F.

MAR 07 2012

Chandler

All-America City

2010

Chandler · Arizona
Where Values Make The Difference

MEMORANDUM **Transportation & Development – PZ Memo No. 12-016**

DATE: FEBRUARY 28, 2012

TO: PLANNING AND ZONING COMMISSION

THRU: R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
JEFF KURTZ, PLANNING ADMINISTRATOR
KEVIN MAYO, PLANNING MANAGER KM

FROM: BILL DERMODY, SENIOR CITY PLANNER BD

SUBJECT: ZUP12-0002 CIRCLE K STORE

Request: Use Permit approval to allow a new fuel station and convenience store to operate as a "late hour business"

Location: Southwest corner of Elliot Road and Arizona Avenue

Applicant: Circle K Stores, Inc.

Owner: Arizona Elliot Holdings, LLC

Zoning: Planned Area Development (PAD)

RECOMMENDATION

Staff, finding consistency with the General Plan and the Late Hour Business Compatibility Policy (Late Hour Policy), recommends approval.

BACKGROUND

The request is for Use Permit approval to allow a planned fuel station and convenience store to remain open 24 hours per day. The currently vacant site is located at the southwest corner of Elliot Road and Arizona Avenue. In January 2012, the site received zoning approval and Preliminary Development Plan (PDP) approval for a 6.6-acre multi-use development, including the fuel station and convenience store, a car wash, a self-storage complex, and two fast-food pads. The car wash, fuel station, and convenience store are anticipated to be developed in 2012 as Phase I. Only the fuel station and convenience store are requested to be open 24 hours.

To the west are townhomes, to the southwest is an apartment complex, and to the south along Arizona Avenue is a truck rental facility. The intersection's other corners are either existing commercial (northwest corner) or planned commercial uses (northeast and southeast corners).

The Late Hour Policy is applicable because the apartments south of the site are within 300 feet of the planned fuel station and convenience store.

The fuel station and associated 4,450 square foot convenience store are located in the site's northeast portion, closest to the intersection of Elliot Road and Arizona Avenue. The closest wall of the convenience store is approximately 250' from the apartments parcel to the southwest and 360' from the townhomes parcel to the west. A dissimilar land use landscape buffer, including minimum 12'-high trees planted every 20' on-center, will be planted along the site's west and south property lines as part of Phase I.

The Late Hour Policy sets out several compatibility considerations for evaluating the land use compatibility of applicable late hour uses. The compatibility considerations include noise, traffic, light, odor, litter, site maintenance, and security issues. The compatibility considerations are not intended to be a checklist or punch-card, but rather are guidelines to help answer the overarching question of whether the use is compatible. Please see the attached narrative to review the applicant's discussion of these Late Hour Policy considerations.

DISCUSSION

Staff finds the requested late hour uses to be appropriate at this arterial intersection location. Noise and traffic from the uses are of little negative consequence with the adjacent arterial streets presenting more of both and with no vehicular access from the commercial site to the residential areas. The convenience store does not employ loudspeakers mounted on the store to communicate with fuel station customers; rather, there are only small speakers adjacent to the pumps. Lighting will not negatively affect the neighbors due to the considerable separation distance and the code requirements for shielding. Odor is not likely to be an issue at this distance from residential uses. Litter and site maintenance will not be problematic if management fulfills their code obligations, though a recommended condition also emphasizes that the site will be maintained in a clean and orderly manner. The store is designed to minimize security concerns sometimes associated with convenience stores, including the provision of 14 security cameras and the lack of places to loiter (tables, phones, etc.) adjacent to the store. Additionally, Staff notes that the residential properties are separated by a 6'-high wall with no breaks or obvious hiding spots that could encourage pedestrian or criminal spillover near the residences.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was noticed in accordance with the requirements of the Chandler Zoning Code.
- A neighborhood meeting was held February 27, 2012 at the Downtown Community Center. No neighbors attended.
- One neighbor called primarily in opposition to the associated request for alcohol sales. The neighbor also has concerns about the store being open late hours and potentially generating crime or other negative effects, especially if sells alcohol.

RECOMMENDED ACTION

Staff, upon finding consistency with the General Plan, recommends approval of ZUP12-0002 CIRCLE K STORE subject to the following conditions:

1. Expansion beyond the approved Narrative shall void the Use Permit and require new Use Permit application and approval.

