

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

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

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

Also present:

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

4. APPROVAL OF MINUTES  
**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER VEITCH** to approve the minutes of the September 7, 2011 Planning Commission Hearing. The motion passed 7-0.

**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER VEITCH** to approve the minutes of the October 5, 2011 Planning Commission Hearing. The motion passed 7-0.

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

A. DVR11-0009 TCF BANK

**Approved.**

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former MF-3 (High-Density Residential District) and C-3 (Regional Commercial District) zoning. The PAD zoning is for a bank and a commercial building on approximately 2 acres located at the southwest corner of Arizona Avenue and Willis Road.

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

B. PDP11-0009/PPT11-0004 AMBERWOOD HEIGHTS

**Approved.**

Request Preliminary Development Plan and Preliminary Plat approval for an 83 lot, single-family residential subdivision on approximately 27.4 acres. The subject site is located south and east of the southeast corner of Chandler Heights and Gilbert roads.

1. Development shall be in substantial conformance with Exhibit 8, Development Booklet, entitled "The Residences at Belmonte", and kept on file in the City of Chandler Planning Division, in File No. PDP11-0009, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3601 in case DVR04-0009 REID'S RANCH, LANDING AT REID'S RANCH, AND AMBERWOOD HEIGHTS, except as modified by condition herein.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
4. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
5. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
6. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
7. The same elevation shall not be built side-by-side or directly across the street from one another.
8. The applicant shall work with Staff to provide additional terracing along the Chandler Heights Road frontage.
9. The applicant shall provide trees consistent to development standards along the landscape tract adjacent to Gilbert Road.

10. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Amberwood Heights development shall use treated effluent to maintain open space, common areas, and landscape tracts.

11. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the home builder/lot developer, and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

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

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

E. ZUP10-0037 UNITED METHODIST CHURCH WIRELESS FACILITY

**Approved to continue to the November 16, 2011 Planning Commission Hearing.**

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

F. ZUP11-0009 EVA'S MI AMORE

**Approved.**

Request Use Permit approval to operate a wedding planning and bridal service office in a converted residence at 598 W. Chandler Boulevard.

1. The Use Permit shall be granted for a period of one (1) year, at which time re-application shall be required. The one-year time period shall begin from the date of City Council approval.
2. Substantial expansion or modification beyond the approved exhibits (Floor Plan, Narrative) shall void the Use Permit and require a new Use Permit application and approval.
3. There shall be no tandem parking in the designated parking spaces at the rear of the property.
4. Parking along Hartford Street is not permitted for either employees or clients.
5. Parking shall not be permitted in the front yard other than on the existing concrete driveway.
6. The site shall be maintained in a clean and orderly manner.
7. The site shall be fully landscaped, including removal of weeds and installation of gravel to cover bare dirt, prior to occupancy by the subject business.

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

ACTION:

C. LUP11-0019 NATE'S THIRD BASE

**Approved.**

Request Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption indoors and within an outdoor patio area at an existing restaurant, and request approval for live music indoors. The property is located at 1949 W. Ray Road, Suite 11, within the Boardwalk at Andersen Springs at the southeast corner of Ray and Dobson Roads.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. The Use Permit is granted for a Series 6 Bar License only, and any change of licenses shall require re-application and new Use Permit approval.
3. The Use Permit is non-transferable to other restaurant locations.

4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. There shall be no live entertainment outdoors including acoustic groups, bands, and the like.
7. **Indoor music is limited to an acoustic group and karaoke. Any change in entertainment including pool tables, arcade games, live music, and the like shall require re-application and new Use Permit approval.**
8. **Noise shall be controlled so as to not cause a nuisance for nearby residences and businesses.**

**JODIE NOVAK, SENIOR CITY PLANNER**, stated this is a Liquor Use Permit case LUP11-0019. Nate's Third Base is a restaurant that's currently in operation existing at 1949 W. Ray Road, in Suite 11. This is at the Boardwalk at Anderson Springs which is the southeast corner of Ray Road and Dobson Road. The application before them is a request to change their liquor license. Currently, they have a liquor use permit that was for a Series 12 Restaurant License. Under that restaurant license issued by the State of Arizona they do have to maintain 40% of their gross revenue for food sales. They did not meet that and so they had to purchase a Series 6 Bar License which triggered the need for a new liquor use permit. Also, as a part of the request for the Series 6 they are asking to have live entertainment. They previously had approval to do live entertainment with their Series 12 Liquor Use Permit awhile back, a year or two ago in 2009, but they never commenced that music so they just wrapped it up into this new request. The restaurant is still going to maintain a restaurant with the full menu even though it has a bar license with it. They also will have the live entertainment indoors only; they are not requesting live entertainment to be on the patio. The application this evening has standard zoning conditions that relate to maintaining the property and there are some conditions that are regarding the music as proposed. The item is action this evening due to some concerns to condition no. 7 in regards to how often in the frequency of the request of the indoor music which also includes some karaoke. The stipulation currently indicates that they would be limited to their indoor music by an acoustic group and the karaoke no more than once a week for each of them. That actually is a little more liberal than what the applicant was requesting and in their narrative letter they said that they would only have the acoustic band once or twice a month so in drafting that stipulation they were a little more liberal and giving them a lot more time and maybe doing it every week if they wanted to which is 4 times a month but she understands there is some concern about why limit it, why even put a restriction on how often they would have the acoustic band and how often they would have the karaoke. They are not opposed to taking off a component of that in the first sentence and not giving them a time limit on how many days during the week that they could do that. The applicant is the one that is requesting that they wanted the live entertainment and that they would do it infrequently maybe a couple of times a month. They have a friend who has a band and it was just something that came up thinking maybe this would be a good opportunity for them to come over to their establishment and play there a few times a month. They are not asking for a rock band or electric guitars or bass or anything that sometimes with businesses might be deemed disruptive to homeowners that may live in the area but this is more of a low key acoustic group. The karaoke, they just do it a few times during the month. It is not that they are looking to have it all of the time it is really what is

the base of their clients and it doesn't appear that it is something that happens like every single week on a regular basis. If it did, they wouldn't be opposed to that from a land use impact standpoint because it is all done indoors anyways. What is being requested is coming from the applicant. They don't ask the applicant to limit it in anyway because it is all being done indoors and they don't think there are any negative impacts to anything around there - other businesses or any residential. There has been no opposition or concerns from anybody in the area who has been noticed or no one came to the neighborhood meeting either on October 5. With that being said, she said she will answer any questions that they may have but the point of this action was to specifically to address no. 7.

**CHAIRMAN CASON** he said he will look for comments from fellow Commissioners. Item 7 where the indoor music is limited, since it is indoor music, he agrees perhaps there is some question as to whether it should be limited at all. The fact that the music no matter how many times it happens a week, no matter how wild it gets, is covered under the condition no. 8 - 'noise shall be controlled so as not to cause a nuisance for nearby residents'. He doesn't know that it is necessarily their job to go ahead and put limits on the commerce of the company or the person that is running the establishment. If they can make more money by having karaoke 5 times a week, then that should certainly be their prevue to do that understanding that they still have to maintain all of the stipulations that are in there. What he would like to suggest to his colleagues up there is to strike the first sentence of item 7 understanding indoor music is covered by stipulation no. 6 such that there is no live entertainment outdoors including acoustic bands and the like. He doesn't know whether karaoke can be mixed with that so they can't have karaoke outside. The idea being is that they have identified that there is no music-live entertainment outdoors with stipulation no. 6 and any noise whether it happens to be indoors or outdoors, people laughing and having a good time and otherwise being entertained with their own company on that patios, their noise has to be controlled as well. He thinks they can eliminate the first line. We leave the rest of the second sentence in there totally and see if he can get anybody to agree with him on that.

**COMMISSIONER CUNNINGHAM** stated she agrees with him that it shouldn't be limited to just once a week. She also thinks that they should add to item 8 'not cause a nuisance for nearby residences or businesses. There are several businesses in this plaza and there is a restaurant directly adjacent to that or there was. She has not been there lately so she honestly doesn't know. If it is not a residence, do they not care that they are disturbed by it. She thinks they do.

**CHAIRMAN CASON** said those were good points. They are considered the same - right? Residence is just a term they use. Anybody adjacent or near it would be considered a residence or do they have to define them as a business? Ms. Novak, Senior City Planner, said when they use the term residences they mean a residence of someone's place or home whether it is the apartment or condominium or single-family. It is somebody's house because usually in the past when they have had issues for noise it is people complaining that they could hear into their home. Businesses on occasion they have done that. If there has been an adjacent business that had concerns. Usually they haven't stipulated that because by the time this business per say would be 'having band or karaoke' the other businesses around it are closed. They haven't had

any concerns or anything from these businesses that are adjacent to it that she is aware of. She can't picture a restaurant that is next to this one off the top of her head. She does know that in the vicinity there is a yoga studio but they are more day time and to the early evening, there is more of a holistic store and stuff like that which is around there. There are other restaurants further to the east in a shopping center as well. They are really not next to it per say. If they wanted to add businesses, that is fine too. It doesn't have any other impact other than if a business wanted to complain about music being loud if they happened to be open until 2 a.m. as well.

**CHAIRMAN CASON** said let's see what everybody else has to say. He said he particularly doesn't have a problem if they have 'businesses' in there.

**VICE CHAIRMAN RIVERS** said he can be on board with the striking of sentence number one and stipulation no. 7 as well. He was curious to ask on item D which they will get to shortly, there is a stipulation about the establishments providing contact information for a responsible person, owner or manager, to neighbors that allow music complaints to be resolved quickly and directly. Is there a possibility of adding that to this or do they think stipulation 8 covers that as well. Ms. Novak said the reason D has that is because there is a different history with that particular parcel in the proximity of people's backyards and single-family homes that immediately abut that particular building. There are no homes in any close proximity backing up to or adjacent to this particular site. When they look at projects on a case by case basis, one may have a different condition than another because of the circumstances and the impact. Item D has had neighborhood concerns in the past with a lot of bar establishments that happen to be there where this particular one hasn't. They don't feel it is pertinent to have to have that type of condition to this because there are not on-going constant neighbors that are complaining that it is loud and they could hear bands and music coming through to their house and they called the bar and nobody listens and those kinds of things. That is usually when they want to put a stipulation on a particular site or if the site has had a history of neighbors being involved in requesting that kind of contact so they don't feel it is necessary for this particular application. **VICE CHAIRMAN RIVERS** said that makes total sense to him and he did go out and visit this establishment today and he would have no problem with not limiting the amount of music or the nights of music they could have there. He thinks as they said, it is separated quite well from the areas around them and he is on board with his suggestion.

**COMMISSIONER VEITCH** said he is also on board with eliminating the time restrictions with respect to the karaoke and the acoustic music, however, it might make sense to leave the first part of the first sentence of stipulation 7 in - the one that says that the music is limited to acoustical groups and karaoke so as to avoid the kinds of musical performances that might to begin to create a problem with music violating stipulation no. 8.

**CHAIRMAN CASON** said so what he is saying is that even if you had an amplified group regardless of the loudness or their volume that they couldn't have that. It would have to be an acoustic group not an amplified group. Karaoke if you look at it is amplified. **COMMISSIONER VEITCH** stated that it would say that and it would limit it to the kinds of

musical activity consistent with what the applicant has requested. **CHAIRMAN CASON** said that is a fair point. He thinks all of this is about that the applicant requested it and basically they like when the applicant requests stuff like this because they know that they will be better neighbors ultimately because of it. He just hates to see something where they have gone in and actually put something in paper that limits their commerce in a way that he doesn't know is necessarily their prevue.

**COMMISSIONER DONALDSON** stated that from an acoustic group that is their goal and if it works for them multiple times a week they wouldn't limit that if they had the acoustic group and karaoke. That does limit the thump, thump, thump that might become a problem in the future so he is on board with that.

**CHAIRMAN CASON** said if he understands everyone correctly than these are the changes that they would like to make.

*Indoor music is limited to an acoustic group and karaoke.*

On Item 8 they will add '*residences and businesses.*'

He said he thinks everybody is on board for that one.

**VICE CHAIRMAN RIVERS** asked Staff to please read the new stipulations into the record.

Ms. Novak read the new stipulations as follows:

Condition No. 7 shall read as amended:

**Indoor music is limited to an acoustic group and karaoke. Any change in entertainment including pool tables, arcade games, live music, and the like shall require re-application and new Use Permit approval.**

Condition No. 8:

**Noise shall be controlled so as to not cause a nuisance for nearby residences and businesses.**

**CHAIRMAN CASON** asked if there was anybody in the audience that would like to speak on this matter. Seeing none he entertained a motion.

**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER CUNNINGHAM** to approve LUP11-0019 NATE'S THIRD BASE with changes as noted. The motion passed 7-0.

D. LUP11-0020 SAGE BAR & VIETNAMESE CUISINE

**Approved.**

Request Use Permit approval to sell and serve all spirituous liquor within a restaurant and bar with a new outdoor patio (Series 6 Bar License). The site is located at 4929 W. Chandler Boulevard, Suite 12, within the shopping center at the southeast corner of Chandler Boulevard and Rural Road.

1. The Use Permit granted is for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
5. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
6. The outdoor patio shall be maintained in a clean and orderly manner.
7. Music shall be controlled so as to not unreasonably disturb area residences.
8. The establishment shall provide contact information for a responsible person (bar owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.
9. The proposed new entry door along the building's eastern wall shall be eliminated.
10. The proposed new garage door along the building's eastern wall shall be eliminated.
11. Karaoke shall not occur when the garage doors are open or when any other door is propped open.

**MR. BILL DERMODY, SENIOR CITY PLANNER**, stated the request before them is for Use Permit approval at Sage Bar & Vietnamese Cuisine, LUP11-0020 to sell and serve all spirituous liquor in conjunction with a Series 6 Liquor License which is a Bar License. It is located at 4929 W. Chandler Boulevard which is at the southeast corner of Rural Road and Chandler Boulevard in a small retail center.

As they can see, there are 3 buildings in a retail center; a Walgreen's, Baker Bros. Flooring on the east that tends to be closed at night, and then a multi-tenant retail building. The Sage Bar & Vietnamese Cuisine is taking up the eastern most suite of that which has been a restaurant or bar for the last 13 years or so.

The new Use Permit is required because of a number of changes they are requesting. Mr. Dermody showed the floor plan on the screen with the same orientation. The indoors is mostly the same as what was there before although they are changing where some of the tables are, eliminating a pool table from what was there and expanding the bar somewhat. However, the most significant changes to this are on the outside. They are adding an outdoor patio. There was

no patio before. What was handed out in the original packet has the patio on the north taking up a couple of parking spaces and then extending down the east side. Also, as they were talking about this, it is significant to note that there is a single-family neighborhood to the south and also to the east passed Baker Bros.

There is also proposed a number roll-up garage doors. They are most familiar to seeing that at San Tan Brewery across the street. It has created quite a vibrant atmosphere there with the indoor/outdoor during the nicer times of the year that people enjoy. Those garage doors that are proposed to be are 2 on the north side and 1 on the east side. The last significant change is that they are proposing to have an entry door on the east side of the building where there wasn't one before. He is sure the applicant will explain a little more about that especially because of the concept that they are bringing forward. They wish to have a bar and a restaurant cohabitate and to allow people to enter directly into the restaurant. They want this additional entry rather than taking them through the bar so they can go directly into the restaurant portion.

Staff does have some concerns with the request as presented namely with noise from this establishment affecting the neighborhood to the south. They especially have concerns not so much with the patio that is somewhat blocked by the building but more so with the new garage door that is proposed along the east side and the new entry door that is proposed along the east side. Responding to those concerns just today they have an updated floor plan that the applicant is sort of meeting us halfway on the Staff recommendation and if they aren't able to get their first choice, they wanted to present a somewhat modified plan for your approval and consideration. The modified plan is different in 2 main ways; the patio on the north is expanded somewhat by taking up one more parking space to the west and the rollup door along the east side is eliminated. If they lose a little bit of their outdoor atmosphere on the east, they want to make up for it on the north. However, the entry on the south remains. Staff has heard from one neighbor. Nobody attended the neighborhood meeting but they have heard from a neighbor to the south with noise concerns based on past history on this site from 2006 up to recent history. There was a different owner here and there were a number of problems including general vagrancy in the retention area to the south of the building, trash bottles being emptied at 2:00 a.m. in the morning at closing time into the dumpster which is located in that direction as well, plus just general noises – bar noise, people talking, yelling, TV is on and that sort of thing. Staff shares some of those concerns of how this could potentially impact the neighborhood to the south noting the past noise issues as well as the fact that they wish to have karaoke on a regular basis. They recommend approval but with some modifications especially mostly notably that the new entry on the east side be eliminated and as they have agreed, to eliminating the roll-up door on the east side so that all of the openings to this facility are on the north and that noise may be directed in that direction. They also recommend that while karaoke is going on the garage doors be closed and as they have seen in some other situations, a liaison program be set up to anyone who is interested where they don't have to go through the police if they have a noise issue. They can call a responsible person and get the volume turned down instantly. He said they will be hearing from the applicant as well as a neighbor in opposition. Staff does recommend approval with conditions. Mr. Dermody said he would be glad to answer any questions.

**VICE CHAIRMAN RIVERS** asked Mr. Dermody to put up the first proposal that he had just a minute ago. This actually shows two entry doors on the east side that are both proposed to be new or does one exist currently? Mr. Dermody said the entry door at the very corner of the restaurant is emergency exit only. It is not meant for general use. This is the proposed new entry which would be used for general use in and out.

**CHAIRMAN CASON** asked Mr. Dermody if he would share with them the concerns regarding the changing of the front of the unit. There certainly is with him - some clarification he needs to have is if they put a new entry where the applicant requests it, what does that do to the changing of the original PDP that was done out there and how does this change that? Mr. Dermody said he thinks he knows what he is getting at. The retail shops right here all of them which is about 7 suites or so have their entrances facing north right now - all of them do. People can park along the southeast if they would like but they have to walk all the way around the building and enter from the north as it is right now. With the proposed patio and new entry door this is what was originally proposed in their packet. The door that is there today would be replaced by an exit only door and garage rollup door so it would change its function a little bit. It would be more to service the patio rather than people coming in and out of the facility although you could still do that potentially. People would be more directed to this main entry over here which happens to be located in the split between the restaurant and the bar portions of the facility. With the main entrance over there they do anticipate that people would be more likely to park on the east side as opposed to today it would be more likely that they would park on the north side close to the entrance where they enter the facility. With more people on the east side with the door being opened and closed on a regular basis they feel that it could bring the noise closer to the neighborhood and compound any problems. Whether this bar and restaurant is run well or not, they do anticipate some noise not very far from the neighborhood and they are recommending that be contained and directed northward to the greatest extent possible. **CHAIRMAN CASON** said if this entire plat and this whole PDP were coming before them right now and the developer was planning the front door to be on the right then they would probably have to change the whole Baker Bros. consideration in order to move Baker Bros. back so that they could continue to force that noise further north. Right now as he understands what he is saying is that with the door being in the middle of the suite or the southern half of the middle of the suite that this traffic is now going to fill up back here. While there will be some people using the traffic out front this 'L' here behind Baker Bros. will probably become the primary parking for this establishment because of where the front door has changed. What they end up doing there is that all the parking noise associated with the cars coming and going and people standing out before they leave, instead of being in front of this piece of this development so that the noise stays out towards the street, it is now going to funnel all that noise back into this parking lot where it can't escape anywhere but south. Is that what they are looking at? Mr. Dermody said that is more likely to occur. Obviously, people could park in the south today if the entrance is moved they could still park in the north but it is more likely that people will park farther south on the facility if that is where the entrance is moved to. **CHAIRMAN CASON** said it looks like the way that the rest of this is built behind the center section that is all retention and behind the Walgreens is just basically a drive aisle; this original shopping center was kind of laid out in order to keep the noise away from this neighborhood. The parking that was behind the furniture store or carpet

store is basically for the help where their cars come in, they work 8 hours and then leave. They don't stand out in the parking lot and stuff like that - a very low traffic use. Which came first, the chicken or the egg, the houses or the development? Mr. Dermody said that is a good question but he doesn't recall. **CHAIRMAN CASON** said nevertheless he thinks it is important to note that the way that this center is designed is to keep the majority of the noise north away from the homes and what this door is asking them to do is now to shove some of that noise closer to the homes. That wasn't the intent of what was originally passed by that particular P&Z Commission and ultimately the City Council who had to weigh in on it. So they agree that they would probably be using that parking more on the side. Is there any other alternatives that might be available to have the main opening put on the northwest corner of the unit or something like that and try to encourage the applicant to do that. Did they have any discussions with the applicant about making that their new front door? Mr. Dermody replied that they have talked about having the main entrance on the north. It is possible to do. If they had it on the northwest, they would just have to take out a little bit of patio area. It may also be possible to provide for that in the northeast portion. However, even though it's possible they still prefer to have the main entry be on the east side for the reason of getting direct access to the restaurant portion of the business.

