

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

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

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

Absent and Excused:

Commissioner Andrew Baron

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER VEITCH** to approve the minutes of the May 4, 2011 Planning Commission Hearing. The motion passed 5-0 with one abstention. (Commissioner Cunningham and Commissioner Donaldson were not present at this meeting.)
5. ACTION AGENDA ITEMS
CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item A was pulled for action.

B. LUP10-0045 WINGSTOP

Approved.

Request Use Permit extension approval to sell liquor (Series 12 Restaurant License) for on-premise consumption only within an existing restaurant and outdoor patio at 5905 W. Chandler Blvd., Ste. 1.

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. Televisions, speakers, and music are prohibited outside of the restaurant.
6. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.

C. ZUP10-0032 SAN MARCOS GOLF RESORT

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

Request Use Permit approval to continue a golf cart storage and maintenance yard use on San Marcos Golf Course property near the southwest corner of Chandler Boulevard and Dakota Street, approximately ¼ mile west of Arizona Avenue. **(REQUEST CONTINUANCE TO THE JULY 20, 2011 PLANNING COMMISSION HEARING.)**

D. ZUP11-0004 IMS, LLC.

Approved.

Request Use Permit approval to allow an office use in a residential conversion property zoned SF-8.5. The subject site is located at 498 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, 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, a maximum of eleven (11) which includes the resident, 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.

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

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

Approved.

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

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

Approved.

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

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

Approved.

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

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

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

ACTION:

A. DVR11-0004 RED ROCK BUSINESS PLAZA

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended to expand the list of permitted uses within a 14-acre business park located at the northeast corner of Wright Drive and Germann Road (approximately ¼ mile east of the northeast corner of Cooper and Germann Roads).

1. Development shall be in substantial conformance with the application materials, except as modified by conditions herein.
2. Compliance with the conditions adopted by City Council through Ordinance No. 4072, in case DVR07-0058 Red Rock Business Plaza, except as modified by the subject application and conditions herein.
3. The church use requested in the application materials is not approved by this rezoning. Such use requires separate rezoning or Use Permit approval.

MR. BILL DERMODY, SENIOR CITY PLANNER, stated this is a request to amend the PAD to add additional uses to those already allowed. This is a 14 acre property on the north side of Germann about ¼ mile east of Cooper. It is part of the Chandler Airport Center Business Park. The Chandler Airport Center is over 200 acres overall. It has a little retail zoning right along Cooper and then farther from Cooper in both directions is Business Park zoning which generally allows industrial and office. This particular site has also had a rezoning to add a family recreational which some of them might remember. There was a bounce jungle that started things off and a couple of other tenants passed that. They aren't the only project in this Chandler Airport Center that has evolved there. There is Opus that had adult education added to their list of allowed uses. On both sides of this to the east and the west similar additional uses were added to those projects. This is an area that has evolved over time from the strictly industrial office and small amount of showroom that was initially envisioned for the area. Also, a little farther to the east they have true retail environment of Crossroads Towne Center. The request before them this evening is too add quite a long list of permitted uses. Hopefully, you had a chance to cruise that among the memo attachments. Some examples include pool companies, carport store, art studio, church, vehicle sales as long as the vehicles are displayed indoors, adult education, general services like locksmith or cobble – quite a wide range. If he were to characterize these at all, it has been the type of not quite clear retail that you would expect in the shopping center that might be uniquely suited to this type of quasi-industrial environment with its low traffic volumes and overhead doors, high ceilings and those sorts of things. It has been quite a bit of negotiation. This list has not been static. It has changed quite a bit. He has been working with the applicant on that and with several of them on Planning Staff to try and refine this. Their end goals were to come up with a list of uses that don't cannibalize from their typical retail centers and at the same time are compatible with the uses that have already been approved for Red Rock Business Plaza. Some concerns were raised in the past when they went through the family recreational uses that were eventually added to this. Hazardous materials and truck traffic were a major concern at the time - less of a concern at this time

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

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

be all furniture stores. **CHAIRMAN CASON** said so if they were to go ahead and through this ordinance dismiss the requirement in order to have a retail showroom use you have to have warehousing associated with that. How many would be exempt from the ordinance? How many on this list would no longer be on the list as being an accepted use on the property. Mr. Dermody replied that without rezoning most of the retail showroom would have to have a warehousing element. **CHAIRMAN CASON** asked if they did nothing on this ordinance except for approve that they are no longer required to have 50% of their tenants have a warehouse? That they could go ahead and lease whatever space they wanted as long as they had parking spots they were o.k. to do so in whichever way that they wanted. How many of these uses would no longer be on this list? In other words, the retail showroom just about all of those would go away? Right? Those would no longer be on this list because they would be permitted by right if they would no longer have to have 50% warehouse. Mr. Dermody asked if he was talking about 50% warehouse because of meeting the definition of retail showroom or is he talking about 50% warehouse because of their parking requirements? **CHAIRMAN CASON** replied because of retail showroom. What he is trying to say is that part of this ordinance wants to remove the warehouse requirement. If they remove the warehouse requirement, how many of these items on this list would no longer be relevant to here because they would be approved because they didn't have the warehouse requirement. Mr. Dermody said that is why they are on the list. They are putting them on the list so that they will be allowed and approved uses if this ordinance is passed.

KEVIN MAYO, PLANNING MANAGER, said he thinks his answer is church would be left and adult education because those never have a warehouse component to it. The things that could or couldn't have a warehouse component, those he is wondering which would go away, would be everything under that retail showroom throughout the project. That list goes away because that warehousing portion is taken away. The travel agency would never have that so that would stay on the list. Basic general office would have to stay on that list as well as the church and adult education because it is not currently permitted. Almost everything else goes away because almost everything else has a warehouse or could have a warehouse component to it. **CHAIRMAN CASON** said if he understands starting from the back of the list and working forward, general service uses would then be allowed. Mr. Mayo said some of them could be allowed today. If you had an upholsterer, it could be more of the manufacturing side of the upholsterer which is allowed by right today anyway. If it is the guy that does the custom interiors on cars and maybe it would, maybe it wouldn't be. A lot of this comes down to a case by case. As you start looking up that list, luggage repair probably is much more traditional retail and doesn't carry with it a heavy warehousing component of it. A lot of times luggage repair and some of the machines that go with that aren't conducive to retail centers. If you are kind of working your way up, most of the general service uses, there are some that you can envision that would and there are some them that wouldn't. **CHAIRMAN CASON** asked so what he is saying is that when they come in for a building permit there is no way to be able to differentiate between somebody that just wants to sell luggage and somebody that wants to manufacture luggage? Mr. Mayo said in the end if this request gets approved, no there really isn't, but the type of user that just wants to sell luggage

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

CASON said that would be permitted by right as well. Mr. Dermody said yes if this passed. **CHAIRMAN CASON** said so the only one that they are really looking at is probably church and maybe travel agencies only because of the fact that is just almost always just an office space. They don't have to have a warehouse with it so they could kind of have it here. There is no restriction that they have to sell an item. You can be selling services and stuff like that so that would be permitted. Through all this dialogue he is just trying to show one thing and that is if all of these items are approved and if all they have to do is remove the restriction between warehouse and retail, why do they have a list? Mr. Mayo replied that is a good question. Fundamentally as Staff, he hates lists because as soon as you create a list, the very first person out of the shoot is not on that list. Then they say you are not on the list. They always try to capture this stuff by characteristics of uses. As they started to do that, they tried creating those characteristics, lists, and uses categories and it either got very ambiguous or it started not being able to hone down the intent of the types of uses that they were trying to open up to. They don't want to just say please remove their warehouse component so they can have all retail and Subway and Quizno's are going to go nuts in here and they are going to finish this thing up with as much retail as they can get and then sit on the rest of the property. That is not the intent. They are looking to differentiate this business park by creating that place where the home improvement guys like a tile guy, a floor guy, a carpet guy, a bathroom guy and an interior guy to where they start to congregate together but unless each one of them brought with them their warehouse component, they couldn't go in there today. You will see the retail showroom in there. You are not seeing a Wal-Mart designation. You are not seeing anything of that nature. They are trying to hone in on what are those home improvement type businesses while giving you a flavor of what those mean. When he looks at that retail showroom list, what he really sees with the exception of maybe an art gallery is really that home improvement characteristics list. When you look at the general services uses, in a lot of people minds general services can run the gamut of what those things are and what they try to do is list some uses as examples of what that general services characteristic definition is. It isn't the luggage guy in the mall. It is a different type of luggage guy. It is the one that they do their repairs that build and don't belong in a traditional retail setting. This list while it is a list was an attempt at trying to create those characteristic categories but then give you some examples because sometimes people will ask what is a home improvement center business. That is what this list is for. It just happened to get kind of long as they went through it. It was much longer.

CHAIRMAN CASON asked him if he needs to have a list. If they were to remove through this ordinance the requirement of matching the warehouse with the retail, does he need to have a list in order manage the appropriate uses on this property? Mr. Dermody replied yes, they need either a list or a definition. A list is the way they chose to go otherwise they would have a tough time. Originally, the applicant's idea was to ask for a non-traditional retail. That was going to be just too difficult for them to enforce so that is why they decided to define what they are looking for by a list. This should be enforceable for them and works for the applicant. Mr. Mayo said to keep in mind the applicant also needs something that is generally clear for his brokers to go out and start finding tenants for this if it is an ambiguous definition that becomes very hard and then

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

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

CHAIRMAN CASON said he doesn't have any preference whether it is long and detailed or short and generalized? Mr. Dermody replied as long as it is not shortened so much that it becomes difficult to enforce. It could probably be shortened somewhat though. Mr. Mayo said keeping in mind Staff is open to administer this either way, this type of list or a characteristic statement with a few examples; if they are good with either way, he would really like them to open it up to the applicant to see what is easier for them to go forward with from a seeking tenants standpoint.

CHAIRMAN CASON asked if there were any other questions for Staff at this point. There were none. He called up the applicant.

PAUL CATE, MARK IV CAPITAL, stated they developed Red Rock Business Park. He didn't have any prepared statements. He said they have done a great job asking questions and responding to them so he appreciates the time and effort they spent on it.

He said they did design this project with a lot of input from the City before they broke ground. One of the things they really focused on was a transitional concept. This is a very unique project in that some people look at it as industrial but it is parked at 3-1/2 per thousand, which is very unusual. They have the ability to expand to parking to 4-1/2 per thousand, which again is very unusual. It has covered parking. You won't find covered parking in industrial projects. They have roll-up doors in the back that have glass and are engineered so they convert them to all glass. They have natural stone on the entire exterior on the frontage which they believe is very attractive and again, they were looking for something that bridged kind of between a retail, an office and industrial and kind of a tri-pod of uses that wasn't being serviced somewhere else. They could provide a better business environment for those kinds of businesses that wanted a more upscale and good looking park. They have been really pleased with the way it turned out. Unfortunately, they hit the market at a tough time and it has been slow and tough for them to lease. They are very appreciative of the efforts here to kind of help them because they have had a lot of tenants come to them and say 'can they lease space here'. They are coming through their brokers and they have their brokers here with them. Some people they hear later thought they couldn't go in so they didn't even come to them. Frankly, there have been a lot of cases where they have said they didn't know – there are a lot of gray areas. By that time you lose tenants. They are down the street and they have gone somewhere else. They very much appreciate all their efforts to try and work with them to better define and open it up. Their thoughts earlier on removing that warehouse requirement - that is a great idea. That is very helpful. The lists are very helpful. Really, what they are hoping for is to have these uses that he thinks they will all agree would be great uses for the park and for us all to be on the same page and know what those uses are. So if a tenant comes in and they say of course they can go in. Go talk to Bill and he will tell you that he can and they can move them through the process and get them in the space pretty quickly. That is important and the time from their expressed interest to when they can get them into the space is critical. Clarity is everything for them.

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

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

vague list that they didn't fully understand. Frankly, they might look at it one way and the City might look at it a different way which is not good either. They would rather have something that they all agree and look at the same way. **CHAIRMAN CASON** asked if they were to leave this list like it is, then would somebody else need to be on the list later? Would they expect them to come back before them and add somebody to the list? Mr. Cate replied that he has spent a lot of time on the list and the City spent a lot of time on the list and he can then there are some things on the list that they wanted to be on the list that are not. It is a process that they don't take going through lightly. He would like to tell them that they will never come back and ask for something else on the list but that probably wouldn't be prudent of him to do. **CHAIRMAN CASON** asked if he felt pretty confident that he has a good selection of candidates? Mr. Cate replied he thinks they have a great selection and they have worked hard to come up with a list together and he thinks these uses will go a long way for them.

VICE CHAIRMAN RIVERS said at the risk of repeating of what has already been said his concern is that a business park along one of their freeways should be a revenue generating thing for our city and that is why they zoned it that way in the first place and he is not sure how much revenue would come in from some of these items on the list. He is also concerned greatly about defining some of these items. For example, in a meeting with one of the planners before they got here today they talked about how exactly they would define an art gallery and how you would define an art studio. If they were to take those off of this list, would that be a problem for them? Mr. Cate said only if an art studio or art gallery approached them for a lease. If they approached them for a lease, they would like to have them in there. **VICE CHAIRMAN RIVERS** said then they have to figure out how to define what they are. If they are going to have an art gallery, could that be a museum or would that be something that is generating revenue. For example, a place where you can go to buy art. Again, he has to define these things. He has a problem with the art gallery, with the art studio and with the church. The church primarily for their parking issues because they just went through that two weeks ago with a church that has a parking problem. They didn't originally have a parking problem but it got to be a problem and has become more of a problem as time goes by and they are in the midst of working on that now. If you arbitrarily let a church go into this place, there may be a parking problem sooner rather than later so that is why that is one of the things he would like to take off of this list. Would he have a problem with that? Again, he doesn't think a church generates revenue so if he thinks that if they are dealing with a commercial center, whatever goes in there should be generating revenue rather than just taking up space. Does that make sense? Mr. Cate said he does not fully understand the revenue generation. They can put in an industrial use in here and they don't generate revenue. **VICE CHAIRMAN RIVERS** said they are selling something; they are making money and paying city taxes. Mr. Cate asked then he doesn't like any non-profit uses in here? **VICE CHAIRMAN RIVERS** said they have a certain finite amount of property in our city on which they can construct things that bring in revenue as opposed to being residential or as opposed to being a church or as opposed to being a waste/recycling center and things like that. This is a retail or commercial center that was built as a revenue generator. They have a finite amount of these places along freeways, a

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

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

precedent setting of if they allow any uses to go into this particular development with no further review, then our other developers who are having trouble leasing their spaces in their property is going to site this as a reason for they should change their situation to a hybrid as well. Mr. Mayo said almost guaranteed someone will always use a previous approval as justification for theirs. They always, as Staff, when they send forth a recommendation, it is based on a thorough case by case evaluation of it. If it happened to be an adjacent business park next to this one and it had the same externalities and same things with it, they would have no reason not to support this request somewhere else if it had the same characteristics. If it is a completely different business park buried in the back somewhere, they can think of plenty of places in Chandler where it would not be appropriate. Again, the applicant's will use it as precedent and Staff bringing forward a recommendation never would. **VICE CHAIRMAN RIVERS** asked if the decisions on those case-by-case items would be done by Staff or Council? Mr. Mayo said ultimately Council approves them. They would come through Staff, Planning Commission and Council just like this one is today. **VICE CHAIRMAN RIVERS** said yes he is correct about the churches. He would have no objection to a church here if they were to come through Planning Commission and Council with their request rather than just arbitrarily they appear next week.

COMMISSIONER PRIDEMORE said he looked at the list and he has worked on projects that had permitted uses that were basically the permitted uses in a city. This is at least shorter than that. The one that jumped out at him as being different was the bakery. To him the bakery is actually manufacturing a good as opposed to repairing or just selling an item that is already coming in fully complete. A bakery to him is like a manufacturing process but he would also then be concerned about odor. In going through this list, he doesn't see any other item that generates odor or noise like a bakery would. Mr. Mayo said a bakery is allowed by right today. This business park allows for I-1 uses and a bakery is allowed in I-1 and is in fact allowed to have up to 10% incidental sales floor area. Because they have the showroom component added to it, that bakery can have much more than 10% showroom today. This list really is not just a requested use that they are requesting to add today, it becomes much more all-inclusive in terms of anything that isn't traditional I-1. If it is baked on site and/or just sold on site, currently they couldn't just sell baked goods on site today, they are requesting that ability to do so. If they bake them on site and sell them on site that is allowed by right. **COMMISSIONER PRIDEMORE** said he is also looking at the other item from their Consent Agenda for the permitted uses. Right now it is saying that bakery for goods baked and sold on premises is a Use Permit for I-1. Mr. Dermody said a bakery for off-site sales and 10% incidental would be allowed today. The on-site sales in the code as they interpreted something larger than 10% floor area; that is the difference what is allowed today here and what you could potentially do with the zoning change. You could have a greater amount of floor area. **COMMISSIONER PRIDEMORE** stated that is what he is trying to do is reconcile what they are seeing somewhere else with what is here. The question was asked earlier what uses were already allowed per right. The only one he heard at the time was gymnasiums. Mr. Dermody said most bakeries would be allowed. Mr. Mayo said what is allowed by right today - there are a lot of these. If they bring with them their

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

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

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

they don't want to draw that residential and retail traffic into that industrial park but yet they are allowed in that property that faces right on Arizona Avenue. It is more of that classic showroom type of opportunity which is why when they came forward with the recreational users at this location, they supported it there but not to the building to the west. Pannatoni's certainly would never be an opportunity to support the more retail quasi-showroom type users. It is an office building. You would have to bring people in through a common entry and then go into that building. So from an Economic Development standpoint they have clearly delineated the front building on Allred and then the Red Rock building as more of those transitional uses as they step away from that commercial retail in non-traditional Scottsdale Airpark showroom and then truly into our industrial type users. She thinks that is where they have drawn the line. She said the advantage is that there are three or so technology related users that already exist in the park and in the Red Rock buildings. What they have heard from them is they were interested in going into that Red Rock area as opposed to being more buried into an industrial park because they like that vibrant environment. They are creative; they are software engineering kind of companies. They like being in that area where they can walk over and see different things as opposed to kind of being buried in a quiet area. They like more that vibrant environment that Red Rock seems to create with that mix of uses. It has so far been a very nice compatible mix of uses with the kid's entertainment and industrial technology and now with their permission going forward with some of those more quasi-showroom retail type uses. She said she would be happy to take any questions that they might have as to their thought process as to why Economic Development was supportive of this particular application when they aren't of others.

CHAIRMAN CASON asked if there were any questions of Ms. Mackay. There were none.

CHAIRMAN CASON asked if anybody else in the audience like to speak on this matter. He closed the floor for discussion and motion.

COMMISSIONER VEITCH said he had a question of ordinance mechanics. If churches were to be removed from this list, that would mean they would not be allowed by right in this PAD. Correct? Mr. Dermody said that was correct. **COMMISSIONER VEITCH** said the allowable uses in the PAD prior to this list are the I-1 uses. Churches are allowed pursuant to Use Permit in I-1 districts. That would mean that a church could petition to locate in Red Rock through the mechanism of the Use Permit. Mr. Mayo said that is correct. They have historically always said if it is a PAD because it is custom zoned and has a custom ordinance that anything you add to that has to go under a Use Permit. They have with the exception of liquor permits - they have done those under Use Permits. Everything else had to come under a PAD Amendment. They have starting this year a kind of a reaction to dealing with some of the fitness things that wanted to go into the business parks that is becomes more problematic administering things long term if you permanently entitle it to that use versus doing a Use Permit. You can always add a sunset date to a PAD Amendment but it is not good zoning practice. It is easier and more appropriate to time condition things through a Use Permit. They have started to do Use

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

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

parking that they could do and move it in one step. It doesn't gain them anything. **CHAIRMAN CASON** said so it might be appropriate for the landowner to make sure that they move their retailer. They keep their showroom in their development in a way that allows them to manage their parking the most efficient. Would he agree? Mr. Mayo said he would agree.

COMMISSIONER PRIDEMORE asked if he could give him an example of a use that the applicant was looking for that the city did not support? Mr. Dermody said he was trying to think of a home improvement warehouse that sounded a little much like a Home Depot. They were mostly along the lines of pure retail.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated he had a question about one of the items on the list. He can't reconcile it with the list of uses on their table and that is where it says architect/interior designer. He has been looking through here and the only thing he finds is an interior decorator and it is not an allowed use in an industrial area at all. Is there a distinction that he is making between an interior designer and an interior decorator because he understands that what he is trying to do is to identify uses that are either currently allowed by right or that are allowed by Use Permit that they now want to allow by right. This interior decorator isn't an allowed use in an industrial area at all. Mr. Mayo said the interior decorator was brought in as the vision of creating that home improvement hub and you would go to an interior decorator/interior designer to help you design those things and then you can go see the tile guy that is right next door and that type of situation. It was a use that may not be specifically on a list of permitted or even considerable under Use Permit use but was deemed compatible with the other uses of the list. Mr. Brockman said doesn't he think that creates an ambiguity that gets to the point where nobody knows what is allowed. Mr. Mayo said if they said home improvement warehouse he would agree with him. When they have a list that is that specific and those types of things, when you look at an interior decorator what level of ambiguity does that leave? Is it because when they look at our Table of Permitted Uses it isn't in there and is even considerable under Use Permits or what is it doing in here? Is that the question? Mr. Brockman said yes what he is saying is if they have the term interior decorator and it says it is allowed by right in the three commercial zones but it is not allowed even by Use Permit in the industrial zone and then you use a slightly different term of interior designer, he doesn't know what that distinction is and you say even though it is not allowed in an industrial area because it is part of this larger home furnishing thing, they are going to let it go. That creates an ambiguity that the only person who knows the answer is going to be you and God. Mr. Mayo said the ambiguity is already there because if this business park was PAD for I-1 uses only, he would fully follow your struggle but this is PAD for under the Chandler Airport Center zoning it is general office which an interior decorator you can quasi that as either office or retail. They don't really actually sell the goods out of there but it is office. Like an architect is an office. That concept of land use is permitted right under Chandler Airport Center. It then all adds the I-1 zoning and it adds the showroom retail component of it which that interior decorator under that umbrella of ambiguity fits right in there with all those other home improvement type uses. Mr. Brockman said in other words he is incorrect when he

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

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

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

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

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

6. DIRECTOR'S REPORT

Mr. Mayo extended a welcome to Mr. Bill Donaldson, the new Commissioner.

7. CHAIRMAN'S ANNOUNCEMENTS

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

8. ADJOURNMENT

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

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary