

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 7, 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 Cason.
3. The following Commissioners answered Roll Call:

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

Absent and excused:

Commissioner Stephen Veitch

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the November 16, 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 D, G, and I were pulled for action.

A. * APL11-0001/DVR10-0023/PPT10-0005 HAMILTON HEIGHTS

Approved to continue to the January 4, 2012 Planning Commission Hearing.

Request Area Plan Amendment of the Section 16 Area Plan from multi-family residential development to allow for single-family residential development, along with Rezoning from Planned Area Development for multi-family residential to Planned Area Development for single-family residential along with Preliminary Development Plan and Preliminary Plat approval for a 44 lot single-family residential subdivision on an approximate 11.5 acre site. The subject site is located west of the southwest corner of Arizona Avenue and Queen Creek Road. **(REQUEST CONTINUANCE TO THE JANUARY 4, 2012 PLANNING COMMISSION HEARING.)**

B. * DVR11-0017 ARIZONA-ELLIOT COMMERCE CENTER

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development (PAD) with Preliminary Development Plan (PDP) approval for a new commercial development that includes a fuel station. The 6.6-acre site is located at the southwest corner of Elliot Road and Arizona Avenue.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Arizona-Elliot Commerce Center", kept on file in the City of Chandler Planning Division, in File No. DVR11-0017, except as modified by condition herein.
2. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
5. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
6. Gasoline tank vent piping shall be screened from arterial streets and public view.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
8. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
9. The site shall be maintained in a clean and orderly manner.
10. The dissimilar land use buffer landscaping adjacent to residential properties shall be installed as part of the development's first phase.

11. The car wash's cloth shade structures shall be maintained in a manner similar to that at the time of installation.
12. Late hour business occupancies as defined by policy (Resolution No. 3801) shall be prohibited; any future request to allow a late hour business shall be subject to Use Permit approval by Council, upon recommendation by Planning Commission, in accordance with the considerations set forth in this policy.
- 13. The applicant shall work with Staff to create more direct pedestrian connections between the arterial streets and the convenience store.**
- 14. The applicant shall work with Staff to widen the drive aisle separations surrounding the fast-food pad buildings.**

C. * DVR11-0027 EXECUTIVE PROPERTY

Approved.

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three-year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning allows for RV storage, a fuel station, and retail uses on approximately 9 acres at the northwest corner of Germann and McQueen Roads.

Planning Commission and 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.

E. * DVR11-0033 NORTON'S CROSSING

Approved.

Request rezoning from Planned Area Development (PAD) for office, retail, and multi-family development to PAD, to eliminate a zoning condition requiring the development of the 8.3-acre commercial component as the first phase of development. The subject site is located at the northwest corner of Chandler Boulevard and Gilbert Road.

Staff, upon finding consistency with the General Plan and PAD zoning, recommends approval of eliminating condition no. 22 reading:

22. All retail shall be developed as part of phase one excluding the grocer pad and the bank pad.

F. * ZUP11-0001 GOLD TRUST REALTY

Approved.

Request Use Permit extension approval to allow for the continued use of a residential home as a commercial business. The subject site is located at 200 S. Dobson Road.

1. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Any expansion or modifications beyond the approved exhibits shall void the Use Permit.
3. The Use Permit is non-transferable to any other location.
4. Increases in on-site employment over that represented (3), or the expansion of the home to provide additional office space, shall require Use Permit amendment and approval by the City of Chandler.
5. The site shall be maintained in a clean and orderly manner.
6. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.

H. * ZUP11-0017 ANDERSEN SPRINGS WIRELESS FACILITY

Approved.

Request Use Permit approval to install a 60'-high monopalm wireless communication facility in the Andersen Fiesta shopping center at the northeast corner of Chandler Boulevard and Dobson Road.

1. Development shall be in substantial conformance with approved exhibits except as modified by condition herein. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The monopalm shall provide longer palm fronds than presented in the application materials so as to better camouflage the antennas.
3. **The monopalm "pineapple" shall be adjusted so as to be readily visible in a natural manner and not be shielded from street view by antennas.**

J. * MOTION TO CANCEL THE DECEMBER 21, 2011 PLANNING COMMISSION HEARING.

Approved.

CHAIRMAN CASON said he had a note regarding Item E - Norton's Crossing from Diane Woods. She is opposed to the apartments on that corner. Basically, the apartments are already approved. They are not approving that item to have apartments or not have apartments. That item was something completely different than this. There is nothing they can do to prevent the apartments being built on that corner.

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

ACTION:

D. DVR11-0029 PASTORINO DAIRY

Approved.

Request rezoning from Agricultural District (AG-1) to Planned Area Development with Preliminary Development Plan and Preliminary Plat approval for a 74 lot single-family residential subdivision on an approximate 23.8-acre site. The subject site is located east of the southeast corner of Lindsay and Ocotillo roads.

1. Development shall be in substantial conformance with Exhibit No. 7, Development Booklet, entitled "Pastorino Dairy", and kept on file in the City of Chandler Planning Division, in File No. DVR11-0029, except as modified by condition herein.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
9. 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.
10. 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.

11. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
12. The same elevation shall not be built side-by-side or directly across the street from one another.
13. All homes built on corner lots within the residential subdivision shall be single-story.
14. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
15. 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 Pastorino Dairy development shall use treated effluent to maintain open space, common areas, and landscape tracts.

16. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to 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 condition.

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

ERIK SWANSON, CITY PLANNER, asked the Chairman if he wanted him to do a full presentation. He said he understood that there were some concerns expressed. He didn't know if he wanted him to just address those.

CHAIRMAN CASON said what he prefers is to discuss the relationship of this property with the adjacent properties and he would also like to get an opinion as to why the City's concern is not with the water rights in between properties. Perhaps they might go to the City Attorney for that.

MR. SWANSON said he would give a real brief background on the property and then go into those issues. The subject site is located east of the southeast corner of Ocotillo and Lindsay roads. It currently serves as an operational dairy at this point in time. Through the process of annexation and going through the City Initial zoning, the request tonight is for a rezoning to Planned Area Development specifically for the subdivision along with Preliminary Development Plan approval for the subdivision layout and housing product. In addition to that there is a request for Preliminary Plat approval.

The overall subdivision is just shy of 24 acres and is proposed as a total of 74 single family residential homes. There is a homebuilder, Maracay Homes, and at this point in time they are proposing 6 housing products with the intent to submit 3 additional products which is something that they did discuss during the Study Session. Adjacent to the site's north of Ocotillo Road is the jurisdiction of the Town of Gilbert. There is a vacant corner at the intersection of Lindsay and Ocotillo and then a developed subdivision east of that. East of the subject site is a partial that is currently in the process of being annexed into the city and will be coming forward to Commission for subdivision. South is property in the County; west is vacant land that was zoned a number of years ago forcing the family residential for large lot single family homes.

His understanding is the concern tonight is not from the adjacent property owners and not in relation to the zoning request or the subdivision layout or housing product that is being proposed but happens to deal with historic water rights for the area. Historically, Staff has reviewed these things and do not get involved in these kind of civil issues which is what this is albeit if there is help that they can provide they certainly try to provide that. In this case, it was kind of a last minute thing that they became aware of. It was one of those things that while they would certainly like to see everybody come to some sort of quick resolution, it was something they did not get involved with simply because it really has no bearing on the request tonight. If in fact there is an issue with the water rights and what has been shown as their historic canal, if that requires modification for the site plan Staff has outlined in the memo the request for the applicant and Staff to work together to make those modifications. With that being said if the

City Attorney has anything additional to add to that he thinks really the issue at hand is more civil rather than zoning.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated that he didn't have much to add to that. Water rights' issues are essentially a property rights issue. It is a private matter between the landowners. It doesn't impact the zoning. Their concern is with whether or not the land should be rezoned for a use other than what had previously been used as. What they look to has nothing to do with whether or not there are private restrictions on the property. That is something that has to be addressed by the parties themselves.

CHAIRMAN CASON asked the applicant to come up.

BRENNAN RAY, 702 E. OSBORN, here on behalf of the applicant, Maracay Homes. He is happy to get into as much details of a presentation as they would like. They are certainly appreciative of Staff and their comments. They have worked hand in glove with them on a lot of issues to try to see if this development is a high quality development and they believe that it satisfies that standard that has been set. They are appreciative of their comments in the narrative-Kevin's presentation during the Study Session and Erik's comments now. They are consistent with the General Plan, the SECAP as well as satisfying the City's residential diversity standards and they are o.k. with the stipulations. Mr. Ray said they are requesting their approval in accordance with Staff's recommendation.

He said as it relates to water issues, if it is the Chairman's preference he would certainly be happy to address those now. What he would like to do if the Chairman is agreeable to it is hear what the neighbor has to say first and then respond accordingly to any comments that he may have.

CHAIRMAN CASON said what he would like to do is follow normal protocol where Mr. Ray makes a statement and then he (the neighbor) will come back and that will give him a chance to not only make his point but if Mr. Ray has any points that he wants to rebut then he can come back up afterwards and have the final word. He asked if that was o.k. with him?

