



## **NOTICE OF REGULAR PLANNING AND ZONING COMMISSION MEETING**

In accordance with Section 38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Members of the Planning and Zoning Commission and to the general public that the Planning and Zoning Commission of the City of San Luis, Arizona will hold a Regular Planning & Zoning Commission Meeting at 7:00 p.m., Tuesday, December 14, 2021. The meeting will take place at the City Council Chambers, located at 1090 E. Union Street, San Luis, Arizona, 85349. Everyone from the public is invited to attend the open meeting.

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment of employment in its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 East Union Street, San Luis, Arizona 85349; (928) 341-8520.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recordings. Parents in order to exercise their rights may either file written consent with the City Clerk to such recordings, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

THIS NOTICE IS GIVEN BY:

/s/ Jose A. Guzman, Director of Planning and Zoning

## **AVISO DE JUNTA REGULAR DE LA COMISIÓN DE PLANEACIÓN Y ZONIFICACION**

De acuerdo a la Sección 38-431.01 de los Estatutos Revisados del Estado de Arizona, se les informa a los Miembros de la Comisión de Planeación y Zonificación y al público en general que la Comisión de Planeación y Zonificación de San Luis, Arizona, tendrán una junta regular a las 7:00 p.m., el día Martes, December 14, 2021. La junta se llevará a cabo en la Cámara del Consejo de la ciudad, ubicado en el 1090 East Union Street, San Luis, Arizona, 85349. El público esta cordialmente invitado.

De acuerdo con el Acta de Americanos con Discapacidades y la Sección 504 del Acta de Rehabilitación de 1973, la Ciudad de San Luis no discrimina por causa de discapacidad la admisión y acceso a sus programas, actividades, servicios o en el trato en cuanto a empleo. Para más información referente a derechos y provisiones del Acta de Americanos con Discapacidades o Sección 504, o para solicitar adaptaciones que sean razonables para la participación en programas, actividades o servicios de la ciudad, contactar a: Coordinador del Acta de Americanos con Discapacidades/Sección 504, Departamento de Recursos Humanos de la Ciudad de San Luis, 1090 Este Calle Unión, San Luis, Arizona, 85349; (928) 341-8520.

Por medio de éste aviso y de acuerdo con los Estatutos Revisados del Estado de Arizona, sujeto a ciertas excepciones reglamentarias, los padres de familia tienen el derecho de dar o no dar el consentimiento ante el Estado o alguna subdivisión política grabe a un menor de edad, ya sea en audio o video. Las juntas del Concilio se graban en audio y/o video y como resultado, el hecho de que haya menores presentes puede ser sujeto a que sean grabados. Para que los padres de familia puedan ejercer sus derechos pueden solicitar por escrito a la Secretaria de la Ciudad dicha grabación, o tomar acción personal para asegurarse que su hijo/hija menor no esté presente cuando la grabación se lleve a cabo. Si un menor de edad está presente en el momento de la grabación, la Ciudad asumirá que los padres de familia están cediendo los derechos sobre una posible grabación de acuerdo con el Estatuto Revisado del Estado de Arizona §1-602.A.9.

ESTE AVISO ES DADO POR:

/f/ Jose A. Guzman, Director de Planeacion y Zonificacion



**AGENDA**  
**Planning & Zoning Commission**  
**Regular Meeting**  
**San Luis Council Chambers**  
**1090 E. Union Street**  
**San Luis, AZ 85349**  
**Tuesday, December 14, 2021**  
**7:00 P.M.**

**MEMBERS OF THE SAN LUIS PLANNING & ZONING COMMISSION WILL ATTEND EITHER IN PERSON, TELEPHONE, OR VIDEO CONFERENCE COMMUNICATION.**

- 1. CALL TO ORDER/ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. PUBLIC HEARINGS** – the Planning & Zoning Commission will be considering a vote or action on the following cases. Any vote or action will be considered separately for each case.
  - 3. A.** Public Hearing followed by discussion and possible action on any and all matters regarding Rezoning Case No. 2021-0693. A request by Edais Engineering Inc. on behalf of Riedel Holdings LLC to rezone 186.84 acres from Medium High Density Residential (R-2), High Density Residential (R-3), Community Commercial (C-2) and Light Industrial (L-I) to Medium Density Residential (R1-6). Assessor’s Parcel Number 227-11-004 and a portion of parcel 227-11-005, located on the southeast corner of Avenue E and County 23 ½ Street in San Luis, Arizona.
    - A. Open public hearing
      1. Staff presentation
      2. Call to the public on this item
    - B. Close public hearing
    - C. Action on Rezoning Case No. 2021-0693
  - 3. B.** Public hearing followed by discussion and possible action on any and all matters regarding Minor Amendment Case No. 2021-0703. A request by Agustin Tumbaga Jr. on behalf of Riedel Holdings LLC to amend the 2040 General Plan changing the land use designation of a parcel 2.9 acres from Medium Density Residential (MDR) to High Density Residential (HDR). Assessor’s parcel number 777-61-165, located on the northeast corner of Avenue F and County 24<sup>th</sup> Street in San Luis, Arizona.
    - A. Open public hearing
      1. Staff presentation
      2. Call to the Public on this item
    - B Close public hearing
    - C. Action on Minor Amendment Case No. 2021-0703
- 4. ADJOURNMENT**





## PLANNING & ZONING AGENDA ITEM REVIEW FORM

### Planning & Zoning Commission Meeting

3. A.

**Meeting Date:** 12/14/2021

**Submitted By:** Fernando Villegas, Principal Planner, Planning & Zoning Department, Development Services

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#### ITEM:

Public Hearing followed by discussion and possible action on any and all matters regarding Rezoning Case No. 2021-0693. A request by Edais Engineering Inc. on behalf of Riedel Holdings LLC to rezone 186.84 acres from Medium High Density Residential (R-2), High Density Residential (R-3), Community Commercial (C-2) and Light Industrial (L-I) to Medium Density Residential (R1-6). Assessor's Parcel Number 227-11-004 and a portion of parcel 227-11-005, located on the southeast corner of Avenue E and County 23 ½ Street in San Luis, Arizona.

- A. Open public hearing
  - 1. Staff presentation
  - 2. Call to the public on this item
- B. Close public hearing
- C. Action on Rezoning Case No. 2021-0693

#### BACKGROUND:

On October 27, 2021, City Council approved Major Amendment Case No. 2021-0340. The approval of the Major Amendment allows the property owner to request rezoning of the subject properties to Medium Density Residential R1-6. The subject properties were annexed to the City of San Luis in the year 2000 as part of a pre-annexation agreement (Resolution No. 421). The pre-annexation agreement included the San Luis regional detention and support center and the east wastewater treatment plant. As part of the pre-annexation agreement the City agreed to allow the development of a regional detention and support center under existing zoning regulations.

After the annexation became effective in 2010 the owner applied to rezone approximately 20 acres located on the southwest corner of County 23 ½ Street and Avenue D ½ alignment to high-density residential zoning in an area primarily designated for industrial uses. (Rezoning Case No. 2010-11,12,13 and 14). In 2011, Resolution 933 amended the pre-annexation agreement to include certain provisions to allow for high-density residential development. The decision to include high-density residential zoning was based on the potential need for townhomes or condominiums to accommodate short-term employment in the construction or development fields.

According to Resolution No. 933 if the owner develops the 20-acre portion zoned R2 and R3 with single family homes, the developer agrees that such development will be limited to large lot development of lots no less in size of 8,000 square feet and homes of no less than 1750 square feet, exclusive of garage or carport or the owner needs to request an amendment to Resolution No. 933.

On May 2021, the subject properties were purchased by Riedel Holdings LLC and the new owner requested a lot split to divide parcel 227-11-005 to create three new parcels.

Staff will present to City Council, a new Development Agreement for the property, to allow the lot split

approval and to ensure appropriate construction of improvements and dedication of right-of-way. As part of this agreement, the developer has requested to include a proposed amendment to Resolution No. 933, removing the condition of minimum 8,000 square feet lots and 1750 square feet homes. This development agreement will be presented to Council on their regular meeting of December 21, 2021.

**ANALYSIS:**

The existing condition of the subject property is undeveloped vacant land. Parcel 227-11-005 is zoned Light Industrial (L-I), Commercial (C-2), High Density Residential (R-3) and Medium High Density Residential (R-2). Parcel 227-11-004 is zoned Light Industrial (L-I).

