

207 Waiver

Title

Legal Description

Policy or Appeals

Correspondence Between Legal & Staff

Letter of Authorization



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, Ben Moriarty
at the following number 480.312.2836

Signature: Eric Marvin Date: 2.14.2019

Printed Name: Eric Marvin

☐ Check box if signature refused

Copy of Bill of Rights left at: _____

22-DR-2019
4/30/2019

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.

Section 404 Certification Form



Before the City issues development permits for a project, the developer's Engineer or the property owner must certify that it complies with or is exempt from Section 404 of the Clean Water Act of the United States. Section 404 regulates the discharge of dredged or fill material into a wetland, lake (including dry lakes), river, stream (including intermittent streams, ephemeral washes and arroyos) or other waters of the United States.

Prior to submittal of improvement plans to Project Review, this form must be completed (and submitted with the improvement plans) as evidence of compliance.

Certification of Section 404 Permit Status:

Owner's Name: Eric Marvin Phone No.: 503.784.1805
Project Name/Description: Marshall Meridian 1 Case No.: 938-PA-2018
Project Location/Address: 4161 N. Marshall Way, Scottsdale, AZ 85251

A registered Engineer or the property owner must check the applicable condition and certify by signing below that:

1. **Section 404 does apply to the project because there will be a discharge of dredged or fill material to waters of the U.S., and:**

☐ A Section 404 Permit has already been obtained for this project.

or

☐ This project qualifies for a "Nationwide Permit," and this project will meet all terms and conditions of the applicable nationwide permit.

2. **Section 404 does not apply to the project because:**

☐ No watercourse waters of the U.S. exist on the property.

☐ No jurisdictional waters of the U.S. exist on property. Attached is a copy of the COE's Jurisdictional Determination.

☐ Watercourses or other waters of the U.S. do exist on the property, but the project will not involve the discharge of dredged or fill material into any of these waters.

I certify that the above statement is true.

Engineer's Signature and Seal, or Owner's Signature

Date

Title/ Company

Planning and Development Services

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • www.ScottsdaleAZ.gov

22-DR-2019
4/30/2019

Appeals of Dedication, Exactions or Zoning Regulations



Rights of Property Owner

In addition to the other rights granted to you by the U.S. and Arizona Constitution, federal and state law and city ordinances or regulations, you are hereby notified of your right to appeal the following City actions relating to your property:

- 1) Any dedication or exaction which is required of you by an administrative agency or official of the city as a condition of granting approval of your request to use, improve or develop your real property. This appeal right does not apply to a dedication or exaction required as part of a city legislative act (for example a zoning ordinance) when an administrative agency or official has no discretion to determine the dedication or exaction.
- 2) The adoption or amendment of a zoning regulation that creates a taking of property in violations of Arizona and federal court decision.

Appeal Procedure

The appeal must be in writing and specify the City action appealed and the date final action was taken, and must be filed with or mailed to the hearing officer designated by the city within 30 days after the final action is taken

- No fee will be charged for filing
- The city Attorney's Office will review the appeal for compliance with the above requirements, and will notify you if your appeal does not comply
- Eligible appeals will be forwarded to the hearing officer, and a hearing will be scheduled within 30 days of receipt by the hearing officer of your request. Ten days notice will be given to you of the date, time and place of the hearing unless you indicate that less notice is acceptable to you.
- The City will submit a takings impact report to the hearing officer.
- In an appeal from a dedication or exaction, the City will bear the burden of proving that the dedication or exaction to be imposed on your property bears an essential nexus between the requirement and a legitimate governmental interest and that the proposed dedication or exaction is roughly proportional to the impact of the use, improvement or development you proposed.
- In an appeal from the adoption or amendment of a zoning regulation, the City will bear the burden of proving that any dedication or exaction requirement in the zoning regulation is roughly proportional to the impact of the proposed use, improvement, or development, and that the zoning regulation does not create a taking of property in violation of Arizona and federal court cases.
- The hearing officer must render his decision within five working days after the appeal is heard.
- The hearing officer can modify or delete a dedication or exaction or, in the case of an appeal from a zoning regulation, transmit a recommendation to the City Council.
- If you are dissatisfied with the decision of the hearing officer, you may file a complaint for a trial *nevo* with the Superior Court within 30 days of the hearing officer's decision.

For questions, you may contact:

City's Attorney's Office
3939 Drinkwater Blvd.
Scottsdale, AZ 85251
480-312-2405

Address your appeal to:
Hearing Officer, C/O City Clerk
3939 Drinkwater Blvd
Scottsdale, AZ 85251

Please be aware that City Staff cannot give you legal advice. You may wish, but are not required, to hire an attorney to represent you in an appeal.

Planning and Development Services

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ www.ScottsdaleAZ.gov

22-DR-2019
4/30/2019

**Owner Certification
Acknowledging Receipt
Of
Notice Of Right To Appeal
Exactions And Dedications**

I hereby certify that I am the owner of property located at:

4161 N. Marshall Way, Scottsdale, AZ 85251

(address where development approval, building permits, or city required improvements and dedications are being required)

and hereby certify that I have received a notice that explains my right to appeal all exactions and/or dedications required by the City of Scottsdale as part of my property development on the parcel listed in the above address.

Eric Marvin
Signature of Property Owner

2.14.2019
Date

RECORDING REQUESTED BY

Premier Title Agency

Escrow Number: A-107177-JP

WHEN RECORDED MAIL TO

PJE INVESTMENTS, LLC, an Arizona limited liability
company
P.O. Box 2055
Eugene, OR 97402

A.P.N.: 173-50-050-C

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars, and other valuable considerations, I or we,

5th & Marshall, LLC, an Arizona limited liability company

Do/does hereby convey to

PJE INVESTMENTS, LLC, an Arizona limited liability company

The following real property situated in Maricopa County, Arizona

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR LEGAL DESCRIPTION

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

And the Grantor hereby binds itself and its successors to warrant and defend the title against all acts of the Grantor herein, and no other, subject to the matters set forth.

This Deed is being given by Grantor directly to Grantee as an integrated part of a 1031 exchange transaction.

See signature and notary acknowledgement page attached.

22-DR-2019
4/30/2019

Dated: December 18, 2018

5th & Marshall, LLC,
an Arizona limited liability company

By: 

Name: John N. Vatis

Title: Manager

State of Arizona)

County of Maricopa)

On this 18th day of December, 2018, before me personally appeared John N. Vatis as Manager of 5th & Marshall, LLC, an Arizona limited liability company, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.


Notary Public

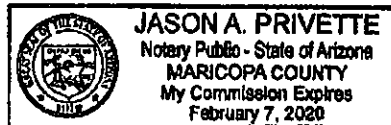


EXHIBIT "A"
LEGAL DESCRIPTION

Lot 18, HURLEY TRACT, according to Book 62 of Maps, Page 35, records of Maricopa County, Arizona.

EXCEPT the East 40 feet thereof.

Affidavit of Authorization to Act for Property Owner



1. This affidavit concerns the following parcel of land:

- a. Street Address: 4161 N. Marshall Way, Scottsdale, AZ 85251
- b. County Tax Assessor's Parcel Number: 173-50-050C
- c. General Location: NEC of E. Third Ave. and N. Marshall Way, Scottsdale, AZ
- d. Parcel Size: 5941 SF
- e. Legal Description: Lot 18, HURLEY TRACT according to Book 62 of Maps, Page 35, records of Maricopa County, Arizona
EXCEPT the East 40 feet thereof

(If the land is a platted lot, then write the lot number, subdivision name, and the plat's recording number and date. Otherwise, write "see attached legal description" and attach a legal description.)

- 2. I am the owner of the land or I am the duly and lawfully appointed agent of the owner of the land and have authority from the owner to sign this affidavit on the owner's behalf. If the land has more than one owner, then I am the agent for all of the owners, and the word "owner" in this affidavit refers to all of them.
- 3. I have authority from the owner to act for the owner before the City of Scottsdale with regard to any and all reviews, zoning map amendments, general plan amendments, development variances, abandonments, plats, lot splits, lot ties, use permits, building permits and other land use regulatory or related matters of every description involving the land, or involving adjacent or nearby lands in which the owner has (or may acquire) an interest, and all applications, dedications, payments, assurances, decisions, agreements, legal documents, commitments, waivers and other matters relating to any of them.
- 4. The City of Scottsdale is authorized to rely on my authority as described in this affidavit until three work days after the day the owner delivers to the Director of the Scottsdale Planning & Development Services Department a written statement revoking my authority.
- 5. I will immediately deliver to the Director of the City of Scottsdale Planning & Development Services Department written notice of any change in the ownership of the land or in my authority to act for the owner.
- 6. If more than one person signs this affidavit, each of them, acting alone, shall have the authority described in this affidavit, and each of them warrant to the City of Scottsdale the authority of the others.
- 7. Under penalty of perjury, I warrant and represent to the City of Scottsdale that this affidavit is true and complete. I understand that any error or incomplete information in this affidavit or any applications may invalidate approvals or other actions taken by the City of Scottsdale, may otherwise delay or prevent development of the land, and may expose me and the owner to other liability. I understand that people who have not signed this form may be prohibited from speaking for the owner at public meetings or in other city processes.

Name (printed)

Date

Signature

Eric Marvin
THANAFIT SUCHART
ARNDAL BASS

2-14, 2019
24 APRIL, 2019
30 April, 2019

Eric Marvin
[Signature]
[Signature]

Planning and Development Services

7447 E Indian School Road, Suite 105, Scottsdale, AZ 85251 • www.ScottsdaleAZ.gov

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4/30/2019