**COMMISSIONER DONALDSON** asked Mr. Dermody about the floor plan and the main entrance. If the stipulation is the way it is in their packet, wouldn't that cause the floor plan to change in the front. Are we chicken and the egg on that? Do they need to see the floor plan with the proposed north entrance. Mr. Dermody said is if the solution is to take out area from the patio that could be handled administratively. When they are taking away from the liquor service area that is being approved, that doesn't need new hearings. If they are adding to it, however it would have to come back.

**CHAIRMAN CASON** asked the applicant to come up and speak.

**BRIAN KROB, 6519 E. OAK STREET**, stated he is the architect on this project representing the owners. They wanted to look at the stipulations 9, 10 and 11 just to address those. The first point he wanted to make was actually in regards to no. 11 - kind of the amplified sound aspect of it. They have talked about how the layout of this restaurant is divided into 2 sections. There is the sit down area on the south and more of the bar/dining on the north.

The south area is actually completely enclosed. There is a hallway that connects it to allow the bar patrons to get into the restrooms but there are operable doors on the north end of it and the hallway is actually enclosed all the way to the ceiling with a vertical wall at this point. The owners intend to have any kind of amplified music back in the southern area so that if there is any karaoke it would be contained back here. They have this exit door which is just a solid hollow metal emergency door and these other doors would contain the sound to this area so as far as amplified sounds is concerned, it would all be contained to this lower area. Now as far as this north area kind of referring to as 9 and 10 as moving the garage door and the entry door, the sound that would be emanating from these areas is sort of normal bar conversation and your standard music not some really loud amplified music that you would have with the karaoke. The

argument is that there would be more sounds coming out than would be expected as you would with the karaoke. He wanted to clarify that. One of the items as far as the line of sight, this space between the Baker Bros. building and this building, there is a cul-de-sac just to the south with a series of neighbors. The owners have visited them and talked to them about what they are proposing, showed them this plan, and they are all in favor of it, they all appreciated that the owners would take time to reach out to them and show them what they intended to do. Those particular neighbors are the ones most affected by the line-of-sight. The rest of the neighborhood would if there was sound carrying it, would be reflected off of buildings; not more than the traffic noise that would be on Chandler Boulevard. So far as addressing the noise that was sort of an important aspect of getting to those particular neighbors.

This entry is important for the way that this restaurant is designed and also trying to maintain a lot of what already exists. The kitchen is still staying in the same place; the bar is simplifying but is in virtually the same place. The layout is utilizing what's already there to just maintain costs and everything else with opening this restaurant. The most important thing is opening up and out to these exterior areas and getting that interior/exterior type of space. So this garage door that is on the east as well as the ones on the north allow this 'L' shaped bar dining to be able to experience that inside/outside feel that is important to basically running a bar in this town. They feel that this garage door happens to be imperative to their business model and keeping that inside/outside feel and letting all the patrons be able to utilize all of the patio spaces on the north and on the east sides of the building.

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

**COMMISSIONER PRIDEMORE** asked if he could point on his plan where he thinks there is an east patio. Mr. Krob said basically it is kind of a breakout area. They had to keep a 4 foot clear walkway on this sidewalk so they are basically left with kind of a breakout area. It just kind of extends the room and they are able to do that because they basically removed a thirteen foot wide opening in the wall. It kind of continues out that extra 3 and a half feet. It is not a lot of space. Mr. Dermody said also of note, the state requires a barrier of some kind so if there is a garage door they have to have some sort of fence out there. **COMMISSIONER PRIDEMORE** said he hears what he is saying but he disagrees. He doesn't think that space will be used. He can understand the garage doors on the north side with the indoor/outdoor space with the proposed patio which looks like a very nice addition. That is a space that he would want to be in. If he is at those tables right there at your proposed east garage door, he just doesn't see it. They are going to be looking at a parking lot. He doesn't think that is going to be used the way he thinks it is going to be used personally.

**VICE CHAIRMAN RIVERS** asked if he could please put up the aerial shot of this center showing the houses to the south. He asked if he could show him on that map where the neighbors are that he talked to. Mr. Krob said these 3 here on the cul-de-sac. **VICE CHAIRMAN RIVERS** asked if he discussed with them the increased parking that is going to happen right behind their homes. Mr. Krob replied they mostly talked about the use of the space. They addressed the number of parking that they are taking out but that the center has the

adequate amount of parking so they are not increasing the amount of parking necessarily to the center but they didn't necessarily address where that parking was going to ultimately end up. **VICE CHAIRMAN RIVERS** said if he believes if they put this door on the east side then the people will definitely use the side parking and there isn't very much of it. He was there today and there might be 10 spaces. He is sure he is hoping for more than 10 folks. They will fill that south parking lot and it will be 10 or 20 yards from these people's homes and he is just wondering if he mentioned that to them at all. On the other drawing that he had before are they to consider this is what they are applying for now? Mr. Krob said this was the original application and they would still like to propose having this east garage door and this east entry if that is possible. That is what they are asking. They have come up with an alternative once they have had this conversation to basically make their case for what they are trying to do here and see if that would be plausible. They did sort of propose another alternative if that is what they needed to address the stipulations that were set forth. **VICE CHAIRMAN RIVERS** said he visited this place this morning and he was having a hard time figuring out from the drawing that he had at the time where the east side patio was going to be and what was the benefit of having a 3 foot wide patio that was going to be overlooking 5 or 6 parking places, which are probably going to have cars in them. He couldn't grasp why that was even considered.

**COMMISSIONER BARON** asked how wide the patio was? There are no dimensions there. Mr. Krob replied it is 3 foot nine. **COMMISSIONER BARON** asked how did they propose to control access to work. How would the gate open? Mr. Krob said just like the one on the northwest, it depends on the time of day. The standard lunch crowd would be controlled by the servers. **COMMISSIONER BARON** asked do the gates physically operate. Are they sliding or are they hinged? Mr. Krob said the gates aren't there it is just a controlled opening – just a 3-foot wide gap in the fence. It is just a controlled access as opposed to it being a gate because they didn't want to walk the 4-foot walkway with something swinging out into the walkway. They are just avoiding it and having an opening. **COMMISSIONER BARON** said he thinks they are o.k. on the distance there but if they were to approve this, he would double check his ADA passing space requirements. He thinks it requires 5 feet and a distance of less than 200. **COMMISSIONER BARON** said he just doesn't understand the plan to utilize that space. If 2 people are trying to carry trays passing in that space, they are going to be having some issues if there are other people standing there. Mr. Krob said it is sort of a kin to a Juliet balcony. It is not like you get a whole of room but you open the doors and you are able to get outside by sort of the fact that you have removed a 13-foot wide wall. It is just an extension of space and they are taking as much as they can possibly grab. They have worked with Bill to get the appropriate width of sidewalk. They have basically increased everything. They originally were at 3 foot six for all the walkways and they increased them to 4 foot all the way around just to make sure they were ADA. **COMMISSIONER BARON** asked if the parking blocks were existing. Mr. Krob said they do not exist but they would need them in order to maintain the width of the sidewalk so that the cars aren't overhanging the sidewalk at all. **COMMISSIONER BARON** asked what the depth of the parking stalls were right now. Mr. Krob replied they are 19 foot.

**COMMISSIONER DONALDSON** said he is struggling with the fact that the previous issue is with bar noises and some of the neighborhood concerns with previous businesses or whatever.

He is a little concerned that those came out of the south side of the building and this development was kind of designed to go out the north side of the building because of the neighborhoods to the east and also to the south. What they are proposing here carries their noise whether it's outside patrons or whatever to the southeast side of the building. He thinks that is kind of a recipe for continued concern or increasing the concerns and increasing issues that popped up before. He is trying to figure out how the old flow is changed to benefit by adding the east entrance. How is the old flow compared to the new flow and what kind of benefit is gained by having the east entrance by dragging their patrons and noise to the southeast? Mr. Krob said that is sort of the business model of this particular restaurant. Before the whole space was the bar/restaurant so that the doors were originally here and a pair of double doors. This is an existing door but it was always blocked off and was never used regularly but most patrons would come in through the top and they would sort of bleed through the space until you got back here. This was kind of a dead area and usually ended up being arcade games and there was a stage back there and things like that. So now they are re-activating the space and making this a sit down restaurant for the Vietnamese cuisine and this is more your standard bar American food type bar dining. The way this works is that as a lunchtime place they don't want people coming from the Intel plant to come here and eat lunch at a bar per say, but they want to have the opportunity that these people are addressing the fact that they are eating at a restaurant that is not considered a bar for lunch and going back to work and their bosses saying what were you doing over at Sage. So that is the point of this that now they are bringing everybody in to the middle and then they could either decide if they are going to the bar or if they are going here. That exit door is still a viable entry. You can get in that way. In his estimation most people as they perceive this building perceive it from Chandler Boulevard. They are driving passed and they see the new patio and the energy that is out there and they want to come in. They are going to park on the north because that is where they see the people and they are going to try and figure how to get in this space. That door is going to get utilized more often than not. This door will exist as an alternative to say once you have been here more than once you realize how the flow actually works with this being entry and now you can come in this way and utilize that sit down restaurant in a much different way than it was used before where the whole space was just one big bar.

**CHAIRMAN CASON** asked why can't he use the upper or the northwest corner of this suite as their main door? It is just a matter of preference of how the folks would want to run their business. Right? Mr. Krob said this would be the sort of idealized front door for that reason of kind of splitting the restaurant into 2 separate functions. Nothing is stopping them from entering through that door. It is still there, it is still accessible, it is just not as blatantly obvious because you are walking onto the patio first and then entering there and plus most people look for doors in the middle. They don't look for them off to the side so it seems like a side door but there is nothing stopping you. **CHAIRMAN CASON** said so by not having any access on the east side of the building is not a deal breaker for him then? He would just prefer to have that entry door on the right hand side. Mr. Krob said that would be ideal if they could actually operate the 2 businesses in that matter. **CHAIRMAN CASON** said so he takes it because he has a sit down restaurant and for their regular bar, he is presuming he has a hostess or host that would sit people. Mr. Krob said that is correct. In the lunch and dinner hour there would be a person stationed here that would be able to take you back and seat you in the restaurant. **CHAIRMAN**

**CASON** said so if somebody comes in through the north coming in the first time and not realizing there is a door on the side then they would walk in and not know where to go. Mr. Krob said yes they would have to basically interact with the bartender, servers in the bar. That is what they are trying to avoid ultimately is that you do have to walk all the way through the bar to get to the sit down restaurant. **CHAIRMAN CASON** said but then again if they could move the host or hostess up to this northwest corner then they would have the opportunity to bring people that want a sit down meal through the rest of the bar so they can see that there are TV's and comfortable people spending time there and stuff like that. It is not adverse to the business to have to come through the bar area. He said before that their sit down restaurant is going to be their karaoke spot? Mr. Krob said yes because of the hours. This is running from lunchtime 11:00 – 1:00 p.m. or 11:00 to 2:00 p.m. Dinnertime from 5:00 to 9:00 p.m. and after 9:00 p.m. it is basically kind of a closed down space and then it can be utilized by the bar as their karaoke area. That is not the main aspect of the business plan but it is just an opportunity to have an enclosed room and they can put everybody in there and they don't have to worry about the bleed of excess amplified music.

**COMMISSIONER PRIDEMORE** asked what are the sliding doors that separate the bar from the first down tables? Mr. Krob said they are actually reusing the aluminum store front that is here in this garage door and placing it there and then it should work out to be just one sliding glass door.

**VICE CHAIRMAN RIVERS** asked if it has been proposed or were the owners planning to use this patio as a smoking area? Mr. Krob said the north patio would be sort of a break out smoking area. It is a smoking area. **VICE CHAIRMAN RIVERS** asked Staff if it is o.k. for this to be a smoking area or is it missing something or too close to the front door. Mr. Dermody, Senior City Planner, replied that it looks like you could potentially have a smoking area out there on the patio as long as those barstools seat closer to the garage doors aren't used. He thinks you have to maintain 20 feet. Jodie Novak, Senior City Planner, said the business has to determine what is always going to be their non-smoking entrance for customers. Once they figure out what is their non-smoking entrance than you cannot have any tables where people are going to smoke within 20 feet of that non-smoking entrance area and then every other entrance exit would be available for the smokers to come in and out of. The State Smoke for Arizona agency is going to say you need to dedicate an area for the non-smokers to be able to come into that establishment as the primary entrance but you cannot have anybody smoking within 20 feet of that. So if you have a table within 10 feet than those tables have to have non-smoking signs put on them until you get 20 feet away. **VICE CHAIRMAN RIVERS** said so using that information if the patio is a smoking area, than the controlled access between the pillar on the northeast corner of the building couldn't be a non-smoking entrance. Ms. Novak said she is looking at the exhibit on the north where the proposed patio is and where the current entrance doors are which are in between the 2 new garage doors on the north side, then where the new garage doors are all of those tables that are north of it as part of the patio, anything within 20 feet could not be for smoking at all. But if that proposed patio that is square on the northeast corner, if that is 20 feet away that would be fine. The State ultimately sends their inspector to check all of it anyway but just off of the knowledge that she has the tables that would be immediately near it they couldn't

have anybody smoke there. **VICE CHAIRMAN RIVERS** said so the patio you could use as a smoking area just not the area that is currently out there between the pillars. Mr. Dermody said that is correct or at least close to correct. They could at least use part of that proposed patio if not all of it.

**COMMISSIONER CUNNINGHAM** asked on the 3.9 foot area on the east side which they proposed to have fenced, would there be a gate at the south end of that? Mr. Krob said correct. **COMMISSIONER CUNNINGHAM** asked if they were proposing to put any kind of vegetation within that area? Mr. Krob said this side no. This would be all concrete just an existing sidewalk. They just have these 2 new trees on the north end. **COMMISSIONER CUNNINGHAM** said so no planters? Mr. Krob said just because of the space they need to maintain the 4 feet and then that leaves us 3 foot nine - very tight.

**CHAIRMAN CASON** asked if he would consider moving their karaoke separation door to the north side of their new entry door and have no indoor music. In effect, you would have 2 entrances. You would have a dinner only entrance and then another entrance at the northwest corner which would mean that they would have to separate off at least as much as they can from a fire standpoint and all those types of issues. They would try to close off their regular bar from their restaurant for use of that door so that anybody that came in that door was going to the restaurant. They weren't going to the bar. If they did something like that, then he thinks they could accomplish a couple of things. One, they would have their door. The second thing is that they would with 12 tables and he might have six cars parked back there. They will have some overflow here in the parking that is on the north side from just the regular bar that people want to park there so they could see their car or whatever the case might be. He is just throwing this out there as possibly a solution. If they move that up there, then they have limited the amount of people that can go in there and it's kind of like the dinner only entrance. Having said that he asked Staff does that still leave them with a situation to where they have changed the original platting or the property by having that door just limited to a particular use inside the bar and not access to the entire establishment. Mr. Dermody replied that any door on the east side wasn't in the original PDP obviously as far as general use doors and emergency exits only on that other side so there would be a change there. Our concerns would remain if there were any doors on the east side that were used generally as far as noise escaping into the neighborhood.

**CHAIRMAN CASON** said he had a speaker card and called them up to speak.

**SHARNET PARKER, 4904 W. BUFFALO**, stated she literally lives right behind the bar. She showed where her house is at. She is the owner of Rising Stars Preschool. She is state licensed and also does have a Use Permit with City of Chandler so she has been here before. Her back door is literally facing their back door. She said she has spoken to their neighbors in this area but unfortunately they were not able to come to the meeting tonight nor was she able to speak with the owners on the 3<sup>rd</sup> as they were out of town. Her concern tonight is that this area right here will be used all night long and all through the day. She has been a resident at this home for 6 years now and when there have been bars, people do park back there at night. She does have 2 boys 12 and 15 years old and she does have children that are in her care Monday thru Friday

from 7:00 a.m. to 5:30 p.m. and once a night they have a parents' night out. Her children in her care are outside in the back yard. In previous situations they had patrons come to the back and smoke back there. They would be doing things that they are not supposed to be doing back there. They have called the police and they have spoken to the bar and asked them they need to control this because they have kids back there. They do have an elderly lady here all by herself. These people are renters but they are there by themselves. They are not home all of the time. These people aren't home all of the time but they are home at night. One of their concerns is when they did have a business right here, especially a bar, they would have people trying to hop over their fence many, many times. They have had to call the cops, they have caught them and they are just like they have to use the bathroom or they are drunk or whatever and they didn't know where they were. That is her concern as having children in her home and having a daycare in her home. About this entrance back here and only using it as a restaurant and having them park only right here that doesn't happen. They have people parking back here all the time and it is very noisy. From what she understands because she is friends with one of the other restaurants over here, this right here is for delivery and she sees delivery truck there every single day. They come in, park and back up where the trash can is. So it is noisy during the day but at night it gets even noisier. That is another concern that they have.

**CHAIRMAN CASON** so she is opposed to the entire application not just to the potential for noise with the doors on the east side. Ms. Parker said as a business owner she understands that we need businesses and she would love to see a business there. She would like her neighborhood to have some good restaurants. She would love to hop the fence and go over to a restaurant and have a nice dinner. Her problem is this entrance over here going in and out of there all of the time, people will go back here and they will smoke. There will be people back here parking all of the time. That is her concern. The owners not working with them as residents over here and making sure this doesn't happen. They have been promised over and over again that they would do something about it but never has. The noise bounces off from the 2-story house from this middle house into her house. It just bounces off of each other. This person (she showed on the map where) doesn't get affected as much as they do. There has been times when the people across the street have heard the noise too. They did not have karaoke they did have just music inside the bar and they still heard it inside of their house. So no, she is not opposed to the bar/restaurant, she is opposed to this area being used and the loud noise until 1, 2 and 3 in the morning. That is what she is opposed to.

**DALE ELLIS, 6506 S. TERRACE ROAD, TEMPE**, landlord of the property next door to Mrs. Parker. She said she was holding a postcard she got from the City. This is the first she has heard of it so she had no idea what the plan looked like in the restaurant, the impact, the doors, none of that. She is the first she heard. **CHAIRMAN CASON** asked if she was on the east side of Mrs. Parker's house? She said correct, they are the 2 closest. Ms. Ellis bought the property a year ago when the bar was vacant and was a nice quiet neighborhood but she was told that it hasn't always been that way. It was really loud when there was a bar back there. She was told when she bought it that there wasn't one. She is concerned with those issues. As an investor, it affects the market value of her property which she hopes to sell some time in the next year. The fact that there is a noisy bar – a restaurant closing at 9:00 p.m. is not that big of a deal but a bar

that late at night especially people with day jobs is. It will affect her marketability to either rent or sell the property. She wasn't contacted that there was going to be a hearing.

**CHAIRMAN CASON** asked if there was anybody else in the audience that wanted to speak on this matter. Seeing none he asked the applicant to come back up if he has any more comments. The applicant said he had none. He closed the floor for discussion and possible motion on the dais.

**COMMISSIONER VEITCH** said he would like to propose a fundamental question. He thinks he is hearing Staff saying that relocating the entrance to the suite from the north side to the east side would be a material change to the development plan for the shopping center. Mr. Dermody, Senior City Planner, said it could be viewed that way. **COMMISSIONER VEITCH** said if that is the case it seems to him that moving the entrance is off of the table unless the property owner pushes to file an application to amend the development plan. Mr. Dermody said the property owner did have to sign off on this application and there are a couple of processes for this. You could argue that they have to go through a Preliminary Development Plan process or you could take care of it through a Liquor Use Permit process. **COMMISSIONER VEITCH** is surprised that they could do this through a Liquor Use Permit process but his point is that the east side entrance is up for discussion. **CHAIRMAN CASON** said they have certainly discussed it. Actually he said they will see what plays out in their discussion.

**CHAIRMAN CASON** said he stated his concerns that people will just naturally start parking in that parking lot and it sounds as if there is already pressure to park in that parking lot anyway even if there isn't doors on the east side. According to their speaker because there were cars parked back there even when there was only a single front door, the main entry at the north end of the building, by placing the door down here they are going to create more pressure and more access down there. He swings both ways on this stuff usually when these things come up but it's obvious the way the development was laid out was built to separate stuff from the homeowners south. For them to go and ahead and try to push activity down in that area is kind of counter to what previous members and the Council had pushed for. Clearly, they may go before the City Council and they may say they are o.k. with that. Then you guys can move forward but he thinks that they have an opportunity to make a business here and they can do it without this entrance. He thinks the way that it is laid out, the way that they have the patio up north, he thinks by just leaving the window there you don't need to break sidewalk in here and you generally keep most of the patrons north. About the only time you would get bleed down in here is when the north parking lot is full and he thinks with the furniture store he thinks with all that parking available that people will want to be out there in front. They can see their car and those types of things. He would hope that he would be able to develop a way to come in from the north. Yes, they will have to maintain their smoking distances and stuff like that. He doesn't know that they would really give up an awful lot and quite frankly not everyone that sits outside wants to smoke so there will be a nice area where people can go and not necessarily be impacted that way. He supports Staff's recommendation to try to keep everything north and try to support the neighbors to try to keep all the traffic up north as well. The one year stipulation gives them an opportunity to come back and see if they have been good neighbors. If they have heard something or any of

the neighbors have heard anything that they have been responsive to their needs. They have seen in the past that these type of relationships are either very successful or they fail miserably. If they fail miserably and the ownership of the bar doesn't come forward then they find out they can't have any music at all. He thinks they are a new ownership and they need to kind of give them a chance to spread their wings and see if they are going to be good neighbors. The one year will help protect it as well.

**COMMISSIONER CUNNINGHAM** asked Staff regarding the patio that is taking up 3 parking spaces, is it possible for it to take up the western 3 parking spaces rather than the eastern 3? Mr. Dermody said that might be possible. They could certainly find a way to design that. **COMMISSIONER CUNNINGHAM** said her reasoning is: a) it would take the noise back to the north and away from the east side of the building. b) it would leave the northeast corner available for handicap parking and a main entrance which can then take them straight down to the restaurant rather than all the way through the bar. Is that a possibility? Mr. Dermody said that is a possibility. One other affect that they should note is that it would be a more circuitous route for pedestrians coming from the east to the other suites farther west. The way it is right now they sort of make it out and if you move the patio over, they would have to go in and back out and back in. They may wish to take that into account. **COMMISSIONER CUNNINGHAM** said however, it may cut down on some of the parking on the east side of the building for other tenants. Correct? Mr. Dermody said he would agree with her analysis. They would probably have less noise and parking along the east side if the patio was moved farther west.

**VICE CHAIRMAN RIVERS** said when he went to this place today his first impression was what in the world are they going to do with this long skinny little patio on the east side and what he is hearing now is that they would like to open a garage door and just expand the room a little bit with that. This means that there will be people out there on wonderful, lovely Arizona evenings sipping their beverages and talking on the east side of this building halfway down toward the neighbor homes. They probably will be parking on the east side of the building. There might be parking to the south. He thinks they would be increasing any existing parking problem with that. He couldn't support the original motion with the long skinny patio and the garage door east side. The second alternative of the two is better as long as there is no east side entry door because again that is only going to increase an already existing parking problem. The option offered by Commissioner Cunningham of moving the patio to the west side of this building is a good one. He thinks that moving the entrance to that corner in the handicapped parking to that corner would be good. He thinks the Great Clips or the haircut salon that's next door closing earlier in the evening, he doesn't think that will be very much of a conflict for them. He thinks that most people that park on the north side of this particular building park north and west rather than over in front of the Baker Bros. place and he thinks that is a good option. He said he was going to make a motion that they continue this item and ask that they come back with another alternative moving the patio to the west side and eliminating that entry door and just to see what reaction that gets. He said that is his motion.

**CHAIRMAN CASON** said he had a motion to continue this item presuming for time to allow the applicant to explore moving the patio to the west side of his suite and using up those parking spaces rather than the parking spaces in the east.

**MOVED BY VICE CHAIRMAN RIVERS,** seconded by **COMMISSIONER CUNNINGHAM.**

**CHAIRMAN CASON** said he had to go to the applicant and ask the applicant a question. He asked if he would rather explore the movement of the patio or have they already explored that. He doesn't want to send them down that path if they have already done it. The applicant responded stated they have looked at shifting it to that side. The way this particular space is laid out where the patio is now is kind of the signage - the main element architecturally of the building and they are playing off of that. He showed the alternative plan that they proposed after getting the stipulations back. This spot is the next planter so that would be the next logical place to push the patio over to which happens to be about 9 feet in front of the adjacent tenant. Their owners are friends with them but he still doesn't think as far as their lease is concerned that they would want their patio in front of their store. As Bill was describing, they would have to somehow work their way around this thing in a more circuitous manner if they were shifted over that way. Also, from the business model for this particular location this is the element it is in front of where the signage would be which is sort of the billboard to the street that they would be playing off of. They would have a festoon lighting sort of hung off of that. These 3 spaces are what they are referring to in this plan and then in actually looking at just calculating the numbers they could fit if they took that extra parking space they could actually get 4 losing all of this altogether and losing this door here and redoing the calculations for the parking, they have enough allowance to be able to take a 4<sup>th</sup> parking spot with the patio there. Yes, it does work better shifted to this side. They could line it up with the columns so that there is no overlap towards the east and use the building as a block just to the immediate south of it. They are talking about a table and a half that overhangs but at least they would block them to shift them over so they are not in line of sight down this space in between the buildings. **CHAIRMAN CASON** said on this particular idea did he share this with Staff? Mr. Krob, the applicant replied that he did before the meeting. It was recommended that they suggest it now that since the calculations work out that they could get 4 parking spaces basically converted into the patio for their review. **CHAIRMAN CASON** asked Staff what they thought about this. Mr. Dermody replied that it does appear according to their calculations that they could afford to take out another parking space for the patio and their position so far has been as long as it is on the north side of the building, they would support it. They would support an expanded patio as he is showing here.

