

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 5, 2011 held in the City Council Chambers, 88 E. Chicago Street.

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

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

Also present:

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

4. APPROVAL OF MINUTES
Minutes of the regular meeting of September 7, 2011 were continued to the October 19, 2011 Planning Commission hearing because of some clarifying issues.
5. ACTION AGENDA ITEMS
CHAIRMAN CASON informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item G was pulled for action.

A. DVR10-0014/PPT10-0002 NORTH EAST COOPER AND RIGGS
Continued to the November 16, 2011 Planning Commission Hearing for the purposes of conducting a Design Review Committee hearing.
Request Rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for an 84 lot single-

family residential subdivision on 32 acres and PAD zoning for commercial development on 7.5 acres. The subject site is located at the northeast corner of Cooper and Riggs roads.

B. DVR11-0013 KYRENE CROSSINGS

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former PAD (Office) zoning. The PAD zoning is for a childcare/pre-school use on Lot 7. The property is located at the southeast corner of Kyrene Road and Chandler Boulevard.

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

C. DVR11-0023 PARK OCOTILLO BUSINESS CENTER

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former PAD zoning for light industrial use and/or commercial uses. The PAD zoning is for office, light industrial, and retail on property located at the southwest corner of Price and Queen Creek Roads.

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

D. LUP11-0018 VINTAGE 95

Approved.

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant and adjacent outdoor patios (Series 12 Restaurant License) at 95 W. Boston Street in Historic Downtown Chandler.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The outdoor patios shall be maintained in a clean and orderly manner.
5. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
6. Music shall be controlled so as to not unreasonably disturb area residences.

7. The restaurant shall provide contact information for a responsible person (restaurant owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.

E. ZUP11-0013 NEW HORIZON YOUTH HOMES – COMMONWEALTH CIRCLE

Approved.

Request Use Permit approval to operate a behavioral health group home for up to seven residents within a single-family residential home. The subject site is located at 2504 E. Commonwealth Circle, south and east of the southeast corner of Chandler Boulevard and 132nd Street.

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

F. ZUP11-0014 NEW HORIZON YOUTH HOMES – PARK AVENUE

Approved.

Request Use Permit approval to operate a behavioral health group home for up to seven residents within a single-family residential home. The subject site is located at 795 W. Park Avenue, north and east of the northeast corner of Ray and Alma School roads.

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

H. ZUP11-0023 ST. LUKE'S BEHAVIORAL HEALTH

Approved.

Request Use Permit approval to operate a therapy business in an office/industrial building at 325 E. Elliot Road, east of the southeast corner of Elliot Road and Arizona Avenue.

1. Development shall be in substantial conformance with the submitted application documents (Narrative, Site Plan, Floor Plan) except as modified by condition herein.

2. Development shall be in substantial conformance with all existing approvals for the site, except as modified herein.
3. The Use Permit shall remain in effect for two (2) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

I. ZUP11-0024 TRIUMPH AIR REPAIR

Approved.

Request Use Permit approval to allow underground bulk fuel storage in conjunction with an aerospace systems and components business within an I-1 zoned district for property located at 50 S. 56th Street.

1. Development shall be in substantial conformance with narrative, site plan, and associated conditions of approval.
2. The tank shall be constructed to comply with all City of Chandler Building and Fire Codes.
3. Fuel containment shall be in accordance with all State and Federal laws.
4. A Spill Prevention Plan shall be kept on file with the Fire Marshall.

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

ACTION:

G. ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY

Denied.

Request Use Permit approval to operate a preschool and tutoring business at 1751 E. Queen Creek Road, approximately ¼ mile west of Cooper Road.

KEVIN MAYO, PLANNING MANAGER, stated this is a request for Use Permit approval to operate a preschool and tutoring business within an office development that is located at 1751 E. Queen Creek Road. It is a little bit west of Cooper Road on the south side of Queen Creek. This name may sound familiar to them because it did come before them at their September 7 Planning Commission hearing. It ultimately was given a recommendation of denial and to City Council Commission forwarded concerns raised during that hearing regarding airplane safety, pesticide safety in relation to state law as well as the location of this business in conjunction and in relation to the location of the pending Part 150 approved future noise contours that will eventually become part of the zoning code.

This use is a use that is proposed to take up a complete building about 350 square feet of this center. This center is about 8.1 acres. It was approved for the PAD zoning back in 2006 to allow medical and general office uses. To date, only 4 of those 12 buildings have been constructed. This would take up one of those. At the previous hearing they did have a neighboring property owner directly to the west on a County parcel who spoke in opposition raising concerns such as the pesticides regulation in regards to the State and some other concerns in terms of some missing landscaping, height of walls and things like that all of which Commission heard testimony regarding that.

Staff continues to recommend approval of this. The daycare – preschool component of this is not a medical office use, it is not a general office use. It is kind of a traditional retail use and in fact, when this was zoned directly east of it, the eastern half of the vacant land between Cooper and the County parcel to the west, the eastern half included commercially zoned for regular C-2 commercial uses. This would be an allowed use in there by right. A lot of times these types of preschool daycares have been proven to function pretty well in an office/business park setting. Typically the gut reaction is kids belong where they belong and they don't belong where they don't. History has proven that these things do work well in these centers and in fact add to their health and long term viability of these centers.

From a direct land use standpoint, Staff doesn't have any concerns with this use. There is kind of a cloud of the noise contours getting into the ANO-1 zone. Their zoning code permits uses of this nature in the ANO-1 zone versus their Airpark Area Plan, which is really a guiding land use document as they discussed at the last hearing in detail. It has a statement in there that 'the City shall prohibit those developments of noise sensitive institutions such as daycare facilities, schools and churches within the 55 dnl noise contour. They went through a lengthy discussion of that and he would be happy to go into that again if they would like. Before they even got to Council, the applicant indicated that they really wanted to get referred back to Commission so that they could present information regarding the pesticides issue, noise, airplane safety – those very things that were raised at Commission. They might remember at the first hearing in September the applicant was not at that hearing. They requested to come back, give their presentation and present their additional information. They will see in the memo that very little has changed. The applicant is really requesting to come back and present additional information to Commission for consideration. He reminded them that Staff does recommend approval of this request based on their current zone contours and current zoning code. He said he would be happy to answer any questions.

CHAIRMAN CASON asked the applicant to come forward.

JOHN WILLIS OF WILLIS PROPERTY COMPANY, 3850 E. BASELINE ROAD, SUITE 118, MESA, said he is the representative of FNBN UTAZ, LLC which is the owner of Airpark South Professional Village located on Queen Creek Road. He said he is going to be making a quick statement and then turning time over to Chuck DiRuzza who is the representative of Wee Blessings Preschool & Academy. Regarding the issues that were brought up regarding the landscaping as well as the wall issue in the southwest corner, they have received bids from a

landscaping company to plant 4 trees that are currently missing as well as replace some of the trees that have fallen over due to storm damage. That will be taken care of within the next week or two. Also, regarding the gap in the wall – there is actually a section of the wall that is missing. That will be fixed within the next two weeks. They have received a bid and they are moving forward with getting that prepared. Regarding the height of the wall, the City has stated that the UTAZ developer built it to standards that were already sufficient for what the City was looking for so they are not taking any actions on that regard. With the trees that are going to be planted that should absolve any concerns with regards to visibility into the neighbors' yards and that type of things. With that said he wanted to turn time over to Chuck DiRuzza or answer any questions they may have.

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

VICE CHAIRMAN RIVERS asked if he had access to a drawing? Mr. Mayo gave him a copy and to show on the screen where they were talking about repairing the wall and where the trees are going to be. Mr. Willis showed where in the corner there is a section of the wall that is missing. It was never built – for what reason he doesn't know. We currently have a bid and are moving forward with fixing that cinder block wall and fixing that gap. The concern from the neighbors was that gap in the fence was causing potential vandalism – kids getting through there and vandalizing or stealing and jumping the fence into their yards and that type of thing. They are fixing that and then along this wall there are 4 trees that are missing according to the landscaping plan that were originally approved by the City of Chandler. Those are being replaced and then there are a couple of trees that have fallen towards the north part of the project that they are going to be staking and trying to save and if they get another wind storm and they don't make it, they will replace that. It's not a big deal. **VICE CHAIRMAN RIVERS** asked so the wall damage is a great distance from this daycare? Mr. Willis replied yes because the location is down there and it is not damage, it just was never built.

CHUCK DIRUZZA, 835 W. WARNER ROAD, GILBERT stated he is the broker and representative for Wee Blessings this evening. He thanked the Commission for giving them the opportunity to address the questions that have arisen. There were some communication problems and they were unaware of the meeting. Staff and the Commission have been kind enough to let them come back in and they do appreciate that to address and answer any questions they have.

He said he wanted to start with the pesticide question that has arisen by the neighbor behind them. The State of Arizona licensing department that will be licensing Wee Blessings has been given a preliminary information packet concerning the area and where the preschool will be and what the surrounding area is and they have preliminarily approved the lack of use or the use thereof of pesticides in the area. A final approval will come once the property is built out and is occupiable. The State will go back and do a thorough investigation and inspection of the building, the property and the area and they will then make a final determination that there is in fact is no violation of state ordinances as to pesticides in the area. They will, of course, take the liability for that by either approving or denying. As to the neighbors concern, she stated in the

neighborhood meeting that she didn't want the State to come and tell her she couldn't spray what she has been spraying for years. That was her major objection. Most certainly the State wouldn't do that. It is his understanding of the process that the State if they have an issue, would give Wee Blessings an opportunity to resolve the issue. If they cannot resolve the issue, they would simply deny the application. They certainly would not tell a neighbor that they can't do what they have been doing or that they can't spray a legal pesticide that is typically used in the operation of a little ranchette like they have. Neighbors won't be forced to change their routine or what they are doing because of any State regulations or State approval or disapproval of the pesticide. One of the members of the Health Services, the State agency, sent an e-mail to Debbie who is a member of Wee Blessings, and she stated in the e-mail that fogging is a process that many cities use to kill mosquitoes. Child care licensing has no rules about fogging. Her other concern that they sometimes spray fogging for their mosquitoes within their barn and that would be an issue, clearly by this e-mail, it is not going to be an issue with the State. The neighbor stated in the neighborhood meeting that they use a pesticide known as Piranha. That is the primary pesticide that they use. They have looked that pesticide up and it identifies one of the questions on the frequently asked questions on their website was 'will this product harm my pets'. No if used properly as directed on the label. It is considered to have low toxicity to humans and pets. Insecticides have been used in agricultural or other applications for over 30 years and there are no harmful effects. This product most certainly is a low level toxic and the State regulation clearly defines that the only concern they would have is hi-toxic pesticides that might be used or aerially sprayed from airplanes and there certainly isn't going to be anything from the air. They believe they can comfortably let the neighbors know that they won't be interrupting their process or cause them any problems by virtue of having the preschool adjacent to them.

CHAIRMAN CASON asked Staff if they could help put in the record if this means like the chicken and the egg thing where they have to do a whole bunch of stuff before the State will consider the application. It kind of happens in a backward manner or something like that. Mr. Mayo, Planning Manager, said it is not any requirement that it happens that way. Whenever Bill had contact with the State about this, maybe they are busy or maybe they are not, but they said once the property is zoned, then come and talk to us. They are not the regulatory agent that controls pesticides. There is a concern that why zone it if they are not going to get the license through the state so it really is the chicken or the egg and who knows which one. Our process is clearly separate. It is not something that they then forward something to the State. The State would ask the applicant to provide some type of documentation that the property is zoned for their use but it has nothing to do with this Use Permit request process tonight. This is the piece of paper they hand in. Our Use Permit is really just charged to look at land use compatibility on things that the City is authorized to regulate. Pesticides unfortunately clearly are not one of them since they don't regulate the application use of those pesticides. It seems very much chicken and the egg. They are separate processes although theirs is dependent upon ours. They are not going to issue the license if the property is zoned for it. Ours has nothing to do with the State. **CHAIRMAN CASON** asked in his opinion if they were to approve the Wee Blessings Preschool and the State for whatever reason would not supply the license then he couldn't operate that business because he doesn't have the license to do it for the State. Would that be a

correct presumption? Mr. Mayo replied that is correct. In the 12 months following the date of Council approval if that use hasn't been commenced, the Use Permit just goes away. That is straight out of their code.

MR. DIRUZZA said as to the noise from the airport, when he first showed the numbers of Wee Blessings at this location, they discussed the fact its close proximity to the airport and would that be an issue to them. John Willis told them at that time that the building had been built with some additional noise abatement; things that were required by a previous PAD approval and that the building would actually be quieter inside. They were built to a higher standard because of their proximity to the airport and that the building would be quiet inside and it does conform to the current stipulations and zoning. They stood inside the building and a plane that actually went by while they were inside and you barely knew. It had no bearing really and they did not feel that it would impact the teacher's ability to hold class or keep the attention of anyone. Since they have decided this is the location for them and it is most centrally located given the parents that are clients at this time, they have basically done for lack of a better word a poll of the parents. Before they resigned them for this semester they disclosed that this was the location where they were going to be. They asked the parents if they thought this would be a problem or was there any objection and far and away they got no objection. If anything, they got a strong response as to the excellent location that they were happy they were in still in Chandler – that they didn't move out of Chandler and that they stayed in a nice centralized location. In fact they not only have 100% full in the current location but have a waiting list of parents that also have been told that it would be across from the airport. They have a waiting list of additional parents but once they are able to move into this larger and newer facility and they will be able to accommodate more children, those parents want their children to be schooled at Wee Blessings. He knows Debbie and Phil discussed it with their teachers. None of the teachers thought it was going to be an issue and most certainly Debbie and Phil don't believe it to be an issue. The building is designed to reflect that sound. If there was some need for maybe a little bit of additional insulation or something, he is certain that could be discussed but he really doesn't believe it is needed because of the enhanced codes that they were used to build the building to begin with.

CHAIRMAN CASON asked Staff if those stipulations for noise abatements in those buildings is because the noise contours were part of the previous application for the construction in general and then would have had to been approved through the inspection processes as part of the certification of occupancy, correct? Mr. Mayo replied it isn't that a specific thing was looked at in terms of the construction of this building. It is just understood that the building provides a certain level of dv reduction inherently in how things are built today. It isn't that it is constructed that specific way to mitigate that noise, it just happens that the construction codes that they have today naturally do that anyway to a certain extent. Within the ANO-1 being in that 55 dnl most building construction depending on the type of roof construction and things, it can provide 15-20 dv of noise reduction and the State only requires a maximum of 45 dv interior noise level. Being in a 55 dnl abated construction takes it down to interior noise level of less than for 45 dv. These are constructed with a sloped roof element to them and kind of actual captured attic air space starts adding to the additional reduction in noise. It is not something that on general medical/office that requires the certification of a sound engineer. C of O's for something like this based on what our code says, almost any sound engineer would certify that

this type of building construction provides 'x' amount of dv reduction which will take it far under the cap of 45. He knows it is a long winded answer that really didn't say yes they did that but they inspected it to make sure it was built to our code. That code just happens to provide some attenuation reductions greater than what is necessary for this. **CHAIRMAN CASON** said it is actually good to know that Chandler is doing that. He thought that was great.

COMMISSIONER CUNNINGHAM said going back to the previous statement regarding the search for a site. She said she recognizes that it is a great location but she also recognizes that what is being proposed to be put on this site is not just a business that people will be in and out of temporarily. It is a business that many children will be in several hours a day. Her concern originally was not just the pesticides although she is wondering just how many hours of first aid and training the Staff has in dealing with an asthmatic child that collapses when the neighbor decides to do their fogging. She also wonders how easily controlled the children will be on the playground when the noise from the planes prevents them from hearing direction and perhaps causes an unsafe situation. She is also concerned with the proximity to the airport itself. She realizes and with all due respect to Staff as they have done a great job, however, her own look on this is that their perhaps could have been a better site. There are multiple commercial buildings within Chandler; southeast Chandler in particular has quite a few newer locations that are not within a few yards of an airport runway. They discussed that student pilots would be training on that runway. She witnessed the very next day a helicopter student pilot because she checked on it and who had difficulty landing his helicopter not 50 feet from this. He missed his area and he almost crashed. He was able to pull out and he went on over to the helipad. However, what if? She does not understand the desire or need to place children in this situation when there are so many other vacancies. Mr. DiRuzza said he understands the Commissioners concerns and quite honestly there were 2 previous locations prior to this. This was the result of a nine month search for a location that would work well for them. The other 2 locations for various reasons they were not able to utilize predominantly because of the playground area not being conducive or being too close to heavy traffic. They felt that was actually a concern and with the children safety in mind waived on those locations. He agrees with her that there are many locations within southeast and south central Chandler that on the surface would appear to be good locations but predominantly because the majority of them are within a shopping center and the shopping centers are unwilling to give up area for the daycare or there is absolutely no adjacent area for a playground area, they had to be ruled out. The size and the needs were very specific and as he said they spent nearly 9 months looking at multiple locations. Five offers were made to lease or purchase. Two they actually got close on but because of various problems were not able to handle. This location was not available when their search started but became available after the disappointment of the 2nd location and that is what prompted them to start looking at it. They did try and they did look and he does not want to give them the impression that they settled. They most certainly did not settle. This was not available when they first started the search and did become available. John's clients purchased the property during that period of time and it became available. As to the safety from the airport, he tried to find statistics on accidents adjacent to an airport and all he could find were statistics concerning the approach and the take-off. He was not able to find any statistics discussing properties to the left or to the right of the airport as this is. This is about a quarter mile to the right center of the runway. He was

unable to find any statistics that said how often there was a problem or how many accidents, what percentage of accidents were on the right or left of the runways. In fact, he was not able to find any accidents to the right or left. He found evidence of accidents in the approach and accidents in the take-off at each of the runways but he was not able to find anything to the left or to the right. Based on that they felt that it was a pretty safe area; certainly safer than putting a playground in the back of a shopping center along Gilbert Road or along Alma School Road as were their other options. They didn't feel that the thousands of cars that went by that playground every day was going to be anywhere near as safe as this location. He believes it has been considered and looked at and not idly dismissed. He thinks that they have done their homework and feel confident that they are not making a mistake and are not misjudging the situation.

COMMISSIONER CUNNINGHAM said to Staff that they talked about that it is not their responsibility to check out the pesticide or the effect of that on people in the area. They are just to decide the land use. Is that correct? Mr. Mayo said in a nutshell yes. To utilize the concerns of the pesticides over something that the City does not regulate and they are not authorized to regulate, they would run themselves into potential legal challenges if the decision was based on that. **COMMISSIONER CUNNINGHAM** asked so they are to rely on the State Licensing Board then to do their due diligence to determine that? They are relying on us to do it doing the zoning because they are not aware that we don't do that. In other words, it is not her job theory; it is their job. Mr. Mayo said it is clearly the State's job and the State is clearly aware that they are charged to do that study. The State controls their branch of the EPA which regulates pesticides; regulates which ones you can and can't use anywhere near humans. Bill has heard the representative of the State stating they know that we do not regulate it and they do not review for it. It is their responsibility and they take it the liability of approving and denying things in and around pesticides.

CHAIRMAN CASON said basically this is a Use Permit and if they do not feel that this is a proper use for this land then you would act accordingly.

VICE CHAIRMAN RIVERS said he was going to say the same thing. If you anticipate a possible danger in a land use, then it is their responsibility to deny that land use. He asked Mr. DiRuzza how far is the daycare center from the runway and he thinks he just answered that; a quarter mile length of a drag strip from the center of the runway. He lives next to an airport and he is aware of a crash to the side of a runway about ¼ of a mile away. It didn't happen very long ago. A plane ran out of gas and crashed into a neighborhood and took a chunk out of 2 different houses and several cars. No one was injured or hurt thank goodness. If the daycare center had been under that aircraft when it came down, the story would have been a little different. He thinks that in their exploring of their other options, he is not sure why they considered a property that backs up to a busy road in Gilbert because there are many, many other places that don't that may be more viable for them than that one was. He is wondering why his daycare center decided it didn't want to be in the church anymore? Mr. DiRuzza replied size for the most part and it is his understanding that the church themselves are planning to offer some classes and needed some of the time that Wee Blessing currently uses and the space that they are subletting from the church. He believes the prominent answer is size of the space that they are in and they had

basically outgrown the space they are in. **VICE CHAIRMAN RIVERS** stated he is also under the impression that he or they were looking to increase the size of their business since he said they now have a waiting list and as soon as they get into this new property they will be able to clear those people on the waiting list and have many, many more customers. Mr. DiRuzza said that is correct. **VICE CHAIRMAN RIVERS** said he had a question for Staff. He is wondering why this developer or why this gentleman was unaware of their last meeting? Mr. Mayo replied he didn't know. They had applicant contact information and property owner contact information and it was sent to both of those. The property owner is out of state and the applicant he believes was John Willis and he was also contacted that evening when Planning Commission started. **VICE CHAIRMAN RIVERS** said o.k. he was just curious. He said another thing he mentioned is about that they are all going to talk about pesticides. He mentioned that the City of Chandler does mosquito fogging but by design they do their mosquito fogging in the middle of the night so that there aren't too many people out breathing in the chemical, be it toxic or not toxic. When he was out at this building and he said an aircraft flew passed and it wasn't very loud. Was it a jet or was it a prop plane? Mr. DiRuzza said his suspicion is that it was a prop – a twin engine. **VICE CHAIRMAN RIVERS** said if they are ¼ mile from the end of a runway when a jet takes off, it will not be quiet inside or outside their building - he promises. His concern last meeting was that helicopters have been an issue around the airport for years. They moved their location a couple of different times. It is a student pilot situation and he is very concerned about the over flight of this business by student pilots in helicopters and he is surprised that he is not. Mr. DiRuzza said there are several businesses that are within close proximity to that airport. There are movie theatres at the end of the runway that will hold hundreds of people. As he said, they did some research. The Commissioner pointed out there was actually a close call which he was unaware of. He pointed out there was an accident at one time. He search NTBS's site. He searched several sites and he was unable to find any and they just believe that the regulations and municipalities and government agencies do a good job of protecting the people including a business that is 1250 feet to the left of the runway. **VICE CHAIRMAN RIVERS** said the government entity does a good job with their regulations in protecting us. He also thinks they take into account that there is some common sense being used by everyone. In his instance, he doesn't live next to the Chandler Airport, he lives next to Stellar Airpark which is in Chandler and everybody did everything that they needed to be doing with regards to the 2 crashes. Everybody is doing their job yet these things do still happen and it's an inherited thing when you move into an area next to an airport that things might happen and again he thinks there has to be better locations for this project. Other than by a major road in Gilbert or wherever the 2nd location was and they latched on to the 3rd one here. He thinks a little more time looking for something that would be a really, really good fit for this project rather than 'it'll work'. Mr. DiRuzza replied that with all due respect, this was not a 'yah' it will do. This was a location that was very centrally located in reference to all of their clientele. It was very convenient for their clientele and the building fit perfectly size wise. The ingress and egress was safe and comfortable for the parents bringing and picking up their children. It is a newer, safer clean area and a find environment for the children to be taught in. They weren't settling. They believed that it was a good fit for the business as did his clients.

CHAIRMAN CASON asked if there was anyone else in the audience that wanted to speak. There were so he called them forward to speak.

PHIL JAVIS, WITH WEE BLESSINGS PRESCHOOL, 1563 W. MUSKET WAY, CHANDLER, stated he wanted to answer some of Commissioner Rivers' questions about the airport. He did talk to the Airport Supervisor just the other day. Out of Chandler Airport there are 5 to 700 planes going in and out of there per day. There are 3 schools that do fly in and out and provide instruction out at that airport. In the last 5 years there has been one incident, one crash where it was off to the side of the runway not by $\frac{1}{4}$ of a mile and not into any houses and actually to-date there has never been an accident in Chandler Airpark into a house or building at all. They did some measurements. They are 1800 feet from the nearest runway. There is another preschool that is very similar to them with just as many kids that actually is closer to the helicopter heliport on a regular basis. He goes to Wal-Mart every day. There are hundreds of planes that go over Wal-Mart where there are a thousand people at any given moment. Chuck is right. They have been exploring multiple locations and he can't find something that is big enough that has a place for a play area that he can purchase or even rent. They like this place simply because it is brand new. It is centrally located to where they are at for now without moving 10 miles away and having to try and retain his 100 students as it is. That is why they chose this location.

