

# CITY COUNCIL AGENDA

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

**REGULAR MEETING**  
**January 21, 2014**  
**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 December 16, 2013
2. Regular Meeting of December 16, 2013
3. Regular Meeting of January 6, 2014

**b. LIQUOR LICENSE SERIES 10 (BEER AND WINE STORE) AND 10S (SAMPLING) - FRESH & EASY # 1061**

City Council will consider a request from Ms. Andrea Lewkowitz for approval of a Series 10 (Beer and Wine Store) and a Series 10S (Sampling) Liquor License to be used at Fresh & Easy #1061 located at 10725 W Thomas Road in Avondale. The Council will take appropriate action.

**c. MINOR LAND DIVISION FOR GOLDEN LEAF WELLNESS MEDICAL MARIJUANA DISPENSARY (PL-13-0202)**

City Council will consider a request by Mr. Walter Seng, GLW Holdings LLC, for approval of a Minor Land Division concerning property located at 3828 South Vermeersch Road to accommodate the development of the Golden Leaf Wellness Medical Marijuana Dispensary, a future development consistent with the property's A-1 (General Industrial) Zoning and dedication of rights-of-way and easement for future public use. The Council will take appropriate action.

**d. COOPERATIVE PURCHASING AGREEMENT- HD SUPPLY WATERWORKS LTD.**

City Council will consider a request to approve a Cooperative Purchasing Agreement with HD Supply Waterworks, LTD., to purchase waterworks equipment, accessories, and supplies for an annual amount not to exceed \$50,000 and a maximum aggregate amount not to exceed \$250,000, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. **CONSTRUCTION CONTRACT AWARD - MMI TANK & COATINGS - NORTHSIDE BOOSTER MODIFICATION AND COATING**

City Council will consider a request to award a construction contract to MMI Tank & Coatings for Northside Booster Modification and Coating in the amount of \$670,690, approve the necessary transfer of funds and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. **RESOLUTION 3159-114 - INTERGOVERNMENTAL AGREEMENT WITH CITY OF TOLLESON FOR COMMUNITY SPORTS AND TOURNAMENT PROGRAM**

City Council will consider a resolution authorizing an intergovernmental agreement with the City of Tolleson to coordinate a joint community program consisting of sports tournaments and community activities and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. **RESOLUTION 3160-114 - MEMORANDUM OF UNDERSTANDING - STATE FIRE MARSHAL FOR FIRE INSPECTION SERVICES**

City Council will consider a resolution approving a Memorandum of Understanding with the Office of the State Fire Marshal to provide plan review and inspection service for schools located within the City of Avondale and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

h. **RESOLUTION 3161-114 - INTERGOVERNMENTAL AGREEMENT - LITTLETON ELEMENTARY SCHOOL DISTRICT FOR COOPERATIVE FACILITY USE AND PROGRAMMING**

City Council will consider a resolution authorizing an Intergovernmental Agreement with Littleton Elementary School District #65 for the purpose of cooperative programming and the use of school facilities, and authorize the Mayor, City Manager and City Clerk to execute the documents. The Council will take appropriate action.

4 **PUBLIC HEARING AND RESOLUTION 3162-114 – ST. JOHN BOSCO CENTER MINOR GENERAL PLAN AMENDMENT (APPLICATION PL-13-0139)**

City Council will hold a public hearing and consider a request by Ms. Allyson Knappenberger, St. John Vianney Catholic Church, to adopt a resolution amending the General Plan Land Use Map for 10.1 acres of land located at the southwest corner of 125th Ave. and Illini St. to change its Land Use designation from “Open Space” to “Rural Low Density Residential” to accommodate the development of the St. John Bosco Center. The Council will take appropriate action.

5 **PUBLIC HEARING – ZONING EXTENSION FOR AVONDALE LIVE PAD (PL-13-0202)**

City Council will hold a public hearing and consider a request by Mr. Michael J. Curley, Earl, Curley & Lagarde P.C., on behalf of Harbor Properties LLC, an Illinois Limited Liability Company, for a one year extension of the PAD zoning for Avondale Live, located on approximately 62 acres of land north of the northwest corner of 99th Avenue and McDowell Road.

6 **MEMORANDUM OF UNDERSTANDING - AVONDALE PROFESSIONAL FIREFIGHTERS ASSOCIATION**

City Council will consider a request to approve a Memorandum of Understanding with the Avondale Professional Firefighters Association, International Association of Firefighters Local 3924, for Fiscal Years 2014-2015 and 2015-2016 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

7 **RATE ANALYSIS FOR THE WATER, WASTEWATER AND SANITATION ENTERPRISE FUNDS**

City Council will receive information regarding the rate analysis for the water, wastewater and sanitation enterprise funds. For information, discussion and direction.

**8 EXECUTIVE SESSION**

- a. The Council may hold an executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding the breach of a lease agreement for City Center property.

**9 ADJOURNMENT**

Respectfully submitted,



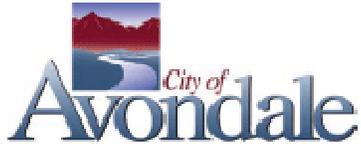
Carmen Martinez  
City Clerk

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.

Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oído, o con necesidad de impresión grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos días hábiles antes de la junta del Concejo.

Notice is hereby given that pursuant to A.R.S. § 1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council may be audio and/or video recorded and, as a result, proceedings in which children are present may be subject to such recording. Parents, in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. § 1-602.A.9 have been waived.

De acuerdo con la ley A.R.S. § 1-602.A.9, y sujeto a ciertas excepciones legales, se da aviso que los padres tienen derecho a dar su consentimiento antes de que el Estado o cualquier otra entidad política haga grabaciones de video o audio de un menor de edad. Las juntas del Concejo de la Ciudad pueden ser grabadas y por consecuencia, existe la posibilidad de que si hay menores de edad presentes éstos aparezcan en estos videos o grabaciones de audio. Los padres puedan ejercitar su derecho si presentan su consentimiento por escrito a la Secretaria de la Ciudad, o pueden asegurarse que los niños no estén presentes durante la grabación de la junta. Si hay algún menor de edad presente durante la grabación, la Ciudad dará por entendido que los padres han renunciado sus derechos de acuerdo a la ley contenida A.R.S. § 1-602.A.9.



# CITY COUNCIL REPORT

**SUBJECT:**  
APPROVAL OF MINUTES

**MEETING DATE:**  
January 21, 2014

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

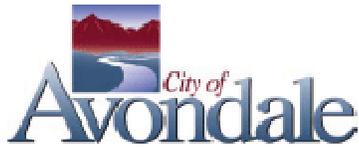
**PURPOSE:**

1. Work Session of December 16, 2013
2. Regular Meeting of December 16, 2013
3. Regular Meeting of January 6, 2014

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Liquor License Series 10 (Beer and Wine Store)  
and 10S (Sampling) - Fresh & Easy # 1061

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is recommending approval of a Series 10 (Beer and Wine Store) and a Series 10S (Sampling) Liquor License at Fresh & Easy #1061 located at 10725 W Thomas Road in Avondale submitted by Ms. Andrea Lewkowitz.

**DISCUSSION:**

Staff has received applications for a Series 10 (Beer and Wine Store) and a Series 10S (Sampling) Liquor License to be used at the Fresh & Easy Store #1061 located at 10725 W Thomas Road.

A Series 10 Liquor Store License allows the sale of beer and wine in the original unbroken package to be taken off the retailer's premises unopened and be consumed off the premises. Establishments licensed with a Series 10 liquor may also have sampling privileges subject to the following requirements:

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
2. The licensee is otherwise subject to all other provisions of the law. The licensee is liable for any violation of the law committed in connection with the sampling.
3. The licensed retailer shall make sales of sampled products from the licensed retail premises.
4. The licensee shall not charge any customer for the sampling of any products.
5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
6. Accurate records of sampling products dispensed shall be retained by the licensee.
7. Sampling shall be limited to three ounces of beer or cooler-type products, one ounce of wine and one ounce of distilled spirits per person, per brand, per day.
8. The sampling shall be conducted only on the licensed premises.

The required fees in the amount of \$950.00 for the Series 10 License have been paid. State Statute prohibits local governments from charging any fees in relation to the Series 10S license.

The establishment has been licensed since 2007 under the previous owner, Tesco Stores West Inc.

As required by state law and city ordinance, the application was posted for the required period of time starting December 30, 2013. A notice was published in the West Valley View on January 15 and 18, 2014. No comments were received.

The Arizona Department of Liquor License and Control has accepted the submitted applications as complete.

The Development Services, Police, and Fire Departments have reviewed the applications and are recommending approval. While not required by the ordinance, the applications were also reviewed by the Finance Department which has determined that the business is in good financial standing with the City. Department comments are attached.

**RECOMMENDATION:**

Staff is recommending approval of the applications for liquor licenses Series 10 (Beer and Wine Store) and Series 10S (Sampling) submitted by Ms. Andrea Lewkowitz to be used at Fresh & Easy #1061 located at 10725 W Thomas Road in Avondale.

**ATTACHMENTS:**

**Click to download**

- [Application - Series 10](#)
- [Application - Series 10S](#)
- [Review by Departments](#)
- [Posting photos](#)
- [Vicinity map](#)

Arizona Department of Liquor Licenses and Control

800 West Washington, 5th Floor

Phoenix, Arizona 85007

www.azliquor.gov

602-542-5141

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:

- MORE THAN ONE LICENSE
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 #(s):

1. Type of License(s): Series #10

Department Use Only

2. Total fees attached: \$

10076460
310.00

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: Ms. Lewkowitz Andrea Dahlman
Corp./Partnership/L.L.C.: Y-OPCO, LLC
Business Name: Fresh & Easy #1001
Principal Street Location: 10725 W. Thomas Road Avondale Maricopa 85323
Business Phone: (623) 478-9016 Daytime Phone: Email:
Is the business located within the incorporated limits of the above city or town? YES NO
Mailing Address:
Price paid for license only bar, beer and wine, or liquor store: Type \$ Type \$

DEPARTMENT USE ONLY

Fees: Application 100.00 Interim Permit 100.00 Site Inspection 110.00 Finger Prints 310.00
TOTAL OF ALL FEES

Is Arizona Statement of Citizenship & Alien Status For State Benefits complete? YES NO

Accepted by: JA Date: 12-06-13 Lic. # 10076460

**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. 10075320
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, Mary Louise Kasper, 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.

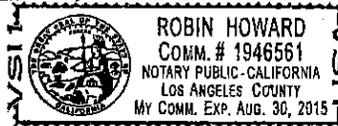
X M.L.K.  
(Signature)

State of CALIFORNIA County of LOS ANGELES

The foregoing instrument was acknowledged before me this

My commission expires on: AUGUST 30, 2015

31st day of OCTOBER, 2013  
Day Month Year



Robin Howard  
(Signature of NOTARY PUBLIC)

13 DEC 6 11:43 AM '13

**SECTION 6 Individual or Partnership Owners:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 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"/>						

) Y R A S S E C E N F I T

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#

14 JAN 7 11:05 AM '14

STATE OF ARIZONA

DEPARTMENT OF LIQUOR LICENSING  
AND CONTROL  
ALCOHOLIC BEVERAGE LICENSE

License 10075320

Issue Date: 12/6/2013

Expiration Date: 3/21/2014

Issued To:  
ANDREA DAHLMAN LEWKOWITZ, Agent  
Y-OPCO LLC, Owner

Beer & Wine Store  
Interim Permit

Mailing Address:

ANDREA DAHLMAN LEWKOWITZ  
Y-OPCO LLC  
FRESH & EASY #1061  
2600 N CENTRAL AVE STE 1775  
PHOENIX, AZ 85004

Location:  
FRESH & EASY #1061  
10725 W THOMAS RD  
AVONDALE, AZ 85323



EXPIRES 3/21/2014

POSTER HAS LICENSE IN THIS SPICIOUS PLACE

**SECTION 7 Corporation/Limited Liability Co.:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 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.: Y-OPCO, LLC  
(Exactly as it appears on Articles of Incorporation or Articles of Organization)

2. Date Incorporated/Organized: 10/10/2013 State where Incorporated/Organized: Delaware

3. AZ Corporation Commission File No.: N/A Date authorized to do business in AZ: N/A

4. AZ L.L.C. File No: R-1879004-9 Date authorized to do business in AZ: 10/15/2013

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
SEE ATTACHED					

(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
SEE ATTACHED					

(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 \$22 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)

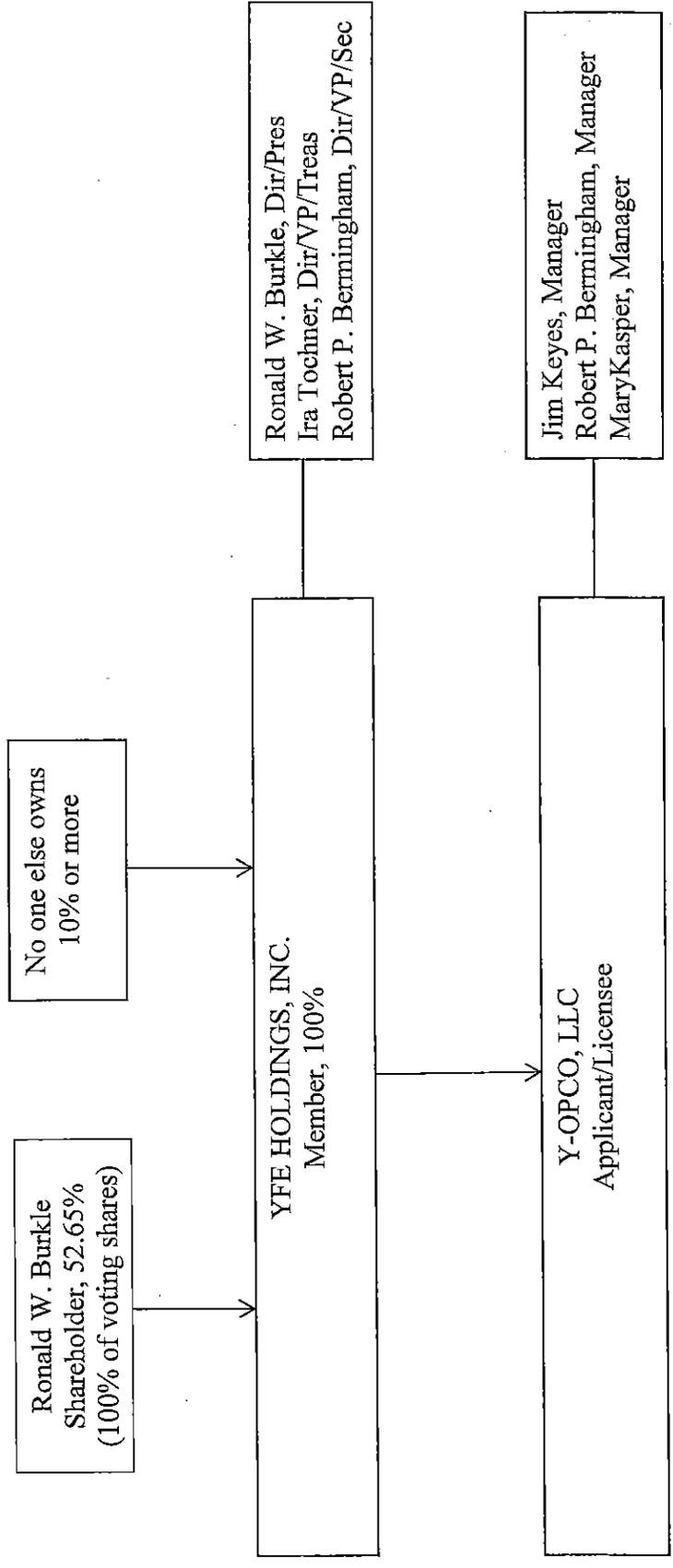
2. Is club non-profit?  YES  NO

3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

FRESH & EASY  
(effective November 26, 2013)



**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. If more than one license to be transferred: License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
7. Current Mailing Address: Street \_\_\_\_\_  
(Other than business) City, State, Zip \_\_\_\_\_
8. Have all creditors, lien holders, interest holders, etc. been notified of this transfer?  YES  NO
9. 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.

10. 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.

\_\_\_\_\_  
(Signature of CURRENT LICENSEE)

State of \_\_\_\_\_ County of \_\_\_\_\_  
The foregoing instrument was acknowledged before me this  
\_\_\_\_\_  
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. If more than one license to be transferred: License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
5. 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: 3,168 ft. Name of school Garden Lakes Elementary  
Address 10825 W. Garden Lakes Parkway, Avondale AZ 85392  
City, State, Zip \_\_\_\_\_

2. Distance to nearest church: 1,174 ft. Name of church First Baptist - Garden Lake  
Address 2517 N. 107th Avenue, Avondale, AZ 85392  
City, State, Zip \_\_\_\_\_

3. I am the:  Lessee  Sublessee  Owner  Purchaser (of premises)

4. If the premises is leased give lessors: Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

4a. Monthly rental/lease rate \$ \_\_\_\_\_ What is the remaining length of the lease \_\_\_ yrs. \_\_\_ mos.

4b. What is the penalty if the lease is not fulfilled? \$ \_\_\_\_\_ or other \_\_\_\_\_  
(give details - attach additional sheet if necessary)

5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 126,500,000.00

Please list lenders you owe money to.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip
Tesco PLC	UK	Corporation	126,500,000.00			

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? Grocery store

RECEIVED DEPT. OF REVENUE

**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 # 10075320 (exactly as it appears on license) Name Randy D. Nations

**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](http://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 spiritous 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. § 4-207.01(B), 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.**

*dl*  
applicants initials



FRESH & EASY NEIGHBORHOOD MARKET

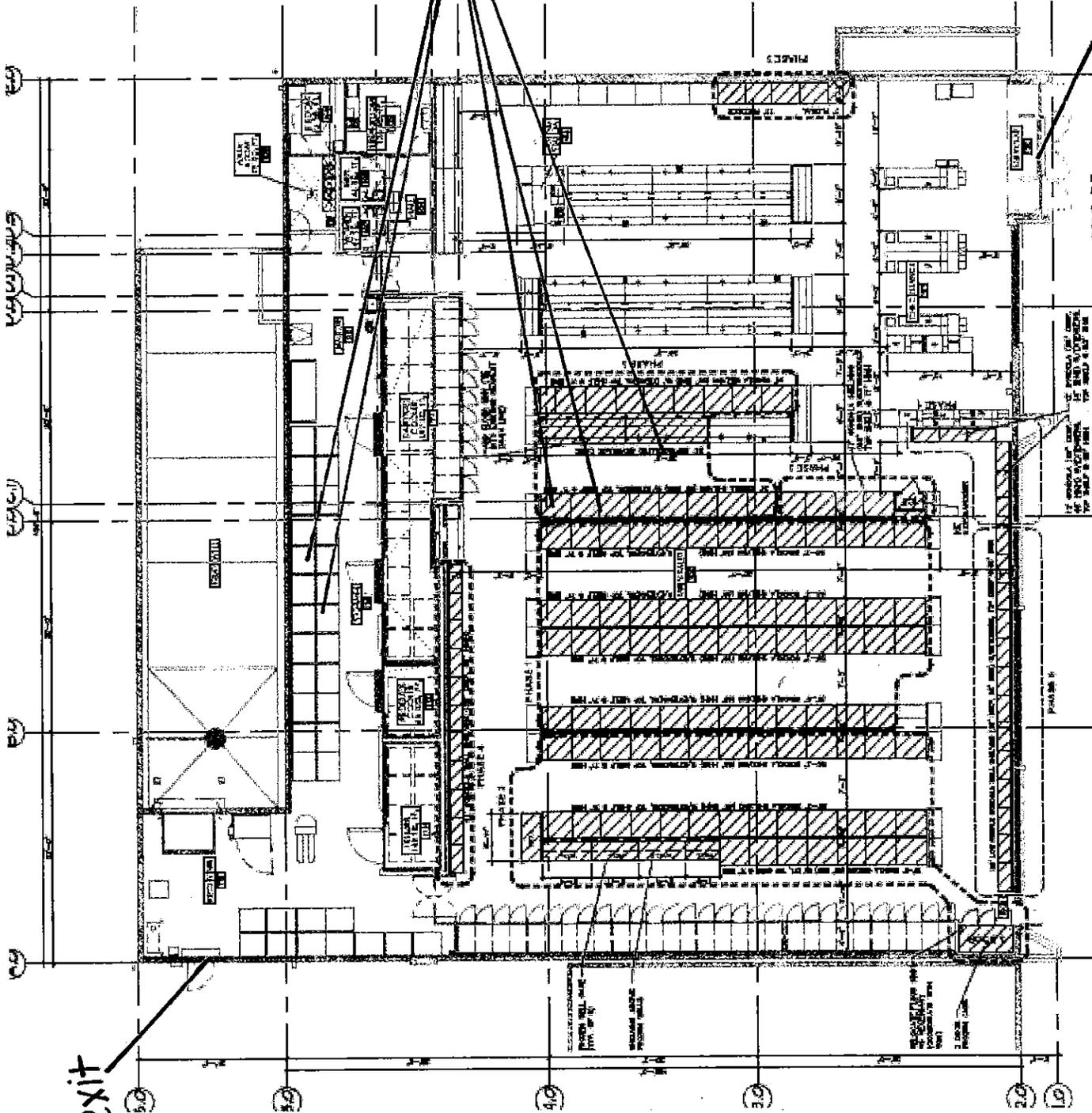
10725 W THOMAS RD

AVONDALE, AZ 85323

Liquor Storage

(13,908 sq ft)

EXIT / ENTRANCE



13 DEC 5 10:47 AM Dept PM 4 20

exit

5.0

3.0

4.0

3.0

2.0

1.0

ARTICLES OF AMENDMENT  
OF  
Y-OPCO, LLC

Effective November 25, 2013, the Articles of Organization of Y-OPCO, LLC are amended as follows:

Paragraph 7. Management of the limited liability company is vested in a manager or managers. The names and addresses of the managers are:

Jim Keyes

Robert P. Bermingham

Mary Kasper

James Dibbo shall be removed as manager.

Dated this 25<sup>th</sup> day of November, 2013.

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

Check one:  Member  Manager

13 DEC 5 09 PM 4 20

RECEIVED

DEC 03 2013

ARIZONA CORP COMMISSION  
CORPORATIONS DIVISION

AZ CORPORATION COMMISSION  
FILED

AZ Corp. Commissi  
04436387

OCT 10 2013  
FILED R-1579004-9

DO NOT WRITE ABOVE THIS LINE; RESERVED FOR A.C.C. USE ONLY.

**APPLICATION FOR REGISTRATION  
OF FOREIGN LIMITED LIABILITY COMPANY**

Please read Instructions 10251

1. **ENTITY TYPE** - check only one to indicate the type of entity applying for registration:

LIMITED LIABILITY COMPANY

PROFESSIONAL LIMITED LIABILITY COMPANY

2. **NAME IN STATE OR COUNTRY OF FORMATION (FOREIGN NAME)** - enter the exact, true name of the foreign LLC:

Y-Opco, LLC

3. **NAME TO BE USED IN ARIZONA (ENTITY NAME)** - identify the name the foreign LLC will use in Arizona by checking 3.1 or 3.2 (check only one), and follow instructions:

3.1  Name in state or country of formation, with no changes or additions - go to number 4 and continue.

3.2  Fictitious name - check this if the foreign LLC's name in its state or country of formation is not available for use in Arizona or if that name does not contain an LLC identifier, and enter the name in number 3.3 below. NOTE - a resolution of the company adopting the fictitious name must be attached to and submitted with this form.

3.3 If you checked 3.2, enter or print the name to be used in Arizona:

4. **PROFESSIONAL LIMITED LIABILITY COMPANY SERVICES** - If professional LLC is checked in number 1 above, describe the professional services that the professional LLC will provide (examples: law firm, accounting, medical):

5. **FOREIGN DOMICILE** - list the state or country in which the foreign LLC was formed:

Delaware

6. **DATE OF FORMATION IN FOREIGN DOMICILE:** 09/30/2013

7. **PURPOSE OR GENERAL CHARACTER OF BUSINESS** - describe or state the purpose of the foreign LLC or the general character of the business it proposes to transact in Arizona:

Investment

13 DEC 6 11:47 AM Dept PM 4:20

8. STATUTORY AGENT IN ARIZONA:			
<b>8.1 REQUIRED</b> - give the name (can be an individual or an entity) and physical or street address (not a P.O. Box) in Arizona of the statutory agent:		<b>8.2 OPTIONAL</b> - mailing address in Arizona of statutory agent, if different from street address (can be a P.O. Box):	
CT Corporation System Statutory Agent Name (required)			
Address (optional) 2390 East Camelback Road Address 1		Address (optional) Address 1	
Address 2 (optional) City Phoenix	State AZ Zip 85016	Address 2 (optional) City	State Zip
<b>8.3 REQUIRED</b> - the Statutory Agent Acceptance form MD02 must be submitted along with this Application For Registration.			

**9. PRINCIPAL OFFICE ADDRESS - FOREIGN DOMICILE STREET ADDRESS** - see Instructions 10251 - give the physical or street address (not a P. O. Box) of the foreign LLC required to be maintained in its state of organization, or, if not so required, of the foreign LLC's statutory agent in its state or country of organization:

Attention (optional) c/o The Corporation Trust Company, 1209 Orange Street Address 1		
Address 2 (optional) Wilmington	DE	19801
City	State or Province	Zip
Country DEA		

**10. OPTIONAL - ARIZONA KNOWN PLACE OF BUSINESS ADDRESS:**

**10.1** Is the Arizona known place of business street address the same as the street address of the statutory agent?  Yes - go to the next page and continue.  
 No - complete number 10.2 and continue.

**10.2** If you answered "no" to number 10.1, give the physical or street address (not a P.O. Box) of the known place of business of the LLC in Arizona:

Attention (optional)		
Address 1		
Address 2 (optional)		
City	State or Province	Zip
Country		

13 DEC 5 11:41 AM '10

510-789-1781

03:01:40 p.m. 10-08-2013

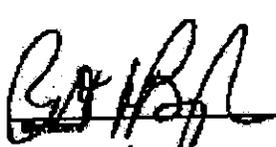
7/8

**COMPLETE NUMBER 11 OR NUMBER 12 - NOT BOTH.**

**11. MANAGER-MANAGED LLC - see Instructions L1251 - check this box  if management of the LLC is vested in a manager or managers, and complete and attach the Manager Structure Attachment form L040. The filing will be rejected if it is submitted without the attachment.**

**12. MEMBER-MANAGED LLC - see Instructions L1251 - check this box  if management of the LLC is reserved to the members, and complete and attach the Member Structure Attachment form L041. The filing will be rejected if it is submitted without the attachment.**

**13. SIGNATURE:** By checking the box marked "I accept" below, I acknowledge under penalty of perjury that this document together with any attachments is submitted in compliance with Arizona law.

  I ACCEPT  
Robert R. Beaudry 10-8-2013

**REQUIRED - check only one and fill in the corresponding blank if signing for an entity**

<input type="checkbox"/> I am the individual manager of this manager-managed LLC or I am signing for an entity manager named:	<input type="checkbox"/> I am a Member of this member-managed LLC or I am signing for an entity member named:	<input checked="" type="checkbox"/> I am a duly authorized agent for this LLC.
---	---	--

13 DEC 5 11:41 AM Dept PM 4 60

Filing Fee: \$150.00 (regular processing) Expedited processing - add \$35.00 to filing fee. All fees are non-refundable - see Instructions.	AGC Arizona Corporation Commission - Corporate Filings Section 1308 W. Washington St., Phoenix, Arizona 85007 602-942-4180
---	---

Please be advised that AGC does not have any liability for the information provided by clients. You should seek your own legal counsel for those matters that may pertain to the individual needs of your business.  
All documents filed with the Arizona Corporation Commission are public records and are open for public inspection.  
If you have questions after reading the Instructions, please call 602-942-3824 or (within Arizona only) 602-344-8215.

FORM 2011  
June 2010

Arizona Corporation Commission - Operating Division  
Page 6 of 8

AGC - 10/28/2013 11:41 AM Dept PM 4 60

DO NOT WRITE ABOVE THIS LINE; RESERVED FOR A.C.C. USE ONLY.

### STATUTORY AGENT ACCEPTANCE

Please read Instructions M002i

1. **ENTITY NAME** - give the exact name in Arizona of the corporation or LLC that has appointed the Statutory Agent:

Y-Opco, LLC

2. **A.C.C. FILE NUMBER** (if entity is already incorporated or registered in AZ) \_\_\_\_\_  
Find the A.C.C. file number on the upper corner of filed documents OR on our Website at: <http://www.azcc.gov/DIVisions/Corporations>

3. **STATUTORY AGENT NAME** - give the exact name of the Statutory Agent appointed by the entity listed in number 1 above (this will be either an individual or an entity):

CT Corporation System

- 3.1 Check one box:  The statutory agent is an Individual (natural person).  
 The statutory agent is an Entity.

#### STATUTORY AGENT SIGNATURE:

By the signature appearing below, the individual or entity named in number 3 above accepts the appointment as statutory agent for the entity named in number 1 above, and acknowledges that the appointment is effective until the entity replaces the statutory agent or the statutory agent resigns, whichever occurs first.

By checking the box marked "I accept" below, I acknowledge under penalty of perjury that this document together with any attachments is submitted in compliance with Arizona law.

I ACCEPT

CT Corporation System

By: Donl Cowy  
Signature

DONALD BROWNE, ASST SECY  
Printed Name

10/9/13  
Date

REQUIRED - check only one:

<input type="checkbox"/> Individual as statutory agent: I am signing on behalf of myself as the individual	<input checked="" type="checkbox"/> Entity as statutory agent: I am signing on behalf of the entity named as statutory agent, and I am authorized to act for that entity.
--	---

Filing Fee: none (regular processing) Expedited processing - (available only if this form is submitted by 11:59P) add \$35.00 to filing fee. All fees are nonrefundable - see Instructions.	Email: Arizona Corporation Commission - Corporate Filings Section 1500 W. Washington St., Phoenix, Arizona 85007 Fax: 602-542-6100
---	--

Please be advised that A.C.C. forms reflect only the minimum provisions required by statute. You should seek private legal counsel for those matters that may pertain to the individual needs of your business. All documents filed with the Arizona Corporation Commission are public records and are open for public inspection. If you have questions after reading the Instructions, please call 602-542-1006 or (within Arizona only) 800-345-8610.

13 DEC 6 11:47 AM '13 Dept PH 4 20

DO NOT WRITE ABOVE THIS LINE, RESERVED FOR A/C USE ONLY.

**MANAGER STRUCTURE ATTACHMENT**

1. **ENTITY NAME** – give the exact name of the LLC (foreign LLCs – give name in domestic state or country):

Y-Ogo, LLC

2. **A.C.C. FILE NUMBER (if known):**

Has the A.C.C. file number on the upper corner of filed documents OR on our website at <http://www.azcc.gov/Database/Corporations>

3. Check one box only to indicate what document this Attachment goes with:

- Articles of Organization       Articles of Amendment  
 Application for Registration       Articles of Amendment to Application for Registration

4. **MANAGERS / MEMBERS** – give the name and address of each and every manager and list all members who own 20% or more of the profits or capital of the LLC. Members who own less than 20% may also be listed, but it is not required. Check the appropriate box or boxes below each person listed – do not check both member boxes. If more space is needed, use another Manager Structure Attachment form.

<b>Jim Keyes</b> Name 9130 West Sunset Blvd Address 1 City: Los Angeles      State: CA      Zip: 90069 Country: USA <input checked="" type="checkbox"/> Manager <input type="checkbox"/> 20% or more member <input type="checkbox"/> Less than 20% member			<b>James Dibba</b> Name 9130 West Sunset Blvd Address 1 City: Los Angeles      State: CA      Zip: 90069 Country: USA <input checked="" type="checkbox"/> Manager <input type="checkbox"/> 20% or more member <input type="checkbox"/> Less than 20% member		
<b>Robert P. Birmingham</b> Name 9130 West Sunset Blvd Address 1 City: Los Angeles      State: CA      Zip: 90069 Country: USA <input checked="" type="checkbox"/> Manager <input type="checkbox"/> 20% or more member <input type="checkbox"/> Less than 20% member			<b>YFE Holdings, Inc.</b> Name 9130 West Sunset Blvd Address 1 City: Los Angeles      State: CA      Zip: 90069 Country: USA <input type="checkbox"/> Manager <input checked="" type="checkbox"/> 20% or more member <input type="checkbox"/> Less than 20% member		
Name Address 1 City State or Province Zip Country <input type="checkbox"/> Manager <input type="checkbox"/> 20% or more member <input type="checkbox"/> Less than 20% member			Name Address 1 City State or Province Zip Country <input type="checkbox"/> Manager <input type="checkbox"/> 20% or more member <input type="checkbox"/> Less than 20% member		

13 DEC 6 11:47 AM 4 2011

# Delaware

PAGE 1

*The First State*

I, JEFFREY W. BOLLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "Y-OPCO, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE NINTH DAY OF OCTOBER, A.D. 2013.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.

13 DEC 6 11:41 AM '13



5409120 8300

191181466

You may verify this certificate online at [corp.delaware.gov/suchrec.shtml](http://corp.delaware.gov/suchrec.shtml)

*Jeffrey W. Bollock*  
Jeffrey W. Bollock, Secretary of State  
AUTHENTICATION: 0802499

DATE: 10-09-13

---

# LIMITED LIABILITY COMPANY AGREEMENT OF Y-OPCO, LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT (the "Agreement") is made and entered into as of the 10th day of October, 2013, by YFE Holdings, Inc., a Delaware corporation of 9130 West Sunset Boulevard, Los Angeles, California 90069 (the "Managing Member"), together with such other entities as may at a later time become members of the Company at times referred to as "Members") for the purpose of forming Y-Opco, LLC (the "Company"), a limited liability company organized under 6 Delaware Corporate Section 18-101, *et seq.*, (the "Act").

## ARTICLE 1

### ORGANIZATIONAL MATTERS

1.1 **Formation.** The Managing Member hereby forms the Company under the Act for the purposes and upon the terms and conditions hereinafter set forth. The rights and liabilities of the Managing Member and any other Member of the Company shall be as provided in the Act, except as otherwise expressly provided herein. In the event of any inconsistency between any terms and conditions contained in this Agreement and any non-mandatory provisions of the Act, the terms and conditions contained in this Agreement shall govern.

1.2 **Name.** The name of the Company shall be Y-Opco, LLC. The Company may also conduct business at the same time under one or more fictitious names if the Managing Member determines that such is in the best interests of the Company. The Managing Member may change the name of the Company, from time to time, in accordance with applicable law.

1.3 **Principal Place of Business; Other Places of Business.** The principal place of business of the Company is located at 9130 West Sunset Boulevard, Los Angeles, California or such other place within or outside the State of California as the Managing Member may from time to time designate. The Company may maintain offices and places of business at such other place or places within or outside the State of California as the Managing Member deems advisable.

1.4 **Business Purpose.** The principal purpose of the Company is to operate a retail supermarket business presently known as Fresh & Easy Neighborhood Supermarkets located as of the date hereof in California, Arizona and Nevada including but not limited to entering into leases, lease modifications, purchasing property, operating supermarket facilities, hiring and terminating employees, entering into appropriate contracts and all like matters. The Company may engage in any other lawful business, purpose or activity in which a limited liability company may be engaged under applicable law (including, without limitation, the Act).

1.5 **Certificate of Formation.** The Managing Member has caused to be executed and filed, as of September 30, 2013, a Certificate of Formation (the "Certificate") in the Office of the Delaware Secretary of State as required by the Act. The Managing Member may execute and file any duly authorized amendments to the Certificate from time to time in a form prescribed by the Act. The Managing Member shall also cause to be made, on behalf of the Company, such additional filings and recordings as the Managing Member shall deem necessary or advisable, including qualifying the Company in the States of California, Arizona and Nevada.

1.6 **Fictitious Business Name Statements.** Following the execution of this Agreement, fictitious business name statements shall be filed and published when and if the Managing Member determines it necessary. Any such statement shall be renewed as required by applicable law.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

YFE HOLDINGS, INC.

By: 

Ronald W. Burke  
Managing Member

13 DEC 6 11 47 AM '91

**Exhibit A**  
**to the**  
**Limited Liability Company Agreement of**  
**Y-OPCO, LLC**

Name and Address of Members	Initial Capital Contribution	Percentage Interests
<b>YFE Holdings, Inc.</b> <b>9130 West Sunset Boulevard</b> <b>Los Angeles, CA 90069</b>	*	100%
<b>TOTAL</b>		100%

\*Such sums as are necessary to operate the Company.

13 DEC 6 11:47 AM '91

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

FP current 11-2013  
P1056227 JB

QUESTIONNAIRE

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

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

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

Liquor License #

10076460

(If the location is currently licensed)

1. Check appropriate box →  Controlling Person (Complete Questions 1-19)  Agent (Complete Questions 1-19)  Manager (Only) (Complete All Questions except # 14, 14a & 21)  
Controlling Person or Agent must complete #21 for a Manager. Controlling Person or Agent must complete # 21

2. Name: Lewkowitz Andrea Dahlman 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: Mankato MN USA Height: 5'8 Weight: 135 Eyes: Hazel Hair: Blonde  
City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Lewkowitz Harold Jerome N/A Date of Birth: \_\_\_\_\_  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

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. \_\_\_\_\_

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: Fresh & Easy #1061 Premises Phone: (623) 478-9016

11. Physical Location of Licensed Premises Address: 10725 W. Thomas Road 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 (street address, city, state & zip)
04/2009	CURRENT	Attorney	Lewkowitz Law 2600 N. Central Avenue, #1775, Phoenix, AZ 85004
12/2003	04/2009	Attorney	Lewkowitz Law 3101 N. Central Avenue, #200, Phoenix, AZ 85012

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION ↓

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

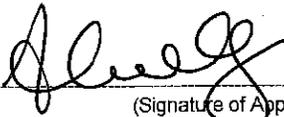
FROM Month/Year	TO Month/Year	Rent or Own	RESIDENTIAL Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
02/1998	CURRENT	Own				

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?  YES  NO  
If you answered YES, how many hrs/day? \_\_\_\_\_, and **answer #14a below**. If NO, skip to #15.
- 14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 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 been cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years?  YES  NO  
In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol or drug-related.
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? Include only criminal traffic tickets and complaints.  YES  NO
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
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?  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, Andrea Dahlman Lewkowicz, 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   
(Signature of Applicant)

State of Arizona County of Maricopa

The foregoing instrument was acknowledged before me this  
20 day of November, 2013  
Month Year



  
(Signature of NOTARY PUBLIC)

**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 \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

X \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Signature of Controlling Person or Agent (circle one) Month Year

\_\_\_\_\_  
(Signature of NOTARY PUBLIC)

\_\_\_\_\_  
Print Name

My commission expires on: \_\_\_\_\_  
Day Month Year

13 DEC 5 11:47 AM Dept PM 4 01



2600 North Central Avenue  
Suite 1775  
Phoenix, Arizona 85004  
☎ 602.200.7222  
📠 602.200.7234  
www.lewkowitzlaw.com

Andrea D. Lewkowitz  
H.J. Lewkowitz

November 27, 2013

Connie Wagner, Director of Licensing  
Department of Liquor Licensing & Control  
800 West Washington Street, 5th Floor  
Phoenix, Arizona 85007

Re: Alien Status Form and Passport

Dear Connie:

My completed Alien Status form and a copy of my passport are on file at the Arizona Department of Liquor Licenses and Control.

If you require more information from me, please call. Thank you!

Sincerely,

A handwritten signature in cursive script that reads 'Andrea'.

Andrea D. Lewkowitz

ADL/als

13 DEC 6 10:47 AM '13

**ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL**

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

**QUESTIONNAIRE**

803.064  
P1031632 JB

**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 AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

**Liquor License #**

10076460

(If the location is currently licensed)

1. Check appropriate box →  **Controlling Person** (Complete Questions 1-19)  **Agent**  **Manager (Only)** (Complete All Questions except # 14, 14a & 21)  
**Controlling Person or Agent must complete #21 for a Manager** **Controlling Person or Agent must complete # 21**

2. Name: Keyes James Willard Date of Birth: \_\_\_\_\_  
Last First Middle (NOT a Public Record)

3. Social Security Number: \_\_\_\_\_ Drivers License #: \_\_\_\_\_ State: Texas  
(NOT a public record) (NOT a public record)

4. Place of Birth: Worcester MA USA Height: 5'9 Weight: 190 Eyes: Brown Hair: Brown  
City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Keyes Margo Bernadette Ramirez Date of Birth: \_\_\_\_\_  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

7. You are a bona fide resident of what state? Texas If Arizona, date of residency: N/A

8. Telephone number to contact you during business hours for any questions regarding this document. \_\_\_\_\_

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: Fresh & Easy #1001 Premises Phone: (623) 478-9016

11. Physical Location of Licensed Premises Address: 10725 W. Thomas Road 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 (street address, city, state & zip)
11/2013	CURRENT	CEO/President	
01/2012	11/2013	CEO	
07/2007	06/2013	CEO/Sr. Advisor	

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	RESIDENTIAL Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
12/2000	CURRENT	O				

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?  YES  NO  
 If you answered YES, how many hrs/day? \_\_\_\_\_, and **answer #14a below**. If NO, skip to #15.

14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 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 been cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years?  YES  NO  
 In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol or drug-related.

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? Include only criminal traffic tickets and complaints.  YES  NO

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

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?  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, James Willard Keyes, 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.

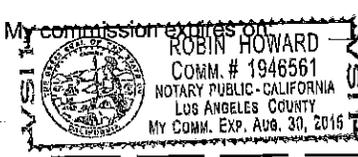
X [Signature]  
 (Signature of Applicant)

State of California County of Los Angeles

The foregoing instrument was acknowledged before me this  
27th day of November, 2013  
 Month Year

[Signature]  
 (Signature of NOTARY PUBLIC)

My commission expires on: 20 August 2015  
 Day Month Year



**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 \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

X \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
 Signature of Controlling Person or Agent (circle one) Month Year

\_\_\_\_\_  
 (Signature of NOTARY PUBLIC)

\_\_\_\_\_  
 Print Name

My commission expires on: \_\_\_\_\_  
 Day Month Year

13 DEC 6 11:47 AM '13

James Willard Keyes  
Supplement to Questionnaire

4  
2  
e

Questions #17 & #19 - YES

I served as an officer of 7-Eleven, Inc. during a period of my employment from 1985-2006. 7-Eleven, Inc. holds liquor licenses throughout the United States and worldwide. During my period of employment some of the licenses were cited for alleged liquor violations, resulting in fines or other penalties. I have never been cited personally for a liquor sales/service violation.

  
James Willard Keyes

13 DEC 6 11 49 AM '01

**ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL**

800 W Washington 5th Floor

Phoenix AZ 85007-2934

(602) 542-5141

**QUESTIONNAIRE**

803-064  
P1054553-JB

**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 AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

**Liquor License #**

10076460

(If the location is currently licensed)

1. Check appropriate box →  **Controlling Person**  **Agent**  
 (Complete Questions 1-19)  
**Controlling Person or Agent must complete #21 for a Manager**

**Manager (Only)**  
 (Complete All Questions except # 14, 14a & 21)  
**Controlling Person or Agent must complete # 21**

2. Name: Kasper Mary Louise Date of Birth: \_\_\_\_\_  
 Last First Middle (NOT a Public Record)

3. Social Security Number: \_\_\_\_\_ Drivers License #: \_\_\_\_\_ State: California  
 (NOT a public record) (NOT a public record)

4. Place of Birth: Los Angeles CA USA Height: 5'4" Weight: 110 Eyes: BRN Hair: BLK  
 City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Kasper Steve Eugene Date of Birth: \_\_\_\_\_  
 (List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

7. You are a bona fide resident of what state? California If Arizona, date of residency: \_\_\_\_\_

8. Telephone number to contact you during business hours for any questions regarding this document. \_\_\_\_\_

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: Fresh & Easy #1001 Premises Phone: (623) 478-9016

11. Physical Location of Licensed Premises Address: 10725 W. Thomas Road 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 (street address, city, state & zip)
11/2013	CURRENT	Sr. VP/ General Counsel / Sec	
1/2007	11/2013	VP/Secretary/General Counsel	

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	RESIDENTIAL Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
5/1990	CURRENT	Own				

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? YES  NO  
 If you answered YES, how many hrs/day? \_\_\_\_\_, and answer #14a below. If NO, skip to #15.
- 14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 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 been cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years? YES  NO  
 In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol or drug-related.
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? Include only criminal traffic tickets and complaints. YES  NO
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
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?  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, Mary Louise Kasper, 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.

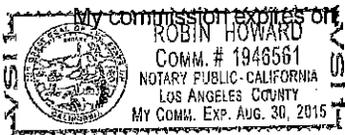
x *Mary Louise Kasper*  
 (Signature of Applicant)

State of CALIFORNIA County of Los Angeles

The foregoing instrument was acknowledged before me this  
27th day of NOVEMBER, 2013  
 Month Year

*Robin Howard*  
 (Signature of NOTARY PUBLIC)

30 August 2015  
 Day Month Year



**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 \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

X \_\_\_\_\_  
 Signature of Controlling Person or Agent (circle one)

\_\_\_\_\_ day of \_\_\_\_\_  
 Month Year

\_\_\_\_\_  
 (Signature of NOTARY PUBLIC)

Print Name

My commission expires on: \_\_\_\_\_  
 Day Month Year

13 DEC 6 11:41 AM '13

Supplement to Questionnaire  
Mary Louise Kasper

Questions #17 & #19 - YES

I served as an officer of Ralphs Grocery Company during a period of my employment from 1997 to 2007. Ralphs holds liquor licenses throughout the State of California. During my period of employment some of the licenses were cited for alleged liquor violations, resulting in fines or other penalties. I have never been cited personally for a liquor sales/service violation.

  
Mary Louise Kasper

13 DEC 6 11 39 AM '01

**ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL**

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

**QUESTIONNAIRE**

803-0644  
P1070532

**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 AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

**Liquor License #**

10076460

*(If the location is currently licensed)*

1. Check appropriate box →  **Controlling Person**  **Agent**  
(Complete Questions 1-19)  
**Controlling Person or Agent must complete #21 for a Manager**

**Manager (Only)**  
(Complete All Questions except # 14, 14a & 21)  
**Controlling Person or Agent must complete # 21**

2. Name: Birmingham Robert Paul Date of Birth: \_\_\_\_\_  
Last First Middle **(NOT a Public Record)**

3. Social Security Number: \_\_\_\_\_ Drivers License #: \_\_\_\_\_ State: California  
**(NOT a public record)** **(NOT a public record)**

4. Place of Birth: Glenridge NJ USA Height: 5'10 Weight: 210 Eyes: Hzl Hair: Gray  
City State **Country** (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Birmingham Valerie Elizabeth King Date of Birth: \_\_\_\_\_  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden **(NOT a public record)**

7. You are a bona fide resident of what state? California If Arizona, date of residency: N/A

8. Telephone number to contact you during business hours for any questions regarding this document. \_\_\_\_\_

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: Fresh & Easy #1001 Premises Phone: (623) 478-9016

11. Physical Location of Licensed Premises Address: 10725 W. Thomas Road 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 (street address, city, state & zip)
12/1997	CURRENT	General Counsel	

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	RESIDENTIAL Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
12/1972	CURRENT	Own				

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?  YES  NO  
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)  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 been cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years?  YES  NO  
In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol or drug-related.
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? Include only criminal traffic tickets and complaints.  YES  NO
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
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?  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**

13 DEC 6 11:47 AM Dept RM 4

20. I, Robert Paul Bermingham, 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 [Signature]  
(Signature of Applicant)

State of California County of Los Angeles

The foregoing instrument was acknowledged before me this  
20th day of November, 2013  
Month Year

My commission expires on: 1/13/2016  
Day Month Year

[Signature]  
(Signature of NOTARY PUBLIC)

**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.

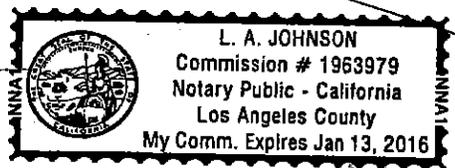
State of \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

X \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Signature of Controlling Person or Agent (circle one) Month Year

\_\_\_\_\_  
(Signature of NOTARY PUBLIC)

\_\_\_\_\_  
Print Name  
My commission expires on: \_\_\_\_\_  
Day Month Year



**ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL**

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

803-064

P1070531 JB

**QUESTIONNAIRE**

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

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

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE. In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

**Liquor License #**

10076460

(If the location is currently licensed)

1. Check appropriate box →  **Controlling Person**  **Agent**  **Manager (Only)**  
 (Complete Questions 1-19) (Complete All Questions except # 14, 14a & 21)  
**Controlling Person or Agent must complete #21 for a Manager** **Controlling Person or Agent must complete # 21**

2. Name: Tochner Ira Louis Date of Birth: \_\_\_\_\_  
 Last First Middle (NOT a Public Record)

3. Social Security Number: \_\_\_\_\_ Drivers License #: \_\_\_\_\_ State: California  
 (NOT a public record) (NOT a public record)

4. Place of Birth: Los Angeles CA USA Height: 59 Weight: 250 Eyes: Green Hair: Brown  
 City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Delvaux-Tochner Mary Elizabeth Date of Birth: \_\_\_\_\_  
 (List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

7. You are a bona fide resident of what state? California If Arizona, date of residency: N/A

8. Telephone number to contact you during business hours for any questions regarding this document. \_\_\_\_\_

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: Fresh & Easy #1001 Premises Phone: (623) 478-9016

11. Physical Location of Licensed Premises Address: 10725 W. Thomas Road 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 (street address, city, state & zip)
12/1991	CURRENT	Partner	The Yucaipa Companies, 9130 W. Sunset Blvd., Los Angeles, CA 90069

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION 12 OR 13

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

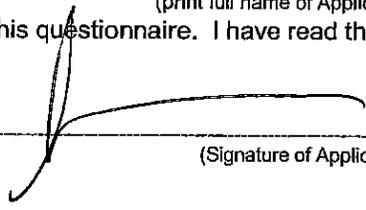
FROM Month/Year	TO Month/Year	Rent or Own	RESIDENTIAL Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
12/1998	CURRENT	O				

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 cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years?  
In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol 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? Include only criminal traffic tickets and complaints.  YES  NO
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
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?  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**

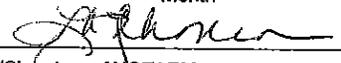
20. I, IRA LOUIS TOCHNER, hereby declare that I am the APPLICANT/REPRESENTATIVE  
(print full name of Applicant)  
filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

X   
(Signature of Applicant)

State of California County of Los Angeles

The foregoing instrument was acknowledged before me this  
26th day of November, 2013  
Month Year

My commission expires on: 1/13/2016  
Day Month Year

  
(Signature of NOTARY PUBLIC)

13 DEC 6 11:41 AM '13

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

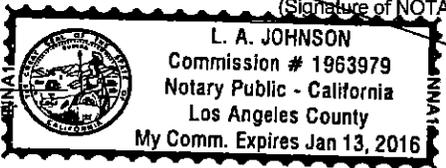
21. The applicant hereby authorizes the person named on this questionnaire to act as manager for the named liquor license.  
The manager named must be at least 21 years of age.

State of \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

X \_\_\_\_\_ day of \_\_\_\_\_  
Signature of Controlling Person or Agent (circle one) Month Year

Print Name \_\_\_\_\_  
My commission expires on: \_\_\_\_\_  
Day Month Year



(Signature of NOTARY PUBLIC)

**ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL**

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

803. 864  
P1024548 JB

**QUESTIONNAIRE**

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

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

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

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

**Liquor License #**  
10076460  
(If the location is currently licensed)

1. Check appropriate box →  **Controlling Person**  **Agent**  
(Complete Questions 1-19)  
**Controlling Person or Agent must complete #21 for a Manager**

**Manager (Only)**  
(Complete All Questions except # 14, 14a & 21)  
**Controlling Person or Agent must complete # 21**

2. Name: Burke Ronald Wayne Date of Birth: \_\_\_\_\_  
Last First Middle (NOT a Public Record)

3. Social Security Number: \_\_\_\_\_ Drivers License #: \_\_\_\_\_ State: California  
(NOT a public record) (NOT a public record)

4. Place of Birth: Pomona CA USA Height: 6'1 Weight: 190 Eyes: Brown Hair: Brown  
City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Steeper Janet Ellnyn Steeper Date of Birth: \_\_\_\_\_  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

7. You are a bona fide resident of what state? California If Arizona, date of residency: N/A

8. Telephone number to contact you during business hours for any questions regarding this document. \_\_\_\_\_

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: Fresh & Easy #1001 Premises Phone: (623) 478-9016

11. Physical Location of Licensed Premises Address: 10725 W. Thomas Road 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 (street address, city, state & zip)
12/1986	CURRENT	CEO/Founder	The Yucaipa Companies, 9130 W. Sunset Blvd., Los Angeles, CA 90069

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	RESIDENTIAL Street Address (If rented, attach additional sheet with name, address and phone number of landlord)	City	State	Zip
12/1991	CURRENT	Own				

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 cited, arrested, indicted or summoned into court for violation of ANY law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past ten (10) years?  
In addition, please include all traffic tickets and complaints within the last ten (10) years that resulted in a warrant for arrest AND any traffic tickets and complaints that are alcohol 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? Include only criminal traffic tickets and complaints.  YES  NO
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
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?  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, Ronald Wayne Burkle, 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 [Signature]  
(Signature of Applicant)

State of California County of Los Angeles

The foregoing instrument was acknowledged before me this 20th day of November, 2013  
Month Year

My commission expires on: 1/13/2016  
Day Month Year

[Signature]  
(Signature of NOTARY PUBLIC)

13 DEC 6 11:41 AM '13

**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 \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

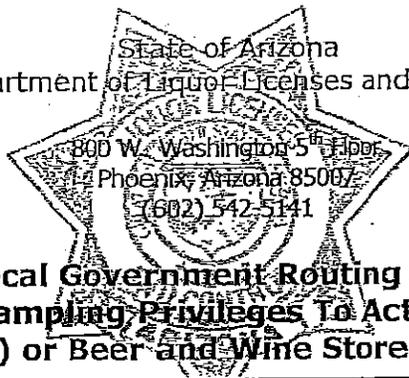
X \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Signature of Controlling Person or Agent (circle one) Month Year

\_\_\_\_\_  
(Signature of NOTARY PUBLIC)

Print Name \_\_\_\_\_  
My commission expires on: \_\_\_\_\_  
Day Month Year



State of Arizona  
Department of Liquor Licenses and Control



**State/Local Government Routing Sheet**  
**Add Sampling Privileges To Active**  
**Liquor Store (series 9) or Beer and Wine Store (series 10) License**

Liquor Store (series 9)  
 Beer and Wine Store (series 10)

The attached form for sampling must be processed within 105 days from this date:

Date Application Received at DLLC: DECEMBER 6, 2013  
Date of 60-days from receipt: 02-04-14 105-days from receipt: 03-21-14

If the local governing body has questions regarding the attached sampling form, please call:

DLLC Contact Name: Jennifer Benson  
DLLC Contact Phone Number: 602-542-9057 DLLC Contact email: Jennifer.Benson@azliquor.gov

Upon local governing body approval, a new license with a sampling privilege ("S") designation will be issued to this licensee:

For DLLC Use Only

Current License #: 10076460 Date of issuance: # pending #  
S License #: \_\_\_\_\_ Date of issuance: \_\_\_\_\_  
DLLC Contact: Jennifer Benson DLLC Phone #: 602-542-9057

For Local Governing Body Use Only

Date Receive: \_\_\_\_/\_\_\_\_/\_\_\_\_

Recommendation:  Approve  Protest  No Recommendation

I \_\_\_\_\_, hereby recommend that non-transferrable sampling  
Government Official

privileges be added to this licensee on behalf of \_\_\_\_\_  
City, Town or County

(\_\_\_\_) \_\_\_\_\_  
Phone Number Email Address

Avondale, Maricopa

13 DEC 6 11:41 AM '13

State of Arizona  
Department of Liquor Licenses and Control

800 W. Washington 5<sup>th</sup> Floor  
Phoenix, Arizona 85007  
(602) 542-5141

Sampling Privileges Form

- Liquor Store (series 9)  
 Beer and Wine Store (series 10)

Applicant's Name: Andrea Dahlman Lewkowicz (check one) Owner  Agent

Mailing Address: \_\_\_\_\_  
Street Address or P.O. Box City State County Zip Code

Business Phone Number: (623) 478-9016 Email: \_\_\_\_\_

Business Name: Fresh & Easy #1001 Current License #: 10076460

Physical Location of Business:  
10725 W. Thomas Road Avondale AZ Maricopa 85323  
Street Address City State County Zip Code

I, Andrea Dahlman Lewkowicz, understand that, upon approval, sampling privileges for the liquor license identified above will require compliance with the following:

Initial Here

- AL 1. the premises shall contain at least five thousand square feet to be eligible for sampling privileges for Beer and Wine Store (series 10) applicants only (A.R.S. §4-206.01(J)).
- AL 2. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
- AL 3. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.
- AL 4. The licensed retailer shall make sales of sampled products from the licensed retail premises.
- AL 5. The licensee shall not charge any customer for the sampling of any products.
- AL 6. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
- AL 7. Accurate records of sampling products dispensed shall be retained by the licensee.
- AL 8. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounce of wine and one ounce of distilled spirits per person, per brand, per day.
- AL 9. The sampling shall be conducted only on the licensed premises.
- AL 10. Upon approval of this form, a license for a liquor store with sampling privileges (series 9S) or a beer and wine store with sampling privileges (series 10S) will be issued and mailed to the licensee's address of record. The license must be displayed in a conspicuous public area of the licensed premises that is readily accessible for inspection by any peace officer, distributor, wholesaler or member of the public. (A.R.S. §4-261.01)

13 DEC 5 13 PM 4:20

JB 11. Liquor store license sampling privileges are not transferable.

JB 12. I have read, understand, and assume responsibility for compliance with A.R.S. §4-206.01.

**A.R.S. §4-206.01(J) Bar, beer and wine bar or liquor store licenses; number permitted; fee; sampling privileges**

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.
3. The licensed retailer shall make sales of sampled products from the licensed retail premises.
4. The licensee shall not charge any customer for the sampling of any products.
5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
6. Accurate records of sampling products dispensed shall be retained by the licensee.
7. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounces of wine and one ounce of distilled spirits per person, per brand, per day.
8. The sampling shall be conducted only on the licensed premises.

I, Andrea Dahlman Lewkowitz

attest that I am the OWNER/AGENT filing this form, that I have read, and assume responsibility for compliance with, A.R.S. §4-206.01 at the licensed establishment named on page 1, and verify all statements I have made on this document to be true, correct and complete. I understand that I am responsible for the \$100 issuance fee and the annual \$60 renewal fee for these sampling privileges. Sampling privilege renewal fees are due at the same time as the renewal for the "current license #" identified on page 1 of this application.

Andrea Dahlman Lewkowitz  
Signature,

Agent  
Title

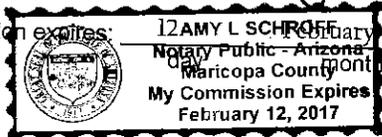
11 Nov, 2013  
Date

Notarized Signature

The forgoing instrument was acknowledged before me this 24 of November, 2013  
day month year

Notary Public: Amy G Schuch  
Signature

My commission expires: February, 2017  
year



For DLLC Use Only

S License #: \_\_\_\_\_ Date of issuance: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Issuance fee applicable?  Yes  No  \$100 issuance fee collected

Initials: JB

DEC 6 11:49 AM '13



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

SERIES 10S: BEER AND WINE STORE  
W/SAMPLING PRIVILEGES

**ROUTING:**

POLICE DEPARTMENT  
 FIRE DEPARTMENT  
 FINANCE DEPARTMENT  
 DEVELOPMENT SERVICES

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**APPLICANT'S NAME: ANDREA DAHLMAN LEWKOWITZ**

**BUSINESS NAME: FRESH & EASY #1061**

**BUSINESS ADDRESS: 10725 W. THOMAS ROAD**

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

**DEPARTMENTAL COMMENTS:**

APPROVED  
 DENIED

  
\_\_\_\_\_  
SIGNATURE  
  
\_\_\_\_\_  
TITLE

12/30/13  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JANUARY 21, 2014**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JANUARY 6, 2014**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

**SERIES 10S: BEER AND WINE STORE  
W/SAMPLING PRIVILEGES**

**ROUTING:**

**POLICE DEPARTMENT**  
 **FIRE DEPARTMENT**  
 **FINANCE DEPARTMENT**  
 **DEVELOPMENT SERVICES**

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**APPLICANT'S NAME: ANDREA DAHLMAN LEWKOWITZ**

**BUSINESS NAME: FRESH & EASY #1061**

**BUSINESS ADDRESS: 10725 W. THOMAS ROAD**

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

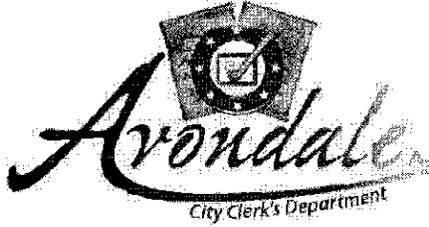
**DEPARTMENTAL COMMENTS:**

**APPROVED**  
 **DENIED**

Valorie Russell  
SIGNATURE  
Fire Inspector  
TITLE

12/30/13  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JANUARY 21, 2014**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JANUARY 6, 2014**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

**SERIES 10S: BEER AND WINE STORE  
W/SAMPLING PRIVILEGES**

**ROUTING:**

**POLICE DEPARTMENT**  
 **FIRE DEPARTMENT**  
 **FINANCE DEPARTMENT**  
 **DEVELOPMENT SERVICES**

---

**APPLICANT'S NAME: ANDREA DAHLMAN LEWKOWITZ**

**BUSINESS NAME: FRESH & EASY #1061**

**BUSINESS ADDRESS: 10725 W. THOMAS ROAD**

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

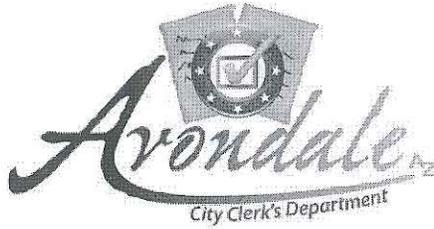
**DEPARTMENTAL COMMENTS:**

**APPROVED**  
 **DENIED**

  
\_\_\_\_\_  
**SIGNATURE**  
*Chief Building Official*  
\_\_\_\_\_  
**TITLE**

*12/30/13*  
\_\_\_\_\_  
**DATE**

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JANUARY 21, 2014**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JANUARY 6, 2014**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

**SERIES 10S: BEER AND WINE STORE  
W/SAMPLING PRIVILEGES**

**ROUTING:**

**POLICE DEPARTMENT**  
 **FIRE DEPARTMENT**  
 **FINANCE DEPARTMENT**  
 **DEVELOPMENT SERVICES**

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**APPLICANT'S NAME: ANDREA DAHLMAN LEWKOWITZ**

**BUSINESS NAME: FRESH & EASY #1061**

**BUSINESS ADDRESS: 10725 W. THOMAS ROAD**

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

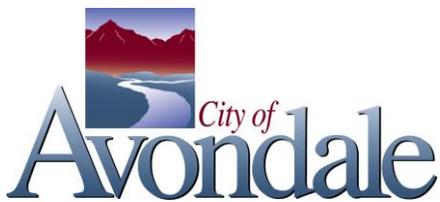
**DEPARTMENTAL COMMENTS:**

**APPROVED**  
 **DENIED**

  
\_\_\_\_\_  
**SIGNATURE**  
*Zoning Specialist*  
\_\_\_\_\_  
**TITLE**

*1/8/14*  
\_\_\_\_\_  
**DATE**

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JANUARY 21, 2014**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JANUARY 6, 2014**



## DEVELOPMENT SERVICES

### MEMORANDUM

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**DATE:** January 8, 2014

**TO:** Carmen Martinez, City Clerk

**PREPARED BY:** Jennifer Fostino, Zoning Specialist 623-333-4022

**SUBJECT:** Series 9S Liquor License – Sampling Privileges  
Fresh and Easy – 10725 W Thomas Rd

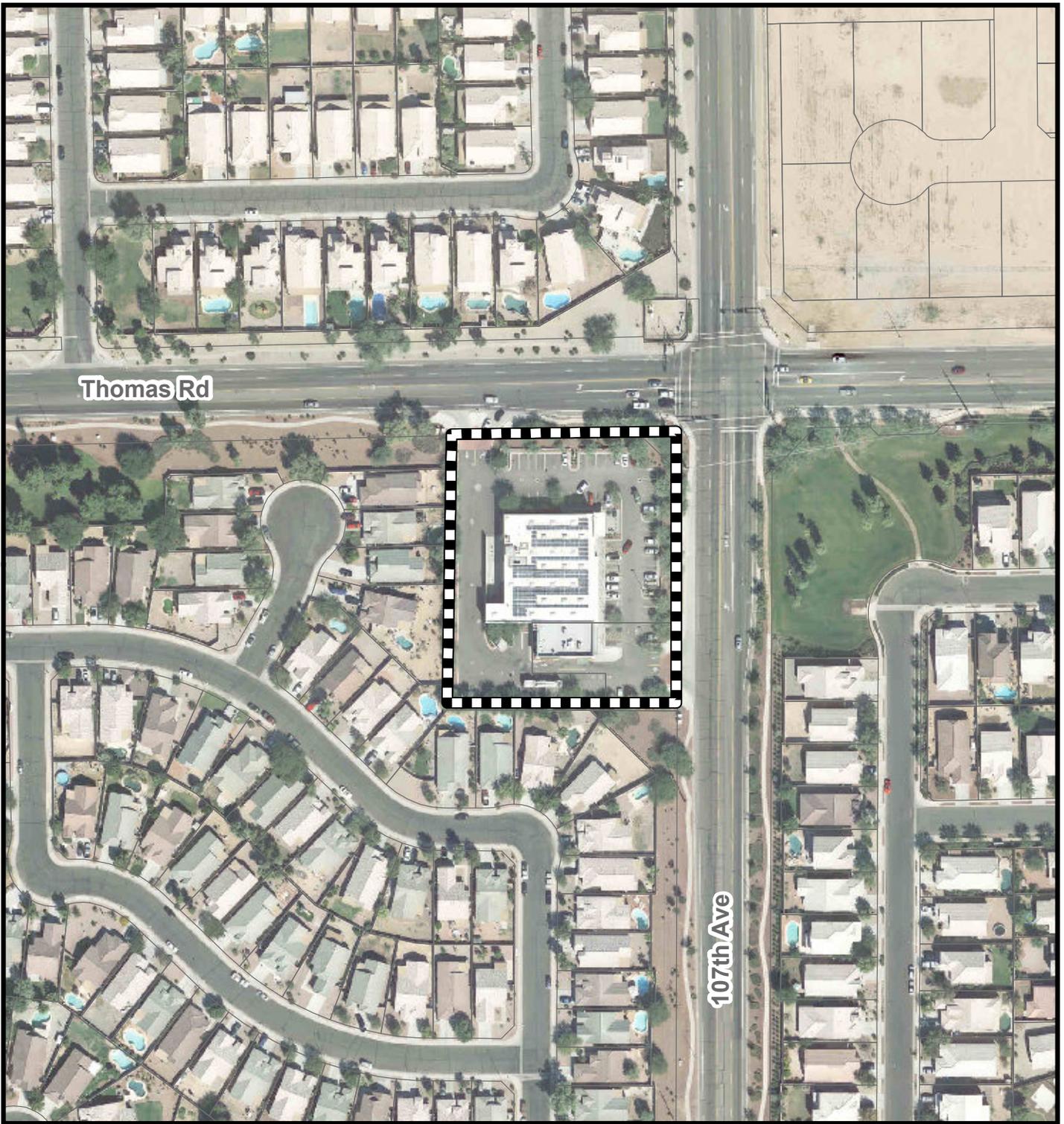
The site is located on the southwest corner of Thomas Road and 107<sup>th</sup> Avenue. The building is existing.

State Statute requires all businesses holding Series 9S licenses to be separated a minimum of 300 feet from K-12 schools or church buildings. It also requires 300 feet from fenced recreational areas that are part of a school building. There are no church buildings, K-12 school buildings, or fenced recreational areas associated with K-12 schools within 300-feet of the proposed site.

The General Plan designates the property as Local Commercial. The site is currently zoned Planned Area Development (PAD). A grocery store is allowed within the PAD.

Staff recommends approval of this request.

Attachment: 2013 Aerial Photography  
Zoning Vicinity Map  
300 Foot Separation



Thomas Rd

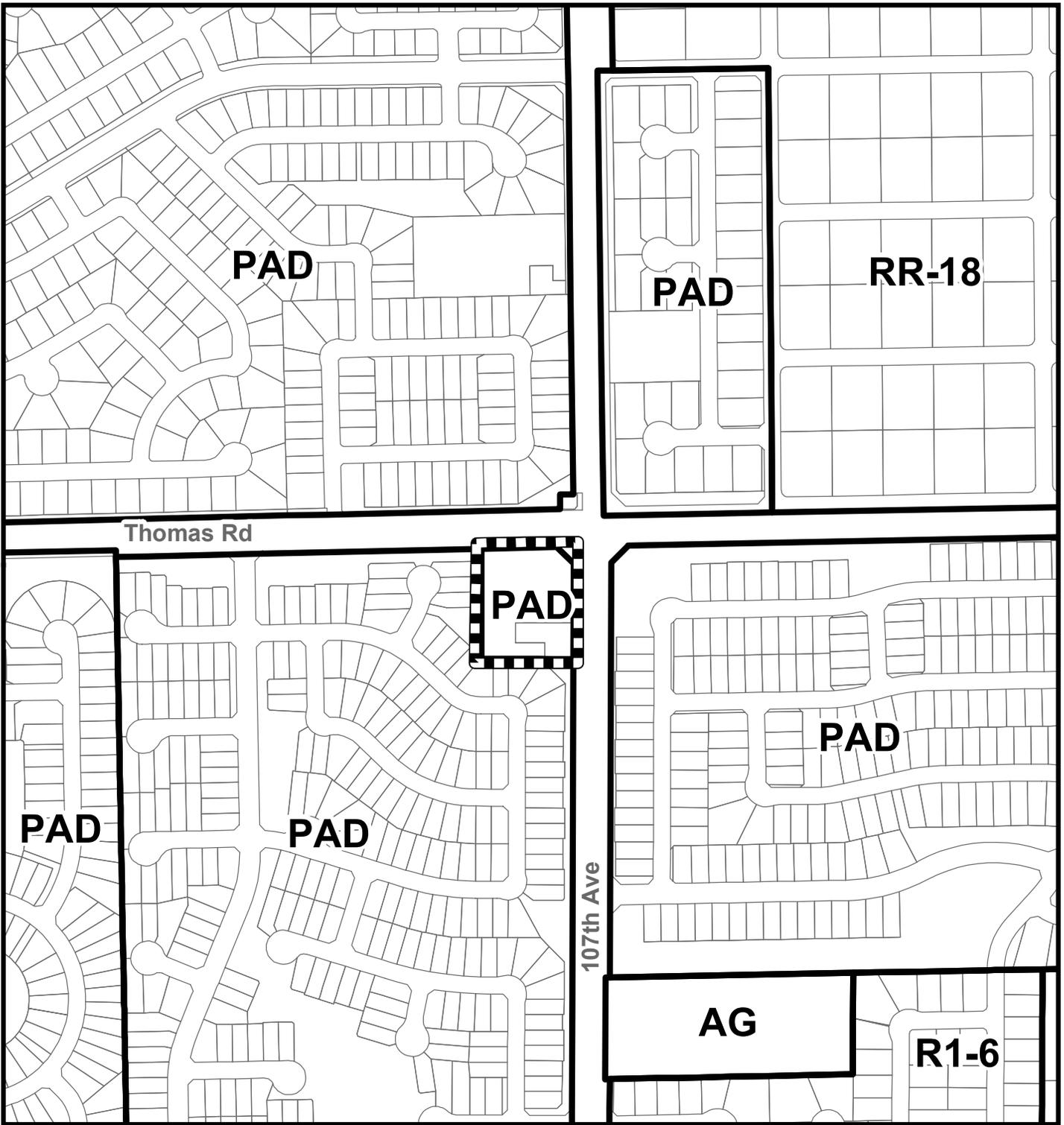
107th Ave

## 2013 Aerial Photograph



Fresh and Easy



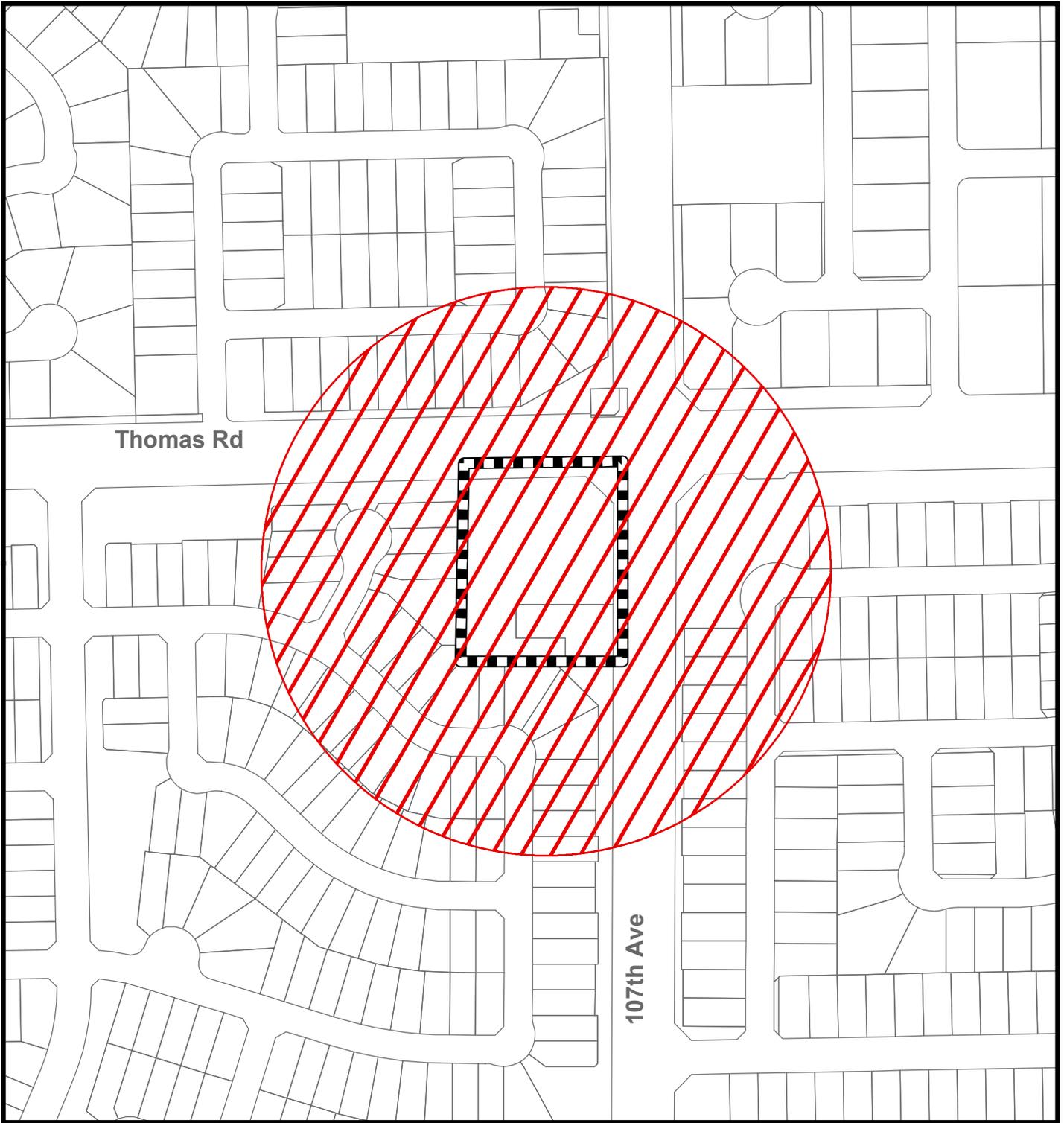


## Zoning Vicinity Map



Fresh and Easy





### 300 Foot Separation



Fresh and Easy





**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

**SERIES 10S: BEER AND WINE STORE  
W/SAMPLING PRIVILEGES**

**ROUTING:**

**POLICE DEPARTMENT**  
 **FIRE DEPARTMENT**  
 **FINANCE DEPARTMENT**  
 **DEVELOPMENT SERVICES**

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**APPLICANT'S NAME: ANDREA DAHLMAN LEWKOWITZ**

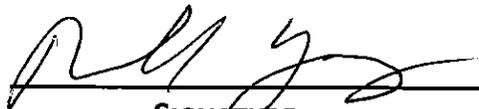
**BUSINESS NAME: FRESH & EASY #1061**

**BUSINESS ADDRESS: 10725 W. THOMAS ROAD**

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

**DEPARTMENTAL COMMENTS:**

**APPROVED**  
 **DENIED**

  
\_\_\_\_\_  
**SIGNATURE**  
*Tax Audit Supervisor*  
\_\_\_\_\_  
**TITLE**

*1/2/14*  
\_\_\_\_\_  
**DATE**

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JANUARY 21, 2014**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JANUARY 6, 2014**

# NOTICE

APPLICATION TO SELL ALCOHOLIC BEVERAGES  
DATE POSTED: DECEMBER 30, 2013

A HEARING ON A LIQUOR LICENSE APPLICATION  
SHALL BE HELD BEFORE THE AVONDALE CITY COUNCIL

LOCATION: 11465 WEST CIVIC CENTER DRIVE  
DATE: TUESDAY, JANUARY 21, 2014  
AT 7:00 PM.

(HEARING DATES SUBJECT TO CHANGE,  
TO VERIFY CALL: 623-333-1200)

## \*\*SERIES 10: BEER AND WINE STORE LICENSE\*\*

THE LOCAL GOVERNING BODY WILL RECOMMEND TO THE STATE LIQUOR BOARD WHETHER THE BOARD SHOULD GRANT OR DENY THE LICENSE. THE STATE LIQUOR BOARD MAY HOLD A HEARING TO CONSIDER THE RECOMMENDATION OF THE LOCAL GOVERNING BODY. ANY PERSON RESIDING OR OWNING OR LEASING PROPERTY WITHIN A ONE-MILE RADIUS MAY CONTACT THE STATE LIQUOR BOARD IN WRITING TO REGISTER AS A PROTESTER. TO REQUEST INFORMATION REGARDING PROCEDURES BEFORE THE BOARD AND NOTICE OF ANY BOARD HEARINGS REGARDING:

Fresh & Easy # 1061  
10725 W. Thomas Road  
Avondale, AZ. 85323

THIS APPLICATION, CONTACT STATE LIQUOR BOARD - 800 W. WASHINGTON, 5TH FLOOR, PHOENIX, AZ 85007 STATE LIQUOR DEPT: (602) 542-9789  
INDIVIDUALS REQUIRING ADA ACCOMMODATIONS CALL THE CITY CLERK AT: 623-333-1200.

Office memo.

Arizona Department of Liquor Licenses and Control  
ADLWC Headquarters, 501 First  
Phoenix, Arizona 85001  
www.azliquor.gov  
P.O. Box 210072  
Phoenix, AZ 85061-0072

APPLICATION FOR LIQUOR LICENSE  
TYPE OR PENNMAN BEER WINE

Notes: Effective Nov. 1, 2007, all "Other" (i.e. Retail, Wholesale, Off-sale, & Temporary) applications for the sale to the general public of the following must attend a Department sponsored hearing for a hearing officer to provide a list of applicants who fail to attend a hearing within the last two years. See page 6 of the Liquor License requirements.

SECTION 1 This application is for a:  
1.  NEW TYPE LIQUOR LICENSE  
2.  INITIAL PERMIT Complete Section 9  
3.  NEW LICENSE Complete Sections 2, 4, 6, 14, 16, 18  
4.  PERSON TRANSFER (bars & clubs, tavern only) Complete Sections 2, 3, 6, 11, 13, 15, 16  
5.  LOCATION TRANSFER (bars and clubs, liquor stores only) Complete Sections 2, 3, 6, 11, 13, 15, 16  
6.  PROHIBITIVE ASSIGNMENT TO NON-QUALIFYING Complete Sections 2, 3, 4, 6, 14, 16 (Penalty \$4,000)  
7.  TRANSFERMENT Complete Sections 2, 4, 6, 16, 18, 19

SECTION 2 Type of ownership:  
1.  INDIVIDUAL Complete Section 8  
2.  PARTNERSHIP Complete Section 8  
3.  CORPORATION Complete Section 7  
4.  LIMITED LIABILITY CO. Complete Section 7  
5.  LLC Complete Section 7  
6.  SOLE PROPRIETOR Complete Section 10  
7.  TRUST Complete Section 8  
8.  OTHER (Specify):

SECTION 3 Type of license and base LICENSE #:  
1. Type of License: Series 10  
2. Total base amount: \$100.00  
3. Application fee: \$100.00  
4. Total amount: \$200.00  
APPLICATION FEE AND INTERIM PENALTY FEES (IF APPLICABLE) ARE NOT REFUNDABLE  
This form adheres to the A.R.S. 44-6822 will be charged for all document copies.

SECTION 4 Applicant:  
1. Owner/Agent's Name: Fresh & Easy, L.P. Licensee: Address: City: State: Zip: Phone: ( )- -  
2. Corp./Partnership/L.C. /LLC: (Specify license on bottom of this or bottom of page)  
3. Business Name: Fresh & Easy, L.P. (Specify license on bottom of this or bottom of page)  
4. Principal Street Location: 10725 W. Thomas Road, Avondale, City: State: Zip: Phone: ( )- -  
5. Business Phone: ( )- - ( )- - ( )- - ( )- - ( )- -  
6. Is the business located within the incorporated limits of the above city or town? YES/NO  
7. Mailing Address: City: State: Zip: Phone: ( )- - ( )- - ( )- - ( )- -  
8. If/when paid for license only (bar, beer and wine, or liquor store) Type: License #:

DEPARTMENT USE ONLY  
Fees: Application \$100.00, Transfer Permit \$100.00, Site Inspection \$100.00, Finger Print \$10.00, TOTAL OF ALL FEES \$310.00  
Is Arizona Statement of Citizenship & Alien Status For State Records completed? YES/NO  
Accepted by: [Signature] Date: 12-30-13 Lic. #: 1007460

Source: \*Disabled individuals requiring special accommodations, please call (602) 542-9827.

# NOTICE

## APPLICATION TO SELL ALCOHOLIC BEVERAGES DATE POSTED: DECEMBER 30, 2013

A HEARING ON A LIQUOR LICENSE APPLICATION  
SHALL BE HELD BEFORE THE AVONDALE CITY COUNCIL

**LOCATION: 11465 WEST CIVIC CENTER DRIVE**  
**DATE: TUESDAY, JANUARY 21, 2014**  
**AT 7:00 PM.**

(HEARING DATES SUBJECT TO CHANGE,  
TO VERIFY CALL: 623-333-1200)

### **\*\*SERIES 10S: SAMPLING PRIVILEGES FOR- BEER AND WINE STORE LICENSE\*\***

THE LOCAL GOVERNING BODY WILL RECOMMEND TO THE STATE LIQUOR BOARD WHETHER THE BOARD SHOULD GRANT OR DENY THE LICENSE. THE STATE LIQUOR BOARD MAY HOLD A HEARING TO CONSIDER THE RECOMMENDATION OF THE LOCAL GOVERNING BODY. ANY PERSON RESIDING OR OWNING OR LEASING PROPERTY WITHIN A ONE-MILE RADIUS MAY CONTACT THE STATE LIQUOR BOARD IN WRITING TO REGISTER AS A PROTESTER. TO REQUEST INFORMATION REGARDING PROCEDURES BEFORE THE BOARD AND NOTICE OF ANY BOARD HEARINGS REGARDING:

**Fresh & Easy # 1061**  
**10725 W. Thomas Road**  
**Avondale, AZ. 85323**

THIS APPLICATION, CONTACT: STATE LIQUOR BOARD - 800 W. WASHINGTON, 5TH FLOOR, PHOENIX, AZ 85007 STATE LIQUOR DEPT: (602) 542-9789  
INDIVIDUALS REQUIRING ADA ACCOMMODATIONS CALL THE CITY CLERK AT: 623-333-1200.

Office Memorandum

State of Arizona  
Department of Liquor Licenses and Control  
800 W. Washington 5th Floor  
Phoenix, Arizona 85007  
(602) 542-9789

Liquor Store (series 9)  
 Beer and Wine Store (series 10)

Applicant's Name: Andrea Dahlman Lewkowitz (check one) Owner  Agent

Mailing Address: Street Address or P.O. Box \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ County \_\_\_\_\_ Zip Code \_\_\_\_\_

Business Phone Number: 623.478.9016 Email: \_\_\_\_\_

Business Name: Fresh & Easy #1061 Current License #: 10076460

Physical Location of Business: 10725 W. Thomas Road Avondale AZ Maricopa 85323  
Street Address City State Zip Code

Andrea Dahlman Lewkowitz understands that, upon approval, sampling privileges for the liquor license identified above will require compliance with the following:

1. The premises shall contain at least five thousand square feet to be eligible for sampling privileges for Beer and Wine Store (series 10) applicants only (A.R.S. §4-206.01(L)).

2. Any open product shall be kept locked by the licensee when the sampling area is not staffed.

3. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.

4. The licensee shall make sales of sampled products from the licensed retail premises.

5. The licensee shall not charge any customer for the sampling of any products.

6. The sampling shall be conducted under the supervision of an employee of a sponsoring retailer, vendor, brewer, wholesaler or retail licensee.

7. Accurate records of sampling products dispensed shall be retained by the licensee.

8. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounces of wine and one ounce of distilled spirits per person, per brand, per day.

9. The sampling shall be conducted only on the licensed premises.

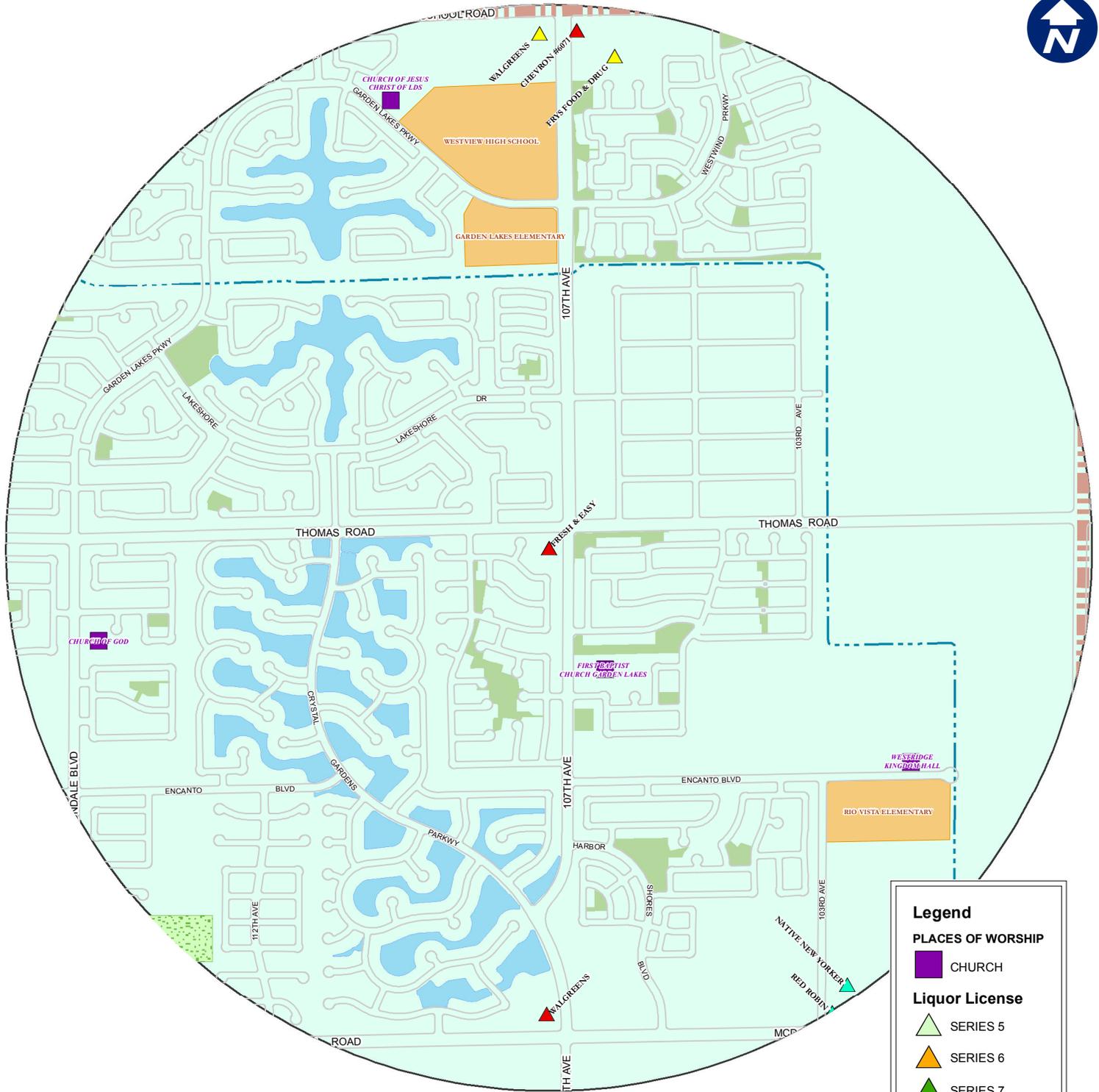
10. Upon approval of this form, a license for a liquor store with sampling privileges (series 9) or a beer and wine store with sampling privileges (series 10) will be issued and mailed to the licensee's address of record. The license must be displayed in a conspicuous public area of the licensed premises that is readily accessible for inspection by any peace officer, distributor, wholesaler or member of the public. (A.R.S. §4-203.01)

1929-13

ood

fresh & easy





**Legend**

**PLACES OF WORSHIP**

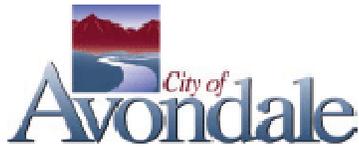
- CHURCH

**Liquor License**

- SERIES 5
- SERIES 6
- SERIES 7
- SERIES 9
- SERIES 9S
- SERIES 10
- SERIES 10 S
- SERIES 11
- SERIES 12
- SERIES 14
- SERIES 15
- SERIES 16
- SCHOOLS

**FRESH & EASY**  
**10725 W THOMAS RD**  
**1 Mile Buffer**





# DEVELOPMENT SERVICES

**SUBJECT:**

Minor Land Division for Golden Leaf Wellness  
Medical Marijuana Dispensary (PL-13-0202)

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Tracy Stevens, Development and Engineering Services Director (623) 333-4013

**THROUGH:** Charlie McClendon, City Manager (623) 333-1015

---

**REQUEST:** Approval of a Minor Land Division that creates two lots and dedicates rights-of-way and easements to the City for future public use.

**PARCEL SIZE:** Approximately 2.67 Gross Acres; 1.91 Net Acres

**LOCATION:** 3828 South Vermeersch Road (Exhibits A and B)

**APPLICANT:** Mr. Walter Seng, GLW Holdings LLC (216) 401-6032

**OWNER:** GLW Holdings LLC (216) 401-6032

**BACKGROUND:**

The subject property was annexed into the City of Avondale on August 6, 1990 and zoned A-1 (General Industrial). It is developed with a single-family home that is currently unoccupied.

In 2012, an application to operate a medical marijuana dispensary on the site was approved by the City. Under the terms of the City's Medical Marijuana Use Ordinance (Zoning Ordinance Section 13), medical marijuana dispensaries are allowed by the City in the A-1 (General Industrial) Zoning District if the location meets all separation requirements (e.g. 2,000 feet from parks, schools, places of worship, etc.). This property met all such requirements and was therefore eligible to be used as a medical marijuana dispensary. The Arizona Department of Health has also issued its approval of this location for medicinal marijuana dispensary use.

Before operation of the dispensary can commence, approval of a Site Plan is required to ensure the site meets all City requirements for design, landscaping, safety, and functionality and that the existing residential structure receives upgrades in order to allow for its use as a commercial building. The Site Plan application was filed in 2013 and is currently in the review process.

The dispensary requires less than an acre of the overall parcel for its operations. As such, the remaining land will be separated by this MLD into a distinct parcel to be developed separately in the future. Unless rezoned, development of the new parcel will be light industrial in nature. It is important to note that no additional medical marijuana types of uses will be allowed on the newly created parcel due to the separation requirements mentioned above.

Access to the property is from Vermeersch Road. In the future, the property will be accessible from a future extension of Dysart Road, which is planned to cross the Agua Fria River (at-grade crossing) to connect its current terminus north of Lower Buckeye Road with this area to serve future development in the southern portion of the City.

## **SUMMARY OF REQUEST:**

1. The applicant is requesting approval of a Minor Land Division (MLD) to divide the subject property into two parcels, as follows:
  - Parcel A, approximately 0.96 acres, will be reserved for future development. The property is zoned A-1 (General Industrial).
  - Parcel B, approximately 0.95 acres, will be the site of the Golden Leaf Wellness Medical Marijuana Dispensary. Specifically, this parcel will accommodate the existing building, be adapted to function commercially, and all required on-site parking, landscaping, and retention.
2. Minor land division applications are approved administratively unless City Council approval is required for any dedications of public right-of-way. The proposed MLD dedicates 65' of public right-of-way along the parcel's western boundary to accommodate the future connection of Dysart Road. As part of the Site Plan application approval, the City will also receive fee-in-lieu monies that will be used towards future Dysart Road improvements. The MLD dedicates an additional 17' of public right-of-way along the parcel's eastern boundary to accommodate the potential future widening of Vermeersch Road.
3. The proposed MLD dedicates 8' wide public utility easements (PUEs) on both street frontages to accommodate future utility service to currently undeveloped portions of south Avondale.

## **PARTICIPATION:**

Public notification is not required for Minor Land Division applications.

## **PLANNING COMMISSION ACTION:**

The Planning Commission does not review Minor Land Division applications.

## **ANALYSIS:**

- The proposed Minor Land Division has been reviewed by the City's Registered Land Surveyor and the document has been confirmed as geometrically accurate and in conformance with Arizona Statutes governing the subdivision of real property.
- The proposed Minor Land Division is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.
- Approval of the proposed Minor Land Division will dedicate right-of-way needed by the City for the future Dysart Road connection, and public utility easements to serve those future developments.

## **FINDINGS:**

The proposed request complies with all applicable City documents, including but not limited to the Avondale Subdivision Regulations, Avondale Zoning Ordinance, Avondale General Plan 2030, and the General Engineering Requirements Manual.

## **RECOMMENDATION:**

Staff recommends that the City Council **APPROVE** application PL-13-0203 as part of the January 21, 2014 consent agenda.

## **PROPOSED MOTION:**

I move that the City Council **APPROVE** application PL-13-0203, a request for approval of a Minor Land Division of property located at 3828 South Vermeersch Road.

## **ATTACHMENTS:**

Click to download

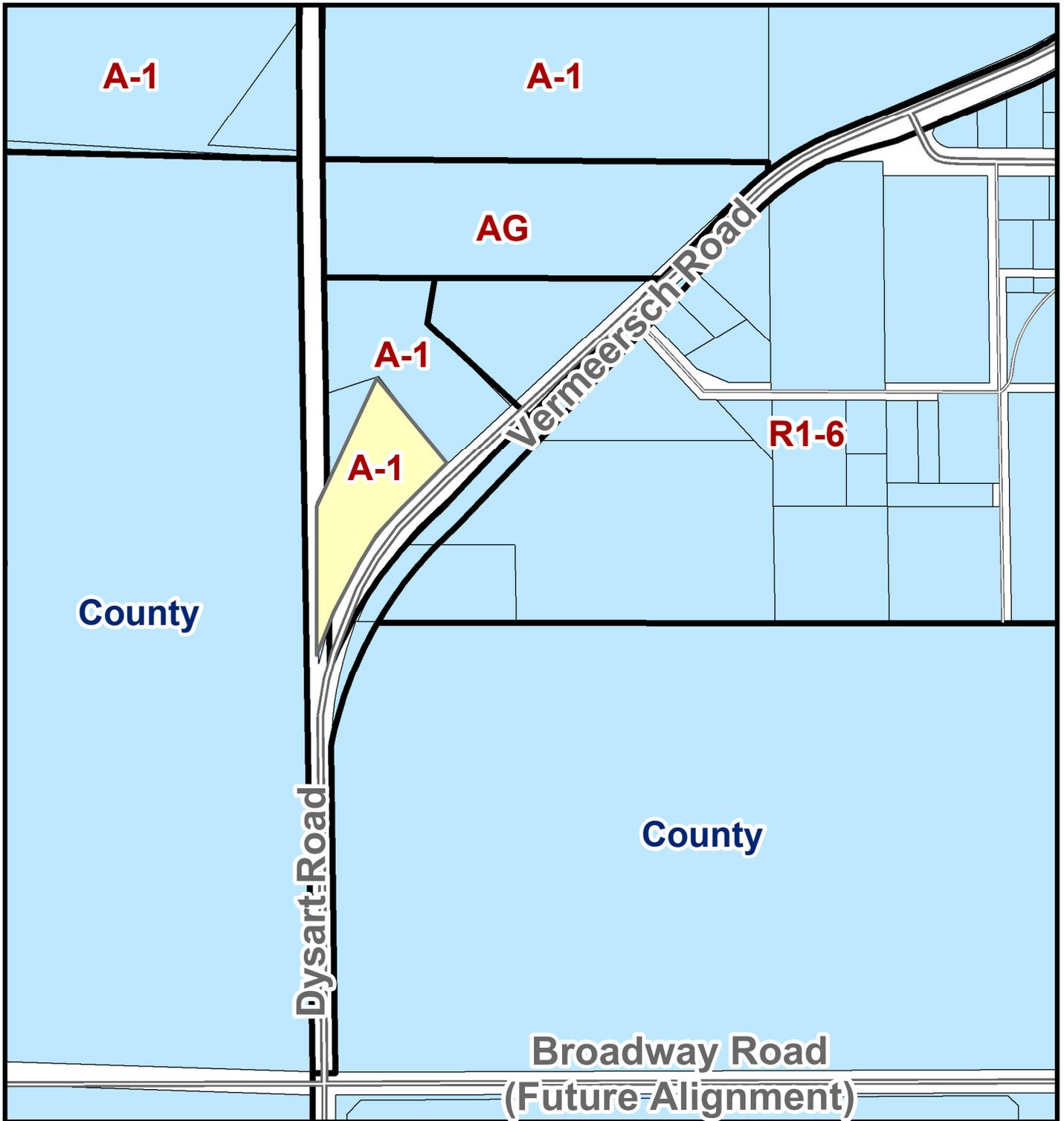
[Exhibit A - Zoning Vicinity Map](#)

[Exhibit B - Aerial Photograph](#)

[Exhibit C - Proposed Minor Land Division Map](#)

**PROJECT MANAGER:**

Ken Galica, Senior Planner (623) 333-4019

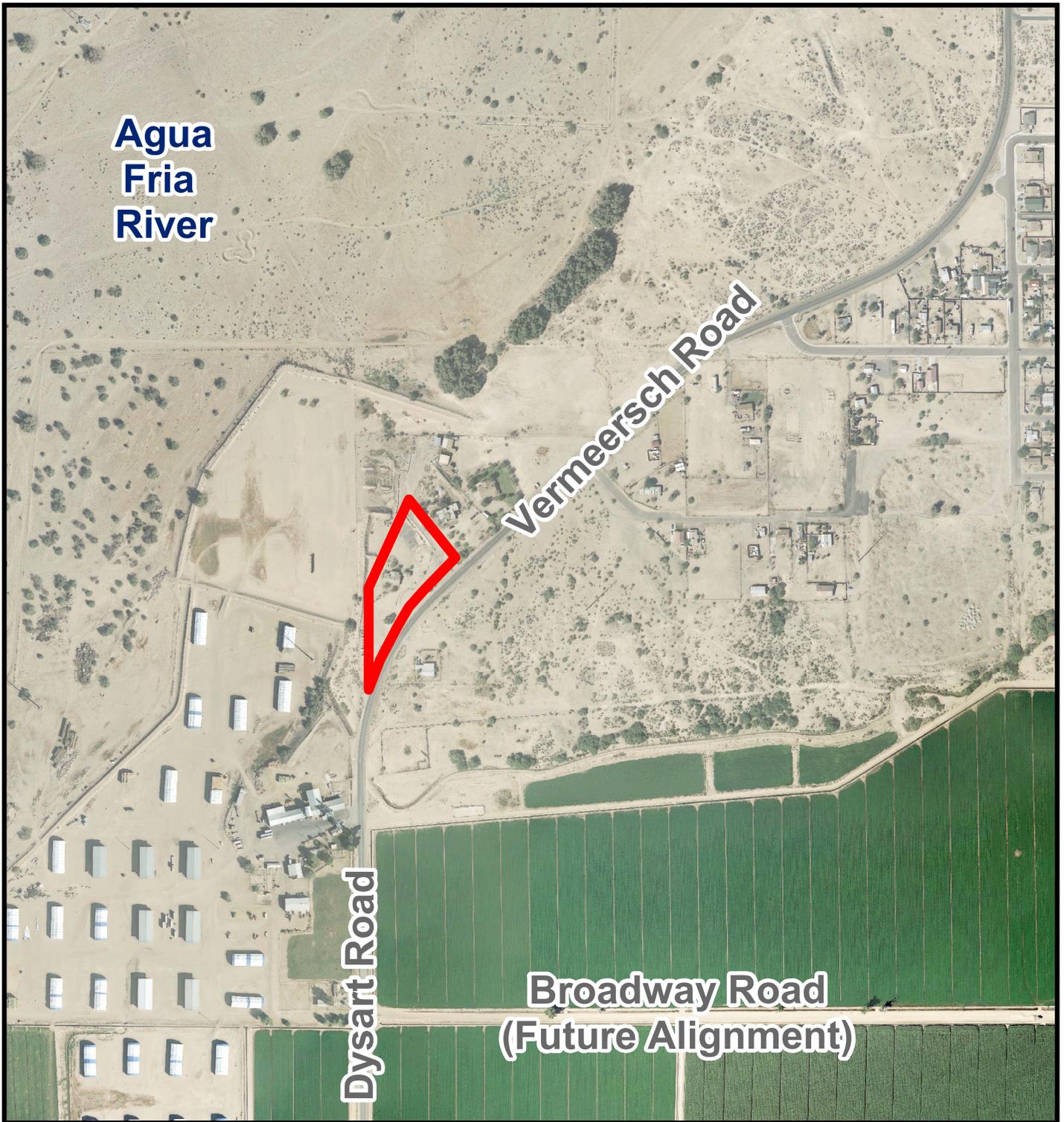


### Zoning Vicinity Map



Subject Property





Aerial Photograph



 Subject Property



**DEDICATION:**

STATE OF ARIZONA )  
 ) ss.  
 COUNTY OF MARICOPA )

KNOWN ALL MEN BY THESE PRESENTS:

THAT GLW HOLDINGS L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HAS DEDICATED UNDER THE NAME OF "GOLDEN LEAF WELLNESS", A PORTION OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, AS SHOWN AND PLATTED HEREON AND HEREBY PUBLISHES THIS MINOR LAND DIVISION PLAT FOR "GOLDEN LEAF WELLNESS". SAID MINOR LAND DIVISION PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE RIGHTS OF WAY, AND EASEMENTS CONSTITUTING THE SAME.

GLW HOLDINGS L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, DOES HEREBY DEDICATE:

ALL STREETS AND PUBLIC UTILITY EASEMENTS IN FEE, TO THE CITY OF AVONDALE.

IN WITNESS HEREOF:

GLW HOLDINGS, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER HAS HERETO CAUSED ITS CORPORATE NAME TO BE AFFIXED AND SAME TO BE ATTESTED BY THE UNDERSIGNED OFFICER HEREUNTO DULY AUTHORIZED.

