

9
AUG 23 2007

MEMO TO: Mayor and City Council

THRU: Michael D. House, City Attorney *M D H*

FROM: Glenn A. Brockman, Assistant City Attorney *GAB*

SUBJECT: Ordinance No. 3952, authorizing and approving the grant of a parking easement and temporary construction easement to Qwest Corporation over a portion of Lot 1, Qwest Chandler Main; and declaring an emergency.

DATE: August 17, 2007

RECOMMENDATION: Staff recommends emergency approval of Ordinance No. 3952.

BACKGROUND/DISCUSSION: In 2003, the City entered into a development agreement with Qwest Corporation that, among other things, provided that Qwest would sell and convey to the City certain vacant land north of its Qwest Main facility on Oregon Street. Under the agreement, Qwest would construct a parking lot facility on the south portion of the land being conveyed and the City would grant to Qwest an easement for access and use of five parking spaces in the lot, namely those closest to the Qwest facility. The transaction contemplated by the development agreement has been delayed because of environmental problems with the land to be conveyed, but these problems have now been resolved. Accordingly, the transaction is to close through escrow on or about August 31, 2007. Since the parking lot won't be completed until after escrow closes, the City needs to grant a temporary construction easement to Qwest to allow access to complete the lot.

While Council did approve the development agreement with Qwest, the approval was by resolution. The City Charter requires that the granting of any significant property right, in this case easements, be authorized through an ordinance. Because the granting of the easements must occur at the close of escrow, Council is requested to approve Ordinance No. 3952 with an emergency clause. This will allow the escrow to close in time and for the City to satisfy its obligations under the development agreement.

FINANCIAL IMPLICATIONS: None.

PROPOSED MOTION: Move to adopt Ordinance No. 3952 to authorize and approve the grant of a parking easement and temporary construction easement to Qwest Corporation over a portion of Lot 1, Qwest Chandler Main; and declaring an emergency.

GAB/

Attachments: Vicinity Map
Ordinance No. 3952

ORDINANCE NO. 3952

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING THE GRANT OF A PARKING EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT TO QWEST CORPORATION OVER A PORTION OF LOT 1, QWEST CHANDLER MAIN; AND DECLARING AN EMERGENCY.

WHEREAS, on or about April 10, 2003, the Chandler City Council approved Resolution No. 3622, authorizing the City to enter into a development agreement with Qwest Corporation, a Colorado corporation ("Qwest"), which agreement was thereafter executed and then recorded with the Maricopa County Recorder on June 9, 2003, re-recorded on January 5, 2005, and amended by that certain Amendment No. 1 to Qwest-City of Chandler Development Agreement recorded with the Maricopa County Recorder on January 20, 2004 (the "Development Agreement"); and

WHEREAS, under the Development Agreement, Qwest is to convey to the City certain vacant land located north of the Qwest facility in Downtown Chandler for the sum of \$246,348.00, which land is now described as Lot 1, Qwest Chandler Main, as recorded in the office of the Maricopa County Recorder at Book 694 of Maps, Page 15, and the City is to grant a parking easement to Qwest for 5 parking spaces within a parking lot to be constructed by Qwest on the south portion of the property being conveyed by Qwest to the City; and

WHEREAS, it is not expected that the parking lot construction will be completed until after escrow closes on the transaction conveying the property to the City, so that Qwest will need a temporary construction easement from the City to allow Qwest access to complete the parking lot construction; and

WHEREAS, both the parking easement and the temporary construction easement must be granted as a condition of the close of escrow, which is expected to occur on or about August 31, 2007;

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

Section 1. The City of Chandler is hereby authorized to grant to Qwest the aforementioned parking easement and temporary construction easement in order that the obligations of the parties under the Development Agreement can be satisfied and so that the aforementioned escrow can close.

Section 2. The easement document, which shall include both the parking easement and the temporary construction easement, shall be in form approved by the City Attorney.

Section 3. The Mayor of the City of Chandler is hereby authorized to execute the easement document on behalf of the City of Chandler.

Section 4. The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, life, and property of the City of Chandler, and an emergency is hereby declared to exist, to wit: that authority to allow the granting of the aforementioned easements shall be effective in sufficient time to allow the City to satisfy its obligations under the Development Agreement and to close escrow on time. This Ordinance shall be in full force and effect from and after its passage, adoption and approval by the Chandler City Council, and it is hereby exempt from the referendum provisions of the Constitution and the laws of the State of Arizona.

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 3952 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2007 and that the vote was _____ Ayes, and _____ Nays.

CITY CLERK

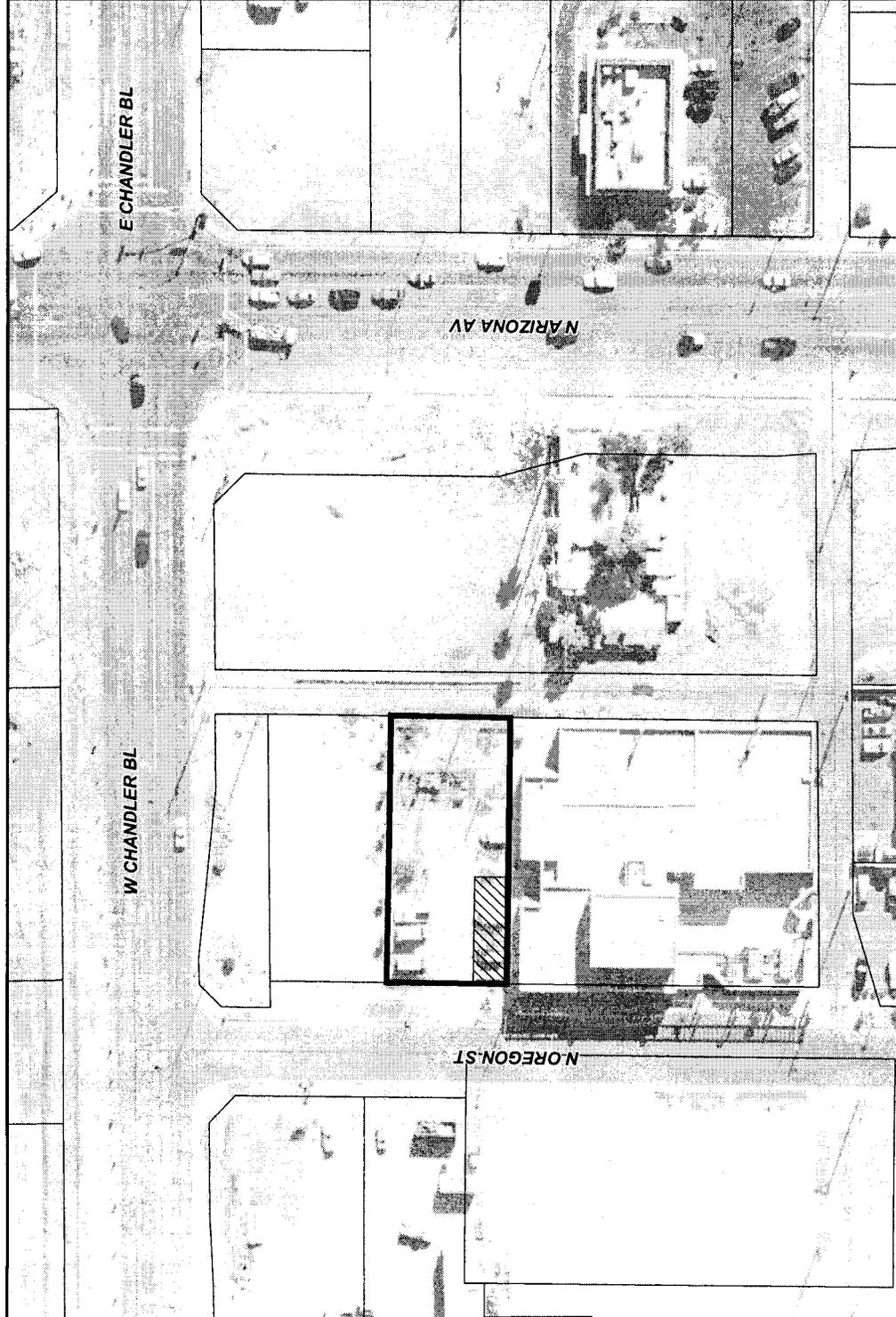
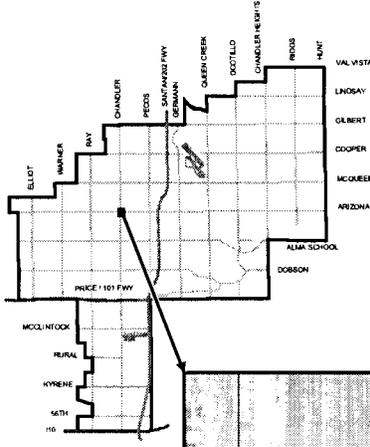
PUBLISHED:

APPROVED AS TO FORM:

MDH
CITY ATTORNEY *GAB*



QWEST - PERMANENT PARKING EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT (TCE)



ORDINANCE NO. 3952

LEGEND

-  TCE
-  PARKING EASEMENT

