

#27
SEP 22 2011



MEMORANDUM **Planning & Development - CC Memo No. 11-103**

DATE: SEPTEMBER 8, 2011

TO: MAYOR AND CITY COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
 PATRICK MCDERMOTT, ASSISTANT CITY MANAGER *PM*
 R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJZ*
 JEFF KURTZ, PLANNING ADMINISTRATOR *JK*
 KEVIN MAYO, PLANNING MANAGER *KM*

FROM: JODIE M. NOVAK, MEP, SENIOR CITY PLANNER *JMN*

SUBJECT: ZUP11-0010 ALLRED CHANDLER AIRPORT CENTER

- Request: Use Permit approval to allow a place of worship/church in a portion of Building B
- Location: 2440 E. Germann Road, Suite 5, north of Germann Road and east of Cooper Road within Allred Chandler Airport Center
- Applicant: Mike Curley - Earl, Curley, & Lagarde
- Project Info: 14.5 acres industrial business park, place of worship/church to occupy Building B Suite 5, approximately 4,503 square feet

RECOMMENDATION

Upon finding the request to be consistent with the General Plan, Planning Commission and Planning Staff recommend approval subject to conditions.

BACKGROUND

The request is for Use Permit approval to allow a place of worship/church, "church", within a portion of Building B located in Allred Chandler Airport Center, "Allred". The church would be the first public assembly use to locate within the Allred development. The church intends to occupy Suite 5 at approximately 4,503 square feet. Allred is located within the City's Airpark Area Plan along the north side of Germann Road. This area has developed with several light industrial office parks.

Allred, formerly known as Hewson Chandler Airport Center, was zoned Planned Area Development (PAD) in 2005 for Planned Industrial (I-1) light industrial uses. A Preliminary Development Plan (PDP) was approved for the site layout and building architecture in 2006. In 2009, a PAD zoning amendment was approved to add uses that would have required Use Permits. The uses added included manufacturing and assembly of products, repair or manufacturing of small-scale equipment or goods, a sign-making company, and motor vehicle customization with aftermarket products sales and installation. In 2010, another PAD zoning amendment was granted to add uses including athletic training facilities and/or family recreational/instructional uses in Buildings A and C only.

The subject site Building B is zoned for light industrial uses including the additional uses permitted through the PAD amendment in 2009. This building is approximately 61,770 square feet in size. There is one existing tenant in Building B, Suite 1 Stanley Steemer. Tenants in the other two buildings include Building C - Suite 8 Lumber Liquidators, Suite 18 Option 1 Nutrition, Suite 12 MVP Zone, and Suite 2 Unisource Worldwide. Building A tenants include Suite 5 Duncan Systems, Suite 11 Body Envy Bootcamp, and Suite 17 Arizona Dynamics Gymnastics.

Building B is located along the site's west side. The fronts of tenant spaces face undeveloped land to the west, the traffic circle intersection of Piper and Yeager Drives, and Redrock Business Plaza. Access to this church will more likely occur off of Piper and Yeager Drives directly from Germann Road and the Loop 202 Santan Freeway respectively.

The church space includes a worship service area, lobby, pastor's office, and an administrative area. There will be no childcare or Bible study programs. Church services occur on Sundays at approximately 9 a.m. and end at 1 p.m., and also occur two evenings a week starting at 6:45 p.m. The East Valley Hope Center has approximately 75 members and currently operates in a church off of Alma School and Galveston Street. The church estimates that only 20 vehicles will park on site for each service. Since the services are on Sunday and during the work week are held when other businesses are closed, it is assumed there will be no parking conflicts with other tenants in Allred. The tenant in Building B, Stanley Steemer, is not open on the weekends and closes at 7 p.m. during the week. Building A has two instructional sports related businesses that do operate in the evenings Monday through Friday and Saturdays. Building C has a flooring lumber company that operates in the evenings and all weekend.

Currently there is no assigned parking in the development. There are 200 parking spaces in the vicinity of Building B. The development's parking is provided to accommodate a maximum of 20% office and 80% industrial uses; however, more than required parking was provided with over 170 additional parking spaces. The excess parking spaces allowed for the zoning amendment to accommodate athletic training facilities and/or family recreational/instructional uses in Buildings A and C. The addition of this small church occupying 4,503 square feet with 75 members does not create an impact on parking at this site as it is estimated through family carpooling that 20 cars are generated for during worship services.

Pedestrian access is along the west side of the building adjacent to parking. There is parking on the east side of the building; however, this is intended for employee parking since there are no

sidewalks and no access to the front of the building's main entrance. The parking space plan in the Development Booklet illustrates parking associated with each tenant.

The subject building and parking area fall within Airport Noise Overlay One (ANO-1) of the AIO district. ANO-1 corresponds to the area between the Chandler Municipal Airport's 55 DNL and 60 DNL noise contours. ANO-1 allows religious facilities, libraries, museums, galleries, clubs, and lodges as well as other uses so long as they provide indoor sound attenuation in accordance with Zoning Code requirements. It appears likely that the subject building can conform to these sound attenuation requirements with no more than minor modifications.

The Airpark Area Plan designates the property for Commercial/Office/Business Park. The 2006 rezoning to PAD that established the light industrial uses on this parcel met Airpark Area Plan's land use designation. The Airpark Area Plan also has several policies that could potentially pertain to the subject application and its relation to the nearby airport. Most significantly, Policy 5.2 states:

The City shall prohibit the development of noise-sensitive institutions, such as day-care facilities, schools and churches, within arrival and departure flight tracks, touch-and-go patterns and within the 55 DNL noise contour.

Planning Staff notes that area plans, like the Airpark Area Plan, are policy documents intended to guide land use decisions. However, unlike the Zoning Code, area plans are not intended to be legal documents that either prohibit or allow by-right any uses. In Planning Staff's opinion, Policy 5.2 highlights uses that require special attention with regard to their noise-sensitivity. The Zoning Code's AIO district provides this special attention through its insulation requirements and use regulations dependent on which noise contours overlay the site

DISCUSSION

Typically, Planning Staff conveys an opinion that a proposed church or place of worship use is not compatible with light industrial and business park uses. Light industrial, manufacturing, distribution, and warehouse users are generally limited to locating within existing industrial and business parks, whereas a church or place of worship is permitted by right in commercial zoning districts. An increase in non-industrial occupants, such as the proposed church, decreases the amount of space available for light industrial users. Inherent in many industrial uses is the potential for creating noise, odor, traffic, and some chemical use/storage, which are generally considered incompatible with uses such as churches, schools, clubs, recreational facilities, and child-related programs. For reasons stated above, including the displacement of industrial space and an incompatible mix of uses, Planning Staff typically does not support churches or places of worship within a zoning also allowing I-1 (Planned Industrial District) zoning district uses.

However, in response to the Religious Land Use and Institutionalized Persons Act (RLUIPA) and an Arizona counterpart law, Planning Staff is recommending support of this request. The U.S. Congress enacted RLUIPA in 2000. In summary, RLUIPA prevents a local government entity from imposing or implementing a land use regulation that imposes a "substantial burden" on a person's exercise of religion. RLUIPA protects individuals, houses of worship, and other

religious institutions from zoning and landmarking laws that substantially burden religious exercise without a compelling government justification.

A substantial burden often is found to be imposed where it shows that: (a) the use is denied for broadly stated and highly subjective or discretionary land use reasons; (b) the denial reflects an inconsistent, arbitrary or pretextual application of land use restrictions; and/or (c) the denial is likely to create a severe shortage of acceptable alternative properties for the church use.

The Use Permit application request to add a church use in a specific tenant space in Building B in addition to the PAD zoned land uses for Buildings A, B, and C must be supported by the City because this proposal does not create a substantial burden. The City cannot demonstrate that any of the three items above exist. The church has proven it can meet zoning standards including site development requirements for required parking to operate on this property. There are many alternative properties for the church to locate within including appropriately zoned commercial sites that allow churches by right without the need for a Use Permit or rezoning. However, the proposed location for the church appears to be compatible based upon the representations within the Development Booklet.

As indicated by the ANO-1 regulations in the Zoning Code, the use is appropriate at this distance from the airport if adequate sound attenuation is provided.

PUBLIC / NEIGHBORHOOD NOTIFICATION

- This request was noticed according to the provisions of the City of Chandler Zoning Code.
- A neighborhood meeting was held on August 11, 2011. No one attended other than the applicant.
- As of the time of this memo, Planning Staff is not aware of any opposition or concern with this request.

PLANNING COMMISSION VOTE REPORT

Motion to Approve.

In Favor: 7 Opposed: 0

RECOMMENDED ACTION

Upon finding consistency with the General Plan, Planning Commission and Planning Staff recommend approval of the Use Permit case ZUP11-0010 ALLRED CHANDLER AIRPORT CENTER, subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Allred Chandler Airport Center" kept on file in the City of Chandler Current Planning Division, in file number ZUP11-0010, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3673 in case DVR04-0037, except as modified by condition herein, and Preliminary Development Plan case PDP06-0001.

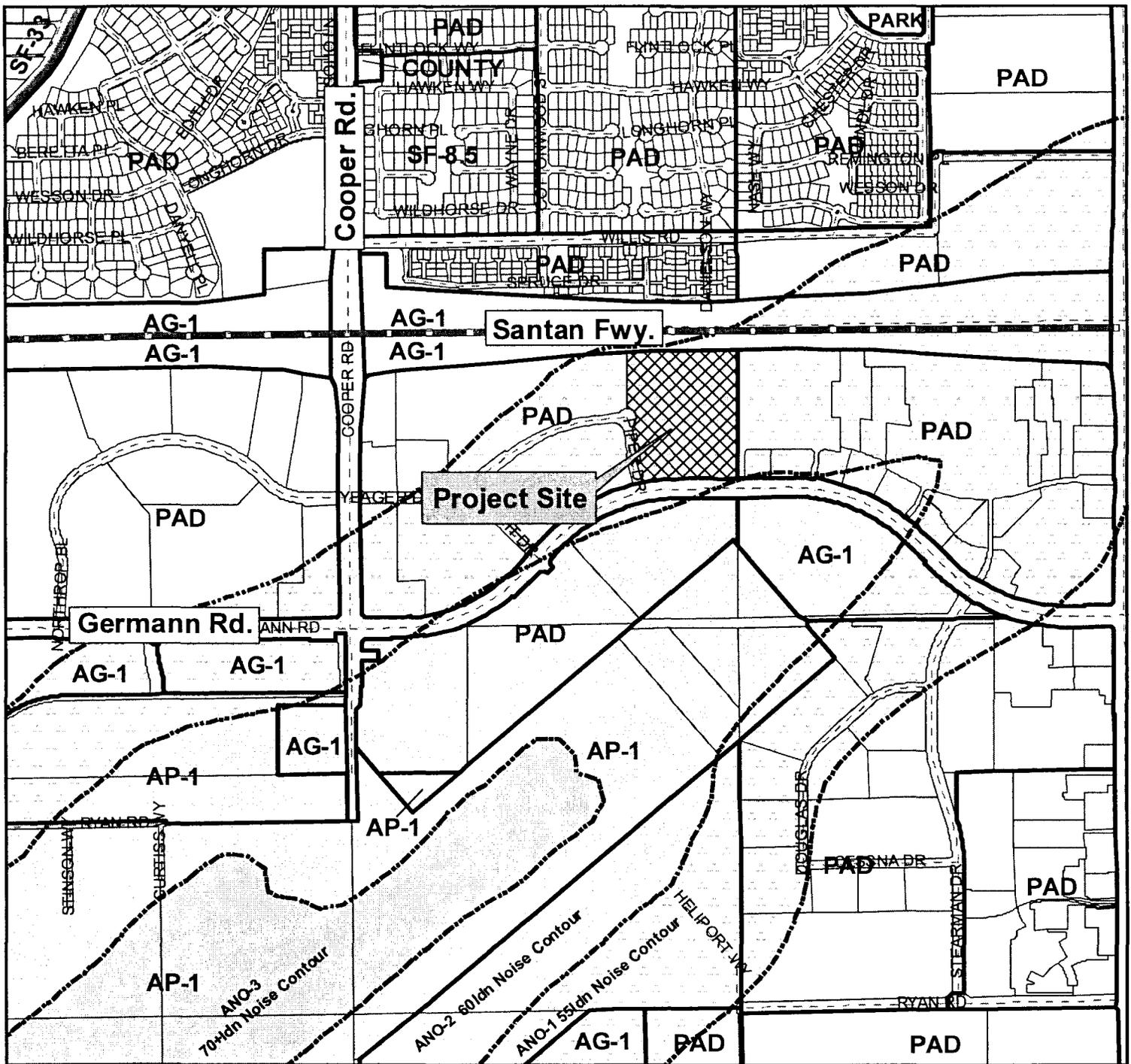
3. A church or place of worship use shall occur only within Building B, Suite 5 of Westech Corporate Center Lot 34. Parking related to this church shall occur in accordance with the representations in the Development Booklet.
4. Childcare and Bible study programs are not approved with this request.

PROPOSED MOTION

Move to approve Use Permit case ZUP11-0010 ALLRED CHANDLER AIRPORT CENTER, subject to the conditions recommended by Planning Commission and Planning Staff.

Attachments

1. Vicinity Maps
2. Site Plan
3. Floor Plan
4. Ordinance No. 3673
5. PDP06-0001 conditions
6. Development Booklet, Exhibit 'A'

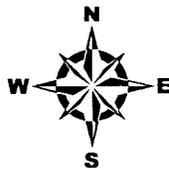
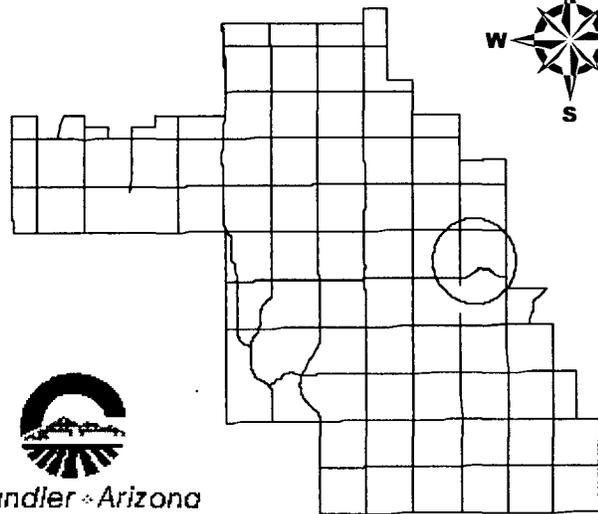


Vicinity Map

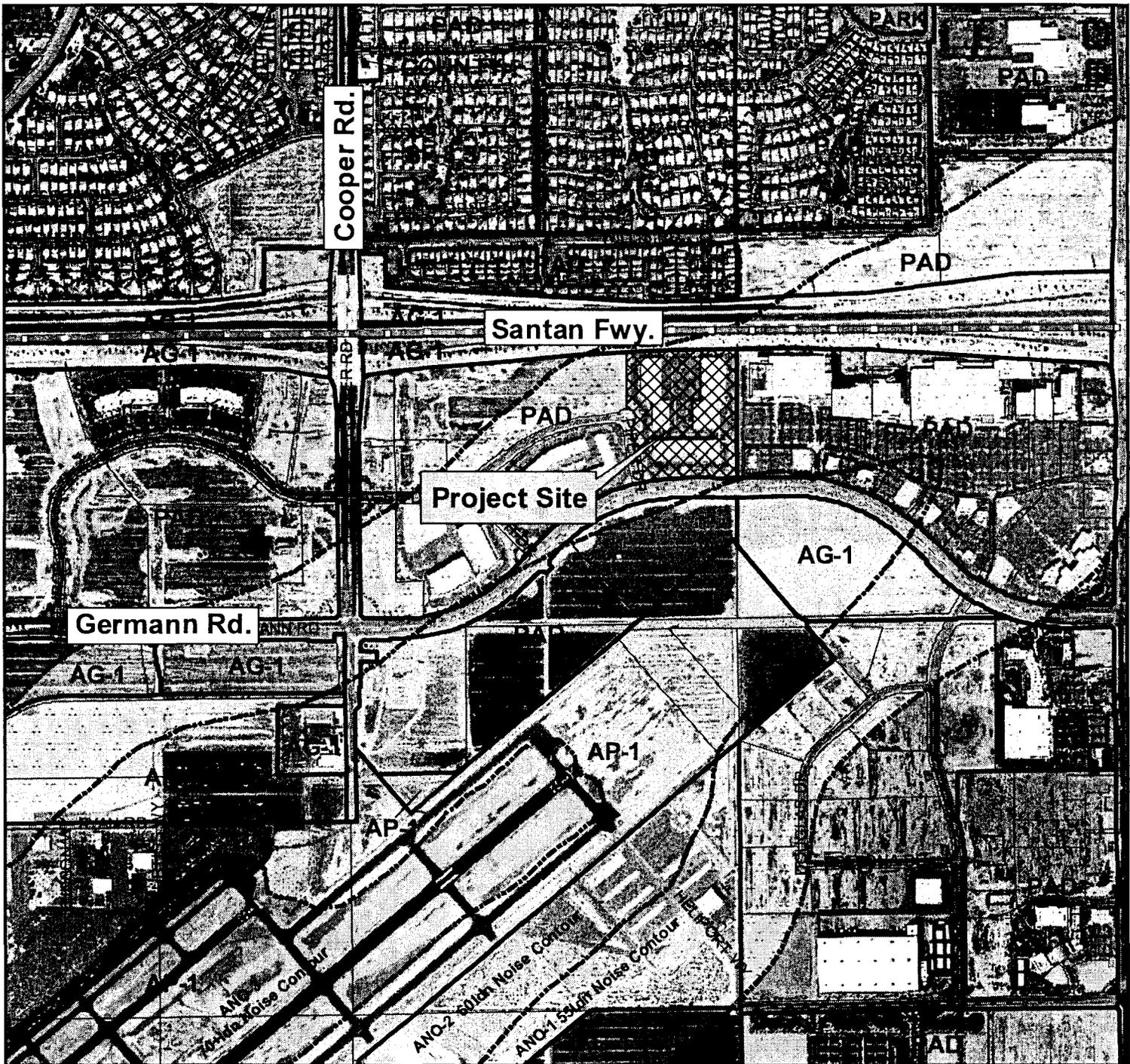


ZUP11-0010

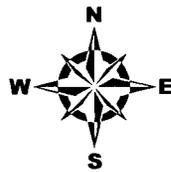
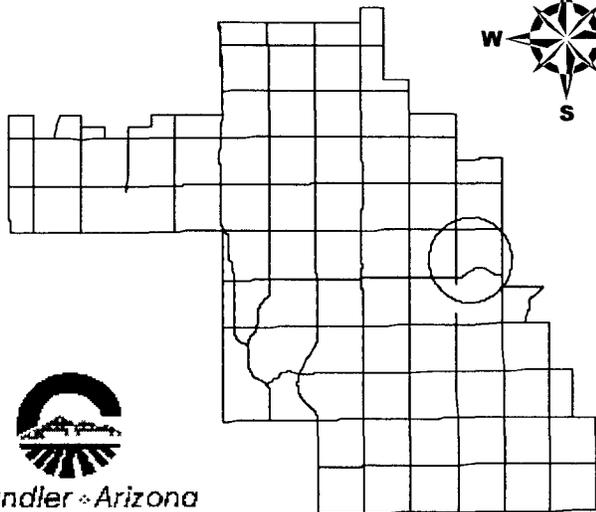
Allred Chandler Airport Center



Chandler Arizona
Where Values Make The Difference