MS. SHELLY MACCOSHAM, 2748 E. HORSESHOE PLACE, said she is a client of Wee Blessings. Her kids go to that school. She is also a professional pilot as well as her husband. She flies for Alaska Airlines, he flies for US Airways. She has flight instructed as well as her husband. They have worked for regional. She has been flying for 20 years and her husband has been flying for 25 years. They have no qualms about keeping their kids at this school in this location. As Phil stated, the likelihood of something like that happening is all but nil. It does happen – but it can happen just as easily in a parking lot or whatever. If you understand the aviation realm and how accidents happen with the take-off and landings and stuff, you will understand a little bit more about aviation safety and accident investigation which is also her major. She has a major in aeronautical science and her minor is in aviation safety accident investigation. She has done some accident investigation herself as part of her degree. She doesn't know what else to say other than she fully supports them and their location. She has no problem putting her children here. She doesn't think that it is a non-common sense decision especially considering that there are 3 other preschools within the same distance surrounding the airport. Her other daughter goes to Athlos Academy straight across the runway. When you fly upwind and go around in the traffic pattern, you are in a 1000 feet AGL. Anything can happen at that point in time, anything can happen on take-off and landing as well. Any of those schools, any of the theaters, anything -it doesn't matter if it is $\frac{1}{2}$ mile or a mile it is still within the vicinity. That is her point. The likelihood of it happening is just so minute it is not even registering in her mind that this is even an issue. She flies every day; that is her livelihood. So she doesn't know if she is used to it or if she understands it better. She is happy to answer any questions they might have about it. She is here to support them.

VICE CHAIRMAN RIVERS stated he understands aviation not nearly as well as she does. He asked her if it bothers her with the idea of having her children's playground from time to time directly downwind from pesticide? Ms. MacCosham replied as far as the pesticides are concerned, she would need more information. How often is this person spraying? Are they spraying every day? Are they spraying during preschool hours? Are they spraying twice a day? **VICE CHAIRMAN RIVERS** said if memory serves him the gentleman that was here at the last meeting said it is a daily situation for spraying the pesticide and he actually has a machine that dispenses the pesticide in his barn and next to his barn. Ms. MacCosham asked him at what hours? **VICE CHAIRMAN RIVERS** replied he didn't remember that but maybe somebody else does. Mr. Mayo said if he remembers right the gentleman said it was on a 3 or 4 hour frequency. It's just a timer with a misting system hooked up around the perimeter of it. Ms. MacCosham said it's not that she doesn't care about her children and she would resent the fact if that was what was being implied. She thinks too many times we're getting worked up about 2 little things when there are bigger safety issues out there that they need to be worrying about. She can't imagine that Phil and Debbie would ever put her child or any other child in jeopardy. They have children of their own. If this is not something that they felt was good for their health and that it was a safety issue, they would not be here tonight. **VICE CHAIRMAN RIVERS** said he didn't mean to imply anything about her parenting skills or anything like that. He was just asking the question. Ms. MacCosham said no offense taken.

CHAIRMAN CASON closed the floor and invited further discussion at the dais.

CHAIRMAN CASON said he could certainly sympathize with his colleagues concern about the safety of the children for both circumstances; the spraying of insecticide and certainly the proximity of the airport. However, as far as the pesticides are concerned, he does believe that the responsibility of maintaining the safety of the students rests with the State. He thinks that if the State is not aware of how to manage pesticides in ranchette or ranch areas adjacent to other locations, then he doesn't know who else would be or who else they could depend on to do that. They have to look to them to manage that. If in fact they do find circumstances to be detrimental to the children at that school, then they just won't issue a permit and this will all become moot. In so far as the concerns about being close to the airport, although any type of action that involves children has a tendency to heighten our awareness about what they could have prevented, he would make the argument that children are the same thing as adults. If the plane were to crash in the other direction and run into one of the schools on the north end of the property that happens to be filled with 250 students during the day, it wouldn't be any less of a crisis than it would be if they landed with the children. He thinks you cannot affect the commerce of a particular business using odds that are basically anywhere you look would be so astronomical, as to being more selective on this particular use than they would be of any other use. Once again he does think keeping children safe from pesticides and keeping them safe from any type of accident is paramount. He just doesn't know that the circumstances surrounding this particular location in relation to all of the other locations that may be around it warrant the holding back of this particular type of commerce at this location. As he did last time, he will be supporting this and of course the motion, whichever way it will go.

COMMISSIONER VEITCH said he expressed it well with respect to other adjacent uses which they have mentioned a couple of times with multi-plex, which is off of the approach pattern from the northeast end of the runway. He entertained a motion for approval.

MOVED BY COMMISSIONER VEITCH to approve ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY subject to conditions recommended by Staff, seconded by **COMMISSIONER BARON**.

VICE CHAIRMAN RIVERS stated as he said earlier he lives under the downwind leg of an airport and he is accustomed to the sounds of aircraft. He doesn't feel it is necessary to wait for the FAA to tell them that this location will simply be noisy or very noisy. While a daycare may be loud sometimes they do need their quiet times like nap time and this place will be either noisy or very noisy. Helicopters flying directly over this daycare bothered me for reasons other than they are simply being loud. Helicopters are not the same as fixed wing aircraft. When the engine fails it doesn't glide, it falls. He would have the same concerns about the student pilots in helicopters flying over any business not just the daycare. The landowner next time was here last time explaining to them that he uses chemicals for pest control and fertilization. He has a machine that pumps out aerosol fly killer for his horses in his barn. It absolutely is his right to do this on his property. He does not understand the benefit of providing children an outdoor play area directly downwind from a pesticide dispensing machine and whether or not the pesticides or herbicides are toxic to humans, he is not sure why they want to subject children to such an environment. It is their job to come up with an opinion as to whether this is a good use of this land. He thinks it is not and therefore, once again, he will be opposing this motion.

COMMISSIONER CUNNINGHAM said she agrees with the Vice Chairman. She does not know that they should approve something with chemicals involved. That is her biggest issue. There are studies going on constantly regarding even Raid which was mentioned at the last meeting that is was as harmless as Raid. Well, Raid actually has some heavy allergens in them which are causing major asthma issues for certain types of people who have lung issue or who may already have asthmatic situations. When we talk about there are other things in the area that are just as dense, yes there are. There is a movie theater, there are other schools but they are talking about adults in most cases who have the choice of going there or not going there. When they are talking about a daycare, the children go where there parents take them and the parents obviously are counting on the authorities to decide what a good situation is and what is not. Therefore, she will be opposing this because should something in the future occur and should it be decided that this pesticide has to stop and therefore the private property owner adjacent to the property can no longer have use of his private property. These are all would of, could of, should of's but in fact they are a reality for many people in our society today that they have had to face. She will be opposing this – this is not a good use of this particular piece of property.

COMMISSIONER DONALDSON stated he has reasonable confidence that the State will be responsible if this does go through to handle the pesticide issue. Like Commissioner Cunningham he hopes that the current resident is not permitted from what he has been able to do and needs to do in order to preserve and maintain his property. He does have reasonable

confidence that they will handle that. What he has in from of him are two things. One, he sees that Council has approved ANO-2 designation for this property which is more restrictive than ANO-1 the way he understands it, which means that based on precedent, complaint and everything that goes on and around an airport, he believe Council has shown that there needs to be more restricted uses. It does not allow educational facilities. That has been presented. He also believes that being on a Commission and previous committees, that the committee created Airpark Area Plan Policy 5.2 had the intention of prohibiting of noise sensitive institutions such as daycare facilities, schools and churches within and arrival and departure flight tracks, touch and go patterns and within the 55 dnl noise contour. It would be a disservice to that Committee who did that and who created this policy. Based on those issues, he will be voting no on this issue.

COMMISSIONER PRIDEMORE said from his point of view he hasn't heard anything tonight that has changed his opinion of this request. The proximity to the airport does not bother him as some of his fellow Commissioners. He understands all of the arguments. In all honesty, if this use was proposed on the eastern side or in a different location on this same piece of property, he probably wouldn't have an issue with it. But with the location that is in front of them at the northwest corner directly adjacent to the County land where they know the chemicals are being used, he just can't support it. Literally, moving it a few hundred feet one way to the east or to the southeast, he would probably be fine with it. The way it has been presented here he just can't support it.

CHAIRMAN CASON called for the vote by raising hands so they don't have the clarification issues they had last time.

The vote was for 3 in favor of approval and 4 opposed. The matter failed so he called for another motion.

VICE CHAIRMAN RIVERS moved to recommend denial of ZUP11-0021 WEE BLESSINGS PRESCHOOL & ACADEMY, seconded by **COMMISSIONER CUNNINGHAM**. The motion was approved 4 to 3. It will go before the City Council as a denial of the application.

CHAIRMAN CASON thanked everyone for their comments and appreciated them for coming out. This will go before City Council October 27, 2011. He said they are just a recommending body. It is up to the City Council to make the final decision.

6. DIRECTOR'S REPORT

Mr. Mayo said there was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON announced that the next regular meeting is October 19, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona. He also wished his daughter a happy birthday.

8. ADJOURNMENT
The meeting was adjourned at 6:36 p.m.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary