mesa·az
OFFICE OF THE CITY CLERK

COUNCIL MINUTES

December 9, 2019

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on December 9, 2019 at 4:31 p.m.

COUNCIL PRESENT	COUNCIL ABSENT	OFFICERS PRESENT
John Giles	None	Christopher Brady
Mark Freeman		Dee Ann Mickelsen
Jennifer Duff		Jim Smith
Francisco Heredia		
David Luna		
Kevin Thompson		
Jeremy Whittaker		

1. Review and discuss items on the agenda for the December 9, 2019 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflict of interest: None

Items removed from the consent agenda: 4-n, 5-f, 8-a

Items removed from the agenda: 5-g

Deputy City Manager Natalie Lewis introduced Deputy Director of Development Services John Sheffer and discussed Item 8-a, **(Amending Title 6, Chapter 11, Sections 1 through 8, 10 through 14, and 21 through 23 of the Mesa City Code relating to smoking regulations and healthier smoke-free environments by adding vaping. The amendment adds the prohibition of vaping and the use of vaping products in public facilities, public places, and certain places of employment. (Citywide))**, on the Regular Council meeting agenda.

Ms. Lewis stated after reviewing the articles relating to workplace safety policies provided by Arizona Smoke-Free Business Alliance (ASFA), she gathered additional articles from reputable sources that were provided to Council and are available online to the public. She announced Marcy Flanagan, Maricopa County Director of Public Health; Dr. Rebecca Sunenshine, Maricopa County Medical Director; and Lori Thomas, Maricopa County Healthy Aging Coordinator are present and available for questions.

Ms. Lewis remarked based on concerns from the community regarding secondhand exposure and elevated use by youth, staff is recommending Council update the smoke-free ordinance to treat vaping the same as smoking cigarettes in public facilities, public gathering spaces and certain places of employment.

Ms. Lewis explained the purpose is to limit secondhand exposure while minimizing impacts on an individual's rights to use and purchase vaping products. She emphasized there will be no changes that take away an adult's personal choice to use vaping products and can still be used wherever smoking is allowed, nor the ability for vape shops to allow customers to sample products as long as there is a separate ventilation system. She added, if approved, the ordinance would go into effect June 9, 2020.

Mr. Sheffer acknowledged one of the concerns of vape shop owners was the requirement to have a separate ventilation system. He stated all 11 vape businesses in Mesa are located in strip malls which are designed to have independent heating, ventilation and air conditioning (HVAC) per suite and would not require any further upgrade.

Mr. Sheffer described the different requirements for a smoking bar or lounge, stating there may be more ventilation required for more airflow, but would not require a new system to be installed. He added the design of HVAC systems having separate recirculation areas are common and required in any businesses that have noxious odors.

In response to a question from Councilmember Heredia, Mr. Sheffer clarified if there were any required upgrades for ventilation those would be part of the initial construction permit. He replied there is no specific licensing for a vape shop.

In response to a question posed from Vice Mayor Freeman, Ms. Lewis stated Tempe, Gilbert, Goodyear and Chandler all have added vaping to their smoking ordinance.

In response to a question from Councilmember Luna regarding whether the vapors are innocuous, Dr. Sunenshine provided a presentation to discuss the health effects of vaping and the status of vaping-associated lung injury in the United States (US) and Maricopa County resulting in regulatory changes**. (See Attachment 1)**

Dr. Sunenshine reported from 2017 to 2018 the percentage of youth using e-cigarettes has dramatically increased. She pointed out high school student use has increased 80% nationally in one year. (See Page 3 of Attachment 1)

Dr. Sunenshine stated in Arizona between 2015 and 2017 one out of two youth have tried vaping. She added as of 2018 one in four Arizona high school youth vape regularly, which is 25% higher than the national high school average. (See Pages 4 and 5 of Attachment 1)

Dr. Sunenshine presented some health effects of nicotine, stating e-cigarettes can deliver higher doses of nicotine than cigarettes. She highlighted scientific evidence and data that supports nicotine exposure during adolescence can harm the developing brain until the age of 25. (See Page 6 of Attachment 1)

Dr. Sunenshine stated the health effects of vaping are unknown due to the amount of chemicals in vape, many of which are unregulated. She identified certain chemicals in vape are known carcinogens. (See Page 7 of Attachment 1)

Dr. Sunenshine remarked studies show that half of US middle and high school youth have been exposed to Secondhand Vape (SHV), and scientists have measured heavy metals, ultrafine particulates, including volatile organic compounds, nicotine and other carcinogens in the air surrounding people who are vaping. (See Page 8 of Attachment 1)

Dr. Sunenshine reported as of December 4, 2019, there have been 2,291 cases in the US of E-cigarette or Vaping Associated Lung Injury (EVALI) reported and 48 deaths. She identified the vast majority of EVALI cases were using THC-containing products. She remarked as of today Maricopa County has 11 cases of EVALI with no confirmed deaths. (See Pages 9 and 10 of Attachment 1)

Dr. Sunenshine stated cases of EVALI are more likely found in individuals who have obtained THC-containing e-cigarettes through informal sources, vape more than five times a day, and use THC products exclusively. She identified the likely source of injury are solvents used in illicit production of THC products. (See Page 11 of Attachment 1)

Ms. Flanagan pointed out beginning August 8, 2019, Federal regulations changed making it illegal to sell minors e-cigarettes. She stated as of June 2019 vape companies are required to register as an establishment, submit tobacco health documents, submit ingredient listings, and include warning statements on packages and ads. (See Page 12 of Attachment 1)

Ms. Flanagan detailed a 2013-2014 survey which shows 81% of youth e-cigarette users cited the appealing flavors as their primary reason for vaping. (See Page 13 of Attachment 1)

Ms. Flanagan informed Council during the last Arizona Legislative session a proposed bill to include vaping in State Statute and raise the legal age to 21 to purchase tobacco or vaping products did not pass but will be re-introduced in the next session. She added currently the Maricopa County Department of Public Health is in charge of enforcing smoking complaints. She stated frequently non-vaping business owners voice their support of including vaping in the smoke-free Arizona ordinance.

In response to a question from Councilmember Whittaker, Dr. Sunenshine explained the distinction between trying smoking and vaping is that there are far more youth who are willing to try vaping because of the view it is less harmful than smoking cigarettes. She stated the long-term effects of vaping have not been studied.

Ms. Flanagan expanded by saying vaping deaths are not required to be reported to Centers for Disease Control (CDC) and only in the past few months have scientists begun examining the data relating to vaping.

In response to a series of questions posed by Councilmember Whittaker, Dr. Sunenshine clarified vitamin E acetate was identified in the lung fluid samples tested from individuals diagnosed with EVALI. She added the information obtained is that the vast majority of individuals diagnosed with EVALI received the THC from an informal source rather than a standardized source. She discussed the long-term effects of vaping need to be studied, stating it took 20 years to build up enough data to show that cigarettes led to cancer. She stated at this stage all that is known is there are known carcinogens contained in vaping products and in the air when the product is exhaled.

Ms. Lewis informed Council the reason for updating the ordinance is due to concerns from the community. She responded by saying the goal is to limit the secondhand exposure in public spaces and not to impact an individual's choice to use vaping products.

Mayor Giles thanked staff for the presentation.

Jenny Richardson, Mesa Public Schools Governing Board member and Mesa resident, stated Mesa Public Schools Governing Board understands the serious consequences of vaping and recently updated the MPS smoking policy on tobacco to include vaping. She reported according to the National Institute on Drug Abuse, 66% of teens falsely believe vaporizers only contain flavoring, when in reality they often contain more nicotine than cigarettes. She added 30% of teenagers who start vaping move on to cigarettes within six months. She indicated support for the City's effort to reduce vaping in public areas.

In response to a question from Councilmember Luna, Ms. Richardson indicated a first-time offense for vaping results in a short-term suspension but is mainly geared toward educating students of the dangers.

Councilmember Duff commented everyone should be able to choose the environment they live in, whether it is choosing to use tobacco or vape products or choosing to not inhale secondhand smoke.

2-a. Hear a presentation and discuss the coordination, programs, and notices requirement for development within the Phoenix - Mesa Gateway Airport Overflight Overlay District; and the overflights within the City with a focus on the Inner Loop District.

