



**DEVELOPMENT PROJECT FILE**  
for  
**WATERMARK (HAYDEN HARBOR) AT TEMPE  
TOWNLAKE  
(PL070506)**

**ATTACHMENTS:**

- 1-2. Time Extension Request Letter
- 3-7. Time Extension Approval from May 21, 2015

Staff Report from 03/24/2011 City Council Final Entitlement Hearing and Attachments (in original order and pagination)

- 1-81. Original Development Project Files from May 24, 2011

# GAMMAGE & BURNHAM

A PROFESSIONAL LIMITED LIABILITY COMPANY

ATTORNEYS AT LAW

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June 3, 2016

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Ryan Levesque  
Deputy Director - Planning  
Tempe City Hall Municipal Complex  
Community Development Department  
31 East Fifth Street  
Tempe, AZ 85281

RE: Watermark (Hayden Harbor) at Tempe Town Lake  
Time Approval Condition Modification Request

Dear Ryan:

This firm represents El Fenix LLC and El Fenix II LLC ("El Fenix"), the owners of the approximate 13.6 net acre property located at the northwest corner of Scottsdale Road and Tempe Town Lake (the "Site").

On March 24, 2011, the City Council approved General Plan land use and density map amendment (GEP10003), rezoning (ZON08004), and planned area development ("PAD") overlay (PAD08010) applications to allow for the redevelopment of the Site with a mixed-use project known as Hayden Harbor at Tempe Town Lake ("Hayden Harbor"), which has been rebranded as Watermark. The current approval for the Site consists of mixed-use project comprised of six (6) mixed-use towers ranging in height from 220 feet to 278 feet accommodating hotel, residential, restaurant and retail uses, one (1) 12-story office building located above an above-grade six (6) level parking garage totaling 213 feet in height, a (1) one-story office building, a below-grade parking garage, and surface parking.

The approval of the referenced applications included a condition specifying that a building permit application be completed on or before February 24, 2015 with the intent to issue a building permit and commence construction. As you may recall, the lingering effects of a down market were not favorable for a developer to take on such a large and complex project at that time. Subsequently, on May 21, 2015, the Tempe City Council extended the deadline for completing a building permit application for the Project to May 21, 2016.

We have been diligently working on submitting amended PAD overlay and Development Plan Review ("DPR") applications for the Site since this spring. In a master plan development of this size, it is complicated to put all the pieces together so that the plan matches the City's vision and the current market environment. Over the last year, we have been working on several changes to the Site's master development plan in response to the City's vision and to the changes in the market environment surrounding the Site. Specifically, we have amended the development plan to change two of the residential towers into office buildings which will be built in phases. In the first phase of

development, we intend to build a 10-story office building, parking garage and retail building along the Site's Rural Road frontage. Additionally, we have been working with several residential developers to provide a residential component on the Site. The residential component of Watermark will be built adjacent to the Tempe Lakeside Apartments project currently under construction on the neighboring parcel to the west.

Over the past year, we have spent a significant amount of time with various members of the Community Development and Engineering Departments to refine Watermark's design. We have submitted two preliminary site plan applications for staff review and comment and meetings have also taken place with various members of the Flood Control Department to discuss how we may commence construction adjacent to the levee. We intend to file amended PAD overlay and DPR applications on June 14, 2016 and estimate that we will have amended PAD and DPR approvals by the end of this year. Based on this schedule, we believe we complete a building permit application for the first phased of development by June 2017.

Pursuant to Section 6-312 of the Tempe Zoning and Development Code, the purpose of this letter is to request a modification of the noted approval condition to extend the referenced deadline by approximately one year. The requested extension is in no way reflective of intent by El Fenix to avoid requirements or standards applicable to Watermark. Since the City Council's approval of the Project in 2011, El Fenix has been actively seeking a developer for the Site. As stated previously, the lingering effects from the "Great Recession" have made it difficult to identify a qualified, capable and willing developer for a large and complex project like Watermark. As economic conditions have continued to improve and development activity has increased, especially along Town Lake, El Fenix has seen a significant increase in developer interest for the Site. With the construction of Marina Heights coming to completion, we believe that the overall market demand for commercial and high-density residential development is looking up. El Fenix strongly believes in a bright future for Watermark, but the vision cannot be rushed. EL Fenix is not a developer, but they are a patient owner who is holding the land until we can partner with qualified developers who will build a project which both we and the City will be proud of. Therefore, we respectfully request that the building permit application deadline referenced above be extended to June 23, 2017. If the Council desires, we would be happy to provide updates on our progress.

We appreciate your patience with this project. We are spending time to ensure that we build a high-quality mixed use development which is reflective of the investment the City has already put into the Town Lake and surrounding area. Please let us know if you have any questions or if you require any additional information in regard to the time extension request.

Sincerely,  
GAMMAGE & BURNHAM P.L.C.



By  
Manjula M. Vaz

**CITY OF TEMPE**  
**REQUEST FOR COUNCIL ACTION**

Council Meeting Date: 05/21/2015  
 Agenda Item: 6A4

**ACTION:** Hold a public hearing for a review of the Zoning Map Amendment and Planned Area Development Overlay for a time extension request of prior entitlements for HAYDEN HARBOR AT TEMPE TOWN LAKE, located at 430 North Scottsdale Road. The applicant is Gammage and Burnham PLC.

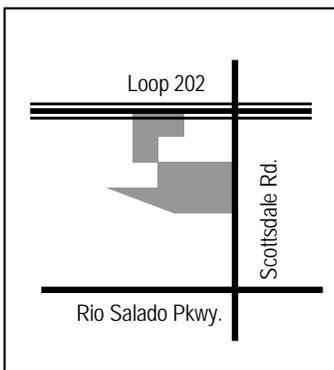
**FISCAL IMPACT:** There is no fiscal impact to City funds.

**RECOMMENDATION:** Not applicable

**BACKGROUND INFORMATION:** HAYDEN HARBOR AT TEMPE TOWN LAKE (PL070506) consists of an approved project with six (6) mixed-use towers ranging in height from 220 feet to 278 feet proposed for hotel, residential, restaurant and retail uses, one (1) 12-story office building located above an above-grade six (6) level parking garage totaling 213 feet in height, a (1) one-story office building, a below-grade parking garage, and surface parking. The project has a total gross floor building area of 2,059,580 square feet on approximately 13.6 net acres, located at 430 North Scottsdale Road. City Council approved the entitlement request on March 24, 2011 with a condition that a building permit application shall be completed on or before February 24, 2015 or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment. At this time, the development team has not obtained or applied for building permits. The project is in conformance with the General Plan land use designation of Mixed Use and High Density – Urban Core.

On February 23, 2015 the applicant Gammage and Burnham PLC requested a time extension to this stipulation until February 24, 2018. It is requested that this stipulation now read:

A building permit application shall be completed on or before February 24, ~~2015~~ 2018, with the intent to issue a building permit and commence construction, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing at City Council.



Property Owner	El Fenix LLC & El Fenix II LLC
Applicant	Manjula Vaz, Gammage and Burnham, PLC
Current Zoning District	MU-4 (PAD) Mixed-Use High Density with a Planned Area Development Overlay
Gross/Net site area	13.6 acres
Max. Density	103.75 du/ac (1,411 units)
Total Building Area	2,059,580 s.f.
Lot Coverage	23%
Building Height	15' and 213'-278'
Building Setbacks	Varies (0' front, 0' sides, 0' rear min.)
Landscape Area	36% min.
Vehicle Parking	3,528 spaces provided
Bicycle Parking	1,149 spaces provided

**ATTACHMENTS:** Extension letter, Original Development Project File

**STAFF CONTACT:** Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Dave Nakagawara, Community Development Director  
 Legal Review by: Teresa Voss, Assistant City Attorney  
 Prepared by: Karen Stovall, Senior Planner

**COMMENTS:**

An approval of this time extension has the effect of:

- Retaining the existing entitlements of MU-4 PAD with 1,411 dwelling units within six (6) mixed-use towers and an 18-story 255,300 square-foot office building, all ranging in height from 220 feet to 278 feet.
- Any significant changes, including the reduction of more than 10% of the height or density would require a major amendment to the PAD and require a new decision by the Council.

Not to consider acceptance of the time extension has the effect of:

- Requiring further direction from City Council to further evaluate either the schedule of development, or
- Direct staff to proceed with a revocation process of the PAD and zoning entitlements. This process would include a neighborhood meeting, recommendation hearing by the Development Review Commission and public hearings with a final decision by City Council.
- With the revocation of entitlements, any new submittal application (even if similar) would be brought back through the appropriate decision-making body.
- As a result of reversion, the property's zoning would be changed back to GID (General Industrial District) with the remaining General Plan projected land use designation of Mixed-Use.

Note: This development case, along with the City of Tempe, was in litigation with the adjoining property owners. On September 17, 2014, the judge ruled on an order of a full dismissal.

**CONDITIONS OF APPROVAL:**

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. A building permit application shall be completed on or before February 24, ~~2015~~ 2018, with the intent to issue a building permit and commence construction, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing at City Council.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than March 28, 2011 or the PAD, Zoning Map Amendment and General Plan Map Amendment approval shall be null and void.
3. The Planned Area Development for Hayden Harbor shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
4. A Preliminary and Final Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
5. Any proposed modifications to the well easement, as depicted on the Planned Area Development Overlay, shall require further review before a final determination is made by the City of Tempe and the Water Utilities Division. Acceptance by the Water Utilities Director, or designee, shall be made prior to approval of a development plan review that may affect the existing well easement.

6. Prior to final acceptance of the request to relocate the Salt River Outfall (SRO) Interceptor and its easement, located near the northwest portion of the property, the Sub-Regional Operating Group (SROG) Advisory Committee of the Joint Municipal Water Reclamation System shall review the request to make a determination of approval on any changes related to the interceptor. This approval shall be completed prior to issuance of any building permits which may affect the area within the easement of the SRO Interceptor.
7. Any development located within the easement of the Salt River Project's (SRP) 230kv overhead lines will require approval by SRP. A submittal for review and final determination by SRP shall be completed prior to a scheduled meeting with the decision-making body for Development Plan Review within this area.

**HISTORY & FACTS:**

May 20, 2008	Formal application for the Hayden Harbor project received by Development Services.
December 15, 2010	Neighborhood meeting held by the applicant for this request.
January 25, 2011	Development Review Commission recommended approval of Hayden Harbor for a General Plan Map Amendment from 'Open Space' to 'Mixed-Use' and 'No Density' to 'High Density', and a Zoning Map Amendment from GID to MU-4. The Commission continued the request for a Planned Area Development Overlay to a February 22, 2011 hearing date, in order to have further discussion on access issues presented by the public and to review the traffic study.
February 22, 2011	Development Review Commission recommended approval of the Planned Area Development Overlay for Hayden Harbor with no additional changes (4-2 vote).
March 10, 2011	City Council introduction and first public hearing for this request.
March 24, 2011	City Council held the second public hearing and approved Hayden Harbor at Tempe Town Lake.
July 17, 2012	Superior Court of Arizona, Maricopa County denied relief to Plaintiffs (U-Haul Co. of Arizona, et al), except that the matter of decision made by Council on March 24, 2011 be remanded back to the City Council and provide for the record the findings required by Section 6-502(B) of the Tempe Zoning and Development Code.
November 15, 2012	City Council approved for the record the findings for the decision provided for Hayden Harbor at Tempe Town Lake.
April 16, 2015	Hold a public hearing for a time extension request for a Zoning Map Amendment and Planned Area Development Overlay for Hayden Harbor.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-304, Zoning Map Amendment  
 Section 6-305, Planned Area Development (PAD) Overlay districts

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March 16, 2015

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Ryan Levesque  
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Community Development Department  
Lower Level, East Side  
31 East Fifth Street  
Tempe, AZ 85281

RE: Hayden Harbor at Tempe Town Lake  
Time Approval Condition Modification Request

Dear Ryan:

This firm represents El Fenix LLC and El Fenix II LLC ("El Fenix"), the owners of the approximate 13.6 net acre property located at the northwest corner of Scottsdale Road and Tempe Town Lake (the "Site").

On March 24, 2011, the City Council approved General Plan land use and density map amendment (GEP10003), rezoning (ZON08004), and planned area development overlay (PAD08010) applications to allow for the redevelopment of the Site with a mixed-use project known as Hayden Harbor at Tempe Town Lake ("Hayden Harbor"). Hayden Harbor consists of six (6) mixed-use towers ranging in height from 220 feet to 278 feet accommodating hotel, residential, restaurant and retail uses, one (1) 12-story office building located above an above-grade six (6) level parking garage totaling 213 feet in height, a (1) one-story office building, a below-grade parking garage, and surface parking (the "Project").

The approval of the referenced applications included a condition specifying that a building permit application be completed on or before February 24, 2015 with the intent to issue a building permit and commence construction. Pursuant to Section 6-312 of the Tempe Zoning and Development Code, the purpose of this letter is to request a modification of the noted approval condition to extend the referenced deadline by three (3) years.

The requested extension is in no way reflective of intent by El Fenix to avoid requirements or standards applicable to Hayden Harbor. As you may remember, in 2010, El Fenix took the Site over from NAMWEST, the original applicant. El Fenix was not the original applicant on the Hayden Harbor project. EL Fenix was one of NAMWEST's lenders and El Fenix fought NAMWEST in bankruptcy court to regain control of the Site. It was a condition of the bankruptcy court that El Fenix proceed with the entitlement process and try to preserve the value of the Site. Therefore, in 2011, El Fenix went forward with the NAMWEST site plan and

submitted density map amendment, rezoning, and planned area development overlay applications to the City. These applications were approved by the City Council in 2011.

Since the City Council's approval of the Project in 2011, El Fenix has been actively seeking a developer for the Site. The lingering effects from the "Great Recession" have made it difficult to identify a qualified, capable and willing developer for a large and complex project like Hayden Harbor. So, there has not been any activity on the Site since 2011. As economic conditions have started to improve and development activity has increased, especially along Town Lake, El Fenix has seen a significant increase in developer interest for the Site. Over the last two to three years, El Fenix has been approached by a variety of multi-family residential developers. We have rejected the multi-family offers. Since taking over this Site in 2010, our plan has been to build a high-quality, high-density project as generally described in the approved PAD. We believe the market for some high-density, for-sale residential product around the Town Lake is starting up again. It is not here yet, but we believe that the for-sale residential market will develop in the next two to three years.

We are waiting for the completion of the first building at Marina Heights. As Marina Heights develops and the residential market comes back, we believe that there will soon be a market for high-density, for-sale residential product in the area. El Fenix strongly believes in the original vision for Hayden Harbor. The original vision cannot be rushed. EL Fenix is not a developer, but they are a patient owner who is holding the land until we can partner with a qualified developer who will build a project which both we and the City will be proud of.

Therefore, we respectfully request that the building permit application deadline referenced above be extended to February 24, 2018. If the Council desires, we would be happy to provide updates on our progress.

Please let us know if you have any questions or if you require any additional information in regard to the time extension request.

Sincerely,  
GAMMAGE & BURNHAM



By

Manjula M. Vaz



**DEVELOPMENT PROJECT FILE**  
for  
**HAYDEN HARBOR AT TEMPE TOWN LAKE**  
**(PL070506)**

**ATTACHMENTS:**

Staff Report from 03/24/2011 City Council Final Entitlement Hearing and Attachments (in original order and pagination)

1. Location Map
2. Aerial Photo
3. Resolution No. 2011.06
- 4-7. Ordinance No. 2011.05
- 8-9. Waiver of Rights and Remedies form
- 10-16. Letter of Explanation
- 17-33. General Plan Map Amendment Explanation
- 34-37. Neighborhood Meeting Summary
- 38-39. Planned Area Development Overlay
- 40-43. Below level & Site Plans
44. Preliminary Grading & Drainage Plan
- 45-49. Building Elevations
- 50-53. Project Renderings
54. Traffic Impact Analysis – Staff Summary
- 55-56. Legal Protest Acknowledgments
- 57-81. Legal Protest, dated January 25, 2011

# Staff Summary Report



City Council Meeting Date: 03/24/11

Agenda Item Number: \_\_

**SUBJECT:** Second and final public hearing to adopt an ordinance for a Zoning Map Amendment and a Planned Area Development Overlay and to adopt a resolution for a General Plan Amendment for HAYDEN HARBOR AT TEMPE TOWN LAKE, located at 430 North Scottsdale Road.

**DOCUMENT NAME:** 20110324cdr101 PLANNED DEVELOPMENT (0406) Resolution No. 2011.06 Ordinance No. 2011.05

**COMMENTS:** A LEGAL PROTEST HAS BEEN FILED WITH REGARD TO THIS MATTER; THEREFORE, A  $\frac{3}{4}$  COUNCIL MAJORITY (6 OF 7) IS REQUIRED FOR APPROVAL. The Development Review Commission is recommending approval of the proposal. Staff is recommending approval as submitted, subject to conditions.

Request for HAYDEN HARBOR AT TEMPE TOWN LAKE (PL070506) (EI Fenix LLC, EI Fenix II LLC & City of Tempe, property owners; Gammage & Burnham PLC, applicant) consisting of six (6) mixed-use towers ranging in height from 220 feet to 278 feet proposed for hotel, residential, restaurant and retail uses, one (1) 12-story office building located above an above-grade six (6) level parking garage totaling 213 feet in height, a (1) one-story office building, a below-grade parking garage, and surface parking. The proposal has a total gross floor building area of 2,059,580 square feet on approximately 13.6 net acres, located at 430 North Scottsdale Road. The request includes the following:

GEP10003 (Resolution No. 2011.06) – A General Plan Projected Land Use Map Amendment from “Open Space” to “Mixed-Use” and a Projected Residential Density Map Amendment from “No Density” to “High Density, greater than 25 units per acre”, all located on approximately 5.23 acres.

ZON08004 (Ordinance No. 2011.05) – Zoning Map Amendment from GID, General Industrial District to MU-4, Mixed-Use High Density District, located on 13.6 acres.

PAD08010 (Ordinance No. 2011.05) – Planned Area Development Overlay to establish general development standards, located on 13.6 acres.

**PREPARED BY:** Ryan Levesque, Senior Planner (480-858-2393)

**REVIEWED BY:** Lisa Collins, Community Development Deputy Director (480-350-8989)

**LEGAL REVIEW BY:** Teresa Voss, Assistant City Attorney (480-350-8814)

**DEPARTMENT REVIEW BY:** Chris Anaradian, Community Development Director (480-858-2204)

**FISCAL NOTE:** There is no fiscal impact on City Funds.

**RECOMMENDATION:** Staff – Approval, subject to conditions  
Development Review Commission – Approval of GEP & ZON on 1/25/11 (7-0 vote)  
Development Review Commission – Approval of PAD on 2/22/11 (4-2 vote)

**ADDITIONAL INFO:** A neighborhood meeting was held on December 15, 2010, with this application.

## COMMENTS:

This site is located west of Scottsdale Road and located along the north bank of Tempe Town Lake. Directly west of the site exists a horse stable property and Tempe's town lake marina. Directly north of the site is the U Haul mini-storage facility.

The site previously contained Club Rio, a live entertainment music venue, with both indoor and outdoor facilities. The site is now - demolished with an old industrial warehouse remaining on the northern-most portion of the site.

This request includes the following:

1. General Plan Amendment
2. Zoning Map Amendment, and
3. Planned Area Development Overlay

For further processing, the applicant will need approval for the following:

- A Preliminary and Final Subdivision Plat, subdivide the existing parcels of land, and
- Development Plan Review

## PUBLIC INPUT

A neighborhood meeting is required for this request. The applicant conducted a neighborhood meeting on December 15, 2010 at 6 p.m. See attached summary of the meeting provided by the applicant. The meeting was well attended by neighborhood residents, property owners and business stakeholders. The applicant provided a presentation on the project. The comments from the meeting included discussion on the proposed heights, density, traffic generated from the site and access issues. The applicant also followed up with an invitation to the North Tempe Neighborhood Association meeting to discuss the proposal to other residents in the vicinity.

Prior to public hearings, staff received mostly general requests for information regarding the proposed project. At the onset of the public hearings a legal zoning protest was submitted, with property owner's authorization from U-Haul and Audio Express, located directly to the north of the project site. This protest results in requiring at least six City Council members to vote in the affirmative in order to receive approval of the project.

This request was initially heard by the Development Review Commission on January 25, 2011, and was continued. The applicant was directed by the DRC to meet with adjacent property and adjacent business owner representatives to discuss issues relating to cross-access issues. Both parties met on February 8, 2011, to discuss the existing access issues, along with potential permanent cross-access. Staff is not aware of any approved agreements made at this time.

At some point beginning in the year 2005, a City of Tempe Capital Improvement Project began construction of a median on Scottsdale Road, which modified northbound access to the neighbor's site, creating two southbound left turn lanes into Playa Del Norte. The 2006 aerials show a paved area between the two properties providing cross-access from the U-Haul property to the Hayden Harbor site (formerly Club Rio).

## PROJECT ANALYSIS

### GENERAL PLAN

The applicant has provided a written justification for the proposed General Plan amendment within the attachments. The request includes a General Plan Map Amendment for the southernmost 5.23 acres of the 13.6 acre project site. More specifically, a Projected Land Use Map Amendment from "Open Space" to "Mixed-Use", and a Projected Residential Density Map Amendment from "No Density" to "High Density, greater than 25 du/ac".

City staff has circulated the applicant's proposal for review to all stakeholders, including other government entities, adjacent municipalities and interested parties that track land use changes within Tempe. This notice and review was sent in compliance with the Arizona Revised Statutes notification requirements of a general plan amendment. At this time, staff has not received any additional comments.

The General Plan Map Amendment request will match the existing projected land use and density for the remainder of the project site. When the General Plan 2030 was adopted in 2003, some of the property around the town lake did not follow the alignment of the

park path levee that exists. The intent of the General Plan was to identify recreational pathways used around the Town Lake and identify those properties as "Public Open Space" when owned by a public entity. The properties requesting the General Plan amendments are the southern most portions of the property and a sliver property currently owned by the City of Tempe. This request, along with a future subdivision plat, will more accurately align the properties intended for development from the areas defined for park space. The High Density projections for this area closely relate to the master plan vision and other Town Lake area designations, including approved projects such as Hayden Ferry Lakeside, Marina Heights, Pier 202, and the Playa del Norte project.

Below is the analysis used for determining acceptance of a General Plan Map Amendment.

Section 6-303 D. Approval criteria for General Plan amendment:

1. Appropriate short and long term public benefits
2. Mitigates impacts on land use, water infrastructure or transportation
3. Helps the city attain applicable objectives of the General Plan
4. Provides rights-of-way, transit facilities, open space, recreational amenities or public art
5. Potentially negative influences are mitigated and deemed acceptable by the City Council
6. Judgment of the appropriateness of the amendment with regard to market demands, and impacts on surrounding area, service, fiscal, traffic, historic properties, utilities and public facilities.

**ZONING**

The applicant is requesting a Zoning Map Amendment from GID, General Industrial District to MU-4, Mixed-Use High Density District for the 13.6 acre project site. The original zoning designation of the site dates back to when industrial uses were utilized just outside of the original town boundaries. The request for the mixed-use zoning, which allows both residential and commercial uses on a site for either a vertical integration or horizontally as an overall master planned project. This zoning designation is consistent with the majority of the property already projected for mixed land use and high density residential.

Section 6-304 C.2. Approval criteria for Zoning Amendment:

1. The proposed zoning amendment is in the public interest. *This request will implement a zoning designation change consistent with the General Plan Land Use maps as well as provide a property with the necessary infrastructure and improvements that benefit Tempe's goals for development around the Town Lake edges.*
2. The proposed zoning amendment conforms with and facilitates implementation of the General Plan *The zoning amendment will implement the General Plan and its various elements. This site is within a projected "employment node" defined within the Economic Development Element and within the University/Hayden Butte Redevelopment Area.*

**PLANNED AREA DEVELOPMENT**

Along with a designation request for a mixed-use zoning requires applicants to process a Planned Area Development Overlay to establish the desired standards not currently defined within the MU-4 zoning designation. Below is a list of district standards to be considered. As the individual developments finalize, further amendments to the Planned Area Development Overlay may be necessary to coincide with a finalized entitlement.

<b>Hayden Harbor – Development Standards Proposed</b>								
<b>Standards</b>	<b>Parcel:</b>	<b>1</b>	<b>1a</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>Total</b>
Parcel Acres		1.7	0.9	2.2	1.4	3.2	4.2	13.6
Residential Density (# of dwelling units)		266	-	388	266	446	-	1,411
Building Height (feet) [Exceptions, see Section 4-205(A)]								
Building Height Maximum		220 ft	15 ft	278 ft	266 ft	242 ft	213 ft	
Building Height Step-Back		Yes	Yes	Yes	Yes	Yes	Yes	
Maximum Lot Coverage (% of net site area)		NS	NS	NS	NS	NS	NS	23%
Minimum Landscape Area (% of net site area)		NS	NS	NS	NS	NS	NS	36%
Setbacks (feet) [Exceptions, see Section 4-205(B)]								

## Hayden Harbor – Development Standards Proposed

Standards	Parcel:	1	1a	2	3	4	5	Total
Front Parking		NS 20 ft						
Side		NS	NS	NS	NS	NS	NS	
Street Side Parking		NS 20 ft						
Rear		NS	NS	NS	NS	NS	NS	

A finalized Traffic Impact Analysis was also submitted on February 2, 2011 and reviewed by the City of Tempe. A memo was provided by the Transportation Division of Public Works regarding the findings of the analysis. See Attachments. A complete copy of the Traffic Impact Analysis has been provided to the Commission for further review.

Below is the criteria used for determining acceptance of a Planned Area Development Overlay.

Section 6-305 D. Approval criteria for P.A.D.:

1. The proposed land uses residential, commercial and office are allowable in Part 3.
2. The development standards listed above, as established as part of the PAD Overlay District, as well as the standards allowed by use permit in Part 4 will be conformed to for development of this site.
3. The proposed PAD is in conformance with the Rio Salado Overlay District.
4. The conditions of approval are reasonable to ensure conformance with the provisions of the Zoning and Development Code.

### Conclusion

Based on the information provided by the applicant, the public input received and the analysis provided by the applicant, staff recommends approval of the requested General Plan Amendment, Zoning Amendment, and Planned Area Development Overlay. This request meets the required criteria and will conform to the proposed conditions of approval outlined in this report.

### REASONS FOR APPROVAL:

1. The project meets the General Plan Projected Land Use and Projected Residential Density for this site.
2. The General Plan Amendment will conform to the existing projections already on the remaining portions of the site.
3. The Zoning Map Amendment is compatible with other similar proposed projects around the Town Lake vicinity.
4. The project will establish the development standards required under the Zoning and Development Code.
5. The PAD overlay process was specifically created to allow for greater flexibility.
6. The proposed project meets the approval criteria for a General Plan Amendment, Zoning Amendment, and Planned Area Development Overlay.

### CONDITIONS OF APPROVAL:

1. A building permit application shall be completed on or before February 24, 2015, with the intent to issue a building permit and commence construction, or the zoning of the property may revert to that in place at the time of application, subject to a public hearing at City Council.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition

of approval. The signed form shall be submitted to the Community Development Department no later than March 28, 2011 or the PAD, Zoning Map Amendment and General Plan Map Amendment approval shall be null and void.

3. The Planned Area Development for Hayden Harbor shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.
4. A Preliminary and Final Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
5. Any proposed modifications to the well easement, as depicted on the Planned Area Development Overlay, shall require further review before a final determination is made by the City of Tempe and the Water Utilities Division. Acceptance by the Water Utilities Director, or designee, shall be made prior to approval of a development plan review that may affect the existing well easement.
6. Prior to final acceptance of the request to relocate the Salt River Outfall (SRO) Interceptor and its easement, located near the northwest portion of the property, the Sub-Regional Operating Group (SROG) Advisory Committee of the Joint Municipal Water Reclamation System shall review the request to make a determination of approval on any changes related to the interceptor. This approval shall be completed prior to issuance of any building permits which may affect the area within the easement of the SRO Interceptor.
7. Any development located within the easement of the Salt River Project's (SRP) 230kv overhead lines will require approval by SRP. A submittal for review and final determination by SRP shall be completed prior to a scheduled meeting with the decision-making body for Development Plan Review within this area.

#### **HISTORY & FACTS:**

- |                   |   |
|-------------------|---|
| May 20, 2008      | Formal application for the Hayden Harbor project received by Development Services.  |
| December 15, 2010 | Neighborhood meeting held by the applicant for this request.  |
| January 25, 2011  | Development Review Commission recommended approval of Hayden Harbor for a General Plan Map Amendment from 'Open Space' to 'Mixed-Use' and 'No Density' to 'High Density', and a Zoning Map Amendment from GID to MU-4. The Commission continued the request for a Planned Area Development Overlay to a February 22, 2011 hearing date, in order to have further discussion on access issues presented by the public and to review the traffic study. |
| February 22, 2011 | Development Review Commission recommended approval of the Planned Area Development Overlay for Hayden Harbor with no additional changes (4-2 vote).   |
| March 10, 2011    | Scheduled City Council introduction and first public hearing for this request.  |
| March 24, 2011    | Scheduled City Council second public hearing for this request.  |

#### **ZONING AND DEVELOPMENT CODE REFERENCE:**

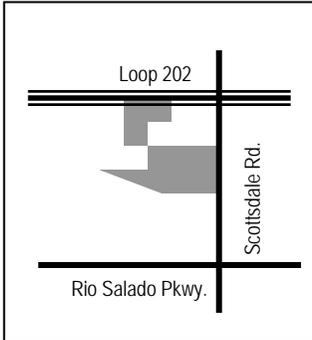
- Section 6-302, General Plan Amendment
- Section 6-304, Zoning Map Amendment
- Section 6-305, Planned Area Development (PAD) Overlay districts

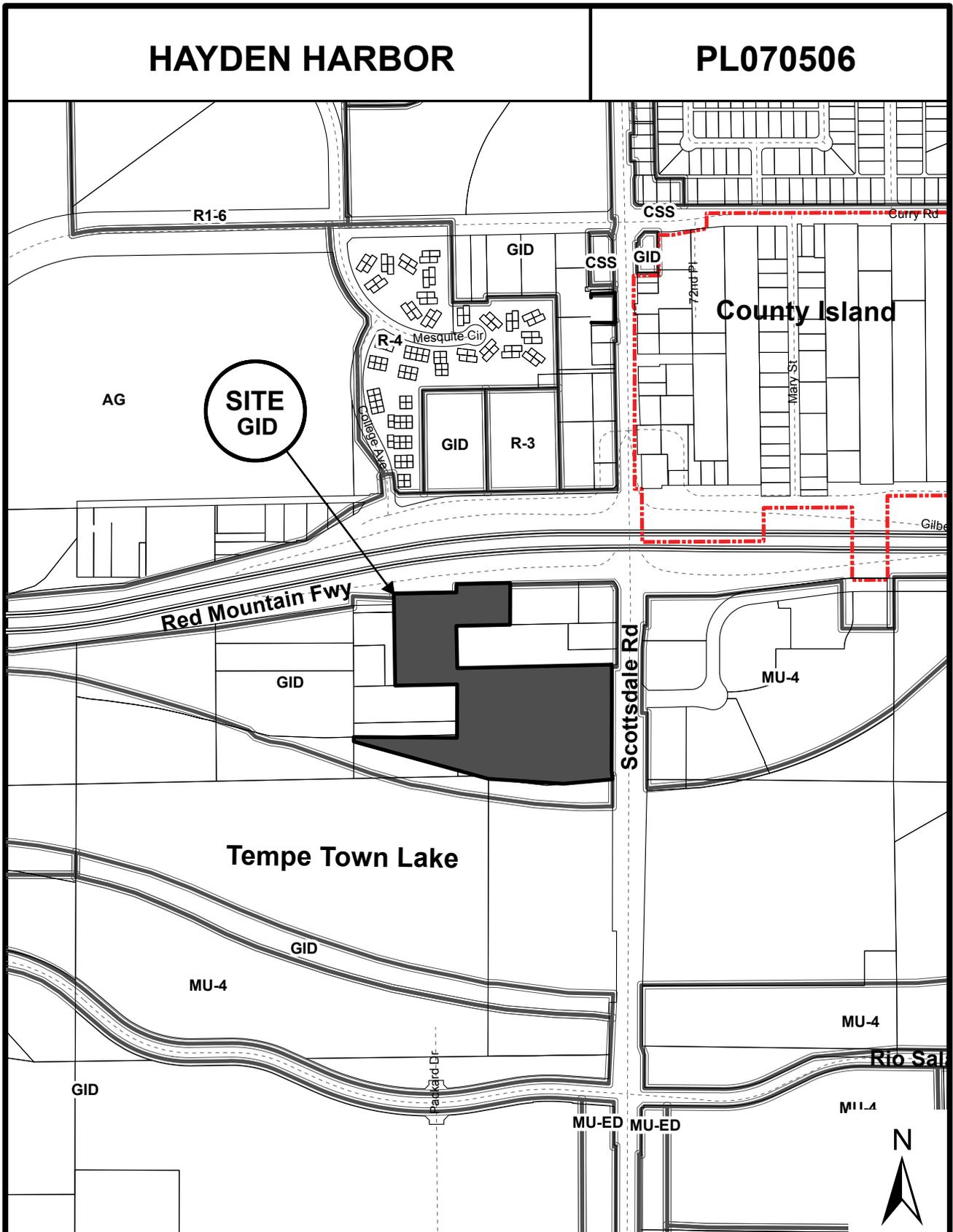
#### **SITE DATA:**

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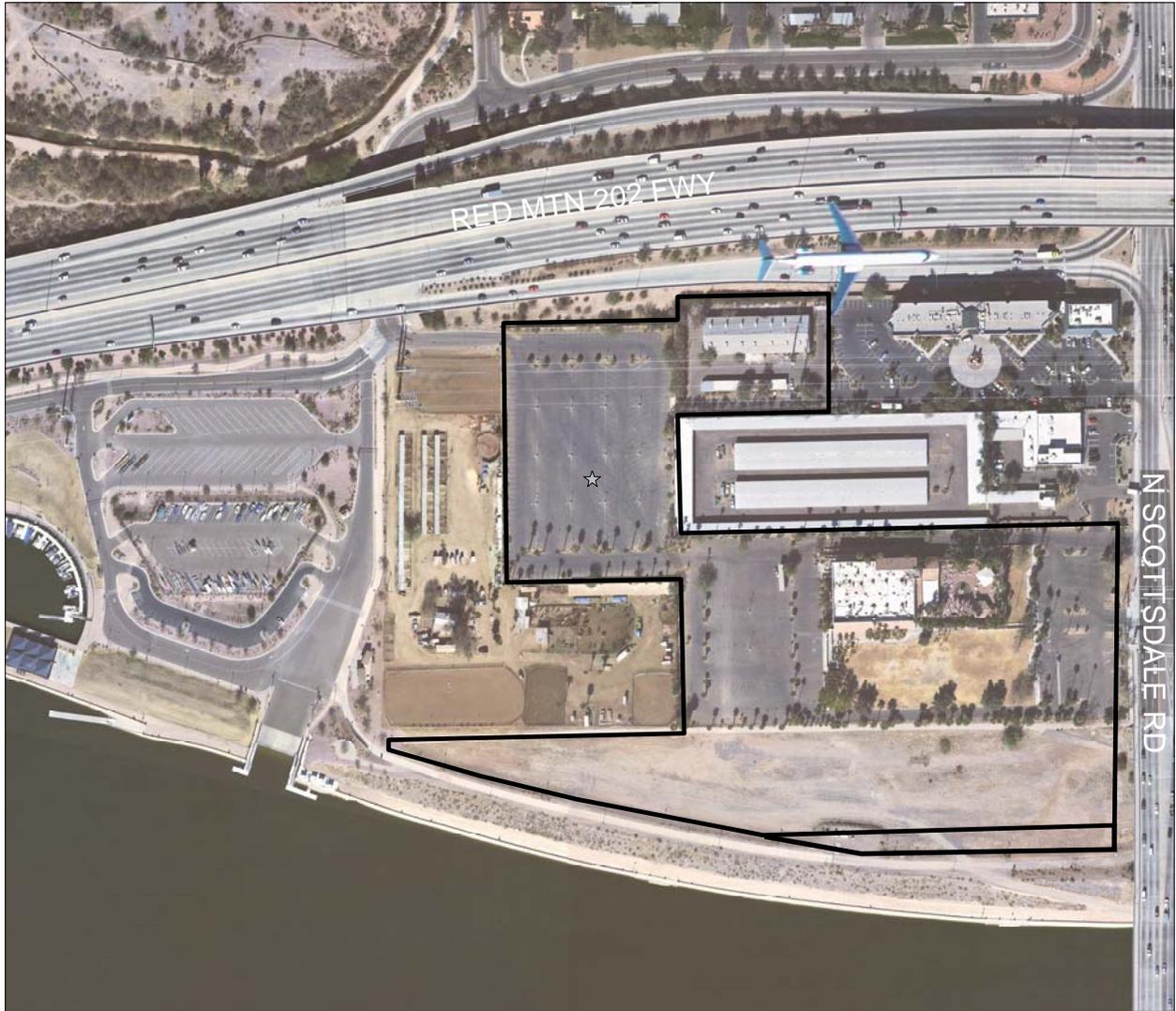
Gross/Net site area	13.6 acres
Density	103.75 du/ac (1,411 units)
Total Building area	2,059,580 s.f.
Lot Coverage	23 % (100% maximum allowed)
Building Height	15 ft and 213 – 278 ft (35 ft maximum allowed)
Building Setbacks	Varies (0, 0, 0 min.)
Landscape area	36% (10% minimum required)
Vehicle Parking	3,528 spaces (3,493 min. required)
Bicycle Parking	1,149 spaces (1,149 minimum required)

**LOCATION MAP:**





**Location Map**



HAYDEN HARBOR (PL070506)

RESOLUTION NO. 2011.06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE GENERAL PLAN 2030 PROJECTED LAND USE MAP FROM OPEN SPACE TO MIXED USE AND THE PROJECTED DENSITY MAP FROM NO DENSITY TO HIGH DENSITY (GREATER THAN 25 DWELLING UNITS PER ACRE) FOR APPROXIMATELY 5.23 ACRES LOCATED AT 430 NORTH SCOTTSDALE ROAD AND OWNED BY EL FENIX II, LLC AND THE CITY OF TEMPE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, that the General Plan 2030 Projected Land Use Map and Projected Residential Density Map are hereby amended for approximately 5.23 acres from Open Space, No Density to Mixed-Use, High Density (greater than 25 dwelling units per acre), located at 430 North Scottsdale Road.

More specifically described:

Parcel Nos. 133-22-005D; 133-22-017; and see attached 'Exhibit A'

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

**ORDINANCE NO. 2011.05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING MAP, PURSUANT TO THE PROVISIONS OF ZONING AND DEVELOPMENT CODE PART 2, CHAPTER 1, SECTION 2-106 AND 2-107, RELATING TO THE LOCATION AND BOUNDARIES OF DISTRICTS.**

\*\*\*\*\*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

**Section 1.** That the City of Tempe Zoning Map is hereby amended, pursuant to the provisions of Zoning and Development Code, Part 2, Chapter 1, Section 2-106 and 2-107, by removing the below described property from the GID, General Industrial District and designating it as MU-4 (PAD), Mixed-Use High Density District with a Planned Area Development Overlay on 13.6 acres.

LEGAL DESCRIPTION

PARCEL NO. 1:

The east 300 feet of the south 440 feet of the north 880 feet of the west 495 feet of the northeast quarter of the northeast quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River base and meridian, Maricopa County, Arizona.

PARCEL NO. 2:

The south 134.96 feet of the north 1134.96 feet of the east 763.05 feet of the west 1258.05 feet of the northeast quarter of the northeast quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River base and meridian, Maricopa County, Arizona.

PARCEL NO.3:

The south 200 feet of the north 1000 feet of the northeast quarter of the northeast quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River base and meridian, Maricopa County, Arizona;

Except the west 495 feet thereof; and

Except the west 5 feet of the east 55 feet of the south 200 feet of the north 1000 feet of the northeast quarter of the northeast quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River base and meridian. Maricopa County, Arizona; and

Except the west 10 feet of the east 65 feet of the south 65 feet of the south 200 feet of the north 1000 feet of said northeast quarter of Section 15.

PARCEL NO. 4:

The south 200 feet of the north 600 feet of the northeast quarter of the northeast quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River base and meridian, Maricopa County, Arizona;

Except the east 568 feet thereof; and also

Except the west 495 feet thereof.

PARCEL NO. 5:

Easement for reciprocal ingress and egress as set forth in instrument No. 96-0171512

PARCEL NO. 6:

That portion of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Commencing at the Northeast corner of said Section 15;

Thence along the East line thereof, South 00 degrees 07 minutes 02 seconds West 1135.24 feet to the South line North 1134.69 feet of said Northeast quarter of the Northeast quarter of Section 15 and the Point of Beginning;

Thence along said South line, South 88 degrees 50 minutes 43 seconds West 827.44 feet;

Thence North 00 degrees 09 minutes 33 seconds East 2.70 feet;

Thence South 88 degrees 59 minutes 43 seconds West 495.10 feet;

Thence South 00 degrees 09 minutes 33 seconds West 29.88 feet to a point on a non-tangent curve concave to the North from which point a radial line bears North 18 degrees 33 minutes 51 seconds East;

Thence Easterly 657.84 feet along said non-tangent curve with a radius of 3977.85 feet to a point on the South line of said Northeast quarter of Section 15;

Thence along said South line, North 89 degrees 04 minutes 09 seconds East 684.01 feet to the East line of said Northeast quarter of Northeast quarter of Section 15;

Thence, along said East line, North 00 degrees 07 minutes 02 seconds East 198.47 feet to the Point of Beginning;

Except the East 80 feet thereof.

PARCEL NO. 7:

See attached Exhibit A

TOTAL AREA IS 13.6 GROSS ACRES.

**Section 2.** Further, those conditions of approval imposed by the City Council as part of **Case # ZON08004 and PAD08010** are hereby expressly incorporated into and adopted as part of this ordinance by this reference.

**Section 3.** Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

EXHIBIT A

LEGAL DESCRIPTION  
FOR  
BIKEPATH EASEMENT

A portion of the South half of the Northeast Quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Beginning at a point on the North line of the South half of said Northeast Quarter, said point also being 75.00 feet West of the East line of said Northeast Quarter;

Thence South  $00^{\circ} 07' 00''$  West along a line parallel with and 75.00 feet West of the East line of said Northeast Quarter, 16.31 feet;

Thence South  $87^{\circ} 55' 36''$  West along the "Limits of Flood Control Maintenance Easement" as shown on an Exhibit recorded in Book 365, Page 34, Records of Maricopa County, 20.83 feet;

Thence continuing along said limits, South  $84^{\circ} 35' 27''$  West, 294.39 feet;

Thence continuing along said limits, North  $83^{\circ} 44' 52''$  West, 283.82 feet;

Thence continuing along said limits, North  $79^{\circ} 34' 01''$  West, 21.43 feet;

Thence departing said limits, North  $89^{\circ} 04' 08''$  East, 617.21 feet to the Point of Beginning.

Said parcel contains 14,859 sq. ft.



**WHEN RECORDED RETURN TO:**  
City of Tempe  
Community Development Department  
31 E. 5<sup>th</sup> Street  
Tempe, AZ. 85281

**WAIVER OF RIGHTS AND REMEDIES  
UNDER A.R.S. §12-1134**

This Waiver of Rights and Remedies under A.R.S. § 12-1134 (Waiver) is made in favor of the City of Tempe (City) by El Fenix LLC, an Arizona Limited Liability Company and El Fenix II LLC, an Arizona Limited Liability Company as (Owner/s).

Owner acknowledges that A.R.S. § 12-1134 provides that in some cases a city must pay just compensation to a land owner if the city approves a land use law that reduces the fair market value of the owner's property (Private Property Rights Protection Act).

Owner further acknowledges that the Private Property Rights Protection Act authorizes a private property owner to enter an agreement waiving any claim for diminution in value of the property in connection with any action requested by the property owner.

Owner has submitted Application No. **PL070506** to the City requesting that the City approve the following:

- GENERAL PLAN AMENDMENT
- ZONING MAP AMENDMENT
- PAD OVERLAY
- HISTORIC PRESERVATION DESIGNATION/OVERLAY
- USE PERMIT
- VARIANCE
- DEVELOPMENT PLAN REVIEW
- SUBDIVISION PLAT/CONDOMINIUM PLAT
- OTHER \_\_\_\_\_  
*(Identify Action Requested)*

for development of the following real property (Property):

Parcel Nos. : 132-22-008, 132-22-006-B, 132-22-004-B,  
132-22-002-F, 132-22-002-Y, 132-22-005-D

430 North Scottsdale Road, Tempe, AZ.

\_\_\_\_\_  
*(Legal Description and Address)*



# HAYDEN HARBOR AT TEMPE TOWN LAKE

## Applicant's Letter of Intent

El Fenix LLC and El Fenix II. LLC (the "Applicant" or "El Fenix") are proposing to redevelop approximately 14.8 gross acres located at the northwest corner of Scottsdale Road and Tempe Town Lake (the "Site").

## Application

The Applicant is submitting a zoning amendment and planned area development (PAD) overlay amendment application as part of the Applicant's application for the redevelopment of the Site (the "Application"). Specifically, the zoning amendment request is to rezone the Site from the General Industrial District (GID) to the Mixed-Use, High Density (MU-4) District. As part of the Application, the Applicant is submitting a site plan and PAD application to create a vibrant mixed-use development consisting of office, hospitality, residential, restaurant and retail uses that will provide employment opportunities in immediate proximity to housing and services, enhance pedestrian activity around Tempe Town Lake, and serve as a gateway to both Tempe Town Lake and downtown Tempe. The Applicant will process a design review application at a later date.

The Site is a prime opportunity for redevelopment given its location on Tempe Town Lake and the Red Mountain Freeway, as well its proximity to downtown Tempe, the ASU Campus, Rio Salado Park, Tempe Beach Park, the Tempe Center for the Arts and Papago Park. In addition, the Site is located less than one mile from the Rural and University light rail station and is approximately three miles from Sky Harbor International Airport.

The Site is comprised of eight parcels, of which six parcels are vacant. The remaining parcel accommodates a one-story multi-tenant industrial building, which is currently vacant. The Applicant proposes to improve the Site with:

- Six (6) mixed-use towers with a combined total gross floor area of 1,798,280 square feet consisting of 1,692,750 square feet for residential and/or hospitality uses, 89,950 square feet of retail space and 15,580 square feet of restaurant space, including two (2) 26-story, 278 feet, towers with a combined gross floor area of 498,380 square feet, two (2) 21-story, 220 feet, towers with a combined gross floor area 538,800, one (1) 25-story, 266 feet, tower with a gross floor area of 395,100 square feet, and one (1) 23-story, 242 feet, tower with a gross floor area of 366,000 square feet;
- One (1) 12-story, 213 feet, office building with a gross floor area of 255,300 square feet located above an above-grade six-level parking garage containing 1,042 parking spaces;

- One (1) one-story office building with a gross floor area of 6,000 square feet;
- A below-grade parking garage containing 2,154 parking spaces; and,
- Three (3) surface parking lots containing a combined total of 332 parking spaces

In total, the described development (the “Project”) will have a combined total gross floor area of 2,059,580 square feet. The Project will be branded Hayden Harbor at Tempe Town Lake. The Project’s goal is to create a recognizable place to reside, work and play with architectural elements designed to withstand style and market changes.

### **PAD Development Standards**

The General Industrial District (GID) allows a maximum building height of 35 feet. This Application requests a maximum building height of 278 feet, which represents an increase of 243 additional feet of building height from the height allowed under the Site’s current zoning, the GID. The increase in building height proposed by this Application is consistent with the surrounding height and development around the Town Lake. The GID does not allow residential uses. This Application requests a density of 94.34 dwelling units per acre. The increase in height and density will allow a high-quality hotel/office/residential/restaurant/retail design that will provide desired additional viable long-term housing and employment opportunities in Tempe and enhance the urban development environment envisioned for the area, as well as serve as a catalyst for future redevelopment opportunities around the Town Lake.

### **Area Context**

The Site is located on the north side of Tempe Town Lake and on the west side of Scottsdale Road. The Site has 1,260 linear feet of lakefront exposure, including direct access to the pedestrian and bike path located on the Maricopa County Flood Control District levee structure, and 533 linear feet of frontage along Scottsdale Road. Existing commercial uses, including Audio Express, a U-Haul self storage facility and a Best Western limited service hotel, adjoin the Site to the north and east. The Red Mountain Freeway is located immediately north of the Site. The Playa del Norte mixed-use development, including the Grigio apartment complex, Northshore condominiums, In-N-Out restaurant and Starbucks is located to the east across Scottsdale Road. The Tempe Town Lake Marina and Scott horse stables adjoin the property to the west. The Site is located within walking distance of the ASU Campus across Tempe Town Lake and the south bank of the Town Lake; other property east of Rural Road is planned for additional mixed-use retail, commercial and residential development. The Applicant envisions that the Project will significantly enhance the area’s urban environment while providing residential, hospitality, employment and retail opportunities that will serve as a catalyst for future redevelopment opportunities along Tempe Town Lake.

## **Site Area and Context**

The Site is comprised of eight (8) parcels located at the northwest corner of Tempe Town Lake and Scottsdale Road in Tempe, Arizona. The Site consists of approximately 14.8 gross acres (13.6 net acres). The formal address is 430 North Scottsdale Road, Tempe. A full legal description for the Site is included in the Application submittal.

As shown by the enclosed site plan, the parcels comprising the Site create an irregular-shaped property with two distinct developable areas.

The east section of the Site is relatively flat, sloping nominally from the north perimeter property line to the top of the adjoining Maricopa County Flood Control District levee structure. Development of this area of the Site will not be significantly constrained by major utility facilities or easements, which are generally located along Scottsdale Road.

The northwest section of the Site is shaped like an inverted “L” and wraps around the adjoining U-Haul self storage facility. In contrast to the Site’s east section, the development of the northwest section will be significantly impacted by a number of existing above-grade and below-grade facilities, including:

- Two SRP high voltage transmission lines located within a 135-foot wide easement running across the northernmost perimeter of the Site; and,
- The SROG 54-inch sewer interceptor, which is currently located more than 40 feet below grade within a 30-foot wide easement bisecting the area of the Site located immediately south of the transmissions line easement.

In order to create a reasonably sized developable footprint in the northwest section of the Site, the SROG interceptor line will, in the future, be relocated to the north and west perimeters of the Site.

## **Planning Context**

### **General Plan 2030**

The land use and residential density projected for the Site by General Plan 2030 are Mixed-Use and High-Density (greater than 25 units per acre). According to General Plan 2030, the Mixed-Use category is designed to accommodate land use mixes with a mixture of residential and commercial uses. This category also encourages creatively designed developments that create a living environment which reflect a “village” concept where there is opportunity to live, work and recreate within one development or area. The Project will provide opportunities to live, work, and recreate in the same area. In fact, the Project is exactly the type of mixed-use, high-density project envisioned by General Plan 2030 for the Site. The Applicant is proposing multiple high-density residential/hospitality buildings with accompanying office, retail and restaurant

opportunities that will both energize the Site and the surrounding Tempe Town Lake area.

### **Current Zoning & Specific Plans**

The Site is currently zoned General Industrial District (GID) and is located within the Rio Salado Overlay District. The GID, one of three City of Tempe Zoning and Development Code office/industrial districts, is designed to provide for office/industrial business with facilities ranging from administrative and research institutions to assembly and production. The purpose of the Rio Salado Overlay District is to implement the policies of the Tempe Rio Salado Specific Plan. The Project is consistent with the purpose of the Rio Salado Overlay District. The Project's office use is consistent with the GID.

The purpose of the Application is to rezone the Site from GID to MU-4 PAD to allow residential/hospitality, retail and restaurant uses on the Site by right and to allow the Project to establish its own unique standards based on the development proposal.

### **Zoning Amendment Request**

The Applicant's request for a zoning amendment to rezone the Site from the GID designation to MU-4 with a PAD overlay is fully consistent with the City's General Plan for 2030.

The Mixed Use designation was established to facilitate the blending of commercial and high density residential uses in a "village" or "neighborhood" setting, thereby allowing and encouraging opportunities to live, work and recreate in the same development. The Applicant's vision for the Property is consistent with the mixture of uses envisioned by the General Plan.

The requested PAD overlay will allow the Applicant to deliver an innovative design for the Property that integrates multiple office, hotel and mixed-use towers of appropriate heights and variable densities and setbacks. The innovative design will also allow for the delivery of substantial open spaces between buildings, as well as the creation of at-grade retail and garden spaces linked to the levee's paths, Town Lake Marina and lakefront, thereby enhancing tenant and visitor enjoyment of the Site, as well as the surrounding area.

### **Project Description**

The Site, which currently consists of a one-story building and vacant land is significantly underutilized at this time. The intent of this Application is to provide a unique opportunity to energize both the lakefront and Scottsdale Road street frontage at this gateway to Tempe Town Lake and downtown Tempe and provide needed additional modern, high-quality hospitality, office, residential, retail and restaurant opportunities. Due to the Site's immediate access to the Town Lake and proximity to downtown Tempe, the ASU Campus, Sky Harbor International Airport, multiple parks (including Rio Salado Park, Tempe Beach Park, and Papago Park), and public transit routes, the Applicant

strongly believes that the Project will appeal strongly to hotel, office, residential, retail and restaurant space users seeking Class A, modern space within an urban environment.

The Application consists of the construction of six (6) mixed use towers of varying heights, one (1) 12-story (213 feet) office building located above a six-level parking garage containing 1,042 parking spaces, one (1) one-story office building, a below grade parking structure containing 2,154 parking spaces, and three surface parking lots containing a combined total of 332 parking spaces. In total, the development program envisioned for the Site will encompass 2,059,580 square feet of gross floor area.

To facilitate a phased development program, the Site is divided into six (6) parcels ranging in size from 0.9 acres to 4.2 acres. The first phases of development are anticipated to occur along the Site's Scottsdale Road frontage. The first phases of development will consist of one (1) 21-story (220 feet) mixed-use tower including hotel, hotel/condominium or condominium and retail and restaurant uses encompassing 339,000 square feet of floor area and one (1) one-story building with a gross floor area of 6,000 square feet that will initially serve as a marketing center for the Project before transitioning to an administrative center as the Project nears full build-out. Currently, it is anticipated that construction on the first phase will begin during the fourth quarter of 2015 and will be completed by the second quarter of 2017. This schedule could change based on market conditions. The construction of subsequent phases will ultimately depend on market conditions and on the absorption rates of prior phases. Given the Site's exposure and accessibility to the Red Mountain freeway, it is certainly possible that the development of the office tower located near the northwest corner of the Site within Parcel 5 could immediately follow or precede the development of the initial phases.

Of the total proposed building area, 1,692,750 square feet is dedicated for hospitality and/or residential uses and 261,300 square feet is dedicated for office use, with the vast majority of the office space being located in a single tower located near the northwest corner of the Site.

Ground floor restaurant (15,580 square feet) and retail (89,950 square feet) space is also dedicated throughout the Project. Specifically, retail and/or restaurant space is dedicated on the ground floor of each of the five (5) mixed-use towers located along the lakefront, as well as the mixed-use tower located along the main entry drive near the center of the Site.

## **Project Design**

The Project is a contemporary design that will fit well into the physical environment, create visual interest and provide a secure environment. The façade design for the buildings will include a combination of building materials (e.g. painted concrete, painted stucco, metal panels, aluminum framed window systems and large expanses of glass) to accomplish the desired contemporary look. The exposed concrete slabs of balconies in

combination with metal and glass railings will add to the desired look. The design will establish a clear base and top for all mixed-use towers by projecting the first seven floors of each mixed-use tower towards Tempe Town Lake. The above grade parking structure serving the office tower located near the northwest corner of the Site will reinforce the design feature of establishing a clear base and top for each of the towers. Additional architectural detailing will be accomplished through the provision of a combination of staggered windows, balcony screens and stucco panels that will further articulate the design, texture and provide visual interest. The use of varying projecting forms will further emphasize the buildings' visual texture.

The Applicant will further detail the Project's design as part of the design review application to be submitted at a later date.

### **Landscaping**

The Project's landscaping design is intended to partially screen the Site from its neighbors. The strategic placement of a mixed palette of vegetative material of varying canopy heights up to 45 feet is intended to screen the adjoining U-Haul facility, as well as the SRP high voltage transmission lines running along the Site's north perimeter property line, from the first six floors of the six (6) mixed-use towers located in the Project's east section. For the Site area south of Playa del Norte, the intent of the landscaping design is to create a garden-like environment which is segregated from vehicular traffic. The Applicant's intent is to create a "resort feel" for residents, guests and patrons in this area. It is a primary goal of the Site's design to extend enclosed interior spaces into well-landscaped grounds in order to blur the lines between indoor and outdoor environments. Further adding to the Project's indoor-outdoor landscaping theme, the stepped-back building designs allow for the creation of heavily landscaped areas at the seventh level of each mixed-use tower.

### **Site Circulation and Parking**

The intersection of Scottsdale Road and Playa del Norte will serve as the main vehicular access point for the Project. Development plans call for extending Playa del Norte into the Site in a west and then northwesterly direction. The Playa del Norte alignment has been designed to maximize the development potential of the Site's east section. In order to improve and segregate incoming traffic flows, a one-way street section running along the adjoining U-Haul and Audio Express properties extending from Scottsdale Road towards the office tower located near the northwest corner of the Site will also be provided. Traffic at the intersection of Playa del Norte and the one-way street section will be controlled by a stop sign. Internal driveways and roundabouts will provide access to all of the Project's buildings and parking facilities.

The mixed-use towers located in the Site's east section will be primarily served by underground parking facilities. The development plan for the Site includes a three-level below grade facility located just south of Playa del Norte that will accommodate 2,154 spaces vehicles at full build-out. The development of the underground garage will occur

in stages that will deliver parking sufficient to meet the needs of the development program for each development parcel when vertical development occurs on each parcel. The office tower located in the Site's northwest section will be primarily served by a six-level above grade parking structure that will accommodate 1,042 vehicles and that will serve as a podium for the office tower. The 234 space surface parking lot located north of the office tower will also serve this building, as well as any overflow parking needs on the Site. The Project will also provide a bicycle parking in accordance to City of Tempe parking standards and will certainly encourage alternative forms for transportation.

A traffic and parking study prepared by Heffernan & Associates for the Project is included as part of this Application.

### **Federal Aviation Administration Building Height Restrictions**

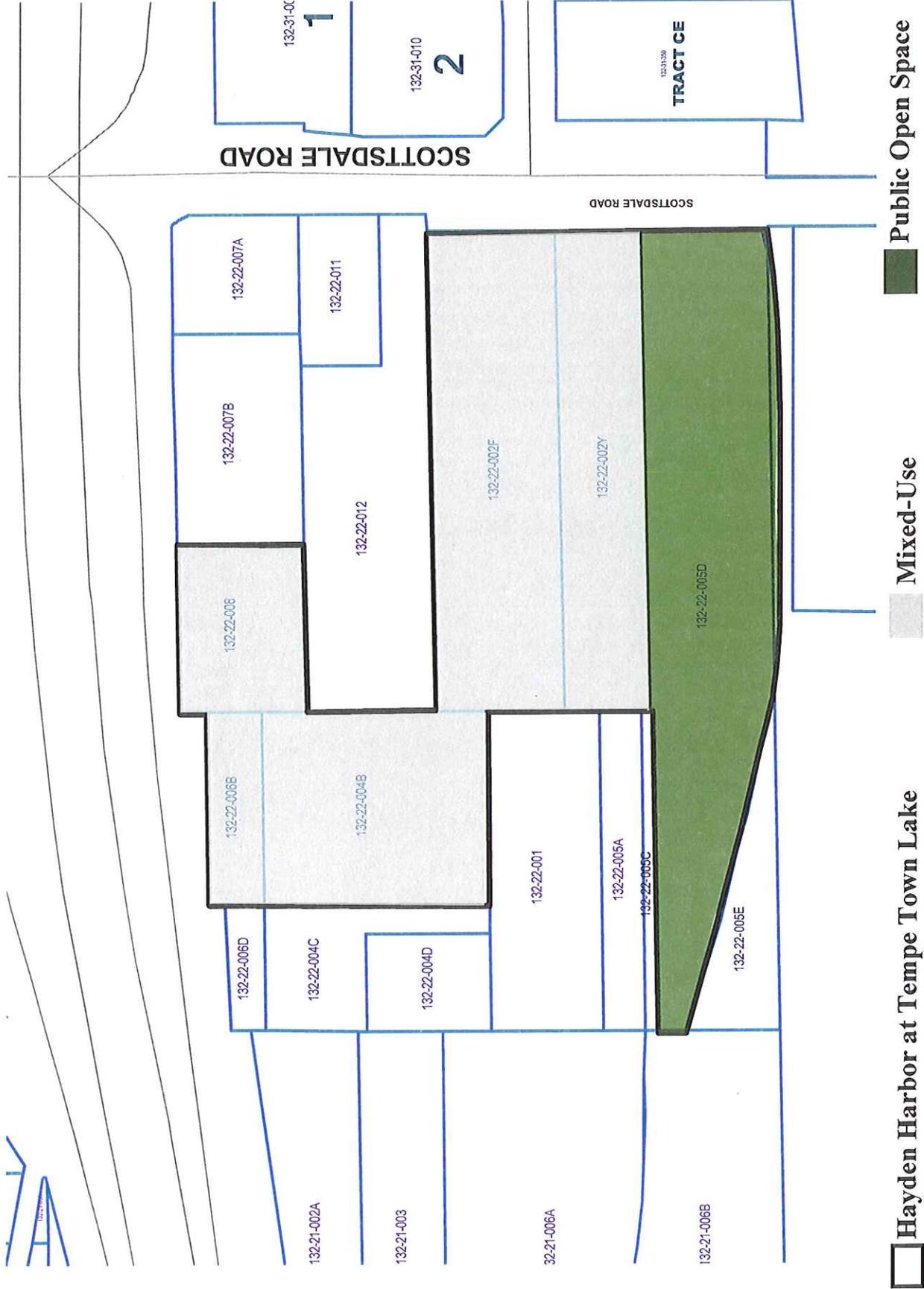
Pursuant to the findings of the preliminary analysis conducted by Williams Aviation, the Federal Aviation Administration (FAA) will allow building heights up to 329 feet on the Site. The maximum building height proposed is 274 feet, which is 51 feet below the FAA's limit. A letter from Williams Aviation detailing the findings of the noted preliminary analysis is included as part of the Application.

### **Conclusion**

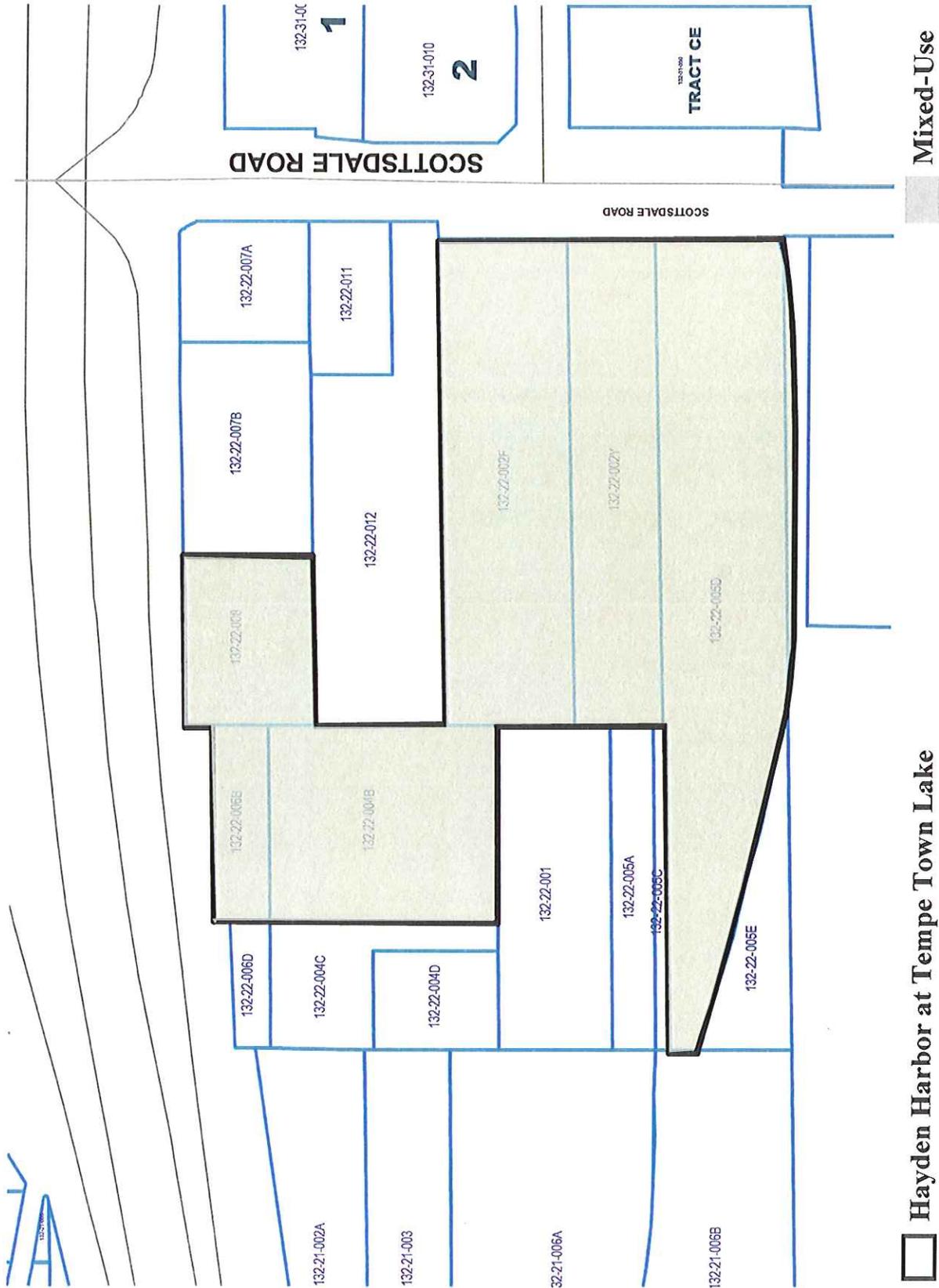
The proposed development is a high-quality mixed-use design that will provide additional desired living, hospitality, employment, and retail opportunities along the north bank of Tempe Town Lake. The proposed development will serve as a catalyst for future redevelopment opportunities around the Town Lake and will enhance the urban development environment and experience envisioned for this area. The Project is consistent with the land use and residential density projected for the Site by General Plan 2030. El Fenix is very excited about the Project and looks forward to discussing the development proposal with you in the near future. We respectfully request your support.

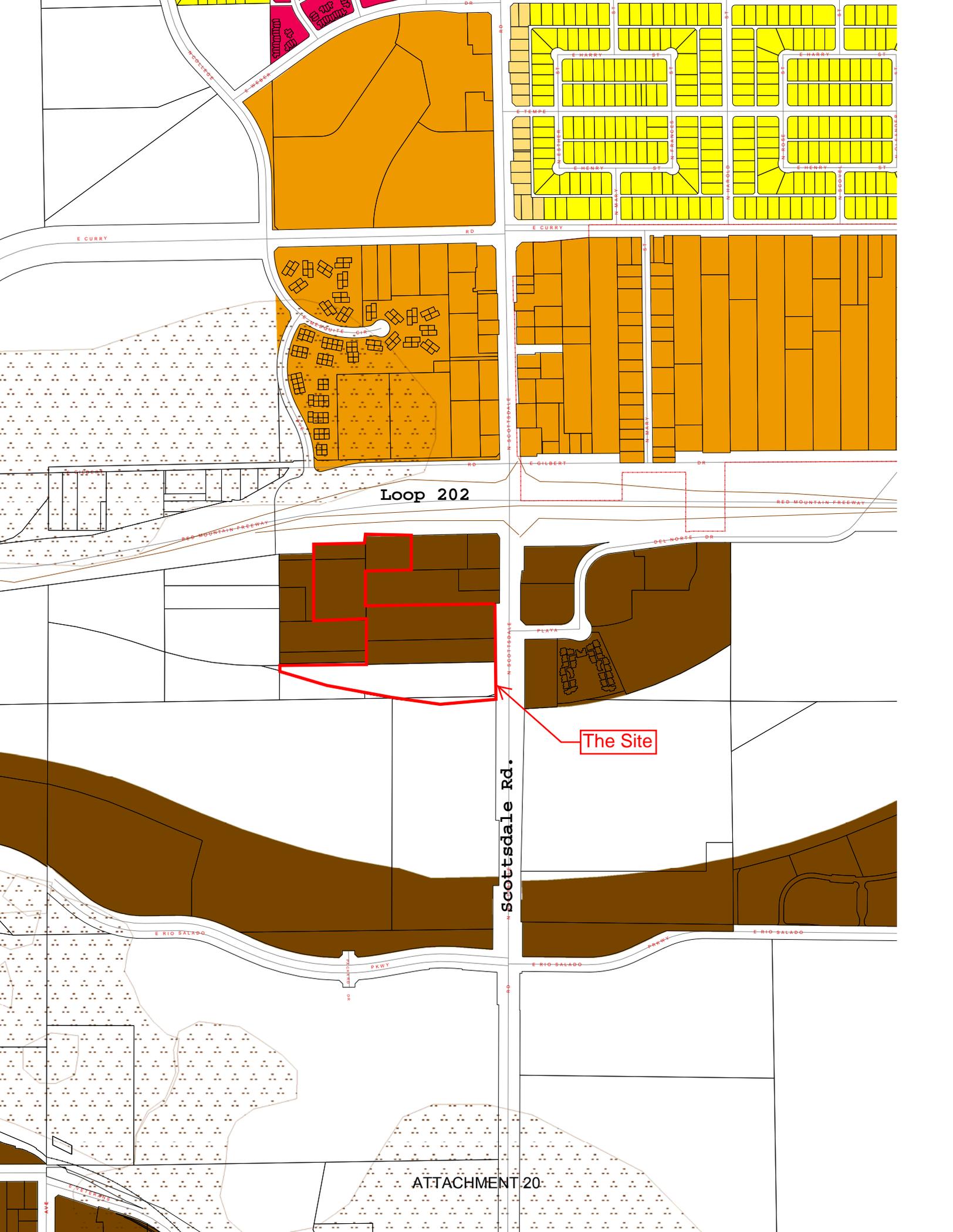


# General Plan 2030 Projected Land Use (Existing)



# General Plan 2030 Projected Land Use (Proposed)





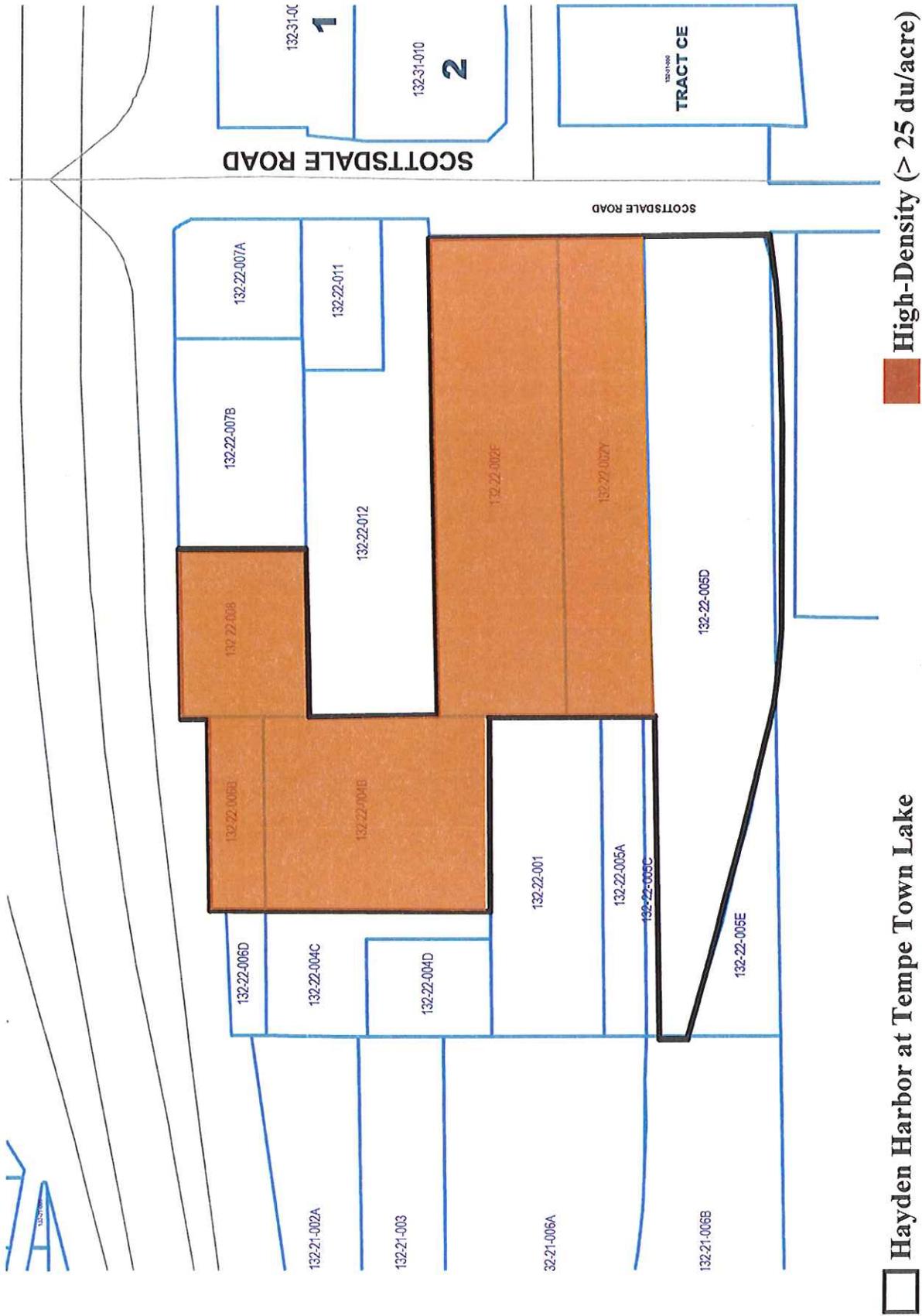
Loop 202

The Site

Scottsdale Rd.

ATTACHMENT 20

# General Plan 2030 Projected Residential Density (Existing)



# General Plan 2030 Projected Residential Density (Proposed)



# **Hayden Harbor at Tempe Town Lake**

## **General Plan 2030 Land Use and Density Map Amendment**

### **Applicant's Letter of Intent**

El Fenix LLC and El Fenix II LLC (the "Applicant" or "El Fenix"), the owner of multiple parcels totaling approximately 14.8 gross acres (approximately 13.6 net acres) in size located at the northwest corner of Scottsdale Road and Tempe Town Lake in Tempe, Arizona (the "Site"), respectfully submits this application to redevelop the Site.

### **Application Request**

The Applicant is submitting a General Plan land use and density map amendment, zoning map amendment, and planned area development (PAD) overlay application as part of the Applicant's application for the redevelopment of the Site (the "Application"). The requested zoning map amendment and PAD overlay, as well as the proposed development itself, are discussed in detail in a separate narrative included as part of the submittal package for the Application.

The intent of the General Plan amendment request is to designate the entire Site for mixed-use and high-density (greater than 25 units per acre) residential uses. The purpose of the request is to create a vibrant mixed-use development consisting of office, hospitality, residential, restaurant and retail uses that will provide employment opportunities in immediate proximity to housing and services, enhance pedestrian activity around Tempe Town Lake, and serve as a gateway to both Tempe Town Lake and downtown Tempe.

The 2030 General Plan already designates the majority of Site for mixed-use and high-density residential uses. This General Plan land use and density map amendment request only pertains to approximately 5.23 net acres of the Site located along the adjoining pedestrian and bike path on the Maricopa County Flood Control District levee structure. The General Plan currently designates this area of the Site for Public Open Space land uses.

### **Area Context**

The Site is located on the north side of Tempe Town Lake and on the west side of Scottsdale Road. The Site has 1,260 linear feet of lakefront exposure, including direct access to the pedestrian and bike path located on the Maricopa County Flood Control District levee structure, and 533 linear feet of frontage along Scottsdale Road. Existing commercial uses, including Audio Express, a U-Haul self storage facility and a Best Western limited service hotel, adjoin the Site to the north and east. The Red Mountain Freeway is located immediately north of the Site. The Playa Del Norte mixed-use development, including the Grigio apartment complex, Northshore condominiums, In-N-Out restaurant and Starbucks is located to the east across Scottsdale Road. The Tempe Town Lake Marina and Scott horse stables adjoin the property to the west. The Site is located within walking distance of the ASU Campus across Tempe Town Lake and the south bank of the Town Lake; other property east of Rural Road is planned for additional mixed-use retail, commercial and residential development. The Applicant envisions

that the Project will significantly enhance the area's urban environment while providing residential, hospitality, employment and retail opportunities that will serve as a catalyst for future redevelopment opportunities along Tempe Town Lake.

### **Public Benefit**

The requested amendment, if approved, will benefit the public in several ways. The amendment will accommodate the development of an aesthetically pleasing mixed-use development that will complement the vibrant mix of destination, entertainment and recreational uses located along Tempe Town Lake and stimulate economic activity in North Tempe. The intent of this Application is to further energize both the lakefront and Scottsdale Road street frontage at this gateway to Tempe Town Lake and downtown Tempe and provide the residents of Tempe and the surrounding area with exciting new hospitality, office, residential, retail and restaurant opportunities in one location. Furthermore, the amendment represents an opportunity to vastly enhance the appearance of a highly-visible location currently presenting a picture of underutilized parcels at the city's front door for travelers from the north, east and west with the introduction of a high-quality, mixed-use project representative of the ongoing private and public investment along Tempe Town Lake.

### **General Plan 2030 Elements Objectives**

#### **Land Use, Design + Development**

##### Land Use

Goal: "...to foster development that conserves resources and enhances the environment in which people live, learn, work and play."

Objectives: "Encourage reinvestment and redevelopment appropriate to a particular area."  
"Ensure that new development will be consistent with general plan goals"

The Site's location is an appropriate area for reinvestment and redevelopment by its location within the Town Lake Redevelopment Area, one (1) of seven (7) growth areas designated by General Plan 2030. The goal of the Town Lake Growth Area is "to develop a regional, lake-centered urban destination, designed to link quality mixed-uses of offices, stores, residences, restaurants, cultural amenities, recreational opportunities, and activities for residents, employees and tourists, while being an economic engine and source of civic pride." Furthermore, the Town Lake Growth Area encourages vertical mixed-use development to maximize land use. Hayden Harbor will provide a mix of high-quality hospitality, office, residential, retail and restaurant uses in a vertical urban environment in proximity to recreational amenities. Hayden Harbor will also stimulate economic activity along Tempe Town Lake and in North Tempe.

The Site's location at Tempe's front door for travelers from the north, east and west and its proximity to Tempe Town Lake also make it ideal for reinvestment

and redevelopment. The Project, which represents a significant reinvestment and redevelopment of an underutilized Site, presents an extraordinary opportunity to further energize the greater Town Lake area with additional hospitality, office, residential, retail and restaurant uses that are appropriate for this area of Tempe and that will complement existing adjacent and surrounding uses.

With the exception of the parcels comprising the land use and density map amendment request, the land use and residential density projected for the Site by General Plan 2030 is already mixed-use and high-density (greater than 25 units per acre). The Applicant's request to amend the General Plan's projected land use and density maps to designate the entire site for mixed-use and high-density uses will rectify the projected land use and residential density inconsistencies on the Site. In addition, the Project is exactly the type of high-quality, high-density, creatively designed mixed-use development envisioned by General Plan 2030 for this area of Tempe which will create a living environment reflective of a "village" concept where there is opportunity to live, work and recreate within one development area.

### Accessibility

Goal: "...to create a city that has design potential to meet community needs through universal design which provides access and benefit through accessible public and private facilities, services and programs."

Objectives: "Create adaptive environments that can meet current and future needs of the community"

The proposal will comply with all Americans with Disabilities Act (ADA) accessibility guidelines for buildings and structures. Further review of this provision will occur during site plan and building permit stages of development.

### Community Design

Goal: "...to develop standards that will enhance the community's quality of life for future generations."

Objectives: "Create recognizable and usable places by enhancing enclosure, connections, permeability and transparency"  
"Encourage mixed-use designs"  
"Promote sustainable concepts"

The Project's is a mixed-use design that will ensure the establishment of a recognizable and usable place. Project design features, such as breaking up the building form into multiple buildings and varying the height of the structures, will reduce the bulk and scale of the development while maintaining a significant urban presence along the street and lake frontages at the same time. In addition,

buildings are oriented toward the public right-of-way and/or designed to engage the street and lake frontages. The common goal of these design features in combination with the provision of ample landscaping is to establish an active, recognizable, pedestrian friendly and inviting street frontage within the Site conducive to an urban environment setting.

The Project will enhance the community's quality of life by further energizing the greater Town Lake area with additional residential, hospitality, employment, restaurant and retail uses that will complement existing development and recreational amenities along Tempe Town Lake. As a result, the Project will establish a true mixed-use environment that offers an opportunity to live, work and play in one location.

The Applicant will further detail the Project's design as part of the design review application to be submitted at a later date.

### Historic Preservation

Goal: "...to enhance community character and heritage through the identification and preservation of significant sites, properties and districts."

There are no historical buildings on the Site. The predominant reinvestment in the Site is new construction.

### Housing

Goal: "...to provide diverse housing opportunities for current and future residents for all income levels and household types, with specific focus on providing affordable housing programs to help those with the greatest need."

Objectives: "Encourage mixed-income-level housing developments and neighborhood"  
"Encourage property reinvestment"  
"Support housing development that provides the longest-term affordability"

Redevelopment of this Site by private investment will achieve the objective of providing new infill housing product that will assist Tempe in meeting residential demands. Of the total proposed building area, 1,692,750 square feet is dedicated for residential and/or hospitality uses. The multi-family residential units will provide a variety of single to multiple bedroom units attractive to a mix of income levels.

### Neighborhoods

Goal: "...to provide a participatory planning process to guide planning and to promote programs that enhance neighborhoods and encourage a sense of community."

- Objectives: “Educate and involve the public in the city process”  
“Ensure that the planning process is open to all residents and business of the community”

It is important to the Applicant to be a good neighbor and conduct an open application process. For these reasons, a neighborhood meeting will be held prior to the first public hearing of the Application.

### Redevelopment

- Goal: “...to sustain or maximize the efficiency of land uses within areas of stagnation or decline by providing the best economic, social and cultural potential through local policies and programs that minimize or mitigate slum and blight or other conditions affecting public health, safety and welfare.”

- Objectives: “Encourage reinvestment, revitalization, redevelopment or reuse”

The Site currently consists of underutilized and generally vacant parcels located within the Town Lake Redevelopment Area. This redevelopment area encourages vertical mixed-use development to maximize land use. The proposed mixed-use project is precisely the reinvestment desired for this area.

### **General Plan 2030 Elements – Economics + Growth**

#### Economic Development

- Goal: “...to stimulate a sustainable, diversified, and vibrant economy while preserving the Tempe vision and values.”

- Objectives: “Develop an improved local business climate that fosters private investment”  
“Develop an increased tax base”  
“Promote a sustained improvement in the standard of living and quality of life for all residents”

The Project’s inclusion of Class A office space and modern multi-family dwelling units will appeal strongly to companies seeking Class A office space located in an urban setting, as well as successful young professionals who desire to be located near shops, restaurants and entertainment destinations. The location of both employment, residential and hospitality uses on the Site will enhance demand for commercial services both on and off-site, which in return will increase the City’s tax base. It is also anticipated that redevelopment of the Site will encourage additional reinvestment.

Cost of Development

Goal: "...to ensure funding availability for growth and maintenance of all planned development, both public and private."

Objectives: "Ensure that land use intensification or redevelopment provide for necessary infrastructure or service capacity"  
"Promote opportunities for development, which benefit the community"

Considering that the Site is comprised of infill parcels that present a prime opportunity for redevelopment, there is already significant infrastructure capacity on-site. The Applicant is also currently working with the city and Flood Control District of Maricopa County to ensure that all necessary infrastructure capacity for the Project will be provided. The redevelopment of the underutilized and generally vacant parcels comprising the Site with a high-quality mixed-use development will provide substantial benefits to both the surrounding area and the city.

Growth Areas- Town Lake

Goal: "...to develop a regional, lake-centered urban destination, designed to link quality mixed-uses of offices, stores, residences, restaurants, cultural amenities, recreational opportunities, and activities for residents, employees and tourists, while being an economic engine and source of civic pride."

Objectives: "Attract economic development opportunities"  
"Establish the Town Lake area as an attractive regional and national destination and centerpiece of community pride"

This Project provides a substantial reinvestment in the area by redeveloping a Site consisting of underutilized and generally vacant parcels with a high-quality mixed-use development that will enhance the economic base of the city. The Project will also further enhance the attractiveness of the Town Lake area by providing additional high-quality hospitality, retail and restaurant uses at the same time.

**General Plan 2030 Elements – Conservation**

Environment (Air, Noise, Ambient Temperature, Energy)

Goal: "...to improve regional air quality through regulatory compliance and local policies and programs that minimize the impacts of air pollution."

Objectives: "Meet or exceed air quality regulations"  
"Reduce the number of vehicle miles traveled"  
"Manage noise impacts"

“Maintain or reduce ambient temperatures”  
“Encourage energy conservation as a part of all developments”

The Project will meet or exceed all air quality regulations. Because the Project is envisioned as a regional employment center with supporting retail, restaurant, residential and hospitality uses all within proximity to the Town Lake’s recreational amenities, on-site movement will mainly be achieved through the use of public sidewalks. This system will significantly reduce the number of vehicle trips. In addition, multiple bicycle parking areas will be provided on the Site and the use of alternative modes of transportation will be encouraged.

### Land

Goal: “...to address brownfield development, habitat management and solid waste management through quality development.”

Strategies: “Promote recycling in all residential areas, both single and multi-family”  
“Encourage businesses to recycle, and reduce packaging”

The Applicant will encourage on-site businesses, residents and guests to recycle to the maximum extent feasible. In addition, green building techniques and energy efficient design will be employed to address the Conservation Element.

### Water

Goal: Paraphrase “...to provide the highest level of water quality and service to residents, safely collect and treat wastewater and minimize the volume of pollutants going off-site.”

Objectives: “Implement stormwater pollution control measures...”  
“Maintain compliance with Tempe’s NPDES permit...”

The objectives on water and wastewater are municipal in nature and do not directly relate to the Project. The Applicant will comply with NPDES requirements.

## **General Plan 2030 Elements – Transportation**

### Pedestrian Network

Goal: “...to recognize and encourage pedestrian travel as an important part of the transportation system.”

Objectives: “Provide convenient and safe pedestrian access to destinations to promote neighborhood sustainability”  
“Ensure accessibility for all”

The movement of pedestrians, both on foot and on bicycle, is a major design element of the Project. With the adjacent location of Tempe Town Lake and a mixture of office, residential, hospitality, retail and restaurant use planned for the Project, movement within the Site will mainly be achieved through the use of a comprehensive system of well lighted and accessible public sidewalks designed to create an environment conducive of on-site movement. All buildings on the Site will be linked with sidewalks to allow pedestrian movement throughout the Project. The primary goal of this system is to establish a seamless flow between each of the Project's buildings, as well as the pedestrian and bike path located on the adjoining Maricopa County Flood Control District levee structure.

### Bikeways

Goal: "...to recognize and encourage the use of the bicycle as an important part of the transportation system."

Objectives: "Provide safe and convenient bicycle access from neighborhoods to schools, parks, shopping, transit, employment, and other destinations"

The Site has direct access to the pedestrian and bike path located on adjoining the Maricopa County Flood Control District levee structure. As discussed above, a comprehensive pedestrian circulation system including public sidewalks designed to create an environment conducive of on-site movement will be provided. All buildings on the Site will be linked by the pedestrian circulation system. The primary goal of this system is to establish a seamless flow between the Project's mix of uses and the adjoining public open space and recreational amenities offered by Tempe Town Lake.

### Transit

Goal: "...to coordinate Tempe's Transit Plan with the overall transportation plan to support increased ridership."

Objectives: "Increase available transit modes and services to support ridership increases"

An existing bus bay is located along the Site's Scottsdale Road Street frontage immediately north of Playa Del Norte. The development of a regional employment and destination center on the Site will increase transit ridership at the noted bus bay.

### Travelways

Goal: "...to encourage the development of a street and rail network in Tempe that balances the needs of various types of travelers and more fully serves all modes of transportation."

- Objectives: “Create a compatible relationship with adjacent land uses”  
“Provide safe pedestrian and bicycle environments along streets”  
“Mitigate heat and climate conditions along streets, where appropriate”

Future employees, residents and patrons will benefit from being able to use multiple modes of transportation (paths, sidewalks and public transit) to easily access various uses within the Project, the recreational amenities of the Town Lake area, and the Red Mountain freeway from the road system.

Redevelopment of the Site will mitigate heat and glare conditions along streets by providing significant landscaping improvements along Scottsdale Road, both sides of Playa Del Norte and throughout the internal circulation area. The noted landscape improvements will provide appropriate shade trees along the Scottsdale Road and Playa Del Norte street frontages. The noted planting of trees along Scottsdale Road and Playa Del Norte, as well as the internal circulation area, will provide shade and facilitate pedestrian friendly designed sidewalks through the Project.

#### Motorists/ Parking and Access Management

- Goal: “...to ensure that persons who chose to travel in privately-owned vehicles on the streets and freeways of Tempe will be able to do so safely and efficiently.”  
“...to encourage project planning, design, and development incorporating parking and access management strategies to influence travel behavior and reduce congestion on busy streets.”

- Objectives: “Provide safe streets...”  
“Coordinate with emergency services to ensure their ability to respond to emergency calls promptly.”  
“Promote parking areas”

The Site will be primarily accessed from two ingress locations along Scottsdale Road. The intersection of Scottsdale Road and Playa del Norte will serve as the main vehicular access point for the Project. Development plans call for extending Playa del Norte into the Site in a west and then northwesterly direction. In order to improve and segregate incoming traffic flows, a one-way street section running along the adjoining U-Haul and Audio Express properties extending from Scottsdale Road towards the office tower located near the northwest corner of the Site will also be provided. Traffic at the intersection of Playa del Norte and the one-way street section will be controlled by a stop sign. Internal driveways and roundabouts will provide access to all of the Project’s buildings and parking facilities.

At-grade parking courtyards, an above-grade parking garage, and a below-grade parking garage are distributed throughout the Site to serve parking needs for

employees, residents and visitors. Parking facilities distributed throughout the Site will accommodate office, residential, hospitality, retail and restaurant uses, as peak parking demand for these uses will alternate depending on the time of day and the day of the week. All parking and internal access will comply with City standards.

### Aviation

Goal: "...to facilitate safe land uses, minimize noise impacts, and promote easy access to and between different modes of transportation, both within Tempe and in the larger regional context."

Objectives: "Coordinate with regional and federal aviation authorities on aviation issues"

Williams Aviation conducted a preliminary analysis on the Site to determine building height restrictions in effort to ensure that operations at Phoenix Sky Harbor International Airport will not be adversely impacted by the Project. Pursuant to the findings of the preliminary analysis, the Federal Aviation Administration (FAA) will allow building heights up to 329 feet on the Site. The maximum building height proposed is 274 feet, which is 51 feet below the FAA's limit. A letter from Williams Aviation detailing the findings of the noted preliminary analysis is included as part of the Application.

### **General Plan 2030 Elements – Open Space, Recreational + Cultural Amenities**

#### Open Space/ Recreational Amenities

Goal: "...to preserve a variety of natural, landscaped and hardscaped open spaces that serve the diverse and changing needs of an urban community."

"...to provide social, recreational and economic benefits to the community by promoting physical fitness through passive and active recreational areas and programs serving a diverse range of abilities and interest."

Objectives: "Identify opportunities for new open space"  
"Provide a variety of recreational opportunities that reach as many residents as possible"

The Project is designed to provide immediate access to the open space and recreational amenities offered by Tempe Town Lake. In addition, the Project is designed to create pockets of private open space. The intent of the landscaping design is to create a garden-like environment which is segregated from vehicular traffic. The Applicant's intent is to create a "resort feel" for residents, guests and patrons. It is a primary goal of the Site's design to extend enclosed interior spaces into well-landscaped grounds in order to blur the lines between indoor and outdoor environments. Further adding to the Project's indoor-outdoor landscaping

theme, the stepped-back building designs allow for the creation of heavily landscaped areas at the seventh level of each mixed-use tower.

### Public Art and Cultural Amenities

The goals and objectives for Public Art and Cultural Amenities are not applicable to this request.

### **General Plan 2030 Elements – Public Services + Facilities**

#### Public Buildings/ Public Services/ Human Services

The goals and objectives for Public Buildings, Public Services and Human Services are not applicable to this request.

#### Public Safety

Goal: Paraphrase "...to identify existing and proposed emergency, fire and police facilities and services designed to protect the community from natural and human caused hazards."

Objectives: "Intervene in disorderly, dangerous, and unpredictable situations in the community."

The request to amend General Plan 2030 Land Use Map does not compromise public safety. The proposed redevelopment will provide an opportunity to significantly enhance public safety, including compliance with the City's Crime Prevention through Environment Design (CPTED) Guidelines.

### **Conclusion**

Hayden Harbor at Tempe Town Lake is a high-quality mixed-use design that will provide additional desired living, hospitality, employment, retail and restaurant opportunities along the north bank of Tempe Town Lake. The requested mixed-use and high-density designations are appropriate for the area and will establish a consistent designation for the entire Site. Hayden Harbor will complement and build on the ambiance, lifestyle and environment already established Town Lake, as well serve as a catalyst for future development opportunities that will continue to enhance the urban development environment and experience envisioned by the city for the area. We look forward to discussing this request with you in the near future and respectfully request your support.

# MEMORANDUM

GAMMAGE & BURNHAM  
A Professional Limited Liability Company

January 20, 2011

TO: Ryan Levesque, Senior Planner  
City of Tempe Community Development Department

Summary of Public Outreach regarding Hayden Harbor at Tempe Town Lake General Plan Land Use and Density Map Amendment (approx. 5.23 net acres) and Zoning Map Amendment with a Planned Area Development (PAD) Overlay Applications (approx. 14.8 gross acres) for property located at the northwest corner of Scottsdale Road and Tempe Town Lake

The project team has made a concentrated effort to reach out to the community and interested parties. We have and will continue to address any questions and/or comments that may arise throughout the General Plan amendment and zoning process.

**(1) Posting & Notification:**

Pursuant to applicable City requirements, on November 29, 2010, the Applicant's legal representative sent first class letters to all property owners within 300 feet of the project site and identified chairpersons of registered neighborhood associations, notifying interested parties of the proposed development and the neighborhood meeting scheduled for December 15, 2010. The respective dates, locations, and times for the neighborhood meeting and scheduled public hearings, as well as the Applicant's contact information, were posted on the project site on November 23, 2010. Copies of the mailing notice and notification list, as well as photos of the public hearing notice sign posted on the site, are enclosed with this summary.

**(2) Phone Calls, Letters and E-mails:**

On December 1, 2010, the Applicant's legal representative received an e-mail from Lisa Amos of the Flood Control District (FCD) of Maricopa County requesting to schedule a meeting to discuss levee construction along the boundary of Tempe Town Lake, as well as FCD access requirements and utility placement parameters. The Applicant's representative met with FCD staff on December 21, 2010 for the noted purposes.

On December 13, 2010, the Applicant's legal representative corresponded over the phone with a Darlene Justus of the North Tempe Neighborhood Association regarding the project's neighborhood meeting scheduled for December 15, 2010, the occupancy rates of nearby developments, and the project's anticipated construction timeline.

On December 16, 2010, the Applicant's legal representative e-mailed electronic copies of boards presented at the project's December 15, 2010 neighborhood meeting to Mr. Bharat Gandhi.

The Applicants' legal representative has not received any additional phone calls, faxes, letters or e-mails from either neighbors or interested persons regarding the project to date.

**(3) Neighborhood Meeting of December 15, 2010:**

Our official neighborhood meeting was held in the Kush Room at the Best Western Inn of Tempe located at 670 North Scottsdale Road in Tempe on December 15, 2010. The meeting began at approximately 6:00 p.m.

**Meeting Attendees**

Representatives from El Fenix, Leo A Daly, Heffernan & Associates and Gammage & Burnham PLC were present. Approximately 15 interested persons were also in attendance. The interested persons in attendance included Darlene Justus (North Tempe Neighborhood Association), Nancy Hempy (Audio Express), Wayne Scott (Papago Riding Stables), Jodi Scott McGhee (Papago Riding Stables) and Cliff Mattice (Mariscal, Weeks, McIntyre and Friedlander). Contact information for persons in attendance for the meeting is provided on the enclosed sign-in sheet.

**Presentation**

Manjula Vaz of Gammage & Burnham PLC introduced project team members in attendance (David Norouzi of El Fenix, Paul Dumond, David DeValeria of Leo A Daly, Kathryn Heffernan of Heffernan & Associates and Rob Lane of Gammage & Burnham PLC). Ms. Vaz then provided an overview of the development proposal, as well as the purpose of the applications. Mr. DeValeria and Ms. Heffernan concluded the formal presentation by providing overviews of the project's design and projected traffic impact.

**Questions Posed by Meeting Attendees**

Questions raised by members of the public who attended the neighborhood meeting pertained to the following: the project's anticipated development schedule; the project's proposed residential density; the provision of below grade parking; the assemblage status for parcels comprising the project site; the size and location of the project site area subject to the General Plan Amendment application; ingress and egress locations; pedestrian access and linkage to Tempe Town Lake and nearby developments; the existence of development agreements for the project; short-term and intermediate plans for the existing building on the project site; anticipated vehicular trips to be generated by the project; whether residential units will be owner or renter-occupied; and, future plans for widening College Avenue.

**Questions Addressed**

All questions raised during the meeting were addressed by the Applicant's legal representative, architect or traffic engineer.

**Comments Submitted by Meeting Attendees**

Comments received during the meeting were supportive of the project. To date, there have not been any formal comment sheets in regard to the project submitted by persons in attendance at the neighborhood meeting.

## Meeting Adjournment

The meeting ended at approximately 7:30 p.m.

### (4) **December 21, 2010 Meeting with Flood Control District of Maricopa County Staff:**

On December 21<sup>st</sup>, the Applicant's representatives met with several members of the Maricopa County Flood Control District. During the meeting, we reviewed the proposed plans with the Flood Control staff and discussed the proposed building adjacent to the levee. Since construction is not imminent, the purpose of the meeting with the Flood Control staff was to start initial discussions about the project. We had a very nice meeting with Flood Control.

### (5) **January 10, 2011 North Tempe Neighborhood Association Meeting:**

The project team attended the January 10, 2011 North Tempe Neighborhood Association (NTNA) meeting to discuss the project. Representatives from Gammage & Burnham PLC (Manjula M. Vaz and Rob Lane) and Heffernan & Associates (Kathryn Heffernan) were present. Approximately 10 interested persons were also in attendance.

Ms. Vaz provided an overview of the development proposal, as well as the purpose of the applications. Ms. Heffernan provided an overview of the project's projected traffic impact.

Comments received from meeting attendees regarding the development proposal were mixed. Some attendees expressed support for the development proposal and indicated that the project will clean-up an underutilized property. Other attendees expressed that the project's scope and intensity was appropriate in consideration of its location on Tempe Town Lake. Other attendees expressed concern regarding the project's intensity (height, density and number of buildings). Some attendees expressed concern that the project will generate additional traffic in neighborhoods to the north and on Scottsdale Road. There was also concern expressed that the placement of additional traffic on College Drive could require a street-widening project that would reduce the size of Papago Park.

Meeting attendees provided the following suggestions in regard to the development proposal:

- Provide additional and/or enhancement of existing area recreational amenities (e.g. dog park at Papago Park);
- Consider measures to mitigate additional traffic on College Drive;
- Develop the project in a manner which ensures buildings are not partially constructed and/or abandoned;
- Incorporate the preservation of Papago Riding Stables into the project's circulation plan; and,
- Incorporate suggestions into development program before proceeding further in the public review process.

To date, the project team has not received any formal written comments from either the NTNA or persons in attendance at the January 10, 2011 NTNA meeting.

## NEIGHBORHOOD MEETING

Hayden Harbor at Tempe Town Lake  
 Best Western Inn of Tempe – Kush Room  
 670 North Scottsdale Road  
 Tempe, AZ 85281  
 On Wednesday, December 15, 2010 at 6:00 p.m.

PLEASE PRINT

NAME	ADDRESS	TELEPHONE	EMAIL
Darlene Justus			
Cliff Mattie			
Nancy Hampy			
Sneha Seth			
Paul Diamond			
Wayne Scott			
Jean May			
Brad Wilde			
Tan Dane			
Himma			
Godi Scott McGhee			
MARLON BUEHOLTZ			
Bharat Gandhi			

# PLANNED AREA DEVELOPMENT OVERLAY FOR HAYDEN HARBOR

## PORTION OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

### ACKNOWLEDGEMENT

EL FENIX, LLC & EL FENIX II, LLC  
 THIS IS TO CERTIFY THAT WE HAVE REVIEWED THIS PLAN AND HEREBY APPROVE THE DEVELOPMENT AS SHOWN.  
 SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011 BY DAVID N. NOROUZI AS AUTHORIZED AGENT FOR EL FENIX, LLC & EL FENIX II, LLC.

SIGNATURE \_\_\_\_\_  
 STATE OF ARIZONA  
 COUNTY OF MARICOPA

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011 BY AUTHORIZED REPRESENTATIVE, ON BEHALF OF EL FENIX, LLC & EL FENIX II, LLC.  
 IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC \_\_\_\_\_  
 MY COMMISSION EXPIRES \_\_\_\_\_

### LEGAL DESCRIPTION (EL FENIX, LLC & EL FENIX II, LLC)

THAT PORTION OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER SAID SECTION 15;

THENCE ALONG THE EAST LINE THEREOF, SOUTH 00 DEGREES 07 MINUTES 02 SECONDS WEST 1135.24 FEET TO THE SOUTH LINE NORTH 1134.69 FEET OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15 AND THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTH LINE, SOUTH 08 DEGREES 30 MINUTES 43 SECONDS WEST 827.44 FEET;

THENCE NORTH 00 DEGREES 09 MINUTES 33 SECONDS EAST 2.70 FEET;

THENCE SOUTH 88 DEGREES 59 MINUTES 43 SECONDS WEST 495.10 FEET;

THENCE SOUTH 00 DEGREES 09 MINUTES 33 SECONDS WEST 29.88 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE NORTH FROM WHICH POINT A RADIAL LINE BEARS NORTH 18 DEGREES 33 MINUTES 51 SECONDS EAST;

THENCE EASTERLY 657.84 FEET ALONG SAID NON-TANGENT CURVE WITH A RADIUS OF 1977.85 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 15;

THENCE ALONG SAID SOUTH LINE, NORTH 89 DEGREES 04 MINUTES 09 SECONDS EAST 664.01 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF SECTION 15;

THENCE, ALONG SAID EAST LINE, NORTH 00 DEGREES 07 MINUTES 02 SECONDS EAST 198.47 FEET TO THE POINT OF BEGINNING; EXCEPT THE EAST 80 FEET THEREOF.

THE SOUTH 200 FEET OF THE NORTH 1000 FEET OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE WEST 495 FEET THEREOF; AND

EXCEPT THE WEST 3 FEET OF THE EAST 55 FEET OF THE SOUTH 200 FEET OF THE NORTH 1000 FEET OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 1 NORTH RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA; AND

EXCEPT THE WEST 10 FEET OF THE EAST 65 FEET OF THE SOUTH 45 FEET OF THE SOUTH 200 FEET OF THE NORTH 1000 FEET OF SAID NORTHEAST QUARTER OF SECTION 15;

THE SOUTH 200 FEET OF THE NORTH 600 FEET OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE EAST 568 FEET THEREOF; AND ALSO

EXCEPT THE WEST 495 FEET THEREOF.

EASEMENT FOR RECIPROCAL INGRESS AND EGRESS AS SET FORTH IN INSTRUMENT NO. 96-071512

### PLANNED AREA DEVELOPMENT OVERLAY FOR HAYDEN HARBOR

PORTION OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

### LEGAL DESCRIPTION (CITY OF TEMPE)

TEMPE TOWN LAKES - SILVER SWC SCOTTSDALE RD. & LOOP 202

THAT PORTION THE SOUTH EAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 1 NORTH, RANGER 4 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT FOUND BRASS CAP IN HAND HOIE ACCEPTED AS THE EAST QUARTER CORNER OF SAID SECTION 15, FROM WHICH A FOUND "P" ARIZONA DEPARTMENT OF TRANSPORTATION BRASS CAP ACCEPTED AS THE NORTHEAST CORNER THEREOF BEARS NORTH 00 DEGREES 07 MINUTES 02 SECONDS EAST A DISTANCE OF 2667.37 FEET;

THENCE LEAVING SAID EAST LINE AND ALONG SAID NORTH LINE, SOUTH 89 DEGREES 00 MINUTES 42 SECONDS WEST A DISTANCE OF 75.01 FEET TO A LINE THAT IS 75.00 FEET WEST OF AND PARALLEL WITH SAID EAST LINE OF THE NORTHEAST QUARTER AND TO THE POINT OF BEGINNING;

THENCE ALONG SAID PARALLEL LINE, SOUTH 00 DEGREES 07 MINUTES 02 SECONDS WEST A DISTANCE OF 26.27 FEET;

THENCE SOUTH 82 DEGREES 38 MINUTES 26 SECONDS WEST A DISTANCE OF 8.49 FEET;

THENCE SOUTH 86 DEGREES 58 MINUTES 34 SECONDS WEST A DISTANCE OF 126.82 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 1098.50 FEET;

THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03 DEGREES 01 MINUTES 03 SECONDS, AN ARC LENGTH OF 37.85 FEET;

THENCE SOUTH 89 DEGREES 59 MINUTES 37 SECONDS WEST A DISTANCE OF 158.33 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 148.50 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09 DEGREES 04 MINUTES 30 SECONDS, AN ARC LENGTH OF 23.52 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 591.50 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05 DEGREES 44 MINUTES 18 SECONDS, AN ARC LENGTH OF 50.23 FEET TO A REVERSE CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 1998.50 FEET;

THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05 DEGREES 03 MINUTES 03 SECONDS, AN ARC LENGTH OF 176.18 FEET TO SAID NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15;

THENCE ALONG SAID NORTH LINE, NORTH 89 DEGREES 00 MINUTES 42 SECONDS EAST A DISTANCE OF 599.91 FEET TO THE POINT OF BEGINNING.

### TEAM:

**OWNER/DEVELOPER:** EL FENIX, LLC & EL FENIX II, LLC  
 10866 WILSHIRE BLVD., SUITE 400  
 PHOENIX, AZ 85014  
 PHONE: 310.200.1800  
 FAX: 310.200.1850

**AGENT:** PRO3 ASSOCIATES  
 1122 G CAMPBELL  
 PHOENIX, AZ 85014  
 PHONE: 602.770.3170  
 FAX: 602.936.1431

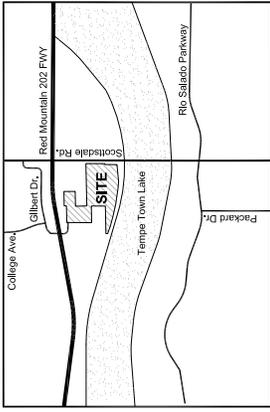
**CITY OF TEMPE:** DEVELOPMENT SERVICES  
 PLANNING & ZONING  
 TEMPE, AZ 85280  
 PHONE: 480.630.8331

**CIVIL ENGINEER:** HILGART WILSON  
 2390 E. CAMELBACK ROAD, SUITE 403  
 PHOENIX, AZ 85016  
 PHONE: 602.692.7258  
 FAX: 602.325.0161

**TRAFFIC ENGINEER:** HEFFERNAN & ASSOCIATES  
 5015 NORTH ARIZONA  
 SCOTTSDALE, AZ 85253-7062  
 PHONE: 480.947.6550  
 FAX: 480.947.6552

**PLANNER:** LEO A DALY  
 3344 E. CAMELBACK ROAD, SUITE 200  
 PHOENIX, AZ 85018  
 PHONE: 602.381.1456  
 FAX: 602.381.1456

### LOCATION MAP



### CITY APPROVALS

APPROVED BY THE CITY OF TEMPE, CITY COUNCIL OF THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011

BY: \_\_\_\_\_ DATE \_\_\_\_\_  
 DEVELOPMENT SERVICES

### CONDITIONS OF APPROVAL:

### PROJECT DATA

SEE SHEET ENT-02

### PROJECT NAME & ADDRESS

HAYDEN HARBOR  
 400 NORTH SCOTTSDALE ROAD  
 TEMPE, ARIZONA

### ENT-01

**LEO A DALY**  
 ARCHITECTURE  
 INTERIORS  
 EST. 1915

Project No. 075-10096-000  
 10.26.2010

City of Tempe  
 Planning Services  
 P.O. Box 5022  
 Tempe, AZ 85280

**EL FENIX, LLC & EL FENIX II, LLC**  
 10866 Wilshire Boulevard, Suite 400  
 Los Angeles, CA 90024

**PLANNED AREA DEVELOPMENT OVERLAY FOR HAYDEN HARBOR**  
 PORTION OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

PRELIMINARY - NOT FOR CONSTRUCTION

**TOWER 1**  
 BUILDING HEIGHT: 220'  
 NO. OF STORIES: 21  
 PROGRAM TYPE  
 RESIDENTIAL (157 UNITS) G.S.F. REQ'D PKG. PROVID'G PKG. REQ'D BIKE PKG.  
 RETAIL 11,700 39.0 219.5 220 39 117.6  
 RESTAURANT 19,500 65.0 258.5 259 65 121.6  
 TOTAL 199,800 258.5 259 65 121.6

**TOWER 2**  
 BUILDING HEIGHT: 242'  
 NO. OF STORIES: 23  
 PROGRAM TYPE  
 RESIDENTIAL (289 UNITS) G.S.F. REQ'D PKG. PROVID'G PKG. REQ'D BIKE PKG.  
 RETAIL 11,700 39.0 219.5 220 39 117.6  
 RESTAURANT 19,500 65.0 258.5 259 65 121.6  
 TOTAL 199,800 258.5 259 65 121.6

**TOWER 3**  
 BUILDING HEIGHT: 278'  
 NO. OF STORIES: 26  
 PROGRAM TYPE  
 RESIDENTIAL (194 UNITS) G.S.F. REQ'D PKG. PROVID'G PKG. REQ'D BIKE PKG.  
 RETAIL 11,700 39.0 219.5 220 39 117.6  
 RESTAURANT 19,500 65.0 258.5 259 65 121.6  
 TOTAL 199,800 258.5 259 65 121.6

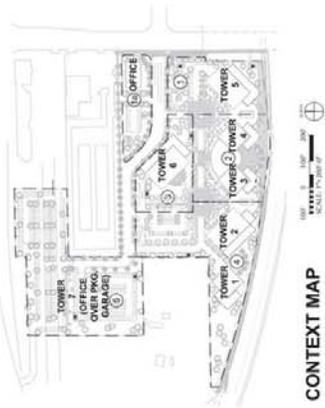
**TOWER 4**  
 BUILDING HEIGHT: 278'  
 NO. OF STORIES: 26  
 PROGRAM TYPE  
 RESIDENTIAL (194 UNITS) G.S.F. REQ'D PKG. PROVID'G PKG. REQ'D BIKE PKG.  
 RETAIL 11,700 39.0 219.5 220 39 117.6  
 RESTAURANT 19,500 65.0 258.5 259 65 121.6  
 TOTAL 199,800 258.5 259 65 121.6

**TOWER 5**  
 BUILDING HEIGHT: 220'  
 NO. OF STORIES: 21  
 PROGRAM TYPE  
 RESIDENTIAL (266 UNITS) G.S.F. REQ'D PKG. PROVID'G PKG. REQ'D BIKE PKG.  
 RETAIL 14,500 48.3 372.8 374 49 199.7  
 RESTAURANT 5,000 66.7 67 10.6  
 TOTAL 339,000 487.8 490 213.7

**TOWER 6**  
 BUILDING HEIGHT: 266'  
 NO. OF STORIES: 25  
 PROGRAM TYPE  
 RESIDENTIAL (266 UNITS) G.S.F. REQ'D PKG. PROVID'G PKG. REQ'D BIKE PKG.  
 RETAIL 20,850 69.5 70 4.0  
 TOTAL 395,100 506.1 508 237.9

**TOWER 7**  
 BUILDING HEIGHT: 213'  
 NO. OF STORIES: 18 (12 Story over 6 story parking garage)  
 PROGRAM TYPE  
 OFFICE 255,300 1021.2 1042 31.9  
 TOTAL 255,300 1021.2 1042 31.9

**OFFICE**  
 BUILDING HEIGHT: 15'  
 NO. OF STORIES: 1  
 PROGRAM TYPE  
 OFFICE 6,000 24.0 30.0 4.0  
 TOTAL 6,000 24.0 30.0 4.0



**PROJECT DATA:**

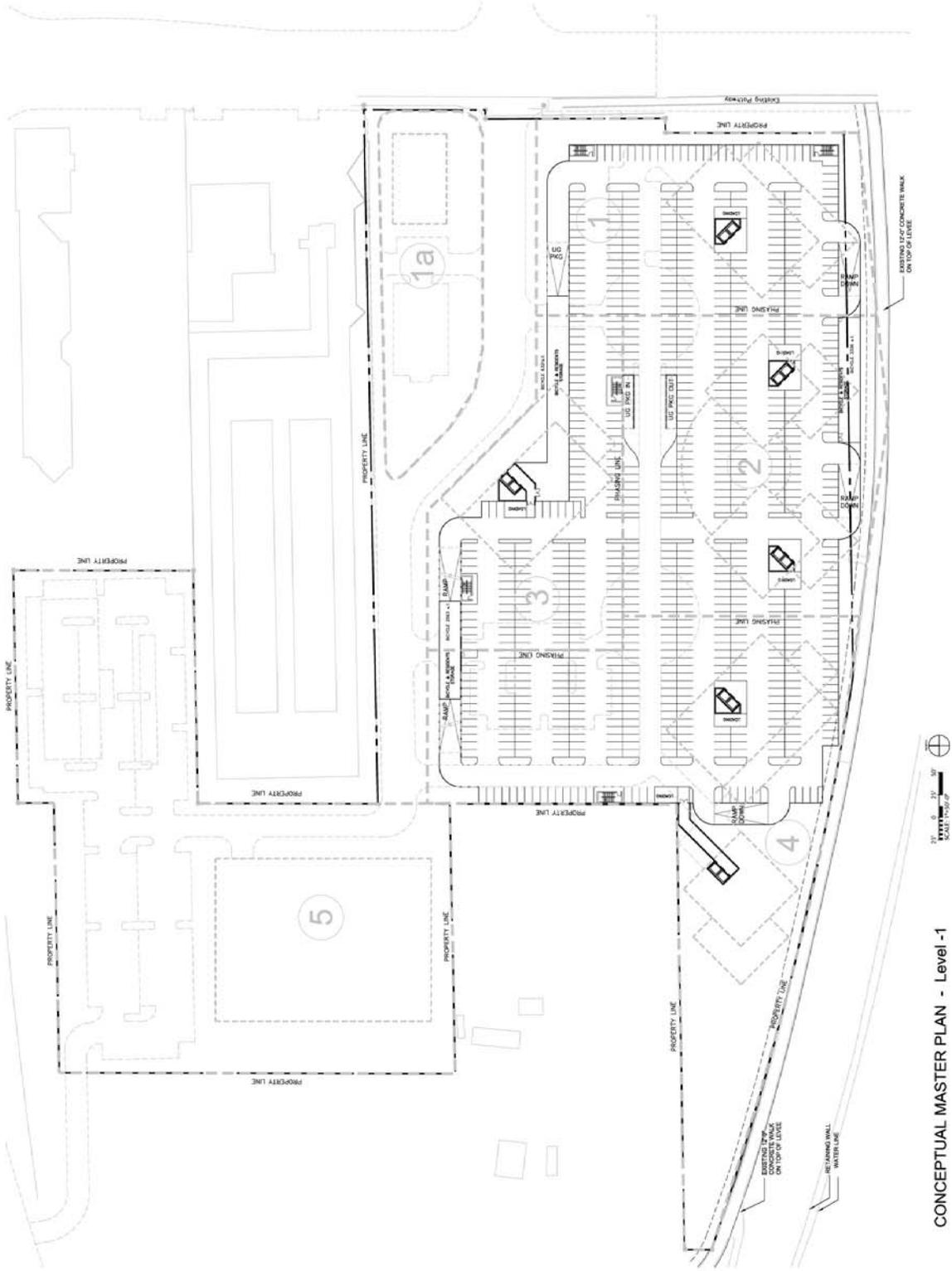
- EXISTING ZONING: CID
- PROPOSED ZONING: MU-4 PAD
- GROSS SITE AREA: 14.8 AC (648,369 G.S.F.)
- TOTAL BUILDING AREA: 2,059,580 G.S.F.
- GROUND FLOOR AREA: 149,350 G.S.F.
- DENSITY: 3.2
- CONSTRUCTION TYPE: 1B / AUTOMATIC SPRINKLER
- 1411 TOTAL UNITS (95 UNITS / ACRE)
- LOT COVERAGE: 23%
- LANDSCAPE COVERAGE: 36%

**PARCEL AREA:**

- PARCEL 1: 74,800 S.F. (1.7 A.C.)
- PARCEL 1a: 40,564 S.F. (.9 A.C.)
- PARCEL 2: 95,218 S.F. (2.2 A.C.)
- PARCEL 3: 61,680 S.F. (1.4 A.C.)
- PARCEL 4: 141,890 S.F. (3.2 A.C.)
- PARCEL 5: 183,140 S.F. (4.2 A.C.)

**NOTE:**

- RESIDENTIAL PARKING CALCULATED AT 1.4 SPACE / UNIT
- OFFICE PARKING CALCULATED AT 1 SPACE / 300 S.F.
- RETAIL PARKING CALCULATED AT 1 SPACE / 300 S.F.
- RESTAURANT PARKING CALCULATED AT 1SPACE /75 S.F. (75% F.O.H.)
- REQUIRED BICYCLE PARKING WILL BE PROVIDED AND CONFORM TO THE CITY OF TEMPE PARKING STANDARDS
- RESIDENTIAL BICYCLE PARKING CALCULATED AT .75 SPACE / UNIT
- OFFICE BICYCLE PARKING CALCULATED AT 1 SPACE /8,000 S.F., 4 MIN.
- RETAIL BICYCLE PARKING CALCULATED AT 1 SPACE /7,500 S.F., 4 MIN.
- RESTAURANT BICYCLE PARKING CALCULATED AT 1 SPACE /500 S.F.



CONCEPTUAL MASTER PLAN - Level -1

**HAYDEN HARBOR - Floor Plan Level -1**

430 NORTH SCOTTSDALE ROAD  
 TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**

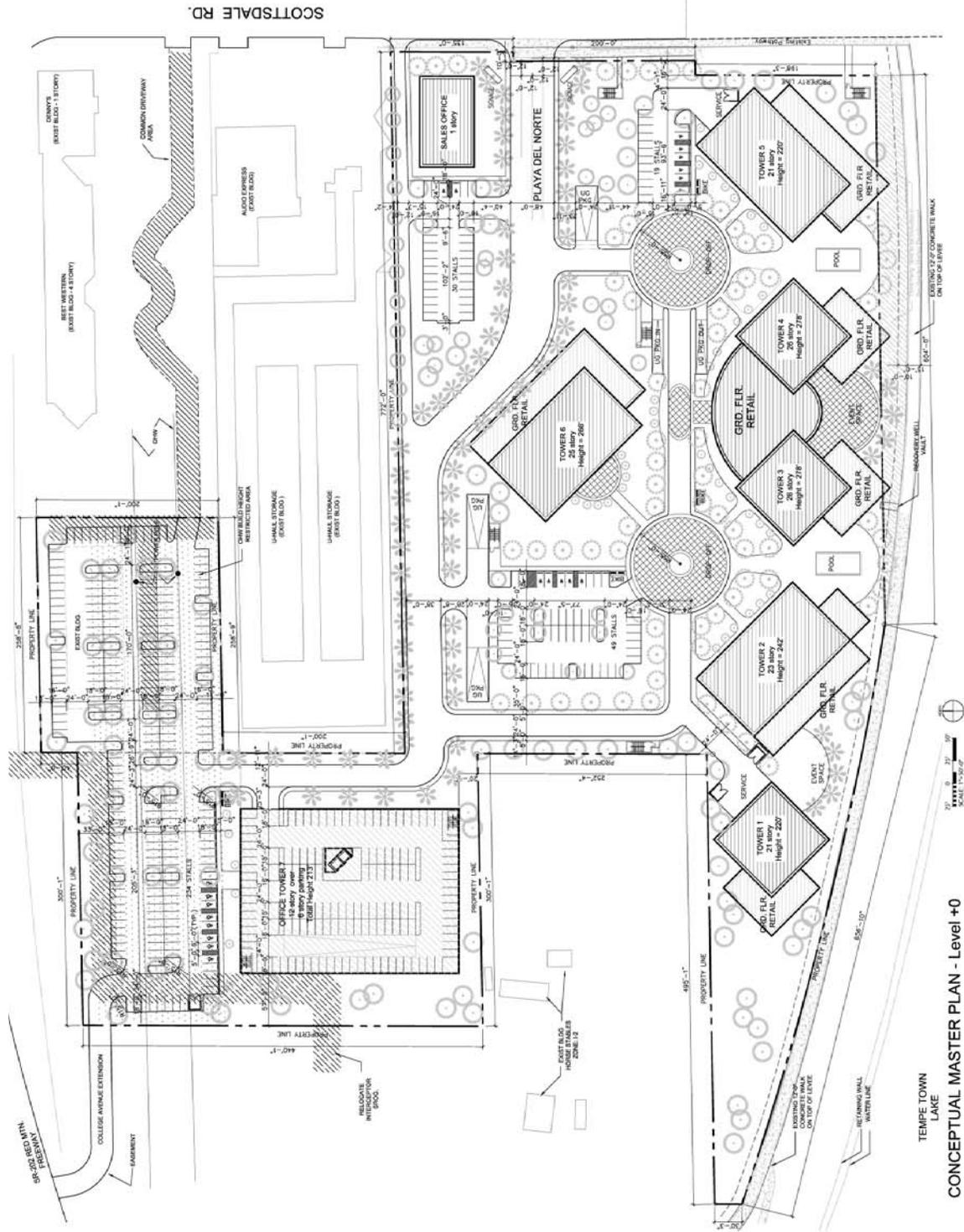
10866 WILSHIRE BOULEVARD, SUITE 400  
 LOS ANGELES, CA 90024

10.26.2010  
 JOB #: 075-100%-000

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**LEO A DALY**

ARCHITECTURE PLANNING ENGINEERING INTERIORS  
 3345 E. WILSHIRE BOULEVARD, SUITE 200  
 PHOENIX, ARIZONA 85018  
 TEL: 602-954-0818



CONCEPTUAL MASTER PLAN - Level +0

# HAYDEN HARBOR - Floor Plan Level +0

430 NORTH SCOTTSDALE ROAD  
 TEMPE, ARIZONA

# EL FENIX, LLC & EL FENIX II, LLC

10866 WILSHIRE BOULEVARD, SUITE 400  
 LOS ANGELES, CA 90024

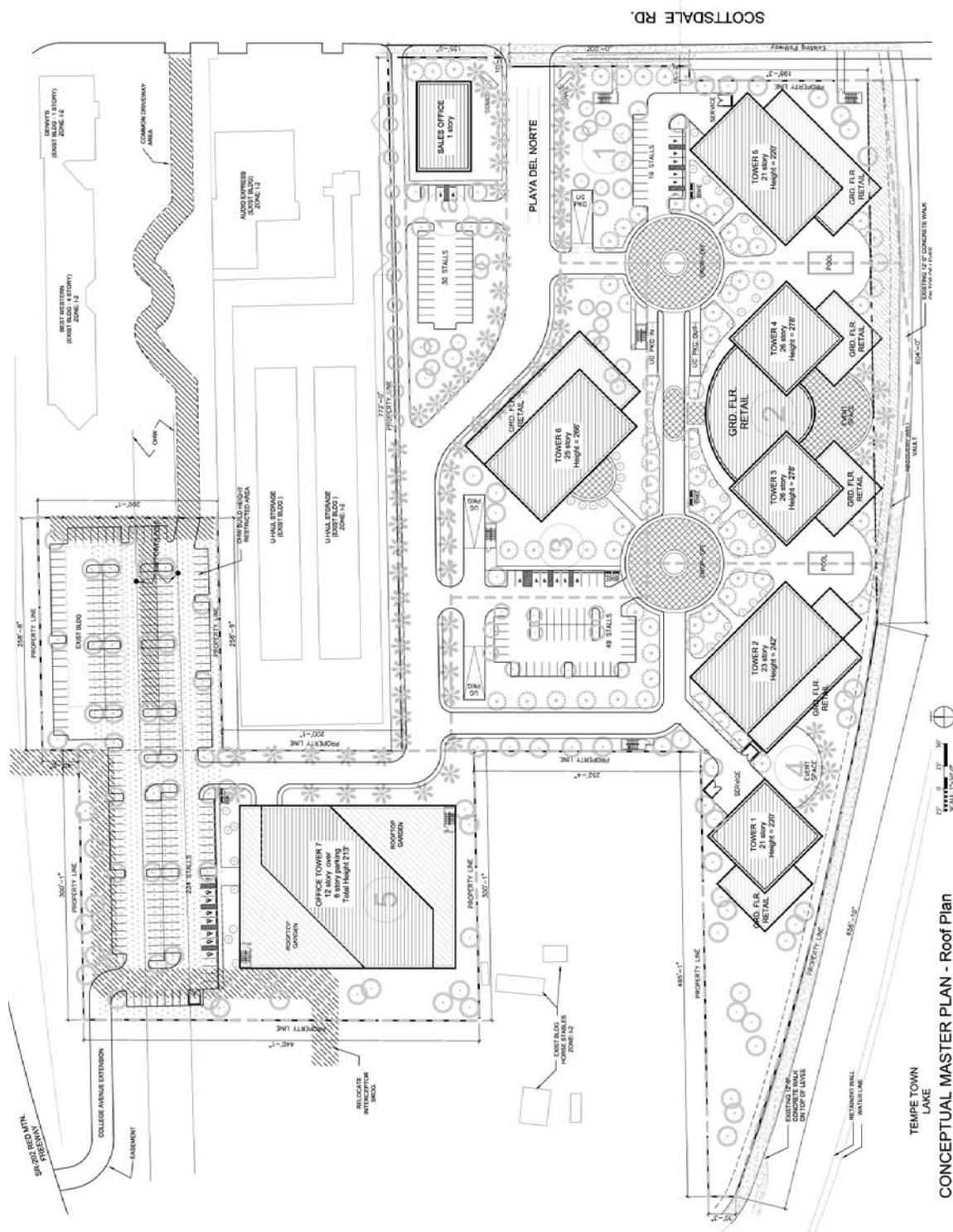
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 PHOENIX, ARIZONA 85018  
 TEL: 602-954-0818





CONCEPTUAL MASTER PLAN - Roof Plan

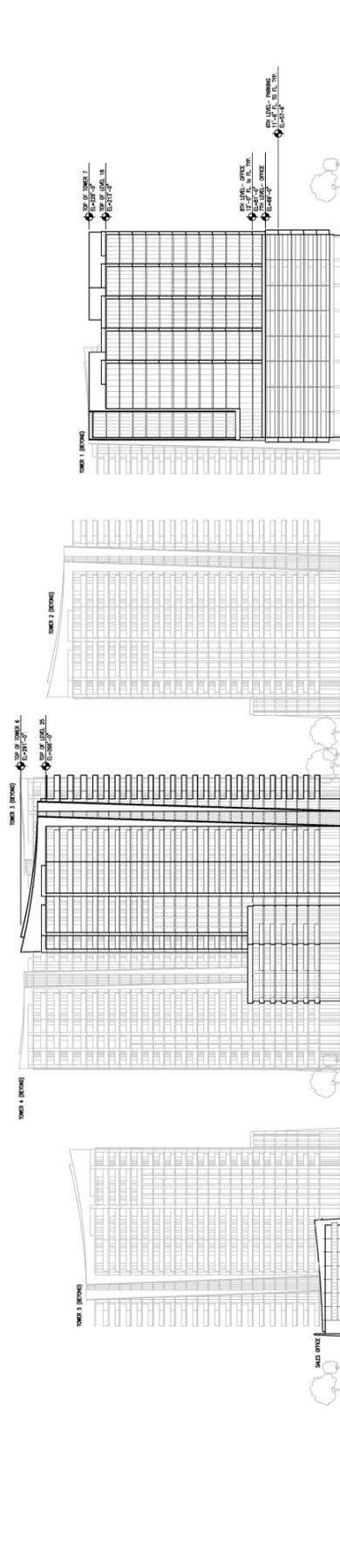
**HAYDEN HARBOR - Roof Plan**  
 430 NORTH SCOTTSDALE ROAD  
 TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**  
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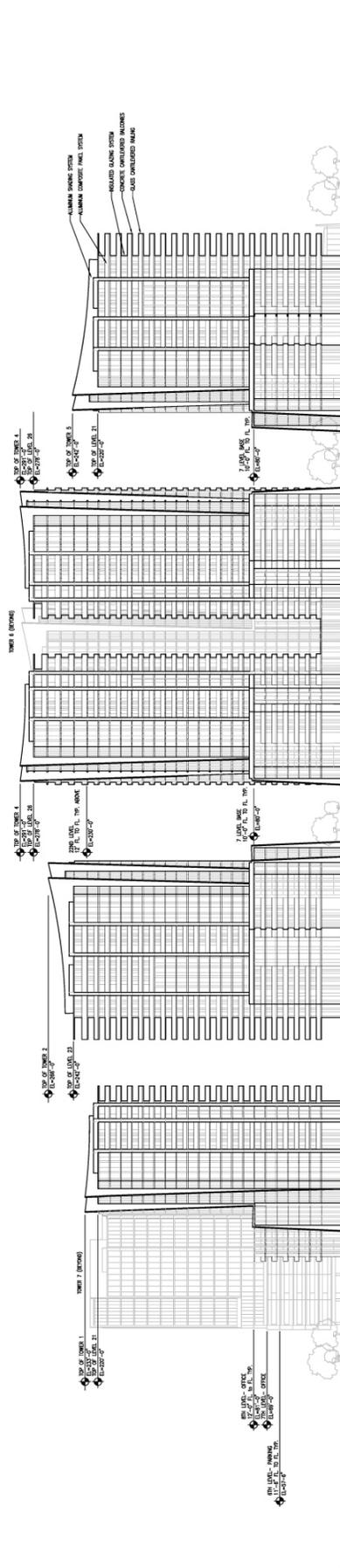
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 3340 E. WILSHIRE AVENUE, SUITE 200  
 PHOENIX, ARIZONA 85018  
 TEL: 602-954-0818





CONCEPTUAL NORTH ELEVATION

25' 0" 25' 50'  
SCALE: 1/8"=1'-0"



CONCEPTUAL SOUTH ELEVATION

25' 0" 25' 50'  
SCALE: 1/8"=1'-0"



**HAYDEN HARBOR - South Elevation**  
430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**  
10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

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PHOENIX, ARIZONA 85018  
TEL: 602.954.0818



**HAYDEN HARBOR - North Elevation**

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**

10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

10.26.2010  
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PHOENIX, ARIZONA 85018  
TEL. 602.954.0818



**HAYDEN HARBOR - East Elevation**

430 NORTH SCOTTSDALE ROAD  
 TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**

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 LOS ANGELES, CA 90024

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 TEL. 602.954.0818



**HAYDEN HARBOR - West Elevation**

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**

10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

10.26.2010  
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PHOENIX, ARIZONA 85018  
TEL: 602.954.0818



**HAYDEN HARBOR - Aerial View Looking North**

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**

10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

10.26.2010  
JOB #: 07510096.000

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ARCHITECTURE PLANNING ENGINEERING INTERIORS  
2340 EL AVILA BLVD, SUITE 200  
PHOENIX, ARIZONA 85018  
TEL: 602.954.0818



ATTACHMENT 51

## HAYDEN HARBOR - Southeast Looking Northwest

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

## EL FENIX, LLC & EL FENIX II, LLC

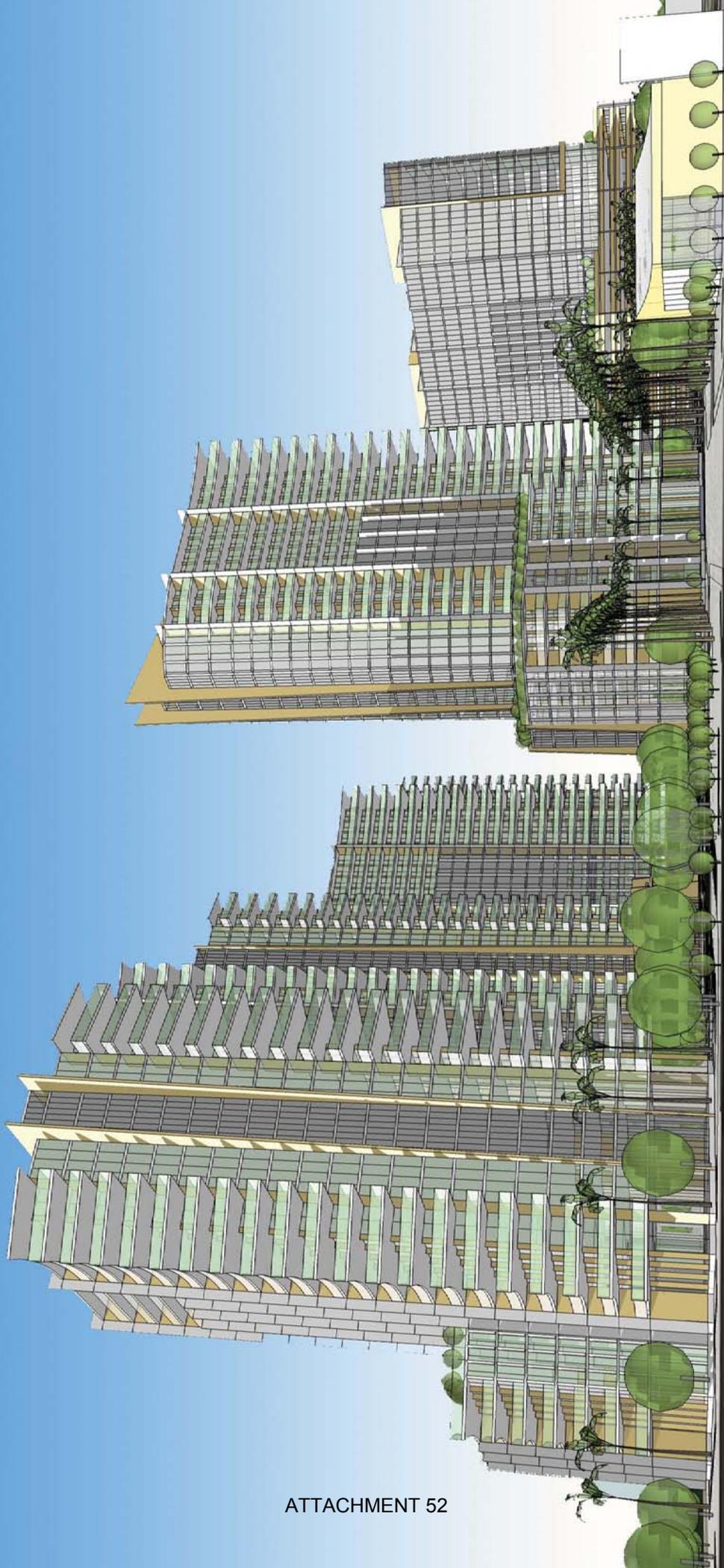
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ARCHITECTURE PLANNING ENGINEERING INTERIORS  
3340 E. WILSHIRE BOULEVARD, SUITE 200  
PHOENIX, ARIZONA 85018  
TEL: 602.954.0818



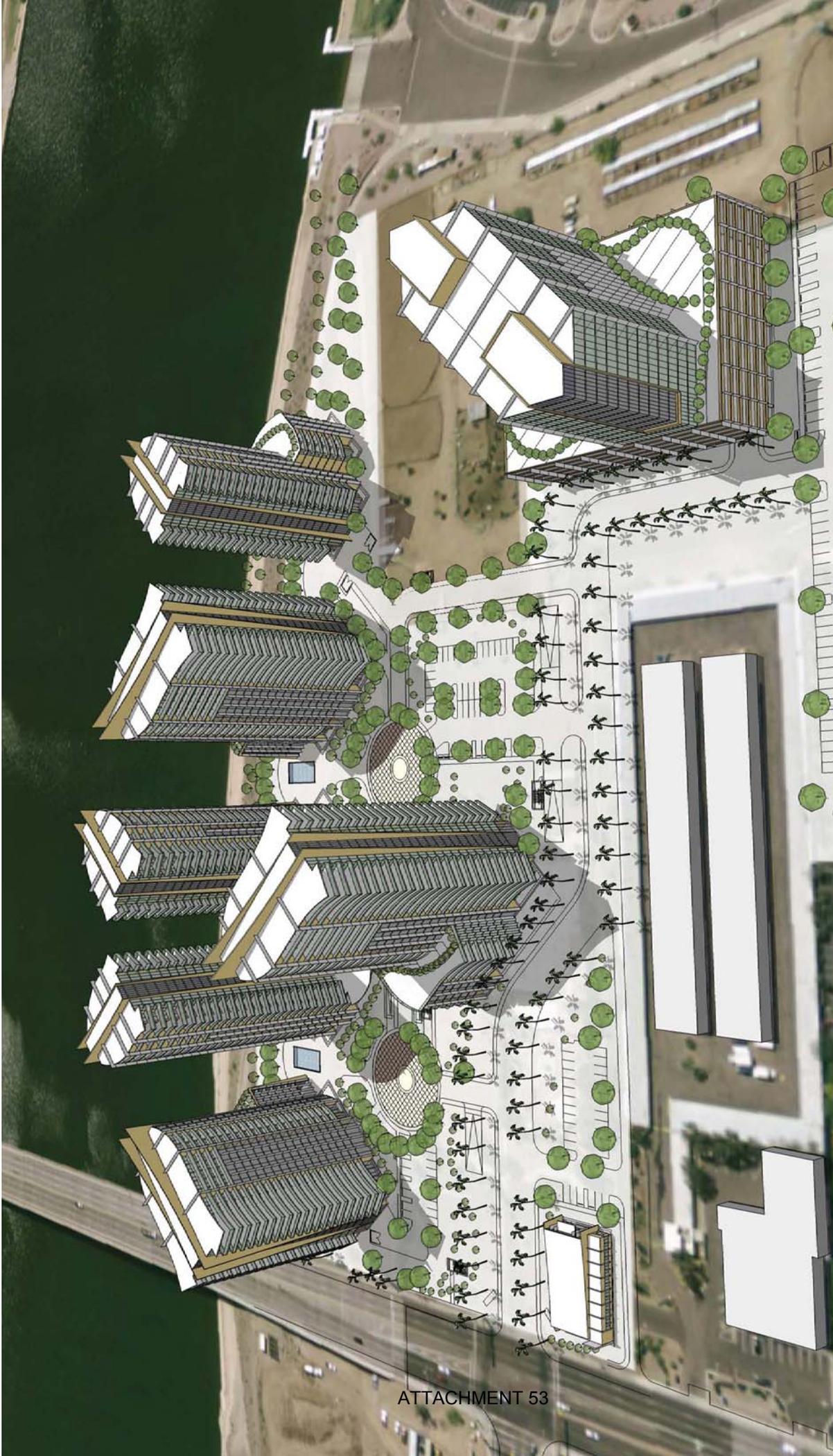
ATTACHMENT 52

**HAYDEN HARBOR - Scottsdale Rd. East Entrance**  
430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

**EL FENIX, LLC & EL FENIX II, LLC**  
10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

10.26.2010  
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PHOENIX, ARIZONA 85018  
TEL. 602.954.0818



ATTACHMENT 53

## HAYDEN HARBOR - Aerial View Looking South

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

## EL FENIX, LLC & EL FENIX II, LLC

10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

10.26.2010

JOB #: 075-100%-000

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## LEO A DALY

ARCHITECTURE PLANNING ENGINEERING INTERIORS  
3340 E. WILSHIRE AVENUE, SUITE 200  
PHOENIX, ARIZONA 85018  
TEL: 602.954.0818

Memorandum

Public Works Department



Date: February 18, 2011  
To: Ryan Levesque, Sr Planner, Development Services  
From: Cathy Hollow, Sr Civil Engineer, Transportation Division  
Subject: Hayden Harbor Traffic Impact Study

I have reviewed the traffic impact analysis prepared for the Hayden Harbor located in the southwest quadrant of Rural Rd and Loop 202. The main access to the site is via the intersection of Scottsdale Rd and Playa del Norte. The analysis included trip generation for the proposed project which will include 1400 residential units, 261,300 square feet of office use, 105,500 square feet of retail use, as well as level-of-service analysis for the year 2020. The project is expected to generate 12,700 trips on a daily basis at full build-out with 950 AM peak hour trips and 1,270 PM peak hour trips.

Based on the preliminary findings of the study, four of the five intersections that were analyzed will operate at level of service F during one or both peak hours using the existing lane configurations and traffic control in 2020. This does not anticipate improvements in terms of additional lanes that would mitigate this result. The fifth intersection (College and Curry) is expected to operate at satisfactory levels in the future during both peak hours. The City agrees that some of the additional traffic at the intersections is due to growth in the background traffic (not from this site).

The report suggests that the traffic on College Ave and Gilbert Dr would likely double with the project. The study recommends minor modifications to the intersection of College Ave and Gilbert Dr. Also, minor modification would have to be made on Scottsdale Rd at the intersection of Playa del Norte and Scottsdale Rd to open the west leg. The improvements would not be funded by the City.

The study further recommends travel demand strategies as a way to mitigate the project traffic impacts. However, there were no definitive strategies or requirements offered at this time.

The City accepts the Traffic Impact Study as submitted.

EDWARD SANTACRUZ, TRUSTEE  
THE EDWARD SANTACRUZ AND NANCY SANTACRUZ  
REVOCABLE LIVING TRUST DATED OCTOBER 27, 1994

15490 N. 83<sup>RD</sup> Way  
Scottsdale, AZ 85260  
(480) 966-3100 \* Fax (480) 921-7603  
email [eds@audioexpressusa.com](mailto:eds@audioexpressusa.com)

February 22, 2011

City of Tempe  
Community Development Department  
31 E. Fifth Street  
Tempe, AZ 85281

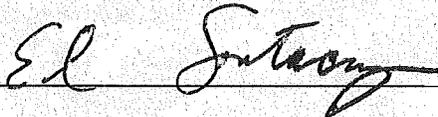
Ladies and Gentlemen:

I, Edward Santacruz, Trustee of The Edward Santacruz and Nancy Santacruz Revocable Living Trust dated October 27, 1994 (the "Trust"), hereby state:

1. The Trust is the owner of the property at 550 N. Scottsdale Rd., Tempe, AZ 85281.
2. The Trust authorized the filing with the City Clerk of the Legal Protest dated January 25, 2011 against the proposed Zoning Map Amendment, the Planned Area Development Overlay and the General Plan Map Amendment for the Hayden Harbor at Tempe Town Lake Project.
3. The Trust further authorizes Nancy Hempy, Director of Real Estate for Freight Sales, Inc. and Audio Express stores; Mariscal, Weeks, McIntyre & Friedlander, P.A.; and other necessary consultants as Ms. Hempy feels are necessary to represent the Trust and the Trust's property interests in this matter, including, but not limited to, further actions required related to the Legal Protest.

If you have any questions, please contact Nancy Hempy. Thank you.

Edward Santacruz, Trustee  
The Edward Santacruz and Nancy Santacruz  
Revocable Living Trust  
Dated October 27, 1994.





## SAC Self-Storage

1250 East Missouri Avenue, Phoenix, AZ 85014  
Phone: (602) 248-0525 Fax: (602) 248-0530

February 23, 2011

City of Tempe  
Community Development Department  
31 E Fifth Street  
Tempe, AZ 85281

To Whom It May Concern:

I, Bruce Brockhagen, the Secretary and Treasurer for Sixteen SAC Corporation, the property owner of the property located at 500 N. Scottsdale Road, Tempe, Arizona, do hereby state and represent the following:

- 1.) Sixteen SAC did authorize the Legal Protest dated January 25, 2011 (and filed with the City of Tempe) against the Proposed Zoning Map Amendment, the Planned Area Development Overlay and the General Plan Map Amendment for the Hayden Harbor at Tempe Town Lake Project, the "Project";
- 2.) Sixteen SAC authorized and further authorizes those designated representatives of the U-Haul Co. of Arizona and Amerco Real Estate Co. and their hired attorneys, agents, contractors, consultants, and each and all of them, to represent Sixteen SAC and its property interests and rights with regard to the Project, including, but not limited to, further actions associated with the Legal Protest and/or other legal and administrative actions.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruce Brockhagen', with a long, sweeping flourish extending to the right.

Bruce Brockhagen  
Sixteen SAC  
Secretary and Treasurer

JONATHAN S. BATCHELOR  
TODD A. BAXTER  
GARY L. BIRNBAUM  
FREDDA J. BISMAN  
JAMES T. BRASELTON  
DAVID G. BRAY  
ROBERT C. BROWN  
DAVID V. BURKETT  
J. GREGORY CAHILL  
SPENCER W. CASHDAN  
JASON B. CASTLE  
SCOT L. CLAUS  
D. SAMUEL COFFMAN  
ROBIN L. DE RESPINO  
DONALD E. DYKMAN  
FRED C. FATHE  
GLENN M. FELDMAN  
NICOLE S. FELKER  
DAVID N. FERRUCCI  
ERIN R. FORD  
RICHARD A. FRIEDLANDER  
JERRY GAFFANEY  
KOLBY W. GRANVILLE  
KENNETH A. HODSON  
SCOTT A. HOLCOMB  
DAVID L. LANSKY  
DANA M. LEVY  
CLIFFORD L. MATTICE

WILLIAM NOVOTNY  
CHARLES H. OLDHAM  
DAVID J. OUIMETTE  
JEFF C. PADDEN  
JAMES H. PATTERSON  
MICHAEL J. PLATI  
MARLENE A. PONTRELLI  
CHARLES S. PRICE  
ANDREW L. PRINGLE  
LES RAATZ  
LEONCE A. RICHARD III  
STEPHEN E. RICHMAN  
JAMES S. RIGBERG  
MICHAEL S. RUBIN  
PAUL RUDERMAN  
BARRY R. SANDERS  
TRICIA SCHAFFER  
MICHAEL R. SCHEURICH  
ROBERT L. SCHWARTZ  
ROBERT A. SHULL  
GARY J. SOSINSKY  
TIMOTHY J. THOMASON  
DAVID I. THOMPSON  
ANNE L. TIFFEN  
DENISE H. TROY  
SOPHIA VARMA  
PETER A. WINKLER  
STEVEN D. WOLFSON

LAW OFFICES

MARISCAL, WEEKS, McINTYRE & FRIEDLANDER, P.A.

2901 NORTH CENTRAL AVENUE  
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OUR FILE NO. 19549-1

NOEL FIDEL  
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(OF COUNSEL)  
(OF COUNSEL)

PHILLIP WEEKS (1936-1998)  
DONALD N. MCINTYRE (1932-1998)

January 25, 2011

Christopher J. Anaradian  
Community Development Director  
City of Tempe  
31 E. Fifth Street  
Tempe Arizona 85281

Brigitta Kuiper  
City Clerk  
City of Tempe  
31 E. Fifth Street  
Tempe Arizona 85281

**Re: Legal Protest Against the Hayden Harbor At Tempe Town Lake Project (PL070506) Pursuant to A.R.S. 9-462.04 (H) (Zoning and Development Code Section 6-502) by the immediately adjacent owners/properties located at 500 N. Scottsdale Road, Tempe AZ (the "U-Haul Property" or "U-Haul") and 550 N. Scottsdale Road, Tempe AZ (the "Audio Express Property" or "Audio Express") (collectively the "Properties).**

Dear Mr. Anaradian and Ms. Kuiper:

This correspondence is intended to be a legal protest against the proposed Zoning Map Amendment (ZON08004) (the "Rezoning"), the Planned Area Development Overlay (PAD08010) (the "Overlay Rezoning") and the General Plan Map Amendment (GEP10003) for the Hayden Harbor At Tempe Town Lake Project (PL070506) (the "Project", or collectively the

“Application”). We respectfully request that this protest letter, with attachments, be included in all proceedings before the City’s commissions, boards and Council and made a part of the public record of those proceedings. This protest is provided to the City while the proposed zoning/General Plan amendments move through the public hearing process and therefore, we specifically reserve the right to supplement, amend or modify this petition (and attachments) with legal arguments, factual assertions and exhibits.

**I. The U-Haul/Audio Express Protest Triggers the Super-Majority Vote Requirement for the City Council.**

Pursuant to A.R.S. 9-462.04(H) and Zoning and Development Code Sec. 6-502, U-Haul and Audio Express file this protest against the Application which includes a Zoning Map Amendment, creation of a Planned Area Development Overlay district and a General Plan Map Amendment (the “Zoning Amendments”, “Proposed Development” or “Project”) for the Hayden Harbor At Tempe Town Lake project. Because the Proposed Development requests a rezoning of 13.6 acres to MU-4, Mixed-Use High Density District and creation of a Planned Area Development Overlay district it requires a Zoning Map Amendment. Under A.R.S. § 9-462.04(H) and Zoning Code Sec. 6-502, when twenty percent or more of the immediately adjacent property owners within 150 feet of property included in a proposed zoning change protest the proposed rezoning in writing, the proposed change cannot become effective unless approved by “three-fourths of the members of the body authorized to rule upon it”. *Schwarz v. City of Glendale*, 190 Ariz. 508, 511, 950 P.2d 167, 170 (Ariz. App. 1997). The City of Tempe, acting through its Planning Staff, Development Review Commission and City Council, must strictly follow the statutory procedures for enactment of any zoning amendments. *Id.* This protest against the Proposed Development is filed by the owners of the U-Haul and Audio Express properties which are immediately adjacent to the north of the property designated in the Application (the “Hayden Harbor Property”). Therefore, U-Haul and Audio Express are entitled to the special protection granted by A.R.S. §9-462.04(H) and Zoning Code Sec. 6-502 to property owners closest to the property proposed for rezoning, and upon the filing of this legal protest, approval must be by a super-majority vote.

**II. U-Haul and Audio Express Suffer Particularized Harm Because of the Zoning Amendments.**

The Rezoning and General Plan Amendments will ‘open the door’ for a Project which establishes “... development of a regional employment and destination center on the Site...” immediately adjacent to property which already suffers from extreme traffic congestion and impaired access from Scottsdale Road. (See aerial photographs of the Playa del Norte intersection and the Properties, **Exhibit 1**). The extreme intensity (dwelling unit density, employment density, floor area ratio) of the proposed entitlements creates particularized harm to the Properties and ongoing operations of U-Haul and Audio Express by:

- a) impairing historical use of the ingress/egress between the Properties and the traffic light at the Playa del Norte Drive intersection;

- b) exacerbating unsafe traffic conditions for customers driving to and from the Properties;
- c) impairing safe, efficient traffic circulation on the Properties;
- d) creating traffic congestion along Scottsdale Road immediately adjacent to the Properties which blocks customers from conveniently and safely entering and exiting the access points to the Properties;
- e) creating a substantial negative impact on the traffic flow surrounding the Properties (Scottsdale Road, the Loop 202 Freeway interchange, and the intersection of Playa del Norte and Scottsdale Road).

Of particular importance for the Properties and ongoing business operations thereon is the necessity of preserving safe, unimpaired access between the existing traffic control device located at the intersection of E. Playa del Norte Drive and N. Scottsdale Road and the Properties. (See traffic light and driveway access photographs, **Exhibit 2**). This specific concern was raised with the applicant during the neighborhood meeting on December 15, 2010, and through additional subsequent communications. Further, U-Haul and Audio Express provided the applicant a written proposal suggesting a formal, perpetual easement agreement and access improvements in an effort to mitigate the detrimental effects of the Application on our Properties. It is critical for the safe, efficient and full use of our Properties to preserve the access between the Playa del Norte traffic light and the Properties. U-Haul/Audio Express offered to assist with necessary improvements/maintenance of the access area, including assistance with fencing/security measures connected to the undeveloped site. (See attached, Proposal to Establish Formal Permanent Ingress/Egress, **Exhibit 3**). The Applicant rejected this outreach but offered no written response and flatly refused to discuss the easement proposal with its neighbors. As of the drafting of this letter, Applicant's counsel indicated that Applicant can meet just prior to today's scheduled hearing. Apparently unwilling to meet until just two hours prior to the DRC Study Session, the Applicant has yet to appropriately address the traffic access, traffic circulation, historical use or safety of our customers and future residents in the proposed Project, thus forcing U-Haul and Audio Express to file this legal zoning and General Plan amendment protest in the City's public process.

The current concept for the Project proposes to allow 7 towers supported by 3,528 vehicle parking spaces totaling over 2 million square feet of building area. (See Hayden Harbor-Floor Plan Level, **Exhibit 4**). The intensity of this Project will literally cast a shadow over our adjacent Properties. (See Hayden Harbor-Aerial View Looking North and South, **Exhibit 5**). Implementation of the MU-4 zoning district "allows unlimited housing density in a mixed-use setting" which in this case, permits 7 massive structures that inappropriately: (i) eliminate over 5 acres of Open Space along the Tempe Town Lake; (ii) require parking structures and improvements for 3,528 vehicle parking spaces; (iii) create maximum building heights of up to 278 feet for the towers; (iv) create 103.75 du/acre or 1,411 units; (v) increase the maximum Floor Area Ratio (FAR) to approximately 3.47 based on net site area; and (vi) apparently fail to make simple adjustments in the Application to preserve access between our Properties and the Playa del Norte traffic light. The Proposed Development and creation of extremely intense

Development Standards, including thousands of vehicle spaces with limited ingress/egress points, excessive building height and mass, and excessive density/intensity, create particularized harm to U-Haul and Audio Express. With the Applicant apparently unwilling, to date, to preserve the access between the Playa del Norte traffic light and the Properties, use of our Properties is severally impaired and diminished and the safety of our customers (and neighborhood) is threatened. See *Center Bay Gardens, LLC v. City of Tempe*, 214 Ariz. 353, 153 P.3d 374 (Ariz. App. 2007); *Blanchard v. Show Low Planning & Zoning Comm'n*, 196 Ariz. 114, 993 P.2d 1078 (Ariz. App. 1999); *Buckelew v Town of Parker*, 188 Ariz. 446, 937 P.2d 368 (Ariz. App. 1996).

Special damages U-Haul and Audio Express would suffer because of the Zoning Amendments include, but are not limited to:

1. Excessive increase in density/intensity causing greatly increased traffic congestion on our Properties, impaired access to our Properties, and greatly increased traffic loads on Scottsdale Road, at the Playa del Norte intersection and the surrounding properties along with unreasonable levels of noise, air and water pollution, light pollution and litter. In fact, the current proposal contemplates 1,411 residential units, office, retail, restaurant, 4,677 vehicle and bike parking spaces all representing "a regional employment and destination center";
2. Excessive building height and massing that is out of context for the adjoining properties which eliminates Open Space, obstructs view corridors, creates the canyon effect for adjoining properties including inappropriate shadowing on our Properties and nearby properties;
3. Excessive water run-off, inadequate site drainage, potential ponding and/or run-off along the property line adjoining our Properties, and water pollution;
4. Economic damages including diminished property values;
5. Visual blight and nuisance from a Project and/or Zoning Amendments that appear to transform an Open Space/mixed use potential site to a new, nonexistent 'super zoning' category which could be characterized as some of the most free-wheeling standards in the City and allowing some of the most intense potential site development in the City;
6. Extreme, Inadequate and overflow parking and traffic (motor vehicle and bike) pressures;
7. Increased crime, litter, pollution and vandalism from hundreds of residents, customers and guests visiting the site;
8. Elimination of privacy with tall buildings containing windows and balconies (potentially) overshadowing the adjoining Properties and other neighborhood property;
9. Uncertainty of allowing extremely intense and virtually unrestricted zoning standards and entitlements for a site where it is "[c]urrently ... anticipated that construction on the

first phase will begin during the fourth quarter of 2015...”, a schedule that “could change based on market conditions”. The applicant also concedes that “...construction of subsequent phases will ultimately depend on market conditions and on the absorption rates of prior phases.”;

10. Receiving reduced protections of its zoning entitlements, diminished land value, safety and efficiency because of zoning amendments that contradict the policies, goals and strategies of the City of Tempe 2030 General Plan Elements, Tempe Zoning and Development Code and the Rio Salado Land Use/Development Policies for use in conjunction with the Rio Salado Specific Area Plan (See, Rio Salado Land Use Policies, **Exhibit 6**), (the “Planning and Zoning Regulations”).

### **III. The Proposed Development is Contrary to the City’s Planning and Zoning Regulations.**

The proposed Zoning Amendments do not achieve the goals and objectives of the City’s Planning and Zoning Regulations, especially with the elimination of Open Space, severe detrimental impacts on traffic, incompatibility with the adjoining Properties and critically negative impact on the Properties and neighborhood. The proposed Zoning Amendments are contradictory to the City’s requirements in many ways:

#### General Plan 2030 Elements

The City’s General Plan is a key regulatory instrument. Pursuant to Arizona law, any Zoning Ordinance amendments and zoning map changes must conform to the policies of the General Plan. The Project must conform to the individual elements of the General Plan. Because of the density/intensity, height, FAR, increased negative traffic impacts, impaired access, massing, elimination of Open Space, canyon-creating effect and obstruction of natural and man-made views, the Project is contrary to multiple policies and goals of the General Plan:

- A. The “**Transportation Element**”: “**Travelways**” Goal/Objective: “*Create a compatible relationship with adjacent land uses*” For all of the reasons stated herein the Proposed Development is incompatible with our Properties, particularly with the creation of dramatically increased traffic congestion and impaired traffic access between the traffic light and the Properties. This Project will also negatively impact traffic circulation on the Properties. “**Motorists/Parking and Access Management**” Goal/Objective: “*... to ensure that persons who chose to travel in privately-owned vehicles on the streets and freeways of Tempe will be able to do so safely and efficiently.*” “*... to encourage project planning, design, and development incorporating parking and access management strategies to influence travel behavior and reduce congestion on busy streets.*” The Applicant’s proposal results in the opposite effect. The subject property is a tabula rasa capable of reaching its appropriate development potential while addressing traffic safety, congestion and access for our Properties and the surrounding area. In fact, with very little effort, the Applicant could at least address the preservation of U-Haul and Audio Express access to and from the traffic light just by shrinking the proposed location of the 1-story

building and adjacent surface parking/landscaping to allow for formal permanent access improvements. This improved access can help mitigate the unsafe access and traffic congestion issues suffered by the Properties. This issue could be addressed with a permanent easement agreement, conditions of approval by the City, and easement designation on site plans and the final subdivision plat. (See U-Haul/Audio Express site diagram connected to permanent easement improvements, **Exhibit 7**). Additionally, if the intersection of Scottsdale Road and Playa del Norte will serve as the main vehicular access point for the Project, a permanent access between the traffic light and our Properties is easily addressed and makes use of the existing intersection infrastructure.

- B. **“Open Space/Recreational Amenities”** Goal/Objective *“...to preserve a variety of natural, landscaped and hardscaped open spaces that serve the diverse and changing needs of an urban community.”* To the contrary, the Application eliminates over 5 acres of Open Space.
- C. The **“Environment (Air, Noise, Ambient Temperature, Energy)”** Element requires Goal/Objective: *“to improve regional air quality through regulatory compliance and local policies and programs that minimize the impacts of air pollution.”*
- D. The **“Land Use”** Element requires Goal/Objective: *“... to foster development that conserves resources and enhances the environment in which people live, learn, work and play.” “Encourage reinvestment and redevelopment appropriate to a particular area.” “Ensure that new development will be consistent with the general plan goals.”* U-Haul and Audio Express are long-term members of this Tempe neighborhood and hope to continue in that tradition. They plan to continue their operations on the Properties even while the City waits for this Project to move forward. In an effort to energize the neighborhood, we hope that long-term resident businesses (and their Properties) are not detrimentally and specifically harmed.
- E. The **“Economic Development”** Element requires: Goal/Objective *“Develop an improved local business climate that fosters private investment” “Develop increased tax base”* U-Haul and Audio Express are long-term members of this Tempe neighborhood and hope to continue in that tradition.

The proposed Project is contrary to most of the criteria listed in Section 6-302 of the Zoning and Development Code: mitigate impacts on land use and transportation; helps attain objectives of General Plan; provides open space; potentially negative influences are mitigated; appropriateness of the amendment with regard to market demands, impacts of surrounding area, traffic.

#### Rio Salado Land Use Policies

The Project appears to be located within the Town Lake Vicinity Specific Area Plan. The Application should comply with Rio Salado Land Use Policies that accompany this Specific Area Plan (See **Exhibit 6**). Development in the Rio Salado Project Area must adhere to the stated policies even if specific policy waivers by the Council may be granted a project. These

regulations state, "Land speculation is strongly discouraged. Developers should be prepared to begin substantial (i.e. vertical) construction of at least the first phase of any project within two years of Council approval. Additionally, these polices state, "Development should maximize open space and preserve critical view & access corridors".

The Zoning Map Amendments Must Comply with Section 6-304.

Pursuant to Zoning Code section 6-304, Zoning Map Amendments, including Overlay Districts, must be approved based on a finding of consistency and conformance with the General Plan. On multiple counts, the Application does not satisfy this requirement and is not in the public interest.

**IV. Particularized Harm to U-Haul and Audio Express.**

As set forth in section II above, approval of the Project and/or Zoning Amendments and/or General Plan amendment will cause U-Haul and Audio Express to suffer damages from injuries peculiar to them (business and use of Properties) and more substantial than that suffered by the community at large. See *Blanchard v. Show Low Planning & Zoning Comm'n*, 196 Ariz. 114, 993 P.2d 1078 (Ariz. App. 1999).

**V. Conclusion.**

Because of this protest, the City must apply the A.R.S. § 9-462.04(H)/ Zoning Code Sec. 6-502 super-majority vote requirement and approval of the Zoning Map Amendments and Planned Area Development Overlay must be done by a **three-fourths vote of the City Council**.

The Hayden Harbor at Tempe Town Lake project, Case No. PL070506, should be denied as inappropriate because the proposed Zoning Amendments and General Plan amendment are contrary to the City's Planning and Zoning Regulations. U-Haul and Audio Express file this protest to the Proposed Development and Zoning Amendments because the zoning approvals would sanction unsafe and highly-congested traffic circulation and access, and excessive height resulting from super-scale development. The Application is contrary to multiple elements of the City's General Plan and the City's other controlling Planning and Zoning Regulations. The City cannot rezone property when the zoning amendments and zoning map changes do not conform to the policies of the General Plan.

Sincerely,



Clifford L. Mattice  
For the Firm

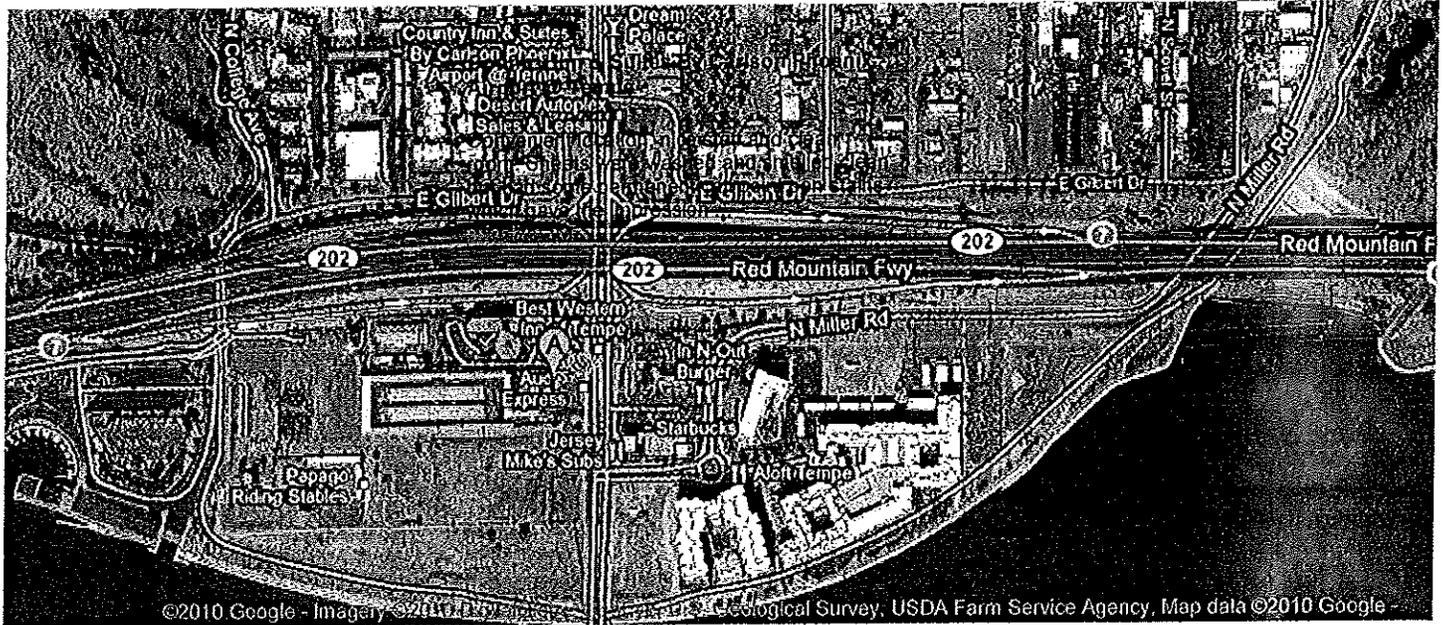
CLM:mjl

cc: Nancy Hempy, Director of Real Estate, Audio Express  
Thomas Tollison, Esq., U-Haul Co. of Arizona and Amerco Real Estate Co.  
Carlos Vizcarra, President, Amerco Real Estate Company

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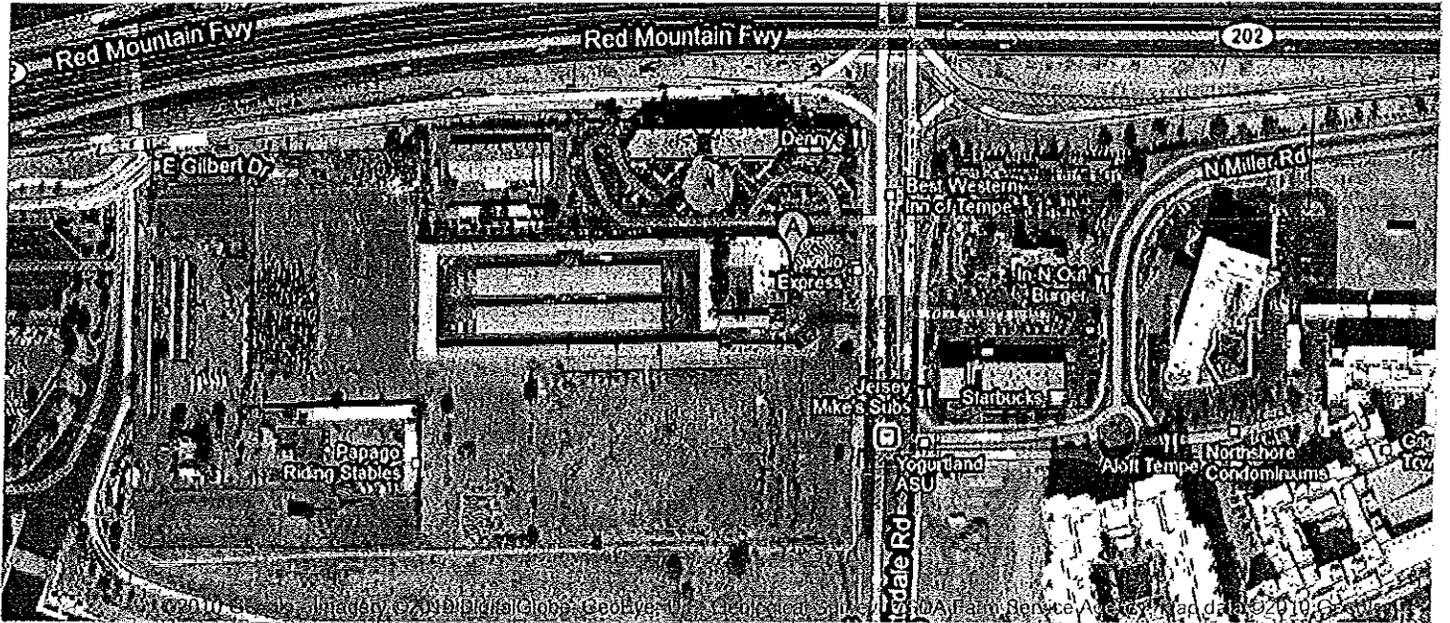


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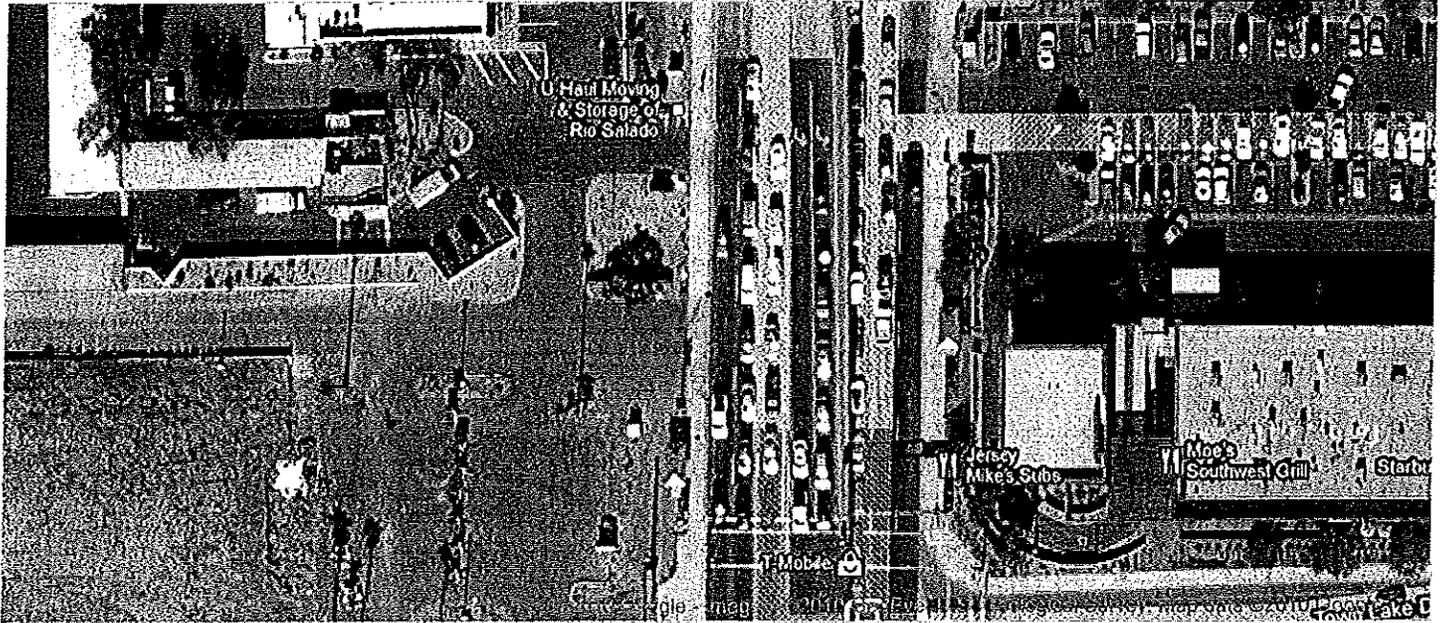


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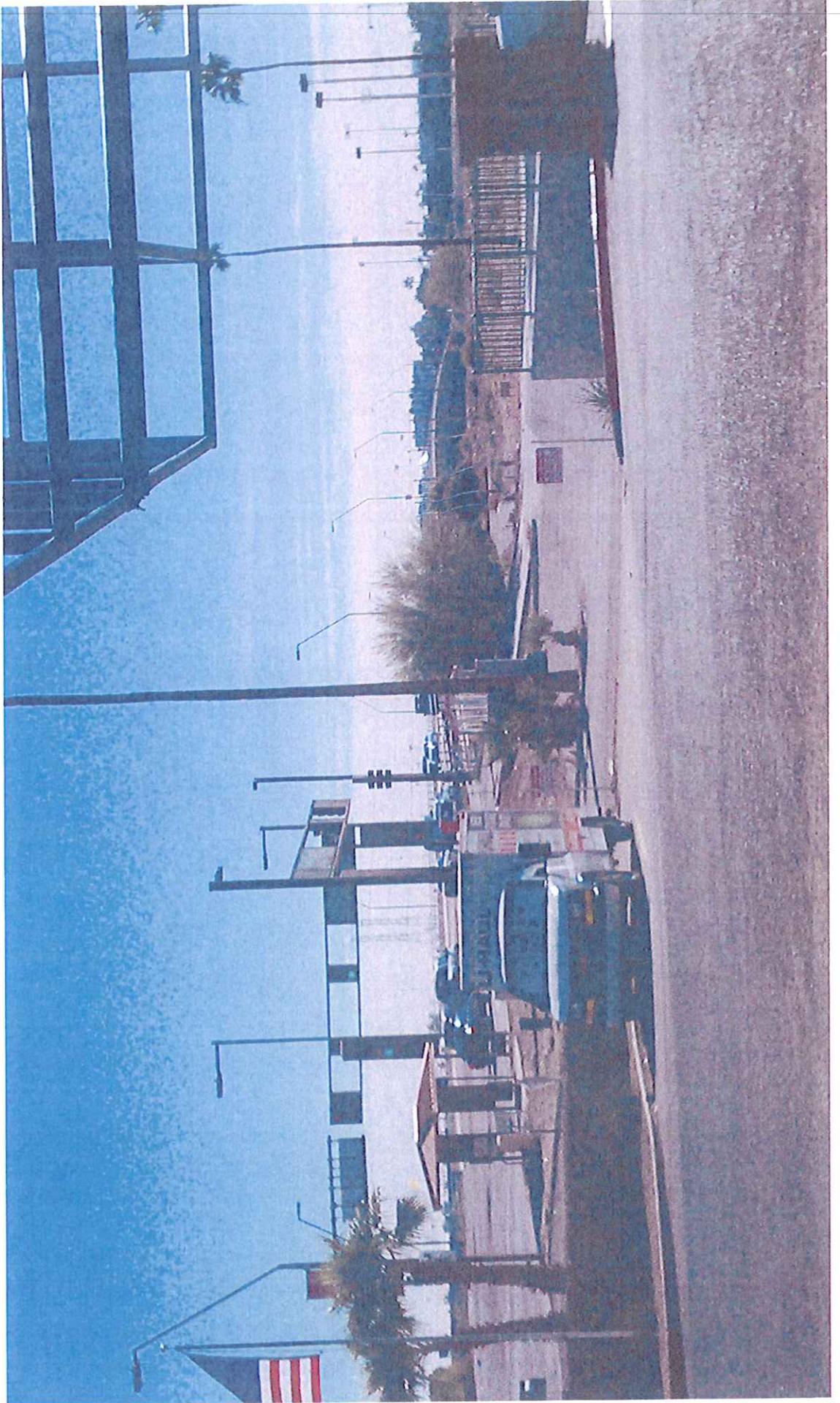
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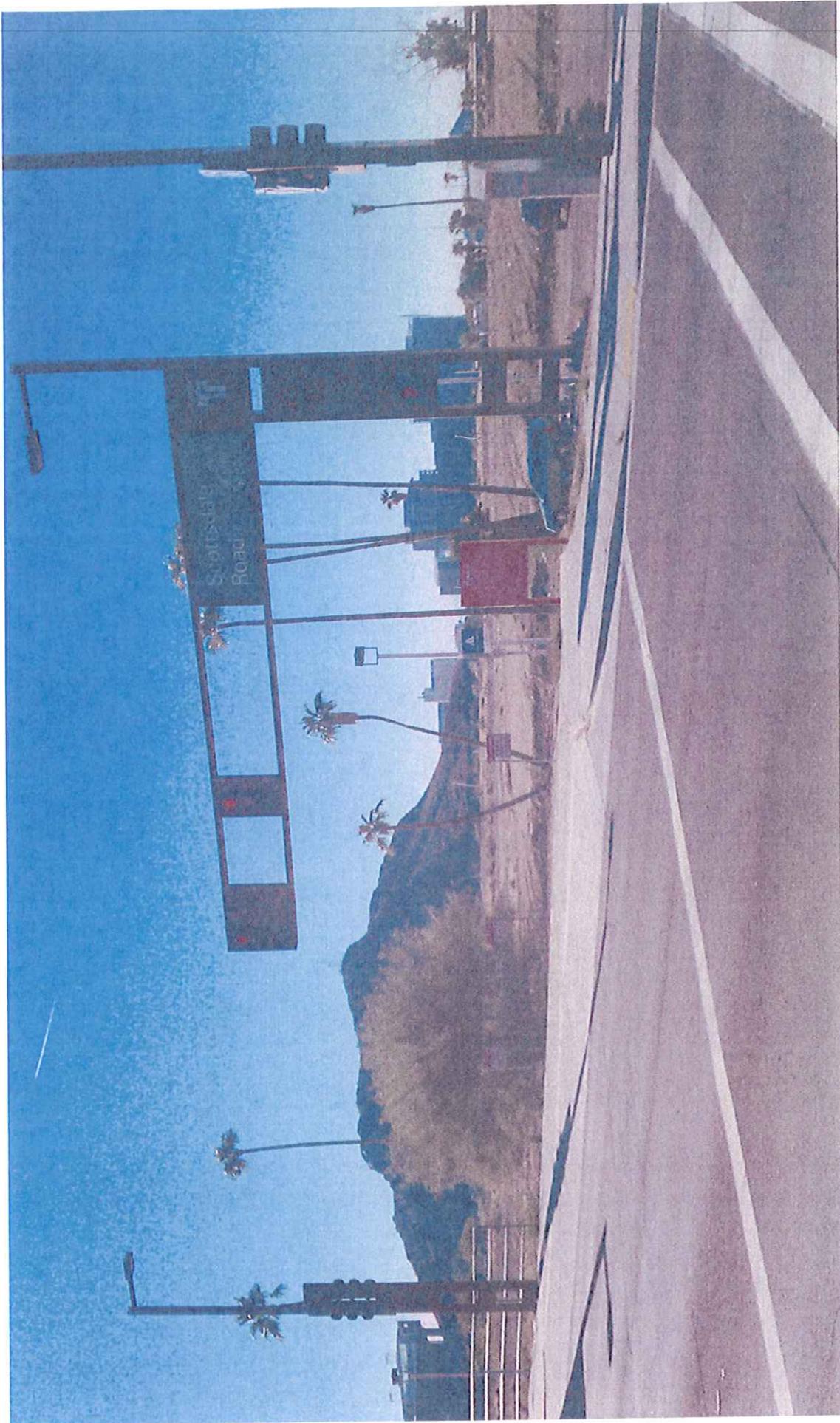


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ATTACHMENT 68



JONATHAN S. BATCHELOR  
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OUR FILE NO.: 19549-1

NOEL FIDEL  
RUSSELL PICCOLI

(OF COUNSEL)  
(OF COUNSEL)

PHILLIP WEEKS (1936-1998)  
DONALD N. MCINTYRE (1932-1998)

January 18, 2010

**Via E-Mail and U.S. Mail**

Manjula M. Vaz  
Gammage & Burnham P.L.C.  
Two North Central Avenue, 15<sup>th</sup> Floor  
Phoenix, Arizona 85004-4470

**Re: Proposal to Establish Formal Permanent Ingress/Egress from the E. Playa del Norte Drive/N. Scottsdale Road traffic light to the properties located at 500 N. Scottsdale Road, Tempe AZ (the "U-Haul Property" or "U-Haul") and 550 N. Scottsdale Road, Tempe AZ (the "Audio Express Property" or "Audio Express") (collectively the "Properties).**

Dear Manjula:

I am writing to follow up on our previous conversations about the necessity of preserving unimpaired access from the traffic control device located at the intersection of E. Playa del Norte Drive and N. Scottsdale Road to the U-Haul and Audio Express Properties. I appreciate your willingness to discuss potential solutions for this access issue.

My interest in solidifying a permanent resolution of the access issue derives from our clients' historical use of this particular ingress/egress point on Scottsdale Road; foresight to promote safe access and efficient traffic circulation for the properties in the immediate vicinity; and desire to reach meaningful, long-term solutions for the area. After all, U-Haul and Audio Express are long-term members of this Tempe neighborhood and plan to continue that tradition. As you are aware, the Playa del Norte traffic light provides an obvious opportunity to establish

safe traffic flow and access for our Properties, particularly considering the extremely high traffic volumes along Scottsdale Road and the adjacent uses which include the Best Western Hotel, the Playa del Norte development and the Loop 202 Red Mountain Freeway. Not to mention that this additional access point for our Properties will particularly allow those U-Haul customers that are either leaving with or dropping off U-Haul trucks and/or trailers, to have that option, and since traffic flows only from north to south and the Playa del Norte Traffic Light access provides the last southernmost access, maybe even a last minute option, to further participate in and contribute to safe access and efficient traffic flow for all of the properties in the immediate vicinity including your client's property. The reality is that existing intense uses of the area force our Properties to confront restricted/unsafe access from Scottsdale Road unless our access to and from the Playa del Norte traffic light over your client's property is preserved. The median installed in Scottsdale Road further constrains customer access to our Properties. For these reasons, we submit the following proposal as a 'rough' starting point to continue our dialogue about the preservation of safe, reasonable access to our clients' Properties from the Playa del Norte traffic light.<sup>1</sup>

#### **Perpetual Easement Agreement**

Creation of a perpetual easement agreement will allow for the parties to formally address access from the Playa del Norte intersection on a permanent basis. Obligations connected with such ingress/egress like installation of improvements, maintenance, indemnification and insurance can be addressed in the agreement. As part of the agreement, I also suggest that the access area be described on both a site plan attached to the agreement and on any site plans submitted to the City of Tempe for approval through the public hearing process. I can immediately provide a draft document to start working toward a final, formal agreement.

#### **Zoning and General Plan Conditions**

As part of the planning process for your client's site, I also suggest that the easement agreement be reflected in conditions of approval incorporated into the General Plan and Zoning Development Code ordinance amendments submitted by your client to the City of Tempe. This will allow for additional notice to the public and confirmation of the ingress/egress arrangement by City officials contemplating development of the properties.

#### **Immediate Access / Temporary Fence**

It is my understanding that your client is currently maintaining temporary fencing on the subject parcel to secure the site. Although I understand the desire to secure a large, undeveloped parcel of land, the present configuration of the fence is preventing access to our Properties. As a

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<sup>1</sup> This proposal is submitted as part of, and during, the planning and development process for certain proposed amendments to the City of Tempe General Plan and Zoning and Development Code (Hayden Harbor project) Therefore, we expressly assert that this proposal is not a waiver of any rights and we specifically reserve the right to submit this document for inclusion in the public record and to supplement, amend or modify the positions/assertions/attachments/documents referred to herein with further legal arguments and positions, factual assertions, documents and exhibits.

Manjula M. Vaz, Esq.

January 18, 2011

Page 3

measure to preserve security and access to our Properties while the neighborhood awaits actual site development of your client's parcel, U-Haul and Audio Express are willing to offer their assistance in some fashion with maintenance of the fence which allows immediate, unimpaired access between the Playa del Norte intersection and the Properties.

**Temporary and Permanent Improvements for Easement**

As part of our proposal, we offer potential assistance with the intermediary and permanent improvements connected to the ingress/egress easement.

**In-Person Meeting Prior to Public Hearings**

Considering the upcoming scheduled public hearings before the City of Tempe's Commission and Council, I offer my assistance to immediately start with implementation of this proposal. I suggest we schedule a meeting at my office the week of January 17<sup>th</sup> to work out concrete details regarding these matters.

Best regards,



Clifford Mattice  
For the Firm

CLM:mjl

cc: (via e-mail only)

Nancy Hempy, Director of Real Estate, Audio Express

Thomas Tollison, Esq., U-Haul Co. of Arizona and Amerco Real Estate Co.

Carlos Vizcarra, President, Amerco Real Estate Company

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ATTACHMENT 47

ATTACHMENT 74

## HAYDEN HARBOR - Aerial View Looking North

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

## EL FENIX, LLC & EL FENIX II, LLC

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LOS ANGELES, CA 90024

10.26.2010  
JOB # 075-006600

PRELIMINARY - NOT FOR CONSTRUCTION  
COMPANY@LEOANDAILY.COM

## LEO A DAILY

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234 E. CAMELBACK RD., SUITE 200  
PHOENIX, ARIZONA 85018  
TEL: 602.944.0818



ATTACHMENT 50

ATTACHMENT 75

## HAYDEN HARBOR - Aerial View Looking South

430 NORTH SCOTTSDALE ROAD  
TEMPE, ARIZONA

## EL FENIX, LLC & EL FENIX II, LLC

10866 WILSHIRE BOULEVARD, SUITE 400  
LOS ANGELES, CA 90024

10.26.2010

JOB # 075-10066-000

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## LEO A DALY

ARCHITECTURE PLANNING ENGINEERING INTERIORS  
304 E. CAMELBACK RD., SUITE 200  
PHOENIX, ARIZONA 85018  
TEL: 602/954-0818

## Economic Development

### Development Polices for use in conjunction with the Rio Salado Specific Area Plan

#### Rio Salado Land Use Policies

1. *Development in the Rio Salado Project Area should adhere to these Policies to the greatest extent possible. Specific policy waivers for a project will be granted by the Council, only if sufficiently justified by the developer of that project.*

Comment: This policy puts the burden on the developer to either comply with the City's intent, or take responsibility for suggesting a better alternative through the waiver process. Policy expresses the current best intent: it can evolve, and stay relevant, if the developer and Council are able to consider and discuss alternatives.

2. *Central Commercial District (CCD) zoning is preferred for mixed-use projects in the Rio Salado.*

Comment: The CCD zoning allows, with a use permit, all the uses that are reflected in the Rio Salado Master Plan: office, retail, recreation, entertainment, hotels and high-density residential uses, and excludes those uses that are not desirable in the Rio Salado: manufacturing and industrial. CCD minimizes processing time, since non-P.A.D. cases can go directly to the Council without having to be heard by the Planning Commission.

3. *CCD land used for residential purposes shall be considered "CCD/Residential"; CCD land used for commercial purposes shall be considered "CCD/Commercial".*

Zoning Ordinance 808 (pg. 64) indicates that the existing CCD district has two different parts - residential and commercial - with different regulations and the same name. This policy makes it clear that the City considers land with an approved residential plan to have residential zoning, and land with an approved commercial plan to have commercial zoning. This will help give the City more flexibility to comply with the Sky Harbor Part 150 Noise Compatibility Plan, which discourages new residential uses in "commercial and industrial" districts.

4. *Deviation from Ordinance 808 requirements will be considered in relation to the quality of design and economic impact of the project.*

Comment: This expresses a long-standing inclination on the City's part (to grant deviations from ordinance standards in exchange for "quality" development) and makes it clear that the economic impact of the project will also be considered. This does not imply that quality of design or economic impact will not be considered if there are no deviations. But the policy gives recognition to the City's long term commitments, both aesthetic and financial, in Rio Salado.

5. *Mixed-use projects should provide parking by demand. Each project shall include structured parking to minimize surface paving and preserve open space. Special consideration should be given to transit planning and parking reductions.*

Comment: The high cost of developing in Rio Salado will have an impact on both layout and financing. This policy guides developers toward taking advantage of shared and structured parking, thereby optimizing the efficiency of development and maximizing the revenue-producing aspects of the project.

6. *Residential density in condominium projects should be calculated using the net site area of all land in which the condominium association has either parking or ownership rights.*

Comment: The intent of this policy is to encourage private ownership by allowing greater density for owner-occupied projects. Condominiums are, by definition, individually-owned air spaces within buildings where there is common ownership of the structures and land. For "stand alone" condos, the density with CCD zoning could not exceed 40 DU/ac. This policy allows the number of units to be increased beyond that number in circumstances where the condo association owns more than just the condo units and the land underneath. This policy also encourages projects to include owner-occupied residential in the mix, because the project land can be counted both for residential density and commercial lot coverage purposes.

7. *Development of individual properties within the Rio Salado Specific Plan, shall conform to design standards established for the plan.*

Comment: The City has based the land use planning of sites around the Town Lake on input from the private sector. Master Developers have been selected to determine the most feasible land use plans and to develop a methodology for their implementation. In cases where parcels have been spun off, it is necessary that they conform to the standards established within the specific plan. This will ensure continuity with land use planning, transportation and access issues, landscaping, design and level of intensity.

8. *Land speculation is strongly discouraged. Developers should be prepared to begin substantial (i.e. vertical) construction of at least the first phase of any project within two years of Council approval.*

Comment: Under the Zoning Ordinance developers have one year to record a P.A.D., build with a variance or initiate a permitted use. Council has usually been generous with time extensions adding up, in some cases, to many years. This policy clarifies what constitutes "substantial construction" and puts developers on notice that there will be less leniency in the Rio Salado.

9. *Development shall be compatible with the Phoenix Sky Harbor F.A.R. Part 150 Noise Compatibility Study.*

Comment: The Tempe/Phoenix Intergovernmental Agreement on Noise Mitigation Flight Procedures (9/94) requires each city to implement land use strategies recommended in the Part 150 Plan. Tempe also committed to limits on new single-family development and a 5-point BLM agreement and promised to ensure that new development in noise-sensitive areas would be compatible with the noise levels predicted in the Part 150 Plan. Since much of Rio Salado is impacted by airport noise, this policy draws attention to the matter and can serve as a transition policy until all of the more formal regulations required by the Intergovernmental Agreement (IGA) have been put in place by the City.

10. *Development should maximize open space and preserve critical view & access corridors.*

Comment: Rio Salado is an integrated, master-planned development that emphasizes access to a major water feature within downtown and desert environments. Development should be sensitive to its context in the overall master plan by accommodating visual and pedestrian connections to the lake, adjacent neighborhoods and nearby landscape features, for itself, existing neighborhoods and future neighbors, as well as providing on-site open space that ties meaningfully to the public areas of the Project. Lush landscaping shall be utilized where appropriate to stimulate recreation and/or public use.

11. *Projects adjacent to the Town Lake should be designed with an orientation to the waterfront itself.*

Comment: Normal development faces the street frontage and has a "back of house" for the less attractive functions of the site, such as longer-term parking, storage, refuse and delivery services. This policy stresses the need to make the water/levee side of the development - in most cases the linear public park - as attractive and vital as possible.

12. *The Design Review Board shall strive for the highest level of quality of design and materials in projects lying within the Rio Salado Specific Area Plan. To achieve the levels of density desired for the Rio Salado Specific Area Plan, the following design criteria shall be utilized in all development proposals:*

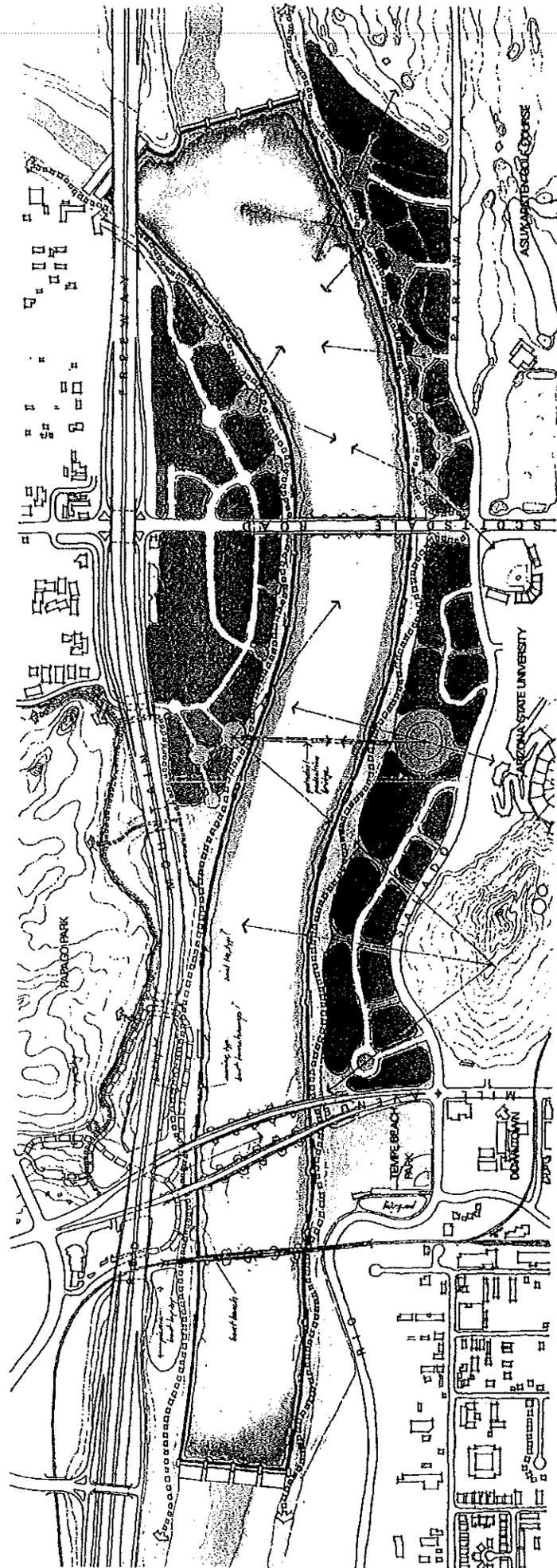
- *Establish and protect view corridors to significant land forms, the town lake, and other architectural features;*
- *Utilize a variety of roof forms, provide roof top amenities and improvements on low and mid-rise buildings in order to protect the views from tall buildings in the area;*
- *Structured parking shall be utilized in order to maximize open space and buildable area;*
- *Provide plazas, courtyards, pathways which are interconnected and link one development site with other development sites;*
- *Provide numerous site amenities to create a pedestrian friendly environment;*
- *Building design for multi-story structures shall incorporate primary interior access, with no outside walkways;*
- *Building materials and details shall have a "craftsman-like" quality, particularly at the pedestrian levels and base of buildings, with refined materials and details on upper levels as building height increases.*

Comment: The Rio Salado Project Area will have the city's highest levels of intensity and density of development. As such, it is imperative that the level of quality be commensurate to the development opportunity. The balance between additional construction (investment) costs and project quality will be evaluated against the overall impact to Rio Salado, the Community and adjacent development.

13. *Proposals for tall buildings and structures near the VOR should undergo a preliminary aeronautical review prior to filing for markups, and submit copies to the City of all correspondence with the FAA regarding the 7460-1 Notice process.*

Comment: The goal of this policy is to protect the flight track arrival and departure procedures agreed to by Phoenix and Tempe in 1994, and to make sure that development is compatible with the FAA VORTAC navigational aid near Priest Drive. Developers should consult a 7/5/96 Rio Salado staff memo for further information.

August 19, 1996



- LEGEND**
- multi-use paths
  - residential
  - transit/park
  - development
  - CCD Zoning
  - water/waterway
  - wetland
  - flood plain
  - wetland/waterway
  - wetland/waterway



**TOWN LAKE VICINITY  
SPECIFIC AREA PLAN**





POSSIBLE DRIVEWAY/ACCESS POINT TO PLAZA DEL NORTE TRAFFIC LIGHT FROM U-HAUL/AUDIO EXPRESS PROPERTIES