Existing Adjacent Zoning Districts:

To the north: RA-10

To the west: C-2 and R-3

To the south: L-I and C-2

To the east: RA-10 (Detention Center and East water treatment plant)

**GENERAL PLAN:**

The current Land Use Designation for the parcels is Medium Density Residential (MDR) designation which is compatible with the proposed zoning district R1-6.

The developer must provide all the necessary improvements including road construction, water and wastewater.

**AGENCY REVIEW:**

As part of the review process, all land use cases are reviewed by various city and outside agencies, We have received comments from The Yuma County Airport Authority.

“The property is located near Rolle Airfield where aviation activities are expected to increase in the future. These properties, due to their proximity to the Rolle Airfield, are likely to experience aircraft over flights, which could generate noise levels which may be of concern to some individuals. The City, public and airport shall be held harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airport, not including the physical impact of aircraft or parts thereof.”

As required by State Statute, staff sent notification letters to property owners within 300 feet of the proposed project (9 letters).

The City has not received any other significant concerns or objections from the various review agencies or adjacent property owners.

**CITIZEN REVIEW MEETING:**

As required by State Statute and City Code, a Citizen Review Meeting was held at the City Hall on December 7, 2021 at the City Hall Chambers at 6:00 p.m. The intent of this meeting was to allow the public to learn about the project, ask questions and express any comments. There were no comments from the public present.

**SUMMARY:**

On October 27, 2021 City Council approved Major Amendment Case No. 2021-0340. The applicant is now requesting rezoning of the parcels from Light Industrial (L-I) to Medium Density Residential (R1-6) to allow the construction a residential subdivision known as Los Mesquites.

**STAFF RECOMMENDATION:**

The applicant has provided the information and material necessary for review of the zoning request.

Staff recommends approval of Rezoning Case No. 2021-0693 subject to the following condition.

1. That any development of the property, or portion thereof, and/or the approval of any subdivision plat, be conditioned upon payment to the city the sum of \$260.00 per acre, or any portion of an acre, as a proportionate contribution for a traffic signal at the intersection of County 24th Street and Avenue E.
2. Development must comply with updated Public Work Standards as approved by City Council during the approval of the Final Plat. Updated Public Works Standards to include right-of-way requirements, pavement width and other applicable standards.

**RECOMMENDED MOTION:**

**A. I MOVE TO OPEN PUBLIC HEARING**

1. Staff presentation
2. Call to the public on this item

**B. I MOVE TO CLOSE PUBLIC HEARING**

**C. I MOVE TO FORWARD REZONING CASE NO. 2021-0693 TO CITY COUNCIL WITH THE RECOMMENDATION OF APPROVAL WITH CONDITIONS AS PRESENTED BY STAFF.**

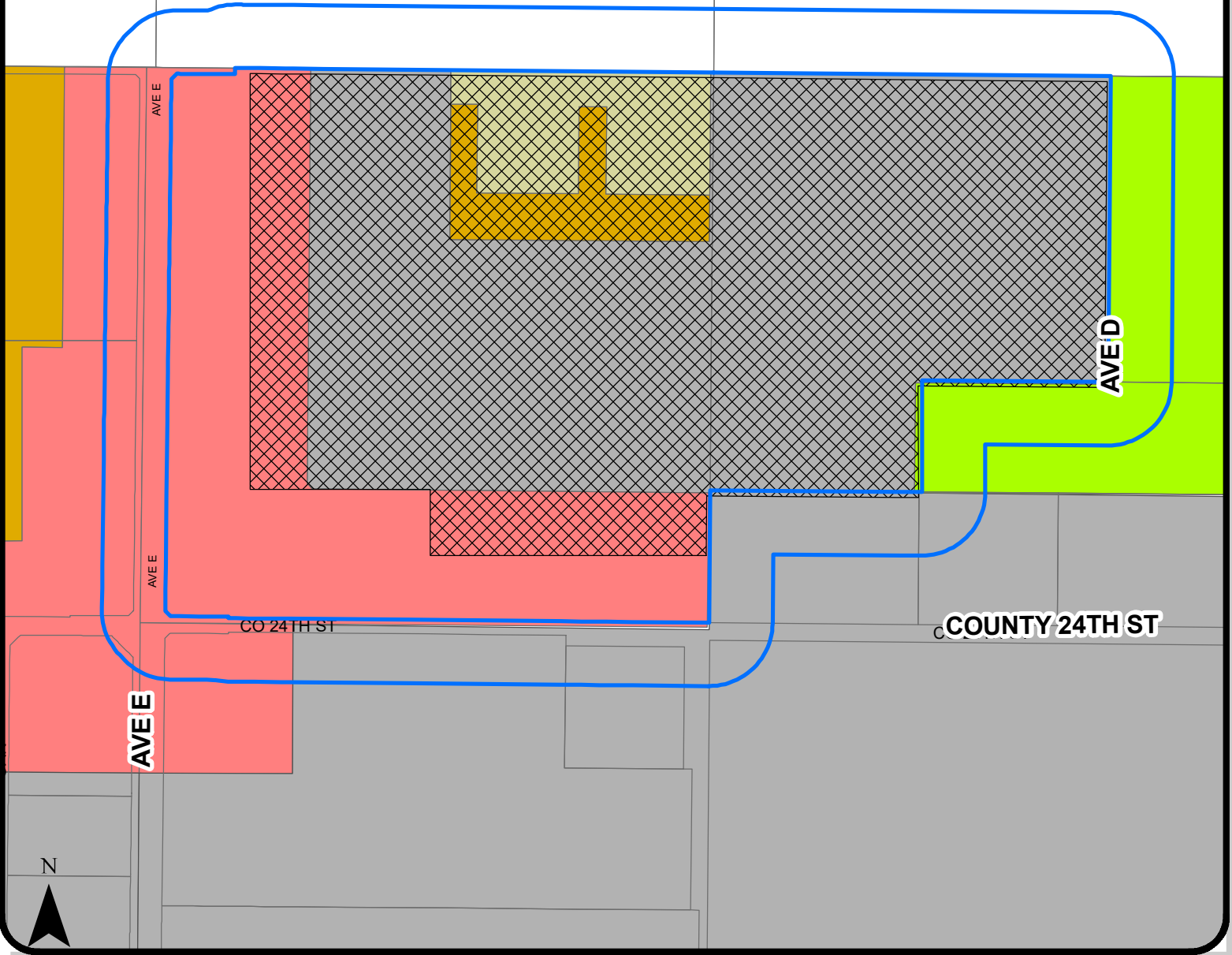
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**Attachments**

Location Map  
Narrative  
Site Plan  
Resolution 933

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0 0.05 0.1 0.2 Miles









**LOCATION OF SUBJECT PROPERTY**

**LOCATION MAP**

**Rezoning**

-  Parcel 227-11-004 & 227-11-005
-  Rezone from LI, C2, R2, R3 to R1-6.
-  300ft Notification Area

**CASE #**  
**2021-0693**

- ZONING**
- COMMERCIAL ZONING DISTRICTS**
  -  C-2
  - INDUSTRIAL ZONING DISTRICTS**
  -  LI
  -  HI
  - MULTIPLE RESIDENCE ZONING DISTRICTS**
  -  R-2
  -  R-3
  - SINGLE RESIDENCE ZONING DISTRICTS**
  -  BA-10

**DATE:**  
11/15/2021

**PLANNING & ZONING**



**GIS**

**CREATED BY:**  
ISAAC GUTIERREZ

**CHECKED BY:**  
ROMAN PACHECO

**APPROVED BY:**  
JOSE A. GUZMAN

## **Narrative Statement**

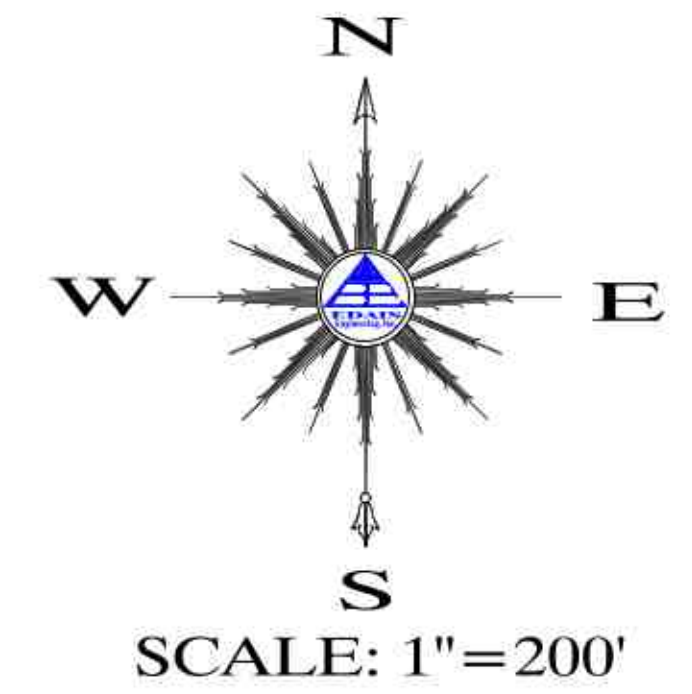
We hereby request City of San Luis to review our application to rezone 185.19 more or less acres from parcel numbers 227-11-005 and 227-11-004 located north of County 24<sup>th</sup> Street between Ave E and Ave D. We are requesting a zoning change from "Light Industrial" (L-1), "Medium Density Residential" (R-2) & "High Density residential" (R-3) to "Low Density Residential" (R-1-6). Attached is zoning map and master plan of the proposed layout.

