2011 Planning & Zoning Commission Minutes

Regular Meetings

January 19, 2011

February 16, 2011

March 16, 2011

April 06, 2011

April 20, 2011

May 04, 2011

May 18, 2011

June 01, 2011

June 15, 2011

July 06, 2011

July 20, 2011

August 03, 2011 Cancelled

August 17, 2011

September 07, 2011

September 21, 2011 Cancelled

October 05, 2011

October 19, 2011

November 02, 2011 No Quorum

November 16, 2011

December 07, 2011

December 21, 2011 (not available yet)

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, January 19, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Baron.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Michael Flanders
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron

   Also present:

   Mr. Jeff Kurtz, Planning Administrator
   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY COMMISSIONER FLANDERS, seconded by **COMMISSIONER VEITCH** to approve the minutes of the December 15, 2011 Planning Commission Hearing. The motion passed 6-0.

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items J and N were pulled for action.

A. DVR09-0024 UDM INDUSTRIAL PARK

Approved.

Request Rezoning from Planned Area Development (PAD) for a Business Park to PAD Amended to allow for an impound yard. The subject site is located at 850 S. Bogle Ave., north of the northeast corner of Pecos Road and Hamilton Street within the Bogle Business Park. **(REQUEST CONTINUANCE TO THE FEBRUARY 16, 2011 PLANNING COMMISSION HEARING.)**

B. DVR10-0020 AZ 202

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning. The existing PAD zoning includes a mid-rise overlay and allows for office, retail, and hotel uses. The approximately 45-acre site is located at the northwest corner of Arizona Avenue and the Loop 202 Santan Freeway.

Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

C. DVR10-0027 THE LANDING AT REID'S RANCH

Approved.

Request rezoning from Planned Area Development (PAD) to PAD amended to eliminate a zoning condition requiring copper supply plumbing for residential homes for specific lots within a subdivision located ¼-mile east of the northeast corner of Chandler Heights and Gilbert Roads.

Staff, upon finding consistency with the General Plan, recommends approval to eliminate zoning condition No. 11 of Ordinance No. 3601, requiring copper plumbing for lines under water pressure.

D. LUP10-0019 LA FAMILIA MARKET

Approved.

Request Use Permit approval to sell wine and beer for off-premise consumption only (Series 10 Wine & Beer Store License) at a convenience store located at 545 North Arizona Avenue, approximately 300 feet south of Galveston Street.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.

3. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
4. Changes to the hours of operation shall require new Use Permit application and approval.
5. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
6. **The site shall be maintained in a clean and orderly manner.**

E. LUP10-0024 KILEY'S GRILL

Approved.

Request Use Permit approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within an outdoor patio. The subject site is located at 2394 N. Alma School Road, approximately ½ mile north of the northwest corner of Alma School and Warner Roads.

1. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit is non-transferable to other store locations.
5. The site shall be maintained in a clean and orderly manner.
6. No noise shall be emitted from outdoor speakers on the patios or from music occurring indoors, that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.

F. LUP10-0040 ORIENTAL JADE

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors for a new restaurant located at 2950 S. Alma School Road, Suite 2, the northwest corner of Alma School and Queen Creek Roads.

1. The Use Permit is granted for a Series 12 Restaurant license only, and any change of license shall require reapplication and new Liquor Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area, outdoor patio area, or the addition of entertainment related uses shall require re-application and approval of a Liquor Use Permit.
4. The site shall be maintained in a clean and orderly manner.

G. LUP10-0042 IRONWOOD COMMERCIAL/ARCO AM-PM

Approved.

Request Use Permit approval to sell wine and beer for off-premise consumption only (Series 10 Wine & Beer Store License) at a planned convenience store to be located at the southwest corner of Chandler Heights Road and Arizona Avenue.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion beyond the approved Floor Plan and Narrative shall void the Use Permit and require new Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

H. LUP10-0043 THE BOATZHOUSE RESTAURANT

Approved.

Request Use Permit extension approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within an existing restaurant and outdoor patio. The subject site is located at 5070 S. Gilbert Road, Suite #400, which is southwest of the southwest corner of Gilbert and Chandler Heights Roads.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other store locations.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. The site shall be maintained in a clean and orderly manner.
5. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.

I. LUP10-0044 B-L-D BREAKFAST LUNCH DINNER

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors and within an outdoor patio at a new restaurant within The Shops at Pecos Ranch development. The property is located at the northeast corner of Dobson and Germann Roads.

1. The Use Permit is granted for a Series 12 Restaurant license only, and any change of license shall require reapplication and new Liquor Use Permit approval.

2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require re-application and approval of a Liquor Use Permit.
4. The site and patio areas shall be maintained in a clean and orderly manner.

K. ZUP10-0033 CHEN ARCHITECTS/ARISIA CONSTRUCTION MGMT.

Approved.

Request Use Permit time extension approval to operate a professional office within a Single-Family (SF-8.5) zoning district for property located at 877 N. Alma School Road, approximately 800 feet south of the southeast corner of Ray and Alma School Roads.

1. Any expansion or modification beyond the approved Site Plan and Floor Plan shall void the Use Permit and require a new Use Permit application.
2. The number of employees occupying the residential conversion shall not exceed one full-time and three part-time employees.
3. The Use Permit is effective for a period of five (5) years from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. Parking shall occur at the rear of the site. Parking in the front yard is for delivery drop-off and pick-up only.
5. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
6. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.

L. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

Approved to continue to the March 16, 2011 Planning Commission hearing.

Request Use Permit approval to install a wireless communication facility on the campus of United Methodist Church at 450 E. Chandler Heights Road, the northeast corner of Chandler Heights Road and the Union Pacific Railroad. **(REQUEST CONTINUANCE TO THE MARCH 16, 2011 PLANNING COMMISSION HEARING.)**

M. ZUP10-0046 SPIRAL VOLLEYBALL

Approved.

Request Use Permit extension approval to allow an athletic training facility with occasional tournaments, within a Planned Industrial (I-1) zoned district. The subject site is located at 400 N. 56th Street, which is approximately ¼ mile north of the northwest corner of Chandler Blvd. and 56th Street.

1. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to another location.
4. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
5. The parking lot located in the rear of the site shall be striped to accommodate additional parking stalls as represented by the site plan.

O. ZONING CASE ZCA10-0008, CITY OF CHANDLER / OUTDOOR PATIOS

Approved.

City initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by amending Sections 35-200, 35-1708, and 35-3203 pertaining to outdoor patios. If approved, the amendment would increase flexibility in the design of outdoor patios in conjunction with liquor use permits to allow barrier materials other than wrought iron fences to be considered (e.g. couches or large pots), reduce minimum barrier heights, and loosen the restrictions on patios that are detached from the associated building or suite. The amendment would address outdoor patios already eligible for consideration in both the City Center Zoning District (CCD) and Planned Area Development (PAD) zoning in the South Arizona Avenue Corridor.

P. MOTION TO CANCEL THE FEBRUARY 2, 2011 PLANNING COMMISSION HEARING.

Approved.

COMMISSIONER FLANDERS said he wanted to make a couple of comments in regards to Item O which is the Outdoor Patio Code Amendment. In their discussions in Study Session, they brought up the areas in the Downtown area that are hard zoned (C-1, C-2, C-3). He thinks most of it is C-2. There wasn't anything in there that covered that. He would like to direct Staff to look at that. He understands that this part of the Ordinance is already going through and he likes what Staff has done as far modifications to the Code. He would like at least some recommendation of those hard zoned areas. There are a number of properties in the downtown area that carry that hard zoning and based on this they would either have to go ahead and do a rezone or may not be able to go ahead and do their patio. He would like everything to be covered, maybe not this time but down the line. If they could go ahead and look at that, and make sure their comments are forwarded on to City Council for them to make that decision final.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER FLANDERS** to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 6-0.

ACTION:

J. ZUP10-0032 SAN MARCOS GOLF RESORT

Approved to continue to the April 20, 2011 Planning Commission hearing.
Request Use Permit approval to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the southwest corner of Chandler Boulevard and Dakota Street, approximately ¼ mile west of Arizona Avenue.

MR. BILL DERMODY, SENIOR CITY PLANNER stated that this item is a request for a Use Permit approval to continue a golf cart storage and maintenance yard use at San Marcos Golf Course in downtown. They have had this Use Permit several times but recently there was a bankruptcy issue and this property defaulted to receivership out of state and they need to coordinate more issues before bringing the full case forward. Commission indicated a desire to continue this rather than withdrawing it. Some potential dates to continue to would be the February 16 Planning Commission agenda which would be one month away. March 16 would be 2 months and then there is March 2 right in between. He also has the full calendar for whatever is the wish of the Planning Commission.

CHAIRMAN CASON asked what day was he anticipating the applicant to come in and start working with him on resolving this issue. Mr. Dermody replied December of last year. **CHAIRMAN CASON** asked if they had given him any indication of when they would like it. Mr. Dermody said they have no indication of that.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated that as a point of information he understands and has heard rumors that the property and property owner is in bankruptcy or in receivership. He has never been able to confirm that. What he has been able to confirm is that there is a Notice of Trustee Sale for the property that is supposed to occur at the end of March. If that is true, it is going to be very difficult to get the current owner interested in worrying about this while that Trustee Sale is pending and because no one is going to know until either that Trustee Sale is cancelled or occurs who the actual owner of the property is going to be. If they are looking to continue this matter, he would pick a date past March 31 of this year.

VICE CHAIRMAN RIVERS said he thinks if they follow the advice just given and if they ask for a continuance until the second meeting in April, at least they could be given an update at that time as to what is happening. Then from that point if they wanted to

wait another 3 months or 6 months or a year, they would at least have a little more information at that time. That would be his suggestion – the 2nd meeting in April.

COMMISSIONER FLANDERS said he is really comfortable with the way Staff has presented this as a withdrawal. He knows there are other things going on at the hotel not only with the bankruptcy but there was talk about redoing the clubhouse. So he is comfortable with the withdrawal on the item.

COMMISSIONER PRIDEMORE stated he would lean toward Staff's recommendation just for the fact that with the withdrawal, it then does have to be renoticed. He thinks the longer they go with a continuance it will be a burden on anybody who was trying to track this. He thinks they would know more in April but he is not sure they would even know enough even by that time. He said that right now he would still support withdrawal versus continuance.

CHAIRMAN CASON said the new owners will have to understand that they will have to hit the ground running regardless of this. Having said that he looked for a new motion.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER FLANDERS** to maintain the item as a withdrawal as stated by Staff and not a continuance on item ZUP10-0032 SAN MARCOS GOLF RESORT. The vote was 3 in favor and 3 opposed. The item did not pass because there was no majority. **CHAIRMAN CASON** asked for another motion.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to continue the item to the second Planning and Zoning meeting in April and if nothing else by that time, maybe they will have an additional member on the Commission and get a vote in at that time. The item passed 4 to 2.

MR. DERMODY said for the reference of anyone following this case, April 20th would be that Planning Commission hearing date.

N. ZONING CASE ZCA10-0007, CITY OF CHANDLER / MEDICAL MARIJUANA

Approved.

City initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by amending Sections 35-200, 35-305 and 35-2100 by establishing definitions and Use Permit requirements relating to Medical Marijuana Facilities and Cultivation Sites.

MR. JEFF KURTZ, PLANNING ADMINISTRATOR, stated this item before them is a Zoning Code Amendment. This is an offshoot of the Proposition 203 that was passed by the voters of Arizona authorizing the state to begin a process to issue licenses to dispensaries for the dispensing of medical marijuana.

What they have done in accordance with the state law is they have gone back and taken a look at their zoning regulations. The Council directed Staff to initiate a Zoning Code Amendment which they have during this process and then deferred policy guidance on this item to their Transportation & Development Subcommittee. They had an opportunity to meet with three of the Councilmembers and they provided some direction that really is the result of the Ordinance form that they have before them.

The Ordinance that they have is formatted in the term of a Zoning Code Amendment. Glenn was good enough to write up most of the legal e's in it for them and that helped a lot. They appreciate his efforts in that.

First, what they see in that Ordinance is some new definitions. The definitions will become part of the zoning code because they are later referenced as part of the terminology in the code amendment.

The second thing that this Ordinance Zoning Code Amendment does is it establishes the ability to have a land use, Medical Marijuana Dispensing and Medical Marijuana Cultivating and Infusion in two of our zoning districts in town. What it does is it requires a Use Permit and it directs the dispensing facilities, which is the retail, into our C-2 and C-3 zoning districts along with any PAD zoning district where otherwise C-2 and C-3 uses are allowed. The second distinction, again through a Use Permit, directs the ability to create the cultivation uses and the infusion of food infusion uses in our industrial districts. More specifically, the I-1 and I-2 zoning district and also the PAD zoning district where previously I-1 and I-2 zoning uses were allowed.

The third thing that the Ordinance does is it establishes an application process, creates some criteria under which the Use Permits will be evaluated.

Fourth, what the Zoning Code Amendment does is it establishes a list of protected uses that exceed what was required as a part of the state law. Those items are contained in your Staff memorandum and in the Ordinance from a discussion standpoint. That is really kind of the big spirit of what he thinks their discussions today here will focus on.

Fifth, what the Ordinance does is it proposes that the Use Permits be a one-year limit and starts in how you renew those Use Permits. That is really the kind of nuts and bolts of what this Ordinance is. As he mentioned probably to the greatest degree of impact, what this Ordinance does is establishes a set of protected uses and then requires a certain separation or distance between Medical Marijuana Dispensaries and Cultivation sites before they could be considered for a Use Permit.

The way the Ordinance is formatted is kind of a sequential formatting based upon where they are in a process and in an amount of time. When they went to the Council Subcommittee, this is a fairly quickly moving process. Many cities across the state valley are rushing through to take a look at some of their Ordinances. They were in a position where they needed to move forward so that if Council wanted to adopt a Zoning Code Amendment, they needed to get it completed prior to the end of March. The track they are on today should Commission forward this to Council allows them to accomplish that. The significant part of the Ordinance is the discussion about separation and also what are protected uses.

When the Council Subcommittee met, they directed them to prepare a very strict Ordinance that could then be evaluated because they are under such a short time frame. What Staff did was create an Ordinance that lists all the protected uses that they might be able to think of and then those tend to be the more sensitive land uses, schools, parks, churches and established a minimum ¼ mile spacing between those protected uses and any Medical Marijuana Dispensary or facility. Also in there is a minimum threshold of a mile between each of these dispensaries. The purpose of that was to advertise an Ordinance that they could then perhaps, if Commission were to recommend and Council was to adopt, a lesser requirement than what the Ordinance might stipulate. Council Subcommittee directed them to take a look at those more strict separation requirements and look at it from a geographic standpoint of how such strict ordinances would impact the geographic landscape of Chandler. What they did was go through a process and prepared a map. It is the first map that is in our packet and it is identified as a map with all protected uses. As they can see from studying that, the map result of the buffer zones resulted in places in town where such facilities could be considered through Use Permits but at the same time it limited the locations in town - primarily out in west Chandler where because of these separation requirements do they end up with land that is available to be considered by a Use Permit.

Based upon the Subcommittee's direction they took the next step of what if they were to change some of those separation requirements and how might that impact geographically in Chandler the availability of sites to be considered through a Use Permit. They went back and made three changes to the list. One of them is to eliminate the separation for dispensaries from residential zones; secondly, from hospitals and thirdly from Private Parks. The one that had the most impact in terms of creating more available sites that could be considered through a Use Permit process was the elimination of residential districts as a protected use. The second one, hospitals, they eliminated that. It didn't geographically change much on the map but they thought it was kind of counter intuitive with the purpose of Medical Marijuana Dispensing facility to not want to have it coordinated and communicated around the hospitals. The third one they did was in the aspect of parks. They have taken out the separation distance between Private Parks. They are not sure what a Private Park is. They can assume that a greenbelt in a subdivision is a Private Park but it is kind of an ambiguous term so they struck that out but still maintained the Public Parks which are easily identifiable. They had property

lines on them. He has included those in the separation that results in the second map that they have.

They then took that a little step further and blew up on an air photo for their use. They can kind of see how these buffers hit sites that they are familiar with visually, of where they might be applied and how these buffers might be applied on our landscape. These maps are an exercise. He can guarantee them that there is a mistake somewhere on them. They took the best available data – data that will change. A new daycare opens up, a new church opens up prior to a Use Permit application being considered, and it is going to change this map. At the time, it was the best available data we had. It gives them a pretty good indication of where sites might be appropriate with consideration of the buffer zones as suggested.

They are bringing this forward suggesting a few changes to the Ordinance as it is drafted, and he will be more than glad to try to answer any questions that he might have.

COMMISSIONER FLANDERS said to Mr. Kurtz that it had been a long time since they have seen him at one of their meetings. He welcomed him back. He said he appreciated everything that Staff and the Subcommittee has done in relation to this ordinance. His question is with the other cities going through the same process and from what he understands some of those cities have already approved their ordinance change, how does this ordinance compare to other cities? Is it similar or is it drastically different?

MR. KURTZ replied that statewide they have been monitoring the Ordinances that are being adopted. It is very similar and it is very unlike other communities. Everybody has a little bit of a different twist on it. Locally, our budding adjacent communities are addressing the same type of concerns in terms of the projected issues. The quarter mile spacing however is the most extreme of any of our adjacent nearby cities. Scottsdale for instance feels they do belong around hospitals and in their medical zoning districts. So they are permitted by right in their medical districts – just a Use Permit everywhere else. The separation distances – Phoenix for example has made a distinction between a cultivation site and our retail dispensing site in terms of their separation distance between that and residential areas. It is on point with what the other valley cities have done in terms of types of things that are being looked at in terms of reasonable zoning regulations, but it differs in terms of the buffer spacing in the most significant way.

VICE CHAIRMAN RIVERS asked if the ¼ mile distance near hospitals is totally eliminated or did he shrink it? **MR. KURTZ** said their Staff recommendation is to eliminate it. **VICE CHAIRMAN RIVERS** asked if it is the same with the Private Parks? Just totally eliminate the number altogether? **MR. KURTZ** replied that was correct.

CHAIRMAN CASON asked on the portion of the ordinance that describes that a cultivation facility has to be fully enclosed, does that mean fully enclosed like the law says or fully enclosed like a person would normally think fully enclosed would mean? **MR. KURTZ** said the distinction is really coming from the state rules and regulations for

what enclosed means. They would expect that they have the applicants who would come to them would be in accordance with the state mandates on it. The state is still debating it. They are still trying to decide whether you need a roof on it for the opportunity to capture natural light for the cultivation. It is still at debate of whether or not what enclosed exactly means. **CHAIRMAN CASON** asked would we interpret enclosed to mean what the rule makers determine it will be? **MR. KURTZ** replied yes sir. **CHAIRMAN CASON** asked if the committee was able to provide any data as to how many of these there would be or how many folks would utilize them in town from some type of data out there? **MR. KURTZ** said the direction is really just more based on solid land use planning of where these types of facilities, if there is 1 or 7, where are they best located for our community? So no, they did not get into those kinds of discussions.

CHAIRMAN CASON asked if there were any other questions for Staff. There were none. He went to the audience and said what they were discussing tonight is the Ordinance and things that affect the Ordinance are the law and the rule making that is currently going on. He welcomes anyone to come up and talk about the Ordinance and those other two items as they relate to the Ordinance. If your intent is to come up and speak about the law in general or the rule making in general, this is really not the forum for that because there is no help they could provide to them. If the rule making is your issue, they are still taking information on rule making. If the law is the issue, then of course clearly talking to their representative would be the best solution for that. He asked if they would be so kind to limit their speaking to those issues that have to do with the Ordinance. In addition, they are allowed to speak for 3 minutes. When the yellow light goes on they have 30 seconds left and they can only speak once. What they want is to have people come in and give them their ideas and public comments but they don't want to engage in a debate where they have to keep coming up and arguing or trying to make their point. With those ground rules, he has 3 speaker cards. After these 3 cards are done, he will ask if anyone else in the audience would like to speak on this matter.

DIANNE WOODS, 241 N. NASH WAY, CHANDLER, said the biggest things that she would like to have is to make sure there is protection for people like herself that get very ill from the smell of second hand smoke with marijuana. The worst time she got really sick from it the person had to be 30 feet away. She is concerned about having the second hand smoke and she is also concerned if a growing area or a facility would go up in flames, because fires do happen. She wants to make sure there is protection around to keep the smoke inside. From what she understands she is not the only one who gets very ill from marijuana. If she were, she would be stuck if it was just only her. She would like that kind of protection. She doesn't know how it can be done and she is sure it doesn't have to be like a nuclear power plant to keep the smoke in. Just so it is kept inside. **CHAIRMAN CASON** said those are very good issues and they are addressed in the Ordinance. He asked Mr. Kurtz to speak about the issues about fire protection. Ms. Woods said she thinks they are not allowed to have places where a person can just go and smoke indoors to get whatever protection they need from the marijuana. If it is not in the law, it would be wonderful if there would be a facility where they all could go in and

keep the smoke in there and away from everybody else. **CHAIRMAN CASON** said that is addressed too.

MR. KURTZ, PLANNING ADMINISTRATOR, stated the Ordinance starts to address some of those issues certainly from a fire protection standpoint. Any facility built in Chandler is required to have the fire protection necessary to contain a fire, to put out a fire before it becomes a fire. He said to the degree that smoke does come from a fire, where there is a fire in a cultivation area, smoke can escape the facility. To the degree that fire protection is provided by resistance is built into all of our buildings. They at least have an opportunity there. The Ordinance does address a prohibition for the consumption of Medical Marijuana on a premise in the dispensary. To that degree at the facility the proposition, the law that was passed, takes some strides at controlling where one would ingest their medicine like not on a public bus, those types of things. It does take some strides that if not requiring, at least bringing the people's attention of courteousness of how and when they ingest their medicine and how it might impact other people. To that degree there is some opportunities to do that. Smoking parlors is what she was referring to. As long as somebody has a card, they are able to smoke where they are able to smoke. To that degree, we all just need to be cognizant of perhaps a change that has occurred because of the proposition passing in Arizona.

GREGORY S. WOODS, 241 N. NASH WAY, CHANDLER, stated he wanted to commend the City, Staff, Council and all those people who were in involved in drafting this Ordinance. They have done a commendable job of striking a good balance with protecting the community and also abiding by the voice of the people as it was expressed in the last election. He does have some concerns about the Ordinance as it is written and also the Staff recommendations. First of all, he is absolutely opposed to the Staff recommendations particularly Private Parks. He lives in Dobson Place and the Private Parks there are easily identifiable and very large, several acres, and there are several of them. Also, he is opposed to dropping the separation from residential zoning. He would like to see that maintained in the Ordinance as it is written. There are a few other concerns. Regarding separation there is a phrase in 2F regarding separation boundaries, regarding freeways. He would like to see the freeways removed as a boundary of separation. It really doesn't make any sense to use a freeway as a separation from one zone to the next. Another concern is the transferability of the permit. The City has done a very good job in not allowing transferability to another location. However, they haven't addressed what happens when that property or ownership changes. It might be owned by a corporation. What happens when the majority of the shares are then sold to a different shareholder? They ought to address that in the Ordinance. He would be opposed to transferring ownership to a different owner. He would rather see the new owner come up before the Council and get a new Council Use Permit and have to go through that process and justify the new Council Use Permit. Those are his concerns with the Ordinance as it is drafted. In the main it is a very good Ordinance. He wanted to congratulate everyone that was involved with that.

CHAIRMAN CASON asked Mr. Kurtz if he would like to speak to the freeway and then the Use Permit owner change. **MR. KURTZ** said he would be glad to.

MR. KURTZ said the concept behind the freeways was that this is an Ordinance that is based upon having a separation between uses and a freeway that tends to present a very significant restrictor between land uses. It is almost like there is a gigantic wall built. They thought that was something that needed to be recognized as a geographic feature that in itself prevents an incredible barrier between one side and the other. That was kind of the logic and reasoning behind the using the freeway as a barrier themselves that present a separation between land uses. The only other comment about the issue about the transferability – as we look as Use Permits, they look at them from a land use standpoint. It is the impact of a particular use in a particular area. Ownership, who the developer is, who the owner is, who the operator is, is not germane to a compatibility test so therefore they have specifically identified as a part of the Ordinance that ownership transferability is not an issue. You just can't move these Use Permits around just because you have a Use Permit. It is tied to a particular location, it is part of that particular approval and whoever the new owner might be should the ownership change, they expect that person to abide by the same representations and conditions that were placed in effect when they issued that Use Permit.

CHAIRMAN CASON said because Use Permits are only for one year if the ownership were to change six months before a Use Permit, the new owner would have to come in and apply for the permit. **MR. KURTZ** said that was a good point. They are for a very short duration.

MIKE OPICH, 15012 S. 19TH WAY, PHOENIX said he has lived in Ahwatukee just over the border from Chandler for about 20 years. First thing he wanted to point out is that a comment was made that there are some errors in the map. He has been studying the preliminary draft pretty intensively for the last week or so. Some significant things are missed there. He complimented the recommendation to remove the separation from residential because the structure of most of the shopping centers is very much adjacent to the back of community housing. Even a very short distance there makes most shopping centers off limit. The problem is when you miss daycare centers and churches, which he has already seen on the maps in a quick look, most of the C-2 areas that are identified as options in fact are not. When you combine that with those C-2 areas that already have full tenants for very large spaces, the number of possibilities for a dispensary with a small size limit that is in the Ordinance makes it nearly impossible to find a space to rent for dispensary. He said that Commissioner Flanders asked about how it might differ from Phoenix or the surrounding area. One significant difference in this draft from Phoenix is that Phoenix allows the dispensaries in the industrial areas where cultivation is also allowed. What he would like for them to consider is a similar standard here where if they don't want them in commercial areas and they don't want them around neighborhoods and daycare, put them in the industrial area where they are off the beaten track. To combine treating it like an adult oriented business when it's not and things like limiting the hours they can operate as you have, it is more restrictive than an adult oriented

business would be. When you add in the other requirements around separation from churches and schools and even in the industrial area where they have allowed churches and schools, it makes it almost impossible to find an industrial area that doesn't have either a charter school or church nearby. He pointed out that state law specifically allows and anticipates and permits deliveries and this ordinance is precluding deliveries. He thinks that is in direct contradiction of what the law allows. He doesn't think that is appropriate. If they are going to allow churches and schools to come into the industrial areas, it doesn't seem like they should enjoy the separation requirements if he is required to be in an industrial area. The only other he could add is that if you consider the size of the spaces available in the very limited areas that are C-2 for a dispensary, and you eliminate those that are full and fix the mistakes on the map, there are only 1 or 2 locations in Chandler on the west part of Chandler that he has studied that are even available. If you allow it into the industrial areas for the dispensary, he thinks it keeps it out of the areas that you don't want it and allows it to actually happen.

CHAIRMAN CASON asked if he was representing himself or does he represent any entity? Mr. Opich said at this time he is representing himself but he is a potential applicant for a dispensary. **CHAIRMAN CASON** asked what hours would he like to see? Mr. Opich replied that one of the reasons he would like to see it a little bit later in the evening is that if you think of this as an actual medicine for someone who is sick, like his brother-in-law who has MS and suffers from spasms, if he is out of medicine he can run down to the Walgreen's 200 yards from his house and get him medicine. If this is the alternative medicine they want to try and if it turns out he needs to have a little bit of medicine later in the evening like 9:00 p.m. at night, he would like to be able to go buy it. A lot of people work different hours. Most people work during the hours that are allowed for the dispensary to be open. It makes it very limited to have weekends and so forth.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, asked Mr. Opich if he understood or believed that the Ordinance precludes deliveries? Mr. Opich said that is his understanding. **MR. BROCKMAN** asked if he was referring to deliveries from the retail dispensaries. Mr. Opich replied that he believes that is what it says. **MR. BROCKMAN** said in other words he is talking about deliveries to residential homes. Mr. Opich said that it says specifically not to provide off-site deliveries of medical marijuana to a card holder. The law allows that specifically.

AARON SMITH, ARIZONA MEDICAL MARIJUANA ASSOCIATION, 1206 S. WILSON STREET, TEMPE, stated that the Arizona Medical Marijuana Association is an out growth of the successful Proposition 203 campaign. They now represent the interests of this emerging industry in the state and more importantly the patients that this industry will serve. Their focus is to insure that this state law that they drafted is truly the best medical marijuana law in the country. They really have the potential to do that. A lot of that is going to rest on the shoulders of the land use authorities and ultimately, city leaders in places like Chandler.

He has worked on this issue for many years and in California he has seen dispensaries from across the spectrum. From some that are just downright criminal and should be shut down, to many that he wishes he could take them to see that are flourishing patient oriented medical centers that provide an array of services for patients and are really pillars of their community. What those types of dispensaries have in common in California is that they are all operating at their optimal land use codes. You get what you zone. He thinks they have an opportunity here to get some of these Rolls Royce types of operations and there is no reason they shouldn't.

He commends the Staff recommendations and fully concurs with the amendments to the code. He would add that they should reconsider having the setback for places of worship for the reasons that were outlined by the last speaker. Anybody can go on the internet and get a license to be a preacher and open up a church or a place of worship whereas those who are going to actually be licensed under state law to have medical marijuana dispensaries are going to go through a rigorous and competitive process to get those licenses. He doesn't think it is appropriate to give the same setbacks. Also, touching on what the last speaker said, he is concerned about the restrictive hours for the same reasons that were already outlined but also that if they restrict the hours to 7:00 p.m., they are going to see a rush of traffic between 5 and 7:00 p.m. They will get out of work and they are rushing to get their medicine before it closes. That causes a nuisance to surrounding neighbors. He has seen it before. They should consider expanding that at least from 9 a.m. to 9:00 p.m. so that there is a 12 hour window.

Probably the most significant concern to them is the prohibition on sales of products other than medical marijuana or marijuana related products. They see that as counter-productive to the goal that he thinks they all share which is insuring that these are patient focused centers. You can call them wellness centers for lack of a better word. They would like to see medical marijuana be integrated into other existing businesses, but they would like to see medical marijuana dispensaries that don't just sell marijuana to patients. The would provide an array of services and he thinks by putting that provision in the code, it is counter to that and he doesn't really see what they are trying to achieve by having that there. He could see, of course, prohibiting the sale of alcohol which makes sense to him and they would have no quarrel with that. He thinks there should be the sale of other medical related supplies and would be entirely appropriate.

This really has the potential to be the best in the country and he has great confidence that they will achieve that and he thanked the Staff for coming up with these great recommendations in this Ordinance. He knows it is not easy, this is new and Chandler is out in front doing this. They really appreciate that.

CHAIRMAN CASON asked Mr. Opich that regarding the wellness center, is that basically how it happens in California? Mr. Opich replied the best dispensaries are. They provide massage, physical therapy and other services besides just selling marijuana. In California you have to understand there regulations are nill. There are no state regulations. You have a vast spectrum. The best of the best are providing other services

and they are allowed to. There is jurisdiction in California that have similar codes that say that they can't sell anything other than marijuana and you end up in a situation where people are just going in and getting their medicine and then leave. That is just not conducive to patient wellness. **CHAIRMAN CASON** asked about other states. Mr. Opich replied that for New Mexico and Colorado he has not seen those ordinances there that say you can't sell other products. He has never been to a dispensary in New Mexico. In Colorado he has seen the same type of successful operation where they are providing an array of services.

COMMISSIONER FLANDERS asked what does he mean by sale of other products? Mr. Opich answered books, educational materials and medical supplies. He thinks they shouldn't put a barrier there if there is an existing business like a chiropractor or some other business that wants to expand into medical marijuana. They should encourage that. He doesn't think they should just be setting us up so that they are only allowing marijuana only stores. They should encourage other merchandise and services – massage, therapy and different things like that. **COMMISSIONER FLANDERS** asked if the stores in California sell pipes and different things like that. Mr. Opich replied that some do and he thinks that is appropriate. Actually in looking at the current draft of the ordinance, he would interpret that as being allowed here because that would be related merchandise.

MR. KURTZ, PLANNING ADMINISTRATOR said he wanted to tag on a little bit about some of these combined services. The ordinance talks about selling merchandise and it is broad. It is hard to say that a book educating one on the benefits or how do use marijuana would not be a related supply. It does not make a distinction of other related services. To the degree that other services are offered, this is just regulating that dispensary. If there are other services that are occurring as a part of it that are permitted as a part of that zoning district, they would be allowed as a part of that.

CHAIRMAN CASON stated that before he closes the floor for further comment, he wanted to ask if there was anybody else in the audience that would like to speak on this matter. There were additional speakers.

CHRISTOPHER HARRIS, 1315 W. STRATFORD DRIVE, CHANDLER, stated he also wanted to commend the Staff recommendations. He thinks they are totally necessary. He has already looked at a bunch of these sites too like the previous gentleman. In addition to the restrictions, lots of landowners who he has talked to don't even want to have them there. That is another thing to consider too. The more it can open up, the more possibilities there are because a lot of these are very large industrial complexes. For a startup business that is not really feasible to have a 20,000 square foot facility even though that is bigger than the rules and zoning regulations that are mandated currently. He applauds the residential distance restrictions. He also agrees with the previous speaker that dispensaries should be allowed in industrial areas too. This would also help alleviate the previous problem. Also, to the last speaker about other products, the best way to consume marijuana are usually through edibles or through vaporizers. You don't

actually burn the marijuana plant which creates carcinogen that you actually inhale. A vaporizer actually melts the THC and creates a fume that you can inhale. That is a product that you would really want to be able to sell in a dispensary. There are other products similar to that to but it just aids the patient getting their marijuana in the healthiest possible way as opposed to actually burning the plant matter. He just wanted the Commission to consider that.

CURTIS SHELTON, 2906 E. WINDMERE DRIVE, CHANDLER, said he is there because he is interested in applying for a dispensary permit. He has spent some time reviewing the available locations pursuant to the proposed ordinances that they have had thus far. He just wanted to add a couple things. He truly believes that the recommendations of Staff are essential and they are appropriate to eliminate the separation distances. The other thing he wanted to address was the cultivation site size. The Ordinance that they have proposed is limiting it to 3000 square feet. He is not quite sure how that 3000 square foot size was arrived at but under the circumstances with the State of Arizona only allowing 124 dispensaries, he doesn't think the 3000 square foot size is going to be sufficient to accommodate demand. He said he would ask them to consider expanding that to something along the lines of 6000 square feet.

BILL CROSBY, 6307 E. SHEA BLVD., SCOTTSDALE, stated he was curious if there was any information on becoming just a grower and not having a dispensary because dispensaries are supposed to grow 70% of what they use but that leaves another 30% for a grower out there somewhere to be doing that. He would be more interested in that than running a dispensary. **CHAIRMAN CASON** said he thinks that he could probably submit his concerns to the health department. They are dealing with those types of issues and they are pretty much just working on dispensaries. Mr. Crosby said he was just hoping that they might have a word on that.

CHAIRMAN CASON asked if anyone else in the audience would like to speak. Seeing none he closed the floor and opened up discussion on the dais.

COMMISSIONER FLANDERS asked Mr. Kurtz, the Planning Administrator, how many possible dispensaries, cultivation and fusion sites are to be in the State of Arizona? **MR. KURTZ** said the numbers talked about are 125. It is a ratio of 1 per every 10 pharmacies in the state. **COMMISSIONER FLANDERS** asked if that was divided up between the retail locations and the cultivations? **MR. KURTZ** replied that they think so. The definition in the state law of 'what a dispensary is' is 3-fold. It is the retail, (the countertop that they think of), a cultivation site or a dispensary a food infusible site - it depends. In Chandler the way their Ordinance is set up they have specifically separated the cultivation site from the retail dispensing site. If one were to be a combination in another city, they would need one license but the way their Ordinance is set up and their desire to segregate those uses and put those two issues in different zoning categories, they would need two Use Permits, if you were going to grow and also sell in their City.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said the act actually talks in terms of non-profit medical marijuana dispensary but that term doesn't identify a facility; it identifies the type of entity that can engage in either the retail sale or the cultivation or infusion. Infusion is not quite clear because that was something that came out of the DHS proposed regulations. They tried to keep that in their Ordinance too. Technically, a dispensary is the entity that gets the card from the state to operate. He believes that it's the dispensary that they have a limit of 125. Now that dispensary may have more than one facility. It sounds like they would have at least 1 retail operation plus some sort of an arrangement with a cultivator; either their own or with somebody else to get the marijuana. The terminology is a little odd. Most people who talked about dispensaries that showed up here were really talking about retail operations versus cultivation, but the terminology isn't quite that way.

VICE CHAIRMAN RIVERS said he had some questions for Mr. Kurtz that were leftover from when the speakers were there. He asked on the daycare center, public or private with ¼ mile separation, is that going to include people who do daycare in their homes or is that going to come to them and Council on a case by case basis in the actual application process. **MR. KURTZ** said they will rely upon the state providing information for what is a commercial registered daycare. Sometimes those are found in residential homes and they have gone through their state license process. They are a daycare – they just happen to be in a residential zoning district. They will call from that list to be the most liberal and understanding with the respect for what a daycare facility is. **VICE CHAIRMAN RIVERS** said that he and Mr. Kurtz had talked yesterday about what defines a 'Private Park' and a new opinion has come forth. For example, if you are in a HOA run neighborhood or non-HOA run neighborhood and have an enormous green belt that residents their use for a park and people from outside that neighborhood come and use the park, does that make it a public park? **MR. KURTZ** replied no, it does not. The HOA could kick them out of their own green belt if they are trespassing on property that they are not supposed to be on, so no by the use of the public of a space that perhaps is not public, doesn't create it as a public park. **VICE CHAIRMAN RIVERS** said so a public park is only one owned by the City? **MR. KURTZ** answered yes.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated that doesn't mean that the 'Private Park' would not still constitute a public place as defined in either the medical marijuana act or in the DHS regulations because the smoking of marijuana in a public place is prohibited by those codes. That means that whether you are in a public or private park, he believes the scope of the language at least proposed by DHS to define what a 'Public Place' is, would include either one.

VICE CHAIRMAN RIVERS said as far as the separation between that park and the facility itself, it doesn't count for that because it is not a public park. You can't use the product in that park because it is a public place. **MR. BROCKMAN** said that was correct. **VICE CHAIRMAN RIVERS** stated the other question that came about is that if you are going to maintain the ¼ mile separation between these facilities and a place of worship, he was noticing on one of the maps that he has unless they have moved this

particular place of worship, which is in an industrial area, it hasn't been taken into account on this map. Again, when someone comes to do their Use Permit, if it is pointed out at that time that they are within ¼ mile of a place of worship, which certainly would affect the outcome of that application. Correct? **MR. KURTZ** stated they will need to do a current and more detailed study of any location to see what land uses have occurred since they prepared these maps. He already found one they missed – so yes. **VICE CHAIRMAN RIVERS** said and as they already discussed, what they are doing here is creating a kind of guideline and even though there are blank places on this map where people may apply, it doesn't mean it is a slam dunk that they are going to be accepted. It is going to be handled on a Use Permit case by case basis. Correct? **MR. KURTZ** said they will look at them through a Use Permit. They will have that opportunity to do a more detailed compatibility study with each individual location. **VICE CHAIRMAN RIVERS** asked what the reasoning behind not providing off-site deliveries of medical marijuana to a cardholder is - what is the reasoning for that since some of these folks are homebound and they cannot make it out to these places and probably would have to send a designate to pick their stuff up? Is there a specific reason why they don't want to do deliveries?

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, replied that if a qualified patient who has a card to receive medical marijuana is homebound, that qualified patient can have a caregiver who also has a card and is capable of going and securing the marijuana for that qualified patient. If fact the caregiver can do that for up to 5 qualified patients. They opted to preclude the home delivery because it is possible for the caregiver to come and get the marijuana and then bring it back. The one speaker who indicated that was contrary to what the law requires. He doesn't know the answer to that. He has a note to check on that. They certainly want to comply with that law. That was their thought process. They really didn't want to have delivery trucks arriving at residential homes and the police would be concerned especially by that because they have their own concerns about potential for robberies and things like that. **VICE CHAIRMAN RIVERS** said he was going to say he thought there might be a safety issue as far as the delivery person goes.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said he wanted to make clear when they talk about this separation. He wants to make sure that the Commission understands one issue that wasn't raised in all of this. To the extent that the separation limits the areas where marijuana retail shops or cultivation can be located, if a qualified patient or caregiver is more than 25 miles away from any such retail dispensary, they then could obtain a card that allows them to grow marijuana in their residence. There is an issue there. If they treat these too much like adult businesses and want to kind of hide them away, they may run into some problems where they will have areas where qualified patients might be able to raise their own marijuana – limited amounts. He thinks he would say they were generally trying to have separations but allow the separations to be reasonable enough to not run into the 25 mile rule.

COMMISSIONER BARON stated there was a lot of dialogue about separating the daycares, churches and such. What happens if the facility is located, either the dispensary or grower, and a church comes in and wants to be within that separation zone? Are they precluded from being within that area or do they have to wait? What is the process for that?

MR. KURTZ said the Ordinance recognizes that condition and these Use Permits would come back on an annual basis. It specifically recognizes that if the dispensary was there first and a protected use moves closer to it that didn't exist before, is not a reason that the dispensary can't get their Use Permit removed. It's kind of grandfathered. That's the short quick answer to that. The state law recognizes that also in terms of their minimum separation between all forms of schools. That is practical land use planning. If they were there first, they get to stay. The second guy made a choice to move into that area. If he was good with that choice, that is his choice. **COMMISSIONER BARON** said he understands but there are also economic impact possibilities with that type of mentality. That is why he brought it up.

CHAIRMAN CASON asked Mr. Kurtz if he was prepared to show them where they are striking and where they are adding in this Ordinance.

MR. KURTZ said he hasn't heard any changes yet from the Commission. Staff has presented 3 changes that they think are appropriate from a land use compatibility standpoint and reasonable zoning regulations that they strike the residential separation, that they strike the reference to hospitals as a separation and they strike a portion of parks that identify 'Private Parks'. Those are all fairly simply identified in the table on page 7 of 10. That would their recommendation to them. **CHAIRMAN CASON** said so they would just strike the item out of the table then? **MR. KURTZ** replied that was correct? **CHAIRMAN CASON** said so they would strike 'Private Park' and 'Residential Zoning District Boundary' and 'Hospitals Public or Private'. Right? **MR. KURTZ** replied that was correct. **CHAIRMAN CASON** asked so that would be the extent of Staff's recommendations? **MR. KURTZ** replied yes.

CHAIRMAN CASON asked if there were any comments about the recommendations – stick with them, don't stick with them.

COMMISSIONER VEITCH said he is comfortable with Staff's recommendations. He wanted to ask whether anyone would like to entertain extending evening hours to any extent?

COMMISSIONER PRIDEMORE said actually that was his one comment. To him it seemed reasonable to go 9:00 a.m. to 9:00 p.m.

CHAIRMAN CASON asked if anyone had a problem with 9 to 9? Nobody did. He said that they would add that into the Ordinance as well.

CHAIRMAN CASON stated he wanted to go on record saying that he supports the Ordinance separating the marijuana and the marijuana instruments for keeping the marijuana separate from other types of uses. The reasoning for that is because the marijuana facilities should be more of a medical type situation than a retail type situation. In honor of those people that need the medicine, he thinks they need to respect their dignity to not have other things going on. He would like to cite something in doing that. Before he started thinking about this, he started to realize that the only way that you can really analyze the value and extent of zoning is to understand how many people it is going to impact. He investigated the populations of states that have medical marijuana and issued cards, because there are some states that don't, along with the amount of card holders. It was very interesting the separation between those. As his numbers came out, there were 1.3 users per thousand – that was the calculation. If you extrapolate against the Chandler population, it means that they will have about 325 people in the City of Chandler, at least after it flattens out and those types of things. Could he be wrong? Certainly. He is just working off of basic data. He went farther and tried to identify how many dispensaries there were. He knows that the state limits the dispensaries. When he looks at how many dispensaries there are in California, he finds that there are 6 users for every dispensary. He thinks that the California model of where you allow all sorts of other things to go on inside the marijuana dispensary, allows the marijuana dispensary to drive up its profit and therefore require less people to come through. If you look at that economically, that means more marijuana centers. What he is saying is that whatever economy or how the economics play out in having as many marijuana centers as there are that they can make money is fine. He thinks that marijuana centers should just do what they do. They should just dispense marijuana and then they are limited upon the profitability and he uses that word carefully because clearly they are not supposed to be for profit. People will get salaries and there will be some savings for those companies.

He wants to support and congratulate Staff for making sure that they keep the facilities for what they are designed to be and not a plethora of energies happening at the same place. He certainly empathizes with the ability to be able to go in and purchase your marijuana and also get a massage but he doesn't think in the City of Chandler they want to do anything that promotes more dispensaries, especially since that 325 people that may possess cards in the City of Chandler are going to need to go to more than one dispensary. He just doesn't know economically how that would work. How you could have 12 dispensaries in town and if they could even survive, if you had only 6 people going to each one. Because they can't really through an ordinance control the places they want to put them and still give the businesses an opportunity to come to Chandler and have businesses and also take care of those that need medicine. He thinks the only way that they can control that is to limit the amount of things that could be marketed out of the storefront. By doing that they will be able to have better control over the amount of dispensaries they will see in town just simply driven by the economics of it.

CHAIRMAN CASON asked for a motion.

MOVED BY COMMISSIONER VEITCH, seconded by **VICE CHAIRMAN RIVERS** to approve Zoning Code Amendment ZCA10-0007 CITY OF CHANDLER / MEDICAL MARIJUANA amending Chapter 35 of the Chandler City Code to establish definitions and Use Permit requirements relating to Medical Marijuana Facilities and Cultivation Sites and Infusion Food establishments with the changes to the draft as recommended by Staff, and one further change to the draft to amend the permitted hours of operation from 9:00 a.m. to 7:00 p.m. to 9:00 a.m. to 9:00 p.m. The item passed unanimously 6-0.

CHAIRMAN CASON asked Mr. Kurtz, Planning Administrator, when this would go before City Council? **MR. KURTZ** said it is scheduled to go to City Council for February 10, 2011 and they will see what Council does with it then for any further updates.

6. DIRECTOR'S REPORT
Mr. Mayo stated there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON announced that the next regular meeting is February 16, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 6:58 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 16, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Veitch.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Michael Flanders
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham

   CHAIRMAN CASON welcomed the new Commissioner, Katy Cunningham.

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER FLANDERS** to approve the minutes of the January 19, 2011 Planning Commission Hearing. The motion passed 6-0 with 1 abstention (Commissioner Cunningham did not attend that meeting.)

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR09-0024 UDM INDUSTRIAL PARK

Approved to withdraw.

Request Rezoning from Planned Area Development (PAD) for a Business Park to PAD Amended to allow for an impound yard. The subject site is located at 850 S. Bogle Ave., north of the northeast corner of Pecos Road and Hamilton Street within the Bogle Business Park. **(REQUEST WITHDRAWAL.)**

B. DVR10-0021 PECOS & GILBERT

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for commercial uses, with conceptual development plan approval for a future commercial development on approximately 3.7 acres located at the northwest corner of Pecos and Gilbert roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "NWC PECOS & GILBERT ROAD " kept on file in the City of Chandler Current Planning Division, in file number DVR10-0021, except as modified by condition herein.
2. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Transportation and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. 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.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
7. Completion of the construction, where applicable, 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.
8. 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.

C. DVR10-0024 RANCHO BERNARDO

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agriculture District (AG-1) zoning. The existing PAD zoning is for a retail building on approximately 1 acre at the southwest corner of 56th Street and Chandler Boulevard.

Planning Staff recommends approval to extend the timing condition for case DVR10-0024 RANCHO BERNARDO for an additional three (3) years, in which the zoning would be in effect until June 22, 2013, and with all of the conditions in the original approval remaining in effect.

D. LUP10-0041 LA PARRILLA GARDEN RESTAURANT

Approved to withdraw for the purposes of re-advertising.

Request Use Permit approval to sell liquor for on-premise consumption only within an expanded restaurant that includes an outdoor patio (Series 12 Restaurant License) at 474 W. Ray Road, east of the northeast corner of Hartford Street and Ray Roads.

E. ZUP10-0048 NIGHTHAWK EQUIPMENT & LEASING

Approved.

Request extension of Use Permit approval to allow an outdoor storage use on property zoned Regional Commercial (C-3). The subject site is 299 S. Washington Street, approximately 380 feet east of the northeast corner of Arizona Avenue and Frye Road.

1. Expansion or modification beyond the approved exhibits (Site Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
3. Perimeter landscape area is to be maintained in a neat, weed-free condition. Plant material that is removed shall be replaced.
4. Storage shall be contained within the six-foot (6') block wall fence and below the top of the wall.

F. MOTION TO CANCEL THE MARCH 2, 2011 PLANNING COMMISSION HEARING

Approved.

COMMISSIONER PRIDEMORE wanted to know if they had gotten any kind of confirmation on Item D.

KEVIN MAYO, PLANNING MANAGER, said they are going to withdraw Item D. They did confirm their license on the western suite was withdrawn and so they need to take this back through as an advertisement for the whole thing because they can't expand something that isn't there already.

COMMISSIONER PRIDEMORE asked so this is a withdrawal and not a continuance? Mr. Mayo said that was correct. It is a withdrawal for the purposes of re-advertising.

MOVED BY COMMISSIONER FLANDERS, seconded by **VICE CHAIRMAN RIVERS** to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 7-0.

6. DIRECTOR'S REPORT
Mr. Mayo welcomed Commissioner Cunningham to the Commission and thanked her for her service.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON announced that the next regular meeting is March 16, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 5:52 p.m.

3-16-11
Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 16, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Flanders.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Michael Flanders
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Katy Cunningham

   Absent and excused:

   Commissioner Andrew Baron

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Mr. David de la Torre, Principal Planner
   Ms. Jodie Novak, Senior City Planner
   Mr. Erik Swanson, City Planner
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY COMMISSIONER FLANDERS, seconded by **VICE CHAIRMAN RIVERS** to approve the minutes of the February 16, 2011 Planning Commission Hearing. The motion passed 6-0 (Commissioner Baron was absent).

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item D was pulled for action.

A. DVR10-0025 CHANDLER CENTER

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former commercial PAD zoning designation. The existing PAD zoning is for commercial and residential development. The property is located at the southwest corner of Arizona Avenue and Queen Creek Road.

Staff, upon finding consistency with the General Plan, recommends approval of extending the timing condition for case DVR10-0025 CHANDLER CENTER for an additional three (3) years with all of the conditions in the original approval remaining in effect.

B. DVR10-0026 1800 NAZA, LLC

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) for sales, display, warehouse and service uses, with Preliminary Development Plan (PDP) approval for site improvements on approximately 2.7 acres located south of the southwest corner of Arizona Avenue and Warner Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "1800 NAZA, LLC" kept on file in the City of Chandler Current Planning Division, in file number DVR10-0026, except as modified by condition herein.
2. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Transportation and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. 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.
6. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. 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.

8. Phase I improvements shall be completed within eighteen (18) months of the effective date of the Ordinance.
9. Additional parking shall be added within the screened storage yard at the determination of the Zoning Administrator if future demand warrants.
10. The site shall be maintained in a clean and orderly manner.
11. All out-door storage shall be maintained at a height no taller than the screen walls.
12. Site improvements within future phases shall be completed prior to utilization of each respective future phase.
13. **Raceway signage is prohibited.**

C. DVR10-0028 WESTECH CORPORATE CENTER (EPICENTER)

Approved.

Request rezoning from Planned Area Development (PAD) to PAD to amend the permitted land uses within Westech Corporate Center to allow a place of worship/church use. The property is located at the southeast corner of Arizona Avenue and Palomino Drive, north of Warner Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "WESTECH CORPORATE CENTER" kept on file in the City of Chandler Current Planning Division, in file number DVR09-1016, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3812 in case DVR06-0005, except as modified by condition herein.
3. A church or place of worship use shall occur only within Building 10 of Westech Corporate Center Lot 34. Parking related to this church shall occur in accordance with the representations in the Development Booklet.
4. There shall be no drop-off/pick-up type childcare use Monday through Friday. "Support childcare" for church members, as indicated in the Development Booklet and on the floor plan, in conjunction with scheduled church activities, meetings, and services is permitted any day.

E. LUP10-0041 LA PARRILLA GARDEN RESTAURANT

Approved.

Request Use Permit approval to sell liquor (Series 12 Restaurant License) for on-premise consumption only within an existing restaurant at 474 W. Ray Road, east of the northeast corner of Iowa Street and Ray Road.

1. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

3. Expansion or modification beyond the approved exhibits (Site Plan and Floor Plan) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit is non-transferable to other store locations.
5. The site shall be maintained in a clean and orderly manner.
6. No noise shall be emitted from music occurring indoors, that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.

F. LUP10-0046 IGUANA MACKS

Approved.

Request Use Permit approval to sell liquor (Series 6 Bar license) for on-premise consumption only within an existing restaurant and outdoor patio. The subject site is located at 1371 N. Alma School Road, which is at the southeast corner of Alma School and Knox Roads.

1. Expansion, modification, or relocation beyond the approved exhibits for interior and exterior areas (Floor Plan, Site Plan, and Narrative) shall void the Use Permit and require re-application and approval of a new Use Permit.
2. The Use Permit is granted for a Series 6 license only and any change of licenses shall require re-application and approval of a new Use Permit.
3. The Use Permit is non-transferable to other store locations.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or additional entertainment related uses beyond outdoor speakers and live music shall require reapplication of the Use Permit.
5. The site and outdoor patio shall be maintained in a clean and orderly manner.

G. LUP11-0001 REGAL BEAGLE

Approved to continue to the April 20, 2011 Planning Commission Hearing.

Request Use Permit approval to continue to sell alcohol (Series 6 Bar License; all spirituous liquor) in an existing restaurant located at 6045 W. Chandler Blvd., Suite #7, within the Kyrene Village Shopping Center at the southwest corner of Chandler Boulevard and Kyrene Road. **(REQUEST CONTINUANCE TO THE APRIL 20, 2011 PLANNING COMMISSION HEARING.)**

H. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

Approved to continue to the July 20, 2011 Planning Commission Hearing.

Request Use Permit approval to install a wireless communication facility on the campus of United Methodist Church at 450 E. Chandler Heights Road, the northeast corner of Chandler Heights Road and the Union Pacific Railroad. **(REQUEST CONTINUANCE TO THE JULY 20, 2011 PLANNING COMMISSION HEARING.)**

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the Consent Agenda as read in by Staff including the additional stipulation. The Consent Agenda passed unanimously 6-0.

COMMISSIONER CUNNINGHAM stated she is opposed to Item E. She is opposed because she thinks there are plenty of vacant premises that are more suitable to an establishment with liquor, live music and dance floor that are in an area that isn't as close to residences as this one is. She doesn't believe that having a Quick Mart next door that has 'pick up your beer, take it home and drink it' is as big an issue as sitting down to dinner drinking and then getting in the car and driving perhaps through the neighborhood. There are apartments with children and families nearby right across the street, directly behind it. She is opposed to having this type of establishment this close with no buffer between them.

CHAIRMAN CASON thanked her for her comments.

ACTION:

D. DVR11-0001 RDR SOLAR FARM

Request rezoning from Agricultural District (AG-1) to Agricultural District/Planned Area Development (AG-1/PAD) and preliminary development plan approval for the installation of a 150 KW solar photovoltaic system on approximately 0.5 acres located at the southwest corner of Pecos Road and Norman Way.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "RDR Solar Farm" kept on file in the City of Chandler Current Planning Division, in file number DVR11-0001, except as modified by condition herein.
2. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner.
3. Approval by the Director of Transportation and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
5. Completion of the construction, where applicable, 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. ***All mechanical devices shall be completely screened from view.***
7. ***A security camera system shall be installed on the property.***

8. ***The landscaping and property shall be continuously maintained in a weed free manner and kept in a debris free manner at all times.***

DAVID DE LA TORRE, PRINCIPAL PLANNER, stated this is a request to rezone a ½ acre property that is located at the southwest corner of Pecos Road and Norman Way from AG-1 (agricultural) to AG-1 with a Planned Area Development overlay as well as with Preliminary Development Plan approval to allow the development of a 150 kilowatts solar photovoltaic system.

The proposed solar system includes 565 solar panels mounted on 14 rows of north/south axles. The axles enable the solar panels to rotate throughout the day east and west to follow the movement of the sun. The axles will be approximately 4 feet high off the ground and the highest point of the solar panels would be no higher than the surrounding property wall.

The property wraps around 1600 square foot lots that are located on the immediate corner which is owned by Qwest Corporation and it does not include that property. The property would be surrounded completely by a 6-foot high masonry wall. Landscaping would be installed along Pecos Road and Norman Way. Both the masonry wall and the landscaping are designed to match the existing theme of the Rancho Del Ray subdivision. Vehicular access is provided on the east side to Norman Way through a 20-foot sliding gate and one parking spot is provided on the east side of the property.

This particular request is unique because this is the first solar system in Chandler that is proposed as the primary use of the property. In other words, this solar system is a stand-alone use that is going to be connected directly to the grid and all of the energy that is generated by this solar system is going to be consumed off-site as opposed to on-site. The zoning code does not identify development standards specifically for this type of solar system so when Staff reviewed this, Staff reviewed it with two primary goals in mind. First, safety and second, land use compatibility. With respect to safety, Staff requested and the applicant has provided as shown on the site plan, an 8-foot wide setback along the entire perimeter of the property and a pedestrian gate on the north side of the property to allow for emergency personnel to access the property and maneuver around the solar panels if needed in case of emergency.

Another issue that Staff had initially was the concern of glare bouncing off of the solar panels. However, after analyzing the line of reflection diagramed that is provided in the back of the booklet that the applicant provided and after considering how the solar panels rotate throughout the day and actually deflect the line of reflection at critical times away from adjacent properties, Staff believes that glare will not be an issue from this solar system. With respect to security the property is lit at night by streetlights along Pecos Road, Norman Way and a private street abutting the south side of the property. Again, the property is enclosed completely by a 6-foot high masonry wall. With respect to land

use, Staff feels that the proposed solar system is a compatible land use with the adjacent properties because the solar systems do not emit any kind of noise, no fragrances, no lights and it doesn't generate any traffic except for the occasional maintenance visit to the site to wash down the solar panels.

The applicant hosted a neighborhood meeting on February 22 which one property owner who was representing the vacant lots that are located on the Chandler 202 Auto Park was present and that owner did not express any opposition. However, Staff did also receive three telephone calls from residential property owners, two of whom were not concerned or did not have any opposition with the proposal after receiving more information. One was a member of the Board of the Directors of the HOA that surrounds this property to the south and the west did express opposition and requested that this item be pulled to action on tonight's agenda. The items of concern that were noted from this caller were security and maintenance concerns.

Mr. De la Torre stated that Staff finds that this proposal is a compatible land use and is consistent with the General Plan and Staff recommends approval subject to conditions. He said he would be happy to answer any questions.

CHAIRMAN CASON asked if there were any questions for Staff.

VICE CHAIRMAN RIVERS asked how large were the solar panels - each one? When the panels tilt at the highest tilt, the highest part of the panel will be how high off of the ground? Mr. De la Torre replied they will be no higher than 6 feet high. **VICE CHAIRMAN RIVERS** asked so they will not be visible above the wall surrounding the property? Mr. De la Torre said that was correct.

COMMISSIONER FLANDERS said to piggy back on what the Vice Chairman said about the height, if it sitting down lower or if it is higher, this afternoon he actually did the drawing that is shown with the heights and those solar panels are just under 6-feet by about ¾ of an inch. As a result of the grade and they don't know what they are, he was thinking they need to have a stipulation that all mechanical devices be fully screened from the arterial and collector street just so they understand if they have to add a course of block because of the grade heights, that at least they are covered that way. Mr. De la Torre said they could certainly add a stipulation and didn't think that would be a problem since the applicant has expressed to the City that those would be completely screened from view. **COMMISSIONER FLANDERS** said it indicates that the wall around this is a decorative wall and he didn't see any profile or elevation of what this is. Does it follow the residential subdivision or is it completely independent? He was curious to see what that design material is. Mr. De la Torre replied the wall design does match the wall design of the Rancho Del Ray subdivision which wraps around it to the south and the west. There were elevations of those walls on there but they might have been taken out with him not noticing. They were in the booklet at one point. **COMMISSSIONER FLANDERS** said just for a point of clarification, the user of this facility is the residential subdivision? Mr. De la Torre said no this is a separate owner. **COMMISSIONER**

FLANDERS asked so it is a separate thing that is going to feed back into the grid? Mr. De la Torre replied that is correct.

CHAIRMAN CASON said by the picture on front he made a presumption that isn't true so the property isn't sunk down like a substation or something like that. It is going to be completely level and the runoff will just go off into the street because there is no retention basin or anything on the property? Mr. De la Torre said the drainage would be handled on site. It is going to be topped with decomposed granite so that would enable to the rain to percolate through that into the ground and be handled on site. The grading would not actually be changed, it would stay the same. There is an elevation in the electrical drawing section that shows the grade remaining the same on both sides of the wall. That would not be changed. **CHAIRMAN CASON** said so the grade would stay the same and then the cement that holds the pivot point, if you will, comes up a couple of inches just to protect the cement. The stipulation that the Commissioner suggested would go ahead and cover any type of variance in that or anything else that would go ahead and make sure you can't see them at 6 foot of height? Mr. De la Torre said that was correct.

COMMISSIONER FLANDERS said as a result of this being the first solar farm that they are seeing in the city, the company he works for their corporate client is Empire Southwest, and on all of their projects they are adding these solar farms for their facilities. Have they thought about doing a code or an ordinance addition to the code for these particular things? Is that something they have thought about? Mr. De la Torre said absolutely. That is a very timely question because as they speak they have a draft code amendment to address solar systems and they will be bringing that forward to the Commission sometime soon.

VICE CHAIRMAN RIVERS said in referring back to the picture on the front of the booklet, like other people he has looked at this and he mistakenly assumed that this would be a depressed area for these. In reality, it isn't going to look like the picture on the front of the booklet is it? Mr. De la Torre said no the grading is not going to be depressed. **VICE CHAIRMAN RIVERS** said it is going to be a completely flat area and the pivot poles are going to be set in concrete an inch, so when it rains they aren't sitting in water. Mr. De la Torre said that is right. **VICE CHAIRMAN RIVERS** said he wished it would look like this because that would get it well below the wall height.

CHAIRMAN CASON asked if the maximum that these can turn is 45 degrees? Mr. De la Torre said that is the maximum that they would need to turn for it to obtain and generate the solar energy. He is sure that they could physically be turned all the way so that they are completely vertical but there is no point in the owner doing that because it would not get maximum sun exposure at that angle. **CHAIRMAN CASON** asked even at the end of the day? Mr. De la Torre said that is correct. He believes especially with the town home unit directly west of this property. It would not make sense to turn it that much. He thinks 45 degrees would be the most it would turn. **CHAIRMAN CASON** said knowing this is the first and they will probably have more, is there any need to generally look at these to have minimum or maximum specifications as to tilting? In

other words, if you are in an open area and somebody comes in afterwards and builds homes and you have been turning them over, the maximum they could go and still get light if you look at the typical array elevation south, they could actually turn that a few more degrees and still get good sunlight over the 6 foot wall. If somebody came out and built something, then you would have even though it is non-reflective glass, light reflection. This is the first one and they know there will be more. Are they starting to look at this from a Staff perspective of trying to think about the scenarios so that when people come in, they can let them know what's good for the community? Does he understand where he is going on that? Mr. De la Torre said they are currently working on the code amendment and they are starting to think about some of these things as to what kind of standards. As he mentioned previously in the presentation, they don't have standards for solar systems yet. They are taking a look at what kind of standards should be met. They are making a distinction between utility scale solar systems versus solar systems that you would attach to the roof of a house. **CHAIRMAN CASON** asked if the landscaping is up to commercial code? Mr. De la Torre said yes. **CHAIRMAN CASON** asked if that would be a requirement moving forward? They will be treated like a commercial business? Mr. De la Torre replied absolutely.

KEVIN MAYO, PLANNING MANAGER, said he wanted to add on last thing about the angle. Ultimately, it sounds like the goal is not allowing angles that would provide the tip of that thing protruding above the fence. The condition that Commissioner Flanders recommended covers this anyways. Even if they went passed 45 degrees, they just have to make sure they are not sticking above the fence and if they are, at some point the shadows of the next one and the next one start to hide them anyway. The stipulation that Commissioner Flanders proposed would cover them regardless of angles so they wouldn't need to get into stipulating 'can go no more than 45' or something to that effect. **CHAIRMAN CASON** said the architects here probably see angles a lot easier than he does in their minds eye. He was just thinking if they are able to turn it almost vertical and you still have some ability to generate energy off of it, then you would be more apt to have reflections into a building somewhere that would be looking over it. If they are at 45 degrees, there is not going to be any reflection off of it that you could look at. But if they start tilting it almost vertical, at the very end of the day he would imagine there would be some type of reflection off of it or some irritant, although it is not like they could fry eggs with it. It would be an irritant they would have to look at if they were looking out a 2 or 3-story building if something comes down the road or happens later. It's like 700 feet away and you are on a 4-story building, are they going to get any reflection issues if they maximize it at 45 degrees? How far away is that a problem? That is what he is saying about considering the limitations in so far as the angle moves over so that somebody doesn't build a building and doesn't realize it until the tenants get in it that at 4:00 in the afternoon in the winter they can't look out their window. That is what he is saying. They know it won't exceed the height of the wall and all of them are very confident that the house next to it and the buildings next to it aren't going to be impacted by it at least from a reflections standpoint. That is not to say that buildings away would not be if they turn it beyond the 45 degrees. That is the only reason he brings it up and of course, if Staff looks at it and say it is not an issue, certainly that is

verification enough for him, he just doesn't know if anybody has done that or not. He would feel a lot better if they had a restriction not to move it beyond 45 degrees because that it is what they have put in the documentation. That is a fair point. That is what is in the documentation. Would that be usable to prohibit any tilting passed the 45 degrees as part of the presentation package? Mr. Mayo said the two impacts would be; can they see it above the fence and is it reflecting? If the stipulation ultimately gets approved tonight as Commissioner Flanders proposed, then the angle of the fence is null and void. Keep in mind that the photovoltaic panels work by absorbing sunlight energy and so the more that they reflect that is just wasted energy. Initially when they came in, that was their first thing they looked at and in fact they had their Fire Department saying they are near the airport and what about reflectivity for pilots. As they come by, are they going to hit this mirror affect and after talking with the applicant and learning more about the solar panels, they don't actually have that high of a reflectivity because they are designed to absorb as much of that energy as they possibly can. If you compare to your neighbors window, you are comparing apples to some entirely different type of food. The solar panel is absorbing that energy versus you neighbors window is trying to get it to bounce the other way. He said that for information purposes only, he wanted to explain that. **CHAIRMAN CASON** said he would imagine if it were raining outside and it had like a sheet of water on top of it, there would be some reflectivity. Certainly, if it is standing vertical, he doesn't imagine the water would stay there for a microsecond anyway. He asked them to look into it and if it has any validity include it, if it doesn't, then don't.

COMMISSIONER VEITCH said he had a general comment. There really isn't a reason to push these things more toward vertical when the sun is low in the sky early in the morning or at the end of the day. What will happen is the wall will shade the first panels and the first panels will shade the second panels and they won't work. It is self-limiting.

CHAIRMAN CASON asked the applicant to come up and answer any of these technical questions that they seem to be concerned about.

RANDALL JACKSON, N. BRIGHTON, MESA, stated that regarding the one question about the angle, 45 is the limit on which you would put it. At 45 degrees the top of the panel is no higher than about 5.5 feet. They designed it specifically not to go over. Regarding the reflectivity of the panels, dirt has about 50% reflectivity; a solar panel is about a 20% reflectivity so they are decreasing the dirt that is out there and the reflectivity. They are designed to absorb light. The FAA has allowed solar panel farms to be built on airports all over the country right in the runway landing zone. So right where the pilot should be looking at the place to land, that is where the panels are at. There is no interference. They have run studies and they blessed it nationwide.

CHAIRMAN CASON asked if David correct in how they are planning to control the water on their property is just by letting it seep in? Mr. Jackson said it has about a one foot depression in the site when you stand out there. It looks like a bit of a dish and it retains its own and it percolates. What they see in the picture there is accurate from the array height to the fence. It sits at about 4 feet and it pivots up to 45 degrees. That is one

of the criteria that he knew it would be. The houses surrounding it go up another 18 feet. **CHAIRMAN CASON** said so it will be somewhat depressed to be able to hold the water and that will make those ones in the middle a little bit lower or do they engineer them so they stand higher so all of them are at the same plane. Mr. Jackson said this property was massed graded when they built the whole subdivision, built 400 houses around there. The site was already graded for the corner. It dishes down just a little bit and it is virtually a flat piece of land. It is only ½ of 1 acre. It is a very small piece.

COMMISSIONER PRIDEMORE said he is intrigued by this project but one of the questions is why here? Why this site? He could list proposed uses and this probably wouldn't have been on his list – in the top 10 at least. Why this site and this location in Chandler? Mr. Jackson said this is a remnant piece from what they had from the subdivision plus all the utilities are already there. They are right at the point of consumption to put the electric back into the grid. There are no transmission costs for SRP to buy the power. They don't really want power generated about in the middle of nowhere. It costs a fortune to get into town. This is leading of many projects to come. They are infill locations of a single axis rotating system with a very flat very good neighbor and you will see them happen elsewhere. **COMMISSIONER PRIDEMORE** asked if there is a minimum size they need to see to make it worth their while. Mr. Jackson said economically this is not the best size. Much larger would be better of course. It is a minimal size. **COMMISSIONER PRIDEMORE** asked in terms of maintenance how often does someone visit the site. Mr. Jackson said they have scheduled maintenance once every six months to come out and dust the panels - they rotate and the dust falls off of them. **COMMISSIONER PRIDEMORE** has toured the APS facility off of University several times and more often than not their rotating panels aren't rotating the way they are supposed to be. Assuming one of these 500 panels isn't doing what you think it is supposed to do you may catch it every six months? Is there any way to know a failure has occurred prior to that time? Mr. Jackson said they are all interconnected so they all move at one time. They have a gear shaft that connects them together which is not the system that APS has in Tempe. **COMMISSIONER PRIDEMORE** said so if one of those gears fails then now a whole row is out not just a single one. Mr. Jackson said you would know that day from the lack of power generated. **COMMISSIONER PRIDEMORE** said so there is some other outward sign that there is an issue with the array. Mr. Jackson said they are all connected. **COMMISSIONER PRIDEMORE** said he understands that. If one goes out, now they have a bigger problem than before. His concern is that if no one is visiting this site except once every six months, if there is an issue that isn't readily apparent from whatever they are monitoring remotely or just say weeds, he knows they are going to spray it initially but a lot can grow in six months here in our climate. His concern is he doesn't want to have the neighbors every few weeks call and complain to say the weeds are back. That is not their job. What mechanisms are in place? If it is one visit every six months, he has an issue with that. Can he address that? Mr. Jackson said the first issue is weeds. When you install stabilized granite, it basically has a very hard composition. Weeds don't grow in stabilized granite. **COMMISSIONER PRIDEMORE** said he should visit his house then because he has weeds and he has stabilized granite. Mr. Jackson said stabilized

granite has a specific chemical bonding composition that is put into it and most likely isn't used in residential application. **COMMISSIONER PRIDEMORE** said he is aware of that but he also knows that can degrade over time. **COMMISSIONER PRIDEMORE** said so your answer is you have someone visit the site once every six months and that's it. He is just trying to figure out if that is their daily routine. Again, he is concerned about neighbors if there is a problem how quickly can it be addressed or does he already know it beforehand so he can send someone out so someone doesn't have to call the City and complain. Mr. Jackson said the invertor system has computer monitoring and on a daily basis you are watching the output of the system because if there is any change in the output of the system, they are naturally going to send a technician out there. **COMMISSIONER PRIDEMORE** said so unless something shows up that way you will automatically send someone out once every six months just to take a look no matter what. Mr. Jackson said the panels need to be cleaned for dust. **COMMISSIONER PRIDEMORE** asked how often they are cleaned? Mr. Jackson said once every six months. **COMMISSIONER PRIDEMORE** said in going back to the rotation as they have mentioned, if they are passed 45 degrees it doesn't really help you and is not as efficient. Is the system set up in such a way that they can restrict it to 45? Mr. Jackson said yes. They have a gear shaft between each one of them and they are all interconnected. They act as one and move as one. **COMMISSIONER PRIDEMORE** asked if he can restrict it to 45, it doesn't keep tracking passed that mark and while it is less efficient, it is still rotating? You can restrict it to 45 degrees? Mr. Jackson said yes.

CHAIRMAN CASON said he brings up some great points because he hadn't thought about it before. Since he is going to be monitoring it remotely, aren't they going to have some security cameras to look at where they can go on-line and check out that everything is going o.k. on their property? Mr. Jackson said yes. **CHAIRMAN CASON** said if somebody jumps the fence and goes back there then they would never know it unless they just happen to do it just before they came by every six months. Mr. Jackson said there will be no security cameras. **CHAIRMAN CASON** said then there is no real security on the property that they could site to except for the fact if there power output drops and you can't explain it because it's cloudy that day. That is the only time they would notice something is amiss on the property? Mr. Jackson said the power output is the number one measurement of if the system is operating properly. **CHAIRMAN CASON** asked if that would be the only thing that would allow you to know if there were any security breaches or anything else like that on their property? Mr. Jackson said right. **CHAIRMAN CASON** asked him if he would consider doing any security measures or anything else like that because that way they would be able to use that for weed monitoring. Then he thinks generally in the overall cost of putting all this together, he doesn't know if a remote security camera would be that big of a deal – in the whole cost of everything. That would give them an opportunity when they look at the reports every day to turn on the internet and do a quick scan and make sure that everything is o.k. there. That somebody is not living in there or somebody is growing their marijuana in there because they know nobody is going to show up for every six months or whatever the case might be. That there is nothing going on in there that would impact the neighborhood. Is that something he would consider? Mr. Jackson said he thinks there are security cameras

at the intersection already - City security cameras. **CHAIRMAN CASON** said he wouldn't suggest it is the City's job to monitor your property and he thinks they would have some civil rights issues by turning their cameras into their property to look at it. He doesn't think that it would be something that he would be willing to do? Mr. Jackson said he is sure they could put a security camera on it if needed. **CHAIRMAN CASON** asked if he would be willing to stipulate to that. Mr. Jackson replied yes.

COMMISSIONER PRIDEMORE asked where the remote monitoring is taking place. Is it here in the state? Mr. Jackson said it is anywhere where you have a computer. **COMMISSIONER PRIDEMORE** asked on a daily basis where is he monitoring this proposed system from? Is there not a permanent person sitting in front of a monitor checking that this is o.k.? Not that is requires somebody to sit there and stare at it 24/7 but again he is trying to get an understanding here of how often somebody is paying attention to this site. Mr. Jackson said as often as they would open up their e-mail.

VICE CHAIRMAN RIVERS said he is a little confused. He thinks it would behoove any property owner in the city to keep track of the happenings on their property more than every week or every month or every six months. He thinks this is an on-going thing. He looks in his backyard every day, quite often actually. He thinks if they are going to have ½ acre with mechanical devices running with no supervision for weeks at a time, he doesn't think that is a good idea. He thinks there should be something in place where they can monitor the happenings on their property to make sure someone hasn't hopped over the fence and gotten themselves impaled on one of their devices and that is just a radical idea. He thinks he needs to keep an eye on their property all of the time to make sure it is in compliance with ordinances and anything else that may happen. He is confused that he doesn't see that. Can he explain to him? Mr. Jackson said he just stipulated that they would put security cameras on. **VICE CHAIRMAN RIVERS** said who would monitor them and where are they? Mr. Jackson replied he doesn't know. **VICE CHAIRMAN RIVERS** said that troubles him a lot.

CHAIRMAN CASON said it probably goes through some circuitry where it is drawn off into the power network and there are some types of capacitors that monitor the flow. What if those devices fail and cause a fire? Or what if the equipment that puts it into the network fails, can there be a short circuit or something that causes the fire or if the rectifiers fail coming in the back end, can electricity go into the equipment and cause a fire? Mr. Jackson said each solar panel goes into a DC disconnect. They go into an invertor that would fall off. There is an SRP remote disconnect that is a radio disconnect - many different systems. **CHAIRMAN CASON** asked if those circuits are fused. Mr. Jackson said of course. **CHAIRMAN CASON** said so if there were any current issues then the circuit breakers would break and there would be no risk of fire on the property by the electrical connections. Mr. Jackson said that was correct. **CHAIRMAN CASON** said so consequently they don't monitor it for fire or burglary or somebody getting into the equipment or anything else like that. By only having the cameras which he has already stipulated to and he thanked him for that, this is the only way they can monitor it short of the power output maintaining what they expect on any given day. This is the

only way if somebody was messing with his equipment? Mr. Jackson said his understanding is the SRP disconnect is monitored by them. The electricity goes into a meter which is monitored by SRP and SRP has the ability to turn off the system remotely. **CHAIRMAN CASON** said his head is spinning now. He is thinking if he lives next door could he run an extension cord in there and get his electricity to run up his house. None of those types of issues with vandalism or any of those types of things have ever been noticed in previous applications of this type of installation that he is aware of? Mr. Jackson said there hasn't been another application in the city for this. **CHAIRMAN CASON** said Chandler is the first for a lot of stuff but he wouldn't think this would be the very first place this is done at. Mr. Jackson said normally when you see these out at airports they will have razor ribbon on the top and they would be more than happy to put that around. **CHAIRMAN CASON** said so like the SRP substations? Mr. Jackson said yes. **CHAIRMAN CASON** said he thinks there is something that says that they can't have that on a wall that is that short. There is some health issues associated with that.

COMMISSIONER FLANDERS stated the nice thing he likes about this is that they have integrated it with the residential and they have provided the commercial design standards. He asked David when they are in the ordinance writing of this and they get more of these sites, he would like to see consistency with where these are located with adjacent properties so it almost blends in with everything else. He thanked Mr. Jackson for providing that – wall treatment, landscaping and everything else. It helps him with this application. As far as some of the technical stuff and as he mentioned before, they are doing some of that in his office right now and there are a lot of different technical things but with everything that he has said he feels pretty confident that this site will be monitored with the security cameras and somebody coming on-site. He is sure SRP would have somebody if they have to monitor the site too. That would make sense if they have equipment on site that they would want to go down there on a regular basis.

CHAIRMAN CASON said he doesn't want to leave him with the impression that they are negative on it or anything else. He could look at it like he is the guy that is running down the path first, so you have the arrows in your back, if you will. Other people are glad that they are allowing him to take that position. Of course, a lot of their questions are based on the curiosity and the novelty of the item. Staff, he is sure is taking notes about the things they were concerned about so that the next person who comes up already has those things already addressed – security and how they are controlling weeds and those types of things. He said it seems like a very encouraging project so congratulations and he thanked him for bringing it forward.

CHAIRMAN CASON opened the floor to public speakers.

JOHN PINE, 1328 S. LINDLE DR., CHANDLER stated this address is adjacent to the property that is being discussed this evening. He noticed on the card that it says they are 'opposed or for it' and he would like to tell them conceptually the HOA, of which he is a board member of the 391 homes, are not opposed to it. They would like to see something there. The reason they would like to see something there is for very selfish reasons. Not

necessarily because it is a solar farm or anything else but because it is just an ugly piece of property. He can think of nothing else to say. It is nothing but weeds and trash has been on it. It has just been an unpleasant piece of property to look at. When they heard that a 6-foot wall was going to go up, they figured they could hide all of that stuff. Unfortunately, and it is not the applicant's fault, it really doesn't get rid of all of the eye sights there. He is only here to mention some of the things that the applicant has. Part of the reason they even have questions is the fact that no one contacted their HOA. He understands they were supposed to be registered but he assumed that since they had 5 accounts with us that they pay every month that there was a way to get in touch with them.

He welcomes the opportunity to address some of the concerns that they have. One of them is as you look at the piece of property and it is a pretty depressed piece of property. He guesses that is what is going to take care of the self-drainage on it. You will also notice that the townhomes (115 of them) are on that side of the property and there are 4 buildings that are adjacent to the property and will be looking down into it. They didn't have any issues with site or reflection. Some of the issues they did have and it again comes from not having an opportunity to speak with the applicant. Two of those walls that they would use to enclose their property belong to them and it is going to be closed off. How do they have access to their own wall when they have to do things to the wall, especially when they are coming every 6 months? It is not an easy thing to get into. The other thing they had a concern with is the whole security of that. When you build a piece of property like that and you wall it off, he said he could tell you that the kids in that neighborhood are very inquisitive. They have jumped the walls in their pools and they jump the walls between the communities. They have concerns on security. He is happy to hear that maybe a camera would go up. They would be very disappointed to ever think that someone would put razor wire up but at the same time they believe that something needs to go on top of the wall, shepherd hooks or shepherd fencing, where it comes backwards so it makes it virtually impossible to climb into the wall. Something they think should be done and if it is going to be done, it is also going to be done on their fencing.

There was one display that they showed up there which was the Qwest building. They had always thought that was part of that lot until they find out about this project going on. They find that is a stand-alone little bitty building on a little bitty piece of property that won't be landscaped and they also question the fact if it will be landlocked now. How will Qwest be able to access that at all? It just seems like it now is going to sit there. Are they going to have to jump the sidewalk to get in? Is it going to impact any of their operations?

As far as the zoning goes, their board representing the community is fine with that. They would like to make sure that as this moves from any form of preliminary planning on down the line to final plans that the applicant would involve them. Inform them so they have an opportunity prior to an hour or so before a meeting to put something together and come down and speak to them. That is their major concerns with the project.

CHAIRMAN CASON thanked him for coming down. He asked if there were any questions for the speaker. He asked Mr. Pine if they are able to get the property monitored, then they would still like to have something on top of the fence that would dissuade people from going in there? Mr. Pine said he doesn't want to say the applicant has to spend money unnecessarily. He thinks the camera won't keep them out, it will only tell them that they have come in. So if there is some type of issue, if there is a way that they have the authority to go back and say there is an issue there and they have to put something up other than razor wire, they are o.k. with that. As it goes on their fence, they want to have a say on it also. **CHAIRMAN CASON** said he understands what he is saying and thanked him for speaking. Mr. Pine said they also need some type of assurance that this building isn't landlocked and their trucks are going to be using the pedestrian sidewalk to access it. **CHAIRMAN CASON** said he is going to let David de la Torre, Principal Planner, address that because he probably has a drawing he can use to speak to that issue.

KEVIN MAYO, PLANNING MANAGER, stated the Qwest piece is a stand-alone piece and is owned by Qwest and it is very typical of Qwest to do by probably 100 square feet less than they truly need and build on it. That is there today and they do not park on this property and the access is backward, the cabinet doors actually open on the other side towards Norman Way. They have had issues with Qwest forever but they will just drive across the sidewalk, stop, service the switching equipment and then leave. It has nothing to do with this property. It isn't landlocked because their parcel physically connects directly to Pecos and Norman Way and they have access to both of those streets. **CHAIRMAN CASON** said it looks like there would be room for them to park on the property if they had to. **MR. MAYO** said it isn't entirely on their property but they can pull the truck up in there, they just choose historically to drive over the sidewalk. Unfortunately, this doesn't have anything to do with this property. That's Qwest and their operations and such and it is not a new issue with them. He said he wanted to offer one thing in terms of the landscaping and weed control. There is right of way landscaping and private property landscaping that is part of this piece that the applicant is installing outside of the wall. That has to be maintained by the applicant, it isn't maintained by the City. He will be having a landscaper coming to this property probably bi-weekly to trim the landscaping and clean the landscaping. He asked the applicant is it appropriate for them to have access to that gate at the northern end and have them just go through the property, remove any debris that may have blown in there and ultimately check it for weeds and then as they do the pre-emergence spraying, they just make that part of it. The applicant said absolutely. They can craft a stip. that somehow captures that from a landscaping maintenance standpoint and property management standpoint, there has to be a company coming out and maintaining that landscaping. That condition already exists in the ordinance for the adjacent right of way landscaping. **CHAIRMAN CASON** asked if he could address the fence issue and is there something that can be put on the fence on the ones that don't face the houses. **MR. MAYO** said it is a delicate balance. When you try to make this feel like a seamless extension of a neighborhood you start to defeat that purpose by putting anything that constitutes a wire. Sometimes even

on the backside they will have this stuff sticking out the side or that kind of reverse arched medal. It starts to feel much more like Fort Knox. In all honesty, people when they drive by and they see that type of security, obviously you have put that type of security to secure something and it attracts eyes to 'let's go see what is back there'. When it is just a 6-foot wall, can people scale it easily? Yes. But they can also get out of it easily. So it's either that they go in there to do some illegal act but there isn't a whole lot of things in there aside from just physical destruction of the panels that ultimately becomes the applicant's issue. There are not a whole lot of things inside that property for a kid to do aside from just sit back there and break something. Again that comes down to their issue. It isn't any different than the church that is a little bit further down the street that kids can get all the way behind that thing in the back, be screened from street views and at nighttime when the church isn't opened, kids get into those various things too. It is a delicate balance of making sure the site is secure but not securing it to the point that if somebody happened to make it in, they don't have a chance of getting out. Then it is a police issue as well as trying to maintain that neighborhood appeal and not make it feel like there is Fort Knox here. **CHAIRMAN CASON** said those are good points and asked Mr. Mayo if he could address the public's concern of not being notified. The standard is to send the letters out. **MR. MAYO** said they went out 600 feet and to all registered neighborhood organizations within a ¼ mile. As he indicated and at the time they did the neighborhood meeting, they were not notified. Thankfully, through our process, they typically do 4 things; the neighborhood meeting notice (1st one), the public hearing notification mailing (2nd one) and it is the same mailing list for those two. They also advertise in the newspaper (3rd one) and they post the site (4th one). Thankfully, that notification net caught him. It was probably the orange sign that caught them. Thankfully that worked and ultimately they weren't registered with the City and they can't force a neighborhood to register. The opportunity is there and the neighbors just have to choose for themselves. **CHAIRMAN CASON** said certainly the 2 homes that are west of this site would have been notified as part of the 600 feet. **MR. MAYO** replied that was correct.

VICE CHAIRMAN RIVERS said he would appreciate a stipulation having to do with the landscaping folks coming into the property and just checking and making sure there is no debris and big bags blowing over the wall in a windstorm or whatever. He would appreciate a stipulation for that as well as one about the security cameras.

COMMISSIONER FLANDERS said in regards to the Qwest trailer, he takes it that is a permanent fixture. **MR. MAYO** said they don't have a mechanism in our City Code to make it go away. He would have to direct that question to Qwest. It's permanent as long as they want it there. **COMMISSIONER FLANDERS** said he guesses his question is can Qwest maintain a little bit better. It looks like it needs to be re-painted. He thinks of Qwest as a good corporate neighbor of Chandler that they would take care of their facilities and make sure that their sites are taken care of and clean. This one has been neglected for a while. **MR. MAYO** said they have a Staff Liaison with our utility partners throughout the City and they will have them call. **COMMISSIONER FLANDERS** said he knows the security is important and he thinks it is in the best

interest of the applicant to provide the required security for his site. This is quite an investment not only going through the zoning process, but with construction and everything else and he would want to protect his interests to make sure that there is security cameras. Also, maybe a schedule of his people out there on a monthly basis to go ahead and make sure everything is in order.

CHAIRMAN CASON said so in the stipulations they could go ahead and add 'maintain landscaping and the property in a clean and orderly manner'. Then they are going to stipulate for the cameras. Can they stipulate that the cameras have to be monitored regularly? Is that beyond our scope? **MR. MAYO, PLANNING MANAGER**, said he guesses he can stipulate anything they want to. At some point it becomes questionable on how you would enforce it. They don't have the manpower to continually check it. They can have that in there to where there is a series of incidences that happen and there is somehow documentation that the system is down. He doesn't know. It starts getting pretty far-fetched. Requiring a security camera system is appropriate. Requiring the monitoring and then start to specify the monitoring gets out there. **CHAIRMAN CASON** asked if that will be the 6th and 7th stipulation on this?

VICE CHAIRMAN RIVERS said we can put in the stipulation that the landscaping will be looked at every 2 weeks. Correct? Or can we not do that either? **MR. MAYO** said it is tough and especially on an ordinance, he doesn't feel comfortable adding stips. that get down to dictating landscaping maintenance schedules because let's say that during weed times they have to be out there every 3 or 4 days spraying or whatever might not be enough. **VICE CHAIRMAN RIVERS** asked so the 'clean and orderly' landscape would pretty much suffice? **MR. MAYO** replied correct.

DAVID DE LA TORRE, PRINCIPAL PLANNER, stated the following stipulations that he had so far:

The landscaping shall be continuously maintained in a weed free manner and kept in a debris free manner at all times.

A security camera system shall be installed on the property.

COMMISSIONER PRIDEMORE said the way stip. no. 2 reads right now is all open spaces. The fact that this is enclosed by a fence kind of negates it being an open space. He just wants to make sure because he doesn't equate granite with landscaping. He knows it is ground cover. Is there a way they can qualify it to make sure they are not only discussing the landscaping outside the fence but the area within the enclosure as well? Mr. De la Torre said they could change the wording to read:

The landscaping and property shall be continuously maintained in a weed free manner and kept in a debris free manner at all times.

He asked the Commissioner if that would work. **COMMISSIONER PRIDEMORE** said that works for him.

CHAIRMAN CASON asked if there was anything they would like to add before he closes the floor. There wasn't anything. He closed the floor. He asked if there was any further discussion on the dais.

COMMISSIONER VEITCH said there was one other potential additional stipulation that was raised by Commissioner Flanders having to do with insuring that all of the equipment be fully screened from view. Perhaps they could word that with something like a solid wall at least 6-feet in height or whatever Staff might suggest. He didn't think they wanted to lose track of that.

DAVID DE LA TORRE, PRINCIPAL PLANNER, thanked Commissioner Veitch for reminding him. He did write that one down as well. It would read:

All mechanical devices shall be completely screened from view.

COMMISSIONER PRIDEMORE said going back also to the angle that they discussed, do they need another stip. that basically restricts it to 45 degrees? **CHAIRMAN CASON** said it would make him happy but he didn't know.

VICE CHAIRMAN RIVERS said he thinks if they have a stipulation that says it cannot be visible above the wall he doesn't know that it matters whether it is 45 or 50 degrees. He thinks the physics of it are that as was said by several different people, at some point the shadow of the adjacent wall is going to block the first row, which would then block the second row in shadow. He thinks that 45 degrees is probably about as much as you are going to get.

CHAIRMAN CASON asked if there was any other discussion on the dais.

COMMISSIONER PRIDEMORE said he wanted to make the comment that he is in favor of in-fill projects so to him this was thinking outside the box. Without the stipulations that he thinks they are going to put on it he would have some serious reservations. He would still like to know that the site is being looked at by someone more than once every 6 months. With the cameras and hopefully the stip. covering the weeds, he is o.k. with it. He also understands they all keep looking at the picture on the front of the booklet they were given. In an ideal world it's pushed somewhere out remote and you don't have to fence it then, it can just do what it needs to do. Obviously, the cost to then bring that power into the grid is expediently higher than when it is sitting basically on top of it. He can get by that but without those stips. he would have had some serious reservations. It is also looking forward since Staff is looking to craft something to amend the ordinance, maybe think outside the box themselves. This could be positive but because they are in the infancy, it is still in the learning curve.

VICE CHAIRMAN RIVERS stated he also had reservations about the monitoring and about the weed control and about the physically being aware of what's happening within the property but he thinks the stipulations that they have added do temper that issue largely. He also would feel more comfortable with more specific monitoring information but he thinks they have taken some big steps in the right direction with the additional stipulations so he hopes they make it through to the end.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER FLANDERS** to approve DVR11-0001 RDR SOLAR FARM subject to the conditions recommended by Staff including the additional stipulations read in by Staff. The motion passed 6-0.

6. DIRECTOR'S REPORT
Mr. Mayo said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON announced that the next regular meeting is April 6, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 6:42 p.m.

4-6-11
Michael Cason, Chairman

4/8/11
Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 6, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Chairman Cason.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Michael Flanders
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Mr. Bill Dermody, Senior City Planner
   Ms. Jodie Novak, Senior City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the March 16, 2011 Planning Commission Hearing. The motion passed 6-0 with 1 abstention (Commissioner Baron was not present at that meeting).

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items E and G were pulled for action.

A. DVR11-0002 SITE 8 PARKING

Approved.

City-initiated Planned Area Development (PAD) zoning overlay concerning parking requirements for land bounded by Chicago Street, Arizona Avenue, Frye Road and Oregon Street.

1. The PAD overlay shall adopt Paragraph F of City Code Chapter 35, Section 3204 (City Center District Site Development Standards) as the parking regulations for Site 8.

B. DVR11-0003 ICAN YOUTH FACILITY

Approved.

Request rezoning from Planned Area Development (PAD) to PAD Amended to expand the list of permitted uses, with Preliminary Development Plan (PDP) approval for the construction of a youth facility that includes recreational, educational, social programs, and other youth services on approximately 2.77 acres located at the northeast corner of Hamilton and Morelos streets (approximately ¼ mile north of the northeast corner of Pecos Road and Hamilton Street).

1. Compliance with the original stipulations adopted by the City Council as Ordinance 1897, in case Z87-141 BOGLE BUSINESS PARK, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 2014, in case Z88-094 BOGLE BUSINESS PARK, except as modified by condition herein.
3. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "ICAN Youth Facility Campus", kept on file in the City of Chandler Planning Services Division, in File No. DVR11-0003, except as modified by condition herein.
4. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
5. Approval by the Director of Transportation and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
6. 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.
7. Completion of the construction, where applicable, 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.
8. 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.
9. The site shall be maintained in a clean and orderly manner.

C. DVR11-0006 LAYTON LAKES PARCEL 18

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning for attached town homes. The existing PAD zoning is for a medium-density detached single-family residential subdivision located on approximately 12 acres within the Layton Lakes Master Plan at the southwest corner of Lindsay and Queen Creek roads.

Upon finding consistency with the General Plan, Planning Commission and Staff recommend approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

D. PDP10-0018/PPT10-0007 LAYTON LAKES PARCEL 16

Approved.

Request Preliminary Development Plan (PDP) approval for housing product and amendment to the subdivision layout with Preliminary Plat (PPT) approval on approximately 25.75 acres located south of the southwest corner of Queen Creek and Lindsay roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LAYTON LAKES PARCEL 16" kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0018, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3250, case DVR00-0025 LAYTON LAKES, except as modified by condition herein.
3. Compliance with the original stipulations adopted by the City Council as case PDP03-0038 LAYTON LAKES, except as modified by condition herein.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. The same elevation shall not be built side-by-side or directly across the street from one another.
6. For lots adjacent to an arterial street, two-story homes are limited to every third lot.

Planning Commission and Staff recommend approval of the Preliminary Plat subject to the following condition:

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

F. MUP11-0001 ARIZONA ORGANIX (NEVADA STREET)

Approved to withdraw.

Request Use Permit approval to allow a medical marijuana cultivation site within Planned Industrial District (I-1) with a Planned Area Development (PAD) overlay, I-1/PAD zoning. The property is located at 3265 N. Nevada Street, Suite 1, east of Arizona Avenue and north of Elliot Road. **(REQUEST WITHDRAWAL.)**

H. MUP11-0003 ARIZONA ORGANIX (CHICAGO STREET)

Approved.

Request Use Permit approval to allow a medical marijuana cultivation site within I-2 (General Industrial District) zoning. The property is located at 6730 W. Chicago Street, Suites 2 and 3, south of Chandler Boulevard and east of 56th Street.

1. This Use Permit is for a cultivation site only and is not transferable to any other location or premises, nor is it valid for any other use or business associated with a medical marijuana dispensary that is not specifically identified in the Use Permit.
2. Any expansion or modification beyond the approved Site Plan and Floor Plan shall void the Use Permit and require a new Use Permit application and approval by City Council.
3. The Use Permit is effective for a period of one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City Council.
4. The property's landscaping shall be maintained at a level consistent with or better than at the time of planting.
5. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
6. The site shall be maintained in a clean and orderly manner.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the Consent Agenda as read in by Staff including the additional stipulation. The Consent Agenda passed unanimously 7-0.

ACTION:

E. LUP11-0002 SIDELINES GRILL AND TAVERN

Request Use Permit approval to allow the addition of live music on an outdoor patio at an existing restaurant in conjunction with a Series 12 (Restaurant) liquor license located at 2980 S. Alma School Road, northwest corner of Queen Creek and Alma School Roads.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication of the Use Permit.
4. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
5. The Use Permit is non-transferable to any other store location.
6. The patio and area adjacent to the restaurant entrance shall be maintained in a clean and orderly manner.

7. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
8. Outdoor music shall not utilize bass speakers or sub-woofers.
9. The maximum diameter of speakers used in conjunction with outdoor music shall be 12".
10. Music shall not be played after 10 p.m. on Thursdays and Sundays or after 11:30 p.m. on Fridays and Saturdays. Music shall not be played before 9 a.m. on any day.
11. Music shall be limited to Thursday through Sunday.
12. Music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise level as measured at the commercial property line.
13. The restaurant shall provide contact information for a responsible person (restaurant owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.

BILL DERMODY, SENIOR CITY PLANNER, stated this is a request for a modification to an existing Use Permit to sell alcohol under a Series 12 restaurant license at the Sidelines Bar and Grill at the northwest corner of Alma School Road and Queen Creek Road. The only change being made is that they would like to have live music a few nights a week on the outdoor patio. There existing Use Permit approval does not allow live music of any kind. It would be located on the patio towards the southern portion of the patio and is where the one and two man bands would set up and play with two speakers directed towards the restaurant to the north. They have had quite a bit of neighbor input on this both positive and negative. With the Staff packets you have a petition of opposition. They also had a neighborhood meeting where most folks were in favor of this request and some folks either had questions or were opposed. The issue of course with regard to land use compatibility is how loud the music is and whether it is disturbing area residences. They have heard testimony that about 1400 feet away to the southwest across Queen Creek Road you can hear the music indoors at night. The music was going on in violation of the permit for a few months. They do have a little bit of history on this and they have since stopped. They also have heard testimony that during that time you couldn't hear it about 600 or 700 feet away. He said he is sure they will be hearing more testimony from the neighbors on that this evening. Staff does recommend approval of the request that live music be able to be added to the patio for this Use Permit however, with a number of conditions aimed to control the music and avoid disturbing the neighbors. One of those is that this be limited to one year to allow quick re-evaluation to see how it is going. That bass speakers and sub woofers not be used on the patio. They haven't been so far. That wouldn't actually be changed. The music would not occur after the hour of 10:30 and a combination of stipulations that they have used on other sites that 'music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise levels as measured from commercial property line'. In other words this most likely means don't be louder than the traffic on Queen Creek Road. They also are recommending a liaison program be set up so that any interested neighbors have a number to call if the music is bothering them and the restaurant can address that immediately by turning down the volume. Again, Staff does recommend approval of the request at the Sidelines Grill and Tavern at Queen Creek and Alma School Road and he would be happy to answer any questions from Commission.

COMMISSIONER PRIDEMORE asked about the stipulation where the hours that the music would be allowed and it was no later than 10:30. In the write up earlier is says 10:00. He wasn't sure how that discrepancy might affect them. Related to that and also in the write up it says with flexibility to occasionally change the days and times. That kind of threw him. If they are looking it to be Thursday thru Sunday no later than a certain time, are they actually providing that flexibility because that kind of defeats the purpose of setting days and times? Mr. Dermody replied that they have requested that flexibility but in their evaluation they felt that there should be some expectations in the neighborhood as to when the music is going to occur. By stipulation they are suggesting limiting it from Thursday through Sunday night and cutting it off at 10:30 p.m. They had heard verbally from the restaurant that when they did have music it often ran to 10:00 p.m. but then sometimes to 11:00 and 11:30 p.m. They'd like that flexibility but they thought it was appropriate to put some end time on that just for the neighbor's protection. **COMMISSIONER PRIDEMORE** asked if they were going to run into any issues with that other language in the write up? Mr. Dermody said the conditions would override anything that is in the narrative.

COMMISSIONER FLANDERS asked Mr. Dermody if this was circulated to the police department as far as their comments or a number of calls as a result of this establishment? Mr. Dermody said this has been routed to the police department. They did review the application and they don't have concerns that they have noted to them. They have not pulled a full police report or a number of calls or any of that sort of research for this particular area. **COMMISSIONER FLANDERS** asked if he was aware of anything as far as calls go? Mr. Dermody said they know that there were at least a couple of calls by neighbors that led to this coming in as a Use Permit and neighbors complaining about the music. They have researched that and found out they weren't supposed to have music and soon after that this process started. **COMMISSIONER FLANDERS** said but as far as any other activity, they are not aware of it. Mr. Dermody replied they are not aware of it.

COMMISSIONER CUNNINGHAM said he indicated this is going through Sunday night. Mr. Dermody replied Thursday through Sunday night. **COMMISSIONER CUNNINGHAM** said so 4 nights a week there would be music. Mr. Dermody said up to, yes. **COMMISSIONER CUNNINGHAM** asked if it would be amplified but no sub woofers or bass? Mr. Dermody replied that was correct, those are the conditions recommended. **COMMISSIONER CUNNINGHAM** said she doesn't suppose they are playing Beethovan or Bach? Mr. Dermody said no in their narrative they list some of the typical music, country, oldies and rock.

VICE CHAIRMAN RIVERS said to Mr. Dermody that when he talked to him yesterday about the previous music on the patio with no permits, it says in the description it started in late 2010. He is just curious about why they were having music with no permits. Mr. Dermody said they just didn't know. They didn't know what the regulations were on their previous Use Permit. They didn't think that music was addressed one way or another so they thought they had the right to do that. **VICE CHAIRMAN RIVERS** said that sounds very familiar to those of them up there that had to deal with the Regal Beagle because they had the same kind of issue with them and same kind of excuse given. He is concerned about the location of this establishment and the noise level.

CHAIRMAN CASON asked Mr. Dermody if Regal Beagle was his case? Mr. Dermody replied yes. He asked if he could share some of the history that came with the Regal Beagle. As he understands it now, things are working a lot better. What procedures did they put in place to try to facilitate a better relationship with their neighborhood? Mr. Dermody said that Regal Beagle started playing music on their outdoor patio 3 or 4 or 5 years ago. It became a problem almost right away with the neighbors. They had it 2 or 3 nights a week to a later hour than this place. It was 11:30 or later. They had eventually worked it out with the neighbors and the owners of the bar. That was a full out bar more than a restaurant like this one and with a number of conditions very similar to what they are recommending here; limitation on the size of the speakers and the one that really helped in that case was having the liaison program with the neighborhood where they could call whenever they had a problem. Once that was implemented, the number of problems went way down. When the neighbors could call and the volume would be turned downed immediately, things started to get better. Ultimately on that site what made the problems go away altogether was getting rid of a problem band and only allowing bands to play who weren't causing a problem in the neighborhood. **CHAIRMAN CASON** said so it was a matter of better management and communication with the management from the neighborhood. Mr. Dermody replied yes. **CHAIRMAN CASON** asked if some of those items that were included on Regal Beagle were also included in this application? Mr. Dermody replied yes.

CHAIRMAN CASON asked if there were any other questions of Staff on this item. There were none. He thanked Mr. Dermody and then asked the applicant to come up.

AMY NATION, ARIZONA LIQUOR INDUSTRY CONSULTANTS, said she was hired by Paul and Kristina Grako to handle their Use Permit for them. She said she has a lot of answers to the questions that they are requesting of Bill. She wanted to give them a little background. Sidelines has been in business since 2002 and owned by Paul and Kristine Grako who are also Chandler residents and live in the neighborhood across the street from Sidelines. They are a restaurant. They are required to have a minimum food requirement – 40% food sales. These are audited by the department of liquor and Sidelines was just audited a year ago this month and found to be very well and in compliance with that. This is a family restaurant. They did start having the live entertainment and they are requesting it now because their business is struggling just like any business in Chandler or anywhere else for that matter. They are trying to bring in customers because the major anchors in their shopping center are going away and it has become increasingly hard to get people in the door. Basha's left the premise and now Target is leaving the premise, which is causing them some issues of getting people in the door. They were not aware that there was a problem with the live entertainment and that it needed to be added to their Use Permit. Once they were made aware of this they stopped immediately and contacted her to help them with their Use Permit.

During the time they were having the live entertainment and prior to them applying for the Use Permit, the police were called on 3 separate occasions. The first occasion was on December 11 reporting loud noise and disturbance. She went to the Police department, to the records department and pulled the police reports. They were listed as a Disposition 17. What a 17 is and what she was told by the records clerk at the Police Dept. is that they went out and found that there was no disturbance that they could find anywhere. They didn't even contact the complainant and they left. The second time the police were called was on January 20. The

police came out again and couldn't find any disturbance and dismissed it as a Disposition 17 again. The third time the police were called was on February 10 and the reporting person advised that the bar was not supposed to be playing outside without a permit and subjects were contacted by the Planning and Zoning department later and told that they had to apply.

CHAIRMAN CASON stated that she said at the first complaint that the complainant was notified that there was no noise or was not notified. Ms. Nations said they were not contacted by the police department on any of the first two occasions because there was no disturbance found by the Police Dept. They could hear the music from this person's residence. **CHAIRMAN CASON** said so the police dept. did not talk to the complainant. Ms. Nations said they felt no reason to so there was no report written. She has a report from the Police Dept. showing they couldn't justify any noise.

MS. NATIONS said there has been a huge negative campaign against Sidelines – misinformation basically. It has been primarily one person who has been putting these up in the neighborhood – Sidelines Bar. Sidelines is not a bar. Sidelines is a neighborhood restaurant. They support local youth teams. They have a lot of children. Paul and Christine Grako have 3 children of their own that are often in there. Many of the neighbors told us that with the petitions that were being circulated they felt intimidated into signing these because this person would follow them into their driveways and into local businesses, like the bank and another restaurant in the same shopping center. It led one of her neighbors to write a letter stating that they wanted her to leave them alone because this has been such an issue with being constantly pestered about signing these petitions. There was also a letter that went out to the homeowners association with all their e-mails as well as the City Council telling them that they needed to protest this request. Not only that but each of the people that signed the petition were also told they needed to contact 15 other people to have them protest as well. He thinks that the information is not correct. What is being told – this is not a bar, this is a restaurant. The live entertainment has been going on. Most of the neighbors were not even aware of it. Some of them that were that came to the neighborhood meeting, they had one strongly opposed. The other neighbors said that as long as they gave them contact information to contact any of the owners or the managers, so if there was a problem with the music, they would turn it down. They had no problem with that. Once that was rectified there was no problem as far as she was aware of. They have 127 signatures on their petition supporting them. She believes they turned in one with 30 signatures on it. This is not going to be bad for the neighborhood; it is not going to be bad for the neighborhood values. What is going to be bad is when they start putting businesses out of a shopping center that is already dying. Empty buildings create property value losses.

CHAIRMAN CASON asked if they agree to the stipulations? Ms. Nations said that now the winter visitors are gone, their dinner runs later until about 8:30 in the evening. They don't do this every week and it is only a couple times a month, but they would like to request to operate the live entertainment until 11:30 at night on the nights they do have it. If they are approved at this point, they will have 2 or 3 live entertainments in May. It's not every night and it is not every week. **CHAIRMAN CASON** said so when she says live entertainment dates these are inclusive of what they have asked for in this application. Ms. Nations replied that is correct. **CHAIRMAN CASON** said but 10:30 p.m. isn't a deal breaker for her is it? Ms. Nations replied no, they would prefer the 11:30 but they will do what they can do.

COMMISSIONER FLANDERS asked Ms. Nations why she doesn't put the music inside? Ms. Nations said because they are bringing more people in on the nights that there is live entertainment they don't want to move tables out because the place is not very big. Moving tables out when they are bringing more people in, they need places for them to sit and it kind of defeats the person if they have to move tables out of the way to set up someone for the live entertainment when the seats they need to fill are gone. **COMMISSIONER FLANDERS** said they have seen a lot of different applications for entertainment and everything else and through the years that they have been on Planning Commission a lot of places have done that – moving tables and everything else. Is it an option for them to do that? Ms. Nations said the owners who are to speak as well may be able to answer that more plainly. The way they set up is to have the live entertainment facing the door outside and the speakers and the musicians facing inward so basically the patio is like a stage for the live entertainment. **COMMISSIONER FLANDERS** said so they open up all the doors and everything is being pointed back. Ms. Nations said it is pointed directly into the restaurant. **COMMISSIONER FLANDERS** stated when he saw this case and the distances, it is a clear shot to the neighborhood across by Queen Creek and the commercial there even has a separation of buildings that allows the sound to kind of go - with the amount of people in the neighborhood that have signed the petition and was amazed that the music was traveling that way. He is a little amazed and wonders what is it doing – is it bouncing off of the building and going back into the neighborhood or what. Ms. Nations said with the police reports, people are saying they are being disturbed and the police get out there and can't find a disturbance. Some people that are closer than this person have said they can't hear it. Some of the other people say they can hear it outside but not inside. The police are the middle factor here. They don't care one way or the other. They had nothing to gain by saying they couldn't hear anything out there. **COMMISSIONER FLANDERS** said his next question was related to the question he asked Staff regarding the Police Dept. In her research at the Police Dept. were there any other calls to that establishment other than the noise? Ms. Nations replied no and actually it wasn't a call to the establishment itself, it was a call to a resident in the neighborhood next door. **COMMISSIONER FLANDERS** asked were there any other calls that she came across for incidents either at the bar or in the parking lot? Ms. Nations said no and actually her father Randy Nations, is an agent on the liquor license for Sidelines. They handle all their liquor licensing for them and they haven't had a problem. The worst thing that has happened to them is they have been audited by the department of liquor to make sure their numbers were in check and that is something the department of liquor does regularly to make sure that restaurants are restaurants.

VICE CHAIRMAN RIVERS asked if she is going to open all the doors of the restaurant and have the music face into the restaurant? Ms. Nations said they open the patio doors from the patio into the restaurant. **VICE CHAIRMAN RIVERS** asked if there was some method of cooling this patio in July and August? Ms. Nations replied they have misters.

CHAIRMAN CASON asked if the owners would like to speak at this time. He said they will have an opportunity to come back and speak again after the audience.

MR. DERMODY said he forgot to recognize during his presentation that he did hand out a letter of support and the petition that Amy was mentioning.

PAUL AND KRISTINA GRAKO, 1641 S. EMERSON PL., stated they are the owners of the restaurant. She deals with everything day to day. She did start up the neighborhood meeting last week and the first thing she did was apologize. She doesn't have a business degree. She is an elementary school teacher. He is the business guy. The first thing she did was apologize because she didn't know that she needed a permit. She doesn't remember the guy who came in that told her she needed to have her permit. The first thing she said was tell her what she needs to do. She called Amy right away. She started her meeting by saying she was sorry. Unfortunately, she apologized that they had to deal with that with Regal Beagle but she tries to say she is a lot higher class than Regal Beagle. She loves families and that is what she gears towards. If you have ever been in Sidelines, she has high school and all sorts of kid's memorabilia all over the place. Their average age is probably 40 to 65 at Sidelines. When she asks for bands, it is coffee house bands. There was a gentleman last week that came in and played that has a guitar and it's like one skinny bose speaker or one little box speaker and that's it. It is not boom boxes, it is not rock bands, were not asking for ACDC to come on a Friday night. It's just for people to come out on the patio and relax. Yes, they do want in the summertime to move them inside if they need to because there is not going to be anybody in town. So if it is 125 degrees, they will probably have to move them inside because nobody is going to be there anyway. What they have now is you get your dinner rush from 4:00 to 7:30 p.m., 4:00 to 8:30 p.m. It gets slammed in there. You don't pay bills in the restaurant industry in the summertime. She is looking for anything she has to do to pay the bills in the summertime. When they get somebody in there at 8:00 p.m. to play music and even if it only brings in $250, it brings in $250 extra and it adds up. Next month she has 2 people playing. That's it - a one man guy with a guitar. She is not asking for rock bands, she's not asking for anything. She is asking for people to back her up. She is a mom and pop shop. 47% of the sales tax goes back into the economy. She is not asking for people to do this and do that but she has a lot of regulars that come, she has customers here that live in that neighborhood that will support me and say that they have never heard anything. On St. Patrick's Day they granted her one night that she could have music. Several of them called her that night and said they thought she had music tonight. It was loud, it was packed and they had the entire patio thing in Frank Sinatra. Not one person called. On the 3 nights the lady called the Police Dept., not one time did the police ever walk in her restaurant because she was there. They never called. They never walked in her restaurant, they never did anything. She never knew they had noise complaints. They are trying to do whatever she has to do. She would like 11:00 p.m. 11:00 p.m. is better than 10:00 p.m. but 10:00 p.m. is kind of like on a Friday night who wants to go home at 10:00 p.m.

CHAIRMAN CASON said she was saying in the summertime she thinks she might be able to pull the band in. Ms. Grako said they would probably have to. Who is going to sit on a patio when it is 120 degrees out? **CHAIRMAN CASON** said presumably they would be closing the patio doors at the same time. Ms. Grako said the whole patio is open but normally they don't set the whole patio up because nobody is going to go out there anyway. She just has one guy with a guitar playing in the middle of May and one at the end of May. Depending on if it is real hot they can just sit in the corner and play the guitar inside just like if they go to Jazz. **CHAIRMAN CASON** said in that case then it might be possible to perhaps suggest the hours could be more flexible in a condition where they have their doors closed - the time allowance perhaps. In the wintertime when they have their doors open and they have more customers during the 'we love

Arizona months', then perhaps a 10:30 p.m. time would be amenable. Ms. Grako said there are 2 times in Arizona that you can make money in the restaurant industry. You can make money during football season and right now when the weather is nice. The patio is crowded. This is the perfect opportunity for a restaurant to make money. Everyone wants to sit on the patio. Right now after dinner rush is over at 7:30 p.m. everybody goes outside and sits on the patio. They just want to relax, have a glass of wine. When you have somebody that wants to go home at 7:30 p.m. but they have a guy sitting out there with a guitar, they are going to stay an extra 2 hours and hang out and listen. They might have just came to watch a game but they are going to end up watching the band or whatever and stay for a couple extra hours. That keeps them because the weather is nice. When the weather is nice, they want to stay outside. They don't want to stay inside and watch it. That is what keeps them staying outside. **CHAIRMAN CASON** said so being able to stay open later is important to her no matter what time of year it is. Ms. Grako said that on Thursday night it is not important. Thursday night they sponsor a lot of softball teams Monday through Friday night. Thursday night they have a ton of softball teams. The softball teams like this one man band. Thursday night is not a problem from 7:00 to 10:00 p.m. She respects the neighborhood 100% because she goes to bed at 10:00 p.m. On a Friday and Saturday when everybody wants to go out for the weekend, she does want to ask if they could extend it a little bit later because everyone wants to hang out later after that. **CHAIRMAN CASON** asked by a little bit later she means? Ms. Grako replied in an ideal world she would like to say 11:30 p.m. That would be perfect for her. The most she has ever had a band is 4 times a month on a Friday and Saturday night. That is the most times she has ever had it. Then this petition went around and it says she is applying for nightly outdoor music. That is totally false.

VICE CHAIRMAN RIVERS said he was going to ask the question that she just answered. Would she be amenable to an earlier time on Thursday at 10:00 if on Friday and Saturday they went later? Also, would she be willing to do the earlier time on Sunday night? Ms. Grako said she doesn't do music on Sunday so just doesn't know where that came from. They close early on Sunday. **VICE CHAIRMAN RIVERS** said so they can take Sunday off the stipulation list? Ms. Grako said absolutely. Ms. Grako said the only way she would ever do Sunday is if they are doing an anniversary party in the afternoon. She does a lot of fund raisers for school and she gives 25% back to the school. If it is a day thing, maybe that is what they got by the Sunday thing but she never does night music on Sundays.

COMMISSIONER CUNNINGHAM stated it is not easy being in business today and they do appreciate the business owners of their community. They want to support that but they also respect the private residents and they are their patrons. It concerns her greatly the negative feel between some of the residents and the business community because they are all citizens of Chandler. They all want to live in a great community and she as a business owner is part of that with her contributions through the youth programs but so are the neighbors. It concerns her that the neighbors would hear any sound from this. When they go home at 5:00 or 6:00 or 10:00 p.m. at night and they close their door and if they hear anything from this music, it concerns her that their privacy is being invaded. She thinks she would be a little upset if you finally got home from work and you had your privacy invaded in anyway. She thinks that the lack of respect between residential neighbors to residential neighbors and residential neighbors to the business or the business to the residential neighbors needs to stop. She thinks there has to be a way that

she as a responsible business owner should know if the sound is too loud. There are other businesses across the street that will be affected by this. They don't want to hurt them either and you don't want them to resent your presence or your success. She wishes her success but she thinks she has to tone it down. Nothing on Sunday is great. She goes to bed at 9:00 p.m. and gets up very early at 4:00 a.m. Someone who works those hours (She also works Saturday and Sunday) doesn't want music heard. She keeps her windows open in the summer. If a neighbor could possibly hear it, it is a problem but it hurts your business also. There has to be a happy solution. When their crowd size goes down, isn't there a chance they could move their music inside. Isn't there a time of the evening Friday or Saturday or Thursday that the crowd does diminish somewhat to where there is room inside to take the music inside? Ms. Grako said yes. When she does softball, it is 100% crowded on Thursday nights and softball starts next week. That is her busiest night. There is no room. They are completely packed until 11:30 p.m. On Thursday nights she couldn't. There is just no way but they only play 7:00 to 10:00 p.m. She understands 100% what she is saying. She lives right next to Cornerstone. On Tuesday night they have 'kaboom' right next door and they have all the children's ministry so loud. It is what it is – it's one night a week. She deals with it. It is the church next store. She is not going to call and complain – its church. If it gets to be a problem, she will call and deal with it with them. Regarding the opposition last week, there was one gentleman who was so nice. He came to me and he said he thinks he kind of heard it. He asked if she would have a problem if he ever called and asked her to turn it down? She said absolutely not. She wants them to come in and she wants them to relax. She will give them her personal cell phone if she needs to. Some of the neighbors are here that say they live closer than the one lady that complained 3 times. If it was so loud on all of these nights that she had it, why is there only 1 person that has made 3 complaints and why when the police were dispatched 3 times did the police officer say he can't hear anything and they cancelled it. That is her whole concern. **COMMISSIONER CUNNINGHAM** said she is not a scientist but she does remember her basic science, and sound bounces off walls and it goes up and then deposits. It really could be somebody across the street closer did not hear it but someone else did. Again, people are more sensitive to bass, so if there was a bass some people are sensitive to it and some people are not. You can't discount someone saying they heard it. The fact is they say they heard it. Ms. Grako says she understands that. It has just gone too far. She doesn't want it to be my personal vendetta or her personal vendetta. That is not what it is about. She wants to do whatever she wants to do to succeed in this business in this economy because she is dying. She has been there 9 years in September and she has outlived corporate places. Look at all the corporate places on all 4 corners. She doesn't know how by the grace of God she is still there, but she is. She counts her blessings every day. She is thankful that he has a company that makes her stay alive through the summers. She couldn't do it without him.

COMMISSIONER BARON said he wanted to ask Mr. Dermody some questions about basic fundamental questions about land use, separation, compatibility and distance. Obviously, the zoning he assumes is C-2? Mr. Dermody said it is PAD for C-2 uses. **COMMISSIONER BARON** asked what is the closest distance to the nearest residence from this facility? Mr. Dermody said it is about 500 feet give or take a little bit. **COMMISSIONER BARON** asked what is the right-of-way at Queen Creek Road? Mr. Dermody said probably 130 feet all the way across for the most part. **COMMISSIONER BARON** asked if the 'Falls' is on the southwest corner? Mr. Dermody replied that is correct. That is the shopping center. **COMMISSIONER**

BARON said the structure is 25 or 30 feet tall? Mr. Dermody replied it is in that range. **COMMISSIONER BARON** said there is a fair amount of structure between there. He understands what everybody is saying but he thinks his challenge with this is that there really isn't a consideration for the fact through land use planning and zoning as they have planned cities, municipalities and any type of development, they have to consider buffer zones, transition space and everything else to make sure that the usage that is planned or that could occur on that site is compatible with the adjacent land use. With that consideration or thought in mind, it is no different than living next door to a high school or park where there might be a game going on or a band playing. He lives in a very close proximity to Snedigar Park and he very rarely calls the Police Dept. because he hears whistles, bands and music playing because there is activity going on. Sometimes they go on until 10:00 p.m. at night. The lights reflect and he can see them. It is just part of living in that area. He is a little bit challenged with the fact that there are so many problems. The complaints are unfortunate, he gets it. At the same time at least from a land use compatibility standpoint, it seems to make sense to him because there is plenty of distance. He understands circumstances that on a cold night that maybe the sound can travel further. It happens but he thinks they should be able to call to facilitate that. It makes a lot of sense. This is more of a commentary than anything else. In terms of the music when they do have music, do they advertise that they are having music? Is that something that the neighbors would be aware of. Ms. Grako said they advertise in the Savvy Shopper all the time and sometimes in the San Tan News. It just says live music, call for details. They never know. She has one or two bands and she has this date available and that date available. **COMMISSIONER BARON** asked in terms of the quantity per month, is there a concession perhaps to limit the number of times it occurs per month? Ms. Grako said it depends on if you can pay your bills or not. She said next month it is hot. Everybody is gone for the summertime. She has 2 guys that have called her for next month, May 14 and one day at the end of May and that is all she has for the whole month. She told them everything is riding on April 28. She said she doesn't really know. She has had to cancel everybody for this month. **COMMISSIONER BARON** asked how high is her patio wall? Do they know off the top of their head? Mr. Grako replied it is concrete and then it has wrought iron railing. It is about 4 feet.

CHAIRMAN CASON said he really appreciates the fact that they have come up there and spoken about the propriety of their business and the benefits of their business rather than siting or using that as a representation of why they want this to go through rather than the arguments they are having with their neighbors. He appreciates the fact that they are minimizing that because in this case they are actually trying to decide the land use. The fact that neighbors are miscommunicating and there are a lot of tensions, even though they might have concerns and they are here to listen to those concerns, the fact that there is a lack of communication or maybe more aggressive communication than some might like, is really not an issue for them. While they definitely need to support where they can better communicate with one another, certainly the fact that there is a miscommunication is not an issue at this dais. They are there simply to discuss land issue and compatibility land issues. That doesn't mean to suggest that there is any outcome that he is predicting at this moment because they certainly need to hear from a lot of people out in the audience both for and against. He just wanted to let her know that he appreciates her taking that position and highlighting the benefits rather than talking about all of the negative things that have been going on. He thanked her for that. He said he wanted to add

to Ms. Nations as well that he is going to invite the audience to come up and speak and she will have an opportunity to rebut if she so chooses after that happens.

CHAIRMAN CASON said he will be asking those who want to speak on the matter to come up. He also had a lot of people that wanted to just let them know if they are opposed or for the item. He will discuss those names after they have had an opportunity to speak to the folks that would like to speak. He talked about some of the ground rules for speaking. He said he would like them to come up and take about 3 minutes. They aren't going to start the timer or anything else but he would like them to be considerate of the other people that would like to speak. He asked them not to be too redundant. If somebody makes a point, please come up and make your own point or acknowledge the point the other person made but try not to rehash the same evidentiary matter. Probably most importantly understand that when they come up and speak, they are only allowed to come up and speak one time. They don't want to create a debate between the dais and those out. They are certainly welcome to come up and speak their mind, but they are only allowed to come up and speak once.

SHARON JOYCE, 1221 W. HONEYSUCKLE LANE, said she has lived in that house for the last six years. She had a petition to submit because there are additional signatures other than what they have in their packet. She said she doesn't intend to say very much tonight. She'll let her neighbors speak if they wish. She appreciates the Commission's time and consideration and some of the questions that were asked. She hopes they give this a good consideration. That the neighborhood is interested in making sure they do not have to hear the music when they do get home from work. If that can be taken care of that's fine. She turned the petition into the clerk. She originally had a presentation but she will not be making it tonight and will reserve comment. **CHAIRMAN CASON** said she had an opportunity to hear some of the stipulations that have been placed on here. Does she have any comments to those and does she think those will help alleviate the concerns they have about the applicant starting or continuing to have music as the case might be. Ms. Joyce replied whatever works. If it works, it's fine. She thinks if the music can be contained on the premises, she thinks ideally the best situation is to have it indoors. If the music can be contained on the premises so it doesn't rise above the ambient noise level of Queen Creek Road, she thinks that is great. She does think that putting the neighbors in a position of being enforcers is awkward at the least. Especially given some of the experiences she has had at this point. She won't go into any of that. She thinks if the stipulations work, that would be fine. She is not sure how it would be enforced. **CHAIRMAN CASON** asked if she had the applicant's phone number so that she could communicate with her personally. Ms. Joyce said she does not. **CHAIRMAN CASON** asked if that was something she would encourage having. Ms. Joyce said that is an awkward situation. Given historical circumstances she doesn't think it's anything but an awkward situation. If it works, she thinks it is great.

VICE CHAIRMAN RIVERS asked if she could point to the map and show him where her house is. Ms. Joyce said she had another map. **VICE CHAIRMAN RIVERS** said that particular map will not help him. Ms. Joyce went back to the other map. She showed her house.

JEFF LEVER, 3062 S. MARIGOLD PLACE, thanked them for letting him speak. He showed where he lived on the map. He said he wishes he was in one of the custom homes but he is one street over. He is actually at the turn in the cul-de-sac. If you stood in his backyard and looked

over his wall, you would see Keegan's, Sidelines and down that way. He is one of the closer neighbors. He looks down on everyone. They used all of the dirt from the lakes to build his place. Anyway, he has lived there 17 years. When Sidelines opened he was very happy about it. He supports them and they are a good group of people. He has raised money for service dogs and he went in and they are the first ones to write him a check. Just like that. At night, he and his wife have a nice fireplace and a place to sit and they go out there. Not once have they heard any music from Sidelines. He thinks if any house would hear it, it would be in his neighborhood because of the way they sit. He also would like to comment on their house values. He got the letter calling it a bar. It's a Grill and a Tavern. To him a bar is a place where you go and drink and fight. He doesn't know. A Tavern and Grill is more of a family atmosphere which Sidelines is. He is the one that is 65 that goes in there but he is a little bit younger than that. He has always enjoyed himself in there. He has never ever seen any trouble. He has never seen any policemen in there. He has never seen anyone call. He has never heard the music, doors open, doors closed, outside or inside. He has gone over there when they had music and it is not that loud. He asked Mr. Dermody that the decibel that the guy played out was 83? Mr. Dermody said he is talking about a particular artist that plays there and he said at the neighborhood meeting that he plays at 80 decibels. Mr. Lever said to begin with a normal conversation at 3 to 5 feet is 60 to 70 decibels. The dial tone on your phone is 80 decibels. City traffic which is Queen Creek is 85. A truck going by on Queen Creek is 90. We don't have a subway yet but that would be 95. Anything over 100 would be a lawnmower, a motorcycle, a power saw. A live rock concert is 125. He is just trying to make a point that they don't hear it in their neighborhood. The way the economy is right now if his house values go down and he has been there 17 years, he would be the first one to complain about that situation is in that mall. They are losing Target, they have lost Basha's and they are losing individual pads like Pizza Hut. These people are trying to make a living. They are trying to keep the place open and he applauds them for it. They employ people that need a job and they don't have to be on unemployment. They are paying sales tax to our city which is helping him so his taxes don't go up. They are doing what they can and the bands they are having it's not the Rolling Stones, it is just comfortable music. It is crazy to even try to move them inside but do what you want to do to them. All he is saying is it doesn't bother their neighborhood. He has never heard any complaints from any of their neighbors, left, right, 2 houses out or 3 houses down. He is in support of them and he is in support of keeping their place open and keeping our community busy. It is their job as Council people to make sure they have places. He said thank you.

MARY MARKS GIBBS, 1321 W. HONEYSUCKLE LANE, stated she is about 10 houses from the other side of the complainant. When she heard about this, she was very upset. She supports small business. Living in that neighborhood for 6 to 8 years, they have set with their windows open at night; they sleep with all their bedroom windows open, they sit on their patio and enjoy their pool. They do not watch television outside, so they do not have noise. Never once have they heard any music coming from Sidelines. So upon hearing this she only thought it was fair to take it to her other neighbors, not just hearing one voice state their opinion – see if other people had a problem with it. She went to the left, went to the right and went as far as kitty corner from her house in two areas. She went across the street where the patio backs up closer to Sidelines than where she lives. She lives on the golf course, so does she. Of the 19 people, she had 2 people state they could kind of hear it but it wasn't an annoyance. The petition that she passed they were given 3 choices. She showed the choices. There basically was; 1) when she is

in her yard or inside my house I do not hear music coming from the local establishment. 2) Any music I hear is of such a low audio that it is not bothersome. 3) The music I hear is excessively loud and should be stopped. That was a very fair statement. In fact, one of the neighbors is an attorney and his wife had signed and hearing upon it, he came out and insisted on signing. He said it was ludicrous. His yard backs up closer to Sidelines than hers. Again, they are on the golf course side. She is on the same side she (Ms. Gibbs) is on. Comparing eggs to apples it doesn't add up that one person has a problem and stated that she was going to sleep and had the windows and doors closed and she could hear music. They sleep with everything open and they do not hear it. On St. Patrick's Day she was told they were having a party. They did not go as her husband had hip surgery. She purposely tried to hear it because she knew they were given a right to have music and she heard that it was going to be loud. Let's be fair and see if she can hear it. She sat in her back patio and could not hear it. She walked to the front of the house and stood on Honeysuckle and could not hear it. She walked to where her mailbox is on Marigold and could not hear it. She said believe her, she tried to hear it. Fair is fair. This whole petition wouldn't have been fair if she wasn't going to be fair with herself along with all of the other neighbors.

CHAIRMAN CASON asked if she could give him the numbers that were in each of the 3 petitions. Ms. Gibbs said of the 19, only 2 stated 'any music I hear is of such a low audio that it is not bothersome'. The other one states 'either in their yard or inside their house I do not hear any music emanating from the local establishment'. **CHAIRMAN CASON** said so it is 17 - 2 and 0. Ms. Gibbs said even the 2 said one of the neighbors had the radio on. They did not realize it was the music. The music is acoustic guitar. **CHAIRMAN CASON** asked if anybody checked off the last choice. Ms. Gibbs said none. **CHAIRMAN CASON** said so they are looking at 17 in her non-scientific survey but one that is probably a lot better that most they see he added. It was 17 – 2 and 0.

JANE SCANLIN, 1242 W. HONEYSUCKLE LANE showed where she lives. She said she is not a public speaker either. She appreciates all the comments. It has helped her because she is open to gathering facts. She has been listening to all of the research done and she appreciates all that. She actually just from what she has heard in the last ½ hour listening to how many yes' and how many nos. They want Sidelines to be a thriving organization for Chandler. She thinks they all want that. She is trying to be a good neighbor as well. She doesn't think it is a matter of always 19 'I never hear anything' to the 2 nos. It is more that they need to work together, they want Sidelines to succeed. At one point something was said about their business failing. They don't want that to happen and yet the next sentence or two they say that it is so crowded with sports coming up. She knows there is probably a wave of influxes one month, incomes high when packed and maybe the next month it's not. Sadly, that goes with a business of a restaurant. Her thought is it sounds like they are proposing that they keep the volume down. She doesn't know so much as to what historically has happened. It seems to be that many people are coming up to say they haven't heard the noise. To her it is almost a matter of so they can avoid in the future that there could be potential loud music. She doesn't know if they should focus on that there hasn't been or there has been. Neighbors have said stuff. They could focus on potentially what could happen. It sounds like they are willing to work with this and these new stipulations. She thinks that's fine. If they want to know what the future holds, look at the past. Her only thought and comment, if the permit originally stated that Sidelines was not to have music

outside, then why did they. She wants to understand that. As far as playing music in violation of the permit and then building the patio without permit, those are sort of the big things that she would like to know about and makes her wonder and at least question the future. That is her main comment regardless of who is hearing what noise or they stated they live by the church and they don't always hear music. They do hear it occasionally and don't comment and that is fine but for others it does bug them. She said if they don't want to say anything that is their choice others may not. That is kind of her point. She is willing to work with what potentially could be if they are going to bring bands out every day or every so often and that they have already broken some rules and she wanted to know how those have been addressed. **CHAIRMAN CASON** asked Mr. Dermody to please comment on the speakers' questions.

MR. DERMODY stated they had played music this past winter in violation of their Use Permit. What they have said is that they weren't aware that they weren't allowed to do the music. Ms. Scanlin asked if that is in their permit they sign? Mr. Dermody said they don't sign the permits but it was in the results, it wasn't a stipulation but it was in some of the other documents. It wasn't in an obvious place but it was there if they had looked for it. With regard to the patio having a permit, they do have a building permit for their patio and they also got a Liquor Use Permit to expand that patio when they did that a year or two ago. At one point they had a shade structure out there that wasn't permitted, but they took care of that through the same process when they got that patio extended. To their knowledge they are current and legal on their building permits for this site.

CHAIRMAN CASON asked Ms. Scanlin if she is comfortable with the stipulations she has heard tonight? Does she think they will provide a level of comfort for her that she thinks will help mitigate the issues that they might have seen in the past? Ms. Scanlin thinks it is very helpful. She thinks it is a good place to start and she feels comfortable that those things can be met and they are working together. Maybe there has been some tension, that is what brings things here today. If those things work, it's fine. **CHAIRMAN CASON** asked if she would be willing to share phone numbers with the owner of the bar to help them monitor those types of things? Ms. Scanlin asked if they mean is that being a good neighbor to the business to tell them or do they pay our police and enforcements to do that. If they are avoiding anybody calling the police by and them taking a step before that is that the intent for them to work with Sidelines. **CHAIRMAN CASON** said you would expect the owner would be busy and not notice that the knob was turned up a notch or something like that. By having the input from the neighborhood then they have an opportunity to build an auditory alarm. Through that communication they are able to develop really what is the best volume. It appears that they might already be there, he doesn't know. Certainly with these stipulations it might help us. She is under no obligation to do so, he just asked the question to see if that was something that would help. Ms. Scanlin said it was a good question and she is not totally opposed to it. She could see herself calling Sidelines as they have their number because they have flyers. She doesn't think she would necessarily want them to call her. She wouldn't have any problem with that instead of going to a policeman. When it is initiated by her she wouldn't have a problem particularly calling them directly.

VICE CHAIRMAN RIVERS said if he is hearing what she is saying correctly when she filled out her speaker card, she was opposed to this Use Permit. He is gathering from what she is saying that she is not opposed to it. Ms. Scanlin said she didn't know about the stipulations until

she came. When she walked in, she didn't know there were stipulations unless they were in place on here and she was not aware of it. That could be her fault. Regarding these new stipulations that they have to play certain days and up to certain times, she was not aware of that until she walked in. She is willing to work with these potential stipulations. **VICE CHAIRMAN RIVERS** said right and now that she is aware of them and she is feeling a little more comfortable, she is ready to say she is in favor of this. Ms. Scanlin said she would change it to she is willing to work with it.

COMMISSIONER FLANDERS asked Mr. Dermody regarding one other place they have referenced here tonight is the Regal Beagle. They have a similar situation where they have neighbor contact - somebody from the bar to the resident. Is that the homeowners having the phone number to call or is there somebody special within the neighborhood? Mr. Dermody replied the cell phone number and the bar number were distributed to all the interested residents and they just called directly whenever they had a problem. Then the bar turns down the volume. Maybe that is something they can do here and provide it to the neighbors that are concerned if there is an issue with sound. A phone call to the owner of the establishment could remedy the problem a little bit quicker and easier.

Ms. Scanlin said Sidelines wouldn't be calling one of them in Ocotillo if their television was up. So she wouldn't want to give her number to them but when she has a problem she would be calling them. Mr. Dermody said the intent is for this to be one-way. Ms. Scanlin said that would make more sense than giving our numbers out to them.

CHAIRMAN CASON said he is sorry that they got caught up in that. He didn't mean to imply that we would have to trade them. It kind of came out that way. He apologized for the confusion. He asked Mr. Dermody if we know how many times that once the latest application with Regal Beagle came into place and the association was set up between the homeowners being able to call the bar when problems arose. Do they have a count as to how many times that was required after Regal Beagle understood the concerns of the neighborhood? Mr. Dermody said he didn't have exact counts but roughly in the 1st year a handful of incidences, 4, 5, or 6. In this past year they only had one incidence. **CHAIRMAN CASON** asked so when he says the first year was that the year before they established the conditions in which they could have outdoor music? Mr. Dermody stated that is after when they set up the liaison program where the phone number was given out to the neighbors. **CHAIRMAN CASON** asked if they have been able to diminish the issues? Mr. Dermody replied absolutely.

CHAIRMAN CASON said the rest of the speaker cards he has are people that chose not to speak but he was going to go ahead and read their names for the record and also any notes they might have put on their comment card. If any of them would like to speak when he mentions their name, be sure to say so.

CHRISTINA ORTIZ, 1183 W. LANTANA, was in favor of this item and chose to speak. She said she is one of the closest homes and showed where the home is where her parents currently reside. She showed the home she lives in as well. She said she thinks she would be in favor if they talk a little more about the restrictions. What is loud to her and not to someone else is really a gray area. She could hear the music inside 3120 S. Vista. Her dad is a little older and couldn't

hear it. The stipulations where it is not louder than is acceptable is really gray. Like she said she can hear it inside, he cannot. In her yard where she is a little further away, she can't hear it inside. She is less concerned about that but there was some back and forth on the time restrictions and that is really where more of her concern is. They have small kids and 11:30 p.m. does seem late. She is more concerned with what the time restriction is going to be. She thinks 10:00 p.m. is something she could live with, but 10:30 p.m. seems late. **CHAIRMAN CASON** asked even if it only occurs on Friday and Saturday? Ms. Ortiz replied yes. She said she has kids and they go to bed early no matter what night. She said it's loud to her; it's loud to someone else. That is a real hard thing and it would be self-policing. She is more concerned with the time restriction.

VICE CHAIRMAN RIVERS said if he heard what she said she can't hear the music but she wants a time restriction. Ms. Ortiz said she can't hear it inside her house but she can hear it in the yard. She can hear it inside the other home which is where her parents live. She owns 2 homes. She may rent it out in the future so it is a concern to her.

DOROTHY VINCENT, 1211 W. HONEYSUCKLE LN. is opposed to this item and doesn't wish to speak. Her comments are that the indoor music is very acceptable but she is worried that outdoor music sets a precedence.

JOHN VINCENT, didn't mark whether he was in favor or opposed. His concern was what days and hours will the band be playing. **CHAIRMAN CASON** said they have had an opportunity to discuss that. It's looking now like it will just be Fridays and Saturdays and the hours are yet to be determined. Mr. Vincent also asked if a permit will set a precedence for other places to do outside bands. He asked Mr. Dermody to discuss that. **MR. DERMODY** said this permit applies to this property only and doesn't necessarily constitute precedent of any kind anywhere else. If somebody else wanted to have live music and sell alcohol, they would have to come in and get their Use Permit amended separately with a full notification process. **CHAIRMAN CASON** said commonly when applications come in to them that's one of the things they look at right in the beginning is whether they are going to have music, what they are going to do outdoors, any type of amplification and all of those kinds of details. So people would be coming in after the fact primarily to do this unless they find out immediately before they even started their first permit. Mr. Dermody said yes it's more often existing businesses that come back and ask for the music later.

NANCIE BENO, 1717 W. LARK, was in favor of this item but had no comments.

JOHN VINCENT, 1211 W. HONEYSUCKLE LN., said he wanted to speak. He said he lives next door to Sharon Joyce. He hasn't heard the music and he is still questionable whether he is opposed or not. He loves music. The way he understood it when he first came in Thursday was one of the days. Now they just mentioned that it wasn't. He thought it was Thursday, Friday and Saturday. **CHAIRMAN CASON** said it was one of the days and he didn't mean to refer that it wasn't. That is up for negotiation. Mr. Vincent said the only problem he has with Thursday is the time which is 10:30 p.m. True, some can hear it, some can't. It is quite a bit away. Their bedroom is in the back so they haven't heard it. He would suggest Thursday should be an earlier time than 10:30 p.m. He doesn't know if they want to consider that or not. It also

sounded to him that Thursday night is softball night. He played slow pitch softball and he knows what all the softball players do when they get through playing. That's fine. They drink a lot of beer and have a lot of fun. He is not sure that a band has to be outside but if they are going to approve it that is fine. Also, he was kind of worried about the center because they have lost Albertson's and then Target is moving out. Some of the smaller businesses are going to go out of business and his only thought was maybe somebody was considering leasing a place in there might be opposed to the music and wouldn't lease because of it. He doesn't know. Like he said earlier it sounded to him that being inside was not an impossibility. He would rather have it inside. He loves music and he will probably go over there and have a couple beers and enjoy it if it is inside or outside.

VICE CHAIRMAN RIVERS asked Mr. Vincent to point on the map where his house is.

ARDITH DUBUC, 471 W. LOCUST DR., is in favor of this item and did not wish to speak.

KAREN NADEAU, 2980 S. ALMA SCHOOL, is in favor of this item and did not wish to speak.

PAUL GRAKO, 1641 S. EMERSON PL., stated they have been there for 8 years and they look at it like they have always been a good neighbor. They have in terms of what they have to do in the neighborhood to be successful to continue on. The antagonism and negativity has really never come from them. He can't say what happens in that neighborhood. It has brought a lot of negativity out in the neighborhood. From the Sidelines they take care of themselves and their customers and they try to be good neighbors. The Regal Beagle is like comparing Chandler to Florence. They are a lot better than they are. He is sorry but he had to say that. They have a lot of pride in what they have there. If you have been in there you will know that is the level that they are at. As far as the patio, Chandler does one good thing as far as when it comes to permit time, they got the permit legally and they worked through with the City and they made sure they did everything from an architect to a structural engineer to a civil engineer. He was amazed at what they had to do to build that patio but they did it and it worked out. It is great. When the gentleman talked earlier about softball nights, he wish there was softball every night but there is not. It goes in cycles. It goes in 9 week cycles and it is off for a few weeks and then it starts again. They look at how they can increase their revenue at any given time and whether it is at noon for lunch or whether it is at night, Saturday, Sunday or whatever, they have to look at it as to how do they bring people in the door. This music was his wife's idea and it was great. Again, bad on him on the application. He read through it, he signed it but he didn't read where you can't have music. It doesn't say 'don't have music', you have to check the box if they are going to have music. He said he will take responsibility on the music. As far as the shopping center, even though they are small they are one of the biggest tenants left and they are a good draw during Football season. The March Madness was good. Unfortunately, the Suns didn't get in the playoffs and that stinks for them. The Diamondbacks are going to be in for a long year. That is not going to be a big draw for them. They look at this band as one source of revenue for them to bring in. It is not a crazy rock and roll but a very low key fun atmosphere. People in his age group just go down there and hang out and have a good time. That is the atmosphere they have always had and they always will. The concerns with the police reports he could tell them in 8 years no problems. None. They have zero tolerance for that. If anybody starts getting out of

hand and start acting up, he doesn't care – don't come back here, go across the street. They are not welcome at their place. They want to be a good neighbor.

They can call us any time if the music is too loud. He will personally drive down there and turn it down if he is not there. He will make sure. Again, things have gotten off track as far as some of the calls. The police don't even come because there is not enough noise. He is not going to be the go between. He just wants to be the guy if they call, they will turn it down and if that doesn't suffice, call the police and have them come out. He only asks when somebody does call, he wants to know who it is and if they live here and they can hear the music. He doesn't want nuisance calls like 'hey, you are too loud, turn it down' and then hangs the phone up. He doesn't think that is fair to them if they arbitrarily start getting phone calls to turn the music down. He doesn't know if that is something they could talk about too. He would like them to leave their name and number. He thinks that would be fair. They are not going to harass anybody. He'll probably tell them to come down and spend some money and help them out but for the most part, they are the good neighbor. They spend thousands of dollars on sponsorship for little league, softball, Hamilton High School and Chandler High School. If it comes down to signatures, they will do what they have to do too. Their petition they put out is very unbiased. That is one of the best they have seen. The one that got circulated originally, he took that personally how she wrote that and how it was stated that they are a bar and they are going to bring down the value of the neighborhoods. That is ludicrous. They have to look at is rationally. They are there and they want to be there another 8 years and they want to keep going. They need another revenue stream to help keep them going. **CHAIRMAN CASON** asked if they could work on the stipulations and get that ironed out before they go on. He is sorry if he misspoke earlier but Thursday, Friday and Saturday are still on but Sunday is off. Mr. Grako said he knows it won't be Sunday nights but Sunday afternoons they might do something. He would like to leave that open. Mrs. Grako, his wife, said it will never be a Sunday night. It might be a once in a blue moon thing if they have a Sunday barbeque fest or a 5 year anniversary special. She has no plans to ever do a Sunday day thing. For Thursdays is when softball is so busy for them and it brings in extra crowds and they do stay late. Like her husband said it is an 8 week term and then it stops for 9 weeks and then it is 8 weeks again. It is two 8 week segments per year and that is it. **CHAIRMAN CASON** asked her if she was o.k. with the speaker sizes and the not having sub-woofers? Mr. and Mrs. Grako said absolutely. **CHAIRMAN CASON** asked if their hours were 11:30 p.m. Mrs. Grako said Thursday nights she has no problems doing 7 to 10:00 p.m. She knows some of the comments that were made that they couldn't hear it inside. In the real world she would love to have it at 11:30 p.m. on a Friday and Saturday night. It is 2 or 3 times a month at the most. If anybody has a problem, she doesn't want Sharon or anybody to feel uncomfortable calling her. She a managers on duty. They can call. If they are uncomfortable, they can have her cell phone number. She doesn't want these guys to ever feel uncomfortable because they are a small knit community. She lives right across the street too. She doesn't want anybody to feel uncomfortable. **CHAIRMAN CASON** said so on Sunday they would entertain a stipulation to 'not after 8:00 p.m.' or something like that. Mrs. Grako said if they did, it would be like a 1 to 5:00 p.m. like for an afternoon barbeque thing.

VICE CHAIRMAN RIVERS stated he was going to discuss the time stipulation with him as well. Again, from what he is hearing he jotted down 'music shall not be played between the hours of 10 p.m. and 9 a.m. on Thursday or Sunday. If sounds like they are willing to give it up

at 8:00 p.m. anyway. On Friday and Saturday, 11:30 p.m. to 9:00 a.m. Would that work well for them? Mr. and Mrs. Grako replied yes. **VICE CHAIRMAN RIVERS** stated that is what he will support. He does want to agree with him from his point of view that there are very few similarities between their business and the Regal Beagle. The first one being that the owners have come to the Planning and Zoning Commission meeting on their business. He appreciates them being there, he appreciates what he considers a sincere attitude of being a good neighbor to those around them. He thanked them. Mrs. Grako stated that in the strip mall right next to them, Water 'N' Ice and the Coldstone Creamery are all in favor. She has been an emotional wreck the last couple of days. She does have a written letter that they all love her music. They are all closed usually by the time that she does have the music but they love the music. They usually come over and sit on the patio. They are scared to death she will go because half of the tenants are leaving.

COMMISSIONER CUNNINGHAM said she would like to request that they send her an e-mail letting them know when their music is coming in if they approve it so they can all plan on visiting her establishment. Mrs. Grako said she like to hear that. Mr. Grako said good for her. Mrs. Grako said the first round is on her if they approve this.

CHAIRMAN CASON said he was going to go ahead and close the floor for a motion and further discussion from the dais.

VICE CHAIRMAN RIVERS asked if they can draft or re-draft stipulations 10 and 11. What he did was he wrote into stipulation no. 10 'music shall not be played between the hours of 10:00 p.m. and 9:00 a.m. on Thursday or Sunday' and then maybe change the wording so that 'music shall not be played between the hours of 11:30 p.m. and 9:00 a.m. on Friday and Saturday. That could be no. 11. He thinks this business is a good neighbor. He won't go into the fact that sound travels differently in different parts of the neighborhood because he lives next to a freeway wall and whereas he can't hear the freeway, his neighbors 2 blocks over can. He thinks debating who can hear it, who can't hear it, what level you can hear it and so forth isn't nearly as important as the fact that the owner of the business is willing to have anybody in this neighborhood call them at any time and they will take care of the problem. The liaison idea that they have seen before only works when the business owner really wants it to and he thinks these owners do. The bottom line here is that they have a 1 year permit and if there are issues in that year, they are going to hear about it a year from today or darn close. He thinks they should look positively forward to that. He said if Mr. Dermody has that stipulation ready he'd make a motion to approve.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve Use Permit LUP11-0002 SIDELINES GRILL AND TAVERN subject to the conditions recommended by Staff.

Mr. Dermody said suggested amended no. 10 shall read:

Music shall not be played after 10:00 p.m. on Thursdays and Sundays or after 11:30 p.m. on Fridays and Saturdays. Music shall not be played before 9:00 a.m. on any day.

COMMISSIONER PRIDEMORE said he is sorry to hear that there is some animosity between the neighbors and Sidelines. They are obviously looking at the zoning case here, the Use Permit, which has clear ordinances that they can look at and that is what they are really looking at. He would like to think that they could work out their differences. He said you can ask 100 people and if you just had 1 person that had a different opinion, they are welcome to that opinion. They have a process here that they go through. Sidelines has come through and made a reasonable request with the stipulations that they have here. He is comfortable going to the 11:30 p.m. If they didn't have the stipulations and if the applicant wasn't so willing to work with the public, then he would probably be in favor of 10:00 p.m. Since they are willing to work with everybody and they have a very positive attitude towards it, he would be in favor of the stipulations as we have amended.

COMMISSIONER FLANDERS said to the applicant he was a little hesitant about this as a result of some of the stuff he was seeing like the Regal Beagle. He has been through every Use Permit hearing on that particular project over the years. He is guilty of thinking they were going down the same path here. He was glad to hear that the owners are willing to work with the residents. He would suggest to the owners that they probably do a flier and pass it out to all the neighbors on their doors just so they have the telephone numbers and everything else so they are easy to contact. As an architect, he is sitting here looking at exactly where their establishment is located and he sees an opening between the 2 buildings across the street. It's like a funnel that goes out from their place and it is covering the major part of the people that have complained or that have signed the petition against it. It is funny that the noise has traveled along that path. It is interesting to see that.

The Commission voted on the item. The item passed unanimously 7-0.

CHAIRMAN CASON said for the people that are here tonight this case goes before the City Council April 28, 2011 and they are more than welcome to visit the City Council and share their comments with them as well.

G. MUP11-0002 DOBSON CENTER (MED-ASSIST)

Request Use Permit approval to allow a medical marijuana facility within Planned Area Development (PAD) zoning allowing C-2 commercial retail and office uses. The property is located at 2095 W. Frye Road, Suite 1, southwest corner of Dobson and Frye Roads.

7. This Use Permit is for a medical marijuana facility only and is not transferable to any other location or premises, nor is it valid for any other use or business associated with a medical marijuana dispensary that is not specifically identified in the Use Permit.
8. Any expansion or modification beyond the approved Site Plan and Floor Plan shall void the Use Permit and require a new Use Permit application and approval by City Council.
9. The Use Permit is effective for a period of one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City Council.
10. The property's landscaping shall be maintained at a level consistent with or better than at the time of planting.

11. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
12. The site shall be maintained in a clean and orderly manner.

MS. JODIE NOVAK, SENIOR CITY PLANNER, stated that what is before them is addressing a property that is located at 2095 W. Frye Road, Suite 1. It is the southwest corner of Dobson and Frye Roads. This particular request is a Use Permit for medical marijuana and the specific type of medical marijuana is a facility. In other words, this would be the retail facility that would dispense actual medical marijuana. The property is zoned Planned Area Development (PAD) zoning and it does allow C-2 Community Commercial Uses that include retail and medical office uses throughout this commercial center. The application is requesting one suite to be granted to have the medical marijuana facility. This particular site was zoned back in 1990 and it was a part of a larger area with the hospital district in an area called the Gateway Area Plan. It was intended to be zoned as a commercial center that would have a mix of hospital related support services. At this time, they only have 3 tenants in the development. There is the Sonora Quest Laboratory, which is medical related. There is a Quizno's sandwich shop and there is Life Uniform that has all the medical uniforms as well.

This particular tenant space that is proposed is in a building that has no tenants in it at this time. What is proposed under our City of Chandler ordinance is a request to do the medical marijuana facility for the dispensary. It meets most of the criteria and the City Council adopted ordinance which occurred back in February. The one item that this request does not meet is the separation requirements. In addition to meeting any kind of state statute requirements to do a medical marijuana retail facility. There are ordinance requirements that they require that a medical marijuana facility be located 1 mile from any other kind of a medical marijuana use whether it is another facility, a cultivation site or an Infusion Food Establishment.

They also require that it be ¼ mile away from a list of protected uses. Those would include public and private day care center, public or private park, place of worship, charter schools, public schools or private schools, residential zoning district boundary, public library and public or private hospitals. With this particular request they have formulated the measurement as per the ordinance on how to do that and this particular request does not meet that ¼ mile separation from a public hospital which is located directly to the east. It doesn't meet the distance separations from a single family residential boundary to the north across Frye Road or to a multi-family residential district boundary which happens to be to the west of this particular property. It does meet all the other criteria requirements. Our ordinance for a retail facility does state that you have to locate in a permanent building, which this is. It cannot be any greater than 2500 gross square feet, which this is less than that. It has to have a secure storage area inside that does not exceed 500 square feet. This is definitely less than that as well. They are proposing a space that is approximately 1500 gross square feet. It also could include a secure storage area that is around 144 square feet. Furthermore, with the ordinance there are restrictions on hours of operation for the general public to be coming in and out, which states that it cannot open any earlier than 9:00 a.m. and cannot have the public coming there any later than 7:00 p.m. They are representing that they will comply with that. They have listed their hours of operation in the application as well. It will not be like a traditional retail or restaurant use that cannot have any

kind of a drive up or drive thru type of element, which it does not. It will not be providing any off-site deliveries of any Medical Marijuana to a cardholder which comes straight from the State Statute requirements. It also will not allow any consumption of medical marijuana on the premises and it will not be able to have any form of outdoor seating on the premises which comes from the City of Chandler ordinance.

It will not be associated with any kind of a cultivation use on the property. Those have to be in completely separate zoning districts and on a separate property. So this facility will just be the medical dispensary by itself. The application request did include a very detailed floor plan. They don't have a specific security plan in requiring having set parameters with what they have to have. They just asked them to represent what they intend to have. The state statute does require additional requirements for security measures but they are representing security measures that will be taking place with their interior security walls, secured doors, entrances and exits, their safe area, security alarm system, lighting, cameras and those kinds of things. It is a benefit to the public let alone a benefit to the person that will be operating this facility as well. This is more of an in-line retail shop space so it does have store front windows, several sides on the north side, east side and on the south side and they will be blocking those out with a blackout form of a tint or other material. From the east and the south you won't be able to view or look into there because those are the areas where you will have the medical doctor meeting with patients or you will have the actual pharmacy part of it where they will be doing the product that they happen to have on site. They are requesting although on the store front and the front part of it that they won't be blacking out what is on the north side of it because that is more like a lobby area for people to be waiting and you can't see anything that is going on in there from that particular location.

Their main entrance will be from the north side of the building which is where all the main entrances are to the store front for this particular building so when you come out into property off of Frye Road the entrance will be right there within the main parking area. They have ample parking spaces that are located on all sides of the building as a part of the project so there isn't any form of a parking deficiency.

As a part of this request to Staff, they look at all these parameters they she has mentioned as they have been adopted in the ordinance by City Council. To make a determination whether they are in full conformance or not in full conformance with all those criteria because they do not meet those separation standards that have been outlined and set forth in the ordinance, they have to recommend denial of this particular request. That is up to the prevue of the Planning and Zoning Commission as well as the City Council to make the determination if they want to have a minor deviation from those standards. They look at them at a case by case basis. From a Staff standpoint, they look at it 'does it meet or does it not meet' that criteria and that is how they have made the finding to recommend denial because of that one parameter.

A Use Permit will be only valid for one year and it will come back. They will file a brand new Use Permit and go back through the neighborhood meeting process and back through the advertising process, the hearing sign posting and will come back through Planning Commission and City Council again for them to review it. There are additional criteria that she has outlined in her report. They have to make use of this Use Permit within a 9 month period so if somebody

wanted to sit on it for like a year or two years, they couldn't. It would automatically just void and expire. Furthermore, the Use Permit does outline that this is not transferable to another location. They do the same with liquor Use Permits. It is for that specific address for that tenant space. If they wanted to expand to another tenant space, they will be coming back through this process with a whole new Use Permit. Furthermore as well, when they reviewed this they kind of look at the area and she has outlined in the discussion of the report that there are different circumstances that a board can look at to make a determination that this is an appropriate location. Should they deviate from some of the separation standards or not. There is a hospital use that is to the east. There are the residential district boundaries on the north and to the west. To the south are 2 individual medical office complexes. The northeast corner of this intersection has medical office complexes as well. There are medical office complexes that surround the hospital. One may look at this and feel that there is a lot of medical use already in the area and this is by nature the definition in the State of Arizona a Medical Marijuana law that was adopted for the state and it is a Medical Marijuana ordinance. There are some reasons where someone might think that the area is kind of medical in nature and it's surrounded by other medical so that might be a considerable location for that. That was the level of thinking from the applicant which they can further elaborate which is why they chose to come in on this location.

As you may be aware, when the ordinance was adopted, they had provided concept maps showing areas in the city where medical marijuana retail facilities would meet all the eligible criteria. It was limited. It limited it to 3 commercial centers in the City of Chandler. They have been advised through many citizens and interested parties that have contacted their office, they have contacted those shopping centers and those landlords are not willing to consider leasing to someone for a medical marijuana retail facility. So the majority of people that they have communicated with are looking at sites that will not meet the separation standards. Case in point, this application. They have realized there really aren't any eligible sites that meet the criteria so therefore they would have to file a Use Permit asking for some form of a deviation which is what they are specifically asking for on this particular location.

Through the process they did have a neighborhood meeting. There was one individual who attended who represents the apartment complex to the west, which were originally condos. There are a handful of people that do own their units in there and the rest is just owned by a company for lease. They did get 3 telephone calls from homeowners that live in the neighborhood immediately across the street to the north of Frye. They did vocalize their serious concerns about this use. They feel it is inappropriate to have it near children, have it in the neighborhood. Some of them feel it could create other additional crime related things that might be related to it and they wouldn't want anybody that might be under the influence of marijuana being able to come to this facility and be driving into this particular area. Other than that they haven't had any other opposition or any other concerns voiced about this particular application. Also, to clarify with our notification with the medical marijuana it was the determination that they have them post a 4 foot by 8 foot type wooden sign so it offers a little bit more public notice versus a small little placard which may not necessarily be as visible. But even with that there were very limited responses on this particular request at this location.

She does have some maps that she included in the packet so they can kind of see the distance standards around it. She has another map that she has a color version for where you can kind of

see this particular area doesn't meet those eligibility criteria for the distances but she can show them something in more of a colored version.

This particular applicant has included a narrative that really details out their intention. A lot of that detail is necessary for them to go through the state process. With any of these Use Permits for medical marijuana that come through, she would venture to advise that there are state statutes and there was a state statute that required some rules and regulations that was just finalized. It did push out the time frame for anybody wanting to file with the state for a dispensary license. The timing has become an issue with a lot of the applicants coming through jurisdiction to get their use permits and at the same time trying to get through the state process that does require proof of city approval of a zoning. Also proof of getting any kind of tenant improvement or certificate of occupancy type of a permit. If the City were to recommend and ultimately Council approves any of these applicants for medical marijuana they still won't be operating unless they get chosen by the Arizona Department of Health Services to actually be a facility that operates. They have to be selected through the application process and then there is a second round of where they randomly select those approvable applications and determine who gets the actual dispensary license. They have to have a dedicated site somewhere in the state of Arizona to have a retail facility and then they can also operate a separate cultivation site if they want. This particular applicant is requesting from us just to do a retail facility. They don't have an application in with us to do cultivation in our jurisdiction. They may be considering it somewhere else, she doesn't know. She just wanted to give you that background. She doesn't know the state standards super well but she has read it enough to be able to answer maybe basic questions if they did have anything related to that. Ms. Novak said if they had any additional questions, she would be happy to answer them.

CHAIRMAN CASON asked Ms. Novak if she could show them the Chandler color map that shows what land use options that they have left. While Ms. Novak was doing that he asked Mr. Kevin Mayo, Planning Manager, to share with them the concerns that the police department had when they were first examining where to place these and some of the concerns that they had that led to the way that the ordinance was put together.

KEVIN MAYO, PLANNING MANAGER, stated that as they were aware before it got to the ordinance and got to Planning Commission it went through Council Subcommittee first to be formerly drafted. As it went through that process, there were really 2 schools of thought when it came to where to put these various different types of medical marijuana dispensaries, whether you were a facility, infusion or cultivation. As they looked at it, part of the initial gut reaction and initial comments were put them in the industrial areas, get them kind of buried, and get them out of site so the public doesn't have to see them. One of the comments that were raised by the police department at that time was while they are looking to protect the general public from the concept of marijuana in itself, as it is a medical use of that product and cardholders and all the state regs. that were still in concept at the time, they needed to protect the people that were legally going there to get that product to go use it for whatever ailment that they have been registered for. So the cautionary comment that the police department offered was while the cultivation and infusion senders don't have that customer traffic coming in with money to buy the product and then walk out, the retail facilities do and the City really needs to make sure they are protected as well. The police department offered that they don't protect those people by

burying them in the back of an industrial complex and having an individual consumer go buy the product from that place where it is buried in the back where they have less eyes, less traffic and they really offered that the retail facilities should be in a retail setting where there are people, where there eyes and activity so they have less of a chance of being mugged or robbed. As the ordinance was drafted, it was intentionally separated. They were one of the few cities that did separate the concept of retail facility and industrial cultivation and/or infusion and to where they had the production site and the industrial aspect of this throughout the process that it belongs in our industrial business parks in Chandler and the retail site really belongs in our retail commercial centers. Ultimately, that is how our ordinance came to be with that type of thinking.

CHAIRMAN CASON asked Jodie to show them the eligible areas. Ms. Novak said she is going to show them a few maps because this map does not have an aerial. This is their best estimate of researching everything in the entire city through all of our GIS databases as to where all those "protected land uses" are. What we do is generate that quarter mile buffer, that 1320 foot distance, and they see what is left over and where things can go. The baby blue that they see means those are not eligible locations. Nothing in those baby blue areas meets that 1320 foot buffering from protected land uses. They knock out the majority of the whole City of Chandler. What is remaining is near I-10 and Ray Road, there is an area south of Ray and east of I-10; some of the retail buildings in the Chandler Pavilions and just a handful of in-line retail shops in the Casa Paloma shopping center. Those are owned by 2 different landlords. That scenario where you could meet the retail facility requirement to have that 1320 foot buffer met. She said she will show them a detailed map in a moment. The other area is the Chandler Fashion Center Mall. The majority of that site, not all of it, but which is owned by a landlord that has stated that they wouldn't want to have anything in there that was medical marijuana. The third location is over in the east side off of Gilbert and Germann on the Crossroads Town Center development on the Chandler side. That would be another retail shopping center. Again, they have been hearing that nobody would lease into that area. She said they will see other spots and slashes of burgundy. However, it is vacant land and nothing has developed so they can't come in with a Use Permit because you would certainly need at least a PDP to develop and come in with development plans for the site and build buildings on the site in order for this to come in. Someone couldn't just find a spot zone or come in and build one individual 2000 square foot tenant space to locate it. As far as existing built locations, those are the three. She showed them at a larger scale the I-10 and Ray Road area. This map in the burgundy shows the eligible area for the medical marijuana facility. The green shows the cultivation site or infusion food. What is kind of ghosted out in this area, anything that has a white ghost around it, is that ¼ mile buffer where it can't go. They can see some buildings in this particular area within the black and white dotted line and the cultivation, so anything in this area is what fell within that particular area of the city. There is one little spot on the south side of Chandler Boulevard that also could be eligible for a medical marijuana facility and meet the criteria as well as some additional area for cultivation. The majority of this west part of the Chandler area does not have that eligibility.

CHAIRMAN CASON asked on that particular map the red area down there south of Chandler Boulevard, by virtue of Item H that area is no longer eligible is it? Should Item H be fully approved? Ms. Novak said that the ordinance states that can't have another use within a mile. It could be more than a mile away. This is certainly more than a mile away. If they wanted to do retail here, they could. Ms. Novak asked if he meant the cultivation site one? **CHAIRMAN**

CASON said it is the red eligible area. Should Item H develop then that one would no longer be eligible. Correct? Ms. Novak said she doesn't know that answer. She doesn't know if this is more than a mile away. It's definitely more than a mile away because right here is Kyrene Road and our applicant tonight is on Dobson so that is several miles away. She asked if he was referring to the cultivation site. **CHAIRMAN CASON** said yes. Ms. Novak said correct, the cultivation site that they reviewed tonight is to the south a little bit. It is less than one mile so he is correct. **CHAIRMAN CASON** said so basically as they head other places, it kind of eliminates other places as well because of the changes. Ms. Novak replied that is correct because of the other 1 mile distance requirement as well. She said she won't put every map of all the areas where everything is eligible. She is just going to point out just right now the retail part of it so that this is the other 2nd site for the retail which happens to be a portion of the Chandler Fashion Center mall. Not the whole thing but there are portions of it that could meet the eligibility criteria so this shows them that and to the east obviously there are some areas that could be eligible for cultivation. The burgundies here are part of the zoning cases that showed future retail but they are not developed. The third one is in east Chandler which is the Crossroad Towne Center retail development and the majority of the center can meet the eligibility criteria and there is also a little bit in the Opus Development right on the other south side of the road. The burgundy that is right at this intersection is land that was zoned as part of the Chandler Airport Center to be able to have retail but none of that has developed to have anything built there at all at this time. As far as the 3 key retail areas, those were the three.

CHAIRMAN CASON asked regarding the Opus Center in the Chandler Airpark what are the 2 that are west of Cooper? Ms. Novak showed the 2 Opus buildings. **CHAIRMAN CASON** said one of those is a school. Does that make the property within a half a mile of that ineligible? Ms. Novak replied no because this is grade out and so it's ¼ mile buffer. It is actually a University, adult education; it is not a children's school or kindergarten school or high school so it doesn't count. It is actually an adult education college. It is for use. That is why you could be within ¼ mile of that particular location. **CHAIRMAN CASON** asked what about Bounce and Dance and all of things that are happening in the Red Rock Business Park. Ms. Novak said there is Red Rock Business Park and there is Panatonni that is over there as well. Those are not considered schools. They are zoned for instructional recreational type uses. Children assembly type uses, children recreational uses, various terms they have used in zoning cases and so those aren't part of the protected uses list. They are not day care centers and they are not schools of any form. They are o.k. to be within a close proximity of any of these other medical marijuana uses. **CHAIRMAN CASON** asked if she has gotten any input from not necessarily the owners of this property but people that are looking to acquire space on these properties as to their acceptability of this use on properties that they own? Ms. Novak said no she has not gotten calls from landlords about their properties on that and for the sites like Westcor, Vestar, Tate Development and Casa Paloma, which are the 4 owners of the 3 sites that they have mentioned for retail. They have not contacted the city directly. She is just getting numerous phone calls from people that have made efforts, have contacted them or their leasing agents or their brokers or if they see a tenant space for lease, they contact who is representing that space for lease. The feedback she is getting is they can't go there and they are turning everybody down. They don't even want to consider it. The only thing she does get calls from is a lot of retail brokers or commercial land brokers that have shopping centers in the city that do call and say hi I've got a site, will you check an address. Is this site eligible to have this and they are shopping centers that have a lot of

vacancies. They don't have tenants in them and she advises them that it doesn't meet the criteria. Granted if you don't meet the criteria they can certainly file a Use Permit and come through this process just like somebody that does meet the criteria but they have to ask for that waiver that they don't meet those separation standards, and most of the people that she hears from don't want to go that route. They feel it would be a challenge coming through the process. They are unsure whether the city would grant that deviation and they say that they would rather look at another location in maybe another city where it may be a little bit easier for them to go through. She is also hearing that it is getting very difficult in other cities at this point as well even though they have a little bit less strict separation standards. Other things are coming into play and if they have to have a variance to a deviation, they actually go through a full blown variance public hearing process where we just deal with it all through the use permit.

VICE CHAIRMAN RIVERS asked if they are in any danger at this point relative to the police department concern that they may have people that live in Chandler that are 25 miles from one of these facilities and therefore they are permitted to grow their own? Ms. Novak replied that they have not had any discussion or any feedback with City Council or the Police Dept. since the adoption of the ordinance. In terms of any related current concerns about the new Arizona Dept. of Health Services final rules and regulations or their concerns about not having facilities. They haven't had any feedback. However, they have looked at a map and Kevin looked at this map as well with our Staff and they determined that within a 25 mile area there are areas outside our city boundaries. Given the distance of our city the 25 miles goes outside of our city boundaries, so if someone lives in our city they have the ability to go get marijuana or grow marijuana within a 25 mile radius but it wouldn't be in our city.

KEVIN MAYO, PLANNING MANAGER, stated they studied through GIS what is our worst case scenario if nothing locates in Chandler. What is the area defined - that if one lands, it covers Chandler entirely. It isn't entirely Gilbert; it isn't the majority of Mesa. If one locates in Gilbert, Chandler is covered from the 25 mile spacing. They basically picked the corners of Chandler and went 25 miles in the opposite direction so that you kind of have the worst case distance scenario - the majority of Mesa, a good chunk of Tempe, some of Phoenix. There are a lot of eligible areas in other cities that if one lands in those eligible areas, just one and it covers Chandler. With that being said just from the way the State regs. right now read in the way that the issuance of cards and the issuance of dispensary certificates are going, it is almost guaranteed that for one year you are going to have 'home grow' permitted all over the valley, and then as soon as these things start landing and just like our Use Permit is renewable every year, so is the home grow card to where they will then re-evaluate where these things land. The goal of not having any home grow he doesn't think that will work for any city at least on this first year go around. After that Chandler as long as Mesa gets one and if all of Gilbert gets one, they are covered from that 25 mile.

VICE CHAIRMAN RIVERS said so if this particular project got approved, that would cover us against home grown immediately. Correct? Mr. Mayo said he guarantees that if anything locates anywhere in Chandler, it covers out entire city and actually covers a lot of other cities too.

CHAIRMAN CASON asked the applicant to come up and state their name and address for the record.

ANITA MCCLINTOCK, 3445 E. LYONS, PHOENIX, stated she is one of the owners of Med-Assist.
DARRELL TANNATT, 2502 E. SAN MIGUEL AVENUE, PHOENIX, also one of the owners.

Ms. McClintock thanked Commission for taking the time to hear their request tonight. She said Jodie did an amazing job in presenting their case. She said she knows it is a lot of material to go over and they have been here a long time so they are going to keep it quick and just ask you questions. They are going to give them a little bit of information about them. She didn't know if they had an opportunity to look at their resumes which they did attach with their application, but the 4 owners which is Daryl and his wife, Vicki, her husband Jay and herself, have more than 100 years of medical experience between the 4 of them. Currently, she and Daryl are working with a medical distribution company which he used to own which supplies patient care to hospice patients. They service Hospice of the Valley – one of their customers. They service patients in your area of Chandler right now. They also service hospitals. Their concern and their reason for picking this site just seemed like a natural addition to the services that they provide now. They felt that it was important for their location to be on a medical campus because it truly is about the patient. She doesn't think it is fair to the patient to have to go to some area when they are close to a medical facility right now. She knows they have Ironwood Cancer Center, they have a pain clinic, the hospital. She is not sure how many medical offices are in that area but there are many and probably patients that would benefit from the medical treatment. That is kind of their reasoning for picking this area. They did have the challenge of not being able to find a site that met all the criteria. This she thinks that is the important criteria and if you have any questions, they will be glad to answer them.

Mr. Tannatt added that they have a willing landlord which is difficult for them to find and the other point they would make is that these 2 probably have done more homework than anyone he knows on this medical marijuana thing. If they did not have one here and one located in Gilbert or Mesa, that would cover them but it would also take away the revenues that the City of Chandler might get from this.

CHAIRMAN CASON said he has a question that they probably wouldn't expect. What is their sign going to look like? Ms. McClintock said she hasn't gotten to that point yet. **CHAIRMAN CASON** asked if it was going to be their logo? Mr. Tannatt replied that it will be the same sign he used in his business and it will not be obtrusive at all. It is going to be no bigger than the Chandler Arizona sign they have right back there. **CHAIRMAN CASON** said as a body they really can't restrict what you would put on the sign, just how the sign looks. He is just asking out of curiosity if their sign going to say 'Marijuana' or is it going to have a logo? Mr. Tannatt said they won't get any business through advertising so it is just simply going to be Med-Assist and people will identify that through their Use Permit or through doctors. That is all there is to it.

CHAIRMAN CASON asked if there were any questions for the applicant.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said for the record could he explain to him how they believe your application meets the separation requirement of the new ordinance? Mr. Tannatt replied it doesn't. He said this facility is closer to residential than is part of the regulation and is closer to the hospital than part of the regulation. Mr. Brockman asked if he is arguing that their failure to meet that requirement is a minor deviation? Mr. Tannatt said he thinks it is an ideal location because this is not going to be a pot shop. It is going to be like a doctor's office or a pharmacy. It is going to have locked doors. Only one person can come in at a time and they think if they have to locate in an area that was described by Mr. Mayo that is kind of isolated and perhaps more prone to crime, they would not go there. They don't want to do it in a place like that. They want this to be an upscale place like the State of Arizona and the voters have charged the responsibility of. They are asking for that deviation and they will have to look at it and decide. He doesn't think the hospital has come out against it. They have a big street in between the residential area and the apartments that came to the meeting only came to write their homeowners policy off of what was going to be allowed by state regulations.

CHAIRMAN CASON proceeded to call up people on the speaker cards.

BILL MEYER, 20 E. BETHANY HOME, PHOENIX, thanked them for letting him speak and he thanked Jodie and her Staff for the kindness, consideration and efforts that they put forth in assisting them to look for sites. For the record, they have a cultivation site that is in the Use Permit process that will pass to Council on the 28th. Once they did the demographics of where they want to locate for medical purposes, Chandler was clearly one of the markets that they isolated and thought would be in their best interest and have a city that they could provide some decent service to. They saw Jodie and her group and picked up the maps that were displayed. Our group has spent and traversed this city and stood on every major street corner for a better part of 3 weeks. There is no exaggeration there. They have made an excess of 200 phone calls and they have talked to all of the major tenants like Westcor and so forth, and the people down at Red Rocks wouldn't do the use. They have found not one site on one street that would allow a dispensary operation. They are not sure that they saw one site outside of the 3 or 4 major brand new pavilions, the Red Rock, etc. that qualify. There were certainly some people that decided they didn't want to do the use and that is there prerogative but they registered 2 sites in the City of Chandler, started the Use Permit process, they abandoned one a few days ago and the reason they did that is they really thought they would really find through diligent effort a dispensary site. They also hung to the hope that they might allow wholesale cultivation and that those sites might be valuable. Now they know they have one site in the City of Chandler that meets all the setbacks and separation requirements that they were going to hold on to because they may use that associated with the site or two that we have in another city or two. The reason he is here tonight is to let them know exactly what he knows about the people that are applying for the Use Permit. He has met a lot of people in this industry that have chosen to go forward and generally believe that this group is in it for the right reasons as they are. He hopes all applicants are in all of the cities but as they all know that is probably not the case. The non-profit possibility as Daryl says is going to give the city some sales tax. The non-profit organization mandated by the state is also going to have money coming back into your community in terms of donation to the local charities that these people or if they are lucky enough to find a dispensary in the next few days, there will be money coming back to their community. He doesn't know how much that is

going to be initially but over time it is going to grow. They are going to continue to look here. As far as the usage, it is a medical usage. He has been to the hospital. He looked that site over. It clearly doesn't meet the setbacks. They chose as a group to not apply for anything that didn't meet the setbacks just because they didn't want to go through the issues. If they were going to make an exception that would probably be a likely exception, if he was sitting on that panel that he might consider. He would also like to reach out to them a little bit further and say that he has 2 licenses that could be issued to the City of Chandler. If those licenses aren't issued, they are going back to the state and they will be re-issued next year and reassigned to some other unless the rules change. They could go back to Phoenix, they could go back anywhere. They have to make the decision as a City do they really want a medical marijuana dispensary in Chandler, Arizona. If they do, they are going to have to approve this Use Permit application, Council needs to lighten up the restrictions a little bit and allow some people like them or other candidates to take a run at finding a site that might work. If they are not going to change anything, please consider the strength of the candidates, the quality of the candidates, financial capability of the candidates through here and what they are going to provide to your community.

ILENE JOSEPH, 900 S. 94TH STREET, CHANDLER, is opposed to the item but does not wish to speak. Ms. Joseph wrote that the applied location is too close to homes and the hospital. She says there are too many facilities and they don't need a lot of people wacked out on drugs all the time. He thinks that is a big concern for many people. Also, no drug driving.

DANIEL JACOBS, 900 S. 94TH STREET, CHANDLER is opposed to this item. His comments are that medical marijuana is illegal under Federal law and other businesses won't want to be located close by.

CHAIRMAN CASON asked if there was anyone else in the audience that would like to speak on this matter. There were none. The owner of the property came up to speak.

BILL KASTRIVAS, 8560 N. SENDERO TRES, PARADISE VALLEY, said with to respect to the question that was asked they are currently working with a client that is actually going to make an offer on the space right next to this potential facility. It is for a medical use and they met last evening at the site. In fact, they discussed the dispensary as a potential neighbor. It is an endocrinology group and they didn't have any problem with it. In fact, they are starting on a space plan for their space. They don't have a contract yet but they are going through the first steps of the process. They own the full project and they feel the use is consistent with the medical aspects that they have elsewhere and as far as from our ownership opinion, they would find them to be a good use for our property.

MR. TANNATT said in closing he said he would like to thank everybody and especially the team over here that helped them through this thing and getting to at least to this point. The concerns that you read there, they are real concerns. He doesn't think anybody at this point understands what the real intention of this is. This is not going to be a pot shop. There isn't going to be a line of people waiting to get in. He almost wishes there was. But that won't be the case. They are only going to allow one person in at a time and then they have to go through the cycle and then out. There is not going to be any smoking of pot around the place. They have to have a certificate for the state to buy this stuff. It is going to be very well controlled and to your

point the security will exceed state expectations and any city requirements they might have. They all have a misconception about marijuana. Everybody thinks it is kind of like what we had while we were in college. Not him. It is different for the medical end of things. For example, he has a very good friend whose wife has arthritis and she hasn't been out to dinner for at least 5 years because she is in pain all the time and she is now on medical marijuana and has been on it for 4 weeks. After 4 days, she asked her husband to take her out for dinner. Her arthritis isn't any better, but her pain is gone. They probably know there is marijuana for pain, for nausea, and for sleeping. It is a real benefit. They have been doing business in Chandler for 40 years in the medical community. They know the doctors and the hospital, the nursing homes, the extended care facilities so they have been here a long time. It seems to him it is a lot better place to do business than that busy Phoenix and you may see where some of those are being located – next to strip joints and so on. They don't want to be there. That is why there application is here and why they have asked for these variances to be considered.

MS. MCCLINTOCK said to end on that note it is medical marijuana and they are a part of the medical community and they think this is just one more tool that doctors can use for their patients. It doesn't mean that the patients have to do it but sometimes patients that have trouble controlling their pain or managing their symptoms, this is an option. It is an option for them; it is a safe option and they are offering it as medication and nothing beyond that.

VICE CHAIRMAN RIVERS said to Mr. Tannatt that earlier he made reference to a revenue stream. He was curious to know what he feels the potential revenue stream is for this business? Mr. Tannatt said he has heard all kinds of numbers and very honestly he couldn't answer that for him. He doesn't know. They have been to Colorado, California and have heard numbers that frankly are unbelievable to them. In Colorado they can get 2.5 ounces of marijuana per day and that is going to make a big revenue stream and then Arizona's could be 2.5 ounces every 2 weeks.

CHAIRMAN CASON closed the floor and offered some debate time up on the dais.

VICE CHAIRMAN RIVERS asked Jodie how far inside the limits for the hospital and homes this business is proposing to be? Ms. Novak said the eastern exterior wall of this proposed medical marijuana facility to the parcel line of the hospital's property is about 521 feet versus the 1320 feet that would have been required. For the homes, from the northern side of this tenant space/exterior wall to the nearest residential boundary line on the north side of Frye Road is approximately 191 feet versus having to be 1320 feet and to the west from the western side of this tenant space to the nearest boundary line is about 210 feet to the multi-family apartments versus having to be 1320 feet.

CHAIRMAN CASON said when they first met on this ordinance they actually had what they felt was a reasonable compromise to offer to the writers of the ordinance and the citizens of Chandler that would need this medication. They felt that compromise was a good one. In that compromise was areas around hospitals and homes so that there would be the opportunity to exist somewhere in the city knowing that what they had so far really didn't give the folks wanting to start this business too much opportunity to interact with the folks that would be using the medication. When it went to City Council, they decided they would like to have the most

restrictive ordinance, the one that originally came in, and though he can't speak specifically as to their rationale he could certainly understand that they wanted to make sure that as sites came through, they were completed vetted. They had an opportunity to hear from all sides as to the feasibility of a particular site even though in virtually 80% of the opportunity it would not meet ordinance. He thinks personally that being around the hospital is probably the most advantageous places for this type of opportunity to exist. He completely supports the police departments wish to have the facilities be in an area that was busy and that will allow for eyes to be on the location whether it's for the protection for the people that using it and even as well for the folks that are worrying about people abusing it in their neighborhood streets and areas around that location. She knows that it doesn't meet ordinance. As we have seen tonight and as more growing places come in, they are probably going to see the area shrink even more. He thinks they should take the opportunity to get one in around the hospital because it makes the most sense because it is a medical use and that it accomplishes the task of making sure that no areas of the city would be available for personal growing after this Fall. It's generally centrally located. He can't think of a better place in town to put it. He was very encouraged hearing about the signage. He knows he was terribly nervous in the beginning of the ordinance about the circus nature of most of the facilities that he had done research on especially in California where everything was all bright. A mom goes by with her child and the child is asking her what is that, let's go in. It is so bright and exciting looking. That was a big fear of his. He is very, very encouraged. Although they have no legal obligation to do so that they are really toning down the presentation to make it what it is and that is a medical facility. He is not certain at all that if anyone else were to come before them, they would feel the same obligation and concern for the community to try to keep their business low key. He thinks that is a very, very positive sign as well. He asked if anyone else had if they have any additional comments to either amplify or offer some different thoughts on that.

COMMISSIONER FLANDERS said he wanted to echo a lot of what he said in relationship to the ordinance as Staff had presented to Planning Commission. He agreed with the setbacks and the variations based on what the subcommittee had come forth with. He didn't agree with City Council's little harder line with the distance and everything else. The ordinance is the ordinance even though he agrees with the Chairman's position on the location. He thinks it is a good location for medical marijuana. He is still hung up on the setbacks based on the ordinance and everything else. He was glad to see the applicant and Mr. Meyer who is looking at getting involved with that quality of owners and their experience is extremely important. Based on that and not meeting the qualifications of the ordinance he is not in favor of this tonight.

VICE CHAIRMAN RIVERS said he remembers the night that he sat and discussed with Jeff Kurtz the ordinance and the setbacks. Do they want a place in Chandler where this place would locate ideally and where it would have a chance to thrive and he too believes the area around the hospital is key. This is a medical dispensary. There are medical dispensaries around the hospital already. As far as the residents, there are more dangerous drugs in his opinion being dispensed around the hospital then medical marijuana would be. Regardless, the State of Arizona is obligated to provide places for this businesses to exist and the decision for the Council would be does Chandler want to have one of these and is there a better place in our City than next to our hospital and he doesn't think that there is. Should this go through and be approved there are probably stipulations to be added.

KEVIN MAYO, PLANNING MANAGER, said he would be happy to more or less carbon copy the stipulations off of Item H and they could read them in right now, tailoring them to reflect this case.

MS. JODIE NOVAK, SENIOR CITY PLANNER, read the stipulations as follows:

1. This Use Permit is for a medical marijuana facility only and is not transferable to any other location or premises, nor is it valid for any other use or business associated with a medical marijuana dispensary that is not specifically identified in the Use Permit.

2. Any expansion or modification beyond the approved Site Plan and Floor Plan shall void the Use Permit and require a new Use Permit application and approval by City Council.

3. The Use Permit is effective for a period of one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City Council.

4. The property's landscaping shall be maintained at a level consistent with or better than at the time of planting.

5. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.

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

The actual specific hand writing of that will be given to the clerk to be put into the record.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH**, to recommend approval of Use Permit MUP11-0002 DOBSON CENTER (MED-ASSIST) with the stipulations as read in by Staff.

COMMISSIONER CUNNINGHAM stated she wasn't in the previous meeting and they mentioned the sign and she is appreciative of the way they have presented themselves as extremely professional, extremely medically oriented and is there any way to put a restriction that the physical appearance of the business itself must maintain a medical appearance. **CHAIRMAN CASON** said he will let Staff discuss that in so far as the signage issues and all those types of things that are tied to the property.

MS. NOVAK said the reason signage is not a part of this specific Use Permit because the sign criteria was granted as a sign package that came through when the site was first rezoned a PAD and as part of their PDP for the overall design of where the building could be located, architecture, site layout and so forth. There is specific criteria that is equal for every type of tenant irregardless of who they are and what kind of signs they can have. Where they can be on the building, what size they can be, the letter height or the letter type or the form of illumination.

That comes through a separate sign permit process. Through that there is not an ability to restrict whether it looks more medical or not medical. It is very subjective and the criteria for the sign ordinances never get that specific with a sign package. It just focuses on the text or the font, the height, the illumination and the location of where they would be. There is usually a percentage limitation on the size of the logo. But exactly the words or the modifiers they used or what their business name is, they don't restrict that.

COMMISSIONER VEITCH said he came into the meeting conflicted. He had to confess when he first read the report and saw the extent of the deviations being requested he said what is this doing here. He also remembers that when this Commission recommended the terms of the ordinance, he believes the separation requirements from residential zoning and from hospitals were both zero. He agrees with those who observe that near the hospital campus and in his opinion, on the hospital campus. It would be a sensible location for a medical marijuana facility. Like many of us he is impressed by the quality of this application and the applicant's themselves and makes note of the fact that establishing a facility within Chandler will serve the community and the City's interest well in terms of growing activity. There are arguments on both sides but the balance in his mind is tipping toward supporting the motion.

COMMISSIONER PRIDEMORE said he is also in support of the motion on the floor for the reasons that when this Commission did make its recommendations to the Council, they had different separation suggestions than what was approved. By supporting the site before them it's again supporting those initial recommendations to Council. He would be in favor of the motion but he actually doesn't have high hopes – he thinks they will have the same result they had before with their recommendations to Council. So be it - that is what they are here for. He would be in favor of it because it strengthens what they suggested before but didn't happen. Maybe this time.

COMMISSIONER BARON stated that one thing to point out is that the proximity adjacency to the hospital makes a lot of sense. It is a highly traveled intersection. From a security standpoint there is always traffic there. It is a hospital. Police are going to be present. There are a lot of things that are going on here that are actually beneficial for it. To reiterate, their recommendations were previously zero and unfortunately, he hopes that Council would maybe take another look at this and consider that this is a pretty complimentary land use opportunity in Chandler for a facility that could actually be beneficial for the area. He too is in favor.

CHAIRMAN CASON thanked everyone for their comments. They had a motion and a second. The item passed 6-1 (Commissioner Flanders opposed).

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is April 20, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 8:35 p.m.

4-20-2011

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 20, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Vice Chairman Rivers.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Michael Flanders
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham

   Absent and Excused:

   Commissioner Stephen Veitch

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Mr. Bill Dermody, Senior City Planner
   Ms. Jodie Novak, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER FLANDERS** to approve the minutes of the April 6, 2011 Planning Commission Hearing. The motion passed 6-0.

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item C was pulled for action.

A. DVR11-0005 FAITH COMMUNITY CHURCH EDUCATION BUILDING

Approved.

Request rezoning from Planned Area Development (PAD) to PAD to allow a private school use in addition to the existing church use. The property is located at 1125 N. Dobson Road, north of Ray Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Faith Community Church", kept on file in the City of Chandler Planning Division, in File No. DVR11-0005, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 1600 in case Z86-13, except as modified by condition herein.
3. The property shall be maintained in a clean and orderly manner.
4. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
5. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.

B. PDP10-0016 CHANDLER FREEWAY CROSSING

Approved.

Request Preliminary Development Plan (PDP) approval for a freestanding freeway monument sign as part of an office and light industrial business park on approximately 40 acres located at the northwest corner of Pecos Road and Ellis Street, just north of the Loop 202 Santan Freeway.

1. Development shall be in substantial conformance with exhibits entitled "Chandler Freeway Crossing" kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0016, except as modified by condition herein.
2. 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.
3. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.

D. LUP11-0004 THE LIVING ROOM

Approved.

Request Use Permit approval for an extension of premises to sell alcohol as permitted with a Series 12 (Restaurant) liquor license for a new outdoor patio at an existing restaurant. The subject site is located at 2475 W. Queen Creek Road, Ste. 1, which is located west of the southwest corner of Queen Creek and Dobson Roads.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

2. The Use Permit is non-transferable to other store locations.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. The site shall be maintained in a clean and orderly manner.
5. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.

E. ZUP10-0032 SAN MARCOS GOLF RESORT

Approved to continue to the May 4, 2011 Planning Commission Hearing.

Request Use Permit approval to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the southwest corner of Chandler Boulevard and Dakota Street, approximately ¼ mile west of Arizona Avenue. **(REQUEST CONTINUANCE TO THE MAY 4, 2011 PLANNING COMMISSION HEARING.)**

F. ZUP10-0043 WIN BEAUTY HOUSE

Approved.

Request Use Permit approval to allow an existing single-family residence in the SF-8.5 zoning district to be converted to a commercial beauty salon. The property is located at 284 S. Dobson Road, northwest corner of Frye and Dobson Roads.

1. The Use Permit shall be effective for two (2) years from the date of Council approval. Use Permit extensions, for similar or greater time periods, shall be subject to re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (site plan, floor plan, building elevations, narrative) shall void the Use Permit and require new Use Permit application and approval by the City of Chandler.
3. The Use Permit is non-transferable to any other property.
4. Increases in on-site employment over that represented which is three (3) shall require new Use Permit application and approval by the City of Chandler.
5. The property shall be maintained in a clean and orderly manner.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
7. Use Permit approval does not constitute Final Development Plan approval such as building plan review and permits for the residential conversion; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
8. A freestanding monument sign shall require a new Use Permit application and approval by the City of Chandler. Building wall signage is limited to that represented. The materials and color to be reviewed by Planning Staff at time of sign permit application.
9. Any site improvements must occur within the property and not within the City's public right-of-way. Any existing walls and plantings within the City's public right-of-way shall be removed.

10. Trees shall be 24" box size at the time of planting.
11. Provide one tree along the Dobson Road frontage.

G. ZUP10-0044 ARIZONA RACE COMPANY

Approved.

Request Use Permit approval to allow a motor vehicle customization repair business within a Planned Industrial District (I-1) zoning. The property is located at 501 E. Chicago Cir., Suite C, north of Frye Road and west of Hamilton Street.

1. The Use Permit is effective for a period of one (1) year from the date of City Council approval. Operation of the business beyond the one-year time period shall require re-application to and approval by the City of a new Use Permit.
2. All vehicle work including repair, servicing, upgrades, engine testing and the like shall occur only within the building. Any overnight storage of vehicles shall occur inside the building. No work or storage of vehicles shall be performed outside of the building.
3. The Use Permit is non-transferable to any other property or other suites/tenant spaces on the subject property.
4. Any substantial change in the floor plan, including but not limited to expansion, addition of uses, and the like, shall require re-application and approval of a Use Permit.
5. The site shall be maintained in a clean and orderly manner.
6. All building signage or freestanding signage shall be in conformance with the Chandler Sign Code and be issued a City Sign Permit.

H. ZUP11-0002 CEDAR SANCTUARY ASSISTED LIVING

Approved.

Request Use Permit extension approval to operate an Assisted Living Home for up to seven residents within an existing single-family home. The subject site is located at 607 N. Bullmoose Drive.

1. The assisted living home shall have no more than seven (7) residents at any time.
2. Should the applicant sell the property, this Use Permit to operate an assisted living home shall be null and void.
3. This Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
4. The site shall be maintained in a clean and orderly manner.
5. Parking shall be restricted to designated improved surfaces.

MOVED BY COMMISSIONER FLANDERS, seconded by **VICE CHAIRMAN RIVERS** to approve the Consent Agenda with additional stipulations as read into the record by Staff.

VICE CHAIRMAN RIVERS asked Mr. Mayo, Planning Manager, to re-read stipulation 11 from Item no. F. Mr. Mayo said Jodie put away her notes but it would read something like:

12. Provide one tree along the Dobson Road frontage.

VICE CHAIRMAN RIVERS asked does that mean one additional tree or one tree total? Mr. Mayo said currently there aren't any proposals on the Dobson Road frontage because it is so small so they would provide one additional.

The Consent Agenda passed unanimously 6-0.

ACTION:

C. LUP11-0001 REGAL BEAGLE

Request Use Permit approval to continue to sell alcohol (Series 6 Bar License; all spirituous liquor) in an existing restaurant located at 6045 W. Chandler Blvd., Suite #7, within the Kyrene Village Shopping Center at the southwest corner of Chandler Boulevard and Kyrene Road.

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. No alcohol shall be carried outside of the building into the parking lot or off-premises. Sales of "to-go" liquor shall be prohibited.
4. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
5. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
6. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
7. The applicant shall maintain a liaison program with the adjacent neighborhood that allows neighbors to directly contact a representative of the establishment with their concerns.
8. The applicant shall work to mitigate litter issues resulting from the use.
9. The patio and surrounding area shall be maintained in a clean and orderly manner.
10. Neither indoor nor outdoor music shall unreasonably disturb area residential properties.
11. Outdoor music shall be prohibited.

MR. BILL DERMODY, SENIOR CITY PLANNER, stated this is a request for an extension of Use Permit approval to serve alcohol under a Series 6 Bar License. This is located at the southwest corner of Kyrene Road and Chandler Boulevard. They are all pretty familiar with this because it has come before Planning Commission several times in the past.

There has been an establishment serving alcohol here since the late 80's but the first 15 years or so not a whole lot happened as far as Commission and Council action. In 2006, they switched from a Series 12 Restaurant License to a Series 6 Bar License on the site. In 2007 they changed ownership. In early 2008, they started to have some noise problems related to music on an outdoor patio. In December of that same year they were approved to have music on the patio but it was restricted to being unamplified acoustic music only by a single performer. Throughout 2009 things went well as far as noise but that was mostly because that stipulation proved to be unworkable for the restaurant. They weren't able to attract any performers who were willing to play under those stipulations on the patio. They essentially had no music. They asked in late 2009 and were approved in early 2010 to have speakers on the patio and amplified music on the patio under a series of rather restrictive conditions. Things also went well under that. Those conditions included no bass speakers, maintenance of a liaison program with the neighborhood where people could call their phone number and get the volume turned down at any time and a stipulation that required no unreasonable disturbance of the area neighbors.

There was one incident apparently last June but other than that, for the most part, things went very well with the neighborhood as far as music on the patio. There were events on a fairly regular basis until last Friday. They had another incident with a band that had been a problem in the past and hadn't played there recently. They played outdoors on the patio and they have heard from 2 neighbors who say it was a problem. They are both referred to in the memo and he followed up with a second one today to get more information. Both of those neighbors have said they could hear the music in their house with the TV on and were disturbed by it which is a violation of existing conditions.

With that extra information in Staff is recommending modification to the stipulations recommended in the original memo. They now still recommend approval of the Use Permit and request but with a condition that prohibits music on the outdoor patio. He thinks they will have more discussion with neighbors and the applicant about that. Indoor music would still be allowed and the other stipulations would still be in place. Mr. Dermody said again the recommendation is for approval with no outdoor music. He said he would be glad to take any questions.

COMMISSIONER PRIDEMORE asked if it was his understanding that the liaison program failed on this most recent incident? Mr. Dermody said yes that is correct. There were numerous phone calls and the problem was not resolved and the noise continued right up until the band stopped playing at 10:00 p.m.

CHAIRMAN CASON asked the applicant to come up and speak.

GREG STANFIELD, 6045 W. CHANDLER BLVD., #13, and **ALAINA THORPE** who works for Mr. Stanfield.

Ms. Thorpe said the reason why Greg could not be contacted was that he had an emergency. His kids live in Seattle and he was on the phone with his kids. There were 5 phone calls most of which were to Bryan and Bryan was so busy at the time because the person that was playing on the patio brings in so many customers that Bryan couldn't get out to Greg. He didn't even know that Greg left and either did the other bartender or server. He was never actually told. He did get a message later on but that was at 11:00 at night which he wasn't going to return a phone call at 11:00 p.m. He knew the music stopped at 10:00 p.m. That is one of the reasons why it wasn't turned down at the time. It always seems to be a problem when a certain kind of music plays because Alonzo, who was also the person that played in June, played reggae. The other people that come and play which they never get any complaints on plays more of the acoustic and so it is a different kind of music and she doesn't know if that's the deep down reason or what but it's always when Alonzo plays. When Alonzo does play, their sales double and she has their sheets to show that. They double and people are out of there by 11:00 p.m. They are busy until 11:00 p.m. on Friday and normally it is 8:00 or 9:00 p.m. He brings them the business that they are trying to get. Alonzo used to play at John Henry's which is down the road from them and recently they closed. He is trying to bring them that business so they can stay alive. Business is bad right now. He doesn't play there a lot but when he does, it lets new people know that this is a nice atmosphere. This is a nice place to go.

CHAIRMAN CASON asked if there was a way that when they want their reggae performance, they can have him come inside or something like that if they know it is going to be a problem. Can they make that accommodation or those types of things? Mr. Thorpe replied that the people that come there like the outside atmosphere. She doesn't know what else they could do. It is weird because they don't want to be inside or they would go inside. They want to be outside in the reggae – it's just the whole atmosphere about being outside, the misters are going, the fans are going, and it's just that whole thing brings them into another place and not because of alcohol. **CHAIRMAN CASON** asked if there was any type of compromise when they are using this performer where they would have the ability to present to the residents that they are concerned? They need to have this because it is a money maker for them and yet, they understand the concerns so they will scoot them inside and then the people can listen to them. Watching reggae in his own opinion is interesting but he doesn't know that he has to see the performer to enjoy the music, quite frankly. He is just looking to see if there is some way that they can, since it only seems to be a specific issue and not a general issue, whether they can manage that specific issue and then it is no longer an issue. Ms. Thorpe replied yes. **CHAIRMAN CASON** asked if that was something she would like to be interested in? Mr. Stanfield said he doesn't know how to explain it but Alonzo plays there and he is planning on playing this Friday there and he plans on being there. He is trying to get all

these new customers in there and he is going to be there and tell him to tone it down and he called Bill and the ladies and let them know he is going to be there. He is bringing him lots of new customers from another bar because everyone closed down. It is sad because they are in a center where Basha's closed down and the pizza placed closed down and a lot of places have left the center. He is still there hanging on and everybody comes in from the center who has left there and they come in and love it. He only has a couple neighbors that complain and he is there a few hours and he is not going to be back until October because he is going to Lake Havasu. He plays inside when it is 100 degrees and these people are 50 and 70 years old who come in and his food sales double because they all eat and they just want to dance and have a good time outside. Ms. Thorpe says she thinks that the customers that come to see him prefer to be outside. She said she doesn't know how to explain it either. There is something about being inside and there is something about being outside especially right now when the weather is actually gorgeous in the evening from 7 to 10:00 p.m. It is actually gorgeous outside. Why would you want to be inside especially if you have worked all day and you were stuck inside? **CHAIRMAN CASON** said he is not concerned about where people want to be, his concern is where the band is going to be; where the performer is going to be. His question was would it be possible when he comes that he can play indoors and people can still enjoy it out on the patio. He is indoors so they have that ability to be able to have more control over the music going out into the neighborhood. Mr. Stanfield said he still has karaoke inside going on and the sports going on so it is kind of a double edged thing. He has sports, basketball and football when it is in season, hockey inside and then the people that want to go back and forth, they go back and forth. He has karaoke going on also. **CHAIRMAN CASON** asked if his karaoke happens at the same time his band does? Mr. Stanfield replied that it has a 2-hour layover. **CHAIRMAN CASON** said so all of this music then is performed outdoors. Ms. Thorpe said no the karaoke is performed inside. All the live music is outdoors, yes. Mr. Stanfield said people go in and out. **CHAIRMAN CASON** asked him to share with them the modifications they are going to put in place with their liaison program if the same types of circumstances happen again. They have left the responsibility of controlling the band to somebody that is too busy serving customers, which is what they are supposed to be doing rather than controlling the band. He asked if there were some modifications that they have put in place for that? Mr. Stanfield replied that would be him. **CHAIRMAN CASON** said if the same thing happens again and he is not available, what type of method is he going to use to make sure that the people who are complaining are taken care of? Mr. Stanfield said that is where Ms. Thorpe comes in. She takes care of everything during the day and then she gets off on a Friday night at 7:00 p.m. Ms. Thorpe said they could also have her phone number. If they can't get a hold of Greg, it is never good to call the bar anyway because at that time they are going to be busy. So it is either a Greg phone call or they can call her phone number. She is going to be off of work by then so she could come straight back and say this has to change. They would have to give her at least a half an hour to take care of the problem because it can't be taken care of right away if she is not there. If she is there still, then she can take care of it right away.

COMMISSIONER FLANDERS asked how important is the relationship they have with the neighbors and themselves? Mr. Stanfield said it is very important. He called ahead of time to let them know that Alonzo is playing and if there is any problem, to call him. He just had this emergency. **COMMISSIONER FLANDERS** said he is having a hard time. There were 5 calls made to his establishment and nobody could walk out and tell the gentleman that he needs to turn it down or when he is on a break to turn it down. He is having a hard time with this that somebody other than themselves can't actually go out there and tell this gentleman to turn it down. He is seeing one thing and they are telling him another. Mr. Stanfield said the only people he really knows in the whole neighborhood are the two ladies here tonight. He doesn't think anyone else has his number but these two. Mr. Stanfield said he has never met anybody but these ladies. **COMMISSIONER FLANDERS** said that not only him and his manager but also their bartenders if no other manager is there, should have the ability or the knowledge that if there is a liaison relationship with the neighborhood and if somebody calls, they need to turn down the music. It seems like no one was paying attention to this. Ms. Thorpe said there was no manager at that time and he had one cocktail waitress and two bartenders. **COMMISSIONER FLANDERS** said so one of his bartenders couldn't handle telling him to turn it down? Mr. Stanfield said he couldn't answer that one.

COMMISSIONER CUNNINGHAM stated they had a problem in June when Alonzo played. They noticed the neighborhood and yet they have no system in place for a backup. She thinks his Staff failed him. His relationship with the neighbors is crucial to you keeping this business venue going. It sounds like Alonzo might be a valuable tool for you. He needs to get serious about not disturbing the neighbors. If he has another emergency in the future and he isn't working, what is he going to do? Is Ms. Thorpe going to jump in his car and go down there and turn it down or is he going to call the bartender who didn't do anything. Ms. Thorpe replied that she is going down there. She is going to make sure that it is done. She is not going to expect somebody else to do. **COMMISSIONER CUNNINGHAM** replied that is what they need to hear. What is the plan of action to prevent this from happening? Ms. Thorpe said it is going to take a half an hour because she lives a half an hour away. As soon as she gets that phone call, she will get in her car and go straight there.

VICE CHAIRMAN RIVERS said he doesn't think a half an hour wait is acceptable under a liaison program which is set up specifically for the neighborhood to call a specific telephone number. They live across the street and they have to wait a half an hour for a reaction from you. He doesn't think that is acceptable at all. When they went through this the last time, they talked at great length about his liaison program and all they needed to do was call you instantly and it would be taken care of. This is not happening and they don't seem to care. It is very concerning to him. They announced to the neighborhood that they are going to have this experiment, they are going to bring this performer back, and they are going to try this and if there is a problem, call them. They did and nothing happened. And they did, and nothing happened. And they did, and nothing happened. This doesn't sound like he was prepared and it doesn't sound like your Staff was prepared, and he should have prepared his Staff for this situation. If the

phone rings and you get a complaint, tell him to turn it down because they have to go see the Planning and Zoning Commission next week and they might object to the fact that there are no results for the neighborhood. The City Council might object to there being no results for the neighborhood. He is very confused about his attitude. He doesn't seem to get that he needs to provide for his neighbors and again, you set this whole thing up as an experiment to see if it would work; it didn't and he didn't react. Again, he thinks if a phone call comes to his bar and they say turn down the music, for them to have to search and call several different phone numbers and wait half an hour before they call again, he doesn't think that is acceptable. Does he have any comments about that? Mr. Stanfield said it has worked for the past 15 months until this one time because Alonzo just didn't play there one time in the last 15 months. It has worked because they have called him on the phone and it was down and he took care of this issue. **VICE CHAIRMAN RIVERS** said looking forward they have been told that there may be a half an hour wait every time somebody calls. He does not think that is acceptable. They should be able to call their bar and whoever answers the phone, should know that at that moment they should drop everything and go tell the man to turn the sound down because it is upsetting the neighbors. He thinks upsetting their neighbors should be more of a priority to him than selling alcohol for a period of 5 minutes time.

COMMISSIONER PRIDEMORE said the one common thing he is seeing is with this one performer. It's great he is bringing in extra business for him because a packed house is always a good thing. It sounds like he has issues with this one performer every time he performs. It sounds like there have been other incidents with other performers that he has responded to. Is it literally just the simple matter knowing that this Alonzo is loud and that he could try and mitigate the situation when he knows he is going to be playing? It sounds like when he knows he is going to be playing and then there was still a problem. What can he do if that is really the one problem child; the one incident that always is reoccurring. He doesn't want to say not for him to perform there because you want him there for what he is doing for you. Literally for that one performer you can't just turn the volume down? Ms. Thorpe says the volume has been turned down or is this a form of prejudice. **COMMISSIONER PRIDEMORE** said he thought that was laughable to even bring it up. Ms. Thorpe replied is it? **COMMISSIONER PRIDEMORE** said yes. He said so they don't have any other reggae music that they play? Personally, he thinks that has nothing to do with it. Mr. Stanfield said he has toned it down a lot. They called him on the phone the last time he played and said it was too loud. Then he toned it down and it was fine. **COMMISSIONER PRIDEMORE** said that was the June incident so he guesses for the one that just occurred, the volume started at that new level. Or did it start back up here and then again needed to be brought down? Mr. Stanfield said he learned it was about what songs he played. **COMMISSIONER PRIDEMORE** stated it sounds like the one performer is the one that really is causing most of the incidents. He still thinks there is something he could do to modify what he is doing so that he can still be in his establishment bringing in the patrons but that they are not having the problem every time he performs. He has the same issues that the Vice Chair has voiced. A half of an hour to respond is ridiculous. He understands that things come up but again he believes there can be other members of his Staff that can handle this that are on site and

not require a half of an hour car ride. Ms. Thorpe said that would be at the latest and that is the 2nd choice. **COMMISSIONER PRIDEMORE** said that is still too long. Whatever it is going to take it is still too long when there can be someone on site, whether it is a bartender or server or bus boy, someone that would be able to walk up and go to the stage and say he needs to tone it down. Mr. Stanfield said that would be him but he had something happen Friday.

COMMISSIONER BARON stated everything has pretty much been said but it is interesting that he doesn't have confidence in his Staff, that their competent enough to be able to do something that either of them would have to do. The time frame, 30 minutes, is completely unacceptable. Is this gentleman playing an instrument, is it amplified? What is it? Ms. Thorpe said he has music already recorded and then he also has a keyboard and plays an acoustic guitar also. **COMMISSIONER BARON** said so basically he could find where the volume is acceptable. Literally, somehow mark it and document it so that the neighbors would be comfortable with that volume. He is just curious why that isn't something that has been accomplished. Does louder bring in more business? He is just curious. Mr. Stanfield said he doesn't believe so. **COMMISSIONER BARON** said music is technically a background noise. A lot of people like to have conversations and do other things at bars. He is a little frustrated with the attitude. He thinks it unfortunate that he can't work with the neighbors and make sure they are satisfied with what they are trying to do. He understands his business and he gets it but he thinks he has to be a good neighbor. Mr. Stanfield says why don't they try his idea and mark what the proper volume should be because that sounds like a pretty good idea so when he plays there it does not interfere with the neighbors.

CHAIRMAN CASON stated he is trying to balance what seems to him an anomaly and it unfortunately happened right before he had to come see them and if it hadn't been postponed, they would be coming here thinking they have become the greatest thing since sliced bread and they could move on past the Regal Beagle thing. He thinks that he would like to entertain some other types of things besides marking the decibel limit or the output limit of the amplifiers as the Commissioner mentioned, which he thought he might have already explored. Maybe he could replace the phone call with a beeper and he can hold the beeper or the bartender holds the beeper or when his reggae artist is there, he holds the beeper. When he sees that beeper go off, he knows he better turn down the music because the only people that would be calling the beeper would be the ladies from the neighborhood. Then he just passes the beeper around and when it goes off, there is only one reason that beeper goes off and that is because the music is too loud. That might be something that might assist them in being able to react a little bit faster. He has to agree with everyone that on one issue they appreciate him coming up with alternatives and back up plans. He has to agree that the timing is a little off there but he thinks by looking at some scientific way to deal with it like a beeper that doesn't mean he can't be called for those types of things. What is crucial is the response and if they were able to explain to them why the response didn't work so well. They have also come to them with an action plan to alleviate that.

CHAIRMAN CASON stated he has two speaker cards.

JAN HOSKAVEC, 5971 W. COMMONWEALTH AVE., said she has been a resident at this address for 19 years. She is there to present some concerns regarding this renewal. First, those of them are here are in direct line of site to this establishment. She feels as a neighborhood they have really worked hard, especially in the last year with Mr. Stanfield. He hired a person, Mr. Garza. He came over to her house and they tried to establish acceptable noise levels. They set up this liaison program and they worked really hard to get what he wanted so he could have music out on the patio. After reviewing her documentation of 2010, there were basically 6 calls from the neighborhood to the Regal Beagle for loud music, mostly in the spring. At the neighborhood meeting on April 4, they were in agreement to support Mr. Stanfield for his 3-year permit but Mr. Stanfield had stated that Alonzo the musician would be no longer playing for him. He said that in front of Mr. Dermody too and that he had had enough. However, all that changed as of last Friday night. Mr. Stanfield called her the previous Wednesday, which he stated he would be there to babysit him. After 2 calls to Mr. Stanfield and she left messages on his personal phone both times, she got nothing. She called the bar itself 3 times. The whole evening was nothing short of a nightmare. It was 4 hours of thump, thump, thump. As she referred in her 2009 address to them, there is no guarantee that the liaison program would solve anything. The liaison program she felt died last Friday. The bottom line is that the music can't be contained. It is the way the area is situated. It filters the music. You can hear it almost word for word in their houses. They have been dealing with this issue for 3 years now. She would like the Planning and Zoning Commission to grant the Regal Beagle a 3 year liquor license with the provision that no music be allowed on the patio. She trusts they will continue to guarantee their peace and quiet in the most important place, their sanctuary that they call their home.

CHAIRMAN CASON said the items that they discussed as the back-up plans and controlling the volume of the music in so as far as marking on the amplifiers and stuff like that, how does she feel about it being successful and restoring their confidence that their peace won't be disturbed? Ms. Hoskavec said they worked with Mr. Garza on that very thing and she did call a number of times, mostly in the spring. She called St. Patrick's Day last year, March 18, March 20, April 3 and November 20. She usually just calls Mr. Stanfield and tries to get hold of him directly because that is how they set this all up. She didn't get any response at all. She called the bar 3 times and called Mr. Stanfield twice and left messages there. She offered to read that documentation of last Friday night. **CHAIRMAN CASON** said he thinks they have it – it's on record. Despite the fact that he was able to respond those other times he called, has this to you been like the straw that broke the camel's back. Ms. Hoskavec said she is upset about what they had heard at the neighborhood meeting and that was he done with Alonzo and that Alonzo wasn't coming back. It seems like this wasn't just a one-time incident. They were planning to bring him back. That is a conflict right there. He is the only person they have any problems with. They have renters across the street with a newborn baby. They don't even know who to contact. The have another neighbor that she spoke to yesterday. She was going to e-mail something to Mr. Dermody. They are expecting a

baby. Can you imagine trying to put children down to sleep with this? They can hear it in their homes with the TV on. It is like kids sitting out in front of your house with the bass turned up and all you hear is the bass. They have worked with getting the speakers turned, getting them off of the ground. She doesn't know what more they can do unless you move him inside.

COMMISSIONER FLANDERS said she called the bar and the bar owner a total of 5 times. After she hadn't received a response or a phone call back, why didn't she just call the police? Ms. Hoskavec replied that she hates to bother their police department and basically Saturday night she had the number out in case it happened again. She was that frustrated. There is no guarantee that the police are going to get there. It is not a high priority for them. They are going to take care of accidents, burglaries and any other situation way ahead of any noise issue. She has fought having to do that because she feels that is imposing on our police department. She did ask for a copy of the permit so if she needed to show it to the police department, she could. She was ready to do it on Saturday if it continued. **COMMISSIONER FLANDERS** said when a couple of police officers come strolling into your establishment, they know something is going on. Ms. Hoskavec said there is no guarantee that they are going to be there when she needs them. He could be taking a break or he could be done by the time they get there because they are not going to get there when they need them. **COMMISSIONER FLANDERS** said the police would understand and be able to tell management that there is a problem with the sound. Ms. Hoskovec said that would be her next move especially after the results of Friday.

VICE CHAIRMAN RIVERS said he wanted to ask her a question as someone that lives much closer to this place than he does. When this was passed in November 2009, one of the stipulations said, 'any outdoor music shall be non-amplified, acoustic and performed by a single person'. Is that what's happening? Ms. Hoskavec replied yes. **VICE CHAIRMAN RIVERS** said so there has been no amplification of any music. Ms. Hoskavec said yes there is amplification. **VICE CHAIRMAN RIVERS** said the other thing it says is 'neither indoor nor outdoor shall disturb area residences'. Are they being successful with that? Ms. Hoskavec replied they are being disturbed occasionally.

MR. DERMODY, SENIOR CITY PLANNER, said just to clarify there was a stipulation once a couple of years ago that music on the patio be non-amplified acoustic. That stipulation was removed last time around in January 2010 and for the last year plus they have been allowed to have amplified music on the patio.

VICE CHAIRMAN RIVERS asked if they limited the speaker sizes? Mr. Dermody said yes they have a number of stipulations – maximum speaker size of 14 inches, no bass speakers or sub woofers and shall not disturb the area residential properties and music could only be 2 nights a week from 6 to 10 p.m. plus the liaison program. Those were all stipulations. **VICE CHAIRMAN RIVERS** asked if the speaker sizes were being honored? Mr. Dermody said to their knowledge yes.

PAM ROSIC, 5981 W. COMMONWEALTH AVE., stated her house is the first house on the street. Fortunately or unfortunately, she was not home on Friday night. However, her husband and granddaughter were and they did say the windows on the house actually were shaking. The reason why Alonzo is so annoying is the bass. It's just horrible. She likes reggae music but if she wants to hear it, she doesn't want to hear it in her living room watching TV. Her husband did say they couldn't hear the TV over it. She doesn't mean to hurt Greg's business and if that is what it takes, put him inside – put his speakers inside and let him play outside; something to control his noise. He has had past performers and they had no complaints at all. It is just this one person that plays there and it is because of the bass she is sure.

COMMISSIONER BARON asked Mr. Dermody if there were no bass speakers allowed or sub woofers. Mr. Dermody said that is one of the stipulations that have been in place for the last year plus – no bass speakers or sub woofers. Ms. Rosic said she doesn't know if it is his bass speakers or the bass drums or the bass on the keyboard or something they definitely hear.

VICE CHAIRMAN RIVERS said the last time this went through there was some mention of steel drums. Was she hearing steel drums? Ms. Rosic said she was not there Friday night so she isn't sure what the actual noise coming through the living room was.

KEVIN MAYO, PLANNING MANAGER, stated that growing up in a musical family he is very well aware of all the different types of speakers there are. With a woofer – it can be either full range, meaning that it is trying to reproduce x amount of hertz to x amount of hertz or you can have ones that are limited to reproduce only the low based frequencies. That is typically a subwoofer. Please keep in mind when most people think of a bose system and they see the little cubes up in the wall and the box down there, everything in that box is no bigger than 5 inches in diameter and it's able to reproduce that type of deep bass. 14 inches is quite a larger woofer and most speakers after that go to a 15 and then steps up to an 18. That is about the biggest woofer they make. When you go into any of the America West arena or any concert venture and you see all those big cabinets hanging up, they only have 18 inch woofers, only 4 inches bigger than 14. A 14 inch speaker to be termed a subwoofer just has to be limited through capacitors to only react to the low level frequencies. That doesn't mean that when you take away that capacitor that it stops reproducing low frequencies; it just becomes a full range speaker and tries to reproduce all the frequencies. Limiting it to a 14 inch speaker doesn't mean that the bass frequencies aren't being reproduced - it just means that speaker is also firing out all the other frequencies that are being asked of it. He said he just wanted to provide that as a point of clarification for that stip.

CHAIRMAN CASON asked if there was any one else in the audience that would like to speak on this matter. There were none. He asked the applicant to come back up.

GREGORY STANFIELD stated that Alonzo's speakers are really small and he has 2 of them. There are no drums - just a keyboard and a computer. That is what he has.

CHAIRMAN CASON said they have before them a proposal that says they are only going to allow him to have music indoors but the other music that he has outdoors except for Alonzo doesn't bother anybody. By their suggestion and of course it goes before City Council for the ultimate decision, they are kind of pushing where everything is going to be have to be indoors. He doesn't know if that is the solution to the problem, it certainly doesn't help his business any. Is there any way that they can get him to commit to move Alonzo indoors and when somebody plays music that he thinks is going to disturb the neighbors that he will take them inside. For that particular night he might not have his karaoke until after 10:00 p.m. People would still be able to watch games even though the music is going on. All he is trying to look for is a compromise that allows him to still utilize his patio for music that doesn't disturb the neighborhood – that he commits to an obligation that when he has Alonzo or anybody else that he thinks will be like Alonzo, he park them inside the building for him or her to play. Is that something he would be willing to explore? Mr. Stanfield said that Alonzo playing inside is not an issue. He asked if there was any way he could take a continuance on this. **CHAIRMAN CASON** said that would be up to the motion maker. He doesn't know if a motion maker would be willing to do that. If at this point they would want to ask for a continuance, how does that work? Mr. Mayo, Planning Manager, said ultimately it is up to Planning Commission to grant a continuance or not. Their decision to grant that would be based on information that he feels is necessary to proceed forward with this case but just that they can't get tonight. If they don't know what that information is and if it seems like all of the questions have been answered and they are not just arriving at a compromise, that isn't necessarily a reason to continue a case. If it is questions that are being asked by the Commission to the applicant that they just can't provide that type of information or if the applicant says he needs to go back and get info. and bring it back, that would be reason to continue. But ultimately, the decision to continue is left in their hands. **CHAIRMAN CASON** asked if any of those circumstances meet his criteria? Mr. Stanfield said he would like to get a little bit more information about Alonzo and would like to get a little information from the neighbors. They talked about the speakers, the drums – just more information. Ms. Thorpe said also to see if Alonzo is willing to play inside. Mr. Stanfield is he is only going to play there like 6 times a year. He wasn't going to play and he's not back until October. He just wants to get some more information. **CHAIRMAN CASON** asked for him to contract with Alonzo he has to be outside? Mr. Stanfield said no he wants to play inside when it is chilly outside – November, December, January and February. **CHAIRMAN CASON** said so in the winter then he makes accommodations for Alonzo and he doubts he sits outside during the summer. Mr. Stanfield said he is not here in the summer. He is leaving and going to Lake Havasu. He plays up there 3 or 4 months a year. **CHAIRMAN CASON** said so he is here during the spring, fall and winter. Mr. Stanfield said correct, off and on. He doesn't know his whole schedule. **CHAIRMAN CASON** said if he plays indoors in the winter time, then why couldn't he play indoors all of the time. He doesn't know who is going to make a motion here and he doesn't know what the motion is going to be. He is trying to get him to have the best outcome that he can have from this group and that is why he is looking for some compromise on his part. If he can't, certainly that is his decision to make. He respects that. Mr. Stanfield replied that he is happy to compromise. He would just like a

little more time so he could go through all of this. He doesn't want to make the neighbors upset or anyone else. **CHAIRMAN CASON** said he mentioned getting information on speakers from Alonzo. Could he share with them specifically the data that he needs to obtain in order to help them agree to allow Alonzo to be outside? He would think that is the only thing he would be trying to obtain. Mr. Stanfield said because he doesn't understand how it all works and there are guys that come in and they are playing and they don't bother anyone and they have speakers and drums and everything else out on there and it doesn't bother anyone where Alonzo plugs his stuff into a computer and it sounds like a concert. He doesn't understand how the whole thing works. **CHAIRMAN CASON** said so what you are saying is that the background music that is provided through his synthesizer or his tape player or CD player, he needs to find out if that is the driving force behind it so that he is able to control that particular device. Mr. Stanfield replied that it doesn't matter how big the speakers or anything else. He doesn't play a guitar. He plays a keyboard. He has like 5 pieces of equipment and that is it. Other guys come in there and they have all kinds of stuff.

VICE CHAIRMAN RIVERS asked when he said Alonzo is due back to play? Mr. Stanfield said Friday. Then he is gone until October or November.

COMMISSIONER PRIDEMORE asked Staff if this item was continued, would outdoor music be allowed in the interim? Mr. Dermody said yes it would as long as it abided by the conditions that were approved a year plus ago. They operate under the previously approved Use Permit even though it was only good for a year as long as this one is moving forward.

CHAIRMAN CASON thanked him for coming in and letting them know what is going on at the Regal Beagle. He looked to his colleagues for discussion and possible motion.

VICE CHAIRMAN RIVERS said he is trying very hard to be fair with everybody involved here.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM** to continue this until the May 18 meeting of the Planning and Zoning Commission and allow them to have Alonzo come Friday and have a promise from the applicant that he is going to man his beeper or cell phone or whatever it is so if the neighbors call, there will be a reaction very quickly to what they are asking them to do.

CHAIRMAN CASON said they can't stipulate that he personally is responding to the call? Mr. Dermody said going forward with the future Use Permit they might be able to do that but they are going to be operating under the previously approved conditions which don't say anything that specific. He asked the motion maker if that was acceptable. **VICE CHAIRMAN RIVERS** said the idea was just to see if anything would be different this Friday than it was last time. So yes he said it would be acceptable. **COMMISSIONER CUNNINGHAM** said she would also like a compromise which seems to bring in the revenue they need. But she absolutely agrees

that there can't be a problem until the 18th. **CHAIRMAN CASON** said so she agrees as a second that there is not any additional language that says a person must be there other than what is already in the existing memo?

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said the only motion they can have is a motion to continue. All the other conditions have to do with how the applicant is operating. It would be nice if the applicant would meet these requirements. He is certainly understands what they are all looking for but they can't really make it part of the motion.

COMMISSIONER CUNNINGHAM said she would just like the stipulation of the original approval from a year plus re-read so that all parties are aware of what is allowed and what is not allowed and know what they have to operate under until the continuance.

MR. DERMODY, SENIOR CITY PLANNER states there are about 15 conditions but he will simply concentrate on the ones that have to do with music.

The applicant shall provide security on the weekends, if necessary.

The applicant shall maintain the liaison program with the adjacent neighborhood that allows neighbors to directly contact a representative of the establishment with their concerns at any time.

The applicant shall work to mitigate litter issues resulting from the use.

Outdoor music shall not utilize bass speakers or sub-woofers. All speakers shall be raised off of the ground.

The maximum diameter of speakers used in conjunction with outdoor music shall be 14'.

Neither indoor nor outdoor music shall unreasonably disturb area residential properties.

Outdoor music shall be limited to two nights per week from 6 p.m. to 10 p.m.

CHAIRMAN CASON asked if there was any further discussion on the item before they vote.

COMMISSIONER PRIDEMORE said he had high hopes for the liaison program. Obviously, they have talked about the issues with this most recent incident but he also hears there have been other times throughout the year that calls have been made and while it has been responded to, the liaison program should be used maybe once a year. The fact that it is being used more than once a year is one time or however many more than he thinks is appropriate.

CHAIRMAN CASON said he is a little stuck in between here. He understands the concerns of their business to be successful and the revenue that Alonzo provides to meet that goal. On the other hand, he appreciates the latitude that the neighbors have provided in the past in order to see this work through. He is not necessarily convinced that anything that he could provide in information that they don't already have is something that they couldn't have already done. The opportunity to correct the issue and understanding that they didn't have a plan in place to mitigate something if it came up when he knew that Alonzo was the person that always caused the problems in the past. It just leaves him to believe that if they were to continue this that they wouldn't necessarily be having any more information next time as they would have now. Before them is a motion to continue. He asked for the vote.

The vote was 3 (in favor) and 3 (opposed). The motion to continue failed. He asked for another motion.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **VICE CHAIRMAN RIVERS,** to approve the LUP11-0001 REGAL BEAGLE item as recommended by Staff which would prohibit outdoor music.

VICE CHAIRMAN RIVERS asked Mr. Dermody to re-read stipulation no. 11.

MR. DERMODY read stipulation no. 11 which currently reads:

Neither indoor nor outdoor music shall unreasonably disturb area residential properties.

MR. DERMODY said perhaps because of stipulation no. 12 it should actually read:

Indoor music shall not unreasonably disturb area residential properties.

The item passed unanimously 6-0.

CHAIRMAN CASON said this goes before City Council May 12, 2011. As they know, they are just a recommending body but a little additional recommendation is that now they have some time to be able to work on their plan to shore up their volume. It will be the City Council that makes the ultimate decision so if they could come back to this Council and be able to show that they have put some concrete factual data in place and action plans that would make the neighborhood comfortable, then they might have an opportunity to convince City Council to go ahead and let them stay as they are. While he doesn't necessarily agree with 100% of all being indoors, he thinks that only the City Council can make that decision at this point.

6. DIRECTOR'S REPORT

Mr. Mayo said he had nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is May 4, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:45 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 4, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Pridemore.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Michael Flanders
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron

   Absent and Excused:

   Commissioner Katy Cunningham

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER FLANDERS, seconded by **VICE CHAIRMAN RIVERS** to approve the minutes of the April 20, 2011 Planning Commission Hearing. The motion passed 5-0 with one abstention. Commissioner Veitch was not present at the April 20 meeting. (Commissioner Cunningham was absent for this meeting).

5. ANNUAL PLANNING COMMISSION BUSINESS MEETING

   Election of Officers:

   A. Chairman
   B. Vice Chairman

   VICE CHAIRMAN RIVERS nominated Michael Cason for Chairman, seconded by **COMMISSIONER FLANDERS.** Michael Cason was voted in unanimously 6-0. (Commissioner Cunningham was absent.)

CHAIRMAN CASON nominated Leigh Rivers for Vice Chairman, seconded by **COMMISSIONER FLANDERS**. Leigh Rivers was voted in unanimously 6-0. (Commissioner Cunningham was absent.)

6. ACTION AGENDA ITEMS

CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item D was pulled for action.

A. LUP11-0003 SANDBAR MEXICAN GRILL

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption only indoors and on an outdoor patio at an existing restaurant/bar. The property is located at 7200 West Ray Road.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 6 license only, and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. "To Go" packaged liquor sales are not permitted.

B. ZUP10-0032 SAN MARCOS GOLF RESORT

Approved to continue to the May 18, 2011 Planning Commission Hearing.

Request Use Permit approval to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the southwest corner of Chandler Boulevard and Dakota Street, approximately ¼ mile west of Arizona Avenue. **(REQUEST CONTINUANCE TO THE MAY 18, 2011 PLANNING COMMISSION HEARING.)**

C. ZUP10-0050 CHANDLER VALLEY HOPE

Approved.

Request Use Permit approval for two parking lots in a Multi-family (MF-1) zoned district in conjunction with a rehabilitation facility. The subject site is located at 501 N. Washington Street; northeast corner of Washington and Oakland Streets.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

2. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
3. The site shall be maintained in a clean and orderly manner.

E. PPT10-0006 CONTINUUM AT PRICE CORRIDOR

Approved.

Request Preliminary Plat approval to create six separate parcels on an approximate 152 acre site located south of the southeast corner of Price and Germann roads.

1. Approval by the City Engineer and Director of Transportation and Development with regard to the details of all submittals required by code or condition.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Cunningham was absent).

ACTION:

D. ZUP10-0054 CORNERSTONE CHRISTIAN FELLOWSHIP

Approved to continue to the July 6, 2011 Planning Commission Hearing.

Request Use Permit approval for the continued use of a temporary unpaved parking lot. The parking lot area is approximately 8.5 acres. The subject site is located east of the southeast corner of Alma School and Willis Roads.

MR. ERIK SWANSON, CITY PLANNER, stated this request is a Use Permit Extension approval for the use of a temporary unpaved parking lot. The subject site is located at the southeast corner of Alma School and Willis roads. The actual parking lot area is east of that southeast corner and occupies roughly an 8-1/2 acre site. The church was initially approved in 2000 and started creating their Master Plan. The church further expanded in 2004. As church growth happened, they realized they needed parking. In 2008, they submitted for a Use Permit to temporarily park on an unimproved surface. That was improved in 2009 for 2 years. The request is to extend that initial Use Permit for an additional 2 years. The request has gone through 2 neighborhood meetings. There were approximately 4 neighbors at the first neighborhood meeting expressing concerns with dust, maintenance on the parking lot, weeds on the south side of the property, track out and some concerns with traffic generated from ingress and egress onto that parking lot out on to Maplewood Street. A second neighborhood meeting was held at the church and no neighbors attended. He has heard from a couple of neighbors initially after the first neighborhood meeting. Since the second neighborhood meeting, he had not heard

from any neighbors, however, he did receive 3 voice mails today from neighbors that were all opposed. He didn't know if any of them are attending tonight, but there general concerns were that they felt that the church is operated with the unpaved parking lot for long enough and that they should go ahead and pave it. As a follow up to some of the concerns, the Maricopa County department of air quality was notified and has visited the site on 4 occasions. He spoke directly with the site inspector and they let him know that there were no violations issued as they could not find any violations. Some of the times they went out there, church service was not going on. Other times it was during a Sunday morning to where they could see the traffic and the kick up. They did state that there could be some maintenance with the ingress/egress portion of Maplewood Street. It was simply a matter of yes, it would be nice if you came over here and swept or laid down additional millings. As Kevin Mayo mentioned during the Study Session, in early April they did lay down an additional 300 tons of asphalt on the south side of that parking lot as that was the one that seemed to be in most need of those asphalt millings. He said he would be happy to answer any questions. They are recommending approval.

CHAIRMAN CASON asked if the County measured one particular lot or the whole site in general. Mr. Swanson said the County would measure the whole site and if any dust picked up and passed through their opacity meter, then it would pick it up. He understood that they didn't walk the whole site but they went to select locations – specifically those that they had received calls about so they wanted to see specifically what the issue was. His understanding is that they went specifically to Maplewood Street, which is on the south side of the church property just north of the residential homes. **CHAIRMAN CASON** said he will presume only because they don't know for sure that it wasn't a windy day. Mr. Swanson said the primary concern that he has heard from the resident is that during Sunday services or when services happen in general that the amount of traffic on the parking lot is what kicks up the dust and not necessarily a windy day. With that being said, one of the times that the inspector did go out there was the day following one of our storms. He thinks it was in either April or March. They were there the following day and so there was dust and it could have been easily generated from the storm so it was unclear as to where the actual dust came from. That was actually relayed by the property owner to the inspector that they didn't know where the dust came from and they said they didn't see the dust coming from the church but didn't exactly know where it came from. **CHAIRMAN CASON** asked how many other properties around there are sitting there idle that have dirt on them and things like that. Mr. Swanson replied he could show them an aerial and show them the size. Generally speaking, they are looking just shy of a 40 acre site, just north of the church which is north of Willis southeast to the church site. There is also a vacant parcel that is slated for residential homes. He can try and measure that. He doesn't know what that size is off the top of his head but he believes it is somewhere in the vicinity of 20 acres or so. They have 40 to the north, 20 to the southeast that are both sitting vacant, that is dirt. **CHAIRMAN CASON** said so if those properties were improved then they would have isolation of what was happening on the church and not any other type of mitigating circumstances that might otherwise create dust that could be suggested that the church is causing. Mr. Swanson said it would certainly be helpful if those 2 pieces were developed

but in addition to those 2 completely vacant sites to the east of the church and southeast, this is kind of their County Island, albeit some of it is in the city, but they are the more rural properties. Naturally, they have dirt on them and they are larger vacant fields. Some of them have homes, some of them are a couple of acres and so there is still the potential for dust being kicked up but it would certainly be on a much smaller scale if the property to the north was developed and the property to the southeast was developed. **CHAIRMAN CASON** asked if he knew if there were any horse facilities on any of those properties? Mr. Swanson said not directly; not horse facilities in the sense of riding stalls. There is one closer to Germann Road, which is roughly ¼ - ½ mile from here. He doesn't necessarily think that would generate enough dust to be the one to be the problem child per say. All of the homes to the southeast and east that are in that County Island have the potential to have horse uses on them. **CHAIRMAN CASON** asked if those were dirt streets that access those properties? Mr. Swanson said Tumbleweed Lane is the one that is southeast that runs north/south. It is an improved service in the sense that you can drive on it more along the lines of gravel, etc. The one that seems to be the worst is Maplewood Street which is on the south side of the church; it separates the church from the residential. The property to the southeast which is currently the vacant lot is slated for residential development. They have been in talks with them to get that going. They would be the responsible party to improve Maplewood Street. **CHAIRMAN CASON** asked if there was any traffic on that street? Mr. Swanson replied there is traffic although it is tough to tell where exactly it goes. Ironically, on the way to the 2nd neighborhood meeting he took Vine Street which is the north/south that connects Willis to Maplewood. It is dirt and then Maplewood on that eastern portion is dirt and the vehicle in front of him actually pulled into the neighborhood subdivision on the south side of Maplewood, so yes people do use it. Church attendees have the potential to use it. His understanding is that the church is trying to direct traffic out on Alma School to get them to go that way. Can they legally prevent anybody from going down Maplewood Street, no, but they are trying to be good neighbors and request that they go out Alma School. **CHAIRMAN CASON** asked so the church is not fenced along Maplewood? Mr. Swanson replied it is not fenced. On the south side of the church property just north of Maplewood there is a canal ditch that is also a source of issue as it often gets overgrown with weeds. That is actually a separate property owner which they have tried to contact on a couple of occasions to send them notification that they do need to maintain it. Ultimately, those letters have come back undeliverable, but no, it is not fenced off. **CHAIRMAN CASON** asked if that driveway that shows going onto Maplewood Street is that required to meet any type of fire codes? Mr. Swanson said as a point of ingress/egress they would look at it from a 24 foot wide standpoint. Fire's requirement is 20 feet at the minimum, so it would naturally meet their standard of the proper width. **CHAIRMAN CASON** asked is it necessary there? In other words, do they have other driveways that would serve the purpose for the fire dept. in being able to protect the church against fire or is this a required ingress/egress by the fire dept.? Mr. Swanson said that was a good question. He didn't think any of those access points on Maplewood are absolutely required by fire as there is an access point (he showed where on the map). The fire dept. could potentially get in there and also on Willis Road. He doesn't think it is an issue having those points of access from a fire fighting standpoint. He thinks it certainly helps fire but he doesn't

know if it absolutely necessary. **CHAIRMAN CASON** asked if the one that is at the southeast corner of the property paved all the way up to that section? Mr. Swanson replied this is paved. **CHAIRMAN CASON** said so when the County inspectors came out they didn't find any track out on either of these 2 exits from the improved lot? Mr. Swanson replied they did not find enough track out to warrant a citation. They found some track out to the extent of saying it would be nice if they would put down some additional millings. It is not required. It would be nice if you swept. It is not required and they didn't see anything to cite them for but as a good neighbor it would be nice to have. **CHAIRMAN CASON** asked him to talk about a plan in place where they limit or try to restrict parking in these sections as much as they can or how does that work? Mr. Swanson said as a result of the 1st neighborhood meeting and some of those concerns being expressed, what the church relayed to him is they have tried to redirect traffic to fill up another lot first for those that come in off of Maple and then fill up this lot; then fill up the northern portion of the unpaved parking lot and then fill up the southern portion. They also have A-frame signs trying to direct traffic in that manner. **CHAIRMAN CASON** asked how do they control that? Mr. Swanson said they have both Staff on hand that helps as well as off-duty sheriffs that come and direct traffic. **CHAIRMAN CASON** asked if they have any statistics as to the heat effect of solid asphalt versus when millings are thrown in? Are they similar? Mr. Swanson replied that he didn't have any numbers that are readily available or even if they have any data of that. He would imagine that they are comparable to the extent that they both hold in heat in a minute but he thinks the millings are going to be less so because they aren't compacted flatly and they aren't as thick and they have the ability for a little bit more air movement because of their shape. They aren't flat in the sense that they are rolled out but more like a milling. He would imagine they don't produce the same effect as an asphalt parking lot but probably close.

ED BULL, BURCH & CRACCHIOLO, 702 E. OSBORN RD., PHOENIX, is there on behalf of Cornerstone Christian Fellowship. He said they appreciated Staff's recommendation for approval. They do accept the Staff recommended stipulations that are in their Staff report. As was discussed in considerable length in their Study Session and touched on again this evening, the church is in a situation where the church hopes to in the future be able to expand its existing buildings and expanding some into this area that is being parked on as a part of this currently unpaved parking lot. That complication complicated with the cost of paving a parking lot of this size in this economy together with some other complications associated with off-sites and so on, has put the church in a position where it has done its level best to continue being a good neighbor and doing the kinds of things Staff encouraged and the County encouraged to make sure the parking lot is well maintained, well managed and is handled in a dust free manner on the Sundays when it is used. As this extension is in front of them, it is an extension that of course in a different day that the church wishes they would be here under construction with new buildings, but they are not and that is not unique to this church and unique to any other entity in the economy that they are in. Having said that when the decision was made to file the Use Permit application, which is effectively an extension of the Use Permit that is there. The church stepped back and looked at what it had been doing, visited with Staff.

They had their initial neighborhood meeting as was indicated and some concerns were voiced.

As was discussed, the church stepped up its game and as they look at the aerial with the yellow outlining the asphalt millings or the unpaved parking lot area, the church has added a substantial amount of millings to the parking lot in the areas where Staff encouraged. The church has also increased the amount of water that is being applied on Sunday mornings not only in the parking lot - Maplewood is a public right-of-way and is certainly not a church street, Vine which runs north and south down here is a private drive of some sort and neither of them are paved in these areas even though the church is discouraging traffic to and from those parts of Maplewood and Vine. At the same time the church is sprinkling lots on Sundays it is also sprinkling those streets one of which is public and one of which is a private drive. In addition to that they have photographs of water trucks, people associated with the church being in the parking lot, being in the street adjacent to the parking lot directing traffic to and from Alma School doing the various things that Erik was talking about a few minutes ago and Kevin was talking about during Study Session. That is trying to break some old habits and encourage people to park in the paved lot first, secondly in the yellow area which is north of this tram route and then finally, when necessary in the blue area. It is something that is a combination of signage, breaking old habits and parking lot attendants encouraging people as to where they park. In addition to those kinds of things, the church is also in discussions with Staff. It is a little scary when you have heard the County has been out to inspect but it is a good time when you hear that they not only were inspected, (they were inspected 4 times) they passed every time. Be that as it may, with the tracking out situation that Erik mentioned which is not really tracking out in the sense of it being a County violation, it is his understanding that the little bit that showed up on the paved street and some of them might have been through County violations before on construction sites where the County does get pretty picky about tracking out, the fact that they weren't tracking out in any kind of a violation sense is a good thing. Even though it was not a violation, Dave Hutcherson who was there with him from the church and is in charge of their facilities, also issued brooms to every parking lot attendant at each of the drives on Maplewood to make sure that if anything did come out on anyone's tire that someone was there to sweep it back out on the street right of way.

In addition to doing what they felt was appropriate and Staff felt was appropriate and doing those things on site and also sprinkling the unpaved streets, the church also stepped up because of some complaints with some weeds that occur from time to time along the north edge of Maplewood even though it was recognized in the 1st neighborhood meeting that those weeds weren't on church property. The church stepped up again and took care of it with cutting and spraying. He doesn't think there has been any kind of a weed problem that he has heard of since and that is on a neighbor's property not on their property.

Also, there was some concern with cut through traffic which they learned about for the first time in the 1st neighborhood meeting on non-Sundays of people being able to drive

from Maplewood to Willis or vice versus across this asphalt millings lot. No more in that Dave and his crew are very diligent about making sure when the lot is emptied out on Sundays that ropes are put across each of these openings to keep cut through traffic out of there and he has heard from Dave and others that there is not traffic cutting through there. That lot is closed except on Sundays.

Collectively, while he appreciates that there are neighbors here and he is anxious to hear what their concerns are and what else they can do to address them, from his perspective the church was trying to do what made sense, they heard issues at the 1st neighborhood meeting, some surprised them with those issues but they stepped it up. They had a 2nd neighborhood meeting to go over photos and other kinds of things in detail. He doesn't know why no neighbors came to the 2nd neighborhood meeting. They didn't. They had hoped no news was good news. Maybe is wasn't but be that as it may, the church continued to step things up with Staff and the County to make sure that wherever the dust is coming from it is not coming off of this lot. They can identify horse properties or others in the area if they want, but certainly part of what was being discussed is the fact that there are other vacant properties in this area that don't have asphalt millings and that don't get sprinkled and aren't maintained the way the church lot is. He is not pointing a finger at anyone, all he is trying to do is emphasize as Staff did that the church has done a real yeoman's effort in stepping up through the millings, the watering, the management and the other steps and practices to make sure that this parking lot is compatible with the County dust control requirements and compatible with the requests Staff had made of them as well.

He said if they had additional questions of them now, they will try to answer them otherwise, he asked to reserve the time to respond to neighbor comments.

CHAIRMAN CASON said the subdivision they have here that is striped out and doesn't look like it has any homes in it, has that been approved and are the streets cut in or done now? Is this a recent picture? Mr. Bull replied that the aerial photograph is showing lot lines in that subdivision because that subdivision is platted. The last time he drove by was within the last 2 or 3 weeks and there was no construction activity putting in streets on this lot. There is some indication that some people may drive across it from time to time but there are no streets constructed and no vertical construction that he is aware of underway in that subdivision. **CHAIRMAN CASON** said so that piece of property is a bare piece of property with weeds on it. Mr. Bull replied he doesn't remember weeds being on it, he remembers it being bare dirt. He thinks it had been disturbed previously maybe through some rough grading activities. He doesn't recall any streets being cut in there at all. **CHAIRMAN CASON** asked him to share with them their chronology of the steps that they have taken so they can understand when the plans of managing their lot started and when they added more milling and completed it and how that relates to their meetings with the neighbors. Mr. Bull said the 1st neighborhood meeting was on Feb. 8 and there were 4 neighbors at that meeting that signed in. There were 2 that had real concerns with the church. There were 2 that were complimentary of the churches efforts with respect to managing the parking lot. It was in that meeting that a variety of things

were discussed but the primary issue being discussed in that meeting was weeds. With respect to that issue and even though those weeds weren't on the church's property, the church said they would get back at it and try to deal with those weeds. They made Staff aware and he can't promise them when Staff tried to put the owner of that strip on notice with those weeds, but the bottom line within 18 days the church was back out weed whacking and doing those kinds of things. With respect to adding millings to the parking lot, millings were added to the northern portion of the parking lot just shortly prior to that 1st neighborhood meeting. In subsequent discussions with Staff after Erik had been out to the site for the 2nd neighborhood meeting and maybe some other site inspections as well, Erik encouraged that they add some millings along the southern portion because what happens with this tram route, millings will get kind of ground down or pushed into the ground. Bottom line, Erik suggested that millings be added in this area as well just north of Maplewood. That was done approximately 4 weeks ago.

With respect to the signs and stuff that Erik talked about, those signs were put into play for preparation shortly after that 1st neighborhood meeting. He thinks they were actually in place the 1st or 2nd Sunday after the 1st neighborhood meeting and it was for multiple purposes. One again, it was to encourage people to come to and from Alma School and then also one of the concerns they heard during the neighborhood meeting is that sometimes there would be situations because of traffic on Maplewood, somebody wanting to come to or from the Eden Estates back entrance that is there onto Maplewood. One of the things that Dave instructed his people to do when they are manning these is to keep an eye on that and if someone needs to come in or out, create a break in traffic similar to what a signal would do and that was done right away. After those kinds of things were in place, they then noticed up the 2nd neighborhood meeting on March 9. Many of these things had been done prior to that 2nd neighborhood meeting. Erik attended and he and Dave attended. No neighbors were able to make it that evening. Since that 2nd neighborhood meeting, the church has continued to do a lot of watering, to polish its skills with respect to directing traffic and changing habits so that people come and park in the paved parking lot and those types of things. It has been continuous and on-going. As soon as they heard of issues in the 1st neighborhood meeting, Dave and his crew jumped on it.

CHAIRMAN CASON said the one thing he missed was when the first milling went down on the north and the east lot. In the area closer to Willis Road those millings would have gone in prior to the 1st neighborhood meeting. They went in because Dave knew that area up there had become thin. He dealt with it even before the 1st neighborhood meeting. **CHAIRMAN CASON** said so he has that in January they did the first milling, February 8 they had their first neighborhood meeting and as a result of that within the following week, they pulled weeds because that was expressed mostly in the meeting. Mr. Bull said in the neighborhood meeting, the 3 primary issues that were addressed were weed control in which Dave could jump on immediately. The second had to do with the dust control which took a number of different steps to put into play one of which he could request immediately which was ordering the signs that he and Dave talked about after the 1st neighborhood meeting. He ordered them right away. It took a few days for the signs

to get painted. Beefing up the sprinkling on not only the parking lot but prior to that 1st neighborhood meeting they had not sprinkled the unpaved portion of the public street Maplewood or this private drive, Vine. They went back and forth as to whether that was something the church could or should do. Candidly, they just decided to do it. At the same time the parking lot was being sprinkled. In addition, to immediately discourage people leaving any parking lot here from going east on Maplewood. Those things were put into motion immediately. **CHAIRMAN CASON** said so then they did the 2nd meeting where they had no attendees. Mr. Bull said that was correct. **CHAIRMAN CASON** said after that they did the 2nd milling. Mr. Bull said that was also correct. **CHAIRMAN CASON** asked when did they start managing the lot? Mr. Bull said that was about the time of the 2nd neighborhood meeting because they immediately started with the weed control and additional water and the signs and he and Erik continued to talk about what else they could do. He doesn't remember exactly which order they were discussed in, but along the course of the way, Erik either directly or the County through Erik suggested the additional millings here and they also talked about if there was a way that they could prioritize the parking on the paving, parking on the north and then spilling over into the south only when needed. He immediately talked with Dave about that and he thought it was a good idea. He had to meet with his parking lot team so to speak and get that idea in place and begin what he refers to earlier is breaking peoples habits as to where they would normally come to. That re-prioritization began to occur around early March. The last thing they did was add brooms and that would have been roughly after Erik had indicated that it wasn't required but it would be a good idea. He thinks Dave had them ordered before he got off the phone. **CHAIRMAN CASON** said so basically there second milling was really the only thing that happened after the second meeting. All of the other ideas (weeds, watering, signs, and managing) all happened before the second meeting. Yes, with the possible exception of the managing of the lot. He can't remember for sure if the beginning changing the habits of managing whether people park on paved or otherwise started immediately before or immediately after that second neighborhood meeting. It was right around that time frame.

COMMISSIONER PRIDEMORE asked Staff ho the 2nd neighborhood meeting notification was done. Mr. Swanson said through their typical requirement of 15 days. Same notification list, same registered neighborhood organization list. It was more or less the same process as the first one. **COMMISSIONER PRIDEMORE** asked Mr. Bull in looking at the graphic, on a typical Sunday after the first lot fills up, how much of the 2nd lot and into the 3rd would actually fill up? Mr. Bull asked Dave Hutcherson to come up.

DAVID HUTCHERSON, 22914 S. POWER ROAD, GILBERT, stated in the 9:00 service they fill the asphalt paved surfaces first. It will be around 506 cars. Then they moved to the north lot. He believes that is 370 cars in the north unpaved. **COMMISSIONER PRIDEMORE** said his question is more do they fill up every one of those? How much of the lot in their yellow area would fill up? Mr. Hutcherson said 9:00 paved surface, the 10:30 service goes to the north unpaved. The paved surface empties out mostly. The next service, the 3rd service at 11:55 some will infill on the paved surface. If the north unpaved isn't emptied out, then they go to the south unpaved. It is

kind of 'moved around' but they try to utilize the others away from the Eden Estates first. **COMMISSIONER PRIDEMORE** said in ideal conditions for the 2nd service when the first lot is completely filled and they have already started filling in the second, do they completely fill the second? Assuming again this is ideal conditions and they don't let anybody into that third lot until the second one is full, do they fill that second lot typically? Mr. Hutcherson said that depends on who is there speaking. With Mother's Day coming up, yes. **COMMISSIONER PRIDEMORE** said so realistically every Sunday they do need some of that third lot? Mr. Hutcherson replied yes.

COMMISSIONER BARON asked Mr. Bull how big the land area is for those second and third lots? Mr. Bull said it is about 8-1/2 acres approximately.

CHAIRMAN CASON called up speakers from the speaker cards.

CHRIS OLYEJAR, 1645 S. BEVERLY CT., stated he and his wife live next door to the church and they are former members of the church. They actually do care about the church a lot. He said he had a few points that he wanted to make them aware. Number one, Maplewood Road is actually a 2-lane road and then it goes down to where barely 2 cars can pass. The gate to their neighborhood is right there (he showed where on the map). It passes through some of this where barely 2 cars can pass through. They have a lot of issues to get in and out of there on Sundays. That is number one. Number two, the dirt lot is unsightly. They live in a gated neighborhood and most of them paid over a million dollars for their home and pay a lot of taxes. It is unsightly and they don't like to look at it. They are tired of looking at it. Number three, the dust issue is very real. They do water the lots and that is a pretty recent addition. Most of the dust that he experiences is actually between Monday and Saturday. Any time the wind blows his whole back yard is covered in dust and makes it almost unusable. The staggering of the lots and how they use it and how they fill it, he can't say that has been his experience because one service will travel down Willis and all the rest of the traffic will travel down Maplewood and go right through this lot to get to their parking spaces. They all travel right by their gate and right through Lot B to get to their parking spaces. The flow of the traffic whether or not they use the lot, the flow of the traffic takes it through there and his experience is that lot is completely full on Sunday for at least the first 2 services. Number three, they definitely sympathize with their financial concerns but they also realize that if they are allowed to use this dirt lot for an additional 3 years, there won't be incentive for them to pave and it won't get done. They know they have a recent billboard up so money is not as tight as they might like them to believe. The last point is most of these improvements were very recent – right before the application for a renewal. Did they use to water it, no. Was milling done before, no. A lot of these things seem to be late and fairly little at least in their opinion. The last one is he and his wife went door to door Monday night to get a sense and they didn't have time to hit everybody; they hit 10 houses and got 10 signatures on a petition. There are 34 homes in the neighborhood and his guess is he could get 34 signatures if they went to every house. He said not everybody is in attendance because most of them are professionals working.

VICE CHAIRMAN RIVERS asked Erik to put a map of the neighborhood on the table. Mr. Swanson said he didn't have a map that is large enough to be clear. He asked Mr. Bull if he could put his map on the table. Mr. Swanson said there property is the one that if you come out of where on the south side where the improved drive and where the temporary drive is, it almost dead ends into their area. **VICE CHAIRMAN RIVERS** said if the church indeed does not have enough money to pave this lot, do they have any suggestions as to how they might raise the money or what are the alternatives he would like to see done. Mr. Olyejar said they do have a paved lot. They can stagger services and use the paved lot that they have. That is the contract they signed when they agreed to build the building that they wouldn't use dirt to park people. So they can fulfill their commitment and use the paved lots that they have.

CHAIRMAN CASON said then what he is saying is that at some time in the past they agreed to only use the paved lot. Mr. Olyejar said right, they got an exception of use for the dirt lot. **CHAIRMAN CASON** asked at what time did they ever say they would never use the dirt lot? Mr. Olyejar replied that was ever said but any business that builds needs to have a parking lot that is approved by the City and the City requires a paved lot. His business has to be paved. He can't park in dirt in his practice.

KAREN OLYEJAR, 1645 S. BEVERLY CT., did not wish to speak but she is opposed to the item as well.

JANET CARVER, 1665 S. BEVERLY CT., did not wish to speak but she is opposed to the item.

COMMISSIONER PRIDEMORE asked if the last card was opposed to the item? **CHAIRMAN CASON** said she was opposed to it.

CHRIS PLATT, 740 W. MAPLEWOOD, said he lives directly behind the church and he is opposed to it. He agrees with a lot of things that the previous speaker said. He thinks there needs to be some improvements there. He said he had some pictures. The first picture showed it is 72 feet from his back door. That is what he looks at. He pointed out where his home is. His dust concerns are minimal – it's there but there is no way not to put 1300 cars on 8 acres of gravel and not have dust. He thinks the church has done a commendable job and tried but there are concerns. Also, the noise that it creates and also the visual affects it has on them. Saturdays he usually has things to do. His one day he really relaxes is Sunday and he has to deal with this. He thinks they have been pretty good neighbors. One of the other chamber members asked a question of the previous speaker. He thinks a fence at least around the south side would be nice and also a buffer for the noise would suffice for him. **CHAIRMAN CASON** said so his objections are what? Mr. Platt said sights and sounds and dust. **CHAIRMAN CASON** asked so he too receives dust off of this property? Mr. Platt said yes.

VICE CHAIRMAN RIVERS asked if he would mind putting his photographs back up. He asked if that was the view from his yard? Mr. Platt said that is the view from his back

door. **VICE CHAIRMAN RIVERS** asked what the other view was? Mr. Platt said that was a view from his driveway.

CHAIRMAN CASON said so this would be looking at what they are describing as lot 2? Mr. Platt said yes. The next picture was lot 3. **CHAIRMAN CASON** asked if he could he describe the angle in which he looks at that so they can get a perspective of what they are seeing? Mr. Platt said one of the photos was from his back door. **CHAIRMAN CASON** asked what was the corrugated building? Mr. Platt replied that is a building that the church owns. **CHAIRMAN CASON** asked him to show where that is. Mr. Platt did that. **CHAIRMAN CASON** said there they are looking northwest. Mr. Platt said he had one other concern. As far as the financials of the church, he believes if they are not in contract, they are trying to purchase this property here (he showed where).

NORA PLATT, 740 W. MAPLEWOOD, stated there are a couple of things she would like to add. They also attended Cornerstone and didn't wish anything bad for them. She feels they have been pretty good neighbors about things. She could start way back to when they started parking on the lot before they had permission when she wrote letters to them and the Mayor and to the church and nothing happened until she put a sign between her palm trees. That is how long things have been going on with Cornerstone. On Halloween they have a festival and one of the lots was entirely full (she showed on the map) all afternoon and evening. They weren't neighborly enough to come over and tell them they were doing this. They brought lights in. She didn't think they had permission from anyone to do that. They are really good at saying the right thing and doing the right thing when they are out here or when there is a meeting. They didn't go to the second meeting because when they met with them at the first meeting Mr. Bull who is very nice and Dave their main thing was the fence. Finish the fence so that they are not looking at cars or fence the property because it ruins their quiet enjoyment of their property. It is not attractive, it is loud on Sundays when they are home. He assured them that Dave would call them and get that taken care of. That wasn't even mentioned when he was talking. That was one of the concerns that she and her husband brought up. She wishes them well but she doesn't believe them anymore. She is kind of fed up. They do the right thing and say the right thing when they want something. When no one is looking, they are parking in the other lots. Two or three Sundays ago they didn't run their truck until after the first service. Maybe it was broken – things happen. That is her opinion. They have been down a long road with these guys. The property her husband pointed to it is her understanding from speaking with the people there that they are going to close on that property in October. She doesn't know if that is true, it could be hearsay. That is what they were told. If they can afford to buy that 5 or 7 acres behind them, you think they would be able to at least fence the property or pave the property.

VICE CHAIRMAN RIVERS stated that what she said right at the end sparked a question from him. If she had her choice, would they have a fence or a paved parking lot? Ms. Platt said she never really thought of that. For her personally because they saw the pictures from her back door, she wants a fence for sure. That is over the dust for her but that is probably not fair to the other people that have other concerns. Their fence

where their horses are, she measured it this morning and from when she walks out to where they barbeque, from their barbeque to that fence is 23 feet. There are cars parked there. The first time they started parking there they thought it was just Easter. Then one day her husband went out to turn off their sprinklers and there were all these people standing there staring at them 23 feet away. That is really close and they park right up to that fence. She thinks they have been pretty fair and nice and understanding. She wishes them well she just feels like they have pushed it with them. **VICE CHAIRMAN RIVERS** asked so she would prefer a fence? Ms. Platt replied yes.

CHAIRMAN CASON said she stated she has been working with the church for a long time. Can she give them an idea when first started, when she first called the City? Ms. Platt said she probably has it in her e-mail. It was a long time ago. It was before they had permission to use the parking lot the first time because when she did it they said they were in the process. They really didn't get into the process until she thinks there were other complaints. They were the only ones that complained when they first started using it. If she remembers correctly, she waited to see if it was just the Easter thing but they just kept using it. That is when she wrote a letter to the Mayor and copied everybody she could find on line. **CHAIRMAN CASON** asked how long was it before the first approval to use the parking lot? Ms. Platt replied she didn't know. She said she knows they didn't have approval because when the City called me the very next day they said they believe it. They were going to check into it and call her back and they believed it was in the process of being approved but they had already been using it for quite a while. **CHAIRMAN CASON** asked if she would guess it was a year or less? Ms. Platt replied maybe 3 months.

KRISTINA GRAKO, 1641 S. EMERSON, thanked the Commission for having her. She showed where she lives on the map. Her biggest concern is that she has the biggest lot in Eden Estates, the biggest backyard. Her backyard is beyond a dust pit. It has on a daily basis a good ½ inch of dust. She has 3 kids and they cannot play out there without changing your clothes. They bought a power washer. They power wash their backyard twice a week. You do not sit on your back patio furniture. You do not lay out on your sun furniture. She has a huge slide for the kids. On a daily basis they are changing their clothes twice a day. She started talking to some of her neighbors about where all the dust was coming from. She started putting two and two together. She didn't want to say anything because she has been a member of Cornerstone for over 6 years and absolutely loves the church. She doesn't care about what is going on, the financial this and that, she just wants the dust taken care of. She bought in that community and that lot strictly so she could have an entertaining lot. She has one section for the dog run, one section for the kids and one section for them. You can't go outside. All 3 of her kids are on allergy medication. She wants to do whatever she has to do but it is just disgusting that she has to lay towels on her back patio furniture or wipe down everything before her kids play. She likes to sit out every morning at 6:00 a.m. and have her coffee before her family gets out. She can't even sit outside without laying sheets and stuff on her back patio. Getting into the financials, you can't tell her Cornerstone doesn't have money. She is a business owner and she has looked into those billboards that are on the 202 and she knows exactly

how much they cost. They have just recently put their second billboard up. She just went to Harkins Theatre this last weekend. They have an advertisement at the beginning of the movie theatre. She has checked into that and she knows how much that costs. It is big bucks. She couldn't afford 10% of that in her business. Anyway, she wants to work with them. She doesn't want to throw stones. She has been through this and she knows what it is like for people to throw stones and that is not what she is looking at. Nothing has changed even in the last month with the laying of the aggregate and watering it down. She has gone to the 8:30 a.m. service and has gone to all 4 services and she can tell them one thing that really bothered her. She went to church this last Sunday and there is nobody out there with a broom. That was absolutely ridiculous when she just heard that. She went to the last 11:30 a.m. service and there is absolutely not one percent of truth that they mandate that you have to park in the front paved parking lot first and then go to the back. That has never been true. She has been there over 6 years. They pull out of their back parking lot – they go right to it. Nobody says this one is full like when you go to a rock concert where it says parking lot is full and you have to go to the overflow parking lot. There are no signs that say overflow parking lot. Yes, there are police officers. They are not off duty. They are police officers that say goes this way. You can go wherever you want. It is a free for all. She normally goes to the 11:55 a.m. church service. It is completely packed. Sometimes she goes to the 10:30 a.m. It is packed all the way to the back – 100% full. She would have been better off walking from her house going to the church. When they say sometimes it is full, no. 90% of the time it is full all the way to the back of the lots. She just wants it paved. She understands these guys living right behind them and getting a fence upgrade but she just wants to live in a backyard that she doesn't have to have her kids writing letters in the dust on their back patio. One of her neighbors that couldn't come tonight. She can't sell her house. It is a dirt pit. The back couple of houses it's all from that Cornerstone parking lot because the back neighborhoods that aren't even paved yet that they are saying is going to be a subdivision that starts after their whole neighborhood. That dust doesn't even collect. It is all from Cornerstone. She hates that she even has to be there but something needs to be done. **CHAIRMAN CASON** asked if the dust she has to wipe off of her furniture black? Ms. Grako said no it is heavy, heavy thick dirt. You can't wipe it off. You can't even squirt it down with a hose, you have to power wash it. There is so much. **CHAIRMAN CASON** said the reason he was asking the question is that when she mentioned about the patio furniture getting so dirty is his mother actually lives in an apartment on the north side of the freeway and she can't go out on her patio because she ends up tracking stuff back into her house. She doesn't go out there because she would have to sweep it a couple of times a day. The reason for that is the freeway amazingly. She didn't have that problem when the freeway wasn't built. It is black and it's this black stuff that sticks to everything. They believe it is because of the rubberized asphalt on the freeway coming up into the atmosphere. That is why he asked what color it was.

PAUL GRAKO, 1641 S. ERMERSON, did not wish to speak but is opposed to this item.

L. DAMORE, 1640 S. JAY PLACE, did not wish to speak but is opposed to this item.

CHAIRMAN CASON asked if there was anybody else in the audience that would like to speak on this matter. There were none. He called Mr. Bull back up to the podium.

ED BULL, BURCH & CRACCHIOLO, said Dave has been with the church 2 years. He can tell you with detail what he as the church's facility manager type person has done for the past 2 years. He cannot and Dave cannot tell you what occurred prior to 2 years ago. He does know that a little over 2 years ago, the church got their first Use Permit which they are asking to extend now. He can tell them with respect to the amount of watering that occurred on the parking lot in the amount of asphalt millings that are in the parking lot going back about 2 years ago when Dave first started in the church, he was watering the parking lot to the tune of approximately 10,000 gallons a week. Now he is watering the parking lot and the 2 streets they talked about to the tune of about 40,000 gallons a week. He has dramatically increased not only the amount of water that goes on the parking lot but also dealing with off-site streets. With respect to the amount of millings, they have already talked about that and 300 yards of millings added and another 100 yards being added up to the north on Dave's watch. With respect to whether or not they have people encouraging people to go into this lot, then this lot, then this lot (he showed on the plan). He said he has an 'x' here and an 'x' there that is intended to direct people down to Maplewood to this person who encourages people to go into this paved lot. The church put a person in the public right of way to encourage them to go in there. If somebody refused to turn in and goes on down, they can encourage and try to change habits and Dave is actively trying to do that. They have a sign here encouraging people. He has photos of them. When they leave to go back out onto Alma School, they have a person staged there which is across the street. As he mentioned earlier, create a break in traffic if it needs to occur for people to come and go. In the context of the church, stepping up what it has been doing there is no question that when the issues came to the church's attention at the first neighborhood meeting from that night forward, the church stepped up what it was doing with watering, with signs, with personnel, with additional millings and with the other kinds of things that they have talked about.

He cannot tell them where the dust in someone's backyard is coming from. He can tell them as Erik indicated that the County said it is not coming from the church. He can tell them that there are vacant properties to the north and to the southeast and dirt roads in the area. He also knows in addition to the activities that we have talked about with the church watering down the parking lot, Dave's church crew waters down the parking lot after the last service so that as it dries out there is a crust on that parking lot which is a technique that the City and others encourage to do. They seal the parking lot off so nobody can be driving through it during the week. That too is 2-month ago kind of sealing off thing that came to their attention. The church has addressed and continues to address the issues that they can deal with and is doing so in a very proactive manner.

With respect to Mr. and Mrs. Platt who talked with them about their property, which is a horse property. They came to the neighborhood meeting and they are absolutely correct and part of what they talked about was a desire for some fencing which Dave was to follow up with them on. Dave did some pricing kinds of things and we've been caught

up in doing this and doing that. Dave will talk with them again. He is unclear as to whether they want some fencing along here or along there north property line or what the best solution is. He understands what they are asking and it is a matter of where does the money get spent and there needs to be some follow-up that will occur there and it will occur. It is a situation where he supposes people think what is the church spending its money on, does it make sense to go through some form of advertising to encourage people to come back to church maybe it is a waste of money, maybe it's a good thing to do to encourage to join up and come back to church. He supposes you can debate that back and forth all day long just like any city or any other business may debate its budget. Recognize again the complications they are dealing with here which is certainly the money to pave the parking lot but as Erik and Kevin earlier talked about, complications of wanting to build some additional buildings in here, off sites as well as the parking lot. It is an incredibly expensive construction cost to pave a parking lot part of which would get torn out. They have proactively worked with the asphalt millings. He thinks if the dust were coming off of the parking lot maybe that dust would be black that they have heard about as opposed to brown coming off vacant properties or unpaved streets. He doesn't know. What he does know though is the County says they are not violating the County's very strict dust requirements. The City's own inspections indicate that. A guy who has been with the church for a couple years and who is very conscientious about his job, has worked very hard through the millings and the signage and the watering to make sure wherever the dust is in the neighborhood that it is not coming off of this church parking lot. Staff agrees with that, the County agrees with that and he doesn't know what beyond that they could go as far as governmental reviews and approvals in that regard. This is an extension of a situation for a church that is part of community activity. There is history on the property. Dave and his crew are working hard to make it a better situation for everybody. Is it something that Dave's job is done, no. He knows it is not done. He is doing it weekly, he is monitoring it and he is keeping the parking lot sealed off between services and he will continue to do so. They believe the circumstances are such that irrespective of whether or not this parking lot will be paved, there still going to be some dust in the area because of the freeway, because of dirt streets, because of vacant lots and it is a situation where they have done everything that City Staff or what the County could recommend be done to make sure that whatever the dust problem is, it is not stemming from this parking lot.

They believe the extension is justified. They agree with Staff's recommendation and their stipulations and they know part of the reason it is a 2-year stipulation as Erik or Kevin indicated, is that Staff and the church remain diligent in monitoring this situation which he is convinced Dave will continue to do. Mr. Bull said with that if they have other questions or other issues you want them to touch on, he will be happy to do so but they request Commission's recommendation in accordance with Staff's recommendation for approval.

VICE CHAIRMAN RIVERS said he is curious to know why it seems to be an all or nothing situation with paving this parking lot. Could the church not pave part of the parking lot? The part that is closest to the neighbors? He is sure that wouldn't cost the

full amount to do. Mr. Bull replied that he can assure them that before this Use Permit Extension application was ever filed, there were a variety of alternatives that were explored by the church and what makes sense in the context of future development plans on to the east and complications associated be it grading and drainage, ownership of the strip along the north side of Maplewood, off-site improvement related costs associates with it and so on. The bottom line answer is 'he would love to be able to yes, sure they can do that' but no they can't do that because there are a number of other costs and complications and the building fund account and Dave can probably elaborate more than he, has essentially been drained and this is a very difficult time for any church including Cornerstone to replenish that building fund. It is a combination of money, complications and a variety of other things, but paving the southern portion of the parking is not something that he can stand there and say will work for the church. **VICE CHAIRMAN RIVERS** said he was just wondering if some money couldn't change hands between the building fund and the advertising fund to maybe make the church more usable for the customers that it already has instead of trying to find new customers and he realizes any answer he would give would be speculation. Mr. Bull said he doesn't know and he couldn't find out tonight. He doesn't know if there is a public service component to church advertising on billboard or in a theatre. He doesn't know what the costs associated with that area but he can assure them in meetings that he has been not only with Dave but others at the church who are associates with church finances, the church is not just throwing money against the wall for the sake of throwing it against the wall. They have various missions and so on that they are attempting to achieve. Mr. Bull said it would have been very easy for them in response to questions he asked similar to theirs to say sure they will do this or sure they will do that. The money isn't there and the complications are extreme so what they are doing is dealing with it in manners that control the situation and eliminate the dust in the eyes of the County and City Staff. **VICE CHAIRMAN RIVERS** said but does he think they have enough money to build this fence on the eastern border? Mr. Bull said it is something that Dave is going to have to go back and talk to more people about it and talk again with the Platt's. They had a very good conversation with them at the first neighborhood meeting. Dave needs to be visiting the field of what kind of fence do they want and where because it is a visual barrier that he believes is being requested and he doesn't think anyone wants a chain link with slats in it but maybe it's one of the plastic rail type fences as opposed to CMU and so on and so forth. It was a very nice discussion and there needs to be follow up done on that. **VICE CHAIRMAN RIVERS** said this discussion was with the Platt's at the February 8 meeting? Mr. Bull replied that at the February 8 meeting the Platt's indicated that with their property they are really at the end of the trolley or the tram turnaround and as he recalls, there was some uncertainty as to whether or not some fencing should be added or perhaps along their north property line. He doesn't think people knew for sure where it should go. He knows that Dave got some pricing and looked at some alternatives and so one and that needs to be taken to the next level. **VICE CHAIRMAN RIVERS** said but there has been no discussion since February 8 with these folks? Mr. Bull replied no.

COMMISSIONER PRIDEMORE asked Mr. Bull if the church has ever considered staggering the service times to allow only the paved lots to be used? **COMMISSIONER PRIDEMORE** said he understands that they stagger them right now but that is leading to obviously these back unpaved lots having to be used, so has the church ever considered staggering the service times even more than what they are staggered now so that only the front paved parking lot is used? Mr. Bull took a minute to talk to Dave Hutcherson. Mr. Bull said he didn't have anybody in the room tonight that is authorized to change the church schedule. He can try to explain again how it works. The first service is at 9:00 a.m to 10:00 a.m. – roughly an hour. Then ½ hour later the second service is at 10:30 a.m. until approximately 11:30 a.m. and then about ½ hour later at 11:55 a.m. is when the third service starts. Whether any additional gap can be put in there or not, he doesn't know. What he is used to is people that like to go church on Sunday morning. He thinks these are fairly typical times for church services. He would anticipate that this lot fills for the 9:00 a.m. service as people are coming for the 10:30 a.m. If they get there early enough, there are still people in this lot so they would need to come over here. He would imagine some of these people are gone so some people for the 10:30 a.m. are parking on the paved lot as well but some can't. By the time they get to the 11:55 a.m. this lot is substantially emptied out so Commissioner he doesn't have the authority to spread anything any wider than it is. He thinks there is logic to what they are doing and maybe there is something more that they could do to encourage people to fill this lot before they go to that lot because they are learning some of these things along the way – but they are trying. **COMMISSIONER PRIDEMORE** said he understands that he doesn't have the power to make a change such as that but does he know if that conversation has ever taken place within the church? Mr. Bull said Dave doesn't know and he doesn't know. He has asked in the past when the services are but he hasn't asked anyone to consider making those spreads. They are hearing about this issue tonight so they are trying to answer his question but he also knows he is not answering his question the way he would like him too. **COMMISSIONER PRIDEMORE** said he is not familiar with the Master Plan for the church. In the future obviously, additional buildings would be constructed on what is now the unpaved parking lot. What he is leading to is once those additional buildings are constructed, where are they going to park? Mr. Bull said if they go back a few years in time when the church was doing conceptual master planning in the area, the conceptual master planning was occurring on the property that the church owns today which is what is outlined in black. There were also discussions and negotiations and contracts underway for the possibility of buying additional property in this area further to the east. He recognizes that if they had buildings they also need to have parking which means additional land. For economic and other complications, that ground to a halt. The acquisition of the additional land for that Master Plan ground to a halt. If there still being discussions, it is his understanding yes but no additional property has been acquired before additional buildings could be built. If parking had to replaced, there would have to be additional land acquired. **COMMISSIONER PRIDEMORE** said his concern is that when additional buildings are constructed, where is that parking going to go and are they going to be pushing out this problem into new pieces of dirt that either the church is acquiring or has acquired or will acquire in the future. **COMMISSIONER PRIDEMORE** said he doesn't need to get in to the church's financials, but would he say

there is a significant amount of money being spent on watering? Mr. Hutcherson came up to the podium and stated their water bill is $130 a month, truck rental $650 a month and they are keeping it wet for less than $12,000 a year. **COMMISSIONER PRIDEMORE** said and that's even with the increased in watering? Mr. Hutcherson said that is 40,000 gallons a Sunday.

COMMISSIONER BARON said he understands the circumstances and financials and everything and can certainly relate to the economy. He is really curious in that it sounds like the parking lot question is it's either paved or it's not and he thinks from his experience that there are opportunities to pave not necessarily a full 4 inch asphalt cross section on a 6" AB sub base that is compacted with conduits and curb and gutter and all of that. His question really is has anybody looked at what it is going to cost to pave this? He would be curious to know. Two, do they know whether they can get away with what he calls Maricopa edge which is just a 2" asphalt that can be rolled and certainly could last for 2 years provided it is only being used on Sundays, which it sounds like that is the case. He understands that there are opportunities for expansion. If they are doing a smaller lift, it is much easier to remove. It certainly could be chipped at that point and used in another parking lot area. He is certain that his concerns were potential drainage issues, which look like their retention area is directly behind the current building which he can understand as well. Surface drainage that may be generated from paving an area which would obviously increase that retention area but maybe there is a give and take there potentially. If they did a small cross-section, they are talking about something that is a little bit easier to remove as well. He is throwing it out there as an idea. He is really curious about an 8-1/2 acre area with a 2" lift, he doesn't see any significant dollars there. Mr. Baron said the estimate Dave received previously for purposes of paving this parking lot included grading and drainage, utilities, street frontages as well because the City's normal requirements would be that they would need to pave the half streets adjacent to it and all that kind of stuff. The pricing was a couple years ago so they could debate whether pricing was more than versus now with some costs being down now but oil costs being up and oil being a big component in asphalt. The bottom line is the cost that was provided as a component of expansion costs that the church was looking at was approximately 3 million dollars. Huge money. It is a cost that if 90% of it were value engineered out, it is still huge money for a church in this economy. I have never been in discussions with Staff about the possibility of a 2" lift and not going through the usual issues with respect to utilities and drainage and those types of things. What they engaged in instead was this request to extend. They had hoped for 3 years, Staff stipulated to 2 and they said fine. Extend this situation hoping the economy stabilizes, hoping that people do stay involved with the church or come back to the church or rejoin the church so that this could be done and done right. The money that is being spent is being spent to control dust and so on but is not being spent on putting down improvements that they all know will be temporary and may or may not create an additional heat island affect and that can generate other issues or challenges with a film of dust on paved parking lot blowing here and elsewhere. They are trying to focus on where to best spend the money which again he knows doesn't answer his question of what would it cost to put down 2" lift because he doesn't have any idea. **COMMISSIONER BARON** said it was

interesting what he said with what the stipulations were from Staff in terms of having to bring it up to code which he didn't understand meant paving half street sections and everything else. Now he understands the 3 million dollar number. He would look at Erik and say have there been considerations or an alternate temporary type of pavement. Mr. Swanson said they hadn't had that conversation and they certainly can but some of those larger issues than do come in to play as to the retention, water runoff, etc. etc. He thinks they can certainly look at it. He doesn't know if it is something that they have the time to do between Commission and Council or if they continue it out. They are certainly open to have that conversation. He doesn't know where it is going to go but they can have it.

KEVIN MAYO, PLANNING MANAGER, stated when it comes to looking at doing temporary things like a 2" overlay over this area, it still would require full engineering for this just to ensure the runoff is sufficient out there. It doesn't matter whether it is 2 or 4 inches it still has the same runoff provisions. When it comes to dust, they are not an authority and they do not have the technology to measure it. They really rely on neighborhood input but the real measuring entity is going to be Maricopa County and it isn't something that they take lightly. There are millions and millions of dollars that are at stake for the State of Arizona when it comes to our air quality and the County has been cracking down on everything so whenever they do get called out, they take it extremely seriously and it isn't that they come out and say they don't really a problem. It is taken seriously and they have to rely on them to tell them is this a violation of Maricopa County or Quality Control. On the 4 instances that they came out and at least 2 of them were during services, they weren't able to find a violation. That is not to say that this does not create dust or that the adjacent properties aren't creating dust. Their tool they have that they have to rely on did not find a violation from it. Working with the church on this Use Permit, they were really struggling to find if 'their tool said it isn't necessary' then are they just throwing money away trying to fix a problem that the people who are in charge of enforcing that problem, say that there isn't. Mr. Mayo said he just wanted to throw that back out there.

COMMISSIONER VEITCH said his question was primarily for Staff although Mr. Bull might be able to help out as well. Following up on Commissioner Pridemore's question which he thought was very interesting, he has spent about 2-1/2 decades on church boards dealing with scheduling issues and money issues and all the rest of it and he can tell them even for a small church, 90 minutes between services isn't enough. Two hours is more the norm and he thinks for a place this size it might even need to be longer. He was coming at it from a slightly different perspective and trying to figure it out for himself why this church appears to be so under parked in terms of its permanent parking spaces. If he did his math right, there are 506 paved spaces. Is he in a position to walk them through how this property grades out in terms of code with respect to required off street parking.

MR. MAYO said when they look at parking for a church, churches per code are parked one space for every 4 seats and they rely solely on that number. When code was written, churches were not what they are today in terms of all the other activities that occur on

church. Additionally, when code was written it really wasn't accounting for back to back services. It really was every church had one service on Sunday, you went to it and then they went home. They are starting to find that churches of this size, even though there is ½ hour separation, back to back services have that cross parking and with the people that are waiting to leave and people that are arriving, they are starting to find overload issues; but from a code standpoint they don't have anything to hang their hat on and say you guys are in violation of the code. He is not sure how many seats are in there. If it is 1400, then they have more than enough parking per code. Practicality wise, obviously it's not. When they do start parking onto additional areas like they are doing now, they either have to pave it or seek authority through Commission and ultimately Council for approval to park on something that isn't approved. Mr. Bull said the number that was mentioned from the back is very close. Dave believes there are 1382 seats – whether it's 1382 or 1400 they are in the ballpark. Simply the math on the 1382 would be 345 code required spaces. There are over 500 on the paved lot. They know demand is higher than that and that is why the Use Permit was approved a couple years ago and that is why they believe it is justified for an extension today under the terms that they are talking about.

COMMISSIONER VEITCH stated he does believe it is worth some consideration to try to figure out how those 506 paved spaces can do a better job of serving the demand. Part of that answer might be in the service schedule and other practices in terms of the use of the property through the morning and day on Sunday.

CHAIRMAN CASON said the plan to pave is after the church has decided to create a building fund to do so. Mr. Bull said the church has a building fund. The building fund has been depleted. Church is hopeful of restoring the building fund. The building fund they hope would be used not only to provide additional paved parking but do so in conjunction with building and additional building or buildings. They also recognize that in the interim they need to maintain the parking lot so it is not the source of dust in the area. It is not to create a new fund, they have a fund. It is just that there aren't funds in the fund to use. **CHAIRMAN CASON** said the intent of getting the variance was to give them time to pave the parking lot. He may be wrong with that and he apologizes if that presumption is wrong. They know that in the last 2 years the economy has been in a state that may have them raid that particular fund like so many other funds are being raided every place else to take care of other issues besides the paving. He said they can presume than if that is the case and as he said before until the economy picks up, they wouldn't be able to pave that lot. He thinks he's stating what Mr. Bull had already stated. Mr. Bull was not involved in the original Use Permit a couple of years ago and Dave wasn't either. He had not previously read anything and had not previously heard anything about the purpose of the original Use Permit. It was simply to provide an opportunity to then go out and fully pave the parking. I thought it was done in the context of the church having time to develop its then very conceptual master plan and proceed with its master plan, which would include the paved parking lot. He wasn't personally involved so he can't tell him he is wrong, he can only tell him that he had not heard before that the sole purpose of the 2 years was to buy a little time and then go out and pave the parking lot and nothing else. He knows when he was first asked to take a

look at this and when they first met Staff, they explored different possibilities and alternatives and what's real and what's not real in this economy and ultimately what was decided the best thing to do was file the application. Through the neighborhood processes upped the ante on additional water and other kinds of things that they talked about. **CHAIRMAN CASON** asked if he would be willing to stipulate to add a fence on the west property line of the Platt property? And he means a cinder block wall by that stipulation because that is what is halfway there – a cinder block wall. Mr. Swanson said he doesn't know if this poses a problem for them and he would probably have to direct it to the City Attorney but in a sense it almost becomes an issue between 2 private parties and they are now the enforcing agency and he doesn't know that is something they can get into. **CHAIRMAN CASON** said they had the same issue when the lady spoke when they were approving the hearing about the tower occurring there. They could negotiate with one another but they couldn't stipulate that. He may be right. He doesn't know. He asked the Asst. City Attorney,

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated if they are talking about adding an additional condition to the granting of the Use Permit, it is possible. If they are saying the applicant has to work out some private deal with the adjacent property owner that is not a very enforceable type of condition. Either they impose the condition or they don't. He is reluctant to impose that type of condition however unless the applicant is willing to stipulate to it. He doesn't think it is going to be an issue of not being able to do it if they want to.

COMMISSIONER VEITCH said as he recalls when they were debating the Use Permit for the monopalm, the notion of a fence did come up but it had to do more with the parking lot than it did with the monopalm. They had a problem with establishing any sort of nexus between the applicant and that fake palm tree. He thinks that problem doesn't exist so much when they were talking about screening the parking lot.

KEVIN MAYO, PLANNING MANAGER, stated when it comes to ultimate development requirements, this is a non-residential land use and their code requires that non-residential use is when they abut residential land uses provide a land use buffer and that includes a 6-foot block wall, a 10-foot landscape strip, trees and those types of things for buffering requirements. When it comes to this property because they have fully improved it and they are asking to use it in a manner that would be used as fully improved but they are just asking to delay those improvements. He thinks they are probably o.k. placing a stip. on here for that wall seeing as it is used as a mitigation measure for their requested use of that property just as Commissioner Veitch explained. That was a tough stretch with the monopalm but it is very germane to this discussion tonight.

MR. BULL, BURCH & CRACCHIOLO, said the reason he wanted to talk with Mr. and Mrs. Platt was to refresh his memory some from a couple of months ago. He showed the Platt's property. There is a vinyl fence along the Platt's western property line running

North from Maplewood up to the north property. There is an existing vinyl fence because he believes the Platt's desire is something that is a visual barrier. That is what it amounts to. There is an existing vinyl fence along the Platt's western property line. The discussion that we had a couple months ago and needs to be turned up a notch now is to either extend that vinyl fence north for some number of feet that the Platt's and Dave need to work out or the possibility of extending it for a few feet in an east/west direction on the Platt's property across the Platt's north property line. What they are really trying to do is provide a visual barrier between their home and this parking lot; in particular between their home and the tram turn around. Adding some fencing going north would do that or adding some fencing going east would do that and he would encourage that what happens is that Dave and the Platt's meet in the field and simply run it a few feet this way or run it a few feet that way. **CHAIRMAN CASON** said if he is hearing him correctly there is a solid non-view through fence between their north property line and their south property line on Maplewood; for that expanse of their fence they cannot see the parking lot. Mr. Bull replied that is his understanding that if they were standing in their yard looking directly west, they would not see the parking lot. It is when they are standing in their house or yard looking to the northwest that they see the parking lot. **CHAIRMAN CASON** said he doesn't know that he would ask him to stipulate that. Certainly if he wanted to talk to them about it and try to help them out he could, but the fence is not on their property line. It would be the Platt's responsibility if they wanted to not see it that they put a fence on theirs. He doesn't know if he would have him put a fence on theirs especially if they are purchasing the property beside it because he is assuming that at that time that they would fence the Platt's property off from their new property or something like that which would be for another time. What about offsetting the parking in this lot so they didn't have to put up a fence but perhaps pull the cars back. He asked Mr. Bull to show his parking drawing. Perhaps possibly not have it so that people back out up against the property line where they can only head in and there is a buffer in so that they aren't looking at cars all the time. Since this parking really isn't scientifically laid out, he is sure they could give up about 14 parking spots in order to give them a buffer and not force people to drive around the property line. In other words, put in cars head in and leave a space. Mr. Bull asked if he was talking about this row of parking (he pointed it out on the parking drawing). **CHAIRMAN CASON** replied yes. Mr. Bull said so not allowing people to park within this area which he supposed was within 40 feet or so of the east property line. **CHAIRMAN CASON** said basically he would add 2 parking spots on the north side of that and close off the parking so that when the tram turned around that would be it. Mr. Bull said what Dave proposed and authorized him to say and add as a stipulation is that there would be no parking allowed within 50 feet of this entire east property line. He said the Chairman's focus was on the row north of the tram turn around but be that as it may so he can keep it simple on everybody's perspective, no parking would be allowed (he showed where on the drawing map). He can't tell them what he cross-hatched to scale but in that area to a width of 50 feet. **CHAIRMAN CASON** said what he is concerned about is in Lot B; by not having 50 feet means they are not moving cars through that area so that there would be no parking that would have to back into that 50 feet area. Mr. Bull said what he is saying is

no parking and no maneuvering is what it amounts to. **CHAIRMAN CASON** replied yes. The south fence is fully fenced so he doesn't know that is necessary down there.

CHAIRMAN CASON closed the floor and for further discussion on the dais.

CHAIRMAN CASON said he is more concerned that they aren't making a priority of this. He thinks the church in their original application PAD and their parking that they have an obligation to make that parking work. If they knew or they suspected that the parking wasn't going to work, then they should have asked for more parking and should have put down more paving as there original part of their application. He can appreciate that the church wants to expand services and those types of things but he knows if they build a new building that will come with parking requirements, and that they will have to pave more unless the new building falls under the square footage of the parking they already have. Staff will know at that point that they don't have enough parking as it is right now. Where he is leading to is to understand that over the course of an extension if it is so given, is that they have time to make a decision as to what they are going to do about their parking – not that you just continue to use the parking lot until sometime in the future where the economy is built up and they choose to spend money on an improvement that really doesn't improve your property and that is parking. It is more of a requirement than an improvement. On the other hand, maybe 2 years isn't enough time to put together some type of building fund to do their parking. Perhaps it is enough time to be able to obtain a loan or something like that in order finance their parking over a longer period of time so that their 3 million dollars or whatever it would take is not a hit right today. He would also like to add that another alternative would be to understand what parking they have and how to manage it with the times of their services as previously mentioned. He thinks that having said those 3 possible options, he would like to see if this extension is done that after the 2 years they would have already put in place a plan. A plan that says that they are either going to pave or they have paved or they have changed their hours so that nobody has to use that lot any more. He knows that at this juncture they can't just say do that because that is part of the stipulation or any of those other things. He does think that they need to give them some time for that. The church has a responsibility to solve this problem and just continuing to use lots and throwing stuff over the top of it, is not a solution. He doesn't know that paving is necessarily the solution that it needs to be. He is a big advocate for less paving and his ideal thing would just be to utilize the parking they do have in a fashion to where other parking doesn't have to be used. He would hope that if it gets approved, then he knows they can't stipulate that a decision is made by then but of course they will still be there and hopefully remember better than he did last time. He doesn't want to open up the floor to hear from him whether they would agree or not because it is more or less just his feeling that they have taken responsibility and they have found a solution to the problem so that they don't even have to come back in 2 years. He is hoping that is what he can get to.

VICE CHAIRMAN RIVERS stated he agrees with everything that was just said. He is also concerned that if the church is actively pursuing a property that is north of where the Platt's live, that they are looking to further expand their unpaved parking lot and that is

his concern. He doesn't know if that is true – he is just concerned that is what they are doing so that when they put their new buildings into the existing parking lots that they will have somewhere else to park their cars. Will that be paved or will it not, he doesn't know. It is just a concern to him and they have discussed more than once about how they don't know where dust comes from and there is too much open land here to decide which part of it the dust is coming from. He has heard neighbors talking about traffic noise, car noise and lack of privacy in their own yard because they can see crowds of people from the church 20 feet away from them while they are trying to enjoy their land. He thinks a fence is very important and some kind of noise abatement that could be built into the fence that would help as well. If it takes 2 years to get these things taken care of, than that is fine. He is also torn because he thinks that despite the parking code in Chandler there just aren't enough parking spaces paved on this property.

CHAIRMAN CASON had a question for Staff. He said they have heard the amount of seats in the church and they know how much parking is in the paved lot. How much more square footage could they build on this property of building and not have to expand their lot? Mr. Swanson said that was a good question but he didn't know if it is enough of a building expansion to be beneficial to the church. In essence they have 500 some odd spaces right now to code. They only need 400 some odd but he doesn't know if that is enough square footage to even warrant them to want to build. He said the short answer is that he doesn't know. He doesn't think it is anything that is large enough that would be beneficial to the church. **CHAIRMAN CASON** said presuming that they would be building classrooms or something like that it would get parked at a different rate than the church does. **KEVIN MAYO, PLANNING MANAGER,** stated that unless they were expanding their service area and going from 1400 seats and increasing that number that triggers per code a required increase in the amount of parking provided. If they have classroom space, open meeting space and multi-use space that isn't used during traditional services, it does not require additional parking. That may be an archaic approach to parking a church because again the parking code was written at a time when the concept of these larger churches that are more of a lifestyle church than just simply a Sunday morning church, the code didn't contemplate those types of churches. Their entire parking code is actually on their radar to be updated. Church will probably be one of those things but as it sits today, if they added anything other than increasing the service area, it would not require additional parking. **CHAIRMAN CASON** asked how many churches have to use extra parking in the City of Chandler? He can't think of another one that has come through. We have probably 4 or 5 mega churches in Chandler. Mr. Mayo said there is one as you head further south on Alma School that as there congregation has grown they have added more asphalt but their Master Plans were a little further developed at the time they came in for zoning. In the end if they end up purchasing this property north of that plat it is not zoned for a church currently. They would have to come in and zone it and then tie it back in through a new PDP and tie it to this piece. They would have to bring in what that new Master Plan is going to look like. They can't just purchase it and start using it. The other larger churches, and he thought there was one on Arizona Ave. that is a fairly healthy sized church, he didn't think any of them are using overflow parking. He can't think of any off the top of his head - at least

ones that aren't using the Use Permit for it. **CHAIRMAN CASON** said it would be safe to say that this church using temporary parking may be an anomaly with churches of its kind. Mr. Mayo said that is probably accurate. Then to the applicant that shows even more effort that they should be taking to try close that anomaly and make themselves more in-line with churches that have similar amount of parishioners and members and programs and those types of things.

COMMISSIONER PRIDEMORE said he wanted to comment on the other pieces of open dirt that they have been talking about and considering. The reality is that those pieces of property have owners as well and those owners are responsible for dust control. Even in our climate creating that crust is really what is important and as long as there is no vehicular traffic on those pieces, they don't kick up dust. Initially, when you see the aerial and you are wondering how you can tell where this dust is coming from, in his opinion the fact that there is no traffic on those other pieces that even with the amount of rainfall that they have had this year, there is a crust that has been formed there and it is not generating any dust. That is his opinion. He is not convinced that the church has looked at other parking management solutions.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **VICE CHAIRMAN RIVERS** to recommend denial of ZUP10-0054 CORNERSTONE CHRISTIAN FELLOWSHIP.

COMMISSIONER VEITCH asked if there were any thoughts that would potentially warrant a continuance to see whether the church can come back to them with a modified application. It might involve some more screening and using less of the unimproved parking lot through better management of parking uses, etc.

CHAIRMAN CASON said he would have to agree that certainly the applicant coming back with a plan would certainly be a lot more palatable than just saying carte blanch go forth for another 2 years. It would be nice to understand that they have had an opportunity during the continuance to come up with an actual plan on how they are going to solve the problem and they need 2 years to do it. Something like that they might be a little more comfortable approving it considering the fact of the financing part of it that if you needed a parking lot that bad you can certainly finance it. Unless the motion maker and the second are willing to modify their motion then they have to put a vote on it. Then he would have to make a motion for the amendment and a second on that.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, asked isn't what Commissioner Veitch proposing is a continuance? **CHAIRMAN CASON** said yes he is proposing a continuance but they would have to vote on the denial first. Mr. Brockman said yes unless the original motion is withdrawn.

COMMISSIONER PRIDEMORE said he is not withdrawing his motion. A vote was taken and the vote was 3 in favor and 3 against. The motion failed.

COMMISSIONER VEITCH said maybe they need a little discussion as to what might make sense in terms of a continuance or whether or not that has to be a new application if they modify their request.

KEVIN MAYO said they can go ahead in this public hearing process as long as it is continued and held through that process. He would urge that if they are looking at a continuance and because there are so many parties involved with decisions, they really should be looking at a two month continuance so that they can go back and figure out what they think can work and maybe develop a plan. It is probably best to have one last neighborhood meeting so that the neighbors can at least be presented with what that plan is going to be prior coming to the next hearing and maybe be a partner in that discussion. If that is the case, he would suggest a continuance to the July 6 Planning Commission hearing.

MOVED BY COMMISSIONER VEITCH, seconded by **COMMISSIONER FLANDERS** to continue ZUP10-0054 CORNERSTONE CHRISTIAN FELLOWSHIP to the July 6, 2011 Planning Commission Hearing. The item passed 6-0 (Commissioner Cunningham was absent).

7. DIRECTOR'S REPORT

Mr. Mayo said he had nothing to report.

COMMISSIONER FLANDERS stated that this would be his last meeting with the Planning Commission. When he first came on Planning Commission it was Hank Pluster, Jeff Kurt, Bob Weworski and now Kevin Mayo. He told Kevin that he has filled those shoes superbly. For all of the meetings that he has attended over this period of time with Kevin, Erik, Jodie, Bill and all of the other planners, they have taught him something new every meeting. He thinks he has only missed 2 or 3 meetings over 11 years. It has been quite an education. He thanked the clerks Joyce and Kim for everything and for keeping everything organized when he was on Planning Commission and when he was Chairman. He thanked Glenn Brockman, the Asst. City Attorney for keeping him and the Commission on the straight and narrow. To the current Planning Commission he said this is probably one of the better Commission's he has seen in a long time and he remembers when he first came on - Mike Perry, Tom Padilla, Jeanette Polvani, Diane Ortiz Parsons and Rick Heumann were an exceptional group of people. This is an exceptional group of people here. He said he would like to challenge the design professionals to push the limit and think out of the box for quality materials and design and he also challenges the rest of the Planning Commission. He thanked them for everything.

CHAIRMAN CASON thanked him and said it was amazing how he can remember all of those names. He said it has been tremendous working with him

and thanked him for the leadership he has shown and the effort he has provided in helping them all to do a better job. They will certainly miss him.

COMMISSIONER PRIDEMORE said in the 10 years that he has known him he honestly can't imagine a Planning and Zoning Commission without him being there. He has done a commendable job and he is sorry to see that come to an end.

VICE CHAIRMAN RIVERS said from the time that he started coming to talk to the Planning and Zoning Commission as a neighborhood activist in Chandler, he was seated on the dais and he was always attentive in listening to what they had to say. Sometimes they didn't agree but that is the way life is. He thanked him for being there and his expertise.

8. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is May 18, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

9. ADJOURNMENT

The meeting was adjourned at 7:52 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 18, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:43 p.m.

2. Pledge of Allegiance led by Commissioner Cunningham.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Absent and Excused:

   Commissioner Andrew Baron

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Mr. David de la Torre, Principal Planner
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the minutes of the May 4, 2011 Planning Commission Hearing. The motion passed 5-0 with one abstention. (Commissioner Cunningham and Commissioner Donaldson were not present at this meeting.)

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item A was pulled for action.

7. Use Permit approval does not constitute Final Development Plan approval such as building plan review and permits for the residential conversion; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
8. A separate Use Permit shall be filed for review and approval of building and/or freestanding monument signage.

E. ZONING CASE ZCA11-0001, CITY OF CHANDLER / TEMPORARY SIGNAGE

Approved.
City initiative to amend Chapter 39 (Sign Code) of the Chandler City Code, by amending Section 39-10 (Temporary Signs), amending/adding language within this section pertaining to certain types of temporary signage.

F. ZONING CASE ZCA11-0002, CITY OF CHANDLER / SOLAR ENERGY SYSTEMS

Approved.
City initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by adding section 35-2210 by establishing definitions and standards for solar energy systems.

G. ZONING CASE ZCA11-0003, CITY OF CHANDLER / TABLE OF PERMITTED USES

Approved.
City initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by amending Sections 35-2100 pertaining to the table of permitted uses for nonresidential districts.

CHAIRMAN CASON said he was going to vote No on Item E, the Temporary Signage. His perspective is that until they get a handle on the management of controlling the signs in so far as getting them down when they are supposed to be down and until they can manage that, he doesn't think there is any reason to make permanent the temporary signage items.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Baron was absent).

now that we have already added family recreational. The economy at this time certainly wouldn't encourage the big hazardous materials, big trucking types of uses. That is not what they are seeing here. That is not how this is developing as they go forward. It is going to be a different type of industrial business park. Unique uses should be able to fit right in with those. The ones that might raise eyebrows are probably the church and the adult education, maybe because of the traffic volumes and parking that they might generate. Adult education they have approved on some other sites near here because it has been found that usually comes later at night when a lot of the other businesses are closed. There is not a request however for shared parking consideration of any kind. They still have to meet their strict code parking requirements but as they know sometimes there is quite a heavy influx beyond the code requirements for these types of uses. Adult Education and church falls in the same category. Church has most of their traffic on the weekends when a lot of these businesses are closed but they still will be held by the code parking requirements. At this point there is quite a long list of uses and he would be glad to discuss any of them. Staff does recommend approval of this request and he said he would be glad to answer any questions.

CHAIRMAN CASON asked Mr. Dermody that on the list of requested uses can he tell him which ones are not allowed now? Anything that goes in there is governed by how many parking spaces it uses and how many parking spaces are available. Mr. Dermody said that is correct. There is no request for special parking regulations. It will still be by City Code. **CHAIRMAN CASON** said so if there's 12 tenants that move in and they fill these categories that are on this list, once they run out of parking they are done unless they come in and do something else to either increase their parking or ask a variance for their parking or some other type of City permitted item. Mr. Dermody replied that is correct and because of that there still will need to be some amount of industrial warehouse type of tenants here because of the parking requirements. They do have the ability to add some spaces to this park, stripe in the back if they don't need the service doors and truck docks in the back. They could stripe some more but it still won't take them to full office parking for example. **CHAIRMAN CASON** said that now that is cleared up could he tell him which ones are not allowed by right. Mr. Dermody replied a lot of them. Some of these it depends how they would be laid out. Probably all most all of them are not allowed by right, right now. There are some that are in the gray area. They mentioned public assembly throughout the entire project. Some of these are just clarification. That is one of them. Certain kinds of Public Assembly are allowed right now. Gymnastics, Yoga and Pilates would be allowed right now. They allowed them to keep that on the list just as a matter of clarification. There are some others that are a gray area. There are certain kinds of carpet stores or furniture stores that might be allowed to go into today. If they had primarily a warehousing element and most of their floor area was dedicated to warehousing and just a certain amount was dedicated to retail showroom, they could go in today. What this zoning change would allow would be a carpet store where the entire thing was a showroom or 90% of it was a showroom as long as they have the parking to support that. They traditionally have interpreted retail showroom as not being your entire floor plan. This broadens the types and it would no longer be just certain ones on that list of retail showroom like a furniture store. It would

typically goes into a retail center. They want to be in a retail center where they get the foot traffic of all the other retail things and there is a reason why those guys are just outside of the Sears and the Macy's and such. They need that type of foot traffic to stay in business. That type of user if they located in here wouldn't really be a problem because they would be out in about 3 months and they would be talking about somebody else. The guy that would want to go in here is the one who either makes custom luggage, maybe he primarily repairs it and those types of manufacturing/repair services aren't generally conducive to a mall. That is the type of use that they seeing going in. Unfortunately, when you try to create these lists and you list one use, that use like a gymnasium, that could be the Tumbleweed Rec. Center or it could be the 1500 square foot combat type training facility. It will be a case by case with each one. He does think that how this is designed and the type of traffic it is going to bring, it is self-regulating in the types of uses that they would start to get in there. **CHAIRMAN CASON** said so what he is saying is that the market will decide that the luggage repair if they are just doing repairs or they are just selling basic luggage and they don't have any need for a warehouse, they will always go to the retail unless of course it is cheaper to go here than it would be to go the retail and they figure that they could conduct a business here. Mr. Mayo said correct with the understanding that a luggage repair or luggage sales place that goes in here because it is cheap, he hopes their advertising budget is millions because that is the only way they are going to get the people to know they are there versus being right next to Sears. **CHAIRMAN CASON** said the general service uses would be allowed if the warehousing wasn't tied with the showroom retail. Those uses would be allowed by right generally speaking. In other words, you can have a locksmith there because they don't have a requirement for a warehouse as long as their parking is enough for that retail – a locksmith could go there because they have no longer tied them to having a warehouse. Mr. Mayo replied that was correct. Then the next one, gymnastics, would be the same way and that is because they already have gymnastics out there. Mr. Dermody, Sr. City Planner, said that gymnastics is probably allowed already. **CHAIRMAN CASON** said so adult education, how would that infer? Would that be related to the same thing as the jump that they only figure they are only going to be there at night so the parking is allowed to overlap. Mr. Dermody said they have to meet code for parking. For adult education it is the same as office parking; 1 space per 200 square feet. There would be consideration of the fact that their traffic is at night, but it makes them feel better knowing that their spikes are at night. It reduces the chance of conflict or reduces the risk of their code being overly conservative. **CHAIRMAN CASON** said now when they get to vehicles sales (indoor display only) those are uses that are more likely to use some type of warehouse space. If they took away the warehouse space requirement, they would be permitted by right. Mr. Dermody said the vehicle sales they have seen at some other places and he is thinking of near Stellar Airport where there is a couple, those don't really have much warehousing. The whole thing tends to be an indoor showroom. It would not be allowed by current zoning. They would have to come and get that and then have to park, probably a retail zoning of 1 per 250. **CHAIRMAN CASON** said automotive accessories and insulation falls under the same type of thing. They see those all the time where somebody just wants to add mufflers, window coatings or something like that. Mr. Dermody said a lot of customization is what they see. **CHAIRMAN**

every tenant that comes in they go through the 'sorry'. It is much easier for him to have something that is much clearer and this list was that derivative. **CHAIRMAN CASON** said this really only a particularity associated with property that is zoned in the Chandler Airpark Business Plan. Correct? Mr. Mayo said there are very few Business Parks in Chandler that expanded beyond what I-1, I-2 is. If you look at basic I-1, general office isn't even allowed by right in I-1 and so when they started doing expanding what our Business Parks could be it started out with an I-1 plus office. Those kind of went along for a while and are still appropriate in certain areas of the city. As they look toward Chandler Airport Center, you really had a transition from big business parks that the airport will eventually be transitioning to big retail hub, regional commercial shopping center which Crossroads Towne Center was. Chandler Airport Center really became that transition from traditional heavy C-3 type retail and Business Park and it was that hybrid that knew that it was going to have some of that back of house type things that are going to be the more business park related things – it still had the germane frontage. It was right adjacent to Crossroads Towne Center is very appropriate for consideration of showroom type users that still want to be able to manufacture on site, warehouse on site, where they couldn't do that type of stuff immediately in Crossroads. There are a few other Business Parks in Chandler that have added that showroom concept to it but Chandler Airport Center is probably the best example of an attempt to create that transition between 2 different areas.

CHAIRMAN CASON asked so what process does this present to the city in proliferating its design through all of our I-1 or I-2? Mr. Mayo said I-2 uses are not permitted here. Mr. Mayo said it is a PAD for a bunch of different things and the PDP that they get approved after the Master Plan was done, more specifically identified it usually on the hook of how much parking is provided. **CHAIRMAN CASON** said so the items they are looking to approve tonight and the subsequent list that is needed to have it happen, they have limitations to having this proliferate through the rest of the town. Mr. Dermody said yes, this is not a zoning code amendment it is a rezoning specific to Red Rock so it is only going to be this 14-acre parcel where it implies. Mr. Mayo said in terms of establishing precedent there are very few other places in Chandler that have the characteristics that this stretch of Germann in Chandler Airport Center have. **CHAIRMAN CASON** said he thinks that it has already been shown that if they grant it to Red Rock then they are certainly going to get it in the properties that are adjacent to Red Rock as they have seen other things happen the same way. Haven't they? Mr. Mayo said they could if they could still make the finding that the reasons for approving it here if they are the same there, there would be no reason not to do that on adjacent properties. **CHAIRMAN CASON** asked if they have thought about a way to somewhat compartmentalize the list and maybe make it not so specific where they can have something like home improvement, retail showroom with 4 or 5 items as an example rather than a list of every possible retail showroom thing they can think of. Mr. Dermody said they could do that. They left it as being a bit of a longer list as long as nothing was objectionable to Staff to allow the applicants a higher comfort level that everything they wanted that they agreed to was going to be o.k. **CHAIRMAN CASON** asked him how he felt about that. Mr. Dermody said it is o.k. as long as they can enforce it.

CHAIRMAN CASON asked so trying to compact the uses on their list is actually not preferable to them than leaving it in the condition it is in - because it allows their sales representatives to do a better job? Mr. Cate said that would be his initial reaction. They haven't had a list so they have all struggled with not having that clarity and they have all wanted that clarity. He said the list would be preferable. **CHAIRMAN CASON** said now speaking specifically some of the items on his list he is sure there would be some items on the list that he would be willing to remove from the list? He was thinking of church and that is basically it. He said other people on the dais might have some other issues with that. He doesn't know if he can think of a valid reason not to have church other than the fact that churches can pretty much go wherever they want anyway and unless there is some compelling reason to allow them to go in, they really have to let them go where they want. He would prefer to have churches when they come into an unusual area to have come before the dais and not be allowed by right. He thinks there are a lot of issues at least from a personal perspective they have a lot of vacant square footage retail in Chandler. He thinks churches would make a great addition to some of those locations and there wouldn't be a parking issue associated with them and he knows how some churches prefer to be in a new environment and they feel that perhaps they can get a more refreshed group of folks or something like that attending if they are in a new environment. Actually, the design of Red Rock is very conducive to that kind of feeling and spiritual feeling in the way that it is designed. He could see why a church would want to go there but his concern is always how they balance what they already have in inventory and them trying to create more inventories for those people who perhaps should be using this other inventory. Church is a perfect example of always wanting to make sure that they come before them so they could explain their rationale than wanting to go here rather than there which is a good place for them to be. Having said that his issue has always been lists. He would rather be more general and take away the encumbrance which was associating the warehouse with the retail as was part of the original plan. Disassociating those and to see if they could get to the same goal. He can see both from a Staff position that they don't want to be without a list and because the applicant presented a list he is reasonably assured that the he doesn't want to give up on the list either. Is there any way that they can shore it up to make it not so specific? He thinks they give themselves more flexibility if they aren't specific. There is risk with that because it also makes some things that might come in to fit that generality where it might not really fit the generality, but that gives them time to have more discussion and try to evaluate it rather than making those things automatic. Does that argument sit well with him?

Mr. Cate said given a choice he likes having a list. It is more detailed because then they know they can get it and he doesn't like having it vague so they have to approach the City and go back and forth because again time kills deals. If they can't tell them yes, they can get them in within 90 days, then they lose the tenant. They have seen that in the process here for the last few years. His first choice would be to have a list; his second choice would probably to just eliminate the warehouse requirement with the retail because then they are automatically in and then they just have to address the few categories that never did have the warehouse component. His third choice out of the three would be to have a

finite amount of these places along major intersections and to put things in that could be other places, you could have an art gallery mostly anywhere; he just doesn't see the reasoning behind taking up space in one of these commercial centers for these places. Mr. Cate said he wanted to defer to Kevin and Bill and see what their thoughts are on the revenue generation. **VICE CHAIRMAN RIVERS** asked him if he would object to having those 3 items taken off this list. Mr. Cate said he would like to see the art studio and the art gallery remain. Ideally, he would like to see the church. If one was going to get struck, he would say the church. They have had churches approach them and typically the ones that have approached them have been smaller churches and they have not ended up going into their park for a couple reasons. One has been costs. A small church like that really is a start-up church and really doesn't have a huge budget. Their floor plates don't work for a large church so it is more of a small church that starts up with a much smaller congregation. He doesn't see churches being incompatible from a parking standpoint because they do see churches on Sundays and maybe Saturday nights. **VICE CHAIRMAN RIVERS** said he should have been here 2 weeks ago. They had a church issue with parking 2 weeks ago in front of them and it is a problem.

KEVIN MAYO stated for a point of clarification with the applicant, with removing the concept of church off of this list, it doesn't make it an allowed by right use today. They have done 2 churches in the last 6 months that went into Business Parks that they did through rezoning. They can also do them through Use Permits. What he thinks Commission is saying is that they are not comfortable seeing a church and having no second look at it, they are saying that when a church does want to come in here that it would need to go through the processing and get a case by case evaluation to make sure that its size and parking are compatible with this park and it isn't the size of the church that would be deemed incompatible. It isn't a striking of the use entirely where they never think about it again. He believes they are saying if it is a church, bring it back through some zoning action so it is a case by case evaluation of that. In terms of looking at this as revenue generating property, it is a Business Park and it is not Crossroads Towne Center. The commercial centers are truly intended as revenue generating land. The Business Parks are actually seen as kind of a hybrid of that and Chris can get up there and speak much more eloquently than he ever will, but the Business Parks are really intended to provide those quality jobs that get that income that can be then spent and support our revenue generating parcels. This one being kind of that hybrid allows for portions of it to be income generating but as it is built today half of it has to be either manufacturing or warehousing. It could be filled up, 50% or all of it if they wanted to with warehouse and distribution. The only thing they are going to get is a lease tax from the rental tax of it. They wouldn't get any other monetary thing other than them bringing that here, sitting on it, breaking it down into smaller pieces and then sending it out the door to somebody else. This parcel isn't from a city's economic viability a revenue generating parcel, it is that bank of quality jobs parcel that they rely on heavily to support the revenue generating parcels. When they look at this list, their goal is to make sure that these that go in there are quality jobs and aren't things that then detract from the other quality jobs that are allowed by right today from going in there as well. **VICE CHAIRMAN RIVERS** said the other half of that being that they are back to the

warehouse component and it is a substantial warehouse component, there are a lot that are allowed by right today but this request is again trying to characterize the uses they intend to bring into this park but also remove that warehouse requirement.

CHAIRMAN CASON stated that when this first came through his biggest concern was removing the property that would produce either jobs or tax revenue for businesses that don't product quality jobs and don't produce transaction privilege taxes. It is encouraging that while they might not be bringing really high end income jobs they are bringing businesses that produce transaction privilege taxes. He thinks that is very encouraging because they are transitioning the square footage – a balance between high-quality jobs and producing tax revenue is kind of a fine balance. He doesn't think of a situation where they would have both at the same time. While the property was originally intended to produce high quality jobs and then some tax revenue at least they are moving along and trying to look at doing one or the other. What he would like to propose for the dais is perhaps removing church and the gymnastic and all that stuff is already allowed there. Hopefully, they will get more people to come in that want to lease their square footage that want to produces taxes as well. They can only hope for that.

CHRIS MACKAY, CITY OF CHANDLER ECONOMIC DEVELOPMENT DIRECTOR, thanked the Chairman for inviting her up. She stated her relationship with Red Rock goes back quite a number of years. She thinks 1998 was when they first met and started brain storming and moving this forward. A couple of questions came up tonight that she thinks she can provide some clarity on. When they look at tax implications for a number of the industrial or office users that exist in the City, some of them truly do not have a tax implication at all. All though she is not privy to their books, when they are able to offer a competitive advantage to locate them in Arizona and they exist in the form of tax credits, often they have to turn that advantage away because they don't have a tax implication. It is not a benefit for them to locate necessarily. Some of them you would think that as you do corporate income tax returns and things like that there are a number of service providers and industrial companies that exist that do not have a tax implication. Again, she knows this through a competitive advantage program that they try to offer to them. Also, another question came up that was very thought provoking; how do they look at this use and not just say now everyone in that area and the next applicant that comes up, how can I get up in all good consciousness and say they don't think that is a good fit and why is this one or Allred to east singled out. If you look at this building, it's Crossroads Towne Center, Allred's 188,000 square foot industrial building and then 134,000 square feet of Red Rock and then Pannatoni's 90,000 square feet of office and then we start with Noah's Center and all those types of users. Red Rock has always been contemplated by Economic Development as that non-traditional use. It's got store frontage, it's got a lot of architectural features that exist that typically aren't in an industrial building. It has that visibility right along Germann Road. She likens it certainly not in its classical architecture but more as they look at Westech and the Sun State Buildings that are along Arizona Avenue. They have put a number of showroom opportunities in. They have some furniture stores, a rocker and a stool and dinette group that is in there but yet they don't allow them in the back building because

Permits but you still have a very appropriated zoning administration tool. They are starting to do those now in PAD. So if a church came in here and if they wanted permanent entitlement, he would suggest they go through a PAD. Typically when they come into these business parks they are not purchasing the property. They do 5-year leases with options to extend or something of that nature. The Use Permit may be the appropriate tool to time-condition them. Maybe it is for 5-years, maybe it is for 6. They would process a Use Permit if they so desire. **COMMISSIONER VEITCH** said additionally they have had some problem agreeing to suite specific PAD Amendments thinking that if a Use is going to be added to a development, it needs to be added to the entire development which puts us right back where they are here with respect to whether churches are or are not on the list. If the Use Permit mechanism is appropriate and workable in these kinds of situations that might be preferable to PAD Amendment, which development wide permits the use by right and prohibit the City's opportunity to take a closer look at it.

CHAIRMAN CASON said under its current zoning rules the division of warehouse and retail is building specific. By virtue of this it will be removed from building specific to property specific so that there can be an entire building dedicated to retail and perhaps any type of parking that is associated with the warehouse component could be associated with the different building. Is he correct there? Mr. Mayo said practically administered? Yes. If it was pressed legally, it is one owner, one development and the PAD says there is parking to support 50% office and 50% warehouse. If pressed, he doesn't think they would be able to stand up in court it is building to building to building. Practically speaking the way the thing is laid out there is an even distribution of parking. There isn't a larger amount of parking next to one building and then less next to the other. It is evenly distributed and so practically speaking, they approach this on a building to building basis. **CHAIRMAN CASON** said if they fill an entire building with retail, then does the parking that surrounds that building or doesn't surround it but is adjacent to it in the adjacent frontage parking and the little bit that might be on the side, would that cover the requirements of a full retail square footage in that particular building? Mr. Mayo said no, he doesn't believe so? There are certain sections where this is a little additional parking, like an extra double loaded row. He would have to crunch numbers. Mr. Dermody said they could come close to being able to do that with retail if they stripe additional spaces in the back of any of these buildings. They can't approach office parking requirements but they can get close and maybe be able to do retail parking requirements for an entire building if they did all the striping in the back. **CHAIRMAN CASON** asked if they can they take the warehouse requirement and turn it into parking? Mr. Mayo said no not from a building code standpoint. **CHAIRMAN CASON** asked not even with changes to it for fire and/or evacuation of pollutants and those types of things? Mr. Mayo said ultimately they would end up having to fire rate the separation between the parking spot and the interior side which they just built another wall in there and then remove it enough that this just becomes covered parking. Anything like that is possible. Ultimately, all they would end up doing is shorting their bay depth but you don't gain a whole lot because you would have to get rid of the parking that you would normally stripe adjacent to that building that they could today. They would just be moving that

says that the zoning is only focusing on I-1 uses. It is something broader that because of it being in the Airpark area. Mr. Mayo said because of how it was zoned under the Chandler Airport Center. Correct. It is not just I-1. I-1 is one of those list of uses but office, showroom retail were also part of that. Mr. Dermody said it also may help to know that list was not derived by looking at our zoning code. It was derived by a wish list of users. Mr. Brockman said in response to that it is one of the problems that you have with that type of thing. You have nothing to relate it to. Whatever terms you are using are undefined. You can't relate them to some item in the zoning code. Mr. Mayo said it is the beauty and the curse of their PAD.

COMMISSIONER PRIDEMORE said to the Asst. City Attorney's comment he made the mistake one time of calling an interior designer and interior decorator. He only made that mistake one time very early on in his life. There is a very distinct different between the two in terms of what they are doing. The biggest one he can point to is an interior designer does take exams to become a professional as opposed to an interior decorator who can just be anybody off of the street.

CHAIRMAN CASON said let's get down to the strikeouts in the list. He thinks church and he said he would look to the motion maker to reflect that as part of the motion and he can't think of anything else on the list that they would want to strike. He still hates lists but he guessed everybody likes them.

VICE CHAIRMAN RIVERS stated he also has a problem with lists especially when they make a list and then somebody says if there is an item that is not on the list, they are going to come back later and try and put it on the list. Of course, that means they have to come back her to do that.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve DVR11-0004 RED ROCK BUSINESS PLAZA subject to conditions recommended by Staff with the removal of churches as an automatic permitted use from this list. The item passed unanimously 6-0. (Commissioner Baron was absent.)

6. DIRECTOR'S REPORT
   Mr. Mayo extended a welcome to Mr. Bill Donaldson, the new Commissioner.

7. CHAIRMAN'S ANNOUNCEMENTS
   CHAIRMAN CASON announced that the next regular meeting June 1, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
   The meeting was adjourned at 7:10 p.m.

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 1, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Baron.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham

   Absent and Excused:

   Commissioner Stephen Veitch
   Commissioner Bill Donaldson

   Also present:

   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES

   MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER CUNNINGHAM** to approve the minutes of the May 18, 2011 Planning Commission Hearing. The motion passed 4-0 with one abstention. (Commissioner Baron abstained as he did not attend that meeting). Commissioners Veitch and Donaldson were absent.

5. ACTION AGENDA ITEMS

   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. APL11-0002/DVR11-0008/PPT11-0001 SOUTHSHORE AREA PLAN AMENDMENT / FULTON RANCH II

Approved.

Request an Area Plan amendment from a mixed-use project of Office, Commercial Retail/Restaurant, Hotel, and Multi-Family Residential to Single-Family Residential, and Rezoning from Planned Area Development (PAD) zoning for a mixed-use project of Office, Commercial Retail/Restaurant, Hotel, and Multi-Family Residential with a mid-rise overlay to PAD for Single-Family Residential along with Preliminary Development Plan (PDP) and Preliminary Plat approval for the single-family residential development. The property is approximately 43 acres located approximately one-half mile south of the southeast corner of Ocotillo Road and Arizona Avenue.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Fulton Ranch II – Reserve at Fulton Ranch", kept on file in the City of Chandler Planning Services Division, in File No. APL11-0002/DVR11-0008, except as modified by condition herein.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
9. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180

days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

10. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
11. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
12. 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.
13. 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 FULTON RANCH II – RESERVE AT FULTON RANCH development shall use treated effluent to maintain open space, common areas, and landscape tracts.

14. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

15. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
16. All homes built on corner lots within the residential subdivision shall be single-story or a combination of one- and two-story with the one-story portion on the street side.
17. The same elevation shall not be built side-by-side or directly across the street from one another.
18. The tot lot shall be a minimum of 20 total play stations.

Planning Staff recommends approval of the Preliminary Plat subject to the following condition:

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

B. DVR11-0011 ARIZONA AVE & WARNER RD

Approved.

Request rezoning from Community Commercial District (C-2) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval in order to increase the number of monument sign panels for an existing development at the northeast corner of Arizona Avenue and Warner Road.

1. Development shall be in substantial conformance with the application materials (narrative, site plan, and sign representations), except as modified by condition herein.
2. The monument signs' sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.

C. LUP11-0005 GENGHIS GRILL

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors and within outdoor patio areas at a new restaurant within the Chandler Pavilions development. The property is located south of the southwest corner of Ray Road and 54th Street.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 12 license only, and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.

D. LUP11-0006 CYPRUS GRILL

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 12 (Restaurant) liquor license for on-premise consumption only within an existing restaurant and outdoor patio. The subject site is located at 1065 W. Queen Creek Road, Ste. 2, within the Falls at Ocotillo development.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other restaurant locations.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
7. The applicant shall work with Staff for the final design and detail of an outdoor patio.

E. LUP11-0008 TARGET STORE (PASEO LINDO)

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 10 Beer and Wine Store License for a new retail store within the Paseo Lindo development. The property is located at the northeast corner of Arizona Avenue and Ocotillo Road.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 10 license only, and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other store locations.
4. The site shall be maintained in a clean and orderly manner.

F. ZUP10-0047 MONAMI ASSISTED LIVING

Approved to withdraw for the purpose of re-advertising.

Request Use Permit approval to operate an assisted living home for up to six residents within a single-family residential home located at 2120 W. Shannon Street. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

G. ZUP10-0049 ICEV PARKING LOT

Approved.

Request Use Permit approval to allow for a temporary parking lot on an approximate 1.8 acre site. The subject site is located north of the northeast corner of Alma School Road and Erie Street.

1. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the use of such parking lot beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. The temporary parking lot shall be surfaced with gravel or other suitable material and type of dust palliative in accordance with current Maricopa County regulations. The parking lot shall be maintained at all times in a dust-free and weed-free manner.
3. The expansion or modification beyond the approved site plan shall void the Use Permit and require new Use Permit application and approval.

VICE CHAIRMAN RIVERS stated he was going on record that he will be voting 'No' on Item A because he has a fundamental disagreement with the land use required for Item A. He has no problem with the housing product that was presented or anything like that he just fundamentally disagrees on the land use for that project.

CHAIRMAN CASON said he historically has always voted 'No' against all items that have been proposed for land use change for any land between the railroad tracks and Arizona Avenue. The reason is because that is acreage that produces tax revenue and when they convert it to homes it doesn't generate tax revenue. The irony of this particular application is that this area of land has kind of already been chewed up. There really isn't anything left to do with it except what is happening now. While he is not opposed to the product or the intent of it, he still has to stand by his land use issue and hope that the City Council holds near and dear the remaining land along Arizona Avenue that rests between the railroad tracks and Arizona Avenue and to the east of the railroad tracks. Railroads are like freeways. If you use up the land for something else, you are not going to be able to use the railroad for anything. Railroads even though they have been around for many, many year still generate commerce. One of the Commissioners pointed out earlier this evening in the Study Session they couldn't do anything there but build homes because there are homes already there. It wouldn't support any further business. It wouldn't support any railroad spurs or any type of industry that needs that kind of use but if they continue to chew up this land up and down Arizona Avenue and especially along the only railroad spur that they have left that isn't all chewed up in the City of Chandler, then they are going to need to protect that land. They are not going to be able to just say it's a bad economy and they have bought the property and they need to turn it over and those types of things. They need to understand that that property is necessary for them 20, 30 years down the road and they need to protect it. He is hoping that while they have seen that their inability as leaders to be able to protect this piece of land has led to the point now where a great portion of this land is used up for residential on both sides of the railroad track, they preserve what they do have left for that time in the future when they need to generate more taxable revenue, which houses just don't do.

He will be voting 'No' on Item A. Once again, he completely supports the builder and the product and realizes the value to the community that they bring in general. For him it is just simply a land use issue that he objects to.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 5-0 with the exceptions as noted. (Commissioners Veitch and Donaldson were absent).

6. DIRECTOR'S REPORT
Ms. Novak said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON announced that the next regular meeting June 15, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 5:50 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 15, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Veitch.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Also present:

   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the June 1, 2011 Planning Commission Hearing. The motion passed 5-0 with two abstentions. (Commissioners Veitch and Donaldson were not present at the meeting.)

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. DVR11-0010/PPT11-0002 AUTUMN PARK

Approved to continue to the July 20, 2011 Planning Commission Hearing.

Request Rezoning from Planned Area Development (PAD) to PAD amended, along with Preliminary Development Plan approval for a 99 lot, single-family residential subdivision located at the southwest corner of 116th Street and Riggs Road. **(REQUEST CONTINUANCE TO THE JULY 20, 2011 PLANNING COMMISSION HEARING.)**

B. DVR11-0014 CHANDLER CENTER COMMONS

Approved.

Request rezoning from Planned Area Development (PAD) to PAD Amended zoning with Preliminary Development Plan (PDP) approval to allow a day care use and to modify site layout within the Chandler Commerce Center at 5500-5590 W. Chandler Boulevard.

1. Substantial conformance with application materials kept on file in the City of Chandler Planning Division, in File No. DVR11-0014, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3770 in case DVR05-0030 SILAGI CHANDLER COMMERCE CENTER, except as modified by condition herein.
3. The playground perimeter wall shall utilize materials drawn from the adjacent building architecture and shall include several staggers per the submitted site plan so as to break up its linear appearance.
4. Landscaping in and adjacent to the playground area shall be maintained at a level consistent with or better than at the time of planting.
5. The playground surface shall be mostly covered with rubber mats, wood chips, artificial turf, or other materials that serve to soften the noise effect as compared to concrete or asphalt.
6. Trees shall be added along the western property line as practical to allow additional screening.

C. DVR11-0018 ARIZONA BLUE STAKE, INC.

Approved.

Request rezoning from Planned Area Development (PAD) for light industrial to PAD for light industrial and general office to allow a general office use on the property. The property is located at 2200 South Stearman Drive, north of Ryan Road and west of Gilbert Road within Chandler Airport Business Park.

1. Development shall be in substantial conformance with approved exhibits (Site Plan, Floor Plan, and Narrative) as represented in zoning case DVR11-0018 Arizona Blue Stake, Inc. kept on file in the City of Chandler Planning Division, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 2996 in case PL99-019, except as modified by condition herein.

D. DVR11-0021 SOUTH OF SEC COOPER & OCOTILLO ROADS

Approved.

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximately 1.6-acre site located south of the southeast corner of Cooper and Ocotillo roads.

E. ZUP10-0047 MONAMI ASSISTED LIVING

Approved.

Request Use Permit approval to operate an assisted living home for the elderly, within a single-family residential home located at 2120 W. Shannon Street.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other location.
3. The assisted living home shall have no more than seven (7) residents at any time.
4. The Use Permit to operate an assisted living home is specific to the existing property owner, and if the property should be sold in the future the Use Permit shall be null and void.
5. This Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
6. The site shall be maintained in a clean and orderly manner.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER BARON** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

6. DIRECTOR'S REPORT

Ms. Novak said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting July 6, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:35 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 6, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Chairman Cason.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Absent and Excused:

   Vice Chairman Leigh Rivers

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Mr. Erik Swanson, City Planner
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER VEITCH** to approve the minutes of the June 15, 2011 Planning Commission Hearing. The motion passed 6-0 (Vice Chairman Rivers was absent).

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item B was pulled for action.

A. DVR11-0012 THE SPRINGS RETAIL CENTER PHASE II

Approved (to extend).

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning for office uses. The existing PAD zoning is for commercial uses. The property is located west of the southwest corner of Chandler Boulevard and Cooper Road.

Staff, upon finding consistency with the General Plan, recommends approval of extending the timing condition for case DVR11-0012 THE SPRINGS RETAIL CENTER PHASE II for an additional three (3) years, with all of the conditions in the original approval remaining in effect.

C. DVR11-0022 GALILEO PIAZZA

Approved (to extend).

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former Agricultural (AG-1) zoning district. The existing PAD zoning is for a single-family residential subdivision. The subject site is located at the southwest corner of Riggs Road and 116th Street.

Staff, upon finding consistency with the General Plan, recommends approval of extending the timing condition for case DVR11-0022 GALILEO PIAZZA for an additional three (3) years, with all of the conditions in the original approval remaining in effect.

D. PDP11-0005 RUDY'S RESTAURANT AND COUNTRY STORE

Approved.

Request Preliminary Development Plan (PDP) approval for a parking lot which would be developed in association with a planned restaurant and store. The property is located west of the northwest corner of 54th Street and Chandler Boulevard.

1. Development shall be in substantial conformance with exhibits represented including the Narrative, Site Plan, Landscape Plan, and Grading and Drainage Plan kept on file in the City of Chandler Planning Division, in File No. PDP11-0005, except as modified by condition herein.
2. Right-of-way dedications to achieve full half-widths, 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. Landscaping shall be in compliance with current Commercial Design Standards.
8. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
9. The site shall be maintained in a clean and orderly manner.
10. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.

E. ZUP10-0030 SHARNET'S CHILD CARE

Approved.

Request Use Permit extension approval to allow residential child care for up to ten children in a single-family home. The subject site is located at 4904 W. Buffalo Street, south of the southeast corner of Chandler Boulevard and Rural Road.

1. The residential childcare home shall have no more than ten (10) children at any time.
2. Should the applicant sell the property, this Use Permit to operate a childcare home shall be null and void.
3. This Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to an approval by the City of Chandler.

F. ZUP10-0054 CORNERSTONE CHRISTIAN FELLOWSHIP

Approved to continue to the July 20, 2011 Planning Commission Hearing.

Request Use Permit approval for the continued use of a temporary unpaved parking lot. The parking lot area is approximately 8.5 acres. The subject site is located east of the southeast corner of Alma School and Willis Roads. **(REQUEST CONTINUANCE TO THE JULY 20, 2011 PLANNING COMMISSION HEARING.)**

MOVED BY COMMISSIONER VEITCH, seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 6-0 (Vice Chairman Rivers was absent).

ACTION:

B. DVR11-0019 NORTON'S CROSSING

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning for commercial development. The existing PAD zoning is for office, retail, and multi-family development. The subject site is located at the northwest corner of Chandler Boulevard and Gilbert Road.

Staff, upon finding consistency with the General Plan, recommends approval of extending the timing condition for case DVR11-0019 NORTON'S CROSSING for an additional three (3) years, with all of the conditions in the original approval remaining in effect.

ERIK SWANSON, CITY PLANNER, stated this request is to take action on the existing PAD zoning to extend the conditional schedule for development, remove or determine compliance with the three-year schedule for development or to cause the property to revert to the former PAD zoning designation. The current PAD zoning designation is for a multi kind of mixed-use development that included multi-family residential, commercial and office development. The site is located at the northwest corner of Chandler Boulevard and Gilbert Road. It is roughly a 23.5 acre site. The current plan includes 8.3 acres of commercial development and 15.25 acres of multi-family development. Again, the current application is to extend the zoning for an additional three years from the original approval. The site was initially zoned in 1993 as part of the larger Dobson Place Master Planned Community. In 1995, the site was rezoned to PAD strictly for commercial uses eliminating the prior multi-family designation. With that development of Dobson Place subdivision the zoning was vested and then in 2008 the site was rezoned to allow for that office retail, multi-family development. During that process the original request actually triggered a legal protest as there were a number of residents opposed to that initial request for rezoning. A predominant number of those concerns were related to that multi-family. Some of the issues expressed were traffic, crime, etc. in the area. Ultimately, through a lot of neighborhood work through the applicant and their parties, a lot of the issues were resolved. As part of that Council approval, there were a number of letters in recommendation for support of the request. Ultimately, the request was approved by Council and as part of that request there is the typical 3-year timing condition which is where they are at today. As Kevin alluded to in the Study Session, Staff has currently reviewed a revised plan and that will be forthcoming in the month to come. Again, they are looking at whether or not the zoning is still consistent with the General Plan. Staff thinks that it is and with that they recommend approval.

CHAIRMAN CASON said when they have items like this that come before them where they are asking to continue what has already been approved there are no changes to the plan or anything else like that because they would actually have to submit for that if they were. In this

particular case it is just the exact thing that was negotiated and approved and worked through with the neighborhood three years ago. Correct? Mr. Swanson replied correct. **CHAIRMAN CASON** said this is pretty typical where the construction isn't done, where people do come back with their original plans and just try to extend them until the market is in a little better position to make an investment like this work. Right? Mr. Swanson said that is correct. Historically, they haven't had as many zoning extensions come through as even in the case of tonight where they have 3 or 4. So it is really one of those things that due to the market it is just natural that they are seeing those now so it is a matter of that. **CHAIRMAN CASON** asked if it would be fair to say in his opinion that if the market had not have collapsed, it is possible that this would have been built within the three year period? Mr. Swanson said that is a fair assessment. It probably wouldn't be complete with construction. Generally, from submittal or approval by Council to moving dirt, it takes somewhere between 12 and 18 months. It's quite possible that it could have been done or on the finishing legs of being wrapped up. **CHAIRMAN CASON** asked if he recalled some of the items that were part of the compromise between developers and the homeowners at that time? Mr. Swanson replied that if he can recall correctly, he believes there was some discussion about landscaping along the north and western portions of the site and increasing that. He also believes there was some discussion about the height of the multi-family structures and there were portions of it that were 3-story. All of those adjacent to the subdivision, which in this case were all of those homes and the apartment buildings, were somewhere along the lines of 75 to 100 foot separation. All of those were reduced to 2-story so he thought there were some things taken care of. There is also some discussion about covered parking canopies and making sure they were nice. A number of those things were worked out through Commission and Council. **CHAIRMAN CASON** said he knows the attorney/applicant would probably have better recollection. Wasn't there something where there was some retail pushed to the back and there was some agreement to change the property so that the noisiest factors would be moved closer to the street and away from the homes? Mr. Swanson replied that he couldn't directly recall that but he does recall regarding some of the layout of some of the homes or some of the apartment structures that were pulled away from the single-family properties a bit more to internalize them, which then again opened up more space between the single-family home property boundary and then also the multi-family. He said Kevin Mayo, Planning Manager, is thinking there were some changes in the commercial layout but again he doesn't recall those and he isn't seeing notes in the original Council memos.

CHAIRMAN CASON called up the applicant to speak.

MIKE CURLEY, EARL, CURLEY & LAGARDE, stated he was going to just add a couple of comments and maybe respond to the individuals who submitted the cards who he met with a couple weeks ago at the neighborhood meeting. Everything that Erik and Kevin said is basely accurate. He said Chairman Cason had a very good memory. They went through a number of changes on this plan as they worked through the neighborhood and some of the changes were exactly as he said. If you look at the site plan originally, they had carriage units along the north property line and the west property line. The carriage units are 2-story structures where you have a garage and there are maybe seven or eight garages and two living units above it. They had the carriage units along the north property line in several locations. Along the west property line some neighbors didn't want them, other neighbors wanted them. He has done a lot of multi-

family where some people think they provide a good buffer so in these two instances they put them over here (he showed on the screen). As Erik said these are all 2-stories as a result of discussions. The nearest 3-story was almost 200 feet away from the property line. They got into detailed discussions regarding the landscaping. There were certainly some discussions about adorning some of the parking structure. The case did come before Council with Staff Report, Planning and Zoning Commission support and the Economic Development department also supported it. He thinks there were about 50 petitions from the immediate neighbors who support the case. That is a general overview. If they want him to talk about some specifics, he will be glad to but he said maybe he will just respond to whatever the individual has to say.

CHAIRMAN CASON called up the first speaker.

GREGORY SCOTT WOODS, 241 N. NASH WAY, CHANDLER, stated this is in the Dobson Place development. He showed where he lived on the map. He said he is opposed to the extension of this mixed-use zoning. He feels the mixed-use zoning is a failed concept for this area. This particular design and zoning appears to introduce urban elements to an area that is primarily suburban. Some of the surrounding areas especially over on the Gilbert side of Gilbert Road are transitioning from rural to suburban. This zoning is not consistent with the surrounding area. Rather than extend the zoning he would suggest to the Commission that they consider not extending the zoning and letting it revert to the underlying C-2 zoning and let the applicant come back with a concept that would be more marketable and is more consistent and conducive to the area.

CHAIRMAN CASON asked Diane Woods if she would like to speak. She said she does not but is opposed to the item. He asked the applicant to come up and asked if there was anything specifically that he would like to address regarding the conditions that the property would be under and what he would end up developing if it reverted, and what type of market are they looking at that drives the success of what they have there now versus a reversion.

MIKE CURLEY stated the previous zoning on the property was C-2 and was 23 acres of C-2 which would accommodate 2 big boxes. The City has always pretty jealously guarded the corners particularly when they are crossing Gilbert. The Economic Development department in terms of this application came down and said they had produced an Economic Development Study that basically looked at the surrounding commercial and Ms. Mackey said to keep this commercial would be a mistake because of there is such an oversaturation of commercial in the area particularly down a couple miles away. They said commercial wasn't a viable use and so what they did is they had some small boutique type of retailing – one of the reasons this didn't develop is because Fresh and Easy was the anchor tenant and they bailed out. As they may have read over the past year and a half, they have stopped building many of the stores. His applicant/client is Starpointe. They are probably the leading condo and apartment developer in the entire state going back about 15 years. They have done a whole slew of projects including Biaggo, which is down at Chandler Boulevard and Alma School – the northeast corner. It was an award winning project so they were very well received. When he zoned this it was shortly thereafter the economy went into the tank and there was just no financing. They have built somewhere in the neighborhood of 600 units over the last 7 or 8 years so if it wasn't for the

economy they would clearly have developed it. What is proposed here is significantly less intense that what the previous underlying C-2 zoning is. When you say this is a mixed-use, this basically is retail with multi-family surrounding it – very similar to what they see at various intersections around Chandler including Ray and Alma School, the southeast corner, there is a whole bunch of projects that are very similar type of development patterns. They have smaller boutique retail surrounded by multi-family so he doesn't think it is out of character with this area at all. It is constant with the General Plan as Staff has indicated and they respectively ask that the extension be granted.

CHAIRMAN CASON asked him to talk a little bit about the type of apartments that are being built, the level of the quality and the price points of the rentals to try to give an indication as to the market that they are trying to grab to live there.

MIKE CURLEY said this is part of the same presentation. He looked at his presentation notes from three years ago to address exactly the questions he is asking for. Starpointe had a very well-deserved reputation probably being the highest end condo multi-family developer in town. They have developed several along Scottsdale Road on Indian Bend Road by the park and the golf course. They did Biaggo and they built one over in Awhatukee. They basically had from an architectural standpoint vaulted ceilings; the interior had granite counter tops, security system, and upgraded appliances. They spent a lot of time with Staff in terms of the site plan. When you look at the site plan and the retail, they spent a lot of time on this – on the corner/landscaping treatment. As you come up this entry treatment off of Chandler Boulevard, there are tower elements at the shops. You come into a turn-around area that would be an entrance way into the multi-family. They have spent a lot of time with Staff in terms of both the retail design as well as the multi-family. He said that in this case Chairman Cason was exactly right; the original retail had some higher intense uses up closer to the residential and they re-arranged that so that there was a bank pad which is generally considered to be a fairly benign use. There are 2 swimming pools, interior courtyard areas and full athletic gym. At the time they were getting in the $1200 -$1400 rental rates. That policy has changed somewhat although from a rental standpoint he is seeing a lot of rental multi-family activity from a development standpoint after having seen none for the past three years. The reason is there hasn't been any building for the past three years and occupancies are continuing to go down primarily because of the single-family market with people getting out of their homes. They can't qualify for single-family homes so the rental rates are going up. Clearly, the multi-family activity is occurring. He is actually doing one on Arizona Avenue and for the first time in three years they are seeing that activity.

CHAIRMAN CASON had a question for Staff. When the project was first submitted, it comes with full documentation that describes exactly the type of structures and the materials that are going to be used on the side of the building and those types of things. If he understands it correctly, those can't change. Those still have to remain the same as they were originally. Correct?

MR. SWANSON, CITY PLANNER, replied that is correct with the caveat that sometimes minor modifications happen where maybe a rail detail changes. Everything has to maintain in substantial conformance to what was approved. As long as they can find that it meets that, yes it

will not change. You won't see a different layout. They want to approve something that is completely different than what was represented in the development booklet.

CHAIRMAN CASON said so the quality, the sense of it being in the neighborhood and how it interacts with its neighborhood will be as high a quality as it was when they passed it three years ago not knowing there was going to be the financial meltdown that caused it not to get financing and those types of things. The quality won't go down. They will be held to that same level of quality as they were before. Mr. Swanson said they look at doing the administrative approvals or they look at it as being as good as or better than what was previously approved. They would never try to make the step down approach.

CHAIRMAN CASON asked if there were any questions for the applicant.

COMMISSIONER PRIDEMORE asked how many units are there? Mr. Curley replied there are 286. They reduced the density significantly as they went through the process.

DIANE WOODS, 241 N. NASH WAY, CHANDLER, said from what she understood and the neighborhood meeting they went to a couple of weeks ago, they had changed the plan quite a bit. Many aspects of their new plan are not the plan they are showing them tonight. She really does like it in many ways. Part of it she does not like at all. A lot of it is experience she has had. They use to live in Mesa for many years and worked with the City and neighborhoods, Outreach and all the different departments with the police and so forth. She knew a lot of the people and learned a lot of things that she was clueless on – what makes a good community, a good neighborhood and really what will benefit a city. They told her husband they would e-mail some information about the apartments that they are talking about. She is not just interested in the looks of apartments; she wants to know the crime stats. She wants to know the crime stats of apartments that have been there a long time. Not just the first year or two but those that have been there quite a while. Her experience and the things she has gained over the years is that you can start out with a high quality apartment and you get one or two people in there that will chase out the good people and pretty soon the whole place falls apart. When the apartment falls apart, then so does the neighborhoods nearby. It ends up being a domino effect. She would rather see single-family homes. They did have a concept of having single-family homes with 1400 square feet for maybe half of the area. It might have been more. She has seen areas like that where they have done single-family homes anywhere from 1200 to over 2000 square feet, so it is a mixed-use. That plan she would probably like and approve but she wants to not just see the quality of the look. That is important too but you can have a beautiful apartment on the outside and the crime is horrendous on the inside. It is a domino effect. She wants to see the crime stats. She would hope that there would be large apartment complexes where you don't have that over time but she would really love to see that. She is afraid that it will have a domino effect and ruin all the areas around it. Then when those areas get ruined, more areas will get ruined until things happen like they have in Mesa.

MR. SWANSON, CITY PLANNER, said he wanted to add something that the neighbor discussed about the new plan. Again, to reiterate what the item on the agenda is, this is strictly for this plan and that future plan will actually have its own neighborhood meeting and its own

public hearing process. The fact that these neighbors were notified with this project certainly means that they will be notified of the next project. They will be able to have those full discussions about that layout etc. and the design that. It is something that will come before them again so they can have that conversation.

CHAIRMAN CASON asked when would this go before City Council? Mr. Swanson said the application has yet to be submitted. What they have gone through is their preliminary technical site plan review process. That was just completed so generally speaking with all the parties involved and once they generate those comments it usually takes about a month to two months to get that back in a formal submittal. He would say by the end of the year they should have something in play. **CHAIRMAN CASON** asked with this particular application, when would it go before City Council? Mr. Swanson said it goes to the next Council which would be July 28, 2011.

CHAIRMAN CASON entertained a motion.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER BARON** to approve DVR11-0019 NORTON'S CROSSING as recommended by Staff. The item passed unanimously 6-0 (Vice Chairman Rivers was absent).

6. DIRECTOR'S REPORT
   Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS
   CHAIRMAN CASON announced that the next regular meeting is July 20, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
   The meeting was adjourned at 6:06 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 20, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Vice Chairman Rivers.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Bill Donaldson

   Absent and Excused:

   Commissioner Katy Cunningham

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER VEITCH** to approve the minutes of the July 6, 2011 Planning Commission Hearing. The motion passed 5-0 with 1 abstention (Vice Chairman Rivers was absent at that meeting.) Commissioner Cunningham was absent at this meeting.

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items E and F were pulled for action.

A. DVR11-0010/PPT11-0002 AUTUMN PARK

Approved.

Request Rezoning from Planned Area Development (PAD) to PAD amended, along with Preliminary Development Plan approval for a 99 lot, single-family residential subdivision located at the southwest corner of 116th Street and Riggs Road.

1. Development shall be in substantial conformance with Attachment No. 7, Development Booklet, entitled "AUTUMN PARK", kept on file in the City of Chandler Transportation & Development Services Department, Planning Division, in File No. DVR11-0010 AUTUMN PARK, and serves to complement and supplement the Council approved development booklet kept on file in case DVR07-0032 GALILEO PIAZZA, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3995 in case DVR07-0032 GALILEO PIAZZA, except as modified by condition herein.
3. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
4. A ten-foot side setback shall be provided on the west property boundary of lots 61 and 62.
5. All homes built on corner lots shall be single-story.
6. **For lots adjacent to an arterial street, 2-story homes are limited to every third lot with no more than two 2-story homes built side by side.**
7. **Condition no. 11 of Ordinance No. 3995 requiring custom homes shall be deleted.**

Staff recommends approval of the Preliminary Plat subject to the following conditions.

1. Approval by the City Engineer and Director of Planning and Development with regard to the details of all submittals required by code or condition.

B. DVR11-0015 VILLAS AT OCOTILLO

Approved.

Request to amend the Planned Area Development (PAD) zoning to eliminate a zoning condition requiring copper supply plumbing for undeveloped lots within a residential single-family subdivision. The subdivision is located east of the southeast corner of Dobson Road and Ocotillo Road.

Planning Staff, upon finding consistency with the General Plan, recommends approval to eliminate the zoning condition, Condition No. 14, requiring copper plumbing for lines under water pressure.

C. ZUP10-0032 SAN MARCOS GOLF RESORT

Approved.

Request Use Permit approval to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the southwest corner of Chandler Boulevard and Dakota Street, approximately ¼ mile west of Arizona Avenue.

1. Expansion or modification beyond the approved exhibits (Site Plan, Narrative, and Fence Exhibits) shall void the Use Permit and require new Use Permit application and approval.
2. Use Permit approval does not constitute Final Development Plan approval. The site must conform to all applicable City regulations.
3. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
4. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
5. Storage shall be contained within the confines of the existing chain link fence. Non-compliance with this condition shall void Use Permit approval.
6. Building permits shall be obtained for any structure or assembled object used to shelter material from the elements that is placed upon the property.
7. There shall be no maintenance-related deliveries between the hours of 10:00 p.m. and 6:00 a.m.
8. **In order for the Use Permit to be valid the fence improvements shall be completed within six months of Council approval.**
9. **In addition to the proposed green slats the proposed new fence shall have the chain links and other metal elements visible from Dakota Street also of green color.**

D. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

Approved to continue to the September 7, 2011 Planning Commission Hearing.

Request Use Permit approval to install a wireless communication facility on the campus of United Methodist Church at 450 E. Chandler Heights Road, the northeast corner of Chandler Heights Road and the Union Pacific Railroad. **(REQUEST CONTINUANCE TO THE SEPTEMBER 7, 2011 PLANNING COMMISSION HEARING).**

G. ZUP11-0005 BEAR CREEK WIRELESS FACILITY

Approved.

Request Use Permit approval to install a wireless communication facility on the Bear Creek Golf Course property at 500 E. Riggs Road, east of the Union Pacific Railroad between Riggs and Chandler Heights Roads.

1. Development shall be in substantial conformance with approved exhibits except as modified by condition herein. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The height to top of antennas shall not exceed 58'.

3. The facility's antennas shall be covered in pine needle "socks" that serve to better camouflage the antennas.
4. Besides the modifications in Conditions No. 2 and 3 (above), the monopine design shall reflect the elevations in "Exhibit A" rather than the submitted elevations.

H. ZUP11-0009 EVA'S MI AMORE

Approved to continue to the August 17, 2011 Planning Commission Hearing.

Request Use Permit approval to operate a wedding planning and bridal service office in a converted residence at 598 W. Chandler Blvd. (REQUEST CONTINUANCE TO THE AUGUST 17, 2011 PLANNING COMMISSION HEARING.)

I. ZUP11-0011 LEADING EDGE AUTO FINISHES

Approved.

Request Use Permit approval to operate an auto body repair business in the Planned Industrial (I-1) Zoning District. The subject property is located at 7021 W. Oakland Street, north and west of Chandler Boulevard and 56th Street.

1. Expansion or modification beyond the approved exhibits and representations shall void the Use Permit and require new Use Permit application and approval.
2. The subject business will abide by all building, fire, and other applicable city regulations including those that pertain to auto repair as a condition of occupancy.
3. The site shall be maintained in a clean and orderly manner.
4. All vehicle storage shall occur inside the gated area.
5. All vehicle work shall occur inside the building.
6. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

J. MOTION TO CANCEL THE AUGUST 3, 2011 PLANNING COMMISSION HEARING.

Approved.

MOVED BY COMMISSIONER VEITCH, seconded by **COMMISSIONER DONALDSON** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Cunningham was absent).

VICE CHAIRMAN RIVERS stated he had two comments. First, he said he was voting no on Item B. Concerning Item G he wanted to say thank you to the folks at AT&T Mobility. This monopine was first to be located near a church and much farther north. It was on the north side of the major arterial. It was much closer to homes. They had folks from those homes here talking to them about that. The concerns were brought to AT&T and through a great effort on their part they moved this cell tower from the church property to the north to the golf course

property much, much farther south which is a win, win, win for everybody. It is a win for AT&T Mobility. It's a win for the neighbors from the original site and it is a win for the City of Chandler. Again, he thanked them for all their extra efforts.

COMMISSIONER BARON said on Item A - AUTUMN PARK he recommends removal of the stabilized BG Granite Trail based on conversations they had after Study Session with the current applicant.

CHAIRMAN CASON said they have that for the record that they can share that with City Council.

ACTION:

E. ZUP10-0054 CORNERSTONE CHRISTIAN FELLOWSHIP

Request Use Permit approval for the continued use of a temporary unpaved parking lot. The parking lot area is approximately 8.5 acres. The subject site is located east of the southeast corner of Alma School and Willis Roads.

1. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the use of such parking lot beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. The temporary parking lot shall be surfaced with gravel or other suitable material and type of dust palliative in accordance with current Maricopa County regulations. The parking lot shall be maintained at all times in a dust-free and weed-free manner.

MR. ERIK SWANSON, CITY PLANNER said the subject site is located at the southeast corner of Alma School and Willis roads and more specifically just east of that is the parking lot. It is about an 8 and ½ acre site. He said he was going to give a real brief presentation as they are pretty familiar with the history of it and this is more or less kind of an update on what has transpired between the last Commission meeting and this one. The item initially went to the May 4 Planning Commission meeting. It was continued at that meeting to the July 6 meeting to allow the applicant additional time to work on some mitigation efforts, then also to hold a third neighborhood meeting. The request was also then continued from the July 6 meeting due to some scheduling and ultimately is here at this meeting. A third neighborhood meeting was held on June 14. Three neighbors attended. They all happen to be from the same family. The primary concerns expressed were not so much dust related but rather appearance related and there were some concerns expressed about the way that traffic is handled and maneuvered around on the site through the cables and flags but ultimately no concerns as he can recall were expressed from dust. Maplewood now has a layer of milled asphalt which seems to help with that dust. Since the continuance the applicant did send out another notification notifying the neighbors that it was being continued to this meeting rather than July 6. He heard from one resident with just kind of an expressed concern as to why it was being continued but other than that he has not heard any

concerns from dust, has not heard from the County Dust Control department and with that they are recommending approval.

CHAIRMAN CASON asked if there were any questions for Staff. There were none. He asked the applicant to come up.

ED BULL, 702 E. OSBORN RD., PHOENIX, said he was there with several members of Cornerstone Church that are in varying capacities and varying roles with the church. He showed where they were seated. They continue to appreciate Staff's recommendation for approval and they continue to appreciate the opportunity to work with those neighbors who elected to come to neighborhood meetings - either the first one; none came to the second or those who came to the third. He said he wanted to touch on some of the things that Cornerstone has been doing talking with them in the context of what has been happening over the course of the last couple of years and the last few months referring to that segment as being a short term plan; then recognizing part of what Commission really encouraged Cornerstone to do when they were there at the first hearing with where are they going in the future with this. In addition to what he would refer to as the short term plan which is the plan attached to the Staff Report, he referenced the interim plan which is the interim parking plan which would be on their left (he showed on their design boards). The long term campus plan is on their right. In that context of this short term plan, as they know the area that is outlined is the area that they focused on for purposes of this Use Permit. They talked some when they were here the first time and he said he could talk more this evening if they would like about how over the course of where the church was a little over 2 years ago versus people currently running the parking lot and so on.

They raised the bar considerably over the last couple of years and considerably again over the course of the last few months. For example, there have been 300 tons of asphalt millings added to this parking area. They also went from a few thousand gallons of water on a Sunday to typically 40,000 gallons of water being applied to the parking lot and now also to Maplewood and Vine on a Sunday. They have also, per discussions at neighborhood meetings and when they were here the first time, added considerable temporary signage on Maplewood and personnel at the Maplewood/Alma School intersection, uniformed officers, and then church volunteers with respect to traffic control providing a traffic break in and out of Eden Estates if someone is coming or going from Eden. Also, an additional parking lot personnel as well moving people around and making sure they are going to the right place. They also in addition to that as they may recall were asked at the first neighborhood meeting to maintain some weeds - weeds that aren't on their property that were discussed in the Staff report. The Church has done that and they haven't heard of a weed issue in a long time. They were also asked to barricade the lots so that no one could get onto it or cut through it during off Sunday times of the week. That has been done and except on one occasion when Staff snuck in to see if they could raise dust on the parking lot, he doesn't believe anyone has been on that parking lot except when they are supposed to be on Sundays.

In addition to that, as was mentioned in the Staff Report, and as he believes Erik mentioned a few minutes ago, the City also stepped in and in addition to on-going work they have been doing with Planning Staff, Engineering and the Streets Dept. came out and applied asphalt millings to

Maplewood east of this site going over to Vine. They have also done some additional things on the site that they were asked to do at the last neighborhood meeting with respect to aesthetics. One of the things that either the actual neighbor or mother-in-law of the neighbor who was at the meeting made reference to was the ropes that were dividing the drive aisles on the parking lot were kind of shoddy looking and so on. They have been replaced. She asked if they could look at the possibility of replacing the little flags that are on those ropes. He says flags in quotes because they are really the little pink plastic strips that you may use to mark a trail if you are hiking or deer hunting. They have been replaced but whether or not it is the ultimate solution with respect to how to divide those aisles remains to be seen. It was something the church could do and do quickly.

They are also exploring some other kinds of things in that regard. He can go into more and more detail if they want as to what the church has done or is willing to do. Having said that he knows that from comments from Commission when they were here before, they were very interested in what not only is the short term plan but where are they interested in going. Ultimately with respect to build-out of the campus and if there is some kind of interim plan, what is that and when is it? So that is what the two plans in front indicate. In respect to the interim plan, which is the plan on their left, the shaded gray area identifies an area that the church intends to have paved within the next couple of years – have paved by the summer of 2013. This area to the west is already paved. That area that is paved has 506 spaces which they may recall is more parking than the code requires but is less parking than the demand. Those 506 spaces plus these shaded gray spaces which total 536 equates to 1042 paved spaces that they intend to have in place by the summer of 2013. If they switch from this interim plan to this ultimate campus plan, the east edge of the interim plan is over in here (he showed where); to go to the ultimate build-out plan, additional land use to be acquired and planning and engineering rezoning done all the way over to Vine. Having said that they will see buildings here and here (he showed where on the design boards). Those may move around a little bit as final plans are presented but these buildings are represented by these same buildings that are in this location.

The idea is to provide another 536 paved parking spaces but not put parking where buildings would ultimately be built where they would simply just leave them to tear out the parking. They also looked at other interim possibilities none of which as a practical matter and costing matter were working. It was spending money on stuff that would just be ripped out. Under this scenario they will see that they believe that they are addressing several issues that they were asked to address when they were here before. One is providing the interim parking plan, still carving out where future buildings would go. In Staff's report they indicated they would still need some kind of a Use Permit for this unpaved parking area until the campus is built-out. Staff is correct. They know they will have to visit with them about that when the time is right. This requires full engineering; it calls for landscaping to be in the various islands and other places where they are supposed to be. It calls for permanent asphalt and it calls also for a couple other things that address some concerns that they heard when they were here before. One is they heard from a neighbor to the east that they had some concerns with the trolley route. They asked them to deal with that by putting in a vinyl fence that parallels their north property line and that has been done. That is completed. A little corner fence was put down in this area as well per their request. In addition to that, this trolley route runs from here which is the current western

terminus to here (he showed where on his design boards) which is the proposed eastern terminus which keeps that trolley route way back from anywhere near the existing residences. They also may see if you compare this interim plan to the plan that is on their screen. There are two rows of parking that are being removed from the north edge of Maplewood so it pulls that parking back significantly off of Maplewood. In addition to that, this provides the church an opportunity to continue to front load parking into this western parking lot, then move into the paved parking area and they are showing a proposed barricade here and a proposed barricade here (he showed on design boards) so this unpaved area could be barricaded and made available only under spill over kinds of situations which may occur on Easter Palm Sunday or those kinds of special event circumstances. With that kind of interim plan in mind, it would provide well over a thousand paved parking spaces which is currently probably about triple of what the code requirement is for the church. They appreciate there is a difference between code versus actual demand as to the church which enjoys popularity. It's a church that also like lots of other churches and businesses have current challenges with making things happen and paying for them. This interim plan is a plan the church intends to have in place by the summer of 2013.

In order to get from here to there and they won't need to buy any more land to do this, they will need to process a PAD Amendment and PDP Amendment in engineering preps. and construction and so on and so forth. They have had discussions with Planning Staff about it and we have had conversations preliminarily with the City Engineer about it and while there is obviously still work to be done, at least those preliminary conversations have been encouraging. With respect to the ultimate campus plan which is on your right as he has indicated, this plan is something they described at the third neighborhood meeting as being like the 5 to 10 or even 15 year build-out plan. This plan as he has indicated requires acquisition of land from this point to the east. It obviously requires a PAD Amendment, PDP and full engineering permits, plans, raising lots of money and so on and so forth. It does build-out the campus all the way over to Vine with obviously paved parking and landscaped parking lots and the tram route.

In addition to working on these plans and cost estimates associated with the interim plan which he can go into some detail with them on if he wants, they also really tried to listen to what they safely understood Commission was saying when they were their the first time. Also, listening to what the neighbors say at one of the three neighborhood meetings or when they talked with them out back after the meeting when they were here before, working with Staff, working with Engineering Staff, and lots of issues they had heard about previously, weeds and traffic, he couldn't tell them that they have disappeared. All he knows is that at the third neighborhood meeting they specifically asked the neighbor in attendance at that meeting (lives in the northern most grove lots in Eden States) whether or not there was any longer a traffic concern along Maplewood. That neighbor who lives there indicated 'no' there wasn't. The church has been doing a really good job with controlling traffic. He can tell them he personally saw that in the context of he made a sneak appearance at church one Sunday morning. He didn't tell anybody. He came at a point in time in the morning that he felt would be most likely the congested time. He was there as the lot was filling up. He stayed for services. He was there as the lot was emptying out. He got directed to places that he felt he was supposed to be directed to and he was told not to go other places in the context of don't drive east on Maplewood and that type of thing. He personally was very pleased with what he was seeing operationally. He can personally tell

them that, at least the day he was there, he witnessed the same thing that the church had told him about – apparently the same thing that Staff and the County and dust control people were seeing and that the lot is watered down. He did not see anybody raising any dust. He certainly didn't raise any dust. It was a situation where there were people directing them where they were supposed to go and not go in a very controlled kind of fashion. In addition to that they specifically discussed at the neighborhood meeting whether or not at least in that neighbors mind, dust was a concern because they know they heard different things about dust when they were here at the first hearing. They know that Staff hadn't observed that when they were out on the site. They know that the County went out for 4 inspections and found no violations. They also know they had some conversation about other vacant land in the area. They have pictures of a bunch of that vacant land. He said he could bring up pictures if they wanted to see them. They can show them photographs of land right across the street to the north. Through no fault of that landowner they have had swimming pool companies or somebody dumping dirt on that site and it is just there piled up and they can see how it may blow around. They have photographs of hay trucks being driven across a site to the southeast of them that is vacant. If they want to see those, they have various examples like that in the area but he doesn't have any photographs of dust coming off of this parking lot and he thinks that is for good reason. In addition to the asphalt millings that were on there before the church has added over 300 cubic yards of asphalt millings, they apply about 40,000 gallons of water each Sunday. They keep it roped off; it stabilizes that surface. It is something that if dust is an issue, it is not anything that he has seen or that Staff has seen not withstanding Staff's honoring them to see if they could raise dust on the site and nothing the County has seen. He is not going to say there is not dust in the valley here in the desert. He gets that. It is a situation where he does not believe any kind of dust, at least in a volative kind of manner that is coming off of that lot. Either on Sundays when it is being used or by all indications between the week after it has been cordoned off and that lot is stabilized. Again, they have all kinds of photographs here if they want them or he can deal with them in response to questions if they would like. They tried to do their homework with what is around them and what they have done to raise the bar and intend to continue doing to raise the bar.

In addition to weeds no longer being an issue that they are aware of at least from the neighbor who was at the third neighborhood meeting. Traffic on Maplewood is not an issue. The situation with dust at least to that neighbor was not an issue. That neighbor did ask that they try to do something with the ropes and flags in the parking lot which has been done in the sense of replacing the ropes. He is not saying that they can't continue to look and see what else if anything can do to improve some aesthetics but the real issue he thinks is focusing on the interim place getting the additional parking that is paved which is pricey to do. It is a tough nut to crack in this economy. Some of you know the church has been exploring different ways to do that, passing the plate again, looking at different financing alternatives. He does not know how creative the church can be in that regard. He can assure them that he has been convinced and remain convinced that nobody wants the parking lot to be paved more than the folks who attend church and who operate Cornerstone. What they want and what they can deliver is two different things as of this moment. The church does have good competence that they can deliver that interim plan within the next couple years. He knows that they have on this case as much as any case that he has ever worked in Chandler, done their level best to have multiple neighborhood meetings. He can't make neighbors come to neighborhood meetings. He can only send them

letters and repeated letters inviting them and have exhibits there and talk with them openly and honestly and do their best to answer their questions. He doesn't know if there are any neighbors here tonight or not. His hope is that they have mitigated to the neighbors' concerns enough that they are not here this evening or if they are, they have been satisfied but he guesses they will see once they open it up to public comment. Having said that he has every confidence that Cornerstone has done everything they could imagine that they could do and can afford to do to raise the bar over the last couple years and certainly within the last few months. They have listened to them, Staff, neighbors and others. They have cooperated with the County and they have made a lot of changes and spent considerable money and have employed a lot of volunteers or used a lot of volunteers to help manage this situation in a very practical and compatible manner. They hope it is something that passes muster with the Commission. They certainly appreciate Staff's recommendation for approval. They are fine with Staff's stipulations in the report. If they had questions, they will do their best to answer them. He said if he can't, maybe somebody from the Church who is here can but they will certainly want to come away from here with Commission's recommendation for approval.

CHAIRMAN CASON asked if there were any questions for the applicant.

VICE CHAIRMAN RIVERS asked having to do with his timeline for their paved parking lot and on the first item he put on the table, does the church own the 2 houses in the upper right hand corner? Mr. Bull replied yes.

COMMISSIONER PRIDEMORE thanked him for bringing the future exhibits. He said that does help them kind of look at where things are hopefully heading and obviously that would be a very positive thing if all that could be built in the near future. Also, congratulations for all of the things that have been done since their last meeting. With that being said he asked if the church considered changing the service times to reduce the need for all or at least a portion of the parking lot east of the church. Mr. Bull replied yes they did. He said they tried to listen closely to what everything that any Commissioner or any neighbor said when they were here at any prior meetings. The services as they may recall are at 9, 10:30, 11:55 a.m. and 5:00 p.m. That issue really arose mostly in the context of could they spread those services further apart. The church looked at that and looked at it from a variety of perspectives. One of the challenges that the church has is they have is about 1000 volunteers, not all working in this parking lot obviously. About 1000 volunteers working with Sunday school classes and all the kinds of things that go on in a church and sometimes they can get volunteers to cover two services but the further you spread them apart, the more challenging and logistically difficult that can be. They also know that one of the other issues that they got into in the context of the third neighborhood meeting is whether or not it was bothersome to neighbors that they started up the water truck to water down the parking lot and particularly to water down Maplewood. One of the things that Staff confirmed for us is that although City of Chandler allows construction activity between 5:00 a.m. in the morning and 10:00 p.m. at night during a weekday and on Saturday and Sunday's it is 7:00 a.m. in the morning until 7:00 p.m. at night. He could argue that driving a water truck to water down a parking lot is not a construction activity but it is a construction related vehicle. So bottom line, they are being pushed in the other direction in that they know and do typically start up the water truck at 7:00 a.m. on Sunday morning completely within code. The church has

slipped some in the past and started it before 7:00 a.m. It won't again now that they know that 7:00 a.m. is the starting time. If everything else wasn't even an issue including the desire of when parishioners want to come to worship and so on and people said sure let's back it up to 8:30 a.m., they would be out there before the city code says we are supposed to be out there watering down Maplewood and Vine and the parking lot and so on. It is a question they took very seriously and he sometimes grills his clients harder than their Commission does about well if the answer is no, why is it no and why can't they do this. They had those discussions repeatedly and for a variety of reasons the church very much believes that the services they have are the right times. They will continue through as they may recall this little exhibit from last time of forcing people to fill the paved lot for the first service. Then as the second service is coming, the access then comes in off of Willis to fill the second lot north of the tram route. At the third neighborhood meeting they had some discussion about there are cars in here sometimes from the first service on. He didn't know if any of them had been to the campus on a Sunday morning or not but there are. Some of them are Sunday school teachers and others who park there come in once and park or otherwise volunteer at the church. They are really trying to do a series of things to fill this and then coming into this Maplewood lot only as a last resort, which is a long winded way of coming around to yes, they seriously considered his question of moving those worship times around. That is something they need to respectively say 'no thank you' to and talk instead of the number of things they are doing to mitigate the concerns that arise out of that.

CHAIRMAN CASON said he was glad that Mr. Bull brought up the exhibit that he brought by the last time they met. On the short term plan, the 2-year plan that he shows both on the handout and on the easel, the parking rows are different than they are on the 2-year plan. Are they going to remain in this fashion now or in the fashion on the previous paper they had up here that was color coded or are they going to on an interim basis be changed to the 2-year plan while it is in their temporary Use Permit status? Mr. Bull said this plan is what was attached to your Staff Report. It shows east/west spaces, north of the tram route and shows 45 degree angle spaces north of Maplewood. This interim plan shows all north/south spaces at built-out of the interim plan. He knows that today under the short term plan these are still 45 degree angle spaces in this area. Up further to the north he thinks they have done some additional refinements and adjustments as to how that actually parks which he may or may not have with him. There has been some adjusting that occurs up here. To answer your question of are we going to make all of these north/south spaces right now, the answer is no. **CHAIRMAN CASON** said so the design on the 2-year plan is basically the design that will be put on the asphalt when the asphalt is put down – the permanent asphalt as shown in their 2-year plan. Mr. Bull said yes whether they call this the 2-year plan or interim plan that is correct. These little things are landscape islands that would be just like they put in a shopping center parking lot or otherwise which obviously then controls the circulation routes and the direction of traffic. This shows landscaping islands, diamonds and other kinds of things so this configuration is intended to be a permanent parking lot configuration, which is a practical matter in this area on this permanent build-out plan. **CHAIRMAN CASON** asked so having said that when the asphalt is put in place and those permits have been granted and all of the other things that you have to do to put down that asphalt in a permanent fashion, will the rest of the parking as demonstrated on the 2-year plan be in that fashion as demonstrated on that parking lot expansion interim parking conceptual site plan? Mr. Bull said to the best of his knowledge today the answer is yes. The reason he says that is that

again all of the gray is intended to be paved. The interim spaces have now switched to north/south and part of the reason that they are shown as north/south in this kind of configuration as opposed to being a 45 degree angle is to provide this as what he would refer to as a spill over lot to be filled from either the east or filled from the west. Whereas today under this short term plan, for example this row fills from the east. The gentleman who consults some with ADOT who helps layout the parking lot configuration and who volunteers for the church, he could probably better than he explain the benefits of angled versus 90 degree parking in a spill over lot. **CHAIRMAN CASON** said he thinks that is fine but he is curious about once the paving is in and those parking spaces have been configured as they show in this conceptual site plan, then the area south of the existing retention basin that is south of the tram route will be all the space in that area that they will need for overflow parking. Mr. Bull replied that there is overflow parking in here and a little bit up here north of the tram route (he showed on plan). As they can park more efficiently on the paving, for a variety of reasons the church decided to pull 2 rows of parking back from Maplewood. **CHAIRMAN CASON** asked in the summer of 2013 will that be when they are submitting their permits or will that be when the parking lot is complete. Mr. Bull replied they hope that is when the parking lot is completed. They know if they make it through the Commission and Council, they presume they will be coming out with a 2-year Use Permit and they know they will be back here in 2 years explaining where they have been and what they have done. The goal is to have that parking lot paved within 2 years of Council approval of this Use Permit extension.

MR. SWANSON, CITY PLANNER, added that when the church does come back to their more permanent parking lot that will require one, rezoning, because some of the land out there is AG-1. It also will require a PDP so Commission will have a chance to look at the layout and all that design. In addition to that if there is the potential for those temporary parking lots, those will also need to get their own separate Use Permits. More than likely they will be looking at a Use Permit but then also rezoning and PDP at that same time.

VICE CHAIRMAN RIVERS asked if they intended to have this finished 2 years from now? He is not sure about the time frame. When would they then need to come to the Commission or whomever to get permits to start working on the parking lot? Does that have to be done within a year from now? Mr. Bull said he would anticipate that they could cram it in toward the end of the 2 years, more if need be. He would anticipate they will be back in front of Commission and Council on the PAD/PDP and that will be PAD/PDP on this area (he showed where) within the next year and then from there the engineers would turn in their plans for a couple of reviews on a parking lot like this. They know it needs full engineering and so on and then be in a position to pull permits. They are estimating it would take approximately 90 days to construct – not that it takes that long to pave the parking lot but they have to do some undergrounding with respect to waterlines and electrical lines for parking lot landscaping and lighting. He would expect they would be in here within a year or so. **VICE CHAIRMAN RIVERS** said so for the interim plan there is no land acquisition needed, only for Phase III. Mr. Bull replied that was correct. The church owns all of the land shown on the interim plan.

COMMISSIONER PRIDEMORE asked Mr. Bull if he could go back to that colored diagram and point out the Platt's residence – their property? Mr. Bull did. **COMMISSIONER**

PRIDEMORE said he thought he saw the property lines and he just wanted to verify that. Mr. Bull said they may or may not need to do some additional wall related things around the Platt property. That is another issue for another day.

CHAIRMAN CASON said the last time they met there was some discussion about pulling the cars away from the Platt property line and re-aligning them so that they didn't nose into their fence so that they had to look at the cars. He noticed on their interim parking plan, they have naturally taken care of that because they have moved a driving aisle up against that property and of course the cars are north and south which of course in this discussion they understands as to how that parking is going to be aligned once the asphalt is in place. Have they done anything with the temporary parking in the meantime to move that parking away from the property line? Mr. Bull said at the risk of Erik or Kevin shooting him, attached to their Staff Report they will see how the interim lot comes around here like this today. As he indicated, there have been some changes that occurred and how the configuration occurs in this area north of the tram lot. This is very close to the way that the parking lot is laid out and parked today and part of what they will see is that there are 2 things going on with respect to the Platt's that go to their issue. One is what they really wanted was a fence that paralleled their north property line – all along their north property line which has been installed because it was a visual issue he believes more than anything else that they were concerned with. Secondly, they will see there is some separation – there is a drive aisle that is occurring around here that separates the parking from this east property line but again, he believes more importantly today was the installation of the fence.

COMMISSIONER VEITCH said the area shown on the drawing in our packet and marked as Lot A is not shown as being configured the same as the last sheet Mr. Bull showed them, the work assignment sheet. He thinks the work assignment sheet is the accurate one.

CHAIRMAN CASON said the work assignment is the one they are going to say is how the parking lot is now. Mr. Bull said in the context of how it was being parked at the time that they filed the application and gave Staff a site plan. The site plan that is attached to Staff's Report is what was included in that application package. As a part of the evolution, reconfiguration in this area occurred where they will see these spaces are angled and other kinds of things like that are occurring. At the risk of Erik or Kevin shooting him, this isn't officially in the city's file he doesn't think. If they want it to be, they are happy to make it a part of the City's official file. **CHAIRMAN CASON** asked so the work assignment sheet is how that lot is going to be parked according to this Use Permit? Mr. Bull replied that was correct. **CHAIRMAN CASON** said that was good. He asked if there were any other questions for Mr. Bull. There wasn't.

CHAIRMAN CASON went to the audience to see if anybody wanted to speak on this matter. There were none. He went back to Mr. Bull to see if there was anything else he wanted to add. Mr. Bull said he requests their approval.

VICE CHAIRMAN RIVERS said to clear something up in his mind he had a parking diagram that he had at the last meeting that has colors on it, orange, blue and yellow. They were discussing up here along the Platt's property that there used to be parking places that pointed directly at their property and he sees that they are now not on the new working assignment sheet

or the temporary parking page that they have. He was just double checking that the issue of the cars pointing directly at their property has been eliminated. Mr. Bull replied yes. He said it has been kind of a work in progress. He guesses that is how the system is supposed to work.

CHAIRMAN CASON thanked Mr. Bull and his clients for working with them. The biggest concern that they left with was just having an idea of what they had in mind and how long it was going to take is what they are looking for. He appreciates them coming back and sharing that with them. He looks forward to them getting everything done in a timely fashion. He looked for a motion.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve ZUP10-0054 CORNERSTONE CHRISTIAN FELLOWSHIP with the amended site plan identified as 'work assignment'. The item passed unanimously 6-0 (Commissioner Cunningham was absent).

F. ZUP11-0003 MID MOUNTAIN EXCAVATION

Request Use Permit approval to operate an excavation business at 930 E. Germann Road, west of the northwest corner of Germann and McQueen Roads.

1. Substantial conformance with application materials (Site Plan, Narrative) kept on file in the City of Chandler Planning Division, in File No. ZUP11-0014, except as modified by condition herein.
2. Site improvements required to comply with the Zoning Code's site development standards shall be completed within six (6) months of City Council approval.
3. No materials may be located outside of the storage yard. Existing materials piles outside the storage yard must be removed within one (1) week of City Council approval.
4. Landscaping planted in and adjacent to the storage yard shall be maintained at a level consistent with or better than at the time of planting.
5. The storage yard shall be relocated so that no part of it is closer to Germann Road than the existing office building. Also, no part of the yard may be moved closer to McQueen Road than currently exists.
6. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

MR. BILL DERMODY, SENIOR CITY PLANNER, stated they could see an aerial photograph of the site on the overhead camera in front of them. This is located at the northwest corner of McQueen and Germann roads – actually a little west of that intersection. This is an existing excavation business that is operating in violation of the zoning. It has apparently been there since about 2004 on a mostly vacant site. To the west of them on the same parcel is an auto repair use that is legal and non-conforming also known as grandfathered use that has been there for quite some time. There is also a cell tower in the northern part but for the most part this is an undeveloped site. It was approved about three years ago for rezoning from AG-1 to PAD for a mixed-use site that involved RV storage in the back, a field station at the corner and some retail

along McQueen Road. Market conditions have not allowed that to construct and so the property owner would like to allow this tenant to continue here with their excavation business, which involves a number of trucks and equipment within a fenced area. There is also an office that is actually an old existing historic home that they have converted to an office and ideally would like to maintain an "as is" on the site going forward. The Airpark Area Plan doesn't support this for a long term use but Staff is recommending approval of this request as a short term use. They suggest a 1 year time limit on it that may or may not come back in a year for future extensions but for whatever time, it wouldn't be a permanent use. They also suggest that the storage yard be relocated on a site. That is one of the conditions that are attached to the memo so that no portion of it is closer to Germann Road than the office building. One of their major concerns with this is the aesthetic effect of a storage yard right across from Tumbleweed Park on a major arterial and being able to move it back about 60 feet or so with less of an aesthetic impact. They also note that the zoning code requires a number of upgrades associated with this if it were to get approved including a block wall would encompass the storage yard; probably an 8-foot high block wall. There would also have to be some degree of landscaping. Those decisions would be made administratively but through preliminary discussions they have determined these are probably the ones that would be enforced. There is a little bit of leeway but that is all in an administrative basis. This Commission and through the Use Permit process doesn't have the power to waive those site development standards. The only question before us is whether the use is appropriate. He said he believes the business owner would like to talk about some of those standards. Again, the Staff recommendation is for approval and he would like to read into the record additional condition no. 6 that didn't make it in the original Staff memo but was always intended. It reads as follows:

7. *The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.*

Mr. Dermody said one other site development standard that is a key one he would like to mention is that all driveways whether inside or outside of the gate will most likely have to be paved. Right now it is all unimproved surface out there. It creates dust at certain times. So that would be remedied administratively through the review process. Again, recommendation is for approval for 1 year and he said he would be glad to answer any questions.

CHAIRMAN CASON asked if there were any questions for Staff on this item. He asked Mr. Dermody about the driveway entrance into Germann. Is there already a driveway there or ramp there? Mr. Dermody replied there is a ramp. There is a curb cut there already but there is no driveway. They can see an obvious path where the trucks have been traveling but that would have to be paved. **CHAIRMAN CASON** asked if the landscaping was going to be a commercial landscaping standard? Mr. Dermody said what is anticipated is the commercial landscaping standards on two sides – not the backside but only what faces McQueen and Germann and is what they anticipate enforcing. Yes, as far as the number of trees and number of shrubs it would be their commercial design standards – the norm. **CHAIRMAN CASON** asked if the 145 x 250 is the extent of the property that would include the south side and east side that would have to be bumped in a little bit to allow for a strip for landscaping. Correct? Mr.

Dermody replied that is correct. The 145 x 250 is approximately what it is today. They are recommending that the office be the closest portion to Germann Road so they would lose a lot in the south and to make up for that they would probably add on the back and the north side. Wherever the fences end up it will have to allow enough space to get landscaping around the south and east sides of the storage yard. **CHAIRMAN CASON** said let's say the applicant has made an arrangement with the owner of the property that he needs an inside-the-fence size of 145 x 250 and all of the paperwork, all of the exhibits that are presented with this application show that but in affect it might end up being 145 x 275 or something like that. Is there any kind of discrepancy between the fact that the presentation is showing that the actual lot the applicant needs is 250 x 145 when in actuality it will be a larger lot? Mr. Dermody replied that they don't have any conditions placed on this that would restrict the size to exactly 250 x 145 so it might get a little bit larger if necessary because of the way the driveways are laid out. **CHAIRMAN CASON** asked if that is completely between the applicant and the person who owns the property ultimately? Mr. Dermody said if it were to increase to 2 or 3 times the size, they would probably deem that not substantially similar to what they are asking for here but they have a little leeway.

CHAIRMAN CASON asked the applicant to come forward.

ED JOHNSON, OWNER OF MID MOUNTAIN EXCAVATION, 930 E. GERMANN ROAD, thanked Staff for approval but he has a problem with some of the requirements they are going to require. First of all they have been there since 2004. The property owner decided he was going to develop it in 2008 and came in front of them and got a PAD for that which is a storage yard and Quiktrip on the corner. A couple months ago the City came by and said they are in violation, you need to go. I requested to get this special Use Permit just to stay. The problem they have is they know they are not going to be there a long time; probably a couple years at max and the man will develop it. He'll get the storage yard and all of the amenities that you want in your planned PAD. The question he is asking them is 'what do they need to just stay' because some of these stipulations that they are giving him are more or less get out of dodge type scenario. Their business is driven by the new home market and they know that is down below the bottom so they are not financially capable of doing what they are asking. On these items is a paved driveway inside and outside the storage yard. They have track hoes and equipment that just eat up asphalt. They have decomposed asphalt or grindings (millings) that they were going to use for this driveway here. As they can see, this darkened area is pea gravel and ABC which goes all the way out to this driveway apron and all the way in here. The whole yard is all decomposed granite and ABC which is unimproved for them but improved would be asphalt but it is just not in their way of doing things because of the track equipment they own. They told Staff they could work with them if they wanted a paved driveway. They would put the millings down and then oil it or put asphalt slurry on top of the millings to get them an asphalt driveway. They wanted to move the fence back 50 feet from the right-of-way. Right now from back of curb to the edge of the chain link fence is approximately 50, maybe 45. They suggested that they remove the chain link fence and put a block fence and basically what they are saying is move this chain link fence back here to where it is 90 feet right-of-way back to this office putting a block wall down the east side, down the north side and back up the west side. The problem with that is he doesn't have that kind of money to do an 8-foot block wall or even a 6-foot block wall at $26 a foot. They are looking at about 600 feet of block wall; roughly around $16,000 or

$17,000. His problem with the block wall is over here about a half a mile you have their airport and there is not a block wall anywhere around their airport; it is all a chain link fence. The aesthetics of the chain link fence are maybe good, maybe bad, but if their airport doesn't have it why are they requiring him to. He told Staff that the piece between the chain link fence and the curb he didn't have a problem with putting in some granite, some boulders and some cactus to make it look decorative but as far as trees and bushes like that they are on a well. Staff said they may need to go with City water and he said that is big bucks. They have a well that is located right here that furnishes them with water and the repair place. Now they know this isn't going to be an extended 5 or 10 year deal, this is a 1 or 2 year, possibly on the far side 3. The expenditures that Staff is requiring would be almost in the $30,000 range. He said he can't develop this man's land for him. All he wants to do is just stay there for a couple years. He would like to. Staff has suggested trying and getting a variance to vary these stipulations in this Use Permit. He doesn't have a problem with that. He said he will look into it if approved and see about doing that. Do they have any suggestions that would help me out here?

CHAIRMAN CASON said they will certainly think about that. Is he continuing with his presentation? Mr. Johnson said the only other question he had was that Staff had one year for this and he was hoping to get two years but he guesses that he could live with one. Other than that he said he was done. **CHAIRMAN CASON** said so if he understands him any stipulations that are attached to this Use Permit are financially prohibitive for him. Mr. Johnson said he is just lucky to try and keep his business alive. Things have been very bad for him. **CHAIRMAN CASON** asked Staff about when this was annexed. Mr. Dermody said he didn't remember for certain but he believes this was part of the huge southern annexation that gave them most of southern Chandler which would have been 1983 or something like that – 80's or 70's. **CHAIRMAN CASON** asked so the auto repair use has been there since the 70's? Mr. Dermody said the auto repair use shows up on every aerial photo back to 1979. It was built sometime before that. **CHAIRMAN CASON** said he is taking that he didn't have a County Permit or anything else like that to be on this property back in 1979? Mr. Johnson said that he couldn't answer. **CHAIRMAN CASON** asked if he personally had a permit? Mr. Johnson said no.

KEVIN MAYO, PLANNING MANAGER, added that when it comes to the stipulations and things, the only kind of power that Commission and Council have for this Use Permit is to stipulate requirements of code. Staff has administrative flexibility in how they administer their code and their code is very clear that any use requires 'x and x' improvements. They have some leeway with that and they really do try to look at delivering what is the intent of code and they may not deliver to the letter of the law. If Commission feels that it is appropriate to deliver the letter of the law, saying it shall be an 8-foot solid block wall, it shall be commercial design landscaping with standards, those types of conditions can be placed on this Use Permit. Conditions that provide a variance from code can't be done through this Use Permit. Through the Use Permit the only thing it does do is grant the land use the right to do it. The applicant is correct that they have advised him that if he is looking to seek not doing pavement, not doing the wall, not doing any of those other things, that would have to go through either the Board of Adjustment or come back through this board and Council as a rezoning and a PDP under a permanent condition which then the permanent code really kicks in. The conditional Use Permit

really has its hands tied to what Commission and Council can approve under deviations from code.

CHAIRMAN CASON asked if there was anyone in the audience that wanted to speak on this matter. There were none. He closed the floor to public discussion and looked for a motion or further discussion on the dais.

COMMISSIONER VEITCH said they are in a situation where they can't really do much to help the applicant. The stipulations that are attached are recommended to be attached to the Use Permit. It requires the improvements to be made that are of concern to the applicant. That becomes a matter for Staff to determine how strict to be in the application of the site development standards and as they have heard, Staff takes reality into account in terms of what the intent of the code would be in a particular situation. They are looking at 2 or 3 years maybe before the PAD development starts to take place. Staff might well find it appropriate relatively lenient with respect to the site development standards for that kind of a period of time. This Commission has no authority to waive those and they don't seem to have an appetite to put them in as stipulations either so he thinks they have what they have.

CHAIRMAN CASON said he would agree.

MOVE BY COMMISSIONER VEITCH, seconded by **COMMISSIONER BARON** to approve ZUP11-0003 MID MOUNTAIN EXCAVATION. The item passed unanimously 6-0 (Commissioner Cunningham was absent).

6. DIRECTOR'S REPORT
   Mr. Mayo said there was nothing to report with the exception to remember that the August 3 hearing has been cancelled.

7. CHAIRMAN'S ANNOUNCEMENTS
   CHAIRMAN CASON announced that the next regular meeting is August 17, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
   The meeting was adjourned at 6:55 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, August 17, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Pridemore.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS seconded by **COMMISSIONER VEITCH** to approve the minutes of the July 20, 2011 Planning Commission Hearing. The motion passed 6-0 with 1 abstention (Commissioner Cunningham was absent at that meeting.)

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no items pulled for action.

A. LUP11-0009 MCDUFFY'S GRILLE

Approved to withdraw.

Request Liquor Use Permit approval to allow the addition of live music and games at an existing restaurant in conjunction with the sale of liquor (Series 12 Restaurant License) for on-premise consumption only indoors and within an outdoor patio. The property is located on the northwest corner of Pecos and McQueen Roads.

B. LUP11-0010 HOB NOB SPORTS GRILL

Approved.

Request Liquor Use Permit approval to allow the addition of live entertainment at an existing restaurant/bar in conjunction with the request to sell liquor as permitted under a Series 6 Bar License for on-premise consumption only indoors and within an outdoor patio. The property is located at the northeast corner of Chandler Blvd and 54th Street.

1. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
3. The liquor Use Permit is granted for a Series 6 license only, and any change of licenses shall require re-application and new liquor Use Permit approval.
4. The liquor Use Permit is non-transferable to other restaurant locations.
5. The site shall be maintained in a clean and orderly manner.
6. The patio shall be maintained in a clean and orderly manner.
7. Live entertainment is permitted indoors only.
8. No noise shall be emitted from amplified instruments, speakers, microphones, or the musician(s) from the business so that it exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
9. The rear door to this business shall remain closed and not propped open during business hours and shall not be used as a customer entrance or exit.

C. LUP11-0012 COAL BURGER

Approved.

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant (Series 12 Restaurant License) at 7131 W. Ray Road, Suite 25, within the Casa Paloma Shopping Center at the southwest corner of 56th Street and Ray Road.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.

3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.

D. LUP11-0013 EZ SMOKE SHOP

Approved.

Request Use Permit approval to sell wine and beer for off-premise consumption only Series 10 Wine & Beer Store License) at 777 N. Arizona Avenue, Suite 8, within the DeLeon Plaza at the southeast corner of Arizona Avenue and Ivanhoe Street.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion beyond the approved Floor Plan and Narrative shall void the Use Permit and require new Use Permit application and approval.
4. The area adjacent to the store shall be maintained in a clean and orderly manner.
5. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

E. LUP11-0015 THE LIVING ROOM

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption only within an existing restaurant and outdoor patio. The subject site is located at 2475 W. Queen Creek Road, Suite #1, which is west of the southwest corner of Queen Creek and Dobson roads.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other store locations.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. The site shall be maintained in a clean and orderly manner.
5. The Use Permit is granted for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
6. No noise shall be emitted from outdoor speakers or acoustical musicians on the patios so that it exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.

F. ZUP11-0007 ALL J'S DETAIL

Approved.

Request Use Permit approval of a time extension to allow an automotive detailing business within Planned Industrial District (I-1) zoning. The property is located at 6532 West Flint Street, Suite 2, north of Chandler Boulevard and west of Kyrene Road.

1. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Floor Plan, Site Plan, Narrative) shall require reapplication and approval of a Use Permit.
3. The Use Permit is non-transferable to other store location.
4. There shall be no vehicle maintenance and repair, auto body or mechanical engine work, tire and/or wheel shop, vehicle customization and accessories, sales, leasing, vehicle related retail sales, or the like.
5. The site shall be maintained in a clean and orderly manner.
6. Any proposed business name signage, temporary banners, or the like shall require City permits in conformance with adopted City codes.
7. There shall be no vehicle parking, storing, detailing, or the like on City streets. All vehicles shall be maintained on-site.
8. There shall be no working on vehicles in front of the building; all detailing shall occur in the rear of the property.
9. As represented by the applicant, clients are restricted to corporate accounts only; no individual, general public clients are permitted.

G. ZUP11-0009 EVA'S MI AMORE

Approved to withdraw for the purpose of re-advertising.

Request Use Permit approval to operate a wedding planning and bridal service office in a converted residence at 598 W. Chandler Blvd. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is September 7, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:35 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 7, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:40 p.m.

2. Pledge of Allegiance led by Commissioner Cunningham.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS seconded by **COMMISSIONER VEITCH** to approve the minutes of the August 17, 2011 Planning Commission Hearing. The motion passed 7-0.

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items B and J were pulled for action.

A. DVR10-0014/PPT10-0002 NORTH EAST COOPER AND RIGGS-**Approved to continue to the October 5, 2011 Planning Commission Hearing.**
Request Rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for an 84 lot single-family residential subdivision on 32 acres and PAD zoning for commercial development on 7.5 acres. The subject site is located at the northeast corner of Cooper and Riggs roads. **(REQUEST CONTINUANCE TO THE OCTOBER 5, 2011 PLANNING COMMISSION HEARING.)**

C. DVR11-0026 CHANDLER CHRISTIAN COMMUNITY CENTER
Approved.
Request Rezoning from Multi-Family (MF-1) to Planned Area Development (PAD) along with Preliminary Development Plan (PDP) approval for a multi-use community center. The subject site is located at 345 and 365 S. California Street, which is located south of the southeast corner of Frye Road and California Street.

1. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
2. Development shall be in substantial conformance with the attached exhibits kept on file in the City of Chandler Planning Services Division, in File No. DVR11-0026 CHANDLER CHRISTIAN COMMUNITY CENTER; except as modified by condition herein.
3. The site shall be maintained in a clean and orderly manner.
4. Preliminary Development Plan (PDP) approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this PDP shall apply.
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. 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).
7. **The applicant shall work with Staff to incorporate additional landscaping materials in the area between the face of the building and the California Street right-of-way where feasible.**

D. LUP11-0014 NINJA SUSHI

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors and within an outdoor patio area at a new restaurant. The property is located at the southwest corner of Germann and Alma School Roads; 2040 S. Alma School Road, Suite 3.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 12 license only, and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.

E. LUP11-0016 THE SUSHI ROOM

Approved.

Request Use Permit approval to sell alcohol as permitted with a Series 12 (Restaurant) liquor license for a new restaurant and outdoor patio. The subject site is located at 2475 W. Queen Creek Road, Suite 6, which is west of the southwest corner of Queen Creek and Dobson Roads.

1. Expansion or modification beyond the approved exhibits (Site and Floor plans) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other store locations.
3. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.
4. The site shall be maintained in a clean and orderly manner.
5. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.

F. LUP11-0017 SIBLEY'S WEST GIFT SHOP

Approved.

Request Use Permit approval to sell wine and beer for off-premise consumption only (Series 10 Wine & Beer Store License) at 72 S. San Marcos Place within Historic Downtown Chandler.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion beyond the approved Floor Plan and Narrative shall void the Use Permit and require new Use Permit application and approval.
4. The area adjacent to the store shall be maintained in a clean and orderly manner.

5. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

G. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

Approved to continue to the October 19, 2011 Planning Commission Hearing.

Request Use Permit approval to install a wireless communication facility on the campus of United Methodist Church at 450 E. Chandler Heights Road, the northeast corner of Chandler Heights Road and the Union Pacific Railroad. **(REQUEST CONTINUANCE TO THE OCTOBER 19, 2011 PLANNING COMMISSION HEARING.)**

H. ZUP11-0010 ALLRED CHANDLER AIRPORT CENTER

Approved.

Request Use Permit approval to allow a place of worship/church in a portion of Building B. The property is located at 2440 E. Germann Road, Suite 5, north of Germann Road and east of Cooper Road within Allred Chandler Airport Center.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Allred Chandler Airport Center" kept on file in the City of Chandler Current Planning Division, in file number ZUP11-0010, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3673 in case DVR04-0037, except as modified by condition herein, and Preliminary Development Plan case PDP06-0001.
3. A church or place of worship use shall occur only within Building B, Suite 5 of Westech Corporate Center Lot 34. Parking related to this church shall occur in accordance with the representations in the Development Booklet.
4. Childcare and Bible study programs are not approved with this request.

I. ZUP11-0015 GENERATIONS LINKED

Approved.

Request extension of existing Use Permit approval for the operation of residential childcare within a single-family residence. The subject property is located at 1192 N. Hudson Place, north and east of McQueen and Ray Roads.

1. Use Permit approval for operating Residential Childcare shall be applicable only to the applicant and location identified with this application, and shall not be transferable to any other person or location.
2. The Use Permit shall remain in effect for five (5) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit application and approval.

K. MOTION TO CANCEL THE SEPTEMBER 21, 2011 PLANNING COMMISSION HEARING.

Approved.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

ACTION:

B. DVR11-0025 PALOMA KYRENE BUSINESS COMMUNITY

Approved.

Request to amend the Planned Area Development (PAD) zoning to allow additional instructional sports and athletic training facility uses in Building M along with a Preliminary Development Plan (PDP) to address on-site parking requirements for the business park. The property is located south of Chandler Boulevard on the west side of Kyrene Road at Gila Springs Boulevard.

1. Compliance with original conditions adopted by the City Council as Ordinance No. 3729 in case DVR05-0002, except as modified by condition herein.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Paloma Kyrene Business Community Narrative Report", kept on file in the City of Chandler Planning Division, in File No. DVR11-0025, except as modified by condition herein.
3. Instructional sports and athletic training facilities are limited to only Building M with maximum of approximately 18,500 square feet in building area.
4. Instructional sports and athletic training facilities are defined as facilities that focus on the instruction, training, and related activities of a particular sport of field of sports. Examples include, but are not limited to, baseball, softball, fencing, martial arts, swimming, gymnastics, cheerleading, and dance.
5. Hosting of competitive events is limited to weekday evenings after 5:30 p.m. and anytime during weekends and national holidays. Events shall be planned so as not to interfere with other businesses in the business park.
6. Outdoor training is not permitted in conjunction with instructional sports and athletic training facilities.

MS. JODIE NOVAK, SENIOR CITY PLANNER, stated this is a request on an existing PAD zoning. The current zoning for this development is a mix of light industrial with some office as well as general office buildings, medical office buildings and some ancillary support retail. The request is to allow additional instructional sports and athletic training facility uses. There is also a Preliminary Development Plan (PDP) which is addressing parking for the overall development.

This property is located south of Chandler Boulevard and is on the west side of Kyrene Road at Gila Springs Boulevard.

The building in question is Building M. This building is constructed and has approximately 58,187 square feet of building area. It is part of this larger 21 acre development that has a total of 14 buildings throughout. This property had come back through Planning Commission and City Council in August of 2009. There was a separate request to do an amendment to the PAD zoning to establish instructional sports and athletic training uses in this project. That use was specifically to be allowed to be only in Building M as in Mary and it was granted to have a user that was 14,500 square feet. That 14,500 square foot maximum could be anywhere within Building M. At the time it was represented it would be in Suite 13. At the time, through that request, they have a parking ratio through their zoning code that establishes recreational centers to be parked at 1 per 200. They don't have a specific code necessarily for an instructional sports and athletic training use as defined by the PAD zoning for this project. Through the prior case the development had shown through their parking study and their review that the overall development of Paloma Kyrene Business Community would be short parking spaces. At the time it was estimated they would be short about 15 parking spaces. So as a part of the agreement to move forward with that request to allow that 14,500 square feet in Building M the development had agreed to hold off getting any occupancy of two of the industrial tenant spaces in either Building M or Building N to the west of it. By holding off on two tenant spaces you would wind up granting this property another 18 spaces that would be freed up. By adding that fencing school, they were short 3 parking spaces. So in order to address the 15 parking spaces short they talked about different alternatives of how that could be achieved. Would they come back with the PDP for parking; would they look at trying to fit where they could build additional parking on the land; re-modify retention basins; put more retention underground; build more surface parking. In the end it came forward with a letter that was attached to that 2009 case in which it represented that Planning Staff and the applicant had agreed that if they held off on those two tenant spaces, the site met code at the parking ratio that was established at the time.

So here they are today and the property has another request to add an additional, second, instructional sports and athletic training facility use to the project – also in Building M. It would add another 4,500 square feet so that would mean out of that 58,187 square foot building they would have approximately an 18,500 total square feet that would be for instructional sports and athletic training uses.

With that amount, what the applicant had proposed to us was an alternative to look at a different parking ratio which is not unusual with many developments whether they are commercial shopping centers or a multi-family project. They do always look at opportunities to reduce the amount of asphalt, to reduce the amount of parking but also make sure there is enough parking for the users and the need of the project at the time on a case-by-case basis. With this particular request there is a shared parking analysis. Their city zoning code doesn't specifically address shared parking although that is pretty common that happens in most office developments and also in shopping centers. You typically don't have things saying this is just for the restaurant and this is just for the Hallmark store and this is just for the grocery. Everybody winds up parking all

over. But for this particular request similar to how other cities have in their code a shared parking model they felt was an appropriate thing to look at. They decided they would consider that and have the applicant give them a full review. They thoroughly went through all of the numbers which they have been doing since 2008/2009 with the prior case and understanding how many spaces are in the entire project; what percentage is for industrial; what percentage is for general office and medical office. Through the original zoning case in this development there is a maximum of medical office that could occur and the whole project is 20,000 square feet. That medical office and general office will never happen in buildings M and N because those are only zoned for light industrial. With those factors in place they looked at the shared parking model understanding that instructional sports and athletic training uses do not operate 8 to 5 or 8 to 6. They are not operating during the same business hours as any of the other office related uses in the project and that would be normally your biggest impact. With this request they looked at what hours does the fencing school operate that is existing. They have been very nominal and have had no impact on the function of parking in the development. They have not had any comments or concerns about it. They looked at if you add another 4500 square feet would that have an impact with parking as well.

The PDP portion of this request is asking them to look at a shared parking model. Instead at looking at their normal 1 per 200 which is one space for each 200 square feet of building area, they are looking at 1 per 333, one parking space for each 333 square feet of building area specifically for that instructional sports use. By doing that, if you looked at it at 1 per 200 for this building at 18,570 square feet, you would state that there needs to be 92 parking spaces for those 2 instructional sports uses. If you looked at it at the 1 per 333, you would say there would need to be 55 parking spaces. That is a 36 space difference. They compared it to a similar development where they did 1 per 300, which is the Allred Chandler Airport Center in which that development looked at athletic recreational child-oriented bouncy gym, dance school type uses throughout several buildings in that entire development which was the start with them looking at other options versus 1 per 200. That project came in at 1 per 300. If you looked at this building at 1 per 300 they would need 62 spaces - so 7 spaces more than what you would need if they were at 1 per 333. With that being said the fundamental premise of this case is to look at should you support adding in another instructional use of another 4500 square feet in building M and if you do add that, will that use have any impact on the overall parking and the function of parking for every user and use in the entire business community that is constructed today. Through that Study they have found through Planning that there isn't any impact. Based on the analysis they provided, which was very thorough and looking at all the data given that those instructional uses operate at very different times then all the other uses, the shared parking that everybody kind of uses each other parking at different times of the day, there isn't going to be an impact. Those instructional athletic uses when they operate in building M will not be causing the other businesses to not have parking for their employees and/or their customers and patrons that come to that site. They are very comfortable with how the request is represented today.

The original zoning standards in regards to no hazardous occupancies in the industrial building still exists. The restriction on the maximum square footage for medical office still exists. This

representation is to allow the uses in building M. It is not allowing it in any other building. If another user that was an instructional sports athletic training wanted to come back, they would come back through the same process as they are here today to ask for additional square footage and they would have to re-evaluate parking at that time and make sure whether it would have an impact or not.

The Staff Report as well as the development booklet clearly outlines the overall hours. The applicant has gone out at different times of the day and there is a lot more detailed analysis that they did that they reviewed; different times of the day; checking how many cars are out there; how much parking – kind of a need and demand that is currently going on which helped them understand the site even though they look at it more long term once everything is fully occupied. That is why they look at these ratios.

Through all of that they have had a couple of neighborhood meetings. They have had a lot of interaction with all of the property owners. It is a condo'd development so there is numerous property owners out there. They don't have anybody in opposition. Nobody has come out saying they are opposed to this request. They feel the use of the fencing school that is there today fits very well. They haven't had any impact on their parking. This particular user going in Suite 23 is a personal training type studio as well. They haven't had any concerns expressed about this other user coming into the site either. At this time they are not aware of any opposition or any concerns. They have their stipulations that hold it to the development booklet and how they represented it, 18,500 square feet in building M only. They have to comply with their definition of instructional sports, which they gave them. If these tenants were to leave, a similar user would have to come in that matches the definition and the representations and the intensity of how they represent themselves. It is not a carte blanche, any instructional user can go in there. They are tied to the development booklet representations about similar hours, similar amounts of people and all of those kinds of things about how much parking they would use. With that being said, Planning Staff is representing to them tonight that they are recommending that they support this request. Ms. Novak said she knows that there are some concerns about the parking and the shared parking model because it has never been pointed out specifically in a request even though it is inherent that most developments do shared parking anyways. She said she would be happy to answer any questions that they may have further about this item.

CHAIRMAN CASON asked if there were any questions for Staff.

VICE CHAIRMAN RIVERS said they have parking codes in Chandler which they discussed in the Study Session and even before that. He is curious to know why a developer sets up their project allowing certain uses for their suites and buildings and then after the fact they come back and they want to squeeze something else in there that wasn't originally approved and in this case they approved the fencing establishment with the idea they would give up leasing 2 of their other suites simply to compensate for the parking and now they are back again and they want to do it again. No mention has been made about giving up the parking for any additional suites to cover this one. He thinks it is important to look at the fact that Chandler has codes. There is a reason

they have standards for parking and it bothers me that there are so many instances of developers coming and wanting them to change them so that they can fit into their development whatever is currently on their list. He understands that the economy is not very good right now and he understands that a lot of these developments sit empty and they do want to accommodate these additional uses if at all possible but he doesn't think we should be sacrificing their standards and parking codes simply to accommodate them. If they are willing to give up an additional suite or two to allow these people to park as code requires at 1 to 200, he thinks that is acceptable. He is very concerned about parking. He won't even get into the parking problems at the mall. There is a development in their neighborhood in which the developers stood in front of Commission and City Council and swore that there parking is going to be plenty for what they had. The Commission and Council agreed and it has never been enough for what they have. They are currently continually jamming their streets with on-street parking and why do they leave themselves open for that. Why don't they stick to their parking codes? They have set a precedent with the fencing school allowing this additional use to give up leasing 2 suites and they should stick with that rather than setting a precedent that now they don't even have to do that. He said that is all he is going to say at this moment.

COMMISSIONER PRIDEMORE said he heard at 1 to 200 which is the current code for the entire 18,500 which is about 92 spaces that are required. How many are they short? Ms. Novak said at this time with the 1 to 333 that they are requesting the need, they are 36 spaces short from what code would require.

KEVIN MAYO, PLANNING MANAGER, showed the zoning code book. In it they will have the Table of Permitted Uses which they just came through and they updated that Table of Permitted Uses and cleaned things up. They have these pages of types of uses and they know that Table of Permitted Uses is not all inclusive and there are tons of users and uses that are not in there but they use that Table to say where they can go. They are looking at it in the code table of permitted uses pages of multiple things. When they look into the parking code they are looking at a page and a half of about 11 or 12 different things that are in a commercial designation. They are trying to take a specific use and fit into what has been defined as maybe 11 different categories. In the parking code they don't have that many things to take this peg and see where it fits into. They look at it and the closest thing they can stick it into is 'dance halls, skating rinks, amusement centers and recreation centers'. That is what they have that is closest to what the requested use of the fencing school and the personal trainer is in terms of recreational users. When they read that it instills something that is large and something that lots of people come and gather in and they have lots of recreational activity in dance halls, skating rinks, amusement centers and recreation centers. They are sticking a peg into a hole that is saying that type of use parks at 1 to 200 and in reality an amusement center those things probably parked even higher than 1 to 200, but they are taking a peg that is a fencing school or a personal 1 on 1 type training thing and saying that they are analogous to this but it is only because they have such a limited amount of things in our code to say this is what you are closest to. The 1 in 200 number they are given by Council – it is the closest thing they have. The Parking Study done by the Allred Center out at Chandler Airport Center clearly indicated that this code is missing the mark in terms of what is required for these. When they got hung up on that 1 to 200 number it

really was a number that just because it was right here is not necessarily anywhere near representative of how these things operate. These Parking Studies try to put a footnote into our parking code that say this type of user is actually this. But obviously they don't want our parking code to be 12 pages long, but it may grow in the future. He just wanted to set the table of where the 1 to 200 is coming from and where that is in our code and the deficiency that it brings with it.

MS. NOVAK, SENIOR CITY PLANNER, said to add to that with the PAD zoning and the PDP the zoning code allows an applicant or developer to ask for release from code - if there is right justification for it. They have done that on other projects that have elderly care housing and even hotels where what is written in our code sometimes at a slightly lower ratio is appropriate and what really works. They have heard for years and as long as she has been there, that their light industrial warehouse parking is too high compared to other cities and some people feel like they have 5 employees but your parking is going to make us feel like they have to have 50 employees and that is not how their warehouse operates. They are archaic, old codes that they do work with and they have to enforce them and tell the applicant that is what is appropriate until they prove otherwise through a professional review and Study of the data. They don't take it lightly. They are very passionate about this is their code and that is how they have to implement it until the Board and City Council find otherwise or direct them to amend the code.

COMMISSIONER PRIDEMORE asked if they were to approve a Variance to the parking, does the self-imposed 2 suites that they have been keeping on hold go away? Ms. Novak said yes. There parking calculations accounted for those being re-occupied as actual light industrial with their ancillary office space. So those would go away as part of the shared parking analysis. Part of that, it is their understanding that they have 1 to 500 for the warehouse, 1 to 200 for the office in each of those individual condo. suites and with that ratio they now understand that might still be a little bit too high, but they are comfortable given that those users operate when any of the other users in that same building would be there. It does not cause a conflict. They will not be taking up parking spaces that are needed during the regular work day. **COMMISSIONER PRIDEMORE** asked if they know the occupancy rate of the whole entire center? How many empty suites are there? Ms. Novak said the applicant could answer that.

CHAIRMAN CASON asked if the Study supports the parking for the entire center 24 hours a day, 365 days a year? Ms. Novak said yes. **CHAIRMAN CASON** said so if the applicant claims that these uses happen at different hours, then why would they need to change the PAD for the parking? Ms. Novak said because from the original request by adding that instructional athletic sports use at their code 1 per 200 ratio which is really for your typical skating rink, Castles and Coasters kind of a land use, it caused the whole project to be short parking because they had to use the 1 per 200 that is in their zoning code. It doesn't really fit into the kind of uses that they have. Because of that 1 per 200 it caused the site to be short 15 spaces. So the only way to make the fencing school still an appropriate land use because that PAD zoning did require a separate PDP application coming back to specifically address parking or else 2 tenant spaces for the industrial use would never be able to be relinquished for a tenant. That is why this is before us partly because of a new tenant coming in but also dealing with that prior case in 2009.

There would still be 15 spaces short. The only way to deal with that is to come up with the shared parking model to accommodate and prove that it gets absorbed by the sharing of parking at different hours of the day all year. **CHAIRMAN CASON** said so when the fencing center came around they would have realized or taken better heed of the fact that the parking happened at different times of the day and they didn't conflict with one another. They could have at that time not even messed with the parking and just let it go forward? Ms. Novak said at that time that was an option. Staff was originally recommending they weren't supporting the use with the applicant stating that they were 15 spaces short. Prove to them where they are going to put their 15 spaces. But the agreement they came up with was well they can meet the parking but they would still be 3 spaces short. Kevin mentioned earlier in Study Session that it is kind of a nominal thing, not that big of a deal. They would tell them that they would not be able to have 2 of their tenant spaces in the industrial building occupied so they had them put that in writing. It was part of the record of how they represented it to both Planning Commission and City Council. So that is how it winded up coming forward but if that wasn't the case and Planning Commission and Council said they were 15 spaces short and not a problem. In essence everyone is probably sharing parking and they probably don't park at the same times as the other uses, they are comfortable with it. That certainly could have been an opinion at that time. **CHAIRMAN CASON** said so because they did that with the fencing now they are obligated to do it with this one? They are obligated where they can't just say they are short on parking but they know they aren't going to conflict with one another. They can't fall back on that? They can't modify that now the applicant doesn't have to keep their suites free? Ms. Novak said they could think of it that way but cannot. A hearing board could easily say they understand they are representing the shared parking lot but don't agree with it. They feel they need to stick with code, stick with the parking ratio which means that they wouldn't approve this extra 4500 square feet from coming in because they would already know the site is 15 parking spaces short. They would still have those 2 tenant spaces that they would not be able to occupy and they would just be stuck that way indefinitely until they came and maybe put in more underground retention and built another surface parking lot in some small area where they already have above ground retention. That was the only option. There is not really any room to build a parking garage unless they were to build where the self-storage facility is. If they were to say they don't agree with this and want to deny it, they would still be in the state that they are in today which means they in essence have 3 spaces short with 2 tenant spaces they couldn't ever lease out or sell or have occupied. **CHAIRMAN CASON** said but the parking code presumes that all spaces will be used 24 hours a day. If they are not and they acknowledge that they are not and the applicant presents that they are not, then why do they have to require a parking change. He said that is the part he doesn't understand. They have done it at other locations where they just said well it doesn't look like the parking is going to conflict so they would just let it go forward. The part he doesn't understand is because they made a deal to make it happen before and now they want to make some other deal why they can't. Why do they have to change the PAD for the parking when they acknowledge that those parking incidences are not going to be conflicting with one another? In reality when they are going to be using the parking, there is probably 700 parking spaces. The point is that there would be virtually every parking space available for them to use at 8:00 p.m. at night. So why change the PAD to allow 300 per when there is no need to. There is no need to make that change. Ms. Novak said to explain the whole share parking on other properties, it is

different than this one. In others it is just a mixed-use shopping center. You have all sorts of retail, you might have some restaurant uses, you might even have that dentist so it functions as an overall shopping center ratio in which you have a mix of those uses and they all kind of share the main parking lot that happens to be there. On a hotel site it is just by itself. A nursing home facility is just by itself. This one has specific uses in buildings that have to park individually. You have to park general office separate from medical office so that those buildings in that square footage had to have its own parking. You then have industrial which has a totally different parking ratio. This is not a shopping center that they look at with a mix of uses. It is different than a shopping center and because offices generate more parking you have to look at the buildings individually. You would not have automatically applied a shared parking model with this particular project. They don't do it with any other office projects either because the medical office generates more parking. They always make sure there is a percentage restriction or square footage restriction on the medical and they have to track it as they come in with their building tenant improvement permits. It is different than kind of how they would do sharing in a regular retail shopping center because this is not. This is an industrial business park and they have to ensure that office which does require a lot of parking parked appropriately. The industrial they happen to have is a higher ratio and parking at the 1 per 500 so she fundamentally looks at those very differently when those parking issues come up. **CHAIRMAN CASON** said he would agree except his argument is that the offices aren't open, they are closed and so those parking spots are available. He is saying that the applicant makes a solid argument about being able to use shared spaces because the hours of business are different and that there will be a lot of parking spots available for them to use. In fact, if you look at it from that perspective you could actually say they could park cars on top of one another. That this particular spot might have 3 cars parked on it because 1 car is now gone because that business doesn't operating during these business hours. The other one is gone because that other business does not operate during those business hours. Now just that single car there works during those business hours. If they are overlapping the parking spots and the applicant makes that claim that is in reality is what is going to happen, then his question is why do we need to change the PAD? Ms. Novak said they are amending the PDP because the way the zoning code is for the parking calc. doesn't account for shared parking in essence. From the way he is interpreting it, that is not how the code is written. You have one individual office building with that building x amount of square feet, you need x amount of parking just for that building. That parking isn't put onto the building next door because the building next door needs to provide their own parking just for their building. It is like a puzzle and each building has to have its own parking. Say this building needs 10, this building needs 5 so we'll put the 5 over on this other building because they have a little bit more land. That is not how it is viewed when you apply the parking. It is does done more generically where the shared is something that has to be discussed and comes about through its own case as a PDP to see if they are o.k. kind of exempting that more strict application of each parking requirement goes.

KEVING MAYO, PLANNING MANAGER said their zoning code does not have a shared parking concept model in their parking code. They are in fact looking at potentially bringing that as a component to their parking code amendment. They don't have that yet. Their code says this is what it has to park at. With a code you always have to have a path to get around it in the event

that you can prove that it isn't. Two paths are either a Variance to the Board of Adjustment or through our PAD and PDP. It allows the variances to be approved through that PAD/PDP process. The reason that they have to amend this PDP is because they had not requested application of a shared parking model to this project. The code tells them to park it to code. They have done the Study to say today and their best guess going forward is they operate under the shared parking model and they are looking to go through the PDP to approve this variance to code for this development.

CHAIRMAN CASON stated then what they are trying to do is move from an individual building to a shared parking model. Mr. Mayo said that is part of the request. Part of the request is to approve the concept of accepting the shared parking model for this piece as well as saying this specific recreational users that they have don't generate anywhere near the 1 to 200. They generate 1 to 333 so it is kind of this little snippet piece and then the umbrella shared parking model. **CHAIRMAN CASON** said so it could have come to them that they just want to change to a shared parking model and they wouldn't have to deal with the amount of parking spots there were. Mr. Mayo said in the end they still need to make sure that this whole development, whatever the user mix is, parks itself and that it doesn't have parking deficiencies that force parking to go out into the neighborhoods or out onto the public streets. They have to self-park. Their code back when it was written said this is how much parking is necessary to make sure that each thing self-parks. If each office building had a wall around and their parking was solely for their office building. In this case they have a multiple user, multiple types of user development and they are looking to apply a shared parking model on top of this piece. **CHAIRMAN CASON** said so once again the shared parking model at 333 square feet per parking spot is for the entire development. Mr. Mayo said no, the 1 per 333 has nothing to do with the shared parking model. The 1 per 333 is saying that I know the code says that recreation centers require 1 per 200. They aren't a dance hall, they aren't a skating rink, they are this and they have studied this and this requires 1 per 333. What they are more or less saying is if they could have the parking code, can they please add a fencing school and they require 1 per 333 and put that into the parking code. Obviously, they don't do that into their code, it gets tied to the PAD which is the code that applies to this piece through that PDP. So the 1 per 333 is solely for those recreational users and then they are also saying under the shared parking model they are going to have an abundance of extra parking of studying the shared parking model on this piece. Regardless if they add the 1 per 333 or we don't. **CHAIRMAN CASON** said he seems to not be getting this at all and he apologized for that. Is everything west of the covered parking going to be at 333 per parking spot? Mr. Mayo said no – simply just the 18,500 square feet where a total of recreational users is 1 per 333. Ms. Novak said all the remaining suites and buildings are still parked at how their zoning code establishes it today. That is the question. If you did that, they would still be short parking. That is why they are trying to convey shared model parking. **CHAIRMAN CASON** said but changing the PAD is where they are going to change it to 1 spot per 333. Mr. Mayo said that is strictly the PDP. Ms. Novak said a PAD is land use. **CHAIRMAN CASON** said so the PDP is only for this 18,000 square feet. It doesn't affect any place else on the property. Mr. Mayo said not true. Ms. Novak said it is 2 parts. Mr. Mayo said the request is 3 pieces. The first piece is to amend the PAD to allow an additional 4,019 square feet of recreational space within Building M. That is one part of it. The second part is a 2 piece

PDP request. The first piece is saying that your code tells us that we have to park that total of 18,500 square feet at 1 to 200. They don't think that is accurate and they have studied it. It parks at their best guess is 1 to 333. That is the first part of the 2nd part of this request. He said this is going to get real confusing. The third part which is the 2nd part of that PDP request is saying that even if they parked at 18,500 square feet at 1 per 333 and they parked at 20% medical/office at 1 per 150, the balance of the office at 1 per 200 and the balance of building M and N at 1 per 500 and 1 per 200 for their office/warehouse space, that even approving the 1 per 333 for just that 18,000 square feet, if they take the whole thing parked individually it is still short parking. Then they studied if it is really short parking based on how big the center is and how users use parking during the day and don't at night and various things. Then they are saying that even with the addition of 1 per 333 the shared parking model is looking to be applied through a PDP. They have to do that through a PDP on the whole center to say that it is o.k. to say that they are still a little bit short. Let's say they had recreational users and they didn't have medical/office in this center and they wanted to add medical/office and now per code they would be short. They could look at a shared parking model saying that there is such big parking supply and users aren't using it. It is o.k. because in reality how this thing is going to function as one big development it is o.k. because there is enough parking. **CHAIRMAN CASON** said that is the part that scares him is that they could they bring in uses that would generate more to a point where now there would be too little parking and the reason that is because they changed their whole parking model on 2 tenants. Mr. Mayo said absolutely there is always that possibility. They have studied this very carefully and are comfortable with it but under the concept of office, they don't have in their parking code Class A Executive Offices that park at one space per 400. Our parking is 1 per 200 even though true Class A Office doesn't even approach 1 to 200. The opposite end of that spectrum are Call Centers. Those things can get 10 per 1000. Packing people into cubes where 4 people are sharing a 6 x 6 cube. By design, by just a level of quality of what this thing is, you would never fill this thing up with Call Centers. It is an office so it is allowed by right to go in there and they could load it up with these things and then they don't have enough parking. So there is always that worst case scenario of yes, it could happen. The chances of it by design probably would never happen. **CHAIRMAN CASON** asked if it didn't fill up with Call Centers would the 1 space by 333 square allow them to park more cars legally on site? Mr. Mayo said the 1 per 333 would not apply to the Call Center. The Call Center would be parked at 1 to 200 because it is office. The 1 per 333 part of this PDP only applies to the recreational users within that 18,500 square feet of Building M. **CHAIRMAN CASON** said they cannot add any more users that have the 1 per 333 to this property under what is before them tonight.

COMMISSIONER DONALDSON asked Mr. Mayo or Ms. Novak to illustrate for him the high to low what parks at above and below 333. Ms. Novak asked him if he meant this particular project? **COMMISSIONER DONALDSON** replied the parking codes even though it is outdated. Mr. Mayo said with the parking schedule it breaks it down to types of land use. He showed it up on the screen. He said he will see residential, industrial, and commercial. When they look at commercial there is auditorium, stadium at 1 per 200 or 1 for 5 seats whichever is greater. Private clubs and lodge, dance halls, funeral homes, medical/dental office clinics, general offices and non-retail, hotels, restaurants and he can read down that list. Number 3, the

commercial category, there are 17 categories that they can put any type of commercial use into and say that it is closest to. Again, when they look at the recreational things, they try to find in this list of only 17 things what is it mostly close to it and it is the recreational centers. In that same kind of categories, dance halls, skating rinks and amusement centers, things that bring with them a much different level of intensity than a fencing school. Ms. Novak said below under the industrial it lists unlisted uses and it actually is in their code, number 6. It explains through this process through the Planning Commission or Board of Adjustment there are unlisted uses because their code doesn't have everything. This is the process where you would have to address it. That was the directive from City Council when it came back in 2009. They didn't say Staff just figure it out. No there are 15 spaces short and it is a problem. They can't occupy the other 2 tenant spaces so this needs to come back to a public forum to be discussed. The applicant spoke with the Zoning Administrator at length about that and they said no they definitely have to come back with a PDP for that. That is when they filed their original case, then they wind up getting the additional 4500 square foot user that wanted to go in there so they had to add it into this request.

COMMISSIONER DONALDSON said from the list he only sees 2 things; manufacturing/ warehousing and funeral homes that fall at or above 300 very specifically on this list. That is a pretty good illustration for him. He thanked them.

VICE CHAIRMAN RIVERS said their chart brought up a question. If he is looking at this numbers correctly, they are thinking that the fencing school and the personal trainer parking requirements will be about the same as a funeral home. Mr. Mayo said yes, since they don't have anything other than bulky merchandise sales, nurseries and building material equipment rental that is anywhere near the 1 per 300. That is not to say that every single one of these things that are 200 and 150 are correct numbers. Those are being scrubbed currently entirely by us and comparing them with other cities, comparing them with things that exist today in the field but they know that these numbers have not been studied in a while. **VICE CHAIRMAN RIVERS** said by the same token they are restricted, they can't decide how their code may change and go with that information until the code indeed does change. Mr. Mayo said correct but because PADS are ordinances that are written specifically for each property, they can through this PDP for this property only look at modifying that code. Ms. Novak said in the development book on page 7 there is a chart and that chart on this particular page outlines code requirements for this development so you have straight from the zoning code on the monitor and then they add in the 1 per 333 for the instructional sport fencing school and the new personal trainer and you will see that it really is about 9 parking spaces short right now. If they didn't even ask for the shared parking model, they would be saying they are 9 spaces short with this whole development. Are we o.k. with that or not. They are trying to show that 9 is not that big of a deal and if you look at it through a shared parking model in essence you never really would be short because those users operate at different hours. It kind of illustrates a straight analysis.

REESE ANDERSON, PEW & LAKE, 1744 S. VAL VISTA, NO. 217, MESA, said he wanted to start by answering a few of the questions that some of the Commission members may have had and go from there. Commission Pridemore had a question about occupancy. They are

85% leased now. They are almost all the way there. There are about 7 suites left that have not been sold and not to correct anyone's word but all these units are owner occupied units. As to the 2009 reasons why they did what they did, in 2009 the fencing school was going through the process and they were in a rush. The reason was is because this school had the opportunity to host the 2010 World Cup Men's Fencing Championship. To get it through at that time there was a collective understanding that 1 per 200 wasn't the right ratio for this use for all of the reasons you heard. They didn't have the time to be able to do a detailed analysis parking study and still make the deadline to be able to be the host city for the World Cup Fencing Championship. Thinking kind of creatively it may have been wrong at the time but they were thinking how they could get through this as quickly as they could. They said let's hold out 2 units. That will free up the parking spaces so everybody is happy and they will come back later with an analysis of how they can solve this parking issue and pre-open those 2 spaces. He is pleased to let them know that in 2010 that World Cup Championship fencing tournament was held here with great success so much so that in 2012 the men's and women's World Cup Fencing Championships are coming back to this same site. It was a great success and hey thinks a win, win for Chandler. He addressed the Chairman and said he understands his point very well. Do they really need to set up a 1 per 333 parking ratio for this fencing club and training facility when they could easily recognize and allow this use to continue on and free up the 2 units that they put a hold on voluntarily through just a simple shared parking model. The answer to that is yes, absolutely they could. Our instructions coming back from 2009 were let's establish and agree upon a fair parking ratio for the fencing school and let's also at the same time figure how we are going to solve this parking issue. What they brought back to them was they think 1 space per 333 square feet is a fair establishment for the fencing school. On top of that they have advocated from the very beginning a shared parking model is really the one that solves all of the problems. Do they really need to establish a 1 per 333 to make the parking work? No, they could just simply recognize a shared parking model. They all agree collectively that parking is not going to be an issue at this site but they have established what they think is a fair ratio. He thinks if they wanted to establish an arbitrary ratio, they would have picked something like 1 per 400 so that he wouldn't have to say and admit he is still 9 spaces short. They picked what they thought was a fair one based on the use, based on the studies and they still find themselves 9 spaces short but clearly with the shared parking model recognizing the different users and different times have different peak demands, there is no issue at all whatsoever here. He said he has addressed that question and Commissioner Pridemore's question and he would be happy to answer any other questions at this time.

VICE CHAIRMAN RIVERS said he believes his ratio of 1 to 333 is fair. Does he believe that is fair all the time or only at some times? He is asking specifically if they are going to have the World Championships held in their place of business, do they not anticipate an increase in parking needs at that time? Mr. Anderson said absolutely they do but what they have to remember is that the approval for that requires it to be after hours and on weekends when no one else is there on site and the parking studies and counts they have done prove that plus the holding of the one championship they have had already has proved that it is not an issue. So absolutely, yes, they do anticipate more. They hope there is more but at off peak times with the rest of the businesses so there is no conflict. **VICE CHAIRMAN RIVERS** said he is striving to

understand the parking requirements. If it is required that they have a parking place for 333 square feet of their business and they are going to be requiring more parking than that, he doesn't understand how that is working. Can he explain it? Mr. Anderson replied said he is not sure if he understands the question. **VICE CHAIRMAN RIVERS** said they are assuming that during normal business weeks and months they don't occupy more than 56 parking places so they are giving him a permit to operate a business that parks at 56 parking spaces yet they are going to at some point need twice that many. There are going to be times when they need much, much more parking than that so he doesn't understand why they think that 1 at 333 is fair because he has seen too many examples in Chandler where this is the amount of parking places that we are going to require and then turns out to be 'well not really'. We really need a whole lot more than that but they didn't want to say that in front of the Council because then they wouldn't have gotten their permit. He thinks when you go from 92 parking places to 56 parking places they are taking a drop of 38% of available parking for their fencing establishment. That is a 38% reduction of required parking places between 1 at 200 and 1 at 333. Current code requires the 1 at 200 and they are looking now at 1 to 333. This is a reduction of required parking of 38% and he doesn't understand why that suddenly is taken as a matter of fact. He is confused. He didn't do a parking study but as he said to Mr. Mayo in a meeting earlier today he is assuming that he would like his business to increase or whoever it is that owns the fencing school. So if this 1 to 333 parking ratio is correct for most of the time, currently if they increase their business next year why would they not need more parking places then. The building isn't going to get any bigger but they are going to need more parking places if they have more students, if they have more audience members, anything if they are going to increase the parking that is needed for that building and same with the personal trainer. When he opens the business, they are going to have 'x' amount of parking needs and they are hoping if they are like any businessmen they have ever met, that there parking needs will increase as their business increases. Again, if you go to a situation where they have a fencing class and they have classes from 6 to 7, the class that starts at 7 to 8 is going to arrive while the other class is still going on and they are going to wait their turn. But again, they have increased their parking requirements without increasing the size of their structure so he is having a real difficult time with going from 1 to 200 down to 1 for 333 and reducing the parking requirements for these businesses by 38%. Mr. Anderson asked if the concern is that there is not sufficient parking or is the concern over just the change in ratios because if his concern is over them advocating for a 1 per 333, it is not necessary to go there to approve this case because they have advocated from the beginning a shared parking model is all that is needed to recognize that the off peak hours of these businesses allows everyone to share the parking spaces without conflict. Other cities have in their toolbox of their zoning code shared parking models; Tempe, Phoenix and Mesa. They have worked with those cities before and in a lot of those cities Staff is allowed to approve those administratively. He thinks the question to ask here is had Chandler had the tool, would Staff have approved a shared parking model on this site as was presented to them. He believes they would have answered yes and they would have approved the shared parking model on the site. Then they wouldn't have had to bother them with all these ratios today. The reason they are talking about ratios is because they were asked the question what is a fair ratio for this type of use. That is why it is before them. He knows it has muddied the waters a little bit. It is a simple way to skin the cat with just a pure shared parking model. He hoped that helped answer the question. **VICE CHAIRMAN**

RIVERS said he had the World Championship there last year. How many people such as audience members, participants, and coaches came to their Championship? Mr. Anderson asked the developer. It was held on a weekend and there were less than a hundred. He thinks it is absolutely a great thing that they can hold these types of events on a weekend when there is no conflict with the other businesses. They have over 600 plus parking spaces on the site. **VICE CHAIRMAN RIVERS** said he agreed with him that they can hold the World Championship in Chandler and he is sorry he didn't hear about it at the time because they would have had 101 people there. He is shocked that it was so sparsely attended but it adds to his point if the spaces aren't needed he can understand that.

KEVIN MAYO, PLANNING MANAGER, said in terms of how that operates is when they look at the 1 per 333, if the question was have they studied this to see that 1 per 333 is appropriate without the condition that says that the tournament and events have to be held after evening hours and on weekends. If that condition wasn't there and they were studying the 1 per 333 as being an appropriate use, the answer would probably be no. They would know that they have this peak that they would have to account for. The 1 per 333 is their daily average during the instruction, during their normal business hours. The tournament and things are really those extraordinary things that occur infrequently but as he said, one of those cool things to get into Chandler. That stipulation starts to identify the concept of that shared parking model. Even at 1 to 200 it probably wouldn't have done it in terms of how many people would have come. In a suite like that they are going to be limited by the building occupancy probably simply based on the number of exits that can occur in those suites because you can only go out the front or the back. You are going to be limited to a number of people and he doesn't know what that number is but you couldn't get 2000 people in there because of the building code, you just couldn't get that many people in there. In terms of 1 per 333, the study was done that this is an appropriate number for how they operate their business normally and then how do they accommodate those peaks through those type of special events. With the shared parking model and the stipulations they are requiring, they are almost forcing that the shared parking model is insured to work are what gives them that extra layer of confidence in this type of case.

CHAIRMAN CASON asked Staff said so the PAD and the PDP cannot be separated. Mr. Mayo replied they can be separated. **CHAIRMAN CASON** said so they could approve the PAD and not approve the PDP and it sounds like the applicant would be satisfied with that as well. Mr. Mayo said to do that you would have to acknowledge on the record that the PDP is set aside so the 1 per 333 isn't considered and the shared parking model isn't considered and you would just make a motion that they are approving the addition of 4,019 square feet of this space with the acknowledgement that the site will be under parked per code as it sits today. **CHAIRMAN CASON** said the two parts of the PDP – the first one is the 333 per parking spot, the second part is redoing the shared parking plan. Mr. Mayo said it is an acknowledgement of a shared parking model on this property. **CHAIRMAN CASON** said they can't acknowledge a shared parking on this property without changing the 333 per square foot. Mr. Mayo said not correct but it wasn't studied that way. They studied it with what is a fair parking generation for this and knowing that's what realistically is going to happen during the day, how does the shared parking model work. They easily could say the 1 per 333 they are not comfortable with that

number but they still know that the shared parking model umbrella works on this regardless and you could approve it that way, they just haven't studied it that way. He isn't really sure that it is just the fact that it is not an even number – that it's not 340? Is the number a hang-up? **CHAIRMAN CASON** said yes and no. The fact that it is 333 specifically, 334 or 335, it would be the same thing to him. The fact of the matter is that they haven't done anything internally and he doesn't want to set precedence on 333 if the applicant doesn't need to have 333. If they are perfectly acceptable with being able to free up their suites, increase their square footage, understand if they change to a shared parking model, they understand their won't be a conflict and they will not have set that precedence until they have an opportunity for the City and Staff to go through and analyze to see what number they really want that to be. Perhaps maybe associated with the renewal of the parking ordinances. He didn't know whether that is possible for them to do. He doesn't know what the rest of the dais really feels about that. He would feel much more comfortable approving the PAD and the shared parking of the PDP and not even worry about the 333 parking spots per square foot. Mr. Mayo replied that his hesitation is that he gets nervous going that route simply because the 1 per 333 becomes integral and it is an ingredient of the cake that is the shared parking model. If you take that away, you are taking away a piece of what is held to the approval of the fencing school and the personal trainer in saying that there is a description of the level of intensity that they have described through words in there narrative and in their memo, and then through this acceptance of 1 per 333 that is now a numerical representation of a level of intensity for that type of use. Those 2 things packaged together are their ammunition to say if the fencing school goes away and some other use comes in, they would then say do they fit this word definition of what this is and do they feel that it is within that the 1 per 333 level of intensity of normal business hour generation. If they take that away, it steps back to the 1 to 200 level of generation which is much greater than 1 per 333 so they would have lost half of the tool that they would be measuring future users within here. The PAD sticks with the suites – it doesn't go with the fencing guy. The fencing guy can leave and they would be looking to put into another recreation of the user and their two tests are going to be parking generation and word definition in the narrative. If they take away the 1 per 333 that has been studied for this piece today, they would then have the 1 per 200 test strip in one hand and then simply words. He would feel better having the parking ratio and the words in that PAD as a fair description of what level of intensity is appropriate in here that they have studied for their shared parking model to exist. **CHAIRMAN CASON** said first of all he understands his concern gives him more control over what can happen in the future but his argument would be that by not automatically reverting back to the 200 and forcing tenants that need to have that parking ratio changed, doesn't that take away of a little of their control over that. In other words, they reverted back to the 200 if they automatically leave that suite or building M to the larger square footage, don't they actually lose some control over the parking? Mr. Mayo said he thinks they actually go the other way. If they removed the 1 per 333 number off of the first half of this PDP request, they then say it is 1 per 200. The 1 per 200 says now they can do these recreational users in 18,500 square feet of this building of how many suites are encompassed in that and they park at 1 to 200, which is the same ratio that office is parking at. You could almost get backdoored with saying 'if you are allowing something to go in here that per code generates 1 per 200, you should allow in here things that are already allowed by right in the rest of this PAD General Office to go into that suite because it has the same level of intensity at 1 per 200 which

would actually generate more in a real life parking generation. They are simply just talking math right now but that 1 per 300 tried to characterize the level of intensity which is integral into our going forward in the future with reuses and things like that. They have a definition and a number that helps to describe the level of intensity of things that can occur in here. If they take away the number, that level of intensity can be equated back to office and then why wouldn't you allow office to go into that 18,000 square feet even if the rest of buildings M and N have their maximum amount of office. You would have a hard time making that argument at least from a zoning administrator's standpoint saying they can't have anymore office but you can have something else that generates the same level parking per code.

MS. NOVAK, SENIOR CITY PLANNER, stated that in regards to the precedence issue, it is on a case-by-case basis. If another guy came in, they are not going to say their new code is 1 per 333 because you guys recommended it. 1 per 300 is kind of like their new average they have been looking at but it doesn't mean somebody is going to some in with that. They could have different uses in the development, different square footages, and a totally different type of user. They could come and say you know what they have competitive events all week long and they will be happening while the offices are going on. They would have to look at a totally different ratio and it may be something stricter where they can't support it so she doesn't want them to feel that the 1 per 333 is setting up precedence for somebody else. It just worked for their representation. It worked for them knowing they would still be 9 spaces short if they just parked it by code at the 1 per 33. If they came in and said they want to do 1 per 200. There more parking spaces short. If they say they want to do 1 per 400, which they are not sure 1 per 400 in any other city they have just been seeing the 1 per 300 generally. If these users leave and new users come in and as Kevin explained, they apply that 1 per 33 to those new users and they say you are way more intense and you have way more employees, way more people coming, they may have to bring them back. It is not a carte blanche that sets the precedence and forever assumes that this could become a problem property without it coming back. They still have to under that umbrella have that representation of that 1 per 333 integrally tied to that shared parking. It gives them more leverage and comfort to make sure things function appropriately at this site and don't get out hand like they could if they didn't have a ratio.

CHAIRMAN CASON stated he was feeling like he can't figure out which train is coming to the station first.

Mr. Anderson, the applicant, said either way works for them. If he puts himself in Kevin's shoes, he would ask for what he is asking.

CHAIRMAN CASON asked if anybody in the audience would like to address this subject before he closed the floor. There were none. He closed the floor and to see if there was any further discussion or questions for Staff.

CHAIRMAN CASON said he was concerned with the parking but with Staff's explanation and plus the fact that he thinks they have to look at the market to dictate what will work in there and what won't. If there are too many parking spaces for anybody to get a parking space, then

people won't shop or do business there or lease there. It is the responsibility of the developer and the property manager and also the people in this case that purchase those actual properties to make sure they are able to get along with their neighbor and that other neighbors aren't doing something that is going to affect their parking. In this particular case, no other neighbors came up and were concerned about the change in parking. Just like they would expect anyplace else if there were some radical change that causes effect on another persons' property, they would expect many people to be in here complaining about that case. They don't see anybody here doing that so evidently the people that have the most to lose are not the people here that are complaining about it. So for that he just has to approve it. He has to go for it and can't see any reason not to simply because of the fact that right now he still doesn't have a grasp of the parking issue but maybe in this case it is a good thing.

VICE CHAIRMAN RIVERS said it is very difficult for him to support this item so therefore he will be voting no because he doesn't feel comfortable with reducing the parking requirements for 2 individual suites by 38%. He doesn't feel comfortable making a precedent setting move, at least what he feels is a precedent setting move. He is further distressed by not sticking to the code as it is written rather than speculating and using their best guess for what is required. They haven't had their code changed yet. Didn't know if they should vote on what they speculate that it might be. He is concerned that as in other places in the City of Chandler if you have parking issues, there is no city enforcement on private property. It is up to the tenants to complain to their landlord and that also concerns him.

COMMISSIONER PRIDEMORE said he is agreeing more with Vice Chair Rivers than others. He is just not convinced that tomorrow or the next day every perspective tenant that comes in isn't going to add to the bust because the reality is if they approve it as is, they are still short. Earlier when the fencing business came in the landlord was able to stand up and think outside the box. That option to him is still available and for him now it is looking for an easier out. He said he agrees with the shared parking model but he is comfortable in waiting for Staff to recommend a change to the code that would bring one forward as opposed to approving one in this case. With that being said he stated he will be voting against this as well.

COMMISSIONER VEITCH moved to approve DVR11-0025 PALOMA KYRENE BUSINESS COMMUNITY, seconded by **COMMISSIONER BARON**. The item passed 5-2 (Vice Chairman Rivers and Commissioner Pridemore opposed the item).

J. <u>ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY</u>

Denied.

Request Use Permit approval to operate a preschool and tutoring business at 1751 E. Queen Creek Road, approximately ¼ mile west of Cooper Road.

BILL DERMODY, SENIOR PLANNER, stated this is a Use Permit request to operate a preschool and tutoring business within an existing office development at 1751 E. Queen Creek Road west of the southwest corner of Cooper and Queen Creek roads. He said as they can see on

the screen above them, this is a fairly recent aerial photograph. There are only 4 buildings constructed within this office development. The preschool would like to go in the northwestern most building up near Queen Creek Road. This was zoned for office both general and medical a few years ago. At the same time to the east of them a vacant lot was designated for future general commercial both retail and office. To the north are a variety of airport zoning. This is all vacant right now but airport related industrial types of uses are planned there in the future. To the west they have the Twin Acres subdivision which is a bunch of rural residential lots – horses on many of the lots. Not a lot of crops at this time and fully occupied and within the city. Most of it is within the city zoned AG-1. There is one property that is still in the County. The request is for a business that already exists and they are operating out of church in south Chandler. They are outgrowing that church and they need a more regularly available and larger environment for their preschool and tutoring business to grow. It will be mostly younger kids obviously in preschool and tutoring could be older children as well. The Use Permit is required because a preschool is not allowed where only general/medical offices are the uses approved. Staff is looking at preschools in this type of environment don't find a land use conflict with regard to parking. He thinks they will talk about state regulations that have to do with land use conflict but that city has no regulations, no consideration of pesticides or anything like that. Parking has been proven to work well in general commercial environments and other office environments throughout the city so it is not a great concern. They did look at the noise considerations for being near an airport. They are called upon to protect the airport and not encroach upon it with uses that might become a problem or complainers. This has often been applied to residential and also worth looking into for preschool and churches.

Their zoning code does address and requires sound attenuation to bring the decibel level down to an acceptable level. It actually is already built to that because of conditions that were put on this office development before the preschool use even came about. This should be able to conform to our zoning code in that respect and that is where they find it is an acceptable land use in proximity to the airport. Staff does recommend approval of the request for 3 years as Kevin mentioned in Study Session. It will take them some time to get off of the ground and it is appropriate longer than just 1 year so that they have enough time to evaluate how things are going. However, they anticipate no land use conflicts. He would like to mention they have plenty of neighborhood input. They had a neighborhood meeting – 4 neighbors attended all from Twin Acres to the west. One of them is here this evening. One of the biggest concerns has to do with their horses. They apply fly spray to their horses on a regular basis and they do not want to give up that right or take on any liability. That is something that is strictly the prevue of the state. The state does have regulations that have to do with pesticides which could include fly spray. In the Arizona Revised Statutes there is an entire section about this, 3-365 but that is not something that we enforce. The Arizona Department of Health Services licenses the preschools and it is up to them how to interpret this particular state law, what they determine as a pesticide that comes under their prevue, how to enforce this quarter buffer from agricultural types of uses that preschools must maintain and they have been working on that. He will provide an update and he would like to mention that an issue has come up for the applicant and aren't going to be able to attend this evening. He just spoke to the applicant's representative by phone and got an update on that matter and a few others.

The neighbors also brought up some site maintenance issues. There are a few trees missing and a portion of a fence that was taken down in the southern part of this development. The applicant is working on that regardless of whether this get passed or not and to bring those into conformance. Also, the neighbors have spoken about a wall between them and this development that feels to low. Staff has looked at that in the past and has determined the wall is the correct height but the applicant is still looking at potentially adding to that even though they don't have to. It is still under review. With regard to the state regulations and pesticides, they have spoken several times with ADHS. They anticipate getting a certified letter tomorrow from them to certify that they are in conformance and that a license will be issued for the preschool and there proximity to agricultural zoning and horse issues will not prevent them from getting that license. However, they do note that is a state issue. This Use Permit must go into effect and take advantage of it within 1 year or it automatically expires so if they are not able to get the license, the Use Permit will go away 12 months after approval, if it is approved. Most likely it will take a few months for them to get the license and the title improvement and all that but they anticipate them being in business in less than a year if they do get approved. He believes those are all of the major issues that he wanted to address and he expressed an apology on behalf of the applicant. He did want to apologize to you that he wasn't able to be here this evening. Mr. Dermody said he would be glad to answer any questions that they have.

CHAIRMAN CASON asked if there is an issue where it is located according to the Airport Plan? Mr. Dermody said there is an issue. It is located within the 55 dnl noise contour also known as ANO-1. He showed where the subject building is located at the northwestern portion of the site, which falls into the 55 dnl noise contour. The Airpark Area Plan as they can see in the Staff memo has language that seems to suggest that uses such as preschools and churches shall be prohibited within the 55 dnl. Staff has gone back and forth and evaluated that quite a bit. They also have the zoning code which addresses it separately and says these uses are allowed within the 55 dnl as long as they do certain amount of noise attenuation. In Staff's analysis an Area Plan such as the Airpark Area Plan is just a policy guide, it is not the law. It should not make specific prohibitions or allowing uses by right automatically. It is more of a guiding document that they use when they adjust the zoning code. For that reason they don't see a conflict with the Airpark Plan. In their view it is more of a recognition that noise could be an issue and what steps need to be taken to make sure there is not a conflict and they believe that is addressed fully through the zoning code.

CHAIRMAN CASON asked if the contours are the new contours or the old contours? Mr. Dermody said these are the old contours. They are not the soon to be updated, not yet approved by the FAA contours. **CHAIRMAN CASON** asked where those contours would be. Mr. Dermody showed map of contours on the screen and noted this was only a draft. He showed the subject site which is just inside the soon to be 60 dnl. The 55 dnl falls another quarter mile or so to the southeast. He showed the 55 and 69 lines. **CHAIRMAN CASON** said so it is inside the 60 dnl contour that the FAA has in their hands right now waiting for approval but the one they are using to relate to this application is totally within the 55 dnl. Mr. Dermody said that is correct. **CHAIRMAN CASON** asked if there is any difference between the two that is relative

to the applicant versus noise, rules, airplanes crashing on them, etc. Mr. Dermody asked if he meant in regards to FAA rules? **CHAIRMAN CASON** said no, City rules that are associated with those. Is it only regarding the amount of insulation they have to keep the noise down as much as possible - those types of things? Mr. Dermody said he would have to refer to the zoning code. He doesn't recall what 60 requires. **CHAIRMAN CASON** asked Mr. Mayo, Planning Manager, if there are any differences between the two that are relevant? He said he is flipping through it right now. Again, they are dealing with an archaic code. This was written in'79. In the ANO-1 it is between 55 and 60 and the ANO-2 it is 60 to 70. It would fall within now what is known as the ANO-2 and so when they look towards out list, it isn't the Table of Permitted Uses is it a much smaller list of uses. The closest they could find would be an educational facility and that is under the formal heading of 'Public Facilities'. That really is intended for a Grammar School, a Jr. High, a High School but not necessarily a day care. That is what it would fall into. Under the ANO-2 per the code it says it is not permitted. Again, we are dealing with a list of uses that the intention of what educational facilities he doesn't equate it to what a 5,000 day care preschool is. He equates that to High School, Jr. High and Grammar school type things and it follows up with religious facilities and libraries, museums and galleries. **CHAIRMAN CASON** asked what happens to religious facilities and libraries in the ANO-2? Mr. Mayo said they are permitted in an ANO-2 with a higher level of noise reduction requirement. Once you get to ANO-3, then those are prohibited as well although he thinks the RLUIPA Federal would probably trump that too. **CHAIRMAN CASON** asked but we are considering this as a school but not a church? Mr. Mayo replied correct. **CHAIRMAN CASON** said so as long as they have sound mitigation then it meets the stipulation of code for the ANO-2 area. Mr. Mayo replied no. It meets it for the ANO-1. The closest thing that we could say is that it is an educational facility and which is not permitted in an ANO-2. It is today since our noise contours on their zoning code in the first exhibit he showed are our law today because the FAA has not formerly adopted or accepted the Part 150. **CHAIRMAN CASON** said so right now it is ANO-1 and they have to base the approval or denial on this application based on ANO-1. They can't consider the fact of what the FAA might approve and that it would be possibly later in an ANO-2. Mr. May replied that was correct. The FAA since they started their Part 150 Study 4 years ago changed their modeling requirements many times. He has seen he doesn't know how many different noise contours. If they sit on it long enough, they already know they are going to deny these noise contours because their modeling program will have changed again. What is approved today is what was adopted by FAA in the 90's and that is what is on their zoning code today but they know that those are incorrect. Mr. Mayo said he knows that takes away all level of assurance and comfort. **CHAIRMAN CASON** said at least it makes the line very definable and he thinks after talking about parking, having a nice defined line is a really good thing to have right now. Mr. Mayo said unfortunately when you are dealing with noise contours, the concept of a nice defined line it isn't 60 dv on this side and you step a foot over and you are dealing with 70. They really should be a transition from black to gray and it just fades. **CHAIRMAN CASON** said for them that line is pretty clear.

COMMISSIONER CUNNINGHAM asked Mr. Dermody to put that map back up – the new one. The gray area designates the runways – correct? Mr. Dermody said that was correct. Is the flight school still using those runways for student pilots to take off and land? Mr. Dermody said

he believes they are. **COMMISSIONER CUNNINGHAM** asked if they are to make a determination that it is safe for a school with 5, 25 or 50 children to be that close to where student pilots would be learning to take off and land? Mr. Mayo replied that he would tend to say no only because the FAA establishes clear zones, they establish those areas where things cannot be and then they have recommendations on where other things can be. When you think about where is it appropriate to put kids, the majority of airplanes don't crash when they are in glide path. They crash on take-off, landing and turning. For the most part you are not into a turning pattern on this you are into the glide path. The turns occur further to the southwest and to the northeast. With that being said no it isn't appropriate to say this is a high crash area potential. So no but right over here it is o.k. because it is just outside of something. The FAA is really the regulatory agency that dictates that type of thing. That is not to say that it shouldn't be a concern but it isn't something that you would base a finding on in this case. Mr. Mayo said he is just adding all sorts of level of uncertainty. **COMMISSIONER CUNNINGHAM** said her child wouldn't be there. Mr. Mayo said with that being said they do have a Harkins Theatre basically right at the end of the runway. **COMMISSIONER CUNNINGHAM** said he mentioned the pesticide. What is that pesticide? She said she knows it is fly spray but what is it? Mr. Dermody said the neighbors didn't mention what kind of fly spray they use. Most fly spray from what he was able to gather is the equivalent to 'Raid' or something similar to that. It is an aerial application not by airplane but by fogger or something similar to that.

CHAIRMAN CASON said the Airport Commission looks at everything within the Airport Area and makes a determination as to whether things conflict with FAA rules. Correct? Mr. Mayo replied they are not a regulatory authority in terms of FAA regulations. They are charged to look at something and they don't look at Use Permits. They solely look at a rezoning land use change. They don't even look at PDP's unless the PDP comes through with the rezoning. They are charged to look at something and determine a finding of conflict or no conflict with this use and the existing and planned activities at the airport not including what FAA says. You can't fly any lower than 1000 feet or this is your established clear zone and here is your trapezoid that creates it. They don't look at that. They all operate in terms of they are very versed in aviation verbage but it is not something that they say the FAA says, therefore they find a conflict with it. They are strictly conflicts with planned and existing uses that are out there today. **CHAIRMAN CASON** said he recalls in the case of Chandler Airpark where they were doing some north of there and there was quite a bit of discussion about the trapezoid and those types of things. It was the pilots themselves that things should be o.k. because this is how things happen in reality with flying an airplane. Is it safe to assume that the Airport Commission works on that same thought process that we as pilots know that something in this area can't be over this height because it exceeds the trapezoid space that they are allowed to fly in? Mr. Mayo said that is probably a part of it but more fundamentally they look at a proposed land use and say is this going to cause a conflict for me and what we at the airport do. Mostly that is going to be either bringing in noise sensitive things that are going to increase the numbers of complaints that could possibly force them to change how they do things i.e. moving the heliport from one side to the other. That is predominantly kind of sentimentally how they look at things. Will it encroach upon the airport and encroach in terms of numbers of incompatible things coming near the airport. **CHAIRMAN CASON** said so by virtue of being a zoning use permit then the airport didn't comment on this?

Mr. Mayo said that is correct because the base land use of this did not change. **CHAIRMAN CASON** said regarding the spraying can he elaborate a little bit more on the responsibility that the state has versus the association between the spraying and the day care center and what regulatory bodies work with each other. Mr. Dermody said there is a state law that refers to pesticides and a ¼ mile separation from agricultural uses that use those pesticides and a preschool or a day care. The Arizona Dept. of Health Services licenses the preschools and day cares in the state and they are the regulatory body for interpreting that state law and determining whether they can issue a license or not issue a license. **CHAIRMAN CASON** asked how does the license see ADHS; how do they know that there might be a conflict in this particular case as being addressed with the spraying of animals? Mr. Dermody replied that in the application to the state the preschool or day care operator has to identify all the agricultural land uses within a ¼ of a mile. There has to be some investigation. He is not sure whether the state does it or the applicant as to what actually is occurring on all these agricultural lots. In some cases there needs to be something in writing but he is not sure that happens all the time from all the agricultural land owners stating that they aren't going to spray pesticides or certain pesticides to that extent. The City does not get involved in any of that.

VICE CHAIRMAN RIVERS asked Mr. Dermody that while the map is up why do they have three different 55 dnl lines on the south side? Mr. Dermody said he does not know why those are there. Mr. Mayo said they are not separate lines and said if the map could be pushed up it starts to almost fall off of it. It is a representation of where the actual glide pattern noise is and that is one wing of the glide pattern that parallels the runway. There would be another one on the other side but the modeling program dictates from where most traffic is coming from getting into our pattern and where the traditional prevailing wind is from the southwest heading northeast that more traffic goes right there, therefore, the average levels of 55 are increased right on that side. **VICE CHAIRMAN RIVERS** stated that Mr. Dermody had said when he was reading that there is one set of rules from 55 to 60 and then the next set of rules goes from 60 to 70. Is that correct? Mr. Dermody replied yes. **VICE CHAIRMAN RIVERS** said so the fact that this corner is really close to the 65 dnl line doesn't matter significantly either. Mr. Mayo replied that the ANO-2 goes from that 60 which is kind of in this picture clipping that property all the way to the one that is basically circling the runway. **VICE CHAIRMAN RIVERS** said from what they have discussed regarding the helicopter take-off and landing pad is they don't know where those helicopters go when they take off. They can pretty much go in any direction they would like. Mr. Mayo said no they cannot. They get into a similar traffic pattern. You will see the Helicopters if you go out there and hang out and watch the airport. You will see them 10 feet off of the runway on the taxiway and when they take off, most helicopters travel in a perpendicular pattern so they don't travel anywhere near the same speed as an aircraft. They can't get into normal patterns because aircrafts are going to be running into the back of them and so they actually take off basically mid field of the runway and they run perpendicular to the runway pattern. Once they are up and going you will see them circling around the runway and he is sure the citizen in the audience could tell you how many of those things come banking over Twin Acres in terms of their kind of touch and go practices that they do. They can get into the same oval pattern around the airport and they also go perpendicular to the runway.

CHAIRMAN CASON said the applicant wasn't here to speak to so he opened the floor to the public. He called up one speaker.

CHRIS SORENSON, 12539 E. QUEEN CREEK ROAD, said he is the one to the west – the County property. He stated the cards they mailed out said they are within 600 feet. State law says any agricultural land says ¼ of a mile. There are over 30 properties and property owners within 1320 feet including the big farm that would be on the corner of Cooper and Queen Creek roads that has corn growing right now – still within that 1320. He believes they still aerial spray or use tractors to spray too. What this says is that the agricultural land owner may agree to comply with this buffer and they will go down and sign an agreement at the County Recorder. So are they going get all 30 people to sign because first of all he is the only one that showed up. Maybe the ones that are farther than 600 feet away didn't even realize what is going on here about spraying pesticides. Now it is great if all of the owners agree that they won't spray pesticides or flash spray but they also have horse boarding facilities so you have 20, 30 different people coming in that are using their particular fly spray. He uses Piranha. He showed a barn on the map where he has an automatic mister system that is just like your water mister system but it is hooked to a 55 gallon drum of fly spray that goes off on an automatic timer. He said he doesn't know the exact measurement to his property line from the back of the barn. He said let's say 50 feet and then from their building to the property line is 50 feet - they maybe have a 100 feet. The concern is they have 4 parking spaces that are going to be sanded and turned into a 2000 square foot playground. Then again kids are going to be outside playing within that 55, 60 dnl so that they are not in the building. They are right out there closer to the insecticides. They also spray herbicides too. They have lots of pests; flies, mosquitoes, roaches, scorpions, whatever they need to spray, they spray. Helicopters fly over his house all day long. They turn right on top of his house. They are supposed go down towards McQueen and turn across on that desert but they don't know matter how much he calls the tower and complain. They still fly where they want to fly. He complains about how high they are because there rules are they are flying at 2000 feet but 2000 feet minus there elevation of 1200 only puts them at 800 and that is pretty close. It is going to be noisy for those kids. He knows the state laws are not up to the City to approve. The City may need to notify everybody that is within ¼ of a mile that this is coming and they might have to have an agreement on flash spraying or whatever they are going to do. Do they really know that it is safe to put that preschool there in that noise area? Does he know for sure it is safe? Is it legally acceptable to put that there because he is saying the building is all up to code of being in the 55 but they are going to take 4 parking spaces out back and put a fence up and put sand in it and then they are going to be outside. They are in the noise at that point. Mr. Mayo, Planning Manager said the noise sensitivity is not in the concept of the ANO and is not the concept that even a helicopter down force reverberation is going to physically damage kids ears or damage the development. It is that there are uses that are noise sensitive like a church when the whole congregation is quiet and they are listening to the minister or whatever that noise would disturb that type of use. In a school when the entire classroom is quiet and listening to the teacher that they hear the noise going by every once in a while then that becomes disruptive and then that use can't exist. In terms of a day care/preschool when the kids go outside, they typically aren't going out for any type of lesson they are going out to recreate and play and scream. He knows his 2 kids can sound like an entire schoolyard when they are out in their

backyard. He doesn't believe that the intent of this is to say that they need to protect them from noise when they are outside because if they stuck a decimeter out there it might be spiking over 70 anyway with kids screaming. The disruption of uses that becomes sensitive to noise such the churches and schools and things when they are trying to have quiet lesson learning experiences. He would love to see something in there he just doesn't believe that a preschool with pesticides/herbicides and with that facility being empty and kind of run down. The lights don't work and they get a lot of people jumping the fence robbing barns, stealing saddles and all that stuff. He would love to see something in there but something more compatible with the existing properties.

VICE CHAIRMAN RIVERS thanked him for sitting patiently while they went through the other event before he was asked to come up. Regarding the helicopters that he said fly over his house, does he happen to know if those are student pilots. So they do have students in the helicopter that are flying over his house? Mr. Sorenson said there are several different helicopters. There are the big ones that carry students and the one that carries the instructors and their students. **VICE CHAIRMAN RIVERS** asked Mr. Mayo to reiterate the item on the 3rd page of the memo that talks about this preschool has to have waivers signed by their neighbors including this gentleman in order to get their state license. Is that not correct? Mr. Mayo said it could be correct if the state when they go out and start looking at all the things that are occurring in and around it, that it meets that test and the intent of what it is they are trying to stop. If those things are occurring and they can't speak to the fact that is it their timed mister system, is it can spray, is it aerial application, what is it? The state could explain that to the applicant but they don't regulate that. They would never say they don't know whether or not they would require a waiver. They may look at what is happening around and say that isn't what the intention of this regulation is and therefore they don't need to worry about it. **VICE CHAIRMAN RIVERS** said his point was that it is really up to the state. Mr. Mayo said it is. It sounds like what the applicant was conveying to Bill that it is more than likely the case and the state is going to be issuing them a letter that what occurs around there is not the intention of the thing that they are trying to protect in that state reg. Again, they have nothing to do with it.

COMMISSIONER CUNNINGHAM asked Mr. Sorenson if he has contacted the state licensing board regarding his concerns? Mr. Sorenson said no. **COMMISSIONER CUNNINGHAM** asked him if he would do so? Mr. Sorenson said if he needs to. He is hoping that all the procedures are followed properly if this day care facility wants to go in. It is going to be their tail or the City's tail not him. He didn't sign anything that is going to change the use of his property. It says on the state law that they have to have all agricultural owners agree to go down and sign paperwork. If they go down and apply and the state doesn't require them to do that, maybe some parent later on will have their kid there and look up the law. His neighbor sprays in the morning before he goes out and he is 200 feet away from him. He sprays Piranha spray which is scented like Citranella and you can smell it 200 feet away. So it is obviously drifting.

CHAIRMAN CASON thanked Mr. Sorenson for coming up. There were no other speakers so he closed the floor and look for a motion.

COMMISSIONER CUNNINGHAM said she had one further question for Staff. She asked what is the current location of this school? Mr. Dermody said they are located in the church, United Methodist Church, which was another agenda item regarding a cell tower this evening. It is east of the railroad track and on the north side of Chandler Heights.

COMMISSIONER PRIDEMORE said his concern is that he understands that the state is looking at the issue of the use of pesticide. His concern is the applicant has stated that it is their belief the state is going to give them approval and they would have their license to operate. His concern is say this does go through and down the road a parent's child does get sick. They don't know what is causing it but the reality is that there is these existing businesses or properties there that potentially could be leading to this problem. This concern is that the City then would be dragged into the whole thing because again they are looking at the project. They are getting an approval even though that one aspect of it isn't ours and they could get pulled into it anyway. He doesn't believe that the property owners next door should have to do anything. They are running their lives and running their businesses and doing what they need to do. He didn't think Mr. Sorenson should have to go sign anything if he doesn't want to and any burden to be put on him because he is not the one trying to go through the City. There is an applicant that should be carrying the burden for all of this stuff. He is not convinced that is being done. Is there a concern that the City can be dragged into this potential conflict down the road?

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated that actually from a legal liability standpoint they probably have more of a problem if they in the course of considering this Use Permit apply standards that don't have any application to the Use Permit. Their role isn't to enforce the state statute and any effort or decision based on that they might make based on what is in that statute is really not applicable here. They won't have any liability issues from simply doing our job. The state might have problems. He is presuming that what they are trying to do is get the state to determine that the statute isn't applicable because of the nature of the so called pesticide that is being used. He would suspect that if the state ultimately decides that it is applicable then the applicant for this Use Permit is going to have to go to all those landowners and get them to sign something. They have run into this before. There is a place or church or something on McQueen Road that wanted to have a child care facility and they told them they have to get approval from the state and they were having a hard time doing it. They only get into trouble if they do more than what they are charged to do. **COMMISSIONER PRIDEMORE** asked if the applicant needed to have that approval from the state prior to receiving this C of O. Mr. Mayo said no they can issue them everything. They still have to have the state license but they do not hold their C of O until the state issues them their license. He believes the state actually has to see that the building has a Certificate of Occupancy before they will issue their license. It is kind of the chicken or the egg but no he believes they can issue building permits, then final them and issue a Certificate of Occupancy and then they take that to the state and say he is clear to go in here and the state will give them their license assuming that all of their boxes are checked.

COMMISSIONER CUNNINGHAM said she just wants to go on record that she will be opposing this matter.

CHAIRMAN CASON entertained a motion.

VICE CHAIRMAN RIVERS moved to recommend denial of ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY, seconded by **COMMISSIONER CUNNINGHAM.** The motion was approved 4 to 3. It will go before the City Council as a denial of the application.

Mr. Dermody said it will go before Council on September 22, 2011, Thursday at 7:00 p.m.

CHAIRMAN CASON said they are just an advising body. Council will be the people that make the actual decision.

6. DIRECTOR'S REPORT
Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON announced that the next regular meeting is October 5, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 7:47 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 5, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Donaldson.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   Minutes of the regular meeting of September 7, 2011 were continued to the October 19, 2011 Planning Commission hearing because of some clarifying issues.

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item G was pulled for action.

A. DVR10-0014/PPT10-0002 NORTH EAST COOPER AND RIGGS

Continued to the November 16, 2011 Planning Commission Hearing for the purposes of conducting a Design Review Committee hearing.

Request Rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for an 84 lot single-family residential subdivision on 32 acres and PAD zoning for commercial development on 7.5 acres. The subject site is located at the northeast corner of Cooper and Riggs roads.

B. DVR11-0013 KYRENE CROSSINGS

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former PAD (Office) zoning. The PAD zoning is for a childcare/pre-school use on Lot 7. The property is located at the southeast corner of Kyrene Road and Chandler Boulevard.

Planning Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

C. DVR11-0023 PARK OCOTILLO BUSINESS CENTER

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former PAD zoning for light industrial use and/or commercial uses. The PAD zoning is for office, light industrial, and retail on property located at the southwest corner of Price and Queen Creek Roads.

Planning Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

D. LUP11-0018 VINTAGE 95

Approved.

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant and adjacent outdoor patios (Series 12 Restaurant License) at 95 W. Boston Street in Historic Downtown Chandler.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The outdoor patios shall be maintained in a clean and orderly manner.
5. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
6. Music shall be controlled so as to not unreasonably disturb area residences.
7. The restaurant shall provide contact information for a responsible person (restaurant owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.

E. ZUP11-0013 NEW HORIZON YOUTH HOMES – COMMONWEALTH CIRCLE

Approved.

Request Use Permit approval to operate a behavioral health group home for up to seven residents within a single-family residential home. The subject site is located at 2504 E. Commonwealth Circle, south and east of the southeast corner of Chandler Boulevard and 132nd Street.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other location.
3. The assisted living home shall have no more than seven (7) residents at any time.
4. The Use Permit to operate an assisted living home is specific to the existing property owner, and if the property should be sold in the future the Use Permit shall be null and void.
5. **This Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.**
6. The site shall be maintained in a clean and orderly manner.

F. ZUP11-0014 NEW HORIZON YOUTH HOMES – PARK AVENUE

Approved.

Request Use Permit approval to operate a behavioral health group home for up to seven residents within a single-family residential home. The subject site is located at 795 W. Park Avenue, north and east of the northeast corner of Ray and Alma School roads.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other location.
3. The group home shall have no more than seven (7) residents at any time.
4. The Use Permit to operate a group home is specific to the existing property owner, and if the property should be sold in the future the Use Permit shall be null and void.
5. This Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
6. The site shall be maintained in a clean and orderly manner.

H. ZUP11-0023 ST. LUKE'S BEHAVIORAL HEALTH

Approved.

Request Use Permit approval to operate a therapy business in an office/industrial building at 325 E. Elliot Road, east of the southeast corner of Elliot Road and Arizona Avenue.

1. Development shall be in substantial conformance with the submitted application documents (Narrative, Site Plan, Floor Plan) except as modified by condition herein.
2. Development shall be in substantial conformance with all existing approvals for the site, except as modified herein.

3. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

I. ZUP11-0024 TRIUMPH AIR REPAIR

Approved.

Request Use Permit approval to allow underground bulk fuel storage in conjunction with an aerospace systems and components business within an I-1 zoned district for property located at 50 S. 56th Street.

1. Development shall be in substantial conformance with narrative, site plan, and associated conditions of approval.
2. The tank shall be constructed to comply with all City of Chandler Building and Fire Codes.
3. Fuel containment shall be in accordance with all State and Federal laws.
4. A Spill Prevention Plan shall be kept on file with the Fire Marshall.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

ACTION:

G. ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY

Denied.

Request Use Permit approval to operate a preschool and tutoring business at 1751 E. Queen Creek Road, approximately ¼ mile west of Cooper Road.

KEVIN MAYO, PLANNING MANAGER, stated this is a request for Use Permit approval to operate a preschool and tutoring business within an office development that is located at 1751 E. Queen Creek Road. It is a little bit west of Cooper Road on the south side of Queen Creek. This name may sound familiar to them because it did come before them at their September 7 Planning Commission hearing. It ultimately was given a recommendation of denial and to City Council Commission forwarded concerns raised during that hearing regarding airplane safety, pesticide safety in relation to state law as well as the location of this business in conjunction and in relation to the location of the pending Part 150 approved future noise contours that will eventually become part of the zoning code.

This use is a use that is proposed to take up a complete building about 350 square feet of this center. This center is about 8.1 acres. It was approved for the PAD zoning back in 2006 to allow medical and general office uses. To date, only 4 of those 12 buildings have been

constructed. This would take up one of those. At the previous hearing they did have a neighboring property owner directly to the west on a County parcel who spoke in opposition raising concerns such as the pesticides regulation in regards to the State and some other concerns in terms of some missing landscaping, height of walls and things like that all of which Commission heard testimony regarding that.

Staff continues to recommend approval of this. The daycare – preschool component of this is not a medical office use, it is not a general office use. It is kind of a traditional retail use and in fact, when this was zoned directly east of it, the eastern half of the vacant land between Cooper and the County parcel to the west, the eastern half included commercially zoned for regular C-2 commercial uses. This would be an allowed use in there by right. A lot of times these types of preschool daycares have been proven to function pretty well in an office/business park setting. Typically the gut reaction is kids belong where they belong and they don't belong where they don't. History has proven that these things do work well in these centers and in fact add to their health and long term viability of these centers.

From a direct land use standpoint, Staff doesn't have any concerns with this use. There is kind of a cloud of the noise contours getting into the ANO-1 zone. Their zoning code permits uses of this nature in the ANO-1 zone versus their Airpark Area Plan, which is really a guiding land use document as they discussed at the last hearing in detail. It has a statement in there that 'the City shall prohibit those developments of noise sensitive institutions such as daycare facilities, schools and churches within the 55 dnl noise contour. They went through a lengthy discussion of that and he would be happy to go into that again if they would like. Before they even got to Council, the applicant indicated that they really wanted to get referred back to Commission so that they could present information regarding the pesticides issue, noise, airplane safety – those very things that were raised at Commission. They might remember at the first hearing in September the applicant was not at that hearing. They requested to come back, give their presentation and present their additional information. They will see in the memo that very little has changed. The applicant is really requesting to come back and present additional information to Commission for consideration. He reminded them that Staff does recommend approval of this request based on their current zone contours and current zoning code. He said he would be happy to answer any questions.

CHAIRMAN CASON asked the applicant to come forward.

JOHN WILLIS OF WILLIS PROPERTY COMPANY, 3850 E. BASELINE ROAD, SUITE 118, MESA, said he is the representative of FNBN UTAZ, LLC which is the owner of Airpark South Professional Village located on Queen Creek Road. He said he is going to be making a quick statement and then turning time over to Chuck DiRuzza who is the representative of Wee Blessings Preschool & Academy. Regarding the issues that were brought up regarding the landscaping as well as the wall issue in the southwest corner, they have received bids from a landscaping company to plant 4 trees that are currently missing as well as replace some of the trees that have fallen over due to storm damage. That will be taken care of within the next week or two. Also, regarding the gap in the wall – there is actually a section of the wall that is

missing. That will be fixed within the next two weeks. They have received a bid and they are moving forward with getting that prepared. Regarding the height of the wall, the City has stated that the UTAZ developer built it to standards that were already sufficient for what the City was looking for so they are not taking any actions on that regard. With the trees that are going to be planted that should absolve any concerns with regards to visibility into the neighbors' yards and that type of things. With that said he wanted to turn time over to Chuck DiRuzza or answer any questions they may have.

CHAIRMAN CASON asked if there were any questions for the speaker.

VICE CHAIRMAN RIVERS asked if he had access to a drawing? Mr. Mayo gave him a copy and to show on the screen where they were talking about repairing the wall and where the trees are going to be. Mr. Willis showed where in the corner there is a section of the wall that is missing. It was never built – for what reason he doesn't know. We currently have a bid and are moving forward with fixing that cinder block wall and fixing that gap. The concern from the neighbors was that gap in the fence was causing potential vandalism – kids getting through there and vandalizing or stealing and jumping the fence into their yards and that type of thing. They are fixing that and then along this wall there are 4 trees that are missing according to the landscaping plan that were originally approved by the City of Chandler. Those are being replaced and then there are a couple of trees that have fallen towards the north part of the project that they are going to be staking and trying to save and if they get another wind storm and they don't make it, they will replace that. It's not a big deal. **VICE CHAIRMAN RIVERS** asked so the wall damage is a great distance from this daycare? Mr. Willis replied yes because the location is down there and it is not damage, it just was never built.

CHUCK DIRUZZA, 835 W. WARNER ROAD, GILBERT stated he is the broker and representative for Wee Blessings this evening. He thanked the Commission for giving them the opportunity to address the questions that have arisen. There were some communication problems and they were unaware of the meeting. Staff and the Commission have been kind enough to let them come back in and they do appreciate that to address and answer any questions they have.

He said he wanted to start with the pesticide question that has arisen by the neighbor behind them. The State of Arizona licensing department that will be licensing Wee Blessings has been given a preliminary information packet concerning the area and where the preschool will be and what the surrounding area is and they have preliminarily approved the lack of use or the use thereof of pesticides in the area. A final approval will come once the property is built out and is occupiable. The State will go back and do a thorough investigation and inspection of the building, the property and the area and they will then make a final determination that there is in fact is no violation of state ordinances as to pesticides in the area. They will, of course, take the liability for that by either approving or denying. As to the neighbors concern, she stated in the neighborhood meeting that she didn't want the State to come and tell her she couldn't spray what she has been spraying for years. That was her major objection. Most certainly the State wouldn't do that. It is his understanding of the process that the State if they have an issue, would give

Wee Blessings an opportunity to resolve the issue. If they cannot resolve the issue, they would simply deny the application. They certainly would not tell a neighbor that they can't do what they have been doing or that they can't spray a legal pesticide that is typically used in the operation of a little ranchette like they have. Neighbors won't be forced to change their routine or what they are doing because of any State regulations or State approval or disapproval of the pesticide. One of the members of the Health Services, the State agency, sent an e-mail to Debbie who is a member of Wee Blessings, and she stated in the e-mail that fogging is a process that many cities use to kill mosquitoes. Child care licensing has no rules about fogging. Her other concern that they sometimes spray fogging for their mosquitoes within their barn and that would be an issue, clearly by this e-mail, it is not going to be an issue with the State. The neighbor stated in the neighborhood meeting that they use a pesticide known as Piranha. That is the primary pesticide that they use. They have looked that pesticide up and it identifies one of the questions on the frequently asked questions on their website was 'will this product harm my pets'. No if used properly as directed on the label. It is considered to have low toxicity to humans and pets. Insecticides have been used in agricultural or other applications for over 30 years and there are no harmful effects. This product most certainly is a low level toxic and the State regulation clearly defines that the only concern they would have is hi-toxic pesticides that might be used or aerially sprayed from airplanes and there certainly isn't going to be anything from the air. They believe they can comfortably let the neighbors know that they won't be interrupting their process or cause them any problems by virtue of having the preschool adjacent to them.

CHAIRMAN CASON asked Staff if they could help put in the record if this means like the chicken and the egg thing where they have to do a whole bunch of stuff before the State will consider the application. It kind of happens in a backward manner or something like that. Mr. Mayo, Planning Manager, said it is not any requirement that it happens that way. Whenever Bill had contact with the State about this, maybe they are busy or maybe they are not, but they said once the property is zoned, then come and talk to us. They are not the regulatory agent that controls pesticides. There is a concern that why zone it if they are not going to get the license through the state so it really is the chicken or the egg and who knows which one. Our process is clearly separate. It is not something that they then forward something to the State. The State would ask the applicant to provide some type of documentation that the property is zoned for their use but it has nothing to do with this Use Permit request process tonight. This is the piece of paper they hand in. Our Use Permit is really just charged to look at land use compatibility on things that the City is authorized to regulate. Pesticides unfortunately clearly are not one of them since they don't regulate the application use of those pesticides. It seems very much chicken and the egg. They are separate processes although theirs is dependent upon ours. They are not going to issue the license if the property is zoned for it. Ours has nothing to do with the State. **CHAIRMAN CASON** asked in his opinion if they were to approve the Wee Blessings Preschool and the State for whatever reason would not supply the license then he couldn't operate that business because he doesn't have the license to do it for the State. Would that be a correct presumption? Mr. Mayo replied that is correct. In the 12 months following the date of Council approval if that use hasn't been commenced, the Use Permit just goes away. That is straight out of their code.

MR. DIRUZZA said as to the noise from the airport, when he first showed the numbers of Wee Blessings at this location, they discussed the fact its close proximity to the airport and would that be an issue to them. John Willis told them at that time that the building had been built with some additional noise abatement; things that were required by a previous PAD approval and that the building would actually be quieter inside. They were built to a higher standard because of their proximity to the airport and that the building would be quiet inside and it does conform to the current stipulations and zoning. They stood inside the building and a plane that actually went by while they were inside and you barely knew. It had no bearing really and they did not feel that it would impact the teacher's ability to hold class or keep the attention of anyone. Since they have decided this is the location for them and it is most centrally located given the parents that are clients at this time, they have basically done for lack of a better word a poll of the parents. Before they resigned them for this semester they disclosed that this was the location where they were going to be. They asked the parents if they thought this would be a problem or was there any objection and far and away they got no objection. If anything, they got a strong response as to the excellent location that they were happy they were in still in Chandler – that they didn't move out of Chandler and that they stayed in a nice centralized location. In fact they not only have 100% full in the current location but have a waiting list of parents that also have been told that it would be across from the airport. They have a waiting list of additional parents but once they are able to move into this larger and newer facility and they will be able to accommodate more children, those parents want their children to be schooled at Wee Blessings. He knows Debbie and Phil discussed it with their teachers. None of the teachers thought it was going to be an issue and most certainly Debbie and Phil don't believe it to be an issue. The building is designed to reflect that sound. If there was some need for maybe a little bit of additional insulation or something, he is certain that could be discussed but he really doesn't believe it is needed because of the enhanced codes that they were used to build the building to begin with.

CHAIRMAN CASON asked Staff if those stipulations for noise abatements in those buildings is because the noise contours were part of the previous application for the construction in general and then would have had to been approved through the inspection processes as part of the certification of occupancy, correct? Mr. Mayo replied it isn't that a specific thing was looked at in terms of the construction of this building. It is just understood that the building provides a certain level of dv reduction inherently in how things are built today. It isn't that it is constructed that specific way to mitigate that noise, it just happens that the construction codes that they have today naturally do that anyway to a certain extent. Within the ANO-1 being in that 55 dnl most building construction depending on the type of roof construction and things, it can provide 15-20 dv of noise reduction and the State only requires a maximum of 45 dv interior noise level. Being in a 55 dnl abated construction takes it down to interior noise level of less than for 45 dv. These are constructed with a sloped roof element to them and kind of actual captured attic air space starts adding to the additional reduction in noise. It is not something that on general medical/office that requires the certification of a sound engineer. C of O's for something like this based on what our code says, almost any sound engineer would certify that this type of building construction provides 'x' amount of dv reduction which will take it far under the cap of 45. He knows it is a long winded answer that really didn't say yes they did that but they inspected it to make sure it was built to our code. That code just happens to provide

some attenuation reductions greater than what is necessary for this. **CHAIRMAN CASON** said it is actually good to know that Chandler is doing that. He thought that was great.

COMMISSIONER CUNNINGHAM said going back to the previous statement regarding the search for a site. She said she recognizes that it is a great location but she also recognizes that what is being proposed to be put on this site is not just a business that people will be in and out of temporarily. It is a business that many children will be in several hours a day. Her concern originally was not just the pesticides although she is wondering just how many hours of first aid and training the Staff has in dealing with an asthmatic child that collapses when the neighbor decides to do their fogging. She also wonders how easily controlled the children will be on the playground when the noise from the planes prevents them from hearing direction and perhaps causes an unsafe situation. She is also concerned with the proximity to the airport itself. She realizes and with all due respect to Staff as they have done a great job, however, her own look on this is that their perhaps could have been a better site. There are multiple commercial buildings within Chandler; southeast Chandler in particular has quite a few newer locations that are not within a few yards of an airport runway. They discussed that student pilots would be training on that runway. She witnessed the very next day a helicopter student pilot because she checked on it and who had difficulty landing his helicopter not 50 feet from this. He missed his area and he almost crashed. He was able to pull out and he went on over to the helipad. However, what if? She does not understand the desire or need to place children in this situation when there are so many other vacancies. Mr. DiRuzza said he understands the Commissioners concerns and quite honestly there were 2 previous locations prior to this. This was the result of a nine month search for a location that would work well for them. The other 2 locations for various reasons they were not able to utilize predominantly because of the playground area not being conducive or being too close to heavy traffic. They felt that was actually a concern and with the children safety in mind waived on those locations. He agrees with her that there are many locations within southeast and south central Chandler that on the surface would appear to be good locations but predominantly because the majority of them are within a shopping center and the shopping centers are unwilling to give up area for the daycare or there is absolutely no adjacent area for a playground area, they had to be ruled out. The size and the needs were very specific and as he said they spent nearly 9 months looking at multiple locations. Five offers were made to lease or purchase. Two they actually got close on but because of various problems were not able to handle. This location was not available when their search started but became available after the disappointment of the 2nd location and that is what prompted them to start looking at it. They did try and they did look and he does not want to give them the impression that they settled. They most certainly did not settle. This was not available when they first started the search and did become available. John's clients purchased the property during that period of time and it became available. As to the safety from the airport, he tried to find statistics on accidents adjacent to an airport and all he could find were statistics concerning the approach and the take-off. He was not able to find any statistics discussing properties to the left or to the right of the airport as this is. This is about a quarter mile to the right center of the runway. He was unable to find any statistics that said how often there was a problem or how many accidents, what percentage of accidents were on the right or left of the runways. In fact, he was not able to find any accidents to the right or left. He found evidence of accidents in the approach and

accidents in the take-off at each of the runways but he was not able to find anything to the left or to the right. Based on that they felt that it was a pretty safe area; certainly safer than putting a playground in the back of a shopping center along Gilbert Road or along Alma School Road as were their other options. They didn't feel that the thousands of cars that went by that playground every day was going to be anywhere near as safe as this location. He believes it has been considered and looked at and not idly dismissed. He thinks that they have done their homework and feel confident that they are not making a mistake and are not misjudging the situation.

COMMISSIONER CUNNINGHAM said to Staff that they talked about that it is not their responsibility to check out the pesticide or the effect of that on people in the area. They are just to decide the land use. Is that correct? Mr. Mayo said in a nutshell yes. To utilize the concerns of the pesticides over something that the City does not regulate and they are not authorized to regulate, they would run themselves into potential legal challenges if the decision was based on that. **COMMISSIONER CUNNINGHAM** asked so they are to rely on the State Licensing Board then to do their due diligence to determine that? They are relying on us to do it doing the zoning because they are not aware that we don't do that. In other words, it is not her job theory; it is their job. Mr. Mayo said it is clearly the State's job and the State is clearly aware that they are charged to do that study. The State controls their branch of the EPA which regulates pesticides; regulates which ones you can and can't use anywhere near humans. Bill has heard the representative of the State stating they know that we do not regulate it and they do not review for it. It is their responsibility and they take it the liability of approving and denying things in and around pesticides.

CHAIRMAN CASON said basically this is a Use Permit and if they do not feel that this is a proper use for this land then you would act accordingly.

VICE CHAIRMAN RIVERS said he was going to say the same thing. If you anticipate a possible danger in a land use, then it is their responsibility to deny that land use. He asked Mr. DiRuzza how far is the daycare center from the runway and he thinks he just answered that; a quarter mile length of a drag strip from the center of the runway. He lives next to an airport and he is aware of a crash to the side of a runway about ¼ of a mile away. It didn't happen very long ago. A plane ran out of gas and crashed into a neighborhood and took a chuck out of 2 different houses and several cars. No one was injured or hurt thank goodness. If the daycare center had been under that aircraft when it came down, the story would have been a little different. He thinks that in their exploring of their other options, he is not sure why they considered a property that backs up to a busy road in Gilbert because there are many, many other places that don't that may be more viable for them than that one was. He is wondering why his daycare center decided it didn't want to be in the church anymore? Mr. DiRuzza replied size for the most part and it is his understanding that the church themselves are planning to offer some classes and needed some of the time that Wee Blessing currently uses and the space that they are subletting from the church. He believes the prominent answer is size of the space that they are in and they had basically outgrown the space they are in. **VICE CHAIRMAN RIVERS** stated he is also under the impression that he or they were looking to increase the size of their business since he said they now have a waiting list and as soon as they get into this new property they will be able to

clear those people on the waiting list and have many, many more customers. Mr. DiRuzza said that is correct. **VICE CHAIRMAN RIVERS** said he had a question for Staff. He is wondering why this developer or why this gentleman was unaware of their last meeting? Mr. Mayo replied he didn't know. They had applicant contact information and property owner contact information and it was sent to both of those. The property owner is out of state and the applicant he believes was John Willis and he was also contacted that evening when Planning Commission started. **VICE CHAIRMAN RIVERS** said o.k. he was just curious. He said another thing he mentioned is about that they are all going to talk about pesticides. He mentioned that the City of Chandler does mosquito fogging but by design they do their mosquito fogging in the middle of the night so that there aren't too many people out breathing in the chemical, be it toxic or not toxic. When he was out at this building and he said an aircraft flew passed and it wasn't very loud. Was it a jet or was it a prop plane? Mr. DiRuzza said his suspicion is that it was a prop – a twin engine. **VICE CHAIRMAN RIVERS** said if they are ¼ mile from the end of a runway when a jet takes off, it will not be quiet inside or outside their building - he promises. His concern last meeting was that helicopters have been an issue around the airport for years. They moved their location a couple of different times. It is a student pilot situation and he is very concerned about the over flight of this business by student pilots in helicopters and he is surprised that he is not. Mr. DiRuzza said there are several businesses that are within close proximity to that airport. There are movie theatres at the end of the runway that will hold hundreds of people. As he said, they did some research. The Commissioner pointed out there was actually a close call which he was unaware of. He pointed out there was an accident at one time. He search NTBS's site. He searched several sites and he was unable to find any and they just believe that the regulations and municipalities and government agencies do a good job of protecting the people including a business that is 1250 feet to the left of the runway. **VICE CHAIRMAN RIVERS** said the government entity does a good job with their regulations in protecting us. He also thinks they take into account that there is some common sense being used by everyone. In his instance, he doesn't live next to the Chandler Airport, he lives next to Stellar Airpark which is in Chandler and everybody did everything that they needed to be doing with regards to the 2 crashes. Everybody is doing their job yet these things do still happen and it's an inherited thing when you move into an area next to an airport that things might happen and again he thinks there has to be better locations for this project. Other than by a major road in Gilbert or wherever the 2nd location was and they latched on to the 3rd one here. He thinks a little more time looking for something that would be a really, really good fit for this project rather than 'it'll work'. Mr. DiRuzza replied that with all due respect, this was not a 'yah' it will do. This was a location that was very centrally located in reference to all of their clientele. It was very convenient for their clientele and the building fit perfectly size wise. The ingress and egress was safe and comfortable for the parents bringing and picking up their children. It is a newer, safer clean area and a find environment for the children to be taught in. They weren't settling. They believed that it was a good fit for the business as did his clients.

CHAIRMAN CASON asked if there was anyone else in the audience that wanted to speak. There were so he called them forward to speak.

PHIL JAVIS, WITH WEE BLESSINGS PRESCHOOL, 1563 W. MUSKET WAY, CHANDLER, stated he wanted to answer some of Commissioner Rivers' questions about the airport. He did talk to the Airport Supervisor just the other day. Out of Chandler Airport there are 5 to 700 planes going in and out of there per day. There are 3 schools that do fly in and out and provide instruction out at that airport. In the last 5 years there has been one incident, one crash where it was off to the side of the runway not by ¼ of a mile and not into any houses and actually to-date there has never been an accident in Chandler Airpark into a house or building at all. They did some measurements. They are 1800 feet from the nearest runway. There is another preschool that is very similar to them with just as many kids that actually is closer to the helicopter heliport on a regular basis. He goes to Wal-Mart every day. There are hundreds of planes that go over Wal-Mart where there are a thousand people at any given moment. Chuck is right. They have been exploring multiple locations and he can't find something that is big enough that has a place for a play area that he can purchase or even rent. They like this place simply because it is brand new. It is centrally located to where they are at for now without moving 10 miles away and having to try and retain his 100 students as it is. That is why they chose this location.

MS. SHELLY MACCOSHAM, 2748 E. HORSESHOE PLACE, said she is a client of Wee Blessings. Her kids go to that school. She is also a professional pilot as well as her husband. She flies for Alaska Airlines, he flies for US Airways. She has flight instructed as well as her husband. They have worked for regional. She has been flying for 20 years and her husband has been flying for 25 years. They have no qualms about keeping their kids at this school in this location. As Phil stated, the likelihood of something like that happening is all but nil. It does happen – but it can happen just as easily in a parking lot or whatever. If you understand the aviation realm and how accidents happen with the take-off and landings and stuff, you will understand a little bit more about aviation safety and accident investigation which is also her major. She has a major in aeronautical science and her minor is in aviation safety accident investigation. She has done some accident investigation herself as part of her degree. She doesn't know what else to say other than she fully supports them and their location. She has no problem putting her children here. She doesn't think that it is a non-common sense decision especially considering that there are 3 other preschools within the same distance surrounding the airport. Her other daughter goes to Athlos Academy straight across the runway. When you fly upwind and go around in the traffic pattern, you are in a 1000 feet AGL. Anything can happen at that point in time, anything can happen on take-off and landing as well. Any of those schools, any of the theaters, anything -it doesn't matter if it is ½ mile or a mile it is still within the vicinity. That is her point. The likelihood of it happening is just so minute it is not even registering in her mind that this is even an issue. She flies every day; that is her livelihood. So she doesn't know if she is used to it or if she understands it better. She is happy to answer any questions they might have about it. She is here to support them.

VICE CHAIRMAN RIVERS stated he understands aviation not nearly as well as she does. He asked her if it bothers her with the idea of having her children's playground from time to time directly downwind from pesticide? Ms. MacCosham replied as far as the pesticides are concerned, she would need more information. How often is this person spraying? Are they

spraying every day? Are they spraying during preschool hours? Are they spraying twice a day? **VICE CHAIRMAN RIVERS** said if memory serves him the gentleman that was here at the last meeting said it is a daily situation for spraying the pesticide and he actually has a machine that dispenses the pesticide in his barn and next to his barn. Ms. MacCosham asked him at what hours? **VICE CHAIRMAN RIVERS** replied he didn't remember that but maybe somebody else does. Mr. Mayo said if he remembers right the gentleman said it was on a 3 or 4 hour frequency. It's just a timer with a misting system hooked up around the perimeter of it. Ms. MacCosham said it's not that she doesn't care about her children and she would resent the fact if that was what was being implied. She thinks too many times we're getting worked up about 2 little things when there are bigger safety issues out there that they need to be worrying about. She can't imagine that Phil and Debbie would ever put her child or any other child in jeopardy. They have children of their own. If this is not something that they felt was good for their health and that it was a safety issue, they would not be here tonight. **VICE CHAIRMAN RIVERS** said he didn't mean to imply anything about her parenting skills or anything like that. He was just asking the question. Ms. MacCosham said no offense taken.

CHAIRMAN CASON closed the floor and invited further discussion at the dais.

CHAIRMAN CASON said he could certainly sympathize with his colleagues concern about the safety of the children for both circumstances; the spraying of insecticide and certainly the proximity of the airport. However, as far as the pesticides are concerned, he does believe that the responsibility of maintaining the safety of the students rests with the State. He thinks that if the State is not aware of how to manage pesticides in ranchette or ranch areas adjacent to other locations, then he doesn't know who else would be or who else they could depend on to do that. They have to look to them to manage that. If in fact they do find circumstances to be detrimental to the children at that school, then they just won't issue a permit and this will all become moot. In so far as the concerns about being close to the airport, although any type of action that involves children has a tendency to heighten our awareness about what they could have prevented, he would make the argument that children are the same thing as adults. If the plane were to crash in the other direction and run into one of the schools on the north end of the property that happens to be filled with 250 students during the day, it wouldn't be any less of a crisis than it would be if they landed with the children. He thinks you cannot affect the commerce of a particular business using odds that are basically anywhere you look would be so astronomical, as to being more selective on this particular use than they would be of any other use. Once again he does think keeping children safe from pesticides and keeping them safe from any type of accident is paramount. He just doesn't know that the circumstances surrounding this particular location in relation to all of the other locations that may be around it warrant the holding back of this particular type of commerce at this location. As he did last time, he will be supporting this and of course the motion, whichever way it will go.

COMMISSIONER VEITCH said he expressed it well with respect to other adjacent uses which they have mentioned a couple of times with multi-plex, which is off of the approach pattern from the northeast end of the runway. He entertained a motion for approval.

MOVED BY COMMISSIONER VEITCH to approve ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY subject to conditions recommended by Staff, seconded by **COMMISSIONER BARON**.

VICE CHAIRMAN RIVERS stated as he said earlier he lives under the downwind leg of an airport and he is accustomed to the sounds of aircraft. He doesn't feel it is necessary to wait for the FAA to tell them that this location will simply be noisy or very noisy. While a daycare may be loud sometimes they do need their quiet times like nap time and this place will be either noisy or very noisy. Helicopters flying directly over this daycare bothered me for reasons other than they are simply being loud. Helicopters are not the same as fixed wing aircraft. When the engine fails it doesn't glide, it falls. He would have the same concerns about the student pilots in helicopters flying over any business not just the daycare. The landowner next time was here last time explaining to them that he uses chemicals for pest control and fertilization. He has a machine that pumps out aerosol fly killer for his horses in his barn. It absolutely is his right to do this on his property. He does not understand the benefit of providing children an outdoor play area directly downwind from a pesticide dispensing machine and whether or not the pesticides or herbicides are toxic to humans, he is not sure why they want to subject children to such an environment. It is their job to come up with an opinion as to whether this is a good use of this land. He thinks it is not and therefore, once again, he will be opposing this motion.

COMMISSIONER CUNNINGHAM said she agrees with the Vice Chairman. She does not know that they should approve something with chemicals involved. That is her biggest issue. There are studies going on constantly regarding even Raid which was mentioned at the last meeting that it was as harmless as Raid. Well, Raid actually has some heavy allergens in them which are causing major asthma issues for certain types of people who have lung issue or who may already have asthmatic situations. When we talk about there are other things in the area that are just as dense, yes there are. There is a movie theater, there are other schools but they are talking about adults in most cases who have the choice of going there or not going there. When they are talking about a daycare, the children go where there parents take them and the parents obviously are counting on the authorities to decide what a good situation is and what is not. Therefore, she will be opposing this because should something in the future occur and should it be decided that this pesticide has to stop and therefore the private property owner adjacent to the property can no longer have use of his private property. These are all would of, could of, should of's but in fact they are a reality for many people in our society today that they have had to face. She will be opposing this – this is not a good use of this particular piece of property.

COMMISSIONER DONALDSON stated he has reasonable confidence that the State will be responsible if this does go through to handle the pesticide issue. Like Commissioner Cunningham he hopes that the current resident is not permitted from what he has been able to do and needs to do in order to preserve and maintain his property. He does have reasonable confidence that they will handle that. What he has in from of him are two things. One, he sees that Council has approved ANO-2 designation for this property which is more restrictive than ANO-1 the way he understands it, which means that based on precedent, complaint and everything that goes on and around an airport, he believe Council has shown that there needs to

be more restricted uses. It does not allow educational facilities. That has been presented. He also believes that being on a Commission and previous committees, that the committee created Airpark Area Plan Policy 5.2 had the intention of prohibiting of noise sensitive institutions such as daycare facilities, schools and churches within and arrival and departure flight tracks, touch and go patterns and within the 55 dnl noise contour. It would be a disservice to that Committee who did that and who created this policy. Based on those issues, he will be voting no on this issue.

COMMISSIONER PRIDEMORE said from his point of view he hasn't heard anything tonight that has changed his opinion of this request. The proximity to the airport does not bother him as some of his fellow Commissioners. He understands all of the arguments. In all honesty, if this use was proposed on the eastern side or in a different location on this same piece of property, he probably wouldn't have an issue with it. But with the location that is in front of them at the northwest corner directly adjacent to the County land where they know the chemicals are being used, he just can't support it. Literally, moving it a few hundred feet one way to the east or to the southeast, he would probably be fine with it. The way it has been presented here he just can't support it.

CHAIRMAN CASON called for the vote by raising hands so they don't have the clarification issues they had last time.

The vote was for 3 in favor of approval and 4 opposed. The matter failed so he called for another motion.

VICE CHAIRMAN RIVERS moved to recommend denial of ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY, seconded by **COMMISSIONER CUNNINGHAM.** The motion was approved 4 to 3. It will go before the City Council as a denial of the application.

CHAIRMAN CASON thanked everyone for their comments and appreciated them for coming out. This will go before City Council October 27, 2011. He said they are just a recommending body. It is up to the City Council to make the final decision.

6. DIRECTOR'S REPORT
   Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS
   CHAIRMAN CASON announced that the next regular meeting is October 19, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona. He also wished his daughter a happy birthday.

8. ADJOURNMENT
   The meeting was adjourned at 6:36 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 19, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Baron.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES

   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the minutes of the September 7, 2011 Planning Commission Hearing. The motion passed 7-0.

   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the minutes of the October 5, 2011 Planning Commission Hearing. The motion passed 7-0.

5. ACTION AGENDA ITEMS

   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items C and D were pulled for action.

A. DVR11-0009 TCF BANK

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former MF-3 (High-Density Residential District) and C-3 (Regional Commercial District) zoning. The PAD zoning is for a bank and a commercial building on approximately 2 acres located at the southwest corner of Arizona Avenue and Willis Road.

Planning Commission and Planning Staff, upon finding consistency with the General Plan, recommend approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

B. PDP11-0009/PPT11-0004 AMBERWOOD HEIGHTS

Approved.

Request Preliminary Development Plan and Preliminary Plat approval for an 83 lot, single-family residential subdivision on approximately 27.4 acres. The subject site is located south and east of the southeast corner of Chandler Heights and Gilbert roads.

1. Development shall be in substantial conformance with Exhibit 8, Development Booklet, entitled "The Residences at Belmonte", and kept on file in the City of Chandler Planning Division, in File No. PDP11-0009, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3601 in case DVR04-0009 REID'S RANCH, LANDING AT REID'S RANCH, AND AMBERWOOD HEIGHTS, except as modified by condition herein.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
4. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
5. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
6. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
7. The same elevation shall not be built side-by-side or directly across the street from one another.
8. The applicant shall work with Staff to provide additional terracing along the Chandler Heights Road frontage.
9. The applicant shall provide trees consistent to development standards along the landscape tract adjacent to Gilbert Road.

10. 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 Amberwood Heights development shall use treated effluent to maintain open space, common areas, and landscape tracts.

11. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the home builder/lot developer, and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

Staff recommends approval of the Preliminary Plat subject to the following conditions.

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

E. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

Approved to continue to the November 16, 2011 Planning Commission Hearing.

Request Use Permit approval to install a wireless communication facility on the campus of United Methodist Church at 450 E. Chandler Heights Road, the northeast corner of Chandler Heights Road and the Union Pacific Railroad. **(REQUEST CONTINUANCE TO THE NOVEMBER 16, 2011 PLANNING COMMISSION HEARING.)**

F. ZUP11-0009 EVA'S MI AMORE

Approved.

Request Use Permit approval to operate a wedding planning and bridal service office in a converted residence at 598 W. Chandler Boulevard.

1. The Use Permit shall be granted for a period of one (1) year, at which time re-application shall be required. The one-year time period shall begin from the date of City Council approval.
2. Substantial expansion or modification beyond the approved exhibits (Floor Plan, Narrative) shall void the Use Permit and require a new Use Permit application and approval.
3. There shall be no tandem parking in the designated parking spaces at the rear of the property.
4. Parking along Hartford Street is not permitted for either employees or clients.
5. Parking shall not be permitted in the front yard other than on the existing concrete driveway.
6. The site shall be maintained in a clean and orderly manner.
7. The site shall be fully landscaped, including removal of weeds and installation of gravel to cover bare dirt, prior to occupancy by the subject business.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER BARON** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

ACTION:

C. LUP11-0019 NATE'S THIRD BASE

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption indoors and within an outdoor patio area at an existing restaurant, and request approval for live music indoors. The property is located at 1949 W. Ray Road, Suite 11, within the Boardwalk at Andersen Springs at the southeast corner of Ray and Dobson Roads.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. The Use Permit is granted for a Series 6 Bar License only, and any change of licenses shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other restaurant locations.

4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. There shall be no live entertainment outdoors including acoustic groups, bands, and the like.
7. **Indoor music is limited to an acoustic group and karaoke. Any change in entertainment including pool tables, arcade games, live music, and the like shall require re-application and new Use Permit approval.**
8. **Noise shall be controlled so as to not cause a nuisance for nearby residences and businesses.**

JODIE NOVAK, SENIOR CITY PLANNER, stated this is a Liquor Use Permit case LUP11-0019. Nate's Third Base is a restaurant that's currently in operation existing at 1949 W. Ray Road, in Suite 11. This is at the Boardwalk at Anderson Springs which is the southeast corner of Ray Road and Dobson Road. The application before them is a request to change their liquor license. Currently, they have a Liquor Use Permit that was for a Series 12 Restaurant License. Under that restaurant license issued by the State of Arizona they do have to maintain 40% of their gross revenue for food sales. They did not meet that and so they had to purchase a Series 6 Bar License which triggered the need for a new Liquor Use Permit. Also, as a part of the request for the Series 6 they are asking to have live entertainment. They previously had approval to do live entertainment with their Series 12 Liquor Use Permit awhile back, a year or two ago in 2009, but they never commenced with that music so they just wrapped it up into this new request. The restaurant is still going to maintain a restaurant with the full menu even though it has a bar license with it. They also will have the live entertainment indoors only; they are not requesting live entertainment to be on the patio. The application this evening has standard zoning conditions that relate to maintaining the property and there are some conditions that are regarding the music as proposed. The item is action this evening due to some concerns to condition no. 7 in regards to how often in the frequency of the request of the indoor music which also includes some karaoke. The stipulation currently indicates that they would be limited to their indoor music by an acoustic group and the karaoke no more than once a week for each of them. That actually is a little more liberal than what the applicant was requesting. In their narrative letter they said that they would only have the acoustic band once or twice a month so in drafting that stipulation they were a little more liberal and giving them a lot more time and maybe doing it every week if they wanted to which is 4 times a month. She understands there is some concern about why limit it and why even put a restriction on how often they would have the acoustic band and how often they would have the karaoke. They are not opposed to taking off a component of that in the first sentence and not giving them a time limit on how many days during the week that they could do that. The applicant is the one that is requesting that they wanted the live entertainment and that they would do it infrequently maybe a couple of times a month. They have a friend who has a band and it was just something that came up thinking maybe this would be a good opportunity for them to come over to their establishment and play there a few times a month. They are not asking for a rock band or electric guitars or bass or anything that sometimes with businesses might be deemed disruptive to homeowners that may live in the area but this is more of a low key acoustic group. The karaoke, they just do it a few times during the month. It is not that they are looking to have it all of the time it is really what is

the base of their clients and it doesn't appear that it is something that happens like every single week on a regular basis. If it did, they wouldn't be opposed to that from a land use impact standpoint because it is all done indoors anyways. What is being requested is coming from the applicant. They don't ask the applicant to limit it in anyway because it is all being done indoors and they don't think there are any negative impacts to anything around there - other businesses or any residential. There has been no opposition or concerns from anybody in the area who has been noticed or no one came to the neighborhood meeting either on October 5. With that being said, she said she will answer any questions that they may have but the point of this action was to specifically to address no. 7.

CHAIRMAN CASON he said he will look for comments from fellow Commissioners. Item 7 where the indoor music is limited, since it is indoor music, he agrees perhaps there is some question as to whether it should be limited at all. The fact that the music no matter how many times it happens a week, no matter how wild it gets, is covered under the condition no. 8 – 'noise shall be controlled so as not to cause a nuisance for nearby residents'. He doesn't know that it is necessarily their job to go ahead and put limits on the commerce of the company or the person that is running the establishment. If they can make more money by having karaoke 5 times a week, then that should certainly be their prevue to do that understanding that they still have to maintain all of the stipulations that are in there. What he would like to suggest to his colleagues up there is to strike the first sentence of item 7 understanding indoor music is covered by stipulation no. 6 such that there is no live entertainment outdoors including acoustic bands and the like. He doesn't know whether karaoke can be mixed with that so they can't have karaoke outside. The idea being is that they have identified that there is no music-live entertainment outdoors with stipulation no. 6 and any noise whether it happens to be indoors or outdoors, people laughing and having a good time and otherwise being entertained with their own company on that patio, their noise has to be controlled as well. He thinks they can eliminate the first line. We leave the rest of the second sentence in there totally and see if he can get anybody to agree with him on that.

COMMISSIONER CUNNINGHAM stated she agrees with him that it shouldn't be limited to just once a week. She also thinks that they should add to item 8 'not cause a nuisance for nearby residences or businesses'. There are several businesses in this plaza and there is a restaurant directly adjacent to that or there was. She has not been there lately so she honestly doesn't know. If it is not a residence, do they not care that they are disturbed by it. She thinks they do.

CHAIRMAN CASON said those were good points. They are considered the same - right? Residence is just a term they use. Anybody adjacent or near it would be considered a residence or do they have to define them as a business? Ms. Novak, Senior City Planner, said when they use the term residences they mean a residence of someone's place or home whether it is the apartment or condominium or single-family. It is somebody's house because usually in the past when they have had issues for noise, it is people complaining that they could hear into their home. Businesses on occasion they have done that. If there has been an adjacent business that had concerns. Usually they haven't stipulated that because by the time this business per say would be 'having band or karaoke' the other businesses around it are closed. They haven't had

any concerns or anything from these businesses that are adjacent to it that she is aware of. She can't picture a restaurant that is next to this one off the top of her head. She does know that in the vicinity there is a yoga studio but they are more day time and to the early evening, there is more of a holistic store and stuff like that which is around there. There are other restaurants further to the east in a shopping center as well. They are really not next to it per say. If they wanted to add businesses, that is fine too. It doesn't have any other impact other than if a business wanted to complain about music being loud if they happened to be open until 2 a.m. as well.

CHAIRMAN CASON said let's see what everybody else has to say. He said he particularly doesn't have a problem if they have 'businesses' in there.

VICE CHAIRMAN RIVERS said he can be on board with the striking of sentence number one and stipulation no. 7 as well. He was curious to ask on item D which they will get to shortly, there is a stipulation about the establishments providing contact information for a responsible person, owner or manager, to neighbors that allow music complaints to be resolved quickly and directly. Is there a possibility of adding that to this or do they think stipulation 8 covers that as well? Ms. Novak said the reason D has that is because there is a different history with that particular parcel in the proximity of people's backyards and single-family homes that immediately abut that particular building. There are no homes in any close proximity backing up to or adjacent to this particular site. When they look at projects on a case by case basis, one may have a different condition than another because of the circumstances and the impact. Item D has had neighborhood concerns in the past with a lot of bar establishments that happen to be there where this particular one hasn't. They don't feel it is pertinent to have to have that type of condition to this because there are not on-going constant neighbors that are complaining that it is loud and they could hear bands and music coming through to their house and they called the bar and nobody listens and those kinds of things. That is usually when they want to put a stipulation on a particular site or if the site has had a history of neighbors being involved in requesting that kind of contact so they don't feel it is necessary for this particular application. **VICE CHAIRMAN RIVERS** said that makes total sense to him and he did go out and visit this establishment today and he would have no problem with not limiting the amount of music or the nights of music they could have there. He thinks as they said, it is separated quite well from the areas around them and he is on board with his suggestion.

COMMISSIONER VEITCH said he is also on board with eliminating the time restrictions with respect to the karaoke and the acoustic music, however, it might make sense to leave the first part of the first sentence of stipulation 7 in - the one that says that the music is limited to acoustical groups and karaoke so as to avoid the kinds of musical performances that might to begin to create a problem with music violating stipulation no. 8.

CHAIRMAN CASON said so what he is saying is that even if you had an amplified group regardless of the loudness or their volume that they couldn't have that. It would have to be an acoustic group not an amplified group. Karaoke if you look at it is amplified. **COMMISSIONER VEITCH** stated that it would say that and it would limit it to the kinds of

musical activity consistent with what the applicant has requested. **CHAIRMAN CASON** said that is a fair point. He thinks all of this is about that the applicant requested it and basically they like when the applicant requests stuff like this because they know that they will be better neighbors ultimately because of it. He just hates to see something where they have gone in and actually put something in paper that limits their commerce in a way that he doesn't know is necessarily their prevue.

COMMISSIONER DONALDSON stated that from an acoustic group that is their goal and if it works for them multiple times a week they wouldn't limit that if they had the acoustic group and karaoke. That does limit the thump, thump, thump that might become a problem in the future so he is on board with that.

CHAIRMAN CASON said if he understands everyone correctly than these are the changes that they would like to make.

Indoor music is limited to an acoustic group and karaoke.

On Item 8 they will add '*residences and businesses.*'

He said he thinks everybody is on board for that one.

VICE CHAIRMAN RIVERS asked Staff to please read the new stipulations into the record.

Ms. Novak read the new stipulations as follows:

Condition No. 7 shall read as amended:

Indoor music is limited to an acoustic group and karaoke. Any change in entertainment including pool tables, arcade games, live music, and the like shall require re-application and new Use Permit approval.

Condition No. 8:

Noise shall be controlled so as to not cause a nuisance for nearby residences and businesses.

CHAIRMAN CASON asked if there was anybody in the audience that would like to speak on this matter. Seeing none he entertained a motion.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM** to approve LUP11-0019 NATE'S THIRD BASE with changes as noted. The motion passed 7-0.

D. LUP11-0020 SAGE BAR & VIETNAMESE CUISINE

Approved.

Request Use Permit approval to sell and serve all spirituous liquor within a restaurant and bar with a new outdoor patio (Series 6 Bar License). The site is located at 4929 W. Chandler Boulevard, Suite 12, within the shopping center at the southeast corner of Chandler Boulevard and Rural Road.

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
5. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
6. The outdoor patio shall be maintained in a clean and orderly manner.
7. Music shall be controlled so as to not unreasonably disturb area residences.
8. The establishment shall provide contact information for a responsible person (bar owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.
9. The proposed new entry door along the building's eastern wall shall be eliminated.
10. The proposed new garage door along the building's eastern wall shall be eliminated.
11. Karaoke shall not occur when the garage doors are open or when any other door is propped open.
12. **The applicant shall work with Staff to provide a main entrance in the northwest portion of the suite and to move the patio westward so as to be no further east than the building edge.**

MR. BILL DERMODY, SENIOR CITY PLANNER, stated the request before them is for Use Permit approval at Sage Bar & Vietnamese Cuisine, LUP11-0020 to sell and serve all spirituous liquor in conjunction with a Series 6 Liquor License which is a Bar License. It is located at 4929 W. Chandler Boulevard which is at the southeast corner of Rural Road and Chandler Boulevard in a small retail center.

As they can see, there are 3 buildings in a retail center; a Walgreen's, Baker Bros. Flooring on the east that tends to be closed at night, and then a multi-tenant retail building. The Sage Bar & Vietnamese Cuisine is taking up the eastern most suite of that which has been a restaurant or bar for the last 13 years or so.

The new Use Permit is required because of a number of changes they are requesting. Mr. Dermody showed the floor plan on the screen with the same orientation. The indoors is mostly

the same as what was there before although they are changing where some of the tables are, eliminating a pool table from what was there and expanding the bar somewhat. However, the most significant changes to this are on the outside. They are adding an outdoor patio. There was no patio before. What was handed out in the original packet has the patio on the north taking up a couple of parking spaces and then extending down the east side. Also, as they were talking about this, it is significant to note that there is a single-family neighborhood to the south and also to the east passed Baker Bros.

There is also proposed a number roll-up garage doors. They are most familiar to seeing that at San Tan Brewery across the street. It has created quite a vibrant atmosphere there with the indoor/outdoor during the nicer times of the year that people enjoy. Those garage doors that are proposed to be are 2 on the north side and 1 on the east side. The last significant change is that they are proposing to have an entry door on the east side of the building where there wasn't one before. He is sure the applicant will explain a little more about that especially because of the concept that they are bringing forward. They wish to have a bar and a restaurant cohabitate and to allow people to enter directly into the restaurant. They want this additional entry rather than taking them through the bar so they can go directly into the restaurant portion.

Staff does have some concerns with the request as presented namely with noise from this establishment affecting the neighborhood to the south. They especially have concerns not so much with the patio that is somewhat blocked by the building but more so with the new garage door that is proposed along the east side and the new entry door that is proposed along the east side. Responding to those concerns just today they have an updated floor plan that the applicant is sort of meeting us halfway on the Staff recommendation and if they aren't able to get their first choice, they wanted to present a somewhat modified plan for your approval and consideration. The modified plan is different in 2 main ways; the patio on the north is expanded somewhat by taking up one more parking space to the west and the rollup door along the east side is eliminated. If they lose a little bit of their outdoor atmosphere on the east, they want to make up for it on the north. However, the entry on the south remains. Staff has heard from one neighbor. Nobody attended the neighborhood meeting but they have heard from a neighbor to the south with noise concerns based on past history on this site from 2006 up to recent history. There was a different owner here and there were a number of problems including general vagrancy in the retention area to the south of the building, trash bottles being emptied at 2:00 a.m. in the morning at closing time into the dumpster which is located in that direction as well, plus just general noises – bar noise, people talking, yelling, TV is on and that sort of thing. Staff shares some of those concerns of how this could potentially impact the neighborhood to the south noting the past noise issues as well as the fact that they wish to have karaoke on a regular basis. They recommend approval but with some modifications especially mostly notably that the new entry on the east side be eliminated and as they have agreed, to eliminating the roll-up door on the east side so that all of the openings to this facility are on the north and that noise may be directed in that direction. They also recommend that while karaoke is going on the garage doors be closed and as they have seen in some other situations, a liaison program be set up to anyone who is interested where they don't have to go through the police if they have a noise issue. They can call a responsible person and get the volume turned down instantly. He said they will be hearing

from the applicant as well as a neighbor in opposition. Staff does recommend approval with conditions. Mr. Dermody said he would be glad to answer any questions.

VICE CHAIRMAN RIVERS asked Mr. Dermody to put up the first proposal that he had just a minute ago. This actually shows two entry doors on the east side that are both proposed to be new or does one exist currently? Mr. Dermody said the entry door at the very corner of the restaurant is emergency exit only. It is not meant for general use. This is the proposed new entry which would be used for general use in and out.

CHAIRMAN CASON asked Mr. Dermody if he would share with them the concerns regarding the changing of the front of the unit. There certainly is with him some clarification he needs to have is if they put a new entry where the applicant requests it, what does that do to the changing of the original PDP that was done out there and how does this change that? Mr. Dermody said he thinks he knows what he is getting at. The retail shops which is about 7 suites or so have there entrances facing north right now – all of them do. People can park along the southeast if they would like but they have to walk all the way around the building and enter from the north as it is right now. With the proposed patio and new entry door this is what was originally proposed in their packet. The door that is there today would be replaced by an exit only door and garage rollup door so it would change its function a little bit. It would be more to service the patio rather than people coming in and out of the facility although you could still do that potentially. People would be more directed to this main entry over here which happens to be located in the split between the restaurant and the bar portions of the facility. With the main entrance over there they do anticipate that people would be more likely to park on the east side as opposed to today it would be more likely that they would park on the north side close to the entrance where they enter the facility. With more people on the east side with the door being opened and closed on a regular basis they feel that it could bring the noise closer to the neighborhood and compound any problems. Whether this bar and restaurant is run well or not, they do anticipate some noise not very far from the neighborhood and they are recommending that be contained and directed northward to the greatest extent possible. **CHAIRMAN CASON** said if this entire plat and this whole PDP were coming before them right now and the developer was planning the front door to be on the right then they would probably have to change the whole Baker Bros. consideration in order to move Baker Bros. back so that they could continue to force that noise further north. Right now as he understands what he is saying is that with the door being in the middle of the suite or the southern half of the middle of the suite that this traffic is now going to fill up back here. While there will be some people using the traffic out front, this 'L' here behind Baker Bros. will probably become the primary parking for this establishment because of where the front door has changed. What they end up doing there is that all the parking noise associated with the cars coming and going and people standing out before they leave, instead of being in front of this piece of this development so that the noise stays out towards the street, it is now going to funnel all that noise back into this parking lot where it can't escape anywhere but south. Is that what they are looking at? Mr. Dermody said that is more likely to occur. Obviously, people could park in the south today. If the entrance is moved, they could still park in the north but it is more likely that people will park farther south on the facility if that is where the entrance is moved to. **CHAIRMAN CASON** said it looks like the way that the rest of this is built behind

the center section that is all retention and behind the Walgreens is just basically a drive aisle; this original shopping center was kind of laid out in order to keep the noise away from this neighborhood. The parking that was behind the furniture store or carpet store is basically for the help where their cars come in, they work 8 hours and then leave. They don't stand out in the parking lot and stuff like that - a very low traffic use. Which came first, the chicken or the egg, the houses or the development? Mr. Dermody said that is a good question but he doesn't recall. **CHAIRMAN CASON** said nevertheless he thinks it is important to note that the way that this center is designed is to keep the majority of the noise north away from the homes and what this door is asking them to do is now to shove some of that noise closer to the homes. That wasn't the intent of what was originally passed by that particular P&Z Commission and ultimately the City Council who had to weigh in on it. So they agree that they would probably be using that parking more on the side. Is there any other alternatives that might be available to have the main opening put on the northwest corner of the unit or something like that and try to encourage the applicant to do that. Did they have any discussions with the applicant about making that their new front door? Mr. Dermody replied that they have talked about having the main entrance on the north. It is possible to do. If they had it on the northwest, they would just have to take out a little bit of patio area. It may also be possible to provide for that in the northeast portion. However, even though it's possible they still prefer to have the main entry be on the east side for the reason of getting direct access to the restaurant portion of the business.

COMMISSIONER DONALDSON asked Mr. Dermody about the floor plan and the main entrance. If the stipulation is the way it is in their packet, wouldn't that cause the floor plan to change in the front. Are we chicken and the egg on that? Do they need to see the floor plan with the proposed north entrance. Mr. Dermody said if the solution is to take out area from the patio that could be handled administratively. When they are taking away from the liquor service area that is being approved, that doesn't need new hearings. If they are adding to it, however it would have to come back.

CHAIRMAN CASON asked the applicant to come up and speak.

BRIAN KROB, 6519 E. OAK STREET, stated he is the architect on this project representing the owners. They wanted to look at the stipulations 9, 10 and 11 just to address those. The first point he wanted to make was actually in regards to no. 11 – kind of the amplified sound aspect of it. They have talked about how the layout of this restaurant is divided into 2 sections. There is the sit down area on the south and more of the bar/dining on the north.

The south area is actually completely enclosed. There is a hallway that connects it to allow the bar patrons to get into the restrooms but there are operable doors on the north end of it and the hallway is actually enclosed all the way to the ceiling with a vertical wall at this point. The owners intend to have any kind of amplified music back in the southern area so that if there is any karaoke, it would be contained back here. They have this exit door which is just a solid hollow metal emergency door and these other doors would contain the sound to this area so as far as amplified sounds is concerned, it would all be contained to this lower area. Now as far as this north area, kind of referring to as 9 and 10 as moving the garage door and the entry door, the

sound that would be emanating from these areas is sort of normal bar conversation and your standard music not some really loud amplified music that you would have with the karaoke. The argument is that there would be more sounds coming out than would be expected as you would with the karaoke. He wanted to clarify that. One of the items as far as the line of sight, this space between the Baker Bros. building and this building, there is a cul-de-sac just to the south with a series of neighbors. The owners have visited them and talked to them about what they are proposing, showed them this plan, and they are all in favor of it, they all appreciated that the owners would take time to reach out to them and show them what they intended to do. Those particular neighbors are the ones most affected by the line-of-sight. The rest of the neighborhood would if there was sound carrying it, would be reflected off of buildings; not more than the traffic noise that would be on Chandler Boulevard. So far as addressing the noise that was sort of an important aspect of getting to those particular neighbors.

This entry is important for the way that this restaurant is designed and also trying to maintain a lot of what already exists. The kitchen is still staying in the same place; the bar is simplifying but is in virtually the same place. The layout is utilizing what's already there to just maintain costs and everything else with opening this restaurant. The most important thing is opening up and out to these exterior areas and getting that interior/exterior type of space. So this garage door that is on the east as well as the ones on the north allow this 'L' shaped bar dining to be able to experience that inside/outside feel that is important to basically running a bar in this town. They feel that this garage door happens to be imperative to their business model and keeping that inside/outside feel and letting all the patrons be able to utilize all of the patio spaces on the north and on the east sides of the building.

CHAIRMAN CASON asked if there were any questions for the applicant.

COMMISSIONER PRIDEMORE asked if he could point on his plan where he thinks there is an east patio. Mr. Krob said basically it is kind of a breakout area. They had to keep a 4 foot clear walkway on this sidewalk so they are basically left with kind of a breakout area. It just kind of extends the room and they are able to do that because they basically removed a thirteen foot wide opening in the wall. It kind of continues out that extra 3 and a half feet. It is not a lot of space. Mr. Dermody said also of note, the state requires a barrier of some kind so if there is a garage door they have to have some sort of fence out there. **COMMISSIONER PRIDEMORE** said he hears what he is saying but he disagrees. He doesn't think that space will be used. He can understand the garage doors on the north side with the indoor/outdoor space with the proposed patio which looks like a very nice addition. That is a space that he would want to be in. If he is at those tables right there at your proposed east garage door, he just doesn't see it. They are going to be looking at a parking lot. He doesn't think that is going to be used the way he thinks it is going to be used personally.

VICE CHAIRMAN RIVERS asked if he could please put up the aerial shot of this center showing the houses to the south. He asked if he could show him on that map where the neighbors are that he talked to. Mr. Krob said these 3 here on the cul-de-sac. **VICE CHAIRMAN RIVERS** asked if he discussed with them the increased parking that is going to happen right

behind their homes. Mr. Krob replied they mostly talked about the use of the space. They addressed the number of parking spaces that they are taking out but that the center has the adequate amount of parking so they are not increasing the amount of parking necessarily to the center but they didn't necessarily address where that parking was going to ultimately end up. **VICE CHAIRMAN RIVERS** said if he believes if they put this door on the east side then the people will definitely use the side parking and there isn't very much of it. He was there today and there might be 10 spaces. He is sure he is hoping for more than 10 folks. They will fill that south parking lot and it will be 10 or 20 yards from these people's homes and he is just wondering if he mentioned that to them at all. On the other drawing that he had before, are they to consider this is what they are applying for now? Mr. Krob said this was the original application and they would still like to propose having this east garage door and this east entry if that is possible. That is what they are asking. They have come up with an alternative once they have had this conversation to basically make their case for what they are trying to do here and see if that would be plausible. They did sort of propose another alternative if that is what they needed to address the stipulations that were set forth. **VICE CHAIRMAN RIVERS** said he visited this place this morning and he was having a hard time figuring out from the drawing that he had at the time where the east side patio was going to be and what was the benefit of having a 3 foot wide patio that was going to be overlooking 5 or 6 parking places, which are probably going to have cars in them. He couldn't grasp why that was even considered.

COMMISSIONER BARON asked how wide the patio was? There are no dimensions there. Mr. Krob replied it is 3 foot nine. **COMMISSIONER BARON** asked how did they propose to control access to work. How would the gate open? Mr. Krob said just like the one on the northwest, it depends on the time of day. The standard lunch crowd would be controlled by the servers. **COMMISSIONER BARON** asked do the gates physically operate. Are they sliding or are they hinged? Mr. Krob said the gates aren't there it is just a controlled opening – just a 3-foot wide gap in the fence. It is just a controlled access as opposed to it being a gate because they didn't want to walk the 4-foot walkway with something swinging out into the walkway. They are just avoiding it and having an opening. **COMMISSIONER BARON** said he thinks they are o.k. on the distance there but if they were to approve this, he would double check his ADA passing space requirements. He thinks it requires 5 feet and a distance of less than 200. **COMMISSIONER BARON** said he just doesn't understand the plan to utilize that space. If 2 people are trying to carry trays passing in that space, they are going to be having some issues if there are other people standing there. Mr. Krob said it is sort of a kin to a Juliet balcony. It is not like you get a whole lot of room but you open the doors and you are able to get outside by sort of the fact that you have removed a 13-foot wide wall. It is just an extension of space and they are taking as much as they can possibly grab. They have worked with Bill to get the appropriate width of sidewalk. They have basically increased everything. They originally were at 3 foot six for all the walkways and they increased them to 4 foot all the way around just to make sure they were ADA. **COMMISSIONER BARON** asked if the parking blocks were existing. Mr. Krob said they do not exist but they would need them in order to maintain the width of the sidewalk so that the cars aren't overhanging the sidewalk at all. **COMMISSIONER BARON** asked what the depth of the parking stalls were right now. Mr. Krob replied they are 19 foot.

COMMISSIONER DONALDSON said he is struggling with the fact that the previous issue is with bar noises and some of the neighborhood concerns with previous businesses or whatever. He is a little concerned that those came out of the south side of the building and this development was kind of designed to go out the north side of the building because of the neighborhoods to the east and also to the south. What they are proposing here carries their noise whether it's outside patrons or whatever to the southeast side of the building. He thinks that is kind of a recipe for continued concern or increasing the concerns and increasing issues that popped up before. He is trying to figure out how the old flow is changed to benefit by adding the east entrance. How is the old flow compared to the new flow and what kind of benefit is gained by having the east entrance by dragging their patrons and noise to the southeast? Mr. Krob said that is sort of the business model of this particular restaurant. Before the whole space was the bar/restaurant so that the doors were originally here and a pair of double doors. This is an existing door but it was always blocked off and was never used regularly but most patrons would come in through the top and they would sort of bleed through the space until you got back here. This was kind of a dead area and usually ended up being arcade games and there was a stage back there and things like that. So now they are re-activating the space and making this a sit down restaurant for the Vietnamese cuisine and this is more your standard bar American food type bar dining. The way this works is that as a lunchtime place they don't want people coming from the Intel plant to come here and eat lunch at a bar per say, but they want to have the opportunity that these people are addressing the fact that they are eating at a restaurant that is not considered a bar for lunch and going back to work and their bosses saying what were you doing over at Sage. So that is the point of this that now they are bringing everybody in to the middle and then they could either decide if they are going to the bar or if they are going here. That exit door is still a viable entry. You can get in that way. In his estimation most people as they perceive this building perceive it from Chandler Boulevard. They are driving passed and they see the new patio and the energy that is out there and they want to come in. They are going to park on the north because that is where they see the people and they are going to try and figure how to get in this space. That door is going to get utilized more often than not. This door will exist as an alternative to say once you have been here more than once you realize how the flow actually works with this being entry and now you can come in this way and utilize that sit down restaurant in a much different way than it was used before where the whole space was just one big bar.

CHAIRMAN CASON asked why can't he use the upper or the northwest corner of this suite as their main door? It is just a matter of preference of how the folks would want to run their business. Right? Mr. Krob said this would be the sort of idealized front door for that reason of kind of splitting the restaurant into 2 separate functions. Nothing is stopping them from entering through that door. It is still there, it is still accessible, it is just not as blatantly obvious because you are walking onto the patio first and then entering there and plus most people look for doors in the middle. They don't look for them off to the side so it seems like a side door but there is nothing stopping you. **CHAIRMAN CASON** said so by not having any access on the east side of the building is not a deal breaker for him then? He would just prefer to have that entry door on the right hand side. Mr. Krob said that would be ideal if they could actually operate the 2 businesses in that matter. **CHAIRMAN CASON** said so he takes it because he has a sit down

restaurant and for their regular bar, he is presuming he has a hostess or host that would sit people. Mr. Krob said that is correct. In the lunch and dinner hour there would be a person stationed here that would be able to take you back and seat you in the restaurant. **CHAIRMAN CASON** said so if somebody comes in through the north coming in the first time and not realizing there is a door on the side then they would walk in and not know where to go. Mr. Krob said yes they would have to basically interact with the bartender, servers in the bar. That is what they are trying to avoid ultimately is that you do have to walk all the way through the bar to get to the sit down restaurant. **CHAIRMAN CASON** said but then again if they could move the host or hostess up to this northwest corner then they would have the opportunity to bring people that want a sit down meal through the rest of the bar so they can see that there are TV's and comfortable people spending time there and stuff like that. It is not adverse to the business to have to come through the bar area. He said before that their sit down restaurant is going to be their karaoke spot? Mr. Krob said yes because of the hours. This is running from lunchtime 11:00 – 1:00 p.m. or 11:00 to 2:00 p.m. Dinnertime from 5:00 to 9:00 p.m. and after 9:00 p.m. it is basically kind of a closed down space and then it can be utilized by the bar as their karaoke area. That is not the main aspect of the business plan but it is just an opportunity to have an enclosed room and they can put everybody in there and they don't have to worry about the bleed of excess amplified music.

COMMISSIONER PRIDEMORE asked what are the sliding doors that separate the bar from the first down tables? Mr. Krob said they are actually reusing the aluminum store front that is here in this garage door and placing it there and then it should work out to be just one sliding glass door.

VICE CHAIRMAN RIVERS asked if it has been proposed or were the owners planning to use this patio as a smoking area? Mr. Krob said the north patio would be sort of a break out smoking area. It is a smoking area. **VICE CHAIRMAN RIVERS** asked Staff if it is o.k. for this to be a smoking area or is it missing something or too close to the front door. Mr. Dermody, Senior City Planner, replied that it looks like you could potentially have a smoking area out there on the patio as long as those barstools seat closer to the garage doors aren't used. He thinks you have to maintain 20 feet. Jodie Novak, Senior City Planner, said the business has to determine what is always going to be their non-smoking entrance for customers. Once they figure out what is their non-smoking entrance than you cannot have any tables where people are going to smoke within 20 feet of that non-smoking entrance area and then every other entrance exit would be available for the smokers to come in and out of. The State Smoke for Arizona agency is going to say you need to dedicate an area for the non-smokers to be able to come into that establishment as the primary entrance but you cannot have anybody smoking within 20 feet of that. So if you have a table within 10 feet, than those tables have to have non-smoking signs put on them until you get 20 feet away. **VICE CHAIRMAN RIVERS** said so using that information if the patio is a smoking area, than the controlled access between the pillar on the northeast corner of the building couldn't be a non-smoking entrance. Ms. Novak said she is looking at the exhibit on the north where the proposed patio is and where the current entrance doors are which are in between the 2 new garage doors on the north side, then where the new garage doors are all of those tables that are north of it as part of the patio, anything within 20 feet could not be for

smoking at all. But if that proposed patio that is square on the northeast corner, if that is 20 feet away that would be fine. The State ultimately sends their inspector to check all of it anyway but just off of the knowledge that she has the tables that would be immediately near it they couldn't have anybody smoke there. **VICE CHAIRMAN RIVERS** said so the patio you could use as a smoking area just not the area that is currently out there between the pillars. Mr. Dermody said that is correct or at least close to correct. They could at least use part of that proposed patio if not all of it.

COMMISSIONER CUNNINGHAM asked on the 3.9 foot area on the east side which they proposed to have fenced, would there be a gate at the south end of that? Mr. Krob said correct. **COMMISSIONER CUNNINGHAM** asked if they were proposing to put any kind of vegetation within that area? Mr. Krob said this side no. This would be all concrete just an existing sidewalk. They just have these 2 new trees on the north end. **COMMISSIONER CUNNINGHAM** said so no planters? Mr. Krob said just because of the space they need to maintain the 4 feet and then that leaves us 3 foot nine - very tight.

CHAIRMAN CASON asked if he would consider moving their karaoke separation door to the north side of their new entry door and have no indoor music. In effect, you would have 2 entrances. You would have a dinner only entrance and then another entrance at the northwest corner which would mean that they would have to separate off at least as much as they can from a fire standpoint and all those types of issues. They would try to close off their regular bar from their restaurant for use of that door so that anybody that came in that door was going to the restaurant. They weren't going to the bar. If they did something like that, then he thinks they could accomplish a couple of things. One, they would have their door. The second thing is that they would with 12 tables and he might have six cars parked back there. They will have some overflow here in the parking that is on the north side from just the regular bar that people want to park there so they could see their car or whatever the case might be. He is just throwing this out there as possibly a solution. If they move that up there, then they have limited the amount of people that can go in there and it's kind of like the dinner only entrance. Having said that he asked Staff does that still leave them with a situation to where they have changed the original platting or the property by having that door just limited to a particular use inside the bar and not access to the entire establishment. Mr. Dermody replied that any door on the east side wasn't in the original PDP obviously as far as general use doors and emergency exits only on that other side so there would be a change there. Our concerns would remain if there were any doors on the east side that were used generally as far as noise escaping into the neighborhood.

CHAIRMAN CASON said he had a speaker card and called them up to speak.

SHARNET PARKER, 4904 W. BUFFALO, stated she literally lives right behind the bar. She showed where her house is at. She is the owner of Rising Stars Preschool. She is state licensed and also does have a Use Permit with City of Chandler so she has been here before. Her back door is literally facing their back door. She said she has spoken to their neighbors in this area but unfortunately they were not able to come to the meeting tonight nor was she able to speak with the owners on the 3rd as they were out of town. Her concern tonight is that this area right here

will be used all night long and all through the day. She has been a resident at this home for 6 years now and when there have been bars people do park back there at night. She does have 2 boys 12 and 15 years old and she does have children that are in her care Monday thru Friday from 7:00 a.m. to 5:30 p.m. and once a night they have a parents' night out. Her children in her care are outside in the back yard. In previous situations they had patrons come to the back and smoke back there. They would be doing things that they are not supposed to be doing back there. They have called the police and they have spoken to the bar and asked them they need to control this because they have kids back there. They do have an elderly lady here all by herself. These people are renters but they are there by themselves. They are not home all of the time. These people aren't home all of the time but they are home at night. One of their concerns is when they did have a business right here, especially a bar, they would have people trying to hop over their fence many, many times. They have had to call the cops, they have caught them and they are just like they have to use the bathroom or they are drunk or whatever and they didn't know where they were. That is her concern as having children in her home and having a daycare in her home. About this entrance back here and only using it as a restaurant and having them park only right here that doesn't happen. They have people parking back here all the time and it is very noisy. From what she understands because she is friends with one of the other restaurants over here, this right here is for delivery and she sees delivery truck there every single day. They come in, park and back up where the trash can is. So it is noisy during the day but at night it gets even noisier. That is another concern that they have.

CHAIRMAN CASON so she is opposed to the entire application not just to the potential for noise with the doors on the east side? Ms. Parker said as a business owner she understands that we need businesses and she would love to see a business there. She would like her neighborhood to have some good restaurants. She would love to hop the fence and go over to a restaurant and have a nice dinner. Her problem is this entrance over here going in and out of there all of the time, people will go back here and they will smoke. There will be people back here parking all of the time. That is her concern. The owners not working with them as residents over here and making sure this doesn't happen. They have been promised over and over again that they would do something about it but never has. The noise bounces off from the 2-story house from this middle house into her house. It just bounces off of each other. This person (she showed on the map where) doesn't get affected as much as they do. There has been times when the people across the street have heard the noise too. They did not have karaoke they did have just music inside the bar and they still heard it inside of their house. So no, she is not opposed to the bar/restaurant, she is opposed to this area being used and the loud noise until 1, 2 and 3 in the morning. That is what she is opposed to.

DALE ELLIS, 6506 S. TERRACE ROAD, TEMPE, landlord of the property next door to Mrs. Parker. She said she was holding a postcard she got from the City. This is the first she has heard of it so she had no idea what the plan looked like in the restaurant, the impact, the doors, none of that. She said this is the first she heard. **CHAIRMAN CASON** asked if she was on the east side of Mrs. Parker's house? She said correct, they are the 2 closest. Ms. Ellis bought the property a year ago when the bar was vacant and was a nice quiet neighborhood but she was told that it hasn't always been that way. It was really loud when there was a bar back there. She was

told when she bought it that there wasn't one. She is concerned with those issues. As an investor, it affects the market value of her property which she hopes to sell some time in the next year. The fact that there is a noisy bar – a restaurant closing at 9:00 p.m. is not that big of a deal but a bar that late at night especially people with day jobs is. It will affect her marketability to either rent or sell the property. She wasn't contacted that there was going to be a hearing.

CHAIRMAN CASON asked if there was anybody else in the audience that wanted to speak on this matter. Seeing none he asked the applicant to come back up if he has any more comments. The applicant said he had none. He closed the floor for discussion and possible motion on the dais.

COMMISSIONER VEITCH said he would like to propose a fundamental question. He thinks he is hearing Staff saying that relocating the entrance to the suite from the north side to the east side would be a material change to the development plan for the shopping center. Mr. Dermody, Senior City Planner, said it could be viewed that way. **COMMISSIONER VEITCH** said if that is the case it seems to him that moving the entrance is off of the table unless the property owner pushes to file an application to amend the development plan. Mr. Dermody said the property owner did have to sign off on this application and there are a couple of processes for this. You could argue that they have to go through a Preliminary Development Plan process or you could take care of it through a Liquor Use Permit process. **COMMISSIONER VEITCH** is surprised that they could do this through a Liquor Use Permit process but his point is that the east side entrance is not up for discussion. **CHAIRMAN CASON** said they have certainly discussed it. Actually he said they will see what plays out in their discussion.

CHAIRMAN CASON said he stated his concerns that people will just naturally start parking in that parking lot and it sounds as if there is already pressure to park in that parking lot anyway even if there isn't doors on the east side. According to their speaker because there were cars parked back there even when there was only a single front door, the main entry at the north end of the building, by placing the door down here they are going to create more pressure and more access down there. He swings both ways on this stuff usually when these things come up but it's obvious the way the development was laid out was built to separate stuff from the homeowners south. For them to go and ahead and try to push activity down in that area is kind of counter to what previous members and the Council had pushed for. Clearly, they may go before the City Council and they may say they are o.k. with that. Then you guys can move forward but he thinks that they have an opportunity to make a business here and they can do it without this entrance. He thinks the way that it is laid out, the way that they have the patio up north, he thinks by just leaving the window there you don't need to break sidewalk in here and you generally keep most of the patrons north. About the only time you would get bleed down in here is when the north parking lot is full and he thinks with the furniture store he thinks with all that parking available that people will want to be out there in front. They can see their car and those types of things. He would hope that he would be able to develop a way to come in from the north. Yes, they will have to maintain their smoking distances and stuff like that. He doesn't know that they would really give up an awful lot and quite frankly not everyone that sits outside wants to smoke so there will be a nice area where people can go and not necessarily be impacted that way. He

supports Staff's recommendation to try to keep everything north and try to support the neighbors to try to keep all the traffic up north as well. The one year stipulation gives them an opportunity to come back and see if they have been good neighbors. If they have heard something or any of the neighbors have heard anything that they have been responsive to their needs. They have seen in the past that these type of relationships are either very successful or they fail miserably. If they fail miserably and the ownership of the bar doesn't come forward then they find out they can't have any music at all. He thinks they are a new ownership and they need to kind of give them a chance to spread their wings and see if they are going to be good neighbors. The one year will help protect it as well.

COMMISSIONER CUNNINGHAM asked Staff regarding the patio that is taking up 3 parking spaces, is it possible for it to take up the western 3 parking spaces rather than the eastern 3? Mr. Dermody said that might be possible. They could certainly find a way to design that. **COMMISSIONER CUNNINGHAM** said her reasoning is: a) it would take the noise back to the north and away from the east side of the building. b) it would leave the northeast corner available for handicapped parking and a main entrance which can then take them straight down to the restaurant rather than all the way through the bar. Is that a possibility? Mr. Dermody said that is a possibility. One other affect that they should note is that it would be a more circuitous route for pedestrians coming from the east to the other suites farther west. The way it is right now they sort of make it out and if you move the patio over, they would have to go in and back out and back in. They may wish to take that into account. **COMMISSIONER CUNNINGHAM** said however, it may cut down on some of the parking on the east side of the building for other tenants. Correct? Mr. Dermody said he would agree with her analysis. They would probably have less noise and parking along the east side if the patio was moved farther west.

VICE CHAIRMAN RIVERS said when he went to this place today his first impression was what in the world are they going to do with this long skinny little patio on the east side and what he is hearing now is that they would like to open a garage door and just expand the room a little bit with that. This means that there will be people out there on wonderful, lovely Arizona evenings sipping their beverages and talking on the east side of this building halfway down toward the neighbor homes. They probably will be parking on the east side of the building. There might be parking to the south. He thinks they would be increasing any existing parking problem with that. He couldn't support the original motion with the long skinny patio and the garage door on the east side. The second alternative of the two is better as long as there is no east side entry door because again that is only going to increase an already existing parking problem. The option offered by Commissioner Cunningham of moving the patio to the west side of this building is a good one. He thinks that moving the entrance to that corner in the handicapped parking to that corner would be good. He thinks the Great Clips or the haircut salon that's next door closing earlier in the evening won't be very much of a conflict for them. He thinks that most people that park on the north side of this particular building park north and west rather than over in front of the Baker Bros. place and he thinks that is a good option. He said he was going to make a motion that they continue this item and ask that they come back with another alternative moving the patio to the west side and eliminating that entry door and just to see what reaction that gets. He said that is his motion.

CHAIRMAN CASON said he had a motion to continue this item presuming for time to allow the applicant to explore moving the patio to the west side of his suite and using up those parking spaces rather than the parking spaces in the east.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM.**

CHAIRMAN CASON said he had to go to the applicant and ask the applicant a question. He asked if he would rather explore the movement of the patio or have they already explored that. He doesn't want to send them down that path if they have already done it. The applicant responded stated they have looked at shifting it to that side. The way this particular space is laid out where the patio is now is kind of the signage - the main element architecturally of the building and they are playing off of that. He showed the alternative plan that they proposed after getting the stipulations back. This spot is the next planter so that would be the next logical place to push the patio over to which happens to be about 9 feet in front of the adjacent tenant. Their owners are friends with them but he still doesn't think as far as their lease is concerned that they would want their patio in front of their store. As Bill was describing, they would have to somehow work their way around this thing in a more circuitous manner if they were shifted over that way. Also, from the business model for this particular location this is the element it is in front of where the signage would be which is sort of the billboard to the street that they would be playing off of. They would have a festoon lighting sort of hung off of that. These 3 spaces are what they are referring to in this plan and then in actually looking at just calculating the numbers they could fit if they took that extra parking space they could actually get 4 losing all of this altogether and losing this door here and redoing the calculations for the parking, they have enough allowance to be able to take a 4th parking spot with the patio there. Yes, it does work better shifted to this side. They could line it up with the columns so that there is no overlap towards the east and use the building as a block just to the immediate south of it. They are talking about a table and a half that overhangs but at least they would block them to shift them over so they are not in line of sight down this space in between the buildings. **CHAIRMAN CASON** said on this particular idea did he share this with Staff? Mr. Krob, the applicant replied that he did before the meeting. It was recommended that they suggest it now that since the calculations work out that they could get 4 parking spaces basically converted into the patio for their review. **CHAIRMAN CASON** asked Staff what they thought about this. Mr. Dermody replied that it does appear according to their calculations that they could afford to take out another parking space for the patio and their position so far has been as long as it is on the north side of the building, they would support it. They would support an expanded patio as he is showing here.

VICE CHAIRMAN RIVERS said he actually likes the idea of moving this over so it doesn't overhang to the east. If they couldn't go all the way over to the other side, then at least this is a better alternative in his eyes than having a little piece of their patio over on the side. Would they consider redesigning and bringing them a new proposal in 2 or 3 weeks? Mr. Krob said in doing this it would also open up this patio here so the north entrance would now be a more prominent

entrance to address that issue. As far coming back with this timing wise, can they make it to the next City Council? **CHAIRMAN CASON** asked if this could be done administratively. Mr. Kevin Mayo, Planning Manager, said that was what he was going to suggest. When it comes to kind of figuring out the details hard lining it where the patio on the north is, if the entrance and patio is going to maintain on the north they would have done it administratively anyway so taking his direction they can tweak that. If not and it is desired that it comes back, they start running into a time constraint only because there is one Council hearing in December that is December 15 and our next Planning Commission on November 2 and the November 16 both track to December 15. There isn't a way to get from 11/2 to 11/17 in terms of fast track because if they know they have neighbors that either still continue to have concerns or an applicant that still wants to make a run at Option A but then has a modified Option B, Council won't be able to get the minutes in time. They won't be able to get all the information necessary to act on this case on the 17th. His recommendation would be if the changes can be fairly well conveyed verbally as a direction to Staff, they could work with that and then go forward to Council on the 17th acting on tonight. If they need to continue it the November 2 which is their next hearing, their memos are getting written this week. There is no need to rush it from the 11/2. It could go to 11/16 since both of those track to the same Council hearing. **CHAIRMAN CASON** asked if the presentation that the applicant has on the screen now is sufficient enough to convey where they are removing everything on the east side and just let the existing overhang be the right terminus of the patio and then bring it over and then they allow them to make their new entrance on the northwest corner. Mr. Mayo said for Staff that is crystal clear and it would benefit the applicant as well and they would be able to get an amended exhibit to them before this goes to Council on November 17.

VICE CHAIRMAN RIVERS stated that as far as he is concerned he is very happy with that and if they could move the patio over the way it is diagramed here and eliminate the overhang to the east side, it might even make it a little bit larger. As he said, they can have the front entrance there on the north side more prominent and if they can eliminate the new entry on the east side, then that would suffice for him.

COMMISSIONER CUNNINGHAM said just so that citizens who attended and have their concerns, this is a Use Permit for one year and they must provide them with a contact number. If they have any issues, they can call them so that is not a problem.

VICE CHAIRMAN RIVERS and **COMMISSIONER CUNNINGHAM** withdrew their motion to continue.

CHAIRMAN CASON looked for a new motion.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM,** to approve LUP11-0020 SAGE BAR & VIETNAMESE CUISINE with the elimination of the east entry door and the reorientation of the north patio to the west as demonstrated by the applicant and the elimination of the garage door on the east side.

CHAIRMAN CASON said those are already in the stipulations.

COMMISSIONER VEITCH said so the motion is in effect to recommend approval with the conditions as recommended by Staff - all of them which takes out the eastern changes and puts in the protections with respect to noise and calming and all of that. The only additional thing is to shift that patio some number of feet to the west. He was not sure if they need that stipulation. Mr. Dermody, Senior City Planner said an extra stipulation wouldn't hurt and he has suggested language for a new stipulation no. 12. He read it as follow:

The applicant shall work with Staff to allow for a main entrance to be provided in the northwest portion of the suite and to move the patio westward a few feet.

COMMISSIONER PRIDEMORE said he would personally prefer that it somehow be worded that it does not extend past the existing eastern wall of the building. Use that as a demarcation point. He would also add the way the existing building was designed the reality is that is where the signage is going to go. He understands why the applicant was looking for the eastern door. He thinks over time he could get the patrons trained so to speak to use that door but the reality is all of their presence is on the north and he thinks with literally posting a hostess or host at the northwest corner they could get people back there. Again, it is not ideal. The one thing he did want to point out is it does sound like the new owner of this property is more than willing to work with the neighbors understanding there was a history there and he commends them for that. Hopefully with the changes they are going to make here, that is not adversely affecting what they are looking to do but he thinks they will be a good neighbor because they have been proactive where in other cases they have seen it has been exactly the opposite. The neighbors have been the one that have had to take action and to him at least from what he has heard up to this point, the owner has actually stepped up ahead of time which he commends. With that he said he would support the changes that they are looking to make and with a change in language if they can.

Mr. Dermody said if he would like, he could take another shot at that language. Condition no. 12 would read:

The applicant shall work with Staff to provide a main entrance in the northwest portion of the suite and to move the patio westward so as to be no further east than the building edge.

CHAIRMAN CASON took a vote on the motion. The matter passed unanimously 7-0.

Mr. Dermody said this goes before City Council on November 17.

6. DIRECTOR'S REPORT
TWO PRESENTATIONS AND QUESTIONS BY ASU PLANNING STUDENTS.

Mr. Kevin Mayo, Planning Manager said Chandler resident, Dean Brennan happens to be a Professor at ASU and he has made a request to allow one of his classrooms to come in and present one or two of their semester projects.

Dean Brennan said he is a resident of the north part of Chandler and an instructor at ASU and is currently teaching an urban planning class. He said he is always looking for projects for the students to work on during the semester. Earlier this year, he recalled that the Mayor requested that Staff take a look at possible ways to address some of the issues relative to the retail uses primarily in North Chandler where they have retail centers that are obsolete and there are a lot of vacant spaces. They need to be retrofitted and redeveloped or is vacant land that needs to be developed in some way. He contacted Jeff Kurtz, Planning Administrator and he thought it was a good idea. He said the students were working on 2 sites. One site is at Elliot and Arizona Avenue on the east side of Arizona Avenue. There are 2 parcels and those parcels are both vacant. The second parcel area they are looking at is the northwest corner of Arizona Avenue and Warner Road and this is probably one of their best known examples of poor retail development design in Chandler or maybe Arizona. There has been a lot of discussion about that site for a number of years and he is hoping that some of the ideas that they bring forward may bear fruit over time.

Professor Brennan said the total class is 25 students and they have 8 or 9 students working on this project. 7 of the students were there and 2 of the students would make the presentations. After the presentation they would like their feedback and comments.

John Bleaker and Brad Stewart, ASU students in the School of Geographical Science and Urban Planning gave their presentations to give recommendations and design concepts for the retrofitting of the retail centers in Chandler. They said they are focusing on 2 sites; the East Valley Mall and the east corners of Arizona Ave. and Elliot.

The Commissioners gave their feedback and thanked them for their terrific presentations.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON announced that the next regular meeting is November 2, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona. He also wished his daughter a happy birthday.

8. ADJOURNMENT
The meeting was adjourned at 8:05 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 2, 2011 held in the City Council Chambers, 88 E. Chicago Street.

The following Commissioners were present:

Chairman Michael Cason

Commissioners Absent:

Vice Chairman Leigh Rivers
Commissioner Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson

Staff in Attendance:

Ms. Joyce Radatz, Clerk

CALL TO ORDER

The regular meeting of the Planning Commission Hearing was called to order at 5:30 p.m.

No quorum was established.

The meeting was adjourned at 5:31 p.m.

Michael Cason, Chairman

Joyce Radatz, Recording Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 16, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Veitch.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Stephen Veitch
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Ms. Jodie Novak, Senior City Planner
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES

   CHAIRMAN CASON pointed out to the Commissioners that they had been handed a revision of the minutes with an important change on page 19 located at the bottom of the third paragraph. The last line in Commissioner Veitch's note and before Chairman Cason speaks the added word is 'not'. In the original it said the east side entrance is up for discussion when in fact it is not up for discussion. He said he wanted to point that out to them before he looked for a motion and a second on the minutes.

   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the minutes of the October 19, 2011 Planning Commission Hearing. The motion passed 7-0.

5. ACTION AGENDA ITEMS

   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were no action items.

A. * APL11-0001/DVR10-0023/PPT10-0005 HAMILTON HEIGHTS

Approved to continue to the December 7, 2011 Planning Commission Hearing.

Request Area Plan Amendment of the Section 16 Area Plan from multi-family residential development to allow for single-family residential development, along with Rezoning from Planned Area Development for multi-family residential to Planned Area Development for single-family residential along with Preliminary Development Plan and Preliminary Plat approval for a 44 lot single-family residential subdivision on an approximate 11.5 acre site. The subject site is located west of the southwest corner of Arizona Avenue and Queen Creek Road. **(REQUEST CONTINUANCE TO THE DECEMBER 7, 2011 PLANNING COMMISSION HEARING.)**

B. * APL11-0003/DVR11-0035/PPT11-0006 WATERS AT OCOTILLO – PARCELS 1 & 4

Approved to continue to the January 18, 2012 Planning Commission Hearing.

This application requests an amendment to the Ocotillo Area Plan from Multi-Family Residential to Single-Family Residential and Rezoning from Planned Area Development (PAD) zoning for multi-family uses to PAD Amended zoning for single-family uses along with Preliminary Development Plan (PDP) and Preliminary Plat approval for two single-family residential subdivisions. The properties are located near the intersection of Market Place and Jacaranda Parkway, northeast of the intersection of Dobson and Price Roads. **(REQUEST CONTINUANCE TO THE JANUARY 18, 2012 PLANNING COMMISSION HEARING.)**

C. * PDP11-0012/PPT11-0007 WATERS AT OCOTILLO – PARCELS 5 & 6

Approved.

This application requests Preliminary Development Plan (PDP) approval of site layout, community landscaping, and housing product for single-family uses along with Preliminary Plat approval on approximately 11 acres near the intersection of Market Place and Jacaranda Parkway, east of the intersection of Dobson and Price Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Waters at Ocotillo – Parcels 5 & 6", kept on file in the City of Chandler Planning Services Division, in File No. PDP11-0012, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3890 in case DVR06-0052 THE WATERS AT OCOTILLO, except as modified by condition herein.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
4. The applicant will work with staff to provide an additional floor plan and elevation for the 4000 Series product that is of an equal or greater quality level to the other 4000 Series products presented in the development booklet.

Planning Commission and Staff recommend approval of the Preliminary Plat subject to the following condition.

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

D. * DVR10-0014/PPT10-0002 NORTH EAST COOPER AND RIGGS

Approved.

Request Rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for an 84 lot single-family residential subdivision on 32 acres and PAD zoning for commercial development on 7.5 acres. The subject site is located at the northeast corner of Cooper and Riggs roads.

1. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
2. Development shall be in substantial conformance with Exhibit 6, Development Booklet, entitled "Cooper and Riggs Project", kept on file in the City of Chandler Planning Services Division, in File No. DVR10-0014, except as modified by condition herein.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
9. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
10. Approval by the Director of Transportation and Development of plans for landscaping (open spaces and rights-of-way), perimeter walls, and for arterial street median landscaping is required.

11. Preliminary Development Plan approval as granted herein shall apply to the subdivision layout only.
12. The tot lot shall be a minimum of 20 total play stations.
13. All homes built on corner lots within the residential subdivision shall be single-story.
14. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
15. 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 North East Cooper and Riggs development shall use treated effluent to maintain open space, common areas, and landscape tracts.

16. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby an aircraft engine testing facility that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to or nearby an aircraft engine testing facility, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the

homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

17. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the home builder/lot developer, and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.
18. Homebuilder will advise all prospective homebuyers of the information on future City facilities contained in the City Facilities map found at www.chandleraz.gov/infomap, or available from the City's Communication and Public Affairs Department. The homebuilder shall post a copy of the City Facilities map in the sales office showing the location of future and existing City facilities.

Staff recommends approval of the Preliminary Plat subject to the following conditions.

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

E. * <u>DVR11-0030 LIGHT OF CHRIST LUTHERAN CHURCH</u>

Approved to continue to the January 4, 2012 Planning Commission Hearing.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former zoning district of PAD for multi-family development. The existing PAD zoning is for a church. The subject site is located at 1500 N.W. Jacaranda Parkway on approximately 6.3 acres.

(REQUEST CONTINUANCE TO THE JANUARY 4, 2012 PLANNING COMMISSION HEARING.)

F. * <u>DVR11-0036 EAST OF THE SEC OCOTILLO AND LINDSAY ROADS</u>

Approved.

Request the establishment of initial City zoning of Agricultural (AG-1) on an approximate 23.8-acre site located east of the southeast corner of Ocotillo and Lindsay roads.

Upon finding consistency with the General Plan and the SECAP, Staff recommends approval of the establishment of initial city zoning of AG-1 on an approximate 23.8-acre site located east of the southeast corner of Ocotillo and Lindsay roads.

G. * LUP11-0022 RUDY'S COUNTRY STORE AND BAR-B-Q

Approved.

Request Use Permit approval to allow liquor sales as permitted under a Series 7 Beer and Wine Bar License for a new restaurant's interior dining and patio area, and as permitted under a Series 10 Beer and Wine Store License for the restaurant's retail store. The property is located at 7300 West Chandler Boulevard, northwest corner of Chandler Boulevard and 54th Street.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 7 (restaurant) and Series 10 (retail country store) licenses only, and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.

H. * PDP11-0007 RAINTREE RANCH CENTER

Approved.

Request Preliminary Development Plan (PDP) approval to allow a freestanding freeway monument sign for an existing commercial shopping center. The property is located at the southeast corner of Ray Road and the Loop 101 Price Freeway.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Raintree Ranch Center", kept on file in the City of Chandler Planning Division, in File No. PDP11-0007, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3744 in case DVR05-0041, except as modified by condition herein.
3. The sign height shall be a maximum of 65-feet to top of all architectural elements measured from grade.
4. The sign shall have a maximum of five (5) tenant panels as represented in the Development Booklet.

I. * ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY-

Approved to withdraw for the purpose of re-advertising.

Request Use Permit approval to install a wireless communication facility on the campus of United Methodist Church at 450 E. Chandler Heights Road, the northeast corner of Chandler Heights Road and the Union Pacific Railroad. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

J. * ZUP11-0020 AMFC/BAIT FATIMA

Approved.

Request Use Permit approval for the operation of residential childcare and a job training service within a single-family residence. The subject property is located at 1736 E. Frye Road.

1. Use Permit approval shall be applicable only to the applicant and location identified with this application, and shall not be transferable to any other person or location.
2. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
3. Expansion or modification beyond the approved exhibits (Site Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The requested job training service shall be excluded from this approval.
5. **The applicant shall work with Staff to provide additional paved parking spaces adjacent to Frye Road.**

K. * ZUP11-0022 ALL J'S DETAIL

Approved.

Request Use Permit approval to allow an automotive detailing business within Planned Industrial District (I-1) zoning. The property is located at 7045 W. Galveston Street, Suite 11, north of Chandler Boulevard and east of 54th Street.

1. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Floor Plan, Site Plan, Narrative) shall require reapplication and approval of a Use Permit.
3. The Use Permit is non-transferable to other store location.
4. There shall be no vehicle maintenance and repair, auto body or mechanical engine work, tire and/or wheel shop, vehicle customization and accessories, sales, leasing, vehicle related retail sales, or the like.
5. The site shall be maintained in a clean and orderly manner.
6. There shall be no vehicle parking, storing, detailing, or the like on City streets. All vehicles shall be maintained on-site.
7. There shall be no working on vehicles in front of the building; all detailing shall occur in the building or at the rear of the property.
8. As represented by the applicant, clients are restricted to corporate accounts only; no individual, general public clients are permitted.

COMMISSIONER BARON stated he would be abstaining from voting on Item F DVR11-0036.

CHAIRMAN CASON said he was going to vote no on Item C, specifically Parcel 5, where he feels that there are too many lots for the type product that is being put on them. He thinks it is

important to understand that while he can certainly empathize with the developers and their need to turn their property around especially because of the condition of the market, generally he thinks at that time they have to make sure that they protect the things in the City of Chandler that make it great and that includes making sure they follow the residential plans and the residential ordinances that are in place. This particular parcel asks for some changes in that and generally they are o.k. but he just thinks they are trying to squeeze too many houses on one parcel. For that reason only he will be voting no.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

6. DIRECTOR'S REPORT
Mr. Mayo wished everybody a happy and safe Thanksgiving holiday.

7. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN CASON wished his mother a happy birthday. CHAIRMAN CASON announced that the next regular meeting is December 7, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT
The meeting was adjourned at 5:39 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 7, 2011 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Cason.

3. The following Commissioners answered Roll Call:

   Chairman Michael Cason
   Vice Chairman Leigh Rivers
   Commissioner Matthew Pridemore
   Commissioner Andrew Baron
   Commissioner Katy Cunningham
   Commissioner Bill Donaldson

   Absent and excused:

   Commissioner Stephen Veitch

   Also present:

   Mr. Kevin Mayo, Planning Manager
   Mr. Bill Dermody, Senior City Planner
   Mr. Erik Swanson, City Planner
   Mr. Glenn Brockman, Assistant City Attorney
   Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the November 16, 2011 Planning Commission Hearing. The motion passed 7-0.

5. ACTION AGENDA ITEMS
   CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items D, G, and I were pulled for action.

A. * APL11-0001/DVR10-0023/PPT10-0005 HAMILTON HEIGHTS

Approved to continue to the January 4, 2012 Planning Commission Hearing.

Request Area Plan Amendment of the Section 16 Area Plan from multi-family residential development to allow for single-family residential development, along with Rezoning from Planned Area Development for multi-family residential to Planned Area Development for single-family residential along with Preliminary Development Plan and Preliminary Plat approval for a 44 lot single-family residential subdivision on an approximate 11.5 acre site. The subject site is located west of the southwest corner of Arizona Avenue and Queen Creek Road. **(REQUEST CONTINUANCE TO THE JANUARY 4, 2012 PLANNING COMMISSION HEARING.)**

B. * DVR11-0017 ARIZONA-ELLIOT COMMERCE CENTER

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a new commercial development that includes a fuel station. The 6.6-acre site is located at the southwest corner of Elliot Road and Arizona Avenue.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Arizona-Elliot Commerce Center", kept on file in the City of Chandler Planning Division, in File No. DVR11-0017, except as modified by condition herein.
2. Right-of-way dedications to achieve full half-widths, 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. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
5. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
6. Gasoline tank vent piping shall be screened from arterial streets and public view.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
8. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
9. The site shall be maintained in a clean and orderly manner.
10. The dissimilar land use buffer landscaping adjacent to residential properties shall be installed as part of the development's first phase.

11. The car wash's cloth shade structures shall be maintained in a manner similar to that at the time of installation.
12. 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.
13. **The applicant shall work with Staff to create more direct pedestrian connections between the arterial streets and the convenience store.**
14. **The applicant shall work with Staff to widen the drive aisle separations surrounding the fast-food pad buildings.**

C. * DVR11-0027 EXECUTIVE PROPERTY

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning allows for RV storage, a fuel station, and retail uses on approximately 9 acres at the northwest corner of Germann and McQueen Roads.

Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

E. * DVR11-0033 NORTON'S CROSSING

Approved.

Request rezoning from Planned Area Development (PAD) for office, retail, and multi-family development to PAD, to eliminate a zoning condition requiring the development of the 8.3-acre commercial component as the first phase of development. The subject site is located at the northwest corner of Chandler Boulevard and Gilbert Road.

Staff, upon finding consistency with the General Plan and PAD zoning, recommends approval of eliminating condition no. 22 reading:

22. All retail shall be developed as part of phase one excluding the grocer pad and the bank pad.

F. * ZUP11-0001 GOLD TRUST REALTY

Approved.

Request Use Permit extension approval to allow for the continued use of a residential home as a commercial business. The subject site is located at 200 S. Dobson Road.

1. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Any expansion or modifications beyond the approved exhibits shall void the Use Permit.
3. The Use Permit is non-transferable to any other location.
4. Increases in on-site employment over that represented (3), or the expansion of the home to provide additional office space, shall require Use Permit amendment and approval by the City of Chandler.
5. The site shall be maintained in a clean and orderly manner.
6. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.

H. * ZUP11-0017 ANDERSEN SPRINGS WIRELESS FACILITY

Approved.

Request Use Permit approval to install a 60'-high monopalm wireless communication facility in the Andersen Fiesta shopping center at the northeast corner of Chandler Boulevard and Dobson Road.

1. Development shall be in substantial conformance with approved exhibits except as modified by condition herein. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The monopalm shall provide longer palm fronds than presented in the application materials so as to better camouflage the antennas.
3. **The monopalm "pineapple" shall be adjusted so as to be readily visible in a natural manner and not be shielded from street view by antennas.**

J. * MOTION TO CANCEL THE DECEMBER 21, 2011 PLANNING COMMISSION HEARING.

Approved.

CHAIRMAN CASON said he had a note regarding Item E - Norton's Crossing from Diane Woods. She is opposed to the apartments on that corner. Basically, the apartments are already approved. They are not approving that item to have apartments or not have apartments. That item was something completely different than this. There is nothing they can do to prevent the apartments being built on that corner.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda with additional stipulations as read into the record by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Veitch was absent).

ACTION:

D. DVR11-0029 PASTORINO DAIRY

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development with Preliminary Development Plan and Preliminary Plat approval for a 74 lot single-family residential subdivision on an approximate 23.8-acre site. The subject site is located east of the southeast corner of Lindsay and Ocotillo roads.

1. Development shall be in substantial conformance with Exhibit No. 7, Development Booklet, entitled "Pastorino Dairy", and kept on file in the City of Chandler Planning Division, in File No. DVR11-0029, except as modified by condition herein.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

11. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
12. The same elevation shall not be built side-by-side or directly across the street from one another.
13. All homes built on corner lots within the residential subdivision shall be single-story.
14. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
15. 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 Pastorino Dairy development shall use treated effluent to maintain open space, common areas, and landscape tracts.

16. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the home builder/lot developer, and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

Staff recommends approval of the Preliminary Plat subject to the following condition.

1. Approval by the City Engineer and Director of Transportation & Development with regard to the details of all submittals required by code or condition.

ERIK SWANSON, CITY PLANNER, asked the Chairman if he wanted him to do a full presentation. He said he understood that there were some concerns expressed. He didn't know if he wanted him to just address those.

CHAIRMAN CASON said what he prefers is to discuss the relationship of this property with the adjacent properties and he would also like to get an opinion as to why the City's concern is not with the water rights in between properties. Perhaps they might go to the City Attorney for that.

MR. SWANSON said he would give a real brief background on the property and then go into those issues. The subject site is located east of the southeast corner of Ocotillo and Lindsay roads. It currently serves as an operational dairy at this point in time. Through the process of annexation and going through the City Initial zoning, the request tonight is for a rezoning to Planned Area Development specifically for the subdivision along with Preliminary Development Plan approval for the subdivision layout and housing product. In addition to that there is a request for Preliminary Plat approval.

The overall subdivision is just shy of 24 acres and is proposed as a total of 74 single family residential homes. There is a homebuilder, Maracay Homes, and at this point in time they are proposing 6 housing products with the intent to submit 3 additional products which is something that they did discuss during the Study Session. Adjacent to the site's north of Ocotillo Road is the jurisdiction of the Town of Gilbert. There is a vacant corner at the intersection of Lindsay and Ocotillo and then a developed subdivision east of that. East of the subject site is a partial that is currently in the process of being annexed into the city and will be coming forward to Commission for subdivision. South is property in the County; west is vacant land that was zoned a number of years ago forcing the family residential for large lot single family homes.

His understanding is the concern tonight is not from the adjacent property owners and not in relation to the zoning request or the subdivision layout or housing product that is being proposed but happens to deal with historic water rights for the area. Historically, Staff has reviewed these things and do not get involved in these kind of civil issues which is what this is albeit if there is help that they can provide they certainly try to provide that. In this case, it was kind of a last minute thing that they became aware of. It was one of those things that while they would certainly like to see everybody come to some sort of quick resolution, it was something they did not get involved with simply because it really has no bearing on the request tonight. If in fact there is an issue with the water rights and what has been shown as their historic canal, if that requires modification for the site plan Staff has outlined in the memo the request for the applicant and Staff to work together to make those modifications. With that being said if the

City Attorney has anything additional to add to that he thinks really the issue at hand is more civil rather than zoning.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated that he didn't have much to add to that. Water rights' issues are essentially a property rights issue. It is a private matter between the landowners. It doesn't impact the zoning. Their concern is with whether or not the land should be rezoned for a use other than what had previously been used as. What they look to has nothing to do with whether or not there are private restrictions on the property. That is something that has to be addressed by the parties themselves.

CHAIRMAN CASON asked the applicant to come up.

BRENNAN RAY, 702 E. OSBORN, here on behalf of the applicant, Maracay Homes. He is happy to get into as much details of a presentation as they would like. They are certainly appreciative of Staff and their comments. They have worked hand in glove with them on a lot of issues to try to see if this development is a high quality development and they believe that it satisfies that standard that has been set. They are appreciative of their comments in the narrative-Kevin's presentation during the Study Session and Erik's comments now. They are consistent with the General Plan, the SECAP as well as satisfying the City's residential diversity standards and they are o.k. with the stipulations. Mr. Ray said they are requesting their approval in accordance with Staff's recommendation.

He said as it relates to water issues, if it is the Chairman's preference he would certainly be happy to address those now. What he would like to do if the Chairman is agreeable to it is hear what the neighbor has to say first and then respond accordingly to any comments that he may have.

CHAIRMAN CASON said what he would like to do is follow normal protocol where Mr. Ray makes a statement and then he (the neighbor) will come back and that will give him a chance to not only make his point but if Mr. Ray has any points that he wants to rebut then he can come back up afterwards and have the final word. He asked if that was o.k. with him?

MR. RAY said certainly that was acceptable. As Staff indicated, this issue is a dispute between the underlying landowners concerning water delivery to Pecan Trace. He showed an aerial on the screen so they could see exactly what properties they are talking about and where it is. The site they are talking about today is Pastorino Dairy and he showed where it is located. The property that has concerns about the water rights is Pecan Trace over to the west. He showed where Finisterra is; a development that was in the County but is in the process of being annexed into the city. The issue that has arisen concerns historical water delivery rights along the southern portion of Pastorino Dairy servicing Pecan Trace over here. Based on their understanding and from speaking with representatives of Pecan Trace they don't believe that they are going to express any opposition nor do they have any concerns as it relates to Maracay's rezoning request. In fact, they believe that what Maracay is proposing is going to be beneficial not only to remove the dairy off of the site but to provide additional construction as it relates to

some of the off-site improvements and some of the infrastructure that is to take place along Ocotillo Road. He believes the individual that is going to speak on behalf of Pecan Trace came to their September 29 neighborhood meeting and at that time they weren't aware of this issue. In fact he was kind of complimentary of Maracay's plans and what it is they were proposing. They certainly agree with Staff that this is a civil issue between underlying property owners. He knows that it does not have any bearing on Maracay's request. He knows that Maracay in spite of it being a civil matter between the property owner for property that Maracay does not own yet, they have reached out and there was a preliminary meeting with the owners of Pecan Trace on Monday and he thinks that Maracay is going to continue discussions as it relates to see if a solution can't be reached concerning this matter. He said he would be happy to answer any questions that they may have as it concerns this and he certainly reserves the right to respond to any comments there may be.

CHAIRMAN CASON asked if there were any questions for the applicant. There were none. He called up Michael Schrader to speak.

MICHAEL SCHRADER, 10810 N. TATUM BLVD., PHOENIX, said he is a manager for the Lindsay 15 LLC which is the owner of Pecan Trace. He said he was there to get on the record that they have this issue concerning water transportation across the Pastorino Dairy and they have recently been denied the right to bring water across a trench/ditch that has been used for decades. They feel that while they eventually plan to develop the property, they will hold it for some time and having water access to them is critical for that purpose. Their objection or attempt to get this on the record is based on the concept that while they do not think that the city is the resolution or the arbiter in this process, they are involved in a process that will move the land forward and in the near future they will produce a record plat. It is their request that the record plat reflect a permanent resolution to their water supply. At this point in time none of the drawings, none of the plans to their knowledge show any consideration for transporting water from the east across the Pastorino Dairy to their property. He also said that they do not object to Maracay's plans, their design, etc. They see it as an enhancement to the area but it is imperative that this water supply issue be resolved prior to the engineering work and final plat.

CHAIRMAN CASON asked if there were any questions of the speaker. There were none. He called up the applicant for further comment.

BRENNAN RAY stated he had just one brief comment in response to the comments made by Mr. Schrader. A preliminary plat is just that – a preliminary plat. It is a work in progress. It is not a final plat; it does not dictate what the final resolution of any outcome will be. As he indicated earlier, Maracay has met with Mr. Schrader and the other owner of Pecan Trace and is hopefully working towards a solution that will resolve the problems of which they wish to talk about tonight.

CHAIRMAN CASON asked if there were any questions for the applicant.

COMMISSIONER PRIDEMORE said this was probably more for Staff. He said it may be helpful if Staff could explain the process. He thinks the point is well taken that they are looking at a preliminary plat this evening and just kind of explain the process of how they get from that preliminary plat to a final plat so the people in the audience and the people watching understand the process that still has to occur.

ERIK SWANSON stated that is a good point to raise. For the preliminary plat generally what they like to do Staff wise is when they have a particular project that is a subdivision like in this case, they tend to like to have the subdivision layout and the pre-plat in tow together on the same agenda. If they separate them, the plat in of itself requires going through the Planning Commission process and also City Council. They try to marry those two just to make it generally smoother. In this case since it is going forward, the next step is this will go to City Council for review and ultimately whether or not it is approved or denied, they will vote to approve or deny this package. As part of that package, that plat will be there. While they are discussing the other issues and things during the Study Session and those modifications that are being made, if by chance the resolutions are made, we would seek to have those on that pre-plat as well. It just makes it look a little bit cleaner. If it is not, there is still that final plat process. The final plat in it of itself is going to take a number of months to get those things wrapped up. It goes through our civil department primarily. They review it to make sure it meets all of our standards, etc. Once that gets clean and everything looks good, Planning Staff then brings it forward for another round of approval as to go through Council for their ultimate approval. By no means does the current preliminary plat that is being shown represent what the final plat will be. Ideally, it will be very similar with minor modifications made. In this particular instance pertaining to the water rights, if there is an actual issue at hand and there is a private matter and they need to work with those, it will certainly reflect that in that file. This is by no means the last chance for this kind of review to come through.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said there will be another appearance after this matter goes to Council; the final plat approval will come back to Council. It won't come back to the Commission but it does come back to Council. One of the things he would be looking at or be concerned with is to the extent that the roads that would be dedicated might overlay whatever rights Mr. Schrader's group believes they have. They would be looking at that because once the roads are dedicated then they own them and they don't want them encumbered. His issue will be addressed; it will just be at a point in the future after this action has gone forward.

COMMISSIONER PRIDEMORE said just to clarify he thinks he said in his opening summary that if there would be changes required to the site plan to accommodate the water rights issue that they are hearing now, there is enough language built into the current stipulations if they would approve them, it could be worked on at Staff level to work through those changes. Where is the inflection point where all of a sudden it is going to have to come back through the public process? Are they comfortable enough with what language is in there now?

MR. SWANSON said it is kind of covered under the first condition 'development shall be in substantial conformance' as represented. Generally speaking with the issue being on the southern half of the property he does not imagine that much will occur to the northern half that would reflect a major change. In essence, briefly looking at this meeting, what this does is shift some of the roadway and alignment around a little bit and creates an open tract on the southern part of the property. He thinks maintaining this general layout is substantial enough that they could do that administratively and it wouldn't trigger something that is such a great change that if they were to drive out there after it is developed they would say 'what happened here, this is totally different'. It looks a lot like what has been approved. He doesn't have an actual threshold as in if they move this too far north it is absolutely coming through but generally what they try to do is work with the applicant, work with the interested parties and work within their means to make sure that what actually does go forward does look a lot like what has been reviewed by the bodies.

COMMISSIONER CUNNINGHAM asked if the City owns that water or is it still a part of the Roosevelt Water Conservation District?

MR. SWANSON replied that the City does not own the water. He thinks the Roosevelt Water Conservation District may own the water but they have nothing to do with that irrigation canal. That is actually a private canal. They may have water that might get delivered to that but no bearing on the canal that is in question. With that being said he thinks that is as far as he can go just because he doesn't know all of the details but they do not have access to that water.

CHAIRMAN CASON said he was going to look for a motion.

COMMISSIONER BARON stated he would have to abstain from voting due to his firm's involvement in the project.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve DVR11-0029 PASTORINO DAIRY subject to the conditions recommended by Staff. The motion passed 5-0 with 1 abstention (Commissioner Baron). (Commissioner Veitch was absent).

G. ZUP11-0008 KWIK MART / U-HAUL

Denied.

Request Use Permit approval to allow motor vehicle and trailer rentals in a Neighborhood Commercial (C-1) zoning district. The subject property is located at 600 W. Galveston Street, the northwest corner of Galveston and Hartford Streets.

BILL DERMODY, SENIOR CITY PLANNER stated this is a Use Permit request to allow motor vehicle and trailer rentals in the C-1 neighborhood commercial zoning district. The

subject site is at the northwest corner of Hartford Street and Galveston Street. Those are the two half miles that bisect the subdivision west of Chandler High School not too far from here. The subject site has existing commercial uses including a convenience store on the corner, a beauty salon and a laundry mat which are allowed in the C-1 zoning district surrounded by what is best characterized as a vacant dirt lot that is also zoned C-1. There is little to no landscaping on the site except for some apparently wild natural growth of Palo Verde on the site. As they can see from the aerial photograph, it is surrounded by residential uses including primarily single-family around the north and west and a couple of multi-family complexes. The other notable use nearby is an elementary school to the north, Hartford Elementary.

As he said, the U-Haul business the vehicle and trailer rental is not allowed by right in the C-1 district and that is why a Use Permit is required. It is however allowed by right in the C-2 and C-3 zoning districts which are community and regional commercial. In analyzing this request Staff has looked to code and the purposes behind the various zoning districts. The C-1 zoning district is described as intended to primarily serve the needs of the residential neighborhood that surrounds it, like providing good and services that are day-to-day needs generally classed as 'convenience goods and services'. However, it goes on to say that businesses which tend to be a nuisance to the immediately surrounding residential area are excluded even though they might provide goods and services that fall into the convenience classification. Staff finds that the requested U-Haul business would present a nuisance to the surrounding neighborhood. They also don't believe that it is primarily a neighborhood services, more of a larger area – you don't see these in every square mile, certainly within Chandler. They do have a couple others that are more appropriately located on Chandler Blvd. and Arizona Avenue.

The applicant worked with him quite a bit on this case and they will represent that they have a much smaller volume than your typical U-Haul that is really a supplement to their family business, the main one which is the convenience store and that they intend to keep it much more low key than your typical U-Haul rental business maxing out at 20 vehicles at any given time. They have found they only have 10 on site so far. They didn't know that it wasn't an allowed business so they have been operating for several months at this point in time.

Also, in working with Staff they have attempted to give them a realistic expectation of what site development standards will be applied to this. Out typical standards would require quite a bit but an infill area like this is not strictly applied by code but as far as what actually will be applied they have incorporated that into their site plan. He showed the existing building on the screen on the main corner and where the community storage is. They currently park the vehicles around the west side and in the back but that is not parked according to code. That's a fire aisle and a drive aisle so they have agreed to create several new parking spaces, a total of 10. The adjacent property which has the same zoning C-1 and the same ownership, they have agreed to create a 20-foot landscape strip as well as trees surrounding the parking. Certainly, when there are no vehicles on the site, the site would be improved. There will be landscaping where today they really have nothing. It is just broken down pavement surrounded by dirt. However, Staff has analyzed this even with the short parking screen wall that goes around here and the landscaping that they agreed to put there you still will see the vehicles readily and easily from the

surrounding subdivision, both residences and the streets Galveston and Hartford. Given their analysis of this they do find that the proposed uses is a nuisance to the area and therefore that the Use Permit should be denied. He said he would be glad to answer any questions.

CHAIRMAN CASON asked if there were any questions for Staff on this item.

COMMISSIONER PRIDEMORE asked on the 10 added parking spots to the west is that where the applicant intends to park the vehicles or are those somewhere else on the site? '

MR. DERMODY replied that is correct. They intend to park in those spaces which is why they are extra deep at 30 feet depth compared to the usual of 19 foot depth.

CHAIRMAN CASON asked the applicant to come up.

ROBERT ARANKI, 600 W. GALVESTON STREET, CHANDLER, said he fully agrees with Bill. If they want, they can put it in the back so that it faces Hartford and the Section 8 housing instead of the neighborhoods across from Galveston. As a retailer, they are just trying to grow their business. Right now they have been running for about 6 months. They have generated a couple new jobs for a couple of family members that they already have employed. If they lose the U-Haul they will probably have to get rid of them. That is not what they are trying to do here. In the meantime, this recession is not helping at all. Their sales are down about 50% already and maybe even 80% in Hispanic areas so U-Haul is kind of helping them survive right now. They are willing to do anything they want. If they suggest to them to move it behind, they will do that. If you want it there, they will leave it there. If they want fewer vehicles, they could do fewer vehicles also. Mainly, it is all telephone reservations and from his being there every day it's mostly from all the neighborhood customers coming and renting from them. It's kind of helpful for them and at the same time saving them from driving to the further U-Hauls.

CHAIRMAN CASON asked if there were any questions of the applicant.

COMMISSIONER CUNNINGHAM said she has noticed the trucks there and wondered about them. She has noticed quite a bit of vandalism, painting and graffiti on those trucks. What do they propose to do to prevent that? A 3-foot high wall certainly wouldn't do that. Mr. Aranki replied that they always clean them every time they do it. That is as much as they can do. They vandalize the commercial building all of the time also and they have put cameras up to try to help that but at the same time it is kind of hard to do. When it happens, they clean it as soon as possible. They have a chemical plus it is just a sticker on the side of the U-Haul and they can actually change the sticker if need be.

VICE CHAIRMAN RIVERS thanked the applicant for coming. He asked if he could tell him other than his own, what is the nearest U-Haul business to where he is? Mr. Aranki said it is on Arizona Avenue and Knox – that is the main center right there. There is another one on Chandler Boulevard east of Arizona. **VICE CHAIRMAN RIVERS** said so 2 within a couple miles. Could he tell him what percentage of his business comes from outside his immediate

area? An estimate is fine. Mr. Aranki said they have only done maybe a transaction every other day. He thinks it is maybe 50/50 – maybe 60/40. **VICE CHAIRMAN RIVERS** said so at least 40 or 50% comes from somewhere other than his own neighborhood. Mr. Aranki said yes maybe a little west of them because there are no U-Hauls west of them. The 2 he just told him about are east of them. They pull some business from around Elliot and Alma School. People call from that area and come up their way.

CHAIRMAN CASON asked if he is able to rent about every other day? Mr. Aranki said yes. **CHAIRMAN CASON** asked if he has considered putting his trucks someplace else and using his property as the headquarters of his truck operation. Mr. Aranki said they really can't because when people come in they want a truck right then most of the time and they drop off to them also. You can take reservations anywhere else but when you have walk-ins they want vehicles right there at the same time and they have them ready right there. **CHAIRMAN CASON** said presuming that he has considered other ways to improve his revenue to all of his businesses, has he considered perhaps delivering the trucks to his customers? Mr. Aranki replied that he hasn't even thought about that. **CHAIRMAN CASON** said then he would have an opportunity to park them some place that perhaps can meet this type of use such as a C-2 or C-3. He thinks that is a unique kind of way to sell a business that is normally always only done one way. It might actually be something to look at. He guesses he is asking if he has looked at any other opportunities to increase their revenue on his property other than doing something that is not established as meeting code. Mr. Aranki said they have started buying gold and silver. He has done it about a week since they have put the signs up. They have had a few trickling customers come in. He said right now U-Haul is generating at least a $1000 for them a month. And the new employee they hired is getting about $600 of it every month because there was about 3 to 4 days when they didn't have an employee. It was a single guy at night. Now they have 2 people at night and they have another guy that helps hook up the trailers that is also getting paid. Some months they do hit a thousand, some months they break even. Last month they only hit about $600. It's not like they make full commission. Since they are not a center they are only making 15 to 24% on all of the transactions. The rest of the commission goes to the center itself. **CHAIRMAN CASON** asked if all of his rentals are returned back rentals. They don't have any rentals that don't come back? Mr. Aranki said yes they do have one ways that just leave to other states or other cities but they do have a lot of in town rentals that do return back to them.

COMMISSIONER PRIDEMORE asked if there is a mechanical problem with one of the vehicles where would that be worked on? Mr. Aranki replied that if it is a simple one a U-Haul maintenance man will come and fix it right on the spot and if it can't be fixed, they take it to a center location – they will tow it.

CHAIRMAN CASON asked do they take it to the service center to get oil changed and regular maintenance? Mr. Aranki replied they are all scheduled, they are all in the computer and when they come up for their maintenance, they will come and pick up the vehicle and drop off another vehicle in its place. It's pretty much automatic. **CHAIRMAN CASON** asked him why they need so many trucks? Mr. Aranki said he guesses they don't need that many but some weekends or towards the end of the month it gets a little busy. Obviously, people are moving. Their

average is about 10 with trailers so far. As a businessman, the more they have there the more options for a customer to pick from.

COMMISSIONER BARON asked if there was a neighborhood meeting held? Mr. Aranki replied there was a meeting but nobody showed up. One person called. **COMMISSIONER BARON** asked if he was having any complaints or issues?

MR. DERMODY said they have heard from one neighbor who did not attend the neighborhood meeting who was opposed to the request feeling that this belongs in an industrial area. **COMMISSIONER BARON** said that is really the challenge of the site, it is a question of land use. Where it is at - it is difficult. He certainly understands Staff's position and he certainly understands Mr. Aranki's position as a business owner.

COMMISSIONER CUNNINGHAM asked Staff if a stipulation could be put that the storage facility be a higher wall to where it is covered and secured, perhaps from the episodes of vandalism that have happened. It is a blight on the neighborhood when those trucks are sitting there with the graffiti and maybe she just happened to drive by a couple of times where the same graffiti was on the same truck. They have residential neighborhoods and she understands why Staff has said this shouldn't be approved, yet she understands that he is a business person trying to keep his head above water and employ his family. She gave her sympathy. It is kind of a no win situation to turn it down. Isn't there some way they could make stipulations where it might be less of an eye sore on the neighborhood?

MR. DERMODY stated their site development standards actually would normally require that a six-foot wall surround this, however in analyzing the situation, they had not anticipated enforcing that because of the effect of making it sort of a walled off compound. However, it is in the prevue of Planning Commission to add a stipulation like that to any approval they might make.

KEVIN MAYO, PLANNING MANAGER, said in terms of putting up a six-foot wall their site development standards try to do 2 things. Screen proof from view things out there while still maintaining a safe environment at site. If they start putting up six-foot walls, they start putting more area for people to loiter and hide behind and things like that and it becomes harder to enforce security when people can't see through things or see around things. Fundamentally, Staffs opposition to this request really does not stem from site from a lack of ability to impose site development standards. It comes from having a land use that its trade ring is much greater than the zoning in which it is trying to locate. As the applicant indicated 50% plus of their customers for the U-Haul specifically are coming from greater than this neighborhood of which that C-1 zoning was intended to serve. That is their opposition to that. They have quite a bit of flexibility and creativity when it comes to implementing the intent of their site development standards. The opposition doesn't really have to do site development standards.

COMMISSIONER PRIDEMORE said his concerns with adding a six foot wall is that they have now just added a prime target for more graffiti. The reality is how the applicant already

deals with the graffiti on the trucks. He actually thinks it would be easier to deal with it on the trucks then on the wall. While he understands Commissioner Cunningham's wanting it for security which he would agree would be an issue, he is more concerned with the blank canvas they would be giving whoever is tagging. He said to the applicant that he appreciates his willingness to make modifications. Having driven by this site, he doesn't remember how Bill described the vacant lot but it is pretty desolate right now. Any kind of improvement in terms of landscaping even the minimal that they are seeing here is still an improvement. Again, he doesn't think a six foot wall would be necessary. Again, he would rather see the applicant deal with the graffiti on the trucks.

CHAIRMAN CASON said he appreciated the applicants desire to improve their revenue unfortunately, they have picked a market that while it sounds like there is some need for it, he doesn't know that necessarily the need for it needs to exist right at this location except of course for their own benefit of their business. He said he would hope that whatever the resolution is here and whatever the City Council does that they are able to maybe look at different ways of pursuing the business; perhaps something like storing the vehicles at one of the other locations and going and picking them up and delivering them or something like that; some other way to keep his hand in it where they have left their neighborhood in a condition of a neighborhood rather than an industrial site. He thinks that having big trucks there it is almost like they have stepped into something else - in another type of neighborhood, in a neighborhood that is not single-family or multi-family or has kids around or anything else like that. It is like all of a sudden they have come into an industrial/mechanical type of location. The neighborhood he thinks needs to have the respect of maintaining a neighborhood and all of the things that involves a neighborhood and he doesn't mean to indicate that he is doing anything else but that. He thinks that they have to speak for the neighbors to some extent and although they aren't here to demonstrate their position except for the one person that had contacted Staff, he thinks they have a duty to protect neighborhoods and allow them to maintain neighborhoods especially older ones. They hear a lot about protecting neighborhoods and those types of things. This might be one of those things where they talk about protecting neighborhoods besides helping people to refurbish their homes.

CHAIRMAN CASON asked if there was anybody in the audience that would like to speak on this matter.

LEE BAKER, AREA FIELD MANAGER FOR U-HAUL, said he has had U-Hauls at Kwik Mart for 6 months with great success. He would like to show them 3 things. First, the size or amount of U-Hauls that is going on there in comparison to other places around there so they have an understanding of how little or how much would be or could be in the location. Second, revenue stream situations – they are aware of tax dollars but also the local ownership receiving the money instead of a large corporate conglomeration taking it and sending it somewhere else. Third, environmental sustainability is something they are very proud of.

He showed a report that they generate for two weeks that shows the location in the last 2 weeks before Monday. This shows one transaction for one way trucks and 4 transactions for in-towns

in the last 2 weeks and his towing trailer shows 2. They had 7 transactions in 14 days. This is not a situation where they desire or plan on having something similar to Arizona and Riggs – 117 in town transactions and 17 one ways.

The design bringing into this request of Kwik Mart to have them there was always intended to be 2 a week, possibly 1 a day at the very most depending on what City Council would want and need. They have sustained less than 20 trucks there by the design. They have been working diligently to keep trucks out of there. He would love to see 3 trucks, maybe 2 to 3 trailers. The reason is that meets their criteria that they have for sustainability. They want small locations to have a small amount of equipment spread out over a little larger area so that they have customers driving less distance to pick up their equipment to return it which is environmental sustainability as well as keeping the congestion down. If they had 140 people going to the center instead of a 117, they would be worse off. If they can get 5 or 7 per week or whatever to a smaller location it helps them else and it also brings revenue into a smaller area where it can stay in the city.

He said he wanted to show that they are not intending nor do they ever want more than 1 transaction per day, 2 at the very most. Transactions should take no more than 10 minutes. If it is an in-town transaction it might take 5 minutes to receive back in. They are bringing them into Kwik Mart and they are keeping the sustainability down. They are not driving 40 miles instead of 15 to go pick up equipment or drop off.

If there are any questions about graffiti situations, mechanical maintenance or things like that he would be happy to answer all of them. He does this every day and has been doing it for 4 years.

He can answer vividly if they are interested.

COMMISSIONER PRIDEMORE said he had a hypothetical situation. Say there are only 5 trucks at this site and they get 6 people that need vehicles on a particular day. That would be a great day. How quickly can U-Haul get additional trucks there? He is not sure how many trucks are on the site right now. Mr. Baker said actually there are 9 there right now. He will be working to get a few out. The question is if there were fewer trucks there and you had a rush how quickly can U-Haul get additional vehicles to the site. Mr. Baker said there are a lot of different possibilities. The first thing is most of these are reservation based and their traffic department knows where all of the trucks are at and the current address of all the potential customers. They would route those people but walk-ins however would be a potential problem. Most of those reservations that are on the log would be already set up and appropriated and scheduled for those customers and walk-ins. They can get trucks there if they need to probably within hours. It is very rare that they do move them. What they do is move the reservations out to another location. They give the customer the closest location with the most convenient equipment. They rarely have that problem. If they do need a truck, he can call me. They actually have 3 agencies within U-Haul that can get trucks delivered as well as they can go in and receive themselves. More aptly though they would move reservations. They would let them take the reservation. They actually make a commission off just making the phone call, the reservation would go further

away and then in that case the customer might have to go out a little further. However, they try their best.

CHAIRMAN CASON asked how he got 8 trucks at the site. What determines how many vehicles you put on a site? Mr. Baker said 2 different things affect those. They have an origination/destination report that their traffic dept. uses and they key in a certain algorithm so that when people are moving into for example the City of Chandler they designate which location is to get what they call 'an expected in'. They control their traffic flow at drop offs by sending 'expected ins' to locations they want them however sometimes customers drop there anyway. If U-Haul tells them their drop off location is Kwik Mart at Hartford and Connecticut they might drive passed Arizona and Knox and they just might pull back in and drop it there or vice versa. What they do in that case is they either move them themselves or they move reservations to them to pull that equipment out or if they need more they do definitely have a traffic department that is on this at all times. They probably have 900 trucks right now in their marketing company and they don't have many city problems. He hopes they understand they are doing there absolute best to measure up for themselves, the individual locations and for the City. The second way is if the individual does an in-town transaction he would bring it back to that location. They also have ways to ask them to take it to other locations as well. For example, if they get inundated they get an in-town and they can't contact the customer and ask them if they would drop at a different location, which would inadvertently affect their contract but they can take that under consideration at the receiving end and make sure they are not charged any extra.

CHAIRMAN CASON said his strategy or U-Haul's strategy is to diversify the amount of locations in order to reduce their carbon footprint. Mr. Baker replied absolutely. **CHAIRMAN CASON** said he would like to hear his opinion as to why that is more economical as a business than just doing it at a larger location. Mr. Baker said more customer service. Their primary competitor is not Budget or other locations like that. Their primary competitor is self-renters - People who would take their brothers, sisters, mothers, uncles, trucks and trailers and move them for themselves. Having the convenience of one close by at a quick price at the ability to get in and out quick and nice locations and the customer service that they provide – for example, this location. It allows people the ability to go and rent U-Haul instead of just borrowing their mom's truck and have to put gas in it too. Get the trailer out of the weeds and fix a flat on it before they go. It really does work. Every single time in his career when they add a smaller location in an area where they don't have coverage both locations build revenue. They simply have more customers. His last 4 years he has opened 16 or 17 locations and probably closed 8 or 9. He is growing slowly. Every single city in his route has increases in transaction and revenue, slowly for the last 4 years. That is simply more customers. **CHAIRMAN CASON** said so if he understands his model then is he a representative for U-Haul and he has franchisees that he tries to create and create this energy so he builds up the amount of activity he has through his organization. He doesn't mean U-Haul, his personally. Is that how it operates? Mr. Baker said he is an Area Field Manager with a certain route of dealers that are mom and pop organizations that have no franchising affiliation nor do they have any rights to aerial or demographics. However, they simply get them to do their job for them basically and pay them a hefty sum. Locations that are owned by U-Haul have to pay everything, the salaries, the lights, etc.

Dealerships get 20% of that on average and they get less money but they get more customers. **CHAIRMAN CASON** asked if he solicits or do people call him. Mr. Baker replied both. He does what is called prospecting. He does profiles and looks for the locations that have extra land. Demographic situations placed separately away from larger locations to create smaller locations. They look for ownership. Employees that are family owned not managed by other places. They look for computer/internet service and things like that. There are quite a few different things they look for as well as them calling them and deciding whether or not that would be a good location. **CHAIRMAN CASON** asked if in this particular instance if he was the approaching party or were they? Mr. Baker said he had prospected quite a while back, probably a year ago. He was contacted by Rob. They decided the primary reason for this location is its availability west of Chandler Blvd. giving them another opening to ¾ of that area. For example on Chandler Blvd. now they can have a location closer west, north and south to that area. **CHAIRMAN CASON** said so in doing this he learned a valuable lesson. Right? Mr. Baker said he learned that he has some excellent customer service out there that he can tap into and he hopes he can continue to provide the small service. Yes, he did not check with the City's Planning & Zoning Commission and find out if it is C-1 or C-2 and that is one reason why he is here today. Hopefully, get a pass so that they cannot only continue but he would like to prospect the rest of Chandler continuously and he would like to know what he is doing and make sure these things happen the way it should. He does apologize for that.

MR. ARANKI said he might have misled him when he first contacted him. He thought they were C-2.

CHAIRMAN CASON closed the floor from further comment and called for a motion.

MOVED BY COMMISSIONER PRIDEMORE to recommend approval for ZUP11-0008 KWIK MART / U-HAUL but with the added stipulations of limiting it to 5 U-Haul vehicles at any given time.

MR. DERMODY said he had the suggested standard stipulations besides the 2 conditions mentioned are:

1. The maximum number of rent vehicles on site shall be 5.
2. The number of parking spaces may be reduced to 7.
3. The Use permit shall remain in effect for 1 year from the date of City Council approval to continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. Expansion or modification beyond the approved exhibits, site plan and narrative shall void these permits and require new use permit application and approval.
5. Site approvals including parking spaces, screen walls and landscaping shall be installed to city code standards within 6 months of City Council approval.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.

7. In order for the Use Permit to be valid a solidly completed agreement for waiver of claim form under ARS12-1134 shall be provided to Transportation & Developments Planning Commission Staff within 3 weeks of City Council approval.

Mr. Dermody said in more plain English no. 7 is the Consent to Conditions Waivers and with the conditions being somewhat unknown with the split recommendation they often attach that to the recommendation that goes forward to Council.

CHAIRMAN CASON called for a second to the motion. The motion died for lack of a second.

VICE CHAIRMAN RIVERS thanked the applicant for coming. He said he can't remember anyone more polite ever addressing this Commission. However, this business is not a neighborhood business. It is a business that gets a good percentage of its customers from other places outside their neighborhood. Therefore, he does not feel it is a good use on this property and therefore he needs to move to recommend denial.

COMMISSIONER DONALDSON said he appreciates the applicant and the U-Haul representative as well. He said trying to grow your business in these times is a really tough thing and getting creative about it is also a good thing. He has to agree that this neighborhood center has been a benefit to the neighborhood and belongs in the neighborhood as it is today. He does believe that in this type of business and the extra vehicles and to go to a compound type fully enclosed just wouldn't fit the neighborhood as well.

CHAIRMAN CASON said his statements before still stand insofar as praising the applicant for attempting any and all entrepreneurial means to improve his business. He thinks what is most important to point out to the speaker from U-Haul is to be sure that should be one of the first things he checks when he tries to do business and creating these remote sites is the applicability of what he is trying to do in the particular neighborhood that they are in.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM** to deny ZUP11-0008 KWIK MART / U-HAUL. The motion to deny passed 6-0 (Commissioner Veitch was absent).

CHAIRMAN CASON stated that they are just a recommending body. It will go before City Council on January 12th of next year. He thanked them for coming in.

I. ZUP11-0029 P2 PERFORMANCE PLUS

Approved.

Request Use Permit approval to allow for a baseball training facility to operate within a Planned Industrial (I-1) District. The subject site is located at 1 N. Roosevelt Avenue, south of the southeast corner of Chandler Boulevard and Roosevelt Avenue.

1. The Use Permit shall remain in effect for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferrable to another location.
4. Use Permit approval does not constitute final development plan approval. Compliance with the details required by all applicable codes and conditions of the City of Chandler in this Use Permit shall apply.
5. The site shall be maintained in a clean and orderly manner.
6. The building owner shall not sublet any portion of the southern suite.

ERIK SWANSON, CITY PLANNER stated this is a request for Use Permit approval to allow for a baseball training facility to operate within a Planned Industrial or I-1 zoned district. The subject site is located at 1 N. Roosevelt Avenue which is south of the southeast corner of Chandler Blvd. and Roosevelt Avenue. Staff finds inconsistency with the General Plan and I-1 zoning district recommends denial. The subject site is located in a predominately larger industrial park north of the subject site and sharing access to the site is a turf, grass, pasture and farm seed company. North of that is an auto body paint facility and north of that is a veterinary clinic. East is a SRP canal and east of that is a commercial shopping center. South is an electric contractor company and then west are an automotive maintenance diagnostic facility and then a residential restoration facility. In addition to that this building that they propose to go into is a 2-suite building so on the southern portion of the building is what is used as kind of a various sheet metal, air handling AC HVAC business. The facility is one suite in a two building suite. It is anticipated the suite the subject site is looking to locate in currently houses some of those sheet metal materials and then also some of the equipment associated with that. It is anticipated that if the request is approved, those would be removed.

The use in of itself is a baseball training facility that is geared towards high school students. The facility is a by appointment only use and so it is not drop off or just swing by because I want to hit some baseballs so it is restricted in that sense. It is restricted in that sense limited to individual sessions roughly between 3 to 5 athletes, however, the applicant has indicated that the potential exists for a baseball team to come in and receive training. At that point in time it would roughly be 10 to 12 clients. The operations and circulation of that generally the students will be driving themselves or carpooling. There is also the potential for parent drop off. The proposed hours of operation for the training facility are in the evenings and general start around 4 p.m. and goes to 10 p.m. Monday through Friday. On the weekends they are proposing 7 a.m. to 10 p.m. Activities at the site and in the suite include batting cages, strength and agility, speed,

conditioning and mental strength training. A weight room is also provided as part of the facility. Two collapsible batting cages are located in the warehouse portion of the suite which is shown in the attachments.

The existing building that operates on the south side has a little bit varying business hours and generally speaking the business stops early afternoon Monday through Thursday and stops roughly around noon on Fridays and is not open on the weekends. Generally there is not a conflict between the operations and that. There are 10 parking stalls west of the entrance of the building along the adjacent right of way to Roosevelt and there is the potential to provide some additional parking on the north side of the building within a gated area. While they do not have a parking ratio designation in the zoning code per say for these types of issues, there historic kind of practice that they have come up with based on other users typical to this is roughly one space per 300 square feet. If they were to apply that standard, approximately 22 stalls would be required for this suite in operation of this use. If they are to apply that per the larger building with both suites, it would require 54 stalls.

Staff is not supportive of this request for a number of reasons although Staff does appreciate the use and they think this is a good use for the City. Ideally, they just don't think that is a compatible with the current land use designation. Staff's concerns include the following. One is part of a larger 213 industrial park which is predominately zoned I-2. That I-2 zoning designation has the ability to house most intense manufacturing distribution things that tend to have a natural propensity to contain more hazardous materials so that is one concern that they have with this particular location. In addition to that where this subject site is currently located in that park the property just south of it is zoned I-2 so that is another issue that they have. Additionally, a concern is that this subject site shares access with another I-1 user and so while at this point in time that user seems relatively small in nature and is a kind of seeding manufacturing company, the potential exists that an I-1 user can go in by right without Staff or Commission or Council review of that so that is a concern of theirs. Another concern is the way that this major park is laid out is that there are 4 points of ingress/egress. There are 3 along Chandler Boulevard and then there is 1 way down on 56th Street. The 3 points of access on Chandler Blvd. in which 2 of those are full movement access allowing for the larger trucks to come in and out easily; Roosevelt being one of those. That is one of their concerns. For that traffic they have no way to regulate and mitigate that as they will see that they have done in other instances when they have reviewed these.

When they review these types of facilities, generally their code allows them in their more commercial districts say the property to the east could go in without a problem. That is why they generally do not allow these in because of those industrial uses and they have an area where they can go. However, with that being said Staff has brought forth to Commission and also to Council some request to allow these types of users in kind of a more industrial area. Those areas also generally tend to be a mix of office, warehouse, and showroom type uses generally allowing for some I-1 uses but not necessarily the full gamut and certainly not allowing the I-2 users. Some of those areas, more specific in things they have seen recently would be over at the Chandler Airport Center, Germann and Cooper areas and the Red Rock sites. With those

particular uses when they looked at them initially Staff did have concerns with those uses and he thinks over the years as they have seen more and more and seen how they operate, they have grown to a certain level of comfort but with those particular uses there are some unique circumstances that kind of stick out that is different from this one. One of them is that those sites tend to be more self-contained.

When you look at the traffic patterns of those sites, they are internal and off of the main beaten path, off of the Germann and Cooper roads and so they have maybe in these cases the Chandler Airport Center Cases, a site of maybe 3 buildings and so they will have that circulation pattern within those buildings and nobody really from the outside coming in unless they need to be there. In addition to that when they are looking at those, their concerns were the integration between some of the youth and those trucks and truck traffic so conditions that arose out of those concerns were locating some of those uses away from those drive aisles providing specific parking areas that were assigned specifically for those – things along that nature. Again, with those types of uses there was the ability to have more office so they weren't looking at the larger industrial type uses. Another situation where this was and a similar area would be west of Cooper and they did not have any particular buildings in mind or even in tow at that point in time. This was purely speculation for vacant land. As to what Staff thought, this could be an ideal location to locate these types of recreational uses. Some of the way that they addressed their concerns that they had seen with those to the east was the fact that it was vacant land and any structures coming forward would require PDP approval. They kind of integrated into our overall recommendation for approval abilities to look at the integration of kinds of pedestrian areas, the traffic areas, the parking areas and how do they accommodate this and mitigate concerns with truck traffic to mom and dad dropping off kid traffic to individuals coming for that type of use. That was more or less a hybrid growing out of those existing buildings but now they have seen how those operate they can take that into consideration with the design.

The third use which is maybe the most applicable or similar in this situation is west of here on 56th Street. There was a request for a volleyball training facility. That particular building was zoned I-1 on the eastern and of a larger industrial park. Some difference circumstances with that site as well was that it was completely self-contained. Access points were provided directly on to the major arterial and access was not provided into the larger industrial park. Additionally, that building sat alone on its own site and they did not have to concern themselves with a site that had multiple users that they don't know who is going to go in next. Additionally, that user was occupying the entire building. Again, some of things that also correlate with this use are the restricted hours in the evenings and it was more not open to the public and more of a private club. At that point in time though Staff did recommend denial, it was granted approval and it has proven to be successful.

He thinks while a number of Staffs concerns were mitigated in those instances even where they did recommend denial, he thinks those situations were all a little bit more unique and had a little bit more different circumstances than this particular case. So some of their larger concerns still happen to deal with the location more internal to the larger industrial park, the fact that it shares access with another industrial user that has the potential to change so long as they operate within

the allowed uses of the zoning code. They don't know about it and so he thinks more or less that is really where they are coming from and they really find that this is albeit a great use just not a great use in this area. They really find that land use is incompatible. There was a neighborhood meeting as part of the request. No neighbors attended that meeting. In addition to that though the applicant went out and canvassed the area and was able to come up with a petition of support from the surrounding users for that use and it is attached as part of the memo. Even with that being said, Staff does still find inconsistency with the General Plan and their zoning code and does recommend denial. He said he would bc happy to try to answer any questions.

CHAIRMAN CASON asked if there were any questions for Staff on this item.

CHAIRMAN CASON asked on the C-2 property that is on the southwest corner of Roosevelt and Chandler Blvd., does that have a north entrance and exit right on to Chandler Boulevard? Mr. Swanson said he wanted to check his aerial just to verify. He said he believes it does but that site also does not allow for kind of industrial users to hit that access point. The main access point is still Roosevelt. **CHAIRMAN CASON** said he thinks the only access is on Roosevelt for the Archery store. Mr. Swanson said he thinks he is correct. The property to the west that was the previous Detour Restaurant, he thought they had an access point. All access to that C-2 piece is directly off of Roosevelt. **CHAIRMAN CASON** said if they look at the site plan, the industrial user, do they run their trucks into that space next to the drain ditch? Is that how they load their trucks? Mr. Swanson asked if he was talking about the equipment company in the southern suite. **CHAIRMAN CASON** said yes. Mr. Erik Swanson said yes he is correct. That outdoor storage area does currently house their trucks and some outdoor materials. The suite that is in question is currently vacant and primarily houses some of their excess materials and equipment for the manufacturing and processing of the sheet metal stuff. So while this currently serves the indoor portion which currently serves as storage, the outdoor portion is more of the trucks and some of the larger equipment. **CHAIRMAN CASON** said so what he is saying is part of the conflict with the driveway is the amount of trucks that are leaving the Newgaard Mechanical and coming out the driveway. Do they know that frequency? Mr. Swanson said he does not know the frequency. The concern is kind of two-pronged. One is certainly the circulation of Newgaard Mechanical albeit the hour of operation between them and that P2 Performance does stagger so they don't think there is going to be whole lot of that. One of their larger concerns is the use that shares that point of access, which is directly north that currently operates as that seed facility. That particular building has the ability to go out tomorrow and any industrial users can come in the following day that they don't know about so long as they get a business license in compliance with the I-1 zoning. They don't know. They won't know they are there so that is one of their concerns that there is an I-1 use that albeit right now it is kind of nice use and convenient, the potential exists that it could be a larger industrial user in a small building. **CHAIRMAN CASON** said so there are 2 building users that use that access point. Mr. Swanson replied correct. **CHAIRMAN CASON** asked whose property is it on? Mr. Swanson said the property that the access point is on looks like based on the parcel lines that it is actually the property to the north, however there is more than likely a shared access agreement. **CHAIRMAN CASON** said he is saying that as far as he knows and of course they will clear it up with the applicant that the property line is the south side of that driveway. Mr. Swanson said

basically if they look at the building to the north directly east of that or to the right of that where their building ends and the storage yard begins, that is Newgaard Mechanical's property. West of that is the seed company's property.

COMMISSIONER BARON asked if they could put this on the screen because he was kind of lost visually at this point. Mr. Swanson said he would take some of his exhibits and come up.

MR. SWANSON said he would start with the aerial. It might make it a little bit easier. He showed where the subject site is and the hatched out mark. He showed where the seed company is and he said you could see based on this hatched out mark where the property lines are. The access point is directly north of the Newgaard Mechanical property line hatched out here. Going back to what his concerns were is that here is Newgaard Mechanical on the south side and the proposed P2 suite and then here is the seed company so you really have the mixing of 3 users on this smaller site. He showed where the storage yard is off to the right. **CHAIRMAN CASON** said his hatching is based on actual property lines? Mr. Swanson replied the hatch is based on parcels. **CHAIRMAN CASON** asked how big is the square footage of that building that is the seed company? Mr. Swanson said it is going to be a rough estimate. If the proposed suite that P2 Performance Plus is going into is at roughly 6500 he would probably put it in the range of maybe 3000 maybe. That is probably a conservative estimate. **CHAIRMAN CASON** said so he thinks it is about 3000. Mr. Swanson said yes in all honesty if he could get back to his seat he could pull up the info. **CHAIRMAN CASON** said so the drawing that he has up right now, then the driveway is owned by the seed company or whoever owns the building for the seed company. Parcel 2 is not part of the seed company it is more like where the 4 parking spots are. Mr. Swanson said based on the site plan, correct. **CHAIRMAN CASON** said the seed property is the driveway all the way over to this monument that is kind of like in the north and then straight up. That entire parcel is the seed company. Mr. Swanson said this is designated as the seed company's parcel albeit this is more than likely a shared access.

VICE CHAIRMAN RIVERS asked if lot 9 is owned by the seed company or is it a shared parking lot? Mr. Swanson replied that is actually part of Newgaard Mechanical. That is their outdoor storage area that they also house their vehicles. On the north side is a rollup door where they can get their equipment out. There is a raised concrete platform that allows them to easily get that into their trucks. **VICE CHAIRMAN RIVERS** said so the parking for this whole building that is Mechanical's as well as Performance Plus is to west of the building. Mr. Swanson said it is predominately along here that is where that parking is going to be however the applicant has indicated that they have the ability for additional parking here. What they would have to look at is how Newgaard Mechanical and their trucks operate, where do they park, how is that going to work, are they going to park them in the evenings back here when the day is done and allow this for P2. That is some of the concerns that they are dealing with their parking requirements or their historic parking requirements of 1 per 300 doesn't quite meet that need but the ability may be to have some parking in the rear.

COMMISSIONER DONALDSON asked if he was looking at this map correctly that directly east of this property across the drainage ditch is the bowling alley? Mr. Swanson said the C-2 is

actually the former Basha's that they had and they have another interested grocer coming in that hasn't gone through the process. He believes he is correct. There is a bowling alley and he hasn't driven in that development in quite some time. There are a number of restaurants and he thinks there is a tire facility in there as well.

COMMISSIONER BARON asked Mr. Swanson if he could tell them off of Chandler Boulevard as you are coming down Roosevelt what are the uses. He is just trying to get his bearings on where things are. He gets the seed company. What are they driving passed? What are the hours of operation on the seed company? Mr. Swanson said he didn't know the hours of operation on the seed company. He would imagine typical business hours however the fact that it is a seed company, he would imagine that they have some sort of seasonal components. **COMMISSIONER BARON** asked if he knew how long have they been there? Mr. Swanson said the seed company has been there for a number of years. He showed the proposed site and hopes it was a little bit clearer. He showed where the seed company would be. The building running east/west is a Maaco Auto Body Shop. That came through a Use Permit in 06/07. He worked on that and at that point in time that seed company was also there. He thinks they have been there for a number of years. North of that kind of right adjacent to Chandler Boulevard is a vet clinic. **COMMISSIONER BARON** asked if it was in the I-1 district? Mr. Swanson replied yes. **COMMISSIONER BARON** said if you go further south and one of the concerns that he stated was about pedestrian conflict but if you look at the way this site works, he is wondering with the parking lot it seems to be fairly controlled to be able to get to this site. From the applicant, he stated the number of users is fairly minor on a controlled number of hours and set schedules. The pick-up/drop off issue to him doesn't seem like it is that significant. He is just trying to understand what type of traffic they are dealing with here. Mr. Swanson said in looking at the map this is the context for that larger industrial park. Where they see the orange that is the I-1 zoning designations and those are hard-zoned I-1 designations. Red is the hard zoned I-2 designations. The green or greenish is the C-2 and so they have the archery company and then the Detour Restaurant. The site is kind of in blue but is covered with that orange. Their concerns with that access and pick-up/drop off are that Roosevelt operates as one of the main spawns for this industrial park. He showed on the map Roosevelt, McKemey, Beck and way down you have Frye Road. These are really the main ways out of the park. He showed where the railroad tracks are, there's nothing up along there because of the railroad tracks. Now with that Roosevelt and Beck are full access movement. When you are dealing with industrial users and needing 18 wheelers and their various things, they are more or less headed toward the freeway and so one you could come up Roosevelt, hook right and go down to Kyrene and try to catch it or to go across and catch the I-10. The other option is to head all the way down south and come across and go that way. Their concern is that with such a large park and so many users and even in this case some undeveloped land, that traffic is substantial enough to where they didn't see this kind of situation or wasn't as a much of a concern with the other kind of industrial users like the Chandler Airport Centers because they were more self-contained. While there is the benefit of having the staggered hours which certainly does help, having to pick up drop off is one of the main concerns is that main spine still operates for that larger area. **COMMISSIONER BARON** said from a perspective of clients going to a site, if he was dropping his car to get body work he would have to go to Maaco and the same if he was taking

his dog to the vet, he would have to go there and drop them off. He still has the same conflict with the vehicle traffic albeit the parking areas look much larger in those facilities. Most of the time when they look at these things, the path of least resistance when they are trying to get out to the freeway, he would argue that Chandler Blvd. being a major arterial that the destination is obviously going to the I-10 heading west. The majority of that intense use seems to be centered in the middle of the site. He doesn't know if that means that they go out towards Beck Street. Mr. Swanson showed where Roosevelt and the site were and where Beck was. Beck is a full access road. **COMMISSIONER BARON** asked if they were signalized? Mr. Swanson replied he thinks Beck is. There is actually a traffic study report done for Roosevelt that deemed that it did not need to be signalized.

CHAIRMAN CASON asked so the vet is still in an I-1 and they are there under a Use Permit? Mr. Swanson stated he did not look at the details for that but he believes with the veterinarian use he thinks they have concerns with them generally locating in some commercial areas. Some of it with outdoor facilities and things like that. He can't recall. He doesn't know the exact background. **CHAIRMAN CASON** asked about the Maaco. Was that under a Use Permit? Is that permitted in I-1? Mr. Swanson said that was actually a Use Permit. **CHAIRMAN CASON** said since he still has marked as I-1 that probably the vet was probably there under a Use Permit too. Both of those uses are under a Use Permit right now and still remain in an I-1 area. Mr. Swanson replied that the auto body for sure, the veterinarian he believes so. **CHAIRMAN CASON** asked if he could zoom in on the properties there, the ones they are talking about. Mr. Swanson said they could pull up the aerial on his computer. He showed a close up of the subject suite, Newgaard Mechanical in operational form, the seed company, Maaco, and the electrical contractor. **CHAIRMAN CASON** said so these are the property lines and if they went to Maricopa County they would see the same thing, the property lines. Mr. Swanson replied yes.

CHAIRMAN CASON called up the applicant to speak.

MIKE PERRY, 575 W. CHANDLER BOULEVARD, SUITE 123, CHANDLER stated on the previous case as a Hartford Elementary School graduate his first job was delivering papers at that Laundromat on that corner at 4:00 in the morning 7 days a week. It's nice to have a little bit of history here.

He said this request is for a temporary Use Permit to allow by appointment only a personal instructional sports athletic training facility to use a temporary portion of an existing underutilized warehouse in an I-1 zoned district. Tonight he has with him his client, Jay Roundy, his son Joe Roundy, Dave Newgaard from Newgaard Mechanical who owns the building. He and Jay are both former Chandler Planning Commissioners from a long time ago so they kind of know the process and while they feel their criteria mitigates some of Staff's concern they did anticipate that they might not support their application. With that knowledge they went through all of the proper steps before they filed their application. They met with Staff before they filed to identify their issues. They met with Economic Development to make sure that they were o.k. with this use going into an I-1 zone and they are. Chris has waited patiently all night and is willing to speak if you need her. They ran their ideas by several of the Council

members before they made a decision to proceed with the application. They did their neighborhood work to make sure that everybody was in support of their application.

There has been a lot of discussion tonight about the large I-1 industrial users. They went pretty much up and down – Dave and Jay went up and down Roosevelt and they can see the arrows and essentially they have everyone along Roosevelt in support of the application. They will also notice they identified a lot of the businesses. He thinks that question came up earlier. A lot of the businesses are actually construction related, similar to Newgaard Mechanical. They operate on the same hours, the same kind of shortened schedule and obviously by the support there is not really a concern of the traffic that would be coming down Roosevelt.

They really feel that they addressed all of the Staff's concerns and hope they would support a temporary Use Permit. Alas the tree got in the way of the forest again. P2 Performance Plus provides opportunities for all athletes to improve performance on all dimensions including physically, mentally, emotionally and spiritually. It's a little bit different from some of the stuff that they have seen in the past. What really makes this unique is it is a by appointment only individual training, it is not a drop in business. Appointments are scheduled. It is a very low use 3 to 5 people on a normal basis. Staff made some references to batting cages. They are not batting cages, they are batting tunnels. All of the pitching instruction is hand toss. There are no pitching machines. The tunnels collapse and that area will be artificial turf so they can do speed and agility training at the same time. On occasion there is a possibility that they may bring a girls softball team and do some work with the entire team. Jay anticipates that to be probably 10 to 12 people at the most. They are really working on off hours from everybody in the area. Traffic is really not a concern.

It is true that a large portion of the park has an I-2 designation. However, as you can see on the aerial the immediate area is I-2 and C-2. The C-2 uses and the I-1 uses are located at the entry to the park and he thinks they have already identified some of the uses. One is an archery store, the vet clinic is there and the 3 little buildings to the west actually have some office in them, some investment firms as well as some of the auto related uses. There is an archery range also in that area. Same kind of use but it is a drop-in type of issue.

They really feel like they are compatible with the area and obviously the neighborhood support shows that. To Staff's second concern they feel that the proposed use really doesn't impact traffic circulation within the site or the industrial park in general. Appointments are scheduled. Their hours are 4 to 10 p.m. Certainly evening hours and then on the weekend so there's really not a direct conflict. Dave Newgaard who owns the mechanical building. There is discussion about the trucks coming in and out for his business. He has one truck and 4 employees. The truck goes out in the morning and it comes back in the evening. It doesn't come in and out during the day. The seed or turf company to the north, there is a shared access drive. He has 4 parking spaces. It is a seasonal business, about 1000 square feet. The seed is not stored there; the seed is delivered directly to the site. He has offered them his 4 parking spaces after hours if they need them although they don't think they will.

One of the other things Staff mentioned and they certainly appreciate that they are trying to find a place they could locate to without having to get a Use Permit. Some of the C-2 locations that are around town many of them don't have the ceiling height they need for the activities that would be going on nor are they really stand-alone buildings. This is really a unique symbiotic relationship between Newgaard Mechanical and P2 Performance Plus. Newgaard does not need their 16,000 square foot building and they no long use the back area for manufacturing of ductwork which is what is was used for before so now it is cheaper for them to buy their ductwork and have it delivered to the site. Most of the equipment has already been cleared out of there. There is some still remaining. If they are successful with their Use Permit, the rest of that will be cleared out.

He said it is really just a perfect storm of uses. There is not a conflict. Dave owns the building. If there is a parking conflict, they can address it personally. The use to the north, a seasonal use, wasn't even there today. All 4 parking spaces would have been available. They think it really is a unique type of use different than perhaps a lot that they have seen in the past. They think it mitigates a lot of the concerns Staff has. They think it is an appropriate application of a temporary Use Permit. They are not asking to rezone the property. They feel this is going to be a development of a business model that Jay and Joe are trying to do. They anticipate 3 to 5 years to find out if the business is going to be successful. They have plans and aspirations if it is successful to move to another site because they will need another site because they will need another site at some time. So with that he would like a minute to let Jay speak about the business and the business model and then after he and Jay could answer any questions they have.

JAY ROUNDY, 2419 W. ALAMO DRIVE, CHANDLER said Mike has covered pretty much everything but said he would like to re-emphasize a few things. What really does make them different from other types of businesses is the individualized training whether it is for an individual, small group or the occasional team that they might train. It is by appointment only. Therefore, they manage the schedule of who is there when as well as how many people are there when – which is very different. From a number of the other facilities in town who are primarily geared toward drop in business. Recently, within the last 6 months a company in Tempe 'Extra Innings' closed their doors. There primary model was drop in business. They did some training but it was primarily drop in business. Their goal is to prove the business model, generate the interest, get the financing and they are looking at a 40,000 to 50,000 square foot building also without door capability. That is their ultimate goal. They are in the process right now of talking to investors as well as debt financing and the question they always get is show us the business model, show us the proof. That is what they are trying to do here. As Mike mentioned, they are not trying to rezone anything. They want a temporary Use Permit to have the ability to prove that. Prove that business model, attract the financing and go find the facility where they can do exactly what they want to do, expand to multiple sports and multiple expanded services as well. That is really the things that he would add. A couple of other things came up as questions were being asked of Staff. Beck, the north/south street out of this larger complex is the one north/south street onto Chandler Blvd. that has a traffic light. Have been to the facility a number of times working with Dave and Mike for the application and talking about what they want to do, which coincidentally Dave's probably going to end up being a partner in the business with them

because of his interest and support. They are there to test it; they are there during the time late afternoon and on weekends, which is when they have been meeting and Roosevelt is dead. They have been there during the day as well at times and people who try turn left out of Roosevelt onto Chandler Blvd. are making a mistake and everybody turns right out of that. Anybody who needs to go left on Chandler to travel west goes over to Beck to use the light just because of the traffic flow. The other thing is that he thinks they have shown by canvasing the neighbors and explaining exactly what they are going to do, right now not only do they not have any objections they actually have support for what they are trying to do which they have taken. As they have discussed it with them, not only do they not see this as a problem or a challenge to their business, they see it as something to keep things going there because as Dave has explained to us, the economy has changed, his business is changed and he has unused space which makes this as Mike called it 'a perfect storm' to come together to do this.

Again, not to over repeat himself, they are asking for a temporary Use Permit. They realize the circumstances. They believe they have presented a plan and circumstances about how our business is and how they manage it that mitigate those concerns. They are asking for a temporary Use Permit to prove that, willing to do it for a year, demonstrate that they are not a problem and that there are problems because of that and come back to extend it as they need to until they do get to that point of proving the business model to find their ideal location.

VICE CHAIRMAN RIVERS stated it was probably mentioned before but can he remind them about the ages of their clients. How young is the youngest one? Mr. Roundy said their primary clientele are high school age. Their youngest actually has been 8 years old but it was a neighbor and they wanted some help. Their youngest they serve right now is in the 10-12 years age. They also have college age, adult and professional as well. The majority at this point in time, about 60%, are high school age. **VICE CHAIRMAN RIVERS** asked if this permit should be approved, would they be open to a one-year stipulation? Mr. Roundy asked a one-year stipulation only for the Use Permit without a chance to renew it? **VICE CHAIRMAN RIVERS** said no. One year, come back and renew. Mr. Roundy said yes, absolutely. They believe working with Mike and even relying on Mike although it has been many years, his time on the Zoning Commission with Mike and Dave Newgaard they believe they've not only answered the concerns, they believe they have a plan in place to take care of those concerns. They are very optimistic and they would look for the opportunity. Give them a year and they will show them that there aren't any problems. They will come back for 3 years or for whatever is allowable until they get to the point of approving their business model to get the financing.

COMMISSIONER DONALDSON said he needed a clarification on the building itself, the layout. There is an area reception-future tenant space. What is that indicating? Everything else is kind of designated from their business model.

Mr. Perry said he could answer that. The building outline that is shown here is for the entire existing facility. The dark line is the space that P2 Performance Plus will be taking. There are actually 2 existing offices in there, one of them is vacant right now. That will be the office that P2 will go into. There are actually 2 separate entries. Again, it is such a perfect situation it is

hard to explain because everything is in place and everything is set. This office has 3 offices, 2 bathrooms in it and will be where P2 and where Jay and Joe will set up their offices. There will be a conference room. This will be a waiting room. The area in the back is the area that will be artificially turfed and the dash lines are the collapsible hitting tunnels. Newgaard is on this side-there existing offices. Again, they just store some parts back in here now. They don't manufacture or make any duct ware now. **COMMISSIONER DONALDSON** asked is that just indicating that P2 is the future tenant? Mr. Perry said yes, that is what the Use Permit is for.

CHAIRMAN CASON asked Mr. Perry if the owner had any plans to sublet any of the space on his side of the dark line. He said no. **CHAIRMAN CASON** asked if he would be willing to stipulate to that? Mr. Perry replied that the owner said yes.

CHAIRMAN CASON asked if there was anybody in the audience that would like to speak on this matter. There were none so he closed the floor for discussion and motion.

VICE CHAIRMAN RIVERS said in listening to the concerns of Staff as always they know more about this than we do, however, in this instance he thinks there is a happy medium. He thinks this business is not open during the daytime when any truck traffic that he has ever seen on Roosevelt would occur and he thinks if there next neighbor only has one truck, they could probably pretty much avoid that. He doesn't think they are faced with a business who is a daycare or taking very young children or unsupervised young people and he doesn't think that we should avoid a new business in Chandler just on their concerns with what might go in next door in the future. He thinks this is a good use for this empty building. He thinks the fact that the hours are limited, that they are willing to accept a one year stipulation to let us all see that this business can succeed in that year and when they come back then they can talk about whether they want to extend it or not 2, 3 or 4 years at that time.

COMMISSIONER DONALDSON said that regarding the comments from Staff they had about hazardous materials for him being in the northeast extremity of the 2013 acre industrial park and the other uses that are around there it looks like a good use for that space - also backing up to the bowling alley. That is pretty important to him. He thinks it belongs there.

CHAIRMAN CASON had the stipulations read into the record.

MR. SWANSON said he had six conditions and they are typical ones that they have seen in these kinds of instances.

1. **The Use Permit shall remain in effect for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.**
2. **Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.**
3. **The Use Permit is non-transferrable to another location.**

4. **Use Permit approval does not constitute final development plan approval. Compliance with the details required by all applicable codes and conditions of the City of Chandler in this Use Permit shall apply.**
5. **The site shall be maintained in a clean and orderly manner.**
6. **The building owner shall not sublet any portion of the southern suite.**

CHAIRMAN CASON asked Vice Chairman Rivers and Commissioner Baron if they were o.k. with the stipulations. They were. He said he is always against turning industrial area into other types of business. He thinks that he has demonstrated that many times up here sometimes even to be blue in the face doing it. He thinks in this particular case it has been demonstrated that certainly the properties north with maybe the exception of the seed company have already been granted this. For whatever reason they felt this was a good place to do business. He agrees that big trucks are rumbling down Roosevelt Avenue they do have an impact here. Roosevelt Avenue as he recalls doesn't even have any stripes on it and it has no sidewalks or anything else like that. He thinks that the demonstration of the restaurant and the archery range or the archery store on the southwest corner of Roosevelt and Chandler Blvd. where especially the restaurant where you actually have to turn right out of there to turn around to get back out to Chandler Blvd. because of the island there, is an indication that multiple traffic uses work there despite the fact that there are huge trucks running up and down there. He doesn't know that the traffic issues are really one that they can use to sustain Staff's recommendation so with that he said he will be supporting the project. He thinks it is a great idea. He thinks being able to use a temporary Use Permit shows Council what their plans are and will further promote the ability to create support for their project.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER BARON** to approve ZUP11-0029 P2 PERFORMANCE PLUS with recommended conditions as recommended by Staff. The matter passed unanimously 6-0.

6. DIRECTOR'S REPORT

Mr. Mayo said in seeing that their Consent Agenda cancelled the December 21 hearing and their next hearing will be in January 2012, he wished everyone a happy holiday and thanked them for another year of Planning Commission service. He is looking forward to seeing them in 2012.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON said the same to him and congratulations for their hard work. He said they have made it a lot easier to do this because so many things are squared away ahead of time. They really like that.

VICE CHAIRMAN RIVERS said he wanted to join in and wish everybody up here a happy holiday and thank Staff for their year of work. Further, he wished Commissioner Cunningham's husband a happy birthday.

COMMISSIONER CUNNINGHAM said thank you. Her husband is here tonight to spend his birthday with them and doing his civic duty. She wished everyone a Merry Christmas and a happy New Year.

CHAIRMAN CASON announced that the next regular meeting is January 4, 2012 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:57 P.M.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary