

Variance Staff Report

TO: ZONING HEARING OFFICER

FROM: SALVATORE DISANTO, PLANNER I SO

(480) 503-6759, SAL.DISANTO@GILBERTAZ.GOV

THROUGH: ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER AM

(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

MEETING DATE: AUGUST 10, 2022

SUBJECT: V22-01 BLIZZARD BEER BUILDING & LANDSCAPE VARIANCES:

REQUEST FOR A DEVIATION FROM THE STRICT APPLICATION OF THE LAND DEVELOPMENT CODE REQUIREMENT SET FORTH IN CHAPTER 1 ZONING REGULATIONS, SECTION 3.0 BASE ZONING DISTRICTS AND USE REGULATIONS, SECTION 3.7 EMPLOYMENT DISTRICTS, AND TABLE 3.7.4.B LI DEVELOPMENT REGULATIONS TO REDUCE THE REQUIRED MINIMUM PERIMETER BUILDING SETBACK, SIDE (RESIDENTIAL) FROM 75 FEET TO 56 FEET AND TO REDUCE THE REQUIRED MINIMUM LANDSCAPE AREA, SIDE (RESIDENTIAL) FROM 25 FEET TO 10 FEET. THE SUBJECT PROPERTY IS LOCATED AT 1332 N MELBA CT AND IS ZONED LIGHT INDUSTRIAL (LI) WITH A PLANNED AREA

DEVELOPMENT OVERLAY (PAD).

STRATEGIC INITIATIVE: N/A

RECOMMENDED MOTION

Make the Findings of Fact and approve V22-01, Blizzard Beer Building & Landscape Variances: a request to deviate from The Town of Gilbert Land Development Code

(LDC) requirements contained in Chapter 1 Zoning Regulations, Section 3 base Zoning Districts and Use Regulations, Section 3.7 Employment Districts, Section 3.7.4.B Site Development Regulations to reduce the required Minimum Perimeter Building Setback, Side (Residential) from 75 feet to 56 feet and to reduce the required Minimum Landscape Area, Side (Residential) from 25 feet to 10 feet. The subject property is located at 1332 N Melba Ct and is zoned Light Industrial (LI) with a Planned Area Development Overlay (PAD).

<u>APPLICANT</u> <u>OWNER</u>

Phoenix, AZ 85008

Company: LGE Design Group Company: Cleland Family Trust

Name: Jon Mandigo Name: N/A

Address: 1200 N 52nd ST Address: 4200 Via Norte

Cypress, CA 90630

Phone: (480) 966-4001 Phone: (562) 755-1021

Email: jonm@lgedesigngroup.com Email: jimmy@blizzardbeersystems.com

BACKGROUND/DISCUSSION History

Date	Description
July 8, 2003	Town Council approved Z03-07, rezoning 9.73 acres from (AG) Agriculture to (C-2) General Commercial and 38.41 acres from (AG) Agriculture to (I-1) Garden Industry for property located South of the South West Corner of Cooper Road and Baseline Road.
September 7, 2004	Town Council approved Z04-20 (Ordinance #1593), rezoning approximately 37.32 Acres from (I-1) Garden industrial to (I-1) garden Industrial with a Planned Area Development Overlay located South of the South West Corner of Cooper Road and Baseline Road.
August 17, 2005	The approved Final Plat for Fuller Commerce Center was recorded with the Maricopa County Recorder's office
May 14, 2009	Design Review Board approved DR08-61 for the development of a new 15,547 sq ft office/warehouse building located on lot 9, within the Fuller Commercial Center II located South of the Southwest Corner of Cooper Road and baseline Road.

Overview

The subject site is located at 1332 N Melba Ct (Lots 9 & 10) and is within the Fuller Commercial Center Industrial subdivision, approved on October 25, 2004. Lots 9 & 10 combine for a total of approximately (2.21) gross acres and located to the west and southwest of a cul-de-sac that combined creates a six-sided nonuniform shaped lot.

Immediately to the south, is the Cooper Ranch residential subdivision originally approved in October 1993. Separating the residential community and the subject site is a privately-owned parcel with an open irrigation ditch, approximately 38 feet in width and 1,978 feet in length (See Exhibit 1 shown in red). This undevelopable strip of land was previously owned by SRP and has since been sold to a private owner as it is no longer used for irrigation purposes. Although this strip of land is currently zoned Single Family-Detached (SF-D) with a Planned Area Development (PAD) overlay, its narrowness makes it unable to meet the Town's residential development standards, rendering it undevelopable and creating a 38' wide buffer between the Fuller Commerce Center and the homes within Cooper Ranch.

