

**Application
Narrative
Cash Transmittal
Pre-Application
Pre-App Narrative
Pre-App Cash Transmittal
Project Data Sheet**



Development Application

Development Application Type:

Please check the appropriate box of the Type(s) of Application(s) you are requesting

Zoning	Development Review	Signs
<input type="checkbox"/> Text Amendment (TA)	<input type="checkbox"/> Development Review (Major) (DR)	<input type="checkbox"/> Master Sign Program (MS)
<input type="checkbox"/> Rezoning (ZN)	<input type="checkbox"/> Development Review (Minor) (SA)	<input type="checkbox"/> Community Sign District (MS)
<input type="checkbox"/> In-fill Incentive (II)	<input type="checkbox"/> Wash Modification (WM)	Other:
<input type="checkbox"/> Conditional Use Permit (UP)	<input type="checkbox"/> Historic Property (HP)	<input type="checkbox"/> Annexation/De-annexation (AN)
Exemptions to the Zoning Ordinance	Land Divisions (PP)	<input type="checkbox"/> General Plan Amendment (GP)
<input type="checkbox"/> Hardship Exemption (HE)	<input type="checkbox"/> Subdivisions	<input type="checkbox"/> In-Lieu Parking (IP)
<input type="checkbox"/> Special Exception (SX)	<input type="checkbox"/> Condominium Conversion	<input checked="" type="checkbox"/> Abandonment (AB)
<input type="checkbox"/> Variance (BA)	<input type="checkbox"/> Perimeter Exceptions	Other Application Type Not Listed
<input type="checkbox"/> Minor Amendment (MA)	<input type="checkbox"/> Plat Correction/Revision	<input type="checkbox"/>

Project Name: MZ Townhomes

Property's Address: 7301 E Minnezona Avenue

Property's Current Zoning District Designation: R-5/DO

The property owner shall designate an agent/applicant for the Development Application. This person shall be the owner's contact for the City regarding this Development Application. The agent/applicant shall be responsible for communicating all City information to the owner and the owner application team.

Owner: AJ Tangsoc	Agent/Applicant: Ed Gorman
Company: Old Town Townhomes, LLC	Company: Modus Development
Address: 3555 5th Ave Suite 100, San Diego, CA 92103	Address: 3219 E Camelback Rd, #291, Phoenix 85018
Phone: (520) 204-2066 Fax:	Phone: (602) 421-2221 Fax: (602) 926-1469
E-mail: atangsoc@gmail.com	E-mail: gorman@modusdev.com
Designer: Hector Fimbres	Engineer: Travis Steele
Company: Fimbres Design	Company: Steele Engineering
Address:	Address:
Phone: (602) 421-6997 Fax:	Phone: (480) 778-0171 Fax:
E-mail: fimbres@fimbresstudio.com	E-mail: traviss@steeleeng.com

Please indicate in the checkbox below the requested review methodology (please see the descriptions on page 2).

- This is not required for the following Development Application types: AN, AB, BA, II, GP, TA, PE and ZN. These applications¹ will be reviewed in a format similar to the Enhanced Application Review methodology.

Enhanced Application Review: I hereby authorize the City of Scottsdale to review this application utilizing the Enhanced Application Review methodology.

Standard Application Review: I hereby authorize the City of Scottsdale to review this application utilizing the Standard Application Review methodology.

Owner Signature 

Agent/Applicant Signature 

Official Use Only

Submittal Date:

Development Application No.:

Planning, Neighborhood & Transportation

7447 East Indian School Road Suite 105, Scottsdale, Arizona 85251 Phone: 480-312-7000 Fax: 480-312-7088

City of Scottsdale's Website: www.scottsdaleaz.gov



Development Application

Review Methodologies

Review Methodologies

The City of Scottsdale maintains a business and resident friendly approach to new development and improvements to existing developments. In order to provide for flexibility in the review of Development Applications, and Applications for Permitting, the City of Scottsdale provides two methodologies from which an owner or agent may choose to have the City process the application. The methodologies are:

1. Enhanced Application Review Methodology

Within the parameters of the Regulatory Bill-of-Rights of the Arizona Revised Statutes, the Enhanced Application Review method is intended to increase the likelihood that the applicant will obtain an earlier favorable written decision or recommendation upon completion of the city's reviews. To accomplish this objective, the Enhanced Application Review allows:

- the applicant and City staff to maintain open and frequent communication (written, electronic, telephone, meeting, etc.) during the application review;
- City staff and the applicant to collaboratively work together regarding an application; and
- City staff to make requests for additional information and the applicant to submit revisions to address code, ordinance, or policy deficiencies in an expeditious manner.

Generally, the on-going communication and the collaborative work environment will allow the review of an application to be expedited within the published Staff Review Time frames.

2. Standard Application Review Methodology:

Under the Standard Application Review, the application is processed in accordance with the Regulatory Bill-of-Rights of the Arizona Revised Statutes. These provisions significantly minimize the applicant's ability to collaboratively work with City Staff to resolve application code, ordinance, or policy deficiencies during the review of an application. After the completion the city's review, a written approval or denial, recommendation of approval or denial, or a written request for additional information will be provided.

The City is not required to provide an applicant the opportunity to resolve application deficiencies, and staff is not permitted to discuss or request additional information that may otherwise resolve a deficiency during the time the City has the application. Since the applicant's ability to collaboratively work with Staff's to resolve deficiencies is limited, the total Staff Review Time and the likelihood of a written denial, or recommendation of denial is significantly increased.

In addition to the information above, please review the Development Application, and/or the Application for Permitting flow charts. These flow charts provide a step-by-step graphic representation of the application processes for the associated review methodologies.

Note:

1. Please see the Current Planning Services and Long Range Planning Services Substantive Policy Statements and Staff Review Timeframes for Development Applications, number III.

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Development Application

Arizona Revised Statues Notice

§9-834. Prohibited acts by municipalities and employees; enforcement; notice

- A. A municipality shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or code. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.
- B. Unless specifically authorized, a municipality shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.
- C. This section does not prohibit municipal flexibility to issue licenses or adopt ordinances or codes.
- D. A municipality shall not request or initiate discussions with a person about waiving that person's rights.
- E. This section may be enforced in a private civil action and relief may be awarded against a municipality. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against a municipality for a violation of this section.
- F. A municipal employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the municipality's adopted personnel policy.
- G. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.

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APPLICATION NARRATIVE

Reason for Request

In 2010, the City of Scottsdale (the "**City**") abandoned its ownership of that portion of 73rd Street (the "**73rd Street Abandonment Parcel**") lying north of Camelback Road and south of Minnezona Avenue, pursuant to Abandonment Resolution No. 7671 recorded on January 26, 2010, at Recording No. 2010-074413, records of Maricopa County, Arizona, and re-recorded on February 19, 2010, at Recording No. 2010-0108517, records of Maricopa County, Arizona (the "**Resolution**"). The 73rd Street Abandonment Parcel consisted of numerous street and alley right of way parcels, each of which was separately identified and described in the Resolution.

The Resolution and other related documents were executed and recorded in connection with the expected development of the property lying immediately west of the 73rd Street Abandonment Parcel (the "**Scottsdale Canal Property**"). The development of the Scottsdale Canal Property contemplated the relocation of that portion of 73rd Street to another location within the Scottsdale Canal Property (the "**Relocated 73rd Street**"). In order to preserve the use of the existing 73rd Street Abandonment Parcel until such time as the Relocated 73rd Street was constructed by the owner of the Scottsdale Canal Property, the City reserved a public street and utility easement over certain of the tracts comprising the 73rd Street Abandonment Parcel (the "**Street Easement**"). The Street Easement will expire when the conditions specified in the Resolution are satisfied, including the construction and acceptance by the City of the Relocated 73rd Street. As of this date, the development of the Scottsdale Canal Property has not yet commenced, and as a result, the 73rd Street Abandonment Parcel remains subject to the Street Easement.

Old Town Townhomes, LLC, an Arizona limited liability company ("**Applicant**") is the owner of the parcel (the "**MZ Property**") lying immediately east of the 73rd Street Abandonment Parcel. Applicant has constructed a townhome-style residential condominium complex (the "**Improvements**") consisting of eight (8) condominium units on the MZ Property. Some of the Improvements were constructed within the portion of the 73rd Street Abandonment Parcel described in the Resolution as the "**North Buckboard Parcel**", and, as a result thereof, are an encroachment on the North Buckboard Parcel (the "**Encroachment Parcel**").

All necessary and required building permits for the Improvements were issued to Applicant by the City. At the time of issuance of the building permits, both Applicant and the City believed that Applicant was the owner of the North Buckboard Parcel. Subsequent to completion of construction of the Improvements, the City and Applicant became aware that title to the North Buckboard Parcel may not, in fact, have vested in Applicant as a result of the Resolution. In addition, the owner of the Scottsdale Canal Property asserted

ownership rights to the North Buckboard Parcel. In order to resolve any dispute as to ownership of the North Buckboard Parcel, Applicant acquired any and all rights of the owner of the Scottsdale Canal Property to the North Buckboard Parcel, subject to the Street Easement reserved by the City in the Resolution.

As a result of the foregoing, Ownership of the North Buckboard Parcel is no longer in dispute and Applicant is the owner of the North Buckboard Parcel. Since certain of the Improvements were constructed within the North Buckboard Parcel, however, such Improvements are considered encroachments in violation of the Street Easement. Consequently, Applicant may not be able to obtain its final certificate of occupancy for the Improvements and sell the condominium units constructed on the MZ Property until such time as the City abandons the Encroachment Parcel from the Street Easement. If the abandonment is not obtained, the Improvements will remain unsuitable for occupancy and the MZ Property will remain vacant, neither of which is in the best interests of the City and Applicant. Further, failure to grant the abandonment will penalize Applicant for a problem resulting from an inadvertent misunderstanding on the part of both the City and Applicant. Lastly, if never occupied, sooner or later the MZ Property will become an eyesore to the community.

In addition, to seeking abandonment of the Encroachment Parcel, at the suggestion of City staff Applicant is also seeking the abandonment of a small triangular parcel of real property adjacent to the MZ Property but currently owned by the City (the "**Corner Parcel**"). It is logical that ownership of the Corner Parcel be vested in Applicant because of its proximity to the MZ Property and the fact that it is of a size (only 85.9 square feet) and configuration of no use to the City. In fact, it is Applicant's understanding that the City intended to abandon the Corner Parcel with the 73rd Street Abandonment Parcel and that the description of the Corner Parcel was inadvertently omitted from the description of the 73rd Street Abandonment Parcel set forth in the Resolution. It is logical for ownership of the Corner Parcel to be transferred to Applicant as Applicant is the only landowner with property abutting the Corner Parcel.

Applicant acquired all rights of the Scottsdale Canal Property owner to the North Buckboard Parcel and is seeking the foregoing described abandonments in order to solve the encroachment issues resulting from the construction of the Improvements within the North Buckboard Parcel due to the inadvertent misunderstanding on the part of both the City and Applicant as to the ownership of the North Buckboard Parcel at the time of issuance of the building permit for the Improvements, and in order to finalize its condominium plat for the MZ Property and obtain a certificate of occupancy for the Improvements. In consideration of the City granting Applicant's request with respect to the abandonment of the Encroachment Parcel from the Street Easement Applicant is willing to take on the burden of ownership of the Corner Parcel, a parcel otherwise useless to the City. In light of the foregoing, Applicant urges the City to

consider and grant the requested abandonments of the Encroachment Parcel from the Street Easement, and the Corner Parcel.

Consideration for Abandonment

As more fully set forth above, Applicant is seeking abandonment by the City of its rights to the Encroachment Parcel and the Corner Parcel, respectively.

The Encroachment Parcel is a parcel now owned by Applicant, but subject to the Street Easement reserved by the City in connection with the 2010 abandonment (the "**2010 Abandonment**") by the City of the 73rd Street Abandonment Parcel, which is a portion of 73rd Street lying north of Camelback Road. The Encroachment Parcel consists of 175.9 square feet. No street improvements lie within the Encroachment Parcel. Applicant has landscaped the Encroachment Parcel and is seeking abandonment by the City of the Street Easement reserved by the City over the Encroachment Parcel.

The Corner Parcel is a triangular parcel now owned by the City that is adjacent to Applicant's residential development project. The Corner Parcel was inadvertently not abandoned by the City in connection with the 2010 Abandonment and is of no use to the City. The Triangle Parcel consists of 85.9 square foot. The City has requested that Applicant obtain ownership of the Triangle Parcel in connection with the processing of Applicant's plat for the MZ Property as a "cleanup" matter. Accordingly, Applicant is seeking abandonment by the City of the City's fee ownership of the Corner Parcel.

The City requires compensation for relinquishing ownership rights to any right of way so as not to violate the "gift clause" of the City Charter or the Arizona Constitution, which prohibits the conveyance of any City property to a private individual without receiving adequate compensation.

The City's abandonment application package does not set forth a formula for determining what constitutes adequate compensation for the abandonment by the City of right of way or other property. Based on the research and information obtained by Applicant, Applicant has determined that adequate compensation in the case of residential property is typically \$0.20 to \$0.50 per square foot. Although Applicant paid a price of \$72.00 per square foot for the MZ Parcel in 2013, more recently, the development parcel lying immediately west of 73rd Street last sold for a price of \$51.26 per square foot. In addition, where a parcel is subject to restrictions as in the case of the Encroachment Parcel, or not useable as in the case of the Corner Parcel, governmental agencies such as the Maricopa County Assessor's Office would typically value such a parcel at only a percentage of its per square foot value (e.g. the Maricopa County Assessor values right of way at 10% of market value).

The Encroachment Parcel and the Corner Parcel together contain 261.8 square feet. In light of the foregoing information, the fact that neither parcel has any value to the City, that the abandonment of the Encroachment Parcel is only an abandonment of an easement right, and that the abandonment of the Corner Parcel is being requested as an accommodation to the City, Applicant believes that the City would be adequately compensated for both parcels at the rate of 10% of the \$51.26 per square foot value paid by the party acquiring the adjacent parcel for purposes of development, or \$5.13 per square foot. Accordingly, Applicant proposes \$1,343.03 ($\5.13×261.8 square feet) as compensation for the abandonment by the City of the City's rights to both parcels.



Request for Site Visits and/or Inspections Development Application (Case Submittals)

This request concerns all property identified in the development application.

Pre-application No: 713 - PA - 2010

Project Name: M2 TOWNHOMES

Project Address: 7301 E. MINNEZONA AVENUE

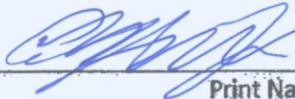
STATEMENT OF AUTHORITY:


1. I am the owner of the property, or I am the duly and lawfully appointed agent of the property and have the authority from the owner to sign this request on the owner's behalf. If the land has more than one owner, then I am the agent for all owners, and the word "owner" refer to them all.
2. I have the authority from the owner to act for the owner before the City of Scottsdale regarding any and all development application regulatory or related matter of every description involving all property identified in the development application.

STATEMENT OF REQUEST FOR SITE VISITS AND/OR INSPECTIONS

1. I hereby request that the City of Scottsdale's staff conduct site visits and/or inspections of the property identified in the development application in order to efficiently process the application.
2. I understand that even though I have requested the City of Scottsdale's staff conduct site visits and/or inspections, city staff may determine that a site visit and/or an inspection is not necessary, and may opt not to perform the site visit and/or an inspection.

Property owner/Property owners agent: _____

 Alpha Targus
Print Name


Signature

City Use Only:

Submittal Date: _____ Case number: _____

Planning, Neighborhood & Transportation Division
7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ Phone: 480-312-7000 ♦ Fax: 480-312-7088

9-AB-2015
10/8/15



Current Planning Services
Long Range Planning Services

NOTICE OF INSPECTION RIGHTS
A.R.S. § 9-833

You have the right to:

- Have the City staff member present a photo ID.
- Have the City staff member state the purpose for the planning inspection and legal authority to conduct it.
- Know the amount of inspection fees if applicable.
- An on-site representative may accompany the City staff member during the inspection except during confidential interviews and may:
 - Receive copies of any documents taken during the inspection.
 - Receive a split of any samples taken during the inspection.
 - Receive copies of any analysis of the samples taken when available.
- Be informed if statements are being recorded.
- Be given notice that any statements may be used in an inspection report.
- Be presented with a copy of your inspection rights.
- Be notified of the due process rights pertaining to an appeal

You are hereby notified and informed of the following:

- The inspection is conducted pursuant to the authority of A.R.S § 9-462.05. and/or Scottsdale Revised Code, Appendix B, Article I. Section 1.203.
- Any statements made by anyone interviewed during this inspection may be included in the inspection report.
- Information on appeal rights related to this inspection is found under Scottsdale Revised Code, Appendix B, Article I. Section 1.801.
- There is no inspection fee associated with this inspection.

I acknowledge I have been informed of my inspection rights. If I decline to sign this form, the inspector(s) may still proceed with the inspection.

If I have any questions, I may contact the City staff member, _____

at the following number _____

Signature: AMZ Date: 7/24/11

Printed Name: Alphonse Thigot

Check box if signature refused

Copy of Bill of Rights left at: _____

A.R.S § 9-833. Inspections; applicability

- A. A municipal inspector or regulator who enters any premises of a regulated person for the purpose of conducting an inspection shall:
 - 1. Present photo identification on entry of the premises.
 - 2. On initiation of the inspection, state the purpose of the inspection and the legal authority for conducting the inspection.
 - 3. Disclose any applicable inspection fees.
 - 4. Except for a food and swimming pool inspection, afford an opportunity to have an authorized on-site representative of the regulated person accompany the municipal inspector or regulator on the premises, except during confidential interviews.
 - 5. Provide notice of the right to have:
 - (a) Copies of any original documents taken from the premises by the municipality during the inspection if the municipality is permitted by law to take original documents.
 - (b) A split or duplicate of any samples taken during the inspection if the split or duplicate of any samples, where appropriate, would not prohibit an analysis from being conducted or render an analysis inconclusive.
 - (c) Copies of any analysis performed on samples taken during the inspection.
 - 6. Inform each person whose conversation with the municipal inspector or regulator during the inspection is tape recorded that the conversation is being tape recorded.
 - 7. Inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.
- B. On initiation of, or two working days before, an inspection of any premises of a regulated person, except for a food and swimming pool inspection that has up to one working day after an inspection, a municipal inspector or regulator shall provide the following in writing or electronically:
 - 1. The rights described in subsection A of this section.
 - 2. The name and telephone number of a municipal contact person available to answer questions regarding the inspection.
 - 3. The due process rights relating to an appeal of a final decision of a municipality based on the results of the inspection, including the name and telephone number of a person to contact within the municipality and any appropriate municipality, county or state government ombudsman.
- C. A municipal inspector or regulator shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in subsection B of this section indicating that the regulated person or on-site representative of the regulated person has read the writing prescribed in subsection B of this section and is notified of the regulated person's or on-site representative of the regulated person's inspection and due process rights. The municipality shall maintain a copy of this signature with the inspection report. Unless the regulated person at the time of the inspection is informed how the report can be located electronically, the municipality shall leave a copy with the regulated person or on-site representative of the regulated person. If a regulated person or on-site representative of the regulated person is not at the site or refuses to sign the writing prescribed in subsection B of this section, the municipal inspector or regulator shall note that fact on the writing prescribed in subsection B of this section.
- D. A municipality that conducts an inspection shall give a copy of, or provide electronic access to, the inspection report to the regulated person or on-site representative of the regulated person either:
 - 1. At the time of the inspection.
 - 2. Notwithstanding any other state law, within thirty working days after the inspection.
 - 3. As otherwise required by federal law.

- E. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the municipality may provide the regulated person an opportunity to correct the deficiencies unless the municipality determines that the deficiencies are:
 - 1. Committed intentionally.
 - 2. Not correctable within a reasonable period of time as determined by the municipality.
 - 3. Evidence of a pattern of noncompliance.
 - 4. A risk to any person, the public health, safety or welfare or the environment.
- F. If the municipality allows the regulated person an opportunity to correct the deficiencies pursuant to subsection E of this section, the regulated person shall notify the municipality when the deficiencies have been corrected. Within thirty working days of receipt of notification from the regulated person that the deficiencies have been corrected, the municipality shall determine if the regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance, unless the determination is not possible due to conditions of normal operations at the premises. If the regulated person fails to correct the deficiencies or the municipality determines the deficiencies have not been corrected within a reasonable period of time, the municipality may take any enforcement action authorized by law for the deficiencies.
- G. A municipality's decision pursuant to subsection E or F of this section is not an appealable municipal action.
- H. At least once every month after the commencement of the inspection, a municipality shall provide the regulated person with an update, in writing or electronically, on the status of any municipal action resulting from an inspection of the regulated person. A municipality is not required to provide an update after the regulated person is notified that no municipal action will result from the municipality's inspection or after the completion of municipal action resulting from the municipality's inspection.
- I. This section does not authorize an inspection or any other act that is not otherwise authorized by law.
- J. This section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure requirements. This section does not apply:
 - 1. To criminal investigations and undercover investigations that are generally or specifically authorized by law.
 - 2. If the municipal inspector or regulator has reasonable suspicion to believe that the regulated person may be or has been engaged in criminal activity.
 - 3. Inspections by a county board of health or a local health department pursuant to section 36-603.
- K. If a municipal inspector or regulator gathers evidence in violation of this section, the violation shall not be a basis to exclude the evidence in a civil or administrative proceeding, if the penalty sought is the denial, suspension or revocation of the regulated person's license or a civil penalty of more than one thousand dollars.
- L. Failure of a municipal employee to comply with this section:
 - 1. Constitutes cause for disciplinary action or dismissal pursuant to adopted municipal personnel policy.
 - 2. Shall be considered by the judge and administrative law judge as grounds for reduction of any fine or civil penalty.
- M. A municipality may adopt rules or ordinances to implement this section.
- N. This section:
 - 1. Shall not be used to exclude evidence in a criminal proceeding.
 - 2. Does not apply to a municipal inspection that is requested by the regulated person.



City of Scottsdale Cash Transmittal

103607

103607
 14 00836198
 10/8/2015 PLN-1STOP
 KWHEELER HPDC600552
 10/8/2015 3:03 PM
 \$2,250.00

Received From :

Old Town Townhomes, LLC
 PO BOX 12508
 SAN DIEGO, CA 92112

Bill To :

Reference # 713-PA-2010
Address 7301 E MINNEZONA AV
Subdivision DARYL ESTATES UNIT TWO

Issued Date 10/8/2015
Paid Date 10/8/2015
Payment Type CHECK

Marketing Name
MCR 061-48
APN 173-38-057A
Owner Information
 MODUS DEVELOPMENT LLC
 4414 N CIVIC CENTER PLAZA STE 202
 SCOTTSDALE, AZ 85251
 602-421-2221

Lot Number
County No
Gross Lot Area 0
NAOS Lot Area 0
Net Lot Area
Number of Units 1
Density

Cost Center
Metes/Bounds No
Water Zone
Water Type
Sewer Type
Meter Size
 QS 18-45

Code	Description	Additional	Qty	Amount	Account Number
3238	ABANDONMENT CONVEYANCE		1	\$2,250.00	100-21300-44222

SIGNED BY ED GORMAN ON 10/8/2015

Total Amount

\$2,250.00

(When a credit card is used as payment I agree to pay the above total amount according to the Card Issuer Agreement.)

TO HAVE WATER METER SET - CALL 480-312-5650 AND REFER TO TRANSMITTAL # 103607