



**Chandler • Arizona**

## **2010 Planning & Zoning Commission Minutes**

### **Regular Meetings**

January 6, 2010	July 7, 2010
January 20, 2010	July 21, 2010
February 3, 2010 Cancelled	August 4, 2010
February 17, 2010	August 18, 2010
March 3, 2010	September 1, 2010
March 17, 2010	September 15, 2010
April 7, 2010	October 6, 2010
April 21, 2010	October 20, 2010
May 5, 2010	November 3, 2010 Cancelled
May 19, 2010	November 17, 2010
June 2, 2010	December 1, 2010 Cancelled
June 16, 2010	December 15, 2010

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, January 6, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Vice Chairman Cason.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke

CHAIRMAN FLANDERS stated that Commissioner Christy McClendon resigned over the holidays. He said they enjoyed working with her and wished her the best of luck.

Also present:

Mr. Kevin Mayo, Acting 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 COMMISSIONER RIVERS**, seconded by **COMMISSIONER HARTKE** to approve the minutes of the December 16, 2009 Planning Commission Hearing. The motion passed 6-0.
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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. DVR09-1005 GATEWAY MARKETPLACE

**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 (AG-1) zoning. The existing PAD zoning is for a commercial retail center. The property is located at the northwest corner of Gilbert Road and Riggs Road.

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

B. PDP09-1006 DOBSON CENTER

**Approved to continue to the January 20, 2010 Planning Commission Hearing.**

Request Preliminary Development Plan approval for a Comprehensive Sign Package for a commercial retail, office, and medical development. The subject site is located at the southwest corner of Dobson and Frye Roads. **(REQUEST CONTINUANCE TO THE JANUARY 20, 2010 PLANNING COMMISSION HEARING.)**

C. LUP09-1015 SIRACHA LOUNGE

**Approved.**

Request Use Permit approval to sell liquor for on-premise consumption only within an expanded restaurant that includes front and rear outdoor patios (Series 12 Restaurant License). The facility is located at 91 & 95 W. Boston Street.

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 exhibits (Floor Plan, 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 beyond what is represented uses shall require reapplication of the Use Permit.
4. The Use Permit is non-transferable to any other restaurant location.
5. The patios and area adjacent to the restaurant entrance shall be maintained in a clean and orderly manner.

E. ZUP09-1008 GOLD TRUST REALTY

**Approved.**

Request Use Permit approval to allow for the conversion of a residential home into a commercial business. The subject site is located at 200 S. Dobson 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. 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.

F. ZUP09-1019 ROADRUNNER GOLF CARS LLC.

**Approved.**

Request Use Permit approval to allow a golf car company within the Planned Industrial District (I-1) zoning district. The subject site is located at 4043 W. Kitty Hawk, Suite 7, which is west of McClintock Drive and north of the Loop 202 Santan Freeway.

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 inventory, minor repair, and detailing shall occur only within the building. No storage or maintenance of vehicles to be performed outdoors.
3. There shall be no repair involving engines.
4. The Use Permit is non-transferable to other suites/tenant spaces on this property.
5. 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.
6. The site shall be maintained in a clean and orderly manner.
7. All building signage, whose text shall be limited to business name identification only, shall be in conformance with the Chandler Sign Code and be issued a City Sign Permit.

G. ZUP09-1020 CENTRO EVANGELISTICO

Request Use Permit approval to continue and expand a church use in the Mobile Home District (MH-1) at 155 N. Sacramento Street, south and east of Chandler Boulevard and Arizona Avenue.

1. Expansion beyond the approved exhibits (Site Plan, Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The mobile home structure shall be removed.
3. **Trees shall be planted every 20 linear feet along Sacramento Street and along the eastern property line where space is available.**
4. The parking lot shall be paved and curbing shall be provided.
5. **A parking screen wall shall be provided along the north and east property lines to the east of the church building.**

6. The building addition shall be architecturally compatible with the existing church building.
7. **Site improvements shall be completed within eight (8) months of City Council approval in order for the Use Permit to be valid.**

H. ZUP09-1023 ELSA MARINA'S BEAUTY SALON

**Approved to continue to the January 20, 2010 Planning Commission Hearing.**

Request Use Permit approval for a beauty salon business in an office development zoned Multiple-Family Residential District (MF-2) at 501 W. Ray Road, approximately ½ mile west of Arizona Avenue. **(REQUEST CONTINUANCE TO THE JANUARY 20, 2010 PLANNING COMMISSION HEARING.)**

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER HARTKE** to approve the Consent Agenda with additional stipulations as read in by Staff. The item passed unanimously 6-0.

**ACTION:**

D. ZUP09-1006 CAC AT&T MONOPALM

Request Use Permit approval to install a 65-foot monopalm wireless communication facility on Lot 13 of the Chandler Airport Center. The subject parcel is located on the north side of Yeager Drive approximately 300 feet east of Cooper Road and immediately south of the Loop 202 Santan Freeway.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. There shall be two live Date Palm trees installed and maintained adjacent to the monopalm. The trees shall be of 25' and 30' in height at the time of planting and shall match the monopalm's appearance.
3. 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.
4. The monopalm shall be limited to 58' height to top of pole.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated the applicant was not at the hearing. There was no presentation.

**VICE CHAIRMAN CASON** made a motion to approve ZUP09-1006 CAC AT&T MONOPALM at 58 feet to the top of the pole, seconded by **COMMISSIONER RIVERS**. The item passed unanimously 6-0.

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report except to wish everyone a Happy New Year.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS announced that the next regular meeting is January 20, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:38 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, January 20, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Chairman Flanders.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

Mr. Kevin Mayo, Acting 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. INTRODUCTION OF NEW COMMISSIONER, MATTHEW PRIDEMORE  
CHAIRMAN FLANDERS introduced Matthew Pridemore as the new Planning Commissioner.
5. APPROVAL OF MINUTES  
**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER RIVERS** to approve the minutes of the January 6, 2010 Planning Commission Hearing. The motion passed 6-0 (Commissioner Pridemore abstained as he did not attend that meeting.)
6. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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, H and I were pulled to action. It was decided Item D would be presented last.

A. DVR09-1004 PECOS VILLAGE 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 (3) year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning classification. The existing PAD zoning is for an office and retail development on approximately 15 acres. The property is located at the northwest corner of Pecos and Cooper 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.

B. DVR09-1006 PINNACLE PROFESSIONAL VILLAGE

**Approved to continue to the February 17, 2010 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 (3) year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning is for office uses on a 10-acre site located approximately 660 feet south of the southeast corner of Arizona Avenue and Queen Creek Road.

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. DVR09-1010 CONTINUUM

**Approved to continue to the February 17, 2010 Planning Commission Hearing.**

Request rezoning from Planned Area Development (PAD) to PAD Amended, along with Mid-Rise Overlay for additional building height exceeding 45-feet, and Preliminary Development Plan approval for an approximate 152-acre site located south of the southeast corner of Price and Germann Roads. **(REQUEST CONTINUANCE TO THE FEBRUARY 17, 2010 PLANNING COMMISSION HEARING.)**

E. LUP09-1001 OREGANO'S @ THE SHOPS AT PECOS RANCH

**Approved to continue to the March 3, 2010 Planning Commission Hearing.**

Request Use Permit approval to sell liquor as permitted under a Series 12 (Restaurant) license for a new restaurant and outdoor patio within an approximate 12-acre commercial development located at the northeast corner of Dobson and Germann Roads. **(REQUEST CONTINUANCE TO THE MARCH 3, 2010 PLANNING COMMISSION HEARING.)**

F. ZUP09-1009 SIRRINE ELEMENTARY WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install an approximately 65-foot wireless communication facility on the campus of SIRRINE Elementary School at 591 W. Mesquite Street, south and east of Elliot and Alma School Roads.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The maximum height shall be 60' to top of antennas.
3. The wireless communication facility shall use a faux pine tree design that matches the appearance of nearby live trees in a manner similar to recent monopine approvals in Chandler.

J. ZUP09-1022 PUEBLO MIDDLE SCHOOL WIRELESS FACILITY

**Approved to continue to the February 17, 2010 Planning Commission Hearing.**

Request Use Permit approval to install a wireless communication facility atop a 55'-high light pole on the campus of Pueblo Middle School at 360 S. Twelve Oaks Boulevard, south of the intersection of Rural Road and Chandler Boulevard. **(REQUEST CONTINUANCE TO THE FEBRUARY 17, 2010 PLANNING COMMISSION HEARING.)**

K. ZUP09-1023 ELSA MARINA'S BEAUTY SALON

**Approved.**

Request Use Permit approval for a beauty salon business in an office development zoned Multiple-Family Residential District (MF-2) at 501 W. Ray Road, approximately ½ mile west of Arizona Avenue.

1. Expansion beyond the approved exhibits (Site Plan, Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to any other store location.
3. No more than three (3) stylists may be working at the same time. No more than one (1) receptionist or other type of non-stylist employee may be working at any time.
4. 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.

L. CANCELLATION OF THE FEBRUARY 3, 2010 PLANNING COMMISSION HEARING.

**VICE CHAIRMAN CASON** asked Kevin Mayo, Acting Planning Manager, if that was 60-feet or is it 65-feet? Mr. Mayo stated he read the request as it was advertised. On the

record is their memo and the recommendation going forward to reduce that to 60-feet as well as changing that to a monopine. **VICE CHAIRMAN CASON** asked if he and the applicant have discussed the 60-feet on this? Mr. Mayo replied that was correct and it is in their memo and they are aware of both those recommendations.

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

**ACTION:**

G. ZUP09-1010 BOGLE JUNIOR HIGH WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility on top of a ball field light pole on the campus of Bogle Junior High at 1600 W. Queen Creek Road, approximately ½ mile west of Alma School Road.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.

**BILL DERMODY, SENIOR CITY PLANNER**, stated this is a request for Use Permit approval to affix a new set of antennas on top of an existing ball field light pole. It is located on the Bogle Junior High campus, which is on the north side of Queen Creek halfway between Alma School and Dobson Road. He showed on the Elmo where the campus is and where the particular pole they want to go on is among those that light the ball fields north of the school. It would be south of the western ball field. It is notable that there are three sets of antennas already on these fields that were approved administratively - one on the same pole and then two on poles farther east. This particular request requires a Use Permit for two reasons. First, it is less than 300 feet from the nearest residence. The one that is on the same pole was apparently an administrative mistake. It also needs the Use Permit because it adds to the height above 70 feet. Any time you are above 70 feet already, you can't add to the height unless you get Use Permit approval.

The applicant has analyzed all their alternatives to this. They have looked at SRP poles and other ball field lights and this is the particular one they have zeroed in on. Other than this campus, the other verticality's are too far outside their search area. The other ball field lights would require more ground equipment. This particular pole and only this one has enough space within the existing compound for the applicant to put their equipment in and not expand that at all. It does add to the height of the pole. The pole right now is about 70 feet, 6 inches. Actually, all three of them are in a row and have antennas on already. It would add approximately 10 feet to that to allow space for the next set of antennas.

Staff does recommend approval of this request. They do find the addition and height to be rather minimal and the positive trade off of not having to have ground equipment to make this probably the best pole to locate on. They have heard from many neighbors in opposition and will hear from some of them directly tonight. Their concerns include the height, how it looks and the fact that it is an eyesore and health effects. Of course, the last one they can't take into account there. Staff has analyzed this and found that if the impact is negative it is a very small negative. It is an additional 10 feet on something that is 70 feet high. They are comfortable recommending approval. He said he would be glad to answer any questions.

**CHAIRMAN FLANDERS** asked on the configuration they are proposing that does require a brand new pole? Mr. Dermody said he thought it would be a pole replacement. It may use the existing pole but he would have to defer that one to the applicant. He showed what the end result would look like. He said it was a photo simulation. It's not reality. There are antennas out there already. He showed where the Bogle Ball Field lights are and said the new set of antennas would be above that. **CHAIRMAN FLANDERS** asked if the reason they are not putting them below the lights is because when they change lights they don't want to climb through them? Mr. Dermody said that is correct. It is the school's request to make sure that the antennas are above the lights so it is easier for them to repair the lights. **CHAIRMAN FLANDERS** asked if they had looked at the possibility of using a monopine or monopalm on that facility? Mr. Dermody said he didn't know if that had been explored in depth. It hasn't been explored in depth with him. Co-locating on ball field lights is relatively close to being able to meet their code requirements. They pursued this because it was deemed a relatively minor deviation in code. **CHAIRMAN FLANDERS** said he would ask the applicant if the pole is new or existing. As a result of the additional height, he is a little uncomfortable with it. As the applicant knows, he has been before them before. They are trying to keep these things within a certain height. They started out with a little bit lower than that initially, which was a couple of years ago. Now that they have gotten so much more the distance is bumped up a little bit between 60 and 65 feet. From a consistent standpoint he likes the idea of the height of all those poles or the top of the antenna from where the dimension is being taken from at least be consistent throughout the city. His problem with this is the height. He said he is a little leery with the location to the residential houses because it is less than three hundred feet. Mr. Dermody said it is about 220 feet to the nearest property.

**COMMISSIONER KELLEY** asked if it was also considered actually to reduce the height of the light and make room for this new antenna to go where the lights are? Mr. Dermody said they did talk about that but the school wants the lights where they are. They function best at that height.

**VICE CHAIRMAN CASON** asked if any of the other verticality's were over 300 feet to the nearest residence? Mr. Dermody said yes actually. All the rest of them are more than 300 feet. The ones that have the potential for being approved administratively if the school was willing to have the antennas below the lights would be along the right side of

this ball field. They have a secondary consideration. The code only allows one set of antennas per light pole. It also allows only two sets of carriers per ball field. Basically, that would push them to the east side of the eastern ball fields, up against the track. **VICE CHAIRMAN CASON** said that is unless there was a compromise made to go on top of the other two existing verticality's. Mr. Dermody said he should clarify. He was speaking as to what could be done administratively. Through a Use Permit they could go on top of one those other poles and be over 300 feet to the residences.

**COMMISSIONER HARTKE** said they mentioned this could be placed on another light pole that was there and additional space would be required, additional equipment. Staff thought this was ideal because there was room. What are they talking about in terms of additional space to move this a little further away from the residents? Mr. Dermody said a typical amount of ground space is a few hundred feet. He would have to ask the applicant how much would be required here but 300 square feet of ground equipment is pretty typical. **COMMISSIONER HARTKE** asked if it would be a complete separate site or would they just add an additional 100 feet on the existing? The ground that is already sequestered or the spaces below these on the other light poles, would this be an entirely separate unit or could this just increase that by 25 or 30 or 50%? Mr. Dermody said he supposed they could go either way. The equipment itself on the inside would be separate. He would have to ask the applicant to confirm this but he doesn't think there is any reason there couldn't be one compound or if they would rather go into separate compounds.

**RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA, ARIZONA REPRESENTING CLEAR WIRE**, stated he would try to sum up their questions in a precise manner. The reason they chose this pole, in particular, was because this pole when it was built, it was built to be co-locatable, which is the desire of the code in Chandler to encourage co-locations on existing vertical elements. Because it is an existing vertical element, it is on the ball field light. The other two poles that have carriers on them are not co-locatable in that a typical carrier like T-Mobile has a bundle of 24 coax cables that are 7/8 of an inch around. Take you coax cable plug for your TV and make each of them 7/8 of an inch in diameter and put 24 of them in a bundle and put them up the inside of a pole. Co-locating with that tends to be very difficult unless you build a very large pole. What they have here is the largest of the 3 poles because it was built for co-location. They chose it because it was built for co-location. The average size of a ground set of equipment for a normal carrier is 20 by 30 feet approximately. It lends itself to 600 square feet. They only need about 10 by 15 feet because they put a cabinet in the ground space that is 2 foot by 3 foot. It is a small cabinet. It is similar to the green cabinet you would find in your front yard generally except that it is 54 inches tall, which Chandler requires an 8-foot screening CMU wall. You end up with an 8-foot wall and 150 square feet. Why do you need 10 x 15 for 2 foot by 3 foot pieces of equipment? It is because you have to walk around it, be able to open it, meet your clearances from an electrical source, etc. Is it possible to go on another pole at the school? Absolutely it is possible. They could have done that administratively. At the time, they approached Staff and said here are their options – what do you think? He went to his techs. today and

asked if he had to absolutely reduce the height of this tower, how far could he go? He can get another 2 feet down. He said 8 feet versus 10 feet doesn't do much for him because it is a small percentage but it is still 2 feet. They try and accommodate the landowner, which in this instance is the school district. They prefer not to have to work over the antennas to maintain the lights because the lights are still theirs. He can't reduce the lights because the photo metrics on these fields are designed by a company to create certain lights. The reason light poles actually go high is because they can emanate light down and not spread out into the neighborhood. That is why they do photo metrics on these lights to make sure that they don't so that you get the correct lighting. They can't mess with the height of the lighting or its orientation otherwise the photo metrics for the whole field goes awry.

To go to a different light pole they would have to replace that pole because structurally they are not sound. Every one of these has been replaced by a new pole. **CHAIRMAN FLANDERS** asked that what he is proposing here is a new pole? Mr. Anderson said no what he is proposing here is an existing pole that was built for co-location. It is larger than the other 2 poles that have already been replaced to allow a carrier to go on there. Over times the schools have found that it is a hassle for them to work over the antennas to get to the lights to maintain them. Mesa Public Schools, which they have a couple in Chandler, they all require above the lights. That is their requirement. It is that way across the valley. The only ones are the ones they found below. Their option is to go to another light pole and to go above those lights which would end them about 8 feet difference from what they are proposing and they would have to replace the pole and they would have to put ground equipment in. Here they don't have to do those things.

Clear Wire is a wireless internet provider – hi-speed wireless internet. It is 51% owned by Sprint. When you see Sprint advertised on TV saying they have 4G, Clear Wire is 4G for Sprint. They are creating the 4G environment for that carrier. You will also see on TV the commercials where Verizon and AT&T are fighting over who has the best 3G and Sprint stepped out to do 4G ahead of everybody else. He has been one for pressing height down. What happens and he has told them before. He could put one 6,000-foot tower up in the center of town and cover the entire metropolitan complex but only 3 people could use their phone at one time. The more subscribers the more phone users you have. It is the same for internet. The more users you have the closer they come and the lower they get because they talk to each other. If you have one that is way high, it will bleed into the others and cause you to drop calls. In their instance, a normal cell phone tower has a land line, a T-1 attached to it which is the choke point for high speed internet. All of these carriers have the problem of how do they get high speed data through their lines if his choke point is his T-1. Clear Wire solves that problem with microwaves. Their microwave hub site is the tall building next to downtown. He showed on the Elmo where it is. The AT&T building is their microwave hub site for Chandler. It microwaves pinpoint laser tower to tower and it carries that on a hi-speed connectivity. He has provided Staff with a huge map to show how all that interconnects for the whole city. So it works. What that says is that he has to be above the canopy and canopies here aren't like canopies in Seattle. Canopies in Seattle are huge trees that are up at about the same

height. Here they have varied topography and they have buildings. You are putting up the new City Hall building that is at least 5 stories tall if not taller. That would block a signal if he had to microwave between 2 sites to that tower. They will see them needing more height than the other because they have microwaves that communicate with each other whereas they go into landlines back to a switch.

**COMMISSIONER HARTKE** asked if this was to be located on another pole there and does he know the distances that those are from residences? Mr. Anderson said he did not know. He is going to guess that Bill is correct and they are 300 feet. Mr. Dermody said about 400 and 500 feet. **COMMISSIONER HARTKE** said so if you built a new one on these it sounds like his needs are minimal here. Are you able to adapt this existing compound to another or would there be an entirely separate compound needed? Mr. Anderson said it requires an entirely separate compound because it requires an entirely separate pole. If he went to one of the others, not only would he have to take their site down and replace it with a larger co-locatable pole which would increase the visual impact that is already there, he would also have to increase the footprint of their ground space as well as replace their pole. Can he put his equipment in their compound on another pole, the answer is no. **COMMISSIONER HARTKE** said so the equipment/compound he would need is at about 150 square feet, 10 x 15? Mr. Anderson replied that is correct.

**COMMISSIONER RIVERS** said the new pole that would be built to replace the non co-locatable pole that they are talking about, how tall would the new pole have to be? Mr. Anderson said the lights are currently at 62 feet, 6 inches. The antennas would be above that, approximately 70 feet. Mr. Dermody said all three poles on the south side of the field that have antennas on them already are about the same height. This one is specifically listed at 70 feet, 6 inches. He believes the other ones are probably the same height. **COMMISSIONER RIVERS** said what he is trying to determine is if you replace the existing pole so you could have light and 2 antenna arrays on that pole, would it also need to be 80 feet high? Mr. Anderson answered correct.

**VICE CHAIRMAN CASON** said on a couple of other items tonight that were passed on the Consent Agenda, these were poles that were 60 feet high. He asked why the microwave path is o.k. at the other 2 sites and it is not o.k. at this one? Mr. Anderson said it all depends on how close and what the line of site is to the next closest tower to it. All of these have been flash tested. That means they go out and they flash from here to here to see if they have line of site and he literally has had them come to him on one flash test and said there is a tree in the way. Can you talk to that landowner to see if we can cut their tree down? He said he doesn't know who that is and no he won't. They need to figure out a way around that tree. That is how precise the communication is between microwaves. **VICE CHAIRMAN CASON** asked but each pole has a to talk to 3 other sites, correct? Mr. Anderson said correct. **VICE CHAIRMAN CASON** asked if he had placed any of these anywhere in the city yet? Mr. Anderson said there is one currently built at Stellar Airpark. **VICE CHAIRMAN CASON** asked if it has the microwave dish at the same elevation as the cellular panels? Mr. Anderson said yes that is their general

plan to do that. **VICE CHAIRMAN CASON** asked how high is that pole? Mr. Anderson replied he is going to guess 55 feet. **VICE CHAIRMAN CASON** asked let's say that you flashed all of these, does that mean the map he provided to them are active locations or are those locations that you wish to activate with this technology? Mr. Anderson replied those are proposed locations. **VICE CHAIRMAN CASON** said if he heard him correctly, he has gone out with a truck and raised it up to the proper level and then they look through one end with binoculars and the other to make sure they have nothing in line. Is that correct? Mr. Anderson said that is correct. **VICE CHAIRMAN CASON** asked is this entire network they are proposing here all of those various sites that have all been scientifically arranged so that if there is any alteration it would completely shut down the network in that area? Mr. Anderson said if the engineers had their way, those would all be at 80 feet. Every site would be at 80 feet if they had their way. Engineers don't always get their way because 80 feet isn't always achievable. You have to compromise which is what they intend to do where they can. Where they can't they tend not to. If it doesn't work because of the height and it doesn't work, why put it up. **VICE CHAIRMAN CASON** said if he is hearing him correctly he is saying if they have a particular quadrant that they have to cover for their retail sales and by some particular reason they can't develop all 3 paths from that one location, then they decide they are not going to service that area or are they going to try to find an alternative method? Or are they going to use underground fiber optics or other types of communication paths that won't be so restrictive as a copper solution? Mr. Anderson said it is a non-copper solution. It is a fiber optic solution networked by microwaves. Copper solutions is a T-1. **VICE CHAIRMAN CASON** said what he is asking is an alternative to a copper solution such as fiber optics and those types of things. They would use that instead of a microwave if they were not able to get your 3 paths from that particular pole site? Mr. Anderson said they might end up creating what they call a spur, which is a single site so you only need a single path because they are on loops back to the hub site and off of that they have spurs and other loops. They can only do so many. There is really only one hub site in all of Chandler. That is here. There is only one hub site in Mesa. So the 2 hub sites right now are intended to communicate with the whole southeast valley. **VICE CHAIRMAN CASON** said in a particular location where for instance, they can't get any paths or they just don't have a microwave alternative for that location, do they just not serve that location or do they try to find other underground alternatives for that location? Mr. Anderson said right now they would not serve that location. **VICE CHAIRMAN CASON** asked so there technology is if there is no microwave, then there is no technology? Mr. Anderson said right. **VICE CHAIRMAN CASON** asked so in any cases at a particular site to go ahead and reduce or modify their height it would require the engineers to do what? Replace more poles so they could cover the area or have links that wouldn't have to be so high on the poles to be able to hit their main point? Mr. Anderson said 4 links is more appropriate. They would have to create more links shorter distances at a lower height to elevate you up. If he could not see from this one at 50 feet and he could see from this one at 60 feet to where he needed to go, he would create extra sites to be able to connect. They would elevate over distance by creating more of what they don't want to see.

**VICE CHAIRMAN CASON** said he wanted to move away from the technology to the specific location. When he was out there it looked like the poles were relatively the same dimension and the same size metal and the same stout look about them. He said if he understands them correctly, they are different and they are not the same dimensions. Mr. Anderson said they are not the same dimension. The diameters are different. **VICE CHAIRMAN CASON** said he could replace the pole in the middle but you just couldn't co-locate your equipment there. Is that what you are stating? Mr. Anderson said he could replace one of the existing poles that has lights only on it. He would have to replace that pole for structural purposes and put his ground equipment next to it. **VICE CHAIRMAN CASON** said but he couldn't replace one of the other cellular poles that is there? Mr. Anderson replied not without creating the same thing he has here. **VICE CHAIRMAN CASON** asked so the pole that is about 100 feet east of here, he would have to replace the entire pole in order to be able to get another 10 feet off the top of the pole? Mr. Anderson said yes and to make it co-locatable. In other words, to get there cable down the center of it also. **VICE CHAIRMAN CASON** said but their concern in doing that is that they don't have any place for his ground equipment there. When they have had this discussion before, if they increase their cable diameters, they can increase their cable length. Can't they make that pole big enough so they can still use the structure that they want to use on the west side thereby moving the antenna to a more central location on the school grounds? Mr. Anderson said he could take an existing pole and replace it and put the antennas on it and put the ground equipment next to it, which would be the more acceptable alternative. **VICE CHAIRMAN CASON** asked from a financial standpoint? Mr. Anderson said no not from a financial standpoint but from a logistical standpoint because when you take that tower down that carrier still has to have antennas up. So they are going to bring in a cow (cell on wheels) and they are going to run up and try to keep him on line because he is going to stay on line. He still has to build ground equipment and he still has to replace that pole. What does it take to replace that pole? He can't just come in and bolt a new pole on. It doesn't work that way. He has to come in and drill a new foundation. How close can he get to that foundation? He can't get within 5 feet of that foundation because that foundation is anywhere from 15 to 30 feet deep and six feet in diameter. That is what it takes for a normal cell site. Because these have lights on them they also have higher wind loads. That is what you design your foundation for is the wind loads. What they have is a pole now that is extendable that is designed for that; when they did the pole they made it co-locatable. Its foundation is bigger than the other two. Then you have to cut it off, drill a new hole, pour a new foundation for a new larger pole. **VICE CHAIRMAN CASON** said in deference to being closer to the homes, if that's what it takes in order for them to get what they need on the property, he is certain they would be able to do that. Have they spoken to the school district particularly about changing out the poles and those types of things or did they just go for this pole because it was co-locatable. In fact, he prefers administrative reviews because he doesn't have to be here. They are easier. Unfortunately, they felt this was the best solution because it was already a co-locatable pole. They already have the verticality there and Chandler has been very adamant with us about using existing vertical elements. He has two other cases not here but where he has had to move and go

to a different configuration because they want him co-locating on poles. He is being sent to city poles to co-locate on Mesa Schools that are in Chandler.

**VICE CHAIRMAN CASON** asked Staff if the pole they are talking about co-locating on were to come before them as a new pole, considering there are already other poles on sites it has to come through, it couldn't be done administratively? Would the fact that it is too close to those homes actually prompt a denial on the Staff's part? Mr. Dermody replied no that situation is pretty similar to what they have today. It would be ball field lights that probably are a little less than 70 feet – 60, 65 feet and you would be ending up with something that is the same height as they are talking about today. The only difference between that and this is a few feet and a set of antennas. It would be a pretty similar situation. They would be talking about a 70-foot pole instead of an 80-foot pole but it would still require a Use Permit because it is less than 300 feet from residences and they would probably be recommending approval of that also. **VICE CHAIRMAN CASON** asked did this pole when it was originally put in there require a Use Permit because it was within 300 feet of the residences? Mr. Dermody said it should have but it apparently was an administrative error. **VICE CHAIRMAN CASON** said so the fact that they have a pole there is an error that they don't want to perpetuate. The pole for intent and purposes will always be there. By allowing them to build up on it they just reinforced that fact that pole is still there. Wouldn't they reconsider putting a pole or increasing a pole a little more centralized on the property so they weren't so close to those homes? Mr. Anderson of Clear Wire said if they have to do the balance between the people they are going to hear from later, would they be happy with that versus this? What is the impact? Am I going to put an 8-foot wall 10 x 15 feet at the base of the new pole, which he would have to. Here he doesn't have to do that so you don't see anything. The only thing you see is the antennas on top of this pole. You are going to see the antennas on top of that pole so they are both going to be eyesores. There is no difference this one to that one except that they are going to increase the visual impact but you are going to see the ground equipment. **VICE CHAIRMAN CASON** said he doesn't know if he necessarily agrees with that but he thinks the ground equipment is a non-issue because you can't see it from the people's backyards anyways. If they peeked over the fence you could see it. The fact that the pole is 100 feet away would certainly lend to the argument that they won't be able to see the ground equipment or the walls protecting the ground equipment. While he is certain that the residents that are here are going to make their own points, a way to mitigate some of the issues they might hear about is to at least move it an acceptable distance away from the homes. He just offers that as a suggestion as possibly getting past this particular item.

**COMMISSIONER RIVERS** asked Mr. Anderson if he was to build his own single pole for their array and not for anyone else's, are there poles on this property that are doing nothing right now but holding lights up? Mr. Anderson said yes. **COMMISSIONER RIVERS** said so if he replaced one of those poles would his array still need to be 80 feet high? Mr. Anderson said no and it would need to be about 70 feet. **COMMISSIONER RIVERS** asked is that what the other company's single occupancy poles height for those

are as well? Mr. Dermody said he was out at the site today and has reviewed the materials. The existing poles out there that have antennas on them are 70 feet, 6 inches tall. Mr. Anderson said they would be identical to that.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated they are talking about ball field lights. When you replace a ball field light to have it now serve as a support for wireless communication as well as for the ball field lights, their code says that the communication facility will be 70 feet of height or the height of the already existing ball field light, whichever is greater. They have 70 feet. It might be slightly more than that depending on the height of the light pole was that was being replaced. **COMMISSIONER RIVERS** said what he was trying to get to was if you have a 70 foot pole that is a hundred feet farther from homes versus an 80 foot pole that is a 100 feet closer to homes, he favors the further distance and the shorter pole. Even if it has to be replaced and there has to be an 8-foot wall around a 150 square foot round object. He asked if he were to build a monopalm to hold their antenna array on this site, would it need to be taller than 55 feet? Mr. Anderson said there were two issues with that. He said you would ask him to make it 55 feet and you would ask him to plant 2 friends next to it. A monopalm here is not an acceptable solution when you have existing vertical elements because you would limit him to 55 maybe 60 feet and he would have to plant 2 friends next to it. The schools don't want to maintain those friends so he has that problem.

**BARBARA LOSEFSKY, 2730 S. NOLINA PLACE, CHANDLER** said she has been sitting there listening to all that is going on. She deliberately had a written talk because she was afraid she was going to get so emotional she would cry. The picture they were showing of that cell tower is what she looks at every morning when she gets up. A few feet to one person is an awful site to another person. The Chandler Unified School District has stated their fiscal financial problems make it necessary to try to get other monies. As good neighbors, they have tolerated intrusive lights 4 or 5 nights out of the week. They deal with traffic, etc. but they do it as good neighbors knowing that if the money goes to the school then it benefits everybody. However, now they are being asked to accept another 10 feet and this monstrosity on top of it. She can't understand it when she knows if they had come before them at another time had they been given the opportunity, a 60 or 65 foot seems to be what the city seems to be hoping to get. When these poles went up, none of her neighbors were ever apprised of any of this. They came home one day, drove down the street and there they were. As stated, it was an administrative mistake. She doesn't think they should have to suffer any further. They are living with the ones that are there now; they just basically don't want to live with any more. They feel enough is enough. One thing that she wanted to talk about and feels very strongly about, she finds it difficult to comprehend how it is in a neighborhood a schoolyard can lease and become landlords. She said to her it was unbelievable. She had no idea this could possibly be. Therefore, she probably wouldn't have bought a home if she had known she was going to have commercial entities in her backyard and she loves Chandler so that is a lot for her to say. They are talking about height and distance from homes and it is just not acceptable. They are very close to this and she doesn't think it is

fair that they should be subjected to further. It's not that she doesn't want the school to get the money and not that she doesn't want to have her own wi-fi, she wants it as much as anybody else. This is over kill and what she is afraid of is that should this pass setting a precedent, there is nothing to be said that 6 months from now they are going to be sitting back here again for somebody else that wants to put up a monopole or coming in with one of the other light poles. The fact of the matter is this is within 300 feet which is what most of them recommend. They did that with San Tan. They don't have the luxury here and she thinks it has to be addressed for what it is. She doesn't see a ball field become a field of dreams but a field of antennas. She is scared of that. She implores them to reconsider anything that has been said as far as wanting them, not wanting them. She feels they have enough already. She doesn't want to look at this everyday. If they don't think 10 feet adds a lot, take a tape measure and put it up and see. She said she respects listening to her and she hopes they understand where they are coming from.

**CHAIRMAN FLANDERS** asked if there were any questions.

**COMMISSIONER RIVERS** asked if she could please point on the little map where her house is. Ms. Losefsky showed where her house is. She lives on a cul-de-sac in a two-story house and when she looks out her front windows there it is. **COMMISSIONER RIVERS** asked how far is she from where this place is? Ms. Losefsky replied 300 or 400 feet. She said she is not one of the closer neighbors.

**COMMISSIONER HARTKE** asked for clarification that this one pole is the only one that was the administrative oversight because it is within 300 feet. Is that correct? Mr. Dermody said that was correct. **COMMISSIONER HARTKE** said the other poles were not prevue to this. If the closest house is 220 feet, how far would you put her house comparatively? Ms. Losefsky said about 250 feet. If the monopole is here now, she said she is not on these houses here but down and in and she is in the development in there. **COMMISSIONER HARTKE** asked if this was placed on a pole further from your house would that be less of an issue if this was not located so close? Ms. Losefsky said she learned very early on in life that sometimes you have to go along with things that we might not be too happy about. In a lovely world she would like it to stay as it is. She just thinks they are creating more than we know what they are doing there. To do this, every six months every year they are going to be looking at her face because it is going to be somebody else wanting it. The fact that those poles exist there is nothing she can do about it anymore. If in fact another pole is utilized, is she understanding that there would be no necessity to come before either the Planning Commission and it would strictly go through the school? Mr. Dermody, Senior City Planner said potentially that is correct. There may be an issue with height but if they can take care of the height issue there may be a pole that doesn't need a hearing or permission from the city. Ms. Losefsky asked if she was correct in understanding that this company will come back and ask for another pole if they can't get this. There is no guarantee that they would get that.

**ROB HARNEY, 2751 S. NOLINA PLACE, CHANDLER**, said he lives two doors down from Barbara and they can see it from their front yard, back yard and greenbelt.

They moved into the property 11 years ago and if he remember correctly there were no towers there just light poles. As Barbara said one day these things just popped up without any say from any of them. It bothers him that the school district is making decisions for everybody in their neighborhood. They all pay taxes. They love where they live and love Chandler. He complimented them on the great job they have done. He has to agree with Barbara that enough is enough. His biggest fear is that there are several other light poles on the field and the field is going to be surrounded with all these towers. It is just ugly and not nice to look at. He doesn't know it affects their property values and he worries about that. He worries about future higher towers. Eighty is good right now; ninety or 100 might be better - later. Do they have any say in that? It is an existing pole, but as Bill mentioned, that was an administrative mistake. It is very upsetting and very concerning and he said he appreciated the opportunity to talk in front of them. He hopes they support them and he is very opposed to this. He thinks there has to be other options. As Barbara said at Clemente Ranch everyone takes pride in their homes there. They keep it up very well and are good neighbors to the school. It is a beautiful school. He has the feeling they don't have a say in the matter. He is asking them to deny this request.

**COMMISSIONER RIVERS** asked him to point on the map where his home is. The cul-de-sac called Nolina is where he lives. How far down that cul-d-sac does he live? He's just trying to figure out if he is right across from where the existing pole is or if he is farther away. Mr. Harney said he is farther away. He is right across from Dobson Park. **COMMISSIONER RIVERS** asked if he had a cell phone and internet in his house. Mr. Harney said he had a cell phone but does not have internet.

**COMMISSIONER HARTKE** asked Mr. Dermody to tell the audience when something kicks into them even if it is administrative is it 70 feet? Mr. Dermody said that is correct. To be able to be approved administratively one of the requirements is that the height does not go above 70 feet on these ball field lights.

**RAJKUMAR SIVASANKARAN, 2761 S. NOLINA PLACE, CHANDLER**, showed where he lives on the map. He read a statement from his wife who had to leave. His sentiments are very similar to hers. The statement read as follows:

Thank you for giving me the opportunity to express her strong opposition to the proposed wireless tower at Bogle Junior High. When she drove through Clemente Ranch for the first time in 1998 she fell in love with it instantly; the great expanse of green belts, long walking paths, a beautiful city park where the neighborhood children spent most of their evenings and a well-maintained community defined this neighborhood. Little did she imagine that her pride and her dream would soon be replaced by these ugly towers that she sees every time out of her house or opens the blinds of her master bedroom. She sees something out of a Steven Spielberg movie – something that resembles a parking lot of a space ship. She sees 3 out of 9 poles fitted with minimum 3 antennas each. Now they are asking to raise it to 81 feet. She cringes at the thought that there are 6 more light poles at the ball field even though the potential health risk will not be considered. As the mother of a child who's classrooms are very close to these, she is left to pray that these

kids do not become statistical data points. As a mother and a resident, she would like to say this is too much. We as a neighborhood have been very supportive of the school. There are a thousand or so homes in the subdivision and an eyesore like this will bring the property values down of not only the homes near the school but others in the community because of comparables.

They really love the neighborhood and living in this city and they keep promoting it to all of their relatives. In fact, his wife's sister moved into Chandler just a mile or so from them based on their recommendation of how the city is. Mr. Sivasankaran said he requests the city planners to consider their humble request to deny this proposal from Clear Wire.

**COMMISSIONER RIVERS** asked him if he would be more pleased if this additional antenna was put on an existing pole at an existing height as opposed to raising this pole? Mr. Sivasankaran replied that they would really like not to have this at all. **COMMISSIONER RIVERS** said it is simply a choice between adding 10 feet to this one or just adding antenna to another pole without increasing its height. Mr. Sivasankaran said he would have to go with adding antenna but his preference is to not have any more of these towers.

**UMA GADAMSETTY, 2741 S. NOLINA PLACE, CHANDLER**, said he lives right across from the ball field and an 80-foot tower is definitely visible from his front yard. Because it is so close to the houses, the planners are saying within 220 feet, the backyard of the house is within 200 feet. It is not really 220 feet. Somebody in the backyard is looking at an 80-foot tower and this will have an impact on the value of the property. As Raj was saying, the neighborhood comparables will have an impact on this property as well. He really likes Chandler and the way it plans a lot and that is why he moved to Chandler. He purposely looked at houses far from the corners so he thought he was safe. He never expected cell towers to go there. All these cell towers went up without anybody informing them. They were not given any opportunity. As the planner said, there is an administrative error but they are going to suffer for it because somebody made an error. They take pride in their homes a lot. He honestly would tell people to buy homes in Clemente Ranch. His son is in Bogle Junior High School now and he is sitting in a class for 5 or 6 hours right under the tower. There are no valid tests right now if it harms or not but 20 years from now they don't know. He hopes his son won't become a study case for this. Please deny this request.

**COMMISSIONER RIVERS** asked him where he lives. Mr. Gadamsetty pointed out his house.

**CHAIRMAN FLANDERS** asked the applicant to step forward to respond to any of the comments that were made.

**MR. ANDERSON, CLEAR WIRE**, said he wasn't sure how to exactly address the neighbors. He recognizes there are compromises when they deal with technology. No

one wants to have it but everybody wants the service. Twelve years ago when they moved to their homes cell phones were not something that was prevalent in residential neighborhoods. Cell towers were not prevalent in residential neighborhoods. He gave an example. In 1997, which was roughly 13 years ago, T-Mobile launched here with a 197 sites in all of Arizona. Today they have over 700 sites in all of Arizona. Clear Wire is launching with an excess of 600 sites in Phoenix and Tucson to start because of its need to provide quality coverage for the people that want it. So all of the neighbors that are attached to Cox or Qwest and pay a lot of money, you will notice in the last 13 years what's happened to cell phones and the cost of a cell phone. Fifteen years ago it was a \$1000 a month if you had a brick on the side of your belt. Today you can get cell service for \$30 a month. What creates that is competition. You want high speed internet in your home and portable. He is old school and doesn't even know how to text. He turns it off and doesn't answer his texts because his kids do that. Thousands a day. He does not text because he doesn't know or want to know how. That doesn't mean he would deny the right to everybody around him to be able to text as long as they are not driving. High speed internet and the portability of that internet with the number of people that carry laptops that want to take them from their home and take them to their work and be connected. That is what this is all about. It is the technology that is here. He is sorry but his parents never owned a microwave either but he couldn't live without one because his food would be cold every night. It is the way they are. There are over 230 million cell phones in America today. The U.S. government is subsidizing rural broadband high speed internet. Why are they doing that? Because people are begging for service. Here they are in a metropolitan area where they have options but those options cost them money. Everybody wants to save a buck and this is one way to do that. As you heard, it is the lesser of two evils. It is not that service isn't going in, service has to go in. Where does it need to go and how do they have it. He thinks they picked one of the least obtrusive ways and they can do that here on this site and that is why they submitted this application to them and he thinks that is why their Staff is supporting it.

**VICE CHAIRMAN CASON** told Mr. Anderson he wanted to make sure he understands. His hub or where all of his antennas go back to hit the cloud and go to the internet, that is those 3 dots at the southeast corner of Chandler Boulevard and Arizona Avenue. Correct? Mr. Anderson said they are in the building right next to City Hall. **VICE CHAIRMAN CASON** said so in selecting this particular site really had more to do with the existing verticality and the opportunity to go on top of it, as he thinks Mr. Anderson said their predominant driver on this particular site? Mr. Anderson said that is correct. **VICE CHAIRMAN CASON** said if could gauge any feeling up on the dais, he would be bet that selecting that particular pole is probably not going to work. Having said that and with Commissioner Rivers idea of using another light pole, perhaps closer to the track or having to re-create the pole that is in the middle, the one that is 100 feet over both of those things are just like starting a new pole. Did he check any locations south of Queen Creek or anything that would put him at that same location that did not involve existing verticality's? Mr. Anderson said typically when you have no existing verticality's you would go for a willing landlord. When they are on a commercial corner surrounded by residential, they will try four commercial corners to find a willing

landlord. Unfortunately, he does not have the power of eminent domain. So he can't go in and say this fits his engineering design, here's where he needs to go. Here they had existing verticality that met the engineering design and the coverage objectives of Clear Wire. There seemed to be no need to go further. The question was do they go up or do you go over? The decision they made was to go up because he believes it is still less obtrusive than going over. In the event of a denial they go over. They still have to provide service. That is really the issue here tonight - up or over. **VICE CHAIRMAN CASON** asked so in the retention area of the shopping center that is on the northwest corner of Alma School and Queen Creek Roads and because of the fact that they had this opportunity, none of those areas were really examined closely or run past their engineering group to test the line of site with the other towers in the area? Mr. Anderson said some of what he was saying is correct but he also has to know that the closer they get to another proposed site the less acceptable they area. They have a search ring, an area of interest they would like to get in the dead center of if they could. They can't always do that which causes re-design of other rings that as you push to the north or the south or east or west and that is something they have dealt with Staff on. Is there existing vertical elements in a given diameter around this area? He thinks they have shown there aren't any other existing vertical elements that they could co-locate on. They have to do that as a function of their application. They have demonstrated that to Staff's satisfaction. Now can he put up new poles? Yes. Which is better? A new site or existing vertical elements? The question becomes up or over?

**VICE CHAIRMAN CASON** said if he looks at this map this particular site is called site no. 576. Correct? Mr. Anderson said yes. **VICE CHAIRMAN CASON** asked Mr. Dermody if site no. 576 is reasonably accurate to the map? In other words, it isn't a little bit over to the right? That street that is just to the left of it is this street here like they see on their ELMO? Mr. Dermody said it is just North of Queen Creek and West of Alma School Road. **VICE CHAIRMAN CASON** asked if it is reasonably accurate? In other words it is not to the right where the uncolored area meets the shaded area? The street that would go through the lower left hand dot is that this street that was on the ELMO? Mr. Dermody said yes. **VICE CHAIRMAN CASON** asked so that is a reasonably accurate depiction of where that site is located in reference to this map? Mr. Dermody said yes it is. **VICE CHAIRMAN CASON** stated moving it to Alma School you could see that it would move it way out of its area. He asked Mr. Anderson if they haven't really checked anything south of there? Mr. Anderson said they have two locations there on the map. Once again, when they have an existing vertical element you don't go out of your way to put up new sites. It is not something the city prefers and not something the city has expressed to us that they prefer. No, they don't typically play that guessing game. In fact, when they addressed this site they went to Staff first before they ever even started on this site. Is this something that they would support? They did this before they even went forward. **VICE CHAIRMAN CASON** asked despite the suggestion with Staff would that be something that they as a consultant and their customer would consider perhaps putting up a new structure south of Queen Creek? Mr. Anderson said he guesses they would always consider every option if they are forced to consider those options. How does he answer that question? The answer is they haven't, could they and would

they find a landlord that was willing that met the setback requirements, that met everything that would minimize the visual impact that wouldn't be in someone else's backyard. That is what he is asking him. He can't answer that question.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, asked Mr. Anderson that Staff has indicated that the poling question that they want to co-locate on is less than 300 feet and the current wireless facility that was allowed on that inadvertently or through an administrative error, wouldn't the co-location that they are seeking simply compound that administrative error? Mr. Brockman said he knows it was an administrative error because the code says it has to be 300 feet so for Staff to have been allowed administratively would have been an error. Mr. Anderson said the other two towers are in excess of 70 feet and the code says you can't exceed 70 feet but they are both there administratively. All three towers are there administratively and all one way or the other doesn't meet the code. T-Mobile is there and he put it there. It wasn't a mistake. This was the administrative process they went through at the time. When he hears mistake, he says wait a second. I did one of those. He didn't think he was making a mistake then. Mr. Brockman said he was simply pointing out it wasn't his mistake he understands Staff is saying they made an error in approving administratively the first wireless on that pole. Isn't co-locating on the same pole simply compounding the error? Mr. Anderson said not if you come forward and get a Use Permit, which is why they are here. If they would have done a Use Permit in the first place, they could have come and modified it with a Use Permit. He still would have had to come back here had it been there with a Use Permit or had it not been there with a Use Permit. He would have been here saying the same thing he is tonight, which this is the lesser of two evils if you believe the evil part.

**COMMISSIONER HARTKE** said his use of lesser of two evils is just the parameter he is choosing to meet proximity is perhaps a greater evil than the construction or redoing of another pole. He struggles to support his application because his paradigms of evil are different than his and the proximity of under 300 feet even with administrative error in the past, he would have to disagree on this. Mr. Anderson stated he would venture to say that most of their applications that come forward to them be it monopine, monopalm or otherwise don't meet 300 foot setbacks. **COMMISSIONER HARTKE** replied there have been two. He checked into that before this meeting and this would push the edge on that. Mr. Anderson said he would differ to say that is probably incorrect. He has done more than 2 himself and he has many more applications coming forward that can't meet 300 feet. If 300 feet says you can't get a site in the City of Chandler then they have a problem with an ordinance. If they have a problem with an ordinance it gets solved by a higher authority. He can't do anything about that. You can't prohibit service based on a setback that can't be met. Here it can be met. It is either up or it's over. **COMMISSIONER HARTKE** said he is saying that over is the lesser. Mr. Anderson said he is saying up is the lesser. **COMMISSIONER HARTKE** said he is saying that proximity is the greater rather than the lesser is his paradigm here.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** said as a point of clarification that 300 feet distance is applicable only in connection with the ball field light replacements.

**COMMISSIONER PRIDEMORE** stated they are only hearing there are 2 options. It is either this pole or they move it over so it is far enough away from the residences which is option 2. I guess what he hasn't heard is that there is a third option and that is to look for an entirely new site in this area where you may not have existing verticality and they may need to put in a new pole but it would still meet the criteria they are trying to meet. Isn't there a 3<sup>rd</sup> option that has not been investigated yet? Mr. Anderson said there is probably a 4<sup>th</sup> option too. He could redesign his whole system. **COMMISSIONER PRIDEMORE** said fair enough but, again, he doesn't see that it has to be restricted to these 2 poles or locations both of which are on this particular school property. He would put forth that there is a 3<sup>rd</sup> option and that is to find another location in this general vicinity that meets their overall requirements for the service of the area. Mr. Anderson replied he would say that he doesn't believe that is in the best interest of the City of Chandler.

**CHAIRMAN FLANDERS** said based on land use issues and aesthetics and everything discussed tonight, he had the height problem as far as the 80 plus feet and the separation distance. In reviewing these applications, they do take into consideration separation between residential uses and the pole itself. Those are two strikes against you right there. The third one is perpetuating a mistake that was made previously. He doesn't think they should go down that road. As far as this application tonight, he is probably not in favor of it. If there is another location that he can look at he would suggest, as Commissioner Pridemore mentioned, to take a look at that.

**COMMISSIONER PRIDEMORE** asked Staff if the applicant would choose to come back at one of the other existing poles farther to the east would that be an administrative review? Mr. Dermody said potentially there would be a question of height. It seems that staying under 70 feet in height would be a close proposition. It does meet many of the other requirements. It would be the potentially the only set of antennas on the light pole and be more than 300 feet of residential and so they would be dealing only with the issue of height. **COMMISSIONER PRIDEMORE** said his concern was that if the applicant would come in with that location on this particular property farther east, they would not see that especially after they have had several residents speak up on the matter. It is very important to them and he thanked them all for taking the time to come in and speak. Is there a way that they can make sure they see this again if it is on this particular site? Mr. Dermody said if they meet the requirements of code there is no way. The code is set up to allow certain things administratively and with this application already in process it is too late to change the code on it.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** stated the provisions of the code dealing with Wireless Communications are very detailed and explicit and it was trying to accomplish a whole lot of things. One of the things they were trying to

accomplish was to find a way to allow a wireless communication provider who meets certain standards to not have to go through a Use Permit process. Use Permit processes are expensive to some degree, they take time and the whole Federal Telecommunications Act urges to reduce those types of problems such as time and cost. They set up a series of standards for residential, commercial, and industrial districts, and if a provider can meet the standards for that particular district and whatever standards are in the code, the matter is handled administratively. One of the big problems here is that notwithstanding Mr. Anderson's statement that there is a policy of co-location, the truth is in respect to ball field light replacements, that policy isn't the same as with other situations. They have a provision that says not more than 2 ball field light poles serving a single ball field may be used as wireless communication facilities and no more than 1 service provider shall locate antennas on a single ball field light. What Mr. Anderson wants to do is find another ball field light where there is already an antenna on it so they can co-locate. That will require a Use Permit. If he finds a ball field light that is not the third one in a ball field, that he can replace the existing light with a pole that will serve both the functions of supporting light and the antennas. If he meets all the height requirements and everything else, it can be done administratively. That is by our code.

**COMMISSIONER HARTKE** said so he is saying there are already enough light poles, enough communication devices in this ball field that it would come back to us even if it were under the height?

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said he doesn't know because they base it on the ball fields. Looking at what was on the screen before, it looked to him like there were 4 baseball fields plus the football field. Theoretically, you could have 10 ball field lights within Bogle Junior High that could have wireless antennas on them that have been done through an administrative process.

**CHAIRMAN FLANDERS** closed the floor for discussion and motion.

**COMMISSIONER RIVERS** thanked Mr. Anderson for heeding their request to look at existing verticality's. However, he thinks this verticality is the wrong one. The issue is using the existing pole or going to a new one and as has been pointed out, there are other options as well. He thinks no matter what they talk about with this project, this revamped pole at 80 feet is too tall and too close to area residences.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER HARTKE** to deny ZUP09-1010 BOGLE JUNDER HIGH WIRELESS FACILITY.

**COMMISSIONER VEITCH** said he supports the motion and to him it boils down to case A, which is an 80-foot pole with 220 feet from residential property with 2 sets of antennas on it, which is what the applicant is requesting or potentially without prejudice to a new location that might be found off of the site. He doesn't know if they are in a position to compel that to happen. Case B would be a 70-foot pole 220 feet from residential property with one set of antennas, which exists. Whether it ought to exist

without benefit of Use Permit or not has already been mentioned. Another 70-foot pole more than 300 feet from residential property also with one set of antennas which has been established could likely be approved administratively. He prefers Case B to Case A so he intends to vote for the motion.

**VICE CHAIRMAN CASON** said in listening to all of the facts and looking at the paperwork he came in with he was actually trying to look for that compromise on the next pole over. He thinks the neighborhood has made a good case regarding how much is enough. While they can't control all the lights on these ball fields, he would hope that the school district and folks in the city and other citizens can appreciate the fact that because of where this is at because the expanse of the property and because the amount of ball fields on there, they in essence would be creating all of these multiple carrier sites throughout the town. He thinks just automatically going for things does a disservice to the citizens. Personally, he would have made a motion for a continuance and give the applicant some time to look at some other locations. Given the fact that they have a motion in front of them for denial he thinks from his prospective they accomplish the same thing. He would hope that they aren't seeing the cart put before the horse. That they haven't come out and engineered this entire network without any regard to the heights, where their microwave has to be and how high the poles have to be. The engineers came in with an understanding that in the City of Chandler they don't want to have 60 and 70 foot high poles that are in locations where they are supposed to be. He has this distinct feeling that a lot of stuff is going to come through that is going to be higher than is necessarily on ball fields. He hopes the engineers at this network and Mr. Anderson are able to tell his customer that they can't necessary design the plan before they understand what the City of Chandler is going to do. They have one of these in town and he hasn't seen a picture of it and he didn't know where it was until tonight so he couldn't go look at it. He has no idea what it looks like. He knows it is 55-foot tall. If it could be 55-foot tall at the airport, he cannot believe that it can't be 55-foot tall everywhere quite frankly. So the fact that it needs to be 70-foot tall is because of the fact that they picked a ball school light to put it on. If they went across the street, he isn't sure that it can't be 55 or 65 feet high and doesn't need to be that high. Because they have only set one of these in town he is really concerned about setting a precedence that all of a sudden now they are going to have all these giant poles because of the type of distribution that they have chosen to use to distribute their network between the poles. So having said that he supports the denial and he hopes they can work on these issues so that they don't have to go over these same points application after application.

**CHAIRMAN FLANDERS** said he had a motion and a second. The item was denied unanimously 7-0. He thanked the residents for their comments. He called for a 10-minute break since the item went long.

H. ZUP09-1018 CHEVRON MONOPALM  
Request Use Permit approval to install a 65-foot monopalm wireless communication facility at 980 N. Cooper Road, the southwest corner of Ray and Cooper Roads.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. **The maximum height shall be 60' to top of the antenna array.**

**BILL DERMODY, SENIOR CITY PLANNER**, stated this is a request for Use Permit approval to install a 65-foot high monopalm wireless communication facility pursuant to discussions that happened during Study Session. Staff is recommending that height be reduced to 60 feet. It is located at the southwest corner of Ray and Cooper Roads. This is a shopping center anchored by a grocery store. There is a gas station out front. He showed a site plan on the ELMO. He showed where the convenience store is, where the pumps were, the existing monoflagpole that was approved administratively out here. They are requesting a monopalm type of facility behind the convenience store. They have looked for other places to co-locate. SRP poles couldn't provide adequate ground space in the area. The flagpole does not work for Clear Wire's technology. They cannot have their dishes inside of a flagpole like this so they needed something more like a monopalm. Thus, the application before them. Staff does recommend approval of this request with a couple of key conditions they will be talking about. First of all, the reduction in the height to 60feet and secondly, the planting of a couple of live palm trees adjacent to this monopalm to create a grove affect. There are palm trees in the areas. He showed where two are but they are not immediately adjacent to this monopalm. They are suggesting that two get placed there even if it means removing a tree or two that exist. The existing trees there are not palm trees they are much shorter Palo Verde's. Staff 's recommendation is for approval and he said he would be glad to answer any questions.

**CHAIRMAN FLANDERS** said he doesn't feel that bad with the monopalm at this location it was with the height that was the result of an existing arterial intersection. As you are sitting there, you have this huge palm tree sticking up. From his point, it is more of an aesthetic standpoint. He understands that there is the canopy and then the building. He thinks that helps reduce it also in conjunction with the additional palm trees. That is where he is with this.

**COMMISSIONER RIVERS** asked Mr. Dermody if they were able to add the stipulation regarding covering the structure. Mr. Dermody said they can take that as general direction for all of their cell sites with equipment to make sure they are covered in a manner that balls don't stuck up on them and children don't get dropped within them. Also, for the record the exact wording for proposed condition no. 4 would be:

*The maximum height shall be 60 feet to top of the antenna array.*

**VICE CHAIRMAN CASON** asked how high is the monoflagpole? Mr. Dermody said he would have to check his notes for that.

**CHAIRMAN FLANDERS** asked if the flagpole was approved administratively? Mr. Dermody said yes it was. It replaced an existing flagpole. **CHAIRMAN FLANDERS** asked what is the maximum height that you can do administratively? Is it comparable to

the height of the palm tree itself or to the top of the palm fronds? Mr. Dermody said the maximum height is relative when it comes to a flagpole replacement. It is up to 25 feet higher than the flagpole that was there. He believes in this case it is about 60 feet to the top of flagpole and the actually the applicant here processed that one and he may know for sure if he can't find it in his notes.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated that it couldn't exceed 70 feet according to the code. **CHAIRMAN FLANDERS** asked if it's the palm tree and the flagpole? Mr. Brockman said the code only talks about the support structure.

**RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA, REPRESENTING CLEAR WIRE**, stated since he was responsible for the flagpole he told them it is 55 feet. He doesn't show it on his survey but he remembers it from years ago. His memory is pretty good. He doesn't really have a problem with 60 feet. He is not here to argue 5 feet one way or the other. The engineering design is not so set, as some would believe that it is immovable because it is not. It is very movable. In fact, in certain instances they have to redesign sites that are the nature of the beast. He has a problem with the policies in general of monopalm. The policy drove an earlier case that he had where T-mobile had a monopalm at Serrine Elementary School and the option was to plant another palm tree there and do 2 friends with it or turn it into a pine tree. In the area there were plenty of palms and pines. It could have gone either way. In the meeting that they had at Serrine Elementary last night, all 3 residents said they didn't understand why it isn't a palm tree. He is all about doing the right thing. They went for a pine tree because it costs less to do the pine tree than it costs to plant 2 friends. He doesn't mean the 'friend' derogatorily it's just what he calls them. If they were hear approving a monopole for him tonight, you wouldn't ask him to plant 2 little monopoles to help conceal it. It doesn't work that way. What they are trying to do is create an atmosphere in Chandler where they can go forward and get a carrier to do the right thing, which is to do a monopalm in the first place and not fight for something is not as nice as a palm tree. He likes palms and pines when they fit. They used to call him Mr. Palm tree at work because he did so many of these. What he has here is the application that he believes doesn't deserve the planting of 2 friends. He showed the orientations of the pictures he showed them. Here is the proposed site, here is the existing flagpole and of course, there are 4 commercial corners. There is also a strip mall that is behind the gas station and car wash. They are locating back in the grove of trees that the landlord if he had his way he would tear them all out. He asked him to take them out for him. Unfortunately, they like trees in the City of Chandler so the answer is no he can't tear your trees out for you and he can't pretend they are in my way because he will work around them. The landlord has expressed extreme desire not to have live palm trees planted because he doesn't want the maintenance of the palm trees. You are going to hear that over and over again.

The first picture, #1, is looking back towards the site. He showed where the car wash is and their site. He can't always pick them this good. These trees aren't 40 and 50 feet tall but they are obviously palm trees and they are obviously in close proximity to the palm tree they are proposing. He showed #2, west from the parking lot across the street. You

can see the palm trees. He showed #3, looking east from the car wash. There are palm trees. Looking northeast from in front of the station there are palm trees and there are power poles. Looking southeast from the station there are palm trees. Looking north from behind the station, there are palm trees. Looking at the location of the monopalm, these are the eucalyptus trees that he would like to see go away. As you all know, you know what happens to eucalyptus trees. They grow enormous here. They love it. They should have kept them in Australia where they belong but they grow huge here. They are not going to have this problem in the next 10 years but eventually those trees will grow and get around the power lines. You see the power line crews going down and creating tunnels where they have to trim around these trees because they interfere with the power lines. Eventually, these trees will get so big that they will interfere with our microwave shots and they will have to get trimmed also. It is his contention on this particular site as well as his general contention that the policy to have 2 palm trees planted with every palm tree is not necessarily a good policy but should be applied on a site-by-site basis instead of across the board. There are palm trees in Chandler that didn't get friends planted with them and they are perfectly acceptable sites. He is asking them to delete the requirement that they plant 2 additional palm trees. He would be glad to stipulate to a 60-foot total height of the pole plus fronds.

**COMMISSIONER RIVERS** asked Mr. Anderson to go back to the 2<sup>nd</sup> two pictures that he had on the ELMO. He asked on that particular picture could you give them an idea of where the monopalm would be in this picture? Mr. Anderson showed them where. **COMMISSIONER RIVERS** asked him to do the same for the next picture. He showed them where they were in the 2<sup>nd</sup> picture. Mr. Anderson said the viewscape from any of the intersections you are going to see trees. Granted his tree is taller than their trees but their trees are going to grow. **COMMISSIONER RIVERS** asked so no matter which angle he has taken pictures from they are going to see these other trees in the same field of view? Mr. Anderson said that is correct.

Mr. Anderson said his plea is not only for this particular site but going forward as they choose locations and sites. He has many pictures of sites with trees and without trees. He is fan of this kind of application. He showed a picture at Tatum Blvd. and the 101 in North Scottsdale where you create your effect with multiple monopalms in close proximity to each other. You will see later an application coming from him where he is doing that very thing. When he does it he likes the staggered look because it looks more natural when you stagger them. When he says he wants more height by 5 feet sometimes it is because they are asking for a staggered look.

**VICE CHAIRMAN CASON** asked Mr. Anderson when he comes in and asks for an application when there is already a palm tree, he would be willing to put up a shorter one? Mr. Anderson replied that he would sometimes. In fact, this is T-Mobile and this is AT&T and that is exactly what they did. **VICE CHAIRMAN CASON** asked him if he heard him correctly in telling the property owner that they were responsible for the maintenance of the 'friends'? Mr. Anderson stated they don't have a water meter on their sites and the landowner is responsible for the watering and maintenance of those trees.

They are also outside of their lease area. They can't be in their lease area because they don't lease enough room for the 'friends'. **VICE CHAIRMAN CASON** asked Staff if that was their interpretation of the responsibility of the maintenance of the trees? Mr. Dermody replied yes it is and it is not something that is enforced one way or another by the city. Somebody has to take care of them. The bottom line is they would go after the property owner if there were a violation. **VICE CHAIRMAN CASON** asked so in the case that he shared that the 'friends' were dead over on Warner and the 101, they have to go to the landowner in order to get those trees repaired? Mr. Dermody said it depends on the situation. In that particular situation they went to the landowner who in turn went to T-Mobile. It doesn't matter to the city who ends up paying for it as long as it gets down but they go to the landowner first. They are responsible for what happens on their land. **VICE CHAIRMAN CASON** said so living or dying it is the landowner's responsibility to make sure the trees are kept trimmed, etc. It's not the applicant's responsibility where they are putting in the 'friends'. Mr. Dermody said the ultimate responsibility is with the landlord. If they want to delegate that responsibility to somebody else in order to get it done, that is fine but the ultimate responsibility is with the landowner.

**COMMISSIONER KELLEY** said he thought Mr. Dermody addressed this. They believe they have to take trees down in order to get these 2 new trees in. Mr. Dermody said yes it appears so. **COMMISSIONER KELLEY** said he believes Mr. Anderson has made a valid argument. He doesn't really know if they want to be chopping trees down just to put trees in so they blend in with something that is fake. In his estimation leaving the existing trees is probably doing its job. The eucalyptus will definitely screen. Mr. Anderson said he doesn't want them to misunderstand him because he believes there are instances where you should have 2 'friends'. He is not against it always but he thinks it should be on a case-by-case basis and not a blanket 'here is our policy' and have to do it. He thinks he can demonstrate that this is the wrong thing here. On that Warner and 101 monopalm, he is going to put a monopalm right next to it and it will be before them soon enough. They haven't got the date scheduled but it will be before them. He is 79 feet away from it and it is going to be staggered. Unfortunately, he is 5 feet higher on that one. His contention is they shouldn't be replanting those trees. They should let it take care of itself. **COMMISSIONER KELLEY** stated obviously if they are not going to plant palm trees next to it, he doesn't see the point of making a monopalm and it might just be a cell tower – keep your antennas compact and just let it be a shorter cell tower. They are already screening with the eucalyptus trees and he isn't sure they are really going to notice it. He thinks they would notice it more if it was a monopalm. Mr. Anderson said it's not that he likes to disagree with him but he is going to because unfortunately, he thinks a palm tree looks better here than a cell tower. He is in favor of a palm tree. If he were voting, he would vote for his application not for what he is suggesting. Although, what he is suggesting is what most of the industry would prefer to do and they would like to dictate because there is a minimum of a \$10,000 difference in the cost of a pole so you want to would to encourage carriers. He wants to go to his client and say this is the best thing for you. He thinks this is the way it should look in Chandler. Don't take that out from under him and say make it a monopole. He understands what he is saying but would respectfully disagree. **COMMISSIONER**

**KELLEY** said he was thinking back to a school site they had in there a couple months ago where the pole was actually attached to the building and they ran up the pole. It looked like it was part of the building and it wasn't decorated as a tree or anything. It still was going to blend and look good. That is his two cents. He didn't know if anybody else was going to jump on board with that or not.

**KEVIN MAYO, ACTING PLANNING MANAGER**, said in regards to that type of pole typically those don't have microwave dishes on them and they are the antenna arrays that can basically just be part of the cylinder. It just looks like a stealth pole versus this type of technology that has those microwave dishes and there isn't any way to get them in there. Even if you had the antenna arrays that are below it and pulled into the pole, you would still have the microwave dish that the monopalm does hide. Mr. Anderson showed an ugly picture because if you see one of these deny it. This is a co-locatable palm tree that looks like it hasn't been trimmed. He brings this up because if you notice up in the right hand side that is a huge monster canister with carriers included. Given the choice, he doesn't know what he would choose because one is ugly and the other is ugly. That is just something to think about and that is in California.

**CHAIRMAN FLANDERS** asked if there was anybody that would like to speak in regards to this item. There were none. He closed the floor and entertained a motion.

**COMMISSIONER VEITCH** stated he has been a fan of our burgeoning policy of requiring that the 'friends' be planted. Even where there are perhaps staggered twin monopalms having four friends in the right kind of site creates a clump that they are going to like when they get some of those. One is coming along the 202. He can also see the point where they are putting a monopalm in an area that already has substantial vegetation. It isn't necessary an improvement to force another 1 or 2 trees in there. He can think of one location along Pecos Road that is actually city property, between Arizona and Alma School on the north side, where a monopalm was tucked in among some existing friends and it came off fine. In this case and given the photos they have seen he doesn't have a problem with deleting stipulation no. 2, if that is the will of the Commission.

**COMMISSIONER RIVERS** said he agrees with Commissioner Veitch and Mr. Anderson that common sense would dictate that they look at these items site-by-site and blanket policies sometimes work and sometimes they don't work. He thinks if the applicant is willing to concede the 60-foot height, he is more than willing to concede that they don't need any additional palm trees on this site. He thinks there are plenty already there and as far as removing existing vegetation only to put in more palm trees is kind of self defeating. Having that said he wanted to make a motion for approval.

Mr. Dermody said the new condition no. 2 would read:

*The maximum height shall be 60 feet to top of the antenna array.*

**MOVED BY COMMISSIONER RIVERS,** seconded by **COMMISSIONER HARTKE** to approve ZUP09-1018 CHEVRON MONOPALM with noted changes.

**VICE CHAIRMAN CASON** stated he doesn't know that every one of these had to be on a case-by-case basis. It is probably better to let the applicant presume that they had to have the additional palms and then they could look at each one case-by-case and possibly removing them. He thinks once they have set the bar they can change it back, but they don't want to give an idea that they are automatically going to say we will just have the 'friends' if they think about it. He thinks the 'friends' should be included as a baseline and then they can remove 'friends' if they need to. He just wanted to add those points and he supports the motion.

Mr. Dermody said if the date palm trees are removed, condition no. 3 is possibly not necessary also having to do with landscaping since there would be none.

**CHAIRMAN FLANDERS** said they had a substitution of stipulation 2 and the deletion of stipulation 3. He asked if they needed to add anything related to the covering or is that something that is going to be done through the process of permitting. Mr. Dermody said they will just take it as Commission direction and they will do that administratively.

**CHAIRMAN FLANDERS** said he had a motion for approval and a second. The item passed unanimously 7-0.

I. ZUP09-1021 APRENDE MIDDLE SCHOOL WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility on top of a ball field light pole on the campus of Aprende Middle School at 777 N. Desert Breeze Boulevard, south and west of Ray Road and McClintock Drive.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.

**BILL DERMODY, SENIOR CITY PLANNER,** stated this is a request to install a wireless communications facility on top of a ball field light pole. It is one of several ball field light poles on the property located north of the school at the Aprende campus. This is at 777 N. Desert Breeze Boulevard, south and west of Ray Road and McClintock Drive right in the middle of the neighborhood. The pole is existing. There is actually another pole that has antennas on it on the same ball field along the eastern side. This would be along the southern side. The antennas just like the one we talked about earlier tonight would go above the pole and would raise its overall height from 80 feet to 86 feet and 6 inches, approximately a 6 foot increase in height. There are two issues to get a Use Permit. One of them is the height being over 70 feet and the other is that it is not the pole farthest from residential. There is actually a pole that would be farther from residential and closer in keeping with code. Staff does recommend approval on this however. We

analyzed what they have looked at for other verticality's in the area. The ball field light pole seems to be the best fit. They are able to get over 400 feet of separation from the nearest residential properties on this. Although it is not the farthest from residential, it is better because it is behind the home plate on this softball diamond and therefore, not in play. They did ask them to look at the one in the outfield but then you have equipment in the larger pole right where somebody could run into it. It made sense to go to this location. Also, it is not ideal to add height to something that is already 80 feet tall, they found that the 6 foot height increase is rather minimal and given that there are ball field lights all around these fields for the most part you would have to struggle to notice the difference in this particular ball field light. Again, the Staff recommendation is for approval. They have heard from a couple of neighbors who are in opposition to this request due to health concerns. Their e-mails are among the memo attachments. He said he would be glad to answer any questions.

**VICE CHAIRMAN CASON** asked Mr. Dermody if there was an existing pole on site? Mr. Dermody said yes there is and they have a photo simulation. The existing antenna is on the south side and the one they are requesting is on the east side of that particular softball diamond you see in the area plan for the entire school property. It is just west of the track on one of those softball diamonds there. He showed a black and white photo simulation of what this might look like. **VICE CHAIRMAN CASON** asked which one is the existing and which one is the proposed? Mr. Dermody showed where the existing one was. The antennas are below and the lights are above. He showed a photo simulation of the one that they are asking for where the lights are and the antennas are 6 feet above it.

**RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA, REPRESENTING CLEAR WIRE**, said the difference in his mind between this site and the one they spoke about earlier is they added 10 feet to the previous site because they needed separation from tip to tip antenna. When you put antennas on top of each other, you have to have separation between the antennas. Some require 10-foot tip to tip, some only require 2 feet tip to tip. The reason that he said he could reduce the other one 2 feet was because the separation they required was more than they actually needed. Here they are barely going above the lights enough to get the antennas above the lights. The antennas are 54 inches in length. So when you have 54-inch antenna you have to be minimum of that plus you can't have lights blocking so they did the minimal that they could here. In speaking with the school district just prior to this meeting, he asked her if he drops these below the lights and he knows she doesn't like them there, is she o.k. with that? Somewhere between the 70 and 75 foot. In the event they did that it would be an administrative approval, which would leave him here in a dilemma. He would love to stipulate down to 70 and 75 and put them below the lights even though the school prefers them above the lights. He thinks it is minimally visually obtrusive because of the lights and their existing height. He is at their mercy here. Tell him what they want and he will do it.

**CHAIRMAN FLANDERS** asked if he is putting up a new pole? Mr. Anderson said they are always replacement poles. He tries and gets school districts when they build these sites in the middle of residential and asks them to put up cell capable poles. The cost is minimal and the difference between what they put up and a cell capable pole is very small when you install them. If they build them, they will come because they are existing vertical elements. **CHAIRMAN FLANDERS** asked Staff if they were to do a monopalm separate from these light poles, would that come before them if it was at 60 to 65 feet? Mr. Dermody said yes it would. A monopalm would require a Use Permit.

**VICE CHAIRMAN CASON** asked if this was in Kyrene School District? Mr. Anderson said that was correct. **VICE CHAIRMAN CASON** said in Chandler in no cases could you have antennas below the lights. Mr. Anderson said in Chandler they said they would prefer them not to be. They have not said 'no case below'. **VICE CHAIRMAN CASON** asked if that is for both sets of antennas are just for the microwave? Mr. Anderson said no, both antennas. Their antennas sit on the same array so they basically have a 4-foot array. It has one antenna microwave. **VICE CHAIRMAN CASON** said but from a technological standpoint the antennas don't have to be on the same structure. In this particular photo the existing one shows the array below the lights so he guesses they can presume the Kyrene district is o.k. with that arrangement because they have allowed it before. Is that safe to presume? Mr. Anderson said the Kyrene School District said tonight, prior to this meeting, that they would be agreeable for him to drop his antennas below the lights, which would precipitate an administrative approval.

**VICE CHAIRMAN CASON** asked if he could safely place his microwave dishes below the lights? Mr. Anderson answered that he could. **VICE CHAIRMAN CASON** asked if there is no fear for any work people having to get up past those microwave dishes in order to service those lights? Mr. Anderson said the microwaves put out 1/2 of a watt. The RF antennas put out 5 watts. **VICE CHAIRMAN CASON** asked they are a low power microwave dish so they don't have to worry about cooking food in between them or anything like that? Mr. Anderson said right. There is a difference between non-ionizing radiation and ionizing radiation. Ionizing is an x-ray. You can only have so many of those in a year but your doctors never say by the way how many have you had this year? He just says go get an x-ray. Non-ionizing is the same as the FM radio station or a baby monitor that you put in your baby's bedroom -those are non-ionizing just like ours. **VICE CHAIRMAN CASON** asked in all cases they don't have to have both the antennas together? There is an opportunity to be able to move the cellular arrays up and down but the key thing for them is always the height of the microwave. Mr. Anderson said the most key thing is yes. Mr. Anderson said on a co-location on an existing pole they tend to put them together because you rent space on a pole from a tower company, like American Tower or Crown, so you rent this vertical space and they don't like you to rent 2 spaces because that's another revenue source for them. They have tended to put them on the same and when you go to your stealth applications it makes no sense to split them. **VICE CHAIRMAN CASON** asked is this the case with this that they actually lease the space from someone? This isn't their pole? Mr. Anderson replied that all ball field light poles go to get deeded back to the school except for the last one they had.

There is always an exception. **VICE CHAIRMAN CASON** asked if you separate your 2 antennas and the school district owns the pole, then they can rent out the space in between your microwave and cellular? Mr. Anderson replied yes except that 2 arrays aren't allowed on one pole without a Use Permit. Someone would just go to another pole.

**CHAIRMAN FLANDERS** said he had indicated that the school district would allow their equipment to be stationed below the lights, which would bring it down to 70 feet? Mr. Anderson said he could get between 70 and 75. The top of antenna is 75 feet. **CHAIRMAN FLANDERS** said that would kick them into the Use Permit. Mr. Dermody, Senior City Planner said if the ball field lights are being replaced and the height is not being increased, this would be an administrative approval. If they are below the lights even if it is 75 feet and if they are not increasing the overall height of this structure it is an administrative approval. **CHAIRMAN FLANDERS** asked so if he were to change locations he wouldn't have to worry about them then? Mr. Anderson said that was correct. The school would prefer him to be on top of the lights. **CHAIRMAN FLANDERS** said that Mr. Mayo had indicated that the person from the school district was here but had to leave. Unfortunately, they can't get that information from the school district directly.

**COMMISSIONER VEITCH** asked Staff if this is an existing 80-foot light pole? Mr. Dermody stated that is correct. **COMMISSIONER VEITCH** said so as long as they are on that pole someplace and not increasing its height and more than 300 feet from residential it is administrative? Mr. Dermody said yes and the only one. If everything was the same with this except they put it below the lights that would be the case. **COMMISSIONER VEITCH** said has this been observed they have done it before. Mr. Anderson said he likes easy but they are deferring to the wishes of the school to go on top of the antennas, which precipitated the Use Permit.

**COMMISSIONER RIVERS** asked about the poles that are in the background in the photograph. Do those poles have 2 groups of lights on them or is that a group of lights and somebody's antenna? Mr. Anderson said they are dual lights. It depends on the photo metrics of a given field, how they light it and how much light was required for that field. He said they would find single array and dual array. **COMMISSIONER RIVERS** said if several of these poles have 2 groupings of lights or 1 grouping of lights and 1 grouping of antennas, aesthetically he thinks it is the same. He would rather see the antennas below the lights if that were possible. He does not understand how a repairman can climb through this obstacle if they have to change a light bulb. Mr. Anderson said that is their problem and that is why they don't like to do that. It is not a radiation issue it is how do you climb up over that without a kicking one and knocking it out of skew, particularly the microwaves. He said the laser pinpoint gets out of skew and all of a sudden the whole thing goes down and they have to get someone out to realign the dishes. **COMMISSIONER RIVERS** asked is the pole that is in the foreground in this photograph are the lights the same height as the lights on their new pole? Mr. Anderson replied that is correct. **COMMISSIONER RIVERS** said while he thinks that whether

this array is above or below the lights, aesthetically it is fine with him either way and he thinks if it were a safety issue, he would rather have him above the lights.

**CHAIRMAN FLANDERS** went to the audience and said he had several speaker cards. The first speaker card he has does not wish to speak but it is opposition of this item. His name is Ray Blewit at 4482 W. Linda Lane in Chandler.

**RAPHAEL TAN, 4215 W. DUBLIN CT., CHANDLER** stated he would like the Commission to deny this for the following reasons. First, Aprende Middle School's mission is to educate our children. It is not in the business of commercialization of a public property such as the school. Second, this is a school zone and not a commercial light industrial zone. Clear Wire is operating as a business. It is not supposed to be in the school zone at all. Third, the school is funded by public tax; state income tax, federal tax and the school should not be used for commercial purposes. It is called corporate welfare because they are putting something on the school. They should have no business in doing business with Clear Wire opening as a business on public property. Fourth, the school's mission is the education of children not operating as a business entity and collecting renter fees on public land such as the school. Fifth, the location of wireless within the light towers on top. Many times he has seen planes flying too low below the allowable flight of 300 feet above school or above a residential area. That is a safety concern for him. The other thing is the possible health impact on the regular exposure to radio frequency on humans. The concerns include abnormal cell growth, damage to cell DNA, difficulty in sleeping, depression and anxiety, irritability, childhood and adult leukemia, eye cancer, immune system suppression, attention span deficit and memory loss. When the school was just developed, they were one of the new residents that moved in the year of 1994. They were told there would be no lights. The school made a quick turn around so they put them in without them knowing. The neighborhood was pretty upset about it. There are 6 light poles around it with multiple lights. Now they can see there are more lights on there. They don't even ask for permission to put in more lights on the light poles. In the earlier case about the school, if you bring this antenna in then other people will come in and they will see a sea of antennas. He doesn't want to see that. When they moved in they had a very good view of the mountains and now with all of those things it is blocking their view. They can see lovely sunsets but no view. They are worried about their property because people will drive by and see all these antennas and won't want to stay in this area. Once you set precedence the school is not going to inform them. They will be coming in with all these applications without notifying them. He urged them to deny the application. They would like there to be no antennas in their area.

**CHAIRMAN FLANDERS** said to Mr. Tan that they had his letter he submitted and he will make sure that it is a part of the record.

**BOBBI BEVILOCHWAY, 4322 W. LINDA LANE, CHANDLER**, pointed out on the map where she lives. They face the back of the school. In front of them are a bunch of ball fields. She guesses she never sat down and counted all those huge lights. There are

approximately 12 of those sitting in front of their house. They moved into the neighborhood when it was first built in 1994. At the time they were looking into buying a home they had asked the realtor about those ball fields and if they were going to have those huge industrial lights put in those ball fields. They assured them that would not be happening. Unfortunately, by an oversight of some administration of somebody's error, the schools were allowed to put up those lights without any input from any of the residents that live around there. Unfortunately for them, the way it has impacted our family is their bedrooms are facing with their windows out towards those lights and sometimes there are times when they leave those lights on until 10:30 at night. They had to go to and purchase black out windows on all of the windows that face that side of the ball field. Her children during their elementary school year didn't attend Aprende. One of them attended for one year and another one for two years. There are two fences located off of that back area. She remembers asking the school can they open those fences so the school kids can enter and exit the school from that fence rather than having to go down the street all around to the front. The response to that was no. In the meantime over the years, they have given keys to Pop Warner and to all of the little league baseball players, and to all the soccer team players. They have access in the evening time to open keys with everybody parking all up and down the neighborhood to go back and forth to there. At this point in time she is irritated that all of this stuff goes on. You feel like the lights are invading your space, the lights are invading your sleep, the noise level invades with all of the neighbors who participate in these activities into your down time, sleep time. They have lived with that and right now at this point she is there to voice her opinion that she is opposed to it for a number of reasons.

Like she said before it interferes with the sleep and the noise levels. She is a nurse by trade. She hasn't read all the reports and all the links that were submitted to them by e-mail but she just knows the way research goes. Microwave antennas are a fairly new thing when they are looking at length of time as far as research being involved. For example, with any new medication that comes on the market, it is given in masses for about 2 or 3 years before they legitimately find out they have to pull this because it is causing cardiac problems, even though the FDA has approved it. She has her reservations about the same thing with the microwave antenna. How do they know in 10 years how this is going to impact the community? Who it seems to impact the worse is the children because their cells are growing at such an exorbitant rate compared to adults. As they get older, their metabolism rate decreases. She is asking for them not to approve this because she feels the lights have gone up, they have already put antennas around one of those poles, and she guesses it might fall under some zoning law that has already gotten passed. If they are below 70 feet then they can do whatever they want. It seems like once they open a door an inch here then it becomes like a floodgate. She is just worried about the health hazards with it. She does live there and it is right out her front yard, right out her bedroom windows and she has to look at all these lights and at all the metal. The more they add, the more they are going to come.

There is a huge park across from the school, Desert Breeze Park. That park has a lot of all those same heavy-duty lights in the park that are on the ball field. Her question is

about the almighty dollar. Why they can't they put those lights into the park and let the city recruit money from renting to Clear Wire to lease space that needs to put in his microwave antennas because it is way farther away from residential areas. It isn't going to impact their children as much because if they happen to go to the park they are only going to be there for a little amount of time compared to if you are sleeping there 8 to 10 hours every night and spending 4 to 6 hours of your off time at home. The same way with the school. It has close proximity to the school and the kids are there a lot of the times. They are going to spend less time at the park. She is concerned that the school system is looking at money. They all have to cut their budget somehow and that affects everybody. She is asking them to try to take into consideration the precedence of what they may be opening up as far as opening the floodgates here and think about the individuals who have to live in the area. There are other places they can probably put these antennas. Stellar Airpark isn't all that far away. Apparently, they have already put antennas somewhere over there that she wasn't aware of that either. She and her husband are opposed to it. Her husband couldn't be here for the rest of the meeting. She is taking information back to the rest of the neighborhood and neighbors that face the lighted area because a lot of people work and couldn't make the meeting.

**COMMISSIONER RIVERS** asked what is her concern with the antenna going on top of the pole? Is it the height of the pole? Ms. Bevilochway said she is concerned about its presence for health reasons. **COMMISSIONER RIVERS** answered that they are not allowed to consider health reasons as a denial. This is purely a land use decision. Is it the height that bothers her? Ms. Bevilochway said it is the aesthetics of putting more metal there and she would just prefer that it not be there. She would prefer not looking at it sitting above the light pole or even below the light pole. She wishes they could put them over by the park. **COMMISSIONER RIVERS** asked so her concern is the height and additional metal? She said yes, just the aesthetics of it.

**CHAIRMAN FLANDERS** thanked her for her comments and said he also had a speaker card for her husband Alec who is in opposition to this but did not wish to speak. He also had a speaker card for Hong Zhu at 4301 W. Dublin St., who was in opposition to this but did not wish to speak. He had a speaker card for a Robert Hamilton but left the meeting earlier. Raphael Tan spoke on his behalf.

Mr. Tan said Dr. Robert Hamilton is a music professor at ASU and because he had to leave for a performance that was scheduled he asked Mr. Tan to speak on his behalf. He said 10 years when the cell phone was coming in they thought they were safe. Now, they find the cell phone actually is not very safe at all. As this microwave is very new to us, nobody knows about the unknowns in terms of health issues. If they knew there was a health issue with this, would they put their children at a school in harms way? Even though we are not controlling the health issues, they need to think of the neighborhood. They don't want to see the small antennas around the area because of the home value issues and the view is much less nice.

**SALOMON LICHTENBERG, 4133 W. BART DRIVE, CHANDLER,** said here he is as an old man coming here to them to tell them what children and old people are thinking about all of this. He said he wishes to talk to them and consider this situation. The area is full of homes with old and young people living there. Children are going to school and they want to allow them to put this there. Children will be there playing their games outside in the field and working and studying inside their houses or at the school. The waves go all over the place, palm trees or no palm trees. The people that live there are the ones more affected. They should consider this very carefully. They want to live and be healthy. These kinds of waves are not going to keep them healthy. They will be making more and more sick people. There is one thing he knows from all of his travels. Russia is bombarded with waves in their homes and residents in Moscow and they were all affected day and night. Diplomats and Ambassadors needed to leave because they got leukemia. They replaced them and they got another one with leukemia. Many of the employees left the Embassy because they were all sick and getting sicker and sicker. Don't tell him that these waves are not making people sick.

**JIM HENIKA, 4462 W. LINDA LANE, CHANDLER,** stated he is opposed to this for a number of reasons. He won't go into the health issues as Commissioner Rivers says that is not a consideration and that is fine. They need to look at the commercial aspects of these things and the aesthetics, their properties and what they want there. This is a commercial operation. These folks are out there to make a dollar and that is fine. As in the previous application for a monopalm that was in a commercial area and was a commercial enterprise away from families and housing and those types of things. He is a wi-fi user. He goes to commercial areas where it is available. If he uses it in his home, it's something he has purchased for his home and it is within the confines of his property. To put these commercial enterprises up on a school he doesn't think it is appropriate. There are plenty of commercial properties available for these folks to be able to locate these things. He is not sure what their target market is for this particular wi-fi. He is not educated on what it is they are trying to accomplish. Desert Breeze Park has plenty of light poles over there. The City would obviously be able to reap the revenue source there. If they need to put in friendly palms to work with what they already have with the irrigation systems and everything else in place, that would be a more appropriate place than at a school. The applicant made a somewhat cavalier comment in one of the previous cases that nobody wants to have it but everybody wants to use it. That may be true and they go to the appropriate places to use that particular technology.

A school is not the appropriate place to put this in his opinion. Their infrastructure needs to be placed for these types of things in the appropriate areas. That is why they have a Zoning Commission and that is why they have zoning laws and ordinances so that administratively things are done within the parameters of these ordinances. If it is outside of those parameters, then they come here and they raise their objections. Commissioner Cason made that point about the 2 'friends'. Leave that in the ordinance on the previous one and they will decide on a case-by-case basis whether the eucalyptus is adequate or not. He thinks that is an appropriate way to address these things. He doesn't think what they want is the proliferation of commercial enterprises on these

school properties. He hates to say it but if his school district and his children went to both of those schools, if the City Council thinks they need to raise their property taxes another million or whatever it is to support this school, then he is sorry but that is what they are going to have to do. So be it. He doesn't think commercialization of school property is the way to go. That is not what that property was given to the school district for. It was given to the school district for an educational environment and everything that goes along with that. Yes, they have those lights there now. He moved in after the lights were all put up. They are good neighbors and they get along with the traffic and everything else that goes that goes along with it. It is what it is. The kids are enjoying the open space. They need to have a place to go. There are very limited opportunities or places for kids to do that. That is fine but those are school type activities – physical education and or whatever else it is. Those are appropriate uses for those. They accommodate their selves in order to allow those things to happen. Again, the commercialization of school properties he does not feel is an appropriate use. It is not what the land was given to the school district when a subdivision is put together and they are the guardians of those. They now need to take a look at that and make sure that they are good stewards of the land that has been provided. He is sorry that the school district feels they need this money but they are going to have to look at another area. Systems should be designed within the ordinance parameters. That is why they established these ordinances so design the systems that way. They have the ability to do it so that's what they need to do. They talked about other alternatives in some of these previous cases. Are there other alternatives? Have they been explored? Let's look at some of these commercial properties or a city property. The city needs to generate revenues that would be more appropriate and the city has ventured into commercial uses and commercial applications on city property. Maybe that is the appropriate place like Desert Breeze Park.

**COMMISSIONER RIVERS** asked Mr. Henika if he would show him where his house is located. Mr. Henika pointed out his house.

**CHAIRMAN FLANDERS** asked if there was anybody else that would care to speak on this item. There was no one. He went back to the applicant.

**RULON ANDERSON OF CLEAR WIRE** stated he didn't have a whole lot to add. Obviously they know where the U. S. Government stands relative to health issues and wireless communications. He thinks one of the things they don't understand is where the Federal Government stands relative to aesthetics issues. The landmark decision in 2006, four years ago, and the 9<sup>th</sup> Circuit Board of Appeals found they couldn't deny a site based upon aesthetics. There are two things absolutely you can't consider, health, but aesthetics is one of the things that the Federal Government has determined that they will over rule if in fact, it becomes a barrier to service an area. It would probably be a good idea for the City Attorney to look at that and find out how that impacts us. He thinks this is a minimal visual impact. He doesn't think it is a huge aesthetic issue. He thinks what he heard mostly is health issues. They could talk about health all night. He spent a good

hour with most of these people one night at the community meeting talking about those issues. Unfortunately, he doesn't get to here.

**CHAIRMAN FLANDERS** asked if he has reviewed other areas adjacent to this site? The industrial site to the south? Rulon Anderson said once again they find themselves in the peculiar situation of have existing verticality. When the desire of the City of Chandler is to have them locate on existing vertical elements, they look for those rather than put up new. The answer is no this is in the middle of their search ring. It provides a service to their target and it has existing vertical elements.

**COMMISSIONER HARTKE** said to Mr. Anderson that he understands and appreciates not proliferating more monopalm or more structures in our city unless they have to. Several times the neighbors have mentioned the light poles at Desert Breeze. Were any of those looked at? Mr. Anderson said they were not for a good reason. The City of Chandler has refused to rent space to cellular carriers in the past. They recently were in receipt of a letter of inquiry from the City of Chandler, which identified Chandler property throughout the City of Chandler and asked them if they were interested. They are not the first city to do that in the last year. Obviously, budget crunches hit everybody. He has a personal philosophy relative to siting. Whether they agree with his personal philosophy or not he gets to espouse it to the people that work for him. The first thing they do is look for a municipal piece of land that they can locate on because he is a taxpayer. The second thing they look at is schools because he is a taxpayer. The third thing they look at is church's because they have no visible means of support. The fourth place they go is commercial. They don't start with the commercial. They actually do it the other way. That is his personal philosophy. **COMMISSIONER HARTKE** asked then his first choice being the city has indicated an interest as of recently. Mr. Anderson said they have indicated an interest on certain city properties. **COMMISSIONER HARTKE** asked if Desert Breeze Park was one of those properties? Mr. Anderson said he didn't recall. **COMMISSIONER HARTKE** said so it might be an alternative and with existing verticality's. Mr. Anderson said it would be an alternative that moves the problem from someone's back yard to someone else's back yard. He doesn't think it solves the problem and the solution to this problem is if this is so distasteful to the board they'll move the antennas below the lights and do it administratively, which is not his preference but they can go that route. **COMMISSIONER HARTKE** said that was his next question. Regardless of the actions of whether they approve or not approve, he has the ability to put this on that pole. It is just a question of above the lights or below the lights. Mr. Anderson said that was correct.

**CHAIRMAN FLANDERS** closed the floor for discussion and motion.

**COMMISSIONER RIVERS** said the commercial property to the south actually extends all the way down to Chandler Boulevard. He thinks if they were to hear discussing the possibility of a monopalm anywhere near this location that the people in the line of houses, southernmost, would be sitting in our audience talking about how they don't want to look at a monopalm. He would prefer that this were on city property so the city could

reap benefits of this money, but as they have boiled it down to this array it is going on that pole and it is simply a matter of them needing to decide whether they would rather have it above the lights or below the lights. His concern is the safety of anybody that has to do anything on that light pole and if they have to climb over this array to get to those lights. He would prefer that they don't have to climb over it. He would prefer that it be the five feet above the lights.

**VICE CHAIRMAN CASON** said in regards to the commercial area, the reason he didn't ask for that is because commonly people that haven't developed their land usually never want to have a tower in there because it affects the way their land is going to be developed. He doesn't know if that is a particular issue in this case. He is concerned about the issue of automatically going as high as you can on a pole. He doesn't know that if he granted Mr. Anderson's application to be at the top of this pole that somebody else might want to come back and move there array to the top of the pole as well. Then they will have the same competitive advantage that Clear Wire will have being at the top of the pole. He is not comfortable just setting a precedent like that. While it may be more aesthetically pleasing he just doesn't want to open a can of worms where all of a sudden now everybody is fighting for the top of the pole, even when they really don't need it. It is because they have granted Mr. Anderson's application to go to the top of the pole. Now they have to allow everyone to go to the top of the pole whether they need it or not. He thinks that if Mr. Anderson doesn't need the top of the pole then he should put it as low as he possibly needs it on the pole. If that requires administrative action and doesn't need to come before them, well that is the way the rules are. They have to deal with them. He is more concerned when they get into other locations and there are other poles or if they want to put up a 60-foot pole someplace else because they have to have the microwave, then what does that do to the other holders that are in the same area. Will they come back and want to have that high of a pole as well. He is not necessarily in favor of putting up the pole as high or to the top of the pole.

As far as the issue of safety goes, the people that are going to be working on the lights are going to come out with a bucket truck anyways. Nobody is going to shimmy up the pole with an extra long safety strap like a lot of people do with palm trees. They are going to come out with a heavy-duty piece of equipment and drop down the sides and be safe about it. We have heard the microwave issues at the wattage is about .200 of a percent of what a microwave oven will put out. As far as the neighbors are concerned, all the points in so far as having more cell towers on an adjacent property at this school and as far as the attractiveness of it, the discussion they had about the previous school is unique to this one because there was so many carriers in such a small area and all circled around the same field. In this particular case they are branched out and there are no more than two. Certainly, if somebody else comes forward then they can think about if they want to have so many on the same location. He doesn't see these two issues being similar in that case. He thinks what he would rather see and of course, he will wait for a motion. He would rather have the issue dealt with administratively and allow the array and the dishes to go as low on the pole as they can.

**COMMISSIONER HARTKE** stated he can't control where this is going to go but he can recommend if the city is willing, to put these on their properties on existing light poles in parks where there are indeed much less people. He would be for that. While he cannot say where this would go, they can bring this back to the school's administrative offer with the ongoing recommendation that where possible, use our existing parks and those poles as existing verticality rather than the schools. That would be his recommendation that he is also going to work off of tonight.

**CHAIRMAN FLANDERS** stated in regards to this item the height issue at 86 feet is a problem for him. He thinks there are other alternatives that the applicant has not explored. He was glad to hear that Kyrene School District would not have a problem with putting those arrays and antennas below the lights. He thinks they have an existing condition out there already so it would be consistent at least with what has been done out there already. He said to the applicant they wouldn't have to review this. Based on the other options and if wants to go ahead with this height, he will be uncomfortable with that.

**COMMISSIONER KELLEY** said he would like to make a motion to deny this with the understanding that this is going to be handled administratively below the light pole. He asked if the neighbors had any other venue to air their concerns? Can they go to the school board and talk about this? Can they say they don't want those guys to be doing this stuff and by the way, they are constituents of theirs and part of the school board? Mr. Dermody said that is an avenue for the neighbors but the school district makes the ultimate decision. They are the landlords. Of course, they need the city's approval for certain things. If the school decides they don't want to build it, then they are not going to build it. Certainly, if their options are limited here at the city or exhausted, they can go to their school and raise those same concerns. **COMMISSIONER KELLEY** stated he would encourage everybody to do that even with a denial tonight because this is still probably going to be held administratively.

**MOVED BY COMMISSIONER KELLEY**, seconded by **COMMISSIONER VEITCH** to deny ZUP09-1021 APRENDE MIDDLE SCHOOL WIRELESS FACILITY.

**VICE CHAIRMAN CASON** said he wanted to try to convince Commissioner Kelley to perhaps continue the item and allow the applicant to get with the school district and perhaps then they wouldn't see the application come before them. It may not have to come before City Council and it may be handled without all the other things that are attached with a denial. He thinks there is an idea that they want the applicant to look at other alternatives including lowering on the pole or perhaps finding something else and he thinks by looking for a continuance they give the applicant an opportunity to find solutions rather than just denying it as they did in the past.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** said normally that type of proposal, a continuance, wouldn't trouble him. In this area, there is a time frame by

which they have to conclude our business and Council has to conclude theirs. Under our code, it is a 90-day period. He doesn't know where they are in that but a continuance to allow the applicant time to negotiate with the owner of the land and the school district to find some resolution to the issue of what the school district really wants may put them in jeopardy on that time frame. Mr. Anderson said he knows it is closed, but he will waive that time. The Federal government has also imposed a time limit on everybody now – 90 days for co-location. Mr. Brockman said actually there time is tighter. Mr. Anderson said the Federal government has clamped down too but the city has always fit within the time frames generally. That has not been an issue. He will waive it.

**CHAIRMAN FLANDERS** said even if we deny it they still have the same options to explore that with school board outside. This at least moves our process along quicker and that is a lot more important.

**CHAIRMAN FLANDERS** stated he had a motion and a second for denial. He asked if there were any other comments for discussion?

**COMMISSIONER VEITCH** said it seems to him no matter what they do or don't do here nothing prevents the applicant from withdrawing this application if they reach another accommodation with the landlord. **CHAIRMAN FLANDERS** said based on tonight, their recommendation is the denial of this based on the existing configuration and also because of the residents.

**CHAIRMAN FLANDERS** stated he has motion and a second for denial. He asked if there were any other comments for discussion?

**COMMISSIONER PRIDEMORE** stated he would strongly recommend to the applicant that he does look at other locations. His feeling is that they are going to get taken out of the mix of things and that they are going to be circumvented by just having the equipment lowered on the pole and if that is the case, so be it. He would strongly encourage the applicant to look forward another location in this area.

**CHAIRMAN FLANDERS** asked for a vote on the denial. The item was denied unanimously 7-0. He thanked the residents for their comments and patience for as long as it had taken tonight.

D. PDP09-1006 DOBSON CENTER

Request Preliminary Development Plan approval for a Comprehensive Sign Package for a commercial retail, office, and medical development. The subject site is located at the southwest corner of Dobson and Frye Roads.

1. The monument sign's tenant panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
2. Raceway signage shall be prohibited within the development.

3. 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.
4. Tenant lettering on the monument signs shall be routed-out one-half inch push-thru.
5. **Building mounted signage along the Frye Road frontage shall be pan channel lettering with halo illumination.**

**MR. ERIK SWANSON, CITY PLANNER**, stated that the request is for a PDP approval for a comprehensive sign package. The development is located at the southwest corner of Dobson and Frye Roads. The initial plan was approved in 2008. Throughout that review process the property owner and the architect did not have a comprehensive sign package in place. That is a separate owner than this current owner. It wasn't until they moved forward to the public hearing process they actually put in a comprehensive sign package. At that time that package just included the center identification sign at the immediate corner and then also the building moutage signage. What this package is requesting is an amendment to that approved plan but also an amendment to the monument sign that were administratively approved at a later date. The original plan required that all building moutage signage be a dark green and they be reversed pan channel halo illuminated or non-illuminated. What this sign package seeks to amend is to allow corporate colors and to allow pan channel lettering. My understanding is that is more or less the issue. A neighborhood meeting was held and no neighbors attended and he is unaware of any opposition to the request.

**CHAIRMAN FLANDERS** stated Vice Chairman Cason had the concerns with the signage along Frye Road.

**VICE CHAIRMAN CASON** asked Erik if he discussed the signage and keeping the reverse pan channel with the applicant? They weren't in favor of that? Mr. Swanson said when he initially got the case that was one of the things he looked at. It is always desirable to have that halo illumination. There is that retail component but there is also that medical and then the surrounding area has that kind of halo illumination. There was one that they wanted to try to keeping with the surrounding area but also they did have concerns with the fact that it is located directly across the street from residents. The applicant kind of understood that but they also made a point that there is some distance separation from those residents and they were all unaware of any opposition to that. There is also landscaping screening that. While he doesn't want to put words in their mouth, it certainly was understood that they wouldn't prefer to see the halo illumination. However, they were able to proceed forward how they would like knowing they would get to this Board.

**VICE CHAIRMAN CASON** asked if they allowed them to have corporate colors and corporate logos but couldn't have pan channel lettering then they don't know whether they would be opposed to that? Mr. Swanson replied the only portion they are opposed

to and concerned about is the requirement to do the halo illumination. That is really the point of contention. There concern is the branding and the corporate colors of those building mountage signage. Once you turn it to the halo illumination you then take away that front illumination that let's you know that its this particular user. He thinks there are ways that they can kind of get around that and do maybe the corporate colors for the halo illumination, but it can make it a little difficult.

**CHAIRMAN FLANDERS** said the way he understands the profile that they are talking about is a reverse pan channel with an acrylic face, which is you are able to see the light through anyways. You would have that sign letter lit up plus you would have the halo illumination. Is he correct in saying that? Mr. Swanson answered that what they were requesting is the pan channel lettering, which is just the basic illumination. What Staff took at Commission's direction was to make that reverse pan channel which would then make the front face opaque and so you have halo glow and that is the direction they took and that is their concern. They would prefer to maintain either the face illumination however, he doesn't think they would be opposed to face illumination and halo illumination. **CHAIRMAN FLANDERS** said that would be the best of both worlds but that is getting away from what the Vice Chairman is talking about. Mr. Swanson said maybe they misunderstood this and it was that they reduce that because of those neighbors across the street that they may get that glow.

**BILL KOSTRIVAS, 6991 E. CAMELBACK ROAD, SCOTTSDALE**, said he was one of the owners of the project and the developer and the contractor. All they are trying to do is they are getting some interest from national concerns that they have signage requirements. With this difficult market they are just trying to meet their request because they are pretty specific on those things. Unfortunately, today the smaller mom and pop retail is non-existent with the lack of financing and the difficult economy so the inquiries and the leads that they are getting are more national concerns. The sign package they have requested fits their needs and that is a major criteria of whether they are going to lease or not. He said he brought their sign people with them because technically he is far more informed than he is. Dealing with the leasing agents and the potential lessees that they have right now, two are pending relevant to their sign package. That is the reason for their request. They did do the process and last Tuesday he was here over at the other building and they didn't have anybody show up and they posted the property and sent out over 200 mailers and they have a 221 separation from the house to the building. They have 36 inch and 48 box trees and quite an ample landscaping that will get to maturity so he thinks they are not going to hamper any of those neighbors to the north in his opinion with what they are proposing.

**CHAIRMAN FLANDERS** asked Mr. Kostrivas that they had indicated 200 plus feet? Mr. Kostrivas replied 225 ft. from the closest house to there building. **CHAIRMAN FLANDERS** said that is building to building then? Mr. Kostrivas answered yes. He asked if there were any questions of the applicant?

**VICE CHAIRMAN CASON** asked on the elevations is the proposed sign heights and widths typical of this type of development in so far as the percentages are concerned and those types of things? Mr. Swanson said that is correct. What they have done is create an envelope that they can then work in and their specific parameters, maybe 80% coverage of what that proposed envelope is. **VICE CHAIRMAN CASON** asked the applicant if it is important just to have their illumination just for the retail or are they looking at it for all of their medical offices as well. Mr. Kostrivass said just for retail. **VICE CHAIRMAN CASON** said so they are talking about just the buildings along Frye Road and then the one building along Dobson that is called Retail C. The medical office and Retail D also have the pan channel as well? Mr. Kostrivass said on the medical building in the southwest corner they would go with the standard package. **VICE CHAIRMAN CASON** stated he is glad to hear that about the medical office because of its height doesn't have any light on it and actually he really doesn't have a concern with C or D because they front the hospital. Is there a way they could make the allowable pan channeling on the north face of A and B smaller?

**TERRY MAIN, 17045 N. 44<sup>TH</sup> STREET, PHOENIX**, said with the City of Chandler Ordinance it is 1 square foot for every linear foot of frontage. So if you have a 20-foot frontage you are going to be allowed 20 square foot of signage. There are going to be people that take a 20-foot, people that will take 2 suites and it is going to vary. The answer to his question is all within the math of the City Ordinance. **VICE CHAIRMAN CASON** asked but those are maximums? Mr. Main said they put a maximum in there at 24" tall. So if you have a client that goes in there (let's say a beauty supply) and they can squeeze 24" tall characters that say 'Beauty Supply' in that 20-foot area and that is what it is going to be. **VICE CHAIRMAN CASON** said he actually sited why he doesn't like them because of 'Beauty Supply' and 'Doctor' and stuff like that. Not to get off the point, do they think any of the corporate applicants that they have just spoken about would entertain them giving them what they want except on a smaller scale? Mr. Main said they always want more bang for their buck. They could always draw it up that way and present it to them. Again, he goes back to the ordinance and the ordinance allows them up to a certain area. You shouldn't be allowed 20 square foot of signage on a 20-foot sign. You are only going to be able to use 80% of that frontage. He is only going to get a 16-1/2 square foot sign. They use 75%; they are only going to get a 15 square foot sign. **VICE CHAIRMAN CASON** said he understands all of those issues and they do talk about signage quite a bit here. His concern is primarily the lights to the north facing that neighborhood. Granted there is going to be landscaping and those types of things but you don't want to have your landscaping so you couldn't see it from the cars driving on Frye Road. If the cars on Frye Road could go ahead and see the lettering on the building, he finds it hard to believe that the landscape would block the people that have their front yards on the north side of Frye Road looking in that direction. He thinks there are a couple of houses that have their back yards facing on Frye Road as well. He is not actually certain about that. There is probably a combination of both. He was just hoping to find a compromise here where they could get smaller so the lights aren't so intense. His wish would be just to stay with the reverse pan channel but he can understand the position they are in and he wants to find a compromise there to minimize the amount of

light. The Chairman had mentioned having the lights on both sides. Is there a way that they could reduce the intensity of the light on the face and then leave the light right on the reverse pan? Is that something from a professional light maker; is that something that can be done? Mr. Main said they can still do a pan channel with a clear backing and what that allows is the face to light up but also gives you a halo effect. **VICE CHAIRMAN CASON** asked would the light be coming out of the pan channel front be dimmer than it would be otherwise? Mr. Main said yes it would be otherwise. What you have is an actual box when you have your neon or LED inside there and all that light is doing is bouncing around and then the only way out is through the plex face, the red, blue or whatever. If they open up the back of it, that light is not just bouncing around inside there it is bouncing out and washing back on the wall. **VICE CHAIRMAN CASON** asked then would the fluorescents or the LED's pointed towards the building their light is purely reflective through the front of it rather than direct? Mr. Main said with the neon you have a fluorescent tube with LED it pans so it is going to go to the face and to the sides of a can, but it is also going to bounce back. **VICE CHAIRMAN CASON** asked would the light that comes out the front be indirect? Mr. Main said it wouldn't be as brilliant. **VICE CHAIRMAN CASON** asked but will it be indirect? In other words, the light that comes out the front would be indirect lighting or direct lighting? Mr. Main said it would be indirect light. **VICE CHAIRMAN CASON** said so it is going to shine lights towards the building and only the reflection off the building will be what penetrates to the front of the panel? Mr. Main said that is right. **VICE CHAIRMAN CASON** said he is o.k. with it. Mr. Main asked that would be on Frye Road only? **VICE CHAIRMAN CASON** answered yes unless somebody else has an issue, but since he is the only person that brought it up he doesn't know. His thing is the intensity where you stand out there and your eyes are attracted to it while you are standing in your back yard.

**CHAIRMAN FLANDERS** said Frye Road is a collector street. It is a smaller cross section. The cars won't be spread apart as on an arterial street. He asked the owner/developer if that were something they would be in favor of? Mr. Kostrivas said if they could just specify that to Frye Road. **CHAIRMAN FLANDERS** said the reason is the existing neighborhood there with the residents. They have asked before on different commercial projects that there is no signage to be viewed by adjacent neighbors as a result of the collector street.

**CHAIRMAN FLANDERS** asked the audience if there was anybody else in the audience that would care to speak on this item. There were none. He said he needed to close the floor and they needed to craft a stipulation based off of discussion.

**MR. SWANSON, CITY PLANNER**, stated he just needed some clarification that they are allowing the halo illumination off of the Frye Road frontage? The other one is just the pan channel.

**CHAIRMAN FLANDERS** said he had closed the floor but he will allow it. Mr. Kostrivas asked maybe they have them inconsistent but does he have the option on Dobson to do what he did on Frye? He has 2 partners back east and he thinks maybe the

consistency might have some merit to it. **CHAIRMAN FLANDERS** said he thinks the regular pan channel on Dobson Road is appropriate. What they are trying to do is make the Frye Road signage less intense so that would be the reverse pan. If they have a national tenant that wants to go along Dobson Road, at least they can go ahead and do the pan channel and not have to worry about the reverse pan channel.

**KEVIN MAYO, ACTING PLANNING MANAGER**, stated he was confused on what direction they went. It sounded to him like for Frye Road the intention was to have a pan channel lettering that the back was opened up against the building so that you have 'x' number of illumines that are trying to get out of this can. Instead of having 100% of them only coming out the face some of them are going to bleed out the back, thereby reducing the intensity of the face even though the face will still glow. It will be a pan channel letter that is required to have halo illuminations as part of it in theory to reduce the intensity of what's coming out the face. That was his understanding. **CHAIRMAN FLANDERS** said to correct him if he is wrong, the gentleman with the sign company said he would still have an acrylic face that would provide the light to come out and you would also have the reverse pan channel to allow the halo illuminating. Mr. Mayo this isn't reverse pan; it is more or less pan less. A reverse pan is if you have a pan normally for pan channel and the light it is in there and it comes out the front. Reverse pan takes that and turns it around and you can't have light coming out the face of a reverse pan. It is a pan channel. He doesn't want to have a stip. that reads reverse pan channel. They would have to deliver that stip. when it actually is a pan channel lettering that also includes halo illumination. Mr. Kostivas said he is looking for terminology? It would be a pan channel letter with halo effect. Mr. Mayo said that was correct.

**VICE CHAIRMAN CASON** said he thinks the key thing is that the light coming from the front can't be projected frontward. It has to be indirect lighting source coming out the front. Mr. Mayo said he doesn't know if he remembers when Culver's came through and they went round and round with that. If this is the face of that letter and it is the letter 'i', the only way to make it indirect is to mount the LED on that face and shoot them backwards. There is no other way to indirectly do that to where at some point you will then have a shadow line of the areas where those LED's are mounted to the backside of it firing the light the other way, hit the back and then come back out the front. Otherwise, you are going to see these dots and potentially even shadow lines with wires of the LED's in there. The only way that light is coming out the front of this thing, if the whole face lights up, is if it's coming from some other source other than it's face. Mr. Mayo said they are going to have light that is shining towards the front. What they do is they put a clear piece of plexi on the backside of that face. If this is the face that is facing the neighbors, on this side will be a clear piece of lexan. Naturally, 40% of the light that hits that is not going to make it through. It is going to reflect back towards the back. If it was a solid can that light can only do one thing. Just bounce back and forth until it eventually gets out to where 100% of the light output has to come out the front. By opening up the back you now allow an exit point for some of those light rays that are doing the bouncing thing instead of bouncing back and forth and then eventually finding their way out. They find their way out the side. Thereby, you have reduced the intensity of what is coming

out the face because it has an exit point for some of that light. Those LED's will be either mounted on the side or they are going to be more than likely mounted on the back face shooting forward but because they put the clear plexi on the inside side of the face, naturally some of that light is going to reflect back and just exit out the sides instead of coming back out the front. He is pretty sure that is how he understood technically how that is going to work. It won't be truly indirect lighting because the only way you get indirect lighting is if you are not on that face and shoot it backwards but you would then see that when it comes through.

**VICE CHAIRMAN CASON** said he is o.k. with the way he explained the indirect lighting. His big thing is that he doesn't care how the light gets out front just as long as the light is not pointing to the front. Mr. Mayo said there isn't any other way to do that unless it is truly a reverse pan channel lettering or every letter has a border that will be a shadow line. **VICE CHAIRMAN CASON** asked what he is going for is technically impossible? Mr. Mayo said it is possible it just ends up with a shadow line around it and he is almost positive most corporate entities are not going to want that. They would just go for reverse pan channel. You don't end up having crisp lines to define the letter. It ends becoming almost fuzzy around it. The end goal is just reducing the intensity of what comes out the front to where it doesn't feel like a true pan channel lettering. As the applicant indicated, by opening up that back 100% of the light that is coming out of those LED's or neon tubes can't come out the front. It will reflect back and bleed out the side thereby reducing its overall intensity. What that percentage is he doesn't know. He would have to test it. It is less intense out the face if you open up the back. **VICE CHAIRMAN CASON** said he is o.k. with that. He said the technical part of it is beyond him right now but as long as the intensity coming out the front of the corporate colors and the logos is subdued enough not to be an overall distraction to the residents that live across the street such as they have done in other locations. Although, in most locations they just deny any type of signage on that he can empathize with the applicant's position in this particular case. He was just looking for that less intensity to be a compromise. If they can see what they are talking about or however it is crafted and will achieve that, then the details about what words from his prospective aren't as important. Mr. Mayo said it might just be as simple as the overall intensity shall be no greater than the intensity of halo illumination reverse pan channel. It just depends on how much of that letter is going to glow, whether it is its face and its side or if it is just the side. He doesn't know how to craft that. **VICE CHAIRMAN CASON** stated or maybe like a darker plastic.

**COMMISSIONER HARTKE** said they are really just talking about a quantity of lumen. You want less lumens that are going to come out not so much where light is bleeding. It is just the intensity of the light or the amount of lumens. That is controlled by their bulbs or their lighting on how bright that is more than anything else rather than the style. So whether it is 50% or the effect thereof that is what he thinks he is asking. Mr. Mayo said that is what it sounds like to him as well.

**CHAIRMAN FLANDERS** asked Mr. Swanson if he had enough information for a stipulation?

**COMMISSIONER RIVERS** said his suggestion for the stipulation would be that the applicant would work with Staff to create signage on the north side of this building that would not be as intense as that on Dobson Road unless they so choose to use the same kind on Dobson Road.

**CHAIRMAN FLANDERS** said he thinks they need to be specific to the design and everything else.

**COMMISSIONER RIVERS** said his suggestion was simply that Staff seems to have a grasp of what they are looking for.

**CHAIRMAN FLANDERS** stated they have enough information that they can be somewhat specific and the applicant and Staff can work out the rough edges.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** said he thinks so. The stipulation can just talk about what the end affect is intended to be and how it has gotten there and to let Staff work on that.

**ERIK SWANSON, CITY PLANNER**, said what he has come up with and he thinks they understand everything that is going on and not knowing what the potential lumen output is, they can't therefore reduce that because they don't know. What he has crafted is for condition no. 5 is:

*Building mountage signage along the Frye Road frontage shall be pan channel lettering with halo illumination.*

He said that gets the point of they understand how that operates.

**CHAIRMAN FLANDERS** entertained a motion.

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER HARTKE** to approve PDP09-1006 DOBSON CENTER for the Preliminary Development Plan for a comprehensive sign package with additions and stipulations as read in by Staff. The item passed unanimously 7-0.

7. DIRECTOR'S REPORT

Mr. Mayo wished Commissioner Pridemore a warm welcome.

8. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS announced that the next regular meeting is February 17, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

9. ADJOURNMENT

The meeting was adjourned at 9:25 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, February 17, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders 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 Flanders  
Vice Chairman Michael Cason  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Absent and Excused:

Commissioner Leigh Rivers  
Commissioner Kristian Kelley

Also present:

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 CASON**, seconded by **COMMISSIONER VEITCH** to approve the minutes of the January 20, 2010 Planning Commission Hearing. The motion passed 5-0 (Commissioners Rivers and Kelley were absent).
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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 discussion.

A. DVR09-1006 PINNACLE PROFESSIONAL VILLAGE

**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 (3) year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning is for office uses on a 10-acre site located approximately 660 feet south of the southeast corner of Arizona Avenue and Queen Creek Road.

B. DVR09-1010 CONTINUUM

**Approved to continue to the March 3, 2010 Planning Commission Hearing.**

Request rezoning from Planned Area Development (PAD) to PAD Amended, along with Mid-Rise Overlay for additional building height exceeding 45-feet, and Preliminary Development Plan approval for an approximate 152-acre site located south of the southeast corner of Price and Germann Roads. **(REQUEST CONTINUANCE TO THE MARCH 3, 2010 PLANNING COMMISSION HEARING.)**

C. LUP09-1016 MCCOOL'S BAR & GRILL

**Approved.**

Request Use Permit approval to continue to sell liquor for on-premise consumption only within a restaurant (Series 12 Restaurant License). The establishment is located at 4910 West Ray Road, within the Chandler Sunset Plaza at the northeast corner of Ray and Rural Roads.

D. ZUP09-1022 PUEBLO MIDDLE SCHOOL WIRELESS FACILITY

**Approved to continue to the March 17, 2010 Planning Commission Hearing.**

Request Use Permit approval to install a wireless communication facility atop a 55'-high light pole on the campus of Pueblo Middle School at 360 S. Twelve Oaks Boulevard, south of the intersection of Rural Road and Chandler Boulevard. **(REQUEST CONTINUANCE TO THE MARCH 17, 2010 PLANNING COMMISSION HEARING.)**

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 5-0 (Commissioners Rivers and Kelley were absent).

6. DIRECTOR'S REPORT

Ms. Novak said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS announced that the next regular meeting is March 3, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:34 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 3, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Commissioner Rivers.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

Mr. Jeff Kurtz, Asst. Planning & Development Director  
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 COMMISSIONER HARTKE**, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the February, 2010 Planning Commission Hearing. The motion passed 5-0 with 2 abstentions (Commissioners Rivers and Kelley were not present at the meeting).
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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 to action.

A. DVR09-1010 CONTINUUM

**Approved.**

Request rezoning from Planned Area Development (PAD) to PAD Amended, along with Mid-Rise Overlay for additional building height exceeding 45-feet, and Preliminary Development Plan approval for an approximate 152-acre site located south of the southeast corner of Price and Germann Roads.

1. Development shall be in substantial conformance with the attached Development Booklet, entitled "CONTINUUM", kept on file in the City of Chandler Planning Services Division, in File No. DVR09-1010, except as modified by condition herein.
2. The rezoning request does not include a specified timing condition. This includes relief of the 1-year timing condition from the effective date of the ordinance as specified in the City Code section 35-2603.B.
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. 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 or as otherwise approved in a development agreement.
5. **Unless otherwise included as part of the City's Capital Improvement Program, 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.**
6. Landscaping shall be in compliance with current Commercial Design Standards.
7. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
8. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
10. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
11. Animated signs shall be prohibited.
12. Building mounted signage shall be consistent with the design expectations as provided in the development booklet, and as such, building mounted signage shall be reviewed and approved administratively.
13. 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.

14. Mid-Rise development is permissible in conjunction with the approved Mid-Rise Overlay Exhibit within the Development Booklet.

C. DVR09-1009/PDP09-1004 VINTAGE VILLAS

**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, and request Preliminary Development Plan (PDP) for housing products on the undeveloped lots. The subdivision is located on the north side of Willis Road, approximately one-half mile east of Price Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Vintage Villas", kept on file in the City of Chandler Planning Services Division, in File No. PDP09-1004, except as modified by condition herein.
2. Compliance with original stipulations adopted by the City Council as Ordinance No. 3614 in case DVR04-0002 except as modified by condition herein.
3. A minimum of two trees at a minimum of 2-inch caliper each shall be planted in all front yards.
4. 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 undeveloped land west of Vintage Villas, which is zoned for non-residential use and includes a portion zoned for mid-rise development allowing buildings over 45 feet in height. 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 property zoned for non-residential use and a portion of the property has the potential to develop with mid-rise buildings. 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.

D. DVR09-1017 ABLE ENGINEERING

**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 AG-1 zoning. The 10-acre site is located at the northeast corner of Queen Creek Road and the Southern Pacific Railroad.

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.

E. LUP09-1001 OREGANO'S @ THE SHOPS AT PECOS RANCH

**Approved to withdraw for the purpose of re-advertising.**

Request Use Permit approval to sell liquor as permitted under a Series 12 (Restaurant) license for a new restaurant and outdoor patio within an approximate 12-acre commercial development located at the northeast corner of Dobson and Germann Roads. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

F. LUP09-1017 CHOMPIES RESTAURANT & DELI

**Approved.**

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). The facility is located at 3481 W. Frye Road, south of the Chandler Fashion Center.

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 (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The patio and area adjacent to the establishment shall be maintained in a clean and orderly manner.

**VICE CHAIRMAN CASON** stated Item A, Continuum, is a piece of property, which used to be Motorola. It has been saved for the citizens of the city so that they could continue to generate jobs and tax dollars related to employment. The proposal that is being put in front of us is one that much of it is conceptual. They have to depend upon the owner of the property to manage that in a way that continues to create jobs and create tax revenue for the city. He has absolutely know qualms or any problems that the owner that has it now will continue to do that and will establish a good product that the citizens of Chandler can be proud of. As we know, all property turns over. He just wanted to add in the record that they would look for future owners to have the same responsibility that this particular owner does and that is to continue to use the land in a way that benefits the citizens of Chandler. It creates jobs and it creates tax base and should not to be sold to someone who wants to come in and turn it into homes or something like that. He congratulated the project and said it is wonderful.

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

**ACTION:**

**B. DVR09-1007 MESQUITE GROVE MINI-STORAGE**

Request rezoning from Planned Area Development (PAD) for C-1 neighborhood commercial to PAD for C-1 neighborhood commercial and a self-storage/warehouse/moving establishment with Preliminary Development Plan (PDP) on approximately 4.7± net acres. The property is located north and east of the northeast corner of Gilbert and Riggs Roads.

**MS. JODIE NOVAK, SENIOR CITY PLANNER**, stated this application request is to rezone land from Planned Area Development for C-1 Neighborhood Commercial Uses only to a new Planned Area Development PAD zoning to allow C-1 Neighborhood Uses as well as a Self-Storage Mini-Warehouse development. With this request is a Preliminary Development Plan. It's a development design package for the site layout of the storage facility and building design. The property in question is approximately 4.7 acres. It is located north and east of the northeast corner of Gilbert and Riggs Road in southeast Chandler.

This particular property was once a part of a larger 9.9-acre commercial corner. This commercial corner was zoned in 1999 at the same time the Mesquite Groves Estates single-family subdivision received its zoning. At that time the property was zoned PAD for neighborhood commercial uses. It is part of a commercial node in which there are three other corners that are also planned for commercial. In evaluating the request for a self-storage mini-warehouse use to be developed on 4.7 acres of this particular parcel. Planning Staff has a finding of recommending that there is a land use incompatibility issue with not only their zoning code but their land plan that is adopted by the city and therefore, they are recommending denial of the land use.

To get into a little bit more detail about this particular request and their zoning compatibility issues that they have with it, this property did come forward through the exact same hearing process in April of last year. It did come before Planning and Zoning Commission in which Planning and Zoning Commission made a recommendation of approval with a 5 to 2 vote. It did go to their City Council and City Council denied this request with a 3 to 4 vote. The request before them has not substantially changed in any way. The difference would be 4 more trees on the perimeter landscaping in the back with some more shrubs but the overall site layout and the quality of the architecture and the use are identical as what they had seen before. What is a little bit different is the enhancement and some of their major concerns that they have from a land use standpoint that they are charged with evaluating as part of the adoptions of their General Plan, Area Plans and their zoning code. As she mentioned, this is part of an intersection at a commercial node. As part of there Southeast Chandler Area Plan, this particular property was always intended to have a form of commercial development as well as the other 3 corners. Commercial land uses have always been defined by the City of Chandler as uses that would include offices, restaurants or retail uses. Ms. Novak showed the Southeast

Chandler Area Plan. The particular property in question is located at this node that is highlighted with red. It is also in the orange area, which is denoted as the traditional suburban character. That is defined in the language in there specifically as a land use category. That category calls for this particular property to have commercial land uses in accordance with the General Plan as well as single-family residential. The other 3 corners as well are commercial nodes and are also planned for accommodations of a single-family residential and commercial land uses as defined by the General Plan. The other 3 corners were zoned because they are larger in size with Community Commercial. As they know with this intersection, this particular property is owned by Safeway. They just came through our process to get a zoning time extension. They intend on building a large shopping center. There is also another large shopping center with an Albertson's. This particular property received zoning for a large office complex with retail and restaurant. The Walgreen's retailer has built on the corner and then there is a pad to the east of it for future banks.

The northeast corner was always planned as their first level of commercial, which is neighborhood commercial. It is not intended to be one of the larger commercial corners. It is not intended to have a very large anchor or major or grocery store like the other corners. However, it would develop as a neighborhood center that would have primary users. She guesses for a lack of better words, a major user, something that anchors the site. They recently last year approved a development plan for 5.2 acres of that corner. It includes 3 pads; a grocery store, a bank pad and a child care facility. Those uses are in conformance with neighborhood commercial type zoning. They didn't have any fundamental issue with land use, the development plan for site layout and building architecture was approved. The remainder of the property is now coming before them with a separate request for the storage facility. They are not arguing in any way about the quality of the project. It is very well designed. It always has been and as far as self-storage mini-warehouse types of developments go that they traditionally find in our industrial areas of the city, this is one of the nicest in terms of design. They have explained in the report that they need the majority of their architectural design standards that they typically look for. Granted it is kind of like a hybrid because they are not commercial buildings. They are not going to usually have the type of other quality architectural design elements they would require for commercial buildings that are along street frontages. This is tucked behind 3 buildings that would be developing at the intersection corner.

This is the corner in terms of its site layout. She said what she has crosshatched here is not part of this request. It is not being reviewed and it is not being discussed in terms of any form of an approval. This is a grocery store, which was intended to potentially be a Fresh & Easy. This is the bank and it has a drive-thru on the north side. You have a Tutor Time proposed child-care that came through with a playground. They don't regulate users so they do not know or guarantee that these particular users or companies will locate in here. So fundamentally it is just a grocery store, bank and a child-care with its playground area. Next to the playground area is off of Riggs Road the beginning of the storage building which extends all of the ways along the perimeter of the site adjacent

to the backyards of single-family homes in the Mesquite Grove Estates and there are other buildings as well that are in the middle of the particular storage facility. She said some other fundamental facts about the particular project. The storage facility includes 8 buildings. It is pretty traditional in design with one of those auto trucks related type storage facility. It is not an enclosed one. It is not one that you drive up and go in to a building that looks more like an office, which they only have a couple of those in our city. It is more traditional like a lot of storage facilities, which is outdoor individual warehouse buildings that have multiple warehouse doors that are individually leased and rented to individual persons who choose to store business goods and/or residential goods or accommodation thereof. This particular facility is not being represented as a 24-hour day, 7 day a week facility. However, the city can't regulate that they be limited to certain hours even though it is represented that they would only be open Mondays through Saturday from 6:00 a.m. to 7:00 p.m. and Sunday 7:00 a.m. to 6:00 p.m. The reason is they do have a late hour business compatibility policy in which it regulates businesses that operate from 12:00 at night to 6:00 in the morning but they don't regulate self-storage warehouse facilities. That was an excluded use. Given that, the majority of them are open 24 hours a day. Although it is being represented as use it won't be 24-hours a day. That could have potential in the future to turn into a facility that is a 24-hour use, which would be permitted under the current city code. Furthermore, as far as the site development layout everything is the same as she mentioned as the original. They had proposed and added additional trees to appease some of the homeowners that wanted a couple more trees. They have since staggered the trees versus having a lineal row of trees. They have added some additional shrubbery in the back. That is a 25-foot building setback traditionally with any form of industrial commercial buildings. When you are building next to single family, which is dissimilar land uses, you would have on this project approximately a 49-foot building setback instead of the 25 that they have here. However, they do have substantial amount of trees and they feel that would be substantial buffering in case this project were approved. They are trying to meet some of the compatibility in terms of land buffering with landscaping.

In regards to focusing more on the land use at hand, where the city's position is in regards to this is throughout Chandler's growth and development and the zoning code back in the 1920's, they have always determined storage facilities, warehouse type buildings to be for household goods or for business goods always to be located in industrially zoned property. That doesn't mean someone could not store household goods in those facilities but the role is that these buildings are not being designed or constructed like a retail shops building. They don't have storefronts. It is not an office building and it is definitely not a restaurant so therefore they are traditionally metal storage buildings. They are just decorated on the outside, whether they may be left playing with some stucco and paint or have some additional finishes like this particular project has to make it blend in a little bit more with the residential area as well as the 3 commercial buildings that were approved around it. When it comes to storage facility buildings, Chandler has over 20 of them within our community. All of them are either zoned PAD or have been built in hard zoning of I-1, I-2 type zoning districts in accordance with our zoning code.

Ms. Novak said she would talk about how the zoning and land use works in our city. Everything is fundamentally based off these General Plans. The General Plan is the baseline of the land uses. This particular area of Chandler is located in the Southeast Chandler Area Plan, which she will show in a moment. All area plans are adopted by the city as well as the zoning code indicates that they implement this General Plan. This particular area of Chandler is called the Southeast Chandler Area Plan. The only area that allows industrial based uses is along Arizona Avenue to the railroad track. Everything else is planned mostly for residential single family or some incidental commercial shopping center. There is no industry in that area. There are no multi-family apartment complexes in that area because that area plan prohibits that. While there are some county islands, which are not in the city's jurisdiction, they have regulatory means over them there maybe some industry a few miles to the west of here but those are in county islands that they don't regulate. If that were to come into the cities, those aren't the land uses that this particular plans call for. As she showed earlier, this is the Southeast Chandler Area Plan, which has the same coloring system as the General Plan. Again, the only employment area is here in blue where they might have industrial based uses or storage buildings between Arizona Avenue and the railroad tracks and is not delineated or verbalized in anything in writing in this plan to be located elsewhere other than Arizona and the railroad track.

Thirdly, they have their zoning code. In there zoning code it is actually in a couple of locations but the terminology of a moving storage and warehousing establishment, C-1 type commercial zoning and C-2 is left blank and means it is not a permitted use. If you had property that had rights to C-3 uses which some of our storage facilities are zoned to PAD and had rights to C-3 uses then they were allowed. If you have hard-zoned C-3 property, you need a Use Permit to be considering the storage use. If you have a light industrial or a general industrial type zoning, then a storage facility is allowed in there by right. Chandler historically has always considered these industrial uses. That is not to say every city in the valley does either. There are other cities in the metro area that do consider these uses more commercial but they are not other cities and they haven't amended any of there zoning codes or land use plans or a philosophy to consider them as commercial. That just hasn't been done. If somebody wanted to consider the storage facilities as a commercial use versus how they define it as an industrial based use, which those 3 plans do not allow them in commercial zoning, then they feel a zoning code amendment is the right way to go. They are done in other cities for other kinds of uses. That would open the door for the consideration of these to be considered more commercial and allow them on commercially zoned property throughout the entire City of Chandler without having to do Area Plan Amendments or General Plan Amendments.

The applicant feels that storage facilities are commercial land uses because they are allowed as commercial uses in other cities. There is no request to do a zoning code amendment or any request to amend an area plan. That is a philosophical difference that they have and how Chandler historically has always done there zoning and land use processes equivocally with all types of applications regardless if it is for a storage use, residential or any other kind of use. There is a certain process to go through. In regards

to this particular request, in the discussion section she does indicate there is kind of a gray area. While it may be predominately in some storage facilities used by homeowners in the area, some of these storage facilities may predominately be used by businesses or people that have their own personal business like a pool company that they need to store their goods. There are other facilities that have a mix of those uses. Their zoning code doesn't differentiate between that and our General Plan in Southeast Chandler Area Plans don't designate those as commercial uses. There is sort of that gray area where they may be considered commercial and they may be considered industrial in terms of the types of goods and services you are putting in the unit but from a land use standpoint the actual functionality and construction and the permitting and the review of these facilities is in no way considered commercial. From a building code standpoint these particular facilities are reviewed in terms of them being industrial warehouse buildings. They get a certificate of occupancy for each individual storage unit that has a roll up door for everyone who leases individual units. If you are renting a retail shops space for a Hallmark store or a florist or a sandwich shop, each of those businesses has to get their own permit, each of them has to get their own certificate of occupancy and each of them gets an inspection by a building inspector and a fire inspector to ensure that everything is safe. With storage facilities like this, that does not happen.

The only time city staff would ever be in that facility to know what is going on and what land uses are in those individual units and what is being stored, is if there is a call or complaint that is coming in. Traditionally, how the city knows that something is not right that is going on in those facilities is if there is a call or complaint that comes in. Traditionally, how the city knows that something is not right that is going in those facilities that may predominately be deemed as residential storage versus business storage is there is usually homeowners in the area complaining of vapors or strong odors. In those instances, they have had some of our police or fire and have to go to the property manager to try to get permission to go into a unit. If they can't get a hold of the person renting the unit, they have to go to the court to be able to get permission to go and unlock the lock that the rental person had put on their facility. When they go in, that's when they first learn if there is ammunition and if there is any kind of firework material, if there are meth labs, if someone has been living in a particular unit and if someone is storing many gallons of gasoline, if someone is running a home business and has abundant amount of storage of other forms of chemicals such as a painter or a landscaper. Those are usually the reasons why they find out what is in there or there happens to be a horrible event like a fire in which most fire officials will convey that these are the types of facilities they don't like going into because they have no idea what is being stored in those units. They do not have to fill out hazmat requests with the city because these are not commercial buildings or corporate companies or retailers, they are individually leased. They may have contracts that the tenants have to sign, they may convey that this is only residential storage, the developer may feel that zoning conditions restricting certain types of storage in there is a way to regulate it but unfortunately they can't regulate it. It is really not enforceable. They can't go in there like they do on other sites and do inspections because those individual tenants who are renting the unit aren't there to let us come in and check it out.

When you look at that big picture of enforcement of what is going on to protect the area and the neighborhood especially with this being built next to a child care facility with a playground, there is a lot of unknowns which is why the city has historically said from a land use, public safety and compatibility standpoint, let's not put these facilities backing directly up to the back of the single family lots. Usually in our city there is an alley that is separating them and if there isn't, they are fully enclosed facilities that don't have automobile or vehicle truck access to them. They look more like an office building. From that standpoint they don't function like commercial type structures or buildings when you have a commercial shopping center or an office complex. There are definitely strong variables to show that they are not one and the same which is why they feel these are considered industrial use, therefore their codes don't allow it on this particular property. There are more appropriate locations where this could be located. In fact, within a few miles from here they have a couple of properties that did receive zoning in the Airpark area which has a lot of light industrial and heavy industrial property in which 2 facilities never did build. They have entitlements and landscape plans and site plans and building design ready to go for storage facilities just a few miles from here. Very convenient still for everybody who lives in the area as well as several facilities that have already built to the north of here. They don't feel that they are weak in terms of percentage of facilities that they are providing for people in this particular area.

Furthermore, in terms of siting and land use compatibility, the beginning part of this property that was 5 acres for a grocery store, bank and a child care facility was approved last year but the other portion was denied. It was unknown what was going to develop on the back part of it. They knew it would still be zoned commercial unless a case such as this one comes back forward and they felt that through working with a potential developer they can look at an appropriate site plan to fit back there and if one did not work then maybe they would have to re-evaluate everything including those 3 pads and come up with a whole new design. They went through that exercise again because they don't know if the corner 3 pads are going to build and they don't really know a concept of what the back would look like if the self-storage chooses not to build. A reminder they are asking to keep C-1 land use so if the storage does not build, they want to be able to build retail or office or a restaurant there as well. If it does build with more retail office or restaurant they don't have an idea at this juncture what that would look like and how it would be integrated with the other 3 parcels. That would be something that would definitely come back through the public hearing process again when they do decide to develop, it if it doesn't become a storage facility. From a siting standpoint historically Chandler when they look at childcare facilities in any of our commercial shopping centers, they don't have any of them that are located in a manner such as this. They are not located in business parks, behind industrial buildings with any form of storage or loading areas. If they are located in a shopping center and there is a drive aisle, which counts as a fire lane that maybe would run along the back of the facility, which also is where deliveries would happen and they would have trash pick up. They take protection factors because they don't want anything happening with kids being in a playground so they make sure that there is that least a 6 to 10 foot wide landscape buffer from that drive

aisle before they even get to the wall of the playground area and in a lot of circumstances that will not work so playgrounds wind up not getting put in. Therefore, the childcare facilities don't locate in certain commercial centers because it just doesn't work well from site development standards.

In this circumstance you don't have that. You have the childcare facilities building and you have their playground. What backs up to this playground is the back wall of a storage building which as she mentioned, you don't know what is necessarily being stored in there. These are industrial buildings that will not have a C of O like the childcare will have in terms of infection. This childcare wall on this side can arrange up to a maximum of 17 feet 4 inches that they are going to be looking at because the building itself is 12 to 15 feet tall but at the ends of it has a decorative pitched roof elements. On the north side of this playground you have a 5-foot wall with 3 feet of wrought iron on top facing the roll up doors of individual warehouse units in this particular building. There is no buffer. They have a drive aisle and then you have a fence. There is no additional landscaping within this storage facility site, there is no reorienting this building so the actual storage doors aren't facing the children, people could be in their units or taking stuff in or out. To them that is not good land use compatibility with storage of goods, drive aisle traffic areas next to playgrounds. It has just not fundamentally been a good land use practice within the city. In this case, they are having that there. They are proposing to eliminate any additional buildings to do that. These 3 users pretty much drove the request. They want it to be sited as 3 individual pads, therefore, it has always been a Phase 2 proposal but to put the storage facilities in a manner where they tend to get as many units as possible and still meet some of the access requirements internally.

Ms. Novak said she won't go along with this part but there is some sort of economic viability elements to this which deals with land use. They still feel that this property as a whole, the 9 acres, will have long term viability to eventually develop with some sort of office retail, restaurant type of uses or like uses. They aren't in the market of planning and zoning improving projects for what is going to happen today or in a week or a in a month just because the economy is a struggle right now. When you are a planner, you look at land use long term; you look at what is this area and where are these homeowners who might be living here 15 to 20 years here from now or longer. They look at what is the long-term viability of this property. Storage facilities don't really have viability in terms of the cities economic potential. They don't provide additional services for that particular area like a retail shop space or a multiple of general office/medical office type tenants would have. Fundamentally as well, not really tax revenue-generating kind of businesses. They would be giving up land use that is in accordance with all of the adopted plans that City Council and the citizens voted on saying that this can only be for commercial in this 14 square mile southeast Chandler area. In no way, did they ever approve our plans for employment or light industrial uses to be located here because there are other areas for that to go. With that being said, are they o.k. with removing several acres of land that is potentially for commercial for an industrial type use at this location

knowing that is the best land use many, many years from now? You can't really make that decision because you don't know what is going to be many years from now.

Some of these corners especially the southeast corner has been vacant for an extremely long time. They have had several requests that have come through. Some really good, some may not have been. They finally did get a really good development request on that property. Time usually winds up resolving itself where the city has learned that by waiting you usually get the best project that is the most compatible land use for that particular area of our city that suits the needs of the southeast Chandler area. It is a special area, very restrictive, as they don't have high-intensity uses and there are not really any drive thru uses such as fast food restaurants, you don't have gas stations, you don't have multiple family apartment complexes and you certainly don't have in-city limits down there, any industrial, warehouse buildings, storage facilities, corporate offices or call centers. They are just not located in the area because the codes don't allow for that. They have to be along Arizona Avenue and the railroad track or go to a County island and follow Maricopa County zoning and development standards and that is where some of the storage facilities within a couple of miles west of this property are. There have also been a few storage facilities approved in adjacent cities to the east, which have yet to build either. They are not just ultimately the development timing of the storage facility. As she mentioned, they do want that opportunity to have commercial so it is quite unknown whether or not this will ultimately build. From the city standpoint they have to come forward and recommend denial because it just does not meet any of our land use codes and has not been a land use that they have ever had any equivalent determinations made with other properties in the city with the 20+ sites that are zoned and developed for storage facilities. There aren't any that are in a property that allows C-1 neighborhood commercial or C-2 community commercial type zoning. A major reason for that is because there are usually single-family subdivisions that back up to those properties and these are just not compatible land uses. They need to go in the appropriate areas where they have advised many other storage facilities to go. If they wanted to be on commercial they would have been more than happy to consider them if their codes allowed that therefore, they would wind going into industrial areas where they may not have wanted to.

They ask for the same review to be done with this particular property as they have with everybody else who usually comes in with this same type of a use and how they have guided them where to go or direct them to say that they need to come back with the zoning code amendment. Then they can look at it more appropriately, which they would be more favorable to amend our code and look at more appropriate ways to allow these kind of uses in commercial districts but unfortunately their hands are tied at this time the way that the citizens and the city has adopted all of our plans. Since they are recommending denial there is not a set of zoning conditions for them, however, they do have some conditions they could consider if the Planning Commission were inclined to recommend in support of this. Ms. Novak said if there were any additional questions, she would be happy to answer them.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff on this item.

**COMMISSIONER PRIDEMORE** asked for a clarification on the hours of operation. He asked Ms. Novak that she was representing certain hours of operation but that in no way those could change; they are not enforceable to what they have stated? Ms. Novak replied they are representing that this facility has approximate hours that they operate. However, there is no regulatory means for them to stay with those hours. If they choose to go to a 24-hour facility, they have that opportunity to do that unless they were to choose to stipulate this project if they are recommending approval stating they are stipulated to only those hours. If they change it by ½ an hour or an hour they would be in violation. Unfortunately, it is very difficult for the city to go and enforce that. If they had a police officer or a planning staff say a neighbor called them on a Sunday and said they let somebody in at 10:00 at night and they are only supposed to be open until 7:00 p.m., it is just going to be word of mouth trying to get them to change their hours without them really being able to monitor it. Its kind of one of those enforceable things that is a risk when you put a storage facility in.

**CHAIRMAN FLANDERS** stated he thinks as a result of the PAD process if they were to restrict it from a 24-hour project, they could go ahead and do that. Ms. Novak said yes they could do that but enforcing it is extremely difficult. They don't have city staff there and then on the weekend it is usually a homeowner saying there are cars coming at night, somebody is working on something in their unit in the middle of the night and it is usually just a constant verbal back and forth letting people know that there is a problem and hope that they actually listen.

**COMMISSIONER RIVERS** asked Ms. Novak about the corner on this project, which isn't part of this discussion? She said there are a possible grocery store, possible bank and a possible childcare facility but none of those are built yet. Ms. Novak said that is correct, they have yet to construct. **COMMISSIONER RIVERS** asked if the childcare facility found this to be an issue that they might put the playground on the west side of the building and then put the building on the right side? Ms. Novak said if they were to make substantial changes to the plan that they did get approved last April, they would need to come back through the public hearing process to amend that site plan. Her understanding is they worked at length with these homeowners with that childcare and the homeowners to the east did not want a playground anywhere near their property, which is why they wound up shifting the Tutor Time and the playground further west. Another reason was because they couldn't have it right in front of the median break of traffic. They also wound up extending all the storage facilities down the east side of the property to serve as a buffer from the playground from the homeowners. The other reason of flipping the playground over to the west side of it could potentially create conflict for access and driveways. It is a very tight site. Normally, they don't have 3 individual pads on a site of this size. It may not work site wise to even slip that playground to the opposite area because of the constriction that they have where the driveways are located to access that property off of Riggs Road, have circulation in parking and knowing parents and children are going to be walking to and from parking

spaces to the building. This ultimately when they designed it felt that was the best way not to create conflicts with everything else.

**COMMISSIONER HARTKE** asked Ms. Novak if she knew the mechanisms for entrance and exit on this? Is it just a keypad or was there mention of a house there with a person living in it. Was everyone to check and go through them or was there just blind entrance and exits to where they are unmanned? He thought that was the reason of having a person there. Ms. Novak said this particular facility like many storage facilities have an office building, which is where you mainly go to sign leases or get a new key. The building is 2-story so it also has the caretaker quarters. In most self-storage warehouse facilities in the valley there is somebody that sleeps there. It is actually like an apartment and they are kind of the manager of the site. They sweep the property. If they hear something in the middle of night, hopefully they wake up and walk outside to see what is going on. Usually, they are just going to call the police department for safety standpoints but this is not a manned facility. Everybody has a gate code just like all other facilities they have in Chandler and they have a gate code. This is their primary entrance and exit off of Gilbert Road. They will go into this area and put in their gate pass code and be able to get into that facility and then they leave that way. The area off of Riggs Road is an emergency exit only to meet fire department requirements but is not a primary exit for this facility. They will all be coming in off of Gilbert Road and she showed the gated area. There isn't somebody that is there manning who is coming and who is coming out. There are usually security cameras that these facilities have. These self-storage facilities do take to heart trying to have some support for security measures just like other businesses would have, but there isn't somebody there monitoring it and watching it all day long. **COMMISSIONER HARTKE** said if this was permitted then, a stipulation was placed on this stating the hours that it would be reasonable to control by access to the gate code of when they can also enter and exit. It could be turned off during off hours. It's an electronic opening, right? Ms. Novak said that may sound well and great unfortunately it is not be enforceable. In the city's storage facilities if you have a dire need to be able to get in there to get your personal goods or your business goods because you need to get stuff to run to a job for a business in the middle of the night or your moving and you need to grab your stuff late at night, these companies will provide you a special code to get in at off hours. That happens all the time at these facilities that they have in our city. Even if they stipulate it and condition it and say that they won't, the city staff doesn't have any way to really go and enforce that. They don't have somebody there saying because they let somebody in at 10:00 at night to stop doing that or change your gate code so that somebody can't come in. There is no way for them to really do that.

**COMMISSIONER VEITCH** asked how the enforceability issue differs from the situations they encounter frequently when they try to put hours of operation on liquor use permits, music on outdoor patios and so forth and admit that they are relying initially on resident complaints followed by some staff surveillance to determine whether those things are being violated? Ms. Novak said there is actually a substantial difference with liquor use permits because legally they cannot, as the city put time restrictions on the use

of their patio. They can't suggest that unless the property owner and business thoroughly agrees and states that they would be willing to have that condition put on there to appease the neighborhood. If they are not willing to agree to that, they can't because of other state laws regarding liquor. **COMMISSIONER VEITCH** said he understands that but they have put those stipulations on liquor use permits. Ms. Novak said in a grocery store somebody says they don't want it to be 24-hours and they want to restrict the hours, there are those stipulations that Board suggests to put on there, but enforcement wise it is not a simple step of going out there and saying they are in violation and you need to cease your business. Or they got word they were open later than they were supposed to be, stop doing that. They can send letters in writing, they can constantly tell them that they are violating your zoning condition but it is going to take a lot of evidence over a long period of time with photos of people or the store and eventually getting them to come into compliance. If they don't, sometimes they will ask results of possibly doing a court situation. It is that good neighbor thing but it is one of the things that is not immediately enforceable. What is enforceable is if the storage facility moves out and somebody decides to start running an auto repair business out of every one of those buildings in the back. There is a land issue. They have no zoning for that use whatsoever. They would go in and issue a cease and desist because they have no building permits or C of O for a change of use. It is very, very challenging with the hours even with those other projects that may have a condition. **COMMISSIONER VEITCH** said it sounds to him that enforcing hours of operation on a facility like this is not materially different from enforcing hours of outdoor music on a restaurant patio. They stipulate to that frequently. Ms. Novak stated it is heavily relied on by citizens and neighbors calling our code enforcement group, calling them so they can get code enforcement or call the police dept. especially with the new noise ordinance out. It is just word of mouth from the citizens but there isn't a group of staff that is out there checking all the time at all hours every day of the week. **COMMISSIONER VEITCH** said not unless there is a complaint that bears following up on.

**VICE CHAIRMAN CASON** said he is looking at the retention summary. Do the basins on this L shaped property along with the underground storage retain all its own water? Ms. Novak said this site has a master drainage report or drainage plan for everything. When they came in originally last year, the drainage plan was looked at not only for the storage facility but all the retail. They have a minor amount of storage that is happening along the street frontages and then they have under grounding so the sheet flow is a combination of all the 9.9 acres. The storage facility is no way retaining all of their own storm water on their own property and they don't have retention basin but it is a master-grading plan for everything. **VICE CHAIRMAN CASON** asked if the storage comes first, then they won't be able to retain all their water? Ms. Novak stated they would have to substantially do all underground storing for themselves. A lot of times through the construction process what they do require is all of the perimeter landscaping to go in. They would have to agree to in addition to landscaping but doing any other retention basins or any other on-site improvements. They have to prove they can accommodate the retention. If they can't, they are not going to get the permit to build. There are certain circumstances that they are willing to do all of those on-site improvements and then those

pads come in much later. **VICE CHAIRMAN CASON** stated because of the same owner but 2 different applications they couldn't require the storage to use the other land for retention because those are separated because they are 2 different items? Their retention would have to remain on their property. Correct? Or they would have to develop the corner property first in order to handle the retention otherwise you couldn't issue building permits correct? Ms. Novak said right. It is a coordinated effort if they in fact want to build a storage facility. They are going to have to come to a resolution of how they are going to accommodate all the retention, which has to be considered on the rest of the nine acres in and around those 3 pads. They have indicated since last year that the storage facility was not the first phase and that those retailers are definitely going to be the first phase that would go in. They would put the brunt of all of the costs and expenses for all their improvements but if the storage facility were to come in, yes they would be doing all those improvements for everybody including those 3 pads. They couldn't just do half of the improvements. The storage facility is going to have to meet all of the requirements. **VICE CHAIRMAN CASON** said as usual the entire property that is not included in this, the outside property of the street frontage that included all of that in Phase I, all of the retention, landscaping and everything else would have been included in their Phase I. Correct? Ms. Novak said that is correct and the entire perimeter landscaping on the north and the east side. Around the Phase II they were going to be installing as a part of that retail as well. **VICE CHAIRMAN CASON** asked in this application there is no stipulation that says the storage cannot be built before the other application? Ms. Novak said they don't have any stipulations presented to them because of the recommendations of denial. However, if this was to be approved and there were stipulations, that would definitely be one you could consider adding.

**PAUL GILBERT FOR BEUS GILBERT PLLC., 4800 N. SCOTTSDALE ROAD, SCOTTSDALE** stated they are very familiar with this project. They have been before them once before. He thinks if nothing else they should give them an 'A' for their tenacity. They feel very strongly that this is a good proposal. They had strong neighborhood support before but as they will discuss later in the course of this presentation, they even have more neighborhood support for this application. Before they even filed the second application, they went back to the neighborhood and said they won at Planning Commission but they lost by one vote at City Council. They don't want to go back unless they feel comfortable that this is what they want. They received strong, emphatic feedback that this is what the neighborhood wanted to see. Armed in part with that very strong and emphatic support from the neighborhood, they are back before them today and asking for this current application for a PAD for C-1 uses for a mini-storage.

They have been regaled this evening with a lot of talk about the General Plan and the Area Plan. He would like to spend some time on that because he thinks it is worthy of discussion. He said he would focus on a few things. They absolutely feel that they are in conformance with the General Plan and the Southeast Chandler Area Plan. He said he was going into detail as to why.

This area is designated on these plans as medium intensity. It isn't low intensity. It is medium intensity. The project they are proposing is low intensity. They are below the intensity standards that both plans envision at this intersection. He has found that every time he starts quoting goals of the General Plan, the Specific Plan and the Area Plan he puts everybody to sleep. He is not going to do that because he is going to point out a couple of things on the General Plan goals for this area. The goals are to promote a balance of land use. The mini-storage accomplishes just that to preserve existing neighborhood and encourage in-fill. In many ways this is the in-fill project and they are preserving the neighborhood. They are there with 100% support of every single adjacent neighbor so they meet that goal. They also are encouraged under the plan to have a variety. They are doing that. The other corner, Jodie did a good job of explaining what is going on at the other corners. They don't compete with them. They are smaller and they don't have a lot of the advantages that the other centers do that are anchored by a Fry's or a Safeway. They are providing a variety of uses and that is very consistent with the plan. Overriding everything he has said in that regard let him talk about the Southeast Chandler Area Plan. Subsection C.2 has a very, very telling section and he would like to focus on that. Subsection C.2 says 'interpreting the vision plan states non-residential development should occur in a low-intensity manner (that's what mini-storage is) and be based on input received from the neighborhood residents. They are standing before them in that posture here today and it is very consistent with the guidance given in Section C.2 of the plan.

They have spent the last 2 years meeting and discussing this request with the homeowners. They have made numerous modifications to this plan. They had an interesting situation here because the homeowners knew this was going to be commercial and they had to sign this special waiver acknowledging that the property would be developed as commercial before they bought. That was long before they bought the property or became involved. They didn't take advantage of that. They didn't come to the neighbors and say you have signed this document already. They can put here whatever they want. They work with the neighbors and they made multiple modifications to our plan. The bottom line is they worked with the neighbors, they made changes to the plan and as a result they now show them a map that shows they are here with the support of every single adjacent neighbor with the exception of one. That property is bank owned and they can't get any commitment one way or the other. I think it is illustrative of how well they have worked with the neighborhood and what they have done. Not only do they have the immediate neighbors 100% in support, but you have a letter in your file from the Mesquite Grove Estates Homeowners Association supporting this project. They have a letter from the Circle G Homeowners Association also supporting this project. They had 2 neighborhood meetings on this project and at both meetings there was no opposition at either meeting. They have gone above and beyond to design this project to accommodate the residential neighborhood.

Coming back to the guidance of Section C.2 it says 'they should listen to input from the neighborhood. They have done that and they are coming before Commission in the posture of not only having done that but also making modifications to the plan they

suggested and also with their full support. Why would he support mini-storage? Mr. Gilbert said he wanted to review the impact a mini-storage has on the adjacent property. They asked Commission to keep this in mind as they are going to consider a question in just a moment. Is this a commercial or is this an industrial use? He said let's talk about impact because that is what this is all about. They have heard from Staff that this is not compatible with the neighborhood. He would submit that on the surface with the neighborhood that answers the question. Traffic is a major indication that impacts on a neighborhood. You cannot have any use with a lower traffic count than a mini-storage. The national statistics indicate that the number of trips a day are between four and seven. If this were to be developed as office or some other use the traffic would be substantially in excess of that. If this were to be developed as office no doubt it would be 2-story. It is virtually not feasible to develop this project as an office building with one story. Even if it were, it would still have more traffic. You have 2-stories next to a neighborhood now, where they have buildings at the highest peak point between 15 and 16 feet high. Mini-storage is a very quiet use. It is sort of inferred that some music could be put in here that would perhaps cause some compatibility problems. Those uses found in most industrial mini-storages have electrical outlets in each unit. Theirs does not. There is no ability to have any function that uses electricity in these units because there are no plug-in possibilities. They are noiseless. There is retail or if office buildings are located there, there would be much more lighting on the site. They have low-level lighting that can be seen from the adjacent residential area. If you take all those things together and assemble them, do they have an adverse impact on the neighborhood, he submits they clearly do not.

He said he was going to talk about the quality of the architectural design but Staff has already told them that they like the design and that it is quality. He is going to take that as a given. Mr. Gilbert said let's go to the real question – is this use compatible? Again, they have neighborhood support and they are meeting the goal of the General Plan. The site plan they are showing Commission this evening is the site plan they have to build or come back and have it modified.

First of all they are providing a great buffer and transition from the existing homes while providing a needed use from the area. Mini-storage is quiet and a great buffer between the homes and the heavier and more intense C-1 uses that are permitted on this site. Mini-storage is used as a buffer all over this valley. He has easily handled in excess of 30 applications for mini-storage in his career. Almost all of them that I have handled have been used as a buffer between residential and more intense uses. That is exactly what is happening here. They are there to service the neighborhood. This is not a mini-storage that caters to industrial users. It is not tall, it is short. It doesn't have electricity in it. The primary users are going to be residential users that will use this facility and therefore they don't have to travel. They have been told there is a mini-storage immediately in the area. The closest mini-storage is more than 2 miles away. They are in this business and his client has developed and currently owns and operates more than 50 mini-storage units in the valley. He has a good feel for what will work and what won't work. He submits the proof is in the pudding. The fact that he has owned this

property for 10 years and he lost by 1 vote the last time he was in and he is back again. He thinks some deference should be given to the fact that here is an experienced mini-storage developer who wants this site very badly and is coming back for a second try at it.

One final point is that with American consumerism the way it is, many of them and particularly now with the trend for smaller homes don't have the ability to store all they need in their homes. This mini-storage adjacent to residential and in a large residential neighborhood provides an opportunity to do just that. The second question is and where they really disagree with the Staff. Is this an industrial or a commercial use? He is very aware of the fact that he is in the City of Chandler but he pointed out that virtually Chandler is one of the unique communities that does not treat mini-storage as a commercial use. That is o.k. They have that right. It underscores the point he is trying to make which is that Tempe, Gilbert, Peoria, Mesa, Phoenix, Buckeye, Surprise, Scottsdale, Glendale, Goodyear and Avondale which some require Use Permits but here they are doing a PAD which gives you the protection that you would get from a Use Permit but all of those cities that he just read to you treat this as a commercial use and not an industrial use. None of those cities require an industrial underlying category in order to build a mini-storage. He submits that is very good evidence that this is not an industrial use. An industrial user is typically a heavy traffic user and they are not. As he indicated, the national statistics indicate that there are four to seven cars a day at these facilities. You won't find that in conjunction with an industrial development. An industrial use usually caters to other industrial users. These aren't designed for industrial use. The industrial uses are usually much involved with light pollution and here the only lights they are proposing are interior to the facility. You won't find that in an industrial development. They talked about the noise already.

He said he also wants to talk about the hours of operation. It is his legal opinion that if they agree and they are doing so of their own free will and volition, hours of operation will be limited Monday through Saturday from 6:00 a.m. to 7:00 p.m. and Sunday from 7:00 a.m. to 6:00 p.m. They are agreeing to that. He said he knew Staff has not given him a list of proposed stipulations. They would enthusiastically suggest that stipulation be put on this case because that is what they have agreed with the neighbors. There is a concern that someone could come in and over ride the card lock system. They have a card lock system and they are going to use it. That card will not allow you access except at these hours. There is no way that you can have access except at these hours. There is no way that you can have access except at the hours they have indicated and there is no emergency over ride situation where they give someone a special pass or they make an exception for an emergency. They don't. They agree to stipulate to that as part of the stipulations and attachment to this application. Usually in industrial the buildings are 2 and 3 stories high as he has mentioned. Theirs is a single use with a 14-foot high. Usually industrial uses include large trucks and loading docks. Not here - they don't have either. They believe this doesn't quack like a duck or walk like a duck. It is a commercial use. It is not an industrial use.

They have also asked for a minor setback variance. Staff is in support of that. He is not going to discuss that unless you have questions on that as well. Mr. Gilbert said he wanted to close on two points. He doesn't believe it is proper to discuss economic uses as a condition of approving the land use. They are here to discuss land use matters. They can tell them and they are in retail development as well, there is virtually no opportunity for other retail on this site. It is a small center and it is not anchored by a typical tenant. Under those circumstances one usually looks to office. They have had a study done that indicated that there is 63% current vacancy rate for office buildings in the immediate area of Chandler. Lastly, he said Jodie was absolutely accurate when she said that there have been no mini-storage units approved in the City of Chandler that were not industrial or PAD. They are asking for a PAD. He said let's look at the past areas where mini-storage has been approved. He showed them on the ELMO. There is one at Elliot and Price on the northeast corner. In 1981, the parcel was zoned from MF-3 and C-2 to PAD to allow for 15 acres of residential property and 4 acres of commercial property. In 1984, the owner attempted to rezone the PAD to C-3 to allow for mini-storage. Staff recommended denial. Planning Commission instead recommended amending the existing PDP under the existing PAD. That is in fact what happened and City Council approved it. Now you have a mini-storage, underlying commercial zoning and amendment to the PAD at that corner and that is exactly what they are proposing here. At the southwest corner of Warner and McQueen, in 1984 that was rezoned from C-1 to allow for PAD for mini-storage. That was also approved. At the northwest corner of Elliot and Dobson there a PAD was amended to allow for a mini-storage and at the southeast corner of Ray Road and McClintock Drive with similar circumstances. They do have an example of PAD being used to house mini-storage that was not industrial.

Mr. Gilbert said they submit in summary that they stand before them in a posture of strong neighborhood support of a use that is compatible with the neighborhood, of a use that is well designed and a use that is well integrated with the other uses they are proposing. For this reason they hope Commission will follow the decision they made a little over a year ago and recommend approval of this application for the City Council. He apologized for going on so long but his client is here and he at least has to match Jodie or he won't feel he got his money worth. He said he would be happy to answer any questions they have.

**CHAIRMAN FLANDERS** thanked Mr. Gilbert and asked if there were any questions of the applicant.

**COMMISSIONER KELLEY** said for him it all comes down to one thing and that is hazardous materials. How can they be sure they are not going to be storing hazardous materials adjacent to the Tutor Time? Mr. Gilbert said that is a good question and he would like to answer it in a 3-fold manner. First of all written into their contract is a prohibition on storing any hazardous materials. They limit what can go in there. They have to sign that as part of the contract when they come in. If they have any instance of that happening, they have the ability to go in and remove the hazardous material and/or terminate the lease. So they control it from that point of view. Secondly, they have not

(remember they are talking with an experienced mini-storage developer) had a problem with that in any of the 15 units that they currently own. Every one of those units is adjacent to a neighborhood housing project. Thirdly, they have the same problem if someone wants to store that in their garage only they have no regulation over that. He was amused by an exchange between 2 members of the City Council when this point was brought up. The fact was that if someone wants to store hazardous material, they could put it in their garage. You have no control over that. That is how they regulate it. **COMMISSIONER KELLEY** said he is not as concerned about the residential side because he thinks there is enough separation. If something blows up he has no idea how far that explosion is. He is assuming the houses are probably far enough away that they don't get blown up. He is more concerned about the kids playing on the playground when something blows up or catches on fire. He understands it is written into the lease agreement but people break lease agreements. If they find out about it, how long does it take to find out about it? How bad was the ramification of not addressing it earlier? He doesn't know how they can actually police it, how can they make sure that it doesn't come in? I know what Staff is telling us and that is they don't have the ability to police it. They can't go in and check it. He is looking for something besides signing a lease and a promise that if it happens, they will address it. He just doesn't know how they can do it. Mr. Gilbert said he doesn't know what more could be done. He thinks they have the same problem in an industrial complex. Incidentally, he is glad they brought that up. They sat down with the Tutor Time facility and they understood and they reviewed the site plan and they were very happy with it and didn't perceive that as a risk. They had to get their sign off before they could come in and have this hearing. They apparently do not perceive it as a serious risk.

**COMMISSIONER RIVERS** asked if could tell him if the western wall of building G is fireproof? It borders the child playground. Mr. Gilbert said it was fireproof. **COMMISSIONER RIVERS** asked if somebody parks a car in one of the 7 parking places that also borders this playground, is it not just as possible that one of those cars could blow up as comparing to something in one of these storage facilities? Mr. Gilbert said he would have to say yes. **COMMISSIONER RIVERS** said if there is something hazardous in one of those storage facility stalls in building G, if you have a fireproof wall between it and the playground, it is probably not as bad as something else that might happen to them.

**COMMISSIONER VEITCH** said the Staff has suggested and written in the report that amending the city zoning code to allow consideration of self-storage, warehouse moving establishment in neighborhood commercial C-1 and community commercial C-2 zoned properties, it would be an appropriate process suggesting that is the better way to tackle this. Just for the record, why not do that? Mr. Gilbert said that is a fair question. At the risk of appearing redundant they don't think they need to do that because this is not an industrial use. It is a commercial use so they don't need to do it. Their answer to that on a more pragmatic basis is this. They are here with a PAD. A PAD gives you all the controls you need. You can make the decision on a case-by-case basis. If you amend the ordinance, they open it up where someone can come in as a matter of right even if the

neighborhood opposes it. It is more difficult for you to turn down that use keeping it as is and keeping it as under the umbrella of a PAD - they actually retain more control over this use. That is why they didn't consider doing that. One, they didn't feel it was necessary and two; they have all the protections with the PAD you wouldn't have if they came in and had that as a matter of right under a C-1 or C-2. **COMMISSIONER VEITCH** asked does there exist at this point a list of the stipulations that would be agreeable to the applicant? Mr. Gilbert said he has not seen the list of stipulations but if there is one, they would be willing to look at it. Ms. Novak, Sr. City Planner said they don't really have a formal list, just some written down that they would have to discuss at the hearing.

**CHAIRMAN FLANDERS** said as they proceed through the process and if that is Planning Commissions desire to go ahead and approve it, they will get the list from Jodie and then work through that process, what they are agreed to and additional stipulations if there are others needed.

**COMMISSIONER PRIDEMORE** stated that in these economic times they have seen numerous projects get entitled, numerous projects actually get permits and then nothing occur. They have seen quite a few examples just on this intersection itself. Can you state the clients intent on schedule in terms of moving forward with this project if it would get approved? Mr. Gilbert said he is not candidly prepared this evening to give you an exact date. His client has owned the property for 10 years. He bought it with the intent to putting a mini-storage on there. He is in the mini-storage built business and he has every reason to believe he intends to go forward in the immediate future with the mini-storage on this site.

**VICE CHAIRMAN CASON** asked that in the southeast corner of their plan they have a second gate. Is that just for the fire department or does that have egress. Mr. Gilbert replied no that is for emergency egress. **VICE CHAIRMAN CASON** said so the tenants cannot use that. They have to come out the front door? Mr. Gilbert answered right. **VICE CHAIRMAN CASON** asked how they propose to retain their water? Mr. Gilbert said his architect would answer that.

**ROBERT KUBICEK, 2233 E. THOMAS, PHOENIX, ARIZONA**, said to answer his question there is quite a bit of retention around the outside area between the buildings and the housing that we will use for retention. They do have this plan to retain underground for the rest of it so it is self-retaining as an individual property. Mr. Kubicek said there is retention in that area. It is not deep retention. It is not big enough to be deep retention. There is also retention on the east side of the property. The rest of it is retained on tanks underneath the paving within the project. **VICE CHAIRMAN CASON** asked why those aren't called out? Ms. Novak said they are in Exhibit 'G' of the development booklet. There is an upgrading and drainage plan. **VICE CHAIRMAN CASON** said he is talking about the burmed areas or vehicle non-access easement area and they aren't called out as retention whereas everything else on the property is called out as a basin or retention. Is that retention? Mr. Kubicek said yes it is called out on that plan. Again, it

is not very much retention. It is very shallow and it only takes basically the retention that is caused by those buildings adjacent to it. **VICE CHAIRMAN CASON** asked if it is 11,555 square cubic feet? Mr. Kubicek stated he believes that is correct but he would have to study that a little to answer totally but he believes that is correct. **VICE CHAIRMAN CASON** asked Staff if they concur that the retention marked out on the perimeter of the property is 11,555 square cubic feet? Ms. Novak replied that they also have underground that they are indicating by the letter "V". That is incorporating all that volume. At this juncture they don't have a final drainage report to actually ensure all of that. There are some unique drainage patterns with this property that when the PDP came through on the retail last year, they have to do some larger drainage channels along the street frontage because it is kind of a street flow and they have to get the drainage across west of Gilbert Road. Everything is kind of flowing south, southwest on this particular property but the basins that are on the perimeter are very, very minor. They have a landscape plan so you can't do a lot of basins because you are going to have to put in all of those trees and staggering all those trees and adding all those shrubs that they have back there. It is really not a substantial retention basin that is happening along the perimeter at all. It is either going to be by undergrounding or they are going to have excess drainage that is going to be along the frontages. More than our 50% rule because of an unusual circumstance that our City Engineer realized that is happening within this particular property. They couldn't really contain it all on their site. They would have to put a lot more of underground storage to retain all of the storage facilities retention on their own site. Mr. Kubicek said if they look at the chart where it says retention summary that chart is for this subject area, 196,000 square feet. It says retention volume required. It is 42,000. In the basins these size, it is 11,500 cubic square feet and then underground it is 30,000. So it does retain itself as per this report. **VICE CHAIRMAN CASON** said he agrees that is where he got his numbers from – the table. He just had conflicting information to understand this piece of property can retain it's own water or it depends upon the sister property to retain a portion of this water. If he hears Staff correctly, they aren't really sure yet. Mr. Kubicek said it has been designed to retain itself. **VICE CHAIRMAN CASON** said to Mr. Gilbert that he said there were some letters from the homeowner's association and he didn't see them in his package. Mr. Gilbert said he assumed they made their packages. They had been submitted to the city. They have letters from 2 homeowners associations. Ms. Novak said they aren't included in the report. She is not aware they have all of those letters. **VICE CHAIRMAN CASON** asked when they were looking at this property did they consider perhaps a 2-story all enclosed? He said when he worked the numbers it looked like two floors were 190 x 190 feet. Mr. Gilbert asked if he was just talking just the mini-storage parcel? **VICE CHAIRMAN CASON** said yes. Mr. Kubicek, the architect, stated they did initially look at it as a partial 2-story in the interior section. The owner decided that wouldn't be the most appropriate use for what they thought was going to be used in that area, which he thought would mostly be boat storage, RV storage and things of that nature. Therefore, he rejected that situation. **VICE CHAIRMAN CASON** asked in the center there are boats and automobile storage? Mr. Kubicek said there is along the center building. There are areas there that are 12 feet wide and up to 25 feet deep. **VICE CHAIRMAN CASON** asked so they are internally stored? Mr. Kubicek said yes, everything is internal.

Ms. Novak said that is not represented in the development. She thinks with the floor plan they have included, there is nothing written stating they have boat or RV or any vehicle storage. The units they are representing are 10 feet wide x 20 feet deep or 10 x 15 so she is not sure that those are extra uses. The narrative only says it is residential household good storage. **VICE CHAIRMAN CASON** said that is something that maybe they could find out. He asked on Building G what is the west side manufactured with? How is the west side built? Mr. Kubicek said it is an 8-inch CMU block wall that would be routed and reinforced. **VICE CHAIRMAN CASON** wanted to know if they could do something like a stand up concrete wall there? Mr. Kubicek said they could do a tilt wall but the masonry, if they solid grout it and put rebar in it, would be just almost as strong as anything else. **VICE CHAIRMAN CASON** asked from a protection and explosion standpoint they are virtually the same? Mr. Kubicek said yes.

**CHAIRMAN FLANDERS** went to the audience. He has 3 speaker cards right now. The first card says they do not wish to speak and are in favor of this project. They are David and Amie Higginbotham.

**BOB KERLEY, 3752 E. NOLAN DRIVE, CHANDLER** stated he is there not in support or in opposition but he was reading the report that Jodie put together and on page 2, second paragraph from the bottom, it states the applicant has to confirm that there are no air conditioning units planned for any of the units in this development. He wanted to ask Mr. Kubicek if any of these buildings have internal walkways to them. He owns 5 self-storage facilities here in Phoenix. The trend and most of the newer facilities in town is anywhere from 30 to 40 percent air-conditioned. Are Mr. Laveen and Mr. Davidson the owners? He knows they have several facilities that are all non-climatized but he would think in today's market they would want some of these air-conditioned. If they decide to change this PDP, do they have to come back for a new application? Ms. Novak, Sr. City Planner said yes they have had discussions with them from the previous case. She received in writing from them that they are not proposing any air-conditioning units. One, none of the building heights and the parapets are designed to screen any form of mechanical equipment that would go on the roof if they had a roof mounted air conditioning unit. These buildings would be taller, the parapets would be raised and be more visible to homeowners. Secondly, the site plan design is not designed and there is no room to put ground mounted air conditioning units anywhere in front, on the side or in drive aisles or in parking spaces or in landscape areas. They would likely have to come back with a new Preliminary Development Plan to try to fit all that in. Mr. Kerley asked in their site plan if they had internal walkways. He would think that would be very uncomfortable if they have buildings that have internal walkways. Owning several self-storage facilities, any customer coming into a self-storage facility can request from the manager to the security software to over ride that software on the hours of operation. The card Mr. Gilbert is talking about can be overridden by the manager if a customer requests it. The problem they have is what Jodie says, policing it. The software that is out there for any self-storage facility owner you can override unit-by-unit hours of operation.

**MICHAEL SCHUGG, 2395 E. CLOUD DRIVE, CIRCLE G, CHANDLER,** stated he is the Treasurer of the Homeowner's Association and as a Board supports this development. They have looked at it, they have gone to the site and they would like to see it developed and reduce the dust and dirt that creates during the dust storms. Also, the compatibility for our neighborhood as low-density. The storage units usually get the most usage on the weekends when it is the lowest traffic. He uses a storage unit that is 2 miles down the road. He is not able to get in that storage unit. He's a bass fisherman and he keeps his boat there and he has tried his hardest to let them get me in there at 4:00 in the morning and they won't do it. He has to pick it up the night before if he wants to fish in the morning. They will not allow me in there for anything. They would not support any kind of fast food restaurant on that corner. They have problems now with kids after 10:00 p.m. in their neighborhoods. The fast food situation creates a lot more children in their neighborhood and at night they have theft problems late at night there. They are in support of this development because it has low intensity, Tutor Time and they feel that the storage units are beneficial for our neighborhood because they have lots of people that would like to rent them to put their RV's, boats in and things like that. It is not that big of a storage unit. He thinks it will all be taken up by the residential people there. They like the idea. The corner lot is not big enough for a large supermarket. They have to many supermarkets in the area all ready. They have so much office space that is not being rented. You can rent office space so cheap today that this gentleman couldn't build office space and rent it out for his investment. It is ridiculous. It just doesn't fit there. They would like to see the Tutor Time, the bank and storage units and they are in support of this project.

**CHAIRMAN FLANDERS** asked if there were any questions of the speaker. There were none.

**MS. NOVAK, SR. CITY PLANNER** asked Chairman Flanders if it was possible for her to clarify some things for the audience on some information.

The Planned Area Development zoning is not just an open-ended zoning. You request Planned Area Development zoning in accordance with adopted city land plans. You cannot just ask the Planning Area Development zoning for any use that you want regardless of what the General Plan Land Use Map or any other area plans or zoning codes because it has to be consistent with that. There are mini-storage facilities that have Planned Area Development zoning but their underlying land use is in accordance with these cities adopted land plans for the zoning code for either employment, light industry or C-3 uses. You only do a Use Permit if you have hard-zoned C-3, therefore if it is C-3 but you want to get the PAD, they will have you do that. One of the cases they talked about, they requested C-3. They said no they have to do PAD but it was always planned and zoned for C-3 type light industry heavy commercial. Also, these are industrial buildings because there maybe some misconception that industrial tends to be production facilities, manufacturing facilities, assembly facilities that have outdoor storage of goods or outdoor manufacturing of wood products or chemicals and other things they might have along their rail line. That is not necessarily true in Chandler. They have very nicely

designed industrial business parks throughout our community that have corporate companies, corporate offices and then they have warehousing. They warehouse goods and merchandise no differently in this particular building whether it be vitamins or dry food products or any other kind of dry goods. They are not talking the dirty nasty industry in terms of industrial. Flex industrial warehouse buildings are no different than these in terms of how their code associates them. Also, they did do research and there are many subdivisions within proximity to this property that have basements and they definitely have 3-car garages. They don't necessarily associate single-family residential being approved and whether or not they gave them enough storage or not to justify getting a storage facility. There are single-family subdivisions that do have ample storage in some of the larger homes.

**CHAIRMAN FLANDERS** asked if anybody else in the audience wanted to speak on this item. There were none.

**PAUL GILBERT** stated he thinks they have made a strong case for this. He apologized for the lack of letters.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant.

**VICE CHAIRMAN CASON** asked if the owner of this property owns any multiple storage facilities? Mr. Gilbert replied he does. In fact, he has a 5-story mini-storage at 16<sup>th</sup> Street just south of Camelback. **VICE CHAIRMAN CASON** asked if that was the only one? Mr. Gilbert said he has others as well but they are not coming immediately to mind. **VICE CHAIRMAN CASON** asked but they are in this geographic area? Mr. Gilbert said yes, in the valley.

**COMMISSIONER RIVERS** said Building D according to the book has an interior hallway. Is the hallway air-conditioned? Mr. Gilbert said the hallway is air-conditioned. **COMMISSIONER RIVERS** said so for the convenience of folks that would need the smaller units that are in and off that hallway, it is air-conditioned for their convenience. **COMMISSIONER RIVERS** asked if that is the only building with an interior hallway? Mr. Gilbert said Building B also has an internal hallway and it also has air-conditioning. Ms. Novak, Sr. City Planner, said they were not aware of that. They actually got an e-mail confirmation from their office confirming again after speaking with Mr. Kubicek that nothing has air-conditioning other than the caretaker and office building. That was just in the last few days.

**CHAIRMAN FLANDERS** asked so they have 2 buildings now with internal corridors that are air-conditioned? Mr. Gilbert said yes.

**CHAIRMAN FLANDERS** asked if there were any other questions of the applicant. There were none so he closed the floor for discussion and motion.

**VICE CHAIRMAN CASON** asked Ms. Novak when the Southeast Chandler Area Plan was approved by City Council? Ms. Novak said it was approved in September of 1999 and the Southeast Chandler Area Plan was designed to be consistent with the General Plan so they basically adopted the same land use pattern and categories that is the General Plan. **VICE CHAIRMAN CASON** asked was the Southeast Area Plan and the General Plan that supported the southeast plan because they redid them at the same time done 11 years ago? Ms. Novak said most of their area plans are actually fairly old - the Southeast Chandler Area Plan and the Airpark Area Plan. The only new one that they have done is their Downtown Area Plan and the reason is because the city feels that the land use pattern that has been designated is fundamentally still appropriate even today, otherwise they would probably come back with newer adopted plans. **VICE CHAIRMAN CASON** asked so the General Plan has to get approved by consent of the voters but an Area Plan has to go through 3 or 4 public meetings before it gets approved by City Council? Ms. Novak stated it goes through extensive public outreach and meetings and so forth as part of that process. There are committees that are formed. Then eventually it goes through the public hearing process and gets voted on by the City Council and it needs to be voted on as a consistency to whatever the current General Plan that is adopted at the time. You can't create a land use or change a color or add a land use category that the General Plan doesn't have. It can't be totally customized that it is so different from the General Plan that there is no commonality between the two. When they do adopt an Area Plan they are very similar to what the General Plan is. When they re-adopt the General Plan, if there are discussions and issues that Council directs us to re-look at certain areas of the city or certain land plans, then that would certainly be their opportunity to let us know to re-evaluate it. That hasn't been generated for this area.

**COMMISSIONER VEITCH** asked Ms. Novak that even though the Southeast Chandler Area Plan is nudging 11 years of age, it was in effect ratified all over again in the new General Plan which was approved in 2008? Ms. Novak said that is correct and that General Plan went to vote by the citizens and it indicates all the area plans that the city has adopted and it shows where those are located. **COMMISSIONER VEITCH** said so it is a little fresher than they might think in looking at the 1999 vintage.

**COMMISSIONER HARTKE** said he is a little confused about the last comments on air conditioning. He thought if there was any air conditioning there was no room and there was no design. The last statement was that there were 2 buildings with air conditioning attached to them with hallways. Is there some reconciliation in this in terms of what they see or in statements or does that change anything about this development? Ms. Novak said the applicant's representative was speaking with her. She guesses there is some misunderstanding between them because the information they gave her in writing was to confirm that there were no air-conditioning units. I guess there was some inference that there is no exterior air-conditioning unit on the outside of the building or on the roof but failed to indicate that they were proposing interior only units so they would be fully designed and inside of the building. She doesn't have a concern if they are 100% inside of the building. If a condition wanted to be added by Commission if they are inclined to approve this project, it would be to ensure that there isn't any unit or equipment related

outside or externally because the site is not designed for that and the city has had zero opportunity to review that kind of development proposal.

**PAUL GILBERT** stated that is exactly their proposal. There will be no outside air conditioning units. The only units will be for the interior hallways. As Jodie said she has no concern about that. They are in full agreement with that if you need to make that a stipulation. He said that is acceptable.

**COMMISSIONER RIVERS** stated he wanted to commend them all for dealing with the neighbors so closely. Many developers don't do that. He said he did miss one question. He asked Ms. Novak if there was RV storage at this facility? Ms. Novak said there has been no representation that they were allowing any external RV or boat storage in any form or parking space within this facility. They did convey tonight that there are interior units 10 foot wide by 20 foot long and can accommodate a smaller RV or boat or vehicle to be put into those units. They weren't aware of that and have not ever been represented since they worked on this case last year.

**CHAIRMAN FLANDERS** said he is a little concerned about not all of the information getting to Staff. As far as the air-conditioning units, the stipulation he doesn't have a problem with. RV vehicles are usually pretty big so he would have a problem with those types of vehicles in this. As far as interior boat storage, can they fit in a 10 x 20 unit? Possibly. They would have to look at each case.

**COMMISSIONER RIVERS** said he is not sure that you could fit any RV that he has ever seen in 10 x 20 enclosed spaces especially with a height of 12 feet - maybe a boat or something. He actually thinks this is a good use of this property. He thinks they said that last year. The neighbors are involved and they think it is a good use. It is a business that is needed in this area and he agrees with Mr. Gilbert that they have met the spirit of the Southeast Chandler Area Plan going through the presentation item by item the way he did. It shows us that they were concerned over our plan.

**COMMISSIONER RIVERS** made a motion to approve DVR09-1007 MESQUITE GROVE MINI-STORAGE with stipulations.

Ms. Novak said actually there are some substantial zoning conditions that are placed on every kind of rezoning application that they have to ensure are on here. They are standard boilerplate zoning conditions if they are inclined to do that. Beyond those there could be more of the custom specific ones and they also at Staff level have specific ones that may be answering all of their concerns in regards to the hazmat or storage or air-conditioning and so forth.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated it sounded like the motion maker was saying he is moving for approval subject to stipulations. He mentioned two but he is assuming additional ones will be added. **COMMISSIONER RIVERS** said that was correct. **MR. BROCKMAN** said he doesn't know how they do that without

putting into play what all those stipulations are. He suggests that Ms. Novak articulate what those stipulations are, and then perhaps the motion can be made.

**CHAIRMAN FLANDERS** stated as far as this project goes, his position is that it is a good spot for this. He has seen these facilities adjacent to where he lives and they seem to work real well, as it is not a real intense use. He doesn't have any problems with the use. It is well designed. He would like the hours of operation stipulated so it is not a 24-hour facility. He said that is where he stands.

**COMMISSIONER PRIDEMORE** said this proposed project is in his neck of the woods and he also thinks it is appropriate for the corner and he likes the fact that it is a single-story building that is acting as a buffer. If he was a resident right along this perimeter and it was more than one story, he would have an issue with it and he wouldn't want to be looking at it. With that said, he is in favor of approving it but also with stipulations to make sure they have certain things covered that they have talked about this evening.

**CHAIRMAN FLANDERS** asked ms. Novak to start with the stipulations.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** asked Ms. Novak if she could do the boilerplate ones first. Ms. Novak said yes. She read in the following:

- 1. Development shall be in substantial conformance with the attached Development Booklet, entitled "Mesquite Grove Mini-Storage", kept on file in the City of Chandler Planning Services Division, in File No. DVR09-1007 except as modified by condition herein.*
- 2. 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.*
- 3. 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.*
- 4. 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.*

5. *The landscaping shall be maintained at a level consistent with or better than at the time of planting.*
6. *The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.*
7. *Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.*
8. *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.*
9. *Signage shall be in accordance to that represented in the Development Booklet.*
10. *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.*
11. *The interior perimeter landscaping along the north and east property lines of the self-storage mini-warehouse use shall be installed at the time of the retail pad's development if the retail pads develop as Phase One.*
12. *Compliance with original conditions adopted by the City Council as Ordinance No. 3024 in case PL99-035, except as modified by condition herein.*
13. *The site shall be maintained in a clean and orderly manner.*
14. *Business hours of operation shall be limited to that represented by the applicant, Monday through Saturday 6 a.m. to 7 p.m. and Sunday 7 a.m. to 6 p.m.*
15. *Uses not related to the short-term storage of household or business items and non-hazardous, non-perishable durable goods are prohibited at the self-storage facility. This includes vehicle and heavy equipment storage, storage of hazardous items, perishable goods, animals, and use as a residence, office, workshop, studio, band rehearsal, or place of business.*
16. *Electrical service to individual units must be for lighting only. Electrical outlets must not be provided in individual units.*

*17. A dwelling occupied by the owner or on-site-manager is permitted as an accessory use to the self-storage warehouse facility.*

*18. A separate Preliminary Development Plan application and approval shall be required if the site does not develop as a self-storage mini-warehouse use and requests development in accordance with the site's PAD (C-1) zoning.*

*19. No exterior storage or parking of any RV's, boats, cars, or the like.*

*20. There shall be no exterior air-conditioning units or equipment either ground mounted or roof mounted on storage unit buildings.*

**CHAIRMAN FLANDERS** asked Ms. Novak if they needed to specify what buildings those are? Ms. Novak said they can but she thought she only heard one and doesn't remember the units. **CHAIRMAN FLANDERS** said it was Buildings G and D.

**CHAIRMAN FLANDERS** asked Mr. Gilbert if he was in favor of the wording of the stipulations? Mr. Gilbert said he thinks he is but he said that was awfully fast. Most of those are boilerplate and most of them incorporated what they represented to Commission this evening. He said those are acceptable.

**VICE CHAIRMAN CASON** asked Ms. Novak if they could get the usual landscaping stipulation? Ms. Novak asked if it is 'the landscaping shall be in compliance with the commercial design standard' one? **VICE CHAIRMAN CASON** said yes, he thought all he heard was that they were going to keep the property clean. Ms. Novak said she didn't include that one because this doesn't necessarily have to comply with commercial design standards because it wasn't reviewed and considered as commercial. Also, on its own merit it doesn't meet all the commercial design standards because the landscaping was part of a bulk amount of landscaping that was approved with the other PDP.

**COMMISSIONER RIVERS** asked Ms. Novak if they wanted to limit the air-conditioning to only those 2 buildings or did they just want to talk about the interior air-conditioning? Ms. Novak said if they are internal only they didn't have any concerns. So if they want it to be open to be able to have interior air-conditioning and equipment inside the building only where it is not mounted on the outside of any buildings in any way, they wouldn't be opposed to that.

**CHAIRMAN FLANDERS** stated they would need a plug or some type of electrical service for that also. Ms. Novak asked if he was talking about the hallways or the units themselves. He asked Commissioner Rivers if they were talking about individual units?

**COMMISSIONER RIVERS** said he thinks they were just talking about the hallway in the buildings that were going to be air-conditioned. Ms. Novak said they could clarify putting hallway in there so there is no misunderstanding that each individual unit is going to have an internal a/c as well.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated if Staff has no concern about internal air-conditioning then why even worry about that. Just preserve the portion that there is no external air-conditioning and lets move on.

**CHAIRMAN FLANDERS** said he knows there was discussion before about activities as far as lights, music and different things coming from these units so they said there were internal plugs. If they are going to put in air-conditioning units in these separate units they would need some type of electrical service to that which would allow them to go ahead and possibly do the music and different activities. That is where they were going with that.

Ms. Novak stated if those are the circumstances they could work administratively when you have a circumstance like that where they need a little panel. Their concern was having a full unit or any other equipment to service a larger building outside and have to create a screen and enclosed equipment area. She could just do a new stipulation 20. She read in stipulation 20. She said that resolves the issue.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER PRIDEMORE** to approve DVR09-1007 MESQUITE GROVE MINI-STORAGE with the stipulations as read in by Staff. The item passed 5-2 (Cason, Kelley opposed).

6. DIRECTOR'S REPORT

Ms. Novak said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

**COMMISSIONER RIVERS** thanked Chris Mackay, Economic Development Director, for guiding them on a tour of Chandler's new Innovations project which is the old Intel facility on McClintock south of Chandler Boulevard. Several of them were able to go through and get an idea of what the place will look like when it's done and they have been invited back when it is done so they can see the 'after'. The next regular meeting is March 17, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:37 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 17, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:35 p.m.
2. Pledge of Allegiance led by Commissioner Pridemore.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the March 3, 2010 Planning Commission Hearing. The motion passed 7-0.
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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 to action.

B. DVR09-1011 IRONWOOD COMMERCIAL

**Approved.**

Request rezoning from Planned Area Development (PAD) to PAD Amended with Preliminary Development Plan (PDP) approval for a new commercial development that includes a fuel station and late hour businesses. The 3.9-acre site is located at the southwest corner of Chandler Heights Road and Arizona Avenue. **(REQUEST CONTINUANCE TO THE APRIL 21, 2010 PLANNING COMMISSION HEARING.)**

C. PDP09-1007 DOBSON GROVE PLAZA

**Approved.**

Request Preliminary Development Plan approval for additional tenant panels on a single monument sign. The subject site is located at 1405 N. Dobson Road, which is approximately one-half mile north of the northeast corner of Dobson and Ray Roads.

1. The monument sign shall be in substantial conformance with Attachment 3, Monument Sign Elevation, kept on file in the City of Chandler Planning Services Division, in File No. PDP09-1007, except as modified by condition herein.
2. The monument sign's tenant panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
3. Tenant lettering on the monument signs shall be one-half inch acrylic lettering.
4. **The relief of the monument sign shall be stuccoed and painted as represented in the attached monument sign exhibit. The proposed tenant panels shall be integrated in both material, color and texture with the relief of the monument sign.**

D. PDP09-1008 CACHET AT PASEO LINDO

**Approved.**

Request Preliminary Development Plan (PDP) approval for housing products within the residential component of Paseo Lindo. The subdivision is located on the east side of Arizona Avenue, north of Ocotillo Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Paseo Lindo Cachet Homes", kept on file in the City of Chandler Planning Services Division, in File No. PDP09-1008, except as modified by condition herein.
2. Compliance with original stipulations adopted by the City Council as Ordinance No. 3866 in case DVR06-0018, except as modified by condition herein.
3. Two-story homes backing up to Arizona Avenue can occur only on lots 2, 4, 6, 136, 138, and 140.
4. All corner lots shall be limited to one-story homes only, except for lots 14, 71, 75, 80, 81, 89, and 92, which may have two-story homes.

E. LUP10-0009 FRESH & EASY NEIGHBORHOOD MARKET  
(FULTON RANCH)

**Approved.**

Request Use Permit approval to allow liquor sales under a Series 10 Beer & Wine License within a new grocery store. The property is located at 4920 S. Arizona Ave., northwest corner of Arizona Avenue and Chandler Heights Road.

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 10 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 store locations.
4. The site shall be maintained in a clean and orderly manner.

F. LUP10-0011 COST PLUS WORLD MARKET

**Approved.**

Request Use Permit approval for a Series 7 (Beer and Wine Bar) liquor license for on-premise sampling, within an existing retail store. The subject site is located at 865 N. 54<sup>th</sup> Street.

1. The Use Permit is for a Series 7 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.

G. ZUP09-1022 PUEBLO MIDDLE SCHOOL WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility on the campus of Pueblo Middle School at 360 S. Twelve Oaks Boulevard, south of the intersection of Rural Road and Chandler Boulevard. **(REQUEST CONTINUANCE TO THE APRIL 7, 2010 PLANNING COMMISSION HEARING.)**

**CHAIRMAN FLANDERS** stated that before he goes to a motion he does have a “conflict of interest” on Item E. His wife is employed by Fresh & Easy. He asked for a motion.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER KELLEY** to approve the Consent Agenda with additional stipulations as read in by Staff. The Consent Agenda passed unanimously 7-0.

**ACTION:**

A. AP09-0003/DVR09-0025 TAKE OFF CENTER

Request amendment of the Airpark Area Plan to change from public/semi-public facilities to community commercial land uses. Also, 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 4.2-acre site is located at the southeast corner of Queen Creek and McQueen Roads. **(CONTINUED TO THE APRIL 21, 2010 PLANNING COMMISSION HEARING.)**

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated Item A is an Area Plan Amendment, rezoning and Preliminary Development Plan request for the southeast corner of McQueen and Queen Creek Roads. This is a project called the 'Take Off Center'. The Area Plan Amendment is for the Air Park Area Plan to change this to semi-public/public facilities to community commercial types of land uses in order to allow the rezoning. The rezoning would take it from AG-1 to Planned Area Development.

This particular project has just a few land uses, as it is a rather small site about 4 acres. He showed the site on the ELMO. This is essentially a triangle piece. They feel generally the applicant has done a good job of making use and in a stylish manner that evokes the airport uses nearby. There is a fuel station and car wash with a convenience store as Phase I near the corner and future Phase II Pad D Building that would most likely be a fast food restaurant or at least part of that building would be. There is a drive-thru within those plans.

Mr. Dermody showed them some of the architecture and design involved. As he said, they intend to evoke the nearby airport. They have in several places on the site an offset canopy meant to evoke the wing of an airplane. Over here, it is more of a centered feature that is an inverted 'V'. That also appears on the fuel station canopies and in 2 places as artwork. There is an art feature on a corner. He showed a close up of a similar feature that we see on spans in between 2 sets of columns. It is in 2 places – under the fuel canopy as well as at the corner. That is airplanes' along the metal latticework. Also, you get a chance to see the offset 'V' that was above the entrances of the convenience store and also the fast food restaurant. You see it on the fuel station canopy. Often times with these canopies we go to great lengths to break them up. On this one, they are recommending approval for what they represent. They felt that the depth they have with the lower portion a little farther back and the upper portion along with the imagery that suggests that they go up above the canopy line is appropriate in this instance. It fit with the theme that they are trying to represent and it was understated to a degree that is appropriate for this smaller site. They are comfortable with the architecture both with the canopy and the buildings that they represented.

They do ask for relief in several ways from the commercial design standards and the zoning code. Mr. Dermody said he wanted to review some of those. One of them is the phasing. He did mention that they are phasing this project. Our zoning code would require that this all get built as a single phase. They do have a requirement of a certain amount of square footage be Phase I. The intent of that in the zoning code is really applied more towards larger shopping centers. They don't want to have pads dominate the site layout and cause a lack of site flexibility that leaves shopping centers undeveloped for long periods of time. Obviously, this is a much smaller site. Its triangular nature and its location along 2 arterial streets almost suggest this layout no matter what happens in the future. They aren't really binding this site anymore than if it were built as a single phase. It is appropriate to hold off pad D to a second phase.

Another piece of relief that they are asking for is ordinarily at the arterial intersections that they require a 50-foot landscape setback or 250 feet in both directions. They don't have that here. It is about 150 feet in one direction and about 125 feet in the other. Staff does generally support that request for relief finding this to be a very challenged site. They are over parked on this site by about 17 spaces. They would have to remove 24 spaces to be able to give them the entire landscaped area and Staff suggests somewhat of a compromise on that recognizing there is a trail nearby and there may be some overflow parking. They suggest they remove an additional 6 parking spaces from the plan. He showed an exhibit of the subject site. The subject site is along the canal. This is a conceptual final plan for the park on the other side of the canal. You can see there is some parking. Actually 2 lots adjacent to the future ball field. What is in white is industrial and not part of the park.

Another request they are asking for relief from is a little bit of a landscaping strip. They are supposed to have 10 feet and if they are to have a drive-thru on pad D it almost has to go into that landscape area. They worked with them to minimize the amount of encroachment and they are comfortable with what is shown on the plan here. It is a very small pad and it doesn't seem to be conducive to stand alone retail and so they have worked with them to a great degree to maintain the drive-thru use, which is more likely to be commercially successful.

Mr. Dermody said the final item he would like to review that they are asking for relief on is a lighted band along the canopy. They very much like the canopy architecture in general but at night it is proposed that there is a down lit red band around the entire fuel station canopy. That is something they have not approved in recent history. It is contrary to what is allowed by code and they do not recommend approval. In fact, they have a stipulation that it should be removed. There are a few field stations in town that have this but they were all approved long ago. They don't suggest going against the recent trend on that or against the code. Again, Staff does recommend approval of this request and Mr. Dermody said he would be glad to answer any questions.

**CHAIRMAN FLANDERS** said he knows there was a lot of discussion in the Study Session about this project going to a Design Review. He thinks a lot of the Planning Commissioners will have questions related to that. For the most part they can express their concerns to the applicant to let him know what their concerns are so when they get to the Design Review at least that will give his design people, landscape people and architect time to go ahead and sit down and discuss how they are going to formulate some of the changes prior to the meeting. At least when they get into that meeting, they have something in front of them that they can work on. He asked if there were any comments or questions to Staff on this item?

**COMMISSIONER RIVERS** asked Mr. Dermody if they are recommending no lighted band or just no red-lighted band? Mr. Dermody answered no lighted band of any color. It is represented as red here.

**CHAIRMAN FLANDERS** asked the applicant to please step forward and state their name and address for the record.

**SETH KEELER, W HOLDINGS, 1121 W. WARNER ROAD, SUITE 109, TEMPE, ARIZONA.**

**CHAIRMAN FLANDERS** said they could start out with some questions from Planning Commission.

**VICE CHAIRMAN CASON** asked about the path that comes from the canal on the east side of Pad A. He said he could see where they have banded the walkway to indicate where the sidewalk is. He would like to move that for a couple of reasons. The primary reason is because he believes that is where their blow dryers would be, correct? Mr. Keeler said that was correct. **VICE CHAIRMAN CASON** stated he would like to move it right where that air space is. Just where that parking would head in and the overhangs and just join that other sidewalk that is on the west side that curves around that area. Because they would have that walkway here he would like to be able to have some bike racks there. He knows they have bike racks on the other side of the building but maybe where this island kicks into this area would be a good place for that. Some place in case somebody doesn't want to take their bike to far off the path and then park it there and then walk around. He said right there in the island that sticks into the drying area. He showed Mr. Keeler where.

One of the other issues he had is the back or the canal side of the car wash. If you look at the landscaping, it looks like they just have trees there. Is he wrong? Are there going to be trees and bushes? What he is looking for is to completely hide that wall because it is going to be so close to the area of the canal. He knows he has some screen wall in the center of that and he is not asking for the whole thing to be screen walled because that would probably be as bad as in looking at the bare wall. Maybe have more different types of landscaping, something that will have moderate heights so that as you are passing the building you aren't really looking at the building, you are looking at the landscape going by or what is passing your field of vision predominately with the trees, medium size with the climbing vines so there is a little bit more for hiding that definition of that side of the building. There isn't a heck of a lot you can do with the side of a car wash but something like that because it is along the canal. If that canal wasn't being used theoretically, then he is sure covering up with landscaping probably wouldn't be as necessary. Because of its location he thinks they need to spruce that up a little bit.

**CHAIRMAN FLANDERS** said if they coordinate their landscape plan with their elevations that may help them out a little bit just to look at softening the back of that whole thing because in looking at the landscape plan there is a lot more trees shown on that.

**VICE CHAIRMAN CASON** said he was concerned that they are trying to associate the building plan and the artwork on the site to the airport. He thought of no better way that they could do that than with the canopy. While the canopy does put in elements of metal in between the pumps, between the posts and some end pieces, he was kind of hoping that while he believes it is true that you can't have an open space above a canopy so gas won't collect there, it has to be something flat. He was hoping that they could expose some metal, some open trusses or something like that to where they could give it a little bit more metallic look so it kind of matches with what goes on at the airport. It is kind of hard to define what an airplane looks like. Do they want it to look like airplane hangars or something like that? Not necessarily. Something a little more metal that kind of gives it more like a stout muscular look for lack of a better term by the fact that it has metal and you get to see it. Of course, it couldn't be metal all the way up to the top because he is pretty sure you have to have that enclosed in. He is not looking for an answer to that particularly. He just wanted to throw that out to them so they could have an opportunity to discuss it amongst themselves, consider it and hear what the other Commissioners have to say about that subject.

**COMMISSIONER PRIDEMORE** said that this is a very awkward site and everybody realizes that. He said kudos to get to this point. He knows there was a lot of finessing to get to this. He has had to deal with some triangular sites and it is never fun. He said he is curious why in the phasing the parking along McQueen is part of Phase II. He thinks it would be awkward for that later phase to have construction actually on both sides of that drive aisle because ideally they would want to still keep that aisle open. He just wanted to put that out there. He said he thinks it would be much easier to construct those spaces with the Phase I. He wanted to put that out there. Second, the drying area seems to have 2 lanes that are one way on the north side of the building. He thinks it is awkward having it be a dead end. The reality is when you have that 31 foot opening there as people drive by there is really nothing discouraging them from coming in even though the angled parking is located there. He doesn't know if there is a good solution for that but again personally he finds that awkward the way it is laid out right now. The last comment he had is at the extreme southern tip of this site there is an area called a non-formal area. What is the surface of that area intended to be? Mr. Keeler said it is DG. **COMMISSIONER PRIDEMORE** asked if it is meant to be stabilized in anyway or is it loose DG as in the rest of the landscape? Mr. Keeler said they have talked about that. Their goal there was to have a continuation of what has happened on this corner historically with sales of pumpkins or Christmas trees. Their goal was just to have it be one continuous flow of decomposed granite because right south of that is their basin. He wanted there to be a seamless look for that whole corner. It is an interesting piece to try to make work and they wanted to utilize that corner.

**COMMISSIONER KELLEY** said this is such a difficult site and they did an incredible job with it already. There are only a couple things that he wants to ask about. Do they have a trash enclosure right in front of pad A? Did they look at any locations for that trash enclosure? Mr. Keeler said he thinks they looked at everywhere but there concern is they have the gas canopy there and when SRP came and took an additional 30 feet

adjacent to the canal that added a whole lot more congestion and tightness to the site. Their other concern is giving the garbage truck the ability to get in there and then back out. They looked at all different spots and they were concerned that if they put it on the south side of pad A, they have the traffic coming in and out, traffic going into the bay for the car wash. This looked like the least obstructive position to place that. It is a tough solution. How about along Queen Creek Road? If they are going to eliminate parking spaces, he wondered if the trash enclosure would fit there somewhere? Mr. Keeler said they looked at that location briefly but their thought was that it is a pretty good distance from Pad A and they were just trying to get the garbage closer to the building. **COMMISSIONER KELLEY** said he would rather see somebody walking an extra 100 feet than have that thing right in front of the building. That is up to them. The other thing he was curious about is they have 2 access points to the canal but they are not going to have a pathway on that side of the canal? Mr. Keeler said that is correct. **COMMISSIONER KELLEY** said he doesn't understand the point. Is that from Commission? Mr. Keeler said they originally didn't want to have anything there because of the Parks Dept. telling them the trail is going around on Queen Creek Road and then on the west side of McQueen to get back to its path on the canal. There were comments made that there were likely going to still be people traveling this and so they did. They put a pathway into Pad D. They enhanced the outdoor area to be more pedestrian friendly – a node of activity. They really thought it was a neat spot because you have the views of the canal and then with regard to Pad A, the C-store, it made sense to have access to that if people are going to use it. It was one of those things they were being told by one department not to do it and then being told by Commission members it is probably a good idea, so they put it. **COMMISSIONER KELLEY** replied he guessed it didn't hurt to have it. He just was curious. The one thing he has more of an issue with is the drive-thru for Pad B. It's not so much there is a drive-thru it just is how it comes out and it drives traffic basically into the traffic pattern that is coming into the car wash. It is just a really odd sort of traffic pattern that is created there. Did they look at bringing Pad B Building to McQueen Road and letting the circulation happen on the east side of that building. Was that considered? Mr. Keeler said he thinks they were just trying to screen the drive-thru to keep it behind Pad B up against the canal instead of having drive-thru go up adjacent to McQueen Road. **COMMISSIONER KELLEY** said he didn't know which was worse actually. The way that traffic pattern works right there - he doesn't know if that is a good idea. Everything else about the project he thinks looks great and he did as well as he could have with the site plan but if there wasn't a drive-thru, he thinks it would be perfect. Obviously, for marketability purposes they are looking to have it. What is the likelihood of getting rid of the drive-thru altogether? Mr. Keeler said they have spoken to a couple end users and a drive-thru is really critical for making that work. They just don't think there is the volume capacity to have a stand-alone pad there. It really limits what they can do.

**CHAIRMAN FLANDERS** stated he is glad Commissioner Kelley brought that up. They are talking about additional parking for people getting on the Paseo or along the canal. He guesses what that does is that puts the parking internalized, it puts it adjacent to the canal and it separates the drive-thru from that activity and it also allows you to

slide the building between those 2 drives along McQueen. That is something they could look at when they come to Design Review and would be beneficial. At least what that would do is internalize a lot of the activity. They can have them do screening of the drive-thru along McQueen. They have done that before on other projects and it has worked really well.

**MR. KEELER** said he wanted to add Chairman Flanders a question. If he puts Pad B up adjacent from McQueen then wouldn't they be adding more complications on how this internal network is supposed to work? If he moves it, then vehicles are going to have meander their way down this direction while there is still incoming traffic to get into the car wash. **CHAIRMAN FLANDERS** said it is just a suggestion to take a look at it to see what it would look like so they are getting the full picture if there is another option that would make the site work better. Maybe it won't, he doesn't know.

**COMMISSIONER PRIDEMORE** said he agrees with Commissioner Kelley with the awkward nature of the drive-thru on Pad B as it exits. In effect, you have one exit, two entries for the car wash. Is there any possibility of narrowing down the entrance to the car wash area from the 2 lanes they show now to get some more separation? Right now, if he is reading this correctly, the landscape island that basically separates the drive-thru lane from the car wash lane is only 6 feet. The thought is do you really need the full 24-foot width into the car wash? Is there that much traffic expected at any one time that it would need that much of an opening? If they could narrow down the 24-foot and go down to a single lane, it can widen out later on as you approach the car wash but you get more separation between where you drive-thru is dumping out and where your people are trying to enter. It is going to get really confusing and real congested in that area. Mr. Keeler responded that they have looked at several other car washes that have a similar concept with that tunnel that they are proposing and there are sites that have 3 queuing lanes with one tunnel and they thought based on the size of their site, they weren't going to do 3 they were just going to do 2 anticipating that other sites in the area are looking at that much volume coming in. **COMMISSIONER PRIDEMORE** said he is not suggesting that they eliminate both of the lanes all the way up to the entry to the actual car wash itself. It is just that entryway. Basically, it will choke down at the entryway to a single lane and then open back up to double and allow people to spread out and get their queuing. The concern is that small landscape finger which is all that is separating all this movement and the movement going in opposite direction. Mr. Keeler said he sees what he is saying and it makes sense.

**CHAIRMAN FLANDERS** said as far as the function of the car wash, walk him through from entry to the car wash to the exit and what the activity is? He is seeing a double lane of 2 lanes going into the car wash, a canopy, the car wash tunnel and then he sees shade structures on the exit driveway. As far as the function of the interior, he doesn't care about it. What he is looking for is why there are 2 lanes going in, why is there is canopy on the entry point and why is there shade structures on the exit points? He just wants to make sure in his own mind what his intent is and how this is going to be put together. Mr. Keeler said their intent was to meet the commercial design guidelines. When they

met with Staff and they read through everything, they were encouraged to bring a site plan that had more than just 2 pads. **CHAIRMAN FLANDERS** said he has 2 entry lanes into the car wash, a canopy, the car wash itself and then they have other shade structures at the drying end of it. As he is looking at this, it is telling him that you drive in, you vacuum your car, somebody pulls it into the tunnel itself, it goes through the process, comes out the other end and somebody pulls it out and dries it off. You wait there and then they flag you over to come pick up your car. Is that the function they are looking for? Mr. Keeler said that is not the function they are looking for. You never get out of your car in this one. There is an area where you can enter in what service you want. You never get out of your car. Your front wheel gets connected where it moves your car forward almost like a rail. Then once you exit the tunnel you are still in your vehicle and the rail stops and then you drive and park in any of these stalls. You can get out yourself and use the 3 vacuums to finish off the interior. **CHAIRMAN FLANDERS** said he is asking as you exit the lane, there seems to be a lot of spaces for drying and maybe he is getting to anal with this whole function. They probably should be talking about it at Design Review. He was just curious how that whole thing was going to run through.

**MS. NOVAK, SENIOR CITY PLANNER**, stated it reminds her of a facility they have near Chandler Blvd. and Kyrene Road – The Quick and Clean. It sounds like how it operates. It is manned and there is somebody inside as well that works on a digital panel to get you through.

**COMMISSIONER RIVERS** said he was just about to say what Jodie just said. At Chandler Blvd. and Kyrene Road, next to the McDonalds there is a 95% automated car wash and you have 2 drive up lanes because you have 2 machines where you put your money in and you get a little ticket. From the front of those 2 machines, the cars come into one line and go into the car wash. When they come out, there are free vacuums for those people. The one at Kyrene and Chandler Blvd. actually has a lot more places for vacuuming. He has been there on Saturday and sometimes they are all full as well.

**CHAIRMAN FLANDERS** said he guesses he needs to get out more.

**COMMISSIONER HARTKE** said this might be a Design Review issue but he does see the need to not limit the amount of cars coming in. There is a psychological factor for this business. If they see a single file line even if there are 3 or 4 cars in a row as opposed to looking at 2 by 2. I would drive away. He has seen that in other places. There was one right at Chandler Blvd., west of Alma School very similar to this design to. Psychologically he doesn't think that would be very profitable for them to bring this to one even if it goes to two because you are only going to see it from the streets.

**COMMISSIONER RIVERS** said if you canted the lines waiting for the car wash to the north slightly, move the entrance off of McQueen Road north slightly, you could still have the same queuing area and this might alleviate the traffic coming out of the drive-thru are on Pad B. He doesn't know if it is possible to move that entrance toward Queen

Creek or if it is going to be too close to it. Mr. Keeler said the problem with this area is they have the avigation easement with no permitted structures. That is why the canopy begins this direction. **COMMISSIONER RIVERS** said he was perfectly fine with that. He was just talking about the queuing area for the car wash. You wouldn't have to go very far to create a buffer there for the traffic coming out of Pad B.

**CHAIRMAN FLANDERS** said for your architect and their landscape architect, some of his concerns were additional trees that would continue along Pad B all the way down which would be planted initially. A little more screening of the drive-thru not only for the car wash entry and exit but also for the drive-thru for Pad B. As a result, the canal is still going to have a lot of activity so he thinks there needs to be a little separation of activities from drive-thru lanes to the canal. This goes back to a site he had in the City of Chandler at Cooper and Chandler - the same situations. They were looking at a drive-thru pad and the City was requiring us to go ahead and provide landscaping and also a screen wall to separate and hide it. That area up there would have had a little bit more activity as far as the drive-thru and the Paseo. That was the reason for the separation and he is bringing that down into their site. That is something to look at as far as Pad B and then provide additional screening on the car wash entry and exit points. He thinks the walls can probably extend off the corner of the building and tear down to an acceptable level - something to think about. Also, on the corner of the arterial intersection they typically like to get into a little bit more of a higher design and their landscape drawings just don't show anything. He knows there are a couple of trees with some type of feature there. Maybe that needs to be highlighted by their landscape architect better as far as the screen walls, the arrangement of planting materials, flowers or annuals or something to enhance the intersection. Planning Commission is real particular about how those corners look. He remembers in the initial couple of meetings they had, they talked about the arch and he thinks that is great. He thinks it needs to be enhanced a little bit with some additional trees and some flowers to enhance that whole corner as they have typically done in the past. Mr. Keeler stated based on their last conversation they did look at the idea of having taller trees. They kind of felt discouraged with that thought trying to tie in everything else that they already had going on the site. They do have the desert museum Palo Verde's and they thought would be a good accent tree in the front. With too high of a corner and proximity to the airport, they were wondering if this would be appropriate? **CHAIRMAN FLANDERS** said maybe it is just a series of those trees. They have 2 out there right now. Maybe its 4, maybe it is in some radius patterns. Commissioner Kelley is real good on types of plant materials, the design and how that all goes together. He thinks when they get into the Design Review they can talk about it further. Mr. Keeler said he wants to get a better understanding on the procedure. Before the meeting they didn't understand there would be a Design Review on this. What is required of them? **CHAIRMAN FLANDERS** typically when they work through the City of Chandler, Planning Commission is Design Review. If they are bringing forward a project with building design, there is always a chance they will go to a Design Review. With this type of use, the gas station, the car wash and different things, you are more likely to go to a Design Review at least in the stuff he has seen in the years he has been on Planning Commission. What will happen is they have been throwing out some comments and

suggestions for them to talk about before they get to that meeting. Staff will go ahead and schedule a meeting for the Design Review and it may be in 2 weeks or in a week depending on what is going on. Based off of that time, they go ahead and digest all of that information and get your documents turned around. It may be anywhere from 30 to 45 days. They may have to continue out to get scheduled again. Those meetings are a little more intimate where they can actually take their elevations and start sketching different things out and different ideas that they have. It is a little more intimate setting than the meeting here. Mr. Keeler said it answers his question. When the topic first came up, he wondered if there was a way for them because they have that April 8 Council date. Is there anyway for them to still get that with perhaps stipulations that they adhere to or is that not available to them? **CHAIRMAN FLANDERS** said in something like this when it goes to City Council, he feels more comfortable with having everything in front of them and that it has been approved and that is what is going to be. He knows it is going to take time for them to get the information to Staff and Staff also needs time to go ahead and review it, write their report and circulate it. That is why they need that time to make sure that everything is right. He doesn't want to get into a Public Hearing where they are stipulating them on design issues. He has been through that process and it is a nightmare. The Design Review is probably the best way to handle it. Through the course of going through that eliminates a lot of the questions, stipulations and they may eliminate questions that City Council may have also. He has seen projects where City Council has kicked back projects to Planning Commission because they weren't satisfied with the work they had done in Design Review and wanted some additional stuff done. It helps them out in the long run it they take a little more time with it.

**MS. NOVAK, SR. CITY PLANNER**, conveyed to the applicant that Staff would work with them to coordinate the timing, the scheduling and how that process works separately from this meeting.

**CHAIRMAN FLANDERS** went to the audience and asked if there was anybody that would care to speak on this item. There were none. He closed the floor and said he would go ahead and discuss a motion.

**COMMISSIONER RIVERS** said advice for the applicant is in line because hopefully they are going to take to heart some of the ideas they have expressed this evening and when they come to Design Review they will have incorporated those into their design so they can look them over and go from there. Between that meeting and the next Planning Commission meeting, they can put the finishing touches on it and hopefully, it will be ready to go to Council after that.

**COMMISSIONER HARTKE** said he certainly appreciates the challenges of this property and they believe this is a good use and it is just a couple small things that they are hearing here. It is not their goal or intention to pick this apart. He thanked them for what they have done so far.

**COMMISSIONER RIVERS** said he would also like to once again say what a challenge this site was and they are all aware of that.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER HARTKE** to approve the continuance to the April 21, 2010 Planning Commission to allow for a Design Review. The motion passed 7-0.

**CHAIRMAN FLANDERS** thanked the applicant and said he is looking forward to seeing them in Design Review.

6. DIRECTOR'S REPORT

Ms. Novak said there was nothing to report. She wished everyone a happy St. Patrick's Day.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN FLANDERS** announced that the next regular meeting is April 7, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:28 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 7, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:43 p.m.
2. Pledge of Allegiance led by Commissioner Veitch.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Absent and Excused:

Commissioner Leigh Rivers

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 CASON**, seconded by **COMMISSIONER HARTKE** to approve the minutes of the March 17, 2010 Planning Commission Hearing. The motion passed 6-0 (Commissioner Rivers was absent).
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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 P, Q, R and S were pulled to action.

A. DVR09-1016 WESTECH CORPORATE CENTER

**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 3 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”, as indicated on floor plan, in conjunction with scheduled church activities, meetings, and services is permitted any day.

B. DVR10-0001 LIVE X AUTO EXCHANGE

**Approved.**

Request rezoning from Planned Area Development (PAD) to PAD to amend the permitted land uses within Santan Gateway commercial center to allow outside auto display and storage related to a lease-to-own auto business tenant. The property is located at the southeast corner of Pecos Road and Arizona Avenue.

1. Development shall be in substantial conformance with Exhibit A, Development Packet, entitled “LIVE X AUTO EXCHANGE” kept on file in the City of Chandler Current Planning Division, in file number DVR10-0001, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3515 in case DVR03-0020, except as modified by condition herein.
3. There shall be no more than ten (10) vehicles at any time on-site. Vehicles shall be parked in the designated parking spaces represented by exhibits.
4. On-site detailing, washing, light mechanical work, or the like outdoors is prohibited.
5. Signage for advertising shall be in conformance with City of Chandler’s Zoning and Sign Codes in addition to the comprehensive sign package in case DVR03-0020.
6. The site where vehicles are stored and displayed shall be maintained in a clean and orderly manner.

C. DVR10-0002 MAMMOTH COMMERCE CENTER CHANDLER II

**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 Planned Area Development (PAD) for light industrial zoning. The existing PAD zoning is for office and light industrial uses. The property is located within Chandler Airport Business Park, south of Germann Road on the west side of Stearman Drive.

Planning Commission and Planning Staff, upon finding consistency with the General Plan, Airpark Area Plan, and Chandler Airport Business Park Master Plan, recommend approval to extend the timing condition for case for an additional three (3) years, in which the zoning would be in effect until February 2013, and with all of the conditions in the original approval remaining in effect.

**D. DVR10-0003 PARAGON EDUCATIONAL CORPORATION**

**Approved.**

Request rezoning from Planned Area Development (PAD) to PAD Amended zoning with Preliminary Development Plan (PDP) approval to allow educational uses and to modify the approved signage 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 Services Division, in File No. DVR10-0003, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3770 in case DVR05-0030 SILAGI CHANDLER COMMERCE CENTER, except as modified by condition herein.
3. Industrial uses shall not be allowed in any of the development's buildings. Allowed uses shall include office and educational uses.
4. A planter box shall be added to the monument sign base in a manner similar to the existing planter box except that it shall utilize forms and colors drawn from the new sign's design.
5. The monument sign shall utilize push-through acrylic letters or individually mounted letters for the center name. Tenant names shall also utilize push-through acrylic letters if they are illuminated.
6. The monument sign shall incorporate masonry elements from the main buildings.

**E. PDP10-0003 FULTON RANCH TOWNE CENTER**

**Approved.**

Request approval of a Preliminary Development Plan (PDP) amendment of the comprehensive sign package for monument signage. The property is located at the southwest corner of Arizona Avenue and Ocotillo Road.

1. The monument sign shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Fulton Ranch Towne Center Signage Program", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0003, except as modified by condition herein.

2. Compliance with original conditions adopted by the City Council as Ordinance No. 3560 in case DVR03-0044, except as modified by condition herein.
3. All signage shall be consistent with the signage contained within the attached exhibits with regards to sign type, quality, and quantity. Any deviations shall require separate Preliminary Development Plan approval.

F. LUP10-0012 ZEN BUFFET

**Approved.**

Request Use Permit approval to allow the sale of alcohol (Series 12 Restaurant License) for on-premise consumption only within an existing restaurant. The subject site is located at 700 W. Warner Rd.

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. The site shall be maintained in a clean and orderly manner.
4. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.

G. LUP10-0001 WALGREENS AT RIGGS & MCQUEEN ROADS

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 1055 E. Riggs Road, the southeast corner of Riggs and McQueen Roads.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

H. LUP10-0002 WALGREENS AT GERMANN & ALMA SCHOOL ROADS

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 1975 S. Alma School Road, the northeast corner of Germann and Alma School Roads.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.

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

I. LUP10-0003 WALGREENS AT RAY ROAD & ARIZONA AVENUE

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 55 E. Ray Road, the southeast corner of Ray Road and Arizona Avenue.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

J. LUP10-0004 WALGREENS AT CHANDLER BOULEVARD & COOPER ROAD

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 1985 E. Chandler Boulevard, the southwest corner of Chandler Boulevard and Cooper Road.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

K. LUP10-0005 WALGREENS AT CHANDLER BOULEVARD & DOBSON ROAD

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 1925 W. Chandler Boulevard, east of the southeast corner of Chandler Boulevard and Dobson Road.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

L. LUP10-0006 WALGREENS AT RIGGS & GILBERT ROADS

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 3005 E. Riggs Road, the southeast corner of Riggs and Gilbert Roads.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

M. LUP10-0007 WALGREENS AT OCOTILLO & MCQUEEN ROADS

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption. The subject site is located at 975 E. Ocotillo Road, the southwest corner of Ocotillo and McQueen Roads.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

N. ZUP09-1022 PUEBLO MIDDLE SCHOOL WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility on the campus of Pueblo Middle School at 360 S. Twelve Oaks Boulevard, south of the intersection of Rural Road and Chandler Boulevard.

1. Development shall be in substantial conformance with approved exhibits. 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 shall be limited to 60' to top of antennas.

O. ZUP09-1024 ALMA PARK WIRELESS FACILITY

**Approved to continue to the April 21, 2010 Planning Commission Hearing.**

Request Use Permit approval to install a wireless communication facility within a shopping center at the northwest corner of Warner and Alma School Roads. **(REQUEST CONTINUANCE TO THE APRIL 21, 2010 PLANNING COMMISSION HEARING.)**

T. ZUP10-0007 F5

**Approved.**

Request Use Permit approval to allow bulk fuel storage in conjunction with an equipment sales and service business. The property is located at 55 South 56<sup>th</sup> 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.

U. ZCA10-0002 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), temporarily amending/adding language within this section pertaining to certain types of temporary signage.

V. ZCA10-0003 CITY OF CHANDLER / WIRELESS COMMUNICATION FACILITIES

**Approved.**

City initiative to amend Chapter 35 (Zoning Code) of the Chandler City Code, by amending Section 35-2209 pertaining to wireless communication facilities.

W. ZCA10-0004 CITY OF CHANDLER / NON-COMMERCIAL SIGNS

**Approved.**

City initiative to amend Chapter 39 (Sign Code) of the Chandler City Code, by adding subsections C and D to Section 39-2, and by adding a new definition to Section 39-3 relating to sign regulations.

**CHAIRMAN FLANDERS** stated before he goes to a vote on the Consent Agenda, he had 2 speaker cards in regards to 2 items on tonight's Consent Agenda. Those speakers wanted to come up and state their concerns. The first speaker is on Item D.

**JULIE MORRISON, 5650 W. CHANDLER BOULEVARD #2, CHANDLER**, said she owns the property just to the west of it – Morrison & Associates, CPA. Her concern with having a school be put into what was always intended to be an office or light industrial area is that because it is a Charter School, they could have upwards of around 500 students. If you count how many classrooms there are and multiply it by 25, you have somewhere over 500 students that could potentially be there none of which would be bused in. There could be 400 or 500 cars there. The Intel plant currently already has a lot of traffic issues there in the morning and afternoon, which is about the same time that

school would be going in session and coming out of session. She has issues with the traffic. She also has concerns about the fact her business environment could be potentially compromised by the fact they have a lot of teenage students there. She currently already has teenagers like that on that corner with their skateboards. If they have 300 to 500 students who are there, they are going to find the opportunity to come over and hang out in those areas. Her business environment is compromised and she bought this property 3 years ago with the understanding that was how it was going to be zoned.

**CHAIRMAN FLANDERS** asked when this was going to City Council? Mr. Dermody replied that it would be on April 22. He called the next speaker on Item G.

**DENISE TINKER, 6082 S. BEDFORD PLACE, CHANDLER**, stated in regards to the license for beer and wine at the Riggs and McQueen facility, she lives a stones throw away from that facility. When the Walgreen's was first put in several years back, they had several of the people who at that point in time had a concern about liquor coming into that facility at that time. During the discussion they did indicate there would be no beer, wine or liquor of any type. Her concern now is they were told one thing in the beginning and now it is being changed. Her other concern is that she has witnessed the sale of cigarettes to minors. In fact she saw one this past weekend while she was shopping at Wagreens. That particular individual was not carted and yet they have a sign there right next to the cigarettes that they cart under 40. This young individual clearly was way younger. When he went outside he then distributed the cigarettes to another 6 to 7 young minors in the parking lot. The sales clerk sold the cigarettes but there was another employee of Walgreens that was standing several feet away. She is sure he noticed the sale and there was no comment or anything to that effect to restrict the sale of that product. Her concern is if they are not doing it with cigarettes, then they are probably not going to do it with liquor. That is the other concern she had. They have a gated community off of Riggs Road. There is a turn about there and right now they do experience some loitering. They also experience some trash. Basically, from fast food restaurants. Again, her concern is if they put the liquor out there at that facility, they have a real nice turn about for people to loiter and now they are going to get beer bottles, beer cans and anything else that goes along with that. She doesn't think it is the right area and it will bring in unwanted clientele to the area and she thinks their community will be compromised due to that.

**CHAIRMAN FLANDERS** asked if there were any questions of the speaker. There were none. He asked when this was going to Council. Mr. Erik Swanson, City Planner, said this case would be going on April 22. **CHAIRMAN FLANDERS** stated that would be another opportunity for her to voice her concerns.

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda with additional stipulations as read in by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Rivers was absent).

**ACTION:**

P. ZUP09-1027 POLLACK WARNER WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Warner and Alma School 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 monopalm height shall be reduced to 55' (top of antennas).
3. In order for the Use Permit to be valid, a signed and completed Consent to Conditions waiver shall be provided to Planning Department staff within three weeks of City Council approval.

**MR. BILL DERMODY, SENIOR CITY PLANNER,** stated this is a request for a monopalm style wireless communication facility at a commercial shopping center at the southwest corner of Alma School and Warner Roads. This is a commercial center. On 3 of the corners there are commercial centers. They are talking about the southwest. To the east across the way is a school under construction right now, a charter school that will be moving in this fall. To the west and to the south is an established single-family neighborhood that has been for some time.

He said he is showing a site plan that shows the southern portion of the site where the monopalm is supposed to go. It is proposed to be a 65-foot tall monopalm in a little cove where the building moves a little farther from the residences. If they are familiar with the tenants in the front of this building, it is approximately right behind the Greek restaurant that is in this shopping center. The monopalm will be designed to look like a palm tree and this site does have a significant number of palm trees. There is an Exxon that shows the approximate location of where the palm will be. He showed a photo. As they can see, there is a palm tree and that is pretty typical for this center. They have not only these palm trees out front along the road, but they also have palm trees adjacent to the various entrances to the retail shops throughout the center. For that reason Staff doesn't have the usual recommendation on there that live palms be planted adjacent to the facility because there are palm trees there already. They have had some neighborhood input on this. A couple of neighbors have relayed their concerns. One of them in a letter they just got this evening. Their concerns are mostly about health, which they can't address due to Federal law but they can address the placement and the aesthetics. He showed a view from Stotler Drive, which is actually where the most recent opponent lives. As they can see, there aren't palm trees behind the facility but these are on the retail site. They are mature eucalyptus trees. Through these trees is where the monopalm would be located which Staff said they knocked down to a more realistic height of 55 feet instead of 65.

The applicant has looked at other sites in the area. They have looked at other verticality's but have not found any of them feasible at this time. Generally, because they are out of the specific search area where they want to provide service. Again, Staff does recommend approval of this with conditions that include reducing the height to 55 feet. He said he would be glad to answer any questions about it.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff on this item. There were none. He called the applicant to step forward and state his name and address for the record.

**RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA,** stated he was there representing Clear Wire. He said he had no objections to the reduction of height to 55-feet. Their engineer has agreed that will work. He believes it is an appropriate location for a cell facility. It has very minimal impact on the neighborhood in this location. As they know, he has tried to speak to this before but heights are required because of the microwave dishes that actually talk to each other.

He showed all of the proposed cell sites in the southeast valley for Clear Wire. The connectivity of these cell sites are represented by the lines that all come to a central hub. The hub site is in Chandler at the building right next to downtown, the ACM building. Basically, the heights are required for Clear Wire because they have to be able to clear the obstructions of a canopy. He showed where a building is being eclipsed by the new City Hall to the south. If they had to shoot south, obviously that creates a problem because now they have a new building in the way. They would be better off on top of City Hall because it is a taller building but unfortunately it is not built yet. Those are considerations they have with taller canopies, trees, buildings or anything that interferes with this line of site from microwave to microwave which is how you get the high speed connections that allow this wireless communication to occur. He said they were welcome to look at the map of the cell sites up close. He said he provided a copy to Staff so they have some idea of why they can't function at much lower heights than what is being suggested by Staff at 55 feet.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant.

**VICE CHAIRMAN CASON** asked Mr. Anderson what other places in the area has he investigated? Mr. Anderson said there are 4 commercial corners. They have gone to the 4 commercial corners and they had a willing landlord at one. They have tried the SRP poles that are in the area. SRP has categorically denied their ability to co-locate on them. They will find that to be true through most of Chandler. There are very few opportunities that they have to actually co-locate on a public utility pole.

**VICE CHAIRMAN CASON** asked when he says they don't have willing landlords, can he help him to understand what that means? Mr. Anderson said they don't have the power of eminent domain so Rulon Anderson doesn't get the opportunity to go out and pick a spot that would be ideal and that is separated from all residential neighborhoods

and that fit the flora that exist in that particular spot. He would love to go out and put a monopalm right next to 3 other monopalms. He doesn't get to do that because he has to be able to place his ground equipment and he has to be able to get power to that location. He has to get a landlord or a landowner who is willing to rent him space to do that. **VICE CHAIRMAN CASON** asked him if he is willing to rent him space at any cost? How does that work? Mr. Anderson said he is almost willing to rent him space at any cost in some cases. **VICE CHAIRMAN CASON** asked so he negotiates in earnest with other landowners until they are able to come to a cost accommodation? Specifically, how does that selecting a corner and all happen? Mr. Anderson stated in this case this is a Pollack Center and Pollack Centers have typically been off limit to all wireless carriers. They will note that this is throughout Chandler and there aren't any sites on Pollack Centers because they typically refused to rent space. The reason is because the space limitations of the ground equipment. T-Mobile for instance uses a 20 x 30 foot compound for their ground equipment. Some of the other carriers use large shelters that are air-conditioned for their ground equipment. Clear Wire has one 2 foot x 3-foot cabinet that is 56 inches tall – 1 cabinet. The space limitations and a monopalm can fit in a 5 x 5 foot space or basically the foundation of that monopalm. Basically, they can fit where other carriers have not been able to fit and they haven't been able to negotiate space with Pollack because they don't fit. They have been able to in 5 instances now in the valley, 2 or 3 in Tempe and some in Chandler. They have been able to locate on Pollack Centers that Pollack was unwilling before to rent space to any carrier. They have crossed the threshold there because of the limited size of their ground equipment.

**VICE CHAIRMAN CASON** said so hearing that is it safe to say now they have a working relationship with Pollack properties, when they are near their major mile intersections where they have to place towers, are they looking for them exclusively? Mr. Anderson said no absolutely not. He said to let it be understood that first they look for public property. In other words, City owned property, State owned property and places they can use because he is a taxpayer. The second place they look is schools. Why? - because he still a taxpayer. The third place they look is churches. Why do they go to churches? Churches have no visible means of support. If he can give Clear Wire's money to a church, he will do that. Next, they go to business. Obviously, some of that is to their advantage because some of the locations that they are looking at, like Pueblo Middle School, which is on consent tonight, are primarily in a residential neighborhood. They are trying to provide wideband wireless Internet service to that community for the homes that exist there. How do you get to them? You have to be in them to get to them. They have an agreement with the Kyrene School District. They use the Kyrene School District where they can. They look for existing vertical elements. They would use SRP poles and they don't discount them categorically. They actually go to SRP and spend money to decide whether or not it is capable of being used because it is an existing vertical element. The 2 things you will not see Clear Wire on are church crosses and flagpoles. That is because of the limitation of size. When you see a fat flagpole, you know that is a cellular site inside that flagpole. Flagpoles just don't come that fat. He can't put a 2-foot microwave dish inside that canister. A canister in a flagpole is usually 22 to 24 inches. He can't get his equipment inside a flagpole or a church cross. They

don't use those. They use rooftops where they are or where they are a suitable height. When they can use them, they will use them. Obviously, not all rooftop owners will allow them to occupy space on their roof. Not all commercial landowners will allow them to occupy space on their property. Not all churches will allow them to go on church property. They can't go on all schools. They are limited and they have to go through all of that to be able to get to the point where they can submit something to the city for approval. They have done that here.

**VICE CHAIRMAN CASON** asked him when they negotiate with different property owners, is it safe to say that they pay different rates for different spots and depending on what terms they can come to with the property owner? Mr. Anderson said absolutely. It is not just rate dependent. It is not just money. It is termination right. Some landlords will tell you that they can put it there for 5 years but who is going to spend the kind of capital that it costs to build a site for 5 years. They can't do that. If they can't get a long-term relationship with that landlord, they can't do it. **VICE CHAIRMAN CASON** said they would have to agree that the price of the property is a determinate factor in having to locate in particular at this intersection. At different parts of the intersection, there may be negotiations that happen with Clear Wire that were more expensive than this site. Would that be a safe thing to presume? Mr. Anderson replied no not at all. For instance, they were in negotiations with one landlord at a church not too long ago and they wanted free service for 8 of their deacons and if they couldn't get it, they weren't going to allow the site to be on the church. Clear Wire does not give out free service to 8 of their deacons. That is just something they don't do categorically. They are unable to place a site on that church simply because of that. **VICE CHAIRMAN CASON** asked about the property north of this one? What were the circumstances at that property? Mr. Anderson replied they couldn't come to terms on a lease with a landlord. **VICE CHAIRMAN CASON** asked what specificity of that contract were they not able to come to? Can he tell him that? Mr. Anderson said no because he wouldn't have the specifics in his brain. He will tell him that this is the 'F' candidate and F for them means there was an A, B, C, D and E candidate that they explored before they got to F. **VICE CHAIRMAN CASON** said the reason he is taking this line of questioning primarily is because the property up north on the north side of Warner Road is actually a better site. It doesn't involve any single-family homes, it's businesses and MDU's and it has enough square footage for him to place not only their equipment but their pole as well. It seems to him if he was a landlord and he knows the property that he has behind his shopping center is more conducive to having towers put there and approved by the city, he would think his property would be more valuable than a piece of property that doesn't. He would as a shrewd businessman charge more for that use of that facility. Because of the fact that all of the other perimeters fit their footprint, it can be generally the same height as the pole on the south side. It doesn't have the homeowner limitations where somebody sits out in their backyard and all they are going to see is a big huge pole. He just can't get his hands around the fact they can do business with one commercial property owner and you can't do business with the other when he knows if they offer enough money they would be able swing that deal. Mr. Anderson stated he could only beg to differ with him. He has been there and done that and he has seen people turn down enormous amounts of money for

the perfect location for no good reason. For no reason whatsoever. He doesn't want to encumber his property. They may sell this property in the future and they don't want to encumber it. He could go through the myriad of reasons that he has had but it seems fruitless to do so here because this is the F candidate. They have been through many others to get here. This isn't the first time he has done this. He goes at it from a purely practical perspective because he is a pretty practical person. He said that is a perfect location and he would really like to be there. By the way, their F would like him to be right there but he can't get anybody to say yes. He said he wants to rent a space and he will take 2 of their parking spaces. They are over parked and he would like to take 2 of their parking spaces behind where it is not going to bother anybody and he would pay them – you name your price. He cannot get a landlord to say o.k. he is ready to go for that at any price. He has seen that happen more times than they can count. For land that has no commercial value and they are in the business of renting commercial space to people, he does not understand why they would not let them rent that space. The answer comes back a resounding no.

**VICE CHAIRMAN CASON** said he knows he is required to list verticality's nearby that they have investigated. He believes there is not an ordinance that requires them to explain any other properties they have examined in the area, any other properties they may have negotiated with in order to place this pole where he has put it in their application. Mr. Anderson said they are asking Staff to provide existing vertical elements and things they have attempted to do to get on those. He thinks they do that. **VICE CHAIRMAN CASON** asked but they don't submit any data that they have negotiated with this property owner and the issues as to why they can't go with those properties? Mr. Anderson replied no and he has had the City of Chandler turn him down as a landlord. How does he go there with him when he says he can't rent space from the City of Chandler for the myriad of reasons they will give you on a water facility? They will ask why can't they give the City of Chandler Clear Wire's money to be on that facility? There are 13 reasons why they are not going to let him be there. None of which have to do with money. **VICE CHAIRMAN CASON** said he is not interested in the City of Chandler. He is interested in the various property owners in the same intersection. Mr. Anderson said if one of those had been the City of Chandler in this case, what would they have to say about that? **VICE CHAIRMAN CASON** said it doesn't matter because it is not. He thinks his concern here is that personally he is not convinced they have done all the work they can do to try to find a place that has not as much impact as the single-family home. There are other corners at this intersection that can do what they want them to do and he has seen no evidence that indicates that you have failed to come to terms with those landowners for a specific reason. Perhaps, whom he spoke to, who owns the property and when these transactions happen. Was it a B or an F or a G or a Y property? Specifically because there are better places. He would like to see as he continues to come forward not just a property but also the best possible property at the intersection that you know this site north of where they are submitting their application is truly a better site. You go to their client and you say they are going to need to have more money to go to this site because it is what's best for the citizens of Chandler. He said he would give up the floor to see what some of the other Commissioners have to say but for him he is

against this particular application because he thinks it should be on the north side of the street and he is not necessarily convinced that he has done a good enough job to be able to get that property up there respectively.

**COMMISSIONER PRIDEMORE** asked if one of the options they looked at prior to going behind the center was looking at spaces on the east side of the center along Alma School? Mr. Anderson said they were specifically asked by Staff to look at locating out in front of this building, which they did. They contacted the landowner. He declined the opportunity to allow them to do that because he didn't want it in front of his shopping center for whatever reasons. He believes there is a bank on the corner? Mr. Dermody, Senior Planner, stated there are 2 banks on this site. One is right at the intersection, the other farther south along Alma School. Mr. Anderson said they tried to get behind the bank. In fact, the bank was owned by a separate property owner. They contacted that property owner and they were declined. Why, they don't know. They never got to a price negotiation with that landowner because he just refused. That was the end of that. They talked to Pollack about moving it out in front of the center and they were not able to do that.

**CHAIRMAN FLANDERS** said he had a question for Staff. How was the 55-foot determined? Mr. Dermody said they suggested reducing the height to 55-feet just to more realistically portray a palm tree. They don't see palm trees that grow anywhere near 65 feet. In fact, they probably don't get to 55 feet either but it is probably closer. That is why they made that recommendation. Mr. Anderson said to clarify palm trees do get to in excess of 55 feet. They are all over the valley. It is a matter of age and health.

**CHAIRMAN FLANDERS** asked if there was anybody in the audience that would like to speak in regards to this item.

**CAROLYN DAVIDSON-TAYLOR, 1201 W. PALO VERDE DRIVE, CHANDLER,** stated she knows this area quite well because she frequents the Bank of America that is there and there used to be a Mervyn's shopping center there. She received notice that this cell tower is a possibility and she certainly opposes having the cell tower there. She said she opposes it for property values and safety and health issues. It doesn't look like there are many people here from the neighborhood. It is a neighborhood that is in transition and when she says transition she means when she bought the property in 1990 the majority of people living in the neighborhood were homeowners. Now it is transitioning and there are a lot of rental properties in the area and some foreclosed properties. She just wants to go on record that she is whole-heartedly opposed to having the cell tower located this close to a residential area, particularly this close to the property she owns.

**COMMISSIONER PRIDEMORE** stated that she was talking about the old Mervyn's site and he thinks that is actually Item Q as opposed to Item P. Ms. Taylor thought this was on the cell tower on Alma School and Elliot. **COMMISSIONER PRIDEMORE** said they have a couple of them. He just wanted everybody to realize that this is on the other site but it is obviously the same concern.

**CHAIRMAN FLANDERS** closed the floor for discussion and motion.

**VICE CHAIRMAN CASON** made a motion to DENY ZUP09-1027 POLLACK WARNER WIRELESS FACILITY, seconded by **COMMISSIONER HARTKE**.

**COMMISSIONER VEITCH** thinks the motion is to recommend to the City Council that the petition be denied.

**CHAIRMAN FLANDERS** said he was having some problems with this location as a result of being so close to the neighborhood. It is a commercial use. He understands the land values but based off of land use for this particular site, in his opinion it is not a good site.

**COMMISSIONER VEITCH** said he had a question for Staff. In terms of its zoning, is this also a location where 45 feet be allowed by right? Mr. Dermody said that is correct if this were a building. The building would be limited to 45 feet in height by the zoning here. **COMMISSIONER VEITCH** said he could guess that the petitioner doesn't think 45 feet works, which is why they are talking about 55 feet? For the record that might make a difference in terms of how he feels about it - if it is a 45-foot faux palm tree as opposed to a 45-foot wall that would be allowed by right.

Mr. Anderson said he could only tell them that 45-feet doesn't work because of the height of the trees in the neighborhood. If it doesn't work, there is no sense in building it. If he can't provide coverage, then they run into an issue. If he has an area that he cannot provide coverage and you have a good reason denying it, then that will stand up in a Federal Court. Unfortunately the Federal Communications Act of 1996 says local jurisdiction cannot deny coverage, especially based on aesthetics. The Ninth Circuit Court of Appeals with the decision 2 years ago came down and said Aesthetics is not a real for denial. Public Health isn't either by the way. He doesn't make the rules; the Federal Courts have made those rules. He is only here telling them that he thinks this is an appropriate location. He thinks 55 feet is a particular example of a height that works for both carrier and for the community from his perspective and it answers the questions and it meets their code. If it meets your code, your current ordinance says this is allowable with a Use Permit. They have to have substantial reason why they can't do that. The substantial reason why they can't do that is that they don't believe he did his job because he can demonstrate that he did his job. If you really believe that he hasn't done his job, they should continue this case and allow him the opportunity to show them that he has done his job because he has. He doesn't come in there flippantly and tell them that he thinks they should go up just because it is easy. It is not easy to place cell sites anywhere especially when you have to use new verticality. He would prefer to be on an existing cell tower. He promises them it is way easier than this.

**COMMISSIONER VEITCH** asked if 45-feet was workable? Mr. Anderson said it does not work according to the engineers.

**COMMISSIONER KELLEY** said for the record how far away should a tower be from residences before they really start to deny these things? In this one, in his opinion, they put it as far away from the residences as they could. He is more inclined to favor this proposal.

The motion for denial was approved 4-2 (Commissioner Veitch and Kelley were not in favor of the denial). Commissioner Rivers was absent.

This item will go the April 22 City Council hearing.

**Q. ZUP09-1028 POLLACK ELLIOT WIRELESS FACILITY**

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Elliot and Alma School 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 monopalm height shall be reduced to 55' (top of antennas).
3. In order for the Use Permit to be valid, a signed and completed Consent to Conditions waiver shall be provided to Planning Department staff within three weeks of City Council approval.

**MR. BILL DERMODY, SENIOR**, stated this is a request pretty similar to the one they just heard. This is another request by Clear Wire to place a 65-foot tall monopalm facility in a retail shopping center just a mile north of the last one. This is at the southwest corner of Alma School and Elliot Roads within a shopping center. The other 3 corners of the intersection are also retail commercial types of corners. This is a pretty difficult site in that if the pole has to go behind the buildings, it is difficult to get substantial separation from the residences. There aren't many coves or holes where the building juts out farther from the residences. In this case, the separation that is being proposed is only about 100 feet from the residential properties. Staff has looked at other options here with the applicant and they have asked him to look at other verticality's. They haven't been able to find any willing landlords within their search ring other than this one that provides better opportunities. Notably on this corner the property owner on the northeast is the same as on the northwest. They have also specifically asked them to look at the possibility of a city water site to the north, about ¼ mile north of Alma School but that is unworkable for technical reasons. It is too close to another site and too far from where they are trying to locate. Staff does recommend approval of this request for a monopalm. They are asking for 65 feet. They recommend they be approved at a height of 45 feet due to the proximity to residential properties. He does believe the applicant may say this is unworkable but they recommend approval at this height recognizing that buildings on the same site zoned C-2 could be built at that same height.

**CHAIRMAN FLANDERS** asked so the height was based off a setback of a regular building then - the 25 feet plus a foot for every foot beyond that. Mr. Dermody said the height issue is two fold. One, a regular building is capped at 45-feet in height unless you get a mid-rise exception to it. Secondly, the setbacks you are referring to, 25 feet plus one foot for every foot in the building height, which you would be able to do with several feet to spare. He said he should mention they have had some opposition to this. They did hear from a neighbor that it is too close and will have a negative effect on property values and it should be placed in front of the shopping center.

**RULON ANDERSON, 3523 PRESIDIO CIRCLE, MESA**, representing Clear Wire, said he put up a picture of the site. The trees there are in excess of 50 feet tall. He showed where he would put it but unfortunately that is not his choice. He does not have the power of eminent domain so he has to deal with a landlord that prefers it to be where they have asked to have it located. He needs a minimum of 55 feet for it to function because of the height of the canopy in this area. He knows they can say they haven't done our job but actually they didn't go for an easy landlord here. This is only the D candidate so they haven't gone through that many. After the D candidate they also addressed several other potential areas including the city sites to the north, which was unworkable. Because of their close proximity to another site, in order to provide coverage you have to space these towers out or they can't work. It doesn't help to put 3 towers in one location. It doesn't give you increased coverage because of the power output of these towers is so minimal you really have to space them out. That is the only way they are going to meet the Federal requirement of broadband wireless coverage to the United States of America. He won't be the last one in here telling you the same thing.

**VICE CHAIRMAN CASON** asked Mr. Anderson to tell him the chat he had with the property north on the other side of Elliot Road? Mr. Anderson said he can only tell you that the chat resulted in no lease, no availability to go there. **VICE CHAIRMAN CASON** asked if he was aware that there is already a tower there? Mr. Anderson said yes. **VICE CHAIRMAN CASON** thought it was an abandoned tower as best as he could tell. There was no equipment in its storage unit. The wave-guides had all been cut off. He understands that the pole is not high enough. He would be curious as to why a landowner to allow a service to come in and not allow another when there is plenty of room? Mr. Anderson said he cannot understand that himself. Obviously, one of the places they looked to is where there is a monopalm. Can they put another monopalm close to it to give them the staggered effect and give them the clustered effect that they desire? In that case, the landlord said yes but he has had them say no. He doesn't understand why not. They have a bad relationship with the tenant that they have and there are a myriad number of reasons. Some of them he sympathizes with, some of them he can't understand and on top of that they have partners and issues with people that are beyond his comprehension. **VICE CHAIRMAN CASON** said he wanted to ask him a favor for the next time he comes through. When they run into situations where they have 4 corners or 4 corner intersections and they have selected their corner but there are other corners, 1 or more, that seem more appropriate for their tower, can he give them an

explanation as to why, more than anecdotal with other things that have happened in the past, and give them some specificity as to why they can't use the north side? Mr. Anderson responded he would be happy to.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said he had talked about on the previous one about how 45 feet wasn't acceptable and that is the maximum height other than without the Use Permit. The truth is that they would have to have their pole at least a foot or more over 45? Mr. Anderson said that was correct. When he said we he has an engineer that says we. He went to him today when he read the stipulation. He asked him if they could do it because he isn't going in there tonight and guess. In those cases where one was raised to 53 feet, the engineer said o.k. He is o.k. with that. He isn't going to complain about that. He will complain about the 2 trees they want to plant with it but they will get there when they get there. If the system can't work, then it is a denial of the system. He doesn't know how to deal with that. **MR. BROCKMAN** asked in his dealings with the property on the north side when they are dealing with them, are they doing that on the assumption you are looking for a 65-foot tower? Would it make a difference that the City would opt them to limit to 65 feet? Mr. Anderson confessed why his 65 feet shows up. He walks a site with an RF Engineer and the engineer asks if he can get 65 feet here? Mr. Anderson says no. The best he is going to get him is 55 feet. The engineer asks how does he know that he is not lying to him and if he really could get 65 feet? Mr. Anderson said he answered him that he would go in at 65-feet because the worst that can happen to him is they will stipulate him to 55 feet. At least he has done his job. That is really where the 65 feet comes in. In some instances, he goes absolutely not. They are not going in at 65 feet. It doesn't work. The later case that they are going to see he didn't go in at 65 feet because he knew it wouldn't work. The last time he was here he was asked would you always want higher? The answer is no not always. In fact, he has one coming up that is 5 feet shorter than what is there. Why because technically it works. They are not going to be able to get higher so will this work for them? The answer came back yes. I said than that is what they are going in with. When he gets here, if you can live with 55 feet maybe you can do 47 feet. He said he is a negotiator for a living. At some point in time you have to have a point where you start so you can compromise somewhere.

**COMMISSIONER HARTKE** said the recommendation here is 45 feet and they are saying that is untenable in terms of just the logistics and the physics. Mr. Anderson said that is correct. If there was an existing 45-foot structure there, he could add to that structure under the wireless ordinance and place antennas above 45 feet without a Use Permit administratively so he is not going to build a 45 foot wall to demonstrate that is true. This site is a perfect location for a monopalm. There is negligible impact to the neighborhood. He would love every site to look like this. **COMMISSIONER HARTKE** said he would agree with him in the front but he struggles with the 100 feet from a residential property. That is where his vote reflects unfortunately. Mr. Anderson said he struggles with that too. In our wireless ordinance there is no setback requirement so when you say we have to be set back 300 feet on a ball field light pole, for a monopalm there is no setback requirement. How is he supposed to react to that? How does that

stand up outside of this forum? How is it going to be received when it gets appealed to a higher level that says if the ordinance doesn't require it, they can't deny it? By denying it, you deny coverage and you can't do that. How do you cope with that? He didn't know. **GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated by our code it requires that the application and the use being applied for be compatible with the neighborhoods even if you don't set a specific setback requirement if it is determined where he is proposing to locate it is not far enough back from the neighborhood so that it is inconsistent with the neighborhood. Mr. Anderson doesn't believe it is inconsistent with the neighborhood and he understands their point but the truth is the Federal government says local jurisdiction has the right to site and deal with siting issues for wireless communication facilities up to a point. If they go past that point, then the feds. step in and say they get to do it anyway. In San Diego County where they invalidated their entire wireless ordinance and they said they don't really care - you have no ordinance now so put them anywhere you want. They don't want that to happen here either.

**CHAIRMAN FLANDERS** went to the audience and asked if there were any speakers. Carolyn Davidson-Taylor came up to speak again.

**CAROLYN DAVIDSON-TAYLOR, 1201 W. PALO VERDE DRIVE, CHANDLER**, apologized to the Chairman. She said she works in downtown Phoenix and had to rush over here. She still opposes having this cell tower placed in her neighborhood so close to residential property which is where she lives and where the children and other members of the community live. She said there aren't a lot of people there but her voice represents the voice of many people in that community. I understand there is a whole issue about compatibility and she understands the concern about having wireless connection. Her wireless phone works fine in her neighborhood and she doesn't have any problems with it. She is just opposed because of property value and she feels it will diminish the neighborhood and if she was looking for a property she wouldn't be looking for a property that are close to cell towers. She doesn't look for properties that are close to many of those kinds of structures. She opposes this and she received the notice not too long ago and put it on her calendar to make sure she came out to speak in opposition. Someone has to speak up for the people.

**LLOYD BUCHANNON, 1215 W. ALAMO DRIVE, CHANDLER**, said he had 3 concerns about the tower. One, he currently has a wireless network in his home and will that be hampered by a commercial tower that close to his house. The second concern he had is the height of the tower. The first document they received said it would be 75 feet high. Now they are talking about 65-feet high and the city is recommending 45 feet high. He wouldn't be concerned about it at 45-feet if it did not interfere with the communications he currently has in his home. Third, currently right next to his driveway if a streetlight with a bracket on it that used to contain a box that was supposed to be Chandler approved wi-fi system for the City. Of course now it is just a bracket with 2 wires hanging off of it, which makes a nice resting place for pigeons. He can tell them from personal experience that pigeons are a health hazard. Since that company has gone

defunct are they going to end up with a tower in a few years from another defunct company forming yet another eyesore in the neighborhood? Those are his concerns.

**CHAIRMAN FLANDERS** said he could have the applicant address those issues when he comes back to the podium. He thanked him for his comments.

**RULON ANDERSON, CLEARWIRE**, stated he could address the concerns relative to interference. There is none. There will be none. The Federal government dictates that there will be none. He has a wi-fi in his own house. He gets high speed Internet through Cox to his house and then has a wireless router. It connects all his computers in his house. If you understand what broadband wireless Internet is, that same capability will be through their entire neighborhood. When one person says they don't want this and they speak for all of their neighbors, they had a community meeting and very few people showed up. They had 600-foot notifications to all of the residents within 600 feet and it is the state of our country that the minority rules what services they can and can't have in our own house. If he wanted to have wide broadband wireless in his house to compete with Cox on a financial basis to give him a better deal and service, he would hate to have his neighbor say no you can't have that because they don't want it. His parents never owned a microwave but unfortunately he won't be able to eat tonight without one because that is the nature of how we live today. There are 230 million cell phones in the United States. While you might have a cell phone that still works, without this tower that cell phone doesn't give wideband wireless Internet. He doesn't text but his kids certainly text. He doesn't deny the people that use those technical improvements in their life and their right to do so. You see the new notebook thing that is coming out which is a mini laptop that everybody is buying by leaps and bounds. Those things they want to have wireless Internet connections to them.

Clear Wire is owned 51% by Sprint and it is Sprint's 4G. When you see Sprint advertising on TV that they have 4G, Sprint does not have 4G in Phoenix yet because Clear Wire hasn't launched but they do have it where Clear Wire has launched and that is the only way anybody has 4G. When you see Verizon and AT&T fighting over how fast their 3G is, 4G is 10 times as fast and Sprint will be the first one out through Clear Wire. There is a national mandate out that the Obama administration wants the entire country covered with broadband wireless Internet capability because of the economic stimulus and that it is for our economy. He is not a techy and he can't tell them why that is going to economically stimulate our country but they believe that it is and the Federal government is throwing billions of dollars at it to have this capability in rural America – not just metro but in rural America. There was an issue of potential deterioration of the value of their home. He is a licensed realtor in the state of Arizona and the question he gets from people when he shows houses and he doesn't do it a lot, is if they can use their phone here. The Federal government fixed that with portability that said if they can't use their phone they could go to a different carrier and take your phone number with them. There has not been one documented case in the United States of deterioration of property values because of the placement of a cell tower in close proximity to residential let alone a monopalm. He would beg to differ with that comment also.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant.

**VICE CHAIRMAN CASON** asked Mr. Anderson if he would be willing to accept a continuance on this so he could come back with some information on the north property to try to make it a little more palatable. The only reason he asks is that he had suggested that before and he just thinks especially because of these 2 items being leased by the same person. He needs to have a little more comfort about why we are not using the other corners. The one up north is perfect for this and he would like to see what specifically could not happen with the north property to use it and rather than just come across with a recommendation to deny whether you would be interested to a couple of things. To make sure of the most minimal height that he could technically accept at that location and then some evidence as to why the north property won't work.

**BILL DERMODY, SENIOR CITY PLANNER**, said that the northwest corner is a residential property. **VICE CHAIRMAN CASON** said but it is MDU. Mr. Dermody said it is multi-family. It is not single-family. **VICE CHAIRMAN CASON** said there are businesses along Elliot on the west side and by the blank spot that is dirt. He thinks those are all offices too. With the impact of the different uses on this northwest corner, that is actually a better spot than the poor homeowners who are going to have to look at the tower and he means really look at the tower because it is right there. Mr. Anderson said he would answer that with a question. If he did that and it satisfied his curiosity, would it change his mind? **VICE CHAIRMAN CASON** answered quite possibly. Mr. Anderson said he would be glad to. But if he takes that time and it is to no avail, we wasted another month of everyone's time. He doesn't have a problem doing that. The fact that 2 Pollack's came together tonight is not a bad thing it is just a function of how they went through the system. He happened to sign the applications at the same time and that is how he processed it. There was nothing sinister in doing 2 Pollack's at the same time. **VICE CHAIRMAN CASON** said he didn't mean to indicate there was. He thinks we just have to do a little more due diligence on this particular site from a city's perspective and from a Commission perspective before they just pass this through to the City Council. He just wanted to give him an opportunity to maybe provide some more data that would help persuade him. He can't guarantee that if they are going to provide that data that is going to persuade him. If he knows and he is comfortable that at least from a layman's point of view that they have done everything he can to secure the most favorable location at this intersection it would help. It might not be the cheapest location or the easiest for them to get or the easiest for him to contract with but that they could not find the best location. There was no possible way for him to obtain the best location at the intersection, then he is of the position that given there are no other verticality's that they would have to approve their application. He is just not convinced that he has seen them. Mr. Anderson said he would be glad to come back.

**CHAIRMAN FLANDERS** closed the floor for discussion and motion.

**COMMISSIONER PRIDEMORE** stated he wanted to make a comment. He happens to be very familiar with this location. When his family first moved to Arizona back in 1981 they actually lived on Palo Verde Drive right behind the Mervyn's center. Of course, Mervyn's wasn't there at the time and he remembers when it was first built how their views north was affected. The thought of a wireless tower whether it was a monopalm or other shape in that location would not be very desirable for him either even though his family does not live there anymore. He could not support his location at this time.

**COMMISSIONER VEITCH** said he was going to echo that. He will support a motion to continue because he looks at this case and compared to the other one which is just a mile away with a similar intersection and non-residential uses on all 4 corners. He hears Mr. Anderson saying that this is in addition to being the best available deal, the only available deal and Vice Chairman Cason is saying that he has his doubts about that and he might well be right. Setting those things aside and just comparing the 2 locations and the 2 shopping centers and the configuration of the buildings on them and the resulting distance from the nearest residential property, he found the 160 feet in the previous case marginally acceptable. He finds the 100 feet in this case not acceptable. They need to due that additional due diligence and he will support a motion to continue it if that is what everybody wants to do.

**CHAIRMAN FLANDERS** said the distance was the big issue for him. The number they have hit on in some other applications was around 200 feet. It is a number he has in his mind. He understands what Staff did as far as the heights go and everything else so being that close to residential for him and a land use issue, he is not very comfortable with it. Also, being that close it doesn't seem to be compatible with the residential and that use. He would support a continuance or the applicant to go ahead and to look at the northwest corner to see if that is a viable site for a possible tower.

**COMMISSIONER HARTKE** said he echoes what everyone else is saying. If he believes that 190 feet was not acceptable and he was pretty marginal on that. His problem would be doubled almost at a 100 feet so he also supports the continuance on this and hopes they can find a better location that would be further away from residents.

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER KELLEY** to continue ZUP09-1028 POLLACK ELLIOT WIRELESS FACILITY to May 5, 2010 to give the applicant some time to present more data that supports his site on this application. The item passed 6-0 (Commissioner Rivers was absent).

**CHAIRMAN FLANDERS** said they had 2 other items to listen to. He called for a quick break.

R. ZUP10-0001 BORNS OFFICES

Request Use Permit approval to allow a residential conversion for offices. The subject site is located at 348 W. Chandler Blvd.

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) 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 (7), or the expansion of the home to provide additional office space, shall require 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 in accordance with City approved construction plans.
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. The freestanding monument sign shall be limited to one (1) project identification name or company name per each side of the sign in accordance with sign criteria established in the Residential Conversion Policy.

**JODIE NOVAK, SENIOR CITY PLANNER**, stated this request is a Use Permit to allow a residential conversion for offices in a former single-family resident at 348 W. Chandler Blvd. This case came before them about a year ago for a residential conversion to convert a home that fronts along Chandler Boulevard, an arterial street, into an office that would include 2 office spaces. The Use Permits are granted for one year in which you have to commence the use. The use had not commenced because the applicant has been on going with construction. At this time, this application is requesting this 1946 square foot to continue being converted as an office use under residential conversion policy to allow the 2 office suites that have been approved for this particular site as shown on their floor plan. The office would be general office. It is almost a double size lot so you have a home that front on Chandler Boulevard and Nebraska and then on the north side of it is a 2<sup>nd</sup> lot which is now recently paved for an asphalt parking lot. They still need to put in the landscaping on this particular property. Under our residential conversion policy for general offices, the primary use that is considered for that especially for homes that are along Chandler Boulevard, are no longer conducive to have ingress and egress for single-family residential use. This is one of the few residential conversions that are along Chandler Boulevard. There are still homes that exist that are just single-family residential uses. They don't have any issue or concern with giving an extension for another 2 years, which is what they are recommending. That gives the

applicant time to finish up his improvements that he originally represented he would be doing as well as getting the property leased for their single office or 2 offices that would occupy the area.

They are recommending approval of the residential conversion for this to remain as an office use. In addition to that when this case had come around about a year ago, they had included as would be required with the residential conversion policy, what they are requesting for signage on the property. Under the residential conversion policy you have an option of either having one single free-standing monument sign along the street frontage. That monument sign would have a project name, which could also be a business name. That would be on both sides of the sign. Or their option would be to have signage on the actual home itself. The applicant at the time had come forward and had presented to their architect with preparing all the exhibits for them, signage that had included 2 tenant names. They had advised them at that time that is not allowed under the residential conversion policy. That would be something that we likely wouldn't support and you would need to have an issue with that at the hearing to discuss that or come forward with just a single project name sign. That is what they did. They designed the height and width of this particular sign in accordance to the residential conversion policy, applied building materials and colors to match the home design and also just included Borns Offices, which is just the project name for both sides of the sign. At this juncture given that they are almost done with their project renovations, which are coming along very nicely, they are requesting to be able to do a sign that actually has 2 tenants. They think it is indicative for them to be able to lease the 2 tenant spaces for office in this particular building and to be able to give both of those office tenants an opportunity to have their name along the street frontage. There would be 2 panels basically on each side of the sign.

The sign is slightly different than what they had originally seen. It is still architecturally compatible to the house in terms of the materials and the coloring. They are asking for some patina medal. The actual plates where the names would be vinalized on them would be an aluminum colored silver panel. They don't really have any concern with the overall design and the character of the sign in the way that it is stylized. They just feel requesting to have 2 tenant names on it does set a precedence. It is not something that the City has previously supported. In your application packet there are examples of the other kinds of signs that have been approved within the last several years for residential conversion. They have had other applicants that have asked to have multiple names and they have 2 or 3 tenants actually in their residential conversion homes and they advised them up front that is not something they would support. Therefore, they didn't come forward with that. As she mentioned, the style and the design of it is not of a concern as the matter that they are asking for that exception to have more signage on there. Given the residential character of these homes and the residential neighborhood, they feel they want to stay with the way they have approached all the other signs in recent years with maintaining a residential feel and not making it look more commercialized by having multiple names and multiple tenants on that sign. Therefore, they are adding a stipulation that basically just says that the design of their sign is fine but the number of names that

need to be on it just need to be limited to a single name on each side as would be required under the residential conversion policy. They had their neighborhood meeting. The only person that attended was the other residential conversion, Michaels & Associates, which is directly across the street. They are not aware of any opposition or concerns with them keeping this property for office use of their proposed sign that they have. Most of the conditions are just standard conditions that they have on there. As she mentioned, they are requesting they at least get a 2-year approval. She said she would be happy to answer any questions.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff on this item.

**COMMISSIONER VEITCH** said she had answered one of his questions. The sign request last time was for the 2 tenant panels but it was modified before it got here. Ms. Novak said through their original discussions their architect had drawn up a sign that included 2 little placements for names before it even came to the public hearing process and they had told them that wasn't something they could support. They don't feel the hearing board would support it either. It is not something that has ever come forward with support. **COMMISSIONER VEITCH** asked so they weren't faced with that question? Ms. Novak said it was very last minute to be honest. We were asking them to give them signage and the architect at the last minute had to put something together and when he did that they said that is not what the residential conversion policy allows. He typically has done commercial projects so he was just going under our typical commercial shopping center code that allows 2 tenants. They had to correct that and brought the exhibit before them with just the project name, Borns Offices. **COMMISSIONER VEITCH** asked if the square footage of the 2 suites, are they the same as before? Ms. Novak said everything is identical and there hasn't been any change at all - the look of the home, the dual pane windows, the paint colors, changes and features to the home and the detached carport and the low wall. They showed them a landscape plan. There is like maybe a minor shift in the location of a particular tree but overall everything is going in as planned originally. They aren't asking for any other changes for this particular request other than the sign.

**CHAIRMAN FLANDERS** said over the years he has seen a lot of these properties along Chandler Boulevard come before them and he doesn't ever recall seeing the white house sign coming before them for multiple tenants. Where did that come from? Is that something that just happened? The owner of the building just went ahead and put them on there without approval. He does not remember it at all. Ms. Novak said that request for the sign did not come forward through this Board. There is some history with this particular property for the white house. Originally, in the late 80's they had come forward with a Use Permit to convert this home to a residential conversion for office uses. As they had mentioned in Study Session, at that time that particular application there is nothing in the file that was indicative or making any relationship and there is no parcel on it in the Staff report about the signage at all. The residential conversion policy allows the consideration of signage. If you choose not to have any signage, then you wouldn't really have any of your signage come forward. It was probably an after

thought. The second time their Use Permit was granted for a certain period of time and then the Use Permit had to come back in the early nineties. When it came back at that time, her understanding in looking at the record is all of a sudden there is nothing in the file other than when it went to hearing and there is just an exhibit and a discussion about Staff and Planning Commission representing to Council that they were not going to support having 3 tenant names on that particular sign. Staff arguments in the report are talking about how small the lettering is and how it is not conducive for signage if no one is going to be able to read it. They only allow the one and this is not something they are going to be supportive of. Actually, it was turning into 4 lines – not that there were 4 tenants but at the time there was a company that shared an office with somebody else. They were considered one tenant but both of them wanted their names on that one line and it kind of trickled over to a 4<sup>th</sup> line on the sign. There was an exhibit in the file showing that it got to Council and Council approved it even though there was a request to deny that – not setting precedence, not something they wanted to see. They don't have anything in the minutes or anything like that and why that all of a sudden got discussed again probably like an after thought at the last minute – they want a sign and they want to get some tenants on it. When this case had a time extension back in 2005 there was no discussion about the signage at all. The Planner at the time that brought it forward and said simply this has been an office forever and ever. They are just doing a time extension. There was just no discussion represented in that material about the existing monument sign either. They know that they did come in with a sign permit just to upgrade the sign in terms of repainting it, putting some new letters in the same spot because it was getting old and a little disheveled over a period of time as long as they were in conformance with that original case. Yet it was kind of a mystery to them looking at it and trying to understand the background of why this material is in there and why the sign came up so late in the game. Staff was in support of our Commission but Council did grant it at that time. It was kind of an anomaly out there because every other one that we have had here in 11 years haven't got approved with multiple business names on there even though they have had a real estate office that actually had several different tenants. They had a CPA that had different people that were working in their building. It is not unusual to have 2 or 3 sub leasing that go on in there under what they are representing but they haven't had anybody come back and approach wanting more additional names on their particular signs out there today.

**CHAIRMAN FLANDERS** said that residential conversion program is a good program. Over the years they have been real consistent not only in the signage but the standards and everything else and it has worked perfectly not only along Chandler Boulevard but other areas. He was trying to remember that and just couldn't. He thanked her for that information.

**KEVIN MAYO, PLANNING MANAGER,** said when it comes to monument signage, tenants panels and commercial properties, which although this is a residential property that has been converted into a commercial use, he can't think of one commercial property that they have had that has enough tenant panels for 50% of their available tenant spaces let alone one that has enough tenants panels for 100%. Those are commercial properties

that they don't have. He knows they are talking 1 more tenant panel, but it would be 100% of the tenants in this piece that would have tenant panels. He can't think of one commercial property anywhere in Chandler that has that many tenant panels.

**FRED BORNS, 6 SO. STELLAR PARKWAY, CHANDLER**, stated he is the Borns most commonly affiliated as Borns Office. He thanked Staff, in particular Jodie for shepherding them along this thing. This has been a lot longer than they had thought it would take. She has been very helpful. It took longer on this site because of numerous structural aspects that they encountered that had not originally been anticipated. From the beginning they went through Staff to have 2 offices here to sort of help them. He is not a shrewd businessman by any means but it seemed to make it more economically viable for the investment they have made here on Chandler Boulevard. They purposefully placed the entrance to this complex on the north so that it is not actually facing Chandler Boulevard and it was for that reason the fact that the entrance is off Chandler Boulevard that they had hoped to utilize this monument sign as they have seen here. He wouldn't want to disagree with anything that Jodie has said. The process as she has described it is indeed what has transpired. When you read the residential conversion policy of 1989, Section 4, Paragraph D4 states that 1 under canopy sign per user is allowed. Then Paragraph D5 states that 1 architectural sign for project identification is allowed. They naively assumed that a monument sign with 2 tenant panels would be an acceptable sort of merger of the spirit of that document. If nothing else tonight he has learned something about what has transpired historically and didn't realize the precedence that had been set. Naturally, they think the sign and the design and the medal and the patina and those aspects of it really do compliment the rehabilitated architectural appearance of this building. We completely support the sign being as unobtrusive as possible and they definitely support the notion that these properties on Chandler Boulevard should remain residential in context. There are some aspects to those properties that don't appear residential right now as was presented earlier in terms of signs. They would like Commission to positively consider this 2-tenant panel concept if possible.

**CHAIRMAN FLANDERS** asked if there was anybody in the audience that would care to speak in regards to this item. There was none. He closed the floor for comment and motion.

**COMMISSIONER VEITCH** asked Staff if he understood the applicant correctly to say 1 under canopy or under eave per tenant would be acceptable under the policy plus a monument sign? They said it is. These sorts of residential conversion policy are ubiquitous. Town after town has these things where there is an older house usually on the fringe of a central business district and signage is always a very important part of those policies so while he doesn't particular objection to the sign design that they have in front of them, he think it is inappropriate to in affect amend the residential conversion policy through a Use Permit as opposed to amending the residential conversion policy by reopening the discussion of the policy itself. On that basis his view is that he would recommend approval of this petition with the stipulations as recommended by Staff but he would like to hear from the other Commissioners as well.

**CHAIRMAN FLANDERS** said as Commissioner Veitch said about the conversion program and as far as signage goes, he would hate getting into changing it at this time. He thinks it has worked well. Once you do one then somebody else comes forward. It is like a domino effect. As mentioned, this conversion program does work well. The signage looks good along Chandler Boulevard and the other places they have done. He would also support Staff's findings and the stipulations provided to them.

**MOVED BY COMMISSIONER VEITCH**, seconded by **COMMISSIONER KELLEY** to approve ZUP10-0001 BORN'S OFFICES with the stipulations as recommended by Staff (1 through 8). The item passed unanimously 6-0 (Commissioner Rivers was absent).

Ms. Novak stated this item would go before City Council on April. 22, 2010.

S. ZUP10-0004 KILPATRICK WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility within an Agricultural (AG-1) zoning district. The property is located in between Colt Road and El Alba Way along the east side of the 101 Freeway.

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 height shall be reduced to 55' (top of antennas).
3. There shall be two live palm trees installed and maintained adjacent to the monopalm. The trees shall be of 20' and 25' heights at the time of planting and shall match the monopalm's appearance.
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.

**BILL DERMODY, SENIOR CITY PLANNER**, stated this is another wireless communications facility request. He said they will mostly be talking about live palm trees on this one so that is how he will cater his presentation but if they have any other questions or directions, please let him know. This is back in a County subdivision at the northeast corner of Price Freeway and Warner Road. There are few parcels right along the 101 Freeway that are actually in the city and zoned AG-1. This is one of them. There is a request to put a wireless communications facility of monopalm design (fake palm tree) on one of those parcels. He showed it close up on the ELMO. The request was for a 65-foot high monopalm next to this existing 50-foot monopalm. The 'X' denotes approximately where they would like to put this new one. Through Study Session they have limited the height of that to 53 feet which is slightly higher than what is there today. He showed a photograph of what is there today. This is viewed from the south – Colt Road through the fence. You can see what is there. The fake palm tree and a couple of

live palms, date palms that were required by condition in order to get that monopalm put up. It was approved back in 2007. The date palms were put in and there was supposed to be irrigation brought to them. It was not. They have a great deal of problems keeping them alive and they died. For a while they looked horrible. What you see today are actually the replacement palms. He believes they require them to bring irrigation to them this time and certainly hoped that occurred. It will give the palms a greater chance of living. In any case that monopalm is only approved on the contingency that 2 live palm trees are there. If they are not kept alive, they will have to be immediately replaced or the Use Permit could be revoked. In this case they are recommending again that 2 live palm trees be placed there in this neighborhood. They can see the 1 live palm tree in the background. There aren't many live palm trees nearby. It is mostly other types of trees and shorter trees. Also for consistency and in addition to that, they recommend that 2 live palm trees be placed next to this 53-foot high monopalm in the request. They don't see a reason for exception to that on this site. Again, the recommendation is for approval and he said he would be glad to answer any questions.