Planning Director Nana Appiah introduced Brian O'Neill, Phoenix-Mesa Gateway Airport Executive Director and CEO, and displayed a PowerPoint presentation. **(See Attachment 2)**

Mr. Appiah stated the City of Mesa adopted standards for the Airfield Overlay District in 2018. He explained the main purpose for the Airfield Overlay Area (AOA) in the zoning districts is to recognize effects of the operations of the airport and its impact on surrounding properties and to protect continued use of the airport. He summarized the differences between AOAs are closeness to the runway and the noise decibels produced. (See Page 2 of Attachment 2)

Mr. Appiah presented the Airfield Overlay map, illustrating AOA 1 through 3, and the Airport's land use compatibility study map. He stated AOA 3 covers a large area and allows residential development. (See Pages 3 and 4 of Attachment 2)

Mr. Appiah confirmed the City of Mesa zoning ordinance does not allow residential within AOA 1, occasionally will allow multi-family residential within AOA 2 subject to a Council use permit, and AOA 3 allows residential subject to specific conditions. (See Page 5 of Attachment 2)

Mr. Appiah displayed the overflight paths in the City of Mesa for the month of November, which includes flight traffic from Falcon Field Airport and Sky Harbor Airport, and the Mesa Gateway flight paths. (See Pages 6 and 7 of Attachment 2)

In response to a series of questions from Councilmember Thompson, Mr. O'Neill explained depending on which runway is in use and the weather conditions, the flight tracks will change. He remarked the airport is in the process of finalizing the Airport Master Plan Update which will enhance the connectivity of the three runways. He described the difficulty in taking a snapshot

today to determine the flight paths and which area will be impacted into the future because it changes frequently. He agreed there are impacts to the community and to the airport with residential encroachment, but there has never been a commercial airport closed due to encroachment.

Further discussion ensued relative to residential encroachment issues and modifications that can be made.

Mr. Appiah presented the Inner Loop Study recommendation and stated the goal is to maintain employment uses in the AOA 1 and 2 areas. He mentioned the Hawes Crossing development is approximately half a mile from the AOA 2. (See Pages 8 and 9 of Attachment 2)

Mr. Appiah described the six standard conditions of approval imposed on any residential development seeking to develop in the Inner Loop area. He added there are two additional conditions for Hawes Crossing. (See Pages 10 through 12 of Attachment 2)

In response to a question from Mayor Giles, Mr. Appiah explained the second condition for Hawes Crossing is currently part of the Inner Loop zoning case, and the first condition will be added when it comes before Council.

Mr. O'Neill stated typically the Airport will appear before a governing body to oppose a project because it is non-compatible with the land-use compatibility plan. He commented the City of Mesa has one of the most robust programs for achieving disclosure and he feels that Gateway Airport shares that responsibility. He added Gateway Airport does presentations to Homeowner Associations within the community to let them know the environment they are looking to move into. He remarked the real estate industry also plays a role and needs to inform buyers and sellers on disclosure requirements.

Mayor Giles thanked staff and Mr. O'Neill for the presentation.

2-b. Hear a presentation and discuss proposed annexations (ANX19-00420 (State Land) and ANX18-00788 (Private Property Owners)) within the Inner Loop District.

Planning Director Nana Appiah displayed a PowerPoint presentation regarding the Hawes Crossing Annexation. **(See Attachment 3)**

Mr. Appiah stated the Inner Loop District is a total of 3,100 acres. He detailed of the 1,100 acres in Hawes Crossing, 161 acres is currently within City limits and the remaining 969 acres is County land. (See Page 2 of Attachment 3)

Mr. Appiah discussed the Hawes Crossing Planned Area Development (PAD) sections for annexation. He stated Hawes Crossing is unique because there are multiple property owners coming together to develop a unified theme. (See Pages 3 and 4 of Attachment 3)

City Attorney Jim Smith advised the rezoning and development agreement will be presented to Council in one agenda item for annexation.

Mr. Appiah clarified six property owners are involved in the unified development agreement with the State land being a separate case.

In response to a question from Councilmember Duff, Mr. Brady stated the annexation will be tied together as a package with Hawes Crossing.

Mayor Giles thanked staff for the presentation.

3. Current events summary including meetings and conferences attended.

Mayor Giles –	Eagles Community Center ribbon cutting Salt River Project/Central Arizona Project siphon maintenance tour
Councilmember Duff –	Arizona State University Decision Center Arizona State University Polytech Innovation Showcase Eagles Community Center ribbon cutting Paz de Cristo renovated area ribbon cutting Rail Asian business walk along Asian Corridor
Councilmember Luna –	East Valley Regional Firefighter graduation Smart meter tour

4. Scheduling of meetings.

City Manager Christopher Brady stated that the schedule of meetings is as follows:

Monday, Jan 9, 2020, 7:30 a.m. – Study Session

5. Adjournment.

Without objection, the Study Session adjourned at 5:52 p.m.

JOHN GILES, MAYOR

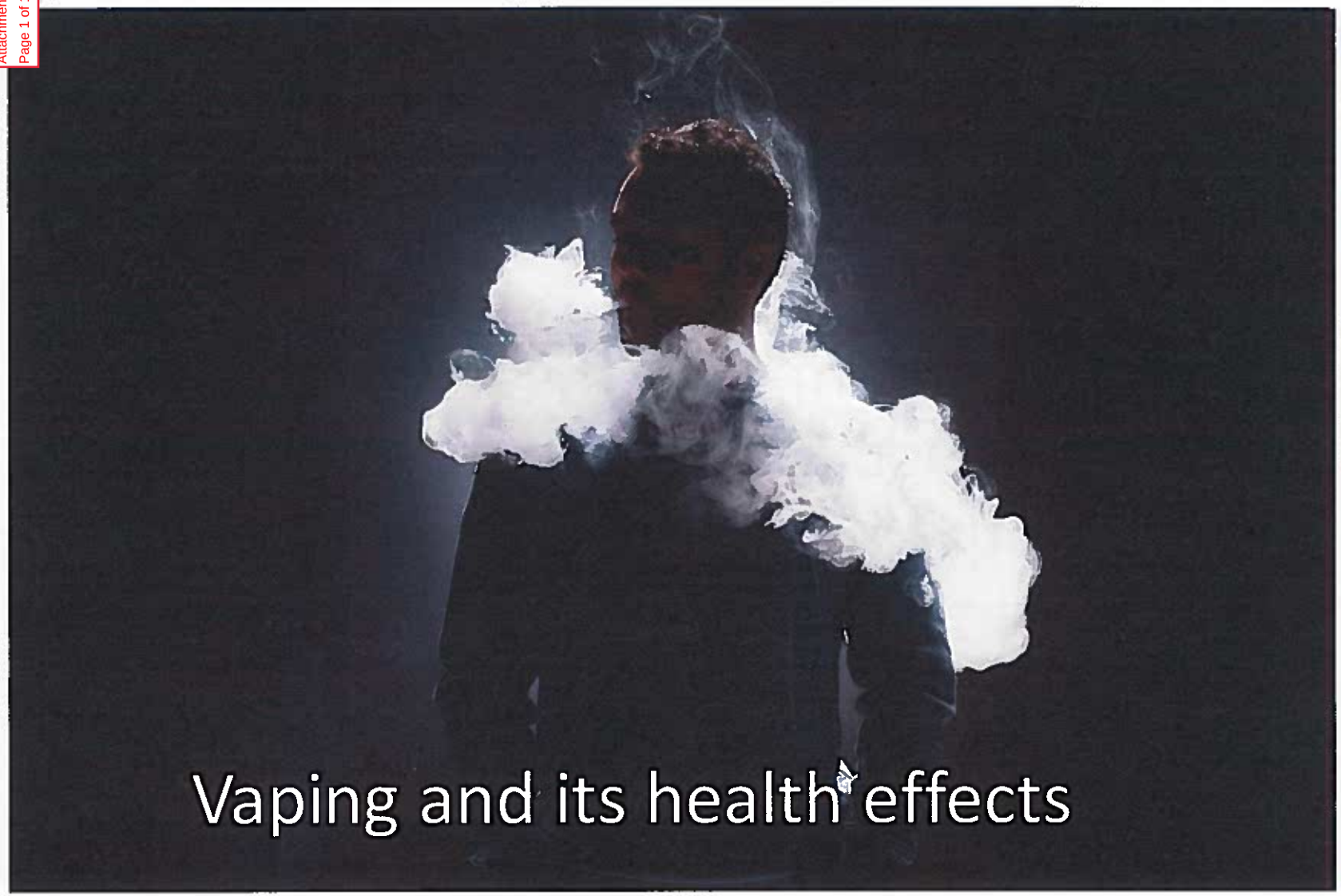
ATTEST:

DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 9th day of December 2019. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

la (Attachments – 3)



Vaping and its health effects

Marcy Flanagan, DBA, MPH, MA, Executive Director
Rebecca Sunenshine, MD, FIDSA, Medical Director for Disease Control

Maricopa County
Department of Public Health

WeArePublicHealth.org

@MaricopaHealth

/MCDPH

Objective and Overview

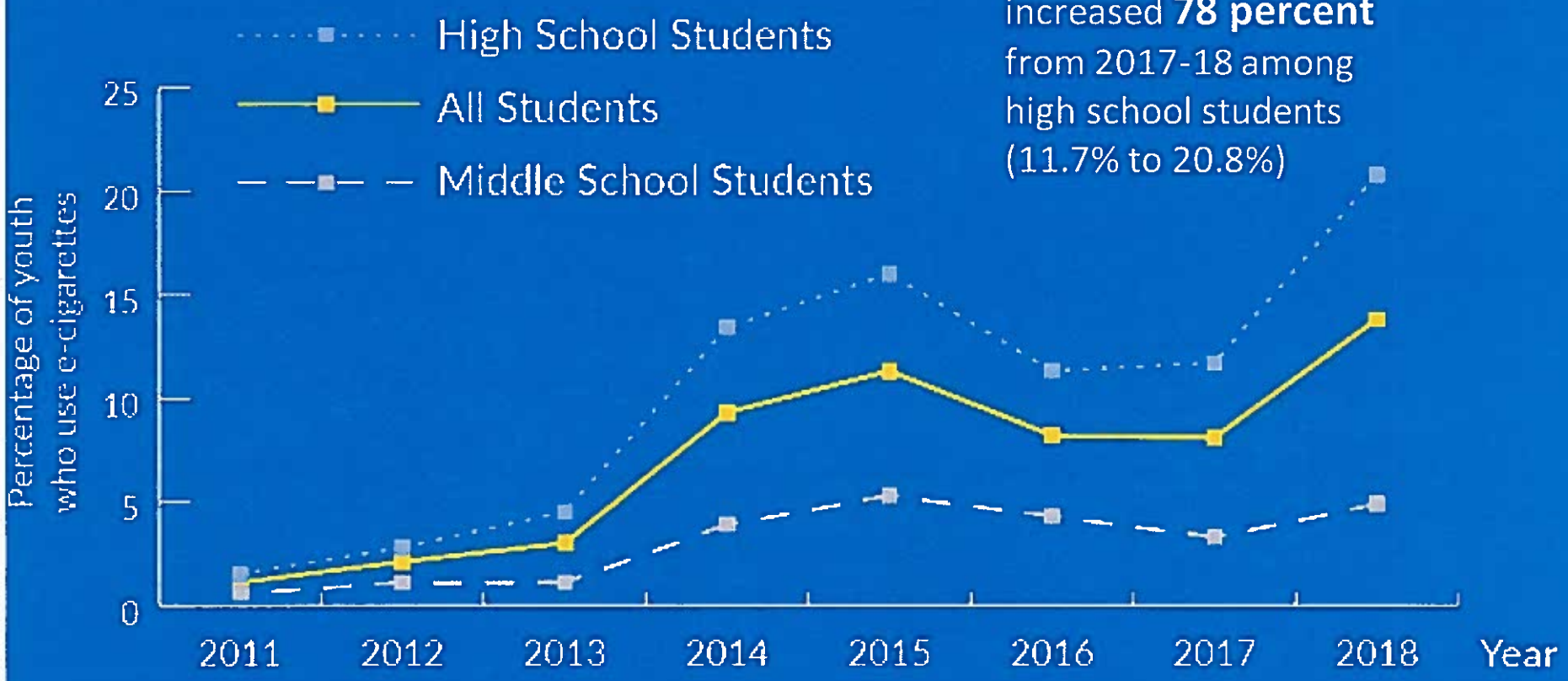
Discuss the health effects of vaping and describe the status of vaping-associated lung injury in the US and Maricopa County and resulting regulatory changes

- Vaping among youth in the US and AZ
- Health effects of e-cigarettes
- Vaping-associated lung injury – US and Maricopa County
- Federal regulations

US Youth E-cigarette Use

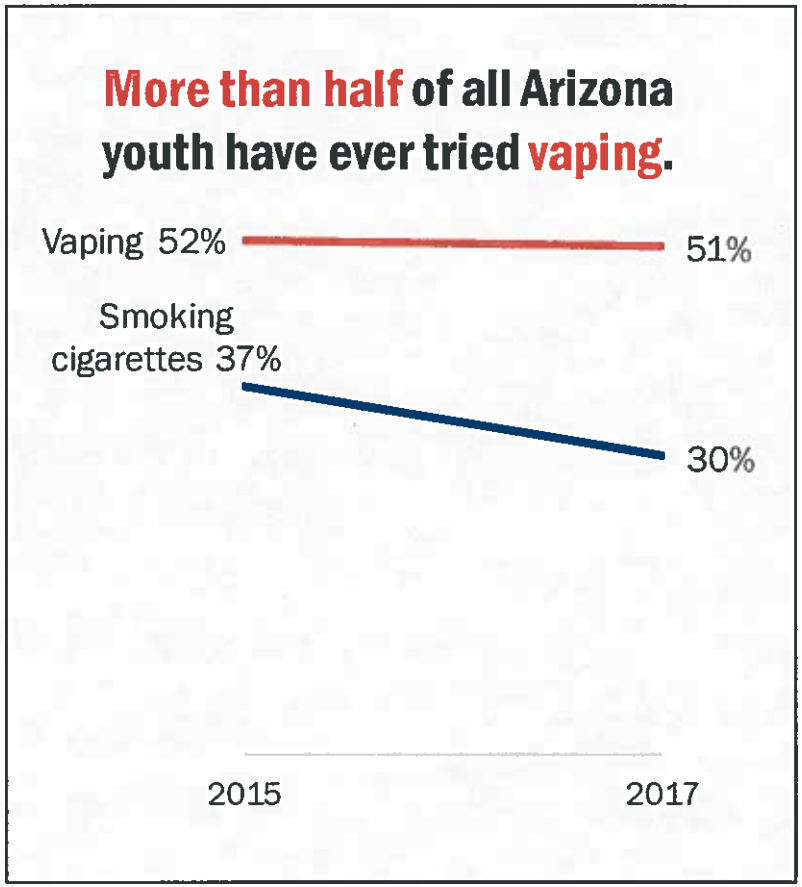
Growth in E-Cigarette Use

E-cigarette use increased **78 percent** from 2017-18 among high school students (11.7% to 20.8%)



Source: National Youth Tobacco Survey 2011–2018

Notes: In 2014, changes were made to the e-cigarette measure to enhance its accuracy.

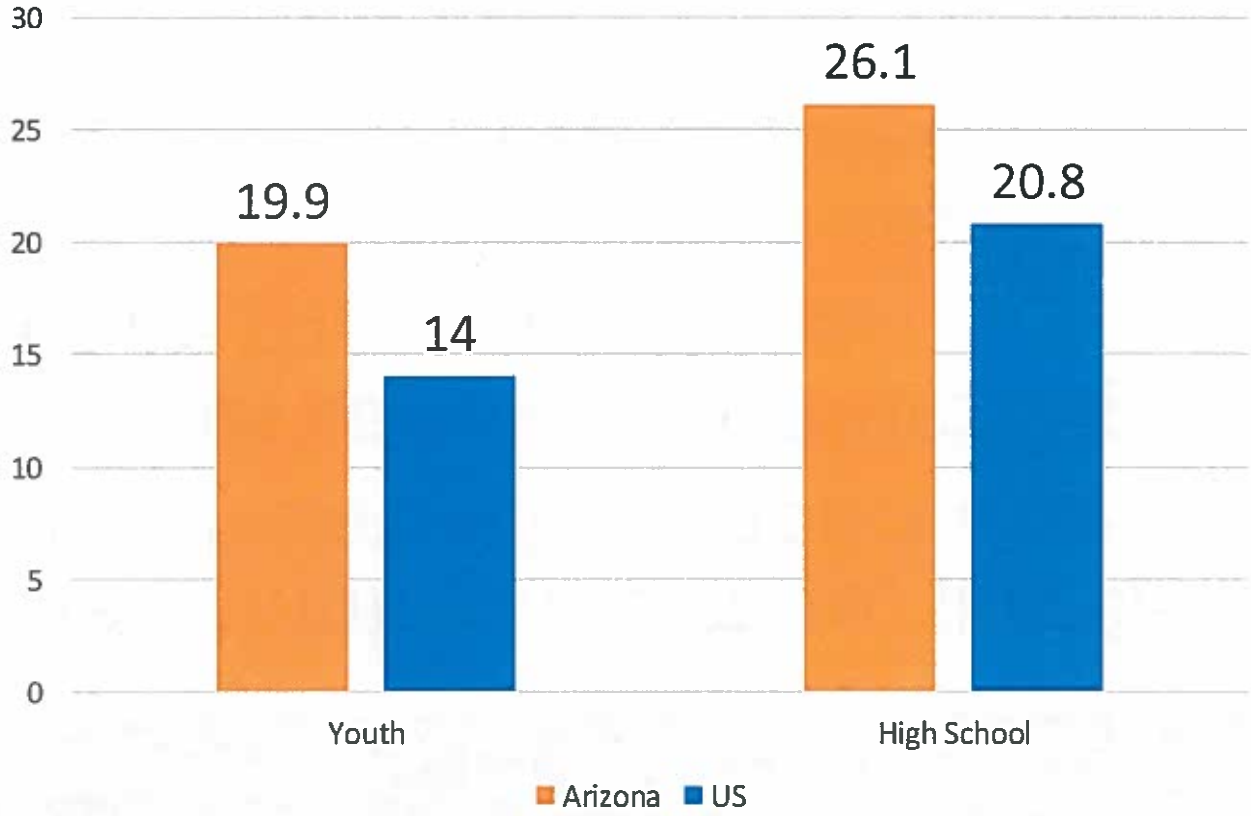


Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2015. [Accessed Nov 06, 2019]. URL: https://www.cdc.gov/brfss/brfssprevalence/.

Centers for Disease Control and Prevention (CDC). *1991-2017 High School Youth Risk Behavior Survey Data.* Available at http://nccd.cdc.gov/youthonline/. [Accessed Nov 06, 2019].

2018 Youth E-cigarette Use

1 in 4 Arizona high school youth Vape, more than 25% higher than US rates



Health Effects of Nicotine

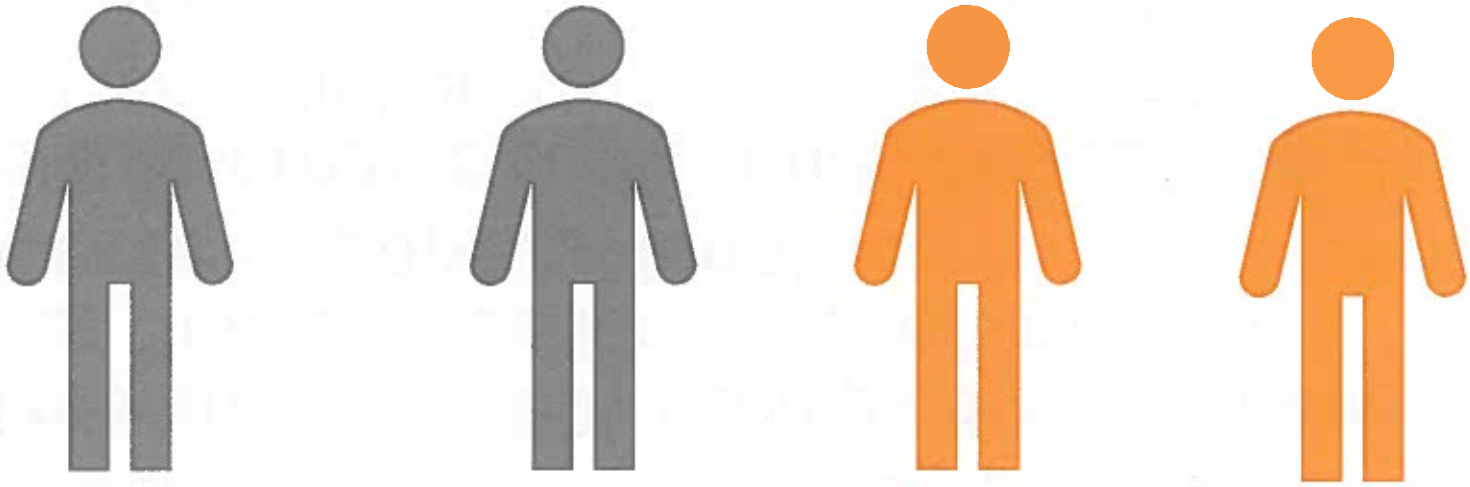
- Nicotine is highly addictive, increases blood pressure, heart rate & heart disease risk
- E-cigarettes can deliver much higher doses of nicotine than cigarettes
- Nicotine exposure during adolescence (up to age 25) can harm the developing brain
  - Mood disorders
  - Impairment of attention and learning
  - Permanent lowering of impulse control

Chemicals in Vape

- We don't know all the health effects yet
- Flavorants (>7000) such as diacetyl have been linked to serious irreversible lung disease – "popcorn lung"
- Volatile organic compounds (VOCs) e.g. benzene (linked to anemia and cancer)
- Solvents: Acrolein, formaldehyde & acetaldehyde (known carcinogens)
- Heavy metals such as nickel, tin, lead, & cadmium (known carcinogens)
- Are **NOT** regulated by the FDA

Second hand Vape (SHV)

Half of US middle and high school youth were exposed to SHV from 2015 to 2018



SHV may expose bystanders to nicotine, heavy metals, ultrafine particulates, volatile organic compounds, and other carcinogens

JAMA Netw Open. 2019;2(8):e1910184. doi:10.1001/jamanetworkopen.2019.10184

Surgeon General's Report on E-Cigarette Use Among Yout and Adults, 2016

E-cigarette-associated Lung Injury (EVALI) in the US

- 2291 cases reported in all 50 states
  - Median age 24 (range 13-75) years
  - 70% male
- 48 deaths from 25 states
  - Median age at death: 49 (range 17-75)
- Of the 573 with data available
  - 76% used THC-containing products
  - 32% exclusively used THC-containing products

MMWR Morb Mortal Wkly Rep 2019;68:919–927.

E-cigarette-associated Lung Injury in Maricopa County

- 11 cases (5 confirmed, 6 probable)
- Median age 21 (range 16 – 57) years
- All hospitalized
- 3 (27%) required ventilator support
- 2 cases re-admitted for complications
- No confirmed deaths
- 10 (91%) used THC products
- 1 case has a medical marijuana card
- Two products pending FDA testing

What is the cause?

- Cases with EVALI more likely to
  - Obtain THC-containing e-cigs through informal sources
  - Vape > 5 times per day
  - Use a THC product called "Dank Vapes"
  - Use THC products exclusively

- CDC identified **vitamin E acetate** in **all 29** lung fluid samples tested from EVALI cases in 10 states
  - "Very strong culprit of concern"
  - Other compounds may be involved

- Source (s) of injury are likely solvents used in illicit production of THC products

Resulting Federal Regulatory Changes

- August 8, 2016 – illegal to sell to minors e-cigarettes
- Requirements as of June 2019
  - Register an establishment
  - Submit tobacco health documents
  - Submit ingredient listings
  - Include a required warning statement on packages and ads

Regulating Flavors

- A 2013-14 survey: 81% of current youth e-cigarette users cited the availability of appealing flavors as primary reason for use
- September 2019, discussion of ban of e-cigarette flavors (including mint) reported
- Juul
  - October 17, 2019 – stopped selling fruit flavors
  - November 2019 - stopped selling mint flavor

Questions

Follow up questions or topics?

Airfield Overlay District Standards

City Council Study Session
December 9, 2019

Nana Appiah
Planning Director
City of Mesa

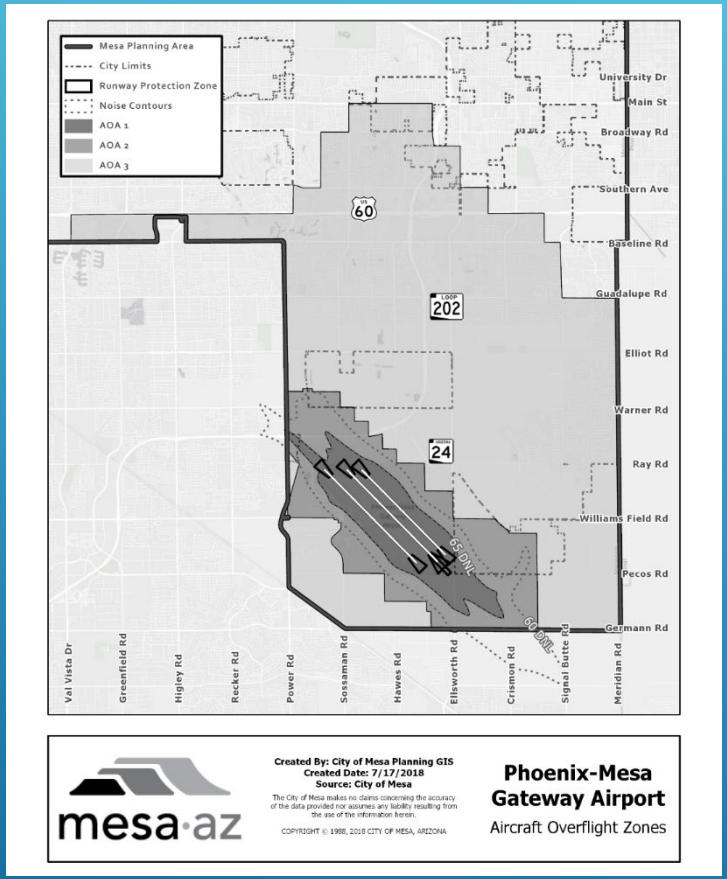
Airfield Overlay District Standards

Purpose:

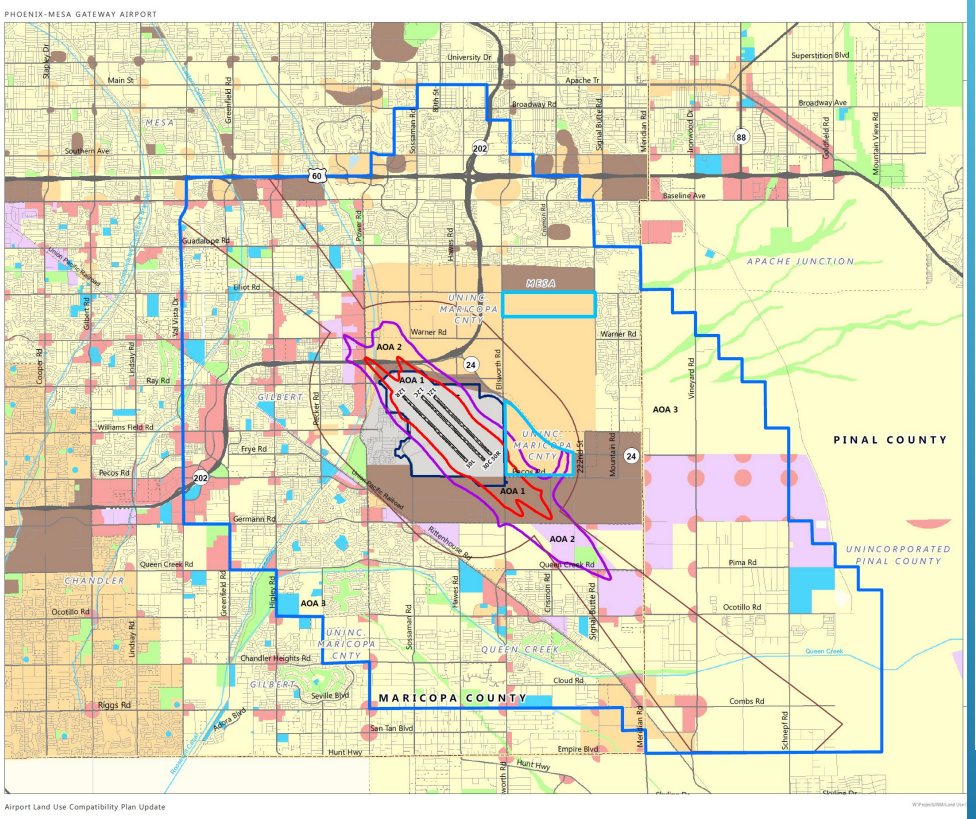
- Recognize effects of aircraft operations on surrounding properties
- Protect continuous operation of the airport
- Ensure compatible developments around the airport
- Provide adequate public notification of the location of the airport

- **Runway Protection Zones (RPZ) and Airport Overflight Areas (AOA)**:
  - AOA 1: 65 DNL
  - AOA 2: 60 and 65 DNL
  - AOA 3: Outside 65 DNL

Airfield Overlay Map



Airport's Land Use Compatibility Study



- Existing Airport Boundary
- Municipal Boundary
- County Boundary
- Updated AOA 1
- Updated AOA 2
- Updated AOA 3
- 14 CFR Part 77 Horizontal and Outer Approach Surfaces
- Highway
- Arterial Street
- Local Street
- Railroad
- Waterways

Generalized Future Land Use

- Residential
- Commercial Focus - Business Park/Office/Tourism
- Industrial Focus
- Public Facility/Civic/Institutional
- Parks and Open Space
- Mixed Use - Non-Residential (Maricopa)
- Mixed Use - Residential Allowed*
- Airport Specialty District
- Generalized Flight Corridor Agreements for Land Use Compatibility

Note:
*The City of Mesa prohibits single-family housing in the AOA 1 and AOA 2 overlay zones. Multi-family housing is allowed subject to the issuance of a Council Use Permit.

General Development Standards

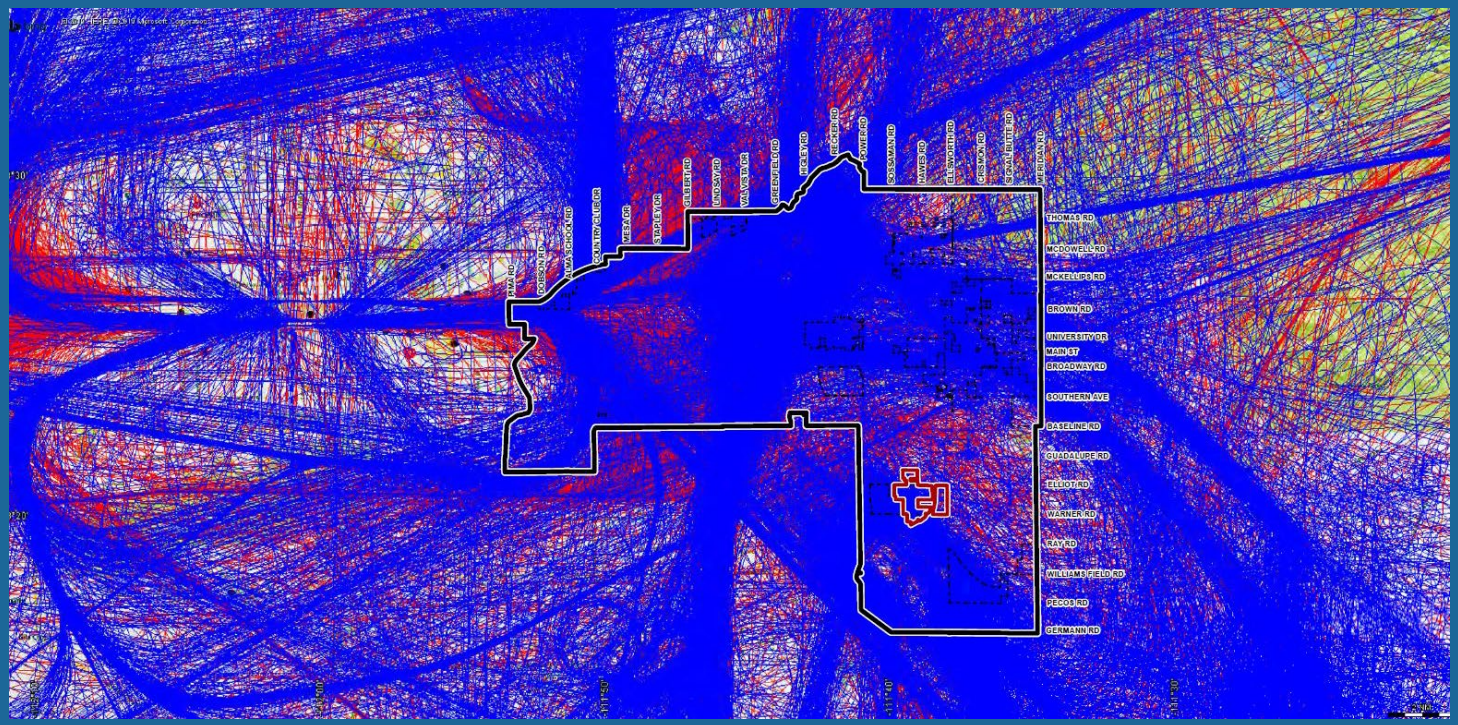
Residential Requirements:

Overflight Areas	Single Residence	Multiple Residence
AOA1	Not Allowed	Not Allowed
AOA2	Not Allowed	Council Use Permit
AOA3	Subject to Conditions	Subject to Conditions

Conditions of Approval:

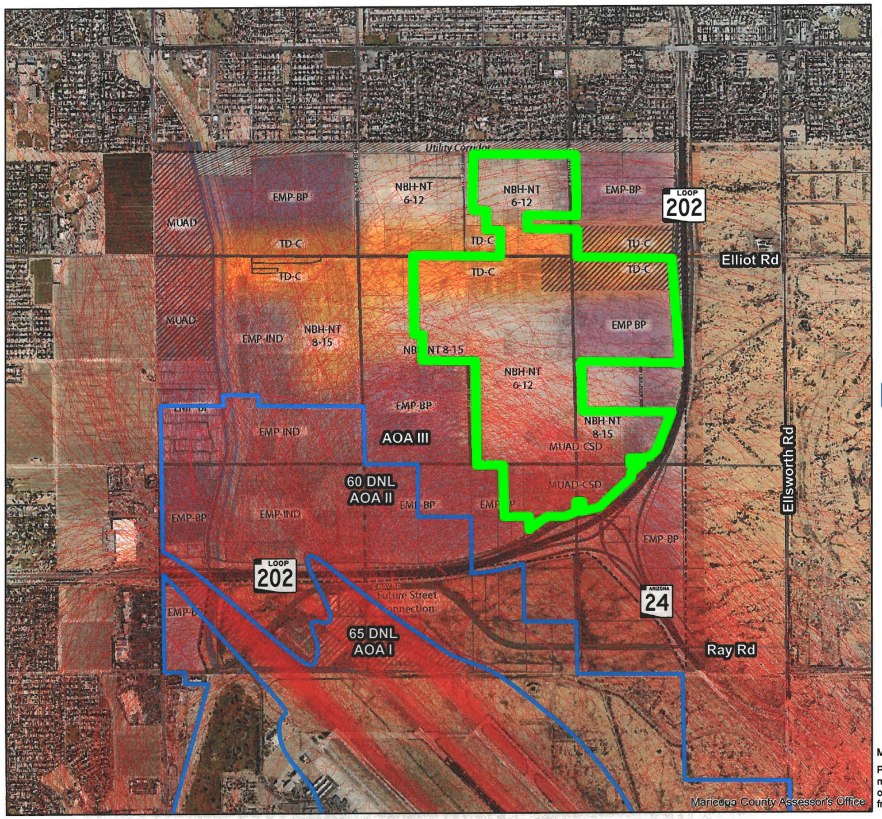
- Avigation Easements
- Notifications to Buyers
- Disclosures notes on final subdivision plats
- Signage on leasing and sales office areas
- Noise mitigations measures

Overflight Paths in Mesa



Handout Will Also Be Provided

Mesa Gateway Flight Paths



Phoenix-Mesa Gateway Airport

Draft Inner Loop Aircraft Overflight Map

LEGEND

Departing/Local Flight Track (1 week)

Updated City of Mesa AOA Boundaries

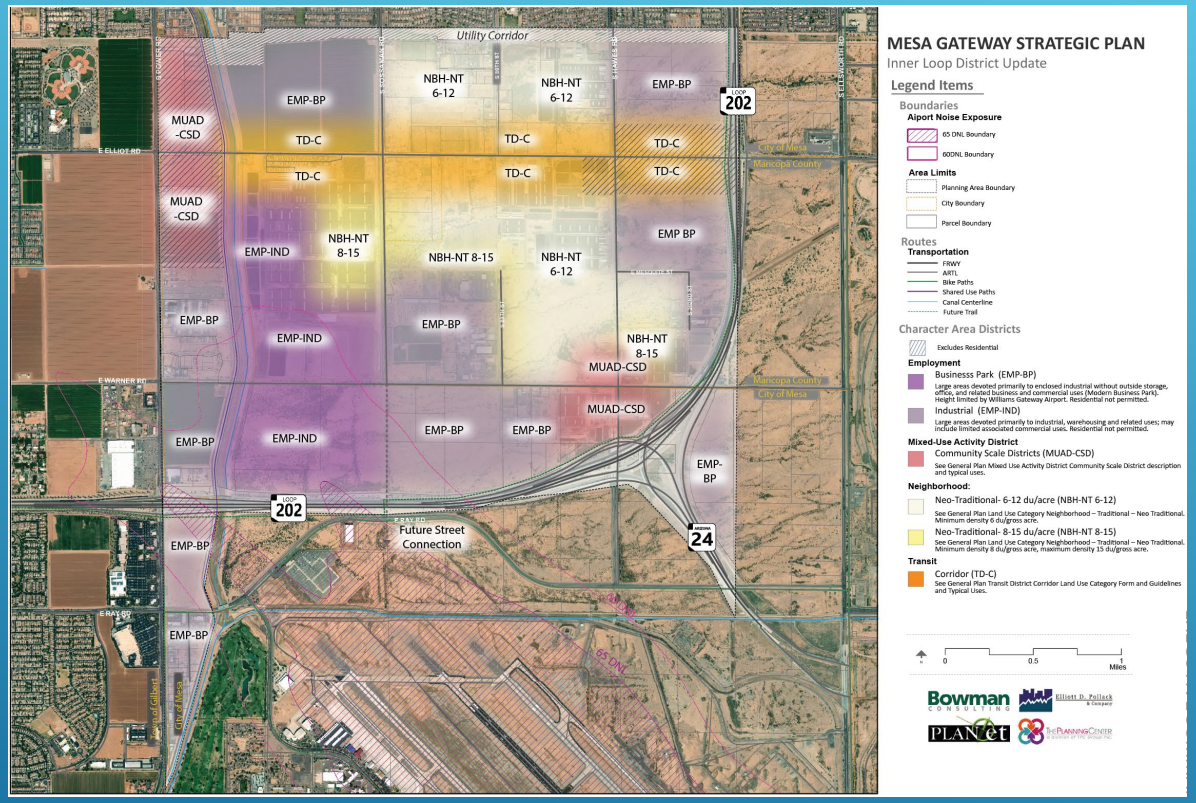
N

0 0.25 0.5 Miles

MAP CREATION DATE: 9/18/18

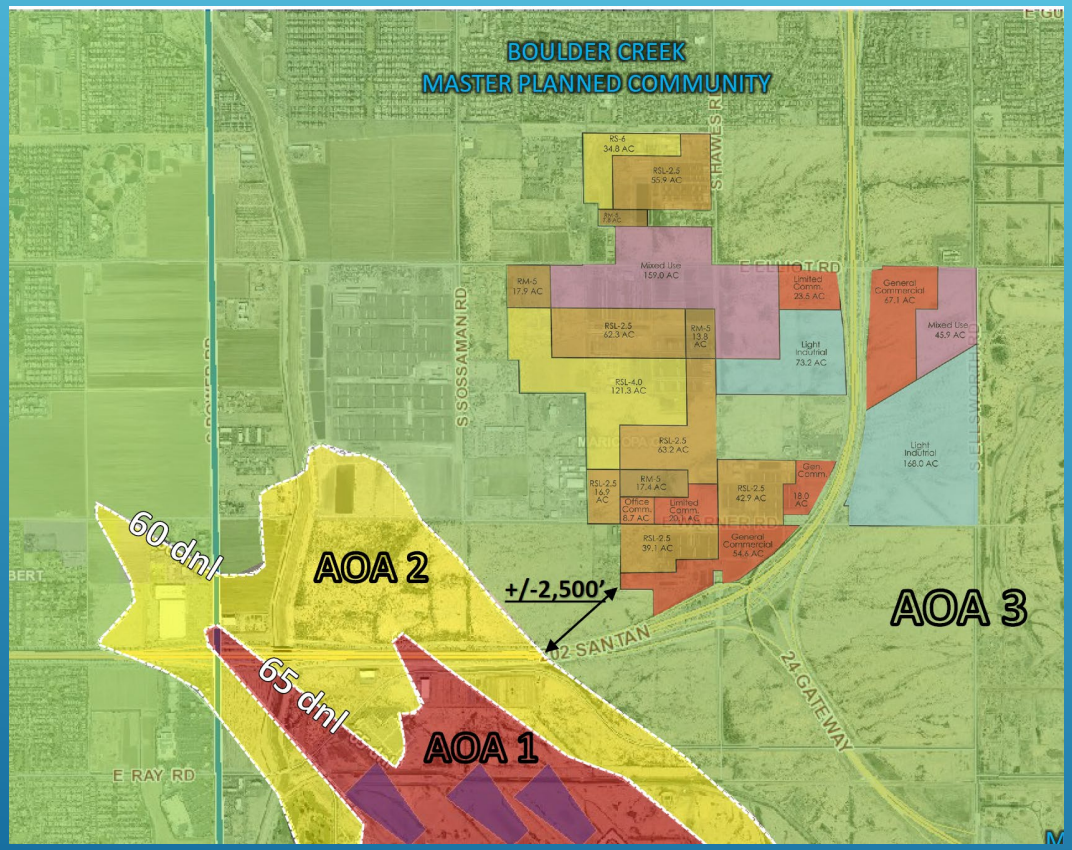
Phoenix-Mesa Gateway Airport Authority makes no claims concerning the accuracy of this map nor assumes any liability resulting from the use of the information herein.

Inner Loop Study Recommendation



Maintain employment uses in the AOA 1 and AOA 2 Areas

Land Use Compatibility



Standard Conditions of Approval

1. Owner granting an Avigation Easement and Release to the City, pertaining to Phoenix-Mesa Gateway Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map or prior to the issuance of a building permit).

2. Written notice be provided to future property owners, and acknowledgment received that the project is within 1-2 mile(s) of Phoenix-Mesa Gateway Airport.

3. Due to the proximity to Phoenix-Mesa Gateway Airport, any proposed permanent, or temporary structure, as required by the FAA, is subject to an FAA filing, for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance.

Standard Conditions of Approval

4. Provide a 4-foot x 4-foot sign at the entrance to all sales and leasing offices within the development, with notice to all prospective buyers that the project is within an Overflight Area for Phoenix-Mesa Gateway as specified in Section 11-19-5 of the Zoning Ordinance.

5. Prior to the issuance of a building permit, provide documentation by a registered Professional Engineer or registered Professional Architect has certified that Noise attenuation measures have been incorporated into the design and construction of the buildings to achieve a noise level reduction to 45 db as specified in Section 11-19-5 of the Zoning Ordinance.

6. All final subdivision plats shall include the following notice: "This property, due to its proximity to Phoenix- Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."

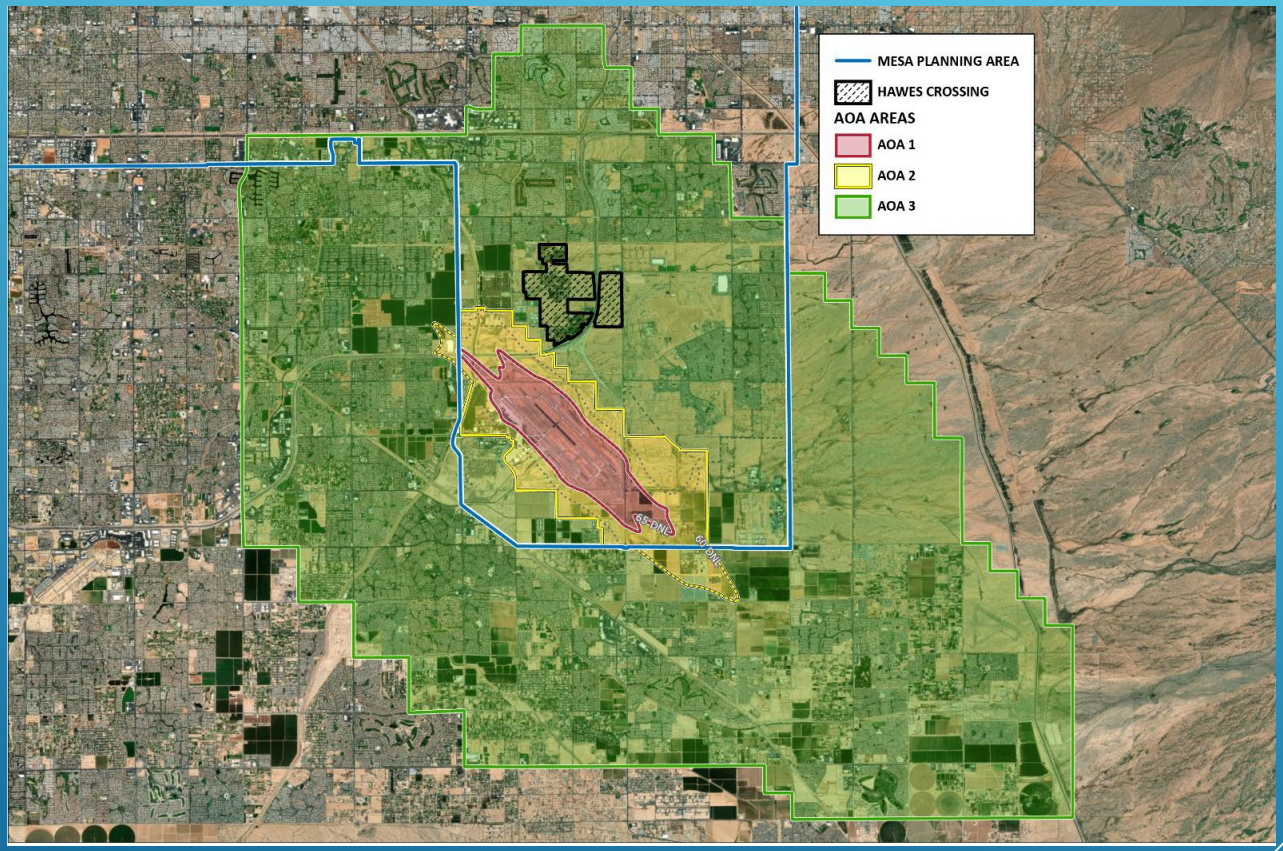
Additional Conditions for Hawes Crossing

1. Placement of airport wayfinding signage at arterial intersections within Hawes Crossing PAD.

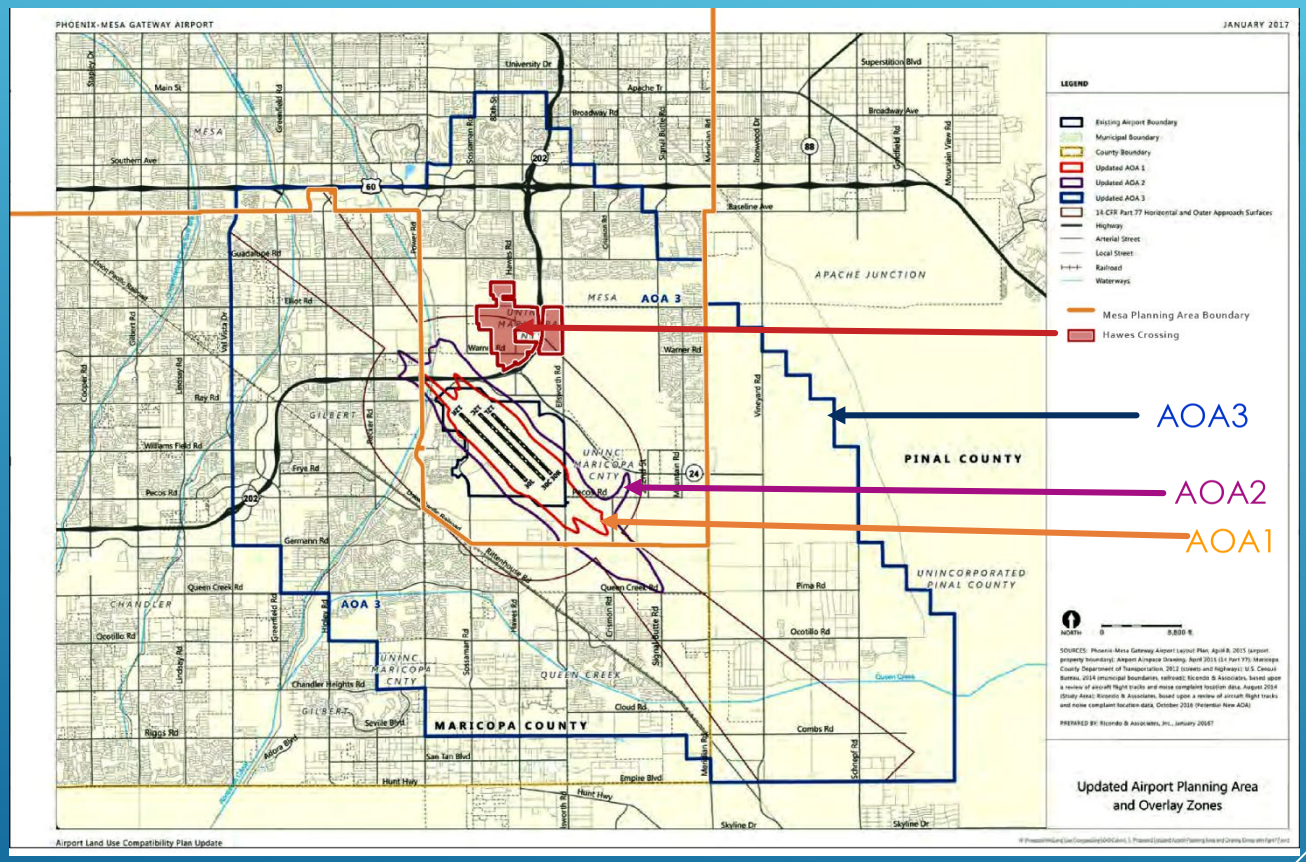
2. Include the Phoenix-Mesa Gateway airport's avigation notice language and public disclosure map in the CC&R's for the PAD Area.

QUESTIONS/DISCUSSION

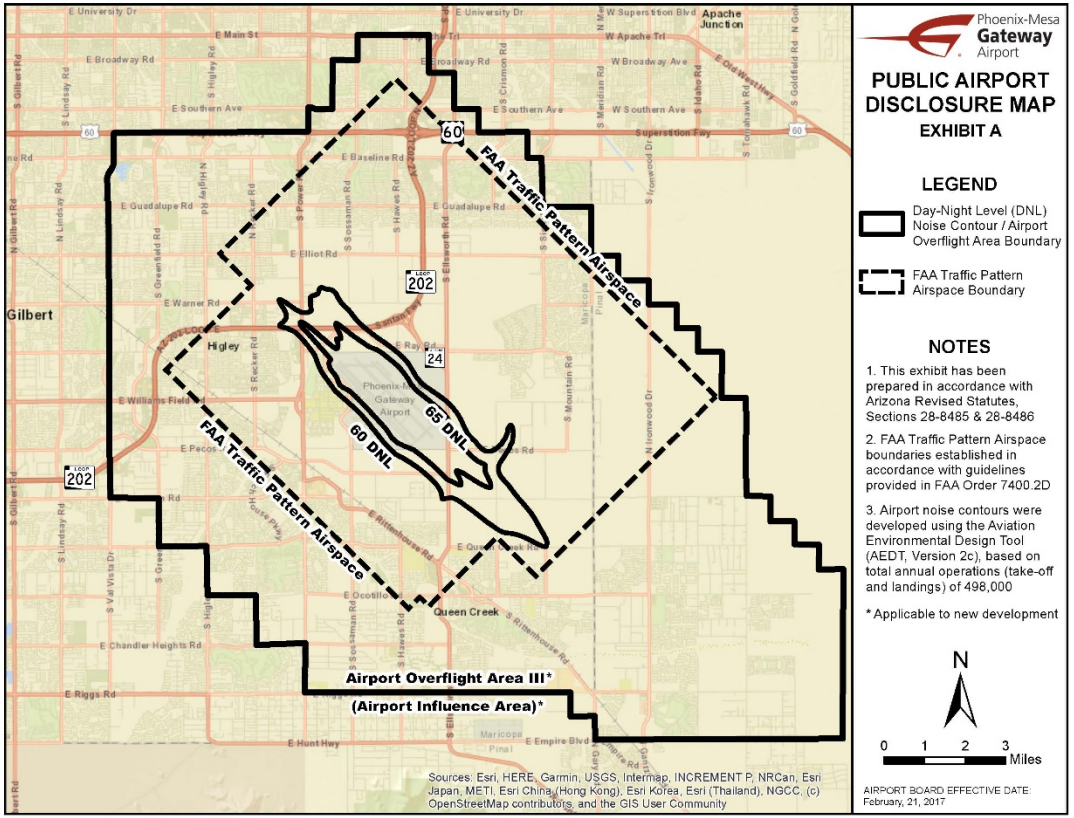
Airfield Overlay Map



Airfield Overlay Map



Airport Land Use Compatibility



Hawes Crossing Annexation

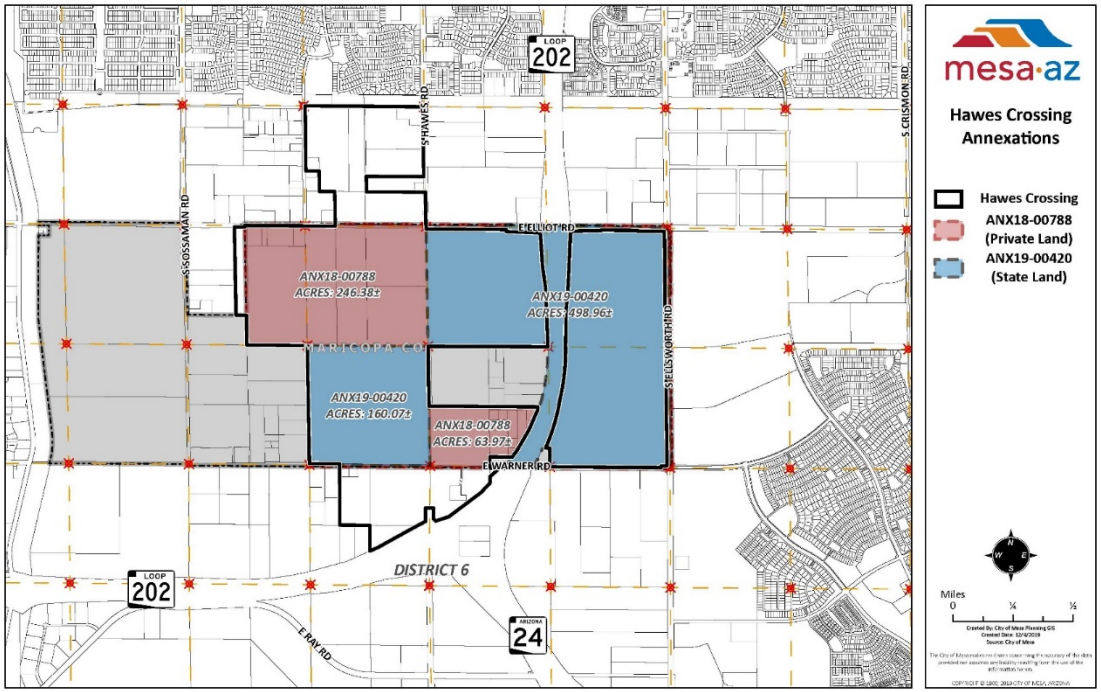
Land Acreages

Inner Loop District Size: 3,100 acres

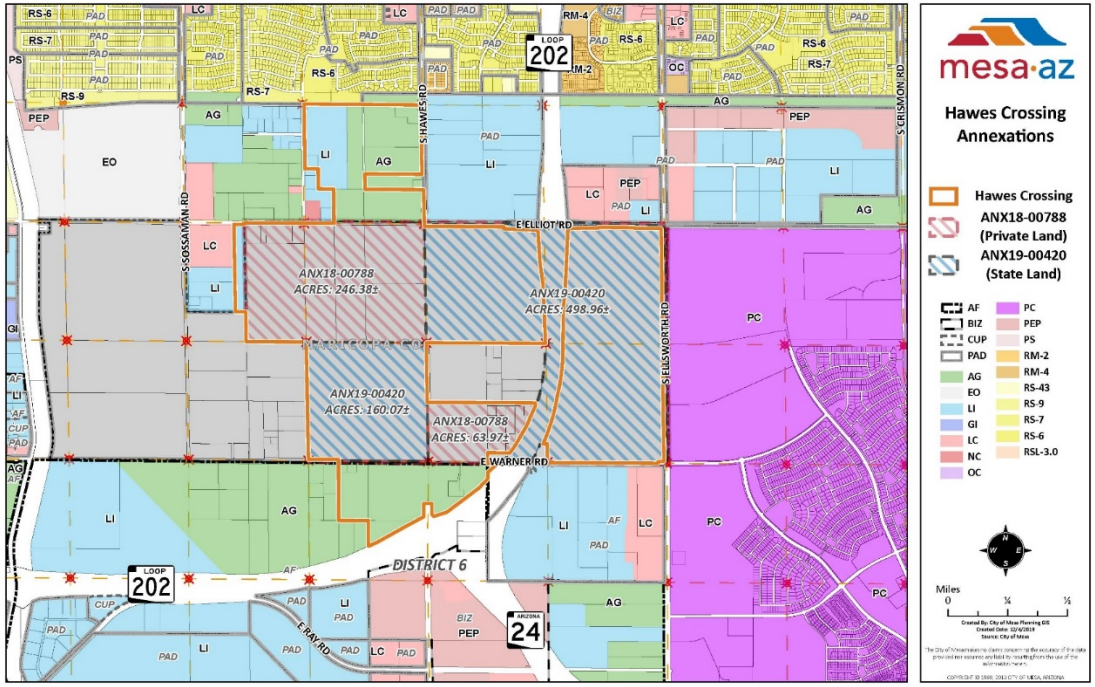
Hawes Crossing Total Area: 1,131 acres

- Land within City Limits: 161.62 acres
- Land in County (Areas for annexation): 969.38 acres

"Hawes Crossing"
Planned Area Development (PAD)
(Annexations)



"Hawes Crossing" Planned Area Development (PAD) (Annexations)



QUESTIONS/DISCUSSION