

Amkor Facts



Citizens for Smart Growth (CSG)
April 28, 2025

Purpose

The purpose of this document is to provide a complete book of factual evidence and background chapters of information and insight, beyond the half page limited "because we say so" explanation provided by staff, trying to justify the current misguided Amkor site plan. It is obvious this site plan does not meet the requirements under the PCD Ordinance for a mixed-use development, which by code, the very definition of a "planned unit" specifically links PCD mixed-use standards to be applied in accordance with General Plan compliance. PCD mixed-use is different from PCD single use, and vastly different from conventional zoning, as the intent of a development standard matters, like 120 feet height, specifically intended for vertical mixed-use integration, not adding industrial floors over industrial floors. The standards are available to carry out the mixed-use character, not as a tool that defies the pedestrian oriented mixed-use character. By code, Character Counts!

Hierarchy of mixed-use review starts with. 1. Does this site plan make sense? 2. Is there any precedent for this type of development in commercial mixed-use 3. does this site plan fit any of the character descriptions or illustrations exhibited in mixed-use policy documents? if the answer is no, then the site plan is not in character, and not approvable.

Peoria, has ignored the "planned unit" mixed-use definition, and made every effort to use the subordinate mixed-use development standards to justify doing a single-use heavy industrial project (wouldn't even fit in Business Park), misapplying mixed-use tools that actually defy intent, common sense, logic and character as described in the pages of mixed-use policy. The City even misinterprets the nature of the original 50-acre entitlement, which was to have a narrow band of light industrial at 20 to 30 feet tall buildings tucked behind and adjacent to a powerline corridor. There is no way this site plan ever fits on that site, destroying the notion of prior legacy entitlement.

The City also ignores 20 years of land use changes, and the city has erroneously used a succession of zoning amendments, including a minor amendment in 2022, to speed past the limits of land use policy, without processing the legally required land use changes to any of the prevailing 5 North land use documents. These include the Master Planned Area and the Loop 303 Specific Area Plan. Either requiring a major amendment for land use changes exceeding current limits. Overtime, manufacturing be reduced to the 20 acres east of the powerlines and become a conditional use, then in the last few years become a use by right exceeding the original entitled right by 300%. Under the City application, 5 North can become primarily a Heavy Industrial Park. Hardly the commercial core intended described by every policy document.

Even Mayor Beck understands that this site plan is not in character, thus not in conformance with the mixed-use PCD ordinance requirement that specifically requires mixed-use "land units" to be in conformance with general plan policy. The PCD land use tail does not wag the land use policy dog.

This site plan has never been entitled in the 5 North PCD mixed use

Prologue

- CSG is not opposed to Economic Development done responsibly
- CSG is simply interested in ensuring the thoughtful mixed-use development, contemplated on 5 North for 25 years
- CSG hopes that Amkor chooses to be a good corporate neighbor
- CSG expects the City to ensure the contractual, legal and regulatory guidelines are implemented to first protect residents and taxpayers

Sections

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Amkor Site Facts

4/28/25



Amkor Site Facts

- 56 acres
- 2,700,000 Square Feet floor space
- 10 stories 118 feet high
- Single-Use high intensity industrial manufacturing
- Onsite chemical processing heavy industrial Use
- Site plan, as proposed, is not pedestrian friendly by use, scale or form
- This site plan as proposed would set precedent, and no community in Arizona (possibly the United States, has ever approved such a project in a commercial mixed-use area designated for Main street pedestrian development
- Imagine this development in P83 or Park West
- No one, including Mayor Beck, thinks this project, as is, makes is compatible with this site
- Single Site is larger than the 3 largest Business Parks combined in Peoria and the total commercial of P83 and Park West combined

Economic Development Objectives



Economic Development Objectives

- 50 Acre Site Identified in the Vistancia Development Agreement was intended for a high-density employer that could seamlessly fit in a mixed-use commercial/residential environment such as office or R&D
- Maximum anticipated employment for Amkor is 2,000 minimum is 500, and future automation of manufacturing can reduce this
- Employment density is extremely low
- Property Taxes will be significantly reduced by other incentives as large portions of the site will not technically be in US customs territory under the Foreign Trade Zone
- Project displaces mixed-use employment of office, commercial and R&D, high intensity employment uses, that will limit the population and interconnectivity concepts of true mixed-use
- This project does not meet key economic development goals established by contract for the site or under the mixed-use character polices and regulations under the general plan, specific area plan or master plan
- Current Project is better suited for an are identified for high intensity manufacturing like the Peoria Innovation Center

Statutory Hierarchy

General Plan, Specific Area Plans, Master Plans and Zoning

- General Plans – Required by state law as the guiding land use policy document
 - Specific Area Plans (integrated in General Plan) – Established by state law as a General Plan subset to create more specific land use guidelines under the General Plan – They are NOT guidance, but established land use policy by law and ordinance, and are the General Plan Allowable Uses.
 - Zoning – Allowable entitled uses for property
 - Master Plan – A requirement of Peoria PCD Zoning that includes a Development Plan and Standards Report – Master Plans are NOT general plan land use policy documents by ordinance or law.

ARS Statutes

Statutory references confirming PCD oversteps Loop 303 SAP in violation of law

9-462.01. Zoning regulations; public hearing; definitions

F. All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms with the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.

9-461.08. Authority, scope of specific plans

* Loop 303 Specific Area Plan under 9-461-08 and 9-461.09, the Vistancia Master Plan (PCD) is zoning and not a General Plan document.

A zoning document, cannot be a land use document, by law

General Plan, Specific Area Plans, Master Plans and Zoning



How General Plan / Specific Area Plan and Zoning Work Together

- State Law set up a system of check and balance providing citizens expectations of use and protection against land use by zoning
- All zoning must comply to the General Plan, and no zoning uses can be created beyond the General Plan Limits without amending the General Plan first
- Non-Conforming Zoning uses entitled prior to a general plan change creating non-conformance are still entitled
- **If a Non-Conforming Zoning use is removed, it loses its entitlement and cannot be added back at a later date until the General Plan is officially amended to allow the use (See timeline page 32)**
- General Plan changes require general plan amendments or can be done through a General Plan Update every 10 years
- Zoning changes are made through zoning amendments and by law and Peoria Code must comply with the General Plan Limits, **a zoning amendment cannot change a General Plan Land Use**

Master Planned Area (MPA)

- A Land Use created by the City of Peoria to accommodate Master Planned Communities and Specific Area Plan
- All of Vistancia is MPA, **and the Loop 303 Specific Area Plan is the Land Use Plan currently overlaying 5 North** – This plan, by statute, is the General Plan (See Statutes page 9)
- Any Land Use changes to an MPA or an SAP overlay would require a General Plan amendment
- Master Plans, not designated a Specific Area Plan and adopted as such by resolution through a general plan process, can only amend zoning land uses compatible with the limits of the General Plan – Any land use changes expanding land use limits and intensity would need to process a parallel MPA land use amendment.
- Master Plans designated an SAP, would then need to be amended as through a parallel General Plan amendment and zoning amendment for any land use changes h would

Master Plan Area Definition

- Containing the SAP (Loop 303 SAP Overlay for 5 North)
- Mixture of Residential, Commercial and Support Services
- Apparently the out of character Amkor Project is Commercial, or “Support Services”

Master Planned Area

The Master Planned Area category is for large-scale developments that go beyond standard community design to gain greater flexibility for land uses and layout. These areas comprise a minimum of 1300 acres, or any area containing a Specific Area Plan (SAP). This land use category conforms with and enhances the policies and programs contained within the Peoria General Plan. The Master Planned Areas within the City include the Vistancia Planned Community District, Lake Pleasant Heights SAP, Saddleback Heights SAP, Verlago Planned Community District, and the Old Town SAP.

These areas go through a separate entitlement process and have unique development standards specific to the community that establish the land uses, densities and intensities of development, and the character of the area. Master Planned Areas are designed as a cohesive development with common infrastructure, open space, and coordination of different land uses throughout the development. Master Planned Areas typically provide for a mixture of residential, commercial and support uses. Cohesively planning for a balance of residential and non-residential uses ensures each Master Planned Area has abundant open space and amenities, a cohesive street and pedestrian network, and unique community identity that is showcased on wayfinding signage.



Peoria's PCD Zoning



PCD Zoning

- Is NOT conventional Zoning for large multi-use areas and mixed-use areas divided into Land Units – What makes its special is its legal (by ordinance) attachment to the land uses allowed by the General Plan at any given time – Character is fundamental to this district
- **PCD can only be used in a way that complies with the General Plan – see pg 17**
- Designed to be flexible and for mixed-use, allowing a mix of standards that can be applied to meet the general plan land use requirements
- **PCD's are created in and shall be in conformance with the General Plan see page 17**
- **Peoria's PCD ordinance mentions this 6 times- see page 17 and 18**
- **A section of the PCD ordinance is called "Conformance with the General Plan" see page 17**
- The definition of a land unit, specifically differentiates between single use and mixed-use units – A mixed use unit must comply with the general plan do to the flexibility afforded in the land use standards

PCD Components

- The PCD Standards Report is a baseline report of conditions
- The PCD Development Plan contains character narrative in line with the general plan
- The PCD Development Plan also has a land use matrix (not General Plan) that must adhere to the Development Plan text and General Plan text limitations and conditions
- The land use matrix is the most subordinate in zoning and only is useful in the application of the text. If absent from the matrix, no standards exist to be applied

Peoria Ordinance PCD General Plan Requirements

Sec. 21-605. Intent.



The Planned Community (P.C.) District is intended to accommodate large-scaled, yet unified, comprehensively planned developments which conform with and enhance the policies and programs contained within the Peoria General Plan. This district is intended to provide an alternative zoning district and development process to accommodate substantial developments for residential, commercial, professional, industrial or other activities, including combinations of uses appropriately requiring flexibility under controlled conditions, not otherwise attainable under conventional zoning districts so that the following goals may be achieved:

Note: “Shall” is a legal term meaning that it is absolute, not a suggestion

F. To assure that the P.C. District is developed in accordance with a P.C. "Development Plan" and "Standards Report". The P.C. "Development Plan" and "Standards Report shall be designed to fulfill the goals established by the General Plan, provide development standards promoting an appropriate balance of land uses, and promote the planning of public facilities designed to serve the projected population.

A. *Conformance with the General Plan.* The proposed P.C. District shall be in general conformance with the Peoria General Plan. The Planning Manager shall not approve or recommend approval of any P.C. District unless the Planning Manager has received a Waiver of Proposition 207 from the Owner or Owners of the property that is the subject of the P.C. District or has determined that the absence of such a Waiver of Proposition 207 is consistent with the City's General Plan and zoning goals and regulations.

B. *Development Plan.* The "Development Plan" must include a land use and circulation system concept that is consistent with the goals and policies of the General Plan, compatible with the environment, and capable of being served by existing and planned public facilities and utilities. The "Development Plan" submitted with the application for the P.C. District shall include the following, unless waived by the Planning Manager:

PCD Ordinance General Plan Requirements Continued

Sec. 21-610. Findings.



Before approval or adoption of an application for a P.C. District, the Planning and Zoning Commission and the City Council shall find:

A. That the development proposed is in conformance with the General Plan.

Development Unit: An approximate "subarea" within a specifically defined PC boundary containing singular or multiple designated land use and zoning classifications. Multiple classifications or mixed-use classifications may be permitted in the PC District in conformance with the General Plan. A development unit in text or table format is the same area as referenced on a map but describes the area in more specific detail. The City Council may approve a particular definition of "subarea" or "development unit" for any individual PC District.

Note: The PCD ordinance goes out of its way to specifically define mixed-use as being in conformance with the General Plan. Why? Because development standards may not be relevant across the board as a hard entitlement, but a "Flexible" toolbox to carry out the land use and character provisions established in the General Plan

Vistancia PCD

- The relevant document is the Lakeland Village Master Plan
- When Annexed into Peoria from Maricopa County, owner and city entered into the Vistancia Development Agreement
- Vistancia Development Agreement was an acknowledgement:
 - that the new PCD zoning was vested zoning
 - The Lakeland Village was the Master Plan
 - Vistancia to be developed pursuant to the general plan and the master Plan
- Pursuant means legally in conformance.
- **Per ordinance the Vistancia development shall conform to the General Plan and by contract the all development is pursuant to the General Plan**
- **The Vistancia PCD master plan uses, by ordinance and by contract shall align with the general plan, and can't exceed this**
- **No development at 5 North shall occur, that is not pursuant to the Loop 303 Specific Area Plan, until this SAP is either removed by resolution or amended**
- **Additionally, the Zoning Ordinance states that no zoning can be established in conflict with a contract - The Vistancia Development Agreement expires in October 2026. A Contract Sunbelt Shea used to secure land sales and developers used to secure lot sales - THE PROMISE was actually a contractual obligation protected by the general plan and law.**

Vistancia Development Agreement

- AMKOR Project violates this agreement, this contract has life of 25 years, expires late 2026 and is the foundation to the Amkor Development Agreement
 - Amkor signed their agreement eyes wide open
- The Property owner for 5 North agreed to this if there was any confusion on leaving the County vested rights behind, and the future commitment to all development in conformance with the General Plan

F. The Parties desire to enter into this Agreement to facilitate the implementation of the Master Plans consistent with the City's General Plan (the "General Plan") and the City's Zoning Ordinance (the "Zoning Ordinance"). Additionally, the Parties expressly acknowledge and agree that the Master Plans are consistent with the portions of the General Plan applicable to the Property on the date hereof and that there are no features of the Master Plans, including, without limitation, the intensity of development and range of land uses proposed therein, that cannot be accommodated within the scope of the General Plan.

5 North Background



5 North Amkor Site Governing Documents

- In summary, these are the current governing documents
 - General Plan 2040 – Master Planned Community Mixed-Use Community Commercial (Since 2020)
 - Loop 303 Specific Area Plan (since 2005)
 - Loop 303 SAP was never removed by any official land use action and was still referenced after the GP 2040
 - Vistancia Master Plan – Mixed Use Community Commercial (MUCC) – Subordinate to the general plan documents above – Any standards or uses, as a mixed-use planned unit, can only be implemented up to the general plan use and character limits of either, whichever, by ordinance, is more restrictive.

Any Doubt?

- Code States that when there is greater detail and direction provided by a Specific Area Plan, such direction shall prevail.

Relationship to Other Plans

Master plans or plans specific to a designated sub-area of the City are intended to integrate with the general plan and such plans should be incorporated by reference into the general plan. Where there are greater details and direction provided in these adopted specific area plans, such direction shall prevail and will be followed in implementing the City's adopted plans. If there is no specific detail or the direction is absent, then the general plan guidance should be followed.

- PCD land use in conflict with the General Plan, the planning manager shall not approve

Sec. 21-606. General Provisions.

A. *Conformance with the General Plan.* The proposed P.C. District shall be in general conformance with the Peoria General Plan. The Planning Manager shall not approve or recommend approval of any P.C. District unless the Planning Manager has received a Waiver of Proposition 207 from the Owner or Owners of the property that is the subject of the P.C. District or has determined that the absence of such a Waiver of Proposition 207 is consistent with the City's General Plan and zoning goals and regulations.

Unfounded Justification

- Peoria seems obsessed with the Land Use Matrix being absolute hard zoning, even in a PCD
- This is false – see following slide
- The land use matrix is the guidance, and is subordinate to the text of the code
- A PCD zoning Development Plan text must comply with the General Plan
- Therefore, General Plan, Loop 303 Specific Area Plan are the text that the land use matrix is subordinate to

Even in Non-Residential Conventional Zoning the Land Use Matrix is limited by Prevailing Land Use Text

Sec. 21-503. Land Use Matrix.



The following Land Use Matrix ([Table 21-503](#)) indicates uses which are permitted outright, conditionally permitted, or prohibited in specific non-residential zoning districts in the City of Peoria. The Land Use Matrix is intended to serve as a guide for the convenience of the user of this Zoning Ordinance. Where the text of this Zoning Ordinance differs from the Land Use Matrix, the text shall prevail. In the event of a specific use not being identified on the matrix, the Community Development Director or designee(s) shall determine the closest associated use based on the provisions of this ordinance. The City will permit any accessory use customarily incidental to a permitted principal use in the same zoning district.

The land use text in the definition of V-MUCC, which is the overlay put on all of 5 North, does not include industrial

V-MUCC (Mixed-Use Commercial Core District) – intended to accommodate higher intensity commercial, employment, and medium to high density residential uses within the Urban Core of Vistancia.

GP2040

Mixed-Use

- Mixed -use as described in the General Plan with Illustrative examples
- Resembles other mixed-use areas in Peoria
- Don't see massive intensive single-use industrial facilities with chemical processing

The Mixed-Use land use categories are intended to provide a wide range of commercial, office, employment, and compatible residential uses integrated into a single development. The catalyst behind these categories is walkable development that blends non-residential land uses with compact and more intense residential uses. Rather than having discrete separation of non-residential from residential neighborhoods, the City is encouraging a fine-grained mix of residential and supporting commercial, office, and employment. These areas are intended to minimize the impacts traditionally associated with growth by providing housing, shopping, and employment in the same area. The compact nature of mixed-use areas makes them prime for multi-modal connections with other developments.

Mixed-use developments are more compact than conventional developments and can therefore accommodate efficient future growth by using less land and facilitating complementary activities such as shared parking, access, and multi-modal facilities to create an integrated transportation system throughout the city. Mixed-use developments can also serve as key areas for placemaking, as there is an emphasis on the pedestrian realm and creating a lively atmosphere with the spaces active with residents and visitors throughout the day thanks in part to the variety of uses and services in a given area.

The functional, physical and thematic integration of uses with a pedestrian-oriented lens distinguishes mixed-use development from other more conventional projects. Mixed-use developments occur in both vertical (floor area-intensive) and horizontally (land area-intensive) integrated formats. Three subtypes are established within the Mixed-Use category: Main Street District, Neighborhood Village Center and Community District, provided in the following subsections.



Most Intensive Mixed-Use in GP 2040

- A high rise (80' taller than the next tallest building in Peoria, 90' taller than anything in Vistancia) Large Scale, Sprawling Floor Plate, Big Box Industrial Building is not in any way shape or form in character with anything in this Mixed-Use

Amkor could not be here

Community District

Community Districts are high-intensity centers supporting a variety of commercial activity serving the needs of the region and multifamily housing. Due to the regional draw and concentration of uses, Community Districts should be located adjacent to freeways. Occasionally, Community Districts may be located along transit corridors served by multiple arterials when their size exceeds 50 acres. As a regional destination for employment, shopping, and entertainment, these areas should be well connected with adjoining projects and be transit-oriented in design. Community Districts provide an urban environment that offers a pedestrian-focused internal street network, tall buildings pulled to the street, multiple outdoor amenities such as greens, plazas, and water features, and pedestrian-scaled detailing such as benches, uplighting, and decorative paving. Parking within Community Districts should be located behind buildings, in wrapped parking structures, or otherwise screened from the street and on-street parking is encouraged to help buffer sidewalks.

The urban design of Community Districts frames the streetscape creating "outdoor rooms" for residents and visitors to enjoy an indoor-outdoor lifestyle. As a regional destination, these areas may include prominent and unique entertainment uses as well. Uses within Community Districts may be mixed both vertically and horizontally; however, the core activity of the center should be mixed vertically to achieve the densities needed to create the desired character of a Community District.

Character

- Community Districts typically have a market radius of more than 5 miles
- Typical "big-box" commercial center design is excluded (e.g. monolithic buildings with expansive parking fields)
- These areas are sited with access to freeways, or large sites served by multiple arterial streets
- Residential density is typically in excess of 20 units per acre
- Buildings are mid-rise in character to create necessary densities and mixes of uses
- Buildings should be sited to create a definable "outdoor space" and a sense of place
- Restaurants should feature outdoor dining where appropriate
- To avoid a towering effect from taller buildings, upper stories should employ setbacks for vertical differentiation



Loop 303 Specific Area Plan



Loop 303 Specific Area Plan

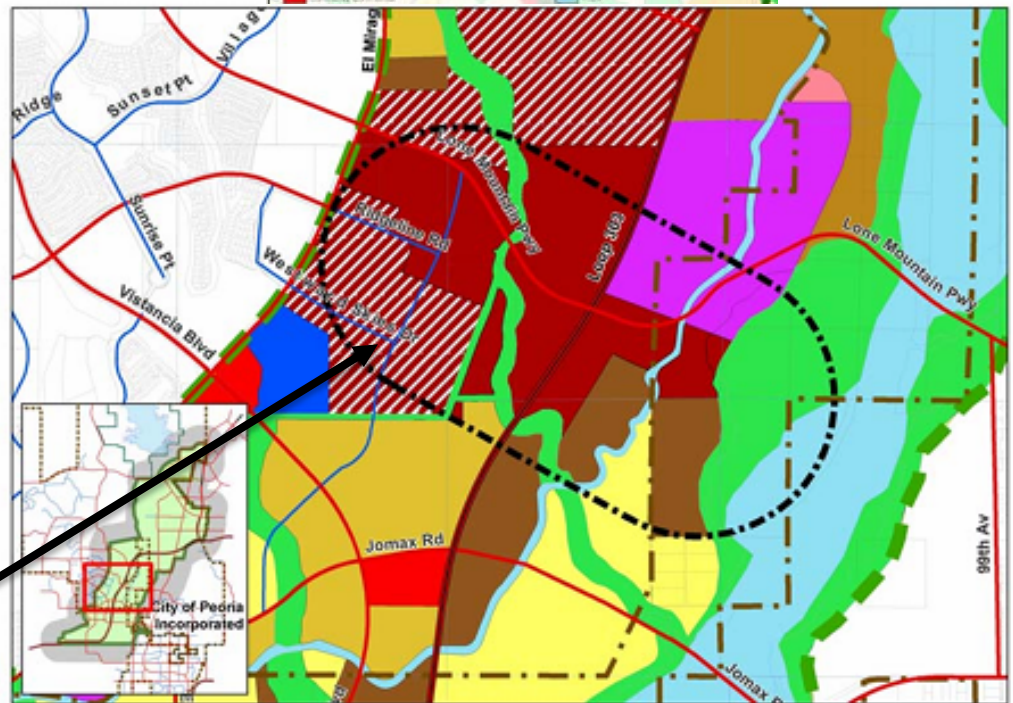
Not repealed or amended, still the overriding land use document,
site plan does not conform

- Created in 2005 to prepare for the upcoming Loop 303 construction
- Shea Sunbelt's COO Curt Smith was the chairman of the Technical Advisory Panel
- As Owner, Sunbelt Shea recognized the limitations for any industrial and the potential negative impact industrial would have on future land sales in Vistancia
- The property owner not only agreed, but directed the land use be in line with the representations of the 5 North character as mixed-use commercial in the PCD and the land use became mixed-use commercial
- Mixed-Use Commercial to allow for main street retail, community retail, office
- Business Park Uses were to be on the Northeast Corner
- Amkor Site Plan would not have been approved in 2005 under this guidance

Lone Mountain Parkway

Setting: The Lone Mountain Parkway interchange lies in a currently undeveloped area, with hilly terrain to the north and west and excellent high quality scenic views to the north and east. It will provide the most direct access to the proposed Vistancia Town Center from the 303, as well as access across the Agua Fria on the Dynamite Boulevard alignment that passes north of the Pleasant Valley subdivision, then connects with Westwing Parkway at Lake Pleasant Parkway. This east-west corridor will provide a scenic linkage from Surprise to the west through the Peoria foothills and Vistancia to the 303.

Land Use Strategy: This is the most urban of the interchanges in the Study Area. Based on its proximity to the planned Vistancia Town Center, as well as its location compared with Regional Commercial centers proposed elsewhere in the Northwest Valley, the area surrounding the Lone Mountain interchange is proposed for regional-scale commercial uses. The land immediately adjacent to the interchange provides an opportunity for uses that would complement, and not compete with, the anticipated "lifestyle" center at Vistancia. This could include automobile dealerships, which would benefit from the visibility afforded by the freeway. The area to the northeast of the interchange calls for development of Business Park uses. There is also an opportunity to develop a collector roadway network that knits together development that is otherwise oriented to the freeway interchanges, particularly to establish connections with residential areas near the adjacent interchanges (i.e., Jomax and Westland).



Land use is regional commercial and mixed-use
regional commercial, not industrial

Timelines



Historic Industrial Entitlement Claim

- When annexed into Peoria the General Plan and Master Plan identified a 50-acre parcel along the power line corridor for Business Park
- Business park allowed for light industrial
- Only a portion of the current Amkor site was covered, and the General Plan has always, from day 1, had the east portion as mixed-use commercial
- In the configuration and constraint of the original entitlement, the depth of site and standards were extremely limiting factors to building size, height and intensity
- The current Amkor site would never have fit on this original parcel and would have been limited to 30 feet
- In essence, this site was designed to be in line with the business park character of Kelton Lane south of Bell Rd. automotive, tucked far behind the mixed-use commercial as buffer to the power line corridor, not a high intensity industrial park
- **If this is the entitled right since 1999, and the current Amkor site plan wouldn't be able to be built on it, how is it an entitled right?**
- **How can an entitled right of industrial (tied to land) magically expand to the west side of the Amkor site without a single modification to the prevailing general plan land use of mixed-use commercial? Apparently, the City of Peoria staff thinks you can expand land use through zoning in defiance of the general plan, state statutes and the city ordinance say otherwise.**

Historical Entitlement Extinguished West of Power Line Corridor

- In 2010, the voters of Peoria enshrined the Loop 303 SAP in the General Plan 2010
- In doing so, in 2010, manufacturing was removed from the PCD all together
- After the 2010 PCD Amendment – Amendments 10A.8-10 – manufacturing was essentially limited to 21 acres east of the power lines, so even with the 2012 PCD amendment requiring a conditional use permit, manufacturing would only be allowed on 21 acres.
- In 2012, the city added manufacturing back in the PCD as a Conditional Use, however, the application of this now must comply with the General Plan and Loop 303 SAP – meaning in a very limited manner as an accessory conditional use applied in commercial mixed-use pedestrian friendly environment

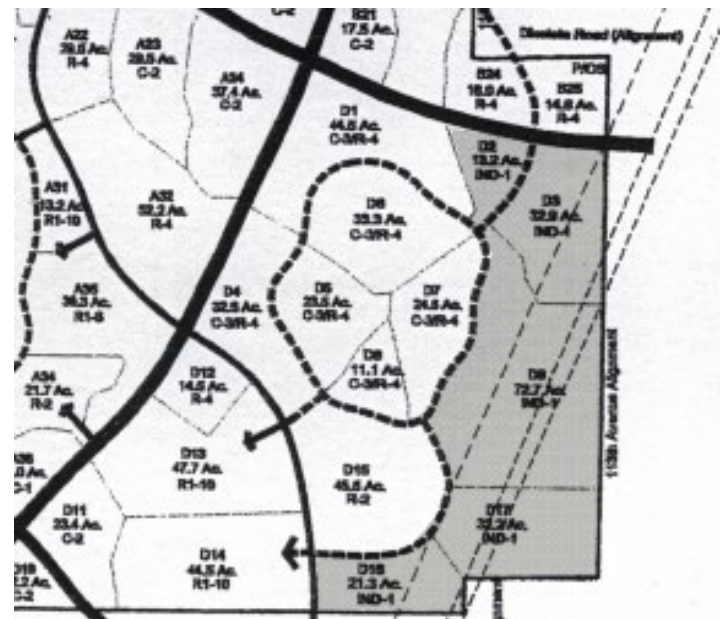
How the Original Business Park Entitlement Fits the Amkor Site

PCD Rezone Z01-10A.1

- Ordinance No 01-160- plus Exhibit B - Indicated I use under the power lines to planned freeway.
- IND-1 The principal purpose of this zoning district is to provide sufficient space in appropriate locations for certain types of business and manufacturing uses that are quiet, attractive and well designed including appropriate screening and/or landscape buffers to afford locations close to existing residential uses, so that people can live and work in the same neighborhood while encouraging sustainable development practices.

Could the Amkor Site be built? No

Zoning Map Exhibit B

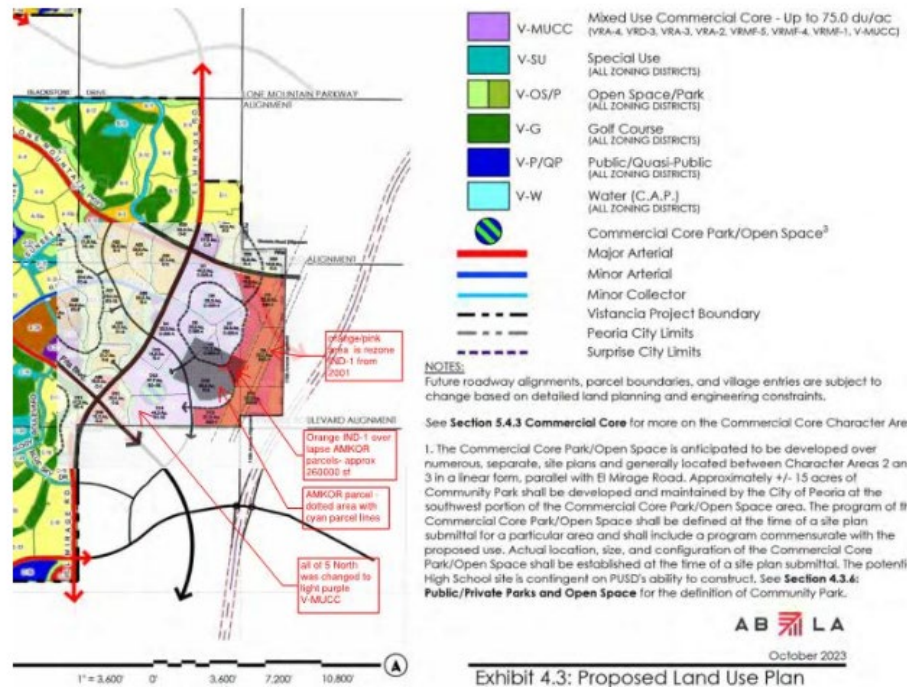


This land use needed to stay in place for 6 months after annexation

How the Original Business Park Entitlement Fits the Amkor Site (2001)

Could the Amkor Site be built? No

Clearly the Amkor Site Plan Overlay (dark grey area) with the 2001 ordinance could never have been built as proposed with setback and height limitations impacted by site constraints.



This land use needed to stay in place for 6 months after annexation

Specific Parcel

Could the Amkor Site be built? No

PCD Zoning Map Fig. 10



C	Commercial
BP	Business Park
EDU	Educational
PF	Public Facilities
MU	Mixed Use Development

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How Amkor Would Fit After the 2002 Alignment to the General Plan

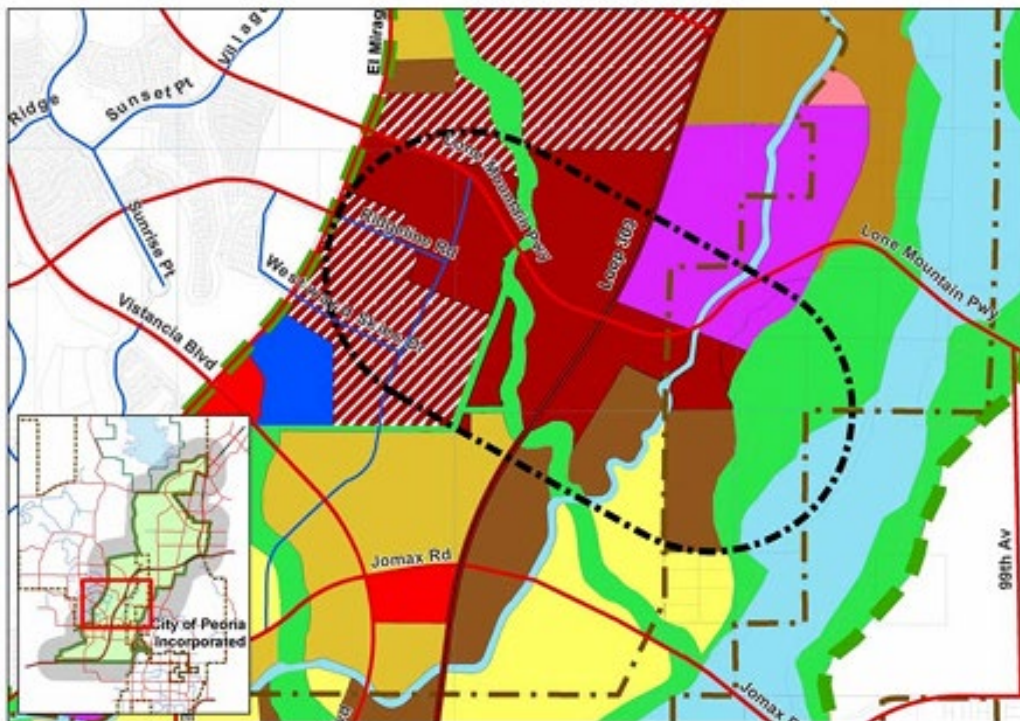
Could the Amkor Site be built? No

Clearly the Amkor Site Plan could never have been built on the sliver with Setback and Height limitations impacted by site constraints.



2005 to Present Land Use

- Loop 303 Specific Area Plan Eliminated the Light Industrial Mixed-Use Commercial
- Could the Amkor Site Plan be built? No



CITY OF PEORIA LAND USE

	LD	Residential/Low 2.0 - 5.0 du/ac Target Density 3 - du/ac
	MD	Residential/Medium 5.0 - 8.0 du/ac Target Density 6 - du/ac
	MH	Residential/Medium High 8.0 - 15.0 du/ac Target Density 12 - du/ac
	HD	Residential/High 15+ du/ac Target Density 18 - du/ac
	NC	Neighborhood Commercial
	CC	Community Commercial
	RC	Regional Commercial
	MRC	Mixed Use - Regional Commercial
	O	Office
	BP	Business Park
	P/OS	Park / Open Space
	P/QP	Public / Quasi-Public
	W	Water

General Plan 2010

- Matches the Loop 303 Specific Area Plan
- Could the Amkor Site be built? No



Industrial Business park no longer mentioned

Feb. 2012 Z01-10A.11 Major amendment

- The PCD increased height and FAR to allow for vertical commercial mixed uses regional commercial per the General Plan.
- Manufacture and fabrication uses are now conditional permitted. Height of 120' would never be allowed for industrial uses.

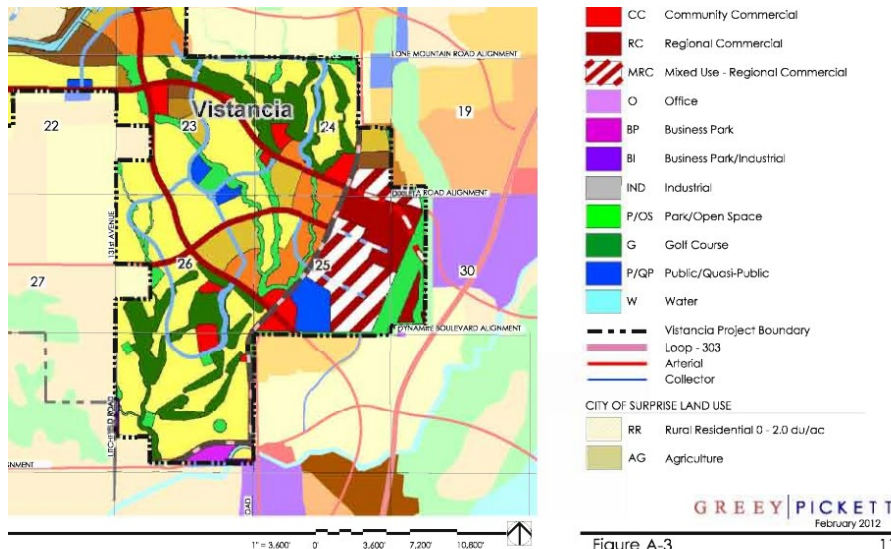
Manufacturing, Fabrication & Processing of Goods#	-	-	C
Manufacturing of lumber & wood products, primary metal industries, fabricating metal products, machinery, & transportation equipment excluding ore reduction & smelting, production or refining of petroleum, gas or hydrocarbons	-	-	-
Manufacturing of chemical & allied products, petroleum & coal products, leather & tanning, wool pulling/scouring, explosives, fertilizers detergents, soaps & animal fat by-products, sugar, starches, serums, toxins & viruses, oils & fats animal & vegetable	-	-	-

	Min/Max
Residential	10% 80%
Office/Medical	10% 80%
Retail	10% 80%
Hotel/Lodging	0% 20%
Public/Quasi-Public	0% 30%

Could the Amkor Site be built? No

Land use Plan Figure C-3

General Plan- Figure A-3



2040 General Plan

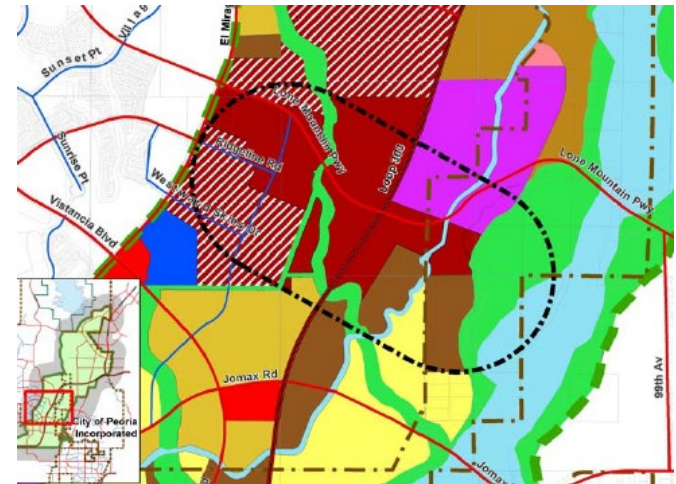
General Plan



In 2020, The GP2040 was created, creating MPA Mixed- Use. MPA directs to a Specific Area Plan

The General Plan and PCD references the 303 Specific Area Plan as the guiding land use for 5 North as Mixed-Use Commercial

Loop 303 SAP



Could the Amkor Site be built?
No, and any site still needs a
Conditional Use Permit

Minor Amendment Changed Permitted Uses and Density

June.2022 Z01-10A.15 Minor amendment

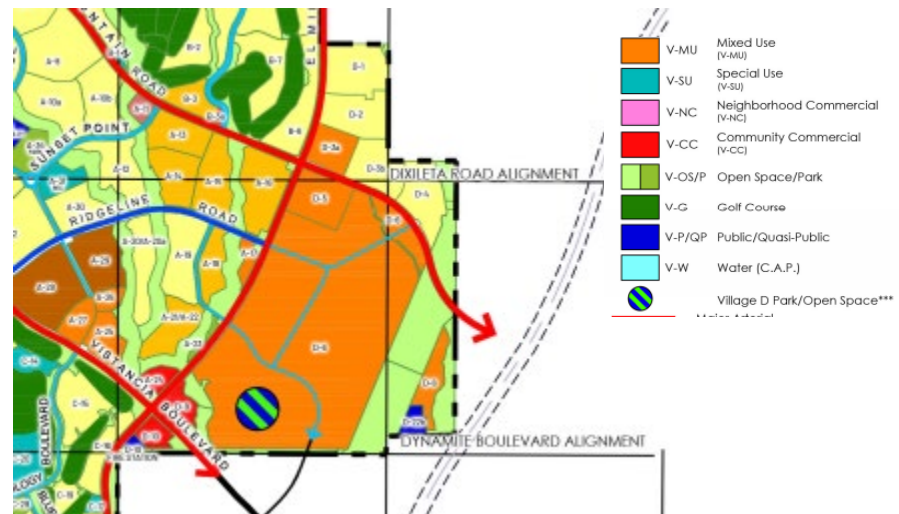
- 2040 General Plan only now indicates vast areas of Master Planned Area. Not longer provides individual defined zoning.
- PCD designates the entire commercial core as V-MU with no land composition indicating a parcel or % of uses are no longer identified.
- PCD modifies permitted uses without changing development standards as appropriate to use and best land use practices.
- PCD modifies FAR by 33%. Exceeding the max of 10% that requires a major amendment.

Can the AMKOR site plan be Built? NO, noncompliant with regional mixed use commercial general plan land use.

General Plan- Figure A-3



Land use Plan Figure III-3



Manufacturing Reintroduced as Permitted Use in 2022

Minor Amendment

- Manufacturing, fabrication and Processing of Goods was changed to permitted use in what is intended to be in character area 3 and 4.
- Because of this change any type of manufacturing can be heavy or light industrial and thus created an upzone to V-MU parcels historically planned and zoned for commercial use. Tripling the permitted area that now can be industrial uses from 2002.
- Note that AMKOR Nitrogen Generation Plant is a Chemical Production use and is not included on the list below or noted as allowed in the text of the PCD, thus should not be not allowed
- Manufacturing is subject to special limitations, of Article 14-9-5.D. Interestingly enough they removed this special in 2023 major amendment.

Article 14-9-5

D. General Industrial & Manufacturing

1. Manufacturing, Fabrication, Processing of Goods and similar uses shall not be engaged in any stamping, punching or pressing machinery exceeding five tons in weight.

Significant land use changes were processed under a minor zoning amendment that should have been processed as a major zoning amendment along with a major general plan amendment.

General Industrial & Manufacturing*	V-NC	V-CC	V-MU	V-MU
Call Center or Data Center	P	P	P	P
Essential Public Service or Utility Installation	P	P	P	P
Machine Shops	-	-	P	P - ONLY in 3, 4
Manufacturing, Fabrication & Processing of Goods#	-	-	P	P - ONLY in 3, 4
Mini-storage warehouses, RV, Boat & trailer storage, (Ord.02-21)# limited to 10 acres in size, outdoor storage to be screened from view	-	C	C	C - ONLY in 3, 4
Motion Picture Studio, Television Pictures, Commercial Still Photography	-	C	P	P
Moving truck, trailer & equipment rental	-	-	C	C - ONLY in 3, 4
Moving company storage & transfer facility	-	-	P	P - ONLY in 3, 4
Outdoor storage	-	-	C	C - ONLY in 3, 4
Parcel delivery service	-	C	P	P
Printing and publishing facilities		C	P	P
Remote Mail Service	P	P	P	P
Research laboratories#	-	-	P	P
Wholesaling, warehousing, distributing, repair, rental & servicing of any commodity excluding live animals, explosives & storage of flammable liquids & gases	-	-	P	P - ONLY in 3, 4

= Subject to special limitations per Article 14-9-5 of the Peoria Zoning Ordinance, included within Appendix F, if permitted or conditional use.

* = No industrial or manufacturing uses will be allowed within Vistancia, except as indicated in table above.

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In 2022 PCD still found loop 303

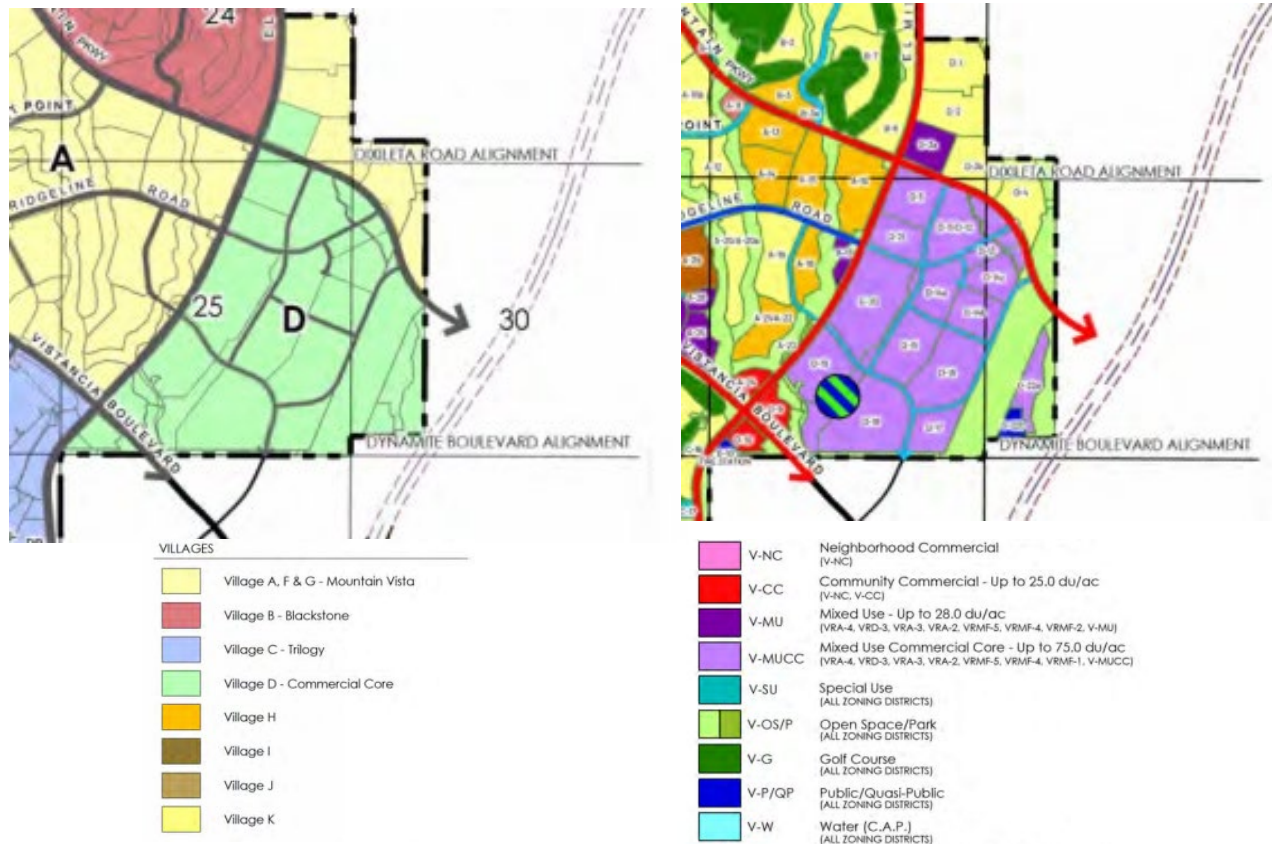
- On December 13, 2005, the Peoria City Council adopted the Loop 303 Specific Area Plan (SP04-02). The study area for the plan included the corridor for the future Loop 303 which extends north and east of the existing interchange at El Mirage Road and Loop 303 on its route towards the proposed New River
- Freeway as shown on Figure I-4, City of Peoria Loop 303 Specific Area Plan. The study area included property within one mile and on both sides of the proposed freeway corridor. This one-mile transition area allowed for the consideration of appropriate edge treatments and connectivity of transportation and utility infrastructure with the surrounding network. The eastern limits of Vistancia (Village D) fall within the boundary of the study area for Loop 303 Specific Area Plan, which plays an important role in the allowable uses in that area.

Current Planned Community District Plan

2023 Z01-10A.16 Major amendment

- 2022 amendments were carried over that paved the way for AMKOR to be able to be placed in the Commercial Core Mixed Use.
- Amkor site is in V-MUCC zone, changed from previous zone V- MU.

Can the AMKOR site plan be Built? Yes and NO



Current Planned Community District Plan

2023 Z01-10A.16 Major amendment

- Description of V-MUCC Amkor's Site in table 5.3A, base zoning mixed use district does not include industrial uses.
- PCD 4.3.3 Density and Intensity anticipates approx. 4 mil square feet of nonresidential gross floor area including existing commercial developments. AMKOR propose gross floor area is upwards of 2.7 million square feet alone.

Can the AMKOR site plan be Built? Yes and NO

V-MU	Vistancia Mixed-Use District Accommodate commercial, employment, industrial, as well as mid to high density residential uses.
V-MUCC	Vistancia Mixed-Use Commercial Core District Accommodate higher intensity commercial, employment, and mid to high density residential uses within the Commercial Core of Vistancia.

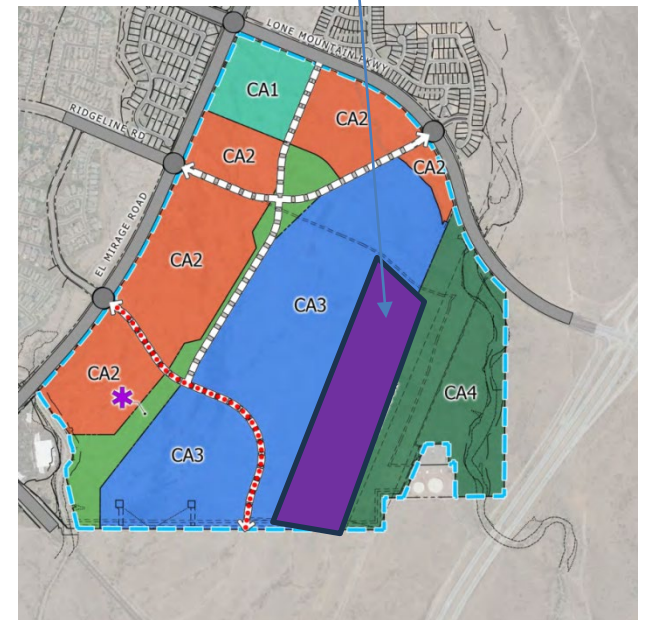
Planning ahead for growth, special attention has been placed on the exposure and opportunity presented by the Loop 303 corridor and the potential development that may occur within the Commercial Core (Village D) as well as the limitations created by a major overhead power transmission corridor transecting the eastern limits of the property. With these factors in mind, the Commercial Core will include a mix of retail, office, multi-family and other complementary uses to serve the diverse needs of its residents and visitors. The Commercial Core will create a landmark destination, where mixed-use development is expected to represent an urban city center.

In 2023 City Believed it Waved a Magic Zoning Wand Creating Land Use Expansion Through Zoning with no General Plan Amendment

- In 2023, a PCD zoning amendment expanded the Master Plan / PCD manufacturing (Blue CA3) to be not only a permitted use, but expanded it well beyond any legacy Business Park (purple), with no corresponding general plan change while increasing the density and intensity
- The City claims this land use right always existed, yet it never did beyond the limit of the 2001 BP light industrial property
- The increases in industrial land increased the total area of use by 300% allowing land-form to create greater heights and intensity never envisioned from day 1, and still not in compliance with the general plan
- The 120' height allowance from a decade earlier created specifically for integrated vertical mixed use, expanded to a single use manufacturing facility

Could the Amkor Site be built? Still sadly no, the CA3 land use was never formally created through a land use amendment and at best has the legacy Business Park Original D12 entitlement, and would still probably still require a Conditional Permit as this non-conforming use entitlement was reduced and can't simply be restored

Legacy Overlayed



City Attempts to Jump the Pre-Existing Entitlement Shark

- Original 50-acre light industrial entitlement with a maximum 25' height (BP 2002) requirement tucked behind other uses



- 118' industrial building towering over every building in the area, visible for miles like a sore thumb, on property never entitled for industrial, with an chemical processing plant

It Gets Worse

- City claims chemical processing is an allowable use under “manufacturing and fabrication”
- Yet, its own Industrial zoning specifically calls out chemical processing as a sole and separate use
- The General Plan, Loop 303 SAP and the PCD do NOT allow chemical processing as a use, why? Because it’s ludicrous to think this heavy industrial use is acceptable in a mixed-use commercial/residential pedestrian-oriented environment adjacent to a school

Peoria Zoning Code Use Table Specifically Separates These Uses the Latter a Conditional Use in the Most Intense Industrial Zoning Category Which has No Place in the Mixed-Use Commercial Environment

Table 21-503 Land Use Matrix

<p>P = Permitted Use C = Permitted Conditional Use. Conditional Use Permit required. See Section 21-321. A = Accessory use Δ = Any uses located within 200 feet of a residential district shall be subject to a Conditional Use Permit # = Subject to special limitations (see the following Section 21-505) - = Not Permitted</p>												
Land Use	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
Manufacturing, Fabrication and Processing of Goods	-	-	-	-	-	-	-	-	P	P	P	P
Manufacturing of chemical and allied products, petroleum and coal products, leather and tanning, wool pulling/scouring, explosives, fertilizers, detergents, soaps and animal fat by-products, sugar, starches, serums, toxins and viruses, oils and fats, animal and vegetable	-	-	-	-		-	-	-	-	-	-	C

When something does not fit into what the PCD requires you go to the base zoning code for the City.

Sec. 21-101. Intent.

The intent of this Section is to secure adequate light and air, to prevent the overcrowding of land and undue concentration of population, to secure safety from fire, panic and other dangers, to lessen or avoid congestion in the streets, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public facilities, and otherwise to promote the health, safety, morals, convenience and general welfare of the citizens of the City of Peoria, Arizona.
(Ord. No. 2014-21, 6-17-14; Ord. No. 2017-33, § 1, 6-13-17)

In Non-residential Districts – there is no requirements noted for accessory uses (only in the residential section).

They only provide detail for primary use buildings. Thus, all buildings must be assigned a use to apply zoning standards and parking requirements. AMKOR site plans has assigned no uses from the use table in the PCD nor referred to the zoning code for uses for any of the buildings

https://codelibrary.amlegal.com/codes/peoriaaz/latest/peoria_az/0-0-0-41328#JD_Table21-503

If the use is not specified in the PCD you must conform to use, and development approval requirements stipulated in Section 21-503 and development requirements of 21-506 Table B in our case industrial zones.

For instance, primary buildings in an I-2 (since the N2 plant is an I-2).

A chemical producing manufacturing the N2 nitrogen plant and the (utility building) would only be allowed in a I-2 zone and require a conditional use permit and limited to 60'

From Peoria Zoning Ordinance

E. Permitted Uses. Any use may be permitted in any specific "development unit" within a proposed P.C. district provided such use shall be specifically listed as a permitted use and shall be located and conducted in accordance with the approved "Development Plan" and "Standards Report" and other applicable regulations.

Conclusion



Conclusion

- Under the most liberal application, Amkor has a primordial Business Park entitlement to light industrial, limited to 400-foot depth at 25' feet height on the eastern 1/3 of the Amkor site.
- Under the most conservative application, Manufacturing was eliminated as a possible use in 2012 west side of the power line corridor.
- Under a reasonable application, the 56 Acre Amkor site, developed as a mixed-use campus with the primary use of office and R&D, with a conditional approval of an accessory manufacturing space on the eastern 1/3 in the spirit of the original Business Park, all designed as a pedestrian scaled interconnected pedestrian campus, with no Heavy Industrial only uses, would be appropriate and acceptable.
- Peoria used the small levers of Zoning to short circuit, manipulate and erase the land use established by the General Plan in defiance of the state statutes created specifically to protect residents against this very tactic

Phoenix Did it Correct

- Another Sunbelt development, Sonoran Foothills, with similar characteristics was done correctly
- Seamlessly added regional commercial and a main street retail center with office and mixed-use employment, all built to a pedestrian scale (USAA, Gore, State Farm)
- Did Phoenix try and shove TSMC on this neighborhood? No, they put it on state land, in a remote area of the 303, away from any residential or schools, designated for this intensity of industrial. Imagine Peoria putting this site plan on its state land, designated for this this intensity of industrial, away from residential and schools
- Phoenix used good planning and economic development in accordance with its general plan, the City's ordinances and the laws of Arizona. Peoria is making a desperate attempt to justify a bad decision to double down on a project that makes zero sense.

Validation

- No one, outside of Peoria City staff thinks this makes sense.
- Even Mayor Beck was captured on video stating this current project DOES NOT BELONG in Vistancia.
- Nowhere in Peoria, Arizona and probably the United States would a 2.7 million square foot, 10 story heavy industrial facility with chemical processing fit in a commercial/residential mixed-use core next to a school

Risk and Consequences

- Approval of this site plan is unethical, illegal and defies every fiber of common sense.
- The Vistancia residents and taxpayers have the right and obligation to challenge this approval and subsequent construction in a court of law.
- In the likely event, based upon the facts, the community prevails against the government's reckless actions, any construction may be halted and removed.
- The risk of a massive Amkor lawsuit and potential for a US DOJ investigation (CHIPS funds), is high, placing every taxpayer in Peoria at extreme risk to excessive financial exposure.
- Peoria would then become an economic development pariah.

Recommendations



Recommendations

- Reject the site plan
- Force Amkor to justify it through the courts
- Better yet, let's all work together on a win-win
- The City is required and protected by the Amkor Agreement to adhere to the law and ordinances
- Furthermore, any errant advice on entitlement discovered to be errant, is not a default of the City under the Amkor Agreement
- Keep in mind, the Amkor Agreement allows Amkor to seek legal recourse against the City and individuals for consciously violating the law creating unnecessary legal exposure

Gift Clause



Amkor Gift Clause/Disposition Issues

- Under the Vistancia Development Agreement (VDA) the City of Peoria Taxpayers bargained for a real estate interest in 50 acres and the Developer obligation to create a value added “Shovel Ready” site
- This real estate interest was secured by a Deed of Trust
- The agreement set the Developer up as a straw man to donate the property at the City’s direction, or simply forfeit the site to the City

Amkor Development Agreement

- Is pursuant to the Vistancia Development Agreement which not only governs the land deal but incidentally binds Amkor to the 25-year term of the PCD adherence to the general plan requirement
- Bargains a real estate asset, the Taxpayers purchased for \$6.7 million, and has secured by deed, for jobs (not dedicated to Peoria residents) and capital investment, both considered indirect benefits insufficient of consideration for the 50-acre property

18. Economic Development Cooperation. The Parties wish to, and shall cooperate in connection with joint efforts to, promote the development of the Vistancia Commercial Core by initiating commercial and industrial employment-generating uses along the Loop 303 corridor through the extension of infrastructure and utilities to make the area "shovel ready" for build-to-suit economic development opportunities, including the Parties shall do the following:

18.1 Company Obligations. The Company (and/or assignee of the Company approved by the City pursuant to Paragraph 22) shall:

18.1.1 Construct all access roads, an off-site sewer line (either the "State land Section 36 sewer line", as the same is commonly known, or an equivalent sewer solution approved by the City), and all utility and infrastructure extensions (such as street, curb, gutter, sidewalk, water, sewer, electric, fiber, and natural gas) from El Mirage Road to each Vistancia Commercial Core development parcel (see **Exhibit E**); and

18.1.2 Cause to be donated, either to the City or, with the City's prior written approval, directly to one or more targeted end users, up to 50 acres of buildable land located in the Vistancia Commercial Core; provided it shall be a condition to the Company's obligation to cause any such donation to be made that the City shall have satisfied all conditions to the City's expenditure of the City funding allocation for backbone infrastructure pursuant to Subparagraph 18.2.

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18.2 City Obligations. On or before the City's approval of this Agreement, the City has taken all City action necessary to appropriate and allocate \$6,700,000 to be used for the development of backbone infrastructure which the Parties agree is necessary and useful to open the Vistancia Commercial Core to economic development opportunities, including the extension of El Mirage Road from its current terminus at the Safeway Center to Lone Mountain Parkway along with other infrastructure necessary to enable the full development of the Vistancia Commercial Core. The City funding allocation for the backbone infrastructure may be expended only after a full analysis of infrastructure and utility needs is performed and budgeted, as well as a targeted end user is identified to the satisfaction of the City. The targeted end user's project must be "shovel ready," which means that a predetermined program, schedule and financing ability exists to bring needed infrastructure and utility extension to a site within the quickest time frame possible.

Established Real Estate Interest

- Bargained for with real value in the VDA
- Secured by Deed of Trust
- In the event Amkor misses milestones, Peoria gets the land, Why not the Donor?
- The City has established this interest as an asset, owned by the Taxpayers with a basis of \$6.7 million and valued at the market rate of “Shovel Ready”

3.3.2.1 If Company fails to Commence Construction of the Project by Milestone 6 and such failure (a) is not due to a Force Majeure Event and (b) continues for more than ninety (90) days following a Milestone Failure Notice, then either Party may terminate this Agreement by written Notice to the other Party, within one hundred and twenty (120) days following such Milestone Failure Notice, in which event Company will (i) convey the Designated Property to the City free and clear of all liens and encumbrances other than encumbrances in effect when Company acquired the Property from VDV and documents recorded following Company's acquisition to further development of the Project such as utility easements and (ii) sell the Purchased Property to VDV on the terms set forth under the Vistancia Purchase Agreement, whereupon all obligations under this Agreement that do not expressly survive termination will be of no further force and effect. If a Party does not terminate this Agreement as provided above, then the Agreement will continue to remain in effect until it is terminated or it expires as provided otherwise in the Agreement.

The Straw Man Falls Apart

- City claims the 50 acres was simply donated by the Owner
- If so, then why would Amkor enter into a Development Agreement with the City and Risk up to \$15 Million? What is the City bargaining with? Why does the City get the donated land back in default? Why did the City maintain its secured position?
- It would be the Owners obligation to simply donate, then they would set the terms, by contract, that established compliance, otherwise they were entitled to compensation penalties

Something Odd

- Additionally, the maximum penalty for Amkor non-compliance with jobs and investment is \$15 million
- \$15 million is ironically not the appraised value, but the legal limit of for a public land transaction prior to requiring a city-wide vote

Public Bid Requirements

- It's evident the City was conscious this was a negotiated disposal of a public land asset
- Any disposal of land, by law, requires a public bid process
- Did the City seek an RFP for economic development projects for this site? No
- Did the City have a formal program that businesses could apply for the site? No
- Did the City even get an appraisal?
- The City, at its discretion, sole sourced a real estate interest, to a private entity, in violation of state statute

ARS Statutes on Land Disposition

9-402. Sale and disposition of property; advertising for bids; publication; donation; easements

A. A city or town may sell and convey all or any part of its real or personal property, whether or not the property is devoted exclusively to public use.

B. The sale shall not be made until an invitation for bids for the purchase of the property has been published as provided by section 39-204 and notice has been posted in three or more public places within the city or town.

C. If no newspaper is published within the city or town, then the invitation for bids shall be published as provided by section 39-204, and by posting notices for bidders in three or more public places within the city or town.

D. A city or town may donate lost and found or unclaimed personal property in its custody for at least ninety days to nonprofit charitable organizations.

E. Notwithstanding subsections A and B of this section, a city or town may convey to the appropriate property owner without receiving payment an easement that the city or town no longer needs.

9-403. Sale of real property; public hearing; resolution; posting of terms of sale; special election; sale at auction

A. Real property of a city or town, the value of which is more than \$1,500,000 but less than \$15,000,000, may not be sold unless the governing body of the city or town does both of the following:

1. Holds at least one public hearing to take public comment on the proposed sale after publishing the invitation for bids as prescribed in section 9-402 at least thirty days before the scheduled approval of the purchase agreement. Notice of the hearing shall be provided at least ten days before the hearing and shall include both of the following:

(a) A description of the property proposed for sale and the reasons for the proposed sale.

(b) Information on how to submit to the governing body written and verbal comments on the proposed sale.

2. By a vote of the members of the governing body, adopts a resolution approving the sale of the property.

B. If a city or town sells real property pursuant to subsection A of this section, the terms of the sale shall be posted on the city's or town's website on completion of the sale.

C. Real property of a city or town, the value of which is \$15,000,000 or more, shall not be sold unless first authorized by a special election called for the purpose of submitting to the voters of the city or town the question of selling or not selling the real property proposed for sale. The election shall be held within the corporate limits of the city or town on a date prescribed by section 16-204, and notice shall be given as provided in section 9-402.

D. The ballots shall contain a description of the property proposed for sale and the reason the governing body desires the property sold. The description and reasons shall be printed in eight-point type and shall contain not more than one hundred words.

E. If a majority of the ballots cast is in favor of selling, the governing body may sell the property at public auction, after giving the notice required in section 9-402, to the highest bidder for cash, reserving the right to reject any and all bids.

F. Real property sold pursuant to this section shall be sold at not less than the appraised value of the property.

Conclusion

- The City bargained Taxpayer assets (a real estate asset) for inadequate indirect consideration under the law – This wouldn't be the first time (See Shires vs. Carlat)
- The City bargained for, contracted and disposed of a real estate asset without any competitive process, as required by law

Other Issues



Other Issues

- City block length

The block length around the Amkor site exceeds the maximum allowed exterior length per the PCD.

				V-MUCC (1)
				Overlay Area 1 (4)
				Overlay Area 2 (4)
Block Length	NA	NA	NA	Minimum: 100 FT Maximum (exterior blocks): 1,320 FT All other blocks: 700 FT

- Mixed Use

The proposed facility exceeds any uses of mixed-use per the General Plan, whether a Main Street Concept, Neighborhood Village Center or Community District

- The Loop 303 Specific Area Plan

It is misleading to call the 303 SAP a recommendation, the city will take the land use and uses recommendations of the document and amend its existing General Plan (which occurred):

PURPOSE OF THE SPECIFIC AREA PLAN

This document provides a broad-based strategic planning tool that will not only assist in the implementation of the City's General Plan, but will also communicate the City's expectations to the regional and national development community regarding the appropriate type and quality of development in the Loop 303 Corridor. The City has prepared this document in compliance with state statutes (ARS §9- 461.08) pertaining to the preparation of specific plans. The City will amend its existing General Plan (through the major amendment process) to incorporate the land uses and locations recommended in this specific plan for the Loop 303 corridor. The development of this plan has been accomplished with consideration of several major themes, including:

Other Issues

- In the Z01-10A.11 Major – Feb 2012

Increased Building Height to 120' and FAR to 1.5 for increased intensity for vertical commercial uses only - no industrial uses are listed in the land use compositions see below .