

#15

JAN 31 2008

MEMO TO: Mayor and City Council

THRU: Michael D. House, City Attorney, *MDH*

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

SUBJECT: Resolution No. 4155, authorizing the City Engineer to execute a release and disclaimer of interest in an easement on property at the southwest corner of Ray Road and McQueen Road

DATE: January 18, 2008

RECOMMENDATION: Staff recommends approval of Resolution No. 4155.

BACKGROUND/DISCUSSION: Recently, legal staff was contacted by an attorney representing the prospective purchaser of property at the southwest corner of Ray Road and McQueen Road in Chandler, Arizona. In 1998, this property had been divided into two lots, with a drug store on one lot and a day-care center on the other lot, through the approval and recording of the Final Plat for Osco #19-2260. The plat makes reference to an easement encumbering both sides of the lot line common to the two lots and also bordering a portion of the west side of Lot 1. The easement is described as being for "waterline, fireline, pvt. sewerline & P.U.E.," but no public utility lines are located within the easement area, and staff in Public Works and Development Services indicate that it was never intended as a public easement in which the City would have any interest.

The purchaser's attorney has asked that the City record a document evidencing its lack of interest in the easement. Authority is needed from Council to do so. A document entitled "Release and Disclaimer of Easement Interest" has been drafted for the signature of the City Engineer. Authority is requested for the City Engineer to execute the document.

FINANCIAL IMPLICATIONS: None

PROPOSED MOTION: Move to adopt Resolution No. 4155 to authorize the City Engineer to execute and have recorded a release and disclaimer of easement interest necessary to evidence the City's lack of any interest in an existing easement on property at the southwest corner of Ray Road and McQueen Road.

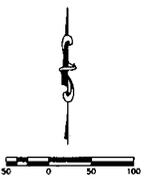
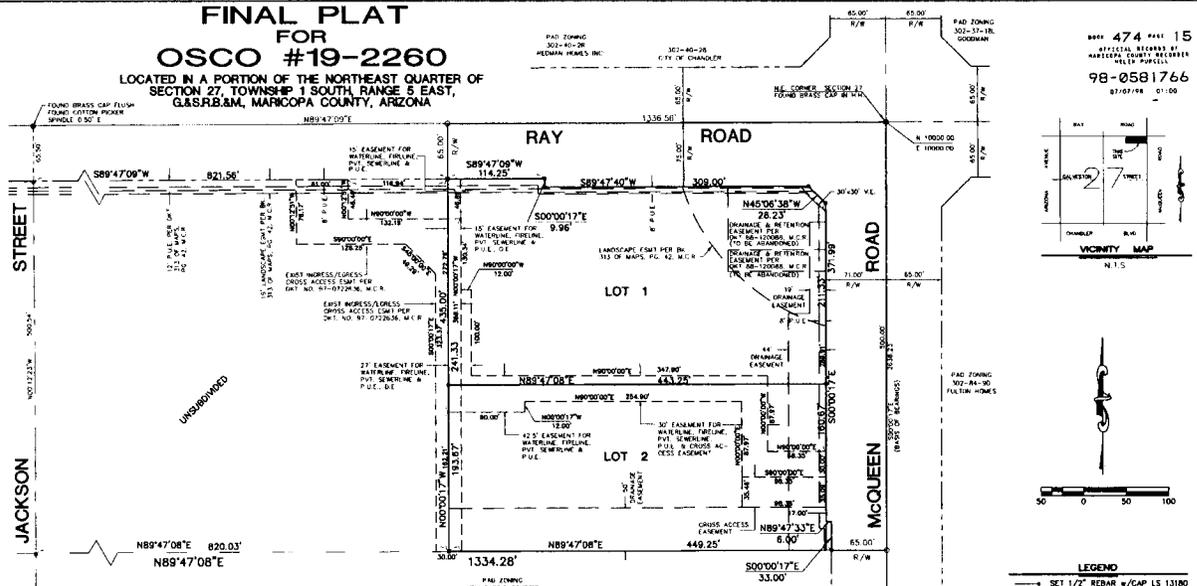
GAB/

Attachments: Vicinity Map
Plat
Resolution 4155

FINAL PLAT FOR OSCO #19-2260

LOCATED IN A PORTION OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 1 SOUTH, RANGE 5 EAST, G. & S. R. & M., MARICOPA COUNTY, ARIZONA

BOOK 474 PAGE 15
OFFICIAL RECORD AT MARICOPA COUNTY RECORDER (HELP PARCEL)
98-0581766
07/07/98 01:00



LEGEND

- SET 1/2" REBAR #/CAP IS 13180
- FOUND CORNER AS NOTED
- NOT FOUND OR SET
- DOCKET
- ESM+ EASEMENT
- END FOUND
- W/H+ HAND HOLE
- W/C+ MARICOPA COUNTY RECORDER
- (M) MEASURED
- (R) RECORD
- R/W+ RIGHT OF WAY
- V/E+ VISIBILITY EASEMENT
- P/E+ PRIVATE
- P/U+ PUBLIC UTILITY EASEMENT
- D/E+ DRAINAGE EASEMENT

DEDICATION

COUNTY OF MARICOPA } 35
STATE OF ARIZONA }
KNOW ALL MEN BY THESE PRESENTS, THAT AMERICAN STORES PROPERTIES, INC., A DELAWARE CORPORATION, AS OWNER OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 1 SOUTH, RANGE 5 EAST, G. & S. R. & M., AS THOSE HEREIN MORE FULLY DESCRIBED IN THIS PLAT AND HEREBY DECLARE THAT SAID PLAT SETS FORTH THE LOCATION AND DIMENSIONS OF THE STREETS, EASEMENTS, EASEMENTS AND SERVICE VEHICULAR ACCESS EASEMENTS, CONSTITUTING SAME, AND THAT THE STREETS SHALL BE OPEN TO THE PUBLIC FOR USE AS SUCH, THE STREETS KNOWN AS RAY ROAD, AND McQUEEN ROAD, AND THE EASEMENTS FOR THE PURPOSES AS SHOWN ON SAID PLAT AND INCLUDED IN THE ABOVE DESCRIBED EASEMENTS, THE MAINTENANCE OF LANDSCAPING WITHIN THE PUBLIC RIGHT-OF-WAY TO BACK OF CURB SHALL BE THE RESPONSIBILITY OF THE BUILDING (O)F/TRACT/PARCEL OWNER.

CERTIFICATION

THIS IS TO CERTIFY THAT THIS PLAT IS CORRECT AND ACCURATE AND THE INFORMATION CONTAINED HEREIN WOULD HAVE BEEN SET ON LOCATED AS DESCRIBED TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SEAL AND SIGNATURE OF REGISTERED LAND SURVEYOR
[Signature]
DATE: 6/17/98

THIS IS TO CERTIFY THAT IN MY OPINION ALL LOTS SHOWN UPON THIS SUBDIVISION CONFORM TO GOOD LAND PLANNING POLICIES AND ARE SUITABLE FOR THE PURPOSES FOR WHICH THEY ARE SUBMITTED.

SEAL AND SIGNATURE OF REGISTERED LAND SURVEYOR
[Signature]
DATE: 6/17/98

NOTES

1. THIS PROJECT IS LOCATED IN THE CITY OF CHANDLER. WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.
2. ALL UTILITIES NEW OR RELOCATED TO BE PLACED UNDERGROUND.
3. NO STRUCTURES OF ANY KIND SHALL BE CONSTRUCTED ON, OVER OR PLACED WITHIN THE WATER TOWER AND PUBLIC UTILITY EASEMENTS EXCEPT PERMITTED OR PLANNING AS DESIGNATED BY APPROVED LANDSCAPING PLANS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF CHANDLER SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTIONS OR PLANNING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION, OR RECONSTRUCTION OF CITY UTILITIES.
4. CONSTRUCTION WITHIN PUBLIC UTILITY EASEMENTS SHALL BE LIMITED TO WOOD, WIRE OR REMOVABLE SECTION-TYPE FENCING.
5. MAINTENANCE OF ALL EASEMENTS SHALL BE THE RESPONSIBILITY OF AMERICAN STORES PROPERTIES, INC.
6. NO STRUCTURES OR LANDSCAPING ABOVE 24" IN HEIGHT ALLOWED WITHIN VISIBILITY EASEMENT EXCEPT THOSE WITH BRANCHED NOT LESS THAN 8" ABOVE THE GROUND.
7. NO STRUCTURES OF ANY KIND MAY BE CONSTRUCTED OR ANY VEGETATION PLANTED NOR BE ALLOWED TO GROW WITHIN DRAINAGE EASEMENTS WHICH WOULD IMPED THE FLOW OF WATER THROUGH THE EASEMENTS.

