#4

MAY 8 2014

ORDINANCE NO. 4535

AN ORDINANCE OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE ZONING CODE AND MAP ATTACHED THERETO, BY REZONING A PARCEL FROM PAD (COMMERCIAL) TO PAD (MULTI-FAMILY RESIDENTIAL) IN CASE (DVR13-0047 MCCLINTOCK & CHANDLER LUXURY APARTMENTS) 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 PAD (Commercial) to PAD (Multi-Family Residential), subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "McClintock and Chandler Luxury Apartments", kept on file in the City of Chandler Planning Division, in File No. DVR13-0047, 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. The multi-family apartment manager shall display, in a conspicuous place within the rental office, a map illustrating the location of the MCCLINTOCK AND CHANDLER LUXURY APARTMENTS in the context of Stellar Airpark. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the property owner or multi-family apartment manager by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges such map is on display prior to beginning any rental activity.

9. Prior to execution of any lease, prospective apartment tenants shall be given written disclosure in their lease and in a separately signed disclosure statement acknowledging that this apartment community is located proximate to the Stellar Airpark, that an avigational easement exists on the property, and that the property is subject to aircraft noise and overflight activity. The requirement for such disclosures shall be confirmed in an Avigation Notice Covenant that runs with the land and is recorded with the Maricopa County Recorder prior to issuance of the first Building Permit for this development.

10. Prior to the execution of any lease, prospective apartment tenants shall be given a written disclosure statement acknowledging that the apartments are located adjacent to or nearby existing and future industrial uses that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Lease/Purchase Contracts", CC&R's, and individual rental contracts shall state such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the subdivider/apartment builder/developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

11. Presuming an ambient noise condition of 55-60 DNL, 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.

12. 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.

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 development shall not be subdivided to allow individual dwelling unit ownership.

15. All leases at the MCCLINTOCK AND CHANDLER LUXURY APARTMENTS shall provide: (i) that all questions, concerns, or complaints any tenant may have about Stellar Airpark or the operation of aircraft landing at, taking off from, or operating at or on Stellar Airpark shall be directed solely to the property manager of the MCCLINTOCK AND CHANDLER LUXURY APARTMENTS and not to Stellar Airpark, the City of Chandler, the FAA, any aircraft owner, or any pilot; and (ii) that the property manager of the MCCLINTOCK AND CHANDLER LUXURY APARTMENTS shall determine, in its sole discretion, how to address any such complaint, if at all.

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 of the City of Chandler, Maricopa County, Arizona, this _____ day of _____, 2014.

ATTEST:

_____ _____
CITY CLERK MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this _____ day of _____, 2014.

ATTEST:

_____ _____
CITY CLERK MAYOR

CERTIFICATION

I, HEREBY CERTIFY, that the above and foregoing Ordinance No. 4535 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2014, and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY GAB

PUBLISHED:

EXHIBIT "A"
LEGAL DESCRIPTION

DESCRIPTION

The Southwest quarter of Section 25, Township 1 South, Range 4 East, Gila and Salt River Meridian, Maricopa County, Arizona, being more particularly described as follows:
COMMENCING at the Southwest Corner of said Section 25;
THENCE South 90 degrees 00 minutes 00 seconds East, along the South line of said southwest quarter, a distance of 558.23 feet;
THENCE North 00 degrees 00 minutes 00 seconds West, 65.00 feet to a point on the South right-of-way line of Chandler Boulevard, and the POINT OF BEGINNING;
THENCE North 00 degrees 00 minutes 23 seconds East, 55.05 feet;
THENCE North 19 degrees 58 minutes 10 seconds West, 84.94 feet;
THENCE North 89 degrees 59 minutes 37 seconds West, 24.64 feet;
THENCE North 00 degrees 00 minutes 23 seconds East, 205.83 feet;
THENCE North 89 degrees 57 minutes 58 seconds West, 436.49 feet to a point on the East right-of-way line of McClintock Boulevard;
THENCE North 01 degrees 51 minutes 09 seconds East, along said East right-of-way line, 664.42 feet;
THENCE North 46 degrees 06 minutes 18 seconds East, 21.49 feet;
THENCE South 89 degrees 38 minutes 23 seconds East, 307.77 feet;
THENCE South 01 degrees 51 minutes 00 seconds West, 320.00 feet;
THENCE South 89 degrees 38 minutes 23 seconds East, 270.33 feet;
THENCE South 44 degrees 04 minutes 30 seconds East, 278.61 feet;
THENCE South 01 degrees 51 minutes 00 seconds West, 496.57 feet to the aforementioned North right-of-way line of Chandler Boulevard;
THENCE along said North right-of-way line the following courses and distances;
North 90 degrees 00 minutes 00 seconds West, 187.92 feet;
THENCE North 01 degrees 51 minutes 25 seconds East, 6.99 feet;
THENCE North 90 degrees 00 minutes 00 seconds West, 80.00 feet;
THENCE South 01 degrees 51 minutes 25 seconds West, 6.99 feet;
THENCE North 90 degrees 00 minutes 00 seconds West, 24.46 feet;
to the POINT OF BEGINNING.