

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

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

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

Absent and Excused:

Commissioner Stephen Veitch

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER FLANDERS** to approve the minutes of the April 6, 2011 Planning Commission Hearing. The motion passed 6-0.
5. ACTION AGENDA ITEMS
CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item C was pulled for action.

A. DVR11-0005 FAITH COMMUNITY CHURCH EDUCATION BUILDING

Approved.

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

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

B. PDP10-0016 CHANDLER FREEWAY CROSSING

Approved.

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

1. Development shall be in substantial conformance with exhibits entitled "Chandler Freeway Crossing" kept on file in the City of Chandler Planning Services Division, in File No. PDP10-0016, except as modified by condition herein.
2. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
3. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.

D. LUP11-0004 THE LIVING ROOM

Approved.

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

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

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

E. ZUP10-0032 SAN MARCOS GOLF RESORT

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

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

F. ZUP10-0043 WIN BEAUTY HOUSE

Approved.

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

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

10. Trees shall be 24” box size at the time of planting.

11. Provide one tree along the Dobson Road frontage.

G. ZUP10-0044 ARIZONA RACE COMPANY

Approved.

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

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

H. ZUP11-0002 CEDAR SANCTUARY ASSISTED LIVING

Approved.

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

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

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

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

12. Provide one tree along the Dobson Road frontage.

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

The Consent Agenda passed unanimously 6-0.

ACTION:

C. LUP11-0001 REGAL BEAGLE

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

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

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

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

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

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

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

CHAIRMAN CASON asked the applicant to come up and speak.

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

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

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

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

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

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

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

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

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

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

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

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

CHAIRMAN CASON stated he has two speaker cards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Indoor music shall not unreasonably disturb area residential properties.

The item passed unanimously 6-0.

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

6. DIRECTOR'S REPORT

Mr. Mayo said he had nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

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

8. ADJOURNMENT

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

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary