

**CITY OF GOODYEAR
COUNCIL ACTION REPORT**

SUBJECT: Establishing Easements and Approving Minor Land Division in connection with the sale of city property to AI Arizona DC, LLC

STAFF PRESENTER: Linda Beals, Real Estate Coordinator

CASE NUMBER: 17-550-00006 & 00010

OTHER PRESENTER: N/A

PROPOSED ACTION:

1. ADOPT RESOLUTION NO. 17-1839 DECLARING PUBLIC UTILITY EASEMENTS, PROVIDING DIRECTION REGARDING THE RECORDATION OF THE RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.
2. ADOPT RESOLUTION NO. 17-1840 DECLARING TEMPORARY DRAINAGE EASEMENTS ON PROPERTY THAT IS TO BE CONVEYED TO AI ARIZONA DC LLC, PROVIDING DIRECTION REGARDING THE RECORDATION OF THE RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.
3. ADOPT RESOLUTION NO. 17-1841 AUTHORIZING ESTABLISHMENT OF PUBLIC STREETS BY APPROVING MAP OF DECLARATION, PROVIDING DIRECTION REGARDING RECORDATION OF MAP OF DECLARATION, AND PROVIDING FOR AN EFFECTIVE DATE.
4. ADOPT RESOLUTION NO. 17-1842 APPROVING A MINOR LAND DIVISION SPLITTING CERTAIN OWNED CITY PROPERTY INTO TWO LOTS, PROVIDING DIRECTION REGARDING THE FINALIZATION AND RECORDATION OF THE MINOR LAND DIVISION, AND PROVIDING FOR AN EFFECTIVE DATE.
5. ADOPT RESOLUTION NO. 17-1843 DECLARING A TEMPORARY DRAINAGE EASEMENT ON PROPERTY THAT IS TO BE CONVEYED TO RP PV VI LLC, PROVIDING DIRECTION REGARDING THE RECORDATION OF THE RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND PREVIOUS ACTIONS:

The City entered into the following agreements related to the City's sale of approximately 40 acres of property located at the southwest corner of Indian School Road and Cotton Lane (the "City Property").

- Agreement for Sale and Purchase of Real Estate by and between AI Arizona DC, LLC, a Delaware limited liability company and the city of Goodyear, for the sale by the City to Aldi of a portion of the City Property per Resolution 17-1813, dated June 5, 2017 (the "City/Aldi Agreement")
- Agreement for Sale Purchase of Real Estate between RP PV VI LLC and the city of Goodyear, for the sale by the City to RP PV VI LLC of the remainder of the City Property as per Resolution 17-1813, dated June 5, 2017 (the "City/RPPV Agreement")

RP PV VI LLC (“Sunbelt”) entered into a separate agreement with Aldi for property it owns to the west of the property the City is selling to Aldi (the “Sunbelt Property”).

The City Property was rezoned on October 3, 2016 by the adoption of Ordinance No. 16-5905, which rezoned the City Property from Agricultural (AG) and General Commercial (C-2) to Light Industrial (I-1). The Sunbelt Property was rezoned on March 27, 2017 by the adoption of Ordinance No. 17-1346, which rezoned the Sunbelt Property to PV303 Planned Area Development (PAD).

The MLD, dedications and declarations being presented are related to Aldi’s acquisition of a portion of the City Property, Aldi’s acquisition of the Sunbelt Property and Sunbelt’s acquisition of the remainder of the City Property.

STAFF ANALYSIS:

Absent the consent of Aldi, under the terms of the City/Aldi Agreement, the City is prohibited from creating any encumbrances, such as easements, that were not reflected in a title report that was provided to Aldi shortly after the City/Aldi Agreement was signed. However, the City/Aldi Agreement also contemplates the construction of certain Off-Site Improvements identified in the City/Aldi Agreement by Sunbelt, which requires the establishment of public roadway and various easements. Staff has obtained Aldi’s consent for documents establishing the easements. Aldi’s consent is not required for the establishment of the public roadways because the property being declared public roadways is not within the property Aldi is acquiring from the City.

The Resolutions declaring a Public Utility Easement, a Temporary Drainage Easement and Public Roadways will, when recorded, establish the necessary public roadways and easements. The proposed road alignments established with the Map of Declaration are consistent with the Transportation Master Plan and PV303 PAD. The public road and City utilities will be accepted by the city of Goodyear after satisfactory completion of the improvements and warranty period. The Engineering Department has reviewed and approved the legal Descriptions for the Public Utilities and Access Easements, the Temporary Drainage Easement, and the right-of-way dedications in the Maps of Dedication.

Under the terms of the City/Aldi Agreement, Sunbelt is required to prepare all documents necessary that will create one lot from the property Aldi is acquiring from the City and from Sunbelt (the “Consolidated Lot”). The City/Aldi Agreement provided that the Consolidated Lot would be created by a final subdivision plat. Although the City/Aldi Agreement contemplated Sunbelt submitting plans for a final subdivision plat, rather than submitting plans for a final subdivision plat, applications for the following three minor land divisions (“MLD”) have been or will be submitted by Sunbelt:

- An application for a MLD that divides the Sunbelt Property and creates the lot Aldi is purchasing from Sunbelt;
- An application for a MLD that divides the City Property into the lot Aldi is purchasing under the City/Aldi Agreement and the lot Sunbelt is purchasing from the City under the City/RPPV Agreement; and

- An application for a MLD that will consolidate the lot the City is selling to Aldi with the lot that Sunbelt is selling to Aldi (the “Consolidated Lot”).

The deviation from contract requirements requires the approval of Aldi. Aldi has agreed that the Consolidated Lot can be used for the creation of the Consolidated Lot.

However, because the minor land division and the resolutions establishing the public roadways and easements will not be recorded if the Aldi purchase is not consummated and because the recording of all of the documents being presented herein will be recorded by the title company at the time of closing, all of the resolutions include directions and authorizations for the recordation of the documents.

FISCAL ANALYSIS:

This declaration of the rights-of-way and easements granted by the City are being granted at no cost pursuant to the terms of the City/Aldi Agreement. Roadway and other infrastructure improvements will be constructed by RP PV VI, LLC, a Delaware limited liability Company per the terms of the Agreements. The City will be responsible for the maintenance of the roadways upon acceptance of the constructed improvements.

RECOMMENDATION:

Staff recommends approval of the Resolution approving the MLD and providing authorization and direction for the recordation of the MLD as well as the Resolutions establishing the right-of-way for Indian School and Cotton Lane, the public utility easements and the temporary drainage easements. The approval of these documents is needed to facilitate the completion of sales transactions contemplated in the City/Aldi Agreement and the City/RPPV Agreement previously approved by council and will assist in the development of the infrastructure to the property within and adjacent to the City Property and the Sunbelt Property.

ATTACHMENTS:

RES 17-1839, Public Utility Easement
 RES 17-1840, Temporary Drainage Easement (Aldi Lot)
 RES 17-1841, Map of Declaration (Indian School Rd. & Cotton Lane)
 RES 17-1842, Minor Land Division
 RES 17-1843, Temporary Drainage Easement (Sunbelt Lot)