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

BY : \_\_\_\_\_

FOR : \_\_\_\_\_

**ACKNOWLEDGEMENT:**

STATE OF ARIZONA )  
 ) S.S.  
 COUNTY OF MARICOPA )

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014 BEFORE ME THE UNDERSIGNED OFFICER PERSONALLY APPEARED WALT SENG WHO ACKNOWLEDGED HIMSELF TO BE THE GENERAL PARTNER OF GLW HOLDINGS, L.L.C. AS OWNER BEING AUTHORIZED TO DO SO, EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL.

BY: \_\_\_\_\_ MY COMMISSION EXPIRES: \_\_\_\_\_  
 NOTARY PUBLIC

GOLDEN LEAF WELLNESS  
 MINOR LAND DIVISION/PARCEL No. 500-63-011A  
 (Avondale, 3828 S. Vermeersch Road)  
 SW 1/4, Section 23, Township 1N & Range 1W

**NOTES:**

A. ALL LANDSCAPING WITHIN THE COLLECTOR AND ARTERIAL STREET RIGHT-OF-WAY SHALL BE MAINTAINED BY THE ADJACENT PROPERTY OWNER.

B. NO ALTERATIONS SHALL BE MADE TO THE STORM WATER RETENTION AREAS THAT ARE A PART OF THESE PREMISES WITHOUT WRITTEN APPROVAL BY THE CITY OF AVONDALE.

C. NO STRUCTURES SHALL BE CONSTRUCTED IN OR ACROSS NOR SHALL OTHER IMPROVEMENTS OR ALTERATIONS BE MADE TO THE DRAINAGE FACILITIES THAT ARE A PART OF THE SUBDIVISION WITHOUT WRITTEN AUTHORIZATION BY THE CITY OF AVONDALE.

D. ALL RETENTION BASINS MUST DRAIN ANY STORM EVENT UP TO AND INCLUDING THE 100 YEAR, 2 HOUR STORM WITHIN 36 HOURS. OWNER MUST TAKE CORRECTIVE ACTIONS TO BRING THE BASIN INTO COMPLIANCE.

**OWNER**

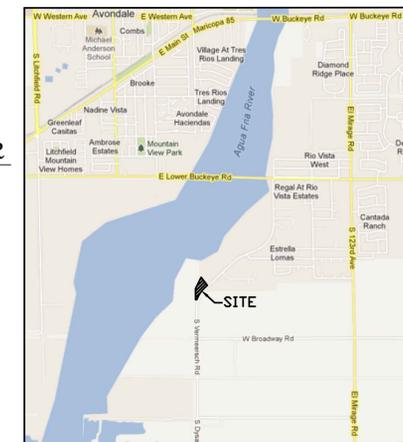
GLW HOLDINGS LLC  
 WALT SENG  
 8530 N. 22ND AVE, APT#1027  
 PHOENIX, AZ 85021  
 PHONE: 216-401-6032

**ENGINEER/SURVEYOR**

ERIE & ASSOCIATES INC.  
 LEN ERIE, P.E., L.S.  
 3120 N. 24TH STREET  
 PHOENIX, AZ 85016  
 PHONE: 602-954-6399  
 FAX: 602-954-6601

**PROPERTY ADDRESS:**

3828 S. VERMEERSCH RD.  
 AVONDALE, AZ 85323



VICINITY MAP  
 N.T.S.

**BENCHMARK:**

LBUCK 127; NORTHING(Y)=880854.301; EASTING(X)=573179.414  
 ELEVATION(Z)=957.400; NAVD 88 BENCH

WEST 1/4 COR. SEC. 23, T1N, R1W; FND 3" ALUMINUM CAP; GDACS PT#  
 54077-1; ELEVATION=941.610; DATUM NAVD 88; DATE SHOT: 3/20/13

**BASIS OF BEARING:**

NORTH 00 DEGREES 14 MINUTES 28 SECONDS EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23

**APPROVALS AND ACCEPTANCE OF DEDICATION**

MLD APPROVED AND DEDICATED STREETS AND EASEMENTS ACCEPTED BY THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
 MAYOR DATE

\_\_\_\_\_  
 ATTEST, CITY CLERK DATE

\_\_\_\_\_  
 CITY ENGINEER DATE

**SURVEYOR'S CERTIFICATION:**

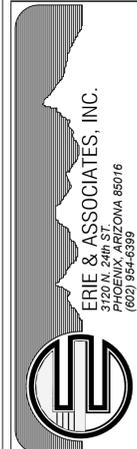
THIS IS TO CERTIFY THAT THIS SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREON WAS MADE UNDER MY DIRECTION DURING THE MONTH OF \_\_\_\_\_, 2013. THAT THE PLAT IS CORRECT AND ACCURATE. THAT THE MONUMENTS SHOWN HEREON HAVE BEEN LOCATED AND WILL BE LOCATED OR ESTABLISHED AS DESCRIBED AND THE LOT CORNERS PERMANENTLY SET PER ARIZONA BOUNDARY SURVEY MINIMUM STANDARDS.



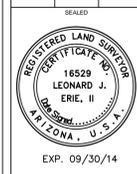
\_\_\_\_\_  
 REGISTERED LAND SURVEYOR DATE (SEAL)

PLAN PREPARATION BLOCK		
CASE#	PL-13-0203	
SUBMITTAL#	1ST	PREPARATION DATE: 10/3/13
SUBMITTAL#	2ND	PREPARATION DATE: 11/18/13
SUBMITTAL#		PREPARATION DATE: _____

1981-2011  
 30 YEARS OF EXCELLENCE  
 ERIE & ASSOCIATES  
 N.T.S.

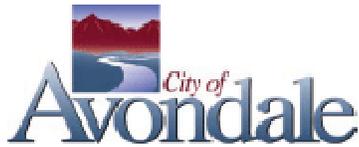


DEVELOPER/OWNER  
**WALT SENG**  
 PROJECT NAME  
**GOLDEN LEAF WELLNESS**  
 PLAN TYPE  
**MINOR LAND DIVISION**



SEAL  
 ORIGINAL PLAN DATE  
**01/07/2014**  
 LATEST REVISION DATE  
 SHEET NUMBER  
**P1 OF 2**  
 PROJECT NUMBER  
**2145.01**





# CITY COUNCIL REPORT

**SUBJECT:**

Cooperative Purchasing Agreement- HD Supply Waterworks LTD.

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Wayne Janis, P.E., Public Works Director, 333-4411

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a Cooperative Purchasing Agreement with HD Supply Waterworks, LTD., to purchase waterworks equipment, accessories, and supplies for an annual amount not to exceed \$50,000 and a maximum aggregate amount not to exceed \$250,000, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

After a competitive procurement process, the City of Chandler, Arizona entered into a contract with HD Supply Waterworks, LTD. to supply waterworks equipment, accessories and supplies. The initial term of the contract is in effect until May 2014 and provides for (4) one-year renewal options. The contract contains cooperative use language which extends the use of the contract to municipalities.

**DISCUSSION:**

In order to properly maintain the water distribution system, collections system, well sites and water reclamation facility, Public Works must purchase parts, supplies and services from qualified vendors. HD Supply Waterworks, LTD., is a current registered vendor with the City and has satisfactorily supplied the City with waterworks parts, equipment, and accessories in the past.

**BUDGETARY IMPACT:**

The funding for the purchases is available in the current Public Works operating budget.

**RECOMMENDATION:**

Staff recommends that the City Council approve a Cooperative Purchasing Agreement with HD Supply Waterworks, LTD., to purchase waterworks equipment, accessories, and supplies for an annual amount not to exceed \$50,000 and a maximum aggregate amount not to exceed \$250,000, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

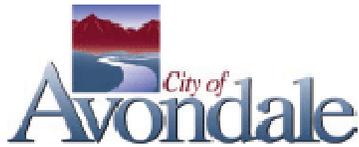
Click to download

[CPA - HD Supply Waterworks](#)

DUE TO ITS SIZE, THIS DOCUMENT  
HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

<http://www.avondale.org/DocumentCenter/View/33664>



# CITY COUNCIL REPORT

**SUBJECT:**

Construction Contract Award - MMI Tank & Coatings - Northside Booster Modification and Coating

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Wanyne Janis, Public Works Director (623) 333 4411

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council award a construction contract to MMI Tank & Coatings for the modification and coating of the Northside Booster Station potable reservoirs in the amount of \$670,690, approve the necessary transfer of funds and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The Northside Booster Station is one of the oldest water facilities in the city. (See Attached Vicinity Map) There are two existing 600,000 gallon potable water reservoirs at this site. The existing reservoirs were constructed in 1970's era. The reservoirs were coated in 2004 in conjunction with the construction of the arsenic treatment facilities and site expansion in 2004. Staff have been conducting periodic observations in the reservoirs, and have concluded that the interior and exterior of the reservoir needs to be recoated.

**DISCUSSION:**

The existing reservoirs are in need of some improvements before coating, which will be included in this contract. They include:

- Provide a revised fill location from the arsenic removal facility,
- Update safety facilities required on the top of the reservoirs ,
- Provide revised and improved connections for various conduits currently hanging on the reservoirs,
- Removal of the unused reservoir well connections that were in use before the construction of the arsenic facility.

After the needed modifications to the reservoirs are completed, the interior of the reservoirs will be sand blasted to remove the old coating, inspected, and any repairs completed before coating.

Staff has recommended that a more durable coatings be used on the interior and exterior of the reservoir which will provide a longer life than normally expected. This work will need to be completed before the summer season when the system water demand increases, and the heat rises to an extent that will prohibit coating application.

Invitation-for-Bid notices were published in the West Valley View on December 10 & 17, 2013 and in the Arizona Business Gazette on December 12, 2013. A mandatory pre-bid meeting was held on December 18, 2013. Two (2) bids were received and opened on January 13, 2014. Each bid package was reviewed. One bid was rejected as being unresponsive. The bid of the remaining firm

was \$670,690, which is within the project budget expectations.

The attached Bid Tabulation Sheet has the detailed bid item breakdown of the submitted bid. MMI Tank & Coatings, with a bid of \$670,690, was determined to have submitted the lowest and only responsive bid. Staff contacted references provided and MMI Tank & Coatings did receive positive recommendations. MMI Tank & Coatings has completed similar work. Staff contacted the Registrar of Contractors and found no claims on file against this contractor. Staff determined that MMI Tank & Coatings is competent and qualified for this project. A tentative construction schedule is as follows:

City Council Approval	1/21/14
Notice of Award	1/22/14
Notice to Proceed	2/4/14
Completion	6/4/14

**BUDGETARY IMPACT:**

Staff is requesting City Council approve the transfer of \$670,690 from Well Head Treatment line item #514-1068-00-8520 to Northside Booster Replacement line item # 514-1283-00-8520 for construction of this project.

**RECOMMENDATION:**

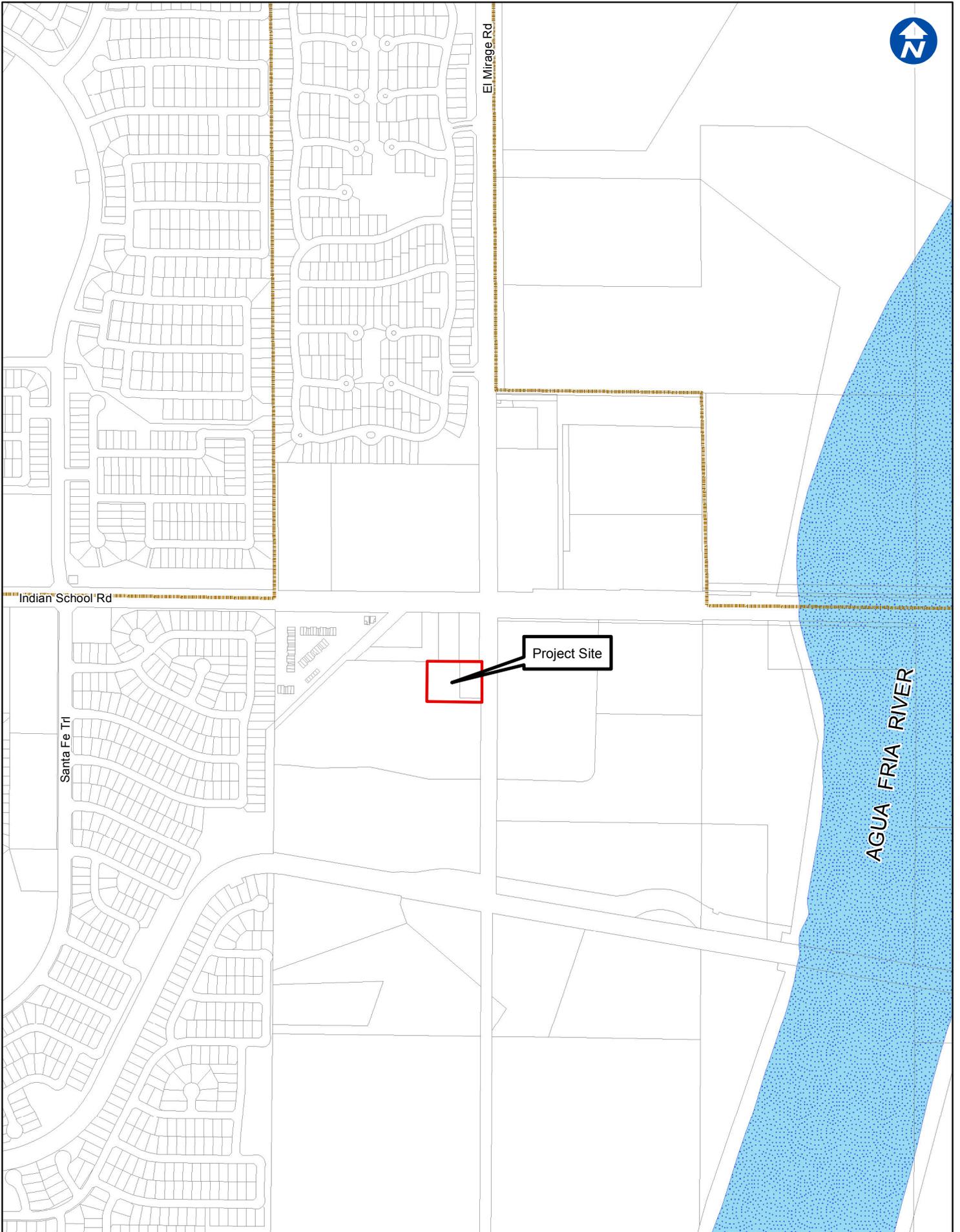
Staff recommends that the City Council award a construction contract to MMI Tank & Coatings for the modification and coating of the Northside Booster Station potable reservoirs in the amount of \$670,690, approve the necessary transfer of funds and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

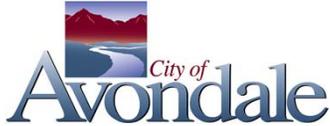
**ATTACHMENTS:**

Click to download

- [Vicinity Map](#)
- [Bid Tabulation Sheet](#)

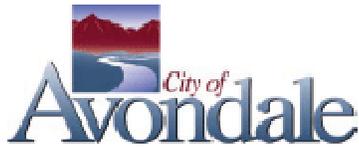
# VICINITY MAP





**CITY OF AVONDALE**  
**BID TABULATION SHEET**  
 PW14-017 Northside Booster Station Reservoir Modification and Coating  
 BID DATE: January 13, 2014

Item No.	Description of Materials and/or Services	Qty	Unit	MMI Tank & Industrial		Riley Industrial Services, Inc.	
				Unit	Total	Unit	Total
				Price	Price	Price	Price
1	All Work As Defined in Drawings and Specifications Complete	1	LS	\$473,500.00	\$473,500.00		\$0.00
2	Contingency Item No. 1	1	One Center Column	\$17,200.00	\$17,200.00		\$0.00
3	Contingency Item No. 2	40	One Rafter	\$2,165.00	\$86,600.00		\$0.00
4	Contingency Item No. 3	100	One Weld Plate	\$205.00	\$20,500.00		\$0.00
5	Contingency Item No. 4	16	2 Man Weld Crew Hour	\$240.00	\$3,840.00		\$0.00
6	Contingency Item No. 5	2	One Remove and Reinstall Center Portion of Roof Deck	\$14,500.00	\$29,000.00		\$0.00
7	Contingency Item No. 6	2	Dehumidification and Ventilation System per Reservoir	\$6,000.00	\$12,000.00		\$0.00
<b>SUBTOTAL</b>					\$642,640.00		\$0.00
Taxes As Applicable					\$28,050.00		\$0.00
<b>TOTAL BASED ON UNIT PRICES</b>					\$670,690.00		\$0.00
<b>TOTAL SUBMITTED BY BIDDER</b>					\$670,690.00		\$0.00
Required Attachments Included?					Yes		No



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3159-114 - Intergovernmental Agreement with City of Tolleson for Community Sports and Tournament Program

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Christopher Reams, Director of Parks, Recreation & Libraries 623-333-2412

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a Resolution authorizing an intergovernmental agreement between the City of Avondale (the City) and the City of Tolleson (Tolleson) sometimes collectively referred to in this Agreement as the "Parties, authorizing the parties to perform all necessary labor and services required to coordinate a joint community program and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

In October 2013, Recreation staff from the City of Avondale (the City) approached the City of Tolleson (Tolleson), to discuss a combined community event. The City of Avondale has had a successful co-sponsored event with the City of Goodyear for three years now – the Tale of Two Cities Parade and Festival. The Avondale/Tolleson event would serve as a community bridge between the two cities and provide an opportunity for the residents of both cities to participate in a fun family event. The event also relates City Council goals that promote quality of life, regional cooperation, and partnerships. The parties agreed to present the event proposal to their respective City Councils for approval. The proposal will be presented to the Tolleson City Council on January 28, 2014.

The initial event is planned for March 22, 2014. The event will consist of a softball tournament, a basketball tournament, and a community barbeque. The Parties agreed to hold the inaugural event at Donnie Hale Park, 10857 West Pima Street, Avondale. Donnie Hale Park is located in close proximity to Tolleson and residents from both Cities utilize the park for softball games, family gatherings, ramada rentals, and playground visits. The parties would have the option of continuing the event at Donnie Hale Park in future years or decide on an alternate location. The Parties will jointly coordinate the Program, including planning, development, and administration.

The event will also serve as a fundraiser for the City of Avondale Youth Advisory Commission and the City of Tolleson Teen Council (the Teen Groups). Each Teen Group will receive 50% of the total net revenue generated from the event, which includes, but is not limited to, revenue resulting from tournament entries, vendor spaces, and net profits of sponsorships, less the reimbursement to the Parties for any costs expended for the event. The Teen Groups will also be allowed to participate in fundraising activities during the event. All revenue generated from the Teen Groups' fundraising activities will be retained by the respective Teen Group.

**DISCUSSION:**

The term of the agreement shall be for one (1) year from the date the agreement is signed. This agreement may be renewed for up to four successive one-year terms if each Party deems the

agreement to be in the best interests of each City, subject to availability of funds. This agreement may be amended or terminated by mutual written agreement of the Parties at any time during the contract term. Either party may also terminate the agreement by providing thirty (30) days written notice to the other party of the desire to terminate.

The Project responsibilities for each party will include, but not be limited to the following:

City of Avondale shall

- Coordinate the availability of Donnie Hale Park for all activities associated with this agreement
- Coordinate the cleaning of Donnie Hale Park at the conclusion of the event (the Parties will provide an equal cost share for any cleaning cost associated with this event above normal cleaning requirements).

Both Parties shall

- Provide the support and direction as needed in relation to the event
- Identify additional appropriate partners for the event
- Market and promote the event
- Bear 50% of the total costs of the event, not to exceed a total combined cost of \$5,000.00
- Pay for any overtime costs associated with its own staff, including, but not limited to, parks staff, police, fire, traffic management and sanitation services for the Program, as applicable.
- Provide access to its facilities, property and equipment as may be reasonably required for activities associated with the event
- Fire and paramedic needs for the Program will be addressed pursuant to the terms of the Arizona Mutual Aid Compact
- Coordinate any clean up required after the event, with the exception of the onsite restroom, which additional cleaning fee will be part of the overall event costs and incorporated into the event budget.

#### **BUDGETARY IMPACT:**

The parties shall each bear 50% of the total costs of the Program, not to exceed a total combined cost of \$5,000.00 for each year of the agreement. The maximum aggregate amount paid by the Parties for all costs associated with this event for the five-year term of this agreement shall not exceed \$25,000.00. Each party shall provide for its financial obligations under this Agreement through its annual budget process or by separate resolution as deemed appropriate by its city council. Funds to appropriate services and materials for the event are available in the following PRLD budget line item:

101-8125-00-6181 Special Events

#### **RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution authorizing an intergovernmental agreement with the City of Tolleson to coordinate a joint community program consisting of sports tournaments and community activities and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

#### **ATTACHMENTS:**

Click to download

[Resolution 3159-114](#)

**RESOLUTION NO. 3159-114**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TOLLESON RELATING TO A COMMUNITY SPORTS TOURNAMENT PROGRAM.

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

SECTION 1. The Intergovernmental Agreement with the City of Tolleson relating to a community sports tournament program (the “Agreement”) is hereby approved in substantially the form attached hereto as Exhibit A.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, January 21, 2014.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3159-114

[Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
THE CITY OF TOLLESON**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is entered into as of January 21, 2014, between the City of Avondale, an Arizona municipal corporation ("Avondale"), and the City of Tolleson ("Tolleson") an Arizona municipal corporation. Avondale and Tolleson are sometimes collectively referred to in this Agreement as the "Parties" and each individually as a "Party."

RECITALS

A. Avondale and Tolleson desire to coordinate a community program, consisting of a softball tournament, a basketball tournament, and a community barbeque (the "Program").

B. The Parties desire to hold the Program at Donnie Hale Park, 10857 West Pima Street, Avondale, Arizona 85323 (the "Initial Facility") for the first year of this Agreement, and at a facility to be approved by the Parties for subsequent years.

C. Avondale is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 11-952 and the Avondale City Charter, Article I, Section 3.

D. Tolleson is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 11-952.

E. The Parties desire to enter into this Agreement to set forth the terms by which the Parties will jointly coordinate the Program, including Program planning, Program development, and Program administration.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until January 13, 2015 (the "Initial Term"), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) each Party deems the Agreement to be in the best interests of such Party, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, either Party requests, in writing, to extend the Agreement for an additional one-year term and (iii) each Party approves the additional one-year term in writing (including any cost adjustments

approved as part of this Agreement), as evidenced by the signature thereon of each Party's City Manager, which approval may be withheld by either Party for any reason. Both Parties' failure to seek a renewal of this Agreement shall cause the Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that either Party may, with the agreement of the other Party, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Program Location; Date. For the Initial Term, the Parties intend for the Program to be located at the Initial Facility and held on or around March 22, 2014. Thereafter, for each subsequent Renewal Term, if any, the Parties intend for the Program to be located at a facility and held on a date that is acceptable to each Party. Tolleson acknowledges that the use of any Avondale property is subject to final approval by Avondale, and Avondale acknowledges that the use of any Tolleson property is subject to final approval by Tolleson.

3. Joint Cost Obligations and Revenue Sharing.

3.1 Costs of Program. Tolleson and Avondale each shall bear 50% of the total costs of the Program, not to exceed a total combined cost of \$5,000.00 (including, but not limited to, costs for promotions paid to third parties, costs for outside vendors and costs for cleanup of onsite restrooms at the Initial Facility or any facility used for the Program) for each year of the Term.

3.1.1 Overtime. Each Party shall pay for any overtime costs associated with its own staff, including, but not limited to, parks staff, police, fire, traffic management and sanitation services for the Program, as applicable.

3.1.2 Maximum Total Cost. The maximum aggregate combined total amount paid by the Parties for all costs associated with this Program for the Term of this Agreement shall not exceed \$25,000.00.

3.2 Revenue Sharing. The City of Avondale Youth Advisory Commission and the City of Tolleson Teen Council (collectively, the "Teen Groups") each will receive 50% of the total net revenue generated from the Program, which includes, but is not limited to, revenue resulting from tournament entries, vendor spaces, and net profits of sponsorships, less the reimbursement to the Parties for any costs expended for the Program as set forth in Section 3.1 above. The Teen Groups will be allowed to participate in fundraising activities during the Program. All revenue generated from the Teen Groups' fundraising activities will be retained by the respective Teen Group.

3.3 Program Budget. The Parties will agree on a Program budget no later than 45 days prior to the Program. The Parties will reconcile the budget and make any final payments as necessary no later than 30 days after the Program, including any payments to the Teen Groups.

4. Joint Obligations.

4.1 Facility Maintenance. When the Program is held at a Party's facility, the responsible Party shall maintain such facility.

4.2 Property Access. Each Party shall provide access to its facilities, property and equipment as may be reasonably required for activities associated with, and the successful staging of, the Program.

4.3 Program Approval. The Program shall be approved by each Party's City Manager, or authorized designee, who shall act as the Program liaison and approval authority for the Program.

4.4 Program/Traffic Management. The police departments for Avondale and Tolleson shall work cooperatively to create a traffic plan and street closures associated with the Program as necessary.

4.5 Fire/Paramedics. Fire and paramedic needs for the Program will be addressed pursuant to the terms of the Arizona Mutual Aid Compact.

4.6 Sanitation Services. The Parties shall coordinate any clean up required after the Program, with the exception of the onsite restroom, which additional cleaning fee will be part of the overall Program costs and incorporated into the Program budget.

4.7 Promotion. Each Party shall promote the Program on its web pages, program guides, if any, and information releases, if any and as appropriate. Each Party acknowledges that the other Party owns all of its trademarks, service marks, trade names and logos (the "Marks") and that the other Party has no rights to use them except as conferred by this Agreement. Each Party hereby grants to the other Party a license to use the Marks and copyrights of such granting Party for the purpose of promoting the Program. Each Party agrees that (A) it will not use any of the Marks or copyrights of the other Party in any way without the advance written approval of that Party's City Manager and (B) the other Party may withdraw its approval of the use of the Marks or copyrights at any time with or without cause. Each Party agrees that it will immediately cease using any of the other Party's Marks or copyrights, or materials in which the Marks or copyrights are used, upon withdrawal of approval by the other Party. Both Parties shall have the unlimited right to use the logo created specifically for the Program for the purpose of promoting the Program.

4.8 Permitting. To the extent applicable, each Party shall provide to the other Party at no cost any required approvals or permits for the Program.

4.9 Manner of Financing. Subject to Section 7.3 below, each Party shall provide for its financial obligations under this Agreement through its annual budget process or by separate resolution as allowed by law and as deemed appropriate by its city council.

5. Indemnification. To the fullest extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party and each council member, officer, employee or agent thereof (the Party being indemnified and any such person referred to herein as an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to,

arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the other Party, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage secured by the indemnifying Party will in no way be construed as limiting the scope of the indemnity in this Section.

6. Insurance. Each Party agrees to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations and actions as set forth in this Agreement, including but not limited to public entity insurance. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.

7. Termination; Cancellation.

7.1 For Convenience. This Agreement may be terminated by either Party with or without cause upon 30 days' written notice to the other Party.

7.2 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511.

7.3 Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds or the incurring of expenses by the Parties shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. Each Party shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement and each Party shall keep the other Party fully informed as to the availability of funds for this Agreement. The obligation of each Party to make any payment pursuant to this Agreement is a current expense of such Party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of such Party. If the City Council of either Party fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and each Party shall be relieved of any subsequent obligation under this Agreement.

8. Miscellaneous.

8.1 Independent Contractor. The Parties acknowledge and agree that the services provided under this Agreement are being provided by each Party as an independent contractor, not as an employee or agent of the other Party, except as provided in Section 8.13 below. Each Party, its employees and subcontractors are not entitled to workers' compensation benefits from the other Party. The Parties do not have the authority to supervise or control the services provided under this Agreement by the other Party, its employees or subcontractors. Each Party shall determine the time of its performance of the services provided under this Agreement subject to the requirements set forth herein. The Parties do not intend to nor will they combine business operations under this Agreement.

8.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

8.3 Laws and Regulations. Both Parties shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Parties are responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the services, including the following: (A) existing and future city and county ordinances and regulations, (B) existing and future state and federal laws and (C) existing and future Occupational Safety and Health Administration standards.

8.4 Amendments. This Agreement may be modified only by a written amendment approved by the Parties' respective City Council and signed by persons duly authorized to enter into contracts on behalf of the Parties.

8.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

8.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

8.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the Party drafting this Agreement. The Parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

8.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by a Party to this Agreement without prior, written permission of the other Party signed by its persons duly authorized to enter into contracts on behalf of the Parties. Any attempted assignment or delegation by either Party in violation of this provision shall be a breach of this Agreement.

8.9 Subcontracts. No subcontract shall be entered into with any other party to furnish any of the services specified herein without the prior written approval of the Parties to this Agreement.

8.10 Attorneys' Fees. In the event either Party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing Party shall be entitled to receive from the other Party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall

be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

8.11 Disposition of Property Upon Termination. The Parties do not anticipate having to dispose of any property upon partial or complete termination of this Agreement. However, to the extent that such disposition is necessary, property shall be returned to its original owner.

8.12 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the Party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to Avondale:           City of Avondale  
11465 West Civic Center Drive  
Avondale, Arizona 85323  
Attn: Charles P. McClendon, City Manager

With copy to:           Gust Rosenfeld, P.L.C.  
One East Washington Street, Suite 1600  
Phoenix, Arizona 85004-2553  
Attn: Andrew J. McGuire, Esq.

If to Tolleson:           City of Tolleson  
9555 West Van Buren Street  
Tolleson, Arizona 85353  
Attn: Reyes Medrano, City Manager

With copy to:           Gust Rosenfeld, P.L.C.  
One East Washington Street, Suite 1600  
Phoenix, Arizona 85004-2553  
Attn: Scott W. Ruby, Esq.

or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the Party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

8.13 Worker's Compensation. An employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of ARIZ. REV. STAT. § 23-1022 and the Arizona Workers' Compensation laws. The

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

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

8.14 Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

8.15 Captions. Captions and section headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant to construing this Agreement.

9. E-verify, Records and Audits. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Parties and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). The Parties' or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by either Party under the terms of this Agreement. The Parties each retain the legal right to randomly inspect the papers and records of the other Party and the other Party's subcontractors who work under this Agreement to ensure that the other Party and its subcontractors are complying with the above-mentioned warranty. The Parties warrant to keep their respective papers and records open for random inspection during normal business hours by the other Party. The Parties and their respective subcontractors shall cooperate with the other Party's random inspections including granting the inspecting Party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

**“Avondale”**

CITY OF AVONDALE, an Arizona  
municipal corporation

\_\_\_\_\_  
Marie Lopez Rogers, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned Attorney acknowledges that (i) he has reviewed the above agreement on behalf of his client and (ii) as to his client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
Andrew J. McGuire, City Attorney

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

**“Tolleson”**

CITY OF TOLLESON, an Arizona  
municipal corporation

\_\_\_\_\_  
Adolfo F. Gámez, Mayor

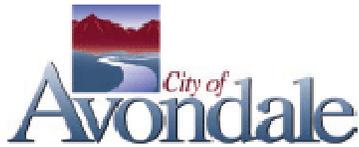
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Chris Hagen, City Clerk

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned Attorney acknowledges that (i) he has reviewed the above agreement on behalf of his client and (ii) as to his client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

\_\_\_\_\_  
Scott W. Ruby, City Attorney



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3160-114 - Memorandum of Understanding - State Fire Marshal for Fire Inspection Services

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Paul Adams, Fire Chief 623-333-6100

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the Mayor and City Council adopt a resolution approving a memorandum of understanding (MOU) with the Arizona State Fire Marshal's Office to provide inspection services.

**BACKGROUND:**

In 2006 the Avondale fire marshal entered into a letter agreement with the Arizona State Fire Marshal to provide review of plans for construction, remodeling, alterations and additions of state, county and public school buildings within the city on behalf of the state fire marshal and to complete any inspections required with same. In 2008 the process was formalized through a memorandum of understanding approved by the city council.

**DISCUSSION:**

The 2008 MOU had a term of 5 years and is now being presented for renewal. Due to budget cuts at the state level since 2006 the state fire marshal has insufficient resources to provide these inspection services in a timely manner which would negatively impact the ability of schools within the City of Avondale, including Estrella Mountain Community College, to expand as necessary to meet student need. The MOU also allows Avondale to apply the fire code adopted by the city council to these facilities rather than just the state fire code. For these reasons it is in the best interest of the city to allow the Avondale fire marshal to function on behalf of the state fire marshal under the MOU.

**BUDGETARY IMPACT:**

There will be no additional cost to the city to perform under the MOU.

**RECOMMENDATION:**

Staff recommends that the Mayor and City Council adopt a resolution approving a memorandum of understanding (MOU) with the Arizona State Fire Marshal's Office to provide inspection services.

**ATTACHMENTS:**

Click to download

[Resolution 3160-114](#)

**RESOLUTION NO. 3160-114**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE OFFICE OF STATE FIRE MARSHAL RELATING TO FIRE INSPECTION SERVICES.

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

SECTION 1. The Memorandum of Understanding (the “MOU”) with the Arizona Department of Building and Fire Safety, Office of State Fire Marshal relating to fire inspection services is hereby adopted in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the MOU 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, January 21, 2014.

---

Marie Lopez Rogers, Mayor

ATTEST:

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Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3160-114

[MOU]

See following pages.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN**

**ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY  
OFFICE OF STATE FIRE MARSHAL**

**AND**

**CITY OF AVONDALE**

This Memorandum of Understanding (“MOU”) is between the Office of State Fire Marshal (“OSFM”) and the City of Avondale (“City”) concerning the review of plans for construction, remodeling, alterations and additions (collectively referred to as “plans”) of state, county and public school buildings and grounds [A.R.S. § 41-2163(C)] and the inspections performed in conjunction therewith; as well as regularly scheduled inspections of state and county owned buildings and all public and private schools [A.R.S. § 41-2163(A)(4)].

**I. RECITALS**

**WHEREAS**, pursuant to A.R.S. § 41-2161, the purpose of OSFM is to promote public health and safety and to reduce hazards to life, limb and property by performing inspections and fire investigations, by providing public education and by adopting fire protection codes.

**WHEREAS**, Arizona has adopted the International Fire Code 2003 edition as modified by A.A.C. R4-36-201 as the Arizona State Fire Code, and all Fire Departments and Fire Districts must comply with the Arizona State Fire Code or a code adopted by the controlling political subdivision which is equivalent to, or more stringent, than the Arizona State Fire Code (collectively referred to as “Fire Code”).

**WHEREAS**, pursuant to A.R.S. § 41-2163(A)(4), OSFM is charged with conducting regularly scheduled inspections of state and county owned building and public and private schools throughout Arizona, and

**WHEREAS**, pursuant to A.R.S. § 41-2163(C), OSFM is charged with the review of plans and specifications for new construction, remodeling, alterations and additions and performing inspections in conjunction therewith for state, county and public school buildings and grounds, and

**WHEREAS**, the State Fire Marshal is empowered under A.R.S. § 41-2162(A)(2) to engage such assistance as deemed necessary, and

**WHEREAS**, the City confirms that its personnel possesses the necessary proficiency in the understanding, interpretation and application of the applicable fire code, and

**WHEREAS**, the City and OSFM desire to cooperate in the duties which each is charged to conduct.

## II. TERMS

1. Construction Plan Review & Inspection. OSFM agrees to allow the City to conduct review of plans for construction, remodeling, alterations and additions of state, county and public school buildings on behalf of OSFM and complete any inspections required in conjunction therewith.
2. School Life Safety Inspection. OSFM agrees to allow the City to conduct regularly scheduled inspections of state and county owned buildings and all public and private schools on behalf of OSFM.
3. Limitations of MOU. This MOU does not grant the authority to inspect installation or removal of underground fuel storage tanks. That task remains the sole authority and responsibility of OSFM as granted by the Arizona Department of Environmental Quality. OSFM recognizes some jurisdictions have a separate agreement to perform such inspections for Arizona Department of Environmental Quality.
4. Term Limit. The term of this Agreement shall be for five (5) years from the effective date of this MOU.
5. Operational Costs. Any costs incurred by City to implement this MOU shall be borne by the City.
6. Fees. City may collect such fees as permitted by its political subdivision. Any funds collected by the City to implement this MOU are made under the authority granted to that jurisdiction and are not subject to attachment by OSFM.
7. Collaborative Services. Jurisdictions who enter into the MOU with OSFM may contract with local or county building departments for the purposes of:
  1. Conducting review of plans and specifications for new construction, remodeling, alterations and additions.
  2. Permitting for inspection.
  3. Establishing a fee schedule, and collecting fees.
  4. Review of plans by local or county building departments, in conjunction with this MOU, shall be conducted by personnel who have exhibited the necessary proficiency in the understanding, interpretation and application of the Fire Code.

City shall notify OSFM and provide documentation describing shared services, if any.

City and local or county building departments shall be subject to periodic audits, with advance notice.

8. Quarterly Reporting. The City agrees to submit quarterly activity reports to OSFM, on a quarterly basis, but not later than April 30 for the 1<sup>st</sup> Quarter

(January – March), July 31 for the 2<sup>nd</sup> Quarter (April – June), October 31 for 3<sup>rd</sup> Quarter (July – September), and January 31 for 4<sup>th</sup> Quarter (October – December).

1. Quarterly activity reports shall contain a list of review of plans and specifications for new construction, remodeling, alterations and additions, fees collected, and inspections in conjunction therewith for state, county and public school buildings and grounds.
9. Report Submission Format. In the course of completing its review or inspection, the City shall transmit the information electronically to OSFM. Reporting forms and instructions will be provided by OSFM.
10. Audit. Pursuant to A.R.S. §§ 35-214 and 35-215, all books, accounts, reports, files and other records relating to this MOU shall be subject at all reasonable times to inspection and audit by OSFM for five (5) years after completion of this MOU. Such records shall be provided at OSFM, or such office as the parties hereto may mutually agree within a reasonable time after request.
11. Termination. Either party may terminate this MOU pursuant to the provisions of A.R.S. §38-511.
12. Dispute. In the event of any dispute between the parties under this MOU, the parties agree that they shall submit the dispute to arbitration pursuant to A.R.S. §§ 12-133 (D) and 12-1518. The parties also agree to comply with the Arizona Governor’s Executive Order No. 2009-09.
13. Conflict of Interest. The parties acknowledge that this MOU is subject to cancellation by the Governor of Arizona pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein.
14. Governing Law and Venue. This MOU shall be governed by and interpreted in accordance with the laws of the State of Arizona. The exclusive venue for any litigation, arbitration, administrative hearing or the like concerning this agreement or any matter arising therefrom shall be in Maricopa County, State of Arizona.
15. Unavailability of Funding. Every payment or financial obligation of the parties under this MOU is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this MOU, this MOU may be terminated by any party at the end of the period for which funds are available. No liability shall accrue to any party in the event this provision is exercised, and neither, the OSFM or Agency shall be obligated or liable for, any future payments nor for any damages as a result of termination under this paragraph.
16. Prohibited Investments. To the extent applicable, the parties agree to comply with the requirements of A.R.S. §§35-391.06(A) and 35-393.06(B), and certifies that it does not have any prohibited scrutinized business operations.

17. Non-Discrimination. The parties agree to comply with all applicable federal or state laws relating to equal opportunity and non-discrimination.
18. Legal Arizona Workers Act. OSFM and City are each required to comply with A.R.S. §41-4401, and each hereby warrants that it will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the “state and federal immigration laws”). Both parties further agree to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the party who breaches may be subject to penalties up to and including termination of the Agreement.

Both parties retain the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other party is complying with the warranties regarding compliance with the state and federal immigration laws.

**ARIZONA STATE FIRE MARSHAL**

---

Robert Barger, Arizona State Fire Marshal  
Office of State Fire Marshal  
1110 W. Washington, Suite 100  
Phoenix, Arizona 85007  
(602) 364-1081  
robert.barger@dfbls.az.gov

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Effective Date

**CITY OF AVONDALE**

---

Charles P. McClendon, City Manager  
City of Avondale  
11465 W. Civic Center Drive  
Avondale, Arizona 85323  
(602) 333-1015  
cmclendon@avondale.org

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Date Signed



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 3161-114 - Intergovernmental Agreement - Littleton Elementary School District for Cooperative Facility Use and Programming

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Christopher Reams, Parks, Recreation and Libraries Director (623) 333-2412

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement with Littleton Elementary School District #65 for the purpose of cooperative programming and the use of school facilities, and authorize the Mayor, City Manager and City Clerk to execute the documents.

**BACKGROUND:**

On July 7, 2008 The City of Avondale (the City) adopted a resolution authorizing an Intergovernmental Agreement (IGA) with the Littleton Elementary School District #65 (LESD) for cooperative programming and the use of school facilities.

The main goal of the IGA was to seek additional ways to build upon the relationship between the two agencies; strengthen each other's goals and objectives; and to build a successful, vibrant community by insuring that our local schools are strong. The IGA provided the opportunity for facility use for after school programs, youth program development, participation in community enhancement projects, and outlined the process for waiving LESD building permits and inspection fees.

The term of the agreement was for a period of five (5) years. The original agreement expired on July 5, 2013. Staff members from the City and LESD have had ongoing discussions on the merit and benefits of the IGA and the parties would like to re-establish the IGA with changes as outlined below.

**DISCUSSION:**

The new IGA will be effective as of the date approved by both parties and remain in effect until December 2, 2014. The IGA may be renewed for up to four successive one-year terms if each party deems the renewal to be in their best interest.

The goal of the IGA will continue to be for the joint development of youth-centered projects such as youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, dropout prevention and parent involvement.

The following additions will be included in the new IGA:

- Addition of an authorization for LESD to use City of Avondale Sports Fields for youth sports and activities when available for District programs and activities.
- The City will waive field usage fees for District youth activities up to \$10,000 annually.
- Add a designated representative from the City of Avondale Parks, Recreation, and Libraries Department. A designated representative from the district is already a provision of the

agreement. The designated staff members from each party will meet at least annually, no later than 60 days before the contract expiration date to discuss ongoing programming space allocations.

- Each party will be responsible for the maintenance and upkeep of their facilities used by the other party as outlined in this agreement.
- LESD will authorize the distribution of the following two (2) quarterly publications to District Schools. The district will pre-approve all publications and determine location of displayed publications:
  1. Quarterly youth sports and activity programming publication
  2. City of Avondale RAVE Magazine

**BUDGETARY IMPACT:**

There is no direct expenditure associated with the approval of the Agreement.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution authorizing an Intergovernmental Agreement with Littleton Elementary School District #65 for the purpose of cooperative programming and the use of school facilities, and authorize the Mayor, City Manager and City Clerk to execute the documents.

**ATTACHMENTS:**

Click to download

[Resolution 3161-114](#)

**RESOLUTION NO. 3161-114**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH LITTLETON ELEMENTARY SCHOOL DISTRICT RELATING TO COOPERATIVE FACILITY USE AND YOUTH PROGRAMMING.

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

SECTION 1. The Intergovernmental Agreement with Littleton Elementary School District No. 65 relating to cooperative facility use and youth programming (the "Agreement") is hereby approved in substantially the form attached hereto as Exhibit A.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, January 21, 2014.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3161-114

[Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
LITTLETON ELEMENTARY SCHOOL DISTRICT NO. 65**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is entered into as of December 2, 2013, between the City of Avondale, an Arizona municipal corporation (the "City") and Littleton Elementary School District No. 65, an Arizona school district (the "District"). The City and District are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

A. The City desires to utilize District buildings and facilities for summer, after-school and leisure service classes (the "City Activities").

B. The District desires to use City-owned sports fields to conduct youth sports and activities (the "District Activities").

C. The City and the District desire to jointly develop youth-centered projects such as youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, dropout prevention and parent involvement.

D. The District has funding available through its operation and maintenance budget to fund the District's costs associated with this Agreement.

E. The City has funding available through its general fund for the City's costs associated with this Agreement.

F. The District is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 15-342 and ARIZ. REV. STAT. § 11-952.

G. The City is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 11-952 and the Avondale City Charter, Article I, Section 3.

H. The City and the District desire to enter into this Agreement to establish the rights and responsibilities with respect to the District Activities and the City Activities.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. District's Obligations. The District agrees to:

1.1 Facilities. Reasonably determine which two District schools the City will utilize for the City Activities (the "Facilities").

1.2 City's Priority. Prioritize the City's request to use the Facilities immediately after the District's school-related activities.

1.3 District Staff Members. Work cooperatively with the City to identify qualified District school staff members to work with the City in administering the City Activities. Designated representatives from the City will meet with District school staff members at least once a year, no later than 60 days prior to expiration of the Term to discuss City Activities.

1.4 Jointly Develop Partnerships. Jointly develop with the City, youth-centered projects such as youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, dropout prevention and parent involvement.

1.5 Publications. Authorize the distribution of the City's quarterly youth sports and activity programming publication and the City's RAVE magazine (the "Publications") at the District schools. The District will determine the locations for the display of the Publications and must review and approve the Publications prior to such being displayed at the District schools.

1.6 Utilities. Pay for all reasonable charges for water, natural gas and electricity consumed by the City at the Facilities.

2. City Obligations. The City agrees to:

2.1 Sports Fields. Allow the District to use City-owned sports fields ("Sports Fields") for District Activities, at no cost to the District, subject to the limitations provided in subsection 3.2 below.

2.2 Jointly Develop Partnerships. Jointly develop with the District youth-centered projects such as youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, drop out prevention and parent involvement.

3. Fees.

3.1 City Fees. The District agrees to allow the City to utilize the Facilities for City Activities at no cost to the City.

3.2 District Fees. The City agrees to waive the City's usage fees, up to an aggregate annual amount of \$10,000.00, for the District's use of the Sports Fields in conducting

District Activities. The City also agrees to waive building permit and inspection fees for the District. Pursuant to ARIZ. REV. STAT. § 9-500.18, as amended, the City will only charge the District development fees for streets, water and sewer utility functions.

4. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until December 2, 2014 (the “Initial Term”), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a “Renewal Term”) if (i) each Party deems the Agreement to be in the best interests of such Party, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, either Party requests, in writing, to extend the Agreement for an additional one-year term and (iii) each Party approves the additional one-year term in writing (including any cost adjustments approved as part of this Agreement), as evidenced by the signature thereon of each Party’s authorized designee, which approval may be withheld by either Party for any reason. Both Parties’ failure to seek a renewal of this Agreement shall cause the Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that either Party may, with the agreement of the other Party, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the “Term.” Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

5. Maintenance. Each Party shall be responsible for maintaining its own property and shall reasonably clean, maintain and repair its property at its own expense during the term of this Agreement. Notwithstanding the foregoing, each Party shall clean up any waste or spills and pick up any equipment placed upon the Facilities or Sports Fields by the Party after each use. Each Party shall be responsible for the repair of any damages to the Facilities or Sports Fields that occur as a result of that Party’s use of the Facilities or Sports Fields.

6. Indemnification. To the fullest extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party and each board or council member, officer, employee or agent thereof (the Party being indemnified and any such person referred to herein as an “Indemnified Party”), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (“Claims”), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the other Party, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage secured by the indemnifying Party will in no way be construed as limiting the scope of the indemnity in this Section. This Section shall survive the termination or expiration of this Agreement for one year from the date of such termination or expiration.

7. Insurance. Each Party agrees to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations and actions as set forth in this

Agreement, including but not limited to public entity insurance. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.

8. Termination; Cancellation.

8.1 For Convenience. This Agreement may be terminated by either Party with or without cause upon 30 days' written notice to the other Party.

8.2 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511.

8.3 Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5, ARIZ. REV. STAT. § 42-17106 and ARIZ. REV. STAT. § 15-905(N). The provisions of this Agreement for payment of funds or the incurring of expenses by the Parties shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. Each Party shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement and each Party shall keep the other Party fully informed as to the availability of funds for this Agreement. The obligation of each Party to make any payment pursuant to this Agreement is a current expense of such Party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of such Party. If the governing body of either Party fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and each Party shall be relieved of any subsequent obligation under this Agreement.

9. Miscellaneous.

9.1 Independent Contractor. The Parties acknowledge and agree that the services provided under this Agreement are being provided by each Party as an independent contractor, not as an employee or agent of the other Party, except as provided in subsection 9.12 below. Each Party, its employees and subcontractors are not entitled to workers' compensation benefits from the other Party. The Parties do not have the authority to supervise or control the services provided under this Agreement by the other Party, its employees or subcontractors. Each Party shall determine the time of its performance of the services provided under this Agreement subject to the requirements set forth herein. The Parties do not intend to nor will they combine business operations under this Agreement.

9.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

9.3 Laws and Regulations. Both Parties shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Parties are responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the services, including the following: (A) existing and

future city and county ordinances and regulations, (B) existing and future state and federal laws and (C) existing and future Occupational Safety and Health Administration (“OSHA”) standards.

9.4 Amendments. This Agreement may be modified only by a written amendment approved by the Parties’ respective governing body and signed by persons duly authorized to enter into contracts on behalf of the Parties. Any attempt at oral modification of this Agreement shall be void and of no effect.

9.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

9.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid or unenforceable by a court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

9.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the Party drafting this Agreement. The Parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

9.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned by a Party to this Agreement without prior, written permission of the other Party signed by its persons duly authorized to enter into contracts on behalf of the Parties, and no delegation of any duty of any Party shall be made without prior, written permission of the other Party signed by its persons duly authorized to enter into contracts on behalf of the Parties. Any attempted assignment or delegation by either Party in violation of this provision shall be a breach of this Agreement.

9.9 Subcontracts. No subcontract shall be entered into with any other party to furnish any of the services specified herein without the prior written approval of the Parties to this Agreement.

9.10 Attorneys’ Fees. In the event either Party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing Party shall be entitled to receive from the other Party reasonable attorneys’ fees and reasonable costs and expenses, determined by the court sitting without a jury, which

shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

9.11 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the Party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to Avondale:           City of Avondale  
11465 West Civic Center Drive  
Avondale, Arizona 85323  
Attn: Charles P. McClendon, City Manager

With copy to:           GUST ROSENFELD, P.L.C.  
One East Washington Street, Suite 1600  
Phoenix, Arizona 85004-2553  
Attn: Andrew J. McGuire, Esq.

If to the District:       Littleton Elementary School District No. 65  
1252 South Avondale Boulevard  
Avondale, Arizona 85323  
Attn: Dr. Roger Freeman, Superintendent

or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the Party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9.12 Worker's Compensation. An employee of either Party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of ARIZ. REV. STAT. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall post a notice pursuant to the provisions of ARIZ. REV. STAT. § 23-1022 in substantially the following form:

"All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by

the laws of Arizona to be employees of both public agencies for the purposes of worker's compensation.”

9.13 Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

9.14 Captions. Captions and section headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant to construing this Agreement.

10. E-verify, Records and Audits. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Parties and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). The Parties' or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by either Party under the terms of this Agreement. The Parties each retain the legal right to randomly inspect the papers and records of the other Party and the other Party's subcontractors who work under this Agreement to ensure that the other Party and its subcontractors are complying with the above-mentioned warranty. The Parties warrant to keep their respective papers and records open for random inspection during normal business hours by the other Party. The Parties and their respective subcontractors shall cooperate with the other Party's random inspections including granting the inspecting Party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as set forth below.

**“City”**

CITY OF AVONDALE, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Marie Lopez Rogers, Mayor

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

**“District”**

LITTLETON ELEMENTARY SCHOOL  
DISTRICT NO. 65, an Arizona school  
district

By: \_\_\_\_\_  
Michael Pineda, Board President

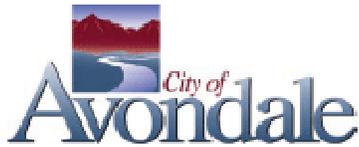
ATTEST:

\_\_\_\_\_  
Dr. Roger Freeman, Superintendent

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

\_\_\_\_\_  
Andrew J. McGuire, City Attorney

\_\_\_\_\_  
Attorney for the District



# DEVELOPMENT SERVICES

**SUBJECT:**

Public Hearing and Resolution 3162-114 – St. John Bosco Center Minor General Plan Amendment (Application PL-13-0139)

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Tracy Stevens, Development & Engineering Services Director (623) 333-4012

**THROUGH:** Charlie McClendon, City Manager (623) 333-1015

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**REQUEST:** Amend the General Plan Land Use Designation of the Subject Property from “Open Space” to “Rural Low Density Residential”.

