

**CITY OF SURPRISE
PLANNING AND ZONING COMMISSION**

MEETING MINUTES

December 3, 2015 / 6:00 PM

**COUNCIL CHAMBERS
16000 North Civic Center Plaza
Surprise, AZ 85374**

CALL TO ORDER.

Chair Steve Somers called the Planning and Zoning Commission Meeting to order at 6:00 p.m. at Surprise City Hall, 16000 North Civic Center Plaza, Surprise, Arizona 85374, on Thursday, December 3, 2015.

A. ROLL CALL

In attendance were Chair Steve Somers, Vice Chair Ken Chapman and Commissioners Matthew Keating, Jerry Hoyler, Shari Martin, Dennis Smith and Jim Ferguson.

STAFF PRESENT:

Community Development Director Eric Fitzer, Long Range Planning Manager Lloyd Abrams, Deputy City Attorney Donna Bronski, Planner Joshua Mike, Planner Robert Kuhfuss and Planning and Zoning Commission Secretary Heather Donaldson.

COUNCIL MEMBERS PRESENT:

None

B. PLEDGE OF ALLEGIANCE

C. CURRENT EVENTS REPORT

D. STAFF REPORT

Eric Fitzer advised the Commission of the following items:

- 2015 General Plan Summit taking place on Friday, December 4, 2015 in the Community Room at City Hall from 8am to 12pm

CALL TO THE PUBLIC:

Leo Mankiewicz, Surprise resident, commented on the benefits of the village plan, some elements of which are included in the proposed General Plan Amendment. He advised of the importance of regularly sustained public input which was included in the Village Plan but is no

longer required in the proposed amendment. He wants to get away from an automobile eccentric designed community.

CONSENT AGENDA:

No Items

REGULAR AGENDA ITEMS NOT REQUIRING A PUBLIC HEARING:

Item 1 – INTERNAL – Consideration and action on the November 18, 2015 Planning and Zoning Commission minutes.

Commissioner Smith made a motion to approve the November 18, 2015 Planning and Zoning Commission minutes. Vice Chair Chapman seconded the motion. The motion passed with 6 votes in favor, 1 abstention (Hoyler).

Item 2 – DISTRICT 2 – Consideration and action on the November 19, 2015 Planning and Zoning Commission minutes.

Vice Chair Chapman made a motion to approve the November 19, 2015 Planning and Zoning Commission minutes. Commissioner Smith seconded the motion. The motion passed with 6 votes in favor, 1 abstention (Ferguson).

REGULAR AGENDA ITEMS REQUIRING A PUBLIC HEARING:

Item 3 – DISTRICT 1 – Consideration and action regarding a 5-Parcel, 409-Lot Preliminary Plat for Verdugo.

Chair Somers opened the Call to the Public. Hearing no comments, Chair Somers closed the Call to the Public.

Commissioner Hoyler made a motion to recommend approval to Mayor and City Council of the proposed Preliminary Plat for Verdugo and to adopt staff's findings. Commissioner Keating seconded the motion. The motion passed with 7 votes in favor.

Item 4 – DISTRICT 1 – Major Amendment to the General Plan. The proposed planning approach focuses on the “Character Area” planning approach and removes the Village Plan requirements from the development process.

Joshua Mike, Planner, presented the project to the Commission and provided them with a Supplemental Staff Report (Exhibit “A”).

The Commission discussed:

- Wildlife Linkage Corridor
- Appellate process / Open public hearing process
- Undue hardship for landowners
- More traditional approach
- Sub Character Area approach
- Possibility of litigation

- Clearly defined limitations prior to any sale of property
- Protection of Mule Deer

Chair Somers opened the call to the public:

The following speakers opposed the inclusion of both the wildlife corridor sub area plan and the enhanced open space sub area plan:

- 1) Danny Martino
- 2) Jeff Blilie (provided Commission with Exhibit “B”)
- 3) Mike Schwab (provided Commission with Exhibit “C”)
- 4) Lisa Kazan

Dana Warnecke, AZ Game and Fish Department, advised the Commission that the resident Mule Deer are not migrating in and out of the area, the existing Linkages Map represents how the current resident Mule Deer use the undeveloped habitat, and there is no expectation of major changes to their current distribution patterns.

Chair Somers closed the call to the public.

Chair Somers made a motion to remove the wildlife corridor character area from the General Plan Land Use Element. Commissioner Martin seconded the motion. The motion passed with 7 votes in favor.

Commissioner Keating made a motion to recommend that the City Council approve the Major General Plan Amendment as further amended in the Supplemental Staff Report submitted this evening with the following additional modifications:

- 1) Confirm the elimination of the wildlife corridor sub area plan from the Land Use Element as previously voted this evening
- 2) Approve the Land Use Plan but limit the Open Space Land Use to the boundaries established by the voters in the General Plan 2035 adopted in 2013

Commissioner Martin seconded the motion. The motion passed with 6 votes in favor and 1 vote against (Smith).

OTHER BUSINESS:

Item 5 – INTERNAL – Discussion, consideration and action to appoint a Chairperson for the Planning and Zoning Commission.

Eric Fitzer, Director of Community Development, advised the Commission of a change in code which took place stating that Commission Chairs and Vice Chairs will need to be appointed in July of each year so this appointment will expire at the end of June of 2016.

Chair Somers nominated Commissioner Chapman for Chairperson for the Planning and Zoning Commission. Commissioner Smith seconded the motion. No other nominations were made.

Chair Somers made a motion to elect Commissioner Chapman for Chairperson for the Planning and Zoning Commission. Commissioner Smith seconded the motion. The motion passed with 6 votes in favor and 1 abstention (Chapman).

Item 6 – INTERNAL – Discussion, consideration and action to appoint a Vice Chairperson for the Planning and Zoning Commission.

Eric Fitzer, Director of Community Development, advised the Commission of a change in code which took place stating that Commission Chairs and Vice Chairs will need to be appointed in July of each year so this appointment will expire at the end of June of 2016.

Commissioner Smith nominated Commissioner Keating for Vice Chairperson for the Planning and Zoning Commission. Commissioner Martin seconded the motion. Chair Somers nominated Commissioner Hoyler for Vice Chairperson for the Planning and Zoning Commission. There was no second. No other nominations were made.

Commissioner Smith made a motion to elect Commissioner Keating for Vice Chairperson for the Planning and Zoning Commission. Commissioner Martin seconded the motion. The motion passed with 7 votes in favor.

Item 7 – INTERNAL - Discussion for future agenda items.

None

ADJOURNMENT:

Hearing no further business, Chair Somers adjourned the Planning and Zoning Commission meeting at 8:29 p.m.

Eric Fitzer
Community Development Director

Steve Somers,
Planning and Zoning Commission Chair

The foregoing instrument is a full, true and correct copy of the original document on file in the office of the City Clerk, City of Surprise, Arizona.

ATTEST BY:

Heather Donaldson, Commission Secretary

DATE:

EXHIBIT “A”

GENERAL PLAN AMENDMENT

REPORT TO THE PLANNING AND ZONING COMMISSION

Case: FS15-173

Project Name: Major General Plan Amendment

Council District: City Wide

Meeting Date: December 3, 2015

Planner: Joshua Mike

Supplemental Staff Report:

Revisions to text and maps of the Major Amendment to the General Plan 2035 are a function of the 60-day review period, which ended on November 17, 2015. While the majority of responses and comments were addressed and included as part of that timeline, the City maintains an open conversation throughout the whole Public Hearing process.

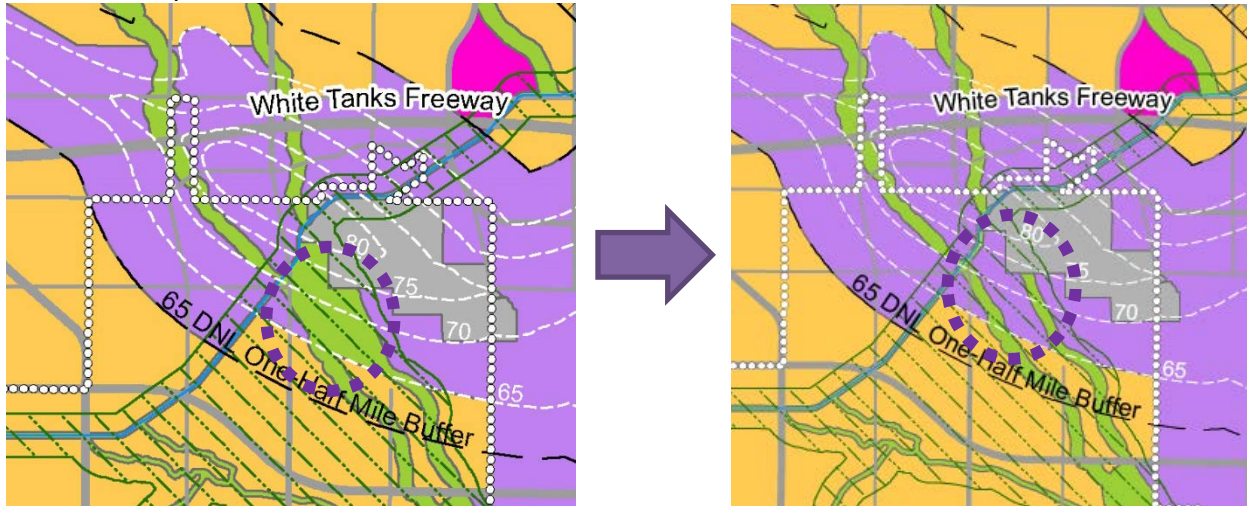
This packet represents the continued effort to communicate with stakeholders, property owners, and outside agencies. Comments and ongoing dialogue has resulted in minor revisions to a few Elements after the packets were distributed to the Planning and Zoning Commission for the Public Hearing on December 3, 2015.

The redline changes to the proposed text and maps distributed as part of the public outreach and sent to stakeholders, outside agencies, and neighboring municipalities are shown below.

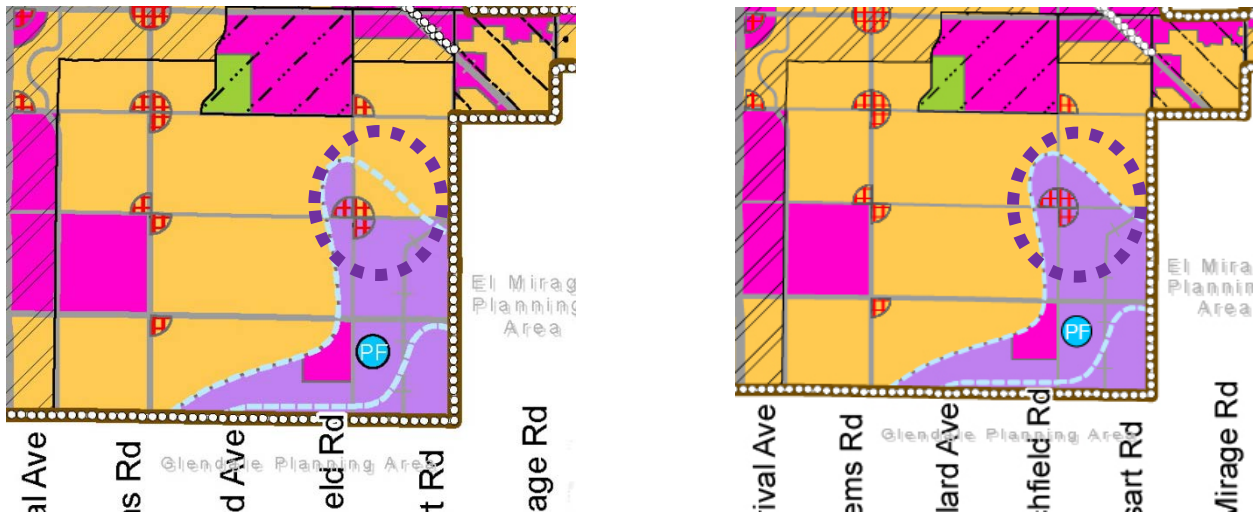
Land Use Element

Page 10

Land Use Map



The change noted above reassigns the character area of land between the Trilby and Iona washes from the Open Space to Employment.



The change noted above reassigns the character area of land within the Luke Air Force Base noise contours, on the northeast corner of Litchfield Road and Waddell Road, from Neighborhood to Employment. The represents support for Luke's mission if redevelopment should occur in this area.

Page 2

Private/Existing PAD's

The City of Surprise has about 158 square miles of land that is private, including existing PAD zoned sites. The majority of Private land is within city limits, including as well as inside the north-west planning boundary, where private and State Trust land become mixed together. These include approved master plans and development agreements currently under Maricopa County jurisdiction but are within the municipal planning boundary and have ongoing collaboration with the City.

Page 31

Open Space

The Open Space designation includes public and privately held lands that are **intended** to be preserved for natural areas, conservation areas and/or trail and other regional recreational facilities. Open space designations in Surprise are primarily designated in mountainous areas, along designated floodways, riverine areas, and along significant desert wash and other drainage corridors. Open space areas should be maintained in their natural state due to topographic, drainage, vegetative and landform constraints.

Per Arizona Revised Statutes, ASLD and privately held lands with an Open Space designation may also be developed at a maximum of one dwelling unit per acre or with an alternative, economically viable land use. In order to preserve ASLD and privately held lands as Open Space, acquisition of these lands must occur through purchase or trade.

The Land Use Plan denotes a significant portion of the City's northern planning area as Open Space. These areas are primarily Bureau of Land Management (BLM) and Arizona State Land Department (ASLD) managed lands consisting of mountainous terrain with slopes of 20% or greater. The City's intent is to establish a large conservation and recreation area at this location.

~~Per Arizona Revised Statutes, ASLD and privately held lands with an Open Space designation may also be developed at a maximum of one dwelling unit per acre or with an alternative, economically viable land use. In order to preserve ASLD and privately held lands as Open Space, acquisition of these lands must occur through purchase or trade.~~

The Land Use Plan also identifies a series of north-south linear open spaces that follow existing desert wash and drainage facilities. The City's intent is to establish an off-street trail system along these wash corridors to enhance non-motorized mobility and connectivity. Please refer to the Recreation & Open Space Element for additional details. Other Open Space designations include areas within designated floodways such as the Hassayampa River, McMicken Dam and Outlet Channel, and the Agua Fria River.

Areas designated as Open Space within the Luke Compatibility District shall provide uses which are both compatible with the operation of the auxiliary field and meet ARS requirements concerning military bases.

Page 38

Scenic Lands Development

The Scenic Lands Development area consists of approximately 68,000 acres (over 1/3 of the Surprise Municipal Planning Area) of unique and scenic qualities that are only found in these pristine natural settings. The Scenic Lands Development areas are generally north of Carefree Highway, along the Hassayampa River and those areas immediately north and east of the White Tank Mountains Regional Park.

The boundaries identified on the Land Use Map (page 10) are roadway and geographic alignments that coordinate with scenic roadways adopted by Maricopa County. Research and collaboration to create planning documents will refine the boundaries, specific to each natural asset.

The Scenic Lands Development area largely consists of mountain and bajada landform areas with high peaks, jagged slopes, V-shaped ravines and large, natural desert washes with an exemplary inventory of Sonoran Desert vegetative communities. In fact, over 25% of the Scenic Lands Development area lies within mountainous areas that are 20% slope or greater. These areas are intended to remain as natural area open space in perpetuity. The upper bajada areas exhibit the most diverse and dense vegetative communities found in the Surprise Municipal Planning Area.

Future ~~specific area~~ plan guidance, specific for the Scenic Lands Development area, shall recognize the visual beauty and other natural area open space qualities and how the design, intensity and orientation of incoming development and public realm areas can strengthen and enhance the natural ~~environment area open spaces~~ found in ~~this the underlying~~ character areas. Specifically, land use, circulation and urban design guidance for the Scenic Lands Development area shall identify techniques that favorably integrates proposed development with the topography, protects large washes for wildlife mobility and promote off street trail systems, protects major vistas, preserves all areas with 20% slope or greater, and demonstrate how executive housing opportunities and/or enclaves of higher intensity residential cluster developments (in select areas) can preserve and enhance public access and use of adjacent natural area open spaces.

Page 41-43

Wildlife Linkage Corridors (Remove Map on page 43)

In June of 2011, the city, after collaboratinged with the Arizona Game and Fish Department and other stakeholders ~~to amend the General Plan by~~, adopteding Resolution No. 2011-68 to create the Wildlife Linkages Corridors in Surprise Map, as seen in the Conservation Element of the Surprise General Plan 2035. The Wildlife Linkage s Map Corridors signify primarily coincides with existing natural and manmade wash and canal corridors, such as Trilby and Iona washes,

the CAP canal, and the McMicken Dam outlet channel, that link isolated habitat patches and larger wildland areas. The Arizona Game and Fish Department conducted wildlife movement research and utilized computer modeling techniques to identify areas important to habitat movement. The following focal species were identified to model wildlife linkages in the Surprise planning area; tiger rattlesnake, lyre snake, kit fox, blacktailed jackrabbit, javelina, mule deer, mountain lion, desert tortoise and the gila monster.

~~As Figure 1.1 illustrates, the w The Wildlife Linkages eCorridors sub area typically exist along natural and manmade corridors such as Trilby and Iona washes, the CAP canal, and the McMicken Dam outlet channel. is identified on the Land Use Map (page 10) in support of the Conservation Element. This sub area brings awareness to the map that identifies future development regulations while recognizing the underlying Character Areas. Some of these facilities connect to other regionally significant wash corridors that will also provide important trail linkages to the Hassayampa River, White Tank Regional Park and large open space preserves planned in the northern planning area of Surprise.~~

The intent of these Wildlife Linkages eCorridors sub area is to compliment the preservation of known animal movement patterns so they will not become fragmented as the result of incoming development. ~~They are~~ It is also intended to promote context sensitive buffers between these natural corridors and the eventual neighborhood, commerce, and employment areas adjacent to them, while providing trail connection opportunities throughout Surprise.