Vicinity Map



ZUP11-0010

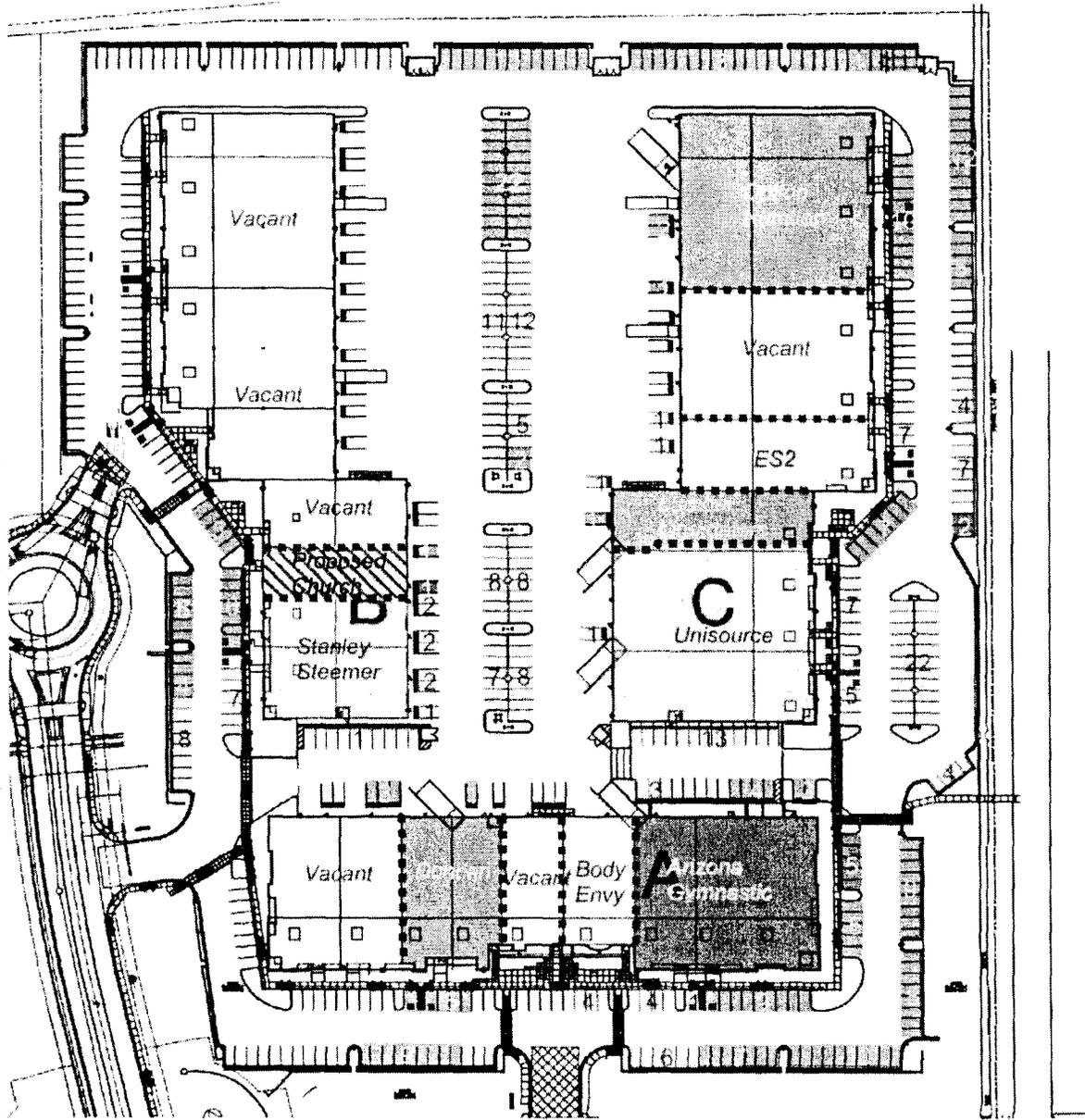
Allred Chandler Airport Center



Chandler • Arizona
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CITY OF CHANDLER 6/20/2011

