

City Council Meeting Notice & Agenda



Tuesday, January 22, 2013
City Council Chamber
8401 West Monroe Street
Peoria, AZ 85345

Special Meeting & Study Session

5:00 P.M. Convene

Roll Call

Final Call To Submit Speaker Request Forms

Consent Agenda

CONSENT AGENDA: All items listed with a “C” are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Consent

1C. Authorization to Hold an Executive Session

Pursuant to A.R.S. § 38-431.03.A.5: Discussion and possible action to authorize the holding of an Executive Session for the purpose of: (a) Discussion and consultation with legal counsel and designated representatives of the public body pertaining to labor negotiations; and (b) Discussion of records exempt by law from public inspection regarding campus security.

Study Session Agenda

Subject(s) for Discussion Only

2. 2013 Labor Negotiations

Mayor
Bob Barrett

Acacia
District
Tony Rivero,
Vice Mayor

Ironwood
District
Bill Patena

Mesquite
District
Cathy Carlat

Palo Verde
District
Ron Aames

Pine
District
Carlo Leone

Willow
District
Jon Edwards

Call To The Public (Non-Agenda Items)

If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Adjournment

Executive Session

**Convene immediately following Special City Council Meeting
Executive Room, City Council Chamber**

Under the provisions of A.R.S. § 38-431.02 there will be a **CLOSED EXECUTIVE SESSION**.

Executive Session Agenda

3. Discussion and consultation with legal counsel and designated representatives of the public body pertaining to labor negotiations. (Pursuant to A.R.S. § 38-431.03.A.5)
4. Discussion of records exempt by law from public inspection regarding campus security. (Pursuant to A.R.S. § 38-431.03.A.2)

Adjournment

The above-named Public Body of the City of Peoria, Arizona will convene into Executive Session pursuant to A.R.S. § 38-431.03 for those items listed on the agenda. Only those persons who are:

- Members of the Public Body, or
- Officers of the City that are required to attend, or
- Those individuals whose presence is reasonably necessary for the Public Body to carry out its Executive Session responsibilities as determined by the City Attorney may be present during the Executive Session.

All persons who remain present during the Executive Session are reminded that the business conducted in Executive Session, including all discussion taking place herein, is confidential and may not be disclosed to any person, except as permitted by law.

Regular Meeting

7:00 P.M. Convene

Pledge of Allegiance Roll Call

Final Call To Submit Speaker Request Forms

Presentation

5. Certificates of Appointment to the following Board and Commission members who were appointed by Resolution at the January 8, 2013 City Council meeting:
 - George Johnson appointed to the Citizens Commission on Salaries for Elected City Officials,
 - George Johnson appointed to the Public Safety Personnel Retirement System - Fire,
 - George Johnson appointed to the Public Safety Personnel Retirement System - Police,
 - William Schindler appointed to the Industrial Development Authority, and
 - William Conner appointed to the Parks and Recreation Board.
6. Bioinspire Update

Consent Agenda

CONSENT AGENDA: All items listed with a "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Consent

7C. Minutes

Discussion and possible action to approve the January 8, 2013 City Council meeting minutes.

8C. Appointments, Boards and Commissions

Discussion and possible action to approve the recommendation from the Council Subcommittee on Policy and Appointments pertaining to the following appointments, and adopt the Resolutions as presented:

Adopt **RES. 2013-13** appointing Matthew Johnson, as an alternate member, to the Personnel Board, and

Adopt **RES. 2013-14** appointing Shawn Hutchinson, as a regular member, to the Planning and Zoning Commission.

9C. **License Agreement, Housing Authority of Maricopa County, Parking, Municipal Operations Center**

Discussion and possible action to enter into a License Agreement with the Housing Authority of Maricopa County to provide parking for six county-owned vehicles at the Municipal Operations Center.

10C. **Council Policy, Development Services User Fees Cost Recovery Policy**

Discussion and possible action to adopt the Development Services User Fees Cost Recovery Policy which establishes a set procedure for reviewing and adjusting fees and identifies cost recovery targets and pricing policy considerations.

Regular Agenda

New Business

11R. **PUBLIC HEARING - Liquor License, Young Brothers Pizza, Located at 8996 West Union Hills Drive Suite 105**

PUBLIC HEARING: RE: A New Restaurant Liquor License (Series 12) for Young Brothers Pizza, located at 8996 West Union Hills Drive Suite 105, Abedin Ollomani, Applicant, LL#20007031.

Staff Report:

Open Public Hearing:

Public Comment:

Close Public Hearing:

COUNCIL ACTION: Discussion and possible action to recommend approval to the State Liquor Board for a New Restaurant Liquor License (Series 12) for Young Brothers Pizza, located at 8996 West Union Hills Drive Suite 105, Abedin Ollomani, Applicant, LL#20007031.

12R. **PUBLIC HEARING - General Plan Amendment, Land Use Map, Cholla Hills, State Route 74 and Old Lake Pleasant Road**

PUBLIC HEARING: RE: A request to amend the General Plan Land Use Map by re-designating approximately 23 gross acres located northwest of State Route 74 and Old Lake Pleasant Road from Residential Estate 0-2 du/ac to Neighborhood Commercial.

Staff Report:
Open Public Hearing:
Public Comment:
Close Public Hearing:

COUNCIL ACTION: Discussion and possible action to concur with the Planning and Zoning Commission's recommendation and adopt **RES. 2013-15** approving an amendment to the General Plan Land Use Map by re-designating a site encompassing approximately 23 gross acres, located northwest of State Route 74 and Old Lake Pleasant Road from Residential Estate 0-2 du/ac to Neighborhood Commercial (GPA 11-0010).

13R. **PUBLIC HEARING - Rezoning & Major Planned Area Development Amendment, Cholla Hills, State Route 74 and Old Lake Pleasant Road**

PUBLIC HEARING: RE: A request to amend the existing Estates at Lakeside Planned Area Development and rezone an additional 244 gross acres located northwest of State Route 74 and Old Lake Pleasant Road increasing the overall project area and renaming it to Cholla Hills Planned Area Development.

Staff Report:
Open Public Hearing:
Public Comment:
Close Public Hearing:

COUNCIL ACTION: Discussion and possible action to concur with the Planning and Zoning Commission's recommendation and adopt **ORD. 2013-02** approving an amendment to the existing Estates at Lakeside Planned Area Development and rezone an additional 244 gross acres located northwest of State Route 74 and Old Lake Pleasant Road increasing the overall project area and renaming it Cholla Hills Planned Area Development. (Z 98-03A.1).

14R. **Ground Lease, Peoria Sports Park, LLC**

Discussion and possible action to authorize the City Manager to enter into a Ground Lease with Peoria Sports Park, LLC for development of the mixed-use redevelopment project.

15R. **Electronic Digital Billboard Civic Engagement Results**

Discussion and possible action to provide direction to staff related to the digital billboard civic engagement process.

Call To The Public (Non-Agenda Items)

If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from City Manager

16. **Council Calendar**
17. **Reports with Presentation**
 - A. Pioneer Community Park Public Art
 - B. School Safety Procedures
 - C. Legislative Briefing - Arizona 51st Legislature – 1st Regular Session
18. **Informational (The following items are included for informational purposes only. There will be no separate discussion of these items unless a Councilmember so requests.)**
 - A. Parks, Recreation, Open Space and Trails Master Plan Update (PROST)
 - B. 2013 PACE Conference
 - C. Credentialed Manager Designation - Julie Ayers, Human Resources Director

Reports from City Council Reports from the Mayor

Adjournment

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

Accommodations for Individuals with Disabilities. Alternative format materials, sign language interpretation and assistive listening devices are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Peoria, Arizona 85345 - Phone: (623)773-7340 or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request. The City has a TDD line where accommodations may be requested at: (623)773-7221.

PUBLIC NOTICE:

In addition to the City Council members noted above, one or more members of the City of Peoria Boards and Commissions may be present to observe the City Council meeting as noticed on this agenda.

Mayor
Bob Barrett

Acacia
District
Tony Rivero,
Vice Mayor

Ironwood
District
Bill Patena

Mesquite
District
Cathy Carlat

Palo Verde
District
Ron Aames

Pine
District
Carlo Leone

Willow
District
Jon Edwards

City Council Meeting Agenda
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City Council Meetings can be viewed live on Channel 11 (Cox Cable) and are available for viewing on demand at <http://www.peoriaaz.gov/content2.aspx?id=2151>.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 2

Date Prepared: January 16, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager

FROM: Julie Ayers, Human Resources Director

THROUGH: Susan Thorpe, Deputy City Manager

SUBJECT: 2013 Labor Negotiations

Purpose:

This study session is to provide the Mayor and Council with an overview of the negotiations process, review legal considerations and discuss the concepts behind interest-based bargaining.

Background/Summary:

The City of Peoria currently recognizes four (4) employee organizations:

- PPOA – Peoria Police Officer’s Association
- COPPS – City of Peoria Police Supervisor’s Association
- PFFA – Peoria Fire Fighters Association
- AFSCME – American Federation of State, County & Municipal Employees

In the State of Arizona, we use a process referred to as “meet and confer”. There are no state laws regarding meet and confer, rather each local government agency decides whether or not to allow for meet and confer, and if so, they establish their own policies related to employee organizations, which we refer to as “unions”.

The City of Peoria meet and confer process is established in Chapter 19 – Personnel of the City Code. It authorizes representatives of employee organizations to meet and confer with the City regarding wages, hours and working conditions. The result of negotiations results in a tentative agreement between labor and management. This becomes a written Memorandum of Understanding (MOU). This MOU is presented to the labor group for ratification, then approval by the Peoria City Council. The MOU is negotiated to be in effect for one or more fiscal years. All four of our existing MOU’s expire June 30, 2013.

Previous Actions: None

Options: None

Staff's Recommendation: None

Fiscal Analysis: N/A

Narrative: None

Exhibit(s): None

Contact Name and Number: Julie Ayers, Human Resources Director 623-773-7580

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 5

Date Prepared: January 2, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager
FROM: Rhonda Geriminsky, CMC, Interim City Clerk
THROUGH: Susan K. Thorpe, Deputy City Manager
SUBJECT: Board and Commission Appointments Presentation

Purpose:

This is a request for City Council to present plaques and *Certificates of Appointment* to the Board and Commission members as follows:

Names	Boards and Commissions
George Johnson	Citizens Commission on Salaries for Elected City Officials Public Safety Personnel Retirement System – Fire Public Safety Personnel Retirement System – Police
William Schindler	Industrial Development Authority
William Conner	Parks and Recreation Board

Background/Summary:

Newly appointed Board and Commission members are invited to attend a Regular City Council meeting to personally accept a plaque and *Certificate of Appointment* from the Mayor and City Council.

Previous Actions:

On November 14, 2012, the Council Subcommittee on Policy and Appointments met and made recommendations for Board and Commission member appointments and reappointments.

On November 19, 2012, a memorandum was submitted to Mayor and Council outlining the recommended member appointments and reappointments from the November 14, 2012 Subcommittee meetings asking for concerns to be submitted in writing to the Mayor. No comments were received.

On January 8, 2013 City Council adopted Resolutions making the following Board and Commission appointments:

Resolution Nos.	Names	Boards and Commissions	Term Expirations
2013-01	George Johnson	Citizens Commission on Salaries for Elected City Officials	December 2016
2013-02	William Schindler	Industrial Development Authority	June 2015
2013-04	William Conner	Parks and Recreation Board	June 2016
2013-05	George Johnson	Public Safety Personnel Retirement System - Fire	June 2013
2013-06	George Johnson	Public Safety Personnel Retirement System - Police	June 2013

Options:

This is a presentation item only.

Staff's Recommendation:

That the Mayor and City Council present *Certificates of Appointment* to newly appointed Board and Commissions members who were appointed by Resolution at the January 8, 2013 City Council meeting.

Fiscal Analysis:

There is no fiscal impact regarding this item.

Narrative:

Newly appointed Board and Commission members have been invited to attend the January 22, 2013 City Council meeting to receive their respective Plaques and *Certificates of Appointment*.

Exhibit(s): There are no exhibits.

Contact Name and Number: Rhonda Geriminsky, Interim City Clerk, 623-773-7340

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 6

Date Prepared: December 5, 2012

Council Meeting Date: January 8, 2013

TO: Carl Swenson, City Manager
FROM: Scott Whyte, Economic Development Services Director
THROUGH: Susan J. Daluddung, Deputy City Manager
SUBJECT: Bioinspire Update

Summary:

Tom Rainey, the Executive Director of Bioinspire, will give Council an update on the incubator's accomplishments since officially opening on September 25, 2012. Items will include the following:

- Introduction to the Council of Advisors
- Description of each company that resides in Bioinspire
- Grant and funding opportunities
- Marketing, public relations, and exposure
- Upcoming projects and events

Contact Name and Number: Maria Laughner 623-773-5121

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
CITY COUNCIL CHAMBER
January 8, 2013

A **Regular Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 7:00 p.m.

Following a moment of silent reflection, Vice Mayor Aames led the Pledge of Allegiance.

Members Present: Mayor Bob Barrett; Vice Mayor Ron Aames; Councilmembers Cathy Carlat, Joan Evans, Carlo Leone, Dave Pearson and Tony Rivero.

Members Absent: None

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Susan Thorpe, Deputy City Manager; Steve Kemp, City Attorney; Rhonda Geriminsky, Interim City Clerk; Julie Ayers, Human Resources Director; Andy Granger, Engineering Director; John Imig, Information Technology Director; Chris Jacques, Planning and Community Development Director; Bo Larsen, Public Information Manager; Bill Mattingly, Public Works Director; Brent Mattingly, Finance Director; Roy Minter, Police Chief; Bobby Ruiz, Fire Chief; John Schell, Intergovernmental Affairs Director; John Sefton, Community Services Director; Jeff Tyne, Management and Budget Director; Scott Whyte, Economic Development Services Director; Claudia Luján, Assistant to the City Manager; and Linda Blas, Deputy City Clerk.

Audience: Approximately 75 members of the public were present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

PRESENTATION:

1. Christmas for the Troops

Rachelle Barrett addressed Council on behalf of the Peoria Sunset Lions Club regarding the success of the "Christmas for the Troops" program. Ms. Barrett thanked Thom Gyder of Wilhelm Automotive and the Peoria Chamber of Commerce for their generosity. Certificates of appreciation were presented to Mayor Barrett, Councilmember Carlat, Councilmember Rivero, and Carl Swenson, City Manager, for their support of the program.

2. Presentation to Outgoing Vice Mayor Ron Aames

Mayor Barrett expressed his appreciation and presented a plaque to Vice Mayor Aames for his service as Vice Mayor for the City of Peoria during 2012.

Vice Mayor Aames thanked Mayor Barrett and the citizens of Peoria for their support.

3. Presentation to Outgoing Councilmembers Joan Evans and Dave Pearson

Mayor Barrett presented a plaque to outgoing Councilmember Dave Pearson in recognition of his service on the Council.

Councilmember Pearson welcomed incoming Councilmembers Edwards and Patena and wished them luck on the Council as representatives of their districts. Councilmember Pearson expressed his pleasure for the time he has served on the City Council. Councilmember Pearson recognized Terri Smith for her service as Council Assistant.

Mayor Barrett recognized outgoing Councilmember Joan Evans for her service on the Council and presented her with a plaque and flowers in appreciation of her service.

Councilmember Evans congratulated incoming Councilmembers Edwards and Patena. Councilmember Evans expressed her gratitude to members of the community for allowing her to serve them during her term on the Council. Councilmember Evans thanked City staff and Council for their support.

CONSENT AGENDA

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CONSENT - Old Business:

Mayor Barrett asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Leone, seconded by Councilmember Carlat, to approve the Consent Agenda – Old Business. Upon vote, the motion carried unanimously 7 to 0.

4C. **Disposition of Absence**

Excused the absence of Mayor Bob Barrett from the December 4, 2012 Special Meeting and Study Session and Regular Meeting.

5C. **Minutes**

Approved the following:

December 4, 2012 Meeting Minutes
December 18, 2012 Meeting Minutes

6C. **Contract Amendment, City Attorney**

Approved amendments to the Terms and Conditions of Employment Agreement with the City Attorney.

7C. **Contract Amendment, Presiding Municipal Judge**

Approved amendments to the contract for the Presiding Municipal Judge.

SWEARING IN BY PRESIDING MUNICIPAL JUDGE GEORGE ANAGNOST AND SEATING OF NEW COUNCIL

Presiding Municipal Judge George Anagnost administered the Oath of Office to Councilmembers Cathy Carlat, Jon Edwards and Bill Patena.

Mayor Barrett declared a short recess at 7:24 p.m. and reconvened the meeting at 7:47 p.m.

Members Present: Mayor Bob Barrett; Vice Mayor Ron Aames; Councilmembers Cathy Carlat, Jon Edwards, Carlo Leone, Bill Patena and Tony Rivero.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT - New Business:

Mayor Barrett asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Leone, seconded by Vice Mayor Aames, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

8C. **Appointments, Boards and Commissions**

RESOLUTION NO. 2013-01

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING GEORGE JOHNSON TO THE CITIZENS COMMISSION ON SALARIES FOR ELECTED CITY OFFICIALS AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-02

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING WILLIAM SCHINDLER TO THE INDUSTRIAL DEVELOPMENT AUTHORITY AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-03

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, REAPPOINTING SHAWN HUTCHINSON TO THE MUNICIPAL DEVELOPMENT AUTHORITY AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-04

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING WILLIAM CONNER TO THE PARKS AND RECREATION BOARD AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-05

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING GEORGE JOHNSON TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM - FIRE AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-06

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING GEORGE JOHNSON TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM - POLICE AND ESTABLISHING THE TERM OF OFFICE.

Approved the recommendations from the Council Subcommittee on Policy and Appointments pertaining to the following appointments, and adopt the Resolutions as presented:

Adopted **RES. 2013-01** appointing George Johnson, as a regular member, to the Citizens Commission on Salaries for Elected City Officials,

Adopted **RES. 2013-02** appointing William Schindler, as a regular member, to the Industrial Development Authority,

Adopted **RES. 2013-03** reappointing Shawn Hutchinson, as a regular member, to the Municipal Development Authority,

Adopted **RES. 2013-04** appointing William Connor, as a regular member, to the Parks and Recreation Board,

Adopted **RES. 2013-05** appointing George Johnson, as a regular member, to the Public Safety Personnel Retirement System – Fire, and

Adopted **RES. 2013-06** appointing George Johnson, as a regular member, to the Public Safety Personnel Retirement System – Police.

9C. **City Council 2013 Meeting Schedule**

RESOLUTION NO. 2013-08

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, ADOPTING THE PROPOSED CITY COUNCIL MEETING SCHEDULE FOR THE CALENDAR YEAR 2013 AS ESTABLISHED AND REQUIRED BY ARTICLE II, SECTION 14 OF THE CHARTER OF THE CITY OF PEORIA, ARIZONA AND BY SECTION 2-16 OF THE PEORIA CITY CODE.

Adopted **RES. 2013-08** approving a City Council meeting schedule for the 2013 calendar year.

10C. **Contracts, Willis of Arizona, Inc., Workers' Compensation Program and General Liability Program**

Awarded two contracts to Willis of Arizona, Inc., for the Workers' Compensation Program and for the General Liability Program for calendar year 2013.

11C. **Equipment Replacement, Sports Facilities Division**

- (a) Approved the purchase to replace eighteen pieces of turf maintenance equipment; and
- (b) Approved a budget amendment in the amount of \$439,259, from the General Fund Contingency account, with \$369,047 to the Sports Complex Equipment Reserve Other Vehicles account and \$70,212 to the Fleet Equipment Reserve Other Vehicles account.

12C. **Budget Adjustment, Finance Department, Forklift Repair Cost**

Approved a budget adjustment in the amount of \$4,900 from the General Fund Non-Departmental Contingency account to the Inventory Control Division Motor Vehicle Parts/Batteries/Accessories account for the replacement of a large industrial battery in the electric forklift at the Inventory Control Division of the Finance Department.

13C. **Budget Transfer, Self-Certification Review Consultant**

Authorized a budget transfer in an amount not-to-exceed \$30,000 from the General Fund Reserves Contingency account to the Building Development Other Professional Services account for consulting services associated with assessing a building self-certification program.

14C. **Salt River Project Power Distribution Easement, 75th Avenue and Thunderbird Road**

RESOLUTION NO. 2012-07

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA ADOPTING A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF PUBLIC STREETS, TO BE OPENED AND MAINTAINED BY THE CITY.

Adopted **RES. 2013-07** authorizing the execution of a Power Distribution Easement to Salt River Project for the relocation and maintenance of an underground utility line associated with the construction of the 75th Avenue and Thunderbird Road Intersection Widening Project.

15C. **Final Plat, The Meadows Parcel 4A, Deer Valley Road and 93rd Avenue**

Approved the Final Plat of The Meadows Parcel 4A, located at Deer Valley Road and 93rd Avenue, subject to stipulations.

16C. **Replat, Vistancia Village A Parcel G2, Lone Mountain Road and Vistancia Boulevard**

Approved the Replat of Lots 18, 19, 24-26, 28, 29, and Slope Easement across Lots 7-11 and 14-16 of Vistancia Village A Parcel G2, located at Lone Mountain Road and Vistancia Boulevard, subject to stipulations.

REGULAR AGENDA

NEW BUSINESS

17R. **Election of Vice Mayor**

Vice Mayor Aames nominated Councilmember Rivero to the position of Vice Mayor for a term of one year.

By a unanimous vote of 7 to 0, Mayor Barrett announced that Council selected Councilmember Rivero to serve as Vice Mayor for a term of one year.

18R. Election of Mayor Pro Tem

Vice Mayor Rivero nominated Councilmember Leone to the position of Mayor Pro Tem to serve during the absence of both the Mayor and Vice Mayor for a term of one year.

Councilmember Patena nominated Councilmember Carlat to the position of Mayor Pro Tem to serve during the absence of both the Mayor and Vice Mayor for a term of one year.

The Council voted by secret ballot. Steve Kemp, City Attorney, and Rhonda Geriminsky, Interim City Clerk, recessed to count the votes.

Mayor Barrett announced that Councilmember Carlat had been selected to serve as Mayor Pro Tem for the City of Peoria for a term of one year by a vote of 4 to 3.

19R. Council Subcommittee Appointments

RESOLUTION NO. 2013-09

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, CONSENTING TO THE APPOINTMENTS TO THE CITY OF PEORIA, ARIZONA CITY COUNCIL SUBCOMMITTEE ON COMMUNITY CULTURE AND PUBLIC SAFETY AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-10

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, CONSENTING TO THE APPOINTMENTS TO THE CITY OF PEORIA, ARIZONA CITY COUNCIL SUBCOMMITTEE ON GENERAL GOVERNMENT AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-11

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, CONSENTING TO THE APPOINTMENTS TO THE CITY OF PEORIA, ARIZONA CITY COUNCIL SUBCOMMITTEE ON POLICY AND APPOINTMENTS AND ESTABLISHING THE TERM OF OFFICE.

RESOLUTION NO. 2013-12

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, CONSENTING TO THE APPOINTMENTS TO THE CITY OF PEORIA, ARIZONA CITY COUNCIL SUBCOMMITTEE ON SUSTAINABLE DEVELOPMENT AND PUBLIC SERVICES AND ESTABLISHING THE TERM OF OFFICE.

Councilmember Aames requested that the proposed Resolutions be addressed individually.

Motion was made by Councilmember Aames, seconded by Vice Mayor Rivero, to adopt **RES. 2013-09**.

Upon vote, the motion carried with a vote of 6 to 1, with Councilmember Edwards voting "no".

Councilmember Edwards and Vice Mayor Rivero expressed their desire to be assigned to the Council Subcommittee on Policies and Appointments.

Discussion ensued regarding appointments to Council Subcommittees.

Motion was made by Councilmember Carlat, seconded by Councilmember Aames to adopt **RES. 2013-10**, **RES. 2013-11** and **RES. 2013-12** appointing Councilmembers to Council Subcommittees.

Upon vote, the motion carried 6 to 1, with Vice Mayor Rivero voting "no".

20R. **Real Estate Purchase, Fire Maintenance Building**

Stacy Irvine, Deputy Fire Chief, presented on the request to purchase an existing industrial building to be used by the Fire Department for maintenance and storage of vehicles and equipment.

Motion was made by Councilmember Aames, seconded by Councilmember Carlat, to:

- (a) Authorize the acquisition of an industrial building located at 8557 North 78th Avenue to be used for the maintenance of fire vehicles and equipment; and
- (b) Approve a budget adjustment in the amount of \$56,400 from the Fire Support Services Facility Construction account to the Land account.

Upon vote, the motion carried unanimously 7 to 0.

21R. **Contract, Willdan Engineering, Building Plan Review and Inspection Services**

Scott Whyte, Economic Development Services Director, summarized the request for a contract to provide building plan review and inspection services for the Economic Development Services Department.

Motion was made by Councilmember Aames, seconded by Councilmember Edwards, to authorize the City Manager to enter into a term contract with Willdan Engineering to provide building plan review and inspection services plus equipment on an as-needed basis for the Economic Development Services Department for an initial term of one year, with an option to extend.

Upon vote, the motion carried unanimously 7 to 0.

Call To The Public (Non-Agenda Items)

None.

Reports from City Manager

22. **Council Calendar**

23. **Reports with Presentation**

A. City of Peoria 2013 Citizen Survey

Bo Larsen, Public Information Manager, presented on the process of an upcoming National Citizen Survey to be mailed to random households within the City of Peoria. Mr. Larsen reported that prior surveys were conducted in 2004, 2007 and 2009.

Mr. Larsen provided examples of questions to be included in the survey and noted that results of the survey can be used to:

- Benchmark service ratings
- Provide information for budget, land use and strategic planning decisions
- Measure government performance
- Monitor trends in resident opinion

Mr. Larsen reported that the survey will be available online to allow citizens who are not part of the random selection to provide their opinions to the City.

24. **Informational** (The following items are included for informational purposes only. There will be no separate discussion of these items unless a Councilmember so requests.)

Carl Swenson, City Manager, informed Council that their Agenda packet contains information related to the following item:

A. Council Subcommittee Update

Mr. Swenson also presented information on the 2013 Polar Plunge event to raise awareness about water safety.

Reports from City Council:

Councilmember Leone reported on the various City of Peoria activities he attended. Councilmember Leone reminded citizens to attend the Organic Market held each Saturday from 9:00 a.m. to 2:00 p.m. at Park West.

Councilmember Carlat congratulated the newly elected Councilmembers. Councilmember Carlat thanked her family for their support and the citizens of the Mesquite District for electing her to a third term on the City Council.

Councilmember Patena expressed his gratitude to his friends and family, his campaign manager, community leaders and the voters of the Ironwood District for their support.

Councilmember Edwards thanked the residents of the Willow District for entrusting him to be their representative at City Hall. Councilmember Edwards expressed his appreciation to his family and all the individuals who supported him during his campaign. Councilmember Edwards thanked Councilmember Evans for her eight years of service to the City.

Councilmember Aames welcomed the newly elected Councilmembers. Councilmember Aames congratulated Councilmember Carlat on her reelection to the Mesquite District. Councilmember Aames reported on his attendance at the fire recruit graduation ceremony held on January 4, 2013.

Reports from the Mayor:

Mayor Barrett thanked the Peoria Sunset Lions Club for their commitment to the troops deployed overseas during the holidays. Mayor Barrett welcomed Councilmember Edwards and Councilmember Patena to the City Council. Mayor Barrett thanked Councilmember Evans and Councilmember Pearson for their service to the City of Peoria.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 8:30 p.m.

Bob Barrett, Mayor

ATTEST:

Rhonda Geriminsky, Interim City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the City Council Meetings of the City Council of Peoria, Arizona held on the 8th day of January, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 22nd day of January, 2013.

(Seal)

Rhonda Geriminsky, Interim City Clerk

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 8C

Date Prepared: January 2, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager
FROM: Rhonda Geriminsky, CMC, Interim City Clerk
THROUGH: Susan K. Thorpe, Deputy City Manager
SUBJECT: Board and Commission Appointments

Purpose:

This is a request for City Council to appoint Board/Commission members as follows:

New Appointments

Name	Board or Commission
Matthew Johnson	Personnel Board
Shawn Hutchinson	Planning and Zoning Commission

Background/Summary:

The following members are no longer eligible to serve or currently serve in a regular member capacity on their respective Board/Commission:

Member Names	Board or Commission
Kristin Phelps	Personnel Board
Gene Sweeney	Planning and Zoning Commission

Previous Actions:

On December 13, 2012, the Council Subcommittee on Policy and Appointments met in the Pine Conference Room and recommended member appointments to the Personnel Board and Planning and Zoning Commission.

On December 17, 2012, a memorandum was submitted to Mayor and Council, outlining the recommended appointments from the December 13, 2012 Subcommittee meeting, asking for concerns to be submitted in writing to the Mayor. No comments were received.

Options:

A. Appoint recommended Board and Commission members.

B: Continue recruitment efforts to fill Board and Commission vacancies.

Staff's Recommendation:

This is a request for City Council to discuss and approve the recommendations from the Council Subcommittee on Policy and Appointments pertaining to the following appointments and adopt the Resolutions as presented:

Adopt RES. 2013-13 appointing Matthew Johnson, as an alternate member, to the Personnel Board with a partial term to expire June 2014, and

Adopt RES. 2013-14 appointing Shawn Hutchinson, as a regular member, to the Planning and Zoning Commission with a partial term to expire December 2013.

Fiscal Analysis:

There is no fiscal impact regarding this item.

Narrative:

If appointed, the newly appointed Board and Commission members will be invited to attend the February 5, 2013 City Council meeting to accept a plaque and Certificate of Appointment.

Exhibit(s):

Exhibit 1: Resolution No. 2013-13

Exhibit 2: Resolution No. 2013-14

Contact Name and Number: Rhonda Geriminsky, Interim City Clerk, 623-773-7340

RESOLUTION 2013-13

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING MATTHEW JOHNSON TO THE PERSONNEL BOARD AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Gene Sweeney is ineligible to serve on and resigned from the Personnel Board, and there exists one vacancy; and

WHEREAS Matthew Johnson desires to be a member and appointed to the Personnel Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Matthew Johnson, as a regular member, to the City of Peoria Personnel Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Matthew Johnson is appointed, as a regular member, to the City of Peoria Personnel Board.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Matthew Johnson

June 2014

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 22nd day of January 2013.

CITY OF PEORIA, an Arizona municipal corporation

Bob Barrett, Mayor

RESOLUTION NO. 2013-13
Page 2 of 2

ATTEST:

Rhonda Geriminsky, Interim City Clerk

Approved as to Form:

Stephen M. Kemp, City Attorney

RESOLUTION 2013-14

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING SHAWN HUTCHINSON TO THE PLANNING AND ZONING COMMISSION AND ESTABLISHING THE TERM OF OFFICE.

WHEREAS, Gene Sweeney is ineligible to serve on and resigned from the Planning and Zoning Commission, and there exists one vacancy; and

WHEREAS Shawn Hutchinson desires to be a member and appointed to the Planning and Zoning Commission; and

WHEREAS, the Mayor and City Council of the City of Peoria desires to confirm said appointment of Shawn Hutchinson, as a regular member, to the City of Peoria Planning and Zoning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Shawn Hutchinson is appointed, as a regular member, to the City of Peoria Planning and Zoning Commission.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Shawn Hutchinson

December 2013

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 22nd day of January 2013.

CITY OF PEORIA, an Arizona municipal corporation

Bob Barrett, Mayor

RESOLUTION NO. 2013-14
Page 2 of 2

ATTEST:

Rhonda Geriminsky, Interim City Clerk

Approved as to Form:

Stephen M. Kemp, City Attorney

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 9C

Date Prepared: December 17, 2012

Council Meeting Date: January 8, 2013

TO: Carl Swenson, City Manager

FROM: William Mattingly, Public Works – Utilities Director

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: License Agreement with Housing Authority of Maricopa County to Provide Parking for Six County Owned Vehicles at the Municipal Operations Center

Purpose:

Discussion and possible action to authorize a License Agreement with the Housing Authority of Maricopa County to provide parking for six (6) County owned vehicles at the Municipal Operations Center.

Background/Summary:

The Housing Authority of Maricopa is opening an operations building in the vicinity of the Municipal Operations Center at 8910 N. 78th Ave in the near future. Because parking is limited and they have a need for additional parking, a request has been received by staff to permit them to park six (6) County owned service vehicles at the Municipal Operations Center at 8850 N. 79th Ave. Staff has reviewed a License Agreement with the Housing Authority and determined there are sufficient parking spaces available to accommodate the request.

Previous Actions:

There are no previous actions related to this item.

Options:

A: Authorize the City Manager to enter into the License Agreement with the Housing Authority of Maricopa County.

B: Do not authorize the City Manager to enter into the License Agreement with the Housing Authority

Staff's Recommendation:

Staff recommends that the Mayor and Council authorize the City Manager to enter into the License agreement with the Housing Authority of Maricopa County.

Fiscal Analysis:

No fiscal impact is anticipated as a result of this agreement.

Exhibit(s):

Exhibit 1: License Agreement with Housing Authority of Maricopa County

Contact Name and Number:

William Mattingly, Public Works – Utilities Director, 623-773-5151

**LICENSE AGREEMENT FOR
USE OF REAL PROPERTY**

THIS AGREEMENT is entered into this _____ day of _____, 2013, by and between the Housing Authority of Maricopa County, a political subdivision of the State of Arizona, hereinafter referred to as **LICENSEE**, and the City of Peoria, an Arizona municipal corporation, hereinafter referred to as **LICENSOR** (“**LICENSOR**” and “**LICENSEE**” shall collectively be referred to herein as the “**PARTIES**”).

WHEREAS, LICENSOR controls certain real property in Peoria, Arizona, at 8850 N. 79th Avenue (“**SITE**”);

WHEREAS, LICENSEE requires access to, and use of, a portion of the **SITE** for the purpose of temporary vehicle parking, and

WHEREAS, the parties desire to enter into a License Agreement, hereinafter referred to as “**LICENSE**”, under which **LICENSEE** may enter upon and use the property of **LICENSOR** as described herein;

NOW, THEREFORE, in consideration of the following mutual covenants, the sufficiency of which is hereby acknowledged, the **PARTIES** agree as follows:

1. **LICENSOR** hereby grants to **LICENSEE** a non-exclusive revocable **LICENSE** to enter and use portions of the **SITE** described as the **LICENSE AREA** as shown in Exhibit “A” (Use Peoria Exhibit A&B) which is attached hereto and made a part hereof.

LICENSEE may use the **LICENSE AREA** (Defined by Peoria Exhibit A&B) for parking of six (6) **LICENSEE**’s County owned and marked vehicles during the term of this **LICENSE**. At no time, may any privately owned or other vehicles associated with Housing Authority business be allowed on the **LICENSOR’S** site.

2. The effective date of this **LICENSE** shall be the date it is fully executed by the Parties (“Effective Date”). The term of this **LICENSE** shall be for a period of two (2) years (the “Term”), commencing on the Effective Date and ending two (2) years thereafter on the day before the second anniversary of the Effective Date, unless otherwise cancelled or terminated as provided herein. This term of this **LICENSE** shall be automatically renewed for one (1) additional two (2) year term unless either party provides 60 days prior written notice to terminate this agreement at the end of the initial term.

3. Consideration for granting this **LICENSE** will consist of \$1.00, receipt of which is hereby acknowledged by the **PARTIES**.

4. **LICENSEE** shall indemnify and hold harmless **LICENSOR**, its successors in interest and assigns, from any liability, damages, expenses, costs or attorney fees incurred by **LICENSOR**, arising from **LICENSEE’S** use of the property or as a result of any negligent act or omission by **LICENSEE** or of its employees. **LICENSOR** shall not indemnify **LICENSEE** against damages arising from any negligent acts by its employees on, or in connection with the use of the property which is the subject of this license agreement.

5. **LICENSEE** is self-insured and will provide its own insurance related to use of the **LICENSE AREA**. **LICENSOR** will not be providing security for vehicles parked in the **LICENSE AREA**. **LICENSOR** shall not be liable for acts of third parties that may result in damage to County vehicles or County employee vehicles. Any acts of **LICENSOR** or its agents observing or reporting on possible security risks or concerns shall not be construed to create any duty on the part of **LICENSOR** to protect County vehicles or County employee vehicles. **LICENSEE** shall advise County employees using the **LICENSE AREA** of the foregoing.

6. **LICENSEE** agrees to be responsible for the conduct of its employees who enter onto the **LICENSE AREA** pursuant to this **LICENSE**.

7. **LICENSOR'S** site is secured by a security badge access system and **LICENSEE'S** employees who access the site will require security badges issued by the **LICENSOR**. Access badges can only be issued based upon **LICENSEE'S** employees successfully completing a background check by the City of Peoria.

8. This **LICENSE** shall be automatically revoked in the event of, or at such time that the **LICENSEE** fails to comply with the express terms of this license agreement, unless said failure is not cured within 5 days of date of notice to cure.

9. Written notices shall be sent to the following contacts:

LICENSOR: **City of Peoria**
 Attention: William (Bill) Mattingly
 Municipal Operations Center
 8850 North 79th Avenue
 Peoria, Arizona 85345

LICENSEE: **Housing Authority of Maricopa County**
 Attention: Gloria Munoz
 2024 N. 7th Street
 Phoenix, AZ 85006-2155

10. **THIS LICENSE** shall be binding upon and inure to the benefit of the respective parties, their successors, personal representatives and assigns, shall be governed by and construed under the laws of the State of Arizona and is subject to A.R.S. § 38-511. **THE PARTIES** agree that this **LICENSE** may be terminated by either party with 60-days written notice.

11. **The PARTIES** intend and mutually agree that this **LICENSE** shall be construed as a mere license by **LICENSOR** to **LICENSEE** to enter and use the **LICENSE AREA**. This **LICENSE** shall not be construed as a lease, sublease, rental agreement or easement. It is understood and mutually agreed that **LICENSEE** has no interest whatsoever in the **SITE** or the **LICENSE AREA**.

12. Nothing contained in this **LICENSE** shall create any partnership, joint venture or other arrangement between **LICENSOR** and **LICENSEE**. Except as expressly provided herein, no term or provision of this **LICENSE** is intended or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.

13. If any term, covenant, condition or provision of this **LICENSE** is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

14. The failure of either **LICENSEE** or **LICENSOR** to insist upon the complete performance of any of the terms and provisions of this **LICENSE** be performed on the part of the other, or to take any action permitted as a result thereof, shall not constitute a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future.

15. This **LICENSE** and all Exhibits attached hereto sets forth all of the covenants, promises, agreements, conditions and understandings between the **PARTIES** hereto, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the **PARTIES** other than as set forth herein, and those agreements which are executed contemporaneously herewith. This **LICENSE** shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this **LICENSE**. This **LICENSE** cannot be modified or changed except by a written instrument executed by all of the **PARTIES** hereto. Each party has reviewed this **LICENSE** and has had the opportunity to have it reviewed by legal counsel.

16. This **LICENSE** may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Faxed and copied signatures are acceptable as original signatures.

17. The proper venue for any proceeding at law or in equity or under the provisions for arbitration shall be Maricopa County, Arizona and the **LICENSOR** and **LICENSEE** hereby waive any right to object to venue. This **LICENSE** shall be construed in accordance with and be governed by the laws of the State of Arizona.

IN WITNESS WHEREOF, the parties have hereunder set their signatures on the day and year first written above.

LICENSEE:

LICENSOR:

HOUSING AUTHORITY OF MARICOPA COUNTY

CITY OF PEORIA

By _____
Chairman of the Board of Commissioners

City Manager

ATTEST:

ATTEST:

Clerk of the Board

City Clerk

Approved as to form:

Approved as to form:

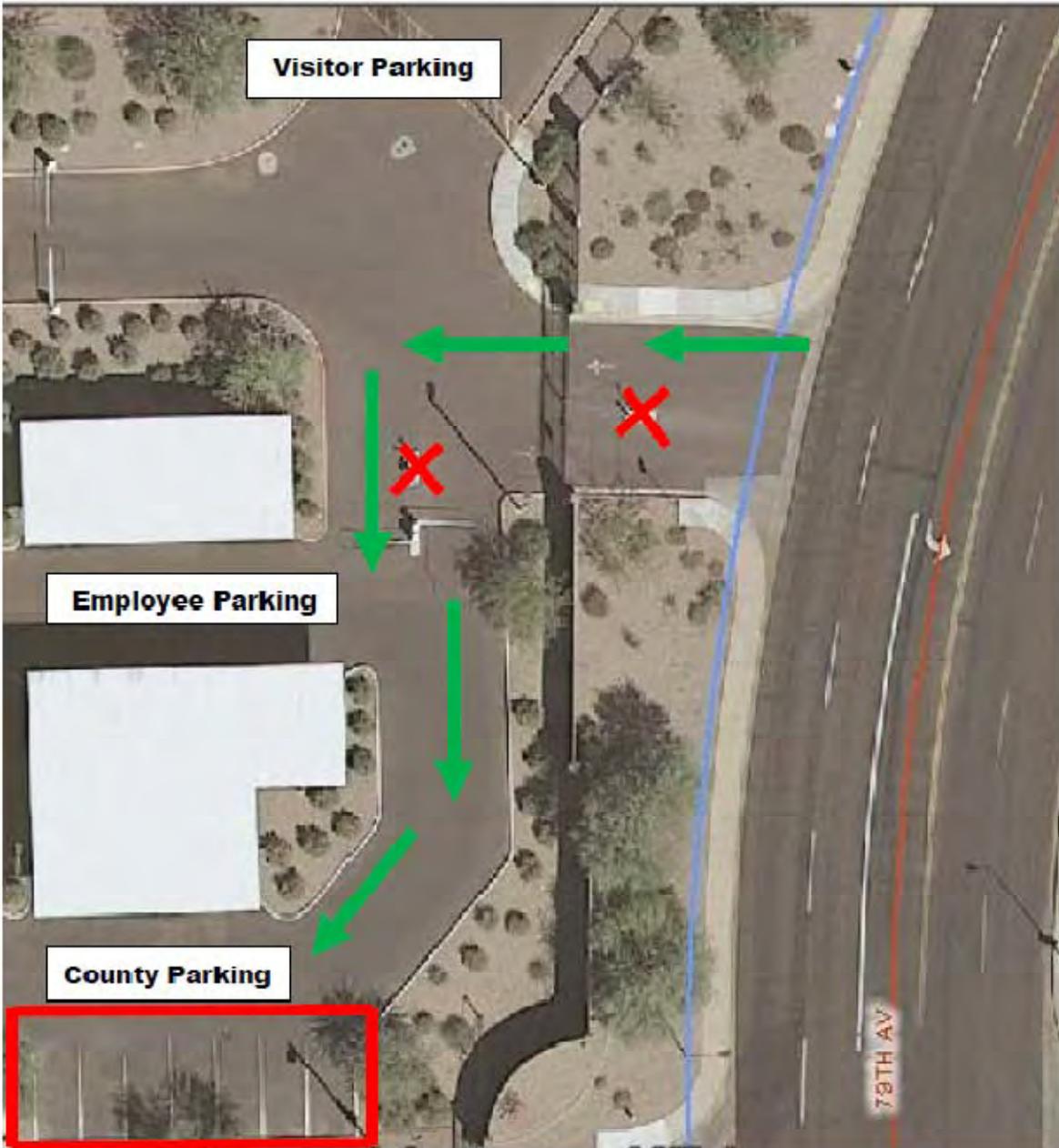
Attorney for the Housing Authority

Attorney for the City of Peoria

EXHIBIT A



EXHIBIT B



**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 10C

Date Prepared: December 17, 2012

Council Meeting Date: January 8, 2013

TO: Carl Swenson, City Manager

FROM: Katie Gregory, Budget Coordinator

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Council Policy – Development Services User Fee Cost Recovery

Purpose:

This is a request for City Council to adopt Council Policy CP 1-12 Development Services User Fee Cost Recovery Policy.

Background:

Local governments are providers of many types of general services to their communities. While some services may be classified as globally beneficial to all citizens, others provide more of a direct benefit to a specific group or individual. It is common in development services activities, such as planning, site development and building development, that fees are established at a level that recovers the cost of providing the service, no more, and no less. In other service areas, such as Community Services, cost recovery targets vary from program to program and city to city.

The Management and Budget, Planning and Community Development and Economic Development Services Departments completed a review of the user fee activities in the Development Services divisions. Based on the analysis, it was found that the current schedule of fees recovers approximately 55% of the cost of providing these services thus requiring a substantial subsidy from the city's general fund.

On July 3 and October 23, 2012, staff brought forward a draft development services user fee cost recovery policy for council review and discussion. The attached policy has been amended to address Council input regarding language in the "Pricing Policy Considerations" section that recognizes the city's competitive position among neighboring jurisdictions when considering fee levels, and includes a provision that ensures a minimum level of stakeholder engagement with our development community prior to finalizing fee recommendations and/or policy changes.

In addition, this policy was reviewed by development stakeholders at the August 15 and August 21, 2012 Developer's Forum. The policy was reviewed by builders, developers and land advisors currently doing business with the City as well as the Home Builders Association, Multi-Family Housing Association and Valley Partnership liaisons. These groups emphasized their

interest in the predictability of costs and how important it is to their projects, particularly those that take a number of years to fully materialize.

Previous Actions:

February 13, 2012 - The Cost Recovery Policy for Development Services User Fees was reviewed with the General Government Council Subcommittee and they unanimously approved moving the policy forward to the full Council.

July 3, 2012 – Council reviewed the Cost Recovery Policy for Development Services User Fees and provided staff direction to meet with representatives of the development community to solicit input.

October 23, 2012 – Council reviewed the Cost Recovery Policy in Study Session and directed staff to bring forward a final policy for council adoption.

Options:

A: Adopt the Council Policy on Development Services User Fees. Once adopted, staff will present the cost of service analysis and fee recommendations to development stakeholders for review and comment. Staff would then bring forward final fee recommendations at the Budget Study Sessions as outlined in the policy.

B: Do not adopt the Council Policy and direct staff to revise the policy for further review by Council.

Staff's Recommendation:

Staff recommends that the Council adopts the attached Development Services User Fees Cost Recovery Policy that establishes a set procedure for reviewing and adjusting fees and identifies cost recovery targets and pricing policy considerations.

Fiscal Analysis:

Once adopted, the Council Policy will set the framework for the Cost of Service review. Currently the City's General Fund is subsidizing 45% of the cost of Development Services activities.

Exhibit(s):

Exhibit 1: Council Policy on Development Services User Fees

Contact Name and Number: Katie Gregory, 623-773-7364

 <p style="text-align: center;">CITY COUNCIL POLICY</p>	CP 1-12
	Category: General Department: Management and Budget
TITLE: Development Services User Fee Cost Recovery Policy	Approved:

A. Purpose

1. The purpose of this policy is to provide general guidelines and to incorporate best practices in establishing user fees to ensure that the City adequately recovers costs for services it provides to the public. The User Fee Policy identifies the procedure for adjusting fees, the level of cost recovery, factors that need to be considered in setting fees, and the frequency of comprehensive user fee studies. The key objective of the User Fee Policy is to review and update fees on an ongoing basis to ensure that they keep pace with changes in cost-of living as well as changes in methods or levels of service delivery.

B. Procedure

1. Fees for services shall be reviewed and adjusted annually to be consistent with the target cost recovery of the service and will be recommended by the responsible department and the Management and Budget Director.
2. Fee recommendations for the Development Services Divisions will be made at the appropriate time as part of the annual budgeting process and will be approved by City Council.
3. An updated fee schedule will be submitted to the City Attorney's Office and City Clerk to update the City Code on an annual basis, unless otherwise required by State Statute.
4. The Development Services User Fee Policy shall be reviewed every three to five years with City Council to ensure cost recovery is aligned with the City's priorities. Changes to the policy can be made as needed with City Manager and City Council approval.

C. Definitions

1. **“Development Services Divisions”** are the cost centers that support the planning, site development and building development activities within the city including fire prevention and engineering review and inspection services.
2. **“User Fee”** is a fee charged by a government agency to recipients of its services. User fees generally apply to activities that provide special benefits

to members of the public, and the amount of the fee is usually related to the cost of the service provided.

3. **“Cost Recovery”** is recouping a portion of or all costs associated with a particular service provided by the government agency to the public. Cost recovery has two important rationales: (a) maintaining equity considerations in regard to the provision of public services; and (b) revenue generation through full cost accounting, thereby improving government efficiency.
4. **“Direct Costs”** are the costs incurred directly by providing a specified service. These costs are associated with staff time spent performing service related duties and include employee salary and benefits. In general, direct costs are any costs that can be traced directly to the production of a given service or product.
5. **“Indirect Costs”** are the costs not directly accountable or associated with the production of a service, such as a fixed cost. Indirect costs include departmental overhead (operating expenses and internal administrative costs), as well as citywide overhead, including all those costs that support City programs and services.

D. Levels of Cost Recovery

1. Full Cost Recovery (100 Percent)
In general, fees for services provided by the development services divisions, should recover the full cost of providing the service. Fees that are determined to have a 100 percent cost recovery target shall be updated annually based on the costs incurred for providing services using actual data from the prior fiscal year.
2. Partial Cost Recovery (Below 100 Percent)
Certain fees may be identified to have a partial cost recovery target. These fees may be adjusted annually by a standardized escalator based on labor cost adjustments. Fees are generally set at less than 100 percent cost recovery in cases where:
 - a) the collection of fees is not cost-effective;
 - b) the collection of fees would not comply with regulatory requirements;
 - c) the purpose of the fee is not to generate revenue but rather provide a community benefit (i.e. public safety);
 - d) competitive market conditions make a full cost fee undesirable.
3. Other Cost Recovery Targets
Other recovery targets may be identified for activities that require a higher levels of service (LOS) or that pose a greater risk to the City. Examples may include Expedited Review and At-Risk Grading Permits. In these cases, fees may be charged that recover more than 100% of the actual cost.

The Peoria City Council makes the final decisions based on community priorities and recommendations from review committees (if applicable).

E. Pricing Policy Considerations

The following economic and policy considerations shall be considered when setting cost recovery levels:

1. Fee amounts shall be proportional to the costs associated with providing the service. The full cost should consist of both direct and indirect costs and should be included within the fee amount. Indirect costs shall be captured through overhead rates for each department.
2. Competing policy objectives may result in reduced user fees and charges that recover only a portion of service costs. (Partial recovery).
3. Public use of government services shall be considered (potential to use fees as a means of encouraging or discouraging activities, for instance, at-risk grading permits).
4. Legal limitations on charging more or less than the actual cost of providing the service.
5. Subsidization (less than full cost recovery) of activities for groups who cannot afford access to services if fees are set at full cost recovery. In these cases, the City may subsidize a portion of the cost of the service.
6. The fee amount and its affect on the demand of the service shall be considered. A sensitivity analysis of consumer demand and/or current market study data shall be considered when setting fees.
7. The nature and extent of the benefit to the fee-payers. The recipients that benefit from the service provided shall be identified. The fee review shall consider whether the service is beneficial to the public as a whole or the individual fee-payer.

F. Public Input and Availability of Fee Information

1. The City will hold a minimum of one development stakeholder meeting to solicit comments and considerations prior to finalizing a fee recommendation and/or changes to this policy.
2. When fee adjustments are recommended, data indicating the proposed fee, the estimated cost required for providing the service, and the estimated amount of revenue adjustments shall be available to the public prior to any formal action of the full City Council through the docketing of the report on the Council agenda.

Category: General

Title: Development Services User Fee Cost Recovery Policy

CP 1-12

Page 4 of 4

3. The Development Services Divisions shall post an updated schedule of all fees on the City's internet site on July 1st of each year.

APPROVED:

Bob Barrett, Mayor

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Adopted: 01/08/13, CC #

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 11R

Date Prepared: January 07, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager

FROM: Brent Mattingly, Finance Director

THROUGH: Susan K. Thorpe, Deputy City Manager

SUBJECT: Public hearing: Proposed Recommendations by the City to the Arizona State Liquor Board for a new restaurant liquor license.

Purpose:

Pursuant to Arizona Law the City must recommend to the State Liquor Board for approval, applications to sell alcoholic beverages in the City. The Standard for the recommendation is whether the best interest of the community will be served by the issuance of these licenses and whether the public convenience is served.

Background/Summary:

Abedin Ollomani, Agent for Young Brothers Pizza, has applied for a New Restaurant Liquor License (Series 12) located at 8996 W. Union Hills Drive Suite 105. The public hearing notice was posted for at least 20 days, and no comments were received during the posting period. The license application was reviewed according to State law and all Departments gave approvals.

Previous Actions:

In May 2010, the Mayor and Council recommended approval to Arizona State Liquor Board for Grande Pizza for a New Restaurant Liquor License (Series 12). The restaurant was sold and the new owners are now applying for this New Restaurant Liquor License. Series 12 Restaurant Liquor Licenses are not transferable between restaurant owners.

Options:

A: Recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Young Brothers Pizza, located at 8996 W. Union Hills Drive Suite 105, Abedin Ollomani, Applicant, LL#20007031.

B: Recommend denial to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Young Brothers Pizza, located at 8996 W. Union Hills Drive Suite 105, Abedin Ollomani, Applicant, LL#20007031.

Staff's Recommendation:

That the Mayor and Council recommend approval to the Arizona State Liquor Board for a New Restaurant Liquor License (Series 12) for Young Brothers Pizza, located at 8996 W. Union Hills Drive Suite 105, Abedin Ollomani, Applicant, LL#20007031.

Fiscal Analysis:

The item has no financial implications.

Narrative:

The appropriate fees have been paid and the applicant has been advised that a representative needs to be present at the meeting to answer any questions that the Council or public may have.

Exhibit 1: New Liquor License Application.

*12 NOV 16 Lic. Lic. PM 4 47

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): 12079339

1. Type of License(s): 12-RESTAURANT Department Use Only

2. Total fees attached: \$ _____

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

SECTION 4 Applicant

1. Owner/Agent's Name: Mr. OLLOMANI ABEDIN
(insert one name ONLY to appear on license) Last First Middle

2. Corp./Partnership/L.L.C.: YOUNG BROTHER, INC
(Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: YOUNG BROTHERS PIZZA
(Exactly as it appears on the exterior of premises)

4. Principal Street Location: 8996 W UNION HILLS DR #105 PEORIA MARICOPA 85382
(Do not use PO Box Number) City County Zip

5. Business Phone: (623)566-5930 Daytime Contact: _____

6. Is the business located within the incorporated limits of the above city or town? YES NO

7. Mailing Address: 8996 W UNION HILLS DR #105 PEORIA AZ 85382
City State Zip

8. Price paid for license only bar, beer and wine, or liquor store: Type _____ \$ _____ Type _____ \$ _____

DEPARTMENT USE ONLY

Fees: 100.00 100.00 _____ 44.00
 Application Interim Permit Agent Change Club Finger Prints \$ 244.00
TOTAL OF ALL FEES

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

Accepted: _____ Date: 11/16/12 Lic. # 12079339

SECTION 5 Interim Permit:

1. If you intend to operate business when your application is pending you will need to pay for the Interim Permit per 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. 12078355
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, FATMIR KODRA, declare that I am the CURRENT OWNER, AGENT, CLUB MEMBER, PARTNER, MEMBER, STOCKHOLDER, OR LICENSEE (circle the title which applies) of the stated license and location.

(Print full name)

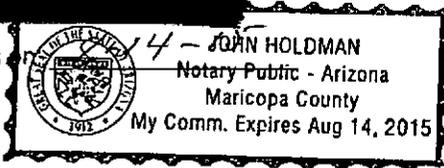
State of AZ County of Maricopa

X _____

The foregoing instrument was acknowledged before me this

14 day of Nov, 2012

My commission expires _____



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"/>						
<input type="checkbox"/> <input type="checkbox"/>						
<input type="checkbox"/> <input type="checkbox"/>						

J 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#

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.

12 NOV 16 Lir. Lic. PM 4 47

- 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.: YOUNG BROTHER, INC
(Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: 09/14/2012 State where Incorporated/Organized: ARIZONA
3. AZ Corporation Commission File No.: 1786457-0 Date authorized to do business in AZ: 09/20/2012
4. AZ L.L.C. File No: _____ Date authorized to do business in AZ: _____
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
OLLOMANI	ABEDIN		PRESIDENT <i>Director</i>	[REDACTED]	[REDACTED]
OLLOMANI	AFRODITA		SECRETARY <i>Director</i>	[REDACTED]	[REDACTED]

(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
OLLOMANI	ABEDIN		50%	[REDACTED]	[REDACTED]
OLLOMANI	AFRODITA		50%	[REDACTED]	[REDACTED]

(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: N/A Date Chartered: _____
(Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)

2. Is club non-profit? YES NO

3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

1. Current Licensee's Name: N/A
(Exactly as it appears on license) Last First Middle
2. Assignee's Name: 12 NOV 16 Ligr. Lic. #1447
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: N/A
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: N/A 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 N/A *12 NOV 16 Liqr. Lic. # 447
 (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: .50 ft. Name of school APACHE ELEMENTARY SCHOOL
 Address 8633 W JOHN CABOT RD, PEORIA, AZ 85382
 City, State, Zip _____

2. Distance to nearest church: .22 ft. Name of church PEACE LUTHERAN CHURCH
 Address 18265 N 89TH AVENUE, PEORIA, AZ 85382
 City, State, Zip _____

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

4. If the premises is leased give lessors: Name IRWIN G PASTERNAK AIA AND ASSOCIATES, P.C.
 Address 745 E MARYLAND AVE STE 100 PHOENIX AZ 85014
 City, State, Zip _____

4a. Monthly rental/lease rate \$ 2,500.00 What is the remaining length of the lease 3 yrs. 0 mos.

4b. What is the penalty if the lease is not fulfilled? \$ N/A or other NONE
 (give details - attach additional sheet if necessary)

5. What is the total business indebtedness for this license/location excluding the lease? \$ N/A 0
 Please list lenders you owe money to.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

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

SECTION 13 - continued

7. Has a license or a transfer license for the premises on this application been issued 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 # 12078355 (exactly as it appears on license) Name FATMIR KODRA / F & D PIZZARIA, INC

SECTION 14 Restaurant or hotel/motel license applicants:

1. Is there an existing restaurant or hotel/motel liquor license at the proposed location? YES NO
 If yes, give the name of licensee, Agent or a company name:
KODRA FATMIR and license #: 12078355
Last First Middle
2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.
3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.
4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this hotel/motel restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant/Hotel/Motel Records Required for Audit (form LIC 1013) with this application.


 applicant's signature

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


 applicants initials

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

1. Check ALL boxes that apply to your business:
 Entrances/Exits Liquor storage areas Patio: Contiguous
 Service windows Drive-in windows Non Contiguous
2. Is your licensed premises currently closed due to construction, renovation, or redesign? YES NO
 If yes, what is your estimated opening date? _____
month/day/year
3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.
4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).
5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

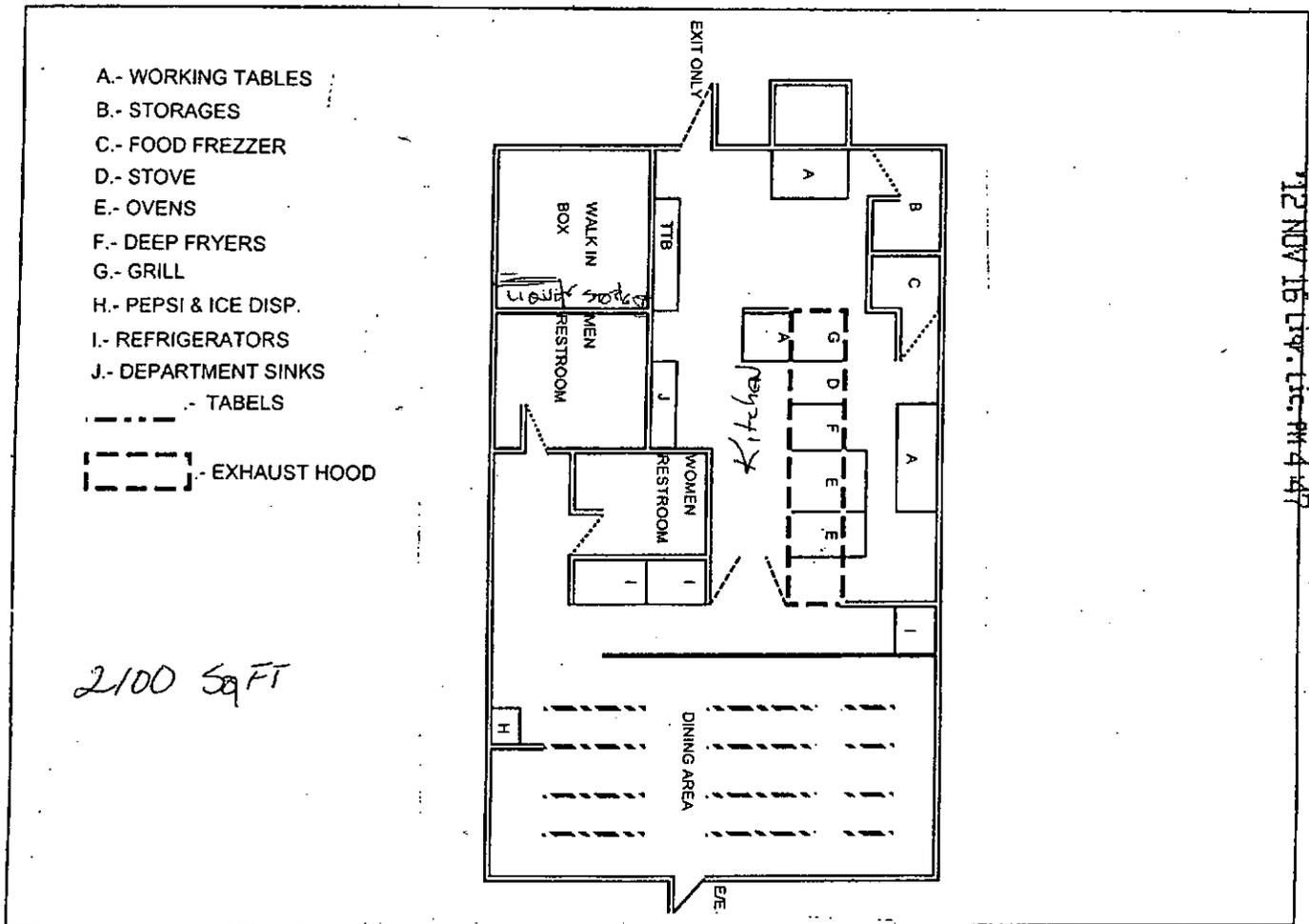
As stated in A.R.S. § 4-207.01(B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this initial drawing.


 initials

SECTION 15 Diagram of Premises

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

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



12 NOV 16 10:47 AM '12

SECTION 16 Signature Block

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

X. [Redacted Signature]



State of Arizona, County of MARICOPA

The foregoing instrument was acknowledged before me this

5th of November, 2012
 Day Month Year

My commission expires on: 3/13/2016
 Day Month Year

[Redacted Signature]

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 12R

Date Prepared: December 18, 2012

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager
FROM: Chris Jacques, AICP, Planning & Community Development Director
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
SUBJECT: GPA 11-0010 – Cholla Hills Neighborhood Commercial

Purpose:

This is a request for City Council to hold a Public Hearing to consider a request for a minor amendment to the General Plan Land Use Map for approximately 23 acres from Residential/Estate (0-2 du/ac, target: 1 du/ac) to Neighborhood Commercial.

Background/Summary:

This request is accompanied by a rezoning application for a major Planned Area Development amendment (case Z98-03A.1) that tailors the development standards and permitted uses to ensure a reasonable fit within the context of the area.

The applicant is requesting a minor amendment to the General Plan Land Use Map for approximately 23 acres located at the southwest corner of "Parcel 1" (Exhibit 1). The amendment would change the current Residential Estate designation to Neighborhood Commercial to allow for future development of a commercial center, which will be integrated into the larger Cholla Hills Planned Area Development (PAD). The Neighborhood Commercial category denotes areas of office and commercial centers designed to serve the needs of the immediate area. Buildings and uses generally relate to adjacent communities with respect to architectural style and scale. This designation also prohibits any single retail user from exceeding 100,000 square feet of gross floor area.

The original Estates at Lakeside PAD (case Z98-03) provided approximately 11 acres of commercial zoning; however, this area was located south of State Route 74 on a relatively flat parcel. Since that time, additional ADOT right-of-way was acquired for the future widening of State Route 74 thereby reducing the 11-acre site to approximately three acres and severely limited access to, and use of, the property. Accordingly, through this proposal, the applicant is seeking the relocation of the commercial area to the north side of State Route 74 and expanding it to 23 acres. The new location is planned at the project's main entry and is intended to provide the opportunity for a neighborhood / convenience-oriented retail center to serve the resort and those passing by along State Route 74.

Shortly before the December 6, 2012 Planning & Zoning Commission hearing, staff received written communication from the Maricopa County Parks & Recreation Department (Exhibit 3) voicing concerns about this application due to its proximity to the Lake Pleasant Regional Park. Staff has reviewed these concerns and believes they will be satisfied through compliance with the City's Desert Lands Conservation Overlay during the site plan phase of development or through communication with the applicant, which as of this writing, has been scheduled. The results of this communication will be documented in writing by the applicant and verified by the Maricopa County Parks & Recreation Department's representative. This communication will be provided to the City Council as soon as it becomes available.

Previous Actions:

A public hearing was held for this item at the December 6, 2012 Planning and Zoning Commission Meeting. There was one speaker who addressed this request on behalf of the Maricopa County Parks & Recreation Department. The Commission voted unanimously (4-0) in favor of the application.

Options:

- A:** Approve as recommended by Staff and the Planning & Zoning Commission; or
- B:** Approve with modifications; or
- C:** Deny; or
- D:** Continue action to a date certain or indefinitely; or
- E:** Remand to the Planning & Zoning Commission for further consideration.

Staff's Recommendation:

Staff recommends the City Council concur with the Planning & Zoning Commission's December 6, 2012 unanimous recommendation to approve Case GPA 11-0010.

Fiscal Analysis:

This request is not expected to have immediate budgetary impacts to the City.

Narrative:

No further action would be necessary should the City Council take action to approve this application.

Exhibits:

Exhibit 1: Location Map

Exhibit 2: December 6, 2012 Planning & Zoning Commission Staff Report with Exhibits

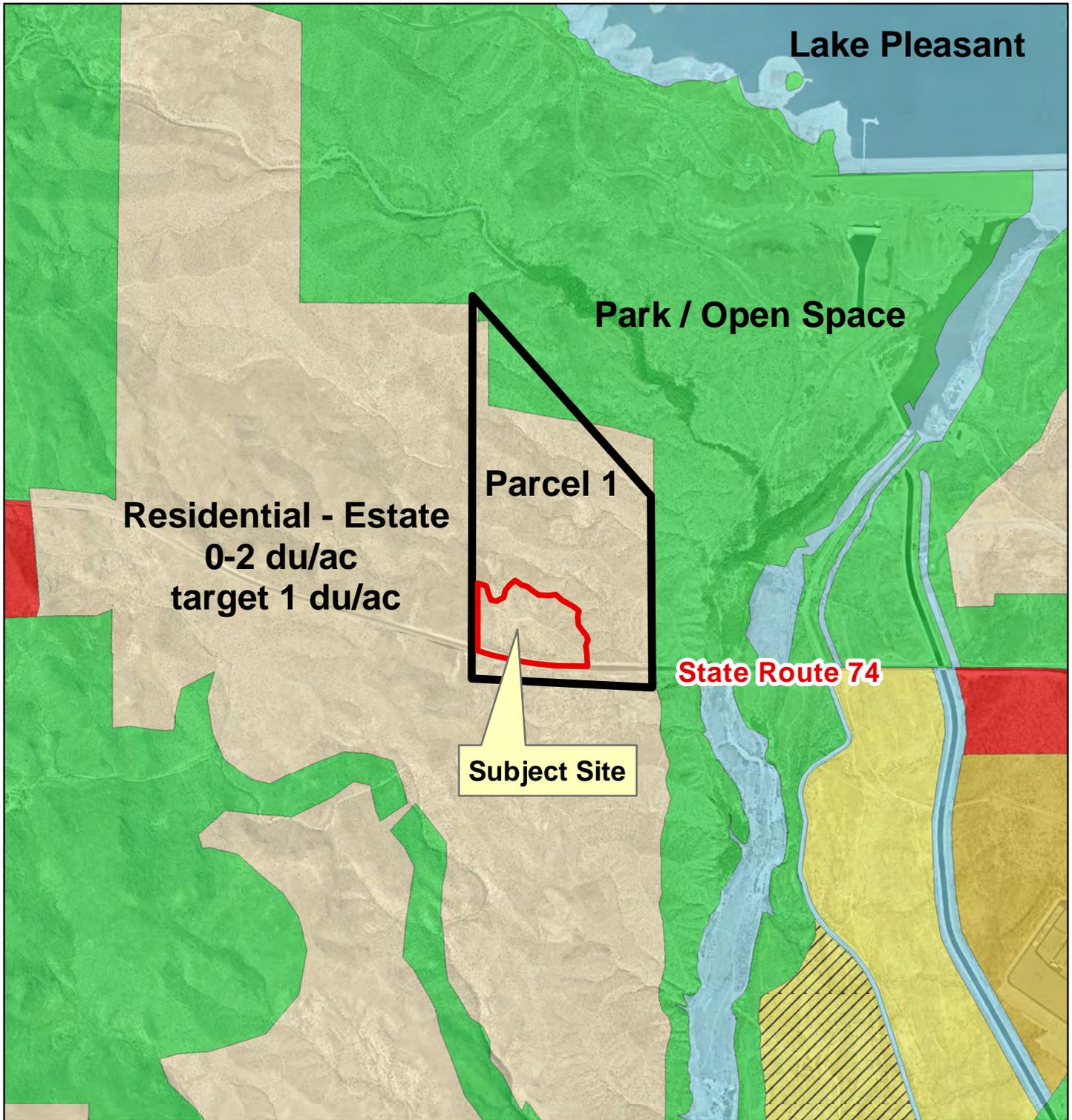
Exhibit 3: Communication from the Maricopa County Parks & Recreation Department

Exhibit 4: Resolution

Contact Name and Number: Adam D. Pruett, AICP, Senior Planner, x5168

Location Map

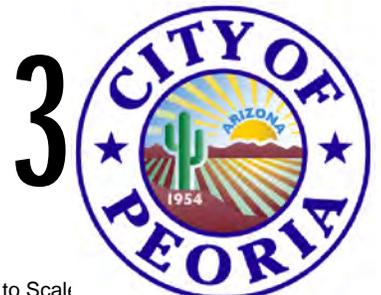
Exhibit 1



GPA11-0010 General Plan Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: General Plan Amendment for Cholla Hills
(formerly Estates at Lakeside)



Not to Scale

Exhibit 2

December 6, 2012 P&Z Commission Staff Report and Exhibits
Proposed Minor GPA for 'Cholla Hills'



MINOR GENERAL PLAN AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: GPA 11-0010
DATE: December 6, 2012
AGENDA ITEM: 5R

Applicant: Earl, Curley & Lagarde, PC

Request: A Minor Amendment to the City of Peoria General Plan for approximately 23 acres from Residential/Estate (0-2 du/ac) to Neighborhood Commercial.

Proposed Development Cholla Hills (formerly Estates at Lakeside): The 23-acre commercial component of a 454-acre resort / recreation community. (xref: Z98-03A.1)

Location: The property is located at the northwest corner of State Route 74 and Old Lake Pleasant Road. (APN 201-24-004H).

Site Acreage 23 acres

Support / Opposition: Staff has not received any support or opposition regarding this request.

Recommendation: Recommend approval of case GPA11-0010 to the City Council

BACKGROUND

Table 1: Existing and Future Land Use (Exhibits A-B)

	LAND USE	GENERAL PLAN	ZONING
Subject Property	Vacant	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	Planned Area Development
North	Vacant	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	Planned Area Development
South	Vacant, SR 74	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	Planned Area Development
East	Vacant	Park / Open Space	SR-43 (Suburban Ranch)
West	Vacant	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	AG (General Agricultural)

1. Records indicate that this parcel was annexed into the City in 1993 as part of much larger annexation that covered more than 675 acres of land primarily located southwest of Lake Pleasant. An initial zoning designation of General Agriculture (AG) was assigned through case Z93-21. In 1998, the City Council approved the Estates at Lakeside Planned Area Development (PAD), which included the subject 23-acre parcel. The PAD permitted up to 257 single-family residential units, a resort site, and an 11-acre commercial parcel.

PROJECT DESCRIPTION

2. The applicant is requesting a minor amendment to the General Plan Land Use Map for approximately 23 acres located at the southwest corner of "Parcel 1" (Exhibit A). The amendment would change the current Residential Estate designation to Community Commercial to allow for future development of a commercial center, which will be integrated into the larger Cholla Hills Planned Area Development (PAD).
3. This request is accompanied by a rezoning application for a major Planned Area Development amendment (case Z98-03A.1) that tailors the development standards and permitted uses to ensure a reasonable fit within the context of the area.

DISCUSSION AND ANALYSIS

Minor General Plan Amendment Evaluative Criteria

4. Chapter 14 of the Peoria General Plan ("Plan Administration") directs the City to make an affirmative finding that the proposal substantially demonstrates or exhibits the following evaluative criteria:
 - i. The development pattern contained in the Land Use Plan inadequately provides appropriate optional sites for the use or change proposed in the amendment.
 - ii. The amendment constitutes an overall improvement to the General Plan and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
 - iii. The amendment will not adversely impact the community as a whole or a portion of the community by:
 - Significantly altering acceptable existing land use patterns,
 - Requiring larger and more expensive improvements to roads, sewer or water delivery systems than are needed to support the prevailing land uses and which, therefore, may impact developments in other areas,

- Adversely impacting existing uses because of increased traffic on existing systems, or
 - Affecting the livability of the area or the health and safety of the residents.
- iv. That the amendment is consistent with the overall intent of the General Plan and other adopted plans, codes and ordinances.

Existing General Plan Land Use Designation

5. The underlying land use designation (Exhibit B) for the subject property is Estate Residential (0-2 dwelling units per acre) with a target density of 1 unit per acre. This designation is intended to provide areas where large-lot single family residential development is desirable or areas of maximized open spaces are sought. This land use designation also provides transitional areas between natural open spaces and / or more dense residential development.

Request to Designate Site to Neighborhood Commercial

6. The request is to change the land use designation for the site to Neighborhood Commercial. This category denotes areas of office and commercial centers designed to serve the needs of the immediate area. Buildings and uses generally relate to adjacent communities with respect to architectural style and scale. This designation also prohibits any single retail user from exceeding 100,000 square feet of gross floor area.

Land Use Compatibility

7. The original Estates at Lakeside PAD (case Z98-03) provided approximately 11 acres of commercial zoning; however, this area was located south of State Route 74 on a relatively flat parcel. Since that time, additional ADOT right-of-way was acquired for the future widening of State Route 74. This acquisition reduced the 11-acre site to approximately three acres and severely limited access to, and use of, the property. Accordingly, through this proposal, the applicant is seeking the relocation of the commercial area to the north side of State Route 74 and expanding it to 23 acres. The new location is planned at the project's main entry and is intended to provide the opportunity for a neighborhood / convenience-oriented retail center to serve the resort and those passing by along State Route 74.
8. The original commercial acreage was approved at a time when the General Plan allowed commercial zoning to occur without amending the Plan provided the area being zoned met certain size and location criteria. This provision was removed from the General Plan in 2004.

9. This request shifts the commercial acreage north of State Route 74 (still adjacent to the right-of-way) and increases the acreage to 23 acres to account for topographical constraints and the City's Desert Lands Conservation Overlay and Hillside Development Overlay restrictions.

Relevant General Plan Policies and Objectives

10. The applicant has identified goals and policies from the General Plan that support this request. Staff also finds the following goals and objectives particularly relevant:

Land Use Element

Policy 1.B.1:

Work to enhance commercial activity by attracting, retaining, and expanding those developments, which improve economic conditions in Peoria.

Policy 1.C.3:

Utilize performance standards and site design elements to reduce compatibility conflicts with adjacent uses.

Objective 1.F:

Promote sustainable developments that elevate community identity and convenience, reduce vehicular trips, minimize infrastructure needs, improve air quality and provide a diversity of uses.

Economic Development Element

Objective 3.A:

Facilitate and support the development of key commercial retail cores and regional service

Policy 3.A.1:

Identify and promote sites for commercial cores and regional retail development.

Policy 3.B.1:

Explore potential partnerships with federal, state, and county agencies to capitalize on the economic and recreational opportunities presented by Lake Pleasant Regional Park.

Policy 3.B.3:

Identify potential resort locations to capitalize on the City's amenities and its natural beauty.

CIVIC ENGAGEMENT & NOTIFICATION

Neighborhood Meeting

11. As a requirement of the General Plan Amendment and Rezoning application processes, the applicant conducted a neighborhood meeting and provided a Citizen Participation Process Report detailing the results of the meeting. The applicant notified property owners within 1320 feet of the subject site for the required neighborhood meeting, which was held on October 18, 2012 at the Wild Horse West Restaurant (8415 W. Carefree Hwy) at 6:00 p.m. No surrounding property owners or members from the public attended the meeting.

Public Notification

12. Public notice was provided in the manner prescribed under Section 14.D of the City of Peoria General Plan. Posting of the site was completed within the prescribed 15 days prior to the Public Hearing.

Support / Opposition

13. As of this writing, the City has not received any opposition or support on this item.

Proposition 207

14. In 2006, the voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions that have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement that waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

FINDINGS AND RECOMMENDATION

15. The proposed amendment supports the following findings:
 - The amendment constitutes an overall improvement to the City's General Plan and is not solely for the good or benefit of a particular landowner or owners at a particular point in time; and
 - That the amendment will better reflect the development needs of the area while accounting for the existing environment; and
 - The amendment is in conformance with the Goals, Objectives, and Policies of the Peoria General Plan; and
 - That the amendment will not adversely impact the community as a whole or a portion of the community by:
 - i. Significantly altering acceptable existing land use patterns,

- ii. Requiring larger and more expensive improvements to roads, sewer or water systems than are needed to support the prevailing land uses and which, therefore, may impact development of other lands,
- iii. Adversely impacting existing uses because of increased traffic on existing systems, or
- iv. Affecting the livability of the area or the health and safety of the residents.

It is recommended that the Planning and Zoning Commission take the following action:

Recommend approval of Case GPA11-0010 to the City Council.

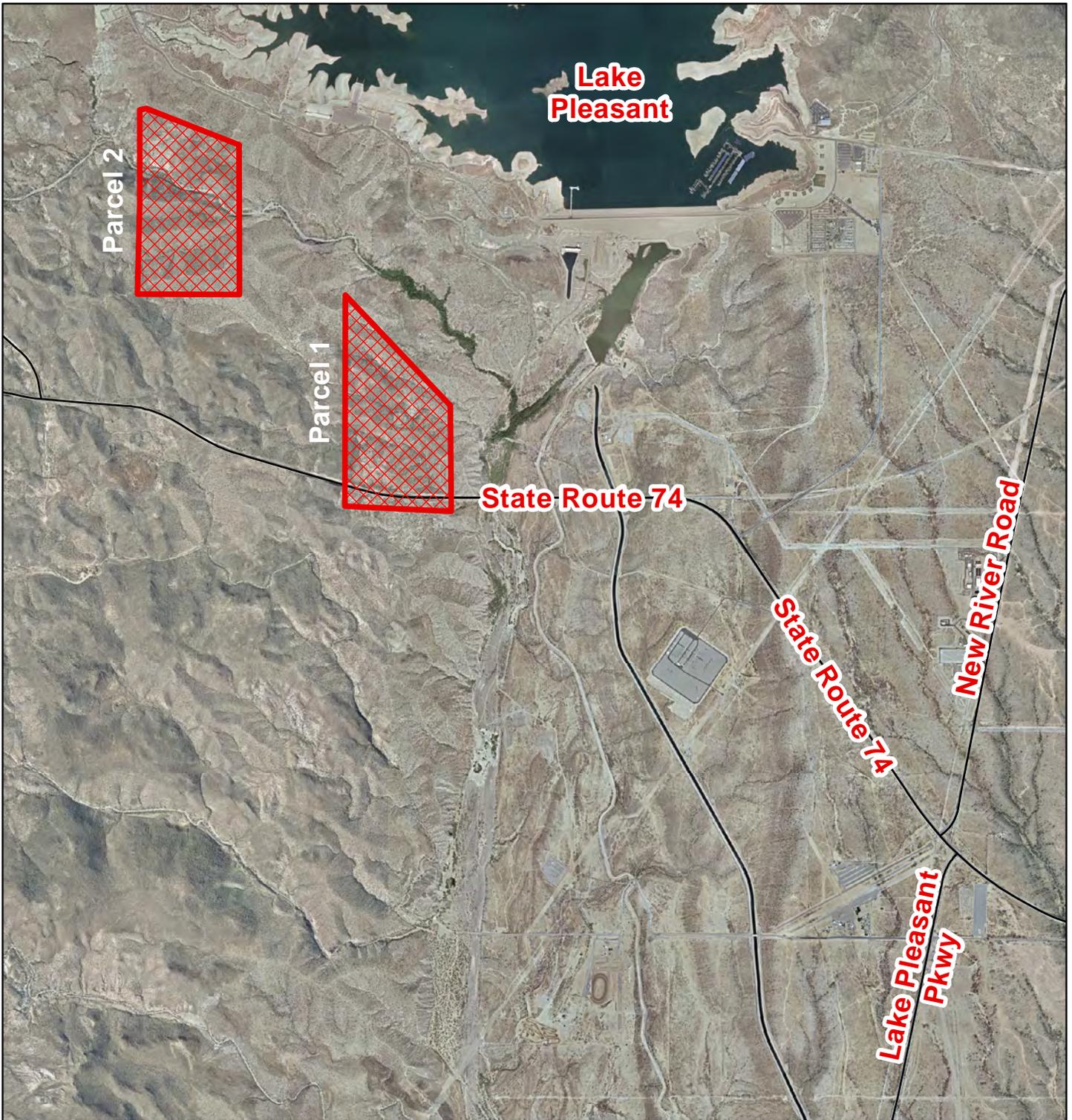
Attachments:

Exhibit A	Aerial / Context Map
Exhibit B	General Plan Land Use Map
Exhibit C	Proposed Amendment to General Plan Land Use Map
Exhibit D	Description and Justification Report

Prepared by: Adam D. Pruett, AICP, LEED Green Associate
Senior Planner

Aerial / Context Map

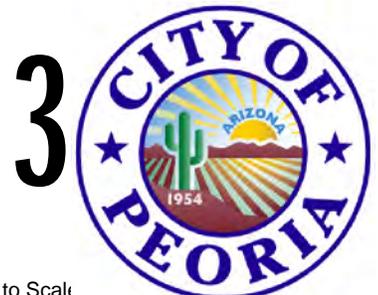
Exhibit A



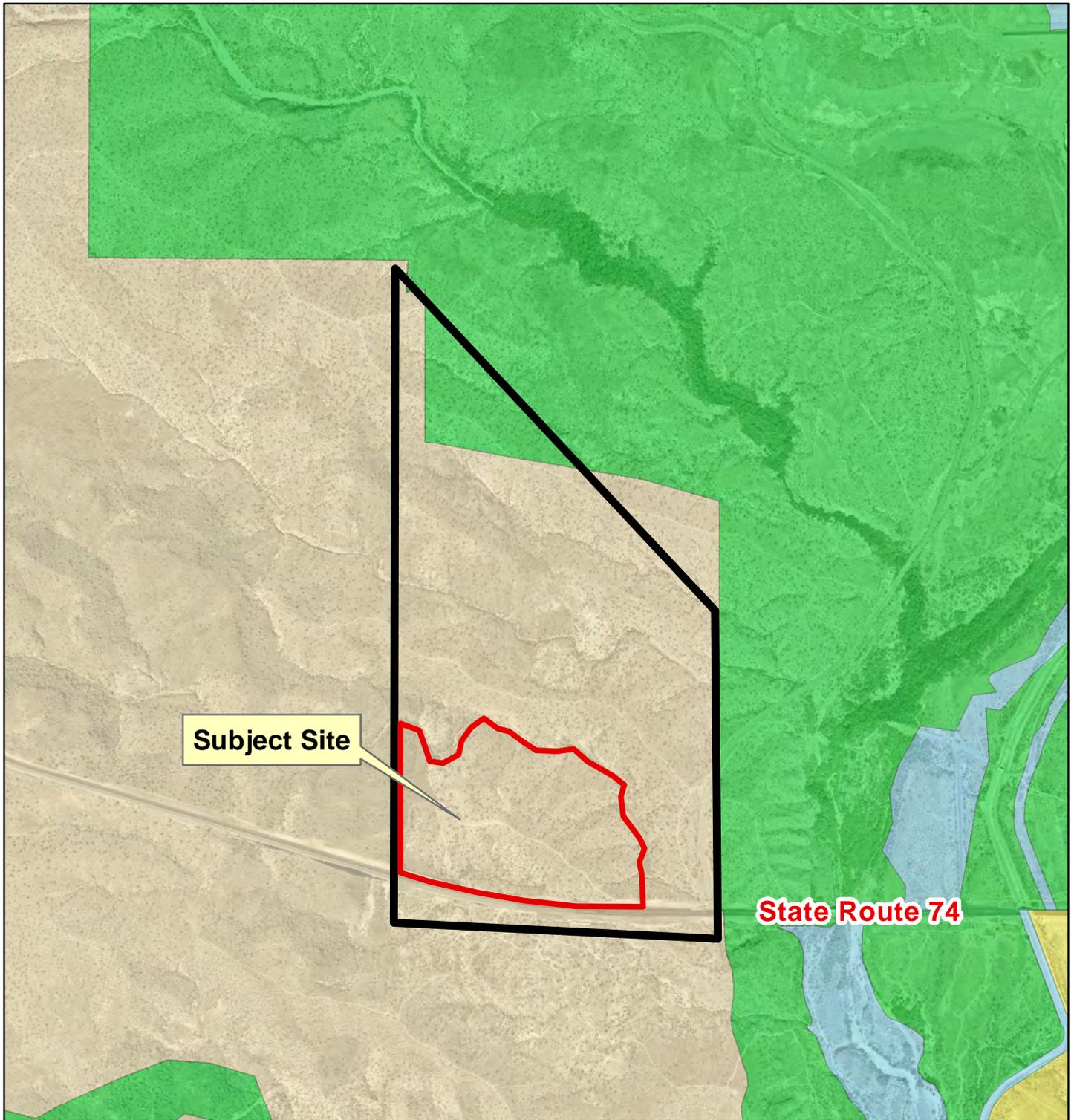
GPA11-0010 General Plan Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: General Plan Amendment for Cholla Hills
(formerly Estates at Lakeside)



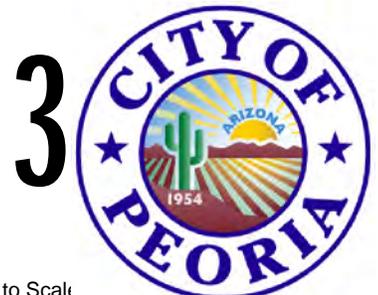
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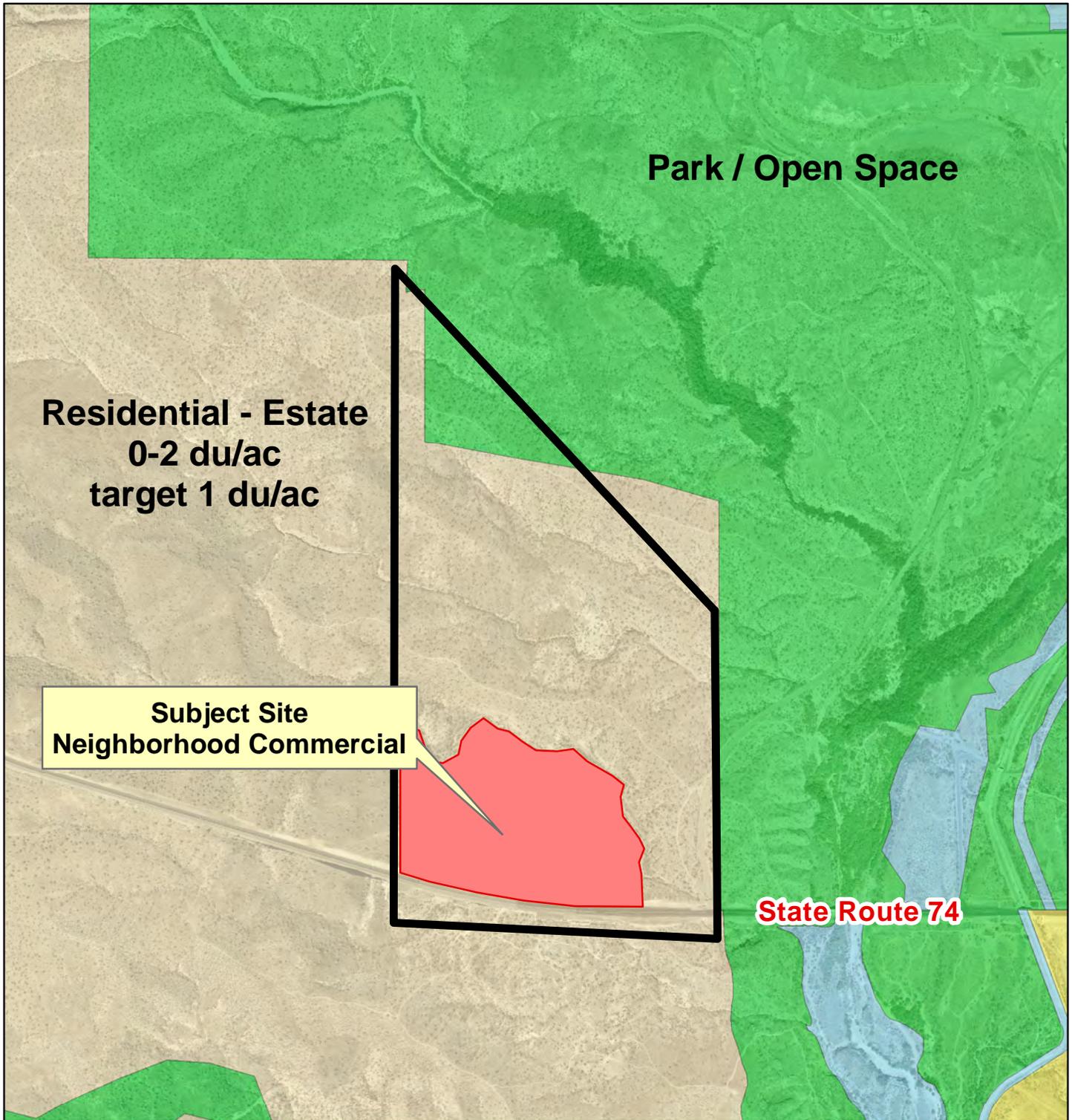


GPA11-0010 General Plan Amendment

Applicant: Earl, Curley & Lagarde, PC

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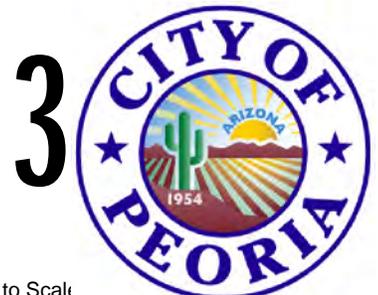




GPA11-0010 General Plan Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: General Plan Amendment for Cholla Hills
(formerly Estates at Lakeside)



Cholla Hills
Minor General Plan
Amendment

located

**Northwest corner of State Route 74
and Old Lake Pleasant Road**

Application Number: GPA11-0010

Property Owners
DLGC II, LLC
and
Lake Pleasant Group, LLP

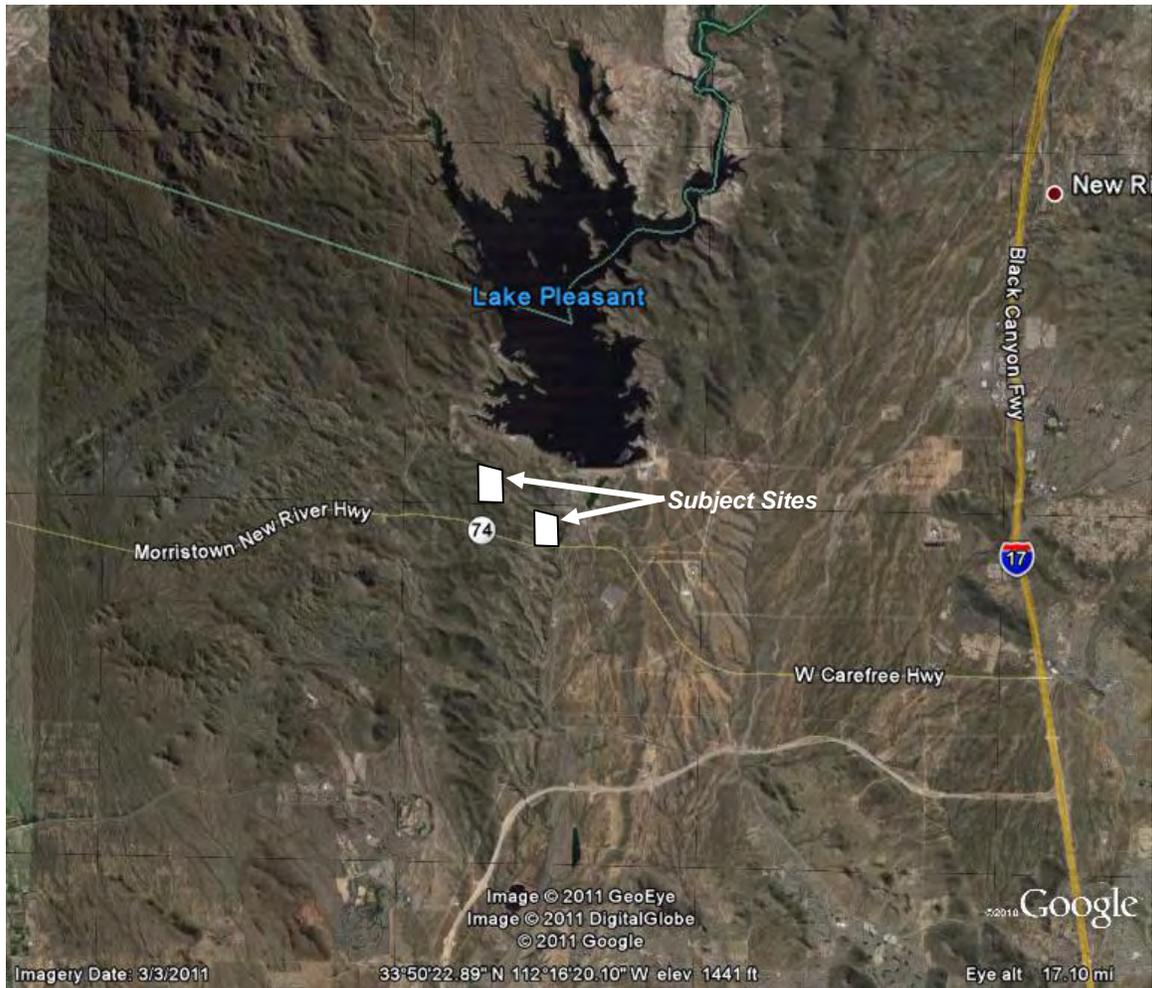
Prepared:
April 25, 2011
May 23, 2011
August 24, 2012
Revised November 19, 2012

**Cholla Hills
General Plan Amendment
Project Narrative**

APNs: 201-24-004H, 201-24-004K and 201-25-001A

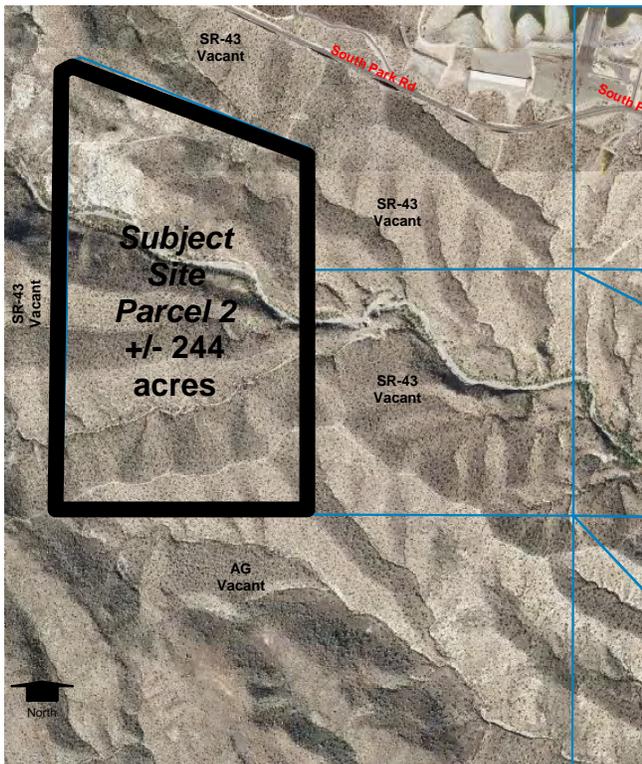
INTRODUCTION

DLGC II, LLC and Lake Pleasant Group, LLP, the property owners are seeking a Minor General Plan Amendment for approximately 23 acres and a companion Rezoning/Planned Area Development Amendment request (under separate application). The **Cholla Hills** properties are located northwest of the northwest corner of State Route 74 and Old Lake Pleasant road and at the northwest corner of State Route 74 and Old Lake Pleasant Road. This Minor General Plan Amendment is for only approximately 23 acres located at the southwest corner of **Cholla Hills** Parcel 1.

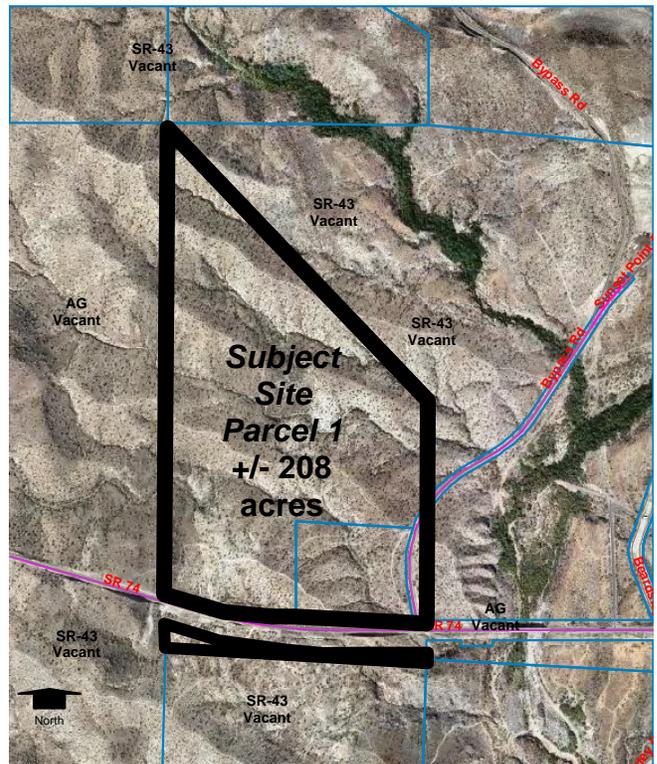


The overall *Cholla Hills* properties are the former site of the Estate at Lakeside I and II. The *Cholla Hills* project consists of two properties-Parcel 1 (Southeast Property) and Parcel 2 (Northwest Property). Parcel 1 (Southeast Property) is a 210 acre site and is located at the immediate northwest corner of State Route 74 and Old Lake Pleasant Road. It is zoned PAD. Parcel 2 (Northwest Property) is approximately 244-acres and zoned SR-43 and located northwest of the State Route 74 and Old Lake Pleasant Road. Both properties are generally located on the north side of State Route 74 and are undeveloped.

Two requests are being filed concurrently. The first request is for a Minor General Plan Amendment (“GPA”) to amend the land use designation for approximately 23 acres from “Residential Estate” to “Commercial” on the Parcel 1 (Southeast property). The second companion request seeks a Planned Area Development Amendment (“PAD Amendment”) application for 2 parcels. The property owners seek to amend the existing Estates at Lakeside PAD (“Parcel 1” the Parcel which fronts onto State Route 74) which was approved by the City Council on November 3, 1998. This request seeks to amend that existing PAD to allow for a unique Resort Community, consisting of a Recreational Vehicle Resort development component and a highly designed and unique commercial project that is integrated into and consistent with the existing scenic desert environment. Additionally, the request seeks to also increase the size of the existing PAD by including Parcel 2 (Northwest Property) into the existing PAD. The applicant seeks a resort and resort residential development for Parcel 2.



Cholla Hills – Parcel 2
Northwest Site



Cholla Hills - Parcel 1
Southeast Site

The change of the Residential Estate designation for the proposed 23-acres to Commercial provides a more compatible designation and transition with the planned developments in the area. This application request increases the commercial zoning by 12 acres for a total of 23 acres of commercial zoning on the north side of State Route 74. A Minor General Plan Amendment is therefore being requested to allow for the additional acreage of commercial zoning on the north side of State Route 74. The commercial property has a natural desert preservation which separates the proposed commercial from the RV Resort. Furthermore this area is also enhanced by a major drainage swale that will be left undeveloped with the exception of a roadway that connects the RV Resort directly to State Route 74.

This new commercial site will provide an opportunity for convenience retail which will be supported by the Residential, Resort, Recreational Vehicle Resort and the surrounding area. When the commercial site develops, the east 2/3 of the site will not be visible from S.R. 74 due to the 10 foot vertical grade differential along the highway frontage. As shown on the accompanying section, State Route 74 will be 10-feet lower than the finish floors of the proposed commercial parcel. The western 1/3 of the property's frontage along S.R. 74 is lower than S.R. 74 and therefore it is proposed that landscaping integrating earthen berms to imitate the natural surrounding and environment will be incorporated in order to screen the commercial development. The architectural style, size, and character of the commercial development will be similar to developments in the Valley's northern desert environments as represented in the pictures that accompany this narrative. All commercial development will adhere to the City's Design Review Manual. The scale of building will be visually reduced by mixing materials, soft desert colors, textures, and the addition of articulated details to provide a variation of building scale and size. Variation in building scale shall be provided in this development.

LOCATION AND ACCESSIBILITY

The I-17 Freeway and Carefree Highway (State Route 74) interchange is only just over 9 miles east of the proposed site. State Route 74 also provides excellent access to Grand Avenue which provides access to Las Vegas and other parts of the western United States. State Route 74 is a two-lane paved road and is designated to be a major roadway as the area matures. State Route 74 will provide primary access to the site. State Route 74 right-of-way has been expanded to 308-feet which will accommodate a "controlled access rural freeway". The current feasibility study indicates a ten lane roadway with a 65' open median. It is owned and maintained by the Arizona Department of Transportation (ADOT).

SURROUNDING LAND USES AND ZONING

Parcel 1-*Southeast parcel:*

North: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
East: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
South: State Land-Vacant undeveloped land zoned SR-43.
West: State Land-Vacant undeveloped land zoned AG.

Parcel 2-*Northwest parcel:*

North: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
East: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
South: State Land-Vacant undeveloped land zoned AG.
West: Bureau of Land Management-Vacant undeveloped land zoned SR-43.

DESCRIPTION OF OVERALL PROPOSAL

Both properties are designated in the City of Peoria General Plan (“Plan”) as “Residential Estate.” The existing zoning on Parcel 1 (Southeast Property) allows for approximately 13 acres of resort near the northern tip of the property, 195 acres of single-family residential (1.18 DU/AC), and approximately 11 acres of commercial. A Minor General Plan Amendment has been filed to change the land use designation on the southern 23 acres of Parcel 1 from “Residential Estate” to “Commercial” to allow the implementation of the companion *Cholla Hills* PAD Amendment. Since the existing zoning allows 11 acres of commercial the net increase of commercial is 12 acres of commercial on Parcel 1.

This application request increases the commercial zoning by 12 acres for a total of 23 acres of commercial zoning on the north side of State Route 74. The property on the south side of SR74 will remain undeveloped except for Wastewater Treatment Plant and associated uses. A Minor General Plan Amendment is therefore being requested to allow for the additional acreage of commercial zoning on the north side of State Route 74. The commercial property has a natural desert preservation which separates the proposed commercial from the RV Resort. Furthermore this area is also enhanced by a major drainage swale that will be left undeveloped with the exception of a roadway that connects the RV Resort directly to State Route 74.

Primary access to the property will be provided via State Route 74 in large part due to the difficult topography of the property. The existing 10-acre commercial designation that was approved with the Estate at Lakeside project will be relocated to the north side of State Route 74 since the ADOT condemnation has essentially eliminated the parcel south of the roadway. The new proposed 23-acre commercial site is planned off the project’s main entry road and located at the southern portion of the site, which provides good visibility and access. The proposed commercial designation will also provide the opportunity for a neighborhood/convenience-oriented retail center to serve the

Residential, Resort, R.V Resort and those passing by along State Route 74. Support retail/commercial and two R.V. storage sites, totaling approximately 23 acres, are located along the southern portion of the property of the southeastern site. The most viable commercial sites are those located at the intersection of major transportation routes or at entrances to a project. These locations increase visibility and traffic flow critical for successful retail businesses. The proposed neighborhood commercial designation additionally provides a buffer and excellent transition to State Route 74. Additionally, given the future intersection immediately west of this property, the approximately 22 acres commercial designation is a logical land transitional use to the future intersection of two major arterial streets.

This new commercial site will provide an opportunity for convenience retail which will be supported by the Residential, Resort, Recreational Vehicle Resort and the surrounding area. When the commercial site develops, the east 2/3 of the site will not be visible from S.R. 74 due to the 10 foot vertical grade differential along the highway frontage. As shown on the accompanying section, State Route 74 will be 10-feet lower than the finish floors of the proposed commercial parcel. The western 1/3 of the property's frontage along S.R. 74 is lower than S.R. 74 and therefore it is proposed that landscaping integrating earthen berms to imitate the natural surrounding and environment will be incorporated in order to screen the commercial development. The architectural style, size, and character of the commercial development will be similar to developments in the Valley's northern desert environments as represented in the pictures that accompany this narrative. All commercial development will adhere to the City's Design Review Manual. The scale of building will be visually reduced by mixing materials, soft desert colors, textures, and the addition of articulated details to provide a variation of building scale and size. Variation in building scale shall be provided in this development.

CONFORMANCE OF OVERALL PROPOSAL WITH GENERAL PLAN

The Land Use Element of the Plan includes Goals, Objectives and Policies that encourage the type of development requested in this General Plan and companion rezoning applications, such as:

Policy 1.B.1: Work to enhance commercial activity by attracting, retaining, and expanding those developments, which improvement economic conditions in Peoria.

This new commercial site will enhance commercial opportunities by providing convenience retail which will be supported by the Residential, Resort, Recreational Vehicle Resort and the surrounding area. The commercial development is intended to accommodate both the general public as well as the guests who will be visiting and utilizing the amenities of Parcels 1 & 2. These opportunities will provide additional tax dollars to the City of Peoria.

Policy 1.C.3: Utilize performance standards and site design elements to reduce compatibility conflicts with adjacent uses.

Most of the surrounding land is owned by Federal Government and is under Bureau of Land Management Jurisdiction, State Trust Land or part of the Lake Pleasant Regional Park. The companion PAD Amendment incorporates rigid standards and criteria relative to commercial uses and design, open space, limitation on grading, limitation on building footprints, and design guidelines which will preserve the natural beauty and terrain of these parcels and minimize the impact on the land. These regulations will insure compatibility with the surrounding lands which are owned by the Federal Government, State Trust land or part of the Lake Pleasant Regional Park. **The companion PAD incorporates commercial representations which establish a level of quality for the commercial portion. This will be the benchmark against which future site plan and elevation submittals will be judged by City Staff. While the applicant may submit elevations which differ in character from the representations shown in this PAD, the intent of these exhibits is to establish a level of quality for the proposed commercial development; The Staff shall ensure that the level of quality shown in these exhibits are commensurate in quality with the actual elevations, materials, colors which are ultimately provided with each Design Review application. Additionally, any storage use must be visually screened through the use of landscaping, walls, etc. as approved by the City to ensure such facility is not visible from public streets. The commercial uses proposed on this parcel will be limited with potentially noxious C-2 uses being eliminated.**

Objective 1.F: Promote sustainable development that elevate community identity and convenience, reduce vehicular trips, minimize infrastructure needs, improve air quality and provide a diversity of use.

The proposed “Resort” and “Commercial” land use designations and PAD zoning will allow for the development of a Resort Community and a Residential Resort Community on very limited portions of the properties. The retail portion on the site provides a service which allows guests to stay on the property when shopping for their daily needs. **The new commercial site will provide an opportunity for near-by convenience retail which will be supported by the Residential, Resort, Recreational Vehicle Resort and the surrounding area all of which help reduce vehicular trips, minimize infrastructure needs, improve air quality and provide a diversity of use.**

Objective 1.I: Promote resort development that provides tourism opportunities within the City.

This proposal takes advantage of one of the City’s most unique recreational facilities-Lake Pleasant. The proposed resort on Parcel 2 (Northwest Property), the Recreational Vehicle Resort on Parcel 1 (Southeast Property) along with the proposed commercial, will all help promote tourist opportunities and enhances this recreational area and the City.

Policy 1.I.1: Identify and designate resort development sites that have direct access to significant recreational corridors and open spaces areas.

The proposed 240 room resort on 100 acres nestled in the pristine high desert is a spectacular opportunity for the City. Resort goers will flock to this natural and preserved desert environment.

Policy 1.1.2: Identify recreational corridors with future access points to resort areas and visitor access that encourage tourism and visitors activity.

Hiking trails, preserved wash corridors and slopes will make this site an exciting destination for tourists and visitors.

Objective 3.A: Develop program that encourage the clustering of development in exchange for preserved natural open space area.

The casita concept envisioned in this plan is premised upon clustering of development and the resulting retention of natural open space.

Policy 3.A.1: Open space preservation and planning is equally as important to the City as all other components of development review when considering the appropriateness of development proposals.

We agree and as demonstrated by this PAD open space preservation is one of the key planning principles of this application.

Policy 3.A.2: Encourage creative development patterns to ensure preservation of open spaces.

This site has significant washes that traverse the site, running generally from northwest to southeast. These washes are deeply incised, 30 to 50 feet deep in many locations. The topographic contouring of the property is dramatic and offers opportunities for creating a unique Recreational Vehicle Resort environment. The major collector street that runs from northwest to southeast is designed to have a divided highway with a median varying in width from 20 to 50 feet. The median is aligned with one of the major ridgelines on the property enabling some of the natural vegetation to remain in place and minimize construction to one of the most visible natural features on the site. As noted previously, the natural washes will be left in a natural state preserving the existing flora. In addition to the preservation of the washes, approximately 50 percent of the RV site will be maintained as either natural untouched open space or open space that will be revegetated to its original condition.

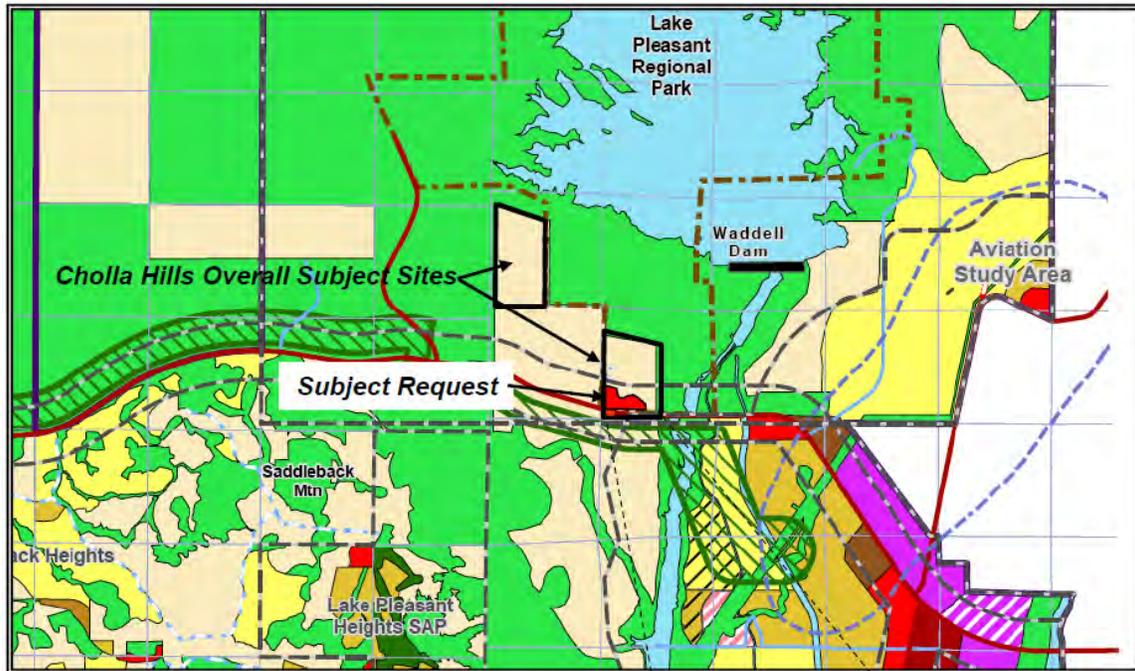
This Commercial designation is intended to provide development that integrates a combination of active and passive recreational amenities and ancillary commercial opportunities in areas of exceptional scenic and environmental quality. The RV Resort plan has been designed in concert with the existing contours of the land which minimizes cuts and fills and retains more of the existing vegetation in place. The individual recreational vehicle pads and spaces have been designed and orientated in a manner that takes advantage of views, minimizes alteration of the natural landscape, and provides substantial setbacks from the roads to allow additional landscaping to screen or soften the visibility to the individual sites from the roadway. The RV pad sites will blend in harmony with the surrounding desert minimizing permanent structures and surfaces. The

pad surface will be constructed, subject to City approval, of a stabilized decomposed granite material that will blend in color with the surrounding desert surface. A small 8 X 16 foot concrete pad will be provided at each site that will be finished with a heavy salt pitted color finish. Cuts and fills to achieve the finish grades of sites will be minimized.

This project will be one of Peoria's most unique resort communities nested in the scenic desert near Lake Pleasant. The high standard of creative design is sensitive to environmental conditions and is prescribed both pictorially and in a narrative format in this PAD. This proposal will offer a true Arizona desert experience, with hiking, swimming, and other leisure activities while also taking advantage of the activities associated with nearby Lake Pleasant Regional Park.

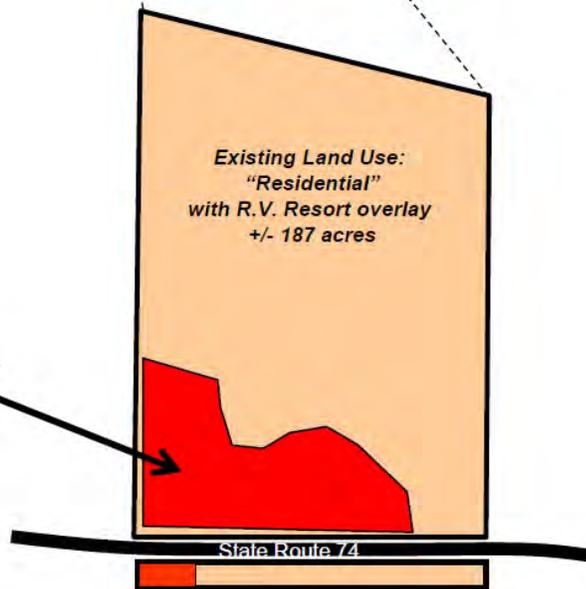
Based upon the analysis provided above, we believe this proposed amendment is consistent with the overall intent and goals of the General Plan and will be beneficial to the surrounding area as an additional recreational resort.

Enlargement of Proposed General Plan Land Use Map



**Subject Request
Proposed Land Use:
"Commercial"
+/- 23 acres**

**Existing Land Use:
"Residential"
with R.V. Resort overlay
+/- 187 acres**



Southeast Property

**Proposed General Plan Land Use
Proposed Land Use Designation: "Commercial" (23 acres)**

ECONOMIC BENEFITS

Under separate cover an economic impact statement resulting from the development will be provided.

The economic opportunities afforded by this project include; the generation of construction jobs, management jobs, tax revenue from real estate, sales taxes, increased land values, revenue to local businesses, and general economic growth for the region.

PUBLIC FACILITIES

The public facilities plan shows the subject site to be within the City's Fire Management Area. This request to change the land use designation to Resort puts no demands for additional schools, parks, or municipal offices. In fact, changing the land use to resort should reduce the number of children from the existing Residential Estate land use which provides permanent homes with children. The properties are located within the service areas of the regional water and wastewater facilities defined in the City of Peoria Water & Wastewater Master Plans.

Fire protection is provided by an existing fire company at Lake Pleasant. Police protection is provided by the City of Peoria police department, Maricopa County Sheriffs department and park rangers.

The project is not presently within an incorporated school district and is anticipated to be primarily vacation/second or retirement population which would require no school facilities.

CONCLUSION

In summary the proposed land use amendment to the General Plan Land Use map is a unique opportunity to provide for a development which reflects the community's needs and is compatible with the cities planning goals, policies and objectives. The ***Cholla Hills*** project is a well planned, low impact and sustainable R.V Resort with a Commercial component that is compatible with the existing Lake Pleasant Regional Park, BLM and State land in the surrounding area. Further the very low intensity land use is very much in harmony with the Lake Pleasant Regional Park. ***Cholla Hills*** is particularly well suited to maintain the openness of the high desert terrain. The project will contribute to the orderly growth of the City and will provide a unique opportunity which is currently unavailable. We believe that this Minor General Plan Amendment and companion rezoning will contribute positively to the well planned growth of the northern portion of Peoria and a high quality of life for its residents and visitors.

Exhibit 3

Communication from Maricopa County Parks & Recreation Department
Proposed Cholla Hills PAD Amendment



Maricopa County

Parks & Recreation Department

234 N. Central, Suite 6400
Phoenix, Arizona 85004-2208
Phone: (602) 506-2930
Fax: (602) 506-4692

To: Adam Pruitt, Senior Planner, City of Peoria Planning Division

From: Leigh Johnson, Park Planner

Re: Z 98-03A.1 (Cholla Hills resort, commercial and recreation community)

Date: December 4, 2012

The Parks and Recreation Department attempts to meet customer needs based on generally accepted standards for quality parks and outdoor recreation services. The immediate and long-term needs of unincorporated areas within the county for parks and recreation services, open space preservation, and regional trail planning are the sole responsibility of the Department at this time.

MCPRD has not had adequate time to fully consider this project and respectfully requests the opportunity to study this development further before making final comments. However, upon initial review of this project, MCPRD has unaddressed questions and concerns with this project such as:

- Lake Pleasant Regional Park (LPRP) is federally owned by the U.S. Bureau of Reclamation (Reclamation) and operated for water storage and delivery in conjunction with the Central Arizona Project, a Federal project authorized by the Colorado River Basin Project Act of 1968 (Public Law 90-537). LPRP is managed by Maricopa County Parks and Recreation Department (MCPRD) pursuant to a recreational management agreement between Reclamation and Maricopa County. Maricopa County Municipal Water Conservation District (MWD) retains ownership of some dam facilities and about 225 acres of land.
 - Due to this mix of land ownership and management partners, it is imperative that all parties are officially notified in writing of proposed activities that may affect its operations; MCPRD was not notified in this manner.
 - Additionally, Pleasant Harbor Marina, a private marina on the southeast side of lake, offers similar services to the proposed RV resort and may also have an interest in providing comments although they may be outside of the legally required notification zone.
- MCPRD also partners with the U.S. Army Corps of Engineers (ACE). The southern park area is currently being used as a mitigation site (Chalky Springs and Morgan City Wash) under ACE's In-Lieu Fee (ILF) program and has shown significant improvements to date. Briefly, ILF areas must satisfy ACE requirements such as:
 - Provides important functions: increase both the function and value of the aquatic resources
 - Contributes to watershed sustainability
 - Permanently protected

Furthermore, all activity in these areas is limited per ILF program requirements.

- What are the developer's plans to keep its visitors/residents out of these environmentally sensitive ILF areas that need to remain permanently protected?
- Rugged slopes of 10% or more are known to be difficult to build on and construction activity may degrade riparian functions. Development on the ridge above the wash may negatively affect the health of the riparian area through erosion and disruption of wildlife – areas that MCPRD has been partnering with ACE via the ILF program to repair.
- All Lake Pleasant Regional Park boundaries falls within the Bureau of Land Management (BLM) burro Herd Management Area (HMA) which is protected by the Wild and Free-Roaming Horse and Burro Act of 1971.
 - Private lands are generally not included in an HMA, but the burros are prone to wandering across property boundaries. What is the developer's plan to address wayward burro?
- The developer has an easement to use first ¼ of Bypass Road off of SR-74. Parks will be installing an electric gate on the road; location to be determined.
 - Will the developer make road improvements to both SR-74 and Bypass Road to accommodate increased use by its visitors/residents such as providing setbacks to allow vehicles to queue safely from traffic and a turn-around area?
 - How will its visitors/residents be prevented from using Park's portion of the bypass road?
- The developer's plan shows a trail going into Morgan City Wash; Parks will not allow any unauthorized trails into its jurisdictional areas.
- Both parcels are highly visible from the South Park Road area of Lake Pleasant, where the Visitor Center, campgrounds, and picnic areas are located; this may diminish the recreational experience of LPRP visitors.
- Morgan City Wash holds prehistoric and historic value to the area and faces the potential to be lost with development of the area.
- Morgan City Wash is an important area for wildlife access due to year-round water access, a rare feature in the desert.
- Not only would each parcel and surrounding areas be impacted at the first phase of development for the proposed RV resort, it would likely face additional impacts if and when the land use is changed to residential. Permanent residential use would pose additional and/or other impacts that temporary resort visitors may not and that requires additional consideration.

RESOLUTION NO. 2013-15

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA AMENDING THE LAND USE MAP OF THE PEORIA GENERAL PLAN FOR THE CITY OF PEORIA, ARIZONA; AND PROVIDING FOR SEPARABILITY AND AN EFFECTIVE DATE.

WHEREAS, the General Plan heretofore adopted by the City of Peoria, Arizona provides for periodic review and amendment;

WHEREAS, the City of Peoria is required to follow the procedures of A.R.S. 9-461.06 in adopting any amendments to the General Plan; and

WHEREAS, the Peoria Planning and Zoning Commission, after due and proper notice as required by law, held a public hearing regarding amendment number GPA 11-0010, on December 6, 2012; and

WHEREAS, after such public hearing and consideration of GPA 11-0010, the Peoria Planning and Zoning Commission recommended adoption of GPA 11-0010 on December 6, 2012, a copy of which recommendation is on file with the City Clerk of the City of Peoria, Arizona, and which said case number GPA 11-0010 was transmitted to the Mayor and Council of the City of Peoria prior to the meeting of January 22, 2013; and

WHEREAS, after notice in the manner and form provided by law, a public hearing regarding case number GPA 11-0010 was held by the City Council on January 8, 2013, as required by A.R.S. 9-461.06; and

WHEREAS, after due and proper consideration of such GPA 11-0010, the Mayor and Council of the City of Peoria, Arizona have found that GPA 11-0010 will properly aid in the orderly growth and development of the City of Peoria, Arizona.

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AS FOLLOWS:

Section 1. Amendments to the Peoria General Plan

1. The City Council of the City of Peoria, Arizona, does hereby accept and adopt amendment number GPA 11-0010, amending the Land Use Map of the Peoria General Plan, for the area described in Exhibit A1.

SECTION 2. Separability.

In the event any part, portion or paragraph of this Resolution is found to be invalid by any court of competent jurisdiction, the invalidity of such part, portion, or paragraph shall not affect any other valid part, portion, or paragraph of this Resolution and effectiveness thereof;

SECTION 3. This Resolution shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 22nd day of January, 2013.

Bob Barrett, Mayor

Date Signed _____

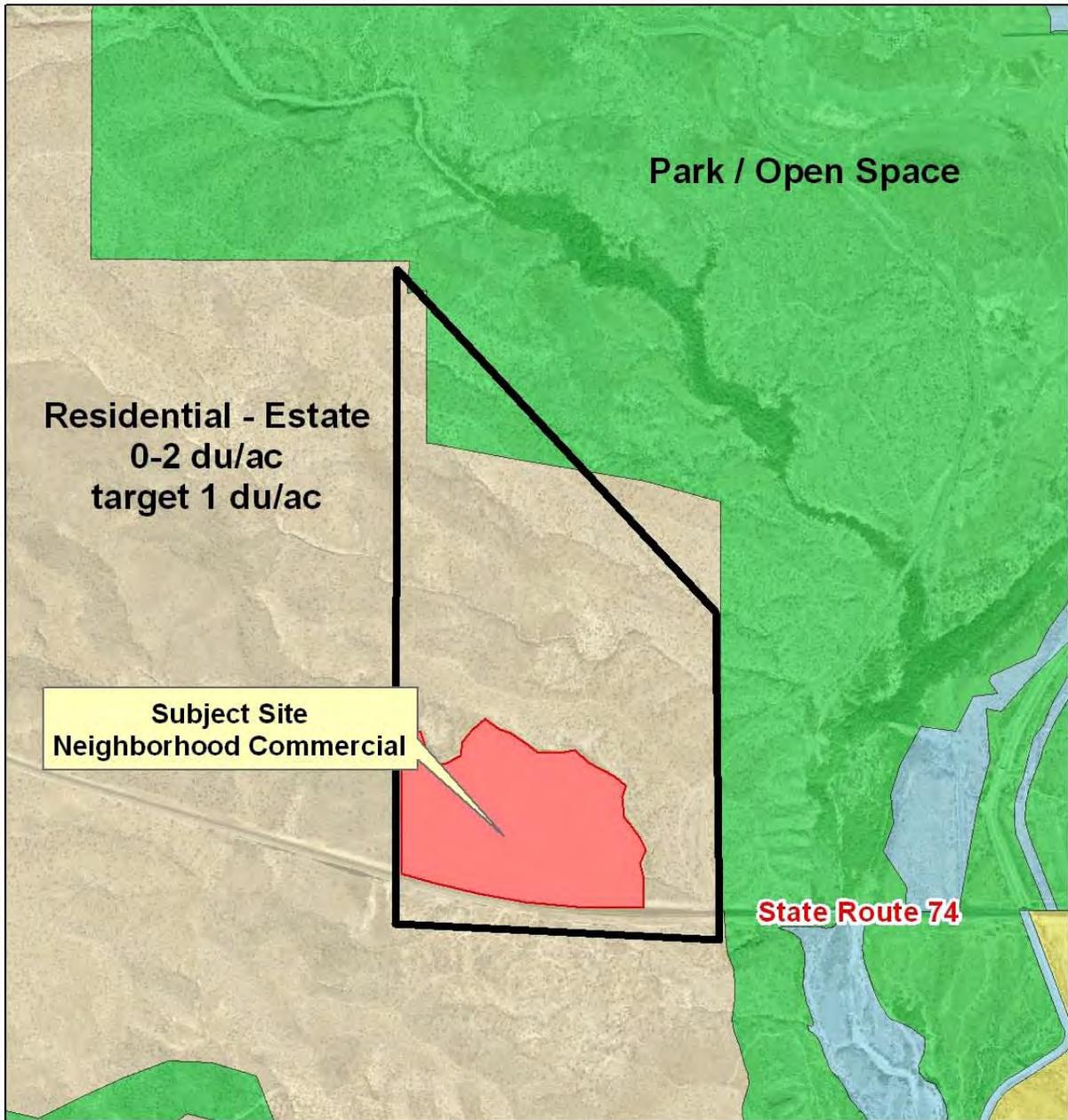
ATTEST:

Rhonda Geriminsky, Interim City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

EXHIBIT A1



GPA11-0010 General Plan Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: General Plan Amendment for Cholla Hills
(formerly Estates at Lakeside)



**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 13R

Date Prepared: December 18, 2012

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager

FROM: Chris Jacques, AICP, Planning and Community Development Director

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

SUBJECT: Z98-03A.1, Cholla Hills PAD Amendment

Purpose:

This is a request for City Council to hold a Public Hearing to consider a request for a major amendment to the Estates at Lakeside Planned Area Development, increasing the overall project area and allowing for a recreational vehicle resort development option.

Background/Summary:

The subject property consists of two development parcels. The first parcel (Parcel 1) is located at the northwest corner of SR 74 and Old Lake Pleasant Road. In 1998, this property was entitled as the Estates at Lakeside PAD which proposed approximately 187 acres of estate residential development, an 11-acre commercial parcel located immediately south of SR 74, and a 13-acre resort site at the northern tip of the property. The second development parcel (Parcel 2) is located to the northwest of Parcel 1 and is a 244-acre expansion of the original PAD.

In total, the amended PAD will consist of 454 acres and will be referred to as the Cholla Hills PAD. Parcel 1 will retain the original Estates at Lakeside development option, but will also include a 187-acre recreational vehicle resort and a 23-acre neighborhood commercial site. Unlike traditional RV resorts, which provide spaces for approximately 15 vehicles per acre, this proposal will be limited to 3 vehicles per acre (approximately 560 vehicles), leaving approximately 50 percent of the overall site to be left as natural open space. Central to this parcel is recreation and community center associated with the RV resort. This facility will include year-round activities including tennis, shuffleboard, swimming, and general fitness. While the RV resort will be in operation year-round, stays will be limited to six months or 180 days. The commercial site has been relocated north of SR 74 due to an ADOT right-of-way expansion which eliminated eight acres of the previous 11-acre commercial property south of SR 74, rendering it virtually useless. Relocating the commercial acreage north of SR 74 requires it to be located on more challenging terrain, thereby warranting the increase in acreage. This

relocation and acreage increase is subject to the minor General Plan Amendment request filed concurrently with this application (GPA11-0010).

Parcel 2 is being added to the original PAD area and will provide for a traditional resort site and associated residential development consisting of up to 240 homes on lots of 6,000 square feet or greater; however, the residential development will not be traditional in that there will be no property walls and the per-lot disturbance will be limited to 1,500 square feet to create a casita-like environment.

Development on both development parcels will be required to comply with the City's Desert Lands Conservation Overlay and the Hillside Development Overlay to minimize its impact on the property. The applicant provided language in the PAD that requires a minimum of 50% natural open space on both parcels. In addition to the open space preservation standards, this development shall be required to adhere to the City of Peoria Design Review Manual and the enhanced development and design standards included in the PAD.

Shortly before the December 6, 2012 Planning & Zoning Commission hearing, staff received written communication from the Maricopa County Parks & Recreation Department (Exhibit 3) voicing concerns about this application due to its proximity to the Lake Pleasant Regional Park. Staff has reviewed these concerns and believes they will be satisfied through compliance with the City's Desert Lands Conservation Overlay during the site plan phase of development or through communication with the applicant, which as of this writing, has been scheduled. The results of this communication will be documented in writing by the applicant and verified by the Maricopa County Parks & Recreation Department's representative. This communication will be provided to the City Council as soon as it becomes available.

Previous Actions:

A public hearing was held for this item at the December 6, 2012 Planning and Zoning Commission Meeting. There was one speaker who addressed this request on behalf of the Maricopa County Parks & Recreation Department. The Commission voted unanimously (4-0) in favor of the application.

Options:

- A:** Approve as recommended by Staff and the Planning & Zoning Commission; or
- B:** Approve with modifications; or
- C:** Deny; or
- D:** Continue action to a date certain or indefinitely; or
- E:** Remand to the Planning & Zoning Commission for further consideration.

Staff's Recommendation:

Staff recommends the City Council concur with the Planning & Zoning Commission's December 6, 2012 recommendation (4-0) to approve Case Z98-03A.1.

Fiscal Analysis:

This request is not expected to have immediate budgetary impacts to the City.

Narrative:

If the City Council takes action to approve this case, the applicant may proceed with the site plan and design review phase of development associated with this application.

Exhibit(s):

Exhibit 1: Vicinity Map

Exhibit 2: December 6, 2012 Planning and Zoning Commission Staff Report with Exhibits

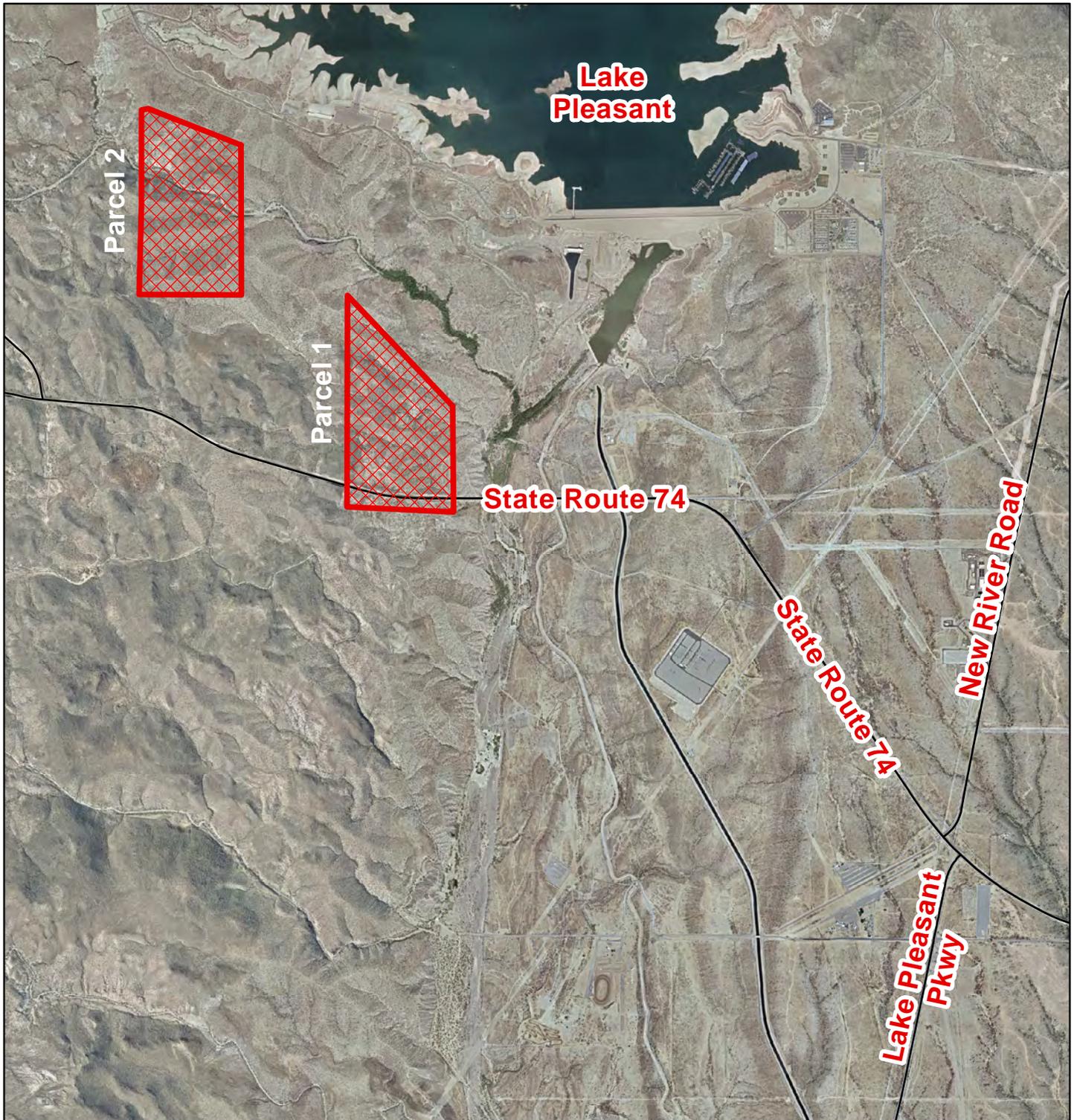
Exhibit 3: Communication from Maricopa County Parks & Recreation Department

Exhibit 4: Draft Ordinance

Contact Name and Number: Adam Pruett, Senior Planner, x5168

Vicinity Map

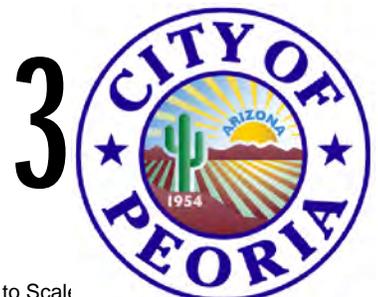
Exhibit 1



Z98-03A.1 Major PAD Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: Major PAD Amendment - Cholla Hills
(formerly Estates at Lakeside)



Not to Scale

Exhibit 2

P&Z Commission Staff Report & Exhibits
Proposed Cholla Hills PAD Amendment



REZONING

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: Z 98-03A.1
DATE: December 6, 2012
AGENDA ITEM: 6R

Applicant: Earl, Curley & Lagarde, PC
Request: Major Planned Area Development (PAD) amendment
 - Amending existing 210-acre PAD
 - Addition of 244 acres, currently zoned SR-43
Proposed Development: Cholla Hills resort, commercial and recreation community.
Location: The property is located at the northwest corner of State Route 74 and Old Lake Pleasant Road. (APN 201-24-004K, 201-24-004M, 201-24-004H, 201-24-004J, 201-25-001A).
Site Acreage: 454 gross acres
Support / Opposition: Staff has not received any support or opposition regarding this request.
Recommendation: **Approve**, with stipulations.

AREA CONTEXT

Table 1: Existing Land Use, Future Land Use, Current Zoning. (Exhibits A-C)

	LAND USE	GENERAL PLAN	ZONING
Subject Property	Vacant	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	Planned Area Development and SR-43
North	Vacant	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	Planned Area Development
South	Vacant, SR 74	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	Planned Area Development
East	Vacant	Park / Open Space	SR-43 (Suburban Ranch)
West	Vacant	Residential/Estate (0-2 du/ac. Target 1 du/ac.)	AG (General Agricultural)

Annexation and Case History

- Records indicate that Parcel 1 of this proposal was annexed into the City in 1993 as part of much larger annexation that covered more than 675 acres of land primarily located southwest of Lake Pleasant. An initial zoning designation of General Agriculture (AG) was assigned through case Z93-21. The current Estates at Lakeside Planned Area Development (PAD) zoning was assigned in 1998 through case Z98-03.

2. Parcel 2 was annexed into the City and was granted initial zoning of Suburban Ranch (SR-43) in 1996. No further activity has occurred on this Parcel.

PROJECT DESCRIPTION

Proposal Overview

3. This proposal is divided into two primary parcels – the 210-acre recreational vehicle and commercial parcel (Parcel 1) and the 244-acre traditional resort parcel (Parcel 2). Both parcels are identified in Exhibits A and B.
4. The original Estates at Lakeside PAD (case Z98-03) was limited to Parcel 1 and established 11 acres of commercial zoning south of the State Route 74 right-of-way. It also established a 13-acre resort site on the north end of the parcel and residential zoning of 1.18 du/ac for the remainder of the site.
5. The recent acquisition of additional right-of-way for State Route 74 has reduced the commercial site to approximately 3 acres and has severely limited access to that portion of the property.
6. The applicant has stated the existing zoning entitlement is in conflict with the current and foreseeable market realities. As such, this proposed amendment is intended to preserve the existing entitlement as a development option, but also provide alternative uses for Parcel 1 and a new use for Parcel 2, which is being included as part of this application.
7. Both parcels are encumbered by significant topography and vegetation, which through compliance with the City's Hillside Development Overlay and Desert Lands Conservation Overlay (DLCO) will limit the disturbance and development of each site.
8. Parcel 1 will gain access directly from State Route 74 via two locations – one will serve as the access through the commercial portion of the property near the southwest corner of the site and the second will be from the existing, but closed Bypass Road. Parcel 2 will be accessed via a future roadway or easement through the intervening State Land parcel, which is anticipated to connect to Castle Hot Springs Road. The applicant is aware of ADOT's planning efforts to expand State Route 74 and is also aware that these plans may affect the location of access to and from these parcels. These impacts are contemplated on the current site plan for Parcel 1. (Exhibit D)

Parcel 1 – Recreational Vehicle Resort and Commercial (Exhibits E1-E5)

9. Parcel 1 will have two development options – one being the commercial, resort, and residential concept entitled in 1998 as the Estates at Lakeside PAD and the second being the RV resort and commercial proposal included in this application. Staff worked with the applicant to ensure the original development option remained intact as a secondary development plan should the demand for estate residential be restored prior to the development of the RV resort use. The

applicant agreed to keep the original entitlement, excluding the 13-acre resort use, and has included it in Appendix B of the new Cholla Hills Planned Area Development (PAD). The exclusion of the 13-acre resort option on Parcel 1 is offset by the additional 244-acre resort site on Parcel 2 of the Cholla Hills PAD.

10. The revised concept for Parcel 1 is a recreational vehicle resort on approximately 187 acres and neighborhood commercial uses on the remaining 23 acres (subject to Minor General Plan Amendment case GPA11-0010). This will be the City's first RV resort. Unlike traditional RV resorts, which provide spaces for approximately 15 vehicles per acre, this proposal will be limited to 3 vehicles per acre (approximately 560 vehicles), leaving approximately 50 percent of the overall site to be left as natural open space. Central to this parcel is recreation and community center associated with the RV resort. This facility will include year-round activities including tennis, shuffleboard, swimming, and general fitness. While the RV resort will be in operation year-round, stays will be limited to six months or 180 days.
11. This proposal is also requesting to relocate and expand the 11-acre commercial site discussed earlier to a new site north of, but still adjacent to, State Route 74. The new commercial standards limit the site to 23 acres and reflect the C-2 Intermediate Commercial zoning district provisions with the exception of those uses perceived to be 'noxious' such as gas stations, adult uses, and automotive repair garages.
12. It should be noted that the PAD explains that the 23-acre commercial site is anticipated to consist of 13 acres of retail and up to 10 acres of RV and boat storage. The storage use is proposed to be in compliance with the Conditional Use Permit and screening requirements found in Article 14-9 of the Zoning Ordinance. This site has the added advantage of grade separation that will enhance the screening of the storage use from State Route 74. The site is at a higher elevation than State Route 74 and slopes away from the highway. It should also be noted that the current Estates at Lakeside PAD permits the RV and boat storage use without first requiring a Conditional Use Permit or prescribed screening requirements. The applicant agreed to the additional layer of review (Conditional Use Permit) to ensure the City's acceptance of this use.
13. Development of this site will also be subject to the City's Design Review Manual, which in conjunction with the Hillside Development Overlay, will control building color, height, and general design quality. To assist staff with overall project visioning during future site planning and design review processing, the applicant has provided a comprehensive series of photos in the PAD illustrating acceptable design concepts for the commercial component of this project.

Parcel 2 – Traditional Resort (Exhibits F, G1-G4)

14. Parcel 2 is a 244-acre addition to the original Estates at Lakeside project area. Its inclusion in this amendment is solely for the location of a traditional 240-room resort and associated ancillary residential and commercial uses.

15. While the site is quite large, there are noteworthy topographical conditions that will narrow the opportunities for development on the property. Landforms such as ridgelines and major washes will be protected through the Hillside Development Overlay and the DLCO requirements.
16. Similar to the photo examples of the acceptable commercial development concepts provided in the PAD for Parcel 1, the applicant has provided photos of resort types and architectural styles deemed acceptable for this project.
17. The Cholla Hills PAD provides development standards for two types of residential development permitted on the property, which include a detached single-family product and an attached single-family / multi-family product. The PAD restricts the detached product to 6,000 square-foot minimum lot sizes, 1,500 square feet of maximum developable area, and no walls permitted between lots. The residential component on this parcel will not exceed 1 du/ac, or 244 homes, which is in conformance with the target density (1 du/ac) of underlying General Plan Residential Estate designation. All residential products, including the primary resort building are limited to 30 feet in height. These self-imposed requirements are intended to perpetuate the resort environment.

DISCUSSION AND ANALYSIS

Conformance with the General Plan

18. Staff received this application in May of 2011 in conjunction with a Major General Plan Amendment. After further review of the request and the General Plan criteria for Resort uses, it was determined that resorts are permitted in all land use categories, thereby negating the need for a major amendment. The relocation and expansion of the commercial acreage would still require a minor amendment.
19. Staff has worked with the applicant over the last several months to shape this proposal in such a way that it meets the General Plan Resort guidelines and land use criteria (provided below). Each iteration of the plan established commitments in site design, provision of amenities, and more stringent development standards to gain conformance with the General Plan. (Exhibit I)

Resort Development Guidelines:

Resort developments are projects that integrate a combination of destination hotels, casitas, timeshares, active or passive recreational amenities and ancillary commercial opportunities in areas of exceptional scenic and environmental quality.

All resort proposals shall substantially exhibit or demonstrate the following characteristics:

- *The proposal is compatible with the scale and character of surrounding land uses; and*
- *The proposal will not result in excessive traffic volumes on the surrounding circulation system; and*
- *The proposal provides for adequate infrastructure needs; and*

- *The proposal adequately includes measures to protect the natural and scenic qualities of the area.*

Resort Development [Land Use Criteria]

Objective 1.I:

Promote resort development that provides tourism opportunities within the City.

Policy 1.I.1:

Identify and designate resort development sites that have direct access to significant recreational corridors and open space areas.

Policy 1.I.2:

Identify recreational corridors with future access points to resort areas and visitor access that encourage tourism and visitor activity.

Objective 1.J:

Promote the provision of convenient housing and support infrastructure for resort development service employees.

Policy 1.J.1:

Promote the development of affordable housing options for service employees near major resort and commercial areas.

Policy 1.J.2:

Require adequate road, transit, utility, and water service infrastructure in conjunction with resort development.

Objective 1.K:

Establish incentives to attract appropriately-scaled resort developments integrating a mix of land uses.

20. Lake Pleasant is one the City's most valuable resources. Its recreational opportunities are highly regarded by its visitors and its life-sustaining water is valuable to the valley and the region. The majority of the surrounding property is publically owned and managed by the Bureau of Land Management, Arizona State Land Department, Bureau of Reclamation, and the Maricopa County Parks Department. In working with the applicant on this proposal, staff has emphasized the necessity for this proposal to minimize site disturbance, maximize integration into the natural environment, and minimize the visual impact from State Route 74 while providing a unique recreational amenity that will fit within the context Lake Pleasant and the Sonoran Desert.

Citizen Participation Plan - Neighborhood Meeting

21. Section 14-39-8.E of the Peoria Zoning Ordinance requires the applicant of a rezoning request to hold at least one neighborhood meeting. The applicant conducted a neighborhood meeting and provided a Citizen Participation Process Report detailing the results of the meeting. The applicant notified property owners within 1320 feet of the subject site for the required neighborhood meeting, which was held on October 18, 2012 at the Wild Horse West Restaurant

(8415 W. Carefree Hwy) at 6:00 p.m. No surrounding property owners or members from the public attended the meeting.

City Review

22. This request has been reviewed and commented on through the City's standard rezoning application review process and has been approved by the Planning Division, Site Development / Engineering, and Fire Safety with conditions as provided in the *Conditions of Approval* portion of this report.

Public Notice

23. Public notice was provided in the manner prescribed under Section 14-39-6. Additionally, the site was posted with a sign meeting the size and content requirements prescribed by the Planning Division.

FINDINGS AND RECOMMENDATION

24. Based on the following findings:
- The proposed zoning district is in conformance with the goals and objectives set forth in the Peoria General Plan.
 - This rezoning request is consistent with General Plan Residential / Estate (0-2 du/ac, target of 1 du/ac) land use designation and is less intense than the existing zoning.
 - This rezoning request will result in recreation and tourism opportunities in the vicinity of an existing and developing recreational area within the City.

It is recommended that the Planning and Zoning Commission take the following action:

Recommend to the City Council approval of Z98-03A.1 subject to the following conditions:

1. The development shall substantially conform with Cholla Hills Planned Area Development standards and guidelines report.
2. Phase 1 of the recreational vehicle resort shall include the recreation center and associated amenities as depicted in Exhibit E3 of this report.
3. All preliminary plats and site plans shall be accompanied by a complete Desert Lands Conservation Report (or equivalent) at the time of submittal. Each Desert Lands Conservation Report shall be approved prior to the issuance of approval for the subject preliminary plat or site plan.
4. The 2008 edition of NFPA 1194 shall be used for the Standard for Recreational Vehicle Parks and Campgrounds
5. The Developer shall dedicate ROW along the frontage of the project per the City's Street Classification Map or as determined by the City Engineer to accommodate the ultimate development of the half-street.

6. A more detailed Traffic Impact Analysis must be submitted during the preliminary plat or site plan review. Detailed analysis with respect to traffic signal analyses, storage lengths, and turn lane details have to be determined along with access control. Secondary access has to be determined along with internal circulation. If the proposed developments will be done in different phases, it has to be outlined as to what will be completed in each phase and the timeline for each phase. Separate TIAs will be required for each phase of development.
7. Secondary access to Parcel 2 shall be approved by the City prior to the development of that phase of the project.
8. Preliminary plans for water, sewer, roadway, and drainage must be included with the first preliminary plat or site plan application. The developer must understand that any infrastructure constructed for the RV resort may have to be removed and replaced at the time that a residential subdivision is constructed.
9. The Developer shall be responsible to construct the water and wastewater facilities, which will then be turned over to the City of Peoria for operation – under the terms outlined in the Asset Purchase Agreement
10. The Water and Sewer infrastructure required for the northwest parcel will have to be constructed and dedicated to the city at no cost. Also, any oversizing of the infrastructure designs identified in the Asset Purchase agreement will be the financial responsibility of the developer.
11. Per the Asset Purchase Agreement, the applicant is the water/wastewater provider, and is responsible for obtaining all the required regulatory permits.
12. Final approval of the plans will not be granted, nor permits issued, until all necessary permits and licenses have been obtained for the construction of the water and sewer facilities.

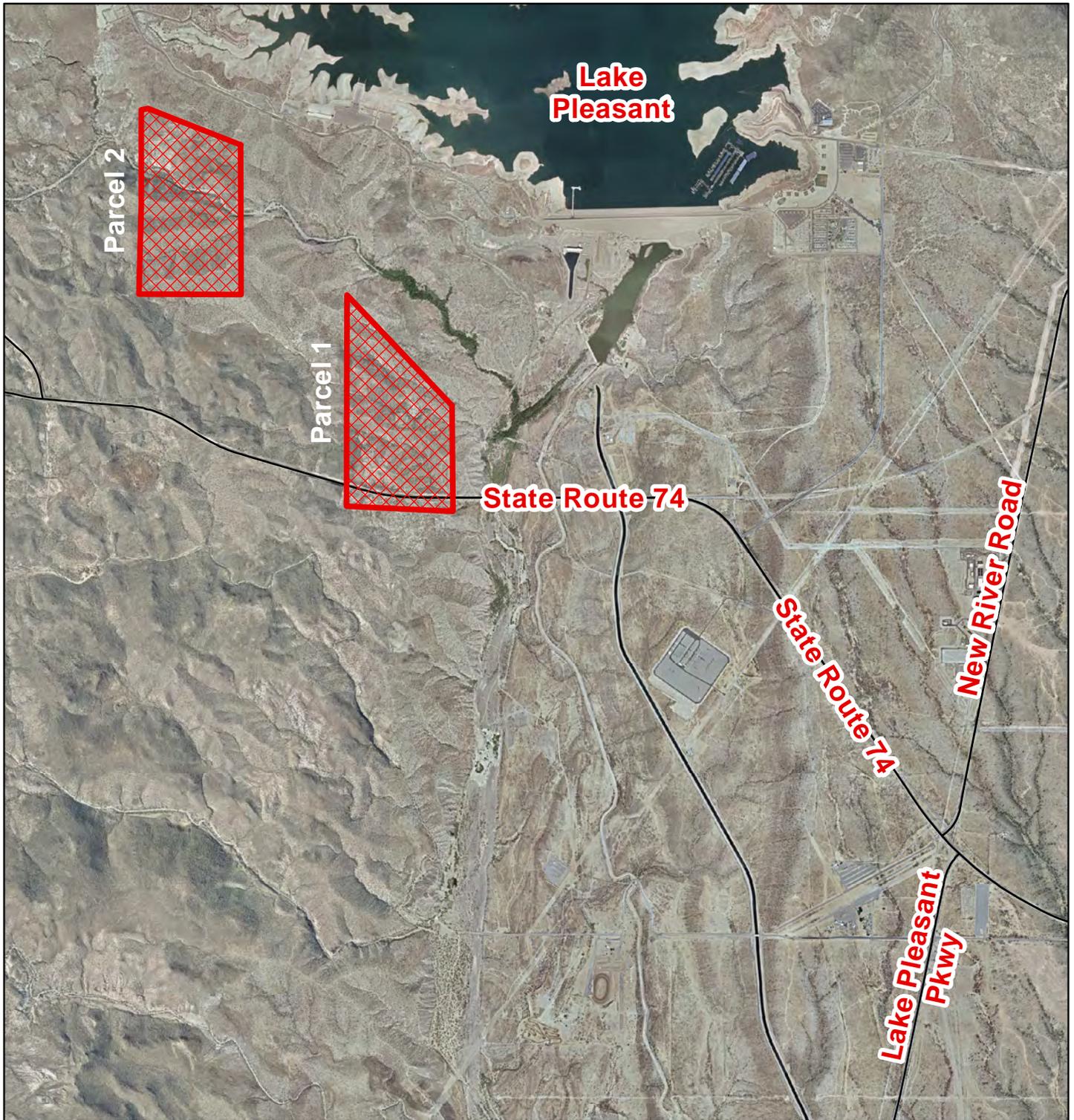
Attachments:

Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Future Access Plan
Exhibit E1-E5	Proposed Site Plan – Parcel 1
Exhibit F	Proposed Site Plan – Parcel 2
Exhibit G1-G4	Sample Photos – Commercial and Resort
Exhibit H	Informational Comments
Exhibit I	Proposed Cholla Hills Amended PAD Standards & Guidelines Report

Prepared by: Adam D. Pruett, AICP, LEED Green Associate
Senior Planner

Aerial / Context Map

Exhibit A



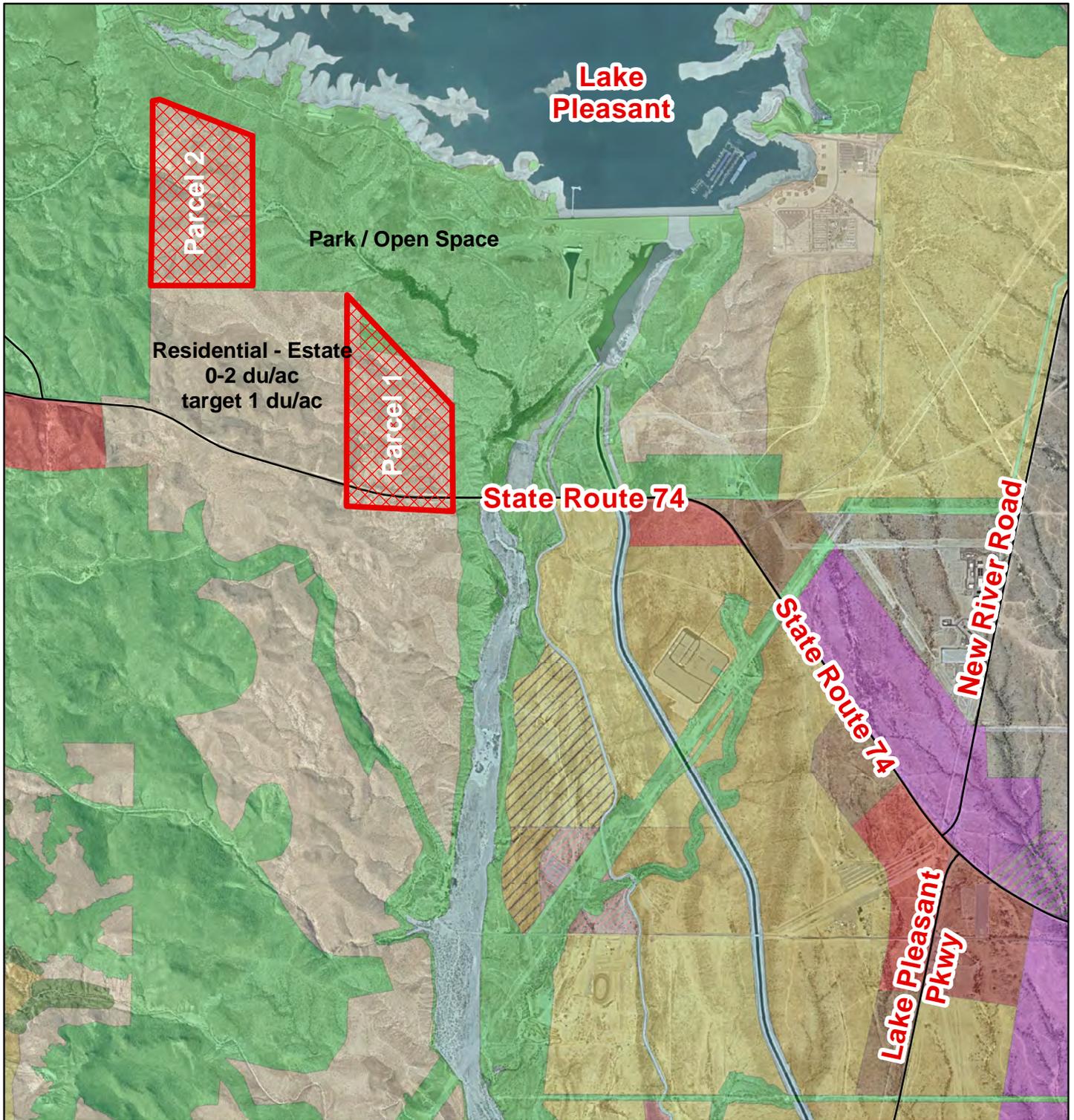
Z98-03A.1 Major PAD Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: Major PAD Amendment - Cholla Hills
(formerly Estates at Lakeside)



Not to Scale



Z98-03A.1 Major PAD Amendment

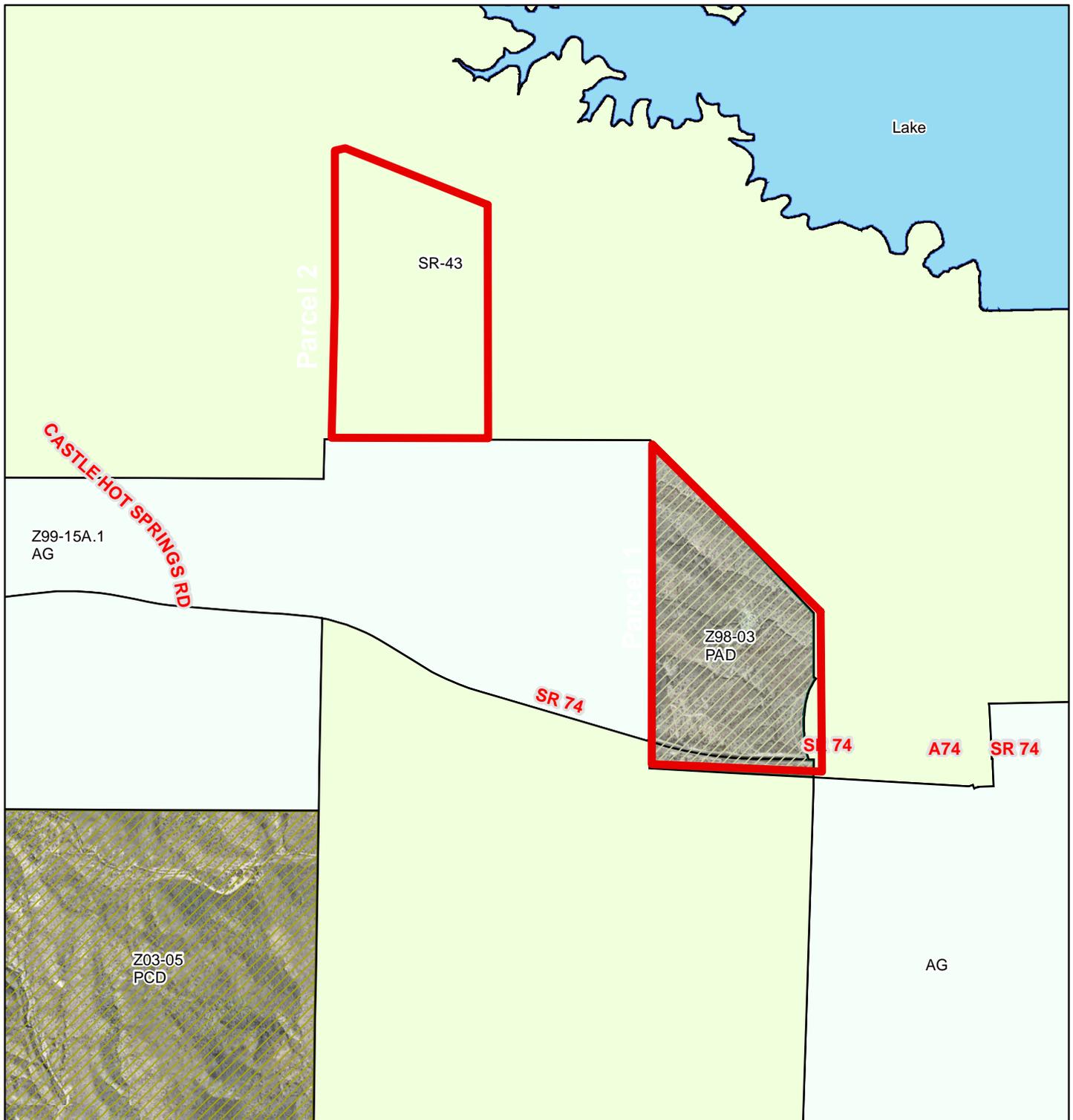
Applicant: Earl, Curley & Lagarde, PC

Request: Major PAD Amendment - Cholla Hills
(formerly Estates at Lakeside)



Zoning Map

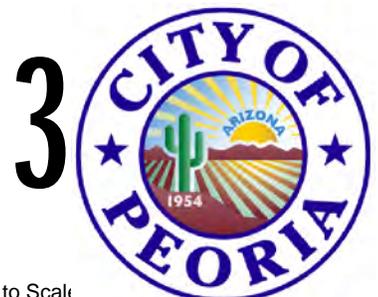
Exhibit C



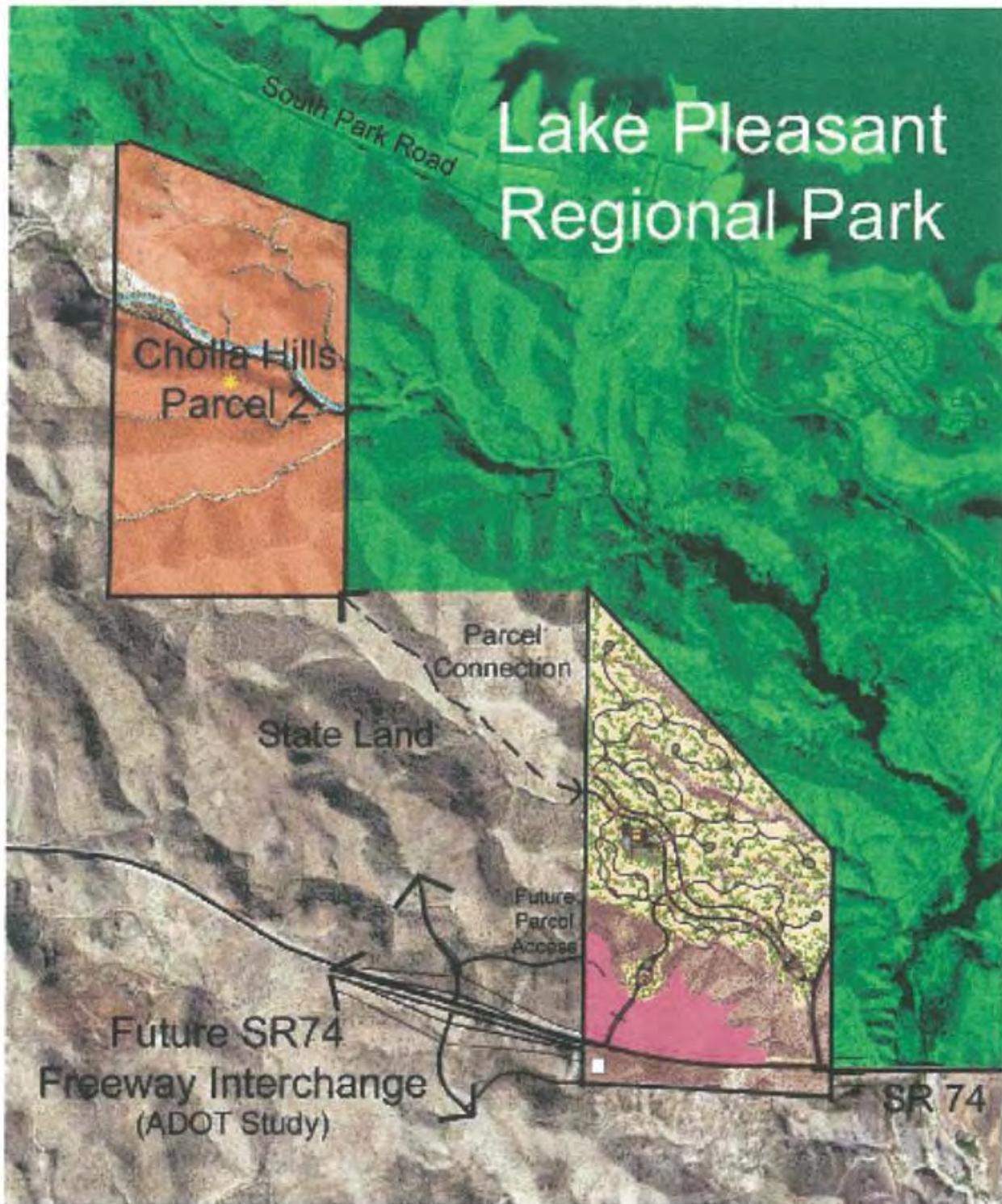
Z98-03A.1 Major PAD Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: Major PAD Amendment - Cholla Hills
(formerly Estates at Lakeside)



Not to Scale



Future Access Plan

Recreational Vehicle Resort Site Plan Parcel 1 (Southeast Property)

Plan Data:

Overall Project Area-
Parcel 1&2: 454± Acres

Parcel 1: 210 Acres
Parcel 2: 244 Acres

Existing Zoning:

Parcel 1: PAD (Case #Z98-03)
Parcel 2: SR-43

Request:

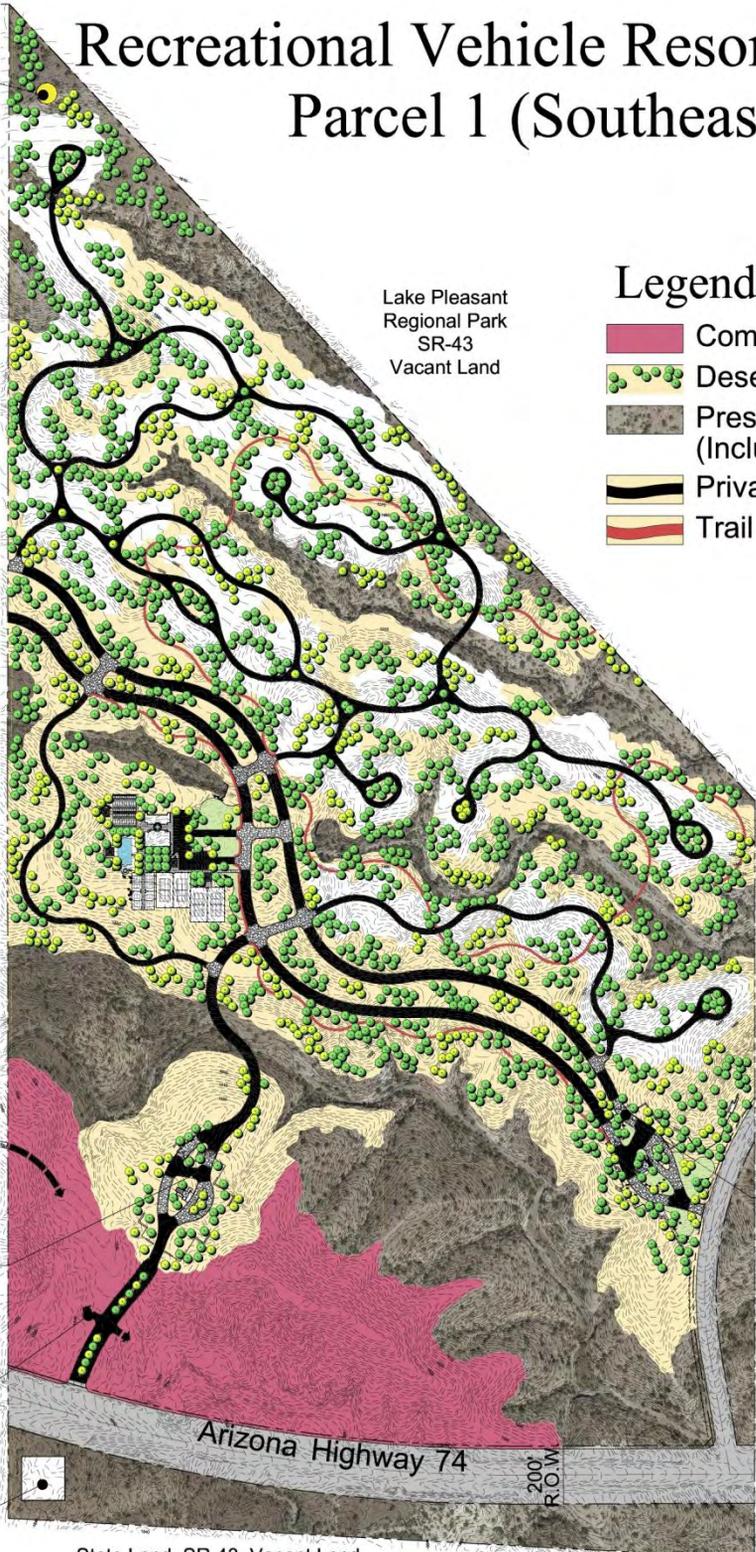
Parcel 1: PAD Amendment
Parcel 2: Rezoning

Proposed Uses:

Parcel 1:
A. Recreational Vehicle Resort-
187 Acres- 750 Sites
B. Commercial- 23 Acres
Parcel 2:
C. Resort- 244 Acres;
144 Units, .59 DU/Ac

Legend:

-  Commercial
-  Desert Open Space
-  Preserved Desert (Included w/ RV Project)
-  Private Roadway
-  Trail System



State Land
AG
Vacant Land

Future Access
to be provided through
State Land Parcel

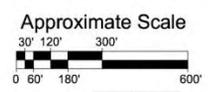
Secondary Gated
Access to RV Resort

Commercial Access

WWTP

Lake Pleasant
Regional Park
SR-43
Vacant Land
Primary Gated
Access to RV
Resort

Applicant/Zoning Attorney:
Earl, Curley & Lagarde, P.C.
3101 N. Central Ave., Suite 100
Phoenix, Arizona 85012
602-265-0094



State Land SR-43 Vacant Land



Aerial View of Recreational Center at RV Park

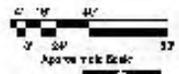
The structures at the center of the aerial view will consist of the fitness center and activity rooms. Amenities at the recreational center will include tennis, pickleball, lawn bowling, shuffleboard, and a lap pool with ramedas and B-B-Q's.

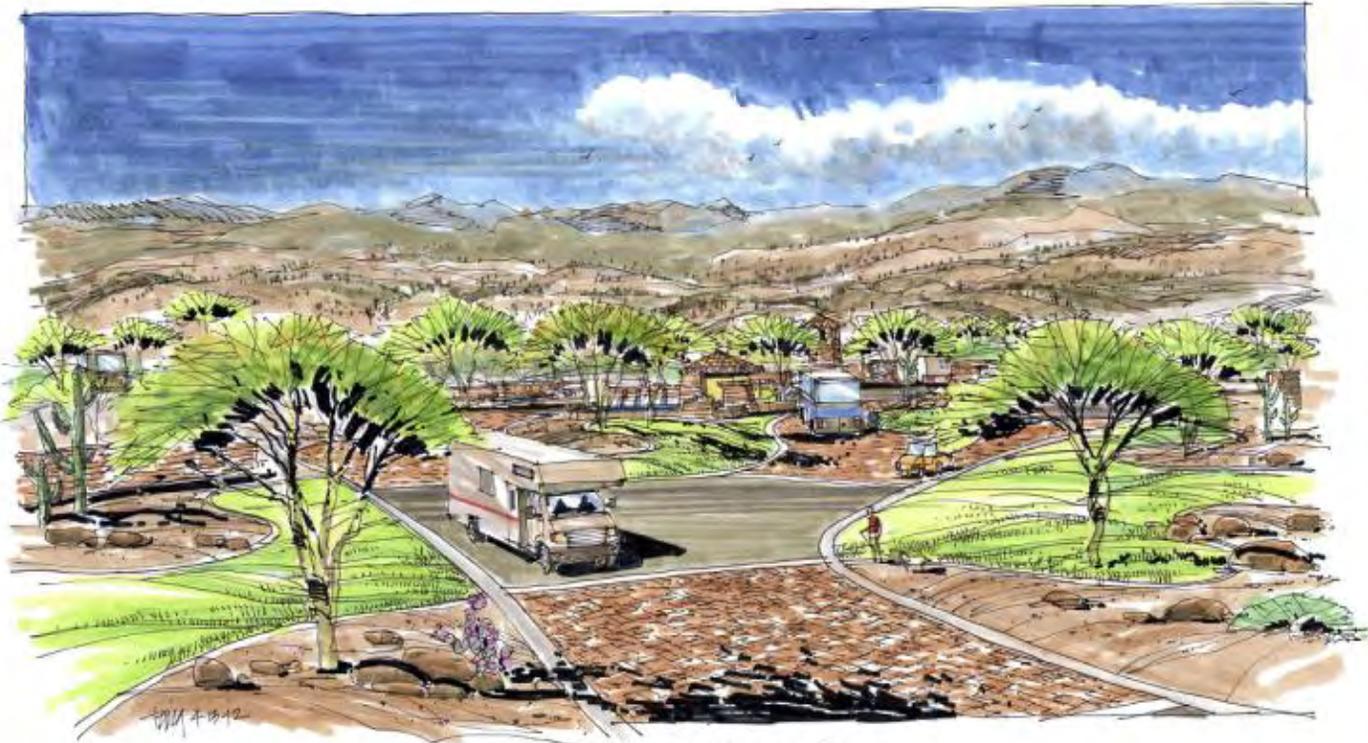
Preliminary Landscape Plan For Recreational Center - Parcel 1



Plant Schedule:

	Tree	Delivered From On site		Echinocytus Gaussonii Golden Barrel Cacti	10' Ht.		Luroa Callitriche or Chuparosa	5' Callon Full, Post-Con
	Shrub	Delivered From On site		Fuchsia	5' Callon Full, Post-Con		Callitriche	5' Callon Full, Post-Con
	Green Lawn	45' x 60' Multi-trunk		Shimada	5' Callon Full, Post-Con		Luroa	5' Callon Full, Post-Con
	Cacti	35' x 45' Multi-trunk		Luroa	5' Callon Full, Post-Con		Ruellia	5' Callon Full, Post-Con
	Opuntia	7-8' Pods 5' Callon - 14' Ht.		Ambrosia	5' Callon Full, Post-Con		Nolina	5' Callon Full, Post-Con





R.V. Entrance Perspective

One of two gated entrances into the Parcel 1 (RV Site). A gatehouse structure with water feature, decorative paved surfaces, custom gated entrance with decorative stone walls/ wrought iron fencing, lighted monument sign, and a 32' tower element are incorporated into entries to provide for grandeur and sense of arrival to an "upscale" development.

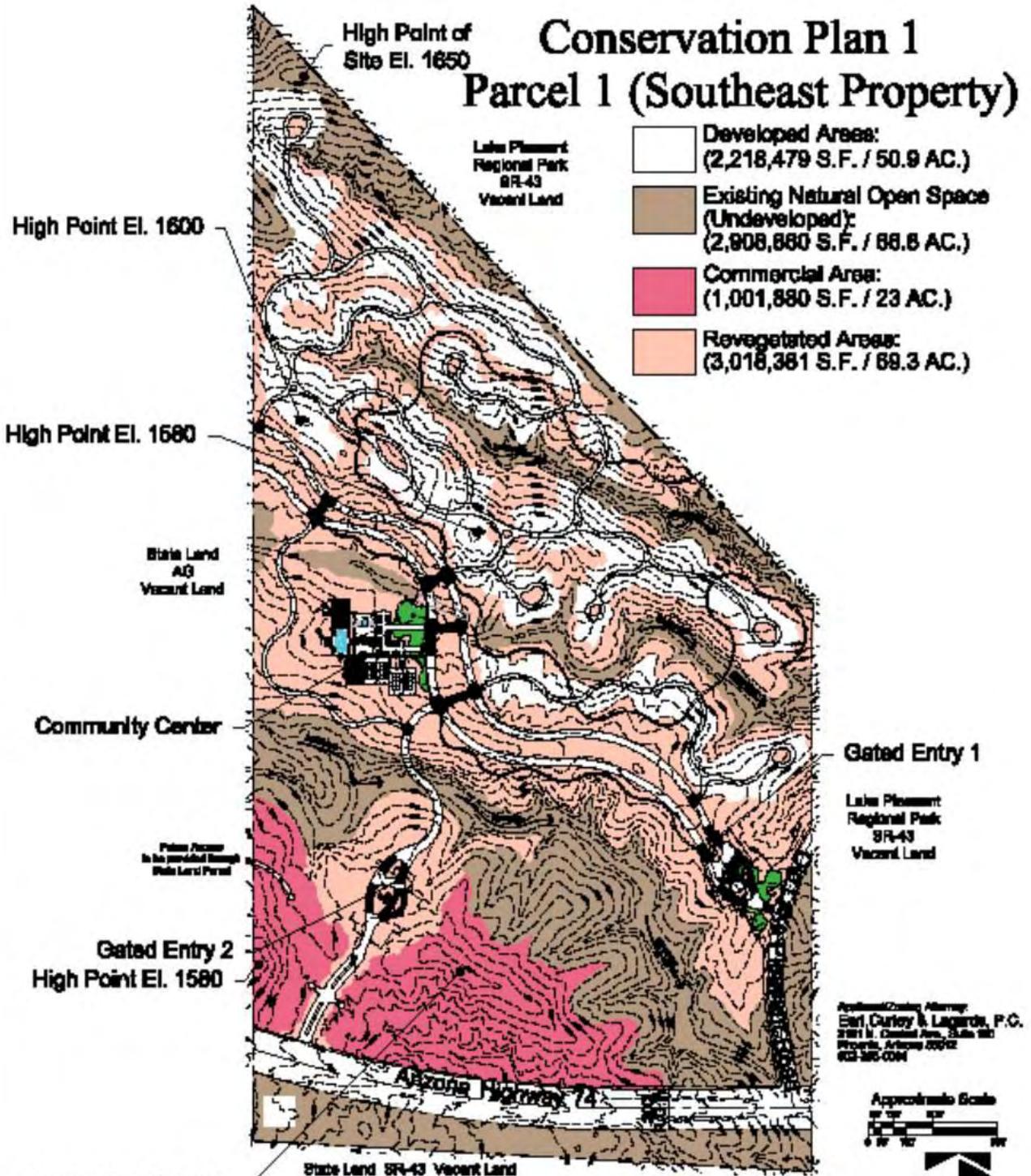


Main Entry Elevation



Entry Gate Elevation

Conservation Plan 1 Parcel 1 (Southeast Property)



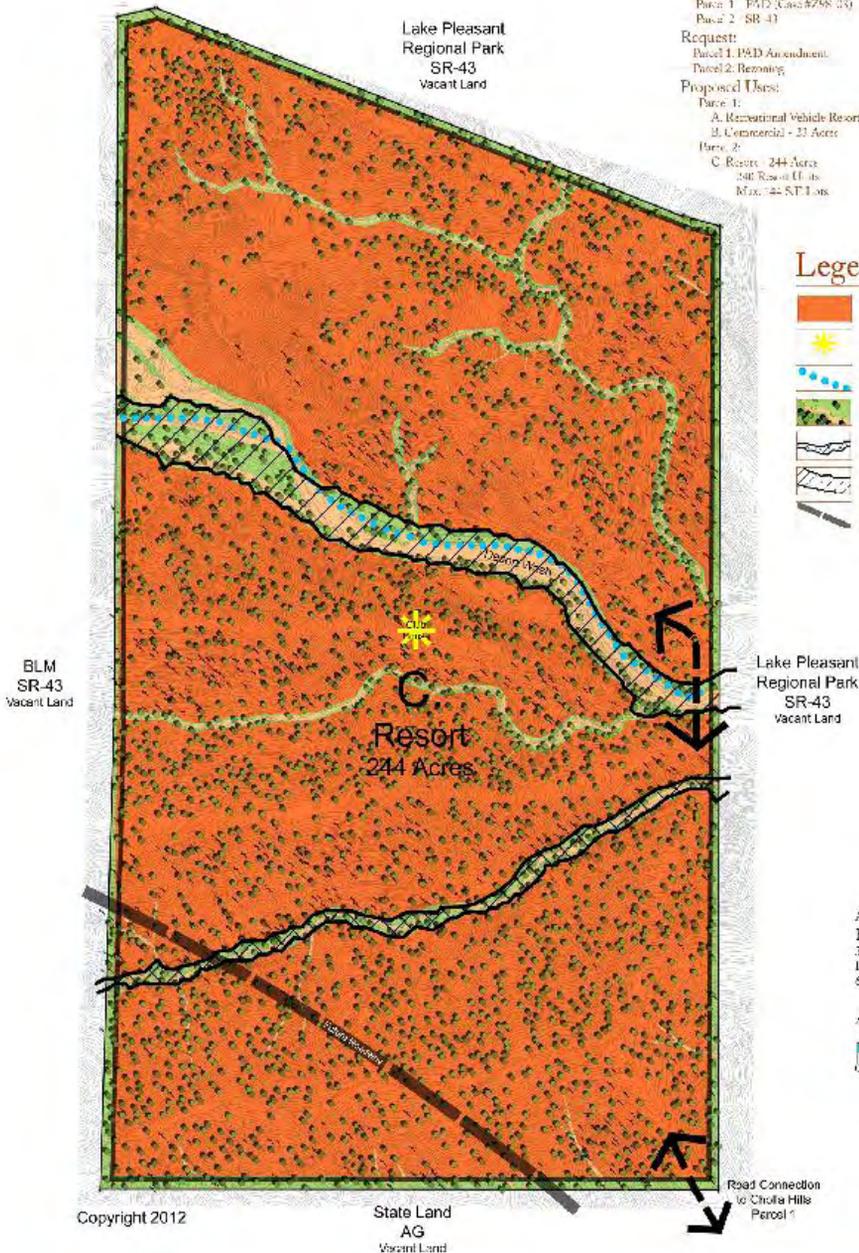
Resort Site Plan Parcel 2 (Northwest Property)

Plan Data:

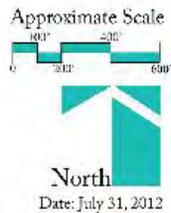
Overall Project Area - Parcel 1 & 2: 454 +/- Acres
 Parcel 1: 333 Acres
 Parcel 2: 121 Acres
 Existing Zoning:
 Parcel 1: PUD (Case #798 03)
 Parcel 2: SR-43
 Request:
 Parcel 1: PUD Amendment
 Parcel 2: Rezoning
 Proposed Uses:
 Parcel 1:
 A. Recreational Vehicle Resort - 187 Acres - 750 Sites
 B. Commercial - 23 Acres
 Parcel 2:
 C. Resort - 244 Acres
 248 Residences
 Max. 24 S.F. Lots

Legend:

-  Resort
-  Club House
-  Conceptual Desert Trail
-  Preserved Desert Wash
-  Flood Zone A
-  Zone AE, Floodway
-  Future Roadway (per Parcel 1 2011 Calculation Plan)



Application/Zoning Attorney:
 Earl, Curley & Lagarde, P.C.
 3101 N. Central Avenue, Suite 100
 Phoenix, Arizona 85012
 602-263-0094



Copyright 2012

State Land
 AG
 Vacant Land

Road Connection
 to Cholla Hills
 Parcel 1



Cholla Hills

Phoenix, Arizona



Verrado, Arizona



DC Ranch, Scottsdale, Arizona



Terravita



Gray Hawk, Scottsdale, Arizona



Lake Pleasant Marketplace, Peoria

Representative examples of commercial architectural characters and materials



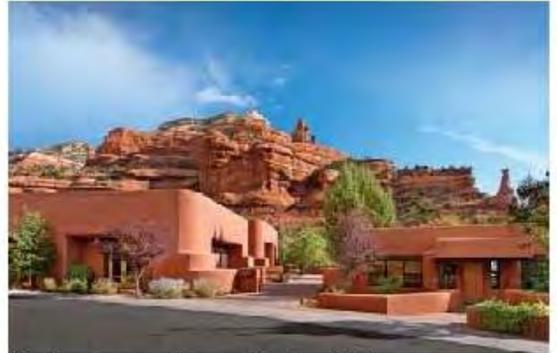
El Pedregal, Scottsdale, Arizona



Four Season Resort



Camelback Inn, Phoenix, Arizona



Enchantment Resort Casitas, Sedona



Four Seasons Resort, Scottsdale, Arizona

Representation of Resort Character



Wigwam, Litchfield Park, Arizona



Auberge Sedona Cabin Lodging

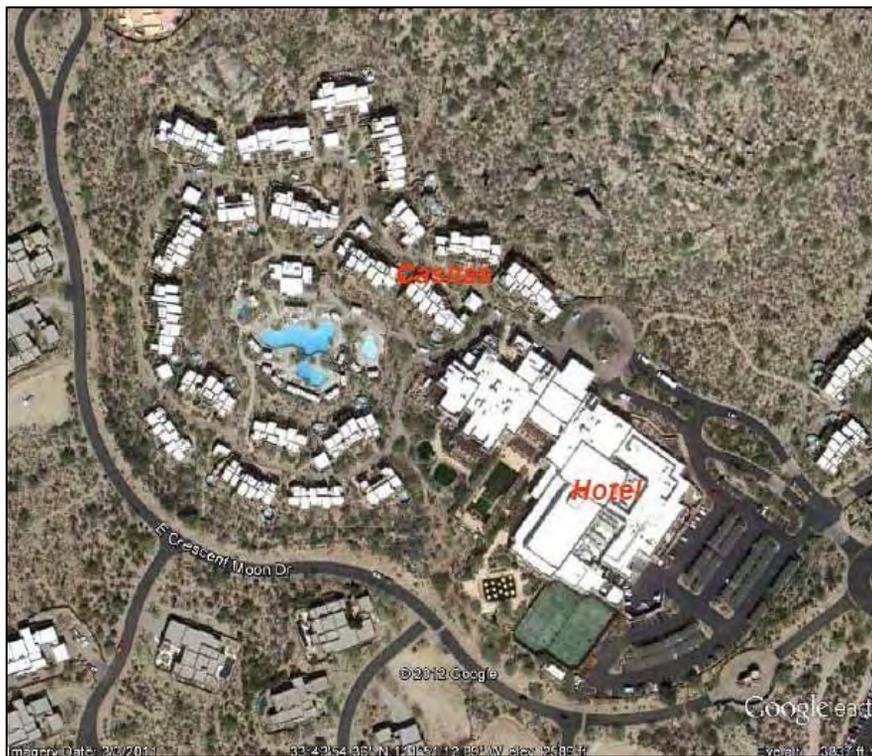


Wigwam Litchfield Park, Arizona

Encantado, Santa Fe, New Mexico



The Boulders Resort, Scottsdale



Four Seasons Resort, Scottsdale

The following comments are informational in nature and are not considered stipulations or conditions of approval. They are, however, important to the future phases of development of the Cholla Hills development and will be enforced at the appropriate time.

Site Development and Water Resources Divisions

1. The following comments are from the Water Resources Department:

The following comments are based on the Cholla Hills proposal as currently understood, which entails two separate parcels of land separated by a parcel owned by the Arizona State Land Department. The parcel to the northwest (Parcel 2) is joined to the parcel that was the subject of the original Estates at Lakeside proposal (Parcel 1) by an easement for utilities which crosses the ASLD parcel. This easement suggests that the two parcels are to be considered as one for purposes of evaluating water resources.

As originally proposed in 1982, the subdivision called Estates at Lakeside was to consist of 350 lots in T6N R1E Section 29 (Parcel 1), with water to be provided by Lake Pleasant Associates. On January 9, 1985 a Stipulation and Order was signed by ADWR granting 50 acre-feet in a Type II Non-Irrigation Grandfathered Right, 58-100616. The Type II right was apparently transferred to Lake Pleasant Associates on January 15, 1985. Apparently no water withdrawals under this right have ever been reported to ADWR.

In 1984 several wells were drilled, including 55-507619 as a production well, four monitor wells, a piezometer, and three springs erroneously registered as wells. On October 20, 2003, well 55-507619 was permitted as a non-exempt well under Permit T-595201, with the Type II right attached to the well to provide authority to pump 50 acre-feet per year to establish a service area (which process was apparently never completed). The production well remains in existence. While a petition to establish a service area for Parcel 1 only was submitted based on this well, there is no indication that a service area was ever established or customers served.

On December 3, 1984 the Maricopa County Board of Supervisors granted a franchise to Lake Pleasant Associates to operate a water distribution system. On February 19, 1985 the Maricopa County Board of Supervisors granted a franchise to Lake Pleasant Associates to operate a sewage system.

On August 22, 1985, the Arizona Corporation Commission (ACC) issued Order Preliminary 54646 to Lake Pleasant Associates for a Certificate of Convenience and Necessity (CCN). On April 21, 1987, the ACC issued Decision 55499 granting a CCN to Lake Pleasant Water Company. However, no service area for Lake Pleasant Water Company was established with ADWR. The CC&N covered only Parcel 1, the original Estates at Lakeside.

On June 26, 1986 ADWR issued a Certificate of Assured Water Supply for a plat describing 350 lots, file number unknown. Due to a change of ownership to DLGC II LLC, and a change of the plat, an application for a new Certificate of Assured Water Supply was filed with ADWR, and on May 12, 2004 a Certificate of Assured Water Supply was issued for Estates at Lakeside based on a total demand of 122.5 acre-feet per year for 209 lots. All lots were enrolled in the Central Arizona Groundwater Replenishment District (CAGR) as Member Lands on June 12, 2003. Water provider was specified as Lake Pleasant Water Company. The Certificate of Assured Water Supply covered only Parcel 1, the original Estates at Lakeside. Apparently the plat was never approved, and the subdivision was never built. The inclusion of Parcel 2 in the current proposal invalidates the old Certificate. Please submit a new or modified Certificate of Assured Water Supply that demonstrates that sufficient water supplies are physically, legally, and continuously available to meet the expected demand for the current Cholla Hills proposal for the next 100 years.

In terms of wastewater, the original Estates at Lakeside was to be served by the Lake Pleasant Sewer Company. On August 26, 2006, ADWR issued an Underground Storage Facility permit, 71-205388.0000

to Lake Pleasant Sewer Company for 67.5 acre-feet of treated effluent per year. Water Storage Permit 73-205388.0000 was also issued for 67.5 acre-feet of treated effluent per year. However, annual reports indicate that no water has ever been stored at the facility, which apparently has not yet been constructed. It is not clear that the ACC issued a CC&N for Lake Pleasant Sewer Company.

No evidence of any Approval to Construct ever being issued was found, suggesting that no infrastructure was ever constructed for either the Lake Pleasant Water Company, other than the well, or the Lake Pleasant Sewer Company. It will be the applicant's responsibility to submit copies of the current Approvals to Construct the necessary infrastructure for both Parcels 1 and 2 as issued by Maricopa County Environmental Services Department.

After all the changes, only a few conditions remain the same. The Lake Pleasant Water Company and the Lake Pleasant Sewer Company hold outdated CC&Ns from the ACC and franchises from Maricopa County that cover only Parcel 1, the original Estates at Lakeside subdivision. The Lake Pleasant Water Company seemingly has no established service area and no infrastructure, but has a non-exempt production well permitted for 50 acre-feet per year of withdrawals under a Type II right. The Lake Pleasant Sewer Company holds permits for a recharge project that was never built, but these permits will require substantial modification if the location of the USF is changed as has been suggested to accommodate changes in State Highway 74. Because the old plat (apparently never approved) for Estates at Lakeside has been abandoned, the Certificate of Assured Water Supply that went with it is no longer valid, and any new plat covering both parcels (the current Cholla Hills proposal) will require a new application for a Certificate. The area cannot become a City satellite service area in the absence of functioning utility companies that can be taken over.

2. The city is concerned about that the ADWR Certificate of Assured Water Supply issued to the Lake Pleasant Water Company for the exiting Estates at Lakeside development may not be valid for the proposed development. The concern has to do with the substantial changes in the project scope.
3. Response comments indicate that there are "maximum potential groundwater resources of 443gpm or 714.6 acre-feet per year...." However, this is the physical ability to withdraw groundwater only; legally, there may only be the ability to withdraw 50 acre feet per year. This will need to be addressed by the applicant.

Fire Safety

1. As of January 1st, 2006 the City of Peoria has gone to a deferred permit for fire sprinkler systems, fire alarm systems, underground fire lines, kitchen hood systems, and special hazard fire suppression systems. The building plans are to include Conceptual (Preliminary) drawings containing the following information sealed by an Arizona Registrant to meet the Substantive Policy Statement from the Board of Technical Registration.
 - a. For fire sprinkler systems, the following are considered to be professional registrant activities:
 - i. Consider the range of hazards of the project;
 - ii. Prepare hazard analysis; identify the hazard classification of the intended occupancy, including any special hazards;
 - iii. Determine the applicable codes and standards and appropriate engineering practices;
 - iv. Ascertain the availability and adequacy of the water supply for the project;
 - v. Determine the appropriate design density and area of operation for each hazard area.
 - b. For fire alarm and other code regulated alarm systems, the following are considered to be professional registrant activities:
 - i. Determine the system type;
 - ii. Determine the applicable codes and standards and appropriate engineering practices;
 - iii. Determine device types and locations;
 - iv. Prepare generalized riser diagram;
 - v. Coordinate and interface with other systems;
 - vi. Develop system specifications.

The contractor will submit "Shop Drawings" after the building permit is issued for the permit on the appropriate fire system, to be signed by a NICET Level III or greater in the appropriate field. See the following web site locations for the appropriate check list that show the information required on both the Conceptual (Preliminary) and Shop Drawings.

http://www.peoriaaz.gov/uploadedFiles/Peoriaaz/Departments/Fire/Sprinkler_Alarm_Engineering_Design_020309.pdf (Conceptual Plan Checklist)

http://www.peoriaaz.gov/fire/docs/Sprinkler_092607.pdf (Fire Sprinkler Plan Checklist)

http://www.peoriaaz.gov/uploadedFiles/Peoriaaz/Departments/Fire/Alarms_020309.pdf (Fire Alarm Plan Checklist)

http://www.peoriaaz.gov/uploadedFiles/Peoriaaz/Departments/Community_Development/Building_Safety/Building_Forms/400G_General_Permit_Application.pdf
(Permit Application)

NOTICE - FOR TENANT IMPROVEMENT PLANS ONLY. As of September 1st, 2006 the Shop Drawings are to be submitted concurrently with the Tenant Improvement Plans that will include the Conceptual (Preliminary) fire alarm/fire sprinkler drawings.

2. Fire extinguisher types and locations, per NFPA 10 – 2002, shall be shown on the building plans.
3. Table 6.3.1.1 NFPA 10, 2007 edition, Fire Extinguisher Size and Placement for Class B Hazards (repair garage areas with more than 5 gallons of fuel), requires either a 40B fire extinguisher to be placed a maximum travel distance of 30 feet to the extinguisher or an 80B fire extinguisher to be placed a maximum travel distance of 50 feet to the extinguisher.
4. The structures will require an automatic fire sprinkler system installed per NFPA 13 – 2002 standards.
5. When required the FDC shall be mounted on the front of the building, facing the street and within 100 feet of a fire hydrant.
6. Fire department connections shall be located and arranged so that hose lines can be attached to the inlets without interference from nearby objects, including buildings, fences, posts, landscaping, vehicles, or other fire department connections.
7. The structures will require a Class "A" fire alarm system installed per NFPA 72 – 2002 standards.
8. All address numbers shall be on contrasting backgrounds. NO numbers are permitted on glass except suite numbers. All numbers SHALL BE VISIBLE from all street frontages.
9. Address numbers located twelve (12) feet and higher from finished grade shall be MINIMUM TWELVE (12) INCH NUMBERS.
10. Address numbers located up to twelve (12) feet from finished grade, monument signs and commercial suites shall have a minimum of six (6) inch numbers.
11. The locations of each clubhouse must be identified at each vehicle location into the RV park
12. Knox Boxes shall be located at the front entry and the fire riser room exterior door. If no exterior door leads to the fire riser room then a Knox Box shall be located at the nearest door leading to the fire riser location. The required application form may be obtained from the internet at <http://www.knoxbox.com/>
13. Gated access, if provided, must apply for a gate permit separately.
14. The **required fire flow** for a structure from 000 square feet to 3,600 square feet, using Type V-B construction is **1,500 gpm** for two hours, (ref: IFC - 2006, Appendix B, table B105.1). This will require a **minimum of one (1) fire hydrants** within three hundred (300) feet hose lay distance apart (ref: IFC – 2006 amended, section 508.5.2.1) and three hundred (300) feet hose lay from any exterior point of the structure (ref: IFC – 2006 amended, section 508.5.1). **Flow tests will be required to prove the required fire flows.**
***** This section applies to each clubhouse area**
15. If no public water supply is available, then the above water flow requirements must be provided and maintained as approved by the fire department.
16. Final fire hydrant placement, type and spacing will be verified on the Civil Construction Documents (ref: IFC – 2006 amended, section 508.5.2.1).
17. Fire department access shall be provided within 150 feet of all portions of the exterior of the buildings.
18. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet.
19. Fire department access roads shall be designed to carry the imposed loads of the apparatus, 75,000 pounds.
20. Final fire apparatus turning and turn around requirements will be verified on the Civil Construction Documents (ref: IFC – 2006, section 503.2.4). The AASHTO WB-50 turning template is to be used for all turning radius.

21. Where the available fire flow from the fire hydrants does not meet the required fire flow for a structure, additional requirements and/or restrictions can be imposed on both residential and commercial type properties. This item will be verified during the Civil Plan review.

NOTICE

The volume and pressure of a public water supply shall be determined from water flow test data. An adjustment to the water flow test data to account for daily and seasonal fluctuations, possible interruption by flood or ice conditions, large simultaneous industrial use, future demand on the water supply system, or any other condition that could affect the water supply shall be made as appropriate.

It should be noted that the City of Peoria water department will only supply up to 40 psi (private water purveyors are only required to provide 20 psi) and even if the flow test shows a higher pressure, there is no guarantee that the water pressure supplied can be maintained.

22. Water supply data for hydraulic calculations shall be based on the available water supply as determined by flow test information less a 10 psi safety factor. This flow test shall be witnessed by a City of Peoria employee.

The above flow test must provide a minimum of a 25% difference between the static water pressure and the residual water pressure.



Cholla Hills

*(Previously known as
Estates at Lakeside PAD)*

A Planned Area Development Amendment Amendment No. 1

Approximately 454 acres

at

Northwest corner of State Route 74
and Old Lake Pleasant Road

Application Number: Z98-03A.1

Property Owners:

DLGC II, LLC and Lake Pleasant Group, LLP
Biltmore Financial Center
2390 E. Camelback Road, Suite 310
Phoenix, Arizona 85016

Prepared by:

Earl Curley & Lagarde, P.C.
3101 N. Central Avenue, Suite 1000
Phoenix, AZ 85012

Prepared:

August 24, 2011

January 10, 2012

April 20, 2012

July 18, 2012

Revised September 20, 2012

Development Team

Property Owners:

DLGC II, LLC

and

Lake Pleasant Group, LLP

Contact: Donald R. Leo

Biltmore Financial Center

2390 E. Camelback Road, Suite 310

Phoenix, Arizona 85016

Attorney:

Earl, Curley & Lagarde

Contact: Michael Curley

3101 N. Central Avenue, Suite 1000

Phoenix, Arizona 85012

Phone: (602) 265-0094

Fax: (602) 265-2195

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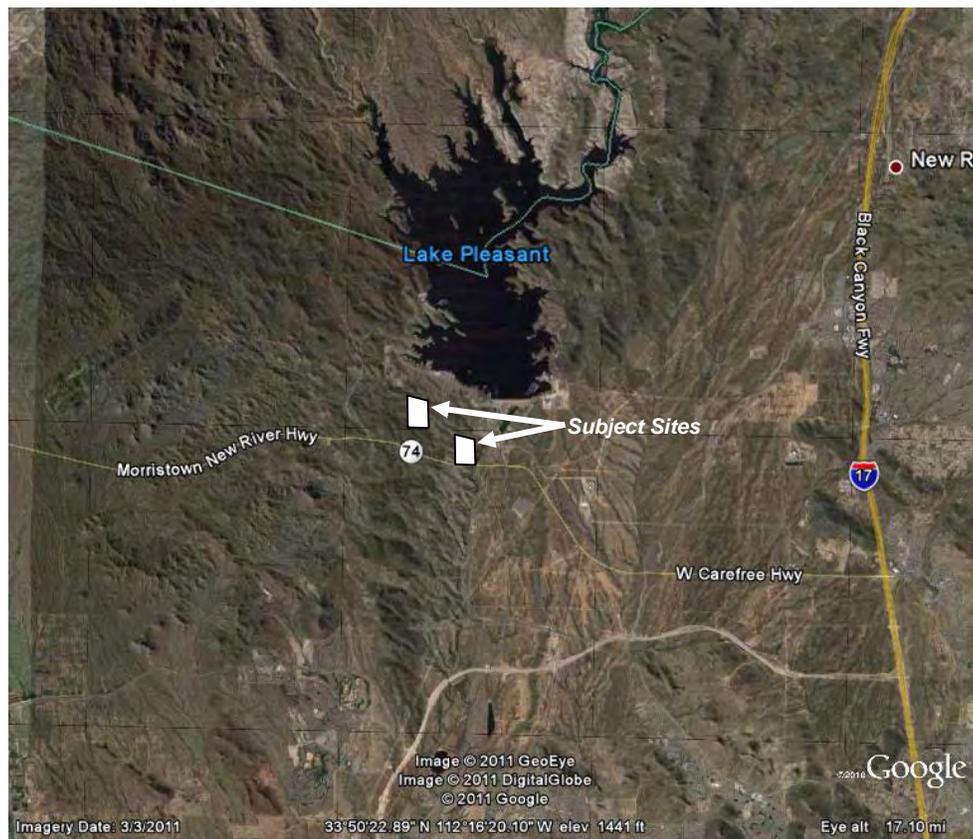
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***Cholla Hills
Planned Area Development Amendment No. 1
Project Narrative***

APNs: 201-24-004J, 201-24-004L, 201-24-004H, 201-24-004K and 201-25-001A

INTRODUCTION

This Planned Area Development Amendment (“PAD Amendment”) application is for 2 parcels which are depicted on the map below. The property owners seek to amend the existing Estates at Lakeside PAD (“Parcel 1” the Parcel which fronts onto State Route 74) which was approved by the City Council on November 3, 1998. This request seeks to amend that existing PAD to allow for a unique Resort Community, consisting of a Recreational Vehicle Resort development component and a highly designed and unique commercial project that is integrated into and consistent with the existing scenic desert environment. Additionally, the request seeks to also increase the size of the existing PAD by including the northwest parcel (Parcel 2) into the existing PAD. The applicant seeks a resort and resort residential development for Parcel 2.



The approved The Estates at Lakeside PAD (Parcel 1) is a 218.5-acre project located at the northwest corner of State Route 74 (“S.R. 74”) and the Old Lake Pleasant Road. The Estates at

Lakeside PAD was envisioned to be essentially a 1.18 DU/AC residential community. This 1.18 DU/AC approved density is one which we do not believe is feasible given today's market realities. The other approved land uses on Parcel 1 include a 13 acre resort/commercial, and approximately 11 acres of commercial acreage along S.R. 74. The current application seeks to expand the resort component to include a Recreational Vehicle Resort component on Parcel 1 (S.R. 74 parcel) and provide a more traditional resort and resort residential development on Parcel 2 (Northwest property).

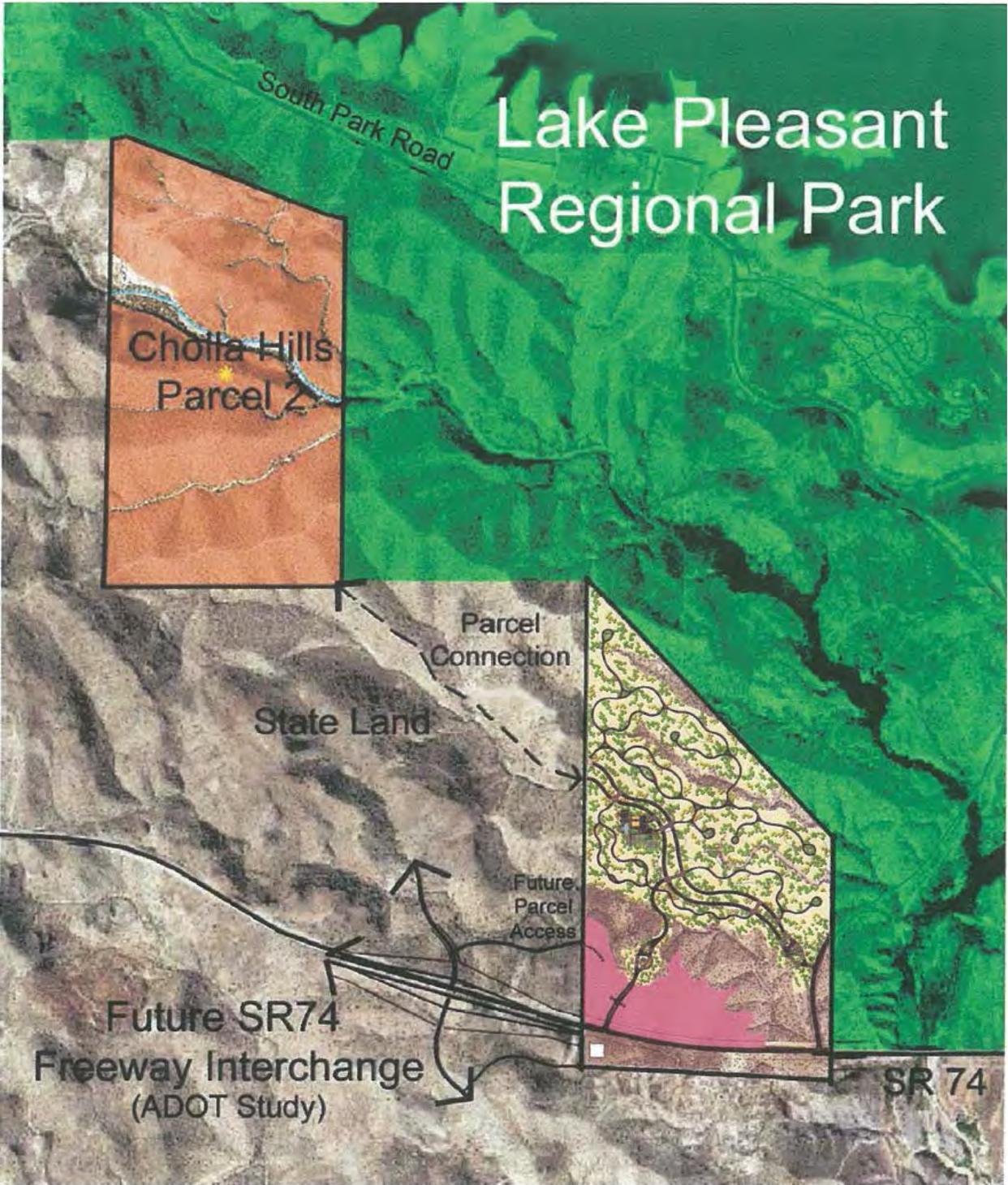
“Parcel 1 (Southeast Property)” is located at the northwest corner of State Route 74 and Old Lake Pleasant Road and the second property “Parcel 2 (Northwest Property)” is located northwest of the northwest corner of State Route 74 and Old Lake Pleasant road. The intent of this PAD Amendment request is to amend the existing zoning to incorporate Parcel 2 (the northern 244 acres) together with the southern 210 acres (Parcel 1) with the net result being that both properties will be subject to one set of PAD zoning district regulations. This PAD Amendment will also provide strict design and development standards for both properties. The imposition of these regulations will result in the development of an attractive and desert appropriate architecture and materials that will create a quality low density Resort and commercial development with minimal impacts to the desert and surrounding environment. The new (overall) property size will be approximately 454 acres. The Estate at Lakeside PAD name for the existing approved Parcel 1 (Southeast Property) and Parcel 2 (Northwest Property) will also be changed to ***Cholla Hills PAD***.

Project Scope

This PAD Amendment will allow: 1) the existing uses allowed pursuant to the 1998 rezoning case (with the exception of the existing 13 acre Resort use) to remain on Parcel 1 (Southeast Property); 2) shifts the existing 1998 Resort designation from Parcel 1 (Southeast Property) to Parcel 2 (Northwest Property) to accommodate a 240 room Resort; 3) creates a Recreational Vehicle Resort Use component on approximately 187 acres of Parcel 1 (Southeast Property); 4) shifts and increases the approved commercial acreage on Parcel 1 (Southeast Property) from 11 acres to 23 acres (approximately 13 acres of commercial development and approximately 10 acres of RV and boat storage); and 5) reduces the approved residential density from the existing 1.18 DU/AC to 1.0 DU/AC on Parcel 2 (Northwest Property). As will be demonstrated below the overriding design concept on the entire PAD is to preserve the natural desert environment and topography by mandating that development limit the disturbed area and requiring that development be respectful and sensitive to the natural topography.

Reasons for Request - Parcel 1 (Southeast Property)

Since the original 1998 zoning approval, there have been significant changes in the market which have caused the property owners to re-evaluate plans for this site. There is limited commercial in this area of the City and providing commercial at this location is a logical land use solution along S.R. 74.



Future Access Plan

This application request increases the commercial zoning by 12 acres for a total of 23 acres of commercial zoning on the north side of State Route 74. The property on the south side of SR74 will remain undeveloped except for Wastewater Treatment Plant and associated uses. A Minor General Plan Amendment is therefore being requested to allow for the additional acreage of commercial zoning on the north side of State Route 74. The commercial property has a natural desert preservation which separates the proposed commercial from the RV Resort. Furthermore this area is also enhanced by a major drainage swale that will be left undeveloped with the exception of a roadway that connects the RV Resort directly to State Route 74.

This new commercial site will provide an opportunity for convenience retail which will be supported by the Residential, Resort, Recreational Vehicle Resort and the surrounding area. When the commercial site develops, the east 2/3 of the site will not be visible from S.R. 74 due to the 10 foot vertical grade differential along the highway frontage. As shown on the accompanying section, State Route 74 will be 10-feet lower than the finish floors of the proposed commercial parcel. The western 1/3 of the property's frontage along S.R. 74 is lower than S.R. 74 and therefore it is proposed that landscaping integrating earthen berms to imitate the natural surrounding and environment will be incorporated in order to screen the commercial development. The architectural style, size, and character of the commercial development will be similar to developments in the Valley's northern desert environments as represented in the pictures that accompany this narrative. All commercial development will adhere to the City's Design Review Manual. The scale of building will be visually reduced by mixing materials, soft desert colors, textures, and the addition of articulated details to provide a variation of building scale and size. Variation in building scale shall be provided in this development.

The RV portion of the development is highly designed, environmentally friendly, and a low density recreational vehicle resort development which will be limited to 3 vehicles per acre as compared with other RV developments which typically have up to 15 vehicles per acre. The proposed development will protect the natural desert swales, and retain more than 50 percent of the natural desert flora that exists on the site. The individual RV sites will have a setback from the roadways that varies from 4 to 15 feet. Individual RV sites will be oriented to capture the spectacular views and the natural topography of the site. The washes which traverse the property will be retained as undeveloped natural preserved desert.

Reasons for Amended Request - Parcel 2 (Northwest Property)

This request also seeks a PAD Amendment to: 1) incorporate Parcel 2 (Northwest Property) into the overall PAD and establishes PAD zoning to allow a resort and resort/residential community. The concept for the proposed resort and resort residential uses is similar to a traditional low intensity resort such as the Boulders and Four Seasons in North Scottsdale or The Wigwam in Litchfield Park. Parcel 2 (Northwest Property) will be comprised of a low intensity 2-story resort which have guest rooms within the hotel building as well as hotel casitas. In addition to the hotel and casitas there will be single-family homes which have been designated as "Resort Residential" which will be designed to be part of the resort community and environment. These residential units may be part of the Resort Community having privileges to the Resort amenities.

A maximum of 1.0 DU/AC (144 single-family homes) shall be permitted. The 1.0 DU/AC residential units are exclusive of the rooms and casitas, and other for rent units associated with the resort. Like other single family areas near resorts the single family owners, will be attracted to the resort and low-intensity high-desert environment associated with this parcel. The residential component will only occur upon development of the primary resort component. The predominant design principal will be minimal building foot prints and maximum preservation of natural desert and open space.

Developer Experience

The proposed operator and developer of the Parcel is the Pensus Group who has a highly regarded reputation in the area of active recreational developments. This developer has developed 4 marinas including Roosevelt Lake Marina, Lake Pleasant Marina, Antelope Point Marina in Lake Powell, Arizona, and Lake Berryessa in Napa, California. These developments include over 1,200 lodging units, 1,150 wet slips, over 2,000 dry storage units and include amenities such as a hotel, club houses, lodges, cabins, BBQ areas, campgrounds, recreational vehicle storage, retail villages with shops, restrooms and showers, laundry facilities, and restaurants.

The vast experience that this development team has garnered from developing and operating these facilities will ensure that the proposed Resort facilities will be developed as a first class environment.

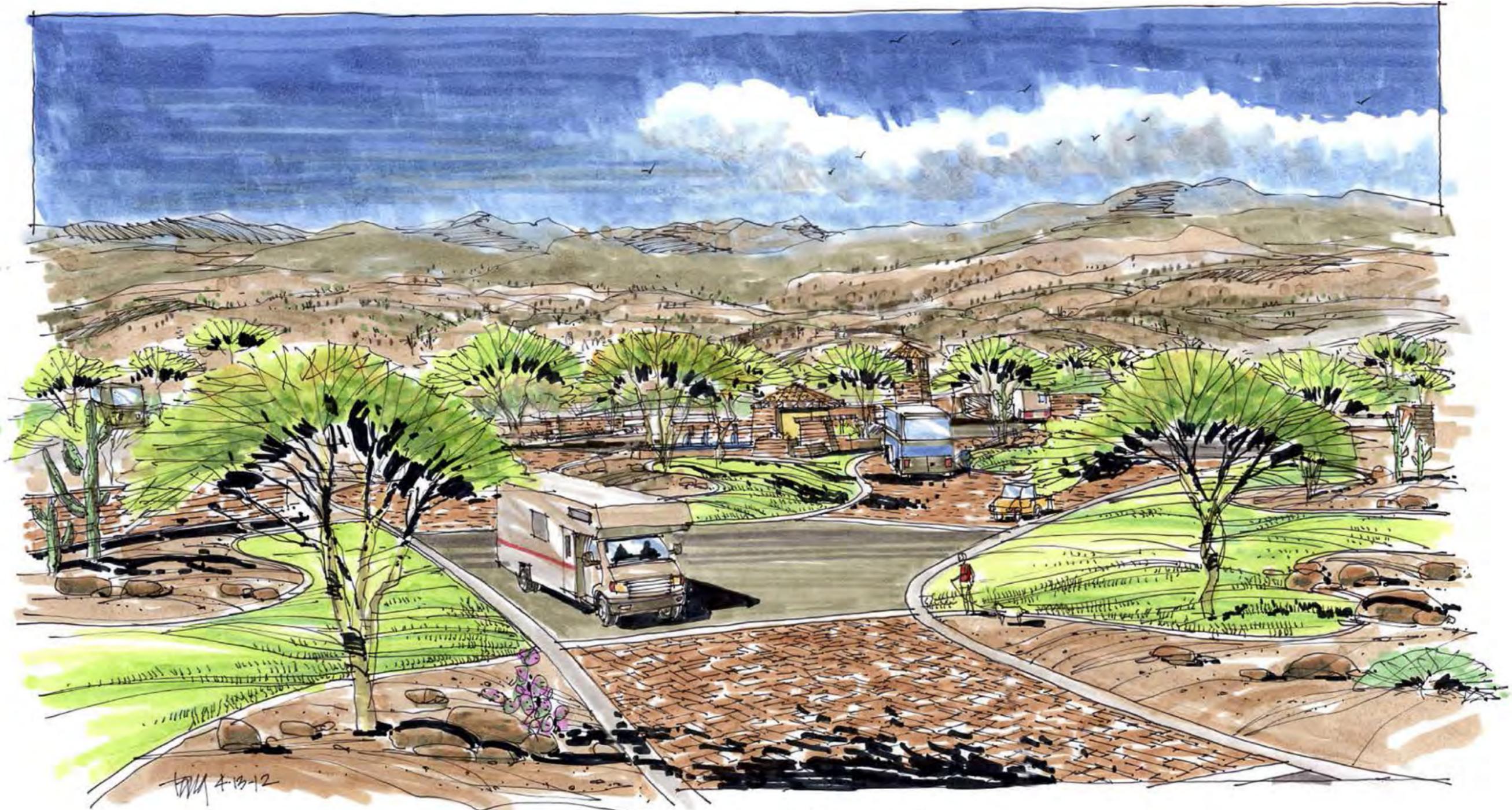
Project Description for Recreational Vehicle Resort

The ***Cholla Hills*** project proposes a gated Desert Resort Community, with a Luxury Recreational Vehicle Resort and a pedestrian-oriented commercial parcel with neighborhood convenience commercial uses. The project **offers an opportunity to create a unique vacation destination in a beautiful, desert mountainous setting with amenities and recreational facilities centrally located within the Recreational Vehicle Resort site.** The amenities will include tennis courts, pickleball courts, a large lap style swimming pool, shuffleboard courts, fitness center and equipment, and activity and game rooms. The RV pad sites will be designed and oriented to take advantage of the views of the surrounding mountains and natural features. Roadway layouts and the individual RV pads will respect and accommodate the natural topography of the site and will be designed to retain as much of the desert flora as possible. The drainage swales traversing the site will be left undeveloped and will be retained in a natural state. More than 50 percent of the land will either be natural open space or untouched natural desert swales. The southernmost drainage swale traversing the site in an east-west direction will be the natural buffer between the RV Resort and Commercial Center.

The RV Resort will be accessed from (2) two gated entries. Indigenous landscaping along with a variety of walls and architectural features constructed of masonry and stone veneer as depicted in

the “Main Entry Elevation”, “Entry Gate Elevation”, and the entry perspective will be incorporated.

This PAD Amendment will allow the existing residential and commercial uses to remain as prescribed in the General Plan and existing zoning. In addition to the existing uses, the PAD proposes to provide a development plan which will adhere to the City of Peoria’s Desert Lands Conservation Guide as adopted October 5, 2004.



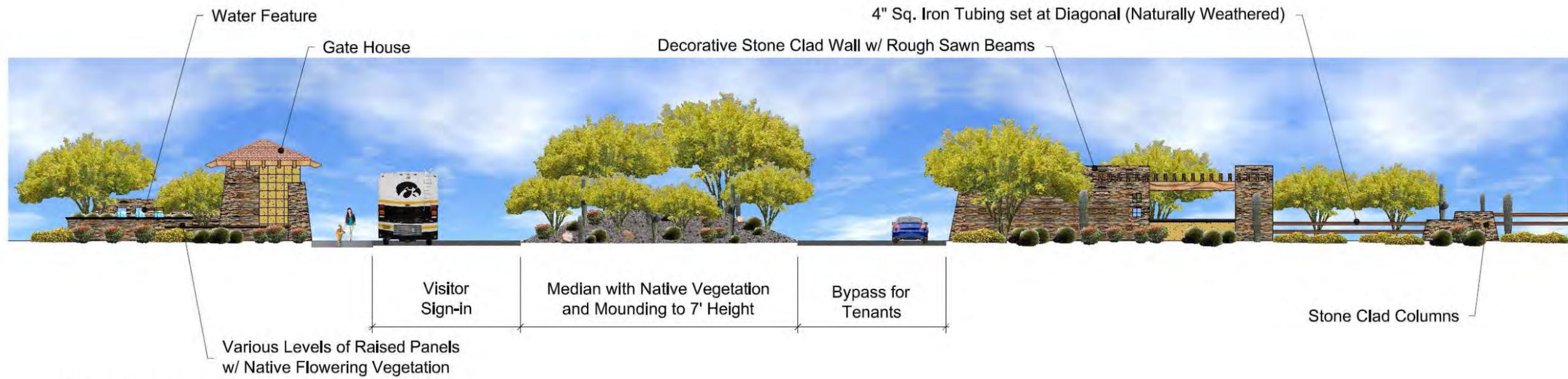
R.V. Entrance Perspective

One of two gated entrances into the Parcel 1 (RV Site). A gatehouse structure with water feature, decorative paved surfaces, custom gated entrance with decorative stone walls/ wrought iron fencing, lighted monument sign, and a 32' tower element are incorporated into entries to provide for grandeur and sense of arrival to an "upscale" development.



Aerial View of Recreational Center at RV Park

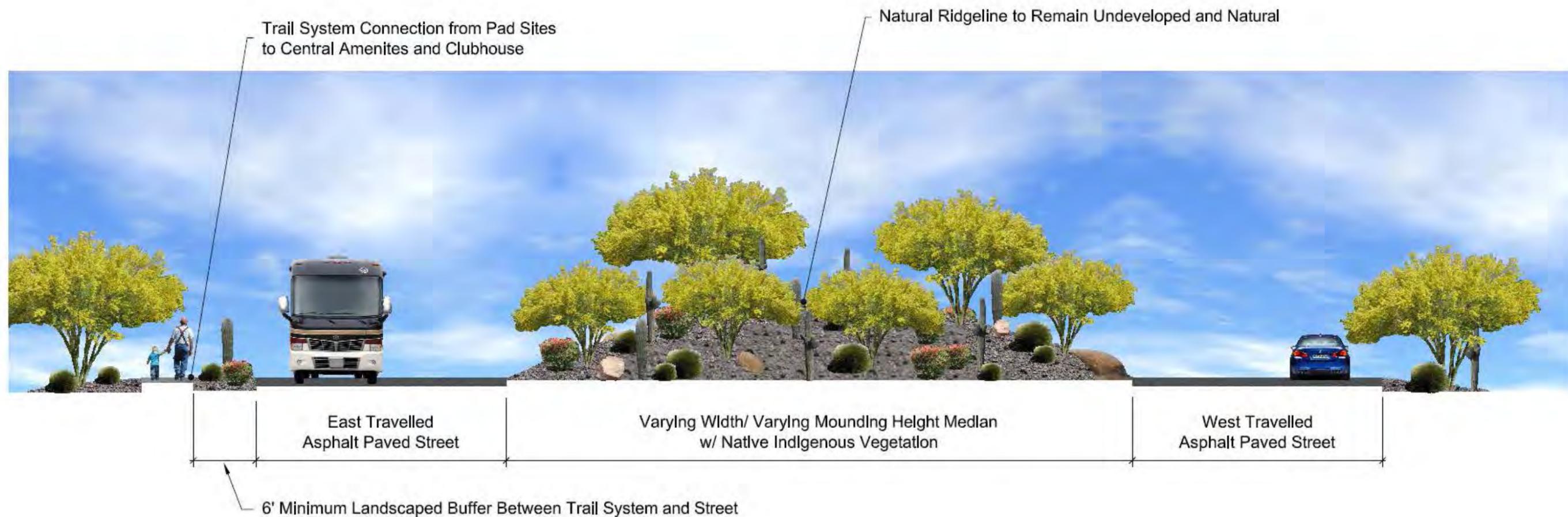
The structures at the center of the aerial view will consist of the fitness center and activity rooms. Amenities at the recreational center will include tennis, pickleball, lawn bowling, shuffleboard, and a lap pool with ramadas and B-B-Q's.



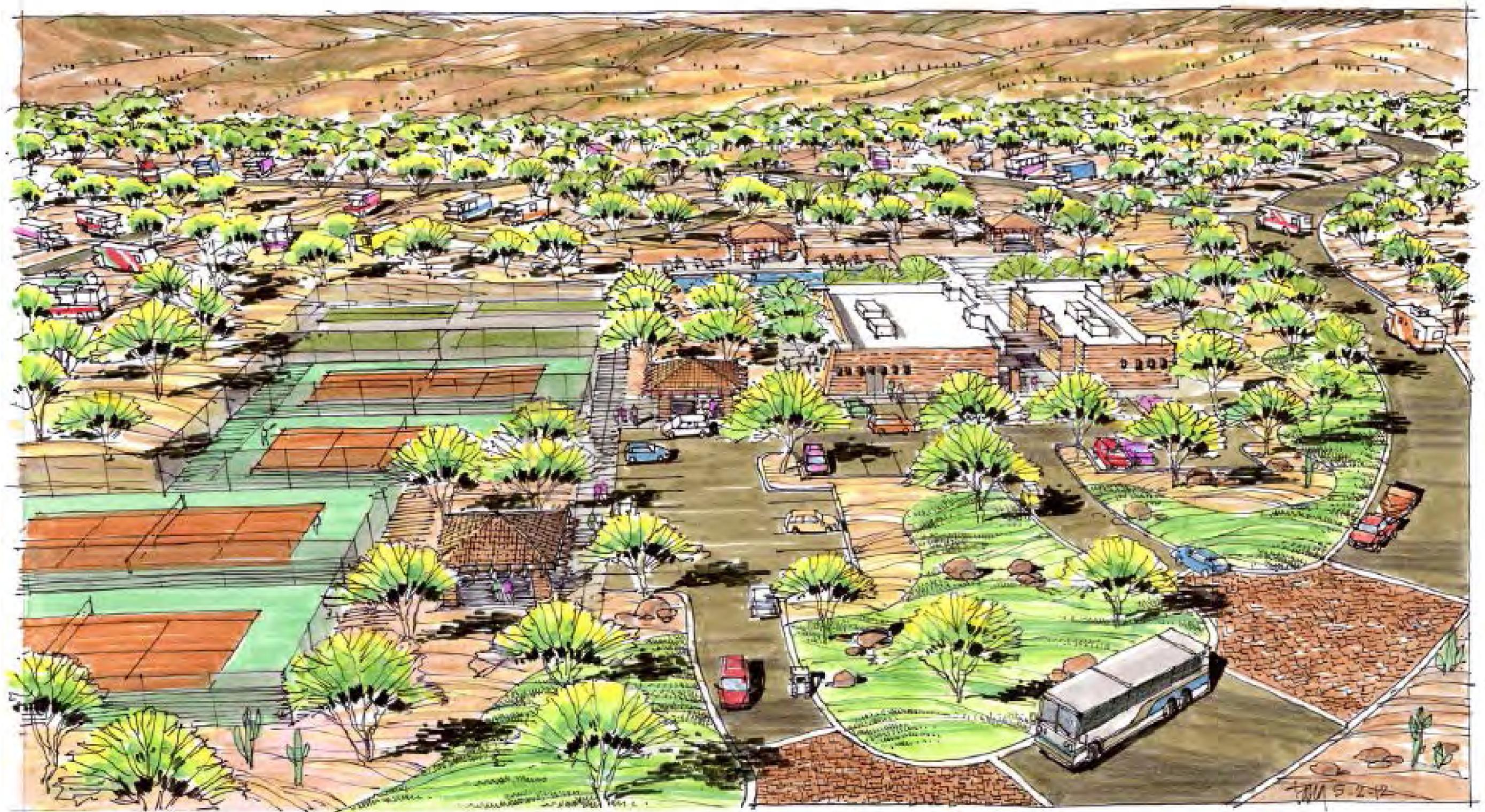
Main Entry Elevation



Entry Gate Elevation



Collector Street Section



LOCATION AND ACCESSIBILITY

The I-17 Freeway and Carefree Highway (State Route 74) interchange is approximately 9 miles east of the proposed site. State Route 74 also provides excellent access to Grand Avenue/U.S. 60 which provides access to Las Vegas and other parts of the western United States.

SURROUNDING LAND USES AND ZONING

Northwest parcel:

North: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
East: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
South: State Land-Vacant undeveloped land zoned AG.
West: Bureau of Land Management-Vacant undeveloped land zoned SR-43.

Southeast parcel:

North: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
East: Lake Pleasant Regional Park-Vacant undeveloped land zoned SR-43.
South: State Land-Vacant undeveloped land zoned SR-43.
West: State Land-Vacant undeveloped land zoned AG.

“General Plan” Discussion

Both properties are designated in the City of Peoria General Plan (“Plan”) as “Residential Estate.” The existing zoning on Parcel 1 (Southeast Property) allows for approximately 13 acres of resort near the northern tip of the property, 195 acres of single-family residential (1.18 DU/AC), and approximately 11 acres of commercial. A Minor General Plan Amendment (under separate application) has been filed to change the land use designation on the southern 23 acres of Parcel 1 from “Residential Estate” to “Commercial” to allow the implementation of this *Cholla Hills* PAD Amendment. Since the existing zoning allows 11 acres of commercial the net increase of commercial is 12 acres of commercial on Parcel 1.

CONFORMANCE WITH GENERAL PLAN

The Land Use Element of the Plan includes Goals, Objectives and Policies that encourage the type of development requested in this General Plan and companion rezoning applications, such as:

Policy 1.C.3: Utilize performance standards and site design elements to reduce compatibility conflicts with adjacent uses. The subject PAD Amendment incorporates rigid standards and criteria relative to open space, limitation on grading, limitation on building footprints, and design

guidelines which will preserve the natural beauty and terrain of these parcels and minimize the impact on the land. These regulations will insure compatibility with the surrounding lands which are owned by the Federal Government, State Trust land or part of the Lake Pleasant Regional Park.

Objective 1.F: Promote sustainable development that elevate community identity and convenience, reduce vehicular trips, minimize infrastructure needs, improve air quality and provide a diversity of use. The proposed “Resort” and “Commercial” land use designations and PAD zoning will allow for the development of a Resort Community and a Residential Resort Community on very limited portions of the properties. The retail portion on the site provides a service which allows guests to stay on the property when shopping for their daily needs.

Objective 1.I: Promote resort development that provides tourism opportunities within the City. This proposal takes advantage of one of the City’s most unique recreational facilities-Lake Pleasant. The proposed resort on Parcel 2 (Northwest Property) and the Recreational Vehicle Resort on Parcel 1 (Southeast Property), will be compatible with and enhances this recreational area.

Policy 1.I.1: Identify and designate resort development sites that have direct access to significant recreational corridors and open spaces areas.

The proposed 240 room resort on 100 acres nestled in the pristine high desert is a spectacular opportunity for the City. Resort goers will flock to this natural and preserved desert environment.

Policy 1.I.2: Identify recreational corridors with future access points to resort areas and visitor access that encourage tourism and visitors activity.

Hiking trails, preserved wash corridors and slopes will make this site an exciting destination for tourists and visitors.

Goal 3: Protect and preserve the Sonoran Desert in its natural state.

Over 50% of the site will be preserved, in additional to wash corridors.

Objective 3.A: Develop program that encourage the clustering of development in exchange for preserved natural open space area.

The casita concept envisioned in this plan is premised upon clustering of development and the resulting retention of natural open space.

Policy 3.A.1: Open space preservation and planning is equally as important to the City as all other components of development review when considering the appropriateness of development proposals.

We agree and as demonstrated by this PAD open space preservation is one of the key planning principles of this application.

Policy 3.A.2: Encourage creative development patterns to ensure preservation of open spaces.

This site has significant washes that traverse the site, running generally from northwest to southeast. These washes are deeply incised, 30 to 50 feet deep in many locations. The topographic contouring of the property is dramatic and offers opportunities for creating a unique Recreational Vehicle Resort environment. The major collector street that runs from northwest to southeast is designed to have a divided highway with a median varying in width from 20 to 50 feet. The median is aligned with one of the major ridgelines on the property enabling some of the natural vegetation to remain in place and minimize construction to one of the most visible natural features on the site. As noted previously, the natural washes will be left in a natural state preserving the existing flora. In addition to the preservation of the washes, approximately 50 percent of the RV site will be maintained as either natural untouched open space or open space that will be revegetated to its original condition.

This Resort and Commercial designations are intended to provide development that integrates a combination of active and passive recreational amenities and ancillary commercial opportunities in areas of exceptional scenic and environmental quality. The RV Resort plan has been designed in concert with the existing contours of the land which minimizes cuts and fills and retains more of the existing vegetation in place. The individual recreational vehicle pads and spaces have been designed and orientated in a manner that takes advantage of views, minimizes alteration of the natural landscape, and provides substantial setbacks from the roads to allow additional landscaping to screen or soften the visibility to the individual sites from the roadway. The RV pad sites will blend in harmony with the surrounding desert minimizing permanent structures and surfaces. The pad surface will be constructed, subject to City approval, of a stabilized decomposed granite material that will blend in color with the surrounding desert surface. A small 8 X 16 foot concrete pad will be provided at each site that will be finished with a heavy salt pitted color finish. Cuts and fills to achieve the finish grades of sites will be minimized.

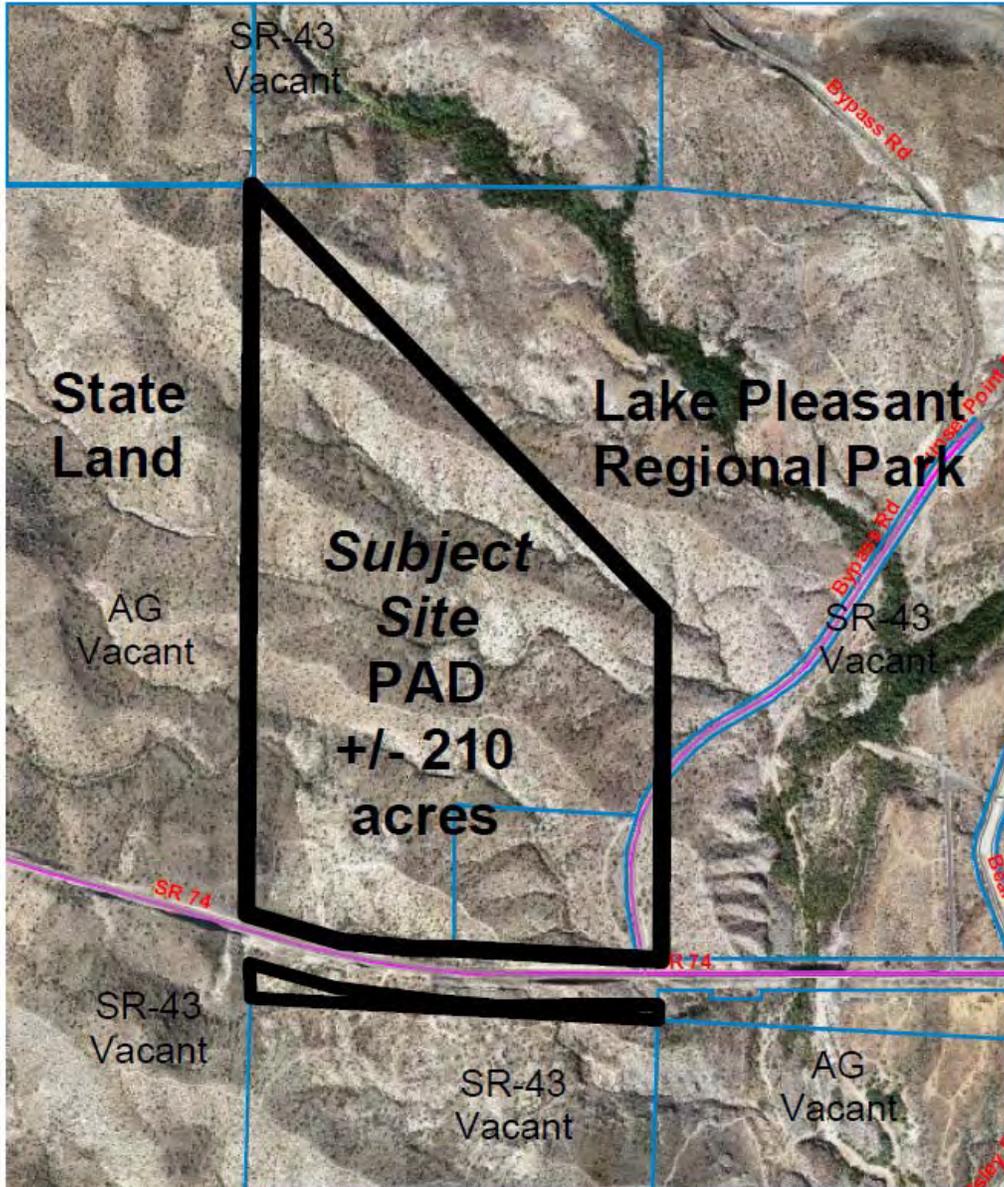
This project will be one of Peoria's most unique resort communities nested in the scenic desert near Lake Pleasant. The high standard of creative design is sensitive to environmental conditions and is prescribed both pictorially and in a narrative format in this PAD. This proposal will offer a true Arizona desert experience, with hiking, swimming, and other leisure activities while also taking advantage of the activities associated with nearby Lake Pleasant Regional Park.

Based upon the analysis provided above, we believe this proposed amendment is consistent with the overall intent and goals of the General Plan and will be beneficial to the surrounding area as an additional recreational resort.

Parcel 1 (Southeast Property)

The existing 1998 single-family residential and commercial land use entitlement will remain on the property (Appendix B). In addition, the Recreational Vehicle Resort component will be allowed. The concept of the Recreation Vehicle Resort component is to create a special place for

visitors to enjoy a vacation experience that is in a rural area which has been designed with maximum desert/open with minimal street widths and street improvements. A minimum of 50% of the Recreational Vehicle Resort site will be preserved and the Recreational Vehicle spaces will be designed in order to limit the disturbed area. Amenities such as pools, clubhouse, walking paths will be incorporated. In many cases, subject to City approval, streets with limited street lights, sidewalks, curb and gutters are proposed to further minimize impacts to the natural rural ambience of the area. The parcel is subject to the City of Peoria's Hillside Overlay and Desert Lands Conservation Overlay ordinances, except as modified herein.



Parcel 1 – (Southeast Property)

Recreational Vehicle Lifestyle

It is estimated that 8 million U.S. households currently own Recreational Vehicles. With that number growing each year, so does the demand for new, quality Recreational Vehicle Resorts to accommodate those enthusiasts who take to the road each year for months at a time. Recreational Vehicle Resorts in desirable vacation spots from southern Florida to the northern Pacific have been established and are being built to meet the demand of this rapidly growing vacation segment. The ***Cholla Hills*** project presents a great and timely opportunity to tie into this market making this scenic portion of Peoria next to Lake Pleasant a new vacation destination for RVers across America.

What sets ***Cholla Hills*** apart from most Recreational Vehicle parks is the emphasis on providing a significant amount of meaningful open space within the development. Whereas typical Recreational Vehicle parks are characterized by a density of 15 RV sites per acre, ***Cholla Hills*** proposes a density just over 3. Additionally, ***Cholla Hills*** proposes individual Recreational Vehicle sites surrounded by undisturbed desert that will accommodate a variety of Recreational Vehicles. Recreational Vehicles range from the smaller, towable camping vehicles to the larger, more elite custom motor coaches. These custom rigs are built with high quality appointments that rival hotel suites. Retractable canopies and expandable slide outs can add up to 450 square feet of living space when parked.



Perspective View of Recreational Center at RV Park

The 41-space landscaped parking lot will provide ample parking for tenants and guests. Landscaped areas with earth berms, granite surface boulders, mature salvaged indigenous trees, and decorative paved surfaces will enhance the recreational center. The buildings and ramadas will consist of stone veneers, rough sawn wood, and desert earth tones to blend in harmony with the desert.

As compared with a typical single family home, a recreational vehicle disturbs far less area and thus allows for retention of large amounts of open spaces resulting in considerably less impact on the land when compared to a single family development. The existing Residential Estate land use designation allows homes with yards, streets, and infrastructure to be built to accommodate homes on a large footprint all of which causes considerably more impact on the land than the proposed Recreational Vehicle Resort request.



Commercial Development

Architectural elevations and plans for all development proposed by this PAD will be reviewed by the City to ensure compliance with the City of Peoria’s design guidelines and the architectural themes established in this PAD. Elevations, colors, materials and building relationships will be reviewed by the City to ensure that the proposed architecture is compatible with and commensurate in quality with the attached exhibits.

The commercial development is intended to accommodate both the general public as well as the guests who will be visiting and utilizing the amenities of Parcels 1 & 2. The Development will be of a quality commensurate with the following illustrations.

Cholla Hills

Planned Area Development - Amendment #1



Verrado, Arizona

DC Ranch, Scottsdale, Arizona



Terravita

Gray Hawk, Scottsdale, Arizona

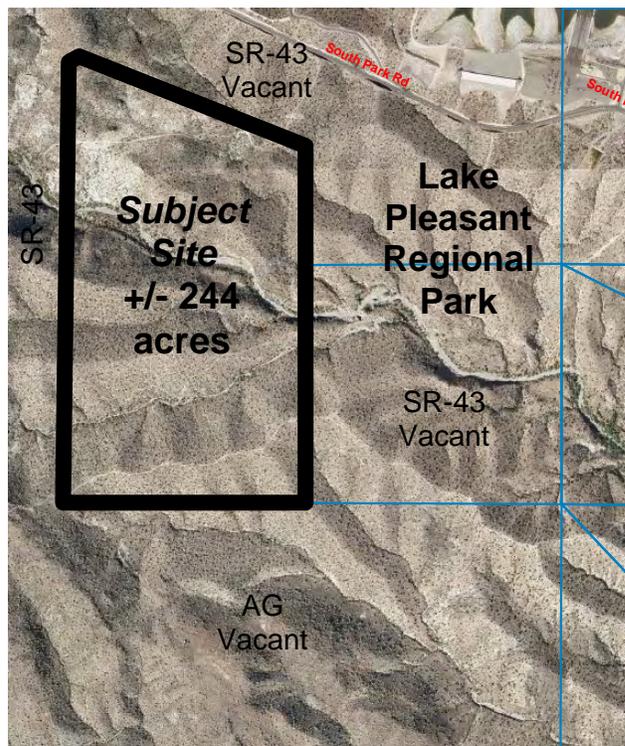
Lake Pleasant Marketplace, Peoria

Representative examples of commercial architectural characters and materials.

The above representations illustrate and establish a level of quality which will be the benchmark against which future site plan and elevation submittals will be judged by City Staff. While the applicant may submit elevations which differ in character from the representations shown in this PAD, the intent of these exhibits is to establish a level of quality for the proposed commercial development; The Staff shall ensure that the level of quality shown in these exhibits are commensurate in quality with the actual elevations, materials, colors which are ultimately provided with each Design Review application. Additionally, any storage use must be visually screened through the use of landscaping, walls, etc. as approved by the City to ensure such facility is not visible from public streets.

Parcel 2 (Northwest Property)

Parcel 2 - (Northwest Property) is 244 acres and is located one half mile west of (Parcel 1). The existing zoning on this parcel is SR-43 single-family residential. Access to the site is via a State Land perpetual easement which connects the two parcels. Peoria’s General Plan provides for up to 2 units per acre on this parcel. The parcel is subject to the City of Peoria’s Hillside Overlay and Desert Lands Conservation Overlay ordinances, except as modified herein. A low intensity 240 room resort and a 1.0 DU/AC residential development associated with the resort is proposed on this project. The 1.0 DU/AC residential units are exclusive of the rooms and casitas, and other for rent units associated with the resort.



Parcel 2 – (Northwest Property)

Parcel 2's unique topography includes a series of moderately sloping plateau-ridges which cross the site from northwest to southeast. Between these plateaus are deep, stone-walled washes with sandy bottoms that make this site a unique and attractive desert environment. The resort will be located to take advantage of the topography and spectacular views associated with the property. The resort development will consist of a traditional resort building and small "cottage"-style casitas, located near the main resort buildings. The casitas will be located within the natural desert setting.

In addition to the casitas, the resort will provide residential homes which are located adjacent to the resort. These homes, like those single family developments adjacent to such resorts as The Boulders, Four Seasons, The Wigwam & Pointe Resorts will be a part of the resort environment and will be entitled to utilize resort amenities.

All units and development in Parcel 2 shall be located to follow the contours of the gentler upper slopes in order to minimize cuts and fills in an effort to blend into the surrounding desert environment. A trail system within the open spaces will be provided throughout the development which will connect the different components within Parcel 2. The resort and residential community will offer a true Arizona desert experience, with hiking, swimming, and other leisure activities on site in addition to the nearby amenities associated with the lake Pleasant Recreation Area.

This development proposed by this PAD Amendment will be a natural transition into the surrounding properties. Most of the lands surrounding the subject parcels are BLM, State Trust Land, or part of the Lake Pleasant Regional Park all of which are intended to have very little development. The PAD's proposed uses are consistent and compatible with these surrounding land uses. Additionally, the resort and residential resort uses are designed to blend in and be part of the open space/desert character of those surrounding land uses which are located adjacent to the resort. The homes proposed on Parcel 2 will be like those single family developments adjacent to such resorts as The Wigwam, The Boulders, and Pointe Resorts and will in fact be a part of the resort environment and will be entitled to utilize resort amenities. This resort/residential project, with its limitation on disturbable area, is environmentally sensitive and respective of the desert. The adherence to the City's Hillside Ordinance will ensure a high quality architectural appearance for all buildings within this project.

The below representations illustrate and establish a level of quality which will be the benchmark against which future site plan and elevation submittals will be judged by City Staff. While the applicant may submit elevations which differ in character from the representations shown in this PAD, the intent of these exhibits is to establish a level of quality and the Staff shall ensure that the level of quality shown in these exhibits are commensurate in quality with the actual elevations, materials, colors which are ultimately provided with each Design Review application.

Cholla Hills

Planned Area Development - Amendment #1



Boulders Resort, Scottsdale, Arizona

Cholla Hills

Planned Area Development - Amendment #1



Wigwam, Litchfield Park, Arizona

Cholla Hills

Planned Area Development - Amendment #1



Camelback Inn, Paradise Valley, Arizona

Cholla Hills

Planned Area Development - Amendment #1



Hermosa Inn, Paradise Valley, Arizona

Cholla Hills

Planned Area Development - Amendment #1



Four Seasons Resort, Scottsdale, Arizona

DESCRIPTION OF PROPOSAL

As previously mentioned, the existing single-family residential, and commercial designations granted in the 1998 zoning case (Z98-03) will remain as allowable uses on the property. The proposed resort use and additional commercial acreage proposed for Parcel 1 (Southeast Property) will be in addition to these 1998 approvals.

This PAD Amendment seeks to amend the existing The Estates at Lakeside PAD to allow for development for a Recreational Vehicle Resort development component on Parcel 1 (Southeast Property), and architecturally integrate a commercial project on the S.R. 74 frontage of Parcel 1 and a resort and residential resort community on Parcel 2 (Northwest Property).

Development of the 750 luxury Recreational Vehicle Resort Use on Parcel 1 will be subject to the attached site plan and the environmental and development restrictions enumerated in this PAD application which include a provision which mandates a minimum of 50% of the total land area as native desert open space. The Recreational Vehicle Resort Site Plan provides a development character which respects the natural environment. This proposal ensures the retention of the existing washes as open space; preserves the spectacular views of desert open space; and retains a significant amount of the site's natural topography remains in place.

Parcel 1 (Southeast Property) Site Plan

On-site vehicular roadways are designed and will be engineered to be sensitive to the property's natural topography. The roadway system serving access to the individual RV pad sites is designed to follow the topographic contours to reduce the impact to natural features and flora. The RV spaces will be setback a minimum of 20 feet from the roadway edge and the pads will have finish elevations that blend with the surrounding elevations to minimize grading. Pads will be orientated to either take advantage of scenic views or to minimize intrusion to existing indigenous large specimen trees. All spaces will be designed on the slopes with the natural ridgelines left in a natural vegetative state to minimize the visual impact to the site.

The central clubhouse amenities for the Recreational Vehicle component include tennis courts, pickleball courts, shuffleboard courts, a large lap pool, jacuzzi, lawn bowling, and an indoor fitness center and activity/game rooms with restrooms, showers, and laundry. A 42 space paved parking lot will serve the complex along with a trail system that connects the central amenities with all the remote pad sites. The buildings, ramadas, and other structures will be stone faced with colors blending with the natural desert surroundings. The recreational vehicle resort will be accessed from one of two gated entry points. The first access point will connect to S.R. 74 and continue through the commercial area. The second access point will be from the Old Lake Pleasant access road on the east side of the property. The main collector road running in an east-west direction will be a divided roadway with a median that will have an abundance of existing and introduced indigenous plantings on a natural ridge that ranges in height from 4-8 feet above

the adjacent roadway. The two gated entries will be enhanced with additional structures including a “manned” gatehouse, water features, an abundance of landscaping, monument/wall signage that will have a soft backlighting for a shadow affect, and a variation of stone clad walls and naturally weathered tube steel decorative fencing. The RVer’s who will be locating here will be seasonal visitors who will generally be vacationing for anywhere between a few days to six month. No permanent stays shall be allowed.

The commercial uses allowed on this parcel will be limited with potentially noxious C-2 uses being eliminated. Height of C-2 uses will be limited to 30-feet.

Recreational Vehicle Resort Site Plan Parcel 1 (Southeast Property)

Existing Reservoir

Plan Data:

Overall Project Area-
Parcel 1&2: 454± Acres

Parcel 1: 210 Acres
Parcel 2: 244 Acres

Existing Zoning:

Parcel 1: PAD (Case #Z98-03)
Parcel 2: SR-43

Request:

Parcel 1: PAD Amendment
Parcel 2: Rezoning

Proposed Uses:

Parcel 1:
A. Recreational Vehicle Resort-
187 Acres- 750 Sites
B. Commercial- 23 Acres
Parcel 2:
C. Resort- 244 Acres;
144 Units, .59 DU/Ac

State Land
AG
Vacant Land

Future Access
to be provided through
State Land Parcel

Secondary Gated
Access to RV Resort

Commercial Access

WWTP

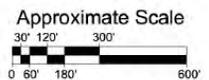
Lake Pleasant
Regional Park
SR-43
Vacant Land

Legend:

-  Commercial
-  Desert Open Space
-  Preserved Desert
(Included w/ RV Project)
-  Private Roadway
-  Trail System

Lake Pleasant
Regional Park
SR-43
Vacant Land
**Primary Gated
Access to RV
Resort**

Applicant/Zoning Attorney:
Earl, Curley & Lagarde, P.C.
3101 N. Central Ave., Suite 100
Phoenix, Arizona 85012
602-265-0094

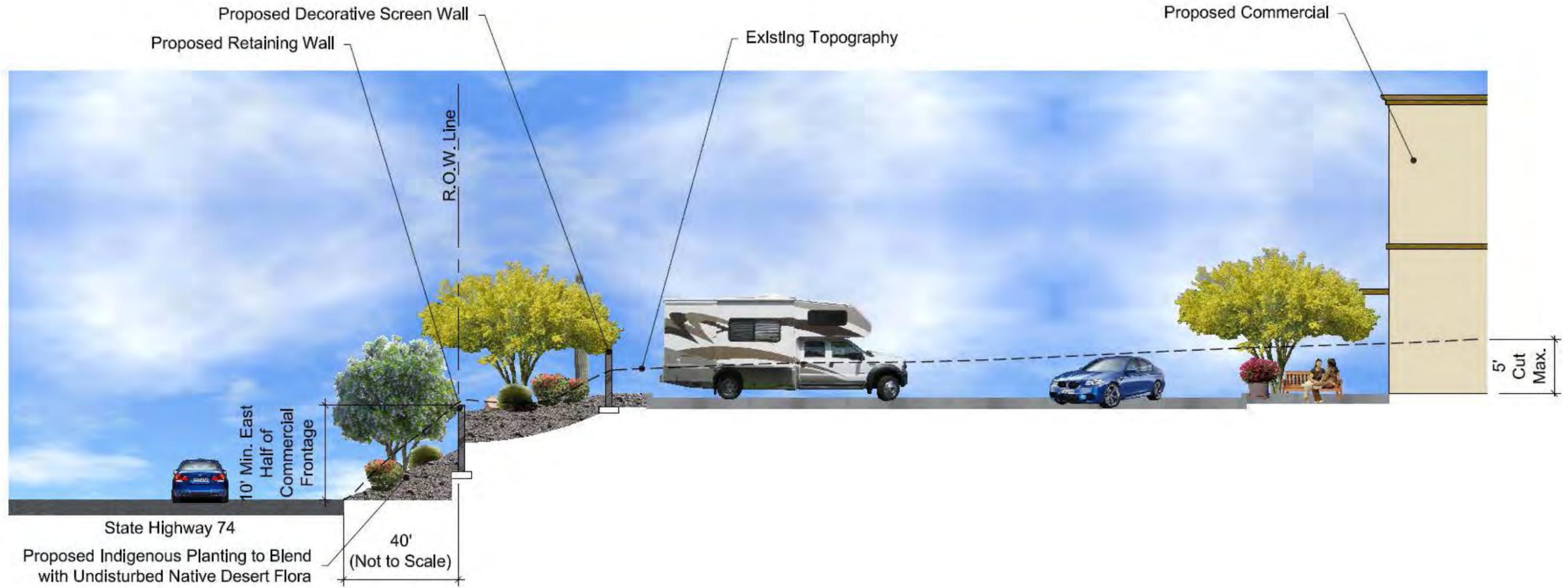


State Land SR-43 Vacant Land



Cholla Hills

Peoria, Arizona



State Highway 74 Section

Parcel 2 (Northwest Property) Site Plan

The northwest project proposes to retain 122 acres (50%) as undisturbed natural open space. The Resort Community will consist of low scale resort buildings with associated small "cottage"-style casita, time share, condominium, and/or townhouse units located near the main resort building. The design concept is to minimize disturbance of the natural environment. This approach will allow the development to take advantage of the scenic and desert vistas. The Resort Community will offer a true Arizona desert experience, with hiking, swimming, and other leisure activities on site and have the activities associated with the Lake Pleasant Recreation Area available offsite.

The residential component of 1.0 DU/AC (this figure does not include units associated with the Resort) will strictly limit the areas which can be developed. Disturbable area to accommodate the homes will be severely limited and all areas surrounding the living unit will remain as open space. For example, no walls/fences will be allowed around the homes and development will be limited to 1,500 square feet per lot. Lastly, there will be easements which preclude development and/or disturbances of areas outside of the living structure.

Resort Site Plan Parcel 2 (Northwest Property)

Plan Data:

Overall Project Area - Parcel 1 & 2: 454+/- Acres

Parcel 1: 210 Acres

Parcel 2: 244 Acres

Existing Zoning:

Parcel 1 - PAD (Case #Z98-03)

Parcel 2 - SR-43

Request:

Parcel 1: PAD Amendment

Parcel 2: Rezoning

Proposed Uses:

Parcel 1:

A. Recreational Vehicle Resort - 187 Acres - 750 Sites

B. Commercial - 23 Acres

Parcel 2:

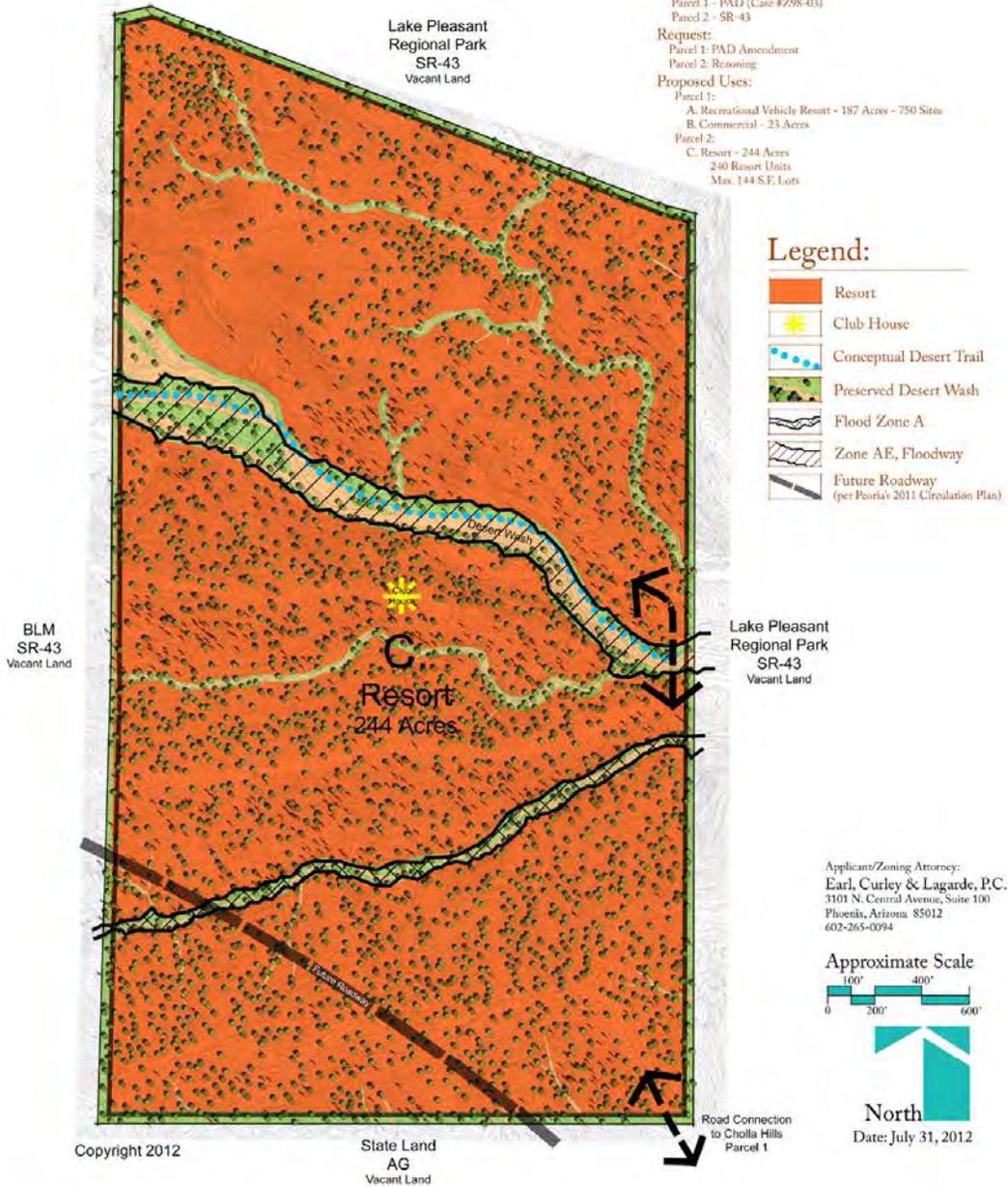
C. Resort - 244 Acres

240 Resort Units

Max. 144 S.F. Lots

Legend:

-  Resort
-  Club House
-  Conceptual Desert Trail
-  Preserved Desert Wash
-  Flood Zone A
-  Zone AE, Floodway
-  Future Roadway
(per Peoria's 2011 Circulation Plan)



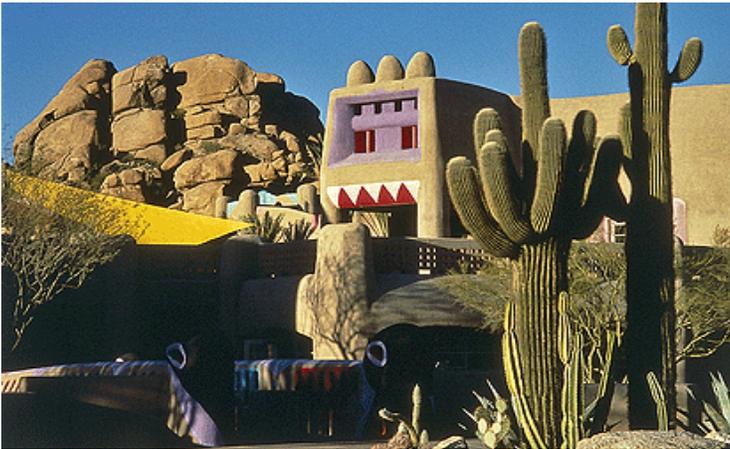
Cholla Hills

Peoria, Arizona

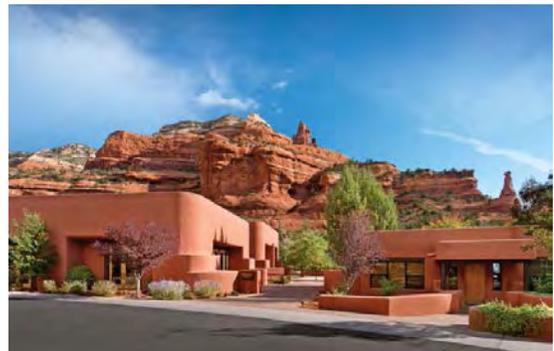
Cholla Hills

Planned Area Development - Amendment #1

The below representations illustrate and establish a level of quality which will be the benchmark against which future site plan and elevation submittals will be judged by City Staff. While the applicant may submit elevations which differ in character from the representations shown in this PAD, the intent of these exhibits is to establish a level of quality and the Staff shall ensure that the level of quality shown in these exhibits are commensurate in quality with the actual elevations, materials, colors which are ultimately provided with each Design Review application. Additionally, any storage use must be visually screened through the use of landscaping, walls, etc. as approved by the City to ensure such facility is not visible from public streets.



El Pedregal, Scottsdale, Arizona



Enchantment Resort Casitas, Sedona



Four Season Resort



Four Seasons Resort, Scottsdale, Arizona



Camelback Inn, Phoenix, Arizona

Representation of Resort Character

Cholla Hills

Planned Area Development - Amendment #1



Wigwam, Litchfield Park, Arizona



Auberge Sedona Cabin Lodging



Wigwam, Litchfield Park, Arizona



Encantado, Santa Fe, New Mexico

REGULATORY PROVISIONS

This PAD Amendment request has been prepared in accordance with Article 14-33 of the Zoning Ordinance of the City of Peoria, Arizona to establish the regulatory framework for the ***Cholla Hills*** development by creating development standards and design guidelines specific to the context of this site. This PAD Amendment is in addition to Zoning Narrative & Standards Report for Estates at Lakeside PAD approved by the City of Peoria Council on November 3, 1998. This is a document comprised of project specific zoning regulations, including permitted uses, development standards, and the project's design criteria. In the event of a conflict between a provision of this PAD and a provision of the Zoning Ordinance of the City of Peoria, the PAD prevails. Where the PAD is silent on a matter, the Zoning Ordinance shall prevail. The PAD Amendment does not modify other City Code provisions or requirements.

PARCEL 1 (SOUHTEAST PROPERTY) PERMITTED USES

- The approved permitted uses as described in the Estate at Lakeside Zoning Narrative and Development Standards narrative dated Revised May 26, 2000 shall remain on Parcel 1 (Southeast Property). (Appendix B);
- Detached Single Family Residential and/or Resort (Appendix B);
- Resort and Commercial associated with resort development and open space;
- Permitted Uses, Permitted Conditional Uses and Accessory Uses as outlined in Articles 14-9-2 (C-2) and 14-9-3 Land Use Matrix of the City's Zoning Ordinance. Such non-residential uses shall only be permitted on the commercial designated parcel;
- Permitted Principal Uses and Permitted Conditional Uses as outlined in Articles 14-8-3 and 14-8-4 of the City's Zoning Ordinance, including a Recreational Vehicle Resort use as described herein;

- The following uses shall be prohibited uses over the entire site:
 - Auto Parking Lot or Garage as Principal Use.
 - Auto Parts and Accessory Store.
 - Auto Sound System Installation, Auto Glass Tinting & Repair and similar uses.
 - Automobile Diagnostic and/or Service Establishment, including engine & transmission overhaul, repair facilities & similar service.
 - Automobile Rental Facility.
 - Tire Sales, Repair and Mounting.
 - Gas Stations or drive-thrus.
 - Adult uses.
 - Golf Courses.
 - Recycling Collection Point.
 - Pawn Shop.
 - Permissible Consumer Fireworks Sales.
 - Nursing or Convalescent Home, Long term Care Facility.
 - Appliance, Furniture, & Household Equipment Sales and Rentals.
 - Sales & Storage of grain, feed, seed, fertilizer, farm & garden supplies.
 - Bus Terminals
 - School Bus Parking and Maintenance Facilities.
 - Cell Tower/facility unless stealth.

This application also strictly regulates the development theme for the site via the PAD's: development standards, design criteria, preservation of open space, and the project's theme for all permitted uses.

PARCEL 1 (SOUTHEAST PROPERTY) DEVELOPMENT STANDARDS

Single Family Residential:	No change. Development Standards remain as approved through The Estates at Lakeside, Application Z-98-03, except as modified herein.
Recreational Vehicle Resort:	See below standards herein.
Commercial:	See below standards herein.

PARCEL 1 RECREATIONAL VEHICLE RESORT DEVELOPMENT STANDARDS

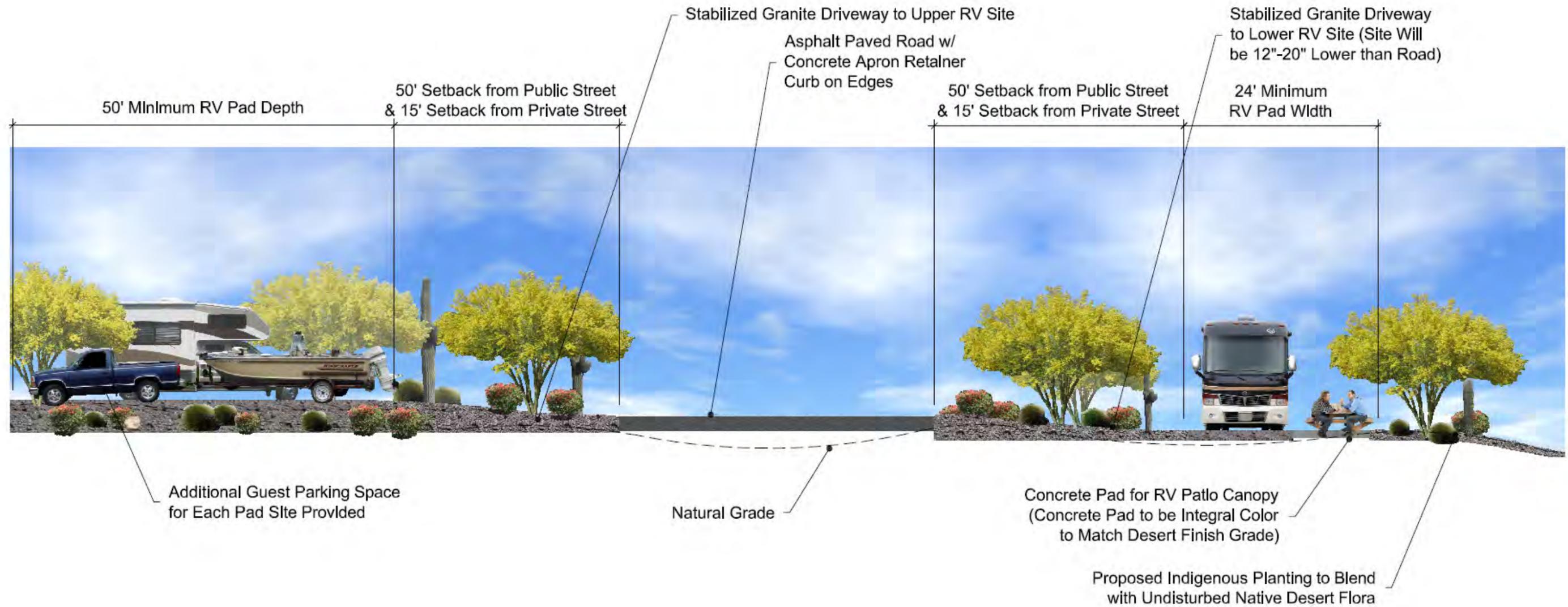
Conceptual Recreational Vehicle Resort Site Plan

This PAD amendment includes a Recreational Vehicle Site Plan, a Preliminary Development Plan of the central clubhouse and amenities, a Typical Gated Entry Plan, a typical RV Site Layout, and various elevations, sections, and perspectives which illustrates the scope, quality of the proposal, the amount of open space being provided, the limitation on the amount of grading being proposed, and the overall nature of the development which is sensitive to and responds to the sites topography and natural features. Development shall be consistent with material presented in this PAD booklet.

The proposed Recreational Vehicle Resort development standards are unique to this lot layout and product and only apply to the site if it is developed as a Recreational Vehicle Resort community. The standards are as noted in the following Development Standards Table:

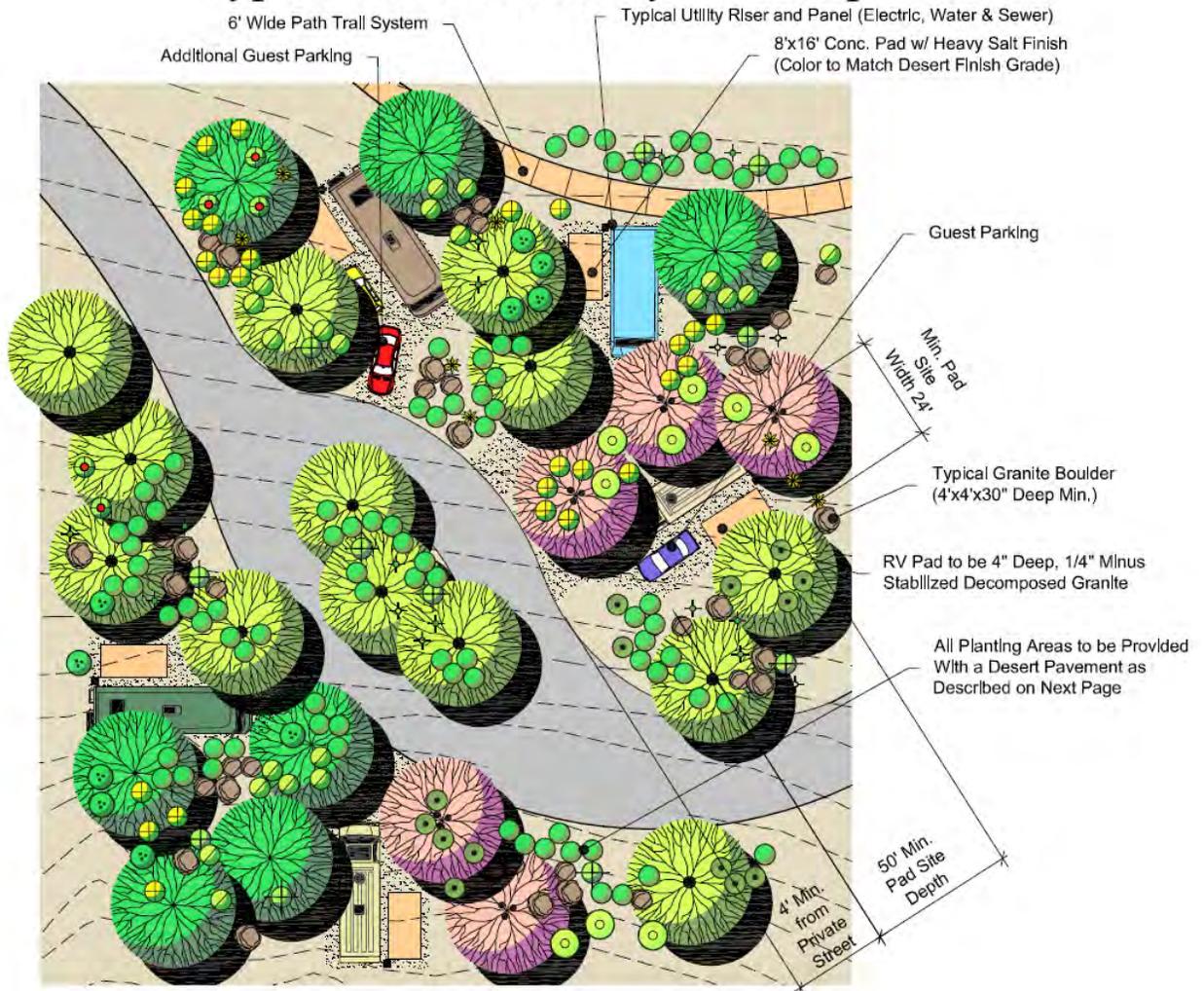
Recreational Vehicle Resort Development Standards

Development Standards	Proposed PAD Amendment
Minimum Area.	Ten (10) acres undivided by a public street except as provided in 14-8-3 (b-6) of this code and based on full acre including street easements.
Minimum Area Per Recreational Vehicle Site.	One thousand two hundred (1,200) square feet
Minimum Recreational Vehicle Site Width.	Twenty-four (24) feet. (See Typical RV Site Layout & Typical RV Site Section exhibits)
Minimum Recreational Vehicle Site Depth.	Fifty (50) feet. (See Typical RV Site Layout & Typical RV Site Section exhibits)
Minimum Setback for Recreational Vehicle Park.	Fifty (50) feet from any public street. 15-feet from perimeter property line.
Minimum setbacks for Recreational Vehicles	Four (4) feet from any private street. Fifteen (15) feet between recreational vehicles on adjacent sites.
Minimum Private Street Width.	Twenty-five (25) feet measured between edge/curb faces.
Maximum Building Height.	Two stories or thirty (30) feet, whichever is less.
Recreation and Open Space Area.	Minimum fifty percent (50%) of area less private streets shall be devoted to recreation and natural or re-vegetated open space.
Recreational Vehicle Lot/Pad shade	Minimum fifty percent (50%) shade shall be provide for each Recreational Vehicle Lot/Pad by vegetation (see Typical RV Preliminary Landscape Plan & Landscape Guidelines)
Recreational Vehicle Storage Area.	Long term storage of Recreational Vehicles such boats, utility trailers and the like not in use with the primary RV guest/tenant shall be located with the commercial parcel.



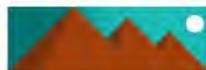
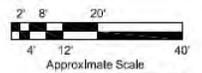
Typical RV Site Section

Typical RV Preliminary Landscape Plan



Plant Schedule:

	Tree	Salvaged From On-site		Simmondsia Chinensis	5 Gallon Full, Past Can
	Saguaro	Salvaged From On-site		Larea Tridentata	5 Gallon Full, Past Can
	Olea Tesota	48" Box Multi-trunk		Ambrosia Deltoidea	5 Gallon Full, Past Can
	Ironwood			Triangle Bursage	5 Gallon Full, Past Can
	Cercidium Floridum	36" Box Multi-trunk		Justicia Californica	5 Gallon Full, Past Can
	Blue Palo Verde			Callandra Eriphylla	5 Gallon Full, Past Can
	Opuntia Vloacea	7-8 Pads		Hesperaloe Funlfera	5 Gallon Full, Past Can
	Purple Prickley Pear	5 Gallon Min.		Ruellia Peninsularis	5 Gallon Full, Past Can
	Echinocactus Grusonii	18" Ht.		Ruellia	5 Gallon Full, Past Can
	Golden Barrel Cactii				
	Encella Farinosa	5 Gallon Full, Past Can			
	Brittle Bush				



Cholla Hills

Peoria, Arizona



North
Date: April 10, 2012

Use of Recreational Vehicle site

- A. No recreational vehicle or accessory structure shall be placed over any existing utility easements.
- B. On-site parking shall be provided for one vehicle in addition to the recreational vehicle. Such vehicle parking stall dimension shall be a minimum of 8.5 feet wide x 18 feet long.
- C. All recreational vehicle camp sites/pads shall consist of surface which is compacted and shall consist of materials which help to reduce dust.
- D. No access to Lake Pleasant Park without permission.

Occupancy

- A. Development plans for the Recreational Vehicle Resort shall be submitted to the City Staff for its review and approval prior to the issuance of building permits.
- B. The length of stay for the typical RV user shall be between a few days to six months. No permanent stay shall be permitted. Maximum stay only 6 months or 180 days.

General Regulations

- A. All direct vehicular access shall be from abutting arterial or collector streets.
- B. It shall be the responsibility of the park owners or managers of rental parks to see that all sections of this article are complied with, including requirements relative to required permits.

PARCEL 1 RECREATIONAL VEHICLE RESORT SIGNAGE

The project may include up to two freestanding wall signs near the street and main entrances to the development. Such signage shall be integrated into the landscaping and/or theme walls. Total Sign area for permanent signs requiring permits shall be 64 square feet, with no more than 32 square feet on any one street frontage. All signage shall be in accordance with Article 14-34 of the Zoning Ordinance. No billboards or pylon signs will be permitted.

PARCEL 1 COMMERCIAL PROPERTY DEVELOPMENT STANDARDS

Any commercial development within the 23 acre commercial parcel on Parcel 1 (Southeast Property) shall comply with Article 14-9, Section 14-9-6 Property Development Standards for C-2 in the City's Zoning Ordinance except as modified as herein and except that the maximum building height shall be limited to 30-feet.

COMMERCIAL DESIGN GUIDELINES

Design of the commercial development within the PAD shall comply with the City of Peoria Hillside Ordinance and Design Review Manual for Non-Residential uses and shall be compatible with a desert character theme.

In addition to the City’s Design Review Manual the below *Architectural Design* provisions seek to create a foundation for design that will ensure development of an attractive, high quality mixture of architectural styles with primary emphasis on a low density commercial appearance. Buildings will feature creative applications of materials, colors and textures. The design of each building within the overall commercial development, including complementary uses such as retail, restaurants and hotels, will be compatible through the use of compatible materials and colors while creating a strong individual identity consistent with their individual use and purpose. **This document provides representative examples of architectural characters and materials with finishes and color.**





Mountain Ranch Marketplace, Goodyear, Arizona



Lake Pleasant Commercial, Peoria

Representative examples of architectural characters and materials.

The above representations illustrate and establish a level of quality which will be the benchmark against which future site plan and elevation submittals will be judged by City Staff. While the applicant may submit elevations which differ in character from the representations shown in this PAD, the intent of these exhibits is to establish a level of quality and the Staff shall ensure that the level of quality shown in these exhibits are commensurate in quality with the actual elevations, materials, colors which are ultimately provided with each Design Review application. Additionally, any storage use must be visually screened through the use of landscaping, walls, etc. as approved by the City to ensure such facility is not visible from public streets.

The architectural design elements for these buildings include:

1. Building modulation, indentations and architectural details;
2. Building entry accentuation;
3. Four sided architecture;
4. Building entrances shall be emphasized through the use of special building materials, architectural design and enhanced landscaping;
5. Particular design emphasis should be placed on those sides of the building most visible to S.R. 74 traffic. Building facades may be used to promote the corporate image on large wall expanses or for non-administrative buildings on the most critical building sides;
6. Windows and glazing areas should include a variety of shapes, insets, shading devices, accent mullions or other treatments that complement the overall building design;
7. Building wall articulation is required on the buildings with appropriate details and elements to help create pedestrian scale and a sense of quality. Horizontal banding will likewise be used to foster this pedestrian scale;
8. Boulder retaining walls.
9. The east half of the property's frontage along S.R. 74 is largely screened from view because there is a 10ft grade differential between S.R. 74 and this property's frontage. The western half of the property's frontage along S.R. 74 is lower than the adjacent street and therefore any commercial development will be required to provide screening through landscape and/or additional berming along S.R.74.

10. Reduction of building mass may be achieved by using a combination of the following techniques:
 - a) Variations in rooflines, parapets and/or other significant roof or canopy forms shall be used to reduce the scale of commercial buildings. Roof size, shape, material, color and slope should be coordinated with the scale and theme of the building. Parapets for concealing flat roofs shall feature three dimensional cornice treatments (where appropriate) or other similar details that enhance the building architecture. Where not used in conjunction with other roof elements, parapets should vary in height;
 - b) Use of ground level arcades and covered areas;
 - c) Use of protected and recessed entries;
 - d) Use of vertical elements on or in front of expansive blank walls;
 - e) Use of pronounced wall plane offsets and projections;
 - f) Use of focal points and vertical accents; and
 - g) Inclusion of windows on elevations facing streets and pedestrian areas.

Entrances

All buildings shall have clearly defined customer entrance(s) incorporating elements such as:

1. Canopies or porticos
2. Overhangs
3. Recesses/projections
4. Arcades
5. Raised parapets
6. Peaked roof forms
7. Arches
8. Entrance framed by outdoor pedestrian features or enhanced landscaping
9. Architectural details such as tile work and moldings integrated into the building structure to frame the entryway
10. Integral planters or wing walls that incorporate landscaped areas and/or sitting areas and
11. Enhanced pedestrian surfaces.

All buildings adjacent to roads shall have entryways that are unique and easily identifiable.

Building Materials

Approved Exterior Wall Material: Common clay brick, granite, marble, or other natural stone, concrete, concrete masonry units (provided that surfaces are integrally colored, painted, stained or have attractive exposed aggregate which must be approved as to color and texture) and shall have architectural relief, architectural metal, and stucco or plaster (synthetic systems simulating stucco or plaster are permitted) provided that finishes must be smooth, sand, or ceramic tile. Concrete may be allowed provided that the building is highlighted with architectural features. All exterior wall materials and design must be approved by City Staff.

PARCEL 2 (NORTHWEST PARCEL) PERMITTED USES

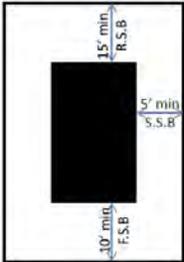
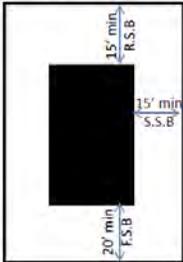
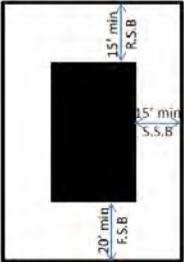
- Detached Single Family Residential associated with a Resort;
- Resort and ancillary Commercial associated with resort development and open space;

PARCEL 2 (NORTHWEST PARCEL) DEVELOPMENT STANDARDS

Heights, setbacks and separation will meet all applicable code and ordinance requirements and will be subject to review by City staff at the time of plat and site plan approvals, except as modified below. The residential component will only occur upon development of the resort component.

A. Development Standard for Permitted Residential Uses shall be as follows:

DEVELOPMENT STANDARDS	DETACHED SINGLE FAMILY	ATTACHED SINGLE OR MULTIFAMILY BUILDINGS	NON-RESIDENTIAL (RESORT) BUILDINGS
Maximum Density	1.0 du/ac	N/R	N/R
Minimum Lot Size	6,000-sq. ft. *	N/R	N/R
Maximum Lot Coverage (%)	25%	50%	50%
Minimum Lot Width	30-feet	N/R	N/R
Maximum Building Height	2-story or 30-feet	30-feet	30-feet
MINIMUM BUILDING SETBACKS			
Front	10-feet	20-feet	20-feet
Rear	15-feet	15-feet	15-feet
Side	5-feet	15-feet	15-feet
Corner	10-feet	15-feet	15-feet

<p>Detach Single Family</p> 	<p>Attached Single or Multifamily Buildings</p> 	<p>Non-Residential (Resort) Buildings</p> 	<p>* A maximum of 1,500 square feet per residential lot shall be allowed to be disturbed for construction. Additionally, no walls shall be allowed on individual residential lots.</p> <p>N/R No minimum requirement.</p>
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The following development guidelines should be followed.

- 1) Streets should be planned to be located wherever the least amount of disturbance is reasonably possible. .
- 2) Residential units shall generally be located wherever the least amount of disturbance is reasonably possible. Generally the area which will involve the least amount of disturbance will be located along the plateau-ridge lines, where slopes are least severe. In some cases it may be necessary to cluster units to and minimize cuts and fills.
- 3) Development shall be in accordance with Peoria’s Hillside Ordinance and the Desert Conservation Ordinance. Major washes and the steep slopes along the sides of the washes will be preserved as dedicated open space. Most of the resort/residential related buildings, casitas, condominiums, townhouses and/or time share units will back directly onto open space. Where lots do not have direct views onto open space corridors, access to them will be provided via pathways and “windows” into the washes and common areas.
- 4) A series of trails will be provided to access the open space areas where views of wildlife, rock formations and the desert landscape can be enjoyed. The pathways will be designed for minimum impact on the land and will blend into the natural terrain. Trails are planned, subject to City approval, to be cleared walkways, 4 to 6 feet wide with a native material surface. Improvements shall include path direction markers, erosion protection similar to that used in forest service trails, benches at natural overlook locations, small rock retaining walls and culverts at small wash crossings.
- 5) To provide the least amount of cuts and fills on individual single-family residential lots, a maximum of 1,500 square feet per residential lot shall be allowed to be disturbed for construction. Additionally, no walls shall be allowed on individual residential lots.

Architectural Style, Appearance

Development shall comply with the requirements as set forth in the City of Peoria Design Review Manual. Additionally, a Design Review Committee will be formed within the framework of the master homeowners association. This committee will monitor and review the architecture, site planning, landscaping and building modifications.

In addition to City’s Design Review Manual, development shall conform with the following:

1. Use of colors and materials shall blend with the desert (no whites, pastels or red tile);
2. “Breaking up” the apparent mass of buildings through variations in roof lines, detailing of windows and use of “pop-outs”;
3. Roof lines designed to reflect natural slopes and geologic forms;
4. Southwestern architectural character (no French Provincial, red barns, southern mansions, etc.);
5. Use of regional plant materials exclusively where visible from streets or common open space areas;

6. Low level light standards (bollard-style) to be used throughout;
7. Use of consistent design for house numbers, mailbox enclosures, street numbers and furnishings;
8. Garages may be side entry or detached and behind the principal structure.
9. Signage and lighting shall not consist of exposed neon.
10. All illuminated signs shall not be placed higher than 18-feet as measured from the adjacent grade.
11. Parking lot light pole shall not be taller than 18-feet and shall be shielded.

LANDSCAPE GUIDELINES

The sites are separated by undeveloped property in the Sonoran Desert and both sites have light to medium density indigenous Sonoran shrubs, trees, and cactus with a rolling topography that varies as much as 200 feet. Both sites are traversed with natural stream beds that flow from the northwest and through the sites to the southeast. The development plans proposed with this PAD will be enhanced with landscaping that is guided by the Sonoran Palette, yet allowing the diversity of introduced plant types that will enhance various spaces, structures, and pedestrian uses within the PAD. The overall landscape theme is intended to establish continuity and compatibility throughout the two communities.

As shown in the plan graphics that follow this narrative and in the "Desert Lands Conservation Guideline" in the appendix, the proposed plant palette will be generally lush indigenous Sonoran shrubs, trees, and cactus and the existing tree, saguaro, and barrel cacti in the path of construction that are healthy will be salvaged and re-used in the landscape to provide a mature landscape that is harmonious with the arid desert landscape. The existing salvaged and transplanted desert trees and cactus will provide for a minimum of 40% of the total trees provided in the landscape. This will provide for a vegetative canopy at all RV sites, pedestrian pathways, and user amenities allowing for shade coverage of 50%. Accents of turf will be proposed at the entry points to the Hotel Site and Recreational Vehicle development, in addition to the R.V. Clubhouse and amenities, and around the Hotel pools, tennis courts, and outdoor passive recreational spaces for additional interest and to reduce solar reflection in high use pedestrian spaces. The sites will be planned with a comprehensive trail system and the pedestrian environment will be comfortable throughout the year with shaded places to sit and rest. Site sidewalks and paths shall connect all site amenities, entry courts, building entrances, parking areas, and RV sites. All walkways will be a minimum 5 foot width. The paving of the walkways will have an integral tan color incorporated into the walkway paved surface to harmonize with the desert floor. Various pavement textures and colors will be integrated into the vehicular streets at the resort entry points and at prominent intersections and pedestrian crosswalks that traverse the streets for both pedestrian safety and accenting paved surfaces for interest (See entry landscape plan following this narrative). Pedestrian and vehicular conflicts will be minimized and effective low level lighting will be incorporated into the intersections and intermittently along the pathways to promote a sense of security after dark.

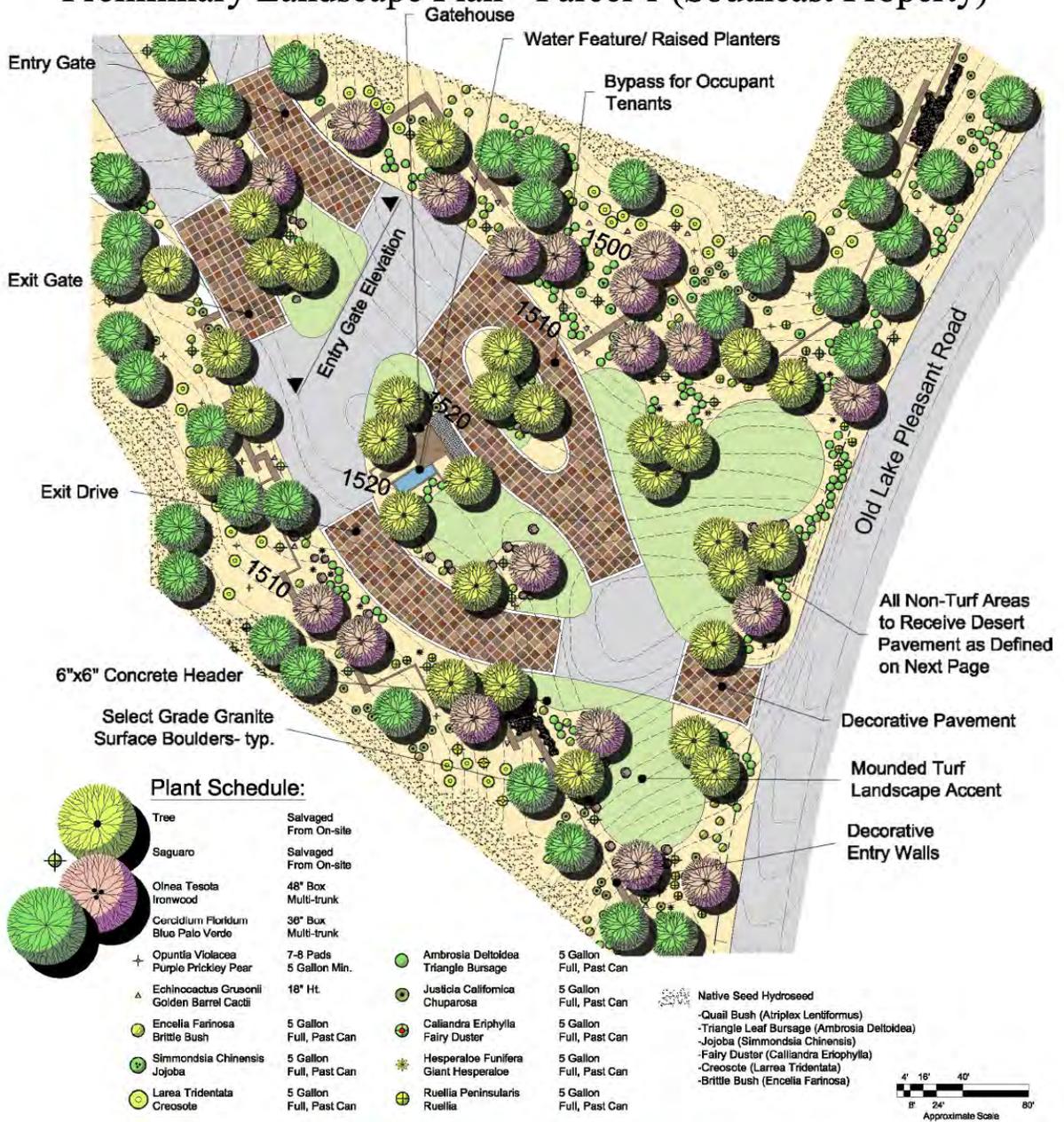
All landscaped areas will have earth berms and swales integrated into the landscape to emulate the natural surrounding topography and other landscape features like surface grade granite boulders, granite cobble, and decomposed granite will be integrated into non-turf landscape surfaces to emulate the natural desert surface. Installation of the “desert pavement” will occur as the final step in the landscape process and be implemented in such a way as to blend with undisturbed native areas. To insure that the proposed desert surface will match that of the existing desert floor the following construction sequence will be provided for:

1. Troughs created of varying shapes no less than 2’x8’ and approximately 2 inches deep and rake in any cobble-sized rock that was exposed during the landscape process. The trough will be covered with soil to expose only the top half of the cobbles. The cobble will appear as an outcropping and will be placed in locations and at a frequency that matches the existing native areas.
2. A soil/aggregate mixture will be randomly scattered over the disturbed areas in varying depths no greater than ½ inch. App. 80% of the disturbed areas will be covered with this mix.
3. Cobbles 4 inch and greater that were collected with the soil/aggregate mixture will be half buried. Cobbles less than 4 inches will be left on the surface.

Open space areas identified in the “Desert Lands Conservation Guide” in the appendix as undeveloped will be maintained in their natural state and protected during construction. These areas will be free from grading and improvements and are limited to natural drainage swales and stream beds and areas at outer edges of the site. Any disturbance to these areas will be repaired by hydroseeding native seed as prescribed in other sections of this booklet.

The (3) three preliminary landscape plan graphics following this narrative identify the typical plant types, placement of salvaged native trees and cacti, and the overall design incorporating accents of turf and densities of plantings. The designs are examples of the landscape that will continue throughout both parcels and commercial area and are provided to show the emphasis placed on creating an outdoor environment that blends with and enhances the natural Sonoran Desert.

Preliminary Landscape Plan - Parcel 1 (Southeast Property)



Preliminary Landscape Plan For Recreational Center - Parcel 1



Spa
Pickleball Courts

Ramada- typ.
Patio w/ Raised Planters

Courtyard w/ Water Feature
Shuffleboard Courts

Fitness Center

Activity Room
-Restroom
-Showers
-Laundry
-Game Rooms

Lawn Bowling
Lighted Tennis Courts

Undisturbed Landscape
Lawn-typical

Decorative Pavement

Plant Schedule:



- Tree
- Saguaro
- Oleina Tesota
Ironwood
- Cercidium Floridum
Blue Palo Verde
- Opuntia Violacea
Purple Prickley Pear

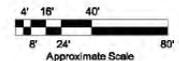
- Salvaged From On-site
- Salvaged From On-site
- 48" Box Multi-trunk
- 36" Box Multi-trunk
- 7-8 Pads 5 Gallon Min.

- Echinocactus Grusonii
Golden Barrel Cactii
- Encelia Farinosa
Brittle Bush
- Simmondsia Chinensis
Jojoba
- Larea Tridentata
Creosote
- Ambrosia Deltoidea
Triangle Bursage

- 18" Ht.
- 5 Gallon Full, Past Can

- Justicia Californica
Chuparosa
- Caliandra Eriophylla
Fairy Duster
- Hesperaloe Funifera
Giant Hesperaloe
- Ruellia Peninsularis
Ruellia
- Native Seed Hydroseed

- 5 Gallon Full, Past Can



Cholla Hills

Peoria, Arizona



PUBLIC FACILITIES

The public facilities plan shows the subject site to be within the City’s Fire Management Area. This request to change the land use designation to Resort puts no demands for additional schools, parks, or municipal offices. In fact, changing the land use to resort should reduce the number of children from the existing Residential Estate land use which provides permanent homes with children. The properties are located within the service areas of the regional water and wastewater facilities defined in the City of Peoria Water & Wastewater Master Plans. It is the land owner responsibility to construct the water and wastewater facilities, which will then be turned over to the City of Peoria for operation – under the terms outlined in the Asset Purchase Agreement.

Fire protection is provided by an existing fire company at Lake Pleasant. Police protection is provided by the City of Peoria police department and Maricopa County Sheriff’s department.

The project is not presently within an incorporated school district and is anticipated to be primarily vacation/second or retirement population which would require no school facilities.

PHASING

Development of the recreational vehicle component will be in minimum 10-acre phases and will start at south end of the property to the north. The residential component will only occur upon development of the resort component. All phases of development will be developed as per market demand. The necessary onsite and offsite improvements will be determined during the Final Site Plan process in accordance with City of Peoria Ordinances and Guidelines.

CONCLUSION

In summary, the proposed land use amendment is a unique opportunity to provide for a development which reflects the community’s needs and is compatible with the City’s planning goals, policies and objectives. The ***Cholla Hills*** project is a well-planned, low impact and sustainable Resort, Resort Residential and Recreational Vehicle Resort with a commercial component that is compatible with the existing Lake Pleasant Regional Park, BLM and State land in the surrounding area. Further, the very low density land use is very much in harmony with the Lake Pleasant Regional Park. The project will contribute to the orderly growth of the City and will provide a unique opportunity and use which is currently unavailable. We believe that this PAD Amendment will contribute positively to the well planned growth of the northern portion of Peoria and a high quality of life for its residents and visitors.

DLGC II, LLC

PARCEL NO. 1:

THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THAT PORTION LYING NORTH OF A LINE BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 29;

THENCE SOUTHEASTERLY TO THE CENTER OF SAID SECTION 29; AND

EXCEPT THAT PORTION WHICH LIES WITHIN A STRIP OF LAND 200.00 FEET IN WIDTH, BEING 100.00 FEET WIDE ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 29;

THENCE SOUTH 00 DEGREES 08 MINUTES 58 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 29, 2174.08 FEET;

THENCE NORTH 73 DEGREES 42 MINUTES 02 SECONDS WEST; 308.14 FEET TO THE TRUE POINT OF BEGINNING OF THIS LINE DESCRIPTION;

THENCE SOUTH 73 DEGREES 42 MINUTES 02 SECONDS EAST, 474.00 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5729.58 FEET A DISTANCE OF 1646.86 FEET;

THENCE NORTH 89 DEGREES 49 MINUTES 51 SECONDS EAST, 3440 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SECTION 29, AND THE TERMINUS OF SAID LINE; AND

EXCEPT THOSE PORTIONS OF THE SOUTHWEST QUARTER OF SAID SECTION 29 CONVEYED TO THE COUNTY OF MARICOPA IN WARRANTY DEEDS RECORDED NOVEMBER 16, 1995, IN DOCUMENT NOS. 95-0706064, 95-0706065 AND 95-0706096 MARICOPA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID PARCEL BEING AN 80 FEET (24.384 METERS) WIDE STRIP OF LAND, BEING 40 FEET (12.192 METERS), MEASURED AT RIGHT ANGLES, ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 29;

THENCE SOUTH 00 DEGREES 08 MINUTES 58 SECONDS WEST (ASSUMED BEARING) A DISTANCE OF 2069.97 FEET (630.927 METERS) ALONG THE SOUTHERLY PROLONGATION OF A STRAIGHT LINE BETWEEN SAID WEST QUARTER CORNER AND THE SOUTHWEST CORNER OF SAID SECTION TO THE NORTHERLY RIGHT-OF-WAY LINE OF MORRISTOWN-NEW RIVER HIGHWAY AS SHOWN ON SHEETS 5 AND 6, ARIZONA DEPARTMENT OF TRANSPORTATION PROJECT S-4, =34-705 AT A POINT 100 FEET LEFT OF HIGHWAY STATION 1076+79.18;

THENCE SOUTH 73 DEGREES 42 MINUTES 02 SECONDS EAST, A DISTANCE OF 194.82 FEET (59.381 METERS) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE BEGINNING OF A CURVE CONCAVE TO THE LEFT HAVING A RADIUS 5629.58 FEET (1715.896 METERS);

No. NCS-202187B-PHX1

THENCE AN ARC DISTANCE OF 1618.12 FEET (493.203 METERS) SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 89 DEGREES 49 MINUTES 51 SECONDS EAST, A DISTANCE OF 733.12 FEET (223.455 METERS) TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MORRISTOWN-NEW RIVER HIGHWAY AND THE CENTER LINE OF THE ACCESS ROAD (STATE ROUTE 74 TO LAKE PLEASANT) AS SHOWN ON THE MARICOPA COUNTY HIGHWAY DEPARTMENT PLANS MARKED W.O.30081 AT STATION 1+01.40 AND THE TRUE POINT OF BEGINNING OF SAID STRIP OF LAND 80 FEET (24.384 METERS) WIDE, LYING 40 FEET (12.192 METERS) ON EACH SIDE OF A LINE DESCRIBED AS FOLLOWS:

THENCE NORTH 09 DEGREES 42 MINUTES 09 SECONDS WEST, A DISTANCE OF 331.88 FEET (101.157 METERS) TO THE BEGINNING OF A CURVE CONCAVE TO THE RIGHT HAVING A RADIUS OF 1145.92 FEET (349.276 METERS);

THENCE NORTHERLY AND NORTHEASTERLY, AN ARC DISTANCE OF 1358.19 FEET (413.976) METERS ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 58 DEGREES 12 MINUTES 23 SECONDS EAST, A DISTANCE OF 400.64 FEET (122.115 METERS) TO THE BEGINNING OF A CURVE CONCAVE TO THE LEFT HAVING A RADIUS OF 1145.92 FEET (349.276 METERS);

THENCE NORTHEASTERLY AND NORTH-NORTHEASTERLY, AN ARC DISTANCE OF 505.06 FEET (153.942 METERS) ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 32 DEGREES 57 MINUTES 11 SECONDS EAST, A DISTANCE OF 1242.88 FEET (378.830 METERS) TO THE BEGINNING OF A CURVE CONCAVE TO THE RIGHT HAVING A RADIUS OF 1145.92 (349.276 METERS);

THENCE NORTHEASTERLY, AN ARC DISTANCE OF 178.35 FEET (54.361 METERS) ALONG SAID CURVE TO THE BEGINNING OF A TANGENT:

THENCE NORTH 41 DEGREES 52 MINUTES 13 SECONDS EAST A DISTANCE OF 281.60 FEET (85.832 METERS) TO THE POINT OF ENDING OF THE HEREIN DESCRIBED 80 FEET (24.384 METERS) WIDE STRIP OF LAND, THE NORTHEAST CORNER OF SAID SECTION BEARS NORTH 41 DEGREES 52 MINUTES 13 SECONDS EAST, A DISTANCE OF 460.52 FEET (140.366 METERS),

THENCE NORTH 11 DEGREES 16 MINUTES 05 SECONDS EAST, A DISTANCE OF 954.12 FEET (290.816 METERS). THE SIDELINES OF THE 80 FEET (24.384 METERS) WIDE STRIP ARE TO BE SHORTENED OR LENGTHENED AS NECESSARY TO END ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY AT STATION 1+01.40 AND ARE TO END AT RIGHT ANGLES TO THE POINT OF ENDING AT STATION 44+00.00; AND

EXCEPT THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES EASTERLY OF THE EAST RIGHT-OF-WAY LINE OF THE 80 FEET WIDE STRIP OF LAND KNOWN AS THE WADDELL DAM LOOKOUT ROAD FROM STATE ROUTE 74 TO LAKE PLEASANT REGIONAL PARK;

ALSO EXCEPT ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION AND EXCEPT ALL URANIUM, THORIUM OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS WHETHER OR NOT OF COMMERCIAL VALUE, AS SET FORTH IN SECTION 37-231, ARIZONA REVISED STATUTES.

PARCEL NO. 2:

A NONEXCLUSIVE EASEMENT FOR THE PURPOSE OF TRANSPORTING WATER AND OTHER UTILITY FACILITIES, AS CREATED IN INSTRUMENT RECORDED NOVEMBER 16, 1995, IN DOCUMENT NO.95-0706097, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 50 FEET (15.240 METERS) WIDE STRIP OF LAND LYING IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID STRIP LYING NORTHERLY OF THE NORTHERLY RIGHT-OF-WAY LINE OF MORRISTOWN-NEW RIVER HIGHWAY AND LYING EASTERLY OF THE WEST RIGHT-OF-WAY LINE OF AN 80 FEET (24.384 METERS) WIDE STRIP OF LAND BEING 40 FEET (12.192 METERS) ON EACH SIDE OF THE CENTER LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 29;

THENCE SOUTH 00 DEGREES 08 MINUTES 58 SECONDS WEST (ASSUMED BEARING), A DISTANCE OF 2069.97 FEET (630.927 METERS) ALONG THE SOUTHERLY PROLONGATION OF A STRAIGHT LINE BETWEEN SAID WEST QUARTER CORNER AND THE SOUTHWEST CORNER OF SAID SECTION TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE MORRISTOWN-NEW RIVER HIGHWAY AS SHOWN ON SHEETS 5 AND 6, ARIZONA DEPARTMENT OF TRANSPORTATION PROJECT S-4, =34-705 AT A POINT 100 FEET LEFT OF HIGHWAY STATION 1076+79.18;

THENCE SOUTH 73 DEGREES 42 MINUTES 02 SECONDS EAST, A DISTANCE OF 194.82 FEET (59.381 METERS) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE BEGINNING OF A CURVE CONCAVE TO THE LEFT HAVING A RADIUS OF 5629.58 FEET (1715.896 METERS);

THENCE AN ARC DISTANCE OF 1618.12 FEET (493.203 METERS) SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 89 DEGREES 49 MINUTES 51 SECONDS EAST, A DISTANCE OF 733.12 FEET (223.455 METERS) TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MORRISTOWN-NEW RIVER HIGHWAY AND THE CENTER LINE OF THE ACCESS ROAD (STATE ROUTE 74 TO LAKE PLEASANT AS SHOWN ON THE MARICOPA COUNTY HIGHWAY DEPARTMENT PLANS MARKED W.O.30081 AT STATION 1+01.40 AND THE TRUE POINT OF BEGINNING OF SAID STRIP OF LAND 80 FEET (24.384 METERS) WIDE, LYING 40 FEET (12.192 METERS) ON EACH SIDE OF A LINE DESCRIBED AS FOLLOWS:

THENCE NORTH 09 DEGREES 42 MINUTES 09 SECONDS WEST, A DISTANCE OF 331.88 FEET (101.157 METERS) TO THE BEGINNING OF A CURVE CONCAVE TO THE RIGHT HAVING A RADIUS OF 1145.92 FEET (349.276 METERS);

THENCE NORTHERLY AND NORTHEASTERLY, AN ARC DISTANCE OF 1358.19 FEET (413.976 METERS) ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 58 DEGREES 12 MINUTES 23 SECONDS EAST, A DISTANCE OF 400.64 FEET (122.115 METERS) TO THE BEGINNING OF A CURVE CONCAVE TO THE LEFT HAVING A RADIUS OF 1145.92 FEET (349.276 METERS);

THENCE NORTHEASTERLY AND NORTH-NORTHEASTERLY, AN ARC DISTANCE OF 505.06 FEET (153.942 METERS) ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 32 DEGREES 57 MINUTES 11 SECONDS EAST A DISTANCE OF 1242.88 FEET (378.830 METERS) TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1145.92 FEET (349.276 METERS);

THENCE NORTHEASTERLY AN ARC DISTANCE OF 178.35 FEET (54.361 METERS) ALONG SAID CURVE TO THE BEGINNING OF A TANGENT;

THENCE NORTH 41 DEGREES 52 MINUTES 13 SECONDS EAST, A DISTANCE OF 281.60 FEET (85.832 METERS) TO THE POINT OF ENDING OF THE HEREIN DESCRIBED 80 FEET (24.384 METERS) WIDE STRIP OF LAND, THE NORTHEAST CORNER OF SAID SECTION BEARS NORTH 41 DEGREES 52 MINUTES 13 SECONDS EAST, A DISTANCE OF 460.52 FEET (140.366 METERS),

THENCE NORTH 11 DEGREES 16 MINUTES 05 SECONDS, EAST, A DISTANCE OF 954.12 FEET (290.816 METERS).

LAKE PLEASANT GROUP, LLP

PARCEL NO. 3:

THAT PART OF SECTION 19, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 19;

THENCE NORTH 00 DEGREES 52 MINUTES 38 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 1916.62 FEET RECORD (1920.00 FEET, MEASURED) TO AN ANGLE POINT ON SAID WEST LINE;

THENCE NORTH 00 DEGREES 28 MINUTES 22 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 689.76 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 19;

THENCE CONTINUING NORTH 00 DEGREES 28 MINUTES 22 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 1922.77 FEET RECORD NORTH 00 DEGREES 28 MINUTES 10 SECONDS WEST 2612.40 FEET MEASURED, TO AN ANGLE POINT ON SAID WEST LINE;

THENCE NORTH 00 DEGREES 00 MINUTES 52 SECONDS WEST ALONG SAID WEST LINE OF SECTION 19, A DISTANCE OF 146.02 FEET, RECORD NORTH 00 DEGREES 00 MINUTES 52 SECONDS WEST 146.02 FEET 146.02 MEASURED;

THENCE NORTH 76 DEGREES 25 MINUTES 06 SECONDS EAST, A DISTANCE OF 153.80 FEET, RECORD NORTH 76 DEGREES 31 MINUTES 28 SECONDS EAST 153.79 FEET MEASURED;

THENCE SOUTH 69 DEGREES 35 MINUTES 55 SECONDS EAST 2288.02 RECORD, SOUTH 69 DEGREES 35 MINUTES 56 SECONDS EAST, A DISTANCE OF 2288.02 FEET MEASURED;

THENCE SOUTH 75 DEGREES 35 MINUTES 58 SECONDS EAST, A DISTANCE OF 174.03 FEET RECORD, SOUTH 75 DEGREES 38 MINUTES 07 SECONDS EAST 174.06 FEET MEASURED TO A POINT ON THE NORTH-SOUTH MIDSECTION LINE OF SAID SECTION 19 FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 19 BEARS NORTH 00 DEGREES 40 MINUTES 50 SECONDS WEST, A DISTANCE OF 1385.78 FEET;

THENCE SOUTH 00 DEGREES 40 MINUTES 50 SECONDS EAST ALONG SAID NORTH-SOUTH MIDSECTION LINE, A DISTANCE OF 1235.58 FEET RECORD, SOUTH 00 DEGREES 40 MINUTES 13 SECONDS EAST 1235.69 FEET MEASURED, TO THE CENTER OF SAID SECTION 19;

THENCE CONTINUING SOUTH 00 DEGREES 40 MINUTES 50 SECONDS EAST ALONG SAID MIDSECTION LINE, A DISTANCE OF 2608.24 FEET RECORD SOUTH 00 DEGREES 41 MINUTES 11 SECONDS EAST 2607.91 FEET MEASURED TO THE SOUTH QUARTER CORNER OF SAID SECTION 19;

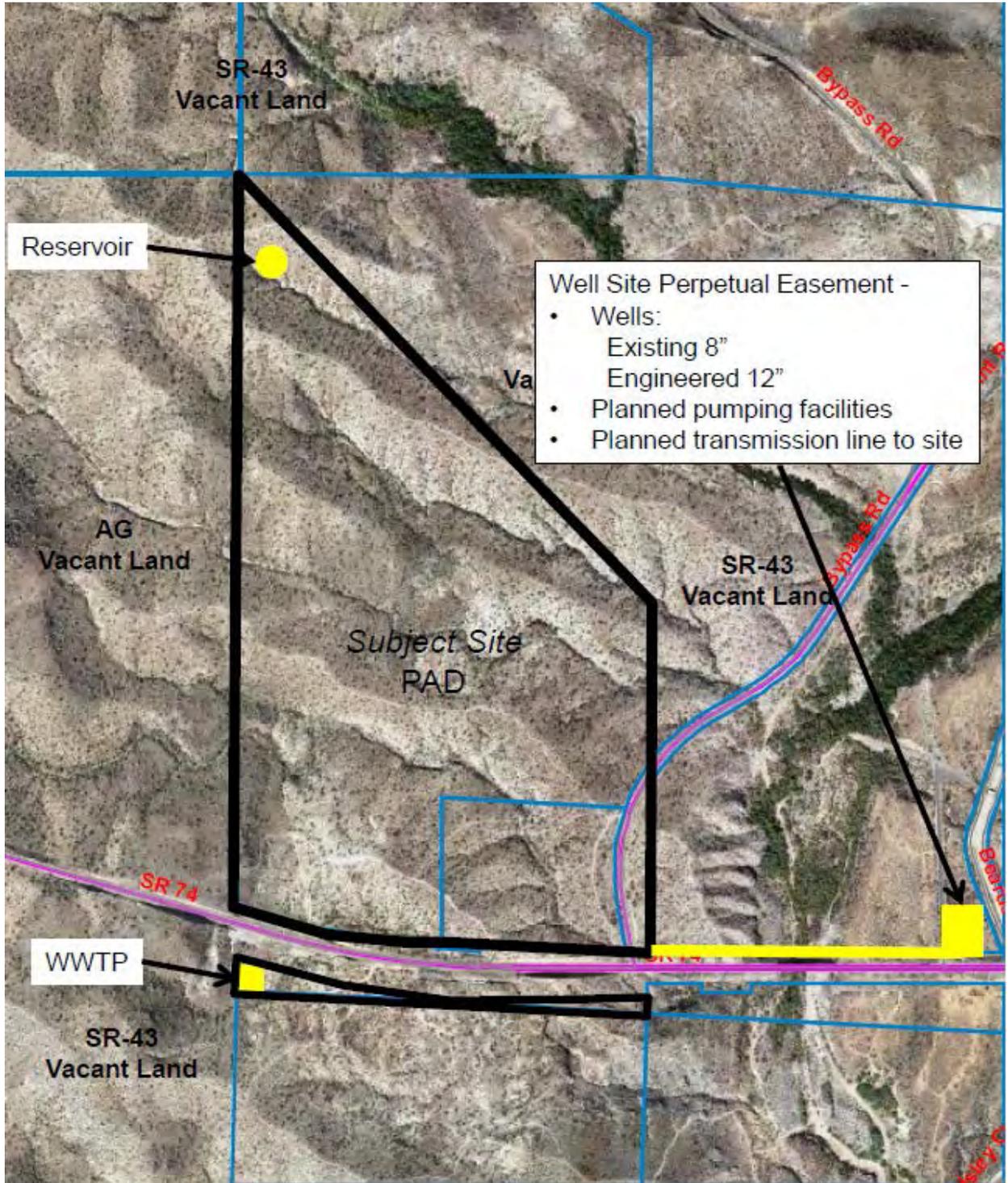
THENCE SOUTH 89 DEGREES 23 MINUTES 44 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 19, A DISTANCE OF 2516.11 FEET, RECORD SOUTH 89 DEGREES 23 MINUTES 44 SECONDS WEST 2516.33 FEET MEASURED TO THE POINT OF BEGINNING;

EXCEPT 1/16TH OF ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER

HYDROCARBON SUBSTANCES OF A GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION, TOGETHER WITH ALL URANIUM, THORIUM, OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED BY THE LAWS OF THE UNITED STATES OR OF THIS STATE, OR DECISIONS OF COURT, TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE AND THE EXCLUSIVE RIGHT THERETO, ON, IN OR UNDER THE ABOVE DESCRIBED LANDS, SHALL BE AND REMAIN AND ARE HEREBY RESERVED IN AND RETAINED BY THE STATE OF ARIZONA.

Cholla Hills

Planned Area Development - Amendment #1



Cholla Hills
Water and Wastewater Off-site Infrastructure

Appendix A

Developing the Property in Accordance with “Desert Lands Conservation Guidelines”

Both Parcel 1 and Parcel 2 will be developed in accordance with the “Desert Lands Conversation Guide” created and adopted by the City of Peoria for the purpose to promote greater design sensitivity to the unique Sonoran desert. The Guidelines apply to property located within the Desert Lands Conservation Overlay District as defined in that plan, and will serve as a basis on the limitation, density, and quality for this plan’s development. This narrative will discuss each parcel’s existing conditions in respect to topography, drainage, plant community identification, geologic formations and conservation features to be preserved, and wildlife species and habitat. The accompanying report and graphics included with this report are of a preliminary nature and will serve as a preliminary first step and evaluation to a final report and Conversation Plan.

General

Cholla Hills PAD is directly south of Lake Pleasant, one of the largest lakes in Arizona. The Lake encompasses 10,000 acres of water surface and 118 miles of shoreline. Lake Pleasant is fed by the Aqua Fria and Colorado Rivers via the Central Arizona Project Canal. The area surrounding Lake Pleasant is developed with campsites and recreational amenities that serve the users of the Lake. The campgrounds can often exceed their capacity during the busy summer months and holiday weekends resulting in campers and boaters being turned away. The Waddell Dam Construction Project in 1992 tripled the size of the Lake and the need for additional developed RV and camp sites was even more evident. It became apparent to this land owner the need for additional services and facilities to support the Lake’s recreational attraction. The property owners request to develop an upscale Resort on Parcel 2 along with a 5-star Recreational Vehicle Resort Community on Parcel 1 as the result of this additional demand for RV. Due to the topographic constraints of both parcels as well as the desire of the owner to preserve the natural beauty, each site will develop a program and site plan to retain this beauty and develop a site plan that will both enhance and conserve the natural desert landscape.

Parcel 1

Parcel 1 (Southeast Property) is located at the northwest corner of State Route 74 and Old Lake Pleasant Road and encompasses 210 acres of light to medium density indigenous Sonoran shrubs, trees, and cactus. The site is currently void of improvements and development and is surrounded on all sides by vacant desert property. The topography of this site ranges from (2) two high elevation points of 1650.00 to low points in (4) four major dry stream beds of approximately 1450.00. The stream beds traverse this site from the northwest and flow through and off the site to the southeast. “Conservation Plan 2” (Parcel 2), illustrates the exact location and orientation of the washes and ridge lines that traverse this site. The major natural washes will generate in excess of 500 CFS of stormwater drainage during the 100 year storm event therefore it will be imperative that these washes will be left in a natural state and undeveloped to allow the rainfall generated upstream and offsite to flow through this site unimpeded. As illustrated on “Conservation Plan 1” and Conservation Plan 2” (Parcel 1) following this narrative section, the R. V. Site, RV pads sites, roadways, and clubhouse/recreational amenities are designed to allow for these natural washes to be left unchanged and in their natural state. The road and utility crossings over these washes are minimized with the proposed plan and where this occurs an

engineered bridge or culvert system will be designed to provide for the maximum flows with a minimal amount of disturbance to the site.

Most of the landform types on this parcel are defined as “bajada” or “hillside” with slope gradients in the range of 9% - 25%. At present and without further detailed research there are no known or unusual geologic formations on this site. A geotechnical survey and soils report will be provided by the property owner’s consultant prior to preparation of final improvement plans. The soils report will identify any problem soils that exhibit instability and expansive qualities that are present in the soil and substrata and provide recommendations to overcome any unusual soil conditions that may exist on this site.

The existing plant community on this site is generally of light to medium dense vegetation and for the most part healthy and free of disease. The significant or more densely populated vegetated areas are in the natural washes where rainfall accumulates and provides available moisture for indigenous plants and cacti to evolve. The higher topographic elevations and slopes of this site have plant community species and densities estimated at the following rates:

Native Mesquite (<i>Prosopis Velutina</i>)	1 tree/acre	210 trees total
Foothills Palo Verde (<i>Cercidium Microphyllum</i>)	1.5 trees/acre	315 trees total
Ironwood Tree (<i>Olneya Tesota</i>)	.75 tree/acre	157 trees total
Saguaro Carnegiana Gigantea	6 /acre	1,260 total
Barrel Species (<i>Ferrocactus</i>)	12 /acre	2,520 total
Ocotillo (<i>Fouquieria Splendens</i>)	.25/acre	52 total
Buckhorn Cholla (<i>Opuntia Acanthocarpi</i>)	14/acre	2,940 total

The plant types listed above are protected species and will require salvaging and relocation to open space areas on-site for those plants that are in the path of improvements, are physically healthy, and do not have accessibility limitations. From a visual survey of the site, it is estimated that approximately 60-75% of the existing plants in the path of development will be capable of salvaging and successfully relocating to other areas on this site. Other plant species that were inventoried and visually inspected are included in the list below:

- Quail Bush (*Atriplex Lentiformus*)
- Triangle Leaf Bursage (*Ambrosia Deltoidea*)
- Jojoba (*Simmondsia Chinensis*)
- Fairy Duster (*Calliandra Eriophylla*)
- Creosote (*Larrea Tridentata*)
- Brittle Bush (*Encelia Farinosa*)
- Hedgehog Cactii (*Echinocereus Triglochidiatus*)

Due to the small size of these plants, they will not be salvaged, but instead will be revegetated in areas where construction has scarred or damaged the existing vegetation and ground surface. Using this blend of plant types in a revegetation seed mix will create a landscape that will blend harmoniously with the surrounding native desert flora.

The wildlife of this Sonoran Desert parcel is quite extensive and for many of the species they are quite adaptive and adjust well with development and habitat modification. We will limit the wildlife inventory to those species that are known to inhabit this area specifically as stated by the “Arizona Game and Fish Department”.

Desert Tortoise (*Gopherus Agassizii*): This species can be found in the gravelly desert washes and sandy canyon bottoms. This species of Tortoise spends November through February in a torpid state in underground burrows and is usually not seen by human, since 95% of the life of a tortoise is spent underground. The most active time is Spring when they forage for herbs, grasses, and new growth of cactus. The Desert Tortoise is considered a threatened species under the “Federal Endangered Species Act” of 1990. Their habitat, if they exist on this property, will be the desert washes.

Great Horned Owl (*Bubo Virginiana Strigidae*): One of the most widespread and common owls in North America and specifically the Sonoran Desert. They are very adaptive to habitat change and will move and nest into areas that are not populated.

Golden Eagle (*Aquila Curysaetos*): The eagle is a protected species and will maintain territories as large as 60 square miles. During site visits and visual inventories of the property, the Golden Eagle or its nest was not evident. Further research and visual inspection of the property will be required prior to developing a final plan for construction.

Javelina (*Tayassu Tajacu*): Javelina typically live in canyon areas of the desert and travel/hunt in groups. The natural washes that traverse this site and continue into adjacent properties are their habitat. The Javelina can be found in great numbers and they will not be extinct anytime soon. In populated and developed areas, if the natural desert washes that orient parallel with each other are less than 1,000 feet apart, the Javelina will typically not use the wash for their habitat or migration. The spacing of the desert washes on this site conforms to that minimum distance, therefore it is anticipated that for the most part the Javelina that roam this area will adjust their migrating and habitat patterns.

Coyote (*Canis Latrans*): Coyotes are clever animals and adjust to their environment. Like the Javelina, the Coyote can be found in great numbers and will adjust to a change in their habitat.

Parcel 2

Parcel 2 (Northwest Property) is approximately 244 acres in size and is located one half mile north and west of Parcel 1. Access to this site is via a State Land easement which also continues through this site and continues on to connect to Parcel 1. This site’s vegetation density is similar to Parcel 1 and is also void of any substantial improvements and development. Lake Pleasant Regional Park adjoins this site and is surrounded by vacant desert property. The topography of this site undulates vertically with a topographic high point elevation of 1756.00 at various points along the west property line as illustrated on “Conservation Plan 2” (Parcel 2) following this report. There are (3) three washes that traverse this site, but the major wash which is named “Morgan City Wash” bisects this property and will carry an amount of storm water exceeding 500 CFS during the 100 year storm event. Other than a single road and utility crossing, there will

be no improvements in or near this Wash for a distance that will be prescribed in a drainage and hydrologic report prepared by the owner's engineering consultant prior to preparation of the final construction drawings. The smaller secondary washes will also be left as natural open space and undeveloped. As stated in the narrative under Parcel 1, the sandy desert washes are the natural corridors for animal species that live in this region and are also the most heavily vegetated areas of the sites. It is obvious that the natural washes will be preserved as much as possible and development restricted to the higher slopes and ridges of each site.

Again, most of the landform types on this parcel are defined as "bajada" or "hillside" with slope gradients in the range of 8% - 25%. Like Parcel 1, there are no known or unusual geologic formations on this site. Prior to proceeding with final improvement plans, a geotechnical survey and soils report will be provided by the property owner's engineering consultant to further review and identify any soil problems relative to instability and expansive qualities. "Conservation Plan 1" (Parcel 2) graphically shows the extent of the existing natural open space that will be left undeveloped and preserved.

The existing plant community and wildlife species and habitat on Parcel 2 is very similar to Parcel 1 in respect to overall plant densities, quality of plant species, and wildlife habitats. Only a few minor off-road vehicular trails are evident on both sites with vandalism to plants and natural desert surfaces almost non-existent.

Conclusion

Parcel 1 (Southeast Property) will be improved with a low density of approximately 750 developed R. V. Sites on app. 187 acres. In addition to this, App. 23 acres of ancillary commercial will serve the R.V. park and will be placed along State Route 74. The R.V sites will have electrical/water hookups, a dump station, a small concrete pad for portable picnic tables, grills, and chairs, and a graded pad with a stabilized granite surface. The campsites will also be graded and finished with a stabilized granite topdressing, and most will be furnished with fire pits, and areas to accommodate grills and portable picnic tables.

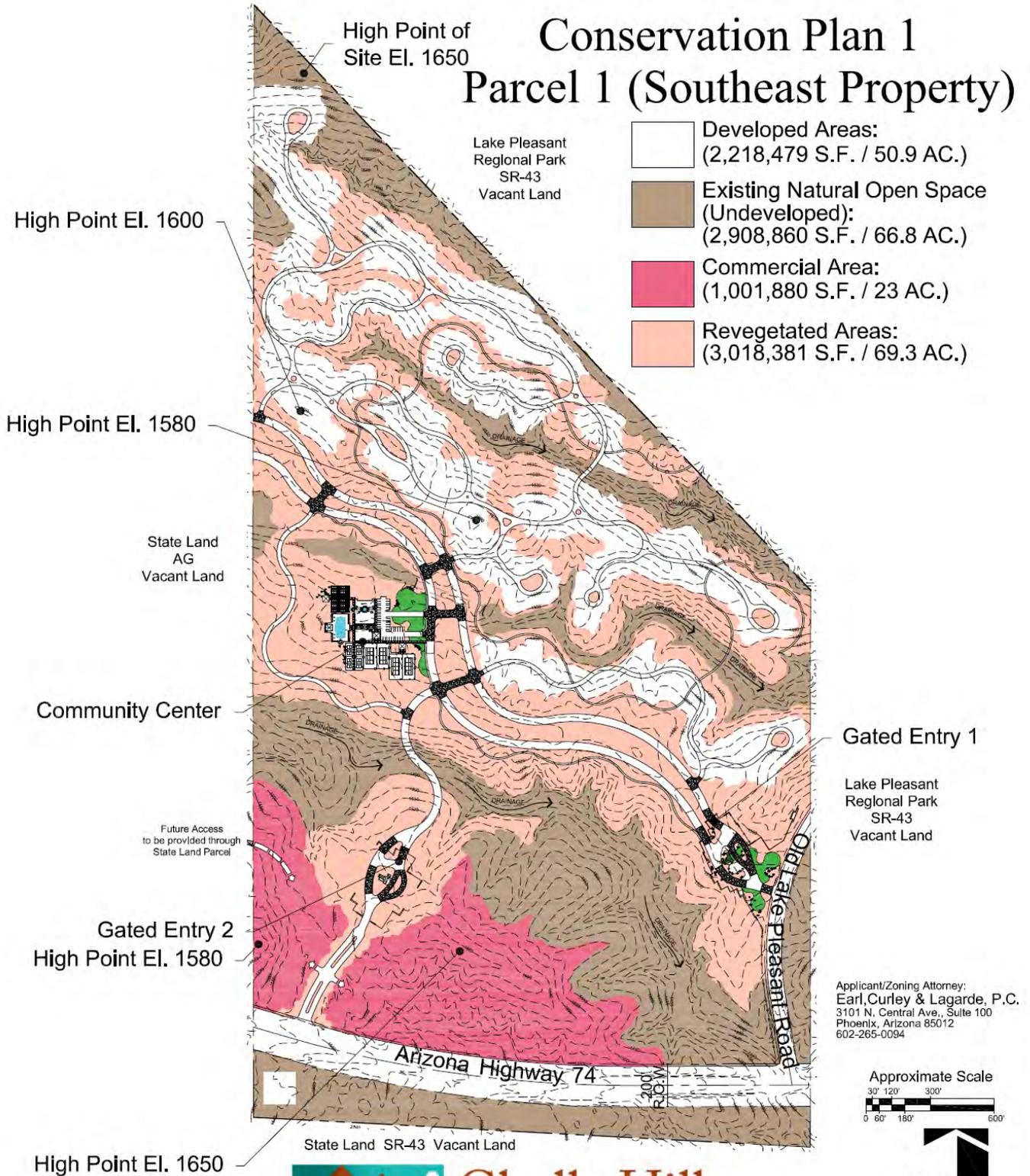
As shown on the exhibit that follows, "Conservation Plan 1" (Parcel 1), the roadways, and Recreational Vehicle sites for Parcel 1 have been designed with respect to the contouring of the land, minimizing cuts and fills, and allowing the natural desert washes to be undeveloped and reserved for natural open space and trails. The combination of the common open space left in its natural condition and open space re-vegetated with all salvaged trees and cacti, will be over 50% of the Recreational Vehicle resort site. The 23 acre commercial will have a very low building coverage that has been identified and stated previously in this report. With the required parking included, the building and parking site coverage will be 25% less than the average commercial center. As shown on "Conservation Plan 1" (Parcel 1), a large undeveloped open space and desert wash will buffer the commercial from the Recreational Vehicle resort. A multi-use trail system has been designed to connect the clubhouse/amenities and commercial center services with the various Recreational Vehicle sites (See "Conservation Plan 1").

Architecturally, the building materials will be of natural stone and painted stucco with earthtone colors complementing the surrounding environment. Stone that is indigenous to the site will be

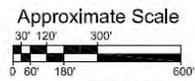
utilized in wire gabion baskets throughout the decorative entry walls and for retaining walls that will be provided as needed. Stone veneer materials to embellish the clubhouse, commercial, and resort architecture will be similar in color and texture to the native stone on site blending all (3) three site harmoniously.

Overall the proposed development has taken steps to preserve the desert vegetation and open space, provided pedestrian linkages and trails through developed and undeveloped open space corridors, provided a program for revegetation of the native desert habitat and landscape, minimized mass grading, limited disturbance to desert washes so that net loss of endangered species animal habitats are protected, and lastly provided low density developments designed with color finishes and materials that will blend harmoniously with the surrounding area and environment.

Conservation Plan 1 Parcel 1 (Southeast Property)



Applicant/Zoning Attorney:
Earl Curley & Lagarde, P.C.
3101 N. Central Ave., Suite 100
Phoenix, Arizona 85012
602-265-0094



Conservation Plan 2 Parcel 1 (Southeast Property)

**PLAN DATA AND
PROPOSED USES:**

PARCEL 1: 210 ACRES (9,147,600 S.F.)

- RECREATIONAL VEHICLE RESORT- 187 ACRES
- COMMERCIAL PROPERTY- 23 ACRES

PROPERTY OWNERS:

DLGC II, L.L.C. AND LAKE PLEASANT GROUP, L.L.P.
BILTMORE FINANCIAL CENTER
2390 E. CAMELBACK ROAD, SUITE 310
PHOENIX, ARIZONA 85016

PREPARED BY:

PHILLIP R. RYAN, LANDSCAPE ARCHITECT, P.C.
575 W. CHANDLER BOULEVARD, SUITE 229
CHANDLER, ARIZONA 85225
PHONE: (480) 899-5813
E-MAIL: mall@ryanassociatesonline.net

PROJECT NARRATIVE:

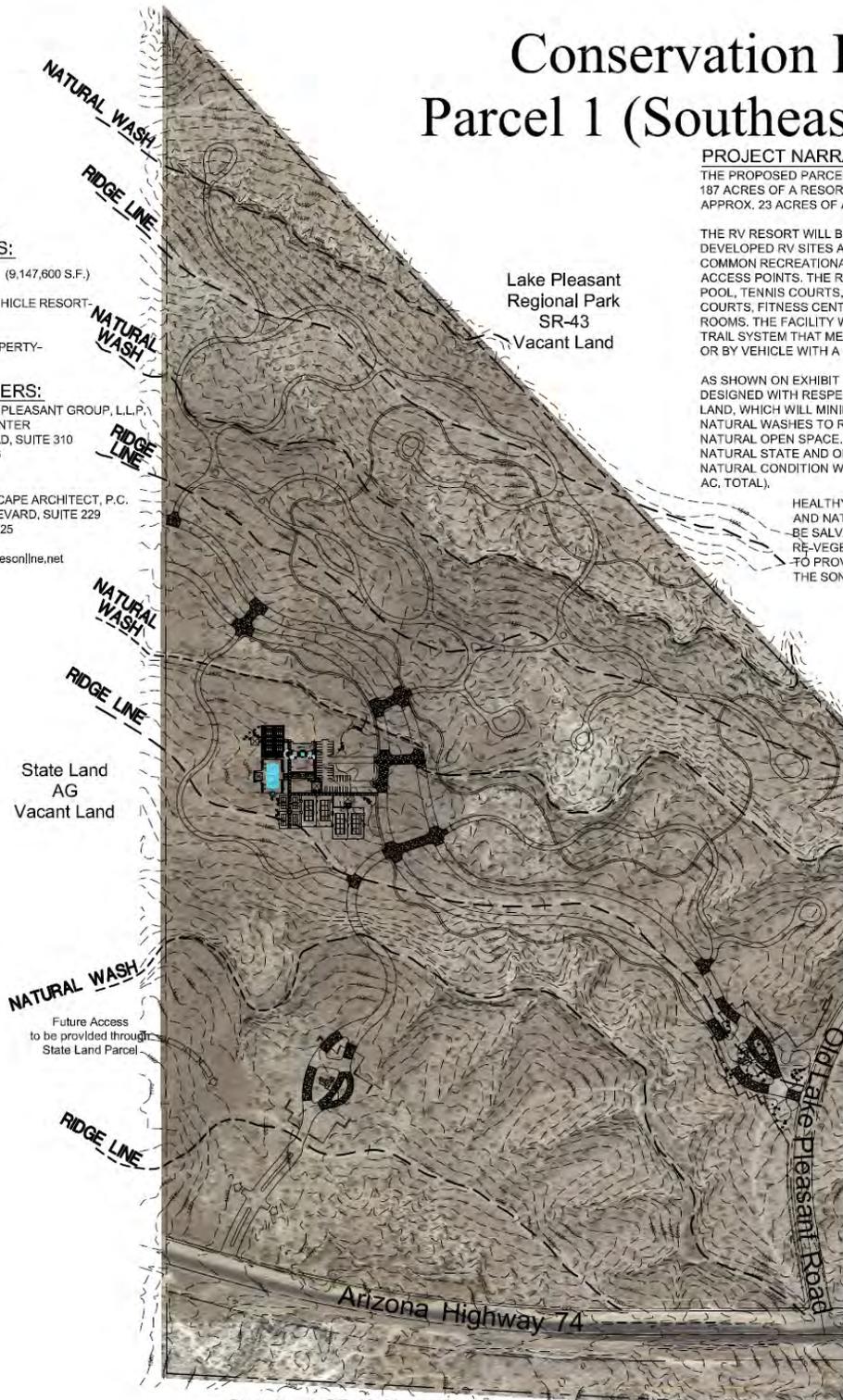
THE PROPOSED PARCEL WILL BE DEVELOPED WITH APPROX. 187 ACRES OF A RESORT FOR RECREATIONAL VEHICLES AND APPROX. 23 ACRES OF ANCILLARY COMMERCIAL RETAIL.

THE RV RESORT WILL BE DEVELOPED WITH APPROX. 750 DEVELOPED RV SITES AND SEMI-DEVELOPED CAMPSITES, A COMMON RECREATIONAL FACILITY AND (2) TWO GATED ACCESS POINTS. THE RECREATIONAL FACILITY WILL INCLUDE A POOL, TENNIS COURTS, SHUFFLEBOARD COURTS, PICKLEBALL COURTS, FITNESS CENTER WITH SHOWERS, AND ACTIVITY ROOMS. THE FACILITY WILL BE ACCESSIBLE BY A PEDESTRIAN TRAIL SYSTEM THAT MEANDERS THROUGH THE DEVELOPMENT OR BY VEHICLE WITH A 41 CAR PAVED PARKING LOT.

AS SHOWN ON EXHIBIT 1, THE IMPROVEMENT PLAN HAS BEEN DESIGNED WITH RESPECT TO THE EXISTING CONTOURS OF THE LAND, WHICH WILL MINIMIZE CUTS AND FILLS AND ALLOW THE NATURAL WASHES TO REMAIN AS MUCH AS POSSIBLE AS NATURAL OPEN SPACE. THE COMMON OPEN SPACE LEFT IN A NATURAL STATE AND OPEN SPACE RE-VEGETATED TO ITS NATURAL CONDITION WILL BE OVER 70% OF THE RV SITE (132.6 AC. TOTAL).

HEALTHY INDIGENOUS TREES (OVER 4" CALIPER) AND NATIVE CACTI IN DEVELOPED AREAS WILL BE SALVAGED AND TRANSPLANTED TO EITHER RE-VEGETATED AREAS OR DEVELOPED SITES TO PROVIDE FOR A VISUAL CONTINUATION OF THE SONORAN DESERT LANDSCAPE.

MOST OF THE LANDFORM TYPES ON THIS PARCEL WILL BE BAJADA OR HILLSIDE WITH SLOPE GRADIENTS THAT RANGE FROM 9%-25%. THE MAJOR COLLECTOR ROAD THAT TRAVERSES THE SITE FROM SOUTHEAST TO NORTHWEST IS DESIGNED TO STRADDLE THE HIGHEST RIDGE ON THE PROPERTY AND WILL HAVE A RESTORED LANDSCAPED MEDIAN THAT IS PARALLEL WITH THE RIDGE LINE. THIS HEAVILY VEGETATED MEDIAN WILL BE THE PREDOMINANT VISUAL FEATURE UPON ENTERING THE SITE. OTHER ROADWAYS ARE DESIGNED TO INTEGRATE WITH THE NATURAL SLOPES AND WILL PROVIDE GRADIENTS OF 5% OR LESS TO CONFORM TO LOCAL AND FEDERAL ACCESSABILITY REQUIREMENTS FOR PEDESTRIAN PATHWAYS. DISTURBANCE TO THE NATURAL WASHES WILL BE LIMITED TO ROAD AND UTILITY CROSSINGS.

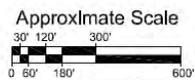


State Land
AG
Vacant Land

Future Access
to be provided through
State Land Parcel

Lake Pleasant
Regional Park
SR-43
Vacant Land

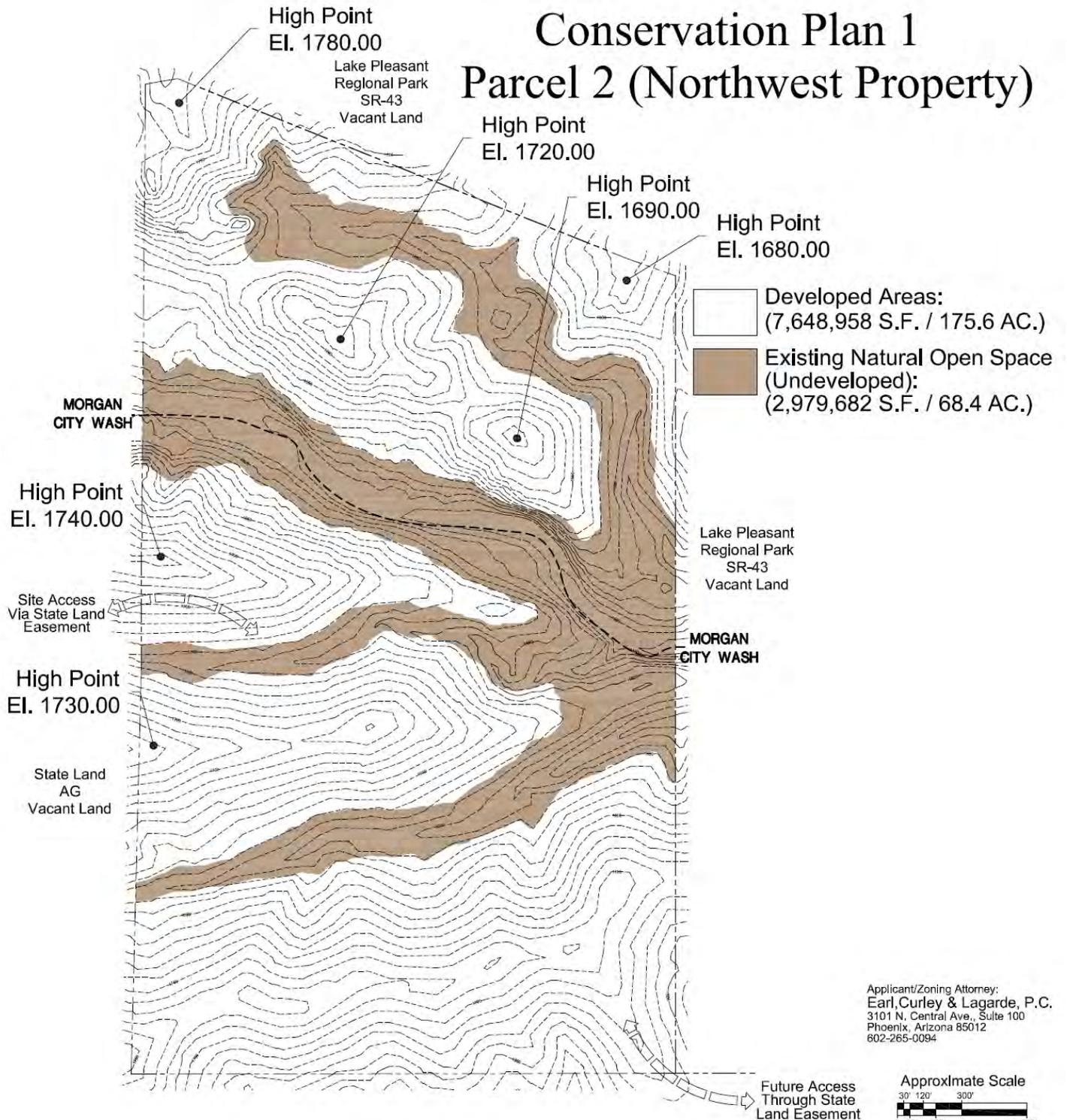
Applicant/Zoning Attorney:
Earl Curley & Lagarde, P.C.
3101 N. Central Ave., Suite 100
Phoenix, Arizona 85012
602-265-0094



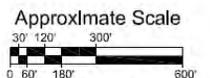
Date: April 10, 2012

State Land SR-43 Vacant Land

Conservation Plan 1 Parcel 2 (Northwest Property)



Applicant/Zoning Attorney:
Earl, Curley & Lagarde, P.C.
3101 N. Central Ave., Suite 100
Phoenix, Arizona 85012
602-265-0094



Conservation Plan 2 Parcel 2 (Northwest Property)

High Point
El. 1780.00

**PLAN DATA AND
PROPOSED USES:**

PARCEL 2: 244 ACRES (10,628,640 S.F.)

- 5 STAR RESORT (144 UNITS)- 244 ACRES

PROPERTY OWNERS:

DLGC II, L.L.C. AND LAKE PLEASANT GROUP, L.L.P.
BILTMORE FINANCIAL CENTER
2390 E. CAMELBACK ROAD, SUITE 310
PHOENIX, ARIZONA 85016

PREPARED BY:

PHILLIP R. RYAN, LANDSCAPE ARCHITECT, P.C.
575 W. CHANDLER BOULEVARD, SUITE 229
CHANDLER, ARIZONA 85225
PHONE: (480) 899-5813
E-MAIL: mail@ryanassociatesonline.net

PROJECT NARRATIVE:

THE PROPOSED PARCEL WILL BE DEVELOPED WITH 144 UNITS ON 244 ACRES FOR A 5-STAR RESORT DEVELOPMENT.

THE IMPROVEMENT PLAN WILL BE DESIGNED WITH RESPECT TO THE EXISTING CONTOURS OF THE LAND, WHICH WILL MINIMIZE CUTS AND FILLS AND ALLOW THE NATURAL WASHES TO REMAIN AS MUCH AS POSSIBLE AS NATURAL OPEN SPACE. THE COMMON OPEN SPACE LEFT IN A NATURAL STATE WILL BE OVER 28% OF THE SITE.

HEALTHY INDIGENOUS TREES (OVER 4" CALIPER) AND NATIVE CACTI IN DEVELOPED AREAS WILL BE SALVAGED AND TRANSPLANTED TO EITHER RE-VEGETATED AREAS OR DEVELOPED SITES TO PROVIDE FOR A VISUAL CONTINUATION OF THE SONORAN DESERT LANDSCAPE.

MOST OF THE LANDFORM TYPES ON THIS PARCEL WILL BE BAJADA OR HILLSIDE WITH SLOPE GRADIENTS THAT RANGE FROM 8%-25%.

High Point
El. 1680.00

High Point
El. 1720.00

MORGAN CITY WASH

High Point
El. 1740.00

RIDGE LINE

NATURAL DESERT WASH

High Point
El. 1730.00

RIDGE LINE

NATURAL DESERT WASH

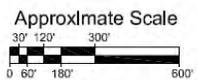
RIDGE LINE

High Point
El. 1690.00

NATURAL DESERT WASH

MORGAN CITY WASH

Applicant/Zoning Attorney:
Earl, Curley & Lagarde, P.C.
3101 N. Central Ave., Suite 100
Phoenix, Arizona 85012
602-265-0094

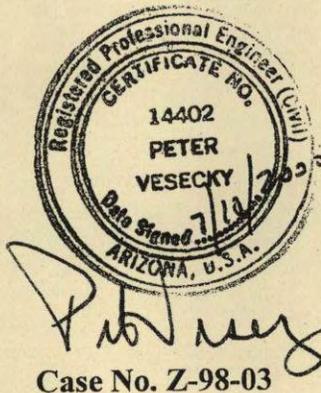


North
Date: July 30, 2012

Appendix B



**Zoning Narrative
&
Standards Report
for
Estates at Lakeside
Peoria, Arizona**



Case No. Z-98-03

Prepared for:
Lake Pleasant Residences & Leisure, LLC
2398 East Camelback Road., Suite 900
Phoenix, AZ 85016

Prepared by:
DEI Professional Services
6225 N. 24th Street, Suite 200
Phoenix, AZ 85016
(602) 954-0038

PLANNED AREA DEVELOPMENT APPROVAL	P/Z Commission Date	10/1/98
	City Council Approval Date	11/3/98
	Planner	_____

Resubmitted July 10, 2000 to Chad Daines with no Revisions since May 26, 2000

Revised May 26, 2000
September 23, 1998

DEI# 99094

Zoning Narrative and Development Standards

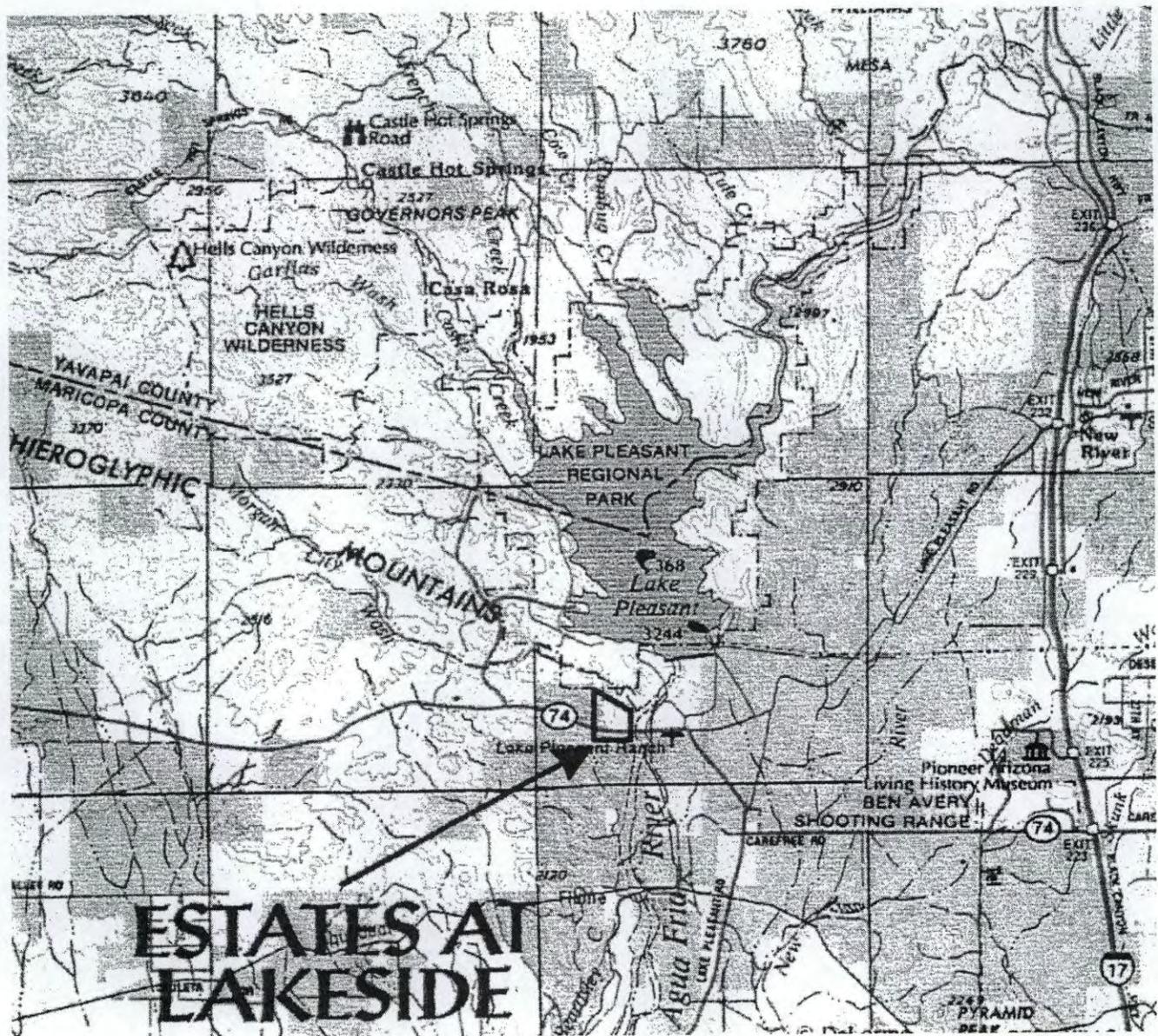
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- I. The Development Concept, an Overview
- II. Conformance with Peoria Comprehensive Master Plan
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 - B. Transportation Element
 - C. Public Facilities Element
- III. Compatibility with Surrounding Land Uses and Zoning
- IV. Reasons for Requesting the Rezoning
- V. Physical Features of the Site: Opportunities and Constraints
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- VII. Design Standards
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 - C. Lot Size, Dimensions, Building Height and Setback Regulations
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 - E. Architectural Style, Appearance
 - F. Fencing and Landscaping
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 - H. View Corridor
 - I. More Than One Building Per Lot
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- VIII. Phasing
- IX. Description of Other Required Approvals
- X. Modifications and Waivers
- XI. Supporting Documentation

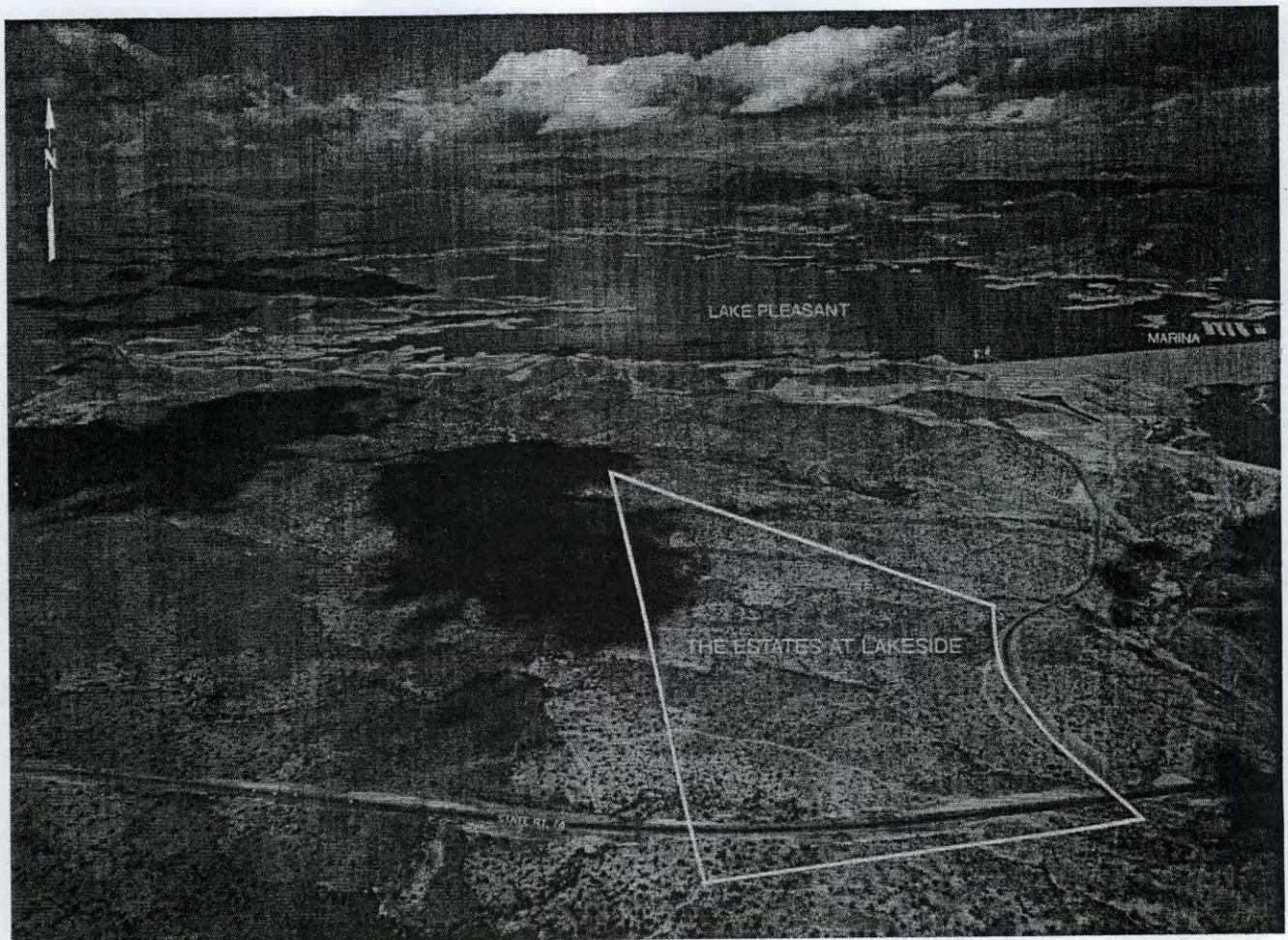


I. The Development Concept an Overview

The Estates at Lakeside is a 218.5-acre parcel located at the northwest corner of S.R. 74 and the old Lake Pleasant Road. Approximately 10.74 acres extends along the south side of S.R. 74.



The Estates at Lakeside will be Peoria's first residential resort community in the scenic desert at Lake Pleasant, ideally situated to take advantage of the recreational amenities offered by the nearby lake and Lake Pleasant Regional Park.



Designed as a Planned Area Development under provisions of the Hillside Development Overlay District, the Estates sets a high standard of environmental sensitivity and creative planning in the area.

Land uses proposed include resort/commercial and a mix of residential densities north of State Highway 74, and commercial south of the highway.

The development concept for The Estates envisions a resort community of custom homes on lots ranging from 18,000 square feet to almost two acres, designed to blend with their desert surroundings.

At the northernmost portion of The Estates is a 13.16-acre resort site. The resort is located on the highest elevations of the site and enjoys spectacular views and a scenic desert setting. Construction of a resort, with small "cottage"-style casita units sited apart from the main resort buildings is planned. The resort will offer a true Arizona desert experience, with hiking, swimming, and other leisure activities on site and have the activities associated with the Lake Pleasant Recreation Area available offsite.

On the south side of State Highway 74, 10.74 acres of commercial development are planned. Design of the commercial development will be in conformance with City of Peoria Hillside

Ordinance and Design Review Manual, and shall be compatible with the character of the residential resort community north of the highway.

A series of moderately sloping plateau-ridges, approximately parallel, cross the site from northwest to southeast. Between these plateaus are deep, stone-walled washes with sandy bottoms.

Streets will be located along plateau-ridges, minimizing cuts and fills, and following, in many cases, the tracks of old jeep trails that were pioneered into the area many years ago. Homes will be sited to follow the contours of the gentler upper slopes, along the plateaus.

Washes will be retained as open space, preserving spectacular views of desert open space for all residents. A trail system within the open spaces will be provided by the developer throughout the development. The trail system will provide access to Morgan City Wash and the Lake Pleasant Recreation Area by connecting the home sites with a trail along the west side of old Lake Pleasant Road.

A preliminary slope analysis has been performed to establish overall densities as shown in the Standards section of this report. Prior to preliminary plat approval or minor land division approval, a comprehensive hillside analysis shall be conducted which provides a detailed topographical map with a slope category overlay which graphically represents all slope categories in Table 1 of Article 14-22A in the Peoria Zoning Ordinance. This map shall be accompanied by a detailed analysis of the percentage of land in each slope category. From this analysis, the maximum number of lots permitted per total gross acreage shall be the sum of the number of lots allowed in each slope category. In any one slope category, there shall be no more lots created than permitted in that slope category, except that, permitted lots in a higher slope category may be transferred to a lower slope category provided that the total number of lots shall not exceed the sum of the lots permitted in each slope category. In no case shall lots be transferred from a lower slope category to a higher slope category.

During the platting process, lots will be defined through a detailed process of site and slope analysis, which will allow us to identify building pads, utilizing, where possible, existing areas of scarring and level portions of the lots. A detailed slope analysis for each lot shall be completed and approved prior to preliminary plat approval. The slope analysis shall be used to establish a slope category for each lot. The slope category for any one lot shall be determined by the majority slope category which encompasses the lot, i.e. if 49% of a lot is 14% slope and 51% of a lot is 16% slope, the slope category for the lot shall be the 15% to 20% slope category. A "building envelope" will be established for each lot. The square footage of the building envelope for each lot shall be restricted to the maximum allowable disturbed area per slope category in which the lot is located, per Table 2, Article 14-22A of the City of Peoria Zoning Ordinance. All disturbed areas outside the building walls will be revegetated to blend with the native landscape.

II. Conformance with Peoria Comprehensive Master Plan

A. Land Use Element

Uses proposed are in conformance with the Peoria Comprehensive Master Plan Land Use Element, which shows the site as "Resort Development." "Resort Development" is defined in the Comprehensive Master Plan as:

"Areas that due to their natural features and scenic quality should be preserved for resort development. Resort developments should preserve these qualities and provide a range of residential densities in association with a resort hotel that includes recreational/leisure activities in addition to appropriate supporting commercial/service areas."

B. Transportation Element

The current right-of-way width for S.R. 74 is 200 feet. It is owned and maintained by the Arizona Department of Transportation (ADOT). Landscaping and revegetation within the right-of-way require permits from ADOT and the City of Peoria. Landscaping shall be maintained by the homeowners association.

The current right-of-way width for Old Lake Pleasant Road is 80 feet and is owned MCDOT. The developer holds permanent access rights to Old Lake Pleasant Road which will be transferred to the homeowners association to provide permanent access. The developer shall improve Old Lake Pleasant Road from S.R. 74 to the subdivision entrance. The homeowners association will be responsible for maintenance of the improved portion of this road.

All streets within the development shall be private and shall be maintained by the homeowners association.

C. Public Facilities Element

The Public Facilities plan shows the subject property to be within the City's Fire Management Area. No additional schools, parks, municipal offices, or fire stations improvements would be required for this project. The subject property is within the service areas of the regional water and wastewater facilities defined in the City of Peoria Water & Wastewater Master Plans.

The projects proximity to the Lake Pleasant Regional Park, planned internal trail system and resort development will provide for ample recreational opportunities for residents of The Estates. The internal trail system shall be constructed by the developer and maintained by the homeowners association. Fire protection is provided by an existing fire company at Lake Pleasant. The homeowners association shall have the capability of collecting a special assessment for additional fire fighting equipment to enhance the capabilities of this station. Police protection is provided by the City of Peoria police department, Maricopa County sheriffs department and park rangers.

The project is not presently within an incorporated school district and is anticipated to be primarily vacation/second or retirement homes which would not require school facilities. However, should sufficient demand arise, the Estates would agree to enter the school district and pay appropriate per lot impact fees.

III. Compatibility with Surrounding Land Uses and Zoning

Land surrounding the Estates at Lakeside is undeveloped. An access road (Old Lake Pleasant Road) leading to facilities for New Waddell Dam runs along part of the east boundary. No developed recreation facilities are located in Lake Pleasant Regional Park in the vicinity of The Estates.

Land to the north and east is owned by the Federal Government and is under Bureau of Land Management Jurisdiction. Land south and west of the property is State Trust Land. No privately owned land borders the site.

All land in the area is zoned SR-43 (Suburban Ranch District), allowing residential development at a minimum lot size of one acre. The gross density proposed for The Estates at Lakeside is 1.18 dwelling units per acre (calculated excluding the commercial and resort property).

IV. Reasons for Requesting the Rezoning

By use of the Planned Area Development zoning category, a balance of residential, resort and commercial uses can be provided and property development standards can be modified to minimize impacts on the land. Open space can be preserved in large tracts for common use.

There is far greater opportunity for creative site planning and architectural design under the land use mix that it possible within the PAD zoning category. The City has much more input into site development and design considerations for a project being processed Under the PAD zoning framework than under SR-43 zoning.

This is a pioneering development effort in one of Peoria's newest areas. As this part of the city develops in years to come, the precedent set by the PAD zoning at The Estates will provide a high standard for others to follow.

V. Physical Features of the Site: Opportunities and Constraints

A. Landform

Five significant washes cross the site, running generally from northwest to southeast. These washes are deeply incised, 30 to 50 feet deep in many locations (up to as much as 100 feet deep). The land slopes sharply up on both sides of the washes towards relatively level ridgeline plateaus. These sideslopes are typically in the 25% to over 40% slope categories. The ridgeline plateaus are generally broader in the south and west portion of the site, narrowing as they extend towards the Agua Fria River.

The topographic conformation of the property is dramatic and offers both opportunities for creating a unique residential resort environment and constraints in terms of construction of homes, streets and utilities. To take advantage of the views and recreational potential of washes and steep slope areas, homes are sited above them, just below the ridge lines in most cases. As previously mentioned, streets follow the ridge lines and old jeep trails where the desert has already been disturbed. Main washes and steep slopes are preserved as dedicated open space.

Numerous small drainages join the main washes, falling from the top of the plateaus to create "fingers" and a complexity of landforms. These small drainages present challenges to street construction in some areas but also provide excellent opportunities for spur trails, linking neighborhoods with the main open space system. The following page is an aerial photo of the site.

B. Geology

The site is part of the Basin and Range Physiographic Province, which includes most of Arizona south of the Mogollon Rim. Elongate basins and long, narrow mountain ranges characterize the terrain, the result of block movement along parallel faults trending northwest. Faulting began approximately 18 million years ago during the late Tertiary Period and ceased approximately 1.5 million years ago. Extensive volcanism occurred from 1.5 million years ago to 18 million years ago. The property is divided into three distinct areas, each having its own characteristic geologic features.

The roughly parallel ridges and washes located west of the Agua Fria River, running generally east and west. These east-most portions of these ridges and washes are composed of a cement-like conglomerate sandstone rock.

The south three-quarters of the west edge of the property, where the ridges become less pronounced. This western edge is characterized by old north-south-trending faults that probably last moved 1.5 million years ago. The faults run between blocks of the cement-like conglomerate sandstone rock, a less lithified conglomerate andesite and tuff. The tuff has been crushed by the movement, along fault lines, of adjacent blocks of rock. The resulting, crushed material is called "fault gouge."

The northern edge of the property, characterized by a rapid rise toward a high, east-west ridge immediately to the north. The extreme north part of the site is andesite, with some occurrence of cement-like conglomerate sandstone rock.

A major fault crosses the site from its southwest corner to about the center of the section. An excellent exposure of the fault is visible in the roadcut of State Route 74 near the southwest corner of the site. The general trend of the fault is northeast and probably extends across the entire site, but evidence of the fault is lacking in the northern half of the section. All faulting ceased approximately 1.5 million years ago. The northwest-trending faults and joints west of the Agua Fria River allow water to erode rapidly downward, forming the steep-walled, narrow, parallel washes and plateau-ridges. Right-angle bends in some of the washes indicate that faults also exert some control over the development of the drainage patterns. Topographic saddles have formed where faults intersect the plateaus.

The topography of the site appears to be stable. Deep cuts and deep fill should be avoided in planning roads and other construction over the fault-gouge material. This material lacks strength and has a high permeability. If large amounts of moisture infiltrate a cut or fault-gouge fill materials, the material might become unstable. Construction of roads and other structures along fault plans where a drag folds or highly fractured andesite is present should be avoided if deep cuts are required.



DEI
PROFESSIONAL
SERVICES
A. S. 1978
1982-1998
76

In summary, the property can be developed, within the context of existing topographic and geologic constraints. The extensive exposure of bedrock at the surface will provide more than adequate bearing capacity for any type of development. Special consideration should be accorded development in the fault-gouge area. Highly erodible soils and unstable slopes are not evident.

GEOLOGIC FEATURES



TERRACE

FILL

FAULT GOUGE

ALLUVIUM

CONGLOMERATE

ANDESITE

CONGLOMERATE/SANDSTONE

TUFF

Qal

Qal

Qal

Qal

Qal

Qal

Qal

Qal

LEGEND

--- CONTACT, DASHED WHERE GRADATIONAL

U
D
FAULT TRACE, DASHED WHERE INFERRED

U INDICATES UP THROWN SIDE

D INDICATES DOWN THROWN SIDE

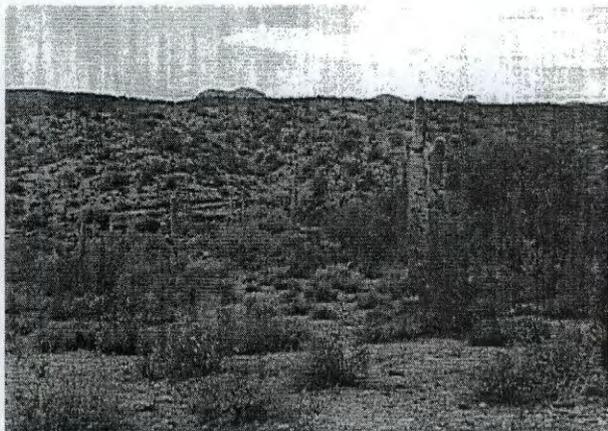
— VERTICAL JOINT

8y STRIKE AND DIP OF BEDS

C. Vegetation

Vegetation at The Estates is typical of the Lower Sonoran Desert Shrub association, with palo verde and saguaro the predominant large species on the rocky ridges and on edges of the ephemeral washes. Ocotillo, barrel cactus, cholla, creosote and other native plants are found in a fairly even distribution throughout the site. Greater densities and sizes of trees are found along wash areas, where slopes are not precipitous. As previously stated, the native plants shall be preserved and relocated to the extent possible.

Photographs on this and following pages illustrate typical site vegetation and topographic conditions.



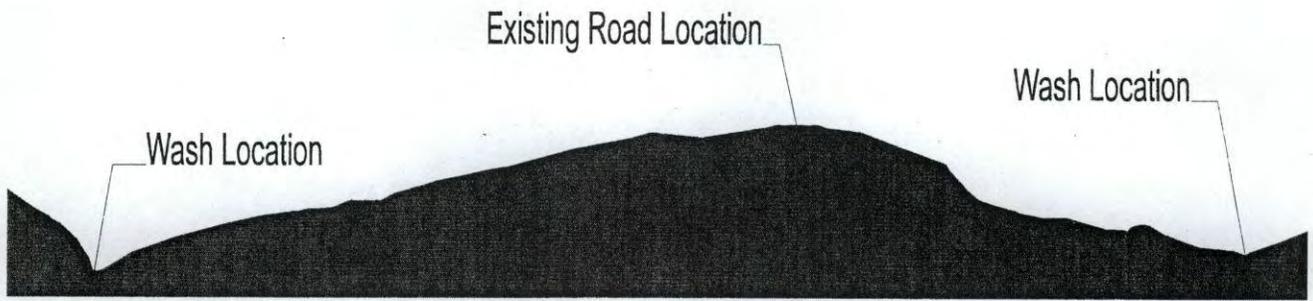
VI. Unique Design Considerations to Reduce Development Impact

Project is located in very rugged and scenic hillside area. Use of the PAD option is necessary to minimize disturbance to the desert through creative site planning and architectural design approaches which may not conform in every respect to typical property development standards. The most significant difference is in the type of hillside landform and in the approach selected to develop within this landform.

Hillside development is most commonly associated with a mountain landform in which the land gradually gets steeper toward a central peak or ridge and development is limited to the lower, flatter areas and the peaks or ridge areas are preserved.

The Estates has a very different landform where the flatter sloped areas are located along the higher ridge-plateau lines and the steeper sloped areas are located lower along the sides of the washes. In response to this different landform, it is proposed to develop the upper, flatter slope areas along the ridge-plateau lines and protect the wash areas as natural open space. This thought process is along the lines of protecting the wash areas as riparian habitat. This manner of developing this landform facilitates the preservation of more open space as the grading of less area is required. The following photographs and cross section illustrate the shape of this landform. The car is included to give an indication of scale.





The above cross section is cut from the existing ground surface and no vertical exaggeration has been used. This cross section is fairly representative of the relationship between the plateau-ridges and washes.

The proposed development plan for The Estates is a direct response to the uniqueness and challenge of the site. The most important consideration is, naturally, the rather rugged terrain, requiring inclusion in the Hillside Development Overlay District. A preliminary slope analysis was prepared using the methodology in the City of Peoria Zoning Ordinance, Section 14-22A, Hillside Development Overlay District. The distribution of land within the various slope categories for the entire site is calculated as follows.

Total Property		
Slope of Category	Total Area (Acres)	Percentage of Total Property
0%-10%	39.23	17.96%
10%-15%	35.11	16.07%
15%-20%	51.33	23.50%
20%-25%	57.32	26.24%
25%-30%	20.64	9.45%
30%-35%	13.00	5.95%
35%-40%	1.09	0.50%
40% +	0.75	0.34%
Total	218.47	100.00%

It is important to note that only 16.24% of the total property falls within the 25% and steeper slope categories.

On the following page is the Slope Analysis Map which shows the slope areas used to calculate the above total areas.

THE ESTATES AT LAKESIDE

CITY OF PEORIA, ARIZONA

SLOPE ANALYSIS PLAN

LAKE PLEASANT RESIDENCES & LEISURE, L.L.C.

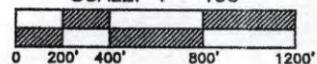


LEGEND

—	0 - 10
—	10 - 15
—	15 - 20
—	20 - 25
—	25 - 30
—	35 - 40
—	40 AND UP



SCALE: 1" = 400'



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The following are generalized responses to the design challenges presented by the existing landform.

A. Streets follow level plateau-ridge lines, areas of existing jeep trails

To reduce development impact, local streets are planned to be located along the tops of the long plateau-ridges that cross the site. These plateau-ridge lines are the most level areas of the site, so cuts and fills for road construction and utilities will be minimized. Most of these routes are already scarred by numerous jeep trails that criss-cross the Lake Pleasant area. Where possible, streets will be located within corridors of existing disturbance.

B. Homes located near plateau-ridge lines, contoured to fit the land

To minimize disturbance associated with home construction, homes are generally located along the plateau-ridge lines, where slopes are least severe. Architectural guidelines to be enforced by the Estates at Lakeside Homeowners Association (ELHA) will require "stepping down" of building forms consistent with lot contours, to reduce visual impacts and grading and meet City of Peoria Zoning Ordinance for heights and appearances.

C. Steep slopes and washes preserved as open space

All major washes and the steep slopes along the sides of the washes will be preserved as dedicated open space. It is anticipated that most of the lots will back directly onto open space. Where lots do not have direct views space corridors, access to them will be provided via pathways and "windows" into the washes and common areas.

D. Extensive pathway system to be provided

A series of trails will be developed. These pedestrian trails will provide access to open space areas where views of wildlife, rock formations and the desert landscape can be enjoyed. The pathways will be designed for minimum impact on the land, to blend into the natural terrain and to be consistent with meeting minimum standards for accessibility on recreational trails. Trails are planned to be cleared walkways, 4 to 6 feet wide with a native material surface. Improvements shall include path direction markers, erosion protection similar to that used in forest service trails, benches at natural overlook locations, small rock retaining walls and culverts at small wash crossings. Interpretive materials will be displayed along the paths to identify and tell about the plants, geology and history of the area. Trail lighting will not be included. See below for a typical section of the trail.

E. Architectural and landscaping standards reflect desert

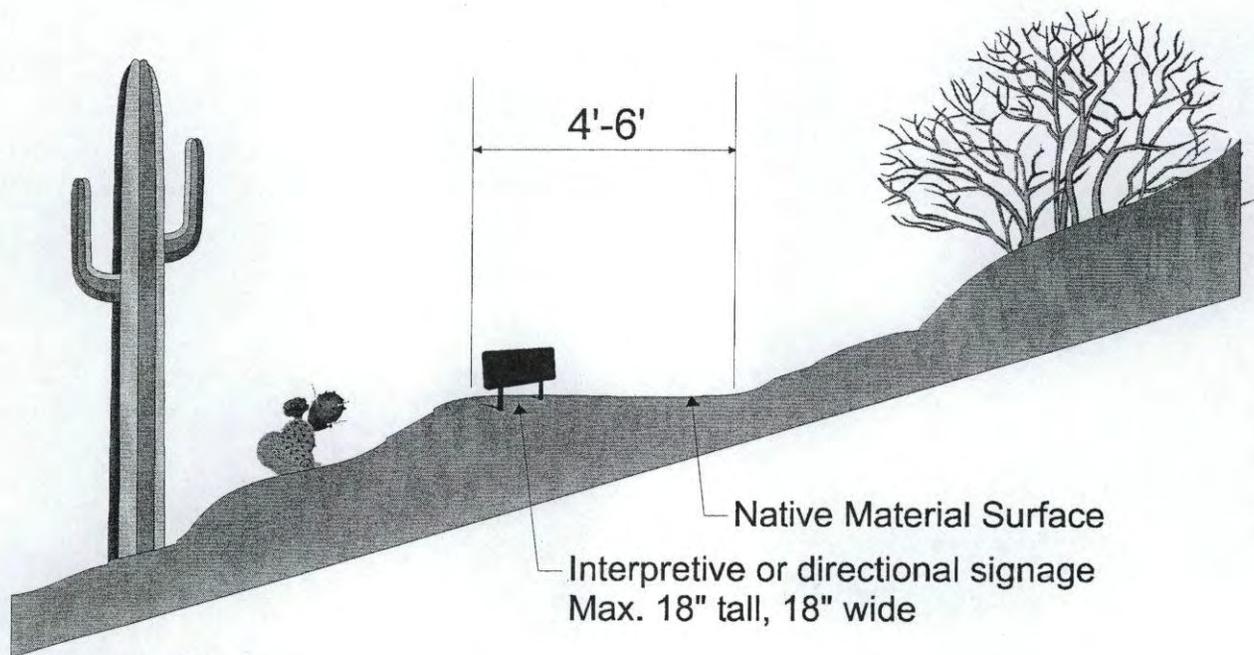
Architectural, site planning and landscaping standards will be developed for use in the homeowners association's design review process. Standards developed shall comply with the City of Peoria Design Review Manual.

F. Minimum-impact street standards

We will propose street standards that minimize roadway width, grading and street construction impacts. Pavement width (back-of-curb to back-of-curb) for local residential streets, for example, is 22 feet. These standards shall be similar to those used in other Valley communities for hillside development in environmentally sensitive areas. The streets will be private access easements, maintained by the homeowners association. All street standards shall be subject to review and approval by the City Engineer as part of the platting process.

G. Vegetation

Vegetation at The Estates is typical of the Lower Sonoran Desert and may contain some sensitive plant species. Prior to preliminary plat approval, the developer shall document existing sensitive and significant clusters of vegetation for preservation, retention and/or relocation. Graded or disturbed areas will be re-vegetated with relocated vegetation and a seed mix consisting of native plant species to the maximum extent possible. As part of the grading and drainage approval process, a landscape preservation and revegetation plan will be prepared and approved.



Typical Trail Section

VII. Design Standards

The Estates at Lakeside shall comply with all provisions of Section 14-33, P.A.D. District standards and Section 14-22A, Hillside Development Overlay District standards of the City of Peoria Zoning Ordinance. All development shall also comply with the City of Peoria Design Review Manual.

A. Permitted Uses

As previously stated, uses proposed are consistent with the Peoria Comprehensive Master Plan, which shows the site as "Resort Development". "Resort Development" is defined in the Land Use Element of the Peoria Comprehensive Master Plan as:

"Areas that due to their natural features and scenic quality should be preserved for resort development. Resort developments should preserve these qualities and provide a range of residential densities in association with a resort hotel that includes recreational/leisure activities in addition to appropriate supporting commercial/service areas."

Approval of the following uses is requested as part of this P.A.D.:

Land Use Designation	Specific Use
Single-Family residential	Detached Single Family and/or Resort
Resort	Resort & Commercial associated with resort development or Open Space
Commercial	All Principal and Conditional Uses Permitted in C-2 District and Boat/RV Storage

The resort parcel shall remain as open space and undeveloped until such time as the resort development is approved.

It is requested that outdoor storage of boats and recreational vehicles be permitted as an additional specific use within the Commercial parcel. This use is in line with the type of recreational activities available in the area. An anticipated large percentage of homeowners in The Estates would own and wish to use boats at Lake Pleasant, as well as continually increasing visitor traffic to the lake would utilize this type of facility. (Boat and RV storage will not be permitted within The Estates) The outdoor storage shall meet the screening requirements in the standards section of this report.

The following uses shall be expressly prohibited on the commercial parcel at The Estates: Adult Entertainment; Rental, Sales or Repair of New or Used Vehicles and Boats; Auto Body Repair and/or Painting.

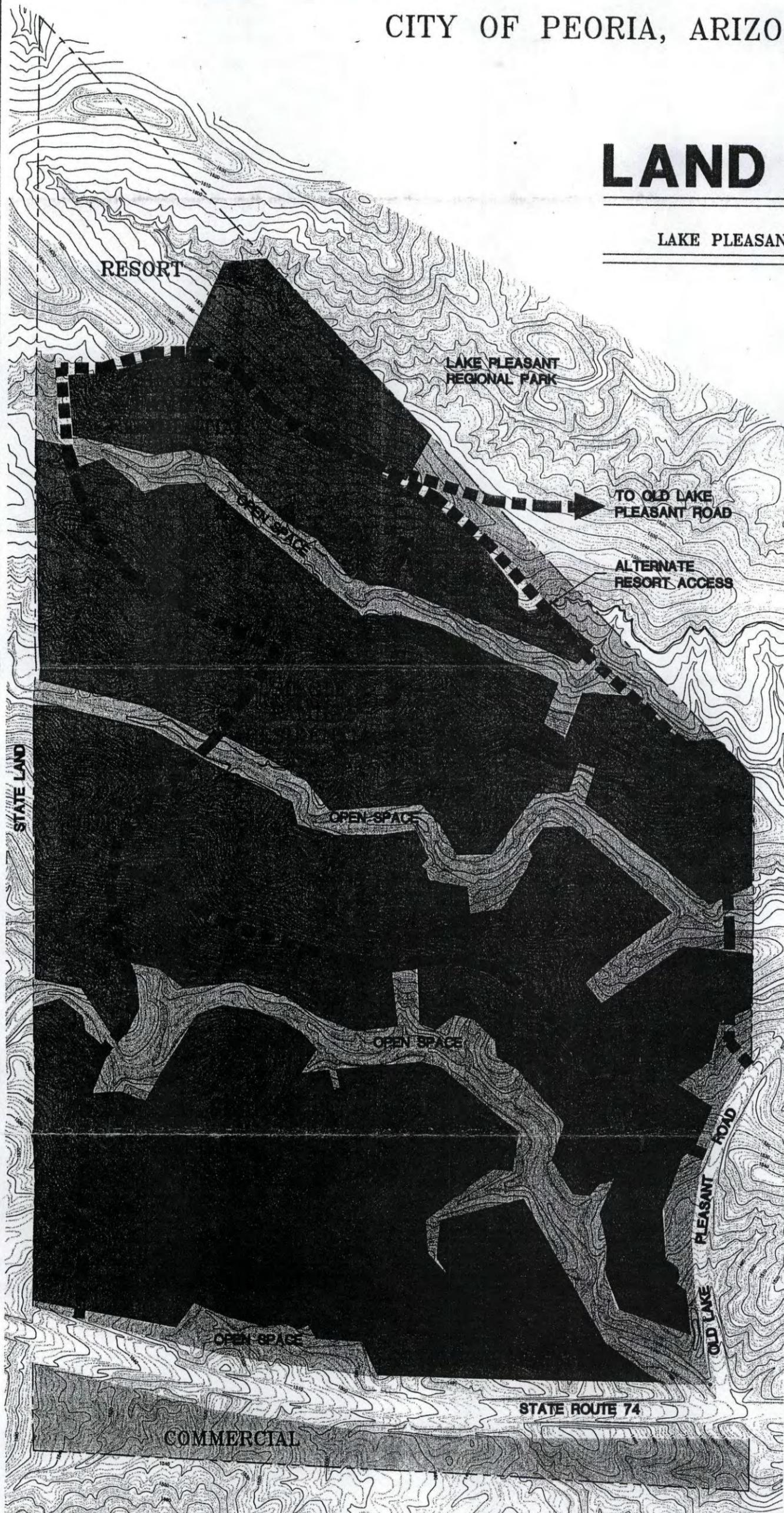
Refer to the following page for the Land Use Plan.

THE ESTATES AT LAKESIDE

CITY OF PEORIA, ARIZONA

LAND USE PLAN

LAKE PLEASANT RESIDENCES & LEISURE, L.L.C.



LAND USE SUMMARY

RESIDENTIAL

SINGLE FAMILY
194.55 acres
257 units
1.32 units/acre

TOTAL RESIDENTIAL UNITS = 257

RESORT

13.16 acres

COMMERCIAL

10.76 acres

OPEN SPACE

RESIDENTIAL PARCELS

38.08 acres
(19.6% of residential parcel)

RESORT PARCEL

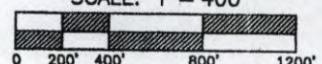
7.58 acres
(57.6% of resort parcel)

COMMERCIAL PARCEL

4.84 acres
(44.9% of commercial parcel)



SCALE: 1" = 400'



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B. Proposed Density

As the project lies within in a rugged, hilly area, it shall comply with the allowed densities of Section 14-22A, Hillside Development Overlay District, City of Peoria Zoning Ordinance as well as the Comprehensive Master Plan. A preliminary slope analysis has been performed to establish overall densities. The results of the analysis for each land use designation are shown below:

Residential Parcel			
Slope of Land	Total Area	Maximum Number of Lots per Gross Acre	Maximum Number of Lots
0%-10%	33.58	3.40	114.2
10%-15%	32.40	1.50	48.6
15%-20%	44.66	1.00	44.7
20%-25%	51.37	0.70	36.0
25%-30%	19.02	0.50	9.5
30%-35%	11.67	0.30	3.5
35%-40%	1.09	0.20	0.2
40% +	0.75	0.10	0.1
Total	194.55		257

Resort Parcel		
Slope Category	Total Area (acres)	Maximum Disturbable Area (acres)
0%-10%	0.77	0.46
10%-15%	1.07	0.64
15%-20%	3.13	1.57
20%-25%	5.52	2.21
25%-30%	1.49	0.45
30%-35%	1.18	0.26
35%-40%	0.00	0.00
40% +	0.00	0.00
Total	13.16	5.58

Commercial Parcel		
Slope of Land	Total Area (acres)	Maximum Disturbable Area (acres)
0%-10%	4.88	2.9
10%-15%	1.64	1.0
15%-20%	3.53	1.8
20%-25%	0.43	0.2
25%-30%	0.13	0.0
30%-35%	0.14	0.0
35%-40%	0.00	0.0
40% +	0.00	0.0
Total	10.76	5.92

The following is a summary of the above individual parcel calculations.

Land Use Designation	Area (Acres)	Units	Density
Single-Family residential	194.55	257	1.32 units/acre
Resort	13.16	--	--
Commercial	10.76	--	--
Total	218.47	257 units	1.32 units/acre 1.18 units/acre (gross)

C. Lot Size, Dimensions, Building Height And Setback Regulations

The minimum lot size shall be eighteen thousand (18,000) square feet, with a minimum front lot footage of one hundred (100) feet. The minimum lot size for lots within the 20% slope category or greater shall be 1 acre (43,560 square feet).

Heights, setbacks and separation will meet all applicable code and ordinance requirements and will be subject to review by City staff at the time of plat and site plan approvals.

Front yard setbacks are requested to vary from the standard 20 feet to a variable setback ranging from 18 feet to 20 feet for 50 percent of the residential lots, per the City of Peoria Zoning Ordinance. The remaining 50 percent of the lots shall have a minimum 20 foot setback.

Lot Size, Dimension and Setback Table				
Minimum Lot Size	Minimum Frontage	Front Yard Setback	Min. Side Yard Setback	Rear Yard Setback
18,000 sf or 43,560 sf	100 ft	18 to 20 ft	10'	20'

D. Open Space

Open space provisions shall also comply with Section D.1.4.d of the City of Peoria Comprehensive Master Plan pertaining to the requirements for Resort Development Land Use Guidelines. The Estates at Lakeside includes a mix of land uses. The table below shows required and provided open space.

Land Use Type	Area (acres)	Percent of Total Area	Percent Required Open Space	Open space Required (acres)	Open Space Provided (acres)	Open Space Provided (percentage)
Residential - single family lots 18,000 sf	194.55	89.05%	9%	17.51	38.08	19.6%
Resort	13.16	6.02%	5%	0.66	7.58	57.6% (*)
Commercial	10.76	4.93%	5%	0.54	4.84	44.9% (*)
Totals	218.47	100.00%		18.71	50.49	23.1%

(*) Open space for the Resort and Commercial areas are not shown on the land use plan and are indicative only of anticipated open space in these areas.

The Open Space map (following page) shows Useable Open Space to be provided at The Estates. The open space includes dedicated hiking trails, floodway areas and reserved steep slope areas. The figure shows clearly the areas calculated as Useable Open Space in meeting requirements of this Ordinance.

The calculation for open space does not include areas for roadway easements, right-of-way, alleys, drives, parking, loading or storage areas, required setback areas at the perimeter boundaries of the PAD, golf courses, areas reserved exclusively for the uses or benefit of an individual owner or tenant, concrete or rock lined areas designed primarily as a drainage channel.

Open space shown on the Open Space plan will be protected by means of recorded open space easements, with further protection offered by their inclusion as separate tracts on the Land Use Plan that is part of their submittal. Any attempt to develop within these open space areas will, thus, be subject to public hearings and City action to amend provisions of this Planned Area Development. The permanent retention of these open spaces is essential to the character and quality of the community to be built at The Estates at Lakeside. A homeowners association will be formed and will be responsible for open space maintenance.

E. Architectural Style, Appearance

Development shall comply with the requirements as set forth in the City of Peoria Design Review Manual. A Design Review Committee will be formed within the framework of the master homeowners association. This committee will monitor and review the architecture, site planning, landscaping and building modifications.

Architectural, site planning and landscaping standards will be developed for use in the homeowners association's design review process. Among key considerations are:

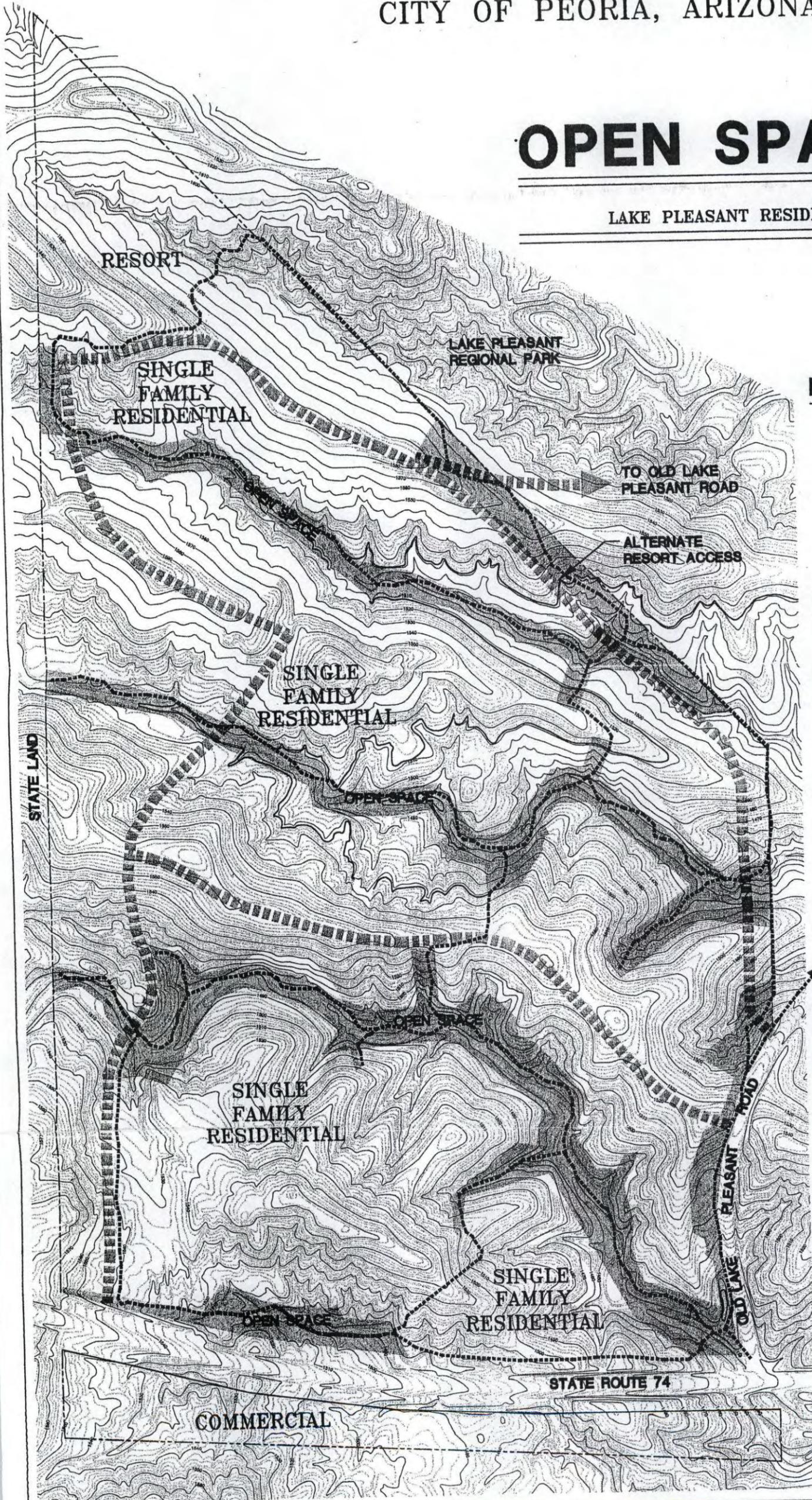
1. Use of colors and materials that blend with the, desert (no whites, pastels or red tile);
2. "Breaking up" the apparent mass of buildings through variations in roof lines, detailing of windows and use of "pop-outs";
3. Roof lines designed to reflect natural slopes and geologic forms.
4. Southwestern architectural character (no French Provincial, red barns, southern mansions or Greek temples);
5. Use of and region plant materials exclusively where visible from streets or common open space areas;
6. No palm trees;
7. No lighted tennis courts;
8. Low level light standards (bollard-style) to be used throughout;
9. No boats, recreational vehicles or trailers to be parked on the site unless in a garage or enclosure screened from street view;
10. Use of consistent design for house numbers, mailbox enclosures, street numbers and furnishings.
11. Garages may be side entry or detached and behind the principal structure.

THE ESTATES AT LAKESIDE

CITY OF PEORIA, ARIZONA

OPEN SPACE PLAN

LAKE PLEASANT RESIDENCES & LEISURE, L.L.C.



DEDICATED OPEN SPACE



TRAILS

RESIDENTIAL PARCELS

38.08 acres
(19.6% of residential parcels)

Portions of residential lots outside building envelopes will not be disturbed and will be protected through open space easements.

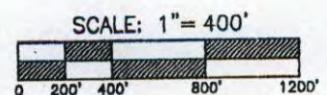
RESORT PARCEL

To be defined at time of resort development approvals. A minimum of 7.58 acres of the resort parcel will be set aside as natural area open space.

COMMERCIAL PARCEL

To be defined at time of site plan approvals. A minimum of 4.84 acres will be set aside as natural area open space.

TO MORGAN CITY WASH
AND LAKE PLEASANT
REGIONAL PARK

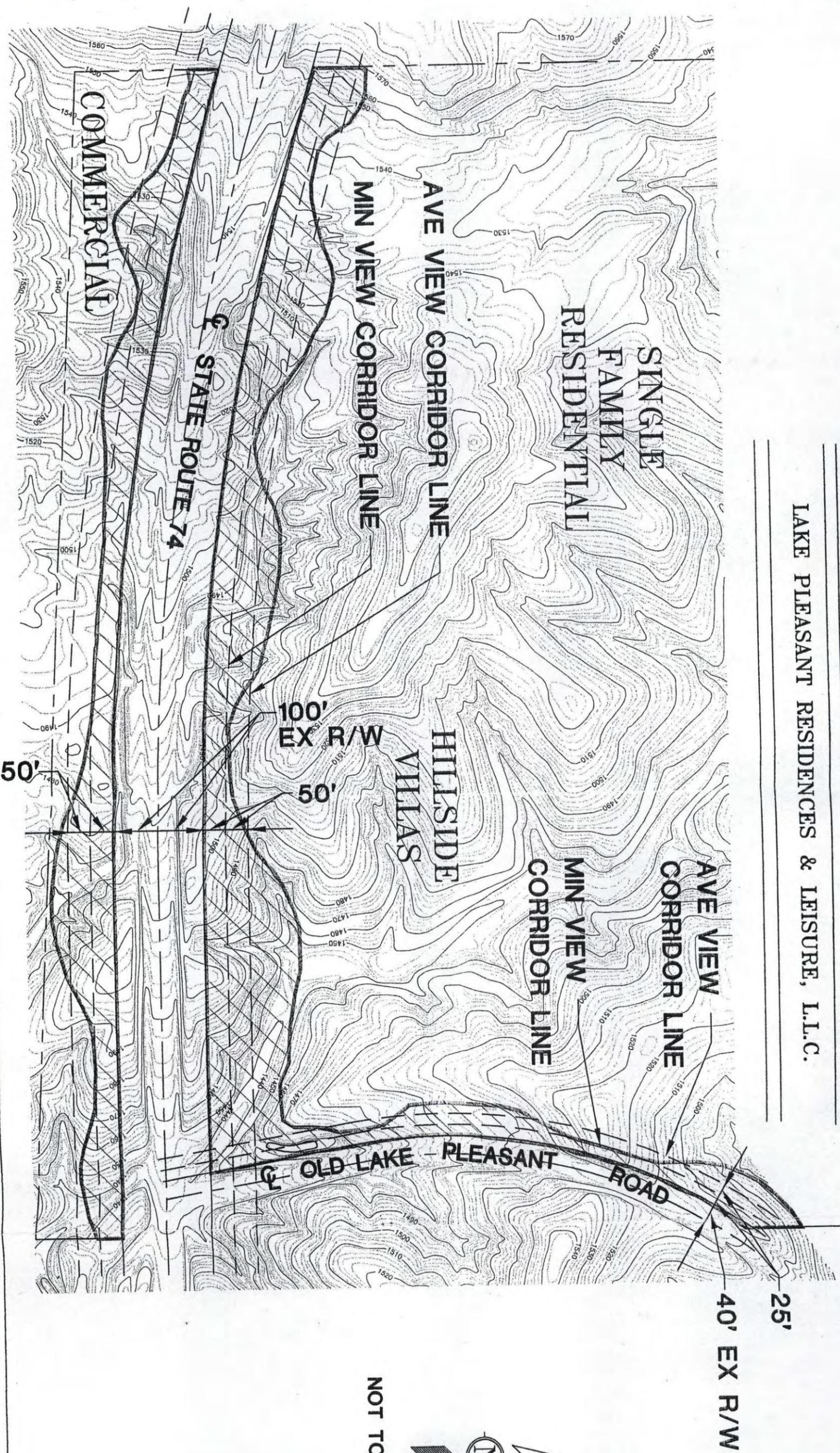


THE ESTATES AT LAKESIDE

CITY OF PEORIA, ARIZONA

VIEW CORRIDOR PLAN

LAKE PLEASANT RESIDENCES & LEISURE, L.L.C.



NOT TO SCALE

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7000 N. 16th Avenue, Suite 200
Peoria, Arizona 85601
Phone: (602) 494-4000
Fax: (602) 494-4000

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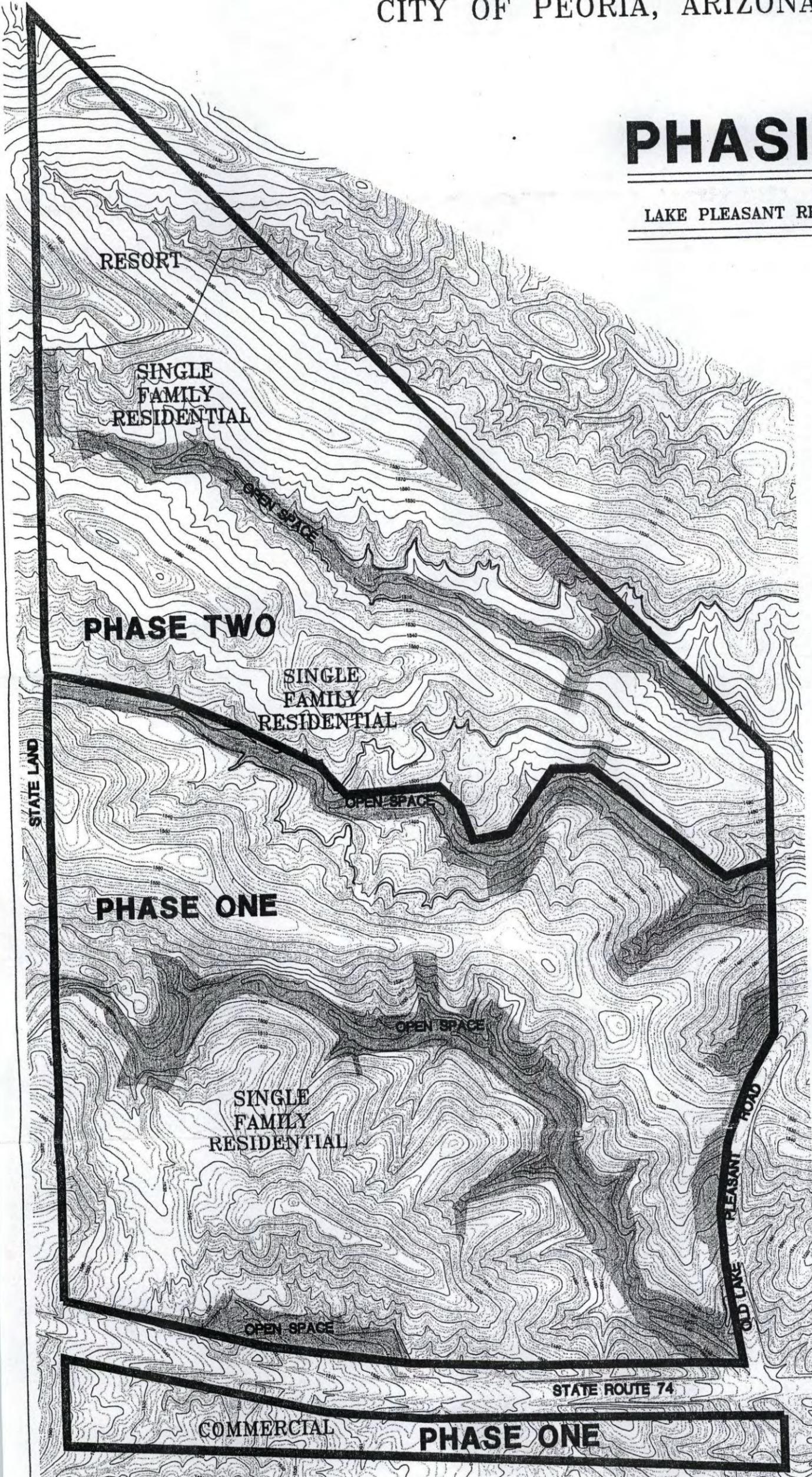
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THE ESTATES AT LAKESIDE

CITY OF PEORIA, ARIZONA

PHASING PLAN

LAKE PLEASANT RESIDENCES & LEISURE, L.L.C.



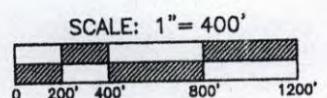
SUMMARY

PHASE ONE

SINGLE FAMILY RESIDENTIAL
COMMERCIAL
OPEN SPACE

PHASE TWO

SINGLE FAMILY RESIDENTIAL
RESORT
OPEN SPACE



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F. Fencing and Landscaping

Within the residential parcels, fencing, privacy walls and/or screen walls shall not be permitted along the perimeter of property lines. Privacy walls, fencing and/or screening shall not extend outside an approved building envelope.

Within the commercial parcel, the boat and RV storage area shall be screened from view by the adjacent properties and the existing highway to meet City of Peoria Design Review Manual and the following:

Outdoor storage areas shall be screened by a perimeter wall at least eight feet high and shall undulate both horizontally and vertically. Horizontal undulations shall consist of a minimum three foot offset which shall occur at irregular intervals that permit the wall to follow the view corridor along S.R. 74 and shall occur at a maximum spacing of 100 feet along the other perimeter lines. Vertical undulations shall occur every 100 feet at a maximum with a minimum change in height of 12 inches. All perimeter walls shall be stucco finished and painted or constructed of decorative masonry block intended to be used without additional finish. All perimeter walls shall be landscaped per City of Peoria requirements in keeping with the guidelines specified below.

Landscaping at The Estates shall augment and compliment the existing vegetation typical of the Lower Sonoran Desert Shrub association. Plants to be used for landscaping shall include but are not limited to the following: palo verde, mesquite and ironwood trees, saguaro, ocotillo, barrel, and cholla cactus, creosote and other native plants. As previously stated, the native plants shall be preserved and relocated to the extent possible. Graded or disturbed areas will be re-vegetated with relocated vegetation and a seed mix consisting of native plant species to the maximum extent possible.

G. Street Utilities, Services And Public Facilities

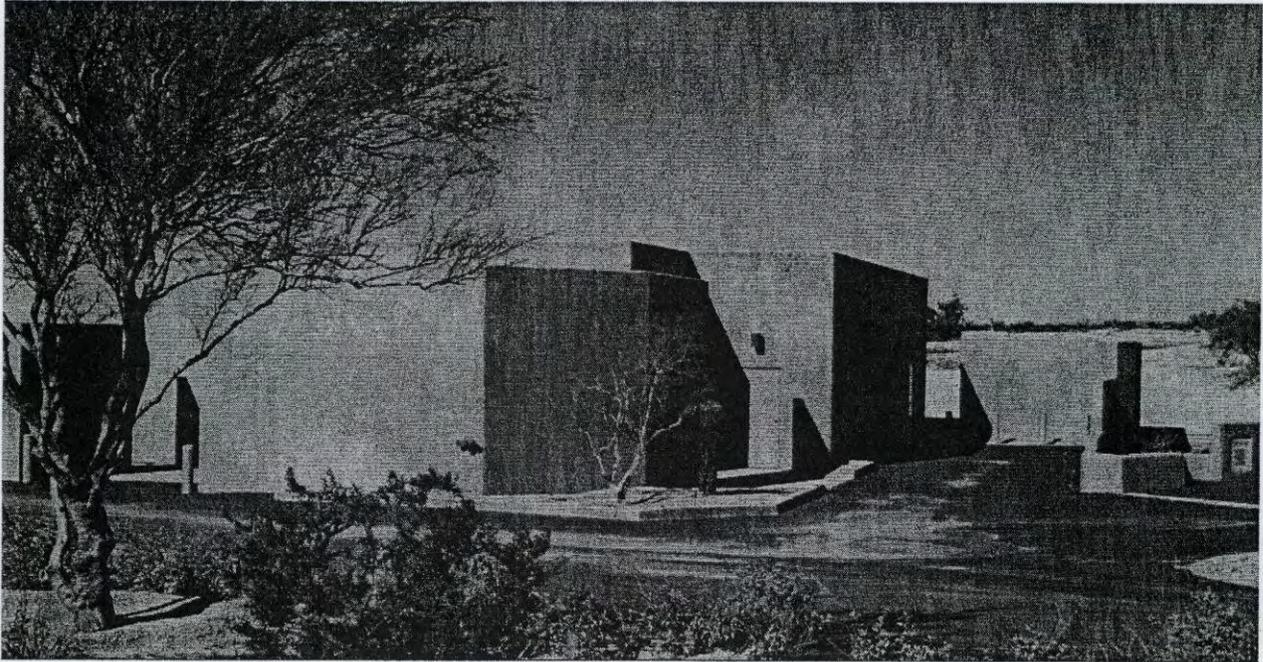
Roadway Design

The roadway system is to be private and is configured to provide convenient access to all portions of the development while minimizing disturbance to the existing terrain. The roadways shall be built within an easement dedicated to the homeowners association who shall also be responsible for the maintenance of the internal roadway system. The roadway system is comprised of roads of three designations, Local Residential, Local Collector, and Minor Collector, with the majority classified as local residential.

Two roads provide access to the residential portion of the site, one from Highway 74 and one from the Old Lake Pleasant road. These access roads are classified as local collectors primarily to provide better access for emergency vehicles although the ADT's for these roads will be below the customary 1500 vehicles per day for a local collector designation. Both access points are to be gated with turn-around areas provided prior to the gates. The access to Highway 74 has been designated as minor collector to accommodate the turn lanes necessary for highway access.

Primary access to the resort site is to be from Old Lake Pleasant road with secondary access provided by the residential access roads. Access from Old Lake Pleasant road is planned to pass

The following photo is of a wastewater treatment facility very similar to the planned facility for this project.



All design and construction for the water and sewer systems will be to the applicable Arizona Department of Environmental Quality, Maricopa County Dept. of Environmental Services, and City of Peoria criteria and subject to City of Peoria approval as part of the plat/improvement plan process.

Electric and telephone service will be provided by APS and US West and shall be placed underground throughout the development.

H. View Corridor

View corridors along both sides of S.R. 74 and along the west side of Old Lake Pleasant road shall be established. The corridors along S.R. 74 shall be of an average width of 100 feet and a minimum width of 50 feet as measured from the existing right-of-way lines. The corridor along Old Lake Pleasant road shall be of an average width of 50 feet and a minimum width of 25 feet. Minimum setbacks for all structures shall be measured from the view corridor lines. No parking, screen walls or signage will be constructed within the view corridors. The view corridors shall be essentially left in a natural, non-disturbed state with only minimum additional landscaping added in accordance with the landscaping section of this document. A preliminary approximation of the view corridors is shown on the View Corridor Plan on the following page.

through a portion of park land. This access route is presently being negotiated. If an easement for this route cannot be obtained, an alternate route is planned along the northeast border of the property.

Appropriate improvements will be made to Highway 74 and the Old Lake Pleasant road to provide deceleration - turn lanes and street lighting for the intersections.

Preliminary design standards for street cross sections, street classifications and horizontal/vertical design are listed as follows.

Street Design Element	Minor Collector	Local Collector	Local Residential
Street Width (ft.)	41	36	22
Easement Width (ft.)	60	50	40
Design Speed	40	30	25
Min. Radius of curve w/o super elevation (ft.)	475	185	100
Min. Radius of curve w/ 2% super elevation (ft.)	385	155	85
Min. Radius of curve w/ 4% super elevation (ft.)	350	145	80
Min. Length of Tangent between Reverse Curves (ft.)	200	100	0
Min. Horizontal Curve Length (ft.)	175	150	100
Stopping Sight Distance (ft.)	245	155	125
Maximum Slope	12%	12%	15% (600' max.)

All design and construction for the roadway system will be to the applicable AASHTO, ADOT, Maricopa County Dept. of Transportation, and City of Peoria criteria and subject to City of Peoria approval as part of the plat/improvement plan process.

Utilities

Water is to be provided by a private water company, the Lake Pleasant Water Company, from a well field located east of the Agua Fria River just north of S.R. 74 and delivered to the site through transmission main parallel to the highway. The Lake Pleasant Water Company holds a Type II Grandfathered Water Right and has been issued a Certificate of Assured Water Supply for 100 years for this development. Copies of these documents are included. The water distribution system shall be constructed by the developer and owned, operated and maintained by the private water company.

Sewage treatment is to be provided by a facility to be owned and operated by a private company. The treatment plant will be built by the developer and located at the southeast corner of the subject property, south of Highway 74. The treatment facility site will only occupy 1-2 acres. The site will be situated behind a small ridge along S.R. 74 (see photos) and cut into the hill which, when

combined with appropriate screening, will make the site difficult to see from the highway or subject property. It will be constructed with all of the vessels below grade and enclosed within a structure similar to that in the accompanying photo. The sewage collection system shall be constructed by the developer and owned, operated and maintained by the private company.



These photos are of the wastewater treatment site looking west (first photo) and looking east (second photo), both along S.R. 74.

The treatment facility is planned to be located behind the sign in the first photo, cut into the saddle of the hill with appropriate screening and landscaping to mitigate view of the plant from this direction.

The second photo shows the same hill as the first from the other direction. The treatment facility is planned to be cut into the hill below the ridge, allowing the ridge itself to provide most of the screening. The access to the facility will be from this direction and will be coordinated with the commercial site and residential access.



I. More Than One Building Per Lot

We do not propose to build more than one primary residence per lot. Auxiliary structures such as gazebos or guest houses will be allowed, within the limits established by the building envelopes and development design guidelines. All construction of auxiliary structures shall comply with City of Peoria Zoning Ordinances and Design Review Manual.

J. Additional Standards

The Applicants agree to conform to all conditions, zoning stipulations and other matters related to this P.A.D. approval, that may be negotiated during the review and hearing processes.

VIII. Phasing

Phase one consists of a portion of the single family residential part of the development and is planned to commence immediately upon completion of the rezoning and platting process, (including completion and approval of the construction documents). Phase two consists of the remainder of the single family residential area, the hillside villas, and the resort and commercial sites and is planned to commence 36 months thereafter and be completed within the following two years. The anticipated phasing is indicated on the following phasing plan.

IX. Description of Other Required Approvals

The following additional approvals are required, in addition to normal City processing of subdivision plats and other development plans:

All water and sewer improvements	Maricopa Co Environmental Services Department
Permit for wastewater treatment facility	Arizona Department of Environmental Quality
Well and water pumping	Arizona Department of Environmental Quality
Water Quality Discharge Permit	Arizona Department of Environmental Quality
404 permitting process	Army Corps of Engineers
Stormwater Pollution Prevention Plan	City of Peoria

X. Modifications and Waivers

The Estates at Lakeside reserves the right to pursue, if necessary, modifications or waivers through the processes already provided for and established in the City of Peoria Zoning Ordinance and/or the City of Peoria Design Review Manual..

X. Supporting Documentation

The Certificate of Grandfathered Groundwater Rights and Certificate of Assured Water Supply have been supplied to the City of Peoria.

Exhibit 3

Communication from Maricopa County Parks & Recreation Department
Proposed Cholla Hills PAD Amendment



Maricopa County

Parks & Recreation Department

234 N. Central, Suite 6400
Phoenix, Arizona 85004-2208
Phone: (602) 506-2930
Fax: (602) 506-4692

To: Adam Pruitt, Senior Planner, City of Peoria Planning Division

From: Leigh Johnson, Park Planner

Re: Z 98-03A.1 (Cholla Hills resort, commercial and recreation community)

Date: December 4, 2012

The Parks and Recreation Department attempts to meet customer needs based on generally accepted standards for quality parks and outdoor recreation services. The immediate and long-term needs of unincorporated areas within the county for parks and recreation services, open space preservation, and regional trail planning are the sole responsibility of the Department at this time.

MCPRD has not had adequate time to fully consider this project and respectfully requests the opportunity to study this development further before making final comments. However, upon initial review of this project, MCPRD has unaddressed questions and concerns with this project such as:

- Lake Pleasant Regional Park (LPRP) is federally owned by the U.S. Bureau of Reclamation (Reclamation) and operated for water storage and delivery in conjunction with the Central Arizona Project, a Federal project authorized by the Colorado River Basin Project Act of 1968 (Public Law 90-537). LPRP is managed by Maricopa County Parks and Recreation Department (MCPRD) pursuant to a recreational management agreement between Reclamation and Maricopa County. Maricopa County Municipal Water Conservation District (MWD) retains ownership of some dam facilities and about 225 acres of land.
 - Due to this mix of land ownership and management partners, it is imperative that all parties are officially notified in writing of proposed activities that may affect its operations; MCPRD was not notified in this manner.
 - Additionally, Pleasant Harbor Marina, a private marina on the southeast side of lake, offers similar services to the proposed RV resort and may also have an interest in providing comments although they may be outside of the legally required notification zone.
- MCPRD also partners with the U.S. Army Corps of Engineers (ACE). The southern park area is currently being used as a mitigation site (Chalky Springs and Morgan City Wash) under ACE's In-Lieu Fee (ILF) program and has shown significant improvements to date. Briefly, ILF areas must satisfy ACE requirements such as:
 - Provides important functions: increase both the function and value of the aquatic resources
 - Contributes to watershed sustainability
 - Permanently protected

Furthermore, all activity in these areas is limited per ILF program requirements.

- What are the developer's plans to keep its visitors/residents out of these environmentally sensitive ILF areas that need to remain permanently protected?
- Rugged slopes of 10% or more are known to be difficult to build on and construction activity may degrade riparian functions. Development on the ridge above the wash may negatively affect the health of the riparian area through erosion and disruption of wildlife – areas that MCPRD has been partnering with ACE via the ILF program to repair.
- All Lake Pleasant Regional Park boundaries falls within the Bureau of Land Management (BLM) burro Herd Management Area (HMA) which is protected by the Wild and Free-Roaming Horse and Burro Act of 1971.
 - Private lands are generally not included in an HMA, but the burros are prone to wandering across property boundaries. What is the developer's plan to address wayward burro?
- The developer has an easement to use first ¼ of Bypass Road off of SR-74. Parks will be installing an electric gate on the road; location to be determined.
 - Will the developer make road improvements to both SR-74 and Bypass Road to accommodate increased use by its visitors/residents such as providing setbacks to allow vehicles to queue safely from traffic and a turn-around area?
 - How will its visitors/residents be prevented from using Park's portion of the bypass road?
- The developer's plan shows a trail going into Morgan City Wash; Parks will not allow any unauthorized trails into its jurisdictional areas.
- Both parcels are highly visible from the South Park Road area of Lake Pleasant, where the Visitor Center, campgrounds, and picnic areas are located; this may diminish the recreational experience of LPRP visitors.
- Morgan City Wash holds prehistoric and historic value to the area and faces the potential to be lost with development of the area.
- Morgan City Wash is an important area for wildlife access due to year-round water access, a rare feature in the desert.
- Not only would each parcel and surrounding areas be impacted at the first phase of development for the proposed RV resort, it would likely face additional impacts if and when the land use is changed to residential. Permanent residential use would pose additional and/or other impacts that temporary resort visitors may not and that requires additional consideration.

ORDINANCE NO 2013-02

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA AMENDING THE EXSITING PLANNED AREA DEVELOPMENT (PAD) ZONING ON CERTAIN PROPERTY AND AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Peoria Planning and Zoning Commission held a public hearing on December 6, 2012 in zoning case Z98-03A.1 in the manner prescribed by law for the purpose of considering an amendment to the district boundaries of property within the City of Peoria, Arizona to provide for rezoning of the subject parcel as described below from Estates at Lakeside Planned Area Development (PAD) zoning district and Suburban Ranch (SR-43) zoning district to Cholla Hills Planned Area Development (PAD) as provided in Section 14-39 of Chapter 14 of the Peoria City Code (1977 edition);

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance and manner provided by law including publication of such notice in the Peoria Times Newspaper on November 16, 2012; and

WHEREAS, the City of Peoria Planning and Zoning Commission has recommended to the Mayor and the Council of the City of Peoria, Arizona, the zoning of property as aforesaid and the Mayor and the Council of the City of Peoria, Arizona desires to accept such recommendation and rezone the property as described below as aforesaid.

WHEREAS, the Peoria Planning and Zoning Commission, after due and proper notice as required by law, held a public hearing regarding case number Z 98-03A.1, on December 6, 2012; and

WHEREAS, after such public hearing and consideration of Z 98-03A.1, the Peoria Planning and Zoning Commission recommended adoption of Z 98-03A.1 on December 6, 2012, a copy of which recommendation is on file with the City Clerk of the City of Peoria, Arizona, and which said case number Z 98-03A.1 was transmitted to the Mayor and Council of the City of Peoria prior to the meeting of January 22, 2013; and

WHEREAS, after notice in the manner and form provided by law, a public hearing regarding case number Z 98-03A.1 was held by the City Council on January 22, 2013, as required by A.R.S. 9-461.06; and

WHEREAS, after due and proper consideration of such Z 98-03A.1, the Mayor and Council of the City of Peoria, Arizona have found that Z 98-03A.1 will properly aid in the orderly growth and development of the City of Peoria, Arizona.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona that:

SECTION 1. A parcel of land in Peoria, Maricopa County, Arizona, which is more accurately described in Exhibits A and B to this Ordinance, is hereby rezoned from Estates at Lakeside Planned Area Development (PAD) zoning district to Cholla Hills Planned Area Development (PAD) zoning district.

SECTION 2. The amendment to the zoning herein provided be conditioned and subject to the following stipulations:

1. The development shall substantially conform with Cholla Hills Planned Area Development standards and guidelines report.
2. Phase 1 of the recreational vehicle resort shall include the recreation center and associated amenities as depicted in Exhibit E3 of this report.
3. All preliminary plats and site plans shall be accompanied by a complete Desert Lands Conservation Report (or equivalent) at the time of submittal. Each Desert Lands Conservation Report shall be approved prior to the issuance of approval for the subject preliminary plat or site plan.
4. The 2008 edition of NFPA 1194 shall be used for the Standard for Recreational Vehicle Parks and Campgrounds
5. The Developer shall dedicate ROW along the frontage of the project per the City's Street Classification Map or as determined by the City Engineer to accommodate the ultimate development of the half-street.
6. A more detailed Traffic Impact Analysis must be submitted during the preliminary plat or site plan review. Detailed analysis with respect to traffic signal analyses, storage lengths, and turn lane details have to be determined along with access control. Secondary access has to be determined along with internal circulation. If the proposed developments will be done in different phases, it has to be outlined as to what will be completed in each phase and the timeline for each phase. Separate TIAs will be required for each phase of development.
7. Secondary access to Parcel 2 shall be approved by the City prior to the development of that phase of the project.
8. Preliminary plans for water, sewer, roadway, and drainage must be included with the first preliminary plat or site plan application. The developer must understand that any infrastructure constructed for the RV resort may have to be removed and replaced at the time that a residential subdivision is constructed.
9. The Developer shall be responsible to construct the water and wastewater facilities, which will then be turned over to the City of Peoria for operation – under the terms outlined in the Asset Purchase Agreement

10. The Water and Sewer infrastructure required for the northwest parcel will have to be constructed and dedicated to the city at no cost. Also, any oversizing of the infrastructure designs identified in the Asset Purchase agreement will be the financial responsibility of the developer.
11. Per the Asset Purchase Agreement, the applicant is the water/wastewater provider, and is responsible for obtaining all the required regulatory permits.
12. Final approval of the plans will not be granted, nor permits issued, until all necessary permits and licenses have been obtained for the construction of the water and sewer facilities.

SECTION 3. Amendment of Zoning Map. The City of Peoria zoning map is herewith amended to reflect the change in districts referred to in Section 1 above and as defined by the Legal Description as represented in Exhibit A and the corresponding parcel map as shown as Exhibit B.

SECTION 4: Effective Date. This Ordinance shall become effective at the time and in the manner prescribed by law.

PASSED AND ADOPTED by the Mayor and Council for the City of Peoria, Arizona this 22nd day of January, 2013.

Bob Barrett, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, Interim City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Published in: Peoria Times
Pub. Dates: January 25, 2013 and February 1st, 2013
Effective Date:

EXHIBIT A

DLGC II, LLC

PARCEL NO. 1:

THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THAT PORTION LYING NORTH OF A LINE BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 29;

THENCE SOUTHEASTERLY TO THE CENTER OF SAID SECTION 29; AND

EXCEPT THAT PORTION WHICH LIES WITHIN A STRIP OF LAND 200.00 FEET IN WIDTH, BEING 100.00 FEET WIDE ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 29;

THENCE SOUTH 00 DEGREES 08 MINUTES 58 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 29, 2174.08 FEET;

THENCE NORTH 73 DEGREES 42 MINUTES 02 SECONDS WEST; 308.14 FEET TO THE TRUE POINT OF BEGINNING OF THIS LINE DESCRIPTION;

THENCE SOUTH 73 DEGREES 42 MINUTES 02 SECONDS EAST, 474.00 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 5729.58 FEET A DISTANCE OF 1646.86 FEET;

THENCE NORTH 89 DEGREES 49 MINUTES 51 SECONDS EAST, 3440 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SECTION 29, AND THE TERMINUS OF SAID LINE; AND

EXCEPT THOSE PORTIONS OF THE SOUTHWEST QUARTER OF SAID SECTION 29 CONVEYED TO THE COUNTY OF MARICOPA IN WARRANTY DEEDS RECORDED NOVEMBER 16, 1995, IN DOCUMENT NOS. 95-0706064, 95-0706065 AND 95-0706096 MARICOPA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID PARCEL BEING AN 80 FEET (24.384 METERS) WIDE STRIP OF LAND, BEING 40 FEET (12.192 METERS), MEASURED AT RIGHT ANGLES, ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 29;

THENCE SOUTH 00 DEGREES 08 MINUTES 58 SECONDS WEST (ASSUMED BEARING) A DISTANCE OF 2069.97 FEET (630.927 METERS) ALONG THE SOUTHERLY PROLONGATION OF A STRAIGHT LINE BETWEEN SAID WEST QUARTER CORNER AND THE SOUTHWEST CORNER OF SAID SECTION TO THE NORTHERLY RIGHT-OF-WAY LINE OF MORRISTOWN-NEW RIVER HIGHWAY AS SHOWN ON SHEETS 5 AND 6, ARIZONA DEPARTMENT OF TRANSPORTATION PROJECT S-4, =31-705 AT A POINT 100 FEET LEFT OF HIGHWAY STATION 1076+79.18;

THENCE SOUTH 73 DEGREES 42 MINUTES 02 SECONDS EAST, A DISTANCE OF 194.82 FEET (59.381 METERS) ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE BEGINNING OF A CURVE CONCAVE TO THE LEFT HAVING A RADIUS 5629.58 FEET (1715.896 METERS);

LAKE PLEASANT GROUP, LLP

PARCEL NO. 3:

THAT PART OF SECTION 19, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 19;

THENCE NORTH 00 DEGREES 52 MINUTES 38 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 1916.62 FEET RECORD (1920.00 FEET, MEASURED) TO AN ANGLE POINT ON SAID WEST LINE;

THENCE NORTH 00 DEGREES 28 MINUTES 22 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 689.76 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 19;

THENCE CONTINUING NORTH 00 DEGREES 28 MINUTES 22 SECONDS WEST ALONG THE WEST LINE OF SAID SECTION 19, A DISTANCE OF 1922.77 FEET RECORD NORTH 00 DEGREES 28 MINUTES 10 SECONDS WEST 2612.40 FEET MEASURED, TO AN ANGLE POINT ON SAID WEST LINE;

THENCE NORTH 00 DEGREES 00 MINUTES 52 SECONDS WEST ALONG SAID WEST LINE OF SECTION 19, A DISTANCE OF 146.02 FEET, RECORD NORTH 00 DEGREES 00 MINUTES 52 SECONDS WEST 146.02 FEET 146.02 MEASURED;

THENCE NORTH 76 DEGREES 25 MINUTES 06 SECONDS EAST, A DISTANCE OF 153.80 FEET, RECORD NORTH 76 DEGREES 31 MINUTES 28 SECONDS EAST 153.79 FEET MEASURED;

THENCE SOUTH 69 DEGREES 35 MINUTES 55 SECONDS EAST 2288.02 RECORD, SOUTH 69 DEGREES 35 MINUTES 56 SECONDS EAST, A DISTANCE OF 2288.02 FEET MEASURED;

THENCE SOUTH 75 DEGREES 35 MINUTES 58 SECONDS EAST, A DISTANCE OF 174.03 FEET RECORD, SOUTH 75 DEGREES 38 MINUTES 07 SECONDS EAST 174.06 FEET MEASURED TO A POINT ON THE NORTH-SOUTH MIDSECTION LINE OF SAID SECTION 19 FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 19 BEARS NORTH 00 DEGREES 40 MINUTES 50 SECONDS WEST, A DISTANCE OF 1385.78 FEET;

THENCE SOUTH 00 DEGREES 40 MINUTES 50 SECONDS EAST ALONG SAID NORTH-SOUTH MIDSECTION LINE, A DISTANCE OF 1235.58 FEET RECORD, SOUTH 00 DEGREES 40 MINUTES 13 SECONDS EAST 1235.69 FEET MEASURED, TO THE CENTER OF SAID SECTION 19;

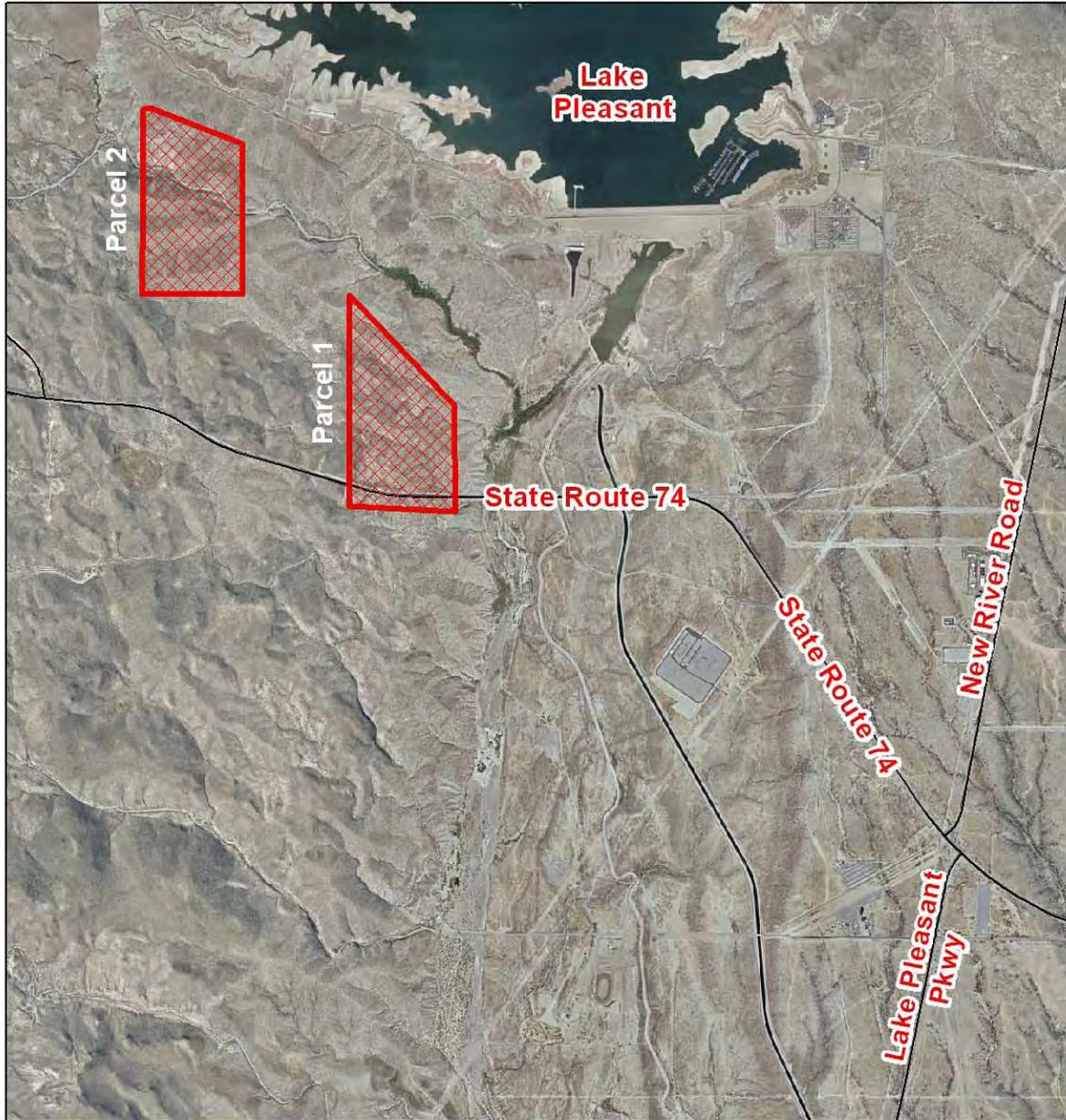
THENCE CONTINUING SOUTH 00 DEGREES 40 MINUTES 50 SECONDS EAST ALONG SAID MIDSECTION LINE, A DISTANCE OF 2608.24 FEET RECORD SOUTH 00 DEGREES 41 MINUTES 11 SECONDS EAST 2607.91 FEET MEASURED TO THE SOUTH QUARTER CORNER OF SAID SECTION 19;

THENCE SOUTH 89 DEGREES 23 MINUTES 44 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 19, A DISTANCE OF 2516.11 FEET, RECORD SOUTH 89 DEGREES 23 MINUTES 44 SECONDS WEST 2516.33 FEET MEASURED TO THE POINT OF BEGINNING;

EXCEPT 1/16TH OF ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER

HYDROCARBON SUBSTANCES OF A GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION, TOGETHER WITH ALL URANIUM, THORIUM, OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED BY THE LAWS OF THE UNITED STATES OR OF THIS STATE, OR DECISIONS OF COURT, TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE AND THE EXCLUSIVE RIGHT THERETO, ON, IN OR UNDER THE ABOVE DESCRIBED LANDS, SHALL BE AND REMAIN AND ARE HEREBY RESERVED IN AND RETAINED BY THE STATE OF ARIZONA.

EXHIBIT B
Map



Z98-03A.1 Major PAD Amendment

Applicant: Earl, Curley & Lagarde, PC

Request: Major PAD Amendment - Cholla Hills
(formerly Estates at Lakeside)



**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 14R

Date Prepared: January 8, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager

FROM: Scott Whyte, Economic Development Services Director

THROUGH: Susan J. Daluddung, Deputy City Manager

SUBJECT: City Council authorization to enter into a Ground Lease with Peoria Sports Park, LLC

Purpose:

This is a request for the City Council to approve a Ground Lease with Peoria Sports Park, LLC (PSP) to redevelop the 17-acre parking lot west of the Peoria Sports Complex into an entertainment destination that will offer formal and informal entertainment opportunities. For a current draft project concept, please see Exhibit A.

Background/Summary:

Peoria Sports Park, LLC has an executed Exclusive Negotiating Agreement (ENA) and Memorandum of Understanding (MOU) with the City of Peoria, which provides the framework to explore this redevelopment opportunity in depth, and to negotiate a public/private partnership for the financing, acquisition, development and operation of a mixed-use redevelopment project. A project update was presented to the City Council on September 4, 2012. The MOU was approved by the City Council on October 23, 2012.

The existing MOU (Exhibit B) sets forth the general understanding of the basic terms and conditions of the Ground Lease and Purchase Option Agreement for the lease and development of the Project Parcel. In addition, the MOU provides guiding principles for more detailed negotiations and economic analysis that may lead to a package of future agreements including a Development Agreement, Master Signage Agreement, and Parking Facilities Development and Use Agreement.

This agreement represents one in a series of agreements with the commercial developer. Pursuant to the terms and conditions of the MOU, PSP will be required to meet certain obligations including tenant and financing commitments, supplying the city with project-related financial documentation for economic analysis, as well as legal and financial analysis for the potential development of the city-owned parking garages to support this redevelopment project.

Purpose of the Lease:

To allow PSP use of City property to construct a mixed-use commercial project.

Scope:

- The Project targets retail and entertainment uses, restaurants, hotel, housing units, two parking garages and surface lots.
- The total Project area covers about 18 acres located east of 83rd Avenue, north of Mariners Way and south of the Alter Group buildings.
- The property to be leased to PSP is approximately 15 acres (with the remainder of the property used for parking garages, which the City will continue to own).
- The City also will provide easements to PSP for the construction of infrastructure, access to parking garages (including reserved spaces for multi-family residents), and access to the existing city non-potable water line for landscape watering.

Ground Lease Term:

The initial lease term is for a period of fifty (50) years. Provided that PSP, as tenant, is not then in default, the option is held by PSP to extend the lease term for two (2) successive terms of twenty-four and one half (24.5) years each is provided within the ground lease document. Additionally, should the parties to the ground lease not execute a development agreement within one (1) year from the effective date of the ground lease, the lease will automatically become void and terminated.

Use of the Lease Property:

- Standard permitted and prohibited uses consistent with other City leases.
- No bar with a Series 6 liquor license will be permitted on the property without City approval.
- Special events will occur on the property, often in conjunction with the Sports Complex.

Purchase Option:

Should the city desire to sell the real property subject to this ground lease, Tenant shall be notified in writing and shall have the first right to purchase the real property, for which they have a leasehold interest, at fair market value (FMV) based on an appraisal conducted at the time of the purchase request. Also, PSP shall have the right to purchase one or more of the parcels within their leasehold interest upon written notice to the City and payment of the current appraised value of the property for the first two years of the Lease and then Fair Market Value of the property through an appraisal conducted at the time they elect to purchase the property.

Ground Lease Area:

The ground lease contemplates the area in the attached draft site plan. See attached Exhibit C.

Ground Lease Rent:

Rent term includes a transition period of no rent payments for the latter of 2½ years from the Lease execution or 2 years from the issuance of a Certificate of Occupancy for the large parking garage. Rent will commence at \$4.98 per square foot (8% of appraised value) increasing by 8.5% every five (5) years during the length of the Lease.”

Next Steps in Project Implementation

This project is extremely complex and execution of the project plan depends on discussions and negotiations among six City Departments, the developer, Alter Group, and Seattle Mariners and San Diego Padres Baseball Teams.

Following the approval of the ground lease, the next steps toward implementing this project are the following:

- Third party market, fiscal and economic analysis on the performance of the planned redevelopment project as it relates to project feasibility and public benefit. This analysis will be based on construction and operating pro formas, rent rolls, Letters of Intent from tenants to occupy 80% of leased space, an approved tenant mix matrix, and other documents from the developer; and
- Negotiation of lease terms with the Alter Group associated with the placement of the 83rd Avenue parking structure on a portion of the Alter Group leasehold. This is a separate ground lease amendment negotiation;
- Further discussions with the Mariners and Padres on total parking needs, the parking garage placement, design, and functionality leading to an MOU memorializing approval of the project site plan and garage construction. This is a separate but related negotiation;
- Final negotiation of a development agreement with associated documents to include a final site plan, master signage agreement, parking facility development and use agreement, and CCRs for the project.

Previous Actions:

An Exclusive Negotiating Agreement (ENA) between the City and Osage West, LLC was approved by the City Council on March 22, 2011. A request to extend the ENA for another year was approved by the City Council on February 8, 2012. A Memorandum of Understanding (MOU) was approved by City Council with Peoria Sports Park, LLC on October 23, 2012.

Options:

A: Approve the request to enter into a Ground Lease with Peoria Sports Park, LLC. This action will continue progress on the mixed-use redevelopment project toward a Development Agreement.

B: Reject the request to enter into a Ground Lease with Peoria Sports Park, LLC. This action will terminate the project.

Staff's Recommendation:

Authorize the City Manager to enter into a Ground Lease with Peoria Sports Park, LLC for development of the mixed-use redevelopment project.

Fiscal Analysis:

Other than the ground rent previously discussed, there is no fiscal impact associated with the ground lease.

Exhibits:

- Exhibit A: Current Draft Project Concept
- Exhibit B: Memorandum of Understanding
- Exhibit C: Ground Lease Area Exhibit and Draft Site Plan
- Exhibit D: Ground Lease

Contact Name and Number: Dina Green, 623-773-7781

Hotel & Condominium Massing Study



Massing Study

B|W & A Bergman Walls & Associates
ARCHITECTS • DESIGNERS • PLANNERS

PEORIA HOTEL
Peoria, AZ

Chandler Hotel Group

January 03, 2013
Copyright 2013 Bergman Walls & Associates



PEORIA EIGHTY THREE

Peoria Sports Park LLC

83rd Ave Hotel View



View looking North towards Southwest Facade



Bergman Walls & Associates
ARCHITECTS • DESIGNERS • PLANNERS

PEORIA HOTEL
Peoria, AZ

Chandler Hotel Group

January 03, 2013
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PEORIA EIGHTY THREE

Peoria Sports Park LLC

Marnier Way Hotel View



View looking North towards South Facade

BW & A Bergman Walls & Associates
ARCHITECTS • DESIGNERS • PLANNERS

PEORIA HOTEL
Peoria, AZ

Chandler Hotel Group

January 03, 2013
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PEORIA EIGHTY THREE

Peoria Sports Park LLC

Hotel Lobby View



View looking South towards Northeast Facade

BW & A Bergman Walls & Associates
ARCHITECTS • DESIGNERS • PLANNERS

PEORIA HOTEL
Peoria, AZ

Chandler Hotel Group

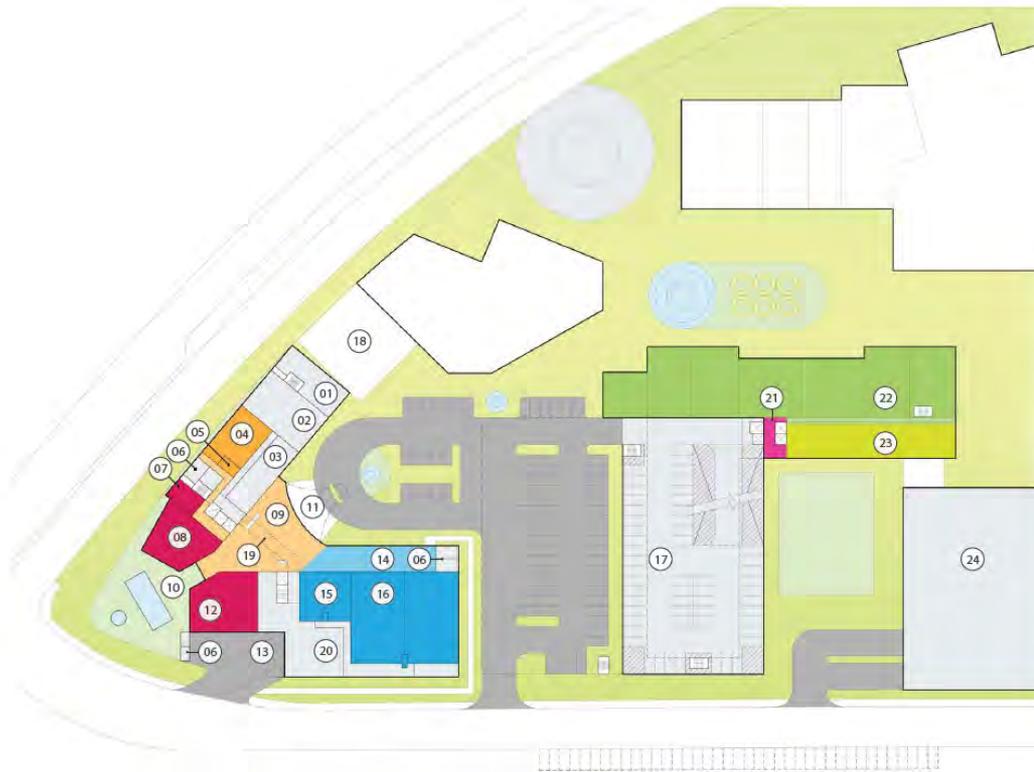
January 03, 2013
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PEORIA EIGHTY THREE

Peoria Sports Park LLC

Hotel Floor Plan



Plan Level Grade Legend

Program	NSF
01 Mechanical/Electrical	1,900
02 Hotel Back of House	4,000
03 Office/Bellman	1,250
04 Fitness/Business Center	1,000
05 Business Center	225
06 Restrooms	550
07 Sundries	2,450
08 Bar/Lounge	4,700
09 Lobby/Checkin	7,000
10 Pool Area	-
11 Porte Cochere	3,000
12 Restaurant	-
13 Loading	2,750
14 Pre-Function	2,000
15 Meeting Rooms	7,300
16 Conference Rooms	-
17 Parking Garage	-
18 Municipal Well	-
19 Basement Service Tunnel	5,800
20 Kitchen/Conference Back of House	700
21 Residential Elevator Lobby	17,700
22 Retail	4,500
23 Residential Amenities	-
24 Additional Parking Garage (not a part)	-

Total NSF - Level 01 68,025

- Fitness/Business
- Food & Beverage
- Convention
- Back of House
- Retail
- Residential
- Pre-Function
- Public
- Residential Amenities



Plan Level - Grade



PEORIA EIGHTY THREE

Peoria Sports Park LLC

P83 Garage Elevation from Stadium



P83 Garage Comparison to Mariner's Clubhouse



PEORIA EIGHTY THREE

Peoria Sports Park, LLC

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the "Memorandum"), dated October 29, 2012, is by and between PEORIA SPORTS PARK, LLC, an Arizona limited liability company (the "PSP"), and CITY OF PEORIA, ARIZONA, a municipal corporation of the State of Arizona (the "City"). The City and PSP may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

A. City is the owner of certain real property with surface parking improvements consisting of approximately seventeen and one half (17.5) acres located south of Bell Road adjacent to 83rd Avenue and Mariner Way in Peoria, Arizona along with all easement, water, signage, and parking rights appurtenant thereto (identified herein and on the attached **Exhibit A** map as the "Project Parcel/Preliminary Site Plan") located within the City's Peoria Eighty-Three (P83) Entertainment District (identified on the attached **Exhibit B** map as the "Map of District and Project Location").

B. On December 7, 2010 City issued a Request for Proposal (P11-0039) ("RFP") soliciting detailed proposals for the redevelopment of all the Project Parcel at the Peoria Sports Complex (the "Project").

C. On January 14, 2011 PSP (then under the corporate name "Osage West, LLC," which was changed on May 2, 2012 to "PSP") submitted to City a detailed Proposal in response to the Request for Proposal, and PSP was the only entity to submit a Proposal.

D. On March 29, 2011 City and PSP entered into an Exclusive Negotiating Agreement for Redevelopment of the Peoria Sports Complex Parking Areas ("ENA") so that the Parties would have a period of time to exclusively negotiate with each other in good faith for the purpose of forming a public/private partnership for the financing, development, and operation of the Project.

E. On February 8, 2012 City and PSP entered into an Extension of Exclusive Negotiation Agreement for Redevelopment of the Peoria Sports Complex Parking Areas extending the Term of the ENA until March 28, 2013.

F. Subsequent to the name change to "PSP" in May of 2012, Managing Member Michael Oliver added Jared Chandler and the Chandler Hotel Group to the PSP team. As part of the City's due diligence concerning PSP, the City has researched and confirmed that no lawsuits presently exist against Michael Oliver (personally), Jared Chandler (personally), Chandler Hotel Group (corporate), and Peoria Sports Park, L.L.C. (corporate).

G. PSP and the City are entering into this Memorandum to set forth their general understanding of the basic terms and conditions of the Project negotiations which have occurred under the ENA, for the redevelopment of the Project Parcel pursuant to the City RFP. PSP and the City acknowledge that this Memorandum is entered into in contemplation of, and in order to

provide guiding principles for, more detailed negotiations that may lead to legally enforceable contractual commitments, including potentially a package of agreements listed in Recital H below.

H. The Parties anticipate that definitive contract documents may include a Ground Lease and Purchase Option Agreement ("Ground Lease") (with provisions addressing the Government Property Lease Excise Tax ("GPLET"), A.R.S. §§ 42-6201, et seq., as applicable), a Development Agreement, a Parking Facility Development and Use Agreement (including the Parking Garage(s) and Surface Parking Lots, collectively the "Parking Facilities"), a Master Signage Agreement, CC&R's and related Property Owner Association documents for the management of the uses within the Project, easements for infrastructure, and the use of the on-site water well (if any), and the Parking Facilities. Collectively these documents will memorialize the understanding of the Parties pursuant to the City's lease of a portion of the Project Parcel to PSP (the "Lease Parcel") authorizing PSP to develop, operate and maintain a mixed use commercial development on the Lease Parcel, PSP's obligation to pay rent to the City, PSP's authorization to construct, landscape, maintain and use the Parking Facilities and PSP's authorization to construct, operate and maintain Signage to the extent authorized under the RFP and ENA. The term "Signage" as used in this MOU includes static, digital and wireless components. Prior to entering in the Development Agreement, the City will complete, using an independent firm, an economic analysis of the deal points agreed to by the Parties, including the City contributions.

I. The Parties understand and agree that PSP's initiation of Project development on the Leased Parcel is conditioned upon the following being completed prior to any work proceeding:

1. City Council approval of this Memorandum.
2. City Council approval of the Ground Lease.
3. Completion of an economic analysis for the Project and the City Parking Garage(s) construction.
4. City Council approval of a Development Agreement, including a Parking Facilities Development and Use Agreement and Master Signage Agreement.
5. PSP satisfying the Tenant and Project Financing Commitments pursuant to Section 1(a) of this Memorandum.
6. City Council approval of any documents needed for the issuance of City debt for the design and construction of the Parking Garage(s).
7. City Council approval for implementation of the District identity, place-making and pedestrian connectivity improvements per the existing Design Concept Report process underway.

The Parties acknowledge that the various agreements and documents identified above must be entered into by the Parties before the City can pursue the issuance of any City debt for the construction of the Parking Garage(s) and related improvements. As a result, the Parties agree to make reasonable best efforts to finalize all of the necessary agreements after entering into this Memorandum.

NOW, THEREFORE, the Parties agree to enter into this Memorandum of Understanding as follows:

UNDERSTANDINGS

1. **PROJECT PREPARATION**

(a) **Tenant and Project Financing Commitments.**

In order to proceed with construction of the Parking Garage(s), the hotel and the retail portion of the Project, PSP must provide to the City documentation satisfying all of the following developer performance measures (“Tenant and Project Financing Commitments”):

(i) At least eighty percent (80%) of Phase 2 of the project retail, restaurant, and entertainment space must be absorbed, as evidenced by executed contingent leases, with the only contingency being construction of the Parking Garage(s). In the event PSP obtains written, unconditional approval from a viable construction lender to provide construction financing for the entirety of the Project (Phases 1 and 2), except for that portion of the Project devoted to multi-family housing (Phase 3), and upon City review of the construction lender’s due diligence and underwriting package, the City agrees to accept executed contingent leases, with the only contingency being construction of the Parking Garage(s), absorbing no less than 60% of Phase 2 of the Project retail, entertainment, and restaurant space, as well as 100% of the Phase 1 hotel space. As part of the City accepting 60% contingent executed leases for the Phase 2 retail, restaurant and entertainment space in the Project, PSP must establish that 100% of the City approved anchor tenants are included in the 60% space absorption threshold.

(ii) An unconditional written commitment from PSP’s construction lender to lend the funds necessary to construct Phase 2 of the Project.

(iii) An equity commitment to leverage PSP’s construction loan.

(iv) If PSP’s residential and hotel assets will be financed separately from the balance of the Project, then the information described in Subsections (ii) and (iii) for those assets.

(v) To the extent permitted by PSP’s construction lender, PSP agrees to provide the City a copy of its construction lender’s due diligence and underwriting package for

the Project construction loan for the purpose of assessing the degree of additional documentation and information needed to assess the likely success of the Project going forward.

(b) City Parking Facilities Development.

(i) Parking Garage(s) and Surface Parking Lot(s)

City intends to own one or more Parking Garage(s) to accommodate 1,930+/- spaces within the Project Parcel to serve both the Peoria Sports Complex uses and Project. PSP will be responsible, at its cost, for the construction and maintenance of all surface parking lots within the Project (currently estimated to provide 374 spaces). The preliminary cost estimate for designing and constructing the Parking Garage(s) is approximately \$30,000,000. The Parties agree to work together in good faith and perform additional analysis to refine and update this cost figure. The Parties intend to enter into a Parking Facilities Development and Use Agreement whereby the City will (1) contract with PSP to design and construct one or more Parking Garage(s), (2) design and construct the Surface Parking Lot(s), and (3) if necessary, convey easement/license rights to PSP to access and use the Parking Facilities for the benefit of the Project. Under the contract the Parking Garage(s) would be constructed by PSP for a not-to-exceed fee to be set by the Parties after the Garage(s) have been designed and a final construction cost contract is established by PSP. Upon completion of construction, the City will own the Parking Facilities. The Parking Facilities Development and Use Agreement will also address the post-construction management, operation, and maintenance of the Parking Facilities. PSP and the City agree to research and analyze the viability of constructing solar panels on shade structures constructed on the top parking level of the Parking Garage(s) and in the surface parking lot, which may be in partnership with the Seattle Mariners Baseball Club and/or San Diego Padres.

(ii) Parking Garage Financing.

The City is prepared to pay approximately \$30,000,000 for the cost of constructing a number of parking spaces in the Parking Garage(s) which are equivalent to the number of parking spaces currently within the Project Parcel. Depending on the location of the Parking Garage(s) on the final Site Plan and the number of parking spaces planned for the Parking Garage(s), PSP may need to add or reserve a specific number of parking spaces in the Parking Garage(s) for the exclusive use of the Project. In the event that PSP does desire to add or reserve a designated number of parking spaces for the Project, PSP shall pay an amount calculated by the total Parking Garage(s) construction cost ÷ total number of parking spaces x the number of reserved spaces for PSP = PSP cost towards the cost to construct the Parking Garage(s). If PSP desires to add or modify design elements to the Parking Garage(s) (and the City approves of such design changes), PSP shall be responsible for paying for all such additional costs. The City will determine the best source(s) of funding for its share of the Parking Garage design and construction costs. As such, it may issue Municipal Development Authority (MDA) bonds backed by all City excise taxes. When the Parking Garage(s) design is completed, if the total construction cost of the Parking Garage(s), minus any funds contributed by PSP for Project purposes, is greater than the amount of available City funding, the Parties agree to meet in good

faith to attempt to resolve the issue. If the issue cannot be resolved, the agreements will contain remedy provisions outlining the process by which the Parties may terminate the agreements.

(iii) Design and Construction.

Pursuant to the Parking Facilities Development and Use Agreement the Parties will enter into an agreement whereby PSP will design and build the Parking Garage(s). The Parties will designate representatives who will be extensively involved in all design and preconstruction activities. The Parties will choose different design elements and ideas, different construction elements and methods, as well as different improvements and finishes, etc. to ensure the Parking Garage(s) conform to the design elements of the mixed use project and the Sports Complex structures and improvements. All aspects of the Parking Garage(s) design will be subject to the approval of both Parties, both prior to bidding and throughout construction, including all change orders. PSP must follow all applicable State laws regarding public bidding, procurement, design, and construction.

(iv) Construction Schedule

PSP agrees to begin construction of the Parking Garage(s) at such time as (1) PSP obtains the necessary Tenant and Project Financing Commitments, (2) all final legal agreements are in place between the City and PSP, and (3) the City obtains the concurrence of the Seattle Mariners and San Diego Padres of the location, size, and design (including ingress and egress) of any applicable Parking Garage(s). The Parties acknowledge and agree that time is of the essence. The goal of the Parties is that construction of the Parking Garage(s) will begin no earlier than April 15, 2013 and be completed no later than February 15, 2014. The parties jointly will develop a timeline and will use their reasonable best efforts to meet the timeline for completion of the entitlement, contract drafting and negotiation and construction processes. At the time of entering into the Development Agreement, the Parties should be able to establish a firm construction schedule. Both Parties acknowledge that other construction activities will be taking place in the Peoria Sports Complex (the remodeling of two baseball clubhouses and the stadium) that will need to be coordinated in order to obtain the timely completion of the Project. The Parking Facilities Development and Use Agreement will include a liquidated damages provision imposing appropriate penalties upon PSP if it begins construction but then fails to complete the Parking Garage(s) by the beginning of any Spring Training season on February 15th. In the event the Parties are unable to begin construction in time to complete construction of the Project prior to February 15, 2014, the Parties agree to work together in good faith to establish a revised construction schedule and with a goal of constructing the Project between April 15, 2014 and February 15, 2015.

(c) Technical Studies and Project Zoning.

In addition to the foregoing, and in support of the RFP and ENA, the following technical studies and Project zoning activities have occurred:

(i) Traffic Study.

PSP has completed, and City staff has reviewed, the initial Traffic Impact Analysis (“TIA”). Upon full build out, the proposed development is expected to add approximately 20,570 new trips with 1,460 occurring in the AM peak hour, and 940 occurring in the PM peak hour. The TIA indicates that the intersections along the 83rd Avenue corridor are predicted to operate at acceptable Level of Service D, or better. Some individual approaches of these intersections are predicted to experience poor levels of service; however, they can be improved by small adjustments to the signal timings.

The progression analysis concludes that the PM traffic along this corridor is expected to experience slightly lower speeds and increased delays in the future years. Additional traffic from events at the Peoria Sports Complex will have an impact on 83rd Avenue traffic by increasing travel time between Skunk Creek and Bell Rd.

(ii) **Parking Study.**

PSP has completed, and City staff has reviewed, a Project Parking Study (“Parking Study”). As part of assessing Project parking impacts, the Parking Study was completed to determine the maximum parking usage during high-demand daytime and nighttime Spring Training games on weekends and identify an appropriate standard to apply to the Project to ensure adequate capacity. It is required that the Project fully replace any stadium surface parking which it disrupts. The proposed Parking Garage(s) (1,930+/- spaces) will accommodate all of the affected surface parking spaces and provide adequate parking for the Project. The Parking Study concludes that 85% to 90% parking space utilization should be expected on days with maximum parking demand, which is consistent with numerous similar mixed use entertainment areas around the country. City staff agrees with the Parking Study’s conclusions and shared parking solution.

(iii) **Design Concept Report.**

As part of the City advancing the principals of the adopted Sports Complex Urban Design Plan, the City has completed conceptual place-making and pedestrian orientation designs for the District and is now in the Design Concept Report process. The P83 Design Concept Report (DCR) process to transition from conceptual designs to engineered designs, alternatives and costs estimates is underway.

- Project kick-off meeting was held July 25, 2012
- Preliminary cost estimates are due by November 2012
- Preferred DCR scheduled for completion January 2013
- Final DCR scheduled for completion April 2013
- An objective of completing construction of appropriate portions of the DCR at the City’s discretion on or before September 2014

(iv) Minor Planned Area Development Amendment.

As part of the District, the underlying Planned Area Development (“PAD”) zoning regulations must be amended to accommodate the urban, pedestrian-friendly, quality-designed development desired for the Project. City staff has been working closely with the design team to craft regulations which speak to these needs while preserving the interests of the two baseball teams. The regulations will specify high-quality materials, pedestrian connectivity, exciting and dynamic signage and a variety of retail, dining, entertainment, lodging, convention, and residential uses. The PAD will promote multi-story, dense development that will begin the transition of the district from a suburban shopping and dining area to the vibrant district envisioned by the Peoria Sports Complex Urban Design Plan and the P83 identity plan. The draft regulations are expected to be complete in the fall of 2012.

The Minor PAD amendment was not subject to a protest within the applicable window pursuant to Section 14-33-4.E.2 of the City of Peoria Zoning Ordinance and is therefore an administrative review which does not require action by the City Council or Planning and Zoning Commission.

(v) Technical Studies are Public Records.

PSP and the City each have prepared and will continue to prepare (internally or through the use of consultants) various technical studies in furtherance of the investigation and analysis of the potential development of the Project. The Parties agree that such studies are Public Records that may be used by either Party for any future purpose.

(vi) Economic Analysis.

Prior to the Parties entering into the Development Agreement, an economic analysis by a City-commissioned third party consultant will be required. PSP will be required to submit the following documents as part of the economic analysis:

- Final tenant mix matrix.
- Executed Letters of Intent absorbing eighty percent (80%) of the retail, restaurant and entertainment space of the Project.
- Final development program and structure for the hotel and residential portions of the Project.
- Project construction pro forma.
- Parking Garage(s) construction pro forma.
- Project operating pro forma.
- Project as-built appraisal.

2. Agreements and Understandings.

(a) Development Agreement.

The Parties intend to draft and enter into a Development Agreement in compliance with the provisions of A.R.S. § 9-500.05, whereby the City would, among other things, contract with PSP to ground lease, plan, develop and construct the Project, to design and construct, or cause to be designed and constructed, the Parking Garage(s) and the Surface Parking Lot(s), and to construct, operate and maintain Signage to the extent authorized under the RFP and ENA. The Development Agreement will provide authorizations for PSP to conduct its work, as may be necessary, on adjacent City owned property and in the City's rights of way. It will address the process and procedures for the Parties to identify and share the costs of any necessary street and infrastructure needs of the Project. In order to enter into a Development Agreement, the Parties must agree on a Project Site Plan with a location and design of the Parking Garage(s) acceptable to all affected third parties (such as the baseball teams and potentially the Alter Group), PSP must submit to the City and the City approve a new market study (providing PSP's rent rolls, CAM charges, costs per square foot, and other relevant information), and the City must complete an economic analysis of the benefits and costs of the Project to the City.

(b) Ground Lease.

The Parties intend to enter into a Ground Lease in which the City would lease to PSP the Lease Parcel permitting PSP to develop a mixed use development that will include hotel, commercial, retail and multi-family uses. The Ground Lease would be for an initial term of 50 years with two 24.5 year extension options triggered by mutual agreement of the Parties. PSP would pay rent to the City based on an agreed upon percentage of the appraised value of the Lease Parcel. The Ground Lease may contain GPLET provisions providing property tax relief to PSP during the Lease term as authorized by State law. PSP would have the right to mortgage its leasehold interest so long as all Ground Lease terms continue to apply, but the City's fee simple interest in the land could not be encumbered or be subordinated to the lease or the lenders. The Project Parcel may be partitioned into no more than four (4) separate parcels. Three of those parcels would be located on the Lease Parcel covering the hotel, retail and multi-family portions of the Project, and the fourth parcel would be located on the lands the City retains within the Project Parcel. The Lessee would have an option to purchase all or portions of the Lease Parcel as well as a Right of First Refusal in the event the City was to elect to sell all or a portion of the Lease Parcel.

(c) Master Signage Agreement.

The Parties intend to enter into a Master Signage Agreement permitting PSP to construct, operate and maintain Signage to the extent authorized under the RFP and ENA. Signage within the Project Parcel will be addressed separately in the Ground Lease. Any Signage providers must be approved by the City, which may not unreasonably be delayed or withheld. Wireless signage is intended to broadcast information to the patrons of the District in the form of digital communication to all wireless devices in or near the District. A portion of all Signage may be used to communicate specifically with users of the Peoria Sports Complex for City events and to support promotion and advertising related to such events, including Spring Training baseball. The Parties agree to work in good faith to determine how Signage opportunities will be

coordinated and addressed in relation to the Stadium's advertising, sponsorship, and marketing programs. All Signage shall comply with content standards provided by the City.

(d) Easements and Licenses; Potential Water Use.

The City intends to convey to PSP those certain easement or license rights necessary to support the development and operation of the Project, including easements for PSP to locate, construct and maintain, or cause to be located, constructed and maintained, all necessary City infrastructure, public and private utilities. In addition, subject to further research and discussion among the Parties, it is possible that the Parties may agree that the City will convey to PSP an easement to access the on-site water well and use water therefrom within the Project Parcel (which would need to comply with all applicable laws and Peoria City Code provisions, including potentially those addressing Non-Potable Water Service, Sections 25-68 *et seq.* and the City's adopted non-potable water rate). PSP is willing to bear the cost of the necessary water system improvements and the electricity to pump and deliver the water.

(e) Covenants, Conditions and Restrictions (CC&R's).

The Parties intend to draft and record against the Project Parcel a set of CC&R's that will set forth and regulate the approved land uses, to manage and direct the design and development, and to manage and maintain the Project area in order to promote its orderly development, maintenance, preservation, use and enjoyment.

(f) Site Plan.

The Site Plan reflects the proposed mixture of uses within the Project. The uses include a full service boutique Hilton Hotel with between 155 to 175 rooms and with 15-25 thousand square feet of conference room space (See example exhibit of Potential Hotel Design attached hereto as **Exhibit C**), a retail component of approximately 215,000 square feet, a multi-family development of approximately 110 units, and a parking garage for 1,930+/- spaces. A copy of the preliminary Project Site Plan (which the Parties understand will change before it is finalized) is attached hereto as **Exhibit A**. A copy of the Preliminary Construction Cost Pro Forma is attached hereto as **Exhibit D**.

(g) Design and Architecture.

PSP will design and construct the Project. The Parties will designate representatives who will be extensively involved in all design and preconstruction activities. PSP will choose different design elements and ideas, different construction elements and methods, as well as different improvements and finishes, etc. to ensure the Project conforms to the design elements of the Sports Complex structures and improvements and the Parking Garage(s). PSP's designs for the Project must comply with the City's approved Urban Design Plans for the District and will be processed through the Site Plan Review process for the City's approval, which will not unreasonably be delayed or withheld.

(h) Parking Facilities.

The Parties intend to draft and enter into a Parking Facilities Development and Use Agreement whereby the City would contract with PSP to develop, construct and landscape, or cause to be developed, constructed and landscaped:

- The Parking Garage(s),
- The Surface Parking Lot(s)

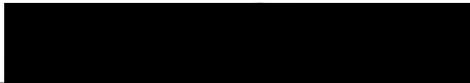
and convey the necessary easement or license rights authorizing PSP to access and use these Parking Facilities for the benefit of the Project. It is intended that the Parking Facilities will be shared by the Project and the Spring Training Baseball Games but the Parties agree to work together to ensure that nothing hinders the City's use of the Parking Facilities for Spring Training Baseball Games and other events held at the Peoria Sports Complex by the City or by entities under contract with the City.

(i) **Compliance with Baseball Agreements.**

The City has provided to PSP three agreements that the City recently entered into with the Seattle Mariners and San Diego Padres concerning their continued use of the Peoria Sports Complex for Spring Training baseball and other baseball uses throughout the year ("Baseball Team Agreements"). The Baseball Team Agreements are comprised of an Improvements Agreement among the City and both teams (effective June 19, 2012) and two substantively-identical Use Agreements between the City and each of the teams (Mariners: effective June 19, 2012 and Padres: effective June 29, 2012). The Baseball Team Agreements include provisions (Sections 4.1 and 4.2 of the Improvements Agreement and Section 7 of the Use Agreements) relating to development of the Peoria Sports Complex, including the Project Parcel. PSP has reviewed the Baseball Team Agreements generally and the cited provisions specifically, and PSP acknowledges and agrees that the Project as it moves forward is required to comply with the Baseball Team Agreements.

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the date first above written.

PEORIA SPORTS PARK LLC, an Arizona limited liability company

By: 

Name: Michael Oliver

Title: MANAGING MEMBER

CITY OF PEORIA, ARIZONA a municipal corporation of the State of Arizona

By: Susan Thayer for
Name: CARL SWENSON
Title: City Manager

Attest:

Linda Blas
for City Clerk



Approved as to Form:

Stephen Biny
City Attorney

List of Exhibits

- Exhibit A - Project Parcel/Preliminary Site Plan
- Exhibit B - Map of District and Project Location
- Exhibit C - Potential Hotel Design
- Exhibit D - Preliminary Construction Cost Pro Forma

Exhibit A
Project Parcel/Preliminary Site Plan



SITE PLAN LEGEND

- HOTEL - 4 STOR, 228 VEH, 8 STORMS
- RESUBMIT
- STAND ALONE PAD
- HOTEL RESTAURANT PAD
- RESTAURANT
- DRIVE THRU RESTAURANT
- RESTAURANT
- RESTAURANT
- REPAIR AREA
- RESIDENTIAL TOWNHOMES
- PARKING
- HOTEL STRUCTURE - 2 BASEMENT LEVELS - 170 SPACES
- ON-SITE GARAGE - 45 STRUCTURED LEVELS @ 2,000 SPACES
- SURFACE PARKING - 404 SPACES
- TOTAL PROPOSED PARKING = 2,604 SPACES
- EXISTING PARKING = 1,951 SPACES
- NET GAIN = 753 SPACES
- SHADED AREAS
- LANDSCAPE AREAS
- COURTYARD/POOL
- CITY OF PEORIA WELL ARE

**THE PEORIAN @
THE SPORTS COMPLEX**

PEORIA, AZ.

PREPARED FOR PEORIA SPORTS PARK, LLC.

DRAFT
NOT FOR
CONSTRUCTION

Baker

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COMPILED 8/2012 MICHAEL BAKER & ASSOCIATES, INC.

DATE: 09-27-2012 SCALE: 1" = 100'-0"

SHEET NUMBER

SITE STUDY PLAN

Exhibit B
Map of District and Project Location

1 ENTERTAINMENT DISTRICT PLAN
SCALE: 1" = 300'-0"



33 37'10.59" N, 112 14'42.31" W Elev. 1170.0'



DATE	SCALE
09-27-2012	1" = 300'-0"
SHEET NUMBER	
ENTERTAINMENT DISTRICT PLAN	

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THE PEORIAN @
THE SPORTS COMPLEX
PEORIA, AZ.
PREPARED FOR PEORIA SPORTS PARK, LLC.

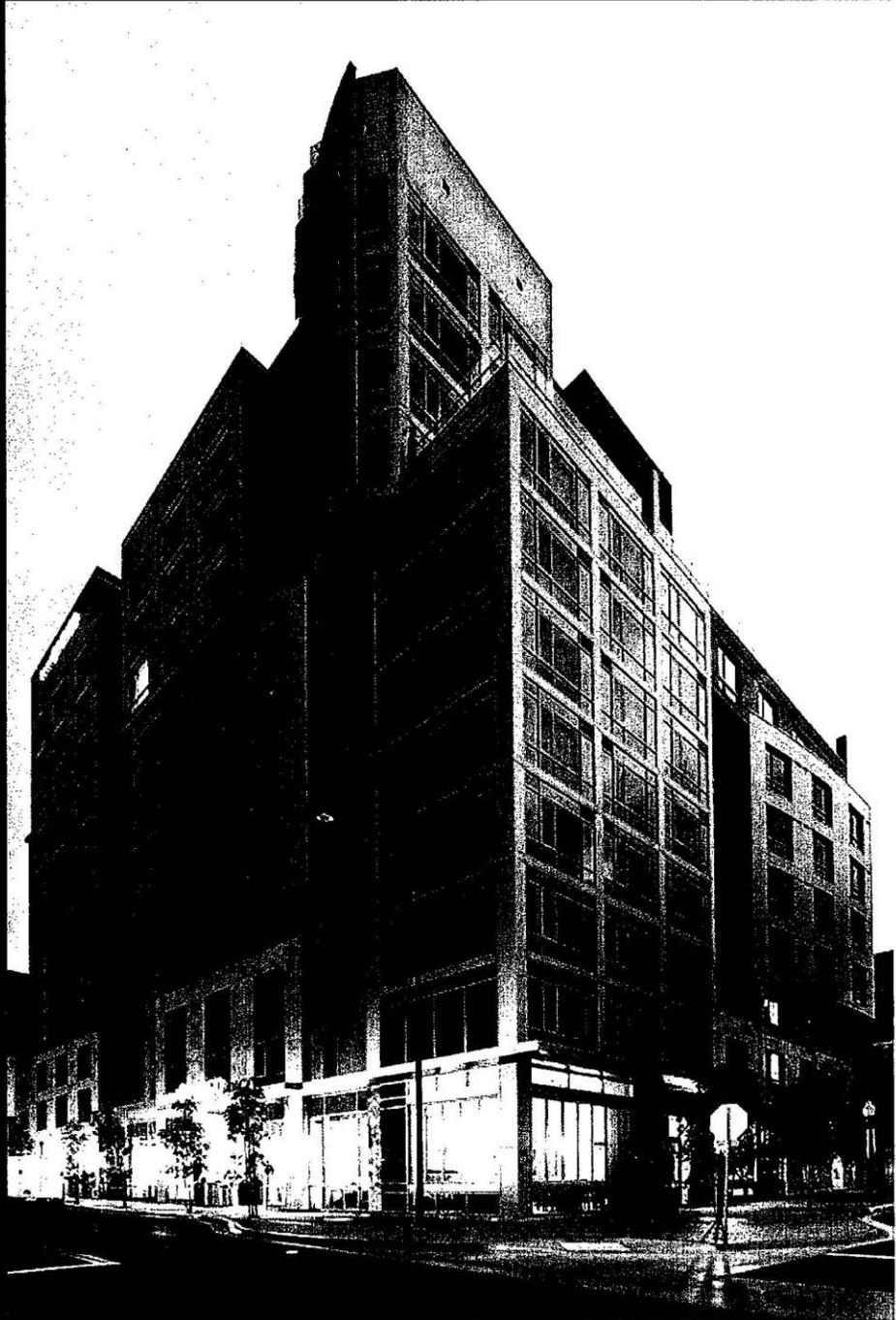
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Exhibit C
Potential Hotel Design

Hotel Indigo

San Diego, California



PHOTOGRAPHY BY
JAMES HENDEL
www.jameshendel.com
TEL: 619.444.1234

**Hensel Phelps
Construction Co.**

Exhibit D
Preliminary Construction Cost Pro Forma

The Peorian @ The Sports Complex
Preliminary Cost Model Estimate

Concept Master Plan				Building Areas/Unit Cost				Parking Analysis			
ITEM	Keys	Net SF/Key	Gross SF/Key	AREA	UNIT COST	TOTAL	Area	Stalls	SF/Stall	U.P./Stall	
											Lobby Level - (Core & Shell)
Conf/Mtg Rooms Level 1 - (Core & Shell)				20,000	GSF	\$120.00	\$2,400,000				
Level 2 - Guestrooms (Core & Shell)	26	462	615	16,000	GSF	\$110.00	\$1,760,000				
Level 3 - Guestrooms (Core & Shell)	26	462	615	16,000	GSF	\$110.00	\$1,760,000				
Level 4 - Guestrooms (Core & Shell)	26	462	615	16,000	GSF	\$110.00	\$1,760,000				
Level 5 - Guestrooms (Core & Shell)	26	462	615	16,000	GSF	\$110.00	\$1,760,000				
Level 6 - Guestrooms (Core & Shell)	26	462	615	16,000	GSF	\$110.00	\$1,760,000				
Level 7 - Guestrooms (Core & Shell)	26	462	615	16,000	GSF	\$110.00	\$1,760,000				
Level 8 - Guestroom Suites (Core & Shell)	19	632	842	16,000	GSF	\$110.00	\$1,760,000				
Level 9 - Rooftop Bar (Core & Shell)				7,000	GSF	\$110.00	\$770,000				
Interior Finishes (Public Spaces & BOH)			0.80	40,000	GSF	\$80.00	\$3,200,000				
Interior Finishes (Guestrooms)			0.75	64,000	GSF	\$60.00	\$5,040,000				
Interior Finishes (Rooftop Bar)			0.85	5,950	GSF	\$150.00	\$892,500				
FF&E/OS&E Allowance							w/ Hotel Dev				
Totals	175	966		169,000	GSF	\$167.00	\$28,222,500				
Total Cost / Key							\$181,271				
Parking Level P1				30,000	GSF	\$55.00	\$1,650,000	30,000	85	353	
Parking Level P2				30,000	GSF	\$55.00	\$1,650,000	30,000	85	353	
Totals				60,000	GSF	\$55.00	\$3,300,000	60,000	170		
Total Cost / Stall							\$19,412				
	Units	SF/Unit									
(SF/Unit assumes 87% Eff. Factor)		0.85									
Level 1 - Parking Access / Misc.	8	2,125		20,000	GSF	\$110.00	\$2,200,000				
Level 2 - Residential Units (Core & Shell)	24	1,240		35,000	GSF	\$110.00	\$3,850,000				
Level 3 - Residential Units (Core & Shell)	22	1,352		35,000	GSF	\$110.00	\$3,850,000				
Level 4 - Residential Units (Core & Shell)	22	1,159		30,000	GSF	\$110.00	\$3,300,000				
Level 5 - Residential Units (Core & Shell)	20	1,063		25,000	GSF	\$110.00	\$2,750,000				
Level 6 - Residential Units (Core & Shell)	14	1,214		20,000	GSF	\$110.00	\$2,200,000				
Interior Finishes (Residential Net Area)				140,250	GSF	\$65.00	\$9,116,250				
Add for Pool / Misc. Site Amenities				1	LSUM	\$500,000	\$500,000				
Totals	110			165,000	GSF	\$168.28	\$27,766,250				
							\$252,420				
Level 1 - Under Residential Condos/Apts.				19,239	GSF	\$120.00	\$2,308,680				
Anchor Retail - Multi Story (Core & Shell)				30,800	GSF	\$120.00	\$3,696,000				
Level 1 - Cup Cakes Bldg (Core & Shell)				6,700	GSF	\$120.00	\$804,000				
Retail - Ent. 2 Stories (Core & Shell)				18,000	GSF	\$120.00	\$2,160,000				
Retail - (Core & Shell)				3,000	GSF	\$120.00	\$360,000				
Retail - NW Prkg 2 Stories (Core & Shell)				13,200	GSF	\$120.00	\$1,584,000				
Retail - Coffee (Core & Shell)				1,800	GSF	\$120.00	\$216,000				
Retail - Hotel Pad (Core & Shell)				8,600	GSF	\$120.00	\$1,032,000				
Retail - 2 Stories (Core & Shell)				18,400	GSF	\$120.00	\$2,208,000				
Retail - Balance to Site Plan (7/20/12)				18,570	GSF	\$120.00	\$2,228,400				
Tenant Finish Allowance				138,309	GSF	\$40.00	\$5,532,360				
Totals				138,309	GSF	\$160.00	\$22,129,440				
Dave & Buster's - 2 Stories (Core & Shell)				34,200	GSF	\$130.00	\$4,446,000				
Z Strike - 2 Stories (Core & Shell)				24,500	GSF	\$100.00	\$2,450,000				
Misc. - (Core & Shell)				1,900	GSF	\$100.00	\$190,000				
Tenant Finish Allowance				58,700	GSF	\$80.00	\$4,696,000				
Totals				60,800	GSF	\$194.42	\$11,782,000				
Restaurant - Lux. Apts. (Core & Shell)				6,300	GSF	\$130.00	\$819,000				
Restaurant - Anchor Retail (Core & Shell)				5,300	GSF	\$120.00	\$636,000				
Restaurant - (Core & Shell)				4,400	GSF	\$130.00	\$572,000				
Restaurant - Bagels (Core & Shell)				1,700	GSF	\$130.00	\$221,000				
Restaurant - Separate Pad (Core & Shell)				5,000	GSF	\$130.00	\$650,000				
Restaurant - Hotel Pad (Core & Shell)				8,000	GSF	\$130.00	\$1,040,000				
Restaurant - Coffee (Core & Shell)				1,800	GSF	\$140.00	\$252,000				
Tenant Finish Allowance				32,500	GSF	\$125.00	\$4,062,500				
Totals				32,500	GSF	\$253.92	\$8,252,500				
Structured Parking Garage											
Precast Parking Garage				653,030	GSF	\$37.81	\$24,687,869	653,030	2004	326	
Escalator Elevator Tower				16,500	GSF	\$349.58	\$5,768,132			\$2,878	
Sitework				1	LSUM		\$1,197,818			\$598	
				669,531	GSF	\$47.28	\$31,653,819	653,030	2,004	\$15,795	
Sitework											
Site Demolition & Preparation				20	ACRE	\$9,500	\$190,000				
New Surface Parking				130,900	SQFT	\$5.00	\$654,500	130,900	374	350	
Roadways & Parking Lots				1	LSUM	\$250,000	\$250,000				
Pedestrian Paving & Hardscape				20	ACRE	\$15,000	\$300,000				
Landscape and Irrigation per Site Plans *				20	ACRE	\$45,500	\$910,000				
Site Utilities (Sewer, Water, Storm)				20	ACRE	\$25,000	\$500,000				
Site Utilities (City Well Site Work)				1	LSUM	\$150,000	\$150,000				
Site Utilities (Electrical Distribution)				20	ACRE	\$20,000	\$400,000				
Site Lighting				20	ACRE	\$25,000	\$500,000				
Retail Kiosks - Enclosed				2	EACH	\$100,000	\$200,000				
Retail Kiosks - Open				4	EACH	\$25,000	\$100,000				
Monument Signage				1	LSUM	\$50,000	\$50,000				
Overall Site Signage				1	LSUM	\$50,000	\$50,000				
Off Site Improvements				1	LSUM	\$250,000	\$250,000				
				20.0	ACRE	\$225,225	\$4,504,500				

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EXHIBIT C

ENTERTAINMENT AREA: 37,197 SF	83,642 SF
RESTAURANTS AREA: 46,445 SF	
HOTEL AREA: 238,646 SF	FULL SERVICE, 176 KEYS, 11 STORIES ROOFTOP LOUNGE 10,000 SF OF CONFERENCE SPACE PARKING ON BASEMENT AND 1ST LEVEL HEIGHT: 166'
PARKING STRUCTURES: 2,115 SURFACE PARKING: 437	
RESIDENTIAL AREA: 195,850 SF	110 UNITS, 5 STORIES HEIGHT: 80'
RETAIL AREA: 140,571 SF	
OFFICE (SECOND FLOOR ABOVE RETAIL) AREA: 7,484 SF	



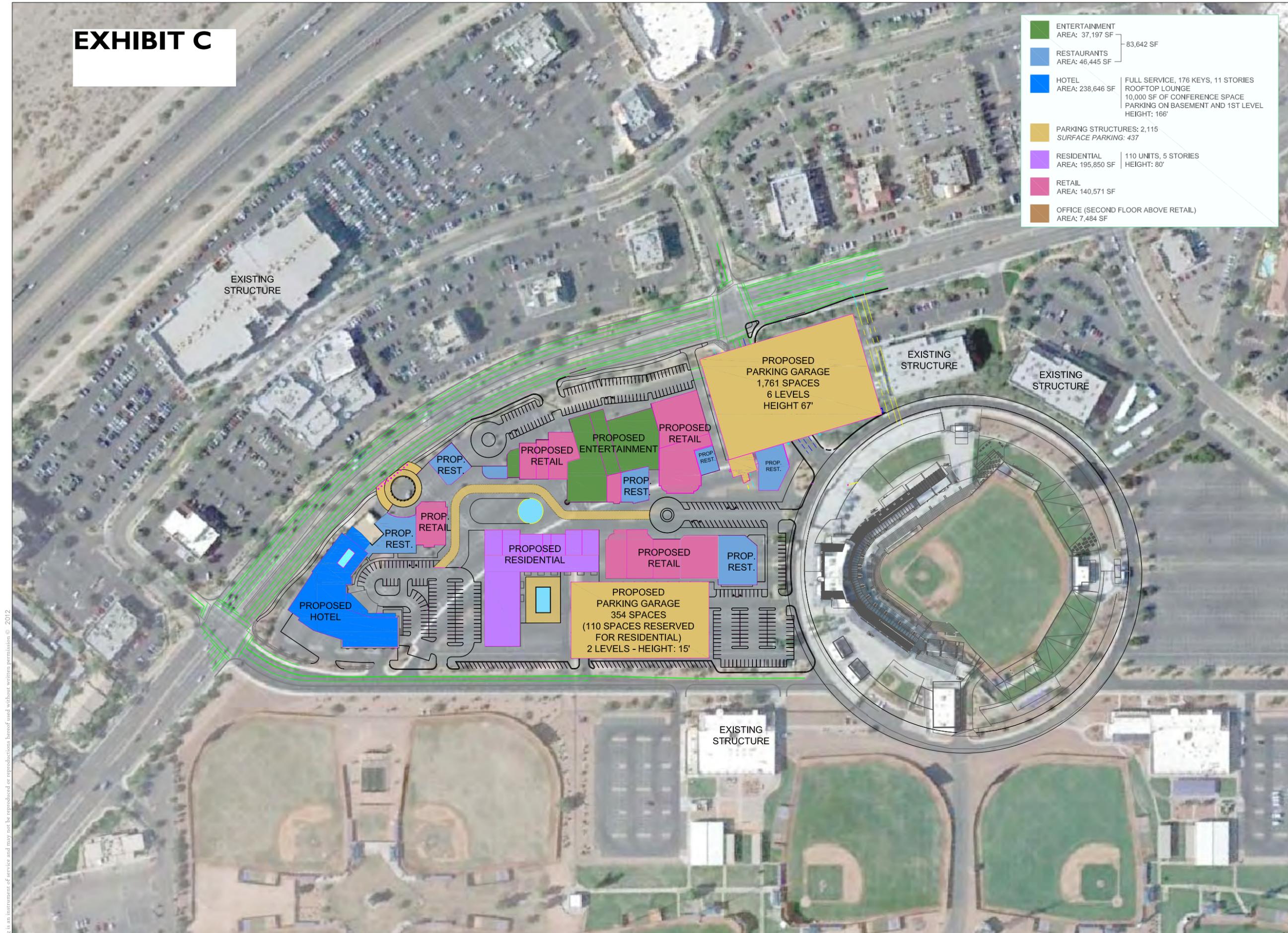
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NOT
FOR
CONSTRUCTION

PEORIA PARKING GARAGE PEORIA SPORTS COMPLEX PEORIA, AZ.

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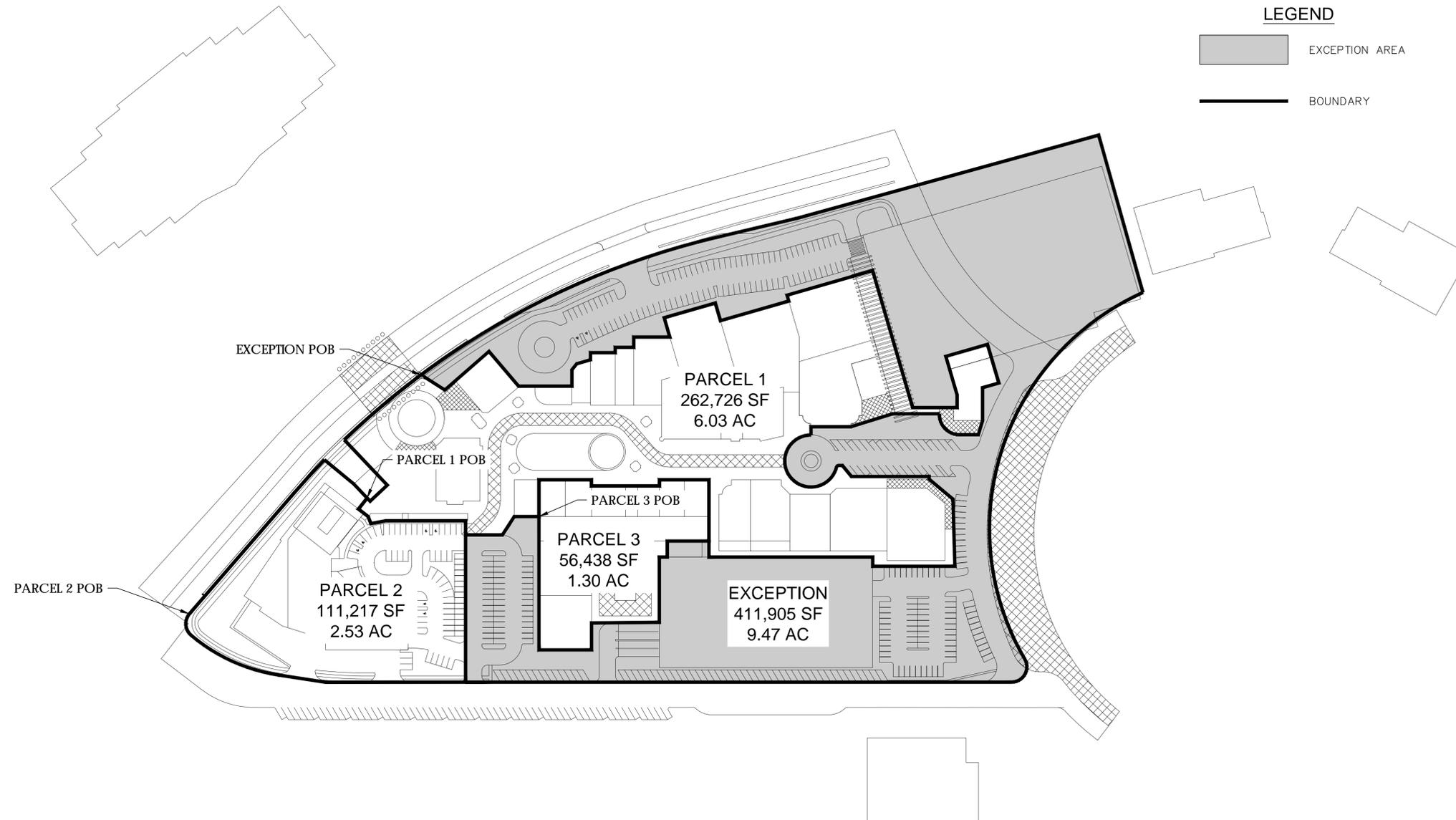
DATE	SCALE
01-04-2013	1" = 100'-0"

SHEET NUMBER
**SD-1
PROPOSED
SITE PLAN**



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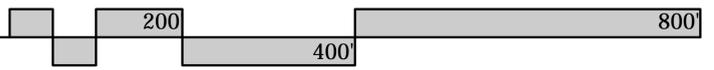


THE PEORIAN @
THE SPORTS COMPLEX
PEORIA, AZ.
PREPARED FOR PEORIA SPORTS PARK, LLC.

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DATE	SCALE
1-8-2013	1" = 100'-0"
SHEET NUMBER	
SITE LEASE AREA PLAN	

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**P83 GROUND LEASE, EASEMENT AND PURCHASE OPTION AGREEMENT
FOR PREMISES LOCATED SOUTH OF BELL ROAD
ADJACENT TO 83RD AVENUE AND MARINER WAY IN PEORIA, ARIZONA**

This P83 Ground Lease, Easement and Purchase Option Agreement - for Premises located south of Bell Road adjacent to 83rd Avenue and Mariner Way in Peoria, Arizona ("Lease") is made as of the ___ day of _____ 2013, by and between the **City of Peoria, Arizona**, an Arizona charter municipality ("Lessor"), and **Peoria Sports Park, LLC**, an Arizona limited liability company (formerly known as Osage West, LLC) ("Tenant"). Lessor and Tenant may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, Lessor is the owner of certain real property with surface parking improvements consisting of approximately seventeen and one-half (17.5) acres located south of Bell Road adjacent to 83rd Avenue and Mariner Way in Peoria, Arizona along with all easement, water, and parking rights appurtenant thereto as legally described on **Exhibit "A"** and depicted as one of the parcels on **Exhibit "B"** attached hereto and incorporated herein by this reference (the "Project Parcel").

WHEREAS, on December 7, 2010 Lessor issued a Request for Proposal (P11-0039) soliciting detailed proposals for the redevelopment of all the Project Parcel at the Peoria Sports Complex (the "Project").

WHEREAS, on January 14, 2011 Tenant submitted to Lessor a detailed Proposal in response to the Request for Proposal, and Tenant was the only entity to submit a Proposal.

WHEREAS, on March 29, 2011 Lessor and Tenant entered into an Exclusive Negotiating Agreement for Redevelopment of the Peoria Sports Complex Parking Areas (the "ENA") so that the Parties would have a period of time to exclusively negotiate with each other in good faith for the purpose of forming a public/private partnership for the financing, development, and operation of the Project.

WHEREAS, on February 8, 2012 Grantor and Grantee entered into an Extension of Exclusive Negotiation Agreement for Redevelopment of the Peoria Sports Complex Parking Areas extending the Term of the ENA until March 28, 2013.

WHEREAS, the Parties have completed their negotiations and determined that it is in the best interests of Lessor and Tenant to enter into a Ground Lease to describe the commitments of the Parties for the lease of the Project.

WHEREAS, Lessor desires to lease to Tenant and Tenant desires to lease from Lessor approximately fourteen and ninety-three hundredth (14.93) acres of the Project Parcel, including the Lease Parcel, as legally described on **Exhibit "C"** and depicted as

Parcels 1, 2, 3 and 4 on **Exhibit "B"** attached hereto and incorporated herein by this reference (the "Lease Parcel").

NOW, THEREFORE, the Parties agree to enter into this Ground Lease and Purchase Option Agreement as follows:

SECTION 1 – FUNDAMENTAL LEASE PROVISIONS

Commencement Date: _____, 2013

Lessor: City of Peoria, Arizona, an Arizona charter municipal corporation, and any successor, assign or person or entity hereafter acquiring the Lessor's interest in all or a portion of this Lease.

Tenant: Peoria Sports Park LLC, an Arizona limited liability company and any successors, assigns or persons or entities hereafter acquiring all or a portion of Tenant's interest in this Lease.

Project Parcel: The Project Parcel is defined in the first Recital paragraph above. The Site Plan divides the Project Parcel into five (5) separate subparcels:

- (1) Parcel 1 – the Hotel Parcel;
- (2) Parcel 2 – the Retail Parcel;
- (3) Parcel 3 – the Multifamily Parcel;
- (4) Parcel 4 – the Surface Parking Parcel; and
- (5) Parcel 5 – the Parking Garage Parcel(s)

Parcels 1 through 4 will be located within the Lease Parcel. Parcel 5 will be retained by the City and will not be part of the Lease Parcel.

Real Property: As used herein, the real property conveyed to Tenant includes:

- (1) Lease Parcel. Approximately fourteen and ninety-three hundredth (14.93) acres of real property located within the Project Parcel (the "Lease Parcel"); as legally described in **Exhibit "C"** and depicted as one of the parcels on **Exhibit "B"** attached hereto and incorporated herein by reference.

(2) Infrastructure Easements. Any and all perpetual and temporary easements or rights of way over, under, upon and across adjoining real property owned or controlled by Lessor in any capacity that may be necessary for Tenant to construct and tie into City and utility road and infrastructure and construct improvements to serve the development and operations of the Lease Parcel (the "Infrastructure Easement(s)"). The parties agree to identify, draft and agree to the legal descriptions for any Infrastructure Easements on an as needed basis;

(3) Easement for a Non-Potable Water Line. The permanent and temporary easement rights granted in this Lease by Lessor permitting Tenant to access Lessor's non-potable water line located adjacent to the Lease Parcel, as agreed upon by the parties at a subsequent date, for the Tenant's use of non-potable water on the Project Parcel for landscape purposes (the "Non-Potable Water Line Easement"). The parties agree to identify, draft and agree to the legal descriptions for any Non-Potable Water Line Easement on an as needed basis; and

(4) Parking Garage Parcel Easement. An easement for access, ingress/egress, and parking rights over, under, upon, across and through the Parking Garage Parcel(s) to be located within the Project Parcel (the "Parking Facility Easement") for the benefit of the Project, as legally described as *Exhibit "D"* and depicted as one or more of the parcels on *Exhibit "B"* attached hereto and incorporated herein by reference.

- Improvements: Any and all buildings, structures, facilities, infrastructure and improvements in connection therewith erected, constructed or situated on, over, under and upon the Real Property or any part thereof during the Term, including any site improvements or temporary improvements.
- Partition Parcel: The term Partition Parcels is defined in **SECTION 18.3**
- Lease Term: The Lease Term is defined in **SECTION 4.**
- First Right to Purchase: Tenant shall have the First Right to Purchase the real property pursuant to the terms of **SECTION 26.**
- Option to Purchase: Tenant shall have the option to Purchase the real property upon notice given in accordance with **SECTION 28.**

Annual Rental: Tenant shall pay Rent monthly to Lessor as set forth in greater detail in **SECTION 5 – Rent**.

Permitted Uses: The term Permitted Uses is defined In **SECTION 9.1**.

Prohibited Uses: The term Prohibited Uses is defined In **SECTION 9.2**.

The foregoing Fundamental Lease Provisions are an integral part of this Lease, and each reference in the body of this Lease to any Fundamental Lease Provision shall be construed to incorporate all of the terms set forth above with respect to such Provisions. In the event there is any conflict between any provisions contained in this Article 1 and the balance of this Lease, the balance of this Lease shall control.

SECTION 2 – RELATIONSHIP TO PROJECT DOCUMENTS

2.1 Incorporation of Project Documents. The Parties understand and agree that the full and proper development of the Lease Parcel will require the execution and implementation of each of the Project Documents listed below.

The Project Documents are as follows:

a. Covenants, Conditions and Restrictions (CC&R's) which, among other things, establish mutually beneficial easements, covenants and restrictions to promote the orderly development, maintenance, preservation, use and enjoyment of the Lease Parcel.

b. Articles of Incorporation for the Master Owners' Association for the Lease Parcel.

c. Bylaws for Master Owners' Association for the Lease Parcel.

d. Development Agreement that sets forth the relationship between the Tenant and the City in its municipal regulator capacity, rather than its capacity as a landowner. The Development Agreement deals with a number of issues including zoning entitlements, impact fees, development incentives, and infrastructure and infrastructure financing issues.

e. Parking Facilities Development and Use Agreement that addresses the construction and operation of one or more Parking Garage(s) and Surface Parking Lots to serve the Peoria Sports Complex uses, uses by another tenant of Lessor located on adjacent property, and the uses on the Lease Parcel.

f. Non-Potable Water Line Easement as granted under **SECTION 3.3** below.

g. Master Signage Agreement that addresses static, digital, and wireless signage components within the Project Parcel.

2.2 Obligations of the Parties.

a. The Parties agree to continue to meet and negotiate in good faith to draft the Project Documents. The Project Documents shall require Peoria City Council approval.

b. Upon their execution, Tenant shall cause the CC&R's and the Memorandum of Lease set forth in **SECTION 37** to be recorded as soon as possible after they have been executed by Lessor and Tenant.

SECTION 3 - REAL PROPERTY

3.1 For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and subject to the promises, terms and conditions contained in this Lease, Lessor hereby leases to Tenant and Tenant hereby leases from Lessor the Real Property, which includes the Lease Parcel, the Infrastructure Easements, the Non-Potable Water Line Easement, and the Parking Facility Easement and all rights appurtenant thereto. Tenant acknowledges that it has inspected the Lease Parcel, is familiar with its condition and accepts the same "as is" in its present condition as an improved surface parking lot. Lessor acknowledges that Tenant has the right to clear the site and remove the parking lot improvements without any responsibility or legal obligation to compensate Lessor therefore. Lessor further acknowledges that all prior leases, rentals or other grant of possession of the Lease Parcel, if any, shall terminate and be of no further force or effect as of the Commencement Date of this Lease. Should such prior lease(s) exist, and any tenant rights thereunder be in a third party, Lessor covenants and warrants that the same shall be terminated as provided for in this **SECTION 3**.

3.2 **Parking Facilities Easement.** Lessor hereby agrees to grant to Tenant a non-exclusive easement on, over, under, upon, across and through the Parking Garage Parcel(s) (Parcel 5 on the **Exhibit "E"** Site Plan) for parking, access, ingress/egress, and parking-related purposes related to the Project for Tenant, its subtenants, their employees, customers, clients, guests and invitees, along with an exclusive parking easement for approximately 110 parking spaces in one or more of the Parking Facilities located on the Parking Garage Parcel(s) which will be dedicated to the exclusive use of the multi-family residential uses developed by Tenant. Lessor shall issue an easement instrument to Tenant for the Parking Garage Parcel(s) on or before the execution of the Development Agreement. The easement shall in no way negatively impact public parking for events at the Sports Complex.

3.3 **Non-Potable Water Line Easement.** Lessor hereby agrees to grant to Tenant a non-exclusive easement for Tenant to access the City's non-potable water line located adjacent to the Lease Parcel for the purpose of connecting to Lessor's non-potable water line and constructing its own water line to deliver non-potable water to irrigate the landscaping on the Project Parcel in a form substantially similar to that attached hereto as **Exhibit "F"**. Such connection will be subject to the City's rules and procedures regarding non-potable water use. This easement will not include access to

the non-potable well site. Tenant shall work with Lessor to identify the location and alignment of the Non-Potable Water Line Easement, and once agreed upon by the Parties Tenant shall draft the legal description therefore, whereupon Lessor shall convey an easement grant to Tenant for the Non-Potable Water Line Easement. The Non-Potable Water Line Easement may not be assigned without the express written consent of Lessor, which consent shall not be unreasonably withheld, conditioned, and delayed.

SECTION 4 - TERM

4.1 The lease term commences on the Commencement Date and shall continue thereafter for a period of fifty (50) years, unless such lease term shall be sooner terminated or extended as hereinafter provided. Provided Tenant is not then in default hereunder beyond the expiration of any applicable cure period, Tenant may exercise the option to extend the lease term for two (2) successive terms of twenty-four and one half (24.5) years each, upon the same terms and conditions set forth in this Lease. In order to exercise any such lease term extension, Tenant shall give to Lessor written notice of its election to do so not less than six (6) months prior to the commencement date of the applicable extension period. Failure to exercise any extension right shall terminate Tenant's rights to exercise all subsequent extension rights. The lease term, as well as any extension hereunder is hereafter referred to as the "Term."

4.2 The "Commencement Date" shall mean the date set forth in **Section 1 (Fundamental Lease Provisions)**

4.3 This Lease shall terminate automatically with no further action necessary if the Parties have not entered into a Development Agreement governing the development of the Project that is the subject of this Lease by no later than 365 days from the Commencement Date. If this Lease terminates pursuant to this provision, both Lessor and Tenant acknowledge and agree that they shall have no claims of any kind, whether legal, equitable or otherwise, against the other Party related to the Lease termination and each Party shall bear its respective fees and costs incurred, including but not limited to, those incurred in negotiating the Development Agreement, this Lease, and any and all other agreements related to this Project.

SECTION 5 – RENT

5.1 Tenant shall pay Rent to Lessor monthly, without notice or demand, for the use and occupancy of the Lease Parcel during the Term of this Lease, as set forth on **Exhibit "G"**, which may be revised by mutual agreement of the Parties from time to time.

5.2 Beginning on the Lease Commencement Date and continuing throughout the term of the Lease, Tenant shall pay to Lessor a monthly Rent in the amounts as shown in **Exhibit "G"**.

5.3 Also as shown in more detail in **Exhibit "G,"** beginning five years after the Rent Commencement Date and every fifth anniversary thereafter through the end of the Lease Term, including any properly exercised extensions of the Lease Term, monthly rent shall increase by eight and one-half percent (8.5%).

5.4 As used in this Section, "Rent Commencement Date" shall mean the latter of the following two dates: (1) two and one-half years from the Commencement Date or (2) two years from the date the City issues a Certificate of Occupancy for the larger of the two Parking Garages planned to be constructed.

5.5 If a portion of the Lease Parcel is sold to Tenant pursuant to **SECTION 26** or **SECTION 28**, the remainder of the Lease Parcel shall remain subject to the Rent as set forth on **Exhibit "G"**.

5.6 The Rent and any Additional Charges (hereinafter provided for in **SECTION 6**), shall be paid in lawful money of the United States of America to the "City of Peoria, Arizona" payable at 8401 W. Monroe, Peoria, Arizona 85345 and should be delivered to the attention of the City of Peoria, Arizona Chief Financial Officer, or to such other place or person as Lessor may designate in writing to Tenant from time to time.

5.7 If Tenant shall fail or neglect to pay any amount due and payable to Lessor hereunder, and the delinquency shall continue for five (5) days after such amount is due (or in the case of payments other than Rent, within fifteen (15) days after Tenant receives written notice of such amount), then beginning on the sixteenth (16th) day, Tenant shall pay to Lessor a late payment charge in the amount of ten percent (10%) of the delinquent amount; and said late payment charge shall be in addition to, and not in lieu of, any other rights Lessor may have.

SECTION 6 - ADDITIONAL CHARGES

Subject to the provisions of **Subsection 8.2** below, all taxes, including the City transaction privilege tax, assessments, insurance premiums, charges, costs and expenses which Tenant assumes, agrees or is obligated by law to pay hereunder, together with all interest and penalties that may accrue thereon in the event of Tenant's failure to pay the same as herein provided, and all other damages, costs and expenses which Lessor may suffer or incur for which Tenant is liable under this Lease, and any and all other sums which may become due, by reason of any default of Tenant or failure on Tenant's part to comply with the agreements, terms, covenants and conditions of this Lease on Tenant's part to be performed, shall be referred to herein as "Additional Charges" and, in the event of their nonpayment, Lessor shall have, with respect thereto, all rights and remedies herein provided and available in law or equity in the event of nonpayment of Rent. If not paid when due, all Rent and any Additional Charges payable to Lessor shall accrue interest at ten percent (10%) per annum from their due date until paid.

SECTION 7 – NO COUNTERCLAIM OR ABATEMENT OF RENT

Except as expressly provided herein, Rent and Additional Charges and all other sums payable by Tenant hereunder shall be paid without notice, demand, counterclaim, setoff, recoupment, deduction or defense of any kind or nature and without abatement, suspension, deferment, diminution or reduction.

SECTION 8 - TAXES, ASSESSMENTS AND UTILITIES

8.1 It is the intention of the Parties hereto that, insofar as the same may be lawfully done, Lessor shall be free from all costs, expenses, obligations and all such taxes, assessments and all such other governmental impositions and charges, and that this Lease shall yield net to Lessor not less than the Rent reserved hereunder, throughout the Term. Subject to the provisions of **Subsection 8.2** below, Tenant shall pay and discharge, as and when the same shall become due and payable without penalty, all real estate, personal property, business, transaction privilege, occupation and occupational license taxes, assessments (but not assessments for any presently existing public improvements or benefits); and all other governmental taxes, impositions and charges of every kind and nature, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, which at any time during the Term of this Lease shall be or become due and payable by Lessor or Tenant and which shall be levied, assessed or imposed:

a. Upon or with respect to, or shall be or become liens upon, the Lease Parcel, or any portion thereof or any interest of Lessor or Tenant therein or under this Lease other than liens created or granted by Lessor;

b. Upon or with respect to the possession, operation, management, maintenance, alteration, repair, rebuilding, use or occupancy of the Lease Parcel, or any portion thereof; and

c. Upon this transaction or any document to which Tenant is a party or is bound, creating or transferring an interest or an estate in the Lease Parcel, under or by virtue of any present or future law, statute, charter, ordinance, regulation, or other requirement of any governmental authority.

8.2 **Property Taxes.** Lessor and Tenant will cooperate in good faith to continue to discuss the applicability of this Lease to the Government Property Lease Excise Tax, A.R.S. §§ 42-6201 et seq. Notwithstanding anything contained herein to the contrary, Tenant's obligation to pay real estate taxes on the Lease Parcel or other improvements located thereon during the Term of this Lease, shall be limited to the real estate taxes owed as long as the City of Peoria remains the owner of the Lease Parcel. If a sale or other transfer of the Lease Parcel during the Term of this Lease to a party other than Tenant pursuant to the provisions of **SECTION 26** hereof results in any increase in real estate taxes from that which may otherwise be owed if the City of Peoria remained the owner, such increase in real estate taxes shall be paid by the successor Lessor or Tenant may deduct such additional taxes from the Rent or other amounts payable to Lessor hereunder.

8.3 Tenant shall have the right to contest any claim, tax or assessment levied against the Lease Parcel or any interests therein and property thereon during the term of the Lease or from Tenant's activities by posting bonds to prevent enforcement of any lien resulting therefrom. Tenant agrees to protect and hold harmless the Lessor and the Lease Parcel and all interests therein and improvements thereon from any and all claims, taxes, assessments and like charges and from any lien therefor or sale or other proceedings to enforce payment thereof, and all costs in connection therewith, but only as to those that arise or occur during the Term of this Lease. Lessor agrees to cooperate with Tenant and shall promptly execute and deliver for filing any appropriate documents with reference to any such contest when so requested by Tenant.

8.4 Tenant, upon Lessor's written request, shall furnish to Lessor, within twenty (20) days thereafter, proof of the payment of any taxes, impositions or charges which Tenant and not Lessor shall have the obligation to pay under the provisions of this **SECTION 8**.

8.5 Tenant shall be solely responsible for, and shall pay the cost of, constructing or installing utility hookups from existing utility installations to the Lease Parcel and shall be solely responsible for, and shall pay the cost of, all utility services consumed by Tenant on the Lease Parcel.

SECTION 9 – USE OF PREMISES

9.1 Permitted Uses. The Lease Parcel may be developed as a mixed use development that will include a mixture of uses, to be determined by Tenant, including hotel, commercial, retail, restaurants (with liquor license capabilities), office, and multi-family residential (the "Permitted Uses in accordance with the Approved Zoning, identified under zoning case No. Z93-16 and all successive amendments thereto (the "Approved Zoning"). Tenant shall use the Lease Parcel solely for the Permitted Uses and not for any other purpose without the prior written consent of Lessor, which consent will not be unreasonably withheld, conditioned or delayed. Tenant may amend the Approved Zoning with the written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Any amendments to the Approved Zoning will be conducted at Tenant's sole cost and expense. Tenant shall not use or permit the Lease Parcel to be used in violation of the Regulatory Requirements as defined in **SECTION 13**, below. Use of the Lease Parcel in violation of the terms of this **SECTION 9** shall cause Tenant to be in default hereunder; however, Tenant shall have the right to cure said default pursuant to the provisions of **SECTION 20** of this Lease.

9.2 Prohibited Uses. Tenant shall not use the Lease Parcel to operate an adult movie theatre, an adult live cabaret or any other form of adult use as that term is defined in Chapter 11 of the Peoria City Code (1992), as that code provision may be amended, and shall not permit performances containing specified sexual activities or specified anatomical areas as those terms are defined in Chapter 11 of the Peoria City Code (1992), as that code provision may be amended. Tenant shall not use the Lease Parcel to operate a laundromat, pawn shop, non-chartered financial institution, tattoo or

body piercing studio, or gun and ammunition shops. Tenant shall not use the Lease Parcel to operate a bar requiring a Series 6 Liquor License from the State of Arizona, unless Tenant receives Lessor's prior written approval.

9.3 Temporary Construction Easements. If requested by Tenant, Lessor will cooperate with Tenant to grant Tenant temporary construction easements across Lessor's City-owned property, which Lessor agrees will not be unreasonably withheld, conditioned or delayed so long as the easement does not negatively impact Sports Complex operations and its Peoria Sports Complex property.

9.4 Changes to Approved Zoning. For a period of fifteen (15) years from the Commencement Date of this Lease, Lessor, in its capacity both as the landowner and as a municipality in control of the regulation of land uses in its jurisdiction, will not initiate any changes or modifications to the Approved Zoning, except at the request of Tenant or the lessee of the portion of the Lease Parcel for which such zoning change is sought. In no event, however, may Lessor initiate any zoning or other land use change that is inconsistent with any use that is developed or is in the process of being developed on the Lease Parcel. Nothing set forth in this **SECTION 9** will be deemed to require or obligate the City to approve any changes to the Approved Zoning.

9.5 Reliance on Ordinances. To allow Tenant to rely upon the continued validity of the provisions of the City's zoning and subdivision ordinances adopted on or before the Commencement Date (as codified or to be codified as Peoria City Code Chapters 24 and 14 (1977 Edition), the "Ordinances"), the City, in its capacity as a municipality in control of the regulation of land uses in its jurisdiction, will, for a period of fifteen (15) years from the Commencement Date of this Lease, take no action that would result in subjecting the Lease Parcel to a change in the provisions of the Ordinances or to any rules, regulations or policies implementing or interpreting the Ordinances, except as expressly provided for in this Lease, if such change would affect, in any material way, Tenant's ability to timely develop the Lease Parcel in accordance with the Approved Zoning. Any such prohibited changes made during the term of this Lease will not affect the Lease Parcel, the owner(s), mortgagee(s) or lessee(s) thereof, or any person or entity having any interest in the Lease Parcel or any portion thereof, unless the affected owner(s), mortgagee(s) or lessee(s) will have expressly consented in writing to the otherwise prohibited changes. Without limiting the applicability of the foregoing, the City may enact the following provisions and take the following actions, which will be applicable to and binding on the development of the Lease Parcel:

a. Future updates of and amendments to the existing subdivision regulations, building, construction, plumbing, mechanical, electrical, drainage, and similar construction and safety related codes, specifications and regulations, which updates and amendments are generated by a nationally recognized construction/safety organization, or by Maricopa County, the State of Arizona, or the Federal government.

b. Ordinances, rules, regulations and legislation of the City reasonably necessary to alleviate legitimate severe threats to public health and safety in which event any ordinance, rule, regulation, or legislation imposed in an effort to contain or

alleviate such legitimate severe threats to public health and safety will be the most minimal and the least intrusive alternative practicable.

c. Ordinances, rules, regulations and legislation of the City enacted as necessary to comply with mandatory requirements imposed on the City by Maricopa County, the State of Arizona, or the Federal government, including but not limited to court decisions and other similar superior external authorities beyond the City's control. If in the event any such mandatory requirement prevents or precludes compliance with this Agreement, if permitted by law, such affected provisions of this Agreement will be modified as may be necessary to achieve the minimum possible compliance with such mandatory requirements.

d. Nothing in this Agreement will be interpreted as relieving Tenant of any obligation it may have either on the Commencement Date to comply with all governmental rules and regulations which apply to the Lease Parcel.

e. Ordinances, rules, regulations, and legislation imposed under the City's police power authority (exclusive of zoning), which is applied in the City to similarly situated properties.

f. Future enactment of fees and taxes or modifications thereto, which are imposed or charged by the City uniformly or only to similarly situated properties.

9.6 The Parties intend that the common areas and open spaces within the Lease Parcel will be used on a regular basis for public and private events and activities that will attract the public and customers to the development, and in conjunction with baseball and non-baseball related activities conducted by or caused to be conducted by the City on its neighboring Peoria Sports Complex. Any such events and activities shall comply with the Approved Zoning and the Regulatory Requirements, including any Temporary Use Permits required in Article 14-39 of the City of Peoria Zoning Ordinance.

**SECTION 10 - COVENANTS, CONDITIONS, AND RESTRICTIONS;
SUBDIVISIONS AND CONDOMINIUM REGIMES**

10.1 CC&R's. Within a reasonable period of time following the execution of this Lease, the Parties shall negotiate, draft and agree upon a set of CC&R's that will automatically apply to Tenant's Leasehold interest in the Lease Parcel as well as to Tenant's easement rights in the Parking Garage Parcel(s), with the discretion in Lessor to have it apply to its fee simple interest in the Lease Parcel and the Parking Garage Parcel(s). Tenant shall submit a copy of any CC&R or Restrictive Document, defined below, which Tenant desires to record against Lessor's fee interest to Lessor for its approval, which Lessor may exercise in its sole discretion. Lessor shall approve or disapprove of the CC&R's or any Restrictive Document in writing within sixty (60) days from receipt. If Lessor disapproves of the CC&R's it must identify in writing to Tenant the provisions it objects to and the reasons it disapproves of those provisions so as to provide Tenant the opportunity to revise the CC&R's to address Lessor's concerns. If

Lessor fails to act within this time period, it will be deemed to have disapproved the CC&R's or any Restrictive Document. If Lessor disapproves of the CC&R's or any Restrictive Document, such CC&R's or Restrictive Document shall not affect Lessor's fee interest in the Lease Parcel but Tenant may nonetheless encumber its leasehold interest therein and its easement interest in the Parking Garage Parcel(s). Lessor shall execute the CC&R's if they are to apply to Lessor's fee simple interest, or shall be executed by Tenant if they are to apply only to the Leasehold interest, and upon execution Tenant shall record the CC&R's.

10.2 Rights. In addition to the recordation of the CC&R's, Tenant shall have the right, at any time and from time to time during the Lease term, to subject the leasehold interest to all or any part of the Lease Parcel to other covenants, conditions and restrictions, subdivision maps and plats and condominium regimes as deemed necessary or desirable by Tenant with the approval of Lessor. Any other instrument creating or imposing covenants, conditions, restrictions, subdivisions or condominium regimes on all or part of the Lease Parcel is herein referred to as a "Restrictive Document." The legal description of each portion of the Lease Parcel which is subdivided or subjected to a condominium regime will automatically change upon the recording of the pertinent subdivision plat or condominium regime so as to thereafter reflect, respectively, the lots or the units and appurtenant common elements of the said subdivision or condominium regime. Any Restrictive Document shall be consistent with the Site Plan and reasonably compatible with the development on the remaining land included in the Site Plan.

SECTION 11 – CONSTRUCTION OF BUILDINGS AND IMPROVEMENTS

11.1 Site Plan. Tenant shall obtain approval of a Site Plan in accordance with the City of Peoria's Site Plan Review process. The approved Site Plan and associated documents shall identify, among other things, the proposed layout of the buildings, structures, plazas, walkways and access points within the Project Parcel and the Lease Parcel ("Site Plan"). The proposed Site Plan shall conform to the Approved Zoning and any other relevant codes and ordinances for the Project Parcel and the same may be amended from time to time. A copy of the current draft Site Plan is attached hereto as **Exhibit "E"** and incorporated herein by reference. Tenant may seek amendments to the Site Plan with Lessor's consent. Lessor's approval under this **Subsection 11.1** shall not be unreasonably withheld, conditioned, or delayed.

11.2 Improvements. Tenant, at its sole expense, may cause to be constructed and installed buildings, structures, facilities and other leasehold improvements, fixtures, and equipment (collectively, the "Improvements") on the real property included within the Lease Parcel in compliance with the City-approved Site Plan, the Approved Zoning, and all generally applicable City requirements which are consistent with the use of the Lease Parcel as permitted herein. Tenant may construct the Improvements in phases. Tenant shall pursue diligently the construction of the Improvements to completion. Further, Tenant may, pursuant to **SECTION 18** of this Lease, sublease improved or unimproved portions of the Lease Parcel to a sublessee permitting the sublessee to develop any Permitted Use. Any sublessee developing a

site under this Lease provision will be responsible for the development of such subleased portions of the Lease Parcel in accordance with this Lease, with the Site Plan, the approved Zoning, and other development and planning ordinances of the City of Peoria.

11.3 From time to time, upon request of Tenant and subject to **Subsection 11.4** below, Lessor shall execute such reasonable documents, petitions, applications and authorizations as are necessary (and which have been prepared at Tenant's expense) as may in the reasonable and good-faith opinion of Tenant be necessary or appropriate for the purpose of obtaining any Required Permits, as defined herein, for the Improvements, any grant of easement for the installation or maintenance of any public utilities or public or private infrastructure, grant of easement for any street or alley and for any conditional use permit, variance, or any other regulatory action or other similar actions associated with the development of any portion of the real property. Tenant shall furnish to Lessor promptly upon request copies of all applications for Required Permits, copies of the Required Permits when issued, and copies of all notifications from any governmental entity pertinent to any Required Permit. Lessor shall have the right, but not the obligation, to appear at any hearings, staff meetings or other similar gatherings held in connection with any proceedings having to do with such Required Permits. As used herein, "Required Permits" shall mean each and every building and development permit including, without limitation, demolition permits, site permits and addenda thereto (including, without limitation, foundation permits and structural permits), building permits, temporary and final certificate of occupancy permits and any other governmental or quasi-governmental approvals which must be issued by any governmental authority, department, commission, board, official or officer with respect to the Lease Parcel or otherwise required as a condition precedent to construction and occupancy of any Improvements.

11.4 At any time and from time to time, Tenant shall have the right to demolish or alter all or any portion of the then existing Improvements and replace them with uses authorized under the Approved Zoning and with improvements consistent with the then approved or amended Site Plan; provided however, that if the Lessor owns any of the then-existing improvements, Tenant shall be required to first seek the written approval of Lessor to demolish or alter all or any portion of the then existing Lessor-owned improvements.

11.5 Until construction begins on the Project, the Parties agree that the City will continue to be able to use the Project Parcel for recreational vehicle and auto sales events, subject to City's commitment to first coordinate the scheduling of these events with Lessee to ensure that the events will not delay or conflict with Lessee's construction plans.

SECTION 12 – MAINTENANCE AND REPAIRS

12.1 Tenant at all times during the Term of this Lease shall keep and maintain in good order and repair and in a clean and sanitary condition the Real Property and Improvements, including but not limited to all buildings, facilities,

structures, driveways, landscaped areas, and other improvements included within the Lease Parcel, and all equipment and appurtenances, both interior and exterior, structural and non-structural, ordinary or extraordinary, howsoever the necessity or desirability of repairs may occur. All repairs, replacements and renewals shall be made promptly and be equal in quality and class to the original work. Tenant waives any right created by any legal requirement (now or hereafter in force) to make repairs to the Lease Parcel at Lessor's expense, it being understood that Lessor shall in no event be required to make any alterations, improvements or repairs during the Term; except that if any damage to the buildings, facilities, structures, or improvements on the Lease Parcel, or to any equipment or appurtenances located thereon, shall have been as a result of Lessor's negligent or intentional actions, Lessor shall pay the cost therefore to Tenant.

12.2 Tenant at all times during the Term shall (a) keep and maintain in good order and repair all landscaped areas and the exterior painted surfaces of all buildings, structures and improvements included within the Lease Parcel; and (b) keep and maintain in good order and repair Tenant's customer parking lot and driveway constructed by the Tenant on the real property included within the Lease Parcel.

12.3 Tenant shall provide and maintain solid waste dumpsters, with covers thereon, at locations within the Lease Parcel set forth in the Lessor-approved Site Plan, in which to place any solid waste, and cause such solid waste to be removed for recycling or disposal as often as is required to maintain a sanitary condition. Tenant (and any subtenants) are obligated to utilize City of Peoria commercial solid waste services at rates established by the City Council, for so long as the City is willing to continue to provide such services.

SECTION 13 – REGULATORY REQUIREMENTS

13.1 Tenant shall promptly observe and comply with all present and future laws, ordinances, requirements, rules and regulations of all governmental authorities having or claiming jurisdiction over the Lease Parcel or any part thereof and of all requirements in written insurance policies covering the Lease Parcel or any part thereof required in paragraph 15 below (the "Regulatory Requirements"). Without limiting the generality of the foregoing, Tenant shall also procure each and every permit, license, certificate or other authorization required in connection with the lawful and proper use of the Lease Parcel or required in connection with any building, structure or improvement now or hereafter erected thereon. Notwithstanding the foregoing, nothing contained herein shall be deemed to grant either Lessor or Tenant the right to alter the terms of this Lease without the express written consent of both Parties.

13.2 Tenant covenants and agrees not to use, generate, release, manage, treat, manufacture, store, or dispose of, on, under or about, or transport to or from (any of the foregoing hereinafter described as "Use") the Lease Parcel any Hazardous Materials (other than De Minimis Amounts). Tenant further covenants and agrees to pay all costs and expenses associated with enforcement, removal, remedial or other governmental or regulatory actions, agreements or orders threatened, instituted

or completed pursuant to Use of any Hazardous Materials in any amount by Tenant, its employees, agents, invitees, subtenants, licensees, assignees or contractors. For purposes of this Lease (1) the term "Hazardous Materials" shall include but not be limited to asbestos, urea formaldehyde, polychlorinated biphenyls, oil, petroleum products, pesticides, radioactive materials, hazardous wastes, toxic substances and any other related or dangerous, toxic or hazardous chemical, material or substance defined as hazardous or regulated or as a pollutant or contaminant in, or the Use of or exposure to which is prohibited, limited, governed or regulated by, any Hazardous Materials Laws; (2) the term "De Minimis Amounts" shall mean, with respect to any given level of Hazardous Materials, that such level or quantity of Hazardous Materials in any form or combination of form (i) does not constitute a violation of any Hazardous Materials Laws and (ii) is customarily employed in, or associated with, similar facilities; and (3) the term "Hazardous Materials Laws" shall mean any federal, state, county, municipal, local or other statute, law, ordinance or regulation now or hereafter enacted which may relate to or deal with the protection of human health or the environment, including but not be limited to the Comprehensive Environment Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. Section 2601, et seq.; Ariz. Rev. Stat. Ann., Title 49 (the "Arizona Environmental Quality Act of 1986"); and any rules or regulations legally adopted or promulgated pursuant to any of the foregoing as they may be amended or replaced from time to time.

13.3 Either party shall have the right, at its sole cost and expense, to contest the validity of any Regulatory Requirements applicable to the Lease Parcel by appropriate proceedings diligently conducted in good faith provided, however, that no such contest shall subject the other party to any liability, cost or expense.

13.4 Lessor agrees to join in the execution of any instruments which may reasonably be required in order for Tenant to procure the issuance of any licenses, occupational permits, building permits or other government approvals required by Tenant in its use, occupancy or construction of the Lease Parcel. Tenant shall indemnify and save Lessor harmless from any expense or loss whatsoever occasioned by Lessor's presence as a party to any such instrument, application or permit, except to the extent caused by the negligent or intentional bad acts of Lessor, its agents, representatives, officers, directors, elected and appointed officials and employees.

SECTION 14 – LIENS

14.1 Tenant shall have no authority to do any act or make any contract that may create or be the basis for any lien, mortgage or other encumbrance upon any interest of Lessor in the real property included within the Lease Parcel, provided however that Tenant shall not be prohibited from entering into any contracts in Tenant's capacity as a tenant, rather than as the title holder of said real property. Should Tenant cause any construction, alterations, rebuildings, restorations, replacements, changes, additions, improvements or repairs to be made on the Lease Parcel, or cause any labor

to be performed or material to be furnished thereon, therein or thereto, neither Lessor nor the real property included within the Lease Parcel shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished, and Tenant shall be solely and wholly responsible to contractors, laborers and materialmen performing such labor and furnishing such material.

14.2 If, because of any error, act, or omission (or alleged error, act or omission) of either Tenant or Lessor, any mechanics', materialmen's or other lien, charge or order for the payment of money shall be filed or recorded against the real property included within the Lease Parcel or against Lessor (whether or not such lien, charge or order is valid or enforceable as such), Tenant or Lessor, as the case may be, shall, at its own expense, either cause the same to be discharged of record or bonded over pursuant to A.R.S. § 33-1004 within thirty (30) days after either shall have received from the other a written notice requesting such discharge.

14.3 Lessor shall keep the fee title free and clear of all liens and encumbrances that may adversely affect Tenant's leasehold interest in this Lease.

SECTION 15 – PROPERTY AND PUBLIC LIABILITY INSURANCE

15.1 Tenant shall at all times, throughout the Term of this Lease, keep the Lease Parcel insured pursuant to the requirements set forth in this **SECTION 15**. Tenant shall ensure that all insurance policies in effect for the Lease Parcel name the City of Peoria as an additional insured.

15.2 The insurance policies required by this **SECTION 15** shall be written by insurance companies with an A.M. Best's Key Rating Guide of A- [minus] or better, authorized to do business in the State of Arizona, and shall be written on an occurrence basis or in a form satisfactory to Lessor. As often as any such policy shall expire or otherwise terminate, renewal or additional policies shall be procured and maintained by Tenant and its contractor(s) to provide uninterrupted coverage. Tenant agrees and shall cause its contractor(s) to agree to provide Lessor with certificates of insurance evidencing such insurance policies providing coverage for the Lease Parcel upon Lessor's request.

15.3 Tenant, during the entire Term of this Lease, shall provide, secure, pay for and maintain the following insurance coverage, indemnification and waivers as set forth in subsections a through e (inclusive) immediately below.

a. Statutory workers' compensation insurance, in an amount required by the State of Arizona and any and all applicable insurance required by any employee benefit acts or other statutes as will protect Tenant's employees from any and all liability under the aforementioned acts and statutes for work performed at the Lease Parcel.

b. Commercial general liability insurance in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$3,000,000.00 general aggregate, including but not limited to coverage for explosion, collapse, and underground work as well as contractual liability coverage and including Lessor as an

additional insured on a primary non-contributory basis with respect to any other insurance available to Lessor. If the permitted use permits the sale of alcoholic beverages on the Lease Parcel, then during any period that Tenant offers alcoholic beverages for sale on the Lease Parcel, Tenant shall obtain a liquor liability endorsement to said commercial general liability policy in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$3,000,000.00 general aggregate.

c. Tenant (including also anyone holding under Tenant and any and all subtenants and other occupants of the Lease Parcel), as the case may be, shall: (i) provide waivers of liability in favor of Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees releasing the same from any and all liability for any and all bodily injury, personal injury and loss of or damage to property (including also any and all loss of use resulting therefrom); (ii) require any and all insurers for the Lease Parcel to name the Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees as Additional Insureds in all insurance policies required under this **Subsection 15.3**; and, (iii) require that Tenant (including also anyone holding under Tenant and any and all sub-tenants and other occupants of the Lease Parcel) and all insurers providing policies of insurance under this **Subsection 15.3** waive their rights of subrogation against Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees. The above-referenced waivers of liability and subrogation shall not apply to negligent or intentional actions of Lessor, its agents, representatives, officers, directors, elected and appointed officials, or employees, but said waivers of liability and subrogation shall be applicable to any negligence imputed to Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees by operation of law as a result of the action or non-action of Tenant (including anyone holding under Tenant and any and all sub-tenants and other occupants of the Lease Parcel) and their respective insurers for work performed on, or services provided to, the Lease Parcel).

d. Tenant shall maintain Errors & Omissions coverage in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$3,000,000.00 general aggregate.

e. Should Tenant utilize any steam or pressure boilers, or other similar apparatus on the Lease Parcel, Tenant shall maintain boiler and machinery coverage, to include explosion insurance, with respect to any steam or pressure boilers and similar apparatus located on the Lease Parcel in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$3,000,000.00 general aggregate and insurance against such other hazards and in such amounts as Lessor may reasonably require for its protection.

15.4 During the entire Term of this Lease except in the case of usual and customary maintenance, repair and replacement of the Lease Parcel, Tenant shall require any general contractor(s) performing work or services to the Lease Parcel with Tenant's consent or approval, to provide, secure, pay for and maintain the following

insurance coverage, indemnification and waivers as set forth in subsections a through f (inclusive) immediately below.

a. Statutory workers' compensation insurance, with limits of not less than \$100,000.00 on an occurrence basis, \$100,000.00 disease for each employee, \$500,000.00 disease policy limit and any and all insurance required by any employee benefit acts or other statutes applicable where the work is to be performed as will protect said contractor's employees, and subcontractors from any and all liability under the aforementioned acts and statutes.

b. Commercial general liability insurance in an amount not less than \$3,000,000.00 combined single limit per occurrence and not less than \$5,000,000.00 general aggregate, including but not limited to coverage for explosion, collapse, and underground work as well as contractual liability coverage and including Lessor as an additional insured on a primary non-contributory basis with respect to any other insurance available to Lessor.

c. Comprehensive automobile liability insurance, including coverage for the ownership, maintenance and operation of any automobile equipment owned, hired or non-owned, which is assigned to or used by the contractor(s) in the performance of work on, or services provided to, the Lease Parcel, in an amount not less than \$1,000,000.00 combined single limit per accident.

d. Either of the following: (i) owner's and contractor's protective liability insurance with limits of not less than \$1,000,000.00 combined single limit per occurrence and not less than \$5,000,000.00 general aggregate as will insure Lessor as named insured against any and all claims for bodily injury, including death resulting therefrom, personal injury or damage to the property of others, arising from or in any way connected to Tenant's contractor(s) performance of work on, or services provided to, the Lease Parcel or (ii) in lieu of the foregoing owner's and contractor's protective liability insurance specified in this **Subsection 15.4(d)** an endorsement to the commercial general liability insurance specified in **Subsection 15.4(b)** above of this paragraph providing for a separate general aggregate limit of insurance of not less than \$5,000,000.00 on an occurrence basis.

e. Tenant shall cause the above-referenced contractor(s) and sub-contractor(s) (and their respective insurers) to: (i) provide waivers of liability in favor of Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees releasing and holding harmless the same from any and all liability for any and all bodily injury, including death resulting therefrom, personal injury and loss of or damage to property (including also any and all loss of use resulting therefrom); (ii) require the above-referenced contractor(s) and sub-contractor(s) to name the Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees as Additional Insureds in all insurance policies required under this **Subsection 15.4**; and, (iii) require that the contractor(s), sub-contractor(s) and all insurers providing policies of insurance under this **Subsection 15.4** waive their rights of subrogation against Lessor, its agents, representatives, officers, directors, elected and

appointed officials, and employees. The above-referenced waivers of liability and subrogation shall not apply to Lessor's negligent or intentional acts but shall be applicable to any negligence imputed to Lessor, its agents, representatives, officers, directors, elected officials and employees by operation of law as a result of the action or non-action of Tenant's contractor(s), sub-contractor(s) and their respective insurers for work performed on, or services provided to, the Lease Parcel.

f. Tenant's contractor(s) and sub-contractor(s) performing work on, or providing services to, the Lease Parcel shall maintain Errors & Omissions coverage in an amount not less than \$1,000,000.00 combined single limit per occurrence and not less than \$5,000,000.00 general aggregate.

15.5 At Tenant's election, the insurance required by this **SECTION 15** may be provided under a blanket policy.

15.6 Certificates of insurance evidencing all of the coverages required in this **SECTION 15** shall be delivered to Lessor prior to the start of construction of any buildings, structures or improvements on or in the Lease Parcel and renewal certificates of insurance shall be delivered to Lessor at least thirty (30) days prior to the expiration dates of the respective policies. Such certificates shall also provide that Lessor will receive written notice at least ten (10) days prior to any cancellation, non-renewal or reduction in coverage. Lessor reserves the right to require Tenant to furnish proof, satisfactory to Lessor that any and all insurance policies for the Lease Parcel remain in full force and effect.

15.7 Tenant further covenants and agrees to reasonably increase the required insurance hereunder to such additional amounts that the Lessor requires of all similarly situated Tenants of the Lessor.

15.8 In the event of loss or destruction under any such policy or policies, Tenant shall promptly proceed with the repair and restoration of the damaged or destroyed buildings, structures or improvements in accordance with and subject to the provisions of **SECTION 18** of this Lease. The insurance proceeds, if less than Fifty Thousand Dollars (\$50,000.00) shall be paid to Tenant for application to such repair and restoration and, if in excess of Fifty Thousand Dollars (\$50,000.00) shall be paid to Tenant and thereafter endorsed over to Tenant's mortgagee, or if none, to Lessor to be held in trust by a bank or title companies designated by Lessor, to be paid out upon architect's certificates and contractors', subcontractors' and materialmen's waivers of lien for the cost and expense of repairing or restoring the buildings, structures or improvements damaged or destroyed; provided, however, that in the event that such insurance proceeds shall be insufficient to pay fully the cost of completion of such repair or restoration, Tenant shall have paid a sufficient portion of such cost to Lessor before any such repair and restoration are commenced so that it shall appear to the satisfaction of Lessor that the amount of insurance money in the hands of said trustee shall at all times be sufficient to pay for the completion of said repairs or restoration free and clear of liens. Upon the completion of said repair or restoration, free and clear of all liens, any surplus of insurance monies shall be paid to Tenant, provided that Tenant is

not then in default under this Lease. In the event that this Lease shall have been terminated for any default of Tenant under any of the terms and provisions contained in this Lease, all insurance proceeds in the hands of said trustee and all claims against insurers shall be and become the absolute property of Lessor.

SECTION 16 – DAMAGE OR DESTRUCTION

16.1 In the event of damage to or destruction of any of the buildings, structures or improvements included within the Lease Parcel by fire or other casualty, Tenant shall give Lessor and any mortgagee immediate notice thereof and shall at its own expense and whether or not the insurance proceeds are sufficient for the purpose, promptly commence and thereafter diligently pursue completion of the repair, restoration or rebuilding of the same so that upon completion of such repairs, restoration or rebuilding, the value and rental value of the buildings, structures or improvements shall be substantially equal to the value and rental value thereof immediately prior to the occurrence of such fire or other casualty.

16.2 Notwithstanding anything to the contrary contained herein, if the buildings, structures or improvements included within the Lease Parcel should be rendered untenable by fire or other casualty during the last five (5) years of the Lease to the extent of fifty percent (50%) or more of the replacement cost of said buildings, structures or improvements, Tenant may, at Tenant's option, terminate this Lease, provided however, that Tenant shall pay all casualty insurance proceeds received or receivable by reason of the destruction of said buildings, structures or improvements in the following order of priority: (1) to any leasehold mortgagees in the order of their priority for the outstanding balances of said mortgages; (2) to Tenant for the costs of restoring the Lease Parcel substantially to its condition on the Lease commencement Date; (3) to Lessor for any unpaid Rent; and (4) any residual to Tenant. Tenant's option to terminate shall be evidenced by a written notice given to Lessor within sixty (60) days after the occurrence of such damage or destruction.

16.3 Notwithstanding anything to the contrary contained herein, if the buildings, structures or improvements included within the Lease Parcel should be rendered untenable by fire or other casualty, to the extent of fifty percent (50%) or more of the replacement cost of said buildings, structures or improvements, during a Lease Year other than that referred to in **Subsection 18.1b(i)**, Tenant and Lessor, subject to the approval of the Peoria City Council if the City is still the Lessor, may mutually agree in writing that Tenant is relieved of any obligation to rebuild on the land included within the Lease Parcel and is further relieved of all obligations under this Lease. Tenant shall pay all casualty proceeds received or receivable by reason of the destruction of said buildings, structures or improvements under this provision in the following order of priority: (1) to any leasehold mortgagees in the order of their priority for the outstanding balances of said mortgages; (2) to Tenant for the costs of restoring the Lease Parcel substantially to its condition on the Lease commencement Date; (3) to Lessor for any unpaid Rent; and (4) any residual to Tenant. As used in this Lease, "Lease Year" shall mean each period of twelve (12) consecutive months commencing

on the anniversary of the Commencement Date hereunder and ending at midnight on the day prior to each successive anniversary of the Commencement Date.

SECTION 17 – INDEMNIFICATION

17.1 Tenant shall protect, indemnify and hold Lessor, its agents, representatives, officers, directors, elected and appointed officials and employees harmless from and against all liabilities, obligations, claims, suits, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and court costs) imposed upon or asserted against Lessor, its agents, representatives, officers, directors, elected or appointed officials, and employees, by reason of any of the following (unless resulting from negligent or intentional actions of Lessor, its agents, representatives, officers, directors, elected and appointed officials, or employees): (i) any use or nonuse of, or any condition created by Tenant on the Lease Parcel or any part thereof; (ii) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the Lease Parcel or any part thereof; (iii) performance of any labor or services or the furnishing of any materials or other property with respect to the Lease Parcel or any part thereof; or (iv) any failure on the part of Tenant to comply with any of the matters set forth in **SECTION 13** (Regulatory Requirements) of this Lease, including but not limited to any failure by Tenant to clean up any Hazardous Materials.

17.2 In the event Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees should be made a defendant in any action, suit or proceeding brought by reason of any the occurrences described in this **SECTION 17**, Tenant shall at its own expense resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Tenant and reasonably approved by Lessor. Except for the negligent or intentional acts of Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees, if any such action, suit or proceeding should result in a final judgment against Lessor, Tenant shall promptly satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged. The obligations of Tenant under this **SECTION 17** arising by reason of any such occurrence taking place while this Lease is in effect shall survive any termination or other form of cancellation of this Lease.

17.3 Notwithstanding the terms and conditions contained in **Subsection 17.2** above, Tenant shall be required to protect, defend, indemnify, satisfy or hold harmless Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees in the event negligence is imputed by operation of law against Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees as a result of the actions or non-action of Tenant, its agents, servants, employees, directors, representatives, officials, customers, vendors, guests, licensees or invitees on the Lease Parcel.

17.4 Lessor shall protect, defend, indemnify, satisfy and hold Tenant, its employees, agents, representatives, directors, officials, customers, vendors, guests,

licensees and invitees, as well as Tenant's assignees, sublessees, subtenants, their employees, agents, representatives, directors, officials, customers, vendors, guests, licensees and invitees (Collectively "Tenant Indemnitees"), harmless from and against all liabilities, obligations, claims, suits, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and court costs) imposed upon or asserted against Tenant Indemnitees, by reason of any of the following (unless resulting from negligent or intentional actions of Tenant Indemnitees): (i) any use or nonuse of, or any condition created by Lessor, its assignees, lessees, tenants, sublessees, subtenants, their employees, agents, representatives, directors, officials, customers, vendors, guests, licensees and invitees on Lessor's adjoining property, including but not limited to sports, musical, civic, social and other events and activities, whether City sponsored or not, held at or causing activity at the sports stadium, the sports training facilities, the City streets, roads and sidewalks, the parking garage(s), the surface parking lots, or any part thereof ("Lessor's Property"); or (ii) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about Lessor's Property and impacting or affecting Tenant Indemnitees and/or the Lease Parcel; or (iii) any injury to or death of persons (including workmen) or loss of or damage to property or remediation costs on or about the Lease Parcel due to the presence of Hazardous Materials on the Lease Parcel prior to the Commencement Date of the Lease.

17.5 Except for any responsibility alleged or allocated to Lessor by reason of its failure to enforce the terms of this Lease, and except to the extent of the negligent or intentional actions of Tenant, its agents, representatives, officers, directors, or employees, Lessor shall protect, defend, indemnify, satisfy any judgment and hold Tenant, its agents, representatives, officers, directors, and employees harmless from and against all liabilities, obligations, claims, suits, damages, penalties, causes of action, costs and expenses (including reasonable attorney's fees and expenses) imposed upon or asserted against Tenant by reason of the negligent or intentional actions of Lessor, its agents, representatives, officers, directors, elected and appointed officials, or employees. In the event Tenant should be made a defendant in any action, suit or proceeding brought by reason of Lessor's, its agents', representatives', officers', directors', elected and appointed officials', and employees' negligence, Lessor shall at its own expense resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Lessor. If any such action, suit or proceeding should result in a final judgment against Tenant, Lessor shall promptly satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged. The obligations of Lessor under this **SECTION 17** arising by reason of any such occurrence taking place while this Lease is in effect shall survive any termination or other form of cancellation of this Lease.

17.6 Notwithstanding the obligations imposed upon Lessor pursuant to **Subsection 17.4** above, Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees shall not be required to protect, defend, indemnify, satisfy any judgment or hold Tenant harmless for any negligence imputed against Lessor, its agents, representatives, officers, directors, elected and appointed officials, and employees by operation of law as a result of the action or non-action of

Tenant, its agents, servants, employees, directors, representatives, officials, customers, vendors, guests, licensees or invitees on the Lease Parcel.

SECTION 18 – ASSIGNMENT AND SUBLETTING

18.1 Assignment.

a. Tenant shall not assign all, any portion or any interest in this Lease without first obtaining the written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment, except as authorized under **SECTION 19** below, without such written consent shall be void and confer no rights upon any third person, and at the option of Lessor, shall cause a termination of this Lease, in which event said third person shall occupy the Lease Parcel as a tenant at sufferance. Upon assignment of Tenant's rights and obligations under this or any part of this Lease to an assignee approved by Lessor, Tenant shall be released from all further liability or obligation under that part of the Lease assigned to assignee.

b. Exceptions.

(i) Tenant shall not be deemed to have assigned its interests herein as a result of (a) any addition or withdrawal of a partner or member, if Tenant is a partnership or limited liability company, (b) any change in stock ownership, if Tenant is a corporation, (c) any change in the beneficial ownership, if Tenant is any other form of entity, or (d) assignment by Tenant of part or all of its interest herein to an Affiliated Entity, publicly traded Real Estate Investment Trust, or members of the Tenant and their successors and heirs if a limited liability company. As used herein, an Affiliated Entity means a limited liability company, partnership, corporation, trust or other legal entity which controls, is controlled by or is under common control with Tenant. "Control", for these purposes, shall mean ownership of more than fifty percent (>50%) of the ownership interests, interest in profits, or beneficial interest of an entity.

(ii) Tenant, without further approval by Lessor, shall have the right at any time and from time to time during the Term of this Lease to assign or otherwise encumber by way of mortgages, deeds of trust or other documents or instruments, all or any part of its right, title and interest in and to this Lease to any person or entity for the purpose of obtaining financing. An assignment pursuant to this **Subsection 18.1(b)(ii)** shall not relieve Tenant of any obligations hereunder. The provisions **Subsection 18.1(b)(i)** shall not in anyway limit Tenant's right to obtain leasehold financing as set forth herein.

18.2 Sublease. Tenant may sublet all or any portion of the Lease Parcel and all, any portion of or any space within any buildings or structures located on the Lease Parcel, for any Permitted Use without first obtaining the written consent of Lessor with the exception of hotel rooms and conference room facilities, but a copy of the sublease shall be provided to Lessor within thirty (30) days following execution thereof. A sublease shall (i) not relieve Tenant of its liability for the full performance of all of the

terms, agreements, covenants and conditions of this Lease unless otherwise agreed to by Lessor; (ii) not grant any rights to the subtenant which are inconsistent with the rights of Tenant under this Lease; (iii) be expressly subject and subordinate to each and every provision of this Lease; (iv) have a term that expires on or before the expiration of the Term; and (v) provide that if Lessor succeeds to sublessor's position, Lessor shall not be liable to subtenant for any prepayment of more than one (1) month's Base Rent, or for deposits or other payments which have not been actually delivered to Lessor by the sublessor, provided however, that the rent and common area Maintenance (CAM) charges may be allocated in differing amounts between each sublease. Any and all sublease agreements shall also provide that in the event of termination, re-entry, or dispossession by Lessor under this Lease, Lessor may, at its option, take over all of the right, title and interest of Tenant as sublessor under such sublease, and such subtenant shall, at Lessor's option, attorn to Lessor pursuant to the then executory provisions of the sublease, except that Lessor shall not (a) be liable for any previous act or omission of Tenant under the sublease; (b) be subject to any offset not expressly provided in the sublease, that theretofore accrued to the subtenant against Tenant; or (c) be bound by any previous modification of such sublease or by any previous prepayment of more than one (1) month's Base Rent.

18.3 Partition Lease. Tenant may, with Lessor's prior written approval, which may not be unreasonably withheld, may divide and assign portions of the Lease Parcel into no more than four (4) separate, stand alone, developable parcels as represented on the **Exhibit "E"** Site Plan as the Retail, Hotel, Multifamily Parcels and the Surface Parking Parcels (the "Partition Parcels"). The approved Partition Parcels shall each have legal access to a public road or abut a private road over which a vehicular and pedestrian access easement exists for the public benefit. A Partition Parcel may be assigned to a third party, to an Affiliated Entity, or to Tenant pursuant to the terms of a Partition Lease which shall contain all of the applicable terms and provisions of this Lease, provided however, that the term of such Partition Lease shall correspond to the remaining Term of this Lease (a "Partition Lease"), and the Partition Lease shall be executed by Lessor and the new tenant for the Partition Parcel, and provided further, that the rent and common area Maintenance (CAM) charges may be allocated in differing amounts between this Lease and the Partition Lease. As of the commencement date of the Partition Lease, this Lease shall then terminate as to the assigned Partition Parcel and Tenant shall be released from all liability from and after the date of termination with respect to such Partition Parcel which shall be superseded by the terms of such Partition Lease. Each such Partition Lease shall be separate from this Lease and no Default under or termination of a Partition Lease shall affect or constitute a default under this Lease. The new tenant under a Partition Lease shall have no liability for performance of Tenant's obligations under this Lease and no default under this Lease shall constitute a default under the Partition Lease. Tenant under this Lease shall have no obligation to pay rent under a Partition Lease and the tenant under the Partition Lease shall have no obligation to pay rent under this Lease. Consent by Lessor to one assignment shall not operate as a waiver of this **SECTION 18** as to any future assignment, and this **SECTION 18** shall apply to any Partition Lease assignee. The provisions of this **Subsection 18.3**, however, shall not preclude Tenant's mortgaging or otherwise hypothecating its leasehold estate in accordance with the

provisions of **SECTION 19**. The acceptance of Rent or Additional Charges from any other person shall not be deemed to be a waiver of any of the provisions of this Lease or consent to the assignment of the Lease Parcel.

18.4 Assignment Fee. Tenant agrees to reimburse Lessor for Lessor's reasonable costs, not to exceed \$1,500 (including but not limited to attorneys' fees), in conjunction with the processing of any request for consent under this **SECTION 18**.

SECTION 19 – HYPOTHECATION OF LEASEHOLD ESTATE

19.1 Tenant shall have the right to mortgage its interest in this Lease (but in no event the fee interest of the real property included within the Lease Parcel, which may be assigned, encumbered and mortgaged only by Lessor) to a bank, insurance company or other bona fide lender without first obtaining the written consent of Lessor, provided that any leasehold mortgage shall be subject and subordinate to the rights of Lessor hereunder. As used in this **SECTION 19** and throughout this Lease, the noun "mortgage" shall include a deed of trust, the verb "mortgage" shall include the creation of a deed of trust, and the word "mortgagee" shall include the beneficiary under a deed of trust. Within five days of entering into a leasehold mortgage, Tenant shall provide written notice to Lessor of such leasehold mortgage.

19.2 If Tenant shall mortgage this Lease in accordance with **Subsection 19.1** and shall have furnished Lessor the name and mailing address of the mortgagee, then Lessor shall not be empowered to terminate this Lease by reason of the occurrence of any default hereunder, unless Lessor shall have given the mortgagee under such leasehold mortgage a copy of its notice to Tenant of such default and the default shall continue for ninety (90) days after the mortgagee has been given such notice.

19.3 The leasehold mortgagee shall have the right to remedy any default under this Lease and Lessor shall accept such performance by or at the instance of such leasehold mortgagee as if the same had been made by Tenant.

19.4 In case of default, Lessor shall not be empowered to terminate this Lease by reason of the occurrence of such default if leasehold mortgagee, within ninety (90) days after the giving of notice of such default as provided in **Subsection 19.2**, shall commence foreclosure or similar proceedings under the mortgage for the purpose of acquiring Tenant's interest in this Lease and shall thereafter diligently prosecute the same; provided that during the pendency of such foreclosure proceedings and the period of redemption, leasehold mortgagee shall remedy any existing defaults under this Lease that are capable of being remedied by the leasehold mortgagee, shall pay to Lessor, when due, all Rent, Additional Charges and other sums due hereunder and shall perform or cause to be performed all other agreements, terms, covenants and conditions arising out of or contained herein in this Lease.

19.5 The leasehold mortgagee, or a third party purchaser, may become the legal owner or successor and holder of the leasehold estate under this Lease

without first obtaining the written consent of Lessor, by foreclosure of its leasehold mortgage or as a result of the assignment of this Lease in lieu of foreclosure. Upon becoming the owner or successor and holder of the leasehold estate, leasehold mortgagee or third party purchaser shall have all rights, privileges, obligations and liabilities of the original Tenant, except that leasehold mortgagee or third party purchaser shall have the right to assign its interest under this Lease and, provided the assignee shall assume and agree to perform and be bound by all of the terms hereof, to be relieved of further liability hereunder.

19.6 Lessor agrees that the name of the leasehold mortgagee may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant under this Lease, and provided the leasehold mortgagee remains a mortgagee or becomes the legal owner and holder of the leasehold estate under this Lease, it may receive and hold insurance proceeds thereunder on the condition that the insurance proceeds be applied in the manner specified in this Lease.

19.7 Lessor agrees that in the event of termination of this Lease by reason of the bankruptcy of Tenant or any uncured default by Tenant, that Lessor will enter into a new lease for the Lease Parcel with the leasehold mortgagee or its nominee for the remainder of the Term effective as of the date of such termination, at the Rent, and upon the terms, provisions, covenants and agreement contained in this Lease, subject to the rights, if any, of the parties then in possession of any part of the Lease Parcel, provided:

a. The mortgagee or its nominee shall make written request upon Lessor for the new lease agreement within thirty (30) days after the date the mortgagee receives written notice from Lessor of such termination and the Rent due and unpaid. The written request shall be accompanied by any then due payments of Rent under this Lease; and the mortgagee or nominee shall execute and deliver the new lease agreement within thirty (30) days after Lessor has delivered it.

b. The mortgagee or its nominee shall pay to Lessor, at the time of execution and delivery of the new lease agreement, any and all sums which would then be due pursuant to this Lease but for such termination and, in addition thereto, any reasonable expenses, including reasonable attorney's fees, which Lessor shall have incurred by reason of such default, including the costs of negotiation, approval and recording the new lease agreement.

c. The mortgagee or its nominee shall perform and observe all covenants in this Lease to be performed by Tenant and shall further remedy any other defaults under covenants which Tenant was obligated to perform under the terms of this Lease that are capable of being remedied by the leasehold mortgagee. If there are any continuing or past defaults that the mortgagee cannot cure due to the circumstances of the default, then the performance requirement shall be waived.

d. The new lease agreement shall be expressly made subject to the rights that survive, if any, of Tenant under this Lease and the rights of any subtenants.

e. The tenant under the new lease agreement shall have the same right, title and interest in and to the Lease Parcel as Tenant has under this Lease.

f. If, after receiving a notice of default under this Lease, the leasehold mortgagee decides to foreclose or otherwise exercise remedies against Tenant, Lessor agrees to forebear from the exercise of any remedies available to Lessor under this Lease for so long as the leasehold mortgagee pays all Rent hereunder, and otherwise performs or causes to be performed the obligations of Tenant hereunder, as and when due, and diligently pursues the exercise of such remedies, including without limitation, any period during which the leasehold mortgagee seeks possession of the Lease Parcel pursuant to judicial proceedings (including any period during which the leasehold mortgagee is subject to a stay imposed by any court). Notwithstanding anything to the contrary, Lessor agrees to recognize as "Tenant" under this Lease the leasehold mortgagee, its nominee or any purchaser at a foreclosure sale or by assignment in lieu of foreclosure.

19.8 Except in connection with a leasehold mortgagee's exercise of any right it may have to obtain a new lease under **Subsection 19.6** above, or any purchase, assumption or other acquisition in **Subsection 19.6** above, a leasehold mortgagee shall not, as a condition to the exercise of its rights hereunder, be required to assume any personal liability for the payment and performance of the obligations of Tenant hereunder, and any such payment or performance or other act by the leasehold mortgagee hereunder shall not be construed as an undertaking by such leasehold mortgagee to assume such personal liability.

SECTION 20 – DEFAULTS BY TENANT

20.1 Each of the following occurrences shall be an event of default hereunder:

a. If Tenant shall fail to pay any Rent or Additional Charges or any sum due hereunder promptly when due and such failure shall continue for ten (10) days after notice thereof in writing to Tenant.

b. If Tenant fails to perform or comply with any of the other covenants, agreements, conditions or undertakings herein to be kept, observed and performed by Tenant (not including the occurrence of any event referred to in subparagraphs (c) through (f) of this **Subsection 20.1**) and such default shall continue for thirty (30) days after notice thereof in writing to Tenant.

c. If Tenant shall voluntarily file any petition, or have an involuntary petition filed on its behalf, under any chapter or section of the Federal Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing, or shall file an answer admitting insolvency or inability to pay its debts; provided however, that Tenant shall not remain in default if Tenant shall continue to pay all Rent and Additional Charges and comply with all other terms and conditions of this Lease.

d. If Tenant shall make an assignment for the benefit of its creditors.

20.2 Upon the occurrence of any default that is not cured within the applicable cure period, and at any time after the expiration of the applicable cure period, Lessor shall have the right, at its election, to reenter the Lease Parcel and the buildings, structures and improvements then situated thereon, or any part thereof, pursuant to judicial action only, and to expel, remove and put out Tenant and all persons occupying or upon the same under Tenant, using such force as may be necessary in so doing, and again to possess the premises and enjoy the same as in their former estate and to take full possession of and control over the Lease Parcel and the buildings, structures and improvements thereon and to have, hold and enjoy the same and to receive all rental income of and from the same. No reentry by Lessor shall be deemed an acceptance of a surrender of this Lease, nor shall it absolve or discharge Tenant from any liability under this Lease. Upon such reentry, all rights of Tenant to occupy or possess the Lease Parcel shall cease and terminate.

20.3 Upon the occurrence of any default that is not cured within the applicable cure period, and at any time after the expiration of the applicable cure period, if Lessor has other adequate and effective remedies for the default, such as damages or reentry, then Lessor shall first resort to such other remedies, and, only if they prove not to be adequate or effective shall Lessor exercise its right, at its election, as provided in **Subsection 20.2** above, to give written notice to Tenant stating that this Lease and the real property hereby demised shall terminate on the date specified by such notice, and upon the date specified in such notice this Lease and the real property hereby demised and all rights of Tenant hereunder shall terminate. Upon such termination, Tenant shall quit and peacefully surrender to Lessor the Lease Parcel and the buildings, structures and improvements then situated thereon.

20.4 At any time and from time to time after such reentry, Lessor may relet the Lease Parcel and the buildings, structures and improvements thereon, or any part thereof, in the name of Lessor or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease), and on such conditions (which may include concessions or free rental) as Lessor, in its reasonable discretion, may determine and may collect and receive the rental therefore. Even though it may relet the Lease Parcel, Lessor shall have the right thereafter to terminate this Lease and all of the rights of Tenant in or to the Lease Parcel.

20.5 Tenant shall pay such damages to Lessor annually on the anniversary of the Commencement Date, and Lessor shall be entitled to recover from Tenant annually, as the same shall arise. Tenant shall be liable for such damages on an annual basis, whether or not in any prior year the net proceeds described in subparagraph (b) below shall have exceeded the Rent and Additional Charges described in subparagraph (a) below. Unless Lessor shall have notified Tenant in writing that it has elected to terminate this Lease, no such reentry or action in lawful detainer or otherwise to obtain possession of the Lease Parcel shall relieve Tenant of its liability and obligations under this Lease; and all such liability and obligations shall survive any such reentry. In the event of any such reentry, whether or not the Lease Parcel and the buildings, structures and improvements thereon, or any part thereof,

shall have been relet, Tenant shall pay to Lessor the entire Rent and all other Additional Charges required to be paid by Tenant up to the time of such reentry under this Lease, and thereafter Tenant, until the end of what would have been the Term of this Lease in the absence of such reentry, shall be liable to Lessor and shall pay to Lessor, as and for liquidated and agreed damages for Tenant's default:

a. The amount of Rent and Additional Charges which would be payable under this Lease by Tenant if this Lease were still in effect, less

b. The net proceeds of any reletting, after deducting all of Lessor's reasonable expenses in connection with such reletting, including without limitation all reasonable repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation for such reletting.

20.6 In the event of any breach by Tenant of any of the terms, covenants or agreements contained in this Lease, Lessor shall have, in addition to any specific remedies provided in this Lease, the right to invoke any right or remedy allowed by law or in equity or by statute or otherwise, including the right to enjoin such breach.

20.7 Each right and remedy of Lessor provided for in this Lease shall be cumulative and in addition to every other right or remedy provided for in this Lease now or hereafter existing at law or in equity or by statute or otherwise; and the exercise or beginning of the exercise by Lessor of any one or more of such rights or remedies shall not preclude the simultaneous or later exercise by Lessor of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

20.8 Any violation of any covenant or provision of this Lease, whether by act or omission, by any subtenant or any other persons occupying any portion of the Lease Parcel or any buildings, structures or improvements thereon under the rights of Tenant shall be deemed a violation of such provision by Tenant and a default under this Lease. Any such violation shall not be deemed to be a default hereunder if and so long as Tenant in good faith and at its own expense takes and diligently pursues any and all steps it is entitled to take and which steps if completed will cure said default.

20.9 Notwithstanding any other provision of this **SECTION 20**, Lessor agrees that if the default complained of, other than for the payment of monies, is of such a nature that the same cannot be rectified or cured within the thirty (30) day period for rectification or curing as specified in the written notice relating thereto, then such default shall be deemed to be rectified or cured if Tenant, within such period of thirty (30) days, shall have commenced the rectification and curing thereof and shall continue thereafter with all due diligence to effect such rectification and curing and does so complete the same with the use of such diligence as aforesaid.

20.10 Notwithstanding any other provision of this **SECTION 20**, any dispute between the Parties, during the time that the City of Peoria remains the Lessor, regarding an issue involving this Lease including an event of default, the moving Party

shall submit its concerns and issues to the other Party in within ten (10) Business Days of the occurrence of the event giving rise to the concern of the moving Party. Within ten (10) Business Days of the issuance of the written notice, the Parties shall schedule an informal meeting allowing the moving Party the opportunity to explain the nature of the dispute and permit the Parties to seek resolution of the issue. If the Parties are unable to resolve their differences, the moving Party may pursue the Dispute Resolution procedural steps set forth herein in **Subsection 41.2**.

SECTION 21 – OPERATING COVENANT

21.1 Tenant covenants and agrees that following completion of the Improvements contemplated by this Lease and for the remainder of the Term, it will continuously and without interruption offer for sublease any vacant space within the Improvements that is intended to be operated for retail or multi-family rental uses and shall have available to the Lease Parcel competent personnel (who may be employees or independent contractors) to sublease and maintain the improvements in a manner which conforms to commercially reasonable management practices for comparable facilities, (“Operating Covenant”); provided, however, that the Operating Covenant shall not apply during (i) weekends and holidays and (ii) any period when the Lease Parcel are untenable by reason of fire or other casualty or by eminent domain. The Parties acknowledge that the occurrence of vacancies from time to time shall not constitute a breach of the Operating Covenant. Notwithstanding the foregoing, Tenant may request of Lessor a waiver of the provisions of this **SECTION 21** if it determines that economic factors and conditions make it impractical to comply therewith.

21.2 Subject to the rights of any leasehold mortgagee otherwise set forth herein, if Tenant fails to use commercially reasonable efforts to fulfill the Operating Covenant and such failure is not cured within the applicable cure period, then, as Lessor’s exclusive remedy for such failure, Lessor may terminate this Lease upon ninety (90) days prior written notice to Tenant after which all obligations of Tenant and Lessor under this Lease shall terminate and be of no further force and effect.

SECTION 22 – ASSIGNMENT OF RENTS, INCOME AND PROFITS

Tenant hereby absolutely and irrevocably assigns to Lessor all rents, income and profits accruing to Tenant from permitted subtenants of all or a portion of the Lease Parcel and the buildings, structures or improvements thereon, together with the right to collect and receive the same; provided that so long as Tenant is not in default hereunder, Tenant shall have the right to collect and retain such rents, income and profits. Lessor shall apply to rent and other monies due hereunder the net amount (after deducting all costs and expenses incident to the collection thereof and the operation and maintenance, including repairs, of the Lease Parcel) of any rents, income and profits so collected and received by it. Notwithstanding the foregoing, if Tenant mortgages its leasehold interest pursuant to **Subsection 19.1** and the mortgagee requires an assignment of rents, income and profits as part of its security, then during the Term of this Lease, the assignment herein shall be junior to the assignment in favor of the mortgagee.

SECTION 23 – CORPORATE STATUS OF TENANT

Tenant covenants that it is a valid and existing limited liability company under the laws of the State of Arizona, that it is duly qualified to do business in the State of Arizona, and that it has full right and authority to enter into this Lease.

SECTION 24 – WAIVER OF PERFORMANCE

No failure by Lessor or Tenant to insist upon the strict performance of any term or condition hereof or to exercise any right, power or remedy consequent upon a breach thereof and no submission by Tenant or acceptance by Lessor of full or partial Rent or Additional Charges during the continuance of any such breach shall constitute a waiver of any such breach or of any such term. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, nor the respective rights of Lessor or Tenant with respect to any other then existing or subsequent breach.

SECTION 25 – REMEDIES CUMULATIVE

Each right, power and remedy provided for in this Lease or now or hereafter existing at law, in equity or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law, in equity or otherwise; and the exercise or beginning of the exercise of any one or more of the rights, powers or remedies provided in this Lease shall not preclude the simultaneous or later exercise of any or all such other rights, powers or remedies.

SECTION 26 – FIRST RIGHT OF PURCHASE

26.1 If Lessor, or any successor or assign of Lessor, intends to list or market for sale, or otherwise intends to sell, convey or dispose of the real property included within the Lease Parcel or a Partition Parcel, Tenant shall be given prompt written notice of such intent with respect to the real property included within the said parcel ("Notice of Sale"). Until the later of (i) ninety (90) days after receipt of a Notice of Sale from Lessor or successor Lessor or (ii) ten (10) days following the determination of FMV in accordance with this **Subsection 26.1** (the "Negotiation Period"), Tenant shall have first right to purchase the real property included within the Lease Parcel at the then-fair market value ("FMV") of the real property comprising the Lease Parcel exclusive of any improvements thereon and on such other terms and conditions as the Parties may determine. In the Notice of Sale, Lessor shall advise Tenant of its estimate of the FMV. If Tenant disputes Lessor's estimate of FMV, it shall notify Lessor within thirty (30) days following receipt of a Notice of Sale (an "Objection Notice") and the Parties shall meet and confer within ten (10) days following Tenant's Objection Notice in an effort to agree on the FMV. If the Parties are unable to agree on the FMV within thirty (30) days following issuance of an Objection Notice, then the FMV shall be determined by a single appraiser who is a member of the American Institute of Real Estate Appraisers (or if it shall not then be in existence, a member of the most nearly comparable organization) who is licensed by the State of Arizona and has a minimum of

ten (10) years' experience in the Phoenix Metropolitan Area, and who is not affiliated with either Party. If the Parties are unable to agree on a single appraiser within forty-five (45) days following issuance of an Objection Notice, either Party may request that the presiding judge of the Maricopa County Superior Court select an appraiser having the qualifications set forth above. The appraiser shall have thirty (30) days following selection to notify the Parties in writing of its determination of the FMV. Neither Party shall have any ex parte communication with the appraiser, but each Party may submit to the appraiser no later than ten (10) days following his/her selection a memorandum supporting such Party's opinion as to FMV. The appraiser's determination of FMV shall be binding on both Parties as the purchase price for the Lease Parcel. Each Party shall pay one-half (1/2) of the appraiser's fee.

26.2 If Tenant elects not to purchase the real property included within the Lease Parcel within the Negotiation Period or if the Parties are unable to agree upon the terms of sale, Lessor (or any successor Lessor) may proceed to solicit and accept other offer(s) to purchase the real property included within the Lease Parcel or otherwise sell, convey or dispose of the real property included within the Lease Parcel without further notice to Tenant except that if either of the following occur, then Lessor shall again be required to offer Tenant the opportunity to purchase the real property included within the Lease Parcel: (a) Lessor fails to sell or otherwise convey or dispose of the real property included within the Lease Parcel within one (1) year of such Notice of Sale, or (b) the purchase price at which Lessor proposes to sell the Lease Parcel is less than the FMV. In the event Lessor or any successor Lessor shall accept an offer to purchase or otherwise sell, convey or dispose of the real property included within the Lease Parcel it shall thereupon be released from all liabilities and obligations imposed upon Lessor under this Lease (except those accruing prior to such conveyance or other disposition) and such liabilities and obligations shall be binding solely on the then owner of the real property included within the Lease Parcel, which owner shall be deemed to have assumed Lessor's obligations under this Lease, including the obligation to offer the real property included within the Lease Parcel to Tenant in the event of any future sale.

26.3 If Tenant elects to purchase the real property included within the Lease Parcel within the Negotiation Period and the parties agree to a purchase price for the Lease Parcel or any Partition Parcel ("First Right Purchase Price") as determined in accordance with **Subsection 26.1**, above, Lessor shall open escrow and provide Tenant with a title report for the Lease Parcel, as applicable, within thirty (30) days of the opening of Escrow. Within thirty (30) days of receiving Lessor's title report, Tenant shall give notice in writing to Lessor of any defects in or objections to the title as so evidenced, and Lessor either shall clear the title defects and objections so specified or discuss with Tenant a mutually agreeable resolution of the issue of any title defects and objections.

26.4 Closing Costs and Prorations. At close of Escrow, Lessor and Tenant shall share equally the costs of any escrow fees and recording fees. At close of Escrow, Lessor shall pay the cost of the premium for the title policy to the extent of the premium attributable to a standard coverage policy. Tenant shall pay the additional premium associated with ALTA coverage, any survey costs or the cost of any title

endorsements requested by Tenant. At close of Escrow, all other closing costs shall be allocated between the parties according to law or custom in Maricopa County, Arizona. Each Party shall bear its own legal and other professional fees which shall not be payable through the Escrow. Annual Rent to the extent paid by Tenant to Lessor for any period on or after the date of close of Escrow shall be prorated and credited to Tenants account. Any Additional Charges to be paid by Tenant to any municipality, government agency, taxing authority, utility company, or other third party shall also be prorated at close of Escrow.

26.5 Upon payment of the First Right Purchase Price, as applicable, Lessor shall convey its fee simple interest the Lease Parcel or the Partition Parcel, as applicable, to Tenant by special warranty deed in a form substantially similar to that attached hereto as **Exhibit "H"**. In the event the purchase transaction fails to close then this Lease shall continue in full force and effect.

26.6 Upon delivery of the special warranty deed for the entire Lease Parcel by Lessor to Tenant, this Lease shall terminate. The Parties shall thereafter execute and deliver one to the other any and all necessary documents to evidence the termination of this Lease and the Memorandum hereof. If some portion of the Lease Parcel is not included in the special warranty deed, Tenant shall remain obligated to comply with all provisions of this Lease applicable to such portion.

SECTION 27 – TITLE TO BUILDINGS AND IMPROVEMENTS

27.1 During Term. Prior to receipt of a Certificate of Occupancy, title to all Improvements constructed on the Premises by Tenant pursuant to this Lease shall be in the Tenant, provided however, that in the event the Parties agree that the provisions of the GPLET statutes apply to this Lease, then following issuance of a Certificate of Occupancy and thereafter, title may be in the Lessor.

27.2 Ownership at Termination. Unless Tenant has purchased the Premises pursuant to the First Right to Purchase set forth in **SECTION 26** or the Purchase Option set forth in **SECTION 28**, on the expiration or sooner termination of this Lease term, title to all Improvements which constitute or are a part of the Lease Parcel, exclusive of trade fixtures and personal property of Tenant and subtenants, shall (without the payment of compensation to Tenant or others) remain in Lessor free and clear of all claims and encumbrances on such Improvements by Tenant, and anyone claiming under or through Tenant. The Improvements shall be surrendered to Lessor in "as is" condition. Upon request, Tenant shall then quitclaim to Lessor its possessory interest in the Improvements. Tenant agrees to and shall defend, indemnify and hold Lessor harmless from and against all liability and loss which may arise from the assertion of any claims and any encumbrances on such Improvements that arose during the Lease Term; provided, however, such duty to indemnify and hold harmless shall not apply to any claims or encumbrances which are attributable to the acts or conduct of the Lessor. Additionally, Tenant shall assign to Lessor without representation or warranty of any kind, and Lessor shall be entitled to the benefit of, any licenses, warranties or guarantees applicable to equipment, systems, fixtures or

personal property conveyed or otherwise transferred to, or for the benefit of, Lessor under this Lease. The foregoing notwithstanding, Tenant shall not quitclaim its possessory interest in the aforementioned Improvements to Lessor until such Improvements have been inspected by Lessor and they have been determined not to present a potential environmental hazard. This Section 28 shall survive the expiration or earlier termination of this Lease. Notwithstanding anything contained herein to the contrary, while this Lease remains in effect, Tenant alone shall be entitled to claim depreciation on the buildings, structures, improvements, additions and alterations therein included within the Lease Parcel, and all renewals and replacements thereof, for all taxation purposes.

SECTION 28 - PURCHASE OPTION

28.1 Lessor hereby grants to Tenant the option to purchase the Lease Parcel or any Partition Parcel at any time between the Commencement Date and the end of the fiftieth (50th) Lease Year in accordance with the terms and conditions of this **SECTION 28** (the "Purchase Option").

28.2 Tenant shall not be eligible to purchase the Lease Parcel or any Partition Parcel unless Tenant first has provided documentation to Lessor establishing full project construction financing commitment on the part of a viable construction lender for the construction of the retail, restaurant and hotel portions of the Project, with the only financing contingency being the Lessor's completion of the Parking Garages. In addition, Tenant shall not be eligible to purchase Parcels 3 or 4 unless Tenant has received Certificate of Occupancies for the retail, restaurant and hotel uses within the Project or the project construction financing commitment covers the construction of all three Parcels as one project.

28.3 Tenant may not exercise the Purchase Option if it is in material default in the performance or observance of its obligations under this Lease beyond any applicable cure period; provided, however, that if Tenant is in default of any non-monetary obligation under this Lease, it may nevertheless exercise the Purchase Option if (i) the closing of such Purchase Option will either cure or mitigate the effect of such default on Lessor or such default is of a nature that it cannot be cured, and (ii) Tenant agrees in writing in favor of Lessor that any claims Lessor may have against Tenant with respect to such default shall survive the closing of the Purchase Option.

28.4 To exercise the Purchase Option Tenant shall provide Lessor with Tenant's "Notice of Intent to Exercise Option" (the "Option Notice") in the form attached hereto as **Exhibit "I"**. The Option Notice shall include the date by which Tenant desires to close on the purchase. Such Notice shall be given not less than three (3) months nor more than six (6) months prior to the proposed Closing Date.

28.5 If Tenant exercises a purchase option for the Lease Parcel or any Partition Parcel within two years of the Commencement Date, the purchase price of the parcel to be purchased shall be \$4.98 per square foot, pursuant to the City's appraisal of the fair value of the real property multiplied by the square footage of the area sought

to be purchased. If Tenant exercises a purchase option for the Lease Parcel or any Partition Parcel two or more years after the Commencement Date, the Option Notice shall be accompanied by a then-current real estate appraisal establishing the then-fair market value ("FMV") of the real property comprising the Lease Parcel exclusive of any improvements thereon, completed at Tenant's cost supporting the proposed purchase price prepared by an appraiser who is a member of the American Institute of Real Estate Appraisers (or if it shall not then be in existence, a member of the most nearly comparable organization) who is licensed by the State of Arizona and has a minimum of ten (10) years' experience in the Phoenix Metropolitan Area, and who is not affiliated with either Party.

28.6 Lessor shall promptly review the real estate appraisal (if any) and detailed plan and advise Tenant within thirty (30) days whether the proposed purchase is acceptable, with such approval not to be unreasonably withheld, conditioned or delayed. If Lessor accepts Tenant's real estate appraisal (or if Lessor fails to notify Tenant of its objection within such 30-day period), the appraised value shall be the purchase price. If Lessor objects to Tenant's appraisal in writing (the "PP Objection Notice") within such thirty (30) day period, the Parties shall meet and confer within ten (10) days following the PP Objection Notice in an effort to agree on the purchase price for the Lease Parcel or any Partition Parcel, as applicable. If the Parties are unable to agree on the purchase price for the Lease Parcel or any Partition Parcel, as applicable, within thirty (30) days following issuance of a PP Objection Notice, then the FMV of the Lease Parcel or any Partition Parcel, as applicable, shall be determined by a single appraiser who is a member of the American Institute of Real Estate Appraisers (or if it shall not then be in existence, a member of the most nearly comparable organization) who is licensed by the State of Arizona and has a minimum of ten (10) years' experience in the Phoenix Metropolitan Area, and who is not affiliated with either Party. If the Parties are unable to agree on a single appraiser within forty-five (45) days following issuance of a PP Objection Notice, either Party may request that the presiding judge of the Maricopa County Superior Court select an appraiser having the qualifications set forth above. The appraiser shall have thirty (30) days following selection to notify the Parties in writing of its determination of the FMV for the Lease Parcel or any Partition Parcel, as applicable. . Neither Party shall have any ex parte communication with the appraiser, but each Party may submit to the appraiser no later than ten (10) days following his/her selection a memorandum supporting such Party's opinion as to the FMV for the Lease Parcel or any Partition Parcel, as applicable. The appraiser's determination of the FMV for the Lease Parcel or any Partition Parcel, as applicable, shall be binding on both Parties as the purchase price for the Lease Parcel or any Partition Parcel. Each Party shall pay one-half (1/2) of the appraiser's fee.

28.7 Once the purchase price for the Lease Parcel or any Partition Parcel ("Lease Parcel Price") has been determined in accordance with this **SECTION 28**, Lessor shall open escrow and provide Tenant with a title report for the Lease Parcel, as applicable, within thirty (30) days of the opening of Escrow. Within thirty (30) days of receiving Lessor's title report, Tenant shall give notice in writing to Lessor of any defects in or objections to the title as so evidenced, and Lessor either shall clear the title defects

and objections so specified or discuss with Tenant a mutually agreeable resolution of the issue of any title defects and objections.

28.8 Closing Costs and Prorations. At close of Escrow, Lessor and Tenant shall share equally the costs of any escrow fees and recording fees. At close of Escrow, Lessor shall pay the cost of the premium for the Option Title Policy to the extent of the premium attributable to a standard coverage policy. Tenant shall pay the additional premium associated with ALTA coverage, any survey costs or the cost of any title endorsements requested by Tenant. At close of Escrow, all other closing costs shall be allocated between the parties according to law or custom in Maricopa County, Arizona. Each Party shall bear its own legal and other professional fees which shall not be payable through the Escrow. Annual Rent to the extent paid by Tenant to Lessor for any period on or after the date of close of Escrow shall be prorated and credited to Tenants account. Any Additional Charges to be paid by Tenant to any municipality, government agency, taxing authority, utility company, or other third party shall also be prorated at close of Escrow.

28.9 Upon payment of the Lease Parcel Price, as applicable, Lessor shall convey its fee simple interest the Lease Parcel or the Partition Parcel, as applicable, to Tenant by special warranty deed in a form substantially similar to that attached hereto as **Exhibit "H"**. In the event the purchase transaction fails to close then this Lease shall continue in full force and effect.

28.10 Upon delivery of the special warranty deed for the entire Lease Parcel by Lessor to Tenant, this Lease shall terminate. The Parties shall thereafter execute and deliver one to the other any and all necessary documents to evidence the termination of this Lease and the Memorandum hereof. If some portion of the Lease Parcel is not included in the special warranty deed, Tenant shall remain obligated to comply with all provisions of this Lease applicable to such portion.

28.11 Tenant may not sell, assign, convey, or transfer the option rights set forth in this **SECTION 28** separately from the assignment of this Lease, without the prior, express, and written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Any sale, assignment, conveyance, or transfer of this option made, attempted, or suffered, by operation of law or otherwise, without such prior written consent, shall render the option rights of no further force or effect. The failure of Lessor, for any reason, to notify Tenant in writing of its objections to any such sale, assignment, conveyance, or transfer of this option within twenty (20) Business Days from the date the consent is requested shall be conclusive evidence of Lessor's consent.

SECTION 29 – ATTORNEYS FEES

In the event Lessor should bring suit for possession of the Lease Parcel, for the recovery of any sum due hereunder, or for any other relief against Tenant, declaratory or otherwise, arising out of a breach of any term or condition of this Lease, or in the event Tenant should bring any action for any relief against Lessor, declaratory

or otherwise, arising out of this Lease, the prevailing Party shall be entitled to receive from the other Party reasonable attorneys' fees and reasonable costs and expenses, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

SECTION 30 – PROVISIONS SUBJECT TO APPLICABLE LAW

All rights, powers and remedies provided herein shall be exercised only to the extent that the exercise thereof shall not violate any applicable law and are intended to be limited to the extent necessary so that they shall not render this Lease invalid or unenforceable under any applicable law. If any term or condition of this Lease shall be held to be invalid, illegal or unenforceable or against public policy, such provision shall be deemed stricken from this Lease and the validity of the other terms of this Lease shall in no way be affected thereby and this Lease, absent the stricken provision, shall otherwise remain in full force and effect.

SECTION 31 – RIGHT TO CURE TENANT'S DEFAULTS

Except with respect to Tenant's failure to operate its business, in the event Tenant shall be in default of this Lease, which default remains uncured after the expiration of any applicable cure period provided herein, and if such default continues for thirty (30) days after written notice from Lessor of the default and of Lessor's intent to cure such default, Lessor may at any time, without further notice, cure such breach for the account and at the expense of Tenant. If Lessor at any time, by reason of such breach, is compelled to pay or elects to pay any sum of money or to do any act that will require the payment of any sum of money, or is compelled to incur any expense, including reasonable attorneys' fees, in instituting, prosecuting or defending any actions or proceedings to enforce Lessor's rights under this Lease or otherwise, the sum or sums so paid by Lessor, with all interest, costs and damages, shall be deemed to be Additional Charges and shall be due from Tenant to Lessor on the first day of the month following the incurring of such expenses or the payment of such sums.

SECTION 32 – NOTICES

All notices, demands, requests, consents, approvals and other communications required or permitted hereunder shall be in writing and shall be deemed to have been given upon personal delivery to the respective Party, after delivery by electronic mail (provided that a copy must also simultaneously be sent via another approved form of delivery) or a nationally recognized overnight courier service (e.g., UPS, Federal Express), or within three (3) days after the same has been mailed by registered or certified mail, postage prepaid, at the address shown below:

To TENANT: Peoria Sports Park, LLC
8331 W. Briles Road
Peoria, Arizona 85383
Attention: Mike Oliver, CEO/Principal
Email: michaelnoliver@hotmail.com

With a Copy to: Fennemore Craig, P.C.
3003 N. Central Avenue, Suite 2600
Phoenix, AZ 85012
Attention: Michael J. Phalen
Email: mphalen@fclaw.com

To LESSOR: City Manager
City of Peoria, Arizona
8401 W. Monroe St.
Peoria, Arizona 85345
Email: carl.swenson@peoriaaz.gov

With a Copy to: City Attorney
City of Peoria, Arizona
P.O. Box 4038
Peoria, Arizona 85380-4038
Email: cityattorney@peoriaaz.gov

or at such other address as either Party shall from time to time designate in writing to the other.

SECTION 33 – WARRANTIES OF LESSOR

33.1 Lessor hereby makes the following representations and warranties, each of which (i) is material and is being relied upon by Tenant in entering into this Lease, and (ii) is true in all respects as of the date hereof:

- a. Lessor owns the real property included within the Lease Parcel.
- b. Lessor has the full right, power and authority to enter into and perform Lessor's obligations pursuant to this Lease and to lease the real property included within the Lease Parcel to Tenant in the manner contemplated in this Lease subject only to the consent and approval of the Peoria City Council.
- c. No other person or entity other than Tenant has a right to possession of all or any part of the real property included within the Lease Parcel.
- d. Lessor is not now involved in or aware of any pending or threatened proceeding, claim or controversy, which affects or may affect the real property included within the Lease Parcel in any way whatsoever.
- e. Except as provided in the agreements with the three parties discussed below, to the extent of Lessor's actual knowledge, there are no agreements, contracts, leases or restrictions that would limit, restrict, impair or prevent the construction of Tenant's buildings, structures or improvements on the real property included within the Lease Parcel or Tenant's contemplated use of the Lease Parcel including any liens or

encumbrances on Lessor's fee title to the Lease Parcel except for those identified and agreed upon by the Parties and contained in the title commitment issued prior to execution of this Lease agreement. Lessor agrees to use its best efforts to obtain and provide to Tenant prior to the Commencement Date of the Development Agreement, written documents executed by authorized representatives of the Seattle Mariners, the San Diego Padres and the Alter Group in which each confirms that each has no objection to the Lease, to construction of Tenant's buildings, structures or improvements on the Lease Parcel or to Tenant's planned uses for the Lease Parcel.

f. To the extent of Lessor's actual knowledge, neither this Lease nor Tenant's contemplated use of the Lease Parcel, as contemplated by this Lease, violates any contract, agreement or instrument to which Lessor is a party, or any law, regulation, order or decree to which Lessor is subject to by which Lessor is bound.

g. To the extent of Lessor's actual knowledge, there are no contracts or employment, management, maintenance, service or supply and no union contracts which affect the Lease Parcel or Tenant's contemplated use thereof.

h. To the extent of Lessor's actual knowledge, the Lease Parcel are in full compliance with all applicable laws, including but not limited to those relating to the environment conditions on or under the Lease Parcel.

i. No third party has any option or preferential right to purchase all or any part of the Lease Parcel.

j. Lessor has not received or given any written notice that the Lease Parcel or the operations thereon are in violation of any governmental law or regulation, including, without limitation, any Hazardous Materials Laws or the Americans with Disabilities Act, nor is Lessor aware of any such violation. The Permitted Uses (defined below) are permitted under the zoning classification currently in effect for the Lease Parcel.

33.2 Quiet Enjoyment. Upon Tenant performing all covenants of this Lease to be performed by Tenant, Tenant shall have quiet, exclusive and undisturbed use, possession and enjoyment of the Lease Parcel, together with all appurtenances thereto without hindrance or ejection by any person lawfully claiming by, through or under Lessor.

SECTION 34 – UNSUBORDINATED GROUND LEASE

This is an unsubordinated Ground Lease Agreement. Lessor is not and shall not be obligated to subordinate its rights and ownership interest in the real property included within the Lease Parcel to any loan or money encumbrance that Tenant shall place against Tenant's leasehold interest. During the Lease Term, Lessor shall not mortgage, hypothecate or otherwise encumber its fee simple title in the Premises, except for the grant of easements granted herein.

SECTION 35 – ESTOPPEL CERTIFICATE

Lessor or Tenant, as the case may be, will execute, acknowledge and deliver to the other, within fifteen (15) days following request therefor, a written certificate in a recordable form certifying (a) that this Lease is in full force and effect without modification except as to those specified in said certificate, and (b) the dates, if any, to which Rent, Additional Charges and other sums payable hereunder have been paid, (c) that no notice has been received by Lessor or Tenant of any default which has not been cured, except as to defaults specified in said certificate, and (viii) any other matters as may be reasonably so requested. Any such certificate may be relied upon by any prospective purchaser, assignee, subtenant or encumbrancer of the Lease Parcel or any part thereof. Either Party's failure to deliver such certificate within the time permitted hereby shall be conclusive upon such Party that this Lease is in full force and affect, except to the extent any modification has been represented by the requesting Party, that there are no uncured defaults in such Party's performance, and that not more than one years rent has been paid in advance.

SECTION 36 – COOPERATION

36.1 Appointment of Representatives. To further the cooperation of the Parties in implementing the provisions of this Lease, Lessor and Tenant each shall designate and appoint a representative to act as a liaison between the Lessor and its various departments and Tenant. The initial representative for Lessor (the "Lessor Representative") shall be the Mr. Scott Whyte, Director of the City's Economic Development Services Department, and the initial representative for the Tenant shall be Mr. Michael Oliver (the "Tenant Representative"). The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this Lease and the development and maintenance of the Demise Premises.

36.2 Lessor Facilitation with Other Entities. Lessor agrees to use its best efforts to assist Tenant, to the extent reasonably possible, by cooperation with other City, County, State, and federal agencies and departments that may have any authority or jurisdiction over or for the Lease Parcel.

SECTION 37 – MEMORANDUM FOR RECORDING

Within ten (10) days after the Commencement Date of this Lease, Lessor and Tenant shall execute and cause to be recorded with the Maricopa County Recorder's Office, and any other public or private official, a Memorandum of Ground Lease, Easement and Purchase Option Agreement in substantially the form set forth in *Exhibit "J"* evidencing the existence of this Lease.

SECTION 38 – PARTIES BOUND

This Lease shall be binding upon and inure to the benefit of and be enforceable by the Parties hereto, their personal representatives, their respective

successors in office and permitted assigns of the Parties hereto for the entire Term of this Lease.

SECTION 39 – TIME OF ESSENCE

Time is declared to be of the essence of this Lease.

SECTION 40 - SECTION HEADINGS; REFERENCES; INTERPRETATION

The section headings contained in this Lease are for purposes of convenience and reference only and shall not limit, describe or define the meaning, scope or intent of any of the terms or provisions hereof. All grammatical usage herein shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require. If the last day of any time period stated herein shall fall on a Saturday, Sunday or legal holiday in the State of Arizona, then the duration of such time period shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday in the State of Arizona.

SECTION 41 – IMPASSE; ALTERNATIVE DISPUTE RESOLUTION

41.1 Appeal to City Manager. The Parties agree that if at any time Tenant reasonably believes an impasse has been reached with Lessor on any issue affecting the Lease Parcel, Tenant shall have the right to immediately appeal the issue to the City Manager for an expedited decision pursuant to this **SECTION 41**. If the issue on which an impasse is reached is an issue where a final decision can be reached by City staff, the City Manager shall give Tenant a final decision within 30 days after Tenant's request for an expedited decision. If the issue is one where a final decision requires action by the City Council, the City Manager shall schedule a City Council hearing on the issue within 30 days after Tenant's request for an expedited decision; provided, however, that if the issue is appropriate for review by City's Planning and Zoning Commission, the matter shall be first submitted to the Planning and Zoning Commission within 30 days, and then to the City Council. Any Party may appeal a decision of the City under this **Subsection 41.1** or otherwise exercise their rights under the provisions of **Subsections 41.2 and 41.3**.

41.2 In the event that there is a dispute which the Parties cannot resolve between themselves, or which is not satisfactorily addressed under **Subsection 41.1** above, the Parties agree that there shall be a forty-five (45) day moratorium on litigation during which the time the parties agree to attempt to settle the dispute by non-binding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The mediator selected shall have five (5) years' experience in mediating or arbitrating disputes related to commercial property development. The cost of mediation shall be divided equally between the parties, or in such fashion as the mediator may order. The results of the mediation shall be non-binding on the Parties and any Party shall be free to initiate litigation upon conclusion of the mediation.

41.3 This **SECTION 41** shall not apply to any legal rights of the Lessor that must be exercised within a certain number of days that is less than 45.

SECTION 42 – SEVERABILITY

If any provision of this Lease is declared void, unenforceable or against public policy, such provision shall be deemed stricken and severed from this Lease, with the remainder of the Lease to remain in full force and effect.

SECTION 43 – GOVERNING LAW AND CHOICE OF FORUM

This Lease shall be governed by and construed in accordance with the substantive laws of the State of Arizona without giving effect to the principles of conflict of laws. Any action brought to interpret, enforce or construe any provision of this Lease shall be commenced and maintained in the Superior Court of Maricopa County, Arizona (or, as may be appropriate, in the Justice Courts of Maricopa County or in the United States District Court for the District of Arizona if, and only if, the Maricopa County Superior Court lacks or declines jurisdiction over such action).

SECTION 44 – PAYMENT OF COSTS AND EXPENSES

Whenever, in this Lease, anything is to be done or performed by Tenant or Lessor, unless otherwise expressly provided to the contrary, it shall be done or performed at the sole cost and expense of Tenant or Lessor as the case may be.

SECTION 45 – NO WARRANTIES

Tenant acknowledges and covenants to Lessor that it has made a complete investigation of the real property included within the Lease Parcel, the surface and sub-surface conditions thereof, the present and proposed uses thereof, and agrees to accept all the same “as is” except as provided in **SECTION 3**. Tenant further agrees that, except as expressly provided herein, no representation or warranty, expressed or implied, in fact or by law, has been made by Lessor or anyone else, as to any matter, fact, condition, prospect or anything else of any kind or nature.

SECTION 46 – BROKERS OR AGENTS

Each party represents and warrants to the other that such party has had no dealings or discussions with any broker or agent (licensed or otherwise) in connection with this Lease and each party covenants to pay, hold harmless and indemnify the other party from and against any and all losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out of or in connection with any breach of this representation and warranty.

SECTION 47 – CONSENT OR APPROVAL

Except as otherwise expressly provided herein, any consent or approval required in this Lease shall not be unreasonably withheld, conditioned or delayed, and if neither approval nor rejection is given within a time period specified in this Lease as to any particular approval which may be requested by one party of the other (or, if no such time is specified, then within thirty (30) days after request for approval is given by a Notice), then the approval thus requested shall be conclusively and irrevocably deemed to have been given. The requesting Party shall be entitled to seek specific performance at law and shall have such other remedies as are reserved to it under this Lease, but in no event shall Lessor or Tenant be responsible for damages to anyone for such failure to give consent or approval.

SECTION 48 – DELAY OF PERFORMANCE

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, acts of terrorism, and other causes beyond the control of the Party obligated to perform, shall excuse the performance by such Party for a period equal to any such prevention, delay or stoppage, except the obligations imposed with regard to rental and other monies to be paid by Tenant pursuant to this Lease.

SECTION 49 – RELATIONSHIP

This is a ground lease agreement. This Lease shall not be construed as creating a joint venture, partnership or any other cooperative or joint arrangement between Lessor and Tenant, and it shall be construed strictly in accordance with its terms and conditions. Nothing contained herein is intended to confer a benefit upon any third parties.

SECTION 50 – LEASE AMENDMENT

50.1 This Lease may be amended only upon written agreement by the Parties. In the event a Party wishes to amend one or more provisions of this Lease, it shall make a written request to the other Party setting forth the nature of the request. The Parties agree to meet in good faith to negotiate and document the terms of the requested Lease modifications. In the event the Parties agree upon the terms of the proposed Lease modifications, Lessor's approval of any proposed amendments shall be subject to its City Council's review and approval.

50.2 The Parties agree to cooperate to include in this Lease by suitable amendment from time to time any provision which may be reasonably requested by any proposed Leasehold Mortgagee for the purpose of implementing the mortgage protection provisions contained in this Lease, of allowing that Leasehold Mortgagee reasonable means to protect or preserve the lien of its Leasehold Mortgage upon the occurrence of a default under the terms of this Lease and of confirming the elimination of the ability of Tenant to modify, terminate or waive this Lease or any of its provisions

without the prior written approval of the Leasehold Mortgagee. The Parties agree to execute and deliver (and acknowledge, if necessary, for recording purposes) any agreement necessary to effect any such amendment, provided, however, that any such amendment shall not in any way affect the Term or Rent provisions of this Lease nor otherwise in any material respect adversely affect any right of Lessor under this Lease.

SECTION 51 – FURTHER INSTRUMENTS AND DOCUMENTS

Lessor and Tenant shall, upon request from the other, promptly acknowledge and deliver to the other any and all further documents, instruments or assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Lease.

SECTION 52 – INTEGRATION CLAUSE; NO ORAL MODIFICATION

This Lease is the result of arms-length negotiations between parties of roughly equivalent bargaining power and 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 Lease are hereby revoked and superseded by this Lease. This Lease shall not be construed for or against either Party as a result of its participation, or the participation of its counsel, in the preparation and/or drafting of this Lease or of any exhibits or documents prepared to carry out the intent of this Lease. 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 Lease. This Lease may not be changed, modified or rescinded, except as provided for herein, absent a written agreement signed by Lessor and Tenant. Any attempt at oral modification of this Lease shall be void and of no effect.

SECTION 53 – COUNTERPARTS

This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

SECTION 54 – CONFLICT OF INTEREST

This Lease shall be subject to cancellation pursuant to the provisions of A.R.S. §38-511 relating to conflicts of interest.

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LEGAL DESCRIPTION OF PROJECT
PARCEL

DESCRIPTION
FOR
THE PEORIAN
PRELIMINARY OVERALL PROJECT BOUNDARY

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 55.00 feet to the POINT OF BEGINNING;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 55.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, Concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 38.47 feet;

THENCE North 06 degrees 30 minutes 04 seconds East, a distance of 38.17 feet;

THENCE North 83 degrees 16 minutes 20 seconds West, a distance of 101.23 feet to the Beginning of a non-tangent curve, concave to the East, with a radial bearing of South 84 degrees 12 minutes 31 seconds East, having a radius of 1295.00 feet;

THENCE northeasterly 694.18 feet along said curve, through a central angle of 30 degrees 42 minutes 48 seconds to the beginning of a tangent line;

THENCE North 36 degrees 30 minutes 18 seconds East, a distance of 134.12 feet;

THENCE North 34 degrees 24 minutes 43 seconds East, a distance of 529.42 feet;

THENCE South 55 degrees 35 minutes 17 seconds East, a distance of 263.59 to the Beginning of a non-tangent curve, concave to the East, with a radial bearing of South 61 degrees 29 minutes 53 seconds East, having a radius of 424.01 feet;

THENCE southerly 730.18 feet along said curve, through a central angle of 98 degrees 40 minutes 07 seconds to the beginning of a reverse curve, concave to the West, Having a radius of 25.00 feet;

THENCE southerly 52.41 feet along said curve, through a central angle of 120 degrees 06 minutes 46 seconds to a line;

THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 1109.33 feet;

THENCE South 58 degrees 45 minutes 16 seconds West, a distance of 77.23 feet to the Beginning of a curve, concave to the North, having a radius of 283.91 feet;

THENCE southwesterly 157.13 feet along said curve, through a central angle of 31 degrees 42 minutes 34 seconds to the beginning of a curve, concave to the northeast, having a radius of 25.00 feet;

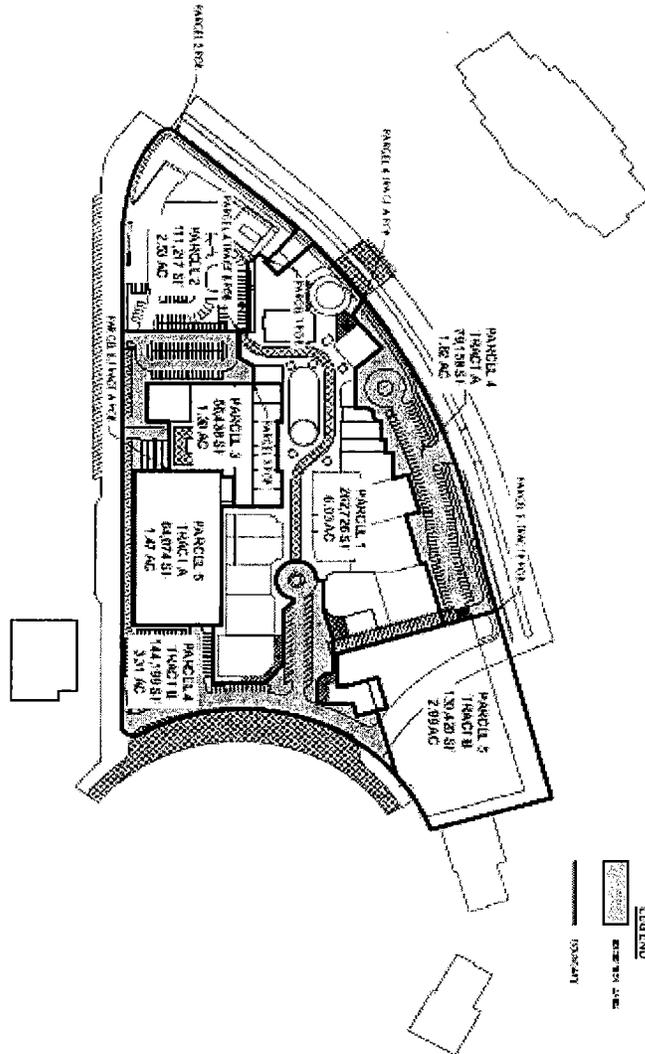
THENCE northwesterly 39.04 along said curve, through a central angle of 89 degrees 28 minutes 45 seconds to the POINT OF BEGINNING.

Parcel contains a computed area of 848,230 square feet or 19.47 acres more or less.

EXHIBIT "B"

DEPICTION OF PROJECT, LEASE AND PARKING PARCEL

1 SITE STUDY PLAN



<p>SITE LEASE AREA PLAN</p> <p>DATE: 1/8/2013 TIME: 1:00:00</p>	<p><small>THIS PLAN IS THE PROPERTY OF BAKER ENGINEERING AND ARCHITECTURE, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BAKER ENGINEERING AND ARCHITECTURE, INC.</small></p>	<p>THE PEORIAN @ THE SPORTS COMPLEX</p> <p>PEORIA, AZ. PREPARED FOR PEORIA SPORTS PARK, LLC.</p>	<p>DRAFT NOT FOR CONSTRUCTION</p>	<p>Baker</p>
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Exhibit "C"

LEGAL DESCRIPTION OF LEASE PARCEL

PARCEL 1

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 20.00 feet;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 20.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 31.39 feet to The POINT OF BEGINNING;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 7.08 feet;

THENCE North 06 degrees 30 minutes 04 seconds East, a distance of 38.17 feet;

THENCE North 83 degrees 16 minutes 20 seconds West, a distance of 33.32 feet;

THENCE North 08 degrees 10 minutes 10 seconds East, a distance of 46.02 feet to the beginning of a non-tangent curve, concave northerly, with a radial bearing of North 06 degrees 38 minutes 23 seconds West, having a radius of 64.97 feet;

THENCE northwesterly 77.53 feet along said curve, through a central angle of 68 degrees 22 minutes 17 seconds to the beginning of a non-tangent curve, concave

easterly, with a radial bearing of South 81 degrees 19 minutes 29 seconds East, having a radius of 1052.58 feet;

THENCE northeasterly 91.55 feet along said curve, through a central angle of 04 degrees 03 minutes 02 seconds to a point of non-tangency;

THENCE North 82 degrees 46 minutes 54 seconds East, a distance of 45.54 feet;

THENCE North 08 degrees 33 minutes 17 seconds East, a distance of 95.13 feet;

THENCE South 80 degrees 15 minutes 45 seconds East, a distance of 74.14 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 86.23 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 26.76 feet;

THENCE North 01 degrees 22 minutes 50 seconds West, a distance of 12.49 feet;

THENCE North 33 degrees 47 minutes 24 seconds East, a distance of 23.11 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 11.59 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 40.00 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 8.69 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 30.00 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 16.93 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 58.43 feet;

THENCE North 56 degrees 12 minutes 36 seconds West, a distance of 32.81 feet;

THENCE North 33 degrees 47 minutes 24 seconds East, a distance of 86.04 feet;

THENCE South 56 degrees 12 minutes 36 seconds East, a distance of 30.00 feet;

THENCE North 33 degrees 47 minutes 24 seconds East, a distance of 115.02 feet;

THENCE North 56 degrees 12 minutes 36 seconds West, a distance of 10.00 feet;

THENCE North 33 degrees 47 minutes 24 seconds East, a distance of 144.08 feet;

THENCE South 56 degrees 12 minutes 36 seconds East, a distance of 232.77 feet;

THENCE North 49 degrees 57 minutes 01 seconds East, a distance of 71.95 feet;
THENCE North 40 degrees 07 minutes 54 seconds West, a distance of 20.60 feet;
THENCE North 56 degrees 12 minutes 36 seconds West, a distance of 65.64 feet;
THENCE North 33 degrees 47 minutes 24 seconds East, a distance of 70.12 feet;
THENCE South 56 degrees 19 minutes 09 seconds East, a distance of 65.64 feet;
THENCE South 33 degrees 47 minutes 24 seconds West, a distance of 27.33 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 53.68 feet;
THENCE South 23 degrees 26 minutes 18 seconds East, a distance of 24.13 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 30.44 feet to the beginning of a curve, concave to the North, having a radius of 32.59 feet;
THENCE westerly 52.86 feet along said curve, through a central angle of 92 degrees 55 minutes 50 seconds to the beginning of a non-tangent line;
THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 75.37 feet;
THENCE South 32 degrees 38 minutes 23 seconds West, a distance of 71.04 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 64.56 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 13.55 feet to the beginning of a non-tangent curve, concave northerly, with a radial bearing of South 40 degrees 03 minutes 13 seconds East, having a radius of 42.50 feet;
THENCE southeasterly 191.33 feet along said curve, through a central angle of 257 degrees 56 minutes 33 seconds to the beginning of a reverse curve, concave southeasterly, with a radial bearing of North 62 degrees 00 minutes 14 seconds West, having a radius of 2.00 feet;
THENCE northeasterly 2.72 feet along said curve, through a central angle of 77 degrees 56 minutes 33 seconds to a point of tangency;
THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 7.28 feet;
THENCE South 79 degrees 15 minutes 29 seconds East, a distance of 23.22 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 4.33 feet;

THENCE South 89 degrees 50 minutes 41 seconds East, a distance of 50.66 feet;
THENCE South 41 degrees 35 minutes 52 seconds East, a distance of 109.49 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 132.86 feet;
THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 15.00feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 264.79 feet;
THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 126.10 feet;
THENCE South 49 degrees 56 minutes 37 seconds West, a distance of 80.13 feet;
THENCE South 40 degrees 03 minutes 10 seconds East, a distance of 10.00 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 109.94 feet;
THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 10.00 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 84.93 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 60.00 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 40.00 feet;
THENCE South 07 degrees 31 minutes 53 seconds East, a distance of 35.58 feet;
THENCE South 50 degrees 12 minutes 10 seconds West, a distance of 59.52 feet;
THENCE North 40 degrees 02 minutes 37 seconds West, a distance of 23.00 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 128.65 feet;
THENCE South 39 degrees 16 minutes 54 seconds West, a distance of 24.89 feet;
THENCE North 61 degrees 06 minutes 39 seconds West, a distance of 12.21 feet;
THENCE South 88 degrees 02 minutes 53 seconds West, a distance of 20.00 feet;
THENCE North 01 degrees 57 minutes 07 seconds West, a distance of 22.76 feet to
the POINT OF BEGINNING.

Parcel contains a computed area of 262,726 square feet or 6.03 acres more or less.

And

PARCEL 2

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 20.00 feet to the POINT OF BEGINNING;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 20.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 31.39 feet;

THENCE South 01 degrees 57 minutes 07 seconds East, a distance of 22.76 feet;

THENCE North 88 degrees 02 minutes 53 seconds East, a distance of 20.00 feet;

THENCE South 61 degrees 06 minutes 39 seconds East, a distance of 12.21 feet;

THENCE North 39 degrees 16 minutes 54 seconds East, a distance of 24.89 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 128.65 feet;

THENCE South 40 degrees 02 minutes 37 seconds East, a distance of 253.55 feet;

THENCE South 46 degrees 56 minutes 47 seconds West, a distance of 188.09 feet;

THENCE South 58 degrees 45 minutes 16 seconds West, a distance of 77.23 feet to the beginning of a curve, concave to the North, having a radius of 283.91 feet;

THENCE southwesterly 157.13 feet along said curve, through a central angle of 31 degrees 42 minutes 34 seconds to the beginning of a reverse curve, concave to the West, having a radius of 25.00 feet;

THENCE northwesterly 39.04 along said curve, through a central angle of 89 degrees 28 minutes 45 seconds to the POINT OF BEGINNING;

Parcel contains a computed area of 111,215 square feet or 2.55 acres more or less.

And
PARCEL 3

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 20.00 feet;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 20.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 31.39 feet;

THENCE South 01 degrees 57 minutes 07 seconds East, a distance of 22.76 feet;

THENCE North 88 degrees 02 minutes 53 seconds East, a distance of 20.00 feet;

THENCE South 61 degrees 06 minutes 39 seconds East, a distance of 12.21 feet;

THENCE North 39 degrees 16 minutes 54 seconds East, a distance of 24.89 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 128.65 feet;

THENCE South 40 degrees 02 minutes 37 seconds East, a distance of 23.00 feet;
THENCE North 50 degrees 12 minutes 10 seconds East, a distance of 59.52 feet;
THENCE North 07 degrees 31 minutes 53 seconds West, a distance of 35.58 feet;
THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 40.00 feet to
the POINT OF BEGINNING;
THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 60.00 feet;
THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 84.93 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 10.00 feet;
THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 109.94 feet;
THENCE North 40 degrees 03 minutes 10 seconds West, a distance of 10.00 feet;
THENCE North 49 degrees 56 minutes 37 seconds East, a distance of 80.13 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 100.00 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 67.53 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 26.10 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 12.78 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 106.53 feet;
THENCE South 49 degrees 25 minutes 27 seconds West, a distance of 109.70 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 44.01 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 85.00 feet;
THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 217.64 feet to
the POINT OF BEGINNING.

Parcel contains a computed area of 56,438 square feet or 1.30 acres more or less.

And

PARCEL 4 - A

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 55.00 feet;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 55.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, Concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 38.47 feet;

THENCE North 06 degrees 30 minutes 04 seconds East, a distance of 38.17 feet;

THENCE North 83 degrees 16 minutes 20 seconds West, a distance of 101.23 feet to the Beginning of a non-tangent curve, concave to the East, with a radial bearing of South 84 Degrees 12 minutes 31 seconds East, having a radius of 1295.00 feet;

THENCE northeasterly 163.52 feet along said curve, through a central angle of 07 degrees 14 minutes 04 seconds to the POINT OF BEGINNING;

THENCE continuing along said curve 530.67 feet, through a central angle of 23 degrees 28 minutes 44 seconds to a tangent line;

THENCE North 36 degrees 30 minutes 18 seconds East, a distance of 134.12 feet;

THENCE North 34 degrees 24 minutes 43 seconds East, a distance of 94.18 feet;
THENCE South 56 degrees 12 minutes 36 seconds East, a distance of 115.08 to the
THENCE South 33 degrees 47 minutes 24 seconds West, a distance of 144.08 feet;
THENCE South 56 degrees 12 minutes 36 seconds East, a distance of 10.00 feet;
THENCE South 33 degrees 47 minutes 24 seconds West, a distance of 115.02 feet;
THENCE North 56 degrees 12 minutes 36 seconds West, a distance of 30.00 feet;
THENCE South 33 degrees 47 minutes 24 seconds West, a distance of 86.04 feet;
THENCE South 56 degrees 12 minutes 36 seconds East, a distance of 32.81 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 58.43 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 16.93 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 30.00 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 8.69 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 40.00 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 11.59 feet;
THENCE South 33 degrees 47 minutes 24 seconds West, a distance of 23.11 feet;
THENCE South 01 degrees 22 minutes 50 seconds East, a distance of 12.49 feet;
THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 26.76 feet;
THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 86.23 feet;
THENCE North 80 degrees 15 minutes 45 seconds West, a distance of 74.14 feet;
THENCE South 08 degrees 33 minutes 17 seconds West, a distance of 95.13 feet;
THENCE South 82 degrees 46 minutes 52 seconds West, a distance of 45.54 feet
To the POINT OF BEGINNING.

Parcel contains a computed area of 79,158 square feet or 1.82 acres more or less.

And

PARCEL 4 - B

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner Of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 55.00 feet;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 55.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, Concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 31.39 feet;

THENCE South 01 degrees 57 minutes 07 seconds East, a distance of 22.76 feet;

THENCE North 88 degrees 02 minutes 53 seconds East, a distance of 20.00 feet;

THENCE South 61 degrees 06 minutes 39 seconds East, a distance of 12.21 feet;

THENCE North 39 degrees 16 minutes 54 seconds East, a distance of 24.89 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 128.65 feet;

THENCE South 40 degrees 02 minutes 18 seconds East, a distance of 23.00 feet
To the POINT OF BEGINNING;

THENCE North 50 degrees 12 minutes 10 seconds East, a distance of 59.52 feet;

THENCE North 07 degrees 31 minutes 53 seconds West, a distance of 35.58 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 40.00 feet;

THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 217.64 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 85.00 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 44.01 feet;

THENCE North 49 degrees 25 minutes 27 seconds East, a distance of 109.70 feet;

THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 74.02 feet;

THENCE North 49 degrees 57 minutes 03 seconds East, a distance of 345.08 feet;

THENCE North 40 degrees 02 minutes 52 seconds West, a distance of 165.58 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 132.86 feet;

THENCE North 41 degrees 35 minutes 52 seconds West, a distance of 109.49 feet;

THENCE North 89 degrees 50 minutes 41 seconds West, a distance of 50.66 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 4.33 feet;

THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 125.58 feet;

THENCE South 79 degrees 15 minutes 29 seconds West, a distance of 23.22 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 7.28 feet to the Beginning of a curve, concave to the East, having a radius of 2.00 feet;

THENCE southerly 2.72 feet along said curve, through a central angle of 77 degrees 56 minutes 33 seconds to the beginning of a reverse curve, concave to the North, having a radius of 42.50 feet;

THENCE southerly 191.33 feet along said curve, through a central angle of 257 degrees 56 minutes 33 seconds to the beginning of a non-tangent line;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 13.55 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 64.56 feet;

THENCE North 32 degrees 38 minutes 23 seconds East, a distance of 71.04 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 75.37 feet to the Beginning of a non-tangent curve, concave northerly, with a radial bearing of North 52 degrees 52 minutes 37 seconds East, having a radius of 32.59 feet;

THENCE southeasterly 52.86 feet along said curve, through a central angle of 92 degrees 55 minutes 50 seconds to a tangent line;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 30.44 feet;

THENCE North 23 degrees 26 minutes 18 seconds West, a distance of 24.13 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 53.68 feet;

THENCE North 33 degrees 47 minutes 24 seconds East, a distance of 27.33 feet;

THENCE North 56 degrees 19 minutes 09 seconds West, a distance of 43.69 feet;

THENCE North 33 degrees 47 minutes 41 seconds East, a distance of 151.19 feet to the Beginning of a non-tangent curve, concave northeasterly, with a radial bearing of South 80 degrees 37 minutes 31 seconds East, having a radius of 424.01 feet;

THENCE southeasterly 588.63 feet along said curve, through a central angle of 79 degrees 32 minutes 28 seconds to the beginning of a reverse curve, concave to the West, Having a radius of 25.00 feet;

THENCE southerly 52.41 feet along said curve, through a central angle of 120 degrees 06 minutes 46 seconds to a line;

THENCE South 49 degrees 56 minutes 47 seconds West, a distance of 882.91 feet;

THENCE North 40 degrees 02 minutes 18 seconds West, a distance of 240.61 feet;
To the POINT OF BEGINNING.

Parcel contains a computed area of 144,199 square feet or 3.31 acres more or less.

Exhibit "D"
LEGAL DESCRIPTION OF PARKING PARCEL

PARCEL 5 – A

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner Of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 55.00 feet;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 55.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, Concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 31.39 feet;

THENCE South 01 degrees 57 minutes 07 seconds East, a distance of 22.76 feet;

THENCE North 88 degrees 02 minutes 53 seconds East, a distance of 20.00 feet;

THENCE South 61 degrees 06 minutes 39 seconds East, a distance of 12.21 feet;

THENCE North 39 degrees 16 minutes 54 seconds East, a distance of 24.89 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 128.65 feet;

THENCE South 40 degrees 02 minutes 22 seconds East, a distance of 23.00 feet;

THENCE North 50 degrees 12 minutes 10 seconds East, a distance of 59.52 feet;

THENCE North 07 degrees 31 minutes 53 seconds West, a distance of 35.58 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 40.00 feet;

THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 217.64 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 85.00 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 44.01 feet;

THENCE North 49 degrees 25 minutes 27 seconds East, a distance of 109.70 feet
To the POINT OF BEGINNING;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 106.53 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 12.78 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 26.10 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 67.53 feet;

THENCE South 40 degrees 03 minutes 13 seconds East, a distance of 26.10 feet;

THENCE North 49 degrees 56 minutes 47 seconds East, a distance of 264.79 feet;

THENCE South 40 degrees 02 minutes 54 seconds East, a distance of 180.58 feet;

THENCE South 49 degrees 57 minutes 03 seconds West, a distance of 345.08 feet;

THENCE North 40 degrees 03 minutes 13 seconds West, a distance of 74.02 feet
To the POINT OF BEGINNING.

Parcel contains a computed area of 64,074 square feet or 1.47 acres more or less.

AND

PARCEL 5 – TRACT B

A parcel of land situated in a portion of Section 2, Township 3 North, Range 1 East of Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 2 bearing South 00 degrees 35 minutes 37 seconds West, a distance of 2635.63 feet from the West Quarter Corner of said Section 02;

THENCE North 00 degrees 35 minutes 37 seconds East, along the West line of said Section 2, a distance of 1530.40 feet;

THENCE departing said West line, South 89 degrees 24 minutes 23 seconds East, a distance of 55.00 feet to the POINT OF BEGINNING;

THENCE North 00 degrees 35 minutes 37 seconds East, along a line parallel with and 55.00 feet East of said West line, a distance of 261.39 feet to the beginning of a curve, Concave to the East, having a radius of 1295.00 feet;

THENCE northeasterly 71.73 feet along said curve, through a central angle of 03 degrees 10 minutes 25 seconds to a non-tangent line;

THENCE North 89 degrees 43 minutes 18 seconds East, a distance of 61.81 feet;

THENCE South 83 degrees 17 minutes 55 seconds East, a distance of 38.47 feet;

THENCE North 06 degrees 30 minutes 04 seconds East, a distance of 38.17 feet;

THENCE North 83 degrees 16 minutes 20 seconds West, a distance of 101.23 feet to the Beginning of a non-tangent curve, concave to the East, with a radial bearing of South 84 degrees 12 minutes 31 seconds East, having a radius of 1295.00 feet;

THENCE northeasterly 694.18 feet along said curve, through a central angle of 30 degrees 42 minutes 48 seconds to the beginning of a tangent line;

THENCE North 36 degrees 30 minutes 18 seconds East, a distance of 134.12 feet;

THENCE North 34 degrees 24 minutes 43 seconds East, a distance of 94.18 feet
To the POINT OF BEGINNING;

THENCE North 34 degrees 24 minutes 43 seconds East, a distance of 435.24 feet;

THENCE South 55 degrees 35 minutes 17 seconds East, a distance of 263.59 to the Beginning of a non-tangent curve, concave to the East, with a radial bearing of South 61 degrees 29 minutes 53 seconds East, having a radius of 424.01 feet;

THENCE southerly 141.55 feet along said curve, through a central angle of 19 degrees 07 minutes 38 seconds to the beginning of a line;

THENCE South 33 degrees 47 minutes 41 seconds West, a distance of 151.19 feet;

THENCE North 56 degrees 19 minutes 09 seconds West, a distance of 21.95 feet;

THENCE South 33 degrees 47 minutes 24 seconds West, a distance of 70.12 feet;

THENCE South 56 degrees 12 minutes 36 seconds East, a distance of 65.64 feet;

THENCE South 40 degrees 07 minutes 54 seconds East, a distance of 20.60 feet;

THENCE South 49 degrees 57 minutes 01 seconds West, a distance of 71.95 feet;

THENCE North 56 degrees 12 minutes 36 seconds West, a distance of 232.77 feet to the POINT OF BEGINNING.

Parcel contains a computed area of 130,420 square feet or 2.99 acres more or less.

Exhibit "F"

FORM OF WATER WELL EASEMENT

When Recorded/Executed Mail to:

City Clerk
City of Peoria
8401 West Monroe Street
Peoria, AZ 85345

EASEMENT FOR A NONPOTABLE WATER LINE

City of Peoria, an Arizona municipal corporation, Grantor, for and in consideration of the sum of One Dollar and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant to Peoria Sports Park, LLC, in Maricopa County, Arizona, its successors, and assigns, a permanent and perpetual easement for the following purposes, namely: The right to enter upon for construction, maintenance, operation and replacement of a nonpotable water line over, under, and across the following described property situated in the County of Maricopa, State of Arizona, described as follows:

See Attached Description, Exhibit "A"

And the Grantor hereby covenants that it has the lawful right to sell and convey it.

The easement will include the right to cut back and trim such portion of any branches or other landscaping now growing or that may hereafter grow upon the above described premises, as may extend over said easement, so as to prevent the same from interfering with the efficient maintenance and operation of said water lines.

In the event the right, privilege and easement herein granted shall be abandoned and permanently cease to be used for the purposes herein granted all rights herein granted shall cease and revert to the grantors, their heirs or assigns.

The Grantee shall be responsible for replacing any landscaping or any improvement damaged by the Grantee or its successors or assigns, during the construction, maintenance or repairs to the water line.

Dated this _____ day of _____, 201__.

**GRANTOR: CITY OF PEORIA, an Arizona
municipal corporation**

By: _____
Carl Swenson
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

ACKNOWLEDGEMENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this date _____, before me, a Notary Public, personally appeared _____ known to me or satisfactorily proven to be the person whose name is subscribed to this instrument and acknowledged that he executed the same. If this person's name is subscribed in a representative capacity, it is for the principal named and in the capacity indicated.

Notary Public
My Commission Expires:

Exhibit "G"

RENT*

(*The Date that Rent payments begin is set forth in SECTION 5.4 of the Lease. The following chart is inserted for illustrative purposes. This version of the Exhibit "G" Rent chart will be updated and amended by mutual agreement of the parties based upon when the payment of Rent is triggered under the terms of SECTION 5.4 of the Lease)

LEASE YEAR PERIOD	RENT RATE	RENT ESCALATOR 8.5% EVERY FIVE (5) YEARS	PARCEL 1: RETAIL - RESTAURANT	PARCEL 2: HOTEL	PARCEL 3: MULTI - FAMILY	PARCEL 4: SURFACE PARKING
			MONTHLY RENT	MONTHLY RENT	MONTHLY RENT	MONTHLY RENT
1-2	0		\$0	\$0	\$0	\$0
3-7	8.00%		\$8,729	\$3,662	\$1,882	\$1,856
8-12	8.68%	8.5% in Lease Year 8	\$9,471	\$3,974	\$2,042	\$2,014
13-17	9.42%	8.5% in Lease Year 13	\$10,276	\$4,311	\$2,215	\$2,185
18-22	10.22%	8.5% in Lease Year 18	\$11,149	\$4,678	\$2,404	\$2,371
23-27	11.09%	8.5% in Lease Year 23	\$12,097	\$5,075	\$2,608	\$2,573
28-32	12.03%	8.5% in Lease Year 28	\$13,125	\$5,507	\$2,830	\$2,792
33-37	13.05%	8.5% in Lease Year 33	\$14,241	\$5,975	\$3,070	\$3,029
38-42	14.16%	8.5% in Lease Year 38	\$15,451	\$6,483	\$3,331	\$3,286
43-47	15.36%	8.5% in Lease Year 43	\$16,764	\$7,034	\$3,614	\$3,566
48-50	16.67%	8.5% in Lease Year 48	\$18,189	\$7,632	\$3,921	\$3,869
1ST OPTION PERIOD						
51-52			\$18,189	\$7,632	\$3,921	\$3,869
53-57	18.09%	8.5% in Lease Year 53	\$19,735	\$8,280	\$4,255	\$4,197
58-62	19.63%	8.5% in Lease Year 58	\$21,413	\$8,984	\$4,616	\$4,554
63-67	21.29%	8.5% in Lease Year 63	\$23,233	\$9,748	\$5,009	\$5,941
68-72	23.10%	8.5% in Lease Year 68	\$25,208	\$10,576	\$5,435	\$5,361
73-74	25.07	8.5% in Lease Year 73	\$27,351	\$11,475	\$5,896	\$5,817
2ND OPTION PERIOD						

74-77			\$27,351	\$11,475	\$5,896	\$5,817
78-82	27.20%	8.5% in Lease Year 78	\$29,675	\$12,451	\$6,398	\$6,312
83-87	29.51%	8.5% in Lease Year 83	\$32,198	\$13,509	\$6,941	\$6,848
88-92	32.02%	8.5% in Lease Year 88	\$34,935	\$14,657	\$7,532	\$7,430
93-97	34.74%	8.5% in Lease Year 93	\$37,904	\$15,903	\$8,172	\$8,062
98-99	37.69%	8.5% in Lease Year 98	\$41,126	\$17,255	\$8,866	\$8,747

Exhibit "H"

SPECIAL WARRANTY DEED

When Recorded, Return To:

SPECIAL WARRANTY DEED

For and in consideration of TEN DOLLARS, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City of Peoria, Arizona, an Arizona charter municipality ("Grantor"), hereby conveys to _____ ("Grantee"), the following real property situated in Maricopa County, Arizona, together with all rights and privileges appurtenant thereto, to wit (the "Property"):

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE FOR LEGAL DESCRIPTION.

Subject to taxes not yet delinquent and other assessments, reservation in patents and all easements, rights of way, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record; and such state of facts as would be disclosed by a proper inspection or accurate ALTA survey of the Property, the Grantor warrants the title as against all acts of the Grantor and no other.

DATED as of this _____ day of _____, 20 ____.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

GRANTOR:

City of Peoria, Arizona, an Arizona
municipal corporation

By: _____
Carl Swenson, City Manager

ATTEST:

By: _____
Wanda Nelson, City Clerk

APPROVED AS TO FORM:

By: _____
Stephen M. Kemp, City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Special Warranty Deed was acknowledged before me this ____ day
of _____, 20__, by _____, City Manager of City of Peoria, Arizona, an
Arizona charter municipality, on behalf of the City.

Notary Public

My Commission Expires:

Exhibit "I"

NOTICE OF INTENT TO EXERCISE OPTION

From: _____

(Tenant)

To: _____

(Lessor)

Date: _____

You are hereby notified that the undersigned, as Tenant under that certain Ground Lease, Easement and Purchase Option Agreement dated _____ ("Agreement"), does hereby exercise the purchase option under said Agreement to purchase the property described as and/or situated at: _____, for the purchase price of \$ _____ as agreed upon in said Agreement.

Peoria Sports Park LLC, an Arizona limited liability company

By: _____
Michael Oliver, CEO/Principal

Send via Hand-Delivery

Exhibit "J"

MEMORANDUM OF GROUND LEASE, EASEMENT AND
PURCHASE OPTION AGREEMENT

WHEN RECORDED RETURN TO:
Office of the Peoria City Clerk
8401 W. Monroe Street
Peoria, Arizona 85345

MEMORANDUM OF GROUND LEASE, EASEMENT AND
PURCHASE OPTION AGREEMENT

This is a Memorandum of that certain Ground Lease, Easement and Purchase Option Agreement dated the ____ day of _____, 2013, wherein the City of Peoria, Arizona, an Arizona municipal corporation ("Lessor"), demised and leased to Peoria Sports Park, LLC, an Arizona limited liability company ("Tenant"), the real property described on **Exhibit "A"** attached hereto for an original term of fifty (50) years beginning on the ____ day of _____, 2013, with two (2) twenty four and one half (24.5) year extension options.

The Ground Lease, Easement and Purchase Option Agreement also grants Tenant the option to purchase Lessor's real property and improvements.

The offices of Lessor and Tenant are as follows:

Lessor: City Manager
 City of Peoria, Arizona
 8401 W. Monroe Street
 Peoria, Arizona 85345

Tenant: Michael Oliver, CEO/Principal
 Peoria Sports Park, LLC
 8331 W. Briles Road
 Peoria, Arizona 85383

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of that certain Ground Lease, Easement and Purchase Option Agreement effective as of the ____ day of _____, 2013.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

<p>City of Peoria, Arizona, an Arizona municipal corporation</p> <p>By: _____ Carl Swenson, City Manager</p> <p>ATTEST:</p> <p>By: _____ Wanda Nelson, City Clerk</p> <p>APPROVED AS TO FORM:</p> <p>By: _____ Stephen M. Kemp, City Attorney</p>	<p>Peoria Sports Park LLC, an Arizona limited liability company</p> <p>By: _____ Michael Oliver, CEO/Principal</p>
---	--

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Memorandum of Ground Lease, Easement and Purchase Option Agreement was acknowledged before me this ___ day of _____, 2013, by Carl Swenson, City Manager of City of Peoria, Arizona, an Arizona charter municipality, on behalf of the City.

_____ Notary Public
My Commission Expires: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing Memorandum of Ground Lease, Easement and Purchase Option Agreement was acknowledged before me this 16th day of January, 2013, by Michael Oliver, CEO/Principal of Peoria Sports Park LLC, an Arizona limited liability company on behalf of the company.

Elsie M. Klein

My Commission Expires: _____

Notary Public
ELSIE M. KLEIN
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Comm. Exp.: August 25, 2014

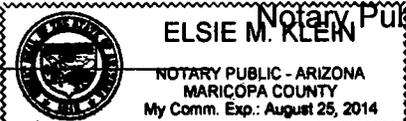


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**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 15R

Date Prepared: December 17, 2012

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager

FROM: Chris Jacques, Planning & Community Development Director
Scott Whyte, Economic Development Services Director

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

SUBJECT: Electronic Digital Billboard Civic Engagement results

Purpose:

This is a request for City Council to review and discuss results of the Civic Engagement Program pertaining to Digital Billboards and provide direction to staff on proceeding forward.

Background/Summary:

On August 23, 2011, staff presented to the City Council a concept for the future growth of the P83 Entertainment District, including identity creation, signage, pedestrian orientation, and placemaking improvements. One of the components of that discussion pertained to the potential placement of digital billboard signs along the Loop 101 as a potential revenue stream to fund improvements within the district. Subsequently, that component was removed from consideration in conjunction with the Peoria Sports Park, LLC redevelopment project. The discussion was broadened into a general citywide policy question of whether Peoria should allow digital billboards along specified major transportation corridors; if so, under what circumstances and design controls.

Accordingly, staff developed a civic engagement program designed to initiate a community conversation to explore attitudes on the use and appropriateness of digital billboards along major transportation corridors. This program was introduced to the Council Subcommittee on Sustainable Development on November 9, 2011 and then discussed with the full City Council at a November 15, 2011 Study Session.

Shortly thereafter, an Arizona Court of Appeals ruling on *Scenic Arizona v. City of Phoenix Board of Adjustment* had the effect of prohibiting new billboard placements as inconsistent with the Arizona Highway Beautification Act. As a result, staff decided to suspend the civic engagement program pending a legislative remedy. The legislative remedy came in the form of HB 2543 which was signed by Governor Brewer near the end of the 2012 legislative session. The

legislation provided the ability for the City to continue the digital billboard civic engagement effort.

Digital Billboard Civic Engagement Program

The Civic Engagement Program was designed to engage citizens, businesses and other interests through a series of community meetings (1 held in each Council District) and a supplemental non-scientific on-line survey. Notification on the meetings and survey was provided through Council district e-Alerts, City Manager Report (July 3/2012), postings at various public sites, press releases and through its website. Several local news organizations publicized information about the meetings and civic engagement program including the *Arizona Republic*, *Peoria Times*, *Daily News-Sun*, *ABC15.com* and others.

District Meetings

Staff from the Economic Development Services Department and the Planning & Community Development Department presented background information (Exhibit 1) and then facilitated an open discussion.

DISTRICT	DATE	LOCATION	ATTENDANCE
Palo Verde	August 20/2012	SkyView Elementary	4
Pine	August 22/2012	Sun Valley Elementary	4
Acacia	August 23/2012	Peoria City Hall	7
Ironwood	August 27/2012	Desert Harbor Elementary	5
Willow	August 29/2012	Challenger Space Center	2
Mesquite	September 12/2012	Sunrise Mountain Library	10

Unfortunately, the community meetings were lightly attended; as such staff is unable to characterize a conclusive prevailing opinion expressed about digital billboards. Nonetheless, the discussion was very informative and several themes/issues were raised including:

- Some attendees recognized the potential economic benefits and felt that there may be appropriate areas along the Loop 101 (particularly near the Sports Complex/P83) provided strict controls were in place to mitigate driver distraction and impacts on neighborhoods. Moreover, the prevailing opinion of those that felt certain locations may be appropriate (subject to controls) also felt that the Loop 303, SR-74 and other corridors were not appropriate at this time as they were not urbanized.
- Staff equally heard strong opinions from some attendees that felt billboards should not be permitted in any form as they constitute visual blight and detract from the quality of life and image that the City is trying to project.
- Some attendees expressed concerns about billboard proliferation, if digital billboards were permitted.
- Many attendees expressed concerns regarding driver distraction and safety.

- Separation (location, setback) from residential areas was critical; controls (e.g. brightness, light trespass, orientation, message hold/transition, height/area) should be in place to ensure that neighborhoods are not impacted.
- Some attendees favored limiting placements to publicly-controlled sites as a means to manage content (through lease restrictions) and generate new revenue.
- Some attendees felt that billboards should be spaced further apart than the state-minimum of 500 feet and that billboards should be lower in height (30-40 feet versus the standard 60-80 feet), particularly when closer to residential.
- Some attendees inquired about the potential for a replacement formula whereby existing static billboards are removed when new billboards are placed.
- Staff also heard ideas about considering a “test area” or “pilot project” whereby for example, a digital billboard was permitted in a contextually-acceptable area (P83 was identified as a candidate area) with appropriate standards and controls – prior to considering digital billboards in a larger format.

On-Line Survey

Additionally, a non-scientific on-line survey was developed as an additional mechanism to gather input and help supplement the conversation. The survey ran through the duration of the engagement program and received 1,366 responses. Specific questions were asked of respondents with an opportunity to provide an open-ended response. The open-ended responses can be accessed through the City’s website. A summary was compiled from the results and is attached as Exhibit 2. The results are inconclusive. Again, the survey is not statistically valid and was developed simply as a vehicle to help identify issues and preferences as part of the citywide policy discussion.

Previous Actions:

- **Economic Development Advisory Board (September 17, 2012):** Staff delivered a status report on civic engagement effort.
- **City Council Regular Session (August 21, 2012):** City Council discussed potential formation of citizen ad hoc committee; action was suspended pending the completion of district meetings and a subsequent report to the Council outlining results.
- **City Council Reports from City Manager (July 3, 2012):** Staff outlined legislative changes responding to a 2011 Arizona Court of Appeals ruling prohibiting new digital billboard placements; and outlined the resumption of the civic engagement process pertaining to the digital billboard policy discussion.
- **Community Meeting (November 16, 2011):** Staff facilitated a discussion and review of proposed digital billboard placements along the Loop 101 (as discussed at the August 23, 2011 Council Study Session) with affected HOA’s and citizens in impacted neighborhoods.
- **City Council Study Session (November 15, 2011):** Staff outlined the proposed civic engagement process pertaining to the digital billboard policy question.

- **Economic Development Advisory Board (November 10, 2011):** Staff outlined the proposed civic engagement process pertaining to the digital billboard policy question.
- **Council Subcommittee on Sustainable Development (November 9, 2011):** Staff outlined the proposed civic engagement process pertaining to the digital billboard policy question.
- **City Council Study Session (August 23, 2011):** Staff provided an overview of P83 District activities including the Sports Complex redevelopment project, Gensler Study in identity creation/thematic elements; and potential digital billboard placements along the Loop 101.

Options:

- A:** Direct staff to proceed forward in developing a Draft Sign Code Amendment pertaining to digital billboards at a scope determined by Council. For example, the scope could include an Ordinance addressing specific transportation corridors, specified transportation corridor segments or a maximum number within a prescribed segment; or
- B:** Direct staff to form an ad hoc citizen committee (or utilize an existing board/commission) within a prescribed mission, timeframe, scope and composition to study and provide a recommendation on digital billboards; or
- C:** Direct staff to place the matter on a Council Study Session agenda for further consideration; or
- D:** Direct staff to bring the matter back to the Council Subcommittee on Sustainable Development and Public Services for further consideration and direction; or
- E:** Direct staff to proceed no further on digital billboards at this time.

Staff's Recommendation:

Staff recommends that the City Council review results from the digital billboard civic engagement process and provide direction to staff on proceeding forward.

Fiscal Analysis:

There is no fiscal impact to the City associated with the review of the results from the civic engagement process.

Narrative:

Digital billboards are currently not permitted in the City of Peoria. Any change to this position would require an amendment to Article 14-34 ("Signs") of the Peoria Zoning Ordinance. Zoning code amendments minimally require public review through the Sustainable Development & Public Services Subcommittee, Planning & Zoning Commission followed by action by the City Council.

Exhibit(s):

Exhibit 1: Copy of District Meeting Powerpoint

Exhibit 2: Summary Compilation of on-line billboard survey

Digital Electronic Billboards

Community Policy Discussion



CITY OF PEORIA

Introduction

- Why are we here?
- Community Policy Discussion

GOAL

An understanding of the community's preferences and concerns regarding Digital Electronic Billboards.



Community Meetings

August 20, 2012	6:30 P.M.	Sky View Elementary 8624 W. Sweetwater Ave., Multi-Purpose Room
August 22, 2012	6:30 P.M.	Sun Valley Elementary 8361 N. 95th Avenue, Multi-Purpose Room
August 23, 2012	6:30 P.M.	Peoria City Hall 8401 W. Monroe Street, Pine Room
August 27, 2012	6:30 P.M.	Desert Harbor Elementary 15585 N. 91st Avenue, Library
August 29, 2012	6:30 P.M.	Challenger Space Center 21170 N. 83rd Avenue, Theater
September 12, 2012	6:30 P.M.	Sunrise Mountain Library 21109 N. 98th Avenue, Community Room



Online Survey

www.peoriaaz.gov

Take the Digital Billboard Survey



The city wants to know the public's attitude toward digital billboards along commercially-developed major transportation corridors such as Loop 101, Loop 303, and Grand Avenue.

The screenshot shows the City of Peoria, AZ website homepage. At the top, there is a navigation menu with links for 'ABOUT PEORIA', 'RESIDENTS', 'BUSINESSES', and 'VISITORS'. A search bar is located on the right side of the header. Below the navigation is a large banner image of the Rio Vista Recreation Center with the text 'WELCOME TO THE CITY OF PEORIA, AZ'. The main content area is divided into several sections: 'All News Headlines >>', 'Biz Owners Discuss Oldtown Parking Issues', 'Few Spots Remain in Citizens Academy', 'Seminar Helps HOAs Create Budgets', and 'Take the Digital Billboard Survey'. The 'Take the Digital Billboard Survey' link is highlighted with a red box. To the right of the main content is a 'STAY CONNECTED' section with social media icons and a 'New Peoria Districts Map' section with a map. On the far right, there is a 'VIEW ALL ONLINE E-SERVICES' section with a list of services and a 'MOST POPULAR LINKS' section with a list of popular links.

→ CITY DEPARTMENTS
→ CONTACT THE CITY
Search Website

ABOUT PEORIA RESIDENTS BUSINESSES VISITORS

WELCOME TO THE CITY OF PEORIA, AZ

The Rio Vista Recreation Center, along with the community park, is a popular destination for families.

Headlines Peoria TV Calendar

STAY CONNECTED

VIEW ALL ONLINE E-SERVICES

I WANT TO

MOST POPULAR LINKS

- Council Agendas and Packets
- Current Job Openings
- Start or Stop Utility Services
- Elections
- Elecciones
- Bid Solicitations - RFPs
- Library Services
- Mayor and City Council Home
- Fire and Police Resources
- Peoria's Commitment to Sustainability
- Pay Utility Bills Online
- Register to Vote Online
- Request for Sewer Fee Appeal

MOST POPULAR DOWNLOADS

- Rio Vista Park Map
- Adult Classes Summer 2012
- Internet Tax Form with Calculations
- Peoria Facilities Map
- Job Online Application Guide
- River Trail Map

All News Headlines >>

Biz Owners Discuss Oldtown Parking Issues

Property and business owners in Peoria's Old Town are invited to a meeting to determine on-street parking needs and issues. Aug. 15 at 6 p.m. in the Peoria Community Center.

Few Spots Remain in Citizens Academy

The Peoria Police Department will host its popular 12-week Citizen's Police Academy beginning Aug. 20. The program provides a "hands-on" behind-the-scenes look at law enforcement.

Seminar Helps HOAs Create Budgets

Free HOA Budget Seminar on Sept. 13 from 5:30 p.m. to 7 p.m. at municipal campus. Learn how to prepare a budget, common mistakes to avoid, and the overall process.

Take the Digital Billboard Survey

The city wants to know the public's attitude toward digital billboards along commercially-developed major transportation corridors such as Loop 101, Loop 303, and Grand Avenue.

More Headlines >>

Features 1 2 3 4 5 6 7

New Peoria Districts Map

The U.S. Department of Justice has approved the new districts map for the city of Peoria. Residents interested in viewing the map or running for office in the upcoming election can visit www.peoriaaz.gov/redistricting.

Your district may have changed. Check out the Interactive Council District Map to find out.

Why Consider Digital Billboards?

- **Economic Development**
 - Business Attraction and Retention
- **Advertise Peoria Businesses**
- **Can Foster Unique District Identity**
 - 'P83' Entertainment Area
- **Potential Revenue Source**
 - Public-owned sites
 - Recurring Revenue



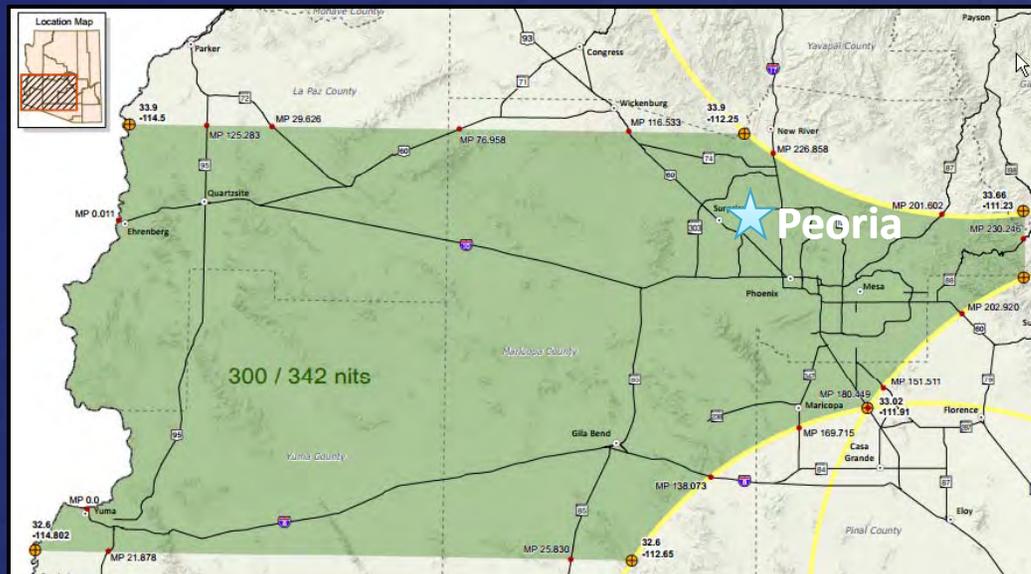
Billboards in the Valley

- Billboards are Growing in Use
- Valley Communities with Digital Billboards
 - Glendale
 - Goodyear
 - Phoenix
 - Tempe
 - Tolleson
 - El Mirage



State Regulations

- Court Challenge
- State Law (H.B. 2543)
 - Limited to “authorized area”



CITY OF PEORIA

State Regulations

- **ADOT permit required**
 - **Within 660-feet of Freeway ROW**
 - **Industrial / Commercial Zoning**
 - **500-feet from other Billboard (same side)**
 - **Less than 1,200 square-feet in area**
- **Sunset – 11 PM: 300 nit max brightness**
 - **Typical of Laptop Screen Brightness**
- **No illumination: 11 PM – Sunrise**



State Regulations (con't)

- No Animation
- 8 second minimum message hold
- 2 second maximum transition
- Municipalities can be more restrictive, but not less restrictive.



Commonly Cited Concerns

- **Safety / Driver Distraction**
 - Message Hold
 - Transition Speed
- **Visual Dominance**
 - Design
 - Size/Height
 - Brightness Controls
- **Placement**
 - Certain Roads, Spacing,
 - Residential Setback
- **Use Controls**



Photo credit: Scenic America



Comments?

Web Survey

www.peoriaaz.gov

Staff Contact

ed.boik@peoriaaz.gov



CITY OF PEORIA

DIGITAL BILLBOARD SURVEY
Summary Compilation
Questions 1-9

(1,366 Responses)

Who took the survey? (mark all that apply)

Peoria resident	79% (1,082)
Peoria property owner	53% (725)
Peoria business owner	37% (499)
Other	46% (632)

Are you familiar with digital billboards elsewhere in the Valley?

Yes	93% (1,273)
No	7% (93)

How can digital billboards have a positive impact on the City? (mark all that apply)

Increase public messaging on events and public safety	73% (996)
Increase marketing opportunities for businesses	71% (965)
Enable increased business activity due to enhanced marketing	62% (842)
There will be no positive impact	50% (680)
Add vibrancy and energy to Peoria's image	28% (386)
Other positive impact not identified	33% (449)

How can digital billboards have a negative impact on the City? (mark all that apply)

Distracting to drivers	70% (953)
Visually clutter freeway corridors	65% (885)
Degrade the appearance of the community	60% (818)
Too much advertising	55% (758)
Lights will be too bright	54% (733)
There will be no negative impact	51% (699)
Other negative impact not identified	34% (460)

Mitigation Measures

For those that identified a 'negative impact on the City,' the question asked if/how the impact could be minimized

Believe negative impacts cannot be mitigated	710
Believe impacts can be minimized (mark all that apply)	
Minimum spacing between billboards	595
Limited to specified corridors/commercial/industrial sites	589
All of the above (in combination)	588
Limit brightness/message duration & transition	579

Believe impacts can be minimized (cont)	
Setback from residential areas	568
Billboard area/height restrictions	560
Automatic controls to limit illumination at certain hours	557
Architectural design standards	550
Other	442

Locations in City more appropriate than others?

The questions asked if there are certain locations in the City that are more appropriate for digital billboards. 38% (510) responded NO. Those that responded yes were prompted for locations. *More than one answer could be selected.*

Yes:	62% (837)
Loop-101	762
Loop 303	670
Grand Ave	650
Other	454

Digital Billboard Spacing

For those that selected a specified corridor as appropriate, the question asked what the the minimum spacing or number of digital billboards permitted should be. There were 977 respondents to this question.

1 per mile	66% (644)
1 per half-mile	14% (137)
Maximum number of digital billboards	8% (76)
Other	12% (120)



City Council Calendar

Color Key:
City Council

< December	January 2013						February >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
		1 New Year's Day- City Hall Closed	2	3	4	5	
6	7	8  Regular City Council Meeting	9	10	11	12	
13	14	15  Special Meeting and Study	16	17	18	19	
20	21 Martin Luther King Day Holiday - City Hall Closed	22  Regular City Council Meeting  Special Meeting and Study	23	24	25	26	
27	28	29	30	31			



City Council Calendar

Color Key:
City Council

< January	February 2013					March >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5  Regular City Council Meeting  Special Meeting & Study Session	6	7	8	9
10	11	12	13	14	15	16
17	18 Presidents' Day Holiday - City Hall Closed	19  Regular City Council Meeting  Special Meeting & Study Session	20	21	22	23
24	25	26	27	28		

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 17A

Date Prepared: December 17, 2012

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager
FROM: John Sefton, Community Services Director
THROUGH: Susan J. Daluddung, Deputy City Manager
SUBJECT: Pioneer Community Park Public Art

Summary:

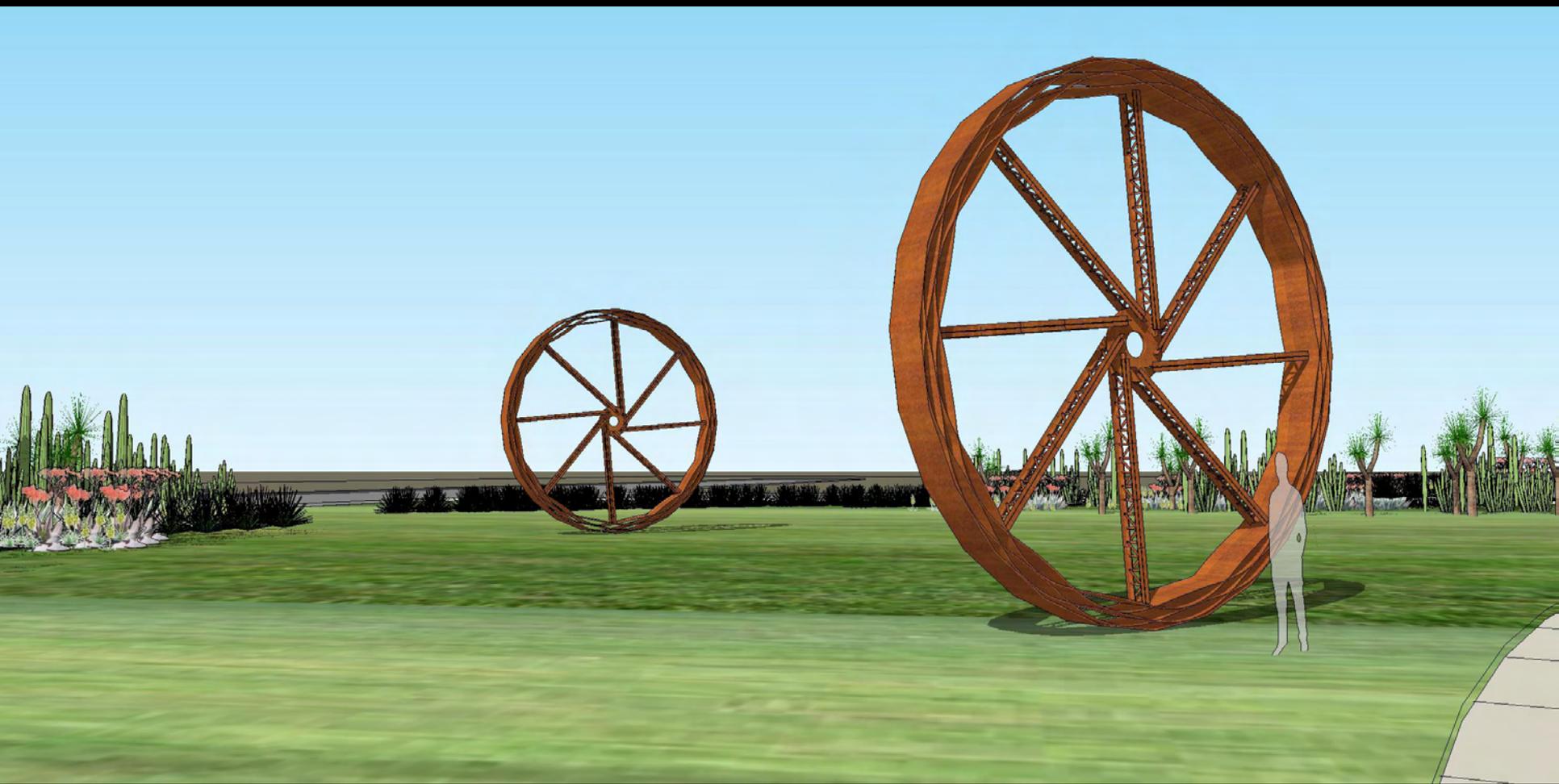
Staff submitted a call to artists in June 2012 seeking artist qualifications and artistic concepts for the Pioneer Community Park. Response to this call for artists was tremendous and world-wide. We received more than seventy applications from artists throughout the United States, and four submittals from foreign countries (Poland, Japan, Canada, and Germany).

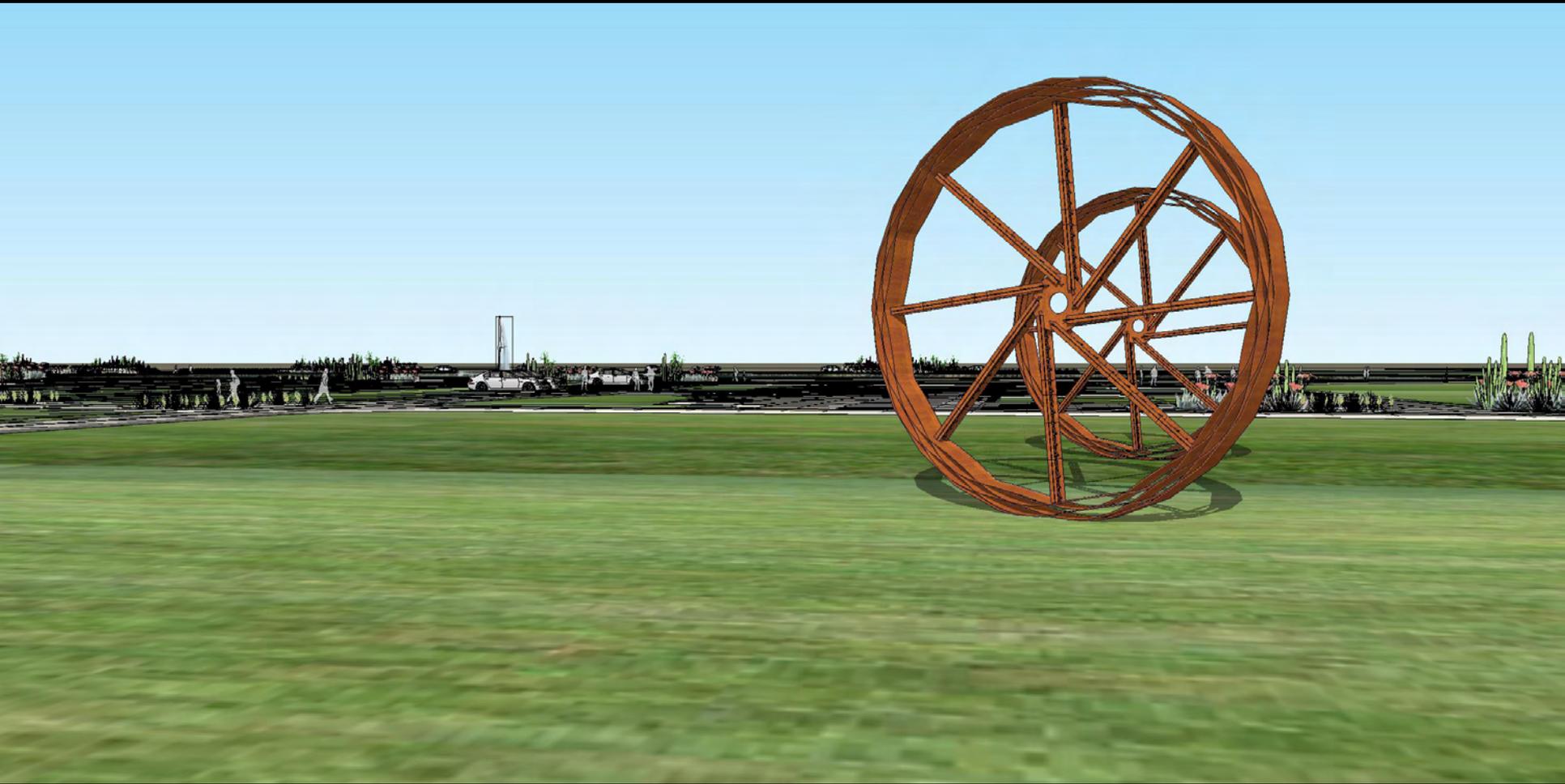
A review panel comprised of three Art Commission members, two staff and one resident with arts backgrounds reviewed all the applications and narrowed the field to the top four artists. The top four artists were from Tempe, Arizona, Raleigh, North Carolina, and two from Colorado. The four artists were required to create their concept, present their idea to the review panel, and link their public art idea to Pioneer Community Park. All four artists did an outstanding job with their creativity and presentation. The committee selected the public art piece designed by Thomas Sayre of Raleigh, North Carolina, as the overwhelming favorite. This recommendation was presented to the Arts Commission at their monthly meeting on Tuesday, December 11, 2012.

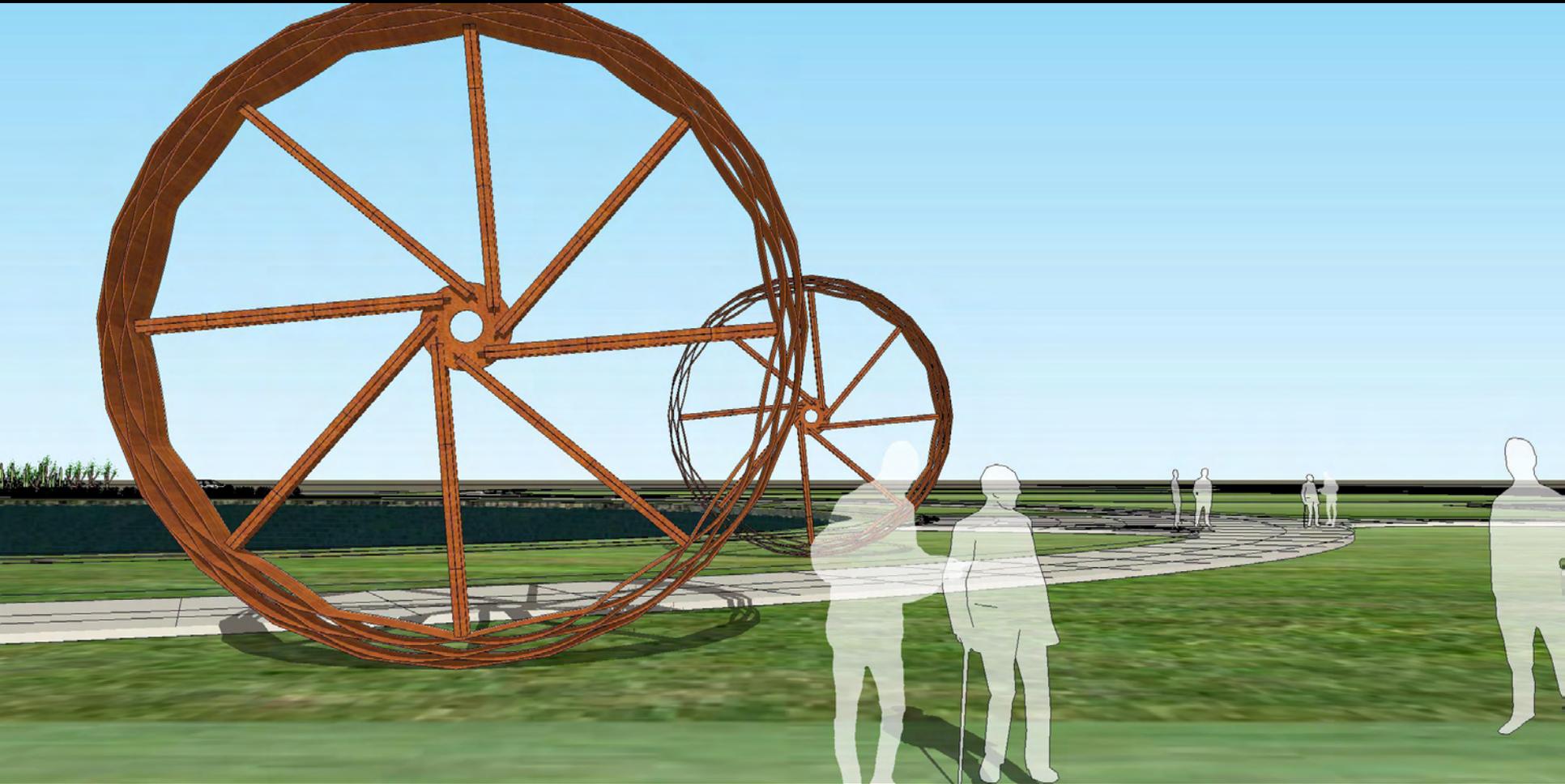
The Arts Commission unanimously approved the designs by Mr. Sayre and is now recommending approval to City Council. This request for City Council consideration will be brought forward at the January 22, 2013 meeting as a consent agenda item. If approved by the Council, the production of the art piece will begin immediately and would be ready for installation and reveal when Pioneer Community Park is ready for its grand opening.

Exhibit(s): Images submitted by our artist, Thomas Sayre, Raleigh, North Carolina

Contact Name and Number: Kirk Haines, 623-773-7120







**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 17B

Date Prepared: January 14, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager
FROM: Roy W. Minter, Chief of Police
SUBJECT: **School Safety**

Summary:

This is a brief presentation explaining police department strategies and partnerships for providing the safest school campuses possible for our children. The Chief or his designee will discuss the following programs:

- Tabletop Exercises
- Lunch with Blue
- Security Measures
- SRO Programs
- Patrol Liaisons
- Campus Presence
- Daily Watch Patrol Plans
- Peoria Unified School District Partnerships

Contact Name and Number:

Police Chief Roy Minter, 623-773-7059

Deputy Police Chief Bob Sanders, 623-773-7046

CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT

Date Prepared: January 14, 2013

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager

FROM: John Schell, Director, Intergovernmental and Council Affairs

SUBJECT: Legislative Briefing - Arizona 51st Legislature – 1st Regular Session

Summary:

The Arizona Legislature has convened the 51st Regular Session and the Office of Intergovernmental and Council Affairs will provide a legislative background and preview of upcoming public policy matters.

Contact Name and Number: John Schell x 7370

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 18A

Date Prepared: December 17, 2012

Council Meeting Date: January 22, 2013

TO: Carl Swenson, City Manager
FROM: John Sefton, Community Services Director
THROUGH: Susan J. Daluddung, Deputy City Manager
SUBJECT: Parks, Recreation, Open Space and Trails Master Plan Update

Summary:

City Council appropriated funds in the fiscal year 2013 Capital Improvement Program to update the Parks, Recreation, Open Space and Trails Master Plan (PROST). A Request for Qualifications was advertised in July 2012 for consulting firms to submit their qualifications and experience, their staff's qualifications and experience, their other team member's qualifications and experience, and a sample of their most creative master plan document in the past five years. Nine consultant teams submitted proposals and the top three were selected to the next round.

A detailed scope of services was then crafted and distributed to the top three firms. The consultant teams were required to respond to that scope of services and all three teams were interviewed by a panel of seven staff from three departments. Norris Design was chosen as the best firm to perform the work in the PROST for the following reasons:

- A very strong public input process that includes numerous meetings with stakeholders, public input meetings, and a survey instrument that is tested and proven
- The ability to keep our citizens engaged and informed with on-line and real time data, scheduling of meetings, and project status
- The ability to develop the master plan with performance measurement data
- A strong graphic representation of the master plan and compatibility with the City's Geographic Inventory Systems (GIS)
- Strong representation and priority on sustainability issues and best practices
- A product that can be updated even after the consultant's team is finished
- A tool that can be easily interpreted and used for the next five plus years.

The open space planning segment of the PROST has been nearly completed with the efforts by the Planning and Community Development Department. Norris Design will insure a seamless connection between the PROST and the Open Space master plan in regards to trails, land preservation and connectivity.

Work by Norris Design is already underway. A series of stakeholder meetings and public meetings are being coordinated and scheduled. The citizen's interest and satisfaction survey is planned in February. Staff will provide City Council a progress report of the PROST in the upcoming months. The completed project is anticipated before the end of 2013.

Exhibit(s): none

Contact Name and Number: Kirk Haines, 623-773-7120

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 18B

Date Prepared: 1/15/13

Council Meeting Date: 1/22/13

TO: Mayor and City Council

FROM: Carl Swenson, City Manager

THROUGH: Bo Larsen, Public Information Manager

SUBJECT: 2013 PACE Conference

Summary:

The City of Peoria and Arizona State University are presenting our third PACE Conference on Thursday, February 7, at the Arizona Broadway Theater in Peoria. Positive Action through Civic Engagement, or PACE, is an initiative to enhance public participation and engagement.

This year's conference will explore how we can engage our communities in "breaking the sound of silence" by understanding and managing civil discourse. The conference is being emceed by Frank Camacho, formerly of Ch. 3 News and features keynote speakers John Quiñones of the ABC Primetime news show "What Would You Do?" and Pearl Chang Esau, president and CEO of Expect More Arizona. In addition to the keynote presentations by Quiñones and Esau, Emily Nottingham, Ph.D., mother of Gabe Zimmerman, who was killed in the January 2011 mass shooting in Tucson at a community event, will speak about the role of public service in communities.

The Conference includes panel discussions featuring local and national leaders in their professional fields. The morning presentation, "Influence of the New Media," will discuss how social media impacts civic engagement and conversation. The afternoon panel discussion is concerning "Managing Civil Discourse—Effective Compromise."

More information is available at www.peoriaaz.gov/PACE

Exhibit(s): *(Include as many as necessary.)*

Exhibit 1: Title ABC

Exhibit 2: Title DEF

Contact Name and Number: Bo Larsen, 7934

**CITY OF PEORIA, ARIZONA
CITY MANAGER REPORT**

Agenda Item: 18C

Date Prepared: 1/15/13

Council Meeting Date: 1/22/13

TO: Mayor and City Councilmembers
FROM: Carl Swenson, city manager
THROUGH: Bo Larsen, public information manager
SUBJECT: City Manger Information Report - Julie Ayers ICMA Credentialling

Summary:

Julie Ayers, human resources director for the city of Peoria, recently received the Credentialed Manager designation from the International City/County Management Association (ICMA), a national organization which develops and advances professional local government management.

Ayers joins City leaders City Manager Carl Swenson, Deputy City Manager Susan Thorpe and Deputy City Manager Susan Daluddung in achieving this distinction.

To receive the prestigious ICMA credential, a member must have significant experience as a senior management executive in local government, have earned a degree, preferably in public administration or a related field, and demonstrated a commitment to high standards of integrity and to lifelong learning and professional development. To maintain the designation, members must demonstrate an annual completion of ongoing leadership, management, and technical training.

Peoria has the most Credentialed Manager's in Arizona.

Exhibit(s): *(Include as many as necessary.)*

Exhibit 1: Title ABC

Exhibit 2: Title DEF

Contact Name and Number:

Bo Larsen, 7934