

ORDINANCE NO. 4975

AN ORDINANCE OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE ZONING CODE AND MAP ATTACHED THERETO, BY REZONING A PARCEL FROM AGRICULTURAL (AG-1) DISTRICT TO PLANNED AREA DEVELOPMENT FOR MULTI-FAMILY RESIDENTIAL (PAD/MF-2) AS REPRESENTED IN CASE PLH20-0051 (THE ASHLEY) LOCATED AT THE SOUTHEAST CORNER OF ARIZONA AVENUE AND APPLEBY ROAD WITHIN THE CORPORATE LIMITS OF THE CITY OF CHANDLER, ARIZONA; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR PENALTIES.

WHEREAS, the application for rezoning 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 1. Legal Description of Property:
 As described in **EXHIBIT 'A'**

Said property is hereby rezoned from AG-1 to PAD for multi-family residential subject to the following conditions:

1. Development shall be in substantial conformance with the Development Booklet, entitled "The Ashley" and kept on file in the City of Chandler Planning Division, in File No. PLH20-0051, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified, or supplemented by the Chandler City Council.
2. 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.

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. Multi-family residential shall be permitted with a maximum density of 16 dwelling units per acre.
5. Minimum building setbacks shall be as provided below and further detailed in the development booklet:

Property Line Location	Minimum Building Setback
Arizona Ave.	50 ft.
Appleby Rd.	26 ft.
East Property Line	30 ft.
South Property Line	10 ft.

6. Prior to the execution of any lease, all prospective renters shall be given written disclosure in their lease and in a separately signed disclosure statement fully acknowledging that this development 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 development to the Chandler Municipal Airport that includes a heliport and an aircraft storage facility, 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, overflight activity, and other externalities. The requirement for such disclosure shall be confirmed in an avigation notice covenant that runs with the land and shall be recorded with Maricopa County Recorder prior to the issuance of the first building permit for this development.
7. The subdivider/homebuilder/developer/multi-family manager shall display, in a conspicuous place within the sales or leasing 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". Compliance with this condition shall be demonstrated by the subdivider/homebuilder/developer/multi-family manager by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges this disclosure and map display prior to beginning any lease or sales activity. Failure to comply with this condition will result in revocation of the Administrative Use Permit for the temporary sales office

in the event the multi-family development is platted to allow unit ownership. All requirements as set forth in this condition are the obligation of the subdivider/homebuilder/developer/multi-family manager and shall not be construed as a guarantee of disclosure by the City of Chandler.

8. The above referenced information shall also be included within any Subdivision Public Report that is filed with the State of Arizona Department of Real Estate, as required by Arizona Revised Statutes § 28-8486 and Arizona Revised Statutes § 28-8464.
9. 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.
10. All townhouses and 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.
11. 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 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."
12. In the event the multi-family residential development is platted to allow unit ownership, prior to the time of making any purchase agreements, the subdivider/homebuilder/developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that this development 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 development to the Chandler Municipal 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 Recorder's Office upon sale of the property. The "Public Subdivision Report," "Purchase Contracts," "Covenants, Codes, & Restrictions (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.
13. In the event the multi-family residential development 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 the subdivision is located adjacent to or nearby existing railroad tracks and railroad right-of-way that may cause adverse noise, odors, and other externalities. 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 railroad track and railroad right-of-way, 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.

14. All leases shall state that all questions, concerns, or complaints any tenant may have about the Chandler Municipal Airport or the operation of aircraft landing at, taking off from, or operating at or on Chandler Municipal Airport shall be directed solely to the manager of The Ashley development and not to the Chandler Municipal Airport, the City of Chandler, the FAA, any aircraft owner, or any pilot. All lease agreements shall also provide that it shall be within the sole and absolute discretion of the manager of The Ashley (and not the tenant) to determine (after the manager’s due consideration of all airport related acknowledgments and disclosures that are required by the Zoning Stipulations and consideration of all information known to The Ashley’s manager) whether or not, when, and how to communicate any tenant’s questions, concerns, or complaints to the Chandler Municipal Airport manager.
15. 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.

Section 2. The Planning Division 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.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance, or any parts hereof, are hereby repealed.

Section 4. In any case, where any building, structure, or land is used in violation of this Ordinance, the Planning Division of the City of Chandler may institute an injunction or any other appropriate action in proceeding to prevent the use of such building, structure, or land.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of

competent jurisdiction, then this entire ordinance is invalid and shall have no force or effect.

Section 6. A violation of this Ordinance shall be a Class 1 misdemeanor subject to the enforcement and penalty provisions set forth in Section 1-8.3 of the Chandler City Code. Each day a violation continues, or the failure to perform any act or duty required by this Ordinance or the Zoning Code, shall constitute a separate offense.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2021.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2021.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4975 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2021, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY TA

Published:

Exhibit 'A' Legal Description



**Legal Description
Arizona Ave & Appleby Road
Annexation and Zoning**

Job No. 20-0504

February 1, 2021

A portion of Southwest Quarter of Section 15, Township 2 South, Range 5 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, and particularly described as follows:

COMMENCING at a City of Chandler flush brass cap at the west quarter corner of said Section 15, from which a rebar with cap in a hand hole, stamped "RLS 49097" at the southwest corner of said Section 15, bears South 0 degrees 23 minutes 56 seconds East, at a distance of 2,645.76 feet;

thence North 89 degrees 04 minutes 26 seconds East, along the north line of said Southwest Quarter, 65.00 feet to the POINT OF BEGINNING;

thence continuing North 89 degrees 04 minutes 26 seconds East, along said north line, 1257.86 feet to a point on the west line of the Southern Pacific Railroad right of way;

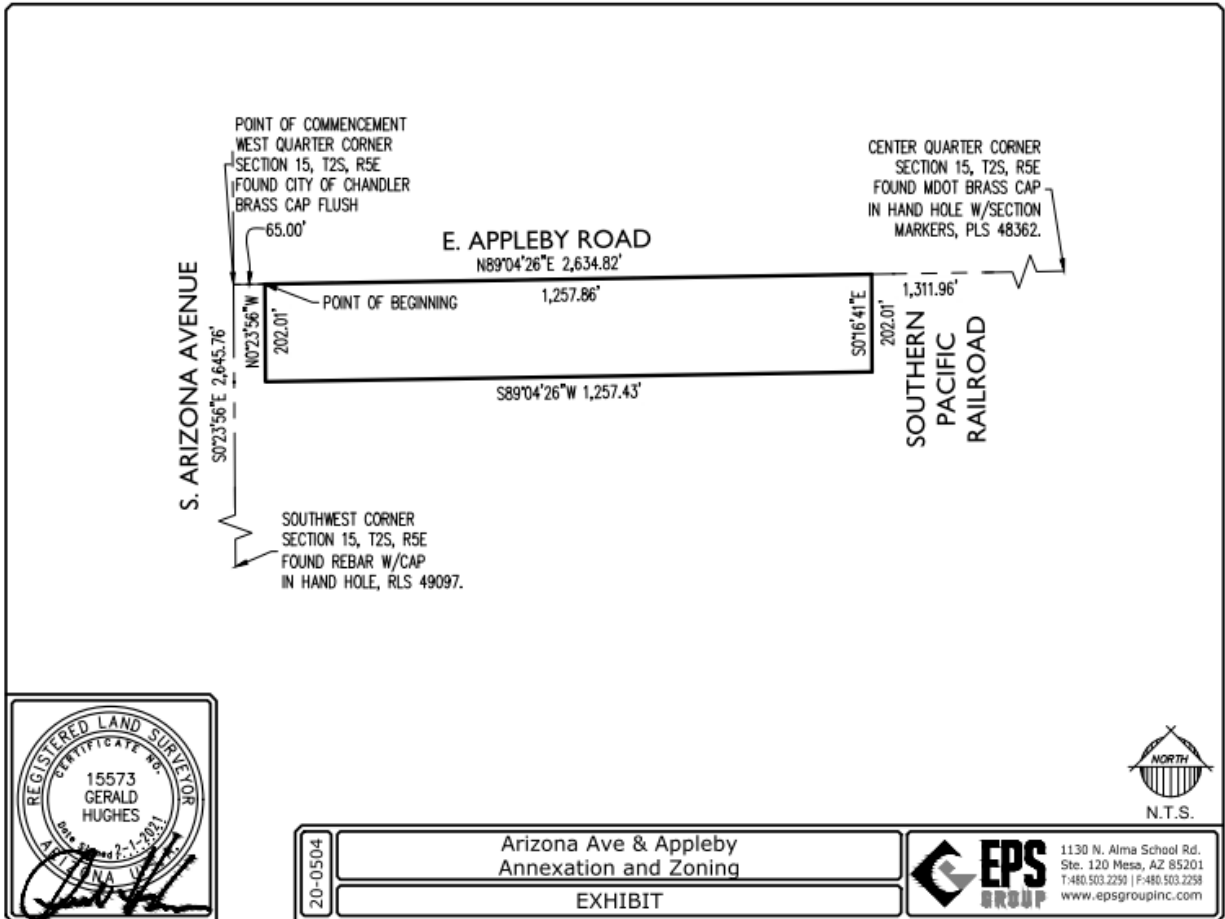
thence South 0 degrees 16 minutes 41 seconds East, along said west line, 202.01 feet to the south line of the north 202.00 feet of said Southwest Quarter;

thence South 89 degrees 04 minutes 26 seconds West, along said south line, 1257.43 feet to a point on the east line of the west 65.00 feet of said Southwest Quarter;

thence North 0 degrees 23 minutes 56 seconds West, along said east line, 202.01 feet to the POINT OF BEGINNING.

Containing an area of 254,044 square feet or 5.8321 acres, more or less.



Exhibit 'A'

Feb 01, 2021 3:04pm S:\Projects\2020\20-0504\Land Survey\Legals\20-0504 - Annex.dwg