Church services are conducted on Sundays, when all other businesses are closed.
Church hours: Sun (9:00 AM - 2:00 PM) & Wed (6:30 PM - 9:00 PM)

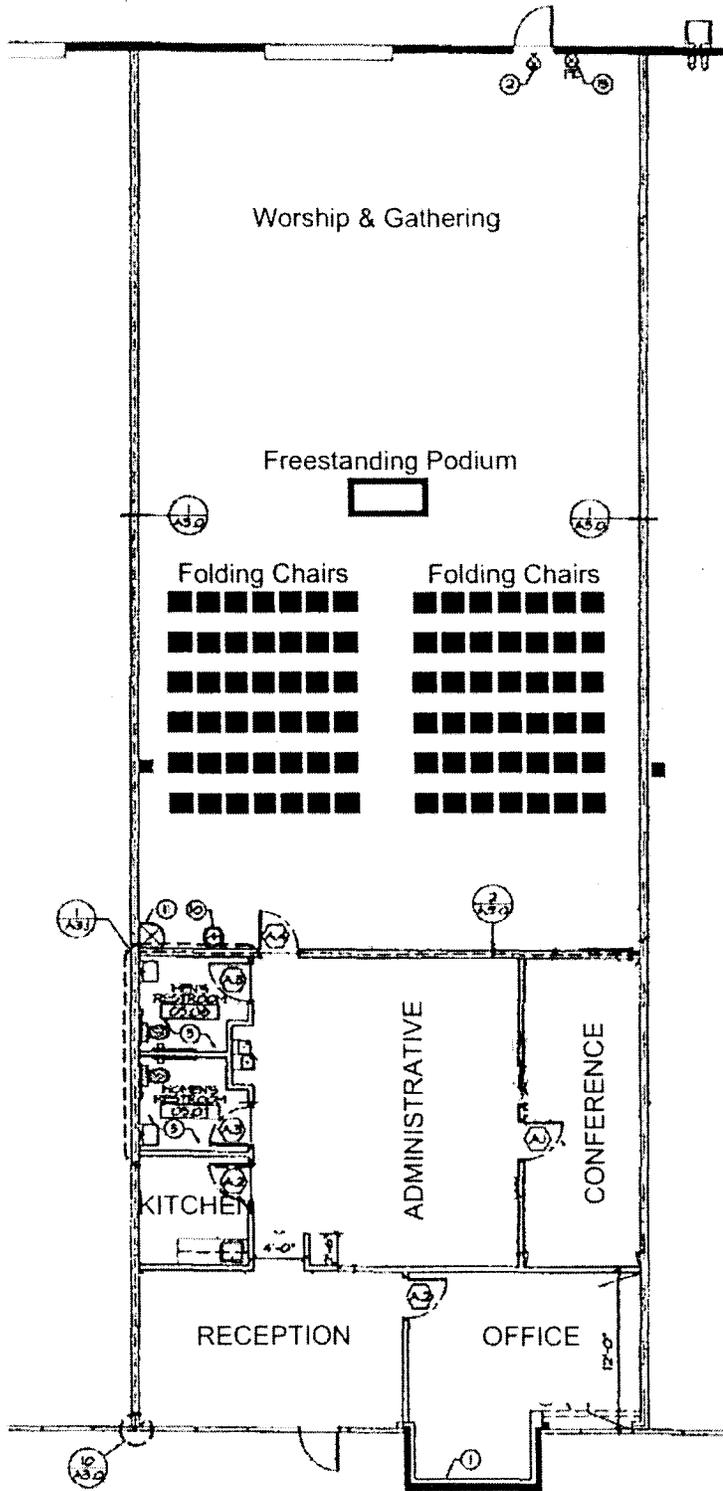


Tenant Space Plan

Graphic approximation of the distribution of "required" parking spaces and distribution in the vicinity of each tenant.

- The entire 14.5 acre site is under single ownership.
- All building square footage is leased. No portion of the development is subdivided or a condominium.
- There are no restrictions where tenants, customers, or guest may park, except in loading areas.
- Required parking spaces may in some instances exceed the City Code requirement for each tenant but will never be less.
- The remaining unallocated parking spaces meet or exceed the required parking for the unleased building square footage.

site plan



Allred Chandler Airport Center
2440 E. Germann Road - Building B, Suite 5
Use Permit to allow a Place of Worship
 Application # ZUP11-0010
 Conceptual Floor Plan



ORDINANCE NO. 3673

AN ORDINANCE OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE ZONING CODE AND MAP ATTACHED THERETO, BY REZONING A PARCEL FROM AGRICULTURAL DISTRICT (AG-1) AND PLANNED AREA DEVELOPMENT (PAD) MIXED USE COMMERCIAL AND INDUSTRIAL USES TO PLANNED AREA DEVELOPMENT (PAD) LIGHT INDUSTRIAL, OFFICE, COMMERCIAL AND AIRPORT USES WITH A MID-RISE BUILDING OVERLAY (DVR04-0037 CHANDLER AIRPORT CENTER) LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF CHANDLER, ARIZONA.

