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FEB 25 2016

Chandler • Arizona
Where Values Make The Difference

MEMORANDUM **Transportation & Development Dept. - Memo No. RE16-074**

DATE: FEBRUARY 25, 2016

TO: MAYOR AND COUNCIL

THRU: MARSHA REED, ACTING CITY MANAGER
NACHIE MARQUEZ, ASSISTANT CITY MANAGER
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
DANIEL W. COOK, CITY ENGINEER

FROM: ERICH KUNTZE, REAL ESTATE MANAGER

SUBJECT: ORDINANCE NO. 4690 TO REPEAL ORDINANCE NO. 3803 AND TO RESCIND THE DETERMINATION STATED THEREIN THAT WEST DETROIT CIRCLE IS NO LONGER NECESSARY FOR PUBLIC USE AS A ROADWAY; AND TO DECLARE AN EMERGENCY

RECOMMENDATION: Staff recommends City Council adopt Ordinance No. 4690 to repeal Ordinance No. 3803 and to rescind the determination stated therein that West Detroit Circle is no longer necessary for public use as a roadway; and to declare an emergency.

BACKGROUND/DISCUSSION: In 2006, Glynlyon, Inc., asked the City to vacate certain public roadway, a cul-de-sac situated within the Southpark Business Center subdivision known as "West Detroit Circle." Because the corporation owned the private property abutting the cul-de-sac, either in its own name or in the name of a related entity named Schmitzki Fund 1, L.L.C., vacating the cul-de-sac would have allowed this roadway to assemble to the abutting private land so as to further the expansion of Glynlyon's business operations.

On July 24, 2006, Council passed and adopted Ordinance No. 3803 allowing for the roadway vacation, subject to certain conditions being met. That is, in Ordinance No. 3803, Council made the determination that the cul-de-sac was no longer necessary for public use as a public roadway and declared it abandoned and vacated subject to the following consideration from the owner of the abutting property: (a) monetary consideration in the sum of $138,253.00; and (b) the conveyance to the City of certain real property for use as a future City well site. Completion of the vacation and the vesting of title to the cul-de-sac in the owner of the abutting property were

made subject to the concurrent recording of the ordinance, a vacation plat executed and approved by the City and a minor land division map of the tax parcels surrounding the cul-de-sac (i.e., the abutting private property).

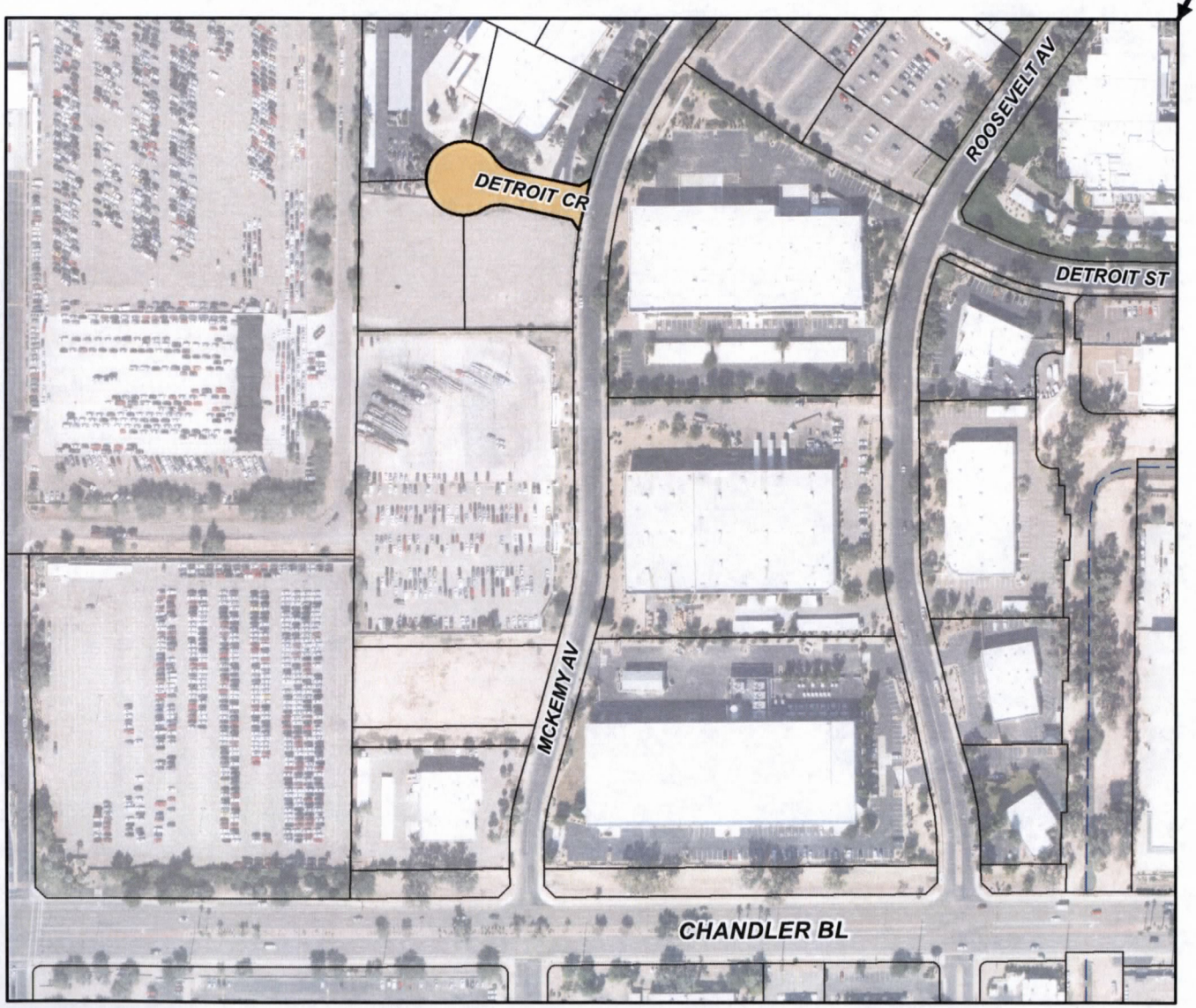
The City has never received any of the required consideration (either money or property), nor have the vacation plat and minor land division map been prepared, approved or recorded. The cul-de-sac has continued to be maintained as public roadway by the City. Nevertheless, Ordinance No. 3803 was inadvertently recorded with the Maricopa County Recorder on December 20, 2006, as Document No. 2006-1656963, and inadvertently re-recorded on March 20, 2007, as Document No. 2007-0329198, to add the missing legal descriptions referenced as exhibits in Ordinance No. 3803 for the Roadway and for the future well site parcel.

