

Staff Summary Report



Development Review Commission Date: 10/09/07

Agenda Item Number: 8

SUBJECT: Hold a public hearing for a General Plan Amendment, Zoning Map Amendment, Planned Area Development Overlay and Use Permit for RESIDENCES AT THE ARTSPARK located at 600 West 1st Street.

DOCUMENT NAME: DRCr_Residences-at-Artspark_100907 **PLANNED DEVELOPMENT (0406)**

SUPPORTING DOCS: Yes

COMMENTS: Request for **RESIDENCES AT THE ARTSPARK (PL070166)** consists of a mixed-use development including 472 residential units and 40 live-work units, approximately 1,071,700 s.f. of building, on +/- 5.215 acres. The request includes the following:

GEP07004 – (Resolution No. 2007.71) General Plan Projected Residential Density Map Amendment from Medium-High Density (up to 25 d.u./ac.) to High Density (greater than 25 d.u./ac.)

ZON07009 – (Ordinance No. 2007.66) Zoning Map Amendment from GID, General Industrial District and RSOD, Rio Salado Overlay District to MU-4, Mixed-Use, High Density District and RSOD, Rio Salado Overlay District.

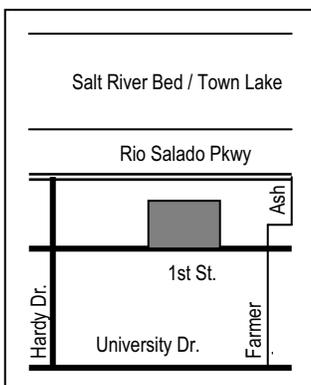
PAD07022 – Planned Area Development Overlay to establish Development Standards for the four buildings on +/- 5.215 acres.

ZUP07115 – Use Permit to allow tandem parking.

PREPARED BY: Kevin O’Melia, Senior Planner (480-350-8432)
REVIEWED BY: Lisa Collins, Planning Director (480-350-8989)
LEGAL REVIEW BY: N/A
FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions (1 - 12)
Rio Salado Advisory Commission Project Review Committee – Approval (3-1 vote).

ADDITIONAL INFO:



Gross site area	5.215 acres (227,182 s.f.)
Building area	1,071,700 s.f.
Lot Coverage	53 % (P.A.D. request)
Building Height	185 ft. (P.A.D. request)
Building setbacks	0 ft. front, 45 ft. side, 0 ft. rear (P.A.D. request)
Landscaped area	35% (P.A.D. request)
Vehicle Parking	1,256 spaces (1,221 minimum required)
Bicycle Parking	296 spaces (296 minimum required)

The applicant is requesting a General Plan 2030 Density Map Amendment to increase density from up to 25 dwelling units per acre to greater than 25 dwelling units per area, a Zoning Map Amendment from General Industrial to Mixed Use, High Density, a Planned Area Development Overlay to establish development standards and a Use Permit to allow tandem parking. The applicant is not requesting review of a Development Plan for building elevations, site plan and landscape plan at this time.

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COMMENTS:

The applicant is requesting an approval for an Amendment to the General Plan 2030 Projected Density Map to allow greater than 25 dwelling units per acre, an Amendment to the Zoning Map to allow a Mixed-use, High Density district, a Planned Area Development Overlay to establish development standards and a Use Permit to allow tandem parking. The project consists of four buildings which together contain 472 residential condominiums and 40 live / work condominiums. The buildings also conceal 1,256 parking spaces for the site. There are two sub-grade parking levels under each building, plus one level on grade, one level between the first and second level and the top parking level is on the second floor. Above the second floor roof the building plan areas contract into four towers. The surrounding second floor roof is a green roof. The towers themselves, as proposed, vary in height. Including the above grade parking levels, the southeast and southwest towers are each nine stories (109'-8"), the northwest tower is fourteen stories (163'-0") and the northeast tower is sixteen stories (184'-4"). The entire area contained in the four buildings is 1,071,700 s.f.

The site is 5.215 acres on the north side of 1st Street. This site overlooks but does not directly touch Rio Salado Parkway. A city parcel is directly between Rio Salado and the site. The development proposes to cross this site and connect a driveway to Rio Salado with a right-in, right-out vehicle entrance/exit. The development also proposes to connect to Rio Salado via Lakeside Drive. Lakeside Drive rises from a signalized intersection at Rio Salado and turns east as it brushes the northeast corner of the site. Lakeside serves as the Rio Salado access for Regatta Pointe and 525 Townlake by Pulte Homes. An agreement between the developer and the Regatta Pointe homeowner's association for shared cost of maintenance of Lakeside Drive and its associated landscape is pending. The City of Tempe owns one part of the site and is tying the sale of the parcel to conclusion of the Lakeside Drive agreement.

For further processing, the applicant will need approvals for a Development Plan for building, site and landscape plans, for a Subdivision Plat, to combine the individual lots into one and a Horizontal Regime Subdivision, to create individual for-sale condominiums.

The applicant has held two neighborhood meetings, in each case with notification to nearby property owners. On behalf of the project, the Planning staff has presented the project twice to the Rio Salado Advisory Commission Project Review Committee. The Planning staff has been present at each of the Rio Salado and neighborhood meetings and has recorded public and committee comments. The applicant is seeking Federal Aviation Administration review of the top coordinates of the towers. As of publication of this report, the finding of this review is pending. The applicant has met twice with the City of Phoenix Aviation Department and two air carriers (U.S. Airways and Southwest) to discuss tower height with respect to air traffic hazard. The Planning Staff has received input from the City of Phoenix Aviation Department regarding recommended height limitations—the recommendation is included as an attachment to this report. The Planning staff has received input from the Public Works Traffic Division after this group has received and made review of the Traffic Impact Analysis. Their memorandum is also included as an attachment to this report.

Project Analysis

Parking is on five levels under each tower, including two subterranean levels, one on grade and two above grade. The top parking level is on the "second" floor. The third floor includes the "green" roofs and begins the tower plan of each of the four buildings.

Height: The two south towers are nine stories. The northwest tower is fourteen stories and the northeast tower, which is best positioned to view the lake, is sixteen stories. Each tower has a roof mounted mechanical penthouse—essentially an extra floor devoted to machine space. The heights as presented--southeast and southwest: 109'-8"; northwest: 163'-0" and northeast 184'-4"—include the penthouses. With respect to the General Plan 2030, the projected land use and density maps indicate mixed use up to 25 dwelling units per acre. The maps together support a zoning district of Mixed-use, Medium to High Density (MU-3). This zone has a maximum height of 50'-0".

Vehicle Access: normal traffic entrance and exit is from the Lakeside Drive & Rio Salado Parkway intersection at the northeast corner of the development. This is a signalized intersection with a median break allowing east or west access to or from Rio Salado Parkway. There is a second northern access: this is a driveway that crosses city property from the northwest corner of the development to Rio Salado Parkway. This driveway accesses Rio Salado east bound traffic with an un-signalized, right in, right out intersection. There is a third access at the southwest corner of the development: this is a gated exit only for residents and a service (emergency and refuse) vehicle entrance. This access would be more heavily used where special events such as a race may force the temporary closure of Rio Salado Parkway.

Zoning: currently, the site is in the Industrial District, as are the properties immediately to the west. Immediately to the east is a Mixed Use, Medium Density (MU-2) property. To the south, across 1st Street, are Multi-Family Residential Properties (R-3 and R-4). To the north, across Rio Salado Parkway, the Arts Center complex is Mixed-Use High Density (MU-4). This development proposes a Zoning Map Amendment from Industrial to Mixed-Use High Density. This proposal is consistent with the General Plan 2030 Projected Land Use Map.

Density: currently, the density for the site is 0 du/acre, reflecting Industrial. The General Plan 2030 Projected Density Map indicates a density of maximum 25 d.u./acre for this site. The development proposes a General Plan Density Map Amendment from 25 to 99 d.u./acre. While this is not consistent with the existing or projected density this far west of downtown, it is consistent with the projected density of development seen and/or being proposed around the Townlake.

Site Design: the site is a quadrangle configuration with bisecting "Avenues" at north-south and east-west. A vehicular driveway is located along the west property line which connects to the emergency and service exit on 1st St. A pedestrian mall (the Artswalk) is located on the east property line. This tree lined mall is designed to accommodate emergency and refuse trucks but is principally an unrestricted public pedestrian access connecting the city south of 1st St with the Tempe Center for the Arts. The east-west Avenue is a vehicular driveway. The north-south Avenue between the two southern towers is a relatively narrow, serpentine entrance walkway from 1st Street between a double row of trees. Between the two north towers, this Avenue doubles in width and includes the Artspark pool. This Avenue allows a tight framed view under the tree canopies from 1st Street to the north across the center of the site.

Building Design: the buildings use a modern design vocabulary with clean, rectilinear lines. Masonry columns and spandrels are featured at each of the tower bases. The frontages of these bases in part include residential "town-homes" but for the remainder include vine covered metal lattice. These elements are meant to shield the garage parking and internal circulation from direct view. The towers themselves are glass and steel curtain walls in a grid of concrete frame. Each tower is capped with a flat roof with broad overhangs. A mechanical penthouse, set back from the edges, rests atop the main roof of each tower.

General Plan Amendment Analysis

Land Use Element: This project complies with the land use goals and element objectives for General Plan 2030. The land use projected for this site is Mixed-Use. This category encourages creatively designed developments which create an environment in which there is the opportunity to live, work and recreate within or in close proximity to the development. The Mixed-Use district allows integration of shops and business offices with the residential use. This request complies with the projected land use with the integration of live/work and residential condominiums in one development.

Accessibility Element: The project is required to meet all requirements set forth in the ADA Design Guidelines for new projects. The architectural exhibits indicate a clear, accessible path from the public right of way to all parking levels (via elevator) and to all dwelling and amenity levels. The project will be predominantly residential, with a smattering of commercial, and will maintain a walk-able, accessible environment.

Community Design Element: The project provides a mixed-use design, where the live/work units are typically

at ground level and are readily accessible to the public. The Artswalk provides a strong neighborhood pedestrian linkage to the Tempe Center for the Arts. Live work units on 1st Street are well positioned to take advantage of activity generated by this pedestrian linkage. The west driveway, north-south Avenue and the east Artswalk each provide view corridors from the neighborhood to the open space over the riverbed and the Townlake. This project makes generous use of green roofs to recapture lower roof areas as visual amenity spaces. Thanks to public open space to the north, the building shadow study indicates the towers do not appreciably shade adjacent developments in the winter.

Historic Preservation Element: The property and its structures have no historical significance. The older residences on the western portion of the site were demolished during the summer of '07. The nearest known archeologically significant cell is several blocks to the southwest of this development.

Housing Element: The project potentially increases the base of owner-occupied condominiums. The housing types include live-work, which increases the diversity of units in the proposal.

Neighborhoods Element: The addition of the Artswalk is a major feature to strengthen the connectivity of the neighborhood to the south with the lake. Three significant view north-south corridors, allowing neighborhood views to the north, are embedded in the form massing of the quadrangle. The use of the city park tract between the site and Rio Salado Parkway for landscaped surface retention for the project helps to preserve long term public open space. These features are consistent with the goals of the Sunset Riverside Strategic Plan and the draft Northwest Tempe Community Plan.

Redevelopment Element: An underlying thread in the neighbor appreciation for the project, voiced in the neighborhood meeting on September 10, 2007, is the anticipation for generally increased property value in the area driven by this and similar projects. The proposed project replaces two office/warehouses of approximately 20 years of age and three dilapidated residences (recently demolished) of approximately 50 years of age. The July 11, 2007 neighborhood meeting revealed that the existing housing concealed undesirable activities, including drug use and attendant criminal activity. The Building Safety property record cards indicate squatting and other undesirable activity on these properties as early as 1967. This redevelopment will in turn fuel reinvestment and revitalization of adjacent areas. The project will be phased to develop the site infrastructure and then build one tower at a time.

Economic Development Element: While this project removes industrial land from the city, the influx of residents as the project is tenanted will in turn provide demand for goods and services and generally help to foster the development of businesses within the project and in the area. The live/work units themselves will contribute to economic development in the area.

Cost of Development Element: The Water Utilities Department has indicated a larger water and sewer may be required for the original proposal, a comment which was not repeated for the current proposal. The developer must work closely with the Public Works Department to ensure that the appropriate infrastructure will be in place for this project. Staff has not received any comments at this time regarding the impact to any of the other existing infrastructure or services. The developer has agreed in concept to share the cost of maintenance of Lakeside Drive. The development will provide the required parking for the project on site.

Environment (Air, Noise, Ambient Temperature, Energy) Element: Potential noise mitigations through alternative building materials may be warranted. This is particularly prudent for fenestration materials for a site that is close to the flight path of a major urban airport. The site layout encourages self shading during the hotter months, where the quadrangle of four towers represents, on a small scale, four city blocks.

Land (Remediation, Habitat, Solid Waste) Element: There is no foreseen impact of the development on this element. The applicant is encouraged to contact the Public Works Department / Solid Waste Division about initiating a recycling program for this development.

Water (Water, Wastewater, Stormwater) Element: The Public Works Department requires storm-water retention for this site sufficient to contain a 100-year storm event. The retention concept presented calls for a cross drainage agreement with the City of Tempe for use of surface retention on the park tract between the site and Rio Salado Parkway. Finalize retention calculations and structure details with the Public Works Engineering Department.

Transportation (Pedestrian Network, Bikeways, Transit, Travel-ways) Elements: The development is located close to downtown, which provides several options to services, recreation and entertainment. While not adjacent, the site is only seven blocks away from the Light Rail Station at 3rd St. and Mill Avenue. While not immediately downtown, the proximity of the development will facilitate walking. The site rests to the south of an important north-south pedestrian and bicycle linkage. When the Townlake Pedestrian Bridge is completed over the west dam, the site will have immediate access to Papago Park and its trails to Phoenix and Scottsdale. The applicant has provided a traffic study, explaining basic traffic impacts for this development. The finding of the Transportation Division is that the surrounding intersections will operate at acceptable levels of service in 2010 and will decline by 2015. The decline is based on general growth in the downtown, of which this development is part.

Aviation Element: The site is located in the vicinity of the Sky Harbor Airport flight path. The applicant has contacted the Federal Aviation Administration regarding the height of the towers but as of publication of the report has not obtained a response. The applicant has met with the City of Phoenix Aviation Department, U.S. Airways and Southwest Airlines regarding the project, particularly the height of the towers. Clearly the original proposal of two nineteen story towers was not acceptable. The City of Phoenix Aviation Department is recommending a maximum height of 167'-0". The current proposal fits under this ceiling except for the northeast tower.

Open Space Element: The creation of four separate towers with individual bases, arranged in a quadrangle configuration, allows ground level view corridor through the center of the site. The Artswalk is an important public pedestrian through way that links the neighborhood with the northern (cross-river) and central parts of Tempe. The city park north of the site, with a grassy retention area, is an important public open space that also serves storm water management for the site.

Recreational Amenities Element: The project is at the southwestern corner of the Townlake and is adjacent to the Tempe Center for the Arts. Tempe Beach park is five blocks away. Downtown Tempe is nearby. The Arizona State University Campus, with its sports and cultural opportunities, is just south of downtown. Downtown Phoenix is available via the 3rd and Mill Light Rail station.

Public Art & Cultural Amenities Element: Public art is not required for this project.

Public Buildings and Services Elements: Not applicable to this request.

Public Safety Element: The design will be required to conform to building safety requirements, including those for life safety, as stipulated by the 2003 International Building Code with Tempe Amendments. The site design allows the Fire Department access to each of the towers via 1st Street or Rio Salado. Specific conditions addressing public safety will await the Development Plan. Emergency radio amplification is required in each of the towers. A fire command room is required on site. The developers of this project must work closely with the Fire, Police and Building Safety Departments to ensure that rescue and communications infrastructure are in place.

Zoning Map Amendment Analysis

This request includes a Zoning Map Amendment from General Industrial to Mixed-Use High Density. This request is consistent with the General Plan Projected Land Use Map, which indicates mixed use between 1st Street and Rio Salado and between Farmer and Hardy. The amendment of land use in this area from industrial to mixed use is in response to the general development of the Townlake and the downstream

riverbed to improve flood control and provide a regional visual and recreational public amenity.

Planned Area Development Overlay

Following is a comparison of the development standards for the existing industrial and proposed mixed-use, high density districts. A Planned Area Development Overlay is required for a Mixed-Use request.

Standard	GID / RSOD	MU-4 / RSOD
	existing	proposed
Maximum Residential Density (DU/acre)	0	99
Minimum Lot Area per Dwelling Unit	not applicable	440 sf
Overall Maximum Building Height	35 ft	185 ft
45 Degree Step Back Required above 30 ft Adjacent to Single Family or Multi Family District	yes	yes
Maximum Lot Coverage (building footprint area / net site area)	100%	53%
Minimum Landscape Area (landscape and pedestrian paving area / net site area)	10%	35%
Setbacks (overall project)		
Front Building Parking	25 ft 20 ft	0 ft 20 ft
Side Building Wall	0 ft	45 ft
Rear Building Wall & Open Structure	0 ft.	0 ft

Use Permit

A request for tandem parking is included in the development. The parking layout indicates all tandem spaces are in the garage. Staff has set out conditions governing the assignment of these parking spaces.

Public Input

The applicant has held neighborhood meetings on July 11 and September 10, 2007. The earlier meeting presented a development of nineteen story towers on a single podium and 592 condominiums. In both meetings the proposal generally received favorable review by the public. To date there has been no letter of opposition to this request. Following are the meeting notes from the question and answer session of the September 10 meeting. The presentation exhibits of the September 10 neighborhood meeting matches those seen by the Commission tonight.

INTRODUCTION by Paul Gilbert (Beus Gilbert P.L.L.C.) on 9/10/07:

- ` Development team has made changes since first neighborhood meeting on 7/11/07. Team has met with airlines and neighboring H.O.A.'s to review towers. Current proposal is smaller than the 7/11/07 proposal. The current proposal includes 16 story tower (NE), 14 story tower (NW), and two 9 story towers (SE & SW).
- ` Describe Artswalk on east side of development. Perspective rendering of Artswalk presented.
- ` The building layout was described. Three levels of parking at or above grade (there are two other levels below grade). The parking structure is completely screened with metal mesh and growing vines. The effect is similar to the Studio 5C building.
- ` The Traffic Impact Study is not complete. The project may have some resident vehicle access on 1st St.
- ` Old development concept previewed on 7/11/07 allowed no view north-south from First Street to the Arts

Center. Current plan has a ground level view corridor that exposes the Art Center from First Street.

CITIZEN QUESTIONS & DEVELOPMENT TEAM ANSWERS

- Why is parking above grade? Some above ground parking is due to hydrology and economics.
- How does the Artswalk operate? There will be unrestricted access between Rio Salado and 1st Street at the east end of the site. Artswalk will be security lit--no light spill to adjacent property. Access is unrestricted. Security will be maintained.
- Will Rio Salado Parkway be modified? There is no plan to widen Rio Salado. The Traffic Impact Study will help to determine the extent of traffic modification in the vicinity.
- What is the density? The density is 99 d.u./acre, which is reduced from that proposed on 7/11/07.
- How are the live/work units accessed? Business access from vehicles to the live work units is through the adjacent garages,
- What is the width of the Artswalk? The Artswalk is approximately 50 ft wide. There is an existing, fenced 5 ft. walkway adjacent to the Artswalk that also connects First St & Rio Salado on the neighboring Pulte Homes development.
- Will the use of the city owned property to the north of the site change? No, this area will be used for retention but will remain a landscaped city park.
- Is a deceleration lane proposed on Rio Salado Parkway at the right turn into Lakeside Drive? No change is anticipated on Rio Salado due to this development.
- What is the range of dwelling unit areas? Patrick Burch: 900 to 1200 sf units in towers except at penthouses; Two level "townhomes" at garage fronting garages are anticipated to be 2400 sf.
- What is the green strip at the tops of the lower parts of the buildings? The four towers are each on a "table". Above the second level, the table roof at the bases of each tower is a green roof.
- Is parking adequate? The development will reserve parking. There are approximately two spaces per unit. Parking will be sold with unit. Public parking for resident guests and for live/work business users will be separate.
- Citizen comment critical of raised parking garage. Citizen lives next door and does not want to see or smell a parking garage. Architect described the Denver Art Museum where a parking garage is concealed behind dwelling units and described the vine trellis at Studio 5C. The Citizen questioned why the dwelling units could not be placed on all four sides of the garage.
- Citizen comment in support of the architecture presented. It is "beautifully designed."
- Citizen comment: at parking garages, consider breaking up wall of green with some hard elements.
- What is the phasing plan for the development? There are four phases, will build one tower at a time.
- Citizen comment: Stage construction access off of Rio Salado. Developer will try to avoid 1st St as much as possible.
- Is area north of site to remain open space? Yes. Landscaped park to north of property will be open to public and to service vehicles that maintain Val Vista water line.
- What is the price point of the dwelling units? It is not much lower than \$300,000.00
- What sort of business use is involved in the live/work mix? Paul: there will be a modicum of retail, including a possible coffee shop at the SEC of the site. Parking will limit the size of the retail.
- Is there public parking out front of development? Parking on 1st St. is public and cannot be assigned to this development.

Rio Salado Overlay District Input

On May 4, 2007, Planning staff presented the 592 unit, 19 story version of Residences at the Artspark to the Project Advisory Committee of the Rio Salado Advisory Commission. The Committee recommended against the proposal by a vote of 3 to 2. Two Commissioners (Cenzano & Burkhart) support request for GP2030 Amendment to increase density beyond 25 d.u./acre (the proposal is 113 d.u./acre). Both Commissioners want an adjustment of building mass. Three Commissioners (Lofgren, Chavez and DeCindes) do not support the request for GP2030 Amendment. The three Commissioners want a project of no more than 25 d.u./acre with a height of approximately 50 ft. height and cite Griego at Playa del Norte as an example of building massing that is preferred for this project.

On September 6, 2007, Planning staff presented the 512 unit version of Residences at the Artspark to the Project Advisory Committee of the Rio Salado Advisory Commission. The Committee recommended in favor of the proposal by a vote of 3 to 1. The supporting committee members (Burkhart, Hannaman and Curley) criticized the vehicular traffic layout and the building massing. Committee member Hannaman also criticized the use of the park for site water retention rather than on-site retention. The dissenting Committee member (Lofgren) considers the project too tall and dense with respect to the existing development on the south of 1st Street. Note: this 512 unit presentation included only one drive access to Rio Salado rather than two and included two north 16 story towers rather than one 14 and one 16 story tower.

Conclusion

The proposal is consistent with the General Plan 2030 Projected Land Use Map. Staff recommends conditional approval of the request for the General Plan 2030 Projected Residential Density Map, the Zoning Map Amendment to expand the Mixed-use, High Density district, a Planned Area Development Overlay and a Use Permit to allow tandem parking.

This site, at the southwestern corner of the Townlake, is an extension of the Downtown Tempe area. Approval of the General Plan Projected Density Map Amendment, Zoning Map Amendment, Planned Area Development Overlay and Use Permit will allow redevelopment of an unfinished industrial area into a vibrant urban project. Residences at the Artspark allows an increase in home ownership and provides a smattering of interesting commercial space, all in fair proximity to the Tempe Townlake, the Arts Center, downtown Mill Avenue and A.S.U.

REASONS FOR APPROVAL:

1. The proposed Zoning Map Amendment (Industrial to Mixed-Use) meets the General Plan Projected Land Use for this site.
2. The proposed density exceeds the General Plan Projected Residential Density for this site. The density increase (25 to 99 d.u./acre) is warranted due to the proximity of the site to the Townlake and Salt River bed.
3. The Use Permit for tandem parking spaces allows overall compaction of the garage parking by allowing tandem second parking spaces for some residential units.
4. The Planned Area Development Overlay to establish development standards for the proposal has resulted in limits on height, setbacks, lot coverage and landscape coverage that work with a Mixed-Use, High Density product.
5. Except where explicitly modified by the Planned Area Development, the project will be required meet the development standards required under the Zoning and Development Code. A Development Plan is still required for review of the design of the project.

GEP07004, ZON07009 and PAD07022

CONDITIONS OF APPROVAL:

1. Do not exceed building height of 167'-0" from ground level or 1320 ft. above mean sea level, whichever is less, in order to accommodate finding of the City of Phoenix Aviation Department that this is the maximum building height in this location that is consistent with airport economic development, capacity and safe flight procedure. This condition includes the height of mechanical penthouses and other above roof items that are normally allowed as exceptions to building height in ZDC Sec. 4-205 (A). This condition includes these items as part of the height of the building. An exception to this condition will be allowed for the northeast tower only if the following occurs:
 - a. The Federal Aviation Administration agrees in writing to the height coordinates presented.
 - b. The City of Phoenix Aviation Department agrees in writing to a certain overall height greater than 167'-0" for the northeast tower, based on an acceptable One Engine Inoperative departure slope.
2. Provide agreement between Regatta Pointe Homeowners Association and Zacher Homes for shared maintenance of Lakeside Drive including, but not limited to, paving and associated landscape and irrigation. Execute this agreement and record agreement with the Maricopa County Recorder's office prior to approval of the Development Plan for Residences at the Artspark.
3. Prior to the effective date of Resolution No. 2007.71 and Ordinance No. 2007.66, the property owner(s) shall sign a waiver of rights and remedies pursuant to A.R.S. §12-1134, releasing the City from any potential claims under Arizona's Private Property Rights Protection Act, or the General Plan Projected Density Map Amendment and the Zoning Map Amendment shall be null and void.
4. The Public Works Department shall approve all roadway, alley, and utility easement dedications, driveways, storm water retention, and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements, including:
 - a. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants
 - (2) Sewer lines
 - (3) Storm drains.
 - (4) Roadway improvements including streetlights, curb, gutter, bike path, sidewalk, bus shelter, and related amenities.
 - b. Fees to be paid with the development of this project include:
 - (1) Water and sewer development fees.
 - (2) Water and/or sewer participation charges.
 - (3) Inspection and testing fees.
 - c. All applicable off-site plans shall be approved prior to recordation of Final Subdivision Plat.
 - d. All street dedications shall be made within six (6) months of Council approval.
 - e. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.
 - f. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to the issuance of an occupancy permit for this redevelopment in accordance with the Code of the City of Tempe - Section 25.120.
5. Obtain a Development Plan approval for building elevations, site and landscape plan for the Residences at the Artspark from the Development Review Commission.
6. The applicant shall comply with all applicable state and federal laws regarding archeological artifacts on this site.
7. A building permit shall be obtained and substantial construction commenced by on or before October 9, 2009, or the zoning shall revert to that in place at the time of application, subject to a public hearing.

8. The Planned Area Development for Residences at the Artspark shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Development Services Department prior to issuance of building permits.
9. Provide the following prior to issuance of a building permit:
 - a. Provide an encroachment permit from the Public Works Department for projections over the public right of way.
 - b. Provide a Final Subdivision Plat. The Subdivision Plat requires separate process review through City Council followed by recordation at the Maricopa County Recorder's Office.
 - c. Provide cross access and cross drainage agreements between the Artspark and the City park tract.
10. Provide a Condominium Plat (Horizontal Regime Subdivision) prior to Certificate of Occupancy. The Condominium Plat requires separate process review through City Council followed by recordation at the Maricopa County Recorder's Office.
11. Provide a Codes, Covenants and Restrictions Agreement for the condominiums prior to Certificate of Occupancy. The CC&R's require Development Services and City Attorney's Office review and approval by the Development Services Director and the City Attorney, followed by recordation at the Maricopa County Recorder's Office.

ZUP07115

CONDITION OF APPROVAL:

12. Tandem parking limitations:
 - a. A tandem space may exit to a drive aisle through no more than one other parking space.
 - b. Residents of a single condominium control the tandem space and the parking space that blocks the tandem space; the tandem space and the blocking space may not be split between two condominiums.
 - c. Live/work units may not have tandem parking spaces.
 - d. Guest parking spaces may not be placed in a tandem configuration.

HISTORY & FACTS:

- | | |
|-------------------|--|
| March 19, 1934 | State Land Commissioner Howard J. Smith published State Plat No. 9 (Amending Plat No 4 and Plat No. 6) which includes the subject properties. |
| November 24, 1958 | Public Service put in pipe for gas light on un-permitted residence at 606 W. 1st St.. Owner told to get inspection. Inspection approved on this date. |
| December 18, 1958 | Building permit issued for Lot 11E for a residence at 636 W 1 st Street. |
| July 23, 1963 | The City Council (Ord.385.23) Amended the Zoning Map to I-2, Light Industrial, including 600, 602, 606, 636 and 662 W. 1 st St. |
| January 2, 1985 | The Design Review Board approved the building elevations, site and landscape plans for Antique Radio and Tube located at 618 W. 1 st Street in the I-2, General Industrial District. Note: this proposal was not built. |
| May 1, 1985 | The Design Review Board approved the building elevations, site and landscape plans for Salado Center Industrial Building located at 606 W. 1st Street in the I-2, General Industrial District. Note: this proposal was not built. |
| August 6, 1986 | The Design Review Board approved the request for building elevations, site and landscape plans for Lafferty Electric, Inc. located at 602 West 1 st Street in the I-2, General Industrial District. |

- March 4, 1998 The Design Review Board approved the building elevations, site plan and landscape plan for Rhino Staging/Productions located at 600 West 1st Street in the I-2, General Industrial District. Note: a freestanding Phase II building was subsequently processed but was never built.
- May 4, 2007 Planning staff presented the 19 story, 592 unit version of Residences at the Artspark to the Project Advisory Committee of the Rio Salado Advisory Commission. The Committee recommended against the proposal by a vote of 3 to 2.
- July 11, 2007 Development Team presented the 592 unit version of Residences at the Artspark in a public neighborhood meeting at Tempe Mission Palms Hotel.
- September 6, 2007 Planning staff presented the 16 story, 512 unit version of Residences at the Artspark to the Project Advisory Committee of the Rio Salado Advisory Commission. The Committee recommended in favor of the proposal by a vote of 3 to 1.
- September 10, 2007 Development Team presented the 512 unit version of Residences at the Artspark, with 16, 14 and two 9 story towers, (the same exhibits as those used in the Public Hearings) in a public neighborhood meeting at Tempe Mission Palms Hotel.

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 District

Section 6-308, Use Permit

RESOLUTION 2007.71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE GENERAL PLAN 2030 PROJECTED DENSITY MAP FROM UP TO 25 DWELLING UNITS PER ACRE TO GREATER THAN 25 DWELLING UNITS PER ACRE FOR APPROXIMATELY 5.215 ACRES LOCATED AT 600 WEST 1ST STREET AND OWNED BY ZACHER HOMES INC . 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 is hereby amended for parcels 124-24-031A, 124-24-005, 124-24-014, 124-24-015 and 124-24-016 owned by Zacher Homes Inc. and the "Old 2nd Street" parcel immediately north of parcels 124-24-014 and 124-24-015 owned by the City of Tempe. The projected residential density for this property has been amended from up to 25 dwelling units per acre to greater than 25 dwelling units per acre. The total acreage and percentage of projected land uses listed on page 68 of the land use element of General Plan 2030 will be amended to reflect new totals for land uses based on this amendment.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____ 2007.

Mayor

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

ORDINANCE NO. 2007.66

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY OF TEMPE ZONING MAP, PURSUANT TO THE PROVISIONS OF THE 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 Zoning Map of the City of Tempe, pursuant to the provisions of Zoning and Development Code, Part 2, Chapter 1, Section 2-106 and Section 2-107, is hereby amended by removing the below described property from the GID, General Industrial District and RSOD, Rio Salado Overlay District and designating it as MU-4, Mixed-Use High Density District and RSOD, Rio Salado Overlay District on +/- 5.215 acres.

LEGAL DESCRIPTION

A portion of Lots 11, 12, 14 and 15 of State Plat No. 9, according to the plat recorded in Book 23 of Maps, Page 48 and Lots 8E, 9E, 10E and 11E of State Plat No. 12 Amended, according to the plat recorded in Book 69 of Maps, Page 38, both records of Maricopa County, Arizona, lying within the Northeast quarter of Section 16, Township 1 North, Range 4 East of the Gila and said River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at a City of Tempe brass cap flush with the pavement marking the center of said Section 16 at the intersection of Hardy Drive and 1st Street from which a City of Tempe aluminum cap marking the East quarter of said Section 16 bears North 89 degrees 28 minutes 05 seconds East 2,674.63 feet;
THENCE North 89 degrees 28 minutes 05 seconds East 1005.71 feet along the monument line of said Hardy Drive and the South line of the Northeast quarter of said Section 16 to the Southerly extension of the West line of said Lot 15;
THENCE North 01 degree 04 minutes 55 seconds West 33.00 feet along said Southerly extension to the Southwest corner of said Lot 15 and the POINT OF BEGINNING:
THENCE continuing North 01 degrees 04 minutes 55 seconds West 410.48 feet along the West line of said Lot 15 to the Northwest corner of said Lot 15;
THENCE South 89 degrees 04 minutes 55 seconds East 260.53 feet;
THENCE North 80 degrees 14 minutes 05 seconds East 293.02 feet;
THENCE South 01 degrees 04 minutes 25 seconds East 443.91 feet along the East line of said Lot 8E and its Northerly extension to the Southeast corner of said Lot 8E;
THENCE South 89 degrees 28 minutes 05 seconds West 199.98 feet to the Southwest corner of said Lot 9E;
THENCE South 01 degrees 05 minutes 55 seconds East 7.00 feet to the Southeast corner of said Lot 13;
THENCE South 89 degrees 28 minutes 05 seconds West 100.01 feet to the Southwest corner of said Lot 13;
THENCE North 01 degrees 06 minutes 55 seconds West 7.00 feet to the Southeast corner of said Lot 10E;
THENCE South 89 degrees 28 minutes 05 seconds West 175.00 feet to the Southwest corner of said Lot 11E;

THENCE South 01 degrees 05 minutes 25 seconds East 7.00 feet to the Southeast corner of said Lot 15;
THENCE South 89 degrees 28 minutes 05 seconds West 75.00 feet to the POINT OF BEGINNING.

COMPRISING 5.215 acres or 227,182 square feet, more or less, subject to all easements of record.

Section 2. Further, those conditions of approval imposed by the City Council as part of case **ZON07009 – Residences at the Artspark** 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 _____, 2007.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

WHEN RECORDED RETURN TO:

**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 _____ (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. _____ 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)

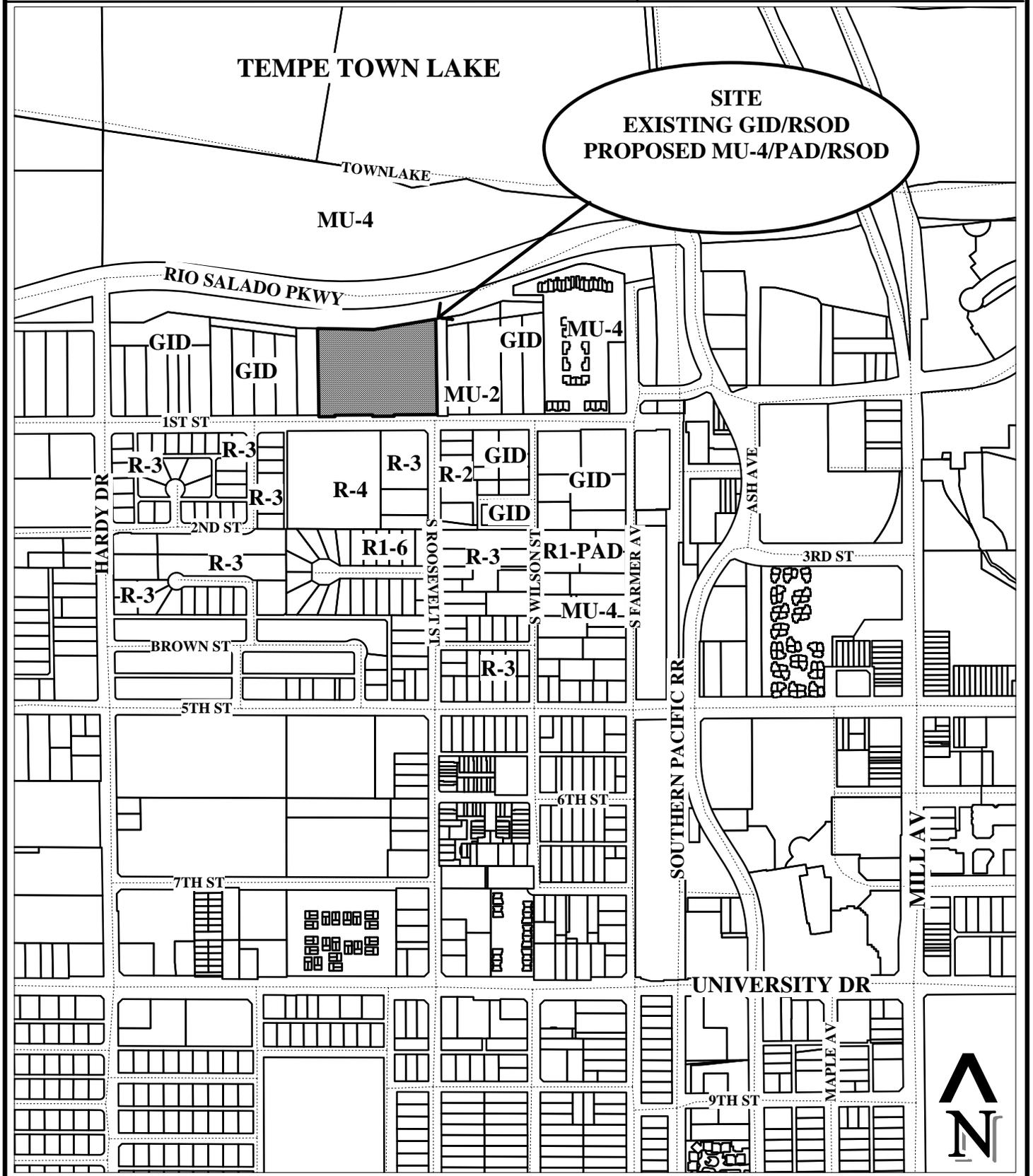
for development of the following real property (Property):

Parcel No. _____ - _____ - _____

(Legal Description and Address)