MR. RAY said certainly that was acceptable. As Staff indicated, this issue is a dispute between the underlying landowners concerning water delivery to Pecan Trace. He showed an aerial on the screen so they could see exactly what properties they are talking about and where it is. The site they are talking about today is Pastorino Dairy and he showed where it is located. The property that has concerns about the water rights is Pecan Trace over to the west. He showed where Finisterra is; a development that was in the County but is in the process of being annexed into the city. The issue that has arisen concerns historical water delivery rights along the southern portion of Pastorino Dairy servicing Pecan Trace over here. Based on their understanding and from speaking with representatives of Pecan Trace they don't believe that they are going to express any opposition nor do they have any concerns as it relates to Maracay's rezoning request. In fact, they believe that what Maracay is proposing is going to be beneficial not only to remove the dairy off of the site but to provide additional construction as it relates to

some of the off-site improvements and some of the infrastructure that is to take place along Ocotillo Road. He believes the individual that is going to speak on behalf of Pecan Trace came to their September 29 neighborhood meeting and at that time they weren't aware of this issue. In fact he was kind of complimentary of Maracay's plans and what it is they were proposing. They certainly agree with Staff that this is a civil issue between underlying property owners. He knows that it does not have any bearing on Maracay's request. He knows that Maracay in spite of it being a civil matter between the property owner for property that Maracay does not own yet, they have reached out and there was a preliminary meeting with the owners of Pecan Trace on Monday and he thinks that Maracay is going to continue discussions as it relates to see if a solution can't be reached concerning this matter. He said he would be happy to answer any questions that they may have as it concerns this and he certainly reserves the right to respond to any comments there may be.

CHAIRMAN CASON asked if there were any questions for the applicant. There were none. He called up Michael Schrader to speak.

MICHAEL SCHRADER, 10810 N. TATUM BLVD., PHOENIX, said he is a manager for the Lindsay 15 LLC which is the owner of Pecan Trace. He said he was there to get on the record that they have this issue concerning water transportation across the Pastorino Dairy and they have recently been denied the right to bring water across a trench/ditch that has been used for decades. They feel that while they eventually plan to develop the property, they will hold it for some time and having water access to them is critical for that purpose. Their objection or attempt to get this on the record is based on the concept that while they do not think that the city is the resolution or the arbiter in this process, they are involved in a process that will move the land forward and in the near future they will produce a record plat. It is their request that the record plat reflect a permanent resolution to their water supply. At this point in time none of the drawings, none of the plans to their knowledge show any consideration for transporting water from the east across the Pastorino Dairy to their property. He also said that they do not object to Maracay's plans, their design, etc. They see it as an enhancement to the area but it is imperative that this water supply issue be resolved prior to the engineering work and final plat.

CHAIRMAN CASON asked if there were any questions of the speaker. There were none. He called up the applicant for further comment.

BRENNAN RAY stated he had just one brief comment in response to the comments made by Mr. Schrader. A preliminary plat is just that – a preliminary plat. It is a work in progress. It is not a final plat; it does not dictate what the final resolution of any outcome will be. As he indicated earlier, Maracay has met with Mr. Schrader and the other owner of Pecan Trace and is hopefully working towards a solution that will resolve the problems of which they wish to talk about tonight.

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

COMMISSIONER PRIDEMORE said this was probably more for Staff. He said it may be helpful if Staff could explain the process. He thinks the point is well taken that they are looking at a preliminary plat this evening and just kind of explain the process of how they get from that preliminary plat to a final plat so the people in the audience and the people watching understand the process that still has to occur.

ERIK SWANSON stated that is a good point to raise. For the preliminary plat generally what they like to do Staff wise is when they have a particular project that is a subdivision like in this case, they tend to like to have the subdivision layout and the pre-plat in tow together on the same agenda. If they separate them, the plat in of itself requires going through the Planning Commission process and also City Council. They try to marry those two just to make it generally smoother. In this case since it is going forward, the next step is this will go to City Council for review and ultimately whether or not it is approved or denied, they will vote to approve or deny this package. As part of that package, that plat will be there. While they are discussing the other issues and things during the Study Session and those modifications that are being made, if by chance the resolutions are made, we would seek to have those on that pre-plat as well. It just makes it look a little bit cleaner. If it is not, there is still that final plat process. The final plat in it of itself is going to take a number of months to get those things wrapped up. It goes through our civil department primarily. They review it to make sure it meets all of our standards, etc. Once that gets clean and everything looks good, Planning Staff then brings it forward for another round of approval as to go through Council for their ultimate approval. By no means does the current preliminary plat that is being shown represent what the final plat will be. Ideally, it will be very similar with minor modifications made. In this particular instance pertaining to the water rights, if there is an actual issue at hand and there is a private matter and they need to work with those, it will certainly reflect that in that file. This is by no means the last chance for this kind of review to come through.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said there will be another appearance after this matter goes to Council; the final plat approval will come back to Council. It won't come back to the Commission but it does come back to Council. One of the things he would be looking at or be concerned with is to the extent that the roads that would be dedicated might overlay whatever rights Mr. Schrader's group believes they have. They would be looking at that because once the roads are dedicated then they own them and they don't want them encumbered. His issue will be addressed; it will just be at a point in the future after this action has gone forward.

COMMISSIONER PRIDEMORE said just to clarify he thinks he said in his opening summary that if there would be changes required to the site plan to accommodate the water rights issue that they are hearing now, there is enough language built into the current stipulations if they would approve them, it could be worked on at Staff level to work through those changes. Where is the inflection point where all of a sudden it is going to have to come back through the public process? Are they comfortable enough with what language is in there now?

MR. SWANSON said it is kind of covered under the first condition ‘development shall be in substantial conformance’ as represented. Generally speaking with the issue being on the southern half of the property he does not imagine that much will occur to the northern half that would reflect a major change. In essence, briefly looking at this meeting, what this does is shift some of the roadway and alignment around a little bit and creates an open tract on the southern part of the property. He thinks maintaining this general layout is substantial enough that they could do that administratively and it wouldn’t trigger something that is such a great change that if they were to drive out there after it is developed they would say ‘what happened here, this is totally different’. It looks a lot like what has been approved. He doesn’t have an actual threshold as in if they move this too far north it is absolutely coming through but generally what they try to do is work with the applicant, work with the interested parties and work within their means to make sure that what actually does go forward does look a lot like what has been reviewed by the bodies.

COMMISSIONER CUNNINGHAM asked if the City owns that water or is it still a part of the Roosevelt Water Conservation District?

MR. SWANSON replied that the City does not own the water. He thinks the Roosevelt Water Conservation District may own the water but they have nothing to do with that irrigation canal. That is actually a private canal. They may have water that might get delivered to that but no bearing on the canal that is in question. With that being said he thinks that is as far as he can go just because he doesn’t know all of the details but they do not have access to that water.

CHAIRMAN CASON said he was going to look for a motion.

COMMISSIONER BARON stated he would have to abstain from voting due to his firm’s involvement in the project.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER PRIDEMORE** to approve DVR11-0029 PASTORINO DAIRY subject to the conditions recommended by Staff. The motion passed 5-0 with 1 abstention (Commissioner Baron). (Commissioner Veitch was absent).

G. ZUP11-0008 KWIK MART / U-HAUL

Denied.

Request Use Permit approval to allow motor vehicle and trailer rentals in a Neighborhood Commercial (C-1) zoning district. The subject property is located at 600 W. Galveston Street, the northwest corner of Galveston and Hartford Streets.

BILL DERMODY, SENIOR CITY PLANNER stated this is a Use Permit request to allow motor vehicle and trailer rentals in the C-1 neighborhood commercial zoning district. The

subject site is at the northwest corner of Hartford Street and Galveston Street. Those are the two half miles that bisect the subdivision west of Chandler High School not too far from here. The subject site has existing commercial uses including a convenience store on the corner, a beauty salon and a laundry mat which are allowed in the C-1 zoning district surrounded by what is best characterized as a vacant dirt lot that is also zoned C-1. There is little to no landscaping on the site except for some apparently wild natural growth of Palo Verde on the site. As they can see from the aerial photograph, it is surrounded by residential uses including primarily single-family around the north and west and a couple of multi-family complexes. The other notable use nearby is an elementary school to the north, Hartford Elementary.

As he said, the U-Haul business the vehicle and trailer rental is not allowed by right in the C-1 district and that is why a Use Permit is required. It is however allowed by right in the C-2 and C-3 zoning districts which are community and regional commercial. In analyzing this request Staff has looked to code and the purposes behind the various zoning districts. The C-1 zoning district is described as intended to primarily serve the needs of the residential neighborhood that surrounds it, like providing good and services that are day-to-day needs generally classed as 'convenience goods and services'. However, it goes on to say that businesses which tend to be a nuisance to the immediately surrounding residential area are excluded even though they might provide goods and services that fall into the convenience classification. Staff finds that the requested U-Haul business would present a nuisance to the surrounding neighborhood. They also don't believe that it is primarily a neighborhood services, more of a larger area – you don't see these in every square mile, certainly within Chandler. They do have a couple others that are more appropriately located on Chandler Blvd. and Arizona Avenue.