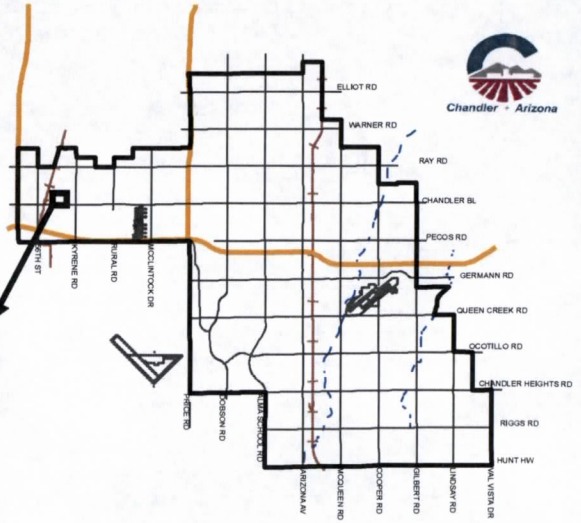
Both the owner and the City mutually desire not to complete the vacation of the roadway; to lift any cloud on title created by the recording of Ordinance No. 3803; and to have the cul-de-sac continue to be owned and operated as a public roadway by the City. Because any cloud on title needs to be cleared in order for the owner to complete a pending transfer of title of its property, this Ordinance No. 4690 is requested to be adopted as an emergency ordinance. This Ordinance No. 4690 will be recorded upon receipt of a fully executed quitclaim deed to the City from the owner for the cul-de-sac.

PROPOSED MOTION: Move City Council adopt Ordinance No. 4690 to repeal Ordinance No. 3803 and to rescind the determination stated therein that West Detroit Circle is no longer necessary for public use as a roadway; and to declare an emergency.

Attachments: Ordinance No. 4690
Aerial Map

ORDINANCE NO. 4690 REPEALING ORDINANCE NO. 3803 RECINDING THE DETERMINATION STATED THEREIN THAT WEST DETROIT CIRCLE IS NO LONGER NECESSARY FOR PUBLIC USE AS A ROADWAY; AND DECLARING AN EMERGENCY





MEMO NO. RE16-074

ORDINANCE NO. 4690

DETROIT CIRCLE

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ORDINANCE NO. 4690

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, REPEALING ORDINANCE NO. 3803; RESCINDING THE DETERMINATION STATED THEREIN THAT WEST DETROIT CIRCLE IS NO LONGER NECESSARY FOR PUBLIC USE AS A ROADWAY; AND DECLARING AN EMERGENCY.

WHEREAS, in 2006, GLYNLYON, INC., a Nevada corporation, the owner, either in its own name or in the name of a related entity named SCHMITZKI FUND 1, L.L.C., an Arizona limited liability company (collectively, the "Owner"), of the private property abutting a portion of public right-of-way owned by the City of Chandler (the "City") known as "West Detroit Circle", which is a cul-de-sac situated within the Southpark Business Center subdivision and legally described in Exhibit A, attached hereto and incorporated by this reference (the "Roadway"), requested that the City vacate the Roadway in order to assist the Owner in an expansion of its business operations; and

WHEREAS, to accommodate the request, the Chandler City Council, pursuant to Arizona Revised Statutes, Title 28, Chapter 20, Article 8, entitled Disposition of Public Roadways (A.R.S. §28-7201 *et seq.*), took action on July 24, 2006, to pass and adopt Ordinance No. 3803, and therein (a) made the determination that the Roadway was no longer necessary for public use as a public roadway and (b) declared the Roadway abandoned and vacated subject to the receipt of the following consideration from the Owner: (i) payment of monetary consideration in the sum of $138,253.00; and (ii) additional compensation in the form of the conveyance to the City of certain real property for use as a future city well site; and

WHEREAS, pursuant to the aforementioned A.R.S. §28-7208 and Ordinance No. 3803, vesting of title to the Roadway in the Owner of the abutting private property is expressly made subject to the receipt by the City of all of the aforementioned consideration; and

WHEREAS, pursuant to Ordinance No. 3803, the vacation of and vesting of title in the vacated Roadway was further made subject to the recordation of Ordinance No. 3803 concurrent with the recordation of (i) a vacation plat executed and approved by the City and (ii) a minor land division map of the tax parcels surrounding the Roadway (i.e., the abutting private property); and

WHEREAS, the City did not and has not received any of the required consideration (either money or property), nor has the required vacation plat or minor land division map been prepared, approved or recorded, but nevertheless Ordinance No. 3803 was inadvertently recorded with the Maricopa County Recorder on December 20, 2006, as Document No. 2006-1656963, and inadvertently re-recorded on March 20, 2007, as Document No. 2007-0329198, to add the missing legal descriptions referenced as exhibits in Ordinance No. 3803 for the Roadway and for the future well site parcel; and

WHEREAS, the Owner and the City mutually desire not to complete the vacation of the Roadway so that it may continue to be owned and operated as a public roadway by the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. Ordinance No. 3803 is repealed in its entirety.

Section 2. The determination stated in Ordinance No. 3803 that the Roadway is no longer necessary for public use as a roadway is hereby rescinded.

Section 3. Upon receipt by the City of a fully executed quitclaim deed from Owner of Owner's interest, if any, in and to the Roadway that may have arisen from the recording of Ordinance No. 3803, the Chandler City Clerk shall proceed to have this Ordinance No. 4690 and the quitclaim deed recorded with the Maricopa County Recorder.

Section 4. Whereas, the immediate operation of the provisions of this Ordinance No. 4690 is necessary for the preservation of the public peace, health, life and property of the City of Chandler, an emergency is hereby declared to exist, to wit: any cloud on title to the Roadway resulting from the inadvertent recording of Ordinance No. 3803 needs to be cleared prior to the Owner completing a pending transaction to transfer title to the abutting property to a new party. This Ordinance No. 4690 shall be in force and effect from and after passage, adoption and approval of the Mayor and City Council of the City of Chandler, and is hereby exempt from the referendum provisions of the Constitution of the State of Arizona.

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this 25th day of February, 2016.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4690 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 25th day of February, 2016, and that the vote was ____ ayes, ___ nays.

_____

CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY GAB

PUBLISHED:

20070329198

When recorded, return to:

Chandler City Clerk
Mail Stop 606
PO Box 4008
Chandler, AZ 85244-4008

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2006-1656963 12/20/06 08:25 AM
2 OF 2

SCUMAR

CAPTION HEADING:

ORDINANCE NO. 3803, authorizing the vacation of West Detroit Circle, within the Southpark Business Center subdivision, a cul de sac intersecting with McKemy Avenue that abuts four tax parcels within the Southpark Business Center subdivision.

DO NOT REMOVE

This is part of the official document.

OFFICIAL FILE COPY
CITY OF CHANDLER
CITY CLERK

ORDINANCE NO. 3803

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, VACATING WEST DETROIT CIRCLE, A CUL-DE-SAC INTERSECTING WITH MCKEMY AVENUE AND THAT ABUTS FOUR TAX PARCELS WITHIN THE SOUTHPARK BUSINESS CENTER SUBDIVISION.

WHEREAS, A.R.S. §28-7201 *et seq.*, provides for the disposition of unnecessary public roadways; and

WHEREAS, A.R.S. §28-7205 specifically provides for the vacating of unnecessary public roadway so as to allow title to vest according to law; and

WHEREAS, that public roadway known as West Detroit Circle, a cul-de-sac intersecting with McKemy Avenue and that abuts four tax parcels within the Southpark Business Center subdivision in the City of Chandler, is no longer needed for public use as roadway; and

WHEREAS, all of the parcels of land adjoining the roadway to be vacated will be left with a public or private legal access connecting each of the parcels of land with an established public roadway;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. That the public roadway known as West Detroit Circle, whose location is described above and which is described in Exhibit "A", attached hereto and incorporated herein by reference (herein the "Roadway"), is determined to be no longer necessary for public use as a roadway.

Section 2. That the Roadway is hereby declared abandoned and vacated, so that title to the Roadway shall vest, subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the land to which it accrues, in accordance with law.

Section 3. That the vacating of the Roadway is not intended to vacate or extinguish any easements for existing water, sewer, gas or similar pipelines and appurtenances, and for existing canals, laterals or ditches and appurtenances, and for electric, telephone and similar lines and appurtenances, and the same, if there are any, shall continue as they existed prior to the vacating of the roadway.

Section 4. That the vesting of title in the Roadway, as provided in Section 2 above, is further made subject to the receipt by the City of the sum of $138,253 from the owner or owners of the parcels of land abutting the Roadway, and the conveyance to the City of that certain real property described in Exhibit 'B', attached hereto and incorporated herein, for a future city well site. The payment of $138,253 and the conveyance of the well site land to the City are deemed to be sufficient consideration commensurate with the value of the Roadway.

Section 5. That the vacating of the Roadway is intended solely to dispose of the City's interest, if any, in the Roadway, subject to the terms stated in this Ordinance, and in no event is the vacation intended to warrant that any title or other interest in said Roadway is held by the City.

Section 6. The Roadway is herein vacated and title shall vest subject to the following additional terms and conditions:

A. Pursuant to A.R.S. § 28-7213, the disposition of roadway authorized by this Ordinance shall not take effect until this Ordinance, or a certified copy thereof, is recorded by the City of Chandler in the office of the Maricopa County Recorder.

B. Concurrent with the recording of the original or certified copy of this Ordinance, there shall be recorded by the City of Chandler the following: (i) a vacation plat executed and approved by the City of Chandler; (ii) a minor land division map of those tax parcels surrounding the vacated roadway, executed and approved by the City of Chandler.

Section 7. The Mayor of the City of Chandler, Arizona, is hereby authorized to sign, on behalf of the City, this Ordinance and all other documents required and necessary to complete the abandonment and vacation of the Roadway.

Section 8. The City Clerk is directed to cause this Ordinance to be recorded in the office of the Maricopa County Recorder upon written notice from Chandler's City Attorney, and further provided that such recording occurs concurrently with the payment of the sum stated above and the recording of a deed (in form, substance and content acceptable to the City) for the real property described in attached Exhibit 'B'. The vacation of the Roadway shall take effect upon the recordation of this Ordinance.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 22nd day of June, 2006.

ATTEST:

CITY CLERK

CITY OF CHANDLER CORPORATE SEAL ARIZONA

MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this 24th day of July, 2006.

ATTEST:

CITY CLERK

CITY OF CHANDLER CORPORATE SEAL ARIZONA

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 3803 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 24th day of July, 2006, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED in the Arizona Republic on August 9 & 16, 2006.

LEGAL DESCRIPTION

OF

VACATION AREA OF DETROIT CIRCLE
EXHIBIT A

All that real property situate in the Southeast quarter of Section 28, Township 1 South, Range 4 East of the Gila and Salt River Base & Meridian, Maricopa County, Arizona, being the right-of-way of Detroit Circle, as said right-of-way is shown on the plat entitled "SOUTHPARK BUSINESS CENTER" recorded May 25, 1982 in the Official Records of said Maricopa County at Book 242, at Page 17 thereof, described as follows:

COMMENCING at the south quarter corner of said Section 28;

Thence NORTH 00° 46' 30" EAST along the North-South mid-section line of said Section 28, a distance of 1055.01 feet to the Southwest corner of Lot 6 of said "SOUTHPARK BUSINESS CENTER";

Thence NORTH 89° 26' 55" EAST along the south line of lots 5 and 6 of said "SOUTHPARK BUSINESS CENTER," a distance of 374.86 feet to the WEST Right-of-Way line of McKemy Avenue;

Thence NORTH 00° 33' 05" WEST along the East line of lot 5, a distance of 36.61 feet to the beginning of a tangent curve concave to the Southeast, the radius point of which bears NORTH 89° 26' 55" EAST, a distance of 800.00 feet;

Thence Northeasterly, 136.50 feet along the arc of said curve, through a central angle of 09° 46' 34", to the TRUE POINT OF BEGINNING;

Thence NORTH 33° 53' 41" WEST along the NORTH line of lot 5, a distance of 21.70 feet;

Thence NORTH 77° 33' 05" WEST along the NORTH line of lot 5, a distance of 114.32 feet to the beginning of a tangent curve concave to the Southeast, the radius point of which bears SOUTH 12° 26' 55" WEST, a distance of 60.00 feet;

Thence Southwesterly, 45.77 feet along the arc of said curve, through a central angle of 43° 42' 23" to beginning of a reverse curve, the radius point of which bears NORTH 31° 15' 28" WEST, a distance of 64.50 feet;

Thence 301.04 feet along the arc said curve, through a central angle 267° 24' 45," said curve also being the NORTH line of said lot 5, the NORTH line of said lot 6, the SOUTH line of said lot 7, and the SOUTH line of said Lot 8, to the beginning of a reverse curve, the radius point of which bears NORTH 56° 09' 18" EAST, a distance of 64.50 feet;

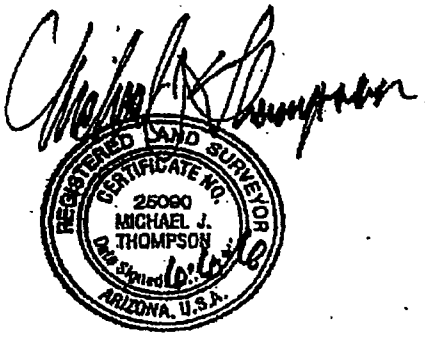
Thence continuing Southeasterly along said SOUTH line of said lot 8, 45.77 feet, along the arc of said curve, through a central angle of 43° 42' 23";

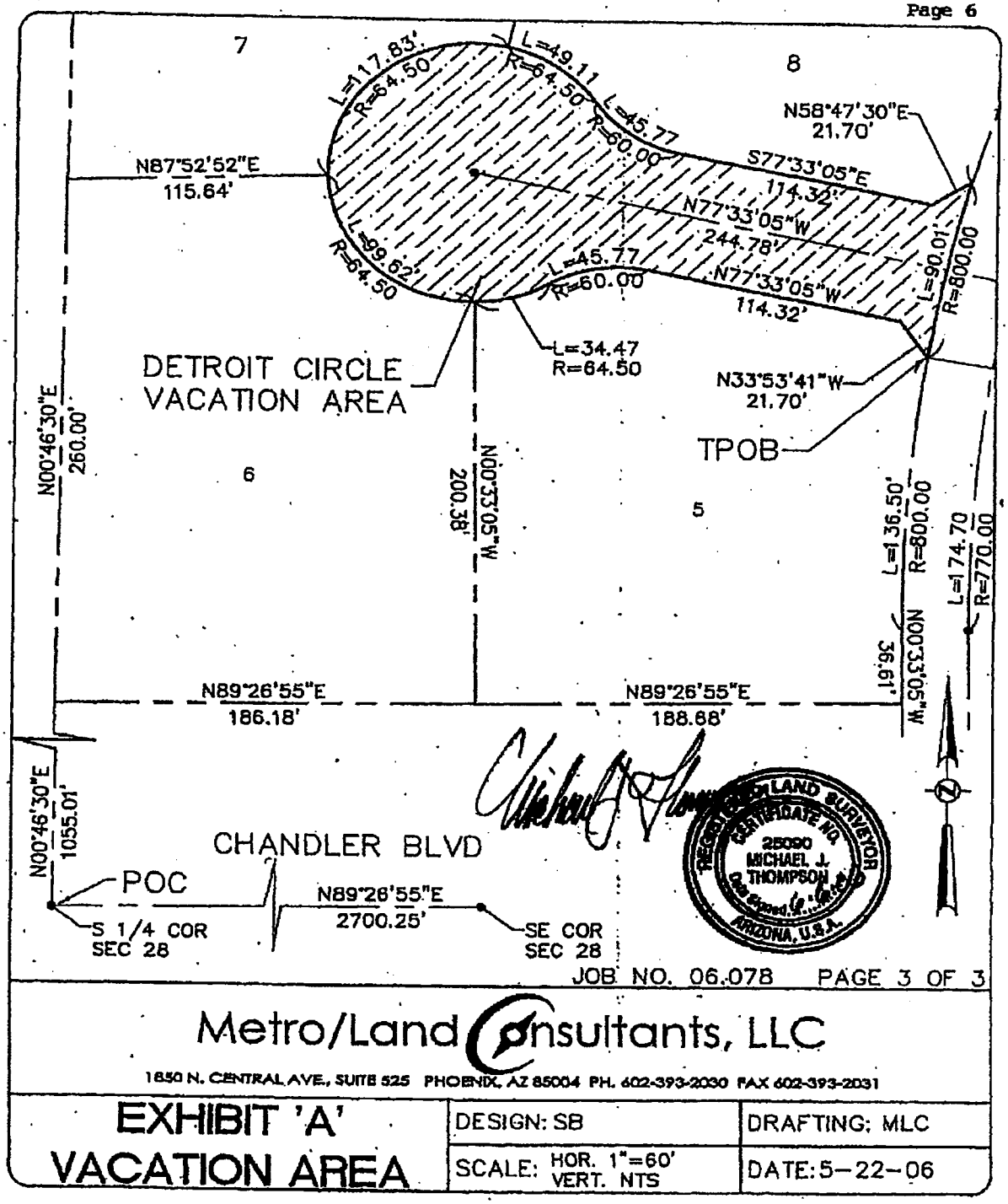
Thence SOUTH 77° 33' 05" EAST along said SOUTH line of said lot 8, distance of 114.32 feet;

Thence NORTH 58° 47' 30" EAST along said SOUTH line of lot 8, distance of 21.70 feet to a point on the WEST right of way of McKemy Avenue, said point also being the beginning of a non-tangent curve, concave to the Southeast, the radius point of which bears SOUTH 74° 19' 43" EAST, a distance of 800.00 feet;

Thence Southeasterly, 90.01 feet along the arc of said curve, through a central angle of 6°26'49" to the TRUE POINT OF BEGINNING.

Said parcel contains 22,665 square feet, or, 0.5203 acres of land, more or less.





JOB NO. 06.078 PAGE 3 OF 3

Metro/Land Consultants, LLC

1850 N. CENTRAL AVE., SUITE 525 PHOENIX, AZ 85004 PH. 602-393-2030 FAX 602-393-2031

EXHIBIT 'A' VACATION AREA	DESIGN: SB	DRAFTING: MLC
	SCALE: HOR. 1"=60' VERT. NTS	DATE: 5-22-06

LEGAL DESCRIPTION

Of

PROPOSED WELLSITE
EXHIBIT B

A portion of the Southeast quarter of Section 28, Township 1 South, Range 4 East of the Gila and Salt River Base & Meridian, Maricopa County, Arizona, said area is a portion of lot 11 as shown in the Final Plat of Southpark Business Center as recorded in Book 242 page 17, being more particularly described as follows:

COMMENCING at the south quarter corner of said Section 28;

Thence NORTH 00° 46' 30" EAST a distance of 1774.68 feet, along the Westerly boundary of said plat, said point being on the WEST line of said lot 11, said point also being the TRUE POINT OF BEGINNING;

Thence NORTH 00° 46' 30" EAST along the WEST line of said lot 11, a distance of 80.00 feet;

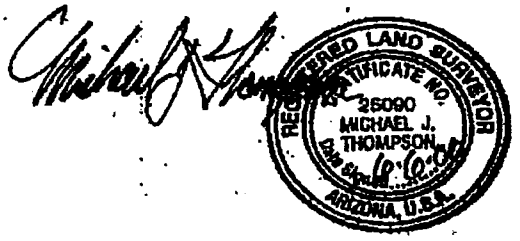
Thence SOUTH 89° 13' 30" EAST along the NORTH line of lot 5, a distance of 75.75 feet to the beginning of a tangent curve concave to the SOUTH, the radius point of which bears SOUTH 00° 46' 30" WEST, a distance of 720.00 feet;

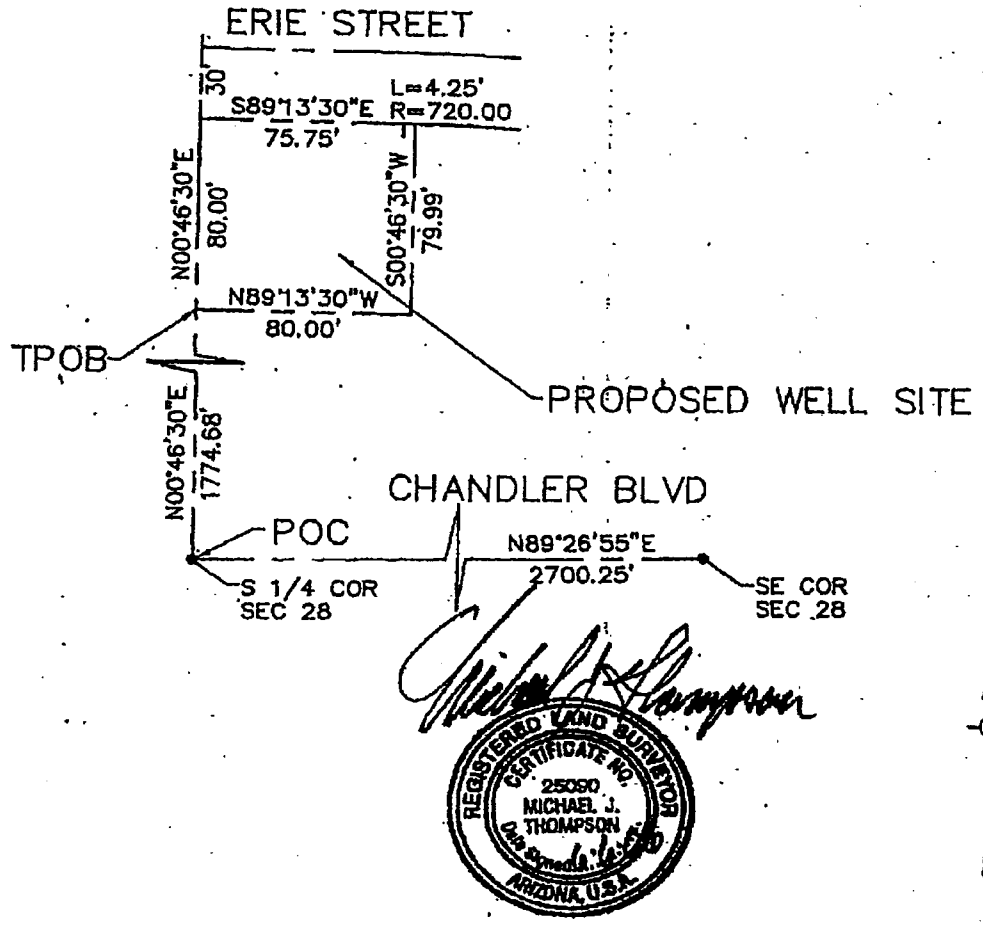
Thence continuing along said NORTH line, EASTERLY, 4.25 along the arc of said curve, through a central angle of 00°20'18";

Thence SOUTH 00° 46' 30" WEST, departing the NORTH line of said lot 11, a distance of 79.99 feet;

Thence NORTH 89° 13' 30" WEST, a distance of 80.00 feet to the to the WEST line of said lot 11, to the TRUE POINT OF BEGINNING.

Said parcel contains 6,400 square feet, or, 0.147 acres of land, more or less.





PAGE 2 OF 2

Metro/Land Consultants, LLC

1850 N. CENTRAL AVE., SUITE 525 PHOENIX, AZ 85004 PH. 602-393-2030 FAX 602-393-2031

EXHIBIT 'B' WELLSITE	DESIGN: SB	DRAFTING: MLC
	SCALE: HOR. 1"=60' VERT. NTS	DATE: 5-22-06

EXHIBIT A

RESIDENTIAL IN-FILL PROGRAM

State Statutes require that each city identify, in preparation of its General Plan, specific programs and policies to promote in-fill development, and locations where such development should be encouraged. Hence the Chandler General Plan, in its statement of goals, policies, and objectives relative to the Land Use Element, sets forth the following:

GOAL: PROVIDE FOR QUALITY IN-FILL DEVELOPMENT IN DEVELOPED AREAS OF THE CITY.

OBJECTIVE: Consider and develop a program to provide realistic solutions and guidelines to achieve successful in-fill development.

Policy: Identify the market forces that attract the development community to in-fill areas.

Policy: Consider inducements to promote quality in-fill and explore other ways Chandler can assist in providing compatible in-fill development.

Policy: Identify the characteristics, existing development patterns, and other criteria describing in-fill areas where proposals may qualify for an incentive-based program.

Policy: Identify the circumstances where single-use or mixed-use projects must be sensitive to the character and scale of surrounding neighborhoods.

Policy: Utilize techniques such as landscape buffers, building scale, and other features to provide a soft-edge transition to existing development for both residential and non-residential in-fill projects.

Policy: Consider only those proposals that clearly provide a positive contribution to and help the sustainability of the surrounding area.

Policy: Include area residents and property owners in the review of in-fill projects.

To this end, the intent of the Residential In-fill Program is to identify the qualification criteria and general requirements that any given site must meet to be considered as in-fill development (Section I); to specify the financial awards granted to such projects (Section II); and finally, to specify the development standards for these projects (Section III). The Planning & Development Director, or designee(s), shall determine whether any given application meets the qualification criteria, general requirements, and development standards, to qualify for the financial awards set forth herein. Those applications found by the Director to be qualified and eligible for consideration are then subject to approval by the Mayor and Council.

Section I. QUALIFICATION CRITERIA AND GENERAL REQUIREMENTS

To be considered as "in-fill development" for the purposes of this program, the project proposal must comply with all of the following criteria:

(a) The development proposal is to construct single-family ownership product,[1] either attached or detached, as a single-use project, or as a component of a mixed-use project (only that component constituting the single-family units shall be eligible for the financial awards outlined in Section II of this policy).

(b) The project site is located one half (½) mile or further east of the Price Freeway/Loop 101 centerline, and north of the centerline of Pecos Road.

(c) The project represents new development of a vacant parcel or lot(s) of record, duly recorded in the Office of the Maricopa County Recorder.

(d) The project site is fully served by water/sewer utilities, paved street access and frontage (upgrades, repairs, capacity increases or extension of existing infrastructure as required by City Code to accommodate the project proposed, shall not disqualify the project for consideration as in-fill.

(e) The maximum net site area eligible for the financial awards generally shall not exceed ten (10) acres, either as a single use project or as a component of a larger mixed used development.

(f) In the event that the project site is currently zoned for nonresidential use, the Planning & Development Director may require that the project proposal be fully justified by written documentation from the developer, containing evidence that the demographic characteristics of the area within at least a one (1) mile radius, or that market conditions in general, do not support the nonresidential use allowed by its current designation, and further, that such demographics and/or market conditions are unlikely to change significantly in the next five (5) years to warrant such nonresidential use. If required, such written documentation may be submitted prior to, or in conjunction with, the zoning application.

[1] *For purposes of this program, "single-family ownership product" shall mean dwelling units designed and constructed for owner occupancy, whether such units are attached or detached, including townhomes, condominiums, and other owner-occupant variations, wherein such product is required by City Code to be platted as a subdivision for review and approval by the Mayor and City Council, and recordation in the Office of the Maricopa County Recorder.*

(g) The Planning and Development Director may require documentation from the developer to demonstrate that the project would likely not be able to proceed under its own pro forma, without receiving the financial awards available through this program.

General Requirements

Projects qualifying as in-fill development under the above criteria must comply with the following general requirements:

(a) A written Statement of Intent must be submitted by the developer for approval by the Planning & Development Director. Such statement shall include a description of the specific type(s) of single-family ownership units to be accommodated, development timing if any, the anticipated date of completion, and how the project meets the requirements of this program.[2] In addition, the Director may require a study documenting the economic viability of the proposed project.

(b) For any project to be granted the financial awards provided in Section II of this program, the developer shall enter into an agreement with the City, in a form to be approved by the City Attorney, to insure that the project will in fact be developed for the purposes stated by the developer, in conformance with this program. Said agreement shall be subject to approval by the Mayor and Council.

(c) For projects that require zoning approval by the Mayor and Council, the developer shall conduct one (1) or more neighborhood meetings, as necessary, for the purpose of presenting the residential project and its physical characteristics, including but not limited to, subdivision layout/site development, housing product, landscaping, screening, and other details. Such meeting shall be noticed in the same manner as required by the City Zoning Administrator for the rezoning, and in fact may be the same meeting which satisfies the citizen review/public hearing requirements as set forth in Section 35-2600 of the City Code.

(d) For projects where the existing zoning allows by right all components of the project, the developer shall nevertheless conduct an open house or other communication, to inform the

[2] *The Statement of Intent may be submitted prior to, or in conjunction with, an application seeking rezoning/preliminary development plan approval, but in all events prior to seeking any building permit approvals.*

owners of property located within the same distance as would have been required by the City Zoning Administrator for rezoning, at least ninety (90) days prior to the start of construction.

(e) Project density shall not be determined or otherwise be affected by this program, or by any development agreement as may be approved by the Mayor and Council for the project. Rather, such density shall be subject to the limitations set forth by existing zoning, or by the zoning approval as may be granted by the Mayor and Council, if applicable.

(f) As part of approving any application for an agreement as may come before it, the Mayor and Council must make the finding[3] that the development quality of the project as a whole, is at least commensurate with that of the adjoining existing uses, that it demonstrates sensitivity to the character and scale of any existing residential uses that may be adjoining, and that the project has the potential to stimulate further interest and development activity in the area.

(g) Whether submitting for rezoning and/or the agreement, an applicant's compliance with all of the qualification criteria and general requirements as set forth herein for in-fill development, shall not assure that such approval(s) will necessarily be granted by Council.

Section II. FINANCIAL AWARDS

For a project that meets the qualification criteria and general requirements for in-fill development as set forth in Section I of this program, the City may award the developer $5000 per dwelling unit that is subsequently constructed, which the developer may use to recoup or at least partially defray any of the costs associated with the development. Pending the availability of funding each year, said award would be paid by the City at such time as construction is completed and dwelling units are cleared for occupancy from an account specifically designated for this purpose, as part of the annual City budget.[4]

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[3] *Such finding by Council may be based, at least in part, upon the developer making effective use of landscape buffers, building orientation(s), building heights, placement of second story windows and balconies, etc., which serve to make a soft-edge transition to existing development, as well as upon accurate documentation submitted by the developer relative to property values in the area, maintenance levels, demographic trends, and other tangible characteristics applicable to the area in question.*

[4] *It is important to note that the availability of this financial award is subject to annual approval through the City budget by the Mayor and Council, and further, that such award may be granted only for as long as funds remain available from the amount budgeted each year.*

The developer shall be responsible for paying all of the City fees applicable to the project at the time building permits are issued, irrespective of any agreement providing financial awards as may have been granted by Council. The posting of warranty bonds and performance bonds, as required by City Code, shall also remain the responsibility of the developer.

An additional cash amount, not to exceed $5,000 per dwelling unit, may be awarded to defray costs incurred relative to demolition of existing substandard dwelling(s), wherein such project otherwise meets the qualification criteria and general requirements set forth in this program, and the demolished units are replaced by newly constructed units in conformance with this program.

Should the Building Official determine that the dwelling(s) proposed for demolition by the applicant are indeed substandard, i.e., that such units possess any or all of the conditions pertaining to substandard dwellings as referenced in Chapter 10 of the Uniform Housing Code and successor editions as adopted by the Chandler City Council, each unit demolished may be eligible for the additional cash award not to exceed $5000 per dwelling unit.[5] These financial awards to partially defray the developer's costs for demolition, up to the additional $5,000 maximum amount, shall be expressly provided for in the agreement, for approval by the Mayor and Council.

Given the prospect of competition for whatever funds that may be authorized each year for this program, City staff shall administer the financial awards as equitably as possible, on a first come/first serve basis.[6] Within thirty (30) days of receiving City clearance to occupy one (1) or more dwelling units, the applicant must submit a letter to the Planning Director, or designee, requesting the financial award and identifying the address of each newly constructed unit for which the award is sought, together with the addresses of those units, if any, which were previously demolished as so designated in the agreement approved by Council. Upon receiving the letter and subsequently verifying that the clearance(s) have

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[5]In the event that the demolition activity involves remediation of asbestos, the developer shall certify to the City that such remediation has been performed in accordance with City standards including a complete asbestos survey, and that the asbestos was completely abated prior to beginning of the demolition activity. Such certification shall be in the form of a written statement signed by the developer, accompanying his/her letter to the Planning Director requesting dispersal of the cash awards set forth in the agreement approved by the Mayor and Council.

[6]"First come/first serve" shall be determined by the time and date that the developer's Statement of Intent (see Section I. General Requirements, paragraph (a) on p. 3) is received by the Planning & Development Director, either by mail or delivered in person.

Immediately upon approval of the agreement by the Mayor and Council, the Director or designee shall issue a purchase order to encumber funds for the financial award, calculated at the rate of $5000 per dwelling unit and if applicable, an additional amount not to exceed $5000 per dwelling defraying the costs for each unit demolished, provided that sufficient funds are available from the

been issued with no remaining issues regarding code compliance, project completion, or other term(s) of the agreement, the Director or designee shall forward a request to the City Accounting Division to release a check payable to the developer for an amount determined by the number of units demolished, plus the number of new units subsequently constructed and cleared for occupancy, in accordance with the provisions of the agreement.[7]

Section III. DEVELOPMENT STANDARDS

In addition to meeting the applicable standards and requirements set forth in City development codes, in-fill development projects receiving the financial awards provided in Section II of this program, shall also comply with each of the following development standards as applicable:

(a) To reduce the financial obligations of a homeowners' association, in the event that a developer wishes to form one, the City encourages storm water retention basins to be located, where practical and feasible, adjacent to a major arterial street so as to enable, at the City's election, dedication to the City for maintenance, unless such capacity is already provided for within an existing basin[8].

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designated City account. Itemized costs for any demolition shall be presented in a statement provided by the developer, accompanying his/her letter to the Planning Director requesting dispersal of the amounts set forth in the agreement approved by the Mayor and Council.

The encumbrance shall remain for an initial period of two (2) years. If construction has not commenced by the end of such period, or if evidence exists that construction will not be completed by the developer identified, or in the manner specified in the agreement approved by Council, the Director or designee may remove the encumbrance to make those funds available for other requests. The Director may extend the encumbrance period for reasons directly related to the project itself, such as project size, scope, degree of difficulty with respect to land acquisition(s), relocations, environmental abatements, and the like, provided however, that the Director finds that the developer is nevertheless making every good faith effort to complete the project in as timely a manner as possible.

[7]In a situation where demolition of substandard building(s), as determined by the City Building Official, has been completed in compliance with all City requirements but no new dwellings have been completed, the developer shall not be entitled to the financial award stipulated in the Council agreement until such time as the new dwelling units have been constructed and cleared for occupancy, all in accordance with the Council agreement.

[8]The City shall not be considered obligated to accept any storm water retention basin for maintenance, and the costs of maintaining such basin or other common area privately if distributed over too small a number of lots, may constitute basis for the City to disapprove a developer's application for the cash awards.

(b) For the purposes of determining project eligibility under this program, all streets and drives within the residential development shall be dedicated to the City for maintenance by the City. Private streets, common areas, and tracts for private purposes other than storm water retention, shall be prohibited within subdivisions featuring detached units, and minimized to the extent practical and feasible within subdivisions featuring attached units. Gated communities featuring attached or detached units shall not be considered eligible for any cash awards under this program.

(c) Each single-family ownership product shall include, as standard, all of the following features (condominium development shall be exempt from the requirements of items #1-4):

1. Front yard landscaping consisting of at least two (2) trees 15 gallon in size or larger, plus six (6) shrubs 5 gallon in size or larger, plus ground cover, all being drought tolerant material, with automatic underground irrigation
2. Two (2) parking spaces within a garage enclosure, attached or detached, and architecturally integrated.
3. One hundred twenty (120) sq. ft. enclosed storage area under roof, attached or detached to the dwelling unit (unless such space is available in the garage without displacing a parking space).
4. Rear yard fully enclosed by a six (6) ft. high masonry wall, with solid gates as necessary.
5. Copper electrical circuitry throughout the dwelling.
6. Insulation values to achieve a minimum R-19 exterior wall rating and R-30 roof rating, certified by a local utility provider.
7. Roofing materials certified by the manufacturer to achieve a twenty-five (25) year life or greater.

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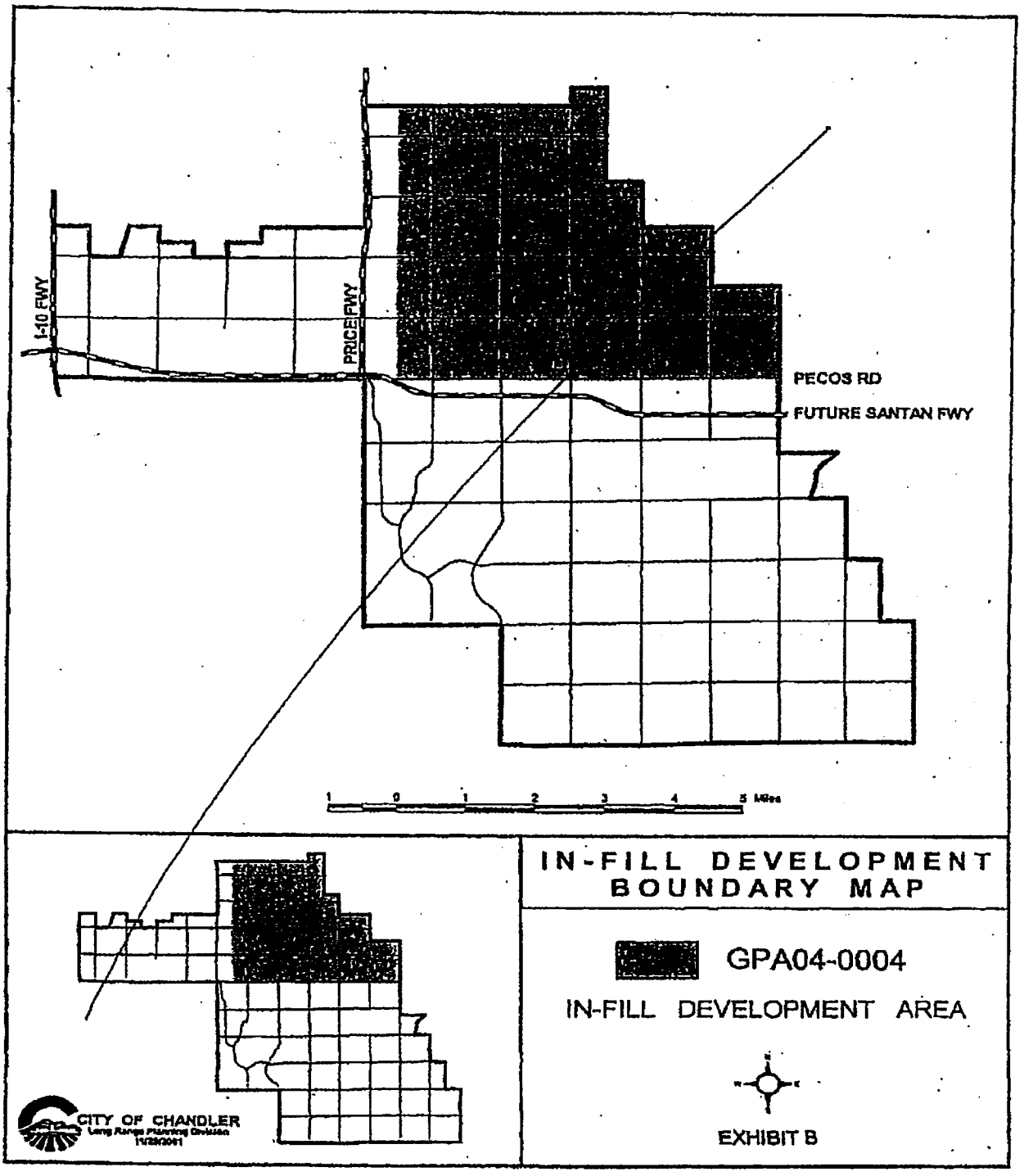
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