



MEMORANDUM **Transportation & Development – CC Memo No. 12-106**

DATE: AUGUST 17, 2012

TO: MAYOR AND CITY COUNCIL

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

FROM: BILL DERMODY, SENIOR CITY PLANNER *BD*

SUBJECT: ZUP12-0014 VISTA STAR VACANT LOT

- Request: Use Permit approval to allow storage as a primary use
- Location: Vacant lot located west of (in the rear of) the duplex at 516 N. Washington Street, south and east of Galveston Street and Arizona Avenue
- Applicant/
Owner: James Barrett, Vista Star Properties
- Zoning: Medium-Density Residential District (MF-1)

RECOMMENDATION

Planning Commission and Staff, finding consistency with the General Plan, recommend approval of the request for five (5) years subject to conditions.

BACKGROUND

The application requests Use Permit approval to allow storage as the primary use on a 4,491 square foot vacant lot located behind the duplex at 516 N. Washington Street. Residential uses are located north, south, and east of the subject site. To the west, across an alley, are a variety of commercial and multi-family residential uses, including an apartment complex at 509 and 519 N. Arizona Avenue owned by the same entity as the subject site. The apartment complex and the subject site were sold together to the current owner in 1998.

The subject site was rezoned in September 1982 along with the front portion (516 N. Washington Street) from Single-Family District (SF-7) to MF-1 in order to allow for the duplex to be constructed. Some time prior to the end of December 1982, the lot was illegally subdivided into a front lot (the duplex) and a rear lot (the subject site). The resulting subdivision left the front half conforming to minimum lot size requirements, and the duplex was built upon the site in 1983. However, the subject site became too small to legally build anything on it without either rezoning the property or receiving a Use Permit.

The subject site has a long history of being used for nonconforming uses, but was only recently directed to the Use Permit process as a result of recent Code Enforcement targeted sweeps in this area. According to the applicant, the site was used for parking vehicles starting in the 1970s and became used exclusively for storage some time prior to the mid-1990s. Available aerial photos show parking on the site in 1979 and some degree of storage from 1996 to the present. The amount of storage on the site varies significantly from year to year.

The application requests permission to use the subject site for storage in a similar manner to the existing situation. The site currently has two small storage sheds, a larger shed, two trailers, and some residential construction materials (e.g. pipes, blocks, window screens). The three sheds are visible above the property walls. All materials are currently visible from the alley, which has a chain-link fence and some wood fencing. The applicant has committed to constructing a block wall and solid gate along the alley if this Use Permit is approved.

DISCUSSION

Planning Commission and Staff find the requested use to be compatible with the surrounding uses if maintained in a residential-like condition. If the subject site were a residential back yard, it would be allowed most of the storage already occurring on the site, except only that one of the small storage sheds would have to be removed and that the large shed would need to receive a building permit. The illegally subdivided lot presents the complicating issue of having separate ownership for the duplex versus the yard, which eliminates a key incentive to maintain the yard (i.e. the residents have to look at it). However, it is still plausible that the subject site could be used for storage in a manner typical of any residential back yard, without negative effect, if the recommended conditions are abided by.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was noticed in accordance with the requirements of the Chandler Zoning Code.
- A neighborhood meeting was held July 26, 2012 at the Downtown Community Center. The owners of the adjacent duplex (516 N. Washington Street) attended to inquire about the proposal. The neighbors had some problems with the site's maintenance a few years ago, though not recently. The neighbors requested that a solid fence be placed along the alley and that the site be kept clean. The applicant has committed to a solid fence with a solid gate along the alley if the Use Permit is approved.

A neighboring property owner contacted staff to express support for the request if a block wall and solid gate are installed along the alley (as proposed by the applicant). The neighbor wants to avoid theft of any goods stored on the property.

- 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: 5 Opposed: 0 Absent: 2 (Donaldson, Rivers)

RECOMMENDED ACTION

Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval of ZUP12-0014 VISTA STAR VACANT LOT subject to the following conditions:

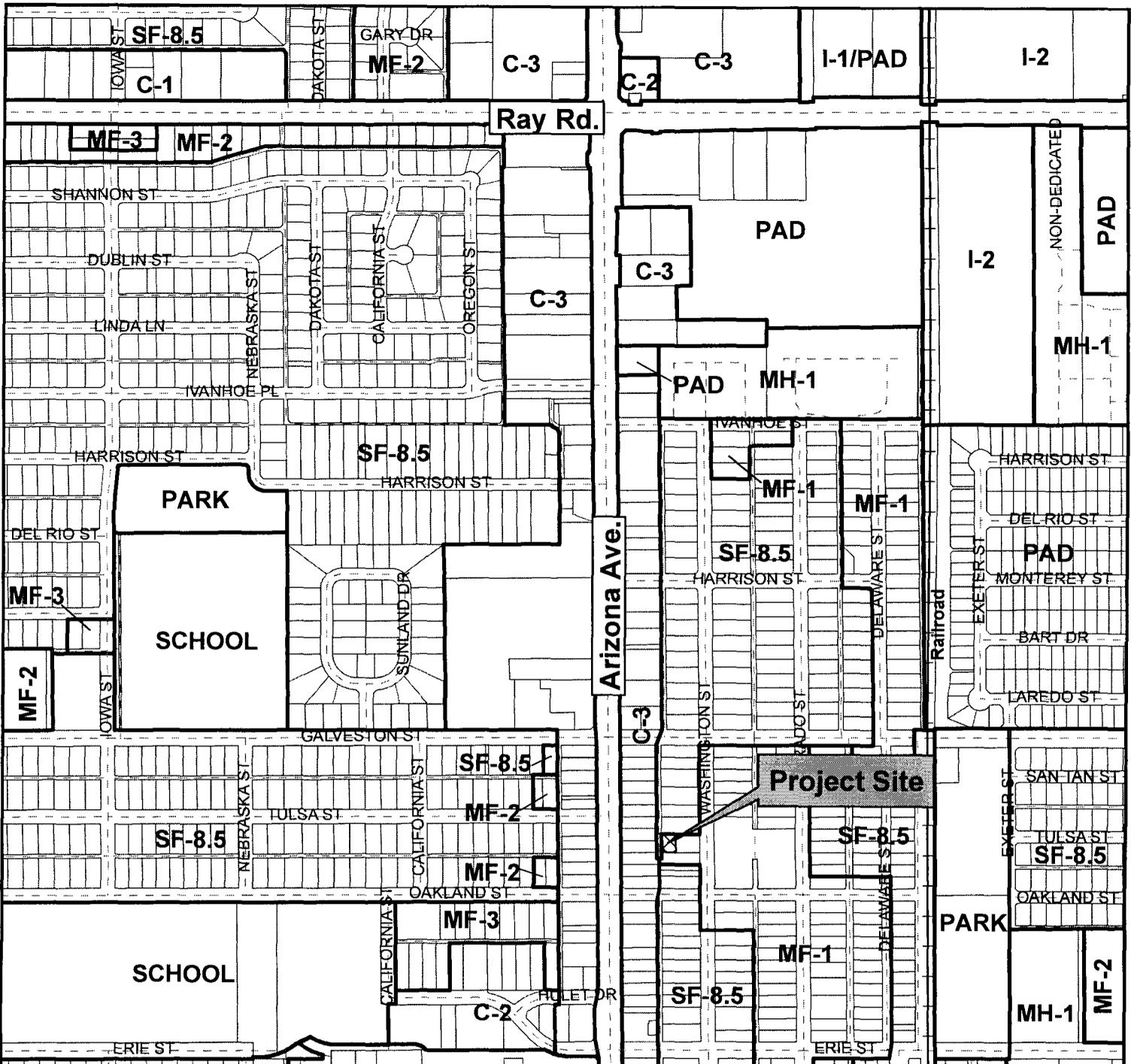
1. Expansion or modification beyond the approved exhibits and representations shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. One of the smaller storage sheds shall be removed.
4. All necessary building permits shall be obtained within six (6) months of City Council approval.
5. The site shall be maintained free of weeds or nuisance-inducing materials.
6. Storage materials shall not exceed the height of the property walls.
7. A 6'-high block fence and slatted-fence gate shall be installed along the property line adjacent to the alley within six (6) months of City Council approval.

PROPOSED MOTION

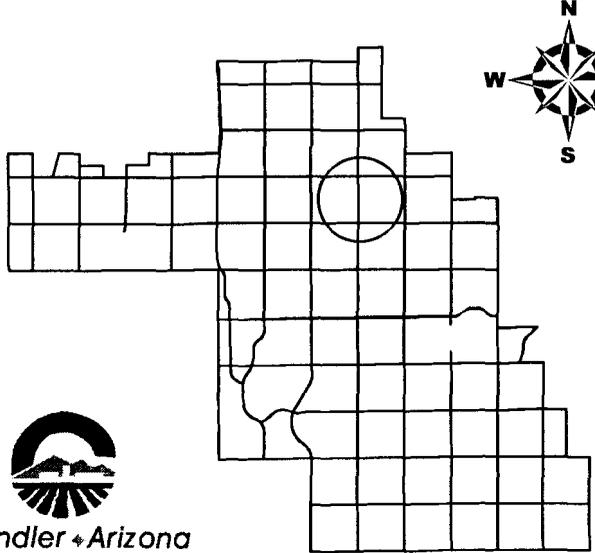
Move to approve ZUP12-0014 VISTA STAR VACANT LOT subject to the conditions recommended by Planning Commission and Staff.

Attachments

1. Vicinity Maps
2. Site Plan
3. Narrative & Supplemental Letter
4. Site Photographs



Vicinity Map

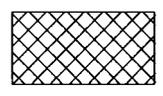
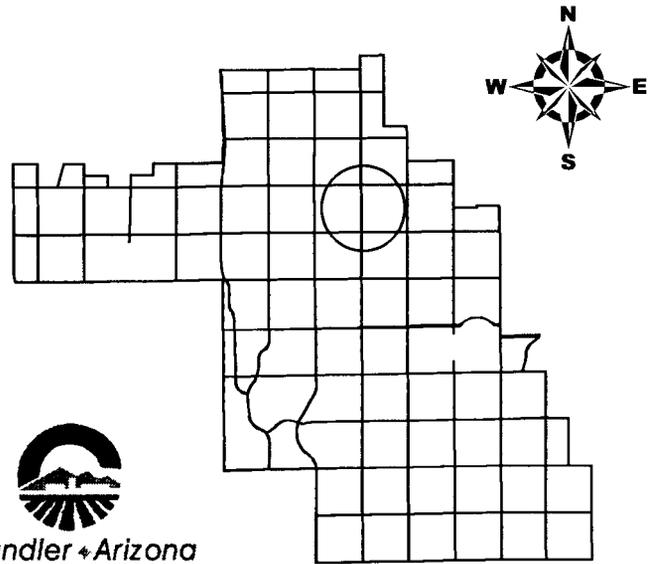


ZUP12-0014

Vista Star



Vicinity Map



ZUP12-0014

Vista Star

5-20-12 SCALE 1" = 8' 516 N. WASHINGTON AVE ST. (WEST LOT) ZONING MF-1



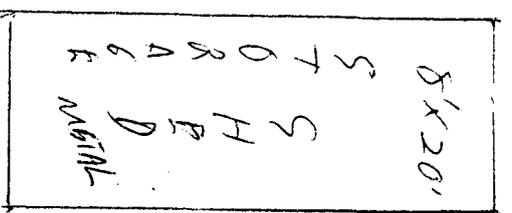
WOOD FENCE 6'
EXISTING

75' METERS
GATE

WOOD FENCE 6'

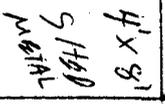
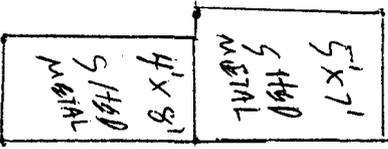
VARIOUS
STORAGE
OUTSIDE

TRAILER
STORAGE



EXISTING
STORAGE

S
L G M P O S E
F B E N C E
B R I S T L E
S T O C K
6'



60' (C)
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PROPOSE TO REPLACE EXISTING
CHAIN LINK FENCE WITH CONCRETE BLOCK
FENCE & POLYING PRIVACY CHAIN LINK GATE - 6' HIGH

EXISTING
CHAIN LINK FENCE 6'

38'

GATE
15'

22'

75'

NARRATIVE
519 N. WASHINGTON ST., CHANDLER, AZ 85225 (WEST SIDE)

Property is a vacant partial lot that may not be built on. It was used by the previous owner for storage for his restaurant business (formerly Sideburns Restaurant) located on the northeast corner of Arizona Avenue and Oakland Street. It is used by the present owner for storage. It has been in continuous use for storage for some 40 years. The continuing use of the property under a use permit is for storage.

The lot is 4,491 square feet. Lot dimensions are 60 feet by 75 feet. Lot contains two small storage sheds (4'x8') and (5'x7') and one large shed (8'x20'). None of the sheds are on foundations. Two utility trailers (5'x8') and (5'x14') are parked on the property.

There are no scheduled days or hours of operation. No one is employed on the property. Use is occasional (2 to 3 times a week on weekdays for short periods) and during daylight hours only. Two persons have access to the lot. Access to the lot is from the alley. There is no sound or noise created on the lot that might be heard off the lot. The lot use is consistent with use of the back yards/lots of other properties in the area. Properties across the alley are zoned commercial. There are no utilities serving the lot and none will be required.

The lot is bordered on the east side by a wood fence that belongs to the owner of the property on the east side. The east fence has two gates that open onto the lot for access by tenants to their electric meters. The lot is bordered on the north side by a block fence that belongs to the owner of the property on the north side. The lot is bordered on the south side by a slump block fence that belongs to the owner on the south side. The lot is bordered on the west (alley) side by a chain link fence with gate. We propose to replace the chain link fence with a block wall and rolling chain link gate with privacy slats so that contents of the lot are not visible from the alley.

TO WHOM IT MAY CONCERN:

On September 30, 1998, Robert C. Norton and Kay Ruth Norton, husband and wife, sold the apartments at 509-519 N. Arizona Avenue, including a vacant lot (West rear of 516 N. Washington Street) to James L. Barrett and Nancy J. Barrett, husband and wife. The lot is currently owned by the Barrett's Limited Liability Company.

At the time of the Barrett's purchase, Mr. Norton said that he had acquired the lot to use for storage and parking trucks. (We have been unable to determine the original date of the Norton's lot purchase.) The Nortons owned restaurants including the (then) Sideburns Restaurant at the southeast corner of Arizona Avenue. The Nortons also had other business interests including rental properties.

On December 21, 1982, the Nortons sold to the Chandler Improvement Company, Inc., an Arizona Corporation (see attached warranty deed copy), that part of the vacant lot which is now known as 516 N. Washington Street. As part the deed, the Nortons retained that part of the lot the Barretts purchased. Subsequently, in 1983, the Chandler Improvement Company constructed a duplex on the part of the lot it had purchased. The Nortons continued to use for storage their retained lot until selling the lot to the Barretts in 1998.

After acquiring the lot, James Barrett asked at the zoning department, what might be built on the lot. He was told that the lot was too small to build multifamily. Mr. Barrett asked about rezoning but was told that would not be possible either. Mr. Barrett told the planner that Mr. Norton acquired and had been using the lot for storage. Mr. Barrett said that, if that was all it was good for, he would have to use it for storage too. The planner said that was probably about all it could be used for. No mention was made of needing a use permit.

About 2005, the city improved Arizona Avenue in the area of the 509-519 N. Arizona Avenue apartments. As part of the improvement, on-street parking was removed. A fire hydrant was also moved from the northeast corner of Arizona Avenue and Oakland Street to a location that partially blocks a parking space for the apartments. Since the apartments have limited parking, Mr. Barrett again went to the planning department to inquire about building garages for the apartment tenants to improve the parking situation. (The tenants said they would not want to park their cars on an open lot off the alley because of possible thief.) Mr. Barrett was again told nothing could be built on the lot, except, however, if garages were built for the adjoining duplex at 516 N. Washington, then garages could be built.

It seems, that after well more than 30 years of the lot being used for storage (something that is like use for other properties on the block and in the downtown area, that it is reasonable for the city to grant a use permit for that purpose. The owner's will also construct a new fence along the alley to obstruct the view of passers by.

It would seem unreasonable for the city to not grant a use permit because that would render the lot totally unusable. Who would want to pay taxes, insurance and maintain the lot if it cannot ever be used for anything?

19830038970_1

Unofficial Document

STATE OF ARIZONA } ss. I hereby certify that the within instrum
County of Maricopa }
in DOCKET

at the request of COMMONWEALTH LAND TITLE CO.
When recorded, mail to
CHANDLER IMPROVEMENT COMPANY, INC.
500 West Ray Road
Chandler, Arizona 85224

Witness my ha

By

Deputy Recorder

Fee:

Escrow No. 11-507,564

Warranty Deed

For the consideration of Ten Dollars, and other valuable considerations, I or we,
ROBERT C. NORTON and KAY RUTH NORTON, husband and wife

do hereby convey to

CHANDLER IMPROVEMENT COMPANY, INC., an Arizona corporation

the following described property situated in Maricopa County, Arizona:

Lot Eighteen (18) and the South half of Lot Sixteen (16), Block One (1),
GREATER CHANDLER ADDITION, according to the plat of record in the office
of the Maricopa County Recorder, in Book 31 of Maps, Page 27.

EXCEPT all oil, gas, coal or other mineral rights of whatsoever nature
upon, in or under said land, as reserved in Book 441 of Deeds, Page 527.

EXCEPT the West 60 feet of Lot 18, and the West 60 feet of the South half
of Lot 16.

RESERVING unto the Grantor, their heirs, successors and assigns, an
Easement for ingress and egress, and utilities, over the North 15 feet
thereof.

FOR THE USE OF THE STATE AND ALL VESTED AND
ACQUIRED RIGHTS FOR IRRIGATION OR
OTHER PURPOSES, EXISTING THEREON.

Subject to Existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, rights of way and easements
of record.

And I or we do warrant the title against all persons whomsoever, subject to the matters above set forth.

Dated this 21st day of December 19 82

Robert C. Norton
ROBERT C. NORTON

Kay Ruth Norton
KAY RUTH NORTON

STATE OF ARIZONA }
County of Maricopa } ss.

This instrument was acknowledged before me this
11th day of January, 1983, by
Robert C. Norton & Kay Ruth Norton

My commission will expire Jan 3, 1984

James J. Calver
Notary Public

STATE OF _____ }
County of _____ } ss.

This instrument was acknowledged before me this

RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
FEB 1 - '83 - 2:00
BILL HENRY, COUNTY RECORDER
FEE 1.05 PCS

1981
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