# LOS MEZQUITES SUBDIVISION

DATE OF PREPARATION: NOVEMBER 2021

NUMBER OF LOTS: 897

## MASTER PLAN LAYOUT

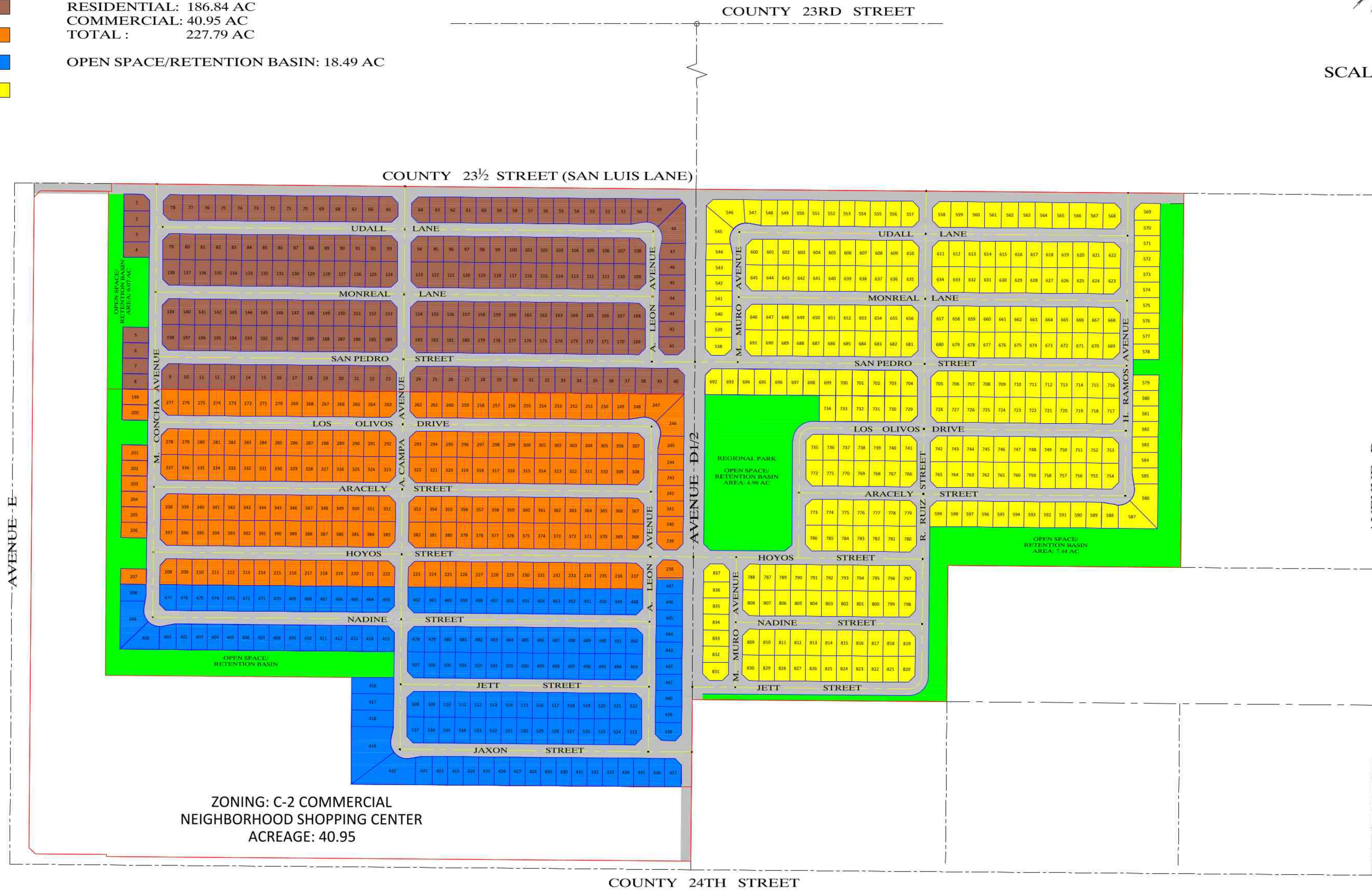


- UNIT #**
- UNIT 1
  - UNIT 2
  - UNIT 3
  - UNIT 4

**ACREAGE**

RESIDENTIAL: 186.84 AC  
 COMMERCIAL: 40.95 AC  
 TOTAL : 227.79 AC

OPEN SPACE/RETENTION BASIN: 18.49 AC



ZONING: C-2 COMMERCIAL  
 NEIGHBORHOOD SHOPPING CENTER  
 ACREAGE: 40.95

PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

**WHEN RECORDED MAIL TO:**

**Sonia Cuello  
City Clerk  
City of San Luis  
P.O. Box 1170  
San Luis, AZ 85349**

CONFIRMED COPY  
2011-17184 RESOLUTION  
07/27/2011 01:23:01 PM Pages: 20 Fees: \$10.50  
Requested By: CITY OF SAN LUIS  
Recorded By: Laguarda  
Robyn Stalworth Request to County Recorder, Yuma County AZ  
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**CAPTION HEADING:**

**City of San Luis:  
Resolution No. 933-Development Agreement San Luis Port L.L.C.**



# Resolution

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

## RESOLUTION NO. 933

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND SAN LUIS PORT, L.L.C.

Whereas, San Luis Port, L.L.C., an Arizona Limited Liability Company, desires to enter into a development agreement ("Development Agreement") with the City of San Luis, Arizona ("City") to provide for the development of certain property located in the City of San Luis; and

Whereas, A.R.S. §9-500.05 grants power to a municipality to enter into development agreements; and

Whereas, the parties to the Development Agreement desire to enter into said agreement;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of San Luis, State of Arizona, as follows:

Section 1: That the Development Agreement between the City of San Luis, Arizona and San Luis Port, L.L.C. as attached hereto as Exhibit "A", is hereby approved.

Section 2: That the appropriate City officials are hereby authorized and directed to enter into said agreement on behalf of the City and take any all actions as may be necessary to effectuate said agreement.


PASSED AND ADOPTED by the Mayor and Common Council of the City of San Luis, Arizona, this 13<sup>th</sup> day of April, 2011.

  
Juan Carlos Escamilla, Mayor

ATTEST:

  
\_\_\_\_\_  
Sonia Cuello, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
for Glenn Gimbut, City Attorney

RESOLUTION 933  
EXHIBIT A

**DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 13<sup>th</sup> day of April, 2011, by and between San Luis Port, L.L.C., (the "Developer") and the City of San Luis, an Arizona municipal corporation (the "City"). This Agreement is entered into pursuant to City Resolution Number 933.

RECITALS

- A. WHEREAS, A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real property that is located in the City;
- B. WHEREAS, Developer is the owner of property located in the municipal limits of the City;
- C. WHEREAS, Developer desires residential zoning in an area surrounded on three sides by industrial zoning, and City desires to limit the types of residential uses in order to ensure compatibility of uses;
- D. WHEREAS, the City's governing body has authorized execution of this Agreement by Resolution No.933, a draft of which is attached to this Agreement.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

ARTICLE 1. DEFINITIONS

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

- 1.1 "Certificate of Completion" as used in this Agreement, shall mean a final written acceptance of the completed and inspected project or projects issued by the Planning and Zoning Department and the Public Works Department as a result of the development of the Property which is the subject of this agreement. A certificate of completion will not be issued until the entire Property is developed in conformance with the Agreement and accepted by the City.
- 1.2 "City" shall mean and refer to the City of San Luis, an Arizona municipal corporation, and any successor public body or entity.

1.3. “Developer” shall mean and refer to San Luis Port, L.L.C., an Arizona Limited Liability Company, successor(s), assign(s), or nominee.

1.4 “Final Plat” shall mean and refer to a final subdivision plat which is approved by the City with respect to the development of a group of Parcels within the Property and which sets forth the specific uses, densities, features and other development matters with respect to such Parcel or Parcels.

1.5 “Improvements” shall mean and refer to all public and private improvements which may be constructed from time to time on the Property, including, without limitation, all structures, buildings, roads, driveways, parking areas, walls, landscaping and other improvements of any type or kind, or any other alteration of the natural terrain to be built by the Developer or the City, as the case may be, pursuant to the terms of this Agreement.

1.6 “Property” as used in this Agreement shall mean and refer to all of the real property which is legally described on Exhibits A and B. “Parcel One” shall refer to the property described on Exhibit A and “Parcel Two” shall refer to the property described on Exhibit B.

## ARTICLE 2. DURATION; AMENDMENT OF EXISTING DEVELOPMENT AGREEMENT

2.1 Duration of Development Agreement. The term of this Agreement shall continue and exist from the effective date of this agreement until a “Certificate of Completion” is issued by the City for the development of the Property, unless sooner cancelled as provided in this Agreement.

2.2 Amendment of Existing Agreement. The Property is currently the subject of an existing Development Agreement as approved by Resolution No. 421 of the City of San Luis. This agreement is intended to amend and modify said existing Development Agreement such that in the event of any conflict, the provisions of this agreement shall supersede and control.

## ARTICLE 3. RESIDENTIAL DEVELOPMENT RESTRICTIONS; LANDSCAPING

3.1 Development of Residential Uses; Rezoning Restrictions. The Property at present time is zoned as Rural Area – 10 Acres minimum (RA-10). Developer desires to have the Property rezoned to residential uses, Parcel One to Intermediate Density Residential (R-2) and Parcel Two to High Density Residential (R-3). In addition to these rezonings, Developer has rezoned land on three adjoining sides of the Property to Light Industrial.

As a result, the City desires to ensure compatibility of uses between residential uses and industrial use and development. To this end, Developer and City agree as follows:

- a) At such time as the Property develops, a solid block wall at least 8 feet in height will be placed on all sides adjoining industrial or commercially zoned property and the County 23 ½ alignment. It is understood that at the time of development, other restrictions may be placed as part of subdivision plat approval to ensure either sight or sound attenuation from commercial vehicular traffic; traffic controls or roadway design to ensure no conflicts between commercial vehicular traffic and residential traffic; street lighting and other safety controls, design, or development to ensure safe residential use from commercial vehicular traffic.
- b) Development of Parcel One and Parcel Two shall be limited to the multi-family uses of either apartment, townhouse, or condominium development. In the event that it is desired to develop the property to single family homes, Developer agrees that such development will be limited to large lot development of lots no less in size than 8,000 square feet and homes of not less than 1750 square feet, exclusive of garage or carport. It is understood that development of such large single family lots may need an amendment to the General Plan of the City and/or a further rezoning before such use could be developed.
- c) Proposition 207 Waiver. Developer agrees to execute a Proposition 207 Waiver in the form attached as Exhibit C attached hereto as a condition of any rezoning of the Property.
- d) Developer has offered to make <sup>SRM</sup>available to City for landscaping on Avenue E, on public right of way, up to 100 ~~medjool~~ date palm trees. Cost of installation shall be borne by City. This offer of Developer may be accepted by City up until Jan 1, 2013.
- e) Developer agrees that with respect to the Property subject to this agreement and the Development Agreement dated January 12, 2000, that said lands shall be developed in accordance with such ordinances, rules, and/or regulations then in effect at the time of development.

#### ARTICLE 4. MEDIATION AND DEFAULT

4.1 Representatives. To further the cooperation of the parties in implementing this Agreement, the City and Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Developer. The initial representative for the City (the "City Representative") shall be the City Manager or his designee and the initial representative for the Developer shall be its project manager, as identified by the Developer from time to time (the "Developer Representative"). The

representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Property.

4.2 Mediation. In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by Developer and the City. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, then within three (3) days thereafter, the City and the Developer shall request the presiding judge of the Superior Court in and for the County of Yuma, State of Arizona, to appoint a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool. The cost of any such mediation shall be divided equally between the City and Developer. The results of the mediation shall be nonbonding on the parties, and any party shall be free to initiate litigation subsequent to the moratorium.

4.3 Default. Failure or unreasonable delay by any party to perform any term or provision of this Agreement for a period of ten (10) days after written notice thereof from another party shall constitute a default under this Agreement. If the default is of a nature which is not capable of being cured within ten (10) days, the cure shall be commenced within such period, and diligently pursued to completion. The notice shall specify the nature of the alleged default and the manner in which the default may be satisfactorily cured. In the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity, including, without limitation, termination, specific performance, and/or the right to perform the obligation (s) of which the defaulting party is in default and to immediately seek reimbursement from the defaulting party of all sums expended in order to cure such default, together with interest on all such sums from the date said sums are expended by the non-defaulting party for the purpose of curing the default to the date such sums are paid in full.

#### ARTICLE 5. CONFLICT OF INTEREST; REPRESENTATIVES NOT INDIVIDUALLY LIABLE.

5.1 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the City shall have any personal interest, direct or indirect in this Agreement, nor shall any such member, official or employee participate in any decision relating this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This agreement is subject to the provisions of A.R.S. §38-511.

5.2 No Personal Liability. No member, official or employee of the City shall be personally liable to Developer, or any successor or assignee, (a) in the event of any default or breach by the City, (b) for any amount which may become due to the Developer or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Agreement.

#### ARTICLE 6. MISCELLANEOUS PROVISIONS

6.1 Notices. All notices and communications provided for herein, or given in connection herewith, shall be validly made if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid to:

If to the City:	City Manager P.O. Box 1170 1090 East Union Street San Luis, AZ 85349
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If to the Developer	Stephen P. Shadle 833 E. Plaza Circle Suite 200 Yuma AZ 85365
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or such other addresses as either party may from time to time designate in writing and deliver in a like manner . Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail shall be deemed delivered 72 hours following deposit in the United States Postal Service in the manner set forth above.

6.2 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

6.3 Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

6.4 Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. The Developer represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona and that it is

duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. The Developer and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf each individual is signing. The Developer represents to the City that by entering into this Agreement, the Developer has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

6.5 Entire Agreement. This Agreement, including the following exhibits, constitutes the entire agreement between the parties. This provision applies only to the entirety of this Agreement only; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.

6.6 Amendment of the Agreement. This Agreement may be amended, in whole or in part and with respect to all or any portion of the Property, only with the mutual written consent of the parties to this Agreement or by their successor in interest or assigns. The City shall record the amendment or cancellation in the official records of the Yuma County Recorder.

6.7 Severability. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

6.8 Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Yuma County, Arizona, and the parties hereby waive any right to object to such venue.

6.9 Recordation of Agreement and Subsequent Amendment; Cancellation. This Agreement, and any amendment or cancellation of it shall be recorded in the official records of the Yuma County Recorder no later than ten (10) days after the City and the Developer execute such agreement amendment or cancellation, as required by A.R.S. § 9-500.05.

6.10 Attorney's Fees and Costs. If either party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party will be entitled to reasonable attorney's fees and court costs.

6.11 Notice of Conveyance or Assignment. The Developer shall give notice to the City of any sale of the entire Property at least ten (10) days prior to the effective date of the sale.

6.12 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

6.13 No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.

6.14 Non-Liability of City Officials and Employees Except for mandamus and other special actions, no member, official or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Developer or successor, or under any obligation under the terms of this Agreement.

6.15 Sudan/Iran Investments and Business Operations. By entering into this agreement, Developer certifies that it does not have scrutinized business operations in Iran or Sudan as those terms are defined in A.R.S. §35-391 et seq. and §35-393 et seq.

6.16 Employment Eligibility. Developer hereby warrants, and shall require its contractors and subcontractors to warrant, that it is in compliance with all federal immigration laws and regulations that relate to its employees and with A.R.S. §23-214 relating to verification of employment eligibility. A breach of this warranty shall be deemed a material breach of the agreement and is subject to penalties up to and including termination of this agreement. City retains the legal right to inspect the papers of Developer and any contractor or subcontractor employee of Developer to ensure that Developer and any of its contractors or subcontractors are compliant with this warranty

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF SAN LUIS, an Arizona  
Municipal Corporation

THE DEVELOPER, San Luis Port L.L.C.,  
an Arizona Limited Liability Company

By: \_\_\_\_\_

Mayor

By: \_\_\_\_\_

Its: Manager



City of San Luis, Arizona  
Office of the City Clerk  
Box 1170  
1090 East Union Street  
San Luis, Arizona 85349

**Agreement Regarding Acceptance of Land Use Conditions and Wavier of Rights and Remedies under Proposition 207: For use with a General Plan Amendment, Zoning Change (including Major or Minor Amendment to PCD or PAD), Zoning Text Amendment Request, Annexation, Site Plan Approval, or Design Review Approval**

This Agreement regarding Acceptance of Land Use Conditions and Wavier of Rights and Remedies under Proposition 207 ("Agreement") is made by and between Applicant: Stephen P. Shadle who is the applicant or the authorized representative of the applicant (the "Applicant") in City of San Luis Land Use Case No. \_\_\_\_\_ (the "Application"), and the City of San Luis, Arizona, a municipal corporation (the "City").

Whereas, Applicant has submitted the Application to the City wherein it has requested that the City approve a General Plan Amendment, Zoning Change (including Major or Minor Amendment to a PCD or a PAD), Annexation, Site Plan Approval, or Design Review Approval for certain real property owned or controlled by the Applicant located with in the City or to be annexed by the City more particularly described in the Exhibit "A" (legal description of the "Property");

Whereas, the City has reviewed the Application for conformance and consistency with the City's General Plan, Zoning Ordinance , any applicable Specific Plans, and any other applicable Ordinances, which may include Desert Conservation, Open Space, Hillside, Grading and Drainage, Stormwater Management, and Sensitive Lands (collectively, "Land Use Ordinances");

Whereas, the Property is subject to the provisions of Proposition 207, as adopted by the voters of the State of Arizona during the November 7, 2006, general election, which is codified at A.R.S. §12-1131, et seq. ("Proposition 207"); and

Whereas, the City and the Applicant desire to resolve the applicability of Proposition 207 to the Application and determine all other conditions that the City will impose subject to approval of the Application.

Now therefore, the Applicant and the City agree as follows:

1. Conditions. The Applicant and the City agree that the conditions set forth in Exhibit "B" (Conditions of Agreement), together with all other conditions, if any, that are imposed by the Planning and Zoning Commission or the City Council, or both, shall be included as part of any approval of the Application by the City; except that, if the Applicant objects to such other conditions during each and every public hearing, if any, related to the Application, then such other conditions are not covered by this Agreement. Except as provided in this §1, the Applicant covenants that it is lawfully empowered to accept and hereby does accept such conditions on behalf of all parties with an interest in the Property. Except as provided in this §1, the Applicant and the City agree that compliance with the conditions set forth in Exhibit "B" and the other conditions described in this §1, as determined by the City, is a requirement for approval of the Application. The Applicant acknowledges that these conditions may be subject to reasonable interpretation and application by the City in future land use applications pertaining to this Property, and the Applicant agrees that such action by the City will not provide a claim under Proposition 207; however

the City agrees that the Applicant does not hereby waive the right to protest such action under any other law.

2. Run with the Land. The Applicant and the City agree that this Agreement shall run with the Property and be binding upon all subsequent owners. The Applicant hereby consents to the City recording this Agreement and any other necessary related documents with the Yuma County Recorder's Office in which the Property is located.
  
3. Waiver.
  - a. The Applicant acknowledges that the Applicant and the City are empowered to agree to a waiver of the terms and requirements of Proposition 207, in particular those items codified at A.R.S. §12-1134, pursuant to A.R.S. §12-1134 (I).
  - b. The City agrees that the Application conforms with and is consistent with the City's General Plan, and the Applicant on behalf of itself and all other parties having an interest in the Property knowingly and intelligently waives the provisions of Proposition 207, in the particular A.R.S. §12-1134, resulting from the City's actions with respect to the Application, as follows:
    - 3.2.1. Any actual or claimed reduction of any existing rights to use, divide, sell, or possess the Property resulting from the City's actions with respect to the Application.
    - 3.2.2. Any actual or claimed reduction in the fair market value of the Property resulting from the City's actions with respect to the Applicant.
    - 3.2.3. Any actual or claimed reduction of any existing rights to use, divide, sell or possess any private real property adjacent to the Property or of the fair market value of any private real property adjacent to the Property resulting from the City's actions with respect to the Application.
    - 3.2.4. Any actual or claimed right of the Applicant and/or the owner of the Property to file a lawsuit against the City seeking just compensation for an actual or claimed regulatory taking in a court in the county in which the Property is located resulting from the City's actions with respect to the Application.
    - 3.2.5. Any actual or claimed right to the Applicant and/or the owner of the Property to secure a binding waiver of enforcement of particular San Luis, Arizona land use law against the Property resulting from the City's actions with respect to the Application.
  
4. City's Agreement. City agrees that by virtue of the Applicant's execution of this Agreement and acceptance of all of the conditions imposed by the City regarding the Application, that the Application and this Agreement shall be submitted with a staff recommendation for approval to the San Luis City Council or other decision-making body or person, as appropriate, for consideration and possible approval. However, the Applicant's failure to execute this Agreement will not prevent processing of the Application or submittal of the Application for consideration and possible approval.

5. Legislative Acts. This Agreement in no way acquiesces to or obligates to City to perform any legislative act.
6. Estoppel. The Applicant represents that, to its knowledge with regard to the Application and the Property as of the effective date of this Agreement, it has received the equal protection of the laws, has received due process of all of its claims and requests, and has not suffered any compensable regulatory taking (as those terms and their related claims are defined by Arizona state and federal constitutional jurisprudence, including Proposition 207) that would be or the Applicant claims or believes would be compensable under Proposition 207 or any other federal or Arizona state law, regulation, or constitutional provision.
7. Indemnification and Termination Upon Sale of Public Lots. The Applicant agrees to protect, indemnify, and hold the City, its agents, representatives, officers, directors, elected and appointed officials, and employees harmless from and against all liabilities, obligations, claims, suits, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and litigation related expenses) imposed upon or asserted by any claimant pursuant to Proposition 207 against the City, its agents, representatives, officers, directors, elected or appointed officials, and employees, by reason of or arising out of this Agreement or the City's approval of the Application. In order to assert any right to indemnification pursuant to this provision, the City shall notify and issue a tender of defense to the Applicant in writing within thirty (30) days of initial notice to the City of an underlying claim against the City pursuant to A.R.S. §12-1134 and this Application. Upon notice and tender of defense by the City to the Applicant of an indemnification claim pursuant to this provision, the Applicant shall affirmatively accept the City's tender of defense in writing within ten (10) days of receipt of said tender from the City, and may thereafter assert control of the management and disposition of said underlying claim, including but not limited to the choice of counsel, and the City shall reasonable cooperate in this Applicant's management and disposition of the underlying claim. This obligation to indemnify shall terminate without the execution or recordation of any further of instrument as to any lot ("Public Lot") which has been finally subdivided, has been improved with a fully completed dwelling or commercial building, has been individually (and not in "bulk") leased (for a period of longer than one year) or sold to an end purchaser or user thereof, and thereupon such Public Lot shall be released from and no longer shall be subject to or burdened by the provisions of this §7.
8. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the application of Proposition 207 to the Property. All prior and contemporaneous agreements, representations, and understandings of the parties, oral or written, with respect to the application of Proposition 207 to the Property other than specifically incorporated herein by reference, are superseded by this Agreement. All prior and contemporaneous agreements, representations, and understandings of the City with any other parties, oral or written, with respect to the application of Proposition 207 to the Property other than specifically incorporated herein by reference, regarding any portion of or all the Property, are superseded by this Agreement. Nothing in this section is intended to void or invalidate other agreements affecting the Property to which both the Applicant and the City are parties, such as development

agreements, easements, repayment agreements, or others: however, the provisions of this Agreement shall supersede and take precedence over any conflicting provisions in any such other agreements.

9. Severability. If any provision of this Agreement is declared void or unenforceable, the provisions will be severed from this Agreement and the remainder of the Agreement will otherwise remain in full force and effect, provided that the overall intent of the parties is not materially vitiated by such severability.
10. Governing Law. This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona.
11. Effective Date and Recordation. This Agreement shall become effective upon approval by the City of the Application as evidenced by all necessary signatures upon any written approval, ordinance or resolution approved by the San Luis City Council or approved minutes evidencing the action taken by the City Council or other appropriate decision-maker in accordance with applicable law. No later than ten (10) days after the application has been approved as provided herein, the City will cause this Agreement to be recorded in its entirety in the official records of the Yuma County Recorder's Office in which the Property is located.
12. Term. This Agreement shall be effective for a period of ten (10) years from the date the City approves the Application, unless within three (3) years of the date execution of the Agreement, the City advises the Applicant that a court of competent jurisdiction of the legislature had determined that a Proposition 207 claim may be stated based on a land use law at a time later than the term of this Waiver; in such case, the term will be automatically extended without further action of the parties to such time, unless the Applicant protests the City's interpretation of such court or legislative decision with ten (10) days. Such protest must be heard by the City's Independent Hearing Officer within thirty (30) days, and the decision of the Independent Hearing Officer will be final with respect to the correct interpretation for the purpose of this §12.
13. Authority. The Applicant represents and warrants to the City: (a) that it is duly formed and validly existing under the laws of the State of Arizona and is authorized to do business in Arizona; and (b) that the individual(s) executing this Agreement on behalf of the Applicant are authorized and empowered to bind the Applicant. The City represents and warrants to the Applicant: (y) that it is a duly formed municipal corporation with the State of Arizona; and (z) that the individual(s) executing this Agreement on behalf of the City are authorized and empowered to bind the City.
14. Conflict of Interest. The parties acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of A.R.S. §38-511.



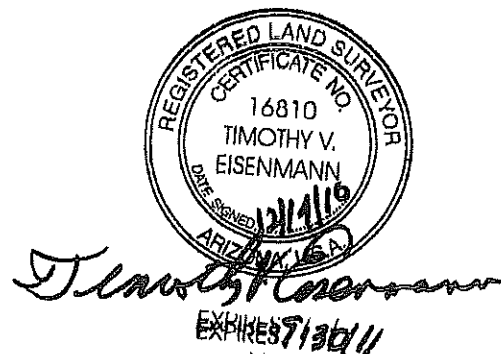
**Exhibit A  
Legal Description**

**R-2 RESIDENTIAL DISTRICT ZONING  
LEGAL DESCRIPTION**

That portion of the Southwest quarter (SW¼) of Section 11, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona more particularly described as follows;

BEGINNING at the Southwest corner of said SW¼ Section 11;  
 Thence N00°25'06"E along the West line of said SW¼ Section 11 a distance of 2640.49 feet to the Northwest corner of said SW¼ Section 11;  
 Thence S89°28'51"E along the North line of said SW¼ Section 11 a distance of 1411.19 feet to the TRUE POINT OF BEGINNING;  
 Thence continuing S89°28'51"E along said North line SW¼ Section 11 a distance of 1228.95 feet to the Northeast corner of said SW¼ Section 11;  
 Thence S00°26'29"W along the East line of said SW¼ Section 11 a distance of 573.79 feet;  
 Thence N89°28'51"W a distance of 488.41 feet;  
 Thence N00°31'09"E a distance of 420.00 feet;  
 Thence N89°28'51"W a distance of 125.44 feet;  
 Thence S00°31'09"W a distance of 420.00 feet;  
 Thence N89°28'51"W a distance of 485.44 feet;  
 Thence N00°31'09"E a distance of 420.00 feet;  
 Thence N89°28'51"W a distance of 130.44 feet;  
 Thence N00°31'09"E a distance of 153.79 feet to the TRUE POINT OF BEGINNING;

SAID Parcel contains 13.7262 acres more or less.



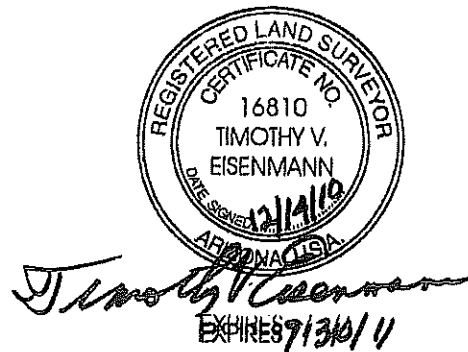
**Exhibit B  
Conditions of Agreement**

**R-3 RESIDENTIAL DISTRICT ZONING  
LEGAL DESCRIPTION**

That portion of the Southwest quarter (SW¼) of Section 11, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona more particularly described as follows:

BEGINNING at the Southwest corner of said SW¼ Section 11;  
 Thence N00°25'06"E along the West line of said SW¼ Section 11 a distance of 2640.49 feet to the Northwest corner of said SW¼ Section 11;  
 Thence S89°28'51"E along the North line of said SW¼ Section 11 a distance of 1411.19 feet;  
 Thence S00°31'09"W a distance of 153.79 feet to the TRUE POINT OF BEGINNING;  
 Thence S89°28'51"E a distance of 130.44 feet;  
 Thence S00°31'09"W a distance of 420.00 feet;  
 Thence S89°28'51"E a distance of 485.44 feet;  
 Thence N00°31'09"E a distance of 420.00 feet;  
 Thence S89°28'51"E a distance of 125.44 feet;  
 Thence S00°31'09"W a distance of 420.00 feet;  
 Thence S89°28'51"E a distance of 488.41 feet to a point on said East line SW¼ Section 11;  
 Thence S00°26'29"W along said East line SW¼ Section 11 a distance of 215.00 feet;  
 Thence N89°28'51"W a distance of 1230.03 feet;  
 Thence N00°31'09"E a distance of 635.00 feet to the TRUE POINT OF BEGINNING.

SAID Parcel contains 8.5375 acres more or less.





## PLANNING & ZONING AGENDA ITEM REVIEW FORM

### Planning & Zoning Commission Meeting

3. B.

**Meeting Date:** 12/14/2021

**Submitted By:** Fernando Villegas, Principal Planner, Planning & Zoning Department, Development Services

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#### ITEM:

Public hearing followed by discussion and possible action on any and all matters regarding Minor Amendment Case No. 2021-0703. A request by Agustin Tumbaga Jr. on behalf of Riedel Holdings LLC to amend the 2040 General Plan changing the land use designation of a parcel 2.9 acres from Medium Density Residential (MDR) to High Density Residential (HDR). Assessor's parcel number 777-61-165, located on the northeast corner of Avenue F and County 24 th Street in San Luis, Arizona.

A. Open public hearing

1. Staff presentation

2. Call to the Public on this item

B Close public hearing

C. Action on Minor Amendment Case No. 2021-0703

#### BACKGROUND:

The subject property land use designation is Medium Density Residential (MDR) as shown on the City of San Luis 2040 General Plan. The MDR land use designation is compatible with development for detached single family residential development. The applicant is requesting a land use change to High Density Residential to for the construction of multi-story apartments.

#### EXISTING LAND USE DESIGNATION:

*Medium Density Residential (MDR):* The Medium Density Residential (MDR) land use designation is intended to provide for detached single family residential development on moderately sized lots. Zoning districts permitted within MDR: R1-6, R1-8, R1-12, R-2, MH, MHP and PUD.

#### PROPOSED LAND USE DESIGNATION:

*High Density Residential (HDR):* The High Density Residential (HDR) land use designation is intended to provide for multi-story apartments and condominiums close to employment and activity centers. Zoning districts permitted within HDR: R-3, R-2 and PUD

The approval of this minor amendment will allow the applicant to rezone the subject property to R-3. The developer must provide all the necessary improvements including road construction, water and waste water.

#### GENERAL POLICIES:

*Policy G-7.1* The City of San Luis should only prioritize growth in areas with existing infrastructure or areas where infrastructure can be expanded in a fiscally sound manner.

The subject property is located in an area where infrastructure can be expanded. Existing development in the area have provided access to the infrastructure needed for multi family development.

*Policy G-8.1* New development should provide a transition between uses with differing

densities/intensities by incorporating compatible land use strategies.

The subject property is located adjacent to a compatible land use category in every direction. Property to the south is requesting a minor amendment to Commercial (C) for the possible construction of a commercial plaza (Minor Amendment Case No. 2021- 0607). The applicant is also requesting the rezoning of the parcel to the south to C-2 (Rezoning Case No. 2021-0608). Single family residential development is located to the north and east and a vacant lot with Medium Density Residential land use designation and C-2 zoning is located to the west.

*Policy G-9.3* Ensure growth areas are served and connected by major transportation routes and other modes of transportation.

The subject property is connected by Avenue F and County 24th Street. Both arterial roads are not fully improved. However, the City can request a traffic study for the proposed development . The traffic study will ensure that all the improvements necessary are done to provide connection to Cesar Chavez Boulevard and Avenue E.

#### **APPROVAL CRITERIA:**

In determining whether the proposed General Plan Amendment shall be approved, the Planning and Zoning Commission and City Council shall assure that the proposed amendment meets all the following criteria:

The development pattern contained in the existing San Luis General Plan - Land Use Plan does not adequately provide appropriate optional sites for the use or change proposed in the amendment.

The amendment constitutes an overall improvement to the San Luis General Plan and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.

3. The amendment will not adversely impact the community as a whole or a portion of the community by:

- a. Significantly altering acceptable existing land use patterns,
- b. Requiring additional and more expensive improvements to roads, sewer, or water delivery systems than are needed to support the prevailing land uses and which, therefore, may impact developments in other areas,
- c. Adversely impacting existing or previously planned uses through increased traffic generated by the proposal on existing systems, or
- d. Affecting the livability of the area or the health and safety of the residents.

4. The amendment is consistent with the General Plan's overall intent, vision, goals and objectives as well as being compliant with other adopted plans, codes, and ordinances.

#### **COMMENTS:**

As part of the review process all land use cases are reviewed by various city and outside agencies. We have received no comments.

As required by State Statute, staff sent notification letters to property owners within 300 feet of the proposed project (53 letters).

#### **CITIZEN REVIEW MEETING:**

The Citizen Review Meeting was held on December 7, 2021 at the San Luis City Hall Council Chambers at 6:00 p.m. The intent of this meeting was to allow the public to learn about the project, ask questions and express comments. Ana Cortez, owner of the property located at 170 N. Emmanuel Avenue, is in opposition to this request because she purchased the property knowing that commercial development will be located adjacent to his new house. She stated that she does not want apartments next to her house. Ana Cortez was the only member of the public present at the citizen review meeting.

**SUMMARY:**

The applicant is requesting a Minor Amendment to change the land use designation from Medium Density Residential (MDR) to High Density Residential (HDR) for the possible construction of an apartment complex.

**STAFF RECOMMENDATION:**

The applicant has provided the information and materials necessary for review of the minor amendment application.

Staff recommends approval of Minor Amendment Case No. 2021-0703.

**RECOMMENDED MOTION:**

**A. I MOVE TO OPEN PUBLIC HEARING.**

1. Staff presentation
2. Call to the public on this item

**B. I MOVE TO CLOSE PUBLIC HEARING**

**C. I MOVE TO FORWARD MINOR AMENDMENT CASE NO. 2021-0703 TO CITY COUNCIL WITH RECOMMENDATION OF APPROVAL.**

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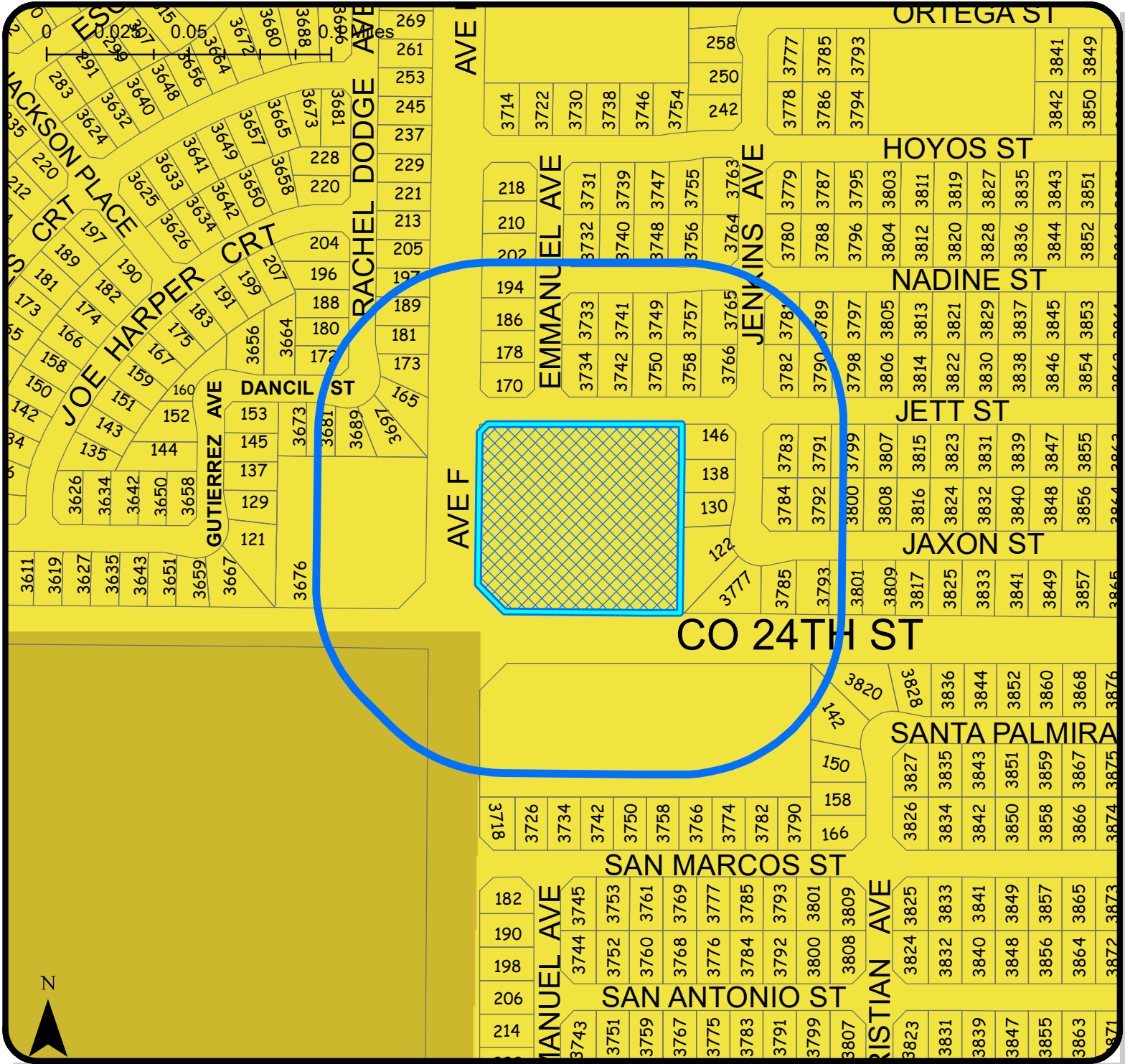
**Attachments**

Location Map

Site Plan

Aerial View

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**LOCATION OF SUBJECT PROPERTY**

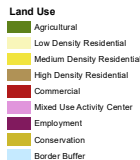
**LOCATION MAP**

**MINOR AMENDMENT**

 777-61-165  
 LAND USE CHANGE FROM MEDIUM DENSITY RESIDENTIAL  
 TO HIGH DENSITY RESIDENTIAL

**CASE #**  
**2021-0703**

 300ft Notification Area



**DATE:**  
 11/15/2021

**PLANNING & ZONING**

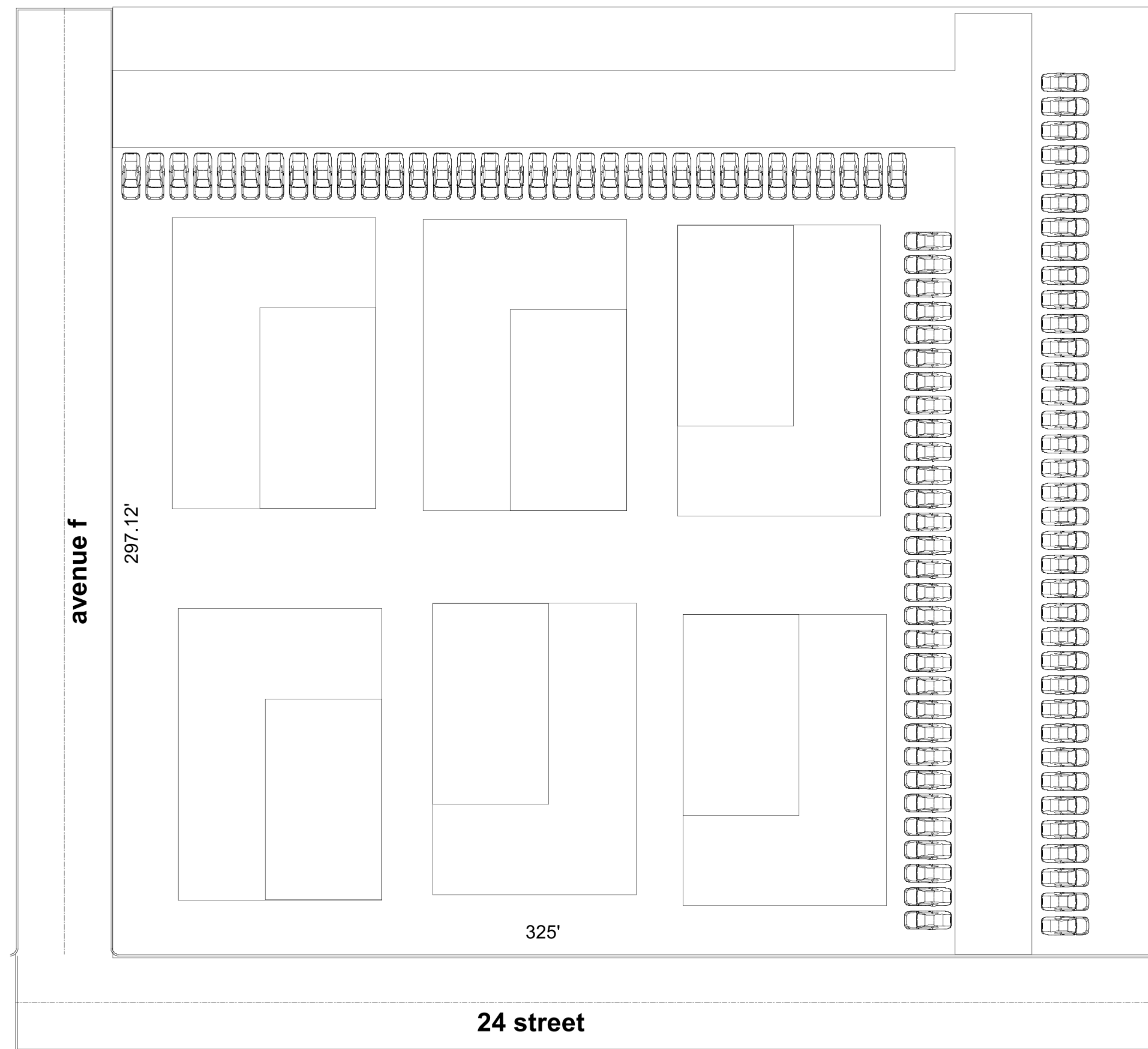


**GIS**

**CREATED BY:**  
 ISAAC GUTIERREZ

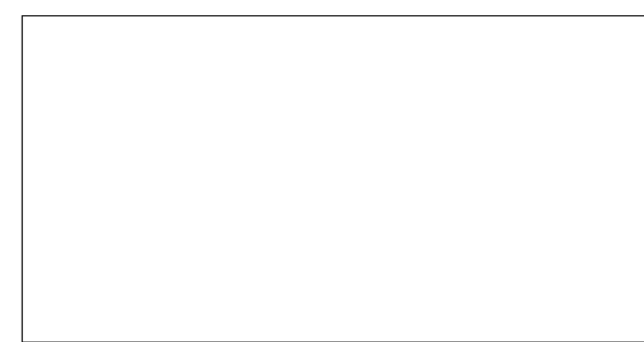
**CHECKED BY:**  
 ROMAN PACHECO

**APPROVED BY:**  
 JOSE A. GUZMAN

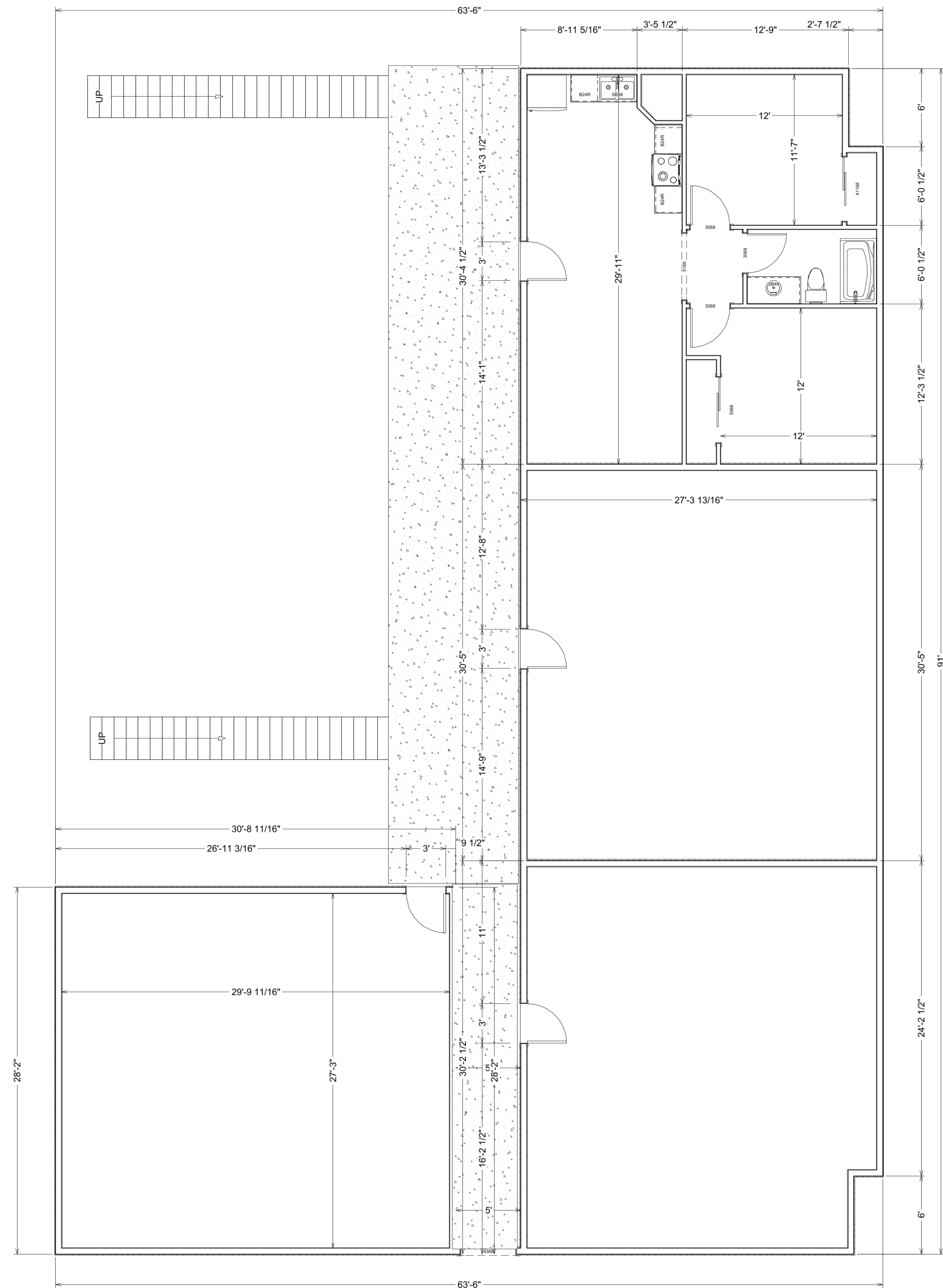


scale 1' - 30'

site plan  
 1"=30' scale  
 DWELLING UNITS  
 6 BUILDING OF  
 48- TWO BEDROOM UNITS  
 TWO STORIES



LIVING AREA  
 3364 SQ FT



typical floor plan  
 scale 3/16 = 1'

NO.	DESCRIPTION	BY	DATE

SHEET TITLE:  
**Site Plan**

PROJECT DESCRIPTION:  
**San Luis Apartment**

DRAWINGS PROVIDED BY:

DATE:  
 11/10/2021

SCALE:

SHEET:

**A-1**

