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MEMORANDUM

Planning & Development - CC Memo No. 08-026

DATE: JANUARY 24, 2008

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
DOUG BALLARD, PLANNING AND DEVELOPMENT DIRECTOR
JEFF KURTZ, ASSISTANT PLANNING AND DEVELOPMENT DIRECTOR

FROM: BOB WEWORSKI, PLANNING MANAGER

SUBJECT: DVR07-0049 GATEWAY MARKETPLACE

Request: Action on the existing Planned Area Development (PAD) zoning to extend or remove the conditional schedule for development, determine compliance with the three year schedule for development, or to cause the property to revert to the former Agricultural District (AG-1) zoning classification

Location: Northwest corner of Gilbert and Riggs Roads

Applicant: Ed Bull, Burch & Cracchiolo, P.A.

Project Info: The existing Planned Area Development zoning is approved for a new Safeway grocery store, and commercial retail development within approximately 102,000 square feet of building space on 19.73-acres of land

RECOMMENDATION

Upon finding the request to be consistent with the General Plan, Planning Commission and Staff recommend approval to extend the timing condition for an additional three years.

BACKGROUND

The applicant requests a time extension for an additional three years to retain the PAD zoning. The subject site received PAD zoning with Preliminary Development Plan (PDP) approval in October 2002 and later granted a three year time extension in 2004.

The applicant's narrative states their intention to begin construction on the commercial development by early 2009. Specifically, the proposal includes a Safeway grocery store, retail shops, restaurant, pad site, and a gas station. The grocery store is placed diagonally at the site's northwest corner, with retail shops interconnected by pedestrian plaza spaces. The gas station is located at the site's southeast corner, and a pad building is located along the property's southern boundary line.

The applicant has included additional site design features that help maintain the area's rural character and which satisfy Southeast Chandler Plan requirements. Specifically, these features include a picnic area located in the subject site's northeastern corner, shaded walkways, benches, bike racks, and extensive landscaping interspersed throughout the site. Also included is a "Pecan Tree grove" which will span two sides of the property. Furthermore, the architecture and building material used will conform to Southeast Chandler Area Plan requirements. The site's overall layout and design incorporates stone, lush landscaping and pedestrian features.

Staff believes that the land use is still appropriate at this location and supports a timing extension. The applicant's previous proposal has not changed from what was approved in October of 2002. Staff is not aware of any intention to begin construction within the near future.

NEIGHBORHOOD NOTIFICATION

- This request was noticed according to the provisions of the City of Chandler Zoning Code.
- A neighborhood meeting was held on December 20, 2007 with no neighbors in attendance.
- Staff has not received any telephone calls or correspondence from any neighbors regarding this rezoning application.

PLANNING COMMISSION VOTE REPORT

Motion to Approve: In Favor: 7 Opposed: 0

A neighbor testified in opposition to the timing extension and felt that there was too much time allotted to start the development. The neighbor also stated that she didn't think the development was appropriate because there was already a grocery store and gas station in the area. Discussions were held about the additional time needed for the development in response to the continued growth in the Southeast Chandler area, current market conditions, and the time needed for the construction process. Planning Commission was sensitive to the neighbor's concerns yet felt that the project was still valid and deserved additional time due to the quality of the development and the applicant's intent to start construction by next year.

RECOMMENDED ACTION

Planning Commission and Staff recommend approval of a three-year time extension as represented in case DVR07-0049 GATEWAY MARKETPLACE, subject to the following condition:

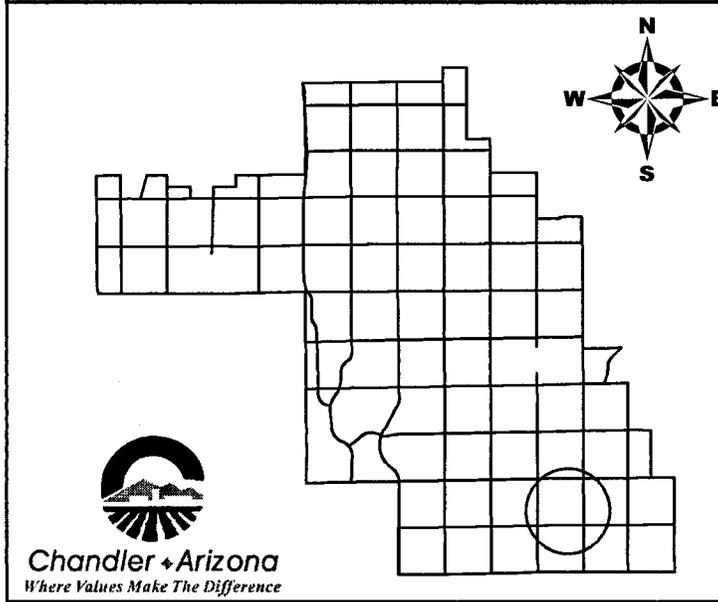
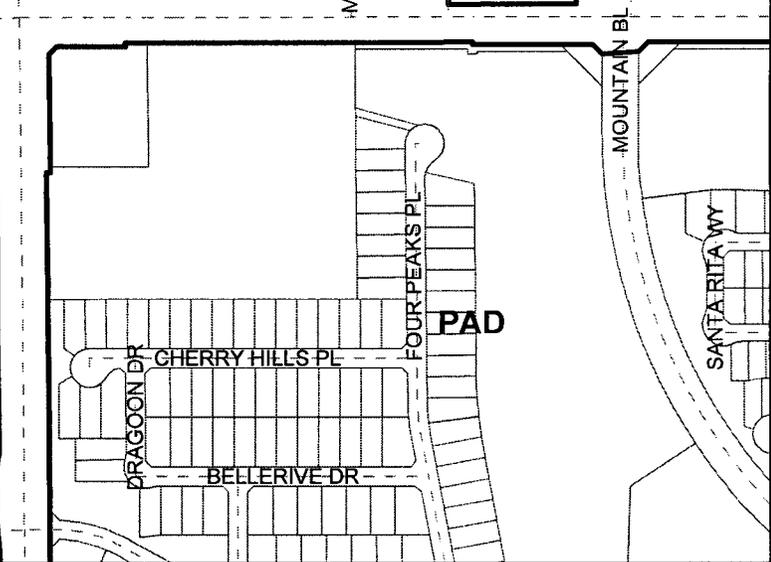
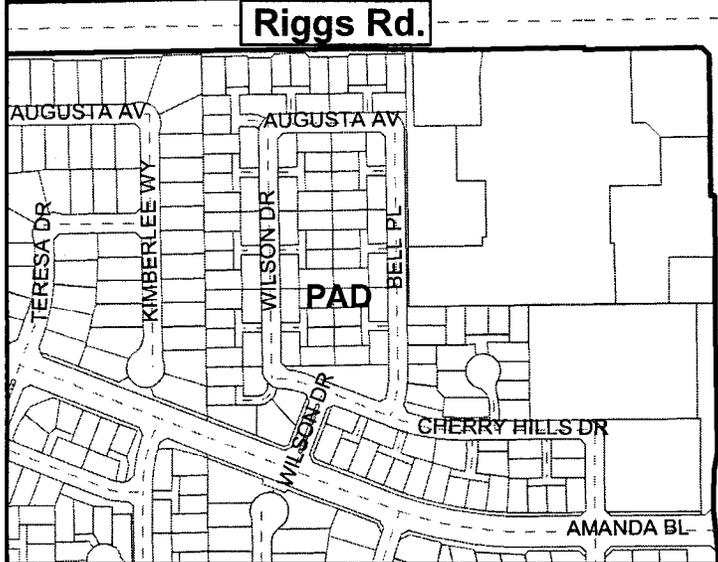
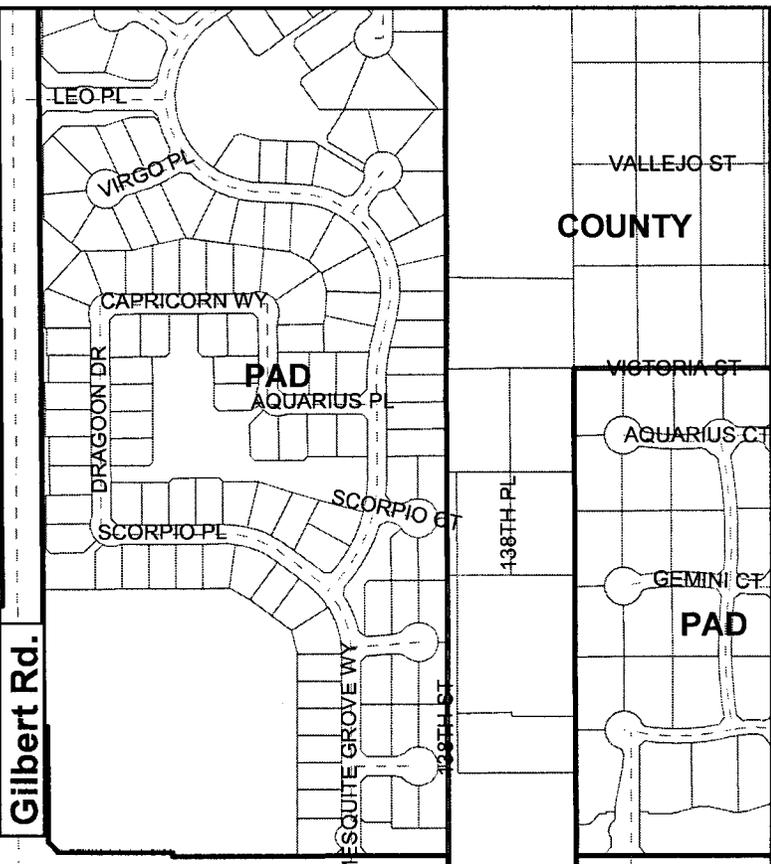
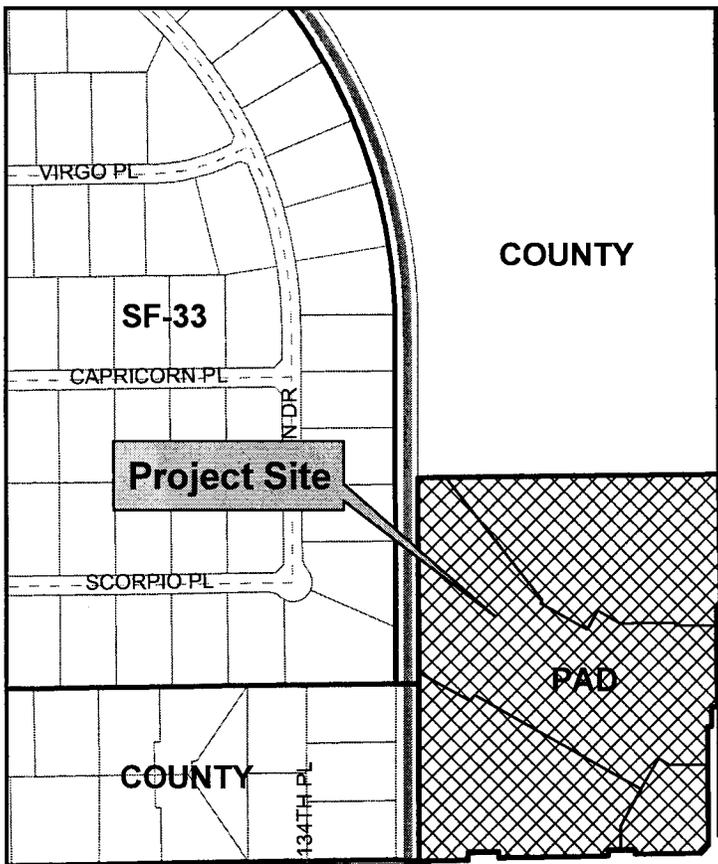
1. Compliance with the original stipulations adopted by the City Council as Ordinance 3397, case DVR02-0019 GATEWAY MARKETPLACE, except as modified by condition herein.

PROPOSED MOTION

Motion to approve the timing condition for case DVR07-0049 GATEWAY MARKETPLACE, for an additional three (3) years per Planning Commission and Staff recommendation.

Attachments

1. Vicinity Map
2. Applicant Narrative
3. Site Plan
4. Ordinance No. 3397



Vicinity Map

DVR07-0049

Gateway Marketplace

CITY OF CHANDLER 10/1/2007



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TriPlus Partners' and Safeway's Request for Time Extension

**Addendum to Project Booklet for Gateway Marketplace
located at the northwest corner of Gilbert Road and Riggs Road
Chandler, Arizona**

The purpose of this Addendum is to request a time extension of an approved rezoning for TriPlus Partners' and Safeway's Gateway Marketplace (the "Site"), a 17± acre parcel located at the northwest corner of Gilbert Road and Riggs Road. See Aerial at Exhibit A. On October 26, 2002, the Chandler City Council adopted Ordinance No. 3397, rezoning the Site from Agriculture (AG-1) to Planned Area Development ("PAD") Commercial with a Preliminary Development Plan ("PDP") for Shopping Center. The approval was subject to Stipulation #7, which required construction of the project to begin "within two (2) years of the effective date of the ordinance..." (which was later extended to October 14, 2007). See Ordinance No. 3397 and Notice of Council Action dated 10/14/04 at Exhibit B. If approved, this request would extend the required construction date for an additional three years.

The developer and owners of the Site have been working to prepare the Site for construction. On March 6, 2003, Gateway Marketplace, LLC (an affiliate of TriPlus Partners, LLC) purchased the 17± acre Site. On January 2, 2004, Safeway, Inc. ("Safeway") purchased approximately 8 acres of the Site to build a Safeway store and a fueling facility. Unable to meet the original construction deadline, the City Council approved a three-year extension of the PAD/PDP zoning in October 2004. TriPlus Partners and Safeway have taken various steps towards developing the Site in accordance with the approved PAD/PDP zoning; however, construction on the Site has not yet commenced. Development of the Site has been delayed for various reasons, including significant site development constraints and Safeway's nationwide program to remodel several of its existing stores, which has reduced new store openings considerably. Safeway's Phoenix Division is expected to complete its remodel program within the next 24-30 months. See Client Memo at Exhibit C. TriPlus and Safeway expect that construction of the Gateway Marketplace store will commence in early 2009, with a projected opening by the end of 2009.

TriPlus Partners and Safeway request that the condition for commencing construction (Stipulation No. 7 of Ordinance No. 3397) be extended for three years from October 14, 2007. A time extension of the approved PAD/PDP zoning on the Site is appropriate for the following reasons:

- TriPlus Partners has expended significant time, energy, and resources in reliance on the Site's specific zoning. More specifically, TriPlus Partners has (1) purchased its Site, (2) developed elevations and site plans that are consistent with Staff's direction regarding the "rural theme" of the Gateway Marketplace, (3) hired consultants to address certain development constraints such as flood plain, retention and roadway issues, and (4) processed and received approval of a Preliminary Plat (May 2004) and

a Final Plat (August 2004).

- Safeway has invested significant amounts of time and money into establishing a store at this location. As previously mentioned, Safeway purchased approximately 8 acres of the Site in January 2004 to be developed as a grocery store and a fueling station. Safeway remains committed to constructing a grocery store at this location.
- Development of the Site in accordance with the PAD/PDP zoning still makes good land use sense. In their August 2002 Staff Report, City Staff recommended approval of the PAD/PDP zoning because such zoning was "consistent with the General Plan and Southeast Chandler Area Plan." As was the case in October 2002 when the City Council adopted the Site's current zoning, the current General Plan Land Use Map designates the Site as a commercial node and the current Southeast Chandler Area Plan designates the Site as a major entry gateway. In other words, development of the Site is still consistent, both in letter and in spirit, with the General Plan and the Southeast Chandler Area Plan.
- Since it purchased the Site, TriPlus Partners has expended time, energy, and resources (e.g. contracting with Burgess & Niple, the project engineer) working with the City on issues relating to the improvement of and improvements along Riggs Road that are consistent with Gateway MarketPlace's approved site plan.

For these reasons, TriPlus Partners and Safeway respectfully request that the time condition to begin construction of Gateway Marketplace be extended for three years from October 14, 2007. TriPlus Partners and Safeway remain committed to the completion of this exciting, quality development. No changes to the PAD/PDP project booklet are being requested, except for the inclusion of Exhibits A, B, and C attached. If you have any questions or need additional information, please do not hesitate to call Chris Shaw or Alan Williams at (602) 604-2400, Brennan Ray at (602) 234-8794 or Ed Bull at (602) 234-9913.

TriPlus Partners

5350 North 16th Street, #106 • Phoenix, Arizona 85016 • 602.604.2400 • Fax 602.604.2401

To: Ed Bull
From: Chris Shaw
Subject: Gateway Marketplace
Date: August 16, 2007

As a follow up to our meeting, below is a summary of the current status of the project.

Ownership

On March 6, 2003, Gateway Marketplace LLC purchased the approximate 17 acre parcel at the northwest corner of Riggs and Gilbert. In January, 2004, Safeway purchased its parcel for construction of their store (approximately 7 acres) along with the hard corner pad (1 acre) for their fuel facility. The 100,000 s.f. shopping center will be jointly developed by Safeway and Gateway Marketplace, LLC (an affiliate of TriPlus Partners, LLC).

Entitlement Status

Zoning Ordinance No. 3397 was unanimously adopted by the City Council on September 26, 2002, and the PDP sign package was approved on May 22, 2003.

Stipulation #7 of Ordinance No. 3397 contained a "Development Time Condition" that requires that "construction shall commence above foundation walls within 2 years of the effective date of the Ordinance or the City shall schedule an administrative hearing to determine 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."

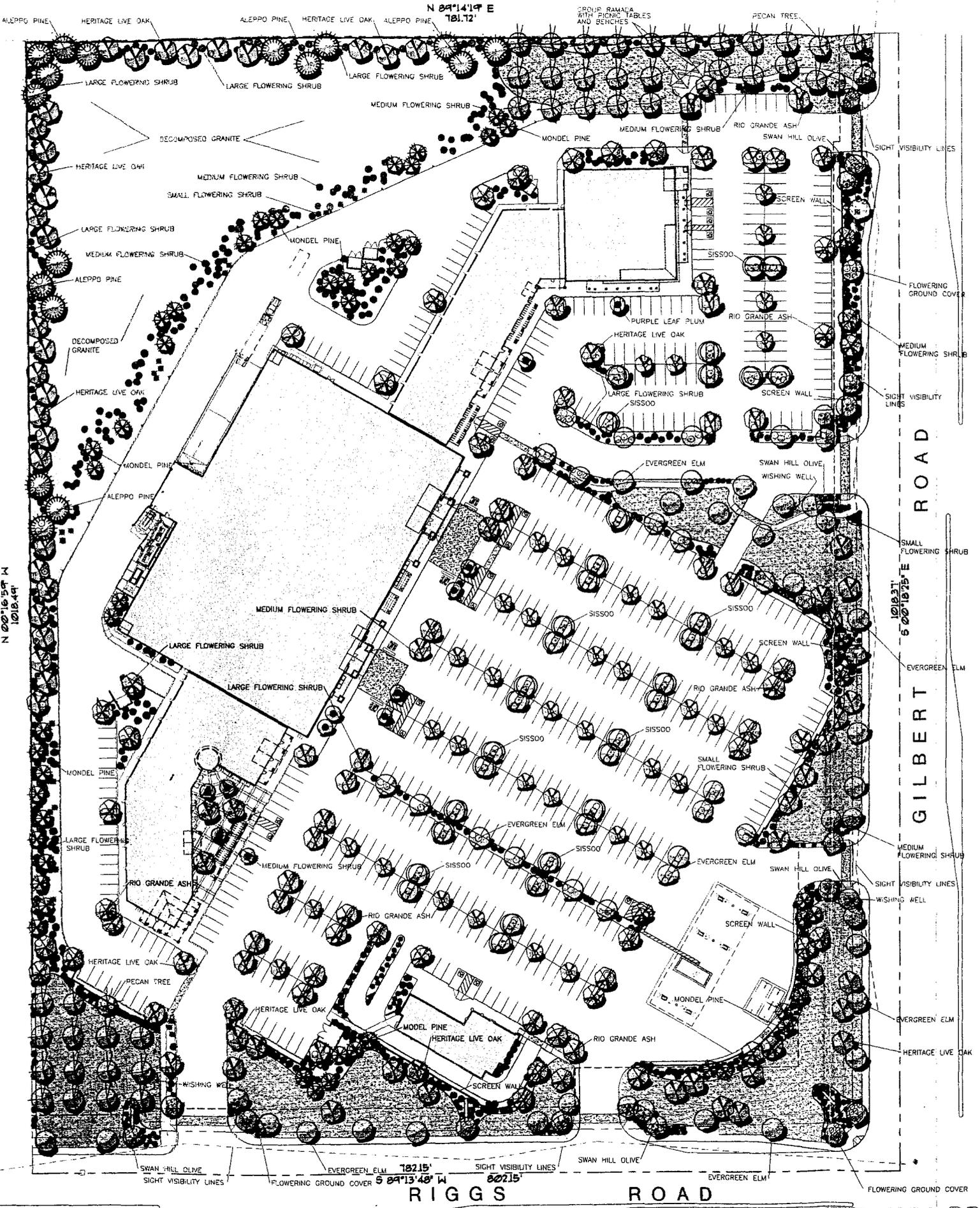
In July, 2004, we requested an extension of the time condition of the original ordinance and a three year extension through October 14, 2007 was approved in October, 2004. The Maricopa County Flood Control District also approved a similar extension of a Flood Plain Use Permit in connection with the approved Conditional Letter of Map Revision (CLOMR) for this property.

The Plat was approved by the City Council on May 13, 2004. Gateway Marketplace, LLC also contracted with Burgess and Niple, the project engineer for the Riggs Road improvement project, to modify the frontage along Riggs Road to be constructed consistent with the approved site plan for the project (including, drive locations, decel lanes, bus stop, etc).

Discussion

We are requesting the Development Time Condition of this ordinance be extended based on the following considerations:

1. Considerable time and effort was expended in developing the elevations and site plan to be consistent with Staff's direction for a rural theme for this project. The project is consistent with the Southeast Chandler Area Plan in both letter and spirit and we remain committed and excited to complete the development as planned.
2. Significant site development constraints were addressed in the planning process. For example, approximately 6 acres of the site will be improved for offsite flood retention, and the project is subject to a Maricopa County Flood Plain Use Permit and a Conditional Letter of Map Revision (CLOMR) from the Federal Emergency Management Agency (FEMA), which restricts the development to the approved site plan.
3. Although Safeway had expected to open its store prior to the expiration of the extension approved in 2004, the Company embarked on a nationwide program to remodel its existing stores which reduced new store openings considerably. Most of Safeway's approximately \$1.7 billion in annual capital expenditures were allocated to the remodeling program. Safeway's Phoenix Division is expected to complete its remodel program within the next 24-30 months. Safeway currently anticipates this store will be under construction in early 2009 with an opening by the end of 2009.



GILBERT ROAD

RIGGS ROAD

PRE
SCALE 1"

ORDINANCE NO. 3397

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 COMMERCIAL WITH A PRELIMINARY DEVELOPMENT PLAN (DVR02-0019 GATEWAY MARKETPLACE) 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 (Commercial) with a Preliminary Development Plan, subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Gateway Marketplace" kept on file in the City of Chandler Planning Services Division, in File No. DVR02-0019, except as modified by condition herein.
2. Right-of-way dedications to achieve full half widths for Gilbert Road and Riggs Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.

3. 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.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. 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.
6. 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.
7. Construction shall commence above foundation walls within two (2) 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.
8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works 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 Gateway Marketplace development shall use treated effluent to maintain open space, common areas, and landscape tracts.

10. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
11. All pedestrian walkways shall be A.D.A. accessible and shall not be interrupted by any obstacles preventing circulation (i.e. handicap shall have direct access to all indoor and outdoor pedestrian spaces).
12. The monument signs shall provide decorative panels on all unleased future tenant name areas of the sign.
13. The applicant shall work with Staff to provide a design for the proposed McDonald's building light bars that is consistent with the rural/traditional character of the Southeast Chandler area and the development's theme.
14. A comprehensive sign package shall be required for PDP approval, to be reviewed under a separate application.
15. The applicant shall work with Staff to enhance the intersection corner at Gilbert Road and Riggs Road that provides a unique landscape development that may include features such as pedestrian walkways, enhanced architectural and wall treatments, and additional plant materials.

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

SECTION III. The Planning & 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 12th day of September, 2002.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council this ____ day of _____,
2002.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I, HEREBY CERTIFY, that the above and foregoing Ordinance No. 3397 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2002, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: