



Agenda

City Council Formal Meeting

Wednesday, February 21, 2024

2:30 PM

phoenix.gov

*****REVISED Feb. 20, 2024*****

Item Added: 81

OPTIONS TO ACCESS THIS MEETING

Virtual Request to speak at a meeting:

- **Register online** by visiting the *City Council Meetings* page on phoenix.gov **at least 2 hours prior to the start of this meeting**. Then, click on this link at the time of the meeting and join the Webex to speak: <https://phoenixcitycouncil.webex.com/phoenixcitycouncil/onstage/g.php?MTID=ee57340a090602609377cecdcd85d42fb>

- **Register via telephone** at 602-262-6001 **at least 2 hours prior to the start of this meeting**, noting the item number. Then, use the Call-in phone number and Meeting ID listed below at the time of the meeting to call-in and speak.

In-Person Requests to speak at a meeting:

- Register in person at a kiosk located at the City Council Chambers, 200 W. Jefferson St., Phoenix, Arizona, 85003. Arrive **1 hour prior to the start of this meeting**. Depending on seating availability, residents will attend and speak from the Upper Chambers, Lower Chambers or City Hall location.

- Individuals should arrive early, 1 hour prior to the start of the meeting to submit an in-person request to speak before the item is called. After the item is called, requests to speak for that item will not be accepted.

At the time of the meeting:

- **Watch** the meeting live streamed on phoenix.gov or Phoenix Channel 11 on Cox Cable, or using the Webex link provided above.

- **Call-in** to listen to the meeting. Dial 602-666-0783 and Enter Meeting ID 2557 742 7343# (for English) or 2556 776 6870# (for Spanish). Press # again when prompted for attendee ID.

- **Watch** the meeting in-person from the Upper Chambers, Lower Chambers or City Hall depending on seating availability.

- Members of the public may attend this meeting in person. Physical access to the meeting location will be available starting 1 hour prior to the meeting.

Para nuestros residentes de habla hispana:

- **Para registrarse para hablar en español**, llame al 602-262-6001 **al menos 2 horas antes del inicio de esta reunión** e indique el número del tema. El día de la reunión, llame al 602-666-0783 e ingrese el número de identificación de la reunión 2556 776 6870#. El intérprete le indicará cuando sea su turno de hablar.

- **Para solamente escuchar la reunión en español**, llame a este mismo número el día de la reunión (602-666-0783; ingrese el número de identificación de la reunión 2556 776 6870#). Se proporciona interpretación simultánea para nuestros residentes durante todas las reuniones.

- **Para asistir a la reunión en persona**, vaya a las Cámaras del Concejo Municipal de Phoenix ubicadas en 200 W. Jefferson Street, Phoenix, AZ 85003. Llegue 1 hora antes del comienzo de la reunión. Si desea hablar, regístrese electrónicamente en uno de los quioscos, antes de que comience el tema. Una vez que se comience a discutir el tema, no se aceptarán nuevas solicitudes para hablar. Dependiendo de cuantos asientos haya disponibles, usted podría ser sentado en la parte superior de las cámaras, en el piso de abajo de las cámaras, o en el edificio municipal.

- Miembros del público pueden asistir a esta reunión en persona. El acceso físico al lugar de la reunión estará disponible comenzando una hora antes de la reunión.

CALL TO ORDER AND ROLL CALL

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City Council Formal Meeting



City of Phoenix

Report

Agenda Date: 2/21/2024, Item No. 1

For Approval or Correction, the Minutes of the Formal Meeting on April 21, 2021

Summary

This item transmits the minutes of the Formal Meeting of April 21, 2021, for review, correction and/or approval by the City Council.

The minutes are available for review in the City Clerk Department, 200 W. Washington St., 15th Floor.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

City Council Formal Meeting



City of Phoenix

Report

Agenda Date: 2/21/2024, Item No. 2

Mayor and Council Appointments to Boards and Commissions

Summary

This item transmits recommendations from the Mayor and Council for appointment or reappointment to City Boards and Commissions.

Responsible Department

This item is submitted by the Mayor's Office.

ATTACHMENT A



City of Phoenix

To: City Council
From: Mayor Kate Gallego

Date: February 21, 2024

Subject: BOARDS AND COMMISSIONS – APPOINTEES

The purpose of this memo is to provide recommendations for appointments to the following Boards and Commissions:

Alhambra Village Planning Committee

Councilwoman Laura Pastor recommends the following for appointment:

Marshall Pimentel

Mr. Pimentel is a Senior Legislative Associate at the League of Arizona Cities and Towns and a resident of District 4. He fills a vacancy for a term to expire November 19, 2024.

Civil Service Board

I recommend the following for reappointment:

Elisa De La Vara

Ms. De La Vara will serve her second term to expire February 21, 2027.

Encanto Village Planning Committee

Councilwoman Laura Pastor recommends the following for appointment:

Erin Garcia

Ms. Garcia is the Vice President of Social Services & Education at Chicanos Por La Causa and a resident of District 4. She fills a vacancy for a term to expire November 19, 2025.

Robert Warnicke

Mr. Warnicke is an Attorney at Warnicke Law and a resident of District 4. He fills a vacancy for a term to expire November 19, 2025.

Samantha Weiss

Ms. Weiss is an Interpersonal Violence Program Specialist at the Department of Economic Security and a resident of District 4. She fills a vacancy for a term to expire November 19, 2025.

Maryvale Village Planning Committee

Councilwoman Laura Pastor recommends the following for appointment:

Cindy Alonzo

Ms. Alonzo is a Teacher at the Isaac School District and a resident of District 4. She fills a vacancy for a term to expire November 19, 2024.

Phoenix Business & Workforce Development Board

I recommend the following for appointment:

Pearl Esau

Ms. Esau is the Owner of Shan Strategies and a resident of District 6. She replaces Scott Holman as a Business Human Resources representative for a partial term to expire June 30, 2024.

Planning Commission

I recommend the following for appointment:

Joshua Matthews

Mr. Matthews is a Planner II at Valley Metro and Vice Chair of the North Mountain Village Planning Committee. He replaces Shannon Simon as a Village Planning Committee representative for a term to expire February 21, 2026.

Sister Cities Commission

I recommend the following for appointment:

Melissa Werner

Ms. Werner is the Director of the University Ceremonies Offices at Arizona State University and a resident of District 6. She serves a term to expire February 21, 2027.



Liquor License - Sonny's Sip Snack & Smoke

Request for a liquor license. Arizona State License Application 267031.

Summary

Applicant

David Evans, Agent

License Type

Series 10 - Beer and Wine Store

Location

8925 N. 43rd Ave., Ste. 1

Zoning Classification: C-1

Council District: 1

This request is for a new liquor license for a convenience store that does not sell gas. This location was not previously licensed for liquor sales and does not have an interim permit. This location requires a Use Permit to allow package liquor sales.

The 60-day limit for processing this application is March 8, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

This applicant does not hold an interest in any other active liquor license in the State of

Arizona.

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because:
"Born and raised in retro Phoenix and owner of multiple retail businesses over the last 10 plus years. Friend to community, attended ASU West. Extensive experience in client management and customer service"

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:

"Allow local consumers to have variety of venues to purchase goods from an experienced vendor with close ties to the community."

Staff Recommendation

Staff recommends approval of this application noting the applicant must resolve any pending City of Phoenix building and zoning requirements, and be in compliance with the City of Phoenix Code and Ordinances.

Attachments

Attachment - Sonny's Sip Snack & Smoke - Data

Attachment - Sonny's Sip Snack & Smoke - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: SONNY'S SIP SNACK & SMOKE

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Bar | 6 | 2 | 1 |
| Beer and Wine Bar | 7 | 1 | 1 |
| Liquor Store | 9 | 3 | 1 |
| Beer and Wine Store | 10 | 11 | 2 |
| Restaurant | 12 | 6 | 3 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 56.58 | 58.7 |
| Violent Crimes | 12.31 | 11.78 | 9.44 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

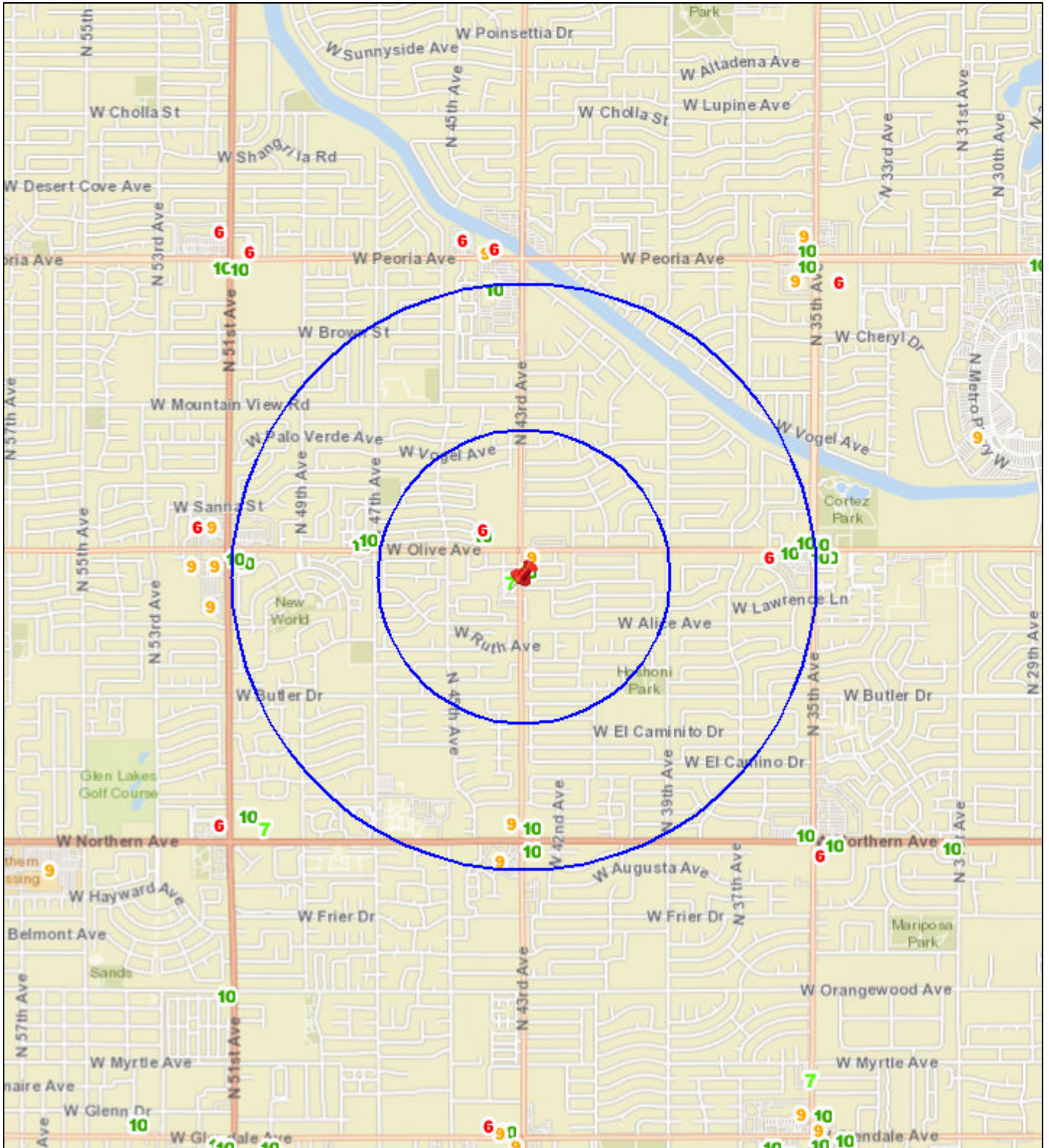
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 110 |
| Total Violations | 82 | 172 |

Census 2010 Data 1/2 Mile Radius

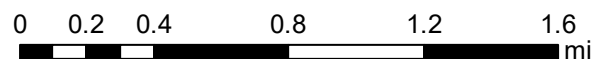
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 0923084 | 1154 | 85 | 7 | 39 |
| 0923091 | 1517 | 72 | 0 | 6 |
| 0923094 | 666 | 94 | 0 | 10 |
| 1042062 | 1557 | 65 | 6 | 34 |
| 1042063 | 998 | 92 | 7 | 3 |
| 1057011 | 1471 | 65 | 4 | 6 |
| 1057012 | 2012 | 87 | 15 | 6 |
| 1057021 | 2725 | 66 | 7 | 22 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: SONNY'S SIP SNACK & SMOKE

8925 N 43RD AVE



Date: 1/9/2024





Liquor License - Mommas Soul Fish & Chicken

Request for a liquor license. Arizona State License Application 273762.

Summary

Applicant

Keith Turner, Agent

License Type

Series 12 - Restaurant

Location

15414 N. 19th Ave., Ste. H

Zoning Classification: C-2

Council District: 3

This request is for a new liquor license for a restaurant. This location was not previously licensed for liquor sales and does not have an interim permit.

The 60-day limit for processing this application is Feb. 27, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

This applicant does not hold an interest in any other active liquor license in the State of Arizona.

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because:
“Our prior experience and training in addition to successfully completing basic and management Title 4 training, we have hired a former DLLC Detective Keith Turner to assist us in our application process and he will be working with us as our agent, for continued success.”

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:

“There was a prior business in this location which was of the same license type, in another suite. Our business will operate professionally and the owner will be working daily to better facilitate the highest quality of service.”

Staff Recommendation

Staff recommends approval of this application noting the applicant must resolve any pending City of Phoenix building and zoning requirements, and be in compliance with the City of Phoenix Code and Ordinances.

Attachments

Attachment - Mommas Soul Fish & Chicken - Data

Attachment - Mommas Soul Fish & Chicken - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: MOMMAS SOUL FISH & CHICKEN

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Government | 5 | 1 | 1 |
| Bar | 6 | 1 | 0 |
| Beer and Wine Bar | 7 | 1 | 0 |
| Liquor Store | 9 | 2 | 1 |
| Beer and Wine Store | 10 | 3 | 0 |
| Hotel | 11 | 1 | 0 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 124.84 | 53.92 |
| Violent Crimes | 12.31 | 11.17 | 12.95 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

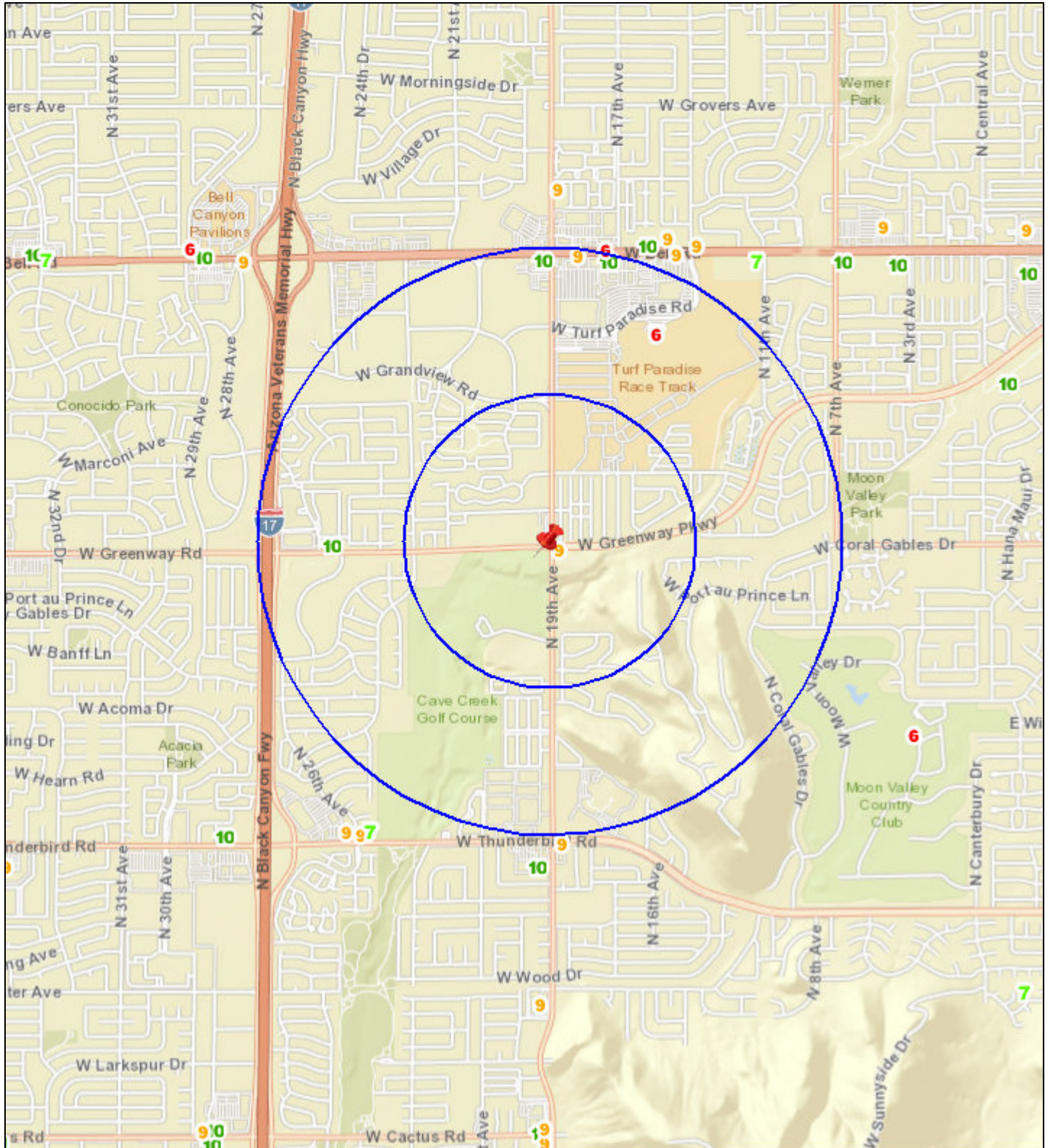
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 23 |
| Total Violations | 82 | 51 |

Census 2010 Data 1/2 Mile Radius

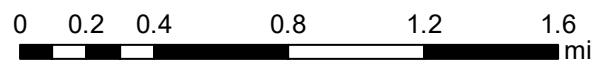
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1036041 | 2174 | 87 | 7 | 29 |
| 1036051 | 2033 | 100 | 6 | 0 |
| 1036081 | 2434 | 69 | 11 | 7 |
| 1036092 | 982 | 83 | 3 | 14 |
| 1036093 | 1696 | 0 | 5 | 20 |
| 1036123 | 1542 | 94 | 8 | 0 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: MOMMAS SOUL FISH & CHICKEN

15414 N 19TH AVE



Date: 1/3/2024





Liquor License - Special Event - Brophy College Preparatory

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Julie Peterson

Location

4701 N. Central Ave.

Council District: 4

Function

Dinner

Date(s) - Time(s) / Expected Attendance

March 9, 2024 - 5 p.m. to 9 p.m. / 300 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Knights of Columbus Cathedral Council 12708

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Richard Garrison

Location

6351 N. 27th Ave.
Council District: 5

Function

Dinner and Dance

Date(s) - Time(s) / Expected Attendance

April 20, 2024 - 6 p.m. to 10 p.m. / 280 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Kiwanis Club of Ahwatukee Foundation, Inc.

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Andrea Pettyjohn

Location

4700 E. Warner Road

Council District: 6

Function

Chili Cook Off

Date(s) - Time(s) / Expected Attendance

March 9, 2024 - 11 a.m. to 5 p.m. / 100 attendees

March 10, 2024 - 10:30 a.m. to 4 p.m. / 100 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Pho 32 Vietnamese Kitchen

Request for a liquor license. Arizona State License Application 270185.

Summary

Applicant

Camila Alarcon, Agent

License Type

Series 12 - Restaurant

Location

3170 E. Indian School Road

Zoning Classification: C-2

Council District: 6

This request is for a new liquor license for a restaurant. This location was not previously licensed for liquor sales and does not have an interim permit.

The 60-day limit for processing this application is March 9, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

This applicant does not hold an interest in any other active liquor license in the State of Arizona.

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because:
"Applicant has operated restaurants in both Arizona and California since 2018. At this location, managers and staff will receive applicable and regular Title 4 liquor law training."

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:
"Pho 32 Vietnamese Kitchen has served its neighborhood since 2019. Providing the option for the purchase of beer, wine, and distilled spirits will enhance the dining experience for those customers."

Staff Recommendation

Staff recommends approval of this application.

Attachments

Attachment - Pho 32 Vietnamese Kitchen - Data

Attachment - Pho 32 Vietnamese Kitchen - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: PHO 32 VIETNAMESE KITCHEN

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Bar | 6 | 6 | 1 |
| Beer and Wine Bar | 7 | 3 | 1 |
| Liquor Store | 9 | 4 | 0 |
| Beer and Wine Store | 10 | 6 | 4 |
| Restaurant | 12 | 26 | 12 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 123.96 | 157.43 |
| Violent Crimes | 12.31 | 19.29 | 25.79 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

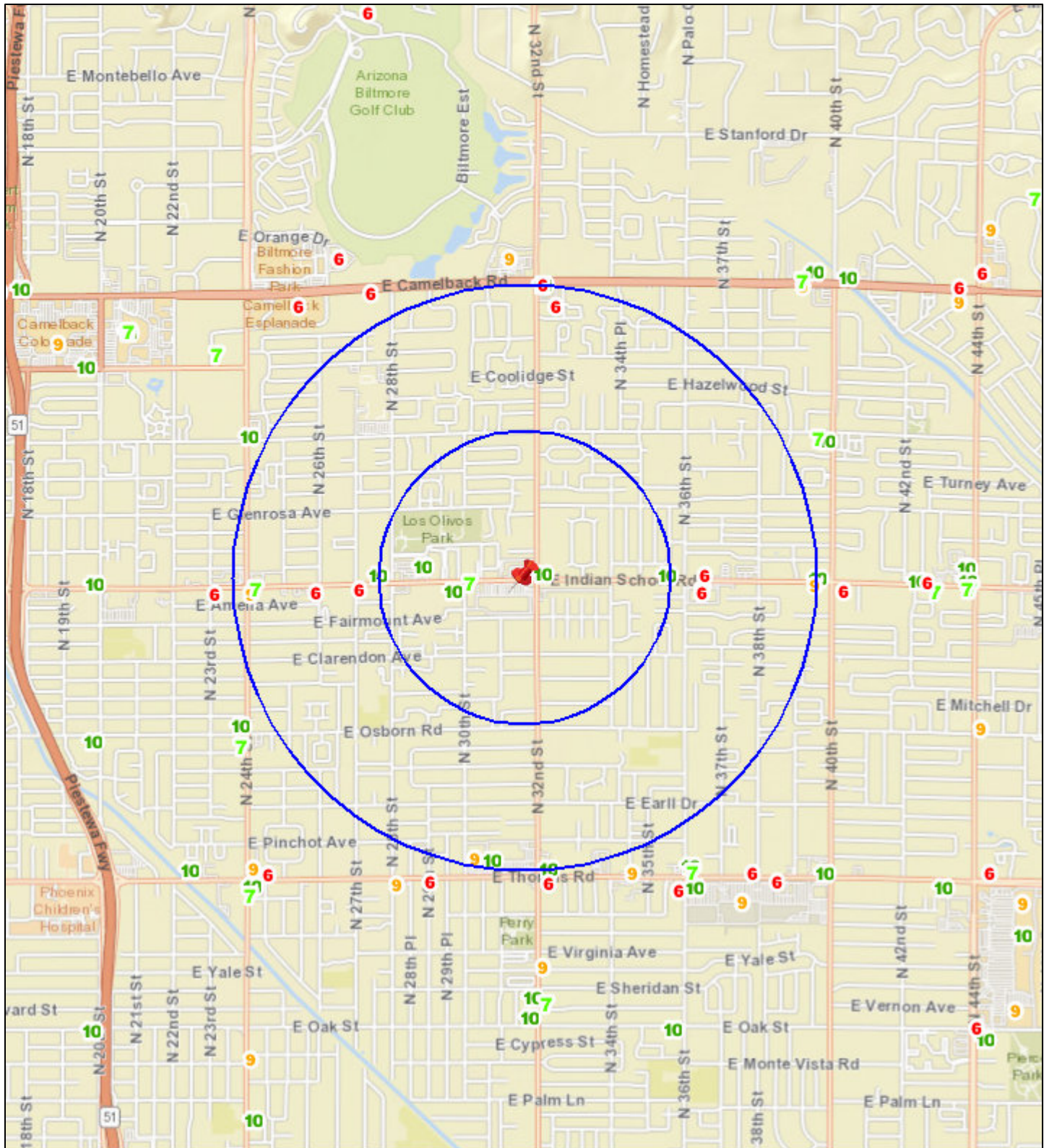
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 22 |
| Total Violations | 81 | 37 |

Census 2010 Data 1/2 Mile Radius

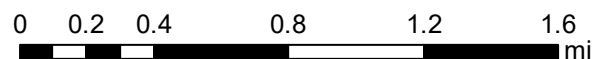
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1083012 | 1221 | 72 | 5 | 1 |
| 1083021 | 1229 | 70 | 16 | 3 |
| 1084001 | 718 | 2 | 38 | 46 |
| 1084002 | 673 | 72 | 16 | 3 |
| 1084004 | 1641 | 65 | 7 | 19 |
| 1084005 | 422 | 16 | 37 | 13 |
| 1108011 | 1736 | 56 | 27 | 40 |
| 1108012 | 1115 | 19 | 30 | 33 |
| 1108013 | 1077 | 47 | 26 | 14 |
| 1109011 | 665 | 96 | 10 | 13 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: PHO 32 VIETNAMESE KITCHEN

3170 E INDIAN SCHOOL RD



Date: 1/11/2024



City Clerk Department



Liquor License - Z' Greek

Request for a liquor license. Arizona State License Application 270369.

Summary

Applicant

Zaia Makou, Agent

License Type

Series 12 - Restaurant

Location

4029 E. Indian School Road

Zoning Classification: C-2

Council District: 6

This request is for a new liquor license for a restaurant. This location was not previously licensed for liquor sales and does not have an interim permit.

The 60-day limit for processing this application is March 4, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

This applicant does not hold an interest in any other active liquor license in the State of Arizona.

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because:
"When I had my first business in 1999 I had a #12 License back then. We bought Z'Greek 2006 at that time we didn't think getting #12. We have so many inquires for me out clint tthat they like to have a beer with their meals our hours are short and not a bar."

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:

"We like increase our sales and make our customers happy instead of going accros the seet wher is more convinec. Allso Greek beer ad wine is best with our food. Today economy very bad and that will help us and improve our business. Thank you."

Staff Recommendation

Staff recommends approval of this application noting the applicant must resolve any pending City of Phoenix building and zoning requirements, and be in compliance with the City of Phoenix Code and Ordinances.

Attachments

Attachment - Z' Greek - Data

Attachment - Z' Greek - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: Z' GREEK

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Wholesaler | 4 | 2 | 2 |
| Bar | 6 | 4 | 2 |
| Beer and Wine Bar | 7 | 5 | 3 |
| Liquor Store | 9 | 5 | 1 |
| Beer and Wine Store | 10 | 7 | 4 |
| Restaurant | 12 | 35 | 21 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 95.35 | 99.89 |
| Violent Crimes | 12.31 | 9.47 | 8.38 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

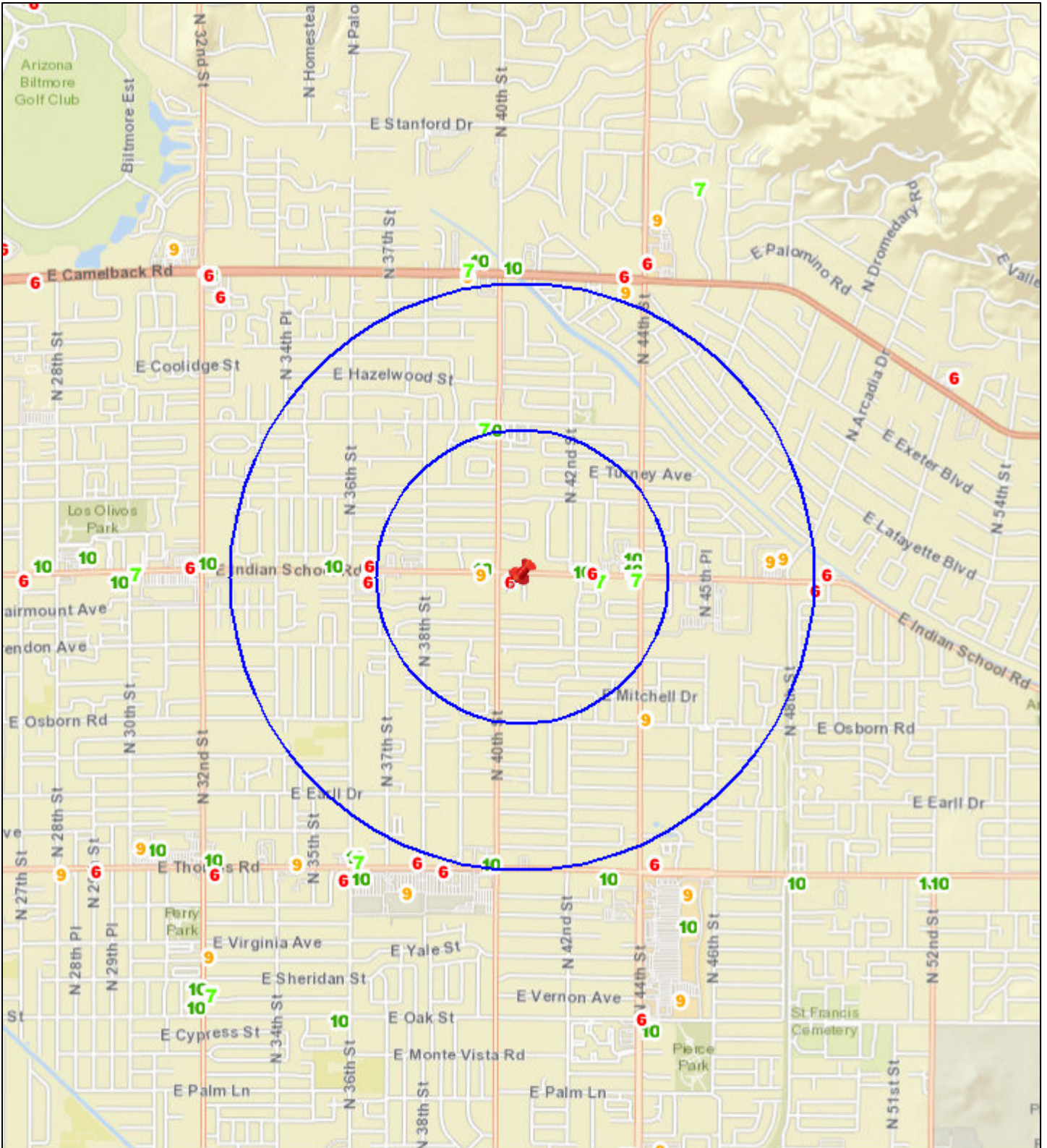
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 45 | 45 |
| Total Violations | 78 | 74 |

Census 2010 Data 1/2 Mile Radius

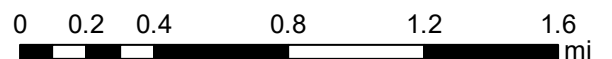
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1082002 | 1178 | 45 | 8 | 8 |
| 1082003 | 1225 | 76 | 13 | 17 |
| 1083022 | 1824 | 50 | 13 | 4 |
| 1109021 | 2609 | 33 | 21 | 40 |
| 1109022 | 2224 | 39 | 7 | 18 |
| 1110001 | 781 | 25 | 11 | 3 |
| 1110002 | 1105 | 63 | 8 | 19 |
| 1110003 | 1587 | 64 | 17 | 24 |
| 1110004 | 707 | 59 | 25 | 0 |
| 1110005 | 698 | 88 | 19 | 5 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: Z' GREEK

4029 E INDIAN SCHOOL RD



Date: 2/12/2024



City Clerk Department



Liquor License - Special Event - Phoenix Children's Hospital Foundation

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Jillian Absalom

Location

380 N. 1st Ave.

Council District: 7

Function

Fashion Show

Date(s) - Time(s) / Expected Attendance

April 24, 2024 - 5 p.m. to 8:30 p.m. / 200 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Diablo From the Rooftop

Request for a liquor license. Arizona State License Application 275157.

Summary

Applicant

Jeffrey Miller, Agent

License Type

Series 12 - Restaurant

Location

222 E. Portland St., Rooftop

Zoning Classification: DTC - Evans Churchill West

Council District: 7

This request is for a new liquor license for a restaurant. This location was previously licensed for liquor sales with a Series 11 - Hotel/Motel liquor license and may currently operate with an interim permit.

The 60-day limit for processing this application is March 8, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

This applicant does not hold an interest in any other active liquor license in the State of

Arizona.

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because:
"Owner will ensure employees handing alcohol will attend the Title 4 liquor law training course with ALIC. I have owned and operated a business for the past couple years with no issues."

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:
"This location has been operational for several years. We would like to continue to service the surrounding neighbors and visitors with a place to enjoy a great meal and an adult beverage if they choose."

Staff Recommendation

Staff recommends approval of this application.

Attachments

Attachment - Diablo From the Rooftop - Data

Attachment - Diablo From the Rooftop - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: DIABLO PHX

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Microbrewery | 3 | 4 | 2 |
| Government | 5 | 7 | 4 |
| Bar | 6 | 45 | 11 |
| Beer and Wine Bar | 7 | 17 | 7 |
| Liquor Store | 9 | 4 | 2 |
| Beer and Wine Store | 10 | 15 | 6 |
| Hotel | 11 | 7 | 1 |
| Restaurant | 12 | 124 | 52 |
| Club | 14 | 2 | 0 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 261.43 | 398.72 |
| Violent Crimes | 12.31 | 56.28 | 76.22 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

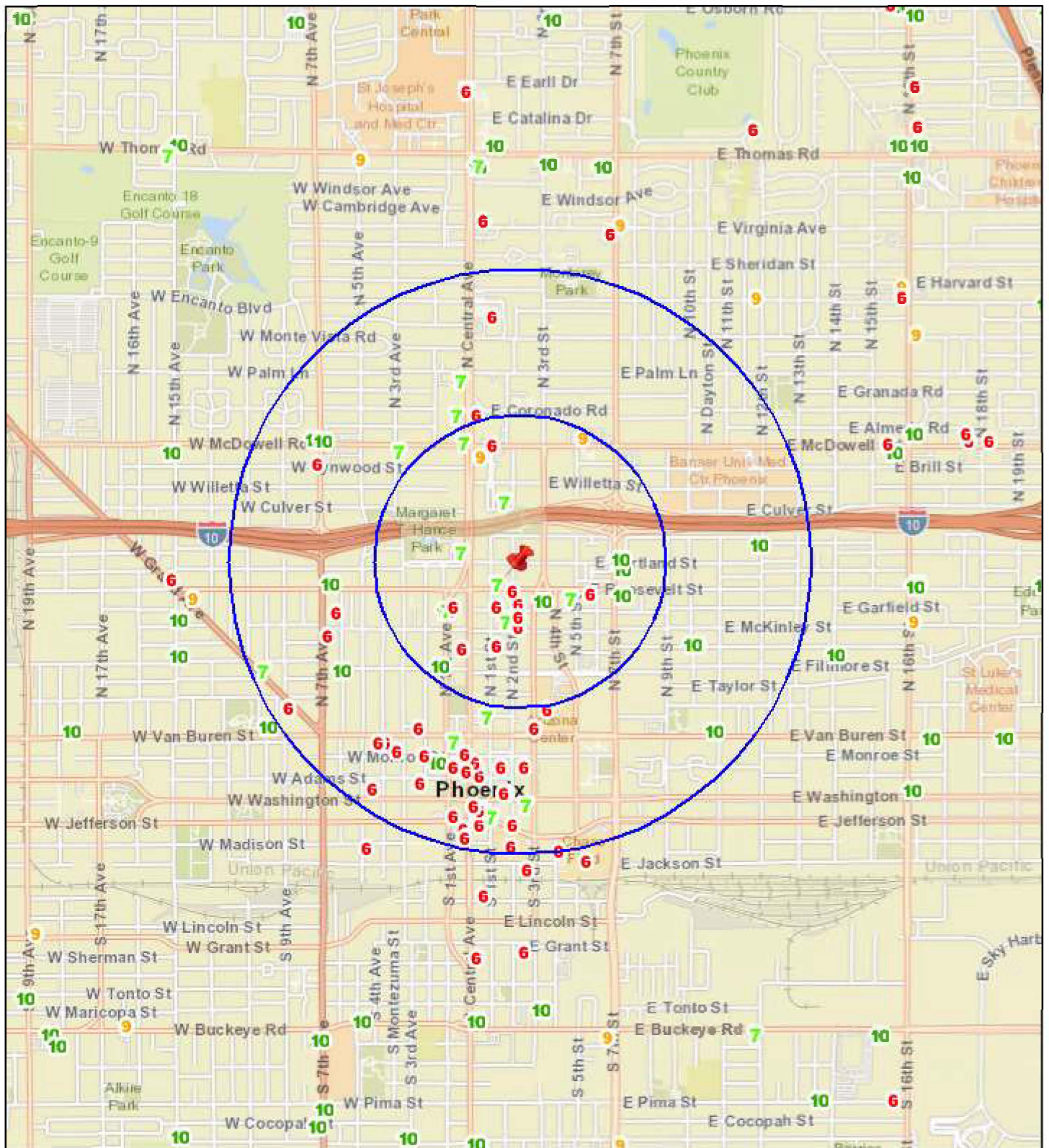
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 90 |
| Total Violations | 82 | 143 |

Census 2010 Data 1/2 Mile Radius

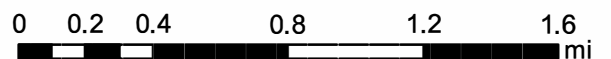
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1118002 | 1030 | 67 | 9 | 17 |
| 1118004 | 671 | 62 | 6 | 6 |
| 1130001 | 1218 | 23 | 16 | 11 |
| 1130002 | 873 | 29 | 21 | 38 |
| 1131001 | 1015 | 7 | 8 | 28 |
| 1131002 | 1242 | 3 | 7 | 33 |
| 1132021 | 731 | 33 | 20 | 74 |
| 1132022 | 1257 | 47 | 29 | 55 |
| 1132031 | 1473 | 30 | 20 | 57 |
| 1132032 | 638 | 28 | 7 | 70 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: DIABLO PHX

222 E PORTLAND ST



Date: 1/9/2024





Liquor License - Diablo PHX

Request for a liquor license. Arizona State License Application 275159.

Summary

Applicant

Jeffrey Miller, Agent

License Type

Series 12 - Restaurant

Location

222 E. Portland St., Fl. 1

Zoning Classification: DTC- Evans Churchill West

Council District: 7

This request is for a new liquor license for a restaurant. This location was previously licensed for liquor sales with a Series 11 - Hotel/Motel liquor license and may currently operate with an interim permit.

The 60-day limit for processing this application is March 9, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

This applicant does not hold an interest in any other active liquor license in the State of

Arizona.

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because:
"Owner will ensure employees handling alcohol will attend the Title 4 liquor law training course with ALIC. I have owned and operated a business for the past couple years with no issues."

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:
"This location has been operational for several years. We would like to continue to service the surrounding neighbors and visitors with a place to enjoy a great meal and an adult beverage if they choose."

Staff Recommendation

Staff recommends approval of this application.

Attachments

Attachment - Diablo PHX - Data

Attachment - Diablo PHX - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: DIABLO PHX

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Microbrewery | 3 | 4 | 2 |
| Government | 5 | 7 | 4 |
| Bar | 6 | 45 | 11 |
| Beer and Wine Bar | 7 | 17 | 7 |
| Liquor Store | 9 | 4 | 2 |
| Beer and Wine Store | 10 | 15 | 6 |
| Hotel | 11 | 7 | 1 |
| Restaurant | 12 | 125 | 53 |
| Club | 14 | 2 | 0 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 261.43 | 398.72 |
| Violent Crimes | 12.31 | 56.28 | 76.22 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

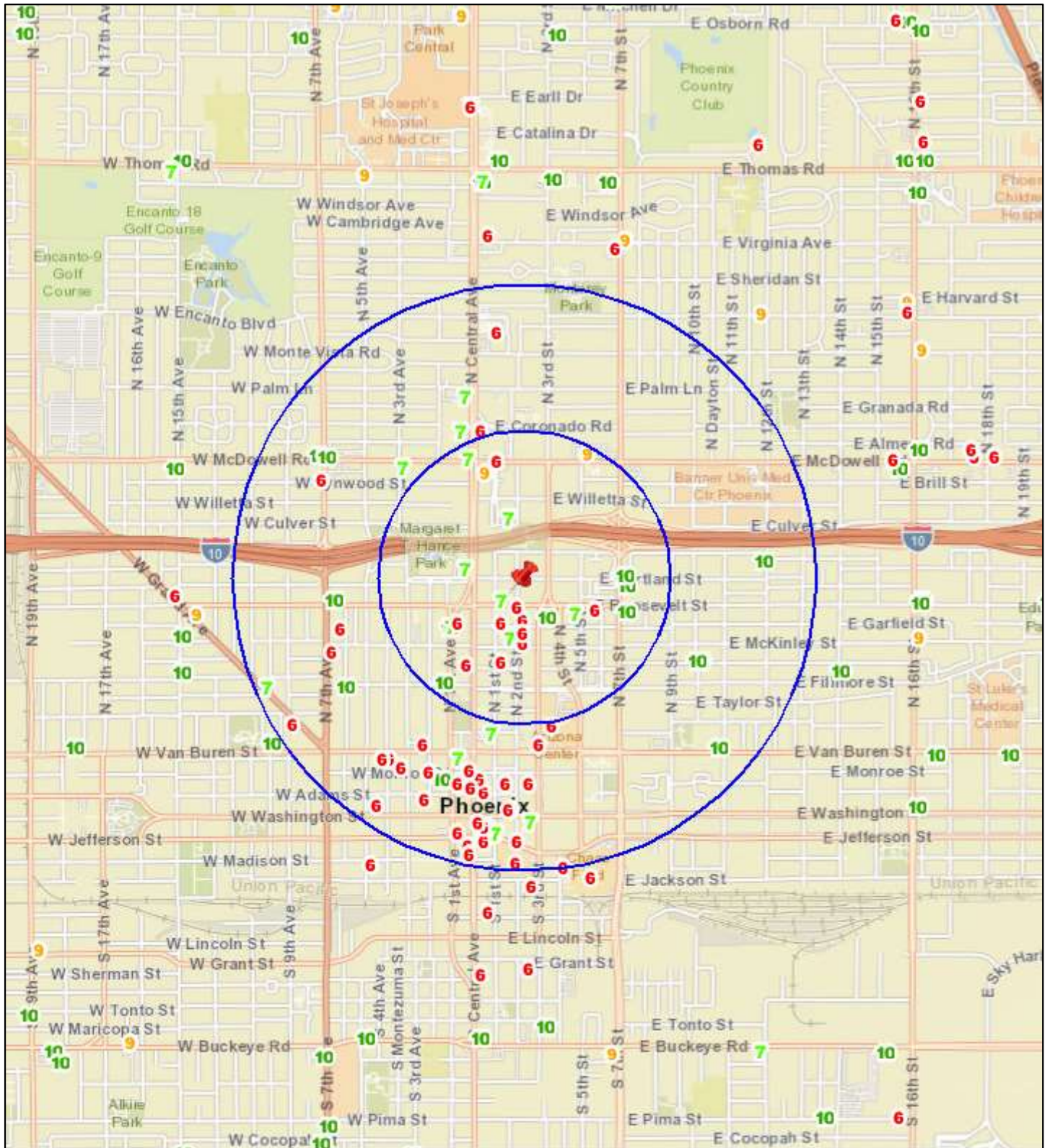
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 90 |
| Total Violations | 82 | 143 |

Census 2010 Data 1/2 Mile Radius

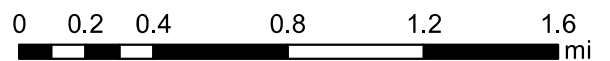
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1118002 | 1030 | 67 | 9 | 17 |
| 1118004 | 671 | 62 | 6 | 6 |
| 1130001 | 1218 | 23 | 16 | 11 |
| 1130002 | 873 | 29 | 21 | 38 |
| 1131001 | 1015 | 7 | 8 | 28 |
| 1131002 | 1242 | 3 | 7 | 33 |
| 1132021 | 731 | 33 | 20 | 74 |
| 1132022 | 1257 | 47 | 29 | 55 |
| 1132031 | 1473 | 30 | 20 | 57 |
| 1132032 | 638 | 28 | 7 | 70 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: DIABLO PHX

222 E PORTLAND ST



Date: 1/10/2024





Liquor License - Throne Brewing & Pizza Kitchen

Request for a liquor license. Arizona State License Application 273493.

Summary

Applicant

Doajo Hicks, Agent

License Type

Series 12 - Restaurant

Location

1326 N. Central Ave., Unit 101

Zoning Classification: DTC-Downtown Gateway

Council District: 7

This request is for a new liquor license for a restaurant. This location was previously licensed for liquor sales and may currently operate with an interim permit.

The 60-day limit for processing this application is Feb. 26, 2024.

Pursuant to A.R.S. 4-203, a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and that the public convenience and the best interest of the community will be substantially served by the issuance. If an application is filed for the issuance of a license for a location, that on the date the application is filed has a valid license of the same series issued at that location, there shall be a rebuttable presumption that the public convenience and best interest of the community at that location was established at the time the location was previously licensed. The presumption shall not apply once the licensed location has not been in use for more than 180 days.

Other Active Liquor License Interest in Arizona

The ownership of this business has an interest in other active liquor license(s) in the State of Arizona. This information is listed below and includes liquor license violations

on file with the AZ Department of Liquor Licenses and Control and, for locations within the boundaries of Phoenix, the number of aggregate calls for police service within the last 12 months for the address listed.

Coronado Vineyards (Series 19)

515 Main St., Jerome

Calls for police service: N/A - not in Phoenix

Liquor license violations: None

Coronado Vineyards Inc. (Series 13)

2909 E. Country Club Drive, Willcox

Calls for police service: N/A - not in Phoenix

Liquor license violations: None

Public Opinion

No protest or support letters were received within the 20-day public comment period.

Applicant's Statement

The applicant submitted the following statement in support of this application. Spelling, grammar and punctuation in the statement are shown exactly as written by the applicant on the City Questionnaire.

I have the capability, reliability and qualifications to hold a liquor license because: "I have taken and recieved all of the Arizona State Liquor training/certificates, and I am the owner of Throne Brewing Company (Microbrewery and I am the owner of Coronado Vineyards (farm winery). Both of the aforementioned entities are Arizona alcohol producers and I have complied with all of Arizona's liquor laws and policies. Therefore, I believe that I am capable of maintaining a liquor license."

The public convenience requires and the best interest of the community will be substantially served by the issuance of the liquor license because:

"I will provide the community with an experience of Arizona produced wine, beer, and food that will show the community that Arizona is able to produce quality wine, beer, spiritous alcohol and food."

Staff Recommendation

Staff recommends approval of this application noting the applicant must resolve any pending City of Phoenix building and zoning requirements, and be in compliance with the City of Phoenix Code and Ordinances.

Attachments

Attachment - Throne Brewing & Pizza Kitchen - Data
Attachment - Throne Brewing & Pizza Kitchen - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: THRONE BREWING & PIZZA KITCHEN

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Microbrewery | 3 | 5 | 3 |
| Wholesaler | 4 | 1 | 0 |
| Government | 5 | 6 | 3 |
| Bar | 6 | 34 | 9 |
| Beer and Wine Bar | 7 | 13 | 9 |
| Liquor Store | 9 | 3 | 2 |
| Beer and Wine Store | 10 | 13 | 2 |
| Hotel | 11 | 4 | 1 |
| Restaurant | 12 | 99 | 42 |
| Club | 14 | 2 | 0 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 225.45 | 306.47 |
| Violent Crimes | 12.31 | 47.5 | 51.16 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

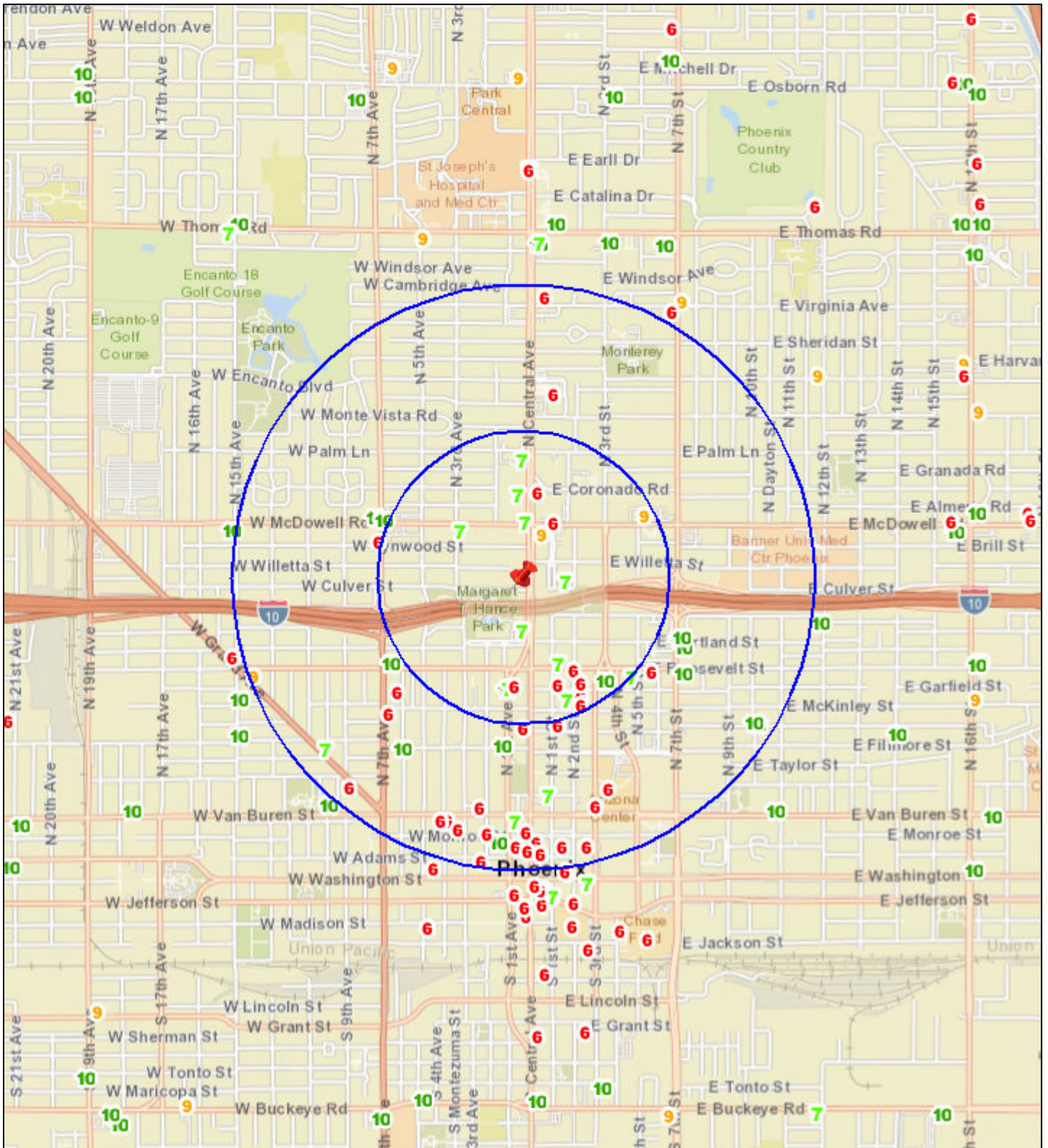
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 52 |
| Total Violations | 82 | 74 |

Census 2010 Data 1/2 Mile Radius

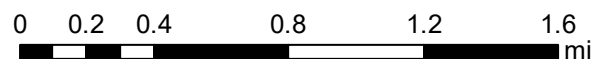
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1118002 | 1030 | 67 | 9 | 17 |
| 1118004 | 671 | 62 | 6 | 6 |
| 1129001 | 1670 | 70 | 4 | 19 |
| 1130001 | 1218 | 23 | 16 | 11 |
| 1130002 | 873 | 29 | 21 | 38 |
| 1131001 | 1015 | 7 | 8 | 28 |
| 1131002 | 1242 | 3 | 7 | 33 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: THRONE BREWING & PIZZA KITCHEN

1326 N CENTRAL AVE



Date: 1/3/2024





Liquor License - Special Event - Alwun House Foundation

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Dana Johnson

Location

1204 E. Roosevelt St.
Council District: 8

Function

Art Exhibit

Date(s) - Time(s) / Expected Attendance

March 8, 2024 - 7 p.m. to 1 a.m. / 300 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Down Syndrome Network, Inc.

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Jennifer O'Connell

Location

215 N. 7th St.

Council District: 8

Function

Dance

Date(s) - Time(s) / Expected Attendance

April 12, 2024 - 6:30 p.m. to 11 p.m. / 230 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Laveen Community Council

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Stephanie Hurd

Location

8440 S. 35th Ave.
Council District: 8

Function

Community Celebration

Date(s) - Time(s) / Expected Attendance

Feb. 24, 2024 - 11 a.m. to 4 p.m. / 4,000 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Saint Sava Serbian Orthodox

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

George Momich

Location

4436 E. McKinley St.
Council District: 8

Function

Golf Tournament

Date(s) - Time(s) / Expected Attendance

March 6, 2024 - 6 p.m. to 12:30 a.m. / 200 attendees
March 7, 2024 - 6 p.m. to 12:30 a.m. / 200 attendees
March 8, 2024 - 6 p.m. to 1:30 a.m. / 250 attendees
March 9, 2024 - 5 p.m. to 1:30 a.m. / 250 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Southwest Kids' Cancer Foundation, Inc.

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Shannon L. Collins

Location

435 S. 3rd Ave.

Council District: 8

Function

Festival

Date(s) - Time(s) / Expected Attendance

March 23, 2024 - 6:30 p.m. to 10 p.m. / 150 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Liquor License - Special Event - Valiant College Preparatory

Request for a Series 15 - Special Event liquor license for the temporary sale of all liquors.

Summary

Applicant

Michael Douglas

Location

1601 E. Jackson St.
Council District: 8

Function

Festival

Date(s) - Time(s) / Expected Attendance

April 6, 2024 - 4 p.m. to Midnight / 2,000 attendees

Staff Recommendation

Staff recommends approval of this application.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.



Off-Track Pari-Mutuel Wagering Permit - Ole Brass Rail

Request for an Off-track Pari-Mutuel Wagering Permit for a business that has a Series 6 liquor license.

Summary

State law requires City Council approval before a State Off-track Pari-Mutuel Wagering Permit can be issued. This request is for a permit for off-track betting on horse races conducted at Turf Paradise.

Applicant

David Johnson, Agent for TP Racing L.L.L.P.

Location

3738 E. Thomas Road

Zoning Classification: C-2

Council District: 6

Public Opinion

Public notice was posted at the proposed location and special notice letters were mailed to residents within a 1/8 mile radius of the proposed location. The comment period expired Feb. 2, 2024. No protest or support letters were received within the 20-day public comment period.

Staff Recommendation

Staff recommends approval of this application.

Attachments

Attachment - Ole Brass Rail - Data

Attachment - Ole Brass Rail - Map

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the City Clerk Department.

Liquor License Data: OLE BRASS RAIL

Liquor License

| Description | Series | 1 Mile | 1/2 Mile |
|---------------------|--------|--------|----------|
| Microbrewery | 3 | 1 | 1 |
| Bar | 6 | 7 | 3 |
| Beer and Wine Bar | 7 | 3 | 1 |
| Liquor Store | 9 | 7 | 2 |
| Beer and Wine Store | 10 | 11 | 3 |
| Restaurant | 12 | 21 | 6 |

Crime Data

| Description | Average * | 1 Mile Average ** | 1/2 Mile Average*** |
|-----------------|-----------|-------------------|---------------------|
| Property Crimes | 64.2 | 262.87 | 470.91 |
| Violent Crimes | 12.31 | 37.5 | 54.03 |

*Citywide average per square mile **Average per square mile within 1 mile radius ***Average per square mile within 1/2 mile radius

Property Violation Data

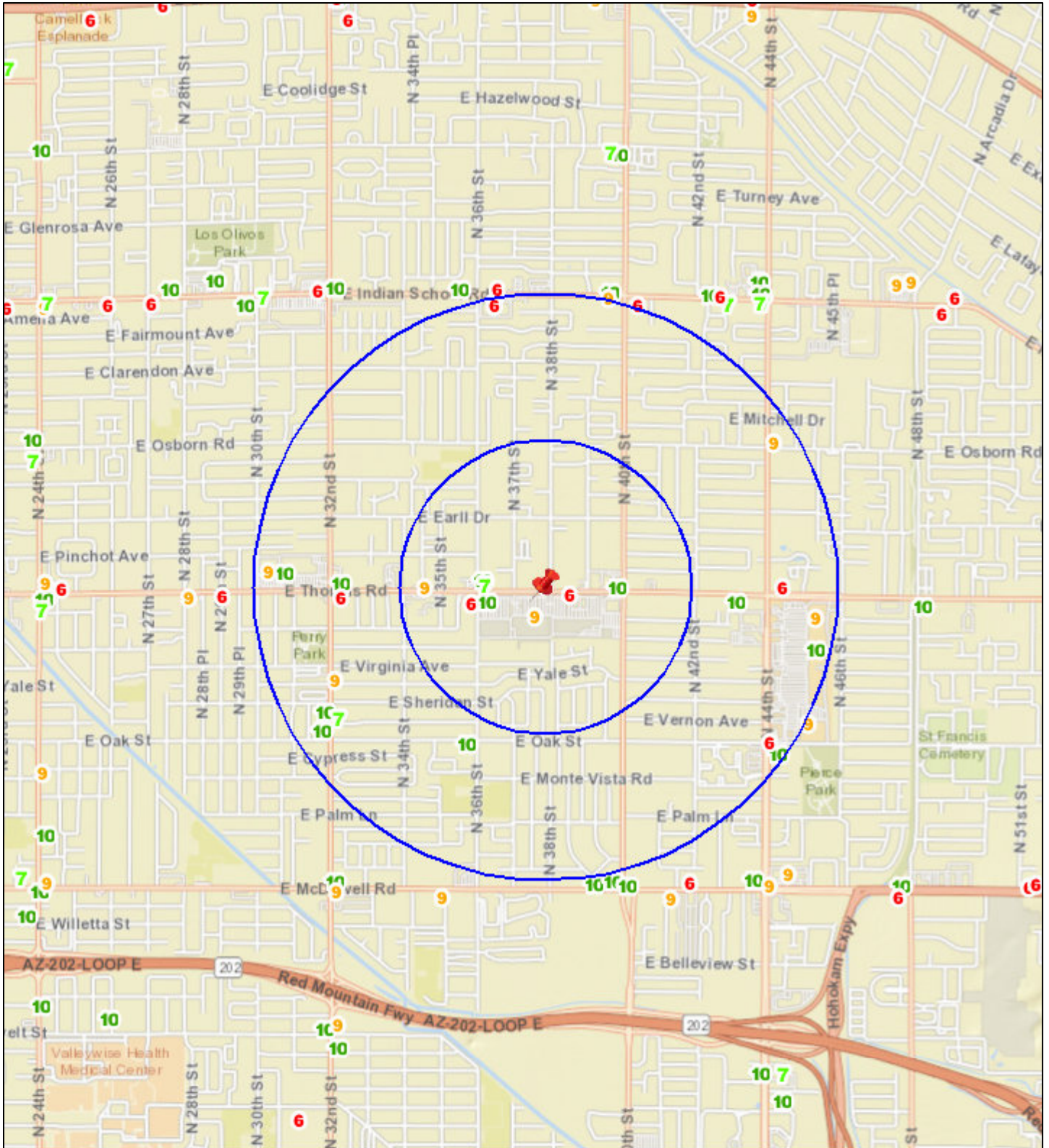
| Description | Average | 1/2 Mile Average |
|----------------------|---------|------------------|
| Parcels w/Violations | 47 | 60 |
| Total Violations | 82 | 82 |

Census 2010 Data 1/2 Mile Radius

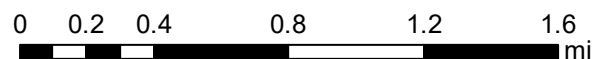
| BlockGroup | 2010 Population | Owner Occupied | Residential Vacancy | Persons in Poverty |
|------------|-----------------|----------------|---------------------|--------------------|
| 1109012 | 2669 | 23 | 19 | 27 |
| 1109021 | 2609 | 33 | 21 | 40 |
| 1109022 | 2224 | 39 | 7 | 18 |
| 1110003 | 1587 | 64 | 17 | 24 |
| 1113002 | 930 | 52 | 7 | 20 |
| 1114011 | 2444 | 62 | 7 | 27 |
| 1114021 | 1986 | 38 | 14 | 27 |
| Average | 0 | 61 | 13 | 19 |

Liquor License Map: OLE BRASS RAIL

3738 E THOMAS RD



Date: 1/10/2024





PAYMENT ORDINANCE (Ordinance S-50576) (Items 21-27)

Ordinance S-50576 is a request to authorize the City Controller to disburse funds, up to amounts indicated below, for the purpose of paying vendors, contractors, claimants and others, and providing additional payment authority under certain existing city contracts. This section also requests continuing payment authority, up to amounts indicated below, for the following contracts, contract extensions and/or bids awarded. As indicated below, some items below require payment pursuant to Phoenix City Code Section 42-13.

21 Sprint Solutions, Inc., a wholly-owned subsidiary of T-Mobile USA, Inc.

For \$50,000 in payment authority for a new contract, entered on or about Dec. 26, 2023, for a term of 14 months for Internet of Things (IoT) Data Services. The Information Technology Services Department is obtaining IoT Data Services that provide real-time data in support of the Police Department's Real-Time Operations Center and the reliability for their cameras.

22 Arizona Humanities Council, Inc., dba Arizona Humanities

For \$57,500 in payment authority for reimbursement of a portion of utility payments to the Arizona Humanities Council, per Lease 123292-0, at the Ellis-Shackelford House. The payment authority is for Calendar Years 2024 through 2028, for the Parks and Recreation Department.

23 Aquatic Consulting & Testing, Inc.

For \$175,000 in payment authority to enter into a contract for lake and waterway management services, for a three-year period starting Calendar Year 2024 through 2026. This contract will provide the Parks and Recreation Department with urban lake and waterway maintenance services as needed to maintain the proper ecology. The vendor will monitor/test the pH, hardness, alkalinity, temperature, dissolved oxygen, unionized ammonia and golden algae, as well as perform tests for all

metals. These services will improve the community with greater water quality, enhance the fish habitats, decrease mosquito activity and remove any foul odors from urban lakes and waterways.

24 Knock Software Inc., dba Ride Report

For \$37,500 in payment authority for a new contract, entered into on or about Feb. 7, 2024, for a term of two years, with three one-year options to extend for a Micromobility Data Management Platform for the Street Transportation Department. In January 2023, the Street Transportation Department launched the Shared Micromobility Program as a means of providing residents and visitors with another option to move thru the City via bicycle, electric scooter, electric pedal-assist bike, and similar adaptive vehicles in certain key areas of the City. Staff established program regulations to promote safety for both riders and non-riders, including proper parking within designated areas, response times, fleet caps, and distribution requirements. In order to ensure compliance from the micromobility operators, staff will utilize this online dashboard platform to track performance metrics.

25 Salt River Valley Water Users' Association dba Salt River Project

For \$38,740 in additional payment authority for Contract 100353 for the water delivery and use agreement with the Salt River Valley Water Users' Association (Association) to provide wholesale water for resale by the Water Services Department within the Salt River Reservoir District, for Fiscal Year 2023-24. The water delivered to the City by the Association from the Salt and Verde rivers represents approximately 60 percent of the City's water supply.

26 Settlement of Claim(s) Armendariz v. City of Phoenix

To make payment of up to \$400,000 in settlement of claim(s) in *Armendariz v. City of Phoenix*, CV2022-009774, 21-0691-001, GL, BI, for the Finance Department pursuant to Phoenix City Code Chapter 42. This is a settlement of a claim involving the Street Transportation Department that occurred on Aug. 2, 2021.

27 Settlement of Claim(s) Finley v. City of Phoenix

To make payment of up to \$50,000 in settlement of claim(s) in *Finley v. City of Phoenix*, CV2022-004769, 21-0336-001, GL, BI, for the Finance Department pursuant to Phoenix City Code Chapter 42. This is a

settlement of a claim involving the Street Transportation Department that occurred on April 20, 2021.



American Rescue Plan Act February 2024 Reallocation

This report provides an update on American Rescue Plan Act (ARPA) spending to date and the reallocation of current unspent ARPA funds. The City is on track to meet all ARPA spending deadlines.

Summary

The federal government allocated \$396 million to the City of Phoenix as part of ARPA. On June 8, 2021, and June 7, 2022, City Council approved the ARPA Strategic Plan and at several subsequent Council meetings, approved additional programs which included new programs in affordable housing and homelessness funded through the first large reallocation in December 2022. Additional homelessness programs were funded through the second reallocation in November 2023.

There are currently 70 programs across 19 City departments and as of Jan. 31, 2024, over \$236 million (nearly 60 percent) has been spent.

Reallocation of Unused, Underspent, or Reprioritized ARPA Funds

During the June 7, 2022, City Council Formal meeting, staff indicated reallocation exercises would be performed throughout the remaining duration of the grant to analyze all programs with unused, underspent, or reprioritized funding that may be used for other ARPA eligible uses. The intent of the reallocation exercises is to ensure full utilization of all awarded ARPA funds. The ARPA covered period will end Dec. 31, 2024, and after this date, staff will be unable to reallocate funding to other programs and any unspent funds must be returned to the United States Treasury. To avoid this, staff plans to complete at least one additional reallocation exercise before June 2024 to ensure all funds are obligated and will be spent by the expenditure deadline of Dec. 31, 2026.

The first reallocation exercise resulted in the approval of \$21.2 million, for three affordable housing and homelessness projects. The second reallocation exercise resulted in the approval of \$19.6 million to fund various homelessness programs. The second reallocation included four programs that required additional funding which had not yet been identified. This had been reduced to three programs and funding has been identified in this reallocation totaling \$3.84 million. See further information in the

Reallocation Programs section of this report.

The third reallocation exercise is seeking to approve approximately \$15 million to various programs. The potential range of funding has been identified due to savings in contracts and program spending and include the following programs: Digital Divide, Financial Assistance for Phoenix Refugee and Asylee Communities, COVID-19 Health Care Expenses, Vacant Storefront program, and various administrative savings.

Reallocation Programs

As the City continues to work towards providing solutions for homelessness and increasing the supply of affordable housing units, staff, with the assistance of City Council and community feedback, has identified 11 programs for feedback which target these high-need areas. Funding has also been prioritized to provide resources to programs that would otherwise require General Fund resources to continue. Given the anticipated budget status, using ARPA funds to alleviate this pressure is a sound financial decision.

Continuing Partially Funded Programs - \$3,840,000

Three programs required additional funding from the November 2023 reallocation: Temporary Lodging, Heat Response/Temporary Shelter - Washington Shelter, and CASS Haven Project. Due to limited funding in the last reallocation, these programs were only partially funded. Funding has now been identified to fully support these programs, several of which will end in June 2025.

Homelessness Projects - Rio Fresco - \$3,000,000

This is an existing program and is a contract with Community Bridges, Inc., for the operation of the Rio Fresco shelter. Funding will cover operational costs until June 2025.

Library Technology, Capital and Staff Support - Outdoor LED Signage - \$2,000,000

This is an existing project and includes installing outdoor LED signage at all library locations. Capital costs have significantly increased since the start of the pandemic and additional funding will allow the project to install 18 signs across the library system. Signs are critical to provide information to the community on important messaging, such as summer heat respite information, public safety information, and more.

Homeless Services - General - \$1,413,044

Many City projects have experienced increased costs of doing business due to the pandemic, inflation, etc. Due to these continued increases in costs, staff recommends allocating a portion of reallocation funds to be used on current ARPA homeless

projects as needs arise this calendar year. This will also assist in staff meeting the ARPA obligation deadline.

Homeless Services - Central Arizona Shelter Services (CASS) - \$1,068,000

This is a new program. Funding will assist CASS with a budget shortfall this fiscal year to support the Single Adult Shelter and the Vista Colina Family Shelter.

Keys to Change Contract - \$911,870

The City currently has a contract with Keys to Change (formerly known as the Human Services Campus) and will be entering into a new contract to continue to provide homeless services. Funding will cover costs until June 2025.

Overnight Summer Heat Respite - \$700,000

This program was part of the November 2023 reallocation and included an allocation of \$1,800,000. Additional funding will cover heat-related costs until June 2025. Staff will be presenting a detailed report to Council on summer heat relief at the Feb. 27, 2024, Policy Session.

Temporary Lodging - \$600,000

This project was part of the November 2023 reallocation and included an increase of \$5,000,000 to the current Community Bridges, Inc., contract under the Homelessness Projects Program to provide temporary lodging to individuals experiencing homelessness. Additional funds are required due to an unforeseen increase in overall project costs.

Safe Outdoor Space - \$570,000

This program increase was part of the November 2023 reallocation and included an increase of \$3,000,000. Additional funding will cover program costs until June 2025.

Cooling Pavilion - \$500,000

This is a new project with Steel and Spark and would be in partnership with the State of Arizona. A cooling pavilion is proposed to provide heat relief to individuals experiencing homelessness. Staff is working collaboratively with Steel and Spark to identify the ideal location.

Human Services Department Administrative Services - \$80,000

This is a new administrative cost for ARPA and will cover the Human Services Department financial monitoring contract. Staff has experienced a sharp increase in contracts due to grant funding and need additional funding to cover the financial monitoring costs of the additional contracts. This funding will cover costs associated with the increase of ARPA contracts and assist with ensuring compliance with federal

regulations.

Attachment A summarizes each proposed program and funding amounts.

Recommendation

Staff requests approval to reallocate approximately \$15 million for the programs listed on **Attachment A** to support the City's efforts to assist residents experiencing homelessness. Approval will also provide departments adequate time to complete procurement processes and contract authorizations.

Responsible Department

This item is submitted by City Manager Jeffrey Barton and the City Manager's Office.

ATTACHMENT A - February 2024 Reallocation

| Program | Dept. | Recommended Allocation |
|--|-------|------------------------|
| <u>Continuing Partially Funded Programs*</u> Funding will cover three projects from the November 2023 reallocation. | OHS | \$3,840,000 |
| <u>Homelessness Projects - Rio Fresco</u> Funding will cover operational costs at the Rio Fresco shelter until June 2025. | OHS | \$3,000,000 |
| <u>Library Technology, Capital and Staff Support - Outdoor LED Signage</u> This is an existing project. Funding will cover the installation of 18 outdoor LED signs across the library system for important community information, such as public safety and health. | LIB | \$2,000,000 |
| <u>Homeless Services - General</u> Due to the continued increase in costs throughout the economy, this funding will be used on current ARPA homeless projects where needed. | OHS | \$1,813,044 |
| <u>Homeless Services - Central Arizona Shelter Services (CASS)</u> Funding will assist CASS with their current budget shortfall this fiscal year and support the Single Adult Shelter and the Vista Colina Family Shelter. | OHS | \$1,068,000 |
| <u>Keys to Change Contract</u> Funding will cover contract costs at the campus until June 2025. | OHS | \$911,870 |
| <u>Overnight Summer Heat Respite</u> This program was part of the November 2023 reallocation. Funding will provide additional summer heat resources until June 2025. | OHS | \$700,000 |
| <u>Temporary Lodging</u> This project was part of the November 2023 reallocation. Funding will provide temporary lodging to individuals experiencing homelessness. | OHS | \$600,000 |
| <u>Safe Outdoor Space</u> This is an existing program and funding will cover program costs until June 2025. | OHS | \$570,000 |
| <u>Cooling Pavilion</u> This is a new project with Steel and Spark. In partnership with the State, a cooling pavilion will be constructed at a location still to be identified. | OHS | \$500,000 |
| <u>Human Services Department Administrative Services</u> Funding will cover increased financial monitoring costs for HSD ARPA contracts. | HSD | \$80,000 |
| <u>TOTAL</u> | | \$15,082,914 |

* Programs include Temporary Lodging (\$2M) , Heat Response/Temporary Shelter - Washington Shelter (\$1.5M) , and CASS Haven Project (\$340k).



Grant of Electrical Easement to Arizona Public Service Company Across City-owned Property Located Along Litchfield Road Between Olive and Peoria Avenues (Ordinance S-50577)

Request authorization for the City Manager, or his designee, to grant an electrical easement to Arizona Public Service Company (APS) across City-owned property located along Litchfield Road between Olive and Peoria avenues, at market value. Further request authorization for the City Treasurer to accept all funds related to this item.

Summary

The property, to be encumbered by the easement, includes four Maricopa County Assessor Parcel numbers (APNs) totaling approximately 443.57 acres. The easement is requested by APS to upgrade the existing electrical transmission and distribution lines in the area. The easement, a total of approximately 26.79 acres, is located along the western and northern boundary of the properties, reducing the net site size of the parcels by six percent and leaving a total of 416.78 net acres. APS will compensate the City for the easement based on market value as determined by an appraisal or other valuation method accepted by the Finance Department's Real Estate Division.

City Council authorized selling the City-owned properties on the open market through a City-contracted broker on May 3, 2023. The City will be fully compensated for any loss of use to the land caused by the easement encumbrance with the remainder of the property still marketable as originally intended.

The properties to be encumbered by the easement are identified by address or location and APN include:

- Northeast Corner of Olive Avenue and Litchfield Road, 501-43-012C
- Southeast corner of Peoria Avenue and Litchfield Road, 501-43-013C
- Along the east side of Litchfield Road between Olive and Peoria avenues, 501-43-013D
- 9816 N. Litchfield Road, 501-43-023A

Financial Impact

Revenue will be reflective of the market value of the easement.

Concurrence/Previous Council Action

City Council adopted Ordinance S-49641 on May 3, 2023.

Location

Along Litchfield Road between Olive and Peoria avenues.

Council District: Outside of the City

Responsible Department

This item is submitted by Deputy City Manager Mario Paniagua and the Aviation and Finance departments.



Amend Ordinance S-50159 for Acquisition of Real Property for Roadway Improvements Along Alta Vista Road and Encinas Lane from 26th Avenue to 19th Street (Ordinance S-50584)

Request the City Council amend Ordinance S-50159 for authorization to acquire additional real property and related property interests required for roadway improvements along Alta Vista Road and Encinas Lane from 26th Avenue to 19th Street.

Summary

Ordinance S-50159 authorized the acquisition of real property for roadway improvements along Alta Vista Road and Encinas Lane, from 26th Avenue to 19th Street, to enhance roadway and sidewalk conditions for pedestrians, bicyclists, and vehicular traffic. Acquisition of property from five parcels not identified during preliminary design is necessary to accommodate project construction. All other conditions and stipulations stated in Ordinance S-50159 remain the same.

The additional parcels impacted by this project and included in this request are identified in **Attachment A**.

Financial Impact

Funding is available in the Street Transportation Department's Capital Improvement Program budget.

Concurrence/Previous Action

Ordinance S-50159 was adopted Sept. 20, 2023.

Location

Along Alta Vista Road and Encinas Lane from 26th Avenue to 19th Street.
Council Districts: 7 and 8

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Street Transportation and Finance departments.

ATTACHMENT A
Property Identification

City of Phoenix Street Improvement Project: ST87750154 - Amend Ordinance S-50159 for Acquisition of Real Property for Roadway Improvements Along Alta Vista Road and Encinas Lane From 26th Avenue to 19th Street

The following improved and/or unimproved parcels affected by acquisition and included in this request are identified by the Maricopa County Assessor's parcel number (APN) and the address or location.

| APN | Address / Location |
|-------------|---------------------------|
| 114-08-005A | 329 E. Alta Vista Road |
| 122-38-119 | 1901 E. Encinas Lane |
| 122-38-120 | 1907 E. Encinas Lane |
| 122-38-143E | 1913 E. Encinas Lane |
| 122-38-145C | 1919 E. Encinas Lane |



Acceptance and Dedication of a Deed and Easement for Roadway and Public Utility Purposes (Ordinance S-50590)

Request for the City Council to accept and dedicate a deed and easement for roadway and public utility purposes; further ordering the ordinance recorded.

Summary

Accepting the property interests below meets the Planning and Development Department's Single Instrument Dedication Process requirement prior to releasing any permits to applicants.

Deed (a)

Applicant: Build a Better Phoenix, LLC, its successor and assigns

Purpose: Roadway

Location: 6733 N. 26th Ave. (6737 N. 26th Ave.)

File: FN 230110

Council District: 5

Easement (b)

Applicant: Build a Better Phoenix, LLC, its successor and assigns

Purpose: Public Utility

Location: 6733 N. 26th Ave. (6737 N. 26th Ave.)

File: FN 230110

Council District: 5

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development and Finance departments.



Custodial Services - IFB 19-076 - Amendment (Ordinance S-50591)

Request to authorize the City Manager, or his designee, to execute amendment to Contract 149369 with Commercial Custodial Services and Contract 149368 with Janco FS2, LLC dba Velociti Services to extend the contract terms and add additional expenditures. Further request to authorize the City Controller to disburse all funds related to this item. The additional expenditures will not exceed \$2,030,000.

Summary

These contracts provide custodial services and general cleaning for facilities in the Police and Library departments. The contract will include labor and supervision. If necessary, the contract will also include cleaning supplies, materials, equipment and tools to perform complete custodial services to maintain acceptable levels of cleanliness at various facilities.

Contract Term

With approval, the contracts will be extended through April 30, 2025 with options to extend through April 30, 2026.

Financial Impact

Upon approval of \$2,030,000 in additional funds, the revised aggregate value of the contracts will not exceed \$10,537,418. Funds are available in the Police and Library departments' budgets.

Concurrence/Previous Council Action

- Custodial Services contracts 149368 and 149369 Ordinance S-45406 on Feb. 20, 2019
- Custodial Services Contract 149368 Ordinance S-47806 on July 12, 2021
- Custodial Services Contract 149368 Ordinance S-48761 on June 15, 2022
- Custodial Services Contract 149368 Ordinance S-49324 on Jan. 25, 2023

Responsible Department

This item is submitted by Assistant City Manager Lori Bays, Deputy City Manager Inger Erickson and the Police and Library departments.



LUCAS Devices Contract - RFA-24-0003 - Request for Award (Ordinance S-50596)

Request to authorize the City Manager, or his designee, to enter into a contract with Howmedica Osteonics Corp dba Stryker Sales, LLC to provide Lund University Cardiopulmonary Assist System (LUCAS) compression devices for the City of Phoenix Fire Department (PFD). Further request to authorize the City Controller to disburse all funds related to this item. The total value of the contract will not exceed \$1,250,000.

Summary

This contract will provide LUCAS compression devices and annual onsite preventative maintenance inspection and unlimited repairs. The City of Phoenix Fire Department (PFD) uses this chest compression device in the treatment of patients in cardiac arrest. The PFD has used these devices since 2016, and they have shown to administer consistent and high-quality chest compressions, ultimately resulting in better patient outcomes. The LUCAS devices are an essential tool in the PFD's mission to provide emergency Advanced Life Support (ALS) to the community.

Procurement Information

In accordance with Administrative Regulation 3.10, standard competition was waived as a result of an approved Determination Memo based on the following reason: Special Circumstances Without Competition. The City of Phoenix Fire Department (PFD) requests a contract with Howmedica Osteonics Corp dba Stryker Sales, LLC for purchase of new, and annual onsite preventative maintenance inspection and unlimited repairs of LUCAS devices. The City of Phoenix currently owns 64 LUCAS devices and retaining Howmedica Osteonics Corp dba Stryker Sales, LLC as its vendor will provide cost savings from continuity of maintenance, ease of use, training, and eliminating the need for replacing the current devices with different equipment.

Contract Term

The contract will begin on or about March 1, 2024, for a five-year term with two one-year options to extend.

Financial Impact

The aggregate contract value will not exceed \$1,250,000 for the seven-year aggregate

term.

Funding is available in the City of Phoenix Fire Department's budget.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays and the City of Phoenix Fire Department.



Dedication of an Alley Across City-owned Property Along the North Side of 1730 E. Monroe St. (Ordinance S-50602)

Request for the City Council to dedicate to public use an alley across City-owned property along the north side of 1730 E. Monroe St., for the Sidney P. Osborn 1 housing project; further ordering the ordinance recorded.

Summary

Expansion of the alley across City-owned property controlled by the Housing Department is a required stipulation by the Planning and Development Department through Dedication Application Number DEDI 230113. The dedication of five feet along the north side of 1730 E. Monroe St., between N. 17th and N. 18th streets, will increase the alley width to meet the minimum 20-foot requirement for development of the Sidney P. Osborn 1 housing project.

Location

Along the north side of 1730 E. Monroe St., identified by Maricopa County Assessor's parcel number 115-04-148.

Council District: 8

Responsible Department

This item is submitted by Deputy City Manager Gina Montes and the Housing and Finance departments.



Information Technology Research, Advisory and Consulting Services Qualified Vendor List - Amendment (Ordinance S-50588)

Request to authorize the City Manager, or his designee, to extend the term of the existing qualified vendor list for professional Information Technology (IT) research, advisory, and consulting services; authorize contracts or contract extensions with the current list of vendors; and authorize additional expenditures on an as-needed basis for the Information Technology Services Department in support of multiple City departments. Further request to authorize the City Controller to disburse all funds related to this item. The additional expenditures will not exceed \$9,620,000. Remaining funds previously authorized by the City Council will be applied to the extended term.

Summary

The IT Research, Advisory and Consulting Services Qualified Vendor List (QVL) allows the City to engage with the qualified firms to provide the most current industry research, develop strategy, perform fit-gap and similar analysis, recommend process improvements, assist with industry-driven requirement, and perform pre-project planning and quality assurance.

Recent advisory and consulting services have provided critical support to IT projects and initiatives Citywide, including Police Records Management System Assurance, Case Management System Support, and Enterprise Customer Relationship Management Assessment. Authorizing the extension and additional funds would also allow the Planning and Development Department to continue to utilize services to provide project oversight, quality assurance support services, and project management support related to ShapePHX.

The qualified firms are:

Qualified for Small Engagements:

- Cadenza, LLC;
- CISOSHARE;
- Dimension Systems, Inc.;
- Education, Leadership and Analytics, LLC;

- Gaea Global Technologies, Inc.;
- ISOutsource;
- Mission Critical Partners;
- OZ Engineering;
- Paradigm Solutions, LLC;
- Paramount Software Solutions, Inc.;
- Rishaank, LLC;
- Securance LLC;
- SeNet International Corporation;
- Sensei Project Solutions, Inc.;
- ServiceTec International, Inc.; and
- The Evolvers Group, L. P.

Qualified for Any Engagement:

- Arcadis U.S., Inc.;
- Ernst & Young;
- Gartner, Inc.;
- IDC Research, Inc.;
- Public Consulting Group, Inc.;
- Slalom Inc. ;
- Timmons Group, Inc.; and
- Zolon Tech, Inc.

Contract Term

Upon approval the contract will be extended through Dec. 31, 2026, with a one-year option to extend through Dec. 31, 2027.

Financial Impact

Upon approval of \$9,620,000 in additional funds, the revised aggregate value of the contracts will not exceed \$22,120,000. Funds are available in the various department's budget.

Concurrence/Previous Council Action

The City Council previously reviewed this request:

- IT Research, Advisory and Consulting Services QVL award S-44256 on Feb. 7, 2018
- IT Research, Advisory and Consulting Services QVL extension S-48977 on Sept. 7, 2022

Responsible Department

This item is submitted by Deputy City Manager Inger Erickson and the Information Technology Services Department.



Authorization to Amend Contract with United Methodist Outreach Ministries (UMOM) New Day Centers, Inc. (Ordinance S-50600)

Request to authorize the City Manager, or his designee, to amend Contract 145546 with United Methodist Outreach Ministries (UMOM) New Day Centers, Inc. to add \$455,000 for continued emergency shelter services for families with children and single women experiencing homelessness. The new total contract amount is not to exceed \$8,771,000 over the life of the contract. Further request authorization for the City Controller to disburse all funds related to this item for the life of the contract.

Summary

In July 2017, the Human Services Department executed a contract with UMOM New Day Centers as a result of a competitive process to serve 16 families with children and 130 single women experiencing homelessness each night at shelter facilities owned and operated by UMOM New Day Centers. These services had previously been provided by a contractor at the City-owned Watkins facility. The purpose of the change was to improve services and relieve the City of the costly repairs and maintenance for the Watkins building.

The Watkins facility was closed in July 2017 following the transfer of services to UMOM New Day Centers facilities.

Contract Term

The term of the contract is seven years, which began on July 1, 2017, and will end on June 30, 2024.

Financial Impact

General and grant funds to support this increase are available in the Human Services Department budget.

Concurrence/Previous Council Action

- City Council approved Contract 145546 on May 10, 2017, with Ordinance S-43482;
- City Council approved a funding increase on Nov. 1, 2017, with Ordinance S-44028; and
- City Council approved a funding increase on June 20, 2018, with Ordinance

S-44822.

Responsible Department

This item is submitted by Deputy City Manager Gina Montes and the Human Services Department.



Retroactive Authorization to Apply for, Accept and Disburse Arizona Department of Housing Grant Funding (Ordinance S-50603)

Request retroactive authorization for the City Manager, or his designee, to apply for Arizona Department of Housing (ADOH) grant funding in an amount not to exceed \$500,000. Further request to authorize the City Treasurer to accept, and the City Controller to disburse, all funds related to this item for the life of the grant.

Summary

ADOH provides funds for housing and housing related services, with current available funding designated for extreme weather and shelter response. The available grant funding will be used to expand existing emergency response to severe weather conditions (i.e. heat) for individuals and/or families experiencing unsheltered homelessness. Allowable activities to expand response to extreme weather include, but are not limited to: opening of indoor spaces, community notification, transportation, and site operations. If awarded, funding will be used to support summer heat relief efforts by providing overnight cooling and navigation centers throughout Phoenix to offer safe, indoor spaces for unsheltered individuals in the summer months. This request is retroactive because there was a short window to apply, and there was not adequate time to request authority prior to the grant submission due date.

Contract Term

If awarded, the grant term will begin on or about May 1, 2024, and end on or about June 30, 2025.

Financial Impact

Funding in an amount up to \$500,000 will be provided by ADOH. No matching funds are required. There is no impact to the General Fund.

Responsible Department

This item is submitted by Deputy City Manager Gina Montes and the Human Services Department.



Authorization to Amend Contract with Community Bridges, Inc. for Operation and Maintenance of the Central City Addiction Recovery Center (Ordinance S-50608)

Request to authorize the City Manager, or his designee, to amend Contract 147736 with Community Bridges, Inc. (CBI) to a) extend the term of the contract through Dec. 31, 2031, and b) add an additional \$290,000 annually, upon annual budget approval, for a new contract total not to exceed \$4.06 million. Further request authorization for the City Controller to disburse all funds related to this item for the life of the contract.

Summary

The City had an Intergovernmental Agreement (IGA) with Arizona Department of Health Services (ADHS) for the construction, operation and maintenance of the Central City Addiction Recovery Center (CCARC) (formerly known as Local Alcohol Reception Center or LARC) on the grounds of the Arizona State Hospital. The IGA expired Dec. 31, 2017. The City constructed the facility that houses CCARC.

CCARC serves the community of Phoenix and combines medical and behavioral interventions to address a patient's psychiatric and substance abuse issues. CCARC provides methadone detox services and substance abuse treatment, which includes day treatment, partial hospitalization, inpatient detox and hospital inpatient treatment services.

In 2015, Mercy Maricopa Integrated Care (MMIC) was competitively selected and entered into a contract with State of Arizona for the delivery of mental health services in Maricopa County. The contract includes the provision of local alcoholism reception center services as described in Arizona Revised Statutes title 36, chapter 18, article 2. As a result, MMIC is the sole source for the Regional Behavioral Health Authority and has contracted with CBI to be its service provider; no other entities can be solicited for proposals for this service.

Since Jan. 1, 2018, the City has contracted with CBI for CCARC operations and maintenance. CBI was recently awarded federal grant funding to renovate the CCARC, with a condition that Contract 147736 with CBI be extended through at least Dec. 31, 2031, to satisfy federal minimum period of use requirements.

Contract Term

The initial term of Contract 147736 with CBI began on Jan. 1, 2018, through Dec. 31, 2022, with one, five-year option to extend. In December 2022, the City extended Contract 147736 through Dec. 31, 2027. This item, if approved will authorize the City to extend the contract through Dec. 31, 2031.

Financial Impact

The revised total value of this contract shall not exceed \$4.06 million. Additional funding is available in the Human Services Department General Funds, upon annual budget approval.

Concurrence/Previous Council Action

The City Council approved Contract 147736 and IGA 159842 with Ordinance S-44380 on March 21, 2018.

Location

2770 E Van Buren St.
Council District: 8

Responsible Department

This item is submitted by Deputy City Manager Gina Montes and the Human Services Department.



Authorization to Enter Contract with Human Services Campus, Inc. dba Keys to Change (Ordinance S-50614)

Request authorization for the City Manager, or his designee, to enter into a contract with Human Services Campus, Inc. dba Keys to Change to provide essential services for individuals experiencing homelessness. The Brian Garcia Welcome Center located on the Key Campus is open 365 days per year, 7 days per week, and 24 hours per day, including holidays. Funding will be used for expenses related to operations, security, janitorial, and maintenance of the Key Campus. This includes operation of a storage program that enables clients to keep and access their belongings while accessing shelter services. The Key Campus services include engaging with people immediately outside the Welcome Center and Key Campus. In addition, the Welcome Center provides 24-hour access to restrooms and in the summer provides access to water for those in need. The term of the contract will begin on or about March 1, 2024 and run through June 30, 2025. The aggregate amount will not exceed \$2,125,000. Further request authorization for the City Controller to disburse all funds related to this item for the life of the contract. Funds are available from the City's allocation of the American Rescue Plan Act (ARPA) funds.

Summary

Keys to Change is a service hub that provides essential services to individuals experiencing homelessness. Directly and through its 16 partners, the Key Campus provides shelter, food, navigation, case management, postal services, workforce development and housing, among other services. There is a growing need for these services targeting individuals experiencing homelessness in the community. Maricopa Association of Governments 2022 Point in Time Count numbers showed a 34 percent increase in unsheltered homelessness over the last two years. These services will have a significant impact on overall health and safety of the Phoenix community. The agency's programs include services for the homeless that serve thousands each day and provide general assistance for individuals in need.

Keys to Change recognizes the urgent need for providing essential services to individuals experiencing homelessness and is committed to providing services aligned with the City of Phoenix's Strategies to Address Homelessness. The Key Campus provides a safe haven for individuals in need of help and provides a myriad of services

that have assisted thousands of individuals end their homelessness.

Contract Term

The term of the contract will begin on or about March 1, 2024 and run through June 30, 2025.

Financial Impact

The total value of this contract shall not exceed \$2,125,000. There is no impact to General Fund. Funding is available through the City's ARPA allocation.

Location

220 S. 12th Avenue
Phoenix, Az 85007
District: 7

Responsible Department

This item is submitted by Deputy City Manager Gina Montes and the Human Services Department.



Request Authorization to Increase Funding for Contract 159075 with Central Arizona Shelter Services, Inc. (Ordinance S-50615)

Request authorization for the City Manager, or his designee, to increase funding for Central Arizona Shelter Services, Inc. (CASS) in an amount of up to \$1.5 million to provide gap funding for emergency shelter services. The revised total contract value will not exceed \$6,735,990. Further request authorization for the City Controller to disburse all funds related to this item for the life of the contract.

Summary

The City has contracted with CASS to provide emergency shelter services since July 1, 2007. The facility currently serves up to 600 single adult men and women. The shelter is located on the Key Campus, formerly known as the Human Services Campus, a coordinated entry access point which is run out of the Brian Garcia Welcome Center. This coordination is critical to serving the homeless population in this area and to regional efforts to end homelessness. CASS is a provider of shelter services for single adults and families in Phoenix and Maricopa County and is the only facility that has the capacity to serve this large number of homeless individuals.

The additional gap funding is essential for the continuation of shelter services for the agency's single adult shelter and family shelter. In addition, enhanced reporting requirements will be implemented to ensure CASS is aligned with regional standards for emergency shelter services.

Contract Term

The term of the contract will remain unchanged, beginning on or about July 1, 2023, with four one-year options to extend, which may be exercised by the City Manager or his designee.

Financial Impact

The contract will have an annual budget of up to \$1,347,198 subject to annual budget approval. The total contract value shall not exceed \$6,735,990. General Purpose funding is available in the Office of Homeless Solutions' budget, subject to annual budget approval, and within the City's American Rescue Plan Act allocation.

Concurrence/Previous Council Action

On June 14, 2023, the City Council approved Contract 159075 with Ordinance S-49849.

On Feb. 7, 2024, the City Council approved an increase in funding under Contract 159075 with Ordinance S-50555.

Location

230 S. 12th Avenue

Phoenix, AZ 85007

Council District: 7

Responsible Department

This item is submitted by Deputy City Manager Gina Montes and the Human Services Department.



Insurance Eligibility and Electronic Claims Processing Service Contract - RFA 24-0013 - Request for Award (Ordinance S-50607)

Request to authorize the City Manager, or his designee, to enter into a contract with Zoll Data Systems, Inc. to provide insurance eligibility and electronic claims for the Fire Department. Further request to authorize the City Controller to disburse all funds related to this item. The total value of the contract will not exceed \$1,354,050.

Summary

This contract will provide billing solutions for insurance eligibility and electronic claims for the Fire Department's Emergency Transportation Services (ETS). Services provided by Zoll Data Systems, Inc. will allow ETS to verify insurance eligibility and have the ability for electronic claims submissions. The functionality of the services will allow ETS to reduce the time it takes to verify insurance eligibility and provide electronic claims to insurance providers that require electronic claims forms.

This item has been reviewed and approved by the Information Technology Services Department.

Procurement Information

In accordance with Administrative Regulation 3.10, standard competition was waived as a result of an approved Determination Memo based on the following reasons: Special Circumstances Without Competition. Zoll Data Systems, Inc., is the only vendor that integrates with the ETS accounts receivable software and provides both insurance eligibility and electronic claims. A Request for Proposal was issued for the same services and was unsuccessful as no offers were received.

Contract Term

The contract will begin on or about Feb. 21, 2024, for a five-year term with no options to extend.

Financial Impact

The aggregate contract value will not exceed \$1,354,050 for the five-year aggregate term. Funding is available in the Fire Department's budget.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays and the Fire Department.



Accept Supplemental Funding for FEMA Urban Search & Rescue Response System Cooperative Agreement Awards (Ordinance S-50610)

Request to authorize the City Manager, or his designee, to retroactively accept and disburse Federal Emergency Management Agency (FEMA) National Urban Search & Rescue (US&R) Response System Readiness supplemental funds awarded for Fiscal Years (FY) 2022, 2021, and 2020 totaling \$387,745. Further request authorization for the City Treasurer to accept, and the City Controller to disburse, all funds related to this item.

Summary

The Department of Homeland Security and FEMA provide support and funding for the maintenance and readiness of the US&R Response System. The purpose of this funding is to support the continued development and maintenance of a national US&R capability. As the sponsoring agency of Arizona Task Force One (AZ-TF1), one of the 28 national US&R teams, the Phoenix Fire Department receives yearly cooperative agreement awards to maintain this capability.

Due to rising expenses associated with maintaining US&R teams, FEMA has begun providing additional financial support beyond what is already funded through their annual cooperative agreements. These additional funds are distributed as part of the ongoing awards and are available throughout the term of the current award agreements.

Contract Term

The period of performance to utilize the supplemental funding will run through Aug. 31, 2026.

Financial Impact

The Fire Department will receive supplemental funding not to exceed \$387,745 from FEMA for the FY 2022, 2021 and 2020 US&R Response System Readiness Cooperative Agreements.

Concurrence/Previous Council Action

Council has previously passed Ordinance S-48942, Ordinance S-47955, and

Ordinance S-46869 authorizing acceptance of the FEMA US&R Cooperative Agreement awards for fiscal years FY2022, 2021 and 2020.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays and the Fire Department.



Fixed Wing Pilot Training- IFB 19-016-Amendment (Ordinance S-50599)

Request to authorize the City Manager, or his designee, to execute an amendment to Contract 149441 with Bird Acquisition, LLC, dba Aeroguard Flight Training Center, to extend contract term. Further request to authorize the City Controller to disburse all funds related to this item. No additional funds are needed, request to continue using Ordinance S-45431.

Summary

This contract will provide training to new pilots, as in-house pilot training is no longer feasible. This contract will streamline the training process for new pilots and reduce the length of time it takes to achieve the pilot certificates. It will also provide the Air Support Unit with oversight from a Federal Aviation Administration (FAA) certified flight instructor school.

Contract Term

Upon approval the contract will be extended through March 14, 2025, with an option to extend to March 14, 2026.

Financial Impact

The aggregate value of the contract will not exceed \$285,000 and no additional funds are needed.

Concurrence/Previous Council Action

The City Council previously reviewed this request:

- Fixed Wing Pilot Training Contract 149441 (Ordinance S-45431) on March 6, 2019.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays and the Police Department.



General Police Towing Services - RFP 13-006 - Amendment (Ordinance S-50583)

Request to authorize the City Manager, or his designee, to execute amendment to Contract 135125 with DV Towing, LLC to amend contract to assign all rights, interests, and obligations to a new vendor, DVT Enterprises, LLC. Further request to authorize the City Controller to disburse all funds related to this item. No additional funds are needed, request to continue using Ordinance S-39460.

Summary

The Police Department requires general towing services to remove vehicles for citizens involved in vehicle crashes, and tow abandoned vehicles, vehicles left in the roadways, illegally parked vehicles and other law enforcement impoundments. Towing services are essential to the Police Department and mandated by the Arizona Revised Statutes, Phoenix City Codes and Police Department policies. DV Towing, LLC seeks to assign its assets, payables, and receivables, including its rights and obligations under Contract 135125, to DVT Enterprises, LLC. Approval is requested to amend this contract accordingly and continue receiving services from DVT Enterprises, LLC.

Contract Term

The contract term remains unchanged, ending on Dec. 31, 2026.

Financial Impact

The aggregate value of the contract will not exceed \$1,329,832 and no additional funds are needed.

Concurrence/Previous Council Action

The City Council previously reviewed this request:

- General Police Towing Services - contracts 135124, 135125, 135126 and 135191 (Ordinance S-39460) on Dec. 19, 2012
- General Police Towing Services - contracts 135124, 135125, 135126 and 135191 (Ordinance S-44209) on Jan. 24, 2018
- General Police Towing Services - contracts 135124, 135125, 135126 and 135191 (Ordinance S-44333) on March 21, 2018
- General Police Towing Services - contracts 135124, 135125, 135126 and 135191

(Ordinance S-45345) on Feb. 6, 2019

- General Police Towing Services - contracts 135124, 135125, 135126 and 135191 (Ordinance S-45759) on June 5, 2019
- General Police Towing Services - contracts 135124, 135125, 135126 and 135191 (Ordinance S-47246) on Jan. 20, 2021

Responsible Department

This item is submitted by Assistant City Manager Lori Bays and the Police Department.



Request Authorization to Apply for, Accept and Enter Into Agreements for Fiscal Year 2024-25 Governor's Office of Highway Safety Grants (Ordinance S-50613)

Request to authorize the City Manager, or his designee, to allow staff to apply for, accept and enter into grant contracts for Fiscal Year 2024-25 with the Arizona Governor's Office of Highway Safety (GOHS). Further request authorization for the City Treasurer to accept, and the City Controller to disburse, all funds related to this item.

Summary

The GOHS announced the availability of funding in January 2024. Grant proposals are due by March 8, 2024. If awarded, these funds will be used to support new traffic safety programs and enhance existing programs in the City Prosecutor's Office, as well as the Fire, Street Transportation, and Police departments. The total Citywide request for funding is \$1,929,000.

City Prosecutor's Office - Total Funding Request \$300,000

If awarded, grant funds will be used to pay the salary, expenses, supplies and travel for an existing Traffic Safety Resource Prosecutor (TSRP), Attorney IV. Approximately half of the funding will be sought from the Oversight Council on Driving or Operating Under the Influence Abatement Council. The other half will be requested through a grant from GOHS. GOHS will administer all funds. The TSRP program has four primary objectives:

- Provide training for prosecutors and law enforcement officers in the prosecution of traffic safety related crimes.
- Act as a resource for questions about traffic laws and trial advocacy.
- Improve communication between prosecutors, law enforcement officers, and members of the judiciary.
- Act as a liaison for individuals and agencies committed to the enforcement and prosecution of traffic safety related crimes.

GOHS has funded the TSRP program since its inception in 2007. Though the grant project is administered by Phoenix, it also benefits citizens, law enforcement, and prosecutors across Arizona. The TSRP is a resource to both small and large

jurisdictions for legal issues related to the enforcement of DUI and traffic laws. The TSRP also provides training to prosecutors, law enforcement officers, crime lab personnel, interns and community groups. It is anticipated that up to \$45,000 of employee-related expenses may need to be covered by City general funds.

Fire Department - Total Funding Request \$445,000

Occupant protection and child car seat: Funding will be requested for training, overtime, related fringe benefits, materials, public education, and equipment related to child safety seats and seat belt usage. This funding will maintain current occupant protection efforts and increase the frequency for conducting child safety technician certification and recertification classes, increase the opportunities to educate residents at car seat check events, increase the number of locations of designated car seat check fitting stations to enhance geographical outreach, and to enhance outreach for occupant protection public education in K-12 schools (\$360,000).

Youth Alcohol Awareness: Funding will be requested for overtime and related fringe benefits, materials, and equipment related to young drivers in high school and/or community college education campaigns including dramatic mock crashes and classroom education. The program informs young drivers of the danger of alcohol and other drug impairment while driving and how serious the consequences can lead to injury and death. Educating young drivers of the danger of impaired driving is an effective way to decrease preventable injuries and fatalities associated with alcohol and drug-impaired driving (\$40,000).

Bicycle and Pedestrian Safety: Funding will be requested for overtime, related fringe benefits, materials, and equipment related to education campaigns to increase safety awareness, traffic awareness, and skills necessary for young pedestrians and bicyclists. This program provides bike rodeos for young cyclists, bike and pedestrian school safety assemblies, and public education opportunities at community safety fairs and events (\$45,000).

Police Department - Total Funding Request \$1,000,000

DUI Enforcement (Traffic Bureau): Funding will provide training, overtime, related fringe benefits and equipment to support and enhance DUI enforcement within the City of Phoenix and joint enforcement efforts throughout the valley.

Occupant Protection (Traffic Bureau): Funding will provide training, materials, supplies, overtime and related fringe benefits associated with "Click It or Ticket" enforcement activities, child passenger safety technician certification classes, car seat events, "Buckle Up, Baby" hotline and various seatbelt enforcement campaigns.

Pedestrian and Bicycle Safety (Traffic Bureau): Funding will provide training, materials, supplies, overtime and related fringe benefits associated with education and enforcement campaigns designed to increase safety awareness, traffic law knowledge, and skills among pedestrians and bicyclists.

Traffic Services (Traffic Bureau): Funding will provide training, materials, supplies, equipment (radar/laser speed detection devices), overtime and related fringe benefits associated with education and enforcement campaigns, such as Traffic Impact Programs, school zone enforcement, construction zone enforcement, Traffic Complaint Hotline enforcement, and selective traffic enforcement programs.

DUI Abatement Council (Traffic Bureau): Funding will be requested from the DUI Abatement Council for overtime and related fringe benefits associated with DUI enforcement and innovative "Know Your Limit" Programs.

Street Transportation Department - Total Funding Request \$184,000

This funding will promote the advertising campaign and tools for school, bicycle, and pedestrian/driver safety. Requests for Pedestrian and Bicycle Safety (\$184,000) include funds for: pedestrian safety vests, bicycle helmets, LED flashing STOP paddles, roll out signs, safety enhancement items, and advertising safety media campaigns.

Contract Term

One year beginning Oct. 1, 2024, through Sept. 30, 2025.

Financial Impact

Total funding request is \$1,929,000. The cost to the City is personnel expenses and in-kind resources only.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays, Deputy City Manager Alan Stephenson, the Fire, Police and Street Transportation departments, and the City Prosecutor's Office.



Request Authorization for Sale of Canine Zadio (Ordinance S-50612)

Request to authorize the City Manager, or his designee, to approve the sale of canine Zadio to Detective Elizabeth Poole for \$1.00. Det. Poole and canine Zadio are assigned to the Drug Enforcement Bureau in the Commercial Narcotic Interdiction Unit. Det. Poole has requested to purchase and retire her assigned canine Zadio in accordance with Administrative Regulation 4.21.

Summary

Canine Zadio is 10 years old and has served the Commercial Narcotic Interdiction Unit detecting narcotics and human remains for eight years. Canine Zadio has met the Bureau's standard of service and allowing her to retire will lessen the strain on her body and increase her life expectancy. Det. Poole has already been assigned another canine, and has been working with both since October 2021.

This request is for the authorization of the sale of canine Zadio for \$1.00. The purchase of canine Zadio is being made by Detective Elizabeth Poole, who agrees to accept full responsibility and liability for canine Zadio and to care for her for the remainder of her life.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays and the Police Department.



High-Rise and Single-Story Building Window Cleaning Services IFB 24-FMD-021 - Request for Award (Ordinance S-50579)

Request to authorize the City Manager, or his designee, to enter into contracts with Viewmaker, LLC dba Squeegee Squad and Prestige Window Cleaning, Inc. dba Professional Window Cleaning to provide window cleaning services for high-rise and single-story buildings Citywide. Further request authorization for the City Controller to disburse all funds related to this item. The total aggregate amount of contracts will not exceed \$1,103,160.

Summary

The high-rise and single-story building window cleaning services are used for interior and exterior window washing, high dusting, and stainless steel polishing on an as-needed basis.

Procurement Information

Invitation for Bid 24-FMD-021 was conducted in accordance with Administrative Regulation 3.10. The Public Works Department, Procurement Section, received two offers. All groups received a bid and both offers were deemed to be responsive to the posted specifications, and responsible to provide the required services. The evaluation was based on the price for each group.

- Viewmaker, LLC Group 1 - Fire Department Locations: \$4,950
- Viewmaker, LLC Group 2 - Human Services Department Locations: \$3,600
- Viewmaker, LLC Group 3 - Library Services Department Locations: \$7,605
- Viewmaker, LLC Group 4 - Police Department Locations: \$7,200
- Viewmaker, LLC Group 5 - Public Works Department Locations: \$8,950
- Prestige Window Cleaning, Inc. Group 6 - Water Services Department Locations: \$12,209
- Viewmaker, LLC Group 7 - High-Rise Locations: \$111,400

Contract Term

The initial one-year contract term shall begin on or about March 1, 2024, with four options to extend in increments of up to one year, for a total contract term of five years.

Financial Impact

The contracts will have a combined estimated annual expenditure of \$220,632, with a total aggregate amount of \$1,103,160 over the life of the contracts. Funds are available in the Fire, Human Services, Library Services, Police, Public Works, and Water Services departments' budgets.

Responsible Department

This item is submitted by Assistant City Manager Lori Bays, Deputy City Managers Gina Montes, Inger Erickson, Ginger Spencer and Mario Paniagua, and the Fire, Human Services, Library Services, Police, Water Services and Public Works departments.



Purchase of Light and Medium Duty Vehicles Contract - IFB 24-FSD-030 Request for Award (Ordinance S-50580)

Request to authorize the City Manager, or his designee, to enter into separate contracts with Courtesy Chevrolet Corp., Don Sanderson Ford, Inc., SanTan Auto Partners LLC, doing business as San Tan Ford, and PFVT Motors, LLC, doing business as Peoria Ford for purchase of light and medium duty vehicles for various City departments. Further request to authorize the City Controller to disburse all funds related to this item. The total value of the contracts will not exceed \$200,000,000.

Summary

The Public Works Department is responsible for purchasing light and medium duty vehicles on behalf of all City departments. Every year, Public Works prepares a list of City equipment due for replacement based on age or miles, or a combination thereof. This contract will allow Public Works to purchase replacement vehicles that have exceeded the useful life and add new vehicles to the fleet as needed for operations. The vehicles that will be purchased will include, but are not limited to: sedans, sport utility vehicles, trucks, vans, patrol-rated police cruisers and medium duty vehicles that are essential to City services. These vehicles will be used by various City departments including Police, Fire, Water Services, and Street Transportation.

Procurement Information

An Invitation for Bid was processed in accordance with City of Phoenix Administrative Regulation 3.10. The Public Works Department, Procurement Section, received four bids with all four being recommended for award based on base model pricing of vehicles. Due to the extensive lists provided by the bidders for possible vehicle purchases, the following recommended vendors are divided by manufacturer.

Chevrolet:

Courtesy Chevrolet Corp.

Ford:

Don Sanderson Ford, Inc.

PFVT Motors LLC dba Peoria Ford

San Tan Auto Partners, LLC dba San Tan Ford

Contract Term

The contracts will begin on or about April 1, 2024 for a three-year term with two one-year options to extend.

Financial Impact

The value of the contracts will not exceed \$200,000,000.

Funding is available in various departments' budgets.

Responsible Department

This item is submitted by Deputy City Manager Mario Paniagua and the Public Works Department.



Vernell Myers Coleman Ceremonial Street Name Signage

Request City Council approval to install ceremonial street name signage recognizing Vernell Myers Coleman at the intersection of 7th Avenue and Buckeye Road.

Summary

Vernell Myers Coleman (Aug. 28, 1918 - March 27, 1990) first moved to Phoenix from Henderson, Texas, in 1938 and returned in 1944. Mrs. Coleman, along with her children, moved into the City's Matthew Henson Housing Project in 1945.

Mrs. Coleman made numerous contributions to the City of Phoenix and community. One of the most notable achievements of her historical influence was the revival of the Juneteenth Celebration in Phoenix. June 19, 1865, also known as Juneteenth, commemorates the day when black slaves in Texas first learned about the Emancipation Proclamation that Abraham Lincoln had signed two and a half years earlier. Phoenix's first Juneteenth occurred in 1911 after a visit by Booker T. Washington, with smaller celebrations held through the mid-1940s. In 1968, as head of the Matthew Henson Tenants' Council, Mrs. Coleman renewed the Juneteenth celebration in Phoenix. Held at Dunbar School, residents of the housing project cooked food, and the young people played a baseball game against the police team. She worked to make Juneteenth a multi-racial event for all to enjoy, while ensuring black people learned their history. Juneteenth Tradition, Inc., a nonprofit corporation developed under Mrs. Coleman's guidance, raised scholarship money for underprivileged students. Mrs. Coleman served as the honorary chairperson of the organization until shortly before her death.

Mrs. Coleman became an advocate for her fellow tenants at the Matthew Henson Housing Project. She organized a tenants' council, which addressed substandard living conditions, and the surge of crime and violence in the community. During the late 1960s, as a member of the Matthew Henson Anti-Crime Committee, Mrs. Coleman was instrumental in toppling barriers between community and police, which led to improved police services and decreased crime in the area. In the 1970s, she organized a tenant strike; residents refused to pay rent without basic improvements, such as the installation of cabinet doors, linoleum tile, and ventilation ducts. The strike was a success and appropriate changes were made to residents' apartments. Mrs.

Coleman served as president of the tenants' council for ten years, becoming known as the "Mayor of Projects."

Mrs. Coleman was active outside of the Matthew Henson area as well. She served as a commissioner of the Leadership and Education of the Advancement of Phoenix (LEAP) for three years during the 1960s. She was a member of the Board of Directors of the Phoenix Urban League and the City of Phoenix Housing Advisory Board. She also served as both the chairwoman and treasurer for the Phoenix Human Resources Council.

In the late 1970s, Mrs. Coleman began preparing healthy dinners for the elderly in her housing project. Mrs. Coleman was instrumental in helping to organize the St. Mary's Food Bank with Founder John Van Hengel, and she served on the board for several years. She also expanded her meal service and continued to cook every Wednesday for the program through 1982.

As a member of First Institutional Baptist Church, Mrs. Coleman was on the Pastor's Aide Committee where she continued to utilize her celebrated organizational, fundraising, and cooking skills. Alongside her long-time friend Hallie Anderson and other women on the committee, Mrs. Coleman worked diligently to raise funds to pay off the church's deed. They did this by selling dinners from Mrs. Coleman's kitchen and holding rummage sales with quality merchandise that she solicited from department stores such as Goldwater's, JCPenney, Diamond's, etc. The church's Deed of Reconveyance was secured under the ministry of the late Robert N. Nesby.

For more than 40 years, Vernell Coleman diligently worked to improve the lives of the poor in Phoenix. She also campaigned for the Seventh Avenue Clinic, which provided free podiatry to the elderly and handicapped.

Despite being confined by her arthritis to crutches or a wheelchair, she stayed busy guiding various committees, talking with politicians, and working with her neighbors. She gave endlessly of herself, not for recognition, but out of a sincere desire to improve conditions in her community.

Vernell Coleman's many works did not go unnoticed. Between 1971 and 1988, she received numerous awards and honors from the State of Arizona, the City of Phoenix, businesses, and social organizations. In 1974, the Greyhound Corporation named her Phoenix Woman of the Year. The Spiritual Assembly of the Bahai's of Phoenix in 1979 presented her with the first Willie L. Robertson Memorial Human Rights award for her efforts in finding housing for the poor, while encouraging youth to continue their education. To honor her years of volunteer work, Luke's Men of St. Luke's Medical

Center and KPNX-TV of Phoenix gave her the 10th Annual Hon Kachina award. The following year she was named Woman of Distinction by the Women of Achievement group, a coalition of the Junior League of Phoenix, Meyer Inc., and Soroptimist International of Phoenix. In 1988, Mrs. Coleman received the Spirit of Arizona award for serving her community in extraordinary ways. In 1990, she was inducted into the Arizona Women's Hall of Fame.

The Vernell Coleman Youth Recreation Center (830 W. Tonto St.) is named in honor of Mrs. Coleman.

The ceremonial street name signs will be mounted on the mast arms of the northeast and southwest traffic signal poles at 7th Avenue and Buckeye Road. See **Attachment A** for an illustration of the proposed signs.

Financial Impact

The fabrication and installation costs of the ceremonial signs will be funded by the Mayor's Office and Council District 8.

Location

7th Avenue and Buckeye Road
Council District: 8

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Street Transportation Department.



Medium Diameter Transmission Mains - Job Order Contracting Services - 4108JOC225 (Ordinance S-50578)

Request to authorize the City Manager, or his designee, to enter into separate master agreements with two contractors listed below, to provide Medium Diameter Transmission Mains Job Order Contracting services for the Water Services Department. Further request to authorize execution of amendments to the agreements as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The total fee for all services will not exceed \$54,405,000.

Additionally, request to authorize the City Manager, or his designee, to take all action as may be necessary or appropriate and to execute all design and construction agreements, licenses, permits, and requests for utility services relating to the development, design, and construction of the project. Such utility services include, but are not limited to: electrical, water, sewer, natural gas, telecommunications, cable television, railroads and other modes of transportation. Further request the City Council to grant an exception pursuant to Phoenix City Code 42-20 to authorize inclusion in the documents pertaining to this transaction of indemnification and assumption of liability provisions that otherwise should be prohibited by Phoenix City Code 42-18. This authorization excludes any transaction involving an interest in real property.

Summary

The Job Order Contracting (JOC) contractors' services will be used on an as-needed basis to provide Medium Diameter Transmission Mains Job Order Contract services for the installation, rehabilitation, or relocation of water transmission mains, and structures in the waterline right-of-way and other critical assets citywide. Additionally, the JOC contractors will be responsible for fulfilling Small Business Enterprise program requirements.

Procurement Information

The selection was made using a qualifications-based selection process set forth in section 34-604 of the Arizona Revised Statutes (A.R.S.). In accordance with A.R.S. section 34-604(H), the City may not publicly release information on proposals received

or the scoring results until an agreement is awarded. Five firms submitted proposals and are listed below:

Selected Firms

Rank 1: B & F Contracting, Inc.

Rank 2: Talis Construction Corporation

Additional Proposers

Rank 3: Kinkaid Civil Construction LLC

Rank 4: FPS Civil, LLC

Rank 5: Arrowmark Underground LLC dba Local Underground Construction

Contract Term

The term of each master agreement is for up to five years, or up to \$27,202,500, whichever occurs first. Work scope identified and incorporated into the master agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the master agreement. No additional changes may be executed after the end of the term.

Financial Impact

The master agreement value for each of the JOC contractors will not exceed \$27,202,500, including all subcontractor and reimbursable costs. The total fee for all services will not exceed \$54,405,000.

Request to authorize the City Manager, or his designee, to execute job order agreements performed under these master agreements for up to \$4 million each. In no event will any job order agreement exceed this limit without Council approval to increase the limit.

Funding is available in the Water Services Department Capital Improvement Program budgets. The Budget and Research Department will review and approve funding availability prior to issuance of any job order agreement. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Responsible Department

This item is submitted by Deputy City Managers Ginger Spencer and Alan Stephenson, the Water Services Department and the City Engineer.



91st Avenue Wastewater Treatment Plant Solids Rehabilitation Phase I - Construction Manager at Risk Construction Services Amendment - WS90100111 (Ordinance S-50581)

Request to authorize the City Manager, or his designee, to execute an amendment to Agreement 153445 with PCL Construction, Inc. to provide additional Construction Manager at Risk Construction Services for the 91st Avenue Wastewater Treatment Plant, Solids Rehabilitation Phase I project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The additional fee for services included in this amendment will not exceed \$26.2 million.

Summary

The purpose of this project is to rehabilitate, replace, and make improvements to the solids thickening, solids digestion, and solids dewatering equipment, piping, instrumentation, and processes at the 91st Avenue Wastewater Treatment Plant (WWTP).

This amendment is necessary to provide additional funds to the agreement.

The 91st Avenue WWTP is owned by the Sub-Regional Operating Group (SROG) and operated by the City of Phoenix.

Contract Term

The contract term will remain unchanged. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

- The initial agreement for Construction Manager at Risk (CMAR) Construction Services was approved for an amount not to exceed \$45,351,000, including all subcontractor and reimbursable costs.

- This amendment will increase the agreement by an additional \$26,200,000, for a new total amount not to exceed \$71,551,000, including all subcontractor and reimbursable costs.

Funding for this amendment is available in the Water Services Department's Capital Improvement Program budget utilizing SROG funds.

Concurrence/Previous Council Action

The SROG advisors authorized the project on June 10, 2020.

The City Council approved:

- Engineering Services Agreement 152491 (Ordinance S-46821) on July 1, 2020;
- CMAR Preconstruction Services Agreement 152492 (Ordinance S-46823) on July 1, 2020;
- CMAR Construction Services Agreement 153445 (Ordinance S-47146) on Dec. 2, 2020; and
- CMAR Construction Services Agreement Amendment 153445 (Ordinance S-49302) on Jan. 4, 2023.

Location

91st Avenue WWTP
Council District: 7

Responsible Department

This item is submitted by Deputy City Managers Ginger Spencer and Alan Stephenson, the Water Services Department and the City Engineer.



Cast Iron Water Transmission Main Replacement - Engineering Services - WS85508004 (Ordinance S-50585)

Request to authorize the City Manager, or his designee, to enter into an agreement with Entellus, Inc. to provide Engineering Services that include design and possible construction administration and inspection for the Cast Iron Water Transmission Main Replacement project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The total fee for services will not exceed \$760,000.

Additionally, request to authorize the City Manager, or his designee, to take all action as may be necessary or appropriate and to execute all design and construction agreements, licenses, permits, and requests for utility services related to the development, design and construction of the project. Such utility services include, but are not limited to: electrical, water, sewer, natural gas, telecommunication, cable television, railroads and other modes of transportation. Further request the City Council to grant an exception to Phoenix City Code 42-20 to authorize inclusion in the documents pertaining to this transaction of indemnification and assumption of liability provisions that otherwise should be prohibited by Phoenix City Code 42-18. This authorization excludes any transaction involving an interest in real property.

Summary

The purpose of this project is to replace cast iron transmission mains in the central Phoenix area, including approximately 4,000 linear feet of 20-inch diameter transmission main along 9th Avenue between Roosevelt Street and Washington Street, approximately 1,600 linear feet of 14-inch transmission main along 44th Street from Van Buren Street to McKinley Street, and other cast iron replacements as identified within the design phase.

Entellus, Inc.'s services include but are not limited to: reviewing as-builts and providing recommendations for the alignment of the 20-inch water transmission main and the new parallel water distribution main, developing construction documents for 4,000 linear feet of transmission main along 9th Avenue between Roosevelt and Washington Streets, approximately 1,600 linear feet of water distribution main along 9th Avenue

between Roosevelt Street and Taylor Street, developing construction documents for other areas requiring replacement of cast iron transmission mains as identified in the design phase, conducting geotechnical evaluation as necessary, and provide survey services as needed to support the field investigation and design at each location. Entellus, Inc. will also identify all utility locations vertically and horizontally along the pipeline route, coordinate with the City potholing contractor as necessary to establish utility locations, prepare opinion of probable cost for construction, obtain all applicable permits, assist with developing detailed shutdown plans, provide data reflection changes to the asset registry in the City's computer maintenance management systems and GIS, and assist with the development of scope documents for Job Order Contract support agreements.

Procurement Information

The selection was made using a qualifications-based selection process set forth in section 34-603 of the Arizona Revised Statutes (A.R.S.). In accordance with A.R.S. section 34-603(H), the City may not publicly release information on proposals received or the scoring results until an agreement is awarded. Four firms submitted proposals and are listed below.

Selected Firm

Rank 1: Entellus, Inc.

Additional Proposers

Rank 2: Sunrise Engineering, Inc.

Rank 3: Stantec Consulting Services Inc.

Rank 4: Burgess & Niple, Inc.

Contract Term

The term of the agreement is three years from the issuance of the Notice to Proceed. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

The agreement value for Entellus, Inc., will not exceed \$760,000, including all subconsultant and reimbursable costs.

Funding is available in the Water Services Department's Capital Improvement Program budget. The Budget and Research Department will separately review and approve funding availability prior to execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the

agreement termination.

Location

General Location: 9th Avenue between Roosevelt Street and Washington Street and 44th Street from Van Buren Street to McKinley Street

Council Districts: 7 and 8

Responsible Department

This item is submitted by Deputy City Managers Ginger Spencer and Alan Stephenson, the Water Services Department and the City Engineer.



Instrumentation And Control System Inspection And Testing Services For Water Remote Facilities - Engineering Services - WS85400011 (Ordinance S-50586)

Request to authorize the City Manager, or his designee, to enter into an agreement with Stephen C. Clements dba Clements Inspection Services to provide Engineering Services that include design review, construction administration and inspection, and commissioning testing of all projects associated with instrumentation and control systems for the Water Services Department's Water Remote Facilities. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The fee for services will not exceed \$1.6 million.

Additionally, request to authorize the City Manager, or his designee, to take all action as may be necessary or appropriate and to execute all design and construction agreements, licenses, permits, and requests for utility services related to the development, design, and construction of the project. Such utility services include but are not limited to, electrical, water, sewer, natural gas, telecommunication, cable television, railroads, and other modes of transportation. Further request the City Council to grant an exception to Phoenix City Code 42-20 to authorize inclusion in the documents pertaining to this transaction of indemnification and assumption of liability provisions that otherwise should be prohibited by Phoenix City Code 42-18. This authorization excludes any transaction involving an interest in real property.

Summary

This project aims to improve the functionality, efficiency, and maintenance of the instrumentation and control systems. The City has incorporated instrumentation and control system inspection and testing services to assist the engineer and contractor during upgrades or expansions of the water distribution systems. The City has developed instrumentation and control standards for the entire Water Services Department, which provide consistency in the control systems, and will be enforcing these standards on all projects. The work areas are in the design phase, construction installation inspections, and commissioning testing and calibrations of the instrumentation and control systems. Operations and maintenance support may be required when staff are performing tests on new and existing equipment.

Stephen C. Clements dba Clements Inspection Services' services include, but are not limited to: attending design meetings and project engineer demonstrations, supporting the engineer with research of existing conditions, conducting 30 percent, 60 percent, 90 percent, and 100 percent reviews of the project plans and specifications, supporting the engineering consultant with the understanding of the Water Services Department's standards for instrumentation and control systems, and is required to maintain and update the standards if revisions or acceptable changes have occurred during the design review process. Also, coordinate design reviews and construction and commissioning inspections and other requirements with the firm selected for Electrical and Arc Flash support services. Construction support services will include submittal review, conducting reviews on the equipment installation, providing field observation reports, participating in factory testing, reviewing the completeness of required equipment testing documentation, and witnessing the instrumentation calibrations and loop checks. Commissioning support services will include providing assistance on computer control strategy checkout, tuning of control loops, performing loop tests, troubleshooting for the computer control system programmers, maintaining designated instruments through final acceptance, educating the plant staff on the systems, supporting the maintenance staff on developing maintenance procedures for designated equipment, and reviewing the accuracy of the as-built documentation for electrical drawings, and the process and instrumentation diagrams.

Procurement Information

The selection was made using a qualifications-based selection process set forth in section 34-603 of the Arizona Revised Statutes (A.R.S.). In accordance with A.R.S. section 34-603(H), the City may not publicly release information on proposals received or the scoring results until an agreement is awarded. Two firms submitted proposals and are listed below.

Selected Firm

Stephen C. Clements dba Clements Inspection Services

Additional Proposer

Partners in Controls, Inc. dba Enterprise Automation

Contract Term

The term of the agreement is five years from the issuance of the Notice to Proceed. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

The total fee for all services will not exceed \$1.6 million, including all subconsultant and reimbursable costs.

Funding is available in the Water Services Department's Capital Improvement Program budget. The Budget and Research Department will separately review and approve funding availability prior to execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Responsible Department

This item is submitted by Deputy City Managers Ginger Spencer and Alan Stephenson, the Water Services Department and the City Engineer.



Utility Service Meter Cabinets - IFB 18-317 - Amendment (Ordinance S-50587)

Request to authorize the City Manager, or his designee, to execute amendment to Contract 148407 with JTB Supply Co., Inc. to modify the scope of work to include additional Utility Service Meter Cabinet Type A. Further request to authorize the City Controller to disburse all funds related to this item. The additional expenditures will not exceed \$600,000.

Summary

This contract will provide the Street Transportation Department use of these utility service meter cabinets at intersections throughout the City to provide power to traffic signals. In the event of a power outage, these cabinets will operate the traffic signals on battery power for up to eight hours. If the power outage is longer than eight hours, the City can plug in a generator to provide power, which will recharge the batteries and continue operating the traffic signal system.

Contract Term

The contract term remains unchanged, ending on Sept. 5, 2024, with an option to extend through Sept. 5, 2025.

Financial Impact

Upon approval of \$600,000 in additional funds, the revised aggregate value of the contract will not exceed \$2,500,000. Funds are available in the Street Transportation Department's budget.

Concurrence/Previous Council Action

The City Council previously approved:

- Utility Service Meter Cabinets Contract 148407 (Ordinance S-44970) on Sept. 5, 2018;
- Utility Service Meter Cabinets Contract 148407 Amendment (Ordinance S-48918) on Aug. 31, 2022; and
- Utility Service Meter Cabinets Contract 148407 Amendment (Ordinance S-50094) on Aug. 28, 2023.

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Street Transportation Department.



Fire Station 15 Architectural Services - FD57100031 (Ordinance S-50589)

Request to authorize the City Manager, or his designee, to enter into an agreement with Perlman Architects of Arizona, Inc. to provide Architectural Services that include: design and possible construction administration and observation services for the new Fire Station 15 project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The fee for services will not exceed \$500,000.

Additionally, request to authorize the City Manager, or his designee, to take all action as may be necessary or appropriate and to execute all design and construction agreements, licenses, permits, and requests for utility services related to the development, design and construction of the project. Such utility services include, but are not limited to: electrical, water, sewer, natural gas, telecommunication, cable television, railroads and other modes of transportation. Further request the City Council to grant an exception to Phoenix City Code 42-20 to authorize inclusion in the documents pertaining to this transaction of indemnification and assumption of liability provisions that otherwise should be prohibited by Phoenix City Code 42-18. This authorization excludes any transaction involving an interest in real property.

Summary

The purpose of this project is to build a new one-story fire station with four apparatus bays and 16 dorms to enable Phoenix Fire Department staff to support the surrounding community and create quicker response time to calls.

Perlman Architects of Arizona's services include, but are not limited to: general project administration, complete design drawings and specifications, commissioning, cost analysis, possible construction administration and observation services, materials testing coordination, and other work as required for a complete project.

Procurement Information

Perlman Architects of Arizona, Inc. was chosen for this project using a Direct Select process set forth in section 34-103 of the Arizona Revised Statutes (A.R.S.). The Direct Select process will reduce the time to procure architectural services as opposed

to an advertised selection process, meeting the project deadline and ensuring continuity and the most efficient use of staff and funding resources. Perlman Architects of Arizona, Inc is the designer of record for Fire Station 62. These plans will be site adapted to construction of Fire Station 15.

Contract Term

The term of the agreement is three years from the issuance of the Notice to Proceed. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

The agreement value for Perlman Architects of Arizona, Inc. will not exceed \$500,000, including all subconsultant and reimbursable costs.

Funding is available in the Fire Department's Capital Improvement Program budget. The Budget and Research Department will separately review and approve funding availability prior to execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Public Outreach

Planned activities during design include: provide presentation boards and renderings to support community meetings or outreach materials as needed during design.

Location

45th Avenue and Camelback Road
Council District: 5

Responsible Department

This item is submitted by Assistant City Manager Lori Bays, Deputy City Manager Alan Stephenson, the Fire Department and the City Engineer.



Cave Creek and Lone Mountain Waterline Connection - Construction Manager at Risk Construction Services - Amendment - WS85100032, WS85500451 and WS85400007 (Ordinance S-50592)

Request to authorize the City Manager, or his designee, to execute an amendment to Agreement 155550 with Garney Companies, Inc. to provide Construction Manager at Risk Construction Services for the Cave Creek and Lone Mountain Waterline Connection project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The fee for services will not exceed \$4,850,000.

Summary

The purpose of this project is to construct approximately one mile of new waterline to connect between existing infrastructure south of Carefree Highway and the new 10A-B1 Booster Pump Station (BPS). Approximately one mile of new waterline will also be constructed along Lone Mountain Road for system resiliency when the BPS is operational.

This amendment is necessary because of the change in cost due to market escalation and additional time due to unanticipated construction issues. This amendment will provide additional funds and time to the agreement.

Contract Term

The term of the agreement amendment is for an additional two years from issuance of the Notice to Proceed. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

The initial agreement for Construction Manager at Risk Construction Services was approved for an amount not to exceed \$14,050,000, including all subcontractor and reimbursable costs. This amendment will increase the agreement by an additional \$4,850,000, for a new total amount not to exceed \$18.9 million, including all

subcontractor and reimbursable costs.

Funding for this amendment is available in the Water Services Department's Capital Improvement Program budget. The Budget and Research Department will separately review and approve funding availability prior to execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Concurrence/Previous Council Action

The City Council approved:

- Construction Manager at Risk Preconstruction Services Agreement 153443 (Ordinance S-47136) on Dec. 2, 2020; and
- Construction Manager at Risk Construction Services Agreement 155550 (Ordinance S-48093) on Nov. 17, 2021.

Location

Cave Creek Road from Apache Rain Road to Carefree Highway; and Lone Mountain Road from Cave Creek Road to 56th Street
Council District: 2

Responsible Department

This item is submitted by Deputy City Managers Ginger Spencer and Alan Stephenson, the Water Services Department and the City Engineer.



Thomas Road and Indian School Road Traffic Signal Upgrades - Design-Bid-Build Services - ST89340584 (Ordinance S-50594)

Request to authorize the City Manager, or his designee, to accept AJP Electric, Inc. as the lowest-priced, responsive and responsible bidder and to enter into an agreement with AJP Electric, Inc. for Design-Bid-Build Services for the Thomas Road and Indian School Road Traffic Signal Upgrades project. Further request to authorize the City Controller to disburse all funds related to this item. The fee for services will not exceed \$4,928,213.50.

Summary

The purpose of this project is for safety by increasing visibility of the traffic signal and pedestrian crosswalk for four traffic signals along Thomas Road and Indian School Road located at Thomas Road and 71st Avenue, Thomas Road and 75th Avenue, Indian School Road and 51st Avenue, and Indian School Road and 67th Avenue.

AJP Electric, Inc.'s services include, but are not limited to: rebuild of the signals, add signal heads and flashing yellow left turn arrows, install crosswalk illumination and modify ramps per the American with Disabilities Act (ADA) requirements, and other work as required for a complete project.

Procurement Information

The selection was made using an Invitation for Bids procurement process set forth in section 34-201 of the Arizona Revised Statutes. Two bids were received on Dec. 12, 2023, and were sent to the Equal Opportunity Department for review to determine subcontractor eligibility and contractor responsiveness in demonstrating responsiveness to Disadvantaged Business Enterprise (DBE) program requirements.

The Opinion of Probable Cost and the two lowest responsive, responsible bidders are listed below:

- Opinion on Probable Cost: \$4,096,746
- AJP Electric, Inc.: \$4,928,213.50
- Combs Construction Company, Inc.: \$7,351,165.50

Although the bid exceeds the Engineer's Opinion of Probable Cost by more than 10

percent, it has been determined the bid represents a fair and reasonable price for the required work scope. Additionally, the bid award amount is within the total budget for this project.

Contract Term

The term of the agreement is 270 calendar days from issuance of the Notice to Proceed. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

The agreement value for AJP Electric, Inc. will not exceed \$4,928,213.50, including all subcontractor and reimbursable costs.

This project will utilize federal funds and is subject to the requirements of 49 Code of Federal Regulations Part 26 and the U.S. Department of Transportation DBE program. Funding is available in the Street Transportation Department's Capital Improvement Program budget. The Budget and Research Department will separately review and approve funding availability prior to execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Location

Thomas Road and Indian School Road
Council Districts: 4, 5 and 7

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson, the Street Transportation Department and the City Engineer.



Apply for U.S. Department of Transportation Saving Lives with Connectivity: Accelerating Vehicle to Everything Deployment Grant Opportunity for Federal Fiscal Year 2023-24 - Federal Bipartisan Infrastructure Law Funding (Ordinance S-50597)

Request to retroactively authorize the City Manager, or his designee, to apply for, accept and, if awarded, enter into an agreement(s) for disbursement of Federal funding from the U.S. Department of Transportation (USDOT) through the Federal Fiscal Year (FFY) 2024 Saving Lives with Connectivity: Accelerating Vehicle to Everything (V2X) Deployment grant opportunity. Further request to authorize the City Treasurer to accept, and the City Controller to disburse, all funds related to this item. Funding for this grant opportunity is available through the Federal Bipartisan Infrastructure Law. The total grant funds applied for will not exceed \$20 million, and the combination of City and private sector local match will not exceed \$7 million.

Summary

The V2X grant is a new funding program under the Bipartisan Infrastructure Law, which was signed into law on Nov. 15, 2021. The V2X grant offers private, public, and academic partners an opportunity to accelerate and spur new deployments of vehicle-to-everything technologies. The initiative is focused on road safety, mobility, and efficiency through technology that enables vehicles and wireless devices to communicate with each other and with roadside infrastructure and provide warnings.

The proposed grant submittal will provide red-light running data, near miss data, signal detection, and vehicle to everything technology. The proposed goals will be to reduce vulnerable road user incidents and risk, reduce red-light running risk, and improve the efficiency of City emergency vehicles by deploying onboard units for preemption and priority. The deployment will focus on 300 signalized intersections within the City's identified high-injury network while also focusing on the underserved communities in the region.

There is \$40 million available through this funding opportunity with a required minimum local match of 20 percent. The USDOT issued a Notice of Funding Opportunity on Oct. 26, 2023, and it was determined to be viable on Jan. 4, 2024. The grant application submittal deadline was Jan. 17, 2024.

Financial Impact

The grant application includes a public private partnership. The City's participation would be a combination of in-kind services for the installation and a matching funds, while private sector partners will provide in-kind engineering services.

The estimated total cost for the project is approximately \$27 million. The maximum federal participation rate is 80 percent, with a minimum local match of 20 percent of the total eligible project cost. If awarded, the federal participation would not exceed \$20 million (74 percent), the City's costs would be approximately \$6 million (22 percent) and private sector partners would provide an in-kind match of \$1 million (4 percent).

Funding for the local match is available in the Street Transportation Department's Capital Improvement Program budget.

Responsible Department

This item is submitted by Deputy City Managers Alan Stephenson and Mario Paniagua, and the Street Transportation Department.



Independent Construction Cost Evaluation On-Call Services (Ordinance S-50601)

Request to authorize the City Manager, or his designee, to enter into separate agreements with the three consultants listed below, to provide Independent Construction Cost Evaluation On-Call Services Citywide. Further request to authorize execution of amendments to the agreements as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The total fee for all services will not exceed \$9 million.

Additionally, request to authorize the City Manager, or his designee, to take all action as may be necessary or appropriate and to execute all design and construction agreements, licenses, permits, and requests for utility services relating to the development, design, and construction of the project. Such utility services include, but are not limited to: electrical, water, sewer, natural gas, telecommunications, cable television, railroads and other modes of transportation. Further request the City Council to grant an exception pursuant to Phoenix City Code 42-20 to authorize inclusion in the documents pertaining to this transaction of indemnification and assumption of liability provisions that otherwise should be prohibited by Phoenix City Code 42-18. This authorization excludes any transaction involving an interest in real property.

Summary

The On-Call consultants will be responsible for providing On-Call Independent Construction Cost Evaluation services that include, but are not limited to: preparing programming/design concept review level estimates; preparing detailed construction estimates; performing detailed quantity take-offs and providing quantity verifications; evaluating contractor proposals and providing support during negotiations for Construction Manager at Risk and Job Order Contract projects; conducting confidential market inquiries; evaluating Value Engineering proposals and alternatives; evaluating claims and providing support during settlement process; reviewing impact and estimation of non-City utilities or other agency coordination; preparing constructability review estimates; comparing site conditions and design plans to ensure actual field conditions are accurately depicted on the plans; recommending construction phasing

and the relative costs associated with phasing options; and checking project measurements and payment sections; and adequately address the scope of each bid item to ensure quantity take-off of major work items are valid.

Procurement Information

The selections were made using a qualifications-based selection process set forth in section 34-604 of the Arizona Revised Statutes (A.R.S.). In accordance with A.R.S. section 34-604(H), the City may not publicly release information on proposals received or the scoring results until an agreement is awarded. Seven firms submitted proposals and are listed below.

Selected Firms

Rank 1: Rider Levett Bucknall, LTD.

Rank 2: Marc Taylor, Inc.

Rank 3: Kitchell/CEM, Inc.

Additional Proposers

Rank 4: Hill International, Inc.

Rank 5: Dynamic Preconstruction Services, LLC

Rank 6: Capo Projects Group

Rank 7: Titanium Engineering

Contract Term

The term of each agreement is up to five years, or up to \$3 million, whichever occurs first. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

The agreement value for each of the On-Call consultants will not exceed \$3 million, including all subconsultant and reimbursable costs. The total fee for all services will not exceed \$9 million.

Funding is available in the Citywide Capital Improvement Program and Operating budgets. The Budget and Research Department will review and approve funding availability prior to issuance of any On-Call task order of \$100,000 or more. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson, the Street Transportation Department and the City Engineer.



Water Main Replacement - Area Bounded By: Indian Bend Road to Mockingbird Lane and 60th Street to Scottsdale Road - Construction Manager at Risk Construction Services Change Order 2 - WS85509054 (Ordinance S-50604)

Request to authorize the City Manager, or his designee, to execute a change order to Agreement 154200 with B & F Contracting, Inc. to provide additional Construction Manager at Risk Construction Services for the Water Main Replacement Area Bounded By: Indian Bend Road to Mockingbird Lane and 60th Street to Scottsdale Road project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The additional fee for services included in this change order will not exceed \$1.5 million.

Summary

The purpose of this project is to construct approximately 50,000 linear feet of new four-inch to eight-inch water mains throughout the area bounded by Indian Bend Road to Mockingbird Lane and 60th Street to Scottsdale Road. Also included is installation of approximately 27 new fire hydrants and 225 water services connections throughout the area.

This change order is necessary because of increased scope of work due to unforeseen conditions, material escalation, and additional modifications to complete the water main replacement project. This change order will provide additional funds to the agreement.

Contract Term

The contract term remains unchanged.

Financial Impact

The initial agreement for Construction Services was approved for an amount not to exceed \$10,862,382, including all subcontractor and reimbursable costs.

- Change Order 2 will increase the agreement by an additional \$1,500,000 for a new total amount not to exceed \$12,362,382.

Funding for this change order is available in the Water Services Department's Capital

Improvement Program. The Budget and Research Department will separately review and approve funding availability prior to the execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Concurrence/Previous Council Action

The City Council approved:

- CMAR Preconstruction Services Agreement 149800 (Ordinance S-45638) on May 15, 2019; and
- CMAR Construction Services Agreement 154200 (Ordinance S-47509) on May 5, 2021.

Location

Area bounded by Indian Bend Road to Mockingbird Lane and 60th Street to Scottsdale Road

Council District: Out of City

Responsible Department

This item is submitted by Deputy City Managers Ginger Spencer and Alan Stephenson, the Water Services Department and the City Engineer.



48th Street: South Pointe Parkway to Baseline Road - Design-Build Services Amendment - ST85100355 (Ordinance S-50605)

Request to authorize the City Manager, or his designee, to execute an amendment to Agreement 137514 with FNF Construction, Inc. to provide additional Design-Build Construction Services for the 48th Street: South Pointe Parkway to Baseline Road project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority as provided below, and for the City Controller to disburse all funds related to this item. The additional fee for services included in this amendment will not exceed \$3 million.

Summary

The purpose of this project is to improve the segment of 48th Street from the roundabout on South Pointe Parkway to Baseline Road to change the classification from a private local road to a standard section C-M major arterial and classify it as a public street with a 110-foot right-of-way.

This amendment is necessary because of changes to Salt River Project contracts, installation of additional electrical conduits and asphalt pavement, unforeseen utility conflicts, and various miscellaneous work required to complete the project. This amendment will provide additional funds and time to the agreement.

Contract Term

The term of the agreement amendment is 153 calendar days from the issuance of the Notice to Proceed. Work scope identified and incorporated into the agreement prior to the end of the term may be agreed to by the parties, and work may extend past the termination of the agreement. No additional changes may be executed after the end of the term.

Financial Impact

- The initial agreement for Design-Build Services was approved for an amount not to exceed \$50,000, including all subcontractor and reimbursable costs.
- Amendment 1 increased the agreement value by an additional \$418,546.99, for a new total amount not to exceed \$418,596.99, including all subcontractor and

reimbursable costs.

- Amendment 2 increased the agreement value by an additional \$5,825,000, for a new total amount not to exceed \$6,243,596.99, including all subcontractor and reimbursable costs.
- Amendment 3 increased the agreement value by an additional \$1,700,380, for a new total amount not to exceed \$7,943,976.99, including all subcontractor and reimbursable costs.
- This amendment will increase the agreement by an additional \$3,000,000, for a new total amount not to exceed \$10,943,976.99, including all subcontractor and reimbursable costs.

Funding for this amendment is available in the Street Transportation Department's Capital Improvement Program budget. The Budget and Research Department will separately review and approve funding availability prior to the execution of any amendments. Payments may be made up to agreement limits for all rendered agreement services, which may extend past the agreement termination.

Concurrence/Previous Council Action

The City Council approved:

- Design-Build Agreement 137514 (Ordinance S-40491) on Dec. 18, 2013;
- Design-Build Agreement 137514 Amendment (Ordinance S-43513) on May 10, 2017;
- Design-Build Agreement 137514 Amendment (Ordinance S-45696) on June 5, 2019;
- Design-Build Agreement 137514 Amendment (Ordinance S-47882) on Aug. 25, 2021; and
- Design-Build Agreement 137514 Amendment (Ordinance S-48771) on June 15, 2022.

Location

48th Street from the roundabout on South Pointe Parkway to Baseline Road
Council District: 6

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson, the Street Transportation Department and the City Engineer.



Request to Revoke Contract 154012-0 (Revocable Permit 2020101) (Ordinance S-50606)

Request to authorize the City Manager, or his designee, to revoke a permit, Contract 154012-0. Subject to City Code section 31-80(H), revocable permits authorized by the City Manager are subject to revocation at any time at the discretion of the Street Transportation Director with ratification by the City Council.

Summary

It was determined the existing revocable permit, approved through Contract 154012-0, did not accurately account for all nonstandard items in the right of way. As a result, a new revocable permit, Contract 159469-0, was issued for the same property and ownership at the southeast corner of Garfield Street and 6th Street for the use and maintenance of approximately 1,495 square feet of shade canopy, outdoor dining with tables and chairs, benches, planter pots, trash receptacles, bike racks and bike station, (2) Fire Department Connection (FDC) locations, raised steel edging at planters and gas meter with enclosure within the City public right-of-way. This request is made to remove duplication of contracts assigned to the property and the owner.

Financial Impact

There is no financial impact.

Location

815-821 N. 6th St (southeast corner of Garfield Street and 6th Street)
Council District: 8

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson, the Street Transportation Department and the City Engineer.



Apply for U.S. Department of Transportation Rebuilding American Infrastructure with Sustainability and Equity Grant Opportunity for Federal Fiscal Year 2023-24 - Federal Bipartisan Infrastructure Law Funding (1 of 2) (Ordinance S-50611)

Request to authorize the City Manager, or his designee, to apply for, accept and, if awarded, enter into an agreement for disbursement of Federal funding from the U.S. Department of Transportation (USDOT) through the Federal Fiscal Year (FFY) 2023-24 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant opportunity. If awarded, the funding will be used to evaluate and update the design of the Laveen Area Conveyance Channel. Further request to authorize the City Treasurer to accept, and the City Controller to disburse, all funds related to this item. Funding for this grant opportunity is available through the Federal Bipartisan Infrastructure Law. The total grant funds applied for will not exceed \$5.2 million, and the City's local match would not exceed \$1.3 million.

Summary

The Parks and Recreation and Street Transportation departments are collaborating on a planning grant submittal for the Laveen Area Conveyance Channel. The purpose of the planning grant is to evaluate and update the design of a dual-purpose amenity channel that extends 5.5 miles in the Laveen Village of Phoenix, serving to capture and convey local regional drainage while also serving the community as an active transportation corridor. The goal of the planning grant will be to evaluate and make recommendations that would best serve the existing transportation amenity, including but not limited to improvements to the existing channel design, and to design a 10-foot multi-use path on the north side, including landscaping, updated irrigation, turf improvements, exercise equipment, improved drainage system equipment, a booster pump and well, path lighting, and other transportation or green infrastructure appropriate for the surrounding corridor. This planning project will meet the grant criteria for competitiveness. The U.S. Department of Transportation issued a Notice of Funding Opportunity for the FFY 2023-24 RAISE grant program on Nov. 30, 2023. The deadline for application submittal is Feb. 28, 2024. RAISE grants are awarded on a competitive basis considering these evaluative criteria:

- Improves safety,
- Environmental justice and equity,

- Sustainability,
- Quality of life,
- Mobility and community connectivity,
- Economic competitiveness and opportunity,
- State of good repair,
- Partnership and collaboration,
- Innovative,
- Project readiness, and
- Cost effective.

The FFY 2023-24 RAISE planning grant specifies no minimum award amount for urban projects and no greater than \$25 million.

Financial Impact

The estimated total cost for the project is approximately \$6.5 million. The maximum federal participation rate is 80 percent, with a minimum local match of 20 percent of the total eligible project cost. If awarded, the federal match would not exceed \$5.2 million (80 percent) and the City's cost would be approximately \$1.3 million (20 percent) for the local match.

Funding for the local match is available in the Parks and Recreation Department's Capital Improvement Program budget.

Location

Council Districts: 7 and 8

Responsible Department

This item is submitted by Deputy City Managers Alan Stephenson, Inger Erickson and Mario Paniagua, and the Street Transportation and Parks and Recreation departments.



Apply for U.S. Department of Transportation Rebuilding American Infrastructure with Sustainability and Equity Grant Opportunity for Federal Fiscal Year 2023-24 - Federal Bipartisan Infrastructure Law Funding (2 of 2) (Ordinance S-50609)

Request to authorize the City Manager, or his designee, to apply for, accept and, if awarded, enter into an agreement for disbursement of Federal funding from the U.S. Department of Transportation (USDOT) through the Federal Fiscal Year (FFY) 2023-24 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant opportunity. Further request to authorize the City Treasurer to accept, and the City Controller to disburse, all funds related to this item. Funding for this grant opportunity is available through the Federal Bipartisan Infrastructure Law. The total grant funds applied for will not exceed \$5.2 million for the planning grant and \$40 million for the capital construction grant, and the City's local match would not exceed \$1.1 million and \$11 million, respectively. Additionally request, if awarded, to enter into separate agreements with Arizona State University and Mayo Clinic regarding their financial commitments.

Summary

The Street Transportation Department is submitting two separate grant applications for consideration under the FFY 2023-24 USDOT RAISE grant. The first grant submittal is a planning grant that would be used to engage with the community on the final design and environmental study for a multi-modal transportation improvement project along the scenic, historic Dobbins Road corridor between 27th and Central avenues. The project would include bicycle and pedestrian improvements; new curb, gutter, sidewalk, and streetlights; and Americans with Disabilities Act (ADA) and transit improvements.

The second grant submittal would be a capital construction grant to advance the detailed design of a new 1.2-mile multi-lane roadway on 64th Street from Bell Road to Mayo Boulevard. It would also provide the funding to construct the new roadway, including a new roadway bridge across the Central Arizona Project (CAP) Canal that would connect Phoenix residents south of the canal to a growing educational, medical, and commercial area north of the canal to Mayo Boulevard. In addition to the new roadway connection, the project would include multi-modal amenities, including bike lanes and pedestrian facilities, streetlights, traffic signals, and drainage improvements.

The project will include a public-private partnership with both Arizona State University and Mayo Clinic, each with a financial commitment of up to \$2 million.

The USDOT issued a Notice of Funding Opportunity for the FFY 2023-24 RAISE grant program on Nov. 30, 2023. The deadline for application submittal is Feb. 28, 2024. RAISE grants are awarded on a competitive basis considering these evaluative criteria:

- Improves safety,
- Environmental justice and equity,
- Sustainability,
- Quality of life,
- Mobility and community connectivity,
- Economic competitiveness and opportunity,
- State of good repair,
- Partnership and collaboration,
- Innovative,
- Project readiness, and
- Cost effective.

The FFY 2023-24 RAISE grant specifies that the minimum award amount for urban projects must be at least \$5 million and no greater than \$25 million.

Financial Impact

The estimated total cost for each project is approximately \$5.2 million for the planning grant and \$40 million for the capital construction grant. The maximum federal participation rate is 80 percent, with a minimum local match of 20 percent of the total eligible project cost. If awarded, the federal planning grant would not exceed \$4.1 million (79 percent), and the City's cost would be approximately \$1.1 million (21 percent) for the local match. The federal capital construction grant would not exceed \$25 million (69 percent), and the City's cost would be approximately \$11 million (31 percent). A separate public-private partnership agreement with Arizona State University and Mayo Clinic would be required for their participation of up to \$4 million toward the capital construction grant.

Funding for the local match is available in the Street Transportation Department's budget.

Location

Council Districts: 2 and 8

Responsible Department

This item is submitted by Deputy City Managers Alan Stephenson and Mario Paniagua and the Street Transportation Department.



Apply for U.S. Bureau of Reclamation Grant Opportunity for Federal Fiscal Years 2023 and 2024 - WaterSMART: Title XVI congressionally Authorized Water Reclamation and Reuse Projects (Ordinance S-50582)

Request to authorize the City Manager, or his designee, to retroactively apply for, and if awarded, accept, and enter into an agreement for disbursement of Federal funding from the U.S. Bureau of Reclamation, funding announcement number R23AS00463. If awarded, the funding will be used for the 91st Avenue Wastewater Treatment Plant (WWTP) Solids Improvements Phase 2 project. Further request to authorize the City Treasurer to accept, and the City Controller to disburse, all funds related to this item. The total grant funds applied for will not exceed \$4 million, and the City's local match would not exceed \$3 million.

Summary

The WaterSMART Program provides a framework for Federal leadership and assistance to stretch and secure water supplies for future generations in support of the Department's priorities. Through WaterSMART, the Bureau of Reclamation leverages Federal and non-Federal funding to support stakeholder efforts to stretch scarce water supplies and avoid conflicts over water. If grant funding is awarded, the 91st Avenue WWTP Solids Improvements Phase 2 project will develop an engineering design that includes improved biological treatment of residuals from the WWTP to meet future regulations. The design will entail enhancements that will enable the plant to continue to treat residual solids reliably and successfully and thus improve overall quality of the plant effluent. These enhancements are a critical element in the development of the Advanced Water Purification program, since the WWTP's effluent will be used to produce reclaimed water.

If awarded, the City of Phoenix will use grant funds for design for the following:

- digester mixing/Mixing pumps;
- digester control buildings;
- electrical power, controls and instrumentation;
- and digester dome replacement.

The grant submittal deadline was Dec. 7, 2023.

Financial Impact

The estimated total cost for the project is approximately \$4 million. The maximum federal participation rate is 25 percent with a minimum local match of 75 percent of the total eligible project cost. If awarded, the federal match would not exceed \$1 million and the City's costs would be approximately \$3 million for the local match.

Funding for the local match on awarded grants will be incorporated into future Capital Improvement Program budgets, and is anticipated to utilize revenue funds. Potential grant funding received is available through the U.S. Bureau of Reclamation.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the Water Services Department.



Polymers - IFB- 1718- 36 - Amendment (Ordinance S-50593)

Request to authorize the City Manager, or his designee, to execute amendment to Agreement 146988 with Polydyne, Inc. to provide additional time and funding to the agreement. Further request to authorize the City Controller to disburse all funds related to this item. The additional expenditures will not exceed \$48,000,000.

Summary

The purpose of the amendment is to extend the term of the agreement for an additional four years and add incremental funds to continue the supply of potable polymers for water production and non-potable polymers for the treatment of wastewater for the Water Services Department. The additional time and funds will allow the Wastewater and Water Production Divisions to continue to provide quality water services to the City's water customers without interruption or adding significant cost to the department operations.

This agreement is used for supplying polymer products that are proprietary to Polydyne, Inc. which are compliant with the City's Water Production and Wastewater production systems. Polydyne, Inc. is one of the largest providers of proprietary polymers in the industry.

Contract Term

This amendment will extend the end date of the agreement term from Feb. 29, 2024 to Feb. 28, 2028.

Financial Impact

The initial authorization for Polymers was for an expenditure not-to-exceed \$25,000,000. An amendment increased the authorization for the agreement by \$16,862,000. This amendment will increase the authorization for the agreement by an additional \$48,000,000, for a new total not-to-exceed agreement value of \$89,862,000.

Concurrence/Previous Council Action

The City Council previously reviewed this request:

Polymers Contract 146988 (Ordinance S-44265) on Feb. 21, 2018.

Polymers Contract 146988 (Ordinance S-48863) on July 1, 2022.

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the Water Services Department.



Intergovernmental Agreement with Arizona Department of Transportation to Protect City of Phoenix Water Main at Interstate 17 and Greenway Road (Ordinance S-50595)

Request to authorize the City Manager, or his designee, to enter into an Intergovernmental Agreement with the Arizona Department of Transportation to protect an existing water main at Interstate 17 (I-17) and Greenway Road impacted during the I-17 Drainage Improvement Project. Further request to authorize execution of amendments to the agreement as necessary within the Council-approved expenditure authority, as provided below, and for the City Controller to disburse all funds related to this item. The total value of this agreement will not exceed \$45,000.

Additionally, request to authorize the City Manager, or his designee, to take all action as may be necessary or appropriate and to execute all design and construction agreements, licenses, permits, and requests for utility services relating to the development, design, and construction of the project. Such utility services include, but are not limited to: electrical; water; sewer; natural gas; telecommunications; cable television; railroads and other modes of transportation.

Also request the City Council to grant an exception pursuant to Phoenix City Code section 42-20 to authorize inclusion in the documents pertaining to this transaction of indemnification and assumption of liability provisions that otherwise would be prohibited by Phoenix City Code section 42-18. This authorization excludes any transaction involving an interest in real property.

Summary

The I-17 Drainage Improvement Project upgraded cross street drainage facilities along I-17 from Greenway Road to the Arizona Canal Diversion Channel north of Dunlap Avenue. The Water Services Department owns a 48-inch water main crossing I-17 at Greenway Road. This water main was installed after I-17 was constructed. Therefore, the water main does not have prior rights and if in conflict, must be relocated at the expense of the City. Arizona Department of Transportation (ADOT) modified their design and construction to protect the existing 48-inch water main in place. The City will reimburse ADOT for the construction costs associated with the modifications.

Contract Term

The term of this agreement is one year from the effective date.

Financial Impact

The total value for this agreement will not exceed \$45,000. Funding for this project is available in the Water Services Department's Capital Improvement Program Budget.

Location

I-17 at Greenway Road
Council Districts: 1 and 3

Responsible Department

This item is submitted by Deputy City Manager Ginger Spencer and the Water Services Department.



Final Plat - Meritum Sonoran Desert - PLAT 230015 - Northwest Corner of 29th Avenue and Sonoran Desert Drive

Plat: 230015

Project: 21-2303

Name of Plat: Meritum Sonoran Desert

Owner: Acero Sonoran Desert SPE, LLC, 4655 N. 56th Street, LLC, and Bloomquist Sonoran, LLC

Engineer: Kirk J. Pangus, RLS

Request: A Two-Lot Commercial Plat

Reviewed by Staff: Jan. 26, 2024

Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located at the northwest corner of 29th Avenue and Sonoran Desert Drive
Council District: 2

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - Verdin-Development Parcel A1 - PLAT 230032 - West of Cave Creek Road and South of Sonoran Desert Drive

Plat: 230032
Project: 18-2079
Name of Plat: Verdin-Development Parcel A1
Owner: Taylor Morrison
Engineer: Brian J. Benedict, RLS
Request: A 114-Lot Residential Subdivision Plat
Reviewed by Staff: Jan. 18, 2024
Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located west of Cave Creek Road and south of Sonoran Desert Drive
Council District: 2

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - Verdin-Development Parcel A2 - PLAT 230033 - West Cave Creek Road and South of Sonoran Desert Drive

Plat: 230033
Project: 18-2079
Name of Plat: Verdin-Development Parcel A2
Owner: Taylor Morrison
Engineer: Brian J. Benedict, RLS
Request: A 111-Lot Residential Subdivision Plat
Reviewed by Staff: Jan. 18, 2024
Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located west of Cave Creek Road and south of Sonoran Desert Drive
Council District: 2

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - Verdin-Development Parcel A3 - PLAT 230034 - West of Cave Creek Road and South of Sonoran Desert Drive

Plat: 230034
Project: 18-2079
Name of Plat: Verdin-Development Parcel A3
Owner: Taylor Morrison
Engineer: Brian J. Benedict, RLS
Request: A 40-Lot Residential Subdivision Plat
Reviewed by Staff: Jan. 18, 2024
Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located west of Cave Creek Road and south of Sonoran Desert Drive
Council District: 2

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - Verdin-Development Parcel A4 - PLAT 230031 - West of Cave Creek Road and South of Sonoran Desert Drive

Plat: 230031
Project: 18-2079
Name of Plat: Verdin-Development Parcel A4
Owner: Taylor Morrison
Engineer: Brian J. Benedict, RLS
Request: A 148-Lot Residential Subdivision Plat
Reviewed by Staff: Jan. 18, 2024
Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located west of Cave Creek Road and South of Sonoran Desert Drive
Council District: 2

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - Encantado Estates - PLAT 230101 - Northwest Corner of Encanto Boulevard and 79th Avenue

Plat: 230101

Project: 21-962

Name of Plat: Encantado Estates

Owner: FSB Encanto, LLC and Encanto Land QOZB, LLC

Engineer: Colin D. Harvey, RLS

Request: A One-Lot Residential Plat

Reviewed by Staff: Jan. 17, 2024

Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located at the northwest corner of Encanto Boulevard and 79th Avenue

Council District: 5

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - 134 E. Bethany Home Road - PLAT 230107 - Northwest Corner of Bethany Home Road and 2nd Street

Plat: 230107

Project: 99-39823

Name of Plat: 134 E. Bethany Home Road

Owner: DL Dalton, LLC

Engineer: Lance C. Dickson, RLS

Request: A Two-Lot Detached Single Family Subdivision Plat

Reviewed by Staff: Jan. 12, 2024

Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located at the northwest corner of Bethany Home Road and 2nd Street

Council District: 6

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - 56th Street & Camelback - PLAT 230097 - East of 56th Street and North of Camelback Road

Plat: 230097
Project: 19-1919
Name of Plat: 56th Street & Camelback
Owner: True Freedom Investments, LLC
Engineer: James A. Loftis, RLS
Request: A Four-Lot Residential Plat
Reviewed by Staff: Jan. 25, 2024
Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located east of 56th Street and north of Camelback Road
Council District: 6

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Final Plat - Sunland Manor - PLAT 220087 - Northwest Corner of Sunland Avenue and 15th Avenue

Plat: 220087
Project: 21-3703
Name of Plat: Sunland Manor
Owner: PV-V Arcadia Sunland, LLC
Engineer: Robert J. Blake, RLS
Request: A 38-Lot Residential Subdivision Plat
Reviewed by Staff: Jan. 22, 2024
Final Plat requires Formal Action Only

Summary

Staff requests that the above plat be approved by the City Council and certified by the City Clerk. Recording of the plat dedicates the streets and easements as shown to the public.

Location

Generally located at the northwest corner of Sunland Avenue and 15th Avenue
Council District: 7

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Historic Preservation Exterior Rehabilitation Grants (Ordinance S-50598)

Request for approval of 14 Historic Preservation Exterior Rehabilitation Grants for Fiscal Year (FY) 2023-24 totaling \$226,497. In exchange for receiving grant funds, the property owners agree to sell the City a 15- or 20-year conservation easement to protect the historic character of the property's exterior. Further request authorization for the City Controller to disburse all funds related to this item.

Summary

Applications for the FY 2023-24 Exterior Rehabilitation grant program were due on Nov. 17, 2023. A total of 38 property owners submitted applications. Eleven of these were disqualified because they were incomplete or requested less than the \$5,000 minimum grant amount. The remaining 27 applications were forwarded to the Exterior Rehabilitation grant panel for evaluation.

A panel consisting of staff, a member of the Historic Preservation Commission, and a past grant recipient met on Dec. 15, 2023, to review the applications. Scoring criteria included whether the application followed historic preservation standards; addressed the physical needs of the property; reflected a logical sequence or logical planning of an overall rehabilitation project; resulted in a positive visual impact on the historic appearance of the property and streetscape; addressed a critical maintenance issue; and returned a vacant building to productive use. Additional points were awarded for projects that were individually listed or in a priority historic district (Brentwood, East Evergreen, Garfield, Idylwilde Park, North Garfield, Oakland, Phoenix Homesteads, Roosevelt Park, Villa Verde, and Woodland), as well as for the significance and integrity of the property, the adequacy of the proposed bids and budget, and for the overall quality of the application.

The panel recommended the 14 grant applications listed below for a total of \$226,497. Panel members agreed that the next highest application, which requested \$20,000 and received a score of 33.7, as well as those that scored lower, should not be funded. Applicants who are not recommended for funding will be encouraged to meet with staff to improve their application and resubmit it during a future round.

- Marc Bianco; 32 E. Hoover Ave.; Ashland Place - install new asphalt shingle roof.

Score: 42.5. Amount: \$5,400.

- Cristi Pettibone; 520 W. Portland St.; Roosevelt - repair wood windows. Score: 42.4. Amount: \$11,078.
- Robert Madera; 1921 W. Palm Lane; Villa Verde - repair foundation. Score: 42.3. Amount: \$19,968.86.
- Jennifer and Michael Hauer; 325 W. Lewis Ave.; Willo - install new wood shingle roof. Score: 42.1. Amount: \$14,184.
- Zachariah Collins and Rebecca Cohen-Collins; 901 W. Lynwood St.; F Q Story - repair steel windows. Score: 41.7. Amount: \$20,000.
- Hue-Tam Jamme; 1104 E. Taylor St.; Garfield - install new asphalt shingle roof. Score: 41.5. Amount: \$5,375.
- Sarah Bingham and Brett Long; 2041 N. 11th St.; Coronado - repair foundation. Score: 40.7. Amount: \$17,869.65.
- Kevin and Allison McGinnis; 2213 N. Laurel Ave.; Fairview Place - repair foundation. Score: 40.3. Amount: \$15,689.69.
- Betty and Harvey Hartzler; 1702 W. Thomas Road; North Encanto - repair tile roof. Score: 40.1. Amount: \$20,000.
- Brian Poirier and Erin Finkelstein; 522 W. Monte Vista Road; Willo - repair foundation. Score: 39.9. Amount: \$20,000.
- Mary Parot; 34 E. Colter St.; Windsor Square - install new asphalt shingle roof, masonry repair. Score: 39.7. Amount: \$20,000.
- Wixom Family Trust; 1602 W. Encanto Blvd.; Del Norte Place - repair foundation. Score: 39.1. Amount: \$20,000.
- D.L.D. Living Trust; 303 E. Colter St.; Windsor Square - repair steel windows. Score: 38.9. Amount: \$20,000.
- The MT Trust; 1617 W. Virginia Ave.; Del Norte Place - repair steel windows. Score: 38.8. Amount: \$16,932.

In exchange for the grant funds, the property owners agree to sell the City a conservation easement to protect the historic character of the properties' exteriors. The term of the easement will be 15 years for grant amounts \$10,000 or less or 20 years for grant amounts between \$10,001 and \$20,000. The conservation easement will be

recorded on the property's title and will run with the land.

Financial Impact

The 14 grant awards total \$226,497. Funds are available in the General Fund Historic Preservation operating budget.

Concurrence/Previous Council Action

The Historic Preservation Commission recommended approval of this item on Jan. 8, 2024, by an 8-0 vote.

The City Council Transportation Infrastructure and Planning Subcommittee heard this item on Jan. 31, 2024, and voted to approve the Historic Preservation Commission's recommendation and recommend City Council approval, by a 4-0 vote.

Location

Twelve of the residential property addresses above are located in District 4, one is in District 7, and one is in District 8

Council Districts: 4, 7 and 8

Responsible Department

The item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



Amendments to the Phoenix City Code Chapter 31, Chapter 32, and Appendix A.2 Related to Plat Approval Process (Ordinance G-7233)

Request to authorize the City Manager, or his designee, to approve an Ordinance to amend the Phoenix City Code in areas related to the plat approval process.

Summary

The State of Arizona Senate Bill 1103 approved on March 3, 2023, allows the legislative body of a city to authorize personnel to review and approve preliminary plats, final plats and plat amendments without an administrative approval by the City Council. The proposed amendments to the city code will allow the Planning and Development Director or his designee to approve plats. The following sections of Phoenix City Code will be amended:

- Section 31-102.f.2 Street Improvements - Assessment procedure
- Section 32-3 Definitions
- Division 3. Final Plat
- Section 32-19.B Final Plat Submission
- Section 32-20.C Final Plat Review
- Section 32-21 Final Plat Approval
- Section 32-36 Approval by the City Council
- Appendix A.2 Glossary of Terms - Plat, Final

Amending the plat approval process to allow approval by the Planning and Development Director or his designee will reduce the amount of time for customers to receive final approval of their plats by approximately 30 days. This time savings will speed up the overall development process. The effective date of these amendments will be April 1, 2024.

Concurrence

The Development Advisory Board (DAB) recommended approval of these amendments at their Jan. 18, 2024, meeting.

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.

ATTACHMENT A

**THIS IS A DRAFT COPY ONLY AND IS NOT AN OFFICIAL COPY OF THE FINAL,
ADOPTED ORDINANCE**

ORDINANCE G-

AN ORDINANCE AMENDING PHOENIX CITY CODE
CHAPTER 31, CHAPTER 32, AND APPENDIX A.2; AND
ESTABLISHING AN EFFECTIVE DATE OF APRIL 1, 2024.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as

follows:

SECTION 1. Phoenix City Code Chapter 31 is hereby amended as

follows:

Sec. 31-102. Street improvements—Assessment procedure.

* * *

f. The manner of collecting unpaid assessments shall be as follows:

* * *

2. The Planning and Development Director shall collect any unpaid assessment prior to the City Council's PLANNING AND DEVELOPMENT DIRECTOR'S OR THEIR DESIGNEE approval of any final subdivision plat which plat will result in a subdivision of assessed property pursuant to chapter 32 of the Phoenix City Code.

* * *

SECTION 2. Phoenix City Code Chapter 32 is hereby amended as

follows:

Sec. 32-3. Definitions.

* * *

Abandonment by plat means the procedure whereby the owner of land may abandon temporary easements and landscape easements by including those easements on a subdivision plat. Such easements are abandoned, removing any City interest therein, upon approval of the plat by the ~~City Council~~ PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE and recording of the plat in the office of the County Recorder. *Roadway*, as defined by Section 31-63 of the City Code, can be abandoned by plat only if processing of the plat complies with the requirements of Section 31-63 et seq. of the City Code.

* * *

Final approval means the unconditional approval of the final plat, INCLUDING THE ACCEPTANCE OF ALL THE RIGHTS-OF-WAY, EASEMENTS AND OTHER PROPERTY INTERESTS DEDICATED TO THE CITY PER THE FINAL PLAT, by the ~~Council~~ PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE as evidenced by certification on the plat by the Phoenix City Clerk authorizing recordation of the plat.

* * *

SECTION 3. Phoenix City Code, Chapter 32, Division 3 is hereby amended as follows:

Division 3. Final Plat

The final plat stage includes the final design of the subdivision, engineering of public improvements, and submittal of the plat and plans by the subdivider. It includes review of the final plat by the Planning and Development Department, and if applicable, the City of Phoenix Floodplain Ordinance and the Arizona Department of Transportation, and final APPROVAL ~~action taken~~ by the ~~Council~~ PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE.

SECTION 4. Phoenix City Code, Chapter 32 is hereby amended as follows:

Sec. 32-19. Final plat submission.

A. The subdivider shall file with the Planning and Development Department the final plat, with a letter of transmittal, and a fee for final plat review (non-refundable) as set forth in Appendix A.2 of the City Code.

B. The City Clerk shall be responsible for recording all plats with the Maricopa County Recorder's office. Once a subdivision plat AND ALL ENGINEERING PLANS ARE ~~is~~ approved by the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE and ~~all of the engineering plans have been approved by the Planning and Development Department,~~ the Department will not hold the recording at the request of the subdivider for longer than 90 days from the date of the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE'S approval unless extended by Section 32-21, or by the Planning and Development Director. One copy shall be kept on file in the City Clerk's Department for public access.

Sec. 32-20. Final plat review.

A. Upon receipt of the final plat submittal, the Department shall check it for completeness. If incomplete, the date of the filing shall be voided, and the submittal shall be returned to the subdivider. If complete, the Department shall review the plat for substantial conformity to the approved preliminary plat and route copies of the submittal to the appropriate reviewing offices.

~~1. City Parks and Recreation Department, when applicable;~~

2. Street Transportation Department, Floodplain Management Section, for review where the plat includes or abuts an area of special flood hazard; and

3. Arizona Department of Transportation (ADOT), for approval (where the plat abuts a State highway).

3. ANY APPLICABLE CITY DEPARTMENTS

B. The Department shall prepare a concise summary of recommendations. In the event that the Department finds that the final plat does not conform to the preliminary plat as approved, the final plat shall be returned to the applicant for corrections. The final submittal process shall MAY be repeated until EITHER all requirements are met, OR THE EXPIRATION OF THE PRELIMINARY PLAT APPROVAL.

C. THE PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE SHALL APPROVE THE FINAL PLAT IF THE FINAL PLAT CONFORMS TO THE PRELIMINARY PLAT AND ALL APPLICABLE REQUIREMENTS. Upon final plat approval the subdivider shall submit the original plat with all required owner signatures and certifications for City signature. The Planning and Development Director OR THEIR DESIGNEE shall sign the APPROVED FINAL plat. ~~The Department shall determine the next available Council approval date. The Department shall transmit the plat to the City~~

~~Clerk and the request for Council approval to the City Manager's office.~~

D. THE PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE'S DECISION UNDER THIS SECTION IS THE FINAL ADMINISTRATIVE DECISION.

32-21. Final plat approval.

~~A. Upon receipt of a request for Council action from the City Manager, the Clerk shall place the case on the agenda of the next regular Council meeting, whereupon the Council shall approve or deny the plat.~~

~~B A. If the Council approves the plat, the CITY Clerk shall transcribe a certificate of approval upon the plat, first making sure that the other required certifications (see Section 32-24 (F)) have been duly signed, and that the Department has certified that all of the civil engineering plans have been approved.~~

~~C B. The City Clerk shall notify the Planning and Development Department of all plats for which a certification of approval of engineering plans has not been received within 90 days of final plat approval by the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE. The Subdivision Committee, upon receipt of valid written justification, may extend the period for up to 90 days. The Planning and Development Department will subsequently report the status of the plat to the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE with one of the following recommendations:~~

- ~~1. The Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE should revoke approval of the final plat and require the applicant to resubmit the final plat to the Department for review (with payment of fees) and reapproval by the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE. This review may require additional dedications or improvements, or a revised plat if conditions or ordinances have changed since the Council's PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE'S approval of the final plat; or~~
- ~~2. The Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE may extend the time for the approval of engineering plans for a specific period of time not to exceed 90 days.~~

~~D C. A subdivider may withdraw an approved plat by submitting a written request to the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE through the Planning and Development Department. The Council PLANNING AND DEVELOPMENT DIRECTOR or their designee may formally rescind its approval and void the plat.~~

~~E D. When the plat (reference subsection C of this section) has been revoked by the Council PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE, or withdrawn by the subdivider (reference subsection D of this section), the City Clerk shall~~

transmit the plat to Planning and Development Department who shall return it to the subdivider or engineer. If the subdivider or engineer cannot be found or does not respond within 60 days, the plat will be destroyed.

* * *

Sec. 32-36. Approval by the ~~City Council~~ PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE.

The approval by the ~~City Council~~ PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE of the final plat is subject to the following conditions:

* * *

SECTION 5. The Appendix A.2, Phoenix City Code, Part 22 is amended as follows:

Part 22. Glossary of Terms

* * *

PLAT, FINAL: A map dividing property and dedicating public right-of-way in final form with all required owner signatures that is ready for the ~~City Council~~ PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE approval and recording.

* * *

SECTION 6. The effective date of this Ordinance shall be April 1, 2024

PASSED by the Council of the City of Phoenix this 21st day of February, 2024.

MAYOR

ATTEST:

Denise Archibald, City Clerk

APPROVED AS TO FORM:
Julie M. Kriegh, City Attorney

By: _____

REVIEWED BY:

Jeffrey Barton, City Manager

PML:ac:(**LF24-0149**):2-21-24:

Draft



Public Hearing - Certificate of Economic Hardship (HP-229-23-ECH and HP-231-23-ECH) - Appeal of Historic Preservation Commission's Decision - 333-337 N. 7th Ave. (332-334 N. 6th Ave.)

Request to hold a public hearing on Certificate of Economic Hardship Decisions (HP-229-23-ECH and HP-231-23-ECH) by the Historic Preservation (HP) Commission on Demolition Applications HP-217-23-DEM and HP-218-23-DEM for the property at 333-337 N. 7th Ave. (a.k.a. 332-334 N. 6th Ave.), Phoenix Laundry & Dry Cleaning (a.k.a. Milum Textile Services), for total demolition at the subject property. The property is zoned DTC-Van Buren (Downtown Code - Van Buren Character Area), although an application for HP overlay zoning (Z-117-23-8), initiated by the HP Commission, is pending and scheduled to come before City Council on May 1, 2024. Requested City Council action is to uphold the Historic Preservation Commission's denial of the Certificate of Economic Hardship as the standards set forth in the Ordinance have not been met.

Summary

Applications to demolish the subject property were filed in October 2023, with a 30-day demolition hold commencing on Oct. 13, 2023. During the 30-day period, HP staff researched the property and recommended it eligible for HP zoning, concurring with a previous recommendation of eligibility from the 1984 *Historic Phoenix Commercial Properties Survey*. The Phoenix Dry Cleaning & Laundry property qualifies for historic designation. It is historically significant for its association with commercial development in early Phoenix and is architecturally significant for its Streamlined Moderne-style design and use of multiple lamella roofs. Despite some changes, the property retains a high degree of historic integrity, still resembling its 1935 appearance (**Appendix A**).

On Nov. 20, 2023, the HP Commission initiated HP zoning for the northern portion of the property, prior to the end of the 30-day hold (**Appendix B**). Once the HP zoning was initiated (Z-117-23-8), the HP Officer revisited the demolition requests under Section 806 of the Zoning Ordinance and denied them, since the property was deemed to have historic value. A hearing was then scheduled, per Section 806.E.3 of the Zoning Ordinance, to allow the applicant to dispute the historic eligibility of the property or to establish that an economic hardship exists. The HP Hearing Officer heard the case on Dec. 8, 2023, and denied the demolition requests, finding that the

applicant had failed to establish that the property was ineligible or that an economic hardship existed. The owners appealed the decision of the HP Hearing Officer to the HP Commission. The HP Commission upheld the denial decision of the hearing officer at its Jan 1, 2024, meeting. The owner appealed the decision of the HP Commission on Jan. 9, 2024.

Standards for Granting Demolition Approval

Section 806.E.5 states that for properties under consideration for HP designation, a demolition permit shall only be granted if the applicant demonstrates one of the following:

- A. That the building is of minimal historic significance because of its location, condition, modifications, or other factors, and its demolition shall be inconsequential to historic preservation needs of the area; or
- B. If the building is determined to have historic or architectural significance, that the denial of the demolition permit will result in an economic hardship to the property owner. Such hardship shall be determined in accordance with Section 814.

Section 814 states that the basis to establish economic hardship for an income producing property shall be that a reasonable rate of return cannot be obtained from the property in either its present condition or if its historic features or structures are rehabilitated. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:

- 1. Willful or negligent acts by the owner;
- 2. Purchase of the property for substantially more than market value;
- 3. Failure to perform normal maintenance and repairs;
- 4. Failure to diligently solicit and retain tenants; or
- 5. Failure to provide normal tenant improvements.

In this case, the applicant has not disputed the historic significance of the property, so the question at hand is whether an economic hardship exists. To establish whether a hardship exists, the applicant must submit required items on the Checklist for Requests for Certification of Economic Hardship (**Appendix C**). While some items on the checklist pertain only to specific cases, others are essential to establishing whether an economic hardship exists. In this case, #27 is essential; it reads, "For vacant, semi-vacant and under-utilized buildings, or buildings in need of rehabilitation, owner is required to submit a statement of potential return on investment based on existing or new uses, including costs of rehabilitation, and supplementary new construction, and using fair market value for the property, a reasonable rate of return on investment, and prevailing rehabilitation and rental rates in the area".

To date, staff has received the following information (**Appendix D**):

1. Emails from the property owner stating they have calculated in excess of \$100,000 spent to save the property, received a bill in June 2023 for \$18,975.38 to insure the property but are now having difficulty obtaining insurance, and paid approximately \$40,000 in property taxes.
2. Emails from the property owner with references to articles about lamella roof collapses/lack of structural integrity.
3. An email and letter from commercial real estate agents Justin Horwitz and Paul Borgesen documenting the challenges they've had selling the property with historic designation pending and the potential loss of value that may occur. They estimate that based on comparable sales, the property could be worth as much as \$21 million, but is currently being marketed at \$9.2 million, with no qualified parties pursuing at that price. They also note that they had a licensed general contractor walk the property who provided a rough estimate of \$10 million to bring the building up to code. This figure is only to bring the building to code in a "vanilla shell" condition and does not include the cost to customize the interior layout for an end user.
4. Photos from property owner of existing conditions.

While the information provided by the applicant and the real estate agents is helpful, it does not meet the standard required for economic hardship applications. The \$10 million verbal cost estimate for rehabilitation may be valid, but cost estimates should be itemized and provided directly by a licensed contractor (or other qualified professional), as required by the checklist. Furthermore, the applicant has not provided any information regarding what the investment return on any new uses would be. This potential return would be based on fair market value for the property and prevailing rental rates in the area. It should also consider the availability of grant funds and other preservation incentives from the City and other sources. Because no information regarding a return on investment has been provided, the test for economic hardship has not been met.

Staff recommends the City Council uphold the Historic Preservation Commission's decision to uphold the Historic Preservation Hearing Officer's denial of the Certificate of Economic Hardship, as the standards for granting demolition approval set forth in Section 806.E.5 have not been met.

Financial Impact

There is no financial impact to the city.

Concurrence/Previous Action

- The HP Hearing Officer denied the Certificate of Economic Hardship on Dec. 8, 2023;
- The Hearing Officer's decision was appealed on Dec. 8, 2023, by property owners Craig and Marilyn Milum;
- The HP Commission voted 8-0 to uphold the hearing officer's decision on Jan. 8, 2024; and
- The HP Commission's decision was appealed on Jan. 9, 2024, by property owners Craig and Marilyn Milum.

Location

333-337 N. 7th Ave. (a.k.a. 332-334 N. 6th Ave.)
Council District: 7

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.

SIGNIFICANCE:

AREAS OF SIGNIFICANCE: COMMERCE X COMMUNITY PLANNING ECONOMICS
EXPLORATION/SETTLEMENT GOVERNMENTAL MILITARY RELIGION SCIENCE
THEATRE TRANSPORTATION TOURISM OTHER (specify)

HISTORIC ASSOCIATIONS (be concise):

PROMINENT OCCUPANT/HISTORIC ASSOCIATION(S) The buildings were built by A.H. & G.H. Lawrence, as Phoenix Laundry & Dry cleaning Co. A.H. Lawrence founded Phoenix
(continued below)

RELATIONSHIP TO LOCAL DEVELOPMENT

CULTURAL AFFILIATIONS

ARCHITECTURAL STYLE Outstanding example of 20th century brick commercial architecture in remaining front facade. Unique example of Streamlined Modern

MAJOR ARCH. FORM/MATERIAL retail buildings in Phoenix.

ENGINEERING/STRUCTURAL Rare Phoenix example of wide span wood lamella roof structure

DISTRICT/STREETScape CONTRIBUTION Focal point of 6th avenue and Van Buren area.

DISCUSSION AS REQUIRED: (Associations, continued)
laundry in 1893. The Lawrence family was a pioneer business family, active in the commercial growth of early Phoenix. The property has been occupied since 1909 and the buildings have remained in use as the Phoenix Laundry and Dry Cleaning Co. since 1924. Buildings were rebuilt using some original exterior walls after 1935 fire.

CONTEXT: ISOLATED/RURAL RESIDENTIAL STREET COMMERCIAL X CENTRAL SQUARE

CBD: OTHER: Strip

BIBLIOGRAPHY/SOURCES:

Phoenix Directory
Arizona Republic 1/26/24 3; 4; 3/16/24 2, 2:1-8; 7/1/35 1, 1:8; 12/11/35 2, 2-3.
Arizona Weekly Gazette 9/16/35; 6/18/37

LISTING IN OTHER SURVEYS:

NATIONAL REGISTER STATUS:
LISTED DETERMINED ELIGIBLE DETERMINED NOT ELIGIBLE NOT EVALUATED

COMMENTS/DEVELOPMENT PLANS/THREATS:

SURVEYOR J. Garrison et al SURVEY DATE May 1984 DATE FORM COMPLETED May 1984



View from 7th Avenue, 10/20/2023



View from 6th Avenue, 10/20/2023



Interior view, 10/20/2023



Interior view, 10/20/2023

PHOENIX LAUNDRY



KIVA # HPDA _____

Permit Name: _____

Property Address: _____

Historic Property/District: _____

CHECKLIST FOR REQUEST FOR CERTIFICATION OF ECONOMIC HARDSHIP APPLICATIONS

Documents submitted for Requests for Certification of Economic Hardship become the property of the city of Phoenix Historic Preservation Office and are subject to public record requests. Please be certain that you have a copy of them prior to submission. *Historic Preservation Office staff basis may require additional information beyond what is listed below on a case-by-case.*

Required for All Properties

Need

1. Completed application form
2. Photos documenting the condition of the building(s) in question, both inside and outside
3. The date purchased and the amount paid for the property when purchased
4. The name of the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased
5. Information on the property condition when purchased, including any photos from time of purchase
6. The assessed value of the land and improvements thereon according to the two most recent assessments
7. Real estate taxes for the previous two years
8. An itemized statement showing the annual costs of all insurance on the property, and any insurance statements indicating an unwillingness to insure property in part or whole
9. Professional report(s) substantiating the condition, e.g., a sealed assessment by a registered professional engineer or licensed architect
10. A termite inspection/treatment report, if termite damage is being used as part of the justification for the demolition
11. A mold inspection/treatment report, if applicable, if mold is being used as part of the justification for the demolition
12. At least one itemized cost estimate by a licensed contractor detailing the work required and costs for rehabilitating the existing structure(s) to return it to original condition (including any needed termite and mold treatments). Note: this itemized estimate helps to establish what work needs to be completed to restore the property to productive use and what, if any, historic fabric would be lost in the rehabilitation
13. At least one itemized cost estimate by a licensed contractor detailing the work required and costs for replacing it with new construction (where applicable). This should be for a similarly sized building.
14. The extent to which financial incentives have been pursued to rehabilitate the structure(s) such as city rehabilitation grants, state property tax reduction, and other available state and federal grants and tax incentives.

Required for All Properties except Garages and Other Small-scale Accessory Buildings

Need

- 15. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property
- 16. Annual debt service for mortgages and other financing secured by the property, if any, for the previous two years
- 17. Any listing of the property for sale or rent, price asked, and offers received within the last two years
- 18. Any consideration by the owner as to profitable adaptive uses for the property
- 19. An estimate of fair market value of property as is and after rehabilitation based on the last six months sales data for area
- 20. A statement of potential return on investment based on existing or new uses, including costs of rehabilitation and supplementary new construction and using fair market value for the property, a "reasonable" rate of return on investment, and prevailing rehabilitation and rental rates in the area

Additional Information Required for Income-Producing Properties

- 21. Annual gross income (including itemized rental income by unit) and net income (income after expenses) of the property for the previous two years
- 22. Itemized operating (e.g., utility costs), maintenance (e.g., weed and trash removal, painting) and other related property management expenses for the previous two years
- 23. Whether or not the property was occupied when purchased, and any known income from the property at the time it was purchased or immediately prior to purchase
- 24. For vacant, semi-vacant and under-utilized buildings, owner is required to include all of the following
 - A. Any supplementary new construction necessary to accommodate existing and potential new uses allowable under existing zoning, e.g., potential conversion of house to professional office in areas with R-5 HP zoning
 - B. Fair market value for potential reuses of the property based on last six months' sales data for area
- 25. Prevailing rental rates in the area for similar uses
- 26. Anticipated income from the property after demolition of the structure(s) and completion of any new construction
- 27. For vacant, semi-vacant and under-utilized buildings, or buildings in need of rehabilitation, owner is required to submit a statement of potential return on investment based on existing or new uses, including costs of rehabilitation, and supplementary new construction, and using fair market value for the property, a reasonable rate of return on investment, and prevailing rehabilitation and rental rates in the area

Additional Information

- 28. _____
- 29. _____
- 30. _____

Contact staff below for questions regarding the Administrative Log-In Review Screening.

Staff Signature: _____ Print Name: _____

Phone: _____ E-mail: _____ Date: _____

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Wednesday, December 6, 2023 7:03 AM
To: Kevin Weight; Helana Ruter
Subject: Fw: 333 N 7th Ave.

Hi Kevin,

The letter below is from one of our brokers we have been using for the last few years representing the property at 333 N 7th Ave.

Please include this for our file concerning the hardship meeting. Thank you.

Sincerely,

Marilyn Milum

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:marilynmilum@yahoo.com)

Begin forwarded message:

On Tuesday, December 5, 2023, 1:25 PM, Justin Horwitz <justin.horwitz@svn.com> wrote:

Craig/Marilyn,

Please let this email serve as my insight on the value of the property and particularly how the value has been impacted by the existing structures over the course of 3+ years of attempting to sell your property. Generally speaking, the majority of developers that are willing to pay market pricing for development property are not structured for nor interested in pursuing sites that require historic preservation as part of a planned development. We are finding that most of the development community is interested solely in the land so that they can more freely plan a development with a clearer path to entitlements. We are currently asking \$9.2mm for the 2.39 AC site. That is \pm \$88 PSF on land value which I believe is right in line with the market and I do believe the site would have sold long ago if it weren't for the complexities created by the push for historic preservation. It's hard to specifically gauge how much loss in value will occur if a developer is to incorporate these structures, but at this moment and certainly for the foreseeable future, we are finding that there is not any interested parties at any price.

Justin Horwitz, SIOR | Senior Advisor

SVN Desert Commercial Advisors | AZ O/I CRE Sales Team

5343 N. 16th St., Suite 100 | Phoenix, AZ 85016

Phone 480.425.5518 | Mobile 480.220.2674

justin.horwitz@svn.com | www.svndesertcommercial.com [svndesertcommercial.com]

[AZ O/I LinkedIn \[linkedin.com\]](https://www.linkedin.com/company/svn-desert-commercial-advisors/)

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Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 7, 2023 10:30 AM
To: Kevin Weight; Helana Ruter
Subject: Another break-in

The police were there again this morning.

Homeless people sleeping in the building.

More wasted resources of Phoenix PD

The police have to clear the property each time and make sure no one is inside, that is a big job. And a dangerous job.

Swat units, canine units and the use of many officers was not meant to be used in this way.

Marilyn

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:marilynmilum@yahoo.com)

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Wednesday, December 6, 2023 11:14 PM
To: Kevin Weight; Helana Ruter
Subject: Fw: 333 N 7th Ave.

Hi Kevin,
Please add this letter of opinion from one of the primary brokers who has had it listed since 2019.
Than you,
Marilyn Milum

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:marilynmilum@yahoo.com)

Begin forwarded message:

On Wednesday, December 6, 2023, 9:35 PM, Paul Borgesen <paul.borgesen@transwestern.com> wrote:

Marilyn,

It is my opinion that potential HP restrictions have kept multiple groups from making an offer on the property as it is not financially feasible to bring the current structure up to code as well as incorporate it into a new development. Most developers are not willing to take on the city or HP try and deal with this potential hurdle. Most groups hear that there may be an interest in the property from HP and that is the end of the conversation about the project. The property is zoned to allow apartments and is surrounded by new apartment development and this in my opinion would be the highest and best use for the land this would also bring you as the seller the highest value.

Paul Borgesen, SIOR
Senior Vice President

Capital Markets | Investment Sales

TRANSWESTERN
2501 E. Camelback Rd, Suite 1

Phoenix, Arizona 85016

Direct: 602.296.6377

Cell: 602.214.9033

[transwestern.com \[transwestern.com\]](https://www.transwestern.com)

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Tuesday, December 5, 2023 1:44 PM
To: Paul Borgesen <paul.borgesen@transwestern.com>
Subject: Fw: 333 N 7th Ave.

Hi Paul ,

Please write us a similar letter and also state we missed that window of opportunities where Justin also told me earlier there may have well been multiple bidders , bidding war if HP buildings did not need to stay and interests rates and building rates were lower , etc

Thank you 🙏

P S this is being used in our hardship hearing and they wanted a statement of this sort for

An argument in addition to what you had provided previously.

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:mail.onelink.me)

Begin forwarded message:

On Tuesday, December 5, 2023, 1:25 PM, Justin Horwitz <justin.horwitz@svn.com> wrote:

Craig/Marilyn,
Please let this email serve as my insight on the value of the property and particularly how the value has been impacted by the existing structures over the course of 3+ years of attempting to sell your property. Generally speaking, the majority of developers that are willing to pay market pricing for development property are not structured for nor interested in pursuing sites that require historic preservation as part of a planned development. We are finding that most of the development community is interested solely in the land so that they can more freely plan a development with a clearer path to entitlements. We are currently asking \$9.2mm for the 2.39 AC site. That is ±\$88 PSF on land value which I believe is right in line with the market and I do believe the site would have sold long ago if it weren't for the complexities created by the push for historic preservation. It's hard to specifically gauge how much loss in value will occur if a developer is to incorporate these structures, but at this moment and certainly for the foreseeable future, we are finding that there is not any interested parties at any price.

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justin.horwitz@svn.com | www.svndesertcommercial.com [svndesertcommercial.com]

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Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 7, 2023 1:26 AM
To: Kevin Weight; Helana Ruter
Subject: 333 N 7th ave

Kevin,

You may wonder why two different brokers letters.

The two brokers have been working since 2019 on trying to sell our property on 8th ave.

Justin is still at SVN and Paul has chosen to change companies but they are still co-listing since the two had it listed at the one company when they were associates.

You are possibly wondering why I am up so late. My husband just left to check on the property on 7th since we have had trespassers coming in at night sleeping, and making messes, very hazardous.

After multiple breakends we secured the building further and he needs to check if the barriers we used are working or weather they are down, meaning they got in again.

Marilyn

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 7, 2023 9:08 PM
To: Kevin Weight; Helana Ruter; marilyn milum
Subject: Invoice for one year

Please note that this is just for one year in which we extended it for as long as we were under contract with the developer which was in the purchase agreement.

We have a different carrier now and at this moment I cannot locate our invoice.

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 7, 2023 9:15 PM
To: Kevin Weight; Helana Ruter
Subject: insurance and taxes

I have been trying to download our tax amounts we have paid for the last two years. The site has been down.

It is public knowledge so I will say when I looked up a few days ago it was a little over \$40,000.00 and has been that amount approx., for the last two years.

Insurance Quote

Date: Monday, June 13, 2022
Agency: NEATE DUPEY INSURANCE GROUP
Attn: ANDY DUPEY

Insured: MILUM TEXTILE SERVICES, INC
Application / Policy: APP80562253

We are pleased to submit our **QUOTE** for the above captioned insured. Please review this **QUOTE** carefully as coverage offered may be **DIFFERENT** than the coverage requested.

Proposed Policy Period: 6/14/2022 - 6/14/2023
Insurance Carrier: MT VERNON SPECIALTY INSURANCE COMPANY
Line of Business: PACKAGE

Price Breakout:
Premium: \$ 16,687.00
Carrier Policy Fee:
Carrier Inspection Fee:
Brokerage Fee: \$ 1,700.00
State Tax: \$ 551.61
Stamping Fee: \$ 36.77
Total Due: \$ 18,975.38

Agency Commission: 15.00%

Additional Subjectivities Required for Binding:

**FEES ARE FULLY EARNED

*BROKER FEE WILL BE ADDED TO ANY A/P ENDORSEMENT OR AUDIT

We appreciate the opportunity and look forward from hearing from you. Please call or e-mail us if you have any questions.

Melinda Lampson
Burns & Wilcox

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:mail.onelink.me)

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 7, 2023 11:11 PM
To: Kevin Weight; Helana Ruter
Subject: comments about 333N 7th ave

To:marilyn milum
Thu, Dec 7 at 11:06 PM
Kevin,

Please include this in the files. Thank you.

In case you are wondering why there are two different companies with our brokers, Justin and Paul were associates at the same firm before Paul went to work for a different firm. Both of these gentlemen have worked very hard to represent us and are still working on the listing. They have reported to us during the last several years their obstacles in selling our property that have been mainly the “Historical Preservation” (“HP”) problem we have with the City that prevents successful sales efforts. Non one wants to buy such a property, which has been confirmed repeatedly by our brokers’ many sales contacts.

Both have told us repeatedly that buyers are not interested in dealing with HP. We have also have had extensive feedback that it would be cost prohibitive to even try to save these structures.

We can no longer maintain them. It has caused a huge burden financially on us not to mention what is has done to us mentally and physically and our quality of life. We are septuagenarians that want to retire and the property is our retirement fund. My husband is ill and this is not equitable for us to bear the burden and expense of this property. It has been debilitating. We can no longer deal with these costs after four years of determined sales efforts. To impose such a mandate on two individuals is criminal or at least unconstitutional. We feel like someone has stolen our property and we have to bear the burden of paying a ransom for it as well as in the interim maintaining the property for the thieves.

Property taxes, Insurance, utilities, and to maintain such as broken windows, kicked in doors, trash, feces, graffiti, and our precious time.

Prop 207 was a clear indication that the citizens in Arizona do not want this abuse by government officials.

I hate to be so blunt, but that is now how we are feeling . We have earnestly tried to work with the City, we are in the fifth year of this tyranny and we are tired of all the red tape and emotional, physical, financial abuse we have been dealt by the city and it is truly time for the City to release this terrible burden. We feel the City has gone too far.

We are asking for fairness and justice. We also think there are political schemes behind this to stop more contemporary development rather than just to save a “priceless” building. There is no significant historic value to preserve, it is simply a manipulation and political effort by primarily a very small number of people who want to limit the density.

We have been damaged. These are dilapidated buildings that have outlived their use.

We believe this mandate has enough severe impact to our rights that it warrants compensation. The whole idea of "historic" is so subjective. The City should bear the cost and pay for it if they want a museum. Instead the City wants to give rich developers, taxpayers money at their whim and when the taxpayer will probably never see the inside of these buildings they want to keep. Is that fair and equitable? The City is on record telling us over and over do not pursue a demo permit , it will be turned down and told us they would not let the buildings go.

These are decaying buildings that need to be torn down for useful housing.

Since it has gotten cold now, the homeless are trespassing causing the SWAT teams, the canine teams and multiple officers (a dozen or more, yesterday), more today. Every time a break in occurs, we call the police they have to search the property and clear it. What a horrible use of our police resources. This is inviting criminal activity downtown. These officers could lose their lives going into the dilapidated buildings to search nooks and corners, closets, all room by room. These intruders are scared inside the building and could react with violence towards our City's finest.

Our freedom has been taken from us.

All of this has occurred because a very small number of people have a whim for saving these junky, old buildings with no modern times commercial, viable use.

Please help resolve these serious matters in the near future well before October by when these issues would be five years with out resolution.

A solution will also help our efforts to sell the property which has been substantially slowed by other substantially more complex matters than HP considerations for a building that does not seem to meet any realistic HP concerns compared to other HP properties.

We have reviewed the check lists requested and feel like most of these requests i.e., getting itemized construction costs to restore the 100 year old property are burdensome and are not applicable to the site. We never plan on using the property for another commercial laundry and to get an itemized costs would be so expensive and unrealistic it assumed these request would be for much smaller projects. To do what you are requesting would be a hardship and speaking with a contractor undoable.

It would be 10's of thousands of dollars and a waste of the contractors time and ours.

The contractors would not take us seriously.

Thank you.

Sincerely,

Marilyn Milum

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Friday, December 8, 2023 8:50 AM
To: Kevin Weight; Helana Ruter
Subject: Property Taxes, Utilities, maintenance , insurance

Good morning Kevin,

TO add to file please

WE have calculated between \$ in excess of 100,000 a year saving the property for PHOENIX

Multiple insurance companies turned us down for insurance

Insuring an empty building is risky and to keeping this place up is simply unsustainable for us

In the last couple of weeks we have turned off utilities

As we believe has left one meter on by mistake.

We need to call them to turn off the last meter

NEWS

Historic riding ring collapses in Ashland

Rob Haneisen/Daily News staff

Published 11:01 p.m. ET Jan. 29, 2011 | Updated 1:50 a.m. ET Jan. 30, 2011

A massive outdoor riding ring, one of only four of its kind in the country and a local historic landmark, collapsed yesterday afternoon after years of decay and weighed down by several feet of recent snow.

The building off Olive Street was brought to the site in 1975 by Bill Sibson, 59, who disassembled the 60- by 120-foot building at the old Waseeka Farm on Chestnut Street with the help of family and friends. In 1979, he put it back together at his mother's Gleanmoura Farm, which means Mary's Glen in Gaelic.

The building had rare German lamella roof architecture, which gave the appearance of criss-crossed arches 25 feet above the riding floor. That structure held the roof up without needing any poles or beams in the center of the floor, which made it a perfect riding ring for horse lessons.

The building was first constructed around 1920 as a birthday gift for a daughter in the Powers family at Waseeka Farm, Sibson said.

Elegant in appearance at the height of its use, what remained yesterday was a pancaked heap of timbers and boards.

"I was walking my dog, and I heard a loud crack, and I saw it collapse," said Rory Warren, who lives on Clinton Street in Hopkinton and was one of the people who helped Sibson assemble the ring decades ago. "It's in seven sections, and it just came down like dominoes."

Warren and Sibson said snow stacked on the roof was definitely the reason for yesterday's collapse around 2:15 p.m., although the structure was in rough shape and had already started to lean before this winter.

Ashland Fire Lt. David Iarussi said neighbors heard the collapse and called police and fire departments. No one was in or near the building when it fell, and a huge cloud of dust flew up.

"It's the loss of a historic structure," Iarussi said.

Warren recalled the intricacy of the diamond-patterned roof and the simplicity of its white pine-board design, which allowed for interchangeable parts.

"Now it's gone - just a pile of wood on the ground," Warren said.

When the family disassembled the old ring in 1975, every bolt, nut and shingle, plus the lamella planks, were stored in garages and barns - trucked over from Chestnut Street in the family station wagon - until they could be painstakingly put back together.

"We had to cat's-paw every nail out of it," Sibson said.

Sibson said he thinks the other three lamella buildings in the country were made into aircraft hangars.

"I knew that it was going to go ... but I didn't think it would crush so flat," Sibson said.

Sibson said he hopes the town will let him salvage some of the lamella boards this spring so he can one day build a small cabin with the historic pieces.

(Rob Haneisen can be reached at rhaneis@cnc.com or 508-626-3882.)

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 21, 2023 12:30 AM
To: Helana Ruter; Kevin Weight
Subject: A little more complicated Lamella

<https://www.google.com/gasearch?q=lamella%20roof%20collapses&tbm=&shem=rime&source=sh/x/gs/m2/5#fpstate=ive&vld=cid:2426b60c,vid:YsJgJKtrwlk,st:0> [google.com]

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:)

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 21, 2023 12:40 AM
To: Helana Ruter; Kevin Weight
Subject: Complicated

Politically I'm not sure the Lamella enthusiast

Would be as supportive if they knew Zollinger was part of the Nazi party . Is the public going to be accepting of the Nazi link with the Nazi example of superior engineering...?

<https://www.youtube.com/watch?v=YsJqJKtrwIk> [youtube.com]

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:mail.onelink.me)

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Thursday, December 28, 2023 3:48 PM
To: Helana Ruter; Kevin Weight
Subject: Roof collapse

Not sure if I sent this one

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^ancy, so likely not too critical unless a whole series of these are breaking.

Is this in snow country? Maybe some unbalanced load caused flex failures.

Laminated Timber (Materials)

22 Nov 19 16:07

Wooden lamella roofs were known for not handling unbalanced roof loadings and there were many, many failures and collapses. Some lamella roofs are doing fine. I know of at least five in Wisconsin that have been performing fine for 80 or so years. A school gym was built in Fargo, ND in the 1960s with solid wooden lamella and it collapse within months of completion. The guy who sat at my desk before me bid it as a glued laminated timber radial rib dome and when told it would go to lamella he "warned" the general contractor about problems. Hate to say "I told you so" but that's what happened. Luckily there were no injuries in the collapse.

I cannot help with your design and repair method.

Lamella is a real groovy looking type of material. The historical and iconic Brown Derby in LA has a lamella roof.

Andreas

McSEpllc (Structural)

24 Dec 19 00:18

The lamella roof was developed and patented by Friedrich Zollinger after WWI as a way to address the housing shortage (it uses about 46% of the lumber compared to the previous wood construction techniques used in Germany.

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Justin Horwitz - SVN
Paul Borgesen - Transwestern
5343 N. 16th St. #100
Phoenix, AZ 85016

Helena Ruter
City of Phoenix Historic Preservation Officer
200 W. Washington St.
Phoenix, AZ 85003

Dear Ms. Ruter,

On behalf of Paul Borgesen, Senior Vice President with Transwestern, and myself, Justin Horwitz, Senior Advisor with SVN, please accept this letter in relation to the Milum Textile property located at 333 N 7th Ave, Phoenix, AZ 85007.

Paul and I are commercial real estate agents with substantial experience selling development properties particularly in Downtown Phoenix. In April 2020, we began actively listing the subject property for sale and to this point, we have been unsuccessful in solidifying a buyer for the property. Throughout the course of our listing, the subject property has received good interest from prospective buyers. However, following initial conversation with various zoning attorneys, the overwhelming majority of prospective buyers do not pursue the purchase of the property due to concerns over multiple City of Phoenix interests in historical preservation of several major structures. This has presented a number of challenges, but a few of the main issues are as follows:

1. The process is relatively more complex. Incorporating historical structures on any site adds multiple layers of processes to the design, planning, and zoning stages that eliminates a number of quality developers. The majority of developers we have presented the site to ultimately are not equipped to handle an abnormal development process or do not have an interest in taking on the risk given the amount of unpredictable expenses in the pre-development and construction phases. Simply put, our experience has been that most developers want a “cookie cutter” site that allows them to repeat their typical planning, zoning, design, and construction processes. This site does not allow for that with historical structures in place.
2. Historical structures in their current location dramatically hinder design capabilities and limit a developers ability to maximize density in its planned development. This directly impacts the ultimate price they are willing to pay for the property.
3. Retaining the structures creates liability that adds significant costs to a project making it infeasible. The existing structures are quite old and have had years of industrial wear and tear placed on them. Again placing more unpredictability and liability into a project than any prospective buyer has been willing to take on.
4. Items 1-3 listed above are primarily addressing the items of contention solely from a redevelopment perspective. We have also spent countless hours over these last few years attempting to identify end users that have an interest in retaining and using the existing structures. While we have had groups acknowledge the unique elements of the structures and have a vision for an end use, the estimated costs of renovations steer groups away from pursuing a purchase of the property. To be more specific, we had a licensed general contractor walk the property and while we could not get a specific bid, we were provided with a rough estimate upwards of \$10MM to simply bring the building up to code. This was purely contemplating the

costs to bring the building up to current code (i.e. remove and replace the existing complex utility system, replace the electrical system, treat any asbestos due to the age of the structure, sure up the roof system that requires significant inspection to even understand its current condition, redesign and replace the entire HVAC system, and address general ADA items just to name a few). Again, this is only to bring the building to code in a "vanilla shell" condition and does not include the cost to customize the interior layout for an end user.

The main purpose of this letter is to attempt to identify how much the property is worth as raw land with all structures demolished as opposed to its value with various structures historically preserved. This proves to be a rather difficult task. While we have contemplated comparable sales for land sites in the immediate area (please see Exhibit "A" - Comparable Sales enclosed), it's virtually impossible to identify a value for the property with structures in place. As mentioned above, in over three years of tireless efforts to find a buyer, we have come up empty handed. One could argue that there is no buyer in the foreseeable future for this property at any price given the significant cost of improvements due to the issues listed above. Alternatively, as it pertains to the potential value of the land with all structures demolished, we have identified seven comparable sites based on location, land size, and/or intended use for the property. The sales comparables range from \$111 PSF to \$316 PSF on land value only. The average of the seven comparable sales is \$201 PSF. Relative to the subject property, one could argue that without any historically preserved structures, the land's value is upwards of \$21MM for the 2.39 AC of land. Our current asking price for the property is \$9.2MM with no qualified parties pursuing at this price. We do however have a number of groups that have indicated a high level of interest in the property if the owner of the property can deliver the property with either a demo permit for the entirety of the site or with all structures fully demolished.

In closing and as mentioned above, without any prospective buyers to currently reference, it is difficult for Paul or I to determine the value of the property with historically preserved structures in place. However, it is safe to assume that the loss in value to the property would be significant relative to the comparable sales in the area.

Please feel free to reach out should you have any questions.

Sincerely,



Justin Horwitz



Paul Borgesen

Exhibit "A" - Comparable Sales

| <u>Site</u> | <u>Land Size</u> | <u>Sale Price/ Land PSF</u> | <u>Sale Date</u> | <u>Notes</u> |
|--|------------------|---------------------------------|------------------|--|
| 520 S. 5th St. Phoenix, AZ 85004 | 2.56 AC | \$17,300,000 \$155 PSF | 12/8/23 | Existing parking lots; Covered land purchase. |
| 840 N. Central Ave. Phoenix, AZ 85004 | 1.11 AC | \$10,500,000 \$217 PSF | 12/8/23 | Part of assemblage. |
| 343 E. Lincoln St. Phoenix, AZ 85004 | 1.00 AC | \$8,643,000 \$198 PSF | 10/2/23 | Future use for Phoenix Suns/Mercury. |
| 114 E. Portland St. Phoenix, AZ 85004 | 0.64 AC | \$8,820,000 \$316 PSF | 2/2023 | Future development site. |
| 510 E. Lincoln St. Phoenix, AZ 85004 | 1.60 AC | \$9,500,000 \$136 PSF | 1/5/23 | Future development site. |
| 601 N. Central Ave. Phoenix, AZ 85004 | 1.83 AC | \$22,000,000 \$275 PSF | 3/2/22 | Future development site. |
| 362 N. 3rd Ave. Phoenix, AZ 85003 | 0.76 AC | \$3,700,000 \$111 PSF | 12/29/21 | Future development site |
| AVERAGES | | \$201 PSF | | |

Kevin Weight

From: marilyn milum <marilynmilum@yahoo.com>
Sent: Monday, January 8, 2024 2:22 PM
To: Kevin Weight; Helana Ruter
Subject: Important information

Please add this to our HP file and please make available to HP commission and city council members.

We feel like the city of Phoenix has not done their due diligence in insisting on keeping structures when they know virtually nothing about their safety.

This is very risky.
Sincerely,
Marilyn Milum

[Sent from Yahoo Mail for iPhone \[mail.onelink.me\]](mailto:marilynmilum@yahoo.com)

Kevin Weight



From: marilyn milum <marilynmilum@yahoo.com>
Sent: Monday, January 8, 2024 2:17 PM
To: Kevin Weight; Helana Ruter; Roger Strassburg
Subject: Sensitivity analysis of Kiewitt-Lamella reticulated domes due to member loss - ScienceDirect

[https://urldefense.com/v3/__https://www.sciencedirect.com/science/article/abs/pii/S0143974X21004983__;!!LkjWUF49MRd51_ry!YS_y5Q2hnymJZQY8-OEQ-SbJIQ36tP5gb5x5whpMIF5Upyv_9NY1x9eMw_Z-NMfaAnWPo1FVyLmapJpS4ssrj66u9Lqs-Q\\$](https://urldefense.com/v3/__https://www.sciencedirect.com/science/article/abs/pii/S0143974X21004983__;!!LkjWUF49MRd51_ry!YS_y5Q2hnymJZQY8-OEQ-SbJIQ36tP5gb5x5whpMIF5Upyv_9NY1x9eMw_Z-NMfaAnWPo1FVyLmapJpS4ssrj66u9Lqs-Q$)

Sent from my iPhone



Sensitivity analysis of Kiewitt-Lamella reticulated domes due to member loss

Zubin Zhang, Ruiyi Gu, Haiqin Wang  

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<https://doi.org/10.1016/j.jcsr.2021.107016> 

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Abstract

In this paper, the sensitivity analysis of Kiewitt-Lamella (K-L) reticulated domes with different parameters is carried out. The sensitivity of the dome due to gradual and sudden member loss is analyzed in both static and dynamic aspects, which will clarify the distribution rule of the member sensitivity and provide a reference for future study on the K-L reticulated dome. The results show that the member sensitivity of the K-L reticulated dome with different design parameters has similar regularities. For the members in the same ring, the sensitivity of the latitudinal members is larger than that of the diagonal members. For the members in different rings, the sensitivity of the inner ring members is larger than that of the outer ring members. In addition, the static analysis shows that the latitudinal members closer to the radial members are more sensitive than those apart from the radial members, and the diagonal members paralleling to the radial members are more sensitive than the unparallel ones. The dynamic analysis shows that the K-L reticulated dome will experience a local internal force redistribution after a member's sudden loss and finally reach a stable equilibrium state on the new load transfer path without overall progressive collapse. According to the research results, a better scheme for strengthening the structure is proposed: increasing the cross-section of sensitive members is more effective in improving the structural stability than important components.

Introduction

The single-layer reticulated dome is usually used as the supporting structure for the roof of large cylindrical storage tanks in the petrochemical industry. With the development of the storage tank roof to a large span, the single-form reticulated dome used in realistic projects has been restricted. For example, a great many members of the Lamella reticulated dome are gathered at the apex, and the structure of the node is complicated, so some members must be properly removed, which changes the force transfer path and then adversely affects the overall structural strength. In addition, for the Kiewitt reticulated dome, the number of nodes in the outermost ring increases as the span increases, and the difficulty of construction also increases. Combining these two types of reticulated domes to form a Kiewitt-

Lamella (K-L for short) composite single-layer reticulated dome can effectively solve the above-mentioned problem for the large-span single reticulated dome [1,2].

At present, scholars worldwide have conducted many kinds of research on Kiewitt reticulated domes and Lamella reticulated domes, and there are also many studies on structure sensitivity. Gao *et al.* [3] discussed the problems of redundancy related to the Alternate path method, and the sensitivity of the Kiewitt single-layer reticulated dome was explored. Han *et al.* [4] evaluated the redundancy and progressive collapse performance of the large-span Lamella single-layer and double-layer domes based on the ultimate bearing capacities in both the original and damaged status. Sebastian [5] and Chen *et al.* [6] proposed the sensitivity index based on the internal force responses of members to identify sensitive members, which plays an important role in evaluating structural safety and reliability. However, the research on K-L reticulated domes needs to be strengthened, especially the sensitivity analysis of them. It plays an important role in determining the context of the system, optimizing algorithms, reliability evaluation of system performance, and structural redundancy research [7,8]. In fact, sensitivity analysis is a major prerequisite in the establishment of structural optimization, reliability evaluation, and parameter identification [9]. However, there are many members in single-layer reticulated shells, and the effects of different members on the elastoplastic stability of the structure are often different, and it has been proven that the failure of some critical members may lead to the progressive collapse of the space structure [[10], [11], [12]]. Therefore, the elastoplastic stability of the K-L reticulated dome on the member sensitivity is worth studying.

In realistic construction, collapse accidents of space structures have occurred around the world. For example, in 2004, due to the perforation of the ceiling in the terminal of the Charles de Gaulle Airport, the critical metal connecting members could not continue to bear the weight, and eventually collapsed. In 2014, South Korea continued to snow for many days, and the final snow load reached 0.9kN/m^2 , which far exceeded the design load value. A space structure that does not consider this effect may collapse suddenly due to partial damage caused by the failure of a member without significant deformation in advance. If a member loses stability, it will inevitably affect other members connected to it. Therefore, the stability of a specific member cannot be analyzed in isolation, and the interaction of other members should be comprehensively considered and determined from the overall structural analysis [13]. Pandey *et al.* [8] proposed a redundancy assessment method based on sensitivity analysis. In this method, the response of the structure under design load is used as the research object, the member loss is used as the analysis parameter, and the member sensitivity and the structural redundancy are quantified theoretically with a numerical method. Subsequently, on this basis, the Japanese Society of Steel Construction considered the buckling of a single member, and made this redundancy assessment method further suitable for large-span space structures [14]. In recent years, Shekashband *et al.* [15] divided the member loss into gradual and sudden loss, and carried out a numerical investigation into the static and dynamic response of tensegrity systems in the event of gradual and sudden member loss.

Therefore, in this paper, the sensitivity analysis of large-span reticulated dome due to member loss refers to the above method. One member is removed each time, and the static and dynamic response of the domes in the event of gradual or sudden member loss is investigated. The response and characteristics of the studied structures include the load-deflection response in static analysis and displacement-time history of the structures in the dynamic analyses. In addition, an effective measure for improving structural stability is discussed, which will provide a reference scheme for the designers.

Section snippets

Analysis model

Take one of the K-L reticulated domes as an example to illustrate the analysis model. As shown in Fig. 1(a), the span is 60m, the rise-to-span ratio is 1/4, the symmetrical sectors are 8, and the frequencies are 12 (Kiewitt: Lamella is 9:3).

For rings from the inside to the outside, they are marked as the first to the twelfth ring. Since the members are directly in contact with the top skin and need to bear the bending moment, it is appropriate to use I-beams but not steel circular pipes [16]. ...

Sensitivity analyses of the K-L reticulated dome due to gradual member loss

A unique K-L reticulated dome can be determined when the span, the rise-to-span ratio, the number of rings, the symmetrical sectors, and the frequency ratio are determined. Currently, most of the large-span K-L reticulated domes are 12 rings. Therefore, the sensitivity analysis of the K-L reticulated dome with 12 rings is carried out, and both geometric and material nonlinearities analyses are performed to obtain the ultimate bearing capacity. Considering the influence of latitudinal members...

Sensitivity analyses of the K-L reticulated dome due to sudden member loss

The previous part discussed the static load-bearing capacity of the dome in the event of gradual member loss. Practically, when losing a member in the structure which is under load, energy stored in this member is released, and this induces a state of transient vibration in the structure. In order to compare the response of the damaged dome caused by the sudden member loss, this section introduces the results of the dynamic analysis. The K-L reticulated dome, which with 60m spans, 1/4...

Distribution and influence of sensitive members and important members

According to the previous analysis, the sensitivity of the members in different areas is different. In this paper, the sensitive member is defined as the member with a sensitivity larger than 5%, and the important member is defined as the member with a negative sensitivity. The important member loss can contain or block continuous structural damage. The sensitive members and the important members are shown in red and blue, respectively, as shown in Fig. 18.

It verifies that the sensitive members ...

Conclusion and discussion

In this paper, a numerical investigation into the static and dynamic response of the K-L reticulated domes in the event of gradual and sudden member loss is carried out. The results of this study are used to obtain certain conclusions regarding the sensitivity of the K-L reticulated domes to member loss. In addition, the distribution of sensitive members and important members is distinguished, and a more economical structural reinforcement scheme is proposed and verified according to this rule, ...

Funding

This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors....

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper....

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D.C. Li

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(2019)

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[Static stability analysis of Kiewitt-Lamella single-layer reticulated shells](#)

F. Gao *et al.*

[Sensitivity analysis on load carrying capacity of K6 single-layer reticulated domes to member failure](#)

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[Progressive collapse analysis of large-span reticulated domes](#)

Int. J. Steel. Struct. (2014)



[View more references](#)

Cited by (2)

Sensitivity of post-buckling behaviour of single layer reticulated shells to loading and member imperfections ↗

2022, Structural Stability Research Council Conference 2022, Held in conjunction with NASCC: The Steel Conference

Application of Sensitivity Analysis to Progressive Collapse Resistance of Planar Truss Structures ↗

2022, Applied Sciences (Switzerland)

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Fire Prevention & Protection

Reading A Building: More Roof Size-Up

When reading a building, do you include the roof in your size-up, and if so, what are you thinking about? To assist with this question, let's consider some important factors that are worthy of your consideration.

10.4.2004

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Tags [Building Construction](#) [John Mittendorf](#) [Migration](#)

By John W. Mittendorf

When reading a building, do you include the roof in your size-up, and if so, what are you thinking about? To assist with this question, let's consider some important factors that are worthy of your consideration. Obviously, some factors will be dependent on the type of roof construction in your particular area, however, West Coast roofs and East Coast roofs have a lot in common in both construction methods and styles.

Open Web Bar Joist

Open web bar joist (or metal deck) roofs are the commercial roof of choice in the Midwest and Eastern portions of the country and are primarily steel truss construction underneath a metal decking (Q decking). The metal decking is covered by built-up layers of insulation material, tar, and composition. As steel loses its strength around 1,000 degrees, such roofs have a quick failure rate with minimal warning, and suppression personnel should be aware of these hazards. However, another more subtle hazard is that fire can propagate between

the metal base and the composition covering, enhancing the spread of fire with minimal visible warning signs.

Older Truss Roofs

These roofs are found anywhere in the country and on various types and sizes of commercial buildings primarily constructed during the 1800s until the 1950s – until the introduction of the flat roof with its numerous variations. The older truss roofs were normally constructed with a “large” size of wooden truss members, 1 x 6-inch sheathing as a roof base/covering, and can be found in numerous styles as follows:

Bridge Truss: This type is recognizable by its characteristic sloping sides, ends, and flat top.

Gable Truss: This type is also identified by its gable or peaked roof design.

Parallel Chord Truss: This roof looks similar to other types of flat roofs but can be found on older buildings and is constructed from a “large” size of truss members (compared to newer lightweight truss members).

Lamella: Although this roof can be similar in external appearance to other types of arch roofs, it is significantly different as it was constructed in an egg crate – geometric or diamond-patterned – design. This roof can be found on gymnasiums, recreational buildings, large supermarkets, etc.

Tied Truss: This arched roof uses metal tie rods to give lateral support to the walls of the building. Tie rods with turnbuckles are used below each arch member (as there is no bottom chord) to ensure that the arches do not push the exterior walls outward. With this mind, it is easy to see if fire exposes metal tie rods in this type of roof, a collapse of the building is more than a possibility. Hint: If you are ever inside a building and observe this type of roof construction, make a mental note for future reference as it may save your life!

Bowstring Truss: Most firefighters are familiar with the “bowstring truss” roof as numerous fire service writers have appropriately written on the hazards of this common roof. Interestingly, whether you are a firefighter on the East or West coast (or anywhere in between), you will likely have this roof in your municipality. It is constructed of “large-size” wooden members (Note: most wooden members used in these older truss roofs were “rough-cut” or full size lumber and used steel plates and bolts for connectors) with 1 x 6-inch sheathing roof decking. Multiple firefighter deaths attributed to this specific roof have cautioned firefighters to assume a defensive position if a working fire is encountered.

John W. Mittendorf joined the Los Angeles City (CA) Fire Department (LAFD) in 1963, rising to the rank of captain II, task force commander. In 1981, he was promoted to battalion chief and in the year following became the commander of the In-Service Training Section. In 1993, he retired from LAFD after 30 years of service. Mittendorf has been a member of the National Fire Protection Research Foundation on Engineered Lightweight Construction Technical Advisory Committee. He has provided training programs for the National Fire

Academy in Emmitsburg, Maryland; the University of California at Los Angeles; and the British Fire Academy at Morton-in-Marsh, England. He is a member of the editorial advisory board of Fire Engineering and author of the books Truck Company Operations (Fire Engineering, 1998) and Facing the Promotional Interview (Fire Engineering, 2003).

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Tags [Building Construction](#) [John Mittendorf](#) [Migration](#)

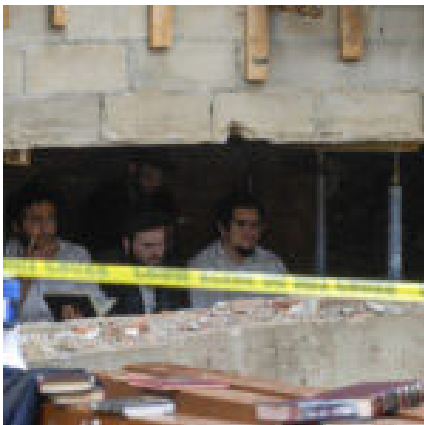
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Sprinkler System Failure Floods Elevator at WA Senior Housing Complex



NYC Officials: Illegal Tunnel Under Synagogue Destabilized Nearby Buildings

From: [marilyn.milum](#)
To: [Helana Ruter](#)
Subject: Failures of Lamella
Date: Thursday, January 25, 2024 11:15:43 AM
Attachments: [image.png](#)

A lot of the integrity is no longer there, not up to US safety standards.

11:13



roofs [1]. In 1925, the idea spread to America as well [3].

1.2 Previous Roof Failures

Due to the curve of the lamella roof, these structures are susceptible to failure from high wind loads. In 1926, hurricane winds caused the destruction of two lamella buildings in

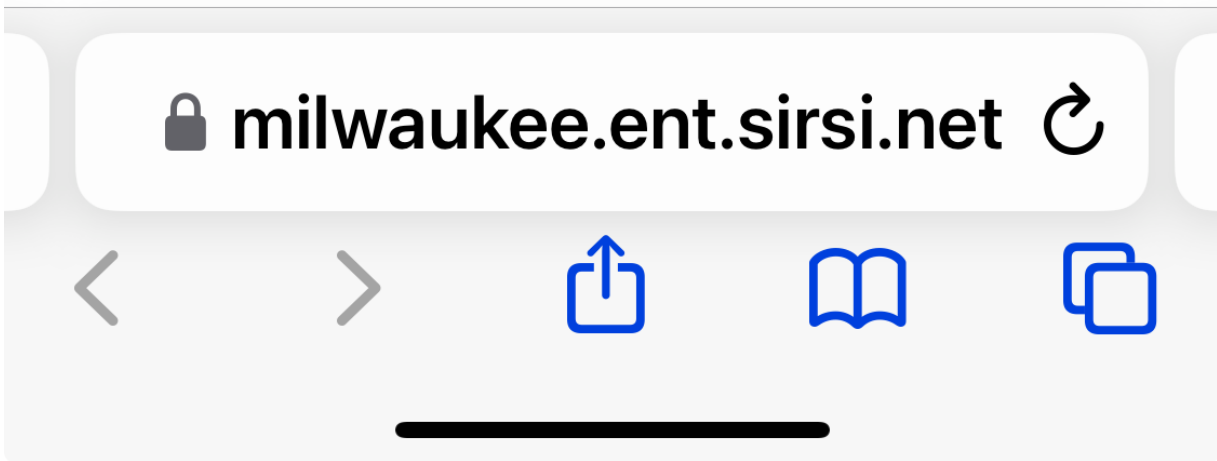
19

Florida with one roof being torn off completely and deposited upside-down a few hundred feet away [1, 7].

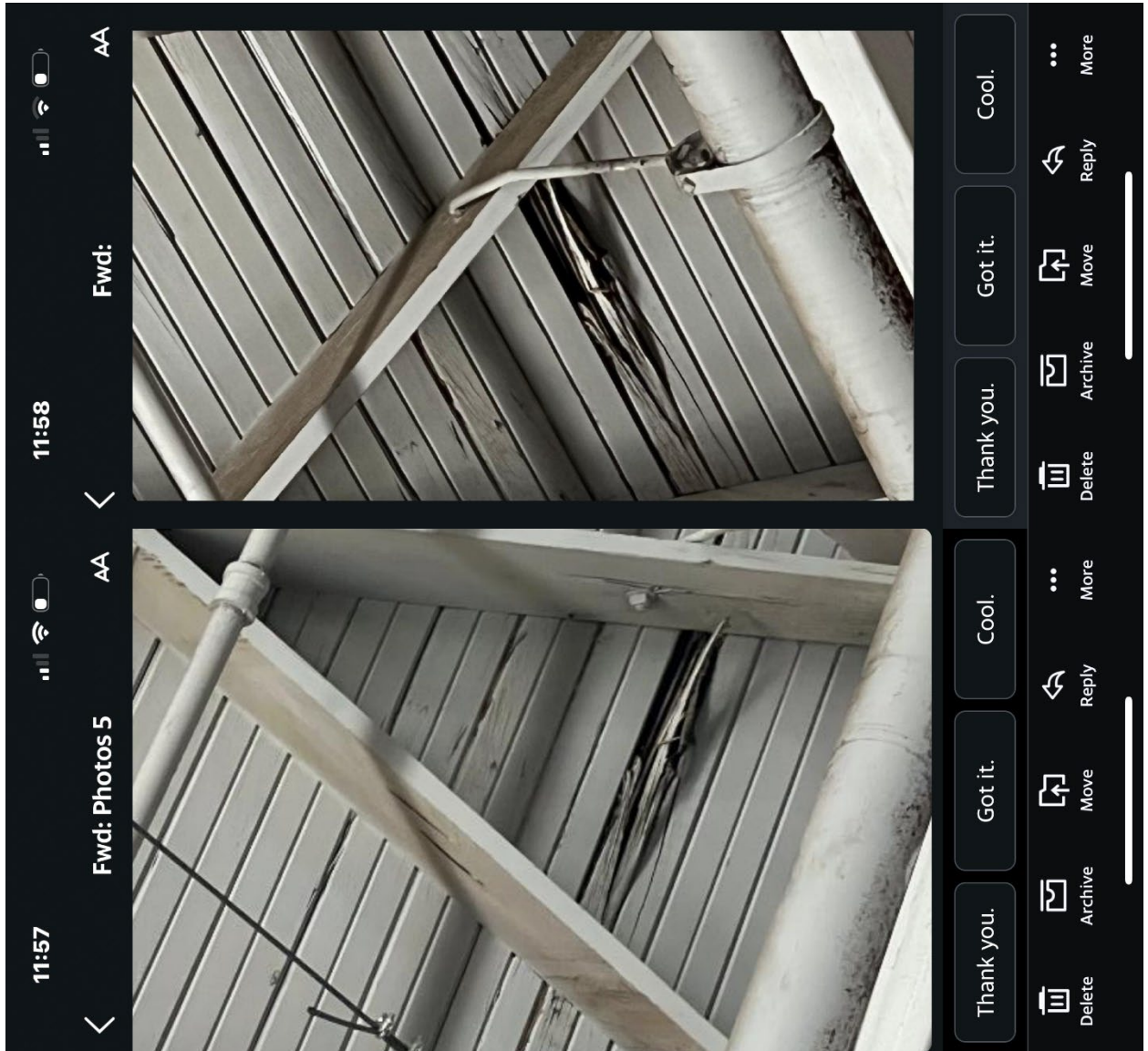
Lamella roof construction was principally in use from its introduction by Zollinger up until the 1940s, with construction mostly halted because of wind failures. Engineers at the time used a wind load of 10 psf on the vertical projection for normal wind areas and 37.5 psf for high-wind regions. The latter wind pressure correlated with a 130 mph wind speed, the highest measured in that era [1].

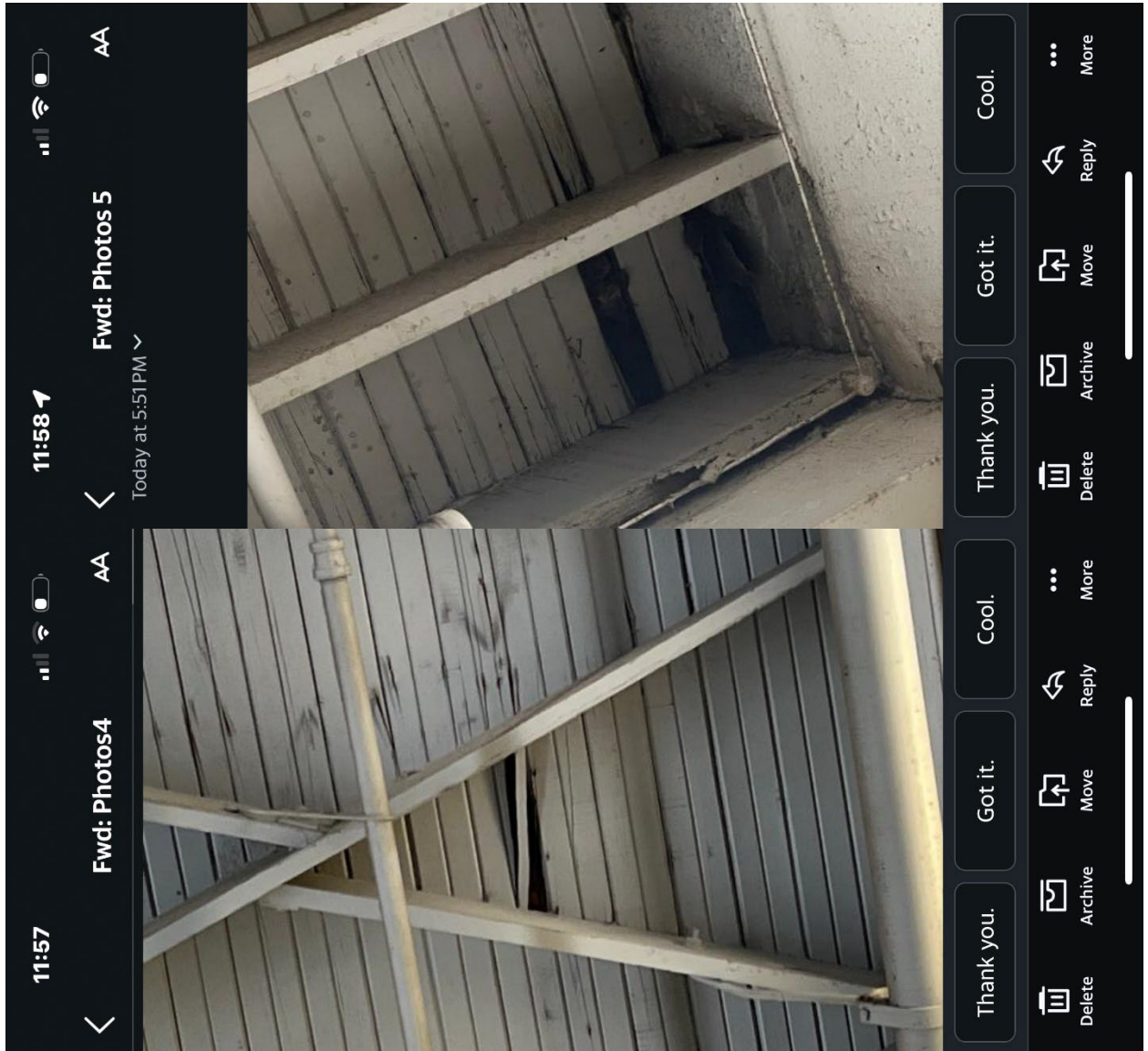
In modern times, the wind loads on a curved roof are better known thanks to modern wind tunnel testing and computer simulations. It is now known that wind flowing over a curved roof creates uplift (similar to an aircraft wing), not simply a uniform horizontal

curved roof creates uplift (similar to an aircraft wing), not simply a uniform horizontal load on the vertical projection. This creates a very different loading condition than the horizontal load which could potentially explain the failures of some lamella roofs in the first half of the 1900s.

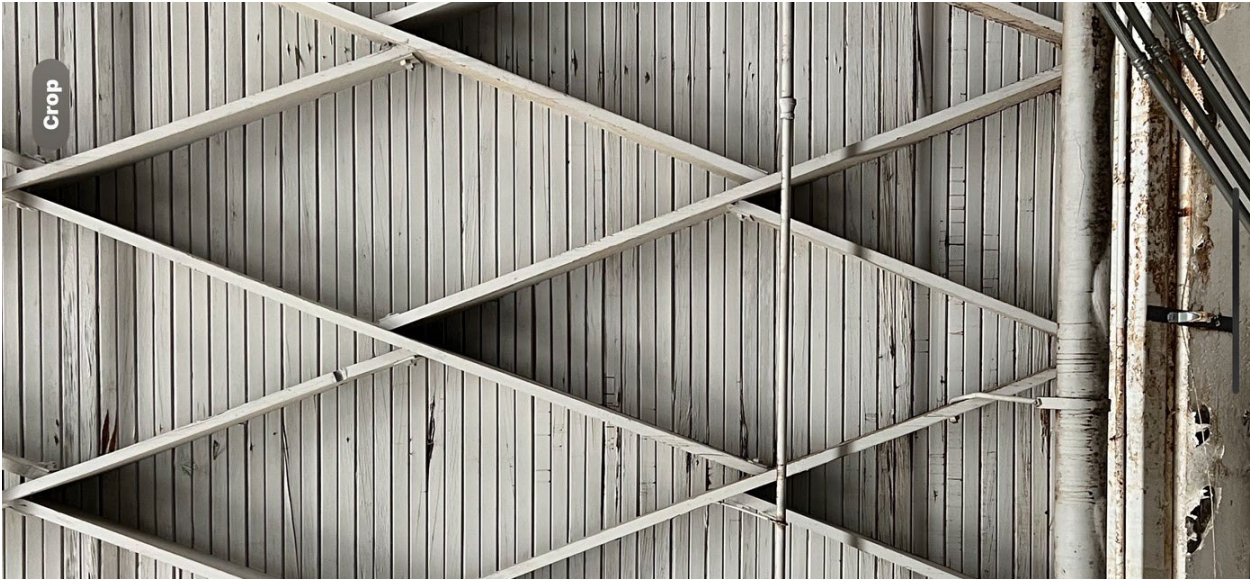


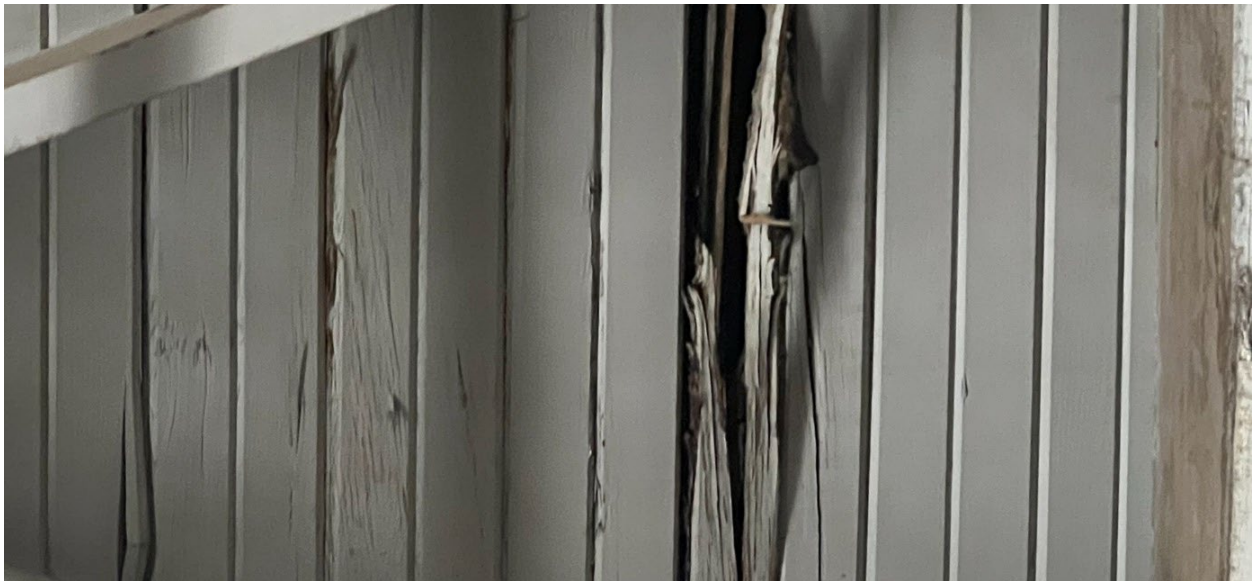
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Consideration of Citizen Petition by Tristan Schaub

This report provides the City Council with information in response to the citizen petition submitted by Mr. Tristan Schaub at the Jan. 24, 2024, Formal Meeting.

Summary

The attached document (**Attachment A**) was submitted to the City Council to request that Council act as follows: 1) stop all Board of Adjustment (BOA) actions and decisions until immediate mandatory training on policies and procedures is provided to all BOA members; 2) institute a formal on-board training program for all new members to teach them about all BOA policies and procedures and assign a BOA staff mentor for the first six months; 3) institute mandatory annual refresher training for all existing BOA members and make it open to the public; 4) mandate that decisions by the BOA must address Section 307 of the Zoning Ordinance which includes the 4-tests for a variance and 2-factors for use permit criteria and that the decisions must be in the proper procedural form; and 5) when overturning a Zoning Hearing Officer's (ZHO) decision, the member presenting the motion must clearly state why (based on Section 307 criteria) the ZHO decided incorrectly.

After reviewing each request, staff recommends the following:

1) Although this request qualifies as a valid citizen petition under Chapter IV, Section 22 of the Phoenix City Charter, staff recommends that City Council take **no action on request 1** because halting all BOA proceedings pending further training may subject the City to legal exposure because of due process requirements for those applicants and appellants who anticipate having their cases heard expeditiously in the near term. The current Board is adequately trained and more than competent to hear all pending cases. Halting Board proceedings is unnecessary and imposes undue burdens on applicants and appellants.

2) Although this request qualifies as a valid citizen petition under Chapter IV, Section 22 of the Phoenix City Charter, staff recommends that the City Council take **no action on request 2** because the City already has a formal on-boarding process in place. Currently, the Zoning Administrator meets with all new board

members for an hour to discuss their legal obligations vis-à-vis their service on the board. Moreover, there is no need to assign a staff mentor as Board members are routinely welcomed and encouraged to discuss when appropriate any pending cases or related issues with the Zoning Administrator or legal counsel if they have any questions.

3) Although this request qualifies as a valid citizen petition under Chapter IV, Section 22 of the Phoenix City Charter, staff recommends that the City Council take **no action on request 3** because refresher training for all current BOA members will be conducted as part of the March 7, 2024, BOA hearing which is open to the public. The City staff will also be developing and implementing mandatory annual refresher training.

4) **The City Council cannot take any action on request 4** because it seeks to have City Council implement a mandate that goes beyond the scope of what is statutorily required by Arizona Revised Statute 9-462.06 in BOA decisions. The BOA is not legally required to make explicit findings in its cases, although they are strongly encouraged to do so. Currently, the BOA follows the "Board of Adjustment Hearing Process" when reviewing a use permit or variance appeal. The "Board of Adjustment Hearing Process" establishes the procedural requirements for submitting written evidence before the hearing, testifying during the Board meeting, and conducting other Board business. Failure to follow the required substantive and procedural requirements is a basis for the Superior Court to reverse or remand a BOA decision. There has never been a court finding that the BOA failed to follow its procedures in making a decision. In fact, a review of all cases dating back to 2012 involving the application of the use permit or variance test indicate that the court has never reversed or remanded a BOA's use permit or variance decision for failure to follow its procedures.

5) **The City Council similarly cannot take any action on request 5** because it goes beyond the statutory requirements cited above of what should be included in board of adjustment decisions. Staff routinely encourages BOA members to clearly articulate the basis for any legal action and routinely stress to the Board the importance of making findings particularly when overturning a ZHO's ruling or decision. Staff will continue to emphasize the importance of this point in the future mandatory annual refresher trainings.

Responsible Department

This item is submitted by Deputy City Manager Alan Stephenson and the Planning and Development Department.



CITY CLERK DEPT.
2024 JAN 25 AM 9:13

January 23, 2023

City of Phoenix Mayor and City Council Members
200 W. Washington Street
Phoenix, Arizona 85003

Re: ACMNA Petition to City Council for Board of Adjustment Training Reform

Dear Mayor and City Council Members:

The Arcadia Camelback Mountain Neighborhood Association formally petitions the Phoenix City Council to introduce New Board of Adjustment Member Training and Annual Mandatory Refresher training for existing members on Board of Adjustment Policy and Procedures with the details listed below.

One year ago, a Maricopa County Superior Court Lawsuit involving ACMNA, The City of Phoenix and The Camelback Church of Christ was dismissed. In our settlement discussions, Phoenix Assistant City Attorney Daniel Inglese stated that the deposition of Jonathan Ammon unearthed significant concerns regarding the need for proper policy and procedural training. At that time, he was working directly with the Planning and Zoning department to implement changes. No changes were made. ACMNA has been told several times by Councilman Kevin Robinson's office that staff has responded to these requests and training is being provided. No changes have been made and no training has occurred.

As of today, new members to your Board of Adjustment Wallace Graham and Michelle Dodds have not received any formal training and have requested formal training of Planning and Development. During a deposition of Jonathan Ammon on 9/9/22 he stated he had only received training once in 2018 and nothing else in the past 4 years. After admitting to wrongdoing, Ammon was asked if he felt there were ways the city could improve its support of him in the role as a Board of Adjustment member, Ammon replied "YES", "Refreshers of rules to follow, clarifications on what is and is not permitted." These statements and requests are coming from three current Board of Adjustment members and the city fails to supply them the training needed to do their jobs.

ACMNA requests the following

- 1 – Stop all BOA Actions and Decisions until immediate mandatory training on Policies and Procedures for their role as Board of Adjustment Members is completed.
- 2 – Institute a formal on-boarding training program for new members which teaches the Policies and Procedures for the role and assigns a BOA staff mentor for the first 6 months.
- 3 – Institute Mandatory Annual Refresher Training for all existing Board Members and make it an open meeting, in compliance with state statutes, and open to the public.
- 4 – Decisions made by the Board must address Section 307 of the Zoning ordinance which includes the 4-Tests for a Variance and 2-Factors for Use Permit criteria and these decisions must be done so in proper procedural form.
- 5 – When overturning a ZHO's decision, the member presenting the motion must clearly state why (based on Sec 307 criteria) the ZHO decided incorrectly.

Thank you for your immediate attention to this matter.

Sincerely,

Tristahn Schaub
VP, ACMNA
4340 E Indian School Rd #21-293
Phoenix, AZ 85018
www.acmna.org



23 January 2024

Mayor Gallego, Vice Mayor Stark and City Council members
City of Phoenix
200 W. Washington, 11th floor
Phoenix, AZ 85003

RE: Petition to City Council for Board of Adjustment Training Reform

Mayor, Vice Mayor and Council members:

Arcadia Osborn Neighborhood Association (AONA) agrees with and supports Arcadia Camelback Mountain Neighborhood Association's formal petition of Phoenix City Council to introduce Board of Adjustment new member training and annual mandatory refresher training for current members on Board of Adjustment Policy and Procedures with the details listed in ACMNA's letter to Council.

The Board of Adjustment is an important and vital arm of city government. Because the board acts in a quasi-judicial capacity within legal parameters, it is of paramount importance to educate and train its members. We also believe that by conducting the annual refresher training in an open meeting setting, the City of Phoenix would continue to provide transparency to its processes with its citizens.

The next step beyond the Board of Adjustment for Phoenix citizens is Maricopa County Superior Court. Citizens should not have to bear the costly burden of going to court to challenge or defend actions by the board. Education and training will minimize the frequency of those challenges.

Thank you for reviewing and acting positively on ACMNA's petition.

Respectfully submitted,

/s/

Neal Haddad
President, Arcadia Osborn Neighborhood Association

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ARIZONA SUPERIOR COURT

MARICOPA COUNTY

ARCADIA CAMELBACK MOUNTAIN)
NEIGHBORHOOD ASSOCIATION, an)
Arizona non-profit)
corporation,)
Plaintiff,)
v.)
CITY OF PHOENIX, an Arizona)
municipal corporation; and)
CITY OF PHOENIX BOARD OF)
ADJUSTMENT, an official body)
of the City of Phoenix,)
Defendants.)
BOOTZ & DUKE SIGN CO., an)
Arizona corporation; CAMELBACK)
CHURCH OF CHRIST, an Arizona)
non-profit corporation,)
Real Parties in Interest.)
_____)

No. CV2022-004359

DEPOSITION OF JONATHAN AMMON

Phoenix, Arizona

September 9, 2022

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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I N D E X

| WITNESS | | PAGE |
|-----------------------------------|--|------|
| JONATHAN AMMON | | |
| EXAMINATION BY MR. DEWULF | | 4 |
| EXAMINATION BY MR. INGLESE | | 65 |
| FURTHER EXAMINATION BY MR. DEWULF | | 72 |

EXHIBITS MARKED

| EXHIBITS | DESCRIPTION | PAGE |
|-----------|---|------|
| Exhibit 1 | City of Phoenix Application No: ZA-454-21 | 4 |
| Exhibit 2 | Rules of Procedure of the Board of Adjustment, City of Phoenix, Arizona | 4 |
| Exhibit 3 | Board of Adjustment Training, August 30, 2018 | 11 |
| Exhibit 4 | Zone Adjustment hearing, October 14, 2021, document | 23 |
| Exhibit 5 | February 3, 2022, Reporter's Transcript of Audio-recorded Proceedings | 29 |
| Exhibit 6 | City of Phoenix Planning and Development Services document | 58 |

1 THE DEPOSITION OF JONATHAN AMMON commenced at
2 9:19 a.m. on September 9, 2022, at the law offices of
3 Coppersmith Brockelman PLC, 2800 North Central Avenue,
4 Suite 1900, Phoenix, Arizona, before Cindy Mahoney, RPR,
5 RMR, Arizona Certified Court Reporter No. 50680.

6
7 * * *

8 APPEARANCES:

9 For the Plaintiff:

10 COPPERSMITH BROCKELMAN PLC
11 By: John E. DeWulf, Esq.
12 2800 North Central Avenue
13 Suite 1900
14 Phoenix, Arizona 85004
15 602-381-5475
16 Jdewulf@cblawyers.com

17 For the Defendants:

18 OFFICE OF THE PHOENIX CITY ATTORNEY
19 CRIS MEYER, CITY ATTORNEY
20 By: Daniel Inglese, Esq.
21 Assistant City Attorney
22 200 West Washington Street
23 Suite 1300
24 Phoenix, Arizona 85003
25 602-262-6761
Daniel.inglese@phoenix.gov

1 (The documents were as marked as Exhibits 1 and 2
2 for identification.)

3
4 JONATHAN AMMON,
5 the witness herein, being first duly sworn,
6 was examined and testified as follows:
7

8 EXAMINATION

9 BY MR. DEWULF:

09:19:34 10 Q. Would you please state your name for the record.

11 A. My name is Jonathan Ammon.

12 Q. Mr. Ammon, have you been deposed before?

13 A. No, sir.

14 Q. So let me go through with you -- and maybe your
09:19:44 15 counsel has spoken to you about this as well. If we get
16 some ground rules in place and some understandings, it will
17 cause us to be more efficient.

18 So I represent the Arcadia Camelback Mountain
19 Neighborhood Association. I'm going to be referring to
09:20:01 20 them as the Arcadia homeowners. Is that okay for you?

21 A. Yes.

22 Q. And the deposition today arises out of a public
23 use -- a public use application by Bootz & Duke Sign
24 Company. Do you recall that?

09:20:23 25 A. Yes.

1 Q. Now, if -- so you're under oath to tell the truth.
2 You understand that; right?

3 A. I do.

09:20:32

4 Q. And so my goal is to ask you questions regarding
5 the subject matter of that. And I want my questions to be
6 clear and understood. So if you don't understand my
7 questions, will you let me know?

8 A. Yes.

09:20:47

9 Q. And if you answer the question I ask you, I'm
10 going to assume you understood the question. Is that fair?

11 A. Yes.

12 Q. I generally go about an hour and then take a
13 break. But if there's any point in time where you need to
14 take a break, will you let us know?

09:21:01

15 A. Yes.

16 Q. And we'll stop. Is that fair?

17 A. Yes.

09:21:11

18 Q. We need to extend the courtesy to one another to
19 allow the other to complete speaking before the other
20 speaks, because it's very difficult for the court reporter
21 to take down two people speaking at the same time. Is that
22 understood?

23 A. Yes.

09:21:22

24 Q. And your answers will need to be audible so she
25 can type them and verbal so that it can be understood in

1 the record. So uh-huh, huh-uh, those kinds of things don't
2 work well. I'll try to remember if that happens.

3 I don't think that's going to happen with
4 you. And if there are times when the question confuses
09:21:42 5 you, please ask me. I'll rephrase it. Okay?

6 A. I will.

7 Q. Did you do anything to prepare for today's
8 deposition?

9 A. Yes.

09:21:49 10 Q. What did you do?

11 A. I spoke -- read through the minutes and spoke with
12 my attorney.

13 Q. And your attorney is Mr. Inglese?

14 A. That's correct. Yes, sir.

09:22:12 15 Q. Did you review anything else other than the
16 minutes?

17 A. No.

18 Q. How long did you meet?

19 A. 45 minutes.

09:22:27 20 Q. I'm going to go through some background
21 information, if I could.

22 Where do you currently reside?

23 A. 17613 North 56th Place.

24 Q. Is that Phoenix?

09:22:46 25 A. Yes, sir. It has a Scottsdale area, but the ZIP

1 code is in Phoenix, 85254.

2 Q. Now, I've looked at your background, but I may not
3 precisely know all the details, so I'm going to ask you
4 some questions just for background purposes.

09:23:07

5 My understanding is that you got a BA from
6 Trinity in 2004?

7 A. I did. Yes, sir.

8 Q. Then you also got advanced degrees from Washington
9 University; correct?

09:23:17

10 A. In St. Louis. Yes, sir.

11 Q. You got a master's in architecture and a master's
12 in construction management?

13 A. That's correct, sir.

09:23:28

14 Q. You attended Washington University from 2007 to
15 2011?

16 A. Western University?

17 Q. No. Washington University.

18 A. Yes, sir.

09:23:40

19 Q. Then upon graduation, did you work at Gilbane or
20 Gilbane construction?

21 A. Gilbane Building Company.

22 Q. And the description I saw was virtual construction
23 engineer. Was that the title?

24 A. Yes, sir.

09:23:49

25 Q. What did that entail?

1 A. The coordination of multiple architectural,
2 structural, mechanical, electrical, plumbing, fire
3 protection systems for buildings over \$25 million in
4 construction cost in Arizona and Massachusetts.

09:24:11 5 Q. And you left that entity in 2015?

6 A. I did.

7 Q. And you became a cofounder of Devco Development
8 Collaborative?

9 A. Yes, sir.

09:24:21 10 Q. And who are you a cofounder with?

11 A. A gentleman by the name of Adam, last name
12 Eggebrecht, E-g-g-e-b-r-e-c-h-t. Very minimal work.
13 Nothing ever really became of that group.

14 Q. It lasted about a year or so?

09:24:40 15 A. About that, yes, sir.

16 Q. What was its business?

17 A. To identify and possibly acquire land to develop
18 buildings.

19 Q. And then you joined Sundt Construction?

09:24:51 20 A. Correct, sir.

21 Q. As an engineer?

22 A. As a similar job to what I did at Gilbane.

23 Q. Construction management?

24 A. Yes, sir.

09:24:58 25 Q. You were there from 2016 to 2018?

1 A. I was.

2 Q. Now, it appears that you founded Jammon Studios.

3 Am I pronouncing that correctly?

4 A. Jammon Studios. Close enough. Yes, sir.

09:25:13 5 Q. Okay. And you founded that in 2018?

6 A. Yes, sir.

7 Q. And you were with that entity as an architect and
8 founder for how long?

9 A. Still to this day.

09:25:27 10 Q. So starting in 2018 and still there?

11 A. Uh-huh.

12 Q. How would you describe Jammon's business?

13 A. Architectural practice.

14 Q. Designing what?

09:25:40 15 A. Residential, commercial, ground-up, and tenant
16 improvement projects.

17 Q. In your work for any of these entities, have you
18 had to appear before either a zoning administrator or the
19 Board of Adjustment?

09:26:16 20 A. Yes.

21 Q. Let's just limit it to Jammon Studios. How many
22 times have you appeared either before the zoning adjustment
23 administrator or the Board of Adjustment?

24 A. Immediate recollection is twice.

09:26:32 25 Q. Do you remember what it involved?

1 A. A variance for a height of a concrete masonry wall
2 to go from six feet to seven feet, along with the reduction
3 in open space of a property from five percent to three
4 percent. That was one.

09:26:55

5 And if I may please have a moment, I can give
6 you the information on the other.

7 The other variance was for the increased
8 square footage of a residential property to allow for, I
9 believe, a two or a five percent increase in lot coverage.

09:27:34

10 Q. How long have you been on the Board of Adjustment?

11 A. I believe since the very beginning of 2018, the
12 last part of 2017. I believe it was August or September of
13 2017.

14 Q. And that's a four-year term; right?

09:27:53

15 A. No, sir. I do not believe it is.

16 Q. Okay. So you still serve?

17 A. Yes, sir.

18 Q. Do you believe that you -- that you'll be serving
19 for some time in the future?

09:28:06

20 A. Yes.

21 Q. That's a voluntary position; right?

22 A. I was appointed, and I accepted.

23 Q. Who appointed you?

09:28:31

24 A. Thelda Williams. Councilmember -- Councilwoman
25 Thelda Williams at the time.

1 Q. Was it a position you sought out with her?

2 A. No, sir.

3 Q. Total surprise?

4 A. One that was -- yes.

09:28:45 5 Q. Why did you say yes?

6 A. I was flattered to have an opportunity to serve
7 the community and sit on this board.

8 Q. So we're here regarding a use permit for a digital
9 sign at 5225 East Camelback Road for the Camelback Church
09:29:23 10 of Christ. You understand that; right?

11 A. I do, yes, sir.

12 Q. Okay. I've shown you Exhibit 1. And is that one
13 of the documents relating to that permit -- use permit
14 application?

09:29:43 15 A. Yes.

16 Q. In connection with serving on the Board of
17 Adjustment, Mr. Ammon, what kind of education or training
18 did you receive?

19 A. I believe it was a few hours of training with the
09:30:18 20 zoning administrator, Tricia Gomes, alongside legal
21 counsel, Paul Li, City of Phoenix, as a legal
22 orientation -- an orientation to the legal proceedings and
23 the processes of the work that we will do.

24 (The document was marked as Exhibit 3 for
09:30:59 25 identification.)

1 BY MR. DEWULF:

2 Q. Let me ask you to look at Exhibit 2.

3 A. Uh-huh.

09:31:17

4 Q. These are the rules of procedure of the Board of
5 Adjustment, City of Phoenix, Arizona. You're familiar with
6 these rules?

7 A. Yes, sir, I am.

09:31:29

8 Q. As part of your training and education provided to
9 you by the city, they would have discussed with you these
10 rules?

11 A. Yes.

12 Q. The rules would govern how the board goes about
13 doing its business?

14 A. Yes.

09:31:42

15 Q. The training that you received from Tricia Gomes
16 and legal counsel, was it -- did it consist, among other
17 things, of PowerPoint presentations or written materials
18 provided to you?

19 A. I would like to better understand the question.

09:32:04

20 Q. Okay.

21 A. May I ask you a question? Or do you ask --

22 Q. Let me ask a better question. And if I still
23 fail, then we can go back and forth.

09:32:16

24 So in terms of what was provided to you in
25 connection with the training or education, do you recall?

1 A. Yes.

2 Q. What were you provided?

09:32:31

3 A. The explanation of the type of materials that
4 could be presented to us by appellant opposition or the
5 people that will be presenting to the Board of Adjustments,
6 understanding that there would be oral presentations by
7 people, along with visual documents that could be in the
8 form of a PowerPoint presentation, a PDF or a video. It
9 was explained to us that that's the information we should
10 anticipate to receive during our board process.

09:32:49

11 Q. Okay. So my question was really going at a
12 different angle.

09:33:08

13 In the form that was provided to you by the
14 city to educate you or train you to serve in the role on
15 the Board of Adjustment, do you remember what form that
16 took?

17 A. I do.

18 Q. What do you remember?

09:33:19

19 A. A binder in which we walked through the types of
20 presentations that we would see, documentation that would
21 be provided to us, and examples of.

09:33:47

22 Q. So let's look at Exhibit 2. And if you could go
23 to the second page, Roman numeral IV. It talks about the
24 information to be provided, evidence, legal memoranda, and
25 other statements to be provided by the parties to the

1 proceeding to you.

2 Now, at the -- it's at the bottom of that
3 second page. It's called evidence. Do you see it?

4 A. Yes. Sorry.

09:33:59 5 Q. That's all right.

6 A. Okay.

7 Q. So this talks about the -- you talked a moment
8 ago, Mr. Ammon, about what the city staff anticipated with
9 you as to the kinds of things you would be provided.

09:34:14 10 And the Roman numeral IV talks about the
11 evidence. You understood the evidence to include legal
12 memoranda, written statements, other evidence; true?

13 A. Yes.

14 Q. And you understood that the evidence that would be
09:34:27 15 provided to you by the parties to the proceeding would need
16 to be provided ten days in advance of the scheduled
17 hearing; correct?

18 A. Yes, sir.

19 Q. And did you also understand that the decision to
09:34:41 20 be made by the board would be limited to the evidence
21 provided to you by the applicants and the opposition to the
22 applicant?

23 A. I did.

24 Q. Okay. Let me take you to the next page. Roman
09:35:01 25 numeral V, Hearings and decisions. A little over halfway

1 down that page.

2 A. Yes, sir.

3 Q. There's a hearing appeal by applicant. Now, in
4 this instance, Bootz & Duke Sign Company was appealing the
09:35:20 5 decision by the zoning adjustment administrator; right? Or
6 hearing officer; right?

7 A. Yes, sir.

8 Q. And so you would have, based on your understanding
9 of how these proceedings were to work, anticipated that
09:35:38 10 whatever evidence the board was to consider would be
11 provided to you either by Bootz & Duke, in this case the
12 appellant, or by the Arcadia homeowners who were opposing
13 the application?

14 A. That is correct.

09:35:56 15 Q. Let's look at Exhibit 3. Did this document -- or
16 does this document look familiar to you as a form of a
17 presentation that would have been provided to you by the
18 city in terms of training you and other board members?

19 A. It does.

09:36:20 20 Q. Okay. And the date of this document is August 30,
21 2018.

22 For the record, my client obtained this
23 through a public records request. And I believe it to be
24 an authentic document and record from the City of Phoenix.

09:36:42 25 It's dated August 30, 2018, which I think would be in the

1 time frame when you were a member of the Board of
2 Adjustment. Would that be fair?

3 A. Yes, sir.

4 Q. So is it likely that the presentation embodied in
09:36:58 5 Exhibit 3 would be an accurate representation of what you
6 were being told, educated about, trained to do as a member
7 of the Board of Adjustment?

8 A. Yes.

9 Q. If we go to the -- these pages aren't numbered, so
09:37:20 10 let's go to the fourth page of the document.

11 So the top, it says, Legislative versus
12 quasi-judicial. Do you see that?

13 A. Yes, sir.

14 Q. And you understood that you, as a board member,
09:37:39 15 might be engaged in your formal or official duties both in
16 dealing with legislative issues and dealing with
17 quasi-judicial issues; correct?

18 A. Yes, sir.

19 Q. And the hearing that we're here today about would
09:37:53 20 be a quasi-judicial proceeding; correct?

21 A. Yes.

22 Q. What do you understand that to mean, something
23 being quasi-judicial?

24 A. Something that was similar to a judgment and a
09:38:08 25 ruling that would be enforced or carried out by the group

1 that would receive that ruling.

2 Q. Like a legal proceeding?

3 A. Yes, sir.

09:38:27

4 Q. And you and the other members of the board would
5 be serving as decision-makers or judges for that
6 proceeding?

7 A. That is correct. Yes, sir.

09:38:43

8 Q. If you look at the next page, Mr. Ammon, under the
9 column quasi-judicial, it says that ex parte communications
10 are not allowed. Do you see that?

11 A. I do.

12 Q. You understood that that was something that was
13 prohibited; that is, ex parte communications with
14 participants in a hearing before you?

09:38:56

15 A. Yes.

16 Q. What do you understand ex parte to mean?

17 A. To be -- not to be looking and using information
18 outside of what has been provided.

09:39:22

19 Q. If it were to relate to a communication between
20 you and an individual, would ex parte capture this idea
21 that the communication would be about the subject matter of
22 a proceeding but outside the actual proceeding?

23 A. Most respectfully, I don't fully understand the
24 question. I apologize.

09:39:42

25 Q. That's all right.

1 We, as lawyers, run into this concept, but
2 it's probably foreign to non-lawyers. But frequently ex
3 parte means kind of outside the proceedings, outside the
4 formal legal proceedings.

09:39:59

5 So did you understand that you were not to
6 engage in communications outside of the formal proceedings
7 with folks who were involved in the proceedings?

8 A. Absolutely. Yes.

09:40:16

9 Q. Now, going farther down on that page, the heading,
10 Evidence and testimony, I'll read the bullet point.

11 [Reading] Decisions are based only on the
12 testimony and evidence presented at the hearing.

13 Did you understand that to be the case?

14 A. Yes.

09:40:26

15 Q. And that's what you had been taught by legal
16 counsel and Ms. Gomes?

17 A. Yes, sir.

18 Q. If we could go a few pages back. I think it's
19 three pages back. There's a heading, Use permit criteria.

09:40:51

20 Do you see that?

21 A. Yes, sir.

22 Q. All right. Take a moment and look at that.

23 Is this generally what you understand to be
24 the criteria that the Board of Adjustment was to apply in
25 the case where someone is seeking a use permit?

09:41:06

1 A. Yes.

2 Q. Okay. And you knew that this was the criteria
3 that would be applied in this instance where Bootz & Duke,
4 as an appellant, were challenging the zoning
09:41:21 5 administrator's decision?

6 A. I did, yes.

7 Q. Do you have to take any refresher courses or any
8 updating of training or educating as it relates to your
9 responsibility as a Board of Adjustment member?

09:41:46 10 A. At this time, no.

11 Q. So would the only training you have had relative
12 to serving in that role be what training you got in 2018?

13 A. Yes.

14 Q. And do you think that the training you got is
09:42:00 15 embodied in Exhibit 3?

16 A. Yes.

17 Q. Do you think there was anything else beyond
18 Exhibit 3 that would have been shared with you either by
19 Ms. Gomes or counsel?

09:42:08 20 MR. INGLESE: I would advise the witness not
21 to reveal any attorney-client privileged communications in
22 answering that question.

23 THE WITNESS: Would you ask -- please ask the
24 question one more time?

09:42:18 25 ///

1 BY MR. DEWULF:

2 Q. Sure.

3 In connection with the training or education
4 you received from the city; that is, legal counsel and
09:42:29 5 Ms. Gomes, in connection with your role on the Board of
6 Adjustment, do you think that there were any other
7 materials or information provided to you outside of what's
8 in Exhibit 3?

9 A. No.

09:42:41 10 Q. At one point in the record -- and when you say
11 minutes, you're talking about the formal written record of
12 what occurred at the proceeding?

13 A. That is correct. Yes, sir.

14 Q. We're going to look at that in a moment.

09:43:00 15 You indicate, and the statements you made on
16 the record is that you were very familiar with that section
17 of Camelback Road. Would that be a true statement?

18 A. Yes, sir.

19 Q. There were -- also, are you familiar with the
09:43:17 20 Arcadia neighborhood both south and north of Camelback
21 Road?

22 A. Yes.

23 Q. And how do you have that familiarity?

24 A. Moved to Phoenix when I was ten, started driving
09:43:30 25 when I was 16. I grew up in the north central area.

1 Friends of mine lived in the Arcadia area. To this day,
2 colleagues and friends live in the Arcadia area. And I
3 commute up and down Camelback.

09:43:49 4 And over the course of years, you get quite
5 exposed to both the residential and the commercial area
6 specifically. And there's a number of discussions I've had
7 with clients and potential clients around that area as
8 well.

09:44:07 9 Q. Okay. Are you familiar with where Hopi primary
10 school is?

11 A. Not the specific street address and the
12 intersection, but yes, I have driven by it a number of
13 times.

09:44:18 14 Q. There were some references in the record,
15 specifically by Bootz & Duke, to the signage that appears
16 at Hopi Elementary School. Did you review that signage
17 before the formal hearing?

18 A. Yes, sir. I did.

09:44:32 19 Q. Okay. Did you have any impressions based on your
20 review of that sign?

21 A. I did.

22 Q. What were the impression?

09:44:46 23 A. That that sign for Hopi is a larger, higher
24 profile sign than the one that was part of the appellant's
25 presentation and proposal.

1 Q. So you know this, and this became an issue in the
2 public record. When we talk about high profile and low
3 profile, it can be kind of an ambiguous term, so let me try
4 to explore that with you.

09:45:00

5 A. Sure.

6 Q. Did you look at the size of what would be called
7 the digital display on that sign?

8 A. Yes.

09:45:12

9 Q. Okay. And did you compare the size of that
10 digital display on the Hopi sign to what was being
11 presented as an application by the church, the Camelback
12 Church of Christ?

13 A. I did.

14 Q. What were your conclusions based on that?

09:45:27

15 A. That one was -- one was that Hopi was larger and
16 taller than the other and that -- perhaps I didn't answer
17 the question as well as I could have. Excuse me.

18 My conclusion was that the Hopi sign in total
19 was larger and of a, quote/unquote, higher profile than
09:45:50 20 what was being presented at the Camelback sign, not
21 specific to the digital sign and its relationship in its
22 dimensions and measurement.

23 Q. I understand, I think. Let me make sure.

09:46:08

24 You're saying you really didn't compare the
25 size of the digital display at Hopi to what was being

1 presented by Bootz & Duke in the hearing?

2 A. That is correct.

3 Q. So when you talk about profile, you're really
4 talking about the monument that existed in which the
09:46:24 5 digital display was housed?

6 A. Yes, sir. That is correct.

7 Q. And so that monument at Hopi is taller than what
8 was contemplated by the application?

9 A. Yes, sir.

09:46:39 10 Q. Okay. Do you think that a signage for a public
11 entity like a primary school is comparable to what a church
12 would be seeking from the Board of Adjustment?

13 A. Depending on the size of the church and size of
14 the school, I do believe that they can be comparable. And
09:47:13 15 by size of church, I mean number of congregants, attendees.

16 Q. Does the amount of street-front footage matter in
17 your analysis?

18 A. If it is in line with the laws and the codes --
19 zoning codes of the City of Phoenix, then I would follow
09:47:35 20 what the City of Phoenix allows.

21 (The document was marked as Exhibit 4 for
22 identification.)

23 BY MR. DEWULF:

24 Q. Showing you Exhibit 4 to your deposition,
09:48:05 25 Mr. Ammon.

1 A. Yes, sir.

2 Q. This is the zoning adjustment hearing officer's
3 decision. You've seen it before?

4 A. Yes, sir.

09:48:15 5 Q. And did you review this document before the public
6 hearing on the application which is embodied in Exhibit 1?

7 A. Yes, sir. I did.

8 Q. And you understood that the zoning adjustment
9 hearing officer had denied the application by Bootz & Duke?

09:48:37 10 A. I did.

11 Q. You understood, among other things, that part of
12 the reason for the denial was -- well, in fact, we can look
13 at it together.

14 If you look on the first page, paragraph 3,
09:48:53 15 it reads, Granting of the use permits may have a negative
16 impact on the surrounding area and will not contribute in a
17 measurable way the downgrading of property values.

18 Then the next sentence, Although similar,
19 generally smaller electronic message displays have been
09:49:09 20 approved at churches in less character-driven parts of
21 Phoenix. The proposed sign is not compatible at this
22 location within the Arizona Camelback Special District
23 (ACSD) adopted in 1999.

24 Do you agree or disagree with that statement?

09:49:27 25 A. I disagree with that statement.

1 Q. Why?

2 A. Because I do not believe it has a negative impact
3 on the surrounding area, because I do not believe that the
4 amount of light emitted exceeds that of ambient conditions
09:49:45 5 and therefore qualifies for the granting of the use permit.

6 Q. Are you aware of any other digital signs or signs
7 that produce the amount of light that this sign would
8 between 44th Street and 68th Street on Camelback Road --

9 MR. INGLESE: Foundation.

09:50:07 10 BY MR. DEWULF:

11 Q. -- if you know?

12 A. I do not believe there are any.

13 Q. The next -- let's go to the next page.

14 Go down about nine lines. There's a sentence
09:50:29 15 that begins, All signage.

16 A. This is off of that first paragraph?

17 Q. This is on the first paragraph.

18 A. Uh-huh.

19 Q. Are you there?

09:50:38 20 A. Yes, sir.

21 Q. Okay. It reads, All signage should be "low
22 profile and in keeping with the character of the Arcadia
23 area." At eight feet high by ten feet wide, the sign
24 cannot be considered "low profile." It is larger than
09:50:57 25 other EMD signs approved for churches recently at zoning

1 adjustment hearings. Its location, electronic message
2 display, and gray and white design (plus message display)
3 are not inconsistent with area character.

4 Did I read that correctly?

09:51:13 5 A. Yes, sir.

6 Q. Do you agree or disagree with that statement?

7 A. I disagree.

8 Q. Why?

9 A. The design review that occurred at the City of
09:51:23 10 Phoenix with this project in order for it to get its permit
11 beforehand was reviewed by the city and moved forward and
12 approved. And I felt as though that the design was in
13 keeping with what was reviewed by the city.

14 Q. But your determination on a use permit included
09:51:42 15 this concept of whether it was consistent with the
16 character of the area; correct?

17 A. Yes, sir.

18 Q. That really goes beyond what the sign permit was
19 about; right?

09:51:50 20 A. It does.

21 Q. So you understood that was -- part of your
22 responsibility was to evaluate how this fits or does not
23 fit within the character of the Arcadia area?

24 A. Yes, sir.

09:52:00 25 Q. Do you understand what the term extra record

1 means?

2 A. At this time, no.

3 Q. Okay. You've never heard the term extra record
4 relating to, in terms of a legal proceeding or a hearing
09:52:24 5 such as the one we're here about today, where evidence or
6 information is provided that's outside of the record
7 developed by the parties? You never heard that term?

8 A. I have heard that term, yes.

9 Q. Okay. Do you understand the term extra record as
09:52:43 10 it relates to these proceedings we're here about today?

11 A. I'm still a little confused, respectfully.

12 Q. Okay. What are you confused about?

13 A. Whether or not this is -- if extra record has to
14 do with additional information that was provided by either
09:53:01 15 party or if extra record is something that someone on the
16 board looks up or drives by or looks at Google Earth. I
17 don't understand extra record in terms of this
18 conversation.

19 Q. All right. So we looked a moment ago at
09:53:22 20 Exhibit 2, which is the rules of procedure of the Board of
21 Adjustment, which provides that the parties are to provide
22 ten days in advance the evidence that they intend to use at
23 the hearing; right?

24 A. Yes, sir.

09:53:38 25 Q. Would -- in your view, evidence that's first

1 provided at the hearing that is not ten days before the
2 hearing, would that be extra record?

3 A. I believe that to be extra record.

09:53:58

4 Q. When we use the word evidence, we're talking about
5 factual information that would be presented to and reviewed
6 by the board in its determining whether or not to grant the
7 relief requested?

8 A. Yes.

09:54:35

9 Q. When the zoning adjustment hearing officer talked
10 about high profile versus low profile as it relates to
11 signage, in your definition, how would you distinguish high
12 profile from low profile?

13 A. A size of monument and height comparison of two
14 separate signs.

09:54:56

15 Q. Not the size or luminescence or glare of the
16 digital portion of that sign?

17 A. Yes.

18 Q. Did you say yes?

19 A. Would you please ask that one more time?

09:55:16

20 Q. Let me back up, because I just want to be clear
21 about this.

22 A. Yes.

23 Q. When you're talking about high profile versus low
24 profile, in your view, that's a function of how big the

09:55:30

25 monument of the sign is, the size of the overall structure;

1 correct?

2 A. Yes.

3 Q. High profile or low profile, in your view, does
4 not relate to the amount of luminescence or glow of a
09:55:46 5 digital sign or the size of that digital sign?

6 A. Although I could be wrong, that is correct.

7 Q. Why do you say you could be wrong?

8 A. There could be a definition -- standard definition
9 of industry signage companies that qualify what constitutes
09:56:09 10 a high-profile versus a low-profile sign that could be more
11 than monument size and might very well include
12 luminescence, other numbers.

13 Q. So I'm going to show you the reporter's transcript
14 of the Board of Adjustment hearing.

09:56:26 15 (The document was marked as Exhibit 5 for
16 identification.)

17 BY MR. DEWULF:

18 Q. So let me ask you, Mr. Ammon, before the hearing
19 on -- let me back up.

09:56:51 20 Exhibit Number 5 is the reporter's
21 transcript. Earlier in your testimony you talked about
22 having reviewed the minutes of the meeting. And this is
23 what you were referring to; right?

24 A. Yes.

09:57:04 25 Q. Exhibit 5.

1 And you understood that this was a
2 transcription of what occurred at the hearing?

3 A. Yes.

09:57:23

4 Q. Why did you review Exhibit 5 before you came to
5 your deposition?

6 A. Seemed like a prudent direction to familiarize
7 myself with what was communicated during the time of this
8 hearing.

09:57:56

9 Q. Let me ask you to go to page 24. This begins
10 line 10 on page 24. Are you there?

11 A. Yes, sir.

12 Q. Board Member Ammon -- that's you -- says, For the
13 gentleman that just spoke, everybody, thank you again for
14 all your presentations and points.

09:58:17

15 Do you recall that when you spoke, both
16 parties; that is, Bootz & Duke and the Arcadia homeowners,
17 had both made their presentations?

18 A. Yes.

09:58:33

19 Q. And by that, the process is one where the
20 appellant, in this case Bootz & Duke, is provided a certain
21 amount of time to present its case; and then the opposition
22 in this case, the Arcadia homeowners, had an opportunity to
23 present their view; and then Bootz & Duke then has a
24 rebuttal opportunity; correct?

09:58:50

25 A. Yes.

1 Q. Do you know that after those presentations are
2 made, the microphones are muted; that is, those folks can
3 no longer speak unless given the opportunity by the city?

4 A. Yes.

09:59:02

5 Q. So do you know that after the Arcadia homeowners
6 association's representative, Tristahn Schaub, did his
7 presentation for ten minutes, then the city muted his
8 microphone?

9 A. Yes.

09:59:20

10 Q. And page 24, you say, Everybody, thank you again
11 for all of your presentations and points. I'm looking at
12 the Bootz & Duke -- Bootz & Duke website, and I know it's
13 not -- I can't bring it up on this page or anything like
14 that, but I'm looking at some of your other church signs
09:59:43 15 and things like that. It looks like the St. Luke's
16 Catholic Church, that one was done. That was a digital
17 sign that was a little smaller. It certainly would have
18 been nice to see some church signs up in comparison.

19 Did I read that correctly?

10:00:02

20 A. Yes, sir.

21 Q. And so you're reflecting at this point in the
22 hearing that you are actually doing a search of the Bootz &
23 Duke website?

24 A. Yes.

10:00:11

25 Q. Let me ask you: Before the hearing on February 3,

1 2022, for which these minutes were generated, did you
2 review any other information that was extra record or
3 outside of the record presented by the parties?

4 A. No, I did not.

10:00:36

5 Q. Okay. Did you look at the Bootz & Duke website
6 before the hearing?

7 A. No, I did not.

8 Q. And when you looked at the Bootz & Duke website --
9 let me rephrase that.

10:00:49

10 Why did you look at the Bootz & Duke website?

11 A. Because I was looking -- let's see, how do I say
12 this?

10:01:17

13 As I have had stated on the record, it
14 certainly would have been nice to see some church signs up
15 in comparison. To best -- to come to the most prudent
16 decision, I wanted to see other signs completed by -- other
17 church signs that are digital, as I did not see them in
18 either presentations.

10:02:01

19 Q. Did you know by doing so you would be favoring the
20 Bootz & Duke efforts to get the sign approved?

21 MR. INGLESE: Object to the form. You can
22 answer.

23 THE WITNESS: I did not know.

24 BY MR. DEWULF:

10:02:09

25 Q. But in your judgment, you had determined that

1 Bootz & Duke had fallen short of fully informing you as to
2 what a church sign would look like that was the subject of
3 the application?

4 MR. INGLESE: Object to the form.

10:02:23

5 THE WITNESS: I did. And I also did not see
6 that in opposition's view -- in opposition's presentation
7 either.

8 BY MR. DEWULF:

10:02:34

9 Q. Do you recall that the opposition, Arcadia
10 homeowners, did provide some examples of signage that were
11 created by Bootz & Duke?

12 A. Yes, sir.

13 Q. Okay. You're just saying you didn't see something
14 for a church? Is that the distinction you're drawing?

10:02:45

15 A. Of a similar size, a similar height sign of a
16 similar low-profile sign, per my understanding of the
17 definition of low profile.

18 Q. So you're at that point supplementing the
19 information provided to the board by the Bootz & Duke
20 party?

10:03:05

21 MR. INGLESE: Object to the form.

22 THE WITNESS: I was, yes.

23 BY MR. DEWULF:

10:03:11

24 Q. Okay. Because you felt that the record that they
25 were creating by their presentation was inadequate for the

1 board to make a decision?

2 A. Even though I would have come to the same
3 conclusion based off of the information that was provided
4 to us, I did want to see additional information.

10:03:30

5 Q. Because you still had questions as to what this
6 sign would actually look like in this location on Camelback
7 Road?

10:03:49

8 A. I wanted to get a better understanding of the
9 scale and scope of what the image would look like in real
10 life as opposed to a computer rendering that was seen on a
11 screen as a drawing in comparison to a real example in an
12 image or a drive-by or something like that.

10:04:12

13 Q. Because you thought that that would help inform or
14 educate you in making your decision regarding the
15 application?

16 A. Supplementally. But as I said very candidly, I
17 do -- I would still have come to the same conclusion.

10:04:30

18 Q. You say that now, frankly, but you felt the need
19 to do this notwithstanding the fact that you knew that that
20 was outside of the record; right?

21 MR. INGLESE: Object to the form.

22 THE WITNESS: Yes.

23 BY MR. DEWULF:

10:04:44

24 Q. So you say you would have made the same decision,
25 yet you felt compelled to do this extra research as related

1 to the decision so you would feel comfortable about the
2 decision; fair?

3 A. Yes.

4 Q. But the information that you found -- let me back
10:04:57 5 up.

6 When you went on the website, Mr. Ammon, did
7 the digital sign for the church appear immediately upon
8 getting to the website or did you have to search for
9 something like the St. Luke's sign?

10:05:11 10 A. Click church signs, up came images. It did not
11 appear immediately.

12 Q. So you think it was church signs versus digital
13 display signs?

14 A. From what I remember, I had to search.

10:05:23 15 Q. Okay. Do you remember how -- how many times you
16 had to click in order to get from first arriving at the
17 Bootz & Duke website to the point of locating the specific
18 example of the St. Luke's sign?

19 A. To the best of my knowledge, two clicks.

10:05:45 20 Q. You felt that this information was valuable to
21 your determination as to whether to grant the use permit or
22 not; true?

23 A. No, sir. Not particularly.

24 Q. I keep coming back -- why go through the exercise
10:06:06 25 if you don't think it's helpful?

1 A. Much of my job and my responsibilities is to be
2 detail-oriented and, out of curiosity, to get an
3 understanding of what the sign could look like in its
4 visual real form in the real world.

10:06:35

5 Q. So being detail-oriented, you felt that this was
6 detail that was important in you making your decision; that
7 is, the detail from the example of a sign on Bootz & Duke's
8 website?

9 A. Yes.

10:06:53

10 Q. All right. Now, if you need to refer back to
11 Exhibit 3, you understood that the decisions by the Board
12 of Adjustment were, specifically by rule and procedure, to
13 be based only on the testimony and the evidence presented
14 at the hearing; correct?

10:07:09

15 MR. INGLESE: Object to the form.

16 THE WITNESS: That's correct.

17 BY MR. DEWULF:

10:07:19

18 Q. And did you understand by going onto the Bootz &
19 Duke website and introducing that information about the
20 sign, you were bringing in evidence outside of the
21 testimony and evidence presented at the hearing?

22 MR. INGLESE: Object to the form.

23 THE WITNESS: As a lapse in judgment and
24 error, yes.

10:07:36

25 ///

1 BY MR. DEWULF:

2 Q. Sitting here today, do you think you violated the
3 rules and procedures of the City of Phoenix as it relates
4 to the process and procedure for the Board of Adjustment?

10:07:47

5 MR. INGLESE: Object to the form.

6 THE WITNESS: By the strict letter of the
7 law, yes.

8 BY MR. DEWULF:

10:08:00

9 Q. So the information that you did locate that you
10 thought was helpful to you; that is, an actual digital sign
11 being utilized by a church, did you share that information
12 with the other board members?

13 A. No, I did not.

14 Q. You didn't do it even after the hearing?

10:08:13

15 A. No.

16 Q. And you didn't share it with the Arcadia
17 homeowners; right?

18 A. Correct.

10:08:25

19 Q. There's a point in the minutes or -- or the
20 transcript of the proceedings where you conclude -- the
21 part that I read is on page 24, and you can go back and
22 look at it.

10:08:45

23 Lines 10 through 20, you say, It looks like
24 the St. Luke's Catholic Church, that one was done. That
25 was a digital sign that was a little smaller.

1 Then you go on.

2 [Reading] It certainly would have been nice
3 to see some church signs up in comparison.

10:09:00

4 Let me break that down into two parts. The
5 first part is, you concluded on your own review of this
6 website information that no one else in the room was seeing
7 that the St. Luke's digital sign was smaller than the one
8 that was the subject of the application by the Camelback
9 church; correct?

10:09:18

10 A. Yes.

11 Q. Were you able to discern that just by looking at
12 the website?

13 A. I believe I was.

14 Q. But wasn't it just a picture?

10:09:30

15 A. Yes.

16 Q. Did it have the dimensions of the sign?

17 A. No, sir.

18 Q. Did it have the surrounding area so you can check
19 proportion or dimensions vis-a-vis the surrounding area?

10:09:41

20 A. From what I recall with the sidewalk, plants in
21 front, some detail from what I recall, my estimate is that
22 I was able to get an idea of the size of the scale, being
23 that much of what I do on a day-to-day basis is individual
24 feel.

10:10:04

25 Q. So you saw a visual image on the Bootz & Duke

1 website of a church sign, and based on your sense of scale,
2 concluded that it was smaller than the applicant's or
3 the -- the church that was -- I'm sorry. Let me rephrase
4 that.

10:10:24

5 You concluded, upon your visual review of the
6 sign, the picture of the St. Luke's sign contained on the
7 Bootz & Duke website, that looking at the picture, it was
8 smaller than the sign that was the subject of the hearing?

10:10:53

9 A. Yes. And even though the -- there was not a
10 question noted in my record, Mr. Gibson's response had
11 communicated that height of the board as well.

12 Q. So let me just ask you: The introduction of this
13 evidence that was outside of the record, do you think that
14 was fair to the Arcadia homeowners?

10:11:18

15 MR. INGLESE: Object to the form.

16 THE WITNESS: No, I do not.

17 BY MR. DEWULF:

10:11:33

18 Q. And when it becomes a situation where you're
19 bringing in new evidence, then the parties ought to have an
20 opportunity to respond to that, don't you think?

21 A. Absolutely. Yes, sir.

22 Q. But the Arcadia homeowners didn't have an
23 opportunity to respond to this new evidence, did it?

24 A. Regrettably, no. They did not.

10:11:45

25 Q. But Bootz & Duke did have an opportunity because

1 their mic was still on, and then you allowed them to talk
2 specifically about this extra-record evidence; right?

3 A. Yes, sir.

4 Q. And I don't recall the gentleman's name, but the
10:11:59 5 individual from Bootz & Duke who was a presenter -- I think
6 it's Mr. Gibson -- talked about the fact that he was
7 familiar with this sign; right?

8 A. Yes.

9 Q. But we don't today even know whether he was
10:12:14 10 telling the truth or whether the two signs were similar or
11 not, do we?

12 MR. INGLESE: Object to the form.

13 THE WITNESS: As he was under oath, I would
14 hope that he would be speaking the truth.

10:12:24 15 BY MR. DEWULF:

16 Q. We both know that people being under oath don't
17 always tell the truth; right, unfortunately?

18 A. Unfortunately.

19 Q. So not only were you introducing extra-record
10:12:35 20 evidence that Arcadia homeowners didn't get an opportunity
21 to review or respond to, but you also were giving the sign
22 company an opportunity to talk extemporaneously about that
23 extra-record evidence; right?

24 A. Yes, sir.

10:12:48 25 MR. INGLESE: Object to the form.

1 BY MR. DEWULF:

2 Q. So the information that you gathered from the
3 Bootz & Duke website, was that ever shared with the other
4 members of the board?

10:12:59 5 A. No, it was not.

6 Q. Could you have -- if you talked to Ms. Gomes or
7 the people in the room, could you have taken a break or
8 taken an opportunity to share that information so that it
9 formally became a part of the record so the parties could
10 address it?

10:13:16

11 A. No, I do not believe we could have.

12 Q. Okay. So let's go to -- let me ask a question,
13 because you just mentioned Mr. Gibson's comments a moment
14 ago.

10:13:40

15 When you raised this issue of St. Luke's sign
16 being similar but smaller on the record, you recall that
17 testimony; right?

18 A. Yes, I do.

10:13:55

19 Q. He -- Mr. Gibson shared with you that he knew that
20 sign and then talked about it; correct?

21 A. Yes.

22 Q. Have you ever independently, up to today, ever
23 determined whether the signs were similar in size?

24 A. No.

10:14:13

25 Q. You know that the sign, the St. Luke's Catholic

1 Church sign was located on 7th Avenue? Do you know that?

2 A. South of the 101, yes, sir.

3 Q. Have you ever driven by or looked at that?

4 A. Yes, I have.

10:14:24 5 Q. Did you do that after the hearing or before the
6 hearing?

7 A. After the hearing.

8 Q. Okay. To the extent that context, character of
9 neighborhood, those kinds of things were issues before the
10:14:39 10 board -- and we know that they were; right?

11 A. Yes.

12 Q. Giving Arcadia homeowners and the other board
13 members an opportunity to review the St. Luke's Catholic
14 Church environment, street, traffic, surrounding area would
10:14:58 15 have been helpful in the deliberation process; fair?

16 A. Yes, sir.

17 Q. Okay. So let's look at page 30 of the Exhibit 5.

18 I'm kind of summarizing here, but in these

19 proceedings involving the sign at Camelback Church of

10:15:37 20 Christ, the appellant, Bootz & Duke Sign Company, gave its
21 presentation after it had, prior to the hearing, provided
22 all the evidence and its written materials to the city;
23 right?

24 A. Yes.

10:15:53 25 Q. And then the Arcadia homeowners had also presented

1 their evidence and their arguments on the record, and then
2 Bootz & Duke then provided rebuttal presentations; correct?

3 A. Yes.

4 Q. And then you engaged -- after all the parties had
10:16:19 5 closed their presentations, then you engaged in what was
6 basically a dialogue between you and Mr. Gibson from Bootz
7 & Duke about this sign at St. Luke's Catholic; correct?

8 A. Yes.

9 Q. And then based on all that information -- and I --
10:16:50 10 let me step back a minute.

11 You work with these board members all the
12 time in the context of handling these kinds of matters
13 where you're addressing hearings by applicants, community
14 citizens, organizations; fair?

10:17:06 15 A. Yes.

16 Q. So you've gained a level of trust and respect
17 between the board members; fair?

18 MR. INGLESE: Object to the form.

19 THE WITNESS: Yes.

10:17:19 20 BY MR. DEWULF:

21 Q. And would you agree with me that you would have
22 credibility with the rest of the board if you are
23 presenting information based on your own work?

24 A. Not particularly, no, sir.

10:17:32 25 Q. Do you think you would not be credible with the

1 other board members?

2 A. If it's outside the rules of the -- of what we're
3 allowed to do at the Board of Adjustment in terms of
4 gathering additional information outside of what's been
10:17:46 5 provided to us, and I'm making an error, my assumption is
6 that someone that recognizes my error would know that I was
7 making an error.

8 Q. So that assumption is not borne out by the record,
9 is it?

10:18:05 10 MR. INGLESE: Object to the form.

11 THE WITNESS: I don't quite know.

12 BY MR. DEWULF:

13 Q. Do you recall any board member -- after hearing
14 your observations about what was contained on the Bootz &
10:18:16 15 Duke website, did any board member say within the context
16 of the hearing, that's improper; we can't consider that;
17 you shouldn't be doing that?

18 A. There is one area. If I may, I would like to
19 check in the record before a vote was cast, if I may.

10:18:32 20 Q. Okay. Sure.

21 A. I'm looking for -- it's possible on page 32 on
22 line 20, Board Member Cole. This is just from my
23 recollection. This could be completely an error and not
24 specific to your question, sir.

10:19:28 25 Q. Aren't these comments by Mr. Cole more relating to

1 when the sign would come on and go off?

2 A. I believe so. That was my recollection.

3 And so in error, if I may, would you please
4 repeat the question.

10:19:40

5 Q. Sure.

6 You said that you, in effect, made an
7 assumption that if someone disagreed with your having
8 brought in extra-record evidence, they would have said
9 something or observed that it was improper. Is that your
10:19:56 10 testimony?

11 A. It is possible that is the case.

10:19:56

12 Q. But my -- my follow-up question was: But the
13 record doesn't bear that out; that is, no member of the
14 board ever called you out on the fact you were bringing in
10:20:09 15 improper evidence to the proceedings; correct?

16 MR. INGLESE: Object to the form.

17 THE WITNESS: That's correct.

18 BY MR. DEWULF:

10:20:09

10:20:21

19 Q. Now, Ms. Gomes was in attendance at the hearing;
20 correct?

21 A. Yes.

22 Q. Did she make any objection or raise any issues
23 with respect to this activity where you were bringing in
24 extra-record evidence?

10:20:28

25 A. No, she did not.

1 Q. Was counsel present? Were there lawyers present
2 from the city there for this hearing?

3 A. Yes, sir.

4 Q. Who was there?

10:20:35

5 A. To my knowledge, Mr. Danny Inglese was there and
6 possibly Mr. Paul Li. But respectfully, I do not recollect
7 if he was or was not there at that time.

8 Q. Mr. Paul Li is also a city attorney?

9 A. Yes, sir.

10:20:53

10 Q. Did either Mr. Inglese or Mr. Li, if he was there,
11 raise any objections, either substantive or procedural,
12 about you bringing in this outside evidence?

13 A. As the record states, no. They did not.

14 MR. INGLESE: I'd just like to clarify for
15 the court reporter it's Li, L-i.

10:21:09

16 BY MR. DEWULF:

17 Q. So I'm going to go back to the original. You said
18 you made an assumption, but there really is nothing in the
19 record that supports the assumption. Let me go back to the
20 earlier question I asked.

10:21:25

21 You having credibility with the other board
22 members, sitting here today, do you believe that they would
23 trust and respect you if you were to present evidence to
24 them about a matter that's the subject of their review?

10:21:43

25 A. Yes, I do.

1 Q. So do you think that the evidence you were
2 providing from the Bootz & Duke website; that is, the
3 evidence regarding the St. Luke's Catholic sign, was a part
4 of their decision-making process?

10:22:04

5 A. Could have been.

6 Q. It may have affected their decision?

7 MR. INGLESE: Object to form and foundation.

8 THE WITNESS: It may have.

9 BY MR. DEWULF:

10:22:12

10 Q. Okay. It's hard to reconstruct that now; right?

11 A. Yes.

12 Q. And it would be fair to say that they like and
13 respect you, so they're not looking to make things
14 difficult for you; fair, the other board members?

10:22:30

15 MR. INGLESE: Foundation.

16 THE WITNESS: Yes.

17 BY MR. DEWULF:

18 Q. So is it possible that this review you did of the
19 Bootz & Duke website affected your decision-making process?

10:22:53

20 A. It is possible.

21 Q. Okay. Now, if we go to then page 30, line 8,
22 you -- you can review if you need to, Mr. Ammon. But at
23 this point, basically all the discussion has occurred?

24 A. Uh-huh.

10:23:14

25 Q. And I think under normal proceedings then, one of

1 the board members would move for a particular result; is
2 that fair, in the proceedings?

3 A. Yes.

10:23:28

4 Q. In this case -- I'm reading from the transcript of
5 your testimony. You're being asked by the chairman if you
6 have a motion or comments or questions or -- I'm sorry.

7 He says, I will entertain a motion.

10:23:49

8 Then you say, I do certainly, in respecting
9 everybody's opinion in the matter, and certainly the zoning
10 adjustment hearing officer, but seeing some of the other
11 work that's been done, I -- I do actually make a motion to
12 overturn the zoning adjustment hearing officer's take on
13 this so as to approve the sign. I approve this to be
14 transition, and that is -- that is my motion based off of
15 the points that we have heard, and that I do think it meets
16 the needs, and it's certainly not detrimental.

10:24:09

17 Did I read that correctly?

18 A. Yes, sir.

10:24:18

19 Q. So when you say "but seeing some of the other work
20 that's been done," you're referring to the St. Luke's
21 Catholic Church sign?

22 A. No, sir. I'm not.

23 Q. Are you looking at the signage that's been done by
24 Bootz & Duke?

10:24:31

25 A. I'm looking at information that was presented to

1 us, along with experience with the city and having grown up
2 here and seeing signs and just personal experience and
3 personal knowledge of the -- personal knowledge.

4 And respectfully, this was made clear at the
10:24:53 5 following Board of Adjustment meeting where I clarified
6 that statement on the record.

7 Q. So let's go back to this statement.

8 It says, But seeing some of the other work
9 that's been done.

10:25:08 10 What other work are you referring to?

11 A. The work throughout the city that I had seen that
12 I had driven by, and including the work that was seen on
13 the Bootz & Duke website.

14 Q. Okay. So when you're talking about the other work
10:25:24 15 that's been done, it includes the work that you viewed on
16 the Bootz & Duke website?

17 A. And it -- and it includes additional --
18 additional -- it also includes the presentation that was
19 given to us by Bootz & Duke.

10:25:44 20 Q. When you say other work, wouldn't you be saying --
21 if you're just talking about the presentations by the
22 parties at the hearing, wouldn't you be saying this work?

23 A. Most respectfully, as you can see, I am quite
24 wordy in my explanations, and there's a much more pithy way
10:26:00 25 to communicate much of what I say.

1 Q. Okay. So you're saying -- but some of the other
2 work that's been done, you're talking about other signs
3 you've seen in the city and the information you got on the
4 Bootz & Duke website?

10:26:15

5 A. And the Hopi Elementary presentation and the Hopi
6 Elementary documentation that was shown to us in our
7 presentation. And to answer your question, yes.

10:26:37

8 Q. Have you ever seen this happen -- well, let me ask
9 you: Have you ever engaged in this process of bringing in
10 extra-record evidence to a hearing before the Board of
11 Adjustment --

12 MR. INGLESE: Object to the form.

13 BY MR. DEWULF:

14 Q. -- other than this instance?

10:26:44

15 A. No.

16 Q. Do you know whether any other board member, in
17 your experience, has ever brought in extra-record evidence
18 during the hearing -- an ongoing hearing by an applicant?

19 A. No.

10:27:03

20 Q. Do you ever do any texting during hearings when
21 you're a decision-maker?

22 A. No.

23 Q. And do you know whether any of the other board
24 members ever do any texting during the board proceedings?

10:27:19

25 A. No.

1 Q. So the -- are you familiar with the hearing that
2 occurred regarding a marijuana dispensary at 4456 East
3 Thomas Road?

4 MR. INGLESE: Object to the form.

10:27:38

5 THE WITNESS: I believe so, yes.

6 BY MR. DEWULF:

7 Q. And were you one of the members of the Board of
8 Adjustment that was reviewing the application by the
9 dispensary?

10:27:48

10 A. Yes.

11 Q. Do you remember what they were seeking to do?

12 A. If I am thinking of the correct case, I believe
13 they were requesting a variance for a hardship -- due to a
14 hardship based off of specific -- searching a hardship --
15 for a hardship to get a variance, if I'm thinking of the
16 right case.

10:28:12

17 Q. Okay. So the date of the hearing was January 8,
18 2021. So it wasn't that long ago.

19 A. Uh-huh.

10:28:22

20 Q. And it's ZA-324-20. And this may refresh your
21 memory.

22 Do you remember there being an issue that
23 arose in the hearing regarding a gate on the dispensary?

24 A. I do remember there being a gate associated with
25 the presentation.

10:28:41

1 Q. Do you recall you, during the hearing, doing a
2 Google Earth search to determine what the gate looked like
3 and where it was located on the property?

4 A. I do. Yes, sir, I do.

10:28:55

5 Q. Do you recall that you used that information to
6 support your vote in favor of the variance or whatever they
7 were seeking?

8 A. I do.

10:29:07

9 Q. Okay. And that was because you felt that the
10 presence of the gate then prevented dispensary customers or
11 traffic from interfering with the adjacent residential
12 parties?

13 A. I believe so.

10:29:21

14 Q. Do you remember that there was a condo complex
15 adjacent to the dispensary?

16 A. If it is the condo complex to the north of the
17 dispensary, then yes. The answer to the question is yes.

10:29:37

18 Q. So your Google Earth search played a role in your
19 decision to grant the variance or grant whatever the relief
20 being requested was?

21 MR. INGLESE: Object to the form.

22 THE WITNESS: Yes.

23 BY MR. DEWULF:

10:29:43

24 Q. Did you share that information with the other
25 board members in connection with this application by the

1 dispensary?

2 A. If -- not having the minutes in front of me and
3 not knowing what was communicated, by sharing,
4 communicating that I had looked and was looking on Google
10:29:57 5 Earth so as to make the statement, then the answer is yes,
6 I shared information verbally based on what I was looking
7 at.

8 But in terms of sharing via any digital or
9 face-to-face, then the answer to that question is no.

10:30:11 10 BY MR. DEWULF:

11 Q. So you again, in that instance, were verbally
12 providing information to the other board members regarding
13 a -- in a hearing for an active application without sharing
14 the information with the participants in the hearing?

10:30:29 15 MR. INGLESE: Object to the form.

16 THE WITNESS: I drive many of the sites
17 before the cases. Google Earth takes you there as well. I
18 drove that site. I know that site. I -- so I guess the
19 answer to your question is yes.

10:30:42 20 BY MR. DEWULF:

21 Q. Well, you drove the site, but did you notice where
22 the gate was located?

23 A. Respectfully, I do not recall.

24 Q. Probably didn't need -- well, do you typically
10:30:53 25 drive by the sites that are the subject of the decisions

1 that the board has to make?

2 A. More than 50 percent of them, yes.

3 Q. Okay. But you felt the need in this case; that
4 is, the marijuana dispensary case, to do a Google Earth

10:31:10

5 review because you did not know whether there was a gate or
6 not on the property?

7 A. That is correct.

8 Q. Okay. And so once you discovered there was a gate
9 on the property, then you assumed that there would not be

10:31:23

10 an adverse impact on the neighbors?

11 A. That is correct.

12 Q. Did you know that the neighbors that were impacted
13 by this, that residential building contained a business
14 office as well?

10:31:35

15 A. No, I did not know that.

16 Q. Did you ever learn that the business office
17 required the gate to be open during the daylight hours?

18 A. No, sir.

19 Q. Would that change your view about whether the
20 variance ought to have been granted if you learned that
21 that gate wasn't kept closed during the daylight hours?

10:31:45

22 MR. INGLESE: Object to form.

23 THE WITNESS: In hindsight, it could have.

24 BY MR. DEWULF:

10:31:56

25 Q. But sitting here today, that's news to you?

1 A. Yes.

2 Q. Okay.

3 MR. DEWULF: Go off the record.

4 (An off-the-record discussion ensued.)

10:32:28 5 BY MR. DEWULF:

6 Q. Do you think, sitting here today, after having
7 served on the Board of Adjustment for four years, that
8 there are ways that the city could improve its support of
9 you in the role as a Board of Adjustment member?

10:32:55 10 A. Yes.

11 MR. INGLESE: Object to the form.

12 BY MR. DEWULF:

13 Q. How?

14 A. Sorry. Yes.

10:32:58 15 Q. How?

16 A. Refreshers of rules to follow, clarifications on
17 what is and is not permitted, especially in relation to --
18 and I say this as clearly as possible -- software that
19 virtually immerses us in the location so as to physically
20 be present in those spaces. It's a very important point.

10:33:36 21 Q. So are you saying that you think a way that the
22 city could support you is to provide you such software in
23 connection with the performance of your duties?

24 A. No. It would be to give us guidance on what is
10:33:52 25 and isn't allowed in the use of the software so as to come

1 to prudent conclusions for the betterment of the community.

2 Q. So you're saying that in connection with the city
3 supporting the Board of Adjustment in its performance of
4 its duties, they could use more clarity in terms of what
10:34:16 5 can or can't be brought in as evidence and refreshers
6 periodically about that?

7 A. Yes.

8 Q. In your view, as a member of the Board of
9 Adjustment, what is required to uphold a hearing officer's
10:34:38 10 decision?

11 A. To uphold a hearing -- zoning adjustment hearing
12 officer's decision is to -- may I look at an exhibit?

13 Q. You can look at anything you want.

14 A. I'll be quick with my time here.

10:35:04 15 Q. You're fine.

16 A. The question is specific to upholding ZAHO's
17 decision?

18 Q. Yes.

19 A. Is to either confirm or deny that their decision
10:35:18 20 is in line with the granting of the use permit or the
21 variances, and to decide whether or not the ZAHO's decision
22 is in line with the requirements that need to be met for
23 the granting of the use permit variances.

24 Q. When you say ZAHO --

10:35:39 25 A. Zoning adjustment hearing officer. I apologize

1 for interrupting you. Excuse me.

2 Q. That's okay. Most people won't be familiar with
3 that term.

10:35:50

4 A. Pardon me. ZAHO, as I'm referring to, is the
5 zoning adjustment hearing officer. I will use zoning
6 adjustment hearing officer from here on out.

7 MR. DEWULF: Could you go back and read the
8 answer that he gave? The lengthy one before the last back
9 and forth.

10 (The record was read by the reporter as
11 follows:

12 A. Is to either confirm or deny that their
13 decision is in line with the granting of the use permit or
14 the variances, and to decide whether or not the ZAHO's
15 decision is in line with the requirements that need to be
16 met for the granting of the use permit variances.)

17 BY MR. DEWULF:

10:36:36

18 Q. Let me ask a related question, which is: What do
19 you think is required to overturn a hearing officer's
20 decision?

10:37:15

21 A. To disagree with a zoning adjustment hearing
22 officer's decision is to decide whether or not the
23 application to overturn -- whether or not to decide that
24 the zoning adjustment hearing officer's decision did or did
25 not meet the requirements for a variance or a use permit to

1 be granted.

2 (The document was marked as Exhibit 6 for
3 identification.)

4 BY MR. DEWULF:

10:37:52

5 Q. I'm showing you Exhibit 6, Mr. Ammon. And there
6 are two items addressed here. The first one is,
7 Requirements for granting use permits. Do you see that?

8 A. Yes, sir.

10:38:10

9 Q. And in this case, the Bootz & Duke folks were
10 seeking a use permit for Camelback Church of Christ;
11 correct?

12 A. Yes.

10:38:23

13 Q. And when you talked a moment ago in your testimony
14 about the requirements for use permit, are these the
15 requirements you're referring to? This would guide the
16 decision by you and the other members of the board as to
17 whether or not to grant a use permit?

18 A. Yes.

10:38:42

19 Q. And then I guess drawing from that, this would
20 also guide whether or not you would affirm the decision by
21 the zoning adjustment administrator -- administrative
22 officer?

23 A. That's correct.

24 Q. Okay.

10:38:58

25 MR. DEWULF: Let's take a five-minute break.

1 Let me look at my notes. I think I'm close to being done.

2 (A recess ensued.)

3 BY MR. DEWULF:

4 Q. So I wanted to clarify something.

10:51:49

5 At the time of the hearing that is
6 transcribed in Exhibit 5, which is the February 3, 2022,
7 hearing, you did not know anything about the St. Luke's
8 Catholic Church sign other than what you visually saw on
9 the Bootz & Duke website?

10:52:12

10 A. Correct.

11 Q. So you really didn't know anything about its
12 location, the surrounding environment, the area, anything
13 like that; fair?

14 A. Correct.

10:52:20

15 Q. So in terms of whether it was an analogous
16 situation; that is, the sign at St. Luke's Catholic Church
17 on 7th Avenue versus the sign being contemplated for the
18 Camelback Church of Christ, you didn't know one way or the
19 other?

10:52:35

20 A. Correct.

21 Q. Okay. You indicated in your testimony, Mr. Ammon,
22 that one of the ways that the city could better support you
23 would be, among other things, to refresh you and your
24 knowledge and to clarify approaches to things like evidence
10:52:55 25 and procedural issues in your performance as a member of

1 the Board of Adjustment; correct?

2 A. Yes.

3 Q. Have you gotten any sort of additional training,
4 refreshers, updates after the training that you got, which
10:53:14 5 is reflected in the PowerPoint in Exhibit 3 on August 30,
6 2018?

7 MR. INGLESE: I would caution the witness not
8 to reveal any private conversations with counsel.

9 THE WITNESS: The only additional guidance --
10:53:28 10 and I will call it guidance as opposed to training -- was
11 as we were transitioning into remote work due to COVID.

12 So getting used to the remote sessions
13 included a few conversations with the -- with the zoning
14 administrator and Paul Li communicating to us that we would
10:53:53 15 be transitioning to remote work. The details of those
16 conversations and what was refreshed and trained,
17 respectfully, I do not recall.

18 BY MR. DEWULF:

19 Q. Whatever training that you received in connection
10:54:06 20 with working remotely would not have been addressing issues
21 of evidence, legal procedure, testimony, those kinds of
22 things?

23 A. That is correct.

24 Q. All right. After the events that occurred on
10:54:22 25 February 3 in the aftermath of the vote by the board, other

1 than communications with counsel, did you talk to anyone
2 else about that hearing?

3 A. No, I did not.

10:54:40

4 Q. Okay. There was a follow-up vote, I guess, in
5 response to a motion for reconsideration; correct?

6 A. Yes.

7 Q. Did you talk to any other board members in the
8 context of making a decision on the motion for
9 reconsideration?

10:54:53

10 A. No.

11 Q. So when you came -- when you had the vote and the
12 motion for reconsideration, the board members did not speak
13 among themselves about that decision, but rather each just
14 voted separately as to whether they favored or did not
15 favor the motion for reconsideration?

10:55:10

16 A. Correct.

17 Q. So you never, after the hearing that was
18 February 3, 2022, ever spoke to any other board member as
19 to the substance of the hearing?

10:55:25

20 MR. INGLESE: Object to the form.

21 THE WITNESS: Correct.

22 BY MR. DEWULF:

23 Q. Sitting here today, and looking back on the
24 situation, the hearing and what transpired, do you think
25 you would do anything differently?

10:55:40

1 A. Yes.

2 Q. What would you have done? Or what would you do?

3 A. What I would do is allow for questions of the
4 opposition as opposed to moving right into a motion.

10:56:00

5 Q. Would it have been prudent or fair to perhaps
6 provide a delay or a continuance to allow the parties to
7 specifically address this issue of the Bootz & Duke website
8 and the St. Luke's sign?

9 MR. INGLESE: Object to form.

10:56:20

10 THE WITNESS: No, I don't believe it would
11 be. I can't state the specific ones because I do not
12 recall. We have not had many continuances for reasons
13 specific to what you have addressed.

14 BY MR. DEWULF:

10:56:35

15 Q. So I'm thinking about from a fairness standpoint,
16 you have the Arcadia homeowners who were caught flatfooted
17 regarding this evidence they've never seen or heard about;
18 right?

19 A. Uh-huh.

10:56:45

20 Q. Yes?

21 A. Yes.

22 Q. And you have the appellant, Bootz & Duke, who at
23 least purport to know a lot about the St. Luke's Catholic
24 sign; correct?

10:56:57

25 A. Yes.

1 Q. So even if you were to allow on-the-record
2 responses to questions or statements relating to the
3 signage that you introduced into the hearing from the Bootz
4 & Duke website, the Arcadia homeowners would still be at a
10:57:12 5 disadvantage because they wouldn't have had an opportunity
6 to research whether in fact the sign that you're referring
7 to, the St. Luke's Catholic Church, is analogous to the
8 situation before the board and its decision --

9 MR. INGLESE: Object to form.

10:57:25 10 BY MR. DEWULF:

11 Q. -- right?

12 A. Based off of the presentation that the Arcadia
13 homeowners association gave, they referenced images from
14 Bootz & Duke that did not represent other church signs.
10:57:44 15 From my recollection, there was a Botox sign, hair removal
16 sign, and I believe an image of Kramer getting roasted in
17 one of the Seinfeld episodes. Those are the three images I
18 remember from that presentation.

19 It could have been prudent for them to
10:58:05 20 include other church signs, as it would have been prudent
21 for Bootz & Duke to include additional church signs. To
22 answer your question -- I believe the answer to your
23 question is yes.

24 Q. Yes what?

10:58:23 25 A. You asked about the fairness. If you could please

1 restate the question.

2 Q. Well, what I'm asking you is: Would you agree with
3 me that it was not fair to the Arcadia homeowners to spring
4 this new evidence upon them regarding a sign that has
10:58:41 5 never -- that isn't in the record when Bootz & Duke
6 purports to know that sign and its history and its detail
7 and Arcadia has no familiarity with it?

8 A. That is correct. That is unfair.

9 Q. Okay. Now, but you wouldn't be willing -- looking
10:58:59 10 back on it now, and if you had your druthers and you could
11 redo all of this, you don't think that a continuance or
12 some sort of an opportunity to research and determine
13 whether that sign, which played a role in the decision of
14 the board, could be evaluated on whether it was analogous
10:59:18 15 to the sign that was the subject of the application by the
16 Camelback Church of Christ?

17 MR. INGLESE: Object to the form.

18 THE WITNESS: I think that would have been a
19 very -- I think that would have been a prudent direction to
10:59:30 20 go with the introduction of additional material based off
21 of a board member communicating to both parties stating
22 that some additional communication could be had based off
23 of additional evidence that could be introduced.

24 BY MR. DEWULF:

10:59:47 25 Q. So in looking at the proceedings, it was Bootz &

1 Duke's burden of proof to -- as the applicant/appellant to
2 persuade the Board of Adjustment to overturn the decision
3 by the zoning adjustment hearing officer; right?

4 A. Yes.

11:00:17

5 Q. So if they were interested in presenting to the
6 board analogous church signs, they could have done that;
7 right?

8 A. Yes.

11:00:29

9 Q. And in your view, it would have been prudent for
10 them to do so; right?

11 A. Yes.

12 Q. And because they failed to make that presentation;
13 that is, there is a gap in the presentation, you felt the
14 need to do the additional research to answer for your own
15 purposes whether there were church signs that they had done
16 that could be analogous to the one that was the subject of
17 the application?

11:00:41

18 MR. INGLESE: Object to the form.

19 THE WITNESS: Yes.

11:00:51

20 MR. DEWULF: No further questions.

21

22 EXAMINATION

23 BY MR. INGLESE:

24 Q. I have a few questions.

11:00:56

25 Mr. Ammon, are you familiar with the factors

1 that the board is supposed to assess when granting or
2 denying a use permit?

3 A. Yes.

4 Q. And do you recall any discussion today about glare
11:01:12 5 exceeding ambient conditions?

6 A. Yes.

7 Q. Did Bootz & Duke submit any evidence regarding the
8 glare that would be emitted by the sign?

9 A. Yes.

11:01:21 10 Q. What did that evidence consist of?

11 A. I believe it was light studies of how far -- of
12 how the intensity of the glare at specific distances in
13 plan view or bird's eye view of what the glare would be
14 after a specific distance and showing that it decreased
11:01:45 15 over a period of -- over distance.

16 Q. Did you find that evidence credible?

17 A. I did.

18 Q. Did you find that evidence persuasive?

19 A. I did.

11:01:52 20 Q. Did you believe that this sign would cause a
21 significant increase in vehicular or pedestrian traffic in
22 any adjacent residential areas?

23 A. No, I did not.

24 Q. Did you believe this sign would emit odor, dust,
11:02:05 25 gas, noise, vibration, smoke, heat, or glare at levels

1 exceeding ambient levels?

2 A. No.

3 Q. Did you believe that this sign would contribute in
4 a measurable way to the deterioration of the area or the
11:02:17 5 lowering of property values?

6 A. No, I did not.

7 Q. And why not?

8 A. Because based off of the material that was

9 presented to us with the lighting conditions, I decided

11:02:33 10 that the glare or the light levels of that area are below
11 that of ambient conditions based off of the studies that
12 were shown to us.

13 Q. And did you believe that the sign would comply
14 with all relevant zoning laws?

11:02:51 15 A. Yes, I did. And I believe there is information in
16 the minutes that support that.

17 Q. Do you recall discussion today about the term low
18 profile?

19 A. I do.

11:03:03 20 Q. Are you aware of any industry standard or other
21 standardized meaning of that term?

22 A. No, I'm not.

23 Q. Do you remember any discussion today about the
24 term extra record?

11:03:17 25 A. About today?

1 Q. Today.

2 A. Yes.

3 Q. To the best of your knowledge, does that term
4 appear anywhere in the Board of Adjustment's rules of
5 procedure?

11:03:27

6 A. Yes.

7 Q. The term extra record?

8 A. Oh, no, it does not. Excuse me. I misunderstood
9 that.

11:03:35

10 Q. Do you recall discussing use of Google Earth and
11 Google Maps today?

12 A. I do.

13 Q. In your service as a member of the Board of
14 Adjustment, do you frequently look at Google Earth or
15 Google Maps either during hearings or in preparation for
16 hearings?

11:03:48

17 A. Yes.

18 Q. Has anybody ever advised you that it would be
19 improper to look at Google Earth or Google Maps?

11:03:58

20 A. No, they have not.

21 Q. Do you believe that other members of the Board of
22 Adjustment also use those tools?

23 A. I do.

24 Q. Remind me how -- how long have you lived in the
25 city of Phoenix?

11:04:11

1 A. On and off, 32 years.

2 Q. Do you have knowledge of the various neighborhoods
3 within the city?

11:04:36

4 A. Yes. Based off of timeframe and knowledge of
5 living here, but also as a practicing architect who has a
6 passion for the built environment, yes.

7 Q. Do you rely on that knowledge as a member of the
8 Board of Adjustment?

9 A. Yes.

11:04:47

10 Q. Has anybody ever advised you that it is improper
11 to rely on that knowledge?

12 A. No.

13 Q. Do you believe that knowledge helps you in service
14 of your duties as a member of the Board of Adjustment?

11:04:55

15 A. Yes.

16 Q. I'd like to briefly -- do you recall Mr. DeWulf
17 asking you questions about the Bootz & Duke website today?

18 A. Yes.

11:05:11

19 Q. When you said -- did you say that you had to
20 search the website?

21 A. I did.

22 Q. Do you recall -- when you use the word "search,"
23 did you mean searching on a search bar or just clicking
24 through the website?

11:05:21

25 A. Clicking through the website.

1 Q. Do you believe that decisions of the Board of
2 Adjustment are precedential?

3 MR. DEWULF: I'll object. Vague and
4 ambiguous.

11:05:39

5 MR. INGLESE: I'll retract the question.

6 BY MR. INGLESE:

7 Q. In discussing cases before the Board of
8 Adjustment, do you ever discuss previous cases that the
9 board has heard?

11:05:52

10 A. Would you ask the question one more time?

11 Q. Sorry. It was not well-worded.

12 A. It's fine.

13 Q. At Board of Adjustment hearings, do you and your
14 fellow members of the Board of Adjustment ever make
15 reference to or discuss other cases that you've decided
16 previously in the context of deciding a case before you?

11:06:02

17 A. I believe so, yes.

18 Q. And finally, do you remember Mr. DeWulf asking you
19 questions about your preparation for today's deposition?

11:06:18

20 A. I do.

21 Q. You said that you reviewed the minutes of the
22 Board of Adjustment, but did you -- what did you mean when
23 you used the word "minutes"?

24 A. I read through the reporter's transcript of the
25 audio recordings.

11:06:42

1 Q. Okay. Did you also read the record that was
2 submitted to the Board of Adjustment?

3 A. Yes.

11:06:56

4 Q. Okay. So we -- and you said you and I met for
5 45 minutes this morning; is that correct?

6 A. Yes.

7 Q. Did we meet at any other time before today?

8 A. Yes.

9 Q. How long did we meet for?

11:07:04

10 A. I believe around 30 to 45 minutes, maybe an hour.

11 Q. Okay. Do you recall when that was?

12 A. I believe it was the week before last.

13 Q. Okay. Let me just review my notes really quickly.

14 Are there signs similar to the one at issue
15 in this hearing in your neighborhood?

11:07:29

16 A. Yes.

17 Q. And do you believe, as a member of the Board of
18 Adjustment, you are permitted to rely on your knowledge of
19 those signs in cases you hear before the Board of
20 Adjustment?

11:07:44

21 A. Yes.

22 MR. INGLESE: No further questions.

23 ///

24 ///

11:07:48

25 ///

FURTHER EXAMINATION

BY MR. DEWULF:

Q. I have a couple of questions to follow up and clarify.

11:07:57 5 Would you agree with me that the Arcadia
6 neighborhood is unique?

7 A. I would.

8 Q. And we know that it is -- it was the subject of --
9 I'm trying to get the name of the plan.

11:08:34 10 There was a master plan for that area;
11 correct?

12 A. Is this in reference to the Frank Lloyd Wright
13 house?

14 Q. No. The actual neighborhood was the subject of a
11:08:45 15 study by the city and came up with recommendations on how
16 the city ought to be mindful of the kinds of things that
17 made it unique, and to try to be consistent with the
18 character of the neighborhood.

19 A. Is this in their 1999 submittal that was approved
11:09:05 20 by city council of the Arcadia board or the Arcadia design
21 committee?

22 Q. I don't know the answer to that. There is the
23 Arcadia Camelback Special District adopted in 1999.

24 A. Yes, sir.

11:09:19 25 Q. Are you familiar with that?

1 A. I am. Yes, sir.

2 Q. Have you read it?

3 A. I have not perused it. I have skimmed it.

11:09:29

4 Q. Would you agree with me that that is a reflection
5 at least to the fact that Arcadia is a unique neighborhood
6 whose character needs to be preserved and protected?

7 A. Yes.

11:09:48

8 Q. And you understood that that fact; that is, the
9 unique character and traits of the Arcadia neighborhood,
10 was an important part of the decision made by the zoning
11 adjustment hearing officer in originally denying the sign
12 application; correct?

13 A. Yes.

11:10:09

14 Q. So when you talk about -- or counsel asked you
15 about discussing previous cases relating to signage, every
16 case is unique because your decision is going to be a
17 function of all of those kinds of things that bear on the
18 analysis of how it impacts the neighboring area; correct?

19 A. Yes.

11:10:27

20 Q. And we looked at the use permit analysis that is
21 in Exhibit 6, and it does talk about things like vehicular
22 and pedestrian traffic, odor, dust, gas, noise, vibration,
23 smoke, heat, and glare; correct?

24 A. Yes.

11:10:48

25 Q. Ambient conditions, in your vernacular, does that

1 just mean surrounding conditions?

2 A. Yes.

3 Q. And the former sign that existed on this property
4 for the Camelback church was a backlit, low-profile sign;
11:11:15 5 correct?

6 A. Yes.

7 Q. And the new sign that was the subject of their
8 application was larger and was a digital display; right?

9 A. Yes.

11:11:27 10 Q. And so clearly, visually it's a very different
11 presentation to a person who's driving down Camelback or
12 walking by the church; true?

13 A. Yes.

14 Q. Okay. So it would -- that is, the presence of a
11:11:43 15 digital sign compared to a small backlit sign would
16 increase the level of glare as a part of the ambient
17 conditions; true?

18 A. Yes.

19 MR. INGLESE: Object to the form.

11:11:59 20 BY MR. DEWULF:

21 Q. So your counsel asked you about looking at Google
22 Maps and Google Earth. Do you recall those questions?

23 A. I do.

24 Q. In terms of fairness to the parties in the Board
11:12:12 25 of Adjustment hearings, if you are bringing in evidence

1 that is not being presented by the parties, do you feel an
2 obligation to share that with the parties?

3 MR. INGLESE: Object to the form.

4 THE WITNESS: Yes.

11:12:26 5 BY MR. DEWULF:

6 Q. Okay. And so while most of us might have the
7 ability to go on Google Earth and check, for example, what
8 the view was of the marijuana dispensary on 44th Street, in
9 order to be fair to the parties, they would have had --
10 they should be given notice ahead of time so they could
11 prepare for analyzing and responding to that evidence;
12 correct?

13 A. Yes.

14 Q. And similarly, in our case, if we're going to
11:13:01 15 bring in evidence that relates to something that's not a
16 part of the presentations by the parties that's evidence
17 that could relate to the decision by the board, you ought
18 to be giving notice and an opportunity to respond by the
19 participants --

11:13:19 20 MR. INGLESE: Object to form.

21 BY MR. DEWULF:

22 Q. -- in the hearing?

23 A. Yes.

24 Q. Counsel asked you whether the word "extra record"
11:13:28 25 was a part of the presentations or preparation materials

1 that the city had provided to you, and you said, no, it
2 wasn't; right?

3 MR. INGLESE: Object to the form.

4 THE WITNESS: That's correct.

11:13:41 5 BY MR. DEWULF:

6 Q. But when we talked about -- in my questioning of
7 you in your deposition, when we talked about extra record,
8 you understood that to be evidence or testimony that was
9 outside of the evidence being provided by the parties at
10 the hearing; right?

11 A. Yes.

12 Q. And so in the way we commonly understand this
13 term, the introduction of evidence from the Bootz & Duke
14 website, including specifically information regarding the
11:14:10 15 St. Luke's Catholic Church sign, was extra-record evidence
16 or evidence outside of the -- of that which is presented by
17 the parties at the hearing; right?

18 MR. INGLESE: Object to the form.

19 THE WITNESS: Yes.

11:14:22 20 BY MR. DEWULF:

21 Q. There were questions asked by your counsel about
22 the impact on traffic. But you understood that part of the
23 reason the church wanted the sign is to draw more people to
24 their church; right?

11:14:43 25 MR. INGLESE: Object to the form.

1 THE WITNESS: Yes.

2 BY MR. DEWULF:

3 Q. Save a few souls if they could?

4 A. If they could.

11:14:48

5 Q. All right. So that -- to the extent that we're
6 talking about traffic or traffic congestion, either
7 pedestrian or vehicular, clearly that would be a change in
8 the traffic; that is, that would result from the sign
9 change; right?

11:15:06

10 MR. INGLESE: Object to the form.

11 THE WITNESS: Most respectfully, yes.

12 Although there are -- I'm going to throw out a random
13 number here. Let's say there are 75 parking spaces in that
14 area and currently the church has zero cars parked.

11:15:21

15 Ambient conditions of parking is not zero. It's 75. And
16 they have an allowance to meet 75 parking spaces in that
17 area.

18 And if they have a sign that is pulling
19 people in, it's increasing vehicular traffic, but it's also
20 filling an allowable amount of parking spaces on that site.
21 So it's not necessarily breaking ambient condition.

11:15:35

22 BY MR. DEWULF:

23 Q. Did you ever do a traffic study of what would
24 happen before and after the introduction of this sign at
25 this location?

11:15:47

1 A. Not personally, no.

2 Q. Did anyone?

3 A. No.

4 Q. Did Bootz & Duke ever do a traffic study?

11:15:52 5 A. They did not.

6 Q. So you don't know one way or the other whether
7 folks are filling those 75 spots of parking in that lot or
8 not; right?

9 A. No, sir.

11:16:02 10 Q. But it would be fair to say that the whole purpose
11 of spending the money on the sign is to draw people into
12 that location so they can park their cars in that lot;
13 right?

14 A. Correct. Yes, sir.

11:16:14 15 Q. Okay. So you've driven -- I think you testified
16 earlier you've driven Camelback Road many, many times?

17 A. Yes, sir.

18 Q. And I think you said that you lived here since you
19 were ten or something; right?

11:16:44 20 A. Correct.

21 Q. So in that span between 44th Street and Scottsdale
22 Road, this digital sign will be unique, a one-and-only type
23 of sign like that for that entire span of Camelback Road;
24 correct?

11:17:02 25 A. I believe there are a few digital signs just west

1 of Scottsdale Road on Camelback, but yes, up through --
2 getting close to Camelback -- getting close to Scottsdale
3 Road and Camelback from 44th Street, the answer is yes.

4 MR. DEWULF: No further questions. Thanks.

11:17:16

5 MR. INGLESE: I'm good.

6 THE COURT REPORTER: Daniel, do you want a
7 copy of the transcript?

8 MR. INGLESE: That would be great.

11:17:28

9 THE COURT REPORTER: E-tran only? Electronic
10 only with exhibits?

11 MR. INGLESE: That's fine.

12 (The deposition concluded at 11:17 a.m.)

13 (Signature not requested)

14

15

JONATHAN AMMON

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25

1 STATE OF ARIZONA)

2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing proceedings
4 were taken before me; that the witness before testifying
5 was duly sworn by me to testify to the whole truth; that
6 the foregoing pages are a full, true, and accurate record
7 of the proceedings all done to the best of my skill and
8 ability; that the proceedings were taken down by me in
9 shorthand and thereafter reduced to print under my
10 direction.

11 I CERTIFY that I am in no way related to
12 any of the parties hereto; nor am I in any way
13 interested in the outcome hereof.

14 [] Review and signature was requested.

15 [] Review and signature was waived.

16 [X] Review and signature was not requested.

17 I CERTIFY that I have complied with the
18 ethical obligations set forth in ACJA 7-206(F)(3) and
19 ACJA 7-206(J)(1)(g)(1) and (2). Dated at Phoenix,
20 Arizona, this 23rd day of September, 2022.

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23

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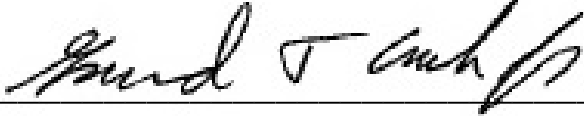
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CINDY MAHONEY
Certified Reporter
Arizona CR No. 50680

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I CERTIFY that Coash & Coash, Inc., has
complied with the ethical obligations set forth in ACJA
7-206(J)(1)(g)(1) through (6).



COASH & COASH, INC.

Registered Reporting Firm

Arizona RRF No. R1036

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The background of the page features a large, stylized logo of a phoenix, rendered in various shades of blue. The phoenix is depicted in profile, facing left, with its wings spread upwards and outwards. The logo is composed of smooth, curved shapes that create a sense of movement and fire.

Board of Adjustment Training

August 30, 2018

Planning & Development Department

City of Phoenix



Agenda

- Types of Regulations
- Legislative vs. Quasi-Judicial
- Common Terms
- Types of Cases
- Review Criteria
- General Process
- Q & A



Zoning Ordinance

- Types of Regulations
 - Land Use
 - Uses are permitted in each district
 - Use Permit
 - Development Standards
 - Numerical Standard (Setback, Lot Coverage)
 - Variances



Legislative vs. Quasi-Judicial

- **Legislative**
 - Lawmaking
 - Rezoning
 - Text Amendments
 - Adopting Plans
- **Quasi-Judicial**
 - Similar to a Judge
 - Enforce/carry out/interpret existing rules
 - Apply legal standards to the facts and circumstances of a specific case



Legislative vs. Quasi-Judicial

- Legislative

- Ex Parte Communication

- Allowed

- Evidence and Testimony

- Decisions based on everything that is know in addition to what is presented at the hearing

- Quasi-Judicial

- Ex Parte Communication

- Not Allowed

- Evidence and Testimony

- Decisions are based only on the testimony and evidence presented at the hearing



Common Terms

- **Applicant**
 - Submitted application
- **Appellant**
 - Appealed ZAHO decision
- **Uphold**
 - Agree with ZAHO decision
- **Overturn**
 - Disagree with ZAHO decision
- **Findings**
 - Rationale for decision
- **ZAHO**
 - Zoning Adjustment Hearing Officer



Types of Cases

- **Variances**
 - Relief on development standards
 - Setbacks, Lot Coverage, Spacing, etc.
- **Use Permits**
 - Uses generally compatible
 - Case by case analysis
 - Secondhand Sales, Outdoor Dining, etc.
- **Interpretations**
 - Ambiguous, vague, unclear
 - Application in particular situations



Use Permit Criteria

- The use will not:
 - cause a significant increase in vehicular or pedestrian traffic in adjacent residential area
 - emit odor, dust, gas, noise, vibration, smoke, heat or glare at levels exceeding ambient levels
 - contribute in a measurable way to the deterioration of the area or the lowering of property values
 - comply with all relevant laws



Variance Criteria

- Special Circumstance or Property Hardship
- Cannot be self imposed
- Necessary to enjoy reasonable and substantial property rights
- Cannot have a harmful impact on adjoining properties or the area in general



General Process - Meetings

- Provide clear explanation of request or process in terms that the average citizen can understand
- Direct staff to explain further
- Be nice and fair to both sides (i.e. time to speak)
- Perception is everything
 - *Be cautious of appearing too comfortable with applicants/appellants or other hearing attendees*
- If ZAHO decision is overturned, findings should be stated after the motion and second
 - *“There is/is not special circumstance or hardship”*
 - *“The hardship is/is not self-imposed”*
 - *It is/is not necessary to enjoy reasonable and substantial property rights”*
 - *“It will/will not have a detrimental impact”*



Meeting Outline

- Chair Calls the Case
- Zoning Administrator Presents ZAHO decision
- Swear in all speakers for specific case
- Appellant – 10 Minutes
- Opposing Side – 10 Minutes
- Appellant Rebuttal – 5 Minutes
- Board Discussion/Questions
- Render Decision



De Novo Hearing

- New Hearing
 - New evidence can be presented
 - i.e., Revised Site Plan
 - Request can be modified to an extent
 - i.e., Scope of Project
 - i.e., Variance to reduce setback to 10-feet.
Minimum 15-foot required.
 - Modified to reduce setback to 12-feet.
 - Could not modify request to reduce setback to 9-feet.



Enforceable Stipulations

- Relevant to request
 - Legal
 - Clearly Understandable
 - Proportionate
- State what you want and staff can recommend specific language

Questions





*****REQUEST TO ADD-ON (SEE ATTACHED MEMO)*** Request for City Council to Call to Meet in Executive Session on Additional Dates in 2024 and Cancel the April 23 Executive Session**

Request for the City Council to call meetings for the purpose of holding an Executive Session pursuant to Arizona Revised Statute Section 38-431.03.A, on the following dates and times in the Central Conference Room, on the 12th Floor of Phoenix City Hall, located at 200 W. Washington St.:

- March 5 at 1:30 p.m.
- April 16 at 12:00 p.m.
- April 23 - CANCELED
- April 30 at 12:00 p.m.

Public Outreach

The Notice and Agenda for these Executive Sessions will be posted no later than 24 hours before each scheduled meeting.

Responsible Department

This item is submitted by City Manager Jeffrey Barton and the Law Department.



City of Phoenix
OFFICE OF THE CITY ATTORNEY

To: Jeffrey J. Barton
City Manager

Date: February 15, 2024

From: Julie M. Kriegh
City Attorney

Subject: REQUEST TO ADD-ON ITEM TO THE FEBRUARY 21, 2024 FORMAL AGENDA - REQUEST FOR CITY COUNCIL TO CALL TO MEET IN EXECUTIVE SESSION ON ADDITIONAL DATES IN 2024 AND CANCEL THE APRIL 23 EXECUTIVE SESSION

This memo requests to add additional Executive Session meetings on March 5, April 16, and April 30, and cancel the April 23 Executive Session.

Approved by:

A handwritten signature in black ink, appearing to read 'Jeffrey J. Barton', written over a horizontal line.

Jeffrey J. Barton
City Manager