RESIDENCES AT THE ARTSPARK

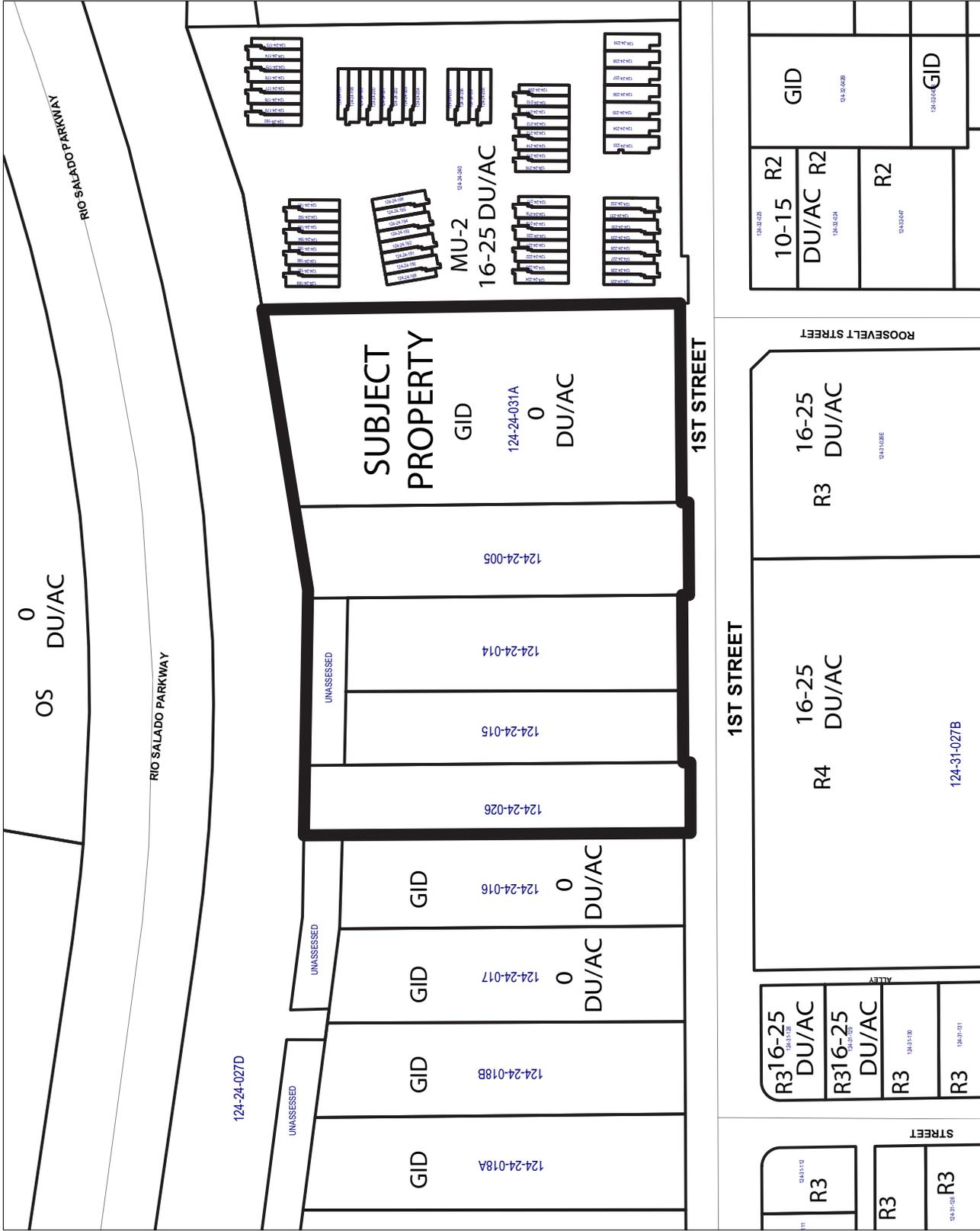
PL070166



Location Map



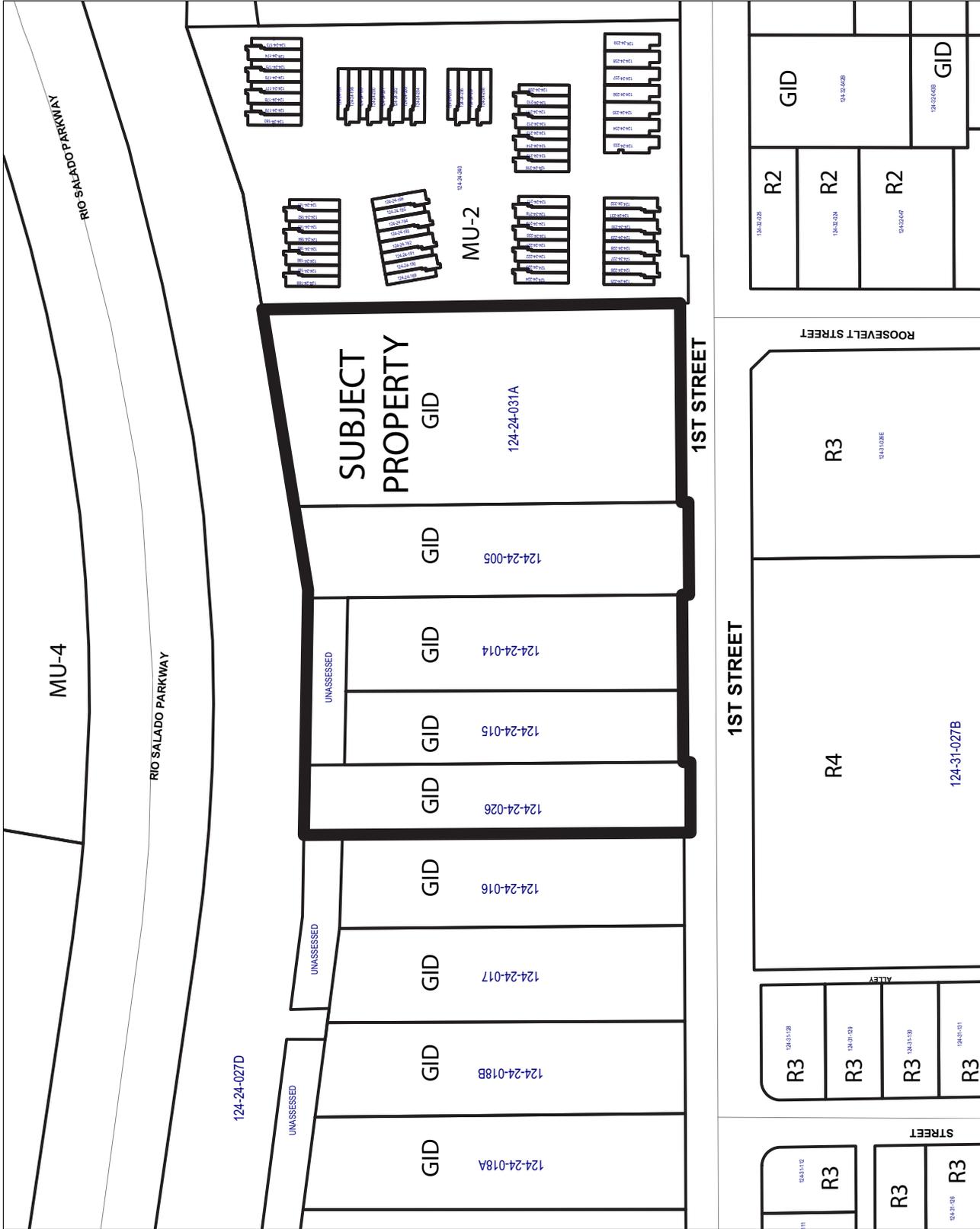
RESIDENCES AT THE ARTSPARK (PL070166)



ZACHER HOMES RESIDENCES AT THE ARTSPARK 9/20/07

EXISTING USE + DENSITY

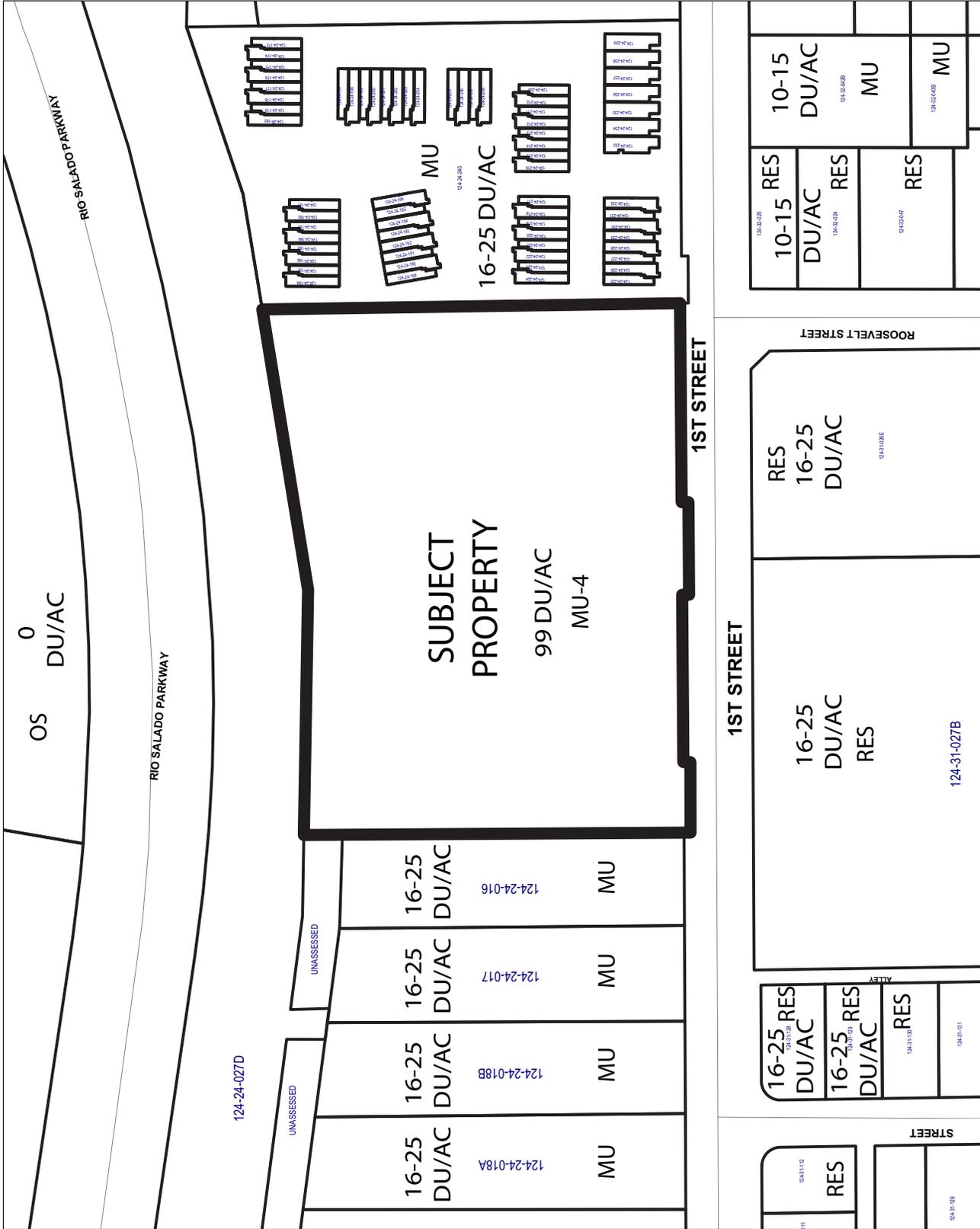




ZACHER HOMES RESIDENCES AT THE ARTSPARK 9/20/07

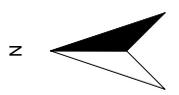
EXISTING ZONING





ZACHER HOMES RESIDENCES AT THE ARTSPARK 9/20/07

PROJECTED USE + DENSITY



Narrative portion of an application for a General
Plan Amendment reflecting a change from
mixed-use up to 25 dwelling units per acre to mixed-
use greater than 25 dwelling units per acre at the
SWC of Lakeside Drive and Rio Salado Parkway
Tempe, Arizona

Owner: Zacher Homes
2730 East Camelback Road
Suite 250
Phoenix, Arizona 85016

Applicant: Beus Gilbert PLLC
4800 N. Scottsdale Rd. Suite 6000
Scottsdale, Arizona 85251

Architect: RSP Architects
502 S. College Avenue
Suite 203
Tempe, Arizona 85281

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1. Introduction

The site contains approximately 5 ¼ acres of land that was assembled by Zacher Homes and is located at the SWC of Lakeside Drive and Rio Salado Parkway. All of the parcels in question have been acquired by Zacher Homes. The General Plan 2030 changed the designation of this site from industrial to mixed-use with a density of up to 25 units per acre. The proposed General Plan Amendment is not to change the general plan category but rather, to change the density of this area from up to 25 units per acre to **more** than 25 units per acre. Because of the location of this site in relationship to the Tempe Town Lake, as well as its proximity to the light rail developments east of the site through Tempe, the increased density is appropriate for this site.

It is clearly the intent of the City of Tempe with its General Plan 2030, to allow for redevelopment of the areas along the Town Lake and to encourage acceptable uses in that area over the currently-allowed uses. As such, this General Plan Amendment would permit Zacher Homes to meet the intent of the City of Tempe by developing mixed-use projects along the Town Lake area, as well as encourage denser living areas to take advantage of light rail, also developing in the Tempe area.

There are a number of public benefits resulting from the increased density request of this amendment. The proposed change allows for high-quality dense mid-rise / high-rise development along the Town Lake area consistent with the intent of the General Plan 2030. This allowed density encourages alternative forms of transportation by placing the dense residential living areas close to public transportation that will access many of the employment centers of the Valley. Furthermore, it redevelops an area that is currently a blighted area, which is directly adjacent to the newly constructed Tempe Center for the Arts.

Also being filed with is General Plan Amendment is a rezoning request and PAD Application.

2. Site Context

The site is currently five individual parcels comprising approximately 5 ¼ acres of land. Two of these parcels currently have industrial uses on them, while the remaining three parcels were recently cleared of the dilapidated buildings,

trash, etc. that existed there. The current zoning for all these parcels is General Industrial (GI). The current zoning, however, is not appropriate for the current conditions and development patterns of the Town Lake area. The site is bordered by Rio Salado Parkway to the north and First Street to the south with Lakeside Drive being the access point at the northeast corner of the site. In addition, the tract of land immediately adjacent to the northern portion of the property, between our parcels and Rio Salado Parkway, is a tract of land owned by the City of Tempe. Under recorded agreement with the City of Tempe, this area will be developed into a park-like greenbelt and will be provided as an amenity to the project as well as to the outside public. North of the property across Rio Salado Parkway is the Tempe Center for the Arts. To the east of this project is a townhome project by Pulte Homes. To the south across First Street is an apartment complex which is surrounded by the Sunset and Riverside neighborhoods. To the west is an additional commercial/industrial development. All of the surrounding properties of this site are within the jurisdiction of the City of Tempe.

Access to the site will be from Rio Salado Parkway via Lakeside Drive with only emergency access on First Street located at the SWC of the property. In addition, there will be hardscape pedestrian access on the east side of the property through the site from First Street to Rio Salado Parkway and will incorporate lush landscaping as well as potential artistic projects that link the neighborhood to the Arts Center.

3. Land Use

The land use element of the Tempe General Plan 2030 is “used to guide future development and make land use decisions that maintain an attractive, livable and economically sustainable city.” It goes on to further state that the mixed-use element is for a “mixture of residential and commercial uses [by] encouraging creatively designed developments which create a living environment reflective of a village concept in which there is the opportunity to live, work, and recreate in the same development or within the area. It also encourages alternative modes of transportation (such as bicycling and walking) and a well-conceived plan with access to an integration of transit facilities.” Furthermore, the high density designation (more than 25 dwelling units per acre) is “designed for developments within proximity to employment, entertainment and pedestrian activity, encourages interaction and creates an urban environment. These residences are both attached and stacked and may be part of a mixed-use development. This level of intensity should either provide or have access to nearby open space and other amenities.”

The project proposed by Zacher Homes meets many of the criteria of the Tempe 2030 General Plan in that it is a development that will provide an opportunity to live, work and recreate in the same development or within the area. In addition, it encourages alternative modes of transportation such as bicycling and walking by encouraging and providing connectivity from the residential neighborhood to the Arts Center, as well as by creating a development reasonably close to the light rail development in downtown Tempe. Furthermore, the high-density request is located next to employment, entertainment, and pedestrian activities by virtue of its relationship to the Town Lake, downtown Tempe, Arizona State University, and the light rail which provides ease of access to the employment corridors in the Valley. Finally, it replaces currently zoned property with a consistent development in relationship to the General Plan and will contribute to the attractiveness, livability and economically sustainable city that Tempe is. This development will incorporate many aspects of development along the Town Lake and will work seamlessly within the currently developed projects to the north and east of this site.

The subject site is an infill site with existing developments on all four sides. Much of this site is currently in an undesirable condition and by allowing this redevelopment to move forward, this “gateway” into Tempe will be bolstered by this project and its complementation of the Arts Center across the street.

In addition to its location to the Arts Center, this site is centrally located in the metropolitan area and as such, provides ready access to stadiums, regional parks and similar facilities the metropolitan area has to offer, making the location of the proposed development ideal.

4. Accessibility

The site as proposed is a mid-rise / high-rise development. Accessibility to site is two fold. The main source of vehicular access will be off Lakeside Drive into the site. However, a large hardscape, pedestrian-friendly corridor through the site from First Street to Rio Salado Parkway, provides ample connectivity between the neighborhood and the Arts Center. Furthermore, the buildings to the southern portion of the site have varying heights ranging from two-story residential townhome-like structures on the streetscape of First Street to the seven story residential towers behind them. The streetscape dwelling units on First Street will have access onto First Street providing a neighborhood feel to the surrounding neighborhood to the south. In addition, the city owned tract of land to the north of the site, which will be developed by Zacher Homes and maintained by the project’s

homeowners association, will have pedestrian access as well. Finally, with its proximity to the light rail, other non-vehicular access will be provided.

The design of the site meets the objectives of the Tempe 2030 Plan in that it creates multi-user access that does not separate portions of the populations and creates adaptive environments that can meet current and future needs of the community.

5. Community Design

The Tempe General Plan 2030 states that the goal of the community design element is to develop standards that will enhance the community's quality of life for future generations and sets out objectives that require a development to provide a focal point, encourage and enhance pedestrian movement, provide opportunities for interaction and observation, and encourage mixed-use designs, just to name a few. Currently, the proposed plan meets these General Plan objectives. First, by developing a unique, yet complimentary project to the Arts Center, this project (along with the Arts Center) provides a focal point for the community. Furthermore, with its planned artswalk, pedestrian access between the neighborhood and the Arts Center is encouraging and enhancing pedestrian movement. In addition, the greenbelt to the north of the site that will be developed and maintained by Zacher Homes provides opportunities for interaction and observation. The development of streetscape units along First Street incorporates the site with the neighborhood and provides a focal point that places the scale of the project in harmony with the neighborhood surrounding it. Finally, the residential towers along Rio Salado Parkway are consistent with development along the Town Lake and is an opportunity for this site to take advantage of both the beauty of the Arts Center, as well as the Town Lake, both inspired visions by the City of Tempe's municipal leaders.

6. Historic Preservation

Currently there is no known archeological significance to this property and there is no historic classification on this site presently. A cultural resources survey was prepared to ensure this. The majority of the site was dilapidated and in desperate need of redevelopment. With the creation of the Town Lake across the street from the site, as well as the Arts Center, the redevelopment prospects of this property have dramatically improved.

7. Housing

The General Plan calls for the elimination of substandard dwelling conditions and for the improvement of housing quality, variety, and affordability and for the provision of adequate sites for housing. As mentioned previously, the current condition of the site is one of a mixture of industrial uses and, until recently, had rundown, dilapidated housing, trash, etc. on the remainder of the site (which have been demolished and cleared). The project plan that is proposed currently is intended to add to Tempe's stock of housing in an infill location and eliminate substandard dwelling conditions while providing high-quality housing in a unique development adjacent to the Town Lake and Arts Center. .

8. Neighborhoods

Zacher Homes has, over the last several weeks, been actively involved in meeting with individual neighbors around the surrounding site, as well as has been in contact with the neighborhood associations in the area. We have had one public meeting and intend to hold additional meetings relating to the development of this site. The support for this development is high from the surrounding neighborhoods, which include the Sunset and Riverside neighborhoods to the south and Regatta Pointe to the east. Plans are underway to meet with the Pulte Homeowners Association directly east of this site, and our neighborhood outreach will continue as this process moves forward.

9. Redevelopment

This site is currently located in the University/Hayden Butte redevelopment area. This project meets this category of the general plan for redevelopment in that we are taking an area that currently is substandard in nature and proposing a plan that will only add to the previously stated goals of the City of Tempe by creating a unique living area.

10. Economic Development

The City of Tempe has designated several current employment nodes around the City. This site falls within the almost immediately adjacent area to these nodes. The City has designated two projected employment nodes even closer to this site than some current employment nodes. One of the objectives in this section of the

General Plan states that the City wishes to promote a sustained improvement in the standard of living and quality of life for all residents. In addition, the City wishes to attract businesses and employers that provide jobs paying wages at or above the regional average. In order to accommodate those businesses and employers the City must also provide high-quality, unique housing so that the employees of these businesses will wish to stay in the City of Tempe as opposed to seeking living arrangements elsewhere and, therefore, commuting into the City. Because of this site's relationship to these employment nodes, both current and projected, a the project's location and the unique nature of the housing provided meets the objectives of the City of Tempe's economic development section of the General Plan.

11. Cost of Development

The proposal is in an area of Tempe that currently is undergoing a multitude of redevelopment projects because of the addition of the Town Lake. It is located near freeway access and is in close proximity of the downtown area, and projected employment nodes for the City of Tempe. Therefore, all current infrastructure around the site is in place and is in relatively modern condition. With the development of the Arts Center across the street, and the housing developments all along the Town Lake, as well as the proposed commercial neighborhood uses adjacent to the Arts Center, the planned development at this site is consistent with the objectives of the City's General Plan by providing opportunities for development that benefit the community and allowing for development that does not exceed planned infrastructure or service capacity.

12. Environment

As the environment section notes, pollution is a regional issue in which each development can contribute to its improvement through adherence to practices that reduce vehicle travel, use appropriate landscaping and comply with various policies and regulations that minimize air pollution. The location of this project is in proximity to employment nodes, shopping areas, mass transit facilities, entertainment, and other necessary facilities which will allow for the decrease in vehicle travel.

The proposed design of this site will be energy efficient and by using creative landscaping techniques, such as rooftop gardens, will further reduce environmental impacts, while adding to the surrounding visual environment of the site.

13 Land

The subject property is not within a Superfund site or any other known environmental impact. Open space on site will be sufficient in size and quality to provide habitat for small urban wildlife and birds. In addition, the tract of land that is owned by the City of Tempe to the north will be developed by Zacher Homes and will provide additional open space for small urban wildlife and birds. The site is not contiguous to any large wildlife habitat areas as well.

14. Water

The development will comply with City policies and practices related to water. The City has an adequate supply of water and this development should not impact that supply in a negative way. Furthermore, wastewater services will be provided by the City and will be designed and built according to City standards. Stormwater retention will be provided onsite and constructed per the City standards.

15. Pedestrian Network

The site is currently located next to multi-mobile paths and is close to bike and pedestrian crossings as outlined in the City's General Plan. This site provides connectivity from the neighborhood to the south through the site, to promote access to the Arts Center. The pedestrian access through the site will be enhanced so that it will be a welcome amenity for the neighbors and the community at large. In addition, the tract of land to the north of the site will be enhanced and improved to further promote the policies of the Tempe General Plan by providing convenient and safe pedestrian access to destinations to promote neighborhood stability and to ensure accessibility for all.

16. Bikeways

The multi-mobile path locations referenced above can be reached via bike lanes. The site is in proximity to future and current employment nodes and clearly close enough to allow bicycle commuting.

17. Transit

The location of this site is conveniently located near a planned commuter rail station for the City of Tempe as well as the proposed light rail alignment as shown in the General Plan. Also, proposed light rail stations are within easy access of this site. Because of the nature of this development and the type of owners sought for the project, transit accessibility is important to this development.

18. Travelways

The proposed development will rely on access to Rio Salado Parkway via Lakeside Drive. Because of this, improvements will be made at the intersection of Lakeside Drive to accommodate both the current users of Lakeside Drive to the east as well as the new users at this location.

19. Motorists

It is anticipated that residents of the proposed development will own and use private automobiles for at least some of their transportation needs. However, because of the site's location to transit facilities, as well as multi-mobile paths of transportation, it is foreseeable that a good portion of the residents of this site will make use of those facilities.

20. Parking and Access Management

The proposed development will provide its own onsite parking. Residents of the residential towers will utilize both above grade and below grade parking for these purposes.

21. Aviation

The current proposal falls within the flight plans of Phoenix Sky Harbor Airport. Currently, we have received a no-hazard letter from the FAA and have had preliminary meetings with the Airport Authority. As a result of these meetings with the Airport Authority, the site plan has been altered to accommodate input from the Airport. In addition to these meetings, it is the intent of the developer of this site to utilize noise reduction and abatement design criteria to ensure that there is no disruption with the vitalness of Phoenix Sky Harbor Airport. The designs being sought will be similar to those of other projects developed within the flight paths of Sky Harbor Airport, including but not limited to, Hayden Ferry Lakeside,

Regatta Pointe, etc. By meeting with the Airport Authority and working with them, we have met the criteria of the objectives of the General Plan which is to coordinate with regional and federal aviation authorities on aviation issues.

22. Open Space

Approximately 35% of this site is devoted to open space. Because of the limited number of acres available to this site, the developer of this site is utilizing unique landscape features to increase the open space appearance on the site. Specifically, the site is being developed to utilize rooftop gardens as well as ground level landscaping. Furthermore, the tract to the north part of the site will be developed into an open space amenity. The proposed plan meets the objectives of the General Plan by identifying opportunities for new open space by allowing for the rooftop garden amenities. This will provide open space opportunities that would not normally be available to previously-designed high-rise development, as well as maintaining and enhancing existing open space by developing the northern tract of land currently owned by the City of Tempe.

23. Recreational Amenities

The current proposed plan provides for amenities for the residents of this site that would not be available to the general public. Specifically, swimming pool and clubhouse features as well as open space tracts that will provide for passive recreation. Furthermore, the pedestrian walkway through the community will be developed as an artwalk which will provide a further amenity to residents of the community, as well as the development of the tract of land to the north as a greenbelt.

24. Public Art and Cultural Amenities

Because of this site's proximity to the Arts Center, an artwalk is proposed on the east side of the property to allow connectivity between the neighborhood and the Arts Center. The artwalk will provide both lush landscaping as well as various pieces of local art objects, such as sculptures and the like, to be displayed as a way of furthering the connectivity of the neighborhood to the Arts Center. This meets the objectives of the General Plan by advancing Tempe as a vibrant and progressive community for cultural and artistic activity, providing access to all citizens regardless of economic level and utilizing art to strengthen Tempe's sense of community and place.

25. Public Buildings and Services

This element is not applicable. No public buildings are contained within the site boundaries.

26. Public Safety

The project will be designed and constructed in compliance with the requirements of the fire and police departments. It is not anticipated that the proposed amendment will place a greater demand on these services. Furthermore, the site is located close to the north Tempe substation as well as the downtown police and city courts and is fairly close to the fire stations in the area as well.

BEUS GILBERT
PLLC

ATTORNEYS AT LAW

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SCOTTSDALE, ARIZONA 85251-7630
(480) 429-3000
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ROBERT N. PIZORNO
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MOBILE (480) 329-8219

EMAIL: RPIZORNO@BEUSGILBERT.COM

99044-0001

20 September 2007

City of Tempe
3101 E. Fifth Street
Tempe, AZ 85281

Re: **Residences at the Artspark**

Dear Sir or Madam:

I am writing to explain the associated application to rezone the above-described property from Industrial zoning to MU-4 PAD. Subject property is approximately 5 ¼ acres located at the SWC of Rio Salado Parkway and Lakeside Drive and First Street to the south. An Application to Amend the General Plan 2030 Density Map proposes to change the planned density from under 25 units per acre to more than 25 units per acre, while the overall General Plan 2030 land use designation of mixed-use will remain the same. The General Plan Application is being filed simultaneously to satisfy the statutory requirement that rezoning be consistent with the adopted General Plan. Also being included in this Application with the General Plan Amendment and rezoning request is a request for a Use Permit to permit tandem parking for a limited number of the residences proposed at the site.

The property owner of this 5 ¼ acre parcel is Zacher Homes. Generally, developers of sites hold property in escrow until the entitlement process has been completed; however, in this instance, Zacher has owned the property for an extended period of time. As a result, the City in hearing this Application is not dealing with just the developer of the site, but is also dealing with the land owner. Currently, the site in question is all zoned industrial land which would permit a variety of uses, including but not limited to, animal kennels and hospitals, dispatching and weigh stations, electronic, manufacturing, exterminator and insect poison storage and distribution, farming supplies and equipment storage, machine shops, auto body repair, towed vehicle storage, etc. Because of this site's location and proximity to the newly opened Tempe Center for the Performing Arts, these uses are certainly not ones that would be appropriate for this location. Furthermore, the General Plan 2030 states that this area should be developed as a mixed-use in nature.

The proposed plan by Zacher Homes for the development of this site with condominium development, as well as live/work, town home units will consist of the following: four towers of condominium units with each tower ranging in size from the northeast corner of the site being 16 stories, the northwest corner of the property consisting of 14 stories and the two southernmost

towers on the parcel consisting of 9 story towers. Each of these residential units will be served by parking garages of a ground floor and two stories above for each of the units with some potential for underground parking being considered at this time. Along the first story, surrounding the entire site, save and except for the eastern and western sides of the development, will consist of the two story live/work townhome units. Also included in the site will be a landscaped hardscape that will provide connectivity between the neighborhood to the south and the Art Center to the north of the site. Furthermore, landscaping techniques, such as green screen will further shield the proposed garages from the neighbors to both the east and west of the site. The proposed ingress and egress to the site will consist of access to Lakeside Drive, which will permit access for the residents to Rio Salado Parkway. Furthermore, our traffic study indicates that an egress point from the site will be necessary onto First Street and an additional access point to Rio Salado Parkway at the northwest corner of the property. The proposed redevelopment of this site to mixed-use is also consistent with the development occurring around the Tempe Town Lake.

Since the inception and development of the Town Lake, the City of Tempe has created a development environment that is conducive to this type of development. All along the Town Lake, high-rise development is occurring rapidly, as well as increased density. Furthermore, with the development of the Tempe Center for the Performing Arts at the west end of the Town Lake, redevelopment at this end of the lake was just a matter of time. Therefore, the rezoning request from general industrial to MU-4 PAD is warranted by all of the surrounding development and conditions that exist currently.

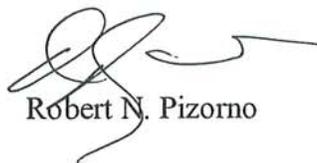
The General Plan Amendment being proposed simultaneously with the rezoning request is to permit an increase in density from under 25 units per acre to greater than 25 units per acre. The site currently is being proposed to house 512 residential units on the 5 ¼ acres of land. This equates to approximately 100 units per acre. As such, a General Plan Amendment to permit increased density is necessary. Justification for permitting an increase in density rests solely on the fact that the City of Tempe is a landlocked city. As such, approximately 96% of Tempe is already built out. Therefore, the remaining 4% of vacant, undeveloped land in Tempe must be managed in a manner that both makes sense for development as well as for the overall health and longevity of the City of Tempe. As such, increased densities, especially in an area where such development makes the most sense, i.e., the Tempe Town Lake area, is justified and our Application therefore should be favorably reviewed.

The Use Permit Application for tandem parking is requested for a minimum number of units and will only be permitted for the larger units on the site. The majority of the units on this site will not require tandem parking; however, the larger units will need additional parking because of the projected number of vehicles that those units may in fact house. As such, the justification for allowing the tandem parking is that it will be limited in nature and will not impact the overall parking scheme of the plan and all code requirements of access by one vehicle, etc. will be met in this Application.

The requested Applications for General Plan Amendment and rezoning, as well as the Use Permit for tandem parking are consistent with the development occurring around the Tempe Town Lake. As such, we respectfully request that they be approved.

Sincerely,

BEUS GILBERT PLLC



Robert N. Pizorno

RNP/paw

Design Narrative: Residences at the Artspark

Introduction

The Residences at the Artspark is a collaborative effort between Zacher Homes, Tempe developer Ross Robb, RSP Architects and a team of experienced and talented real estate development professionals. The project consists of four buildings; two sixteen story and two nine story buildings, all of which are built upon three levels of above grade parking, screened by town homes at the pedestrian/street level. Although the project has 'two front doors', the site is oriented primarily to Rio Salado Parkway, accessed from Lakeside Drive, a private shared drive. The plan, as submitted, represents nearly a year of design work based on ideas and feedback from City Council, City Staff, neighborhood groups, adjacent homeowners associations, Sky Harbor Airport staff and a variety of consultants. The plan represents a balance of the diverse interests and concerns of these groups while thoughtfully considering the projected state of the for-sale residential market in the time frames within which this project will be expected to come to the market.

Site Planning

The site has been carefully planned to facilitate the daily ingress and egress of residential vehicular traffic, including guests, and the more occasional access of fire department, refuse, and service vehicles.

The North.

The north half of the site has been designed to front along Rio Salado Parkway with fourteen floors of condominiums over two floors of town homes, with above grade parking effectively screened from public spaces and rights-of-ways by the town homes. A centralized drop-off area defines a formal axis that is effectively mirrored west to east. The entire northern edge of the project is conceived as a 'finished front' with the garage access, trash, and service located on the 'interior' of the site.

The South.

The south half of the site reinforces the existing urban fabric of the neighborhoods to the south, and east. Two-story town homes define the project's southern edge along First Street. Above that, seven floors of condominiums sit atop a parking garage that is completely screened from view of First Street by the town homes. In contrast to the grand drop-off at on the north side of the site, these buildings are served by a more urban entrance and lobby connected directly to First Street.

Pedestrian Connectivity

Along the eastern edge of the site, fifty feet has been allocated to a continuous thoroughfare that will be designed to connect the neighborhoods to the south with the Tempe Center for the Arts and the Tempe Town Lake to the North. Decorative hard

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paving, shade trees, and sculpture create an 'artwalk' which will complement the arts use to the north.

In addition to this public thoroughfare, pedestrian connections are integral to the project's design along First Street to the south, and Lakeside Drive to the north. Sidewalks within the project's interior are connected to the public sidewalks along the periphery of the site and provide access from all of the buildings to the neighborhoods beyond the site.

Vehicular Circulation

The project, which importantly to project economics and live-ability, allows for development to occur in four distinct phases and permits vehicular access to each group of buildings 'in the round'. Creating this kind of 'four-sided architecture' while also providing for a variety of vehicles presents numerous challenges which are effectively dealt with. The refuse collection is consolidated along the project's interior on the north side of the central west-to-east access road. The exposed garage faces along the project's periphery are designed with integrated vertical greenscreen that combine the horizontal landscape up the building faces. The internal drives provide Fire Department and emergency vehicle access to all of the buildings within the project as required by applicable building codes.

Security for the site and the project will be accomplished at the building-perimeters . Gates at the parking garages (set inside to permit visitor parking and yet secure resident parking), card-readers at the building lobby entrances (in addition to 24/7 doormen for each of the four buildings), and pool-fencing around the amenity areas will limit public access to private and secure spaces while allowing unimpeded service and emergency vehicle access. This makes the project more neighborhood friendly when compared to gated enclave type projects that are secured at the project perimeter.

Access to and from the site is expected to be primarily accomplished from Lakeside Drive governed by a yet to be negotiated agreement between the developer and the residential development(s) to the east. Depending on the outcome of the traffic impact analysis (currently being completed by Walker Parking) and feedback from various neighborhood and homeowner groups and city staff, additional controls may be necessary for vehicular access at the site's perimeter.

Architecture

The placement of the major buildings maximizes solar efficiency while balancing the cost related desire to create a straightforward structural system. This results in a highly effective parking layout without requiring the transfer of vertical loads. This straightforward, rational planning methodology allows resources traditionally allocated to these 'invisible gymnastics' to be redirected to areas where they will have more meaningful qualitative impact to the project. As the architecture evolves, this thoughtfulness of design will continue into the details of the project at every level producing a market-based project of high quality without jeopardizing overall project performance.

The area in which the project is situated is in positive transition. The development by the City of the Tempe Town Lake and the Tempe Center for the Arts has created value at this location that drives the development of the proposed program.

The character of the architecture along First Street is decidedly more urban than that of the architecture along Lakeside Drive. Relating to a more urban experience, the First Street architecture is comprised of elements with a finer scale, materials with more texture and variation, and generally relates more to the scale and character of the surrounding development in this area west of downtown. Echoing more the architecture of the Studios 5c project on Fifth Street and College Avenue, the First Street architecture is intended to engage the street in a more urban fashion. Materials including ground-face masonry block, exposed architectural concrete, high-performance operable glazing, steel, ProdeMa wood, and aluminum make up the palette for the First Street buildings.

The architecture along the north side of the project is more straightforward. The taller buildings incorporate a simpler fenestration pattern across the skin. A palette of exposed architectural concrete, high-performance glass, metal panel, natural stone, ProdeMa wood, and steel will be used for these buildings. By using the materials in different ratios, and adjusting the scale and level of detail between the north and the south buildings they will appear different and yet have a strong visual continuity.

The goal is to create simple, modern residences unlike anything currently offered in the downtown Tempe and Town Lake market. The architecture will largely reflect that goal; simple, refined and resulting from the thoughtful combination of materials and forms. Every component of the site plan, landscape, architecture and interiors will be designed *together* such that every component reinforces the other.

Landscape

The landscape will play an important role in the project. A lush desert palette will be used throughout the project. A variety of topographical variation will be balanced with ADA accessibility where required creating a lush, dynamic ground-scape that will continue up the faces of the parking garages (at the project's interior) all the way to their roof surfaces. A 'Green-Roof' system will be used atop the parking garages. This will contribute to the overall project aesthetic in addition to minimizing the project's role in the heat-island effect.

At First Street, between the East and West buildings, the project opens to the interior of the site to reveal a desert wash flanked with massive shade trees. This space gives way to the pool and amenity area at the north end of the site. An emphasis on shaded space, minimal hardscape areas in favor of soft-scape (and even highly texturized paving materials and Grasscrete) are central to the landscape concept for the project.

**Zacher Homes Residence at the Artspark
SPR07039/DS070460
Neighborhood Meeting
September 10, 2007 -6:30 p.m. -8:00 p.m.
Tempe Mission Palms**

Attendance: 14

Construction

- When will you start construction
- How long will it take to construct
- Will you build in phases, how many and which units will be first
- Have plans been approved yet and will we have a say on vegetation
- Will the construction route be off 1st or Rio Salado

Utilities

- Can you cover the city owned water mains in the wash
- Can you fill the wash in and raise the level of the drains
- Does the existing sewer line have enough capacity for the development

Property

- What is the density
- What is the percentage of lot coverage
- Has the size of the units changed
- Will the art walk have security lighting and restricted access
- On the 1st level on both sides will it residential or retail
- What are the dimensions of the art walk on your side as compared to the Pulte side
- What about the city owned property between Rio Salado and the development
- How wide is the sidewalk in the middle
- Will there be a coffee shop or other retail
- The first plan had a zero edge pool and garden is there a change
- Any live plants
- What is the estimated price ranges
- What is the driving force for the price points
- Is there concern about condo saturation in the area
- What is the square footage range of the units
- How big are the town homes and are they all live work
- Are you in this for the long run
- Do you have any views from the east or west

Ingress and Egress

- Plans to widen Rio Salado
- Can Rio Salado accommodate the additional traffic
- Is there a decelerate lane off of Rio Salado into the project
- Can you turn left or right out of project

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Parking/Traffic

- Why can't you do parking underground
- Public parking for the live work unites on 1st Street
- What about parking on the north side city owned property
- Is parking adequate
- Will you assign parking stalls
- Any street parking
- Will parking be sold with the units
- Did the amount of visitor parking change
- I don't want to see or hear any cars from the parking garage or smell fumes
- How high is the parking structure
- What will the green screen look like on parking structure and how high
- If plants die on green screen will we see the concrete
- Can the green screen be broken up with other materials

Comments:

- Haven't heard anyone compliment the architect
- The architecture is well put together and will be great for the area
- Looks like a great project
- I don't know if security cameras or if lights will disturb the neighbors
- I like the art walk to the Arts Center
- What are the hearing dates and will we be notified

BEUS GILBERT
PLLC

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99044-0001

27 September 2007

VIA EMAIL AND U. S. MAIL

Mr. Kevin O'Melia
City of Tempe
3101 E. Fifth Street
Tempe, AZ 85281

Re: **Residences at the Artspark Project – Status of Maintenance Agreement
Between Zacher Homes and Regatta Pointe Homeowners Association**

Dear Kevin

This letter is being provided to you at your request regarding the above-referenced item.

Currently our office has been in contact with counsel for Regatta Pointe Homeowners Association and as a result of those conversations, a draft agreement has been submitted to our office and our client's attention for review. We are currently in the process of going through the agreement and negotiating a final draft with the Regatta Pointe Homeowners Association. While at this time we do not have an executed agreement, it is our intention, if everything runs smoothly, to have an executed agreement prior to final City Council action. However, it must be stated that because there is a negotiation that is ongoing, delays can inevitably occur and it might be after Council action that an agreement is ultimately executed.

If you have any questions regarding the contents of this letter, please advise immediately.

Sincerely,

BEUS GILBERT PLLC



Robert N. Pizorno

RNP/paw

cc: Patrick Burch – Zacher Homes
Ross Rob – Zacher Homes

Memorandum

Public Works Department



Date: September 21, 2007
To: Kevin O'Melia, Sr Planner, Development Services
From: Cathy Hollow, Sr Civil Engineer, Transportation Division *CH*
Subject: Residences at the ArtsPark Project

I have reviewed the traffic impact analysis prepared for the Residences at the ArtsPark located at the southwest corner of Rio Salado Parkway and Lakeside Drive. The analysis included trip generation for the proposed project which will include 512 residential condominiums, as well as level-of-service analysis for the years 2010 and 2015. The project is expected to generate 2,184 external trips on a daily basis at full build-out with 180 AM peak hour trips and 195 PM peak trips.

Based on the findings of the study, intersections surrounding the development will operate at acceptable levels of service using the existing lane configurations and traffic control in 2010 (expected opening year). The analysis for the year 2015 indicates that northbound traffic at the intersection of 1st Street and Rio Salado Parkway will experience increased congestion and the level-of-service will decrease. This is based on growth of the downtown area and does not anticipate improvements in terms of additional lanes that would mitigate this result.

Transportation review comments indicated that the analysis needs to be revised to reflect the City's signal timings. The consultant will need to resubmit the study.

Please contact me at (480) 350-8445 if you have any questions.

SEP 21 2007

From: stephen.grubbs@phoenix.gov
Sent: Wednesday, September 26, 2007 3:06 PM
To: O'Melia, Kevin
Cc: jane.morris@phoenix.gov; randy.payne@phoenix.gov
Subject: Comments - Residences at the Arts Park Project

Kevin,

Thank you for the opportunity to comment on the proposed heights for the Residences at the Arts Park project in Tempe. The proposed height of 185 feet could adversely impact Sky Harbor Airport, one of Arizona's most important economic assets. The Residences at the Arts Park project is located within Sky Harbor's takeoff corridors which require close scrutiny of tall objects to ensure the long term viability and airspace capacity of the airport.

Federal Aviation Regulations require that airlines base all takeoff performance on the failure of one engine. Tall structures or objects that exceed the One Engine Inoperative departure slope will cause negative economic impacts, and affect airport capacity while artificially reducing the useable runway length for departing aircraft. The aircraft performance penalty resulting from the planned Residences at the Arts Park project has the potential to be severe, resulting in lower allowable takeoff weights, more noise to underlying residents, and safety-related considerations, such as higher takeoff thrust and non-standard engine failure procedures.

Specifically, two of the four proposed high-rise buildings (Building C & D) exceed the height for the One Engine Inoperative departure slope for Southwest Airlines, Alaska Airlines, Fedex, and UPS. Although Zacher Development Company agreed to continue dialogue with these airlines, the impact to their operations has not been addressed.

Working closely with our airline stakeholders in developing a height analysis map we believe a safe height of development would not exceed 167 feet above ground level or 1320 feet above mean sea level (approximate) for that location.

Representatives from U.S. Airways, Southwest Airlines, and the City of Phoenix Aviation Department have met with representatives from the Zacher Development Company two times, on July 30, 2007 and August 8, 2007 to share information regarding the negative impact of tall buildings in the One Engine Inoperative departure slope east of Phoenix Sky Harbor International Airport. Based on the negative impact of the proposed height, the City of Phoenix cannot support this project as currently proposed.

Thank you for your attention on this matter. Please contact me if you have further questions.

Steve Grubbs, C.M.
Program Manager
City of Phoenix Aviation Department
Planning & Environmental Division
3400 E. Sky Harbor Boulevard, Suite 3300 | Phoenix, AZ 85034
Phone: 602 273-4062 FAX: 602 273-2794
Email: stephen.grubbs@phoenix.gov

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RIOSALADO PARKWAY LOOKING SOUTHEAST

RESIDENCES AT THE ARTSPARK TEMPE ARIZONA

R S P A R C H I T E C T S



LAKESIDE DRIVE LOOKING SOUTH

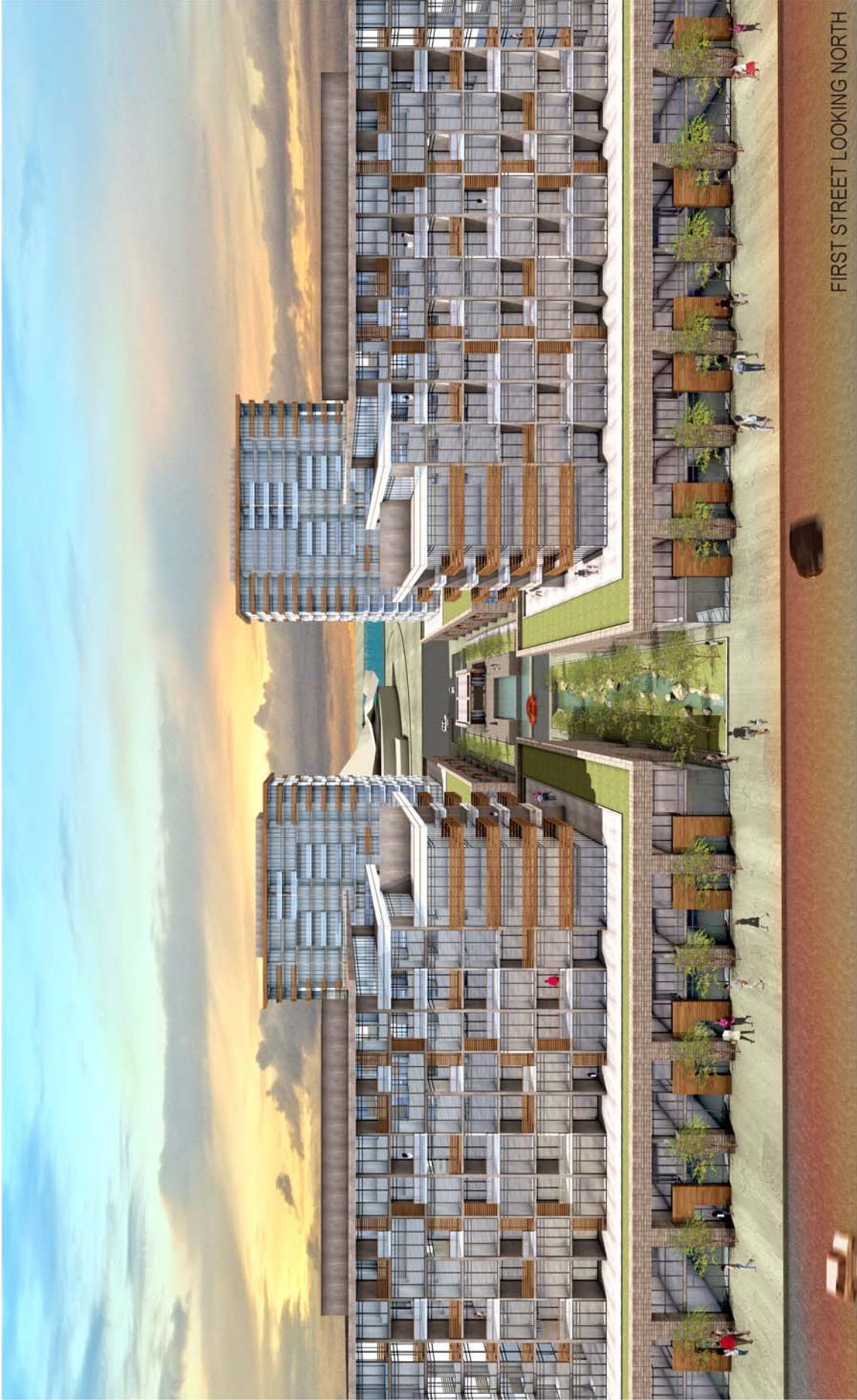
RESIDENCES AT THE ARTSPARK TEMPE ARIZONA

R S P A R C H I T E C T S



RESIDENCES AT THE ARTSPARK TEMPE ARIZONA

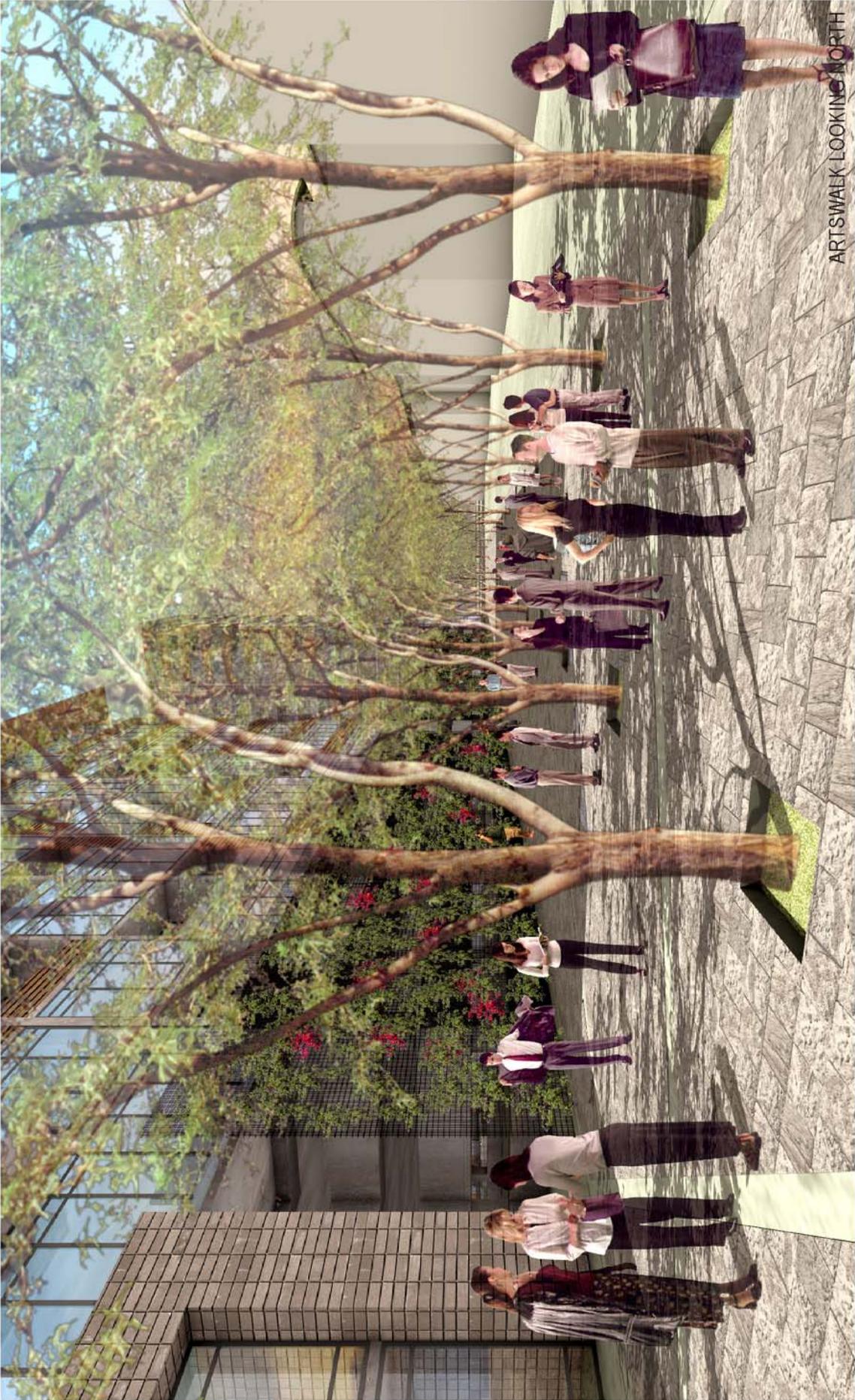
R S P A R C H I T E C T S



FIRST STREET LOOKING NORTH

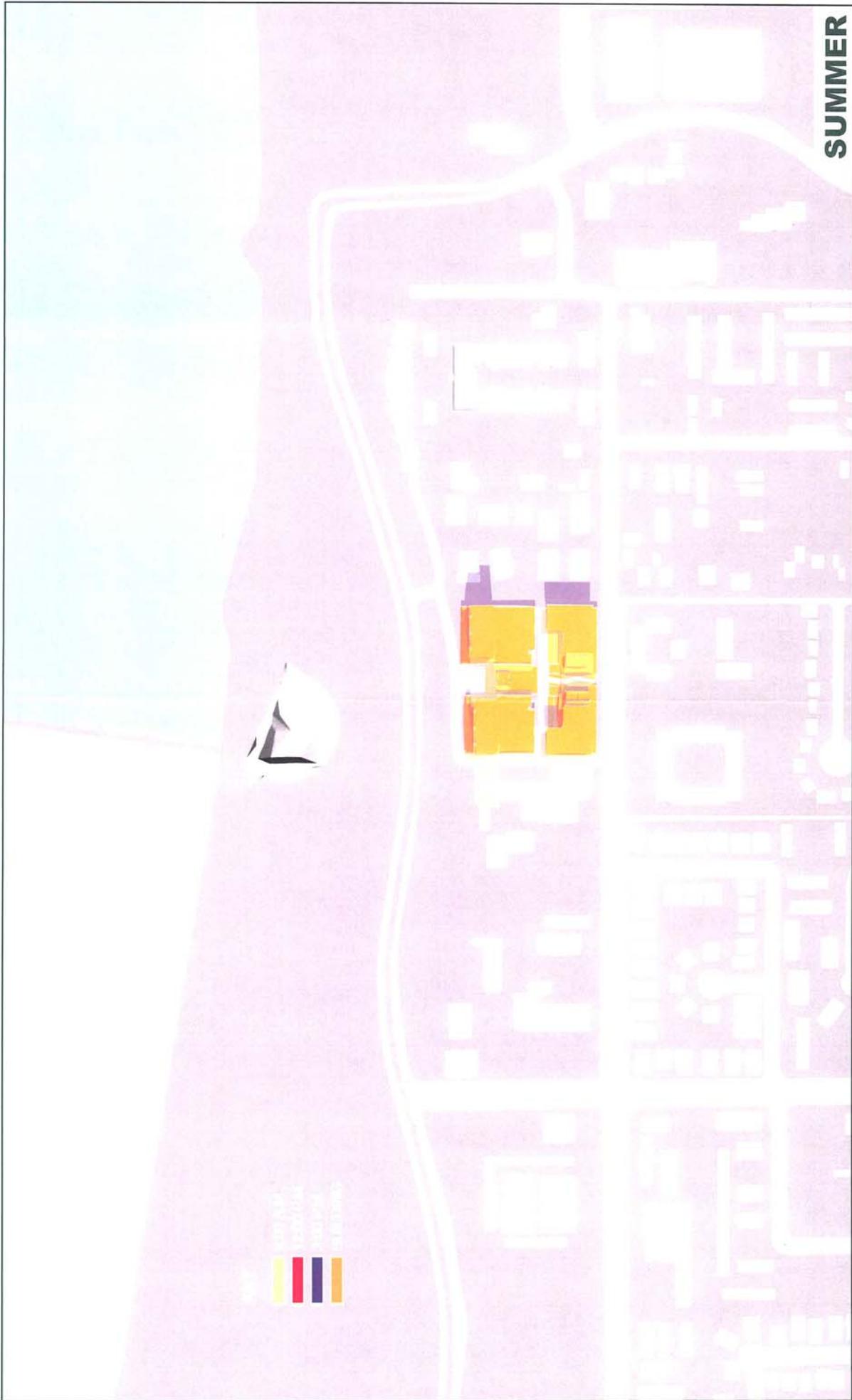
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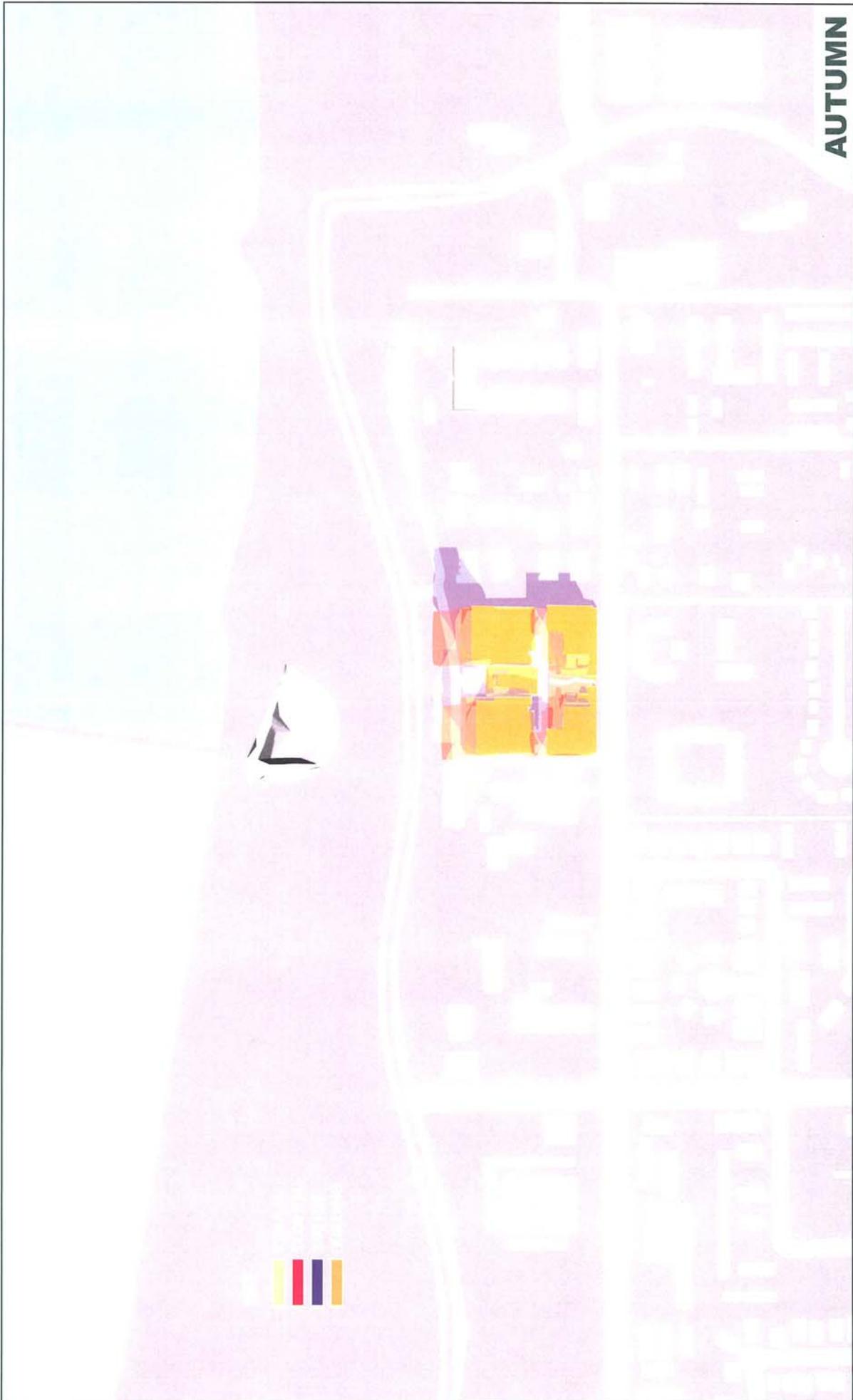


RESIDENCES AT THE ARTSPARK TEMPE ARIZONA

R S P A R C H I T E C T S



RESIDENCES AT THE ARTSPARK TEMPE ARIZONA **BUILDING SHADOW STUDY** R S P A R C H I T E C T S **SUMMER**



AUTUMN

BUILDING SHADOW STUDY

R S P A R C H I T E C T S

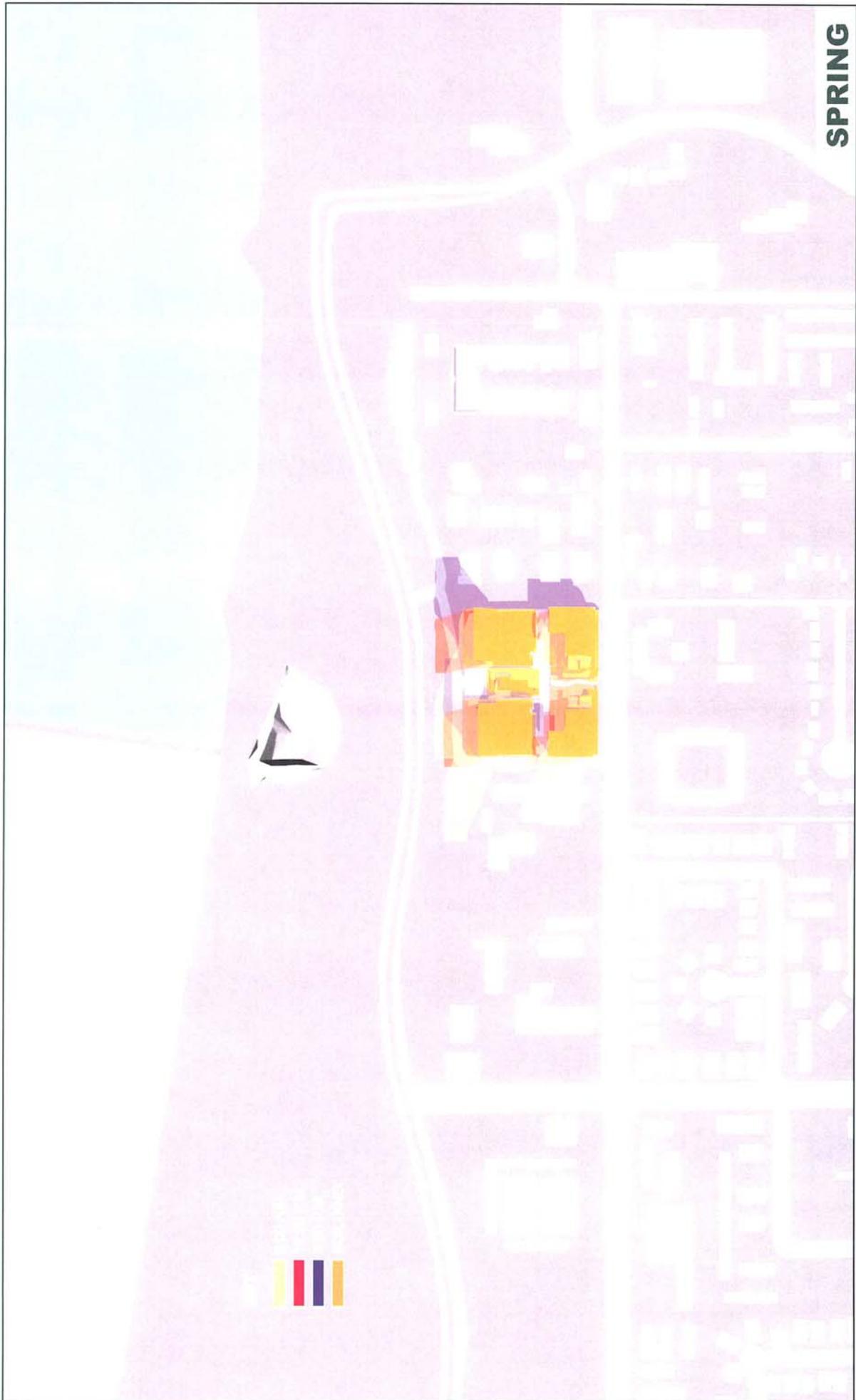
RESIDENCES AT THE ARTSPARK TEMPE ARIZONA



BUILDING SHADOW STUDY

RESIDENCES AT THE ARTSPARK TEMPE ARIZONA

R S P A R C H I T E C T S



SPRING

R S P A R C H I T E C T S

BUILDING SHADOW STUDY

RESIDENCES AT THE ARTSPARK TEMPE ARIZONA