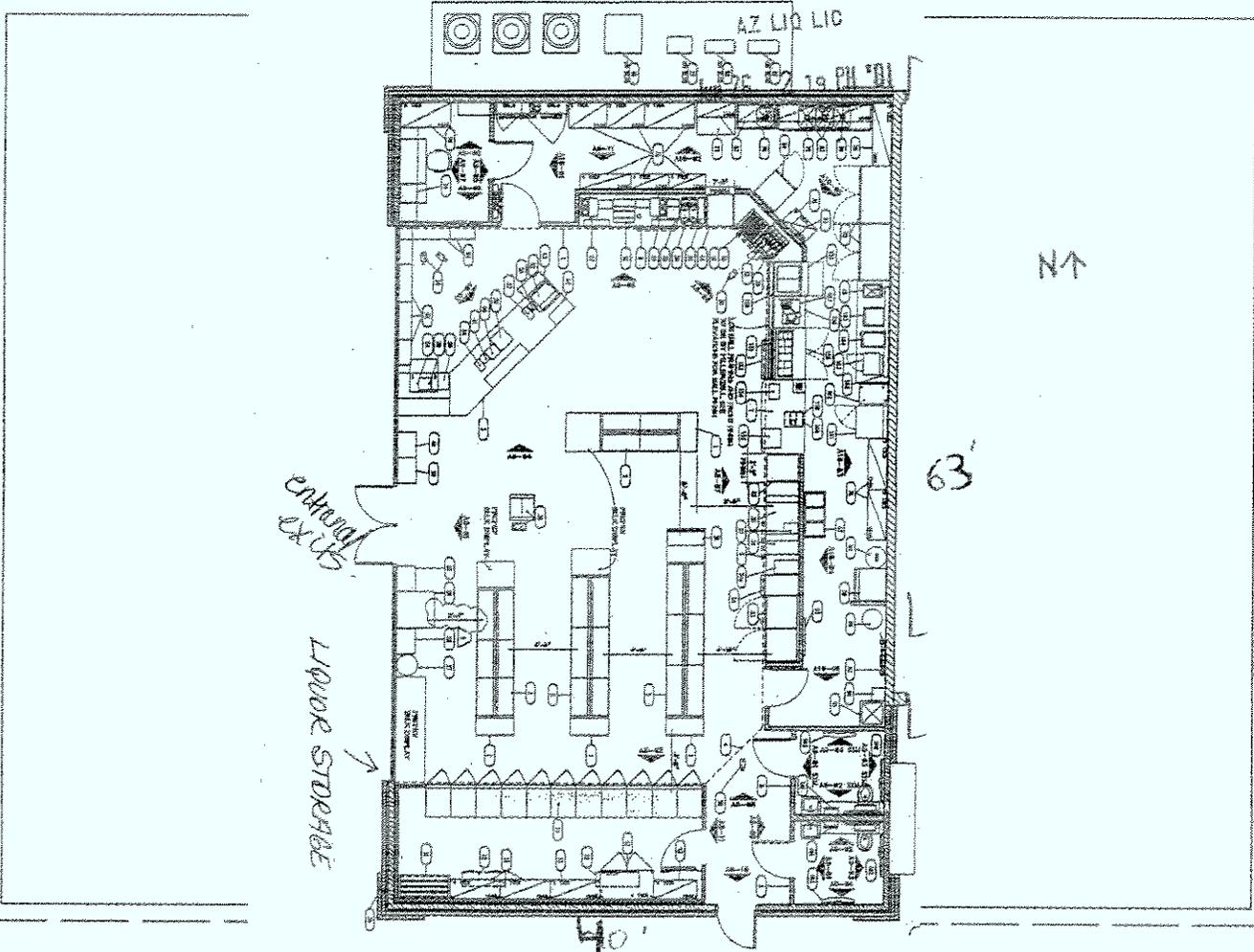
As stated in A.R.S. § 4-205.02 (F), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this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

HK
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, Kim Kenneth Kwiatkowski, 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)

State of ARIZONA County of MARICOPA



The foregoing instrument was acknowledged before me this 28 of APRIL, 2009
 Day Month Year

[Signature]
 signature of NOTARY PUBLIC

My commission expires on _____
 Day Month Year

FP pending

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

705 NOV 15 11:09 AM 2003
QUESTIONNAIRE

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

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 #
10075823
(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: KWIATKOWSKI KIM KENNETH Date of Birth: _____
Last First Middle (This Will Not Become a Part of Public Records)

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

4. Place of Birth: MESA AZ USA Height: 5'11" Weight: 200 Eyes: BR Hair: BR
City State Country (not county)

5. Marital Status Single Married Divorced Widowed Residence (Home) Phone: (602) 509-5465

6. Name of Current or Most Recent Spouse: KWIATKOWSKI JANIE HELEN NOGA 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: _____

8. Telephone number to contact you during business hours for any questions regarding this document. (602) 509-5465

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: CIRCLE K STORE # 9186 Premises Phone: (623) 907-3909

11. Licensed Premises Address: 1595 N 115th AVE 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) |
|--------------------|------------------|-------------------------------------|---|
| 04/94 | CURRENT | Licensing Agent/Assistant Secretary | Circle K Stores Inc. 1130 W WARNER RD, TEMPE, AZ 85284 |
| | | | |
| | | | |

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 If rented, attach additional sheet giving name, address and phone number of landlord | City | State | Zip |
|--------------------|------------------|----------------|--|------|-------|-------|
| 09/90 | CURRENT | OWN | | | AZ | 85284 |
| | | | | | | |
| | | | | | | |

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? _____, **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
Entity Only
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
Entity Only
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 \$ _____

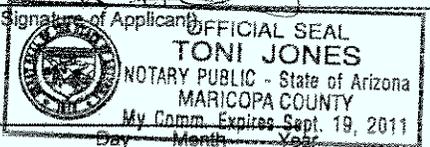
23. Is there a formal written contract or agreement between you and the licensee relating to the operation or management of this business? YES NO If "yes", attach a copy of such agreement

24. I, KIM KENNETH KWIATKOWSKI, 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 of Applicant)

State of ARIZONA County of MARICOPA
The foregoing instrument was acknowledged before me this
28 day of APRIL, 2009
Day Month Year
Toni Jones
(Signature of NOTARY PUBLIC)

My commission expires on: _____
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: _____
Day Month Year (Signature of NOTARY PUBLIC)

**Questionnaire Supplementary for AZ Dept of Liquor License & Control
Entity Responses - Circle K Stores Inc**

re: Kim Kenneth Kwiatkowski

QUESTION 17: Entity response for Circle K Stores Inc.

See attached list of AZ violations

QUESTION 18: Entity response for Circle K Stores Inc.

Circle K Stores Inc Interest in any other alcoholic beverage business:

Alimentation Couche-Tard Inc is a publicly traded company and has several subsidiary's which operate retail convenience markets in the United States and Canada under the following names.

| | |
|----------------------|----------------------------|
| Circle K (US) | Tabatout (Canada) |
| Phillips 66 (US) | Dipanneur 7 jours (Canada) |
| Mac's (US) | Mac's (Canada) |
| Bigfoot (US) | Wink's (Canada) |
| Handy Andy (US) | Mike's Mart (Canada) |
| Dairy Mart (US) | Becker's (Canada) |
| Couche-Tard (Canada) | Daisy Mart (Canada) |
| Provi-Soir (Canada) | Dunkin' Donuts (Canada) |

Most of these sites have alcohol.

Number of Sites: Approximately 5,000 (3,000-US & 2,000-Canada)
Circle K Stores Inc operates approximately 2,000 stores in 18 states.

Interest is limited to employee/manager/officer relationship.

License applications denied - It is the company's policy to secure alcohol licenses prior to constructing/acquiring sites. If an agency recommends denial of a license application for just cause (close to school, church, high crime area, etc), the application is usually withdrawn and the site is not purchased.

Licenses suspended/fined - The company trains its employees on the techniques of alcohol management. Periodically an employee of ours may incur a violation related to alcohol. Some jurisdictions will only issue a citation to the employee, therefore it is difficult to obtain knowledge of these violations. When the company is also issued a citation, the company may be fined a dollar amount or the store is required to suspend sales for a period of time. A report of citations can be created by request for those citations where the company was fined.

Licenses revoked - To the best of our knowledge there has been no alcohol license revoked.

QUESTION 20:

Only as an officer of Circle K Stores Inc.

In response to the entity questions



Kim Kwiatkowski

| 2008 AZ LIQUOR VIOLATIONS 2008 | | | | | | | | | | | | |
|--------------------------------|-------------|-------------|-----------|-----------------|------------|-------------|------------|-----------------|----------|----------|----------------------------|----------------------------|
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 4 | 1 | 0 | 0 | 5 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | \$1,500.00 | | | | | count# | 10 | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| OPEN | 10-100115 | 2702944 | Z3188 | Tucson | FIGHTING | 1st | 2/16/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Juan Jose Guzman |
| DIS | 09-070076 | 2705281 | Z3141 | Cave Creek | DISMISSED | 1st | 4/18/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Ashley Smith |
| OPEN | 10-070204 | 2701202 | Z3189 | Mesa | FIGHTING | 1st | 7/4/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Robert W Wells |
| OPEN | 09-070014 | 2709145 | Z3153 | Tempe | FIGHTING | 1st | 6/22/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Christopher Lensen & Dyrus |
| OPEN | 10-101132 | 2708845 | Z3188 | Tucson | FIGHTING | 1st | 10/25/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Nathan Andrew Hooper |
| 11-08 | 09-030014 | 2705823 | Z3121 | Flagstaff | \$750.00 | 1st | 8/8/2008 | AZ DOL | Observed | Yes | Sold to minor | Patrick Leinweber |
| 09-08 | 10-070802 | 2707964 | Z3117 | Phoenix | \$750.00 | 1st | 7/26/2008 | AZ DOL | Observed | Yes | Sold to minor | Jockine Zapata |
| 01-09 | 10-130021 | 2700789 | Z3121 | Prescott Valley | \$1,500.00 | 1st | 9/13/2008 | Yavapai Sheriff | CUB | Yes | Sold to minor/intoxicated | Sharon Marie Stehl |
| 01-09 | 09-030014 | 2705923 | Z3121 | Flagstaff | \$750.00 | 2nd | 10/23/2008 | Flagstaff PD | CUB | No | Sold to minor | Richard A Horvath |
| 01-09 | 10-070162 | 2700652 | Z3142 | Phoenix | \$1,500.00 | 1st | 9/19/2008 | Phx PD | CUB | No | Sold to minor | Kimberly Fluer-Hurssen |
| 2007 AZ LIQUOR VIOLATIONS 2007 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 9 | 0 | 0 | 0 | 9 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | \$7,000.00 | | | | | count# | 9 | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 03-07 | 09-070147 | 2700079 | Z3185 | Scottsdale | \$500.00 | 1st | 2/7/2007 | AZ DOL | CUB | YES | Sold to minor | Dion Marie Paredo |
| 06-07 | 09-060005 | 2701577 | Z3125 | Safford | \$750.00 | 1st | 2/21/2007 | SAFFORD PD | Observed | NO | Sold to minor | Garion Cahin |
| 05-07 | 09-020017 | 2702945 | Z318A | Benson | \$750.00 | 1st | 3/29/2007 | AZ DOL | Observed | NO | Sold to minor | Victoria Baxler |
| 09-07 | 10-070112 | 2700128 | Z3116 | Glendale | \$750.00 | 1st | 1/20/2007 | Phx PD | CUB | YES | Sold to minor | Kathy Crawford |
| 10-07 | 09-110016 | 2700881 | Z3123 | Florence | \$500.00 | 1st | 8/4/2007 | AZ DOL | CUB | YES | Sold to minor | Stephanie Lynne Espite |
| 01-08 | 10-074038 | 2705914 | Z3112 | Peoria | \$1,500.00 | 1st | 9/24/2007 | Peoria PD | Observed | na | Intoxicated Employee | Aaron D Bailey |
| 03-08 | 09-080137 | 2701841 | Z3151 | Phoenix | \$750.00 | 1st | 11/8/2007 | Phx PD | CUB | NO | Sold to minor | Sarah Dawn Stephenson |
| 03-08 | 10-071120 | 2708747 | Z3141 | Phoenix | \$750.00 | 1st | 12/8/2007 | Phx PD | Call | na | Sold to minor | Steven E Cohage |
| 03-08 | 09-070204 | 2700588 | Z3112 | Phoenix | \$750.00 | 1st | 12/6/2007 | Phx PD | CUB | NO | Sold to minor | James Michael Colan |
| 2006 AZ LIQUOR VIOLATIONS 2006 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 12 | 2 | 0 | 0 | 14 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | \$15,000.00 | | | | | count# | 14 | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 02-06 | 09-030016 | 2705822 | Z3121 | Flagstaff | \$750.00 | 1st | 1/13/2006 | AZ DOL | CUB | NO | Sold to minor | Robert F Pesier |
| 03-06 | 10-071004 | 2701739 | Z3151 | Phoenix | \$750.00 | 1st | 2/24/2006 | AZ DOL | CUB | NO | Sold to minor | Ernie Wells |
| 03-06 | 10-111041 | 2700233 | Z3125 | Eloy | \$750.00 | 1st | 2/25/2006 | AZ DOL | CUB | NO | Sold to minor | Tina Louise Anderson |
| 03-06 | 10-100079 | 2700729 | Z3182 | Tucson | \$750.00 | 1st | 3/13/2006 | AZ DOL | CUB | NO | Sold to minor | Troy A. Romo |
| 04-06 | 10-075013 | 2705288 | Z3158 | Tempe | \$750.00 | 1st | 4/15/2006 | AZ DOL | CUB | NO | Sold to minor | Diana Martinez |
| 06-06 | 09-070167 | 2700225 | Z3123 | Olta Bend | \$750.00 | 1st | 6/2/2006 | AZ DOL | CUB | NO | Sold to minor | Noemi Martinez |
| 07-06 | 10-111040 | 2700807 | Z3123 | Casa Grande | \$750.00 | 1st | 4/4/2006 | AZ DOL | CUB | NO | Sold to minor | Deanna Dittner |
| 10-06 | 09-040021 | 2708870 | Z3127 | Slar Valley | \$750.00 | 1st | 8/18/2006 | Payson PD | Observed | NA | Sold to intoxicated Person | Gerry Burke |
| 10-06 | 10-074912 | 2708843 | Z3142 | Phoenix | \$750.00 | 1st | 9/22/2006 | AZ DOL | CUB | NO | Sold to minor | Lisa Benson |
| 12-06 | 09-070200 | 2701317 | Z3185 | Chandler | \$9,000.00 | 2nd | 10/13/2006 | AZ DOL | CUB | NO | Sold to minor | Mitchell E Cerritosa |
| 01-07 | 09-070226 | 2703735 | Z3111 | Phoenix | \$750.00 | 1st | 9/10/2006 | Phx PD | Called | na | Disorderly on Premises | John Brooks |
| 01-07 | 10-074267 | 2702672 | Z3146 | Phoenix | \$750.00 | 1st | 9/16/2006 | Phx PD | CUB | NO | Sold to minor | Elizabeth Perez Hermina |
| 01-07 | 10-074215 | 2705267 | Z3194 | Phoenix | \$750.00 | 1st | 9/28/2006 | Phx PD | CUB | NO | Sold to minor | Daniel Ray Byrd |
| 01-07 | 09-070171 | 2705576 | Z3115 | Phoenix | \$3,000.00 | 2nd | 12/1/2006 | Phx PD | CUB | NO | Sold to minor | Leon Michael Burke |

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

103 MAY 15 10:00 AM '07

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

QUESTIONNAIRE

FD pending

AC 105637C

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. 10/01/07 there is a \$24.00 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 #
10075823
(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: ABERNATHY DANIEL ADOLPH Date of Birth: _____
 Last First Middle (This Will Not Become a Part of Public Records)

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

4. Place of Birth: FESTUS MO USA Height: 5' 8" Weight: 185 Eyes: BR Hair: BR
 City State Country (not county)

5. Marital Status Single Married Divorced Widowed Residence (Home) Phone: (480) 460-3904

6. Name of Current or Most Recent Spouse: ABERNATHY DOLORES M ARREGUIN 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: MAY 1997

8. Telephone number to contact you during business hours for any questions regarding this document. (602) 728-3107

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: CIRCLE K STORE # 9186 Premises Phone: (623) 907-3909

11. Licensed Premises Address: 1595 N 115th AVE AVONDALE MANICOPA 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) |
|-----------------|---------------|-----------------------------------|--|
| 10/01/2007 | CURRENT | TREASURER/ASST SECRETARY/DIRECTOR | CIRCLE K STORES INC 1130 W WARNER RD, TEMPE, AZ 85284 |
| 05/96 | CURRENT | ACCOUNTING DIRECTOR | CIRCLE K STORES INC., 1130 W WARNER RD, TEMPE, AZ 85284 |
| | | | |

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 If rented, attach additional sheet giving name, address and phone number of landlord | City | State | Zip |
|-----------------|---------------|-------------|---|------|-------|-------|
| 06/97 | CURRENT | OWN | | | AZ | 85048 |
| | | | | | | |
| | | | | | | |

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 licensed premises? If you answered YES, how many hrs/day? _____, 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
Entity Only
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
Entity Only
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

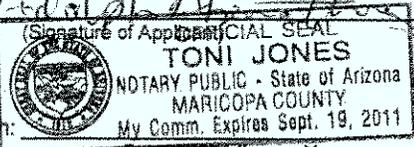
21. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) YES NO
If the answer to #21 is "NO" course must be completed **BEFORE ISSUANCE** of a new license **OR APPROVAL** on an existing license.

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, DANIEL ADOLPH ABERNATHY, 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 De Adolph Abernathy
(Signature of Applicant)



My commission expires on: _____
Day Month Year

State of ARIZONA County of MARICOPA
The foregoing instrument was acknowledged before me this
28 day of APRIL, 2009
Day Month Year
Toni Jones
(Signature of NOTARY PUBLIC)

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

25.1. (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: _____
Day Month Year (Signature of NOTARY PUBLIC)

**Questionnaire Supplementary for AZ Dept of Liquor License & Control
Entity Responses - Circle K Stores Inc**

re: Daniel Adolph Abernathy

QUESTION 17: Entity response for Circle K Stores Inc.

See attached list of AZ violations

QUESTION 18: Entity response for Circle K Stores Inc.

Circle K Stores Inc Interest in any other alcoholic beverage business:

Alimentation Couche-Tard Inc is a publicly traded company and has several subsidiary's which operate retail convenience markets in the United States and Canada under the following names.

| | |
|----------------------|----------------------------|
| Circle K (US) | Tabatout (Canada) |
| Phillips 66 (US) | Dipanneur 7 jours (Canada) |
| Mac's (US) | Mac's (Canada) |
| Bigfoot (US) | Wink's (Canada) |
| Handy Andy (US) | Mike's Mart (Canada) |
| Dairy Mart (US) | Becker's (Canada) |
| Couche-Tard (Canada) | Daisy Mart (Canada) |
| Provi-Soir (Canada) | Dunkin' Donuts (Canada) |

Most of these sites have alcohol.

Number of Sites: Approximately 5,000 (3,000-US & 2,000-Canada)
Circle K Stores Inc operates approximately 2,000 stores in 18 states.

Interest is limited to employee/manager/officer relationship.

License applications denied - It is the company's policy to secure alcohol licenses prior to constructing/acquiring sites. If an agency recommends denial of a license application for just cause (close to school, church, high crime area, etc), the application is usually withdrawn and the site is not purchased.

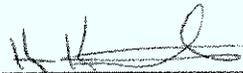
Licenses suspended/fined - The company trains its employees on the techniques of alcohol management. Periodically an employee of ours may incur a violation related to alcohol. Some jurisdictions will only issue a citation to the employee, therefore it is difficult to obtain knowledge of these violations. When the company is also issued a citation, the company may be fined a dollar amount or the store is required to suspend sales for a period of time. A report of citations can be created by request for those citations where the company was fined.

Licenses revoked - To the best of our knowledge there has been no alcohol license revoked.

QUESTION 20:

Only as an officer of Circle K Stores Inc.

In response to the entity questions _____


Kim Kwiatkowski

| 2008 AZ LIQUOR VIOLATIONS 2008 | | | | | | | | | | | | |
|--------------------------------|-------------|-------------|-------------|-----------------|------------|-------------|------------|-----------------|----------|----------|----------------------------|----------------------------|
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 4 | 1 | 0 | 0 | 5 | | | | |
| 10=8/W | | | | | | | | | | | | |
| 09=L/B/W | | | \$1,500.00 | count= | | 10 | | | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| OPEN | 10-100118 | 2702944 | Z3188 | Tucson | FIGHTING | 1st | 2/15/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Juan Jose Guzman |
| DIS | 09-070076 | 2705281 | Z3141 | Cave Creek | DISMISSED | 1st | 4/18/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Ashley Smith |
| OPEN | 10-070204 | 2701202 | Z3188 | Mesa | FIGHTING | 1st | 7/4/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Robert W Wells |
| OPEN | 09-070014 | 2700145 | Z3153 | Tempe | FIGHTING | 1st | 8/22/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Christopher Larson & Dyrus |
| OPEN | 10-101132 | 2708848 | Z3188 | Tucson | FIGHTING | 1st | 10/25/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Nathan Andrew Hooper |
| 11-08 | 09-030014 | 2708823 | Z3121 | Flagstaff | \$750.00 | 1st | 8/8/2008 | AZ DOL | Observed | Yes | Sold to minor | Patrick Leinweber |
| 09-08 | 10-070802 | 2707954 | Z3117 | Phoenix | \$750.00 | 1st | 7/26/2008 | AZ DOL | Observed | Yes | Sold to minor | Jackline Zazueta |
| D1-08 | 10-130021 | 2700789 | Z3121 | Prescott Valley | \$1,500.00 | 1st | 9/15/2008 | Yavapai Sheriff | CUB | Yes | Sold to minor/intoxicated | Sharon Marie Stehl |
| D1-08 | 09-030014 | 2705823 | Z3121 | Flagstaff | \$750.00 | 2nd | 10/23/2008 | Flagstaff PD | CUB | No | Sold to minor | Richard A Horvath |
| D1-08 | 10-070182 | 2706852 | Z3142 | Phoenix | \$1,500.00 | 1st | 9/19/2008 | Phx PD | CUB | No | Sold to minor | Kimberly Fuller-Hurdson |
| 2007 AZ LIQUOR VIOLATIONS 2007 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 8 | 0 | 0 | 0 | 8 | | | | |
| 10=8/W | | | | | | | | | | | | |
| 09=L/B/W | | | \$7,000.00 | count= | | 8 | | | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 03-07 | 09-070147 | 2700079 | Z3155 | Scottsdale | \$500.00 | 1st | 2/7/2007 | AZ DOL | CUB | YES | Sold to minor | Dion Marie Perado |
| 06-07 | 09-060008 | 2701577 | Z3126 | Safford | \$750.00 | 1st | 2/21/2007 | SAFFORD PD | Observed | NO | Sold to minor | Gerrison Calvin |
| 06-07 | 09-020017 | 2702945 | Z3184 | Benson | \$750.00 | 1st | 3/29/2007 | AZ DOL | Observed | NO | Sold to minor | Victoria Barler |
| 06-07 | 10-070112 | 2700128 | Z3116 | Glendale | \$750.00 | 1st | 1/20/2007 | Phx PD | CUB | YES | Sold to minor | Kathy Crawford |
| 10-07 | 09-110016 | 2700661 | Z3123 | Florence | \$500.00 | 1st | 8/14/2007 | AZ DOL | CUB | YES | Sold to minor | Stephanie Lynne Espita |
| D1-08 | 10-074033 | 2705914 | Z3112 | Peoria | \$1,500.00 | 1st | 9/24/2007 | Peoria PD | Observed | na | Intoxicated Employee | Aaron D Bailey |
| 03-08 | 09-090137 | 2701941 | Z3151 | Phoenix | \$750.00 | 1st | 11/8/2007 | Phx PD | CUB | NO | Sold to minor | Sarah Dawn Stephenson |
| 03-08 | 10-071120 | 2708747 | Z3141 | Phoenix | \$750.00 | 1st | 12/9/2007 | Phx PD | Call | na | Sold to minor | Steven E Cohagan |
| 03-08 | 09-070204 | 2700588 | Z3112 | Phoenix | \$750.00 | 1st | 12/6/2007 | Phx PD | CUB | NO | Sold to minor | James Michael Dolan |
| 2006 AZ LIQUOR VIOLATIONS 2006 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 12 | 2 | 0 | 0 | 14 | | | | |
| 10=8/W | | | | | | | | | | | | |
| 09=L/B/W | | | \$15,000.00 | count= | | 14 | | | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 02-06 | 09-030018 | 2705922 | Z3121 | Flagstaff | \$750.00 | 1st | 1/13/2006 | AZ DOL | CUB | NO | Sold to minor | Robert F Peeter |
| 03-06 | 10-071004 | 2701739 | Z3151 | Phoenix | \$750.00 | 1st | 2/24/2006 | AZ DOL | CUB | NO | Sold to minor | Estine Welz |
| 03-06 | 10-111041 | 2700233 | Z3125 | Eloy | \$750.00 | 1st | 2/25/2006 | AZ DOL | CUB | NO | Sold to minor | Tina Louise Anderson |
| 03-06 | 10-100073 | 2700728 | Z3182 | Tucson | \$750.00 | 1st | 3/13/2006 | AZ DOL | CUB | NO | Sold to minor | Troy A. Romo |
| 04-06 | 10-075013 | 2705289 | Z3158 | Tempe | \$750.00 | 1st | 4/15/2006 | AZ DOL | CUB | NO | Sold to minor | Diana Martinez |
| 06-06 | 09-070197 | 2700225 | Z3123 | Gila Bend | \$750.00 | 1st | 6/2/2006 | AZ DOL | CUB | NO | Sold to minor | Noemi Martinez |
| 07-06 | 10-111040 | 2700867 | Z3125 | Casa Grande | \$750.00 | 1st | 4/4/2006 | AZ DOL | CUB | NO | Sold to minor | Deanna Dittmer |
| 10-06 | 09-040021 | 2708870 | Z3127 | Ster Valley | \$750.00 | 1st | 8/18/2006 | Payson PD | Observed | NA | Sold to intoxicated Person | Gerry Burke |
| 10-06 | 10-074912 | 2708843 | Z3142 | Phoenix | \$750.00 | 1st | 8/22/2006 | AZ DOL | CUB | NO | Sold to minor | Lois Barson |
| 12-06 | 09-070200 | 2701317 | Z3185 | Chandler | \$3,000.00 | 2nd | 10/13/2006 | AZ DOL | CUB | NO | Sold to minor | Michelle E Carrithers |
| D1-07 | 09-070228 | 2703736 | Z3111 | Phoenix | \$750.00 | 1st | 9/10/2006 | Phx PD | Called | na | Disorderly on Premises | John Brooks |
| D1-07 | 10-074267 | 2702872 | Z3146 | Phoenix | \$750.00 | 1st | 9/15/2006 | Phx PD | CUB | NO | Sold to minor | Elizabeth Perez Hermina |
| D1-07 | 10-074215 | 2705287 | Z3164 | Phoenix | \$750.00 | 1st | 9/28/2006 | Phx PD | CUB | NO | Sold to minor | Daniel Ray Byrd |
| D1-07 | 09-070171 | 2705576 | Z3115 | Phoenix | \$3,000.00 | 2nd | 12/1/2006 | Phx PD | CUB | NO | Sold to minor | Leon Michael Burke |

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

FP current
10/2008
AC 11734

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 #
10075823
(If the location is currently licensed)

1. Check appropriate box →

| | | | | | | |
|--|----------------------------------|--------------------------------------|---------------------------------|---|--------------------------------------|--|
| <input type="checkbox"/> Owner | <input type="checkbox"/> Partner | <input type="checkbox"/> Stockholder | <input type="checkbox"/> Member | <input checked="" type="checkbox"/> Officer | <input type="checkbox"/> Agent | <input type="checkbox"/> Manager (Only) |
| <input type="checkbox"/> 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: HANNASCH BRIAN PATRICK Date of Birth: _____
Last First Middle (This Will Not Become a Part of Public Records)

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

4. Place of Birth: CAROLL IA USA Height: 5'10" Weight: 180 Eyes: BLU Hair: BR
City State Country (not county)

5. Marital Status Single Married Divorced Widowed Residence (Home) Phone: (812) 350 6735

6. Name of Current or Most Recent Spouse: HANNASCH PATRICIA ANN HUEGERICH 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? IN If Arizona, date of residency: n/a

8. Telephone number to contact you during business hours for any questions regarding this document. (812) 350 - 6735

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: CIRCLE K STORE # 9186 Premises Phone: (623) 907 3909

11. Licensed Premises Address: 1595 N 115th AVE 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) |
|-----------------|---------------|-------------------------------|--|
| 12/03 | CURRENT | PRESIDENT/SECRETARY | CIRCLE K STORES INC 1130 W WARNER RD, TEMPE, AZ 85284 |
| 02/00 | CURRENT | VICE PRESIDENT | ALIMENTATION COUCHE-TARD 1600 boul, St Martin Est, Tour B, bureau 200 |
| | | | LAVAL, QUEBEC, CANADA H7G 4S7 |

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 If rented, attach additional sheet giving name, address and phone number of landlord | City | State | Zip |
|-----------------|---------------|-------------|---|----------|-------|-------|
| 04/07 | CURRENT | Own | | | | |
| 02/00 | 04/07 | Own | 4422 MALLARD POINT | COLUMBUS | IN | 47201 |
| | | | | | | |

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 licensed premises? If you answered YES, how many hrs/day? 7:00, 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
Entity Only
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
Entity Only
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, BRIAN PATRICK HANNASCH, 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]
(Signature of Applicant)

OFFICIAL SEAL
TONI JONES
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Commission Expires Sept. 19, 2011

State of ARIZONA County of MARICOPA
The foregoing instrument was acknowledged before me this
28 day of APRIL, 2009
Day Month Year
[Signature]
(Signature of NOTARY PUBLIC)

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

25.1. (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: _____
Day Month Year (Signature of NOTARY PUBLIC)

**Questionnaire Supplementary for AZ Dept of Liquor License & Control
Entity Responses - Circle K Stores Inc**

re: Brian Patrick Hannasch

QUESTION 17: Entity response for Circle K Stores Inc.

See attached list of AZ violations

QUESTION 18: Entity response for Circle K Stores Inc.

Circle K Stores Inc interest in any other alcoholic beverage business:

Alimentation Couche-Tard Inc is a publicly traded company and has several subsidiary's which operate retail convenience markets in the United States and Canada under the following names.

| | |
|----------------------|----------------------------|
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| Phillips 66 (US) | Dipanneur 7 jours (Canada) |
| Mac's (US) | Mac's (Canada) |
| Bigfoot (US) | Wink's (Canada) |
| Handy Andy (US) | Mike's Mart (Canada) |
| Dairy Mart (US) | Becker's (Canada) |
| Couche-Tard (Canada) | Daisy Mart (Canada) |
| Provi-Soir (Canada) | Dunkin' Donuts (Canada) |

Most of these sites have alcohol.

Number of Sites: Approximately 5,000 (3,000-US & 2,000-Canada)
Circle K Stores Inc operates approximately 2,000 stores in 18 states.

Interest is limited to employee/manager/officer relationship.

License applications denied - It is the company's policy to secure alcohol licenses prior to constructing/acquiring sites. If an agency recommends denial of a license application for just cause (close to school, church, high crime area, etc), the application is usually withdrawn and the site is not purchased.

Licenses suspended/fined - The company trains its employees on the techniques of alcohol management. Periodically an employee of ours may incur a violation related to alcohol. Some jurisdictions will only issue a citation to the employee, therefore it is difficult to obtain knowledge of these violations. When the company is also issued a citation, the company may be fined a dollar amount or the store is required to suspend sales for a period of time. A report of citations can be created by request for those citations where the company was fined.

Licenses revoked - To the best of our knowledge there has been no alcohol license revoked.

QUESTION 20:

Only as an officer of Alimentation Couche-Tard Inc. and it subsidiary's, including Circle K Stores Inc., operating convenience markets under the names listed above in question 17.

In response to the entity questions



Kim Kwiatkowski

| 2008 AZ LIQUOR VIOLATIONS 2008 | | | | | | | | | | | | |
|--------------------------------|-------------|-------------|-----------|-----------------|------------|-------------|------------|-----------------|----------|----------|----------------------------|----------------------------|
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 4 | 1 | 0 | 0 | 5 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | \$1,500.00 | | | | | count= | 10 | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| OPEN | 10-100118 | 2702944 | Z3168 | Tucson | FIGHTING | 1st | 2/18/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Juan Jose Guzman |
| DIS | 09-070078 | 2706281 | Z3141 | Cave Creek | DISMISSED | 1st | 4/18/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Ashley Smith |
| OPEN | 10-070204 | 2701202 | Z3158 | Mesa | FIGHTING | 1st | 7/4/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Robert W Wells |
| OPEN | 09-070014 | 2700145 | Z3153 | Tempe | FIGHTING | 1st | 8/22/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Christopher Larson & Dylis |
| OPEN | 10-101132 | 2708648 | Z3168 | Tucson | FIGHTING | 1st | 10/26/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Nathan Andrew Hooper |
| 11-08 | 09-030014 | 2705823 | Z3121 | Flagstaff | \$750.00 | 1st | 8/8/2008 | AZ DOL | Observed | Yes | Sold to minor | Patrick Leinweber |
| 09-08 | 10-070502 | 2707984 | Z3117 | Phoenix | \$750.00 | 1st | 7/28/2008 | AZ DOL | Observed | Yes | Sold to minor | Jackline Zazueta |
| 01-09 | 10-130021 | 2700789 | Z3121 | Prescott Valley | \$1,500.00 | 1st | 9/13/2008 | Yavapai Sheriff | CUB | Yes | Sold to minor/intoxicated | Sheron Marie Slatk |
| 01-09 | 09-030014 | 2705823 | Z3121 | Flagstaff | \$750.00 | 2nd | 10/23/2008 | Flagstaff PD | CUB | No | Sold to minor | Richard A Horvath |
| 01-08 | 10-070182 | 2700582 | Z3142 | Phoenix | \$1,500.00 | 1st | 9/19/2008 | Phx PD | CUB | No | Sold to minor | Kimberly Fuller-Nurudeen |
| 2007 AZ LIQUOR VIOLATIONS 2007 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 9 | 0 | 0 | 0 | 9 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 08=L/B/W | | | | \$7,000.00 | | | | | count= | 9 | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 03-07 | 09-070147 | 2700079 | Z3158 | Scottsdale | \$500.00 | 1st | 2/7/2007 | AZ DOL | CUB | YES | Sold to minor | Dion Marie Peredo |
| 06-07 | 09-050005 | 2701877 | Z3128 | Safford | \$750.00 | 1st | 2/21/2007 | SAFFORD PD | Observed | NO | Sold to minor | Gaston Calvin |
| 05-07 | 09-020017 | 2702945 | Z318A | Benson | \$750.00 | 1st | 3/29/2007 | AZ DOL | Observed | NO | Sold to minor | Victoria Baxter |
| 08-07 | 10-070112 | 2700128 | Z3116 | Glendale | \$750.00 | 1st | 1/20/2007 | Phx PD | CUB | YES | Sold to minor | Kathy Crawford |
| 10-07 | 09-110016 | 2700681 | Z3123 | Florence | \$500.00 | 1st | 8/14/2007 | AZ DOL | CUB | YES | Sold to minor | Stephanie Lynne Espitia |
| 01-08 | 10-074033 | 2705914 | Z3112 | Peoria | \$1,500.00 | 1st | 9/24/2007 | Peoria PD | Observed | na | Intoxicated Employee | Aaron D Bailey |
| 03-08 | 09-080137 | 2701841 | Z3151 | Phoenix | \$750.00 | 1st | 11/8/2007 | Phx PD | CUB | NO | Sold to minor | Sarah Dawn Stephenson |
| 03-08 | 10-071120 | 2708747 | Z3141 | Phoenix | \$750.00 | 1st | 12/9/2007 | Phx PD | Call | na | Sold to minor | Steven E Cofage |
| 03-08 | 09-070204 | 2700598 | Z3112 | Phoenix | \$750.00 | 1st | 12/6/2007 | Phx PD | CUB | NO | Sold to minor | James Michael Dolan |
| 2006 AZ LIQUOR VIOLATIONS 2006 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 12 | 2 | 0 | 0 | 14 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 08=L/B/W | | | | \$15,000.00 | | | | | count= | 14 | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 02-06 | 09-030018 | 2705922 | Z3121 | Flagstaff | \$750.00 | 1st | 1/13/2006 | AZ DOL | CUB | NO | Sold to minor | Robert F Pester |
| 03-06 | 10-071004 | 2701739 | Z3191 | Phoenix | \$750.00 | 1st | 2/24/2006 | AZ DOL | CUB | NO | Sold to minor | Estine Wells |
| 03-06 | 10-111041 | 2700233 | Z3125 | Elroy | \$750.00 | 1st | 2/25/2006 | AZ DOL | CUB | NO | Sold to minor | Tina Louise Anderson |
| 03-06 | 10-100073 | 2700728 | Z3182 | Tucson | \$750.00 | 1st | 3/13/2006 | AZ DOL | CUB | NO | Sold to minor | Trey A. Romo |
| 04-06 | 10-075013 | 2705288 | Z3158 | Tempe | \$750.00 | 1st | 4/16/2006 | AZ DOL | CUB | NO | Sold to minor | Diana Martinez |
| 05-06 | 09-070167 | 2700225 | Z3123 | Glis Bend | \$750.00 | 1st | 6/2/2006 | AZ DOL | CUB | NO | Sold to minor | Noemi Martinez |
| 07-06 | 10-111040 | 2700857 | Z3123 | Casa Grande | \$750.00 | 1st | 4/4/2006 | AZ DOL | CUB | NO | Sold to minor | Deanna Dittner |
| 10-06 | 09-040021 | 2705870 | Z3127 | Star Valley | \$750.00 | 1st | 8/15/2006 | Peyson PD | Observed | NA | Sold to intoxicated Person | Cherry Burke |
| 10-06 | 10-074812 | 2708643 | Z3142 | Phoenix | \$750.00 | 1st | 8/22/2006 | AZ DOL | CUB | NO | Sold to minor | Lois Benson |
| 12-06 | 09-070200 | 2701317 | Z3165 | Chandler | \$3,000.00 | 2nd | 10/13/2006 | AZ DOL | CUB | NO | Sold to minor | Mitchell E Carrthers |
| 01-07 | 09-070226 | 2703735 | Z3111 | Phoenix | \$750.00 | 1st | 9/10/2006 | Phx PD | Called | na | Disorderly on Premises | John Brooks |
| 01-07 | 10-074267 | 2702872 | Z3146 | Phoenix | \$750.00 | 1st | 9/16/2006 | Phx PD | CUB | NO | Sold to minor | Elizabeth Perez Hermina |
| 01-07 | 10-074215 | 2705287 | Z3164 | Phoenix | \$750.00 | 1st | 9/28/2006 | Phx PD | CUB | NO | Sold to minor | Daniel Ray Byrd |
| 01-07 | 09-070171 | 2705576 | Z3115 | Phoenix | \$3,000.00 | 2nd | 12/1/2006 | Phx PD | CUB | NO | Sold to minor | Leon Michael Burke |

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

FP WRRent
10/2008
849

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 #
10075823
 (If the location is currently licensed)

1. Check appropriate box →

| | | | | | | |
|---|----------------------------------|--------------------------------------|---------------------------------|---|--------------------------------|---|
| <input type="checkbox"/> Owner | <input type="checkbox"/> Partner | <input type="checkbox"/> Stockholder | <input type="checkbox"/> Member | <input checked="" type="checkbox"/> Officer | <input type="checkbox"/> Agent | <input type="checkbox"/> Manager(Only) |
| <input type="checkbox"/> Other _____ (Complete Questions 1-20 & 24) | | | | | | (Complete All Questions <u>except</u> # 14, 14a & 25) |
| Licensee or Agent must complete # 25 for a Manager | | | | | | Licensee or Agent must complete # 25 |

2. Name: HAXEL GEOFFREY CHARLES Date of Birth: _____
 Last First Middle (This Will Not Become a Part of Public Records)

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

4. Place of Birth: PONCA CITY OK USA Height: 5'11" Weight: 248 Eyes: BLU Hair: BR
 City State Country (not county)

5. Marital Status Single Married Divorced Widowed Residence (Home) Phone: (602) 728-4302

6. Name of Current or Most Recent Spouse: HAXEL LORI GLYN SMITH 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: AUGUST 2001

8. Telephone number to contact you during business hours for any questions regarding this document. (602) 728-4302

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: CIRCLE K STORE # 9186 Premises Phone: (623) 907-3909

11. Licensed Premises Address: 1595 N 115th AVE 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) |
|--------------------|------------------|----------------------------------|---|
| 08/01 | CURRENT | REGIONAL VICE PRESIDENT | CIRCLE K STORES INC 1130 W WARNER RD, TEMPE, AZ 85284 |
| 03/00 | 07/01 | NORTHWEST REGIONAL MANAGER | CIRCLE K STORES INC 1130 W WARNER RD, TEMPE, AZ 85284 |
| | | | |

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 if rented, attach additional sheet giving name, address and phone number of landlord | City | State | Zip |
|--------------------|------------------|----------------|--|------|-------|-------|
| 08/01 | CURRENT | Own | ----- | | AZ | 85256 |
| | | | | | | |
| | | | | | | |

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 licensed premises? If you answered YES, how many hrs/day? _____, 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
ENTITY ONLY
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
ENTITY ONLY
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.

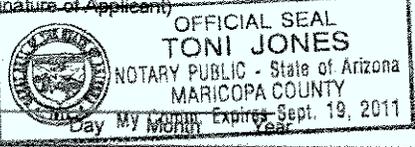
22. Do you make payments to the licensee? YES NO If "yes", how much? \$ _____ per month. Total debt to licensee \$ _____

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, GEOFFREY CHARLES HAXEL, 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 Supp C. H.P. State of ARIZONA County of MARICOPA
(Signature of Applicant) The foregoing instrument was acknowledged before me this
28 day of APRIL, 2009
Day Month Year
Toni Jones
(Signature of NOTARY PUBLIC)



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: _____
Day Month Year (Signature of NOTARY PUBLIC)

Questionnaire Supplementary for AZ Dept of Liquor License & Control

QUESTION 15 & 16:

1985 - Tulsa, OK; arrested for misdemeanor public intoxication & disturbing the peace
Paid a fine & released

2004 - Peoria, AZ arrested in February and convicted in August of an extreme DUI.

**QUESTION 17: Entity response for Circle K Stores Inc.
See attached list of AZ violations**

QUESTION 18:

Circle K Stores Inc Interest in any other alcoholic beverage business:

Alimentation Couche-Tard Inc is a publicly traded company and has several subsidiary's which operate retail convenience markets in the United States and Canada under the following names.

| | |
|----------------------|----------------------------|
| Circle K (US) | Tabatout (Canada) |
| Phillips 66 (US) | Dipanneur 7 jours (Canada) |
| Mac's (US) | Mac's (Canada) |
| Bigfoot (US) | Wink's (Canada) |
| Handy Andy (US) | Mike's Mart (Canada) |
| Dairy Mart (US) | Becker's (Canada) |
| Couche-Tard (Canada) | Daisy Mart (Canada) |
| Provi-Soir (Canada) | Dunkin' Donuts (Canada) |

Most of these sites have alcohol.

Number of Sites: Approximately 5,000 (3,000-US & 2,000-Canada)
Circle K Stores Inc operates approximately 2,000 stores in 18 states.

Interest is limited to employee/manager/officer relationship.

License applications denied - It is the company's policy to secure alcohol licenses prior to constructing/acquiring sites. If an agency recommends denial of a license application for just cause (close to school, church, high crime area, etc), the application is usually withdrawn and the site is not purchased.

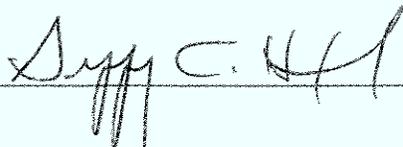
Licenses suspended/fined - The company trains its employees on the techniques of alcohol management. Periodically an employee of ours may incur a violation related to alcohol. Some jurisdictions will only issue a citation to the employee, therefore it is difficult to obtain knowledge of these violations. When the company is also issued a citation, the company may be fined a dollar amount or the store is required to suspend sales for a period of time. A report of citations can be created by request for those citations where the company was fined.

Licenses revoked - To the best of our knowledge there has been no alcohol license revoked.

QUESTION 20:

Only as an officer of Circle K Stores Inc.

Signature: _____



Date: _____

4/28/9

| 2008 AZ LIQUOR VIOLATIONS 2008 | | | | | | | | | | | | |
|--------------------------------|-------------|-------------|-----------|-----------------|------------|-------------|------------|-----------------|----------|----------|----------------------------|----------------------------|
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 4 | 1 | 0 | 0 | 5 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | | | | | | | | | |
| | | | | \$1,500.00 | | count= | | 10 | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| OPEN | 10-100118 | 2702844 | Z3188 | Tucson | FIGHTING | 1st | 2/16/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Juan Jose Guzman |
| DKS | 09-070078 | 2705281 | Z3141 | Cave Creek | DISMISSED | 1st | 4/18/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Ashley Smith |
| OPEN | 10-070204 | 2701202 | Z3188 | Mass | FIGHTING | 1st | 7/4/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Robert W Wells |
| OPEN | 09-070014 | 2700145 | Z3153 | Tempe | FIGHTING | 1st | 8/22/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Christopher Larson & Dylis |
| OPEN | 10-101132 | 2705648 | Z3188 | Tucson | FIGHTING | 1st | 10/29/2008 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Nathan Andrew Hooper |
| 11-06 | 09-030014 | 2705623 | Z3121 | Flagstaff | \$750.00 | 1st | 8/8/2006 | AZ DOL | Observed | Yes | Sold to minor | Patrick Leinweber |
| 08-06 | 10-070502 | 2707984 | Z3117 | Phoenix | \$750.00 | 1st | 7/26/2008 | AZ DOL | Observed | Yes | Sold to minor | Jackline Zazueta |
| 01-09 | 10-130021 | 2700769 | Z3121 | Prescott Valley | \$1,500.00 | 1st | 8/13/2008 | Yavapai Sheriff | CUB | Yes | Sold to minor/intoxicated | Sharon Maria Siah |
| 01-09 | 09-030014 | 2705823 | Z3121 | Flagstaff | \$750.00 | 2nd | 10/23/2008 | Flagstaff PD | CUB | No | Sold to minor | Richard A Horvath |
| 01-09 | 10-070162 | 2700652 | Z3142 | Phoenix | \$1,500.00 | 1st | 9/19/2008 | Phx PD | CUB | No | Sold to minor | Kimberly Fuller-Nurudien |
| 2007 AZ LIQUOR VIOLATIONS 2007 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 9 | 0 | 0 | 0 | 9 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | | | | | | | | | |
| | | | | \$7,000.00 | | count= | | 9 | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 03-07 | 09-070147 | 2708078 | Z3156 | Scottsdale | \$500.00 | 1st | 2/7/2007 | AZ DOL | CUB | YES | Sold to minor | Dion Marie Peredo |
| 05-07 | 09-050005 | 2701577 | Z3126 | Safford | \$750.00 | 1st | 2/21/2007 | SAFFORD PD | Observed | NO | Sold to minor | Gerson Calvin |
| 05-07 | 09-030017 | 2702845 | Z318A | Benson | \$750.00 | 1st | 3/29/2007 | AZ DOL | Observed | NO | Sold to minor | Victoria Baxter |
| 08-07 | 10-070112 | 2709128 | Z3118 | Glendale | \$750.00 | 1st | 1/20/2007 | Phx PD | CUB | YES | Sold to minor | Kathy Crawford |
| 10-07 | 09-110016 | 2700681 | Z3123 | Florence | \$500.00 | 1st | 8/4/2007 | AZ DOL | CUB | YES | Sold to minor | Stephanie Lynne Espitia |
| 01-06 | 10-074033 | 2705914 | Z3112 | Peoria | \$1,500.00 | 1st | 8/24/2007 | Peoria PD | Observed | na | Intoxicated Employee | Aaron D Bailey |
| 03-08 | 09-090137 | 2701941 | Z3151 | Phoenix | \$750.00 | 1st | 11/8/2007 | Phx PD | CUB | NO | Sold to minor | Sarah Dawn Stepherson |
| 03-08 | 10-071120 | 2708747 | Z3141 | Phoenix | \$750.00 | 1st | 12/9/2007 | Phx PD | Call | na | Sold to minor | Steven E Cohase |
| 03-08 | 09-070204 | 2700598 | Z3112 | Phoenix | \$750.00 | 1st | 12/6/2007 | Phx PD | CUB | NO | Sold to minor | James Michael Dahn |
| 2006 AZ LIQUOR VIOLATIONS 2006 | | | | | | | | | | | | |
| | | Violations: | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | |
| | | Number of: | 0 | 12 | 2 | 0 | 0 | 14 | | | | |
| 10=B/W | | | | | | | | | | | | |
| 09=L/B/W | | | | | | | | | | | | |
| | | | | \$15,000.00 | | count= | | 14 | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st,2nd,4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 02-06 | 09-030016 | 2705922 | Z3121 | Flagstaff | \$750.00 | 1st | 1/13/2006 | AZ DOL | CUB | NO | Sold to minor | Robert F Peeler |
| 03-06 | 10-071004 | 2701739 | Z3151 | Phoenix | \$750.00 | 1st | 2/24/2006 | AZ DOL | CUB | NO | Sold to minor | Estine Wells |
| 03-06 | 10-111041 | 2700233 | Z3125 | Eloy | \$750.00 | 1st | 2/25/2006 | AZ DOL | CUB | NO | Sold to minor | Tina Louise Anderson |
| 03-06 | 10-100073 | 2700728 | Z3182 | Tucson | \$750.00 | 1st | 3/13/2006 | AZ DOL | CUB | NO | Sold to minor | Troy A. Romo |
| 04-06 | 10-075013 | 2705288 | Z3158 | Tempe | \$750.00 | 1st | 4/15/2006 | AZ DOL | CUB | NO | Sold to minor | Diana Martinez |
| 05-06 | 09-070167 | 2700225 | Z3123 | Olta Bend | \$750.00 | 1st | 8/2/2006 | AZ DOL | CUB | NO | Sold to minor | Noemi Martinez |
| 07-06 | 10-111040 | 2700667 | Z3123 | Casa Grande | \$750.00 | 1st | 4/4/2006 | AZ DOL | CUB | NO | Sold to minor | Deanna Dittener |
| 10-06 | 09-040021 | 2706670 | Z3127 | Star Valley | \$750.00 | 1st | 5/18/2006 | Payson PD | Observed | NA | Sold to intoxicated Person | Garry Burke |
| 10-06 | 10-074912 | 2706643 | Z3142 | Phoenix | \$750.00 | 1st | 9/22/2006 | AZ DOL | CUB | NO | Sold to minor | Lois Benson |
| 12-06 | 09-070200 | 2701817 | Z3165 | Chandler | \$2,000.00 | 2nd | 10/13/2006 | AZ DOL | CUB | NO | Sold to minor | Michele E Carrifera |
| 01-07 | 09-070226 | 2703735 | Z3111 | Phoenix | \$750.00 | 1st | 9/10/2006 | Phx PD | Called | na | Disorderly on Premises | John Brooks |
| 01-07 | 10-074267 | 2702872 | Z3146 | Phoenix | \$750.00 | 1st | 9/15/2006 | Phx PD | CUB | NO | Sold to minor | Elizabeth Perez Hermina |
| 01-07 | 10-074216 | 2705287 | Z3164 | Phoenix | \$750.00 | 1st | 9/29/2006 | Phx PD | CUB | NO | Sold to minor | Daniel Ray Byrd |
| 01-07 | 09-070171 | 2705576 | Z3115 | Phoenix | \$2,000.00 | 2nd | 12/1/2006 | Phx PD | CUB | NO | Sold to minor | Leon Michael Burke |

FP pending

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL
09 MAY 15 11:49 AM 2008

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

400 W Congress #521
Tucson AZ 85701-1652
(520) 628-6595

QUESTIONNAIRE

AC 4/25/08

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 CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT DLLC. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY DLLC. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Effective 10/01/07 there is a \$24.00 processing fee for each fingerprint card submitted.

The fees allowed by A.R.S. § 44-6852 will be charged for all dishonored checks.

Liquor License #
10075823
(If the location is currently licensed)

1. Check appropriate box →

| | | |
|---|---|---|
| <input type="checkbox"/> Controlling Person (Complete Questions 1-19) Controlling Person or Agent must complete #21 for a Manager | <input type="checkbox"/> Agent (Complete All Questions <u>except</u> # 14, 14a & 21) Controlling Person or Agent must complete # 21 | <input checked="" type="checkbox"/> Manager (Only) (Complete All Questions <u>except</u> # 14, 14a & 21) Controlling Person or Agent must complete # 21 |
|---|---|---|

2. Name: GLOVER KIMBERLY MARIE Date of Birth: _____
Last First Middle (NOT a Public Record)

3. Social Security Number: _____ Drivers License #: _____ State: ARIZONA
(NOT a public record) (NOT a public record)

4. Place of Birth: CLEVELAND OHIO USA Height: 5'4" Weight: 180 Eyes: GR Hair: BL
City State Country (not county)

5. Marital Status Single Married Divorced Widowed Daytime Contact Phone: (480) 227-8128

6. Name of Current or Most Recent Spouse: NIA Date of Birth: N/A
(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: 07/2000

8. Telephone number to contact you during business hours for any questions regarding this document. (480) 227-8128

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

10. Name of Licensed Premises: CIRCLE K STORE #9186 Premises Phone: (623) 907-3909

11. Physical Location of Licensed Premises Address: 1595 N 115th AVE AVONDALE MARICOPA 85223
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 (street address, city, state & zip) |
|-----------------|---------------|-------------------------------|---|
| 8/2000 | CURRENT | CONVENIENCE STORE | CIRCLE K STORES INC. 1130 W WARNER Rd, Temp., AZ 85284 |
| | | | |
| | | | |

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 (If rented, attach additional sheet with name, address and phone number of landlord) | City | State | Zip |
|-----------------|---------------|-------------|---|---------|-------|-------|
| 4/2008 | CURRENT | OWN | 515 W AVIARY WAY | GILBERT | AZ | 85233 |
| 8/2003 | 4/2008 | RENT | 1503 W PACIFIC DR | GILBERT | AZ | 85233 |
| | | | LANDLORD: MIKE SIMON 1503 W PACIFIC DR. (480) 926-9015 | GILBERT | AZ | 85233 |

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

14. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, how many hrs/day? _____, and answer #14a below. If NO, skip to #15. YES NO
- 14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must provide proof)
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license. YES NO
15. Have you been convicted, fined, ordered to deposit bail, imprisoned, placed on probation or parole, had to post bond or had sentence suspended for any violation of ANY law or ordinance within the past ten (10) years (include only traffic violations that were alcohol and/or drug related)? YES NO
16. Are there ANY administrative law citations, compliance actions or consents, criminal arrest, indictments or summonses PENDING against you or ANY entity in which you are now involved? YES NO
ENTITY ONLY
17. 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
ENTITY ONLY
18. Has anyone EVER filed suit or obtained a judgment against you, the subject of which involved fraud or misrepresentation? YES NO
19. 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? Manager of other Circle K Stores. YES NO

If any answer to Questions 15 through 19 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved, and dispositions.
SUBSTANTIVE CHANGES TO THIS APPLICATION WILL NOT BE ACCEPTED

20. I, KIMBERLY MARIE GLOVER, hereby declare that I am the APPLICANT/REPRESENTATIVE
(print full name of Applicant)
filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

x Kimberly Marie Glover
(Signature of Applicant)

State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this
28 day of APRIL, 2009
Month Year
Toni Jones
(Signature of NOTARY PUBLIC)

My commission expires on: 

COMPLETE THIS SECTION ONLY IF YOU ARE A CONTROLLING PERSON OR AGENT APPROVING A MANAGER'S APPLICATION

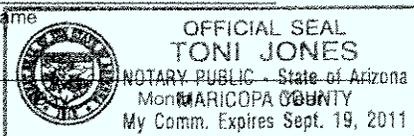
21. The applicant hereby authorizes the person named on this questionnaire to act as manager for the named liquor license. The manager named must be at least 21 years of age.

State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this
28 day of APRIL, 2009
Month Year
Toni Jones
(Signature of NOTARY PUBLIC)

x Kim Kenneth Kwiatkowski
Signature of Controlling Person or Agent (circle one)

Kim Kenneth Kwiatkowski
Print Name

My commission expires on: 

Questionnaire Supplementary for AZ Dept of Liquor License & Control
Entity Responses - Circle K Stores Inc

1644
QUESTION 17: Entity response for Circle K Stores Inc.
See attached list of AZ violations

QUESTION 18: Entity response for Circle K Stores Inc.

Circle K Stores Inc Interest in any other alcoholic beverage business:

Alimentation Couche-Tard Inc is a publicly traded company and has several subsidiary's which operate retail convenience markets in the United States and Canada under the following names.

| | |
|----------------------|----------------------------|
| Circle K (US) | Tabatout (Canada) |
| Phillips 66 (US) | Dipanneur 7 jours (Canada) |
| Mac's (US) | Mac's (Canada) |
| Bigfoot (US) | Wink's (Canada) |
| Handy Andy (US) | Mike's Mart (Canada) |
| Dairy Mart (US) | Becker's (Canada) |
| Couche-Tard (Canada) | Daisy Mart (Canada) |
| Provi-Soir (Canada) | Dunkin' Donuts (Canada) |

Most of these sites have alcohol.

Number of Sites: Approximately 5,000 (3,000-US & 2,000-Canada)
Circle K Stores Inc operates approximately 2,000 stores in 18 states.

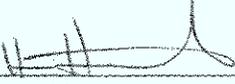
Interest is limited to employee/manager/officer relationship.

License applications denied - It is the company's policy to secure alcohol licenses prior to constructing/acquiring sites. If an agency recommends denial of a license application for just cause (close to school, church, high crime area, etc), the application is usually withdrawn and the site is not purchased.

Licenses suspended/fined - The company trains its employees on the techniques of alcohol management. Periodically an employee of ours may incur a violation related to alcohol. Some jurisdictions will only issue a citation to the employee, therefore it is difficult to obtain knowledge of these violations. When the company is also issued a citation, the company may be fined a dollar amount or the store is required to suspend sales for a period of time. A report of citations can be created by request for those citations where the company was fined.

Licenses revoked - To the best of our knowledge there has been no alcohol license revoked.

In response to the entity questions _____


Kim Kwiatkowski

| 2006 AZ LIQUOR VIOLATIONS 2006 | | | | | | | | | | | | | | |
|--------------------------------|-------------|-------------|-------|-----------------|------------|-----|-------|--------|------------|-----------------|----------|----------|----------------------------|----------------------------|
| Violations: | | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | | | | |
| Number of: | | 0 | 4 | 1 | 0 | 0 | 5 | | | | | | | |
| 10=B/W | | | | | | | | | | | | | | |
| 09=L/B/W | | \$1,500.00 | | | | | | counts | 10 | | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st | 2nd | 4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| OPEN | 10-100116 | 2702944 | Z3186 | Tucson | FIGHTING | 1st | | | 2/16/2006 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Juan Jose Guzman |
| DIS | 09-070076 | 2705261 | Z3141 | Cave Creek | DISMISSED | 1st | | | 4/18/2006 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Ashley Smith |
| OPEN | 10-070204 | 2701202 | Z3168 | Mesa | FIGHTING | 1st | | | 7/4/2006 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Robert W Wells |
| OPEN | 09-070014 | 2700145 | Z3163 | Tempe | FIGHTING | 1st | | | 8/22/2006 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Christopher Larson & Dylva |
| OPEN | 10-101132 | 2705648 | Z3168 | Tucson | FIGHTING | 1st | | | 10/25/2006 | AZ DOL | Observed | Yes-Fake | Sold to minor (Admin) | Nathan Andrew Hooper |
| 11-06 | 09-030914 | 2705823 | Z3121 | Flagstaff | \$750.00 | 1st | | | 8/9/2006 | AZ DOL | Observed | Yes | Sold to minor | Patrick Leitwaber |
| 09-06 | 10-070802 | 2707964 | Z3117 | Phoenix | \$750.00 | 1st | | | 7/26/2006 | AZ DOL | Observed | Yes | Sold to minor | Jackie Zazueta |
| 01-06 | 10-130021 | 2707669 | Z3121 | Prescott Valley | \$1,500.00 | 1st | | | 9/13/2006 | Yavapai Sheriff | CUB | Yes | Sold to minor/intoxicated | Sheron Marie Steff |
| 01-06 | 09-030014 | 2705623 | Z3121 | Flagstaff | \$750.00 | 2nd | | | 10/23/2006 | Flagstaff PD | CUB | No | Sold to minor | Richard A Horvath |
| 01-06 | 10-070162 | 2706652 | Z3142 | Phoenix | \$1,500.00 | 1st | | | 9/19/2006 | Phx PD | CUB | No | Sold to minor | Kimberly Fuller-Hurudean |
| 2007 AZ LIQUOR VIOLATIONS 2007 | | | | | | | | | | | | | | |
| Violations: | | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | | | | |
| Number of: | | 0 | 9 | 0 | 0 | 0 | 9 | | | | | | | |
| 10=B/W | | | | | | | | | | | | | | |
| 09=L/B/W | | \$7,000.00 | | | | | | counts | 9 | | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st | 2nd | 4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 03-07 | 09-070147 | 2700079 | Z3155 | Scottsdale | \$500.00 | 1st | | | 2/7/2007 | AZ DOL | CUB | YES | Sold to minor | Dion Marie Perado |
| 06-07 | 09-060005 | 2701677 | Z3126 | Safford | \$750.00 | 1st | | | 2/21/2007 | SAFFORD PD | Observed | NO | Sold to minor | Gerson Cahin |
| 06-07 | 09-020017 | 2702945 | Z318A | Benson | \$750.00 | 1st | | | 3/29/2007 | AZ DOL | Observed | NO | Sold to minor | Victoria Baxter |
| 06-07 | 10-070112 | 2700126 | Z3116 | Glendale | \$750.00 | 1st | | | 1/20/2007 | Phx PD | CUB | YES | Sold to minor | Kathy Crawford |
| 10-07 | 09-110016 | 2700661 | Z3123 | Florence | \$500.00 | 1st | | | 8/14/2007 | AZ DOL | CUB | YES | Sold to minor | Stephanie Lynne Espitia |
| 01-06 | 10-074033 | 2705914 | Z3112 | Peoria | \$1,500.00 | 1st | | | 9/24/2007 | Peoria PD | Observed | na | intoxicated Employee | Aaron D Bailey |
| 03-06 | 09-080137 | 2701941 | Z3151 | Phoenix | \$750.00 | 1st | | | 11/8/2007 | Phx PD | CUB | NO | Sold to minor | Sarah Dawn Stephenson |
| 03-06 | 10-071120 | 2708747 | Z3141 | Phoenix | \$750.00 | 1st | | | 12/9/2007 | Phx PD | Call | na | Sold to minor | Sтивен E Cohage |
| 03-06 | 09-070204 | 2700596 | Z3112 | Phoenix | \$750.00 | 1st | | | 12/6/2007 | Phx PD | CUB | NO | Sold to minor | James Michael Colan |
| 2006 AZ LIQUOR VIOLATIONS 2006 | | | | | | | | | | | | | | |
| Violations: | | Dismissed | 1st | 2nd | 3rd | 4th | Total | | | | | | | |
| Number of: | | 0 | 12 | 2 | 0 | 0 | 14 | | | | | | | |
| 10=B/W | | | | | | | | | | | | | | |
| 09=L/B/W | | \$15,000.00 | | | | | | counts | 14 | | | | | |
| MTH | LICENSE-NO. | STORE | ZONE | CITY | AMT | 1st | 2nd | 4th | V-DATE | AGENCY | CUB | ASK-ID | VIOLATION | EMPLOYEE |
| 02-06 | 09-030015 | 2705922 | Z3121 | Flagstaff | \$750.00 | 1st | | | 1/13/2006 | AZ DOL | CUB | NO | Sold to minor | Robert F Peeler |
| 03-06 | 10-071004 | 2701739 | Z3151 | Phoenix | \$750.00 | 1st | | | 2/24/2006 | AZ DOL | CUB | NO | Sold to minor | Estine Wells |
| 03-06 | 10-111041 | 2700233 | Z3125 | Eloy | \$750.00 | 1st | | | 2/25/2006 | AZ DOL | CUB | NO | Sold to minor | Tina Louise Anderson |
| 03-06 | 10-100073 | 2700728 | Z3162 | Tucson | \$750.00 | 1st | | | 3/13/2006 | AZ DOL | CUB | NO | Sold to minor | Troy A. Rome |
| 04-06 | 10-075013 | 2705286 | Z3158 | Tempe | \$750.00 | 1st | | | 4/15/2006 | AZ DOL | CUB | NO | Sold to minor | Diana Martinez |
| 06-06 | 09-070167 | 2700226 | Z3123 | Gila Bend | \$750.00 | 1st | | | 6/2/2006 | AZ DOL | CUB | NO | Sold to minor | Noemi Martinez |
| 07-06 | 10-111040 | 2700867 | Z3123 | Casa Grande | \$750.00 | 1st | | | 4/4/2006 | AZ DOL | CUB | NO | Sold to minor | Deanna Dittmer |
| 10-06 | 09-040021 | 2706670 | Z3127 | Sitar Valley | \$750.00 | 1st | | | 8/19/2006 | Pavson PD | Observed | NA | Sold to intoxicated Person | Gerry Burke |
| 10-06 | 10-074912 | 2705943 | Z3142 | Phoenix | \$750.00 | 1st | | | 8/22/2006 | AZ DOL | CUB | NO | Sold to minor | Luis Benson |
| 12-06 | 09-070200 | 2701317 | Z3185 | Chandler | \$3,000.00 | 2nd | | | 10/13/2006 | AZ DOL | CUB | NO | Sold to minor | Mitchell E Carrithers |
| 01-07 | 09-070226 | 2703736 | Z3111 | Phoenix | \$750.00 | 1st | | | 9/10/2006 | Phx PD | Called | na | Disorderly on Premises | John Brooks |
| 01-07 | 10-074267 | 2702872 | Z3146 | Phoenix | \$750.00 | 1st | | | 9/16/2006 | Phx PD | CUB | NO | Sold to minor | Elizabeth Perez Hermine |
| 01-07 | 10-074216 | 2705267 | Z3164 | Phoenix | \$750.00 | 1st | | | 8/29/2006 | Phx PD | CUB | NO | Sold to minor | Daniel Ray Byrd |
| 01-07 | 09-070171 | 2705576 | Z3115 | Phoenix | \$3,000.00 | 2nd | | | 12/1/2006 | Phx PD | CUB | NO | Sold to minor | Leon Michael Burke |

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

Kimberly M. Glover
 Individual Name (Print)

Kimberly M. Glover
 Individual Signature

JAN 28 2009
 Date Training Completed

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

| | | |
|---|---|--|
| LANGUAGE OF INSTRUCTION : <input checked="" type="checkbox"/> ENGLISH <input type="checkbox"/> SPANISH | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO BASIC <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO MANAGEMENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO BOTH | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ON SALE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO OFF SALE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO OTHER |
|---|---|--|

IF TRAINEE IS EMPLOYED BY A LICENSEE:

Kim Kwiatkowski

Circle K Stores Inc.

NAME OF THE LICENSEE

BUSINESS NAME

LIQUOR LICENSE NUMBER

ALCOHOL TRAINING PROGRAM PROVIDER INFORMATION

Circle K Stores Inc.
 Company or Individual Name

1130 W Warner Rd, Bldg B
 Address

Tempe
 City

AZ
 State

85284
 Zip

602-728-8000
 Phone

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

JANET MEZA
 Trainer Name (Print)

Janet Meza
 Trainer Signature

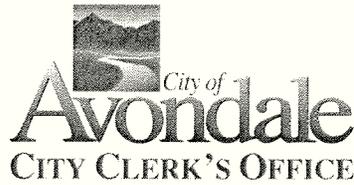
JAN 28 2009
 Date

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.



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 10
- EXTENSION OF PREMISES
- ACQUISITION OF CONTROL

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

APPLICANT'S NAME: KIM KWIATKOWSKI

BUSINESS NAME: CIRCLE K #9186

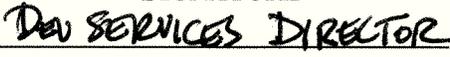
ADDRESS: 1595 NORTH AVONDALE BOULEVARD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85392

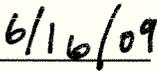
DEPARTMENTAL COMMENTS:

- APPROVED
- DENIED



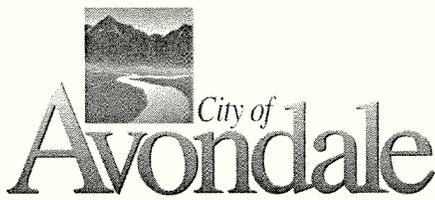
SIGNATURE


TITLE



DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 6, 2009
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 18, 2009



DEVELOPMENT SERVICES

MEMORANDUM

DATE: June 16, 2009

TO: Carmen Martinez, City Clerk

PREPARED BY: Eric Morgan, Planner II

SUBJECT: Series 10 (State Series 10) Beer and Wine Sales (off-site consumption)
Liquor License for Circle K #9186 - 1595 Avondale Boulevard

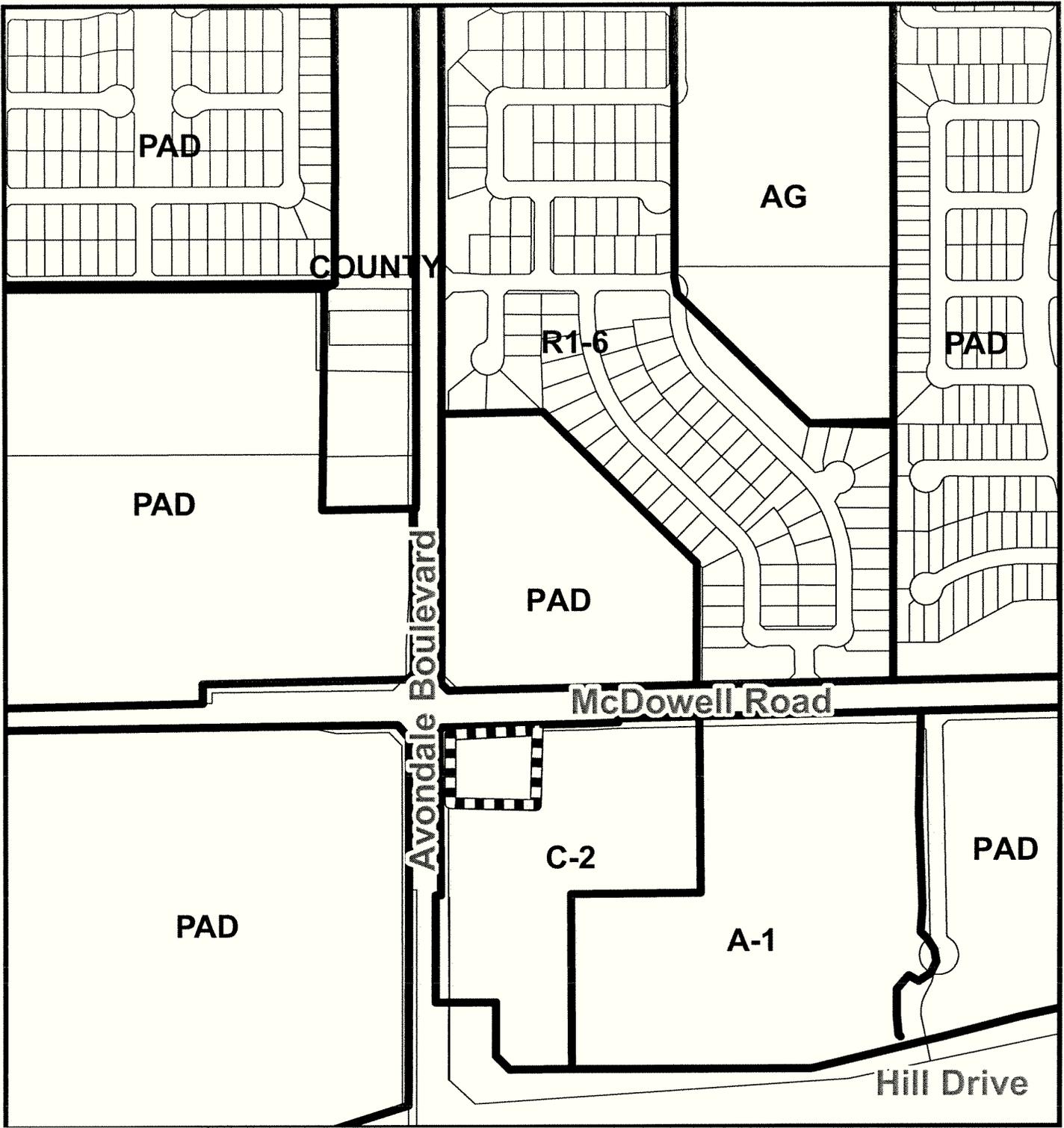
The site is located on the southeast corner of Avondale Boulevard and McDowell Road. The building is an existing gas station with convenience store that was recently converted from a Mobile to a Circle K. The gas station with convenience store has a Series 10 (State Series 10) Liquor license for sale of beer and wine for off-site consumption. The applicant is requesting the same license.

A Series 10 (State Series 10) liquor license is exempt from the 300 foot separation requirement from a church, school, or fenced school recreational area.

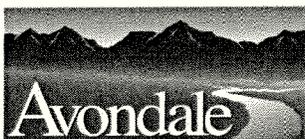
The General Plan designates the property as Freeway Commercial and the current zoning is Community Commercial (C-2). A gas station with convenience store requires a Conditional Use Permit in C-2 zoning. At the time of the site plan approval in 2000, a gas station with a convenience store was a permitted use and did not require a Conditional Use Permit. Therefore, the use is legally non-conforming and no Conditional Use Permit is required for the liquor license.

Staff recommends approval of this request.

Attachment: 2009 Aerial Photography
Zoning Vicinity Map

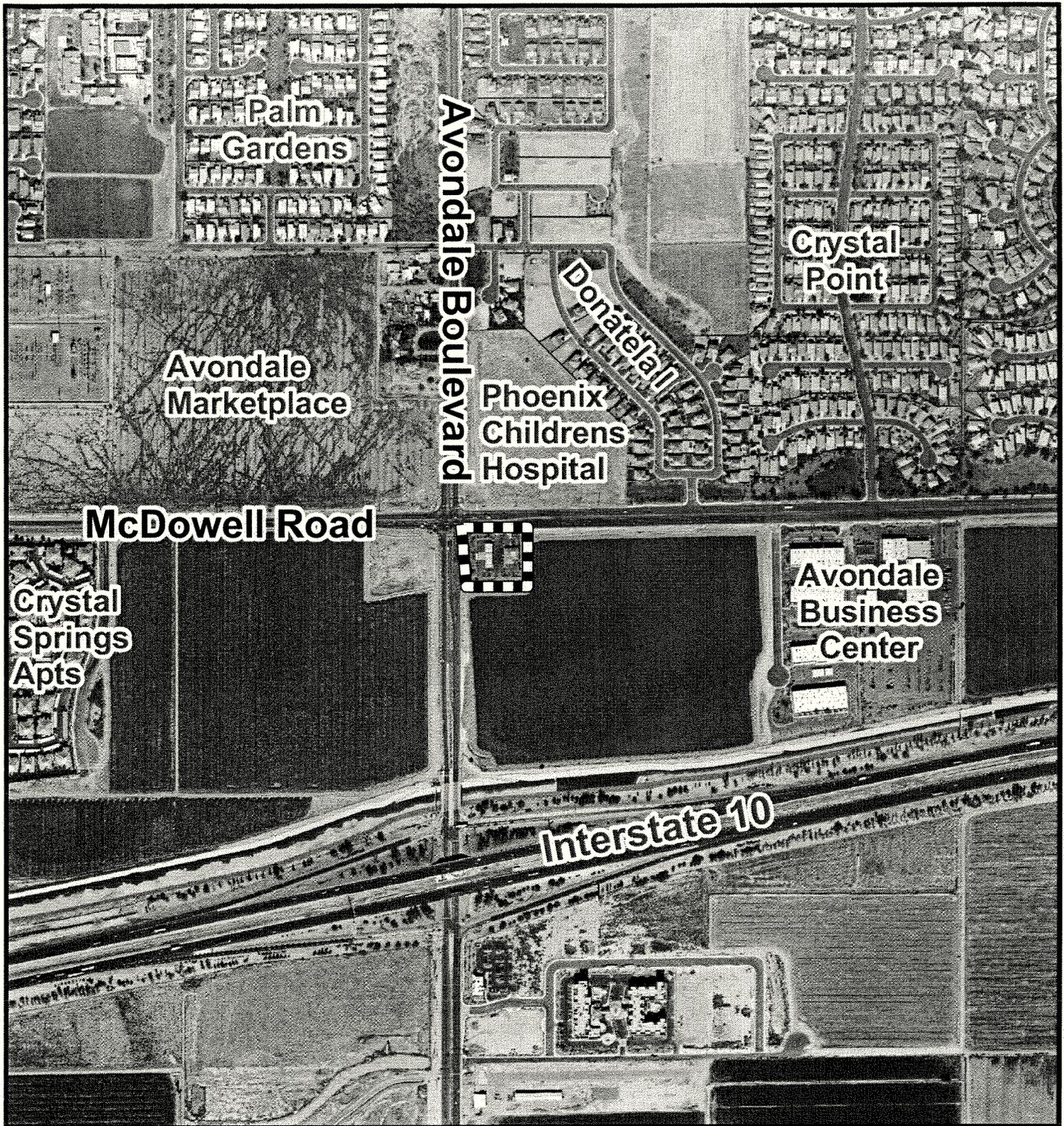


**Zoning Map
Circle K # 9186**

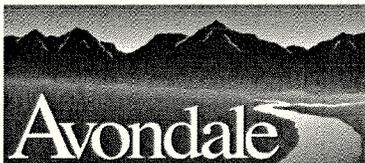


Subject Property



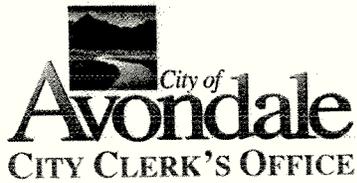


2009 Aerial Photograph



Subject Property





DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

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

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

APPLICANT'S NAME: KIM KWIATKOWSKI

BUSINESS NAME: CIRCLE K #9186

ADDRESS: 1595 NORTH AVONDALE BOULEVARD

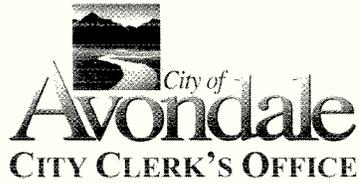
CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

- APPROVED
- DENIED

Leslie Otter 6/23/09
 SIGNATURE DATE
Privileged Auditor
 TITLE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 6, 2009
 PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 18, 2009



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

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

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

APPLICANT'S NAME: KIM KWIATKOWSKI

BUSINESS NAME: CIRCLE K #9186

ADDRESS: 1595 NORTH AVONDALE BOULEVARD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

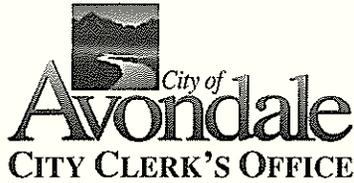
Paul Adams for

- APPROVED
- DENIED

PAUL ADAMS
SIGNATURE
FIRE CHIEF
TITLE

6/18/09
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 6, 2009
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 18, 2009



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

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

ROUTING:

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

APPLICANT'S NAME: KIM KWIATKOWSKI

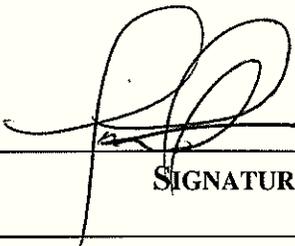
BUSINESS NAME: CIRCLE K #9186

ADDRESS: 1595 NORTH AVONDALE BOULEVARD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

- APPROVED
- DENIED



SIGNATURE

TITLE



DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 6, 2009
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 18, 2009



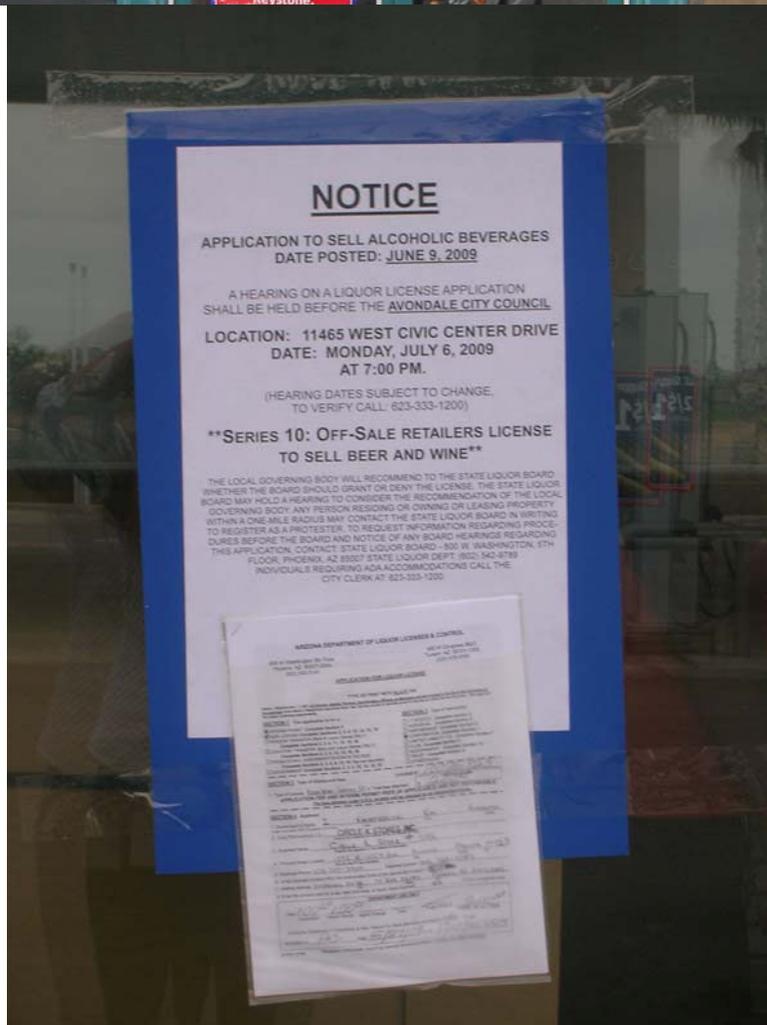
Circle K
1595 N. Avondale Blvd.
1 Mile Buffer

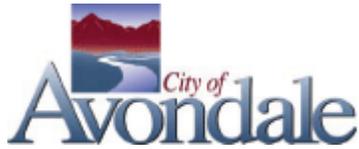


Legend

LIQUOR LICENSE

- ▲ SERIES 6
- ▲ SERIES 7
- ▲ SERIES 9
- ▲ SERIES 10
- ▲ SERIES 12
- ▲ SERIES 14
- ▲ SERIES 16
- SCHOOLS
- PLACE OF WORSHIP





CITY COUNCIL REPORT

SUBJECT:

Rescheduling of the August 17, 2009 City Council Meeting

MEETING DATE:

July 6, 2009

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

PURPOSE:

City Council will consider a request to reschedule the regularly scheduled meeting of August 17th to August 10, 2009.

DISCUSSION:

The City Charter requires that the City Council meet a minimum of two times per month. The Rules of Procedures state that these meetings are to be held the first and third Monday of the month. Meetings may be rescheduled provided that a notice is given to the public no less than seven days before the meeting.

Unlike Councils in other cities, the Avondale City Council does not recess for the summer and instead has opted to reschedule meetings periodically to allow for a longer recesses between meetings. Mayor Rogers has suggested rescheduling the August 17th meeting.

The first meeting in September falls on Labor Day and Council has already taken action to reschedule this meeting to the following Monday, September 14, 2009. Rescheduling the August 17th meeting will allow for a four-week recess between Council Meetings.

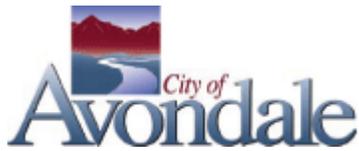
RECOMMENDATION:

Staff recommends that the City Council approve the request to reschedule the August 17th meeting to August 10, 2009.

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:

Resolution 2841-709 - Supporting Submission of a Grant Proposal to the Gila River Indian Community - Struggling Student Program

MEETING DATE:

July 6, 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 approve a resolution supporting the submission of a grant proposal to the Gila River Indian Community to provide funding for the Struggling Student Program and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. .

BACKGROUND:

The passage of Proposition 202 by the voters of Arizona in November 2002 allowed for new gaming compacts between the State and the 15 Arizona tribes to be negotiated. An important provision of Proposition 202 was the sharing of gaming revenues with the State. Proposition 202 allows an Indian tribe to retain and distribute twelve percent (12%) of its total annual contribution of gaming revenues for "Distributions to cities, towns, or counties for government services that benefit the general public, including public safety, mitigation of the impacts of gaming, or promotion of commerce and economic development".

The Gila River Indian Community's policy is to limit the distribution of their revenues to nearby cities, towns and counties, including the City of Avondale. The Gila River Indian Community has identified several areas of priority funding including public safety, transportation facilities, services, economic development and education. It is also the Gila River Indian Community's policy that Councils of cities requesting funds submit a resolution of support for the grant proposal.

DISCUSSION:

As the economy slows, everyone is affected. The City of Avondale like other organizations is somewhat short staffed and fiscally stressed making it challenging to provide a high level of customer service. The Struggling Student Program provides two low-income students with paid part-time work experience for two years.

The program will hire students from Estrella Mountain Community College who have math, finance or other related majors to work with the City of Avondale's Finance and Budget Department. The students will receive training and hands-on experience related to their field of study for one to two years. This project falls under the Education Priority Area of the Gila River Indian Community Grant. The students will be able to use the academic course work in conjunction with real world work experience. Today's students are graduating without job options because there are very few jobs available in today's market. This program pays students as they learn and provides them with experience to help them compete in the job market after graduation. The paid position also gives them purchasing power which is a secondary economic benefit.

BUDGETARY IMPACT:

Avondale is requesting \$73,816 to support student salaries, supplies and grant related software, licenses and studies. There are no matching funds requirements for this grant activity.

RECOMMENDATION:

Staff recommends that the City Council adopt a Resolution supporting the submittal of a grant proposal to the Gila River Indian Community for the Struggling Student Program in the amount of \$73,816.

ATTACHMENTS:

Click to download

 [Resolution 2841-709](#)

RESOLUTION NO. 2841-709

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR GRANT CONSIDERATION BY THE GILA RIVER INDIAN COMMUNITY.

WHEREAS, the Gila River Indian Community (the “Community”) is accepting applications for Proposition 202 funding from state and local agencies for projects relating to all aspects of public safety; and

WHEREAS, the City of Avondale desires to acquire funding for a “Struggling Student” program (the “Program”) for the benefit of Avondale residents, and such program may be eligible for Community funding; and

WHEREAS, the Council of the City of Avondale (the “City Council”) desires to submit a grant application (the “Application”) to be considered by the Community for funding.

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

SECTION 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. That the City Council hereby approves the submission of the Application relating to the Program for consideration by the Community.

SECTION 3. 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.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, July 6, 2009.

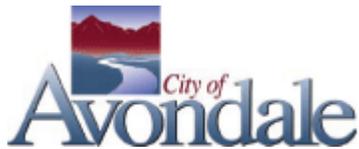
Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney



CITY COUNCIL REPORT

SUBJECT:

Resolution 2840-709 - IGA 2nd Amendment -
Maricopa Library District

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Christopher Reams, Parks, Recreation & Libraries (623)333-2412

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing Amendment No. 2 to the Intergovernmental Agreement (IGA) with the Maricopa County Library District (MCLD) decreasing the Reciprocal Borrowing Program (RBP) reimbursement rate to \$26.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

DISCUSSION:

The RBP is collaboration between Maricopa County Library District and participating cities. The program provides a seamless use of library services throughout Maricopa County for patrons and offers financial reimbursement to local municipalities for non-residents who use city libraries. On July 1, 2001 the City of Avondale entered into an IGA with the MCLD. This agreement stipulated that the city would provide library services to non-residents of the City of Avondale under the same regulations as the City uses to serve Avondale residents. The services include access to and use of City library facilities for the purpose of identifying, reading, using or borrowing books and materials, library reference services, children's library services and other library services mutually agreed upon between the City and the MCLD.

The IGA further provided that the City of Avondale will receive an annual reimbursement of \$20 per patron for non-residents usage of the City of Avondale Public Library. The per-patron amount received is based on current Maricopa County tax receipts. The amount received by participating municipalities is calculated based upon non-residents using the Avondale Public Library less Avondale residents using other participating libraries. The parameters of this agreement prevent the City of Avondale from ever owing money to the Maricopa County Library District. If the City is not eligible for reimbursement, no money will change hands.

On April 17, 2006, Council Approved the First Amendment to the IGA which allowed the County to raise the reimbursement amount in two phases to \$24.50 for FY 05/06 and then again in FY 06/07 to \$29.00 based on revenue projections. Approval of this amendment will allow the MCLD to amend the agreement with the City for one year with a reduced reimbursement rate of \$26.00. This request is for a one year reduction based on the current economic climate and the inability for MCLD to project its revenue beyond one year.

Historically, more Avondale residents have used libraries in other cities than residents of other cities have used the Avondale Public Library. Therefore, the City has never received reimbursements from the MCLD until this year. This year the City received \$32,074 through the RBP. Patron counts for the RBP are a combination of both the Sam Garcia Library and the Civic Center Library.

BUDGETARY IMPACT:

No budgetary impact. The revenue generated this year was counted as one-time money and was not considered an ongoing revenue stream.

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution authorizing Amendment No. 2 to the Intergovernmental Agreement (IGA) with the Maricopa County Library District (MCLD) decreasing the Reciprocal Borrowing Program (RBP) reimbursement rate to \$26.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

 [Resolution 2840-709](#)

RESOLUTION NO. 2840-709

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY LIBRARY DISTRICT RELATING TO THE RECIPROCAL BORROWING PROGRAM.

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

SECTION 1. That the Second Amendment to that certain Intergovernmental Agreement between the City of Avondale and the Maricopa County Library District (Contract No. C-65-02-011-2), relating to the Reciprocal Borrowing Program (the “Second Amendment”), is hereby approved in 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 Second Amendment 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, July 6, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2840-709

[Second Amendment]

See following pages.

**SECOND AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
BETWEEN THE
MARICOPA COUNTY LIBRARY DISTRICT
AND THE CITY OF AVONDALE
FOR
THE RECIPROCAL BORROWING PROGRAM**

Agenda # _____

THIS SECOND AMENDMENT (this “Second Amendment”) TO INTERGOVERNMENTAL AGREEMENT C-65-02-011-2, effective July 1, 2001, as amended (the “IGA”), by and between the City of Avondale, an Arizona municipal corporation (the “City”), and the Maricopa County Library District, a political subdivision of the State of Arizona (the “Library District”), with reference to the following facts:

RECITALS

WHEREAS, the Library District has established a Reciprocal Borrowing Program for the benefit of its members in order to expand the availability of Library Services.

WHEREAS, the City has participation in this program.

WHEREAS, the Library District is willing to continue the program.

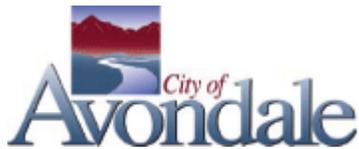
WHEREAS, the City and the Library District desire to amend the IGA, as amended, to (i) extend the term of the IGA, as amended and (ii) decrease the Library District’s reimbursement rate.

AMENDMENTS

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, which are incorporated as if set forth fully herein, the covenants, promises, terms and conditions set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows

1.1 The term of the IGA, as amended, is hereby amended by extending the term, effective from July 1, 2009 until June 30, 2010.

1.2 The fixed dollar amount used in the calculation for reimbursements from the Library District to the City, as set forth in Sections 3 and 4 of the IGA, as amended, is hereby decreased from \$29.00 to \$26.00; provided, however, that in the event that the said fixed dollar amount reimbursed from the Library District to any other city or town located in Maricopa



CITY COUNCIL REPORT

SUBJECT:

Resolution 2839-709 - Intergovernmental Agreement with Maricopa County Criminal Justice Department for the Edward Byrne Memorial Justice Assistance Grant

MEETING DATE:

July 6, 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 City to enter into an agreement with the Maricopa County Criminal Justice Department for the purpose of accepting a grant in the amount of \$12,245 for the Avondale Police Department's radio connection fees.

BACKGROUND:

The U.S. Department of Justice (DOJ) provides pass through grant funding to Maricopa County to assist local and tribal law enforcement. In order to receive local funding from this grant, Avondale and other participating local jurisdictions are required to sign a memorandum of understanding. Maricopa County's Criminal Justice Office has led this task for the last four years.

DISCUSSION:

The current communication system used by the Avondale Police Department does not meet industry standards for functionality. In particular, patching police officers to citizen's calls for service is inadequate. The Avondale Police Department has been temporarily sharing the Glendale Police Department radio system which has improved voice transmissions. An IGA between both cities will bring full functionality of the radio system to Avondale's Police Department. This will increase officer safety. Avondale Police Department is responsible to pay for the transition between the current radio system and the Glendale Radio system. The costs involve purchasing computer equipment, connecting communications lines, re-programming of radios and obtaining service contracts to maintain Avondale's radio system hardware.

BUDGETARY IMPACT:

The City of Avondale Police Department is requesting permission to accept grant funds for \$12,245 to pay for radio connection fees. There are no match requirements for this grant.

RECOMMENDATION:

Staff recommends that the City Council approve a resolution authorizing the City to enter into an agreement with the Maricopa County Criminal Justice Department for the purpose of accepting a grant in the amount of \$12,245 for the Avondale Police Department's radio connection fees and authorize the Mayor or City Manager and City Clerk to execute all the necessary documents.

ATTACHMENTS:

Click to download

[Resolution 2839-709](#)

RESOLUTION NO. 2839-709

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ACCEPTING AN EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AWARD FROM THE U.S. DEPARTMENT OF JUSTICE.

WHEREAS, the U.S. Department of Justice, in coordination with Maricopa County, Arizona, has awarded the City of Avondale (the “City”) an Edward Byrne Memorial Justice Assistance Grant (the “Grant”) in the amount of \$12,254, for the purpose of supporting police activities; and

WHEREAS, the City was designated as a sub-recipient in Maricopa County’s application for Grant funds; and

WHEREAS, the Council of the City of Avondale desires to enter into a Memorandum of Understanding with Maricopa County relating to acceptance and administration of the Grant funds.

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

SECTION 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. That the Memorandum of Understanding between the City, Maricopa County and other Grant sub-recipients relating to acceptance and administration of the Grant funds (the “MOU”), is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

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 (i) cause the execution of the MOU and (ii) implement the Grant.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, July 6, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2839-709

[Memorandum of Understanding]

See following pages.

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

KNOW ALL BY THESE PRESENT

**MEMORANDUM OF UNDERSTANDING
AMONG**

**CITY OF AVONDALE, CITY OF CHANDLER, CITY OF EL MIRAGE, TOWN OF GILBERT, CITY OF
GLENDALE, CITY OF GOODYEAR, CITY OF MESA, CITY OF PEORIA, CITY OF PHOENIX, CITY
OF SCOTTSDALE, CITY OF SURPRISE, CITY OF TEMPE, AND COUNTY OF MARICOPA, ARIZONA**

**EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2009 LOCAL SOLICITATION**

This Memorandum of Understanding (MOU) is made and entered into by and among the COUNTY of MARICOPA, hereinafter referred to as COUNTY; and the CITY of AVONDALE; and the CITY of CHANDLER; and the CITY of EL MIRAGE; and the TOWN of GILBERT; and the CITY of GLENDALE; and the CITY of GOODYEAR; and the CITY of MESA; and the CITY of PEORIA; and the CITY of PHOENIX; and the CITY of SCOTTSDALE; and the CITY of SURPRISE; and the CITY of TEMPE, hereinafter referred to as CITIES and TOWNS; all of Maricopa County, State of Arizona, witnesseth:

WHEREAS, this MOU is made under the authority of A.R.S. §§11-201, -251:

WHEREAS, the CITIES and TOWNS and the COUNTY have become entitled to certain grant funds through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this MOU is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, the COUNTY agrees to receive \$2,429,831 from the JAG award for the Maricopa County JAG Program; and

WHEREAS, the CITIES and TOWNS and COUNTY believe it to be in their best interests to reallocate the JAG funds;

NOW THEREFORE, the COUNTY and CITIES and TOWNS agree as follows:

Section 1

COUNTY agrees to pay City of Avondale a total of \$12,254 of JAG funds.
COUNTY agrees to pay City of Chandler a total of \$101,205 of JAG funds.
COUNTY agrees to pay City of El Mirage a total of \$11,334 of JAG funds.
COUNTY agrees to pay Town of Gilbert a total of \$28,242 of JAG funds.
COUNTY agrees to pay City of Glendale a total of \$172,060 of JAG funds.
COUNTY agrees to pay City of Goodyear a total of \$14,172 of JAG funds.
COUNTY agrees to pay City of Mesa a total of \$253,803 of JAG funds.
COUNTY agrees to pay City of Peoria a total of \$38,058 of JAG funds.
COUNTY agrees to pay City of Phoenix a total of \$1,268,192 of JAG funds.
COUNTY agrees to pay City of Scottsdale a total of \$55,196 of JAG funds.
COUNTY agrees to pay City of Surprise a total of \$14,401 of JAG funds.
COUNTY agrees to pay City of Tempe a total of \$118,919 of JAG funds.

GMS APPLICATION NUMBER 2009-G9557-AZ-DJ (Mandatory)

All payments to CITIES and TOWNS will be made within thirty (30) days after receipt of the JAG funds by COUNTY.

Section 2

COUNTY agrees to use \$341,995 for the JAG Program until September 30, 2012.

Section 3

1. **Term.** This Agreement shall be in effect for the term of the FY2009 JAG grant, being October 1, 2008 through September 30, 2012, unless terminated sooner in accordance with the terms of the grant, and such reasonable time thereafter as may be needed to complete the administration of the grant.
2. **Obligations of the COUNTY.** The COUNTY agrees to administer the Funds as provided in Section 1, and shall:
 - A. Ensure that the funds received by COUNTY are dispersed to the CITIES and TOWNS in accordance to this MOU, and shall
 - B. Collect and transmit to the appropriate Federal funding authorities all financial and program reports as required by the terms and conditions of the grant and applicable Federal regulations.
3. **Obligations of the CITIES and TOWNS.** During the term of this Agreement;
 - A. The CITIES and TOWNS agree that the COUNTY will administer the Funds as provided in Section 1.
 - B. The CITIES and TOWNS will maintain and provide to the COUNTY all financial and program reports as required by the terms and conditions of the grant and applicable Federal regulations.
 - C. The CITIES and TOWNS will be responsible for their own actions in providing services under this MOU and shall hold harmless the parties to this MOU from any liability that may arise from the furnishing of the services by the other parties.
4. **DISCLAIMER.** This MOU is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, agency, partnership or formal business association or organization of any kind among the parties, and the rights and obligations of the parties shall be only those expressly set forth in this MOU.
5. **NON-AVAILABILITY OF FUNDS.** Each payment obligation of the parties created hereby is conditioned on the availability of funds. The parties recognize that the continuation of this MOU after the close of any of their respective fiscal years shall be subject to the approval of their respective governing bodies providing an appropriation covering this item as an expenditure. None of the parties represent that said budget items will be actually adopted.

6. NOTICES. Notices provided under this Agreement shall be directed to the following persons:

| | |
|---|--|
| <p>The COUNTY:</p> <p>Teresa Tschupp C/O Juvenile Probation Department Finance Office 3125 W. Durango Phoenix, AZ 85009 602-372-0332 Fax: 602-506-4165</p> | <p>The CITY of AVONDALE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> |
| <p>The CITY of CHANDLER</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> | <p>The CITY of EL MIRAGE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> |
| <p>The TOWN of GILBERT</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> | <p>The CITY of GLENDALE</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> |
| <p>The CITY of GOODYEAR</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> | <p>The CITY of MESA</p> <p>Name: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>City/St/Zip: _____</p> <p>Phone: _____</p> <p>Fax: _____</p> |

| | |
|--|--|
| The CITY of <u>PEORIA</u> Name: _____ Address: _____ Address: _____ Address: _____ City/St/Zip: _____ Phone: _____ Fax: _____ _____ | The CITY of <u>PHOENIX</u> Name: _____ Address: _____ Address: _____ Address: _____ City/St/Zip: _____ Phone: _____ Fax: _____ _____ |
| The CITY of <u>SCOTTSDALE</u> Name: _____ Address: _____ Address: _____ Address: _____ City/St/Zip: _____ Phone: _____ Fax: _____ _____ | The CITY of <u>SURPRISE</u> Name: _____ Address: _____ Address: _____ Address: _____ City/St/Zip: _____ Phone: _____ Fax: _____ _____ |
| The CITY of <u>TEMPE</u> Name: _____ Address: _____ Address: _____ Address: _____ City/St/Zip: _____ Phone: _____ Fax: _____ _____ | _____ _____ _____ _____ _____ _____ _____ |

Section 4

The parties to this MOU do not intend for any third party to obtain a right by virtue of this MOU.

Section 5

CONFLICT OF INTEREST. This MOU is subject to A.R.S. §38-511.

Section 6

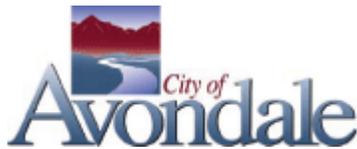
By entering into this MOU, the parties do not intend to create any obligations express or implied other than those set out herein; further, this MOU shall not create any rights in any party not a signatory hereto.

Section 7

This MOU shall not be effective until filed with the Maricopa County Recorder's Office.

| | |
|--|---|
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Gilbert Town Attorney Date</p> | <p>TOWN OF GILBERT</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Glendale City Attorney Date</p> | <p>CITY OF GLENDALE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Goodyear City Attorney Date</p> | <p>CITY OF GOODYEAR</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Mesa City Attorney Date</p> | <p>CITY OF MESA</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Peoria City Attorney Date</p> | <p>CITY OF PEORIA</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |

| | |
|--|---|
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Phoenix City Attorney Date</p> | <p>CITY OF PHOENIX</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Scottsdale City Attorney Date</p> | <p>CITY OF SCOTTSDALE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Surprise City Attorney Date</p> | <p>CITY OF SURPRISE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |
| <p>This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.</p> <p>_____</p> <p>Tempe City Attorney Date</p> | <p>CITY OF TEMPE</p> <p>By: _____</p> <p>Type Name: _____</p> <p>Its: _____</p> <p>Attest: _____</p> <p>DATE: _____</p> |



CITY COUNCIL REPORT

SUBJECT:

Resolution 2838-709 - Property Tax Levy for Fiscal Year 2009-2010

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Kevin Artz, Finance & Budget Director (623)333-2011

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that Council adopt a resolution setting the property tax levy for fiscal year 2009-2010, in the amount of \$6,853,940.

BACKGROUND:

As required by City Charter, Article VI, Section 6 and A.R.S. §42-17151, the Council must fix, levy and assess the amount to be raised by property taxes as proposed in the annual budget by the third Monday in August. In compliance with A.R.S. §42-17104, a public hearing was held on June 15, 2009 to solicit public input on the final budget and proposed tax levy. The City has also complied with all Truth in Taxation requirements of A.R.S. §42-17107 by publishing the Truth in Taxation notice in the West Valley View on June 2nd and June 9th.

DISCUSSION:

Based on the amounts presented in the final adopted budget, the City will levy the maximum allowable primary property tax levy for the 2009-2010 fiscal year. The primary property tax levy will be utilized to fund general government operations as allowed by State Law. The maximum primary property tax levy is \$2,089,490. Based on the assessed valuation provided by Maricopa County, the primary property tax rate is \$0.3634 per \$100 of assessed valuation.

The secondary tax levy will be utilized for the retirement of principal and payment of interest on general obligation bonds of the City as allowed by State Law. The secondary property tax levy is fixed at \$4,764,450. The secondary property tax rate is \$0.7424 per \$100 of assessed valuation.

The total estimated tax rate for fiscal year 2009-2010 is \$1.1058 per one-hundred dollars of assessed valuation, which maintains a level tax rate from fiscal year 2008-2009 (\$1.1058). The total tax levy is \$6,853,940.

RECOMMENDATION:

Staff recommends that Council adopt a resolution setting the primary and secondary property tax levies for fiscal year 2009-2010, in the amount of \$6,853,940.

ATTACHMENTS:

Click to download

[Resolution 2838-709](#)

RESOLUTION NO. 2838-709

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY OF AVONDALE SUBJECT TO TAXATION, A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS (\$100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET; PROVIDING FUNDS FOR VARIOUS BOND REDEMPTIONS FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS; AND PROVIDING FUNDS FOR GENERAL MUNICIPAL EXPENSES; ALL FOR THE FISCAL YEAR ENDING JUNE 30, 2010.

WHEREAS, the Council of the City of Avondale (the “City Council”) is required by ARIZ. REV. STAT. §§ 42-17151 and 42-17253 to adopt, by resolution, an annual tax levy based upon the rate to be assessed per each one hundred dollars (\$100.00) of valuation of property within the City; and

WHEREAS, the Article VI, Section 6 and Article VII, Section 5 of the City Charter require that the City Council adopt all tax levies by ordinance (the “Charter Requirements”); and

WHEREAS, the property taxpayers of the City of Avondale (the “City”) have been notified of an increase in the primary property tax levy as required by ARIZ. REV. STAT. § 42-17107; and

WHEREAS, by the provisions of State Law, the resolution levying taxes for fiscal year 2009-2010 is required to be finally adopted on or before the third Monday in August and not less than fourteen days after adoption of the municipal budget; and

WHEREAS, the City’s annual budget was adopted at a meeting of the City Council held on June 15, 2009, at least fourteen days prior to the hearing date for this Resolution No. 2838-709; and

WHEREAS, Maricopa County is the assessing and collecting authority for the City.

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

SECTION 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. That, for the purposes of complying with both the statutory requirements (adoption by resolution) and the Charter Requirement (adoption by ordinance), this Resolution is hereby determined by the City Council to be in compliance with and of the same effect as an ordinance adopted in conformance with the Charter Requirements, and the City Clerk is hereby authorized and directed to publish this Resolution in the same manner as is required for ordinances adopted by the City Council.

SECTION 3. That there is hereby levied on each one hundred dollars (\$100.00) of the assessed value of all property, both real and personal, within the corporate limits of the City, except such property as may be by law exempt from taxation, a primary property tax rate of \$0.3634 (or such other amount as deemed necessary by the Maricopa County Assessor), which is sufficient to raise the sum of \$2,089,490, the maximum levy allowed by law for the fiscal year ending on June 30, 2010.

SECTION 4. That, in addition to the rate set in Section 2 hereof, there is hereby levied on each one hundred dollars (\$100.00) of assessed valuation of all property, both real and personal, within the corporate limits of the City, except such property as may be by law exempt from taxation, a secondary property tax rate of \$0.7424 (or such other amount as deemed necessary by the Maricopa County Assessor), which is sufficient to raise the sum of \$4,764,450 for the purpose of providing bond interest and redemption funds for General Obligation Bond debt service for the fiscal year ending June 30, 2010.

SECTION 5. That, failure by the county officials of Maricopa County, Arizona, to properly return the delinquent list, any irregularity in assessments or omissions in the same, or any irregularity in any proceedings shall not invalidate such proceedings or invalidate any title conveyed by any tax deed; failure or neglect of any officer or officers to timely perform any of the duties assigned to him or to them shall not invalidate any proceedings or any deed of sale pursuant thereto, the validity of the assessment or levy of taxes or of the judgment of sale by which the collection of the same may be enforced shall not affect the lien of the City upon such property for the delinquent taxes unpaid thereon, and no overcharge as to part of the taxes or of costs shall invalidate any proceedings for the collection of taxes or the foreclosure; and all acts of officers de facto shall be valid as if performed by officers de jure.

SECTION 6. That the City Clerk is hereby authorized and directed to transmit a certified copy of this Resolution to the Maricopa County Assessor and the Maricopa Board of Supervisors.

SECTION 7. If any provision of this Resolution 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 Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, July 6, 2009.

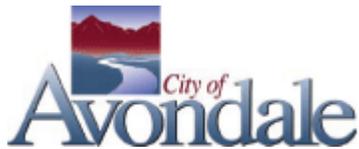
Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney



CITY COUNCIL REPORT

SUBJECT:

Ordinance 1377-709 - Authorizing the Acquisition of Real Property for Right-of-Way for the Avondale and Encanto Boulevard Improvement Project

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Sue McDermott, P.E., City Engineer, 623-333-4211

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt an ordinance authorizing the acquisition by purchase, condemnation, or dedication of two (2) parcels of land for right-of-way required for the Avondale Boulevard and Encanto Boulevard Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents.

BACKGROUND:

As a part of the FY09-10 CIP, the City plans to construct roadway widening improvements and install a traffic signal at the intersection of Avondale Boulevard and Encanto Boulevard (see attached vicinity map). Staff contracted with Dibble Engineering for the design of the street improvement project. A traffic study to improve pedestrian and vehicle safety was conducted at this intersection. The study concluded that a traffic signal was warranted.

In addition, at the Avondale Boulevard and Encanto Boulevard intersection there are existing SRP irrigation facilities which are too close to the roadway. As part of this project, these facilities will be undergrounded.

DISCUSSION:

Staff's consultant has completed the 90% design and has determined that the required right-of-way necessary to construct a street does not exist. In order to construct the street widening improvements and move the SRP facilities, the acquisition of two (2) parcels from the property owner at the southwest corner of Avondale Boulevard and Encanto Boulevard is necessary. Staff contacted the property owner regarding their interest in dedicating or selling Parcel 501-74-015-E and Parcel 501-74-015-B. The current owner is willing to sell the two (2) parcels to the City.

An appraisal was conducted and revealed that the two (2) parcels are total of 11,213 square feet. The land appraised for a total value of \$45,000.

BUDGETARY IMPACT:

Funding in the amount of \$45,000 for the purchase of the two (2) parcels is available in CIP Street Fund Line Item No. 304-1179, Traffic Signal - Avondale/Encanto .

RECOMMENDATION:

Staff recommends that the City Council approve an ordinance authorizing the acquisition by purchase, condemnation, or dedication of two (2) parcels of land for right-of-way required for the Avondale Boulevard and Encanto Boulevard Improvement Project and authorize the Mayor or City Manager, and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

 [Vicinity Map](#)

 [Ordinance 1377-709](#)

VICINITY MAP



June 2009 - GIS / MAPPING SECTION

ORDINANCE NO. 1377-709

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE.

WHEREAS, Article 1, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to acquire real property in fee simple or any lesser interest, inside or outside its corporate limits for any City purpose, when the public convenience requires it and in accordance with the provisions of State law; and

WHEREAS, the City Council desires to authorize the acquisition of certain real property necessary for public use.

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

SECTION 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. That the acquisition, by purchase, condemnation or dedication of a \pm 0.257 acre parcel of real property, being a portion of Maricopa County Assessor’s Parcel No. 501-74-015B, generally located west of Avondale Boulevard, south of Encanto Boulevard, in Avondale, Arizona (the “Right-of-Way”), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby authorized.

SECTION 3. That the acquisition, by purchase, condemnation or dedication of a \pm 0.113 acre public utility easement through, over, under and across the real property, being a portion of Maricopa County Assessor’s Parcel No. 501-74-015B, generally located west of Avondale Boulevard, south of Encanto Boulevard in Avondale, Arizona (the “PUE”) as more particularly described and depicted in Exhibit B, attached hereto and incorporated herein by reference, is hereby authorized.

SECTION 4. That, in the event that a negotiated purchase cannot be reached for the Right-of-Way and/or the PUE, the City Attorney is hereby authorized and directed to immediately initiate condemnation proceedings, including all actions necessary to enable the City to take possession of said property at the earliest possible date.

SECTION 5. That, if any provision of this Ordinance 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 6. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, July 6, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1377-709

[Legal description and map of Right-of-Way]

See following pages.

DESCRIPTION
PROPOSED RIGHT-OF-WAY
A.P.N. 501-74-015B

A Parcel of land situated in a portion of the Southeast Quarter of Section 36, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the East Quarter Corner of said Section 36, monumented by a 2 inch Maricopa County Aluminum Cap Flush bearing North 00 degrees 06 minutes 52 seconds East, a distance of 2632.04 feet from the Southeast Corner of said Section 36 monumented by a 3 inch Maricopa County Highway Department Brass Cap in Handhole;

THENCE South 00 degrees 06 minutes 52 seconds West, along the East line of said Section 36, a distance of 32.75 feet;

THENCE departing said East line, North 89 degrees 53 minutes 08 seconds West, a distance of 33.00 feet to the **POINT OF BEGINNING**;

THENCE South 00 degrees 06 minutes 52 seconds West, along a line parallel with and 33.00 feet West of the East line of said Section 36, a distance of 417.25 feet;

THENCE North 89 degrees 53 minutes 08 seconds West, a distance of 22.00 feet;

THENCE North 00 degrees 06 minutes 52 seconds East, along a line parallel with and 55.00 feet West of the East line of said Section 36, a distance of 380.42 feet;

THENCE North 44 degrees 40 minutes 00 seconds West, a distance of 42.59 feet;

THENCE North 89 degrees 26 minutes 51 seconds West, along a line parallel with and 40.00 feet South of the East-West Mid-Section line of said Section 36, a distance of 196.00 feet;

THENCE North 00 degrees 06 minutes 52 seconds East, a distance of 7.00 feet;

THENCE South 89 degrees 26 minutes 51 seconds East, along a line parallel with and 33.00 feet South of the East-West Mid-Section line of said Section 36, a distance of 248.00 feet to the **POINT OF BEGINNING**;

Parcel contains a computed area of 11,213 square feet or 0.2574 acres more or less.
The attached EXHIBIT "A" is to be included and made part of this description.



FILE:V:\JOBS\2008\10-0840\DWGS\ACAD\EXHIBITS\0840RW-EXH-015B.dwg DATE:Jun, 18 2009 TIME: 12:32 pm

East Quarter Corner of Section 36
Township 2 North, Range 1 West
2" Maricopa County Aluminum Cap Flush

POINT OF COMMENCEMENT

Center of Section 36
3" City of Avondale
Brass Cap Flush

ENCANTO BOULEVARD

N89°26'51"W 2613.00'

East-West
Mid-Section line

| LINE TABLE | | |
|------------|-------------|----------|
| LINE | BEARING | DISTANCE |
| L1 | S0°06'52"W | 32.75' |
| L2 | N89°53'08"W | 33.00' |
| L3 | N89°53'08"W | 22.00' |
| L4 | N44°40'00"W | 42.59' |
| L5 | N89°26'51"W | 196.00' |
| L6 | N0°06'52"E | 7.00' |
| L7 | S89°26'51"E | 248.00' |

WOOTEN, BARDIN/PEGGY
MORTENSEN, CHERYL
A.P.N. 501-74-015F

WOOTEN, BARDIN/PEGGY
MORTENSEN, CHERYL
A.P.N. 501-74-015B

N0°06'52"E 380.42'
S0°06'52"W 417.25'

N00°06'52"E 2632.04'

POINT OF BEGINNING

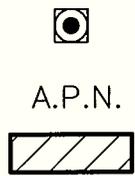
AVONDALE BOULEVARD

BASIS OF BEARINGS

Southeast Corner of Section 36
3" Maricopa County Highway
Department Brass Cap in Handhole



LEGEND



Monument as recorded on PLSS
SUBDIVISION RECORD OF SURVEY, M.C.R.
A.P.N. Assessor Parcel Number
Proposed Right-of-Way

NOT TO SCALE

THIS IS NOT A PROPERTY BOUNDARY SURVEY.



**Dibble
Engineering**

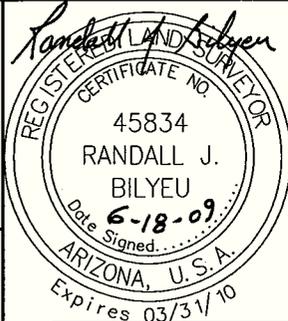


EXHIBIT "A"
PROPOSED RIGHT OF WAY
A.P.N. 501-74-015B

DATE: JUNE 2009
DRN: GDS
CHK: JLD
CHK: RJB

PAGE
3 OF 3

Dibble Engineering
Project No. 10-0840

EXHIBIT B
TO
ORDINANCE NO. 1377-709

[Legal description and map of PUE]

See following pages.

DESCRIPTION
PROPOSED PUBLIC UTILITY EASEMENT
A.P.N. 501-74-015B

An easement situated in a portion of the Southeast Quarter of Section 36, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the East Quarter Corner of said Section 36, monumented by a 2 inch Maricopa County Aluminum Cap Flush bearing North 00 degrees 06 minutes 52 seconds East, a distance of 2632.04 feet from the Southeast Corner of said Section 36 monumented by a 3 inch Maricopa County Highway Department Brass Cap in Handhole;

THENCE South 00 degrees 06 minutes 52 seconds West, along the East line of said Section 36, a distance of 69.58 feet;

THENCE departing said East line, North 89 degrees 53 minutes 08 seconds West, a distance of 55.00 feet to the POINT OF BEGINNING;

THENCE South 00 degrees 06 minutes 52 seconds West, along a line parallel with and 55.00 feet West of the East line of the Southeast Quarter of said Section 36, a distance of 380.42 feet;

THENCE North 89 degrees 53 minutes 08 seconds West, a distance of 8.00 feet;

THENCE North 00 degrees 06 minutes 52 seconds East, along a line parallel with and 63.00 feet West of said East line, a distance of 377.12 feet;

THENCE North 44 degrees 40 minutes 00 seconds West, a distance of 36.00 feet;

THENCE North 89 degrees 26 minutes 51 seconds West, along a line parallel with and 48.00 feet South of the East-West Mid-Section line of said Section 36, a distance of 192.65 feet;

THENCE North 00 degrees 09 minutes 59 seconds East, a distance of 8.00 feet;

THENCE South 89 degrees 26 minutes 51 seconds East, along a line parallel with and 40.00 feet South of said Mid-Section line, a distance of 196.00 feet;

THENCE South 44 degrees 40 minutes 00 seconds East, a distance of 42.59 feet to the POINT OF BEGINNING.

Easement contains a computed area of 4,899 square feet or 0.1125 acres more or less.
The attached EXHIBIT "A" is to be included and made part of this description.



FILE:V:\JOBS\2008\10-0840\DWGS\ACAD\EXHIBITS\0840RW-EXH-015B-PUE.dwg DATE:Jun, 18 2009 TIME: 01:05 pm

East Quarter Corner of Section 36
 Township 2 North, Range 1 West
 2" Maricopa County Aluminum Cap Flush
POINT OF COMMENCEMENT

Center of Section 36
 3" City of Avondale
 Brass Cap Flush

ENCANTO BOULEVARD

N89°26'51"W 2613.00'

East-West
 Mid-Section line

| LINE TABLE | | |
|------------|-------------|----------|
| LINE | BEARING | DISTANCE |
| L1 | S0°06'52"W | 69.58' |
| L2 | N89°53'08"W | 55.00' |
| L3 | S0°06'52"W | 380.42' |
| L4 | N89°53'08"W | 8.00' |
| L5 | N0°06'52"E | 377.12' |
| L6 | N44°40'00"W | 36.00' |
| L7 | N89°26'51"W | 192.65' |
| L8 | N0°09'59"E | 8.00' |
| L9 | S89°26'51"E | 196.00' |
| L10 | S44°40'00"E | 42.59' |

WOOTEN, BARDIN/PEGGY
 MORITENSEN, CHERYL
 A.P.N. 501-74-015F

A.P.N. 501-74-015B

N00°06'52"E 2632.04'

POINT OF BEGINNING
AVONDALE BOULEVARD

LEGEND



Monument as recorded on PLSS
 SUBDIVISION RECORD OF SURVEY, M.C.R.

A.P.N.

Assessor Parcel Number



Proposed Public Utility Easement



NOT TO SCALE

Southeast Corner of Section 36
 3" Maricopa County Highway
 Department Brass Cap in Handhole

THIS IS NOT A PROPERTY BOUNDARY SURVEY.



**Dibble
 Engineering**

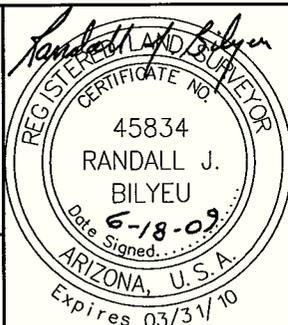


EXHIBIT "A"
**PROPOSED PUBLIC UTILITY
 EASEMENT**
A.P.N. 501-74-015B

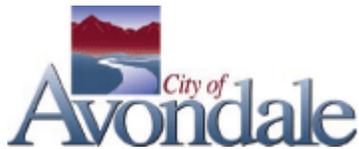
DATE: JUNE 2009

DRN: JLD

CHK: RJB

PAGE
 3 OF 3

Dibble Engineering
 Project No. 10-0840



CITY COUNCIL REPORT

SUBJECT:

Resolution 2832-709 - Authorizing the Issuance of General Obligation Bonds, Series A (2009)

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Kevin Artz, Finance and Budget Director (623)333-2011

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing the issuance of City of Avondale General Obligation Bonds, Series A (2009) in an amount not to exceed \$30,000,000.

BACKGROUND:

On June 1, 2009 the City Council adopted the first of two resolutions required to issue General Obligation Bonds. The first resolution ordered the sale of City of Avondale General Obligation Bonds, Series A (2009), in an amount not to exceed \$31,500,000, directed staff to advertise the notice of sale, and to prepare a preliminary official statement. The not to exceed amount has been decreased to \$30M, in an effort to take advantage of special rules regarding bank qualified loans, and the potential to attract more bidders for the bonds, and as a result, a lower interest rate.

DISCUSSION:

This resolution authorizes the issuance of the Series A (2009) Bonds; provides for the annual levy of a tax to repay the principal, premium and interest, approves the bond registrar and paying agent agreement, approves the continuing disclosure undertaking, ratifies the distribution of the preliminary official statement, and awards the contract for the purchase of the bonds.

The source of repayment for the bonds is secondary property taxes. Therefore, the resolution provides for an annual levy upon all taxable property in the City to repay the bonds. The Series 2009 bonds have been structured so that the estimated secondary tax rate is projected to remain at or below \$.74 per \$100 of assessed valuation (i.e., the 2009 bonds are not projected to result in an increase of property taxes). This analysis is based on multi-year assumptions, and the tax levy will have to be calculated each year when the new assessed valuations are received from Maricopa County. Staff has used conservative assumptions in preparing this analysis; however, it is possible that growth (and in this case, negative growth for some years) in the assessed valuation will not meet the projections used, and the tax rate may exceed the \$.74 in the future as a result of the Series 2009 bonds.

The resolution also appoints Zion's National Bank as bond registrar and paying agent. Stone & Youngberg solicited bids from interested parties. Five firms submitted bids with Zion's National bank submitting the lowest fee proposal.

The Continuing Disclosure undertaking is being executed to provide information for the benefit of the owners of the securities. The agreement requires the City to provide an Annual Report (Comprehensive Annual Financial Report) to the national repositories by February 1st of each year.

The Official Statement provides information necessary to the prospective buyers of the Bonds, including detailed information on the Series 2009 Bonds, the project description, debt service requirements, sources and uses of funds, audited financial statements and legal documents and disclosures.

The award of the contract will be to the bidder with the lowest cost to the City. Bids are scheduled to be received July 6, 2009 at 10:00 A.M. Staff will present a handout at the Council meeting on July 6th, with the results of the bids and the winning bidder. Once the successful bidder is determined, the blanks in the attached resolution will be completed.

BUDGETARY IMPACT:

The source of repayment on the Series 2009 Bonds is secondary property taxes. The debt service payments have been appropriated in fund 401. Projected revenues are adequate to cover the debt service payments.

RECOMMENDATION:

Staff recommends that the Mayor and City Council adopt a resolution authorizing the issuance of City of Avondale General Obligation Bonds, Series A (2009) in an amount not to exceed \$30,000,000.

ATTACHMENTS:

Click to download

 [Resolution 2832-709](#)

RESOLUTION NO. 2832-709

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ISSUANCE OF CITY OF AVONDALE, ARIZONA GENERAL OBLIGATION BONDS (PROJECTS OF 1998 AND 2007), SERIES 2009, IN THE PRINCIPAL AMOUNT OF \$_____,000; PROVIDING FOR THE ANNUAL LEVY OF A TAX ON ALL THE TAXABLE PROPERTY WITHIN THE CITY OF AVONDALE, ARIZONA, TO PROVIDE FOR THE PAYMENT OF INTEREST ON AND PRINCIPAL OF SAID BONDS; APPROVING AND AUTHORIZING EXECUTION AND DELIVERY OF NECESSARY RELATED DOCUMENTS; RATIFYING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND APPROVING AN OFFICIAL STATEMENT; AWARDED CONTRACT FOR THE PURCHASE OF SAID BONDS AND DECLARING AN EMERGENCY.

WHEREAS, at a special bond election held in and for the City of Avondale, (the “City”) on September 8, 1998 (the “1998 Election”), there was submitted to the qualified electors thereof the following question:

QUESTION NO. 1

PURPOSE: WATER AND SEWER IMPROVEMENTS
AMOUNT: \$15,000,000

Shall the City of Avondale, Arizona (the “City”), be authorized to incur indebtedness by the issuance of bonds of the City in the principal amount of \$15,000,000 for the purpose of providing funds to improve, better and extend the existing water and sewer systems of the City, both within and without the City limits, to acquire, construct and improve water transmission lines and facilities, to construct water storage facilities, to design, construct and equip additional water treatment facilities, to improve existing water wells, to acquire and construct additional water wells, to acquire water systems, water rights, land and rights-of-way for the City’s water and sewer systems, whether within or without the limits of the City, by purchase, exercise of the power of eminent domain or any other method of acquisition, to acquire, construct and improve sewer transmission lines and facilities, to design, improve, construct and equip the City’s wastewater reclamation and sludge dewatering systems, to conduct studies for the City’s

water and sewer systems, to design, construct and equip additional wastewater treatment facilities, to acquire any other property of any kind for the City's water and sewer systems, to pay all expenses incidental to any of the foregoing and to the issuance and sale of the bonds, such bonds, or any series thereof, to be issued at the option of the Council of the City, as general obligation bonds of the City, payable from ad valorem taxes levied upon all of the taxable property in the City, or as water and sewer revenue bonds, payable solely from the revenues of the water and sewer systems of the City; such bonds, or any series thereof, to be in the denomination of \$5,000 each or whole multiples thereof, to mature not more than 20 years from their date and to bear interest at a rate or rates not to exceed 9% per annum, payable semiannually; provided that each bond may be evidenced by one instrument or a succession of instruments and the interest may be payable more frequently, and at a variable rate or rates, none of which shall exceed 9% per annum?

WHEREAS, the returns of the 1998 Election were duly canvassed by the Mayor and Council of the City and a certificate disclosing the purpose of the 1998 Election, the total number of votes cast thereat, the total number of votes for and against the issuance of the bonds, and stating that the creation of the indebtedness by the issuance of the bonds in accordance with the foregoing questions was ordered, has been filed and recorded in the Office of the County Recorder of Maricopa County, Arizona; and

WHEREAS, a majority of the qualified electors of the City, voting at the 1998 Election voted "For the Bonds," in answer to Question No. 1 submitted; and

WHEREAS, at a special bond election held in and for the City on May 15, 2007 (the "2007 Election"), there was submitted to the qualified electors thereof the following questions:

QUESTION NO. 2

PURPOSE: STREET AND HIGHWAY IMPROVEMENTS
AMOUNT: \$20,000,000

Shall the City of Avondale, Arizona (the "City"), be authorized to incur indebtedness by the issuance of bonds of the City in the principal amount of \$20,000,000 for the purpose of providing funds to improve, construct, reconstruct, maintain and provide appurtenances for streets, highways and bridges within the City, to acquire, construct and install street lights, traffic signals, traffic safety improvement devices, drainage improvements, retention basins, landscaping and necessary equipment and appurtenances therefor, to acquire land and interests in land for rights-of-way therefor by purchase, exercise of the power of eminent domain or any other method of acquisition and to pay all expenses incidental

thereto and to the sale and issuance of such bonds; such bonds, or any series thereof, to be issued at the option of the Council of the City, as general obligation bonds of the City, payable from ad valorem taxes levied upon all taxable property in the City, or as street and highway user revenue bonds, payable as to principal and interest solely from taxes, fees, charges and other moneys collected by the State of Arizona and returned to the City for street and highway purposes pursuant to law and to be in the denomination of \$5,000 each or whole multiples thereof, to mature not more than 30 years from their date and to bear interest at a rate or rates not to exceed 12% per annum, payable semiannually; provided that each bond may be evidenced by one instrument or a succession of instruments and the interest thereon may be payable more frequently, and at a variable rate or rates, none of which shall exceed 12% per annum.

The issuance of these bonds will result in an annual levy of property taxes sufficient to pay the debt on the bonds, unless the governing body provides for payment from other sources.

QUESTION NO. 3

PURPOSE: PARKS, COMMUNITY CENTERS AND
RECREATIONAL FACILITIES

AMOUNT: \$15,000,000

Shall the City of Avondale, Arizona (the "City"), be authorized to incur indebtedness by the issuance of general obligation bonds of the City, payable from ad valorem taxes levied upon all of the taxable property in the City, in the principal amount of \$15,000,000 for the purpose of providing funds to design, construct, improve, equip and furnish existing and additional parks and recreational facilities, to acquire land for parks, community centers and recreational facilities by purchase, exercise of the power of eminent domain or any other method of acquisition, and to pay all expenses incidental thereto and to the sale and issuance of such bonds; such bonds to be in the denomination of \$5,000 each or whole multiples thereof, to mature not more than 30 years from their date and to bear interest at a rate or rates not to exceed 12% per annum, payable semiannually; provided that each bond may be evidenced by one instrument or a succession of instruments and the interest thereon may be payable more frequently, and at a variable rate or rates, none of which shall exceed 12% per annum?