**PARCEL SIZE:** 10.1 acres

**LOCATION:** Southwest Corner of 125<sup>th</sup> Avenue and Illini Street (Exhibits A, B, C and D)

**APPLICANT:** Ms. Allyson Knappenberger, St. John Vianney Roman Catholic Parish (623) 932-3313

**OWNER:** St. John Vianney Roman Catholic Parish (623) 932-3313

**BACKGROUND:**

The Diocese of Phoenix owns approximately 10.1 acres of property located at the southwest corner of Illini Street and 125<sup>th</sup> Avenue. Since 2003, the property has been used as the St. John Bosco Center, a facility that accommodates after-school and summer activities for children in the surrounding Las Ligas neighborhood. The site is currently developed with a small chapel and classroom building, a baseball field, a basketball court, a soccer field, and a children’s playground. A new modular classroom building is in the process of being added to the site but has not yet received its Certificate of Occupancy.

Until recently, the property had been under the jurisdiction of Maricopa County. In order to allow the new modular classroom building to connect to the City’s water and sewer systems, annexation was required due to Avondale’s longstanding policy to only allow for new water and sewer connections if a property is located within the City’s limits. The property was annexed into Avondale’s corporate limits on October 16, 2013 and rezoned RR-43 (Rural Residential), the equivalent zoning to the County’s RU-43 (Rural) zoning district, as required by Arizona statute.

This General Plan Amendment is required in accordance with Arizona laws requiring the use and zoning of newly annexed properties to conform to the annexing City’s General Plan Land Use Map. This Amendment is also a requirement of the pre-annexation development agreement between the property owner and City approved by the City Council on February 19, 2013. The General Plan 2030 Land Use Map designates the subject property as “Open Space”. The Open Space category is typically reserved for use on City-owned park sites and natural features such as the Estrella Mountains, Agua Fria River, and Gila River. Designation of private property as Open Space is rare. Amending the General Plan 2030 Land Use Map to show this property as “Rural Low Density Residential” will satisfy state requirements and fulfil one aspect of the pre-annexation agreement. The Rural Low Density Residential category allows for single-family residential uses on lots one acre

or greater, as well as churches, parks, schools, etc. Both the current use of the property as a school/church/activity center and the current zoning of the property, RR-43, conform to the proposed Rural Low Density Residential designation.

### **SUMMARY OF REQUEST:**

The applicant is requesting to amend the General Plan Land Use Map designation of the subject property from Open Space to Rural Low Density Residential (Exhibits A, B, and F). As previously mentioned, the request is necessary to comply with Arizona law and fulfil a condition of the pre-annexation development agreement between the City and property owner approved in February of 2013. Approval of this request will legitimize, not change, the use of the property as a church-operated after-school activity center for area youths. It will also allow for future expansion of the center with approval of a Conditional Use Permit by the Planning Commission and City Council. No expansion is currently anticipated, beyond occupancy of the new modular classroom building previously approved by the County as discussed above.

Amendments to the General Plan are classified as major or minor amendments. This request is a minor amendment because it is not located within the boundaries of a specific plan and involves less than 40 acres. Unlike Major General Plan Amendments, minor amendments may be considered by the Planning Commission and City Council throughout the calendar year according to the regularly scheduled process, which includes proper notification, a neighborhood meeting, a public hearing before the Planning Commission, and a public hearing before the City Council.

### **PARTICIPATION:**

The applicant conducted a neighborhood meeting to discuss the project on Wednesday, November 20th at 5:00 P.M. at the St. John Vianney Parish's Sacred Heart House, 5 Loma Linda Boulevard. The meeting was advertised in the November 5, 2013 edition of the West Valley View. A notification sign was erected on the subject property on November 5, 2013. Additionally, 90 property owners within 500 feet of the subject property were notified of the meeting by letters sent by the applicant on November 5, 2013. Four residents attended the meeting, where the applicant discussed the history of the St. John Bosco Center, its annexation into the City of Avondale, and the plans for the future of the facility. Residents asked the applicant to explain who the facility was named after, and also inquired as to the time frame for opening the modular classroom building. The applicant's summary does not indicate that there was any concern about the project on behalf of the nearby residents (Exhibit G).

A public hearing on the request was held at the Planning Commission meeting on December 19, 2013. Prior to the meeting, the notice sign was updated to include meeting information, letters were once again mailed to 90 property owners within 500 feet of the site, and a notice of the Planning Commission hearing was published in the West Valley View on December 3, 2013. No comments were received and no interested parties spoke on the item at the Planning Commission meeting.

A notice of this January 21, 2014 City Council public hearing was published in the West Valley View on January 3, 2014. On December 23, 2013, letters were again mailed to the 90 property owners whose parcels were located within 500 feet of the subject property. No additional comments on this proposal have been received to date.

### **PLANNING COMMISSION ACTION:**

The Planning Commission conducted a public hearing on December 19, 2013, and voted 6-0 to recommend approval of this General Plan Amendment request (Exhibit H). Commissioner Carrillo was excused from the meeting.

There was no discussion on this item.

## **ANALYSIS:**

The City Council must determine that the proposed amendment meets four findings prior to approving the Resolution. The burden of proof rests with the applicant. Staff's analysis of each of the required findings is presented below.

### **1. The development pattern contained on the Land Use Plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment.**

- A total of 13,866 acres, or 23.31 percent of the City's overall land area, is designated by the General Plan 2030 Land Use Map as Open Space. Reduction of this total acreage by 10 acres will not have a significant effect on the overall amount or percentage of Open Space in Avondale.
- The St. John Bosco Center is an existing facility operating at this location. Because annexation of the property was necessary to allow the facility to utilize City water and sewer services, this General Plan Amendment became necessary to comply with Arizona law and fulfill terms of the City's pre-annexation development agreement.

### **2. The amendment constitutes an overall improvement in the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners.**

- Cities cannot prohibit development on privately held land by designating it as Open Space. In instances where private land is designated as Open Space, development of up to one dwelling unit per gross acre is allowed. In the event the St. Bosco Center were to cease operations on the property, up to 10 dwelling units could be developed under the current designation. With the proposed change to Rural Low Density Residential, up to 10 dwelling units could be developed – the same as would currently be allowed.
- The proposed amendment will have no impact on the current or future use with the exception of making future expansion of the St. John Bosco Center possible through approval of a Conditional Use Permit.
- Achieving conformance with Arizona statute and satisfying a condition of the pre-annexation development agreement between the City and property owner constitutes an improvement over the current condition of non-conformance.

### **3. The amendment will not adversely impact the community as a whole and/or a portion of the community by: (1) significantly altering acceptable land use patterns; (2) requiring large and more expensive public infrastructure improvements including, but not limited to roads, water, wastewater, and public safety facilities than would otherwise be needed without the proposed change, or (3) adversely impacting the existing land use.**

- The St. John Bosco Center has operated on the site serving the existing neighborhood since 2003. From all accounts, the Center has had a positive impact on the surrounding community. Amending the General Plan to bring the use into conformance will not have a negative impact.
- The proposed designation of "Rural Low Density Residential" is less intense than the surrounding parcels, which are designated as "Medium Density Residential". Even in the event the Center were to stop operations and the property were to be developed, it would be developed at a significantly lower density than the surrounding area, creating a much smaller demand on infrastructure and public safety personnel.

### **4. The amendment is consistent with the overall intent of the General Plan 2030 and other adopted plans, codes, and ordinances.**

- The proposed amendment is consistent with several goals of the General Plan 2030, such as:
  - Land Use Goal #4, Policy B "Require all new development to participate in the required infrastructure enhancements including, but not limited to, street widening and connecting

to City water and sewer systems.” As part of this project, the St. John Bosco Center will utilize City water and sewer service. If in the future additional expansion is requested, the development will be responsible for improvements to both 125<sup>th</sup> Avenue and Illini Street adjacent to the site.

- Conservation, Rehabilitation, and Redevelopment Goal #4 “Support neighborhood organizations.” The St. John Bosco Center is an asset to the surrounding Las Ligas neighborhood, offering a safe and secure location for area youths to participate in after school and summer activities. Approval of the General Plan Amendment will allow the Center to operate in conformance with Arizona law.
- Land Use Goal #3, Policy B “Provide for larger home sites and encourage custom home developments in order to attract executive level professionals to Avondale.” In the event that the St. John Bosco Center ceases operations on the property, the Rural Low Density designation will require development of single-family residences on one-acre homesites.

### **Conclusion:**

Based on the information provided by the applicant, the public input received and the staff analysis, staff recommends approval of the requested minor General Plan Amendment.

### **FINDINGS:**

The proposal meets the four required findings for General Plan Amendments as detailed in the Analysis section, above.

### **RECOMMENDATION:**

The City Council should conduct a public hearing and adopt the Resolution approving Application PL-13-0139, a request to amend the General Plan Land Use Map for the 10.1 acre subject property from “Open Space” to “Rural Low Density Residential”.

### **PROPOSED MOTION:**

I move that the City Council accept the findings and **ADOPT** the Resolution approving Application PL-13-0139, a request to amend the General Plan Land Use Map for approximately 10.1 acres, changing the subject parcels designation from “Open Space” to “Rural Low Density Residential” as unanimously recommended by the Planning Commission.

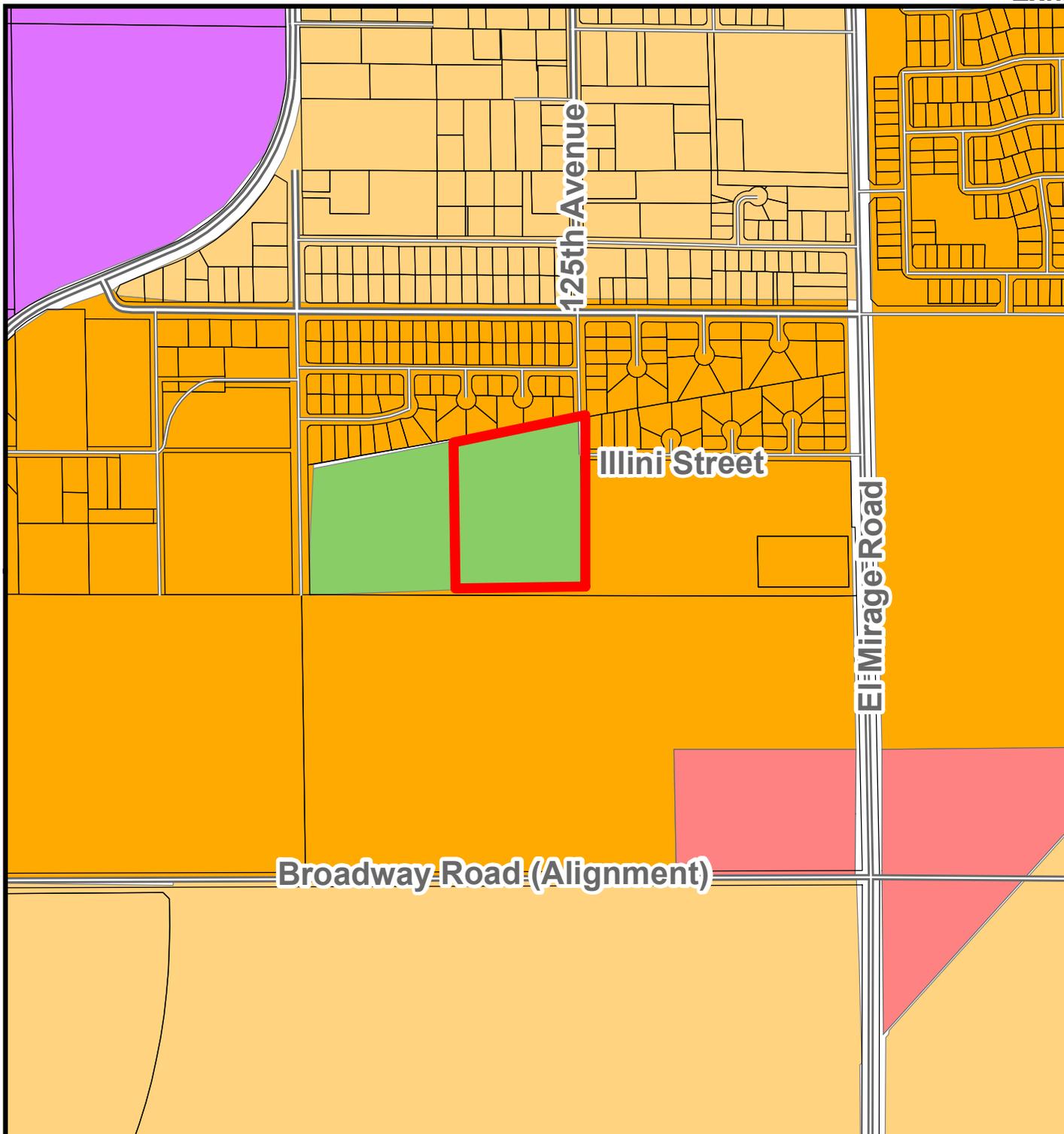
### **ATTACHMENTS:**

Click to download

- [Exhibit A - Current General Plan Land Use Map](#)
- [Exhibit B - Proposed General Plan Land Use Map](#)
- [Exhibit C - Zoning Vicinity Map](#)
- [Exhibit D - Aerial Photograph](#)
- [Exhibit E - Summary of Related Facts](#)
- [Exhibit F - Applicant's General Plan Amendment Narrative](#)
- [Exhibit G - Neighborhood Meeting Summary and Sign-In Sheet](#)
- [Exhibit H - Excerpt of December 19, 2013 Planning Commission Meeting Minutes](#)
- [Resolution 3162-114](#)

### **PROJECT MANAGER:**

Ken Galica, Senior Planner (623) 333-4019

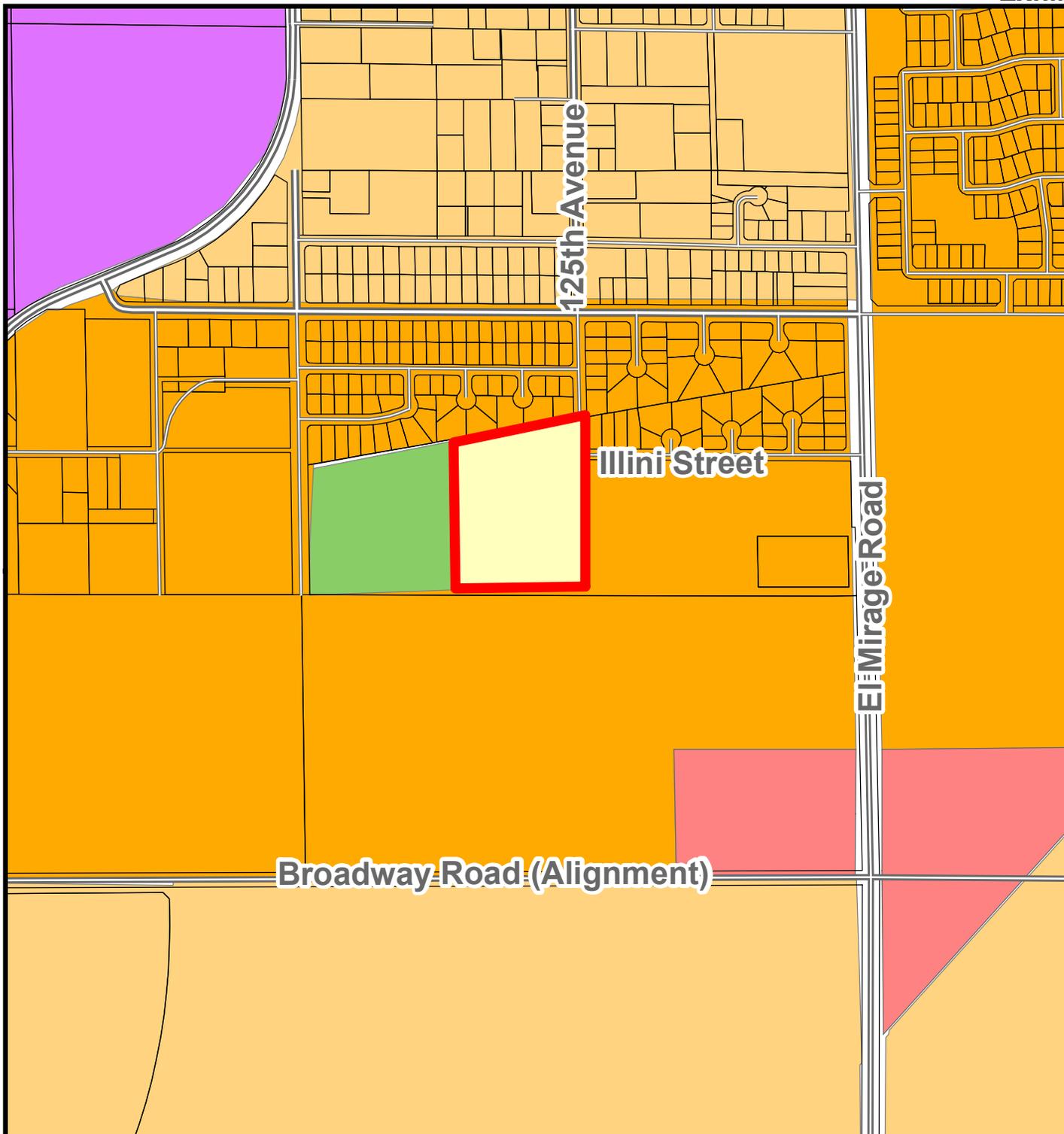


# CURRENT General Plan Land Use Map



Subject Property

- |  |  |
|--|--|
|  Medium Density Residential     |  Local Commercial |
|  Estate/Low Density Residential |  Mixed Use        |
|  Open Space                     |  |

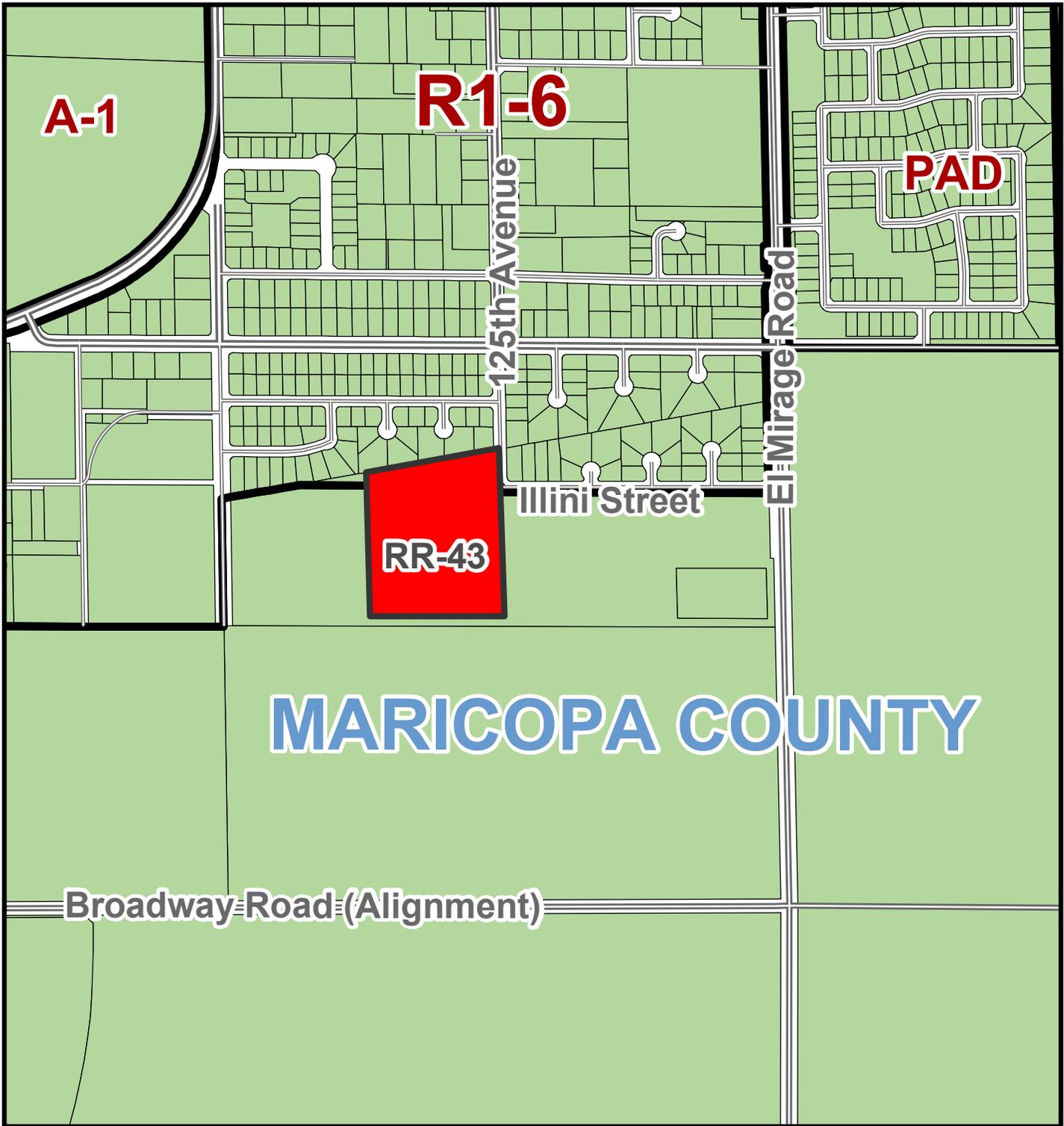


# PROPOSED General Plan Land Use Map



Subject Property

- |                                |                               |
|--------------------------------|-------------------------------|
| Medium Density Residential     | Local Commercial              |
| Estate/Low Density Residential | Mixed Use                     |
| Open Space                     | Rural/Low Density Residential |



### Zoning Vicinity Map



Subject Property





**Aerial Photograph**



**Subject Property**



*SUMMARY OF RELATED FACTS  
APPLICATION PL-13-0139  
ST. JOHN BOSCO MINOR GENERAL PLAN AMENDMENT*

<i>THE PROPERTY</i>	
PARCEL SIZE	Approximately 10.1 Acres
LOCATION	Southwest Corner of 125 <sup>th</sup> Avenue and Illini Street
PHYSICAL CHARACTERISTICS	Hilly terrain developed with a small chapel building.
EXISTING LAND USE	St. John Bosco Center – a facility that provides after school and summer programming for area youths.
EXISTING ZONING	RR-43 (Rural Residential, minimum 43,000 square foot lot area per dwelling unit)
ZONING HISTORY	The property was zoned RU-43 in Maricopa County. It was annexed into Avondale’s Corporate Limits on October 16, 2013 and zoned RR-43 upon annexation.
DEVELOPMENT AGREEMENT	A pre-annexation development agreement was approved by the City Council on February 19, 2013. Amongst a variety of things, this agreement requires the applicant to process a General Plan Amendment to bring the property’s Land Use Designation into conformance with its use as a school/youth center.

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	A residential area zoned R1-6 (Single Family Residential). The area is mostly developed with single family homes.
EAST	Undeveloped land owned by the Lakin Cattle Company. The property is not annexed into the City and is currently zoned County RU-43.
SOUTH	Agricultural land owned by the Lakin Cattle Company. The property is not annexed into the City and is currently zoned County RU-43.
WEST	Undeveloped land owned by the Lakin Cattle Company. The property is not annexed into the City and is currently zoned County RU-43.
<i>GENERAL PLAN</i>	
<p>The Avondale General Plan 2030 designates the subject property as “Open Space”. This category is intended for land used as City Parks and other areas of active and passive recreation for Avondale residents. The use of the property as an after-school center is not consistent with this land use category; as such, an amendment to the General Plan to reclassify this property as “Rural Low Density Residential”, a category that allows the current use, is required.</p>	

*PUBLIC SCHOOLS*

SCHOOL DISTRICT(S)	Littleton Elementary School District; Tolleson Union High School District
ELEMENTARY SCHOOLS	Littleton Elementary School
HIGH SCHOOL	La Joya Community High School

*UTILITIES*

Development on the property will be served by an existing 6" water line and an existing 10" sewer line in 125<sup>th</sup> Avenue.

*STREETS*

**Illini Street**

Classification	Local Street
Existing half street ROW	0'
Standard half street ROW	25'
Existing half street improvements	None
Standard half street improvements	Single through lane, curb, gutter, sidewalk, street lights, landscaping.

**125<sup>th</sup> Avenue**

Classification	Local Street
Existing half street ROW	0'
Required half street ROW	30'
Existing half street improvements	None
Standard half street improvements	Single through lane, curb, gutter, sidewalk, street lights, landscaping.

***MINOR GENERAL PLAN AMENDMENT  
ST. JOHN BOSCO NEIGHBORHOOD CENTER***

**What is the St. John Bosco Center**

In 1995, the community of St. John Vianney in neighboring Goodyear, realized a great need for aiding our community to the South called Las Ligas. At that time volunteers in every shape and size came together to help provide tutoring and religious formation to the children of predominantly migrant workers. The program was so successful that it caught the attention of Mr. Charles A. Lakin. In 2003, Mr. Lakin donated 10 acres of land at the Southeast corner of 125th Avenue and Illini St. to St. John Vianney for the sole purpose of our Outreach program. The volunteers came together to clean up the once dump-type property, placed a chapel and small school building on it, and thus was born the St. John Bosco Center.

It was located there expressly to serve the children in the surrounding Avondale neighborhood who had a great need for constructive after-school and summer activities. The center provides a variety of supervised educational studies as well as healthy outdoor recreational activities.

Along with religious based studies that teach good solid values that promote respect for others and the environment, math, geography, English, and citizenship are also taught through a variety of fun-to-do worksheets and games.

The outdoor activities consist of a basketball court donated by the Phoenix Suns, baseball diamond, soccer/flag football field, and a playground.

**Description of Site and Surroundings**

The St. John Bosco Center is on a 10 acre site located at the southwest corner of 125th Avenue and Illini Street. Currently it is in the jurisdiction of Maricopa County. Water and sewer are provided by the City of Avondale. It is occupied by an existing 1,074 S.F. religious education building and will soon have a new 2,967 S.F. modular classroom in operation. It will remain primarily open space with only .98% lot coverage when the proposed classroom building is installed. The landscape consists of turf covered fields for recreation, natural decomposed granite and several large trees. It is bounded by Avondale residential zoning to the north and northeast, and agricultural zoning to the south, the current Lakin property.

**Nature of this Request**

“This is a request to amend the Avondale General Plan 2030 concerning approximately 10 acres of property located at the southwest corner of 125th Avenue and Illini Street, changing the land use designation from “Open Space” to “Rural Low Density Residential”. The existing designation of “Open Space” is not compatible with the historic use of the property as a school. The requested designation of “Rural Low Density Residential” will allow for the continued use and future expansion of the property as a parochial school which benefits the surrounding community. Amending the General Plan for this site is a requirement of the approved pre-annexation development agreement between St. John Vianney and the City of Avondale.”

### **Support of the Goals of the Avondale General Plan**

The following attributes of this property, and the program that is implemented here, are in harmony with the goals and vision as stated in the Avondale General Plan 2030.

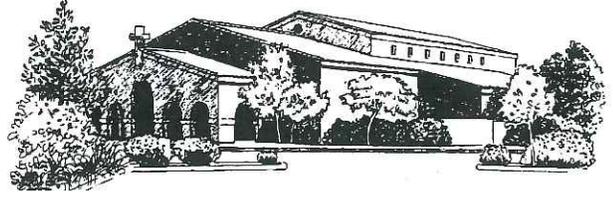
- - The St. John Bosco program grew out of the need of the surrounding neighborhood and is dedicated to providing for its children, therefore actively serving the residents of Avondale.
- - The spiritual, educational and recreational services provided by the St. John Bosco Center are designed to enhance the quality of life of its participants and promote a healthy lifestyle.
- - SJBC has become a “place to be” providing a real sense of community and neighborhood identity, giving structure and stability to a large group of neighborhood children in the after-school and summer hours.
- - The SJBC program is complementary to Avondale’s public education goals, helping build good citizens (several children who started coming to SJBC at an early age are now attending the Honors College at ASU).
- - Due to the nature of its recreational areas this property will preserve a great deal of open space and protect views of the mountains to the south.

### **Summary**

The St. John Bosco Center would be proud to become a part of the growing, vital community of Avondale. It has already contributed to the well-being of Avondale’s most precious resource, its young people. It would like to continue to do so for many years to come.

# St. John Vianney Catholic Church

539 La Parada Boulevard • Goodyear, Arizona 85338  
Parish (623) 932-3313 • School (623) 932-2434 • Fax (623) 932-1896



## Neighborhood Meeting Summary November 20, 2013

The meeting was held at 5:00pm at the Sacred Heart House at 5 Loma Linda Blvd., Avondale AZ.

Ms. Knappenberger thanked those in attendance for coming and gave a brief explanation as to the purpose of the meeting:

- History of the Center
- Construction Update
- Annexation to the City of Avondale
- Proposed use of the facility upon completion

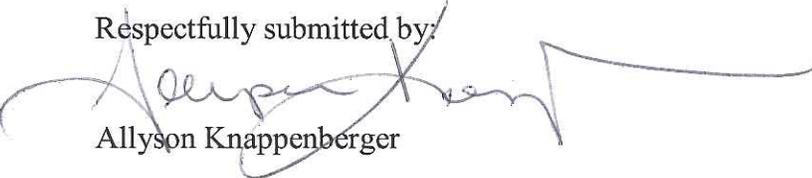
Ms. Knappenberger introduced Special guest speaker, Rene Sanchez, who gave a brief personal statement as to how the Center helped him in his youth. He is now a sophomore in the Barrett's Honors program at ASU.

The floor was then opened to any questions. Questions included:

- Who was St. John Bosco? Mr. Sanchez gave brief biography
- When will construction begin? Advised that we did not have a date as of yet, however, Ms. Knappenberger stated she would call each attendee and advise as soon as she has that information.

The meeting concluded at 6:05pm

Respectfully submitted by:

  
Allyson Knappenberger



**Excerpt of the Minutes of the regular Planning Commission meeting held December 19, 2013 at 6:30 p.m. in the Council Chambers.**

**COMMISSIONERS PRESENT**

Sean Scibienski, Chair  
Michael Demlong, Vice Chair  
Lisa Amos, Commissioner  
Michael Long, Commissioner  
Angela Cotera, Commissioner  
Kevin Kugler, Commissioner

**COMMISSIONERS EXCUSED**

Grace Carrillo, Commissioner

**CITY STAFF PRESENT**

Tracy Stevens, Planning Manager  
Chris Schmaltz, Legal Counsel  
Ken Galica, Senior Planner  
Linda Herring, Development Services Representative

**APPLICATION NO.**            PL-13-0139

**APPLICANT:**                Ms. Allyson Knappenberger  
   St. John Vianney Roman Catholic Parish  
   (623) 932-3313

**PROPERTY OWNER:**        St. John Vianney Roman Catholic Parish  
   (623) 932-3313

**REQUEST:**                    This is a public hearing before the Planning Commission to review and solicit public input on application PL-13-0139, a request by Ms. Allyson Knappenberger, St. John Vianney Roman Catholic Parish, for a General Plan Amendment for approximately 10.1 acres of partially developed land located at the southwest corner of 125th Avenue and Illini Street. The General Plan Amendment request is to change the land use designation from Open Space to Rural Low Density Residential.

Ken Galica, Senior Planner, presented St. John Vianney Roman Catholic Parish's request for a General Plan Amendment to change the land use designation from Open Space to Rural Low Density Residential.

Mr. Galica stated that the 10.1 acres, owned by the Diocese of Phoenix, has been used by St. John Bosco Center since 2003 as a facility for after-school and summer activities for the surrounding Las Ligas neighborhood. The property was recently annexed into the

City from Maricopa County jurisdiction. This was necessary to connect the new modular classroom building to the City’s water and sewer systems.

Mr. Galica noted that this General Plan Amendment is needed to comply with Arizona law and fulfil terms of the City’s pre-annexation development agreement. The proposed amendment will have no impact on the current or future use of the site - with the exception of making future expansion of the St. John Bosco Center possible through approval of a Conditional Use Permit. With the proposed change to Rural Low Density Residential, up to 10 dwelling units could be developed – the same as would currently be allowed under “Open Space” designation.

Mr. Galica described the four (4) required findings that must be met prior to approval and his analysis of each.

Chair Scibienski opened the public hearing. Hearing no requests to speak, he closed the public hearing.

Commissioner Cotera **MOVED** that the Planning Commission **APPROVE** application PL-13-0139, a request by Ms. Allyson Knappenberger, St. John Vianney Roman Catholic Parish, for a General Plan Amendment for approximately 10.1 acres of partially developed land located at the southwest corner of 125th Avenue and Illini Street. The General Plan Amendment request is to change the land use designation from Open Space to Rural Low Density Residential. Commissioner Amos **SECONDED**.

**ROLL CALL VOTE**

Sean Scibienski, Chair	Aye
Michael Demlong, Vice Chair	Aye
Lisa Amos, Commissioner	Aye
Michael Long, Commissioner	Aye
Angela Cotera, Commissioner	Aye
Kevin Kugler, Commissioner	Aye
Grace Carrillo, Commissioner	Excused

**APPROVED 6-0.**

## RESOLUTION NO. 3162-114

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE GENERAL PLAN REGARDING THE LAND-USE DESIGNATION OF APPROXIMATELY 10.1 ACRES LOCATED AT THE SOUTHWEST CORNER OF 125TH AVENUE AND ILLINI STREET AS SHOWN IN FILENAME PL-13-0139.

**WHEREAS**, the City of Avondale General Plan (the “General Plan”) was adopted by the Mayor and Council of the City of Avondale (the “City Council”) on June 17, 2002, and ratified by the qualified electors of the City of Avondale on September 10, 2002; and

**WHEREAS**, the General Plan establishes the authority and procedures for amendments to the General Plan land-use designations; and

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City of Avondale (the “City”) has consulted with, advised and provided the opportunity for public comment on the amendment to the General Plan; and

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City Planning and Zoning Commission (i) held a public hearing in the City Council Chambers on December 19, 2013, on the proposed General Plan amendment and (ii) provided notice of such hearing by publication of said notice on December 3, 2013; and

**WHEREAS**, pursuant to the General Plan, the City Council (i) held a public hearing in the City Council Chambers on the proposed General Plan amendment on January 21, 2014 and (ii) provided notice of such hearing by publication of said notice on January 3, 2014; and

**WHEREAS**, the City Council finds and determines that (i) proper notice of the proposed General Plan amendment has been given in a manner required by ARIZ. REV. STAT. § 9-461 *et seq.* and (ii) each of the required publications have been made; and

**WHEREAS**, the City Council desires to amend the General Plan to change the land-use designation for approximately 10.1 acres of real property generally located at the southwest corner of 125th Avenue and Illini Street from “Open Space” to “Rural Low Density Residential.”

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

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

SECTION 2. The General Plan is hereby amended to change the land-use designation for approximately 10.1 acres of real property generally located at the southwest corner of 125th Avenue and Illini Street, as shown in filename PL-13-0139, as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference, from “Open Space” to “Rural Low Density Residential.”

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, January 21, 2014.

\_\_\_\_\_  
Marie Lopez Rogers, Mayor

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 3162-114

[General Plan Amendment Legal Description and Map]

See following pages.



EXHIBIT 'A'  
LEGAL DESCRIPTION  
ST. JOHN BOSCO PROPERTY

That part of the East half of the Northwest quarter of Southeast quarter of Section 23, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona more particularly described as follows:

Commencing at the southeast corner of said East half of the Northwest quarter of the Southeast quarter of said Section 23 marked by a City of Avondale brass cap from which the northeast corner of said East half of the Northwest quarter of the Southeast quarter of said Section 23 marked by a City of Avondale brass cap located at the intersection of Elwood Street and 125<sup>th</sup> Avenue bears North 00 degrees 13 minutes 21 seconds West (Basis of Bearing);

THENCE North 00 degrees 13 minutes 21 seconds West along said East line of the East half of Northwest quarter of the Southeast quarter of Section 23, a distance of 50.01 feet to the **TRUE POINT OF BEGINNING**;

THENCE North 89 degrees 09 minutes 08 seconds West, parallel to and 50.00 feet north of the South line of said East half of the Northwest quarter of the Southeast quarter of Section 23, a distance of 603.84 feet;

THENCE North 00 degrees 08 minutes 29 seconds West, parallel to and 50.00 feet east of the West line of said East half of the Northwest quarter of the Southeast quarter of Section 23, a distance of 673.64 feet to a point on the South line of Lucy T. Homesites Two, a subdivision recorded in Book 142 of Maps, Page 26, records of Maricopa County, Arizona;

THENCE North 80 degrees 44 minutes 12 seconds East (North 80 degrees 44 minutes 54 seconds East record per plat) along the South line of said Lucy T. Homesites Two, a distance of 610.37 feet to a point on the East line of said East half of the Northwest quarter of the Southeast quarter of Section 23, said line also being the centerline of 125<sup>th</sup> Avenue as shown on the plat of said Lucy T. Homesites Two;

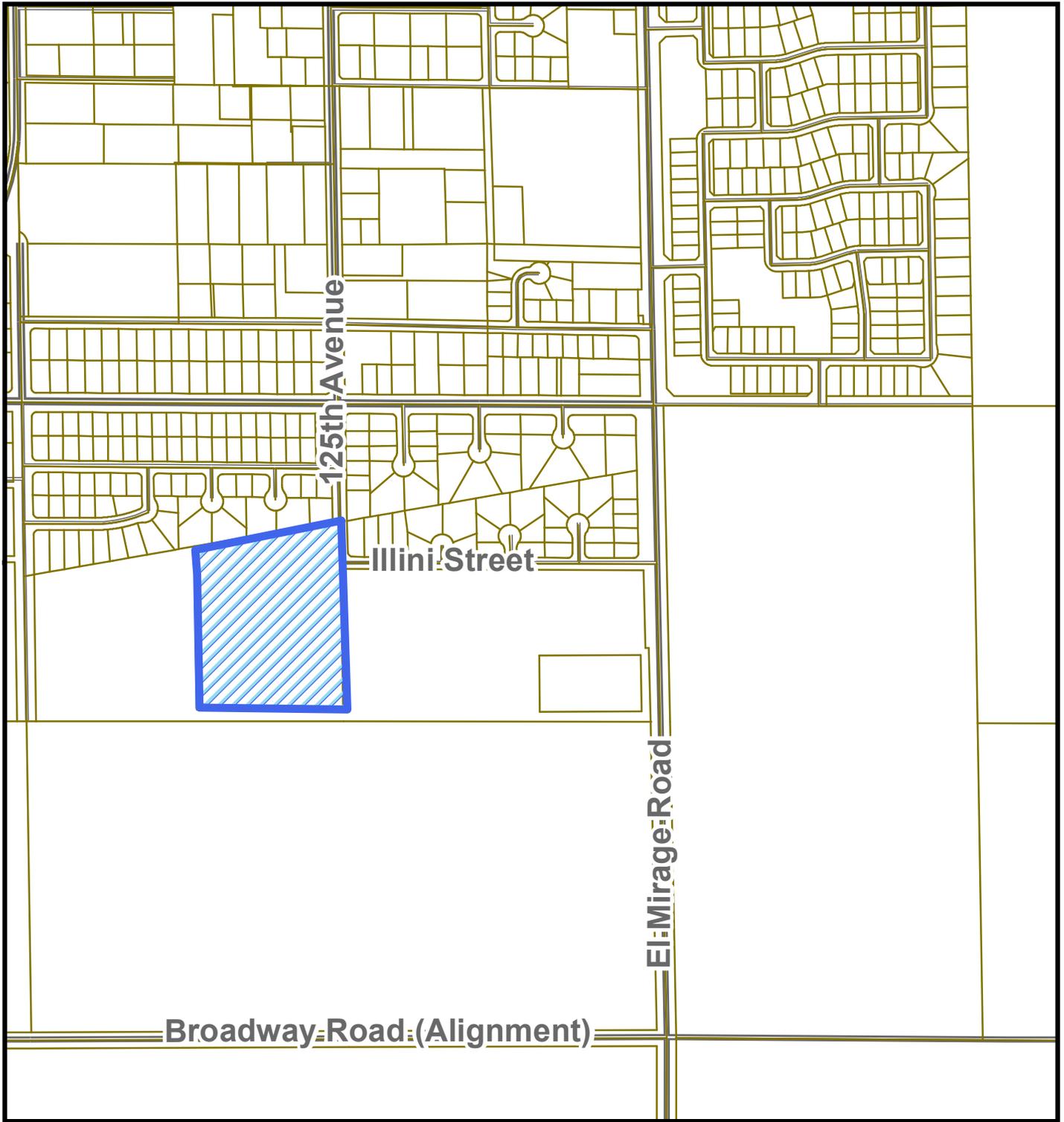
THENCE South 00 degrees 13 minutes 21 seconds East along the East line of said East half of the Northwest quarter of the Southeast quarter of Section 23, and along the centerline of 125<sup>th</sup> Avenue and the southerly extension thereof, a distance of 780.83 feet to the **TRUE POINT OF BEGINNING**.

Containing 438,693 square feet or 10.0710 Acres more or less.



EXPIRES 6-30-2013

Prepared by:  
**Site Consultants, Inc.**  
113 South Rockford Drive  
Tempe, Arizona 85281  
(480) 894-2820

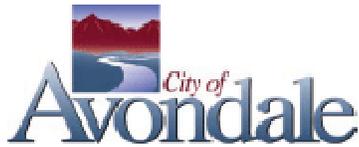


## Application PL-13-0139



**Subject Property**





# DEVELOPMENT SERVICES

**SUBJECT:**

Public Hearing – Zoning Extension for Avondale Live PAD (PL-13-0202)

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Tracy Stevens, Development and Engineering Services Director (623) 333-4013

**THROUGH:** Charlie McClendon, City Manager (623) 333-1015

---

**REQUEST:** This is a request for a one year time extension of Planned Area Development zoning on the subject property, to run through October 14, 2014.

**PARCEL SIZE:** Approximately 62 acres

**LOCATION:** North of the northwest corner of 99th Avenue and McDowell Road (Exhibits A, B, and C)

**APPLICANT:** Mr. Michael J. Curley, Earl, Curley, and Lagarde P.C. (602) 265-0094

**OWNER:** Mr. Eugene Kraus, Harbor Properties LLC, an Illinois Limited Liability Company (312) 327-1060

**BACKGROUND:**

The subject property is bounded by 99<sup>th</sup> Avenue to the east, the Gateway Pavilions shopping center to the south, and a vacant, undeveloped property to the north. The site's western boundary is adjacent to the former site of CJ Movie Studios (now vacant), Rio Vista Elementary School, and a residential neighborhood in the county's jurisdiction. The site was annexed into the City by three separate Council actions between May 26, 1981 and February 1, 1999.

The property's current zoning of Planned Area Development (PAD) was approved by the City Council on September 14, 2009 (Exhibits D and E). The Avondale Live PAD divides the 62 acre site into three distinct development areas, as follows:

- **Studio District:** As its name implies, this subarea accommodates development of movie production facilities and related uses. These facilities include a large L-shaped building that would be utilized for offices and movie production, up to six stories in height, a smaller building for studio production support activities, such as set building and costume design, and a parking structure for use by employees and visitors of the studio.
- **Commercial District:** This subarea accommodates development of restaurant and retail buildings, constructed to face inward. The orientation of the buildings inward allows the primary entrances of the future shops to front onto a large pedestrian area with an iconic water feature serving as the centerpiece. The original thought behind this subarea was to allow for a development similar in concept to Universal Citywalk, a popular entertainment and dining destination near Universal Studios in Hollywood, California. Parking for the Commercial District will be accommodated by an expansion of the parking structure constructed as part of the Studio District.

- **Residential Village District:** This subarea accommodates high density multi-family residential development in a “village setting” - multiple buildings clustered and arranged near shared landscaped greens or courtyards. The PAD specifies that the units would be one to three story condominiums or townhomes with a maximum density of 22 units per acre, and feature an urban character/design.

As is standard for PADs in Avondale, all off-site improvements would be completed within the first phase of the project, including but not limited to street construction and the undergrounding of the SRP irrigation canal that currently runs along the eastern edge of the property.

**SUMMARY OF REQUEST:**

1. The applicant is requesting a one year extension of the expiration date of PAD zoning to run through October 14, 2014 (Exhibit F). If approved, this will be the second of four allowable one-year extensions.
2. When originally approved in 2009, the subject property was designated by the 2002 General Plan as “Mixed Use”. This category called for development that incorporated proportionate ratios of residential and commercial uses in a village setting.

The General Plan 2030, approved in 2012, changed the property’s designation to “Urban Commercial”. This category is intended to accommodate compact commercial centers consisting of retail, restaurant, office, hotel, farmers markets, community gardens, and personal services. Residential units are encouraged in this designation if located on upper floors above commercial uses. The desired development form is 4+ story buildings served by structured parking.

While the Studio District and Commercial District are compatible with the updated General Plan, the Residential Village Sub-District, which allows for standalone multi-family housing, is no longer consistent with the City’s vision for this segment of 99<sup>th</sup> Avenue. To bring the PAD into conformance with the GP2030’s Urban Commercial designation, staff is recommending a stipulation that will eliminate the Residential Village component of the PAD, replacing it with an expanded Commercial District.

3. An amendment to the Freeway Corridor Specific Plan was adopted by the City Council on September 16<sup>th</sup>. As part of this extension, staff is recommending a stipulation requiring future development of the site adhere to the requirements of that plan, which includes minimum floor area ratios (0.5), architectural requirements, and requirements intended to enhance walkability throughout the corridor.
4. Staff is recommending a stipulation that will require future development of the property adhere to the terms of the City’s Public Art Ordinance. This stipulation is carried over from last year’s approval of the first extension of the Avondale Live PAD.

**PARTICIPATION:**

Not required for PAD extension requests.

**PLANNING COMMISSION ACTION:**

Not required for PAD extension requests.

**ANALYSIS:**

Conformance with General Plan

The General Plan 2030 reclassified the subject site from its previous designation of “Mixed Use” to

“Urban Commercial”. The Urban Commercial land use designation is intended to accommodate compact commercial centers consisting of retail, restaurant, office, hotel, farmers market, community garden, and personal services. Residential units may be built within this designation if they are located on upper floors of multi-story buildings that feature commercial uses on the ground floor. The Studio District and Commercial sub-Districts contained within the Avondale Live PAD are consistent with the new General Plan. The Residential Village sub-District is not, however, as it allows for standalone multi-family residential development without the requirement for ground floor commercial uses. To bring the PAD into conformance with the GP2030’s Urban Commercial vision for the area, staff is recommending a stipulation that will eliminate the Residential Village component of the PAD, replacing it with an expanded Commercial District. With this recommended stipulation, the Avondale Live PAD will achieve consistency with the City’s vision for the area as identified in the General Plan 2030.

#### Conformance with the Freeway Corridor Specific Plan

The property falls within the boundaries of the Freeway Corridor Specific Plan (FCSP), originally adopted in 1991 and most recently amended in September 2012. The amendment to the FCSP furthered the General Plan’s objectives by establishing minimum floor-area ratios on strategically located properties in proximity to future high-capacity transit corridors. Additionally, the FCSP update strengthened design and development standards to ensure the area is developed with high quality architecture and sites designed to promote walkability, bikeability, and transit access.

As it relates to the Avondale Live property, the FCSP requires development achieve a minimum FAR of 0.5 on the site and allows for building heights up to 6 stories on the eastern half (1,320 feet from 99<sup>th</sup> Avenue) and 4 stories on the western half of the property. Development at a more urban intensity on this site is crucial due to the proximity of the property to McDowell Road and 99<sup>th</sup> Avenue, the City’s preferred route for future high-capacity transit service. As such, staff has recommended a stipulation requiring development adhere to the Freeway Corridor Specific Plan, including the minimum FAR requirements specified therein. As with any property subject to the FCSP, phasing of development will be allowed to accommodate less intense development in a more immediate time frame should market conditions prevent the full realization of the City’s vision in the near future.

#### Conformance with the Zoning Ordinance and Design Manual

The PAD meets or exceeds Zoning Ordinance requirements in regards to development standards and design requirements in all areas except for public art. Staff recommends a condition of this extension be the requirement that the project adhere to the requirements of the Public Art Ordinance, Zoning Ordinance Section 11.

#### PAD Zoning Expiration

The Zoning Ordinance requires that development of the first phase commence within three years of the effective date of the ordinance rezoning the property to PAD. Application for a one year extension of this deadline may be made to City Council as expiration nears; the City Council may grant a maximum of four such extensions. If an extension is denied, City Council may revert the zoning of the property to its previous zoning.

The effective date of the Avondale Live PAD rezoning ordinance was October 14, 2009. The first allowed one-year extension was granted by Council on November 19, 2012, maintaining the validity of the PAD through October 14, 2013. This is the second PAD extension request for this PAD. If the PAD zoning extension application is granted, the property will remain zoned PAD through October 14, 2014. Up to two additional extensions could then be requested.

**Conclusion:**

Based on the information provided by the applicant and the analysis by staff, staff recommends approval of the requested one year extension of PAD zoning with the following conditions of approval:

1. Development of the Avondale Live Site shall comply with the Freeway Corridor Specific Plan, including adherence to minimum floor area ratios (0.5) as specified in that document. Maximum building heights of 6 stories shall be permitted on the easternmost 1,320 feet of the property; maximum building heights of 4 stories shall be permitted on the remainder of the property.
2. To achieve consistency between the PAD and the General Plan 2030's designation of Urban Commercial, the area of the PAD denoted as "Residential Village" shall be eliminated and replaced with an expanded "Commercial District", to be developed in accordance with the PAD's standards/uses for the Avondale Live PAD's "Commercial District" subarea.
3. Developers within the PAD shall be required to adhere to the terms of the City's Public Art Ordinance, Avondale Zoning Ordinance Section 11.

**FINDINGS:**

With staff recommended stipulations, the proposed request is in conformance with the General Plan 2030, the Freeway Corridor Specific Plan, the Zoning Ordinance, and the City's Transportation Plan.

**RECOMMENDATION:**

Staff recommends that the City Council APPROVE application PL-13-0202.

**PROPOSED MOTION:**

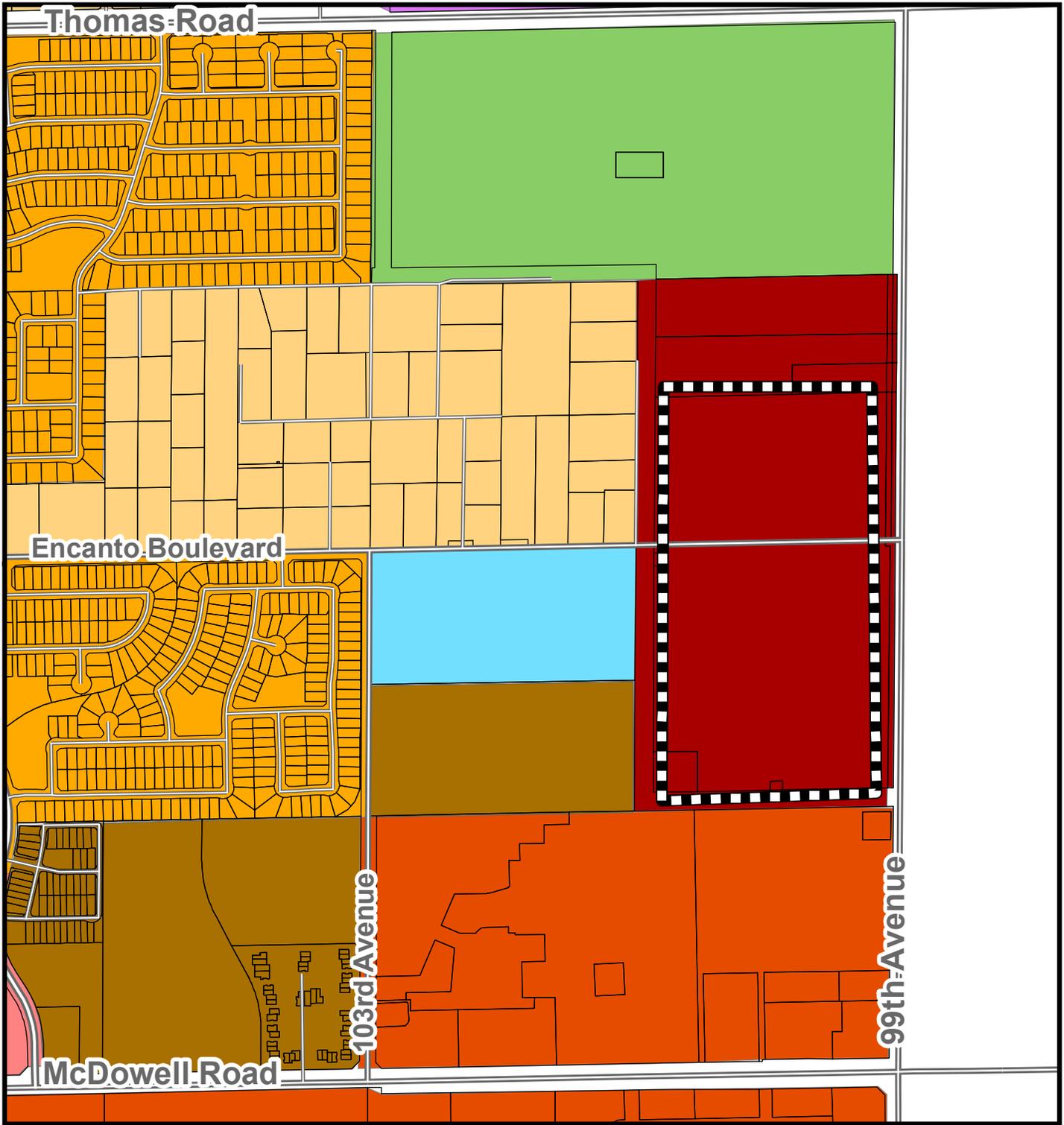
I move that the City Council **APPROVE** application PL-13-0202, a request for a one year extension of PAD zoning for Avondale Live through October 14, 2014, subject to three staff recommended stipulations.

**ATTACHMENTS:****Click to download**

- [Exhibit A - General Plan 2030 Land Use Map](#)
- [Exhibit B - Zoning Vicinity Map](#)
- [Exhibit C - Aerial Photograph](#)
- [Exhibit D - Ordinance 1321-80, approving the Avondale Live PAD](#)
- [Exhibit E - Approved Avondale Live PAD Development Plan and Program](#)
- [Exhibit F - Applicant's Extension Request Narrative](#)

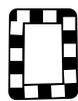
**PROJECT MANAGER:**

Ken Galica, Senior Planner (623) 333-4019



# General Plan Land Use Map

## Application PL-13-0202

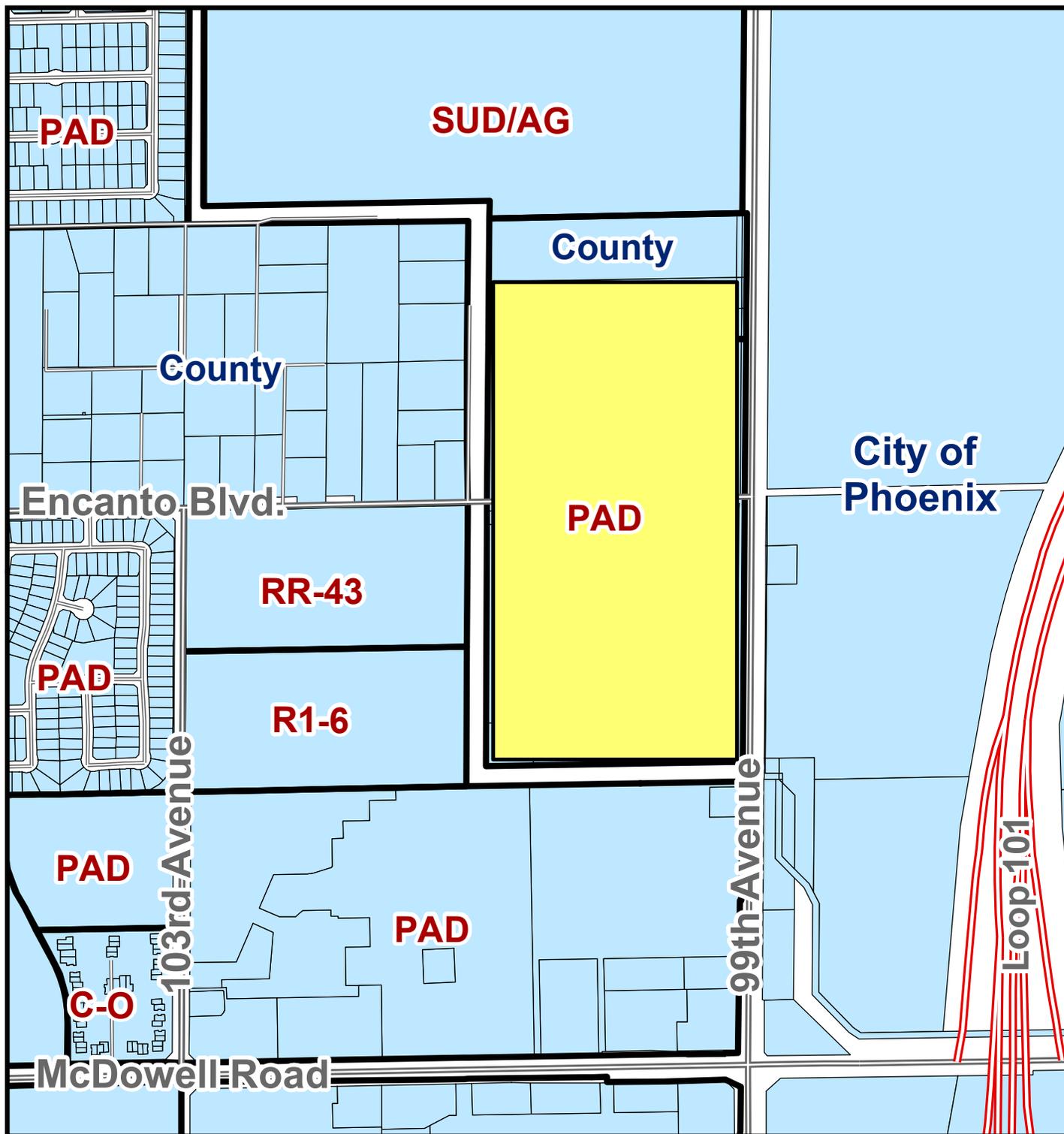


**Subject Property**

- Freeway Commercial
- Urban Commercial
- Open Space

- Education
- Business Park

- High Density Residential
- Medium Density Residential
- Estate Low Density Residential

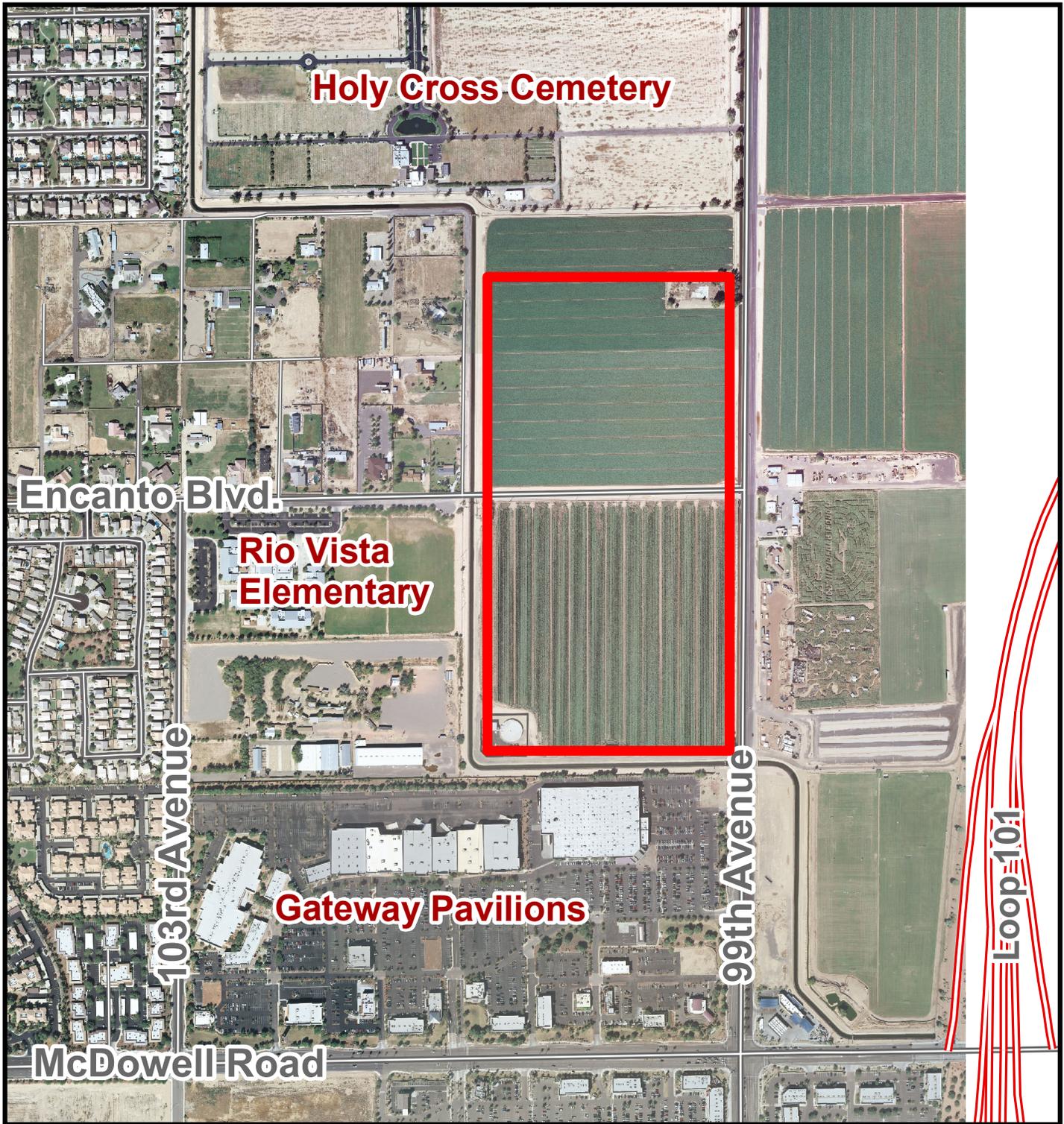


### Zoning Vicinity Map



Subject Property





Aerial Photograph



Subject Property



**ORDINANCE NO. 1387-909**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE GENERAL DEVELOPMENT PLAN AND PROGRAM FOR THE AVONDALE LIVE (FORMERLY LA ENTRADA) PAD FOR APPROXIMATELY 62 ACRES LOCATED AT THE NORTHWEST AND SOUTHWEST CORNERS OF 99TH AVENUE AND THE ENCANTO BOULEVARD ALIGNMENT, AS SHOWN IN FILENAME Z-09-4.

**WHEREAS**, on May 21, 2007, the Council of the City of Avondale (the “City Council”) approved the La Entrada PAD Development Plan and Program rezoning real property generally located west of 99th Avenue north and south of the Encanto Boulevard alignment; and

**WHEREAS**, the City Council adopted Ordinance No. 1343-209 on February 2, 2009, amending the La Entrada PAD Development Plan and Program; and

**WHEREAS**, the text of the La Entrada PAD Development Plan and Program and Ordinance No. 1343-209 erroneously indicated an affected area of approximately 60.77 acres, when the actual area (which area was correctly described and depicted in the legal descriptions and maps attached to the La Entrada PAD Development Plan and Program and Ordinance No. 1343-209) is more accurately described as encompassing approximately 62 acres of real property; and

**WHEREAS**, the City Council desires to further amend the La Entrada PAD Development Plan and Program and related stipulations; and

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

**WHEREAS**, the Commission held a public hearing on Thursday, August 20, 2009, on this Ordinance after which the Commission recommended approval; and

**WHEREAS**, the Commission recommended to the City Council that this Ordinance be approved; and

**WHEREAS**, the City Council held a public hearing regarding this Ordinance on September 14, 2009.

**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 Avondale Live (formerly La Entrada) Planned Area Development (PAD) is hereby amended, as shown in File Z-09-4, subject to the following conditions:

1. Development of the subject property shall conform to the Avondale Live PAD Amendment Narrative date stamped August 10, 2009, except as modified by these stipulations.
2. The development shall be completed in accordance with the City of Avondale General Engineering Requirements Manual, the most recent edition of the MAG Uniform Standard Specifications and Details and the most recent editions of the City of Avondale Supplement to MAG Uniform Standard Specifications and Details.
3. Financial assurance for all work within the public right-of-way, in an amount and form acceptable to the City Attorney, shall be deposited with the City prior to the issuance of the first construction permit.
4. All common, landscape and open space areas, including recreational structures, shall be maintained by the property manager and/or homeowners' association in accordance with the approved plan.
5. Final driveway locations, curb cuts and street cross-sections shall be finalized at the time of master site plan approval, as determined by the City Engineer.
6. As part of the first phase of development, the developer shall relocate the existing SRP irrigation canal along 99th Avenue per SRP requirements. This shall include, but not be limited to, the construction of the new pipe and all actions required to accommodate any necessary easements.
7. The developer shall dedicate right-of-way for 99th Avenue as required by the City Engineer prior to the issuance of a building permit on the subject property. Additional requirements for improvements, traffic signals and right-of-way for deceleration lanes, turn lanes and transit stops, may be required during the site plan review process as determined by the City Engineer.
8. The developer shall dedicate right-of-way for Encanto Boulevard from the eastern property line to the western property line of the subject property as required by the City Engineer prior to the issuance of a building permit on the subject property. Additional requirements for improvements, traffic signals and right-of-way for deceleration lanes, turn lanes, and transit stops, may be required during the site plan review process as determined by the City Engineer.

9. As part of the first phase of development, the developer shall construct the full half-street improvements of the west side of 99th Avenue adjacent to the subject property and the entire width of Encanto Boulevard as shown in the PAD amendment.
10. Prior to the issuance of a building permit on the subject property, the developer shall contribute towards the cost of the design, purchase and installation of new traffic signals warranted by this development, as determined by the City Engineer during the master site plan review and approval process. This contribution will include no more than 50% of the cost of design, purchase, and installation of a new traffic signal at the intersection of 99th Avenue and Encanto Boulevard.
11. As part of the submittal of the Commercial District master site plan, the developer shall submit a sound study conducted by a registered architect to determine the effect of any theater and outdoor activities conducted on site.
12. To the extent allowed by law, all Type 1 and Irrigation Grandfathered Groundwater Rights appurtenant to the property shall be properly extinguished and the resulting Assured Water Supply credits pledged to the City of Avondale's account at the Arizona Department of Water Resources ("ADWR") prior to recordation of the final plat or issuance of a building permit, whichever comes first.
13. The developer shall allocate any SRP surface water rights or any other surface water rights to the City prior to recordation of the final plat or issuance of a building permit, whichever comes first.
14. The developer will abandon any existing registered or unregistered wells using ADWR's well abandonment rules prior to recordation of the final plat or issuance of a building permit, whichever comes first.

SECTION 3. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

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

[SIGNATURES ON FOLLOWING PAGE]

**PASSED AND ADOPTED** by the Council of the City of Avondale, September 14, 2009.

  
Marie Lopez Rogers, Mayor

ATTEST:

  
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

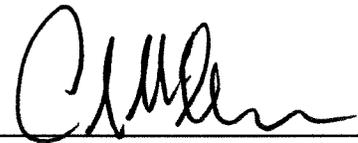
  
Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
ORDINANCE NO. 1387-909  
  
(Map and Legal Description)

**EXHIBIT "ONE"**

The Northeast quarter of the Southeast quarter of Section 32, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT the West 90 feet; and

EXCEPT the South 90 feet; and also

EXCEPT the following portion of Northeast quarter of the Southeast quarter of Section 32, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as:

BEGINNING 90 feet East and 40 feet South of the Northwest corner of said Northeast quarter of the Southeast quarter;

Thence East 50 feet;

Thence South 65 feet;

Thence West 50 feet;

Thence North 65 feet to the place of beginning; and also

EXCEPT the following described property:

That part of the Northeast quarter of the Southeast quarter of Section 32, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian further described as follows:

COMMENCING at the Southeast corner of said Section 32, said point also being the intersection of 99th Avenue and McDowell Road;

Thence, North 00 degrees 55 minutes 21 seconds West along the East line of said Section 32, also being the monument line of 99th Avenue, a distance of 1321.22 feet to the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 32;

Thence, continuing North 00 degrees 55 minutes 21 seconds West along said East Section line a distance of 90.00 feet to the North right-of-way line of the RID canal;

Thence, South 87 degrees 34 minutes 17 seconds West, departing said East Section line, along the North right-of-way line of the RID canal and parallel to and 90.00 feet North of the South line of the Northeast quarter of the Southeast quarter of said Section 32, a distance of 585.00 feet to the POINT OF BEGINNING;

Thence, continuing South 87 degrees 34 minutes 17 seconds West along the said North right-of-way line, a distance of 60.00 feet;

Thence, departing the said North right-of-way line, North 00 degrees 55 minutes 21 seconds West, parallel with the East line of said Section 32, a distance of 45.00 feet;

Thence, North 87 degrees 34 minutes 17 seconds East, parallel with the South line of the Northeast quarter of the Southeast quarter of said Section 32, a distance of 60.00 feet;

Thence, South 00 degrees 55 minutes 21 seconds East, parallel with the East line of said Section 32, a distance of 45.00 feet to the POINT OF BEGINNING; and also

EXCEPT the following described property:

That part of the Northeast quarter of the Southeast quarter of Section 32, Township 2 North, Range 1 East of the Gila and Salt River Base and Meridian further described as follows:

COMMENCING at the Southeast corner of said Section 32, said point also being the intersection of 99th Avenue and McDowell Road;

Thence, North 00 degrees 55 minutes 21 seconds West along the East line of said Section 32, also being the monument line of 99th Avenue, a distance of 1321.22 feet to the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 32;

Thence, continuing North 00 degrees 55 minutes 21 seconds West along said East Section line a distance of 90.00 feet to the North right-of-way line of the RID canal;

Thence, South 87 degrees 34 minutes 17 seconds West, departing said East Section line, along the North right-of-way line of the RID canal and parallel to and 90.00 feet North of the South line of the Northeast quarter of the Southeast quarter of said Section 32, a distance of 1008.85 feet to the POINT OF BEGINNING;

Thence, continuing South 87 degrees 34 minutes 17 seconds West along said North right-of-way line, a distance of 220.00 feet to a North and East corner in the RID canal right-of-way said point being 90.00 feet East of the West line of the Northeast quarter of the Southeast quarter of said Section 32;

Thence, North 00 degrees 59 minutes 31 seconds West along the East right-of-way line of the RID canal and parallel to and 90.00 feet East of the West line of the Northeast quarter of the Southeast quarter of said Section 32, a distance of 200.00 feet;

Thence, North 87 degrees 34 minutes 17 seconds East, parallel with the South line of the Northeast quarter of the Southeast quarter of said Section 32, a distance of 220.00 feet;

Thence, South 00 degrees 59 minutes 31 seconds East, parallel with the West line of the Northeast quarter of the Southeast quarter of said Section 32, a distance of 200.00 feet to the POINT OF BEGINNING.

CHICAGO TITLE INSURANCE COMPANY  
LEGAL DESCRIPTION

Page 1

Escrow/Title No. 2513791 17

PARCEL 1:

THE SOUTH 730.45 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE WEST 90 FEET AND

EXCEPT THE EAST 80 FEET THEREOF.

PARCEL 2:

THE WEST 25 FEET OF THE EAST 80 FEET OF THE SOUTH 730.45 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

PARCEL 3:

THE WEST 22 FEET OF THE EAST 55 FEET OF THE SOUTH 730.45 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

LEGAL DESCRIPTION EXHIBIT "A"

PARCEL NO. 1:

THE SOUTH 147.38 FEET OF THE EAST 566.06 FEET OF THE SOUTH 294.77 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 2 NORTH RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE SOUTH 730.45 FEET THEREOF.

PARCEL NO. 2:

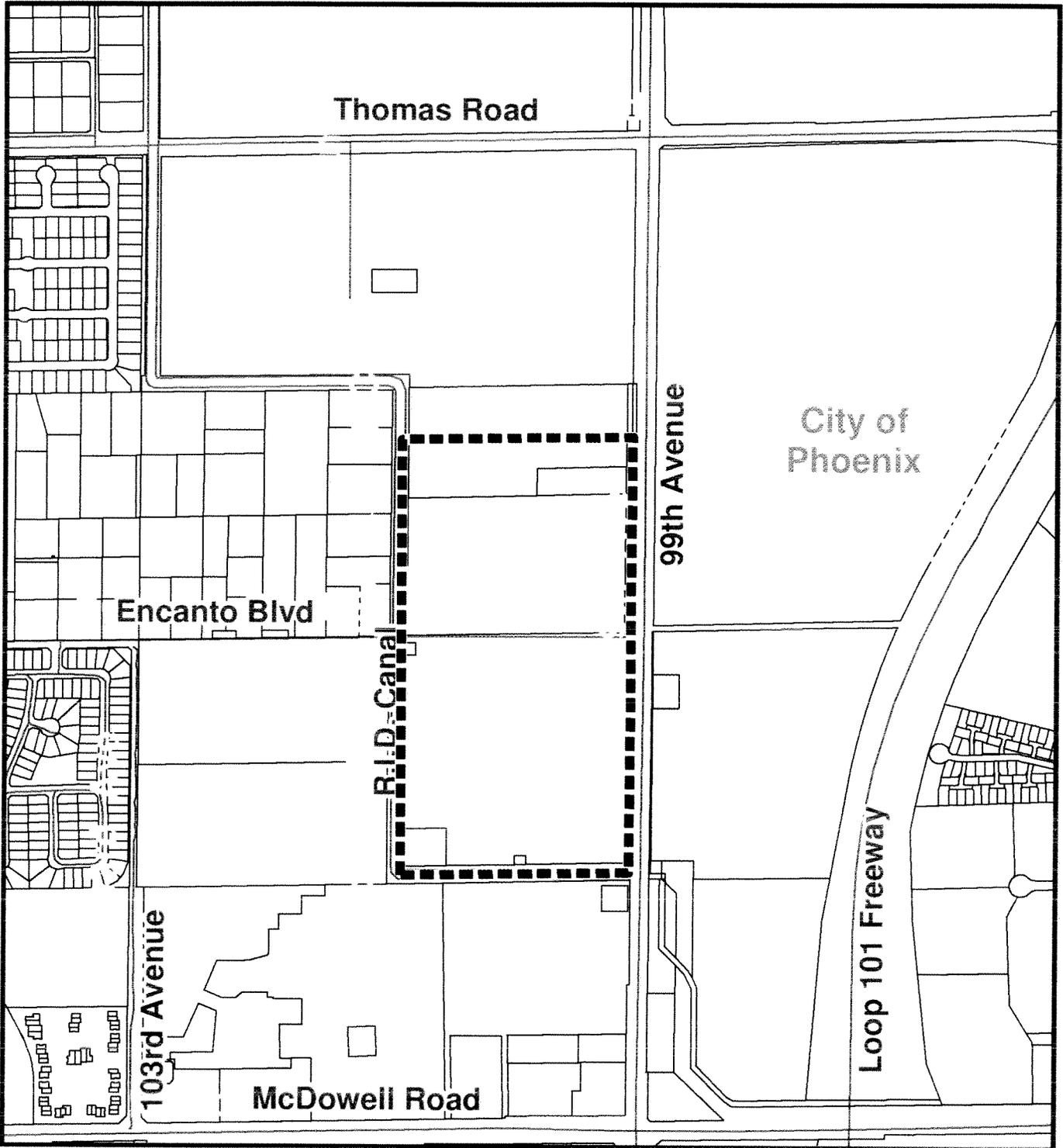
THE SOUTH 294.77 FEET, EXCEPTING THEREFROM THE SOUTH 147.38 FEET OF THE EAST 566.06 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE WEST 90 FEET; AND

EXCEPT THE SOUTH 730.45 FEET THEREFROM

---



**Application Z-09-4**



Subject Site





**Bruce A. Bodner Co., Inc.**

**Phoenix**

1661 E. Camelback Road  
Suite 265  
Phoenix, Arizona 85016  
602.604.8266 T  
602.604.8277 F

**Chicago**

307 N Michigan Ave  
Suite 2018  
Chicago, IL 60601  
312.263.9000 T  
312.263.9010 F

**Indianapolis**

One N. Meridian  
Suite 300  
Indianapolis, IN 46204  
317.916.5500 T  
317.916.5501 F

# Planned Area Development

**Revision 20090803**



99<sup>th</sup> Avenue & Encanto Boulevard  
Avondale, Arizona



## Revision Page

<u>Title of Previous Approved Revision</u>	<u>Revision</u>
La Entrada Village Planned Area Development Rezoning Application	April 19, 2007
Avondale LIVE Planned Area Development Rezoning Application	20090303
Incorporated Development Standards & Design Guidelines Added Studio District	20090803

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# **1. EXECUTIVE SUMMARY**

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The vision for the development and design standards for Avondale LIVE is to establish a mixed-use development that is composed of three distinct districts that are designed to create a character that is engaging, entertaining, of high intensity, and urban in nature. These three separate districts, separated by their land uses and building types, have been established to produce a cohesive development, in which the land uses complement one another and superior architectural design standards focus on the relationship of building form and their connection to their respective surrounding areas. The three districts are the Studio District, Residential Village (High-Density, Multi-family) and the Commercial District (Mixed-Use Commercial/Retail/Office, Resort Hotel, Motion Picture Production, Live Theater, Film School).

In the Studio District buildings will be one to six stories with a large-scale urban character creating the most modern look for motion picture and television production studios. The Studio District will directly connect with the Commercial District. In the Commercial District buildings will be one to six stories with entertaining changes in elevations, an interconnecting water feature for entertainment and a pedestrian-friendly environment. Buildings will typically be placed so as to allow strategically placed pedestrian-friendly passageways for access to parking, retail, commercial activities, contiguous open spaces areas, and the mixed-use areas of the property. In the Residential Village buildings will be one to three stories with a small-scale urban character, creating a pleasing village ambiance and a pedestrian-friendly environment.

Each district will have their own unique development standards and design guidelines that will be applicable to their use and form, thus ensuring a distinctive character for each district area. The specific standards and elements can be found in section 3 herein, *Development Standards and Design Guidelines*. Even with the separate standards and guidelines Avondale LIVE will maintain its interconnectedness between the three districts by incorporating similar themes, color, building forms and architectural elements throughout the complete development. The purpose of the following paragraphs is to outline the development standards, design guidelines, and further elements that will be used to guide development in Avondale LIVE.

The development is currently zoned correctly for the residential and commercial districts and all of the appropriate uses are approved within the PAD. Soon to follow the Project Pre-Application, Master Site Plans will be submitted to the city for Phase I of the Studio District. The Master Site Plan shall include at least 10 acres in the Studio District.

## **2. PROJECT INTRODUCTION & OVERVIEW**

---

### ***PROPERTY OWNER***

**Bruce A. Bodner Company Inc.**

Attn: Bruce Bodner

One North Meridian Street, Suite 300

Indianapolis, Indiana 46204

### ***PROPERTY LOCATION***

The property is located on the west side of 99<sup>th</sup> Avenue, north and south of Encanto Boulevard, Avondale, AZ 85323.

### **AERIAL PHOTO OF GENERAL AREA**



## AERIAL PHOTO OF IMMEDIATE AREA



### ***LAND USE CLASSIFICATION***

As reflected on the Preliminary Site Plan herein, Avondale LIVE will be a mixed-use area that is composed of three distinct districts that are designed to create a character that is engaging, entertaining, of high intensity, and urban in nature. The northern portion will consist primarily of a high-density multifamily residential area comprised of approximately 26 acres. The southern portion will be divided almost equally between the movie and television production studios, comprised of approximately 16 acres and the commercial retail area that is comprised of the remaining 16 (see Section *Preliminary Site Plan*).

### ***AVONDALE LIVE DEVELOPMENT STANDARDS***

Avondale LIVE will be made up of three separate districts. The development standards for each of the district areas can be found in section 3 herein, *Development Standards and Design Guidelines*. A Summary of each of the District areas can be found below:

### **Residential Village**

(High-Density Multi-Family Residential)

The development standards for this area are intended to accommodate high-density multifamily residential uses in a village setting, in the form of multiple buildings that are clustered and arranged near shared landscaped greens and/or courtyards. It is the intent of this district to accommodate multi-family residential units, such as condominium and townhomes at a maximum density of 22 dwelling units per acre. Buildings will be 1-3 stories with a small-scale urban residential character, surrounded by ample vegetation.

### **Commercial/Office District**

(Mixed-Use Commercial, Retail, Office, Film School, Resort Hotel)

The development standards for this area are intended to accommodate for a mixed-use development including general retail, restaurant, office, entertainment and service uses that capitalizes on visibility from the Interstate 10 (I-10) and Loop 101 Freeways. It is intended to include freestanding building pads as well as multiple buildings that will engage the pedestrian and create an active streetscape. Buildings will be primarily two to three (2-3) stories with some buildings fronting the major thoroughfare of 99<sup>th</sup> Avenue. One (1) story buildings will be allowed on the approximately two (2) acre portion north of Encanto Boulevard and also at the southeast corner of the Commercial District area. It is anticipated that buildings will need to engage the frontage of 99th Avenue. The proposed development standards and design guidelines have been provided to incorporate this type of urban intensity. This area is intended to accommodate more deck parking in an urban setting. Although parking is allowed in the front of the lots, it is preferred that parking is located in the parking structures, at the rear or sides of the buildings.

### **Studio District**

(Motion Picture and Television Production, Live Theater, Film School)

The development standards for this area are intended to accommodate for a special-use development including Live Theater, Hotel, Film School, and Motion Picture production studios with accessory uses. Buildings will be primarily six (6) stories. The proposed development standards and design guidelines have been provided to incorporate this type of special-use intensity. This area is intended to be parked mainly through parking structures due to the density of the site.

Each of the districts will have distinct development standards that will address the following elements:

- building placement
- parking placement
- building profile
- building uses
- parking requirements
- exterior lighting
- screen walls and landscape buffers
- landscape
- signage

## ***DESIGN GUIDELINES & ARCHITECTURAL CHARACTER***

Avondale LIVE will create a unique environment with creative architectural design of a particularly contemporary southwest character, with both timeless historical charm as well as a fresh urban flair, which will make the urban design component a focal point for the community. The community will have an interesting variety of materials, forms, details, and color; all coordinated to create a lively, exciting space, conducive to attracting residents and visitors alike. A specific palette of colors and materials will be provided with the Master Site Plan, however, preliminary residential building elevations are provided herein to demonstrate the overall architectural theme and design features of the development. The design of each building within the overall development, including complementary uses such as retail, restaurants, hotels and residential, will be compatible through the use of common materials and colors while creating a distinct identity consistent with their individual use and purpose.

The specific design guidelines for each of the district areas can be found in Section 3.0, *Development Standards and Design Guidelines*. Each of the districts will have distinct design guidelines that will address the following elements:

- architectural variety and colors
- exterior colors
- roofs
- eaves, porches, trellises and awnings
- fenestration
- exterior doors
- utilitarian metals
- exterior lighting
- landscape
- screen walls and landscape buffers
- community amenities
- signage

Below is a summary description of some of the important development standards and design guidelines that will guide site design and building architecture throughout the center:

### **Building Form and Placement**

The purpose of the development standards for building form and placement is to provide for an appropriate visual impact of buildings. This will be achieved through suitable placement of buildings that are dependant on their size, as well as the relationship between the length, width and height. The standards also provide for four-sided architecture that will be used in conjunction with the architectural theme and character. The striking visual impression of buildings throughout the development is an important element to the Avondale LIVE development and has been incorporated in Section 3.0, *Development Standards and Design Guidelines*.

## **Lighting Criteria**

All lighting throughout the center shall comply with Section 707: Outdoor Lighting, of the City of Avondale Zoning Ordinance. A photometric plan will be provided at the time of final site plan approval.

## **Screen Walls and Landscape Buffers**

Screening shall be accomplished by the use of landscape material, walls and berms. Specific screening measures will be identified with the Master Site Plan and will be tailored to the particular use. However, such screening measures shall be consistent with the building on-site in material and color.

Walls and fences are generally used for security purposes to define ownership, to mitigate nuisances such as noise, and to screen areas from public view. Walls and fences will be kept as low as possible while performing their functional purpose.

Specific development standards and guidelines for screen walls and landscape buffers as they apply to the separate district areas are provided in Section 3.0, *Development Standards and Design Guidelines*.

## **Signage**

Signage will be an important design element for Avondale LIVE. A creative Comprehensive Signage Program will be implemented and provided with the Master Site Plan. Strong emphasis will be placed on the identity signage for the center as well as individual tenant signs and directional signs. Creative use of color, materials, and lighting is strongly encouraged. Signage and prominent entry monuments shall also be an important element of the entryways to the center. Signage design will coordinate directly with the Architecture of the project. Final details for all sign types will be provided with the Comprehensive Signage Program provided with the Master Site Plan.

Specific development standards and guidelines for signage is provided herein.

## **Building Elevations and Walls**

The Preliminary Elevation exhibits showcase the development standards and design guidelines. Building materials and color palettes are also set forth in Section 3.0, *Development Standards and Design Guidelines* and will be more clearly identified with the Master Site plan.

## **Entrances**

Clearly defined customer entrance and building entry accentuation is an important element of the Avondale LIVE development and has been addressed through the use of building materials, architectural design and specimen landscaping in Section 3.0, *Development Standards and Design Guidelines*.

Clearly defined entrances for residential areas of the development shall be accented by appropriate monuments and landscaping and shall be treated with landscaped pathways and lighting. Architectural elements, such as towers, arcades, varying roof shapes, awnings (both flat metal and canvas fabric), recessed entrances to shops, trellis, tile or standing seam metal roofs combined with flat roof elements and planter walls have been set forth in the guidelines to enhance the pedestrian experience and define customer entrances into buildings.

## **Pedestrian Focus**

The Avondale LIVE development will facilitate pedestrian circulation within the entire project. Section 3.0, *Development Standards and Design Guidelines* provides the necessary standards for integrated pedestrian pathways that encourage residents to walk to school, work, shopping or on-site recreational amenities.

The pedestrian paths will feature enhanced landscaping, differentiated paving and lighting to make these pedestrian areas pleasing and safe. The element of safety is provided with standards that will be enhanced with the concept of "eyes of the street" and will be incorporated to deter the possibility of crime and/or vandalism. Differentiated paving will also be used to increase safety by showing where pedestrian paths cross vehicular circulation.

## **Landscaping and Open Space**

The open space areas will provide opportunities for landscaping, including shade trees, grass turf areas, and water features. The purpose of the landscaped and open space area will be to complement and enhance the pedestrian scale of the development. A series of pedestrian pathways and pocket parks will provide linkage throughout the site as well as providing a sense of place for the residents. Open areas will provide a sense of arrival and public amenities designed to provide comfortable gathering areas. Specific standards and guidelines can be found in Section 3.0, *Development Standards and Design Guidelines*.

*A unique landscape palette shall be created as part of the site plan review process.*

## ***ACCESS AND ON-SITE CIRCULATION***

Regional access to the site is afforded by both Interstate 10 and Loop 101. Interchanges at 1-10 and 99<sup>th</sup> Avenue, Loop 101 and McDowell Road and Thomas Road provide convenient access to the site. 99<sup>th</sup> Avenue is classified as an Arterial Street in the City's General Plan and is not yet constructed to its ultimate section along the frontage of the project. At build-out, 99<sup>th</sup> Avenue will consist of three through travel lanes in each direction and a raised center median. Pavement, curb, gutter, sidewalk, landscaping and streetlight enhancements are necessary and will be provided in conjunction with development of the project site.

At this time, the Preliminary Site Plan envisions two (2) primary points of access to the development property; one from the east at Encanto Blvd. and 99<sup>th</sup> Avenue, the second from the east between Encanto Blvd and the RID canal. The Studio and Commercial Districts will have a primary ingress/egress access on Encanto Boulevard and a secondary ingress/egress access between Encanto Blvd and the RID canal on 99<sup>th</sup> Avenue. The Residential Village will have primary access on Encanto Blvd. and a secondary ingress/egress access point located at the northeast corner of the property and will be gated exits that will be available to those leaving the Residential Village. The ingress at the northeast corner of the property shall be a gated secure entrance for SRP to access the substation located on the northwest corner of the property. Additional evaluation will be conducted during the Master Site Plan and construction plan review processes to determine the ultimate traffic control and appropriate direct access points for the site along 99<sup>th</sup> Avenue and Encanto Boulevard. More information regarding the impact on trip generation for the property can be found in separate Traffic Impact Analysis report dated July 2009 by United Civil Group. An internal circulation network of drive aisles and pedestrian walkways throughout the community will also be identified with the Master Site Plan.

## ***INFRASTRUCTURE***

### **Water**

The domestic, fire and irrigation water needs for development are anticipated to be provided via connections to the existing 16-inch water main in 99<sup>th</sup> Avenue and the provision of an on-site water loop. The on-site water loop will be sized to provide for the connection to individual lots for domestic, fire, and irrigation water. It is anticipated that the water system will be located within proposed access and roadway easements and easements provided for utility purposes. Precise locations for connections and networks shall be determined in the Master Site Plan. All infrastructures related to water services will be completed as they relate to the specific phase that will be developed and will be explicitly determined during the Master Site Plan process.

### **Sanitary Sewer**

The routing of the sanitary sewer will be to take the sewer west, under the R.I.D. Channel, south of Encanto to the existing 15" sewer in 103<sup>rd</sup> Avenue.

### ***PROVISIONS FOR ON-SITE AND OFF-SITE DRAINAGE***

On site and off-site drainage will be addressed in accordance with development standards as set forth by the City of Avondale standards so as to accommodate all on-site and off-site drainage. It is anticipated that compensatory retention storage will be required for the project site and that this retention will be handled using both surface and sub-surface storage. Ultimate location, size and configuration of retention are anticipated to be provided as a part of the Master Site Plan review process.

All retention basins that are visible from public streets and common open spaces shall be designed to avoid a "bathtub" or linear channel appearance. Specific Development Standards and Design guidelines as applicable to retention areas can be found in Section 3.0, *Development Standards and Design Guidelines*.

### ***OFF-SITE IMPROVEMENTS***

Off-site improvements are anticipated to include connections to existing utilities within 99<sup>th</sup> Avenue, the construction of drive entrances as outlined above in the *Access and On-site Circulation* section above, the burial of the SRP canals, coordinating efforts with SRP to construct a two acre substation, and the construction of remaining half-street improvements along the 99<sup>th</sup> Avenue frontage. Off-site improvements may also include the provision of conduits for future signal construction at the main entry drive.

## ***PHASING***

Phasing of this development will be addressed according to the separate district areas.

Residential Village Area -The preliminary site plan currently shows the possibility of 2 (two) separate residential developments occurring on the site. Phasing for the Residential Village shall occur in a maximum of 2 (two) phases with a minimum acreage of 13 Acres being submitted as a Master Site Plan. The first phase of the residential village shall occur concurrently with, or after completion of, at least one phase (10 acres) of either the Commercial District or the Studio District.

Commercial District Area - Phasing for the Commercial District shall occur in a maximum of 3 (three) phases with a minimum of 10 Acres being submitted as a Master Site Plan.

The Studio District – Phasing for the Studio District shall occur in a single phase consisting of approximately 15 Acres being submitted as a Master Site Plan.

The anticipated phasing shedule is as follows;

<b><u>PHASE</u></b>	<b><u>Anticipated Start Date</u></b>	<b><u>Anticipated Completion Date</u></b>
STUDIO DISTRICT	4 <sup>TH</sup> QTR 2009	1 <sup>ST</sup> QTR 2011
COMMERCIAL DISTRICT	1 <sup>ST</sup> QTR 2012	4 <sup>TH</sup> QTR 2013
RESIDENTIAL VILLAGE	4 <sup>TH</sup> QTR 2013	1 <sup>ST</sup> QTR 2015

***Off-Site improvements shall be completed in Phase I (Studio District).***

## ***OWNERSHIP AND MAINTENANCE OF COMMON AREAS***

The Master Developer will construct common areas and facilities, which will include circulation and access roadways, utilities for the purposes of transmission and distribution, master signage, common area and perimeter landscaping. The center median proposed for the Encanto Blvd. round-about will also be considered a common area of the development.

Site common areas will ultimately be operated, owned and maintained by an Association. The construction of facilities by the Master Developer and the ownership, operation, and maintenance of common areas by an Association will better insure consistency and conformance with the intended character of the proposed development.

PROPOSED DEVELOPMENT MASTER PLAN

COUNTY ZONING  
R-43

COUNTY ZONING  
R-43

RESIDENTIAL VILLAGE

High Density Multi-Family

(22 du/acre)

PHOENIX ZONING  
S-1

AVONDALE ZONING RR-43

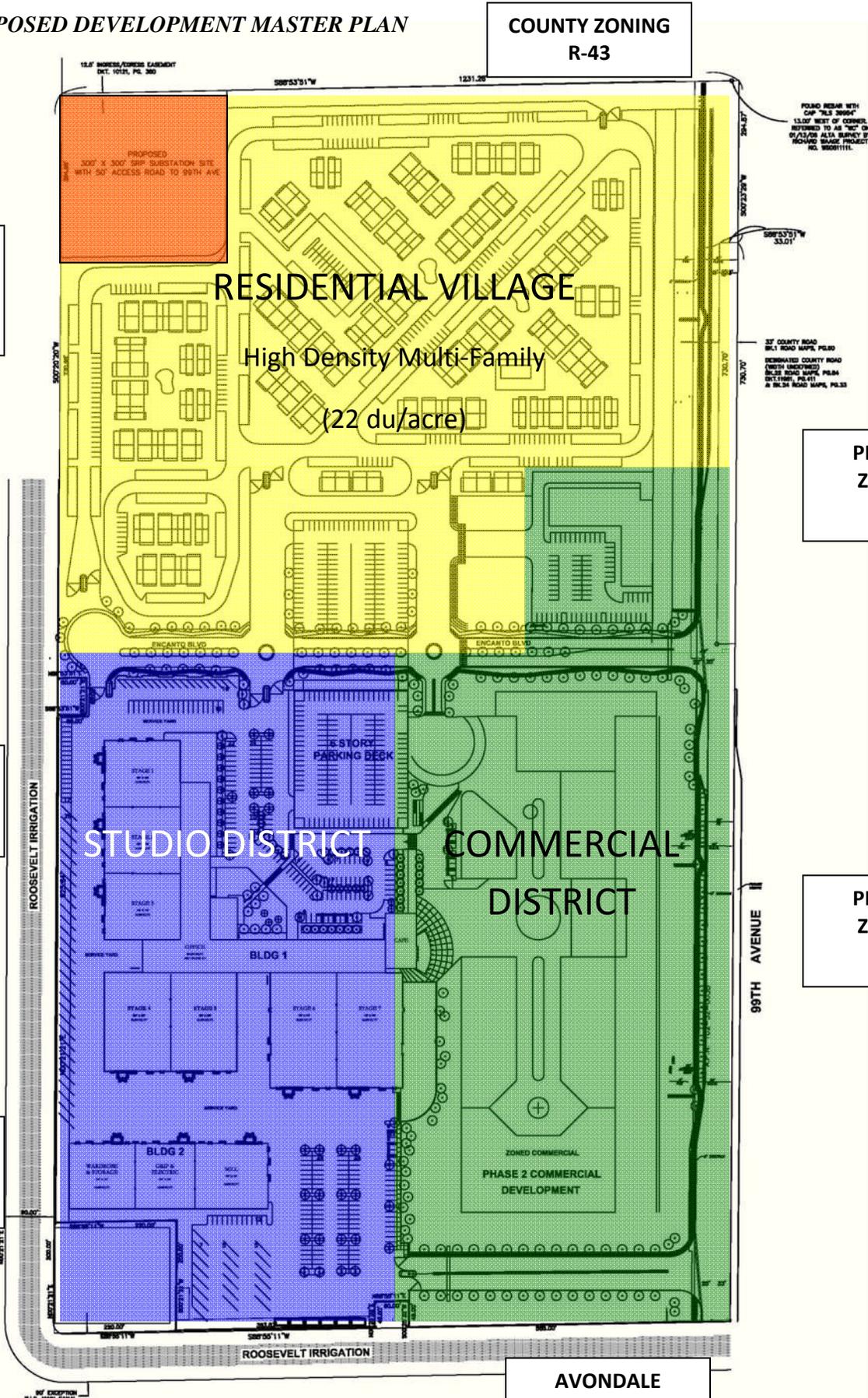
STUDIO DISTRICT

COMMERCIAL DISTRICT

PHOENIX ZONING  
S-1

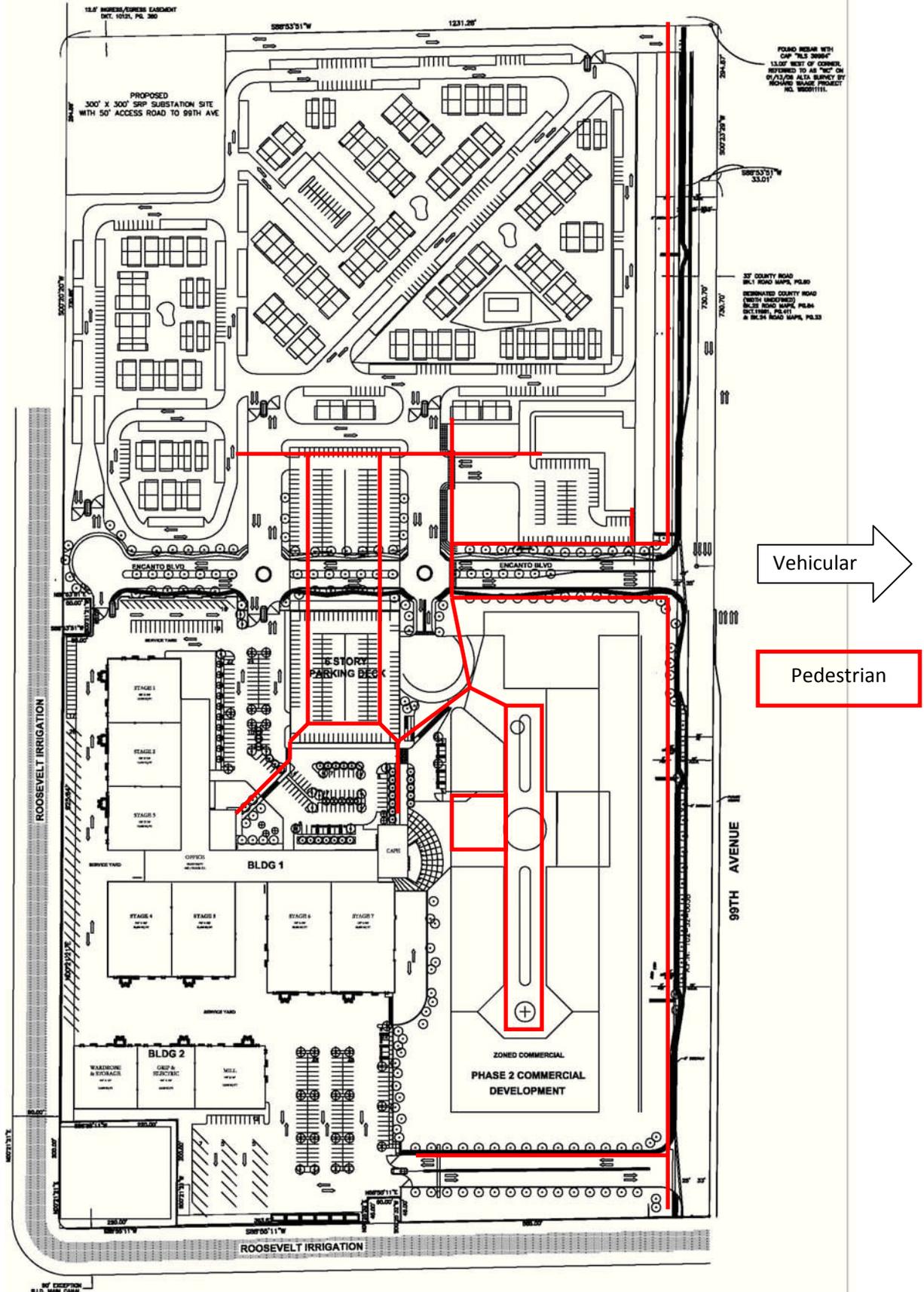
AVONDALE ZONING  
R1-6

AVONDALE ZONING  
PAD

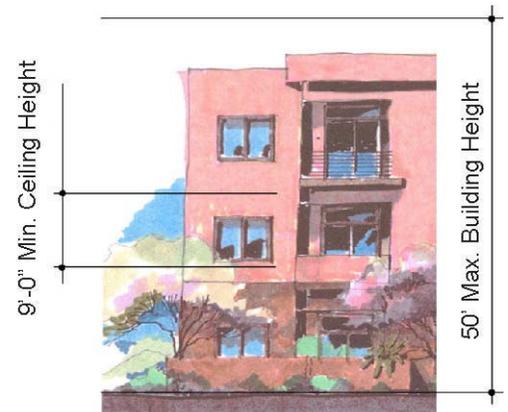
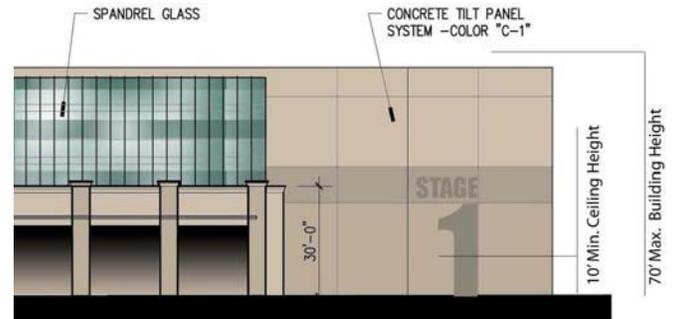
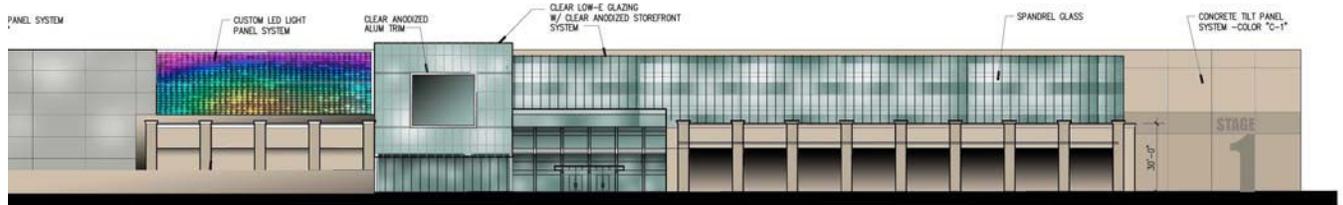




CONCEPTUAL CIRCULATION PLAN



## **3. DEVELOPMENT STANDARDS & DESIGN GUIDELINES**





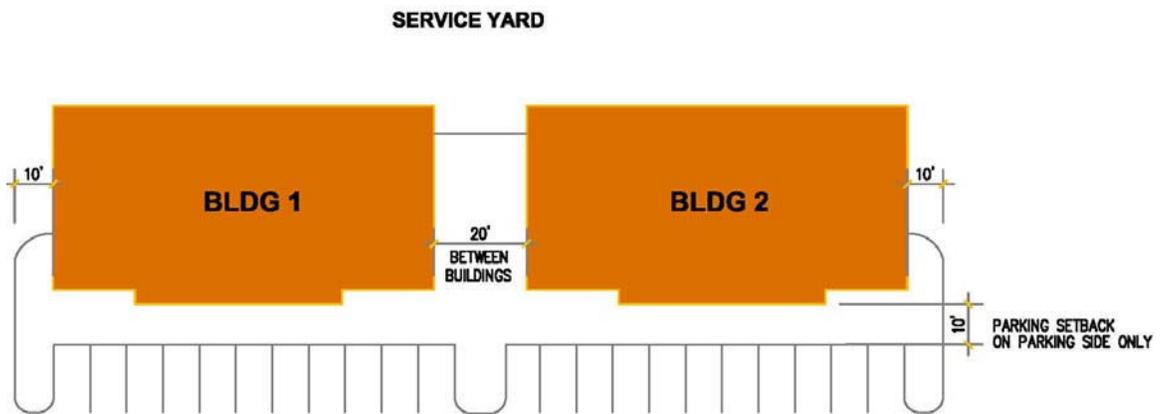
# Part I - STUDIO DISTRICT GUIDELINES

## BUILDING PLACEMENT

### 1. Setbacks

#### a. Perimeter setbacks for Studio District (Perimeter Setbacks):

- 1) Arterial setback: 50' minimum from property line to building or parking
- 2) Side property line setbacks:
  - 5' minimum from southern property line to parking
  - 15' setback from Encanto Boulevard to parking
  - 5' minimum from southern property line to buildings
  - 15' setback from Encanto Boulevard to buildings
- 3) Rear property line setbacks:
  - 5' minimum from property line to parking
  - 20' minimum from property line to buildings

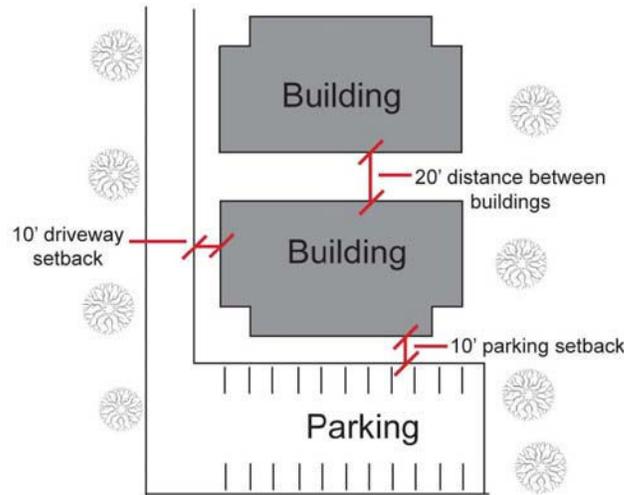


\* Trees that are placed within the perimeter setback shall have planter pockets that shall have a minimum setback depth of 8' or have another measure as accepted at the Master Site Plan phase for the purpose of maintaining the viability of the trees.



a. Building setbacks within Studio District (Interior Setbacks):

- 1) Parking setback: 10' minimum to buildings
- 2) Driveway setback: 10' minimum to buildings
- 3) Distance between buildings: 20' minimum



**2. Architectural Encroachments**

Balconies, bay windows, chimneys, cantilevered parapets, shade structures and eaves may encroach into required setbacks.

***PARKING PLACEMENT***

**1. Service Yard Parking**

- a. Service Yard parking shall be located inside the Studio District area.
- b. Service Yard parking is intended for the use of loading and unloading for studio production and support uses and shall be permitted to deviate from the Avondale Zoning Ordinance requiring more than 12 parking spaces in a row to have a landscaped island, as the landscaped islands will hinder the flow of traffic in the designated “Service Yard” areas.
- c. Valet shall be a minimum of 10' from any building



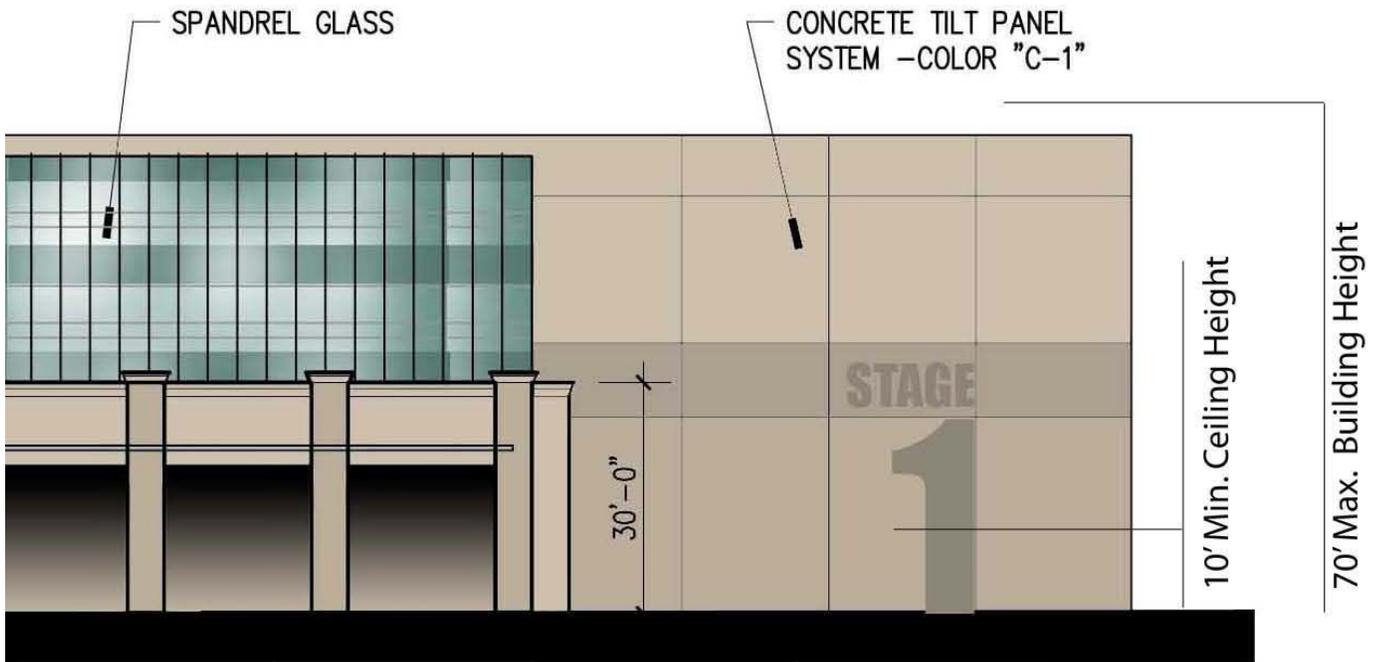
**2. Studio, Commercial and Hotel Parking**

- a. Studio, Commercial and hotel parking shall be located inside the Parking Deck area.
- b. Commercial and hotel parking shall be located a minimum of 10’ from any building.
- c. Valet shall be a minimum of 10’ from any building

***BUILDING PROFILE***

**1. Height**

- a. Maximum height: 70’ from adjacent grade
- b. Minimum height: 10’ floor-to-ceiling for commercial habitable space
- c. Maximum stories: 6



**2. Architectural Features**

- a. Chimneys and architectural features may exceed the maximum height subject to design review approval.



## ***BUILDING USES***

### **1. Permitted Uses**

- a. Business Services
- b. Restaurants without drive-thru facilities.
- c. Professional, administrative, corporate, or business offices.
- d. Movie Studio Production and support facilities.
- e. Indoor live theater, outdoor amphitheater operation and theater support facilities.
- f. Colleges and universities.

### **2. Prohibited Uses.**

The following uses are prohibited.

- a. Check cashing, bondsman, pawn shops, plasma centers and thrift stores.
- b. Day labor centers.
- c. Sexually-oriented businesses.
- d. Auto supply store.
- e. Gas service station with retail gas sales, convenience store and/or car wash.
- f. Non-chartered financial institution.
- g. Any use not expressly permitted herein.



***PARKING REQUIREMENTS***

General Office:	4:1,000 square feet
Stages:	2:1,000 square feet
Studio Production Support Facilities:	2:1,000 square feet
Indoor Theater:	1:2.5 seats

All other uses shall comply with the parking requirements of the City of Avondale, Arizona Zoning Ordinance.

Staff may approve alternative parking ratios and shared parking based upon the findings of a parking demand study prepared by a qualified traffic engineer.

Minimum dimensions for parking stalls, driveways, parking lot islands and other improvements shall conform to the City of Avondale requirements.

Parking canopies are permitted, not to exceed twelve (12) parking stalls in length and shall be architecturally compatible with the buildings. Design of parking canopies shall be upgraded through the use of fascia, skirts, or other details compatible with the buildings' architecture. Parking canopies will not be permitted in the front of buildings.



## ***MATERIAL/DETAIL GUIDELINES***

### **1. Architectural Variety and Colors**

#### **a. Architecture**

- 1) All buildings shall have consistent four-sided architecture treatment.
- 2) The use of and variety of horizontal architectural forms is encouraged to avoid monotony and break up building massing and provided appropriate urban scale.
- 3) Building walls shall be articulated to create pedestrian scale, quality and reduce building massing.

#### **b. The following color palettes are permitted: desert tans, stone, grays, beiges, soft mountain purples, gold, red rock, blue, yellow and green hues.**

- 1) Additional colors may be approved at the Master Site Plan phase.

### **2. Exterior Materials**

#### **a. The following materials are permitted for exterior walls: concrete tilt-up panel, stucco, metal, stone, glazing, masonry, and tile. Exposed concrete block, pre-engineered metal/fiberglass/cementitious sidings are prohibited.**

#### **b. The following materials are permitted for exterior wall accents and detailing: stucco, stone, glazing, wood, decorative cast concrete or cantera stone, metal and tile.**

#### **c. Exterior walls shall adhere to the color standards set forth in Section 1.b.**

### **3. Roofs**

#### **a. Roof forms may be flat or sloped.**

- 1) Variation in roof forms is encouraged.
- 2) Size, shape and slope of roof forms shall be compatible with enhance the architectural character and scale of the building.

#### **b. Flat roof forms shall comply with the following standards:**

- 1) Shield flat roof with a parapet, decorative roof/eave form or other architectural feature designed to prevent the roof from being seen.

#### **c. Slope roof forms shall adhere to the following standards:**



- 1) Permitted roofing materials are: standing seam metal roof systems, clay tile, concrete tile and composite shingles.
- 2) Roof colors shall be compatible with color standards set forth in Section 1.b.
- 3) All flashings shall be of non-reflective metals; the color of flashings shall coordinate with the color of the roofing material.
- d. All roof-mounted equipment, mechanical penetrations, satellite dishes and ventilators projecting above the roofline shall be either fully recessed from view or screened by a building parapet. No secondary screen elements are allowed unless specifically complementary to the design of the overall building.

#### 4. Eaves, Porches, Trellises and Awnings

- a. Awnings must be an integral part of the building elevation design and constructed of permanent-type material.
- b. The following standards apply to awning:
  - 1) Permitted awning materials are: metal and fabric.
  - 2) Awning colors shall be compatible with the color standards set forth in Section 1.b., but may provide appropriate visual and color contrast as approved by during design review.
  - 3) Awning patterns may include solid or stripes; other patterns may be approved during design review.

#### 5. Fenestration

- a. A 10' wall shall be permitted along the west side of the property for security.
- b. Glazing shall be dual glazed, low e, and tinted; residential glazing may be clear.
- c. Window frames shall be made of: anodized aluminum, steel or aluminum clad wood.
- d. If appropriate to the proposed architectural style, the use of window recesses (minimum 6") and architectural projections to enhance visual interest is encouraged, though not required.
- e. If appropriate to the proposed architectural style, the use of awnings, trellises and other shade structures is encouraged, though not required.



## 6. Exterior Doors

- a. The following materials are permitted for exterior doors: wood, metal and glass.
- b. Door colors/stain shall be compatible with the color standards set forth in Section 1.b.,
- c. If appropriate to the proposed architectural style, the use of door recesses (minimum 6”) to enhance visual interest is encourage, though not required.

## 7. Utilitarian Metals

- a. The following materials are permitted for guard rails, hand rails and gates: painted metal in black, antique, rusted or powder coat or stainless steel.
- b. Guard rails and gates shall be of a scale and character appropriate to the scale and architectural character of the building to which they are affixed.
- c. Guard rails and hand rails shall be compatible with the color standards set forth in Section 1.b., but may provide an appropriate color contrast to increase their visibility to users.

## 8. Exterior Lighting

- a. Office, retail, restaurant and hotel/motel lobby entry lighting.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted.
  - 2) Primary light fixtures shall be metal halide.
  - 3) The design of lighting fixtures shall be of a scale and architectural character compatible with the commercial building.
  - 4) Flood lighting is prohibited.
- b. Residential dwelling entry lighting and exterior hotel/motel room entry.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted.
  - 2) Primary light fixtures shall be compact florescent, incandescent or metal halide.
  - 3) The design of lighting fixtures shall be of a scale and architectural character compatible with the residential building.
  - 4) Flood lighting is prohibited.
- c. Elevated deck lighting.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted. Decorative pole lighting may be permitted for large deck areas, subject to design review.



- 2) Primary light fixtures shall be compact florescent, incandescent or metal halide.
  - 3) The design of lighting fixtures shall be of a scale and character compatible with the building.
  - 4) Flood lighting is prohibited.
  - 5) Elevated deck lighting fixtures shall be located and oriented to focus light inward from the edges of the deck.
- d. Landscape lighting.
- 1) Accent lighting of select architectural, landscape and/or hardscape features is encouraged. Such lights shall be fully shielded and direct down.
  - 2) Exterior lighting fixtures shall be located and oriented to focus light inward from the edges of the parcel.
  - 3) Light fixtures that illuminate large areas from a single source are prohibited.
  - 4) All concrete light pole bases shall be designed to match the standards set for the entire development.

## 9. Landscape

- e. The Studio District shall comply with Section 12 of the Avondale, Arizona Zoning Ordinance with the following exceptions:
- 1) Minimum of 15% of Studio District shall be landscaped
  - 2) No required landscape buffer along west and south property lines in Studio District.



- f. The landscape design shall include pedestrian circulation amenities with the following elements.
  - 1) Walking path system that connects the Studio District with Encanto Boulevard to the north and 99th Avenue to the east.
  - 2) A walking path system that facilitates pedestrian traffic adjacent to 99th Avenue.
  - 3) A walking path system that connects the Studio District to the Commercial District.
  - 4) Pedestrian circulation linking the buildings in the Studio District.
  - 5) Pedestrian linkages to landscape/site amenities.
  - 6) Shaded pedestrian rest areas at least 100 square feet in size; shade may be accomplished by trees or shade structures. Sidewalks adjacent to the parking structure shall be shaded through the use of shade structures.
  - 7) Shade trees along the pedestrian path are required.
  - 8) Differentiated paving shall be used where the pedestrian path crosses vehicular circulation on Site using pavers, stamped concrete or contrasting colored concrete.
  - 9) Adequate landscape lighting to illuminate the pedestrian path. Such lighting may be down lighting or decorative street lamps.
- g. The landscape design may include appropriate water features, but water features are not required.
- h. Surface retention areas will have a maximum depth of 3' from the adjacent grade with a maximum slope of 4:1. A flat landscape buffer 5' wide shall be provided at the top of the retention basin. Retention areas greater than 3' may be approved by Staff. Decorative retaining walls may be used in retaining areas to create visual interest. Retention areas shall be designed to integrate into the landscape design.
- i. Street intersections shall be illuminated with street lamps. Parking areas shall be illuminated with down lighting as approved by Staff.

## 10. Screen Walls and Landscape Buffers

- a. Walls shall meet the requirements of Section 12 of the Avondale, Arizona Zoning Ordinance with the following exceptions:
  - 1) Maximum wall height surrounding the Studio District shall be 10'.
- b. The following materials are permitted for screen walls: stucco, non-reflective metal and wood.
- c. Walls to screen parking areas shall be a maximum allowable height of 3'6".



- d. Screen walls shall adhere to the color standards set forth in Section 1.b.
- e. Screening may also be accomplished through landscape buffers, as appropriate. Such landscape buffers may incorporate plants, trees and/or berms.
- f. All parking areas adjacent to 99th Avenue shall be screened from the right-of-way by a combination of landscape berms and screen walls. Walls shall not be used for more than 25% of the total frontage of the parking areas fronting 99th Avenue.
- g. Screening measures, such as a perimeter wall, shall be applied to the western and southern edges of the Studio District to provide a buffer from the adjacent neighboring uses.
- h. Loading and/or service areas shall be located on any side of the buildings within the Studio District. Services areas shall be screened with a combination of elements, including walls, berms and/or landscaping at a minimum height of six feet (6'). A combination of elements shall be used including angled walls, architectural details, and landscaping to screen service areas adjacent to 99th Avenue.



## 11. Community Amenities

### a. Entry Features

- 1) The main vehicular entrance shall be clearly identified with appropriate monuments, landscaping and lighting.
- 2) The entry monument shall comply with the color standards set forth in Section 1.b. and shall incorporate approved exterior materials set forth in Section 2.
- 3) Well-defined pedestrian entrances are required.

## 12. Miscellaneous

### a. Utility and/or mechanical equipment shall be fully screened per City of Avondale requirements.

- 1) Service electrical system panels shall be recessed into building elevations or screened with doors, landscaping or a solid wall (with landscaping) built of similar building materials and colors to the building architecture. This criteria shall adhere to utility company requirements and be approved by Staff.
- 2) To the extent possible, ground-mounted utility cabinets will be placed where they do not conflict with prominent site views and where they can be screened from major streets and public areas. Cabinets and screen walls will be painted to match the principal structure.
- 3) No wall-mounted equipment shall be permitted on the front or street sides of any building.
- 4) Ground-mounted equipment shall be screened from view by walls and/or landscaping. No ground-mounted equipment, other than those installed based on specific utility company criteria, shall be permitted in a Perimeter Setback.

### b. Trash Enclosures

- 1) Trash collection areas shall be screened by a minimum 6' high masonry wall consistent with building and/or screen wall architecture. The trash collection location shall be further screened by landscaping.
- 2) Enclosure gates shall be designed to complement the building architecture.
- 3) Refuse collection areas shall not be permitted in any Perimeter Setback.
- 4) All trash enclosures shall meet City of Avondale requirements.

### c. All building stairways shall be internalized or designed as an architectural feature



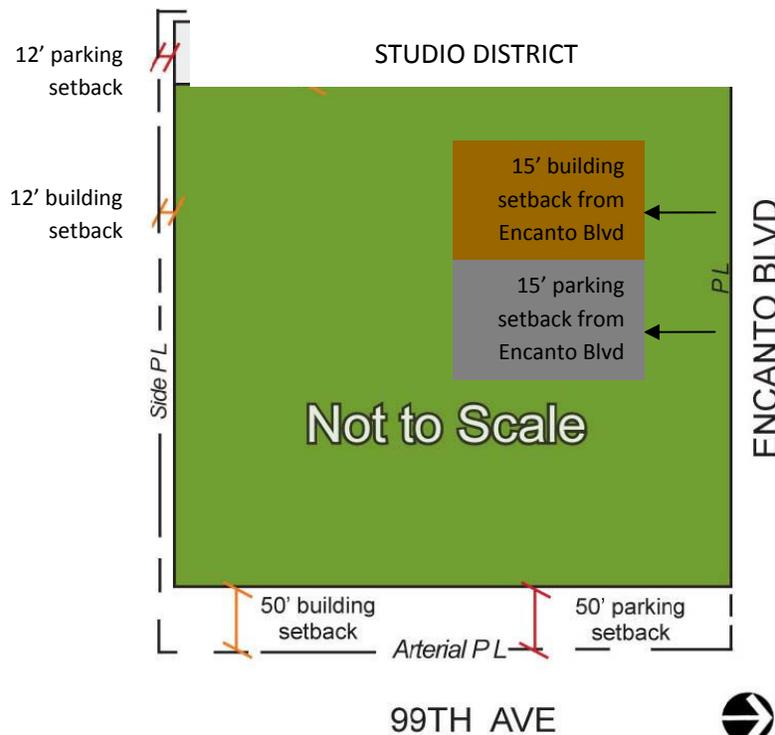
## Part II – COMMERCIAL DISTRICT GUIDELINES

### BUILDING PLACEMENT

#### 1. Setbacks

##### a. Perimeter setbacks for Commercial District (Perimeter Setbacks):

- 1) Arterial setback: 50' minimum from property line to building or parking
- 2) Side property line setbacks:
  - 12' minimum from southern property line to parking
  - 15' setback from Encanto Boulevard to parking
  - 12' minimum from southern property line to buildings
  - 15' setback from Encanto Boulevard to buildings



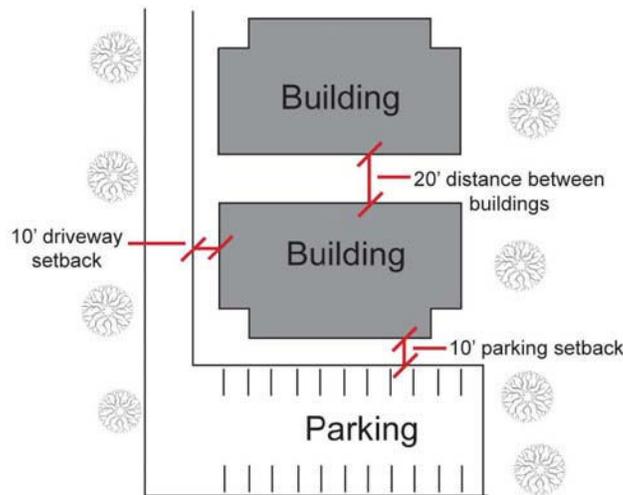
\* Trees that are placed within the perimeter setback shall have planter pockets that shall have a minimum setback depth of 8' or have another measure as accepted at the Master Site Plan phase for the purpose of maintaining the viability of the trees.





b. Building setbacks within Commercial District (Interior Setbacks):

- 1) Parking setback: 10' minimum to buildings
- 2) Driveway setback: 10' minimum to buildings
- 3) Distance between buildings: 20' minimum



**2. Architectural Encroachments**

Balconies, bay windows, chimneys, cantilevered parapets, shade structures and eaves may encroach into required setbacks.

***PARKING PLACEMENT***

**1. Commercial and Hotel Parking**

- a. Commercial and hotel parking shall be located outside of the Commercial District Perimeter Setback area.
- b. Commercial and hotel parking shall be located a minimum of 10' from any building.
- c. Valet shall be a minimum of 10' from any building



## 2. Residential Parking for Mixed-Use Development in the Commercial District

- a. Residential parking and residential guest parking shall be located within the Parking Structures.
- b. Commercial and hotel parking shall be located outside of the Commercial District Perimeter Setback area.

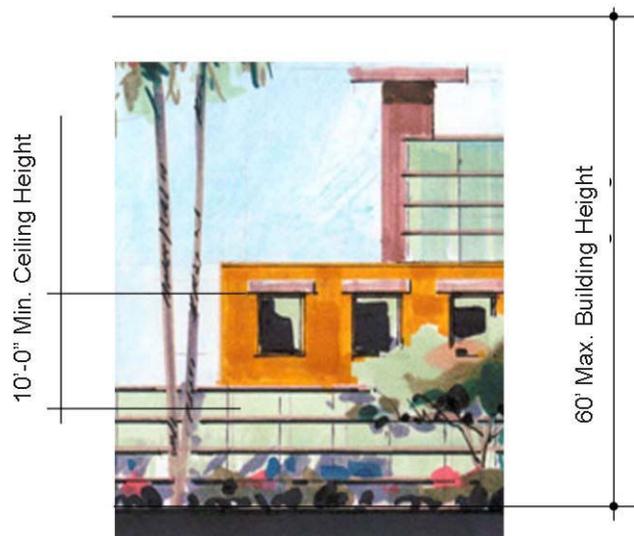
## 3. District Perimeter Setbacks.

- a. Residential parking and residential guest parking shall be located a minimum of ten feet (10') from any building and a maximum of one hundred fifty feet (150') from the unit it serves.

### ***BUILDING PROFILE***

#### **1. Height**

- a. Maximum height: 60' from adjacent grade
- b. Minimum height: 10' floor-to-ceiling for commercial habitable space
- c. Maximum stories: 6





## 2. Architectural Features

- a. Chimneys and architectural features may exceed the maximum height subject to design review approval.

## ***BUILDING USES***

### 1. Permitted Uses

- a. Barber shops, beauty shops, nail salons, tanning salons, day spas and similar personal service uses (not including massage, tattoo and body piercing).
- b. Brewpubs, taverns and cocktail lounges.
- c. Business services, including, but not limited to, copy centers, travel agencies, ticket sales, and employment agencies (not including day labor).
- d. Car rental office (no vehicle storage on site).
- e. Dancing, theatrical or music studio.
- f. Dry cleaning and laundry establishments (not to exceed 1,000 square feet).
- g. Financial institution with or without drive-thru facility
- h. Restaurants without drive-thru facilities.
- i. Health and exercise center (less than 10,000 square feet).
- j. Medical, dental, or health offices or clinics.
- k. Professional, administrative, corporate, or business offices.
- l. Recreation/entertainment uses such as movie theaters, bowling alleys, game rooms, video arcades, ice and roller skate rinks, and similar uses.
- m. Residential dwelling units are permitted on the second story and above.
- n. Resorts and hotels (including convention, conference, banquet, and event centers).
- o. Retail sales of new merchandise.
- p. Movie Studio Production and support facilities.
- q. Indoor live theater, outdoor amphitheater operation and theater support facilities.



## **2. Conditional Uses.**

The following uses shall be permitted in the Commercial District through review and approval of a Conditional Use Permit. Conditional uses shall be processed and evaluated in accordance with Section 1 of the City of Avondale, Arizona Zoning Ordinance.

- a. Day care center or pre-school center.
- b. Restaurant with drive-thru facilities.
- c. Nightclubs (not including adult live entertainment as defined in Section 10 of the Avondale Zoning Ordinance)
- d. Financial institutions with drive-thru.

## **3. Accessory Uses.**

The following uses are permitted as accessory uses directly related to an approved permitted use in the Commercial District.

- a. Outdoor dining.
- b. Sidewalk café.
- c. Walk-up automatic teller machines (ATM).

## **4. Prohibited Uses.**

The following uses are prohibited.

- a. Check cashing, bondsman, pawn shops, plasma centers and thrift stores.
- b. Day labor centers.
- c. Sexually-oriented businesses.
- d. Any use not expressly permitted herein.
- e. Auto supply store.
- f. Gas service station with retail gas sales, convenience store and/or car wash.
- g. RV and/or Mobile Home Park.
- h. Non-chartered financial institution.



***PARKING REQUIREMENTS***

General office and non-retail commercial:	Per City of Avondale requirements
Retail:	Per City of Avondale requirements
Restaurant:	Per City of Avondale requirements
Lodging:	Per City of Avondale requirements
Restaurant/bar within hotel:	Per City of Avondale requirements
Banquet/meeting rooms within hotel:	Per City of Avondale requirements
Residential:	Per City of Avondale requirements
Residential guest:	1 space per every 4 units
Residential community facility:	Shared parking with residential parking
Recreation facility for residents only:	Shared parking with residential
Day-care	Per City of Avondale requirements

All other uses shall comply with the parking requirements of the City of Avondale, Arizona Zoning Ordinance.

Staff may approve alternative parking ratios and shared parking based upon the findings of a parking demand study prepared by a qualified traffic engineer.

Minimum dimensions for parking stalls, driveways, parking lot islands and other improvements shall conform to the City of Avondale requirements.

Parking canopies are permitted, not to exceed twelve (12) parking stalls in length and shall be architecturally compatible with the buildings. Design of parking canopies shall be upgraded through the use of fascia, skirts, or other details compatible with the buildings' architecture. Parking canopies will not be permitted in the front of buildings.



## ***MATERIAL/DETAIL GUIDELINES***

### **1. Architectural Variety and Colors**

#### a. Architecture

- 1) All buildings shall have consistent four-sided architectural treatment.
- 2) The use of and variety of horizontal architectural forms is required to avoid monotony and break up building massing and provided appropriate urban scale.
- 3) Building walls shall be articulated to create pedestrian scale, quality and reduce building massing.

#### b. The following color palettes are permitted: desert tans, stone, grays, beiges, soft mountain purples, and gold, red rock, blue, yellow and green hues.

- 1) Additional colors may be approved at the Master Site Plan phase.

### **2. Exterior Materials**

#### a. The following materials are permitted for exterior walls: metal, stone, glazing, masonry, tile and limited stucco. Exposed concrete block, pre-engineered metal/fiberglass/cementitious sidings are prohibited.

#### b. The following materials are permitted for exterior wall accents and detailing: stucco, stone, glazing, wood, decorative cast concrete or cantera stone, metal and tile.

#### c. Exterior walls shall adhere to the color standards set forth in Section 1.b.

### **3. Roofs**

#### a. Roof forms may be flat or sloped.

- 1) Variation in roof forms is encouraged.
- 2) Size, shape and slope of roof forms shall be compatible with enhance the architectural character and scale of the building.

#### b. Flat roof forms shall comply with the following standards:

- 1) Shield flat roof with a parapet, decorative roof/eave form or other architectural feature designed to prevent the roof from being seen.

#### c. Slope roof forms shall adhere to the following standards:



- 1) Permitted roofing materials are: clay tile, concrete tile and composite shingles.
- 2) Roof colors shall be compatible with color standards set forth in Section 1.b.
- 3) All flashings shall be of non-reflective metals; the color of flashings shall coordinate with the color of the roofing material.
- d. All roof-mounted equipment, mechanical penetrations, satellite dishes and ventilators projecting above the roofline shall be either fully recessed from view or screened by a building parapet. No secondary screen elements are allowed unless specifically complementary to the design of the overall building.

#### **4. Eaves, Porches, Trellises and Awnings**

- a. Awnings must be an integral part of the building elevation design and constructed of permanent-type material.
- b. The following standards apply to awning:
  - 1) Permitted awning materials are: metal and fabric.
  - 2) Awning colors shall be compatible with the color standards set forth in Section 1.b., but may provide appropriate visual and color contrast as approved by during design review.
  - 3) Awning patterns may include solid or stripes; other patterns may be approved during design review.

#### **5. Fenestration**

- a. Glazing shall be dual glazed, low e, and tinted; residential glazing may be clear.
- b. Window frames shall be made of: anodized aluminum, steel or aluminum clad wood.
- c. If appropriate to the proposed architectural style, the use of window recesses (minimum 6”) and architectural projections to enhance visual interest is encouraged, though not required.
- d. If appropriate to the proposed architectural style, the use of awnings, trellises and other shade structures is encouraged, though not required.



## 6. Exterior Doors

- a. The following materials are permitted for exterior doors: wood, metal and glass.
- b. Door colors/stain shall be compatible with the color standards set forth in Section 1.b.,
- c. If appropriate to the proposed architectural style, the use of door recesses (minimum 6”) to enhance visual interest is encourage, though not required.

## 7. Utilitarian Metals

- a. The following materials are permitted for guard rails, hand rails and gates: painted metal in black, antique, rusted or powder coat or stainless steel.
- b. Guard rails and gates shall be of a scale and character appropriate to the scale and architectural character of the building to which they are affixed.
- c. Guard rails and hand rails shall be compatible with the color standards set forth in Section 1.b., but may provide an appropriate color contrast to increase their visibility to users.

## 8. Exterior Lighting

- a. Office, retail, restaurant and hotel/motel lobby entry lighting.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted.
  - 2) Primary light fixtures shall be metal halide.
  - 3) The design of lighting fixtures shall be of a scale and architectural character compatible with the commercial building.
  - 4) Flood lighting is prohibited.
- b. Residential dwelling entry lighting and exterior hotel/motel room entry.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted.
  - 2) Primary light fixtures shall be compact florescent, incandescent or metal halide.
  - 3) The design of lighting fixtures shall be of a scale and architectural character compatible with the residential building.
  - 4) Flood lighting is prohibited.
- c. Elevated deck lighting.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted. Decorative pole lighting may be permitted for large deck areas, subject to design review.



- 2) Primary light fixtures shall be compact florescent, incandescent or metal halide.
  - 3) The design of lighting fixtures shall be of a scale and character compatible with the building.
  - 4) Flood lighting is prohibited.
  - 5) Elevated deck lighting fixtures shall be located and oriented to focus light inward from the edges of the deck.
- d. Landscape lighting.
- 1) Accent lighting of select architectural, landscape and/or hardscape features is encouraged. Such lights shall be fully shielded and direct down.
  - 2) Exterior lighting fixtures shall be located and oriented to focus light inward from the edges of the parcel.
  - 3) Light fixtures that illuminate large areas from a single source are prohibited.
  - 4) All concrete light pole bases shall be designed to match the standards set for the entire development.

## **9. Landscape**

- a. The Commercial District shall comply with Section 12 of the Avondale, Arizona Zoning Ordinance with the following exceptions:
  - 1) Minimum of 25% of Commercial District shall be landscaped.
  - 2) Commercial District shall include a water feature.



- b. The landscape design shall include pedestrian circulation amenities with the following elements.
  - 1) Walking path system that connects the Commercial District with Encanto Boulevard to the north and 99th Avenue to the east.
  - 2) A walking path system that facilitates pedestrian traffic adjacent to 99th Avenue.
  - 3) A walking path system that connects the Commercial District to the Residential District.
  - 4) Pedestrian circulation linking the buildings in the Commercial District.
  - 5) Pedestrian linkages to landscape/site amenities.
  - 6) Shaded pedestrian rest areas at least 100 square feet in size; shade may be accomplished by trees or shade structures
  - 7) Shade trees along the pedestrian path are required.
  - 8) Differentiated paving shall be used where the pedestrian path crosses vehicular circulation on Site using pavers, stamped concrete or contrasting colored concrete.
  - 9) Adequate landscape lighting to illuminate the pedestrian path. Such lighting may be down lighting or decorative street lamps.
- c. Surface retention areas will have a maximum depth of 3' from the adjacent grade with a maximum slope of 4:1. A flat landscape buffer 5' wide shall be provided at the top of the retention basin. Retention areas greater than 3' may be approved by Staff. Decorative retaining walls may be used in retaining areas to create visual interest. Retention areas shall be designed to integrate into the landscape design.
- d. Street intersections shall be illuminated with street lamps. Parking areas shall be illuminated with down lighting as approved by Staff.

## **10. Screen Walls and Landscape Buffers**

- a. The following materials are permitted for screen walls: stucco, non-reflective metal and wood.
- b. Walls to screen parking areas shall be a maximum allowable height of 3'6".
- c. Screen walls shall adhere to the color standards set forth in Section 1.b.
- d. Screening may also be accomplished through landscape buffers, as appropriate. Such landscape buffers may incorporate plants, trees and/or berms.



- e. All parking areas adjacent to 99th Avenue shall be screened from the right-of-way by a combination of landscape berms and screen walls. Walls shall not be used for more than 25% of the total frontage of the parking areas fronting 99th Avenue.
- f. Loading and/or service areas shall not be located at the front of buildings, but rather shall be placed to the side or rear of the building. Services areas shall be screened with a combination of elements, including walls, berms and/or landscaping at a minimum height of six feet (6') and a maximum height of eight feet (8'). Landscaping shall be included to enhance required screening, but shall not be considered the primary screening element.

## **11. Community Amenities**

### **a. Entry Features**

- 1) The main vehicular entrance shall be clearly identified with appropriate monuments, landscaping and lighting.
- 2) The entry monument shall comply with the color standards set forth in Section 1.b. and shall incorporate approved exterior materials set forth in Section 2.
- 3) Well-defined pedestrian entrances are required.

### **b. Community Facilities**

- 1) If the Commercial District includes residential uses, at least one community facility shall be provided. The community facility may be provided within a mixed use building.
- 2) Such community facility shall include, at a minimum: a multi-purpose room. Additional community recreational amenities are required.

## **12. Miscellaneous**

### **a. Utility and/or mechanical equipment shall be fully screened per City of Avondale requirements.**

- 1) Service electrical system panels shall be recessed into building elevations or screened with doors, landscaping or a solid wall (with landscaping) built of similar building materials and colors to the building architecture. This criteria shall adhere to utility company requirements and be approved by Staff.
- 2) To the extent possible, ground-mounted utility cabinets will be placed where they do not conflict with prominent site views and where they can be screened from major streets and public areas. Cabinets and screen walls will be painted to match the principal structure.
- 3) No wall-mounted equipment shall be permitted on the front or street sides of any building.



- 4) Ground-mounted equipment shall be screened from view by walls and/or landscaping. No ground-mounted equipment, other than those installed based on specific utility company criteria, shall be permitted in a Perimeter Setback.
- b. Trash Enclosures
- 1) Trash collection areas shall be screened by a minimum 6' high masonry wall consistent with building and/or screen wall architecture. The trash collection location shall be further screened by landscaping.
  - 2) Enclosure gates shall be designed to complement the building architecture.
  - 3) Refuse collection areas shall not be permitted in any Perimeter Setback.
  - 4) All trash enclosures shall meet City of Avondale requirements.
- c. Drive-Thru Facilities
- 1) Drive-thru facilities shall be designed as an integral part of the primary building and include appropriate screening, the method of which shall be determined at the Master Site Plan phase. Canopies for drive-thru facilities shall be integrated into the building design and supporting columns shall have a minimum diameter of 18".
  - 2) Drive-thru lanes shall be screened from view from adjacent streets by landscaped areas and/or screen walls 3' high, minimum, as determined at the Master Site Plan phase
  - 3) Menu boards shall not be visible from adjacent streets.
  - 4) Drive-thru lanes, menu boards, service bay doors, bays, or loading areas shall be prohibited from facing 99th Avenue.
  - 5) Drive-thru circulation shall be designed to minimize traffic intrusion to the remainder of the site.
- d. All building stairways shall be internalized.



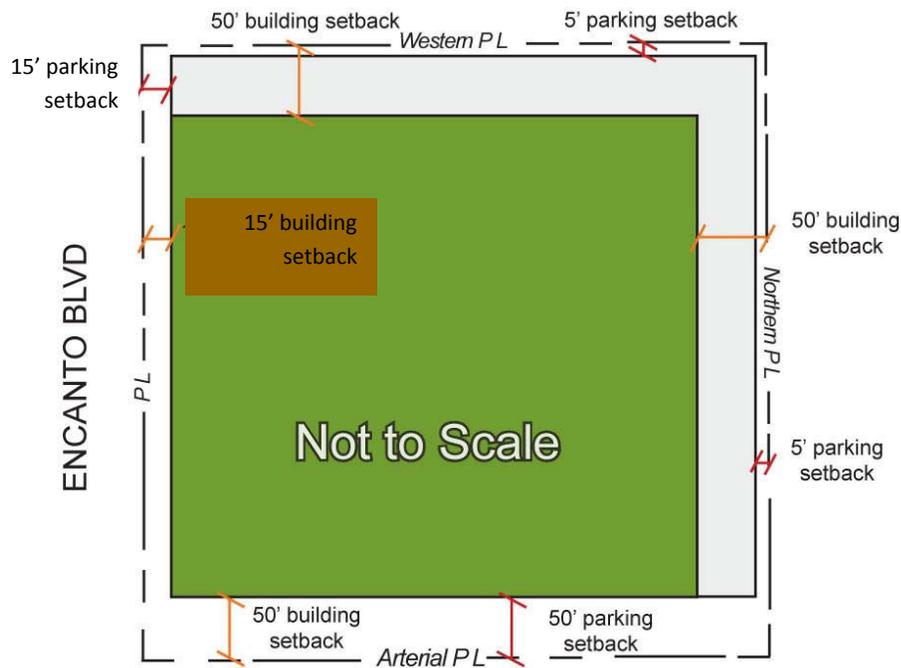
# Part III – RESIDENTIAL VILLAGE GUIDELINES

## BUILDING PLACEMENT

### 1. Setbacks

a. Perimeter setbacks for Residential Village (Perimeter Setbacks):

- 1) Arterial setback: 50' minimum from property line to building or parking
- 2) Northern property line setbacks: 10' minimum from southern property line to parking  
50' setback from Encanto Boulevard to parking
- 3) Western property line setbacks: 5' minimum from property line to parking  
50' minimum from southern property line to buildings 1 story  
75' minimum setback from property line to buildings 2 & 3 stories
- 4) Encanto BLVD setbacks: 15' minimum from property line to parking  
15' minimum from property line to buildings



\* Trees that are placed within the perimeter setback shall have planter pockets that shall have a minimum setback depth of 8' or have another measure as accepted at the Master Site Plan phase for the purpose of maintaining the viability of the trees.

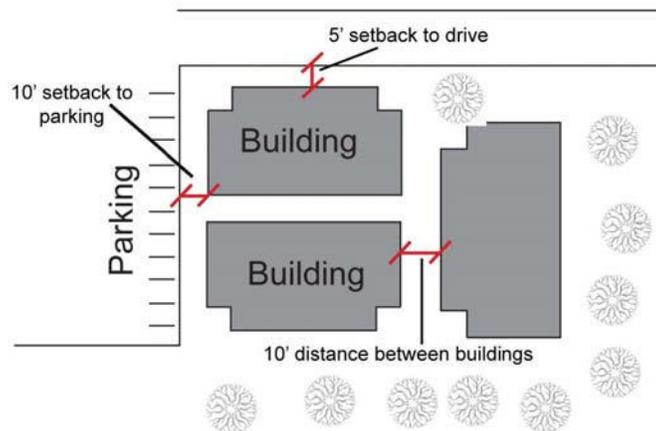
99TH AVE





b. Building setbacks within Residential Village (Interior Setbacks):

- 1) Parking setback: 10' minimum to buildings
- 2) Driveway setback: 5' minimum to buildings
- 3) Distance between buildings: 10' minimum;  
30' minimum for walls including entrances
- 4) Bldg. Entrance/Exit 20' minimum face to entrance/exit



**2. Architectural Encroachments**

Balconies, bay windows, chimneys, cantilevered parapets, shade structures and eaves may encroach into required setbacks.

***PARKING PLACEMENT***

**1. Residential Parking**

- a. Residential parking shall be located on site within the Perimeter Setbacks.
- b. Residential parking shall be located a minimum of ten feet (10') from any building and a maximum of one hundred fifty feet (150') from the unit it serves.



## 2. Guest Parking

- a. Guest parking shall be located on site within the Perimeter Setbacks
- b. Guest parking shall be located a minimum of ten feet (10') from any building.

## ***BUILDING PROFILE***

### 1. Height

- a. Maximum height: 50' from adjacent grade
- b. Minimum height: 9' floor-to-ceiling for commercial habitable space
- c. Maximum stories: 3



### 2. Architectural Features

- a. Chimneys and architectural features may exceed the maximum height subject to design review approval.

## ***BUILDING USES***

### 1. Permitted Uses

The following uses shall be permitted in the Residential Village.

- a. Multi-family dwellings, including duplexes, townhouses, condominiums, apartments or other cluster housing types at a maximum of 22 dwelling units per acre.
- b. Accessory uses and buildings incidental to the principal use such as clubhouses, community building, on-site manager's office, pools, and garages.
- c. Public parks and public recreation facilities.
- d. Community swimming pools and similar recreational facilities of a non-profit nature when associated with a residential project.



- e. A temporary construction office, shed and/or storage yard in conjunction with on-site construction subject to the City of Avondale Zoning Ordinance.
- f. A temporary residential sales office for the on-site sale of residential units, subject to the City of Avondale Zoning Ordinance.
- g. Home occupations in accordance with the City of Avondale Zoning Ordinance.

## **2. Conditional Uses.**

The following uses shall be permitted in the Residential Village through review and approval of a Conditional Use Permit. Conditional uses shall be processed and evaluated in accordance with Section 1 of the City of Avondale, Arizona Zoning Ordinance.

- a. Day-care facility. Single daycare facilities will not be allowed to exceed 5,000 square feet and will be for servicing residents of the Residential Village.

## **3. Prohibited Uses.**

- a. RV and/or mobile home parks.
- b. Any other use not expressly permitted herein.

### ***PARKING REQUIREMENT***

All uses shall comply with the parking requirements of the City of Avondale, Arizona Zoning Ordinance.

Staff may approve alternative parking ratios and shared parking based upon the findings of a parking demand study prepared by a qualified traffic engineer.

Minimum dimensions for parking stalls, driveways, parking lot islands and other improvements shall conform to the City of Avondale requirements.

Parking canopies are permitted, not to exceed twelve (12) parking stalls in length and shall be architecturally compatible with the buildings. Design of parking canopies shall be upgraded through the use of fascia, skirts, or other details compatible with the buildings' architecture. Parking canopies will not be permitted in the front of buildings.



## ***MATERIAL/DETAIL GUIDELINES***

### **1. Architectural Variety and Colors**

#### **a. Architecture**

- 1) All residential and community buildings shall have consistent four-sided architectural treatment.
- 2) The use of and variety of horizontal architectural forms is encouraged to avoid monotony and break up building massing.
- 3) Building walls shall be articulated to create pedestrian scale, quality and reduce building massing.

#### **b. The following color palettes are permitted: desert tans, stone, grays, beiges, soft mountain purples, gold, red rock, blue, yellow and green hues.**

- 1) Additional colors may be approved at the Master Site Plan phase.

### **2. Exterior Materials**

#### **a. The following materials are permitted for exterior walls: stucco, metal, stone, glazing, masonry, and tile. Exposed concrete block, pre-engineered metal/fiberglass/cementitious sidings are prohibited.**

#### **b. The following materials are permitted for exterior wall accents and detailing: stucco, stone, glazing, wood, decorative cast concrete or cantera stone, metal and tile.**

#### **c. Exterior walls shall adhere to the color standards set forth in Section 1.b.**

### **3. Roofs**

#### **a. Roof forms may be flat or sloped.**

- 1) Variation in roof forms is encouraged.
- 2) Size, shape and slope of roof forms shall be compatible with enhance the architectural character and scale of the building.
- 3) Where sloping roof forms are used, multiple planes may be incorporated to enhance architectural interest.



- b. Flat roof forms shall comply with the following standards:
  - 1) Shield flat roof with a parapet, decorative roof/eave form or other architectural feature designed to prevent the roof from being seen.
- c. Slope roof forms shall adhere to the following standards:
  - 1) Permitted roofing materials are: standing seam metal roof systems, clay tile, concrete tile and composite shingles.
  - 2) Roof colors shall be compatible with color standards set forth in Section 1.b.
  - 3) All flashings shall be of non-reflective metals; the color of flashings shall coordinate with the color of the roofing material.
- d. All roof-mounted equipment, mechanical penetrations, satellite dishes and ventilators projecting above the roofline shall be either fully recessed from view or screened by a building parapet. No secondary screen elements are allowed unless specifically complementary to the design of the overall building.

#### **4. Eaves, Porches, Trellises and Awnings**

- a. Awnings must be an integral part of the building elevation design and constructed of permanent-type material.
- b. The following standards apply to awning:
  - 1) Permitted awning materials are: metal and fabric.
  - 2) Awning colors shall be compatible with the color standards set forth in Section 1.b., but may provide appropriate visual and color contrast as approved by during design review.
  - 3) Awning patterns may include solid or stripes; other patterns may be approved during design review.



## 5. Fenestration

- a. Glazing shall be dual glazed, low e, and tinted; residential glazing may be clear.
- b. Window frames shall be made of: anodized aluminum, steel or aluminum clad wood.
- c. Window colors shall be compatible with the color standards set forth in Section 1.b., but may provide appropriate visual and color contrast as approved during design review.
- d. If appropriate to the proposed architectural styles, the use of window recesses (minimum 6”) to enhance visual interest is encouraged, though not required.
- e. If appropriate to the proposed architectural style, the use of awnings and other shade structures is encouraged, though not required.

## 6. Exterior Doors

- a. The following materials are permitted for exterior doors: wood, composite, metal and glass.
- b. Door colors/stain shall be compatible with the color standards set forth in Section 1.b., but may provide appropriate color contrast for increased architectural interest.
- c. If appropriate to the proposed architectural style, the use of door recesses (minimum 6”) to enhance visual interest is encourage, though not required.

## 7. Utilitarian Metals

- a. The following materials are permitted for guard rails, hand rails and gates: painted metal in black, antique, rusted, powder coat or stainless steel.
- b. Guard rails and gates shall be of a scale and character appropriate to the scale and architectural character of the building to which they are affixed.
- c. Guard rails and hand rails shall be compatible with the color standards set forth in Section 1.b., but may provide an appropriate color contrast to increase their visibility to users.

## 8. Exterior Lighting

- a. Residential Dwelling Entry Lighting.
  - 1) Down lighting or decorative wall-mounted sconce lighting is permitted.
  - 2) Primary light fixtures shall be compact florescent, incandescent, or metal halide
  - 3) The design of lighting fixtures and their support shall be of a scale and architectural character compatible with the commercial building.
  - 4) Flood lighting is prohibited.



b. Private Residential Patio Lighting.

- 1) Down lighting or decorative wall-mounted sconce lighting is permitted.
- 2) Primary light fixtures shall be compact florescent, incandescent or metal halide.
- 3) The design of lighting fixtures shall be of a scale and architectural character compatible with the residential building.
- 4) Flood lighting is prohibited.

c. Landscape Lighting.

- 1) Accent lighting of select architectural, landscape and/or hardscape features is encouraged. Such lights shall be fully shielded and direct down.
- 2) Landscape lighting fixtures shall be located and oriented to focus light inward from the edges of the parcel.
- 3) Light fixtures that illuminate large areas from a single source are prohibited.
- 4) Parking lighting shall be down lighting provided mounted on light poles, in shade structures and decorative lighting.
- 5) All concrete light pole bases shall be designed to match the standards set for the entire development.

**9. Landscape**

- a. The landscaping in the Residential Village shall meet the requirements in Section 12 of the City of Avondale, Arizona Zoning Ordinance.
- b. The landscape design shall include pedestrian circulation amenities with the following elements.
  - 1) Walking path system that connects the Residential Village with Encanto Boulevard to the south and 99th Avenue to the east.
  - 2) A walking path system that facilitates pedestrian traffic adjacent to 99th Avenue and adjacent to Encanto Boulevard.
  - 3) A walking path system that connects the Residential Village to the Commercial Village.
  - 4) Shaded pedestrian rest areas at least 100 square feet in size; shade may be accomplished by trees or shade structures.
  - 5) Shade trees along the pedestrian path are encouraged.



- 6) Differentiated paving shall be used where the pedestrian path crosses vehicular circulation on site.
  - 7) Adequate landscape lighting to illuminate the pedestrian path. Such lighting may be down lighting or decorative street lamps.
- c. The landscape design shall include an entry feature for the Residential Village with appropriate signage.
  - d. Community courtyard areas to facilitate recreation and provide a safe play environment for children are encouraged.
  - e. The landscape design may include appropriate water features, but water features are not required.
  - f. Surface retention areas will have a maximum depth of 3' from the adjacent grade with a maximum slope of 4:1. A flat landscape buffer 5' wide shall be provided at the top of the retention basin. Retention areas greater than 3' may be approved by Staff. Decorative retaining walls may be used in retaining areas to create visual interest. Retention areas shall be designed to integrate into the landscape design.
  - g. Street intersections shall be illuminated with street lamps.

#### **10. Screen Walls and Landscape Buffers**

- a. Screen walls shall have architecture consistent with surrounding buildings. The following materials are permitted for screen walls: stucco, non-reflective metal and wood.
- b. Screen walls shall not exceed 6' in height
- c. Walls to screen parking areas shall be a maximum of 3'6" in height.
- d. Screen walls shall adhere to the color standards set forth in Section 1.b.
- e. Screening may also be accomplished through landscape buffers, as appropriate. Such landscape buffers may incorporate plants, trees and/or berms.
- f. Screening measures, such as a perimeter wall, shall be applied to the western and southern edges of the Commercial Village to provide a buffer from the adjacent neighboring uses.



## 11. Community Amenities

### a. Entry Features

- 1) The main vehicular entrance shall be clearly identified with appropriate monuments, landscaping and lighting.
- 2) The entry monument shall comply with the color standards set forth in Section 1.b. and shall incorporate approved exterior materials set forth in Section 2.
- 3) Operable entry gates may be utilized; such gates shall comply with the material and color standards for Utilitarian Metals standards set forth in Section 7.
- 4) Operable main entry gates shall have an attendant guard house and/or call box system.
- 5) Secondary entrances may be for emergency access only, exit only or provide ingress/egress solely to residents via remote control or sensor. Secondary entries which are solely for emergency access, residents or exit only shall be clearly marked.
- 6) Where an operable main entry gate is utilized, the site plan shall include a turn-around outside the main entry gate; a turn-around is not required for secondary entries which are solely for residents or exit only.
- 7) Well-defined pedestrian entrances are encouraged.

### b. Community Facilities

- 1) The Residential Village shall have at least one community building. If the Residential Village is divided into more than one residential project, each project shall have at least one community building.
- 2) Community buildings shall adhere to the development guidelines for other structures set forth herein.
- 3) Community buildings shall include, at a minimum: a multi-purpose room, and an outdoor recreational amenity including a gated pool. Additional outdoor recreational amenities are encouraged, but not required.

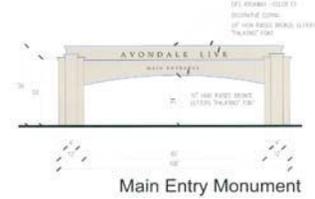
## 12. Miscellaneous

### a. Utility and/or mechanical equipment shall be fully screened per City of Avondale requirements.

- 1) Service electrical system panels shall be recessed into building elevations or screened with doors, landscaping or a solid wall (with landscaping) built of similar building materials and colors to the building architecture. This criteria shall adhere to utility company requirements and be approved by Staff.



- 2) To the extent possible, ground-mounted utility cabinets will be placed where they do not conflict with prominent site views and where they can be screened from major streets and public areas. Cabinets and screen walls will be painted to match the principal structure.
  - 3) No wall-mounted equipment shall be permitted on the front or street sides of any building.
  - 4) Ground-mounted equipment shall be screened from view by walls and/or landscaping. No ground-mounted equipment, other than those installed based on specific utility company criteria, shall be permitted in a Perimeter Setback.
- b. Trash Enclosures
- 1) Trash collection areas shall be screened by a minimum 6' high masonry wall consistent with building and/or screen wall architecture. The trash collection location shall be further screened by landscaping.
  - 2) Enclosure gates shall be designed to complement the building architecture.
  - 3) Refuse collection areas shall not be permitted in any Perimeter Setback.
  - 4) All trash enclosures shall meet City of Avondale requirements.
- c. All building stairways shall be internalized or screened from view.



## **Part IV – SIGNAGE GUIDELINES**

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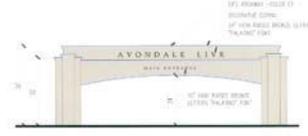
### **1. Signage**

#### **a. General Sign Provisions**

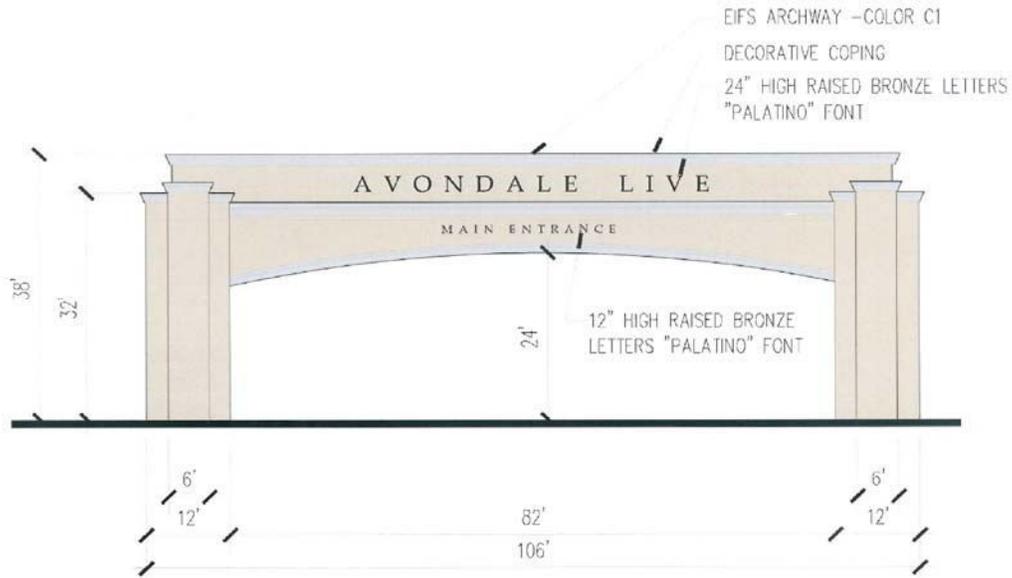
- 1) Signs may be illuminated (LED, internal backlit or halo), with the exception of awning signs.
- 2) Placement of freestanding signs shall be specifically identified in the site plan.
- 3) Placement of Building-Mounted Signs shall be specifically identified in the site plan and shown on building elevation plans.
- 4) No Directory Sign shall be located within the Arterial Setback.
- 5) For all center identification and multi-tenant monument signs, a landscape area shall be provided, on-premises at the street frontage at the base of the sign, which shall extend a minimum of four feet (4') beyond the perimeter section of the sign structure at its widest point.

#### **b. Center Identification Archway Signs identify the center on the arterial frontage.**

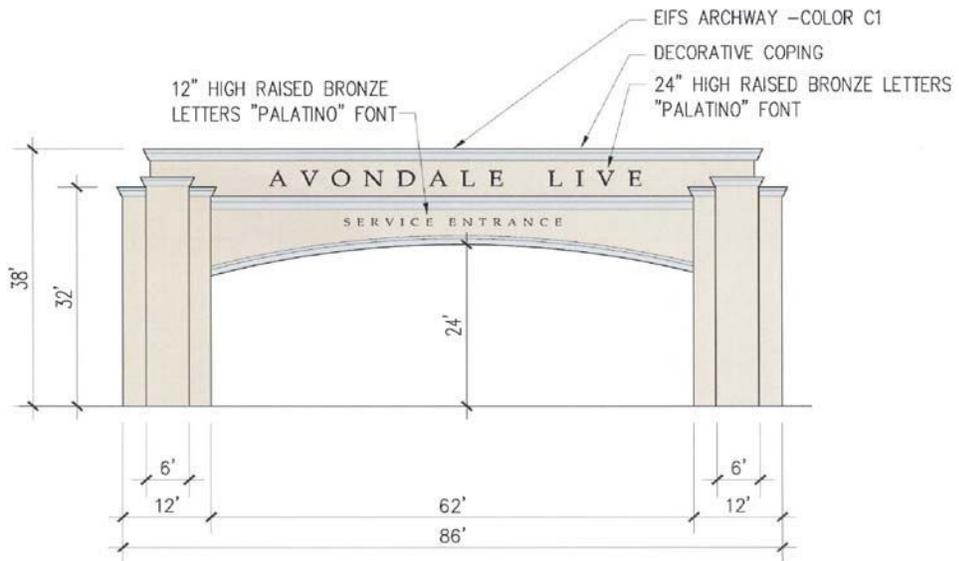
- |                            |   |
|----------------------------|---|
| 1) Maximum height:         | 40'   |
| 2) Maximum area:           | None  |
| 3) Quantity:               | One Archway sign along 99th Avenue frontage on Encanto BLVD and one Archway sign along the south service entrance road. |
| 4) Distance between signs: | 330' minimum  |



Main Entry Monument



Main Entry Monument



Service Entry Monument



c. Multi-tenant Identification Monument Signs identify the center and/or key tenants on 99th Avenue or Encanto Boulevard frontages.

- 1) Maximum height: 14'
- 2) Maximum area: 100 square feet
- 3) Quantity: One sign along 99th Avenue south of Encanto
- 4) Maximum Tenant Panels 12 Panels



d. Hotel Identification Monument Signs are freestanding monuments signs that identify hotel uses throughout the center.

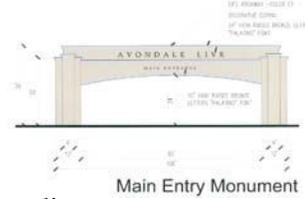
- 1) Maximum height: 6'
- 2) Maximum area: 40 square feet
- 3) Quantity: One sign per primary and secondary entrance

e. Directory Signs are freestanding signs to provide building identification and implement circulation and way-finding through the Residential Village.

- 1) Maximum height: 8'
- 2) Maximum area: 20 square feet
- 3) Quantity: As necessary to enhance safe traffic flow

f. Directional Signs are freestanding signs that provide information for private, public, delivery entrances and exits.

- 1) Maximum height: 4'
- 2) Maximum area: 12 square feet
- 3) Quantity: As necessary to enhance safe traffic flow

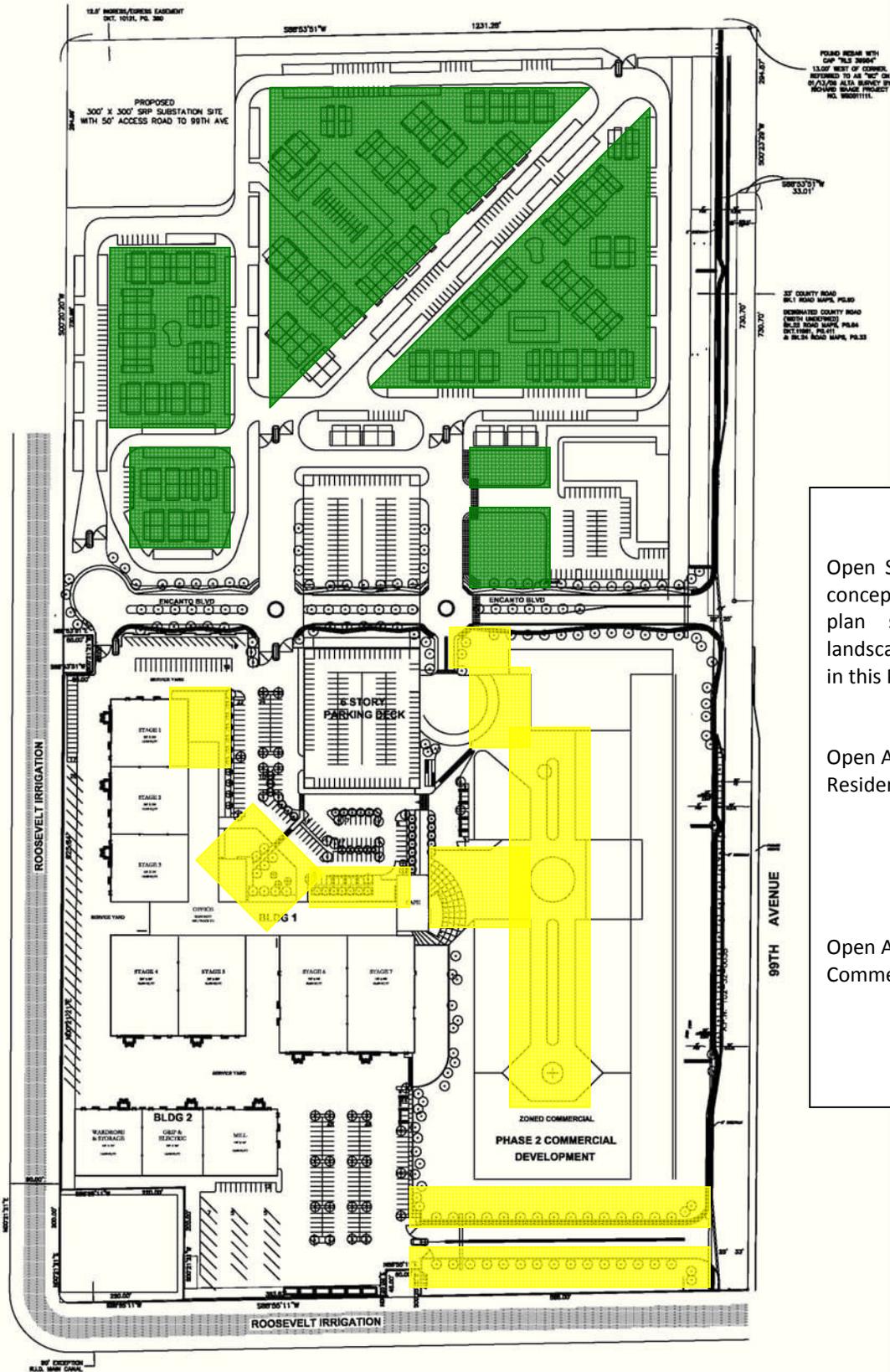


- g. Menu and Ordering Boards will be permitted as part of a drive-thru facility in compliance with the City of Avondale Zoning Ordinance.
- h. Building-Mounted Signs provide identification for all single- and multi-tenant buildings, tenant signage which may include wall, storefront and blade signage. Individual pan channel or reverse pan channel letters and logos, or custom cabinets shall be allowed
  - 4) Maximum height: None.
  - 5) Maximum area: Major tenant (over 10,000 square feet) signage shall be limited to one and one-half (1.5) square feet per lineal feet of the primary elevation as defined by the City of Avondale, Arizona Zoning Ordinance. Minor tenants (less than 10,000 square feet) wall signage shall be allowed one (1) square foot per lineal foot of the primary elevation as defined by the City of Avondale, Arizona Zoning Ordinance.

All tenants shall be allowed one half (1/2) square foot per lineal foot of elevations facing 99<sup>th</sup> Avenue.

Allowed signage area may be transferred between elevations.
  - 6) Quantity: A maximum of four elevations may have signage.
  - 7) Placement: Sign fields shall be integrated into the building design. Signs shall not exceed 70% of the vertical height of the sign field or 80% of the horizontal width of the sign field on which it is placed.
- i. Window Signs. Window graphics are limited to twenty-five percent (25%) of the tenant's first-floor window area and shall not be permitted on windows above the first floor.
- j. Awning Signs shall be counted as part of the tenant's aggregate Building-Mounted Signage sign area based on lineal front footage.
  - 1) Awning Signs shall be placed on 50% of the awning valance height and 80% of the awning width of the element on which it is installed.
  - 2) Awning signage must be mounted parallel to the face.

# Exhibit A: Open space plan with amenities



**OPEN SPACE**

Open Space areas are shown as conceptual. Each master site plan shall comply with the landscaping requirements listed in this PAD.

Open Areas in Residential Village:



Open Areas in Studio & Commercial Districts:





**EARL, CURLEY & LAGARDE, P.C.**  
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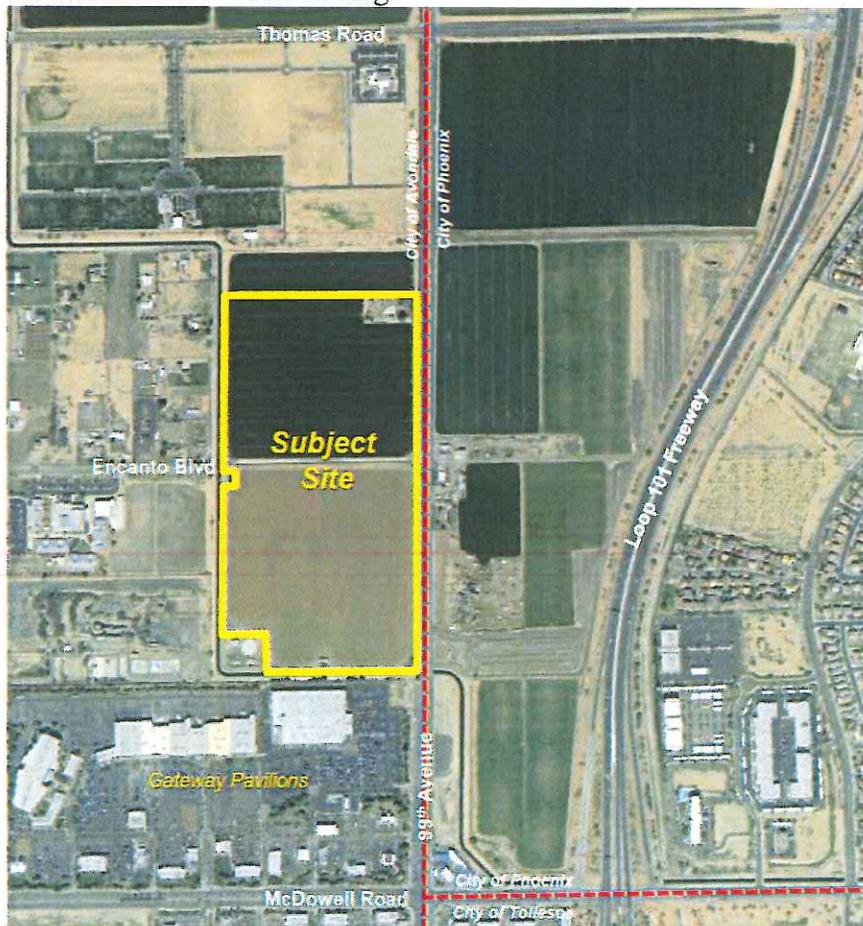
October 8, 2013

Mayor Marie Lopez Rogers  
Members of the City Council  
11465 W. Civic Center Drive, Suite 280  
Avondale, AZ 85232

RE: Avondale LIVE PAD (Zoning Case No.: Z-09-4)  
Northwest and southwest of 99<sup>th</sup> Avenue and Encanto Boulevard alignment  
PAD Extension request

Dear Mayor Lopez Rogers and City Council Members:

Our law firm represents the owner of the 62-acre property located at the northwest and southwest corners of 99<sup>th</sup> Avenue and Encanto Boulevard alignment (see aerial below). We are writing this letter on behalf of our client, Harbor Properties LLC, who seek a one (1) year time extension for the approved "Avondale LIVE" PAD zoning.



## Background

The property's current zoning is Planned Area Development ("PAD") which is consistent with the City's General Plan and the recently approved Freeway Corridor Specific Plan. The approved Avondale LIVE PAD created 3 distinct districts and allows for a mixture of commerce, office, retail and multi-family residential users, all of which are required to be developed in a comprehensively planned and attractive development. Even with the separate districts Avondale LIVE will maintain its interconnection between districts by incorporating similar themes, color, building forms and architectural elements throughout the complete development.

On September 14, 2009, the City Council approved a PAD Amendment. The previous PAD included a multi-family residential component north of the Encanto Boulevard alignment and a mixed-use commercial office component south of Encanto Boulevard. The 2009 approval divided the commercial village on the south into two halves and kept the residential on the northern portion of the project. The commercial and office users were to be located nearest to 99<sup>th</sup> Avenue. Additionally, as part of the conditions of approval the first phase of development required the developer to complete off-site improvements, including widening 99<sup>th</sup> Avenue to its full half-street cross section and construct Encanto Boulevard from 99<sup>th</sup> Avenue to near the western property line.

The original zoning was approved under the 2002 General Plan Land Use Map which identifies the property as "Mixed Use". The "Mixed Use" category encourages innovatively designed developments, which create a core living environment, reflective of a village concept where residents can live, work, and recreate within the same development or close by. Basic criteria for development includes: reasonable scale to the surrounding neighborhood, proportionate ratios for each use, and encouragement of alternative modes of transportation (such as bicycling or walking) and a well-conceived plan with access to and integration of transit facilities.

Last year the City's General Plan 2030 ("Plan") reclassified this property as "Urban Commercial." The "Urban Commercial" Land-use category is intended to "accommodate compact commercial centers consisting of retail, restaurant, office, hotel, farmers market, community garden, and personal services. Residential units may be built on upper floors within this designation if commercial uses are built on the ground floor as part of the same development project. The desired form of development is 4+ story buildings served by structured parking."

We believe that the Avondale LIVE PAD is consistent with the spirit of the current General Plan designation. This request essentially provides three unique districts in a comprehensively planned and attractive development. The Studio District provides office and commercial related uses. The Commercial district is intended to include restaurants and retail buildings that are constructed and oriented inward around a large pedestrian square. The Residential Village is planned on the northern portion of the project and helps provide the density necessary to support the surrounding commercial areas.

The current zoning is consistent with the goals and objectives of the adopted new General Plan designation. It provides intensity and uses that are consistent and complement the desire

designation. The vision for the development and design standards for Avondale LIVE is to establish a mixed use development that is composed of three distinct districts that are designed to create a character that is engaging, entertaining, of high intensity, and urban in nature. These three separate districts, separated by their land uses and building types, have been established to produce a cohesive development, in which the land uses complement one another and superior architectural design standards focus on the relationship of building form and their connection to their respective surrounding areas.

On November 19, 2012, the City Council approved the 1<sup>st</sup> request to extend the PAD (Planned Area Development) zoning for this site. The proposed time extension for this site does not change the overall intent of the approved Avondale LIVE zoning for this project.

### **Details of Request**

Harbor Properties LLC, as the owner of the property, seeks a one-year extension of the Avondale LIVE PAD zoning approval. Like all property owners in the Valley, Harbor Properties has been severely impacted by the economic recession that has gripped the valley and nation over the past three years. Despite the sluggish economy, it is very important to understand that there is still significant activity in the marketplace particularly along the freeway corridors. Our office has worked extensively in Glendale, Avondale, Goodyear, Buckeye, and Phoenix and all of these cities have had significant development along the freeway corridors. Activity is occurring in the marketplace, but the zoning must be in place for a city to capture employment users.

This requested extension will permit the zoning to remain on the property and allow this project to move forward quickly as the market recovers. The PAD zoning on the property still remains consistent with the goals and objectives of the General Plan and remains consistent with the Freeway Corridor Specific Area Plan. It is designed to accommodate density, intensity and creates an urban character as desired by the Plan. The I-10 Freeway Corridor and 99<sup>th</sup> Avenue corridor are designated by the City to be developed with more intense commercial uses and residential uses.

### **Marketing Effort**

Our client hired Nathan & Associates, Inc., one of the Southwest's top real estate service companies, who continues to market the property over the past two years. For over 30 years, Nathan & Associates, Inc. has earned a reputation as the leading commercial and residential land brokerage firms in this part of the United States. They expertly evaluate market trends, formulate valuable and innovative sale opportunities and work closely with industry stakeholders, such as: GPEC, local and national 3rd party brokers, site selection professionals, architects, consultants, lenders, local/national developers and national/global corporate employers.

Attached you will find the marketing deliverables which have been produced by Nathan & Associates. This information relates to such site-specific characteristics as zoning, utilities, transportation, demographic, labor and other related information. Nathan & Associates has; 1)

face-to-face meetings with qualified land buyers; 2) E-blast marketing materials and advertise in Business Real Estate Weekly; and 3) **posted this property information on various websites including Costar, LoopNet, GPEC, and Nathan & Associates website.** In addition to Internet postings, **this marketing material is regularly sent out via email every four weeks.** Targeted recipients are industry professionals including:

1. Local, regional, and state economic development professionals;
2. Multi-Family Residential Developers;
3. Local 3<sup>rd</sup> party brokers;
4. Commercial Investors;
5. Office Investors;
6. Land Speculators;
7. Site selection professionals;
8. Architects, consultants, and lenders;
9. Local/national developers and investors;
10. National/Global corporate employers;
11. Nathan & Associates professionals.

#### **Demand for Zoned Properties**

The Economic Development Directors of Phoenix, Chandler and Glendale make three major points regarding employers relocating to the Valley. The first is that there are companies looking to locate in the Valley. Secondly, freeway-oriented sites are often the most attractive sites to these users. The last point is that unzoned property usually won't even be considered by any major employers, corporate headquarters or company relocates. The reasons for this are: 1) because there is uncertainty related to the rezoning process; 2) the fact that rezoning a property typically takes approximately six months or longer; and 3) there are hundreds and hundreds of acres of already-zoned properties nearby cities which can be developed immediately.

There have been few multi-family developments that have been built within the immediate area, which furthers amplifies the need for this type of quality urban development. High-Density urban living uses are an important element in attaining the proper balance of land uses within the City in general. Avondale LIVE allows for land uses that are intended to capitalize on the nearby Loop 101 Freeway, the adjacent Gateway Pavilions, and the variety of existing and planned retail centers in the area. The ability for multi-family will also enhance the opportunities for high-quality employment for professionals, technical experts and highly skilled labor surrounding this area of the City by introducing additional housing diversity for employers with at least one high-end apartment community. The larger employment area has lacked diversity of housing opportunities that is important to attracting major employers.

The approved land uses remain valid and appropriate, but more time is needed to allow the Valley's economy to recover and restore viability for this area and to this proposed project. Efforts have been made to diligently market the property for development by well qualified brokers who know the industry well. They have confirmed that despite their best efforts to

Harbor Properties LLC

October 8, 2013

Page 5

market this great project, additional time is needed to allow the local economy to become robust again.

**Conclusion**

It is our belief that down-zoning this property will hinder and delay the interests of the City and the property owner. By granting this requested extension, the property will remain in the inventory pool of well positioned parcels that will be uniquely attractive and available to proposed users. This PAD zoning is consistent with both the intent of the General Plan and Specific Area Plan and was approved without controversy. In consideration of these facts and circumstances, we believe that the granting of this second PAD extension is warranted and necessary for the property owner and the City to obtain the benefits that will be generated by this unique mixed-use development.

Thank you very much for your time and consideration in this matter.

Sincerely,



FOR Michael J. Curley

MJC/rot

Attachment: As stated.

Land Brokerage Services



# NATHAN & ASSOCIATES, INC.

7600 East Doubletree Ranch Road | Suite #150 | Scottsdale | Arizona | 85258  
Phone: 480.367.0700 | Fax: 480.367.8341 | [www.nathanandassociatesinc.com](http://www.nathanandassociatesinc.com)

## 99<sup>TH</sup> AVENUE AND ENCANTO BOULEVARD

AVONDALE, ARIZONA

EXCLUSIVELY LISTED BY:  
**NATHAN & ASSOCIATES, INC.**

## 99<sup>TH</sup> AVENUE AND ENCANTO BOULEVARD

**LOCATION:**

Located on 99<sup>th</sup> Avenue, north and south of Encanto Boulevard in Avondale, Arizona.

**SIZE:**

±60 Acres

*\*Owner will consider selling part.*

**ZONING:**

PAD/Avondale

**PRICE:**

\$8,400,000 or \$140,000 per Acre

**TERMS:**

Cash

**COMMENTS:**

Site lies just northwest of the convergence of Interstate 10 and Loop 101 and is less than 3.5 miles south of the Arizona Cardinals and Phoenix Coyote Stadiums.

**PLEASE CLICK TO VIEW ADDITIONAL DOCUMENTS:**

[ALTA Survey](#)

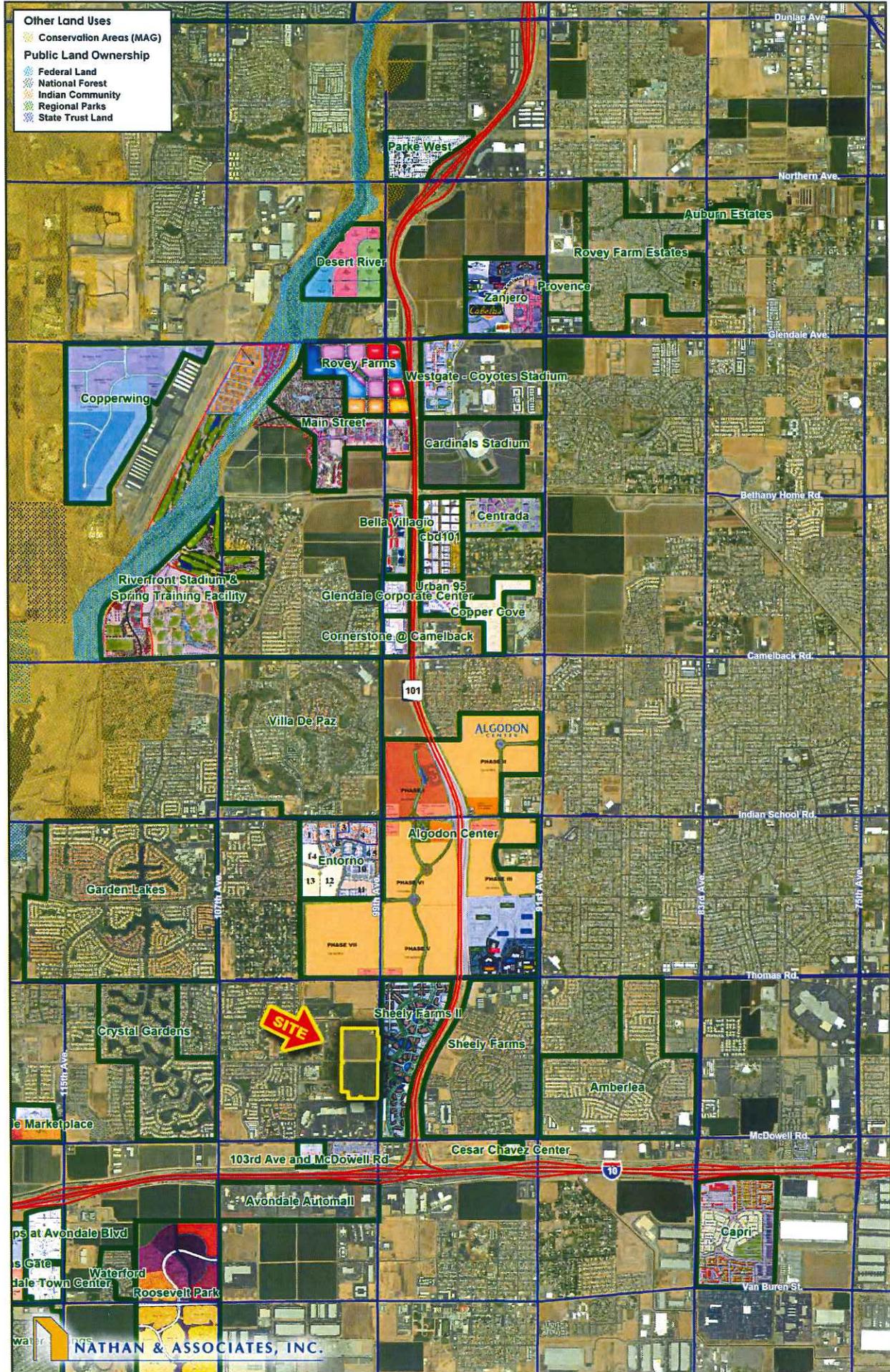
[Planned Area Development/Avondale Live Revision 20090803](#)

[Floodplain Information](#)

[Site Demographics](#)

[Avondale General Plan Information](#)

# Loop 101 Submarket 99th Avenue and Encanto Boulevard

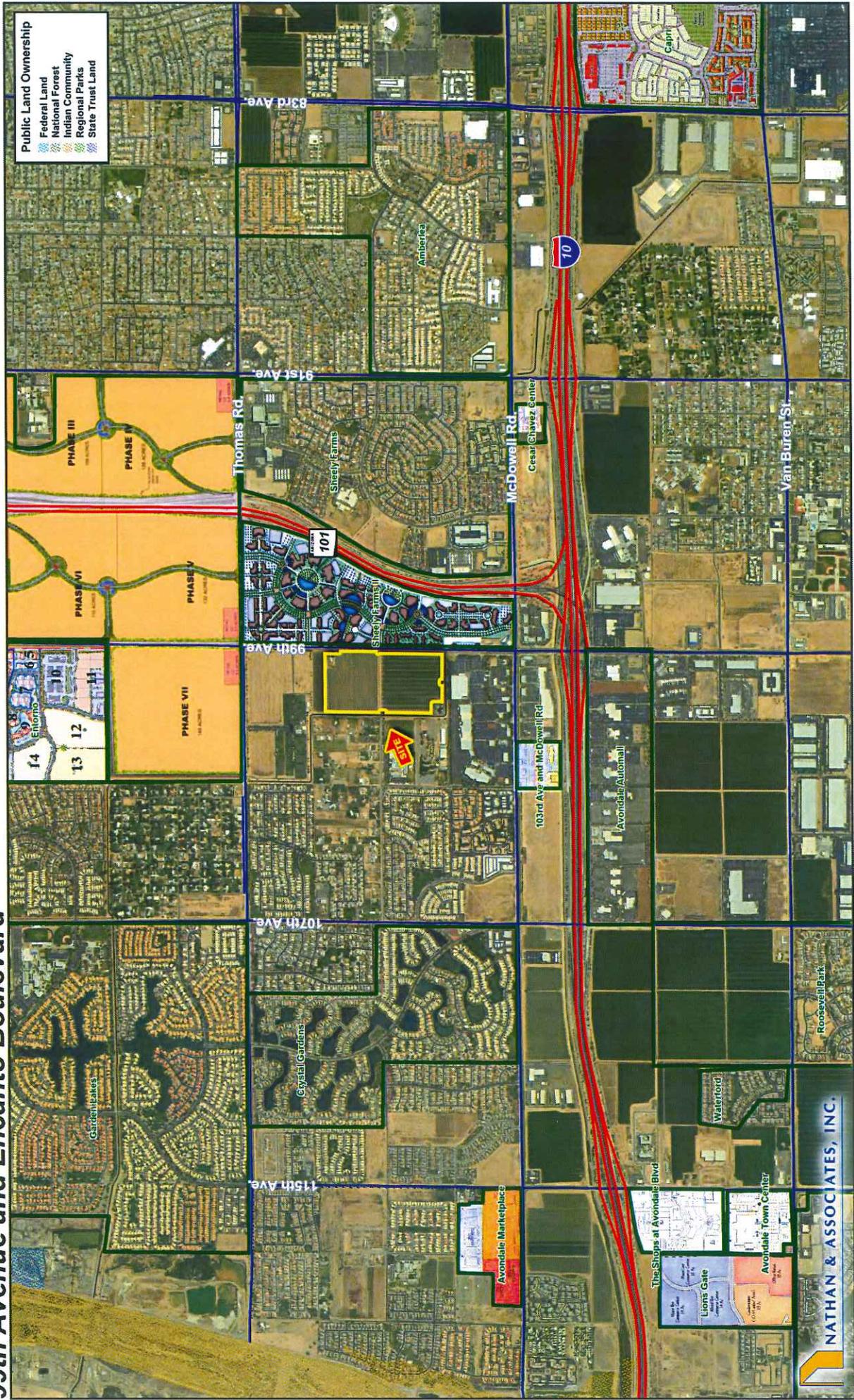


**NATHAN & ASSOCIATES, INC.**

This map was produced using data from private and governmental sources deemed to be reliable. The information herein is provided without representation or warranty.

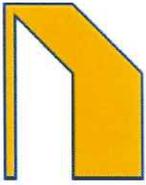


# 99th Avenue and Encanto Boulevard



This map was produced using data from private and governmental sources deemed to be reliable. The information herein is provided without representation or warranty.

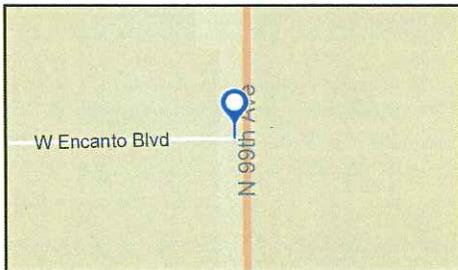
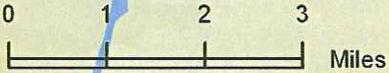
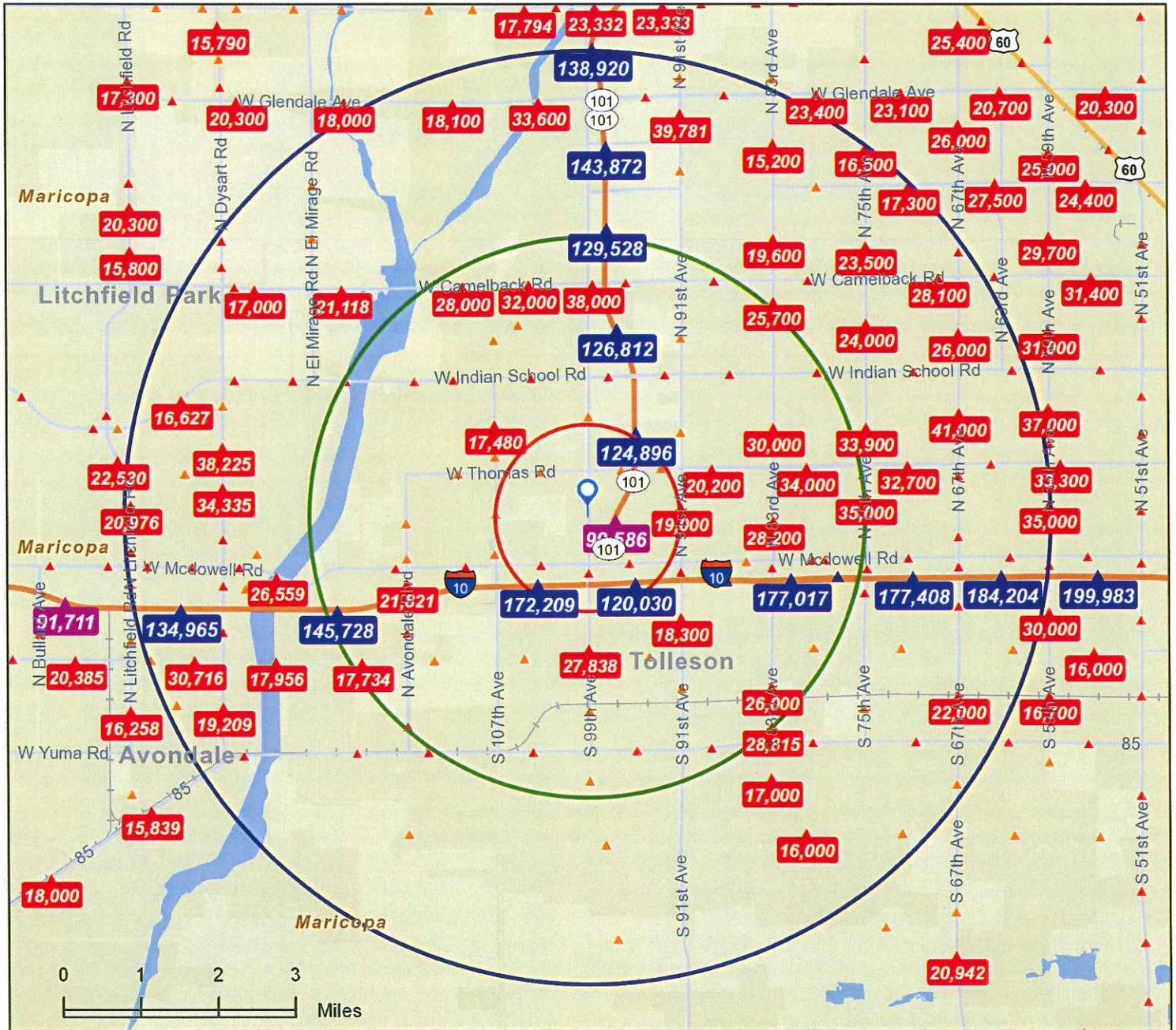




# Traffic Count Map

99th Avenue & Encanto Boulevard  
Avondale, Arizona  
Ring: 1, 3, 5 Miles

Prepared by James Nathan  
Latitude: 33.471966  
Longitude: -112.272682



- Average Daily Traffic Volume**
- ▲ Up to 6,000 vehicles per day
  - ▲ 6,001 - 15,000
  - ▲ 15,001 - 30,000
  - ▲ 30,001 - 50,000
  - ▲ 50,001 - 100,000
  - ▲ More than 100,000 per day



Source: ©2011 MPSI (Market Planning Solutions Inc.) Systems Inc. d.b.a. DataMetrix®



# Traffic Count Profile

Prepared by James Nathan

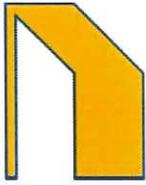
99th Avenue & Encanto Boulev...  
Avondale, Arizona  
Ring: 5 miles radius

Latitude: 33.471966  
Longitude: -112.272682

Distance:	Street:	Closest Cross-street:	Year of Count:	Count:
0.10	N 99th Ave	W Encanto Blvd (0.1 miles N)	2008	11,797
0.30	Agua Fria Fwy	N Agua Fria Fwy (0.06 miles SW)	2008	99,586
0.59	N 99th Ave	W McDowell Rd (0.09 miles N)	2007	24,000
0.63	W Thomas Rd	Agua Fria Fwy (0.13 miles E)	2007	15,000
0.66	W McDowell Rd	N 95th Ave (0.06 miles E)	2007	17,000
0.70	W Thomas Rd	Roosevelt Irrigation District Csr (0.02 miles E)	2008	14,941
0.71	W McDowell Rd	N 103rd Ave (0.01 miles E)	2008	24,645
0.74	W Encanto Blvd	N 106th Ave (0.1 miles W)	2008	3,220
0.86	I- 10	Agua Fria Fwy (0.22 miles W)	2008	120,030
0.87	Harbor Shore Blvd	W Granada Rd (0.02 miles N)	2008	1,382
0.89	I- 10	N 107th Ave (0.45 miles W)	2008	172,209
0.95	W Thomas Rd	N 91st Ave (0.22 miles E)	2003	13,000
0.99	N 107th Ave	W Encanto Blvd (0.03 miles S)	2008	10,022
1.01	N 91st Ave	W Vernon Ave (0.04 miles S)	2007	19,000
1.05	Agua Fria Fwy	W Thomas Rd (0.39 miles S)	2008	124,896
1.08	N 107th Ave	Crystal Gardens Pkwy (0.12 miles NW)	2008	8,351
1.09	N 99th Ave	W Indian School Rd (0.42 miles N)	2008	9,662
1.14	Roosevelt St	103rd Ave (0.06 miles E)	2008	6,770
1.16	N 91st Ave	I- 10 (0.07 miles S)	2007	25,000
1.19	N 107th Ave	W Lakeshore Dr (0.08 miles N)	1999	9,641
1.23	Crystal Gardens Pkwy	N 108th Dr (0.02 miles SE)	2008	1,787
1.25	W Thomas Rd	N 89th Dr (0.05 miles E)	1997	5,672
1.36	W McDowell Rd	N 89th Ave (0.02 miles W)	2007	16,000
1.36	N 91st Ave	W Cheery Lynn Rd (0.09 miles S)	2005	12,500
1.38	N 107th Ave	Roosevelt St (0.05 miles S)	2008	2,787
1.40	N 99th Ave	W Van Buren St (0.1 miles S)	2008	27,838
1.42	N 107th Ave	Roosevelt Irrigation District Csr (0.02 miles S)	2008	17,480
1.42	W McDowell Rd	N 109th Ave (0.08 miles E)	2008	22,490
1.45	W Thomas Rd	N 88th Ave (0.03 miles W)	2005	20,200
1.46	N 91st Ave	W Baden St (0.02 miles N)	2005	18,300

**Data Note:**The Traffic Profile displays up to 30 of the closest available traffic counts within the largest radius around your site. The years of the counts in the database range from 2011 to 1963. Just over 68% of the counts were taken between 2001 and 2011 and 86% of the counts were taken in 1997 or later. Traffic counts are identified by the street on which they were recorded, along with the distance and direction to the closest cross-street. Distances displayed as 0.00 miles (due to rounding), are closest to the site. A traffic count is defined as the two-way Average Daily Traffic (ADT) that passes that location.

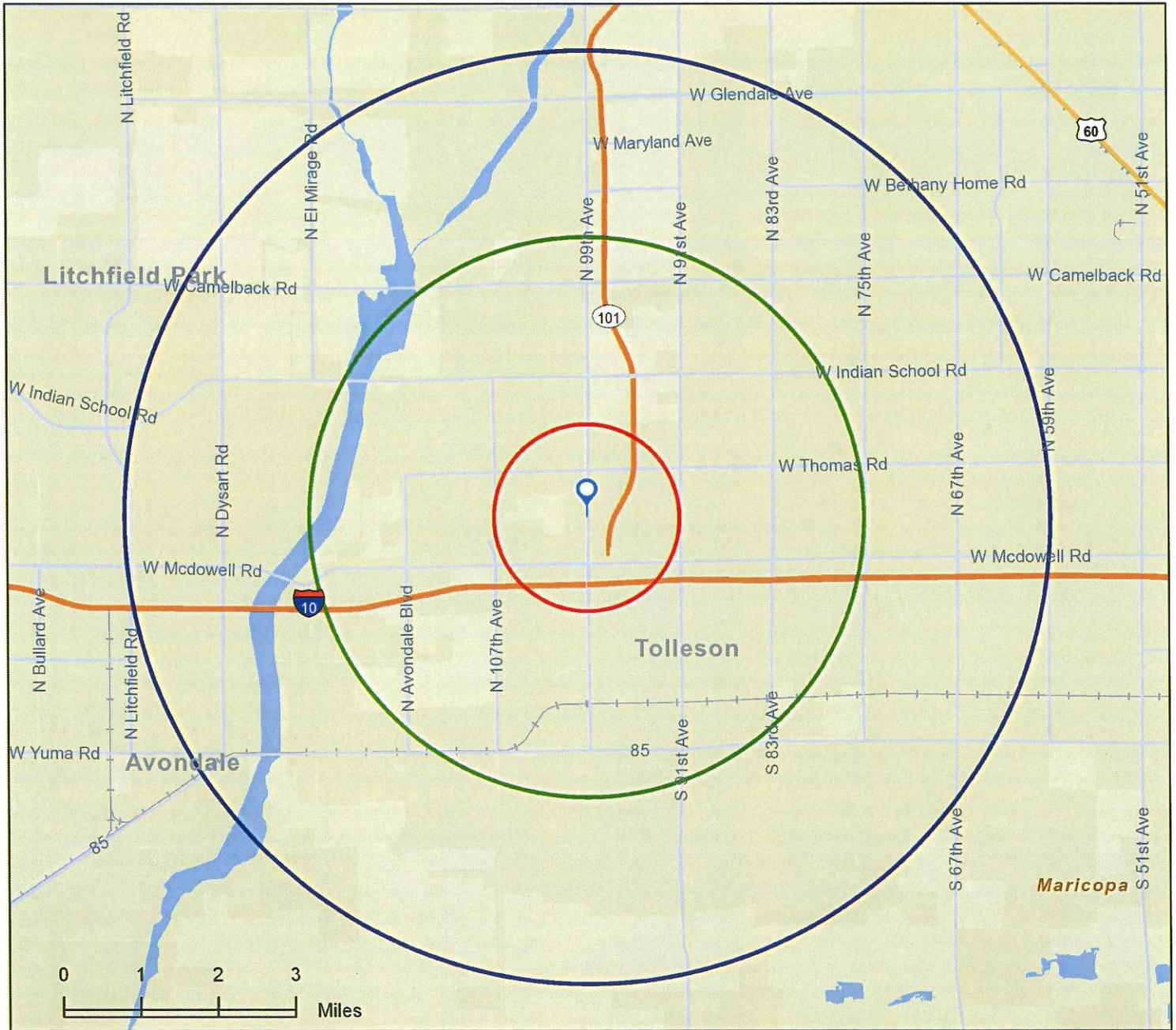
**Source:** ©2011 MPSI Systems Inc. d.b.a. DataMetrix®

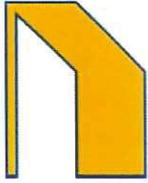


# Site Map

99th Avenue & Encanto Boulevard  
Avondale, Arizona  
Ring: 1, 3, 5 Miles

Prepared by James Nathan  
Latitude: 33.471966  
Longitude: -112.272682





## Executive Summary

99th Avenue & Encanto Boulevard  
Avondale, Arizona  
Ring: 1 mile radius

Prepared by James Nathan  
Latitude: 33.471966  
Longitude: -112.272682

	1 mile	3 miles	5 miles
<b>Population</b>			
2000 Population	398	65,341	173,768
2010 Population	8,504	97,773	277,271
2012 Population	8,831	100,169	283,646
2017 Population	9,480	104,829	295,675
2000-2010 Annual Rate	35.84%	4.11%	4.78%
2010-2012 Annual Rate	1.69%	1.08%	1.02%
2012-2017 Annual Rate	1.43%	0.91%	0.83%
2012 Male Population	49.5%	49.4%	49.5%
2012 Female Population	50.5%	50.6%	50.5%
2012 Median Age	25.8	27.7	27.2

In the identified area, the current year population is 283,646. In 2010, the Census count in the area was 277,271. The rate of change since 2010 was 1.02% annually. The five-year projection for the population in the area is 295,675 representing a change of 0.83% annually from 2012 to 2017. Currently, the population is 49.5% male and 50.5% female.

### Median Age

The median age in this area is 27.2, compared to U.S. median age of 37.3.

### Race and Ethnicity

2012 White Alone	52.1%	53.5%	54.3%
2012 Black Alone	12.0%	8.2%	7.9%
2012 American Indian/Alaska Native Alone	2.2%	1.8%	1.8%
2012 Asian Alone	4.6%	3.1%	2.7%
2012 Pacific Islander Alone	0.4%	0.2%	0.2%
2012 Other Race	22.7%	28.7%	28.6%
2012 Two or More Races	6.0%	4.5%	4.3%
2012 Hispanic Origin (Any Race)	52.4%	60.3%	62.3%

Persons of Hispanic origin represent 62.3% of the population in the identified area compared to 16.9% of the U.S. population. Persons of Hispanic Origin may be of any race. The Diversity Index, which measures the probability that two people from the same area will be from different race/ethnic groups, is 84.0 in the identified area, compared to 61.4 for the U.S. as a whole.

### Households

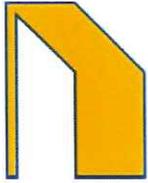
2000 Households	127	19,424	50,528
2010 Households	2,746	29,474	79,836
2012 Total Households	2,864	30,260	81,522
2017 Total Households	3,081	31,778	84,947
2000-2010 Annual Rate	35.98%	4.26%	4.68%
2010-2012 Annual Rate	1.88%	1.18%	0.93%
2012-2017 Annual Rate	1.47%	0.98%	0.83%
2012 Average Household Size	3.08	3.31	3.47

The household count in this area has changed from 79,836 in 2010 to 81,522 in the current year, a change of 0.93% annually. The five-year projection of households is 84,947, a change of 0.83% annually from the current year total. Average household size is currently 3.47, compared to 3.47 in the year 2010. The number of families in the current year is 64,012 in the specified area.

**Data Note:** Income is expressed in current dollars

**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.

September 11, 2013



# Executive Summary

99th Avenue & Encanto Boulevard  
 Avondale, Arizona  
 Ring: 5 mile radius

Prepared by James Nathan  
 Latitude: 33.471966  
 Longitude: -112.272682

	1 mile	3 miles	5 miles
<b>Median Household Income</b>			
2012 Median Household Income	\$52,321	\$53,273	\$49,487
2017 Median Household Income	\$59,384	\$57,851	\$54,713
2012-2017 Annual Rate	2.56%	1.66%	2.03%
<b>Average Household Income</b>			
2012 Average Household Income	\$56,518	\$61,710	\$58,105
2017 Average Household Income	\$62,540	\$66,821	\$63,659
2012-2017 Annual Rate	2.05%	1.60%	1.84%
<b>Per Capita Income</b>			
2012 Per Capita Income	\$18,353	\$18,574	\$16,766
2017 Per Capita Income	\$20,349	\$20,179	\$18,355
2012-2017 Annual Rate	2.09%	1.67%	1.83%

### Households by Income

Current median household income is \$49,487 in the area, compared to \$50,157 for all U.S. households. Median household income is projected to be \$54,713 in five years, compared to \$56,895 for all U.S. households

Current average household income is \$58,105 in this area, compared to \$68,162 for all U.S. households. Average household income is projected to be \$63,659 in five years, compared to \$77,137 for all U.S. households

Current per capita income is \$16,766 in the area, compared to the U.S. per capita income of \$26,409. The per capita income is projected to be \$18,355 in five years, compared to \$29,882 for all U.S. households

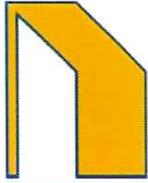
### Housing

	1 mile	3 miles	5 miles
2000 Total Housing Units	133	20,318	53,077
2000 Owner Occupied Housing Units	119	15,940	37,867
2000 Owner Occupied Housing Units	8	3,484	12,661
2000 Vacant Housing Units	6	894	2,549
2010 Total Housing Units	3,093	33,946	91,893
2010 Owner Occupied Housing Units	1,106	17,395	47,994
2010 Renter Occupied Housing Units	1,640	12,079	31,842
2010 Vacant Housing Units	347	4,472	12,057
2012 Total Housing Units	3,188	34,585	93,477
2012 Owner Occupied Housing Units	1,060	16,844	46,659
2012 Renter Occupied Housing Units	1,803	13,416	34,863
2012 Vacant Housing Units	324	4,325	11,955
2017 Total Housing Units	3,396	36,283	97,545
2017 Owner Occupied Housing Units	1,141	17,673	48,850
2017 Renter Occupied Housing Units	1,940	14,106	36,097
2017 Vacant Housing Units	315	4,505	12,598

Currently, 49.9% of the 93,477 housing units in the area are owner occupied; 37.3% are renter occupied; and 12.8% are vacant. Currently, in the U.S., 56.5% of the housing units in the area are owner occupied; 32.1% are renter occupied; and 11.4% are vacant. In 2010, there were 91,893 housing units in the area - 52.2% owner occupied, 34.7% renter occupied, and 13.1% vacant. The annual rate of change in housing units since 2010 is 0.76%. Median home value in the area is \$111,942, compared to a median home value of \$167,749 for the U.S. In five years, median value is projected to change by 2.26% annually to \$125,191.

**Data Note:** Income is expressed in current dollars

**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



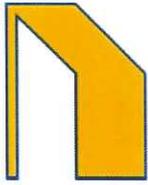
# Market Profile

99th Avenue & Encanto Boulevard  
Avondale, Arizona  
Ring: 1 mile radius

Prepared by James Nathan  
Latitude: 33.471966  
Longitude: -112.272682

	1 mile	3 miles	5 miles
<b>Population Summary</b>			
2000 Total Population	398	65,341	173,768
2010 Total Population	8,504	97,773	277,271
2012 Total Population	8,831	100,169	283,646
2012 Group Quarters	9	43	463
2017 Total Population	9,480	104,829	295,675
2012-2017 Annual Rate	1.43%	0.91%	0.83%
<b>Household Summary</b>			
2000 Households	127	19,424	50,528
2000 Average Household Size	3.13	3.36	3.43
2010 Households	2,746	29,474	79,836
2010 Average Household Size	3.09	3.32	3.47
2012 Households	2,864	30,260	81,522
2012 Average Household Size	3.08	3.31	3.47
2017 Households	3,081	31,778	84,947
2017 Average Household Size	3.07	3.30	3.48
2012-2017 Annual Rate	1.47%	0.98%	0.83%
2010 Families	1,913	22,617	63,066
2010 Average Family Size	3.66	3.72	3.83
2012 Families	1,976	23,029	64,012
2012 Average Family Size	3.64	3.72	3.84
2017 Families	2,125	24,145	66,723
2017 Average Family Size	3.65	3.72	3.85
2012-2017 Annual Rate	1.46%	0.95%	0.83%
<b>Housing Unit Summary</b>			
2000 Housing Units	133	20,318	53,077
Owner Occupied Housing Units	89.5%	78.5%	71.3%
Renter Occupied Housing Units	6.0%	17.1%	23.9%
Vacant Housing Units	4.5%	4.4%	4.8%
2010 Housing Units	3,093	33,946	91,893
Owner Occupied Housing Units	35.8%	51.2%	52.2%
Renter Occupied Housing Units	53.0%	35.6%	34.7%
Vacant Housing Units	11.2%	13.2%	13.1%
2012 Housing Units	3,188	34,585	93,477
Owner Occupied Housing Units	33.2%	48.7%	49.9%
Renter Occupied Housing Units	56.6%	38.8%	37.3%
Vacant Housing Units	10.2%	12.5%	12.8%
2017 Housing Units	3,396	36,283	97,545
Owner Occupied Housing Units	33.6%	48.7%	50.1%
Renter Occupied Housing Units	57.1%	38.9%	37.0%
Vacant Housing Units	9.3%	12.4%	12.9%
<b>Median Household Income</b>			
2012	\$52,321	\$53,273	\$49,487
2017	\$59,384	\$57,851	\$54,713
<b>Median Home Value</b>			
2012	\$125,641	\$111,559	\$111,942
2017	\$148,116	\$125,219	\$125,191
<b>Per Capita Income</b>			
2012	\$18,353	\$18,574	\$16,766
2017	\$20,349	\$20,179	\$18,355
<b>Median Age</b>			
2010	25.7	27.5	27.0
2012	25.8	27.7	27.2
2017	26.1	28.1	27.7

**Data Note:** Household population includes persons not residing in group quarters. Average Household Size is the household population divided by total households. Persons in families include the householder and persons related to the householder by birth, marriage, or adoption. Per Capita Income represents the income received by all persons aged 15 years and over divided by the total population.  
**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



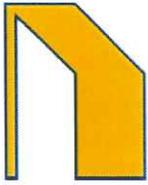
## Market Profile

99th Avenue & Encanto Boulevard  
 Avondale, Arizona  
 Ring: 5 mile radius

Prepared by James Nathan  
 Latitude: 33.471966  
 Longitude: -112.272682

	1 mile	3 miles	5 miles
<b>2012 Households by Income</b>			
Household Income Base	2,864	30,260	81,522
<\$15,000	4.1%	7.6%	10.6%
\$15,000 - \$24,999	13.5%	8.8%	11.1%
\$25,000 - \$34,999	17.5%	10.9%	12.0%
\$35,000 - \$49,999	12.0%	17.0%	16.7%
\$50,000 - \$74,999	21.1%	27.9%	24.4%
\$75,000 - \$99,999	27.3%	14.6%	12.7%
\$100,000 - \$149,999	3.8%	10.2%	9.2%
\$150,000 - \$199,999	0.5%	1.9%	2.0%
\$200,000+	0.2%	1.1%	1.3%
Average Household Income	\$56,518	\$61,710	\$58,105
<b>2017 Households by Income</b>			
Household Income Base	3,081	31,778	84,947
<\$15,000	3.3%	6.9%	9.9%
\$15,000 - \$24,999	9.3%	6.4%	8.4%
\$25,000 - \$34,999	13.0%	7.7%	9.1%
\$35,000 - \$49,999	12.4%	14.3%	14.3%
\$50,000 - \$74,999	24.4%	33.0%	29.0%
\$75,000 - \$99,999	31.3%	17.3%	15.4%
\$100,000 - \$149,999	4.8%	11.1%	10.1%
\$150,000 - \$199,999	1.1%	2.2%	2.3%
\$200,000+	0.2%	1.1%	1.4%
Average Household Income	\$62,540	\$66,821	\$63,659
<b>2012 Owner Occupied Housing Units by Value</b>			
Total	1,060	16,842	46,647
<\$50,000	2.3%	6.7%	7.1%
\$50,000 - \$99,999	23.2%	33.9%	33.1%
\$100,000 - \$149,999	47.7%	40.8%	41.0%
\$150,000 - \$199,999	19.7%	14.2%	13.4%
\$200,000 - \$249,999	4.3%	3.4%	3.4%
\$250,000 - \$299,999	1.4%	0.7%	1.1%
\$300,000 - \$399,999	1.0%	0.2%	0.6%
\$400,000 - \$499,999	0.2%	0.0%	0.2%
\$500,000 - \$749,999	0.1%	0.0%	0.1%
\$750,000 - \$999,999	0.0%	0.0%	0.0%
\$1,000,000 +	0.0%	0.0%	0.0%
Average Home Value	\$130,795	\$113,766	\$115,978
<b>2017 Owner Occupied Housing Units by Value</b>			
Total	1,141	17,671	48,838
<\$50,000	1.1%	4.5%	5.0%
\$50,000 - \$99,999	12.7%	27.0%	26.8%
\$100,000 - \$149,999	37.6%	36.6%	36.1%
\$150,000 - \$199,999	34.5%	24.1%	23.1%
\$200,000 - \$249,999	8.9%	6.1%	5.9%
\$250,000 - \$299,999	2.8%	1.3%	1.8%
\$300,000 - \$399,999	1.8%	0.4%	0.9%
\$400,000 - \$499,999	0.4%	0.1%	0.2%
\$500,000 - \$749,999	0.2%	0.0%	0.1%
\$750,000 - \$999,999	0.0%	0.0%	0.0%
\$1,000,000 +	0.0%	0.0%	0.0%
Average Home Value	\$154,121	\$128,322	\$130,927

**Data Note:** Income represents the preceding year, expressed in current dollars. Household income includes wage and salary earnings, interest dividends, net rents, pensions, SSI and welfare payments, child support, and alimony.  
**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



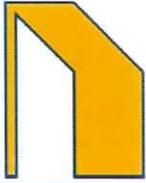
# Market Profile

99th Avenue & Encanto Boulevard  
 Avondale, Arizona  
 Ring: 5 mile radius

Prepared by James Nathan  
 Latitude: 33.471966  
 Longitude: -112.272682

	1 mile	3 miles	5 miles
<b>2010 Population by Age</b>			
Total	8,508	97,773	277,273
0 - 4	10.2%	9.5%	10.1%
5 - 9	10.1%	9.4%	9.8%
10 - 14	9.1%	9.3%	9.5%
15 - 24	19.2%	17.6%	17.4%
25 - 34	19.9%	16.4%	16.2%
35 - 44	14.9%	14.2%	14.3%
45 - 54	8.9%	11.4%	11.0%
55 - 64	4.9%	7.3%	7.0%
65 - 74	1.9%	3.3%	3.2%
75 - 84	0.6%	1.3%	1.3%
85 +	0.2%	0.3%	0.4%
18 +	65.4%	66.4%	65.1%
<b>2012 Population by Age</b>			
Total	8,831	100,169	283,646
0 - 4	10.2%	9.5%	10.1%
5 - 9	10.0%	9.3%	9.8%
10 - 14	9.0%	9.1%	9.3%
15 - 24	19.1%	17.5%	17.1%
25 - 34	20.3%	16.8%	16.5%
35 - 44	14.5%	13.9%	13.9%
45 - 54	8.7%	11.1%	10.7%
55 - 64	5.2%	7.7%	7.3%
65 - 74	2.0%	3.6%	3.5%
75 - 84	0.7%	1.3%	1.3%
85 +	0.3%	0.4%	0.4%
18 +	65.9%	67.0%	65.6%
<b>2017 Population by Age</b>			
Total	9,481	104,830	295,674
0 - 4	10.2%	9.5%	10.1%
5 - 9	10.1%	9.3%	9.8%
10 - 14	9.2%	9.2%	9.4%
15 - 24	18.1%	16.5%	16.1%
25 - 34	20.6%	17.1%	16.7%
35 - 44	14.4%	13.7%	13.7%
45 - 54	8.2%	10.3%	10.0%
55 - 64	5.6%	8.1%	7.8%
65 - 74	2.6%	4.4%	4.3%
75 - 84	0.8%	1.5%	1.5%
85 +	0.4%	0.4%	0.4%
18 +	65.8%	67.0%	65.6%
<b>2010 Population by Sex</b>			
Males	4,204	48,273	137,191
Females	4,300	49,500	140,080
<b>2012 Population by Sex</b>			
Males	4,373	49,527	140,481
Females	4,458	50,641	143,165
<b>2017 Population by Sex</b>			
Males	4,687	51,756	146,217
Females	4,793	53,073	149,458

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



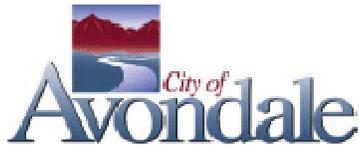
## Market Profile

99th Avenue & Encanto Boulevard  
 Avondale, Arizona  
 Ring: 5 mile radius

Prepared by James Nathan  
 Latitude: 33.471966  
 Longitude: -112.272682

	1 mile	3 miles	5 miles
<b>2010 Population by Race/Ethnicity</b>			
Total	8,505	97,773	277,271
White Alone	52.8%	54.3%	55.0%
Black Alone	11.9%	8.2%	7.9%
American Indian Alone	2.1%	1.7%	1.8%
Asian Alone	4.6%	3.0%	2.6%
Pacific Islander Alone	0.4%	0.2%	0.2%
Some Other Race Alone	22.3%	28.2%	28.3%
Two or More Races	5.9%	4.4%	4.3%
Hispanic Origin	51.7%	59.5%	61.6%
Diversity Index	85.2	84.3	83.7
<b>2012 Population by Race/Ethnicity</b>			
Total	8,832	100,169	283,647
White Alone	52.1%	53.5%	54.3%
Black Alone	12.0%	8.2%	7.9%
American Indian Alone	2.2%	1.8%	1.8%
Asian Alone	4.6%	3.1%	2.7%
Pacific Islander Alone	0.4%	0.2%	0.2%
Some Other Race Alone	22.7%	28.7%	28.6%
Two or More Races	6.0%	4.5%	4.3%
Hispanic Origin	52.4%	60.3%	62.3%
Diversity Index	85.5	84.7	84.0
<b>2017 Population by Race/Ethnicity</b>			
Total	9,481	104,828	295,676
White Alone	50.3%	51.8%	52.8%
Black Alone	12.2%	8.5%	8.2%
American Indian Alone	2.4%	2.0%	2.0%
Asian Alone	4.8%	3.3%	2.9%
Pacific Islander Alone	0.4%	0.2%	0.2%
Some Other Race Alone	23.5%	29.5%	29.4%
Two or More Races	6.3%	4.7%	4.5%
Hispanic Origin	54.4%	62.2%	64.0%
Diversity Index	86.3	85.3	84.5
<b>2010 Population by Relationship and Household Type</b>			
Total	8,504	97,773	277,271
In Households	99.9%	100.0%	99.8%
In Family Households	86.1%	90.2%	91.3%
Householder	22.5%	23.1%	22.8%
Spouse	13.9%	14.8%	14.8%
Child	39.1%	40.4%	41.5%
Other relative	6.7%	7.8%	8.1%
Nonrelative	3.9%	4.1%	4.2%
In Nonfamily Households	13.8%	9.8%	8.6%
In Group Quarters	0.1%	0.0%	0.2%
Institutionalized Population	0.0%	0.0%	0.1%
Noninstitutionalized Population	0.1%	0.0%	0.0%

**Data Note:** Persons of Hispanic Origin may be of any race. The Diversity Index measures the probability that two people from the same area will be from different race/ethnic groups.  
**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017. Esri converted Census 2000 data into 2010 geography.



# CITY COUNCIL REPORT

**SUBJECT:**

Memorandum of Understanding - Avondale  
Professional Firefighters Association

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** David Fitzhugh, Assistant City Manager 623-333-1014

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff requests the City Council approve a Memorandum of Understanding between the City of Avondale and the Avondale Professional Firefighters Association, International Association of Firefighters Local 3924, for Fiscal Years 2014-2015 and 2015-2016 and authorize the Mayor or City Manager and City Clerk to execute the appropriate documents.

**BACKGROUND:**

The City of Avondale and the Avondale Professional Firefighters Association (APFA) entered into their first Memorandum of Understanding (MOU) in May 2011. A second MOU was approved in February 2012 and amended in February 2013 to address wages only.

**DISCUSSION:**

Representatives of the APFA and management met and conferred on wages and benefits starting on November 6, 2013. Negotiations were substantially completed on January 8, 2014 resulting in a new two (2) year Memorandum of Understanding including provisions for merit based progression through their base wage step plan as well as clarifications to certain sections of the previous MOU. This MOU will be effective from July 1, 2014 through June 30, 2016. The following are substantial changes or additions to the existing MOU:

Section 4.1- Base Rate of Pay establishes the base rate of pay for the members and placement of new and promoted employees in the step plan upon successful completion of their probationary period. Members will receive a one-step (4%) merit increase for Fiscal Year 2014-15. The MOU also provides a 1.5% adjustment to the base hourly wages (steps) and a one-step merit increase in Fiscal Year 2015-16.

Section 4.8 was changed from "Guaranteed Minimum Call In" to "Call Back". The language was changed to reflect existing city policy language when called back to work after completing a regular work shift. This provision will pay for time actually worked or a minimum of two (2) hours at their base rate of pay, whichever is greater. Overtime will be paid as required by law.

Section 8.1- Sick Leave and Section 8.7 Other Leaves were modified to include a domestic partner as qualifiers for use of leave.

Section 8.3 – Sick Leave Payout for Retirement was modified to add a provision to increase the payout of sick leave up to 500 hours or 33.3% of their accrued sick leave, whichever is greater, for unit members with 10 years of continuous service who must medically retire due to a duty related injury.

Section 8.8 - Non-hazardous Duty for Pregnancy was added to the MOU. This section recognizes the unique and potentially hazardous nature of the fire service and that upon a pregnant employee's request or at the direction of her health care provider the City will place the employee on non-hazardous duty. The employee will remain on non-hazardous duty until maternity leave begins.

Section 10.1- Uniform Allowance was modified to increase the budget line item for uniform and boot allowance from \$750 per member per year to \$1,000 per member per year.

**BUDGETARY IMPACT:**

During the City Council goal setting retreat, Council established a goal for the compensation plan in the range of 3-5%. The Finance and Budget Department estimated the financial impact of this agreement to be approximately as follows:

FY 2014-15	
a. Wages:	\$236,532 (4.1%)
b. Uniform allowance increase:	<u>\$15,500</u>
Total FY 2014-2015	\$252,032

FY 2015-16	
a. Wages:	\$283,425 (4.68%)

The City Manager will include the 2014-2015 costs in his proposed 2014-2015 budget submittal to council in the near future. The proposed budget will also include a mandated minimal increase in City contributions to the Public Safety Retirement System estimated to be \$9,200 for Fire Department represented employees. This increase was not included in the negotiations but is an additional expense to be addressed in the proposed 2014-15 budget.

**RECOMMENDATION:**

Staff recommends the City Council approve a Memorandum of Understanding between the City of Avondale and the Avondale Professional Firefighters Association, International Association of Firefighters Local 3924, for Fiscal Years 2014-2015 and 2015-2016 and authorize the Mayor or City Manager and City Clerk to execute the appropriate documents

**ATTACHMENTS:**

Click to download

[APFA MOU 2014-2016](#)

# **MEMORANDUM OF UNDERSTANDING**

**JULY 2014 THROUGH JUNE 2016**

**CITY OF AVONDALE**

**AND**

**AVONDALE PROFESSIONAL FIREFIGHTERS ASSOCIATION**

**LOCAL 3924**

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## PREAMBLE

This Memorandum of Understanding is entered into between the City of Avondale and the Avondale Professional Firefighters Association, International Association of Fire Fighters, Local 3924.

WHEREAS: the parties, through their designated representatives met and conferred in good faith pursuant to Ordinance 1323-808 as approved by the Avondale Mayor and Council on August 8, 2008 to set forth within this Memorandum of Understanding the full and entire understanding of the parties mutual agreement concerning wages and hours as allowed by the Municipal Code of the City of Avondale, for employees who are represented by the Employee Organization; and

WHEREAS: the parties recognize the importance of continuing and maintaining harmonious relations, cooperation and understanding between Avondale and its employees; and

WHEREAS: the parties hereby acknowledge that the provisions of the Memorandum are not intended to and cannot abrogate the authority and responsibility of Avondale as a government entity provided for under the statues of the State of Arizona, code or ordinance of Avondale:

NOW THEREFORE, Avondale and the Employee Organization having reached this complete agreement concerning wages, hours, and benefits, as allowed by the Ordinance, for the term specified submit this Memorandum to the Mayor and the City Council of Avondale with their joint recommendation that the body adopt its terms.

**ARTICLE 1**  
**RIGHTS OF EMPLOYEES AND EMPLOYEE ORGANIZATION**

Section 1.1 Recognition & Employee Organization Rights

- A. For the duration of the Memorandum and in accordance with all applicable provisions of the City Code of Avondale, Avondale hereby recognizes the Employee Organization as the official and exclusive representative for the purpose of “Meet and Confer” and with respect to wages and hours as defined by the Ordinance, for all employees who are represented by the Employee Organization as described below:

Fire Employee Group - All full-time sworn regular, non-probationary, City firefighters, and all classifications up to and including the rank of Captain will be referred to as unit members.

- B. Employee representatives will be released from duty with full pay to participate with the City Management Team with prior notification to their supervisor.
- C. Employee representatives who participate in meetings covered by this Article at times other than their normal work shift shall not receive compensation and said hours are not considered time worked for any purpose, including computing overtime and compensatory time.

Section 1.2 Rights of Represented Employees

- A. Represented Employees are entitled to all rights as provided by the Ordinance and this Memorandum for the term of the Memorandum.
- B. The Employee Organization shall represent all of the employees in the unit fairly and equally without regard to whether or not an employee is a member of the Employee Organization. An unrepresented employee can object to Union representation if he or she desires.

Section 1.3 Membership Dues Deductions

- A. The City will maintain a payroll deduction process whereas it will deduct an amount specified in writing by the employee and transmit such amount to the Employee Organization each pay period. Such deductions shall be made only when the employee’s earnings for such pay period are sufficient after other legally required deductions are made. Under no circumstances will the City share with the Employee Organization the nature, type, or fact of other legally-required deductions for any of its Employees. The Employee Organization reserves the right during the term of this Memorandum of Understanding to increase the amount withheld for all employees as a generalized dues increase. However, any such increase will require separate and written authorization from every affected employee.

- B. The City assumes no liability on account of any actions taken pursuant to this section. The Employee Organization agrees to indemnify and hold harmless the City of Avondale against any and all claims, suits or other forms of liability arising out of its deductions from a represented employee's pay of Employee Organization membership dues. The Employee Organization assumes full responsibility for the disposition of the deductions so made, once they have been sent to the Employee Organization.
- C. Employees may initiate, discontinue or amend union payroll deductions by written authorization at any time during the term of the Memorandum of Understanding. The Employee and the Employee Organization hold the City harmless for any and all claims associated with the employee's decision to amend deductions pursuant to this Section.

**Article 2  
Management Rights**

Section 2.1 Management Rights

The City and City Manager are entitled to all rights as provided by Ordinance 1323-808 and this Memorandum for the term of the memorandum. The provisions in the Ordinance dealing with management rights are reincorporated fully here by reference.

**ARTICLE 3  
PROHIBITION OF STRIKES AND WORK INTERRUPTIONS**

Section 3.1 No Strike, No Lock-Out

Strikes, lock outs and related employment actions as defined in the Ordinance are prohibited and shall be subject to discipline as specified in the Ordinance.

**ARTICLE 4  
EMPLOYEE COMPENSATION & HOURS OF WORK**

Section 4.1 Base Rate of Pay

- A. The positions represented by this Memorandum of Understanding are Firefighter, Fire Engineer and Fire Captain. The tables in Attachment A and B list the hourly base rate of pay, excluding any specialty pay and stipends, for each step and for each of the positions covered by this agreement.
- B. Completing Original Probation, Promotional Placement and Progression through the Steps
  - a. Upon successful completion of original probationary period (their performance review Meets Standards) the unit member will receive a merit increase to step two on the first full pay period following the completion of original probation.

- b. Lateral unrepresented probationary hires that are on original probation as of July 1 of the new fiscal year will be placed in the plan in accordance with their negotiated base rate of pay at the time of hire. Upon successful completion of their original probationary period (their performance review Meets Standards) the employee will receive a one-step merit increase on the first pay period following completion of probation.
  - c. When represented members are promoted they will be placed in the nearest step in the new position without loss plus one step, if necessary, to receive a minimum of a 4% increase. Upon successful completion of probation, said employee will receive a one-step merit increase in accordance with the values of the step system table.
  - d. For Fiscal Year 2015 unit members will be eligible for a one-step merit increase effective in first pay period of the new fiscal year provided their performance rating is satisfactory (“meets standards”) and funding is available and authorized by the Avondale City Council. All merit increases are subject to council funding merit increases in the budget.
  - e. For Fiscal Year 2016, the wage plan represented in Attachment shall be adjusted by 1.5%. Represented employees will then be eligible for a one-step merit increase effective in first pay period of the new fiscal year provided their performance rating is satisfactory (“meets standards”) and funding is available and authorized by the Avondale City Council. This provision is subject to the terms found in Article 7 Fiscal Crisis.
- C. While the Avondale Professional Firefighters Association (APFA) seeks to have the pay of represented members reflect their years of service, there are other City policies and practices that impact a unit members pay. These elements are part of Management Rights and include performance ratings, initial hire placement within the range, and possible disciplinary actions. Therefore, Management cannot ensure that every represented member will, at all times, be in a step that reflects the unit member’s years of service.
- D. Management does not relinquish its Management Rights with respect to performance ratings, placement of laterals into the range or disciplinary actions, all of which may impact the placement of represented members with in the base wage rate plan.

Section 4.2 Regular Hourly Rate

A unit member’s base pay plus any specialty pay that may apply and is the rate used for the purpose of computing overtime and pension contributions as required by law.

Section 4.3 Specialty Pay

Unit members are compensated for specialty pays based on the certification of special skills as follows:

Paramedic	\$2.20 per hour
Technical Rescue	\$1.00 per hour

#### Section 4.4 Stipend

Bi-Lingual Level III Pay: \$230 per month paid over 26 pay periods (bi-weekly) except in a Leap Year

#### Section 4.5 Fixed Merit Award

If, during the term of this MOU, a unit member's Rate of Pay is equal to or greater than the Maximum Pay Range listed in section 4.1, the City will issue a merit award as an amount granted by this contract less applicable deductions provided their performance rating is satisfactory ("meets standards"). This merit award is not subject to applicable rules under FLSA, as it is not for wages earned. Payment will be made in July of the new fiscal year. In those years where market or cost of living adjustments are provided, merit awards will not be granted to employees.

The fixed merit awards are as follows:

Captain: \$2500

Engineer: \$2250

Firefighter: \$2000

#### Section 4.6 Set Work Schedule

City Government reserves the right to establish work periods for sworn firefighters. The City has established a 14-day work period for unit members working 24 or 48 hours shifts commonly called a 56-hour work week. The set schedule of duty hours for unit members consists of rotating 48 hours on duty and 96 off duty, resulting in three different work periods which consists of 96 hours for period 1, 120 hours for period 2, and 120 hours for period 3.

#### Section 4.7 Overtime

Overtime calculations will be determined based upon the set schedule for the 14-day work period. The Fair Labor Standards Act (FLSA) guarantees that unit members working the 24 or 48 hour shift arrangement described above will be compensated at 1.5 times their Regular Hourly Rate of pay for regularly scheduled hours worked over 106 hours.

Vacation, Sick Leave, Civic Duty and Bereavement Leave hours taken in a 14-day work period shall not count as hours worked for the purposes of overtime except when the hours taken are needed to fulfill the employee's 120 hour work period.

The special work periods and overtime rules are only for employees who meet the statutory definition of "employees in fire protection activities", who are trained in fire suppression, have the legal authority and responsibility to engage in fire suppression and are employed by the City's fire department.

#### Section 4.8 Call-Back

- A. Definition: "Callback" means when a unit member has left the work site and is requested to respond on short notice, (either by returning to work or via telephone/computer) to a work situation to:
  - a. Avoid significant service disruption;
  - b. Avoid placing employees or the public in unsafe situations;
  - c. Protect and/or provide emergency services to people, property and/or equipment;
  - d. Respond to emergencies.
  
- B. Callback Pay Rate
  - a. When a unit member is called back to work after completing the regular work schedule and leaving the premises, the unit member shall be paid for time actually worked upon return or a minimum of two (2) hours at their regular or base rate of pay, whichever is greater.

Section 4.9 Move-Up Pay

A unit member will receive additional compensation for working a minimum of 12 hours to fill a position of a higher rank. To be eligible for Move-Up positions and Move-Up\_Pay, the member must have successfully completed the department's Move-Up requirements within department policy for the position and maintain certification by completing the required continuing training requirements. The unit member will be paid an additional amount of their regular hourly rate of pay for time spent in a Move-Up capacity in accordance with the chart below. Move-Up Pay and status to the position of Battalion Chief shall not in any case extend beyond more than thirty days.

Move up pay percentage of increase to hourly rate will be determined by the member's rank and the position they are filling, according to the following table:

<u>Rank</u>	<u>Assignment</u>	<u>Increase</u>
Firefighter	Engineer	5%
Firefighter	Captain	10%
Engineer	Captain	5%
Captain	Battalion Chief	5%

If any unit member is placed on administrative leave or medical leave while in a Move-Up Pay capacity, the unit member shall not receive the Move-Up Pay until they are approved to return to full-duty status and resume the duties of the assigned position, if a need still remains.

Section 4.10 56 to 40-Hour Positions

A unit member assigned to a 40-hour position for one year or less will not have his or her leave accruals adjusted and will not be granted a Holiday Bank. Vacation and sick leave accruals will remain at the 56 hour accrual rate, which includes holiday leave. This unit member will be treated as if he or she was still on the 56 hour schedule. Vacation and sick leave will be charged using the 1.4 conversion (1.4 hours charged for each 1.0 hour used).

A unit member assigned to a 40-hour position for more than one year will be assigned an appropriate Holiday Bank. The unit member's vacation and sick leave accrual rates will be adjusted to the 40-hour rates, and usage will be charged as actual hours used. Unit members leave balances will not be adjusted during moves to and from 40-hour positions.

A unit member assigned to a 40-hour position will have their pay adjusted according to the conversion formula described below:

56 to 40 hour conversion factor:

1. 56 base hourly rate minus any specialty pay ( if applicable)
2. Base hourly rate X conversion factor of 1.4375
3. Add back in assignment differential pay (10% BLS or 12% ALS)
4. Add back \$1.00 for TRT pay if applicable
5. Add back in adjustment for paramedic pay if applicable of \$2.20

40 to 56 hour conversion factor:

The conversion of 40 to 56 hour will be accomplished by placing the unit member in their appropriate step and restoring their specialty pays and 56-hour leave accrual rates.

Section 4.11 On Call Status

A. A 40 hour employee on call-out status will be compensated at two (2) dollars per hour. These hours begin after the completion of the employee's scheduled workday and continue until resuming work the following workday.

a. Reporting Pay

If a 40 hour employee on call-out status is requested to and does report to work at the designated work location in a timely fashion but no work is available upon arrival, that employee will be paid a minimum of two (2) hours at their regular hourly rate and sent home.

b. Time Worked

Employees will not receive "call-out" pay for time worked.

c. Overtime

Only hours actually worked (over 40 hours in a workweek) will be included in the computation of overtime unless otherwise specified in these policies.

d. No Call-Out Pay

Employees will not receive call-out pay when they are:

- On vacation leave
- On sick leave
- On Administrative Leave
- Receiving short-term disability benefits
- Receiving worker's compensation benefits
- On bereavement leave

- On an approved leave of absence
- Not available to work
- Restricted to light duty
- Restricted from performing specific work activities

B. Criteria

Criteria for call-out pay status must meet the following:

- a. Thoroughly check the working status of the pager or cell phone before “call-out” status begins and maintains it in operational mode at all times;
- b. When notified by pager must respond and arrive at work within one (1) hour or less;
- c. Must arrive fully capable of performing the functions of the job;
- d. If an employee does not meet the criteria as defined above, he/she will forfeit the “call-out” pay from the time of the first attempt to contact him/her to the end of the “call-out” period.
- e. Each employee will be responsible for completing a time sheet card documenting each time he/she is on “call” and forward to his/her supervisor to approve the “call-out” time. Time sheet cards must be submitted to the supervisor by Monday morning of each week.

**ARTICLE 5  
ABSENT WITH RELIEF**

Section 5.1 Absent With Relief

“Absent with Relief” (AWR) is the practice of individual Firefighters working another individual firefighter’s scheduled shift. The Fire Department through its Employee Involvement Process may establish standards of assessing equal qualifications, timelines and other rules for requesting AWR. However, the practice of using AWR cannot be eliminated.

The City is not responsible for AWR repayment or any disputes that arise between individual Firefighters. The Employee Organization also agrees not to adopt any policy that provides an employee with any undue compensation that may be considered a gift of City funds.

**ARTICLE 6  
EXISTING BENEFITS**

Section 6.1 Existing Benefits

Health Care Benefits are excluded by the Ordinance from negotiations. However, such benefits will be provided to Firefighters identical to Health Care Benefits provided to every other City employee. Other benefits not specifically articulated within this MOU are also provided identical to those provided to every other City employee, unless specified by law.

**ARTICLE 7  
FISCAL CRISIS**

Section 7.1 Fiscal Crisis

- A. In the event that during the term of this Memorandum of Understanding the City of Avondale experiences loss of revenues or legal requirements that if not resolved during the budget year would result in a fiscal crisis, this Memorandum of Understanding may be reopened at the direction of City Council or City Manager. The City and City Manager retain all rights granted by the City Charter and City Code. Nothing in this section of the MOU constitutes a merit system regulation as discussed in the City Charter.
  
- B. If the City Manager or Council determines that a mid-year reduction in force or reduction in pay affecting Firefighters Employee Group is necessary due to a Fiscal Crisis then the City Manager will promptly give notice to the Employee Group(s). The City Manager shall give notice in a manner which, considering all of the circumstances then existing, gives the Employee Group(s) reasonable opportunity to provide comments to the City Manager before the City Manager makes a recommendation or gives advice to the Council regarding the proposed mid-year reduction in force or pay. A reduction in force will be implemented in reverse order of unit members' length of active career service in the Fire Department. Any unit member affected by layoff through no fault of his/her own will be eligible for re-employment and will be afforded the opportunity to return to work in order of length of active career service, before new represented employees are hired, as long as the returning unit member meets minimum job classification requirements at time of re-hire.

**ARTICLE 8  
BENEFITS**

Section 8.1 - Sick Leave

Sick leave is an approved period of absence granted to an employee due to:

- 1. Illness, injury or other medical condition which renders the employee unable to perform the essential duties of the position;
  
- 2. Illness, injury, medical condition evaluation procedure or treatment by a licensed health care practitioner, of an employee's immediate family member. For the purpose of this section, immediate family member shall be defined as a husband, wife, domestic partner, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law sister-in-law, grandparent or grandchild of an employee, step-child, a child whose adoption is in process or other legal dependents.

Unit members working a 56-hour work week will accrue sick leave at 5.18 hours per bi-weekly pay period. Sick leave hours shall accrue without a limit.

When unit member is promoted, demoted or transferred, he or she shall retain all accrued sick leave. Unit members will be compensated upon resignation 33.3% of accrued sick leave paid at the member's regular hourly rate of pay.

Section 8.2 – Sick Leave Conversion

Any unit member who has accumulated over 672 hours of sick leave can exchange three hours of sick leave for one hour of vacation leave to coincide with MOU Section 8.5 Vacation sell back policy dates.

Section 8.3 – Sick Leave Pay Out for Retirement

Unit members who voluntarily retire with 10 years of continuous service with the City will receive 100% of his or her accrued sick leave up to 250 hours at the member's regular hourly rate or 33.3% of the total balance of accrued sick leave, whichever is greater.

Unit members with 10 years of continuous service with the City who take a medical retirement due to duty-related injury will receive 100% of the member's accrued sick leave up to 500 hours at the member's regular hourly rate or 33.3% of the total balance of accrued sick leave, whichever is greater.

Unit members with 20 years of continuous service with the City will receive 100% of his or her accrued sick leave up to 500 hours at the member's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.

Section 8.4 - Vacation Accruals

Full-time sworn firefighters working a scheduled 56-hour work week will accrue vacation as follows:

0 to 5 years	10.28 hours per pay period
5 to 10 years	11.20 hours per pay period
10 to 15 years	12.12 hours per pay period
15 years +	13.05 hours per pay period

Sworn firefighters working a set schedule 56-hour work week shall have a maximum accrual of vacation time of 336 hours. Vacation leave accumulated in excess of 336 hours as of the last day of the last pay period in the calendar year shall be forfeited, unless the City Manager authorizes an exception. Requests for an exception must be processed through Human Resources and include a plan to use the excess hours in the following calendar year.

Section 8.5 - Vacation Sell Back

Unit members are permitted to sell back vacation at the member's regular hourly rate of pay twice annually in May and November. Members desiring to sell back vacation must submit the appropriate form by the last administrative work day of April and or October. Vacation sell back checks will be issued in the last pay period of May and November. Eligible employees that wish to sell back vacation will submit a request to the department director on the "sell back form" located on the intranet. The department director will determine if their department is able to financially

support the request. If the department's budget only can support a limited number of employees to receive the sell back; the department director will use seniority to determine their approval or denial of the request for sell back of vacation and finally submitted to Human Resources/Payroll for final approval and payment.

A unit member must have a balance of 96 hours within their vacation bank to sell back. Vacation sell back is subject to the overall financial condition of the City as determined by the City Manager. The vacation accrual cap will be waived for one year for a unit member who was denied vacation sell back due to fiscal constraints of the City and denied the use of vacation leave due to staffing limitations.

#### Section 8.6 Vacation Leave Payout

Unit members who terminate their employment with the City will be entitled to compensation for their earned and unused vacation leave at their regular rate of pay for up to a maximum accrual of 240 hours for eligible employees assigned to a 40 hour per week schedule and 336 for sworn firefighters assigned to a 56 hour per week shift assignment.

#### Section 8.7 Contribution to Deferred Contribution

##### Deferred Contribution Plans

- A. The City of Avondale shall contribute an amount of \$20.00 per pay period to each employee's 457 Defined Contribution Pension Plan. In order to receive a \$20 per pay period contribution from the City of Avondale, the employee is required to make a minimum of \$20 per pay period contribution to the plan.
- B. At the employee's separation, exiting the Deferred Retirement Options Program, or not making the minimum \$20 contribution, the City of Avondale's contribution will cease.

#### Section 8.8 Other Leaves

- A. Bereavement Leave  
Bereavement leave is defined in the City's Personnel Policies. Unit members receive 56 hours of bereavement leave for immediate family members including domestic partners. Unit members receive 11 hours of bereavement leave for the unit member's uncle, aunt or cousin. Bereavement leave shall count as hours worked for the purposes of calculating overtime when needed to fulfill the employees set schedule.
- B. Military Leave  
Unit members that are or may become members of the National Guard or the Military Reserves shall receive all the benefits provided for by USERRA and all other applicable federal and state laws. The unit member shall provide the orders or authorization from the U.S. Armed Forces, National Guard or Military Reserves to the Human Resources Department prior to departure for

military leave. As to compensation, the unit member will receive paid military leave not to exceed 336 hours in any two consecutive years.

C. Civic Duty Leave

A unit member shall receive civic duty leave with pay while serving as a juror, complying with a subpoena, and voting. Except for voting pursuant to ARIZ. REV. STAT. § 16-401 (primary elections) or ARIZ. REV. STAT. § 16-402, (general elections) as amended, an employee granted civic duty leave shall report for work whenever the employee's presence is not required for the civic duty.

D. General Election Day

The bi-annual general election day (the first Tuesday following the first Monday in November of every even-numbered year) is not a legal holiday. However, every public officer or employee is entitled to have adequate time to vote as set forth in ARIZ. REV. STAT. § 16-402, as amended. Arrangements must be made with the supervisor prior to general Election Day and the supervisor may determine which hours are more suitable in accordance with the needs of the department.

E. Appearance as a Witness

A unit member who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with paid civic duty leave unless the testimony or evidence to be given relates to the employee's own personal business.

F. Jury and Witness Fees

Unit members who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any payment received to the City Finance and Budget Department, except for mileage allowance or meals.

Section 8.9 Non-hazardous Duty for Pregnancy

- A. The City will offer non-hazardous duty for pregnancy from the time the pregnant unit member provides written notification from a health care provider of the pregnancy. The written notification will be provided to the Human Resources Department. At the pregnant unit member's request or at the direction of her attending health care provider, the affected pregnant unit member will be placed on non-hazardous duty. The pregnant unit member will be on non-hazardous duty from the time of her acceptance of such duty until maternity leave begins.
- B. Non-hazardous duty shall mean an assignment within the City in which the pregnant employee will not be exposed to blood borne or airborne pathogens, hazardous materials, products of combustion, or arduous physical labor. The Human Resources Department will work with the Fire Chief to provide non-hazardous duty within the Fire Department. If non-hazardous duty is not available within the Fire Department then the Human Resources Department will provide the pregnant unit member with a non-hazardous duty assignment within the City.
- C. The pregnant unit member shall be paid at their conversion pay rate for hours worked in a forty hour work week subject to the 56 to 40 conversion factor in Section 4.10 at the beginning of a pay period. When an employee is assigned non-hazardous duty time accrued and charged shall

be subject the conversion factor between suppression (56 hour) and non-suppression (40 hour) personnel. Acceptance of non-hazardous duty shall not result in an adverse effect on time in service, or ability to promote. Prior to returning to work, a unit member must present a statement to the Human Resources Department from her physician indicating that she is physically able to return to work without limitation. At the time that the unit member returns to work without limitation she will be paid at the 40 to 56 conversion factor starting at the beginning of a pay period.

D. Definition and Examples of Hazardous Duty:

- a. Hazardous duty is duty performed under circumstances in which an accident could result in serious injury or death. Duty involving a physical hardship is duty that may not in itself be hazardous, but causes extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices.
- b. Examples of Hazardous Duty (this list is not all inclusive):
  - Exposures to poison, flammable material, explosive gases, chemicals, radioactive materials, smoke, (toxicity)
  - Biological Hazard (Air or Blood borne Pathogens)
  - Equipment, axes, chainsaws, ladders, etc. (machinery safety)
  - Exposure to treacherous environments that could cause falls, trips and slips
  - Traffic Hazards
  - Heat Related Illness, (from firefighter gear; can be excessively hot and heavy)
  - Falling objects (Walls and ceilings giving way)
  - Performing Continuous Cardio Pulmonary Resuscitation (CCPR)
  - Psychological Hazards (traumatic and stressful events)
  - Charged Hoses
  - Natural Hazards (swift water rescues, mountain rescues, wild land fires, etc.)
  - Physical Labor (pulling hoses, extricating victims, climbing, crawling, lifting heavy objects)

## **ARTICLE 9**

### **MEDICAL AND PHYSICAL FITNESS EXAMINATIONS**

#### Section 9.1 Fitness Examinations

- A. During the term of this Memorandum of Understanding the Fire Department will schedule members for a medical and physical fitness evaluation yearly. The medical and physical fitness evaluation will be of the same design and quality as the product which is in place through the Phoenix Fire Department's Health Center in June 2010 and in keeping with the intent of the National Fire Protection Association 1582. Disputes as to the equivalency will be determined by the Fire Chief.
- B. If during the mandatory annual physical exam and testing, a unit member is restricted from full duty for further evaluation, the unit member will be offered the option of working light duty or

using sick leave until returned to full duty. The unit member must be cleared for the light duty assignment by the physician. The Chief shall consult with Human Resources to determine the applicability of the light duty assignment. If the assessment concludes that the unit member is not qualified to perform the essential functions of his/her job, the Chief shall consult with Human Resources to determine the applicability of the Family Medical Leave Act and/or American with Disabilities Act.

#### Section 9.2 Records Storage

The tiered health assessment results are for the unit members' benefit and cannot be used for any other purposes. The Employee Involvement Process may continue to discuss this tool. Details of the medical examination will be considered confidential and will not be released to the Fire Department without the express written approval of the patient. The Fire Department will not intimidate, threaten, or take any disciplinary action against a unit member who refuses to release his medical records. This prohibition does not apply to the Medical Physical Fitness Examination summary report or the information required by the Retirement Board.

### **ARTICLE 10 UNIFORMS, CLOTHING AND EQUIPMENT**

#### Section 10.1 Uniform Allowance

The Fire Department has a budget line item that provides \$1,000.00 allowance per member per year for uniform, boots, and incidentals. Clothing damaged while on duty will be replaced on a one-for-one basis.

### **ARTICLE 11 LABOR MANAGEMENT COMMITTEE Employee Involvement Process (EIP)**

#### Section 11.1 Purpose and Governance of Committee

There shall be an internal Fire Department Labor Management Committee established with five elected executive board members from the IAFF, Local 3924 and five administrative members appointed by the Fire Chief. The purpose of the Committee is to facilitate positive labor-management relationships by providing a forum for the free discussion of mutual concerns and problems. The Fire Labor Management Committee is not an arm of the City Council, nor a public body or committee created by the City Council and shall not report to the City Council.

The Committee will operate from the governing documents and policies in effect as of January 1, 2011. The Committee shall meet at mutually scheduled times.

Executive board members will not be paid for off duty time spent performing labor/management activities, but will be detailed out for such activities.

Section 11.2 Retreat Funds

Funds for the annual EIP labor/management retreat (\$7,380.00 and the awards banquet \$5,000 are in the Fire Department budget). Funds can only be re-allocated by mutual agreement of APFA Local's President and Fire Chief. No other City department will be allowed to use these funds. Expenditure of City funds for these functions shall not exceed \$7,380 for the annual labor management retreat and \$5,000 for the annual award banquet unless approved through the City's budget supplemental request process.

**ARTICLE 12  
HUMAN RESOURCES LIAISON**

Section 12.1 Human Resources Liaison

The Human Resources Department will endeavor to train its employees on the unique schedules and compensation variables including the Fair Labor Standards Act as it relates to Firefighters and the Telestaff scheduling system.

As often as is practical or necessary, Human Resources will schedule meetings with the Fire Department Management, the City Manager's Office, and the Local President or his designee to discuss issues unique to the department including issues arising from this Memorandum of Understanding.

**ARTICLE 13  
CLARIFICATION**

Section 13.1 Clarification

In the event a dispute over the interpretation of any segment of this MOU arises, as a prelude to filing a formal breach of the MOU, as outlined in Article 14, the Local President and the City Manager or designee will meet with the goal of developing a mutually agreeable clarification. Once agreed upon, the clarification will be signed by both parties and become an informational attachment to the MOU.

**ARTICLE 14  
PROCEDURE FOR ALLEGED BREACH OF MOU**

Section 14.1 Procedure

- A. Before initiating the appeal process, a unit member will first discuss and try to resolve the potential appeal matter with the first level non-unit supervisor/manager. An appeal shall specify the article and section of the MOU that is alleged to be violated and the specific remedy that is requested.

- B. If the alleged breach is not resolved within ten (10) days, a written allegation of the alleged breach may be filed with the immediate supervisor, with a copy to the Director of Human Resources. The alleged breach must be timely submitted and contain at a minimum the specific provisions of the MOU that are alleged to have been violated with facts constituting the alleged violation(s) and relief sought.
- C. If after ten (10) days from the date the alleged breach was filed with the immediate supervisor the alleged breach is not resolved, the alleged breach may be filed with the Fire Chief. The Fire Chief or his designee shall schedule a meeting in an attempt to resolve the alleged breach no later than ten (10) days following receipt of the written alleged breach. Each party may bring documents and/or witnesses (at the expense of the Party bringing the witness to the meeting) in order to present evidence on their behalf. Each party shall have the right to cross-examine the witness brought by the other party.
- D. The Fire Chief or his designee will have ten (10) days to render a decision. If the alleged breach is not resolved with the Fire Chief's decision, the alleged breach will be submitted to the City Manager or his designee.
- E. The City Manager and the President of the local union will jointly request fact-finding or mediation to resolve the alleged breach. The City Manager or designee shall submit a written response within ten (10) days following the receipt of the mediator's decision. The City Manager's decision shall be final. The parties can mutually waive all time frames listed above.
- F. The City and City Manager retain all rights granted by the City Charter and City Code. Nothing in this section of the MOU constitutes a merit system regulation as discussed in the City Charter.

**ARTICLE 15  
SAVINGS CLAUSE**

Section 15.1 Savings

If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

**ARTICLE 16  
TERM AND EFFECT**

Section 16.1 Term

This Memorandum shall become effective 12:01 a.m. July 1, 2014 and remain in full force and effect until midnight June 30, 2016, in accordance with the provisions of the City Code Chapter 2 Article II, unless an intervening financial crisis or other such matter (specifically provided for in this MOU) should occur.

Section 16.2 Conflict

In the event there is a conflict, priority shall be given in the following order: the Ordinance, the Memorandum, the Personnel Rules, and Fire Department Operating Procedures.

Section 16.3 Agreement and Reopener

This Memorandum constitutes the total and entire agreement between the parties and no verbal statement shall supersede any of its provisions. Only by mutual consent of both parties may this agreement be reopened, with the exception of conditions outlined in Article 7 Fiscal Crisis.

IN WITNESS WHEREOF, the parties have set their hand this \_\_\_\_ day of \_\_\_\_\_ 2014.

CITY OF AVONDALE

AVONDALE PROFESSIONAL  
FIREFIGHTERS ASSOCIATION,  
IAFF LOCAL 3924

By:

By:

\_\_\_\_\_  
Charlie McClendon, City Manager

\_\_\_\_\_  
Ryan Tussing, Vice President

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

# ATTACHMENT “A”

## Wage Tables

Fiscal Year 2014-2015

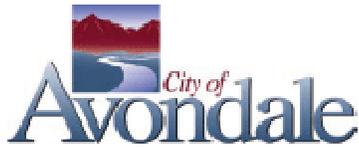
Increment	Fire Fighter	Fire Engineer	Captain
Step 1 – Minimum	\$14.90	\$18.32	\$21.64
Step 2	\$15.50	\$19.05	\$22.51
Step 3	\$16.12	\$19.81	\$23.41
Step 4	\$16.76	\$20.60	\$24.35
Step 5	\$17.43	\$21.42	\$25.32
Step 6	\$18.13	\$22.28	\$26.33
Step 7	\$18.86	\$23.17	\$27.38
Step 8	\$19.61	\$24.10	\$28.48
Step 9	\$20.39	\$25.06	\$29.62
Step 10	\$21.21	\$26.06	\$30.80

# ATTACHMENT “B”

## Wage Tables

Fiscal Year 2015-2016

Increment	Fire Fighter	Fire Engineer	Captain
Step 1 – Minimum	\$15.12	\$18.59	\$21.96
Step 2	\$15.73	\$19.34	\$22.84
Step 3	\$16.36	\$20.11	\$23.75
Step 4	\$17.01	\$20.91	\$24.70
Step 5	\$17.69	\$21.75	\$25.69
Step 6	\$18.40	\$22.62	\$26.72
Step 7	\$19.14	\$23.52	\$27.79
Step 8	\$19.91	\$24.46	\$28.90
Step 9	\$20.71	\$25.44	\$30.06
Step 10	\$21.54	\$26.46	\$31.26



# CITY COUNCIL REPORT

**SUBJECT:**

Rate Analysis for the Water, Wastewater and Sanitation Enterprise Funds

**MEETING DATE:**

January 21, 2014

**TO:** Mayor and Council

**FROM:** Kevin Artz

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is providing information to Council regarding the rate analysis for the water, wastewater and sanitation enterprise funds.

**BACKGROUND:**

In the fall of each year, staff updates the rate models for each of the City's utility funds. The City has not increased utility rates since 2009.

In April 2013, staff presented the Fiscal Year 2013-2014 Capital Improvement Plan, and identified a funding deficiency for wastewater capital projects, resulting in a need for sewer revenue bonds, which would then impact the sewer operating fund and require a rate increase. At the time, staff identified a need to increase revenue by 12%, and the rate increase could be spread over several years (3-4% per year). Staff proposed that a rate analysis be completed toward the end of 2013, and presented to Council.

On September 16, 2013, staff presented an update on the wastewater master plan and indicated the report should be completed by August 2014. The master plan update will evaluate loadings, capacities, processes, possible alternatives and recommend capital projects to address any deficiencies. It is likely the update will modify projects in the current capital improvement plan.

**DISCUSSION:**

Staff has performed the preliminary rate analysis and determined that rates for water and sanitation are adequate to cover costs in those funds for the next year.

For the sewer fund, staff recommends the wastewater master plan update be completed prior to implementation of any rate adjustment. This will allow specific cost factors for capital projects to be used to determine revenue adjustments (if necessary). Current rates in wastewater are adequate to recover the operating costs over the next year.

As the current rates in the enterprise utility funds are adequate to meet on-going operating needs in the current year, and as the updated capital requirements for wastewater are unknown, staff believes that it is appropriate to wait until 2015, before adjusting wastewater rates. In the fall of 2014, staff will evaluate the rates for all of the utility funds.

Staff recommends no rate adjustments for water, wastewater, and sanitation for 2014, and to analyze wastewater rate requirements once the waste watermaster plan update is completed.

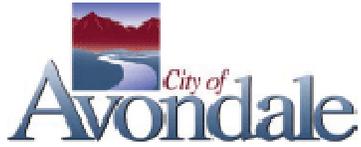
**RECOMMENDATION:**

For information, discussion and direction.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**  
EXECUTIVE SESSION

**MEETING DATE:**  
January 21, 2014

**TO:** Mayor and Council  
**FROM:** Andrew McGuire, City Attorney (602) 257-7664  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The Council may hold an executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding the breach of a lease agreement for City Center property.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available