The applicant worked with him quite a bit on this case and they will represent that they have a much smaller volume than your typical U-Haul that is really a supplement to their family business, the main one which is the convenience store and that they intend to keep it much more low key than your typical U-Haul rental business maxing out at 20 vehicles at any given time. They have found they only have 10 on site so far. They didn't know that it wasn't an allowed business so they have been operating for several months at this point in time.

Also, in working with Staff they have attempted to give them a realistic expectation of what site development standards will be applied to this. Out typical standards would require quite a bit but an infill area like this is not strictly applied by code but as far as what actually will be applied they have incorporated that into their site plan. He showed the existing building on the screen on the main corner and where the community storage is. They currently park the vehicles around the west side and in the back but that is not parked according to code. That's a fire aisle and a drive aisle so they have agreed to create several new parking spaces, a total of 10. The adjacent property which has the same zoning C-1 and the same ownership, they have agreed to create a 20-foot landscape strip as well as trees surrounding the parking. Certainly, when there are no vehicles on the site, the site would be improved. There will be landscaping where today they really have nothing. It is just broken down pavement surrounded by dirt. However, Staff has analyzed this even with the short parking screen wall that goes around here and the landscaping that they agreed to put there you still will see the vehicles readily and easily from the

surrounding subdivision, both residences and the streets Galveston and Hartford. Given their analysis of this they do find that the proposed uses is a nuisance to the area and therefore that the Use Permit should be denied. He said he would be glad to answer any questions.

CHAIRMAN CASON asked if there were any questions for Staff on this item.

COMMISSIONER PRIDEMORE asked on the 10 added parking spots to the west is that where the applicant intends to park the vehicles or are those somewhere else on the site? ‘

MR. DERMODY replied that is correct. They intend to park in those spaces which is why they are extra deep at 30 feet depth compared to the usual of 19 foot depth.

CHAIRMAN CASON asked the applicant to come up.

ROBERT ARANKI, 600 W. GALVESTON STREET, CHANDLER, said he fully agrees with Bill. If they want, they can put it in the back so that it faces Hartford and the Section 8 housing instead of the neighborhoods across from Galveston. As a retailer, they are just trying to grow their business. Right now they have been running for about 6 months. They have generated a couple new jobs for a couple of family members that they already have employed. If they lose the U-Haul they will probably have to get rid of them. That is not what they are trying to do here. In the meantime, this recession is not helping at all. Their sales are down about 50% already and maybe even 80% in Hispanic areas so U-Haul is kind of helping them survive right now. They are willing to do anything they want. If they suggest to them to move it behind, they will do that. If you want it there, they will leave it there. If they want fewer vehicles, they could do fewer vehicles also. Mainly, it is all telephone reservations and from his being there every day it's mostly from all the neighborhood customers coming and renting from them. It's kind of helpful for them and at the same time saving them from driving to the further U-Hauls.

CHAIRMAN CASON asked if there were any questions of the applicant.

COMMISSIONER CUNNINGHAM said she has noticed the trucks there and wondered about them. She has noticed quite a bit of vandalism, painting and graffiti on those trucks. What do they propose to do to prevent that? A 3-foot high wall certainly wouldn't do that. Mr. Aranki replied that they always clean them every time they do it. That is as much as they can do. They vandalize the commercial building all of the time also and they have put cameras up to try to help that but at the same time it is kind of hard to do. When it happens, they clean it as soon as possible. They have a chemical plus it is just a sticker on the side of the U-Haul and they can actually change the sticker if need be.

VICE CHAIRMAN RIVERS thanked the applicant for coming. He asked if he could tell him other than his own, what is the nearest U-Haul business to where he is? Mr. Aranki said it is on Arizona Avenue and Knox – that is the main center right there. There is another one on Chandler Boulevard east of Arizona. **VICE CHAIRMAN RIVERS** said so 2 within a couple miles. Could he tell him what percentage of his business comes from outside his immediate

area? An estimate is fine. Mr. Aranki said they have only done maybe a transaction every other day. He thinks it is maybe 50/50 – maybe 60/40. **VICE CHAIRMAN RIVERS** said so at least 40 or 50% comes from somewhere other than his own neighborhood. Mr. Aranki said yes maybe a little west of them because there are no U-Hauls west of them. The 2 he just told him about are east of them. They pull some business from around Elliot and Alma School. People call from that area and come up their way.

CHAIRMAN CASON asked if he is able to rent about every other day? Mr. Aranki said yes. **CHAIRMAN CASON** asked if he has considered putting his trucks someplace else and using his property as the headquarters of his truck operation. Mr. Aranki said they really can't because when people come in they want a truck right then most of the time and they drop off to them also. You can take reservations anywhere else but when you have walk-ins they want vehicles right there at the same time and they have them ready right there. **CHAIRMAN CASON** said presuming that he has considered other ways to improve his revenue to all of his businesses, has he considered perhaps delivering the trucks to his customers? Mr. Aranki replied that he hasn't even thought about that. **CHAIRMAN CASON** said then he would have an opportunity to park them some place that perhaps can meet this type of use such as a C-2 or C-3. He thinks that is a unique kind of way to sell a business that is normally always only done one way. It might actually be something to look at. He guesses he is asking if he has looked at any other opportunities to increase their revenue on his property other than doing something that is not established as meeting code. Mr. Aranki said they have started buying gold and silver. He has done it about a week since they have put the signs up. They have had a few trickling customers come in. He said right now U-Haul is generating at least a \$1000 for them a month. And the new employee they hired is getting about \$600 of it every month because there was about 3 to 4 days when they didn't have an employee. It was a single guy at night. Now they have 2 people at night and they have another guy that helps hook up the trailers that is also getting paid. Some months they do hit a thousand, some months they break even. Last month they only hit about \$600. It's not like they make full commission. Since they are not a center they are only making 15 to 24% on all of the transactions. The rest of the commission goes to the center itself. **CHAIRMAN CASON** asked if all of his rentals are returned back rentals. They don't have any rentals that don't come back? Mr. Aranki said yes they do have one ways that just leave to other states or other cities but they do have a lot of in town rentals that do return back to them.

COMMISSIONER PRIDEMORE asked if there is a mechanical problem with one of the vehicles where would that be worked on? Mr. Aranki replied that if it is a simple one a U-Haul maintenance man will come and fix it right on the spot and if it can't be fixed, they take it to a center location – they will tow it.

CHAIRMAN CASON asked do they take it to the service center to get oil changed and regular maintenance? Mr. Aranki replied they are all scheduled, they are all in the computer and when they come up for their maintenance, they will come and pick up the vehicle and drop off another vehicle in its place. It's pretty much automatic. **CHAIRMAN CASON** asked him why they need so many trucks? Mr. Aranki said he guesses they don't need that many but some weekends or towards the end of the month it gets a little busy. Obviously, people are moving. Their

average is about 10 with trailers so far. As a businessman, the more they have there the more options for a customer to pick from.

COMMISSIONER BARON asked if there was a neighborhood meeting held? Mr. Aranki replied there was a meeting but nobody showed up. One person called. **COMMISSIONER BARON** asked if he was having any complaints or issues?

MR. DERMODY said they have heard from one neighbor who did not attend the neighborhood meeting who was opposed to the request feeling that this belongs in an industrial area. **COMMISSIONER BARON** said that is really the challenge of the site, it is a question of land use. Where it is at - it is difficult. He certainly understands Staff's position and he certainly understands Mr. Aranki's position as a business owner.

COMMISSIONER CUNNINGHAM asked Staff if a stipulation could be put that the storage facility be a higher wall to where it is covered and secured, perhaps from the episodes of vandalism that have happened. It is a blight on the neighborhood when those trucks are sitting there with the graffiti and maybe she just happened to drive by a couple of times where the same graffiti was on the same truck. They have residential neighborhoods and she understands why Staff has said this shouldn't be approved, yet she understands that he is a business person trying to keep his head above water and employ his family. She gave her sympathy. It is kind of a no win situation to turn it down. Isn't there some way they could make stipulations where it might be less of an eye sore on the neighborhood?

MR. DERMODY stated their site development standards actually would normally require that a six-foot wall surround this, however in analyzing the situation, they had not anticipated enforcing that because of the effect of making it sort of a walled off compound. However, it is in the prevue of Planning Commission to add a stipulation like that to any approval they might make.

KEVIN MAYO, PLANNING MANAGER, said in terms of putting up a six-foot wall their site development standards try to do 2 things. Screen proof from view things out there while still maintaining a safe environment at site. If they start putting up six-foot walls, they start putting more area for people to loiter and hide behind and things like that and it becomes harder to enforce security when people can't see through things or see around things. Fundamentally, Staffs opposition to this request really does not stem from site from a lack of ability to impose site development standards. It comes from having a land use that its trade ring is much greater than the zoning in which it is trying to locate. As the applicant indicated 50% plus of their customers for the U-Haul specifically are coming from greater than this neighborhood of which that C-1 zoning was intended to serve. That is their opposition to that. They have quite a bit of flexibility and creativity when it comes to implementing the intent of their site development standards. The opposition doesn't really have to do site development standards.

COMMISSIONER PRIDEMORE said his concerns with adding a six foot wall is that they have now just added a prime target for more graffiti. The reality is how the applicant already

deals with the graffiti on the trucks. He actually thinks it would be easier to deal with it on the trucks then on the wall. While he understands Commissioner Cunningham's wanting it for security which he would agree would be an issue, he is more concerned with the blank canvas they would be giving whoever is tagging. He said to the applicant that he appreciates his willingness to make modifications. Having driven by this site, he doesn't remember how Bill described the vacant lot but it is pretty desolate right now. Any kind of improvement in terms of landscaping even the minimal that they are seeing here is still an improvement. Again, he doesn't think a six foot wall would be necessary. Again, he would rather see the applicant deal with the graffiti on the trucks.

CHAIRMAN CASON said he appreciated the applicants desire to improve their revenue unfortunately, they have picked a market that while it sounds like there is some need for it, he doesn't know that necessarily the need for it needs to exist right at this location except of course for their own benefit of their business. He said he would hope that whatever the resolution is here and whatever the City Council does that they are able to maybe look at different ways of pursuing the business; perhaps something like storing the vehicles at one of the other locations and going and picking them up and delivering them or something like that; some other way to keep his hand in it where they have left their neighborhood in a condition of a neighborhood rather than an industrial site. He thinks that having big trucks there it is almost like they have stepped into something else - in another type of neighborhood, in a neighborhood that is not single-family or multi-family or has kids around or anything else like that. It is like all of a sudden they have come into an industrial/mechanical type of location. The neighborhood he thinks needs to have the respect of maintaining a neighborhood and all of the things that involves a neighborhood and he doesn't mean to indicate that he is doing anything else but that. He thinks that they have to speak for the neighbors to some extent and although they aren't here to demonstrate their position except for the one person that had contacted Staff, he thinks they have a duty to protect neighborhoods and allow them to maintain neighborhoods especially older ones. They hear a lot about protecting neighborhoods and those types of things. This might be one of those things where they talk about protecting neighborhoods besides helping people to refurbish their homes.

CHAIRMAN CASON asked if there was anybody in the audience that would like to speak on this matter.

LEE BAKER, AREA FIELD MANAGER FOR U-HAUL, said he has had U-Hauls at Kwik Mart for 6 months with great success. He would like to show them 3 things. First, the size or amount of U-Hauls that is going on there in comparison to other places around there so they have an understanding of how little or how much would be or could be in the location. Second, revenue stream situations – they are aware of tax dollars but also the local ownership receiving the money instead of a large corporate conglomeration taking it and sending it somewhere else. Third, environmental sustainability is something they are very proud of.

He showed a report that they generate for two weeks that shows the location in the last 2 weeks before Monday. This shows one transaction for one way trucks and 4 transactions for in-towns

in the last 2 weeks and his towing trailer shows 2. They had 7 transactions in 14 days. This is not a situation where they desire or plan on having something similar to Arizona and Riggs – 117 in town transactions and 17 one ways.

The design bringing into this request of Kwik Mart to have them there was always intended to be 2 a week, possibly 1 a day at the very most depending on what City Council would want and need. They have sustained less than 20 trucks there by the design. They have been working diligently to keep trucks out of there. He would love to see 3 trucks, maybe 2 to 3 trailers. The reason is that meets their criteria that they have for sustainability. They want small locations to have a small amount of equipment spread out over a little larger area so that they have customers driving less distance to pick up their equipment to return it which is environmental sustainability as well as keeping the congestion down. If they had 140 people going to the center instead of a 117, they would be worse off. If they can get 5 or 7 per week or whatever to a smaller location it helps them else and it also brings revenue into a smaller area where it can stay in the city.

He said he wanted to show that they are not intending nor do they ever want more than 1 transaction per day, 2 at the very most. Transactions should take no more than 10 minutes. If it is an in-town transaction it might take 5 minutes to receive back in. They are bringing them into Kwik Mart and they are keeping the sustainability down. They are not driving 40 miles instead of 15 to go pick up equipment or drop off.

If there are any questions about graffiti situations, mechanical maintenance or things like that he would be happy to answer all of them. He does this every day and has been doing it for 4 years.

He can answer vividly if they are interested.

COMMISSIONER PRIDEMORE said he had a hypothetical situation. Say there are only 5 trucks at this site and they get 6 people that need vehicles on a particular day. That would be a great day. How quickly can U-Haul get additional trucks there? He is not sure how many trucks are on the site right now. Mr. Baker said actually there are 9 there right now. He will be working to get a few out. The question is if there were fewer trucks there and you had a rush how quickly can U-Haul get additional vehicles to the site. Mr. Baker said there are a lot of different possibilities. The first thing is most of these are reservation based and their traffic department knows where all of the trucks are at and the current address of all the potential customers. They would route those people but walk-ins however would be a potential problem. Most of those reservations that are on the log would be already set up and appropriated and scheduled for those customers and walk-ins. They can get trucks there if they need to probably within hours. It is very rare that they do move them. What they do is move the reservations out to another location. They give the customer the closest location with the most convenient equipment. They rarely have that problem. If they do need a truck, he can call me. They actually have 3 agencies within U-Haul that can get trucks delivered as well as they can go in and receive themselves. More aptly though they would move reservations. They would let them take the reservation. They actually make a commission off just making the phone call, the reservation would go further

away and then in that case the customer might have to go out a little further. However, they try their best.

CHAIRMAN CASON asked how he got 8 trucks at the site. What determines how many vehicles you put on a site? Mr. Baker said 2 different things affect those. They have an origination/destination report that their traffic dept. uses and they key in a certain algorithm so that when people are moving into for example the City of Chandler they designate which location is to get what they call 'an expected in'. They control their traffic flow at drop offs by sending 'expected ins' to locations they want them however sometimes customers drop there anyway. If U-Haul tells them their drop off location is Kwik Mart at Hartford and Connecticut they might drive passed Arizona and Knox and they just might pull back in and drop it there or vice versa. What they do in that case is they either move them themselves or they move reservations to them to pull that equipment out or if they need more they do definitely have a traffic department that is on this at all times. They probably have 900 trucks right now in their marketing company and they don't have many city problems. He hopes they understand they are doing there absolute best to measure up for themselves, the individual locations and for the City. The second way is if the individual does an in-town transaction he would bring it back to that location. They also have ways to ask them to take it to other locations as well. For example, if they get inundated they get an in-town and they can't contact the customer and ask them if they would drop at a different location, which would inadvertently affect their contract but they can take that under consideration at the receiving end and make sure they are not charged any extra.

CHAIRMAN CASON said his strategy or U-Haul's strategy is to diversify the amount of locations in order to reduce their carbon footprint. Mr. Baker replied absolutely. **CHAIRMAN CASON** said he would like to hear his opinion as to why that is more economical as a business than just doing it at a larger location. Mr. Baker said more customer service. Their primary competitor is not Budget or other locations like that. Their primary competitor is self-renters - People who would take their brothers, sisters, mothers, uncles, trucks and trailers and move them for themselves. Having the convenience of one close by at a quick price at the ability to get in and out quick and nice locations and the customer service that they provide - for example, this location. It allows people the ability to go and rent U-Haul instead of just borrowing their mom's truck and have to put gas in it too. Get the trailer out of the weeds and fix a flat on it before they go. It really does work. Every single time in his career when they add a smaller location in an area where they don't have coverage both locations build revenue. They simply have more customers. His last 4 years he has opened 16 or 17 locations and probably closed 8 or 9. He is growing slowly. Every single city in his route has increases in transaction and revenue, slowly for the last 4 years. That is simply more customers. **CHAIRMAN CASON** said so if he understands his model then is he a representative for U-Haul and he has franchisees that he tries to create and create this energy so he builds up the amount of activity he has through his organization. He doesn't mean U-Haul, his personally. Is that how it operates? Mr. Baker said he is an Area Field Manager with a certain route of dealers that are mom and pop organizations that have no franchising affiliation nor do they have any rights to aerial or demographics. However, they simply get them to do their job for them basically and pay them a hefty sum. Locations that are owned by U-Haul have to pay everything, the salaries, the lights, etc.

Dealerships get 20% of that on average and they get less money but they get more customers. **CHAIRMAN CASON** asked if he solicits or do people call him. Mr. Baker replied both. He does what is called prospecting. He does profiles and looks for the locations that have extra land. Demographic situations placed separately away from larger locations to create smaller locations. They look for ownership. Employees that are family owned not managed by other places. They look for computer/internet service and things like that. There are quite a few different things they look for as well as them calling them and deciding whether or not that would be a good location. **CHAIRMAN CASON** asked if in this particular instance if he was the approaching party or were they? Mr. Baker said he had prospected quite a while back, probably a year ago. He was contacted by Rob. They decided the primary reason for this location is its availability west of Chandler Blvd. giving them another opening to $\frac{3}{4}$ of that area. For example on Chandler Blvd. now they can have a location closer west, north and south to that area. **CHAIRMAN CASON** said so in doing this he learned a valuable lesson. Right? Mr. Baker said he learned that he has some excellent customer service out there that he can tap into and he hopes he can continue to provide the small service. Yes, he did not check with the City's Planning & Zoning Commission and find out if it is C-1 or C-2 and that is one reason why he is here today. Hopefully, get a pass so that they cannot only continue but he would like to prospect the rest of Chandler continuously and he would like to know what he is doing and make sure these things happen the way it should. He does apologize for that.

MR. ARANKI said he might have misled him when he first contacted him. He thought they were C-2.

CHAIRMAN CASON closed the floor from further comment and called for a motion.

MOVED BY COMMISSIONER PRIDEMORE to recommend approval for ZUP11-0008 KWIK MART / U-HAUL but with the added stipulations of limiting it to 5 U-Haul vehicles at any given time.

MR. DERMODY said he had the suggested standard stipulations besides the 2 conditions mentioned are:

1. The maximum number of rent vehicles on site shall be 5.
2. The number of parking spaces may be reduced to 7.
3. The Use permit shall remain in effect for 1 year from the date of City Council approval to continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. Expansion or modification beyond the approved exhibits, site plan and narrative shall void these permits and require new use permit application and approval.
5. Site approvals including parking spaces, screen walls and landscaping shall be installed to city code standards within 6 months of City Council approval.
6. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.

7. In order for the Use Permit to be valid a solidly completed agreement for waiver of claim form under ARS12-1134 shall be provided to Transportation & Developments Planning Commission Staff within 3 weeks of City Council approval.

Mr. Dermody said in more plain English no. 7 is the Consent to Conditions Waivers and with the conditions being somewhat unknown with the split recommendation they often attach that to the recommendation that goes forward to Council.

CHAIRMAN CASON called for a second to the motion. The motion died for lack of a second.

VICE CHAIRMAN RIVERS thanked the applicant for coming. He said he can't remember anyone more polite ever addressing this Commission. However, this business is not a neighborhood business. It is a business that gets a good percentage of its customers from other places outside their neighborhood. Therefore, he does not feel it is a good use on this property and therefore he needs to move to recommend denial.

COMMISSIONER DONALDSON said he appreciates the applicant and the U-Haul representative as well. He said trying to grow your business in these times is a really tough thing and getting creative about it is also a good thing. He has to agree that this neighborhood center has been a benefit to the neighborhood and belongs in the neighborhood as it is today. He does believe that in this type of business and the extra vehicles and to go to a compound type fully enclosed just wouldn't fit the neighborhood as well.

CHAIRMAN CASON said his statements before still stand insofar as praising the applicant for attempting any and all entrepreneurial means to improve his business. He thinks what is most important to point out to the speaker from U-Haul is to be sure that should be one of the first things he checks when he tries to do business and creating these remote sites is the applicability of what he is trying to do in the particular neighborhood that they are in.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER CUNNINGHAM** to deny ZUP11-0008 KWIK MART / U-HAUL. The motion to deny passed 6-0 (Commissioner Veitch was absent).

CHAIRMAN CASON stated that they are just a recommending body. It will go before City Council on January 12th of next year. He thanked them for coming in.

I. ZUP11-0029 P2 PERFORMANCE PLUS

Approved.

Request Use Permit approval to allow for a baseball training facility to operate within a Planned Industrial (I-1) District. The subject site is located at 1 N. Roosevelt Avenue, south of the southeast corner of Chandler Boulevard and Roosevelt Avenue.

1. The Use Permit shall remain in effect for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferrable to another location.
4. Use Permit approval does not constitute final development plan approval. Compliance with the details required by all applicable codes and conditions of the City of Chandler in this Use Permit shall apply.
5. The site shall be maintained in a clean and orderly manner.
6. The building owner shall not sublet any portion of the southern suite.

ERIK SWANSON, CITY PLANNER stated this is a request for Use Permit approval to allow for a baseball training facility to operate within a Planned Industrial or I-1 zoned district. The subject site is located at 1 N. Roosevelt Avenue which is south of the southeast corner of Chandler Blvd. and Roosevelt Avenue. Staff finds inconsistency with the General Plan and I-1 zoning district recommends denial. The subject site is located in a predominately larger industrial park north of the subject site and sharing access to the site is a turf, grass, pasture and farm seed company. North of that is an auto body paint facility and north of that is a veterinary clinic. East is a SRP canal and east of that is a commercial shopping center. South is an electric contractor company and then west are an automotive maintenance diagnostic facility and then a residential restoration facility. In addition to that this building that they propose to go into is a 2-suite building so on the southern portion of the building is what is used as kind of a various sheet metal, air handling AC HVAC business. The facility is one suite in a two building suite. It is anticipated the suite the subject site is looking to locate in currently houses some of those sheet metal materials and then also some of the equipment associated with that. It is anticipated that if the request is approved, those would be removed.

The use in of itself is a baseball training facility that is geared towards high school students. The facility is a by appointment only use and so it is not drop off or just swing by because I want to hit some baseballs so it is restricted in that sense. It is restricted in that sense limited to individual sessions roughly between 3 to 5 athletes, however, the applicant has indicated that the potential exists for a baseball team to come in and receive training. At that point in time it would roughly be 10 to 12 clients. The operations and circulation of that generally the students will be driving themselves or carpooling. There is also the potential for parent drop off. The proposed hours of operation for the training facility are in the evenings and general start around 4 p.m. and goes to 10 p.m. Monday through Friday. On the weekends they are proposing 7 a.m. to 10 p.m. Activities at the site and in the suite include batting cages, strength and agility, speed,

conditioning and mental strength training. A weight room is also provided as part of the facility. Two collapsible batting cages are located in the warehouse portion of the suite which is shown in the attachments.

The existing building that operates on the south side has a little bit varying business hours and generally speaking the business stops early afternoon Monday through Thursday and stops roughly around noon on Fridays and is not open on the weekends. Generally there is not a conflict between the operations and that. There are 10 parking stalls west of the entrance of the building along the adjacent right of way to Roosevelt and there is the potential to provide some additional parking on the north side of the building within a gated area. While they do not have a parking ratio designation in the zoning code per say for these types of issues, there historic kind of practice that they have come up with based on other users typical to this is roughly one space per 300 square feet. If they were to apply that standard, approximately 22 stalls would be required for this suite in operation of this use. If they are to apply that per the larger building with both suites, it would require 54 stalls.

Staff is not supportive of this request for a number of reasons although Staff does appreciate the use and they think this is a good use for the City. Ideally, they just don't think that is a compatible with the current land use designation. Staff's concerns include the following. One is part of a larger 213 industrial park which is predominately zoned I-2. That I-2 zoning designation has the ability to house most intense manufacturing distribution things that tend to have a natural propensity to contain more hazardous materials so that is one concern that they have with this particular location. In addition to that where this subject site is currently located in that park the property just south of it is zoned I-2 so that is another issue that they have. Additionally, a concern is that this subject site shares access with another I-1 user and so while at this point in time that user seems relatively small in nature and is a kind of seeding manufacturing company, the potential exists that an I-1 user can go in by right without Staff or Commission or Council review of that so that is a concern of theirs. Another concern is the way that this major park is laid out is that there are 4 points of ingress/egress. There are 3 along Chandler Boulevard and then there is 1 way down on 56th Street. The 3 points of access on Chandler Blvd. in which 2 of those are full movement access allowing for the larger trucks to come in and out easily; Roosevelt being one of those. That is one of their concerns. For that traffic they have no way to regulate and mitigate that as they will see that they have done in other instances when they have reviewed these.

When they review these types of facilities, generally their code allows them in their more commercial districts say the property to the east could go in without a problem. That is why they generally do not allow these in because of those industrial uses and they have an area where they can go. However, with that being said Staff has brought forth to Commission and also to Council some request to allow these types of users in kind of a more industrial area. Those areas also generally tend to be a mix of office, warehouse, and showroom type uses generally allowing for some I-1 uses but not necessarily the full gamut and certainly not allowing the I-2 users. Some of those areas, more specific in things they have seen recently would be over at the Chandler Airport Center, Germann and Cooper areas and the Red Rock sites. With those

particular uses when they looked at them initially Staff did have concerns with those uses and he thinks over the years as they have seen more and more and seen how they operate, they have grown to a certain level of comfort but with those particular uses there are some unique circumstances that kind of stick out that is different from this one. One of them is that those sites tend to be more self-contained.

When you look at the traffic patterns of those sites, they are internal and off of the main beaten path, off of the Germann and Cooper roads and so they have maybe in these cases the Chandler Airport Center Cases, a site of maybe 3 buildings and so they will have that circulation pattern within those buildings and nobody really from the outside coming in unless they need to be there. In addition to that when they are looking at those, their concerns were the integration between some of the youth and those trucks and truck traffic so conditions that arose out of those concerns were locating some of those uses away from those drive aisles providing specific parking areas that were assigned specifically for those – things along that nature. Again, with those types of uses there was the ability to have more office so they weren't looking at the larger industrial type uses. Another situation where this was and a similar area would be west of Cooper and they did not have any particular buildings in mind or even in tow at that point in time. This was purely speculation for vacant land. As to what Staff thought, this could be an ideal location to locate these types of recreational uses. Some of the way that they addressed their concerns that they had seen with those to the east was the fact that it was vacant land and any structures coming forward would require PDP approval. They kind of integrated into our overall recommendation for approval abilities to look at the integration of kinds of pedestrian areas, the traffic areas, the parking areas and how do they accommodate this and mitigate concerns with truck traffic to mom and dad dropping off kid traffic to individuals coming for that type of use. That was more or less a hybrid growing out of those existing buildings but now they have seen how those operate they can take that into consideration with the design.

The third use which is maybe the most applicable or similar in this situation is west of here on 56th Street. There was a request for a volleyball training facility. That particular building was zoned I-1 on the eastern end of a larger industrial park. Some difference circumstances with that site as well was that it was completely self-contained. Access points were provided directly on to the major arterial and access was not provided into the larger industrial park. Additionally, that building sat alone on its own site and they did not have to concern themselves with a site that had multiple users that they don't know who is going to go in next. Additionally, that user was occupying the entire building. Again, some of things that also correlate with this use are the restricted hours in the evenings and it was more not open to the public and more of a private club. At that point in time though Staff did recommend denial, it was granted approval and it has proven to be successful.

He thinks while a number of Staffs concerns were mitigated in those instances even where they did recommend denial, he thinks those situations were all a little bit more unique and had a little bit more different circumstances than this particular case. So some of their larger concerns still happen to deal with the location more internal to the larger industrial park, the fact that it shares access with another industrial user that has the potential to change so long as they operate within

the allowed uses of the zoning code. They don't know about it and so he thinks more or less that is really where they are coming from and they really find that this is albeit a great use just not a great use in this area. They really find that land use is incompatible. There was a neighborhood meeting as part of the request. No neighbors attended that meeting. In addition to that though the applicant went out and canvassed the area and was able to come up with a petition of support from the surrounding users for that use and it is attached as part of the memo. Even with that being said, Staff does still find inconsistency with the General Plan and their zoning code and does recommend denial. He said he would be happy to try to answer any questions.

CHAIRMAN CASON asked if there were any questions for Staff on this item.

CHAIRMAN CASON asked on the C-2 property that is on the southwest corner of Roosevelt and Chandler Blvd., does that have a north entrance and exit right on to Chandler Boulevard? Mr. Swanson said he wanted to check his aerial just to verify. He said he believes it does but that site also does not allow for kind of industrial users to hit that access point. The main access point is still Roosevelt. **CHAIRMAN CASON** said he thinks the only access is on Roosevelt for the Archery store. Mr. Swanson said he thinks he is correct. The property to the west that was the previous Detour Restaurant, he thought they had an access point. All access to that C-2 piece is directly off of Roosevelt. **CHAIRMAN CASON** said if they look at the site plan, the industrial user, do they run their trucks into that space next to the drain ditch? Is that how they load their trucks? Mr. Swanson asked if he was talking about the equipment company in the southern suite. **CHAIRMAN CASON** said yes. Mr. Erik Swanson said yes he is correct. That outdoor storage area does currently house their trucks and some outdoor materials. The suite that is in question is currently vacant and primarily houses some of their excess materials and equipment for the manufacturing and processing of the sheet metal stuff. So while this currently serves the indoor portion which currently serves as storage, the outdoor portion is more of the trucks and some of the larger equipment. **CHAIRMAN CASON** said so what he is saying is part of the conflict with the driveway is the amount of trucks that are leaving the Newgaard Mechanical and coming out the driveway. Do they know that frequency? Mr. Swanson said he does not know the frequency. The concern is kind of two-pronged. One is certainly the circulation of Newgaard Mechanical albeit the hour of operation between them and that P2 Performance does stagger so they don't think there is going to be whole lot of that. One of their larger concerns is the use that shares that point of access, which is directly north that currently operates as that seed facility. That particular building has the ability to go out tomorrow and any industrial users can come in the following day that they don't know about so long as they get a business license in compliance with the I-1 zoning. They don't know. They won't know they are there so that is one of their concerns that there is an I-1 use that albeit right now it is kind of nice use and convenient, the potential exists that it could be a larger industrial user in a small building. **CHAIRMAN CASON** said so there are 2 building users that use that access point. Mr. Swanson replied correct. **CHAIRMAN CASON** asked whose property is it on? Mr. Swanson said the property that the access point is on looks like based on the parcel lines that it is actually the property to the north, however there is more than likely a shared access agreement. **CHAIRMAN CASON** said he is saying that as far as he knows and of course they will clear it up with the applicant that the property line is the south side of that driveway. Mr. Swanson said

basically if they look at the building to the north directly east of that or to the right of that where their building ends and the storage yard begins, that is Newgaard Mechanical's property. West of that is the seed company's property.

COMMISSIONER BARON asked if they could put this on the screen because he was kind of lost visually at this point. Mr. Swanson said he would take some of his exhibits and come up.

MR. SWANSON said he would start with the aerial. It might make it a little bit easier. He showed where the subject site is and the hatched out mark. He showed where the seed company is and he said you could see based on this hatched out mark where the property lines are. The access point is directly north of the Newgaard Mechanical property line hatched out here. Going back to what his concerns were is that here is Newgaard Mechanical on the south side and the proposed P2 suite and then here is the seed company so you really have the mixing of 3 users on this smaller site. He showed where the storage yard is off to the right. **CHAIRMAN CASON** said his hatching is based on actual property lines? Mr. Swanson replied the hatch is based on parcels. **CHAIRMAN CASON** asked how big is the square footage of that building that is the seed company? Mr. Swanson said it is going to be a rough estimate. If the proposed suite that P2 Performance Plus is going into is at roughly 6500 he would probably put it in the range of maybe 3000 maybe. That is probably a conservative estimate. **CHAIRMAN CASON** said so he thinks it is about 3000. Mr. Swanson said yes in all honesty if he could get back to his seat he could pull up the info. **CHAIRMAN CASON** said so the drawing that he has up right now, then the driveway is owned by the seed company or whoever owns the building for the seed company. Parcel 2 is not part of the seed company it is more like where the 4 parking spots are. Mr. Swanson said based on the site plan, correct. **CHAIRMAN CASON** said the seed property is the driveway all the way over to this monument that is kind of like in the north and then straight up. That entire parcel is the seed company. Mr. Swanson said this is designated as the seed company's parcel albeit this is more than likely a shared access.

VICE CHAIRMAN RIVERS asked if lot 9 is owned by the seed company or is it a shared parking lot? Mr. Swanson replied that is actually part of Newgaard Mechanical. That is their outdoor storage area that they also house their vehicles. On the north side is a rollup door where they can get their equipment out. There is a raised concrete platform that allows them to easily get that into their trucks. **VICE CHAIRMAN RIVERS** said so the parking for this whole building that is Mechanical's as well as Performance Plus is to west of the building. Mr. Swanson said it is predominately along here that is where that parking is going to be however the applicant has indicated that they have the ability for additional parking here. What they would have to look at is how Newgaard Mechanical and their trucks operate, where do they park, how is that going to work, are they going to park them in the evenings back here when the day is done and allow this for P2. That is some of the concerns that they are dealing with their parking requirements or their historic parking requirements of 1 per 300 doesn't quite meet that need but the ability may be to have some parking in the rear.

COMMISSIONER DONALDSON asked if he was looking at this map correctly that directly east of this property across the drainage ditch is the bowling alley? Mr. Swanson said the C-2 is

actually the former Basha's that they had and they have another interested grocer coming in that hasn't gone through the process. He believes he is correct. There is a bowling alley and he hasn't driven in that development in quite some time. There are a number of restaurants and he thinks there is a tire facility in there as well.