The issuance of these bonds will result in an annual levy of property taxes sufficient to pay the debt on the bonds.

WHEREAS, the returns of the 2007 Election were duly canvassed by the Mayor and Council of the City and a certificate disclosing the purpose of the 2007 Election, the total number of votes cast thereat, the total number of votes for and against the issuance of the bonds, and stating that the creation of the indebtedness by the issuance of the bonds in accordance with the foregoing questions was ordered, has been filed and recorded in the Office of the County Recorder of Maricopa County, Arizona; and

WHEREAS, a majority of the qualified electors of the City, voting at the 2007 Election voted “For the Bonds,” in answer to Questions No.s 2 and 3 submitted; and

WHEREAS, \$_____,000 aggregate principal amount of City of Avondale, Arizona General Obligation Bonds (Projects of 1998 and 2007), Series 2009 (the “Bonds”), are to be sold and issued at this time; and

WHEREAS, offers for the purchase of the Bonds have been received pursuant to a Notice Inviting Proposals For Purchase Of Bonds (the “Notice”) heretofore issued by the City; and

WHEREAS, the proposal of _____ (the “Purchaser”) has been determined to result in the lowest cost to the City and, in all respects, complies with the terms of the Notice.

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

SECTION 1. The Bonds shall be issued in a principal amount of \$_____,000 to provide funds for the purposes set forth in the above-mentioned form of ballot Question No. 1 submitted to the qualified electors of the City at the 1998 Election and Questions No.s 2 and 3 submitted to the qualified electors of the City at the 2007 Election.

SECTION 2. The Bonds constitute the first series of bonds of a total authorized issue of not to exceed \$15,000,000 principal amount of bonds of the City approved by the qualified electors of the City (Question No. 1) at the 1998 Election and the first series of bonds of total authorized issues of not to exceed \$20,000,000 and \$15,000,000 principal amounts of the City approved by the qualified electors of the City (Questions No.s 2 and 3, respectively) at the 2007 Election.

SECTION 3. The proceeds from the sale of the Bonds shall be credited against the total principal amount of bonds so approved and against the specific amount of bonds so authorized by the qualified electors of the City at the 1998 Election and the 2007 Election, and for the purposes and the projects as set forth in Questions on the official form of ballot in each case from the 1998 Election and the 2007 Election, as applicable, and the proceeds of the Bonds shall be applied to the purposes and the projects described in such Questions in the following manner:

| <u>Question No.</u> | <u>Purpose</u> [??? | <u>Amount</u> |
|---------------------|--|---------------|
| | 1998 Election | |
| 1 | Water and Sewer Improvements | \$ 8,000,000 |
| | 2007 Election | |
| 2 | Street and Highway Improvements | 14,000,000 |
| 3 | Parks, Community Centers and Recreational Facilities | 8,000,000 |

By setting forth the above schedule, the Mayor and Council of the City further declare that the indebtedness represented by the Bonds shall be applied against the City's constitutional debt limits as follows: The principal amount of the Bonds shall be applied to the City's indebtedness, which, with the assent of the qualified electors of the City, does not exceed twenty percent (20%) of the value of the taxable property in the City, as ascertained by the last assessment for State and County purposes, previous to incurring such indebtedness.

SECTION 4. (a) The Bonds shall be dated the date of their initial authentication and delivery, shall be numbered, by maturity, from 1 consecutively upwards, or in any other manner deemed appropriate by the Bond Registrar and Paying Agent (as that term is hereinafter defined), shall initially be issued in book-entry form and Beneficial Owners (as that term is hereinafter defined) may acquire beneficial interests in the denomination of \$5,000 of principal amount or any whole multiple thereof, shall be numbered consecutively within each maturity, shall be fully registered bonds without coupons, shall be in the denomination of \$5,000 of principal amount, or any whole multiple thereof, shall bear interest from the most recent January 1 or July 1 to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date, which interest shall be payable on January 1, 2010, and semiannually on July 1 and January 1 of each year thereafter during the term of each of the Bonds. The principal of and premium, if any, on the Bonds shall be payable upon presentation and surrender thereof at the designated corporate trust office of the Bond Registrar and Paying Agent. Interest on the Bonds shall be payable by check mailed to the registered owner thereof, as shown on the registration books for the Bonds maintained by the Bond Registrar and Paying Agent at the address appearing therein at the close of business on the fifteenth (15th) day of the calendar month next preceding that interest payment date (the "regular record date"). Any interest which is not timely paid or duly provided for shall cease to be payable to the registered owner thereof (or of one or more predecessor Bonds) as of the regular record date, and shall be payable to the registered owner thereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Bond Registrar and Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to the registered owners of the Bonds not less than ten (10) days prior thereto. The principal of and premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America, the Bonds to mature on July 1 in the years and in the amounts and, in accordance with the terms of the proposal submitted by the Purchaser for the purchase of the Bonds which is hereby accepted, the Bonds being hereby awarded to the Purchaser, to bear interest from the date of initial authentication and delivery thereof, at the rates as follows:

| <u>Year</u> | <u>Principal Amounts Maturing</u> | <u>Interest Rate Per Annum</u> |
|-------------|---------------------------------------|------------------------------------|
| 2009 | \$ __,000 | % |
| 2010 | __,000 | |
| 2011 | __,000 | |
| 2012 | __,000 | |
| 2013 | __,000 | |
| 2014 | __,000 | |
| 2015 | __,000 | |
| 2016 | __,000 | |
| 2017 | __,000 | |
| 2018 | __,000 | |
| 2019 | __,000 | |
| 2020 | __,000 | |
| 2021 | __,000 | |
| 2022 | __,000 | |
| 2023 | __,000 | |
| 2024 | __,000 | |
| 2025 | __,000 | |
| 2026 | __,000 | |
| 2027 | __,000 | |
| 2028 | __,000 | |
| 2029 | \$ __,000 | % |
| 2030 | __,000 | |
| 2031 | __,000 | |
| 2032 | __,000 | |
| 2033 | __,000 | |
| 2034 | __,000 | |

(b) Zions First National Bank is hereby appointed as “Bond Registrar and Paying Agent” for the Bonds. The Bond Registrar and Paying Agent shall maintain the books of the City for the registration of ownership of each Bond. A Bond may be transferred on the registration books upon delivery of the Bond to the Bond Registrar and Paying Agent, accompanied by a written instrument of transfer in form and with guaranty of signature satisfactory to the Bond Registrar and Paying Agent, duly executed by the registered owner of the Bond to be transferred or his attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of such Bond. No transfer of any Bond shall be effective until entered on the registration books.

(c) In all cases upon the transfer of a Bond, the Bond Registrar and Paying Agent shall enter the transfer of ownership in the registration books and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the denomination of \$5,000 of principal amount or any whole multiple thereof (except that no Bond shall be issued which relates to more than a single principal maturity) for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time in accordance with the provisions of this Section. The City or the Bond Registrar and Paying Agent shall charge the owner of such Bond, for every such transfer of a Bond, an amount

sufficient to reimburse them for any transfer fee, tax or other governmental charge required to be paid with respect to such transfer, and may require that such charges be paid before any such new Bond shall be delivered. The City and the Bond Registrar and Paying Agent shall not be required (a) to issue or transfer any Bonds during a period beginning with the opening of business on the fifteenth (15th) calendar day next preceding either any interest payment date or during the period of five (5) days next preceding the mailing of notice of any special record date, or (b) any Bonds or part thereof called for redemption within sixty (60) days prior to the redemption date.

(d) In case any Bond becomes mutilated or destroyed or lost, the City shall cause to be executed and delivered a new Bond, as the case may be, of like type, date, maturity and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond, destroyed or lost, upon the registered owner paying the reasonable expenses and charges of the City in connection therewith and, in the case of a Bond, destroyed or lost, filing with the Bond Registrar and Paying Agent by the registered owner evidence satisfactory to the Bond Registrar and Paying Agent that such Bond, was destroyed or lost, and furnishing the Bond Registrar and Paying Agent with a sufficient indemnity bond pursuant to Section 47-8405, Arizona Revised Statutes, as amended.

(e) At the time of original issuance thereof, the Bonds shall be subject to a Book-Entry System (as that term is hereinafter defined) of ownership and transfer, except as provided in (iii) below. The general provisions for effecting the Book-Entry System are as follows:

(i) the City hereby designates The Depository Trust Company, New York, New York, as the initial Depository (as that term is hereinafter defined) hereunder.

(ii) notwithstanding the provisions regarding exchange and transfer of Bonds under subsections (b), (c) and (d) above and so long as the Bonds are the subject of the Book-Entry System, the Bonds shall initially be evidenced by one typewritten certificate for each maturity, in an amount equal to the aggregate principal amount thereof. The Bonds so initially delivered shall be registered in the name of "Cede & Co." as nominee for The Depository Trust Company. The Bonds may not thereafter be transferred or exchanged on the registration books of the City maintained by the Bond Registrar and Paying Agent except:

(A) to any successor Depository designated pursuant to (iii) below;

(B) to any successor nominee designated by a Depository; or

(C) if the City shall elect to discontinue the Book-Entry System pursuant to (iii) below, the City will cause the Bond Registrar and Paying Agent to authenticate and deliver replacement Bonds in fully registered form in authorized denominations in the names of the Beneficial Owners or their nominees, as certified by the Depository, at the expense of the City; thereafter the provisions of subsections (b), (c) and (d) above regarding registration, transfer and exchange of the Bonds shall apply.

(iii) the Bond Registrar and Paying Agent, pursuant to a request from the City for the removal or replacement of the Depository, and upon thirty (30) days' notice to the Depository, may remove or replace the Depository. The Bond Registrar and Paying Agent shall remove or replace the Depository at any time pursuant to the request of the City. The Depository may determine not to continue to act as Depository for the Bonds upon thirty (30) days' written notice to the City and the Bond Registrar and Paying Agent.

If the use of the Book Entry System is discontinued, then after the Bond Registrar and Paying Agent has made provision for notification of the Beneficial Owners of their book entry interests in the Bonds by appropriate notice to the then Depository, the City and the Bond Registrar and Paying Agent shall permit withdrawal of the Bonds from the Depository and authenticate and deliver the Bond certificates in fully registered form and in denominations authorized by this Section to the assignees of the Depository or its nominee. Such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing or otherwise preparing, and delivering, such replacement Bond certificates) of the City.

(iv) so long as the Book-Entry System is used for the Bonds, the City and the Bond Registrar and Paying Agent shall give any notice of redemption or any other notices required to be given to registered owners of Bonds only to the Depository or its nominee registered as the owner thereof. Any failure of the Depository to advise any of its participants, or of any participant to notify the Beneficial Owner, of any such notice and its content or effect will not affect the validity of the redemption of the Bonds called for redemption or of any other action premised on such notice. Neither the City nor the Bond Registrar and Paying Agent shall be responsible or liable for the failure of the Depository or any participant thereof to make any payment or give any notice to a Beneficial Owner in respect of the Bonds or any error or delay relating thereto.

(v) notwithstanding any other provision of this Resolution or the Bonds to the contrary, so long as the Bonds are subject to the Book-Entry System, it shall not be necessary for the registered owner to present his Bond for payment of sinking fund installments. The sinking fund installments may be noted on books kept by the Bond Registrar and Paying Agent and the Depository for such purpose and the Bonds shall be tendered to the Bond Registrar and Paying Agent at their maturity.

(vi) for purposes of this Resolution, "Beneficial Owners" shall mean actual purchasers of the Bonds whose ownership interest is evidenced only in the Book-Entry System maintained by the Depository, "Book-Entry System" shall mean a system for clearing and settlement of securities transactions among participants of a Depository (and other parties having custodial relationships with such participants) through electronic or manual book-entry changes in accounts of such participants maintained by the Depository hereunder for recording ownership of the Bonds by Beneficial Owners and transfers of ownership interests in the Bonds, and "Depository" shall mean The Depository Trust Company, New York, New York or any successor depository designated pursuant to this Section.

(f) (i) The Bonds maturing before or on July 1, 2019, will not be subject to optional redemption prior to maturity. The Bonds maturing on and after July 1, 2020, will be subject to redemption prior to maturity, in whole at any time or in part on any interest payment

date, on and after July 1, 2019, by the payment of the principal amount of each Bond called for redemption plus interest accrued to the date fixed for redemption without a premium.

(ii) **[Insert mandatory redemption if applicable]**

(g) The Bonds shall be redeemed only in integral multiples of \$5,000 of principal amount. If less than all of the outstanding Bonds of a single maturity are to be redeemed, the Bonds in that maturity to be redeemed shall be selected by lot in such manner as the Bond Registrar and Paying Agent may determine.

(h) Notice of redemption, identifying the Bonds, or portions thereof, to be redeemed, shall be given by the Bond Registrar and Paying Agent by sending a copy of such notice by first class mail, postage prepaid, not more than 60 nor less than 30 days prior to the redemption date, to the registered owner of each Bond, or portion thereof, to be redeemed, at the address as shown as of the 15th day preceding the mailing on the registration books kept by the Bond Registrar and Paying Agent. Failure to mail notice to any registered owner of Bonds shall not affect the validity of the proceeding for the redemption of Bonds with respect to registered owners of other Bonds.

SECTION 5. The Bonds shall be executed on behalf of the City by the Mayor of the City and attested by the Clerk of the City by the facsimile signatures of such officials, and such officials are hereby authorized and directed to execute the Bonds as aforesaid.

SECTION 6. For the purpose of paying the principal of and premium, if any, and interest on the Bonds in each year while any of the Bonds shall be outstanding, there shall be and hereby is levied upon all of the taxable property in the City a continuing, direct, annual, ad valorem tax over and above all other taxes authorized or permitted by law, which tax, together with other funds then on hand and available for such purpose, shall be sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due. The tax shall be extended and collected for the City, and the officials of the City and of Maricopa County, Arizona charged with the annual extension and collection of taxes, without further instructions from the Mayor and Council of the City, shall extend and collect the tax upon issuance of the Bonds. All moneys collected through such tax shall be paid into the treasury of the City, to the credit of the "General Obligation Bonds (Projects of 1998 and 2007), Series 2009, Debt Service Fund" of the City from which fund the Bonds shall be payable, which tax moneys shall be held in sub funds to be known as the "Interest Fund" and the "Redemption Fund," which funds shall be kept separate and apart from and not commingled with any other funds or moneys and which shall be used solely for, respectively, payment of interest on and principal of, and premium, if any, on the Bonds. If at any time there are sufficient moneys or investments in the Debt Service Fund to pay all principal, premium, if any, and interest due or to become due on all of the Bonds, then no additional tax levy need be made for the payment of the principal of, premium, if any, and interest on the Bonds.

SECTION 7. The Bonds to be issued shall be in substantially the following form, allowing those officials executing the Bonds to make the insertions and deletions necessary to conform the Bonds to this Resolution and the Notice:

(Form of Bond)

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (“DTC”) TO THE CITY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

REGISTERED
NO.

\$.....

UNITED STATES OF AMERICA

STATE OF ARIZONA

MARICOPA COUNTY

CITY OF AVONDALE, ARIZONA
GENERAL OBLIGATION BONDS (PROJECTS OF 1998 AND 2007),
SERIES 2009

Interest Rate: Maturity Date: Dated As Of: CUSIP:
...% per annum July 1,, 2009

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

CITY OF AVONDALE, ARIZONA (hereinafter referred to as the “City”), for value received, hereby promises to pay to the registered owner named above, or registered assigns, the principal amount stated above on the aforesaid Maturity Date, unless this Bond is called for redemption prior to its maturity date and payment provided therefor, and to pay interest on the principal amount at the aforesaid Interest Rate on January 1, 2010, and semiannually on July 1 and January 1 of each year thereafter (“interest payment date”) from the date of this Bond to its maturity, or until redeemed if called for redemption prior to maturity. The principal of and premium, if any, on this Bond are payable upon presentation and surrender hereof at the principal corporate trust office of, as Bond Registrar and Paying Agent. Interest on this Bond is payable by check mailed to the registered owner hereof, as shown on the registration books for this series maintained by the Bond Registrar and Paying Agent at the address appearing therein at the close of business on the 15th day of the calendar month next preceding that interest payment date (the “regular record date”). Any interest which is not timely paid or duly provided for shall cease to be payable to the registered owner hereof (or of one or more predecessor Bonds) as of the regular record date, and shall be payable to the

registered owner hereof (or of one or more predecessor Bonds) at the close of business on a special record date for the payment of that overdue interest. The special record date shall be fixed by the Bond Registrar and Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the special record date shall be given to the registered owner hereof not less than 10 days prior thereto. The principal, premium, if any, and interest on this Bond are payable in lawful money of the United States of America on the respective dates when principal and interest become due.

This Bond is one of a series of Bonds limited to the total principal amount of \$____,000, of like tenor except as to number, denomination, maturity date and interest rate, issued by the City of Avondale, Arizona (the "City"), to provide funds for certain road improvements in the City. These Bonds are authorized by a Resolution of the Mayor and Council of the City of Avondale, Arizona, duly adopted prior to the issuance hereof (the "Resolution"), and pursuant to and in conformity with the Constitution and laws of the State of Arizona, including, particularly, Title 35, Chapter 3, Article 3, Arizona Revised Statutes, as amended, and all other laws of the State of Arizona relating thereto.

For the punctual payment of this Bond and the interest hereon as aforesaid and for the levy and collection of taxes in accordance with the statutes authorizing the issuance of this Bond, the full faith and credit of the City are hereby irrevocably pledged. The Mayor and Council of the City have by the Resolution ordered the creation of a debt service fund for the payment of this Bond and all Bonds of this series. Such fund is to be held in trust for the benefit of the registered owner or owners of the Bonds of this series.

Bonds maturing before or on July 1, 2019, are not subject to redemption prior to maturity. Bonds maturing on and after July 1, 2020, are subject for redemption prior to maturity, in whole at any time or in part on any interest payment date, on and after July 1, 2019, by the payment of the principal amount of each Bond to be redeemed plus interest accrued to the date fixed for redemption, without a premium.

The Bonds shall be redeemed only in integral multiples of \$5,000 principal amount. If less than all of the outstanding Bonds of a single maturity are to be redeemed, the Bonds in that maturity to be redeemed shall be selected by lot in such manner as the Bond Registrar and Paying Agent may determine.

[Insert mandatory redemption if applicable.]

Notice of redemption, identifying the Bonds, or portions thereof, to be redeemed, shall be given by the Bond Registrar and Paying Agent by sending a copy of such notice by first class mail, postage prepaid, not more than 60 nor less than 45 days prior to the redemption date, to the registered owner of each Bond, or portion thereof, to be redeemed, at the address as shown as of the 15th day preceding the mailing on the registration books kept by the Bond Registrar and Paying Agent. Failure to mail notice to any registered owner of Bonds shall not affect the validity of the proceeding for the redemption of Bonds with respect to registered owners of other Bonds.

The Bond Registrar and Paying Agent will maintain the books of the City for the registration of ownership of this Bond as provided in the Resolution.

This Bond may be transferred on the registration books upon delivery hereof to the Bond Registrar and Paying Agent, accompanied by a written instrument of transfer in form and with guaranty of signature satisfactory to the Bond Registrar and Paying Agent, duly executed by the registered owner of this Bond or his or her attorney-in-fact or legal representative, containing written instructions as to the details of the transfer. No transfer of this Bond shall be effective until entered on the registration books.

In all cases upon the transfer of a Bond of this series, the Bond Registrar and Paying Agent will enter the transfer of ownership in the registration book and will authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of the denomination of \$5,000 or any whole multiple thereof (except that no Bond shall be issued which relates to more than a single principal maturity) for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time in accordance with the provisions of the Resolution. The City or the Bond Registrar and Paying Agent shall charge the registered owner of such Bond, for every such transfer of a Bond, an amount sufficient to reimburse them for any transfer fee, tax or other governmental charge required to be paid with respect to such transfer, and may require that such charge be paid before any such new Bond shall be delivered.

The City and the Bond Registrar and Paying Agent will not be required (a) to issue or transfer any Bonds during a period beginning with the opening of business on the 15th calendar day next preceding either any interest payment date or during the period of five days next preceding the mailing of notice of any special record date, or (b) any Bonds or part thereof called for redemption within 60 days prior to the redemption date.

This Bond shall not be entitled to any security or benefit under the Resolution or be valid or become obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by the Bond Registrar and Paying Agent.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and laws of the State of Arizona to exist, to occur and to be performed precedent to and in the issuance of this Bond do exist, have occurred and have been performed and that the series of Bonds of which this Bond is one, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the State of Arizona and that due provision has been made for the levy and collection of a direct, annual, ad valorem tax upon all of the taxable property in the City for the payment of this Bond and of the interest hereon as each becomes due.

IN WITNESS WHEREOF, the CITY OF AVONDALE, ARIZONA, has caused this Bond to be executed in the name of the City by the facsimile signature of the Mayor of the City and attested by the facsimile signature of the Clerk of the City.

CITY OF AVONDALE, ARIZONA

By (Facsimile)
.....
Mayor

ATTEST:

By (Facsimile).....
Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Resolution and is one of the City of Avondale, Arizona General Obligation Bonds (Projects of 1998 and 2007), Series 2009.

Date of Authentication:

.....,
Bond Registrar and Paying Agent

By.....
Authorized Representative

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto the within Bond and irrevocably constitutes and appoints attorney to transfer this Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: Signature Guaranteed:

..... Signature

(Commercial Bank, Trust Company or member of a National Securities Exchange) Signature

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatsoever.

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT/TRANS MIN ACT - Custodian (Cust) (Minor)

under Uniform Gifts/Transfers to Minors Act (State)

Additional abbreviations may also be used though not included in the above list.

ALL FEES AND COSTS OF TRANSFER SHALL BE PAID BY THE TRANSFEROR

SECTION 8. In consideration of the purchase and acceptance of any and all of the Bonds issued hereunder by those who shall be the registered owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract among the City and the registered owners of the Bonds.

SECTION 9. Upon the payment for the Bonds in accordance with the accepted bid and the provisions of this Resolution, the Mayor, the Clerk or the Finance & Budget Director of the City, or any of them, are hereby authorized and directed to deliver the Bonds to the Purchaser thereof upon receipt of payment therefor. (The Clerk or the Finance & Budget Director, or either of them, are hereby authorized and directed to return forthwith the good faith checks of all unsuccessful bidders.)

SECTION 10. The proceeds derived from the sale of the Bonds shall be deposited in the treasury of the City to the credit of the following accounts of “The City of Avondale, Arizona (Projects of 1998 and 2007), Series 2009, Construction Fund” and in the amounts as follows:

| <u>Name of Subfund</u> | <u>Amount</u> |
|--|---------------------|
| Water and Sewer Improvements Account | \$ _____,000 |
| Street and Highway Improvements Account | _____,000 |
| Parks, Community Centers and Recreational Improvements Account | _____,000 |
| TOTAL | <u>\$ _____,000</u> |

to be used solely for the purposes specified in the aforementioned ballot Question No. 1 submitted to the qualified electors of the City at the 1998 Election and Questions No.s 2 and 3 submitted to the qualified electors of the City at the 2007 Election, respectively; provided, however, that (a) such proceeds may be invested in the manner and under the circumstances allowed by law and (b) any moneys remaining in any account after such purposes shall have been accomplished shall be transferred to the Redemption Fund and the Interest Fund of the City in the same fashion as taxes.

SECTION 11. The Mayor or, in the absence thereof, the Vice Mayor and Clerk of the City, for and on behalf of the City, are hereby authorized and directed to execute and attest a standard form of bond registrar and paying agent agreement with the Bond Registrar and Paying Agent with such changes therein as may be approved by such officials whose signatures thereon shall be evidence of such approval, as well as an appropriate agreement with DTC as necessary therefor.

SECTION 12. The distribution of the Notice and the preliminary official statement relating to the Bonds are in all respects hereby ratified, approved and confirmed. The Mayor is hereby authorized and directed to approve, for and on behalf of the City, a final official statement for use in connection with the offering and sale of the Bonds. The execution of the final official statement by the Mayor or, in the absence thereof, the Vice Mayor of the City shall be conclusively deemed to evidence the approval of the form and content thereof by the City.

SECTION 13. (a) The City shall not make or direct the making of any investment or other use of the proceeds of any Bonds which would cause such Bonds to be “arbitrage bonds” as that term is defined in Section 148 (or any successor provision thereto) of the Internal

Revenue Code of 1986, as amended, or “private activity bonds” as that term is defined in Section 141 (or any successor provision thereto) of such Code, and the City shall comply with the requirements of such Code sections and related regulations throughout the term of the Bonds. (Particularly, the City shall be the owner of the facilities financed with the proceeds of the sale of the Bonds (the “Facilities”) for federal income tax purposes. Except as otherwise advised in a Bond Counsel’s Opinion (as such term is defined in the next Section), the City shall not enter into (i) any management or service contract with any entity other than a governmental entity for the operation of any portion of the Facilities unless the management or service contract complies with the requirements of Revenue Procedure 97-13 or such other authority as may control at the time, or (ii) any lease or other arrangement with any entity other than a governmental entity that gives such entity special legal entitlements with respect to any portion of the Facilities. Also, the payment of principal and interest with respect to the Bonds shall not be guaranteed (in whole or in part) by the United States or any agency or instrumentality of the United States. The proceeds of the Bonds, or amounts treated as proceeds of the Bonds, shall not be invested (directly or indirectly) in federally insured deposits or accounts, except to the extent such proceeds (i) may be so invested for an initial temporary period until needed for the purpose for which the Bonds are being issued, (ii) may be so used in making investments of a bona fide debt service fund, or (iii) may be invested in obligations issued by the United States Treasury.) The Mayor and Council of the City hereby further covenants and agrees to comply with the procedures and covenants contained in Section 14 hereof or any other arbitrage rebate provision or separate agreement executed in connection with the issuance of the Bonds for so long as compliance is necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds. In consideration of the purchase and acceptance of the Bonds by such holders from time to time and of retaining such exclusion and as authorized by Title 35, Chapter 3, Article 7, Arizona Revised Statutes, as amended, the Mayor and Council of the City covenants, and the appropriate officials of the City are hereby directed, to take all action required to retain such exclusion and to refrain from taking any action prohibited by such Code which would adversely affect in any respect such exclusion.

(b) The City shall take all necessary and desirable steps, as determined by the Mayor and Council of the City, to comply with the requirements hereunder in order to ensure that interest on the Bonds is excluded from gross income for federal income tax purposes under such Code; provided, however, compliance with any such requirement shall not be required in the event the City receives a Bond Counsel’s Opinion (as such term is hereinafter defined) that either (i) compliance with such requirement is not required to maintain the exclusion from gross income of interest on the Bonds, or (ii) compliance with some other requirement will meet the requirements of such Code. In the event the City receives such a Bond Counsel’s Opinion, the parties agree to amend this Resolution to conform to the requirements set forth in such opinion.

(c) If for any reason any requirement hereunder is not complied with, the City shall take all necessary and desirable steps, as determined by the Mayor and Council of the City, to correct such noncompliance within a reasonable period of time after such noncompliance is discovered or should have been discovered with the exercise of reasonable diligence and the City shall pay any required interest or penalty under Regulations section 1.148-3(h) relating to such Code.

(i) The Bonds are qualified and sold as “Build America Bonds” with the federal tax credits paid directly to the City. The Finance Director of the City is hereby authorized and directed to determine such matters on behalf of the City and then to take any action, make any modification of the documents, enter into any agreements, may any elections or certifications and pay any costs necessary to provide for, or facilitate the issue and sale of the Bonds in such manner and to comply with the requirements of such Code and the terms of the Bonds and any agreement related thereto.

(ii) The Bonds are hereby designated as “qualified tax-exempt obligations” within the meaning of and pursuant to the provisions of Section 265(b) of such Code and represents and warrants that the reasonably anticipated amount of “qualified tax-exempt obligations” (other than private activity bonds within the meaning of such Code) which will be issued by the District during the 2009 calendar year will not exceed \$30,000,000.

SECTION 14. (a) Terms not otherwise defined in Subsection (b) hereof shall have the meanings given to them in the arbitrage certificate of the City delivered in connection with the issuance of the Bonds.

(b) The following terms shall have the following meanings:

“Bond Counsel’s Opinion” shall mean an opinion signed by an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds selected by the City.

“Bond Year” shall mean each one-year period beginning on the day after the expiration of the preceding Bond Year. The first Bond Year shall begin on the date of issue of the Bonds and shall end on the date selected by the City, provided that the first Bond Year shall not exceed one calendar year. The last Bond Year shall end on the date of retirement of the last Bond.

“Bond Yield” is as indicated in such arbitrage certificate. Bond Yield shall be recomputed if required by Regulations section 1.148-4(b)(4) or 4(h)(3). Bond Yield shall mean the discount rate that produces a present value equal to the Issue Price of all unconditionally payable payments of principal, interest and fees for qualified guarantees within the meaning of Regulations section 1.148-4(f) and amounts reasonably expected to be paid as fees for qualified guarantees in connection with the Bonds as determined under Regulations section 1.148-4(b). The present value of all such payments shall be computed as of the date of issue of the Bonds and using semiannual compounding on the basis of a 360-day year.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and any successor provisions thereto.

“Gross Proceeds” shall mean:

(i) any amounts actually or constructively received by the City from the sale of the Bonds but excluding amounts used to pay accrued interest on the Bonds within one year of the date of issuance of the Bonds;

(ii) transferred proceeds of the Bonds under Regulations section 1.148-9;

(iii) any amounts actually or constructively received from investing amounts described in (i), (ii) or this (iii); and

(iv) replacement proceeds of the Bonds within the meaning of Regulations section 1.148-1(c). Replacement proceeds include amounts reasonably expected to be used directly or indirectly to pay debt service on the Bonds, pledged amounts where there is reasonable assurance that such amounts will be available to pay principal or interest on the Bonds in the event the District encounters financial difficulties and other replacement proceeds within the meaning of Regulations section 1.148-1(c)(4). Whether an amount is Gross Proceeds is determined without regard to whether the amount is held in any fund or account.

“Investment Property” shall mean any security, obligation (other than a tax-exempt bond within the meaning of Code section 148(b)(3)(A)), annuity contract or investment-type property within the meaning of Regulations section 1.148-1(b).

“Issue Price” is as indicated in such arbitrage certificate, which is the initial offering price to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters of wholesalers) at which price a substantial amount of the Bonds was sold, less any bond insurance premium and reserve surety bond premium. Issue price shall be determined as provided in Regulations section 1.148-1(b).

“Nonpurpose Investment” shall mean any Investment Property acquired with Gross Proceeds, and which is not acquired to carry out the governmental purposes of the Bonds.

“Payment” shall mean any payment within the meaning of Regulations section 1.148-3(d)(1) with respect to a Nonpurpose Investment.

“Rebate Requirement” shall mean at any time the excess of the future value of all Receipts over the future value of all Payments. For purposes of calculating the Rebate Requirement the Bond Yield shall be used to determine the future value of Receipts and Payments in accordance with Regulations section 1.148-3(c). The Rebate Requirement is zero for any Nonpurpose Investment meeting the requirements of a rebate exception under section 148(f)(4) of the Code or Regulations section 1.148-7.

“Receipt” shall mean any receipt within the meaning of Regulations section 1.148-3(d)(2) with respect to a Nonpurpose Investment.

“Regulations” shall mean the sections 1.148-1 through 1.148-11 and section 1.150-1 of the regulations of the United States Department of the Treasury promulgated under the Code, including and any amendments thereto or successor regulations.

(c) Within 60 days after the end of each Bond Year, the City shall cause the Rebate Requirement to be calculated and shall pay to the United States of America:

(i) not later than 60 days after the end of the fifth Bond Year and every fifth Bond Year thereafter, an amount which, when added to the future value of all previous rebate payments with respect to the Bonds (determined as of such Computation Date), is equal to at least 90% of the sum of the Rebate Requirement (determined as of the last day of such Bond Year) plus the future value of all previous rebate payments with respect to the Bonds (determined as of the last day of such Bond Year); and

(ii) not later than 60 days after the retirement of the last Bond, an amount equal to 100% of the Rebate Requirement (determined as of the date of retirement of the last Bond).

Each payment required to be made under this Section shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201, on or before the date such payment is due, and shall be accompanied by IRS Form 8038-T.

(d) No Nonpurpose Investment shall be acquired for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

(e) For purposes of Subsection (d), whether a Nonpurpose Investment has been purchased or sold or disposed of for its fair market value shall be determined as follows:

(i) The fair market value of a Nonpurpose Investment generally shall be the price at which a willing buyer would purchase the Nonpurpose Investment from a willing seller in a bona fide arm's length transaction. Fair market value shall be determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding.

(ii) Except as provided in Subsection (f) or (g), a Nonpurpose Investment that is not of a type traded on an established securities market, within the meaning of Code section 1273, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value.

(iii) If a United States Treasury obligation is acquired directly from or sold or disposed of directly to the United States Treasury, such acquisition or sale or disposition shall be treated as establishing the fair market value of the obligation.

(f) The purchase price of a certificate of deposit that has a fixed interest rate, a fixed payment schedule and a substantial penalty for early withdrawal is considered to be its fair market value if the yield on the certificate of deposit is not less than:

(i) the yield on reasonably comparable direct obligations of the United States; and

(ii) the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(g) A guaranteed investment contract shall be considered acquired and disposed of for an amount equal to its fair market value if:

(i) A bona fide solicitation in writing for a specified guaranteed investment contract, including all material terms, is timely forwarded to all potential providers. The solicitation must include a statement that the submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the City or any other person (whether or not in connection with the Bonds), and that the bid is not being submitted solely as a courtesy to the City or any other person for purposes of satisfying the requirements in the Regulations that the District receive bids from at least one reasonably competitive provider and at least three providers that do not have a material financial interest in the Bonds.

(ii) All potential providers have an equal opportunity to bid, with no potential provider having the opportunity to review other bids before providing a bid.

(iii) At least three reasonably competitive providers (i.e. having an established industry reputation as a competitive provider of the type of investments being purchased) are solicited for bids. At least three bids must be received from providers that have no material financial interest in the Bonds (e.g., a lead underwriter within 15 days of the issue date of the Bonds or a financial advisor with respect to the investment) and at least one of such three bids must be from a reasonably competitive provider. If the District uses an agent to conduct the bidding, the agent may not bid.

(iv) The highest-yielding guaranteed investment contract for which a qualifying bid is made (determined net of broker's fees) is purchased.

(v) The determination of the terms of the guaranteed investment contract takes into account as a significant factor the reasonably expected deposit and drawdown schedule for the amounts to be invested.

(vi) The terms for the guaranteed investment contract are commercially reasonable (i.e. have a legitimate business purpose other than to increase the purchase price or reduce the yield of the guaranteed investment contract).

(vii) The provider of the investment contract certifies the administrative costs (as defined in Regulations section 1.148-5(e)) that it pays (or expects to pay) to third parties in connection with the guaranteed investment contract.

(viii) The City retains until three years after the last outstanding Bond is retired, (A) a copy of the guaranteed investment contract, (B) a receipt or other record of the amount actually paid for the guaranteed investment contract, including any administrative costs paid by the City and a copy of the provider's certification described in (vii) above, (C) the name of the person and entity submitting each bid, the time and date of the bid, and the bid results and (D) the bid solicitation form and, if the terms of the guaranteed investment contract deviates

from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation.

(h) The employment of such experts and consultants to make, as necessary, any calculations in respect of rebates to be made to the United States of America in accordance with Section 148(f) of such Code, is hereby authorized.

SECTION 15. (a) The City shall comply with and carry out all the provisions of a continuing disclosure undertaking with respect to the Bonds in substantially the form included in the preliminary official statement for the Bonds, which the Mayor or, in the absence thereof, the Vice Mayor of the City is hereby authorized, for and on behalf of the City, to execute in a form satisfactory to the Mayor or, in the absence thereof, the Vice Mayor of the City.

(b) This Section 15 shall constitute a contract between the City and certain owners of the Bonds as described in the Undertaking.

(c) In the event of a failure of the City to comply with the provisions of this Section, certain owners of the Bonds described in such undertaking may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section. A default under this Section shall not be deemed an event of default for other purposes of this Resolution, and the sole remedy under this Section in the event of any failure of the City to comply with this Section shall be an action to compel performance.

SECTION 16. The actions of the officers and agents of the City which conform to the purposes and intent of this Resolution and which further the issuance and sale of the Bonds, as contemplated by this Resolution, whether heretofore or hereafter taken, shall be and are hereby ratified, confirmed and approved. The proper officers and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this Resolution.

SECTION 17. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 18. The immediate operation of this Resolution is necessary for the preservation of the public health and welfare, particularly to be able to finance the capital needs of the City on the most economic basis, and an emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage and approval by the Mayor and Council of the City of Avondale, Arizona, as required by law, and it is hereby exempt from the referendum provisions of the City's Charter and the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED by the Council of the City of Avondale, July 2, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

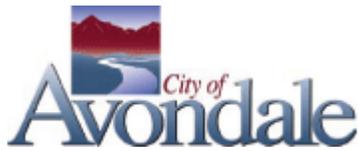
APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

CERTIFICATION

I hereby certify that the foregoing Resolution No. 2832-709 was duly passed and adopted by the Mayor and the Council of the City of Avondale, Arizona, at a regular meeting held on the 2nd day of July, 2009, and the vote was ___ ayes and ___ nays and that the Mayor and ___ Councilmembers were present thereat.

Carmen Martinez, Clerk, City of Avondale, Arizona



CITY COUNCIL REPORT

SUBJECT:

Public Hearing - Proposed Extension of the
Alternative Expenditure Limitation (Home Rule)

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Kevin Artz, Finance and Budget Director (623)333-2011

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council hold a public hearing on the proposed extension of the Alternative Expenditure Limitation (Home Rule).

BACKGROUND:

The Arizona State Constitution and Arizona Revised Statutes impose an expenditure limitation on every City and Town in the State. The state-imposed limitation uses expenditures of local revenues from Fiscal Year 1979-80 as a baseline. Each year, the Economic Estimates Commission (EEC) adjusts baseline expenditures based on a standard inflation rate and the population growth in the community to establish a new expenditure limitation (See Attachment for FY 09/10 final estimates).

Certain revenues are specifically excluded from the state-imposed expenditure limitation. For example, revenues received from the issuance of bonds, revenues received from interest or dividends, revenue from Federal grants, and intergovernmental revenue already subject to another entity's expenditure limitation, are all exempt from the expenditure limit.

If the state-imposed limitation does not allow for the expenditure of sufficient local funds (less the exemptions listed above), State law provides four options to potentially solve this problem.

- Alternative expenditure limitation (local home rule option)
- A permanent base adjustment
- A capital projects accumulation fund
- A one-time override

All of the options require voter approval. If none of the options are approved by the voters, the state-imposed limitation will apply.

In September of 2005, the Avondale voters adopted an alternative expenditure limitation (first approved in 1981 with six subsequent extensions).

The Home Rule option expires at the end of Fiscal Year 2009-10. The home rule option allows the City to adopt its own "alternative" expenditure limitation and sets the limit at its adopted budget. In other words, it allows the City to establish its own expenditure limitation without being subject to the state-imposed limitation. Home rule must be approved by the voters, and is good for a period of four years.

DISCUSSION:

In order to extend the home rule option, State law requires that two public hearings be held (scheduled for July 6th and 20th) and the City Council to adopt a resolution proposing the extension, immediately following the second public hearing (July 20th). The alternative expenditure limitation will then be submitted to the voters of Avondale at an election to be held in November of 2009.

The final state-imposed expenditure limitation for the City of Avondale for Fiscal Year 2009-10 is \$45,327,365. Staff estimates that the City would have an additional \$50,000,000 of exclusions from the state imposed limit for a total expenditure limitation of approximately \$95,300,000. The final adopted budget for FY 09-10 is approximately \$224,000,000 which would put the City approximately \$128,700,000 over the state-imposed limitation if the Home Rule option were not in effect for Fiscal Year 2009-10. There are several factors that would cause the City of Avondale to exceed the state-imposed expenditure limit.

First, the state-imposed expenditure limitation, which is calculated with population and inflation factors, is based on projections for one year's needs. In a high growth community, this doesn't allow for a City to plan infrastructure and city services to stay ahead of the growth curve (i.e., building a wastewater treatment facility with excess capacity, instead of one year's capacity needs).

Second, the City of Avondale has changed significantly since 1979-80, when the baseline was established. Current citizens expect increased services and amenities that may not have been required in 1980. The increased expectations of the residents are not adequately factored into the population and inflation calculation performed by the State. As a result, the state-imposed limitation is based on expectations from 25 years ago, instead of today's residents.

Finally, the State imposed limitation does not account for additional revenue sources received since 1979-80. The City of Avondale has established development impact fees and two, half-percent sales tax increases since 1979-80. Both of these local revenue sources are subject to the State-imposed limitation. Without an alternate expenditure limitation, the City would be unable to spend sales tax dollars from a voter approved initiative, which was approved to increase funding for public safety, and for basic water, sewer and street infrastructure improvements.

As the state-imposed expenditure limitation for the City of Avondale is not sufficient to allow the City to expend its local revenues and provide the basic services that the residents require, the City must seek approval from the voters to authorize an extension to the home rule option.

RECOMMENDATION:

Staff recommends that the City Council hold a Public Hearing for the proposed extension of the Alternative Expenditure Limitation (home rule option).

ATTACHMENTS:

Click to download

 [2009-10 Expenditure limitation](#)

ECONOMIC ESTIMATES COMMISSION

Department of Revenue Building



Janice K. Brewer
Governor

Gale Garriott
Chairman

Elliott D. Pollack
Member

Alan E. Maguire
Member

March 26, 2009

City/Town Managers and Finance Directors
State of Arizona

RE: Final FY 2009/10 Expenditure Limits

The final fiscal year 2009/10 expenditure limits for cities and towns are being supplied in accordance with Article IX, Section 20, Constitution of Arizona and A.R.S. § 41-563.

The fiscal year 1979/80 base limits have been adjusted for changes in the population and the cost of living between 1978 and 2008. The formula is shown below.

$$\frac{\text{2008 Population}}{\text{1978 Population}} \times \frac{\text{GDP Implicit Price Deflator 2008}}{\text{GDP Implicit Price Deflator 1978}} \times \text{FY 1979/80 Base Limit} = \text{Final FY 2009/10 Expenditure Limit}$$

Please contact Diane Sosinski in Economic Research and Analysis at (602) 716-6797 if you have any questions.

Sincerely,

ECONOMIC ESTIMATES COMMISSION


Gale Garriott, Chairman

GG:ds

FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS

| CITY | POPULATION ** | | POPULATION FACTOR | INFLATION FACTOR* | FY 1979/80 BASE LIMIT | FINAL FY 2009/10 EXPENDITURE LIMITATION |
|-----------------|---------------|--------|----------------------|----------------------|--------------------------|--|
| | 2008 | 1978 | | | | |
| APACHE JUNCTION | 37,917 | 9,500 | 3.9913 | 2.6750 | \$1,581,484 | \$16,884,776 |
| AVONDALE | 76,648 | 6,900 | 11.1084 | 2.6750 | \$1,525,417 | \$45,327,365 |
| BENSON | 5,030 | 3,925 | 1.2815 | 2.6750 | \$1,317,815 | \$4,517,550 |
| BISBEE | 6,389 | 6,860 | 0.9313 | 2.6750 | \$1,625,337 | \$4,049,230 |
| BUCKEYE | 50,143 | 3,175 | 15.7931 | 2.6750 | \$1,048,270 | \$44,285,331 |
| BULLHEAD CITY | 41,187 | 13,830 | 2.9781 | 2.6750 | \$5,493,553 | \$43,763,440 |
| CAMP VERDE | 11,580 | 5,650 | 2.0496 | 2.6750 | \$2,072,112 | \$11,360,396 |
| CAREFREE | 3,948 | 1,744 | 2.2638 | 2.6750 | \$1,642,262 | \$9,944,736 |
| CASA GRANDE | 45,116 | 14,100 | 3.1997 | 2.6750 | \$18,793,221 | \$160,854,363 |
| CAVE CREEK | 5,132 | 2,025 | 2.5343 | 2.6750 | \$656,393 | \$4,449,853 |
| CHANDLER | 244,376 | 23,500 | 10.3990 | 2.6750 | \$7,245,951 | \$201,560,874 |
| CHINO VALLEY | 13,069 | 2,400 | 5.4454 | 2.6750 | \$255,094 | \$3,715,793 |
| CLARKDALE | 4,030 | 1,200 | 3.3583 | 2.6750 | \$255,616 | \$2,296,318 |
| CLIFTON | 2,616 | 4,515 | 0.5794 | 2.6750 | \$1,656,956 | \$2,568,095 |
| COLORADO CITY | 4,042 | 1,730 | 2.3364 | 2.6750 | \$987,191 | \$6,169,804 |
| COOLIDGE | 12,311 | 6,775 | 1.8171 | 2.6750 | \$1,530,413 | \$7,438,970 |
| COTTONWOOD | 11,230 | 4,200 | 2.6738 | 2.6750 | \$1,105,601 | \$7,907,679 |
| DEWEY HUMBOLDT | 4,444 | 4,080 | 1.0892 | 2.6750 | \$1,533,271 | \$4,467,381 |
| DOUGLAS | 21,709 | 12,600 | 1.7229 | 2.6750 | \$17,190,988 | \$79,230,110 |
| DUNCAN | 845 | 700 | 1.2071 | 2.6750 | \$177,389 | \$572,803 |
| EAGAR | 4,810 | 2,450 | 1.9633 | 2.6750 | \$627,268 | \$3,294,218 |
| EL MIRAGE | 33,647 | 4,025 | 8.3595 | 2.6750 | \$774,680 | \$17,322,994 |
| ELOY | 16,163 | 6,300 | 2.5656 | 2.6750 | \$1,419,813 | \$9,743,898 |
| FLAGSTAFF | 64,693 | 32,000 | 2.0217 | 2.6750 | \$22,522,966 | \$121,801,614 |
| FLORENCE | 24,096 | 3,175 | 7.5893 | 2.6750 | \$714,110 | \$14,497,279 |

FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS

| CITY | POPULATION ** | | POPULATION FACTOR | INFLATION FACTOR* | FY 1979/80 BASE LIMIT | FINAL FY 2009/10 EXPENDITURE LIMITATION |
|------------------|---------------|---------|----------------------|----------------------|--------------------------|--|
| | 2008 | 1978 | | | | |
| FOUNTAIN HILLS | 25,995 | 10,190 | 2.5510 | 2.6750 | \$4,107,576 | \$28,029,890 |
| FREDONIA | 1,130 | 850 | 1.3294 | 2.6750 | \$329,695 | \$1,172,444 |
| GILA BEND | 1,899 | 1,575 | 1.2057 | 2.6750 | \$684,678 | \$2,208,264 |
| GILBERT | 214,820 | 4,250 | 50.5459 | 2.6750 | \$2,346,450 | \$317,261,400 |
| GLENDALE | 248,435 | 84,000 | 2.9576 | 2.6750 | \$67,955,628 | \$537,624,528 |
| GLOBE | 8,032 | 6,550 | 1.2263 | 2.6750 | \$2,436,186 | \$7,991,218 |
| GOODYEAR | 59,436 | 2,500 | 23.7744 | 2.6750 | \$4,125,000 | \$262,333,448 |
| GUADALUPE | 5,990 | 4,300 | 1.3930 | 2.6750 | \$549,792 | \$2,048,693 |
| HAYDEN | 839 | 1,200 | 0.6992 | 2.6750 | \$408,838 | \$764,631 |
| HOLBROOK | 5,611 | 5,450 | 1.0295 | 2.6750 | \$2,585,121 | \$7,119,423 |
| HUACHUCA CITY | 1,952 | 1,690 | 1.1550 | 2.6750 | \$317,153 | \$979,901 |
| JEROME | 329 | 395 | 0.8329 | 2.6750 | \$132,688 | \$295,631 |
| KEARNY | 2,285 | 2,665 | 0.8574 | 2.6750 | \$950,057 | \$2,179,008 |
| KINGMAN | 28,823 | 8,745 | 3.2959 | 2.6750 | \$4,426,488 | \$39,026,429 |
| LAKE HAVASU CITY | 55,429 | 13,000 | 4.2638 | 2.6750 | \$4,711,264 | \$53,734,261 |
| LITCHFIELD PARK | 5,093 | 3,835 | 1.3280 | 2.6750 | \$3,542,818 | \$12,585,698 |
| MAMMOTH | 1,789 | 1,960 | 0.9128 | 2.6750 | \$425,048 | \$1,037,797 |
| MARANA | 33,744 | 1,425 | 23.6800 | 2.6750 | \$202,239 | \$12,810,520 |
| MARICOPA | 37,252 | 3,790 | 9.8290 | 2.6750 | \$10,601,417 | \$278,736,891 |
| MESA | 459,682 | 130,000 | 3.5360 | 2.6750 | \$54,090,640 | \$511,630,488 |
| MIAMI | 1,891 | 2,615 | 0.7231 | 2.6750 | \$878,262 | \$1,698,885 |
| NOGALES | 21,709 | 11,740 | 1.8491 | 2.6750 | \$3,245,377 | \$16,053,030 |
| ORO VALLEY | 43,223 | 1,475 | 29.3037 | 2.6750 | \$272,317 | \$21,346,063 |
| PAGE | 7,374 | 4,375 | 1.6855 | 2.6750 | \$6,429,631 | \$28,988,869 |
| PARADISE VALLEY | 14,444 | 10,425 | 1.3855 | 2.6750 | \$6,645,509 | \$24,629,739 |

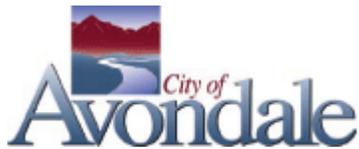
FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS

| CITY | POPULATION ** | | POPULATION FACTOR | INFLATION FACTOR* | FY 1979/80 BASE LIMIT | FINAL FY 2009/10 EXPENDITURE LIMITATION |
|------------------|---------------|---------|----------------------|----------------------|--------------------------|--|
| | 2008 | 1978 | | | | |
| PARKER | 3,385 | 2,485 | 1.3622 | 2.6750 | \$1,145,364 | \$4,173,457 |
| PATAGONIA | 934 | 925 | 1.0097 | 2.6750 | \$213,500 | \$576,664 |
| PAYSON | 16,965 | 4,305 | 3.9408 | 2.6750 | \$1,267,280 | \$13,358,984 |
| PEORIA | 155,560 | 10,500 | 14.8152 | 2.6750 | \$18,247,857 | \$723,170,421 |
| PHOENIX | 1,561,485 | 717,000 | 2.1778 | 2.6750 | \$229,200,625 | \$1,335,225,471 |
| PIMA | 2,399 | 1,465 | 1.6375 | 2.6750 | \$275,000 | \$1,204,607 |
| PINETOP-LAKESIDE | 4,765 | 2,635 | 1.8083 | 2.6750 | \$1,214,814 | \$5,876,412 |
| PRESCOTT | 43,280 | 19,250 | 2.2483 | 2.6750 | \$8,495,931 | \$51,096,087 |
| PRESCOTT VALLEY | 38,962 | 1,520 | 25.6329 | 2.6750 | \$380,054 | \$26,059,322 |
| QUARTZSITE | 3,692 | 2,115 | 1.7456 | 2.6750 | \$974,825 | \$4,551,955 |
| QUEEN CREEK | 23,827 | 2,525 | 9.4364 | 2.6750 | \$818,277 | \$20,655,150 |
| SAFFORD | 9,982 | 6,200 | 1.6100 | 2.6750 | \$20,484,597 | \$88,221,299 |
| SAHUARITA | 23,190 | 1,629 | 14.2357 | 2.6750 | \$713,697 | \$27,177,762 |
| SAN LUIS | 26,705 | 1,690 | 15.8018 | 2.6750 | \$724,909 | \$30,641,465 |
| SCOTTSDALE | 242,337 | 83,000 | 2.9197 | 2.6750 | \$55,861,444 | \$436,288,678 |
| SEDONA | 11,372 | 7,050 | 1.6130 | 2.6750 | \$2,960,687 | \$12,774,984 |
| SHOW LOW | 12,315 | 3,800 | 3.2408 | 2.6750 | \$1,443,667 | \$12,515,206 |
| SIERRA VISTA | 45,908 | 24,050 | 1.9089 | 2.6750 | \$10,055,882 | \$51,346,827 |
| SNOWFLAKE | 5,565 | 3,000 | 1.8550 | 2.6750 | \$741,469 | \$3,679,231 |
| SOMERTON | 11,377 | 3,540 | 3.2138 | 2.6750 | \$681,742 | \$5,860,905 |
| SOUTH TUCSON | 5,800 | 6,275 | 0.9243 | 2.6750 | \$1,879,168 | \$4,646,223 |
| SPRINGERVILLE | 2,194 | 1,400 | 1.5671 | 2.6750 | \$678,299 | \$2,843,478 |
| STAR VALLEY | 2,164 | 2,255 | 0.9596 | 2.6750 | \$744,113 | \$1,910,160 |
| ST. JOHNS | 4,006 | 4,100 | 0.9771 | 2.6750 | \$819,104 | \$2,140,850 |
| SUPERIOR | 3,375 | 4,700 | 0.7181 | 2.6750 | \$682,763 | \$1,311,493 |

FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS

| CITY | POPULATION ** | | POPULATION FACTOR | INFLATION FACTOR* | FY 1979/80 BASE LIMIT | FINAL FY 2009/10 EXPENDITURE LIMITATION |
|--------------|------------------|------------------|----------------------|----------------------|--------------------------|--|
| | 2008 | 1978 | | | | |
| SURPRISE | 108,761 | 3,550 | 30.6369 | 2.6750 | \$9,500,000 | \$778,553,738 |
| TAYLOR | 4,453 | 1,740 | 2.5592 | 2.6750 | \$245,508 | \$1,680,696 |
| TEMPE | 172,641 | 102,000 | 1.6926 | 2.6750 | \$65,579,379 | \$296,914,373 |
| THATCHER | 5,499 | 3,170 | 1.7347 | 2.6750 | \$1,860,674 | \$8,634,057 |
| TOLLESON | 6,833 | 4,190 | 1.6308 | 2.6750 | \$966,494 | \$4,216,156 |
| TOMBSTONE | 1,709 | 1,600 | 1.0681 | 2.6750 | \$508,007 | \$1,451,483 |
| TUCSON | 543,959 | 311,400 | 1.7468 | 2.6750 | \$138,097,586 | \$645,288,307 |
| WELLTON | 2,318 | 900 | 2.5756 | 2.6750 | \$460,150 | \$3,170,228 |
| WICKENBURG | 6,442 | 3,300 | 1.9521 | 2.6750 | \$6,600,000 | \$34,464,411 |
| WILLCOX | 3,904 | 2,985 | 1.3079 | 2.6750 | \$10,497,909 | \$36,727,251 |
| WILLIAMS | 3,165 | 2,100 | 1.5071 | 2.6750 | \$1,254,501 | \$5,057,613 |
| WINKELMAN | 427 | 1,010 | 0.4228 | 2.6750 | \$183,579 | \$207,611 |
| WINSLOW | 10,194 | 7,725 | 1.3196 | 2.6750 | \$4,995,579 | \$17,634,052 |
| YOUNGTOWN | 6,522 | 2,100 | 3.1057 | 2.6750 | \$559,874 | \$4,651,274 |
| YUMA | 93,719 | 34,500 | 2.7165 | 2.6750 | \$15,663,245 | \$113,817,867 |
| TOTAL | 5,264,467 | 1,896,043 | 2.7766 | | \$893,830,595 | \$7,820,088,230 |

* SOURCE: (2008 GDP Implicit Price Deflator - Survey of Current Business, March 2009)/(1978 GDP Implicit Price Deflator) = 122.41/45.76
 ** FIGURES AS OF JULY 1 (SOURCE: DEPT. OF ECONOMIC SECURITY)



CITY COUNCIL REPORT

SUBJECT:

Ordinance 1378-709 and 1879-709 - Acquisition of Property - Neighborhood Stabilization Program (NSP)

MEETING DATE:

July 6, 2009

TO: Mayor and Council

FROM: Gina Montes, Neighborhood and Family Services Director (623)333-2727

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff requests authorization to acquire the following two properties for demolition under the Neighborhood Stabilization Program: 516 E. Dee Street (APN 500-53-068), and 320 E. Hill Drive (APN 500-17-100).

BACKGROUND:

The Neighborhood Stabilization Program (NSP) of the 2008 Housing and Economic Recovery Act of 2008 appropriated \$2,466,039 to Avondale for "assisting in the redevelopment of foreclosed homes." The U.S. Department of Housing and Urban Development (HUD) issued regulations on September 29, 2008 specifying the activities that may be undertaken with NSP funds which include demolition of blighted foreclosed properties. On November 17, 2008 City Council authorized \$372,925 to be used in the Old Town Avondale neighborhood for this purpose.

DISCUSSION:

The two properties listed qualify for acquisition under the NSP. The City proposes to purchase 320 E. Hill Drive and accept a donation of 516 E. Dee Street and then demolish the structures, pursuant to HUD guidelines. The purchase price will be at least 1% less than the appraised value. The properties will be held by the City for future development. With Council approval the City will enter into purchase/donation contracts for the acquisition of the properties contingent upon completion with satisfactory results of a Phase I Environmental Report and a NEPA Environmental Review. All lead and asbestos will be abated prior to demolition.

BUDGETARY IMPACT:

City Council approved \$372,925 of Avondale's NSP allocation for demolition of blighted foreclosed properties which is programmed into the 2009/2010 budget. No General Fund dollars are required.

RECOMMENDATION:

Staff recommends approval of the ordinances authorizing the acquisition of two properties (APN 500-53-068 and 500-17-100) under the Neighborhood Stabilization Program.

ATTACHMENTS:

Click to download

[📄 Ordinance 1378-709](#)

[📄 Ordinance 1379-709](#)

ORDINANCE NO. 1378-709

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE.

WHEREAS, Article 1, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to acquire real property in fee simple or any lesser interest, inside or outside its corporate limits for any City purpose, when the public convenience requires it and in accordance with the provisions of State law; and

WHEREAS, the City Council desires to authorize the acquisition of certain real property necessary for public use.

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

SECTION 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. That the acquisition, by purchase, condemnation or dedication of \pm 0.161 acres of real property, Maricopa County Assessor’s Parcel No. 500-17-100, generally located north of Hill Drive, east of 3rd Street, in Avondale, Arizona (the “Acquisition Property”), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby authorized.

SECTION 3. That, in the event that a negotiated purchase cannot be reached for the Acquisition Property, the City Attorney is hereby authorized and directed to immediately initiate condemnation proceedings, including all actions necessary to enable the City to take possession of said property at the earliest possible date.

SECTION 4. That, if any provision of this Ordinance 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 5. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, July 6, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

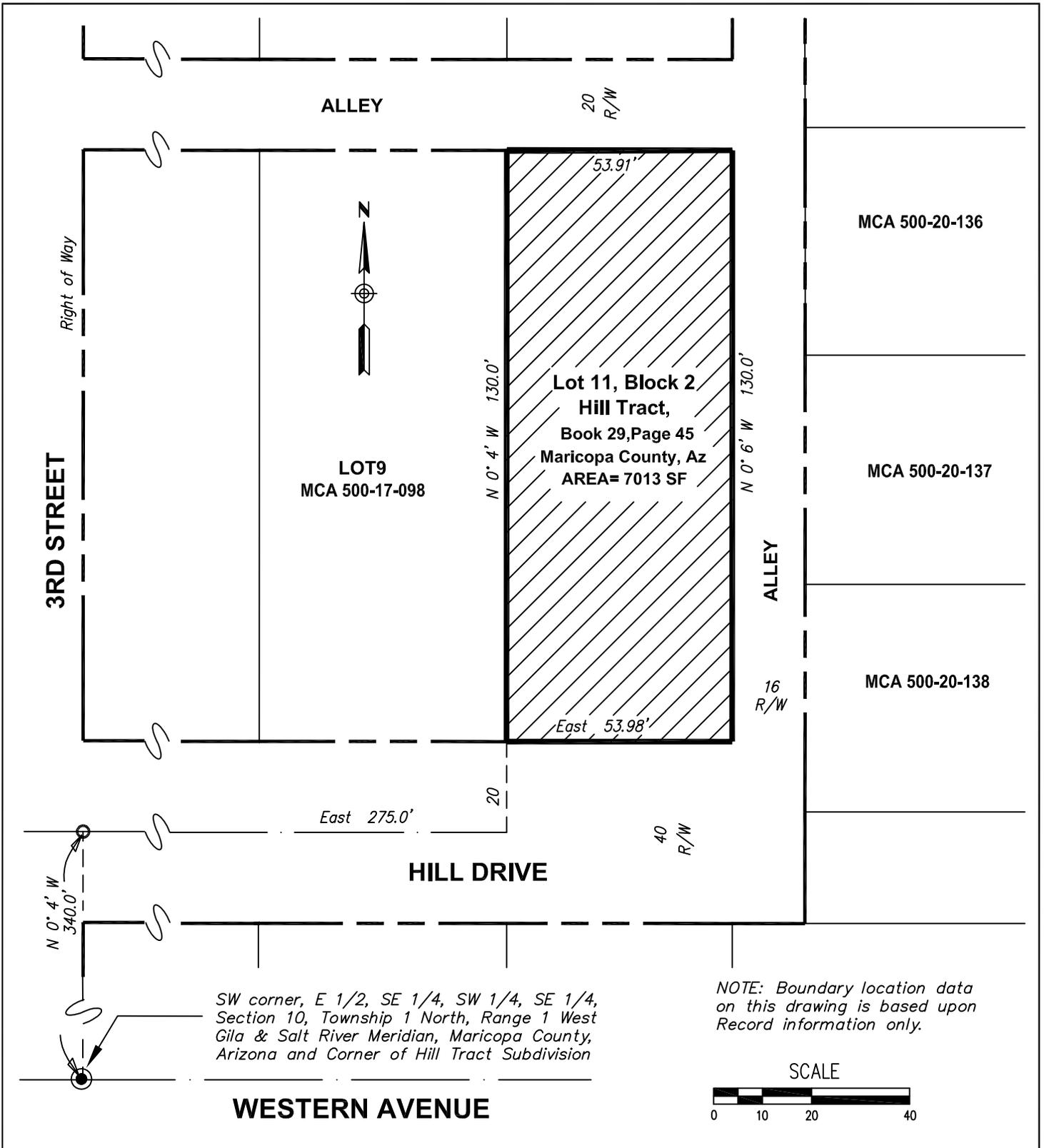
EXHIBIT A
TO
ORDINANCE NO. 1378-709

[Legal description and map of Acquisition Property]

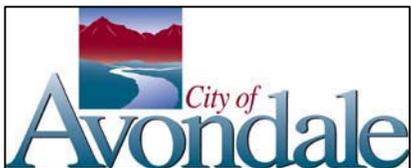
See following pages.

Property description:
320 E Hill Drive
Parcel #: 500-17-100

Lot 11, Block 2, Hill Tract, according to Book 29 of Maps, Page 45, Official Records of Maricopa County, Arizona.



SW corner, E 1/2, SE 1/4, SW 1/4, SE 1/4,
Section 10, Township 1 North, Range 1 West
Gila & Salt River Meridian, Maricopa County,
Arizona and Corner of Hill Tract Subdivision



GIS - LAND SERVICES

EXHIBIT MAP
PARCEL 500-17-100
320 E Hill Drive, Avondale AZ

DATE: 6-19-2009
DSN: _____
DRN: LS
CHK: _____

NEIGHBORHOODS
PROPERTY ACQUISITION
PAGE
2 OF 2

ORDINANCE NO. 1379-709

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE.

WHEREAS, Article 1, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to acquire real property in fee simple or any lesser interest, inside or outside its corporate limits for any City purpose, when the public convenience requires it and in accordance with the provisions of State law; and

WHEREAS, the City Council desires to authorize the acquisition of certain real property necessary for public use.

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

SECTION 1. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. That the acquisition, by purchase, condemnation or dedication of \pm 0.211 acres of real property, Maricopa County Assessor’s Parcel No. 500-53-068, generally located north of Dee Street, east of 4th Street, in Avondale, Arizona (the “Acquisition Property”), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby authorized.

SECTION 3. That, in the event that a negotiated purchase cannot be reached for the Acquisition Property, the City Attorney is hereby authorized and directed to immediately initiate condemnation proceedings, including all actions necessary to enable the City to take possession of said property at the earliest possible date.

SECTION 4. That, if any provision of this Ordinance 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 5. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, July 6, 2009.

Marie Lopez Rogers, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1379-709

[Legal description and map of Acquisition Property]

See following pages.

Property Description

516 E. Dee Street

Parcel # 500-53-068

Lot 25, Block 3, Riverview3 Park, according to Book 45 of Maps, Page 7, Official Records of Maricopa County, Arizona.

NOTE: Boundary location data on this drawing is based upon Record information only.

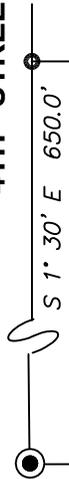


**Lot 25, Block 3
Riverview Park,
Book 45, Page 7
Maricopa County, Az
AREA= 9213 SF**

MCA 500-53-067

MCA 500-53-069

4TH STREET



S 89° 58' E 505.0'

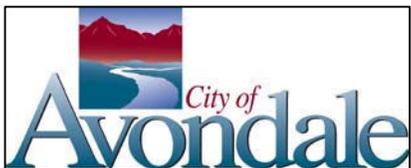
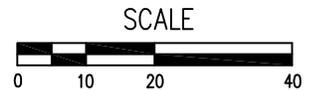
25
R/W

DEE STREET

*East Quarter Corner Section 15,
Township 1 North, Range 1 West
Gila & Salt River Meridian,
Maricopa County, Arizona*

S 89° 58' E 1319.17'

HARRISON DRIVE



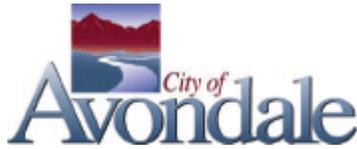
GIS - LAND SERVICES

**EXHIBIT MAP
PARCEL 500-53-068
516 E Dee Street, Avondale AZ**

DATE: 6-19-2009
DSN: _____
DRN: LS
CHK: _____

**NEIGHBORHOODS
PROPERTY ACQUISITION**

PAGE
2 OF 2



DEVELOPMENT SERVICES

SUBJECT:
Site Plan Approval - CVS Pharmacy (DR-08-16)

MEETING DATE:
July 6, 2009

TO: Mayor and Council
FROM: Brian Berndt, Development Services Director, 623-333-4011
THROUGH: Charlie McClendon, City Manager

PARCEL SIZE: 1.73 Acres

LOCATION: The subject property is located at the Southwest corner of Avondale Boulevard and Van Buren Street in the Coldwater Springs Promenade commercial center (the center's Northeast corner).

APPLICANT: Steven Bowser, Principal, MetroLand Consultants LLC

OWNER: Jeff Schwartz, Empire Center at Coldwater Springs, LLC

SUMMARY OF REQUEST:

- The applicant is requesting site plan approval for a retail store and pharmacy on a 1.73 acre parcel located at the southwest corner of Avondale Boulevard and Van Buren Street (Exhibits A, B, and D). A single building with a drive-thru component totaling 12,900 square feet is proposed along with associated vehicular accesses and parking lot, service and loading areas, and landscaping (see Exhibit E).
- The proposed one story building is 28 feet tall with a small mezzanine at the west end used for storage purposes only.
- The property is subject to Avondale's City Center Specific Plan as indicated by the Coldwater Springs Promenade site plan approval letter dated May 11, 2007 (Exhibit I). The property is also subject to the approved Master Plan and its defining design and development criteria, particularly traffic criteria.
- The property is designated by the General Plan Land Use Map as Commercial (Exhibit C). The Commercial designation is designed to provide for the daily needs of goods and services of the residents within the surrounding area. In the City Center Specific Area Plan, the property is designated as Neighborhood Commercial (Exhibit C). Specifically, Design Policy 5-2 reads, "Design new development in the Neighborhood Commercial areas in accordance with the provisions of the approved Planned Area Developments, and other applicable guidelines."
- There are 2 vehicular access points off of the west drive aisle; one that enters the north parking lot area, and one that is oversized and accesses the loading dock, trash enclosure, and pharmacy drive-thru functions. There is one vehicular access point off of the south drive aisle; it accommodates the east parking lot and drive-thru exiting traffic (See Exhibit E).
- The total number of parking spaces provided is 55; 43 are required. The lot accommodates handicap accessible spaces at both sides of the main entry. The parking lot is screened by an existing perimeter screen wall; the drive-thru is screened by a new 3-foot decorative screen wall with materials compatible with the building.
- The proposed architecture is a contemporary style and compatible with the other buildings in Coldwater Springs Promenade (Exhibit G). Each facade is relatively a single plane with stone projections providing some variation at each building face. Windows are provided only at the main entrance, at the drive-thru, and along approximately half of the east facade. The building

includes architectural treatment on all four sides, variations in the roofline, a continuous brick base, changes in colors, and cantilevered metal canopies. Colors are earth tones on the walls, and green and green and bronze on the metal; materials are predominantly stucco with masonry, stone, glass and metal accents. All materials and colors are from the approved master plan palette.

- The landscape plan (Exhibit F) consists mainly of existing trees located along Avondale Boulevard and Van Buren Street and a combination of existing and new trees and shrubs along the southern and western edges of the site.
- The site plan includes a small unshaded entry plaza with two benches, a trash receptacle, and a bike rack. Nearby, two pedestrian crosswalks with decorative pavement, yet questionable safety clearances, bisect the parking lots. They lead to openings in the perimeter screen wall that allow pedestrian access to both Avondale Boulevard and Van Buren Street. At each wall opening, a shade structure with a bench is shown.
- Area lighting at the parking lot is provided via 25-foot tall pole-mounted fixtures that match the commercial center's previous installations. Decorative lighting is provided along the north and east elevations to light adjacent walkways; standard building fixtures supplement the decorative fixtures along each facade, at the drive-thru, and at secondary door locations. Landscape accent lighting was removed from the plans at the third submittal. Staff did not recommend removing this accent lighting; it only stated that certain fixture installation methods were not appropriate.
- Pedestrian routes hug the building and, in essence, provide access from the adjacent parking to the building's entrance. Shade is provided only at the building entry and for partial lengths along the north and east walks (about 55 feet at each walk).
- The loading area and adjoining screen walls are visually apparent from Van Buren Street; the dock itself extends beyond the north facade of the building. Either of these conditions is not allowed per Zoning. The service door faces Van Buren and is unscreened. Also, since the screen wall is not connected to the building the service area is open to the parking lot and pedestrian access. The loading area potentially overlaps other back-of-house functions, such as trash enclosures, when trucks are present. The loading area, trash areas, and pharmacy drive-thru share the same access drive to each function.
- Retention is captured on site and located below grade.
- The development is proposed to occur in one phase; no off-site improvements are required.

PARTICIPATION:

A letter of notification and a copy of the site plan were mailed on October 15, 2008 to property owners within 500 feet of the property. No comments have been received to date.

PLANNING COMMISSION ACTION:

During review, staff outlined a number of concerns with the proposed development, the two most critical of those being traffic safety and noncompliance with stipulation 13 of the master plan approval. At the third review, it became evident that these issues were not going to be adequately addressed by the applicant. The third and final letter indicated that this project will be taken to the Planning Commission at the May 21, 2009 meeting with a recommendation of denial (Exhibit J).

On May 21, 2009, the Planning Commission discussed and considered the request. (Exhibit M). Following the thorough discussion which focused on the issue of the site's specific nonconformance with the City Center Specific Area Plan as explained in the attached minutes, the Commission voted 5-1 to forward a recommendation of "No Recommendation" to City Council. Planning Commission did request that the applicant and staff meet again to determine if a compromise could be reached. Staff agreed.

ANALYSIS:

In general, two core issues remain unaddressed that staff feels cannot be compromised, and therefore recommends denial of the CVS Pharmacy project. These issues are lack of compliance with the City Center Area Specific Plan; and, unsafe and non-compliant (per master plan approval)

traffic circulation. At the approval of the Coldwater Springs Promenade site plan, the applicant's representative accepted a stipulation which required Pad 5 to meet the design guidelines in the Area Plan if a site plan was not approved before the adoption of the Area Plan (Exhibit __). It was not. To date the applicant dismisses the binding nature of that stipulation, and is reluctant to work with staff to meet the intent of the City Center: To create a pedestrian-oriented, urban environment.

General Plan, City Center Area Specific Plan, and Zoning Ordinance

1. The General Plan Land Use Map designates this property as Commercial. The proposed CVS Pharmacy development is consistent with this General Plan designation. The City Center Specific Area Plan designates this property as Neighborhood Commercial. The proposal also is consistent with the Area Plan's designation.
2. Legal council for the City of Avondale determined that stipulation 13 on the Master Plan approval letter dated May 11, 2007, is binding and applicable to the Site Plan review process. The applicant does not agree due to the policy nature of the document. However, as legal council also stated, the nature of the source of the stipulation is irrelevant as to whether or not this project is required to follow it. The stipulation itself governs the applicability. Therefore, there is no question that the project is subject to the City Center Specific Area Plan. Furthermore, there was never a question with respect to the intent or vision of the Area Plan to create a pedestrian-friendly development. The property is clearly a part of the City Center; staff's concern with the site plan is that it misses this intent.
3. There are design standards that must be met for a property located in the Neighborhood Commercial subdistrict of the City Center as well as any location in the City Center. The applicant points to one design policy that in their opinion relieves them of any compliance with the Area Plan. What they fail to understand is that there are others that are also relevant and applicable. The first paragraph of Chapter 5, Development and Design Standards of the City Center Specific Plan states, "In order to achieve the desired vision for a pedestrian-oriented environment in the City Center area, development projects should be built in accordance with key design guidelines. Parking should be located behind buildings rather than along pedestrian street frontages. Buildings should be located close to the sidewalk and incorporate awnings and overhangs, to provide shade and minimize the radiant heat from hard surfaces." The main issue staff has with the plan is building location. The building is set back away from the corner with a double row of parking in its foreground. This is a typical suburban approach, counter to the intent of the City Center Specific Plan. While pedestrians may access the site from Avondale Boulevard and Van Buren Street, the pedestrian must then walk across the parking lot to access the front door. This does not constitute a pedestrian-friendly environment. Also, adding one bench in an unshaded entry area does not constitute a "pedestrian friendly environment" either. Added to this is additional parking beyond what is required by zoning. Many of these spaces can be eliminated and larger, nicely planted parking islands can be provided. Lastly, if the building was moved to engage the corner it would ease up the functional congestion of the service, trash, and drive-thru elements. Staff provided the applicant options to achieve this (Exhibit H).
4. CVS Pharmacy stated it only utilizes its prototype building plans for its facilities. However, the exception to this rule was made just recently for a Tempe, Arizona, location (Exhibit K). In a similar setting and special district of Tempe, CVS designed a new floor plan which sites the building at the corner. When staff asked early in the review process why this was the case for Tempe, CVS had no response. Currently they claim these corners are not comparable. In the end, the applicant will not concede that this corner in Avondale is significant enough today, and therefore will not accommodate Avondale's design concerns. Staff found another Tempe example that allowed for a building at the corner and only one entrance (See Exhibit K). CVS has not responded to this inquiry to date. There are several other locations where CVS has implemented a pharmacy and store at corner locations. When asked about these locations, there always seems to be an excuse as to why it was okay there, but not allowable for Avondale.

5. The service area extends beyond the face of the building and faces Van Buren Street, and a service door is shown along the north face of the building. This is undesirable and unacceptable per Zoning. In Revised Section 7, Supplementary Regulations, Subsection 709.B.1.a.(1) clearly reads, "All loading, delivery, and service bays should not front onto a public street and shall be screened from public view...". While screened, there is a safety concern as the wall is open at the end near the parking allowing for someone to hide in this space close to the walkway; the service area is a security problem.

Access, Circulation, and Parking

1. The master plan vehicular access criteria has not been met to the satisfaction of the City Engineer, the City's Plan Review engineer, and two traffic consultants contracted by the City (Exhibit L). The master plan sets the framework that future development must meet. Any criteria established in that phase, including traffic, are required to be satisfied. In the current submittal, the access drive that runs north-south perpendicular to Van Buren Street must either provide a 100-foot median in this drive, or access to the site be fully restricted. Staff asserts its opinion that the layout must reflect this criteria as approved on the Master Plan per this site plan proposal.

2. The approved master plan allowed for only 2 vehicular access points total to pad 5; however, due to safety concerns, neither of these access points would be permissible off of the west drive aisle unless the median of at least 100 feet was introduced restricting site access from Van Buren Street as described previously. The submittal not only allows for this unrestricted access, but also locates a loading dock that accommodates a semi-tractor trailer truck, the trash and trash compactor service areas, and the 2-lane wide entrance to the pharmacy drive-thru. Locating these functions altogether at the entrance to the drive-thru will lead to operational conflicts. The applicant concedes that there is this potential.

3. The drive-thru provides double lane access to meet peak demand requirements. However, it is not designed to accommodate these two rows of vehicular access. The site plan itself diagrams how cars cannot maneuver with honest clearance. The turning movements are still awkward, and crossover traffic when entering the drive-thru from the South is unavoidable and undesirable. Furthermore, the building is exposed to damage as cars navigate this awkward layout.

4. New pedestrian crossing locations propose a potential physical hazard to pedestrians who will now cross between parked cars. This circulation pattern is undesirable. This can be completely avoided with the building sited at the corner. Pedestrians would not have to cross any vehicular traffic as they approached the front door. Further, interestingly these crossings tie into the pedestrian access points provided in the existing perimeter screen wall. Clearly this signifies the intent for future pad 5 to accommodate a pedestrian-oriented development. Crossing parked cars is counter to this intent.

5. As mentioned above, the site is over-parked, and issues of heat gain and limited planting and shade potential is minimized under these conditions.

Landscaping, Open Space, and Retention

1. The landscaping plan is adequately planted, however, several of the plantings already existed. Large trees are proposed, yet the planting design needs to be much improved for such a significant corner. Staff feels with the excessive parking, the site lacks the shade, significance, and added scale additional trees would provide.

2. A single row of new shrubs initially shown in raised planters that were later substituted for at-grade planting beds line the north and east building foundations. Staff recommended that these shrubs be spaced more tightly than usual in order to create a strong massing at the building faces. Out of a

total of 39 trees as shown in the Plant List, 14 trees are new. Out of 565 total shrubs, 367 are new as shown in the plant list. The planting palette is in line with the planting theme already proposed at Coldwater Springs Promenade featuring Desert Museum Palo Verdes, Palo Breas, Sissoos, and Mesquites. All new trees are proposed at 3" caliper; all new shrubs and groundcovers are proposed at 5 gallon container sizes. While the City Center area plan recommends some of the varieties and sizes of trees as shown, the CVS site does not employ a greater density of trees, particularly along Avondale Boulevard and Van Buren Streets. Parking dominates this opportunity per the proposal.

3. Open space is minimal; a small entry plaza, essentially a large parking lot island, acts as the foreground to the building. If the building engaged the corner as suggested, a better connection to the fountain as a focal entry point could be achieved, as well as pedestrians would be better able to appreciate this nice feature at a more intimate distance.

4. Retention is all underground, but must be re-evaluated if the site plan should change.

Signage

1. A sign package did not accompany any submittal received. The signage on the elevations shall be considered for illustrative purposes only and not approved. A sign package must be submitted for review and approved prior to the application of any sign permit.

Elevations

1. The building elevations are acceptable; the applicant was responsive to staff's comments. However, the building elevations are not the issue; the building location is. Efforts to address our concerns were focused on building decoration, not building placement and general compliance with the City Center Specific Plan.

2. Rooflines vary at the main entrance and slightly around the rest of the building. The roofline treatment is acceptable.

FINDINGS:

The proposed site plan as shown does not meet the following findings:

1. The site plan is in conformance with the General Plan, but is not in conformance with the City Center Area Specific Plan.
2. The site plan is not in conformance with the Coldwater Springs Promenade master plan.
3. The site plan is not in conformance with the Avondale Zoning Ordinance.

RECOMMENDATION:

Based on the information provided by the applicant, the public input received, and the analysis by staff, staff recommends denial of the requested Site Plan based on the non-conformance with the City Center Area Specific Plan and Avondale's design and safety standards pertaining to circulation.

PROPOSED MOTION:

I move that the City Council accept the findings and recommend **DENIAL** of application DR-08-16, a request for Site Plan approval for the CVS pharmacy development.

ATTACHMENTS:

Click to download

 [Exhibit A](#)

 [Exhibit B](#)

[Exhibit C](#)

[Exhibit D](#)

[Exhibit E](#)

[Exhibit F](#)

[Exhibit G](#)

[Exhibit G](#)

[Exhibit H](#)

[Exhibit H](#)

[Exhibit I](#)

[Exhibit J](#)

[Exhibit K](#)

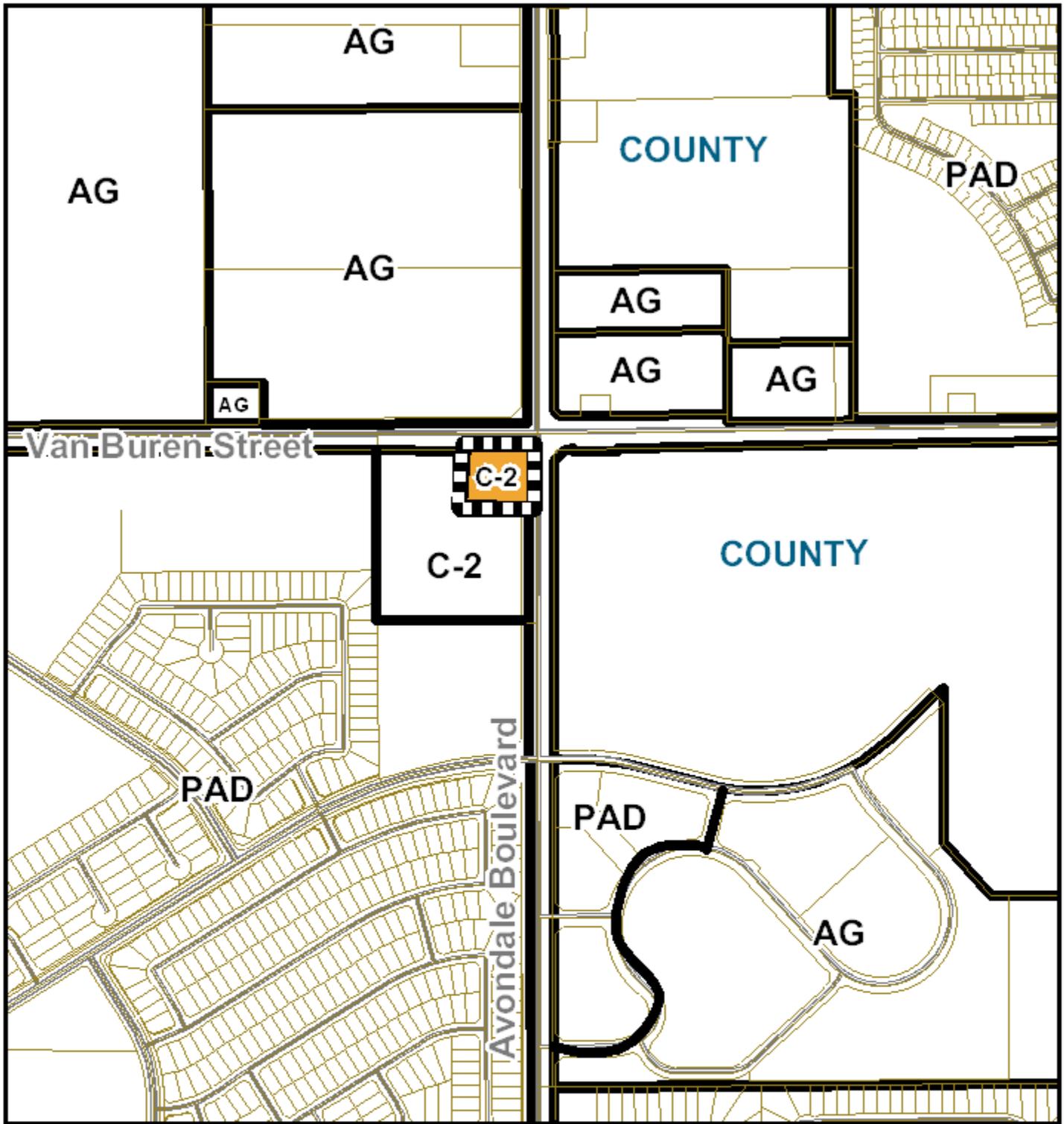
[Exhibit L](#)

[Exhibit M](#)

[Exhibit N](#)

PROJECT MANAGER:

Stacey Bridge-Denzak, Planner, Development Services 623-333-4015



Zoning Vicinity Map



Subject Property





2008 Aerial Photograph



Subject Property



SUMMARY OF RELATED FACTS

APPLICATION DR-08-16

| <i>THE PROPERTY</i> | |
|--------------------------|---|
| PARCEL SIZE | 1.55 Net Acres/ 1.73 Gross Acres. |
| LOCATION | SWC Corner of Avondale Boulevard and Van Buren Street. |
| PHYSICAL CHARACTERISTICS | The site is relatively flat and contains a corner water feature, 3-foot tall screen wall at the north and west edges, and landscaping. |
| EXISTING LAND USE | Vacant. |
| EXISTING ZONING | C-2 (Community Commercial) |
| ZONING HISTORY | The original property was annexed into the city in 1999 and zoned AG (Agriculture). It was rezoned from AG to C-2 (Community Commercial) on October 2 nd , 2000. |
| DEVELOPMENT AGREEMENT | None. |

| <i>SURROUNDING ZONING AND LAND USE</i> | |
|---|--|
| NORTH | AG (Agriculture) |
| EAST | Unincorporated (Agricultural use) |
| SOUTH | PAD (Coldwater Springs- Single family residential PAD with commercial component) |
| WEST | PAD (Coldwater Springs) |
| <i>GENERAL PLAN</i> | |
| Designated by General Plan land use map as Commercial; subject parcel also falls within the boundaries of the City Center Area Specific Plan. | |

| <i>PUBLIC SCHOOLS</i> | |
|-----------------------|---|
| SCHOOL DISTRICT(S) | Tolleson Union HS District, Littleton ES District |
| ELEMENTARY SCHOOL | Collier Elementary |
| HIGH SCHOOL | La Joya High School |

| <i>STREETS</i> | |
|-----------------------------------|--|
| Avondale Boulevard | |
| Classification | Arterial |
| Existing half street ROW | 65', up to 80' to accommodate turn lanes |
| Required half street ROW | 65' |
| Existing half street improvements | 3 through lanes, median, bike lane, curb & gutter, sidewalk, landscaping, and street |

| | |
|-----------------------------------|--|
| | lights. |
| Standard arterial improvements | 3 through lanes, median, bike lane, curb & gutter, sidewalk, landscaping, and street lights. |
| Van Buren Street | |
| Classification | Arterial |
| Existing half street ROW | 65', up to 80' to accommodate turn lanes |
| Required half street ROW | 65' |
| Existing half street improvements | 3 through lanes, median, bike lane, curb & gutter, sidewalk, landscaping, and street lights. |
| Standard arterial improvements | 3 through lanes, median, bike lane, curb & gutter, sidewalk, landscaping, and street lights. |

| | |
|---|--|
| <i>UTILITIES</i> | |
| In Avondale Boulevard there is a 16" water line and an 18" sewer line; in Van Buren Street there is a 16" water line and no sewer line. | |

Exhibit D



1850 N. Central Avenue, Suite 525, Phoenix, AZ 85004 • Tel: 602-393-2030 • Fax: 602-393-2031 • www.mlconsultants.com

SWC of Van Buren Street and Avondale Boulevard Project Description

Our office represents Armstrong Development Properties Inc. with regard to the property located at the southwest corner of Van Buren Street & Avondale Boulevard. Armstrong Development Properties Inc. is the preferred developer for CVS/pharmacy and intends to develop the property and construct a CVS/pharmacy at this location.

The property is approximately 1.7 acres and is currently vacant. The property is part of the approved Coldwater Springs Promenade Site Plan, approved on May 7, 2007. The proposed CVS site plan is consistent with that approved site plan with minor modifications to address the necessary screening. The proposed site plan also meets the design standards and the approved exhibits as part of the City Center Specific Plan where applicable. CVS/pharmacy is requesting approval for the construction of a high quality, visually appealing pharmacy and drive thru that will complement the proposed commercial center.

The design and build of the proposed CVS/pharmacy will take into account the existing motif of the immediate area and will enhance and compliment the neighborhood as well as the Coldwater Springs Promenade. The building will incorporate ample parking, landscaping, and architectural design. The site will also include a trash enclosure, truck dock, and trash compactor for recycling which will be constructed at the rear of the building. The trash enclosure will be screened and will not front any roadways or residential property.

Several different awning, canopy types, and design elements combine to provide visual interest. Parapet wall heights are designed to effectively screen the mechanical equipment from public view. The proposed development will be an upscale project which enhances the site and provides a durable pleasing design. This project will service the needs of the neighborhood and will be an asset to the City of Avondale.

The property as designed complies with and exceeds all City of Avondale Guidelines. The site complies with all ADA codes and regulations with a direct ingress/egress to both Van Buren Street & Avondale Boulevard. Fire truck and emergency vehicular access meets City of Avondale fire code with three existing fire hydrants located within 100' from the building.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Barry", is written over a light blue horizontal line.

Christopher Barry

KEYNOTES

- 1 OLD PROPERTY / R.O.W LINE
- 2 NEW PROPERTY / R.O.W LINE
- 3 P.U.E.
- 4 SETBACK LINE.
- 5 EXISTING CURB AND GUTTER TO REMAIN, PROTECT IN PLACE.
- 6 PROPOSED BIKE RACK.
- 7 PROPOSED 3' SCREEN WALL.
- 8 PROPOSED FIRE HYDRANT.
- 9 PROPOSED HARDSCAPE/WALK
- 10 EXISTING 8' SIDEWALK
- 11 ADA RAMP
- 12 EXISTING LANDSCAPE RETENTION BASIN
- 13 PROPOSED 5' WIDE DECORATIVE PAVING
- 14 PROPOSED LOADING ZONE
- 15 PROPOSED TRANSFORMER PAD OR DUMPISTER
- 16 PROPOSED REMOTE TRASH COMPACTOR
- 17 PROPOSED 6' SCREEN WALL
- 18 EXISTING BUS STOP TO REMAIN
- 19 SITE DISTANCE REQUIREMENT
- 20 PROPOSED COLDWATER SPRINGS PROMENADE WATER FEATURE
- 21 SITE VISIBILITY TRIANGLE
- 22 TRELLIS STRUCTURE. SEE ARCHITECTURE PLANS.
- 23 EXISTING HEADER

- 24 SITE DISTANCE REQUIREMENT AREA
- Note:
PLANTINGS WITHIN SYL LINE SHALL BE MAINTAINED SO THAT NO LIMBS HANG OVER THE SYL (2' FEET AND SPURS OR OTHER LIMBS) AND THE SYL LINE SHALL BE NO WIDER THAN TWO (2) FEET AT FULL GROWTH.
- TOPDRESS / DUST CONTROL
ALL PLANTING AREAS TO RECEIVE 2" MIN. DEPTH DECOMPOSED 1/2" MINUS MADISON GOLD.
- LINE TYPE LEGEND
LIMIT OF LANDSCAPE CONSTRUCTION
- NOTES:
1. ALL LANDSCAPE INSTALLED WITH THIS PROJECT, INCLUDING IN MATERIAL SHALL BE PROMPTLY REPAIRED. ANY DEAD PLANT MATERIAL SHALL BE PROMPTLY REPAIRED.
2. ALL AREAS DISTURBED BY CONSTRUCTION SHALL RECEIVE A MINIMUM 2" DECOMPOSED GRANITE TOPDRESS OR OTHER APPROVED DUST CONTROL METHOD.
3. ALL LANDSCAPE INSTALLED WITH THIS PROJECT SHALL BE PLACED ON AN AUTOMATIC DRAIN IRRIGATION SYSTEM.
4. TREE SPACING IS REQUIRED AND ALL TREE SPACING EQUIPMENT SHALL BE INSTALLED THAT WILL SINK/COACH WHEN NATURE.
5. TREES SHALL BE SIZED AND INSTALLED IN TERMS OF TREE CALIPER MEASUREMENT AS SHOWN ON THE PLANNING PLAN. TREE CALIPER FOR STANDARDS (SINGLE) TRUNK TREES SHALL BE MEASURED AT THE WIDEST POINT WITHIN THE FIRST FOUR TO SIX INCHES ABOVE THE SOIL LINE FOR TREES WITH 4" CALIPER AND FIVE AND SIX TO MULTI-TRUNK TREES SHALL BE MEASURED AT THE WIDEST POINT WITHIN THE FIRST SIX INCHES ABOVE GROUND IF ALL TRUNKS ORIGINATE FROM THE SOIL. CALIPER OF MULTIPLE TRUNK TREES SHALL BE DETERMINED BY TAKING THE AVERAGE CALIPER OF ITS TWO (2) LARGEST TRUNKS. DIAMETER AT BREAST HEIGHT (DBH) IS NOT AN APPROPRIATE METHOD FOR EVALUATING TREES AND IS NOT AN APPROPRIATE MEASUREMENT CRITERION FOR THE CITY OF AVONDALE.
6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF AVONDALE CONSTRUCTION SPECIFICATIONS CURRENTLY ON FILE AND AVAILABLE AT THE CITY OF AVONDALE ENGINEERING DEPARTMENT.

LANDSCAPE AREAS

| LANDSCAPE AREAS | REQUIRED | PROVIDED |
|---|------------|-------------|
| A. ON-SITE LANDSCAPE AREA: COMMERCIAL: 10% | 7,519 S.F. | 18,815 S.F. |
| 7,780 (New) + 11,035 (Existing) = 18,815 S.F. | | |
| B. RESIDENTIAL BUFFER LANDSCAPE AREA 10 FT FROM ALL RESIDENTIAL BOUNDARIES. | N/A | N/A |
| C. PARKING LANDSCAPE AREA MIN. 5% OF PARKING LOT AREA. | 5% | 5% |
| D. PARKING ISLANDS 1 PER 12 CONSECUTIVE PARKING SPACES MIN. 5 FT WIDE MIN. 50 S.F. | N/A | N/A |
| E. FOUNDATION PLANTING 33% OF BUILDING FRONTAGE FOR ANY ELEVATION ADJACENT TO A PUBLIC STREET OR DRIVE ABLE. | 33% | 68% |

LANDSCAPE PLANTINGS

| RIGHT OF WAY LANDSCAPE PLANTINGS | REQUIRED | PROVIDED |
|--|-----------|------------------|
| F. TREES: 1 PER 20 FT. OF STREET FRONTAGE | 22 TREES | 22 EX. TREES |
| G. SHRUBS: 2 PER 20 FT. OF STREET FRONTAGE | 44 SHRUBS | 108 EX. SHRUBS |
| 450 L.F. / 20' = 22 * 2 = 44 | | |
| H. SHRUB AND GROUND COVER AREA 25% PARKING SPACE PLANTINGS | 723 S.F. | 2,052 S.F. (EX.) |
| I. TREES: 1 PER 8 PARKING SPACES RESIDENTIAL BUFFER PLANTINGS | 7 TREES | 8 TREES (2 EX.) |
| J. TREES: 1 PER 20 FT OF RESIDENTIAL BOUNDARIES | N/A | N/A |

TOTALS

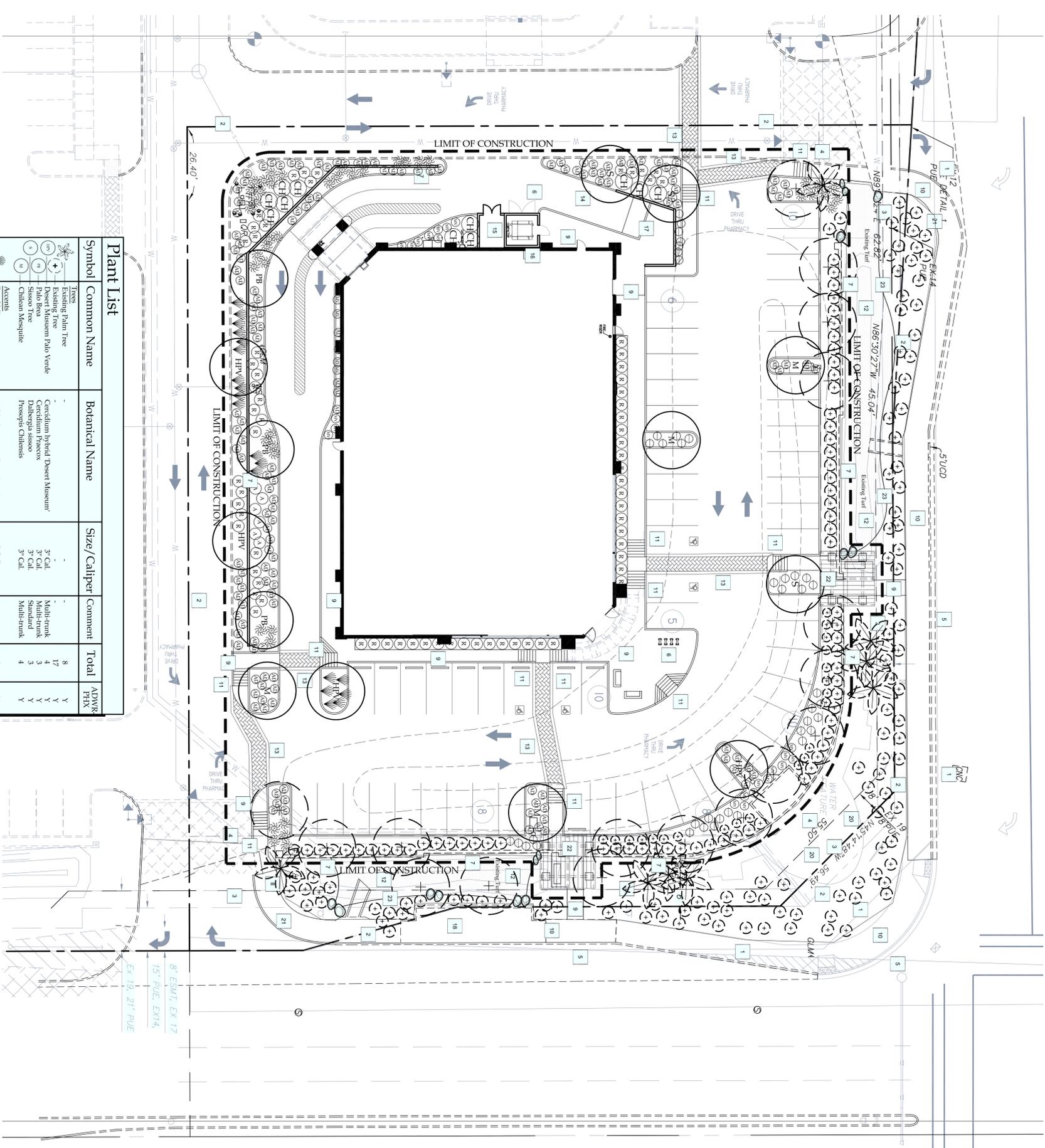
| TOTALS | REQUIRED | PROVIDED |
|---|------------|---------------------------|
| TOTAL ON SITE LANDSCAPE AREA | 7,519 S.F. | 18,815 S.F. |
| TOTAL RIGHT-OF-WAY LANDSCAPE AREA | 2,892 S.F. | 2,933 S.F. |
| TOTAL USEABLE OPEN SPACE PERCENT (PAD ONLY) | N/A | N/A |
| TOTAL TREES | 29 TREES | 30 TREES |
| TOTAL 24" BOX TREES (25% OF TOTAL TREES) | 7 TREES | 14 TREES |
| TOTAL SHRUBS | 44 SHRUBS | 108 SHRUBS |
| TOTAL GROUND COVER (1/2" SELECT D.G.) | 7,519 S.F. | 18,815 S.F. (111,035 EX.) |

Hardscape and Planting Plan

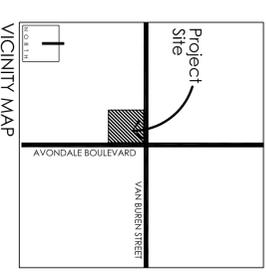
Project Number:
08-3043

Date:
20 February 2009

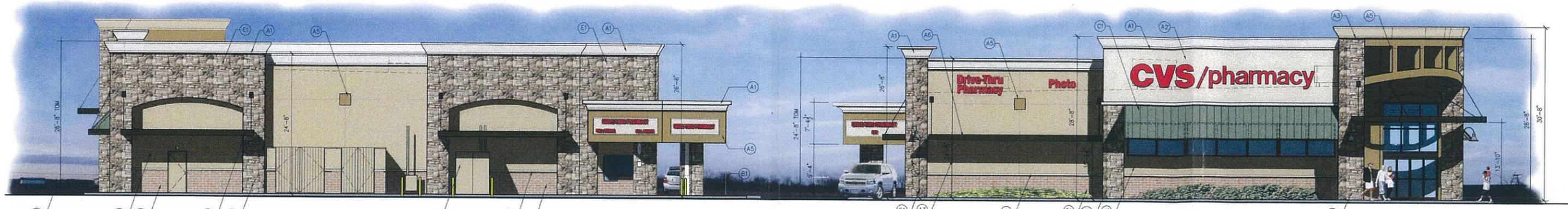
Sheet Number:
3 of 6



| Symbol | Common Name | Botanical Name | Size/Caliper | Comment | Total | ADWR PHX |
|--------|--|-----------------------------------|--------------|----------------------|------------|----------|
| (+) | Existing Palm Tree | - | - | - | 8 | Y |
| (*) | Existing Tree | - | - | - | 17 | Y |
| (M) | Desert Museum Palo Verde | Cercidium hybrid 'Desert Museum' | 3" Cal. | Multi-trunk Standard | 3 | Y |
| (S) | Desert Museum Palo Verde | Cercidium hybrid 'Desert Museum' | 3" Cal. | Multi-trunk Standard | 3 | Y |
| (P) | Sisoo Tree | Dalbergia sissoo | 3" Cal. | Multi-trunk | 4 | Y |
| (M) | Chillean Mesquite | Prosopis Chilensis | 3" Cal. | Multi-trunk | 4 | Y |
| (A) | Accents | - | - | - | 19 | Y |
| (R) | Regal Mist | Mulberrygia capillaris Regal Mist | 5 Caliper | - | 44 | Y |
| (D) | Desert Grass | Muhlenbergia rigens | 5 Caliper | - | 198 | Y |
| (S) | Shrubs/Grass/Grasses/Vines | - | - | - | 41 | Y |
| (M) | Existing Shrub | Baliya multiradiala | 5 Caliper | - | 26 | Y |
| (M) | Desert Marigold | Verbena tenuiseta | 5 Caliper | - | 130 | Y |
| (M) | Moss Verbena | Hymenocys acutis | 5 Caliper | - | 11 | Y |
| (M) | Angelita Daisy | Leucophyllum laevigatum | 5 Caliper | - | 70 | Y |
| (M) | Cahuilum Sage | Scutellaria peruviana | 5 Caliper | - | 0 | Y |
| (M) | Purple Scutum | Sida sp. | 5 Caliper | - | 0 | Y |
| (M) | Autumn Sage | Sida sp. | 5 Caliper | - | 0 | Y |
| (D) | Decomposed Granite | - | - | - | 7,780 S.F. | - |
| (G) | 1/2" minus Madison Cold Granite Boulders | - | - | - | - | - |
| (G) | Existing Granite Boulders | - | - | - | - | - |



Note:
This drawing is an instrument of service to be used solely for the site indicated. It is not to be used for any other purpose without the written consent of Gilliland Design Architects, Inc.



REAR ELEVATION (WEST)

FRONT ELEVATION (EAST)



SITE WALL DETAIL



LEFT SIDE ELEVATION (SOUTH)



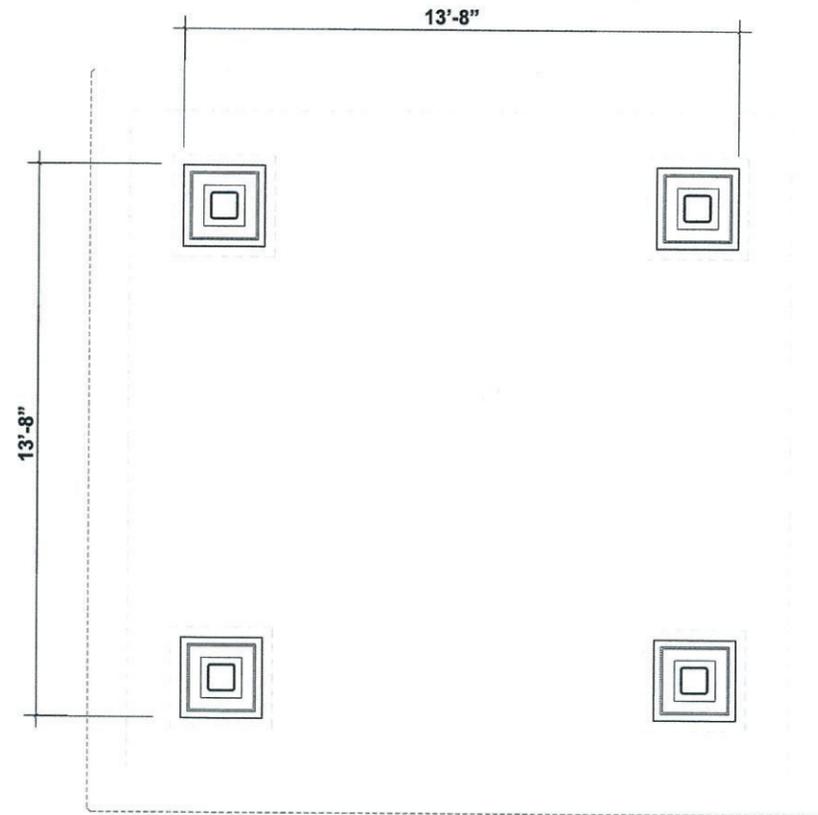
RIGHT SIDE ELEVATION (NORTH)

| | | |
|---|--|---|
| A1 | A2 | A3 |
| | | |
| STUCCO/EIFS FINISH TO MATCH DUNN EDWARDS SANDCASTLE DEC740 | STUCCO/EIFS FINISH TO MATCH DUNN EDWARDS WEATHERD CORAL DEC725 | STUCCO/EIFS FINISH TO MATCH DUNN EDWARDS MEDALLION DE5333 |
| A5 | A6 | C1 |
| | | |
| STUCCO/EIFS FINISH TO MATCH DUNN EDWARDS ANTIQUE PENNY DEA167 | STOREFRONT MEDIUM BRONZE KAWNEER | METAL ROOFING PATINA GREEN UNA-CLAD |
| E1 | B1 | B2 |
| | | |
| CULTURED STONE 60-40 BLEND 60% CHARDONNAY SOUTHER LEDGESTONE 40% CHARDONNAY DRESSED FIELDSTONE | PHOENIX BRICK YARD PRIMARY BRICK #1 | PHOENIX BRICK YARD ACCENT BRICK #20 |

CVS/pharmacy
 SWC VAN BUREN ST. & 115th AVE
 AVONDALE, ARIZONA

ARMSTRONG
 DEVELOPMENT
 1500 N. PRIEST RD
 SUITE 150E
 TEMPE, ARIZONA 85281
 TEL (602) 385-4100
 FAX (602) 385-4101

JACOBS
 04 MARCH 2009



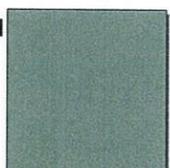
1 SHADE CANOPY PLAN
A-4.1 SCALE: 1/2" = 1'-0"



2 SHADE CANOPY ELEVATION
A-4.1 SCALE: 1/2" = 1'-0"

A1

 STUCCO/EIFS
 FINISH TO MATCH
 DUNN EDWARDS
 SANDCASTLE
 DEC740

C1

 METAL ROOFING
 PATINA GREEN
 UNA-CLAD

E1

 CULTURED STONE
 60-40 BLEND
 60% CHARDONNAY
 SOUTHER LEDGESTONE
 40% CHARDONNAY
 DRESSED FIELDSTONE

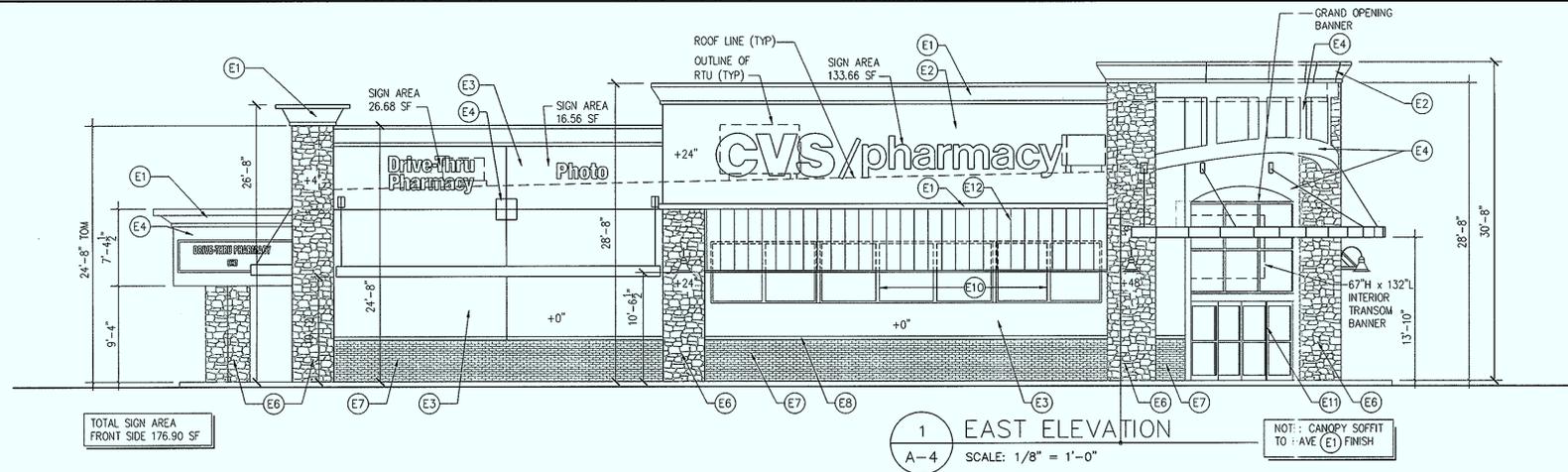
EXTERIOR FINISH SCHEDULE

| TAG | MATERIAL / DESCRIPTION | COLOR TO MATCH | NOTES |
|-----|--------------------------|---|-------|
| E1 | EIFS/STUCCO | DUNN EDWARDS DEC740 SANDCASTLE | -- |
| E2 | EIFS/STUCCO | DUNN EDWARDS DEC725 WEATHERED CORAL | -- |
| E3 | EIFS/STUCCO | DUNN EDWARDS DE5333 MEDALLION | -- |
| E4 | EIFS/STUCCO | DUNN EDWARDS DEA167 ANTIQUE PENNY | -- |
| E5 | EIFS/STUCCO | DUNN EDWARDS DEA149 RUDDY OAK | -- |
| E6 | STONE VENEER | CULTURED STONE 60-40 BLEND 60% CHARDONNAY SOUTHERN LEDGESTONE 40% CHARDONNAY DRESSED FIELDSTONE | -- |
| E7 | BRICK VENEER | PHOENIX BRICK YARD PRIMARY BRICK #1 | -- |
| E8 | BRICK VENEER | PHOENIX BRICK YARD PRIMARY BRICK #20 | -- |
| E9 | PREFINISHED METAL COPING | COLOR TO MATCH "E2" EIFS | -- |
| E10 | ALUM STOREFRONT | KAWNEER MEDIUM BRONZE | -- |
| E11 | ALUM AUTOMATIC DOOR | KAWNEER MEDIUM BRONZE | -- |
| E12 | METAL AWNING | UNA-CLAD PATINA GREEN | -- |
| E13 | STEEL CANOPY | PAINT TO MATCH "E10" | -- |

NOTE: SIGNAGE UNDER SEPARATE PERMIT. REFER TO APPROVED SIGNAGE PACKAGE FROM SIGNAGE VENDOR FOR SIZES AND LOCATIONS OF SIGNS. EXTERIOR SIGNAGE TO BE EXPANSION ANCHORED.

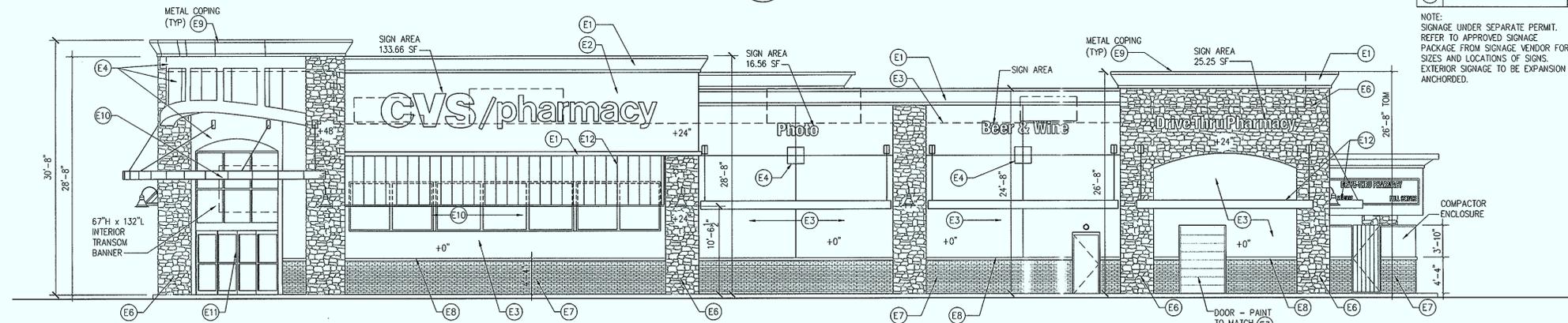
LEGEND

(X) - RE: EXTERIOR FINISH SCHEDULE



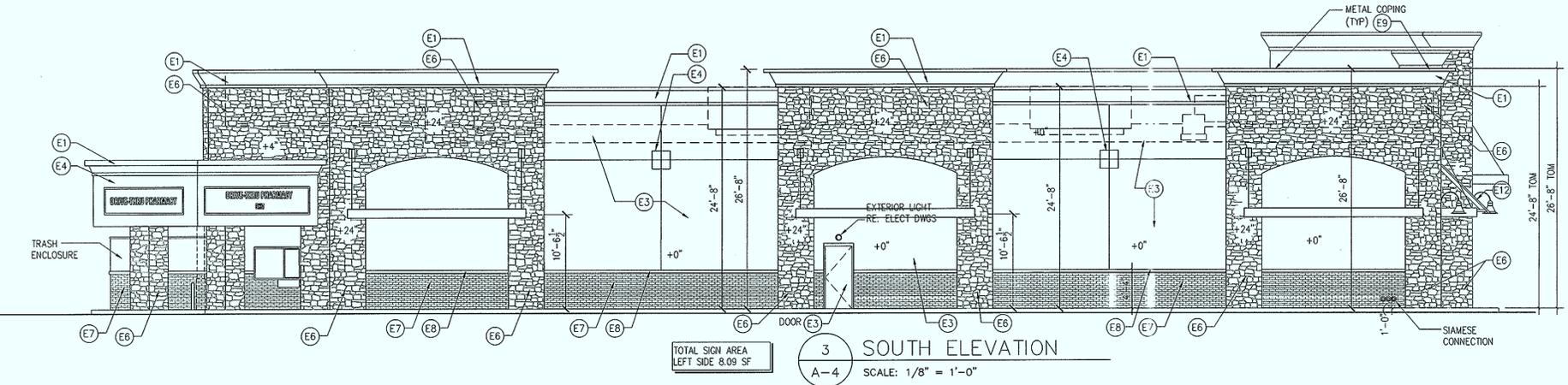
1 EAST ELEVATION
A-4 SCALE: 1/8" = 1'-0"

TOTAL SIGN AREA FRONT SIDE 176.90 SF



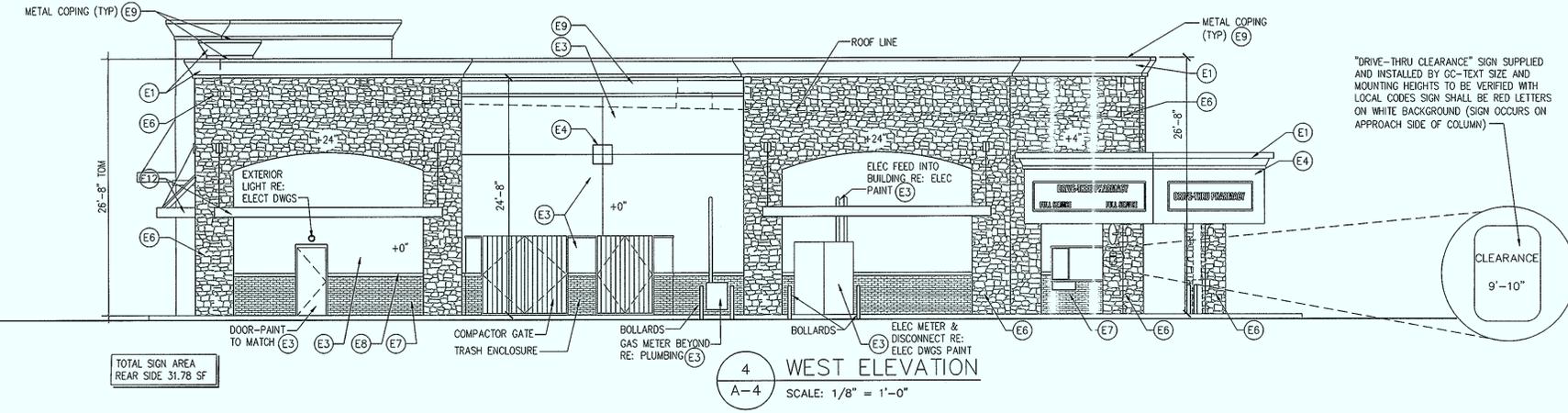
2 NORTH ELEVATION
A-4 SCALE: 1/8" = 1'-0"

TOTAL SIGN AREA RIGHT SIDE 184.35 SF



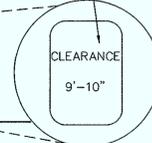
3 SOUTH ELEVATION
A-4 SCALE: 1/8" = 1'-0"

TOTAL SIGN AREA LEFT SIDE 8.09 SF

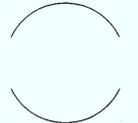


4 WEST ELEVATION
A-4 SCALE: 1/8" = 1'-0"

TOTAL SIGN AREA REAR SIDE 31.78 SF



SEAL:



THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL THE SEAL AND SIGNATURE OF THE RESPONSIBLE REGISTRANT APPEARS ON THE DRAWING, AND PROPER PERMIT FORMS AND RELATED FEES ARE TRANSMITTED BY THE OWNER, OWNER'S AGENT OR CONTRACTOR TO THE AUTHORITY HAVING JURISDICTION.



ARIZONA-12900 CHAMFER RH
STORE NUMBER: 05702
VAN BUREN AND 115TH
AVONDALE, AZ

DEVELOPER:



1500 N. Priest Rd
Suite 150E
Tempe, Arizona 85281
PHONE (602) 385-4100
FAX (602) 385-4101

REVISIONS:

DRAWING BY: JSC

DATE: FEBRUARY 25, 2008

JOB NUMBER: F1W18300

TITLE: EXTERIOR ELEVATIONS

SHEET NUMBER: A-4

COMMENTS:

SEAL:

PRELIMINARY

THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL THE SEAL AND SIGNATURE OF THE RESPONSIBLE REGISTRANT APPEARS ON THE DRAWING, AND PROPER PERMIT FORMS AND RELATED FEES ARE TRANSMITTED BY THE OWNER, OWNER'S AGENT OR CONTRACTOR TO THE AUTHORITY HAVING JURISDICTION.

CVS
pharmacy

ARIZONA-12900 CHAMFER RH
STORE NUMBER: 05702
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AVONDALE, AZ

DEVELOPER:



1500 N. Priest Rd
Suite 150E
Tempe, Arizona 85281
PHONE (602) 385-4100
FAX (602) 385-4101

REVISIONS:

DRAWING BY: JSC

DATE: JANUARY 23, 2008

JOB NUMBER: F1W18300

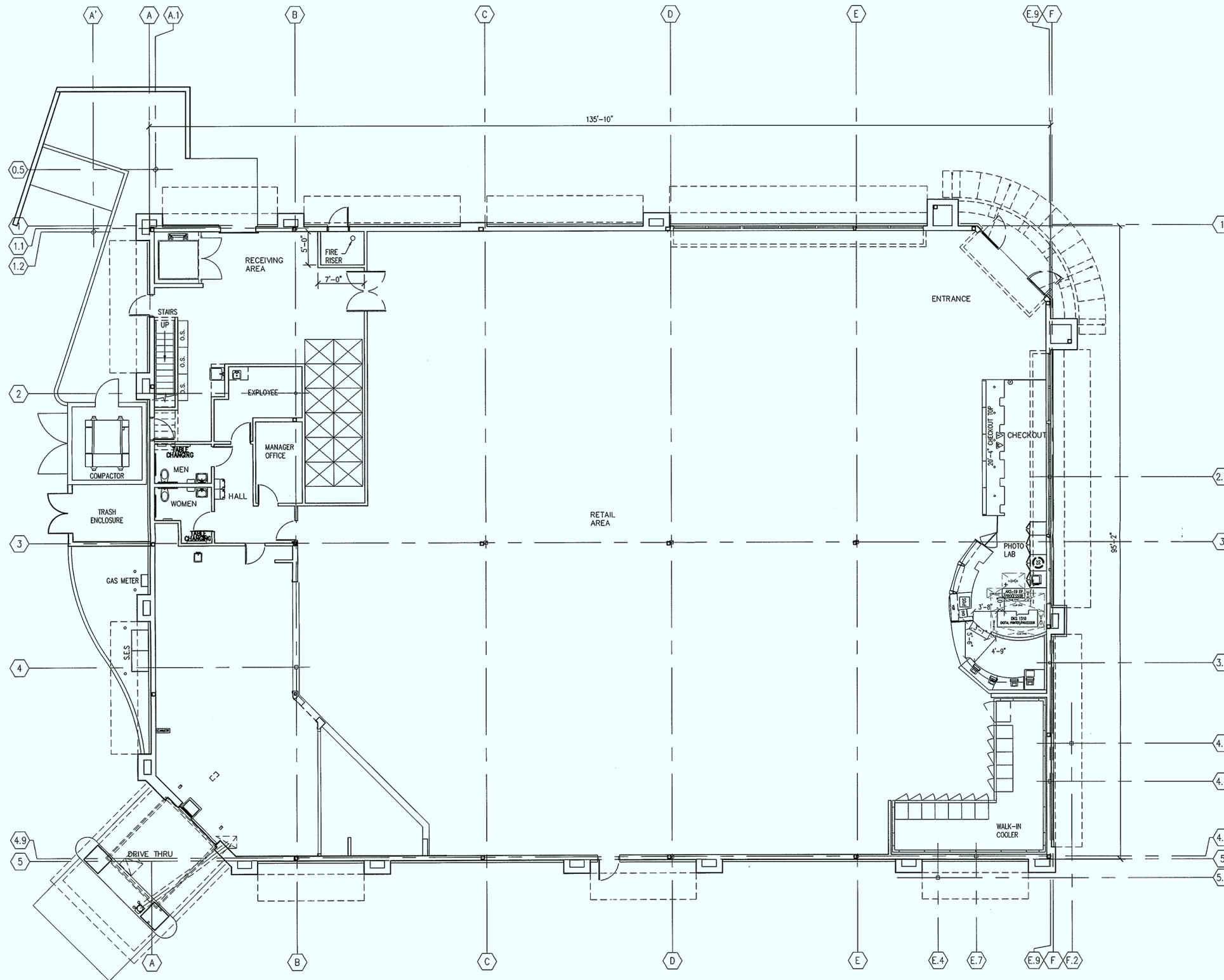
TITLE:

FLOOR PLAN

SHEET NUMBER:

A-1.1

COMMENTS:



1 FLOOR PLAN
A-1.1 SCALE: 1/8"=1'-0"

Exhibit H

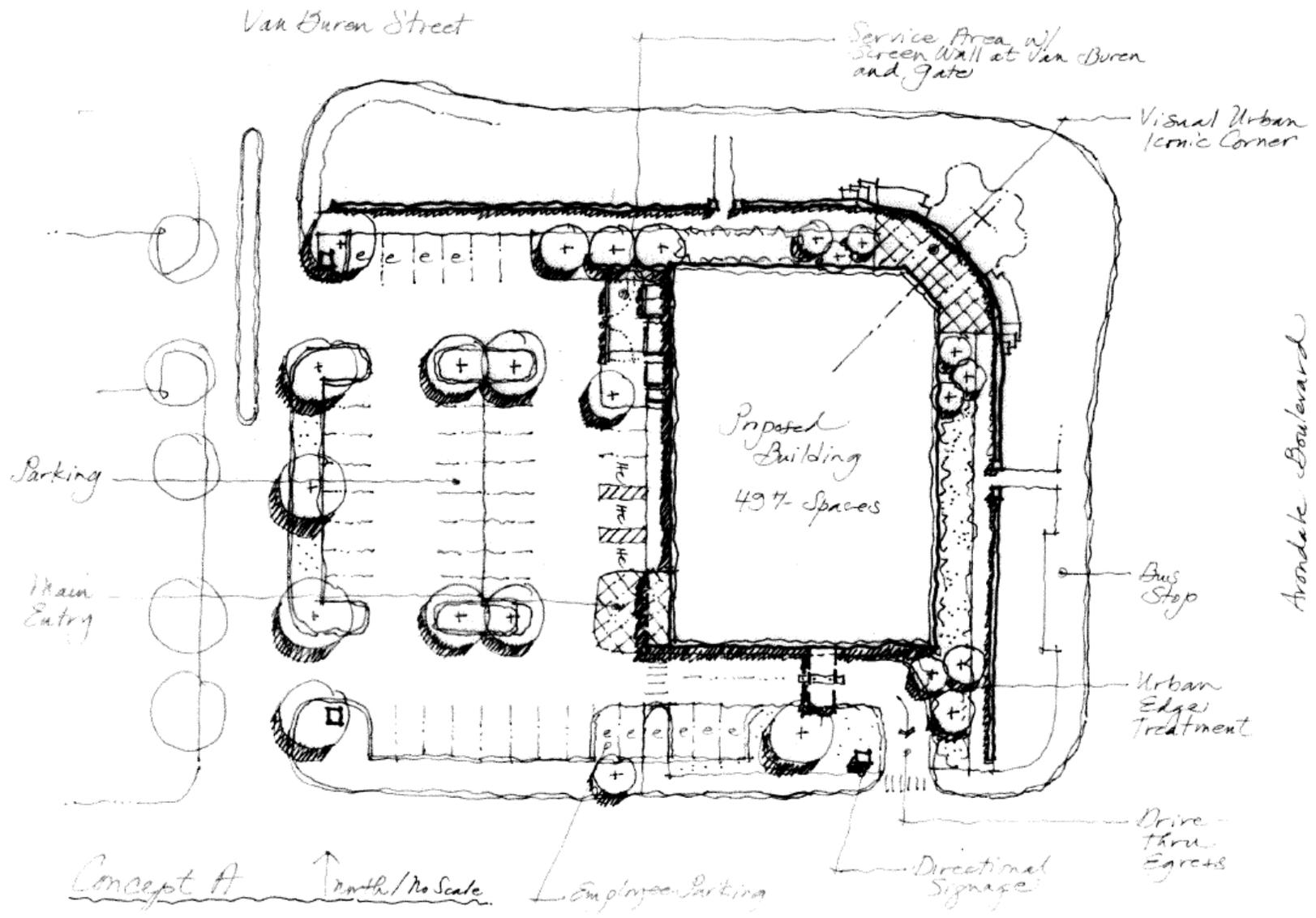
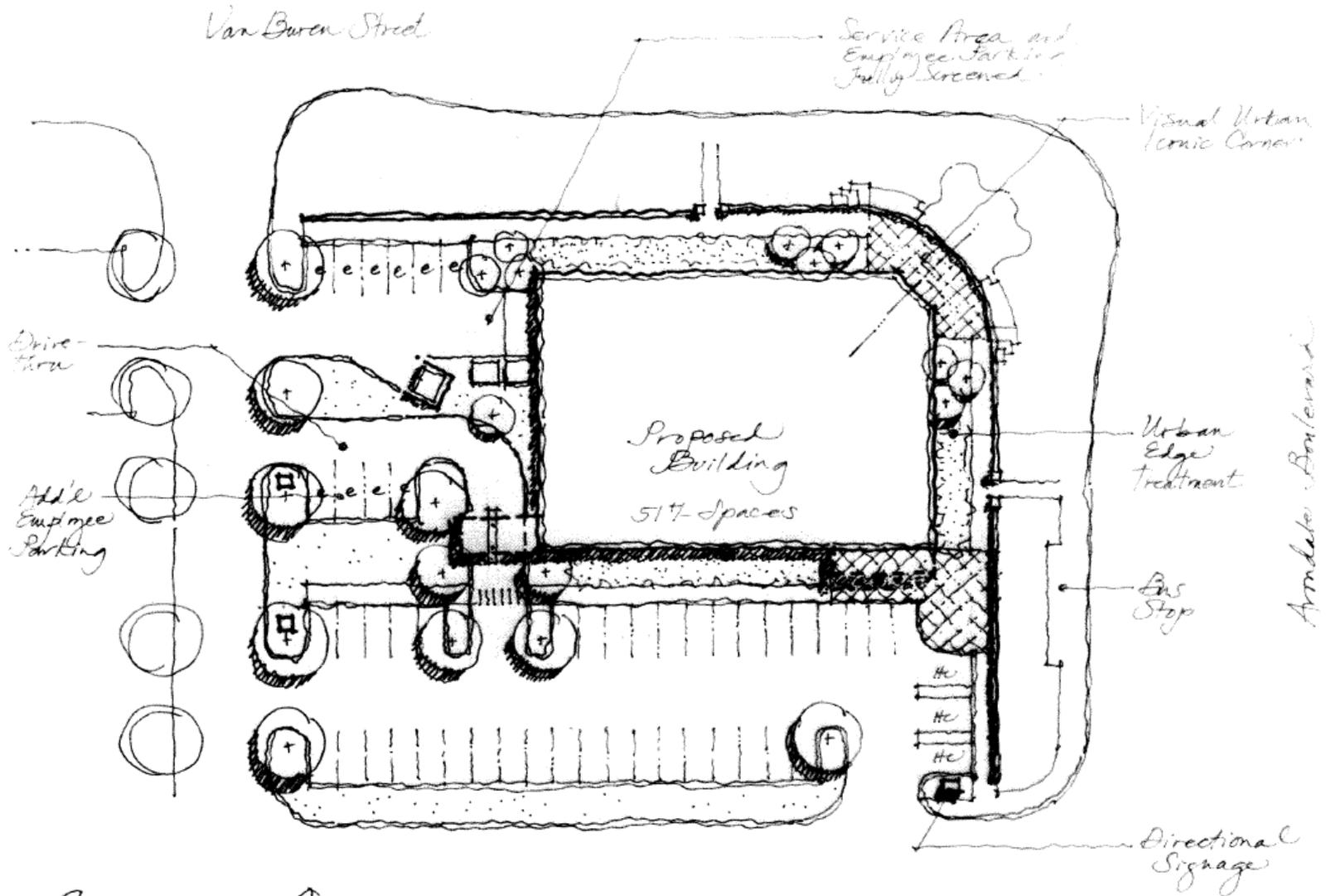
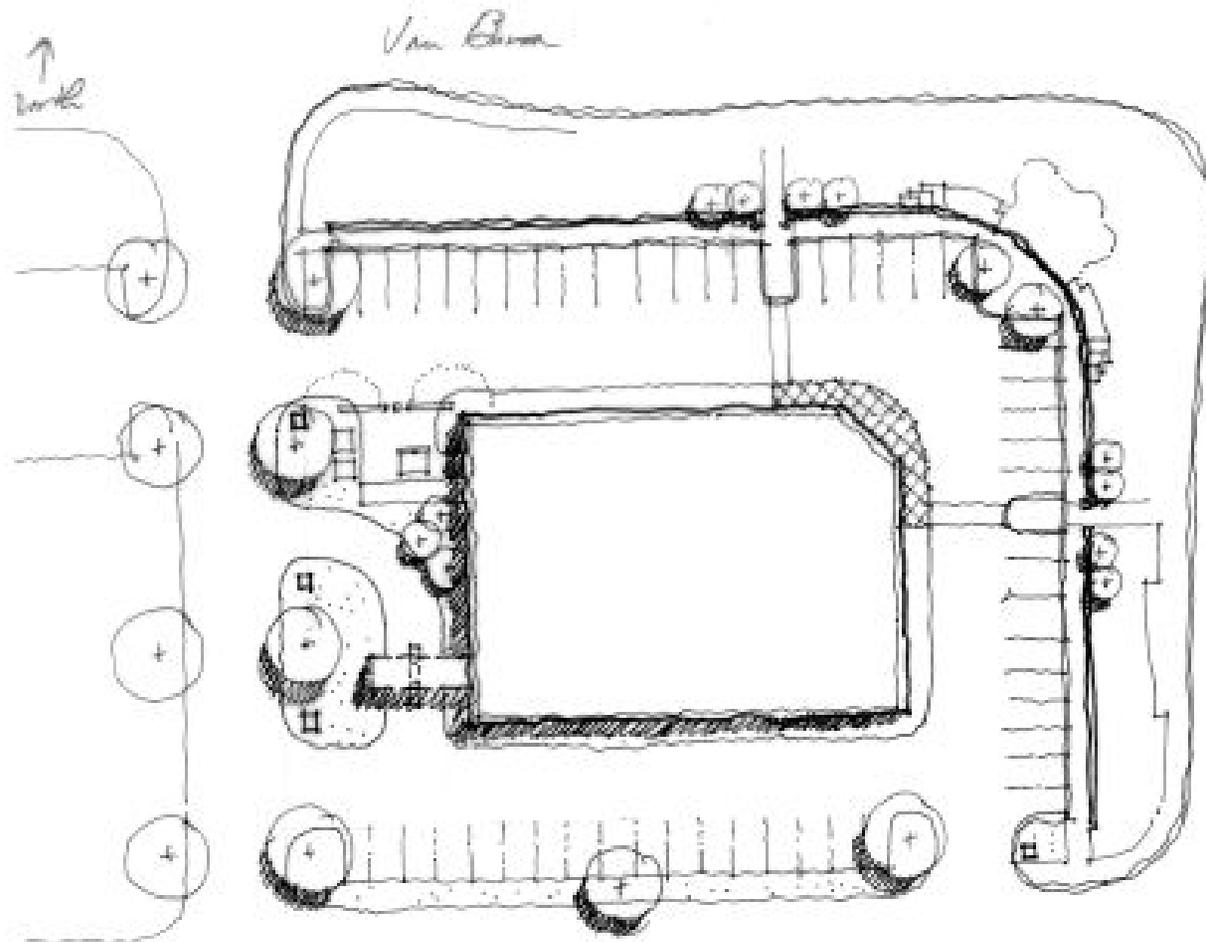


Exhibit H



Concept B North/No Scale

Exhibit H



Option C

Exhibit I



May 11, 2007

Daniel Jolley
K&I Architects
1850 N Central Avenue, Suite 200
Phoenix, AZ 85004

RE: Coldwater Springs Promenade Site Plan, Application Number DR-06-8
Site Plan Approval

Mr. Jolley:

I am pleased to inform you that on May 7, 2007 the City Council approved the site plan for Coldwater Springs Promenade subject to the following stipulations:

- 1) The development shall conform to the master site plan date stamped April 30, 2007 and the master landscape plan date stamped April 30, 2007, except as modified by these stipulations.
- 2) The final site plans for Major A; Shops B, C, and D; Pad 1; and Pad 6 shall all conform to the elevations date stamped April 4, 2007; except as modified by these stipulations. The final site plans for Office Buildings A-G shall conform to the elevations date stamped April 30, 2007, except as modified by these stipulations.
- 3) In accordance with Section 106.C.4 of the City of Avondale Zoning Ordinance the approval of the site plan shall expire within one year if a building permit has not been issued.
- 4) Prior to the issuance of a building permit, a cross access easement shall be recorded for the commercial property to the south.
- 5) All undeveloped portions of the development shall be treated with decomposed granite for dust control until such time that those portions are developed.
- 6) Final site plan for Pads 2-5 and Shops F shall be reviewed by the Planning Division and Planning Commission, and shall be reviewed and approved by the City Council prior to the issuance of a building permit.
- 7) All water rights on the property shall be conveyed to the City of Avondale prior to recordation of the final plat.
- 8) The developer shall transfer ownership of the existing agricultural well to the City of Avondale prior to the issuance of a building permit.
- 9) Prior to the issuance of a building permit, the developer shall finalize a purchase agreement for the new well location and well maintenance easement based on the terms that were previously negotiated between the developer and the City of Avondale Water Resources Department.

- 10) Prior to or concurrent with recordation of a minor land division or final plat, covenants, conditions and restrictions (CC&Rs) shall be recorded for the site. These CC&Rs shall address design standards for architecture, landscaping, maintenance, and cross access and shall be reviewed and approved by the Planning Division prior to recordation. A copy of the recorded CC&Rs shall be submitted to the Planning Division.
- 11) All future buildings shall conform to the color palette, materials, and architectural theme established by this master site plan.
- 12) Final landscape plans for each building shall be reviewed and approved by the Planning Division prior to the issuance of any building permits for those buildings.
- 13) If a final site plan has not been approved for pad 5 before the adoption of the Avondale City Center Area Plan, pad 5 shall be subject to the design guidelines of the Area Plan.
- 14) The developer shall be responsible for one half of the costs associated with the design and construction of a traffic signal at the intersection of Van Buren Street and the 117th Avenue alignment prior to issuance of a building permit.
- 15) All driveways and off-site improvements, including deceleration lanes, bus bays, landscaping, and center medians, shall be constructed during the first phase of construction.
- 16) The water feature at the northeast corner of the site shall be constructed as part of the first phase of development. The design of the water feature shall be reviewed and approved as part of the initial set of final landscape plans.
- 17) All signs for the shopping center shall comply with the City of Avondale Sign Ordinance. Monument signs shall conform to the architectural theme established by this master site plan.
- 18) All parking screen walls shall be approved at the time of final landscape plan review and shall conform to the architectural theme established by this master site plan.
- 19) Developer shall work with the Arts Commission to incorporate public art as part of the development in the amount of \$25,000.
- 20) As part of the first phase of development, the developer shall dedicate 80-feet of half-street right-of-way for Avondale Boulevard for the first 250 feet south of Van Buren Street. The developer shall coordinate with the City Engineer to minimize the impacts to the site circulation for Pad 5 and to determine an amount for the developer's contribution for construction of the half-street improvements to Avondale Boulevard prior to approval of the civil plans for the property.
- 21) During the final civil plan, final landscape plan, and construction document review, the median at Access A shall be redesigned to satisfy safe traffic control concerns and provide efficient vehicular channelization as determined by the City Engineer.
- 22) Final civil plans, final landscape plans, and construction documents shall show the removal of the four parking spaces on the west side of Shops F.
- 23) Final design of the median in Van Buren shall be reviewed and approved during the final civil plan review, as determined by the City Engineer.
- 24) Internal traffic shall be operationally controlled by the shopping center owner if the approved striping and delivery times do not adequately work.

Development Services

11465 W. Civic Center Drive, #110 • Avondale, AZ 85323
Phone: (623) 333-4000 • Fax: (623) 333-0400 • TDD: (623) 333-0010
www.avondale.org

- 25) Prior to the issuance of a building permit, the developer's traffic engineer shall submit to the City a signed and sealed letter stating that the driveways and internal circulation of the shopping center will operate safely.
- 26) Sanitation and service delivery times shall be limited to weekdays as follows:
 - a. Trash pickup shall occur between 6am – 10am
 - b. Deliveries shall not be made before 6am or after 10pm
 - c. Delivery trucks over 40' shall not deliver after 10:30am

Now that your site plan has been approved, the next step in the development review process is to submit final development plans if you have not already done so.

Building plans may be submitted to the Building Division. Brett Harris, (623) 333-4027, will be able to answer any questions you may have regarding building plan reviews.

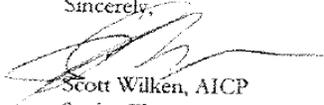
Please contact Linda Herring, at (623) 333-4024 to discuss the civil plan review requirements.

Please contact Roger Parker, Fire Marshal, at (623) 333-6140 to discuss the final fire plan review requirements.

The Final Landscape Plans are reviewed separately from building plans and must be approved prior to the issuance of a building permit. Please Planning Division at (623) 333-4000 for requirements for final landscape plan submission.

It has been a pleasure working with you on this project. If you should have any questions or comments, please call me at (623) 333-4016.

Sincerely,



Scott Wilken, AICP
Senior Planner

Enclosures:

Approved master site plan date stamped April 30, 2007;
Approved master landscape plan date stamped April 30, 2007;
Approved building elevations date stamped April 4, 2007;
Approved office elevations date stamped April 30, 2007

CC: Mike Smith, Engineering Plan Review
Brett Harris, Building Division

Development Services

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Exhibit J

March 16, 2009

Mr. Steven Bowser
Metro/Land Consultants, LLC
1850 N. Central Avenue, Suite 525
Phoenix, Arizona 85004

**RE: CVS Pharmacy, SWC Van Buren and Avondale Boulevard (DR-08-16)
Site Plan – 3rd Review Comments**

Dear Mr. Bowser:

The Development Review Team has completed its 3rd review of the Site Plan for the property located at the southwest corner of Van Buren Street and Avondale Boulevard. Staff has been clear, through each development phase [Master Plan approval, Pre-Application, and two previous Site Plan submittals], about its expectations for the development of this property based primarily on the required compliance with the City Center Specific Area Plan and traffic criteria. Based on the applicant's reluctance to address critical comments, Staff will move forward with a recommendation of denial to City Council for this project.

Final comments for the third Site Plan review are as follows:

Planning

Site Plan is not approved.

1. Comment 1 has not been addressed at 3rd Review Submittal:

Legal council for the City of Avondale determined that Stipulation 13 on the Master Plan approval letter dated May 11, 2007, is binding and applicable to the Site Plan review process. This has been made clear to the applicant since the 1st Review Submittal. To continue to disagree with this determination signifies that the applicant is unwilling to work with Staff to reach an agreeable alternative for this project, which is evident by the plans recently submitted. In essence, they remain unchanged with critical comments ignored: an unmoved building and unresolved traffic congestion.

The City Center Specific Plan boundary clearly designates pad 5 within the City Center limits. The design guidelines the project is required to meet are not limited to one policy; even that policy states that the site must be designed in accordance with "other applicable guidelines". Furthermore, table 5.1 is only one table in a document filled with tables, diagrams, and text defining the intent of design and development in the City Center.

As we are at an impasse with the applicant, the Site Plan remains unapproved for recommendation of denial to the City Council.

Comment 1 has not been adequately addressed by the applicant.

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From the City's perspective, Stipulation 13 on the Master Plan approval letter dated May 11, 2007 is binding and applicable to this Site Plan review. Again, as stated in the Master Plan approval letter, this site "shall be subject to the design guidelines of the Area Plan". Therefore, there is no question that this project is required to comply with the City Center Specific Area Plan regardless of the document's regulatory weight. The nature of the source of the stipulation is irrelevant as to whether or not this project is required to follow it. The stipulation itself governs the applicability. Therefore, the Site Plan is not approved on the basis it does not meet any of the design guidelines or overall intent of the City Center Specific Plan.

You state that you have incorporated many of the City Center policies into your current plan; however, we disagree. Other than proposing some larger trees (though not all trees shown meet this criterion; see Item #13 of this letter) along Van Buren Street and Avondale Boulevard as the City Center Plan describes, providing unsafe pedestrian crossings and adding one bench in an unshaded entry area does not constitute a "pedestrian friendly environment", an important concept of the Area Plan. The design principle you are unwilling to accommodate is relocating the building. However, it is the building's location that is generating the site conflicts and overall non-conformance with the City Center Plan's vision. Our studies show that the closer the building is to the corner, the better the traffic circulates and overall site functions. We know CVS has compromised its prototypes in the past as seen in the recent example in Tempe, AZ. In staff's opinion, this site is very relevant in terms of context, vision, and design goals that Avondale is looking to implement at this corner.

In summary, the Master Plan was approved with a very clear stipulation defining the minimum development standards for this site, the City Center Specific Plan; there is no argument that relieves the applicant from compliance.

2. **Comment 2 has not been addressed at 3rd Submittal Review:**
 - a. **We have sent out the plans to an outside engineering firm for review. Please find their comments attached to this letter. In summary, they support our Engineering Plan Review Engineer's opinion of the layout and circulation problems shown on these plans. Staff asserts its opinion that the layout must reflect the criteria as approved on the Master Plan.**
 - b. **This response is unacceptable to Staff for traffic control in this area.**
 - c. **This response does not address the comment as provided to you by Staff. Furthermore, the building's service entrance faces Van Buren Street, and this is, also, undesirable and unacceptable.**
 - d. **The change in the pedestrian crossing locations is in response to the 1st Review Submittal comments, but it is not in response to the 2nd Review comments that highlighted the fact that these revised locations were unsafe.**

Comment 2 has not been adequately addressed by the applicant.

Four critical design issues as addressed remain problematic:

- a. *You are incorrect to state that the Master Plan does not control future development. The Master Plan sets the framework that future development must meet. Any criteria established in that phase, including traffic, are required to be satisfied. Our Traffic Engineer contends that either a median or restricted vehicular access must be met. This will be discussed later in this letter.*

Development Services

- b. *The turning movements are still awkward, and crossover traffic when entering the drive-thru from the South is unavoidable. This potential conflict is undesirable. Also, locating a dumpster enclosure at the entrance to a drive-thru will lead to operational conflicts.*
 - c. *The service area still extends beyond the face of the building and faces Van Buren Street. This is undesirable and unacceptable. Furthermore, there is a safety concern as the wall is open at the end near the parking allowing for someone to hide in this space close to the walkway; the service area is a security problem.*
 - d. *New pedestrian crossing locations propose a physical hazard to pedestrians who will now cross between parked cars. This circulation pattern is undesirable.*
- Please revise these items accordingly.*

▪ **Project Description**

3. **Comment 3 has not been addressed at 3rd Submittal Review:**
See attached traffic comments.

Comment 3 has not been adequately addressed by the applicant. Access at Drive C may not be open if the 100' median is not provided at the adjacent driveway. This is discussed later in this letter under 'Engineering Traffic Review'.

4. **Comment 4 has not been addressed at 3rd Submittal Review:**

Comment 4 has not been adequately addressed by the applicant. See Item #1 of this letter.

▪ **Site Plan 1 of 2**

5. **Please provide additional information with respect to Comment 15.**
The 3' screen wall was appropriately modified as requested. Please accentuate the columns similar to the shopping center's perimeter wall to the extent that they extend above the wall cap. Show these column locations on the site plan. Also, please show the columns clad with stone on the black and white plans; currently they are shown only on the color elevations.

Comment 15 has not been addressed by the applicant. While a 3' screen wall was added to the plans as required, the detail of the wall was not addressed. The comment stated that the "wall must be architecturally compatible with the building in color, material, and style." This information needs to be provided for our overall understanding as to how this element will look on the site. Please revise.

6. **Please provide additional information with respect to Comment 16.**
Thank you for clarifying the enclosure's wall information. However, the size of the area has been modified on the plans. The blow-up detail calls out a 13' wide enclosure, but the plan scales at 10'. Please clarify as this impacts the vehicular circulation in this area. Also, please provide the material proposed for the gate.

Comment 16 has not been adequately addressed by the applicant. At the service area, the dumpster enclosure, and the trash compactor enclosure the elevations show that lower portions of those screen walls shall be partially clad with primary and accent brick, and stuccoed and painted the remaining

Development Services

upper portion. The plan detail calls for only painted stucco; this needs to be modified to match the elevations. The clad portion scales at 4'-6" including the accent detail. Please verify this dimension.

7. Comment 17 has not been addressed at 3rd Submittal Review:

At the 1st Review, cut sheets and a blow-up plan of this area was requested; no information was provided. At 2nd Review, this information was not addressed except for the addition of specialty paving; no amenity information was provided. With this current review, no cut sheet information has been provided other than the bicycle rack, and even then a color choice has not been provided. Please submit all relevant information for all amenities including the benches, trash receptacles, and a color selection for the bicycle rack.

The addition of the trellis structures is an interesting concept. Staff suggests coordinating with the location of the new bus stop on Avondale Boulevard.

Comment 17 has not been adequately addressed by the applicant. Please see Item #6 of this letter [2nd Review Comments letter dated 1/8/09], similar. Furthermore, no trash receptacles or other site amenities other than required bicycle racks were added to the entry space. Specialty paving should be added to this area, too.

▪ **Hardscape and Landscape Plan**

8. Comment 28 has not been addressed at 3rd Submittal Review:

While the applicant has improved the distinction between proposed and existing plant material on the plans, two important observations are now evident: 1.) The number of plants shown as proposed at the 1st and 2nd submittals was misleading as a large percentage of that material is now being shown as existing; and 2.) The planting intent along Van Buren Street and Avondale Boulevard does not meet the criteria for planting as set forth in the City Center Specific Area Plan. At the 3rd Review Submittal, proposed plant material quantities should not be reduced.

Comment 28 has not been adequately addressed by the applicant. There is no obvious distinction between existing plant material already installed adjacent to the site and the proposed material. Furthermore, the hardscape/landscape plan does not reflect the existing conditions from the Master Plan planting installation, for example no lawn or curbing is shown on this plan, but it is installed in the field. As the plan reads to date, all material shown is new material. Please verify.

Comment 28 from 1st Submittal Review:

Please indicate what material is existing and what material is proposed as part of this project submittal.

9. Comment 32 has not been addressed at 3rd Submittal Review:

Exchanging the plant material with another that has a larger symbol is not in spirit with the comments made to the applicant. The intent was to place materials closer together so at implementation the planting would appear denser. This proposal adds two additional plants at each planting area; this does not constitute tighter spacing of plant material. Furthermore, these planting areas were changed from raised planters to at-grade beds. Planters add interest to the building face as well as mediate the scale of the facades by "raising the planting". This change is not acceptable.

Development Services

Comment 32 has not been adequately addressed by the applicant. The shrub materials located within the planters adjacent to the building were not addressed. The same spacing exists between each shrub and, therefore, shrubs are too widely spaced as explained in the previous comment letter dated November 4, 2008.

10. **The Hardscape Plan does not show the extent of the new specialty paving proposed at the main entry to the building; this is typically the purpose of a hardscape plan. This pavement has not been defined anywhere in the information as provided to Staff. Furthermore, at a minimum, this new paving should meet the face of the building as well as extend down to the points where it meets the pedestrian crossing locations.**
- **Architectural Plan and Elevations**
11. **Along the south elevation, the spans of facade without stone veneer is still uninteresting and sparse. Also, planting is represented at the east end, yet there is no planter on the plans. Either add another means of horizontal interest at the building or propose planters with tall plants at these spans assuming there does not need to be a walkway for access. Another option is to do trellised plantings at these facades similar to the Staples building.**
- **Photometrics & Lighting**
12. **Staff did NOT recommend removing the landscape accent lighting; it only stated that certain fixture installation methods were not appropriate. Accent lighting is expected as shown on previous submittals, and a replacement fixture is required at the locations where fixtures were attached to trees.**

Item 14- Please do not attach any lighting fixtures to any proposed or existing trees. This is not an acceptable installation method for accent lighting.

Engineering Plan and Traffic Review

Site Plan is not approved at 3rd Review Submittal.

Critical traffic comments remain unaddressed to the satisfaction of the Engineering Plan Review Engineer. See attached traffic comments.

Site Plan is not approved.

13. *Either a center median is to be installed in drive C the length of the 100' stacking distance mentioned in CivTech Statement dated October 7, 2008 or the drive onto drive C from the CVS site is to be closed off. Signing and pavement markings rarely work in preventing cars from blocking drive isles, which is why this comment has been repeated on the 2nd review.*
14. *The access on the east side of drive C to the trash enclosure, loading dock, and drive through pharmacy is to be closed off with a curb, as was mentioned in the letter from Dawn D. Cartier from CivTech dated May 7, 2007. The May 7, 2007 letter was written to address concerns the City had in regards to a stipulation made in the approval letter of the Site Plan. The letter mentioned in your response letter dated July 17, 2008 was very similar in content to the May 7, 2007 letter. The letter does not change the original stipulations that was approved by council. I have discussed this issue*

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with our City Engineer, Sue McDermott, and she is in agreement that the east side of drive C needs to be closed off with a curb.

Comment has not been addressed at 3rd Submittal Review:

Preliminary Landscape Plan is not approved.

15. Preliminary Landscape Plan appears to be acceptable, but will need to be re-evaluated once the site layout is revised per comments to site plan above.

Comment has not been addressed at 3rd Submittal Review:

Preliminary Utility Plan is not approved.

16. Utility Plan appears to be acceptable, but will need to be re-evaluated once the site layout is revised per comments to Site Plan above.

Comment has not been addressed at 3rd Submittal Review:

Preliminary Grading & Drainage Plan is not approved.

17. The Grading and Drainage Plan appears to be acceptable, but will need to be re-evaluated once the site layout is revised per comments to Site Plan above.

Comment has not been addressed at 3rd Submittal Review:

Traffic Statement is not approved.

18. Revise the Traffic Statement to reflect changes made to site layout per comments to Site Plan above.

Comment has not been addressed at 3rd Submittal Review:

Preliminary Drainage Report is not approved.

19. Drainage Report appears to be acceptable, but will need to be re-evaluated once the site layout is revised per comments to Site Plan above.

Fire Protection

Site Plan is not approved at 3rd Review Submittal:

While building comments have been addressed, the site layout will need to be re-evaluated once plans are revised per comments to Site Plan above. Building comments shall not be considered addressed if architectural plans change. New plans, however, should meet the expectation of the City's fire inspector as noted in previous comments below.

20. The plan appears to be acceptable, but will need to be re-evaluated once a site layout is revised per comments to Site Plan above. Once approved, these conditions shall apply:

- a. On the construction drawings, provide a fire control room for the fire sprinkler riser. The requirements can be downloaded from the City website at www.avondale.org.*
- b. The fire sprinkler underground water plans will be reviewed as part of the civil plan submittal. Coordinate the location of the fire line with the location of the fire control room. The vehicular*

Development Services

breezeway between building A and building B needs to be a minimum 13'-6" high for the entire width of the drive aisle to allow for fire apparatus clearance.

The Building Division is currently working under the following codes: 2006 IBC, IRC, IPC, IFGC, IMC, IECC, 2005 NEC, 2003 ICC/ANSI, and the 1998 ADA Accessibility Guidelines with City of Avondale Amendments.

It should be noted by the applicant that the Development Services Center does not accept construction drawing submittals until all site plan and design reviews are completed and approved.

Again you are always welcome to contact me either by email or phone if you require clarification, would like to discuss these comments, or would like to request a meeting. My address and direct phone number are sbridgedenzak@avondale.org and (623) 333-4015.

With regards,

Stacey Bridge-Denzak, Planner I
Planning Division
Development Services Department

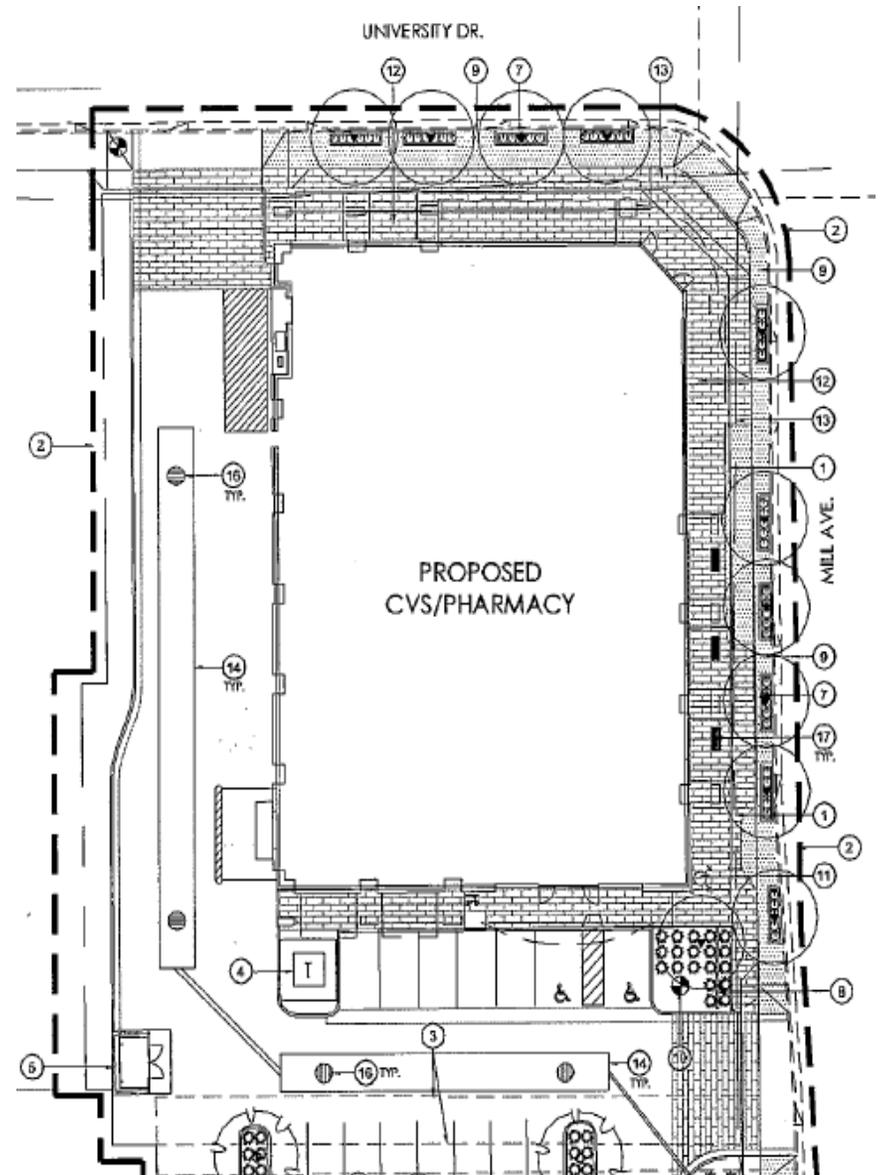
Enc: United Civil Group comments

cc: File: DR-08-16; Development Review Team; Tracy Stevens, Planning Manager

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Exhibit K



Tempe Location 1
Southwest Corner of Mill Avenue and University Drive



Tempe Location 2
Southeast Corner of Rural Road and Southern Avenue

Exhibit I



June 4, 2009

Ms. Kathy Mathiesen
Plan Review Engineer
Development Services – City of Avondale
11465 West Civic Center Drive
Avondale, AZ 85323

RE: Lee Engineering Review of
CVS (SWC Van Buren & Avondale) Traffic Impact Statement (by CivTech
Engineering – April 23, 2009)

Ms. Mathiesen:

I have reviewed the above mentioned report. Per the report, this site (parcel) has a standing stipulation that requires the developer to coordinate with the City Engineer to minimize the impacts to the site circulation for Pad 5 (the subject site). Thus, my review and comments have focused on this aspect.

1. On-site queue length estimates were based on average arrivals per 1-minute interval. Customary estimation methods rely on a 2-minute interval, which when applied in this case yield vehicle queue estimates of 7 vehicles (~175 feet) at Access C and 2 vehicles (~50 feet) at Access D. Although these new estimates may be based on a methodology inherent to overestimating the result, the proximity of Access C to the major intersection of Van Buren Street and Avondale Boulevard suggests that actual outbound right-turn queuing may be close to the overestimate as exiting motorists attempt to find acceptable gaps in eastbound Van Buren traffic queued or slowing for a red-light.

Assuming the study's approach to mitigating the queues (see further comment below)—leaving a “no blocking” gap in the queuing area—means that a 175-foot queue at Access C would easily block access into the pharmacy's drive-through area. Even if the outbound traffic was permitted to queue without interruption, the access to the pharmacy drive-through area would likely be compromised.

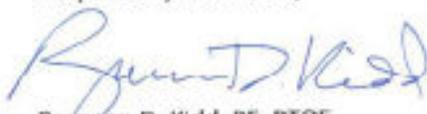
2. The mitigation measure of posting “Do Not Block Drive Aisle” signs and associated stop bar pavement markings would probably be largely ineffective. For instance, at Access C, if there is no one waiting to enter the queue from the drive aisle near Van Buren, then a motorist already on the main drive will likely

occupy the intended clear space in an effort to exit the site sooner rather than wait for a potential other motorist from the drive aisle to pull in front. The signs and especially the stop bars would also confuse the right-of-way that would be perceived to be in favor of the motorist on the main drive rather than someone trying to access the main drive from a parking aisle.

3. The 8th Edition of ITE's *Trip Generation* indicates that LUC#881 (Pharmacy with Drive-Through) has a 20% greater PM peak hour trip generation rate than the same land use/time period in the 7th Edition. Although the 8th Edition data has more studies to base its rate on, the standard deviation of the data sample is larger than reported in the 7th Edition. This information coupled with the study's assumption of the prior Coldwater Springs Promenade total traffic (with the 15% larger pharmacy building) suggests that the site traffic volumes used in the evaluation are acceptable.
4. The average service rate time for a pharmacy drive-through would likely exceed two minutes since the technicians also serve in-store patrons. Even so, the design of the drive-through lanes probably would provide enough storage to accommodate the anticipated demand and actual service rates. However, the maneuverability needed to fully utilize the building-adjacent lane may not be possible, and access to enter the lanes may be hindered by Access C queuing (see Comment 1).
5. Since most pharmacy drive-throughs operate 24 hours per day, restricting trash pick-up and deliveries, which would occur in the area as the drive-through entrance, may still cause some drive-through patrons to wait and cause congestion within the main site drive (Access C).
6. The position of the drive-through entrance area does not accommodate an on-site motorist approaching internally from the south. Therefore, in order to access the drive-through area properly (i.e., from the north), a motorist must either enter the site at Access C or turn left from within the pharmacy parcel across the main drive of Access C (within 50 feet of possible inbound traffic from Van Buren) while negotiating any queuing that may be present, in order to then turn left across the same flow of traffic to enter the drive-through area.

If a further discussion of these comments is needed, I can be reached at (602) 443-8468 or by e-mail at bkidd@lee-eng.com.

Respectfully submitted,



Brennan D. Kidd, PE, PTOE
Project Manager
Lee Engineering, LLC



EXHIBIT M

Excerpt from the Minutes of the regular Planning Commission meeting held May 21, 2009 at 6:30 p.m. in the Council Chambers.

**PLANNING COMMISSION
REGULAR MEETING**

**CITY COUNCIL CHAMBERS
11465 W. CIVIC CENTER DR.
AVONDALE, AZ 85323**

**Thursday, May 21, 2009
6:30 P.M.**

The following members and representatives were present:

COMMISSIONERS PRESENT

David Iwanski, Chairman
Michael Demlong, Vice Chair
Al Lageschulte, Commissioner
David Scanlon, Commissioner
Angela Cotera, Commissioner
Lisa Amos, Commissioner

CITY STAFF PRESENT

Brian Berndt, Development Services Director
Tracy Stevens, Planning Manager
Stacey Bridge-Denzak, Planner, Development Services Department
Ken Galica, Planner II, Development Services Department
Andrea Page, Engineering Plan Review Manager
Chris Schmaltz, City Attorney

APPLICATION: DR-08-16

APPLICANT: Steven Bowser of Metro Land Consultants, LLC

REQUEST: The applicant is requesting site plan approval for a CVS Retail Store and Pharmacy. The property is located at the southwest

Planning Commission Regular Meeting Minutes

May 21, 2009

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corner of Van Buren Street and Avondale Boulevard. Staff Contact: Stacey Bridge-Denzak.

Stacey Bridge-Denzak, Planner I, stated that Vice Chair Demlong had requested clearer copies of the exhibits, which are before the Planning Commission tonight. She stated that item DR-08-16 is a site plan application for a CVS Retail and Pharmacy store to be located on the southwest corner of Avondale Blvd. and Van Buren Street. This undeveloped parcel is Pad 5 in the northeast corner of the Coldwater Springs Promenade commercial center. She referred to a quote by an urban design critic, "The more parking space, the less sense of place," and stated this is an important concept in pedestrian-friendly developments.

Ms. Bridge-Denzak stated the parcel is zoned C-2 (Community Commercial). Northeast and east of this subject property is mainly zoned Agricultural. Those properties will soon be rezoned to City Center Zoning. The General Plan Land Use Map designates this parcel as Commercial, which includes Community Commercial; therefore, the proposed CVS meets the intent of the General Plan. Staff believes that a CVS Pharmacy and Retail Store is an appropriate use for this site. Staff does not agree with the layout of the development. The proposal violates three requirements that impact safety and good design. 1) The City and the developer agreed to a master plan with traffic requirements. This proposal is counter to the master plan framework and creates insufficient and unsafe traffic conditions. 2) The parcel is subject to Avondale's City Center Specific Area Plan, which requires this pad to meet the City Center Design Guidelines. This parcel does not comply with the design guidelines of the City Center Specific Area Plan. 3) The site plan is not in conformance with the Avondale Zoning Ordinance. The arterial intersections require unique building orientation, which this proposal does not meet.

The master plan vehicular access criteria have not been met. Two vehicular access points to Pad 5 are allowed. However, due to safety concerns, neither of these access points would be permissible off of the west drive aisle unless a 100 foot median was introduced restricting site access from Van Buren Street. The submittal allows for unrestricted access, and also locates a loading dock, trash enclosure, and an entrance to the pharmacy drive-thru in this location. There is an undesired potential conflict with all of these activities taking place. There are four pedestrian accesses to the site, two from Van Buren Street and two from Avondale Blvd. Each pedestrian access will cross vehicular traffic. The entry plaza at the front of the building contains speciality pavement, but otherwise has only two benches and bike racks. Staff feels that all of the intended vehicular movements located at the back of the building in one area is undesirable. The drive-thru lanes are quite narrow. A car will encounter difficulty and will cross traffic when attempting to enter the drive-thru pharmacy.

Landscaping, open space, and parking lot guidelines, as defined in the City Center Plan, have not been met. The City Center Plan's intent is to locate primary building entrances to be located on a public street. The proposed plan does not meet this desire. Public spaces should be special and comfortable. The proposed entry plaza has no shade and lacks interest. Surface parking lots must include shade and the City Center Plan recommends one tree per three parking spaces.

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The proposed layout presents more parking than required and fewer trees by only meeting the minimum zoning requirements, not the City Center guidelines. She asked the Commission to visualize if the building were pushed to the corner. Staff provided illustrations of the City's expectations (Concepts A and B) to the developer. Staff has been able to separate the drive-thru from the service area and has eliminated any pedestrian accesses crossing traffic. CVS Pharmacy stated they only use their prototype building plans for their facilities.

Vice Chair Demlong asked about the drive-thru. Ms. Bridge-Denzak pointed out the drive-thru on the slides.

Ms. Bridge-Denzak continued her presentation, stating that CVS has made exception to their prototype building plans for a CVS location in Tempe, Arizona. This layout has the building at the corner and two entrances, and Staff feels this layout would work in Avondale.

The proposed architecture is contemporary and utilizes materials, colors, and a general design style that comply with the Coldwater Springs Master Plan. The materials are painted stucco and brick and stone veneers, as well as metal canopies of green and bronze. The use of color is appropriate. All four sides of the building incorporate changes in wall plane. The architect has provided variation in heights of the parapets. In general, the architecture is acceptable.

Ms. Bridge-Denzak stated there are shade structures proposed to be located at the pedestrian access points to the site, which Staff is unsure are feasible without reworking the site. The wall entry columns provide nice detail, but at certain vantage points are somewhat hidden by the structures.

Staff is recommending denial of the requested site plan. The site plan is in conformance with the General Plan, but is not in conformance with the City Center Area Specific Plan. The site plan is not in conformance with the Coldwater Springs Promenade Master Plan with respect to traffic issues. The site plan is not in conformance with the Avondale Zoning Ordinance. Ms. Bridge-Denzak stated that the City should expect quality design and should not settle for projects that are counter to the City's vision. Staff believes that a CVS is an appropriate use for this location, but a better design can be implemented at the site.

Chairperson Iwanski invited questions of Staff.

Commissioner Lageschulte stated that as far as police and fire safety, having a building right next to the corner would not allow much room for emergency vehicles. He asked if police and fire had looked at the building plans and provided input. Ms. Bridge-Denzak replied that police and fire have not reviewed Staff's illustrations, as these are conceptual plans developed by the Staff. Other CVS stores have the buildings at the corners and Staff would like the developer to explore this option. CVS will not concede that this corner in Avondale is significant and will not accommodate Avondale's design concerns.

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Brian Berndt, Development Services Director, stated the protocol for emergency vehicles is, if there is no alley around the building for access, a street adjacent to the building will provide access and serve the same function as an alley.

Commissioner Lageschulte stated his concern was shutting down two major streets if emergency vehicles must access a building sitting right on the corner. Mr. Berndt stated as far as fire access, there is no difficulty with access to a building sitting on a corner.

Commissioner Cotera referred to the CVS location in Tempe, Arizona (Exhibit K), and asked if Staff had a concern with the parking at that location. She asked if CVS had other pharmacies besides the one in Tempe that were built right on a corner. Ms. Bridge-Denzak replied that CVS has two other locations in the City of Phoenix located on the corners of parcels. One is at 16th Street and Camelback Road and one is located at E. McDowell Road and Central Avenue.

Commissioner Cotera asked if the CVS at 16th Street and Camelback Road was a new or renovated building. Ms. Bridge-Denzak stated she believes that is a new construction.

Commissioner Amos asked why the applicant is averse to putting their building on the corner. Ms. Bridge-Denzak stated Staff has met with the applicant one time and CVS stated they will only use their prototype buildings in Avondale. No other explanation was given. In terms of construction costs, she sees no increased costs to locating the building on the corner.

Commissioner Scanlon asked about the location of the main entrance on Staff's Concept B illustration. Ms. Bridge-Denzak pointed out the two entries on Staff's illustrations, Concept A and Concept B.

Commissioner Scanlon asked if on all other proposals submitted, Staff will require frontages abutting Avondale Blvd. Ms. Bridge-Denzak stated that to the south is a Jack-in-the-Box and she is not sure if the office buildings developed further south will be located on the street.

Brian Berndt, Development Services Director, stated the building immediately south of the subject property fronts Avondale Blvd. and has access points on the north and south of the building.

Commissioner Scanlon asked if all of the buildings north-south on Avondale Blvd. will abut the street. Brian Berndt, Development Services Director, stated the Jack-in-the-Box does have parking in front of the restaurant.

Commissioner Scanlon asked why is CVS required to put their building up to the street. Mr. Berndt referred to the stipulation that the Planning Commission and City Council approved regarding site design and building placement, and added this site plan proposal is the newest member of the City Center Specific Area Plan and will therefore need to meet those design standards.

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Commissioner Lageschulte asked if there is a fountain and a pump house on the property. Ms. Bridge-Denzak pointed out the fountain on the drawings.

Commissioner Lageschulte asked if Staff proposed the building to be right up next to a cement wall surrounding the pump house. Ms. Bridge-Denzak replied that the building is set back 15 to 20 feet from the pump house. She stressed that Staff's Concepts A and B are sketch ideas presented to the developer to ask the developer to consider other possibilities.

Commissioner Cotera referred to the Coldwater Springs Plaza drawing and asked if Pads 1, 2 and 3 are still available. Brian Berndt, Development Services Director, stated that City Council had stated that if this proposal came in before the City Center Plan adoption, the applicant could utilize the same setbacks approved in the existing site plan. If this proposal came after the adoption of the City Center Plan, the applicant would need to adhere to those design guidelines and standards in the City Center Plan. All proposals coming forward from this point will need to conform to the City Center Plan.

Commissioner Cotera clarified that Major A is a Staples, Pad 4 is a Panda Express, and Pad 3 is a Fresh & Easy. Ms. Bridge-Denzak confirmed that Pad 3 is a Fresh & Easy and Pad 4 is a Panda Express, which are already built.

Commissioner Cotera asked if Pad 5 is the only pad remaining to be built. Ms. Bridge-Denzak stated Pad 2 has not been developed.

Commissioner Cotera asked if changing the design standards for Pad 5 would alter the aesthetics of the complex. Ms. Bridge-Denzak stated is it important to fulfill the design specifications of the City Center Plan. Also, there are very serious traffic congestion issues along the west end of the building.

Commissioner Cotera stated the traffic concerns can be addressed without moving the building up to the corner, and her concern is that the other pads are already developed.

Brian Berndt, Development Services Director, stated the Freeway Corridor Plan requires a percentage of the buildings to be at the street to provide variation. Moving the CVS closer to the street would not take away from the aesthetics. All four corners in this area represent a gateway into this unique area. This may present some difference in the designs, and if the building is designed correctly, it will add to the aesthetics.

Commissioner Lageschulte stated a left-hand turn off of Van Buren Street would not be possible because a median is required on Van Buren. This would provide for right-in and right-out only at that entrance. Ms. Bridge-Denzak stated the issue is not the traffic coming into the site from Van Buren, but the issues are traffic heading north along the west side of the building and the stacking of cars.

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Vice Chair Demlong reminded the Planning Commission that this area is the gateway to the City of Avondale and the City has higher expectations for this prominent corner. It is rare for the Planning Commission to see a denial of a proposal. He asked if Staff had gone out of their way to illustrate alternatives for the developer. Ms. Bridge-Denzak confirmed that Staff had prepared illustrations for the developer.

Vice Chair Demlong stated many elements can change on Staff's illustrations and Staff has merely illustrated that the City does not have to accept a canned building on a prominent corridor in the City of Avondale. He asked if the building placement in Staff's illustration is consistent with the City Center Plan as far as distance from the street and the general aesthetics of the building. Ms. Bridge-Denzak replied that Staff's illustration meets the intent of the City Center Plan. When the master plan was approved, it was stipulated that the building would need to meet the design guidelines of the City Center Plan. Moving the building to the corner will produce a pedestrian-friendly building and site, and will produce a safe pedestrian building and site.

Vice Chair Demlong stated the City Center Plan design guidelines are consistent with placing buildings closer to Avondale Blvd. in order to create a pedestrian atmosphere. All Staff is trying to do is make this proposal consistent with the City Center Plan. He noted there is noncompliance with the Coldwater Springs Promenade Master Plan, noncompliance with the City Center Area Specific Plan, and there is non-conformance with the Avondale Zoning Ordinance. He asked Ms. Bridge-Denzak to summarize what it would take to make this proposed site plan an approved plan. Ms. Bridge-Denzak stated the developer would need to move the building. The applicant has not been willing to move the building even a little. This parcel at this premiere intersection will need to follow the City Center Area Specific Plan. She believes the traffic issues would be alleviated if the building were moved. She reiterated that other CVS buildings in other locations are located on the corners.

Vice Chair Demlong stated this effort on Staff's part to produce illustrations for the developer shows extraordinary customer service.

Commissioner Scanlon asked if there are any increased costs with placing the building on the corner. Ms. Bridge-Denzak replied as far as she can tell there is no increased cost other than a bit more design time; the applicant can address that issue further. She would like the applicant to show why the CVS floor plan at the Tempe location would not work at this site in Avondale. The applicant had brought in a notebook of other CVS locations in the Valley with the same proposed site plan for Avondale. As a site designer, she believes each site should be viewed as a new site.

Chairperson Iwanski asked if the CVS Tempe location had many times more pedestrian traffic. Ms. Bridge-Denzak stated the City Manager, Charlie McClendon, brought to Staff's attention the CVS at 16th Street and Camelback Road and made the observation that there is a bus stop very close to that CVS. The City Manager recognized there is a lot of movement at that location that is fairly similar to Avondale Blvd. where a bus stop is located as well. Short term she cannot say

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there will be equal pedestrian traffic, but the vision to create a pedestrian-oriented City Center may at some point produce equal pedestrian traffic.

Chairperson Iwanski asked if the schedules for loading, trash collection, and deliveries could be addressed to mitigate traffic problems. He stated he does not envision much traffic in a drive-thru for a pharmacy. Ms. Bridge-Denzak stated that the traffic engineer for the applicant is present tonight and she can address that issue. The Traffic Engineer believes the schedules can be adjusted to mitigate traffic problems, but there are always schedule delays that come up. If the City has the opportunity to alleviate traffic problems, the City should do so. The best guarantee to minimize conflict is not to have the problem at all. Ms. Bridge-Denzak asked the Planning Commission to envision the west façade with the proposed loading dock that extends beyond the building, two trash pickup locations, and a pharmacy drive-thru. She stated this whole façade faces the entry and exit driveway aisles. If the functions could be split up, it would function better and be more aesthetically pleasing.

Chairperson Iwanski stated the two new CVS pharmacies at 107th Avenue and Camelback and 43rd Avenue and Bethany Home Road are very vanilla from an architectural standpoint compared to the proposal for this location, which is a reflection of Staff pushing CVS to achieve this architecture.

Vice Chair Demlong stated that compared to the City Center Plan, this proposal offers minimum architecture at the lowest bar possible. He asked if City Staff would have any problem moving the building entrance to the opposite corner on Concept A. Ms. Bridge-Denzak pointed out that there are already two building entrances and this design is in the same spirit as the Tempe CVS.

Commissioner Cotera asked how the site plan is not in conformance with the Avondale Zoning Ordinance. Ms. Bridge-Denzak referenced Section 12 of the Zoning Ordinance where there is a regulation requirement for enhanced site design at arterial intersections, such as unique building orientation and enhanced landscape.

Commissioner Cotera asked if this proposal violates the Avondale Zoning Ordinance because it does not have interesting architectural elements and if this property is on a major arterial. Ms. Bridge-Denzak stated this location is two major arterials. In order to make this a more enhanced intersection and to work with the vision of the City Center Plan, building orientation is important and Staff encourages that to take place.

Chairperson Iwanski invited the applicant to address the Commission.

Jason Morris, Withey Morris, PLC, 2525 E. Arizona Biltmore Circle, Phoenix, AZ, stated he was present on behalf of the applicant, CVS Pharmacy. He stated it is rare that an applicant would voluntarily move forward with a recommendation of denial to the Planning Commission. CVS Pharmacy is excited about becoming a corporate citizen of the City of Avondale and is anxious to bring CVS to this corner. CVS nationally is ranked 24th on the Fortune 500 rankings with

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approximately 87 billion dollars in annual revenue. CVS has 7,000 locations nationwide and he believes they have a sense of what makes a successful CVS Pharmacy in any given community. There are 130 local CVS stores. They have approximately 20 to 25 employees per store and are a significant employer for the State. This is not a rezoning or a legislative matter, but a site plan case. A pharmacy is an approved use for this location, and this limits the scope of review from the City's standpoint. Therefore, Staff must look at the ordinance and the requirements of a given site and not at the preferences for a given site.

The proposed site is the final pad not built on the site. All of these buildings on the site have the parking in front of the buildings. There are three other corners in the area which will be zoned in accordance with the City Center Plan. He pointed out that the proposed site has an upgraded development standard, upgraded materials, and nontypical architectural for any given strip center on any given arterial. The only development left for their site is the vertical construction of the building. He pointed out that the fountain is a beautiful feature which is not a typical urban feature.

Both the master site plan and existing zoning all predate the City Center Plan. Even the CVS initial pre-application with the City predated the City Center adoption. This is an application that is coming forward in a time of flux and the City Center design standards do apply to the rest of the shopping center. CVS has a prototype program and does build several different types of buildings. He showed the Commission improvements they had made throughout the process, such as to color schemes, pop outs, screening, buffering, and landscaping. He stated the overall look and feel of the building has improved dramatically during the process. The result is a significantly upgraded building for CVS, as Staff raised the bar and beat them over the head with it. He added that the stone accent has now become a predominant feature.

Mr. Morris stated he hears Staff saying they have told the applicant what they want and the applicant will not do it. If they will do it, they will get a recommendation of approval and everyone will be happy. During the plan submittals, there were significant changes made by the applicant at the request of Staff, to include landscaping, screen walls, material changes, elevation changes, shade structures, trash enclosures, veneers, lighting, etc. The applicant addressed Staff's comments to the best of their ability, but what they were not able to do was move the building to the corner. The applicant made many other changes and was as flexible as possible within the existing shopping center. Staff agreed to put this item on the Planning Commission agenda, but some of the items in the Staff Report do not reflect changes that were made in the final review. They have added nearly 200 square feet of shade adjacent to the sidewalks and the area at the front of the store has an architectural feature that provides shade and bench seating, and significant shading has been added along the sides of the building. All these things are not standard for CVS, but were added at the request of Staff.

Mr. Morris stated their access points are not access points CVS is creating. The majority of the time, CVS has a center connection from the corner of the intersection to the front door of CVS. That was not possible in this instance because of the significant water feature and pump house.

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These access points exist today and they have designed around them to create a promenade that ultimately takes pedestrians to the front door of the CVS. Staff stated pedestrians may be coming out between cars, and CVS' response was to make sure there was adequate landscaping around the access points for the pedestrians.

The screen wall provided entirely hides any service doors facing Van Buren Street. Additional down-lighting has been added to make sure the area does not present any sort of safety issue from a police standpoint. Right-of-way landscaping is already in place that was approved as part of another plan that CVS was not a part of. CVS is designing into this landscaping and they have been willing to discuss the upgrading and enhancement of that landscaping.

CVS greatly desires to be in Avondale and at this particular location. To that end, CVS has made significant strides redesigning the site to fit into the existing shopping center. The 7,000 CVS locations act as a laboratory for how CVS can build sites so that they are successful for CVS, the City, and the clientele. The industry is highly competitive and CVS has figured out what makes it easy for the clients, what attracts and keeps clients, and what will keep clients shopping in Avondale at this location. The landscape setting is not a cost issue; it is an issue of customer service. The only thing worse than a vacant lot would be a vacant store.

With regard to the landscape setting, Mr. Morris referenced Stipulation 13, "If a final site plan has not been approved for Pad 5 before the adoption of the Avondale City Center Area Plan, Pad 5 shall be subject to the design guidelines of the Area Plan." He stated this stipulation was added to the master site plan before the City Center Plan was approved, which is asking the developer to agree to something that did not yet exist in ordinance. At the time Stipulation 13 was added, the idea was to make the City Center Specific Plan mandatory. Ultimately the City Center Plan was adopted as a guideline. Pad 5 is also subject to the design guidelines of the City Center Plan. Mr. Morris stated there are no design guidelines specific to Neighborhood Commercial and there are numerous statements that these are only guidelines and simply a vision the City would like to see. The design guidelines did not exist at the time of the master site plan and the zoning predates the City Center Plan. Mr. Morris reiterated that the City Center Plan speaks only of suggested guidelines and not requirements, especially with regard to the landscape setting. Stipulation 13 can therefore not bind the applicant to a future unknown.

Mr. Morris showed the Planning Commission exhibits from the City Center Plan, all of which depict the subject property with the parking field in front. One reason for Staff's denial is that this site does not comply with the Coldwater Springs Promenade Master Plan. What Staff means is that there is limited access to the pharmacy site on the master plan. At the same time, the master plan does not show the building pushed to the corner, yet that aspect of the master plan is being ignored. CVS cannot build as depicted in Staff's Concept A and B illustrations because it will not work in reality. The CVS floor plan and interior design is key to the success of CVS. Clients want continuity in the stores and CVS will not follow an example that they believe will be confusing to its customers. Mr. Morris pointed out several flaws in Staff's conceptual illustrations. He noted that CVS avoids stores with two entrances if possible. In any design of a

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CVS store, there are only two sides accessible to the public. Parking must be up against the building and take customers to the front door.

A plan like the CVS store at 16th Street and Camelback Road would require a pedestrian to walk around the entire building, which is less convenient and less pedestrian friendly. The CVS location in Tempe is entirely different from this site in Avondale. The Tempe site was an assemblage of several parcels, which still did not lead to enough land to build the CVS. This led to a custom store that would fit on the available land and required a variance for less parking. The Tempe site has 10,000 pedestrians and 12,000 households within a mile and a half. The numbers drive what CVS is able to do; CVS is not just being difficult.

Putting the CVS building on the corner would not make this a pedestrian center, but simply treats one user in a disparate fashion and forces the developer to go elsewhere. CVS knows their clientele wants to park near the front door and that pedestrians do not want to walk all the way around a building. He does not want the Planning Commission to believe it is physically impossible to put the building on the corner. Their approach is that CVS has 7,000 buildings and has the benefit of hindsight that lets them know what will make a store successful. They cannot make this CVS store successful if it is built on the corner. The site at 16th Street and Camelback is a re-development site because CVS bought the building and did as much rehabilitation as possible, but the design is not something CVS would build new. The CVS at Central Avenue and McDowell Road has a light rail stop, and was an Osco Drug Store redeveloped to the extent possible to make it a CVS.

Staff has written a Staff Report and told the Commission the dangers of the site plan and the driveway access, but at that time they believed that there were left turn movements into the site. In fact, these are right-in/right-out access points only and there are no left turn movements. This should completely change Staff's analysis of risk factors. CVS does not build stores that would create a problem or risk factor for their customers. Mr. Morris showed the Commission an accurate representation of the two driveways serving the proposed CVS building, commenting they are the least intensive turn movements and are only right-in/right-out, which makes them the safest access points in the shopping center. CVS has proposed immediate access, which is in keeping with the majority of their stores. Staff is concerned the site will become too congested. The applicant's contention is that with right-in/right-out, there is no stacking of cars, but a constant movement and no potential for cars backing up into traffic along Van Buren Street. The proposed building is smaller than the building approved by the Planning Commission and City Council. This smaller building will generate less traffic. None of the driveways are overloaded at any one time and there is plenty of capacity at both drive aisles.

Staff has noted a conflict with the drive-thru, trash collections, and loading and unloading. Mr. Morris stated a CVS Pharmacy drive-thru is infrequently used, but is a vital part of the overall plan. The average vehicle use per hour is 2.6 and the average queue is 1.3 vehicles. In reality, trash collection and delivery can be controlled with scheduling. CVS knows how to make this work. The chance for any conflict given the store hours, trash pickup twice a week, and

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deliveries one time per week, is 1 chance in every 179 years. This does not present a danger and their existing store network proves that. Mr. Morris showed the Commission slides of CVS stores similar to the one proposed for Avondale, pointing out the traffic flow.

Commissioner Scanlon asked where the service areas are located. Mr. Morris pointed out the service areas on the slides, stating that the location of the service areas is always in proximity to the drive-thru and is not a new situation for CVS.

Mr. Morris continued his presentation, stating that the Commissioners can check with ADOT (Arizona Department of Transportation) for examples of conflicts and will not find any. These are safe conditions that have been proven safe over time. Every store is at an arterial-to-arterial intersection. The highest number of accidents is a total of four accidents on site, and these areas did not have the benefit of a deceleration lane as this site in Avondale does.

Mr. Morris stated CVS wants to be in this community and they are willing to make the changes necessary. While this is not the change Staff wanted to see, the landscape setting change is not a mandatory requirement. He finds it convenient that all of the problems Staff has noted with traffic and design all go away if CVS agrees to build in a landscape setting, and he has explained why that cannot happen. CVS does not choose its sites lightly and has done thorough research. They have worked diligently with Staff to create solutions where possible. Staff's preferred design is not mandated by the City Center Plan. The site plan they have presented is safe, responsible, and exists repeatedly throughout the Valley. The elevations and design are greatly enhanced. This is in contradiction to what is seen in the Staff Report. The CVS design is in conformance with the City Center Plan because the City Center Plan is a guideline. The CVS site plan is in conformance with the Coldwater Springs Promenade Master Plan because the master plan never depicts this pad in a landscape setting. The CVS site plan is in conformance with the Avondale Zoning Ordinance because Staff stated the only way their site plan violates the Zoning Code is that it does not have the design Staff desires, which is a completely subjective standard. CVS is in conformance and is anxious to be part of this community.

Chairperson Iwanski invited questions of the applicant's representative.

Vice Chair Demlong thanked the applicant and their representative for wanting to locate in Avondale. The City would like CVS to make a profit, but he wants the applicant to understand that there are increased standards for that corner as a gateway to the City. He does not believe Avondale should accept something less than downtown Phoenix and Tempe. Staff has presented what they think is in the best interest of the citizens of Avondale. He asked Mr. Morris if all CVS stores have the same footprint. Mr. Morris stated that all CVS stores do not have the same footprint.

Vice Chair Demlong stated that other cities have asked CVS to adapt and be flexible. He asked what the percentage of changes from the CVS prototype has been. Mr. Morris replied that CVS in Arizona has grown through the accumulation of other pharmacy stores. When purchasing

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these stores, they inherited other designs. The downtown Boston stores do not resemble the CVS stores in Avondale. In each instance, CVS evaluates who their clients are in order to best serve their clients.

Vice Chair Demlong asked if the CVS at the corner of McDowell Road and Central Avenue makes a profit. Mr. Morris stated he did not know. Vice Chair Demlong asked if Mr. Morris could make an assumption that store makes a profit, as that store has existed for perhaps 15 years. Mr. Morris stated in that instance, that is the closest pharmacy to downtown Phoenix. While that store may make a profit, it is because it is the only drug store in proximity to downtown Phoenix. Residents in Avondale have many other options. Based on their experience, clients do not like a landscape setting. CVS does not believe it would make sense to develop a store contrary to what the clients want and that is out of character with the rest of the shopping center.

Vice Chair Demlong asked if Mr. Morris was stating that if the location of the building on the lot changes, CVS cannot make a profit. He added he is not referring to the footprint of the store, because he likes to know on what aisle items are located. Mr. Morris replied that in order to move the building to a landscape setting, they would have to change the interior floor plan and that changes the convenience factor. This will be one of many pharmacies in the West Valley, and they cannot make this store inconvenient for customers. They already have studies where their own customers state not to go with this landscape setting. Mr. Morris stated that if the matter were as easy as just moving the building, CVS knows that is what Staff wants and Staff has come up with 17 problems that are all resolved by putting the building in a landscape setting. However, CVS knows they cannot make this store in a landscape setting successful.

Vice Chair Demlong stated that a Staff-registered landscape architect has looked at the site and building footprint and has stated the building can fit into a landscape setting. He believes Staff is looking at the footprint of the building and they are just rotating it and moving it to a different location on the site. He is not convinced by anything Mr. Morris has stated that this will not work. Staff is trying to get CVS to be flexible and provide something unique on this very important location. The pump house of the fountain can be moved anywhere. All the items CVS has made concessions on are insignificant. The Planning Commission has a copy of a letter dated May 11, 2007 in reference to Stipulation 13. He asked if CVS did not agree to Stipulation 13. Mr. Morris replied Vice Chair Demlong is referring to a letter to the owner of the shopping center. Vice Chair Demlong asked if when CVS purchases a property, do they purchase the regulations, zoning ordinance, and stipulations that go with the property. Mr. Morris stated typically they do not purchase the regulations, zoning ordinance, and stipulations that go with the property. CVS was aware of Stipulation 13, but that stipulation does not mean that the building needs to be in a landscape setting.

Vice Chair Demlong stated in the Zoning Ordinance that covers the property, it states the building should be in a landscape setting. Mr. Morris replied that the Zoning Ordinance does state that the building should be in a landscape setting, but it is not mandated and Staff can

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choose to recommend approval because they are in compliance with the master plan. Staff has chosen not to recommend approval simply because they would prefer to see the building in a landscape setting. Staff believes a landscape setting is best. CVS is explaining why they cannot put the building in a landscape setting, but they would still like to be part of the community.

Vice Chair Demlong referenced a statement in the Staff Report. "Legal counsel for the City of Avondale determined that Stipulation 13 on the Master Plan approval letter dated May 11, 2007 is binding and applicable to the Site Plan review process. The applicant does not agree to the policy nature of the document. However, as legal counsel also stated, the nature of the source of the stipulation is irrelevant as to whether or not this project is required to follow it. The stipulation itself governs the applicability. Therefore, this project is subject to the City Center Specific Plan." He asked Mr. Morris for comment. Mr. Morris stated he disagrees with the City's legal counsel. He had lunch with Andrew McGuire, City Attorney, over this very issue and they do not agree. Simply by adding a stipulation stating that a single pad at some point in the future will be guided by an ordinance that does not yet exist, which at the end of the day is just a guideline and not mandatory or regulatory, is not binding and does not require that this building be in a landscape setting.

Vice Chair Demlong stated that CVS purchased the piece of property with this stipulation. The City would like to see CVS in Avondale, but would like CVS to conform to the City's request.

Commissioner Cotera asked if Mr. Morris has ever run into a request for a landscape setting with any of their other stores. Mr. Morris replied that CVS had had requests on more than one occasion from Planning Staff that they would love to see their CVS in a complete or partial landscape setting. In many instances, CVS has shown why the landscape setting cannot work in a particular location. The only instance of a new building in a landscape setting is the Mill Avenue site, which is justified for that location because of the high pedestrian traffic. This setting does not work otherwise and CVS has walked away from other sites for this reason. Fortunately CVS has prevailed upon Planning Commissions and City Councils to show why the citizens do not want a landscape setting. He reiterated that this is an existing shopping center. Folks will not walk to CVS and then drive to the other stores. This is a predominantly vehicular-driven site.

Commissioner Cotera stated on the images Mr. Morris showed the Planning Commission, the loading, drive-thru, and entrance of the CVS stores was not depicted as being on the same side. Mr. Morris stated there is one example of an identical store and showed the Commission this slide. In more recent stores, CVS has tried to go through the corner so as not to require a 90 degree turn coming out of the drive-thru, but instead requires two 45 degree turns, which is a safer condition. The identical site is at 19th Avenue and Baseline Road.

Commissioner Cotera stated the CVS location at 19th Avenue and Baseline is not backed up to an entire shopping center. She is not convinced the proposed site is identical to any other CVS location. Mr. Morris replied that there is no doubt that CVS will work toward a solution. They

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have found the overwhelming factor is that Staff states the building must be in a landscape setting. CVS needs parking adjacent to the building and cannot be in a landscape setting. If the matter is moving the loading area or moving the trash enclosure, that can work.

Commissioner Cotera asked if the City insists on a landscape setting, will CVS not locate in Avondale. Mr. Morris replied that unfortunately CVS cannot locate in Avondale if the building must be in a landscape setting.

Commissioner Cotera stated she was surprised at that statement. She stated that Mr. Morris had stated other CVS buildings in landscape settings were redevelopments. The City is looking long term because redevelopment does happen, and when the rest of the area is built up, this pad will not conform. Commissioner Cotera stated that Mr. Morris had referenced 30,000 vehicles going through the intersection, but that is the statistics today and Avondale will have more traffic later on. Any traffic concerns of Staff today will be multiplied by several factors in future years. Mr. Morris stated he agrees with Commissioner Cotera. The City will have more cars in the future, which will not necessarily equate to more pedestrians. The reason they move to a landscaped setting is to create a pedestrian condition. He agrees that when the other corners develop, this building will not be the odd building out because every other building in the shopping center has the parking lot in front. In the immediate life of the building, CVS has to build for the condition today with an eye toward tomorrow.

Commissioner Cotera stated that if the City insists on a landscape setting, CVS will pull out. Mr. Morris stated that is unfortunately correct and this is not something that CVS takes lightly. Much effort has been expended to get to this point, but they cannot put the building in a landscape setting because it goes against all of the experience that CVS has as to what makes a successful store. They cannot build something unless they can assure themselves that they are building something that is successful. He has no doubt about the future success of the City Center Plan, but CVS cannot build to a condition they have already been told by their customers is unfavorable. He hopes his presentation has shown that CVS is willing to be flexible with all other aspects. He believes the concessions they have made are significant and have added tremendous cost. He does not believe the Commission will find a better-looking CVS anywhere and that is a direct result of Staff's input and what the Planning Commission demanded of the shopping center when it was built. This shopping center already has a master plan and that master plan does not show this pad in a landscape setting, and neither does any exhibit in the City Center Plan. They are hoping that the Commission will work with CVS to create a win-win project.

Commissioner Cotera stated she was hearing that CVS knows what they are doing and the City must conform to the desires of CVS or CVS will leave. She also is hearing Mr. Morris being condescending to the Planning Commission, as if the Commission does not know what they are doing. While CVS is a desirable business, she is not hearing the recognition that the Commission is trying to make sure that Avondale does not become suburb number three, but rather that Avondale becomes unique. The City has envisioned Avondale Blvd. and Van Buren

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being like University and Mill Avenue in Tempe. They do not want the property to go into a blight condition and then be bought up and redeveloped. They want to develop the property right the first time. The Planning Commission has stated all the way through the City Center Plan that it is a guideline, but has tried to make it plain that if developers come in with projects that do not conform with the City Center Plan, the probability of rejection would be high. While CVS is complying with the letter of the law, Avondale is looking for the spirit of the law.

Commissioner Amos commended CVS for making many of the changes Staff has asked for. She is surprised to hear that moving the CVS building to the corner is not a cost issue, but rather a revenue issue. She agrees with the other Commissioners, in that they are envisioning something different than what is seen on every corner. While the changes CVS has made are taking the project in the desired direction, she does not believe those changes result in the City's ultimate vision.

Commissioner Amos asked if CVS generated 2.5 vehicles per hour, why do they build drive-thrus. Mr. Morris stated that in fact drive-thrus are not a tremendous driver of revenue, but from a mental and emotional standpoint, a customer may not need the drive-thru, but the fact the drive-thru is there becomes a reason to patronize that store. CVS has found that every pharmacy is leaving the inline setting and going to the hard corner because it is the most visible and they can offer a drive-thru at that location. Drive-thrus are a motivating factor for people to bring their prescriptions in even if they do not utilize the drive-thru every single time. Everyone envisions the times they may use the drive-thru. Commissioner Amos stated it is an interesting business concept to offer something that is not used, but somehow adds value.

Commissioner Amos stated that CVS was aware of Stipulation 13, and while it may seem harsh, she does not buy that CVS was unaware of the stipulation before they bought the property. She asked for clarification that if the building is placed in a landscape setting, it will fail. Mr. Morris replied that CVS has learned from nearly 7,000 locations that a building in this landscape setting will not be as successful and attractive to customers, and it will cause the customers to go to the next pharmacy down the road. It is untenable to CVS to spend 4.4 million dollars for something CVS already has examples of that do not work.

Commissioner Amos asked if the reason a store in a landscape setting would not work is because we are an automobile-driven society. Mr. Morris stated while that is true, he would like the Commission not to lose site of the location of this pad. They are between a Jack-in-the-Box and a Panda Express with parking in front. They do not believe that CVS would be setting the tone for the area, nor are they violating the master plan. CVS did read the stipulation that states the pad has to comply with the design guidelines, but the design guidelines are not mandated. He suggested that if "should" does not mean should, the City should use "must" or "shall" and should make it an ordinance, not a guideline.

Commissioner Amos suggested moving the building halfway towards the corner and asked if that would work. Mr. Morris thanked Commissioner Amos for her suggestion. He noted they

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have 17 other versions of the site plan and they do not want to seem intransigent. CVS is trying to bend to fit into the site, but there are certain things they know their customers want, such as parking next to the front door. CVS is willing to bend more if there is a solution that the Planning Commission can endorse that will not put CVS in a setting that no other building is in.

Vice Chair Demlong asked when the property was purchased. Mr. Morris stated he believes that the property has not yet been purchased, as the purchase is contingent upon site plan approval.

Vice Chair Demlong stated at the last meeting a representative from the Arizona Sign Association, James Carpentier, stated the bigger the sign and the closer to the street was better for the business. The City is giving the applicant an opportunity to put a building right on a major corner with big signs, and it would seem that would be tremendous value added. Mr. Morris stated they would be willing to split the difference by leaving the building where it is and putting a big sign on the corner. He was across the street from the CVS at 16th Street and decided to walk over. He found that the least pedestrian friendly environment one could imagine because he had to walk all the way around the building.

Vice Chair Demlong stated he agrees with having the entrance on the parking lot side. He suggested a fake door or mirrors or windows. He thinks Staff is flexible enough to allow the door to be on the parking lot side. He believes there is tremendous value to CVS to move the building to a prominent corner where it would stand out and have big CVS red letters on both sides. Mr. Morris asked Vice Chair Demlong to consider his position. He has the benefit of going to municipalities throughout the state on behalf of CVS. Nothing would please him more than if he could go to his client and suggest moving the building to the corner. However, it is a complete impasse because CVS will not invest the money on that corner based on their experience that is not a pedestrian corner because of the water feature and the design of the whole shopping center. They believe to be in the corner would be such a detriment that they would rather not invest.

Chairperson Iwanski stated he respectfully disagrees with Commissioner Cotera, as he does not believe Mr. Morris has been condescending. He stated the Commission has only one time to get the gateway to the City done right. The facts are that the applicant to date has had three reviews and has answered 106 comments with the fourth review not added into that total. While some of the concessions have been nickel and dime stuff, some have been extremely substantive. This is most noted in the design changes. Mr. Morris has provided compelling evidence in terms of traffic flows, and if there is a professional difference of opinion, maybe the Commission will have questions for the City Traffic Engineer. Chairperson Iwanski stated he did not want to insist on forcing a business with the track record of CVS into a pedestrian-focused location for a site that is predominantly vehicular. He thanked CVS for their efforts to work with Staff.

Commissioner Cotera asked if there was any middle ground. Mr. Morris replied that CVS has done several layouts that Staff has not found acceptable. Staff has provided CVS with three layouts that CVS does not find acceptable. That is not to say there is no middle ground, but as of

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yet, CVS has not been able to find that middle ground. CVS felt if they could illustrate to the Planning Commission why they cannot build in a landscape setting, that the Planning Commission would understand that CVS was not just being difficult for the sake of being difficult. CVS truly wants to be in Avondale and CVS has pursued this application with the understanding that Staff does not see eye to eye with the applicant. CVS does require parking up against the building. There are no pedestrians at this location. No business will design a 4.4 million dollar building for a nonexistent clientele.

Commissioner Cotera asked if the Planning Commission sent Mr. Morris back to Staff, could he try to find a middle ground. Mr. Morris added some levity to the meeting, stating that if Staff agreed with their plan, that would be fine. He reiterated that they have not been able to find a middle ground. CVS feels strongly that they cannot be forced into that corner.

Commissioner Cotera wondered if there is an innovative design that could meet everyone's needs. She asked if the issue was hopelessly deadlocked or could there be more deliberations. Mr. Morris replied he had avoided becoming a trial lawyer for this reason.

Commissioner Scanlon asked if Mr. Morris knew what a dynamite charge is. Mr. Morris stated he was finding out.

Commissioner Scanlon stated it may just be that a business with the clientele of CVS and the need for a drive-thru is incompatible with the vision that the City has for that gateway corner of Avondale. Other buildings in the area have parking in the front and in his opinion it will look odd to have the CVS on the corner. The use is appropriate, and CVS lives and dies by vehicular traffic. Any business with a drive-thru cannot comply with the landscape setting, so it may be a fact that CVS is incompatible with that corner and no accommodation can be arrived at. Mr. Morris stated Commissioner Scanlon may be correct. He asked in terms of other uses, what is left. There are existing users on the site that would prohibit other users from being there. The pharmacy was proposed with the master plan because they are a hard-corner user. As a result, the pad itself was sized for that type of use, which limits other uses.

Commissioner Scanlon stated Mr. Morris has done a good job of outlining CVS' needs.

Commissioner Lageschulte stated when the Planning Commission had approved the site plan, they had specified they did not want any fast food restaurants on this corner. This corner was not designed as a pedestrian-friendly shopping center. The Planning Commission's main concern at the time of approval was the limited parking on the site. The only business he can see locating on that corner is a restaurant. Avondale has already had two or three restaurants on Avondale Blvd. that are gone now. He thinks the upgrades done to the CVS for this location are great. He understands the need for shaded parking next to the store. He does not understand why the Staff wants to make this corner pedestrian friendly when the rest of the shopping center is not pedestrian friendly. Avondale needs business. The first building that will be put in the City Center is a gymnasium, which was never in the plans. Now the Planning Commission is in a

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meeting for three hours because they cannot decide where to put a business in a vehicle-friendly shopping center. To push business out of Avondale is not right.

Commissioner Cotera asked if further negotiation would be possible. Mr. Morris stated CVS has provided Staff with several different versions that have not met with Staff's approval. He would be willing to revisit those versions with Staff.

Commissioner Cotera asked if any layouts presented to Staff were acceptable. Ms. Bridge-Denzak stated that the layouts presented to Staff by CVS were primarily all the same with the building in the same location. She does not feel the applicant believes there is a compromise.

Commissioner Cotera stated CVS is a good use of that corner, but she also recognizes Staff's position. She is not convinced that a compromise has been tried.

Chairperson Iwanski invited the applicant's traffic engineer to address the Commission.

Dawn Cartier, 10605 N. Hayden Rd., Scottsdale, AZ, stated she is the traffic engineer for the applicant. Staff has had issues with cross access, but with the building moved to the corner, they still have the same cross access issues. In terms of traffic safety, the conflicting movements all happen on private property and the likelihood of any stacking of vehicles onto the arterial street are mitigated. She feels confident that the site plan will operate successfully.

Chairperson Iwanski invited questions of Ms. Cartier. There were none. Chairperson Iwanski asked if the City Traffic Engineer would like to speak.

Andrea Page, Engineering Plan Review Manager, stated that Avondale no longer has a traffic engineer, but sends the traffic reports out to a third party. The third party reviewed this site plan and their comments were consistent with Avondale's previous traffic engineer's comments. On the original master plan there was curbing shown along one side of the parcel. According to the applicant's traffic analysis, they had a queuing length of 100 feet on the northbound right turn lane. Both accesses the applicant is asking for would be blocked if there is a queuing length of 100 feet. There are cross access problems with cars entering into the drive-thru with the loading dock and trash enclosure in that location. A vehicle entering the drive-thru would have to cross traffic. She does not believe the applicant's site plan is in the spirit of the master plan that was approved and stipulated.

Chairperson Iwanski asked if the cross issue was that large a problem with such a low volume of traffic. Ms. Page replied that the applicant's own report shows a queuing length of 100 feet. The City's previous traffic engineer and the third party traffic engineer consultant stated that the queuing length was an issue.

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Chairperson Iwanski asked if the City's traffic engineer consultant had a chance to look at the spreadsheet that Mr. Morris showed the Planning Commission tonight giving statistics on all the stores. Ms. Page stated she does not believe the consultant had seen that spreadsheet.

Chairperson Iwanski stated the spreadsheet addresses the deceleration lane, cross access issues, and the number of accidents. Ms. Page stated she did not believe that traffic engineer consultant had seen that spreadsheet.

Commissioner Cotera stated she would be interested in a traffic study of peak traffic volumes. Ms. Page replied that the 100 foot queuing lane refers to the peak traffic stacking distance.

Mr. Morris stated there is a maximum queue at peak times of three cars, with an average traffic flow of 1.3 cars.

Commissioner Cotera asked if three cars in the queue was three cars waiting to exit the property or the queue in the drive-thru line. Ms. Cartier stated it is three cars at a time in the drive-thru line. CVS commissioned a study of the drive-thrus at all CVS sites and measured during open hours how many times the maximum queue was achieved. The maximum queue at only one store was three cars waiting for the pharmacies to fill their prescriptions on six occasions throughout the day.

Commissioner Cotera asked if it is three cars in each lane of the drive-thru waiting. Ms. Page stated it is two cars in one lane and one car in another lane, three cars total. The 100 foot length queue refers to cars exiting the site onto Van Buren Street. There are still issues with the drive-thru, trash enclosure, and loading dock being lumped together.

Vice Chair Demlong asked if this site plan is denied, can the applicant reapply. Brian Berndt, Development Services Director, stated if the Planning Commission supports the request for site plan approval, the item will go to City Council for a final decision. There is no definite deadline like there would be in a rezoning. Mr. Berndt reminded the Commission that the public hearing had not been held yet.

Chairperson Iwanski invited further questions.

Commissioner Cotera asked if discussion could be held on the motion. Chairperson Iwanski stated there is the Staff-recommended motion and any Commissioner is welcome to make a motion of their own.

Commissioner Cotera asked about procedural issues. Chris Schmaltz, City Attorney, stated it would be most appropriate to have a Commissioner propose a motion, see if the motion receives a second, and then have a discussion on the motion before any further discussion.

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Chairperson Iwanski stated if Commissioner Cotera or any other Commissioner feels strongly about an issue, he would encourage that Commissioner to make a motion.

Vice Chair Demlong moved that the Planning Commission accept the findings and recommend denial of application DR-08-16, a request for site plan approval for the CVS Pharmacy development. Commissioner Amos seconded the motion.

Chairperson Iwanski opened the floor for discussion.

Commissioner Cotera asked if the denial was a permanent denial or a temporary denial. Chris Schmaltz, City Attorney, stated the motion to deny is a recommendation to the City Council to deny the site plan as proposed.

Chairperson Iwanski invited discussion with regard to the motion. Hearing none, Chairperson Iwanski called for a roll call vote.

ROLL CALL VOTE

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

The motion failed for lack of majority.

Chairperson Iwanski thanked the Commissioners for their input.

Chris Schmaltz, City Attorney, informed the Commissioners they could entertain another motion.

Chairperson Iwanski invited another motion.

Commissioner Cotera moved that the Planning Commission direct the applicant and Staff to make a good faith effort to find a compromise and then return the petition back to the Planning Commission.

Attorney Schmaltz suggested if the Planning Commission wishes to continue the item, that the Commission direct the applicant and Staff to work together to arrive at a compromise and then the action can be brought to the Commission at the next meeting.

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Commissioner Cotera rescinded her previous motion.

Commissioner Cotera moved to continue Item DR-08-16 to the next Planning Commission meeting and charge Staff and the applicant to revisit whether a compromise is possible. Commissioner Amos seconded the motion.

Attorney Schmaltz asked if the item was continued to the next Planning Commission meeting.

Chairperson Iwanski asked if Commissioner Cotera intended to continue the item to the next Planning Commission meeting. Commissioner Cotera replied that her intent was to continue the item until such time as the Staff and the applicant are comfortable bringing the item back before the Planning Commission.

Vice Chair Demlong asked if a date to return the item to the Planning Commission was necessary. Attorney Schmaltz replied that the opened-ended nature of the motion was certainly an issue, as it could be interpreted as an indefinite continuance.

Mr. Morris interjected that CVS does not have the luxury of waiting.

Attorney Schmaltz interjected that it is not appropriate at this point in the meeting for Mr. Morris to address the Commission. He asked if the motion had been seconded.

Commissioner Cotera rescinded her previous motion.

Commissioner Lageschulte moved that the Planning Commission accept the findings and recommend approval of application DR-08-16, a request for site plan approval for the CVS Pharmacy development with the changes on the CVS drawings. Commissioner Scanlon seconded the motion.

Chairperson Iwanski asked if the Commissioners understood what the CVS drawings contained and then called for a roll call vote.

ROLL CALL VOTE

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

The motion failed for lack of majority.

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Chairperson Iwanski invited another motion.

Commissioner Amos moved that the Planning Commission continue application DR-08-16 until the July 2009 Planning Commission meeting and request that Staff and the applicant continue to work toward mutual agreement. Vice Chair Demlong seconded the motion.

Chairperson Iwanski invited discussion.

Commissioner Scanlon stated he was not aware that the Commission had the authority to direct the applicant to engage in further negotiation, and suggested the motion direct Staff to make a best effort to find common ground.

Chairperson Iwanski stated he understood the motion to mean the Commission could direct the Staff and applicant to engage in further negotiation, but they do not have to comply.

Attorney Schmaltz stated there is a motion and a second on the floor, which must be resolved before modifying the motion.

Chairperson Iwanski stated he thinks the Commission can direct Staff and the applicant to try to work toward a mutual agreement, and if they cannot, they cannot.

Attorney Schmaltz informed the Commission they could make a motion of no recommendation to the City Council and let the Council decide.

Chairperson Iwanski invited further discussion or reconsideration of the motion.

Commissioner Lageschulte stated he agrees the item should be passed to the City Council, as he does not believe a further delay would be in order. He would like the Commission to move the item to the Council without a recommendation.

Vice Chair Demlong stated it is the Commission's responsibility to decide. He would hate to set a precedent that every time the Commission cannot agree, that they kick the item to the Council.

Commissioner Scanlon stated that although he would like to give a definitive answer to the Council, he believes the Commission is at an impasse.

Chairperson Iwanski invited further discussion.

Commissioner Cotera asked if the Planning Commission forwarded the item to the City Council, when the item would appear on the Council agenda. Mr. Berndt stated it would be on the Council agenda the third Monday of June 2009.

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Commissioner Amos rescinded her previous motion.

Attorney Schmaltz stated if the Commissioner who seconded the motion would rescind the second, the motion could be modified.

Vice Chair Demlong rescinded his second on the motion.

Commissioner Amos rescinded her previous motion.

Commissioner Cotera moved that the Planning Commission pass DR-08-16 without recommendation of approval or denial to the City Council, with the recommendation that in the interim, Staff and applicant work toward a solution which will be a compromise and suitable for both parties. Commissioner Scanlon seconded the motion.

Chairperson Iwanski invited further discussion.

Vice Chair Demlong stated for the record that he believes the Planning Commission is passing the buck and this is not the way he likes to do business.

Commissioner Cotera stated she is concerned that the Commission is passing the buck, but she does not know that the Commission can find a solution given the deadlocked votes. The item would go before the Council in any case. Mr. Berndt confirmed that any decision that the Planning Commission makes would still go before the City Council.

Commissioner Cotera stated her motion is to forward the item to the City Council for the June 15, 2009 agenda and to exhort the Staff and applicant to try and find a workable solution. She believes that the Council is even more adamant than the Planning Commission about the City Center Plan. The applicant should recognize that the item may not be passed by the City Council if nothing is done to address the impasse. Avondale does not want a CVS store that is like every other CVS store.

Chairperson Iwanski stated he agrees with Vice Chair Demlong that kicking this item to the City Council is not the preferred action, but unless a Commissioner is willing to change their vote, the vote will remain deadlocked. He asked if the vote passed to deny the request, would the applicant have one more chance to address the City Council. Attorney Schmaltz replied the applicant would have a chance to address the Council even if the request was denied.

Chairperson Iwanski stated that in that case, kicking the item to Council is a matter of principle. He invited further discussion, and hearing none, called for vote.

ROLL CALL VOTE

Chairperson Iwanski Aye

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| | |
|--------------------------|--------|
| Vice Chair Demlong | Nay |
| Commissioner Lageschulte | Aye |
| Commissioner Scanlon | Aye |
| Commissioner Cotera | Aye |
| Commissioner Webster | Absent |
| Commissioner Amos | Aye |

The motion passed – 5 Ayes and 1 Nay.

Chairperson Iwanski stated he has been on the Planning Commission since 2000 and he does not believe the Commission has forwarded an item to the City Council without a recommendation in the past.

Exhibit N

Excerpt from Revised Section 7, Supplementary Regulations:

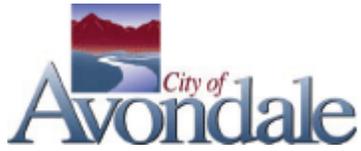
Section 709: Miscellaneous Standards

A. General

1. General.

a. The intersections of arterial or section line streets are a dominant feature of the urban landscape, serving as major focal points of activity in the community. Because of the importance of these intersections, additional landscaped setbacks and design features, beyond the required minimum standards, may be imposed on property at these intersections by the City at the time of re-zoning and/or site plan approval. Such additional features may involve:

- (1) wider setbacks;
- (2) unique building orientation and design;
- (3) special landscape features such as fountains, walls, and screening devices;
- (4) unique building architecture.



CITY COUNCIL REPORT

SUBJECT:
EXECUTIVE SESSION

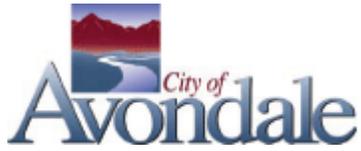
MEETING DATE:
July 6, 2009

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

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY COUNCIL REPORT

SUBJECT:
EXECUTIVE SESSION

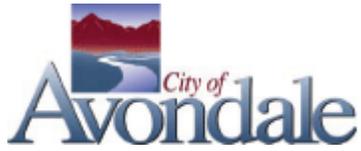
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