

ORDINANCE NO. 3527

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, FINDING THE EXISTENCE OF STATUTORY CRITERIA SUPPORTING THE CREATION OF AN INFILL INCENTIVE DISTRICT IN THAT AREA OF THE CITY OF SCOTTSDALE GENERALLY LOCATED BETWEEN INDIAN SCHOOL, CAMELBACK, SCOTTSDALE ROADS, 68<sup>TH</sup> STREET AND GOLDWATER BOULEVARD, DESIGNATING A SPECIFIC PORTION OF THAT AREA TO BE AN INFILL INCENTIVE DISTRICT AND ADOPTING AN INFILL INCENTIVE PLAN, AND APPROVING CASE NO. 1-II-2003, WITH AMENDED DEVELOPMENT STANDARDS AND STIPULATIONS, APPROVING THE DESIGN REVIEW OF THAT PORTION OF THE DISTRICT EAST OF MARSHALL WAY, AND DECLARING AN EMERGENCY.

WHEREAS, Section 9-499.10 of the Arizona Revised Statutes authorizes the City to designate an infill incentive district in an area within the City; and

WHEREAS, that statute authorizes the City to grant incentives for the development of property within an infill incentive district; and

WHEREAS, that statute requires that the City Council make certain findings prior to making such a designation and prior to the exercise of the powers granted by that statute; and

WHEREAS, the City Council has heard and seen evidence that within that area of the City hereafter described as the "Economic Focus Area" that there are a large number of vacant older buildings within the area, that there is an absence of development and investment activity in the area as evidenced by the retail vacancy rate which is approximately double that in the remainder of Downtown Scottsdale and that the office vacancy rate in the Area is approximately one and one-half times greater than that in the remainder of Downtown Scottsdale; that there is a large number of vacant or underused parcels of property in the area, and that there has been a continuing decline in population as evidenced by comparing the 1990 and 2000 census figures; and

WHEREAS, the City Council finds that granting a protected development right for a phased development to undertake and complete the development shown in the Scottsdale Waterfront Development Plan will promote reasonable certainty, stability and fairness in the land use planning and regulatory process and secure the reasonable investment backed expectations of the landowner; and

WHEREAS, Case No. 1-II-2003 has been properly noticed for City Council consideration and the necessary hearings have been completed; and

WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health, and safety an EMERGENCY is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council as required by the City Charter;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, as follows:

Section 1. That the City Council finds that the area of the City the boundaries of which are described and depicted as the "Economic Focus Area" on the map and description attached hereto as Exhibit 1 (the "Economic Focus Area") meets the following criteria:

1. There are a large number of vacant older buildings or structures in the Economic Focus Area.

2. There are a large number of vacant or underused parcels of property in the Economic Focus Area.
3. There is an absence of development and investment activity in the Economic Focus Area compared to the surrounding Downtown Scottsdale area.
4. There is a continuing decline in population in the Economic Focus Area.

Section 2. That the certain property within the Economic Focus Area, legally described on the legal description and map attached as Exhibit 2, incorporated by this reference, and depicted as the "Waterfront Infill Incentive District" on the map attached hereto as Exhibit 1 is hereby designated to be an infill incentive district pursuant to Section 9-499.10, Arizona Revised Statutes ("Scottsdale Waterfront Infill Incentive District" or "District").

Section 3. That the City Council hereby adopts the Infill Incentive Plan attached as Exhibit 3 and incorporated by this reference as the infill incentive plan for the Scottsdale Waterfront Infill Incentive District.

Section 4. That the City Council hereby approves Case No. 1-II-2003 and adopts that certain document entitled the "Scottsdale Waterfront Development Plan", three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 6376 of the City of Scottsdale, Arizona and is hereby referred to, adopted and made part hereof as if fully set out in this ordinance, as a protected development right plan for a phased development for the District, subject to all the requirements and limitations on a protected development right plan currently contained in sections 9-1201 through 9-1205 of the Arizona Revised Statutes and conditioned upon compliance with all stipulations included as Exhibit 5 to Resolution 6376.

Section 5. That the City Council hereby repeals only as to the property in the District those stipulations previously applicable to the property in the District that were adopted in Rezoning Case No. 43-ZN-95, and replaces them with the stipulations included within the Scottsdale Waterfront Development Plan as Exhibit 5 to Resolution 6376.

Section 6. That the City Council, sitting as the Development Review Board, hereby approves, as to the portion of the property in the District east of Marshall Way, the Scottsdale Waterfront Development Plan.

Section 7. That the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health, and safety. Time is of the essence in that: (i) that certain Tolling Agreement between the City of Scottsdale and Scottsdale Waterfront, L.L.C., recorded as Document Number 2002-694136 in the Official Records of the Maricopa County Recorder's Office, and the related Tolling Period expires no later than October 25, 2003; (ii) the City and Scottsdale Waterfront, L.L.C., have worked diligently and continuously since execution of the Tolling Agreement to reach agreement on the New Transaction required to satisfy the Tolling Agreement; (iii) approval of the Infill Incentive District and Infill Incentive Plan to allow amended development standards will permit the City and Scottsdale Waterfront, L.L.C., to execute that required New Transaction before October 25, 2003 and avoid litigation related to the Tolling Agreement; (iv) approval of the Infill Incentive District and Infill Plan will terminate the Waterfront Redevelopment Area and eliminate any pending or threatened litigation

related to the Redevelopment Area; and (v) development of the property, its return to productivity, and the related positive impacts on downtown Scottsdale will be greatly accelerated through execution of the New Transaction. Therefore, the City Council hereby declares an emergency and this ordinance shall be in full force and effect from and after its passage by the Council as required by the City Charter.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 1<sup>st</sup> day of October, 2003.

ATTEST:

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

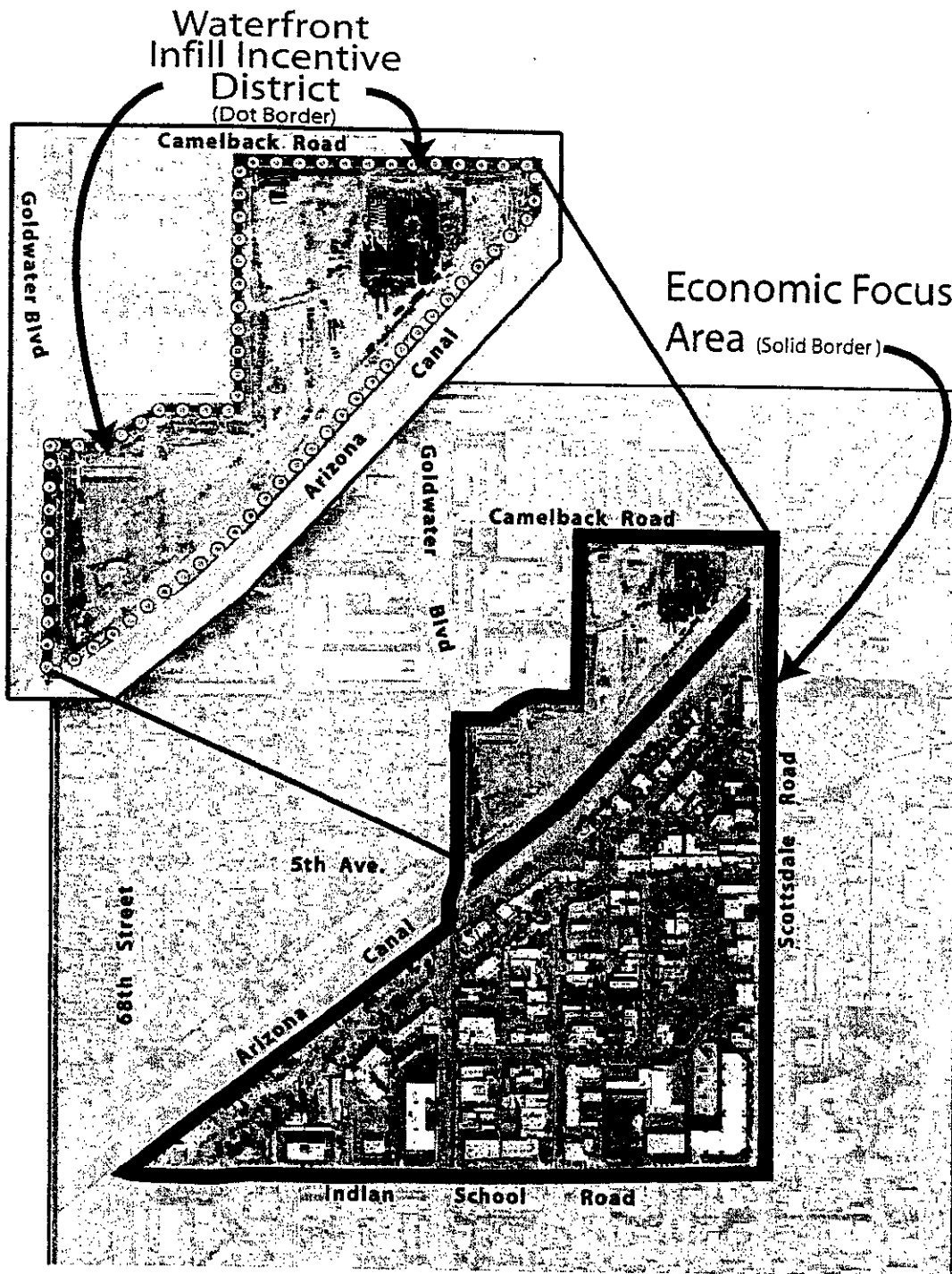
By: Carolyn Jagger  
Carolyn Jagger, City Clerk

By: Mary Manross  
Mary Manross, Mayor

APPROVED AS TO FORM:

By: Patricia J. Bomsma  
C. Brad Woodford, City Attorney

ATTACHMENT #



**Economic Focus Area Boundary Description:**

Beginning at the intersection of Scottsdale Road and Camelback Road, thence southerly along the centerline of Scottsdale Road to the intersection of Scottsdale Road and Indian School Road, thence westerly along the centerline of Indian School Road to the intersection of Indian School Road and the south bank of the Arizona Canal, thence northeasterly along the south bank of the Arizona Canal to its intersection with the centerline of Goldwater Boulevard, thence northerly along the centerline of Goldwater Boulevard to the intersection of Goldwater Boulevard and Montecito Avenue, thence easterly along the centerline of Montecito Avenue to the intersection of Montecito Avenue and Marshall Way, thence northerly along the centerline of Marshall Way to the intersection of Marshall Way and Camelback Road, thence easterly along the centerline of Camelback Road to the Point of Beginning.



**BROOKS, HERSEY & ASSOCIATES, INC.**

ENGINEERS/SURVEYORS  
CONSTRUCTION ADMINISTRATORS

**LEGAL DESCRIPTION  
SCOTTSDALE WATERFRONT  
TIED PARCELS**

A portion of the Northeast Quarter of the Southeast Quarter of Section 22, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the Northeast corner of said Northeast Quarter of the Southeast Quarter of Section 22;

Thence South  $88^{\circ}54'09''$  West, along the North line of said Northeast Quarter of the Southeast Quarter, 93.04 feet;

Thence South  $01^{\circ}05'51''$  East, 55.00 feet to a point on the Southerly right-of-way line of Camelback Road, said point also being on the Westerly right-of-way line of Scottsdale Road marking the Point of Beginning;

Thence South  $00^{\circ}01'51''$  East, along said Westerly right-of-way line of Scottsdale Road, 98.83 feet to a point on the Northerly right-of-way line of the Arizona Canal;

Thence South  $41^{\circ}07'13''$  West, along said Northerly right-of-way line, 788.90 feet to the Southwest corner of Paradise Palms, a subdivision recorded in Book 54 of Maps, Page 13, Maricopa County Records;

Thence continuing along said Northerly right-of-way line South  $01^{\circ}07'51''$  East, 42.31 feet to a point on the Northerly right-of-way line of the Arizona Canal;

Thence continuing along said Northerly right-of-way line South  $40^{\circ}32'09''$  West, 125.75 feet to the beginning of a curve concave Northwesterly and having a radius of 1941.86 feet;

Thence Southwesterly along said curve through a central angle of  $10^{\circ}14'30''$ , an arc distance of 347.11 feet;

Thence continuing along said Northerly right-of-way line South  $50^{\circ}46'40''$  West, 320.68 feet, to the beginning of a non-tangent curve concave Westerly and having a radius of 626.00 feet, a radial to said beginning bears North  $83^{\circ}32'29''$  West;

Thence Northerly along said curve through a central angle of  $03^{\circ}01'04''$ , an arc distance of 32.97 feet;

Thence South  $45^{\circ}03'11''$  East, 7.89 feet;

Thence North  $44^{\circ}56'49''$  East, 10.00 feet;

Thence North  $45^{\circ}03'11''$  West, 16.93 feet to the beginning of a non-tangent curve concave Westerly and having a radius of 626.00 feet, a radial to said beginning bears North  $87^{\circ}49'25''$  West;

**Exhibit 2  
Page 1 of 3**

Thence Northerly along said curve through a central angle of 02°13'41", an arc distance of 24.34 feet;

Thence North 00°03'30" West, 265.18 feet;

Thence North 20°03'30" West, 29.24 feet;

Thence North 00°03'30" West, 94.68 feet;

Thence North 72°53'45" East, 14.24 feet;

Thence North 00°03'30" West, 48.98 feet;

Thence North 41°23'02" East, 11.86 feet to the beginning of a non-tangent curve concave Northerly and having a radius of 210.00 feet, a radial to said beginning bears North 05°54'59" West;

Thence Easterly along said curve through a central angle of 24°17'27", an arc distance of 89.03 feet;

Thence North 59°47'34" East, 112.30 feet, to the beginning of a curve concave Southerly and having a radius of 150.00 feet;

Thence Easterly along said curve through a central angle of 29°09'31", an arc distance of 76.34 feet;

Thence North 88°57'04" East, 175.30 feet;

Thence North 01°05'51" West, 603.97 feet;

Thence North 43°54'09" East, 31.11 feet to the Southerly right-of-way line of Camelback Road;

Thence North 88°54'09" East, along said Southerly right-of-way line, 49.50 feet;

Thence North 01°05'51" West, along said Southerly right-of-way line, 5.50 feet;

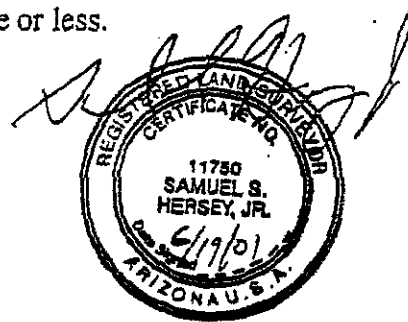
Thence North 88°54'09" East, along said Southerly right-of-way line, 18.53 feet;

Thence North 72°05'59" East, along said Southerly right-of-way line, 12.21 feet;

Thence North 01°23'06" West, along said Southerly right-of-way line, 0.97 feet;

Thence North 88°54'09", East, along said Southerly right-of-way line, 562.56 feet to THE TRUE POINT OF BEGINNING.

Parcel contains 492,3278 square feet, 11.30 acres, more or less.



NE COR. OF NE 1/4 SE 1/4 SEC. 22

S88°54'09"W  
93.04'  
S00°01'51"E  
55.00'  
P.O.B.

CAMELBACK ROAD

N43°54'09"E  
31.11'

L9L10

N 88°54'09" E 562.56'

N88°54'09"E  
49.50'

S00°01'51"E  
98.83'

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | BEARING     |
| L8         | 5.50   | N01°05'51"W |
| L9         | 18.53  | N88°54'09"E |
| L10        | 12.21  | N72°05'59"E |
| L11        | 0.97   | N01°23'06"W |

MARSHALL WAY  
603.97'  
N01°05'51"W

SCOTTSDALE ROAD

S41°07'13"W 788.90'

ARIZONA CANAL

MONTECITO DRIVE  
N88°57'04"E  
175.30'

C3 N59°47'34"E C4  
112.30'

N00°03'30"W  
48.98'

GOLDWATER BLVD.

N00°03'30"W  
94.68'

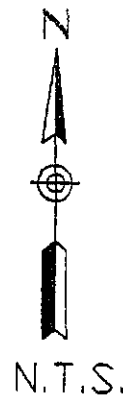
N00°03'30"W 265.18'

C1 C5  
S55°46'40"W 320.68'

S01°07'51"E  
42.31'

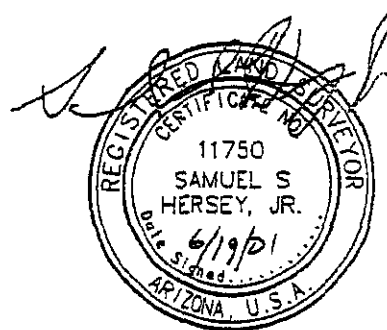
S40°32'09"W  
125.75'

R1941.86'  
L347.11'  
Δ 10°14'30"



| CURVE TABLE |          |        |           |
|-------------|----------|--------|-----------|
| CURVE       | LENGTH   | RADIUS | DELTA     |
| C1          | 32.97    | 626.00 | 03°01'04" |
| C2          | NOT USED |        |           |
| C3          | 89.03    | 210.00 | 24°17'27" |
| C4          | 76.34    | 190.00 | 29°09'31" |
| C5          | 24.34    | 626.00 | 02°13'41" |

| LINE TABLE |          |             |
|------------|----------|-------------|
| LINE       | LENGTH   | BEARING     |
| L1         | NOT USED |             |
| L2         | 7.89     | S49°03'11"E |
| L3         | 10.00    | N44°56'49"E |
| L4         | 16.93    | N43°03'17"W |
| L5         | 29.24    | N20°03'30"W |
| L6         | 14.24    | N72°53'45"E |
| L7         | 11.86    | N41°23'02"E |



NOTE: THIS EXHIBIT WAS PREPARED SOLELY AS A REFERENCE FOR THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED. IT IS NOT MEANT TO BE A STANDALONE DOCUMENT FOR THE RESULT OF A FIELD SURVEY.

ENGINEERS SERVICE  
4602 E. ELWOOD STREET, 16  
Phoenix, Arizona 85040  
Phone (602) 437-3733  
Fax (480) 558-0204

**Infill Incentive Plan  
Scottsdale Waterfront Infill Incentive District  
Case No. 1-II-2003**

Arizona statutes require that the City Council adopt an infill incentive plan for any infill incentive district it designates. A.R.S. § 9-499.10. In Ordinance 3527 the Scottsdale City Council has designated an infill incentive district, known as the Scottsdale Waterfront Infill Incentive District ("District") within an economic focus area of the City, and also adopts the following plan to promote development within the District:

**1. Expedited processing of plans and proposals**

To promote development within the District, the City will expedite the processing of plans within the District in at least the following ways:

- Development review of Phase One of the Project will go directly to the City Council for approval, instead of to the Development Review Board.
- Any required subdivision plat may, at the developer's request, be submitted to the City Council for approval as a combined preliminary and final plat, without the necessity of preparing a separate preliminary plat or review by the Development Review Board or the Planning Commission.

**2. Waiver of fees and participation in the provision of public benefits**

To promote development within the District, the City will waive the City's usual building permit plan check fees and financially participate in the construction of both on-site and off-site public infrastructure and other public benefits that benefit both the public and the Project as specified in a mutually agreed upon Development Agreement.

**3. Relief from development standards.**

To promote economically feasible development within the District, the City, concurrently with the creation of the District, has amended the development standards for the District, as shown on the Site Plan dated August 7, 2003 and as specified in the Amended Development Standards and Stipulations, attached to Resolution 6376 as Exhibits 4 and 5, and adopted by reference in Ordinance 3527.