~~Specifically, the Wildlife Linkage Corridor calls for a 100-foot undisturbed buffer from the edge of floodway (or high water mark) in designated corridor areas. The floodway and 100-foot buffer areas are required to be 500-foot minimum in width to adequately promote and facilitate wildlife movement. The Wildlife Linkage Corridors also call for wildlife friendly development standards within a 900-foot area adjacent to the 500 foot "wildlife linkage area". The "wildlife friendly development regulations" (identified but not defined within the Conservation Element) standards are intended to be incorporated into community or site designs of proposed development projects adjacent to the wildlife linkage corridors. The City's ongoing efforts to is currently in the process of updating the SUDC will include public and stakeholder involvement in creating the tools for development within this sub area. to prescribe the wildlife friendly development standards.~~

~~The Wildlife Linkages Corridor sub area recognizes the existing planned land uses and zoning entitlements for this area, but also looks to update existing plans by working collaboratively with area property owners to develop a specific area plan for a fresh evaluation of the existing plans and how the area can enhance trail connections and linkages. A small number of parcels may have development constraints due to preservation of the natural environment because of washes, floodways, buffers, etc. To the extent that the application of wildlife linkages corridor imposes hardships on a particular property, the City will provide for land owners with an appeal procedure through the regulatory process.~~

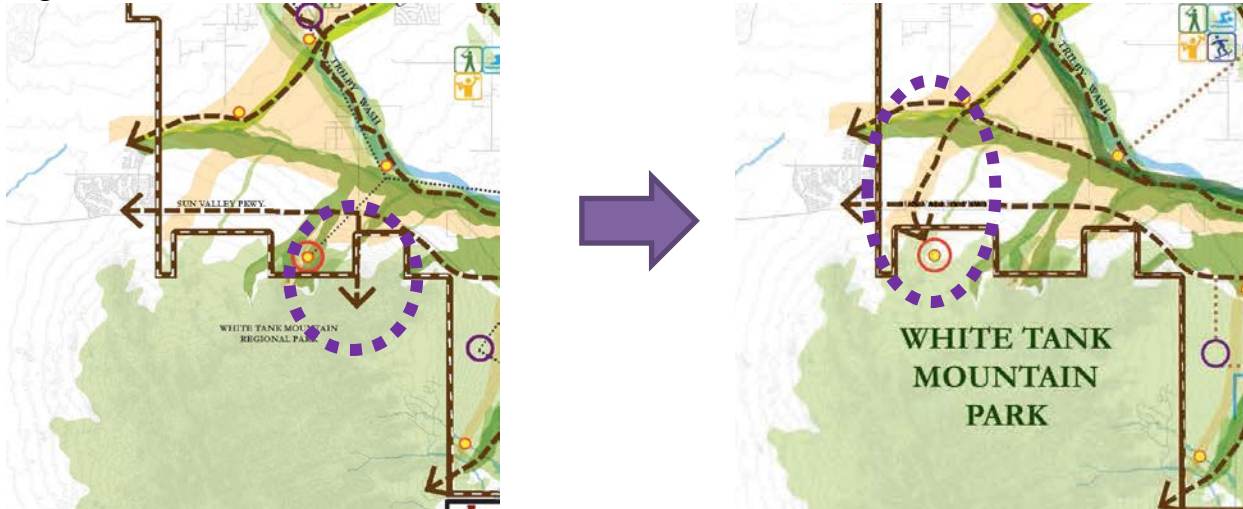
Recreation and Open Space Element

Page 4

Use

~~The Trail Map (figure xx)~~ The Parks and Recreation Master Plan map (page 10) shows a hierarchy of connected trails, including major trails, and minor trails with limited access to other areas.

Page 10



The change noted above relocates a trail and park locations to be consistent with adopted plans within Maricopa County Parks Department.

Housing Element

Page 4

Supply

The City of Surprise's housing mix is deficient in housing that contains amenities and conveniences that support the ~~median-full range~~ of housing stock. Surprise has not been able to attract developers to build higher-end housing. Providing the full range of housing is critical for the City's economic development effort in retaining and attracting a higher income workforce.

Income

According to the 2010 American Community Survey, the median household income in the City of Surprise was \$57,708, an increase of approximately 30 percent over that of 2000 (\$44,156). ~~However this reflects an approximate dip of 14% compared with Surprise enjoys a median household income that is 11.3% higher than~~ the median household income (\$51,204) exhibited within Maricopa County in 2010.

Chapter 3: Introduction and Executive Summary

Page 6

3) Roadway Congestion

The previously noted lack of east-west arterial roadways in Surprise creates well-documented congestion challenges on Bell Road.

The City will continue regional ~~Continued regional~~ collaboration with MAG and adjacent communities in the investment and development of Intelligent Transportation Systems (ITS). It is necessary for the continued and improved coordination and signalization performance to enhance efficiency and level of service and capacity of existing high capacity roadways in Surprise.

EXHIBIT “B”

BEUS GILBERT

PLLC

ATTORNEYS AT LAW

701 NORTH 44TH STREET
PHOENIX, ARIZONA 85008

Jeffrey M. Blilie
E-Mail Address: jblilie@beusgilbert.com

December 2, 2015

VIA EMAIL

Robert Wingo, City Attorney
City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374

Re: Surprise General Plan Amendment, A.R.S. § 12-1134 (Prop 207) Claim

Dear Robert,

Beus Gilbert PLLC represents a coalition of property owners (“SPA 3 Coalition”) who own property throughout Special Planning Area #3 (SPA 3) in the City of Surprise. The properties owned by the SPA 3 Coalition are predominantly vacant parcels of various sizes, ranging from less than 10 acres to over 400 acres. The SPA 3 Coalition is very concerned and adamantly opposed to the General Plan Amendment currently being processed by the city of Surprise, specifically the delineation of the Wildlife Linkages Corridor and the adoption of additional Open Space on the Land Use Map, both of which negatively impact the SPA 3 Coalition properties.

Specific to the Wildlife Linkages Corridors, the amended Land Use Element (Chapter 1, page 41 and 42) describes, “(t)he Floodway and 100-foot buffer areas are required to be 500-foot minimum in width” and “(t)he Wildlife Linkage Corridors also call for wildlife friendly development standards within a 900-foot area adjacent to the 500-foot “wildlife linkage area.” The requirement to set aside a minimum 500-foot corridor without compensation constitutes a regulatory taking, and the imposition of development regulations, which have not yet been written, for the 900-foot areas present the SPA 3 Coalition with great uncertainty when it comes to future land use and development of their properties.

Specific to the new Open Space delineations on the amended Land Use Map, they either mirror the Wildlife Linkage Corridors or attempt to follow natural washes designated as “floodway.” However, in most instances, the Open Space delineations dramatically expand beyond the boundaries of designated floodways. In fact, when measuring the typical Open Space delineations along these washes, it is apparent the minimum width is 500 feet. Please note that

the Open Space delineations on the Land Use map adopted in 2013 impacted (i) property owned by Maricopa County Flood Control District, (ii) hillside property, and (iii) private property with PAD zoning approvals (showing the dedicated open space). The new proposed Open Space delineations on the amended Land Use Map now impact mostly private landowners (including the SPA 3 Coalition) and Arizona State Land Department owned lands.

The Private Property Rights Act — A.R.S. § 12-1134 (commonly known as Prop 207) provides that "[i]f the existing rights to use, divide, sell or possess private real property are reduced by the enactment or applicability of any land use law enacted after the date the property is transferred to the owner and such action reduces the fair market value of the property the owner is entitled to just compensation from this state or the political subdivision of this state that enacted the land use law."

Contrary to the statement made at the November 19, 2015, Planning and Zoning Commission meeting, the adoption of a major amendment to the Surprise General Plan 2035 is a land use law enacted by the City of Surprise. Major general plan amendments are adopted pursuant to detailed and lengthy process described in A.R.S. § 9-461.06, and constitute legislative acts of the City Council, subject to referendum; please note the following language:

"Except for general plans that are required to be submitted to the voters for ratification pursuant to subsection M of this section, the adoption or readoption of a general plan, and any amendment to a general plan, shall not be enacted as an emergency measure and is subject to referendum as provided by article IV, part 1, section 1, subsection (8), Constitution of Arizona, and title 19, chapter 1, article 4." A.R.S. § 9-461.06 (L)

The imposition of Wildlife Linkage Corridor regulations and the adoption of additional Open Space land use designations to property formerly designated for low density residential development (3-5 du/acre) will significantly diminish the value of SPA 3 Coalition properties. Given the extent of the proposed regulations and the vastness of their application, the value of diminishment will most likely exceed \$50,000,000. Appraisals can be provided to support this claim.

Our request is simple; remove (i) the new Open Space land use designations, and (ii) the Wildlife Linkages Corridor sub area and related regulations from the major General Plan amendment currently being processed by the City of Surprise.

We welcome the opportunity to further discuss this issue and are happy to provide you, staff, the Planning and Zoning Commission and the City Council with any empirical evidence needed to show the significant impact these proposed land use regulations will have on the SPA 3 Coalition Owners, as well as the diminished property values that will result if these proposed land use regulations are adopted.

Sincerely,

Jeffrey M. Blilie

Jeffrey M. Blilie

cc: Mayor Sharon Wolcott
Vice Mayor John Williams
Council Member Roland Winters
Council Member Jim Biundo
Council Member Rachel Villanueva
Council Member Skip Hall
Council Member Todd Tande
Chair Steven Somers
Vice Chair Ken Chapman
Commissioner Jerry Hoyler
Commissioner Matthew Keating
Commissioner Dennis Smith
Commissioner Jim Ferguson
Commissioner Shari Martin
Bob Wingenroth
Rick Buss
Donna Bronski
Eric Fitzer



December 2, 2015
Amec Foster Wheeler Project No. 5-114-003073

Mr. Danny Martino
Trustee: Danny Martino Family Limited Partnership
Metropolitan Land Co
2390 E. Camelback Road
Ste 338
Phoenix, AZ 85016-3466
Phone: 480.326.8084
dannymartinoaz@yahoo.com

Re: Memorandum RE: Section 404 Jurisdictional Delineation and US Army Corps of Engineers Concurrence of Findings; 60-acre parcel Deer Valley Road and 219th Ave.

Amec Foster Wheeler Environment & Infrastructure, Inc. (Amec Foster Wheeler) completed a jurisdictional delineation on a 60-acre parcel of land owned by the Danny Martino Family Limited Partnership situated in Maricopa County, Arizona in a portion of Section 14, T4N, R3W in June 2006 (Amec Foster Wheeler job No. 5-114-003073). This report was submitted to the US Army Corps of Engineers on June 16, 2006 for review and concurrence of findings. On November 15, 2007 the US Army Corps of Engineers determined that, **"your proposed project is not subject to our jurisdiction under Section 404 of the Clean Water Act. Since there are no waters of the United States within the aforementioned project area, no Section 404 permit is required from our office"**, see attached concurrence letter. It should be noted that consultation with the US Army Corps of Engineers would be required if their findings of concurrence, associated with the November 15, 2007 letter, is disputed by a third party.

Respectfully submitted,

Amec Foster Wheeler Environment & Infrastructure, Inc.



Richard Knox
Project Manager

Amec Foster Wheeler Environment & Infrastructure, Inc.
4600 East Washington Street, Suite 600
Phoenix, Arizona 85034-1917
Tel (602) 733-6000
Fax (602) 733-6100

www.amecfw.com



404 Study

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
ARIZONA-NEVADA AREA OFFICE
3636 NORTH CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939

NOV 17 2007

REPLY TO
ATTENTION OF:

November 15, 2007

Office of the Chief
Regulatory Division

Marcie Martin
AMEC Earth & Environmental, Inc.
1405 West Auto Drive
Tempe, Arizona 85284-1016

File Number: SPL-2006-1533-AP

Dear Ms. Martin:

Reference is made to your letter of July 31, 2006 in which you inquired (on behalf of the property owner) as to whether or not a Section 404 permit is required from the U.S. Army Corps of Engineers concerning development of a 60-acre parcel of land located at the northwest corner of Deer Valley Road and 219th Avenue in a portion of Section 14, T4N, R3W, City of Surprise, Maricopa County, Arizona.

We have determined that your proposed project is not subject to our jurisdiction under Section 404 of the Clean Water Act. Since there are no waters of the United States within the aforementioned project area, no Section 404 permit is required from our office.

The receipt of your letter is appreciated. If you have questions, please contact Ann Palaruan at (602) 640-5385 x 227.

Sincerely,

Cindy Lester, P.E.
Chief, Arizona Branch
Regulatory Division



June 16, 2006
AMEC Job No. 5-114-003073

Ms. Cindy Lester, Chief Arizona Section
US Army Corps of Engineers Regulatory Branch
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1936

Dear Ms. Lester:

**Re: Section 404 Jurisdictional Delineation
Approximately 60-Acre Property
Northwest Corner of Deer Valley Road and 219th Avenue
Surprise, Maricopa County, Arizona
Waters of the United States**

AMEC Earth & Environmental, Inc. (AMEC) is pleased to provide the enclosed report based on our completion of a Section 404 Jurisdictional Delineation for an approximately 60-acre parcel in Surprise, Maricopa County (the Property).

This report is based on our review of soil surveys, topographic mapping, aerial photography, and visual observation of the Property. The following report presents our findings.

On behalf of The Danny Martino Family Limited Partnership, AMEC requests U.S. Army Corps of Engineers (Corps) concurrence with the findings presented in the enclosed report. The Danny Martino Family Limited Partnership has provided a letter authorizing AMEC to coordinate with the Corps for this project and granting the Corps access to the Property for the purposes of Section 404 evaluation.

If you need any additional information, please contact me at your convenience.

Respectfully submitted,

AMEC Earth & Environmental, Inc.

Marcie Martin, CFM
Staff Environmental Planner

Enclosures

c: Addressee (1)
 Danny Martino (1)
 Brian Burch, Metropolitan Land Company (1)

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AMEC Earth & Environmental, Inc.
1405 West Auto Drive
Tempe, Arizona 85284
Tel (480) 940-2320

www.amec.com

June 16, 2006

Ms. Cindy Lester, Chief Arizona Section
US Army Corps of Engineers Regulatory Branch
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1936

Re: Section 404 Jurisdictional Delineation for the 60-acre parcel on the northwest corner of Deer Valley Road and 219th Avenue, Surprise Maricopa County, Arizona (located within Section 14 of T4N, R3W)

Dear Ms. Lester:

The Danny Martino Family Limited Partnership, current owner of the subject property, authorizes AMEC Earth and Environmental, Inc. to coordinate with the U.S. Army Corps of Engineers for issues relating to Section 404 requirements for the approximately 60-acre parcel on the northwest corner of Deer Valley Road and 219th Avenue, in Surprise, Maricopa County, Arizona. The U.S. Army Corps of Engineers is granted temporary access to the above referenced parcel for the purposes of Section 404 field reconnaissance.

Danny Martino Family Limited Partnership

By: Danny Martino Family Limited Partnership

DANNY MARTINO
(Print or Type Name)

Title: Trustee

Date: 7-25-06

EXHIBIT “C”

December 2, 2015

City of Surprise
c/o Mr. Eric Fitzer
Community Planning Director
16000 N. Civic Center Plaza
Surprise, Arizona 85374

RE: Surprise General Plan 2035 Amendment

Mr. Fitzer:

I am writing this letter to state my strong opposition to the Surprise General Plan Amendment 2035. Specifically, I object to the imposition of both the Open Space, Wildlife Linkage Sub Area and Corridors on the Land Use Map as proposed in the Amendment.

I own 80 acres (APN 503-77-006E) located on the Union Hills Drive alignment west of the 195th Avenue alignment. My property is adversely impacted by both the proposed Open Space and Wildlife Linkage Sub Area as delineated on the proposed Land Use Map and further detailed on the Wildlife Linkages Map.

The additional Open Space impact on my property is a taking, or at the very least, a diminution of the value of my property. The Wildlife Linkage Sub Area and Corridors with "regulations to come" also decreases the value of my property to prospective buyers.

Please remove the Open Space and Wildlife Linkage Sub Area from the proposed Land Use Maps and remove the Wildlife Linkages Map from the Land Use Element section of your proposed Amendment to the General Plan 2035.

Sincerely,



Preston Steehoek
6024 E. Harvard Street
Scottsdale, Arizona 85257

December 3, 2015

City of Surprise
c/o Mr. Eric Fitzer
Community Planning Director
16000 N. Civic Center Plaza
Surprise, Arizona 85374

RE: Surprise General Plan 2035 Amendment

Mr. Fitzer:

Since 1957 my family has owned 317 acres located at the northwest of the intersection of Deer Valley Road (extended) and 229th Avenue (extended) and identified as APN's 503-81-033 R, S, T, U, V, W, X and Y.

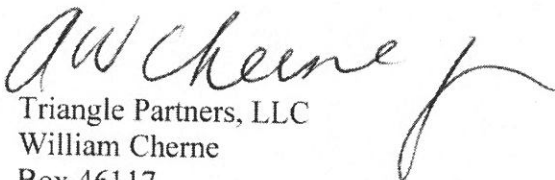
I am writing to state our opposition to the Surprise General Plan Amendment 2035. Specifically, we object to the imposition the Wildlife Linkage Sub Area and Corridors on the Land Use Map as proposed in the Amendment.

Our property is negatively impacted by the proposed Wildlife Linkage Sub Area / Corridors as shown on the proposed Land Use Map and further delineated on the Wildlife Linkages Map.

The Wildlife Linkage Sub Area / Corridors with "regulations to come" will decrease the value of our property.

We request that you remove the Open Space and Wildlife Linkage Sub Area from the proposed Land Use Maps and remove the Wildlife Linkages Map from the Land Use Element section of the proposed Amendment to the General Plan 2035.

Sincerely,



Triangle Partners, LLC
William Cherne
Box 46117
Eden Prairie MN 55344

Barbara R. Diehl
Attorney at Law
2074 Crompond Road
Yorktown Heights, New York, 10598
(914) 245-7402
(914) 245-7403 -- FAX

December 3, 2015

City of Surprise
c/o Mr. Eric Fitzer
Community Planning Director
16000 N. Civic Center Plaza
Surprise, Arizona 85374

RE: Surprise General Plan 2035 Amendment and impacts on Maricopa County
Assessor Tax Parcel Numbers: 503-81-019B (167 Acres) and 503-34-017F, 503-81-018A (122 Acres).

Mr. Fitzer:

My client, The Wittmann Family Trust, owns the two vacant land parcels identified above. Both of these properties are located within the Luke Air Force Base Aux Field #1 Noise Contours. As such, the Open Space and Wildlife Linkage Sub Area / Corridor delineations shown on your Land Use Map have a negative impact on the value of my client's property. As you are aware, per State Statute, there is NO residential development allowed within the LAFB Noise Contours. Therefore, your proposed density transfer remedy is meaningless to my client. More to the point, the City has no remedy for my client's situation and therefore both the Open Space and Wildlife Linkage Sub Area / Corridor delineations are nothing more than a taking.

Please note that the "Military Installation Fund" just purchased a 22-acre portion of my client's property within the "clear zone" for Luke Aux #1. This purchase was based on an appraised value of \$27,000 per acre (the value if the property did not have the "clear zone" impact). My client would be happy to sell the City of Surprise both the Open Space and Wildlife Linkage Sub Area / Corridors as they are delineated on their property.

In lieu of Surprise's purchase on this property, or to avoid an action that will force this outcome, remove the Open Space and Wildlife Linkage Sub Area from the proposed

City of Surprise
December 3, 2015
Page Two

Land Use Maps and remove the Wildlife Linkages Map from the Land Use Element section of your proposed Amendment to the General Plan 2035.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Diehl", written in a cursive style.

Barbara Diehl
2074 Crompond Road
Yorktown Heights, New York 10598



December 3, 2015

City of Surprise
Attn: Mr. Eric Fitzer
Community Development Director
16000 N. Civic Center Plaza
Surprise, Arizona 85374
RE: Surprise General Plan 2035 Amendment

Dear Mr. Fitzer,

I represent Lexington Homes regarding the Ana Mandara Planned Development at 219th Avenue and Sun Valley Parkway in western Surprise. Lexington and its principles spent millions of dollars entitling the Ana Mandara property, and purchasing sewer taps for the first phase of development. This process took almost five years to accomplish, and with full City support, which received both staff and City Council support with little opposition.

The proposed open space and wildlife corridor restrictions proposed as a part of the of Surprise General Plan 2035 Amendment will have a devastating effect on the value of our property. Any potential buyer will be faced with uncertain regulations which will cause increased development costs and substantially reduced densities. I outlined our concerns earlier in an email to the City on October 23, 2015 (copy of email attached). Lexington, as a result, strongly objects to the Wildlife Linkage Sub-Area/Corridor designations on the proposed amendment to the Land Use Map.

Sincerely yours,

William Rotolo, VP
Lexington Homes

Mssrs Fitzer and Winginroth and Mayor Wolcott,

My name is Bill Rotolo, and I am the Vice President of Land Acquisition and Entitlements for Lexington Homes. Lexington is the corporate owner of approximately 220 acres at the northeast corner of Sun Valley Parkway and 219th Avenue in the City of Surprise. Our property, referred to as the "Ana Mandara PAD", received a Planned Area Development approval almost 10 years ago, which granted us a density of approximately 6 du/ac, and 40 acres of retail along 219th Avenue. It has come to our attention that your proposed General Plan 2035 significantly affects the viability and value of our property, and would nullify significant portions of our approved plan.

As a City Planner by background and experience myself, I am very cognizant of the value of long range planning to any community, especially a rapidly growing one like Surprise. However, any plans must take into account the rights of property owners to use their land as designated by City ordinance. As you know, Arizona has very strict laws regarding the diminution of value of private property caused by actions of governmental bodies.

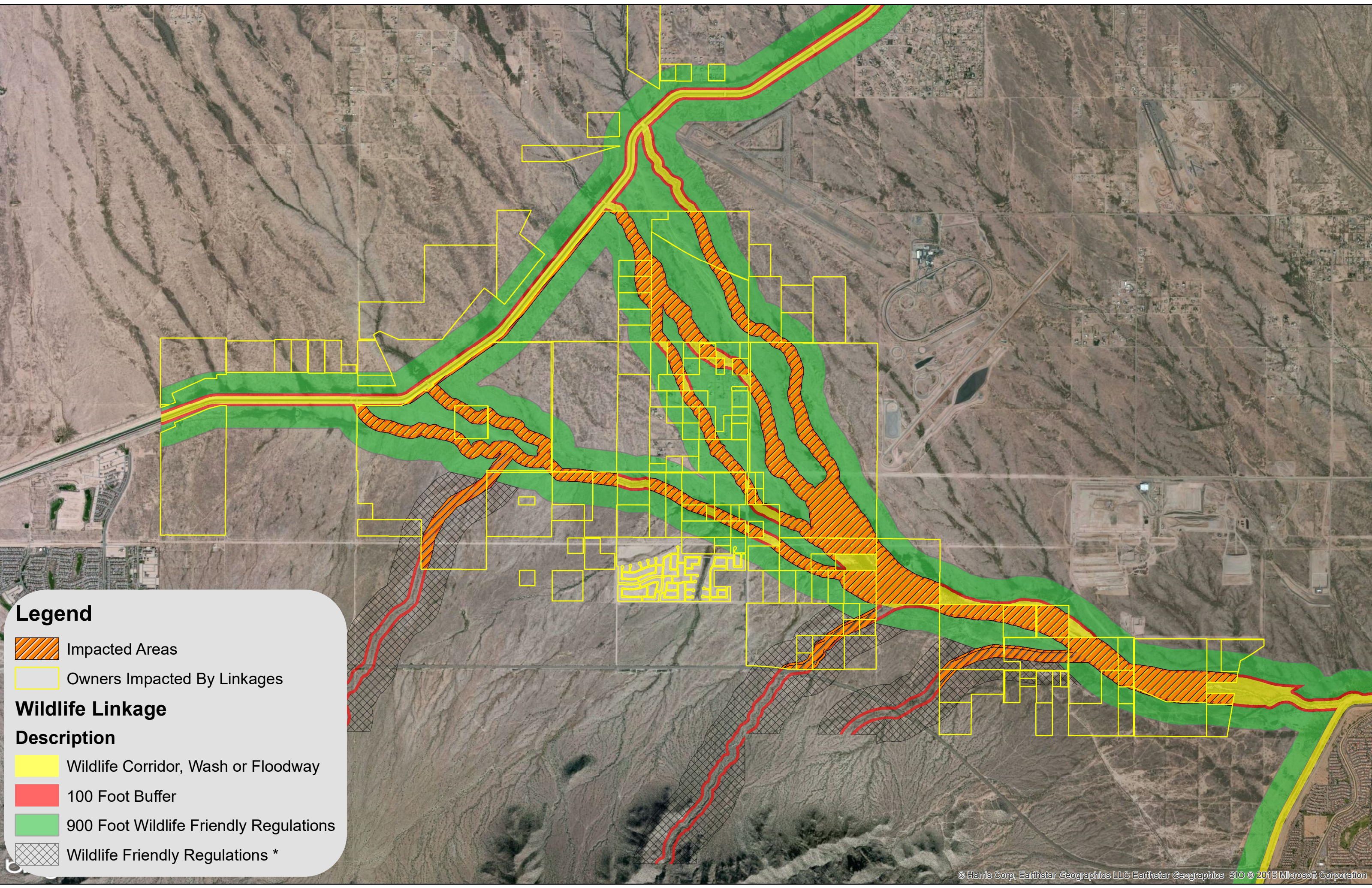
As I read your proposed 2035 General Plan, two sections appear to significantly and negatively affect the value and developability of our Ana Mandara property. The "Wildlife Linkages Corridors" which are discussed starting on Page 41 of the Land Use Element designates a significant portion of our property (given the scale of the maps in the plan, it is impossible to determine the percentage of our property affected, but it appears to be over half of it) as falling into a wildlife linkage corridor. This corridor, defined as 100 feet adjacent to a floodway, then a 500 foot "buffer" zone, and finally a 900 foot wide zone in which development will be restricted by as yet unwritten design standards. While preserving wildlife and their habitat is a laudable goal, it cannot be done without compensating landowners like ourselves for the loss of value and future development potential of the property. Lexington and its principles have close to \$25 million invested in Ana Mandara, and the 2035 General Plan puts that investment and its potential returns in serious jeopardy.

The same can be said for the "Scenic Lands Development" designation, which covers virtually our entire property. While, again, no specific criteria are outlined in the plan, it discusses lands adjacent to the White Tank Mountains Regional Park, which is on the south side of Sun Valley Parkway. Our property is on the north side of Sun Valley Parkway, and is designated as land that falls under these proposed guidelines in the Scenic Lands Development map. The language in this section of the plan, on pages 38 and 39 of the "Foundation for the Future" section of the plan, appears to suggest that these lands "remain as natural area open space in perpetuity". Clearly, this puts our ownership and investment in serious jeopardy, and completely destroys any interest the development community would have in purchasing our property. It goes without saying that this is unacceptable to Lexington Homes, and we must do whatever is in our power to prevent the adoption of this plan as currently written. We are in

the process of banding together with other similarly affected landowners in the area of Ana Mandara to more forcefully make our vociferous opposition to your proposed plan, as written, known and broadly publicized. If the City of Surprise does, in fact, adopt the 2035 General Plan in its proposed form, Lexington will be forced to do whatever is in our legal rights to do to be compensated for the devastating loss in value of our property. Hopefully, to avoid such actions on our part, the City will take into account Lexington's opposition to these specific aspects of the 2035 plan and eliminate those sections that devalue our property.

Sincerely yours,

Bill Rotolo, VP
Lexington Homes
Chicago, IL
www.lexingtonchicago.com

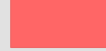
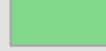


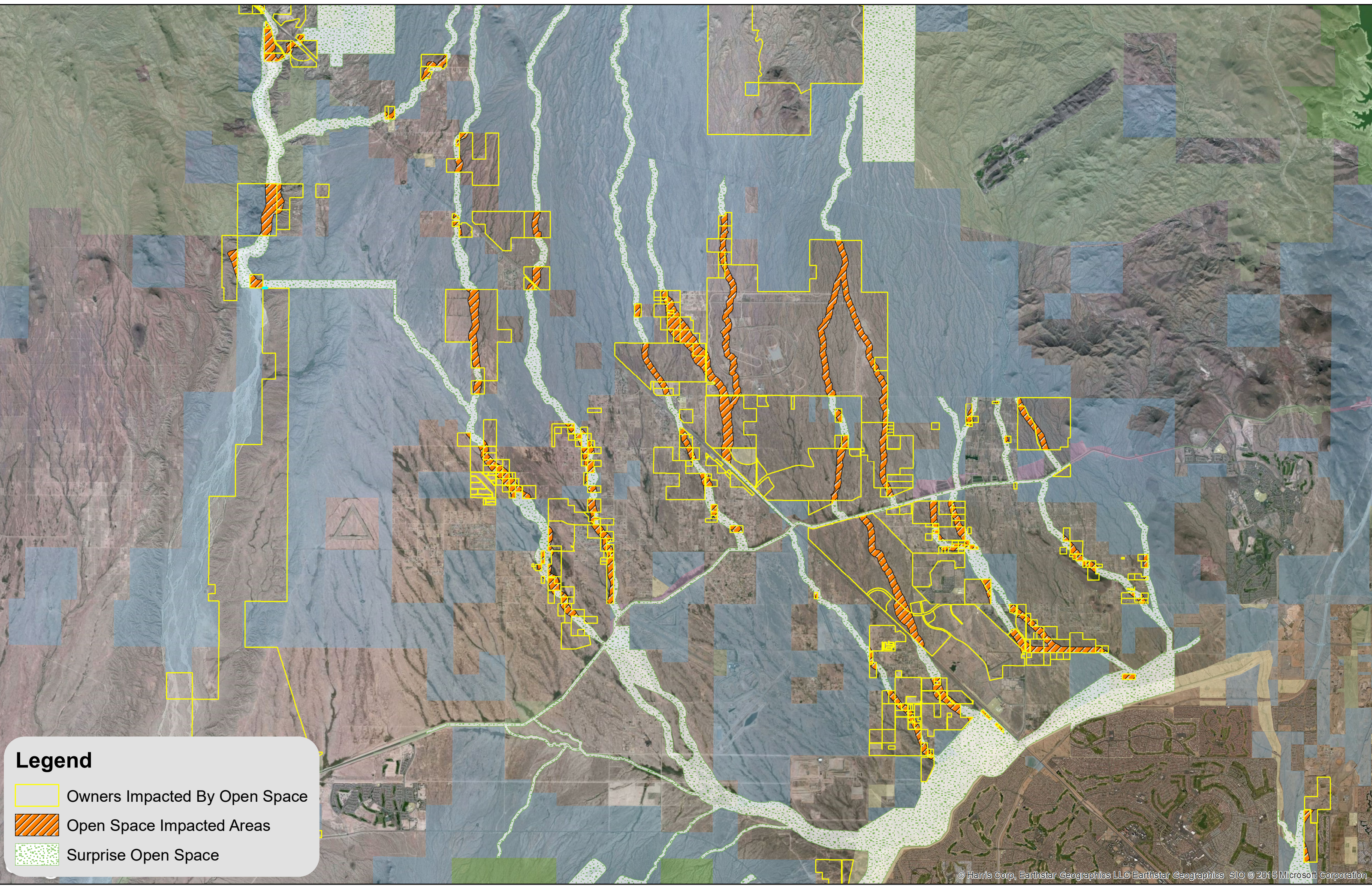
Legend

-  Impacted Areas
-  Owners Impacted By Linkages

Wildlife Linkage

Description

-  Wildlife Corridor, Wash or Floodway
-  100 Foot Buffer
-  900 Foot Wildlife Friendly Regulations
-  Wildlife Friendly Regulations *



Legend

-  Owners Impacted By Open Space
-  Open Space Impacted Areas
-  Surprise Open Space