COMMISSIONER BARON asked Mr. Swanson if he could tell them off of Chandler Boulevard as you are coming down Roosevelt what are the uses. He is just trying to get his bearings on where things are. He gets the seed company. What are they driving passed? What are the hours of operation on the seed company? Mr. Swanson said he didn't know the hours of operation on the seed company. He would imagine typical business hours however the fact that it is a seed company, he would imagine that they have some sort of seasonal components. **COMMISSIONER BARON** asked if he knew how long have they been there? Mr. Swanson said the seed company has been there for a number of years. He showed the proposed site and hopes it was a little bit clearer. He showed where the seed company would be. The building running east/west is a Maaco Auto Body Shop. That came through a Use Permit in 06/07. He worked on that and at that point in time that seed company was also there. He thinks they have been there for a number of years. North of that kind of right adjacent to Chandler Boulevard is a vet clinic. **COMMISSIONER BARON** asked if it was in the I-1 district? Mr. Swanson replied yes. **COMMISSIONER BARON** said if you go further south and one of the concerns that he stated was about pedestrian conflict but if you look at the way this site works, he is wondering with the parking lot it seems to be fairly controlled to be able to get to this site. From the applicant, he stated the number of users is fairly minor on a controlled number of hours and set schedules. The pick-up/drop off issue to him doesn't seem like it is that significant. He is just trying to understand what type of traffic they are dealing with here. Mr. Swanson said in looking at the map this is the context for that larger industrial park. Where they see the orange that is the I-1 zoning designations and those are hard-zoned I-1 designations. Red is the hard zoned I-2 designations. The green or greenish is the C-2 and so they have the archery company and then the Detour Restaurant. The site is kind of in blue but is covered with that orange. Their concerns with that access and pick-up/drop off are that Roosevelt operates as one of the main spawns for this industrial park. He showed on the map Roosevelt, McKemey, Beck and way down you have Frye Road. These are really the main ways out of the park. He showed where the railroad tracks are, there's nothing up along there because of the railroad tracks. Now with that Roosevelt and Beck are full access movement. When you are dealing with industrial users and needing 18 wheelers and their various things, they are more or less headed toward the freeway and so one you could come up Roosevelt, hook right and go down to Kyrene and try to catch it or to go across and catch the I-10. The other option is to head all the way down south and come across and go that way. Their concern is that with such a large park and so many users and even in this case some undeveloped land, that traffic is substantial enough to where they didn't see this kind of situation or wasn't as a much of a concern with the other kind of industrial users like the Chandler Airport Centers because they were more self-contained. While there is the benefit of having the staggered hours which certainly does help, having to pick up drop off is one of the main concerns is that main spine still operates for that larger area. **COMMISSIONER BARON** said from a perspective of clients going to a site, if he was dropping his car to get body work he would have to go to Maaco and the same if he was taking

his dog to the vet, he would have to go there and drop them off. He still has the same conflict with the vehicle traffic albeit the parking areas look much larger in those facilities. Most of the time when they look at these things, the path of least resistance when they are trying to get out to the freeway, he would argue that Chandler Blvd. being a major arterial that the destination is obviously going to the I-10 heading west. The majority of that intense use seems to be centered in the middle of the site. He doesn't know if that means that they go out towards Beck Street. Mr. Swanson showed where Roosevelt and the site were and where Beck was. Beck is a full access road. **COMMISSIONER BARON** asked if they were signalized? Mr. Swanson replied he thinks Beck is. There is actually a traffic study report done for Roosevelt that deemed that it did not need to be signalized.

CHAIRMAN CASON asked so the vet is still in an I-1 and they are there under a Use Permit? Mr. Swanson stated he did not look at the details for that but he believes with the veterinarian use he thinks they have concerns with them generally locating in some commercial areas. Some of it with outdoor facilities and things like that. He can't recall. He doesn't know the exact background. **CHAIRMAN CASON** asked about the Maaco. Was that under a Use Permit? Is that permitted in I-1? Mr. Swanson said that was actually a Use Permit. **CHAIRMAN CASON** said since he still has marked as I-1 that probably the vet was probably there under a Use Permit too. Both of those uses are under a Use Permit right now and still remain in an I-1 area. Mr. Swanson replied that the auto body for sure, the veterinarian he believes so. **CHAIRMAN CASON** asked if he could zoom in on the properties there, the ones they are talking about. Mr. Swanson said they could pull up the aerial on his computer. He showed a close up of the subject suite, Newgaard Mechanical in operational form, the seed company, Maaco, and the electrical contractor. **CHAIRMAN CASON** said so these are the property lines and if they went to Maricopa County they would see the same thing, the property lines. Mr. Swanson replied yes.

CHAIRMAN CASON called up the applicant to speak.

MIKE PERRY, 575 W. CHANDLER BOULEVARD, SUITE 123, CHANDLER stated on the previous case as a Hartford Elementary School graduate his first job was delivering papers at that Laundromat on that corner at 4:00 in the morning 7 days a week. It's nice to have a little bit of history here.

He said this request is for a temporary Use Permit to allow by appointment only a personal instructional sports athletic training facility to use a temporary portion of an existing underutilized warehouse in an I-1 zoned district. Tonight he has with him his client, Jay Roundy, his son Joe Roundy, Dave Newgaard from Newgaard Mechanical who owns the building. He and Jay are both former Chandler Planning Commissioners from a long time ago so they kind of know the process and while they feel their criteria mitigates some of Staff's concern they did anticipate that they might not support their application. With that knowledge they went through all of the proper steps before they filed their application. They met with Staff before they filed to identify their issues. They met with Economic Development to make sure that they were o.k. with this use going into an I-1 zone and they are. Chris has waited patiently all night and is willing to speak if you need her. They ran their ideas by several of the Council

members before they made a decision to proceed with the application. They did their neighborhood work to make sure that everybody was in support of their application.

There has been a lot of discussion tonight about the large I-1 industrial users. They went pretty much up and down – Dave and Jay went up and down Roosevelt and they can see the arrows and essentially they have everyone along Roosevelt in support of the application. They will also notice they identified a lot of the businesses. He thinks that question came up earlier. A lot of the businesses are actually construction related, similar to Newgaard Mechanical. They operate on the same hours, the same kind of shortened schedule and obviously by the support there is not really a concern of the traffic that would be coming down Roosevelt.

They really feel that they addressed all of the Staff's concerns and hope they would support a temporary Use Permit. Alas the tree got in the way of the forest again. P2 Performance Plus provides opportunities for all athletes to improve performance on all dimensions including physically, mentally, emotionally and spiritually. It's a little bit different from some of the stuff that they have seen in the past. What really makes this unique is it is a by appointment only individual training, it is not a drop in business. Appointments are scheduled. It is a very low use 3 to 5 people on a normal basis. Staff made some references to batting cages. They are not batting cages, they are batting tunnels. All of the pitching instruction is hand toss. There are no pitching machines. The tunnels collapse and that area will be artificial turf so they can do speed and agility training at the same time. On occasion there is a possibility that they may bring a girls softball team and do some work with the entire team. Jay anticipates that to be probably 10 to 12 people at the most. They are really working on off hours from everybody in the area. Traffic is really not a concern.

It is true that a large portion of the park has an I-2 designation. However, as you can see on the aerial the immediate area is I-2 and C-2. The C-2 uses and the I-1 uses are located at the entry to the park and he thinks they have already identified some of the uses. One is an archery store, the vet clinic is there and the 3 little buildings to the west actually have some office in them, some investment firms as well as some of the auto related uses. There is an archery range also in that area. Same kind of use but it is a drop-in type of issue.

They really feel like they are compatible with the area and obviously the neighborhood support shows that. To Staff's second concern they feel that the proposed use really doesn't impact traffic circulation within the site or the industrial park in general. Appointments are scheduled. Their hours are 4 to 10 p.m. Certainly evening hours and then on the weekend so there's really not a direct conflict. Dave Newgaard who owns the mechanical building. There is discussion about the trucks coming in and out for his business. He has one truck and 4 employees. The truck goes out in the morning and it comes back in the evening. It doesn't come in and out during the day. The seed or turf company to the north, there is a shared access drive. He has 4 parking spaces. It is a seasonal business, about 1000 square feet. The seed is not stored there; the seed is delivered directly to the site. He has offered them his 4 parking spaces after hours if they need them although they don't think they will.

One of the other things Staff mentioned and they certainly appreciate that they are trying to find a place they could locate to without having to get a Use Permit. Some of the C-2 locations that are around town many of them don't have the ceiling height they need for the activities that would be going on nor are they really stand-alone buildings. This is really a unique symbiotic relationship between Newgaard Mechanical and P2 Performance Plus. Newgaard does not need their 16,000 square foot building and they no longer use the back area for manufacturing of ductwork which is what it was used for before so now it is cheaper for them to buy their ductwork and have it delivered to the site. Most of the equipment has already been cleared out of there. There is some still remaining. If they are successful with their Use Permit, the rest of that will be cleared out.

He said it is really just a perfect storm of uses. There is not a conflict. Dave owns the building. If there is a parking conflict, they can address it personally. The use to the north, a seasonal use, wasn't even there today. All 4 parking spaces would have been available. They think it really is a unique type of use different than perhaps a lot that they have seen in the past. They think it mitigates a lot of the concerns Staff has. They think it is an appropriate application of a temporary Use Permit. They are not asking to rezone the property. They feel this is going to be a development of a business model that Jay and Joe are trying to do. They anticipate 3 to 5 years to find out if the business is going to be successful. They have plans and aspirations if it is successful to move to another site because they will need another site because they will need another site at some time. So with that he would like a minute to let Jay speak about the business and the business model and then after he and Jay could answer any questions they have.

JAY ROUNDY, 2419 W. ALAMO DRIVE, CHANDLER said Mike has covered pretty much everything but said he would like to re-emphasize a few things. What really does make them different from other types of businesses is the individualized training whether it is for an individual, small group or the occasional team that they might train. It is by appointment only. Therefore, they manage the schedule of who is there when as well as how many people are there when – which is very different. From a number of the other facilities in town who are primarily geared toward drop in business. Recently, within the last 6 months a company in Tempe 'Extra Innings' closed their doors. Their primary model was drop in business. They did some training but it was primarily drop in business. Their goal is to prove the business model, generate the interest, get the financing and they are looking at a 40,000 to 50,000 square foot building also without door capability. That is their ultimate goal. They are in the process right now of talking to investors as well as debt financing and the question they always get is show us the business model, show us the proof. That is what they are trying to do here. As Mike mentioned, they are not trying to rezone anything. They want a temporary Use Permit to have the ability to prove that. Prove that business model, attract the financing and go find the facility where they can do exactly what they want to do, expand to multiple sports and multiple expanded services as well. That is really the things that he would add. A couple of other things came up as questions were being asked of Staff. Beck, the north/south street out of this larger complex is the one north/south street onto Chandler Blvd. that has a traffic light. Have been to the facility a number of times working with Dave and Mike for the application and talking about what they want to do, which coincidentally Dave's probably going to end up being a partner in the business with them

because of his interest and support. They are there to test it; they are there during the time late afternoon and on weekends, which is when they have been meeting and Roosevelt is dead. They have been there during the day as well at times and people who try turn left out of Roosevelt onto Chandler Blvd. are making a mistake and everybody turns right out of that. Anybody who needs to go left on Chandler to travel west goes over to Beck to use the light just because of the traffic flow. The other thing is that he thinks they have shown by canvassing the neighbors and explaining exactly what they are going to do, right now not only do they not have any objections they actually have support for what they are trying to do which they have taken. As they have discussed it with them, not only do they not see this as a problem or a challenge to their business, they see it as something to keep things going there because as Dave has explained to us, the economy has changed, his business is changed and he has unused space which makes this as Mike called it 'a perfect storm' to come together to do this.

Again, not to over repeat himself, they are asking for a temporary Use Permit. They realize the circumstances. They believe they have presented a plan and circumstances about how our business is and how they manage it that mitigate those concerns. They are asking for a temporary Use Permit to prove that, willing to do it for a year, demonstrate that they are not a problem and that there are problems because of that and come back to extend it as they need to until they do get to that point of proving the business model to find their ideal location.

VICE CHAIRMAN RIVERS stated it was probably mentioned before but can he remind them about the ages of their clients. How young is the youngest one? Mr. Roundy said their primary clientele are high school age. Their youngest actually has been 8 years old but it was a neighbor and they wanted some help. Their youngest they serve right now is in the 10-12 years age. They also have college age, adult and professional as well. The majority at this point in time, about 60%, are high school age. **VICE CHAIRMAN RIVERS** asked if this permit should be approved, would they be open to a one-year stipulation? Mr. Roundy asked a one-year stipulation only for the Use Permit without a chance to renew it? **VICE CHAIRMAN RIVERS** said no. One year, come back and renew. Mr. Roundy said yes, absolutely. They believe working with Mike and even relying on Mike although it has been many years, his time on the Zoning Commission with Mike and Dave Newgaard they believe they've not only answered the concerns, they believe they have a plan in place to take care of those concerns. They are very optimistic and they would look for the opportunity. Give them a year and they will show them that there aren't any problems. They will come back for 3 years or for whatever is allowable until they get to the point of approving their business model to get the financing.

COMMISSIONER DONALDSON said he needed a clarification on the building itself, the layout. There is an area reception-future tenant space. What is that indicating? Everything else is kind of designated from their business model.

Mr. Perry said he could answer that. The building outline that is shown here is for the entire existing facility. The dark line is the space that P2 Performance Plus will be taking. There are actually 2 existing offices in there, one of them is vacant right now. That will be the office that P2 will go into. There are actually 2 separate entries. Again, it is such a perfect situation it is

hard to explain because everything is in place and everything is set. This office has 3 offices, 2 bathrooms in it and will be where P2 and where Jay and Joe will set up their offices. There will be a conference room. This will be a waiting room. The area in the back is the area that will be artificially turfed and the dash lines are the collapsible hitting tunnels. Newgaard is on this side-there existing offices. Again, they just store some parts back in here now. They don't manufacture or make any duct ware now. **COMMISSIONER DONALDSON** asked is that just indicating that P2 is the future tenant? Mr. Perry said yes, that is what the Use Permit is for.

CHAIRMAN CASON asked Mr. Perry if the owner had any plans to sublet any of the space on his side of the dark line. He said no. **CHAIRMAN CASON** asked if he would be willing to stipulate to that? Mr. Perry replied that the owner said yes.

CHAIRMAN CASON asked if there was anybody in the audience that would like to speak on this matter. There were none so he closed the floor for discussion and motion.

VICE CHAIRMAN RIVERS said in listening to the concerns of Staff as always they know more about this than we do, however, in this instance he thinks there is a happy medium. He thinks this business is not open during the daytime when any truck traffic that he has ever seen on Roosevelt would occur and he thinks if there next neighbor only has one truck, they could probably pretty much avoid that. He doesn't think they are faced with a business who is a daycare or taking very young children or unsupervised young people and he doesn't think that we should avoid a new business in Chandler just on their concerns with what might go in next door in the future. He thinks this is a good use for this empty building. He thinks the fact that the hours are limited, that they are willing to accept a one year stipulation to let us all see that this business can succeed in that year and when they come back then they can talk about whether they want to extend it or not 2, 3 or 4 years at that time.

COMMISSIONER DONALDSON said that regarding the comments from Staff they had about hazardous materials for him being in the northeast extremity of the 2013 acre industrial park and the other uses that are around there it looks like a good use for that space - also backing up to the bowling alley. That is pretty important to him. He thinks it belongs there.

CHAIRMAN CASON had the stipulations read into the record.

MR. SWANSON said he had six conditions and they are typical ones that they have seen in these kinds of instances.

- 1. The Use Permit shall remain in effect for one year from the effective date of Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.**
- 2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.**
- 3. The Use Permit is non-transferrable to another location.**

4. **Use Permit approval does not constitute final development plan approval. Compliance with the details required by all applicable codes and conditions of the City of Chandler in this Use Permit shall apply.**
5. **The site shall be maintained in a clean and orderly manner.**
6. **The building owner shall not sublet any portion of the southern suite.**

CHAIRMAN CASON asked Vice Chairman Rivers and Commissioner Baron if they were o.k. with the stipulations. They were. He said he is always against turning industrial area into other types of business. He thinks that he has demonstrated that many times up here sometimes even to be blue in the face doing it. He thinks in this particular case it has been demonstrated that certainly the properties north with maybe the exception of the seed company have already been granted this. For whatever reason they felt this was a good place to do business. He agrees that big trucks are rumbling down Roosevelt Avenue they do have an impact here. Roosevelt Avenue as he recalls doesn't even have any stripes on it and it has no sidewalks or anything else like that. He thinks that the demonstration of the restaurant and the archery range or the archery store on the southwest corner of Roosevelt and Chandler Blvd. where especially the restaurant where you actually have to turn right out of there to turn around to get back out to Chandler Blvd. because of the island there, is an indication that multiple traffic uses work there despite the fact that there are huge trucks running up and down there. He doesn't know that the traffic issues are really one that they can use to sustain Staff's recommendation so with that he said he will be supporting the project. He thinks it is a great idea. He thinks being able to use a temporary Use Permit shows Council what their plans are and will further promote the ability to create support for their project.

MOVED BY VICE CHAIRMAN RIVERS, seconded by **COMMISSIONER BARON** to approve ZUP11-0029 P2 PERFORMANCE PLUS with recommended conditions as recommended by Staff. The matter passed unanimously 6-0.

6. DIRECTOR'S REPORT

Mr. Mayo said in seeing that their Consent Agenda cancelled the December 21 hearing and their next hearing will be in January 2012, he wished everyone a happy holiday and thanked them for another year of Planning Commission service. He is looking forward to seeing them in 2012.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN CASON said the same to him and congratulations for their hard work. He said they have made it a lot easier to do this because so many things are squared away ahead of time. They really like that.

VICE CHAIRMAN RIVERS said he wanted to join in and wish everybody up here a happy holiday and thank Staff for their year of work. Further, he wished Commissioner Cunningham's husband a happy birthday.

COMMISSIONER CUNNINGHAM said thank you. Her husband is here tonight to spend his birthday with them and doing his civic duty. She wished everyone a Merry Christmas and a happy New Year.

CHAIRMAN CASON announced that the next regular meeting is January 4, 2012 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:57 P.M.

Michael Cason, Chairman

Jeffrey A. Kurtz, Secretary