

FEB 23 2012

required items he referred to are part of an administrative review process that is outside of their purview, and so the Commission voted to approve per Staff recommendation.

RECOMMENDED ACTION

Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval of **Use Permit** in case ZUP11-0003 MID MOUNTAIN EXCAVATION subject to the following conditions:

1. Substantial conformance with application materials (Site Plan, Narrative) kept on file in the City of Chandler Planning Division, in File No. ZUP11-0003, except as modified by condition herein.
2. Site improvements required to comply with the Zoning Code's site development standards shall be completed within six (6) months of City Council approval.
3. No materials may be located outside of the storage yard. Existing materials piles outside the storage yard must be removed within one (1) week of City Council approval.
4. Landscaping planted in and adjacent to the storage yard shall be maintained at a level consistent with or better than at the time of planting.
5. The storage yard shall be relocated so that no part of it is closer to Germann Road than the existing office building. Also, no part of the yard may be moved closer to McQueen Road than currently exists.
6. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
7. In order for the Use Permit to be valid, a signed and completed Agreement For Waiver of Claim form under A.R.S. §12-1134 shall be provided to Transportation & Development Department's Planning Division Staff within three (3) weeks of City Council approval.

PROPOSED MOTION

Move to approve ZUP11-0003 MID MOUNTAIN EXCAVATION subject to the conditions recommended by Planning Commission and Staff.

Attachments

1. Vicinity Maps
2. Aerial Close-up/Site Plan
3. Narrative
4. Approved site plan (DVR08-0005 EXECUTIVE TOY STORAGE)



MEMORANDUM **Transportation & Development – CC Memo No. 11-082a**

DATE: FEBRUARY 7, 2012

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: BILL DERMODY, SENIOR CITY PLANNER *BD*

SUBJECT: ZUP11-0003 MID MOUNTAIN EXCAVATION

- Request: Use Permit approval to operate an excavation business
- Location: 930 E. Germann Road, west of the northwest corner of Germann and McQueen Roads
- Applicant: Mid Mountain Excavation
- Owner: Executive Property Dev, LLC
- Zoning: Planned Area Development (PAD)

This item was continued from the August 18, 2011 City Council meeting in order to allow the applicant to review the likely timeframe for a more permanent development to occur on the site and to work with Staff to explore other options for executing required site improvements should the Use Permit be approved. The likely timeframe for the site’s long-term development remains uncertain for the foreseeable future due to the economy and the property owner has no plans to develop in the short-term. The applicant’s plans for the short-term excavation business also remain unchanged – he plans to operate as-is for a couple years until the property owner decides to develop. Staff has re-examined the likely application of the Zoning Code’s site development standards to the business, but has found that further relief is not justifiable administratively. However, Staff notes that the numerous standards that were already anticipated to be relaxed or waived in August 2011 (e.g. sewer/water connections, landscaping amounts and sizes, screen

wall design, retention, curbing, etc.) are still anticipated to be relaxed if this Use Permit is approved now in 2012.

The contents of the memo below are unchanged from what was presented in August 2011, except to note that the 2008 PAD zoning for the property has been extended by City Council for an additional three (3) years.

RECOMMENDATION

Planning Commission and Staff, finding consistency with the General Plan and Airpark Area Plan, recommend approval of the request for one (1) year subject to conditions, including that the storage yard be relocated within the site.

BACKGROUND

The application requests Use Permit approval to allow an excavation business to be operated on land zoned PAD for a mixed-use project with fuel station, RV storage, and retail elements. The excavation business has reportedly been operated on a portion of the 9-acre site (in violation of the zoning) since 2004. West of the excavation business on the same site is a legal nonconforming auto repair business that includes a metal building and a paved parking lot. Besides the two businesses and a cell tower at the northern end, the rest of the site is vacant.

The General Plan refers to the Airpark Area Plan for detailing the goals, objectives, and policies that apply to the 9-square-mile area surrounding the Chandler Municipal Airport that includes the subject site. The Airpark Area Plan designates approximately the eastern $\frac{3}{4}$ of the subject parcel for Neighborhood Commercial uses and the western $\frac{1}{4}$ of the parcel for Light Industrial uses. The Neighborhood Commercial designation generally calls for uses like grocery stores, clustered retail, personal services, and restaurants on developments of 10 to 20 acres in size that attract patrons primarily from a 1- to 2-mile radius.

The site received PAD zoning and Preliminary Development Plan (PDP) approval in 2008 for a fuel station, RV storage, and retail project that was to take up the entire site (DVR08-0005 EXECUTIVE TOY STORAGE). The PAD zoning was extended in January 2012 for an additional three (3) years. The project has not been developed and is not anticipated to be developed in the next couple years. The subject business is currently located in an area that straddles the fuel station and RV storage areas, effectively precluding any part of the approved plans from being developed unless the subject business is removed or relocated elsewhere on the site.

The subject business is primarily a swimming pool excavation business, with ancillary contractor and municipal construction services. It uses an existing house on the property for its main office that is set back approximately 90' from the Germann Road ROW. Surrounding the office building is a 36,000 square foot vehicle and equipment storage yard enclosed by a chain-link fence that is set back 35' from the Germann Road ROW. Vehicles and equipment stored in the yard include dump trucks, backhoes, smaller trailers, and employee vehicles. The yard surface is unimproved. An unimproved driveway connects the gate on the eastern portion of the fencing to the existing Germann Road curb cut. Hours of operation will vary seasonally within the window

of approximately 5 a.m. to 5 p.m. The applicant would like to continue operating the business in largely the same manner as it is currently. Staff recommends relocating the storage yard farther back on the site in order to lessen the aesthetic impact, and notes that a number of site development standards must be applied that will somewhat change the overall effect.

If the Use Permit is approved, the business will be subject to administrative review of conformance to site development standards. Due to the use's temporary nature, Staff does not anticipate that all such standards will be strictly applied. However, it is anticipated that the following improvements would be among those required:

- Pave drive aisles inside and outside of the storage yard
- Move fences at least 50' from planned right-of-way (the minimum setback)
- Replace chain-link fence with solid block fence and solid gates
- Install landscaping (trees and shrubs) along south and east sides of storage yard in the amounts and sizes required by the Zoning Code
- Remove piles of material located outside of the fenced area

DISCUSSION

Planning Commission and Staff find the requested use to be compatible as a temporary use if modified by condition. The primary negative effects of the use in its current form are its poor aesthetics and its moderate hindrance to a permanent development solution. The poor aesthetics will be mitigated by application of the above-noted site development standards, including solid walls and landscaping. Planning Commission and Staff also recommend partially relocating the storage yard so that no part of it is closer to Germann Road than the office building, thereby moving it somewhat farther from public view and reducing the aesthetic impact. It is noted that a construction-oriented excavation business will be somewhat easier to relocate than many other types of businesses when the time comes for permanent development. Planning Commission and Staff recommend a one (1) year time limit to allow evaluation of conformance with the recommended conditions.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was noticed in accordance with the requirements of the Chandler Zoning Code.
- A neighborhood meeting was held June 30, 2011 at the Chandler Municipal Airport. No neighbors attended.
- At the time of this writing, Staff is not aware of any opposition to the request.

PLANNING COMMISSION VOTE REPORT

Motion to approve:

In Favor: 6 Opposed: 0 Absent: 1 (Cunningham)

The applicant stated that the site development standards noted in the memo would be very expensive for him to implement. He asked the Commission for any assistance or suggestions in reducing the cost of these requirements. Staff advised that the only legal avenues for relief from City Code standards would be either a rezoning to PAD or a variance application to the Board of Adjustment, rather than relief through the Use Permit. Commission reiterated that these Code-

required items he referred to are part of an administrative review process that is outside of their purview, and so the Commission voted to approve per Staff recommendation.

RECOMMENDED ACTION

Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval of rezoning and PDP in case ZUP11-0003 MID MOUNTAIN EXCAVATION subject to the following conditions:

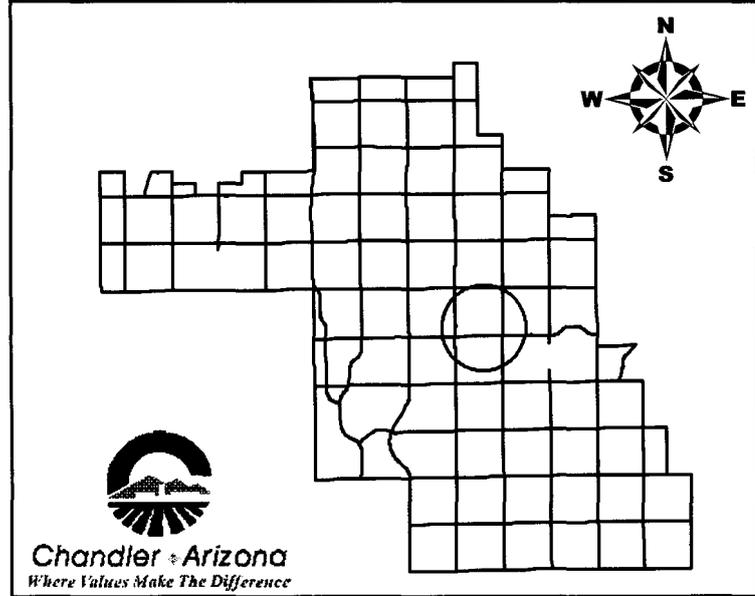
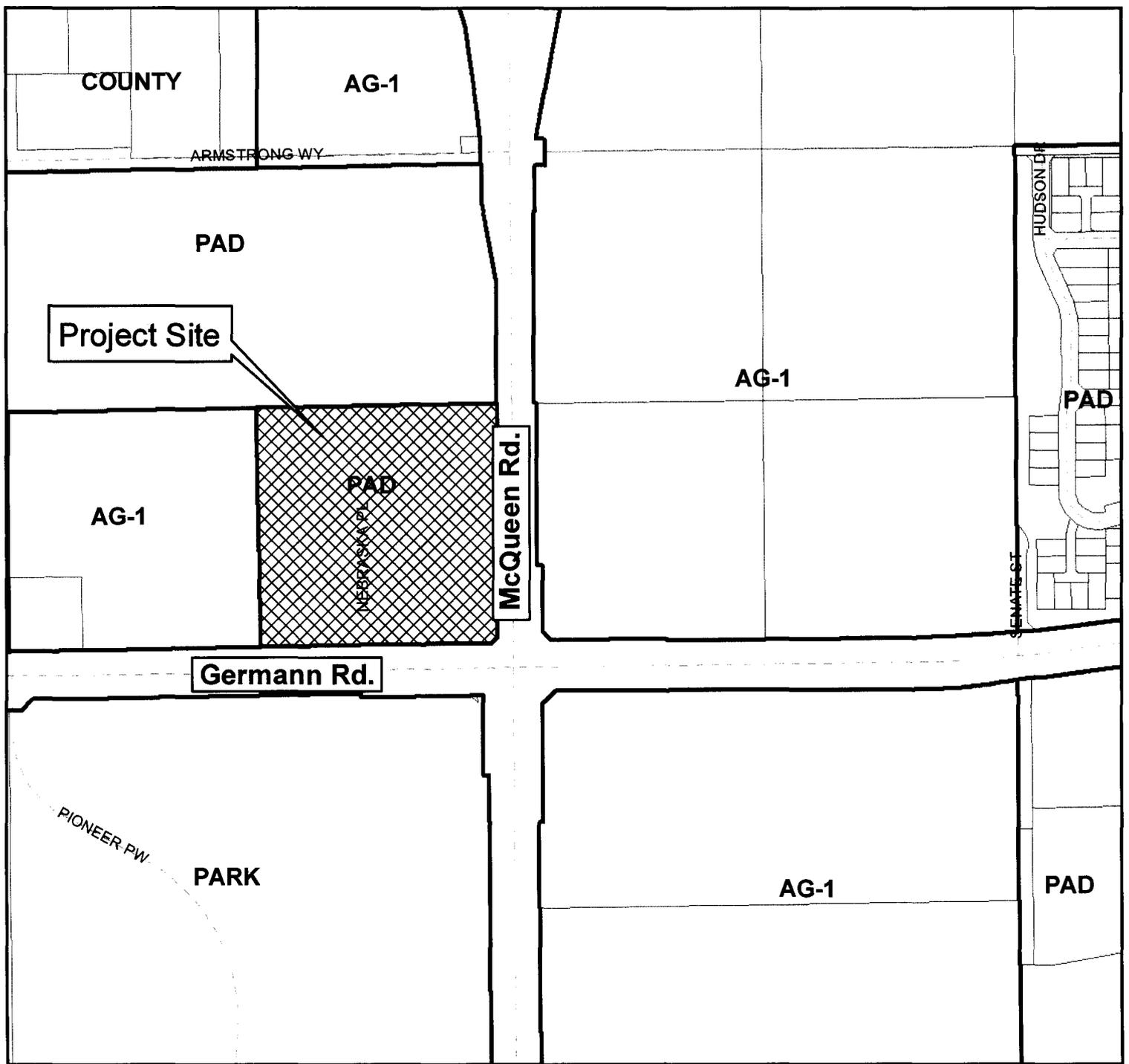
1. Substantial conformance with application materials (Site Plan, Narrative) kept on file in the City of Chandler Planning Division, in File No. ZUP11-0003, except as modified by condition herein.
2. Site improvements required to comply with the Zoning Code's site development standards shall be completed within six (6) months of City Council approval.
3. No materials may be located outside of the storage yard. Existing materials piles outside the storage yard must be removed within one (1) week of City Council approval.
4. Landscaping planted in and adjacent to the storage yard shall be maintained at a level consistent with or better than at the time of planting.
5. The storage yard shall be relocated so that no part of it is closer to Germann Road than the existing office building. Also, no part of the yard may be moved closer to McQueen Road than currently exists.
6. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
7. In order for the Use Permit to be valid, a signed and completed Agreement For Waiver of Claim form under A.R.S. §12-1134 shall be provided to Transportation & Development Department's Planning Division Staff within three (3) weeks of City Council approval.

PROPOSED MOTION

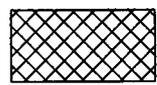
Move to approve ZUP11-0003 MID MOUNTAIN EXCAVATION subject to the conditions recommended by Planning Commission and Staff.

Attachments

1. Vicinity Maps
2. Aerial Close-up/Site Plan
3. Narrative
4. Approved site plan (DVR08-0005 EXECUTIVE TOY STORAGE)



Vicinity Map



ZUP11-0003

Mid Mountain Excavation



Vicinity Map



ZUP11-0003

Mid Mountain Excavation



The City of Chandler IT Division makes no warranties, written or implied, regarding the information on this map. This map is a user generated static output from the City of Chandler GIS Portal and is for general reference only. Data layers that appear on this map may not be accurate, current, or otherwise reliable.

Type your comments here...



Mid Mountain Excavation is a family owned and operated business incorporating in 1999. With 85% of it's annual sales generated by swimming pool excavation and 15% by services supplied to other contractors and municipalities such as the City of Chandler, hours of operation vary with the winter and summer seasons.

As a construction based business, with late spring and summer being our busiest, hours usually begin around 5:00 am or sunrise to beat the heat and make best use of daylight hours. We invoice and pay on a piece rate basis and will stay later to complete a job as necessary, making our hours later into the evening. However our goal is to begin hours of operation around 7:00 am – 5:00 pm in the winter and 5:00 am – 3:00 pm in the summer months. With the current cost of fuel, we strive to leave equipment on the jobsite whenever possible and limit the number of times our trucks and equipment must return to the yard. Often times we just move from one site directly to another.

Currently all equipment in the yard area is used in our excavation operation. We have no plans to sublet any portion of the premises at present time. The material dropped on the outside of the fence was for driveway maintenance and came from the Germann Road Repavement Project. We will immediately spread the material as planned or dispose of it.

If we might remind staff, we have been located at the same site since 2004 without any issues. We did have an overcrowding problem late in January, however, with personnel changes, we have brought the site up to prior standards and are planning to return to our quiet existence. We have never been an issue to neighbors, businesses and residential alike and would like to remain in the City of Chandler where have been located for years.

The property is currently in P.A.D. development process. And although we do not know how long it will take to complete this, however, we would like to occupy the property until then. We have an optimal business relationship with the property owner and he has asked us to stay until development starts. We feel this is the highest and best use of the property for all concerned. We are established long term residents, provide jobs, concentrate revenue for the down town area and prevent yet another building to sit vacant subject to vandalism and transient issues.

Ed Johnson
President

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