APPROVAL

APPROVED BY THE COMMISSIONER OF THE CITY OF CHANDLER, ARIZONA, THIS 13th DAY OF JULY, 1998.

BY ACCEPTANCE OF THIS PLAT, THE CITY OF CHANDLER AGREES TO THE VALIDATION OR ABANDONMENT OF THE EASEMENTS DESIGNATED OR SHOWN HEREON.

BY: *[Signature]*
MAYOR
CITY ENGINEER
SEAL
474-15

AMERICAN STORES PROPERTIES, INC.
THIS 13th DAY OF MAY 1998.
BY: *[Signature]*

ACKNOWLEDGEMENT
STATE OF ARIZONA } 35
COUNTY OF MARICOPA }

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 13th DAY OF May 1998.
BY: *[Signature]*
IN WITNESS WHEREOF, I HEREBY SET MY HAND AND OFFICIAL SEAL.
[Signature]

SITE AREA

GRASS AREA: 2.801 AC
LOT 1: 2.375 AC (NET)
LOT 2: 1.929 AC (NET)

BASIS OF BEARING

EASTERN LINE OF SECTION 27, T-1-S-5, R-5-E BEARING: S00°00'17"E
PER BC. 312 OF MAPS, PG. 42, M.C.R.

HUIT-ZOLLARS
OSCO #19-2260
SVC RAY RD. & McQUEEN RD.
CHANDLER, AZ
FINAL PLAT

RESOLUTION NO. 4155

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY ENGINEER TO EXECUTE A RELEASE AND DISCLAIMER OF INTEREST IN AN EASEMENT ON PROPERTY AT THE SOUTHWEST CORNER OF RAY ROAD AND MCQUEEN ROAD IN CHANDLER, ARIZONA.

WHEREAS, in 1998, the Chandler City Council approved and recorded a final plat for property located at the southwest corner of Ray Road and McQueen Road in Chandler, Arizona, identified as the Final Plat for Osco #19-2260, recorded with the Maricopa County Recorder at Book 474 of Maps, Page 15 (the "Plat"); and

WHEREAS, the Plat depicts the property as being divided into two lots and shows an easement for "waterline, fireline, pvt. sewerline & P.U.E." running along the south line and a portion of the west line of Lot 1 and along the north line of Lot 2, respectively; and

WHEREAS, the City has no utility lines or facilities within the easement area, has no knowledge of any other public utility lines or facilities with the easement area, and has no interest in the easement or easement area; and

WHEREAS, a portion of the property is in escrow to be purchased and the purchase cannot close until the City acknowledges its lack of interest in the easement and disclaims any interest therein

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

The City Engineer is authorized to execute and have recorded on behalf of the City of Chandler a Release and Disclaimer of Easement Interest evidencing that the City lacks any interest in the easement described above. The document herein authorized to be executed shall be in such form as is approved by the Chandler City Attorney.

PASSED AND ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

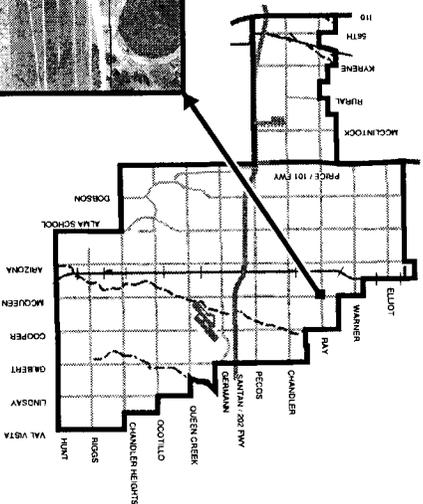
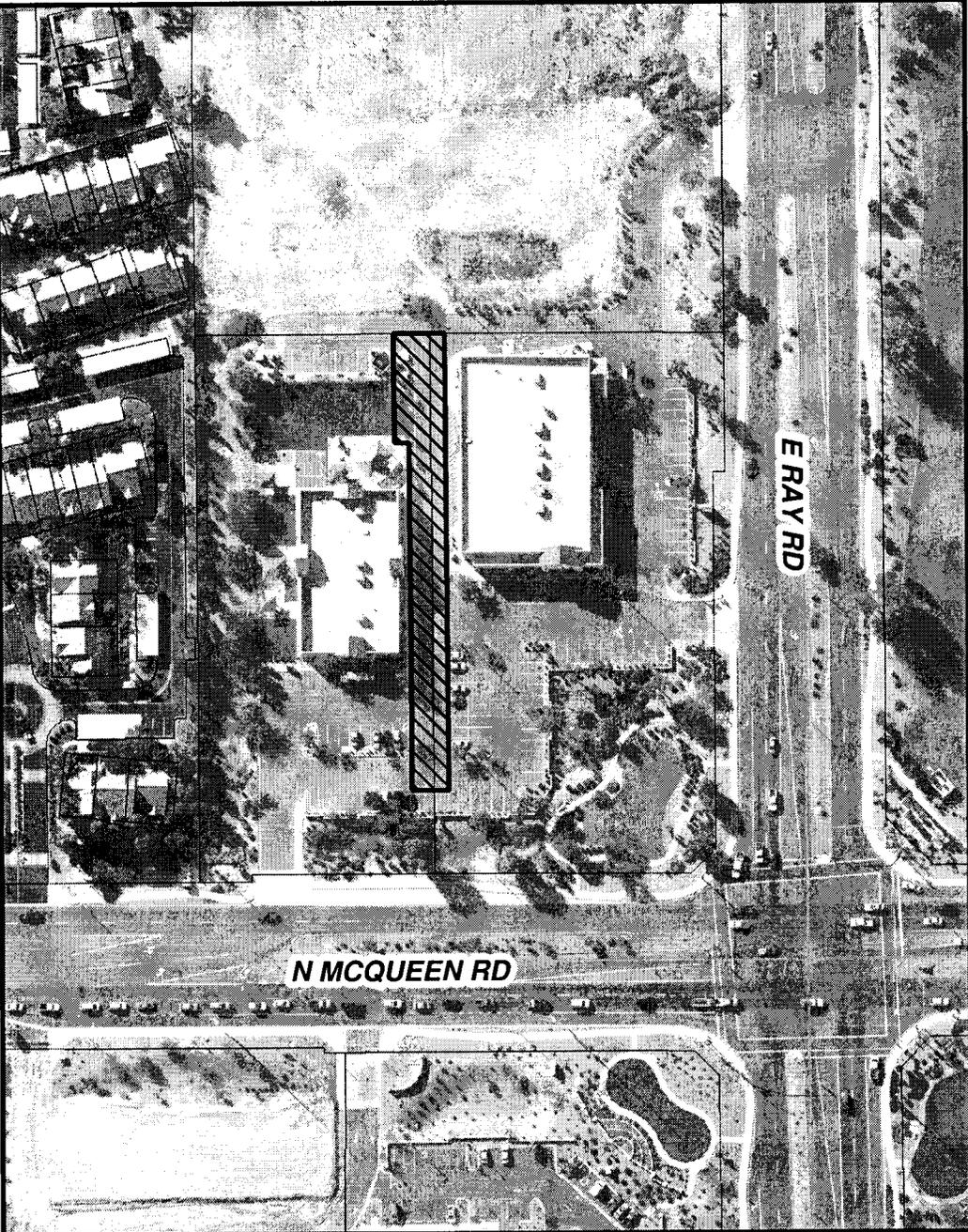
I HEREBY CERTIFY that the above and foregoing Resolution No. 4155 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2008, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

SWC OF RAY ROAD AND MCQUEEN ROAD



RESOLUTION NO. 4155