2. The site shall be maintained in a clean and orderly manner.

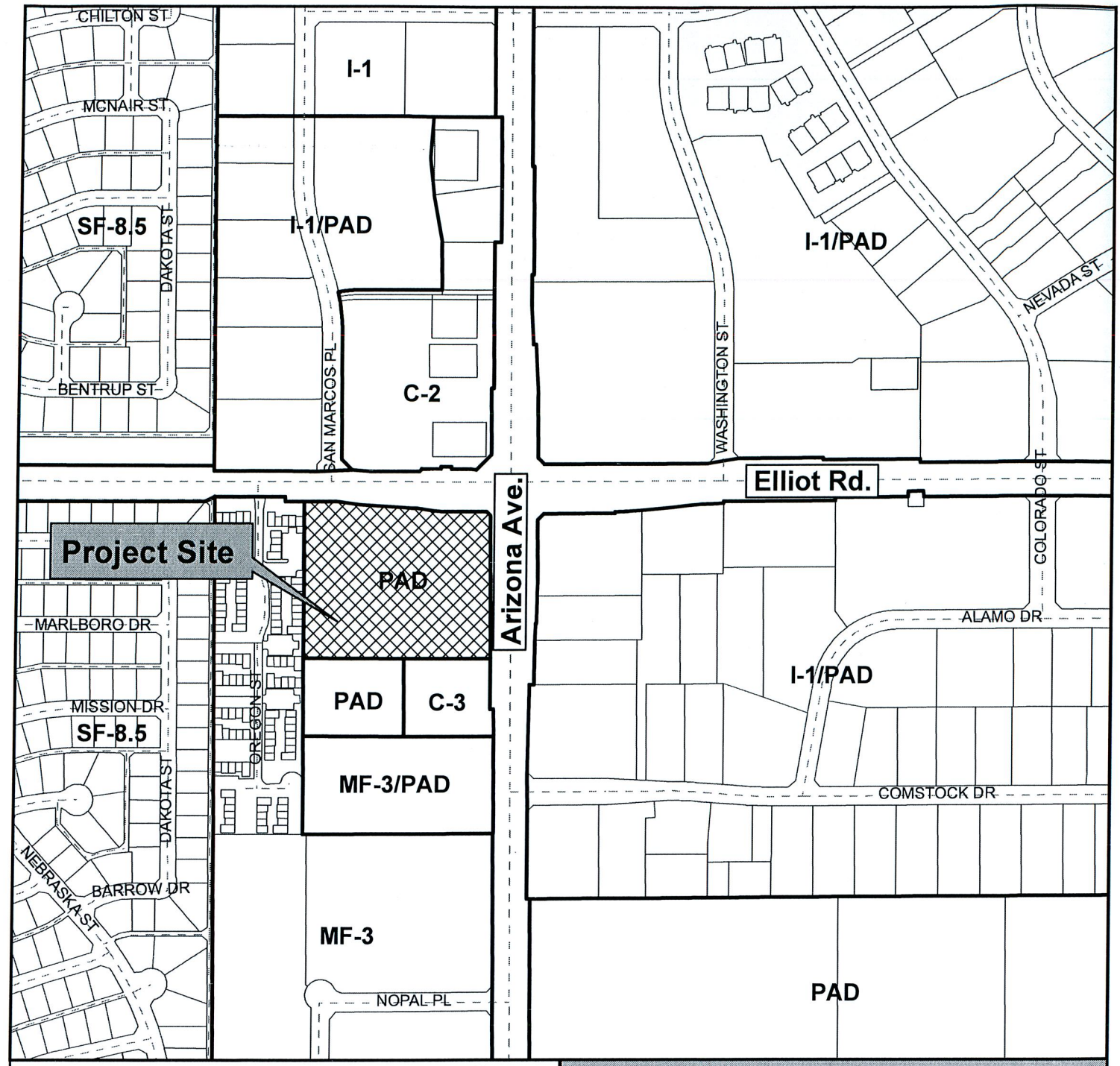
3. Site maintenance activities such as trash pickup, parking lot sweeping, and landscape maintenance shall not occur between the hours of 12 a.m. and 6 a.m.

PROPOSED MOTION

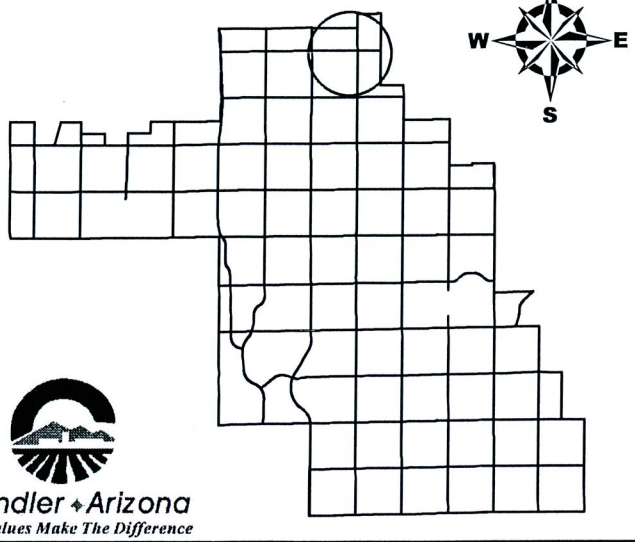
Move to recommend approval of ZUP12-0002 CIRCLE K STORE Use Permit for late hour uses subject to the conditions recommended by Staff.

Attachments

1. Vicinity Maps
2. Narrative
3. Site Plan
4. Landscape Plan
5. Late Hour Business Compatibility Policy



Vicinity Map

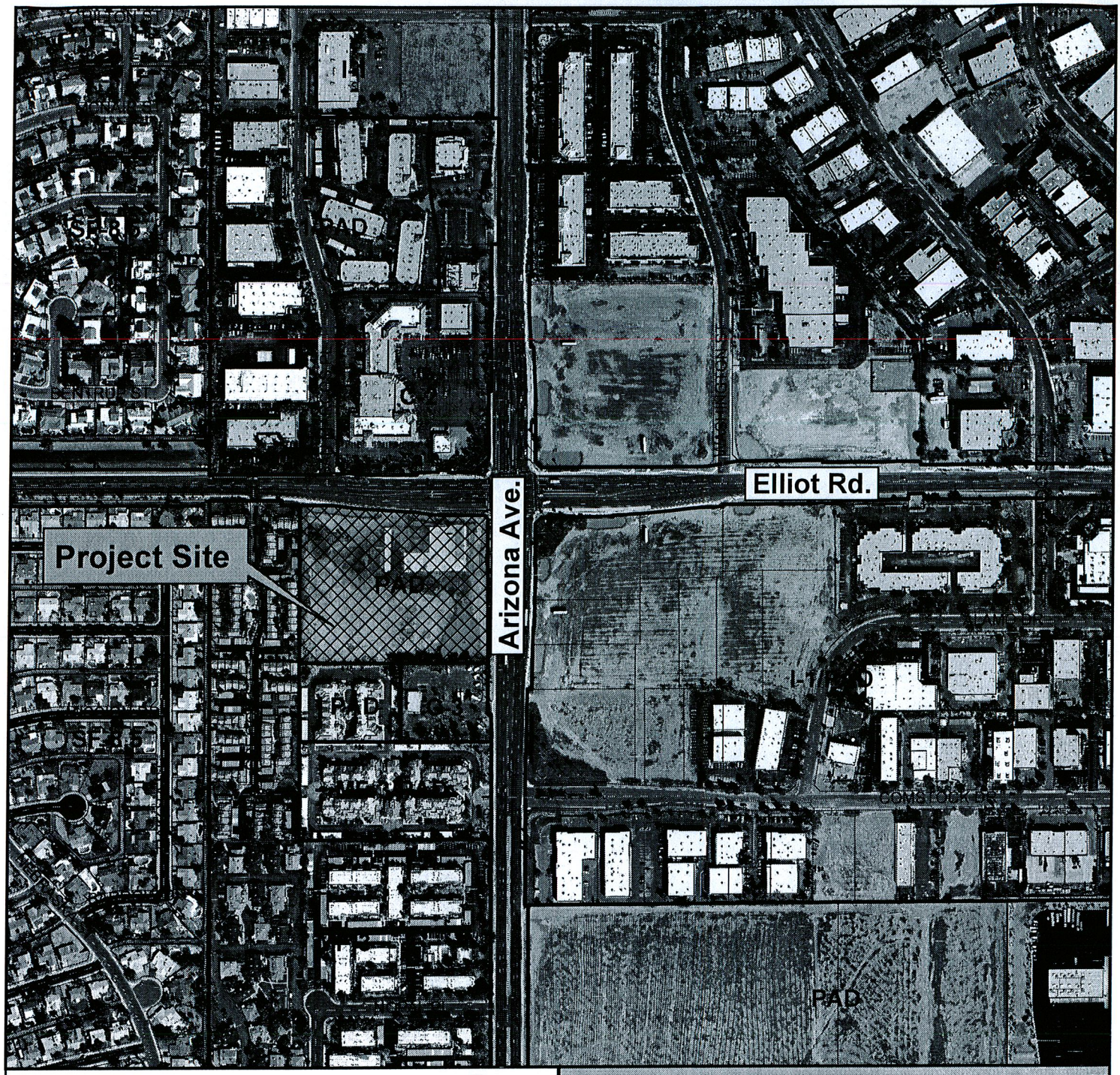


LUP12-0004

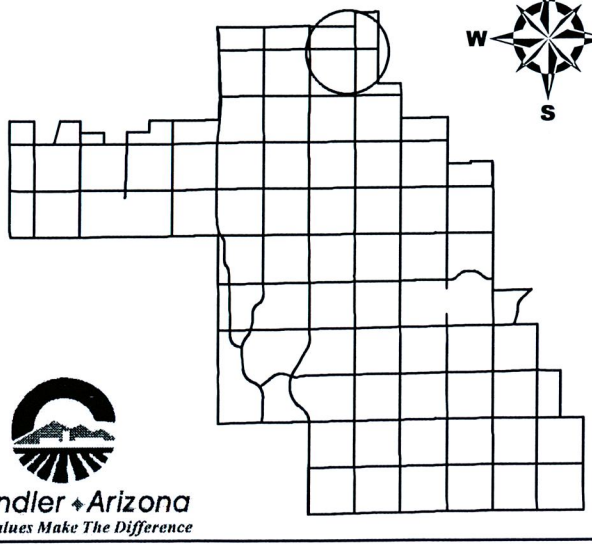
Circle K Store
SWC Arizona & Elliot

Chandler • Arizona
Where Values Make The Difference

CITY OF CHANDLER 1/25/2012



Vicinity Map



LUP12-0004

Circle K Store
SWC Arizona & Elliot

Chandler • Arizona
Where Values Make The Difference

CITY OF CHANDLER 1/25/2012

USE PERMIT NARRATIVE

Proposed Circle K Store
SWC Arizona Avenue & Elliot Road
Chandler, Arizona

Request: A Use Permit for a Late Hour Business for a new retail convenience grocery store with automotive fuel sales.

Narrative: Circle K Stores, Inc. is acquiring a portion of a 6.62 net acre tract at the southwest corner of Arizona Avenue and Elliot Road, Chandler, Arizona. The proposed Circle K store will be located upon an approximately 75,204 square foot parcel at the immediate intersection. The retail convenience store development will include an approximately 4,450 square foot convenience store building. a fuel canopy featuring 10 MPD's and associated parking for the facility. The Site Plan for the proposed retail convenience grocery store facility is attached to this application.

The larger parcel containing the convenience store parcel was recently approved for rezoning to PAD with a preliminary development plan as Case #DVR11-0017 Arizona –Elliot Commerce Center. The site plan for this Circle K Store has been developed in accordance with the approved preliminary PDP and all zoning conditions. The larger commercial development is intended to be developed as a neighborhood commercial retail center designed to provide goods and services to the community. While the retail center will have common access ways and a comprehensive architectural design, it is intended that each parcel within the larger tract be developed by separate end-users.

The proposed Circle K building, which is intended to operate 24-hours per day, is located approximately 230 feet north of property which is currently zoned and occupied for multi-family residential uses. As such, the Chandler Late Hour Business Compatibility Policy is applicable to this proposed retail project. This Use Permit request is filed in compliance with this Policy and in satisfaction of the zoning conditions stipulated for Case # DVR 11-0017 as Ordinance No. 4335.

In an effort to mitigate the effects of a late hour retail business upon the multi-family residential use to the south, the project has been designed to specifically address the following matters:

1. Noise: The convenience store has been designed facing Arizona Avenue so as to mitigate the adverse effects of noise from its customers by orientating the retail operations away from the residential zoning. Further, communication from the store clerks to customers at the gasoline dispensers is done through the use of small speakers which are located within the face of the gasoline dispenser to provide limited noise dispersion across the parking lot. Additionally, ample landscaping has been provided along the west and south portions of the convenience store building, as well as along the west and south side of the adjoining car wash (both of which shall be constructed as Phase 1 of this project) to provide noise and light screening to the residential use to the south. As a further barrier to any noise and light from the late

hour retail operations, the zoning conditions under Case # DVR 11-0017 stipulate that the "dissimilar land use buffer landscaping adjacent to the residential properties" be installed at part of Phase 1 of this project. This further landscape buffer is located immediately north of the residentially zoned property and will provide a double row of large trees between the residential and retail uses.

2. Traffic Control: The site plan for the convenience store provides access to the facility from the major arterial roads of Arizona Avenue and Elliot Road. Additionally, pedestrian access from the public rights-of-way has been provided for in the design of the facility. Based upon the design of the facility there will be no vehicular or pedestrian interconnectivity to the residential property to the south.

3. Lighting: All lighting on the convenience store property is located and designed to avoid light spillage onto the residential property to the south. All lighting provided under the gasoline canopy is fully recessed and directed downward at the customer service areas under the canopy. Area lighting is provided at an allowable level to ensure safe and secure paths of travel for the customers as well as the overall security at the facility.

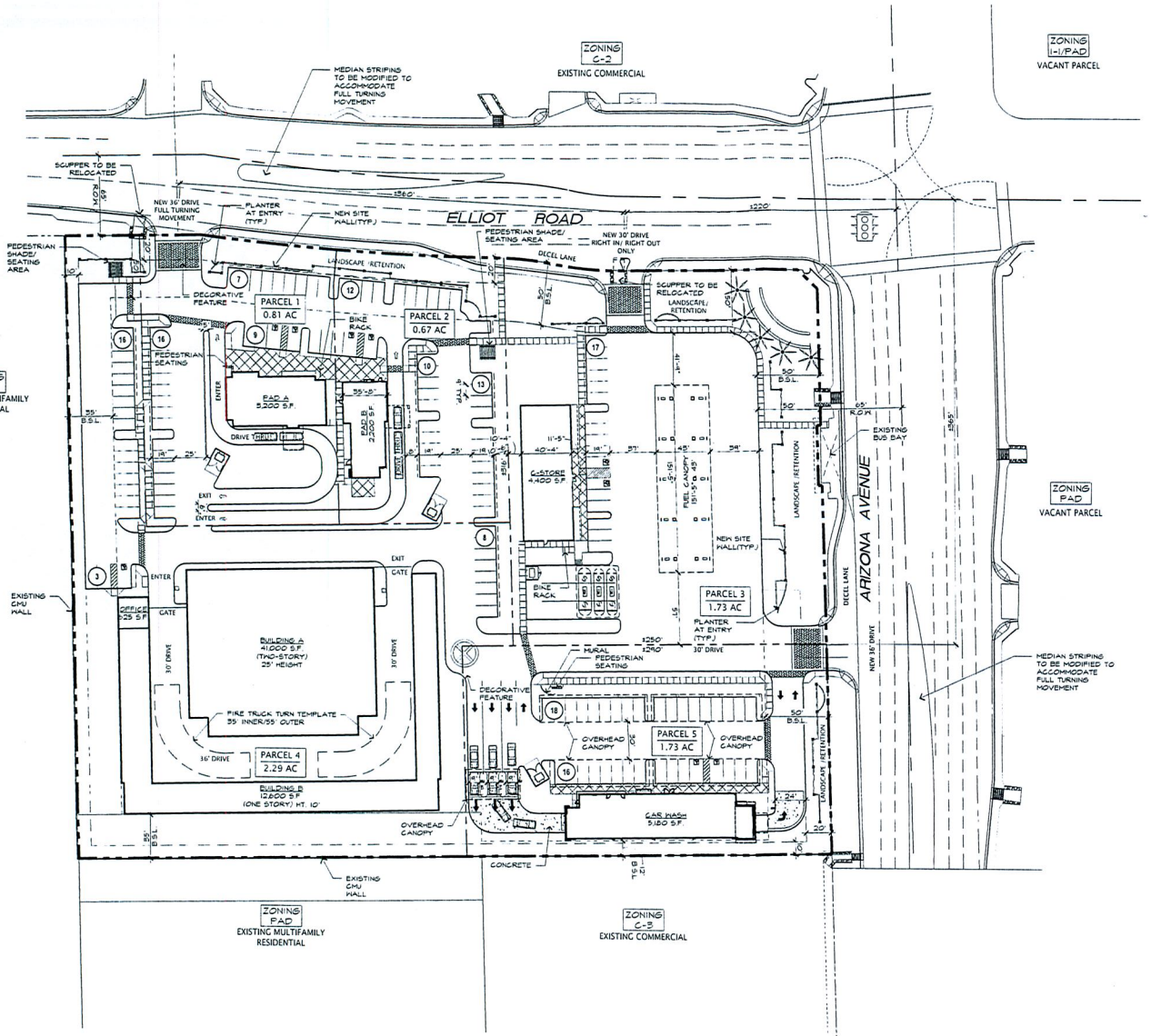
4. Odor & Trash: While the proposed convenience store offers a wide variety of food products to its customers, odors are not emitted as there is limited preparation of food products at the facility. All large trash receptacles are located within a masonry trash enclosure on the south side of the convenience store building. This enclosure provides aesthetic value to the facility by fully screening the large trash receptacles from the public view.

5. Site Maintenance: The employees at the facility periodically walk the property during various times of the day to empty the smaller trash receptacles used by the customers and gather litter that may be present on the property from the routine traffic of customers. Additionally, Circle K operates its own group of facility maintenance technicians which are tasked with basic site maintenance on the various mechanical equipment, lights and structures.

6. Site Security: These new Circle K stores have been designed with a high attention to detail for the safety and security of the customers and employees. The facility features up to 14 security cameras placed within and on the exterior of the building. All security cameras are digital and are connected to a central monitoring center within the store, as well as to Circle K's risk management center at its corporate office, which is manned 24 hours per day. The internal and external cameras are positioned to view all critical areas of the facility to prevent, monitor and deter unwanted activities. Additionally, the interior design of the store features open merchandise isles and an elevated central check-stand so the employees can easily monitor customer activities within the store and across the parking lot area. Properties are generally posted for no loitering and no trespass and Circle K works closely with local police departments to enforce these policies.

Based upon the above noted site design features, extensive landscape palette, shielded lighting and well-designed security systems, the proposed late hour business will not have a detrimental impact upon the residentially zoned property located to the south. The late hour retail operations are largely separated from the residential zoning by an extensive landscape palette of the facility itself, the adjoining car wash, and the dense vegetation to be installed along the south boundary line of the larger parcel, as required by the zoning conditions. Additionally, the Phase II portion of the larger retail center features a large self-storage facility located between the convenience store and the residential zoning, which will further buffer the residentially zoned property from any late hour retail operations at the facility.

Based upon all the above, the approval of a Use Permit for a Late Hour Business is appropriate for this facility.



PRELIMINARY SITE PLAN

SCALE: 1" = 40'-0"

0 40' 80' 120'

NORTH

THIS SITE PLAN HAS BEEN PREPARED WITHOUT THE AID OF A SURVEY. ALL PROPERTY BOUNDARIES AND RIGHT OF WAY INFORMATION HAS BEEN OBTAINED FROM CONCEPTUAL PURPOSES ONLY, AND IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES ONLY, AND IT IS NOT TO BE THE BASIS FOR ANY LEGAL(S) BINDING DOCUMENTATION

project directory

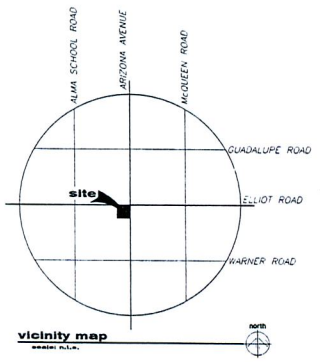
DEVELOPER:
MD PARTNERS, LLC
11811 N. TATUM BOULEVARD SUITE 1051
PHOENIX, ARIZONA 85028
CONTACT: DAVID CISIEWSKI OR MICHAEL SCARBROUGH
E-MAIL: Dave@MDPartnersaz.com Mike@MDPartnersaz.com

ARCHITECT:
ROBERT KUBICEK ARCHITECTS & ASSOCIATES
2255 EAST THOMAS ROAD
PHOENIX, ARIZONA 85016
CONTACT: HARVEY UNTI
PHONE: (602) 955-3900
FAX: (602) 955-0496
E-MAIL: hunti@rkaa.com

site data

EXISTING ZONING:	AG-1
PROPOSED:	PAD
GROSS SITE AREA:	8.27 ACRES
NET SITE AREA:	6.62 ACRES
PROPOSED USE:	RETAIL / RESTAURANT / GAS SERVICE
BUILDING AREA:	
PAD A:	5,200 S.F.
PAD B:	2,200 S.F.
C-STORE WITH CANOPY:	10,900 S.F.
CAR WASH:	5,180 S.F.
STORAGE:	53,600 S.F.
TOTAL BUILDING AREA:	75,080 S.F.
SITE COVERAGE:	18.9 %

TOTAL PARKING REQUIRED:		112 SPACES
PAD A		
RESTAURANT (5,200 S.F.) P.S.A. (1,920 S.F.)/50		39 SPACES
PAD B		
RESTAURANT (2,200 S.F.) P.S.A. (1,480 S.F.)/50		29 SPACES
C-STORE		
RETAIL (4,400 S.F.)/250		18 SPACES
CAR WASH		
(5,180 S.F.)/250		21 SPACES
STORAGE		
STORAGE (53,600 S.F.) -	PER STAFF	5 SPACES
TOTAL PARKING PROVIDED:		144 SPACES
ACCESSIBLE SPACES REQUIRED:		4 SPACES
ACCESSIBLE SPACES PROVIDED:		9 SPACES



vicinity map
scale: n.t.s.

ROBERT KUBICEK ARCHITECTS & ASSOCIATES, Inc.
Architects And Associates, Inc.
2233 East Thomas Road
Phoenix, AZ 85016-3474
(602) 955-3900 Phone
(602) 955-0496 Fax
www.rkaa.com

PRELIMINARY

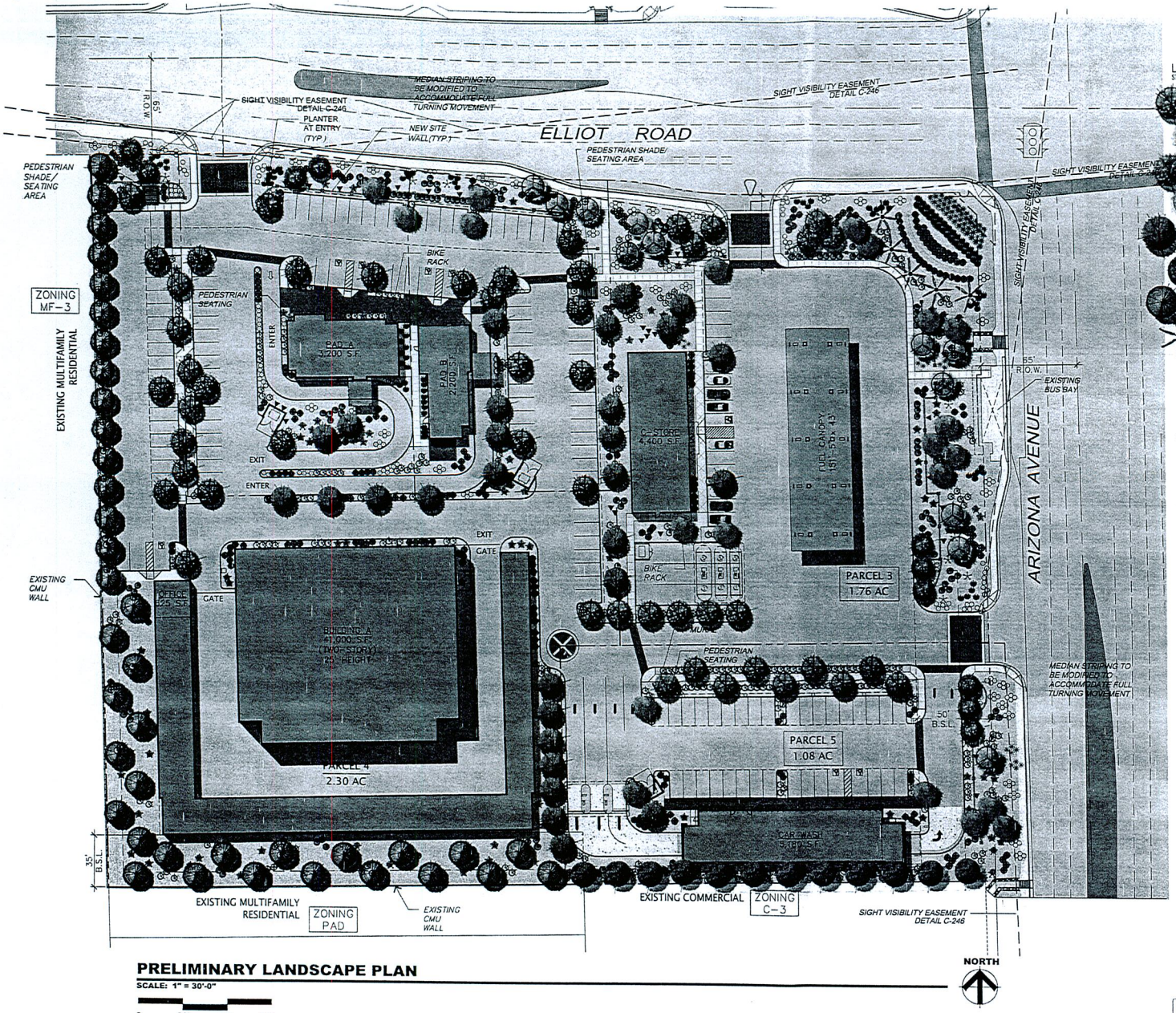
date: 01-23-12

NEW COMMERCIAL DEVELOPMENT

SWC ARIZONA AVENUE AND ELLIOT ROAD
CHANDLER, ARIZONA

design HGU
drawn EF
check HGU

sheet SP-1
of
job 10180



PRELIMINARY LANDSCAPE PLAN

SCALE: 1" = 30'-0"

0 30' 60' 90'

LANDSCAPE LEGEND

STREET FRONTAGE TREES: 25% 48" box; 25% 36" box; 50% 24" box. (Palms are 48" box equiv.)

	CALIPER	HEIGHT	WIDTH	QUANTITY
CERCIDIUM DESERT MUSEUM DESERT MUSEUM PALO VERDE 24" BOX	1.50	7.5	4.0	48
ACACIA STENOPHYLLA SHOESTRING ACACIA 36" BOX	3.00	9.0	7.0	12
CERCIDIUM DESERT MUSEUM DESERT MUSEUM PALO VERDE 48" BOX	4.00	12.0	8.0	10
ACACIA STENOPHYLLA SHOESTRING ACACIA 24" BOX	1.50	9.0	4.0	23
DALBERGIA SISSO SISSO TREE 24" BOX	1.50	8.0	4.0	27
ACACIA SALICINA WILLOW ACACIA 24" BOX	1.50	8.0	4.0	12
ACACIA SALICINA WILLOW ACACIA 36" BOX	3.00	12.0	6.5	39
PHOENIX DACTYLIFERA DATE PALM 20 TRUNK FT. (MATCHING, DIAMOND CUT)				5
DASYLIRION WHEELERII DESERT SPOON 5 GALLON				152
RUELLIA PENINSULARIS BAJA RUELLIA 5 GALLON				405
CAESALPINIA MEXICANA MEXICAN BIRD OF PARADISE 5 GALLON				114
HESPERALOE PARVIFLORA RED YUCCA 5 GALLON				248
LEUCOPHYLLUM FRUTESCENS 'GREEN CLOUD' 5 GALLON				192
BOUGAINVILLEA 'BARBARA KARST' BOUGAINVILLEA 5 GALLON				41
AGAVE GEMNIFLORA TWIN FLOWER AGAVE 5 GALLON				119
CONVOLVULUS CNEORUM BUSH MORNING GLORY 1 GALLON				100
LANTANA MONTEVIDENSIS 'GOLD MOUND' 1 GALLON				172
ALOE BLUE ELF BLUE ELF ALOE 1 GALLON				44

1/2" MINUS MADISON GOLD DECOMPOSED GRANITE 2" DEPTH IN ALL LANDSCAPE AREAS

T.J. McQUEEN & ASSOCIATES, INC.
LANDSCAPE ARCHITECTURE
URBAN DESIGN
SITE PLANNING
345 E. Virginia Avenue
Phoenix, Arizona 85004
PH. (602) 265-0320 FX. (602) 266-6619

T&M ASSOCIATES

CALL TWO WORKING DAYS BEFORE YOU DIG (602) 263-1100 1-800-STAKE-IT (OUTSIDE MARICOPA COUNTY)

T.J.M. & ASSOCIATES EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT & OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING THE EXPRESSED WRITTEN PERMISSION & CONSENT OF T.J.M. & ASSOCIATES

ROBERT KUBICA Architects And Associates, Inc.
2233 East Thomas Road
Phoenix, AZ 85016-5474
(602) 955-3900 Phone
(602) 955-0496 Fax
www.rkaa.com

TIMOTHY MCQUEEN 27156 REGISTERED LANDSCAPE ARCHITECT ARIZONA U.S.A. EXPIRES 03/31/2012

date: 12.14.11

NEW COMMERCIAL DEVELOPMENT

SWC ARIZONA AVENUE AND ELLIOT ROAD
CHANDLER, ARIZONA

design cad
drawn cad
check tjm

sheet La.02 of TWO
job 10180

Chandler · Arizona
Where Values Make The Difference

Late Hour Business Compatibility Policy

The City of Chandler recognizes the need for certain commercial businesses to operate during late hours, even 24 hours a day, in response to customer needs, business competition, and other considerations. However, the City also recognizes the substantial right of residents whose properties immediately adjoin such commercial uses to be assured the safe, quiet enjoyment of their residences. Hence the purpose of this policy is to set forth some guidelines and considerations for determining, and ultimately achieving, land use compatibility when late hour businesses seek occupancy in close proximity to residential development.

Definition

For the purpose of this policy, a "late hour business" is defined as follows:

> *Any retail store, restaurant, bar, convenience store, gas station, commercial service, entertainment, or drive-thru use that customarily opens its doors to the public, either in whole or in part, one or more hours between midnight and 6:00 AM, one or more days each week.*[1] *This category shall not include hospitals and medical care facilities, hotels, self-storage uses, offices, industrial uses, transportation services, day care, group homes, construction activities, or utility companies, nor shall this category include any business licensed to sell or serve liquor under the provisions and requirements of the Arizona Revised Statutes Title IV, that close their doors to the public at 2:00 AM and no longer serve their patrons in any manner after 2:30 AM, and is otherwise in conformance with all requirements of the Chandler City Code.*

Applicability

The Compatibility Policy for Late Hour Businesses is triggered when consideration is being given to any of the following types of applications by Planning Commission, and subsequently City Council, to allow new commercial uses that may include late hour businesses as defined herein, within 300 ft. [2] of existing residential zoning:

- New zoning; or
- Amending an existing commercial zoning designation; or
- New use permit.

The specific zoning districts to which this policy is applied are applications pertaining to any Planned Area Development (PAD) designation for commercial (late hour) uses.

---

[1] *State statutes enable liquor businesses as licensed to sell liquor for on-site or off-site consumption until 2 AM; hence the City cannot impose stipulations or other regulations in conflict with these provisions.*

[2] *The 300 ft. distance is measured on a straight line from the boundary of the nearest parcel zoned for residential use, to the nearest exterior building wall of the commercial use, where the commercial building is not separated or buffered by an arterial street, freeway, railroad, or other nonresidential building.*

Mailing Address:
P.O. Box 4008, MS 401
Chandler, Arizona 85244-4008

Transportation and Development Department
Planning Division
215 E. Buffalo St., Chandler Arizona 85224

Telephone: (480) 782-3000
Fax: (480) 782-3010
www.chandleraz.gov
Form No: UDM-070/Planning
Rev: 6-2-11

This policy does not apply to any existing late hour business already operating prior to the effective date of this policy, nor does it apply to any zoning approval or Use Permit approval as may have been granted for commercial use(s) prior to the effective date of this policy. However, in the event that an existing commercial site would seek a zoning amendment or a new Use Permit to allow new use(s), then this policy may be applied for the purpose of affecting **subsequent** late hour businesses locating within that center.

This policy is not applicable to Use Permit requests or other zoning applications as may be submitted for sites located within, or immediately adjoining, the CCD (City Center District). The purpose of the CCD as set forth in Section 35-3200 of the Zoning Code is to promote a special character and visual identity distinct from any other area of the City, and limited to accommodate specialty retail, cultural dining, entertainment, and other storefront businesses traditional to a downtown setting. Achieving this type of unique character and limited mix of commercial uses may require considerations in support of extended, and even 24 hour, land uses.

Required Declaration and Notice

An applicant requesting zoning or Use Permit approval for any commercial use(s) must declare, at the time of filing such application, the intent to allow or not allow late hour business occupancies.

- An application as may be approved for which late hour business occupancies **are not** requested shall be stipulated, "Late hour business occupancies as defined by policy (Resolution No. 3801) shall be prohibited; any future request to allow a late hour business shall be subject to Use Permit approval by Council, upon recommendation by Planning Commission, in accordance with the considerations set forth in this policy."
- An application as may be approved by Council for which late hour business occupancies **are** requested, may be stipulated to allow any and all such occupancies, irrespective of when such use(s) would actually take occupancy and begin operation, or such approval may be limited to certain specified late hour occupancies not to exceed a certain threshold of intensity (e.g., a maximum allowable square footage, parking intensity, occupant load, or other measure as may be determined by the Zoning Administrator). Those uses not approved by right upon the initial application would require subsequent Use Permit approval by Council, upon recommendation by the Planning Commission, all in accordance with the considerations set forth in this policy.

When applicable, notice to adjoining property owners as required by the City Zoning Code for zoning and Use Permit applications, shall indicate that late hour occupancies are being requested.

Compatibility Considerations

The following compatibility considerations are intended to be **guidelines**, rather than absolute design standards or a "punch-list" of minimum requirements that necessarily guarantees approval by Planning Commission and City Council. Specific design standards would be inappropriate in a policy such as this, to the extent that a design solution that works in one situation may be unacceptable or inadvisable in another. Hence the following list of considerations are to be applied on a case-by-case evaluation of the late hour uses proposed, and the physical characteristics of the commercial site vis-à-vis the adjoining residential property(ies). The intent is that the developer and affected neighbors work through a process that achieves mutually acceptable design solutions or other agreements in the interests of land use compatibility, in direct response to specific issues/concerns.

- Noise: Consider noise as may be generated from the late hour use(s) themselves, such as from patrons, mechanical equipment, entertainment (whether indoor or outdoor), loud speakers, etc., or from accessory activities such as car start-ups by employees or patrons, car radios, trash pick-up, delivery vehicles, site maintenance/parking lot sweepers, etc. Consideration might be given to noise containment/attenuation for exterior building walls, relocation or removal of noise sources, muffling

devices, or other noise buffering techniques, or possibly rescheduling the noise generating activities to daytime (non-sleeping) hours that are less sensitive.

- Traffic: Consider the various forms of traffic to be generated or attracted by the specific use(s), including pedestrian as well as vehicular, and what volumes might be generated during the late hours. Is a drive-thru or take-out service associated with the occupancy(ies), either as primary or accessory uses? Is such traffic confined to the interior of the building or to the property lines of the site, or is there potential for spill-over traffic resulting in off-site parking, pedestrian shortcuts and trespasses? Will vehicles entering/exiting the commercial site cast headlights upon adjoining residences? Are there door locations in the building, or outdoor seating/gathering places for patrons or employees that might impact adjoining residences? Are there potential conflicts between vehicular traffic, pedestrian movements, and other activities related to the building, such as deliveries/unloading, outdoor storage, mechanical equipment, etc., that may affect the quiet and safety of adjoining residences?

- Light: Identify the appropriate types of exterior lighting and foot candle level of illumination, to insure adequate visibility of the building exteriors, entrance/exit doors, parking, pedestrian walks, and outdoor seating as appropriate, to insure security without light spilling over to adjoining residences. Consider the height and location of the light sources, whether fixtures are mounted on building(s) or on poles, their orientation and the means of shielding the point source from direct view of residences.

- Odor: Identify the sources of odor that may be associated with the use(s), whether primary (emitted from the building through exhaust vents) or incidental (exhaust fumes from vehicles queuing in line at a drive-thru, delivery vehicles idling while unloading, or odors from trash receptacles). Particular attention should be given to restaurants and the degree to which odors exhausted from the kitchen (and/or designated smoking areas) can be scrubbed effectively. Determine the time periods for which odor emissions may be strongest, and the most effective means of containment.

- Litter: Consider the byproducts associated with the particular use, such as paper cups, wrappers, containers from a restaurant drive-thru or outdoor dining area; plastic bags from a convenience store, drug or grocery store, etc. Is the nature of the products being retailed such that the customer prior to leaving the premises often discards wrappers or containers? What is the management plan to deal with litter control, such as staffing whose duties include policing the premises on a regular daily basis? Besides aesthetic impacts, will windblown trash likely affect adjoining residential properties (means of confinement on-site)? Is the means of trash containment and capacity adequate to prevent spillovers? If retail uses are being considered, how are shopping carts managed/contained in the parking lot?

- Site Maintenance: Consider the times of day designated for trash pick-up, parking lot sweeping, landscape maintenance, etc., vis-à-vis what may be traditional sleeping hours for adjoining residences. What are the noise levels and air exhausts associated with these activities (e.g., dust, air-blown litter, trash, debris, mechanical blowers/vacuums, etc.), and can such effects be fully confined to the site? Is the program for site maintenance consistent with the trash/litter to be generated by certain uses, particularly restaurants, drive-thrus, grocery and convenience stores?

- Security Issues: Does the nature of the late hour occupancies prompt security concerns, and if so, is there a security program proposed to handle such concerns (e.g., on-site supervision/surveillance by store personnel, video cameras, effective on-site lighting for parking lots and other outdoor activity areas, secured entries/exits, etc.)? Do the uses proposed create the likelihood of loitering outside? Are there concerns identified by the Police Department with respect to fights, vandalism, and other crime/nuisance potential associated with either the late hour occupancies, or with the physical design of the premises?

Potential Solutions

There could be any number of physical design techniques, stipulations and agreements to achieve land use compatibility, depending in large part upon the circumstances of the particular situation. Potential solutions include, although not necessarily limited to, fence wall heights; the number type, location, and planting size of landscape materials; setbacks that might be increased by virtue of incorporating retention basins and the width of service drives; the location, orientation, and method of screening loading docks and bay doors; building orientations and features, including the location of exterior doors, windows, exterior lighting, loudspeakers, etc.; noise attenuation in exterior building walls; grade differential between finished floor elevations; site plan orientations relative to points of vehicular access, building placement(s), and the location of the more disruptive functions, such as loading, vehicle repair, employee parking, outdoor serving areas, materials storage, etc.

Other solutions that are not necessarily related to design might involve restricting certain hours of operation for those uses not otherwise enabled by state statutes (or restricting the hours of using a service drive for other than public safety access); specifying certain maximum square foot floor areas or occupant loads for late hour uses, beyond which another Use Permit or zoning amendment would be required for approval by Council; relocation of certain use(s) to another portion of the site that produces a lesser impact upon adjoining residences; identifying a contact person representing site management to whom residents are enabled to bring subsequent compatibility issues; writing restrictive covenants to be recorded with the commercial site designed to insure compatibility with adjoining residences in response to specific concerns identified.

There may be certain types of late hour occupancies for which the only effective means of achieving land use compatibility are through distance separations. For example, concerns may be greatest for drive-thru and other high turnover/convenience uses located less than 300 ft. from residential zoning, and in particular, the location of such elements as the primary customer entrances/exits, on-site parking for customers and employees, queuing lanes, order boards, intercom speakers, light poles, etc.

Again, as stated elsewhere in this policy, the purpose here is to achieve compatibility between late hour uses and adjoining residences through a process, on a case-by-case basis, that enables affected neighbors to receive notice and express concerns, if any, and to resolve them through techniques that are mutually agreed upon by the parties involved.

Adopted by City Council 12-16-04
Resolution No. 3801