WHEREAS, application for rezoning involving certain property within the corporate limits of Chandler, Arizona, has been filed in accordance with Article XXVI of the Chandler Zoning Code; and

WHEREAS, the application has been published in a local newspaper with general circulation in the City of Chandler, giving fifteen (15) days notice of time, place and date of public hearing; and

WHEREAS, a notice of such hearing was posted on the property at least seven (7) days prior to said public hearing; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION I. Legal Description of Property:

SEE ATTACHMENT 'A'

Said parcel is hereby rezoned from AG-1 to PAD with a Mid-Rise Building Overlay, subject to the following conditions:

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
3. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).

4. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
6. The development shall provide additional landscaping to include one (1) 24-inch box tree and three (3) 5-gallon shrubs for every 20 feet of freeway frontage to be installed in the freeway right-of-way.
7. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
8. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Chandler Airport Center Zoning Application", kept on file in the City of Chandler Planning Services Division, in File No. DVR04-0037 Chandler Airport Center, except as modified by condition herein.
9. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a Chandler Airpark Center property owners' association.
10. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
11. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
12. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or

allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the development shall use treated effluent to maintain open space, common areas, and landscape tracts.

13. The development shall provide sound attenuation measures in accordance with ADOT standard details and requirements excepting any decibel reductions or sound attenuation credits for the use of a rubberized asphalt-paving surface. Any noise mitigation if required is the responsibility of the development.
14. Monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
15. The uses within the Office/Light Industrial with Airport Access area shall be allowed under the following criteria. For the purposes of the stipulation, the following definitions are used:

Airpark – Those areas outside of the airport property being adjacent to and/or having direct access to paved taxi lanes and appropriate taxi lane safety areas which allow aircraft access to the airport runway/taxiway system through the crossing of the airport property line.

Airport – Those areas that are bordered by and are interior to the airport property line. Said property contains the runway/taxiway system.

Runway/Taxiway system – The areas within the airport property consisting of paved areas designated for the take-off, landing, parking, taxiing or other movement of fixed wing and rotary wing aircraft.

PROHIBITED USES

The uses prohibited within the airpark area include any activity that provides aeronautical services to the public in direct support of aircraft operations, maintenance, and service/repair.

PERMITTED USES

The uses permitted within the airpark area are those uses allowed under the I-1 zoning district, excepting those more airport intensive prohibited uses identified above. Permitted uses are generally described as transitional uses that are less airport intensive uses such as offices or businesses that use aircraft as part of the office or business. These businesses may self-fuel, maintain, or repair their own aircraft in accordance with the Airpark Rules and

Regulations. Uses which require access between the Airport and Airpark require an Airport access permit.

16. No television, communication towers or stand-alone antennas shall be constructed on the property. All structures on the property shall remain below the protective surfaces as defined in Federal Aviation Regulation Part 77 and detailed in the Airport Layout Plans.

17. Developer acknowledges that City does not guarantee the actual physical connection of the property from the Airpark area to the airport area. The Developer has the option to construct the on-airport taxiway connection subject to a Development Agreement.

Since zoning cannot guarantee or provide access to the airport, said access needs to be addressed through a development agreement. Developer understands and agrees that no right of access to any part of the Chandler Municipal Airport, including any of its taxiways or runways, accrues to or runs with any of the land that is subject to this zoning, including the airpark, as a consequence of this zoning. An owner or occupier of any portion of the airpark may apply to the City for permission to access and use the on-airport taxiways or runway. However, the decision to grant such permission shall be in the sole discretion of the City, and in no event, shall the granting of such permission constitute a right of access running with the permittee's property at the airpark.

18. The developer acknowledges that the hangar portion of the buildings in the Airpark area will not be for aeronautical services to the public, and that a certificate of occupancy needs to be obtained before the hangar can be utilized. In addition, each development with intended aircraft hangar construction must provide a paved aircraft-parking apron adjacent to the hangar and the taxiway safety area. Said area must be of sufficient size to be equal to or less than the square footage of the aircraft hangar.

19. All development shall comply with the approved FAR Part 150 Noise Compatibility Study and specifically sound proofing the buildings to achieve a 25- to 30-db reduction within the applicable noise contours.

20. A separate comprehensive sign package for the buildings shall be required at the time the first Preliminary Development Plan (PDP) is submitted.

21. The trail connection from the Paseo Canal to the central portion of the site shall be integrated with the development as each PDP application is reviewed.

SECTION II. Except where provided, nothing contained herein shall be construed to be and abridgment of any other ordinance of the City of Chandler.

SECTION III. The Planning & Development Department of the City of Chandler is hereby directed to enter such changes and amendments as may be necessary upon the Zoning Map of said Zoning Code in compliance with this ordinance.

INTRODUCED AND TENTATIVELY APPROVED by the City Council this 14th day of April 2005.

ATTEST:

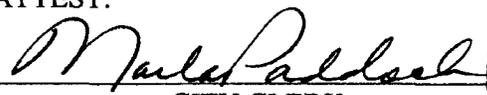

CITY CLERK

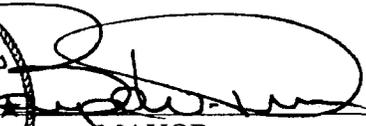

MAYOR

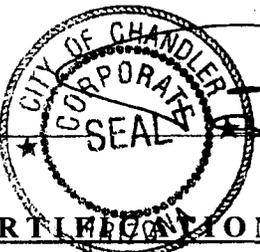


PASSED AND ADOPTED by the City Council this 28th day of April 2005.

ATTEST:


CITY CLERK


MAYOR

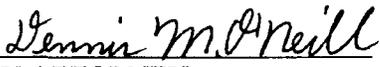


CERTIFICATION

I, HEREBY CERTIFY, that the above and foregoing Ordinance No. 3673 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 28th day of April 2005, and that a quorum was present thereat.


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

PUBLISHED in the Tribune on May 4 & 11, 2005

Legal Description Chandler Airport Center

Job No. 03-043

Revised March 22, 2005
May 22, 2004

PARCEL NO. 1:

That portion of the Southwest quarter of Section 1, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa country, Arizona described as follows:

COMMENCING at the Southwest corner of Southwest quarter of said Section 1: thence North (an assumed bearing), along the West line of said Southwest quarter, 1759.72 feet to the POINT OF BEGINNING;

Thence N85°43'20"E, 1867.893 feet; thence N85°43'20"E, 601.33 feet; thence N89°32'11"E, 177.31 feet to a point on the East line of said Southwest quarter; thence S00°11'09"W, along said East line, 594.58 feet to the Southeast corner of the North half of said Southwest quarter; thence S89°21'14"W, along the South line of the North half of said Southwest Quarter, 2637.82 feet to the Southwest corner of the North half of said Southwest quarter; thence North, along the West line of said Southwest quarter, 438.60 feet to the POINT OF BEGINNING.

PARCEL NO. 2:

Farm Unit "E" or the Southwest quarter of the Southwest quarter of Section 1, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

PARCEL NO. 3:

Farm Unit "F" or the Southwest quarter of the Southwest quarter of Section 1, Township 2 South, Range 5 East of the Gila and Salt River base and Meridian, Maricopa County, Arizona;

EXCEPT COMMENCING at the South quarter corner of said section 1; thence N0°05'11"W along the North-South midsection line of said Section 1, 33.00 feet to the POINT OF BEGINNING.

Thence S89°05'06"W along a line of 33.0 feet North of and parallel to the South line of the said Southwest quarter Section 1, 666.777 feet (record) 666.26 feet (calculated measured); thence N49°39'54"E, 834.73 feet (record), N49°56'20"E 834.72 feet (calculated measured); thence S40°20'06"E, 45.81 feet (record) 45.79 feet (calculated measured) to a point on the aforesaid North-South midsection line of said Section 1; thence S0°05'11"E along said North-South midsection line, 494.72 feet to the POINT OF BEGINNING.

PARCEL NO. 4:

The Northwest quarter of Section 12, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;



Chandler + Arizona
Where Values Make The Difference

APPLICANT:

**DAVID DOBROWSKI
WILL ARCHITECTS
4636 E. UNIVERSITY DR., 270
PHOENIX, AZ 85034**

**NOTICE OF
COUNCIL ACTION
CITY OF CHANDLER,
ARIZONA**

CASE: PDP06-0001 HEWSON CHANDLER AIRPORT CENTER

MEETING DATE: THURSDAY, JUNE 22, 2006

APPROVAL:	<input checked="" type="checkbox"/>	REZONING:	<input type="checkbox"/>
DENIAL:	<input type="checkbox"/>	VARIANCE:	<input type="checkbox"/>
WITHDRAWAL:	<input type="checkbox"/>	USE PERMIT:	<input type="checkbox"/>
CONTINUED:	<input type="checkbox"/>	SUBDIVISION:	<input type="checkbox"/>
PRELIMINARY DEVELOPMENT PLAN		<input checked="" type="checkbox"/>	PRELIMINARY PLAT
			<input type="checkbox"/>

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Completion of the construction of all required off-site improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Hewson Chandler Airport Center", kept on file in the City of Chandler Planning Services Division, in File No. PDP06-0001, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or an association.
4. All raceway signage shall be prohibited within the development.