**VICE CHAIRMAN RIVERS** said he actually likes the idea of moving this over so it doesn't overhang to the east. If they couldn't go all the way over to the other side, then at least this is a better alternative in his eyes than having a little piece of their patio over on the side. Would they consider redesigning and bringing them a new proposal in 2 or 3 weeks? Mr. Krob said in doing this it would also open up this patio here so the north entrance would now be a more prominent entrance to address that issue. As far coming back with this timing wise, can they make it to the

next City Council? **CHAIRMAN CASON** asked if this could be done administratively. Mr. Kevin Mayo, Planning Manager, said that was what he was going to suggest. When it comes to kind of figuring out the details hard lining it where the patio on the north is, if the entrance and patio is going to maintain on the north they would have done it administratively anyway so taking his direction they can tweak that. If not and it is desired that it comes back, they start running into a time constraint only because there is one Council hearing in December that is December 15 and our next Planning Commission on November 2 and the November 16 both track to December 15. There isn't a way to get from 11/2 to 11/17 in terms of fast track because if they know they have neighbors that either still continue to have concerns or an applicant that still wants to make a run at Option A but then has a modified Option B, Council won't be able to get the minutes in time. They won't be able to get all the information necessary to act on this case on the 17<sup>th</sup>. His recommendation would be if the changes can be fairly well conveyed verbally as a direction to Staff, they could work with that and then go forward to Council on the 17<sup>th</sup> acting on tonight. If they need to continue it the November 2 which is their next hearing, their memos are getting written this week. There is no need to rush it from the 11/2. It could go to 11/16 since both of those track to the same Council hearing. **CHAIRMAN CASON** asked if the presentation that the applicant has on the screen now is sufficient enough to convey where they are removing everything on the east side and just let the existing overhang be the right terminus of the patio and then bring it over and then they allow them to make their new entrance on the northwest corner. Mr. Mayo said for Staff that is crystal clear and it would benefit the applicant as well and they would be able to get an amended exhibit to them before this goes to Council on November 17.

**VICE CHAIRMAN RIVERS** stated that as far as he is concerned he is very happy with that and if they could move the patio over the way it is diagramed here and eliminate the overhang to the east side, it might even make it a little bit larger. As he said, they can have the front entrance there on the north side more prominent and if they can eliminate the new entry on the east side, then that would suffice for him.

**COMMISSIONER CUNNINGHAM** said just so that citizens who attended and have their concerns, this is a Use Permit for one year and they must provide them with a contact number. If they have any issues, they can call them so that is not a problem.

**VICE CHAIRMAN RIVERS** and **COMMISSIONER CUNNINGHAM** withdrew their motion to continue.

**CHAIRMAN CASON** looked for a new motion.

**MOVED BY VICE CHAIRMAN RIVERS**, seconded by **COMMISSIONER CUNNINGHAM**, to approve LUP11-0020 SAGE BAR & VIETNAMESE CUISINE with the elimination of the east entry door and the reorientation of the north patio to the west as demonstrated by the applicant and the elimination of the garage door on the east side.

**CHAIRMAN CASON** said those are already in the stipulations.

**COMMISSIONER VEITCH** said so the motion is in effect to recommend approval with the conditions as recommended by Staff - all of them which takes out the eastern changes and puts in the protections with respect to noise and calming and all of that. The only additional thing is to shift that patio some number of feet to the west. He was not sure if they need that stipulation. Mr. Dermody, Senior City Planner said an extra stipulation wouldn't hurt and he has suggested language for a new stipulation no. 12. He read it as follow:

**The applicant shall work with Staff to allow for a main entrance to be provided in the northwest portion of the suite and to move the patio westward a few feet.**

**COMMISSIONER PRIDEMORE** said he would personally prefer that it somehow be worded that it does not extend past the existing eastern wall of the building. Use that as a demarcation point. He would also add the way the existing building was designed the reality is that is where the signage is going to go. He understands why the applicant was looking for the eastern door. He thinks over time he could get the patrons trained so to speak to use that door but the reality is all of their presence is on the north and he thinks with literally posting a hostess or host at the northwest corner they could get people back there. Again, it is not ideal. The one thing he did want to point out is it does sound like the new owner of this property is more than willing to work with the neighbors understanding there was a history there and he commends them for that. Hopefully with the changes they are going to make here, that is not adversely affecting what they are looking to do but he thinks they will be a good neighbor because they have been proactive where in other cases they have seen it has been exactly the opposite. The neighbors have been the one that have had to take action and to him at least from what he has heard up to this point, the owner has actually stepped up ahead of time which he commends. With that he said he would support the changes that they are looking to make and with a change in language if they can.

Mr. Dermody said if he would like, he could take another shot at that language. Condition no. 12 would read:

**The applicant shall work with Staff to provide a main entrance in the northwest portion of the suite and to move the patio westward so as to be no further east than the building edge.**

**CHAIRMAN CASON** took a vote on the motion. The matter passed unanimously 7-0.

Mr. Dermody said this goes before City Council on November 17.

6. DIRECTOR'S REPORT  
TWO PRESENTATIONS AND QUESTIONS BY ASU PLANNING STUDENTS.

Mr. Kevin Mayo, Planning Manager said Chandler resident, Dean Brennan happens to be a Professor at ASU and he has made a request to allow one of his classrooms to come in and present one or two of their semester projects.

Dean Brennan said he is a resident of the north part of Chandler and an instructor at ASU and is currently teaching an urban planning class. He said he is always looking for projects for the students to work on during the semester. Earlier this year, he recalled that the Mayor requested that Staff take a look at possible ways to address some of the issues relative to the retail uses primarily in North Chandler where they have retail centers that are obsolete and there are a lot of vacant spaces. They need to be retrofitted and redeveloped or is vacant land that needs to be developed in some way. He contacted Jeff Kurtz, Planning Administrator and he thought it was a good idea. He said the students were working on 2 sites. One site is at Elliot and Arizona Avenue on the east side of Arizona Avenue. There are 2 parcels and those parcels are both vacant. The second parcel area they are looking at is the northwest corner of Arizona Avenue and Warner Road and this is probably one of their best known examples of poor retail development design in Chandler or maybe Arizona. There has been a lot of discussion about that site for a number of years and he is hoping that some of the ideas that they bring forward may bear fruit over time.

Professor Brennan said the total class is 25 students and they have 8 or 9 students working on this project. 7 of the students were there and 2 of the students would make the presentations. After the presentation they would like their feedback and comments.

John Bleaker and Brad Stewart, ASU students in the School of Geographical Science and Urban Planning gave their presentations to give recommendations and design concepts for the retrofitting of the retail centers in Chandler. They said they are focusing on 2 sites; the East Valley Mall and the east corners of Arizona Ave. and Elliot.

The Commissioners gave their feedback and thanked them for their terrific presentations.

7. CHAIRMAN'S ANNOUNCEMENTS  
CHAIRMAN CASON announced that the next regular meeting is November 2, 2011 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona. He also wished his daughter a happy birthday.

8. ADJOURNMENT  
The meeting was adjourned at 8:05 p.m.

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Michael Cason, Chairman

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Jeffrey A. Kurtz, Secretary