**CHAIRMAN FLANDERS** said he drives by this thing twice a day. He sees the palm tree and the 2 additions and it looks good from the freeway. The idea of creating the groupings of palm trees just adds to the flavor along there. It helps the look. He said in stipulation no.2 they had talked about changing the height of that. What did they go to? Mr. Dermody said they are recommending contrary to what is in the memo that stipulation 2 read:

*The monopalm height shall be reduced to 53 feet to top of antennas.*

**CHAIRMAN FLANDERS** asked they originally wanted 60? Mr. Dermody said 60-foot is in the application. Is that to give it the varied look of the grove? Mr. Dermody said that is right. It looks more natural if they aren't all the same height so a 53-foot instead of 50-foot would be more natural looking. He asked if there were any questions of Staff. There were none.

**RULON ANDERSON, 3523 EAST PRESIDIO CIRCLE, MESA, REPRESENTING CLEAR WIRE**, said there were 2 issues for him. One is the height issue. He put the T-Mobile monopalm there. At the time they put it in they knew they had no irrigation to it. There still is no irrigation to it. They put water bags on it to water it for a year because all of the nurseries will tell you palm trees don't need water to survive. Water them for a year and they are good. That is the 2<sup>nd</sup> set of palm trees that have been put on that location. The first ones were too small. They tore them out because the contractor messed up and put in 2 small trees. At the time the City of Chandler had a violation letter to that affect into T-Mobile, he notified T-Mobile that they were attempting to do this sort of a look. He showed a picture at Tatum and the 101 in north Scottsdale. This is a T-mobile and AT&T monopalm next to each other. His issue is 5 feet of height variance is probably a good visual impact rather than 2 feet. They are at 53 feet; the actual height of the monopalm itself to top of pole is 51 according to the survey. There is a foot out of ground that everybody fights over when they put these things up is that the foundation is

really a foot or not a foot. When the surveyor goes out there to the top of the pole it is 51 feet. It is a 50-foot pole but it sits at 51 feet from grade. His engineers told them that 53 feet works for them. There are 2 impacts to the 53 feet. T-Mobile's pole is directly to the north of them. They have the north sector. Cellular communication facilities operate on different azimuths. Their azimuths are 0, 120 and 240. T-mobiles are 0, 120 and 240. When they go to the south of them their 120 and 240 shoots past them and they don't block them. When they are directly to the south of them, they block their north sector if they are shorter than them. Hence, they went 60 feet to try and stipulate down to 55 feet. So 53 feet works but he thinks 55 feet looks better from his perspective. He said this isn't his first rodeo and not the first time around. He tries and do everything he can to make these sites look as good as he can.

However, he thinks planting 2 more palm trees with no water to that site because there is still no water to that site, doesn't add anything. He has been by that site and every time those trees died he would see Bill the next time and he would tell Bill that those trees have died next to that palm tree and he needs to send out a letter out to T-Mobile. There is also one in Tempe. If you drive up to University and the 101 on the east side of the road, there is also a palm tree there that Tempe attempted to do 2 friends with and those 2 friends are dead and hanging over. He said to Tempe if they are going to make them put them there, why don't they make them replace them or take them out because they look bad because they just hang over. When a palm trees dies, it just kind of hangs. They look terrible. He doesn't think there is any statistical advantage to adding 2 more palm trees here. He thinks they have a cluster of 4 and 1 that is close proximity based upon Bill's picture. He thinks it is overkill to ask for more. When he went to T-Mobile in the first place, instead of replacing let's look at reducing the number of palm trees to one real tree and adding a new fake palm tree, which is theirs. He just thinks it is overkill. He thinks on a case-by-case basis they need to look at them. He doesn't object to them all the time but where there are existing palm trees he is not in favor of.

**CHAIRMAN FLANDERS** asked if on part of his lease agreement with the landowner, would it be appropriate if they are getting into a situation where you are having to add landscaping for them to provide a watering system as part of the lease? Mr. Anderson said it makes sense but this is a funky parcel. This used to be part of a parcel where there was a house and now there is a freeway instead of a house. They have a freeway wall and the reason they are set off from the wall with their tree is because they have an easement along that freeway so they can maintain their wall and electrical things running down that side of the freeway. Because of its unusual nature they can't get a water meter on the parcel because there is no structure and no capability of building a structure on the parcel. They couldn't get a water meter when they were T-Mobile and he can't get a water meter there as Clear Wire. You can't get water there. The best think you can do is try and pump it up from some irrigation ditch but ultimately you are going to struggle with keeping alive trees alive there. If you went back and had Bill show you that picture, you will see that there is not much grass there. She wants to knock a hole in the wall to allow her animals to vegetate and walk and eat but she can't irrigate it. It is an issue. She also has an issue with her neighbor and the concrete ditch that comes down to service

some of them and who is supposed to maintain it. He spent a number of hours with the landowner there talking about all of her issues with her neighbor. He still thinks it is not necessary to plant 2 additional palm trees and he is asking them to delete that stipulation. He thinks 55-feet looks better than 53 feet but once again a 2-foot difference is this much and it doesn't give you the staggered affect that he sees most commonly. When you see him come back with his reduced height, it is 5 feet lower not 3 feet lower because he thinks if they really want it to look good then make it look good.

**COMMISSIONER KELLEY** said he is still confused as to why they can't get water to these trees. Is there not a domestic waterline? Mr. Anderson said no. **COMMISSIONER KELLEY** asked how are they using water in the home? Mr. Anderson said there is no home there. The home is on a separate parcel. **COMMISSIONER KELLEY** asked if the property owner was just directly east of this? Mr. Kevin Mayo, Planning Manager, stated the properties east of that are County and he doesn't believe that subdivision has an out of service area agreement. He believes that most of those homes are well irrigated or through some other source. The landscaping is irrigated but like he said through the canal system. This parcel would have had rights unless at the time ADOT purchased it that they surrendered the rights to that irrigation tail water but there is not a City waterline that goes to this to put a city water meter on it. **COMMISSIONER KELLEY** said that is interesting. Mr. Anderson said there isn't and that is true and what she is trying to do is get water to those 2 trees that are there. If she has to drag a hose over the fence he is all for that but they need to keep those 2 trees alive even though one of them is crooked. The nursery said they came crooked. He said it looks like they planted it crooked. He takes this stuff seriously. He believes the contractor planted it crooked in the first place. He doesn't believe it came crooked from the nursery. They need to straighten their tree and she needs to get water to those. Shall we compound her problem twice fold - he doesn't believe so. He doesn't think it is appropriate that they put 2 more palm trees there. It's not that she is against palm trees.

**COMMISSIONER HARTKE** said he could be Mr. Anderson's friend on this one. He could agree with them both on the height and on the trees. If there are 2 there. He could be happy with the way it is.

**CHAIRMAN FLANDERS** asked if there was any additional comments or questions to the owner.

Mr. Anderson said he understands the policy and he knows why it exists and the only time he comes to them and say this doesn't make any sense; he can show lots of pictures and explain why there are plenty of trees in the neighborhood. He tells his client that they are going to plant 2 trees there because Chandler is going to make them. Do they understand that? They agree and those trees are not inexpensive. Normally, they have irrigation systems to them so they will survive. He is a proponent of your policy but he thinks on a case-by-case basis and he thinks this is one of those cases.

**CHAIRMAN FLANDERS** asked if there were any other questions for the applicant. He said he is going to the audience to see if there is anybody that would care to speak in regards to this item. There was no one. He closed the floor from discussion and motion.

**COMMISSIONER VEITCH** said he is fine with the 55 feet but he thinks the friends should be there too and there has to be a way to water them.

**CHAIRMAN FLANDERS** said maybe it is an agreement with the landowner that she runs her hose over to the trees to water them.

**COMMISSIONER HARTKE** asked so is the discussion to add 4 trees there or to keep 2 alive? **COMMISSIONER VEITCH** said 55 feet and 2 more. So they would have 2 antenna palms and 4 real ones.

**COMMISSIONER KELLEY** said if they can't establish the water, he doesn't want to put them there and just let them die. They would have 4 dead palms. How can they enforce this and how can they really get water there and how can they make it mandatory that water gets to these trees?

**CHAIRMAN FLANDERS** said he thinks it is the responsibility of the applicant to provide water to it either through some type of waterline or agreement with the landowner or however they want to do it. That is beyond our scope here.

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER VEITCH** to approve ZUP10-0004 KILPATRICK WIRELESS FACILITY with stipulation no. 2 modified to read 'the monopalm height shall be reduced to 55 feet'. The item passed unanimously 6-0 (Commissioner Rivers was absent.)

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN FLANDERS** announced that the next regular meeting is April 21, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 8:00 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, April 21, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Commissioner Rivers.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Absent and Excused:

Commissioner Stephen Veitch  
Commissioner Kristian Kelley

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER PRIDEMORE**, seconded by **COMMISSIONER HARTKE** to approve the minutes of the April 7, 2010 Planning Commission Hearing. The motion passed 4-0 with 1 abstention. (Commissioner Rivers abstained, as he was not at the meeting.) (Commissioners Veith and Kelley were absent at this meeting.)
5. ACTION AGENDA ITEMS  
**CHAIRMAN FLANDERS** 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 A, B, C, E and G were pulled to action.

D. LUP10-0008 PITTA SOUVLI

**Approved.**

Request Use Permit approval for an extension of premises for an outdoor patio in conjunction with a Series 12 (Restaurant) liquor license for on-premise consumption only within an existing restaurant and outdoor patio. The subject site is located at 1940 S. Alma School Road, Suite #5, west of the northwest corner of Germann and Alma School 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. 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 other store locations.
4. The patio shall be maintained in a clean and orderly manner.

F. ZUP09-1016 SAN MARCOS INSURANCE GROUP

**Approved.**

Request Use Permit extension approval to allow for the use of a residential home as a commercial business. The subject site is located at 584 W. Chandler Boulevard.

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. Vehicular access to the alley is prohibited; alley gate shall remain closed and locked except during an emergency.
3. The number of employees occupying the residential conversion shall not exceed six.
4. San Marcos Insurance Group shall be the sole tenant of the residential conversion; additional tenants shall void the Use Permit and require a new Use Permit application.
5. The Oleander hedge on the north side of the property shall be maintained in a healthy manner and existing form (height, width). Any portion of the hedge that ceases to thrive shall be replaced. Non-compliance with conditions herein or hedge removal on north property line shall require replacement with a six-foot block wall.

H. ZUP09-1029 389 S. CALIFORNIA ST.

**Approved.**

Request Use Permit approval to allow construction of a new single-family home on a lot zoned Multiple Family Residential (MF-1). The property is located at 389 S. California Street, south of Frye Road and west of Arizona Avenue.

1. Development shall be in substantial conformance with the exhibits and representations.

2. Approval by the Zoning Administrator of all project details required by Code or condition.
3. **The rear yard of the property shall be enclosed with a six-foot high masonry wall.**

I. ZUP09-1030 372 S. DAKOTA ST.

**Approved.**

Request Use Permit approval to allow construction of a new single-family home on a vacant lot zoned Multiple Family Residential (MF-1). The property is located at 372 S. Dakota Street, south of Frye Road and west of Arizona Avenue.

1. Development shall be in substantial conformance with the exhibits and representations.
2. Approval by the Zoning Administrator of all project details required by Code or condition.
3. **The rear yard of the property shall be enclosed with a six-foot high masonry wall.**

J. ZUP10-0002 MORENO'S MEXICAN GRILL

**Approved.**

Request Use Permit approval to continue conducting outdoor cooking adjacent to an existing restaurant. The restaurant is located at 601 N. Arizona Avenue, the northeast corner of Galveston Street and Arizona Avenue.

1. Substantial conformance with approved exhibits except as modified by condition herein.
2. Expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other location.
4. The food cart area shall be maintained in a clean and orderly manner.
5. Neither the food cart operation nor customer queuing shall encroach onto the sidewalk.
6. Parking of business vehicles across multiple spaces is prohibited.

K. ZUP10-0005 MIRADA ELEMENTARY WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a 65'-high monopalm wireless communication facility on the campus of Mirada Elementary School at 5500 W. Galveston Street, south and east of Ray and Kyrene Roads. **(REQUEST WITHDRAWAL)**

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER RIVERS** to approve the Consent Agenda with additional stipulations as read in by Staff.

The Consent Agenda passed unanimously 5-0 (Commissioners Veitch and Kelley were absent).

**ACTION:**

A. AP09-0003/DVR09-0025 TAKE OFF CENTER

Request amendment of the Airpark Area Plan to change from public/semi-public facilities to community commercial land uses. Also, 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 4.2-acre site is located at the southeast corner of Queen Creek and McQueen Roads.

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Take Off Center", kept on file in the City of Chandler Planning Services Division, in File Nos. AP09-0003/DVR09-0025, except as modified by condition herein.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
7. Construction shall commence above foundation walls within 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.
8. 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.

9. Approval by the Director of Planning and Development of plans for landscaping and perimeter walls and the Director of Public Works for arterial street median landscaping.
10. 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.
11. Raceway signage shall be prohibited within the development.
12. Fuel tank venting shall be fully screened in a manner to be architecturally integrated with the development.
13. An additional six (6) parking spaces shall be removed from the minimum 50' x 250' landscaped intersection area.
14. The red, lighted stripe across the fuel canopy roof shall be removed.
15. The monument sign along Queen Creek Road shall be located east of the driveway entrance.
- 16. A solid block and stucco canopy shall be provided at the car wash drive thru entrance that draws from the main building architecture and replaces the proposed fabric shade structure.**
17. 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 subject development shall use treated effluent to maintain open space, common areas, and landscape tracts.

**18. The narrow steel column feature found in the fuel canopies middle tier shall also be used to the top portions of the outer tiers column.**

**19. Additional shade shall be provided to the Pad A and Pad B windows.**

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated this item is a request for an amendment to the Airpark Area Plan as well as rezoning the Preliminary Development Plan approval for a commercial development at the southeast corner of McQueen and Queen Creed Roads. He showed a representation of the site. This is one that has been before Planning Commission before and it went to Design Review Committee and most of the issues have been ironed out. They are pulling this to action to talk through a few remaining issues.

As they recall since the last meeting before Planning Commission they made some changes especially to the fuel canopy design and they also created some more space between the drive thrus of their two developments. He would like to focus on the conditions that they will be talking about although almost everything is in agreement on this site as far as general architecture and site layout. The applicant would like to discuss items 13 and 14 recommending condition no. 13 would have them remove an additional 6 parking spaces so that site comes closer to meeting the intersection landscape guidelines which would be a 50-foot setback for 250 feet from each streets right-of-way. They don't quite get there and they are supporting some relief but they suggest they get rid of another 6 spaces to come closer. The site is over parked. He showed what would be the obvious 6 spaces.

On Condition No. 14 they would also like to talk about the red-lighted stripe on the fuel canopy. He showed the daytime view of what that canopy might look like. He showed the stripe on the corner of the outer tiers and across most of the façade of that middle upper tier. He also showed them what it looks like at night. The Staff is recommending that red stripe be removed. They look at that as corporate signage. It is not justified by a corresponding upgrade in quality. It is also not necessary on this site, which has sufficient signage surrounded by darkness at night and you will be able to see this particular establishment without the red stripe.

He said he also needed to make a couple of clarifications to items they do agree on. Condition no. 16 refers to canopies over the drive thrus. There actually is only one canopy over the drive thru. There wasn't one on the fast food building, Pad D. There was only one on Pad A. They need to change the language in there to reflect that. They are not asking that they add another canopy. They are just suggesting that the cloth design go away and go back to the stucco and block. Condition no. 16 should read:

***A solid block and stucco canopy shall be provided at the car wash drive thru entrance that draws from the main building architecture and replaces the proposed fabric shade structure.***

Also, they handed out this proposed stipulation no. 17. He said he won't read the whole thing into record but take his word for it that it is their standard effluent stip. about using reclaimed water on this site if possible for the landscaping. Two other items that came up in Study Session he would like to read into the record. Proposed condition no. 18:

***The narrow steel column feature found in the fuel canopies middle tier shall also be used to the top portions of the outer tiers column.***

Condition no. 19:

***Additional shade shall be provided to the Pad A and Pad B windows.***

The applicant is in agreement with conditions 16, 17, 18 and 19 as he read them into the record. Staff does recommend approval of this with 19 conditions only 2 of which the applicant disagrees with.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff on this.

**VICE CHAIRMAN CASON** said to Mr. Dermody that Commissioner Pridemore had made a suggestion to move Pad B further west in order to free up some space for the drive thru on the back side. Did that get done? Mr. Dermody replied that the building did move a little bit. There was an issue with the turn. **VICE CHAIRMAN CASON** said he is referring to the drive thru for the Pad B specifically where there was no space in between the property line and that turn. His suggestion was to move the building west and try to free up some space. Mr. Dermody said he believes the building is in the same place. They had looked at that and were not able to move it.

**SETH KEELER, 1121 W. WARNER ROAD, SUITE 109, TEMPE**, stated to answer Vice Chairman Cason's question, they did move the building slightly and they created a 3.6 foot buffer between the property line and the driveway as what was requested in the last meeting. They did create that extra area and the building did shift slightly.

**VICE CHAIRMAN CASON** asked if it moved north or west? Mr. Keeler said it actually moved north.

**COMMISSIONER PRIDEMORE** said he wanted to make a comment more than a question. The work they have put into this site to get to this point is obvious and he wanted to thank them for taking the time to listen to the various comments that have come up through various hearings and various DR meetings. He thanked them for taking that time.

**COMMISSIONER RIVERS** asked them as far as stipulation no. 14 goes, what is the necessity for the red-lighted stripe in their opinion? Mr. Keeler said they wanted to have a visible presence and as they have gone through this design process, they have noted in other cities when you are driving by a canopy that is lit there is an obvious attraction to it.

That is their primary motive. That is one of the things he wanted to talk about. Staff is recommending that it not be there. They would like it there and they think they are a very unique situation being close to an airport they want there to be as much visibility as possible. **COMMISSIONER RIVERS** asked if it had to be red? Mr. Keeler said they want red. They think red is visible and is one of the colors that are visible the farthest at night. That is why they are requesting red. It does not have to be red.

**CHAIRMAN FLANDERS** asked if they wanted to go ahead and address the six spaces. Mr. Keeler they in regards to the 6 spaces they feel their site is close to a large trail, a future park and they want there to be as much parking as possible. They have already come back from their original application and they would like to preserve those 6 spaces that Staff would like removed. They are asking that Planning Commission consider leaving it for them. **CHAIRMAN FLANDERS** asked if their request was to delete 2 stipulations, 13 and 14? Mr. Keeler said that was correct. He asked if there was any discussion on those two items? There was none. He asked if there was anybody in the audience that would care to speak on this item? There were none. He closed the floor for discussion and motion.

**VICE CHAIRMAN CASON** thanked the applicant for the changes that they have made from when they first started. Those changes have been great and have been very forthcoming and he said he appreciated that. He said he still has to state the same position as before. He thinks there is too much activity on the site. If it were just the fuel station and the store he thinks it would be perfect and all the changes reflected that. His problem is that when Pad B comes along and they have a fast food restaurant in there he believes the use will be too intense for that size of property. For that reason only he is going to vote against it.

**CHAIRMAN FLANDERS** said he too appreciated the design changes that they have made. He is a big stickler on design issues along with landscaping. The deletion of those 6 spaces up along the arterial street is appropriate. He thinks there is enough parking on site to handle what they have going on. The red band he is not willing to delete it. He agrees with Staff's interpretation of that as far as signage but he appreciates him stating he needs to maintain that banding.

Moved by **COMMISSIONER PRIDEMORE**, seconded by **COMMISSIONER RIVERS** to approve AP09-0003/DVR09-0025 TAKE OFF CENTER with the added stipulations and keeping stipulations no. 13 and 14 as currently worded. The item passed 4-1 (Cason opposed). Commissioners Veitch and Kelley were absent.

B. DVR09-1003 VALLEY CHRISTIAN HIGH SCHOOL

Request rezoning from Planned Area Development (PAD) to PAD Amended zoning with Preliminary Development Plan (PDP) approval for school-related uses on an approximately 3-acre site at the southeast corner of 56<sup>th</sup> and Galveston Streets. Also, PDP approval for an amended campus master plan, new building architecture, and

signage on an approximately 15-acre site at the northeast corner of 56<sup>th</sup> and Galveston Streets.

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Valley Christian High School", kept on file in the City of Chandler Planning Services Division, in File No. DVR09-1003, except as modified by condition herein.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
7. Construction shall commence above foundation walls within 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.
8. 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.
9. Approval by the Director of Planning and Development of plans for landscaping and perimeter walls and the Director of Public Works for arterial street median landscaping.
10. 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.

**BILL DERMODY, SENIOR CITY PLANNER**, stated this is a 2-part request for Valley Christian High School located at the northeast corner of 56<sup>th</sup> Street and Galveston Street. They are planning a major campus master plan change as well as picking up 3-

acres of land that they will need to rezone at the southeast corner of Galveston and 56<sup>th</sup> for an overall school expansion in several phases over the next possible decade.

The current campus (he showed the site plan) consists of a conglomeration of classroom buildings in the western portion, an existing gym, a temporary modular building for classes in between the gym and the permanent classrooms and then some athletic fields farther to the east. This is in between 56<sup>th</sup> Street and the railroad. They don't have any neighbors on the east or west on the north side of Galveston. The south side of the street has 2 industrial uses and then the vacant lot they are picking up to the north of them is residences.

Their three phase expansion involves primarily Phase I is a classroom building, a permanent one to replace the modular building that is there and some temporary improvements on the south; a temporary softball field that they plan to replace later down the line. Phase II in their request involves occupying the second of the two floors in the classroom building. They can only occupy the first floor in Phase I do to parking restrictions. Also, in Phase II along with occupying that they propose to build a parking lot on this southern parcel as well as make some other associated improvements down there and construct what is the focal point of the biggest part of their campus expansion, a worship and art center referred to as a performing art center in the Staff report. That would be in between the gym and the existing classrooms. The third and final phase will involve upgrading the softball field with a durable sub service so that it can be parked upon for special events as well as a small gym expansion.

There will be significant changes to the architecture on this project. What they have out there today is a pretty plain, typical education facility type of architecture as box forms. The only two colors are grey and when you get about five feet above the ground there is only one tone of grey beyond that. They have been working with the applicant over that last 3-1/2 or 4 years on this design to try to find a happy medium between their commercial design standards that they apply to retail office projects throughout the city and the existing architecture that is there. He knows Commission during Study Session had wanted to do some tweaking to the architecture and they will be talking about that with the applicant. He showed the Phase I building in between the two existing gym on the right and classrooms on the left. It would involve two tones of grey block, split face down below being carried up all the way to the top around the corners and then a cross motif. Of course, this is a Christian high school so that is appropriate. They also have a blue steel canopy over the entrances relatively muted but a new addition to color that you don't see out there today. That is just Phase I one.

That is what you are going to see when the classroom building is up. There is a small maintenance building on the south parcel that will be designed in a similar matter. When they are all done, they are going to have a little bit more of a grand entrance on the south side of this building when they complete the worship and fine arts center and the gym expansion. They felt the attention they are drawing to this entrance is appropriate given that it is designed for special events and visitors so they will know exactly to where to go.

It is also closer in keeping with their commercial design standards. It will cover up the classroom building from view to the south. It is about the same height and will completely block it unless you are standing in between the two buildings. They are going to greatly expand the blue that showed over a couple of the building entrances. They are going to have a protruding façade. It is actually going to stick out a few feet over the first floor there. There is going to be blue metal here as well as over the gym. They are also going to have an expanded use of this split faced darker tone grey and they are going to have large windowed entrances. Both the doors will be all glass and there will be windows surrounding them to present a more open atmosphere than you often see on school facilities.

There has been consideration of the neighborhood to the north. They reached out early to the neighborhood to the north. They haven't heard from any neighbors on the Staff level for this process but it has been a good relationship over the years. When the original school facility went in, they had enhanced landscaping along that northern property line including trees every 20-foot on center, which is more than our code requires and those are mature trees now. It is pretty difficult to see through that and it helps with the buffering. Also, to make sure nobody is peering into the backyards they made the windows on the 2<sup>nd</sup> story of the classroom building are a clear story up above the head level and so there wouldn't be any privacy issues prevented by those. He thinks he has the main points of the phasing and Staff does recommend approval of this request. They find it to be an appropriate land use and buffered from its surroundings and fits in well and overall will be a benefit to the area. The architecture they feel as presented, even if it could benefit from some tweaking, they feel is a happy medium between their full commercial design standards and the institutional architecture that is there. All our standard stipulations are in place and they recommend approval.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff on this item. He said he brought up in Study Session the design of the buildings. The applicant is asking for a break on 3 different items; parking requirements, the setback from residential on the north side and also the landscape setback along 56<sup>th</sup> Street. He doesn't have a problem with granting those items and he doesn't have a problem with the land use. In looking at the elevations of the adjacent buildings he sees a lot of varied heights, shapes that really add some character to it. There aren't any colors on this so he is assuming that those colors are similar to what the new building is. The new buildings, the performing arts and the gym frontage are nicer and the concession buildings are just masonry boxes - kind of a box on box type thing with the two stories. His suggestion was that they go ahead and continue this to a Design Review to discuss varying the heights and providing a little bit more character not only vertical but also horizontal movement of the building to keep in what has already been created out there based on shapes and forms. On the north side there are a lot of windows that are very routine. There is nothing unique about it. When you get into facilities like this you may have that sometimes. In his opinion as a school there needs to be some variations in the building environment for the kids and everything else. That is his opinion. That was the reason why he was looking at continuing this to a

design review. He will ask the applicant the same thing. How do you justify asking for all this with the building design they have.

**COMMISSIONER RIVERS** asked Mr. Dermody if they were to continue this pending a design review, how long would it take? A month or six weeks? What would be the appropriate time frame? Mr. Dermody replied one or the other of those. Either out to the 19<sup>th</sup> of May or the 2<sup>nd</sup> of June.

**STEVEN VOSS, LVA URBAN DESIGN STUDIOS, LLC, 120 S. ASH AVENUE, TEMPE**, thanked them for the opportunity to address some of their questions and comments. He said he is prepared to make a full presentation or he can abbreviate the presentation based on their initial questions they had this evening.

**CHAIRMAN FLANDERS** said from the relief they are asking for on the parking, setbacks and landscape setbacks, he is trying to get some justification why they should give him that based on the building design.

**MR. VOSS** said the graphic that he has on the screen better delineates the existing facilities that are built on site. You can see the roof structures and the main campus, which basically contains most of their classroom buildings, administration and a small hall. The area to the east is the existing gym. All of those buildings were constructed over the years. Initially the campus was located in Tempe and 1993 it was moved to Chandler with the approval of Chandler. The architecture proceeds forward as they see on the aerial. The architecture essentially consists today of painted CMU block with very minimal articulation from a standpoint of any block variation and texture variation. The original design of the building was intended to be institutional. It was intended to be smooth faced in many areas throughout the campus and to be similar all the way through the campus to tie the campus together so that as you drive down 56<sup>th</sup> Street or Galveston you can see that all of those buildings were part of the same campus. They can see the existing facilities on the west side do have some articulation and variation from the standpoint height of the structure. Part of the roof structure actually slopes and curiously enough the architect originally designed the worship and art center with a slanted parapet running across the face of the building. The building height was 56<sup>th</sup> feet.

In working with their Staff over the last 3 years one of the big issues that they felt was important to reduce on this site was the reduction of the actual building height and be more consistent with what was approved on the campus. It is a worship and art center that needs a tall ceiling. They decided to go ahead and get rid of the slanted parapet design on the worship and art center to reduce the height down from 56 feet down to 40 feet. He showed a photo simulation of the existing artist rendering of basically elevating the architecture. The façade of that building will be articulated in color and texture than anything else on the campus and they want it that way too. Because it is a worship and art center they see that as the anchor for the campus, the real focal point of the campus is as it is a Christian High School worship. They can see they spent a lot of time designing that elevation so that the entry is articulated. They have split face block which covers all

of the entry areas as well as they have added the cross symbol across the building that has the split face block. Although the rest of the entire campus is simply gray and white, they have added a lot of texture to it and a lot of detail to that area.

From the standpoint of the other face of the building that will be seen in this new complex, the classroom building on the north side is almost 100% screened from view from the neighborhood. That is because, as Mr. Dermody presented before, those trees were planted in the early 90's and are mature mesquite trees that are reaching 20, 25 feet tall so the view line virtually covers up any potential view of that building. They have added quite a bit of split face block to try to help with the variation of texture and color on the building itself. They are trying to balance the new buildings with the old buildings, understanding that the city has new standards but at the same time the city has also approved the existing buildings on this campus over the years to be very consistent as they have endeavored to provide. They would like to propose a stipulation to move forward this evening if they would accept them to do so. They would like them to accept a stipulation that would allow them to move forward with their approval and come back to Staff on undulating the parapet on each face of the building that is exposed to the public and possibly provide more detail to the architecture and have the architect work with Staff on moving forward to speak to their concerns if they may. He said he would be happy to answer any questions.

**CHAIRMAN FLANDERS** said he appreciates the textures and the different materials they are using. There is an opportunity here to at least provide some of the shapes and setbacks, which have already been established on the campus which provide the character on their elevations. The Performing Arts building is one problem, their concession building is another. That is a single-story, very easy to work with building in providing instead of the rectangular box some variation in parapets and movement of the building. Typically in something like this over the years that he has been on Planning Commission he likes to make sure what is going to the City Council is seen by Planning Commission and they work through it with the applicant before it gets to that level. He has seen on different occasions where Council has questioned some of the design stuff and that is why he is suggesting they go ahead and do a design review meeting to work out those issues in conjunction with Planning Commission, themselves and their people and also Staff so everybody is together in more of an intimate setting to discuss some ideas they may have or we may have. Between now and the design meeting stuff changes or they think about different things. They throw all that stuff out on the table. He would prefer to do it in that form where it is a little bit more intimate and they can roll up their sleeves and spread out some sketch paper and look at it that way.

**MR. VOSS** said he would like to offer an idea. Since this is in a later phase of our project, would it be possible for them to stipulate the maintenance building to come back through Design Review prior to approval? That is such a small component and it is in a further phase. That building actually replaces an approved forklift warehouse building on that property. They are going down to a very small building and much more attractive in their opinion. If there is a way to delay that building to come back through Design

Review and stipulate as such so they continue to move forward. Their classroom building is designed to 90% and ready to roll forward. Their classroom building can be built today without zoning approval. The classroom building was a part of the original zoning approval and that is why they proceeded with construction documents. They can move forward with Staff approval today with the classroom building itself but we felt in working with the city they wanted to make sure the master plan of the entire campus moved forward with everybody's agreement at this point. They are a kind of pressing the calendar because they do want to have that classroom building open for a year from this September and they have quite a bit to do to make that happen. If that were a possibility, they would appreciate that.

**CHAIRMAN FLANDERS** said he thinks if they separate the concession building it would have to come through Planning Commission and City Council all over again. The Design Review is not a regular process. It is an offshoot of Planning Commission so all of the Planning Commissioners are part of that Design Review. They could work all of those issues at one time and then they are done completely. He is only one vote here. They can go ahead and discuss it among the rest of the Planning Commissioners to get their opinion if they want to go a Design Review. With that he asked if there were any questions of the applicant. There were none. He asked the audience if there was anybody that would care to speak in regards to this item.

**MR. VOSS** said there were a number of people of here in support of their case and they submitted speaker cards. He wanted those to be on the record. He has submitted 17 letters of support to Staff, which are intended to be in the Council packets as they move forward from Chandler residents. They have worked very extensively with the neighborhood and Staff over the last 3 years to get where they are today. His final comment would be before he takes final questions is that if they were a public school they would not be having this conversation right now. Public schools are not brought through this process. They understand and respect his comments and interest to make sure this architecture is successful and looks well, but given the context of the existing buildings out there they think they have struck a very strong balance to what is there versus what they are proposing moving forward into the future. It will be quality.

**CHAIRMAN FLANDERS** said he had 2 speaker cards and they do not wish to speak but they are in support of this project. He read their names.

**MARK BARE, 3833 S. DANIELSON WAY, CHANDLER** and

**PAUL SCHANKER, 1650 W. CALLE DEL NORTE, CHANDLER**

He asked them if either one of them wanted speak. Other than that their names have been read into the record. They did not wish to speak. He closed the floor for discussion and motion.

**VICE CHAIRMAN CASON** asked Staff if the building is about 34 feet high and if he recalls if they were doing a commercial building, the developer would be allowed some extra height for changes in the roof structure to add elements? Mr. Dermody, Senior City Planner, said when they talk about maximum heights such as the maximum of 45 feet high without a mid-rise ordinance or the heights with regards to setback in residential in the main structure of the building, architectural ornamentations can go above and beyond that. They don't count towards the heights as they measure it. **VICE CHAIRMAN CASON** said so in this particular case because they are asking for relief on the setback, they could just add some parapet changes or something like that to change the look of the building and remove that rectangular look and yet not really effect the way that it is taller or less tall or doesn't effect any type of relief that they are providing for the setbacks from the north. Correct? Mr. Dermody said that is correct. **VICE CHAIRMAN CASON** said his feeling is that being able to work with Staff with changing the look of the parapet is exactly what they are looking for. In this instance, they are interested in participating in that. He would prefer to have a Design Review. He doesn't think the timing it would take for a Design Review would be any different than the time it would take for him to work with Staff to work through those issues. He doesn't see that they would be sacrificing that amount of time. There is a lot of information they would like to share that they don't usually want to us in this forum because of the length of time it takes, etc. Design Review usually lasts one hour. He would hope that they see it for what it is and that is their opportunity to share ideas, especially for those on the dais that have this type of background. With all that said, he would support a Design Review.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER PRIDEMORE** to continue DVR09-1003 VALLEY CHRISTIAN HIGH SCHOOL to the May 19, 2010 Planning Commission hearing to allow for time for a Design Review meeting. The item passed 5-0 (Commissioners Veitch and Kelley were absent).

C. DVR09-1011 IRONWOOD COMMERCIAL

Request rezoning from Planned Area Development (PAD) to PAD Amended with Preliminary Development Plan (PDP) approval for a new commercial development that includes a fuel station. The 3.9-acre site is located at the southwest corner of Chandler Heights Road and Arizona Avenue.

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Ironwood Commercial", kept on file in the City of Chandler Planning Services Division, in File No. DVR09-1011, except as modified by condition herein.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar

appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
7. Construction shall commence above foundation walls within 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.
8. 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.
9. Approval by the Director of Planning and Development of plans for landscaping and perimeter walls and the Director of Public Works for arterial street median landscaping.
10. 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.
11. Raceway signage shall be prohibited within the development.
12. Fuel tank venting shall be fully screened in a manner to be architecturally integrated with the development.
13. The car wash shall remain closed from 10 p.m. to 7 a.m. daily.

**MR. DERMODY, SENIOR CITY PLANNER**, stated this item is a 2-part request. Rezoning from Planned Area Development for community commercial uses to Preliminary Development for the same uses plus fuel sales on a 1.73 acre part of a parcel at the southwest corner of Chandler Heights and Arizona Avenue. The rezoning only affects the northern portion of this parcel. There is also a request for Preliminary Development Plan approval for site layout architecture, landscaping and signage for the entire parcel. With regard to the southern parcel it really only has to do with landscaping. They are doing just about all of the work on the northern part of this parcel. This is immediately adjacent to an existing post office. To the south of it is a residential single-family neighborhood. They will be hearing from some of those neighbors this evening. East across Chandler Heights is PAD zoning for mixed-use, potential residential in the eastern portion. They have a couple of commercial parcels in the northeast and northwest corners of this intersection. The particular parcel in question and the post office for that

matter were zoned for community commercial uses going back decades to when the single-family subdivision received its original zoning. It was all zoned at the same time. It was just zoned conceptually at this particular site. They would have to come through the Preliminary Development Plan process at some point. That particular zoning was community commercial, which does not include fuel station uses and that is why they have rezoning elements to their request.

Mr. Dermody said he wanted to take them through their site plan. As they can see, there is a request for a fuel station with a convenience store and a car wash at an angled orientation in this rear. They don't have any buildings requested for the southern part of this parcel. That is going to remain primarily vacant with the exception of some landscaping. This is a request for a deviation from our code. We ordinarily require that in addition to this C-store and car wash, at least 12,000 square feet of other building area be constructed at the same time. However, they do support the relief that they are requesting from that. The main reason they have that in code is so that they don't have a pharmacy or a gas station at a corner with a potential retail center behind it sort of stuck in time and undevelopable because of antiquated circulation pattern or architectural standards that can't be replicated or built off of on the rest of the site. That really had to do with larger commercial complexes and that is why that is in the code. This sort of site they know what the site layout is going to be. It is very obvious where the driveways can be that is set up by our traffic folks. It is also very obvious where the traffic flow will be across the site and the building architecture that they are choosing for the convenience store and fuel canopy is one that can be replicated for a variety of retail uses on the south whenever that does come back with Preliminary Development Plan approval.

He highlighted some of the landscaping he referred to. The southern part of the parcel is not going to be affected except for some landscaping. They do have an updating landscaping plan for them this evening. It was actually in their booklet but some of the notes and the Staff memo had some errors and reflected a previous version of this. It meets our normal commercial design standards for landscaping on the northern half. They have added a few date palm trees including three at the intersection and a couple flanking each of the entrances that they plan to build in Phase I which they are referring to as Ironwood Commercial I. In the southern part, however, they are going above and beyond our code to have staggered 2 rows of trees. They are shown as willow acacia trees in this. They were previously sissou trees. There has been a lot of discussion with the neighbors about what type of trees those should be. Right now they are shown as willow acacia. In any case, the point is on that southern end they normally require that they be 20 feet on center. The effect here with the double row is that they are actually 15 foot on center. We saw the affect on the last case of what 20-foot on center can do and you basically couldn't see the buildings at Valley Christian High School a decade after those trees were planted. This will provide a very substantial visual buffer for those residential neighbors to the south.

Mr. Dermody said he would like to review some of the architectural representations as well. This is a pretty typical, modern convenience store architecture although they have

chosen some elements that can be easily replicated in general retail as well. They have worked quite a bit with them to provide some up and down with this parapet. They have also just recently made some changes to it to enhance these cornice details in a manner that is similar to the retail development to the north right across Chandler Heights Road. You can see the car wash in the back, which carries through some of those elements in a more muted fashion. They have a combination of the solid CMU block and then the split-faced block in a 2-tone manner. They also have some elements on the backside to provide 4-sided architecture. You will see some of these elements are carried through the fuel canopy architecture and they have worked quite a bit with them on this to try to provide something other than just a flat planed canopy, which we all know is a point of emphasis of this Planning Commission to break those canopies up. They did not ask them to go multi-level on them on purpose because of the building architecture that they were drawing from. They asked them to do a step parapet with the various tones that they were using. It is also not quite regular and symmetrical. They asked them to shorten certain bands and widen other bands so that it is not quite too regular of a look. The middle section comes up substantially. They have the same cornice details on all of the parapets of the fuel canopy. They are drawing that from the convenience store architecture, which in turn is drawn from the retail across the street.

They have had quite a bit of neighbor input on this. Some of this was just delivered to Planning Commission this evening. The neighbors have a number of concerns. They include traffic at this intersection and they do have traffic staff this evening if they have any questions about that. Also, another concern is the health effects of a fuel station. Of course, gasoline is not good for you but they have had the applicant to respond to those health issues. At 350+ feet from those fuel stations to the residential neighbors the applicant has had a Environmental Analysis of the health effects on the neighbors and they have had their expert has concluded that is not an issue. They were concerned about but they have provided evidence to Staff that this is not a land use conflict. Also, the neighbors are concerned about future liquor sales. That would be a separate application of course and that is not before them this evening. They are concerned as well about noise effects from the car wash. That has been analyzed as well. They have a noise study on hand. Basically, the car wash is below the ambient level of noise that is out there today just from traffic so it is a claim they have investigated but found that it does not produce a land use conflict. The neighbors are also concerned about being able to see the gas station and above all they are concerned about the negative effect on property values in the future.

With regard to traffic, they have looked at this site with their traffic staff. It has 2 driveways that are proposed. Both are right in right-out only. There is a future driveway also proposed farther south or an obvious location for it that will be part of a future PDP request but for now only 2 driveways. Staff has evaluated the traffic situation here and they have not found a conflict represented by this proposed rezoning. This has long been zoned for commercial uses with a similar level of traffic with what is proposed and so it has always been designed this way. It is also on a state highway and a major arterial in the City of Chandler and so from a traffic point of view an appropriate location for a fuel

station and a convenience store. There is a little bit of traffic confusion that goes on at this location due to the post office going. Of course, the post office being a Federal government type of institution did not have to come through Planning Commission or they might have had the driveways laid out a little differently. In any case, this does not exasperate that situation. It actually is improving the situation by putting a right turn lane in on Chandler Heights Road. Those who are traveling northbound on Arizona Avenue probably have the most difficult time coming into this station but there will probably be fewer of them also. Those traveling southbound on Arizona Avenue have an obvious way in and out of it. Those traveling eastbound on Chandler Heights due as well. Those traveling westbound will most likely be able to take a left on Arizona Avenue and turn in here. The net affect when it comes to the quantity of cars produced by this use and the traffic patterns that are in place already modified by the layout, they found that to be a positive use in a positive way out of this location and worthy of our support.

Staff does recommend conditions associated with this request. They are just adding one that they passed out this evening beyond the 13 that were in the memo. Proposed condition no. 14 has to do with using effluent on the site. That is a standard stipulation. It is a pretty long one so he won't read it into the record but it is our standard stipulation.

Mr. Dermody said he thinks he handled all the main points on this. He turned it back to the Chair in case there are any questions.

**CHAIRMAN FLANDERS** asked if there were any questions of Staff.

**VICE CHAIRMAN CASON** said the package would reflect the change of color for the awnings by the time it gets to Council? Mr. Dermody said the package currently shows orange awnings constructed of steel. If you wish to change that he has talked to the applicant and it will require another stipulation that isn't currently in the record. **VICE CHAIRMAN CASON** said he thinks big orange awnings are not very attractive on the side of the building. He would like to stipulate something of a more conventional color - something that doesn't stand out as bright, maybe brown, blue or black. He would leave the color up to them. He just does not want them to be orange. He asked if there would be no striped lighting on the canopy? Mr. Dermody said that is correct, there is no lighting proposed on the canopy structures other than the logo. **VICE CHAIRMAN CASON** said if they could get the canopies not to be orange that would be great.

**CHAIRMAN FLANDERS** had a question for Mr. Dermody related to the east and the north elevation. There are areas that have small sign areas, probably different things they have for sale, etc. Have those areas been taken into consideration on the overall signage of the building or does that fall into another area? Mr. Dermody replied that type of signage is a little different than the tenant identification. It something they typically see on a lot of their gas stations. He doesn't know that it is a real point of emphasis for the applicant. They felt in reviewing it that it is a relatively modest amount of special event signage and was appropriate. **CHAIRMAN FLANDERS** said he couldn't recall reviewing a service station or gas station/convenience store that had those. He was just

curious about that. Is this the first time they are seeing it? Mr. Dermody said often times they just pop up later and this one is shown in the book. He guesses they normally wouldn't see it on the drawings and the applicant would have an issue if those got taken away. **CHAIRMAN FLANDERS** said based on our code those things are allowed? Mr. Dermody said he doesn't think our code specifically addresses that signage. It does address window signage. As a matter of square footage, he hasn't added up the square footage to see if it is allowed. **CHAIRMAN FLANDERS** said it was more of a curiosity question than anything else.

**ED BULL, BURCH & CRACCHIOLO, P.A., 702 E. OSBORN, PHOENIX**, stated he is here on behalf of the applicant. They certainly appreciate Staff's recommendation for approval. They have accepted Staff's 14 stipulations and they appreciate that there will be another stipulation concerning awning color. They can talk about that in a minute as well. They agree with Staff in their recommendation where currently what they are talking about on this particular location, which is at the intersection of a state highway and an arterial street, both the land use and the design are appropriate on this 1.73 component that is located on the northern end of the site. They do ask that your Commission recommend approval in accordance with Staff's recommendation and Staff's stipulations.

He said that before he gets into some overview on some items and he will not repeat certainly everything that Bill indicated as he does a very thorough presentation. He stated he wanted to introduce some folks. Joel Hagan and his family are there. Joe and his brothers are 3 J's. They are small business people. In fact, they are referred to in a recent article as being some of the last remaining mom and pop grocers in the valley. This is not a mega corporation. Joe and his family live about 1 mile away. They have been in Chandler for over 15 years. That is whom they are dealing with on this site and who purchased the site for this very purpose. In addition to that they have a couple of their architects here if they have architectural questions both Vince Dalke and Andrew Sanderell are here. They also have a couple of other consultants. As Bill mentioned, they had a noise analysis done by Tony Sola and he is here also. They had an environmental analysis done by a couple of engineers and as you know who have a report in their supplemental packet up from Western Tech. One of those engineers, Chet Pierson, is here. Mr. Bull said that if they had questions for any of them, they would do their best to have them respond to their questions.

This site as they know is a relatively small long and narrow vacant in-fill site. It has been zoned commercial for 23 years. It is a designated commercial node on your General Plan and it is something they believe is a site where the only use that makes any sense is commercial. That is what it is zoned for and their focus as indicated, is on changing the land use to supplement the land use on only this northern 1.73 acres. The 1.73 acres is substantially removed from the neighborhood to the south. From the closest gas pump to the closest house to the south is well over 380 feet. This is 389 feet – certainly well over a football field. Again, their application to amend the PAD is focused only this 1.73 acres, well over a football field to the neighbors to the south. The only reason that this

southern portion is in the package at all is so that they can provide the landscaping that Bill talked about that they would like to provide both along the Arizona Ave. frontage and along the southern property line. The only reason that the PDP is involved at all for this landscaping, but Land Use only has to do with this northern portion.

He didn't think they would want him to go through all the details that Bill went through as far as vertical and horizontal movement and details architecturally on the c-store or on the canopy. They are happy to go through as much as that as you would like. Importantly, on the design as well because a number of things were done here even before the first neighborhood meeting including putting the car wash on an angle and keeping everything substantially separated from the neighborhood. In addition to that they have through the course of discussions agreed to limit the hours of operation on the car wash so that it closes no later than 10:00 at night and re-opens no earlier than 7:00 in the morning.

As Bill mentioned, part of the traffic related improvements that will occur is to provide a temporary right turn decal lane installed along the south side of Chandler Heights and improvements installed here on the west side of Arizona Avenue. This will as Bill indicated, they believe and Staff believes will actually improve the traffic condition in the area recognizing the type of customers that they anticipate will be coming primarily to this store or ones that are typically either living in the area or going by the site for some other reason.

Lots of architectural details have been provided in both canopy and in the C-store itself in response to a canopy related question recognizing that there may be concerns with the orange color on the canopy and the orange awning that was originally anticipated to be orange fabric. As you know from your supplemental staff report, that has been changed to metal instead of fabric. In addition to that, anticipating that there may be some concern with the orange. Their first choice would be the orange but if they would rather it be a color other than the orange, they are comfortable with blue and would be happy to stipulate to either a stip. to the blue or a stip. to work with Staff on a color other than orange as long as it includes blue. They would be comfortable in doing that. The canopies they think provide a nice architectural detail on the east elevation of the C-store. They think it is a better looking with the canopies than without and they believe the blue does a good job of providing an appropriate accent but also not in the orange color.

If he understood correctly, they also had a question about these spaces and whether or not signage would be included in those spaces. He believes those spaces were included in your sign area calculation and they are not requesting a code deviation on sign area. Whether signs actually go in there or not he supposes it may depend on a variety of things but it is not like they are trying to bring in signage above and beyond what the sign code normally would allow. As they continue to work through other exhibits and they can go through as many as they would like. Certainly, where they are trying to get to is a very well landscaped and minimal lot coverage type of development. Obviously, it's zoned commercial and you had some discussion on the prior case about height that can be

accomplished in commercial development. This is a one-story building. They have a lot of landscaping on here. Building orientation is something that Staff has been complimentary of. He believes the building coverage is about 13.25% so it is a very low lot coverage that they are talking about and a tremendous amount of landscaping not only at the corner and street frontages but back in behind the car wash and back side of the C-store as well.

The car wash queues so that the traffic comes through in this manner. The car wash is intentionally on an angle, not facing any street and not pointing directly at any neighborhood and substantially removed far more than a football field from the neighborhood.

The neighborhood outreach of course involved the usual notices even before he was involved to 600-foot neighbors and registered neighborhood associations and signage and a neighborhood meeting. Subsequent to that neighborhood meeting, he came on board and then they reached out or the architects reached out asking for additional opportunities to visit with neighbors and one took them up on it. They also were invited to an HOA meeting and several neighbors appeared there. Then they had another neighborhood meeting about a week ago and some more neighbors came there. As Bill indicated, the neighbors have a number of issues. They have tried their best to respond. They fully appreciate that there are some neighbors who simply don't want Joes business to be here. We respectfully disagree with them. He would request the opportunity to reserve some time and rebuttal to respond to some of the comments. He can tell you from the outset and before it ever went to the neighborhoods to begin with, a lot of thought between Joe's architects and Staff to how things are laid out and how they are landscaped. In addition to that they made a number of concessions and studied a number of issues that they can get into in more detail and rebuttal or now if they want, as far as noise issues and traffic and environmental and other things Bill touched on. They updated the ALTA, they blue staked the site and they agreed to the double row of trees, and they dealt with possible tree species along the south property line. They are still not insistent upon a particular tree species. They know that they need to be relatively tall or ideally they would be relatively tall. They would be canopied, they would be evergreen, they would be clean, and they would not be the type of tree that causes a lot of allergies and so on. They were trying to do that-a double row of trees provides some good screening down there long before it normally would be required. They can go into other kinds of issues that they have discussed with the neighbors but in addition to that they simply disagree with the suggestion that this is an inappropriate location and it is closer than what service stations are normally allowed to be. They provided in the supplemental package 15 or so photos of stations in similar kinds of settings in Chandler. Some are closer, some are about the same, some are further away but there is absolutely nothing unusual about this location and candidly it is substantially further removed from the neighborhood than many gas stations are throughout the valley and throughout Chandler.

Stipulations they believe is a good solid package that assures through not only the stipulations but the application package itself that the gas component is here on the

northern 1.73 acres and cannot creep south. It assures design quality, it assures compatibility, quality landscaping, etc. In conclusion, this site as they know is at the intersection of a highway and an arterial. It is relatively small, it is vacant in-fill, it has been zoned commercial for 23 years with underlying C-2 uses many of which can be more intense than what they are proposing here and certainly taller and more dense than what they are proposing. Staff on page 4 of the report points out that the layout and the orientation is a positive separation from the neighborhood of being over 380 feet as a positive. They also agree with Staff's observation that the architecture and the landscaping are attractive. They have tried to work with the neighbors. That has not gone as well as they had hoped. They will be happy to respond to additional comments or questions that they may have but they certainly believe that both the use and the design on this site in this location are appropriate and absolutely consistent with other facilities that have been approved in the city. They appreciate that there are other stations that are existing or proposed for northbound traffic on the east side of Arizona Avenue and others may occur on the west side of Arizona Avenue south bound from the 202, but today there is no existing station between the 202 and Riggs which is south of them. They believe that people in dealing with coming to get gas, like to make the right in, right out, they like to go a facility that's convenient for them on there way to or from work or shopping. This they believe is very much an appropriate location for this use.

Again, they appreciate Staff's recommendation and they ask for their approval in accordance with Staff's stipulations. If they have questions, any one on the team will do their best to answer them. Otherwise, they reserve the opportunity for rebuttal if appropriate.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant.

**VICE CHAIRMAN CASON** asked what are their plans to control the traffic between the lot 2A and the lot 2B? Mr. Bull replied that there is currently proposed the location for what would be 2 interconnecting driveway locations between the 2 lots. It is possible as the PDP for this property to the south comes in that those would move slightly but at least conceptually now that is how the architects have laid it out as believing that would be a good opportunity for vehicular connection between the 2 properties. **VICE CHAIRMAN CASON** asked Staff what could they put in there to keep traffic off the dirt pad? Can they chain that or bollard it? Mr. Dermody said yes, all of the above. **VICE CHAIRMAN CASON** asked do they need to stipulate that or is that an administrative issue? Mr. Dermody said it probably should be stipulated if they want to see anything specific. They don't have a dead end situation like this very often. He thinks there standard is just to require that a dust free service is on that southern parcel and there is nothing about a barricade in any of their codes. **VICE CHAIRMAN CASON** said he would like to propose that as a stipulation. He thinks that there is going to be, if approved, traffic forced on to the PAD by virtue of the way that the in/out is designed and he would like something so they can keep traffic off of the southern to be PAD. Mr. Bull said they are fine with a stipulation if they want to add it. The site plan actually shows some temporary barricades in both of those future driveway locations.

**VICE CHAIRMAN CASON** said he was thinking that is what it was but he didn't see it called out anywhere. Mr. Bull said it was called out in notes 31 in DR1. To eliminate any confusion if they want to add a stipulation that provides that there be a temporary barricade that would fine. **VICE CHAIRMAN CASON** said he is fine with the drawing.

**CHAIRMAN FLANDERS** said he had quite a few speaker cards. For the most part the residents do not want to comment. He said he was going to start with the people that wished to speak and then he will read the names of the folks that do not wish to speak.

**COMMISSIONER RIVERS** asked Mr. Dermody if he could put page 8 of the packet on the ELMO that shows the PAD and its proximity to the neighborhood? Mr. Dermody showed it on the ELMO.

**STEPHANIE LIKES, 5125 S. EILEEN DRIVE, CHANDLER** said she is obviously a resident of Ironwood Vistas. She lives at the closest location to the proposed site. She showed where her house is. She lives there with her 2 children, her son Casey who is 8 and her daughter Claire who is 22 months. The site of her house and her yard are approximately 380 feet from the closed gas pump. Her yard and her daughter's window face that lot directly and the only barriers between her home and the gas station are her fence and the fence on the lot itself.

She is extremely concerned about living near a gas station for many reasons including the increased traffic and noise and it will ultimately bring their neighborhood some problems and decrease the property values. However, the issue she is most concerned about is the health and safety risks imposed on her children and herself and her neighbors by living so close to a gas station. She did some research. She is a schoolteacher and she teaches English so research is something that she likes to do.

According to her research, gas stations bring about alarming health, safety and environmental risks to people who live nearby. One of the issues is the safety of the gas stations being so close to residents. It is very dangerous if safety precautions are not followed or certain risks can be associated with the explosions and fire hazards. Gas stations fire most frequently result from sparks that lead to fuel explosions and static electricity that ignite fuel vapors. Living in such close proximity to the gas station puts her family at risk of being injured in one of these potential fires or explosions. They would also have increased safety risks by the type of the clientele that gas stations and 24-hour marts bring about. If a crime is committed at the station, the criminal could very likely jump the fence and land in her backyard putting her family at risk or one of her neighbor's families. As if this isn't alarming enough, the research on the long-term health effects is even greater. According to her research, despite all of the modern health and safety guidelines gas stations must follow they can still post significant hazards to neighbors, especially children. Some of the perils include ground level air pollution by improperly working vapor recovery, groundwater hazards from chemicals leaking into

the ground and contaminating their water and exposure hazards from other chemicals that might be used at the station.

According to the Journal of Occupational and Environmental Medicine, living next door to a gas station might be associated with an increased risk of childhood leukemia. One recent scientific study of more than 500 infants found that a child's home near a fuel station was 4 times as likely to develop leukemia as a child's whose home was further away. The longer the child that lived nearby, the higher the risk of leukemia would be.

Most gas pumps today have government related vapor recovery boots on the nozzle. This limits the release of these vapors that escape while refueling your car but if the boots are not working properly or if a person tops off their gas tanks, it will release a nearly odorless fume, which contains harmful chemicals like benzene. The National Institute of Health says that benzene is a known cancer-causing chemical and breathing in this chemical can also lead to respiratory problems and asthma. Researchers say that the problem may come from the exposure to benzene, a gas emitted commonly by gas stations. Benzene is only 1 of the 150 chemicals used in gasoline. The agency for toxic substances and disease registry released a public health statement about benzene in 2007. It said that gas stations are one of the major sources of benzene exposure and that people living near gas stations may be exposed to higher levels of benzene in the air. They recommend that children do not live or play near gas stations. The Department of Health and Human Services has determined that benzene is a known carcinogen and cannot also cause other health problems. Their recommendation is to limit exposure to benzene.

Her question is then why would someone want to build a gas station next to a neighborhood where people and children reside. She lives with her children about 380 feet from the proposed site. To her is definitely constitutes nearby and increases her families exposure to benzene. Now that she is aware of these and many more health risks just by doing a little research she wondered why there aren't any city ordinances against allowing these types of dangerous businesses to be built directly next to residential areas. As a registered voter and a 20-year resident of Chandler and a recent resident of Ironwood Vistas, she does not want a gas station near her house. She does not want to expose her children to the health risks and the dangers it will inherently impose upon her family and her neighbors. They do not need another gas station. There are gas stations nearby – 3 in fact within a mile or two from their neighborhood. Is there one in fact on Riggs and Arizona Avenue, less than a mile from her neighborhood.

All in all, this is an unfair and unreasonable notion to build a gas station right next to a residential area in their opinion. Please do not allow the zoning to be changed for a gas station and furthermore, please put an ordinance in place or let's talk to the City Council about putting an ordinance in place to prevent gas stations from being built next to residential areas. In all of her years in Chandler, she has never been a part of such a detrimental problem to it's own citizens. She graduated from Chandler High and she is now a teacher now there. She has always loved this town and has supported the local government and its citizens and is now being repaid by possibly having a gas station

practically in her backyard. Please do not allow such an atrocity to happen to the residents of Ironwood Vistas in Chandler.

She said she want to respectively address the experts that the applicants have brought in. It is her understanding that over the years historically the oil industry has brought in experts basically to come in and keep the problems and the dangers a secret from the public. In fact, the Petroleum Equipment Institute has stated that refueling is dangerous and should no longer be kept from the public anymore. So with having these experts come in it is a one-sided issue and they are prepared to bring in their own experts if need be as the residents as a whole. They did also circulate a petition around their neighborhood. They had 90 different neighbors sign that petition. She is still receiving phone calls from other neighbors who would like to continue signing that petition. This is definitely something a good majority of the neighbors do not want. Before they make their decision, she would just hope they would think about if it were your family, your children or your grandchildren put in the same position.

**EILEEN BEVERAGE, 70 W. BEECHNUT PLACE, CHANDLER**, showed where her house is on the ELMO. She said Stephanie hit on the biggest things they are concerned about – health, safety, property values and just the overall impact on their community. She has also lived in Chandler exclusively since 1980. Her family originally moved here in 1969 so she has been around for a while. She said she knows there is another gas station proposed for the corner of Riggs and Arizona Avenue. Circle K owns that property from what she is being told. If that goes through as well, they are looking at 5 gas stations within a one-mile radius except for the corridor of Arizona Avenue and along the San Tan Freeway. They don't have that anywhere else in Chandler or not that concentrated. This became especially personal for her. On March 25 her father was diagnosed with acute leukemia. That is something that is directly related to benzene. As a teenager, his first job was working at a gas station. His whole life he has been a mechanic. They are dealing with that now and he is going through chemotherapy. The documents they have provided do back that up. It is a known carcinogen. That is not disputable. Safety issues at the corner – it is not a good corner. If you look at the history, there have been fatalities there even going back years ago when there wasn't the amount of traffic that there is now. They know that Quest to the west of them will not give up that frontage there, so it is a one lane for that part of it. You are going from 2 lanes down to 1 and then spreading and turning. The people coming northbound will be flipping 'U's' and the people going southbound if they want to get out and go back north will come down to the entrance to their community, flip a 'U' and go back northbound. The potential just for the safety factor is huge. She doesn't like driving through that intersection herself. It is going to take away from their property values. Who is going to want to buy their homes looking out onto a gas station? They recognize something at some point has to be built there. They just don't feel a gas station is the answer. They are already dealing with the project that was started across the street for the fitness center that has stalled. They don't know when that is going to be finished. Their neighborhood right now isn't really looking that appealing to anyone coming in and this will just further take away from that. As a community as a whole, is this what they want? Do they want

to concentrate and put that many gas stations in one area? What is going to happen as they age and go out? They are going to be left with lots like they have across town now that are fenced off like the one that is on Chandler Boulevard and Alma School. Studies have to be done making sure everything is safe before someone can come in and build and what is going to happen to that area if there is such a high concentration of gas stations. She said she is not in favor of this at all.

**NICOLE HERRERA, 5155 S. EILEEN DRIVE, CHANDLER,** said she lives 3 houses down from Stephanie. They have pretty much covered everything she was going to say. If there actually needs to be a gas station at this intersection, she gets the economy is in a recession. She gets the City of Chandler needs this revenue. She totally understands that. If this station were on the opposite corner, the other 2 corners either where the Pier Fitness is or was going to be or the other corner, she would go there, shop there and she would get her gas there and her car washed. She does not want this so close to her neighborhood.

**BROOK BEALL, 85 W. TEAKWOOD, CHANDLER,** said he is opposed to the development also. He has not participated with these individuals. He apologizes that he hasn't. He is not opposed to a business going in there he is opposed to a gas station. He thinks that is a health risk as everyone has pointed out. It reminds him of the time when the 5 tobacco executives testified before Congress that smoking was not harmful. 380 feet for your gas fumes, 24-hours a day, 7 days a week, 52 weeks a year for 20 years – he can't believe that is good for you. That is a lot of gas for you to inhale. For a child or a baby 22 months old to grown up there, he can't imagine that is a healthy thing. That would be why so many agencies have said these are toxic substances, there carcinogens and they probably shouldn't be where they are. It is his understanding from this they rezoning is required to allow the sale of fuel. He is clearly opposed to this rezoning. It isn't just rezoning because they want to put in shrubbery, this is a substantial change to the Use Permit that has been afforded this by the zoning already. The second issue he has with this is the safety from the traffic. There is a non-dedicated road that they are going to get a lot of U-turns on. They already get a lot of U-turns from U-Haul. They have no light going across there and he certainly doesn't want Chandler to put another one in because they can't synchronize the lights they already have. He doesn't want another light there and with traffic coming south, they are going to be doing a U-turn heading back north and they are going to have even more congestion at their intersection. It is a major arterial and it is a state road. They don't need that additional traffic. If you want to put a no U-turn sign in, that would ease his concerns about that issue substantially. He thinks that would be appropriate. It doesn't address the concerns he has or his neighbors or the health risk. If they want to put in another kind of an operation that doesn't involve toxic chemical, they could get on board with that.

**COMMISSIONER RIVERS** asked Mr. Beall to point out where his house is on the map. Mr. Beall said he would be off the map. He said this is not a health concern for him personally. His distance from that is probably sufficient, but he wouldn't know. Is

500 feet close enough; is 1000 feet or 2000 feet? How far do you have to be from a gasoline source to not have a health concern?

**CHRISTINE CLEMONS, 90 W. BEECHNUT PLACE, CHANDLER**, stated she is 2-doors down from Eileen. This backs up to her property. She like Stephanie has a child who is 4 years old named Nathan. He loves to play in his backyard. This is a significant health risk for him. She said Stephanie and her other neighbors did a great job of addressing those. She can tell them from a property values standpoint that her home is for sale right now. It is nothing to do with this. It has to do with her employer moving her. For the people who have come to view her property, they have said the home is beautiful and the neighborhood is beautiful. They do not want to buy her home and they take a pass on it solely because they have heard rumors that a fuel station is going in. It is significant and factual that this is decreasing their home values on their properties. She opposes this.

**THOMAS JONES, 200 W. BIRCHWOOD PLACE, CHANDLER**, said he lives off of the map. That is the street just north of Cloud. He said nobody has mentioned the water well which is at the corner of Wood. He feels groundwater contamination will contaminate the water well. That is his first concern. The second concern is the traffic. He is not sure what studies have been done but 2 weeks ago on Friday they were going out to eat dinner. They go out on Chandler Heights and traffic is backed up from the light all the way to the entrance to the cemetery. Anybody that goes in to get fuel is not going to be able to get back out. They are going to have to flip a U-turn because people will not let you out. The only way they get across that is just to bluff them. Just keep driving forward because they block the intersection. They don't pay attention to the sign. It says 'do not block intersection'. That is a problem; also west bound will be a problem if they try to go in and get fuel.

**PHILIP MOORE, 240 W. BIRCHWOOD**, said like Mr. Jones he is in the rear of this. The traffic is what concerns him. Coming in from the north/south on Arizona Avenue, it goes from 3 lanes to 2 right at the empty Fresh and Easy and CVS Pharmacy there. The 2 lanes come up to their entrance at Wood. That is a one way into Wood. There is a cut-out that Maracay put in so they can go from southbound Arizona into their development. U-Haul behind them – there are a lot of U-turns there. If you look at their curbs, they are black from people turning around. On the other side going from west to east on Chandler Heights right at the Quest bldg, it goes from 2 lanes to 1 lane and by their entrance and by the post office. He wanted to make sure they knew about the bottlenecks that are in that area.

**MARYANN CLEMONS, 2707 E. WESTCHESTER DRIVE, CHANDLER**, says she doesn't live in Ironwood she lives a little farther south. Christine is her daughter and their grandson is Nathan. They are concerned as overall residents of Chandler from the standpoint they feel very strongly about the health consideration of the gas station. Do they really need another gas station in that corridor? Her husband did a mapping and found 9 within 5 miles. They are also experiencing the devaluing of their houses.

Christine mentioned her house has been for sale a few weeks. She has quite a bit of traffic. Every single one has passed. They love the community, are interested in it. It has to be disclosed about this proposal. No one will buy these houses and now they are going to have more subdivisions that are close to gas stations. But what happens to that housing value? She believes it is a concern for everyone in Chandler. She is speaking for friends and family not only who live there but who they work with and see on a daily basis. The people in South Chandler are now experiencing empty buildings, unfinished buildings and things that are just installed. Please don't give it another reason for not having people move into South Chandler.

**CHAIRMAN FLANDERS** read the names and addresses of people opposed to this item but who do not wish to speak. They are as follows:

**JUWANTA STEED, 60 W. BEECHNUT PLACE, CHANDLER**

**FRANK KNAUER, 103 W. MOHAGANY PLACE, CHANDLER**

**ANNA KNAUER, 103 W. MOHAGANY PLACE, CHANDLER**

**DAVID PENTZ AND MELINA ANDRADE, 5170 S. EILEEN DRIVE, CHANDLER**

**ALAN DAVIS, 220 W. WOOD DRIVE, CHANDLER**

**NANCY HISER, 220 W. WOOD DRIVE, CHANDLER**

**SUSAN BRECKLEY, 83 W. CEDAR DRIVE, CHANDLER**

**STEPHEN BRECKLY, 83 W. CEDAR DRIVE, CHANDLER**

**SHIRLEY HACNIK, 61 W. BEECHNUT PLACE, CHANDLER**

**JOSEPH HACNIK, 61 W. BEECHNUT PLACE, CHANDLER**

**CHAIRMAN FLANDERS** thanked them for their comments. He went back to the applicant.

**ED BULL** stated that with respect to traffic, the traffic was well discussed by Bill and his opening comments. The essence of what Bill was saying is that they certainly aren't doing anything to worsen the traffic condition. They are in fact improving the traffic condition by providing the temporary right turn lane on Chandler Heights and providing a use that is typically a convenience and near to home type of use for right in/right out users. In addition to that the streets they are on, a state highway and an arterial, are intended to carry traffic. They can't do it but someday the city in a different economic

time will through a CIP project improve Chandler Heights Boulevard in front of the post office and Quest and so on – not today, but someday. For now, take this vacant lot that is on a vacant in-fill parcel and turn it into a viable business that provides a service and provides the opportunity for jobs and fiscal impact is a good thing. It is a good thing for the City, it is a good thing for the property owner and it is part of what private property rights are about. With respect to traffic, he wanted to emphasize that putting in the right turn land and some improvements on Arizona Avenue, they believe that it actually improves the traffic situation. The traffic that their use generates is not the same if they had some of the other commercial uses that could occur on this property that has been zoned for commercial uses for 23 years.

He found some of the comments with respect to the noise and safety to be interesting. Tony Sola with respect to noise would be happy to come up and answer any questions or make a short presentation. Tony was not hired by a big oil company and Western Tech was not hired by a big oil company. In fact, Tony teaches some at ASU, he consults for various cities from time to time, including Scottsdale and Phoenix, reviewing various applications including car wash applications. As you may recall from the report in their supplemental package, this particular application that Tony was reviewing was located the furthest from any neighborhood of any car wash application that he has ever reviewed. He is looking at ones that are much, much closer than being well over 350 feet away from the neighborhood. Tony is not somebody who just comes out and works for large oil companies. He teaches, he consults for cities, he consults for private interests and he has no doubt that report he wrote for us is the same report that he would write for anyone else no matter who retained him.

With respect to Western Tech, Western Technologies is a well know conservative engineering firm with environmental interest here in the valley. Chet Pearson is here and will be happy to talk with you further about their report that is in the book but they really have what seems to now be 3 safety related issues. One of them that they heard about this evening is the possibility of explosion and fire. Again, the closest gas pump to any house is over 380 feet away. The tanks, which of course are buried, are 534 feet and if you have the opportunity to look at the photographs in the back of the booklet, there are many, many existing stations not only in this city but elsewhere in the state and elsewhere in the country that are much, much closer than the distances they are talking about here.

The other issue has to do with vapor and again Chet Pearson from Western Tech. will be happy to speak to that if they like, as he would be happy to speak to soil contamination or groundwater contamination in much more detail than he can. The 2 engineers who signed and sealed Western Tech.'s report were not hired by large oil companies. They were brought on board to genuinely study the issues that they were asked by neighbors to look into. They looked into them and as would be expected through a combination of distances, modern technology, modern regulations, which he believes changed dramatically in 1998, has to compare to some data and articles where you read the articles and goes much deeper into that data and what that data may or may not mean. Those 2 engineers say with respect to vapor or with respect to soil or groundwater contamination,

it is very unlikely and highly improbable that an incident would occur. That is about as far as an engineer is ever going to go saying that is not going to happen. In addition to that because they know there are some articles out there that talks about you shouldn't let your children play at a gas station, of course they agree with that. If you read an article about how you shouldn't live next door to a gas station, he supposes they could debate what is or isn't next door - then they get into nearby. He can assure them that in this report the engineer who prepared the vapor portion of it indicates in his report and the context of vapor migration that these residents are not living within what some literature refers to as being next to or nearby the proposed station. Again, Chet can go into more detail about benzene or other kinds of environmental issues if you want. They genuinely studies the issues, looked at the literature and articles and are very comfortable on this site particularly compared to other sites with its location.

With respect to other stations in the area what he believes he said earlier is that southbound on Arizona Avenue there are no existing stations on the west side of Arizona Avenue going south from the 202 to this site. Yes, there is a station that is a part of a County Island at Arizona Avenue and Riggs, just like there are other stations and other locations.

Joe who is has been in the business for over 20 years including not only the grocery business but the gas station business as well, believes and believes strongly that this is a good viable location for the facility that he wants to put in. So does ARCO. That is the reason he purchased the site as part of a family business not part of a MEGA corporation but part of a family business to be owned by a family that lives in Chandler and has done so for 15 years.

They can talk about property values. This is a bizarre time in their economy. Again, he can assure them that part of what they are doing here is keeping the station well away and well screened by not only what occurs on the site itself but also with a double row of trees. He doesn't know what excuses people may or may not be giving these days for why they are or are not interested in buying a house, but he can assure them that this station is much, much further away from the neighborhood than many existing stations and is something they believe, as Staff has indicated, is properly designed and very compatible at this particular intersection.

Mr. Bull said if they have other questions or want to hear from any of their consultants, they would be happy to do so. They agree with Staff that it is the right use in the right location and it is an appropriate design. They request their approval per Staff's recommendation.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant.

**VICE CHAIRMAN CASON** asked in any of their research have they had the opportunity to understand how insurance rates change in areas adjacent to where you are situating gas stations? Has that ever come up in any of their research that they have done

on this case or other cases he may have had in the past? Mr. Bull asked him if he was talking about homeowners insurance, business insurance or any insurance that might be adjacent to it. **VICE CHAIRMAN CASON** said he thinks it is prompted by the analogy by the earlier speaker that sited tobacco use and specifically to insurance, if you were a tobacco user your health insurance went up. They charged you more for health insurance. He would be curious as to whether anybody has done any research as to whether insurance rates go up? That is only because of the fact that they have reports from professionals and they have research in various locations and it seems like to him that most evidence would be that of insurance. They all know that insurance agents have this big group of people that decide what risk is. He would be curious to know whether the risk increases for land and property owners adjacent to where gas stations come in and whether they have had the opportunity to examine that? Mr. Ed Bull said he has not been asked that question before and have not examined it. He could tell them their architects and environmental consultants have not been brought into that issue. He does not know the answer to that question. **VICE CHAIRMAN CASON** said he didn't think he would. Obviously, this whole procession is going to happen again in front of City Council and it would be very interesting for City Council to be able to understand the risk that it is. The risk isn't based on anecdotal evidence, it really has some scientific evidence behind it and whether in fact the risk can be judged by the insurance industry who really when it comes to stuff like this are really the people that determine risk. They base their opinions from analysts and those types of things but they know how much they pay out on injuries associated with stuff like that. They would really be the people that would understand risk and he would hope that before City Council there could be some research done into that to see what they are looking at here. He hopes they can provide the same type of evidence as well.

**COMMISSIONER RIVERS** said regarding the car wash, when they talked the other day they talked about whether this was going to be a full service car wash and it was revealed that it is not and it is going to be a coin or coupon operated car wash - a drive thru car wash. Does his clients have any idea how many cars a day would be expected to go through the car wash? How many cars per hour? Mr. Bull said he didn't think he wanted them to guess. That is what they would be doing. The guess would be in the neighborhood of 100 cars.

**VINCE DALKE, 4041 N. CENTRAL AVENUE, PHOENIX**, stated he is the architect of the project. He said it obviously varies. Most of these guys can get about 100 cars on a peak day on a Saturday afternoon. That is generally what they are looking for in these self-serve automatic operations. **COMMISSIONER RIVERS** said his concern was that several of the neighbors indicated that one of the issues they have with this project is the noise. He thinks the car wash is going to be the noisiest thing on this project. He knows the convenience store gas station car wash that is nearest his house, when he stops in there more often than not there is no one in the car wash. By the time he pulls in and fills up and goes in and buys his beverage and when he comes out again there might be one person going through the car wash. But again on a sunny Saturday in August there will probably be a lot more. He was just trying to get a ballpark. Mr. Dalke said the average

is significantly less than that in certain locations. Some users only get about 25 cars. There is a location over at 16<sup>th</sup> Street and Thomas where he is getting about 25 cars. It is going to vary based on location. Most of the users are users purchasing gas. You are not getting additional cars on site because of the car wash. You are not going to go up to get a car wash from a general standpoint. **COMMISSIONER RIVERS** said the bottom line is this car wash blower is going to be the noisiest part of the car wash, which is going to be the noisiest part of the development isn't going to be running continually. It is going to run for a minute here or a minute there maybe 100 times a day. Is that in the ballpark? So it is not going to be running 12 to 14 hours a day every day. Mr. Dalke said the duration of the dry time is about 1 minute. One minute is probably excessive if you think about the time a car passes through the queue is not a minute. It only turns on when a car hits that point of the car wash. He said in the packet, there is a discussion about the noise of the dryer.

**CHAIRMAN FLANDERS** asked Mr. Bull what prevents groundwater contamination? Could his guy give a little of a bit of insight into that. Mr. Bull said in respect to his question about groundwater contamination, they really need to start back with the modern regulations that are in affect here in Maricopa County that has to do with the equipment that is installed and the monitoring that is installed with it. By that he means double walled tanks, various monitoring apparatus that are involved which he understands instantaneously indicates whether or not there is any leakage that occurs. Requirements are for very prompt clean up with any leakage that would occur, soil types and so on. Chet can go into that in considerable more detail if they would like. Obviously the depth of the groundwater is huge compared to the depth of any soil contamination that would occur in a modern facility under modern requirements with modern equipment and modern inspections and so on. **CHAIRMAN FLANDERS** said he understand what he is saying with the double walled tanks and the monitoring devices. There were some comments related to the vapors. Obviously, no system can prevent 100% capture of those vapors. He was trying to get an idea of what the percentage would be that would be allowed to escape into the atmosphere. Mr. Bull introduced him to Chet Pearson of Western Technologies who does this for a living.

**CHET PEARSON, 3737 E. BROADWAY ROAD, PHOENIX**, said with respect to the vapors that is a difficult issue to address how much is released from the tanks. They are sealed in the product lines and in the delivery system they are sealed. Typically, the only vapors you get are during the dispensing of fuel. When you are filling the tanks, you have double walled lines putting the gasoline into the tanks in the ground and you are collecting the vapors that go back into the truck that takes care of the displaced fuel inside the truck. When you are dispensing, they have the stage 2-recovery, which is required in Maricopa County. It is sucking the vapors back into the tank from the dispensing and then you have the rubber boot that tries to help keep vapors from escaping into the atmosphere. Yes, there is going to be some. As for the exact quantities, he hasn't seen any studies that have detailed what those percentages are.

**COMMISSIONER HARTKE** asked where on this site is the filling occurring or where would the gas go into the tanks? Mr. Pearson said directly above the tanks. **COMMISSIONER HARTKE** said if he could look at the diagram does the truck pull in on the very north side furthest away from the residents? Mr. Pearson said it is 134 feet away. They have located both of the tanks for unleaded and diesel is on the far end of the site. The truck would park there to fill the bulk tanks underground. **COMMISSIONER HARTKE** asked what is the life of a gas station in today's modern technology? Sometimes they have had older ones in which there has been problems and he has seen fuel venting off of those. In today's world with the double tanks what is the life of one of these? Maybe it is forever, he doesn't know. What is the life of a tank and procedures also for safeguarding? He is hearing mostly health concerns. Mr. Pearson said most tank systems are typically designed to last anywhere from 20 to 50 years. There are various individual components that aren't going to last as long. EPA has mandated a variety of leak detention and inventory. They have double wall paint, double wall pipes that go from the tanks to the dispensers, they have inventory controls and you are looking at how much fuel is in the tanks minus how much is dispenses. That is done manually by a person and it is also done by monitoring with electronic systems. You have leak detection in the lines between the 2 tanks so if a fluid from the inside tank gets to the outside tank, it sets off the alarms, bells and whistles go off. They might have a leak from the inner tank that would go into the outer tank that would not go into the soil or into the environment and the station operator would be notified that something is wrong. With the current technology and leak detection, they don't see big releases from fuel tanks anymore. There were a lot of releases in the past and they are from old steel systems where they had steel tanks, steel piping, single walled, no leak detection, no vapor monitoring and none of the safeguards that you have today. Typically, you just don't see that big of releases. Most of the releases that they deal with today are when the stations do remodeling 10 or 15 or 20 years down the road. Somebody drives a concrete stake through one of the product lines or somebody is jack hammering some concrete out to replace it and the jack hammer goes down and hits a product line, they turn the fuel system back on, the bells and whistles go off and they release a little bit into the ground. So most of the releases they deal with this day and age are anywhere from 10 gallons to 100 gallons before all of the detections systems alert the operator that there has been a release. **COMMISSIONER HARTKE** said the reference was made to groundwater. Do they know what the wells are and what are the groundwater distances down there? Mr. Pearson said the groundwater in this vicinity is about 120 feet. Gasoline will float on groundwater should gasoline ever get down to groundwater or diesel fuel. It will float on top of the groundwater because it is lighter than water. The City of Chandler wells that are used for drinking water, they use less than 50% groundwater for its drinking water source. Those wells are screened between 400 and 1500 feet below the ground surface. It is very unlikely, if not impossible, for a gasoline release from this station or any station to impact groundwater wells that the City uses. That is the purpose that the city designs their wells with screened intervals so deep so that they don't get any of the contaminates. A lot of your nitrogen and other things from farming also reside in that upper level of groundwater and so most municipalities just drill deeper wells and withdraw the groundwater from deeper depths. Since benzene is a carcinogen it is one of

the things the city tests for and they routinely test and monitor their drinking water for that contaminate.

**CHAIRMAN FLANDERS** closed the floor for discussion and motion. Based on the land use issue with the existing zoning he didn't have a problem with the land use with the gas station. The questions related to the systems of the fueling were answered. Eventually from a traffic standpoint, the profiles of the road system will develop out according to the City of Chandler standards. Over time and as the City comes on line with that it will be taken care of at least between now and then. He is comfortable with this.

**VICE CHAIRMAN CASON** asked Staff if the Quest building is a central office? Is it a place where all the lines go to and where all their switches are for that area of town? Mr. Dermody said he can't answer that for sure but he thinks so.

**COMMISSIONER RIVERS** said he wanted to thank all of the neighbors for coming down tonight to speak to them. The issues they brought up which was the distance involved, the noise issues and health issues were proactively discussed and worked out by the developer and he thanked them for that. He thinks if they had a request for a drive thru restaurant on this corner, they would have a lot more neighbors here. As far as what is affecting people's property values and the willingness of somebody to buy a property now a days, is unlike any other economic environment they have had. It is hard to say what the real reasons are. He was concerned with the discussion of being next door to anything that is 400 feet away or 389 feet away. He favors this project at this point and they have gone out of their way to come out with lots of landscaping and lots of sideline deflection. For the people who live in these houses that are next door, once these trees are in they are probably not going to see this project at all. If the second pad turns into a 2-story office building or something, they literally will never see this project. He also commended the developer for proactively attacking the traffic problems on both sides of the development. He said with that he would like to move to recommend approval.

**VICE CHAIRMAN CASON** said he empathizes with the position they are in because he might have some concerns if he was in their position. Sitting up there they have to look at it from a land use standpoint and what is the appropriate use for this land. Is a gas station the most appropriate? That would be up for discussion. Is something else more appropriate? He doesn't know. Is something else less appropriate? He doesn't know. All he knows is that a gas station use here is pretty much regular with what they would do with any other type of situation like this. He thinks while they have to look at it in more of a black and white fashion because of that, he doesn't necessarily agree that City Council has to do the same thing. They are certainly at more liberty to provide more colors in their decision than perhaps they are. He encourages the neighbors to proceed with their concerns and to be sure and let City Council know how they feel. Because of that restriction that he feels they are under where they have to concentrate on land use, how the buildings look and how the landscaping looks and that kind of thing, he feels somehow obligated to support the project.

**COMMISSIONER HARTKE** said he would also like to thank them for coming out and he realizes this is their life and he realizes this is their home, but he echoes Vice Chairman Cason's comments on that. He also will be voting yes for this land use. He does believe the distances quoted do not quite constitute right next door. Again, he is not in their house and they could have a long discussion on that. He appreciates them coming out but from sitting up here and listening to the arguments of health and traffic and the other use of this, he also will be voting yes on this. He will probably be at the City Council meeting the night in which this will come.

**MOVED BY COMMISSIONER RIVERS**, seconded by **COMMISSIONER PRIDEMORE** to approve DVR09-1011 IRONWOOD COMMERCIAL subject to the conditions recommended by Staff including the last stipulation. The item passed unanimously 5-0. (Commissioners Veitch and Kelley were absent.)

**CHAIRMAN FLANDERS** asked Staff when this item would come before City Council? Mr. Dermody said this item would be before City Council on Thursday, May 13 at the same location, 7:00 p.m. He asked for a break before starting the next item.

E. LUP10-0013 SANTAN BREWING COMPANY

Request Use Permit approval to expand the area dedicated to alcohol production, packaging, and associated sales (Series 3 Domestic Microbrewery License) adjacent to an existing restaurant at 8 South San Marcos Place.

1. The Use Permit granted is for a Series 3 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. The area adjacent to the establishment shall be maintained in a clean and orderly manner.
5. 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.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated this application is a request for Use Permit approval to expand the area dedicated to alcohol production, packaging, and associated sales under a Series 3 Domestic Microbrewery License at the Santan Brewery in the downtown area. Mr. Dermody displayed a floor plan of the requested changes and stated there is an omission of the seating area out front. They aren't planning on taking the seating area away. They also have outdoor seating along Commonwealth Avenue. Santan Brewery owns the entire building, which has three additional suites not occupied at this time. They are proposing to expand into the next two suites over, potentially into the last suite as well. It would generally be used for

alcohol and beer production as part of their facility. The first suite will be a combination of storage and some fermenting tanks, with a cooler in the back. The second suite over would be a canning facility. The canning machinery would be in front of the windows so passersby can see the beer canning process. The last suite was a gelato store and is set up for retail sales. The applicant is looking for a new tenant for that suite, but he is also asking for approval to have their own retail store in the suite if he can't get a new tenant. They would sell items such as t-shirts, and possibly kegs.

When analyzing the application, Staff was definitely positive about the expansion of a very lively use on the square. The brewery is one of the main anchors to the downtown. In many ways it fulfills the vision for the downtown to be a lively atmosphere during the day and at night. It's very much a positive, and this is an expansion of that positive use. Initially, Staff had some concerns that have been addressed through the Use Permit process, and are now able to bring this request forward with a recommendation of approval. The concerns had to do with the expansion being basically a back-of-house type operation. Although the canning area will be visible from the windows, it's not an expansion of service area at this time. Staff didn't want these suites tied up with uses that were not inviting to pedestrians in the downtown and not building upon the future vision of tying possible entertainment uses to the west of this location. Because of these concerns, staff requested the applicant provide a floor plan of their potential phase two expansion. The applicant intends to move forward sometime in the next couple of years with some type of phase two. The Commission isn't approving phase two tonight, it's just to show there's a plan in place. Right now there could possibly be pallets of grain stored in the suite, but eventually the suite is envisioned as a banquet room. The outdoor seating is also envisioned to be expanded down the sidewalk. Those two changes, as well as keeping the last suite retail in some format, give staff cause to recommend approval. Approval is being recommended with a two-year time limit so the applicant can analyze the situation. The economy isn't great right now, even though this business is doing better than many others. The two-year time limit allows the applicant to re-evaluate and hopefully bring forward phase two of the expansion. The whole project put together is what staff envisioned for downtown. Phase one doesn't detract from the eventual completion of something that will be a great attribute to the square.

**VICE CHAIRMAN CASON** asked Staff to point out on the 'subject request' floor plan what is identical or similar on the drawing to the building plans that have already been approved? Mr. Dermody responded the floor plan of the back three suites on the drawing is what was approved. There are also some changes to the façade that can't be seen very well on this drawing. There is an overhead door, a garage type door with windows. **VICE CHAIRMAN CASON** asked Staff if any of the walls were to change after the building was built to the approved plans, would the applicant have to re-submit plans to remove walls and those types of things? Mr. Dermody responded they would. Any changes that would require a building permit, such as moving walls, they would have to come back and get a new one or amend the one they have. **VICE CHAIRMAN CASON** stated because there is a sliding door and the ingress and egress of goods on Commonwealth, they would still be using that door if Phase Two didn't go through in 2

years. Mr. Dermody responded the long-term vision for that door is not deliveries. The long-term vision for deliveries is to go through the back. It's convenient to go through that area right now because they're going to be using part of that room for storage. It's the most direct access. But it's not going to be very practical once they expand the outdoor dining. **VICE CHAIRMAN CASON** stated the building plans submitted and approved do not include a back entrance and asked if the applicant has any obligation to putting a door on the alley if this gets approved? Mr. Dermody said there is a door on the alley and the applicant will have access to it. It might be modified in the future but it's part of what they've been approved for. **VICE CHAIRMAN CASON** stated the door is not big like a garage door. It's not large enough to move pallet jacks or forklifts in and out of. He's concerned that what's been approved and it doesn't allow for the plan as presented in the booklet. That part of a future phase is never going to develop because nothing has been shown that will allow that development unless you completely have the last suite. There's been no provision in the drawings or anything that's been approved so far that would allow the door on Commonwealth either to only be placed temporarily or not to be built at all. His biggest concern is that this is a gateway to everything west of it and because of the way the San Marcos is designed; it's a narrow area between the building and the San Marcos. He went through all the numbers and he knows how many cans of beer are going to be produced and what that will do in terms of loading the product onto trucks. As things get built to the west, it's going to be difficult for pedestrians to get around in that area while grain and cases of beer are being moved to the alley so they can be loaded on a truck. It seems problematic to him in the long term. He feels everyone is forgetting about what's going to happen there in the future. While he's a little annoyed to find out the building plans were approved before the case came through the Commission or City Council, it seems like what it's going to be in the future has been overlooked. He would like the Commission to come up with some ideas on how they can work around that and protect what's happening in that area of Chandler, while also giving the applicant the full opportunity to enjoy his commerce and improve his business. Although the documents say the entrance on Commonwealth is temporary, it doesn't look temporary to him. It looks permanent.

**CHAIRMAN FLANDERS** stated in looking at the applicant's potential second phase where the banquet room is located, it would make sense to go ahead and move the delivery doors back behind. You wouldn't want deliveries going through the middle of a banquet room. It makes sense to leave the garage door and provide the screening or gated areas in front of it and move the manufacturing, deliveries and loading further back off the alley. He's sure when the applicant comes back down the road with modifications, that's what the Commission will be seeing. The access to the back area will have to be modified in one way or another just to provide for the movement of pallets and materials in and out of the facility. It looks like the applicant is trying to get this on line as quickly as possible so he can start generating income. He did just buy the building and it's a big project to take on. He understands what's going on with the phasing, and he hopes deliveries and loading will shift to the south side of the building off the alley. That would make more sense so the patron activities are sole and separate. Overall, he's glad to see the business developing and evolving.

**VICE CHAIRMAN CASON** stated Commission's approval of this application would be for two years, and he's concerned they may find out that the loading on Commonwealth has had an adverse effect on Commonwealth. He asked Staff if the re-approval of the application in two years would only be for alcohol service? Mr. Dermody responded no. The applicant needs the Use Permit to be able to brew beer in that area. There is no request for an expansion of the service area right now. **VICE CHAIRMAN CASON** asked if the Commission wanted the door moved in two years when the re-application of the Use Permit comes back and would the applicant have to move the door in order to continue brewing beer? Mr. Dermody replied they would if it was a condition of Use Permit approval at that time. **VICE CHAIRMAN CASON** asked if anyone on Staff has looked at the building structurally? Mr. Dermody responded there has been a complete review of the structural aspect of the expansion and it passed the review. **VICE CHAIRMAN CASON** asked Staff if the building is structurally able to support an open bay door on the south side of the building where El Zocalo is located so there could possibly be an agreement with El Zocalo to transfer goods on their property to the alley? Mr. Dermody replied that staff has not analyzed that scenario. The only review that has gone through is the one requested by the applicant for the building permit. **VICE CHAIRMAN CASON** stated there are basically only two alternatives to access the alley so the use on Commonwealth could be discontinued. One would be the south wall of the west side of the triangle and the other would be the south wall of the western-most suite. He asked Staff if that was correct? Mr. Dermody said those two locations would be the most logical.

**COMMISSIONER PRIDEMORE** stated he would like to have clarified what the request before the Commission is tonight as opposed to 'what ifs' in the future. The item before them tonight is for Use Permit approval to expand the area dedicated to alcohol production. He understands that. He is confused about some of the comments he's hearing regarding changes to the floor plan about deliveries. He asked Staff if that type of change would come back before the Commission at a future date or is it handled at a staff level? Mr. Dermody replied the applicant is tied to this floor plan in general, as far as changing the delivery location. If they made a change, Staff would have to decide if the change was in substantial conformance with the approved floor plan. It's his guess that moving the deliveries from Commonwealth back to the alley would not trigger the need for a new Use Permit. The Zoning Administrator would have to make that determination. **COMMISSIONER PRIDEMORE** asked Staff if in the event there were any changes to the façade as a result of adding a larger door or another overhead garage door, would Staff at least see that proposal if it were to occur, even if it was handled administratively and didn't make it before the Commission? Mr. Dermody responded a change of that type would require a building permit so staff would have to review the request.

**CHAIRMAN FLANDERS** asked if there were any questions of the applicant, **MR. ANTHONY CANECCHIA, 1236 W. TOLEDO.**

**VICE CHAIRMAN CASON** stated as he expressed earlier his concern is the permanency of the door on Commonwealth, and trying to find alternatives or some type of trigger that would eventually force that door into the alley. He's not concerned that the door is there; he's concerned about moving product in that very important area when really that activity should happen off of the alley. He asked the applicant what plans he has for that and is there the possibility that the moving of the door could be tied to either the renewal of the Use Permit in two years, or something else, that when it occurs, would let everyone know now the door will be moved? Mr. Canecchia responded deliveries of goods to Santan Brewing occur on an almost daily basis currently. There are 53-foot trucks that pull up 3 times per week and spend around 2 hours unloading, as do most of the restaurants in the City Center District. It's just a fact of doing business. Sometimes they park in the alley and sometimes they park in the street. Fat Cat Restaurant on the south end has similar delivery issues. They have to use their side door off of Boston. The grain is being brought in off of Commonwealth currently; it's the only way to get it in. He's been doing that for 2½ years without anyone expressing any concerns. The number of deliveries and pick-ups will increase by possibly up to once a week, with as little as once a month. He has an application in with the City now to obtain the use of a silo for grain. That would limit the grain deliveries from every two weeks to once every 4 months. The amount of deliveries would actually be diminished. He realizes Commonwealth is narrow in that area which is why they make every attempt to use the alley. Now that they're taking up the majority of the storefront, utilizing the 15-foot sidewalks isn't difficult with a forklift. He feels that's a fairly small concern when you look at the whole picture. **VICE CHAIRMAN CASON** stated it's his understanding that the applicant is comfortable with leaving the door on Commonwealth and that it won't infringe on anyone who may be using that area given the frequency of its use, even when the area to the west starts to develop and there's a lot of activity in the area. Mr. Canecchia responded he is confident in utilizing the sidewalks in front of the building because the colonnade allows for the passage of customers outside of the delivery area. In two years if he were unable to financially benefit from the further most western suite, he would look into using the back area for additional storage and at that point could put in a door. If he gets a good tenant he won't want to kick them out, so he'll put a door in the alley. **VICE CHAIRMAN CASON** asked the applicant if there is any value in discussing putting in a vehicle door on the south side of the building so the product can be moved in and out of El Zocalo's property on a temporary basis? Mr. Canecchia responded he doesn't know what El Zocalo's structural ability is to withstand a door or some type of delivery area. **VICE CHAIRMAN CASON** added they could say no because it's their property, but it's a discussion that could happen in the future. He wanted to walk away from this meeting knowing that someday, whether it's two years from now or two years after that, they can count on goods not coming in and out off of Commonwealth. What he's hearing is we don't know that. The applicant doesn't want to sacrifice the western most suite, which is understandable. What if the square footage of that suite was divided on an east/west axis and those two frontages were utilized for the square footage of the fourth suite? The south square footage of those two suites could be used for the cannery operation and the south side of that fourth suite could have the roll-up doors. He asked the applicant if there was any way he could convince him to

stipulate to that before coming back in two years? Mr. Canecchia responded he couldn't commit to that because he doesn't know what the future holds. They have to do what's best for their cash flow right now. If he has a solid, viable, paying tenant, he can't go back to them and say he needs to cut their square footage in half because he has to put a delivery door in. He may not even find a tenant for two years. There have been 3 failed retail businesses in that suite. He can't commit to that stipulation because he just doesn't know what's going to happen. He just acquired the building and just lost the other two tenants.

**CHAIRMAN FLANDERS** stated Staff is good at monitoring these types of things. Mr. Dermody has done a great job in the downtown area. He stated to the applicant that he has done a good job of informing the City of modifications as his business evolves. He feels confident that if Mr. Canecchia has the ability to relocate the door, and separate his patrons from the loading and delivery activities, he probably would. It just makes sense to do that. No one knows when that will be. It will be determined by how well his business does. If it needs to come back before Commission, City Staff will make sure they see it.

**COMMISSIONER PRIDEMORE** stated he thinks everyone on the dais and the applicant would agree that it's important to keep things open on Commonwealth because it's very prominent in the downtown. To help alleviate some concerns, he asked the applicant to state when his deliveries actually take place. Mr. Canecchia responded they generally take place between 6 and 7 a.m.

**CHAIRMAN FLANDERS** called for audience comment. There was none.

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER RIVERS** to approve LUP10-0013 SANTAN BREWING COMPANY subject to the conditions recommended by Staff.

**COMMISSIONER PRIDEMORE** stated the north directional arrow on the floor plan appears to be incorrect and asked Staff to make sure it gets corrected before the case goes to City Council. Mr. Dermody responded that Staff would take care of it.

**VICE CHAIRMAN CASON** stated most of his comments were ideas or things to think about in the future. He thinks what is being done in the downtown is great and what is done in the future will be great as well. He hopes when the applicant comes back in two years there will at least be a plan to free up Commonwealth.

**CHAIRMAN FLANDERS** stated to the applicant that everyone has seen his business grow and wished him the best of luck.

The item passed unanimously 5-0. (Commissioners Veitch and Kelley were absent.)

G. ZUP09-1024 ALMA PARK WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility within a shopping center at the northwest corner of Warner and Alma School 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 monopalm design shall be changed to a Date Palm design of similar quality to other recent monopalm approvals in Chandler.
3. There shall be two live Date Palm trees installed and maintained adjacent to the monopalm. The trees shall be of 25' and 30' in height at the time of planting.
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. **The monopalm height shall be a maximum of 63' (top of antennas).**

**MR. BILL DERMODY, SENIOR CITY PLANNER,** stated this application is a request for Use Permit approval to install a wireless communication facility at the northwest corner of Warner and Alma School Roads, behind the Alma Park Shopping Center anchored by Ace Hardware. The applicant is looking at a small space in the southwestern portion of the site behind the building, adjacent to an office complex. It would take up 7 parking spaces. It would be located approximately 270 feet from the nearest residences, which are across the office park to the west. It would also be around 305 feet from the nearest apartment building to the north. The applicant is proposing a monopalm type facility with two live palm trees to the south. The equipment will be just north of the monopalm. There is also space within their enclosure for a future carrier if anyone is interested in providing service in the area. However, any such tower would require separate Use Permit approval. The proposal is for a 68-foot high to top of antennas monopalm, although not designed like most of the monopalms in Chandler. This is a Mexican Fan Palm type design. Usually the monopalm designs are more like Date Palms. Staff recommends the design be changed to the more typical Date Palm design. They tend to be more attractive and hold up better. The worst looking monopalms in Chandler are usually the Fan Palm design. Staff also recommends the live palm trees be Date Palms. Staff has found that on other sites where a lot of Fan Palms are present they do match sufficiently well to the Date Palm style of monopalm. However, Fan Palms are not abundant on this site. There are quite a few on the south side of the street and 4 or 5 at the corner of Alma School and Warner, which is several hundred feet away, but none nearby. Staff feels the live trees are necessary to provide a more natural, grove effect. Staff also recommends a condition that the height be lowered from 68 feet to top of antennas to 55 feet, which is a more natural look and something that's been done on a lot of other Use Permits in Chandler. It's his understanding the applicant wants to discuss the height issue. Staff recommends approval finding this site to be a good location far from residences with minimal visual and land use impact.

**CHAIRMAN FLANDERS** stated this is the first one he's seen where the applicant has planned for an expansion of co-location. He thinks they've done a good job with the fenced areas, the height, location and distance, and by using live palms. The way this one is being done makes perfect sense to him especially with the co-location.

**VICE CHAIRMAN CASON** asked what height separation has commonly been done in the past when there are two co-locations of a tree in nature? Mr. Dermody responded there have only been a couple other cases where two monopalms were located next to each other and they've both been in the past year. He believes one of them has a 2-foot separation and the other one has a 5-foot separation. **VICE CHAIRMAN CASON** asked if the applicant has come back with a counter-offer for the height? Mr. Dermody said the possibility of going down to 60 feet has been discussed, but he thinks the applicant will want to talk about that issue some more. **VICE CHAIRMAN CASON** stated the applicant is willing to invest in more property, or lease property, in order to accommodate a co-locate. He doesn't think the second person coming in should be rewarded with the higher height just because they came in second and they don't want the two trees to be the same height. While 55 feet is usually the preferred height, he would like to give this applicant more than 55 feet so when a co-locate comes in, the co-locate doesn't get more footage just because they came in second. He thinks that's the fair thing to do. Mr. Dermody added that on many of these sites there has been a 5-foot height differential on the required live palm trees almost every time.

**MS. NANCY SMITH, 2151 E. BROADWAY RD., SUITE 217, TEMPE**, stated Crown Castle tries to make sure all their sites are co-locatable. They are also more than happy to use the Date Palm design in lieu of the Mexican Fan Palm design because they look better. However, the landlord has requested Mexican Fan Palms for the live trees because they leave less mess and require less maintenance than the Date Palms. He has requested the possibility of putting in Mexican Fan Palms in lieu of Date Palms for the live palm trees.

**COMMISSIONER PRIDEMORE** asked the applicant if the landlord would be the one responsible for cleaning up any mess from the palm trees. Ms. Smith responded yes. The landlord has agreed to the watering and maintenance of the trees.

**COMMISSIONER HARTKE** stated the applicant's original request was for a height of 68 feet, staff suggested 55 feet, and they heard Vice Chair Cason's suggestion of allowing a height greater than 55 feet. He asked the applicant what height is actually needed to make this work? Ms. Smith responded their engineer has indicated he would like to have the 65-foot RAD center for the antennas because of the existing trees in the area, and the buildings surrounding his site. As you lose line of sight, the radio waves have to go up and around and you end up with more dropped calls. His goal is to keep the height if at all possible. He could come down 5 feet if he needed to, but his concern is future growth of the existing trees. **COMMISSIONER HARTKE** asked if 60 feet to the top of the antennas would work and what height would the array be at then? Ms. Smith responded that would bring the array down to 57 feet for a RAD center.

**COMMISSIONER RIVERS** asked the applicant what the height of the buildings around their site are that their engineer is concerned about? Ms. Smith responded she couldn't answer that question; the engineer didn't list the height of the buildings. She apologized to the Commission and stated she just got assigned this site 1½ weeks ago and had to do an equipment redesign within a couple of days because it was originally designed over existing power lines. She hasn't had time to completely research the case. Mr. Dermody added all the buildings in the area are single story. The tallest ones are the retail buildings, some of which have higher ceilings and decorative features. The southwest corner has some faux tower-type architecture. The tallest building is probably 30 to 35 feet. **COMMISSIONER RIVERS** stated when he visited the site it didn't occur to him that the Ace center already there would be anywhere near 50 feet. Mr. Dermody responded the adjacent shopping center isn't, it's closer to 25 feet.

**VICE CHAIRMAN CASON** asked what the height of the monopole is that is on the same property but north of this site? It looks like it's abandoned because there's no equipment left in the building. Mr. Dermody responded that monopole is at the northwest corner of Alma School and Elliot behind the video complex, not in this center.

**VICE CHAIRMAN CASON** asked the applicant if she would have to argue for a greater height before City Council if the Commission only approved a pole that was 60 feet at the top of array? Ms. Smith responded that was correct. **VICE CHAIRMAN CASON** asked the applicant if her engineer was saying the top of the arrays couldn't be below 65 feet? Ms. Smith responded no. He was requesting a 60-foot height for the RAD center, which is the middle of the antenna, based on the height of the surrounding existing sites. **VICE CHAIRMAN CASON** asked the applicant if 63 feet would work? Ms. Smith responded it would.

**COMMISSIONER RIVERS** stated he agrees with the Vice Chairman that the first of the two co-locaters should have the greater height advantage because they're footing the bill and they're here first. He doesn't have a problem with the height of 63 feet and he wouldn't have a problem with the second resident of the site being at 58 feet.

**MOVED BY VICE CHAIRMAN CASON**, seconded by **COMMISSIONER HARTKE** to approve ZUP09-1024 ALMA PARK WIRELESS FACILITY subject to the conditions recommended by staff and modifying condition #5 for a maximum height of 63 feet (top of antennas).

**COMMISSIONER RIVERS** asked about the issue with condition #3; Date Palms versus Fan Palms. **CHAIRMAN FLANDERS** stated he agrees with Staff that the Date Palm configuration should be used. That's what has always been done and they work extremely well.

The item passed unanimously 5-0. (Commissioners Veitch and Kelley were absent.)

6. DIRECTOR'S REPORT

Ms. Novak stated there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN FLANDERS announced that the next regular meeting is May 5, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 8:57 p.m.

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Michael Flanders, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 5, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Chairman Flanders.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders  
Vice Chairman Michael Cason  
Commissioner Leigh Rivers  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER RIVERS**, seconded by **VICE CHAIRMAN CASON** to approve the minutes of the April 21, 2010 Planning Commission Hearing. The motion passed 5-0 with 2 abstentions (Commissioners Kelley and Veitch abstained, as they were not present at that meeting).
5. ANNUAL PLANNING COMMISSION BUSINESS MEETING  
Election of Officers:
  - A. Chairman
  - B. Vice Chairman

**CHAIRMAN FLANDERS** nominated Michael Cason for Chairman.

**COMMISSIONER KELLEY** seconded the motion. The motion passed unanimously 7-0.

**CHAIRMAN CASON** nominated Leigh Rivers for Vice Chairman.

**COMMISSIONER HARTKE** seconded the motion. The motion passed unanimously 7-0. Both were congratulated. The meeting was turned over to Chairman Cason.

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 C was pulled to action.

A. PDP10-0002 AVIAN TRAILS

**Approved.**

Request Preliminary Development Plan (PDP) approval for single-family housing product on 92 lots within a single-family residential subdivision. The site, which is approximately 35 acres, is located ¼ mile north of the northeast corner of Chandler Heights and Lindsay Roads.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3607, in case DVR04-0013 AVIAN TRAILS, except as modified by condition herein.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "AVIAN TRAILS" kept on file in the City of Chandler Current Planning Division, in file No. PDP10-0002, except as modified by condition herein.
3. A minimum of two trees at a minimum of 2-inch caliper each shall be planted in all front yards.
4. The applicant shall work with staff to establish a fourth floor plan that is of a quality commensurate with the other presented floor plans. This fourth floor plan shall be single-story and shall offer three elevations.

B. ZUP09-1028 POLLACK ELLIOT WIRELESS FACILITY

**Approved to continue to the June 2, 2010 Planning Commission Hearing.**

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Elliot and Alma School Roads. **(REQUEST CONTINUANCE TO THE JUNE 2, 2010 PLANNING COMMISSION HEARING.)**

D. ZCA10-0005 CITY OF CHANDLER / EXTENSION OF LIQUOR PREMISES IN PLANNED AREA DEVELOPMENT (PAD) ZONING DISTRICT

**Approved.**

City Initiative to add City Code Section 35-1708 and amend City Code Sections 46-4.1 and 46-4.2/B to allow for the consideration of outdoor dining/liquor consumption on the

public sidewalk when adjacent to PAD zoning located within the South Arizona Avenue Corridor.

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

**ACTION:**

C. ZUP10-0011 NORTH PRICE STABLES

**Approved.**

Request extension of Use Permit approval to board horses on approximately four acres at 2885 N. Price Road, approximately 900 feet south of Elliot Road.

1. Substantial conformance with approved exhibits (Site Plan, Narrative) except as modified by condition herein. Expansion or modification beyond the approved exhibits 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 number of horses shall be limited to 22.
4. Riding activities shall be limited to a maximum of three days per week.
5. Riding activities shall cease by 9:00 p.m. each night.
6. The site shall be maintained in a clean and orderly manner.
7. The riding area shall be watered down prior to riding activities.
8. 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.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated this was a request for a Use Permit approval to continue to board horses at a parcel at 2885 N. Price Road. This is a rural ranchette type of parcel about 4 acres in size. It is one of two that are like that along the east side of Price Road south of Elliot. This particular parcel has had horses on it for a couple of decades although it just got its first Use Permit approval last year. They didn't know they needed one up until that time. There was a one-year time limit placed upon it to check on good management practices. This is bordered to the north by a single-family subdivision, Marlborough Estates and to the east by a County subdivision with large lots – not as large but ½ acres or so. There are animals on some of those lots to the east in the County and there are few horses to the south.

This particular one requires a Use Permit because it is horse boarding, it is not the horses that live there necessarily. Also, because it exceeds the number of nine horses you are allowed to have on a property of this size. They are asking for 22 horses again, which is

what they were limited to last year. They have approximately 17 there right now. They are also asking that there is no time limit placed upon this and Staff is recommending approval of this with everything they are asking for except with a time limit of 3 years to allow them to continue to evaluate the management of this property. They have found that in the past year it has been managed well. They have heard that they are watering the riding facility before it is used to cut down on the dust and generally maintain it in a clean and orderly manner. The applicant is here to talk about the manure pile that they mentioned at Study Session. They have heard from a number of neighbors on this, most of them in the past week. Approximately three people have called Staff in strong support of this request, one of them saying it is the reason they enjoy living in the subdivision to the north. They have heard from one person who isn't necessarily opposed but does have concerns with dust and flies generated by the facility. One person is opposed without comment. The neighbors to the south and who are here this evening, the Englands, have concerns about manure and dust on the property. Staff does recommend approval of this request subject to conditions including a limit of 3 years on the Use Permit and that the site be maintained in a clean and orderly manner and that the riding area continue to be watered before it is used.

**CHAIRMAN CASON** asked if there were any questions of Staff. There were none. He went to the applicant.

**ED FIELD, 744 S. MORRIS CIRCLE, APT. A, MESA**, said he has a renter and as far as he knows after they went through a dissertation to get their Use Permit last year, they have complied with everything that was put upon them. They have not heard one verbal or call from anybody to let them know they were not living up to whatever their problems were. They held a meeting as required by us of 180 people around there. One person showed up. They had a discussion with her. She lives to the north of the property and she was concerned about some dust and flies. Their concern about dust is that there is going to be dust in Arizona no matter where you are. As far as he knows, his leasee has complied with watering the arena and doing the best that she can. After last years meeting, they removed all of the dirt in the riding area and placed it with a type of soil that absorbs water quicker and therefore, cutting down on the dust and they have been watering it before they rider and everything else. As far as he knows, with the exception of when they applied to extend their permit, all of a sudden they hear all of these complaints. It seems to him if they were having a problem that they should have been addressed a long time ago and they would have done something about it or tried to. As far as the manure pile is concerned, his leasee Christina cleans out the stalls daily. She has a person that comes in and picks up the manure. He comes in once a month and picks up all of the manure that they have piled up. Up to today he hasn't heard any complaints about that. He asked Commission if they had any questions for him. They feel they should have more than 3 years on it. They would like to see it extended indefinitely with the same stipulations they have on there now and they would comply with those.

**VICE CHAIRMAN RIVERS** asked him in a month's time how big is this manure pile? Mr. Field said about 4 feet. Mr. England says 6 foot. **VICE CHAIRMAN RIVERS**

said he was just wondering if it would be better to remove the manure every 2 or 3 weeks so that they don't have the odor and fly problem Mr. Fields replied that in the past they spread the manure around on the riding arena and out in the lot. That created more of a problem for dust and everything else than what they did before. They feel with somebody taking it away and recycling it so to speak would be much better. **VICE CHAIRMAN RIVERS** said he thinks it is a great idea to have it hauled away but he is just wondering rather than waiting for it to be a certain size, would it be better to haul it away a little earlier? Mr. Fields replied it has to do with economics with the hauler probably. He needs to have a truckload when he comes in with the backhoe he assumes. **VICE CHAIRMAN RIVERS** said one of the things they discussed in the Study Session earlier was that perhaps the location of this pile could be located in a better place farther away from occupied buildings. Mr. Fields said that is something that would have to be discussed with his leasee.

**CHAIRMAN CASON** said that having manure issues is something that came up since the last time they met. It is nice to hear that his leasee is moving that on a regular basis. He said he mentioned it was an economic issue but commonly if it wasn't an economic issue, how big would the pile be before they would haul it off under normal circumstances? Mr. Fields said he wouldn't be able to give an honest answer to that because he doesn't know. **CHAIRMAN CASON** said given the fact it is really related to the amount of horses that are on the property, let's say that they have 22 horses on the property he wouldn't necessarily be able to tell them how much cubic yards that generates over a given month period? Mr. Fields said he didn't have statistics on how much a horse evacuates on a daily basis. **CHAIRMAN CASON** said yes that is a pretty difficult subject.

**KENNETH ENGLAND, 2845 N. PRICE ROAD, CHANDLER,** stated this is immediately south of the property they are talking about. In answer to his question, manure from a horse would generate 18 to 24 pounds a day. That is wet manure. That dries down to maybe a 1/3 of that or less. He said he is not against the zoning. They were told last year there would be a sprinkler system put in to control the dust. The dust is terrible at times. These people that live there now are doing everything they can to keep it down but you can't keep it down with just a garden hose and a sprinkler. As far as the manure goes, he has helped them twice to disperse it. He let them put it over in his field and he tilled it in with a small tractor and then irrigated it immediately to keep it down. They are right. The more horses they put there the more manure they are going to have. The people that pick up the manure sometimes they are reliable sometimes they aren't. As you can see by the picture, they weren't that time. He would like to stress again the people that are tenants there at this time, they are wonderful people and they do their best to keep it clean. If you get 16 or 17 horses out there circling on that arena, which is 80 x 150 feet, you are creating a lot of dust. The owners don't care about that. They are not out there eating the dust. The tenants there before started a program of putting the manure on the arena and then they started stacking it over against his fence, which is what he complained about last year. There was a small amount that was stacked on the fence to the north. Immediately they raised hell about it. They wanted it out of

there. They love the horses but they didn't want the manure but as long as he was eating manure that is all right. The swimming pool people on that side are complaining now about the dust in their pools. Like he said he is not against the zoning but if it is re-granted there should be a stipulation in there with the time limit that the dust should be controlled by some type of automatic sprinklers with a booster pump and take care of it.

**CHAIRMAN CASON** said he sounds and looks like a horseman. In his opinion how big is a big enough pile to haul off? How big would you allow it to get before you would haul it off? Mr. England replied he doesn't have to haul his off because he has 3 to 4 horses on his place and he scatters it with a tractor and irrigates it. **CHAIRMAN CASON** asked if he did allow his manure to accumulate in a pile, how big would he let it go to before he would say it needed to be hauled off? Mr. England said 2 to 3 feet and it would depend on the width of it. The manure pile he was looking at was 10 to 12 foot wide and 6 feet high. That is too much. **CHAIRMAN CASON** asked how big or small should it be before it gets hauled off? Mr. England said that is going to depend on the people they have coming to haul it away. They usually set up a routine. He thinks it should be hauled off when it is 2 to 3 feet. That would be a week to ten days accumulation with 19 to 22 horses. If they are going to control the manure piles, control the number of horses. That is logical. **CHAIRMAN CASON** said in his opinion it would be every 10 days that they would need it to get hauled off. Mr. England replied that would be logical especially in the summertime when you have a lot of flies and the wind blowing.

**KATHRYN ENGLAND, 2845 N. PRICE ROAD, CHANDLER**, said she lives south of these people right in front of the barn. A pile of horse manure is manure whether it is 1 foot tall or 6 foot tall. In the summer when you have flies everywhere they go in and a maggot gets started. It doesn't make any difference if it is 1 foot tall or 6 foot tall but in his opinion instead of piling it they need to get it out of there and spread it so it will dry so that it will not make maggots. It is unsanitary – very unsanitary. He doesn't believe that anyone of them including Ed and Irene would live under these conditions. They don't object to Tina and John. They are wonderful people. Something needs to be done about the manure situation. They need to have a pumping, sprinkler system that is adequate for those horses and it is not at this time.

**KENNETH ENGLAND, 2845 N. PRICE ROAD, CHANDLER**, said he would like to add that he volunteered to give them his tractor free of charge to help spread the manure and to work the arena. He is not hard to get along with. He just tried to help them at times to keep it clean there.

**COMMISSIONER HARTKE** said he thinks part of Mr. England's objection is the proximity of the manure pile to their house. Mr. England said it is about 80 feet away. **COMMISSIONER HARTKE** asked him if there was a place on this property to where it would be less offensive to him and other neighbors? Mr. England said they could put it back in their field and spread it out some and then when the time comes for the fellow to pick it up, they could bunch it back up. He will loan them his tractor to bunch it up. As

long as they spread it, the birds and chickens will scatter it around. Then they could use his tractor to pile it up and let the fellow haul it away. **COMMISSIONER HARTKE** asked if this were further away from his house would there be a better location that would also not conflict with the neighbors to the north? Mr. England said out in the field in the back. **COMMISSIONER HARTKE** said he understood that but for the amount of time that they do pile it is there a location other than where it is that he would think it is less offensive? He suggested they put it with the people that love the horses, stack it on their side against their fence.

**CHRISTINA SHISHINSKI, 2885 N. PRICE ROAD**, stated she resides at the farm and leases from Ed and Irene. She has been there for 13 months and did come into the property and was aware of the dust problems. The manure situation just came up recently. She didn't think that was an issue last time. She does everything she can and she speaks to the England's on a daily basis. They work very well together and he does allow them to use his things and helps her where he can. Her plan would be to have a better plan to have the manure spread more frequently. She does have to have some kind of a pile to work with and then get it out to the back pasture to spread. She can relocate the pile and she can work on all of that. It is not a problem. She plans on doing that but she just learned about this issue. As far as the dust, she does have people telling her that it is a problem and the people on the north side all have pools. She does everything she can to water this riding arena but it sometimes more than she can physically water with the hose. She would be standing out there all day. They know that. They are not as upset about it because they see she is trying but sometimes it is a little unmanageable. The manure pile can be resolved very easily.

**CHAIRMAN CASON** asked if she could share specifically what her plan would be to do that? Ms. Shishinski replied that she only has 8 horses in 6 stalls and they get cleaned daily. She would say every other day she could put it off to the side of the barn away from their home on the other side of the barn and then put it into a cart to haul it to the back pasture. **CHAIRMAN CASON** asked if that is doable for her? Ms. Shishinski replied it was. **CHAIRMAN CASON** said the watering was their big concern last time and it sounds like she is having problems with that from a physical standpoint. You would almost have to hire somebody to water their corral all the time or only when they use it. She replied that it has to be kept wet. The wind will pick it up. The material they changed out last year they hoped would control it and it did control a lot of the dust. They just have a sprinkler system out there and it is not enough to saturate it. If even one horse goes out there they are kicking up dust again. That is what the problem is. If she has three people over to ride, she physically can't manage it.

**IRENE FIELDS, 744 S. MORRIS CIRCLE, MESA**, said she finds it very weird that all these major problems went on all year long and nobody complained about it or called them. No one came to the meeting that they spent over \$500 to have for them. Nobody came to that meeting and today they could have been out of town or whatever. Today they find out they have complaints. She wants to say that all of the dust that is created in this area is not from them. There are the county people that have horses and cows and

there is Mr. England who rides his 2 or 3 horses. He doesn't water down before he rides his or if he has people riding them. One day she was over there and his little gal was riding around and creating a lot of dust. What she is saying is that everything that happens is not them. One lady came to their meeting and was complaining about a rooster crowing. They don't have any roosters. It comes from the county island. Then she complained about the flies. Their property is not the only one. They don't breed flies over there; they come from all over. In her apartment they keep their place really, really clean and they still have flies. This is nature. Kenny seems to get along with their tenants, yet all of a sudden he is complaining about the manure. Has he ever spoken about that before? No. Her question is why? It seems to her about a year ago when they came before them, they were complaining about the manure being spread in the arena. Then when the horses would get on it, dust was created so the tenant doesn't do that any more. They paid \$3,500 to correct that problem. Now, that is one of his ideas to get rid of it. She is just at a loss of what they can ever do to please them when they try so hard.

**CHAIRMAN CASON** asked her what is the cost of the type of system that Mr. England is talking about? Ms. Fields answered thousands of dollars, which they do not have. For one thing, the well they have will not produce that much water. It doesn't have that much pressure. That would require installing a new well which is \$15,000 to \$20,000. They would have to do a holding tank. They bought one in Heber-Overguard and it was \$5,000. She doesn't know what it is today. She wasn't prepared for that question but she could find out for them. **CHAIRMAN CASON** said so currently all of the watering that the animals are watered with and the water they use on the property all comes from the well. There is no city water there? Ms. Fields said no. Nobody could afford to do that with city water and you would have sewer on top of that even though it doesn't go in the sewer. You would still be charged for the sewer.

**CHAIRMAN CASON** said before he closes the floor he wants to have a discussion about some of the ideas that the Commission might have with what they have heard if any.

**KATHRYN ENGLAND** stated that house and facility was built about the same time as theirs. That pump system is for 1 house. It is a 2-bedroom home and the pumping system is also for a 2 bedroom and also for the limit that originally was on that when Commission extended it to 22 horses last year. When you are watering horses, she doesn't know exactly how much water a horse drinks a day, but he drinks a lot of water. She understands their water bill over there is around \$500. In her opinion, if the Field's are going to rent this as this kind of facility, they need to take care of the water situation.

**CHAIRMAN CASON** closed the floor and opened the subject up for discussion.

**COMMISSIONER FLANDERS** stated he has been on Planning Commission a number of years now and they have seen everything from Master Planned communities to discussions about manure. At this particular point, he has seen everything. In listening to this he thinks the relationship with the owner of the property, the tenant and the neighbors

it sounds like stuff that can be worked out between them. He doesn't think they want to get into providing stipulations telling them that they need to take care of the manure. They have a stipulation provided that they need to maintain these sites in a clean and orderly manner. To Staff, based on tonight's discussion this provides enough information for the future. If there are any complaints as a result of the location of this and to the neighbors to the north, obviously there is going to be dust. It is horse property adjacent to single-family homes. That is just the nature of the beast. He thinks the stipulation for the 3-year time frame is appropriate. That just tells the applicant that they need to maintain those standards and everything else until the next time they seem them. They will go from there. Hopefully over the period of 3 years if there are any problems, the neighbors will get their comments to Staff. He said he would like to make a motion.

**CHAIRMAN CASON** stated he thinks they owe the new tenant an opportunity to put her plan in place and to see if the plan for moving the manure around and disposing it might help diffuse the situation. One of the things they always have to remember is that they are talking about agricultural land. Agricultural land is exempt from air pollution standards. Although there are more horses than would be allowed on the property, he doesn't know whether there is more dirt generated by 9 horses or by the amount of horses that are actually running around on the property at any given time. He doesn't know if that is 22 or 12 or whatever the case might be. There will always be dust there anyway. Even if there was dust, except through the renewal of this plan and the fact that they want to have more than 9 horses, they put on the requirement to control dust on it. The fact of the matter is that if there were only 9 horses, there would be no requirement to control dust at all. They are hoping that with the new plan and the fact that they are going to move some stuff around, they think everybody can work together and they will see what happens in 3 years.

**MOVED BY COMMISSIONER FLANDERS**, seconded by **COMMISSIONER HARTKE** to approve ZUP10-0011 NORTH PRICE STABLE with stipulations provided by Staff. The item 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 May 19, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:13 p.m.

 5-19-10  
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Michael Cason, Chairman

  
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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 19, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Cason called the meeting to order at 5:35 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 Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

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 May 5, 2010 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.

A. DVR09-1003 VALLEY CHRISTIAN HIGH SCHOOL  
**Approved to continue to the June 2, 2010 Planning Commission hearing.**  
Request rezoning from Planned Area Development (PAD) to PAD Amended zoning with Preliminary Development Plan (PDP) approval for school-related uses on an approximately 3-acre site at the southeast corner of 56<sup>th</sup> and Galveston Streets. Also, PDP approval for an amended campus master plan, new building architecture, and

signage on an approximately 15-acre site at the northeast corner of 56<sup>th</sup> and Galveston Streets.

B. DVR09-1013 NORTHEAST CORNER OF RIGGS & COOPER ROADS

**Approved.**

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximate 40-acre site located at the northeast corner of Riggs and Cooper Roads.

C. DVR10-0008 NORTHEAST CORNER OF WILLIS ROAD & THE CONSOLIDATED CANAL

**Approved.**

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximate 1.84-acre site located at the northeast corner of Willis Road and the Consolidated Canal.

D. LUP10-0010 UNO STOP MARKET & RESTAURANT

**Approved.**

Request Liquor Use Permit approval to allow liquor sales as permitted under a Series 12 Restaurant License for the sale of all spirituous liquors for on-premise consumption only within a new restaurant and outdoor patio area. The property is located at 30 West Galveston Street, west of the northwest corner of Arizona Avenue and Galveston Street.

1. The Use Permit is for a Series 12 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan, Site Plan, and Narrative shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.
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 landscaping south of the patio area shall be maintained in a weed/grass free manner, and trees and shrubs shall be maintained including pruning and/or trimming appropriate to the tree and shrub species.

E. LUP10-0017 D'VINE GOURMET

**Approved.**

Request Use Permit approval for a Series 7 (Beer and Wine) liquor license for on-premise retail sales within an existing retail store. The subject site is located at 1075 E. Riggs Road, Suite 5, east of the southeast corner of Riggs and McQueen Roads.

1. The Use Permit is for a Series 7 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

F. ZUP10-0003 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 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. 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 such as but not limited to application for and issuance of a Certificate of Occupancy.
10. **As represented by the applicant, clients are restricted to corporate accounts only. No individual general public clients are permitted.**

**VICE CHAIRMAN RIVERS** stated he will be voting 'no' on Item D as this is an establishment where they will be serving liquor next door to a school and the distance between this establishment and the school property is less than 200 feet.

**MOVED BY COMMISSIONER HARTKE** seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda with additional stipulations as read in by Staff. The item 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 June 2, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

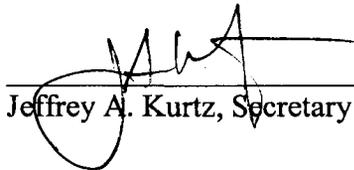
8. ADJOURNMENT

The meeting was adjourned at 5:48 p.m.

 6-2-10

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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 2, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Commission Kelley.
3. The following Commissioners answered Roll Call:

Chairman Michael Cason  
Vice Chairman Leigh Rivers  
Commissioner Michael Flanders  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER FLANDERS** to approve the minutes of the May 19, 2010 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. Item G was pulled to action.

A. DVR09-1003 VALLEY CHRISTIAN HIGH SCHOOL

**Approved.**

Request rezoning from Planned Area Development (PAD) to PAD Amended zoning with Preliminary Development Plan (PDP) approval for school-related uses on an approximately 3-acre site at the southeast corner of 56<sup>th</sup> and Galveston Streets. Also, PDP approval for an amended campus master plan, new building architecture, and

signage on an approximately 15-acre site at the northeast corner of 56<sup>th</sup> and Galveston Streets.

1. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Valley Christian High School", kept on file in the City of Chandler Planning Services Division, in File No. DVR09-1003, except as modified by condition herein.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
5. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
7. Construction shall commence above foundation walls within 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.
8. 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.
9. Approval by the Director of Planning and Development of plans for landscaping and perimeter walls and the Director of Public Works for arterial street median landscaping.
10. 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.
11. **The applicant shall work with Staff to provide façade relief offset for the classroom building. Details to be worked out with Staff.**

B. LUP10-0014 CVS PHARMACY #3967

**Approved.**

Request Use Permit approval for a Series 9 (all spirituous liquor) liquor license for off-premise consumption. The subject site is located at 3990 W. Ray Road, northeast corner of Ray Road and McClintock Drive.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

C. LUP10-0015 CVS PHARMACY #3965

**Approved.**

Request Use Permit approval for a Series 9 (all spirituous liquor) liquor license for off-premise consumption. The subject site is located at 5975 W. Chandler Blvd., southeast corner of Chandler Boulevard and Kyrene Road.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

D. LUP10-0016 CVS PHARMACY #5038

**Approved.**

Request Use Permit approval for a Series 9 (all spirituous liquor) liquor license for off-premise consumption. The subject site is located at 2010 S. Dobson Road, southwest corner of Germann and Dobson Roads.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

E. LUP10-0023 CHEF CHIANG

**Approved.**

Request Use Permit approval to allow the sale of alcohol (Series 12 Restaurant License) for on-premise consumption only within an existing restaurant. The subject site is located at 4929 W. Chandler Boulevard.

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. The site shall be maintained in a clean and orderly manner.
4. 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. ZUP10-0017 CHANDLER AIRPORT BUSINESS CENTER

**Approved.**

Request Use Permit approval to operate a vehicle emissions repair facility in a Light Industrial (I-1) zoned district. The subject site is located at 2270 S. Airport Boulevard, Suite 4.

1. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The site shall be maintained in a clean and orderly manner.
3. No automotive repair work or vehicle storage shall take place outdoors.
4. Repair vehicles shall not be kept outdoor overnight.
5. Vehicle repair work is restricted to those repairs that are directly related to emissions. Major powertrain repairs are prohibited.

**MOVED BY VICE CHAIRMAN RIVERS** seconded by **COMMISSIONER HARTKE** to approve the Consent Agenda with additional stipulations as read in by Staff. The item passed unanimously 7-0.

**ACTION:**

G. ZUP09-1028 POLLACK ELLIOT WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Elliot and Alma School Roads.

**KEVIN MAYO, PLANNING MANAGER**, stated this is a request for Use Permit approval to install a wireless communications facility in the form of a monopalm within property at 2984 N. Alma School Road. This is a commercial shopping center located at the southwest corner of Elliot and Alma School Roads. This request came before Planning Commission back on April 7. It was continued because Planning Commission directed the applicant to investigate alternative sites within the immediate intersection and immediate area. The applicant performed that investigation. Ultimately this was scheduled to come back before Planning Commission on May 5 but got continued again because of a scheduling conflict with the applicant. It is back before them this evening.

The request remains the same. The applicant went out and investigated alternative properties in the area. The inventory and reasoning behind it is attached to the memo that they have provided for them. They were not able to secure an alternative location in the immediate area and the request comes back before them basically unchanged. To refresh their memory this is a request for a monopalm wireless facility at that southwestern side of this southwest corner. It is coming before them with the applicant requesting a 55-foot monopalm. They will see in the conditions that they recommend taking it to 45 feet keeping it in concert with the maximum building height that could be achieved on a commercial shopping center anyway. The pole is located approximately 100 feet from the nearest residential property line. Staff is recommending approval of this with the condition to take it down to 45 feet, again, keeping in mind that buildings could be up to 45 feet tall at a commercial shopping center and they could have a building that high located 100 feet away from the residential property line. Mr. Mayo said Staff is recommending approval and they would be happy to answer any questions.

**CHAIRMAN CASON** asked if there were any questions for Staff.

**COMMISSIONER VEITCH** told Kevin he brought back the minutes from the April 7 meeting and unless there is a misprint or he is not reading this clearly, the request was for 65 feet the first time and the recommendation was for 55 feet. Now the recommendation has dropped to 45 feet. Can he illuminate that a little bit?

**MR. DERMODY, SENIOR CITY PLANNER**, said this particular site was recommended for 45 feet in height. He might be thinking about the site a mile from here over at Warner and Alma School, which was recommended for 55 feet. The case before them was and is being recommended for a 45 feet. **COMMISSIONER VEITCH** stated the April 7 minutes say otherwise. Mr. Dermody said they would have to correct those minutes.

**RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA, ARIZONA, REPRESENTING CLEAR WIRE**, stated that he has with him tonight his site acquisition specialist who has personally talked to all of these landlords again, even after the last hearing they attended to verify in fact that they couldn't get a winning landlord at any of those locations. He also has an RF Engineer here to explain to them why they need to be here and not somewhere else and why they need 55 feet, which is what he agreed to last time, which would be an acceptable height. When asked why he always comes in at 65 feet it is because negotiation tactics to get what he needs and they asked him to not do that anymore. So on all of his applications henceforth going forward, he is submitting them to Chandler at the height that they need. They need 55 feet here and the RF Engineers are prepared to tell you why they need 55 feet. There was one lady here in opposition 2 months ago that spoke to them. He doesn't see anyone here tonight. He can assume that she is still in opposition to it. He had 3 people attend the community meeting. None of them were in opposition to it. They all had questions about it and he answered those questions. Once again, he doesn't have the power of eminent domain and he can't place these where he would like to place them, otherwise he would place them

there. He also has Mr. Dan Pollack here who is the landowner in this particular case in case you have questions of him. Mr. Anderson said he is turning it over to Brian Rudd who is the site acquisition specialist who can explain to them what the landlords had to say.

**BRIAN RUDD, 2505 E. LEHI ROAD, #15, MESA, ARIZONA**, stated he is the site acquisition specialist for this location. He has a map, which was turned in to Staff of different locations that they have tried. He showed it on the ELMO. He said he has several different locations there that he has actually personally spoken with somebody on the property who owns the property or who manages the property and there were several different reasons that they were not willing to enter into a lease with them. Some of them could not agree with their lease terms and others flat out said no they would not enter into an agreement. Some others even said they don't want to give up space. On this map there are addresses. At the 3000 North Alma School Road, which is a Fresh and Easy store, they do not allow wireless facilities on any location. He has tried a handful of others and they are not willing to allow the land to be used for a wireless facility. At 955 E. Elliot, which is managed by Derrito Partners, he spoke with 3 or 4 different managers at this company and they were not willing to enter into lease negotiations because there was not enough room on the property. The actual landowner was not willing to speak with him due to the fact he had these managers.

**VICE CHAIRMAN RIVERS** asked him if each time he talks about one of these properties could he point it out on the map? Mr. Rudd said yes.

**MR. RUDD** then showed where the 3000 North location on the northwest corner is and the 955 location, which is on the southeast corner. The owner at 2994 had the same issues. He did not want to tie up any parking in his lot. The 3100 location was a very limited, tight space. They tried several different designs to locate on this property but were unable to. The 3180 location is a church and they actually entered very far into the process with them. It came to the point where the Church of the Nazarene said at this location, no, but keep them in mind for future areas. They did not have the parking spots to give up or the landscape areas to give up. On the northeast corner is a Pollack owned property, which is very close to residential. They felt it was necessary and better off to locate down here on the southwest corner, which has a little more room from residential and the landowner, Mr. Pollack, recommended they move down there. It fits better and they are not blocking any bay doors or loading doors and loading docks on that area. He asked if there were any questions for him?

**CHAIRMAN CASON** thanked him for coming with the table and being able to show them exactly where they are on the map. He asked about the property, which he tried to point them to the last time they were here at 3150 North Alma School. Could he tell him the results of the discussion with that owner? Mr. Rudd said they made several attempts to contact them and they were never able to get a call back or speak with anybody. He left numerous voice mails and he has stopped by and knocked on the door and was never able to find the correct property owner or the person he needs to speak to in order to enter

into this lease agreement. **CHAIRMAN CASON** asked them why they didn't put it on their table? Mr. Rudd said this was something that was previously sent to Staff and he wanted to keep it consistent and bring them what was sent to them before the last time that they met. **CHAIRMAN CASON** asked them if they had actually looked at the site? Mr. Rudd replied yes. **CHAIRMAN CASON** asked what about the site was appealing to them? Mr. Rudd said he was asked to go and speak to the landowner and out of good faith he went and sought after the landowner. It would be a tight fit, possible maybe, but he was never able to make contact with the landowner. **CHAIRMAN CASON** asked if there were any questions for this speaker?

**COMMISSIONER HARTKE** asked if the space they actually need is far less than the other cell tower because of minimal space? He said to look up at the one just below the church. What are their minimal requirements? Mr. Rudd answered that minimal requirements differ per site. They can squeeze them in. That is a construction issue. He personally do not know the exact answer for that because it changes and the cabinet doors. 10 x 15 is usually standard for what they minimally go. **COMMISSIONER HARTKE** said even at that level they are saying that all the other sites in question here were not satisfactory. Mr. Rudd said per the landowner's request, yes, meaning the property owner of that parcel. Where they would be allowing us to locate and them trying to fit their equipment there either would not work or they would come out and say that would be their reason for not allowing them to locate on the property. They did not have sufficient room. **COMMISSIONER HARTKE** said in relation to the site that they are desiring to put this on, he realizes where this is and tucked behind that dumpster, he is not sure what his vote would be with changes. But if that was moved to the south and east, you could garner a little bit more room away from residents, which is really going to be his issue. At a 100 feet he is not willing to vote yes on it. He is not sure how much distance he would gather away from residences but if this were slid on that wall to the south and east, you would gain a little more. Is that not acceptable to the landowner because it is tucked up behind the dumpster and around the corner from that curb? Is that why this was the site that was agreed upon? Mr. Rudd asked if he was discussing about coming down to this corner of the building? **COMMISSIONER HARTKE** said no, halfway down that wall and rather than a corner they get the maximum distance away from residences, if they would split that wall in half. Mr. Rudd said there are doors on that wall that would limit access. Those doors are used for loading and unloading. **COMMISSIONER HARTKE** said they are not loading doors. Mr. Rudd said they are not loading bays but they are able to access with hand held boxes or items. **COMMISSIONER HARTKE** said he understood but with their requirements of 10 x 15 there is possibly room. If they were 30 x 30 there wouldn't be. They described a smaller space. Is that at all a possibility to garner more distances away from residences, which is going to be his issue here? Mr. Rudd said that is something they can discuss with the landowner and with Rulon Anderson.

**CHAIRMAN CASON** asked if there were any other questions for this particular speaker. He asked Mr. Anderson if he wanted to invite anybody else up? Mr. Anderson said he would be glad too. Mr. Anderson said when he says it is his call, when they walk

these sites with the landowner and Dan Pollack personally walked this with Brian and him at the time they chose the location. Once you find a willing landlord, the first thing you have to do is figure out where you are going to put it that is going to make everybody happy. Of course he would love to have a 200-foot separation from residential because that makes Bill happy too. It is his intent to try and make Bill happy because then his job is a whole lot easier. They have a problem with our statute because our statute doesn't specify a setback distance. They get to a point where is 79 feet o.k. or is 39 feet on one side o.k. and 150 feet not o.k. here? From a zoning perspective he doesn't have a clue. Could we slide it over into the middle? They are not sure and he is going to ask Dan Pollack to address this. He can only tell him where he can go and try and succeed and where he believes he can't succeed. If they would have gone into the landscaped area in that corner, which is a partial retention basin, he believes they couldn't succeed there. He mentioned to Dan at the time, they can't push back in there and he is going to have to take a parking space. If he is going to have to take a parking space and he is going to have to surround it with an 8-foot wall, where would the best place be to hide that? Right next to the dumpster that already has a wall there. Slide it over into the middle of that area and you are creating another dumpster like effect in the center. That was the rationale that he placed with putting it next to the dumpster. They can separate the tree from the compound. In some cases they keep the tree in the compound. 10 x 15 is inside the compound. You can actually plant the tree elsewhere and as long as you are within a reasonable distance to be able to place underground cables into the compound and separate it. There are instances where they do that. This didn't lend itself to that so they didn't propose it here. He said he can have an RF Engineer explain to them why he has 55-feet because he is the guy he also has to make happy. If it doesn't work, there is no sense in having it. There are 3400 homes that are associated with this site that will not be covered in the event of a denial. They can't get a site and they have nowhere else to go and there will be 3400 homes that will not be covered in Chandler.

**COMMISSIONER PRIDEMORE** asked from the last time were there any new sites for this particular pole they checked out or is the list they are now looking at the same list that they looked at before? Mr. Anderson said they went back per their request and re-addressed with every one of those landlords the ability to place this site somewhere else. In fact, he went back in an e-mail from Mr. Pollack, can they not possibly move this behind the bank building on the corner in the middle of your shopping center? The answer came back 'no'. They went and addressed every one of those landlords again in the hopes that they would be able to get them to change their mind. He said he was going to give them a good example of this. The Pollack site at Warner where they were asked by this Commission to move to the northwest corner of that intersection. AT&T followed him in here with a crown site on that very corner. They went off and tried to contact the landlord again and he still to this day will not talk to them. They haven't been able to move anything forward and Commission has already voted and approved that site for AT&T on the northwest corner. They haven't been able to get a landlord to answer them. So it happens. However, Crown is perfectly willing to let us work with them. It doesn't solve the problem here at Elliot but that is the answer to Warner, which has already gone to City Council. It has been continued.

**BALAJI NAGARAJAN, RF ENGINEER FOR CLEAR WIRE, 5010 E. CHEYENNE DRIVE, PHOENIX** came to the podium. **CHAIRMAN CASON** asked him if is going to help them understand the rationale between 45 and 55? He said yes. Mr. Nagarajan said the average rad center in the City of Phoenix has been 60 feet for all Clear Wire sites. In the City of Chandler they don't have high rad centers. They have gone to 55 feet thinking that is what they will be getting. A 55-foot monopalm is supposed to cover 3400 in the area. The red circle that they see (he showed the area on the ELMO) is the number of households that they are trying to cover with this monopalm. He showed the current site they are proposing and the green dots that are surrounding that area shows the other Clear Wire sites in that area. The average site spacing for Clear Wire is about .5 to .7 miles between each site. That is what a site covers. This location at the southwest corner is more optimal from a RF coverage prospective in covering those households that they want to cover. **CHAIRMAN CASON** said regarding the indentation by their proposed site, are they looking at the red line, is that before they put it in or after they put it in? What is the timing of the red line around their proposed site? Mr. Nagarajan said it will be shown in the next slide because the red line is the proposed coverage that site is going to cover right now. **CHAIRMAN CASON** asked so the red is what they need to cover? Mr. Nagarajan replied yes. He said this slide is basically showing all the areas that are covered by green and shows that all the surrounding sites already cover it. Any areas that are in white or black space are ones that are not covered. Looking at the location of where the site is right now at the southwest corner, is right in the middle. If he goes on to the next slide, they can see clearly that wherever they see the white spaces that area is being covered by this 55-foot monopalm at this site. You can still see some white spaces. This is after they went down from 65 to 55 feet so they are still not able to provide coverage in some areas with the 55-foot monopalm. Clear Wire wants to provide both residential and on-street coverage because it is mobile and Internet. The next slide they see on an on-street level they are completely covering all the streets in the area even though they are not covering residential in some areas. That is why this site is a definitely important for us at a 55-foot rad center because they need to cover a population of around 3000 in that area. If they go down to 45 feet, these white spaces are going to become even more and there is no point in having a site. **CHAIRMAN CASON** said it seems like that if they move a little bit further east of Alma School that they would be able to actually cover more area. Has there been any discussion about that? Mr. Nagarajan said the problem is that he loses coverage on the west side of town. If you look at this slide, they can see a lot more density on the west side. It doesn't matter if it is on the west side or the east side, but right now as far as what they see it provides the optimum coverage for that neighborhood. It provides both residential as well as on-street coverage. He would pick this location, which is optimal at this height. **CHAIRMAN CASON** asked why the coverage isn't round? The coverage from their tower, how come it isn't round rather than looking like bat wings? Mr. Nagarajan said the wings here are not the coverage of the site, he is showing the holes here. Rulon Anderson said to let him help from a lawyer perspective instead of an engineer's perspective. He said in a perfect world they are cells that are circled. When they get into certain areas they will move the antennas because their target objective happens to be a

series of homes. The other thing he wanted to make sure they understood is this is an engineering analysis. None of these sites are on air. He said he is sitting here telling them that he is going to have coverage but he will be the first one to tell you that it is an engineering estimate of the coverage. There is no exact science in what they are looking at. **CHAIRMAN CASON** said so their research tells you that this is the optimum point. Mr. Nagarajan said the height is the key here. The number of the population it is covering is calculated from the rad center that they are getting. So at a 55-foot rad center they are covering a population of 3400 in that area. The lower they go, the more holes they will see and the lesser the bang for the buck. **CHAIRMAN CASON** asked on their grid is that a full section or a quarter section? Mr. Nagarajan said that is a full section. **CHAIRMAN CASON** said they aren't going to do anything at Arizona Avenue and Elliot? Mr. Nagarajan replied that at Arizona Avenue and Elliot they are covering on-street. They can provide residential coverage through the entire City of Phoenix. That is why it is a combination of residential coverage and on-street coverage. They need to cover 100% on-street coverage if they are not able to provide residential coverage, so that is what this map shows. Areas where they are not able to cover residential, they can use on-street coverage. **CHAIRMAN CASON** said it is more of a strategic issue than anything else.

**COMMISSIONER PRIDEMORE** thanked him for helping him walk through this particular aspect. He said it has been helpful. **CHAIRMAN CASON** agreed.

Mr. Anderson said he was trying to find the data to give him what he wanted. There is an expansion and obviously there is a map that has the entire Phoenix metropolitan area on it and it has Clear Wire sites dotted on every one. They have it on Google. He asked them to expand it before this meeting. He showed where they are at and the one to the north. He showed when they get out into this industrial area, he doesn't show very many green dots because they are not trying to cover industrial areas with what Clear Wire is trying to do. Clear Wire is trying to maximize the impact of 4G with folks that use their cell phones and their computers at their home. They aren't really targeting the business area. That is what he was trying to show them; how the pattern doesn't work if you are doing optimal coverage of everything 100%. T-mobile started out with a 197 sites and they now have over 700 sites as they try and plug the holes. Clear Wire is coming in to Phoenix and Tucson with 600 sites and is already trying to plug the holes from the engineering analysis. When they really build and turn on these sites, then you are going to see the real holes and they will have to fix those holes. **CHAIRMAN CASON** said anything in their line of business and communication is open to density. The more customers in any given area is good business for anybody. Mr. Anderson stated that density will have a dramatic impact on it also after they are turned on. **CHAIRMAN CASON** said he could agree with that statement. He asked about the white area that is left. That is basically the industrial area that is between the canal and west of Arizona Avenue. Mr. Anderson said if he could expand the map out and would start residential, you would start seeing other sites. This is not intended to be 100% coverage of Chandler today. There are areas of Chandler that will not, when this thing turns on the first quarter of next year that will not have coverage. That has been the rub in every market that Clear Wire has opened in

today. **CHAIRMAN CASON** said they should talk to Mr. Pollack. If at least they can't get the compromise they are looking for, then at least they can kind of achieve some kind of compromise here in so far as moving it a little farther away from the homes that are most impacted by it.

**DANIEL POLLACK, 1136 W. BASELINE ROAD, MESA,** said he will cover a couple of things that they are talking about just as an overview for the groups so that you know what the landlord is thinking when going through an analysis of one of these sites. It seems like there are a lot of questions there.

In addition to this southwest corner, they also own and control the northeast corner of this intersection. The rear of this complex is always the preferred location for one of these. The primary reason for that is because they are always encompassed in a box that even though small at 10 x 15, it is 8 to 10 feet tall which blocks visibility. From the City perspective and from the residential perspective they want to have these things as far from their housing as possible. That is going to put it up towards the street, which is going to block visibility to the retailers which is the primary goal of any shopping center is to drive traffic to the tenant. They always look to put these in the rear of the complex. This center at the northeast corner is way too tight back there. If they put it anywhere back there, it would either impact one of the loading areas for one of the tenants or the driveway that is obviously a fire lane as well as a delivery area. The northeast corner was really out completely and that was the first place they started looking with Clear Wire. They actually didn't come back to them at this corner until they had exhausted a lot of their other options at the other 2 corner with other landowners. When they came to them at the southwest corner, their original intent and goal was to go behind the Shangri-La building west of that building. They have a tenant space that faces that direction. They have 800 square feet that faces west and then Shangri-La's rear door is right next to that. There is really no where they could of put it in that building or around it. The next location was naturally where they would have always thought to put it in the first place, which is behind the building. Their first inclination is to say let's put it at the back corner because they have a big empty retention area back there, it makes sense and keeps it away from their building. Rulon brought it to his attention that it would be a little to close for comfort to the residential area back there. In an effort to compromise between his needs and ours they brought it closer to the building. It was mentioned by this group to slide it along that back wall. There are always 2 things they have to take into account. Number one the current tenant and their configuration. The current tenant that is in that back corner space is a Chinese Buffet. They have obviously a very high traffic use. They are making deliveries every day and taking out trash multiple times throughout the day. That is a very high active area behind the backside of their store. As a result of that they have to stay as far away and leave a big a clear area behind their loading area as they possibly can for their business sake.

The second thing they want to look at is future uses and this is something that every Planning Commission and City Council should be conscious of. In the future twenty years down the road, this space may or may not be a Chinese Buffet. He has no way of

knowing that. While this lease with Clear Wire will be a 20 or 25 year lease with all the options maybe even longer, they have to look at how this is going to impact their ability to utilize that space long into the future. They may end up having to split that 10,000 square foot space one day. Where does that potentially put a roll up door if that is some different kind of user? Where does that put other types of things? Keeping that at the back corner of the space, which is where they put it, is an optimal location for them. If they slid that to the middle of the building, it may get it another 8 or 10 feet further from a house but it is going to limit their ability in the future to rent that space. It puts them in a difficult position to try and move that to another location. It would impact their tenant directly and their future ability to lease the space.

**CHAIRMAN CASON** said if he is a medium size national chain and he wants to use a satellite POS communication system, would they allow him to mount that on his roof? Mr. Pollack said if he was an existing tenant, yes. **CHAIRMAN CASON** asked so they would use some type of non-penetrating roof mount in order to protect the membrane? They would just run the cable down the side? Mr. Pollack replied yes on the inside.

**VICE CHAIRMAN RIVERS** said he was on the same page as far as moving this thing down that angled wall because right now from what he can discern is that this is about 90 feet from the nearest backyard. Correct? The point he was going to make is that if it moves halfway down that wall it will then be 110 feet from that same fence. It really doesn't make much sense just to move it that little bit. He is very concerned about it's proximity to someone's back yard. If these people are out in their back yard, how happy are they going to be to sit in their back yard and stare at this thing?

**CHAIRMAN CASON** asked Mr. Anderson how come they don't use non-penetrating roof mounts? You only want to be 10 feet higher than the height of this building. Mr. Anderson said this building is not a 55 foot building. You are limited in height to 45 feet in this district so if this building was maxed out, it would be 45 feet tall. They need 55 feet so the answer is it is not 10 feet. It is a lot of feet and the only way that they are going to get that is with a vertical element. If you look at the pictures in their file, there are palm trees that are in excess of that now of 55 feet. What they are going to see out their back yard if you could see through the trees that exist in that corner is a loading dock with trucks that pull in and unload. What they are going to see is a palm tree sticking up. They already see palm trees sticking up. Granted it is a fake palm tree not a real palm tree. He can't get that height from the roof or he would be on the roof. **CHAIRMAN CASON** said to answer that point how many locations do they have in the valley that are on top of roofs? Mr. Anderson deferred to the RF Engineer. **CHAIRMAN CASON** also asked if they were non-penetrating roof mounts or are they mounted? Mr. Anderson said they are non-penetrating. They have one right here at the ACM building. It is non-penetrating that roof. They have antennas mounted on that and there are probably 8 dishes because it is the focal for all of Chandler. **CHAIRMAN CASON** asked Staff how tall is the shopping center there? Mr. Dermody said it is approximately 30 feet tall right now. Maximum height of building code is 45 feet but the actual height is probably 30 to 35 feet. **CHAIRMAN CASON** asked so you would have

to have a 20 foot post on top of that building to get anywhere close to what they want to do? Mr. Anderson replied yes. People have asked him a lot of times why don't they stick a pole on top of the building. If you saw the caisson that is required to support the pole in the first place, you would know why you don't put them on top of the building. There is no way they are going to get a spread footer that is going to accommodate that pole sticking off of that building. **CHAIRMAN CASON** said they are trying to look for compromise. Mr. Anderson said he is all for it. He would love to have a 4-story building on that corner. He could put a parapet 10 feet up and call it a good day. He doesn't have that opportunity here. Those 20% rooftops aren't in the southeast valley. He has a few; Bank of America building, ACM building, and The Holiday Inn. There are a few buildings that they have been able to avail themselves of but they have more raw land sites here and ball field lights at schools, which they use where they can.

**COMMISSIONER HARTKE** said that Mr. Pollack presented the fact that they own the northeast corner and again, freestanding it would be in a residential back yard. He believes that building is closer to 40-45 feet. He asked Mr. Dermody if he knew the height of the northeast corner building? He knows it is a 2-story up there. The second story used to be a gym on the fitness center. Mr. Dermody replied it is taller. He would estimate about 40 feet. **COMMISSIONER HARTKE** asked since they are discussing roof mounts is there a way to pull that away from residential and pursue a roof mount on a taller building? It seems like they have a taller building that is also in their site that is owned by the same landowner. Mr. Anderson said the difference between his wishes for a taller building at 45 feet and the difference between a 24-foot building here and a 35-foot building there still doesn't get him there. If he doesn't have an acceptable height and if he can't get 55 feet, it doesn't do him any good. You can put an antenna on top of your house but it isn't going to cover anything but your 2 to 3 neighbors around you. Look at the little antennas everybody puts on their houses. Where do they shoot to? They don't shoot down to the local Cox place that has 5000 of these big things shooting up to all the satellites to allow you to have 400 channels at your house on a cable mode. They are not like that. You get one little thing that shoots that satellite and if you block, you don't get to use it. If the homeowner's association says you can't put that little antenna on the north or south side of your house, you don't get it. So you have no choice but to use Cox. **COMMISSIONER HARTKE** said he guesses if this was further away from residents on a roof, he could personally support a 55-foot on that. His concern is being 100 feet away from residents. That is where he is stuck. He is trying to look for a compromise. He doesn't know whether the owner would be interested in allowing a roof mount that would allow you to garner more distance away. A 10-foot on top of a roof is far less obtrusive than the palm where it is currently being suggested. Since they are talking roof mounts, they have a tall roof within their signal area, can that be pursued as a possibility? Mr. Anderson said the answer is no it is not a tall enough roof otherwise they would have brought it here in the first place. He would be all over it if it were a tall enough roof. It is not 40 feet tall. He asked the landowner how tall the building is? **COMMISSIONER HARTKE** said he just knows that is two stories and this is one story.

Mr. Pollack, the landowner, said he is speculating that he probably has never been on the roof. He hasn't personally either. He does know if you are standing in the parking lot looking at the building, you are looking at a lot of sign band and things that go a lot taller than the actual roof structure of the building. The sign band is probably going to go 5 or 10 feet taller there than the actual roof structure below it. Even though it is a two-story building in with Pure Fitness, they are probably looking at 25 or 30-foot tops on the top of that ceiling height, which would mean he would need a 25-foot pole above that. They still wouldn't let him put that at the front edge of the building. They would make him put it at the back edge of the building, which would actually put him closer to the houses than you would be over here. He doesn't know if that would work, but it would be a creative solution if they had a three-story building. **COMMISSIONER HARTKE** thanked him.

Mr. Anderson said a one-story building is typically 12 to 14 feet tall. A two-story building is typically 28 to 30 feet tall. Doing the math, they count the stories. If he sees a four-story he counts 4 x 12 because that gets him there because there is crawl space between and there are 10-foot ceilings. He goes through this mental exercise when he looks at buildings because he has done this a lot.

**CHAIRMAN CASON** thanked Mr. Anderson for bringing their people, as it was very helpful. He asked if there was anybody in the audience that would like to speak on this matter. There were none. He closed the floor and opened it up for discussion on the dais.

**VICE CHAIRMAN RIVERS** stated that north of Elliot and west of Alma School there exists already a pole or structure that would hold Clear Wire's array. It has been abandoned and it is sitting there basically ready to have something put on top of it. It is blocked from the neighboring apartments by very tall eucalyptus trees, which would seem to be an ideal location for this. It would be money saving as well as an ideal location. It is a shame they were unable to contact the owner because he thinks that would be the perfect place for this. He doesn't think where they have it is anywhere close to being a perfect place for this. If he were living 90 feet from this structure, he would be complaining and he doesn't understand why the neighbors aren't here. He doesn't feel comfortable putting this structure directly behind somebody's back yard within 100 feet so he will be voting against it.

**COMMISSIONER FLANDERS** stated this item and Staff's analysis as far as a commercial piece of property adjacent to a residence goes, the maximum height makes sense to him. It is commercial use and the height that Staff has indicated is what it should be if they are building a building or antenna. He is comfortable with the suggestion from Staff of 45 feet. At 55 feet he was having heartburn with it. That is where he is on this.

**COMMISSIONER HARTKE** said he can understand Commissioner Flanders view but if 45-feet doesn't work then as their engineer has attested, then 45 feet doesn't work. It seems rather moot to suggest to approve that as is or to recommend that if it is not going

to work. He is still stuck at 90 to 100 feet from someone's back yard so he cannot support 55 feet at this current location.

**CHAIRMAN CASON** said he can't help but think that if Mr. Pollack owned the northwest corner that they wouldn't be here. He finds this somewhat disturbing. He was able to go on site and find the name of the individual that owns that parcel. He is quite certain that some friends of his in real estate could actually find out how to contact that person. That is absolutely the best spot for this and because they have looked for compromise and have seen none, he doesn't think they have any particular obligation to send this to Council with the way it has been presented so far. If they come in and they are reasonable and make sense and you have found the best place, they can usually live with that. This one is really, really bad and the excuses that they are hearing just don't seem reasonable. Certainly, there was a time when dishes 3 meters and bigger worked like a big umbrella and they sat on top of roofs. They can make a non-penetrating roof mount as big as you want it and it is going to be able to support a pole. Opportunities they have had before with other people that have been before them, they have made some pretty wild suggestions like underground CED's and those types of things to house equipment. Those are all options. He finds the statements that were made that they couldn't find another place that was economically feasible for them is not really acceptable. He thinks that finding a place that impacts so many people because it is the cheapest price is just plain wrong. He thinks that when you don't want a non-penetrating roof mount on the front of their building because of the way it is going to look, he couldn't agree more. Think about the person that has to look at it from their house. You have a 25-year lease and if all of the things work out right for them with the contract, it could be 50 years that it sits there. What about the guy that owns that house who has to look at it for 50 years? The reason they have distances between homes is because they believe that if they make compromises with these things they can be consistent in what they issue. They come in knowing that they have that consistency where they are always looking for that distance and those types of things with the criteria that they need bring to them and yet they seem to come up with a main excuse as to why they can't get them. The one place they ask them to go look and see if they could get to, it just didn't come back. They couldn't find the person, they had a longer period of time to do it because they have some things coming up and they couldn't make the last meeting. He said he is kind of upset. He thinks they could do better and he is disappointed that they haven't. He asked for a motion.

A motion was made by **COMMISSIONER FLANDERS** to approve ZUP09-1028 POLLACK ELLOIOT WIRELESS FACILITY subject to recommendations by Staff. There was no second.

**CHAIRMAN CASON** stated the motion died due to a lack of a second.

A motion was made by **VICE CHAIRMAN RIVERS** to deny ZUPU09-1028 POLLACK ELLIOT WIRELESS FACILITY, seconded by **COMMISSIONER PRIDEMORE**. The item was unanimous denied 7-0.

**CHAIRMAN CASON** thanked them for their time and said he appreciated the knowledge they provided to them. He said it was very enlightening.

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 June 16, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

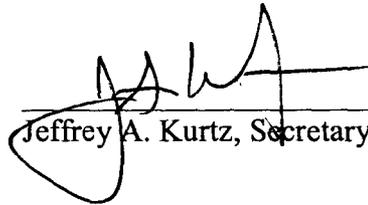
8. ADJOURNMENT

The meeting was adjourned at 6:29 p.m.



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 16, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Commissioner Hartke.
3. The following Commissioners answered Roll Call:

Chairman Michael Cason  
Vice Chairman Leigh Rivers  
Commissioner Michael Flanders  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER KELLEY**, seconded by **COMMISSIONER FLANDERS** to approve the minutes of the June 2, 2010 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 items pulled for action.

**A. DVR10-0005 ALLRED CHANDLER AIRPORT CENTER**

**Approved.**

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended to expand the list of permitted uses within an approximately 14.6-acre business park located at the northeast corner of Piper Drive and Germann Road (approximately ½ mile west of the northwest corner of Gilbert and Germann Roads).

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 Planning Services Division, in File No. DVR10-0005, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3673, in case DVR04-0037 Chandler Airport Center and in case PDP06-0001, except as modified by condition herein.
3. 'Athletic training facilities' and/or 'family recreational/instructional' uses such as basketball, volleyball, gymnastics, rock climbing, cheer leading, bounce facilities, toddler gyms, and other uses of this nature shall be permitted within buildings A and C only. Such uses shall not be permitted within building B.
4. Businesses rated as 'H' occupancies shall not locate within buildings A or C where an 'Athletic training facilities' and/or 'family recreational/instructional' use is located. Conversely, the proposed uses shall not locate within buildings A or C where an 'H' occupancy rated business is located.
5. There shall be no competitions held Monday through Friday between the hours of 8 a.m. to 4 p.m., holidays excluded.
6. **The landscaping shall be maintained at a level consistent with the time of planting.**

B. LUP10-0020 DOS GRINGOS MEXIGRILL

**Approved.**

Request approval of a time extension for a liquor Use Permit to allow the sale of liquor (Series 6 Bar License) at an existing restaurant located at 1361 North Alma School Road, approximately one half-mile north of Ray Road on the east side of Alma School Road.

1. Development shall be in substantial conformance with previously approved zoning conditions and the Development Booklet, entitled "Dog Gringos Grille", kept on file in the City of Chandler Planning Services Division, in File No's. PDP06-0011 and UP06-0013, except as modified by condition herein.
2. The Use Permit is granted for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
3. "To Go" packaged liquor sales are not permitted.
4. The site and patio areas shall be maintained in a clean and orderly manner.
5. No noise shall be emitted from ambient speaker music on the patios so that it exceeds the general level of noise emitted by uses outside the premises of the business and as not to disturb adjacent businesses and residential areas.

C. ZUP10-0021 PHOENIX COMBAT ACADEMY

**Approved.**

Request Use Permit approval to allow a mixed martial arts training facility within the I-1/PAD (Planned Industrial District with a Planned Area Development overlay) zoning. The subject site is located at 114 S. Southgate Dr., Suite 1, which is south of Chandler Boulevard and west of 54<sup>th</sup> Street.

1. Expansion or modification beyond the approved exhibits (floor plan, narrative, parking plan) shall void the Use Permit and require new Use Permit application and approval.
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. The use shall be in substantial conformance with exhibits and representations.
4. The property shall be maintained in a clean and orderly manner.

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

6. DIRECTOR'S REPORT

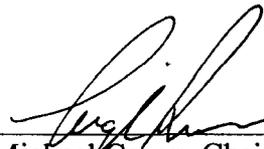
Mr. Mayo said there was nothing to report.

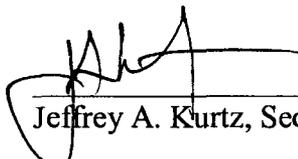
7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is July 7, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:39 p.m.

  
Michael Cason, Chairman *For* VICE CHAIRMAN  
MICHAEL CASON

  
Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 7, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Vice Chairman Rivers 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:

Vice Chairman Leigh Rivers  
Commissioner Michael Flanders  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Absent and excused:

Chairman Michael Cason

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 FLANDERS**, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the June 16, 2010 Planning Commission Hearing. The motion passed unanimously 6-0.
5. ACTION AGENDA ITEMS  
**VICE CHAIRMAN RIVERS** 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. PDP09-0023 TRI-CITY BAPTIST CHURCH MINISTRIES

**Approved.**

Request Preliminary Development Plan approval for an electronic monument sign. The subject site is located at 2211 W. Germann Road, west of the southwest corner of Germann and Dobson Roads. **(REQUEST CONTINUANCE TO THE JULY 21, 2010 PLANNING COMMISSION HEARING.)**

B. PDP10-0004 FOCUS CORPORATE PLAZA-MUTUAL OF OMAHA BANK

**Approved.**

Request approval of a Preliminary Development Plan (PDP) amendment of the comprehensive sign package for building mounted signage. The property is located at 555 W. Chandler Boulevard, east of Alma School Road on the south side of Chandler Boulevard.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Mutual of Omaha Bank", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0004, except as modified by condition herein.
2. All signage shall be consistent with the signage contained within the attached exhibits with regards to sign type, quality, and quantity. Any deviations shall require separate Preliminary Development Plan approval.
3. Illuminated signage is approved only for the building occupied by the bank, Mutual of Omaha. The other two buildings are restricted to non-illuminated signage as previously conditioned

C. PDP10-0008 CHANDLER CENTER COMMONS

**Approved.**

Request Preliminary Development Plan (PDP) approval to allow modified monument signage for the Chandler Center Commons at 5500-5590 W. Chandler Boulevard.

1. Substantial conformance with application materials kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0008, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3770 in case DVR05-0030 SILAGI CHANDLER COMMERCE CENTER, except as modified by condition herein.
3. A planter box shall be added to the monument sign base in a manner similar to the existing planter box except that it shall utilize forms and colors drawn from the new sign's design.
4. The monument sign shall utilize push-through acrylic letters or individually mounted letters for the center name. Tenant names shall also utilize push-through acrylic letters if they are illuminated.

D. LUP10-0025 WAL-MART MARKETSIDE #5902

**Approved.**

Request Use Permit approval for a Series 9 (all spirituous liquor) liquor license for off-premise consumption. The subject site is located at 950 N. McQueen Road, southwest corner of McQueen and Ray Roads.

1. 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.
2. The Use Permit is granted for a Series 9 license only, and any change of license shall require reapplication and new Use Permit approval.
3. The Use Permit is non-transferable to other store locations
4. The site shall be maintained in a clean and orderly manner.

E. LUP10-0027 MURPHY'S LAW

**Approved.**

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant and pub that includes an expanded outdoor patio (Series 12 Restaurant License) at 58 S. San Marcos Place 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 patio shall be maintained in a clean and orderly manner.
5. The "Murphy's Law" text on the submitted fence details shall be changed to a shamrock or other like design that does not amount to business signage.

F. ZUP10-0008 AUTO BODY WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility behind an auto body shop at 890 E. Chandler Boulevard. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

G. ZUP10-0012 PAPA JOHN'S WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility within the shopping center at the northwest corner of Ray and Alma School Roads. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

H. ZUP10-0013 LAGUNA VILLAGE WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility within the shopping center at the southeast corner of Ray and Kyrene Roads. **(REQUEST WITHDRAWAL FOR THE PURPOSE OF RE-ADVERTISING.)**

I. ZUP10-0022 PERFORMANCE AUTO SALES

**Approved.**

Request Use Permit approval to allow an automotive repair and performance modification business in I-1 (Planned Industrial District) zoning. The property is located at 4122 West Venus Way, Suite B, in the Stellar Industrial Airpark south of Chandler Boulevard and west of McClintock Drive.

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 repair/servicing/upgrades shall occur only within the building. Overnight storage of vehicles waiting for servicing shall occur only in the gated rear yard service area. No work or storage of vehicles to be performed outside of the gated rear yard area.
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, additional 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.

**MOVED BY COMMISSIONER HARTKE, seconded by COMMISSIONER VEITCH to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 6-0.**

6. DIRECTOR'S REPORT

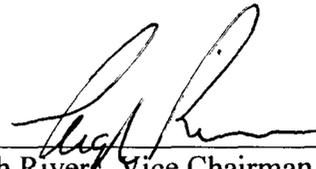
Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

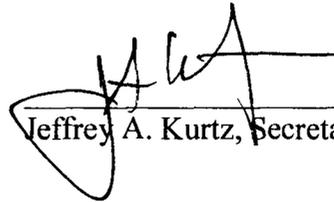
VICE CHAIRMAN RIVERS announced that the next regular meeting is July 21, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 5:36 p.m.



Leigh Rivers, Vice Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, July 21, 2010 held in the City Council Chambers, 22 S. Delaware 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 Kevin Hartke  
Commissioner Matthew Pridemore

Absent and excused:

Commissioner Kristian Kelley  
Commissioner Stephen Veitch

Also present:

Mr. Kevin Mayo, Planning Manager  
Ms. Jodie Novak, Senior City Planner  
Mr. Bill Dermody, 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 July 7, 2010 Planning Commission Hearing. The motion passed 4-0 with 1 abstention. (Chairman Cason did not attend 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. Items A and D were pulled to action.

**B. PDP09-0024 ERGON CHANDLER LAB**

**Approved.**

Request Preliminary Development Plan (PDP) approval for a modular building within the Ergon Asphalt property located at 6940 West Chandler Boulevard, north of Chandler Boulevard and east of 56<sup>th</sup> Street.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Ergon Asphalt Products", kept on file in the City of Chandler Planning Services Division, in File No. PDP09-0024, except as modified by condition herein.
2. This approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler such as permits shall apply.

**C. PDP10-0006 PLAZA 333**

**Approved.**

Request Preliminary Development Plan (PDP) approval for an additional tenant panel on an existing freestanding monument sign. The property is located at 333 North Dobson Road, north of Chandler Boulevard.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Plaza 333", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0006, except as modified by condition herein.
2. All signage shall be consistent with the signage contained within the attached exhibits with regards to sign type, quality, and quantity. Any deviations shall require separate Preliminary Development Plan approval.

**E. LUP10-0028 UNCLE BEAR'S GRILL & BAR**

**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. The site and patio areas shall be maintained in a clean and orderly manner.
3. **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. LUP10-0029 HARRY & DAVID (CHANDLER FASHION CENTER)

**Approved.**

Request Use Permit approval for a Series 10 (Beer and Wine) liquor license for off-premise consumption only. The subject site is located at 3111 W. Chandler Blvd., Ste. 2320, within the Chandler Fashion Center.

1. The Use Permit is for a Series 10 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.

G. ZUP09-1027 POLLACK WARNER WIRELESS FACILITY

**Continued to the August 4, 2010 Planning Commission Hearing.**

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Warner and Alma School Roads.

H. ZUP09-1028 POLLACK ELLIOT WIRELESS FACILITY

**Continued to the August 4, 2010 Planning Commission Hearing.**

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Elliot and Alma School Roads.

I. PPT09-1102 POLLACK PROFESSIONAL PLAZA

**Approved.**

Request Preliminary Condominium Plat approval for an existing office development, which creates eight (8) individual units located at the northwest corner of Alma School and Frye Roads.

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.

**COMMISSIONER PRIDEMORE** stated that on items G and H since those have been continued, he would like to see at least a letter sent to the neighbors notifying them of the significant change in the location. He doesn't think a neighborhood meeting is necessary just because the change is one that most neighbors should be in favor of but given the significant nature of the move, they should at least know about it.

**KEVIN MAYO, PLANNING MANAGER**, replied that it was noted.

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 5-0. (Commissioners Kelley and Veitch were absent.)

**ACTION:**

A. PDP09-0023 TRI-CITY BAPTIST CHURCH MINISTRIES

Request Preliminary Development Plan approval for an electronic monument sign. The subject site is located at 2211 W. Germann Road, west of the southwest corner of Germann and Dobson Roads.

1. The monument sign 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.
2. The monument sign shall be in substantial conformance with the attached site plan and sign elevations exhibits, kept on file in the City of Chandler Planning Services Division, in File PDP09-0023 TRI-CITY BAPTIST CHURCH MINISTRIES, except as modified by condition herein.
3. The illumination of the monument sign shall be reduced to 10% illumination from 10 p.m. to 6 a.m.
4. L.E.D. messages will not be changed more frequently than once every fifteen (15) seconds. Animation, scrolling, or flashing of messages is prohibited.

**ERIK SWANSON, CITY PLANNER**, stated this is a request for Preliminary Development Plan approval for an electronic monument sign. The site is located at 2211 W. Germann Road, which is west of the southwest corner of Dobson and Germann Roads. The request is for a single electronic reader monument sign. This site was approved in 2003 for site layout building architecture and signage as part of the larger Chuparosa development, which occupies the entire southwest corner of Dobson and Germann. At that point in time all signage for the church was approved and for their monument sign it was a relatively generic 6-1/2 tall monument sign without any specifics for the church. This request is to modify the previously approved monument sign to allow for an electronic reader. The monument sign proposed is approximately 8 feet tall and a little bit shy of 8 feet wide. The monument reader itself, the panel is about 2-1/2 feet tall and approximately a little shy of 7 feet wide. It is about 2 feet off the ground and so the electronic monument sign portion will occupy the lower half of that monument sign. There was a neighborhood meeting at which 7 neighbors attended. There were some concerns expressed about the illumination and is it necessary to have an electronic sign. However, there were more concerns regarding the already approved existing building mountage signage. As a follow up to that first neighborhood meeting, the sign company decided to hold a 2<sup>nd</sup> neighborhood meeting in which they brought out a mock electronic reader to show the neighbors what that panel would actually look like and

roughly the height and illumination and speed. Unfortunately, only a couple of residents were able to attend that. It wasn't a full-blown notification sent out but rather those that attended the first meeting who had left information were notified. At that point in time the 2 neighbors did come out. They weren't terribly opposed to the electronic reader and felt a little more comfortable after having that mock reader out there and weren't concerned with the illumination. It was kind of resolved that the illumination would be dimmed down from 90% during the day to 10% in the evening and those residents were comfortable with that. He said he didn't want to make it sound like they speak for all of the residents. Again, they expressed concerns their primary issue was the building not it's signage.

As a follow up to that meeting, the church decided to go back and look at the building mounted signage and decided that they could reduce the size of the lettering and paint them to blend in with one of the accent colors on the church building itself. They kind of made a suggestion to add that second neighborhood meeting and those neighbors were in support of that. Overall, they seem to think that the signage issues were resolved. However, he has heard from a couple of residents that regardless they are concerned with the electronic portion. Staff is recommending approval of the electronic reader monument sign siting that it is consistent with the PAD zoning system with what is allowed in the zoning code and other approvals. They do recommend approval with some conditions and he would be happy to answer any questions.

**CHAIRMAN CASON** asked if there were any questions for Staff on this item.

**COMMISSIONER FLANDERS** stated on stipulation no. 3 it is talking about the 10% illuminations from 10 p.m. to 6 a.m. Before that time at 10 p.m. it is at 90%. Does it just click down to 10% or is it a gradual thing that as it gets darker, the intensity goes down to 10%? He was curious about that. During the day it is 90% and real bright and at 10:00 at night it just tones down. Is it the intent to keep it that bright until that time? Mr. Swanson replied said that it was a good question. It is his understanding that it is set on a timer so as soon as it hits that 10:00 mark, it will automatically zoom down to that 10%. However, the applicant is here and they may be able to address that if it is different but his understanding is that it is set on a timer.

**CHAIRMAN CASON** asked the applicant to come up.

**JOSH GOINS, YOUNG ELECTRIC SIGN COMPANY, 6725 W. CHICAGO STREET, CHANDLER**, said yes to Commissioner Flanders' question. The electronics has an automatic photo cell in there and will automatically set the light as it starts to go down and automatically start gradually changing to that point. At 10:00 p.m. it will be right at the 10%. They have a fixed program that will set it to a specified time to where it can start gradually going back up as the sun comes up.

**CHAIRMAN CASON** said so it is on a photocell and 10:00 p.m. is in the record, but in the wintertime it would start to become dimmer at 6:00 p.m. It is actually timed more to

the actual setting and rising of the sun than actually hours. It is not specifically on a timer but more on a photocell? Mr. Goins replied yes and with that they can also program it within the software to a certain time to where those levels will stay constant until 6:00 a.m. and from there it will start gradually going up as the sun comes up to reach its peak as far as the brightness. **CHAIRMAN CASON** said they have had discussions with lumens with various different signs. Can he give them an idea of what 10% and 90% means? Mr. Goins stated for this particular LED display, at the full capacity of brightness it will reach 9700 nits at 100%. During the day at the brightest point, it is going to be 90% of 9700 nits. At the 10% it will be low, much different. **CHAIRMAN CASON** asked what a nit means? Mr. Goins said basically they would be down in the 100 ranges as far as nits go. They can predetermine that too when they install the display to figure out what the brightness is because it is also affected by ambient lighting that already exists out there at the site. They can adjust it to the 10% of what it needs to be. If it needs to go lower, they can go lower if need be.

**COMMISSIONER PRIDEMORE** asked if he could define what a nit is? Mr. Goins said unfortunately he couldn't. He knows their company has done an intensive study comparing nits to candles and lumens and stuff like that. It's kind of like comparing apples and oranges. He technically can't explain what a nit is without the definition in front of him. He said he didn't bring it with him tonight. But he could provide some information on how a nit was determined when it comes to the LED. **COMMISSIONER PRIDEMORE** asked if he also provides the information in lumens or candles? Those are measurements that he does actually understand. Mr. Goins said they probably can within that study but it is equations that he can't understand so he is not even going to try and explain it. He can provide that information to him if need me.

**CHAIRMAN CASON** asked if there were any other questions of the applicant? He said to Mr. Goins that he had a presentation that he had for some of the local residents where he brought out a television, a model of the sign or was it the actual sign? Could he explain that exercise? Mr. Goins said what they brought out was an actual 20 mil LED display that they have for that purpose, to be able to display and show their customers or communities if they have questions on it. What they are proposing for this sign is a 20 mil LED sign so they were able to bring it out there and show them exactly what the sign is going to be doing, what type of program it's going to be, what the rate change is going to be and the intensity at the brightest and lowest. They fluctuated that also when they were there. They are starting to get more and more into that wanting to physically show people what the LED is going to do. **CHAIRMAN CASON** asked when did this test occur, a month ago? Mr. Goins replied that it was probably 3 or 4 weeks ago. **CHAIRMAN CASON** asked him what time of night did they do it? Mr. Goins said they started the meeting around 7:30 p.m. and it ran until after dusk. **CHAIRMAN CASON** asked him if the sign was ever able to get to their 10% level? Mr. Goins said yes. When they started the meeting, they started going through it as they were starting it up and they were running at the high intensity and they slowly started as the residents came around. They started running through their programming of what the actual display is going to be showing. **CHAIRMAN CASON** asked him to describe the display from a layman's

standpoint? Is it like watching your LCD TV or is it like signs that used to be in ballparks 20 years ago, is it like what is in front of the Chandler Center for the Arts, is it light bulbs or is it small LCD's or does it look like a plasma TV? Mr. Goins said it has the capabilities of running basically a TV program on it. This particular model has colors that they can put on there at any given time - it can run a TV program, just about anything you can see at a baseball park. That is the kind of animation it can do. It has plenty of capabilities to do that. **CHAIRMAN CASON** said they actually have it stipulated that it is basically just for lettering, there is no animation and the applicant is limited on the types of messages he can provide on the device? Mr. Swanson said if they look at the exhibits, it shows a picture of 2 kids and lettering on the right side of that. They actually aren't going to have those kinds of characters. It will be more lettering, like 'Bible Study Tuesday Night' or 'Pot Luck Wednesday Night' type of thing. They aren't actually going to have animation. This was simply used for exhibit purpose. It is more lettering than anything. **CHAIRMAN CASON** said he saw in the memo that they couldn't have animation but was there anything specific that said that you could only have lettering and there would be no photographs or anything like that allowed? Is he mistaken? Mr. Mayo, Planning Manager, said they recently took forward a code amendment that brought our city code in line with state and federal law that more or less prohibits a city from prohibiting messages that can be on a sign. The city cannot prohibit messages on a sign. They can't say that you can have a picture of a soccer ball but you can't have a picture of a boy. They cannot restrict those types of things. The things they can do is prohibit what those messages do. You can't have a TV screen and all its animation going on. They can prohibit that. If they have a life style photo of somebody sitting there reading the bible, they cannot prohibit having that type of message on the sign. A sign is a sign and whatever goes on it, they cannot prohibit that. That was a code amendment taken through a few months back. Our stip. is written to prohibit the motion, the animation, messages that are changing really frequently.

**COMMISSIONER HARTKE** asked Mr. Mayo if the 15 seconds is ours or is ours 10 seconds? Mr. Mayo stated that we don't have anything in our code that has a minimum number on this. Mr. Swanson said that is a condition they have used in the past on other churches with monument readers, specifically First Baptist Church that has the exact wording, which was limited to every 15 seconds a screen could change. That primarily is so it doesn't distract drivers.

**VICE CHAIRMAN RIVERS** asked so even if they are putting pictures up they are going to be limited to 4 different pictures in a minute? Mr. Swanson said that was correct. **VICE CHAIRMAN RIVERS** asked so you couldn't have anything coming close to animation at all? Mr. Swanson said that was correct. **VICE CHAIRMAN RIVERS** asked Mr. Goins if he brought his demonstration screen with him this evening? Mr. Goins said he did not. It is an awful big thing and kind of heavy to lug up the stairs.

**CHAIRMAN CASON** asked him if there was any way shape or form by comparison of the lights in here? Any abstract way that they can share with them what this light does from a daytime perspective to a nighttime perspective? He is assuming in the daytime it

looks as bright as it could possibly be. You can see everything plainly. If it has a photograph on it, you can distinctly see eyebrows and eyes. It is bright enough during the day where you can clearly make out what is on the screen. At night at 10% you can do all of those same things only it is not so overwhelming that it distracts you and is brighter than peoples red lights. Mr. Goins has agreed to the 15 seconds and the type of program they are going to have on there is just going to be text, which is just going to be the letters with the black background. It is going to be doing that all day long and as nighttime comes around, it is going to be the same thing. It is going to be text with the black background. It is going to be very low light where it is going to be enough for a vehicle to pass by and be able to read it but low enough where it is not going to effect any surrounding neighborhoods. Mr. Swanson added that it is similar at its peak brightness to looking like an LED traffic light; however, it is not as compact with the LED traffic light that it is all-circular and you see a big glowing ball. This is more or less the text. It is not that intense like light but that illumination level is similar to it. If you were standing at the intersection corner at its brightest, you could look down and see it. That is probably a distance maybe close to a quarter mile at the intersection corner to where this sign is. Additionally, he would say it is relative to what they have seen for other electric leaders, like the First Baptist Church. It is a pretty typical illumination level. **CHAIRMAN CASON** asked so he has seen it in the dark and it is not distractive? Mr. Swanson said it is nothing they wouldn't want it to be, so overpowering like the Chandler 202 sign where you can see it glow from 10 miles away. They understand where its location is and the subdivision around it. They don't want to intrude into that. It is enough that you can see but not so much that it is overbearing from his standpoint. **CHAIRMAN CASON** asked if there was anything in the sign ordinances that allow us to have any type of control over the luminescence of light without actually specifying things as part of attachments to the applications? Mr. Swanson said they don't have anything necessarily per se in the code but what they have done in the past and he could think of a few fuel stations where they were doing a LED under lighted that they said if there were issues, to have the applicant work with Staff to review the illumination or if there were concerns, to go back to Staff and work with them to reduce that. He can't remember the exact terminology but it was written in a sense that if it became an issue, they could handle it administratively and have that level of illumination diminished so that it was a little more comfortable. **CHAIRMAN CASON** asked if that is something that they might be able to place in affect here where they can have that type of oversight and suggestive ability to the applicant if they start getting complaints on the intensity of the light, especially at night? He is not so much worried about the day, but certainly the night. Mr. Swanson said he thinks it is something they can do. It becomes kind of subjective but it is certainly something they could do. **CHAIRMAN CASON** asked him if in his experience he had any of these types of issues come up where people were concerned about the intensity of the luminescence in the evening and they had to go back and modify the program in order to accommodate people's concerns? Mr. Goins replied that they have. They definitely do that even when they install the sign. There has to be a field test to see. They said this in the 2<sup>nd</sup> meeting as well when they had 2 residents that attended. They are willing to work with the residents to help them out to address their concerns. Once they get it installed and once they do their field test and if it needs to be adjusted, they are willing to

do that. If it does become a nuisance where people still have a concern about it, they would be willing to work with them and find a suitable intensity level for everybody. **CHAIRMAN CASON** asked him if he would feel comfortable on behalf of the church adding a stipulation that would allow you and the church to work with Staff administratively should the need arise to modify the intensity or have a meeting to investigate the intensity of the nighttime lighting. Mr. Goins said personally he wouldn't be comfortable with speaking for the church as far as representing them. They would be more than willing to explore that option and work with Staff in trying to figure that out. They are more than willing to work with the residents. They do understand the concerns of the neighbors across the street. They have done plenty to try and help them out to address those concerns. He thinks they would be willing but he doesn't really want to say yes or no. **CHAIRMAN CASON** asked if there was a representative from the Church there tonight? Mr. Goins said there is not. **CHAIRMAN CASON** said commonly what they do after they speak to the applicant is they go to the audience and ask for input from the audience and they do have a speaker card. They will be taking time to do that. Is there somebody that he can call and ask if that were something they would be amenable to? Mr. Goins said they probably could but he is not sure they will be able to reach them tonight. They just have their business phone number. **CHAIRMAN CASON** asked given these circumstances that they have spoken about and the hurdles that they are trying to go through, is there something they can craft as a stipulation that will allow them to work through these issues? Mr. Kevin Mayo, Planning Manager, said he doesn't see why not and ultimately the applicant has to agree to accept that condition. He added in testament their willingness to work with the neighbors and as Erik mentioned before through this process and unrelated to it was the building mountage signage. The Church at the expense to themselves and not required by this process or any other process worked with the neighbors to reduce that in size and paint it a more attractive color. It does go to show that the church is a long-term neighbor. They are not in there for a few years and then leave. They are going to be there a long time. It is evident by them working so hard to address the neighbors concerns with the building mountage signage which isn't even a part of this request. Staff takes comfort in knowing that the church will work with them. They have already indicated to the neighbors that when this thing does turn on and if they have to work together on the brightness of that sign at nighttime especially, they would.

**CHAIRMAN CASON** asked before they have to try to put something together over and above what is in the application, were there any more questions for the applicant at this time? There were none. He asked the audience to see if anybody had anything to say. He had one speaker card.

**MARK TRACY, 2201 W. MARLIN DRIVE, CHANDLER**, stated he lives directly across the street from where the sign is going to go. He said he read through the packet they all received and asked Erik if he was present at the first meeting? Mr. Swanson said he was not but said he received the meeting minutes from the applicant. He said he didn't know who wrote the minutes but he wasn't sure if it was conveyed exactly the way the meeting went. He is the one that brought up the signage and they say they will work with them once the new sign goes in about reducing the brightness of it. They have these

huge letters that are advertising the church to their subdivision, which really doesn't do much good and he would really like the letters reduced. But that was not the crux of the meeting.

The neighbors that were there, all 7 of them, were pretty much against having that sign placed there. The most vocal person that was at the meeting was a developer. He was very diplomatic through the whole thing and asked a lot of questions and didn't express his protest against this sign. His questions were very similar to theirs. What is the luminescence of the sign and he kept pressing about how bright would it be? He thought it was funny that he was going down the exact same path that he was going through. The 7 neighbors that were there were fully against the sign. The point he wants to make is that any signage at all is sight pollution no matter what kind of sign goes up. These LED signs are a new type of site pollution that is very distracting. It's bright, it moves and it is distracting. He doesn't like them. No matter what kind of sign goes up, he especially doesn't like these, they distract from the neighborhood. He doesn't think this sign is appropriate for Germann Road. It's not like it is on Alma School, it's not like it is on Scottsdale Road, it is on Germann which although a big street it is primarily residential. Since the 202 is complete, most traffic travels down Price or they travel down Alma School, so Germann is not that busy. As a matter of fact, when he turned out of his subdivision at 5:00 p.m., he just had to tap his brakes and make a left hand turn. He didn't even have to stop at 5:00 to get over here for this meeting. That is how light the traffic is. He is not real sure how effective this sign is going to be. If they are trying to advertise their church or their congregation, it is not an effective sign for that type of road. It is mainly a residential street. This is a way to communicate with their congregation which is what they said they were trying to do at the meeting, there are much better ways to advertise to their congregation – website, e-mails, fliers. He is not part of their church so he could care less if they are going to have a potluck on Saturday and Bingo on Sunday. He could care less and he would prefer not to have that sign directly across his street and see it every day on his commute to work, grocery store or to pick his kids up.

The biggest and best argument that he has is going to embarrass Mr. Goins. During the meeting somebody asked Mr. Goins if he had a sign like this near his neighborhood and he said he did not. He said he would not like a sign like this near his neighborhood. Right there he thought the argument is over if the representative of the sign company does not want one of these signs near his neighborhood. Why on earth would any of them want to have a sign like this near their neighborhood?

**VICE CHAIRMAN RIVERS** said when Mr. Tracy referred to huge letters on this sign he was confused. What was he talking about? Mr. Tracy said the church is very close to the street and he wishes he got more involved with the church and Bill because he was sure there was a variance made for this. He is very happy that they are going to reduce the lettering because this is news to him. Their lettering was 3 foot tall and fifty feet wide. He lives directly across the street and from his living room he looks straight up at the 3-foot letters that say 'Tri-City Baptist Church'. The church is so close to the street

that this Tri-City Baptist Church is really advertising to their subdivision. It is not even effective to people driving down Germann Road. **VICE CHAIRMAN RIVERS** said the issue tonight has only to do with their monument sign out by the street. He said to Mr. Tracy that he was discussing huge letters and he wondered why he thought that on this sign that there were huge letters. Mr. Tracy said he is only concerned with the LED. He knows that this has to do with the LED and the brightness of the monument sign. **VICE CHAIRMAN RIVERS** said the LED is going to be 4 feet off of the ground. Mr. Tracy said the LED is 2-1/2 feet by 7 feet. **VICE CHAIRMAN RIVERS** stated that the top of it is 4 feet off of the ground. He probably won't be able to see this from their backyard. Mr. Tracy said he is not concerned about that but he is concerned about the signage.

**CHAIRMAN CASON** said if there is any comfort in this he knows that when he pulled up to the church, he too was wondering about the size of the lettering on the face. It was huge. He was glad to hear as well that the church is considering reducing the size. He knows that he can probably tell through the discussions that they are having up there that he is trying to forge a compromise in order to have some control of the luminescence of the light at nighttime. If there were more people here that would probably be there concern. He said if he understands him correctly, no matter what the amount of luminescence or lack of luminescence is, he is not happy with the sign. Mr. Tracy said absolutely. He spoke to his neighbors to the east and west and the reason why he didn't go to see the display of the sign is it could shoot rainbows and sparks, he could care less. He is against it. He doesn't think it is appropriate.

**COMMISSIONER HARTKE** said to Mr. Tracy that in his earlier statement he said he is concerned for sight pollution. It sounds like he wouldn't like any kind of sign there. But the light of this is what bothers him? Mr. Tracy said he is a business owner as well and he understands the need to have a sign. The initial monument sign they were approved for and he thinks that is fine. He doesn't think that the LED is appropriate. It may be appropriate if it was on Alma School or a main thoroughfare but he doesn't think it is appropriate for Germann Road, especially across the street from his subdivision.

**MR. GOINS** stated that he did say the comment about the sign. He lives on the outskirts of Casa Grande so LED signs wouldn't be appropriate way out in the boonies anyway. He should have elaborated a little more on that comment but at the time he didn't think it was really necessary. He said they try to do their best and raise the awareness of an LED sign to all the neighbors and address their concerns as much as possible. The church has worked real hard and helps them out by buying some of the neighbor's blinds because they were complaining that the signs on the north side were too big and too bright. They went out and bought blinds to put in their houses for them so they would not be able to see that. In essence, they have worked as much as they possibly can to address the concerns and try to help them out to understand the technology that is coming out there more and more with the LED's. Like he said in the neighborhood meetings that they wouldn't be having this discussion if zoning didn't allow them to have it. He has reiterated that plenty of time within that meeting that they wouldn't be there unless zoning allowed them to do that. The only thing they would be talking about is just the

design for the ground sign and that would be it. The church would like to be able to utilize the LED display to advertise not only just for the congregation but other amenities of that church also. They do want to catch new people coming in. From their point of view it would be necessary for them to have that sign.

**COMMISSIONER PRIDEMORE** said the face of the LED is not facing Germann and it is perpendicular to Germann. Is that correct? Mr. Goins replied that it is perpendicular to Germann.

**CHAIRMAN CASON** closed the floor for any further comment and asked the dais if they had any comments or a motion on this item.

**COMMISSIONER HARTKE** stated that he thinks it is an appropriate sign and churches want to communicate their other activities and this is the direction more and more they are going to see in Chandler of businesses and churches. He thinks Germann is a major thoroughfare. He wouldn't see this on a ½ mile or ¼ mile street but on a major road, especially with the design of Germann, he sees this as nothing less than appropriate.

**VICE CHAIRMAN RIVERS** asked if they were going to craft a stipulation having to do with neighbor complaints about the brightness of the sign or are they happy with relying on the church to do right by the neighbors? **CHAIRMAN CASON** said the reason he was going in that direction was to try and forge a compromise but since in fact the luminescence is not a concern, he believes realizing that you can't blind people when they are going down the road would pretty much take care of that. He doesn't know if a stipulation is necessarily needed all. He certainly will entertain any additional comments. **VICE CHAIRMAN RIVERS** said he agrees with Commissioner Hartke. He thinks this is a valid sign for a church. He doesn't think they are trying to communicate with their current members. He thinks they are trying to attract new members and by having what they offer on a billboard that isn't permanent and always the same with different things on different days is good. He thinks it is important to have a changeable sign for that and an LED is a good way to do that. This is a good sign to have on Germann as long as it doesn't face someone's home.

**COMMISSIONER FLANDERS** stated he thinks Staff did a real good job working with the applicant and neighbors with the understanding that if there is a problem the homeowners, the church and the applicant can work together to make those adjustments if there are any problems down the line. If there are problems, at least the neighbors can work through Staff to make sure those problems are adjusted. He didn't think a stipulation was warranted on that. It sounds like everybody is willing to work together and make sure it works right. With that he made a motion.

**MOVED BY COMMISSIONER FLANDERS**, seconded by **VICE CHAIRMAN RIVERS** to approve PDP09-0023 TRI-CITY BAPTIST CHURCH MINISTRIES with the stipulations provided by Staff.

**CHAIRMAN CASON** said he wanted to make a comment before the vote. He said churches are just another business. They have to fight for shoppers just like everybody else and he thinks that in many cases especially with signs like this, many of those particular shoppers might just be trying to find something right that moment. Signs like this provide that kind of outlet for people that might not be going to church but feel like they need something special at that moment. Signs like this actually serve a good purpose and they have to be more than just out there. They have to have an element to invite people in. He said he couldn't look at this sign any different than he could anybody else's business along as it is appropriate for the road it is on. He too supports this and looks forward to seeing what it looks like when he drives by in the dark sometime. He took the vote.

The item passed unanimously 5-0. (Commissioners Kelly and Veitch were absent.)

**CHAIRMAN CASON** said this item would go to Council on August 19, 2010 and Mr. Tracy could share his comments with them as well.

**D. PDP10-0009 DOBSON & PECOS VILLAGE**

Request Preliminary Development Plan (PDP) approval of a comprehensive sign package at the southwest corner of Dobson and Pecos Roads.

1. Substantial conformance with application materials kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0009, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3848 in case DVR06-0016 DOBSON GATEWAY CENTER, except as modified by condition herein.
3. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
4. Raceway signage shall be prohibited within the development.
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. Corporate logos shall be limited to 10% of the total allowable sign size.

**MR. BILL DERMODY, SR. CITY PLANNER**, stated this is an item they discussed during Study Session and there are only a couple of issues. This is a request for a sign package approval at the southwest corner of Pecos and Dobson Roads. There is a center, a medical office center that is under construction right now that will look something like that when it is completed (shown on ELMO). It is a very broken up style of architecture, which requires some unique building signage. He showed a representation of the building signage. All of it will be reverse pan channel letters and there was a question about whether the letter style and color will match the address numbers that are out there

already. The answer is yes, they will. You can see the various sign envelopes are all sorts of different sizes. There was a question with regard to the monument signage. There will be 3 monument signs with tenant names on them and a center I.D. at the corner. This is what the three with the tenant names on them will look like and there was a question with regard to these tenant letters. They will be routed out and covered with black/white vinyl, which is a technical term. It will be black during the day and white at night when the lights are turned on and the sign professional is here to try to explain more about that. They wanted more detail on what that would look like. Also, there 4<sup>th</sup> monument sign, which would be for center identification. In the booklet it is simply black and white. They do to intend to draw colors from the building architecture. They have on the following page in the booklet a run down of all the colors being used on the building so it will be some combination of those. They haven't actually decided yet but most likely it will be some combination of the top 3 colors. Staff does recommend approval of this request. They find it to be a high quality sign package that meets our commercial standards.

**COMMISSIONER PRIDEMORE** said regarding the sign on the corner where they only have that in black and white, he thought it was a requirement to show all signage in color for the application. Is that not the case? Mr. Dermody replied that it is a requirement to have a representation of what the colors would be and they have that. They wanted to retain some flexibility at this point while they finalize their decision. They do have some idea. Of course, if it is necessary for Commission to see what that looks like, they can ask them to bring it back at a later date but they are on a pretty tight timetable.

**CHAIRMAN CASON** asked Mr. Dermody if the monument sign in the corner is square or rounded or just flat? Mr. Dermody asked if that was the center identification sign? **CHAIRMAN CASON** said yes. Mr. Dermody said it is mostly rectangular forms. **CHAIRMAN CASON** asked if it had a curvature to it? Mr. Dermody said it is oriented toward the corner at a 45-degree angle. It is straight and flat. **CHAIRMAN CASON** asked that in approving this sign they would go ahead and make sure that it had the same type of fonts and size and all those types of things in so as far as the monument lettering was concerned? Mr. Dermody said yes. **CHAIRMAN CASON** asked so regardless it uses the regular standard engineering font in the black and white drawing? Mr. Dermody said the font would be expected to be one of the other fonts that you see on the other monument signs or the building signage. **CHAIRMAN CASON** asked when they say 1 inch by 8 inch steel plate primed and painted that just indicates it will be one of the colors? Mr. Dermody replied the color would be one of the architectural colors. **CHAIRMAN CASON** asked so they would have to stipulate it if they wanted it to be the 'Alpine LedgeStone'? Mr. Dermody replied yes.

**COMMISSION FLANDERS** said on the center identification sign they are going to make sure that the font matches what is being done on the main signs? How is this illuminated? Mr. Dermody said as far as he knows it is not illuminated but since the sign company is here let's make sure of that.

**DENNIS MARTIN, 3115 E. YUCCA STREET, PHOENIX**, stated he wanted to address that black and white drawing. That was actually the architect's conceptual drawing that he wanted to include in the package. They didn't have a chance because it wasn't finalized exactly as to what the sign was going to be to do a final drawing-colored. They would use the same letter style and the same color palette but he hasn't nailed down what that is. They are still up in the air on the final. They still have to draw that yet. It was one of those things that is still up in the air as to what they are going to do.

**CHAIRMAN CASON** asked so they would have the same eyebrow elements? Mr. Martin said the way it is drawn now, it wouldn't have the eyebrow but they would use the colors, the same type of lettering and colored lettering (dark bronze). They would have to come up with the color. **CHAIRMAN CASON** asked they don't know how high off the ground it's going to be by this drawing? Do they just know the height of the sign and the depth of the footer and that is pretty much it? Mr. Martin said the overall height is 4-foot three. Mr. Dermody stated that it is proposed to be raised off the ground. The height from ground to top of sign would be 4-foot three. **CHAIRMAN CASON** said he couldn't recall that they often do a 'will work with Staff to work on signs'. They don't do that too often, do they? Mr. Dermody said a strictly 'will work with Staff' without direction is pretty rare. This sort of situation where they actually have all the colors and fonts somewhere else in the same booklet wouldn't be too out of character.

**COMMISSIONER FLANDERS** asked how is this main center identification sign illuminated? Mr. Martin said internally. **COMMISSIONER FLANDERS** said he was not talking about the regular monument sign, he is talking about this corner one. Mr. Martin said the corner one would be flood lit from the ground.

**COMMISSIONER PRIDEMORE** asked if he could comment on a question raised during the Study Session about the other monument sign, the tenant panel signs, and the black and white vinyl? Mr. Martin said what they do is they perforate vinyl like that mesh that they have in front of him. You take out 1/3 of the black with dots and leave 2/3 black and what it does during the day it appears black. At night what happens is the light coming through there washes out the black and it comes out white. **COMMISSIONER PRIDEMORE** asked so in effect it is not a different material or a chemical process that is taking place; it literally is the absence of certain dots? Mr. Martin said yes, the light coming through that washes out 2/3 of the black and they can do that with lines and dots. This case because the letters are fairly small, they would do the dots. **COMMISSIONER PRIDEMORE** said he is amazed, he understands it but he would still love to see a sample of it sometime. Mr. Martin said it is fairly new. They used to do black and white with actually a plex color that was almost like window film so that during the day you see this black. All of the Dillard's signs used to do that. They kind of appeared a little grayish when they first came on and then they were bright. They don't have that problem with the vinyl and the vinyl actually holds up better so they have moved away from the black/white plex to the vinyl.

**CHAIRMAN CASON** asked so if they were to see this at night their text would be white? Mr. Martin said yes. **CHAIRMAN CASON** asked if Dobson and Pecos Village would be white as well? Mr. Martin replied yes. **CHAIRMAN CASON** said so all of the lettering on the sign will be white at night but only the address and the center identification name will be white during the day. They are white because the plastic is white not because they are illuminated. Mr. Martin said the reason they did that is because of the values of the 2 colors. They didn't want to put white on that lighter panel-it would tend to wash during the day so they went to black and white on that. They talked about other colors but they didn't want to go to other colors other than if they do a logo. **CHAIRMAN CASON** said to him looking at it at night with all that white is way out there. He was wondering if they could take the address and the center identification and do those in a halo illuminated or something where they could be white during the day and then they would show up differently than the tenant panels at night so there would be some contrast between the two. Not necessarily all of that white coming at you. Any comments on that idea? Mr. Martin said those letters are only 8 inches tall and the only light that is coming out of this whole sign is through those little 8 inch letters and the other 4 and ¼ inch letters on the monument. So there is hardly any light as it is coming through it. If he has to put a dark and a halo, it is going to be real dark. They would really not want to do that. They actually considered that but at 8 inches and 75 feet back from the street it would just get lost. It wouldn't have enough pop.

**COMMISSIONER HARTKE** said just out of curiosity what is the size of their holes or the numbers per square inch? He is just curious. Mr. Martin responded that they are really tiny. They are about the size of the end of his pen – probably 1/3 of the size of that mesh. **COMMISSIONER HARTKE** said so about 30 per square inch or 20? Mr. Martin said if they were take a pencil or pen and poke it through a piece of paper, just the end of it and it would look like this (he showed Commission). The reason is that during the day it just looks solid black. It is just enough at night to get the light and wash out the black. Mr. Martin said he might have a sample in his bag. He showed it on the ELMO. He showed the sheet they are actually laying on there. **CHAIRMAN CASON** asked if that is at scale? Mr. Martin said yes that is the actual material. **CHAIRMAN CASON** asked if they would be seeing more of this? Mr. Martin replied yes. **CHAIRMAN CASON** asked because this is relatively new if this was the first time they applied this on a sign? Mr. Martin said no they have used it a number of times.

**COMMISSIONER FLANDERS** asked where in Chandler had they done this so they could at least get an understanding of what it looks like? Mr. Martin said he always hates when he is asked that because he goes blank. It is like being in a game show and you are asked a question, he would never do well. He can't answer that because he can't think off the top of his head. There is one sign for UTAZ in Gilbert in front of their office. He can get you a sample and bring it to them.

**KEVIN MAYO, PLANNING MANAGER**, said they would have the applicant go back and collectively get some of these together and they will e-mail them a list of addresses of where these things are. **COMMISSIONER FLANDERS** said he knows there are

members of City Council that are real interested in signage so as they are watching them here tonight they are going to want to go out and take a look at that. They have been real big on signage and new technology so that is the reason why he was asking. He asked him if he could provide some locations that are close. Mr. Martin said he could make up a little sample. He could put it on a light box and let you see it. **COMMISSIONER FLANDERS** said he understands exactly what he is talking about but he would like to go out and look at it. Mr. Martin said usually if you have black on a sign – a panel, that is usually it. **COMMISSIONER FLANDERS** said if they would provide the information to Staff that would be great. **CHAIRMAN CASON** said being able to see it in reality is actually better than a mock up in this particular case. They have had some situations come up with signs where something like this might have been a great alternative that they haven't had an opportunity to explore. Just having the ability to go out and see how it works in reality will be quite helpful for them. Mr. Martin said you could actually do this with colors. He said that John C. Lincoln where you see their blue on the building is the same technology. It is in stripes not the dots but it is the same technology. He will get them a list.

**CHAIRMAN CASON** asked if there were any other questions of the applicant. There were none. He went to the audience and asked if there was anybody that wanted to comment on this matter. There were none. He thanked Mr. Martin for his presentation and said it was very enlightening. He closed the floor. He asked the Commissioners if they had any questions or comments on the item of if they would like to make a motion.

**MOVED BY COMMISSIONER PRIDEMORE**, seconded by **COMMISSIONER FLANDERS** to approve PDP10-0009 DOBSON & PECOS VILLAGE.

**COMMISSIONER PRIDEMORE** added that he understands on the corner sign that they only have the black and white. It is only because they have the other fonts and colors listed in the packet that he is willing to make this motion. He thinks in the future he would be a lot more comfortable to see a full color rendering of all signage up front so that they don't run into problems down the line.

**CHAIRMAN CASON** said it was noted.

**COMMISSIONER FLANDERS** seconded the item with the comment that the applicant have the exhibits ready for City Council for the final approval.

**CHAIRMAN CASON** asked the applicant if that was acceptable. The applicant said it was.

The item passed unanimously 5-0 (Commissioners Kelley and Veitch were absent).

**CHAIRMAN CASON** thanked the applicant for his comments.

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 August 4, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

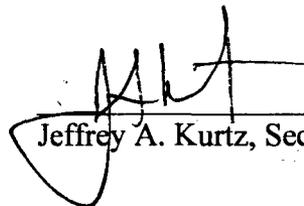
8. ADJOURNMENT

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



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, August 4, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Commissioner Hartke.
3. The following Commissioners answered Roll Call:

Chairman Michael Cason  
Vice Chairman Leigh Rivers  
Commissioner Michael Flanders  
Commissioner Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

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 COMMISSIONER FLANDERS**, seconded by **VICE CHAIRMAN RIVERS** to approve the minutes of the July 21, 2010 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 E, I and J were pulled to action.

A. DVR09-0026 RIGGS LDS

**Approved.**

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximate 5.27-acre site located at the northwest corner of Riggs and Riggs Ranch Roads.

B. DVR09-1014 SNEDIGAR SPORTS COMPLEX

**Approved.**

Request the establishment of initial City zoning of Agricultural District (AG-1) on three separate parcels totaling approximately 32 acres of land located at the southwest corner of Ocotillo and Basha Roads.

C. DVR10-0007 MAGNUM MEDICAL

**Approved to continue to the September 1, 2010 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 Agricultural (AG-1) zoning designation. The existing PAD zoning is for general/medical office uses. The property is located at the northeast corner of Dobson Road and Boston Street, approximately ¼ mile south of the southeast corner of Chandler Boulevard and Dobson Road.

D. LUP10-0030 NATALIA'S 1912 RESTAURANT

**Approved.**

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant (Series 12 Restaurant License) at 3140 S. Gilbert Road, Suite #1, south of the southwest corner of Queen Creek and Gilbert 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. 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.

F. ZUP09-1027 POLLACK WARNER WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Warner and Alma School 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 monopalm height shall be 55 feet to the top of antennas.**

G. ZUP09-1028 POLLACK ELLIOT WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility within a shopping center at the southwest corner of Elliot and Alma School 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 monopalm height shall be 55 feet to the top of antennas.**

H. ZUP10-0008 AUTO BODY WIRELESS FACILITY

**Approved.**

Request Use Permit approval to install a wireless communication facility behind an auto body shop at 890 E. Chandler Boulevard.

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 height shall be 55' to top of antennas.

K. ZUP10-0027 HUDSON BAYLOR CHANDLER

Request Use Permit extension approval for the continued operation of a recycling facility located within a General Industrial (I-2) zoning district, and to allow ingress and egress off of Hamilton Street. The subject site is located north and west of the northwest corner of Ray Road and Hamilton Street.

1. The site shall be maintained in a clean and orderly manner.
2. 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.
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 internal loop drive exiting the site shall be improved with concrete or asphalt within 6 months from Council approval or the Use Permit shall be null and void.**

**CHAIRMAN CASON** said to Staff that when they last discussed Item F they had asked the applicant if they would be willing to paint their compound brick color the same as the Carl's Jr. Does he recall that? Mr. Dermody, Sr. City Planner, said they are willing to paint it the same color. There is actually a note that requires them to on their Site plan. They intend to do so and they don't need a condition to make that happen.

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

**COMMISSIONER KELLEY** abstained on Item D as he lives in the notification area.

**ACTION:**

E. UP07-0003 MILLENNIUM AUTO SALES

Request Use Permit approval for the operation of a motor vehicle sales business within a Planned Industrial (I-1) zoned district for property located at 4185 W. Kitty Hawk Lane, south and west of Chandler Boulevard and McClintock Drive.

1. Expansion or modification beyond the approved exhibits and representations shall void the Use Permit and require new Use Permit application and approval.
2. All signage, whose text shall be limited to business name identification only, shall be in conformance with the Chandler Sign Code.
3. All vehicle sales and storage shall occur within the enclosed building.

**MR. BILL DERMODY, SR. CITY PLANNER**, stated this is a request for Use Permit approval to continue operating a motor vehicle sales business within a Planned Industrial I-1 zoning district located at 4185 W. Kitty Hawk Lane in the Stellar Industrial Park, southwest of McClintock Drive and Chandler Boulevard north of the Loop 202 San Tan Freeway. This particular business has been operating out of a warehouse for the last 4 and ½ years or so under a Use Permit. The Use Permit allowed them to also use the building to the west but they have down sized that request so they are only wishing to go forward in the one building. All of their cars are kept in doors and they don't have any vehicle display that they can see from the street. This is not a typical car dealership in a number of ways. That is one of them – you can't see the vehicles from the street, it is not located in a retail area and they get almost all of their business through referrals, the Internet and repeat customers. It is for a car sales business with a very low volume of traffic. Given that, Staff does recommend approval of this. They have found it to be very compatible within this industrial park as a complimentary use to what is going on there already. This time they recommend approval without time limits. There was a neighborhood meeting. Two people attended. They were in support and they are not aware of any opposition to this request.

**CHAIRMAN CASON** asked if there were any questions of Staff from the dais. He asked the applicant to come to the podium and state her name and address.

**SANDRA KEITH, OFFICE MANAGER FOR MILLENNIUM AUTO SALES, 4185 W. KITTY HAWK LANE**, stated they have been in the building for 4-1/2 years. They are a very low-key sales business, mostly high line. She said that Paul opened it to begin with because he doesn't like the high-pressure sales of regular car sale places. They are mostly Internet; they don't have a lot of walk-ins. They are very difficult to

find. Even the people who find them on the Internet or call, they have to call and get directions a few times because they don't have a lot of signage outside. It is a very well kept landscaped building that matches the rest of the neighborhood. All vehicles are stored inside. They do no mechanics on site and it is a very quiet environment.

**CHAIRMAN CASON** asked if she had noticed any issues or if her neighbors had any issues over the year that they have been operating? Ms. Keith replied that she was not aware of any. She has not heard any complaints. She is the office manager and nobody has come in and complained to her and she is there every day. **CHAIRMAN CASON** asked the public speaker to come forward.

**JOHN COMMONS, PRESIDENT OF HEARTHSTONE UNIT 1, 3985 W. DENVER STREET, CHANDLER**, stated the way he received notice of this was by receiving a post card in the mail. He had no idea where this location was or anything about the location. This is the first time that he has had a chance to read that they have been there for 4-1/2 years. Based on the information in the post card he was thinking it was going to be on Hearthstone where the empty lot was. He was concerned that this property was going to be something like they see in a used car sales place that they see floating around with junk cars and things of that nature that they are trying to sell. He was unaware that these people had been there for 4-1/2 years so his objection was the kind of place it could be. Since they have been there for 4-1/2 years and he has heard nothing from them, no problems from them and neither has any of his constituents, he came here to find what this was. He really has no objections since they have been there for 4-1/2 years with no problems at all.

**CHAIRMAN CASON** thanked Mr. Commons. He stated how unusual it is for somebody to do what he just did only because of the fact they are expecting people to express their opinions in a more of fashion they weren't aware of and certainly him supporting the neighbors is very comforting for them. He said he appreciated him coming up and spending time with them and his candor as well. He then closed the floor and asked for a motion.

**MOVED BY COMMISSIONER HARTKE**, seconded by **VICE CHAIRMAN RIVERS** to approve UP07-0003 MILLENNIUM AUTO SALES and listed stipulations as read in by Staff. The item passed unanimously 7-0.

I. ZUP10-0012 PAPA JOHN'S WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility within the shopping center at the northwest corner of Ray and Alma School 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 monopalm height shall be 55' to top of antennas.

**BILL DERMODY, SR. CITY PLANNER**, stated this is a Use Permit request for a wireless communication facility in the form of a monopalm to be located within the shopping center at the northwest corner of Ray and Alma School roads. The application requests that this be a 65-foot monopalm and the main issue they will be talking about is height. It is proposed to be located in between the former Albertson's building and the Hollywood Video in the triangle area (he showed where on the ELMO). That is about 152 feet from the nearest residential property line to the north. The monopalm is designed to look like a date palm tree as such. Staff is not recommending that any live palms be planted with this because this particular site is full of date palms especially along Alma School Road and in the parking lot. From most angles you will see a sea of palm trees behind this proposed monopalm. They do however recommend approval with a condition that the height be dropped to 55 feet from 65 feet because of the proximity to residential although their code gives no specific guidance on the distances. They do have quite a history on this and usually 152 feet is closer to residential properties than ideal. This is a very good site nonetheless because of how it is tucked behind the building. At 150 feet they feel it is only appropriate if the height is dropped to something like 55 feet. Staff does recommend approval and he said he would be glad to answer any questions.

**CHAIRMAN CASON** asked Mr. Dermody if he could talk about the assistance that they are going to get from other departments in the city to add trees to that area? Mr. Dermody said absolutely. He showed a site plan showing the area where the monopalm would be located and in the back they can see the existing trees shown. They can see where there is a gap there and several others going west along that northern property line where there should be trees, where there originally were trees and they have died. They have actually just opened a case today where they are going out there and checking out the situation and bringing it up to site maintenance standards. There is no action required through this Use Permit for that to happen, it is just part of our on-going commercial landscaping maintenance program. **CHAIRMAN CASON** asked Mr. Dermody as a result of that, the home to the north of that open area would now have a new tree there so that there would be a visual buffer in between their back yard and the monopalm? Mr. Dermody replied yes there would be one if not two trees.

**KEVIN MAYO, PLANNING MANAGER**, said it is also important to note that those trees will have to be installed at a 24 inch box 12 foot high at time of planting. It is not going to be a little twig sapling, it will be 12 feet high at the time of planting when that tree is replaced. It is important to put that on the record.

**COMMISSIONER FLANDERS** stated he is glad Mr. Mayo said that. He was going to ask what was the standard at the time that was approved. A lot of the zoning cases that they do whether it is residential or commercial abutting each other, have always been 20 foot on center, 12 foot at planting. He is glad they are looking in that direction for those homeowners.

**BRYAN RUDD, 3523 E. PRESIDIO CIRCLE, MESA, REPRESENTING CLEAR WIRE**, stated they are asking for 65 feet primarily to provide coverage for the

surrounding residential area. He spoke with Staff earlier today as they asked for 55 feet. He has gone back to his engineers and asked them the same question Staff asked him – can they do 55 feet. Unfortunately at this time they are not able to because of their microwave shots. The site that they are shooting to had obstruction due to the canopy and the trees interfere with the shots in the line of sight. He has asked them if 60 feet would work for Clear Wire. Could they make it work? They said it would not be easy but they will do their best to make it work. They are willing to drop to 60 feet on approval but at this time they are unable to make it 55 feet. They do feel this is a good site because it is tucked in behind the building and they tried to make it as far from residential property as they could. The landowner was not willing to go out in front and did not want to block the views of the building so they decided to use the unused space, tuck it behind the building and try to make the least visual impact on the community.

**CHAIRMAN CASON** asked Mr. Rudd when he says he can't make his microwave link, is that all 3 of their microwaves? Mr. Rudd replied no there are 2 of them that they can see and they have line of sight. There is one that is being blocked and that is their biggest component right now that they are unable to drop. At this time they are unable to go to 55 feet. **CHAIRMAN CASON** asked so he is saying that if they go to 60 feet then they can hit all 3 links? Mr. Rudd replied yes. **CHAIRMAN CASON** asked him if he made this a non-redundant site and they only use 2 of their links? Mr. Rudd said the way that Clear Wire works is they don't have ground wires, they don't have T-1 lines that come from the ground and run off of Cox. These satellite dishes do all of their communication and so if they take that satellite dish away it actually interferes with the entire system of Clear Wire. By only using the 2 they are actually taking a whole sector away of communication between these sites and the whole sector in that area for Clear Wire to be able to function properly. **CHAIRMAN CASON** said in prior testimony they were led to believe they only needed 1 link and the other 2 were for redundancy because they all triangulate off of one another. They were told that these particular sites if they were microwave challenged would operate off of 1, it is just that they wouldn't be redundant and they could only receive and distribute their signals to 1 partner site. Is he saying that prior testimony is wrong? Mr. Rudd replied he is not saying that is wrong, in some cases that is correct. They only need that 1 communication. On these 2 sites that they will discuss, it communicates from 1 tower but actually sends the signal to another tower. It completes the circle and it completes the ring that they are able to communicate and keep the whole circuit going. **CHAIRMAN CASON** asked understanding that the other tower has to be fed through this, how come the other tower that is dependant upon this one can't be fed from another since everything is all triangulated together? Mr. Rudd replied that he could not answer that as he is not the engineer that has designed this. Due to the current design and it has been altered several times since they started the project over a year ago, the current design is such that they are unable to redo that. If they were to redo and reorganize their design, it would actually cost them to redesign their whole project in the Phoenix metropolitan area not just these 2 or 3 towers. It actually would be the entire system, which could lead to future problems. **CHAIRMAN CASON** said he wanted to see if understands this correctly because that is a pretty bold statement. If they were to not approve this tower any higher than 55 feet, than their whole network would become obsolete? Did he misunderstand him? Mr. Rudd said in this area and in this section they

have mother sites or main sites. Those shoot out to different sites and they have rings. By putting this at 55 feet it makes it so this ring is altered. It is harmed and is not able to be completed – and complete their signal and the transmissions back to this mother site to go to their switch. **CHAIRMAN CASON** asked so there are distance requirements for these hub towers or mother ships? Are there distances that they can broadcast with their children towers? Mr. Rudd replied that there are limitations. If they wanted to shoot further distances, it requires them to have a bigger dish. They try to make it so that the sites they shoot to are at a minimal distance for them. They try to make the dishes as small as possible, which makes the entire structure less intrusive. You can imagine putting a 6-foot dish in the middle of a monopalm – it doesn't look very pretty. **CHAIRMAN CASON** asked if all of the offspring sites have all been engineered yet? Have they all been sited and the ones that need permitting have all the permits been submitted? Have all of the contracts been signed for all of the offspring sites from this particular site - he is only talking about 'I' from this particular parent site? Mr. Rudd replied that to the best of his knowledge not all of them have been contracted, the leases aren't all completely done on this and they are currently working on that and trying to make it a complete circuit. At this time he cannot tell you that the leases are completely done. **CHAIRMAN CASON** said so all of the rest of the site is dependant upon the this location. If this location would have to move, then all of those other sites would have to be re-engineered. Mr. Rudd said some of them might need to be re-engineered if this site were to move significantly. **CHAIRMAN CASON** asked if this particular site is so dependant on height that because this site has been designated as a parent site, therefore its height needs to be more than it would be otherwise? Is there another site that is nearby that they have been able to obtain the necessary height or doesn't have as much terrestrial blockage to where they could make that the parent site? Just have this not be the key link between the 3<sup>rd</sup> site they are talking about that won't operate because this doesn't have 3 shots from 3 different directions to shoot from. Mr. Rudd replied said again he is not the engineer and the one that designed this. According to the current design that would not be possible. This is the site they have designated as being the parent site and to communicate with the other towers.

**CHAIRMAN CASON** asked if anybody in the audience would like to discuss Item I, which is the PAPA JOHNS WIRELESS FACILITY at the northwest corner of Ray and Alma School roads? There were 2 speakers.

**JOHN BERRY, 1300 W. GAIL, CHANDLER** said his is question at 55 feet how much bigger does this dish have to be? He is saying he needs the height. If they have the shorter height, how much physically does it change things as far as the dish? **CHAIRMAN CASON** said that is a very good question. He asked Mr. Berry if he had any comments to make because they will be sure to ask him that question. Mr. Berry said they could probably live with 55 feet but 65 feet is too high – that is crazy. **CHAIRMAN CASON** asked where did he live in relation to the tower? Mr. Berry said just west of it.

**COMMISSIONER HARTKE** asked him what his address was again.

**MARY SPERL, 1230 W. GAIL, CHANDER**, stated she is off to the west of this site that they are talking about. She said she is not at all familiar with monopalms. Her concern is if there is any type of a health hazard in relation to this? There are a lot of residents right in that area.

**CHAIRMAN CASON** stated specifically a monopalm is some adornment that makes it less conspicuous as a cell tower. He doesn't want to say it hides it because it just minimally does that. As far as the other issue she is bringing up, they can't discuss those because of Federal law/Federal guidelines.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated under the Federal law the Federal government has determined there is no health hazard provided that the communications tower is operated at the specifications mandated by Federal law. In general, it is not an issue that they address here since the Federal government has already made the determination for us on the issue of health hazard.

**MS. SPERL** asked if there was any website where she could reference this information? Mr. Brockman said she could just look under the Federal Communications Commission and see if they have anything about telecommunications. Mr. Dermody, Sr. City Planner said to try [fcc.gov](http://fcc.gov).

**BILL DERMODY, SR. CITY PLANNER**, stated he had some information with regard to a question that they were asking the applicant. It might be helpful. The problem direction for this particular antenna to the north is they have got one dish pointed in that direction and he understands that is the problem direction. They were just talking about what is to the north, it is the Alma School and Warner Road site, which obviously they don't have much flexibility in moving. They have had a very tough time finding that. There is also another site to the northeast at a school. That location has been set already also.

**MR. RUDD, CLEAR WIRE**, said again to the size of the dish, if they were to do a distance shot and make the distance further to the relaying links, they would have to increase the size of the dish. They are trying to make that the smallest dish possible. He doesn't want to see a 6-foot dish and a monopalm in the middle of the city. He doesn't agree with that and he hopes that none of them do because that is way too big. They are trying to make them as small as possible and that is where they are going with the size of the microwave dish.

**COMMISSIONER HARTKE** asked him to tell them what size dish they are talking about when he says 6-foot is inappropriate? Mr. Rudd said he believes on the site plan that it is requesting a 2-foot dish.

**CHAIRMAN CASON** asked if that is the common size? Mr. Rudd said yes that is a common size.

**COMMISSIONER FLANDERS** said that he said something is obstructing this particular site to the north. What is it? Mr. Rudd said there are trees to the north where this site is shooting to. Their engineers drove the site, did tests and were unable to get it to work. It blocks it. A microwave is a continuous shot – a line of sight. If anything blocks it or if the microwave is altered at all, the communication between the 2 links will be non-existent. **COMMISSIONER FLANDERS** asked if a larger dish would remedy that issue? Mr. Rudd replied that the large dish only makes it so they can shoot further. **COMMISSIONER FLANDERS** asked how far off are those trees from this particular site? Mr. Rudd said he didn't know at this time.

**VICE CHAIRMAN RIVERS** asked just to clarify that somewhere north between this spot and Warner Road there is a tree that is 55 feet high and it is in their way? Mr. Rudd said that is what his engineers have told him. He has to go off of their judgment and off of their tests and expertise and the skill they have. They are telling him there is an obstruction if they drop to 55 feet. If they do a 60-foot for this location, two years from now that tree may be 60 feet tall and they will still have the problem. Mr. Rudd said he discussed that with them and they said they will get two years of service and maybe they can do something then, but they need to try and get their network completed before they can go from there.

**CHAIRMAN CASON** closed the floor for discussion. He said when these first started coming before them one of his concerns was that they are looking at new technologies. In the arena of urban delivery of cell phone messages or communication messages these were different because instead of using ground based high points in between the towers they were using microwave or above ground methodology to be able to communicate between the towers. His concern is that they were going to have height issues associated with these towers because of the fact that they had to have line of sight. His concern at that point is that this particular carrier had a possible competitive advantage because they could claim that they needed more height in order to make their network work when in fact the other communication providers out there were using land based network so they couldn't make that claim. Where that kind of bothers him is that this particular network provider has chosen as a business model to use a microwave based communication rather than a land base. If there is any additional cost associated with this type of communication, the citizens of Chandler by their normal use and normal permission of this type of work shouldn't have to suffer by allowing these towers to be higher simply because of the fact that this is the business decision that they chose to make. Because of that, at that time early on, he asked about the availability of being able to use some of these sites as remote sites. Not being required to bump their signal around they were told at that time that if there was a problem with being able to link these sites together that they could go ahead and make these independent sites and they wouldn't have to make all 3 line of sights. Now they have come to this point and it has turned out there are sites out there that apparently have to have all line of sight and that hasn't been indicated to them before. At least in his mind it falls back to the original argument that perhaps the solution to this particular problem is to take these two towers and land base them rather than using the microwave as a solution to getting these towers fully activated. Of course, that is a decision that the applicant would have to make. But he doesn't know if he is willing to

give them 60 feet when they are giving everybody else 55 feet or whatever the case might be because they have chosen to use a different delivery method for their inner communication between the towers. At this point, he said he would ask for other comments from the dais.

**VICE CHAIRMAN RIVERS** asked in this case if what he is hearing is correct, the applicant is looking to raise the height of this tower at least 5 feet to avoid a line of sight issue with a tree to the north that they are not sure where it is or how tall it is. He would suggest that maybe the solution would be to move the tower 2 feet to the right and get around that tree that is in the way. They don't know for sure if that is really the issue because the engineer isn't here this evening. He would be open to continuing this to the next meeting until the engineer can come here and be a little more specific about what the problem is.

**COMMISSIONER VEITCH** stated he was going to make the same comment and he supports that notion and include in that inquiry his suggestion with respect to configuring problem locations differently.

**COMMISSIONER FLANDERS** said with the technology, the line of sights and everything else who knows what is out there now or 2 years down the line. In looking at this application here now he is satisfied with what Staff has proposed as far as the stipulations. He is perfectly fine with the height that Staff has provided to them.

**COMMISSIONER HARTKE** said it seems more and more with these going and the distances in which they are being asked to approve seem closer and closer to residences and asking for higher heights. He agrees with the comments. He agrees with the 55 feet if that is what is necessary and is uncomfortable even with that with the distance to residences. He is opposed to increasing the height with the distance from the residences.

**COMMISSIONER PRIDEMORE** stated as some of the other Commissioners have stated he is also in favor of the height as currently stipulated at 55 feet. While the location is not as ideal as possibly something located on the south side of the old Albertson's building, he is o.k. with where it is located at 55 feet. Also understanding that city Staff is looking into the missing trees along the property line with the residences to the north. Understanding that those trees should be replaced here in the near future in order to be code compliant and at 55 feet he would be in favor of it.

**COMMISSIONER KELLEY** said he is agreeing with the height at 55 feet and he is not sure if a continuance will really help because even if they come back and say they can raise it to 60 feet and they can get over a tree. They learned that from an engineer. He is still not o.k. with 60 feet so even if they come back with an engineer and tell him that 60 feet works, he is still not o.k. with it.

**MOVED BY COMMISSIONER KELLEY**, seconded by **VICE CHAIRMAN RIVERS**, to approve ZUP10-0012 PAPA JOHN'S WIRELESS FACILITY with stipulations as written by Staff.

**VICE CHAIRMAN RIVERS** wanted to clarify if they were not going to pass this at the 55-foot height and if they were considering raising the height, he thought they should consider moving the pole slightly but he is very o.k. with the 55 foot height. He is happy to 2<sup>nd</sup> the motion.

**COMMISSIONER FLANDERS** asked Staff if they needed a stipulation for those trees? Is it just a matter of the code and ordinance and everything will take care of that? Mr. Mayo, Planning Manager, said that is correct because ultimately they will say that this Use Permit got denied at City Council. The trees still need to be replaced so they have a separate process to go through that. They will get replaced regardless of this Use Permit.

**COMMISSIONER VEITCH** stated as the other proponent of a possible continuation, he was never opposed to 55 feet either so they can support the motion.

The item passed unanimously 7-0.

J. ZUP10-0013 LAGUNA VILLAGE WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility within the shopping center at the southeast corner of Ray and Kyrene 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 monopalm height shall be 55' to top of antennas.

**BILL DERMODY, SR. CITY PLANNER**, said this is a very similar situation on Item J, which is a Use Permit request for a 65-foot high monopalm. Staff recommends the height be reduced to 55 feet due to the adjacency to residential. It is located about 147 feet from the residential property line in this case. It is at the southeast corner of Kyrene and Ray Roads within the Laguna Village shopping center. There is an old former movie theatre on the eastern portion. This site is a little different in that it has a couple of towers on the site already. They were approved administratively. They are light pole replacements. They are taller light poles but still light poles and they did not require Use Permits. He showed where they were located on the ELMO. Up against the building is where the proposed monopalm would be located. Mr. Dermody showed where in a more detailed site plan. There are mature palm trees on this site – date palms to the east of this and behind the buildings as well as in front of the buildings and to the northwest, near the intersection of Kyrene and Ray Roads. From most vantage points you will see live mature date palms in the same field of vision as this proposed monopalm tree. Staff does recommend approval with the condition that reduces the height to 55 feet. He said he would be glad to answer any questions.

**BRYAN RUDD, 3523 E. PRESIDIO CIRCLE, MESA, REPRESENTING CLEAR WIRE**, stated that as wireless carriers, which has been explained several times before, they do look for existing wireless facilities on properties and there are two main reasons. One, the City is in favor of that property and having these wireless facilities. Two, the landlord is willing to accept the money from wireless carriers. That is one of the major components and reasons why they were at this property. There are other facilities on the property currently operating and the City has been willing to allow those there. That is one of the main reasons they are on this property. They believe this is a good site. It will provide coverage, the necessary coverage for Clear Wire through the surrounding neighborhoods and residential properties. They believe that this site is again good because there are mature palm trees around and it does fit in the surrounding environment.

**CHAIRMAN CASON** asked if he was o.k. with the 55 feet? Mr. Rudd said they would like higher but he thinks regardless of what he says here, 55 feet is what they are going to get. **CHAIRMAN CASON** asked how about if they added a palm tree south of there in that island - the island that is between the homes and the tower site? The reason he is asking is because if he were to live in that home and he knows there are a lot of palm trees around, but if he is sitting in his back yard his field of vision just sees the monopalm. He was thinking if they put a friend, a live plant in that island, then there would be a contrast between the monopalm to give those particular people something to look at. He knows Mr. Rudd is not as versed at adding palms, so he just wanted to ask the question if he thought they could add that as a stipulation? Mr. Rudd said if they could keep their height, 60 feet is what the engineers came to him with. If they are able to do that he doesn't see a problem. Personally, either way. He still believes 55 feet is what they will get. **CHAIRMAN CASON** asked so they can approve it at 55 feet and get a tree? Mr. Rudd said that is up to him. Mr. Rudd said he can argue his point and he tried to do that on the last site. Unfortunately, Commission here still feels 55 feet is necessary. If they ask for the higher height, he doesn't believe they are going to get it. They believe there are sufficient enough mature palm trees on the property and that is the reason that they have worked with Staff and they have not recommended that they plant any other live palm on the site. **CHAIRMAN CASON** said Staff is very good about that and they are quite conscientious to the applicant. This is usually where they sometimes have a difference of opinion on where landscaping could be and stuff like that. Certainly, if anybody on the dais has any comments on why they shouldn't or it is not necessary - they are aware of Staff's input.

**VICE CHAIRMAN RIVERS** stated he thinks that if this is going to go the same direction as the last item, he thinks he is correct and it will get approved at 55 feet. He is certainly willing to support is at 55 feet. He thinks the people who live in those houses when they look over their fence, they are going to see one item sticking up in the air. If they have something to cut down that vision or if they have something to make that a little bit more tolerable for them, he thinks that is something he would favor adding as a stipulation.

**COMMISSIONER VEITCH** said he agrees with the addition of a live palm in the foreground and the site is viewed from the south so it would be an appropriate thing to do. You can see on the bottom photograph that they have on a page in their packet that has the 2 photographs, you can just imagine where that tree would go and how high that would be. Even at planting, it would do a pretty effective job on the line of sight.

**COMMISSIONER PRIDEMORE** stated while he understands the comments about adding an additional live palm between the proposed monopalm site and the residents to the south, in his opinion that is only really benefiting one property owner – the one directly south of the proposed monopalm site. Any residences either to the west or to the east, it is adding additional verticality but from looking at the site and those trees directly south of the parking and north of the residences, they are quite mature. While he would support an additional tree, he personally does not think it would bring very much to the table.

**COMMISSIONER KELLEY** stated just in an effort to get this monopalm a little further away from residences, he was curious about the space between the two existing buildings. Do they look at locating in between buildings if there is room in there? Mr. Rudd said they have tried locating and working with the landowner. Due to doorways and access ways this is the preferred location with the landowner and they feel that this is a very good location because it does not interfere with the tenants and is sufficient 150 feet away from residential.

**COMMISSIONER HARTKE** said in these particular towers they can move the palm/tower away from whatever their box is for some distance. Correct? Mr. Rudd said that is correct within reason. **COMMISSIONER HARTKE** said certainly they are not going to shoot across a football field. Just looking at that space between the buildings it seems like there is some landscaping as well as a walkway there and he doesn't see any doors. Does he know the distance or the width of this area? His big thing is that he wants to move this as far away as possible and he doesn't think 152 feet is a whale of a lot of difference. His druthers would be over 200 feet on every one. He re-raised the question of why they can't move this box a little further to the east and then further to the north. Mr. Dermody said just for clarification he believes he is talking about the little landscaped area (he showed on the ELMO). Can they gain anything with that? Mr. Rudd said they may gain 10 feet from residential with their monopalm and they feel the proposed location is a very good location. Another reason why it would be difficult to locate that in that area is when their technicians do need to maintain the site, the access and limitations that they have to move around inside or around the equipment and the tower itself, they would not be able to maintain their site in that area.

**CHAIRMAN CASON** asked if there was anybody from the audience that would like to speak on this matter. There was one speaker.

**ROY STRAUSS, 1841 N. PABLER, CHANDLER**, said he is one of the lucky people that actually are 147 or 150 feet from this eyesore. There are already 2 cell towers there. One of the things that bothers the residents and certainly himself, the statement has been

made that this is a nice place to populate behind this shopping center, putting a 3<sup>rd</sup> one in. He is a landowner as well as the people all along that area behind there. They are talking property values. They cannot argue health and there has been a lot of lobbying. They have not decided that it is not a health issue, they are just not allowed to discuss it. But everybody knows it is a health issue. Leaving that aside, as a property owner along with the other people, it does have a negative impact on property. That is proven. There are so many reports on that. There are already two. They have had their share of devaluation and now they are talking about putting a third one there. He is sure the landowner likes it. He is just there to say it is an eyesore and will be an eyesore, especially a fake palm. Anyone that has ever seen them, know they look foolish. It does devalue property, which brings down tax revenue. These are hard times for the County, the Township and for the City. He doesn't know if it is a good time to devalue property and follow that with lower taxes. He is there as a representative of the people up and down the street just to say they are opposed and ask them to disallow this as further devaluation of their property.

**COMMISSIONER PRIDEMORE** thanked Mr. Strauss for coming this evening. Earlier they had some discussion, if this site were to be approved, the addition of another live palm to help break up the views. Would they personally be in favor of that? Mr. Strauss said it is like saying if you want to cut both legs off or just one, he would go for the one. An additional palm does make the one look less foolish if it is tall enough. 65 feet is pretty high. It will tower above a real palm and as somebody mentioned earlier, the line of sight in two years will be 80 feet and since this is a hot bed for putting in towers, he expects to see a 75 foot tower in a few years. **COMMISSIONER PRIDEMORE** asked if it would help? Mr. Strauss said he didn't know. It probably can't hurt. He would like to see a half a dozen palms put there, all 60 feet. Is he opposed to another palm? No. He is opposed to another tower but he is not opposed to trying to hide the tower.

**MR. RUDD** stated he appreciated his comments. It is a valid point. To his recollection he doesn't remember any reports done that proves that it does depreciate value. There was a neighborhood meeting on this and 2 people were in attendance and they were not opposed to this site after discussion. He does not believe every resident around this facility is opposed to having a 3<sup>rd</sup> one located on this property.

**CHAIRMAN CASON** asked Staff if they could shed some light on the ability for an applicant to come in and after they have been granted a tower, just indiscriminately keeping adding height to their tower? Mr. Dermody, Sr. City Planner, said if they are approved at a specific height, whether it be 65 or 55 feet, they would be limited to that height and they wouldn't be able to get a building permit to go any taller than that unless they came back and got the Use Permit amended. Anybody else who wanted to put a monopalm style tower on this site at 75 feet, they would have to come through the same public hearing process. There is an ability to get separate towers approved administratively, but not this monopalm style. It would have to be the light pole replacement style of tower. There is a limit to how high those can go.

**CHAIRMAN CASON** closed the floor from any further comments and any discussion on the dais.

**VICE CHAIRMAN RIVERS** asked if they were considering adding a stipulation to this as far as the additional tree in the island in the parking lot? **CHAIRMAN CASON** said he is going to leave that to the motion maker.

**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER FLANDERS** to approve ZUP10-0013 LAGUNA VILLAGE WIRELESS FACILITY with the stipulations added as read in by Staff.

**COMMISSION PRIDEMORE** asked about the height for said tree?

**VICE CHAIRMAN RIVERS** said at least 25 feet.

**BILL DERMODY, SR. CITY PLANNER**, said a proposed wording for that would be:

*A live date palm shall be planted in the parking median to the south of 25 feet height at planting.*

The item passed 6 to 1 (Commissioner Kelley was in opposition).

**CHAIRMAN CASON** told Mr. Strauss that this will go before City Council on September 16 and to feel free and come forward and state his concerns at that meeting. He said they are just an advising body and Council is the people that make the ultimate decision. He thanked him again for his comments.

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report. **COMMISSIONER FLANDERS** asked Mr. Mayo if they can schedule a Planning Commission Tour of the new City Hall. Mr. Mayo said he will find out when tours start and they will get something coordinated.

7. CHAIRMAN'S ANNOUNCEMENTS

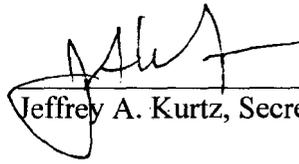
**CHAIRMAN CASON** spoke of our sincere condolences and best wishes for the family of our fallen Officer Ledesma. He said our prayers are with them and wished them the best at these difficult times. **CHAIRMAN CASON** announced that the next regular meeting is August 18, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT  
The meeting was adjourned at 6:48 p.m.



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, August 18, 2010 held in the City Council Chambers, 22 S. Delaware 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 Kristian Kelley  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Also present:

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 COMMISSIONER FLANDERS**, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the August 4, 2010 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 was pulled to action.

A. DVR10-0010 WHISPERING HEIGHTS

**Approved.**

Request amendment of existing Planned Area Development (PAD) zoning in order to eliminate the requirement for copper plumbing. The partially built-out site, which is approximately 60 total acres, is located at the southeast corner of Chandler Heights and Lindsay Roads.

Upon finding consistency with the General Plan, Staff recommends approval to eliminate the zoning condition, Condition No. 11 in ordinance No. 3635, requiring copper plumbing for lines under water pressure.

B. PDP10-0007 REGENCY PARK MEDICAL OFFICES

**Approved.**

Request Preliminary Development Plan (PDP) approval of additional tenant names upon a monument sign at 1445 W. Chandler Boulevard, approximately ½ mile east of Dobson Road.

1. Substantial conformance with application materials kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0007, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3314 in case DVR01-0025 REGENCY PARK GARDEN, except as modified by condition herein.
3. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.

D. UP07-0083 VON HANSON'S MEATS

**Approved.**

Request Use Permit approval to sell beer & wine for off-premise consumption only within a meat and grocery market (Series 10 Liquor License) and to conduct outdoor grilling at 2390 N. Alma School Road, #101, north and west of Warner and Alma School Roads.

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 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 grilling area shall be maintained in a clean and orderly manner.

E. PPT10-0001 PARCLAND CROSSING

**Approved.**

Request Preliminary Plat approval to designate three lots and phasing as a part of the multi-family residential component for property located at the northeast corner of Alma School and Willis Roads.

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.

**COMMISSIONER PRIDEMORE** said he needed to recluse himself from Item A as he is one of the few existing residents of the Whispering Heights subdivision.

**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER HARTKE** to approve the Consent Agenda as read in by Staff with new Amendment Item D as noted. The Consent Agenda passed unanimously 7-0.

**ACTION:**

C. PDP10-0011 PANATTONI CAC PARKING EXPANSION

Request Preliminary Development Plan (PDP) approval of a parking lot expansion and associated improvements on 13 acres north and east of the northeast corner of Germann and Cooper Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Panattoni Chandler Airport Center", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0011 PANATTONI CAC PARKING EXPANSION, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 3673 in case DVR04-0037 CHANDLER AIRPORT CENTER, except as modified by condition herein.

**MR. BILL DERMODY, SR. CITY PLANNER**, stated this is a request for Preliminary Development Plan approval for a 13-acre site of an existing 11-acre Panattoni Development and 2 acres to its west. This is near the northeast corner of Germann and Cooper Roads. They are within the Chandler Airport Center, which is the Master Planned Business Park with some retail types of uses approved along Cooper Road. The particular site in question is actually an economic test story of recent note. There is a call center operation in Building 1 of the eastern portion of the site and what is prompting this PDP request is that they are expanding into Building 2 not only of the first floor but they are going to be building out the mezzanine. The existing site, which is within the yellow here (shown on ELMO), does not have quite enough parking to accommodate their needs. It is pretty close to accommodating their needs by code if this area in pink is built out as parking as previously approved. Right now it is vacant. The particular need of the tenant requires that more parking spaces are provided. Call Centers often have this higher parking requirement. The additional parking will primarily be provided on this 2-acre site adjacent to Cooper Road. Germann is down here (shown on ELMO). So what had been a large L-shaped vacant parcel will now be split into 2 with this new parking in-between. There is also this area in yellow. He noted a minor change to what had been approved. This was retention before but now that retention will be put underground this would allow more parking spaces in that area. The total number of parking spaces they will have here then will be about 900, which will allow this expansion to be placed in Building C on this site.

They have analyzed the use and found it appropriate and allowed by the current zoning. The zoning calls for the Area Plan, which produced the zoning called for business types

of uses over here but then along here they can see the candy cane stripes which called for more of a retail, fast food, gas, and hospitality types of uses. (Shown on ELMO) Parking is also in that category so the use is allowed. From there they analyzed the appropriateness of the layout, which would meet their commercial design standards as far as the number of trees and so forth. It is an efficient layout for cars coming in and out. The major concern they had is what it would do to bring this parking up against Cooper Road where buildings might otherwise be expected. They were concerned about that so they asked the applicant to provide a scenario for what could be developed even after this parking lot was put in place.

Mr. Dermody showed on the ELMO where the parking expansion area is and said they would be left with about 2 acres on the south. This is a typical and plausible building layout with the possible exception of the drive through. In any case, about a 5500 square foot building still fits down here, an 8000 square foot building next to it and you can still have sufficient parking on that 2-acre site. What's being left down there is still fully functional. They aren't killing it and keeping it vacant for all time by any means. To the north there is a smaller parcel about an acre in size and what you see here happens to have a drive thru but it doesn't necessary have to. You would be talking about a smaller building about 3000 square feet that could fit on that site.

Mr. Dermody said that as he showed on the Master Plan, these types of uses whether it is fast food, retail or other restaurant up here are already called for. In the Area Plan of the Master Plan for Chandler Airport Center, retail office uses are called for on that southern 2-acre parcel. That was never intended to be a business park. This parking still allows those 2 parcels to be developed just as they always were envisioned to be. Staff does recommend approval of this request. He mentioned there was one other portion of the request that he should cover. The Master Plan approved the general sign, styles and general locations but they were to be more specifically identified through the preliminary development plan. He said he would like to clarify an exhibit that one of the Commissioners had a question about.

They are asking for approval of one single tenant sign adjacent to the driveway. He showed what a single tenant sign would look like. He said the look of this is already 100% approved; it is just a matter of where it is. He showed where it would be. There are some other signs identified on this plan but they are not being approved through this PDP; they are just potential future and being shown in the booklet to just give them an idea of what the eventual layout of signs could be. That might be another single tenant sign to the south for the restaurant, fast food or other retail and then possibly some multi-tenant signs on the south. But again, just a single tenant sign is being approved right now. Staff does recommend approval of this request finding that it is a compatible land use and a well laid out project and supportive of the exciting additional employment in the area. He turned it back to the Chair for any questions.

**CHAIRMAN CASON** asked what does the parking that exists cover? How much square footage? Is it for an industrial use or an office use? Mr. Dermody replied that actually the use is allowed on the 11-acre Panattoni site's eastern portion of it. It would

include office or light industrial. They had 2 site plans approved for this. One of them was all parking, which is what they intend to do now; if this ended up being more of an industrial use with a lighter parking load, they could have put a third building on that vacant parcel. He showed the parcel that is in pink on the screen. It could have been a third building if this ended up being more of an industrial mix or if it was mostly office it could of just been parking. Again, this site that is outlined in yellow, even building out mezzanine in building 2, comes pretty close to within about 10 spaces of meeting the code requirement in parking. **CHAIRMAN CASON** asked so if they added the mezzanine square footage in the east building, how many additional parking spots would they need for that? Mr. Dermody said it would depend on the square footage. He asked them to allow him to reference the site plan to get the square footage of the mezzanine. He said it would be between 40,000 and 50,000 square feet on that mezzanine. **CHAIRMAN CASON** asked so that equates to how many parking spaces with an office demand? Mr. Dermody said at a rate of 5 per thousand, it would be about 200 to 250 additional parking spaces. **CHAIRMAN CASON** asked in the yellow area, how many spaces does that afford? Mr. Dermody stated that with the surface parking that is supposed to be built out including the underground retention, it would be about 708 parking spaces on the 11-acre site. **CHAIRMAN CASON** asked so that would included the purple, yellow and what is already existing? Mr. Dermody said yes. **CHAIRMAN CASON** asked what would be the ratio of parking spaces to square footage with just the yellow and the purple and what is already existing? Mr. Dermody said the proposed build-out requires 664 parking spaces – that is with the mezzanine built only and one of the two buildings. Actually, without undergrounding retention that gets 653, which is 11 short and with underground retention they will get 708. If they were to ever build out the mezzanine and the building, they would be short on parking on the 11-acre site. They would be relying on the parking from the 2-acre site if not some other form of parking provision. **CHAIRMAN CASON** asked so what he is saying is that this proposal covers the 2<sup>nd</sup> building if it would ever be built out with the second floor because if they didn't build or allocate at least the area for parking now, then they would have no parking on site for that additional square footage? Mr. Dermody replied that by code that is correct. However the tenants needs are higher than the code compliance.

**COMMISSIONER FLANDERS** asked if the monument sign locations meet all City of Chandler criteria as far as setbacks from the corner and separation from signs? Mr. Dermody replied yes. This isn't final approval so they will have to make sure that visibility triangles. It certainly is plausible they can meet that. It appears they would meet that. They do support this. **COMMISSIONER FLANDERS** said regarding the retail pads he hopes they can at least provide flexibility if it is office use in there. He thinks with the retail pads up at Yeager and Cooper Road it provides some additional sit down restaurants or fast food and they have the hotel and everything. He is glad to see that especially with the call center and everything else. He thinks it is a good mixed-use of office, especially with the call center, retail and different things going on in the area. He is glad to see this combination.

**CHAIRMAN CASON** called the applicant to the podium to speak.

**WES BALMER, 2425 E. CAMELBACK ROAD, PHOENIX** there representing Balmer Architectural Group.

**CHAIRMAN CASON** asked him to help him understand the parking issue with having more parking than the code would require? Why do they need more parking for that type of use? Mr. Balmer said it is basically a call center similar to University of Phoenix and there are several of them now throughout the valley and they are being very, very successful. They do put a lot of bodies and a lot of cubes inside in this space and that increases the parking demand that they require. What they might typically do for an office building is 20% of office and the rest of it are cubes that vary from 7 x 8 to 10 x 10 filling up the floor plan. Here they are putting in smaller cubes. Again, a lot more density of people in the buildings, which is efficient for them and that requires more parking. **CHAIRMAN CASON** asked if there were any other considerations made such as a parking garage on the purple area or anything like that? Mr. Balmer replied that they looked at numerous things from doing a 4 story parking structure to a 3 story. Another scheme actually included parking (8 cars per thousand) all the way down on the corner taking another 3 or so acres. From looking at the Planning aspect of it, the overall park which they did the Master Planning on and coordinating with Bill Lund and his group wanting to retain parcels that could be sold off that are very functional for retail uses, leaving those pads on the 2 corners was the most appropriate. **CHAIRMAN CASON** asked so at issue then would be the cost of a structure if you were to add a structure to the purple area primarily? Mr. Balmer said that primarily the main issue would be the cost of the structure.

**CHAIRMAN CASON** asked if this additional parking, the orange area, is mostly for when they build the 2<sup>nd</sup> floor in the west building? If they don't build the 2<sup>nd</sup> floor in the west building then basically that lot, although it would be used, won't serve its purpose. It won't really be needed unless it was built out. Correct? Mr. Balmer replied that is correct. He would say that is highly unlikely unless something drastic happens. They are under a fast track to get the 2<sup>nd</sup> floor built and expand because they have more bodies that they want to put at this location. **CHAIRMAN CASON** asked is that the 2<sup>nd</sup> floor on the west building or just the east building as it was indicated in the presentation? Mr. Balmer said it is only on the west building. **MR. DERMODY, SR. CITY PLANNER**, said as a matter of clarification the western building is the one that's vacant today and both 1<sup>st</sup> and 2<sup>nd</sup> stories are anticipated to be occupied. The eastern building has only the first floor occupied and is planned to stay that way at least right now. **CHAIRMAN CASON** asked so the parking in the orange area is really only needed if they build a 2<sup>nd</sup> floor on the east building? Mr. Balmer replied that was correct and to meet their more dense requirement for population inside the building. **CHAIRMAN CASON** asked to meet their expectations with 2 floors in the west building and 1 floor in the east building, they need purple, yellow and part of orange? Mr. Balmer replied they need all of orange. **CHAIRMAN CASON** asked then if they build a 2<sup>nd</sup> floor in the east building, then there won't be enough parking? Mr. Balmer responded that it depends how you define it. He would think that a portion of these buildings could have a 2<sup>nd</sup> floor if their parking requirement were reduced down to what the city code would be. He hasn't done that analysis to know what that would be because they are exceeding what the code

requirement is on the site. **CHAIRMAN CASON** asked him if their parking requirements were 8 per thousand? Mr. Balmer said he thinks they are about 7 per thousand. **CHAIRMAN CASON** asked if that matches the overall spots that are out there for the square footage that they are going to build with 2 floors in the west building and 1 floor in the east building? Mr. Dermody, Sr. City Planner said he would get back to him on that. **CHAIRMAN CASON** said he knows he has to do the math. His concerns here were that he was not fully grasping if they are building asphalt and creating a parking lot that they really don't need right now. He is confused because he was thinking they needed all this parking because eventually they will build a 2<sup>nd</sup> floor in the east building. If they don't build a 2<sup>nd</sup> floor in the east building, then they don't need all this parking. That is where this is kind of murky to him right now. Two things - one he doesn't want to put down any more asphalt than they have to. He would rather leave the land vacant for future development more than just breaking it up into thirds. Moreover, if it is just going to sit there and not be used, then he guesses the fear would be that you have no place to park or that this property won't be available in the future or something like that. That is kind of like where he is trying to get to. He is just trying to get an understanding of that - it is an awful lot of parking. Is all of that parking really necessary? At least to the memorandum it seemed like they were overdoing the parking.

**COMMISSIONER PRIDEMORE** said it would help him if they could clarify code required parking versus parking that you like to provide for the tenants. He understands that a call center has a high volume of employees. There is always a question of work hours, are they all there at the same time or are there shifts enough that you don't necessarily need so many hundreds of additional spaces. If he could clarify for him, this may help hopefully some of the questions from the chair. Existing code required parking, and with the proposed addition, code required versus what they would like to have. That is what he would like to see. **CHAIRMAN CASON** said if call centers remain static and all those bodies were there and at that density that is one thing. He knows call centers are evolving not to be handled in a single location. Their future for call centers is to have their people not to come to a place to work. As broadband allows it, they will be able to do their work at remote locations. He can't see with the savings that a call center could achieve by being able to develop that class of personnel and that availability to be able to do those things, why would they want to concentrate employees together there. Certainly they are allowed to run their business anyway they please, he honors and respects that. What he is worried about is they are going to build all of this asphalt. Once they have built that parking lot because they are moving all of the retention underneath that parking lot, they could never do anything else with it. They can't tear it up and put a building on top of it or anything. Once they have committed to this plan, there is nothing they can ever do with that piece of property. If they don't need it, it seems a shame to sit there and start growing weeds out of it and stuff like that. They do see lots in town that aren't being used and there are weeds popping up through them. He just wants to understand the viability of having all of that parking available.

**MR. BALMER** said he would like to address a couple of the questions. The first premise is that the only reason that they are proposing this is because they do have the tenants needs to expand in this park. They need a 2<sup>nd</sup> floor in order to get the square footage that

they desire and they have a demand for a number of parking spaces. He can relate to them that at the Cotton Center in Phoenix they did a building that was about 108,000 square feet that EDMC went into and within a few years they expanded from only being 20,000 square feet to taking the entire building. Within the last year they just expanded a site adjacent to them that was 3 acres for additional parking. He thinks they were asking for 8 per thousand at that location. If you go down there, the parking lots are always full of cars. He questioned that too because they have done parking lots for 7 per thousand and they think that the brokers come up with these funny numbers and you go out there and the parking lots are empty. This type of operation is very dense and it may not be that way in the future. The point addressing the frontage on Cooper Road is that for the past several years they have been looking at developing different retail type products on Cooper Road. There was a developer that came in and purchased the property on both sides of Cooper Road trying to make some deals and he carried it for a little bit over a year and was not able to get anybody to buy into it. Of course, the park was new at that time and didn't have all of the tenants that they are starting to develop now with EDMC going in there and the university going across the street. The 2 pads that we're leaving are now going to have a lot more marketable attention to them because of the density on the site. It is kind of like needing to build a mass of people in order to make some of those uses viable. In the future if EMDC goes to India like a lot of call centers have done and they are sitting there with empty buildings 10 years from now, somebody could likely come in there and require less parking in which case they could shift back on-site the value of the land. Cooper frontage is going to increase because of development that has happened over that time. That is going to have a lot more value than a parking lot and they have the underground retention. Putting buildings on there probably would at that time have some viability to it. It's not there now and as a land use and a market base, getting a lot of bodies here in Chandler is probably the best land use that you can propose.

**CHAIRMAN CASON** asked Mr. Dermody if he had any numbers? Mr. Dermody said a little less than 8 spaces per thousand – 7.9 or so. **CHAIRMAN CASON** asked is the entire proposal of value parking spots? That is how many they need for their 7.1? Mr. Dermody replied that is the parking ratio with all of the parking they are proposing and all of the build-out that is proposed. **CHAIRMAN CASON** asked that comes out to how many? Mr. Dermody replied said about 7.9 spaces compared to the code requirement of 5 per thousand. **CHAIRMAN CASON** asked so how many parking spaces is that? Mr. Dermody said 902 spaces over all. The code requirement is 660 or so. **CHAIRMAN CASON** asked if the proposal is 930 spaces or something like that? Mr. Dermody replied it is 902 total. **CHAIRMAN CASON** asked is it right on the money with the requirements for square footage? The amount of parking spots in all three colors is the same amount as they need for their 8 per thousand? Mr. Dermody replied that he wasn't exactly sure what their needs are but it is about 8 per thousand. He assumes that is at least equal to or greater than their needs. **CHAIRMAN CASON** said he was wondering if there would be any value in asking them to move their retention to the purple section rather than put it on the orange section. Mr. Balmer stated this is basically where they are showing the underground retention right now (shown on ELMO). He said there would be some double underground pipes. He showed a couple of areas. He showed the 2 acres

fronting on Cooper Road and then there is other underground retention on the other site. In looking at it there would actually be room to develop a building and have parking access. They have to keep this access open because it translates to the 2 pads to get access from Cooper because he believes that is there only access on Cooper. If you look at that and then the requirement of parking around the perimeter and the fact that this is a common drive aisle down here, he is not sure that it is not feasible to think that could be developed just the way it is in the future without moving the retention. **CHAIRMAN CASON** asked to answer his question specifically, is it cost prohibitive to put it up in the purple area from the way it is designed now? Mr. Balmer said that is correct. **CHAIRMAN CASON** asked Staff if they allowed buildings to be built with guidelines - like there could only be certain square footage in between the 2 retention tanks that are on the screen now? Mr. Dermody said not strictly. There would be a number of considerations. One of them would be traffic flow and there might be an engineering consideration about how close they could get to those tanks. He couldn't throw out a strict cap on how large a building could be without further analysis. Mr. Balmer said he isn't a civil engineer, he can only pretend to know a little about grading and drainage. If it would make him feel a little more comfortable, he could go back and ask if they could move this underground retention to this northern aisle to leave a larger section for a future building to be expanded into. **CHAIRMAN CASON** said Mr. Balmer knows where he is going with this. If something changes, he doesn't want this piece of asphalt just sitting out there not being used for something other than just collecting heat. The ideal thing for him is to move all of the retention tanks to the purple area because the purple area is already granted through the original PDP and it makes sense to have them over there when the viability of this section of the parking lot may become useless in the future if the tenant decides not to renew their lease or something else happens with the company. **CHAIRMAN CASON** said he knows it has cross access agreements with the 2 proposed users that would have the acre and the 2-1/2. They won't have any ability to be able to use their parking, they will have to have their own parking and their own retention on their own 2 parcels. Correct? Mr. Balmer said that was technically correct. **CHAIRMAN CASON** said for the 1 acre site and the 2-1/2 acre site, the top third and the bottom third, when we showed the examples of what could be built on those sites, those building sizes went ahead and allowed for all of the parking that the square footage would need and the retention also. The common things that we would require for a building to be built there were taken into account for that particular visual example that we were provided. Mr. Dermody, Sr. City Planner, said yes those were plausible layouts taking all that into account.

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

**COMMISSIONER PRIDEMORE** said to Mr. Balmer that in going back to one of his comments he appreciates him saying that he could re-look at the retention. He personally doesn't think that is necessary. If we could all see the future, we'd be doing great but based on his experience that retention will always be where you don't want it in the future. Trying to put in a reasonable place now is the best they can do but down the road to him, he simply sees the retention as something else that a new landlord would have to take into account. If they have to relocate it, they understand there is a dollar amount

involved that. Personally, to him they are just juggling the same things around because they know they need them. He said these locations are as good as any other and it solves what they are looking for.

**MR. BALMER** stated he is right from that standpoint that if they put all the retention over on the main site, the 11 acres right now, it could be that the land value along Cooper Road hopefully gets up into the mid high 20's the next time this cycle comes around. If they put it over on the 11 acres, they would lose the ability to put a parking structure over there and reconfigure the land on Cooper for a higher value. It is kind of a catch 22 situation.

**MR. DERMODY, SR. CITY PLANNER**, said in looking at the previous approvals on this site and the parking lot was designed to slope south and west so there would have to be a significant reconfiguration of what's already out there to be able to send the retention to that vacant parcel in the northern portion.

**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 comment.

**COMMISSIONER FLANDERS** commented to Staff that in regards to the future retail pads he would hope that the quality of the architecture and the blending of the material of the buildings that are out there would be used. From what he understands all of these buildings are being reviewed administratively. Mr. Dermody said that was incorrect. It would come back through a PDP just like the gas station that was built out there. It would come back before this board – any building. **COMMISSIONER FLANDERS** said he knew there was stuff that was approved as a master architectural theme. He asked if he was incorrect on that? Mr. Dermody said he might be thinking about Chandler Airport Business Center. There are some design elements for this area but they are pretty broad and they would be glad to take any direction going forward but anything would have to come back. **COMMISSIONER FLANDERS** stated he just wanted to make sure that the quality and building architecture and materials are comparable to the building. He thinks the site plan provided by the applicant is a conceptual site. He said with the size of those two particular lots there is a lot of flexibility and different layouts that they can get into. He is just looking for the quality of those buildings as they come back to them.

**COMMISSIONER HARTKE** said he had a question for the applicant or for their Economic Developer. He asked what are they looking at in terms of a job count for this property?

**CHRISTINE MACKAY, ECONOMIC DEVELOPMENT DIRECTOR**, stated in looking at their parking requirement, they do require just over 7 per thousand. It is about 7-1/2 per thousand parking requirement. At ultimate build-out with what they have planned between the existing building and the 2 new floors, job count would be approximately 1100. **COMMISSIONER HARTKE** asked 1100 new jobs would be coming to Chandler and particularly around our airport? Ms. Mackay said that was correct. They have 350 that exist in their building today and they are still hiring in that

particular facility. Then in their discussions with them their ultimate plan on their campus at that Chandler location is 1100. Those are new jobs into Chandler into that Airpark Area which they think would be a tremendous support for the retail that is in the area and for our citizens looking for jobs in that area not looking to commute. These are very strong jobs. They typically think that call center jobs are those lower end jobs. These are actually more of the customer care center jobs that support their educational facilities around the country. They are more in line with Bank of America jobs and the Wells Fargo jobs – pretty significant in their ability on their pay scale.

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER VEITCH** to approve PDP10-0011 PANATTONI CAC PARKING EXPANSION. The item passed unanimously 7-0.

6. DIRECTOR'S REPORT

Ms. Novak stated there was nothing new to report.

7. CHAIRMAN'S ANNOUNCEMENTS

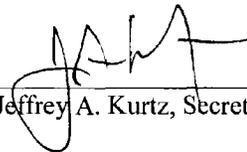
CHAIRMAN CASON announced that the next regular meeting is September 1, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:21 p.m.



\_\_\_\_\_  
Michael Cason, Chairman



\_\_\_\_\_  
Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 1, 2010 held in the City Council Chambers, 22 S. Delaware 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 Kevin Hartke  
Commissioner Matthew Pridemore

Absent and excused:

Commissioner Kristian Kelley

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY COMMISSIONER FLANDERS**, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the August 18, 2010 Planning Commission Hearing. The motion passed 6-0 (Commissioner Kelley 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 A was pulled to action.

B. DVR10-0007 MAGNUM MEDICAL

**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 (AG-1) zoning designation. The existing PAD zoning is for general/medical office uses. The property is located at the northeast corner of Dobson Road and Boston Street, approximately ¼ mile south of the southeast corner of Chandler Boulevard and Dobson Road.

Motion to recommend approval of extending the timing condition for case DVR10-0007 MAGNUM MEDICAL for an additional three (3) years, in which the zoning would be in effect until April 2013, with all of the conditions in the original approval remaining in effect.

C. LUP10-0031 RANCHO DE TIA ROSA

**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 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. The site and patio areas shall be maintained in a clean and orderly manner.

D. ZUP10-0036 BMI BERGNER MANUFACTURING

**Approved.**

Request Use Permit approval to operate a 5-employee office in a converted residence at 598 W. Chandler Blvd.

1. The Use Permit shall be granted for a period of three (3) years, at which time re-application shall be required. The three-year time period shall begin from the date of City Council approval.
2. Substantial expansion or modification beyond the approved exhibits 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 business shall be limited to five (5) employees at all times.
7. The site shall be maintained in a clean and orderly manner.

- 8. The site shall be fully landscaped in a residential character, including removal of weeds and installation of gravel to cover bare dirt, prior to occupancy by the subject business.**

**MOVED BY VICE CHAIRMAN HARTKE**, seconded by **VICE CHAIRMAN RIVERS** to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 6-0 (Commissioner Kelley was absent).

**ACTION:**

**A. DVR10-0006 SANTAN DOBSON BUSINESS PARK**

Request rezoning from Planned Area Development (PAD) to PAD Amended zoning to expand the list of permitted uses for Suites 8 & 10 of the Santan Dobson Business Park at 2221 W. Pecos Road, west of the southwest corner of Pecos and Dobson Roads.

Staff, upon finding inconsistency with the General Plan and existing Planned Area Development (PAD) zoning, recommends denial of DVR10-0006 SANTAN DOBSON BUSINESS PARK, SUITES 8 & 10.

**BILL DERMODY, SENIOR CITY PLANNER**, stated the request before them is a request to change the zoning for 2 suites within the Santan Dobson Business Park located west of the southwest corner of Pecos and Dobson roads in order to add to the list of permitted uses within those 2 suites. He said Dobson Road is on the east and Pecos is on the north. He showed on the ELMO where the subject suites are within Building A.

The existing zoning at this location allows for a range of uses generally classified as Business Park, more specifically office showroom or office warehouse, research and development, complimentary industrial and support retail service uses. The support retail service uses more specifically could include printing facilities, mailing and shipping services, catering services; the types of uses that rely on the surrounding employment base for their primary customer base. Not uses that are primarily focused to broader outside retail traffic. The reason that was included originally was they found over the years that having a limited amount of retail in that character actually strengthened the business parks in the long run.

The request is for quite a long list of new permitted uses, 43 in all. Some of them are permitted already and that is among the memo attachments. He said just to highlight, some of those would include a fitness training facility, art galleries, auto accessory sales, bakeries, machine tool manufacturing and personal services. Most of these are more of a retail type of character and what is allowed by the current zoning. Only a couple of them are heavier industrial than what's allowed there right now. The fitness training facility that is there right now occupies 1 out of these 2 suites. The owners had known that

support retail was allowed and they didn't understand that this would not include fitness training. They have worked with them since then. Of course, they have applied for this rezoning to get it blessed by Commission and Council. He said that is why they are here today and while they were at it they wanted to expand that in case the fitness training facility wasn't there forever. They would have some flexibility in the future as well as specificity as to what was allowed so that there might not be future confusion as far as tenants when they try to recruit.

This particular park has 3 points of access, 2 of them primary points of access along Pecos Road. The 2 main points of access go by Building A. That is also where any truck traffic would likely go. There is also a third access to the southeast that goes through the medical office in that direction. There is quite a bit of vacancy especially the eastern part, which was just recently developed in the last couple of years. He said the pink parcels (shown on ELMO) are vacant and the green ones are occupied. The subject suites have one of each at this point in time. Also, they are condo'd out, which is noticeable. They have quite a few property owners in this area. The parking is all community owned and the distribution of parking is up to the CC&R's. Each one of these different colors is a different property owner. The ones in gray is the most common property owner. That is the original developer and most of their spaces, all except for one, are vacant. There is quite a hodgepodge of owners. It is not a 'for lease' type of Business Park. It is all condo'd which complicates things a little bit.

With regard to the parking, there is sufficient parking for most of these buildings to become mostly office. The amount of parking is substantially flexible. What has happened behind Building A right behind the subject suite, is a storage yard but there is also the potential for all of those storage yards to build out as parking spaces, which increases the amount of office or retail uses that can be there. It still can't be 100% of those types of uses but this isn't a heavy industrial park with an 80% industrial warehouse capacity like they see in some other areas. It is more of an office oriented business park. There is only 1 'H occupancy' in there right now. 'H occupancy' is their hazardous materials above a certain amount that has to report to the fire department and that one is on the other side. There is the potential that 'H occupancy' could be other places within here. This isn't a brand new idea that they are bringing forward. They have other zoning and use permit requests for retail types of uses in industrial parks. They have recommended denial on many of them and approval on a couple of them. Some have been approved, some haven't.

The situation where Staff has recommended approval has been an ability to separate the types of traffic, the truck traffic and the retail type of traffic. That situation is not present in this case. There has also been ability to separate 'H occupancy'. In this case, they only have 2 suites so there is no way except through the building and fire codes to restrict 'H occupancy' from the rest of this building or from the neighboring buildings. Recently, they had a case near the Chandler Airpark where 2 entire buildings were rezoned to allow retail types of uses. They agreed to eliminate the 'H occupancy' from those buildings. They don't have that ability here except through the fire code. Since those neighbors are not part of this rezoning there is potential for 2 things. Either a conflict where you bring

in 'H occupancy' closer to retail type of traffic or you are degrading the ability of these neighboring suites to house those. The fire code restricts them from being able to go in there at all.

As Staff, they are recommending denial. They find that there isn't an ability to separate 'H occupancy' or the traffic conflicts and the result is that there is negative affects on the long term viability of this business park which has always been envisioned as an employment base for the area.

Mr. Dermody noted that they have had some neighbor input. Some of that he just relayed to them. There is one neighbor, a property owner of one of the buildings to the southeast within the same park who feels that the main use that they want the personal training is o.k. but they are not comfortable with such a long list of uses, especially some of the retail oriented uses. They feel it should be a short list to reduce unfairness with the neighboring suites and also potential traffic conflicts, especially art galleries and that sort of thing. Another neighbor they have talked to is a renter of a suite immediately west of these. He is opposed to this due to traffic conflicts and the amount of parking. That particular neighbor notes that the business park is about one-half full right now and they are concerned about the parking situation when it is completely full. With that Mr. Dermody said the Staff recommendation is for denial.

**CHAIRMAN CASON** asked if there were any questions for Staff.

**COMMISSIONER VEITCH** asked about the suite to the east of Suite 10, which he thinks is Suite 12. What is the use in that suite? Mr. Dermody stated that is an administrative office. **COMMISSIONER VEITCH** asked if that was in compliance with the existing pad zoning as far as they are concerned? Mr. Dermody replied as far as they know, yes.

**COMMISSIONER HARTKE** asked what types of hazardous materials are currently being used or does the permit give them a little more indication? Mr. Dermody answered that the existing 'H occupancy' is a grout cleaning company that keeps some of their grout cleaning chemicals on site. **COMMISSIONER HARTKE** asked so not just fumes, but lye? Mr. Dermody said yes but also the potential for explosions or flammable materials. **COMMISSIONER HARTKE** said another fitness center was mentioned that they discovered was also operating in there. Have they been approached or are they still operating in this complex as well? Mr. Dermody answered said they have been working with the property owners in those suites. There was a fitness center use there and it appears that they left. They were there for 1 to 2 years. What is there now may or may not be legal according to the existing zoning and their inspectors are working with them right now. **COMMISSIONER HARTKE** asked if it falls under the line of the request or is there any tie-in with this case at all? Mr. Dermody said there is no tie-in with this at all because this request is for only 2 suites. **COMMISSIONER HARTKE** said the letter in the packet was from a Mr. Ellsworth. Is he currently renting? Mr. Dermody said yes, immediately west. **COMMISSIONER HARTKE** said so he is directly affected by the parking on there.

**COMMISSIONER FLANDERS** asked Mr. Dermody in regards to the fitness training what impact does that have on the rest of the development as far as parking goes? Mr. Dermody said that fitness training has a different type of traffic than office or light industrial that you would normally find in here. There are more per trips per day, heavier impact at certain peak times whenever they have classes. Right now those classes tend to occur in the morning up through 10:00 a.m. Then they have the late afternoon classes from 4 to 5:00 p.m. on. **COMMISSIONER FLANDERS** asked on the counts per square foot per space, do they have enough parking to cover that area at this time? Mr. Dermody said at this time only 1 suite is occupied by that use. Yes, if both suites were occupied by this use or a similar use that parked at 1 per 200 then there would not be enough parking if you divided parking equally between each condo. throughout this development. **COMMISSIONER FLANDERS** stated his last question relates to all those other uses that are part of this application. If all those are approved, what does that do in the parking for this development? That pretty much could open the floodgates to a lot of other different uses that would probably impact the overall parking counts. Mr. Dermody said regardless of whether this zoning is approved every time somebody comes in for a Certificate of Occupancy, they would be limited in the amount of higher parking generating uses they could have. In this case there would not be an ability to have 100% of fitness training. It would have to be some amount of their floor plan that was storage or some other lower intensity uses. If they got all these other uses involved in this development, there would be a lot of encroachment into other users parking. Is that a fair statement? Mr. Dermody replied that it would be a different nature of parking than what is there today but as far as code goes, these types of uses are, except for a bank, more intense. All the other uses requested are the same as office as far as parking requirements or less. **COMMISSIONER FLANDERS** asked so he doesn't see any conflict as a result of the parking? Mr. Dermody said there is a conflict as far as the times and the nature of the traffic but not as far as the overall amount. **COMMISSIONER FLANDERS** said he guesses what he is looking at is what is the existing zoning, the parking requirements, and then they throw all this other stuff in the mix. What does that do with some of the existing tenants who are condo. owners who want to serve their clients? He is trying to evaluate what that would do to them.

**CHAIRMAN CASON** asked Mr. Dermody if the suite holder to the west owns his/her condo.? Mr. Dermody said no that is a renter.

**VICE CHAIRMAN RIVERS** asked if this business is not permitted in this center 'as is', correct? Mr. Dermody said that was correct. **VICE CHAIRMAN RIVERS** asked how they got started in the center? Does he have any idea? Mr. Dermody stated the business went in without a Certificate of Occupancy and so there was no check by the city. He said it is probably a question for the property owner. He thinks they thought it was legal. It was a support retail that was allowed.

**CHAIRMAN CASON** asked Mr. Dermody to elaborate a little more about the differences between Red Rock and some of the other ones they have approved lately that

are over by the airport for this type of use? What is different about this one? What are the major fundamental differences between these two that make one understandably approvable and the other is much more difficult? Mr. Dermody replied that the biggest thing is that those projects came in as an entire center. Several buildings from the same project were all part of the same rezoning and so there was an ability to modify the site layout in one of the cases to change the direction of truck traffic. There was ability to restrict where certain types of uses had their parking and there was an ability to restrict 'H occupancies' from entire buildings or portions of the project. They don't have that flexibility here because they are only talking about 2 suites within a much larger development. **CHAIRMAN CASON** asked over by the airport those were single property owners not condos? Mr. Dermody replied that was correct neither of those projects were condos.

**MARTY WEBER, 2221 W. PECOS ROAD, CHANDLER**, stated he is a business owner of 2 different businesses here in Chandler. The first business is a water resource service provider and contractor. They work on wells and pump stations throughout the state of Arizona and even other parts of the southwest. They started a wholesale supply company to deal specifically in the distribution of those types of products. That is the Pro Well Supply. The intent was to have a warehouse to be able to store those products and distribute accordingly. Obviously, the economic times that they are in right now led to that business venture failing as originally developed but it continued on in a different nature that needed and required it to move to a different area because of the type of material that was being sold and stored and distributed. The condos. went up for lease trying to find tenants and that has been very difficult. They had several different types of potential users look at the property. Some chose to go to other places for whatever reason whether it was pricing or location or what have you. They found themselves in a situation where there was a potential tenant who runs this boot camp facility. There was already an existing business in the complex that was potentially similar and they decided before they went through any hard lease negotiations to give him an opportunity to essentially try the space on to see if it would fit his needs before they signed any binding legal lease agreements, etc. It was during that time that they were informed by Staff that it was a non-compliant use and that's where this hold process began. The intent of this application is really simply to allow or give somebody like us an opportunity to have more assigned uses. There is language in the ordinance that supports retail with 3 examples and it even goes on to say industrial uses. It becomes very tricky in being able to attract potential tenants. Especially when there are substantially similar projects like the Red Rock business park on Cooper and Germann, which when you look at the layout of the site is substantially similar in size, layout, access points, traffic flow, etc. but yet they are allowed to have a broader use than what they have at SanTan Dobson Business Park. That was the intent of the application. Yes, they would love to have the boot camp be able to go in there and stay in there but should you find that is not acceptable, they need to have some other ability to attract tenants and again, it is very difficult when there is one center that has a different set of perimeters and another center that is substantially similar. That is the reasoning behind the large list of uses.

He has also spent time talking with Staff. He has spent time talking with their neighbors. He has spent time talking with Council members. Everything in this application intent to keep the integrity of the center up understanding that it's principal use was industrial. All of the uses that are being requested on that are straight from the classifications that are available from the city and they have been scrubbed to again be more comparable to the integrity of that particular complex. He went to their association and on more than one occasion discussed the particular matter with the zoning. Everybody who is on the board agreed that there was an issue you can see that the vacancies that are in there is a negative impact on the center. Everybody was for it as least verbally and he does have a letter as well to the board members that are in support of this particular application. That is pretty much where they are at right now and the reasoning for going through with this application and the desire for getting the application approved.

**CHAIRMAN CASON** asked if they were to look at the green colored map, could he describe for them the suites they own. Is he the developer of the property? Mr. Weber said no. **CHAIRMAN CASON** asked if he owns the black suites? Mr. Weber said no they own a gray colored suite and the green suite, which are both hash marked and front Pecos Road. **CHAIRMAN CASON** asked if those were the only 2 suites that he owns in the complex? Mr. Weber said that was correct. **CHAIRMAN CASON** asked when did he purchase those? Mr. Weber replied he believes it was 2006.

**COMMISSIONER FLANDERS** asked why does he want to change or add additional uses for the entire development? Mr. Weber said they approached the association about going through this particular process and as much as other people support it and want to do it, they felt they didn't have the money. The association didn't have the money. Again, with the vacancies they see and the state the developer left the business park, they didn't feel anybody wanted to come out of pocket. The association didn't want to participate. They approached them in going to that direction first and foremost. Nobody chose to join them in this effort financially.

**VICE CHAIRMAN RIVERS** stated that something he said got his attention. They said this development has no defined uses. Is that really true? There are no uses defined for these condos? Mr. Weber said being a PAD and when you look at the ordinance, it simply talks about support retail uses and it does mention such as with 3 examples and then it talks again about industrial uses. That is the length of the language in a PAD. His understanding is a PAD was put over a project like this to allow for instances that we are in where when you have a hard zoning like an I-1, you are limited to exactly what is in that I-1 zoning and what the potential use permits are. By doing a PAD it allows it to open a little bit especially when the project developer saw that there was more of a need to go to an office style, which is the Phase II to the east. That is why they went with this PAD type of an overlay. So yes, they are very much subject to what Staff interprets as an acceptable use. **VICE CHAIRMAN RIVERS** said o.k. he would have to ask Staff.

**CHAIRMAN CASON** said he wanted to clarify something he heard to see if he is correct on it. He said Mr. Weber had originally purchased the 2 suites in order to have a place for his pump supply business. For whatever reasons they no longer need this space

– for his personal business. So as a business decision he has decided to lease the properties rather than sell them because probably the market doesn't make that feasible. He was planning to use it for an intended use under its PDP and now because of the fact that he hasn't been able to find anybody or he hasn't been successful in finding somebody that meets the conditions, they are looking to modify it so that the people that are in there right now can continue to stay there. Does he have that correct? Mr. Weber said that is correct but again as you look at some of the other complexes that are substantially similar and you interpret what are allowable uses there, specifically Red Rock, they are trying to get a broader base of potential businesses to pull from.

**COMMISSIONER HARTKE** said he talked about that the rest of the condo. group was theoretically interested in going through this process but when it came to actually supporting it when there was a financial cost, they diminished or dropped out. Is he right on this statement? Mr. Weber replied yes sir. **COMMISSIONER HARTKE** asked was there any difference in what the cost is to run this piece for these two as opposed to getting an amendment for the entire group. Is it based on the square footage or is it just the process? Mr. Weber said there should be no substantial difference in cost. **COMMISSIONER HARTKE** said if they were interested but just didn't want to go through the cost, why didn't they just allow you to be the champion and get this done. He is looking at a development that is 50%, maybe a little more full. There are 2 condos. that want to do something different and he is wondering if they were at least in theory interested, why didn't they just say to go ahead because they are supportive of this. He is trying to figure out if there was angst between this or apathy or are they just too busy? Mr. Weber said primarily he would have to say that because they are existing owners occupying a business, there is no immediate need for them to do so regardless of the long term benefits that they may have by opening it up to keeping the integrity of what that conflict is for. Yet, clarifying some of these uses that are allowable in there, he doesn't know that he can answer that question with a 100% certainty on their behalf. **COMMISSIONER HARTKE** said to him it would be a stronger case and it would remove a conflict within him and wondering about the concern about encroaching if they supported this by being here and saying you are a champion or their leader to get this thing through. If they are supportive, they have left you out on the plank. Mr. Weber said that is understandable and they had their neighborhood meeting and they had one person show up who was in support. He said the Commissioner sees these meetings more often than he does. He doesn't know how often they have opposition or support come in and do this. He has spoken to the board on a number of occasions and they have talked through this particular situation. He doesn't know if he has a certainty as to how to be able to answer that.

**CHAIRMAN CASON** asked him what his rationale was for wanting to change the entire condo. subdivision rather than just his 2 suites? Mr. Weber said if he were to do it for the entire complex, he would benefit as well from a condo. owner that there is an association that is stronger that would be able to have more money coming in to support this facility. The situation that they are in with their particular building being up front with the ingress and egress points is an advantage of where they are at in the complex for what they are asking that makes this a viable application. The negative impact with the 'H occupancy'

requirements or potential truck traffic, they don't have that same type of impact being up front in Building A as they would if they were back in Building D. He feels this application is viable from that standpoint being a 2-suite application versus a complex application.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated he doesn't see anything in what he has received that indicates that this application including that whole list of additional uses is tied to the entire center. His understanding is that it is tied to only those 2 units and they couldn't possibly address changing uses to the remainder of the center because those are separately owned units. Those owners are not applicants as part of this package.

**COMMISSIONER PRIDEMORE** asked the applicant if he had an executed lease with the fitness user. Mr. Weber said he has a lease with them that was signed by both parties. Their initial intent again was for them to come in and they were right at that signing point when this all came about. **COMMISSIONER PRIDEMORE** said he initially mentioned a trial period. How long was that trial period intended to be? Mr. Weber replied that it was intended to be for 1 month.

**CHAIRMAN CASON** asked if anybody in the audience wanted to speak on this matter. There was one speaker.

**MR. DERMODY, SR. CITY PLANNER**, stated he wanted to make a slight correction. If other condos. were involved in a rezoning, it would be a little bit of an increase in the cost because they do have a per acre fee. It would be somewhere around \$150.00.

**DEAN D. J. ELLSWORTH**, stated he is the tenant to the west of the applicant. They recently purchased that condo. here at the end of July. They are the owners of it. He said the current applicant has been a great neighbor. The noise level and everything you might expect from a professional training are non-existent. Their main concern with the whole application process is the parking. Even in their current condo. the previous owners who they purchased from due to the office build-out had to add parking in the yard area behind it. So they reduced their yard area to add additional parking spots. Perhaps if different things like that were done it would work better or if arrangements were made for parking that would make this a much more workable with neighbors. Again, they are also the authors of the letter in the packet. Their main concern is basically parking with the fluctuation. It could be somewhat negative if they had their own customers come in during these times when classes are going on.

**COMMISSIONER HARTKE** asked if there was the availability in his sites or around to have dedicated parking? Mr. Ellsworth said that is part of the problem. There is no reserved parking so everyone just kind of parks wherever there is availability. If there were reserved parking, that would be completely different. **COMMISSIONER HARTKE** asked if that was basically an agreement? Can that be worked out if something like that was possible? He asked him if he would be more amenable to this if some other parking arrangements were done? Could he specify? Mr. Ellsworth said

about 80% office build-out. You would still have 20% of the space being some type of low-intensity warehousing manufacturing space. During that same time they processed a condominium plat. When they did that, as they started looking at tenants for this, they took a step back and said now each condo. is entitled to the list of permitted uses that were listed under that PAD as well as a percentage of each condo. tied to their parking. So when the suites on that western building came in, when they got rid of their yard, that parking meant that they could have an increase amount of office build-out for that area. It did not mean that the suite on the opposite side of the complex could have more because it was really supposed to be a distribution field. When they look at these 2 suites, they still have their rear yard attached to both of these and they would be held to somewhere between 40 and 50%. He would have to re-crunch the numbers of the total of both the suites as some form of commercial office. If it is a personal training space which parks at the same level as office, you could still only do 40 to 50% of that unless they get rid of the rear yards and add more parking and that number starts going up. Even if the yard was gone and he sees on the screen that there is a dumpster, if they could get rid of it, they could get up to somewhere around 80% of that space and could be built-out for that commercial office space.

All the parking is held in a common tract held by the association. Staff has always said that their base mix of office, commercial versus industrial is based on the original layout and if they get rid of their yard that means that suite can have additional space. If you got rid of your yard, it upped your parking but your vacant so another space over here took it and said they are going to use your parking even though it was tied to this space. It isn't equitable to do that. They have said as soon as they have condo'd it the parking went on a suite-to-suite basis, which is another thing they are struggling with on this case. They are not dealing with a whole development, they are dealing with a little piece wanting to ratchet that up. On top of that they have not gotten rid of their rear yard, which obviously is an option for these 2 suites and their owner to do that.

**CHAIRMAN CASON** said it helped him to understand that because the parking was really confusing him in so far as why we were talking about all this parking when they were only talking about 2 suites. He thinks he understands the impact on the parking because of the fact that they are really talking about how it affects this northwest building really more than any place else in the complex. He asked if there was anybody else in the audience that would like to speak. There were none.

**MARTY WEBER** stated specifically to parking, Mr. Ellsworth obviously took some photographs and sent them in which are in Exhibit A. He went back and also took some photos from a little bit different perspective to try to show a wider swap of what is actually available for that particular building. As he went around and calculated the parking, there are 92 spots that immediately surround Building A. Right now there are currently no reservations or assigned parking. He is sure there is the ability within their association to designate certain parking spots available for particular suite owners that are immediately in front of their building. He doesn't see how that would even be a problem whatsoever. Along with the parking, understanding that any tenant that goes into a building is responsible for going in to get a C of O and making sure that those tenants are

there is a yard in back that can be converted to parking just like theirs was converted to parking. But there is really quite a bit of traffic that brings in. That would help somewhat. It probably wouldn't even be an issue here. It was owners in this complex if there was just a little urging on the visitors to leave spaces open in front of the existing tenant. **COMMISSIONER HARTKE** said what he is hearing in this letter is that his customers may have to struggle to park in front. It seems to be a concern of overlap. Mr. Ellsworth said that right now it works because there are vacancies in the complex. He is just concerned about the future if you put 2 of those same businesses on the same-shared complex. There would be a parking problem or a problem if they want to have their own customers be able to park near our suites. **COMMISSIONER HARTKE** said he would be less concerned if they would take that area behind there and convert that to parking. Mr. Ellsworth said because of the build-out they did in the complex they were required to add those parking spaces to the number of offices that were put in. **COMMISSIONER HARTKE** asked so there is no use concerns just a parking concern? Mr. Ellsworth said he has been a great neighbor.

**KEVIN MAYO, PLANNING MANAGER**, stated he was the original planner on this case and he did this in 2004. It really was one of the first in our evolution of PAD Business Parks that they really tried to blend in looking at true traditional business park I-1 uses. You can't do straight office and you can't do the support retail services. This is really one of the first coming out of the gate that contemplated blending I-1 and some of the C-2 office business park type uses together. So when they wrote the language, they felt that it wasn't appropriate to list every single use. As soon as you do that, the very next one out of the gate is not on that list. What the list uses in there were supposed to do was set up characteristics of uses. The 3 they listed in each type: the complimentary industrial and the support retail were really set up to set up the characteristics for those types of uses. They were business park related not necessarily something you would find in a retail shopping center but things that service the immediate business park. When it came to parking and when this thing was originally done with the original developer back in 2004, they were really starting to see a shift in what the traditional office warehouse industrial tenant did. It used to be more of an 80% warehouse manufacturing and 20% office. In the late 90's and early 2000's you were seeing that industrial warehouse manufacturing space shrinking and you were seeing the office space increasing. For their initial design everybody had a secured storage yard that was tied to each suite. If you bought multiple suites, obviously you just tear down the walls and they would just build one big storage yard. Right after this thing got approved is when they were really starting to see the shift in occupancy types in the business parks. With everybody having a yard the entire build-out had somewhere between 40 and 50% office allowed max. The rest of the space had to be light industrial, manufacturing warehousing space.

Those green spaces on the southern end of that western building really were the first ones out of the gate that were saying they need more office space because of the type of tenants that are in the market. They took a step back and entertained the idea of taking out storage yards on a case-by-case basis to add more parking and ratchet up the allowed amount of commercial office space that could be permitted. All told, he believes it got somewhere in 80% range. If everybody took out their storage yard, you could get to

being held accountable for the amount of spaces they are allowed to use and the amount of build-out that they are allowed to have. There is no reason this particular use wouldn't have to go through that same process to make sure they are adhering to what the design was. He knows parking is a real big issue but he thinks it is a very workable situation. That is what the primary concern is for this particular application use or any of the other uses that were to be added.

**COMMISSIONER PRIDEMORE** asked what his willingness would be to do away with the yard currently behind his 2 suites? The willingness to do away with that yard and replace it with as many parking spaces as you can fit. Mr. Weber said absolutely. They are at a little bit of a disadvantage because of the trash container storage that is there. He thinks they can certainly get 1 possibly 2 before they encroach into that trash container area with possibly a third or even maybe a fourth to the east of that trash container. That is certainly an option.

**COMMISSIONER HARTKE** said it seems like parking is one of the issues and that is workable. There are still the multiple uses of this laundry list. Would he be willing to narrow this down he assumes as according to Staff? Mr. Weber said yes. Again, he tried to do his best by going through and speaking with a variety of people understanding how he can maintain the integrity of the complex and what its initial intended use was and making sure there were not items on there that would be detrimental to the complex. If there are additional uses on there that they see that are not viable, then absolutely. He has been open for any sort of communication that will allow them to have clarity.

**COMMISSIONER HARTKE** said he is concerned with this being 60% occupied that his neighbors have certain rights about what is in there and what is not that might inhibit their future development. For example, the guy with the chemicals - they don't want people running around in a gym next to it. Would he be potentially willing go back and run an approved list by the other member of the condo. development and get some sense of approval? Is there some way to do that if they were to approve it?

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated all they can do is address the 2 units that are before them. They can't dictate that any other property owner or any other condo. owner or the association take any steps or do anything. He can ask. That is the best he can do.

**COMMISSIONER FLANDERS** stated it was really confusing and he appreciates the Asst. City Attorney clarifying it. They have 43 additional items in addition to the fitness training that they are looking for your 2 suites. Is that correct? Mr. Weber replied that was correct. **COMMISSIONER FLANDERS** said this application would have those 43 or 44 items that he has the ability to do on his piece of property but the rest of the development doesn't. Is that correct? Mr. Weber said while they would be explicitly outlined, yes. Those 43 uses are from the zoning list from allowable use permits within an I-1 and they were scaled down. That is where they come from specifically. To answer his question directly, yes by nature of the way that this application started and has gone until now. **COMMISSIONER FLANDERS** in looking at this it really seems complicated with those 43 or 44 items related just to your one use. He would think it

would be a lot easier just to do a fitness training facility at those 2 suites and that is what they want right now. It doesn't have anything else to do with the rest of the development. In his mind it seems that there is a huge chunk he bit off trying to represent the rest of the development in saying that can be used with the rest of the development when in fact in can't with this particular application. Mr. Weber said in response to that he would be all for that if he knew that Commission would approve the particular application. In going through the application process, it takes a lot of time, a lot of energy and there is a lot of work involved. The intent was to be able to do this one time not knowing what may happen down the road. That is the basis for the amount of uses that he sees there. He doesn't want to have to turn around the next time there is a user that is in question and have to go through the process again. It is very timely and it does cost money. It just seems reasonable to do it at one time. That is the basis for his application.

**CHAIRMAN CASON** closed the floor.

**VICE CHAIRMAN RIVERS** said to Mr. Mayo, Planning Manager that it sounded to him in his wonderful discussion of the parking situation that there were indeed defined uses for this development when it was created. Could he tell them what those were? Mr. Mayo stated there are some defined uses but there was an attempt to define the characteristic of uses for this business park without getting through a list. Their zoning code has a table of permitted uses in it. This doesn't come close to having every use imaginable. What their table has in it is just about every type of characteristic of a use they can think of that they can take a use and say what does it walk like and talk like and fit it into a category and say what this is. That is what the attempt was when they zoned it. Taken straight out of the ordinance that zoned this back in 2004, it is PAD office business park zoning permit uses such as support retail services, research and development office showroom, office warehouse and complimentary industrial uses which they define later. Support retail services can include businesses such as printing facilities, mailing shipping services and catering services all of which typically service the immediate business park and business park community not the entire City of Chandler on a whole. Complimentary industrial services can include businesses such as production distribution, machine tool services and distribution, information technology services and warehousing. More or less the complimentary side of the I-1 uses. If they go to the I-1 table, there are a lot of uses that would not be compatible in this type of a business park but those listings of about 4 put a wrapper around the ones that they felt were complimentary from a lack of obnoxious smells, noise and those types of things. General Industrial District I-2, heavy industrial uses, are not permitted within this zoning district. It was specific in a degree and then what they knew they couldn't be specific about because you just get into 14 pages of list of uses, they try to define through characteristics for the support retail services and complimentary industrial uses. Again, this was back in 2004, 6 years ago, but it really was at the beginning of Chandler's attempt to work with business park owners to understand that the traditional hard I-1 business park no longer exists and that it is really a blending of office and I-1 uses that have really come together. **VICE CHAIRMAN RIVERS** said it seems to him that in 2004 they did a bang up job of putting together a list of uses for San Tan Dobson Park and it again, is a condominium park as opposed to some of the others being single-owner

developments. He doesn't know if they can get into a situation where any condo. type Business Park where they can have each condo. owner coming before Commission and Council and asking for a specific or a list of uses for their own condo. with no consideration to any other condo. in the complex. They would then have potentially probably at least 15 or 20 possible cases looking for a use permit for a use they decide they should have in the business park. The fact that it is for 2 suites bothers him. It sounds like it is opening the floodgates. There are vacancies in business parks and industrial parks all over Chandler, all over Maricopa County and he doesn't think that it is a good idea each time you have a vacancy in a business park or any other place of business that you immediately decide the solution is to change the zoning for the business park or for the individual condominium. Therefore, he will be voting in support of the denial for this application.

**COMMISSIONER VEITCH** said Commissioner Rivers was holding back. He thinks this is a very bad idea. It might be possible to expand the scope of the permitted uses from paragraph 10 of the original PAD zoning ordinance to some extent. He doesn't know whether the use that they are talking about would ever pass that test, but he doesn't think you even get to have that conversation until you are having one about the entire development and then issues such as parking; what happens if the yards stay or go, what is and is not support retail where those uses draw their clientele from and so forth. All that stuff can be addressed but it has to be addressed for the site as a whole. He agrees with Vice Chairman Rivers but you can't do it for a suite or a pair of suites at a time.

**COMMISSIONER FLANDERS** asked Staff on this particular PAD to change a use they have to go through a PAD amendment or is it possible to go through a use permit? Mr. Dermody replied that it would require rezoning. This is a customized zoning district, PAD, and you would have to re-customize it. **COMMISSIONER FLANDERS** stated that was a lot of work. Mr. Dermody said it could be done by a single application if they had all of the property owner's sign off of it. **COMMISSIONER FLANDERS** said in looking at the list of the items in here, 8 or 10 of them, that he wouldn't think would be appropriate for a PAD/I-1 use project, in addition to what Mr. Mayo had added. Some of those uses like museums and art galleries need to be in a different environment other than an industrial park. If it was just for the fitness center on 2 suites it would be a little bit clearer for him but based on everything that is going on here, he is not real comfortable with what he is seeing related to this application.

**COMMISSIONER PRIDEMORE** stated he empathizes with the applicant that in looking at the existing situation with other uses and thinking that must be allowed because it is already there and then wanting to bring something similar in, he understands getting into that situation. Unfortunately, the code is clear on what is allowed. He agrees they do have a parking issue no matter how we shuffle it around even if they are able to gain a couple spaces behind the buildings. His biggest concern is more what does this do for the neighboring condos. down the line if they were to approve this application. He thinks they would be severally handcuffed in what they can do. Given that he would be in support of the denial.

**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER VEITCH** to recommend denial of DVR10-0006 SANTAN DOBSON BUSINESS PARK, SUITES 8 & 10.

**CHAIRMAN CASON** said one of the things that was mentioned by Staff but was glanced over through all of their discussions was the mixing of the truck traffic with family traffic. In both of these cases, they can see that the parking is shared with those routes and because of the fact that parking has to be shared, now they end up shoving more people into the area that the trucks have to move. He stated that Red Rock was not a slam-dunk. It was certainly a longer debate than they have had tonight. The biggest reason that they went ahead and allowed Red Rock was because they could define where they could separate new types of business traffic from the old types of business traffic, the truck movement and those types of things. There are defined places where they could keep them separate. He believes they created islands to separate those things on that property. The big thing is that trucks were able to access off of another street and they weren't mixing 2 of those uses. While everybody has mentioned many other things that are of concern, for him the biggest is the fact that they have to co-mingle the truck usage with the regular vehicle usage. Because they are condos., many people invested in here because of an understanding they had of the way that it had been approved. While he can certainly as Commissioner Pridemore said, empathize with the position he is in not being able to find a tenant for their space. The fact of the matter is that in this case because of the defining factors that work against it, if anybody came in with something like this they would have the same issues to deal with. He thinks it is best not to put themselves into a position or the City in a position to where they have to continue to justify these uses as other people get into the same position he is in where they can't lease space. They want to keep coming before them and getting types of uses that continue to complicate the way the whole plat was designed.

**CHAIRMAN CASON** asked for the vote.

The item was denied unanimously 6-0.

**CHAIRMAN CASON** said this comes before City Council on September 30. He said they are just an advisory body and City Council has the final decision.

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing new to report.

7. CHAIRMAN'S ANNOUNCEMENTS

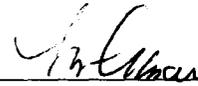
**CHAIRMAN CASON** stated that Commissioner Kelley resigned his position this week for some reasons of higher education. He invited people to apply for the Planning and Zoning Commission. He said the Mayor makes the final decision but especially if you are a landscape architect you should put in your application.

CHAIRMAN CASON announced that the next regular meeting is September 15, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

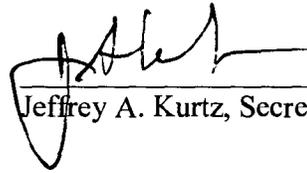
VICE CHAIRMAN RIVERS invited anybody watching to go over to the Chandler Center for the Arts where Chandler is having its celebration of becoming an All American City. This is going on currently.

8. ADJOURNMENT

The meeting was adjourned at 6:43 p.m.



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 15, 2010 held in the City Council Chambers, 22 S. Delaware 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 Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Matthew Pridemore

Absent and excused:

Commissioner Michael Flanders

Also present:

Mr. Kevin Mayo, Planning Manager  
Ms. Jodie Novak, Senior 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 September 1, 2010 Planning Commission Hearing. The motion passed unanimously 5-0 (Commissioner Flanders 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. There were no items pulled for action.

A. PDP10-0001 THE SHOPS AT PECOS RANCH

**Approved.**

Request approval of a Preliminary Development Plan (PDP) amendment of the comprehensive sign package for building mounted signage. The property is located at the northeast corner of Dobson and Germann Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Shops at Pecos Ranch", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0001, except as modified by condition herein.
2. All signage shall be consistent with the signage contained within the attached exhibits with regards to sign type, quality, and quantity. Any deviations shall require separate Preliminary Development Plan approval.
3. Raceway signage is prohibited within the development.
4. Building mounted signage shall be non-illuminated on building elevations facing the adjacent residential development for all buildings located along the site's north and east boundary.
5. Signage with painted lettering shall be maintained to its original quality and character ensuring paint colors, stucco/façade materials, and the like are maintained from fading, peeling, discoloration, and the like.

B. ZUP10-0032 SAN MARCOS GOLF RESORT

**Approved to continue to the October 6, 2010 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 OCTOBER 6, 2010 PLANNING COMMISSION HEARING.)**

**MOVED BY VICE CHAIRMAN RIVERS, seconded by COMMISSIONER HARTKE to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 5-0 (Commissioner Flanders was absent.)**

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing new to report.

7. CHAIRMAN'S ANNOUNCEMENTS

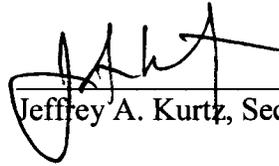
CHAIRMAN CASON announced that the next regular meeting is October 6, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

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



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 6, 2010 held in the City Council Chambers, 22 S. Delaware 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

Absent and excused:

Commissioner Stephen Veitch  
Commissioner Kevin Hartke

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 **VICE CHAIRMAN RIVERS** to approve the minutes of the September 15, 2010 Planning Commission Hearing. The motion passed unanimously 3-0 with 1 abstention (Commissioner Flanders was not present at this meeting). Commissioners Veitch and Hartke 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. Items H and K were pulled for action.

A. DVR09-1015 PARCLAND CROSSING

**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 Planned Area Development (PAD) for office and single-family residential. The existing PAD zoning is for office and commercial retail with a mid-rise overlay and multi-family residential uses. The property is located at the northeast corner of Alma School and Willis Roads.

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

B. PDP10-0010 STONEFIELD II PARCEL A

**Approved.**

Request Preliminary Development Plan approval for housing product for a 26-acre, 65-lot, single-family residential subdivision. The subject site is located south of the southeast corner of Dobson and Germann Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "PDP10-0010 STONEFIELD II PARCEL A", and kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0010, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3883 in case Stonefield II, except as modified by condition herein.

C. PDP10-0012 CHANDLER MEMORY CARE FACILITY

**Approved.**

Request Preliminary Development Plan approval for an assisted living care center on an approximate 13.4-acre site. The subject site is located west of the northwest corner of Dobson Road and Fairview Street.

1. Development shall be in substantial conformance with the Development Booklet, entitled "CHANDLER MEMORY CARE FACILITY", kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0012, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The site shall be maintained in a clean and orderly manner.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
5. Landscaping shall be in compliance with current Commercial Design Standards.

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. 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.
8. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.

**D. LUP10-0032 CVS PHARMACY #5849**

**Approved.**

Request Use Permit approval for a Series 9 (all spirituous liquor) liquor license for off-premise consumption. The subject site is located at 990 E. Pecos Road, northwest corner of Pecos and McQueen Roads.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

**E. LUP10-0033 CVS PHARMACY #7075**

**Approved.**

Request Use Permit approval for a Series 9 (all spirituous liquor) liquor license for off-premise consumption. The subject site is located at 2995 E. Chandler Heights Road, southwest corner of Chandler Heights and Gilbert Roads.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (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 any other store location.
4. The site shall be maintained in a clean and orderly manner.

**F. LUP10-0035 OTAKU SUSHI RESTAURANT**

**Approved to continue to the October 20, 2010 Planning Commission hearing.**

Request Use Permit approval for a Series 12 (restaurant) liquor license for on-premise consumption within a restaurant. The subject site is located at 2430 S. Gilbert Road, Suite 5, northwest corner of Ryan and Gilbert Roads.

G. PDP10-0014 CHANDLER CHRISTIAN CHURCH SIGNAGE

**Approved.**

Request Preliminary Development Plan (PDP) approval for a modified monument sign at 1825 S. Alma School Road, north of the northeast corner of Germann and Alma School Roads.

1. Development shall be in substantial conformance with the approved exhibits (Narrative, Site Plan, Elevations), except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance No. 4117 in case DVR08-0017 CHANDLER CHRISTIAN CHURCH, except as modified by condition herein.
3. The illumination of the monument sign shall be reduced to no greater than 1,000 nits (candela per square meter) from 10 p.m. to 6 a.m.
4. The monument sign shall utilize photocell technology to sense ambient light levels and adjust the sign brightness accordingly so as to reduce the visual impact on residential neighbors during times of lesser daylight.

I. ZUP10-0032 SAN MARCOS GOLF RESORT

**Approved to continue to the October 20, 2010 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 OCTOBER 20, 2010 PLANNING COMMISSION HEARING.)**

J. ZUP10-0035 STEPPING STONES PEDIATRIC THERAPY

**Approved to continue to the October 20, 2010 Planning Commission hearing.**

Request Use Permit approval to allow for the use of a single-family home as a commercial business. The subject site is located at 1505 N. Alma School Road, north of the northeast corner of Alma School and Knox Roads.

**MOVED BY VICE CHAIRMAN RIVERS, seconded by COMMISSIONER FLANDERS to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 4-0 (Commissioners Veitch and Hartke were absent).**

**ACTION:**

**K. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY**

**Denied.**

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.

**BILL DERMODY, SENIOR CITY PLANNER**, stated this request is for a new wireless communications facility on the campus of the United Methodist Church along Chandler Heights Road just east of the railroad tracks. He showed the vicinity map on the ELMO. This is for a new 60-foot high monopine, which is a big pine tree. He showed the intersection of Arizona Avenue and Chandler Heights and just east of the railroad tracks is the campus of the church. To the south is the industrial area on one side of the tracks and he showed where the golf course is. There is some closer townhome style housing to the east. There is the Pinelakes Estates single-family neighborhood and then to the west across the railroad tracks is the planned Southshore neighborhood single-family houses, and in-between there are the railroad tracks and also power lines in the area right along the railroad tracks well in excess of 100 feet in height.

The request is for a 60-foot monopine. That style was chosen because of the live pine trees on-site which already there are a number of. The existing church is right here and they have plans but he doesn't believe they have been finalized for possible expansion. In working with them, the applicant has chosen to go to the west. On this site as in most sites, they asked them to try to do a number of things; get as far from the residents as possible and also don't infringe upon the main view corridor from the arterial street. That is why they have ended up in this location. They also didn't take any parking spaces which was important to the church. What they have here is west of the parking field, the equipment shelter would be located up here (he showed where on the ELMO) and the area where they would have that 60-foot monopine. The power poles are about a 100 feet to the west here.

He asked the applicant and all applicants to avoid being close to residences. In this case, the nearest planned residences are about 270 feet to the west across the railroad tracks and pass those power poles. The closest existing residences are in Pinelake Estates. The nearest property is about 315 feet to the northeast. He showed a picture of the type of facility they are looking at. They submitted before and after photosimulations at 2 different angles. He showed the view from the northwest of the proposed monopine. This monopine is a little bit thinner than what they would get in reality. You can see the church building on the left. There are some pine trees here and they are not mature yet, they are only 15 feet high but the assumption is that as they grow they will help to make this monopine blend in a little better. He showed a view from the other direction,

Chandler Heights basically to the sidewalk in the foreground. You can see the live pine trees a little better. You can also see why they asked them to do the wider design rather than the thin ponderosa pine they see here but it still gives you an idea of the surrounding landscape about where this proposed 60 foot high monopine will be.

Staff does recommend approval of this request. They find that the distance from residential uses is adequate. It also blends in quite well with the surrounding landscaping. A monopine design is appropriate. The 60-foot height is at least in keeping with the mature height of the trees. They aren't there yet but in a few years it is anticipated they will be. Also, there are very tall power poles to the west. They see this as aesthetically melding in with what they see in the area. They have had considerable opposition to this request. Many people at the neighborhood meeting opposed this. They have also heard from several since then. The biggest concern they have heard is about health effects both being close to residential and there being a daycare that operates out of this church and the affect there might be on children. They have also heard from a couple of the people who have problems with the aesthetics of it and the height and related to all of this the potential negative effects on property values. He said they expect to hear from those neighbors tonight.

**CHAIRMAN CASON** asked if there were any questions of Staff.

**COMMISSIONER FLANDERS** asked Mr. Dermody that out of all the cell towers that they have approved through the City, how many of those were monopines? Mr. Dermody replied that he thinks only 2. **COMMISSIONER FLANDERS** asked what were those heights to top of antenna? Mr. Dermody said they had a 60-foot monopine at the Albertson's on Riggs Road and the other monopine he doesn't recall. He said actually the other one he was thinking about got denied. That was proposed for 60-feet as well in a park in northeast Chandler. **COMMISSIONER FLANDERS** asked if he knew what the potential height of the other trees are going to be in Chandler, Arizona compared to up north. He knows the ponderosa pines up north can get quite tall. What does he know about down here as far as maximum heights of those trees? Mr. Dermody said he isn't certain of the exact pine tree they are dealing with here. They could research that and try to get back to him on that. **COMMISSIONER FLANDERS** said it was more curiosity than anything else. Obviously, there is a whole different environment from here to up north.

**CHAIRMAN CASON** asked if the applicant responded to lowering the height to 55 feet? Mr. Dermody said no, he hasn't heard from the applicant on that yet. **CHAIRMAN CASON** asked him when he says it doesn't disturb the view on Chandler Heights Road, can he describe what he means by that? Mr. Dermody replied that they have a desire on this side and the other side, especially in commercial centers, to not have something like a tower that is certainly out of place right along the roadway. You don't often see that so the concept is this is set back enough from the road where you would have to basically be looking for it. If you were driving along Chandler Heights and you were looking straight ahead, you would not normally see this in your field of vision if

you were driving. **CHAIRMAN CASON** asked so that is included in the fact that the right-of-way hasn't been built up in that area? In other words, the northern curb isn't where it is going to be in the future? Mr. Dermody said he doesn't know whether they are taking from the north or the south but this is not a built out arterial street at this time. **CHAIRMAN CASON** asked when they did the ones on Alma School Road at both Warner and Elliot Roads where they finally met agreement with that carrier and pushed them out to the front of the centers, how far are those away from right-of-way? Mr. Dermody replied approximately 100 feet or so. Somewhere in the 75 to 150 feet range. He would say around 100 feet. **CHAIRMAN CASON** asked if he said the power poles west of there along the railroad tracks were 100 feet tall? Mr. Dermody said it is difficult to estimate. They are the big ones but if he had to take a guess, he would say well over 100 feet. **CHAIRMAN CASON** asked if they know the height of the bottom of the bottom cable on those poles? Mr. Dermody said he would have to go out to the field to even estimate that.

**MICHAEL FRIES, 15974 N. 77<sup>TH</sup> STREET, SCOTTSDALE**, stated that Mr. Dermody has explained the site very well. He said he would be happy to answer the two issues that Mr. Flanders brought up. The location was really something they worked with Staff on with the requested desired feel for the view site lines as you drive down Chandler Heights Boulevard. Originally, they had it closer to the road and if they chose to have them move farther away from residential and go closer to the main road that would not be an issue with either AT&T or the property owner. Second of all, the indigenous pine that they have here is obviously not ponderosa pine. That type of camouflage tree was really created for the Sierras and for up near Flagstaff. Larson Camouflage out of Tucson that does a lot of these products is working more on what they call a Lebanese Pine that is more pear-shaped which would blend in especially if they planted some additional Lebanese Pines to create more of a grouping there. They grow fairly quickly and they get pretty tall pretty fast. When they are mature they are 50, 55 or 60 feet.

**CHAIRMAN CASON** said in the illustrations that he provided it shows the whole body of the tree and he knows there are some concerns with monopines that they really don't take up the whole trunk of the tree. They kind of look like a monopalm with some spruce on the top. Like the Vice Chairman said it is like they forgot to put the bottom part of their Christmas tree together. Mr. Fries replied that if there is a concern both with Commission and Staff that can be one of the stipulations that the amount of coverage of the tree can be dictated to the camouflage group to make it look fuller and have more depth. Mr. Fries said it is kind of hard to draw these because pine trees are very unnatural in a sense. You don't see too many pine trees that are perfectly conical like a Christmas tree does. They don't do justice to how they really look. There are quite a few of them that are up in the Flagstaff area and along 17 and 40 and you don't even notice them now. They are getting much better. Over the last 7 to 8 years the quality of the tree, the same as the monopalm, has improved dramatically in their industry.

**CHAIRMAN CASON** asked Staff if this is part of the application package, does that give them the authority to make sure that the tree looks similar to this? Mr. Dermody said yes. In fact, they included a recommended clarifying condition no. 2 to make sure it looks like this and not like the photo simulations.

**CHAIRMAN CASON** asked the applicant about 55 feet. They asked for 60 feet, is 55 feet an issue? Mr. Fries said Mr. Dermody asked them this week and they checked with AT&T and that is acceptable. **CHAIRMAN CASON** said he mentioned that pulling it further south was something they would be interested in discussing. If they look at the topographical survey, the one that shows the Arizona Avenue alignment separated and Chandler Heights Road is on the bottom of the page, at the southwest corner of the church or where they have this notation in the southwest corner that points up toward where the transformer is in that island, would they be adverse to putting their pole directly to the west of that. Mr. Fries said no. **CHAIRMAN CASON** asked if they would put their equipment to the north of where their pole would be? Mr. Fries said that was correct. **CHAIRMAN CASON** said that would put it about 80 feet north of the right-of-way line. Would they say that is close? Mr. Dermody answered that is close based on their previous approvals on other sites. **CHAIRMAN CASON** said so it is closer that they like to approve on previous sites. Mr. Dermody said it is not ideal. Mr. Fries said he wanted to explain why they looked at this property. This is a unique part of town because of two jurisdictions. They are on the north side; the County is on the south side. The properties on the south side are very interesting and have issues with the County which muddies up the water of trying to go there and put a site in. Also, the co-location opportunities in this area now are completely full for the various reasons having two jurisdictions on either side of the road. They really need a new site versus going somewhere for co-location because there isn't anything left available. The system in this part of town as Bill can attest, they are here for a number of sites. The AT&T system has a lot of spots where it has spotty coverage because of the amount of data and request for the new types of phones that everyone is using now on the AT&T network.

**VICE CHAIRMAN RIVERS** asked where they are considering moving this to, going south, where it is now it is sitting in the middle of a very large outcropping of berm and there are several trees very close by already. When he moves it south 60 feet, will they do something to the berm there to make it an outcropping as well so you can have trees immediately surrounding the new position as it does with this one? Mr. Fries said he assumes they would have to do a little bit of re-grade. That is one of the reasons why Mr. Dermody suggested that location because it was in some existing trees. **VICE CHAIRMAN RIVERS** said he was thinking since he was there yesterday, he knows what that area looks like and he knows how bare the area that they are talking about looks and he would love to see some more trees in that area as well. Mr. Fries said absolutely. He would like to plant a couple of pine trees of similar nature for this because it would give them more of a grouping the same way they typically plant a few palm trees with the monopalm.

**CHAIRMAN CASON** asked what are the heights of the power poles along the railroad right-of-way? Mr. Fries said he does not have the exact heights but knowing the size of those he thinks Mr. Dermody's range was correct. They typically are over 100 feet. **CHAIRMAN CASON** asked if he could give them an estimate as to the height of the bottom cable of those poles. Mr. Fries replied that they are typically at 80 to 90 feet generally. **CHAIRMAN CASON** asked if they are only going to be at 55 feet, in the presentation he said he couldn't use the power poles because they would have to go underneath the conductors? Mr. Fries said those poles are not the type of poles they usually let you co-locate on because of the type of voltage that are on those. They are very restrictive of those compared to the typical power lines they see them co-locate on a lot. **CHAIRMAN CASON** said so it is because of the high voltage. Mr. Fries said also a lot of times both SRP and APS only allow you to work on certain types of structures. Some poles they won't let you touch because of the way the poles are designed. He is not sure why but they are off limits. **CHAIRMAN CASON** asked Staff if they have had any instances where during the investigation of placing a tower, the power company has responded in a similar way to those questions that they can recall? Mr. Dermody, Sr. City Planner, said the power companies are open on most of their poles that go up and down arterials to have antennas below the power lines. He has never asked them about these extra-large poles like they have here and he has never asked them about a site where the railroad controlled the right-of-way below it. Those might or might not be special issues. He never engaged them on that. **CHAIRMAN CASON** said in the package they presented to them there was no specific reply from the power company that he could not use those poles in the area. He is correct on that? Mr. Fries said he can't tell him the detail on that. He knows in fact that the acquisition professionals they had working on this team reported back that it was not a viable option when they contacted the utility company. He said could get them details as to why. **CHAIRMAN CASON** said if he could get that back to Staff before they go to Council so they can verify whether in fact that is known and that they know that for sure, that would be helpful in the final analysis.

**CHAIRMAN CASON** said he was going to call up the speaker cards. He asked that when they come up to please say their name and address for the record. He asked them to please be concise and try not to take more than 3 minutes. He hoped also that they would try to bring up only new points that perhaps haven't been brought up before as best as they can. Certainly, they are entitled to speak their mind whether it is repetitive or not.

**JON MOSKALIK, 409 E. HORSESHOE DRIVE, CHANDLER**, said he lives pretty much in the center of the neighborhood. He stands opposed mostly because he considers himself an amateur junkie on finding out facts on the internet. He does a considerable amount of reading and he is truly concerned of the health effects of something like this so close to this community. Aesthetics aside he thinks the applicant is doing a pretty decent job with what they are planning on putting in. That is not his concern, it is the health consequences and he does speak for 2 other neighbors on his street that can't be here tonight. Most of the people he is speaking with and most of them here tonight are strictly concerned about having it so close to their community.

**VICE CHAIRMAN RIVERS** asked if his house is visible on the map shown on the ELMO? Mr. Moskalik pointed at his house.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, asked what specific health effects is he talking about? Mr. Moskalik replied the unknown – cancer, caused by radiation.

**CHAIRMAN CASON** said before he goes on to the next person, they are kind of bound about what they can discuss in these instances. So he asked the Assistant City Attorney to explain our limitations in discussing this matter.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated that the Federal Legislation Telecommunications Act of 1996 places some restrictions on the city's ability to apply its zoning code. While they can apply the code and the standards in the code, there are also some federal requirements that overlay these telecommunication issues and that can pre-empt our zoning requirements. One of those requirements, those federal restrictions, is as follows. The local regulations, our zoning code, cannot regulate the placement, construction and modification of wireless facilities on the basis of environmental effects of radio frequency admissions to the extent that the wireless service provider is in compliance with FCC regulations concerning such emissions. In short, the concerns about rays and radiation emitting from these facilities is not something they can take into account so long as the provider is operating in accordance with whatever the standards are enunciated by the FCC.

**CHAIRMAN CASON** said that doesn't mean that they don't want to hear from them. If their argument is the health reason, please feel free to come up and state that as their rationale. They are o.k. with that. They really can't use that in their decision making because of that federal law. His mission here is not to tell anybody that they can't talk about it. If they want to talk about it, that is certainly their privilege.

**ROBERT POWELL, 4868 S. FRESNO STREET, PINELAKE ESTATES, CHANDLER**, said he had a prepared letter he would like to read. He read that is a homeowner in Pinelakes Estates and lives in close proximity to where the new 60-foot tall monopine wireless cell tower is to be installed at the United Methodist Church adjacent to the community at Pinelakes Estates. He has a wife and 2 children, ages 7 and 8. They have heard the arguments from both sides about living in close proximity to a cell tower and they have the following concerns. One, the monopine to his understanding a commercial tower and should be incorporated into a commercial area. There are at least 7 other locations non-residential in the immediate area that could be used to erect a cell tower. The party representing AT&T stated the church was cost effective and after 8 months trying to work with the lumber yard across Chandler Heights on the south side, they were running out of time. Is time more important than a proper decision that will have a life time of impacts on the community to come. Pinelakes Estates was here long before the United Church but yet they want to erect a 60-foot tower within feet of

residential homes. The tower will not be in line with architectural and aesthetic guidelines of Pinelake Estates. The cell tower will de-value homes in his community at a time when home values have plunged and people are doing everything they can just to hold on to their home. His family has monumental concerns regarding the safety of the cell tower due to continual exposure of low level RF radiation emitted from these cell towers. To sum up, he believes AT&T and United Methodist Church does not have the community of Pinelake Estates best interest at heart. He believes they have more of a special interest that will reap them both financial gains at the expense of hurting a well-established community like Pinelake Estates. On this paper (staff memo) it says that the closest residential property is approximately 315 feet north of the proposed site. He doesn't have the actual feet, but last Tuesday in the open forum when they went out where the actual pine was going to be located, it looked more like 100 to 150 feet. He doesn't know the exact amount but it looks a lot less than 315 feet. Also, they are saying that it is compatible with the surrounding land. In the pictures he has witnessed here, the 60-foot pine if you look at the pictures presented earlier, it actually looks lower than the actual pine trees in his community which are about 30 feet tall. This pine will be more than double the size of the highest trees that they currently have right now that are not in conjunction with the Flagstaff trees. None of their pine trees are tiny like this, they come way out. They look nothing like the trees they have.

**VICE CHAIRMAN RIVERS** asked Mr. Powell to point out on the map where he lives? Mr. Powell did. He also asked him to show him where the lumber yard is? Mr. Powell did. **VICE CHAIRMAN RIVERS** asked him if he said the homes in the neighborhood were there before this church was built? Mr. Powell said that was correct.

**CHAIRMAN CASON** pointed out that the Vice Chairman always asks you to point out your home.

**ALEX STEGE, 4838 S. FRESNO STREET, CHANDLER**, said what he had to say has already been mostly covered. His only elaboration would be that in reading from the description, within the immediate area there are no suitable alternatives for co-location of the wireless communications facilities on existing poles or towers. It doesn't mention the possibility there are suitable alternative locations for a new tower which has been mentioned on the south side in the lumber yard or possibly the golf course. The only discussion mentioned of that is that it muddied the water. It doesn't seem like that is sufficient reason to impose a potential risk on nearby residents. He pointed out where he lives.

**VICE CHAIRMAN RIVERS** said to Mr. Stege that right across the street from the church is where the lumber yard is. Is that correct? Mr. Stege said yes. **VICE CHAIRMAN RIVERS** asked so it's those two white buildings down to the south? Mr. Stege said yes.

**PAULA MCCARTY, 4838 S. FRESNO STREET, CHANDLER**, said she would like to focus on new information that they may not have. The first information she had is

relative to the pictures that were shown tonight and the perspective. She doesn't think that was a very indicative perspective of the tower versus the existing landscaping. She is on the landscaping committee for Pinelakes Estates. The existing pine trees are approximately 15 feet to 30 feet. The representation that they saw tonight has the cell tower at 55 to 65 feet and be approximately the same height. That cell tower will stick up tremendously above it. In supplementing what the other folks have said is that there needs to be further investigation for other locations that are more suitable. In essence, this is a tower. It is a commercial entity. There are funds in revenue being exchanged. As such, there are other properties, commercial and retail on the western side of Arizona as well as the southern side of Chandler Heights including the Bear Creek Golf Course that would make much more suitable locations for them. She has been in the cell phone tower business for over 20 years and she can tell them that having a tower that is distanced further away from the residential community in light of those existing power lines is absolutely possible. It will potentially cost more to AT&T and the installer and then a subcontractor. They are talking about potentially a higher cost to the commercial entity at the expense of the residential neighborhood. Last week the Pinelakes Homeowners Association voted unanimously 6-0 with 1 abstention to formally oppose the cell phone tower based on responses that they have received from these residents. In addition, regarding the aesthetic guidelines, when this development was first made under Schuler Homes many years ago, the landscaping and aesthetic guidelines that were put in place actually included landscaping along Pinelake Way and Chandler Heights Boulevard adjacent to this church. Unlike other separate pieces of property it is really architecturally and from a landscaping perspective been included into Pinelake Village and Pinelakes Estates. To this day, the homeowners of Pinelakes Estates maintain and pay for the landscaping, the water, the power and the electricity that goes into maintaining that landscaping. It is an integral part of the larger development that Schuler Homes put in approximately in 2002. Based on that and comments to the City Attorney Federal officials today are currently looking at those 1996 guidelines that were put in to set standards for cell radiation emissions from the towers. They are currently re-visiting that simply because the data coming out now from 10, 15 and 20 years of human health effects and epidemiological data. She agrees that in the objections she presented tonight she wants to focus on architectural zoning, other availabilities to other close properties and that the fact that there is a better location for this than the church.

**CHAIRMAN CASON** said he wanted to clarify something she said earlier. As they look at this site plan, does he understand her correctly by saying that the retention basis that is west of the church and west of the parking lot of the church is maintained by their homeowners association? Ms. McCarty said she believes today the northern portion of the retention basis is still in deed maintained by our landscaper and the southern portion is church property and they don't maintain that.

**VICE CHAIRMAN RIVERS** asked her to please point out her home on the map? Ms. McCarty did. **VICE CHAIRMAN RIVERS** asked her if she believed that this cell tower was located at the lumber yard would it be far enough away from everybody's

home that everybody would be happy with it there? Ms. McCarty replied that she does or at Bear Creek Golf Course.

**DAVID WARGA, 4878 S. FRESNO STREET, CHANDLER,** pointed to where his house is at. He said he is in direct line of sight of the proposed tower. He objects to the tower for many of the same reasons that his neighbors do. The health issue, of course, he understands that is under the guidelines of the FCC. They can't do a lot about that. The ignorance of the general public is going to have an impact on the property values. He is concerned about that. It sounds like there are a lot of unanswered questions when it comes to the camouflaging of the monopine tower. It is going to stand out tremendously. It will be in line of sight. They pay a lot of money for their properties. They have a very nice entrance with rock waterfalls and obviously the aesthetics of the lake. This monopine tower will stand out to be very aesthetically displeasing. The surrounding foliage that they are talking about incorporating will take many, many years before it is going to detract from sticking out. Obviously, they all know that most homeowners stay 5 to 7 years in a home. He does believe that is going to directly impact the value of their homes. Also being that it is within direct proximity to a pre-school and if these children will be exposed to these rays, is also a concern of his. He also suggested that more research be done for locating in a more reasonable location such as the lumberyard or the Bear Creek Golf Course.

**JOHN PLATT, 4879 S. FRESNO STREET, CHANDLER,** said he appreciated the opportunity to have their input heard. He and his wife have been living there for about 5 years. They have 5 children and they really love the neighborhood. It is a very beautiful neighborhood. Their feeling is it just isn't the right location and it is a little too close to the neighborhood. The other side of Chandler Heights would be a much more appropriate place for a 60 foot cell phone tower. A lot of people in the neighborhood are concerned about it for various reasons. He thinks every little bit further it moves, the better off it is and they told us in the neighborhood meeting that the other side of Chandler Heights is actually the preferred location, either on the Golf Course or the lumberyard or there is another cell tower located next to that on another parcel. That is where they were starting out and then they went to the second site which is the church. They just think the Golf Course would be enough removed that it would be better for the neighborhood, better for property values, people concerned with drop off as it moves over there and he thinks it would meet AT&T's needs as well and the I-phone users out there that need to have their download speed. It would meet everybody's needs that way. It wouldn't damage the neighborhood. It might be a good idea to have AT&T go back and do their homework a little bit more on this one and see if across the street isn't a more viable option. He thinks it would be more beneficial to the City from a revenue standpoint if they could have it on the Golf Course. It would be a good land use as well. That is their position and he thinks that at least have them re-think it a little bit to see if it might be better over there.

**VICE CHAIRMAN RIVERS** asked him to please point out his home on the map. Mr. Platt did.

**GWEN RUSK, 2210 E. VIRGO PLACE, CHANDLER**, stated she is a member of Chandler United Methodist Church and is in favor of the cell phone tower being put on that property. Chandler United Methodist Church has been there in Chandler for more than 97 years and this is only their second location. She doesn't believe there is any health risks involved with such towers. The design of the proposed tower is such that it will be attractive and will blend in with existing landscaping. She appreciates today's technology and how such towers allow them to communicate. Her daughter will be driving soon and she has peace of mind knowing that improved cell phones and cell phone towers allow her to call her should there ever be an emergency. None of them like to have dropped signals and they know cell phone towers will allow them to have more and better signals with their phones. She actually lives near a cell phone tower herself in a different neighborhood and her home is approximately the same distance from this cell phone tower to the closest home and she has no problems living that close to a cell phone tower.

**VICE CHAIRMAN RIVERS** asked her if her home is on this map? She said no she lives near Cooper and Riggs. **VICE CHAIRMAN RIVERS** said she is in favor of this and she is a member of the church. Can you tell him when this church was built? Ms. Rusk said this building was built in 2006/2007. They moved in March 2008.

**CHAIRMAN CASON** asked her if her church was the one at California and Chandler Boulevard? Ms. Rusk said yes.

**PAULA WIRTH, 3214 E. CARDINAL CT., CHANDLER**, stated she does not live in this neighborhood and is a member of Chandler United Methodist Church. She wants the neighbors here to know that they love the neighborhood and they value their relationship with the neighbors very much so. They certainly don't want to be in an adversarial position with their church neighbors. She is in favor of the cell phone tower being located there. There are many similar towers throughout the community including many at school. Years ago she was on the other side of the issue very concerned about these being located near schools for health reasons - many of the same reasons that have been sited here. She is a cancer survivor and she is very concerned about radiation and the types of emissions that they hear and read about and worry about. She has done some research about these types of towers and she is very comfortable about the safety concern that she once definitely shared with these folks. These are non-ionizing electronic emissions that are not harmful to living cells and as she said, she is a cancer survivor so she has done research. She does trust the information that she has found. Also, because the tower doesn't generate any type of odor, refuge, dust or noise, she is not opposed and she is not opposed aesthetically.

**RICK PUGH, 4795 S. VIRGINIA WAY, CHANDLER**, showed on the map where he lives. He said first of all, does anybody here think the cell tower on this property is going to increase the property value of Pinelakes Estates. One of their most fundamental concerns is whether or not people have the right information or the wrong information. It is something they have to disclose if you go to sell your house. That is a concern to

them. They have talked about the unknown radiation affects and the fact they can't use that in how they come to their decision, but in Western Europe and Germany, the minimum distance is 800 meters, which is 2400 feet. The whole world has not come to grips on what is right for the distances between inhabitants and non-ionizing radiation. He will remind everybody that an X-ray is also non-ionizing radiation and he doesn't think anybody wants to stand in front of an X-ray machine all day. His neighbor have well-articulated the issues about the aesthetics, the pictures that were rendered with the photo shop. It's not even close as to how it would look. It would stand out like a sore thumb regardless of how they disguise it. From what he has heard he doesn't think the applicant has done anywhere near the amount of consideration of the alternatives that are present just in that general area within ½ mile of where they propose to put this. They certainly would be strong components of a much stronger look at the alternatives and hopefully they will arrive at the same conclusion.

**KIM PUGH, 4795 S. VIRGINIA WAY, CHANDLER**, is in opposition to this but did not wish to speak. The Chairman said her questions were property values, long term effects of the cell tower and health.

**JEFF GERLEMAN, 456 E. SAN CARLOS WAY, CHANDLER**, said he lives immediately across from the church. It is basically in his front yard. He showed where his home is on the map. He said he has no health concerns. He thinks property values are going to be negatively affected by it. He has sold real estate in the Phoenix area for 9 years, one time as a sales manager for one of the ten largest home builders in the nation. He actually owns several thousand shares of AT&T stock so he doesn't have anything against the old big corporation. He wants them to put up a cell tower and make money and have revenue. He has met the Minister and his wife and they are both very, very nice people. It isn't a personal thing. The thing he hasn't heard anyone else say is just to make sure they kind of understand what happened. Originally, when someone decided to build a house at 456 E. San Carlos, the original representation was that there were going to be multi-million dollar homes there. The market changed and nobody wanted to build a multi-million dollar home there. Plan B was a church. The church came along and everything is good. A point came in time where the church decided to have garden plots. If you go out there right now, there are some bales of hay, some are kind of torn apart and there is a pile of dirt. It is not a particularly tidy pile of dirt. If he had it in his front yard, he would be getting a letter from the HOA for having a bunch of dirt and bales of hay in his front yard but they are all neighbors and they all want to get along. Time went by and the landscaping which he thinks originally was maintained by everyone. His understanding is that it was given to the church. He thinks the church is now paying for it. The bottom line is whoever owns it and maintains it, because the irrigation system for the plants right across the street from me weren't maintained, the bushes began to die. It didn't look good so he went over there on his own and took out the dead bushes and threw them away and he got HOA new landscaping and planted it, watered it and cared for it and tended it. Then one day while he was out there doing it 6 or 7 months ago, members of the church came over to his front yard and asked him if he planted that stuff. He told them he did. They said how would he feel if somebody came in to his yard and

planted something? If he had a dead bush because he didn't take care of it and someone came in the middle of the night and took out the dead bush and put in a brand new bush that was HOA approved, watered it and fed and cared for it, he guesses he would be pretty happy. The two members of the church felt contrary wise so he said he was sorry. Immediately within 90 seconds of knowing that this was not their idea of what he should be doing, went and got his garbage can and frankly the entire 10 minutes it took him to get the 6 or 7 plants out, he got his tail chewed by members of the church. The Minister is a great guy and the wife is nice but for those who bought in that community, the rules have gotten changed all along. Frankly, they haven't been his idea of a very good neighbor. He would just as soon see the cell tower at the lumber yard. If the City of Chandler can get it on the golf course, wonderful. They can put it next to that current eye sore of a health club or the pad down where the other tower is. Those should all be completely amenable to everybody here.

**VICE CHAIRMAN RIVERS** asked him if he had health concerns? Mr. Gerleman said he has no health concerns.

**CHAIRMAN CASON** asked if there was anybody else in the audience that would like to speak on this matter. He asked the applicant to come back up.

**MR. FRIES for AT&T MOBILITY**, said he really doesn't have that much. He completely understands, they all live in neighborhoods and there are issues about neighborhoods that carry over. When there is an element that can become a lightning rod, everything kind of gets grouped into one thing. His responses on a couple of the issues in terms of whether it is going to drop the value of the home. That is a debatable point now simply because a lot of people now are not going to keep their land lines in their houses and they are all depending on cell phones to be their primary use. He thinks if not already but very shortly, one of the key things will be do you have good coverage in your neighborhood when you want to come in and buy your house. He is not sure how valid that point is that the fact that a cell tower in the area is detrimental to someone's value of their property.

He completely understands the issues of location and siting and if they as a committee still see that this is a potential project, they are more than happy to work with Bill to get this pulled as close to the road as they physically can give what Staff will approve. They have already dropped the height 5 feet and they are also willing to look at doing some additional planting to help camouflage the area.

**CHAIRMAN CASON** asked him specifically about the lumber yard. His statement that it muddied the waters – he thinks they all have a concept of what that means but specifically to him what does that mean to him? Mr. Fries replied that obviously is nothing he can air as problems publicly. That would be a liability issue with him. What he can tell them is that the property has issues with the County and regulations as to how that property is used and what is on that property. But unfortunately putting a tower there allows the County to invoke a lot of demands on that property owner which quite

honestly doesn't make them very excited about putting a pole on that property. The fact that it is in County property jurisdiction and the County is a very difficult group to work with to get anything through zoning. **CHAIRMAN CASON** said he wanted to speak about some of the other properties over there specifically the shopping center that is being built west of there. Can they discuss the existing power location that is at Arizona and Chandler Heights and the issues associated with not co-locating at that location? Mr. Fries said part of the driving force on this location is the fact that there is a defined small hole in the system for AT&T. They have quite honestly given them a very limited area for them to create the infill site. A couple of the properties that have been discussed today fall out of that area. They already have coverage there. They are looking for stuff more east. The 2 locations that popped up that were the best for them in terms of filling their hole in their overall system for south Chandler is basically east of the railroad tracks. **CHAIRMAN CASON** said so the hole in coverage is actually east of this map that they have. Mr. Fries said it is actually most of the residential neighborhood that they are discussing. This area in town is a lot of residential. There are very few locations in this part to put towers. The towers that are up now are quite honestly full in capacity of how much you can add on to them. You also can't add height. At some point, if there are already one or two carriers on a pole, the next level down is too low to get the coverage that you are looking for. **CHAIRMAN CASON** asked Mr. Dermody if we had a bigger picture to look at or is this pretty much what they have? He was going to look more east bound since in reality where he wants to place it is in the western end of their hole, right? Mr. Fries said the hole is basically just east of the railroad tracks. As soon as you go down to Arizona Avenue or west of that you are too far west to cover the residential neighborhoods that are being missed right now. **CHAIRMAN CASON** asked so he wasn't able to negotiate with the developer at the new shopping center at the northeast corner? Mr. Fries replied no.

**COMMISSIONER FLANDERS** asked about the Golf Course and if he has looked at that area? Mr. Fries said yes they have. It is not as high on the ranking as the two they are looking at right now - the property and the lumber yard. **COMMISSIONER FLANDERS** asked if that was a possibility. Mr. Fries said it is a very faint possibility and that is as far as he would like to discuss that one.

**VICE CHAIRMAN RIVERS** asked if the golf course was on County land or City of Chandler land? Mr. Dermody, Senior City Planner, said it is on City of Chandler land. **VICE CHAIRMAN RIVERS** said he doesn't know what this road is that is on the eastern border of the golf course. Mr. Dermody said that is the canal. **VICE CHAIRMAN RIVERS** asked if the parcel just east of the canal and south of Chandler Heights Road is County land too or is it City land? Mr. Fries said that is County. Mr. Dermody confirmed that it is County land. **VICE CHAIRMAN RIVERS** asked what the problem is with the golf course? Mr. Fries said it is not something he can discuss in public. **VICE CHAIRMAN RIVERS** asked how far does his sweet spot extend east of the railroad track? Mr. Fries said it goes over to McQueen. They are looking at about a mile, mile and ½ donut hole. **VICE CHAIRMAN RIVERS** asked if there was any place

closer to McQueen or anywhere over there that they could put this? Mr. Fries said it is residential and county jurisdiction south of the road.

**CHAIRMAN CASON** asked is the issue with negotiating with the church easier than negotiating with the County and as somebody mentioned, he was in a hurry? Could he speak about that statement? Mr. Fries said time is relative. This system infill area has been looked at for over two years. He doesn't think in most people's time frames this would be considered in a hurry. There are challenges on both sides of the road. Obviously, the north side is primarily residential. There are very few spots and you are very limited as to where you can find a suitable location. The south side is basically the County and the County's processes are very, very slow and tedious. It is just a challenge. When his client has the opportunity to work within a jurisdiction like themselves, or go to the County, the preference is to work with the City of Chandler versus working with Maricopa County. It is a business decision. **CHAIRMAN CASON** asked if his research firm had any documentation that they have negotiated with anybody south of Chandler Heights Road? Mr. Fries replied that they have been under negotiations for over a year with the property with the lumber yard. He has personally attended 9 meetings with the County on that piece of property. **CHAIRMAN CASON** asked but nobody west of the lumber yard or nobody east of the golf course? Mr. Fries responded that there were preliminary discussions on the golf course and because of those discussions that fell into third place because of some issues over leases. He won't go any farther than that. There were no opportunities east of there. There were very few opportunities in this search. It came down to 3 or 4 locations and they were prioritized. The lumber yard was the first one and they spent the longest time working on it. Once negotiations with the County came to a standstill, they went to the second option, which was the church across the street.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said one of the things they have to look at to see whether or not where they are proposing to put this to fill the gap in coverage is the least intrusive means possible. He accepts the idea that the lumber yard has problems but what he doesn't understand is the golf course. Mr. Brockman said that he said there were preliminary meetings but they couldn't reach an agreement on the lease. Mr. Fries said they were not as interested in leasing as they were of getting them to lease. Mr. Brockman asked if the people he was negotiating with were officials within the City? Mr. Fries said at some level. Mr. Brockman said well at what level? Mr. Fries replied it was people who run the golf course. Mr. Brockman said the golf course is run by a private contractor. Mr. Fries said he worked through whatever the framework is with whoever manages that entity.

**CHAIRMAN CASON** closed the floor for discussion. He asked if there were any further questions of Staff of comments.

**COMMISSIONER PRIDEMORE** thanked all the citizens that came out to speak tonight both for and against this particular item. He knows it is difficult sometimes to step up to the podium so he appreciates them taking the time to come down and listen and

also to come down and speak their mind. He thanked the applicant for the consideration of moving the proposed tower closer to Chandler Heights and in reducing the height and also in looking to change the appearance of it so that it is more appropriate to the existing landscaping. However, in so doing they are actually making the situation worse because it will become more of an eye sore the closer it gets to Chandler Heights and obviously moving it north closer to the neighborhood isn't really an option in his mind. While he appreciates the items that have been put on the table, he is not convinced that there are not better locations south of Chandler Heights. Again, he understands the commercial aspects of trying to find these locations and trying to find the best one that works. However, the fact that it may just take a little more time and effort to get a location that the neighbors and Commission can live with would be well worth that effort. He said that right now he would not be in support of the proposed location or moving it still within the church property.

**VICE CHAIRMAN RIVERS** thanked all the neighbors for coming down to speak and particularly Mr. Powell. What he said really hits home with him because he has been active in his own neighborhood for 20 years and the fact that the homes were there before the church arrived and then the church powers that be decided that they would accept this commercial enterprise on their land to the detriment of the homes that were there prior to them bothers him. He thinks it would be interesting for the applicant when he gets to City Council to talk to them about the fact that the Chandler City employees of the golf course are not interested in negotiating with him in good faith and see if they can't help him with that possible location. Again, he thinks a location south of Chandler Heights Road would be better for everyone and he thinks farther east would be better for him and he thinks probably the corner of the canal and Chandler Heights Road golf course might be the best of all three. He will not be supporting this application.

**COMMISSIONER FLANDERS** echoed the appreciation of the citizens coming out and voicing their opinions either for or against. In items like this that he has seen come before them over the years, he appreciates the fact that the applicant has lowered the height and provided additional landscaping and moved it away. He is thinking there is possibly a better location south of Chandler Heights Road. The way he is thinking is to look at a continuance for a couple of weeks at least to have the applicant talk with the City. Maybe there is somebody at the City that he hasn't hit yet that would have a better understanding of the possibility of that. That is his suggestion – to have a continuance for a couple of weeks just to look at this site again. The cell tower in this location is something needed to plug the hole. He agrees with that. He agrees with a lot of the residents and what they said about the neighborhood. He is very familiar with this neighborhood. He has had relatives that have lived in this area and it is a very, very nice area. With that his suggestion is a continuance for a couple of weeks.

**CHAIRMAN CASON** stated to the Commissioners that was well said. He is kind of disappointed that 4887 Exeter and 426 San Carlos didn't come tonight. The reason being is because when he went to the site, those are actually the two homes that he sat out in front of. As he normally does, he always tries to find compromise in issues and he

thought to the benefit of those 2 residences that a successful compromise may be to pull it closer to Chandler Heights Road. In a way where it would be further away, it would be hidden by other trees or in the case of one home it wouldn't be right in their field of vision as they looked out their front door. But having said that it seems like that there are a lot more questions associated with the selected point that need to be answered before they go forward. Clearly, the understanding is that the power pole holders and the right-of-way holders, the railroad, won't permit that. They need to clarify those issues. He thinks that he understands the issue of the lumber yard, although the reasons are somewhat clouded. He thinks he can read between the lines and understand probably the issues with that. What he is not satisfied with is possibly having other locations that might be more expensive to site but will actually be better for the neighborhood. He doesn't know that he necessarily agrees with his colleague that necessarily just east of the canal south of Chandler Heights is an issue because all they do is bring in another neighborhood to make the same point that this neighborhood made. They need to have more evidence and he knows that City Council will need to have more evidence of some of the other sites that they have looked at to determine if in fact as the applicant states, this is truly the best site given all of the other factors associated with it. He hopes that the applicant can make those presentations and some of those evidentiary pieces available before when it goes before the City Council.

He stated that Commission is only a recommending body. It is the City Council that makes the decision how this goes forward. There is some support for the argument about extending and postponing it. He asked Staff what the time ramifications for extending it until the next session are to allow the applicant to supply some of this information or whether they just go forward with whatever they choose tonight and let the applicant supply that information to City Council and let them digest it.

Mr. Dermody, Senior City Planner, said if they continued this item for two weeks, it would set Council back approximately 3 weeks, from October to mid-November. If they just went forward with a recommendation other than a continuance, than they would still be on that October 28 date for City Council.

**CHAIRMAN CASON** said since he closed the floor he would like to look for a proposal and a recommendation to deny and then the applicant would have 2 weeks in order to come up with more information that they may have an opportunity to convince the City Council to go ahead and take action. He opened the floor so the applicant could comment on that item specifically. Mr. Fries, representing AT&T Mobility, said he would prefer if this site goes forward it would have their approval so he would prefer to go ahead with what Commissioner Flanders suggested that they put a continuance in and allow him to come back at a later date with information that would clarify some of the questions.

**KEVIN MAYO, PLANNING MANAGER**, stated that if they are going to push this to the October 20<sup>th</sup> hearing, those memos are due to him Friday in 2 days. He doesn't know if the applicant is going to have enough time in 2 days even if he gives him to Monday to get all that information to them. He doesn't want to go to October 20 and then come here

without the full information. He asked the applicant if that was enough time. The applicant said it would not be enough time. Mr. Mayo said with that being said the next meeting would have been November 3. That meeting has been cancelled and it would go to the November 17 Planning Commission hearing and tracking to the December 9 City Council hearing. The applicant said that schedule would be fine.

**CHAIRMAN CASON** entertained a motion.

**MOVED BY COMMISSIONER FLANDERS**, seconded by **COMMISSIONER PRIDEMORE** to continue Item ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY to the November 17, 2010 Planning Commission hearing. The item passed 3-1 to support a continuance.

Mr. Dermody, Senior City Planner, said to the neighbors who wish to come to the next meeting, the November 17 meeting will be in the new City Council Chambers adjacent to City Hall not in this building.

**CHAIRMAN CASON** thanked them all for coming. He said it is very important to have their input when they have issues like this come up as for any issue that comes up. They will diligently look for the answers to their questions in the meantime. He invited them to come back to restate their arguments at that time.

H. ZUP10-0029 CORNERSTONE CHRISTIAN CHURCH WIRELESS FACILITY

Request Use Permit approval to install a wireless communication facility on the campus of Cornerstone Christian Church at 1595 S. Alma School 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 be 57 feet in height to top of antennas.**

**BILL DERMODY, SENIOR CITY PLANNER**, stated this is a request for a wireless communications facility in the form of a monopalm at Cornerstone Christian Church at the southeast corner of Willis and Alma School Roads. He showed the where on the map on the ELMO. He said you can see the existing church building on this site. There are plans for expansion to the east but the proposed monopalm is located basically at the northeast corner of the existing congregation building where they hold their main church services. This has been an extraordinarily difficult site for AT&T. He has been working with them for a year and a half or so on trying to fill this hole here. There was a site to the east of here. They had an application for one that received a unanimous recommendation of denial from Planning Commission and was continued by City

Council so that AT&T could look at other options in this area. While this was the main other option, at that time the landlord wasn't willing. They didn't have their expansion plans finalized and didn't want to disrupt that in any way with this monopalm. They have to give them a lot of credit. They have gone out of their comfort zone a little bit and thought about this long and hard. They were able to find a site that works. Actually, in the interim they had another site that worked for the church and for AT&T but that was not working for the neighbors. That was farther south, closer to the Eden Estates neighborhood in this area. After they received that feedback, they went to this third site. They do recommend approval of this. It is a 62-foot high monopalm with a couple of live palms placed next to it. The palm design is appropriate. There are quite a few live date palms in the parking lot on the western side and adjacent to the building. It is a very palm rich site. Also, there is sufficient set back from both the main streets area and the nearest residential, which is Parcland Crossing to the northeast of here. It is much more than that from the nearest existing single-family homes in the area. Generally speaking by the standards they usually measure these this is a very good location. There are a couple issues that Commission wanted to talk about - the height and the exact location of this and the applicant is prepared to speak about those issues. They don't have a lot of flexibility in either measure. As presented, Staff does recommend approval.

**CHAIRMAN CASON** asked if there were any questions of Staff.

**COMMISSIONER FLANDERS** asked Mr. Dermody that in relation to the 62-feet what are the heights of the existing buildings out there? Mr. Dermody said he wanted to show an elevation. He showed a photo simulation of the monopalm. He said what is shown is not quite accurate. It really is going to be a little higher than that. But the building is 26 feet right here, about 37 feet at the tallest point and the top of the cross is about 43 feet in the air. **COMMISSIONER FLANDERS** asked what are the heights of the existing palm trees on site? Mr. Dermody said they are somewhere around 25 feet high. **COMMISSIONER FLANDERS** asked so they are not that tall yet? Mr. Dermody said no but they will get a little taller yet. **COMMISSIONER FLANDERS** said he knew on the previous case with AT&T they agreed to a 55-foot. If they were able to go down to 55 feet, why wouldn't they be able to go down at this location? Mr. Dermody said this is an issue on a number of sites and they asked if they could go down to 55 feet here. The response they have gotten is that they are trying to fill a significant hole in their coverage, larger than they are often trying to fill on other sites. Because of that they can't sacrifice the height or they won't be able to fill this hole. **COMMISSIONER FLANDERS** said so they are basically trying not to have to do another pole then. Is that essentially it? Mr. Dermody said that is part of it and there is also great difficulty in this area with finding another location. They have had them go out to a dozen different non-residential locations trying to find a good one, especially during the time when the church wasn't a willing landlord. They weren't able to secure space on any of those sites. Either their radiation frequency engineers had nixed those other sites because it was out of their search area.

**CHAIRMAN CASON** asked Mr. Dermody that on the second to the last page in their packet, are the google map pins the applicant's poles and he is especially interested in Item B that has the 33.2862 or B62B? He said it would be northeast of the church there along the freeway. Mr. Dermody said these are the number of the alternate sites that they have looked at. **CHAIRMAN CASON** asked if he could tell them about any of them specifically or should he ask the applicant? Mr. Dermody said he could tell him about some of them but the applicant will know about all of them.

**CHAIRMAN CASON** asked the applicant to come up.

**SHANNON MORRELLI, 5651 W. TALAVI BLVD., GLENDALE**, stated she is there representing AT&T Wireless and this application for this monopalm. She said she understood they had questions for her and said she would certainly take them.

**CHAIRMAN CASON** said he would like for her to talk about some of the other co-locations and some of the other locations that haven't been successful for her. He knows that they had some issue with the one that is southeast of here. It is kind of like getting an understanding of their hole in their coverage and strategies for using one tall pole instead of 2 shorter poles and that type of thing.

**MS. MORRELLI** showed an existing coverage map. The existing AT&T cell site surrounding this supposed area is an existing site up here which is on the north side of the 202 past Arizona Avenue. In addition, there is a site that is at McQueen and Germann. They have another site that they can see to the west on Germann, which is at Dobson Road, and then to the north side of the 202 just below Chandler Blvd. running close to the 101 freeway.

She personally has been working this project for a year and a half and can speak to all of the alternative locations they looked at. She started north of the freeway but was advised by AT&T that because of this significant coverage hole and future plans for site in this area that would serve down here, she needed to focus her efforts to the south of the 202. She said she was allowed to consider some properties right along the 202 freeway on the north border and made contact with the developer for that property. Unfortunately he was unwilling to consider a ground med. facility. He was quite insistent that if he was going to lease a space, it was going to be on the roof top of his future building which to her understanding has not yet received approval. This was a year ago that they had entered into these discussions. That building today has not broken ground and this economy they don't know what future time or at what height a future building would be designed. She thinks it was originally designed as a 3 or 4-story building. Without a solid design with the City, they can't forecast if and when that construction would go forward. They also looked at a small City owned water facility that they looked at and considered locating at. She made contact with the City of Chandler through all of the appropriate channels. It is her understanding that due to security issues the City of Chandler water facilities will not allow cellular co-locations within their compounds and that is due to 911 security issues. They did talk to the City about other facilities at fire

stations, police evidence yards, where there have been acceptable siting locations. So those were locations that they looked to the north of the freeway. Again, they had a proposal out at the Cutlip Ranch, which is just southeast of here. They made contact with the developers of this property after the first meeting and request by this body for her to go back and look at alternative locations.

In her initial research a year and half ago, she contacted that developer and it was going through a sale and an escrow. Then she contacted the new buyer and those parties at that time expressed no interest in leasing to them. They had not decided what kind of development they were going to do out there. She went back to them about 4 or 5 months ago after meeting before them and that developer and new owner was also not interested hosting an AT&T monopalm. Again, they proposed to them something right along the border of the 202 away from the homes, away from any developments that they would do. It would be in a buffer area where they could not build in but that was met with no response from those developers. They were specifically asked by not only this body but by the City Council to go back and talk to Cornerstone Church. She had spoken to them on two different occasions over the course of a 2 year period. At that time they did have their plans for future developments at such a stage that they did not want to consider an overlay of a cell facility there. They have had some new management and she truly appreciates the effort that they have made to work with them on siting a location out here as Staff has indicated. It really was a stretch outside their initial comfort zone but given that they also want to be good neighbors and good stewards of the property they own, they recognize that there is a need for coverage in this area and their property is certainly large and well suited for this application.

**CHAIRMAN CASON** said first of all he wanted to thank her for coming prepared with all the properties around the area and be able to explain them fully. They really appreciate that because that doesn't often happen as well as it should. Can she share with him the difficulties, if any, associated with locating in apartment complexes such as the two that would be north of the freeway? Ms. Morrelli said she contacted one of the apartment complexes and obviously in any siting situation they look for either available space as well as the ground space that would accommodate their equipment or suitable ground space for a ground mounted monopalm, monopine type facility. In contacting the apartment complex to the north, they actually had a really nice copula and a 2<sup>nd</sup> floor area that was attic space as it were and she thought it would have been an excellent location for the facility. However, when they were directed to the ownership of that apartment complex, they did not want to enter into any leasing agreement. They didn't even get to the point of negotiation. Often times when she goes out and she makes her initial calls, she physically goes visits all of these locations and some people are just not interested. It is not a question of money and she really doesn't know what their position is but not everyone from their perspective as a nice additional source of revenue with minimal impact, minimal service visits. People have different reasons for what they want to develop with their properties.

**CHAIRMAN CASON** asked if they were to lower this to 55 feet, where would they have to put their second tower? Ms. Morrelli replied that was problematic in this Church area. She went back to the map. As they can see where they are currently proposed, it is really centered from the other cell facilities. When they were proposing to locate over here, at one point there was another search area that was under development that would split this search ring essentially into two. There is a park to the south that was also identified and potentially a church south of this church. However, once they exhaust everything along the freeway and they had to move the search ring further down, it became a question of one or the other because 2 cell sites could not exist within the close proximity of each other without creating an overlap of interference. Without getting terribly technical on them, they are familiar with these poles when they come before you and they have 3 spaces of antennas on them and that is because the FCC gives AT&T a license for frequencies and channels and each side of that 3 sides transmits out. If it gets re-used within a certain distance, it creates a problem with interference. They can't have cell sites so close to each other as they would have more problems than it would solve by having 2 lower sites within this close proximity. The challenges that they face in this residential community is that the siting locations on church parks, shopping centers, etc. are limited. When developing these search areas, you have to take that into account. Certainly, they would love to have them all equidistance but that would then place cell towers in people's backyards which she understands the City does not want to see. That would be the optimal radio frequency design but they are also governed by zoning restraints and understandably so to put them within the quasi-public and commercial areas.

**COMMISSIONER FLANDERS** asked in regards to the site that she is proposing tonight at the 62 feet, what is the extent of the signal of that particular tower? Is it a ½ mile or a mile or ¾ of a mile. Ms. Morrelli replied it is approximately a mile and a 1/2 across. It is about a mile radius on either side so it is a 2 mile circumference but a 1 mile radius (2 mile diameter to a 1 mile radius around it). She showed the coverage hole that exists in this area. While the proposed design is at 62 feet top of steel, they do have the fronds fall to disguise the antennas. The antennas themselves aren't at the tip always of those proposed heights. They would have this significant coverage gap filled here. Again, there is a proposed facility further north that would cover any continued lack of coverage here and then again to the south. She believes there is another site in development that is off of the map down to the southeast. **COMMISSIONER FLANDERS** asked what her range was at 55 feet? At 62 feet it is a mile to a mile and ½. Ms. Morrelli replied she doesn't have that for 55 feet. She asked her staff earlier today to see what a 10 foot reduction in height would do and so she asked her engineering group to provide them with those coverage differences. At this height their antennas would get 60 feet from the 62 foot and then if they went down 10 feet, they would be at 52 feet with 50 foot height in the coverage area This map has pockets here that continue to be underserved as well as a greater area extending down below Frye Road whereas previously you had a greater area of Frye Road covered and a much more significant area at Arizona Avenue covered as well. This can be addressed by future sites to the north and south. **COMMISSIONER FLANDERS** said he is looking at that and he is thinking

52 to 55 feet is splitting hairs. He said that pretty much tells him what he needs to know. Ms. Morrelli said there was recently approved a monopalm at a similar height so the request they are making now is to the top of the fronds and the antenna heights at the same height as what they are requesting here over at the Cooper and 202 and they are trying to establish where existing site infrastructure dictates a height level that can meet up with those surrounding sites. She has done an analysis here in Chandler and some of those older sites that are out there average between 60 and 80 feet in height because they were the early monopoles. Unfortunately, due to the physical constraints and the zoning developments of these residential areas where their siting options are limited, they are trying to gain the most height possible so that they can meet those older heights and not have the coverage gaps between the surrounding sites.

**CHAIRMAN CASON** asked that the one east that she just sited wasn't that because the sea level heights? The one east sat in a hole of some sort or another and that is why they extended the height was because it was shown it was at a different level? Mr. Dermody, Senior City Planner replied he doesn't know about it being in a hold but the freeway may have been higher at that point. They had a discussion about freeway heights in any case.

**VICE CHAIRMAN RIVERS** asked when she was talking about a 62-foot height, is she talking about a 60-foot top of antenna height? Ms. Morrelli said no, the design that they have showed 62-feet to the top of steel and it is her understanding and there was a significant discussion on a case she had before them earlier this year about what standard would be governing the height of the pole. The City chose to take the top of the structural steel as the height of the pole. Certainly, antennas can be located anywhere along that steel height but because they built these designs in the form of a monopalm, the palm fronds themselves will extend up over that. The industry standard is to have a 65-foot tall palm which has the fronds at the 65-foot mark and there was some question about whether they were quibbling over a couple of feet here and there. This design she believe shows top of steel at 62 feet but they can have top of steel at 60 feet and have the antennas to be at that 60 foot mark instead of having the 62 feet above it. The only thing that does is it puts the antennas closer to the tip of the fronds and they are really trying to be good neighbors and make these sites look as realistic as possible and conceal the antennas as best as they can. The greater amount of fronds and the higher up the fronds can be from the antennas plays a big factor in how well those antennas are disguised. **VICE CHAIRMAN RIVERS** said the antennas stick above the top of the steel. Ms. Morrelli said the antennas stick above the top of the steel - that is correct. **VICE CHAIRMAN RIVERS** asked how far? Ms. Morrelli replied at this site the tips of their antennas are proposed to be at 62 feet to the tip of the antennas. That is the uppermost tip of the antennas. The center line of the antenna is at 58 feet. **VICE CHAIRMAN RIVERS** said to Staff the ones they talked about in the past they were trying to come up with a uniform top of antenna line. Isn't that correct? They were doing that at 55 feet? Mr. Dermody replied that they do measure to top of antennas and he apologized because they confused the applicant. They probably confused a lot of people at the time with discussions they were having back and forth. Without going into the reasoning because he is afraid of confusing people again, when they say 62 foot monopalm they are talking

top of antenna. That is how they decided to measure them going forward. It wasn't always the case in the past and it wasn't the case on her last pole that came through but that is what they do now. This is being proposed as 62 feet to top of antennas with fronds being a few feet above that. **VICE CHAIRMAN RIVERS** asked that the standard that they had agreed on a couple meetings ago was 55 feet to top of antenna or 55 feet to the top of the pole? Mr. Dermody replied that top of antenna is the measurement they decided matters.

**COMMISSIONER FLANDERS** asked Mr. Dermody that along the freeway corridor there are several different locations, what are those particular heights? This one is probably the furthest off of the freeway. He is just curious. Are those heights at 60, 65 or they all over the place? Mr. Dermody said he would give him the top of antenna heights, even though they did things differently at the time. The ones over at Cooper are 62 and 58 feet to top of antennas. They asked for a staffer on it and they did get that. He believes the one right around the corner on the 101 is a 55 footer at the 101/Warner. **COMMISSIONER FLANDERS** said there is another one behind the church on the north side. Mr. Dermody said that one shouldn't be taken as precedent because that was approved by Staff error at one point in time. That is a 65-footer. **COMMISSIONER FLANDERS** said he guesses what they are looking at here is they have heights anywhere from 55 to 65 feet varying from site to site, right? Mr. Dermody replied yes. **COMMISSIONER FLANDERS** stated as he has said before the 55 feet should be consistent. He understands the applicant wants to cover a larger area being closer to the freeway. He is trying to understand why she wants 62 feet and not 55 feet. Ms. Morrelli said the last case they had before them was a monopalm that was approved at 62 feet to top of antenna down at Riggs Road and Gilbert Road. Without following all of the wireless cases that come before them, because she understands there are other carriers out here that have their own design and build plans, she did not follow the 55 foot standards that had been set at a prior meeting. They go off of what their case history is and in the 2 most recently approved cases for AT&T, both of those sites were approved within the 60 to 62 foot to tip of antenna range which falls squarely within the design parameters for the optimal coverage for AT&T self-system. It has been integrated into that entire system. **VICE CHAIRMAN RIVERS** said one of the things he looks at and what Planning Commission is looking at is the aesthetics as far as how does it integrate with buildings, areas and everything else. That is why you hear this. It depends on what is going on around the site. One of the things he likes about this site is it is tucked behind the buildings so you are not looking at this thing out there with nothing. You are on the street and you look at the building and then you see a little bit of it behind you. He is still kind of wrestling with the 62 feet.

**CHAIRMAN CASON** said he has a couple concerns about the actual design and placement of both their yard and their monopalm. One of the concerns he has is structural in that they have the gates opening at the south end right where the angled overhang for the cross comes out. Ms. Morrelli said that was correct. **CHAIRMAN CASON** asked at 8 feet how close do you come to that structure. It looks like they can't get the gate past that structure at 8 feet according to this drawing. Ms. Morrelli said that 8 foot opening is

actually two 4 foot gates and there is an 8 foot clearance to the angle out there. It is passable. They chose to locate that gate on the south side facing that wall because it would achieve several objectives. One, they always like to keep the gate away from the visible area because by having the solid block wall from the parking lot and the street it is going to be painted the eggplant color of the building at that level. It will blend in with the building and you won't have these wrought iron gates that will be visible from there. In keeping with that first concern they then have two options; to place them on the south side or on the east side. They chose not to place on the east side because there are some rear doors to the sanctuary open up from that east side. They aren't directly in front of that area but they expect that they will have flow from service that comes out and as they head out to the parking lot it may migrate somewhat south. They didn't want to have that potential obstruction should the techs be required to come out during an emergency during some type of service and to have that type of obstruction on that east side. **CHAIRMAN CASON** said the sidewalk appears to be 4 feet wide. Ms. Morrelli said yes they measure that often. They also concurred that it was 4 feet wide. **CHAIRMAN CASON** said the fence is 8 feet high. Ms. Morrelli said yes it is 8 feet tall. **CHAIRMAN CASON** said so what she is saying is that at 4 feet deep and 8 feet high it will not extend over that sidewalk where he stands on the edge and hold his arm up and touches that wall as it comes out. They have run angles and put up straight lines to verify that fence is not going to hit that structure? Ms. Morrelli said yes and there is a landscape planter area that runs between the buildings, the cell and the sidewalk and the retention area and that landscape area is an additional 3 feet of landscape before you get to the sidewalk. The short answer is yes they have done that analysis and it clears any vertical structures.

**CHAIRMAN CASON** said now the doors that come out on the east side of the sanctuary those point right at the pole. Correct, or are they further north of the pole? They are probably in the center of that cut out area where they have the dimension 7'11". He said he was on the detailed site plan. He said it would be drawing 03. Ms. Morrelli said she believes the doors would open up closer to the wall, the northern end of the compound wall where they proposed to relocate a light. That light currently sits right in front of the door opening. **CHAIRMAN CASON** asked the center of the double door opening? Ms. Morrelli said without a close up photo, she couldn't tell him for certain. **CHAIRMAN CASON** asked if she had considered in any of her meetings with the church to take the entire compound and turn it ninety degrees to the east. Ms. Morrelli replied that they looked at that option and another option further down. The physical problems encountered with flipping it perpendicular is that they are on the border of a retention area now. The retention area has somewhat of a flat section where they are proposing to locate. They will still be required to providing grading and drainage plans, provide some fill, do some adjustments and frankly the engineers know more about that than she does. On the east/west running side there that has about a 2 foot section before it drops off into the retention. They really try not to impact retention areas as much as they can. She did not take quite as seriously the retention plans that are prevalent throughout the valley until she experienced flooding that they had during the flash flood last night and she has a much greater appreciation for the importance of keeping those retention areas in tact. **CHAIRMAN CASON** asked so they won't have to manipulate as much in this current

design were they to make it perpendicular? Ms. Morrelli said correct, significantly less. **CHAIRMAN CASON** asked having said that was that decision made before they actually discussed it with the church about the location of the tower? Ms. Morrelli replied no that discussion was had with the church representative on site when they walked the area with their facilities manager. They talked about the location here and at other locations. The other problem with doing a rotation over here is that you see the transformer here and it has clearance requirements. There was some concern about their ability to meet those clearance requirements by going this way. They have easements to either side that go beyond their actual transformer set. She believes it is a 12-foot wide easement and so their easement actually encroached further out here where they can't build in. So that was also a consideration. The primary reason that they did not locate around the corner, which had also been considered and that would even be further set back from the main road and sort of right there with utilities, they have underground utilities running from this transformer box over to the utility bay and then running down that whole area and for obvious reasons they can't locate on top of that. **CHAIRMAN CASON** said but then it would be possible to create their yard in an 'L' shape where they actually move the tower down and then leave their other compound the way it is and have an 'L' shape. Ms. Morrelli replied that church representatives did not want them to site the pole that close to their cross that sits there. They had originally requested that they locate on another portion of the property that for them was considered the rear of their property. But that site would have put them within 100 feet of the homes to the south. After meeting with those homeowners, who are also church members, they asked those homeowner church members to speak to their pastor and talk to them about considering other locations. When they went back to this location, the one concern that they did have at this corner was that they not block the cross that comes out. Setting it in that vicinity but still having some distance from it, they will still be able to see their cross as well keep the palm within this utility area of the property. The church has some real nice designs for the future development and they take great pride in the design of the existing structure as well as other future developments. That was a concern of theirs.

**CHAIRMAN CASON** asked Staff on the 7'11" between the emergency exit and the wall and then the 4 feet to be able to go both north into the parking lot and south around the compound, are those sufficient enough from a fire safety standpoint? Mr. Dermody said he believes they only require a 4 foot wide sidewalk generally and without knowing the specifics of fire code, 4 foot sidewalks being everywhere else (most places in the city) he thinks this meets the minimal requirements. **CHAIRMAN CASON** said when he went out to the site what he noticed first was the pole was in line with that piece of architecture that comes out that holds the cross. They were almost identical in line and he thought that was an error in designing it that way because no matter how you look at it as you move around that access to look at that, the pole is always an extension of that building. He thought from his mind's eye that was a bad place to put it. These guys would probably have some comments whether he is barking up the wrong tree or whatever the case might be. His biggest concern was the fact that if you had to come out that emergency door, the first thing you came up to was a wall. What that causes you to do in an emergency is not know which way to go. You are coming out there, you don't

know whether you turn left or right and he thought that to be a concern. If it were left open, then you would kind of know to charge out that way. If you have to go through the retention basin or whatever, you don't have to think about where you are going you just go. He asked if the gates on the south side will open an entire 180 degrees and be held open at 180 degrees so that if their technician is there and an emergency happened that those gates will be fully opened so that people can pass that area? He knows there won't be a truck there or anything. Will they know from a functional standpoint, do those gates open 180 degrees? Ms. Morrelli said they can certainly design them to do so. **CHAIRMAN CASON** asked her if that was something that would be acceptable to her? Ms. Morrelli answered as a condition yes. They can design that or look at a sliding gate so that it doesn't swing out at all. She didn't think they could look at inward opening gates because then it blocks into the equipment that is there. They are fairly limited in the size of the compound as it is. It shrunk down from their typical size so that they can still stay at the edge of that drainage basin. **CHAIRMAN CASON** said certainly. He thinks the sliding gates would be the best alternative because then they don't have to worry about propping them open or whether they are staying there and now the gravity is pulling the door closed or something like that. It is just because of that proximity and even though there is a planter back there it is really tight especially where that piece of architecture comes down. It is really tight there and if one of those closes up, it is just a mess that people have to push it open. So a sliding gate would be great. Ms. Morrelli said from an architectural standpoint the only thing that a sliding gate will present is that the mounting hardware would have to be on the exterior of the wall. So you would see that sliding bar. That is really the only consideration and one of the reasons that they try to go with the swing gate because it is a much cleaner design. **CHAIRMAN CASON** said he is o.k. if they open it 180 degrees. He wants to make sure they will open 180 degrees and when the technicians are out there they will open them 180 degrees so that area is able to be passed through in case of an emergency. Ms. Morrelli said typically when a technician is out visiting the site he will close himself in unless he is in the midst of loading and unloading because they understand the equipment in there can be an attractive nuisance to kids who may be on the premises. They try to keep their ingress and egress limited and close it once they are inside the compound so that they don't have the potential for anyone to wander inside while they working. **CHAIRMAN CASON** asked if there was something they could do on the wall where the tower is to direct people in an emergency to go 'this way'. Is there something they can do there? Is there a fire requirement that they can latch onto or something that requires a sign to put there and left there? Nobody will really see or notice it unless there is an emergency. They will just walk past it but he thinks in the case of emergency to ask somebody to turn right or people to be confused to turn right out of those emergency doors and then have to go around the compound is maybe not the best way for people to go. He thinks a sign saying emergency exit or go this way or however it would be verbalized. If they could point it to the left and make sure it is attached to that wall, he would feel a lot better about the people exiting there in an emergency and be able to see that sign and not be confused about which way to go. Mr. Dermody, Senior City Planner said he doesn't think fire code would address that. The signage that you usually have for emergency exits just gets you out of the building. He doesn't know of another case where there is signage outdoors

to point you in any direction. That would probably have to be conditioned. **CHAIRMAN CASON** asked if that was amenable to her? Ms. Morrelli said it certainly would be amenable to AT&T and she is sure once it is expressed to the church what his concerns are for the welfare of their parishioners. While she can't speak for them tonight she is sure they can appreciate the reasoning for such signage.

**CHAIRMAN CASON** went to the audience and called up the speaker.

**NORA PLATT, 740 W. MAPLEWOOD STREET, CHANDLER**, showed on the map where she lives. She showed her property with 40 pine trees around it. She said she has been dealing with Cornerstone church for several years. She attended it for a while. They seem to do things without letting them know what happens. She is not necessarily opposed to this if it is really going to go where they say it is going to go. Her property when she stands on her porch is 30 feet to their parking lot and on Sundays at 9:30, she invites you to come to her house on watch the dust. There is a partial fence and then there is barb wire the rest of the way. They are very nice people to your face. They were trying to buy our property for a while. She thinks AT&T actually came and talked to her husband first. They thought they were selling their property to Cornerstone. She just wants to make sure they are going to put it there and really have it that far away from their house. The view that they see is what she sees on her porch. The parking lot was agriculturally zoned and one day on Easter they parked a bunch of cars there and they kept on doing it. She wrote letters to the City and now they have a partial fence. She sees it every day. Her property sits up because they have horses. They are agricultural property so they get irrigation. Her porch already lifts up. All she really wants is a fence so that when she is on the ground she might see the top of it but she doesn't want to see the whole pole and wall. She knows she is only the one neighbor but they back up to them. Their property is right there.

**CHAIRMAN CASON** asked if she has spoken to the church about that specifically about perhaps building a wall? Ms. Platt said the last time she got her partial wall after writing letters to the mayor, going to the church, writing e-mails and meeting with them in their church, she got a partial wall because she took a tarp that covers hay and she and her husband wrote 2 foot letters that said 'Why is Cornerstone Church not following the law' and 'love thy neighbor'. About ten minutes after she put that up they came running and by that following Sunday she had a partial wall. Now she doesn't see the cars. **CHAIRMAN CASON** asked her to describe the partial wall? Ms. Platt said her property is square but her house is at an angle. Her house looks at an angle so if they are on one side of her house they have that wall on her property that they did come and put up. They put it on their line. But because their house is angled they can still see the other half of the parking lot. The people behind us actually had taken money from the church and went and bought another property and now their children are staying there or renting it out to them because the church backed out and they had already bought a piece of property. They don't have a fence there and they have been bugging the church constantly to get a fence on their property too because their 2 properties back up to that entire parking lot. **CHAIRMAN CASON** asked how tall is this partial fence? Ms. Platt

said it is a nice fence. **CHAIRMAN CASON** asked didn't they come before them to get permission to use that and they had to surface the property? Is it on a temporary use permit? Mr. Dermody said that is correct and that was approved in 2009 he thinks for 3 years. Mr. Dermody said they will have to come back in 2012 when it expires. **CHAIRMAN CASON** asked if she had any other comments. Ms. Platt said no, she mostly just doesn't want to see it.

**CHAIRMAN CASON** asked if there were any questions for the speaker.

**VICE CHAIRMAN RIVERS** said he first wanted to thank her for sitting their patiently and quietly all this time while they took care of this other item in front of hers. He asked her if the applicant was willing to paint the pole of this palm tree up to the height of the church as the same color of the church, would this help her? Ms. Platt said maybe. Maybe it would make it look better. **VICE CHAIRMAN RIVERS** said he didn't think the wall around the compound is going to be visible to her because he thinks it is going to be the same color as the church. If they painted the first part of the tower as well up to the height of the church and the same color as the church, it wouldn't be as visible to her as the only neighbor. Ms. Platt said she sees what he is saying.

**MS. MORRELLI** said certainly AT&T has the ability to paint the trunk of the tree but these palm trees are clad in a rubberized high tech bark to make it look like a real tree. Her concern is the building itself is 2-toned, eggplant up to 12 feet and then further up it is sort of a pumpkin color. She thinks painting the palm tree may have some minimizing effect. The overall effect would make it look less realistic then the bark cladding that it is designed to have. It is penetrated with a natural coating so it stays that brown. **VICE CHAIRMAN RIVERS** said listening to what she said before about these things have actually evolved from what they are looking at as already constructed and she had his eye on the first one of these things that was put up and its trunk doesn't look anything like a tree trunk. It looks like the bottom of a water tower and it even glistens. If this is going to look more like a tree than water tower, that's great. If it looks more like a water tower, maybe they could paint it. He thinks it is really nice that they painted the surrounding wall to match the church and again, he thinks that cuts down on the difference to the viewer. He thinks probably when this half of the church is in shade, it is not going to matter whether the tree is painted or not. If it is a visible difference and they think it is a better deal to have it look like a tree, then he is open to that too. Ms. Morrelli said she invites him to the sites at Cooper/202 and down at Riggs/Gilbert. She believes they have been constructed within the last few months. Those are AT&T facilities and they have the bark cladding. The look, if not the feel, is a rubberized material but it is textured to a bark material and the entire tree is clad with this granulated 3-dimensional natural looking material. **VICE CHAIRMAN RIVERS** asked where was this again? Ms. Morrelli said the Cooper exit and the 202 freeway at the southeast corner. The other palm tree is at Riggs Road and Gilbert at the southwest corner of the shopping center.

**COMMISSIONER PRIDEMORE** stated he agrees with the applicant in this case because if they start looking to paint the monopalm it is going to defeat the purpose of it

being a monopalm in the first place. Obviously, the siting of the pole and the yard is not done in a vacuum. Please confirm in the end the church did approve this location? Ms. Morrelli said yes, she has written confirmation of that and provided them with photo simulations and they requested the additional 2 live palms which they have proposed in their application at the edge of that drainage basin to further mitigate the palm tree out there. There are a significant number of palm trees to the northwest parking lot area and at the front of the building, but because this is the rear of the building and as part of the yet to be fully developed phase of the church, they haven't planted as much mature landscaping. **COMMISSIONER PRIDEMORE** said personally he is kind of surprised that it is sited where it is on the site because he thinks it is going to draw away from the architecture of the building and the cross that is there. But if the church is o.k. with it, he can be o.k. with it as well even though this is probably not his first church. Obviously, it sounds like there is a lot of past history just to get to this point and he thinks the fact that they have found a place most people don't have any objections to, he is o.k. with it then. He is surprised by it but he can live with it.

**CHAIRMAN CASON** said he feels much better knowing that he is not the only person that thought it was in a bad place.

**COMMISSIONER FLANDERS** said that before he closes the floor for further discussion and motion he wanted to let the applicant know that he is going to add a stipulation to this project that the top of antenna to be a maximum of 57 feet above finished grade. It is not 62 feet but it is not 55 feet, it is in-between and covers their area. They all know that they are going to have to put another pole somewhere to the north and a little bit to the west to cover their area. They understand with a mile to a mile and a half coverage, they should be able to pick up their gap. That is just for Staff and also for her before they close the floor. Ms. Morrelli said she can appreciate his request for that. It is certainly something that we will discuss again at City Council and can appreciate their recommendation but she pointed out that there are several other AT&T sites that are at that 62 foot. They would really appreciate some consistency as well for their sites in particular at Cornerstone Church where they have taken a long time to get there and she was asked specifically to go look at this church spending quite a bit of time and research at the other sites they had looked at. The lady here is correct and she did approach her husband at one point and he directed her to the site that had previously been approved before them. To address the unspoken question as why here at this corner, the church had originally wanted them to go to another drainage basin to the south end of the property that is right behind the student center. They have some palm trees along here and mature trees surrounding the basin from the houses to the south. However, when they did their first public notification, they had a number of residences in that community that abuts the church property and that site was about 120 to 140 feet from residences. Both residents and Staff were concerned about that proximity so they were asked to look at some spaces either up here in this corner by the residences, as well as to look out in the parking area. The church did not want us locating out in the front parking lot area because they felt that would be even more visible than siting over here. Again, they have a future vision of more buildings out here where it will actually be more clustered in with the future

development of the church. Right now it may seem to be free standing against the architecture but having seen some of their future plans, it looks there is going to be significantly more architectural integration.

**CHAIRMAN CASON** said the church owns the property abutting Ms. Platt's property. Is there any precedence where neighbors can require fencing in a certain fashion in order to obscure the view of something going up adjacent to them? Mr. Dermody said yes. **CHAIRMAN CASON** said normally, how they decide that is a recommendation by the concerned property holder - or does Staff put that together? How does that work? Mr. Dermody replied that those sorts of screening issues have come forward as conditions in a variety of ways mostly having to do with when the issue is raised. If it is raised early, it is often times coordinated between the applicant, Staff and the property owner. If it is raised late, a lot of time it is something that comes up here at Planning Commission or City Council. **CHAIRMAN CASON** asked Ms. Platt to describe to them what kind of fence she wants? Ms. Platt said she doesn't know but said that was a good question. The one they put up is one of those aluminum things that they can't see through because you don't want to see through it and it stops the dust. It comes over the fence but it stops some of the dust. It has to be something you can't see through so she doesn't know. She said the fence had aluminum squares and beige poles and panels from the ground to the top. **CHAIRMAN CASON** asked if it was like a pool fence? Ms. Platt said maybe but she thinks it is a little bit sturdier than that but you can't see through it. **CHAIRMAN CASON** asked if she would like a cinder block fence? Does she want it be opaque? Ms. Platt said she doesn't want to see through it and she would love a cinder block fence. She just doesn't want to see it. **CHAIRMAN CASON** asked how wide is her property at that point that abuts the church's property? Ms. Platt replied that she does not know. **CHAIRMAN CASON** asked if they can discern that from any of the documentation they have? Mr. Dermody, Senior City Planner said it looks like the entire Cornerstone property from north to south is 557 feet. Ms. Platt's property is somewhere in-between a quarter and a third of that length. They would be looking at somewhere in the 150 to 200 foot distance north to south the length of her property. **CHAIRMAN CASON** asked the applicant, Ms. Morrelli, said he knows she can't speak for the church and he doesn't know what type of negotiations she would have to have with the church in order to provide Ms. Platt with a fence in order to block her view of the compound, but without obligating yourself to any contractual issues that she has with the church, would that be something that would be amenable to the applicant? Ms. Morrelli replied that she has some concerns about the nexus of a 150 foot wall obligation, which Ms. Platt expressed her concern over the cars and the dust and has also stated several times that she is not terribly opposed to the view of the palm itself which she admits would be seen from over the wall that is currently there. She can appreciate that adding a wall to the east end of the property would mitigate noise and view of the church parking lot and cars and the service on Sundays and she understands the parking lot fills up quite a bit. She doesn't know that there is a real nexus to her project with the concerns she has raised given they have one technician visit and who is going to park in the paved parking area at the north end of the lot and is not going to traffic through that eastern end. **CHAIRMAN CASON** said those are fair points and he thanked her for those but what they have to remember is that these

things coming before them give them an opportunity to look at these kind of things that have happened in the past. He appreciates the evidence she brought and the clarity that she brought to her presentation and it isn't often that they have as clear a presentation that she presented. He thanked her for that tremendously because more often than not cell towers are as clouded as they are high. He said he appreciates what they brought to the meeting tonight. He asked if there was anybody else in the audience that wanted to speak on this matter. There were none. He closed the floor from further discussion and possible motion.

**VICE CHAIRMAN RIVERS** stated he is in favor of this project. To his eye the difference between 62 feet and 57 feet is almost unnoticeable next to a building this size. There is one wall on this building that is 26 feet high. Another one that is 36 feet high and across its 43 feet high and he just doesn't know that 5 feet is going to make any difference. Whether they decide to stipulate 57 feet or whether they leave it at 62 feet, he will support the project.

**MOVE BY COMMISSIONER FLANDERS**, seconded by **COMMISSIONER PRIDEMORE** to recommend approval of ZUP10-0029 CORNERSTONE CHRISTIAN CHURCH WIRELESS FACILITY with the additional stipulation to top of antenna to be a maximum of 57 feet.

**COMMISSIONER FLANDERS** asked if they had specific verbiage that they are comfortable with that covers more than that. Mr. Dermody, Senior City Planner, suggested condition no. 2 if they were to use the same wording they have on others. It will read as follows:

*The monopalm shall be 57 feet in height to top of antennas.*

**CHAIRMAN CASON** offered to the motion maker and the second to include a stipulation that the applicant provide a wall to Ms. Platt's property.

**COMMISSIONER FLANDERS** said he didn't agree with that specifically because when Cornerstone Church comes before them in another 2 years they will be able to discuss it at that point. He thinks with this application for the wireless facility it maybe a little unfair for them to have to go to the church and request a wall. It is not directly to the church itself so it's kind of going through a second party. He said he wouldn't agree to that.

The item passed unanimously 4-0 (Commissioners Veitch and Hartke were absent).

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing new to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is October 20, 2010 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

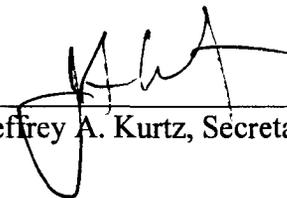
8. ADJOURNMENT

The meeting was adjourned at 8:36 p.m.



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 20, 2010 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Cason called the meeting to order at 5:30 p.m.
2. Pledge of Allegiance led by Commissioner Hartke.
3. The following Commissioners answered Roll Call:

Chairman Michael Cason  
Vice Chairman Leigh Rivers  
Commissioner Michael Flanders  
Commissioner Matthew Pridemore  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke

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 FLANDERS**, seconded by **VICE CHAIRMAN RIVERS** to approve the minutes of the October 6, 2010 Planning Commission Hearing. The motion passed 4-0 with 2 abstentions. (Commissioners Hartke and Veitch were 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 D and G were pulled for action.

A. DVR10-0019 VILLA DEL LAGO

**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 Planned Area Development (PAD) zoning designation for specialty commercial. The existing PAD zoning is for multi-family residential. The property is located at the southeast corner of Ocotillo and Dobson Roads.

Staff, upon finding consistency with the General Plan, recommends approval of extending the timing condition for case DVR10-0019 VILLA DEL LAGO for an additional three (3) years with all of the conditions in the original approval remaining in effect.

B. PDP09-0005 OPUS AT CHANDLER AIRPORT CENTER

**Approved.**

Request Preliminary Development Plan (PDP) approval to allow a surface parking lot in conjunction with an existing office development. The property is located west of the northwest corner of Cooper Road and Northrop Boulevard in Chandler Airport Center.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Opus at Chandler Airport Center", kept on file in the City of Chandler Planning Division, in File No. PDP09-0005, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3673, in case DVR04-0037 Chandler Airport Center, except as modified by condition herein.

C. ZUP10-0020 SETON CATHOLIC HIGH SCHOOL

**Approved.**

Request approval for a Use Permit extension for the use of a modular building for classroom uses. The subject site is located at 1150 N. Dobson Road, which is north of the northwest corner of Dobson and Ray Roads.

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 the City of Chandler and approval by the City of Chandler.
2. Substantial expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.

E. ZUP10-0032 SAN MARCOS GOLF RESORT

**Approved to continue to the January 19, 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 JANUARY 19, 2011 PLANNING COMMISSION HEARING.)**

F. ZUP10-0035 STEPPING STONES PEDIATRIC THERAPY

**Approved.**

Request Use Permit approval to allow for the use of a single-family home as a commercial business. The subject site is located at 1505 N. Alma School Road, north of the northeast corner of Alma School and Knox Roads.

1. Any expansion or modification beyond the approved Site Plan shall void the Use Permit and require a new Use Permit application.
2. The driveways shall be improved with decorative pavers, concrete, or asphalt within six months from Council approval, or the Use Permit shall be null and void.
3. The screen wall that is located in the right-of-way shall be completely removed within one year of Council approval. A portion of the screen wall shall be removed within six months of Council approval.
4. The Use Permit shall be effective for a period of one (1) year from the date of Council approval. Operation of the business beyond that date shall require re-application and approval of a new Use Permit.
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. LUP09-1001 OREGANO'S PIZZA BISTRO RESTAURANT

**Approved.**

Request Use Permit approval to sell liquor as permitted under a Series 12 (Restaurant) license at a new restaurant with outdoor patios located within The Shops at Pecos Ranch shopping center (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. The site and patio areas shall be maintained in a clean and orderly manner.

I. LUP10-0035 OTAKU SUSHI RESTAURANT

**Approved.**

Request Use Permit approval for a Series 12 (restaurant) liquor license for on-premise consumption within a restaurant. The subject site is located at 2430 S. Gilbert Road, Suite 5, northwest corner of Ryan and Gilbert 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. 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 other store locations.
4. **The outdoor patio shall be maintained in a clean and orderly manner.**

J. LUP10-0036 ROCK TACO CANTINA

**Approved to continue to the November 17, 2010 Planning Commission hearing.**

Request Use Permit approval for a Series 12 (restaurant) liquor license for on-premise consumption only within a new restaurant. The subject site is located at 3111 W. Chandler Blvd., Ste. 2146, which is located on the south side of the Chandler Fashion Center. **(REQUEST CONTINUANCE TO THE NOVEMBER 17, 2010 PLANNING COMMISSION HEARING.)**

K. LUP10-0037 COACH & WILLIE'S

**Approved.**

Request Use Permit approval to sell liquor for on-premise consumption only within a new restaurant that includes an outdoor patio (Series 12 Restaurant License) at 1 E. Boston Street, the southeast corner of Boston Street and Arizona Avenue.

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 patio areas shall be maintained in a clean and orderly manner.

L. MOTION TO CANCEL THE NOVEMBER 3, 2010 PLANNING COMMISSION HEARING.

**Approved to cancel the November 3, 2010 Planning Commission hearing.**

**CHAIRMAN CASON** stated that before he asks for a motion he would like to hear comments on Coach & Willie's. The reason he is asking for comments from the members of the Commission is because there are some items included that speak about fencing and new ways of creating of barriers for folks. By barriers he means items in the right-of-way that separate the restaurant from pedestrian use in new and creative fashion. Because that falls into the Downtown Chandler District, the types of fences are specified through that district. There is a special Board that has to approve the change in fencing so they can't address that specifically but what they would like to do is offer their comments to that body so they will have an idea of what they think about these types of

changes to fencing and different types of items downtown because they won't get a chance to see it back.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said unlike this body, the Board of Adjustment is a quasi-judicial body that cannot consider comments or information on a matter such as a request for a variance. That is outside of what is presented to it at the time of its hearing. If the intent here is to communicate information to the members of the Board of Adjustment, that really is essentially like communicating with the judge. You can't do that. **CHAIRMAN CASON** said very good so what they would have to do if they wanted to voice their opinions is that they would have to attend that particular meeting and offer their ideas at that time. Mr. Brockman stated that individuals from this Board could do that if they wanted. If somebody here wants to express desire that the Council consider amending the CCD (City Center District) to allow for more creative use of barriers that would be appropriate. The one thing they cannot do is to communicate for or against a variance to the Board of Adjustment. That has to be done at the time of the hearing if the applicant, the landowner or the tenant were to request such a variance. **CHAIRMAN CASON** thanked him for clarifying that.

**COMMISSIONER FLANDERS** said as a result of being a member of the Downtown Architectural Review Committee he realized that the design comes through the Planning Commission but the Downtown District is restricted to 42" inches as a matter of code. He understands the direction Staff is looking at as far as something different. He thinks he would feel a lot more comfortable with City Council approving the adjustments to the City Center District. He said in the supplement they provided there are a lot of great ideas in there. As far as Item K tonight, he would not be comfortable approving a 32 inch high railing. It should stay at the 42 inch.

**CHAIRMAN CASON** said as they discussed in Study Session, the change would be that they have to follow whatever conditions are in downtown Chandler. They didn't add that to the record. He asked if they could go ahead and add that as a stipulation now or however they want to verbalize that because they didn't actually read that change in there?

**KEVIN MAYO, PLANNING MANAGER**, said his only hesitation in doing that is if Council decides to change the code and they specify it to 42 inches tall right now, they have to come back through the use permit process again to remove that once Council removes the overall condition. As the City Attorney has indicated tonight, it is not Planning Commission's prevue to even forward a recommendation on that dimension that is part of this packet. It just goes forward automatically as it has to comply with that code unless Board of Adjustment waives that. It doesn't need to be set and that is his understanding.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated that if the Commission feels for simply purposes of clarifying the record it would be appropriate to indicate that the approval of this item K is conditioned on the height of the railing for the

outdoor fence use for the outdoor patio as required by the CCD District. **CHAIRMAN CASON** asked if they do that by stipulation or is it just presumed? Mr. Brockman said they can simply state it in the record. **CHAIRMAN CASON** asked didn't they just do that? Mr. Brockman said he thinks they did. **GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** said Board of Adjustment is an entirely separate body. Neither this Commission nor Council can waive the 42 inch requirement. Only the Board of Adjustment has the right to ban a variance from that. **CHAIRMAN CASON** asked when those meetings occur? Mr. Brockman said they occur approximately once a month.

**MR. BILL DERMODY, SENIOR CITY PLANNER** stated that their input would be appreciated in another light. If a variance were granted before this item goes to Council, then Council might be interested in their opinions on the alternative designs that are presented. **CHAIRMAN CASON** said he just had some concerns. He would want to know when that meeting happens because he would like to do what he can.

**VICE CHAIRMAN RIVERS** commented that if there is a 42 inch waiver of the height requirement, the barrier may not purely be a fence or a railing but something different that is decorative like group of large flower pots. His concern is that if it is furniture (couches was suggested), he thinks if they are going to have couches as a barrier, they need to be affixed so that they do not tip over or the patrons can't arbitrarily move that barrier around to accommodate themselves, it has be attached somehow to the sidewalk rather than free floating. That is his comment about that possibility.

**CHAIRMAN CASON** asked for a motion to approve the Consent Agenda.

**MOVED BY COMMISSIONER HARTKE**, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read in by Staff. The Consent Agenda passed unanimously 6-0.

**ACTION:**

**D. ZUP10-0025 JORDAN ELEMENTARY WIRELESS FACILITY**

Request Use Permit approval to install a wireless communication facility on the campus of Jordan Elementary School at 3320 N. Carriage Lane, north and west of Elliot and Dobson 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.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated the request before them is for a Use Permit approval for a new 55-foot high monopine on the campus of Jordan Elementary School in the Mesa Unified School District. He showed where it is on the ELMO. He stated it is in the middle of the neighborhood north and west of Elliot and Dobson Roads on the eastern edge of the school campus. They are proposing a 55-foot high monopine which is a wireless communications facility disguised as a pine tree. Staff does recommend approval of this request. It is a pretty good location far from the school building and in this neighborhood it is hard to get very far from residences but they managed to do pretty well, 215 feet from the nearest residential property line. It is his understanding that there is a neighbor here to speak on the item but Staff is recommending approval and the applicant does agree with all of the stipulations.

**CHAIRMAN CASON** said to the applicant that he is welcome to make a presentation if he would like to. The applicant said no, he didn't need to do one. **CHAIRMAN CASON** said he had a speaker card for Ed Parrish.

**ED PARRISH, 3209 N. EL DORADO DRIVE**, said he is within a few hundred feet of the proposed cellular tower. His primary objection is that it is not compatible with the neighborhood but more than that he feels it is inappropriate for their particular neighborhood and he has a variety of points that he will try to go over briefly.

He said that first of all that particular area has no tall structures, no light poles, no large utility poles or any other tall structure other than the school itself and standard street lighting. However, also with the Mesa Schools area and the Chandler boundaries within the adjacent vicinity, he has been to Hendrix, Pomeroy and Sirrine, 3 sites that already have approved Clearwire sites. Some of them already have existing facilities on them. Hendrix and Pomeroy both have large lighting systems for their athletic fields and those previous existence of tall structures has gone a long way towards Planning Commission being able to approve the use of reinforced lighting poles for cellular antenna to be placed. Additionally, the Sirrine location already has an existing monopalm – adding additional antenna would be even less of a problem which leads to another reason why he has difficulty with Jordan Elementary School getting this monopine. Once a tall structure is placed in there, particularly a tall structure used for commercial purposes and specifically for cellular communication, the approval process for further antenna to be mounted on it, additional structures of this type, the use of this area for commercial purposes, becomes much easier from here and talking to the City of Mesa and Tempe. As they have noticed, they are on the boundary. Additionally, he also noted with the assistance of the City of Chandler, particularly Mr. Dermody.

If they go to the mile square section immediately to the south of them, he will use that as an immediate comparison just because it is in the vicinity, their particular area has 3 Clearwire sites either already constructed or approved on 3 of the 4 intersections that comprise the mile grid of the streets. Going 1 mile south of that there are only 2 intersections within that mile that have Clearwire sites to his knowledge. Again, finding out how many Clearwire sites are approved or built is a little difficult but it appears that

their coverage is superior to even 1 mile south of us. Their neighborhood and the neighborhoods to the south of them are mostly just single family homes. There isn't much in the way of commercial structures or anything else of that nature. To the east of them in the mid zone of the mile square are 2 elementary schools approximately the same distance.

Mr. Parrish stated that lastly this would be very cost effective for Clearwire to get this site. As he understands it, the leasing cost from the Mesa School system is the least expensive of the opportunities for leasing sites. If they were leasing from Chandler, it is more expensive. If you attempt from existing commercial sites, it can become even more expensive. Additionally, he sees why this site is ideally located because it is the center of their neighborhood and the antenna structures that Clearwire would have to construct would be less expensive for them than antenna structures sitting at the one mile intersection. He said he won't get into the technical details of it. It is certainly within the signaling range. The trick is call density or traffic density as to how much they can handle per antenna site. It gets more expensive if you don't have this opportunity to put one in the middle of their neighborhood.

He said this summarizes his primary objections that he has.

**CHAIRMAN CASON** asked if there were any questions of the applicant.

**COMMISSIONER HARTKE** asked Mr. Parrish if he could show on the map where his house is? Mr. Parrish did. **COMMISSIONER HARTKE** asked if he was in one of the little cul-de-sacs? Mr. Parrish replied that he was in the first cul-de-sac.

**CHAIRMAN CASON** thanked Mr. Parrish for his comments. He asked Staff to help them understand Mr. Parrish's concern about other poles springing up and how this all works through the city in order to make sure any stringency that they already have in place is maintained throughout the process. He guesses he is concerned about his comment about 'after they do the first one, it just gets easier'. He would like to assure to him that the process is well thought out and examined.

**MR. DERMODY, SENIOR CITY PLANNER**, stated that any cell tower that was to go in a non-industrial district and be on its own tower requires a Use Permit. Every one of them has to go through a Public Hearing process just because one is being approved or asking for approval though this does not mean that others will automatically be approved. Each one is analyzed on a case-by-case basis and has to go through the same public notification and hearing process. Additionally, he thinks he was asking how this relates to the other ones in the area. Clearwire is looking for a coverage in order to build their network with poles every half mile or so. Sometimes they stretch it to a mile and so this is a necessary area for them to cover with another pole. The other poles that have been approved don't cover this area. That is why they have forward with this request. It is not duplicative – if it were, it actually would interfere with their other towers. This is necessary to have something in this general area for their system.

**VICE CHAIRMAN RIVERS** said to Mr. Dermody that whereas Clearwire may not need another pole in this vicinity, does this not mean that AT&T or Sprint or Verizon might come along and ask to put poles in this same general location because they can't co-locate on this particular structure? Mr. Dermody said that is possible. He thinks there are 7 carriers active in the market. They could all come in for use permits but that doesn't mean that are 7 monopines being approved this evening. This is only for a single pole. Right now it is only 1 carrier but the important thing is 1 pole being approved at this time.

**COMMISSIONER HARTKE** said it seems to him that both P & Z and Council have been more reticent to approve clusters rather than there goes the neighborhood, here comes another cell tower. Would you agree with that? Mr. Dermody said he doesn't know of any site in Chandler where they have more than 2 freestanding poles near each other. Two appears to be the maximum our decision makers are comfortable with.

**RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA, ARIZONA, REPRESENTING CLEARWIRE**, said he could address a few of these items. It's not any easier to get this pole approved or cheaper for Clearwire to get this pole approved as opposed to any other pole he does in the City of Chandler. This one is more expensive because it is a monopine. Monopines are more expensive to build. They don't choose to build them but they choose to blend them where they fit. There are no ball field light poles here. If there were, they would utilize them. They can't because they don't exist but there are large trees. They have situated this monopine in a group of large trees to minimize the visual impact and they think it does. It's also co-locatable. Because it is a pine tree they can put another carrier on this pole in that event that a carrier comes along. You have seen a lot of carriers explode in the market and then contract. They used to have Verizon and Alltel, now it is all Verizon. They use to have AT&T. Sprint bought Quest Wireless – bought Nextel. There are 3 carriers that got combined and ended up with some excess inventory. Some of those poles have been taken down and some have not been taken down. Some have been taken over by other carriers in the quest to increase their coverage. He said he could sit there and lie to them and tell them they are done, that Clearwire is the last they will ever see but that is not true. Cox is right behind them. There is another one called Light Square right behind them all trying to do this 4G data driven high intensity broadband wireless internet nationwide. They have different scenarios. Verizon, T-Mobile and AT&T all want to do LTE which is the technology they are choosing. In the newspaper, 3 or 4 weeks ago there was an article on Clearwire. They are doing a test bed for LTE in Phoenix right now. They will do a 6-month test. It is an equipment change out to change from Wimax to LTE. Clearwire may be the carrier of choice for not only Clearwire but for one of the other large carriers. You can go on the news and they are in talks. Mr. Anderson said theoretically and he doesn't represent this from Clearwire, but the internet says they are in talks with T-Mobile who represents them. They are also looking at selling Spectrum to raise capital to build out robust networks. They are launching in New York, Los Angeles and San Francisco by the end of this year. He said this is an appropriate location. They have had 2 community

meetings one with the Parent Teacher organization at the school and one separate from that. They had no real visible opposition. The gentlemen who just spoke was at the second meeting. He expressed why they didn't go to the City of Chandler property right across the fence. They have certain issues with going to the City of Chandler property otherwise he would have been glad to do so. They have a long standing arrangement with Mesa Public Schools and it is not cheaper than some of the other entities that they deal with. He is not going through the numbers here with anybody because he doesn't really know what the numbers are. He has no clue how much Clearwire pays for this pole. He can't tell them that it is more or less expensive, he is just telling them that it is a lot cheaper out there than this and he has no clue what City of Chandler is because he doesn't recall being on a City of Chandler property yet. They have never been successful.

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

**VICE CHAIRMAN RIVERS** said to Mr. Anderson that on the page marked C3 that comes from Clearwire, they have an artist rendering of their monopine. He was wondering since he has not yet seen a Clearwire monopine that he is aware of, is this pretty much what it is going to look like? His concern is that it is really going to look like a tree and it is not going to look like his favorite analogy which is somebody's fake Christmas tree from 20 years assembled incorrectly like the monopine that is on the corner of Interstate 10 and Chandler Boulevard in Phoenix, which looks just ridiculous. It doesn't look anything like a pine tree at all. It looks sort of like a haystack that blew up. Mr. Anderson said he is willing to go down that road with him. He is a proponent for good-looking sites. He showed on the ELMO the pine tree that sits in Tempe on the Broadway curve as you go on the east side of I-10. Only it doesn't look like that anymore. It has big hideous antennas sticking up and they are painted brown. It happens to be a different carrier's pole. Tempe is having fits over how that one looks. He showed one at an elementary school. What do they see that is wrong with it? It is not something he wants in his neighborhood. He showed what they are proposing. The difference between those antennas and the previous antennas is these have pine needle socks on them. How do they maintain the look and disguise them as best they can? There are certain things you can do. It is not like they make them invisible. You can sure blend them better than what that does. He said that this was Crismon Elementary School and it is in Mesa Public School. They are not real happy with it. He showed a picture of it. This is not a good looking pine tree. It is not his fault but it is not a good looking pine tree. If you want to know what it is going to look like, here's another one. The difference is the pine needle socks. They have lightened up the tree so it isn't dark green like this which is a really dark green. In our desert area the pine trees aren't dark green. Our Lepo Pines tend to be very light green so you end up with a lighter colored pine needle set up. They have talked to the manufacturer and they have gotten them to lighten those pine needles up for them so they can make them more natural. This is what they are going to be looking at instead of the other pictures he is showing. There is also some very bushy stuff that is o.k. but it is not what they are proposing. What they are proposing is this kind of a tree. **VICE CHAIRMAN RIVERS** said he appreciates the

effort to make it look as much like a tree as it can instead of a pole with antennas that have some green stuff on it. He does appreciate the effort and he thanked Mr. Anderson for bringing the pictures.

**CHAIRMAN CASON** asked Mr. Anderson how come the poles can't be pointy? Mr. Anderson said the trees could be pointy but you don't typically find pointy trees in Phoenix. You get up into Flagstaff and you have pointy trees. They try and make them bushy so that they match what we have here. Up in Flagstaff they have the Christmas tree types and in fact they feel like they are covering the distance so they don't care about what you see when you get right up to it. So what you get when you get right up to it is this big ugly monopole and about 30 feet when it hits canopy and as it goes up it looks very unnatural. There has been a lot of talk about co-locations on palm trees, not that they are talking about a palm tree here tonight, but there is a picture he has of a Las Vegas Palm tree which Clearwire did. They went in the bulb underneath the 'pineapple' below and it looks like a pregnant palm tree and they want to avoid that. He is not a proponent of co-locations on palm trees as they can tell. There is no way that they have found to make them look good.

**COMMISSIONER FLANDERS** said to Mr. Anderson that as long as he has been on Planning Commission he has been the only one that has been here probably more than he wants to remember. In tonight's application he appreciates what he has done as far as the pictures of what that tree is going to look like, appreciates the location and the height. As Mr. Anderson knows, he typically wants to keep a lot of this at the same height. He thanked him for doing that. Mr. Anderson replied he only wishes he could always accommodate him but sometimes it is very difficult. He has clients that don't always agree with him.

**COMMISSIONER HARTKE** asked Mr. Anderson if someone else would be willing to co-locate on this, he assumes they would come in close to 50 feet on this? Mr. Anderson said actually the tree is 55 feet to the top of the steel. We are at 55 feet, their antennas are 54 inches. So it goes from 55 feet down to 50 feet and then you have a couple feet separation. They would have one then at 45 feet. Their rad center would be about 45 feet. Theirs would be 52 feet and theirs would end up being about 48 feet. **COMMISSIONER HARTKE** said so even though they call this co-locatable, they don't have too many requests from people wanting to come in at 45 or 48 feet at this point. Mr. Anderson said actually many of the carriers operate at that height - Cricket for one. They are fine with 35 feet. He could put one 6000 foot tower in the center of Phoenix and cover the whole metropolitan complex but only 3 people could use their phone at one time. The more people you have using the radios, the lower they get and the closer they get. When you have a carrier who is just starting, for instance, T-Mobile when they launched, they launched with a 197 sites. They have over 700 now in Arizona. When you go from 197 to 700, what happened? They came down and they got closer. If you get too close, they interfere with each other. Bill was exactly correct; they can't get too close because it interferes. They do what is called 'down tilt' with the antennas. They use to have a site on top of South Mountain and they had to turn it off because you would be

talking on the phone in Arcadia and it would pick up the South Mountain site and when it confuses the system, guess what it does? It drops your calls. People don't like dropped calls. That is why lower, closer. The more towers you have, the closer and the lower they get.

**CHAIRMAN CASON** asked if there was anybody else in the audience who would like to speak on this item before he closes the floor. Mr. Parrish, the earlier speaker, said he wanted to speak. Chairman Cason said he had already spoken. Does he have something that he would like to add that he hadn't discussed before? What he wants is to stay away from this and clearly they won't be the deciding factor on this as it will go before City Council. What he wants to stay away from is the debate in the audience of this and that he would ask that if he has something he hasn't discussed before, he will allow him to come up and mention it. If what you want to do is debate the issues, he is afraid that he is going to have to ask him to please not. He said that now that he has had the opportunity to hear what Mr. Anderson says, he could probably come back at City Council and be more prepared to speak about those things. What he would like to do is understand his comments as a concerned citizen and Mr. Anderson's comments as being the subject matter expert on this particular item. Rather than debate scientific theories and stuff like that which are way above us. He said he hopes he understands.

**ED PARRISH** said in response to Mr. Dermody's two comments. One is that he is entered into the record that he thought that the transmission requirements needed are about one-half mile distance from towers. As he indicated in his opening statement, the intersections specifically at Price Road and Elliot and Price Road and Guadalupe and Guadalupe and Dobson currently have Clearwire sites approved or in existence. The last intersection would be Dobson and Elliot. That would bracket the area. He indicated that a half mile was required for transmission distance outside of the fact that it would be seven tenths of a mile to the furthest point in the center. If you picked up that fourth intersection instead of their school, they would have their half mile distance as Mr. Dermody entered into the record. You would have your half mile to all of the homes in their area and that last intersection also already has cell towers on it. Lastly and it is a minor point, as he understands it co-locating only needs administrative approval and it doesn't go through the neighborhood.

**CHAIRMAN CASON** asked Mr. Dermody if he wanted to comment on the co-locate subject. Mr. Dermody replied it is true that a co-location that did not change the appearance of an approved monopine would be an administrative review, same as if they were to locate inside of the school building and it didn't change the appearance of the building.

**CHAIRMAN CASON** closed the floor for discussion and possible motion.

**MOVED BY COMMISSIONER FLANDERS**, seconded by **COMMISSIONER VEITCH** to approve ZUP10-0025 JORDAN ELEMENTARY WIRELESS FACILITY, The item passed unanimously 6-0.

**CHAIRMAN CASON** asked Mr. Dermody when this was going before City Council? Mr. Dermody said December 9.

**G. ZUP10-0038 ELKS LODGE WIRELESS FACILITY**

Request Use Permit approval to install a wireless communication facility on the Chandler Elks Lodge property at 1775 W. Chandler Boulevard, approximately ¼ mile east of 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 landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The monopalm shall be 55' in height to top of antennas.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated this is a Use Permit request for a new 59 foot high monopalm with 2 live palm trees at the Elks Lodge site on West Chandler Boulevard a little bit east of Dobson Road. He showed where it is on the ELMO. The proposal is to put a monopalm out near Chandler Boulevard. It would be approximately 67 feet back from the right-of-way of Chandler Boulevard, 81 feet from the road itself. This is a location that is about 400 feet from the nearest residential property to the northeast across Chandler Boulevard, more than that from the residences to the south. There was some discussion in Study Session about reducing the height to 55 feet top of antennas. Ordinarily, Staff recommends something like that when they are closer to residences but no verticality's. That is not the case here. They are recommending it go forward at 59 feet. He believes the applicant would like to talk about that as well. There is also some discussion of how close this is to Chandler Boulevard although ideally they usually ask for more than 100 feet from the right-of-way. In this case it was important to the property owner to maintain flexibility for the future development. They were not willing to bring it farther from Chandler Boulevard in this case. Again, Staff does recommend approval and he would be glad to answer any questions.

**MICHAEL FRIES, 15974 NORTH 77<sup>TH</sup> STREET, SCOTTSDALE, REPRESENTING AT&T MOBILITY**, stated that unfortunately he was in another Planning meeting on the other side of town so he missed Study Session. He was not aware that they were looking for a move in location and a reduction in height.

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

**VICE CHAIRMAN RIVERS** said he understood Staff to say that the property owner doesn't really want to have this unit placed a little further south to get it farther away from Chandler Boulevard. With 67 feet from the right-of-way he would much prefer that it be at least 100 feet from the right-of-way. Is this really a problem or is it a possibility that it could be moved 35 feet south? Mr. Fries said the property owner of Elks Lodge made it very clear to them that if this was going to be a site, it needed to be closer to Chandler. Apparently, they have some intentions to do something with the northern part of their site - their building is more to the south towards the neighborhood. He said he didn't see a huge amount of flexibility there but it is not that he can't go back and ask. **VICE CHAIRMAN RIVERS** said right. This is going to be along the fence that is next to the bank building to the west. 35 feet may not sound like a significant thing but when they are looking at something that is almost 60 feet high and you are going to build it 67 feet from the right of way and there is nothing else there that tall, it is going to be extremely visible. They have had other monopalms that were real close to major streets and those were always back at least 100 feet. He would like to see this one move south as well.

**COMMISSIONER FLANDERS** said to the applicant that he was here at their last meeting with one of your other cases. Typically, what he likes to do is get all these monopalms/monopines down around the same height to be consistent throughout the city. That was the reason for the stipulation he suggested during the Study Session to Staff to lower this location to the 55 feet. Mr. Fries said not knowing that he doesn't have authorization to agree to anything. He is assuming since they are talking about moving the location and dropping the height, obviously, they need to continue the case so that he can go back and meet with the property owner and get authorization from AT&T.

**COMMISSIONER HARTKE** said in relation to the placing of it, it seems like it would be less intrusive if it was turned 90 degrees parallel to the fence rather than jut out against it. If the Elk's concern is that they want to utilize this property with the rectangle that they have, is there any reason why it is in this position? Mr. Fries asked in terms of the shelter structure turn? Commissioner Harte said yes. Mr. Fries said they showed them a couple of different options and this is the one they preferred. The property owner looked at it and preferred the one that had it horizontal across with Chandler Blvd. **COMMISSIONER HARTKE** said interesting because if they have plans to use something up there this takes more than a fourth of the existing space where if they rotated it, it certainly would be obtrusive on the property.

**CHAIRMAN CASON** said so even if they drop down to 55 feet, they would have to get approval for that? Mr. Fries said yes. He asked if Staff asked him to come in at 55 feet? Did they have that discussion? Mr. Fries said no. This has been supported from day one with Staff and they have made whatever revisions with the owner of the site. They had meetings and no one attended. There have been no issues on this site. So he was surprised it wasn't on consent. **CHAIRMAN CASON** said he would like to debate the change of position on the pole. He said he could certainly support the 55 feet. He thinks their consistency and the fact they have gone through enough of these that their

consistency is established. In so far as moving the pole he couldn't personally support that because in their last meeting they went through a similar issue regarding a replacement of a fence and other issues and they pretty much left it to the property holder that if that is where they wanted to put it, they were o.k. with that. Granted, the pole wasn't measured within 70 feet from right-of-way. In his opinion he thinks they need to allow the landlord holder to decide where he wants it on his property. He doesn't know that putting it 35 feet further south really makes a difference. He doesn't think the 64 feet from the edge of right-of-way is a valid measurement. The reason he says that is because they don't drive down the street wondering where the right-of-way ends. You drive down the street and everything you look at is based on the edge of curb; the way that the setbacks are made, the way that the any type of landscaping is done; the way that the whole perspective of road goes before you. He thinks that the fact that it's over 80 feet beyond the curb is sufficient and will not be a detriment to anyone driving up and down Chandler Boulevard. To move it closer to people's houses just seems to be a position that is anti of where they try to go.

They know that as Commissioner Hartke said earlier they are putting a lot of these out there and they have to go a little bit closer to the street. He doesn't know if 100 feet to the back of curb is the right number but he knows that if they are going to start talking about how far away they are from right-of-way or back of curb, then just like the height of the pole they better decide which one is going to be the demarked point so that they are always speaking about the right thing and understand the difference between right-of-way and the edge of pavement. Clearly, there are some places in town that the right-of-way is outrageously big in comparison with the road. He said he couldn't think of any right then but he said they are really, really wide and if they situate anything based on the right-of-way especially in a condition like this, it seems like they are just not looking at the right parameter in this case. They see the prior one at the school that happens to be in a corner because it is in a corner they don't need. Could they go further in closer to the playground? Sure they could. There is no issue with safety or anything else like that. This is the place where the school found it the most convenient and the least obtrusive. He thinks this particular land owner selected this for the same reason – that it's the least obtrusive. Therefore, because there are other factors considered here, there aren't enough homes to move it, they are just closer to the right-of-way. He believes they shouldn't be so restrictive in this particular case because the right-of-way is not the issue it's the widening of the road.

The reason he asked about the height was because he wanted to see if they could get this through if the height would be o.k. and then they could debate up here as to whether somebody wants to place a motion and second a motion regarding the height only or both for the matter to see whether they could move this along for them rather than having to continue it. Having said that if he isn't authorized to change the height at this time, then would he prefer a continuance? Mr. Fries of AT&T replied he has not set a precedent of agreeing prior to asking his client of any major changes and unfortunately, is a major change for their RF. It is his belief based on all of the previous locations that have either Staff or this Commission has asked for a reduction in height, AT&T most likely will

agree to the drop in height. He knew based on the fact that they were looking at possibly moving the location that was something he couldn't negotiate tonight. He appreciates his argument. He did a wonderful job and much better than he would have spoken on that issue. He would like to add that he believes even though the location seems too close to the major street, it actually sits in a nice little pocket where it is shielded by the right-of-way planting there and the adjacent building that is on the property to the west. He doesn't know if moving it back will actually bring it more to vision from the street because it kind of opens up as you drive west looking at that property. In many cases leaving it closer in that location may still shield it a little bit visually as you drive down the road. If Commission feels favorable to the position that it is left there and a reduction in height, he would like to see it move forward. **CHAIRMAN CASON** said if they can get a motion to approve it at 55 feet without moving the position on the property, he would accept the height of 55 feet. Mr. Fries said yes.

**COMMISSIONER HARTKE** said he had a question for Staff. There are no immediate plans to alter anything within the right-of-way? Chandler Boulevard is pretty well built-out. In their immediate lifetime this is never going to get closer to the road, is it? Mr. Dermody said there is nothing in our CIP for Chandler Boulevard in this area. **COMMISSIONER HARTKE** said even in a longer range beyond the 5 years, there is no speculation that he is aware of. Mr. Dermody said at one point with the project west of here he knows that the lanes were judged to be substandard width so if they ever had the money to tear up Chandler Boulevard for some other reason, they might expand the road by 2, 3 or 4 feet in order to make those lanes standard. But even at that time the Traffic Engineers did not express any desire to add lanes or significant expansion to this road.

**VICE CHAIRMAN RIVERS** said he wanted to clarify something with Staff. How far from the right-of-way and how far from the sidewalk is this tower? Mr. Dermody replied this proposed monopalm is about 67 feet from the right-of-way, 85 feet from the curb and he doesn't know from the sidewalk.

**CHAIRMAN CASON** asked if there was anyone in the audience that would like to speak on this matter. There was none. He looked for any further discussion or a motion.

**COMMISSIONER PRIDEMORE** stated he agreed with the Chair's comments regarding ownership input into locations of these cell towers. In this case he has faith in Staff that they understand their general views of where these things should be and their height. Obviously, these sites come before them on a case-by-case basis and they should be looking at them on a case-by-case basis. In this case, he doesn't actually have an issue with its placement or the height. They are quibbling over 4 feet in this case. He would much rather see it go through as originally stippled and move on.

**CHAIRMAN CASON** asked if there was a motion? **COMMISSIONER PRIDEMORE** said there could be if there were no other comments.

**COMMISSIONER FLANDERS** said he would like to add that 55 foot max. stipulation to top of antenna.

**MOVED BY COMMISSIONER PRIDEMORE** to approve ZUP10-0038 ELKS LODGE WIRELESS FACILITY with no changes to the stipulations. There was no second.

**CHAIRMAN CASON** said the motion died for lack of a second. He asked if there was another motion.

**MOVED BY COMMISSIONER FLANDERS**, seconded by **COMMISSIONER HARTKE** to approve ZUP10-0038 ELKS LODGE WIRELESS FACILITY with additional stipulation for a 55 foot maximum height to top of antenna.

**VICE CHAIRMAN RIVERS** stated he will be voting no on this item because he truly believes 85 feet from the curb is too close at this location on Chandler Boulevard. He also thinks he doesn't want to set a precedent of building something this tall, this close to a major street and he knows from his time on this Commission as well as other Commissions in Chandler, that once something does get done, the next developer or the one down the line will come back to us and say but you did it for so and so. Then they have to deal with that and yes, everything is on a one time basis but precedent setting is dangerous. Again, he doesn't want to set a precedent and he thinks it is too high for this close to Chandler Boulevard.

**CHAIRMAN CASON** asked if there were any other comments before they take a vote. There were none.

The item passed 4-2 to approve. Vice Chairman Rivers and Commissioner Pridemore voted against the item.

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing new to report but he gave a reminder that this was their last Planning Commission Hearing to be held in this chamber. The next Planning Commission hearing on November 3 as they know has been cancelled. The next hearing is November 17, 2010 in the new chambers.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN CASON** announced that the next regular meeting is November 17, 2010 at 5:30 p.m. in the Council Chambers at the new Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

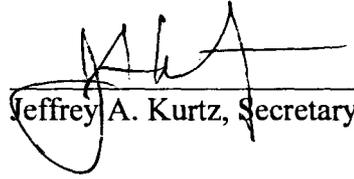
8. ADJOURNMENT

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



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 17, 2010 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 Hartke.
3. The following Commissioners answered Roll Call:

Chairman Michael Cason  
Commissioner Michael Flanders  
Commissioner Matthew Pridemore  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Andrew Baron

Absent and Excused:

Vice Chairman Leigh Rivers

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 **COMMISSIONER PRIDEMORE** to approve the minutes of the October 20, 2010 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 H was pulled for action.

A. APL10-0002/DVR10-0018/PPT10-0003 BARCELONA AT VALENCIA  
II

**Approved.**

Request an Area Plan amendment from Commercial to Single Family Residential and Rezoning from Planned Area Development (PAD) zoning for Commercial to Single Family Residential along with Preliminary Development Plan (PDP) and Preliminary Plat approval for a single family residential subdivision. The property is located at the southwest corner of Chandler Heights and Lindsay Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Barcelona at Valencia II", kept on file in the City of Chandler Planning Division, in File No's APL10-0002 & DVR10-0018, 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 as required to achieve full half-widths, including any 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. 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. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
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 Transportation & Development Director 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. 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.

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 Barcelona at Valencia II development shall use treated effluent to maintain open space, common areas, and landscape tracts.

11. 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.
12. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
13. The side yard setbacks shall be a minimum of 5 feet and 10 feet, except along Lindsay Road in which side yard setbacks are a minimum of 10 feet and 10 feet.
14. Two-story homes are not permitted on corner lots and on lots along the western boundary, see Development Booklet, Exhibit A, for more details.
15. The same elevation shall not be built side-by-side or directly across the street from one another.
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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", and

CC&R's 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.

17. At the time of sale, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the common landscape area along Lindsay Road is to be developed as a multi-trail system for use by the general public.

Upon finding the consistency with the General Plan and Southeast Chandler Area Plan, Planning Staff recommends approval of the Preliminary Plat subject to the following condition:

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

**B. DVR10-0013 VINA ESCONDIDA**

**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 AG-1 zoning. The existing PAD zoning is for a 15-lot residential development on approximately 13 acres located approximately ¼-mile south of the southeast corner of McQueen and Germann Roads.

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

**C. DVR10-0022 SOUTHWEST CORNER OF OCOTILLO ROAD & THE CONSOLIDATED CANAL**

**Approved.**

Request the establishment of initial City zoning of Planned Industrial (I-1) on an approximate 0.43-acre site located at the southwest corner of Ocotillo Road and the consolidated Canal.

**D. LUP10-0036 ROCK TACO CANTINA**

**Approved.**

Request Use Permit approval for a Series 12 (restaurant) liquor license for on-premise consumption only within a new restaurant. The subject site is located at 3111 W. Chandler Blvd., Ste. 2146, which is located on the south side of the Chandler Fashion Center.

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. 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 other store locations.
4. The site shall be maintained in a clean and orderly manner.

E. LUP10-0038 CHANDLER BBQ CO

**Approved.**

Request Use Permit approval to sell liquor for on-premise consumption only within an existing restaurant and a newly enclosed outdoor patio (Series 12 Restaurant License) at 2040 S. Alma School Road, #12, the southwest corner of Germann 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. 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 patio area shall be maintained in a clean and orderly manner.

F. LUP10-0039 TONIC

**Approved.**

Request Liquor Use Permit approval to allow the addition of live music indoors and/or on the outdoor patio and games on the outdoor patio at an existing lounge/bar in conjunction with the sale of liquor (Series 6 Bar License) for on-premise consumption only indoors and within an outdoor patio. The property is located at 3400 W. Chandler Blvd., Suite 5, which is west of the Loop 101 Price Freeway and north of Chandler Boulevard.

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. The Use Permit is granted for a Series 6 Bar License only, and any change of license shall require reapplication and new Use Permit approval.
3. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, Narrative, and Neighborhood Meeting Notification Letter) shall void the Use Permit and require new Use Permit re-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 additional entertainment or sporting game related uses shall require re-application and approval of the Use Permit.
5. The Use Permit is non-transferable to other restaurant locations.
6. The site shall be maintained in a clean and orderly manner.
7. The patio shall be maintained in a clean and orderly manner.

8. 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.
9. **Noise shall not exceed the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.**
10. **Amplified or non-amplified live music is prohibited on the outdoor patio and shall only occur indoors.**

G. ZUP10-0018 HAPPY TAILS PET RESORT

**Approved.**

Request Use Permit approval to allow overnight dog boarding and an outdoor area to occur in conjunction with a doggy daycare and pet grooming business. The property is located at 6125 W. Chandler Blvd., Suite 1, in the commercial center at the southwest corner of Chandler Boulevard and Kyrene Road.

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, Development Packet Exhibit A, including the Site Plan, Floor Plan, and Narrative shall void the Use Permit and require new Use Permit application and approval.
3. The site shall be maintained in a clean and orderly manner.
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 including building permits and Certificate of Occupancy.

I. ZUP10-0031 VIEN MINH BUDDHIST TEMPLE

**Approved.**

Request approval of a time extension for a Use Permit to allow a place of worship in a single-family home zoned SF-8.5 (Single-Family District). The property is located at 285 North Comanche Drive, west of Alma School Road and north of Chandler Boulevard.

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 (Site Plan/Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. In accordance with the Building Code's maximum occupancy load, there shall be no more than 49 persons on-site at any time.
4. Parking for gatherings such as worship services, celebrations/events, and the like shall not occur on-site. Parking shall occur off-site at an appropriate location in accordance with Zoning Code.

5. Worship services shall occur only within the single-family residence and cannot occur outside. The outside area, the backyard, may be accessed during worship services pending compliance with all building codes, permits, and lot coverage requirements.
6. The site shall be maintained in a clean and orderly manner.

J. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

**Approved.**

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 JANUARY 19, 2011 PLANNING COMMISSION HEARING.)**

K. MOTION TO CANCEL THE DECEMBER 1, 2010 PLANNING COMMISSION HEARING.

**Approved.**

**CHAIRMAN CASON** had one gentleman come up and make a comment on Item B.

**JIM ORMSBY, 3131 E. HORSESHOE DRIVE, CHANDLER**, stated he would like to address the Vina Escondida issue. They have been going over this for quite a while and the City right now has been given 2 options both of them bad; build homes under the PAD or build homes without the PAD. The only difference is the number of homes at least as far as he can determine.

They have two choices that have been given to them. They need to look for a third choice and be a little bit creative about doing that. In either scenario the homes are absolutely incompatible with the adjacent airport which has been there for decades. The new homes will be within the traffic pattern of the airport, which is a high noise area as they know. They know the recent history of the airport. A relative handful of people moved in and discovered an airport next door and became activists to limit or shut down the facility that preceded them for many years. The new homes in either scenario are highly likely to be occupied by newcomers of course who will again discover the airport and the airplanes on the Saturday morning after they move in. This will only add to the noise and the anger and further threaten the airport and its businesses. The airport is an asset. It is an investment by the City and the City is obligated to protect it. He urges them to look for an option C instead of just accepting the one or the two that is always presented to them. He doesn't claim to have an option C either, unfortunately, or he would certainly give it to them. He would like to see the City get creative and act in a manner other than the two choices they have been given. If they build those homes they will just be adding more people to the problems they already have and he would like to not see that happen.

**CHAIRMAN CASON** thanked him for coming in and letting them know his concerns. He asked if there were any comments on the dais.

**COMMISSIONER HARTKE** stated he would be voting no on Item B regarding the residences next to the airport because of the compatibility of houses next to an airport.

**CHAIRMAN CASON** said when this came to them before, he voted against it. The reason he voted against it was because he truly believed that this particular land and all of the transition areas around the airport are Chandler's last land that would be available for commercial growth and jobs. He still believes that is true. What has changed now is that folks south of this particular property have built new homes and so that really landlocks it when you consider that you would have to have 40 contiguous acres in order to be able to change the zoning into commercial. So given that kind of change he doesn't know that he can reject it anymore. He will not be voting against it which is different than he did before. He said he needed to explain that for the record.

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

**ACTION:**

H. ZUP10-0034 DESERT HARMONY ASSISTED LIVING

Request Use Permit approval for an Assisted Living Home for up to seven residents in a single-family residential home. The subject site is located at 1510 W. Saragosa Street.

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

**MR. ERIK SWANSON, CITY PLANNER**, said this is a request for a Use Permit to operate an Assisted Living Home for up to 7 residents. The subject site is located at 1510 W. Saragosa Street which is approximately ½ mile east of Dobson and ¼ mile north of Pecos Road. The home is within the Blakeman Ranch subdivision. Arrowhead Drive is directly east of it, which is a residential collector. The subject site has been in operation as an Assisted Living Home for 5 residences for approximately the past 5 years. Staff is unaware of any operational issues. They are aware through the neighborhood meeting that there were some issues with maintenance of the facility. The home is just short of

about 2200 square feet and it provides 5 bedrooms. They were would be one resident in bedrooms 2, 3 and 4. 2 residents in the master and 2 in what was shown as garage 2 or an optional den. Based on state standards on also our code, the maximum allowable resident per room is 2. They are requesting that additionally. There are square footage requirements also dictated by the state and code standards that limit the maximum number per room for two.

They did hold a neighborhood meeting and there was 1 resident that did attend and there was some concern expressed by that resident. Those were maintenance of the property and also there was one that was primarily the parking issue out on Saragosa Street. The Saragosa Street is directly south of the subject site. Arrowhead is to the east of it. At that Saragosa and Arrowhead intersection there is a stop sign where the majority or a good portion of the traffic in the Blakeman Ranch in this portion of the subdivision funnels out to the stop sign. What the resident was concerned with is that the property owner and/or their workers who park in front of the house and therefore potentially cause a traffic issue. The home itself does allow for potentially 3 or 4 vehicles to park in the driveway. Saragosa and Arrowhead are both public streets so legally speaking they can park out on the street. The issue is there is a stop sign directly across the street so there is that bottlenecking. In speaking with the applicant they are going to try and encourage their visitors and workers to park out on Arrowhead which they would allow to hopefully alleviate that and also park in the driveway. They do hope that all alleviates that issue. There is a school directly north, Conley Elementary. When he went out there to post the site, it was around the time that school was out and he did notice that somebody pulled up and parked right in front of the stop sign which is illegal and got out and walked up to the school. There is the potential that some of that parking issue could be overflow from the school but it could also be from the home as well and that is why they are going to try to park on Arrowhead as well. Staff is recommending approval with a 1-year timing condition for 7 residents.

**CHAIRMAN CASON** asked if there were any questions of Staff on this item.

**COMMISSIONER HARTKE** asked Mr. Swanson that on the day he went out there which was school time, the traffic that he saw was during school, a natural time that people would be attending and picking up kids from school? Mr. Swanson replied yes. He couldn't recall which day he went out there but it was at 1:00 or 2:00 p.m. They were let out early. The way the school is set up is they have a long drive on the south which is directly north of the home. That whole drive was full of cars and then there were some cars parked on Arrowhead and as he parked, he watched a guy pull in and park right at the stop sign and hop out of his car and walk up to the school. It was during school time. **COMMISSIONER HARTKE** said they didn't check the traffic pattern at a time perhaps that would be more conducive for people to come to the home and not the school. Right? Mr. Swanson said there really is no set schedule for visitation. It is something that can occur throughout the day. Generally speaking it is 8:00 a.m. to 5:00 p.m. so more than likely it would be during business hours when the majority of people

would be away from their home. Certainly, somebody could get there first thing in the morning or in the evening as people are coming home.

**CHAIRMAN CASON** went to the applicant and said if he would like to make a presentation on his application, he is more than welcome to. If not, he will go to the audience and at which time when they are done, he can then come up and make a presentation if he would like. The Chairman called up the first speaker on his speaker cards.

**KEVIN WALSH, 930 S. SEAN CT., CHANDLER** stated he is a resident of Blakeman Ranch. He also volunteered to be on the Board of Directors for the Homeowner's Association. He said there is quite a history for that property with the association. They have had a lot of issues with them in different ways. The number one thing is that since January of 2009, they have not made a Homeowner's Association payment. It will be 24 months next month since they have made a payment. He had copies of records that will show the history of the times and what they have done to get them to work with them. The first time they made contact with them was 9 months after their last payment. At that point, they offered to make a \$100 payment each month extra toward their balance due plus the monthly payment that was never made. They agreed to it but they never made a payment. The next time was May of 2010, 17 months later, again offering the same – a \$100 a month plus \$42 toward the regular payment that is due. They never made that payment. On June 28, 2010 they called and said they would like to make the same deal – a \$100 a month extra plus the \$42. They never made a payment. Then they promised them on October 13 of 2010 (22 months without making a payment) that they will make a payment. They have still not received a payment. They called in just this last couple of weeks on October 16. They just referred them to their lawyer because at this point it has been 23 months since they made any kind of attempt to make any kind of a payment. They have received no money from these people. That is 4 to 5 promises they made to them that they never kept their word on.

They have a judgment for some of the money. They are not looking to hang these people or to get money out of them so much, it is just to do their part. If they didn't make their electricity bill after 22 months, I don't think they would have electricity. If they didn't make their water bill, he doesn't think they would have water. They can't turn off their services. They do them no matter what because it is for the whole community. They can't turn that off for them so they are getting free amenities. It is pretty inconsiderate as a business. This is a business running there and they don't live there. When you run a business, you should pay your bills that come along with that business. That is just their feeling.

As Erik mentioned about the issues with the conditions of the property, there have been 17 violations that have occurred in the time that they have had the ownership of the property. There is a first notice, second notice, third notice, fourth notice and fifth notice. That is all they do is find notices. They stopped trying after that point.

**CHAIRMAN CASON** asked Mr. Walsh if those are violations to the CC&R's of their homeowner's association? Mr. Walsh replied that these are simple things like weeds in the yard, dead tree removal, a car parked in gravel because there are issues with their parking. They have too many vehicles so they park in the gravel. That happened 3 times. There are issues like the blinds in the windows that are broken – in the front window where you walk and see them. They are broken for months. The first notice was in September and by the end of November they still weren't fixed so they gave up. This has been a tenant but they are not tenants. It is a business and it is all about making money. They don't feel their heart is in the right place on this. They are using that property to profit and now they want to profit from it more. He doesn't think they should reward a person that is taking advantage of their homeowners association and not keeping their part of the deal. When they sign those CC&R's and when they make a mortgage and they sign it that they agree to these terms, and then they do nothing to agree to them but make empty promises, this is a problem for them. They don't have a problem so much with having a business there if they would be a good partner with them. They would really appreciate that. It makes a big difference to them. They would be very much in favor of this as long as things are going well. They haven't made a payment in 24 months and they have 17 violations. If they do a City drive through, you wouldn't put up with it for 24 months. If they didn't make a payment for the water, they wouldn't have water in 24 months. That is their concern.

**SARA ELCO, 1550 W. SARAGOSA STREET, CHANDLER**, stated that is 4 houses down from 1510 W. Saragosa Street. She is very interested in this particular item. She has lived there for 12 years and unfortunately through the time she has seen some things change in the neighborhood. Regarding 1510 some of the things Kevin spoke about they really haven't been a good neighbor. They lived in the house for so many years and then rented out the house for 1 year and then they converted to an Assisted Living Facility. They haven't been a good neighbor in the respect of maintaining the exterior of the house and that is a concern from her aspect because she lives on the street. There are only 8 houses on the street on Saragosa. If you look at the map there are no houses on the south side. This is a residential area. She is concerned that these are businesses. She wanted to bring to their attention that not only is 1510 an Assisted Living Facility but right across the street on the corner of Longmore and Saragosa Street there is another Assisted Living Facility - 704 S. Longmore. Also, less than a thousand feet west on Saragosa is another Assisted Living Facility – 1691 W. Saragosa Street. She is concerned that within 1000 feet they have 3 Assisted Living Facilities. They are businesses. As a homeowner, she takes a vested interest in her property and her property values. It just breaks her heart that people are coming in. In 1510's case when they moved out, this home is a little over 2150 square feet, they went out and purchased a 4200 square foot house that they are living in right now. It breaks her heart that they are not being good neighbors and they are not taking care of the exterior of their property. As far as operational issues, there are parking issues. There has been multiple times where vehicles have been parked on the sidewalk which is illegal. They park on the gravel. 1520, which is next door, is also another situation where the original homeowners purchased the house and then rented it out and they bought a 4600 square foot house. They have a lot of vehicles also. Between

1510 and 1520 there are definitely multiple vehicle issues. On the morning of the neighborhood meeting, she was the one that attended with the property owners. On that morning of the meeting, she drove up to the stop sign and there was a white truck pulled in and there was a guy sleeping in the bed of the truck at 1510 W. Saragosa.

These are things she doesn't want to see in her neighborhood. When she went to the meeting, she spoke to the property owners and one of the concerns she brought up was the issue about the liens, the HOA. They owe money to the HOA at the home they are living in now. They also have a Federal Tax Lien against Desert Harmony. These are patterns showing that they are not doing the right thing, they are not being good neighbors and when she brought this up to the property owners, Florence said they love people and they want to take care of people. That is the message she sent to them. When the husband spoke and she brought up the HOA issues, he said they don't have money and they can't take care of these things. She also has issues and concerns with the hidden agendas. Is this a money making deal. They are not taking care of their property and they don't live in that property. Some of the suggestions she has for the Commission this evening is have them use their 4200 square foot house in Chandler and use that as an Assisted Living Facility. They can get a lot more people in that house and they can move back to 1510 W. Saragosa and take care of their property. As far as the parking, they should have a stipulation if they go forward with this. She highly suggests they don't. They basically told her at the neighborhood meeting that there are no visitors. That nobody comes to visit the residents. They have so many people that work there and the husband actually has the night shift. What she suggests is that they stip. to them that they park in their 2 car garage. She doesn't know if there is a garage door opener but make sure all their employees have a garage door opener and they can park their vehicles in the garage so they are not parking on the sidewalk and they are not parking on the gravel.

Regarding the parking that Erik mentioned about Arrowhead, she believes there is a bike lane on Arrowhead and she doesn't think you can park cars on a bike lane so that is something to take into consideration. She thinks that is pushing the issue – pushing these vehicles onto Arrowhead. She doesn't know if that really helps them. She just asks that they look at the bigger issue – is this for money, is this to care for people, are they being good neighbors and the parking and operational issues. Like she has said she has a vested interest in her property 4 houses done. She is seeing other things happening and she knows they are not here to talk about the other neighboring properties along Saragosa. They have 3 Assisted Living Facilities that are permitted within the City of Chandler within 1000 feet. She doesn't know what the rules and regulations are for the number of Assisted Living Facilities or businesses. Does anybody know if they have a limitation in the code or regulations for the number of facilities? **CHAIRMAN CASON** asked Staff to clarify that for her when she has concluded her speaking.

She said she appreciates them allowing her to speak tonight. She asks that they carefully review the information and that you deny the request to increase the number of residents. It is a way to reward somebody that hasn't been a good neighbor. Let's not reward them.

**COMMISSIONER HARTKE** said the Planning and Zoning Commission just makes a recommendation and that it is Council who actually in December will be the ones that vote on this. They just recommend the usage of this to them and they will approve or disapprove. That is not their prevue. They just make a recommendation based upon land use issues. Ms. Elco asked as far as zoning is concerned in a residential area, is there any type of regulation on the number of businesses or Assisted Living Facilities? **CHAIRMAN CASON** said he is going to have Mr. Swanson comment on all her questions. He asked Mr. Swanson to fill them in on issues such as the City requirements and more importantly the state requirements and why some things have to come before us and why some things don't; how that all works so they can help the neighbors understand perhaps why there are so many or why some of them they haven't heard of and those types of things.

**MR. SWANSON, CITY PLANNER**, stated he wanted to go back to the bike lane issue first because he did speak with their traffic engineer. He stated that so long as there are not 'no parking' signs then they can park on the street regardless of whether there is a bike lane or not.

This is one of those sticky situations where they understand that there is a business component and there is an exchange of money and services. However, the underlying use is more residential in nature and so what they do is allow them in these neighborhoods. It really tends to be beneficial for the residents of that home because it is not an institutionalization kind of format. They have that homier feel. Granted there maybe issues with the surrounding neighborhood, but generally speaking it works out well. Additionally, this is also regulated by the state but also by the Federal government that does allow the use of single-family homes to operate as an Assisted Living Home whether it is for the elderly, a group home for troubled teens, etc. In that extent it is kind of a class of people that is more or less protected by the FHA. What they try to do is address as many issues as possible through our Use Permit process. For the City of Chandler there are really 2 kind of processes for these types of facilities. For a home that is 1 to 5 residents which falls under our definition of 'Family'. So if there are 5 people living there as their primary residence, it is considered a family and they do not have zoning regulations that require separation. So potentially you could get 10 homes in a row all operating as Assisted Living Homes so long as they are 5 or fewer. Where they have a process a little bit different from a number of other cities in the valley is that they actually have a Use Permit process where if that home seeks to have 6 to 10 residents, they then require the Use Permit, which is what they are going through now. They have a neighborhood meeting and 2 public hearings. They are kind of unique in that fashion and if it is approved there is a separation of 1200 feet from any other Assisted Living Home with 6 to 10 residents. Potentially in that situation you could have 1 home that 6 to 10 and then the rest of the street has 5 or fewer. There isn't that separation requirement. If a 2<sup>nd</sup> home wants to have 6 to 10 residents, then there is that immediate 1200 foot separation.

**RICK HUDSON, 870 S. SEAN CT., CHANDLER,** stated he is a board member on the HOA. His primary issue is in representing the people that put him on the board. He feels it is an obligation to follow the CC&R's that are established for that HOA. The CC&R's do state that a commercial business is not allowed to operate in those residences. That is the primary statement that he wanted to make. He has seen all of the issues in regards to Sara and Kevin's statements.

**CHAIRMAN CASON** asked if there was anybody else in the audience that wanted to speak on this item.

**BRIGHT EZE, APPLICANT,** stated he wanted to respond to what the lady and gentleman said. He does have a couple of residents that don't have families here. One lives in Havasu City and they come once every 3 months. He doesn't see a parking problem. They have been doing this business for 5 years and if parking was the problem, they should have been calling him and telling him. When he goes to check the mail, they never mentioned to him that parking was a problem. He doesn't see parking as a problem because his residents don't have families that visit.

The landscaper comes every 2 weeks to keep the landscaping clean. There are no financial issues. He has run this business for 5 years. One time in a couple of years he had 1 resident. He does work full time and his wife works full time. They use their personal money to pay for everything they need to. Here they come and say to use their 4200 square foot house to run the Assisted Living Home. The last time they had a meeting Sara was suggesting to him to go buy another home to do a business instead of having it here. So where does he get the money to buy another home? He thinks it is a personal attack and they are jealous of what they are doing. He is confused when they say they are not a good neighbor. What does it take to be a good neighbor? That is what they are doing. They are maintaining the house and they are keeping everything in order. Yes, the IRS had a lien on his home. He paid the IRS last year. There is no lien on his property. He paid what he owed them last year. He thinks they are doing a personal attack and he doesn't see why they can't get a Use Permit approved. He thanked them for giving him the opportunity to address the issue.

**SARA ELCO** stated she does not have any personal issues with the property owner for 1510 W. Saragosa Street. She is speaking from her heart that she does not want businesses in her neighborhood along the 8 houses that are on her street that she has lived at for 12 years.

**FLORENCE EZE, CO-OWER OF THE ASSISTED LIVING HOME,** stated she just wanted to mention that they are actually a good neighbor. They are out there to help out in the community. They have done this thing for 5 years and they have taken care of families. If they were to call the families, they would testify on how they are out there taking care of their families.

The opened this business about 5 years ago and have caregivers 24/7. They go out there and work and her kids go out there to help the families. There are a lot of residents that don't have families around so they are their families. They are there for them. She said Sara talked about somebody that was lying down in the front of the truck one day. They have caregivers that work there 24 hours and they have people that work nights. They are not there all the time. When she mentioned that, they confronted the caregiver and she testified that one day she came over there with her husband and kids. The husband was outside waiting. They told him they don't want that and it doesn't look good in the neighborhood. They have taken note of that. That is not an issue.

They noticed that sometimes the caregivers park on top of the gravel and they have spoken to them. If they notice something, they talk to them and they stop it right away. They have done this for 5 years and a lot of Assisted Living Homes don't take people with insurance but they are open to families. They take insurance and give people private rooms. They take care of these families. They want to do more and care for more people. They have people that live on the streets that they have welcomed into their home. They treat them like they are family. If not, they are going to be on the streets. They are out there to help these families. They have been a good neighbor. They are just doing this from their heart to help. This is not like a halfway house. They are just there helping out these people. They take them to places, they take them to church and they are just there for them.

**CHAIRMAN CASON** asked Mrs. Eze if she can park vehicles in her garage? Mrs. Eze said yes she can park 2 in there. **CHAIRMAN CASON** said because her driveway is curvilinear then she could put 2 in the garage and 3 in the driveway? Mrs. Eze said 2 in the garage and 2 in the driveway. **CHAIRMAN CASON** said so a maximum of 4 then. If she or her husband is there then that leaves 3 parking spots for her caregivers. Mrs. Eze said they only have one at a time. When he comes, they have 2 people there. **CHAIRMAN CASON** said the property allows for the on property parking of herself and her caregivers 100% of the time so that they themselves never have to park on the street. The only people that would really be parking on the street are just those folks that come to visit the folks they are caring for. Is that correct? Mrs. Eze said yes.

**COMMISSIONER FLANDERS** said they have 5 and now they want 7. Why is that? Mrs. Eze replied they have gotten into a comfort level that they can take care of these people and they have great caregivers that are really good and are ready to help. So they wanted to get more people as soon as they can afford to take care of them. **COMMISSIONER FLANDERS** said regarding the Staff they have, is there somebody there 24 hours a day? Mrs. Eze said yes, they have a shift schedule. Some people come in the morning and then leave and then they come in at night. They also go there to work. Kind of like a home so that they are there round the clock. They have to go 24/7. **COMMISSIONER FLANDERS** asked if there are times in the day that they have more than one person? Mrs. Eze said yes when they go there to help or if the case workers come around. **COMMISSIONER FLANDERS** asked her what was her busiest time of the day? Mrs. Eze said maybe between 8:00 a.m. and 3:30 p.m. Sometimes the state

people come to see the residents. But families come only around on holidays or on weekends, but it is rare. **COMMISSIONER FLANDERS** asked how many visitors on an average during the week and what are their numbers on the weekends? Mrs. Eze said 4 of their residents families are not close by. One of them doesn't even have family. Two of them, their families live outside of here. **COMMISSIONER FLANDERS** asked how many visitors do they figure a day – one, two, three? Mrs. Eze replied sometimes none, sometimes maybe one. **COMMISSIONER FLANDERS** said he is asking this because he is trying to get an idea of how much traffic is going in and out of their place as a result of some of the concerns of the residents in the area. Mrs. Eze said there is actually just one car they would see and that is the person that works there. Maybe when she goes or Bright goes then they have two vehicles. And it is not like the whole day. Most of the time it is just one car parked there. **COMMISSIONER FLANDERS** asked if the traffic as far as visitors go heavier on the weekends than it is during the week? Mrs. Eze said they rarely have visitors. One visitor lives in Lake Havasu and rarely comes. He just had one of his family come from Iowa just yesterday and she was gone with them for the whole day and then they came back and left.

**CHAIRMAN CASON** thanked her and said she cleared up a couple of questions. He closed the floor because the application before them is to decide whether the folks can increase the amount of people. The state and the city have regulations that the applicants have been able to meet. Any type of dispute that they may have with the applicant regarding any type of HOA issues or delinquent payments is not in their prevue. That is something they have to address on their own but that is for the state to address. He wants to stay away from the debating part of it with the understanding that this will, as Commissioner Hartke said, go before the City Council where they will be able to express their concerns there as well. By what Commission has seen and the information they have been provided that with their limited scope of what this involves, as a matter of our agenda, has been met. He can't personally see any reason why it would not get approved but please understand he empathizes with the position they are in but that is not anything they can address.

**CHAIRMAN CASON** asked if there were any other comments from the dais.

**COMMISSIONER HARTKE** asked Glenn Brockman, Asst. City Attorney that he knows in a totally unrelated case CC&R's had a huge effect of whether a person was able to put a certain business or institution in a neighborhood. He thinks that went through the legal system rather than them. Is there anything on their part based on a CC&R, whether there are dues paid or not. Is there any prevue for us at all?

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, stated the case he is talking about he isn't sure that was a group home. He thinks it might have been a Buddhist Temple or something like that. Even though that applicant met all of the city requirements, it turned out after a lawsuit that the applicant was in violation of the CC&R's that apply. Any issues relating to CC&R's concern private restrictions arising out of the CC&R's. They are a matter between the landowner applicant here and the

other landowners within the subdivision that the CC&R's apply to. They are not within our jurisdiction to address or deal with and they can't regulate based upon private CC&R's. The other issue he mentioned was the lack of due payment and maintenance issues. Those aren't really land use issues, especially the dues payment. That is clearly not a land use issue. That may be a legitimate basis for the neighbors through their homeowner's association to take whatever appropriate action they can, but it is not something they can use as the basis for denying the application for a Use Permit.

**COMMISSIONER HARTKE** said that clarifies our role but that also doesn't allow us to use that as a stipulation to say that is really not our preveue either. Is that correct? Sometimes they put stipulations on things in order for something to pass. Again, the collection of dues on a CC&R is nothing related to anything they can address either.

**ERIK SWANSON, CITY PLANNER**, said that is correct. That is a private matter that again isn't related to zoning per say but is also out of the hands of the city.

**COMMISSIONER HARTKE** said he understands their circumstances in situations but there is nothing that is related that they are able to decide on related to that.

**COMMISSIONER VEITCH** said that we do have a one year time stipulation in the Staff's recommendation and that should allow for any genuine land use and zoning related issues to be re-visited at the time of the request for an extension of the Use Permit which would be just one year away.

**CHAIRMAN CASON** said that is a very good comment.

**COMMISSIONER FLANDERS** said one of the things that was mentioned was the amount of other facilities that are doing the same thing within a short distance. That is one of the things from a land use issue that he is a little concerned about – 3 within a relatively small area. He understands that 5 is the maximum but they bump it up to 7 and then they bump it up a little bit more and then down the street they bump it up. As far as quality of life and the integrity of the residential neighborhood, he is a little apprehensive about this one. As long as he has been on Commission, they have always seen these facilities come through and they have scrutinized them and looked at them and made sure they were good neighbors. With this one he is a little on the edge here.

**ERIK SWANSON, CITY PLANNER**, said he raised some good points and definitely these are things that they look at. A lot of times these homes that when they review them and a number of them that request the Use Permit are genuinely buried in the neighborhood. So you have house directly to the west or east or north or south. You have a home right in the middle of the street. This one is a little bit different. They have the potential for parking to be accommodated right on a direct residential collector where no home is fronted onto it. They don't have that typical traffic of people backing in and backing out onto this collector street. It is kind of an ideal location in the neighborhood because they have that ability to park on the street. Parking is unfortunately one of those

issues they look at. He said 9 out of 10 times when they review these and then bring them to Commission and Council, they generally don't have the family members of these residents come and visit them. A lot of times 9 out of 10 times, they simply don't have the people that get the residents or the family members to come visit those residences. It is something that they are aware of and they know it is a concern. They try to mitigate the best that they can. Again, that is one of the reasons why the one-year time condition is on there. Ideally, with that collector out there it can potentially alleviate any parking issues.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said to Commissioner Flanders that he was also asking about the distance requirements between these groups. Under our code, one of the conditions that by code is built into these Use Permits is that 'no adult care facility shall be located in a lot within 1200 feet from the lot line of another existing adult care home'. The problem is when somebody from the audience comes up here and says there are other adult care homes that may not mean they are technically adult care homes under our definition. Under our definition a family is not only people in a house related by blood or marriage but also unrelated people – up to 5 of them constitute a family. It is only after they go beyond that which this applicant is proposing to do that they will be treated like an adult care home for purposes of our regulations and have to come in for a permit. It sounds like they don't know if there are other true adult care homes under our definition within 1200 feet of this applicant's. If they know and we have concluded there aren't, then that is fine. But if they don't know there is nothing that would prohibit either the applicant from showing that there aren't any closer or for any of the people in the audience from going and showing that there are some closer and that may be a legitimate basis to reject the Use Permit. Based upon what is here today there is no indication that there is any other adult care home within 1200 feet.

**KEVIN MAYO, PLANNING MANAGER**, stated they do track group homes and they even track the ones that are 5 and fewer when they come in with their clearances through the state process. There is a clearance form that has to be filtered through the city as well. So they have a mapping system that maps out where the 5 and fewer are and where any of them that are 6 to 10 are. They know exactly where every single one of them is if it is a legitimate one that is going through the proper channels. There is not one within the specified distance of this property.

**COMMISSIONER PRIDEMORE** said he just wanted to make a comment. Obviously, they have been talking about what is our prevue and what they can actually rule on. He is not opposed to Assisted Living Facilities being in the neighborhoods. In his opinion though when there is a commercial business that is operating in a neighborhood, in his mind the best way that it can be a good neighbor is that you should never it is a business in the first place. You should be able to live your life day to day and never know that your next door neighbor is operating a business. He just wanted to add that comment. He does empathize with the people in the neighborhood but their hands are tied for what they are actually looking at here.

**CHAIRMAN CASON** entertained a motion.

**MOVED BY COMMISSIONER VEITCH**, seconded by **COMMISSIONER HARTKE** to approve ZUP10-0034 DESERT HARMONY ASSISTED LIVING HOME with the stipulations that have been set forth by Staff. The item passed unanimously 6-0 (Vice Chairman Rivers was absent).

**CHAIRMAN CASON** thanked the folks for coming and told them it would be going to Council on December 9, 2010 and they could make their comments known to the Council then.

6. DIRECTOR'S REPORT

Mr. Mayo stated there was nothing new to report but Staff welcomed their new Commissioner Andrew Baron.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN CASON** announced with some regret that this will be the last meeting for Commissioner Hartke. He has moved on to bigger and better things and certainly will be an asset to the City whichever chambers he happens to be sitting in. He thanked him for his participation.

**COMMISSIONER HARTKE** said it had been a pleasure and honor to work with each of them and he appreciated the professionalism of their City Staff and the sound reason that this Board has exhibited in the time he has been there. It truly has been educational and it has been a pleasure and an honor to serve with each of them.

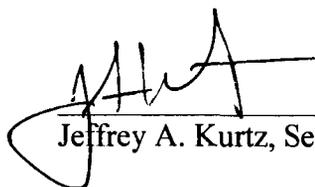
**CHAIRMAN CASON** announced that the next regular meeting is December 15, 2010 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

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



Michael Cason, Chairman



Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 15, 2010 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 Matthew Pridemore  
Commissioner Stephen Veitch  
Commissioner Kevin Hartke  
Commissioner Andrew Baron

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 **COMMISSIONER VEITCH** to approve the minutes of the November 17, 2010 Planning Commission Hearing. The motion passed 5-0 with 1 abstention. (Vice Chairman Rivers was 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. APL10-0001/DVR10-0004 FALCON POINTE AT PINELAKE

**Approved.**

Request an Area Plan amendment from Business Park to Multi-Family Residential land use, and Rezoning from Planned Area Development (PAD) zoning for Business Park and Planned Industrial District (I-1) zoning to PAD (Multi-Family Residential) with Preliminary Development Plan (PDP) approval to allow a multi-family residential development. The property is located at the southeast corner of Pinelake Way and Ocotillo Road, approximately one half-mile east of Arizona Avenue on the south side of Ocotillo Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Falcon Pointe at Pinelake", kept on file in the City of Chandler Planning Division, in File No's APL10-0001 & DVR10-0004, 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 as required to achieve full half-widths, including any 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. 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. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
7. The developer shall be required to install landscaping in the arterial street median adjoining this project. In the event that the landscaping already exists within such median, the developer shall be required to upgrade such landscaping to meet current City standards.
8. Approval by the Transportation & Development Director 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. 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.

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 Falcon Pointe at Pinelake development shall use treated effluent to maintain open space, common areas, and landscape tracts.

11. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
12. 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.
13. The development shall provide full vehicular ingress and egress access to Pinelake Way.
14. Any future parking space canopies over uncovered guest parking spaces shall incorporate building materials, forms, and colors to match the development.
15. 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](http://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.
16. At the time of sale, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the canal right-of-way together with the adjoining easements dedicated to the City of Chandler, is to be developed as a multi-trail system for use by the general public.

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 townhouse subdivision is located adjacent to or nearby a Salt River Project electrical power facility and SRP easements along the Consolidated Canal that may cause adverse noise 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 electrical power facility and easements, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely and have the potential for expansion.

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.

18. **The applicant shall work with Staff to provide additional stone veneer on facades of all buildings along both Pinelake Way and Ocotillo Road, including facing and siding up to streets, to bring a higher quality design along the streets.**

B. DVR09-0024 UDM INDUSTRIAL PARK

**Approved to continue to the January 19, 2011 Planning Commission Hearing.**

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 JANUARY 19, 2011 PLANNING COMMISSION HEARING.)**

C. DVR10-0016 MEDINAH PLAZA

**Approved.**

Request Rezoning from Single-Family Residential (SF-8.5) to Planned Area Development along with Preliminary Development Plan approval for a commercial building. The subject site is located north of the northeast corner of Alma School Road and Erie 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 Exhibit 7, Development Booklet, entitled "MEDINAH PLAZA", kept on file in the City of Chandler Planning Division, in File No. DVR10-0016, 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. Landscaping shall be in compliance with current Commercial Design Standards.
5. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
6. The site shall be maintained in a clean and orderly manner.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
8. 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.
9. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

D. MOTION TO CANCEL THE JANUARY 5, 2011 PLANNING COMMISSION HEARING

**Approved.**

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

6. DIRECTOR'S REPORT

Mr. Mayo, Planning Manager, said since this is the last hearing for 2010 he wanted to wish everyone a happy holiday season and a happy New Year. He thanked Commission for their services this year on the Planning Commission.

7. CHAIRMAN'S ANNOUNCEMENTS

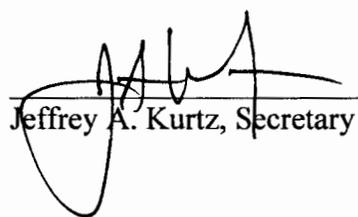
CHAIRMAN CASON announced that the next regular meeting is January 19, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

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



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Michael Cason, Chairman



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Jeffrey A. Kurtz, Secretary