

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

cc: 4C
Amend No. _____

Date prepared: July 21, 2009

Council Meeting Date: August 25, 2009

TO: Carl Swenson, City Manager

FROM: Susan J. Daluddung, AICP, Deputy City Manager *SJT for STD*

THROUGH: Glen Van Nimwegen, AICP, Community Development Director *GM*

THROUGH: Chris Jacques, AICP, Planning Manager *CJ*

PREPARED BY: Ed Boik, Planner *EB*

SUBJECT: (Z03-04A.4): Rezone 3.4 acres from Suburban Ranch SR-43 to *Lake Pleasant Towne Center* Planned Area Development (PAD).

Recommendation:

The Mayor and City Council concur with the Planning and Zoning Commission's recommendation (6-0) and adopt the attached Ordinance rezoning property from Suburban Ranch SR-43 to *Lake Pleasant Towne Center* Planned Area Development District. The subject property is approximately 3.4 acres and located west of the northwest corner of Lake Pleasant Parkway and Happy Valley Road.

Planning & Zoning Commission Recommendation:

On July 16, 2009, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request as contained in the staff report and referenced in the attached Ordinance

The approval of such rezoning will facilitate the construction of a 24,000 square foot, 2-story medical office building.

Attachments:

- Planning and Zoning Commission Staff Report (7/16/09)
- Ordinance
- Proposition 207 waiver (original)

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # 09-23 RES. # _____
 LCON# _____ LIC. # _____
 Action Date: _____



REZONING

REPORT TO THE PLANNING AND ZONING COMMISSION

CASE NUMBER: Z 03-04A.4
DATE: July 16, 2009
AGENDA ITEM: 4R

Applicant: Julie DiMaria, on behalf of Essex Land Co.

Request: Rezone approximately 3.44 gross acres from Suburban Ranch (SR-43) to Planned Area Development (Lake Pleasant Towne Center PAD) to facilitate a medical office building.

Proposed Development: A 2-story, 24,360 square-foot medical office building and associated 151 space surface parking lot.

Location: Approximately ½ mile west of the northwest corner of Lake Pleasant Parkway and Happy Valley Road.

Site Acreage: 3.44 gross acres.

Support / Opposition: As of the date of this printing, Staff has not received written or verbal support or opposition for this proposal.

Recommendation: Approve, with conditions.

LAND USE BACKGROUND

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

	LAND USE	GENERAL PLAN	ZONING
Subject Property	Vacant	Community Commercial	SR-43
North	Vacant	Low Density Residential (2.0-5.0 du/ac) Target 3 du/ac.	PAD (Florenza)
South	Vacant	Low Density Residential (2.0-5.0 du/ac) Target 3 du/ac.	County RU-43
East	Offices, Commercial Center	Community Commercial	PAD (Lake Pleasant Towne Center)
West	Vacant	Low Density Residential (2.0-5.0 du/ac) Target 3 du/ac.	PAD (Tierra del Rio)

Annexation History

1. The parcel was annexed into the City in November 2008. Subsequently, the parcel was given an initial zoning designation of Suburban Ranch (SR-43).

PROJECT DESCRIPTION

Rezoning Request

2. The applicant proposes to rezone approximately 3.44 gross acres from Suburban Ranch (SR-43) to Planned Area Development (Lake Pleasant Towne Center PAD) to facilitate a 2-story, 24,360 square-foot medical office building.

Development Details

3. The rezoning will facilitate the development of a 2-story, 24,360 square-foot medical office building and its associated parking lot. The building will be located on the northeast portion of the site adjacent to Denaro Corporate Center.

Principal vehicular access to the site will be from Happy Valley Parkway and cross-access with Denaro Corporate Center.

The concept architectural elevations indicate the building will be designed with quality materials and features to compliment the adjacent office buildings.

Topography

4. The buildable portion of the site slopes at a 4.6% grade to the west. The Happy Valley Road frontage has a significant grade and results from recent construction on Happy Valley Road and is sparsely vegetated.

DISCUSSION AND ANALYSIS

Conformance with the General Plan

5. The proposal is an extension of the Lake Pleasant Towne Center PAD which has an underlying land use designation of Community Commercial. This designation denotes areas which contain a variety of intense commercial uses including large-scale retail buildings and shopping centers of less than 500,000 square feet. It also supports less intense office and retail uses. The proposed medical office is consistent with the underlying land use designation

Lake Pleasant Towne Center PAD

6. The Lake Pleasant Towne Center PAD is designed to provide appropriate buffers and separation from residential uses and this property will provide at least 30-feet

of buffer along residential property lines. Additionally, the PAD use list is refined with this rezoning so that only office-type uses can be located on this parcel and the more intense retail uses are confined to the existing shopping center areas to the east. This will further reduce the potential of noise, light and other impacts on the adjacent residential zoned properties.

Desert Lands Conservation Ordinance

7. The applicant has submitted a Master Conservation Plan in accordance with the DLCO. There are no natural open spaces on the site. In order to meet the minimum natural open space requirement, the few significant saguaros and palo verdes which are viable for salvage will be incorporated into a landscape plan which will consist largely of Sonoran Desert plant types. At site plan review, efforts will be made to ensure naturalistic installation of plants and materials.

Citizen Participation Plan - Neighborhood Meeting

8. Section 14-39-6.E of the Peoria Zoning Ordinance requires the applicant of a rezoning request to hold at least one neighborhood meeting. The applicant notified property owners within 300 feet of the subject site (6 ownerships). Accordingly, on May 1, 2009 the applicant held a neighborhood meeting at the Denaro Corporate Center located at 10210 W Happy Valley Parkway. As indicated in Exhibit F, no adjacent property owners or interested parties attended the meeting.

Fire Requirements

9. The Fire Department had no specific conditions of approval relative to this rezone request. However, with the subsequent Site Plan Review, the Fire Department will be evaluating compliance with the technical requirements including turnaround provisions, hydrant placement and other issues.

Public Notice

10. Public notice was provided in the manner prescribed under Section 14-39-6. Additionally, the site was posted with a sign meeting the content and size requirements prescribed by the Planning Division on July 1, 2009. The posting was completed within the prescribed 15-days prior to the Public Hearing. The applicant has provided a photo exhibit and signed affidavit attesting to the posting.

Proposition 207

11. The voters of Arizona recently approved Proposition 207, which among other things requires municipalities to compensate property owners for actions which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement which 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 for recordation pending the outcome of the City Council action.

FINDINGS AND RECOMMENDATION

12. Based on the following findings:

- The proposed use is consistent with the Community Commercial designation as described in the General Plan.
- The PAD benefits the public interest by promoting a development framework that maximizes compatibility, provides appropriate land use transition and reduces the potential for conflict.
- The proposal will advance the City's goals and objectives at improving the current jobs-to-housing ratio by facilitating new opportunities for professional and medical employment

It is recommended that the Planning and Zoning Commission take the following action:
Recommend approval to the City Council Case Z 03-04A.4, subject to the following conditions:

1. This development shall conform to the Lake Pleasant Towne Center PAD Standards and Guidelines Report date stamped 05/22/2009.
2. A Preliminary Drainage Report must be submitted with the site plan.
3. An updated Traffic Impact Analysis must be submitted with the site plan that addresses among others, the dimensions for the deceleration lane including taper and storage lengths, sight distances and throat lengths.
4. The Development is responsible for payment of all current repayment zones, there is currently a repayment for the improvements on Happy Valley Parkway for \$31,996.50. This amount shall be paid to the City of Peoria prior to permits being issued for this project.
5. The Developer shall abandon excess ROW on Happy Valley Parkway along the frontage of the project to accommodate the ultimate development of the half-street. The abandonment will be based on an agreed payment in the amount equal to what the County originally paid for the ROW. Transfer of funds will occur prior to issuance of permits for this development.
6. The Developer shall dedicate an 8' PUE outside of the required ROW. No walls or retention shall be allowed within the PUE.
7. The Developer shall construct the half-street for Happy Valley Road along the frontage of the project including the third lane of pavement, the deceleration lane for the new driveway, curb, gutter, sidewalk, streetlights, landscaping, and median landscaping.

Attachments:

Exhibit A	Project Narrative
Exhibit B	Aerial/Context Map
Exhibit C	Zoning Map
Exhibit D	Conceptual Development Plan
Exhibit E	Conceptual Building Elevation
Exhibit F	Citizen Participation Report
Exhibit G	Lake Pleasant Commons PAD

Prepared by: Edward Boik
Planner

DENARO CORPORATE CENTER PHASE II

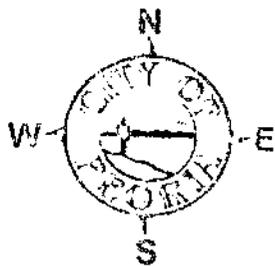
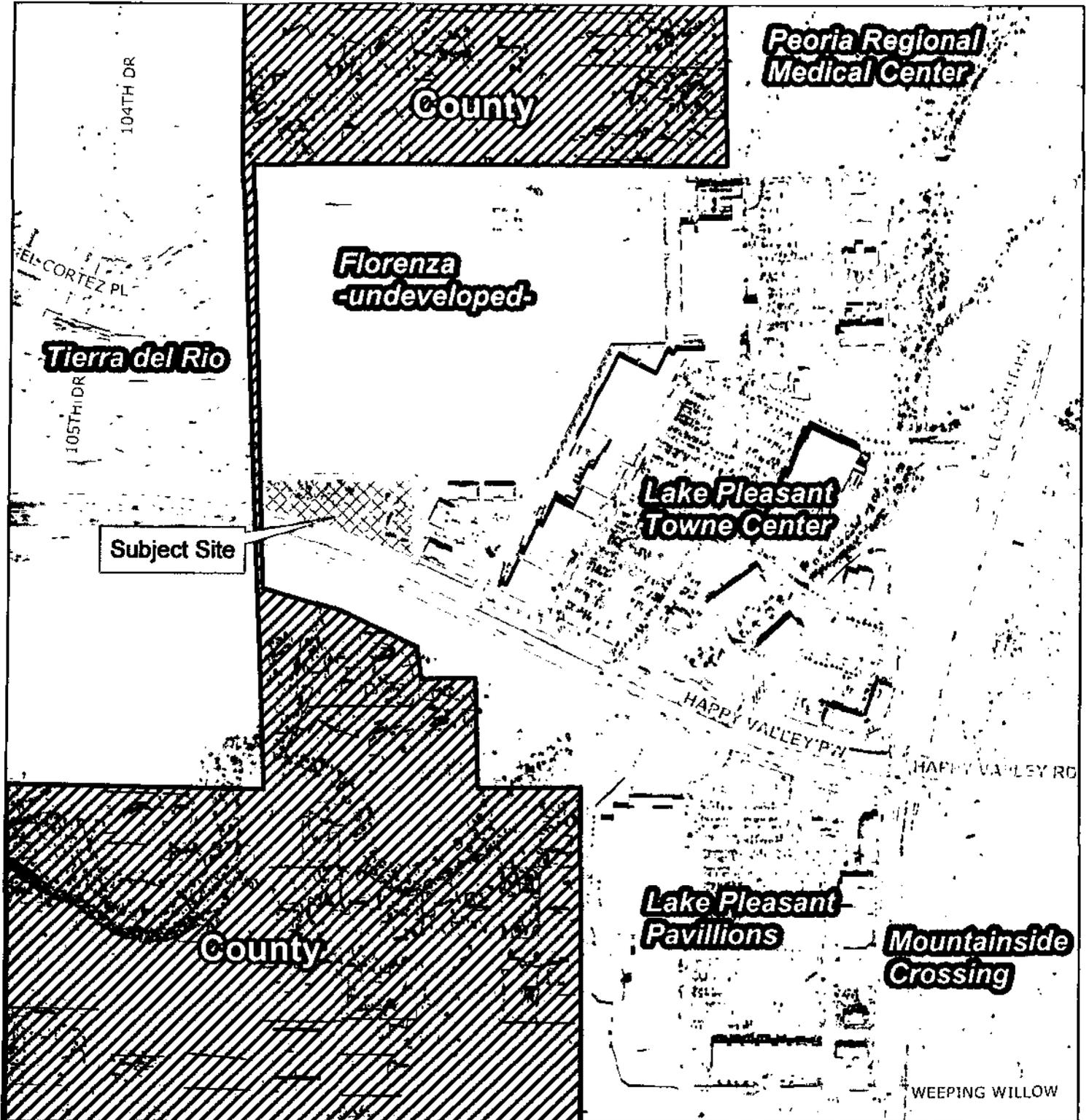
PROJECT NARRATIVE

Denaro Corporate Center Phase II is comprised of 2.15 acres of undeveloped land which is surrounded by developments on the north, east and west boundaries which are all currently under construction. The developer/owner of this project, Essex Land Development Company, also owns the development immediately to the east of this site, Denaro Corporate Center. Denaro Corporate Center (for purposes of this narrative we will call this Phase I) is an office complex located on Parcel 20A of the Lake Pleasant Towne Center commercial PAD development. Denaro Corporate Center. Phase II is intended to be a harmonious continuation of Phase I and will include one or more buildings with a maximum building height of 48 feet. Access to the site will be through Phase I as well as through a new driveway on the west side of the project. The actual driveway configuration shall reflect what is approved for the driveway in the Traffic Impact Analysis for the Project.

The site is bounded on the south side by Happy Valley Road. It is anticipated that excess right of way along the north side of Happy Valley Road will be purchase from the City Of Peoria and will add an additional 1.29 acres to this development. This parcel is currently located within a Maricopa County island and is anticipated to be annexed into the City Of Peoria. The current county zoning classification for this parcel is R-43. It is anticipated the site will be rezoned to C-2 once annexation into the City of Peoria is complete.

The site slopes in the east-west direction at approximately 4.6 percent. The project will be sewerred to the west through the existing Tierra Del Rio development. Potable water will be extended through Phase I to serve this site. Happy Valley Road is fully improved. It is anticipated that a left turn lane will be added within the Happy Valley Road median to allow for west bound traffic to enter the site.

Aerial/Context Map



Not to Scale

Z03-04A.4: Lake Pleasant Medical Center

Request:

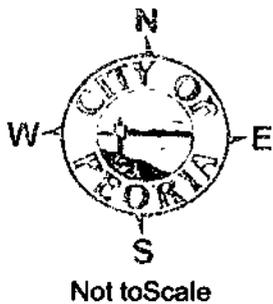
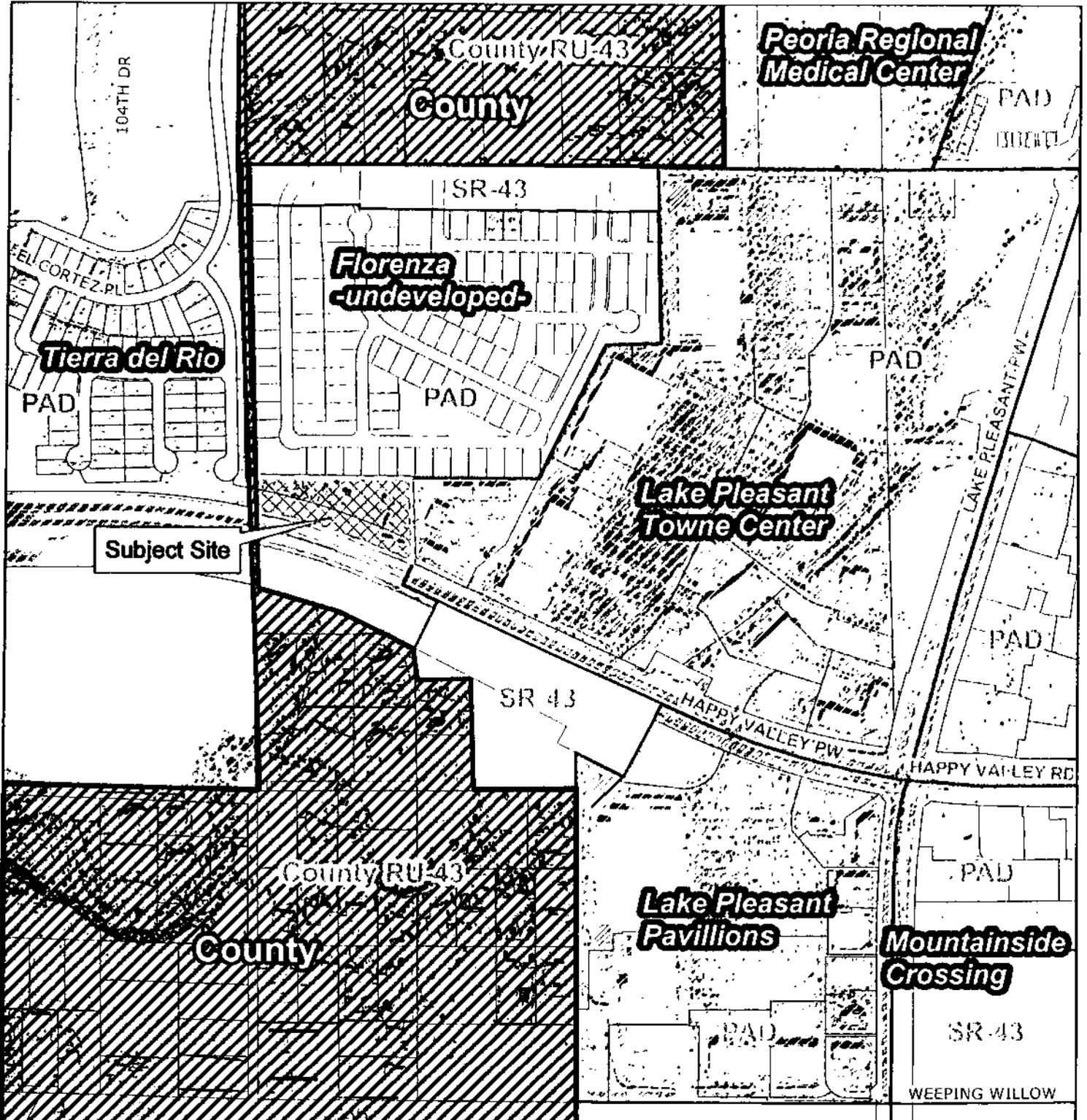
Rezone from Suburban Ranch (SR-43) to Planned Area Development (PAD) for a site encompassing 3.44 gross acres.

Location:

W/O NWC Lake Pleasant Pkwy and Happy Valley Rd.

Exhibit B

Zoning Map



Z03-04A.4: Lake Pleasant Medical Center

Request:

Rezone from Suburban Ranch (SR-43) to Planned Area Development (PAD) for a site encompassing 3.44 gross acres.

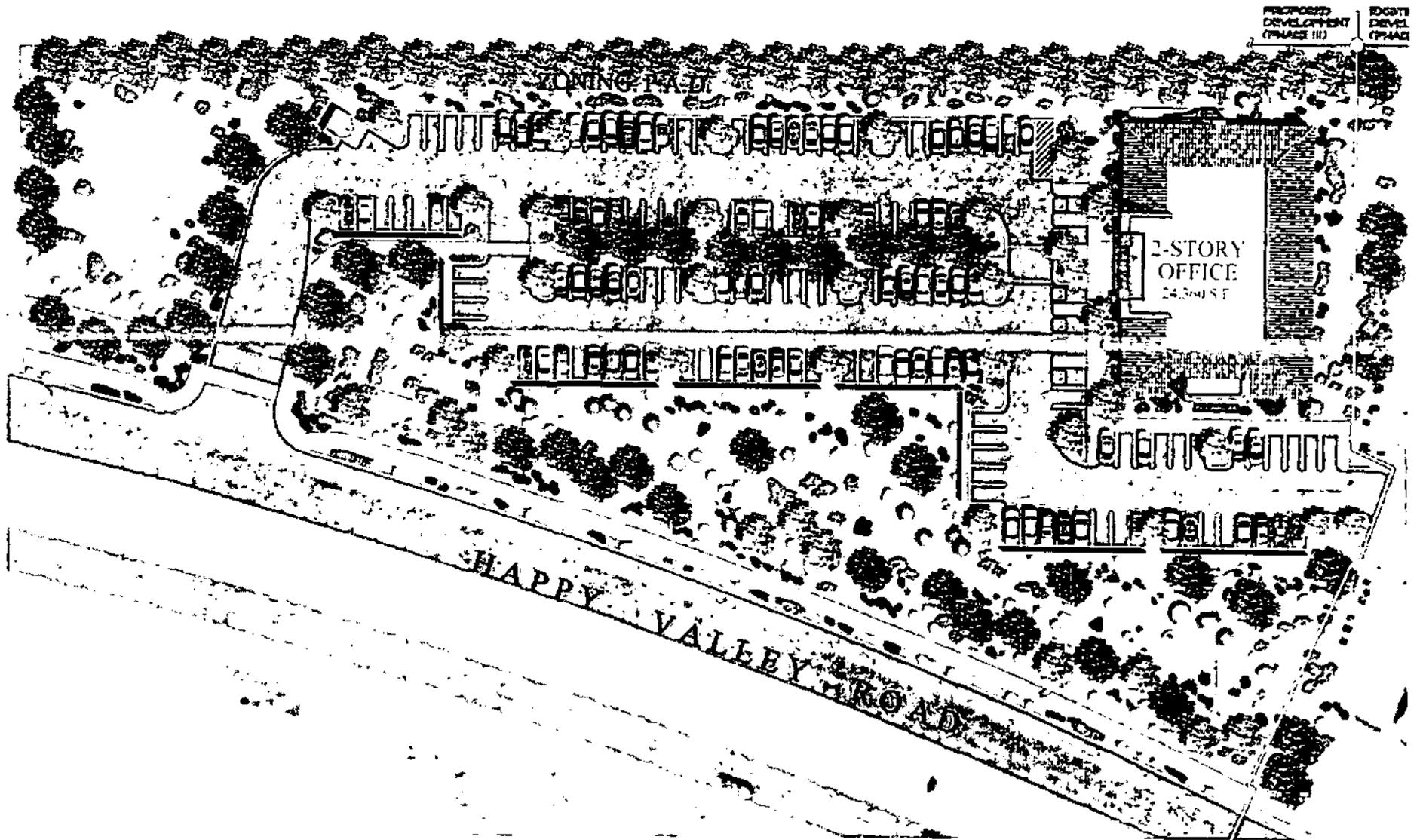
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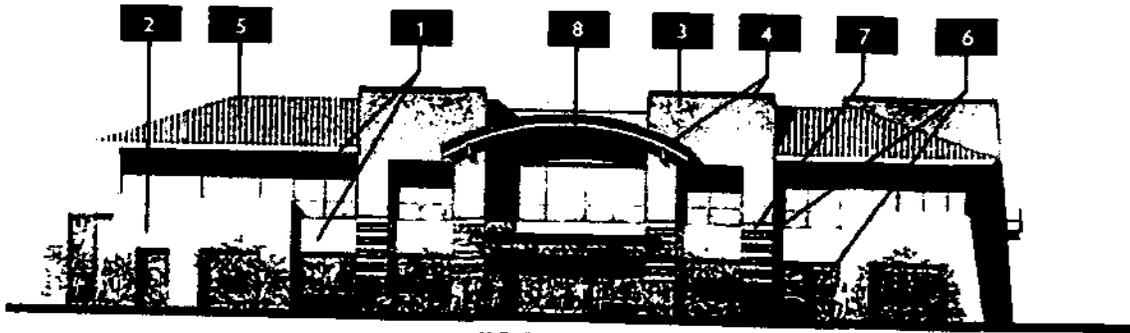
W/O NWC Lake Pleasant Pkwy and Happy Valley Rd.

Exhibit C

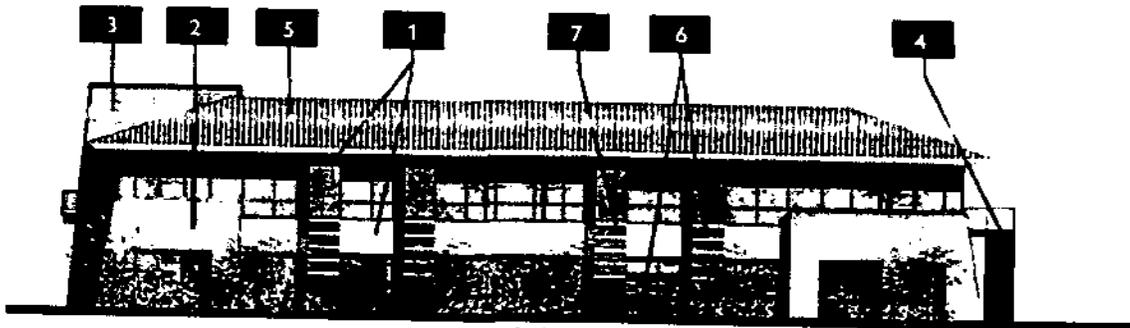
Exhibit D

ADJ. ZONING: RES.

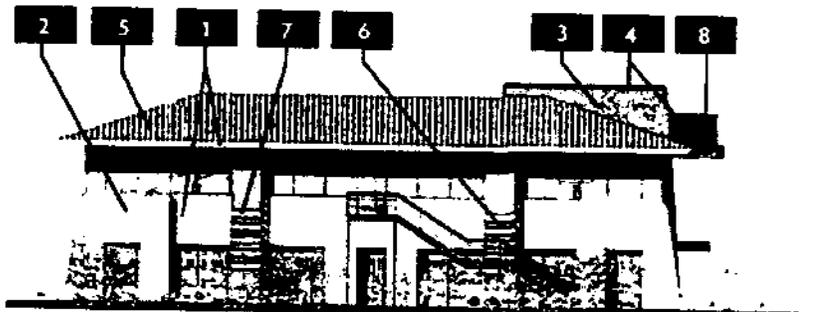




WEST ELEVATION



EAST ELEVATION



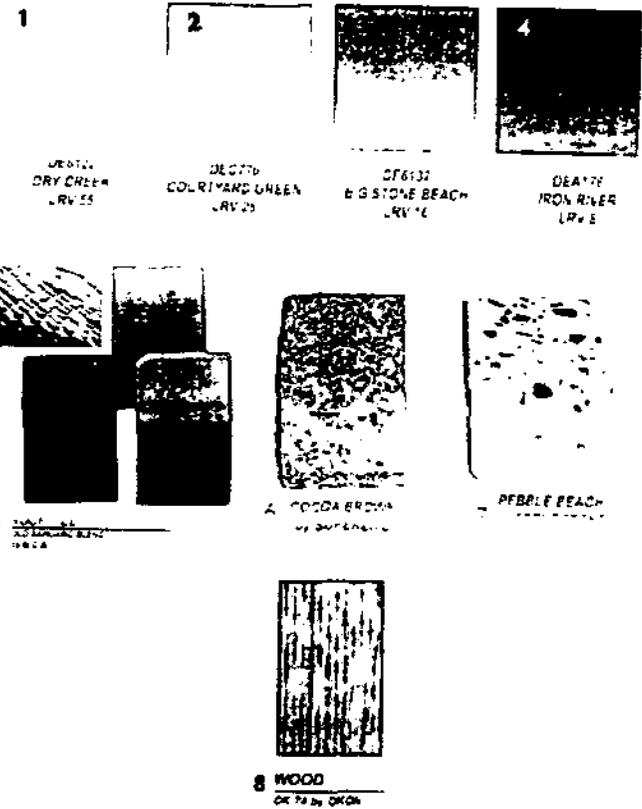
NORTH ELEVATION



SOUTH ELEVATION

2-STORY OFFICE

LAKE PLEASANT MEDICAL PLAZA
 PROFESSIONAL OFFICE DEVELOPMENT
 PEORIA, ARIZONA



D
 NT

Exhibit E





JKD Consulting

EXHIBIT F

P.O. Box 5027
Glendale, AZ 85312-5027
P 623-251-6343

Citizen Participation Plan (CPP) For Lake Pleasant Medical Center Z03-04A.4

This report describes measures taken to notify and inform the public regarding a commercial development proposed by PAL 7, L.L.C. with the City of Peoria.

On May 1, 2009, PAL 7, L.L.C. held a public meeting in regards to the Lake Pleasant Medical Center development in Peoria, Arizona. Notices were mailed out to all property owners of property located within 300 feet of the proposed development (see attached 300 ft. Rezoning Notification Area Map). In attempt to reach the current property owners, a search of current owners was conducted through the County Assessor's office. The resulting list of owners is attached in Exhibit A. Copies of meeting notices sent by mail are attached.

All notices were mailed out via Certified Mail, Return Receipt Requested. The Mailing Status column of Exhibit A indicates which mailings a signed return receipt was received, which mailings were returned with no forwarding address, and which mailings no further communication has been received.

Prior to and after the meeting date, no communication was received from any property owner regarding the project.

The meeting was held at 3:00 pm on Friday, May 1, 2009 in the offices of Essex Land in Denaro Corporate Center located immediately adjacent to the site. Vince Coppola of PAL 7, L.L.C., and Julie DiMaria of JKD Consulting were in attendance twenty minutes prior to the meeting. The Site Plan, colored building elevations and colored Landscape Plans were set up for all attendees to view. There were no other attendees at the meeting. A copy of the meeting Sign In sheet is attached. The doors to the meeting room remained open until shortly after 4:00 pm. The meeting was convened at 4:15 pm.

End of Meeting Report



**LAKE PLEASANT TOWNE CENTER
PLANNED AREA DEVELOPMENT
NWC LAKE PLEASANT PARKWAY AND HAPPY VALLEY ROAD**

ORIGINAL APPLICATION

Case # **Z03-04**

APPROVED BY PEORIA CITY COUNCIL

December 16, 2003, Ordinance 03-183

Subject to Stipulations A-N

AREA

86.7 Acres (Original PAD)

+ 3.4 Acres (Z03-04A.4)

= 90.1 Acres (Total PAD)

AMENDMENTS

Z03-04A.1, Exhibit F (Signs): 11/4/2005 [minor]

Z03-04A.2, Amend Exhibit F (Letter Height): 10/11/2006 [minor]

Z03-04A.3, Amend Exhibit F (Additional Sign): 6/24/2008 [minor]

Z03-04A.4, Add 3.4 Acres – Lake Pleasant Medical Center: [major]

LAKE PLEASANT MEDICAL CENTER DEVELOPMENT TEAM

OWNER

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Peoria, AZ 85383
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AMEC

Team Lead

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Cell: 602.329.0929
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Environmental Planner

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BUTLER DESIGN GROUP

Designer/Architect

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Project Manager

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ORIGINAL LAKE PLEASANT TOWNE CENTER DEVELOPMENT TEAM

Developer/Applicant:

Vestar Development Company
2425 E Camelback Road, Suite 750
Phoenix, Arizona 85016
(602-866-0900)

Property Owner:

Brophy College Preparatory
4701 N Central Avenue
Phoenix, Arizona 85012
(602-264-5291)

Property Owner:

Arizona State Land Department
1616 West Adams Street
Phoenix, Arizona 85007
(602-364-2720)

Planner/Landscape Architect:

Butler Design Group
3020 E. Camelback Road, Suite 215
Phoenix, Arizona 85016
(602-957-1800)

Engineer

CMX Group, Inc.
7740 N 16th Street, Suite 100
Phoenix, Arizona 85020
(602-567-1900)

Attorney:

Earl, Curley & Lagarde
3101 N. Central Avenue, Suite 1000
Phoenix, Arizona 85012
(602-265-0094)

Signage Consultant:

Bleier Industries, Ltd.
2030 W. Desert Cove
Phoenix, Arizona 85029
(602-944-3117)

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Activity Nodes Map	EXHIBIT C
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Conceptual Architectural Elevations.....	EXHIBIT E
Comprehensive Sign Plan	EXHIBIT F
Lake Pleasant Medical Center Conceptual Site Plan	EXHIBIT G
Lake Pleasant Medical Center Conceptual Landscape Plan	EXHIBIT H
Lake Pleasant Medical Center Conceptual Architectural Elevations.....	EXHIBIT I
Lake Pleasant Medical Center Legal Description	EXHIBIT J

LAKE PLEASANT TOWNE CENTER PAD NARRATIVE AMENDMENT TO ADD 3.4 ACRE LAKE PLEASANT MEDICAL CENTER PARCEL

Introduction

This is a request to add 3.4 acres to the original 86.7 acre Lake Pleasant Town Center PAD and rezone these 3.4 acres of land from SR-43 to Planned Area Development (PAD) consistent with the Lake Pleasant Towne Center PAD. The proposed PAD includes a conceptual plan for a two story medical office building, related parking, and landscaping. The addition of this 3.4 acre parcel (to the 20.13 gross acre triangular-shaped located along the Lake Pleasant Parkway frontage that is owned by the State of Arizona as a State Trust Land parcel and a second parcel that is a 64.52-acre parcel contiguous to the State Trust Land parcel's west property line and was owned by Brophy College Preparatory) will create a total 90.1 acre PAD.

The 90.1 acre PAD property is located on the northwest corner of Lake Pleasant Parkway and Happy Valley Road (see Vicinity Map, Exhibit A). The additional 3.4 acre parcel fronts Happy Valley Road just west of the existing Denaro Corporate Center. The State Trust Land parcel fronts Lake Pleasant Parkway. The adjacent Brophy-parcel fronts the Happy Valley Road on the south and Yearling Road on the north. The Brophy parcel also has an access easement through the State Trust Land parcel to Lake Pleasant Parkway. The PAD is needed to combine commercial uses parcels under different ownership and to accommodate unusual topography. The site is traversed from northeast to southwest by a large wash. However, this wash does not directly affect the 3.4 acre Lake Pleasant Medical Center parcel.

General Plan

This PAD request is consistent with the Peoria General Plan (see General Plan Map, Exhibit B). The General Plan Land Use map identifies the site for Community Commercial development. The General Plan describes Community Commercial as typically consisting of larger shopping centers and districts that have a wider variety of goods and services than the neighborhood shopping areas, to include office buildings such as that proposed for the additional 3.4 acre addition to this PAD. The PAD request is also consistent with the Lake Pleasant Parkway Corridor Specific Area Plan that identifies the intersection of Happy Valley Road and Lake Pleasant Parkway as a Community Activity Node per Policy D-2.2 (see Activity Nodes Map, Exhibit C). A Community Activity Node has a radius of approximately one-quarter mile, and includes local commercial retail opportunities with a service area up to 10 miles. Policy A-1.2 allows access points with median breaks at quarter mile intervals with right-in and right-out access allowed as determined by the City Engineer. Objective D-5 encourages and promotes non-residential development within the corridor where such development is consistent with the Goals, Objectives and Policies of the Plan. The project will develop according to the Suburban Cross-Section as described in the Lake Pleasant Parkway Corridor Specific Area Plan and the Happy Valley Road Plan.

The Economic Development Element of the General Plan includes Goals, Objectives and Policies to increase economic prosperity for Peoria citizens and businesses. Objective E-1 seeks to reduce retail trade leakage, and Policy E-1a suggests that the City create commercial nodes in strategic locations. The proposed community commercial center at the subject site will draw retail support from populations outside Peoria to the east and west. The proposed PAD could add 1,167 new jobs to the City, which will positively impact the jobs to population ratio and the City's retail sales tax base. The additional 3.4 acres will host a nearly 25,000 square foot office building that will employ nearly 46 employees when it is fully leased out.

Conceptual Plan

The additional 3.4 acre site plan shows the concept of a new 2-story medical office building containing 24,800 square feet (see Conceptual Site Plan, Exhibit G). The site will accommodate the required 157 parking spaces, a 30 foot setback on two sides not abutting existing office, and provide plenty of opportunity for retention and landscaping/screening.

The original PAD conceptual plan illustrates the potential for a combination of neighborhood level retail and community neighborhood level retail shopping (see Conceptual Site Plan, Exhibit D). The site plan illustrates a combination of a community shopping center with five major tenants on the Brophy-parcel, and six freestanding retail pads on the State Trust Land parcel.

The conceptual plan illustrates how the site can be developed with community and neighborhood level retail uses (as well as office uses) on parcels under separate ownership. It is the intent of the conceptual site plan to show how the shopping center (Brophy-parcel), the freestanding retail pads (State Trust Land parcel), and the additional 3.4 acre (Lake Pleasant Medical Center parcel) can be developed together or independently. Due to the legal responsibilities assigned to the State Land Department for management of the State Trust Land parcel, the State Trust Land parcel needs to have the ability to develop as an independent parcel. The State Trust Land parcel may develop on its own or as part of the larger shopping center shown on the Brophy-parcel depending on the needs of the Trust. As of this writing, the Brophy parcels are mostly developed and fully built-out.

The conceptual plan must take into consideration the topography and washes that pass through the site. The site's topography and orientation to arterials creates the need for a circulation system that: provides access from perimeter streets into the shopping center; allows circulation between retail components on both sides of the wash; and allows access to freestanding retail pads that are isolated from the shopping center by the wash. The design challenge is to honor the City's access policies for Lake Pleasant Parkway but also to provide access to all retail uses. The conceptual circulation allows the State Trust Land parcel to develop independently, or be integrated with the adjacent commercial center on the Brophy-parcel.

This circulation system proposes a variety of access points into the center and freestanding retail pads. A collector street (Yearling Road) is proposed along the north property line of the PAD. This collector street allows northern access driveways into the shopping center and retail pads. It also provides future access to planned residential properties to the west. As a collector-street, Yearling Road intersects with Lake Pleasant Parkway at one of the City's planned median break points. Major entrances to the shopping center are designated off of Lake Pleasant Parkway and off of the Happy Valley Road connector to Loop 303. The shopping center site has a vehicular access easement across the State Land parcel for direct access to Lake Pleasant Parkway at a planned median break location. The driveway entrances into the shopping center pull traffic off the arterials into an internal circulation system that allows access to all portions of the shopping center and freestanding retail pads on both sides of the wash. The internal circulation includes three bridged crossings over the wash to connect the commercial parcels. A series of smaller right-in and right-out only access entry drives are added off of the north collector street, Lake Pleasant Parkway and Happy Valley Road connector to evenly disperse traffic flow into and out of the shopping center and the freestanding retail pads.

Access for the 3.4 acre Lake Pleasant Medical Center parcel will be provided along Happy Valley Road. In addition access to the east of the parcel will connect the existing Denaro Corporate Center with the new 3.4 acre parcel parking lot. This will allow access (although indirect) from Lake Pleasant Parkway and Yearling Road.

The conceptual plan accommodates non-vehicular access through the site per the policies in the General Plan. An equestrian trail is planned through the site, in the bottom of the wash, to allow equestrian access to points north and south of the site. A multi-use trail is planned through the site along

the top of the wash's west back to allow pedestrian access to points north and south of the site. Appropriate pedestrian walkways will link retail components of the shopping center, and provide walkways from parking lots to major retail stores.

The plan provides generous landscape setbacks along Lake Pleasant Parkway and Happy Valley Road. There is a planned 30-foot landscape buffer along Lake Pleasant Parkway and a 15-foot landscape buffer along Happy Valley Road. Additional design elements will be added along the street frontages including appropriate landscape berms and/or screen walls to hide parked vehicles from visibility. Entrance drives will be improved with enhanced decorative pavers. Major entrances will include landscape medians.

The Landscape Ordinance requires 20-percent of the net site area to be landscaped with 5-percent of the net site to be open space. The conceptual plan illustrates there is significant potential to provide landscaping along the perimeter of the site, adjacent to the wash, in parking lots and adjacent to retail buildings and shops. The Lake Pleasant Medical Center will be landscaped in a similar fashion with the same plant palette as the original PAD (see conceptual Landscape Plan, Exhibit H). The Lake Pleasant Medical Center development will follow the Master Conservation Plan as approved by the City of Peoria for this portion of the amended PAD. Any native plants located on the site that are required to be salvaged by either state or local statute, will be replanted on the site upon completion and final landscaping of the project. The salvaged native plants will be maintained in an irrigated nursery adjacent to the site during construction. "The property owners for the commercial uses will maintain all on-site landscaping including perimeter rights-of-way.

The medical office building located on the 3.4 acre parcel will be designed to be architecturally cohesive with those office buildings already constructed in the PAD such as the existing Denaro Corporate Center. Conceptual architectural elevations for the center (see Conceptual Architectural Elevations, Exhibit I) illustrate the quality and character intended for this shopping center (see Conceptual Architectural Elevations, Exhibit E). The conceptual elevations illustrate the use of desert colors and a variety of materials including stucco, stacked stone, tile roof, and wood accents. The elevations provide variety to break up size and scale through the use of battered walls, towers, different roof heights, arches, gable ends, parapets, eaves to provide relief and depth, sconce lights, and varied column designs with different roof overhang designs for shade.

The commercial uses on the 3.4 acre Lake Pleasant Medical Center parcel, the State Trust Land parcel and the Brophy-parcel will be consistent with the permitted, conditional and accessory uses listed in the C-2 base-zoning district. The architecture and design of the commercial buildings will comply with the City's Design Review Manual for Non-Residential uses. The Lake Pleasant Medical Center, State Trust Land parcel and the Brophy-parcel will be developed and phased separately or together depending on market demand and the successful bidder at the public auction of the State Trust parcel.

Development Standards

The development standards for the property are in accordance with the C-2 base district or as amended in the following Development Standards Table:

Land Use	Minimum Lot Size	Max Lot Width	Minimum Setbacks for Principal Buildings (ft)					Maximum Building Height	Max % Lot Coverage
			Front	Least Side	Total Sides	Rear	Perimeter		
Commercial	10 acres	NR	30-Feet	*	*	20-Feet*	30-Feet*	48-Feet	NR
Office	1 acre	NR	30-feet	*	*	20-Feet*	30-Feet*	2-Stories or 48-Feet**	NR

*No side or rear yards are required along interior lot lines, except as required in the Building Code.

** For office buildings adjacent to residential parcels, the 1:3 step-back provision does not apply

Site Plan Review approval is required for principal and accessory buildings in accordance with Article 14-32 of the Zoning Ordinance.

Parking and Loading Requirements are required in accordance with Article 14-23 of the Zoning Ordinance.

Signs are allowed in accordance with EXHIBIT F.

Landscaping will comply with Article 14-35 of the Zoning Ordinance.

Permitted Uses

For commercial uses: permitted, conditional and accessory uses listed in C-2 under Article 14-9 of the Zoning Ordinance, including grocery stores and big box stores with garden centers. Outdoor uses as permitted under Article 14-9.F of the Zoning Ordinance.

Prohibited Uses

Adult Uses
 Ambulance Service Facility
 Auto Parking Lot or Garage as a Principle Use
 Bus Terminals
 Binding Companies and Non-Chartered Financial Institutions
 Convention Centers and Exhibition Halls
 Golf Course - Regulation
 Monument Sales
 Nursing or Convalescence Home, Long Term Care Facilities
 Palm Readers, Phrenologists, Fortune Tellers and Astrologers
 Pawn Shops
 Plasma Center, Tattoo and Body Piercing Studios
 Public School or Charter Schools
 Resorts
 Recycling Collection Points
 Loose, Bulk or Un-bagged Retail Decorative Rock Sales
 Sales and Storage of Grain, Feed, Seed, Fertilizer, Farm and Garden Supplies
 School Bus Parking and Maintenance
 Wedding and Reception Center

Design Guidelines

Development within the PAD shall comply with the City of Peoria Design Review Manual for the appropriate Non-Residential uses in terms of Architectural Design, Site Design, Landscape Design, and Quantitative Guidelines.

Grading and Drainage

The PAD site slopes from northeast to southwest. On-site retention basins approved in Site Plan Review shall accommodate all storm water drainage required by the City. Drainage will be designed to accommodate 100-year, 2-hour storm events.

Public Utilities and Services

There is an existing 30-inch water line available to the site in Lake Pleasant Road. There are no other existing utilities immediately adjacent to the site. There are two paved travel lanes along Lake Pleasant Parkway. The Happy Valley Road connector to Loop 303 is scheduled for completion in March 2004. The developer will provide street and utility services so the site when the site is developed as required by the City.

Sewer.....	City of Peoria
Water.....	City of Peoria
Electricity.....	Arizona Public Service
Telephone.....	Qwest Communications
Cable TV.....	Cox Communications
Gas.....	Southwest Gas Company
Refuse.....	City of Peoria
Fire and Emergency.....	City of Peoria
Police.....	City of Peoria

As of this writing, the Lake Pleasant Parkway has been fully improved and dry utilities have been developed through out the Lake Pleasant Towne Center. The 3.4 acre Lake Pleasant Medical Center parcel will utilize the existing water lines available within the Lake Pleasant Towne Center development. The Lake Pleasant Medical Center will also utilize the existing sewer line located in the Lake Pleasant Towne Center or the existing sewer within the Tierra Del Rio development to the west of the site, depending on final site elevations and final sewer capacity analysis. In addition the City of Peoria will provide sanitation and refuse removal, fire protection, and police protection for the Lake Pleasant Medical Center.

Phasing

The PAD will be developed as determined by market demand. The necessary onsite and offsite improvements will be determined during Site Plan Review in accordance with City of Peoria Ordinances, Guidelines or stipulations. However, the 3.4 acre Lake Pleasant Medical Center parcel will be developed as one phase.

Stipulations Approved by City Council

On December 16, 2003 the Peoria City Council approved Case Z 03-04, Northwest Corner of Lake Pleasant Parkway and Happy Valley Road, Ordinance 03-183, subject to the following conditions:

- a. The development shall conform to the approved Lake Pleasant Towne Center Standards and Guidelines Report stamp dated August 14, 2003.
- b. All Engineering Improvement plans shall comply with the City of Peoria requirements. Refer to the Infrastructure Guide.
- c. The Developer shall be required to construct the half-street on Yearling with intersection improvements as approved in a Traffic Impact Analysis (TIA), which will be submitted by the applicant. Additional right-of-way (ROW) dedication may be required near the intersection of Yearling and Lake Pleasant Parkway to provide for proper intersection geometrics as approved by the TIA.
- d. The Developer shall dedicate 75-foot half-street ROW on Lake Pleasant Parkway and an additional 40-foot temporary construction easement may be required to accommodate the slopes of Lake Pleasant Parkway. The temporary construction easement shall remain in place until the site's development improvements adjacent to the temporary easement are constructed and thereby eliminate the continued need for the temporary construction easement. The Developer may be required to dedicate additional ROW per the approved TIA to allow for deceleration or right turn lanes at driveways or street intersections with Lake Pleasant Parkway. The additional ROW shall not exceed 12-feet in width. The additional 12-foot ROW may be provided as a roadway/Peoria utility easement.
- e. This development shall be responsible for a pro-rated contribution for the signal at Yearling and Lake Pleasant Parkway based on the approved TIA.
- f. There shall be a full median break on Lake Pleasant Parkway at the Yearling alignment. One additional full median break will also be allowed on Lake Pleasant Parkway between Yearling and Happy Valley Road. A signal may be permitted at this additional median break if necessary as determined by a future traffic study by the developer and as approved by the City Engineer.
- g. There is currently a NVAE along Happy Valley Road. until such time as this NVAE is abandoned, there shall be no access on to Happy Valley Road.
- h. A TIA for the site shall be submitted with the site plan and or Preliminary Plat. The TIA shall determine the driveway locations on the Yearling Alignment (Northern Boundary) and on Lake Pleasant Parkway.
- i. The developer shall dedicate easements and construct trails as shown on the Trails Master Plan.
- j. A Preliminary Drainage Report must be submitted with the site plan and or Preliminary Plat. This report must provide calculations and exhibits showing the 100-year, 2-hour storm water storage facilities, the 404 jurisdictional limits of the washes, and the 100-year high water elevation for the washes.
- k. A Preliminary Drainage Report must be submitted with a site plan and/or Preliminary Plat. The residential portion of the project will provide 100-year, 2-hour storm water retention. The commercial portion will be required to detain flows such that the post-development peak hour flows do not exceed the pre-development peak hour flows based on a 100-year, 2-hour storm event. In addition, the report shall show that downstream drainage structures from the site to the Agua Fria River are not negatively impacted by the post-development, 100-year, 6-hour storm event.
- l. The Developer shall construct a 16-inch waterline along Lake Pleasant Parkway, parallel to the existing 30-inch waterline, from the existing stub at Happy Valley Road to the existing stub at Jomax. The applicant is eligible for repayment per the repayment agreement identified by City Ordinance.

- m. The PAD shall be revised to reflect the approved stipulations and any amendments to the legal description.
- n. At the time of the Site Plan and Design Review Approval — the development shall exceed the City of Peoria requirements for the buildings.

Note: The 3.4 acre Lake Pleasant Medical Center parcel shall conform to all stipulations set out in the original Lake Pleasant Towne Center PAD as reflected above.

EXHIBIT F

Comprehensive Sign Plan Lake Pleasant Towne Center

1. Freestanding Monument Signs.

Signs identified as 'Multi-Tenant Landmark', 'Multi-Tenant' and 'Gas Price' monument signs are included in this category. Center Identification Entry Feature Wall as identified herein are addressed separately and do not count toward the allowance for freestanding signs. Refer to the following attachments for additional information: Material Palette, Freestanding Sign Matrix, Site Plan (SP 1), Freestanding Sign Elevations (ST 1, ST 2, ST2.5, ST 4, ST 5, and Temp 1), Typical Building Elevations, and Blade Sign BS-1.

- a. Number of signs permitted. A total of ten (10) freestanding monument signs are permitted as illustrated on attachment drawing SP1

Permitted Freestanding Monument Signs

	<i>Happy Valley Rd.</i>	<i>Yearling Rd.</i>	<i>Lake Pleasant Pkwy</i>
Landmark (ST 1)	Three (3)	-0-	One (1)
Multi-Tenant (ST 2)	One (1)	Two (2)	Two (2)
Gas Price Sign (ST 4)	-0-	-0-	One (1)

b. Development Standards

	<i>Landmark (ST 1)</i>	<i>Multi-Tenant (ST 2 & ST 2.5)</i>	<i>Gas Price Sign (ST 4)</i>
Maximum Area Sign Panels (SF)	80	48	32
Maximum Height (Feet)	14	8	6.5
Setback from Property Line (Feet)	1	1	1

- c. All such signs shall have monument-type bases utilizing masonry and/or stone from the approved material palette for the project. A comparable alternate basic material may be used upon approval by the City of Peoria.
- d. All such signs shall be integrated within a landscaped area.
- e. Such signs shall identify Multi-Tenant Identification, Gas Price/ Brand, and/or Center Identification. Such signs shall not include generic advertising copy unless part of the recognized business trade name.
- f. Such signs shall be located a minimum of sixty (60) linear feet from any other freestanding monument sign.
- g. A separate sign permit shall be obtained for each sign.

2. Center Identification Entry Feature Wall (ST 3).

A sign consisting of individual letters on a wall which is detached from, but architecturally integrated with the site.

- a. One (1), center identification entry feature wall (ST 3) may be permitted in the general location near the Happy Valley Road and Lake Pleasant Parkway intersection as illustrated on attachment Site Plan (SP 1).

- b. Such signs shall not exceed 6.25 feet in height.
- c. Sign copy area shall not exceed eighty (80 SF) square feet and shall not cover more than fifty (50%) percent of the background wall surface.
- d. Such sign feature shall be located a minimum of five (5') feet from any property line.
- e. Such signs shall consist of only the name of the development.
- f. Sign feature shall be integrated within a landscaped area.
- g. A sign permit shall be obtained for the sign copy. Feature wall shall be permitted separately by a general building permit.
- h. Sign feature may be ground illuminated utilizing approved fixtures.

3. Building-Mounted Wall Sign.

A permanent sign attached to, painted on, or erected against the wall or fascia of a building with the exposed face of the sign in a plane parallel to the face of the wall or fascia.

- a. The maximum aggregate sign area per suite or establishment shall be calculated by multiplying 1.5 times the length of the tenant's business front footage without limitation as to maximum sign area and/or number of sign elements. Tenants occupying suites that afford sign placements on elevations other than the tenant's business front shall be permitted to calculate maximum aggregate sign area by multiplying 3.0 times the length of the tenant's business front footage. In no instance shall sign area placed on any single elevation exceed an aggregate sign area calculated by multiplying 1.5 times the length of the elevation upon which the sign(s) is/are installed. As a minimum allowance, tenants with less than 33 feet of business front footage shall be permitted a minimum of fifty (50) square feet of sign area. The allowable sign area may be placed onto any elevation affording sign placement.
- b. For users occupying less than ten thousand (10,000) square feet of floor area, the overall spread of letters shall not exceed 80% of the business front footage. The maximum total letter height shall be no greater than thirty-six inches (36") exclusive of logos. Exception: The maximum total letter height for shop tenants shall be no greater than twenty-four inches (24") exclusive of logos.
- c. For users occupying more than ten thousand (10,000) square feet of floor area and less than thirty thousand (30,000) square feet of floor area, the overall spread of letters shall not exceed 80% of the business front footage. The maximum total letter height shall be no greater than sixty inches (60") exclusive of logos.
- d. For users occupying more than thirty thousand (30,000) square feet of floor area the overall spread of letters shall not exceed 80% of the business front footage. The maximum total letter height shall be no greater than seventy-two inches (72") exclusive of logos.
- e. Such signs shall not project more than fourteen (14) inches from a wall or fascia.
- f. Such signs may be illuminated only by internal or externally indirect lighting; no illuminated signage shall be placed on elevations directly facing abutting a residential district.
- g. Sign permit required.

4. Under Canopy Projected Signs.

- a. Such signs shall not exceed eight (8) square feet in area and shall maintain a minimum of eight feet six inches (8'-6") clearance from the sidewalk to the bottom of the sign. See attachment BS-1 for typical under canopy blade sign design.
- b. Such signs shall not include any advertising copy.
- c. No sign permit required.

5. Pedestrian Directory Signs (ST 5).

A pedestrian oriented sign integrated throughout the development to assist users with tenant locations.

- a. Such signs shall not exceed nine (9) feet in height or twenty-two (22) square feet in area per side as illustrated on attachment ST 5.
- b. No sign permit required.

6. Temporary Marketing Sign.

A temporary sign used to announce future tenants or a proposed development of property as illustrated on attachment TEMP-1.

- a. Such signs shall not exceed twelve (12) feet in height or ninety-six (96) square feet in area.
- b. Such signs shall be located in accordance with the sight distance requirements as prescribed in the City of Peoria Infrastructure Guidelines.
- c. Such signs shall be non-illuminated.
- d. Only one such sign shall be displayed per frontage (perimeter), with a maximum of two such signs for the development. No such sign may be permitted along the Yearling Road frontage.
- e. Such signs may be maintained for a period of three (3) years or until all of the pads and sites have been developed, whichever comes first.
- f. Sign permit required.

7. Prohibited Signs.

Signs that are not specifically authorized are expressly prohibited. Prohibited signs include, but are not limited to the following:

- a. Cloth signs or streamers hanging in front of the business.
- b. All roof-mounted signs.
- c. Iridescent painted signs, animated or moving components, intermittent or flashing sign.
- d. All other prohibited signs pursuant to Section 14-34-8.B of the Peoria Zoning Ordinance.

Note: The 3.4 acre Lake Pleasant Medical Center will conform to the above approved sign code.

ORDINANCE NO. 09-23

AN ORDINANCE OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA REZONING CERTAIN PROPERTY FROM SUBURBAN RANCH (SR-43) TO LAKE PLEASANT TOWNE CENTER PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT; AMENDING THE ZONING MAP AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Peoria Planning and Zoning Commission held a public hearing on July 16, 2009 in zoning case Z03-04A.4 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 SR-43 zoning district to Lake Pleasant Towne Center PAD zoning district 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 June 26, 2009; 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.

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 Exhibit B to this Ordinance, is hereby rezoned from SR-43 zoning district to Lake Pleasant Towne Center PAD zoning district.

SECTION 2. The amendment to the zoning herein provided be conditioned and subject to the following stipulations:

1. The development shall conform to the *Lake Pleasant Towne Center Planned Area Development (PAD) Standards and Guidelines Report* revised May 22, 2009.

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 better defined in the corresponding City zoning map as shown as Exhibit B and the Legal Description as shown on Exhibit C.

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 25th day of August, 2009.

Bob Barrett, Mayor

Date Signed

ATTEST:

Mary Jo Kief, City Clerk

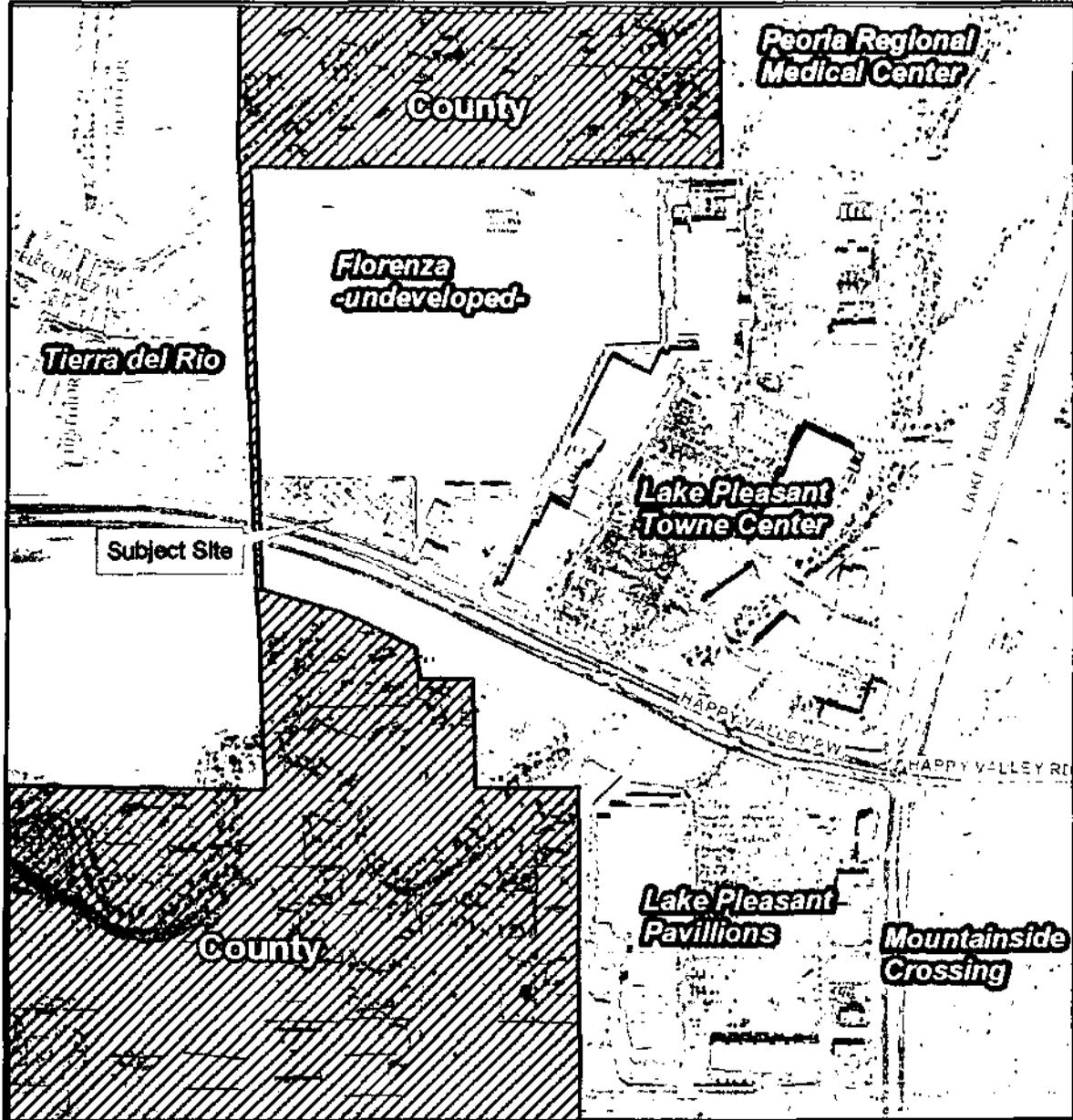
APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Published in: Peoria Times Pub. Dates: August 28 and September 4, 2009

Effective Date:

EXHIBIT B



**EXHIBIT C
LEGAL DESCRIPTION**

That part of the Northwest quarter of the Southwest quarter of the Southeast quarter of Section 5, Township 4 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the South quarter corner of said Section 5, from which the Center of said section 5 bears North 01° 27' 49" West, a distance of 2631.77 feet;

Thence North 01° 27' 49" West along the North-South mid-Section line of said Section 5, a distance of 1,186.42 feet to the Northerly right-of-way line of Happy Valley Parkway, also being the POINT OF BEGINNING;

Thence continuing along the North-South mid-Section line of said Section 5, North 01° 27' 49" West, a distance of 129.41 feet to the Northwest corner of the Northwest quarter of the Southwest quarter of the Southeast quarter of said Section 5, also being the Southwest corner of the "Florenza" subdivision as shown in Book 950 of maps, Page 21, Records of Maricopa County, Arizona;

Thence South 89° 49' 48" East, along the South line of said "Florenza" subdivision, a distance of 659.03 feet to the Southwest corner of the 'New Parcel 20A' of the "LAKE PLEASANT TOWNE CENTER" subdivision as shown in Book 945, Page 12, Records of Maricopa County, Arizona;

Thence South 01° 28' 55" East, along the West line of said 'New Parcel 20A', a distance of 355.02 feet to the point on the Northerly right-of-way line of Happy Valley Parkway, said point also being the beginning of a not-tangent curve whose radius bears South 25° 36' 50" West, a distance of 3,000.00 feet;

Thence Northwesterly along the arc of said curve, also being the Northerly right-of-way of Happy Valley Parkway, through a central angle of 13° 27' 08" with an arc length of 704.36 feet to the point of BEGINNING.

When recorded return to:

City of Peoria, Arizona
Office of the City Clerk
8401 West Monroe Street
Peoria, AZ 85345

Agreement Regarding Acceptance of Land Use Conditions and Waiver of Rights and Remedies under Proposition 207: For Use with a General Plan Amendment, Zoning Change (including Major or Minor Amendment to PCD or PAD), Zoning Text Amendment Request, Annexation, Site Plan Approval, or Design Review Approval

This Agreement regarding Acceptance of Land Use Conditions and Waiver of Rights and Remedies under Proposition 207 ("Agreement") is made by and between Applicant: PAL 7 LLC, who is the applicant or the authorized representative of the applicant (the "Applicant") in City of Peoria Land Use Case No. 203-11A-4 (the "Application"), and the City of Peoria, Arizona, an Arizona municipal corporation (the "City").

Whereas, Applicant has submitted the Application to the City wherein it has requested that the City approve a General Plan Amendment, Zoning Change (including Major or Minor Amendment to a PCD or a PAD), Annexation, Site Plan Approval, or Design Review Approval for certain real property owned or controlled by the Applicant located within the City or to be annexed by the City more particularly described in the attached **Exhibit "A"** (the "Property");

Whereas, the City has reviewed the Application for conformance and consistency with the City's General Plan, Zoning Ordinance, any applicable Specific Plans, and any other applicable Ordinances, which include Desert Conservation, Open Space, Hillisides, Grading and Drainage, Stormwater Management, and Sensitive Lands (collectively, "Land Use Ordinances");

Whereas, the Property is subject to the provisions of Proposition 207, as adopted by the voters of the State of Arizona during the November 7, 2006, general election, which is codified at A.R.S. § 12-1131, *et seq.* ("Proposition 207"); and

Whereas, the City and the Applicant desire to resolve the applicability of Proposition 207 to the Application and determine all other conditions that the City will impose subject to approval of the Application.

Now therefore, the Applicant and the City agree as follows:

1. **Conditions.** The Applicant and the City agree that the conditions set forth in **Exhibit "B"**, together with all other conditions, if any, that are imposed by the Planning and Zoning Commission or the City Council, or both, shall be included as part of any approval of the Application by the City; except that, if the Applicant objects to such other conditions during each and every public hearing, if any, related to the Application, then such other conditions are not covered by this Agreement. Except as provided in this § 1, the Applicant covenants that it is lawfully empowered to accept and hereby does accept such conditions on behalf of all parties with an interest in the Property. Except as provided in this § 1, the Applicant and the City agree that compliance with the

conditions set forth in *Exhibit "B"* and the other conditions described in this § 1, as determined by the City, is a requirement for approval of the Application. The Applicant acknowledges that these conditions may be subject to reasonable interpretation and application by the City in future land use applications pertaining to this Property, and the Applicant agrees that such action by the City will not provide a claim under Proposition 207; however, the City agrees that the Applicant does not hereby waive the right to protest such action under any other law.

2. Run with the Land. The Applicant and the City agree that this Agreement shall run with the Property and be binding upon all subsequent owners. The Applicant hereby consents to the City recording this Agreement and any other necessary related documents with the County Recorder in which the Property is located.

3. Waiver.

3.1. The Applicant acknowledges that the Applicant and the City are empowered to agree to a waiver of the terms and requirements of Proposition 207, in particular those items codified at A.R.S. § 12-1134, pursuant to A.R.S. § 12-1134(l).

3.2. The City agrees that the Application conforms and is consistent (or will become consistent by action on the Application) with the City's General Plan, and the Applicant on behalf of itself and all other parties having an interest in the Property knowingly and intelligently waives the provisions of Proposition 207, in particular A.R.S. § 12-1134, resulting from the City's actions with respect to the Application, as follows:

3.2.1. Any actual or claimed reduction of any existing rights to use, divide, sell, or possess the Property resulting from the City's actions with respect to the Application.

3.2.2. Any actual or claimed reduction in the fair market value of the Property resulting from the City's actions with respect to the Application.

3.2.3. Any actual or claimed reduction of any existing rights to use, divide, sell, or possess any private real property adjacent to the Property or of the fair market value of any private real property adjacent to the Property resulting from the City's actions with respect to the Application.

3.2.4. Any actual or claimed right to file a lawsuit against the City seeking just compensation for an actual or claimed regulatory taking in a court in the county in which the Property is located resulting from the City's actions with respect to the Application.

3.2.5. Any actual or claimed right to secure a binding waiver of enforcement of a particular Peoria land use law against the Property resulting from the City's actions with respect to the Application.

4. City's Agreement. City agrees that by virtue of the Applicant's execution of this Agreement and acceptance of all of the conditions imposed by City regarding the Application, that the Application and this Agreement shall be submitted with a staff recommendation for approval to the Peoria City Council or other decision-making body or person, as appropriate, for consideration and possible approval. However, the Applicant's failure to execute this Agreement will not prevent processing of the Application or submittal of the Application for consideration and possible approval.

5. Legislative Acts. This Agreement in no way acquiesces to or obligates the City to perform any legislative act.

6. Estoppel. The Applicant represents that, to its knowledge with regard to the Application and the Property as of the effective date of this Agreement, it has received the equal protection of the laws, has received due process of all of its claims and requests, and has not suffered any compensable regulatory taking (as those terms and their related claims are defined by Arizona state and federal constitutional jurisprudence, including Proposition 207) that would be or the Applicant claims or believes would be compensable under Proposition 207 or any other federal or Arizona state law, regulation, or constitutional provision.

7. Indemnification and Termination upon Sale of Public Lots. The Applicant agrees to protect, indemnify, and hold the City, 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 litigation related expenses) imposed upon or asserted by any claimant pursuant to Proposition 207 against the City, its agents, representatives, officers, directors, elected or appointed officials, and employees; by reason of or arising out of this Agreement or the City's approval of the Application. In order to assert any right to indemnification pursuant to this provision, the City shall notify and issue a tender of defense to the Applicant in writing within thirty (30) days of initial notice to the City of an underlying claim against the City pursuant to A.R.S. § 12-1134 and this Application. Upon notice and tender of defense by the City to the Applicant of an indemnification claim pursuant to this provision, the Applicant shall affirmatively accept the City's tender of defense in writing within ten (10) days of receipt of said tender from the City, and may thereafter assert control of the management and disposition of said underlying claim, including but not limited to the choice of counsel, and the City shall reasonably cooperate in this Applicant's management and disposition of the underlying claim. This obligation to indemnify shall terminate without the execution or recordation of any further document or instrument as to any lot ("Public Lot") which has been finally subdivided, has been improved with a fully completed dwelling or commercial building, and has been individually (and not in "bulk") leased (for a period of longer than one year) or sold to an end purchaser or user thereof, and thereupon such Public Lot shall be released from and no longer shall be subject to or burdened by the provisions of this § 7. The maximum value of any such indemnity is limited to \$ 50,000.

8. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the application of Proposition 207 to the Property. All prior and contemporaneous agreements, representations, and understandings of the parties, oral or written, with respect to the application of Proposition 207 to the Property other than specifically incorporated herein by reference, are superseded by this Agreement. All prior and contemporaneous agreements, representations, and understandings of the City with any other parties, oral or written, with respect to the application of Proposition 207 to the Property other than specifically incorporated herein by reference, regarding any portion of or all of the Property, are superseded by this Agreement. Nothing in this section is intended to void or invalidate other agreements affecting the Property to which both the Applicant and the City are parties, such as development agreements, easements, repayment agreements, or others; however, the provisions of this Agreement shall supersede and take precedence over any conflicting provisions in any such other agreements.

9. Severability. If any provision of this Agreement is declared void or unenforceable, the provisions will be severed from this Agreement and the remainder of the Agreement will otherwise remain in full force and effect, provided that the overall intent of the parties is not materially vitiated by such severability.

10. Governing Law. This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona.

11. Effective Date and Recordation. This Agreement shall become effective upon approval by the City of the Application as evidenced by all necessary signatures upon any written approval, ordinance or resolution approved by the Peoria City Council, or approved minutes evidencing the action taken by the City Council or other appropriate decision-maker in accordance with applicable law. No later than ten (10) days after the Application has been approved as provided herein, the City may cause this Agreement to be recorded in its entirety in the official records of the County Recorder of the county in which the Property is located.

12. Term. This Agreement shall be effective for a period of ten (10) years from the date the City approves the Application, unless within three (3) years of the date of execution of this Agreement, the City advises the Applicant that a court of competent jurisdiction or the legislature has determined that a Proposition 207 claim may be stated based on a land use law at a time later than the term of this Waiver; in such case, the term will be automatically extended without further action of the parties to such time, unless the Applicant protests the City's interpretation of such court or legislative decision within ten (10) days. Such protest must be heard by the City's Independent Hearing Officer within thirty (30) days, and the decision of the Independent Hearing Officer will be final with respect to the correct interpretation for the purpose of this § 12.

13. Authority. The Applicant represents and warrants to the City: (a) that it is duly formed and validly existing under the laws of the State of ARIZONA and is authorized to do business in Arizona; and (b) that the individual(s) executing this Agreement on behalf of the Applicant are authorized and empowered to bind the Applicant. The City represents and warrants to the Applicant: (y) that it is a duly formed municipal corporation with the State of Arizona; and (z) that the individual(s) executing this Agreement on behalf of the City are authorized and empowered to bind the City.

14. Conflict of Interest. The parties acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of A.R.S. § 38-511.

[Signatures on following page]

Dated this 19th day of May, 2009.

APPLICANT

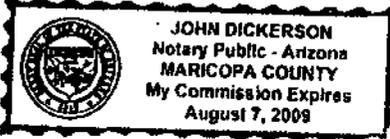
[Redacted Signature]
Signature

Written name, or, if a company, By [name]: PAL 7 LLC If a company, Its [position name]: MANAGER.

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this 19th day of May, 2009, by [name] Vincent Coppola, and, if an organization, of PAL 7 LLC, an Arizona [type] of organization] LLC, on its behalf.

My Commission Expires: August 7, 2009 [Signature]
Notary Public



CITY OF PEORIA, an Arizona municipal corporation
[Signature]
Carl Swenson, City Manager

APPROVED AS TO FORM:
[Signature]
Stephen M. Kemp, City Attorney

ATTEST:
[Signature]
Mary Jo Kief, City Clerk

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ___ day of _____, by _____ of the City of Peoria, Arizona, an Arizona municipal corporation, on behalf of the corporation.

My Commission Expires: _____
Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION FOR
'LOT 1' OF "DENARO CORPORATE CENTER PHASE II"

That part of the Northwest quarter of the Southwest quarter of the Southeast quarter of Section 5, Township 4 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the South quarter corner of said Section 5, from which the Center of said Section 5 bears North 01°27'49" West, a distance of 2631.77 feet;

Thence North 01°27'49" West along the North-South mid-Section line of said Section 5, a distance of 1186.42 feet to the Northerly right-of-way line of Happy Valley Parkway, also being the POINT OF BEGINNING;

Thence continuing along the North-South mid-Section line of said Section 5, North 01°27'49" West, a distance of 129.41 feet to the Northwest corner of the Northwest quarter of the Southwest quarter of the Southeast quarter of said Section 5, also being the Southwest corner of the "FLORENZA" subdivision as shown in Book 950 of maps, Page 21, Records of Maricopa County, Arizona;

Thence South 89°49'48" East, along the South line of said "FLORENZA" subdivision, a distance of 659.03 feet to the Southwest corner of 'New Parcel 20A' of the "LAKE PLEASANT TOWNE CENTER" subdivision as shown in Book 945, Page 12, Records of Maricopa County, Arizona;

Thence South 01°28'55" East, along the West line of said 'New Parcel 20A', a distance of 355.02 feet to a point on the Northerly right-of-way line of Happy Valley Parkway, said point also being the beginning of a non-tangent curve whose radius point bears South 25°36'50" West, a distance of 3000.00 feet;

Thence Northwesterly along the arc of said curve, also being the Northerly right-of-way line of Happy Valley Parkway, through a central angle of 13°27'08" with an arc length of 704.36 feet to the POINT OF BEGINNING.



EXPIRES 9-30-09 *Don Miller*

Exhibit B
Conditions

1. The development shall conform to the *Lake Pleasant Towne Center* Planned Area Development (PAD) Standards and Guidelines Report revised May 22, 2009.