LDC Section 3.7.4.B Site Development Regulations for Light Industrial (LI) requires a 75' Minimum Building Setback and a 25' Minimum Landscape Area for parcels neighboring residential zoning districts. However, in this case, the setbacks are being applied to the 38' strip of undevelopable land separating the industrial and commercial subdivisions because of its single-family zoning designation, instead of the residential community itself, which is what the setback is intended for. Therefore, with the strict application of the development standards, there's a 113' building and 63' landscape separation in effect between the residential and industrial properties, much larger than the 75' building setback the LDC intended to create.



Figure 1Site Overview

Surrounding Land Use & Zoning Designations:

	Existing Land Use Classification	Existing Zoning	Existing Use
North	Industrial	Light Industrial (LI) with PAD	Merrill Ave, then Warehouse/Office
South	Residential > 5-8 DU/AC	Single Family Detached (SF-D) with PAD	Single Family Residential (Cooper Ranch)
East	Industrial	Light Industrial (LI) with PAD	Warehouse/Office
West	Industrial	Light Industrial (LI) with PAD	Warehouse/Office
Site	Industrial	Light Industrial (LI) with PAD	Vacant

Project Data Table

Site Development Regulations	Required per LDC	Proposed
Minimum Building Setbacks (ft.)		
Side (Adjacent to Residential)	75'	56'
Minimum Required Landscape Area (ft.)		
Side (Adjacent to Residential)	25'	10'

FINDINGS

To approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 6.5.3 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

Staff finds that special circumstances are present.

Separating the residential community and the subject site is a privately-owned parcel with an open irrigation ditch, approximately 38 feet in width and 1,978 feet in length (See Exhibit 1 shown in red). This undevelopable strip of land was previously owned by SRP and has since been sold to a private owner as it is no longer used for irrigation purposes. Although this strip of land is currently zoned Single Family-Detached (SF-D) with a Planned Area Development (PAD) overlay, its narrowness makes it unable to meet the Town's residential development standards, rendering it undevelopable, creating a 38' wide buffer between the Fuller Commerce Center and the homes within Cooper Ranch. Therefore, the special circumstances applicable to this property are related to its adjacently to a parcel zoned single family, burdening the subject site with an increased building separation and landscape area.

Staff finds that the strict application of the zoning ordinance would deprive the specific property of privileges enjoyed by similar property in the LI zoning district with a Planned Area Development (PAD) Overlay.

If the strict 75' minimum building setback and 25' minimum landscape area are applied to lot 9 it burdens the subject site with a 113' building separation from residential and a 63' landscape area, when accounting for the 38' undevelopable vacant parcel. Measuring the setbacks at the property line of the vacant lot, instead of the closest residential use, creates an increased separation than what is intended by the Land Development Code (LDC) and what's typically required of users in the Light Industrial zoning district.

B. Such special circumstances were not created by the owner or applicants;

Staff finds that the special circumstances present are not "self-imposed".

The owner of the Subject site was not a part of the rezone of the former SRP Irrigation Ditch to a Single-Family Residential Zoning District. Staff has not been able to locate an earlier Town Zoning Map showing the SRP parcel as a Light Industrial (LI) zoning district nor an adopted ordinance changing the zoning district for the parcel. In any event, there is no evidence of rezoning actions that were the result of the property owner/applicant.

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

Staff finds the variance would not grant special privileges inconsistent with limitations on nearby or comparable properties.

The buildings found within the Fuller Commercial Center subdivision all have been developed under the Light Industrial (LI) Zoning District with Planned Area Development (PAD) overlay development standards. The Applicant's proposed Minimum Building Setback and Minimum Landscape Area are consistent, if not nearly identical to those of the surrounding properties (Lots 16, 23, 24 and 38). Lots 24 (V20-02) and 38 (V15-07) have both been granted variance approval permitting relief from the strict development standards of the LI zoning district, due to the location of the 38' wide vacant irrigation ditch. Allowing lot 9 to apply for a variance would not in any way constitute a grant of special privileges, but instead would grant the applicant the same opportunities seen by others within the Fuller Commercial Center.

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

Staff finds that the proposed variance will not be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.

If the variance is approved, the proposed building location on Lots 9 & 10 would still meet the intent of a 75' building separation and 25' Landscape buffer from the closest residential property found within the Cooper Ranch Subdivision. With the strict application of the development standards, without the requested variance there would be a 113' building separation from residential and 63' landscape area which is far beyond our standards for the LI zoning district which would render this site undevelopable. Reducing the Light Industrial (LI) standards to a 56' minimum building setback and a 10' minimum landscape area with the addition of the vacant parcel would result in a building separation from a residential lot of 94' and a minimum landscape area of 48'.

The proposed building location on Lots 9 & 10 and proposed office / warehouse land use are compatible with the Light Industrial (LI) zoned parcels found on lots 16, 23, and 38 within the Fuller Commercial Center.

Pursuant to the above analysis, Staff finds that the variance request does meet all of the four (4) findings required by Article 6.5.3 of the Land Development Code and ARS § 9-462.06.G.

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 5.205.

Staff has received no comment from the public.

PROPOSITION 207

An agreement to "Waive Claims for Diminution in Value" pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 5.201 of the Town of Gilbert Land Development Code. This waiver is located in the case file.

STAFF RECOMMENDATION

Make the Findings of Fact and approve V22-01, Blizzard Beer Building & Landscape Variances: a request to deviate from The Town of Gilbert Land Development Code (LDC) requirements contained in Chapter 1 Zoning Regulations, Section 3 base Zoning Districts and Use Regulations, Section 3.7 Employment Districts, Section 3.7.4.B Site Development Regulations to reduce the required Minimum Perimeter Building Setback, Side (Residential) from 75 feet to 56 feet and to reduce the required Minimum Landscape Area, Side (Residential) from 25 feet to 10 feet. The subject property is located at 1332 N Melba Ct and is zoned Light Industrial (LI) with a Planned Area Development Overlay (PAD).

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.

Respectfully submitted,

Salvatore DiSanto

Sal DiSanto

Planner I

Attachments and Enclosures:

- 1) Hearing Officer Findings of Fact (blank form)
- 2) Notice of Public Hearing
- 3) Applicant's Narrative
- 4) Aerial Photo
- 5) Exhibits/Photos

FINDINGS OF FACT FOR VARIANCE APPLICATIONS

CASE NUMBER: V22-01 APPLICANT NAME: Jon Mandigo

The Hearing Officer, having heard all the evidence before it and having reviewed the file in the above application for a variance, hereby grants the variance application and makes the following findings:

There are special circumstances of the property, including its size, shape, topography, location or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Those special circumstances include the following:

The above special circumstances applicable to the property were not created by the owner or applicant and are more than mere personal inconvenience or financial hardship because:

The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone and vicinity in which such property is located because:

The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general because:

The variance will not make any changes in the uses permitted in the zoning classification or zoning district, or make any changes in the terms of the zoning ordinance except adjustments authorized by ARS § 9-462.06.

Hearing Officer	Date

V22-01 Blizzard Beer Building and Landscape Variances Notice of Public Attachment 2: Notice of Public Hearing August 10, 2022

VARIANCE HEARING DATE:

Wednesday, August 10, 2022* TIME: 5:00 PM

LOCATION: Gilbert Municipal Center, Room 236

90 East Civic Center Dr

Gilbert. AZ 85296

*Call Planning Division to verify date and time: (480) 503-6759

The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM.

REQUESTED ACTION:

V22-01 BLIZZARD BEER BUILDING & LANDSCAPE VARIANCES: Request for a deviation from the strict application of the Land Development Code requirement set forth in Chapter 1 Zoning Regulations, Section 3.0 Base Zoning Districts and Use Regulations, Section 3.7 Employment Districts, and Table 3.7.4.B LI Development Regulations to reduce the required building setback, side (adjacent to single family - detached) from 75 feet to 56 feet and to reduce the required landscape setback, side (adjacent to single familydetached) from 25 feet to 10 feet. The subject real property is located at 1332 N Melba Ct and is zoned Light Industrial (LI) with a Planned Area Development Overlay (PAD).

SITE LOCATION:



APPLICANT: LGE Design Group CONTACT: Jon Mandiao ADDRESS: 1200 N 52nd ST

Phoenix, AZ 85008

TELEPHONE: (480) 966-4001

EMAIL: jonm@lgedesigngroup.com



Town of Gilbert
Development Services Department – Planning Division
Attn: Mr. Keith Newman – Senior Planner
90 E. Civic Center Drive
Gilbert, AZ 85296

April 13, 2022

Re: Blizzard Beer Systems: PPA-2021-00149

Dear Keith,

This letter will serve as a request for a Building Setback Variance for the aforementioned project.

A 75-foot side setback is required when adjacent to Residential Zoning. The parcel is separated from the adjacent residential development by an existing 36-foot-wide vacant parcel that contains an irrigation channel and runs approximately 1,978 feet long. We are proposing a 56-foot side setback adjacent to the Residential zone, which would combine with the 36-foot parcel to provide a total setback of 92-feet. This setback not only meets the intent of the code, but it also exceeds it.

The Zoning Hearing Officer or Board of Adjustment may approve a variance only after the required four findings are satisfied. The four findings are:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location or surroundings whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
- B. Such special circumstances were not created by the owner or applicant;
- C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
- D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

This variance request satisfies the findings by:

A. The special circumstances applicable to the property are its location and surroundings. The property is separated from the residential development to the south by a 36-foot-wide vacant parcel that is not anticipated to be improved upon



due to its unique characteristics of being an (old SRP) irrigation channel. That parcel also has a residential zoning designation (SF-D). The other properties of the same zoning classification (LI) were developed prior to the implementation of the current Land Development Code (LDC); the structure erected on the parcel immediately to the east is closer to the property line than our proposed exterior wall location. In 2005, the parcel that contains the irrigation channel was rezoned from Light Industrial (LI) to Residential (SF-D) by the Town of Gilbert.

Additionally, our parcel sits within a cul-du-sac which creates a unique shape to the lot and presents a general challenge for circulation of an industrial building, for which this lot is zoned. The proposed design makes use of the unique shape while capitalizing on the irrigation channel on the south to provide the beneficial setback for the residential district on the south. In consideration of the irrigation channel, the building as proposed in the site plan design, sits 92 feet from the residential parcel property line, which exceeds the required 75-foot requirement for the LI zoning classification.

The size of the lot, when combined with the significant 75-foot required side yard building setback (and 25 foot landscape setback) adjacent to a residential zoned lot, would significantly limit the ability of this property to be developed for usable operations within the industrial sector. This commerce center consists of lots of sizes which more reasonably accommodate the setbacks.

Required per LDC	Proposed Design
55'/3 stories	32'/1 story
25'	25'
75'	56'-0" (requested variance)+ 36'-0" irrigation canal parcel= 92'-0" – distance from residential homes
	20'
	0'
	55'/3 stories

B. The special circumstances were not created by the owner or applicant; the shape of the lot is defined by its location within the industrial cul-du-sac. Access to the site is limited due to the shape and location within the industrial park. Additionally, neither the owner nor the applicant were part of the rezoning of the irrigation channel parcel which created the special setback requirements.



- C. The variance does not grant special privileges that are inconsistent with the limitations upon other properties in the vicinity that are located within this zoning designation; it provides consistency with the other properties. The requested variances are consistent with other parcels adjacent to this irrigation channel. The parcel directly to the East is a cabinet manufacturer whose building is closer to the property line than our proposed building (approximately 26' compared to our proposed 56'-2"). Similar variances have been granted along this parcel boundary, and no special privileges would be imposed by doing so in this case.
- D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general; it provides cohesiveness within Fuller Commercial Center. The operations of the building are intended to be a warehouse and office, with no manufacturing or fabrication operations taking place. This limits the nuisance noise that would be of primary concern to the nearby residential neighborhood. The design has been mindfully crafted to locate loading docks out of site of the residential area; Additionally, the building height as designed is only 32 feet, although the LI zoning district would allow for a 55 foot, 3 story building. Screen walls have been incorporated along the south lot, and a 10-foot landscape buffer is still provided to soften the visual impact. Operations are consistent with the Light Industrial subdivision and is not detrimental to the neighborhood or the public.

Please let me know if you have any questions or if I can be of further assistance.

Sincerely.

Daniel G. (Danny) Macias, RA **Project Manager**

0: 480.966.4001



Town of Gilbert Development Services Department - Planning Division Attn: Mr. Keith Newman - Senior Planner 90 E. Civic Center Drive Gilbert, AZ 85296

March 31, 2022

Re: Blizzard Beer Systems: PPA-2021-00149

Dear Keith,

This letter will serve as a request for a Landscape Setback Variance for the aforementioned project.

A 25-foot side setback is required when adjacent to Residential Zoning. The parcel is separated from the adjacent residential development by an existing 36-foot-wide vacant parcel that contains an irrigation channel and stretches approximately 1,978 feet long. We are proposing a 10-foot side set back adjacent to the residential zone, which would combine with the 36-foot parcel to provide a total setback of 46-feet. This setback not only meets the intent of the code, but it also exceeds it.

The Zoning Hearing Officer or Board of Adjustment may approve a variance only after the required four findings are satisfied. The four findings are:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location or surroundings whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
- B. Such special circumstances were not created by the owner or applicant;
- C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located: and
- D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

This variance request satisfies the findings by:

 The special circumstances applicable to the property are its location and surroundings. The property is separated from the residential development to the south by a 36-foot-wide vacant parcel that is not anticipated to be improved upon



due to its unique characteristics of being an (old SRP) irrigation channel. That parcel also has a residential zoning designation (SF-D). The other properties of the same zoning classification (LI) were developed prior to the implementation of the current Land Development Code (LDC); the landscape setback on the parcel immediately to the east is approximately 10-feet from the property line. In 2005, the parcel that contains the irrigation channel was rezoned from Light Industrial (LI) to Residential (SF-D) by the Town of Gilbert.

Additionally, our parcel sits within a cul-du-sac which creates a unique shape to the lot and presents a general challenge for circulation of an industrial building, for which this lot is zoned. The proposed design makes use of the unique shape while capitalizing on the irrigation channel on the south to provide the beneficial setback for the residential district on the south. In consideration of the irrigation channel, the screen wall as proposed in the site plan design, sits 46 feet from the residential parcel property line, which exceeds the required 25-foot requirement for the LI zoning classification.

The size of the lot, when combined with the significant (75 foot required side yard building setback and) 25 foot landscape setback adjacent to a residential zoned lot, would significantly limit the ability of this property to be developed for usable operations within the industrial sector. This commerce center consists of lots of sizes which more reasonably accommodate the setbacks.

Site Development	Required per LDC	Proposed Design
Maximum Height/Stories	55'/3 stories	32'/1 story
Required Landscape Area		
Front (Collector)	20'	20'
Cido (Decidential)	25'	10' (requested variance) + 36'-0" irrigation canal parcel = 46'-0" – distance from residential homes
Side (Residential) - Side (Street)	20'	20'
Rear (Employment) - LI	5'	0'
Landscape %	15%	

B. The special circumstances were not created by the owner or applicant; they exist because of the implementation of the LDC. The shape of the lot is defined by its location within the industrial cul-du-sac. Access to the site is limited due to the shape and location within the industrial park. Additionally, neither the owner nor the



- applicant were part of the rezoning of the irrigation channel parcel which created the special setback requirements.
- C. The variance does not grant special privileges that are inconsistent with the limitations upon other properties in the vicinity that are located within this zoning designation; it provides consistency with the other properties. The requested variances are consistent with other parcels adjacent to this irrigation channel. The parcel directly to the East is a cabinet manufacturer that appears to have an approximately 10' landscape setback along the side adjacent to the irrigation canal parcel. Similar variances have been granted along this parcel boundary, and no special privileges would be imposed by doing so in this case.
- D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general; it provides cohesiveness within Fuller Commercial Center.

 The operations of the building are intended to be a warehouse and office, with no manufacturing or fabrication operations taking place. This limits the nuisance noise that would be of primary concern to the nearby residential neighborhood. The design has been mindfully crafted to locate loading docks out of site of the residential area; Additionally, the building height as designed is only 32 feet, although the LI zoning district would allow for a 55 foot, 3 story building. Screen walls have been incorporated along the south lot, and a 10-foot landscape buffer is still provided to soften the visual impact. The variance takes into consideration that the additional space between the residential homes and the industrial operations of this parcel are separated by an open space in excess of the required setback. The supports the intent of the development code. Operations are consistent with the Light Industrial sub-division and is not detrimental to the neighborhood or the public.

Please let me know if you have any questions or if I can be of further assistance.

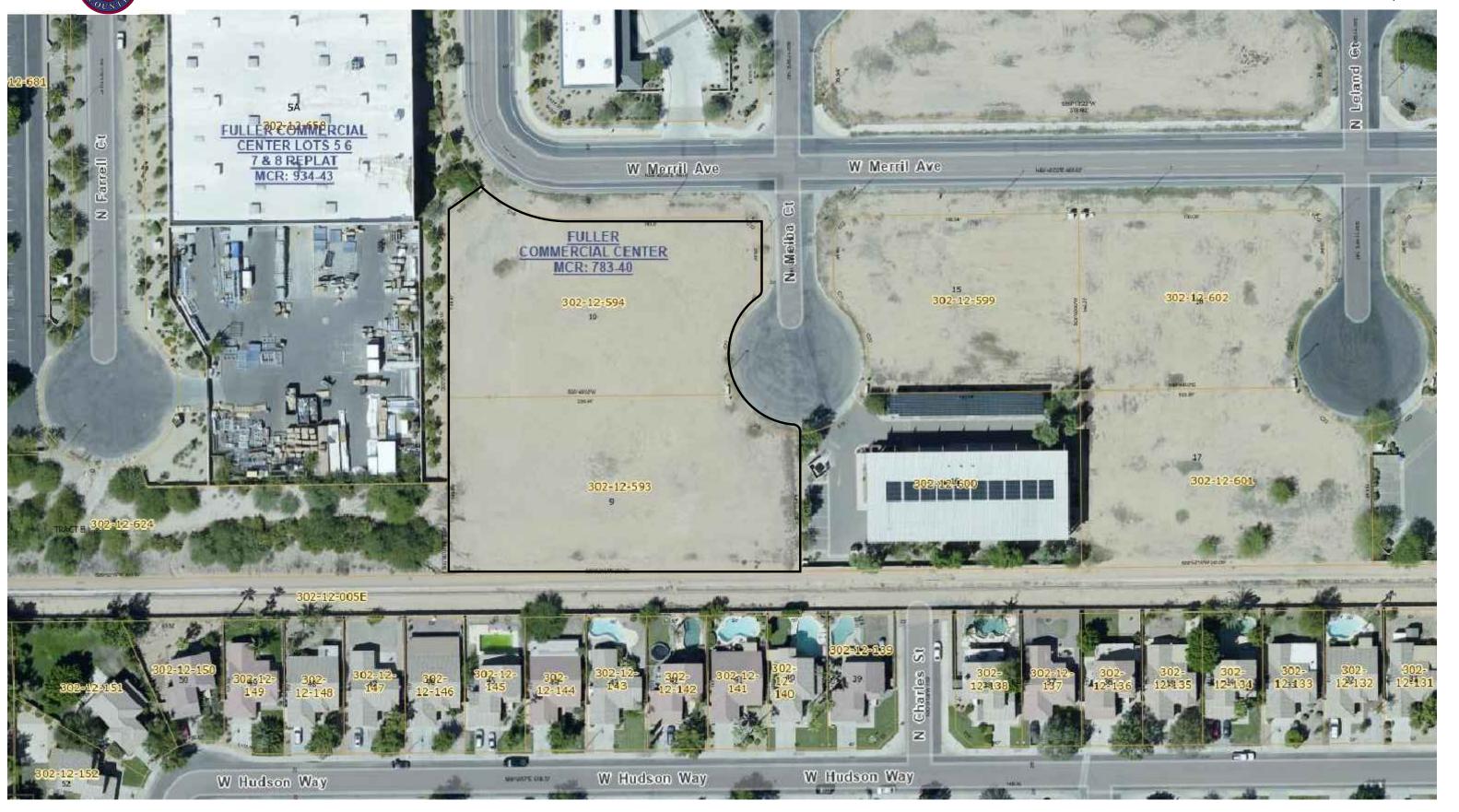
Sincerely,

Daniel G. (Danny) Macias, RA Project Manager

1200 N. 52 St., Phoenix, AZ 85008

0:480.966.4001

MAP



SIGNGROUF

LGE P

ZZARD BEER SYSTEMS

DESIGNAULD

PRELIMINARY

PRELIMINARY NOT FOR CONSTRUCTION

SHEET TITLE

CONTEXT PLAN

ISSUE DATE

DRAWN BY.

CHECKED BY.

A 1.1.0

