

**CITY OF GOODYEAR  
COUNCIL ACTION REPORT**

<b>SUBJECT: Special Use Permit for a church in the Estrella Crossing Business Park PAD</b>	<b>STAFF PRESENTER:</b> Joe Schmitz, Long Range Planner  <b>CASE NUMBER:</b> 18-350-00003  <b>APPLICANT:</b> Sword of the Spirit Church, represented by Paul Sarantes, Archicon Architecture & Interiors LC
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**PROPOSED ACTION:**

1. Conduct a public hearing to consider a request for a Special Use Permit to allow a church in a portion of a building on 5.0 acres in the Business Park/Light Industrial area of the Estrella Crossing Business Park Planned Area Development (PAD) District.
  - a. Open the Public Hearing
  - b. Staff Presentation
  - c. Applicant Presentation
  - d. Receive Public Comments
  - e. Close the Public Hearing
  
2. Approve a request for a Special Use Permit to allow a church in a portion of a building on 5.0 acres in the Business Park/Light Industrial area of the Estrella Crossing Business Park Planned Area Development (PAD) District at 15635 W. Illini Street (Lot 16 of the Estrella Crossing Business Park), subject to the following stipulations:
  1. Prior to occupancy of the property by the church, the property owner and the church shall sign a waiver agreement, in the form provided by the City, which shall run with the land and include the following statement in the waiver agreement: “The property at 15635 W. Illini Street (Maricopa County Assessor Parcel Number 500-07-251) is subject to attendant noise, vibrations, dust, and all other effects that may be caused by overflights and by the operation of aircraft landing at, or taking off from the Phoenix-Goodyear Airport. The owner and the church does release and discharge the City of Goodyear and the Phoenix Goodyear Airport from any liability for any and all claims for future damages and complaints of any kind to persons or property that may arise at any time in the future from the operation of such aircraft near and over the area and shall be responsible for any and all mitigation measures that may be needed to use the property as a church;”
  
  2. Prior to building occupancy, the church shall obtain approval of a Change of Occupancy application from the City of Goodyear;

3. The City of Goodyear reserves the right to initiate revocation of the Special Use Zoning in the event that the Special Use is not operated in compliance with the stipulations stated herein or as represented in the Special Use Permit application; and;
4. The property owner and the church shall comply with the City of Phoenix Aviation Department recommendations pertaining to the operation of the Phoenix Goodyear Airport as follow:
  - i. Any plats and public reports filed with the Arizona Department of Real Estate shall provide notice that discloses the location of Phoenix Goodyear Airport and the potential for aircraft overflights and objectionable aircraft noise; and,.
  - ii. An FAA no hazard determination must be provided to the City of Goodyear prior to issuance of any construction permits if development height, construction activity, or development operational activity may cause an obstruction under 14 CFR Part 77.

#### **BACKGROUND AND PREVIOUS ACTIONS:**

Churches are allowed in any district with the approval of a Special Use Permit. The existing building formerly housed the Arizona Republic printing operation. A portion of the 25,852 square foot building – 19,552 square feet - is occupied by a metal working business (Basic Metals, Inc.). The balance of the building will be occupied by the church – about 6,300 square feet. The property is zoned Business Park/Light Industrial under the Estrella Crossing Business Park Planned Area Development (PAD) District approved by Ord. No. 05-950 which is a modified I-1 Light Industrial District.

#### **STAFF ANALYSIS:**

The Sword of the Spirit Church is proposing to lease 6,300 square feet of a 25,852 square foot building located on 5.0 +/- acres which is Lot 16 of the Estrella Crossing Business Park located at 15635 W. Illini Street. The adjacent property consists of vacant Business Park/Light Industrial-zoned parcels to the north; a commercial center, self-service storage units, car wash, and auto repair to the east; new self-service storage units and RV parking in an I-2 district to the south, and Lorts Manufacturing and Arizona Galvanizing in an I-2 district to the west.

The building will remain essentially as is with the church occupying the existing meeting room and office space and the metal working business occupying the warehouse and storage area. There will be no changes to the exterior of the building or the site. The only changes that the church plans to make are some modifications to the building's air conditioning system. The occupancy of the building by both uses will comply with all building code requirements. The building is already equipped with a fire suppression system that meets the minimum requirements for an assembly occupancy.

The project narrative attached explains why the church is being proposed at this location and the nature of the church's operation. The following evaluation is being provided in conformance with Section 1-3-4 of the Zoning Ordinance:

1. Will be desirable or necessary to the public convenience or welfare:

The use of a portion of an underutilized building by a small but growing church is desirable since the church is able to take advantage of finished space that is affordable and the church would create more activity in this area outside of normal business hours which enhances security. The church is aware that the other occupant of the building is a light industrial use and will assume responsibility for mitigation of any noise, dust, odor, or similar complaints, if any occur. A church was previously established in the commercial center within this PAD and there have been no complaints regarding that church's operation from any of the adjacent commercial uses.

2. Will be harmonious and compatible with the other uses adjacent to and in the vicinity of the selected site or sites:

The use of the property as a church can be harmonious and compatible with other uses adjacent to and in the vicinity of the property, provided that the church accepts the fact that will be located within a commercial and industrial area and the permitted uses on the surrounding properties may at times generate noise, dust and odors. The operation of the church will have no adverse impacts on the surrounding properties, however, allowing a church in a commercial and industrial area could create an obstacle to the establishment of certain uses which are required to be separated from a church, such as adult businesses, medical marijuana dispensaries and cultivation facilities, breweries or microbreweries and some other liquor-related businesses.

3. Is in conformance with the adopted General Plan and any adopted Area Plans:

The use of the property as a church is not in conformance with the General Plan, since a church is considered a noise sensitive use which may be incompatible with the operation of the Phoenix Goodyear Airport. However, the potential incompatibility of the church use with the airport is addressed in the section on the Phoenix Goodyear Airport and by the stipulations in the staff recommendation. There are no Area Plans applicable to this area.

4. Will not be detrimental to surrounding properties in the area due to:

- a. Impact on the circulation system of the adjacent neighborhood:

Use of the building as a church will not adversely impact traffic circulation in the area because the site has good access and the size of the church is such that it will not generate a significant amount of traffic. The cul-de-sac where the church is to be located has access to Estrella Parkway via Illini Street and to Elwood Street via S. 156<sup>th</sup> Avenue. Elwood Street connects to Estrella Parkway at a signalized intersection which will provide for safe turning movements.

The parking calculation provided by the applicant states that the church needs 27 spaces and Basic Metals needs 24 spaces for a total of 51 spaces. There are 240 spaces on site plus 7 accessible spaces, so the parking provided is more than

adequate. The only other potential adverse impact a church might have on surrounding properties would be if the presence of a church prevented certain uses, which are required to be separated from a church, from locating nearby. Based on the small number of such uses that would be affected, the impact would be minimal.

- b. Excessive noise or light generated from within the site:

The use of the property as a church will not generate excessive noise or light.

- c. Excessive scale or height in relationship to surrounding properties:

The church is to be located in an existing building which is similar in terms of height and bulk to the buildings on surrounding properties.

- d. Hours of operation:

As set forth in the Project Narrative, the proposed hours of operation are limited and will differ from those of the other occupant of the building. The sanctuary will be used primarily from 9:00 a.m. to noon on Sunday. The offices will be used from 8:00 a.m. to 2:30 p.m. daily and during the evenings for bible study. The proposed hours of operation will not be detrimental to the surrounding properties.

- e. Inadequate parcel size to provide adequate buffers or mitigation to surrounding properties:

The church is to be located in an existing building, which is not being modified. The property has a substantial amount of off-street parking, and there should not be any impact to surrounding properties that might otherwise be caused by inadequate parking.

- f. Inconsistency with the development character or architecture of the adjacent properties:

The church is to be located in an existing building, which is not being modified, except for some minor modifications to the air conditioning.

#### **Luke Air Force Base:**

The subject property is located on property that is not within the vicinity of a military airport. Given the location of the property, base operations will not be adversely impacted.

#### **Phoenix Goodyear Airport:**

The subject property is located within the Phoenix Goodyear Traffic Pattern Airspace and partially within the 60-64 LDN noise contour and partially within the 65-69 LDN noise contour, as shown on the Public Airport Disclosure Map on file with the Arizona Department of Real Estate. As such, the proposed church use could be adversely impacted by noise generated by aircraft operations. The City of Phoenix Aviation Department reviewed the proposed Special Use Permit for a church and did not object to it since the site is not within the noise contours of the current Airport Master Plan which forecasts airport activity over a 20-year time period. The City of Phoenix Aviation Department did request the inclusion of two stipulations regarding disclosure of the presence of the airport and notifying the FAA and airport of any proposed

construction activities. In the past when the City has approved a noise sensitive use in proximity to the airport, execution of a waiver agreement has been required. A stipulation has been included to address that concern.

**Fire Department:**

The property is served by Fire Station 181/184 located at Yuma Road and Sarival Avenue, approximately 5.2 miles north and west of the subject property. The emergency response to the subject property from that station is within the 6-7 minute estimate.

Nearest Fire Station	Shortest path		Longest path		2nd nearest Fire Station	Shortest path		Longest path	
	Mins	Miles	Mins	Miles		Mins	Miles	Mins	Miles
#181/184	5.20	2.60	7.08	3.54	Station #183	10.88	5.44	10.88	5.44

**Police Response:**

The subject property is located within an existing patrol beat and the current level of service within the beat can accommodate the proposed use of the property.

**Solid Waste:**

Solid waste service will be provided by a private commercial hauler.

**Streets/Transportation:**

The proposed church will not adversely impact any public street given the location of the church within the Estrella Crossing Business Park. The on-site parking provided exceeds the minimum required by a substantial amount and vehicles will not queue into the public street.

**Water/Wastewater:**

Water and wastewater service is provided by the city of Goodyear.

**PUBLIC PARTICIPATION:**

In accordance with the City’s Citizen Review Process, since there were no residential uses within 500 feet of the site, an alternate notification process was used, and notices were sent to adjoining owners on November 2, 2018. No comments or public inquiries have been received to date from any of the adjoining owners.

Notice for the public hearings before the Planning and Zoning Commission and City Council included a postcard mailed to the owners of property within 500 feet of the subject property, a legal notice published in the Arizona Republic, and a notice of public hearing sign posted on the property.

To date, staff has received one inquiry by phone and three emails from adjoining owners objecting to the proposed church use. Terry Kirk, owner of several lots within the Estrella Crossing Business Park and a member of the Property Owners Association’s Board, called and expressed concern that the church might preclude certain uses that are required to have a

minimum separation from a church. Three emails had been received from owners of neighboring properties in the Estrella Crossing Business Park prior to the Planning and Zoning Commission meeting. One was from the owner of Wilhelm Automotive (Lot 19) at 3900 S. Estrella Parkway who said a church is not an appropriate use in a business park. The second one was from Debra Pollard, the owner of the vacant Lot 8 at 15615 W. Elwood Street, expressed a concern that the presence of a church use might trigger restrictions on the use of her property. The third was submitted by Terry Kirk as a board member of the Estrella Crossing Business Park Property Owners Association; as President of Crossing Development, Inc., owner of Lots 13, 14 and 15; and as a Member of Kuma Development LLC, owner of Lot 12 in the Estrella Crossing Business Park. Mr. Kirk stated that granting the special use permit for the church would severely curtail the ability of the lot owners of the Estrella Crossing Business Park to develop and market their properties.

Prior to the Planning and Zoning Commission meeting, a fourth email was received from Randy Persson who is the owner of Lot 5. A fifth email was submitted by Steve Litchblau with Tall Development who is the owner of Lots 1, 2, 3, and 4 where the commercial center is located. The additional emails were shared with the Commission. Copies of those emails are attached.

**Planning and Zoning Commission Action:**

There was considerable discussion at the December 5, 2018 Commission meeting regarding the potential impact of a church on the ability of adjacent property owners to develop their properties with uses that may not be allowed due to certain separation requirements, more specifically, liquor licenses. A summary of that discussion is attached.

In short, a motion was made by Comm. Walters, seconded by Comm. Molony, to approve the Special Use Permit for the church as presented. Comm. Barnes stated for the record that owners of property within the 300-foot buffer should be given preferential treatment for waivers within that area and this statement should be read into the record at the City Council meeting. Comm. Walters stated that although she made the motion to approve the Special Use Permit, she would be voting against the motion because she felt that there was a lack of clarity between staff and the concerned property owners regarding what would or would not be subject to the separation requirements and whether the City's rules were more strict than the State's. She said she did not think this item should advance without more complete and accurate information, but there may be an opportunity for staff to clarify this matter before the City Council meeting.

The vote on the motion was as follows:

Ayes: Chairman Bray and Comm. Barnes

Nays: Comm. Walters, Comm. Steiner, and Comm. Molony.

Absent: Comm. Kish and Comm. Keys

The motion failed to pass by a vote of 2 to 3 with two Commissioners absent. This item will be forwarded to the City Council as a recommendation from the Planning and Zoning Commission for denial of the Special Use Permit, pursuant to the Planning and Zoning Commission Rules of Procedure.

### **Additional Information:**

In response to comments made by the Planning and Zoning Commission regarding the completeness and accuracy of the information presented with respect to the City's and State Liquor License Board's separation requirements, staff has compiled the following information.

- **Adult Businesses:** Adult Businesses are required to be separated from a church by 500 feet, as measured from the building in which the adult business is located to the property line of the church (COG Zoning Ordinance).  
**Effect of Church:** Potential. The lots within the Estrella Crossing Business Park would not be affected because adult businesses are prohibited by the Estrella Crossing Business Park PAD. Other nearby properties within 500 feet would be partially affected because adult retail businesses are allowed in the C-2 and I-2 districts and would only be allowed on that portion of the property outside of the buffer. However, all of the affected parcels have additional land on which such a use could be located. Adult businesses involving live entertainment are only allowed by Special Use Permit in the C-2 General Commercial District and most of the properties are zoned I-2.
- **Medical Marijuana Dispensary and Cultivation Facility:** Medical Marijuana Dispensaries and Cultivation Facilities are required to be separated from a church by 1,000 feet, as measured from the building in which the Medical Marijuana Dispensary or Cultivation Facility is located to the property line of the church. (COG Zoning Ordinance).  
**Effect of Church:** None. All of the lots in the Estrella Crossing Business Park PAD and the other properties within the 1,000-foot buffer are located within 5,280 feet of an existing Medical Marijuana Dispensary and Cultivation Facility, and therefore a second Medical Marijuana Dispensary and Cultivation Facility would not be permitted in this area.
- **Brewery:** A Brewery is required to be required to be separated from a church by 300 feet, as measured from the building in which the brewery is located to the building, or portion of the building, in which the church is located (COG Zoning Ordinance). A Brewery that has an In-State Producer License (Series 1) issued by the Arizona Department of Liquor Licenses and Control is exempt from the State's 300-foot separation requirement.  
**Effect of Church:** Potential. A Brewery is not specifically listed as a Permitted Use in the Estrella Crossing Business Park PAD and would have to obtain a Use Permit per the PAD. If the Church were to locate within Estrella Crossing Business Park PAD and a brewery subsequently wanted to locate within the Estrella Crossing Business Park PAD, an assuming the proposed use met all other requirements for a Use Permit, which is speculative, the Use Permit could not be granted because it would be within the 300-foot separation requirement. Moreover, as reflected in the discussion below regarding the development of the property for a retail liquor store, bar, and private club, the

development of the various lots for a brewery could be done in a manner to satisfy the separation requirements.

For the other properties within the 300-foot buffer from the proposed location of the church, only the Budget Mini-Storage to the south has the required I-2 General Industrial Park zoning required to apply for a Special Use Permit for a Brewery per Sections 4-1-3.A.2.k. and l. of the COG Zoning Ordinance. However, because this property is fully developed any impact of the Church would be theoretical at best.

- **Microbrewery:** A Microbrewery is required to be required to be separated from a church by 300 feet, as measured from the building in which the brewery is located to the building, or portion of the building, in which the church is located (COG Zoning Ordinance).

**Effect of Church:** Potential. A Microbrewery is not specifically listed as a Permitted Use in the Estrella Crossing Business Park PAD and would have to obtain a Use Permit per the PAD. If the Church were to locate within Estrella Crossing Business Park PAD and a microbrewery subsequently wanted to locate within the Estrella Crossing Business Park PAD, an assuming the proposed use met all other requirements for a Use Permit, which is speculative, the Use Permit could not be granted because it would be within the 300-foot separation requirement. Moreover, as reflected in the discussion below regarding the development of the property for a retail liquor store, bar, and private club, the development of the various lots for a microbrewery could be done in a manner to satisfy the separation requirements.

For the other properties within the 300-foot buffer from the proposed location of the church, none of them have the required C-2 General Commercial or I-1 Light Industrial Park zoning required to apply for a Special Use Permit for a Brewery per Section 4-1-3.A.1.j., and Sections 4-1-3.A.2.m. and n. of the COG Zoning Ordinance.

- **Liquor Licenses:** The Arizona Revised Statutes require that certain types of liquor licenses must be 300 feet from a church or school, as measured from the building where the license is operated to the building in which the church is located. There are several exceptions to this requirement. The Arizona Department of Liquor Licenses and Control has confirmed that a 300-foot separation is required for the following types of licenses:
  - Bar license (Series 6),
  - Beer and wine bar license (Series 7),
  - Liquor store license (Series 9).
  - Beer and wine store license (Series 10),
  - Private club license (Series 16).

There are six properties within 300 feet of the church building:

1. Lot 5 of Estrella Crossing Business Park (Zone A in the ECBP-PAD)
2. Lot 12 of Estrella Crossing Business Park (Zone B in the ECBP-PAD)
3. Lot 15 of Estrella Crossing Business Park (Zone B in the ECBP-PAD)
4. Lot 17 of Estrella Crossing Business Park (Zone B in the ECBP-PAD)
5. Lot 18 of Estrella Crossing Business Park (Zone A in the ECBP-PAD)



6. The parcel occupied by the recent expansion of Budget Mini-Storage (I-2 zone)

**Effect of Church:**

1. Lot 5 is in Zone A of the ECBP-PAD. A retail store, including a liquor store, is allowed in Zone A. A bar or private club are not specifically listed as Permitted Uses, but they could be considered through a Use Permit. However, only about 25 feet of the property at the southwest corner of the lot is within the 300-foot buffer and that is within the 30-foot front and street side yard required by the zoning. This lot would be unaffected. Additionally, the existing commercial center to the east is beyond the 300-foot buffer and likewise unaffected.
2. Lot 12 is in Zone B of the ECBP-PAD. A retail store, including a liquor store, a bar, and a private club are not specifically listed as Permitted Uses. They could be considered through a Use Permit. A portion of the southerly 220 feet of the five-acre lot is within the 300-foot buffer. A building for any of these uses would have to be located 300 feet away from the church, but none are permitted by right, and the size of the lot is such that a building could be positioned to avoid the buffer requirement. The impact of the church on this lot is negligible.
3. Lot 15 is in Zone B of the ECBP-PAD. A retail store, including a liquor store, a bar, and a private club are not specifically listed as Permitted Uses. They could be considered through a Use Permit. The southerly 80 feet of the 1.02-acre lot is within the 300-foot buffer. Thirty feet of the 80 feet is required to be a front or street side building setback. A building for any of the uses listed above would have to be located 300 feet away from the church, but none of these uses is permitted by right. A building could be positioned in the north half of the lot to avoid the buffer requirement. The impact of the church on this lot is minimal.
4. Lot 17 is in Zone B of the ECBP-PAD. A retail store, including a liquor store, a bar, or a private club are not specifically listed as Permitted Uses. They could be considered through a Use Permit. The westerly 300 feet of this 4.39-acre lot is within the 300-foot buffer. The property is already occupied by buildings that contain self-service storage units. If any of the uses listed above were proposed, they would have to be located 300 feet away from the church. However, it is unlikely that these buildings would be proposed for such uses. There is no impact by the presence of a church on the current use of the property.
5. Lot 18 is in Zone A of the ECBP-PAD. A retail store, including a liquor store, is allowed in Zone A. A bar or private club are not specifically listed as Permitted Uses, but they could be considered through a Use Permit. The property is already occupied by buildings that contain self-service storage units. Only the westerly 55 feet of the property are within the 300-foot buffer and the balance of the property would be available for redevelopment for a retail liquor use. The impact of the church on this lot is minimal.

6. Parcel occupied by Budget Mini-Storage is zoned I-2. Likewise, a retail store, including a liquor store, a bar, or a private club are not specifically listed as Permitted Uses in the I-2 district. The property is already occupied by buildings that contain self-service storage units. A portion of the westerly 770 feet of this 8.64-acre parcel are within the 300-foot buffer and the balance of the property would be available for redevelopment for a liquor use. If any of the uses listed above were proposed, they would have to be located 300 feet away from the church. However, it is unlikely that these buildings would be proposed for such uses. There is no impact by the presence of a church on the current use of the property.

Based on this review of the separation requirements, staff recommends approval of the Special Use Permit for the church as presented.

**FISCAL ANALYSIS:**

There is no immediate impact to this fiscal year budget associated with the approval of the Special Use Permit.

**RECOMMENDATION:**

Staff finds that the Special Use Permit request is compatible with the existing land uses within the area and will not be a detriment to surrounding properties or persons.

**ATTACHMENTS:**

1. Aerial Photo
2. Narrative
3. Site Plan
4. Floor Plan
5. Correspondence in Opposition and Map
6. Map of Separation Requirements
7. Estrella Crossing Business Park PAD and Map
8. P & Z Commission Discussion from 12/05/18 Meeting