

#3

APR 11 2013

**ORDINANCE NO. 4441**

AN ORDINANCE OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE ZONING CODE AND MAP ATTACHED THERETO, BY REZONING A PARCEL FROM AG-1 TO PAD (DVR12-0034 SAN VALENCIA) 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, subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "SAN VALENCIA", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0034, except as modified by condition herein.
2. 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.

3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. 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.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. 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.
7. 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.
8. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
9. 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 SAN VALENCIA development shall use treated effluent to maintain open space, common areas, and landscape tracts.

10. The development shall dedicate a 10-foot wide landscape easement along the Paseo Canal.
11. In the event the multi-family residential is platted to allow unit ownership, prior to the time of making any lot reservations or subsequent sales agreements, the subdivider/homebuilder/developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that this subdivision lies within the Chandler Municipal Airport Impact Overlay District, as specified in the Chandler Zoning Code. The disclosure statement shall acknowledge the proximity of this subdivision to the Chandler Airport and that an avigational easement exists and/or is required on the property, and further, shall acknowledge that the property is subject to aircraft noise and overflight activity and other externalities. This document signed by the homebuyer shall be recorded with Maricopa County Recorders Office upon sale of the property. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot/unit property deeds shall include a disclosure statement outlining that the site is adjacent to or nearby an existing municipal airport, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the subdivider/homebuilder/developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.
12. All structures on the property shall remain below the protective surfaces as defined in Federal Aviation Regulation Part 77 and/or in relation to limits established in FAA determined Terminal Procedures (TERPS). All construction cranes shall be installed and operated in accordance with FAA rules and regulations including notification through the filing of FAA Form 7460-1, Notice of Proposed Construction or Alteration.
13. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
14. The developer shall provide the City with an avigational easement over the subject property in accordance with Section 3004 of the City of Chandler Zoning Code.

15. All apartment buildings shall be designed and built to achieve an interior noise level not to exceed 45 decibels (Ldn) from aircraft noise. A professional acoustical consultant, architect or engineer shall certify that the project's construction plans are in conformance with this condition.
16. In the event the apartment development is platted to allow unit ownership, the following stipulations shall be the responsibilities of the sub-divider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler:
  - a) Prior to any lot reservation or purchase agreement, any and all prospective homebuyers shall be given a separate disclosure statement, for their signature, fully acknowledging that this subdivision lies within the Chandler Municipal Airport Impact Overlay District, as specified in the Chandler Zoning Code. The disclosure statement shall acknowledge the proximity of this subdivision to the Chandler Airport and that an avigational easement exists and/or is required on the property, and further, shall acknowledge that the property is subject to aircraft noise and overflight activity. This document signed by the homebuyer shall be recorded with Maricopa County Recorders Office upon sale of the property.
  - b) The subdivider/homebuilder/developer shall also display, in a conspicuous place within the sales office, a map illustrating the location of the subdivision within the Airport Impact Overlay District, as well as the noise contours and overflight patterns, as identified and depicted in the document entitled *Chandler Municipal Airport, F. A. R. Part 150, Noise Compatibility Study, Noise Compatibility Program, Exhibit 6A (Potential Airport Influence Area)*, as adopted by the Chandler City Council (Resolution No. 2950, 11-5-98). Such map shall be a minimum size of 24" x 36".
  - c) The above referenced information shall also be included within the Subdivision Public Report to be filed with the State of Arizona Department of Real Estate, as required by Arizona Revised Statute 28-8486 and Arizona Revised Statute 28-8464.
  - d) Compliance with this condition shall be demonstrated by the subdivider/homebuilder/developer by submittal of a signed affidavit and photograph that acknowledges this disclosure and map display prior to beginning any sales activity. Failure to comply with this condition will result in revocation of the Administrative Use Permit for the temporary sales office. All requirements as set forth in this condition are the obligation of the subdivider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler.

- e) The subdivider/homebuilder/developer shall provide the City with an avigational easement over the subject property in accordance with Section 3004 of the City of Chandler Zoning Code.
- f) All apartment buildings shall be designed and built to achieve an interior noise level not to exceed 45 decibels (Ldn) from aircraft noise. A professional acoustical consultant, architect or engineer shall certify that the project's construction plans are in conformance with this condition.
- g) The Final Plat shall contain the following statement on the cover sheet in a prominent location and in large text:

“This property is located within or adjacent to the Chandler Municipal Airport Impact Overlay District and is subject to aircraft noise and overflight activity, and is encumbered by an avigational easement to the City of Chandler.”

17. In lieu of dedications for rights-of-way and easements the exchange of rights-of-way and easements may be considered subject to the approval of future transaction ordinances for the elimination of Armstrong Way. Any property previously used for the Armstrong Way and converted to landscaping in accordance with exhibits shall be landscaped and maintained by the development.

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

SECTION III. The Transportation & 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 \_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

PASSED AND ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2013.

**CERTIFICATION**

I, HEREBY CERTIFY, that the above and foregoing Ordinance No. 4441 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY *gab*

PUBLISHED:

Attachment 'A'  
ord. no. 4441

LEGAL DESCRIPTION

PARCEL NO. 1:

THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, LYING WEST OF THE EXISTING RIGHT OF WAY OF THE CONSOLIDATED CANAL RECORDED IN BOOK 145 OF MAPS, PAGE 46, RECORDS OF MARICOPA COUNTY, ARIZONA AND SOUTH OF THE EXISTING RIGHT OF WAY OF THE SAN TAN FREEWAY, AS DESCRIBED IN ORDER FOR IMMEDIATE POSSESSION RECORDED IN DOCUMENT NO. 2003-0266650, RECORDS OF MARICOPA COUNTY, ARIZONA, IN SECTION 2, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

PARCEL NO. 2:

THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, LYING WEST OF THE EXISTING RIGHT OF WAY OF THE CONSOLIDATED CANAL RECORDED IN BOOK 145 OF MAPS, PAGE 46, RECORDS OF MARICOPA COUNTY, ARIZONA, IN SECTION 2, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE SOUTH 33 FEET THEREOF; AND

EXCEPT ANY PORTION CONVEYED TO THE CITY OF CHANDLER BY INSTRUMENT RECORDED IN DOCUMENT NO. 95-0761280, RECORDS OF MARICOPA COUNTY, ARIZONA.

