

MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers, 88 E. Chicago Street, on Thursday, February 23, 2012 at 7:12 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR JAY TIBSHRAENY.

The following members answered roll call:

|                 |               |
|-----------------|---------------|
| Jay Tibshraeny  | Mayor         |
| Jeff Weninger   | Vice-Mayor    |
| Trinity Donovan | Councilmember |
| Kevin Hartke    | Councilmember |
| Rick Heumann    | Councilmember |
| *Matt Orlando   | Councilmember |
| Jack Sellers    | Councilmember |

Councilmember Orlando participated in the meeting via telephone.

Also in attendance:

|               |                        |
|---------------|------------------------|
| Rich Dlugas   | City Manager           |
| Pat McDermott | Assistant City Manager |
| Mary Wade     | City Attorney          |
| Marla Paddock | City Clerk             |

INVOCATION: Pastor Michael Bard – City Church

PLEDGE OF ALLEGIANCE: Councilmember Hartke

UNSCHEDULED PUBLIC APPEARANCES:

Leigh Rivers, 3737 W. Geronimo Street, Chandler, AZ. Mr. Rivers asked the Council for help in getting his neighborhood streets repaired and/or resurfaced. He indicated that the streets in his neighborhood are 25 years old and are deteriorating. Mr. Rivers said that he has seen other newer neighborhoods getting their streets resurfaced. The City patches the roads in his neighborhood when chunks of the surface turn to gravel and erode away, but after years of repairs the streets are left with patches, pock marks and ribbons of cracks from one part of the neighborhood to the other. Mr. Rivers asked if there a schedule for this type of work to be performed or if the work is done simply by request.

CONSENT:

MAYOR TIBSHRAENY requested a brief presentation from staff on Item no. 8. He also indicated that he had a question on Item no. 27.

ECONOMIC DEVELOPMENT DIRECTOR MS. MACKAY explained that there is one small City Division still occupying the former City Yard, located at Delaware and Chicago Streets, although most of it is vacant. As a result, Council gave staff the opportunity to go out for a Request for Proposal (RFP) for the idea of an Art Yard. The intent was to see if staff could find some type of industrial arts user to bring a unique presence to Downtown Chandler.

Due to the economy, there was only a single response. Therefore, staff didn't feel that it made sense to utilize that location for one tenant. Staff is currently working with the sole applicant to find another location.

In the meantime, Council gave economic development staff direction to bring higher education to Downtown Chandler.

MS. MACKAY said staff has been working with Mitzi Montoya and Rich Stanley from the ASU Polytechnic campus on this project. She said as discussions took place it seemed obvious that the Center for Innovation and the Engineering programs that exist at ASU Polytechnic would be a good fit for this building in Downtown Chandler.

With Council's approval, MS. MACKAY said that the building will be gutted and retrofitted for use by 1,000 engineering and advanced technology students. At Council's direction, City staff will bring forward a hard bid for the work that will happen on that project as part of the demolition.

MS. MACKAY explained that the City will make the investment on the infrastructure for the building and the University will invest 1 to 1.5 million dollars to outfit the building.

MS. MACKAY indicated that there was a third-party independent economic impact analysis done as part of the research. She said that university educational opportunities present even higher economic impacts than several of the technological employers in Chandler. The first five-year economic impact growing to those thousand students is anticipated to be 23.8 million dollars for Chandler.

MS. MACKAY said that ASU plans to take this project to the Arizona Board of Regents' (ABOR) April meeting. MS. MACKAY explained that the reason that ABOR must sign the contract is at the staff level, ASU can only sign a five-year lease. Rich Stanley from ASU signed the five-year lease with a five-year extension. Therefore, as Council reads the ordinance and the Council memo, it will look like there is a five-year lease, with a five-year renewal. That is only the case because of the statutory requirements.

MS. MACKAY said when the case is presented before the Capital Committee and the Arizona Board of Regents, Mr. Stanley will ask for not less than a 25-year lease to include renewals and expansions for up to 50-years in Downtown Chandler.

With Council's direction, staff will work quickly to get the tenant improvements done so that the engineering students can be in the building for the Fall 2012 semester.

MS. MACKAY said that when reviewing the lease opportunities it does call for educational programs so ASU could not at a later time turn the building into something that would not bring the students along with it.

MS. MACKAY explained that staff will continue to work with the architect and get the bid out which will come back before Council not only for the bid authorization, but also for the approval of the expenditure of the money.

MAYOR TIBSHRAENY asked Ms. Mackay if she plans to attend the Arizona Board of Regents meeting in April. MS. MACKAY answered affirmatively and said that she does plan to attend the meeting with Rich Stanley from ASU and Assistant City Attorney, Glenn Brockman.

MAYOR TIBSHRAENY asked if Ms. Mackay could let him know if he needs to be in attendance at the Arizona Board of Regents meeting. MS. MACKAY said that she is quite sure that they would love for the Mayor to be in attendance to show Chandler's commitment.

COUNCILMEMBER HEUMANN thanked Ms. Mackay and her staff for their work on this project. He said between University of Arizona's presence at Innovations, Downtown, and at Continuum, this is just another component of the education part of our City. COUNCILMEMBER HEUMANN said he is very excited, as are the Downtown merchants.

MAYOR TIBSHRAENY asked if ASU has enough time to complete the improvements and finishes to the building so they are able to operate in the Fall.

MS. MACKAY advised that staff has been working closely with the architect and engineer that have been secured for this project. She advised that staff is used to working with private sector at a very rapid pace.

MS. MACKAY said that ASU would like to move into the building at mid-semester, which is October 17. ASU had hoped to move in by August, but due to some of the equipment it will take longer. MS. MACKAY further explained that these are not typical classrooms; they are engineering and prototyping labs. These are student teams with cohort opportunities for some of the large employers in the region to come up with engineering solutions to challenges that they have. This is not the typical classroom with some computers and desks. Instead the classrooms are comprised of compressors, generators, industrial drills, and large pieces of equipment.

MS. MACKAY said that the October 17 date was collectively agreed upon based on the longer lead times needed for some of the equipment. Since some of the large pieces of equipment need to be set, calibrated, and tested 30 days in advance, the City's Building Department is going to put together a Memorandum Of Understanding (MOU) to allow those trades to go into that building even before the Certificate of Occupancy is issued to allow that equipment to be tested. MS. MACKAY advised that to date, the project is on schedule. She explained that it is staff's goal to have the bids back to Council on the May 25 Agenda.

MAYOR TIBSHRAENY asked if these are honor graduate level classes.

MS. MACKAY advised that the predominant portion of the students will be junior year engineering students who have selected engineering as their field. The Center for Innovations and Technology will also run some of the online programs out of the facility. She further stated that staff recently learned through their Foundation that classes will be offered that focus on entrepreneurial programs, venture capital, intellectual property, and ways that universities partner with these small companies on the Small Business Innovative Research (SBIR) funding.

MAYOR TIBSHRAENY stated that this is a very exciting project. The Mayor explained that he has talked a lot about enhancing and expanding university presence in the City of Chandler, specifically in Downtown. MAYOR TIBSHRAENY said the news regarding ASU came a week after it was announced that the University of Arizona would also be occupying space in Downtown to provide graduate level classes. He further explained that the University of Arizona will occupy approximately 9,000 square feet in the old community service building on the second floor. MAYOR TIBSHRAENY said he hopes that someday the University would be able to fully occupy that building, which would be about 21,000 to 22,000 square feet.

MS. MACKAY said that the University of Arizona is in the process of getting things set up and recently shared that they have already reached their first class capacity, which will start on May 1. She said there has been a lot of excitement and interest in these Downtown programs.

MS. MACKAY thanked Assistant City Attorney Glenn Brockman for his work on the document and said that Mr. Brockman is a tremendous negotiator, protected the City, and ensured that the City has the best document possible.

MAYOR TIBSHRAENY announced that he has a couple of questions on Item no. 27.

COMMUNITY SERVICES DIRECTOR, MARK EYNATTEN, explained that the Paseo Vista Recreation Facility is a 64 acre site located at the northwest corner of McQueen and Ocotillo Roads, formerly known as the City's landfill. It was developed as a recreation area after the landfill closed in October 2005. MR. EYNATTEN said it is officially classified as a recreation area rather than a park because of the limitations that a landfill presents. As a landfill in its structure, the City is prevented from including typical amenities normally found in a park that size, such as a recreation center, lighted ball fields, paved surfaces, and parking lots. Conversion of this site was originally projected to cost \$13.6 million including its design and construction. An authorization for that amount was included in the City's 2004 bond election. The project was completed using a construction manager at risk process at a total cost of \$12,229,700. Of that amount, about \$824,000 was for the design and \$11,400,000 was for the construction. When it was completed, the site at the north end has an archery range, which is said to be the best in the state, a dog park with two separate cells that allows for better maintenance and distribution of use, 2.5 miles of trails, 18-hole disc golf course, access to the Paseo Trail, a large playground that features an environmental theme, and various picnic shelters throughout the site. MR. EYNATTEN noted that staff is proud of the project because it received the prestigious Crescordia Award from Valley Forward for Environmental Excellence in 2010.

MR. EYNATTEN explained that the conversion of the landfill presented a number of complex set of issues that focus on the protection of the federally approved cap on the landfill, the prevention of water intrusion to the cap layer, the inability to pond or retain water on top of the site while still having to capture and remove the water from the site within the site envelope. He said that staff also recognizes that settlement of the site would occur for the next 30 to 50 years. It is also important to realize that the Paseo Vista is a 64 acre dome. All the rain that falls on top that doesn't immediately soak in runs off the sides. In order to deal with that water volume, there is a series of water channels and structures known as gabions that were designed to slow down the flow of the water on the run off and intercept and channel the water to the retention basins. The big rock baskets are gabions. There are 14,000 linear feet on the site of gabions and another 12,000 linear feet of rock lined swales and channels to move water. In addition to those structures, the design called for the use of decomposed granite and a wildflower grass seed mix to stabilize the slopes, dissipate the impact velocity of the rainfall, and further reduce the velocity of the runoff. That design concept was taken from the successful use of it in the 2007 development of Veteran's Oasis Park and its environmental education areas, which also won a Crescordia award in 2008. Unfortunately, because staff was not able to irrigate the slopes at Paseo Vista and because of the lack of rainfall that strategy of using a wildflower and grass mix to stabilize slopes was unsuccessful.

MR. EYNATTEN advised that even a cursory review of landfill conversions will show that draining and erosions are ongoing issues that periodically require corrective enhancements and vigilant maintenance to protect the landfill cap.

MR. EYNATTEN provided a visual of the erosion damage. He believes that the issues should have been addressed in the original design and as such staff met with the engineer and was able to negotiate receiving redesign work and construction documents at no cost to the City. The value of that work has been set at \$46,950. The construction of the structures and flow patterns,

however, do represent an upgrade to what was originally put in and specified. As such, there would have been a higher cost in the original contract. The work was broken out as the base bid and it came in an amount of \$374,887.50.

MR. EYNATTEN said that in addition to those upgrades, staff is recommending to the Council three alternates: 1. An additional gabion in the southwest corner of the site for a cost of \$7,335.00. This structure should have been included in the original design. The value of the alternate was included in the value of the redesign and construction documents that were prepared by the engineering firm. 2. Work on the retention basins that border the east side of the property and come down McQueen to Ocotillo in the amount of \$143,896.00. It also includes some work to reset a vault for a monitoring well for the Municipal Utilities Department. That work was outside the original scope of the project when it was first done.

MR. EYNATTEN advised that staff is not asking for anything from the engineer or the original contractor, but it is work that needs to be done so as water is drained off into those retention basins it will be pumped and brought over to a retention basin that does drain.

MR. EYNATTEN explained that the final alternate: 3. Will correct work by the original contractor that staff believes is unsatisfactory in the amount of \$7,045.00. The alternate was included so that staff had an accurate value of the work that needed to be done. Its inclusion in the contract is recommended so that all the work can be done at one time. MR. EYNATTEN noted that staff does plan to pursue reimbursement from the original contractor in the amount of \$7,045.00.

MR. EYNATTEN said that the total cost of the contract award that staff is recommending including the base bid and three alternates is \$533,163.50. That low bid was submitted by SDB Incorporated, a company that is not the contractor that performed the original work. The contract allows for 120 days reaching substantial completion and 150 days for final completion. In addition to SDB Incorporated the City received five other bids that ranged to a high of \$893,608.00.

MAYOR TIBSHRAENY asked if Mr. Eynatten knows what is planned to help with the erosion problems by the sidewalk and canal.

MR. EYNATTEN advised that additional drainage swales will be added in a particular direction and intercept the water. A thicker layer of decomposed granite will also be added along with back filling all the areas where there are current erosion channels.

COUNCILMEMBER HEUMANN asked Mr. Eynatten if much of the damage was attributed to the first summer that the site was open when there were heavy rains and asked if with the improvements staff anticipates any future problems.

MR. EYNATTEN responded by saying that it is not possible to completely stop the erosion process. However, staff believes that fixing the areas and upgrading the structures and the surfaces will help with the maintenance issues. MR. EYNATTEN noted that any other erosion that occurs can be handled through simple maintenance by backfilling and grading the erosion. Staff believes these improvements will take care of the major problems that have been experienced thus far that are in danger of undermining the cap.

MAYOR TIBSHRAENY stated that the Paseo Vista is a very important amenity to Chandler. He said he appreciates Mr. Eynatten working on this issue so that staff can maintain the integrity of the site.

In regards to Items no. 14 and 15 (solar panels on City buildings), COUNCILMEMBER HARTKE commended staff for their work on an investment that will net long-term dollars for the City.

COUNCILMEMBER HARTKE noted that he will vote nay on Item no. 11.

COUNCILMEMBER DONOVAN noted that she will vote nay on Item no. 11.

COUNCILMEMBER HEUMANN noted that he will vote nay on Item no. 11.

COUNCILMEMBER ORLANDO noted on Item nos. 14 and 15, that he is aware there are several competitors out there but in this case more value can be gained by buying from American companies.

MOVED BY VICE-MAYOR WENINGER, SECONDED BY COUNCILMEMBER HEUMANN, TO APPROVE THE CONSENT AGENDA AS PRESENTED WITH THE EXCEPTION OF ITEM NO. 8, WHICH NEEDS TO BE AMENDED AS THE ORDINANCE, SECTION 2, TOTAL LEASE SHOULD STATE 50 YEARS, NOT 25.

MOTION CARRIED UNANIMOUSLY (7-0) with the exceptions noted.

1. MINUTES:

APPROVED the following minutes:

- 1a. Chandler City Council Budget Workshop of January 23, 2012
- 1b. Chandler City Council Special Meeting of February 6, 2012
- 1c. Chandler City Council Regular Meeting of February 9, 2012

2. CABLE TELEVISION LICENSE AGREEMENT: Cox Ord. #4345

ADOPTED Ordinance No. 4345 granting Cox Communications Arizona, LLC, a Cable Television License Agreement and Class 6 Cable Television and Related Services License for the City of Chandler.

3. REZONING: Air Products and Chemicals, Inc. Ord. #4347

ADOPTED Ordinance No. 4347, DVR11-0043 Air Products and Chemicals, Inc., rezoning from Planned Industrial District (I-1) to PAD for underlying I-1 uses for the expansion of an ultra-high purity gaseous production facility that includes necessary mechanical structures exceeding 100 feet in height on approximately 13 acres located at the NEC of Price and Frye roads.

4. REZONING: Warner Business Center Ord. #4348

ADOPTED Ordinance No. 4348, DVR11-0032 Warner Business Center, rezoning from PAD to PAD Amended to expand the list of permitted uses for modified parking layout within a 7 acre business park located at 430-480 E. Warner Road, approximately one-half mile east of the NEC of Warner Road and Arizona Avenue.

5. REZONING: Chandler Center Commons Ord. #4350

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4350, DR11-0048 Chandler Center commons, rezoning from PAD to PAD Amended to allow additional uses within the

Chandler Center Commons development at 550-5590 W. Chandler Boulevard. (Applicant: Will Architects, PLC; Owner: chandler commerce Center, LLC.)

The site is fully developed with 10 single-story buildings on an approximately 12 acre parcel located between an Intel campus and an office park along the north side of Chandler Boulevard. An industrial park is north of the subject site. The site is currently 45% leased.

The site received PAD zoning in 2006 to allow general office and light industrial uses and shortly thereafter was developed. A charter high school, which is allowed by-right in all zoning districts due to state law, occupied two buildings in the site's northwest portion in 2010. A 2011 approval added preschools and day cares as allowed uses under the PAD. Other current tenants are primarily general office users.

The subject request would add a wide variety of uses in an attempt to best position this development for economic recovery. Requested uses include medical offices, banks (without drive-throughs), business colleges, insurance agencies, art galleries and music or dance schools. Typical retail uses are not requested.

Parking availability will determine the eventual land use split for the site as it approaches full occupancy. At Staff's request, the applicant conducted a parking analysis to help examine how well the existing parking provision can accommodate the requested uses. According to this analysis, existing tenants occupy 61,765 square feet and require 250 spaces. Based on the Zoning Code parking requirements, the remaining vacant tenant spaces could then accommodate up to 13,000 square feet of medical office and 44,670 square feet of general office. The applicant agrees to a Staff-recommended condition that the medical uses be limited according to parking availability and that the eligible suites for such uses be specified prior to the first medical office occupancy. The applicant has indicated that they will comply with this condition by designating Building A as the space eligible for medical offices.

#### DISCUSSION

The Planning Commission and Staff support the rezoning finding that the requested uses are compatible in this business park environment. Though light industrial uses are allowed, the relatively small suites and lack of loading docks make it unlikely that industrial uses with significant hazardous materials and truck traffic will locate in this park (no industrial uses currently). Sufficient parking is provided for the types of uses requested, so long as medical office is limited. Also, the parking fields are well-dispersed around the buildings and separated from the main drive aisles so as to allow for safe and efficient pick-up/drop-off of children for any music or dance schools that choose to locate at this site.

The Planning Commission and Staff recommend that the suites eligible for medical offices be specified prior to any such occupancy in order to allow for efficient administration. Other similar office sites throughout the City have become difficult to administer with regard to the maximum amount of medical office allowed. Often times, the Certificate of Occupancy process has become excessively lengthened by the need for every new medical tenant to prove that the site still contains adequate parking based on the updated tenant mix. (Notably, reviewers could track new occupancies, but not new vacancies; therefore, a running inventory based solely on permits issued is not sufficient). Other times, potential medical tenants will make major financing commitments based on the site's existing medical users, only to find out later that the provided parking cannot support any additional medical. Pre-determining the suites eligible for medical offices should improve this process by reducing confusion and streamlining the Certificate of Occupancy review.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 5, 2012. Three neighbors attended to recommend modifications to the requested uses including that pay-day loans, homeless shelters and adult-themed magazine distribution uses be excluded. The neighbors' requested modifications have all been incorporated in the updated application. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the conditions listed in the ordinance.

6. CITY CODE AMENDMENT: Chapter 5

Ord. #4351

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4351 amending Chapter 5 of the Chandler City Code relating to Risk Management.

Section 5.03 of the City Charter authorizes the City Council to "prescribe the manner in which claims or demands against the city shall be presented, audited, and paid". Chapter 5 of the City Code was originally adopted through Ordinance No. 1928 in 1988. Significant amendments to Chapter 5 were made through Ordinance No. 2965 in 1999. As it currently reads, Chapter 5 authorizes the provision of risk management services through the Management Services Office and the designation of a Risk Manager.

During recent budget cycles, the City has eliminated the position of "Risk Manager". Thus, the function of risk management has been carried out recently by various designees of the Management Services Department. The City has also recently decided to increase the amount of litigation defense to be handled in-house through the City Attorney's Office. In light of these changes, the City Manager and the City Attorney have conferred and believe that the provision or risk management services for the City can be most effectively and efficiently carried out through the City Attorney's Office. In light of these changes, the City Attorney's Office is proposing that the Council adopt the proposed changes to Chapter 5 of the City Code relating to risk management.

Some of the highlights of the proposed changes are as follows: First, the general designation of the position of "Risk Manager" is replaced by "City Attorney" to reflect the new responsibilities taken on by the City Attorney's Office. Next, "loss trust fund" is replaced with the simpler term "loss fund" which is more in line with historic City practices of maintaining a designated account within the City finances for risk management but not necessarily a separately maintained "trust" fund.

In Section 5-3.4, an update of the settlement authority amounts is proposed. The settlement authority (formerly given to the Risk Manager) is now handled by the City Attorney and is increased from \$15,000.00 to \$25,000.00. Settlements above that amount will still require formal Council approval. This will allow full and adequate consideration of claims against the City without burdening the Council's agenda with claims which are relatively smaller by modern standards. This practice will also be similar to that of other jurisdictions.

In light of the City now handling litigation with in-house attorneys, a new Section 5-3.5.1 is added to allow the City to retain outside expertise as well. In the past, such outside expertise has been retained directly by the independent attorneys retained to defend the City. With most cases intended to be handled internally, the new section will clarify the authority of the City Staff to hire necessary independent experts and consultants to protect and defend the City's interests.

7. REZONING/PRELIMINARY PLAT: Finisterra

Ord. #4352

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4352, DVR11-0038 Finisterra, rezoning from Single-Family Residential (SF-18) to PAD, with PDP, for a 133-lot single-family residential subdivision on approximately 40.8 acres located at the SWC of Ocotillo Road and the future 148<sup>th</sup> Street alignment.

APPROVED Preliminary Plat PPT11-0008 Finisterra, for a 13-lot single-family residential subdivision on approximately 40.8 acres located at the SWC of Ocotillo Road and the future 148<sup>th</sup> Street Alignment. (Applicant: Mari Flynn; Silver Fern Management, LLC.)

The site was recently annexed and received City initial zoning of SF-18. Directly west is the recently approved Pastorino Dairy. North, across Ocotillo Road, is a developed single-family residential subdivision located within the jurisdiction of the Town of Gilbert; east is agricultural land, also within the Town of Gilbert. South is vacant land within the County, but within the municipal boundary of Chandler.

The site was in the process of being developed in the County, but ultimately, completion was not finalized. Upon purchasing the property, the current owner received annexation and the granting of a city initial zoning designation. The current zoning on the site is SF-18, allowing for the development of single-family homes on lots not less than 18,000 square feet. The current request is to rezone the property to Planned Area Development for single-family residential to allow the development of homes on lots of 7,200 square feet. Housing product is not requested with this application, requiring separate Preliminary Development Plan submittal and approval.

The General Plan identifies the subject site is located within the SECAP, and designated as supporting "Traditional Suburban Character" type development. The SEACAP allows for residential density to be 2.5 dwelling units per acre and provides provision for up to 3.5 dwelling units per acre based on the net acreage of the subdivision, requiring the development to meet five points as outlined in the SECAP. Additionally, the development will need to meet the requirements as outlined in the Residential Development Standards (RDS).

SUBDIVISION LAYOUT

The current layout remains very similar with development that had occurred prior to the annexation. The design has maintained consistency due to a number of partially completed improvements that had taken place while the subdivision was being developed in the county, such as grading, the laying of sewer and water lines and curbing. Additionally, due to the previous development, all streets within the subdivision are private.

A single point of access is provided along Ocotillo Road that is bisected by a large fountain feature. Additionally, on either side of the entrance are large multi-level landscaped berms that feature gabion walls. Following the entry, landscape boulevards run the depth of the subdivision terminating at a grove of oak trees and large community garden area. In an effort to provide a softer look to the landscaped area, a 5'-wide compacted meandering granite trail will run the length of the outdoor area on the east side of the amenity area that will wrap around the southern end of the subdivision connecting to 148<sup>th</sup> Street. Various pedestrian connections will be provided on the west side of the amenity area. Where amenities are provided within the landscaped area, they will be located central to the outdoor area and hedging will be provided around them in an effort to prevent children and other items from entering into the adjacent streets. The street adjacent to the outdoor amenity area will be tree-lined, further highlighting the centralized open space area and creating a strong sense of arrival.

The existing perimeter wall that was constructed with the prior development will be demolished along Ocotillo Road and will be salvaged where possible. Along Ocotillo Road, various staggers will be provided to enhance visual interest along the arterial streetscape. Three types of walls will be provided within the development. The theme wall will be the dominate wall detail throughout the subdivision with a typical dooley wall design being provided between lots. View fencing is provided along the southern end of the subdivision. While the developer acknowledges that the current design does not meet pool enclosure requirements, the developer prefers the design rather than meeting enclosure requirements.

As part of the review, the subdivision needs to meet a number of the standards as outlined in the RDS and the SECAP. The 3.5 du/ac density requires that five points of the optional elements as outlined in the SECAP be provided. Elements provided include bi-level/tri-level landscaping provided at the entrance; a community garden and grove area; small loop drives around centralized common open space; view corridors to the San Tan Mountains and various educational signs as part of the garden/grove area relating back to the historic agricultural uses of the land.

In addition to meeting the requirements within the SECAP, the subdivision also needs to provide a certain number of requirements as outlined in the RDS. Due to the size of all lots being at least 7,000 square feet, all eight required elements and ten optional elements are required; the complete list of standards that are achieved is provided in the development booklet. Since the request does not include housing product, a future PDP will be required for the product at which time the product will be reviewed to determine conformity with the RDS for housing product.

The applicant is requesting deviation from the RDS option of requiring either wider corner lots (widen by 10') or providing a ten-foot landscape tract adjacent to the corner lot. Due to the previous layout of improvements, in order to meet the requirement, various meters would have been relocated to make the additional one and one-half foot. The lots that are adjacent to the reduced landscape tract are lots 13, 14, 28, 29, 43, 44, 79, 80, 104, 105, 118 and 119. In an effort to offset this, a 20-foot landscape tract will be provided adjacent to lots 22, 35, 98, 111, 112 and 125. The Planning Commission and Staff support the deviation citing that the deficiency is compensated for by providing the widened landscaped tract.

The subdivision poses a unique circumstance where a number of the improvements and design of the subdivision was imposed by previous development actions; however, in spite of this, the development team worked to try and meet as many standards as possible without trying to make major modification to the site layout, which would have made the project more cost prohibitive. The Planning Commission and Staff believe that the design represents a quality subdivision that approaches outdoor amenities in a unique fashion and contributes to the overall quality of subdivision in the SECAP.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 24, 2012. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

REZONING:

Upon finding consistency with the General Plan and the SECAP, the Planning Commission and Staff recommend approval subject to the conditions listed in the ordinance.

PRELIMINARY DEVELOPMENT PLAN:

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Preliminary Development Plan approval is for subdivision layout only.
2. Development shall be in substantial conformance with Exhibit No. 7, Development Booklet entitled "Finisterra" and kept on file in the City of Chandler Planning Division, in File No. DVR11-0038, except as modified by condition herein.

PRELIMINARY PLAT:

The Planning Commission and Staff recommend approval 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.

8. LEASE AGREEMENT/ GENERAL FUND TRANSFER: ASU Ord. #4356

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4356 authorizing a lease agreement with Arizona State University (ASU) for property located at 249 E. Chicago Street. APPROVED a General Fund Contingency Transfer in the amount of \$2,900,000.00 to the General Government Capital Projects Fund to spend excess Vehicle Replacement Fund balance for this project.

Over the past year, the City had opened a Request for Proposal for the Chicago Street Yard building located at 249 East Chicago Street in Downtown Chandler. This former Public Works yard is a +/-33,000-square foot industrial building that had formerly housed several City departments.

While working with ASU Polytechnic, Staff requested that ASU staff tour the Chicago Yard building to see if this might be something that could work for their uses. After the tour, it quickly became evident that the building was ideal for their uses for the ASU College of Technology and Innovation.

ASU has proposed for three programs to operate in the facility, expanding from the Polytechnic campus. These spaces include multi-purpose engineering and technology learning studios, "Proof of Concept" labs to support open innovation and technology development and access to ASU online courses and degrees with assisted learning, with the potential of other programs growing in the space. Initially, this building will be home to approximately 100 students and faculty, expanding over the next three years to house approximately 1,000 ASU students and faculty. According to a third party independent economic impact study, this project is expected to have a \$23.8 million economic impact on Chandler over the next five years and even greater for each subsequent five year period. This project will be a tremendous win for Downtown Chandler adding even more vibrancy to the area with up to 1,000 students coming into Downtown for their classes each week.

To house classrooms, faculty and engineering labs, the Chicago Yard will need a complete interior demolition and rebuild of tenant improvements to create classrooms, labs, offices and collaborative space. This site will require re-engineering to replace a crumbling parking lot as well as to modify the drainage on the site that now ponds at the rear of the building. Further, the HVAC system is extremely old and inefficient on the building as is the electrical system. Both will need to be completely replaced. It is important to note that most of these items would have been

required to rehabilitate a very old building regardless of the type of use the City would have chosen to inhabit the building.

Through architectural and engineering estimates, as well as discipline-specific contractor walk-through and line-item estimates, it is estimated that this project will require approximately \$2.9 million in capital costs to renovate for occupancy by ASU. Final cost will not be available until the architect and engineers complete the construction drawings, which are currently underway. Once the construction drawings are complete, this project will be put out to bid to ensure that the City gets the greatest value for its investment. City Council will review the selected bid to finalize the contract with the General Contractor and approve the exact expenditure at a future public meeting.

While the City of Chandler is doing the physical improvements to the building, ASU will be responsible for all furniture fixtures and equipment. Although ASU has not yet finalized the cost, it is estimated by them that their costs will be between \$1 million and \$1.5 million in addition to the City's investment to prepare the space for labs and classrooms.

The initial term of this lease is for a five (5) year period due to statutory signature authority for universities. At the April 2012 Arizona Board of Regents (ABOR) meeting, ASU will take an item forward for consideration authorizing a 50-year lease for the Chicago Yard. Upon approval by ABOR at their public meeting, the City Attorney will amend the five-year lease to a term of 15 years without coming back to Council for further consideration. The lease agreement with ASU is specific to educational programs and authorizes a lease rate of \$1.00 per year. Further, once the tenant improvements are completed, ASU will be financially responsible for all on-going operations of the space as well as maintenance and upkeep of the structure and equipment. Staff anticipates no additional costs for this facility after the initial construction and one-year warranty work is completed.

The projected cost of the ASU Downtown project is \$2.9 million, which will be funded from excess fund balance in the Vehicle Replacement Fund (VRF) available as a result of excess balance accumulated from three years of minimal vehicle replacements and fleet reductions City-wide. This will require a transfer out of VRF (404.0000.8401) and a transfer into the General Government Capital Projects Fund (401.0000.4089).

A General Fund Contingency appropriation transfer (101.1290.5911) will then be required to appropriate spending authority of the VRF balance for the ASU Downtown project from the General Government Capital Projects Fund (401.1291.6212.0.5GG630).

9. AREA PLAN AMENDMENT/REZONING/PRELIMINARY PLAT: Waters at Ocotillo –  
Parcels 1 & 4 Res. #4577 & Ord. #4349

ADOPTED Resolution No. 4577 Area Plan Amendment, APL11-0003 Waters at Ocotillo – Parcels 1 & 4, an amendment to the Ocotillo Area Plan from Multi-Family Residential to Single-Family Residential.

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4349, DVR11-0035 Waters At Ocotillo –Parcels 1 & 4, rezoning from PAD for multi-family uses to PAD Amended for single-family uses along with PDP for two single-family residential subdivisions on approximately 10 acres located near the intersection of Market Place and Jacaranda Parkway.

APPROVED Preliminary Plat PPT11-0006 Waters At Ocotillo – Parcels 1 & 4, for two single-family residential subdivisions located near the intersection of Market Place and Jacaranda

Parkway, at the NEC of the intersection of Dobson and Price roads. (Applicant: Burch & Cracchiolo, P.A.; Owner: GP Chandler, LLC (Gilbane Properties.))

The currently vacant parcels are located at the intersection of Market Place and Jacaranda Parkway, on the north end of the Market Place "loop" east of Dobson Road. To the north is an apartment complex. To the east are existing single-family homes in the Ocotillo master planned community. To the west are parcels zoned for multi-family uses. To the south are Parcels 5 & 6 which recently received PDP approval for 31 single-family homes.

The subject site is part of the 2,700 acre Ocotillo Area Plan originally adopted in 1983. The subject parcels received PAD zoning and area plan amendment approval for multi-family uses as part of the 74 acre Waters at Ocotillo development in 2007. The 2007 approval included a PDP that established a strong community identity for the 8 parcels included in The Waters at Ocotillo, with bridges over the lake and common connections to a central community center that was to service the whole area. The 2007 approval also designated the subject parcels for multi-family in the form of 2- and 3-story "garage court condominiums" that were laid out side-by-side like townhomes, with individual ground-floor entrances and 2-car garages for each.

The site layouts for Parcel 1 and Parcel 4 are similar, with two points of access, short streets and several cul-de-sacs/elbows. Of the 65 total proposed lots, 25 have lake frontage and nine back to the neighboring apartment complex to the north. Of those with lake frontage, 10 are generally across from single-family homes, 13 are generally across from a planned apartment complex on Parcels 2 & 3, and two have only a sliver of lake access with no direct sight-lines from the homes to the land across the water.

An existing lake system surrounds much of the subject parcels, providing a significant community amenity. Storm water is directed to the lakes, so there is no need for on-site retention for the subject development. The lake is approximately 55' cavorts at its narrowest points adjacent to the subject parcels along their western edges.

Parcel 1 and Parcel 4 each include a small community open space adjacent to the lake system. Parcel 1's open space is located in its southwestern portion, across from the planned apartment complex in Parcel 2. Parcel 4's open space is also located in its southwestern portion, across from the planned community center in Parcel 3 and across from the approved open space in Parcel 6 so as to form a "triangle" of visual community connections across the water. Each open space includes a shaded seating area with views to the lake and enhanced landscaping. The subject parcels' community landscaping features Model Pine and Chitalpa trees along Market Street and Jacaranda Parkway, which is in keeping with the established Mondel Pines in this area. The parcels' interiors use Chitalpa and Sissoo trees, with the fast-growing Sissoos particularly used to provide shade to the pedestrian seating features.

Theme walls are provided along both parcels' Market Street frontage and Parcel 5's interior open space in the form of a 6'-high white stucco-finish block wall capped with brick and featuring intermittent clay pipe accents. The parcels' entry signs will be a similar motif with the subdivision name and logo placed upon a shorter, two-tier wall.

The lot sizes range from 5,963 to 15,182 square feet in Parcel 1 and from 8,718 to 11,364 square feet in Parcel 4. Parcel 1 lots are at least 52' wide and Parcel 4 lots are at least 67' wide. Lots backing to the lake are deeper than internal lots in order to account for the water's edge being some distance into the back yards. The minimum setbacks for both parcels are 5' and 7' on the sides, 15' in the rear and varied (from 10' to 20') in the front. The maximum lot coverage is 60%.

The application requests relief from the standard street widths for public streets. Internal streets are shown at 42' ROW rather than the standard 50' ROW. Staff supports this relief.

The housing product is the same as approved for Parcels 5 & 6 that includes two categories of homes, the 4000 Series and the 5500 Series, featuring a Santa Barbara style of architecture with distinctive elements such as light stucco exteriors, red barrel tile roofs, arched windows and doors recessed windows, ornamental iron (both upon the façades and courtyard entrances), brick accents, chimneys, roof finials, and stucco eaves and corbels. The 4000 Series Homes are all two-story. The 5500 Series offers two one-story homes and three two-story homes. The application presents 3 floor plans for the 40'-wide 4000 Series and 5 floor plans for the 55'-wide 5500 Series. In pursuit of a strong Santa Barbara character throughout both parcels, each floor plan is available in only a Santa Barbara elevation. Parcel 1 will exclusively offer the 4000 Series on its 43 lots, while Parcel 4 will exclusively offer the 5500 Series on its 22 lots. Streetscape variety is a concern on Parcel 1 (just as it was on Parcel 5), leading Staff to recommend that an additional 4000 Series elevation be developed.

#### RESIDENTIAL DEVELOPMENT STANDARDS

The application fulfills the intent of the Residential Development Standards (RDS) by providing a high-quality product and a strong Santa Barbara style within subdivisions that avoid monotonous layouts and provide sufficient amenities, overcoming the small, irregular parcels already established by the Ocotillo lake system. In Staff's analysis, the application conforms to 6 of the 8 required subdivision diversity elements, 11 of the applicable 20 "optional" subdivision diversity elements, 7 of the 9 required architectural diversity elements, and 7 of the minimum 7 optional architectural diversity elements. Notably, because some of the lots are less than 7,000 square feet in size, all of the "optional" subdivision diversity elements are actually required for this project. The RDS elements are guidelines that need not be abided by strictly if deviation is warranted by project uniqueness, overall excellence, difficulty of parcel size/shape, or other similar factors.

Due to the small lot size, the project is evaluated under all 28 subdivision diversity elements in the RDS. The application requests relief from the required number of elements, generally, because the project is said to achieve the fundamental purposes of the RDS (e.g. diversity, creativity, quality, sustainability). The application also requests relief from several of the elements specifically. Relief from required subdivision element #3 (vehicular access to rear yards) is requested because the Ocotillo Community Association prohibits rear yard storage of vehicles that are visible from neighboring properties or the lake. Relief from required subdivision element #4 (minimum 30' rear yard setback for 2-story houses) is requested because of the four-sided architecture provided and the landscape tract along Market Place that provides increased separation in that direction. Relief from "optional" subdivision elements #4, 5, 8, 14, 17, 18, 19 and 20 is requested because these elements are impractical to achieve at the density proposed on these small, irregularly shaped parcels.

The application requests relief from required architectural diversity element #4 ("Provide single-story or combination one-and two-story homes on all corner lots"). Lots 1, 25 and 26 of Parcel 1 and Lots 1, 3, 16 and 22 of Parcel 4 are close enough to Market Place or Jacaranda Parkway (~10') that they should be considered corner lots. Lots 31, 32 and 43 of Parcel 1 and Lots 2, 19 and 20 of Parcel 4 are also corner lots on the site interiors. The application notes that the four-sided architecture lessens the aesthetic concern as viewed from Market Place and Jacaranda Parkway.

The Planning Commission and Staff find the requested site layout and housing product to be of a high quality and appropriate for the area. It is noted that one of the objectives of the RDS is to encourage larger lots, and many of the diversity elements not attained by this application are pursuant of that objective. However, a somewhat more dense development is appropriate at this location as a natural transition between established Ocotillo subdivisions to the east (which are of similar density) and the planned multi-family uses to the west. As such, some relief from the RDS is warranted because it allows for a more compatible development in the broader context.

The interface between the subject parcels and planned apartments across the lake to the west presents a potential land use conflict due to the visibility into the single-family homes' typically "private" back yard space. Adjacent to the subject parcels, the lakes are relatively narrow (as little as 55' across) compared to other places in Ocotillo. However, this concern is mitigated by several factors. First, the site plans for Parcels 2 & 3 (currently in design) are being adjusted so that few buildings are located adjacent to the lake. Second, the lakeside lots in the subject parcels are extra deep so as to allow large rear yard setbacks. When the large setbacks are taken into account, the anticipated distance between buildings (from single-family home to apartment building across the water) is in the range of approximately 140' to 170'. Third, Parcels 2 & 3 are incorporating enhanced landscaping along the water, including double rows of trees. Fourth, the open spaces in the subject parcels have been located directly across from the planned community center and an apartment building (rather than parking) so as to reduce the number of single-family lots affected by this concern. Overall, the opinion of the Planning Commission and Staff is that the potential land use conflict between single-family and apartment uses will be effectively mitigated.

The strong Santa Barbara architecture will be a positive presence adjacent to the predominantly Santa Barbara style housing to the east and the Santa Barbara Commercial style used in Downtown Ocotillo to the northwest. The strong architecture in a particular style warrants relief from some of the RDS architectural diversity standards in order to create a clear neighborhood identity. In order to enhance the street scene diversity within Parcel 1, the Planning Commission and Staff recommend a condition that would require an additional 4000 series floor plan and elevation be provided of an equal or greater quality level to those presented in the development booklet. The application indicates that such a floor plan has already been conceptualized.

Though multi-family uses might be more compatible on Parcel 1 than the proposed single-family uses, the Planning Commission and Staff believe that single-family uses can also be compatible at this location. In recent decades, multi-family uses such as those to the north are usually buffered from single-family uses by streets or large setbacks with enhanced landscaping. In this case, the large setbacks from the apartment buildings are in place due to parking spaces, rather than buildings, being placed along the apartment-side of the shared property line. Enhanced landscaping was not part of this mutual property line because more apartments, not single-family homes, were planned for Parcel 1 at the time of the apartments' development.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on October 19, 2011. There were approximately 40 neighbors in attendance. A full overview of the project was given for all four parcels. Neighbors asked a variety of general questions; however, no opposition was expressed. Approximately 25 neighbors signed a petition of support at this meeting. One neighbor sent a letter of opposition to City Council that pertains to both the subject request and the previously approved PDP for Parcels 5 & 6.

Upon finding consistency with the General Plan, the Planning commission and Staff recommend approval of the Area Plan and Rezoning.

#### PRELIMINARY DEVELOPMENT PLAN

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Waters at Ocotillo – Parcels 1 & 4", kept on file in the City of Chandler Planning Services Division, in File No. DVR11-0035, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3890 in case DVR06-0052 THE WATERS AT OCOTILLO, except as modified by condition herein.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
4. The applicant will work with Staff to provide an additional floor plan and elevation for the 4000 Series product that is of an equal or greater quality level to the other 4000 Series products presented in the development booklet.

#### PRELIMINARY PLAT

The Planning Commission and Staff recommend approval 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.

#### 10. ZONING EXTENSION: Project Green Box

APPROVED a three-year timing extension for Zoning DVR11-0039 Project Green Box, on the existing PAD zoning on 22 acres north and east of the NEC of Germann and Price roads allowing office and light industrial uses.

APPROVED a PDP for a data center with an open-air equipment courtyard on approximately 8 acres in the site's SE portion at the NWC of Germann Road and Ellis Street. (Applicant: Phoenix Investors No. 19, represented by Withey Morris PLC; Owner: Phoenix Investors No. 19.)

#### BACKGROUND

The 22 acre subject site is located near the northeast corner of Price and Germann roads within the South Price Road Employment Corridor as designated in the General Plan. The subject site would complete the approximately 40 acre contiguous development that commenced with the AmeriCredit office building on the corner of Price and Germann roads approved in 2002. To the north is agricultural land designated for employment by the General Plan. To the east is a single-family subdivision. South, across Germann Road, is a data center. Large SRP power poles run along the site's eastern edge, adjacent to Ellis Street.

In 2008, the subject site received PAD zoning for office and light industrial uses on the entire 22 acres, with PDP approval for two, two-story speculative buildings totaling approximately 255,000 square feet. One building was to be located on the north end near Price Road, while the other was to be located in the southeast portion near the northwest corner of German Road and Ellis Street. Site circulation patterns had mostly been established by the previous AmeriCredit approval, including the locations of the main entrances from Price and Germann roads.

#### EXTENSION OF THE TIMING CONDITION

The application requests a time extension for an approximately 22 acre parcel located north and east of the northeast corner of Germann and Price roads. The Planned Area Development (PAD) zoning approval for office and light industrial uses was granted for a period of three (3) years, which expired on March 29, 2011. The three-year extension will be calculated to begin from the previous approval's expiration date, resulting in an extension to March 2014. All other conditions in the original approval will remain in effect.

#### PRELIMINARY DEVELOPMENT PLAN

The subject application requests PDP approval for a new site layout, building architecture, landscaping and signage on an 8 acre portion of the site at the northwest corner of Germann Road and Ellis Street (the 22 acre site's southeastern portion). However, no changes are requested to the previously approved PDP as it applies to the site's remaining 14 acres that front Price Road.

The proposed PDP is for an open-air data center consisting of a large outdoor equipment courtyard located behind a small office element along Germann Road. The open-air data center concept would reportedly be the first of its kind in Arizona. Phase I of the data center includes a 7,000 square foot one-story office (with potential 3,000 square foot mezzanine) along Germann Road, up to 126 individual data processing modules lined up along indoor corridors within an open-air equipment courtyard enclosed by a 22'-high screen wall and associated site improvements. Both the data processing modules and the corridors are climate-controlled. Unlike a typical indoor warehouse-style data center, no cooling tower is required for this development. The actual construction and placement of the 126 modules will be staged in groups of 10 to 20 as part of Phase I, depending on the pace of customer demand.

Phase I includes a parking lot along Germann Road with 50 spaces that is sufficient to account for the office portion's zoning code requirements. No parking is provided for the equipment courtyard because it will generally not be occupied by any people. Phase I also includes improvements to Ellis Street and an access drive via Ellis Street north of the courtyard.

Phase II of the data center would expand the equipment courtyard northward by relocating the northern screen wall. Also, depending on SRP's requirements and electricity demand, Phase II might involve a new substation to be located north of the equipment courtyard.

A generator yard is located in the central area of the open-air equipment courtyard. The gas-fueled generators are necessary for backup power in the event of an electricity outage. Besides an outage event, the generators need to be tested occasionally (perhaps once per month) during typical daytime office hours.

The landscaping palette draws from the adjacent AmeriCredit site in its provision of Palo Verde, Sissoo, and Ash trees along the street frontages. Live Oak trees and Bougainvillea are added rather prominently near the main entrance, along with colorful accents and shrubs, to help showcase the building architecture. Sissoo trees are used more heavily along the eastern façade so as to soften the 22'- to 23'-high screen wall façade as viewed from the adjacent single-family neighborhood. A recommended condition would require that the landscaping tree sizes and numbers be in conformance with the Commercial Design Standards (CDS) – the current exhibits do not show any 48"-box trees, which according to the CDS, must be a certain percentage of the trees planted along arterial streets.

The applicant requests approval for a single building sign to be placed upon the south façade facing Germann Road, most likely near the office entrance. The sign will include individual letters

of approximately 3' to 4' in height. Details regarding the exact materials used and type of illumination will be worked out with Staff. No monument signs are requested.

#### ARCHITECTURE/MODULE DETAILS

The development utilizes a modern architectural style with strong angles and materials such as abundant glass, standing seam metal, perforated metal paneling and synthetic wood lattice to highlight the main entrance facing Germann Road. The equipment courtyard is screened on all sides by a concrete tilt-panel and block wall of 22' minimum height. The courtyard wall's massing is effectively broken up by undulating footprints, undulating ridgelines, materials changes, green screens, color changes and varied scoring on all sides of the building that serve to disguise the wall's length and provide an attractive, highly fragmented appearance to neighbors in all directions, particularly to the south and east.

The data processing modules located in the equipment courtyard are approximately 10' wide by 40' long by 10'-6" high and constructed of CMU block. Each module will have either two or three 20-ton air-conditioning units above it, depending on cooling demand, one of which will be strictly a redundant (backup) unit. The total height of each module when including the air-conditioning units is approximately 18'. Each module consists of doors on each end, one connecting to the climate-controlled corridors (for human access) and the other connecting to the outside as an emergency access/loading door. The modules are permanent once placed on the site – only the equipment inside is owned by the individual tenants and would be removed upon termination of a lease. Some modules are anticipated to be filled to capacity with equipment, while others will be filled to less than capacity, depending on the individual tenant's data processing needs.

#### NEIGHBORHOOD INTERFACE

Several issues of neighborhood compatibility have been considered in the course of designing the subject development, including traffic, aesthetics, construction, noise and privacy. First, with regard to traffic, the traffic levels anticipated from the requested data center use are lower than what had previously been anticipated from the office/light industrial use. Still, the site's 50-space parking lot is designed with its sole access via Germann Road rather than Ellis Street so as to minimize the impact on the adjacent neighborhood.

Second, the development has been designed so as to optimize the aesthetic impact on the adjacent neighborhood. Notably, the 22'-high screen wall prevents views from adjacent homes into the open-air equipment courtyard. Also, the east façade, though very long, features a highly fragmented and attractive design with regular materials and color changes in a manner more typical of an office building, as well as seven (7) green screens and two (2) raised planter boxes. Additionally, existing SRP power poles will partially obscure the view to the subject site.

Third, construction activity will occur only during the Phase I and Phase II initial build-outs. With the module buildings owned by the landlord and not the tenant, there will not be an ongoing need to use cranes and other construction equipment to replace the buildings as the tenants churn over time. Rather, tenants will take their data processing equipment out of the module buildings by hand or forklift when moving out or upgrading their technology. No cranes will remain on site after initial build-out construction.

Fourth, the development team has provided Staff a noise study that concludes that data center use will not have an adverse noise impact on the adjacent residential subdivision. The noise study predicts the worst-case noise impacts from the data center use as measured at eight (8) nearby locations, including several in the adjacent neighborhood. The noise study takes into account the number of module units, the size and type of air-conditioning units employed, the

type of noise control blanketing applied to the a/c units, the size and materials of the courtyard screen wall, and numerous other factors in order to make its predictions. Also, much like the City's airport noise contours, the study's decibel numbers are weighted by time of day. Since the City of Chandler does not have established noise regulations for non-aircraft uses, the consultant applied State of California and U.S. EPA standards to his analysis. The study concludes that the predicted noise levels would fall within the lower end of the range of "normally acceptable" noise levels as measured at the nearest residential properties.

Finally, as noted in the application materials, the development's office portion has no east-facing windows so as to protect the neighbors' privacy.

### COURTYARD VIEWS

Existing and potential views into the proposed open-air equipment courtyard have been analyzed for general land use compatibility and for compatibility with the General Plan. In coordination with Planning and Economic Development Staff, the development team has provided perspective view illustrations of the subject development from the top floor of several potential and existing developments in the Price Road Employment Corridor. Because the Corridor is eligible for mid-rise buildings that exceed 45' in height, Economic Development Staff helped provide realistic estimations for various hypothetical building heights, including up to 10 stories in two locations. However, despite the great height that could potentially be achieved in the Corridor, the perspective views made it apparent that the only neighbor of likely concern is the existing 3-story AmeriCredit building to the west.

Planning Staff has determined that a person standing on the third (top) floor of the AmeriCredit building and looking toward the subject development's 22'- to 23'-4"-high screen walls, will be able to see some portion of air-conditioning units upon the data processing modules in the open-air equipment courtyard. However, no portion of the data processing modules' walls, the backup generators, or any other equipment will be visible from such location. In evaluating views from the AmeriCredit building, it is important to note that its ground elevation is approximately 3' lower than the proposed data center's ground elevation due to the site's existing slope.

It is also noted that nothing other than air-conditioning units which are a typical component of any building's rooftop equipment, is visible from nearby properties. The lack of visible outdoor ground equipment or data processing modules clearly differentiates the subject use from typical industrial storage yards, which are prohibited by the General Plan from locating in the Price Road Employment Corridor.

The Planning Commission and Staff support the requested zoning extension, finding the approved office and light industrial uses to still be compatible at this location and in conformance with the General Plan.

Also, the Planning Commission and Staff support the requested PDP approval for an 8 acre open-air data center campus, finding it to be an aesthetically excellent development that is compatible with its surrounding uses and in conformance with the General Plan. It is worth noting that a data center without a roof might prove to be incompatible at many other locations, including other locations in the Price Road Employment Corridor. However, at this location, its roofless nature is of little negative consequence as evidenced by the noise study and the analysis of potential views into the equipment courtyard from nearby developments.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 4, 2012. One neighbor was in attendance to

receive general information about the project and inquire about job opportunities. Staff has received no correspondence in opposition to the request.

ZONING EXTENSION:

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

PRELIMINARY DEVELOPMENT PLAN:

Upon finding consistency with the General Plan and existing PAD zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Project Green Box", kept on file in the City of Chandler Planning Division, in File No. DVR11-0039, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 4015 in case DVR07-0040 SSB PRICE ROAD, except as modified by condition herein.
3. Landscaping tree sizes and numbers shall be in accordance with the Commercial Design Standards.
4. The decorative square metal accents shown on the south and east elevations shall be added to the west building elevation.

11. ZONING EXTENSION: Chandler Airpark Village

COUNCILMEMBERS HARTKE, DONOVAN, HEUMANN, VOTED NAY ON THIS ITEM.

APPROVED (4-3) a three-year timing extension for Zoning DVR11-0047 Chandler Airpark Village, on the existing PAD zoning for a mixed-use development consisting of retail, medical/general office and multi-family residential uses located on approximately 30 acres at the SWC of Germann Road and the Consolidate Canal. (Applicant: W. Ralph Pew, Pew & Lake, PLC.)

In December 2008, City Council approved rezoning the subject site from Agricultural District (AG-1) to PAD for a mixed-use development consisting of retail, medical/general office and multi-family residential uses, in conjunction with Preliminary Development Plan (PDP) approval for site/landscape design and building architecture. The PAD zoning was conditioned to start construction above foundation walls within three (3) years of the ordinance effective date, which expired on February 7, 2012. The three-year time extension will be in effect until February 7, 2015, as the time limit is calculated from the previous zoning approval's expiration. This is the first zoning time extension requested for the property. All other conditions in the original approval will remain in effect.

The approved 30 acre Mixed-Use PAD included an 11.6 acre commercial component with approximately 77,000 square feet of office space and 16,665 square feet of retail space. Additionally, the development included a 17.83 acre multi-family residential component with 320 apartment units.

Staff is in support of the zoning time extension request as the mixed-use development consisting of retail, medical/general office and multi-family residential uses remains appropriate for and consistent with the Chandler Airpark Area Plan.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 5, 2012. There was one residential neighbor in attendance with general questions. Staff has received no correspondence in opposition.

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

12. WITHDREW ZONING EXTENSION REQUEST: Light of Christ Lutheran Church

WITHDREW FOR PURPOSES OF READVERTISING Zoning DVR11-0030 Light of Christ Lutheran Church, action on the existing 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 zoning district of PAD for multi-family development. The existing PAD zoning is for a church. The subject site is located at 1500 N.W. Jacaranda Parkway on approximately 6.3 acres. The applicant requests a withdrawal as the property is currently in escrow with a non-church related user.

13. BOARD AND COMMISSION APPOINTMENTS

APPROVED the following Board and Commission appointments:

Domestic Violence Commission  
Jeremy Franklin replacing Kevin McCoy

Economic Development Advisory Board  
Curtis Robinson replacing Jim Smith

14. AGREEMENT: SolarCity

APPROVED Agreement #CM2-290-3024 and Performance Guarantee Agreement with SolarCity for solar power purchase, to provide solar arrays to the City Hall parking garage for a period of twenty (20) years in a pre-paid amount of \$354,366.00 and applicable taxes of \$35,514.00 for a total amount not to exceed \$389,980.00.

During construction of City Hall, there was discussion on installing solar panels on the top floor of the parking garage. The structure was designed to accommodate the solar power array and included embedded steel plates for attachment of the support canopy columns. The purpose of the solar array is to offset the kWh (kilowatt hour) cost of electricity to the City Hall complex, specifically the meter south of Chicago Street. The RFP required the solar supplier to provide a savings to the City for the duration of the solar services agreement.

The agreement with SolarCity is to purchase the solar power upfront for a specified cost per kWh. By purchasing the solar power up front, the City is locking in the cost per kWh today. A new APS tariff rate is scheduled to go into effect later this year. The new winter kWh rate will be \$.03496 and the new summer kWh rate will be \$.05209 and there are no base rate increases until July 2016. The solar rate per kWh submitted by SolarCity is less than the APS lowest rate tariff. The estimated savings over the life of the agreement are \$562,312.00.

The City, with assistance from SolarCity, will seek APS Renewable Energy Credits for this project. This agreement is based on a rebate from APS of \$0.075 per kWh. The agreement calls for these Renewable Energy Credits to be passed on to SolarCity for the duration.

15. AGREEMENT/GENERAL FUND TRANSFER: SolarCity

APPROVED Agreement #CM2-290-3024 and Performance Guarantee Agreement with SolarCity to provide solar arrays to the parking lot at the Police/Courts buildings as well as the roof of the Police building for a period of twenty (20) years in a pre-paid amount of \$572,112.00.

APPROVED a General Fund Contingency Transfer in the amount of \$572,112.00 and applicable taxes of \$57,497.00 for a total amount of \$629,609.00.

The City has been pursuing opportunities for solar arrays on various City structures and parking lots. As part of the Request for Proposal (RFP) process, the City highlighted various locations. One of those locations was the parking lot at the Police/Courts building, as well as the roof of the Police building. The purpose of the solar array is to offset the kWh (kilowatt hour) cost of electricity to the Police Courts complex. The RFP required the solar supplier to provide a savings to the City for the duration of the solar services agreement.

The agreement with SolarCity is to purchase the solar power upfront for a specified cost per kWh. By purchasing the solar power up front, the City is locking in the cost per kWh today. A new APS tariff rate is scheduled to go into effect later this year. The new winter kWh rate will be \$.03496 and the new summer kWh rate will be \$.05209 and there are no base rate increases until July 2016. The solar rate per kWh submitted by SolarCity is less than the APS lowest rate tariff. The estimated savings over the life of the agreement are \$862,047.00.

The City, with assistance from SolarCity, will seek APS Renewable Energy Credits for this project. This agreement is based on a rebate from APS of \$0.075 per kWh. The agreement calls for these Renewable Energy Credits to be passed on to SolarCity for the duration.

16. AGREEMENT AMENDMENT: ESRI

APPROVED Agreement Amendment No. 5 with ESRI for Citywide Geographic Information System (GIS) software in an amount not to exceed \$10,800.00 for a period of one year with the option to extend two additional one-year periods. The annual fee remains the same as it has been for the last three years.

The City's GIS system is based on ESRI GIS products. Several years ago, the City expanded its use of these products in current and planned City applications. This expansion of GIS services resulted in a need for additional product licenses. Rather than continue to purchase licenses and maintenance for each application, the City consolidated all GIS software needs citywide into an Enterprise License Agreement (ELA). Through this agreement, the City has incurred a lower cost-per-unit for licensed software.

A City GIS Advisory Team recommended this purchase and the Information Technology Oversight Committee approved the recommendation in 2009. The ELA includes instructor led and on line training GIS classes for City staff through annual training credits. If unused, the training credits will roll over toward next year's fee of the ELA. The ELA allows City departments to deploy software products from the GIS system as needed to support its growth. The GIS Advisory Committee considers each request for additional software installations to determine validity and also monitors software installed to not adversely affect future costs of the ELA.

17. LICENSE AGREEMENT: Chandler Chamber of Commerce

APPROVED a License Agreement with the Chandler Chamber of Commerce for use of Tumbleweed Park in conjunction with the Ostrich Festival March 4-13, 2012.

The Chandler Chamber of Commerce (CCC) organizes, sponsors and conducts the Ostrich Festival using Tumbleweed Park as its event venue. This year's event is proposed to take place from March 9 to 11, 2012, with set up commencing on March 4 and cleanup to be completed by March 13, 2012. As the event has grown in size, scope, duration and attendance, it becomes prudent to enter into a license agreement that clearly delineates the role of each entity and the City's expectations regarding planning, layout, operations and clean up.

The Law Department prepared the license agreement with input from Police, Fire, Community Services, Risk Management and the CCC. Key elements in the agreement include:

1. Designation of specific deadlines for the submittal of site plans, emergency plans, vendor requirements and necessary permits.
2. Identification of allowable activities and events.
3. Identification of contact personnel representing each entity involved in oversight of the event.
4. Clarification of the authority of City personnel, specifically Public Safety Staff, in event oversight.
5. Identification of event set up and clean up responsibilities.
6. Specification of insurance requirements, limits and naming of the City as an additional insured.
7. Specification of timelines for identifying and notifying the CCC of damage to the site as a result of the festival.

18. AGREEMENT AMENDMENT: Fuel

APPROVED Agreement #FA9-405-2707, Amendment No. 1, with Western Refining Wholesale, Inc., Brown Evans Distributing Co. and Supreme Oil Co. for fuel in an estimated amount of \$2,400,000.00 per year for three years. This is the first of two optional three-year extensions.

In March 2009, the Council awarded agreements to Western Refining Wholesale, Inc., Brown Evans Distributing Co., and Supreme Oil Co. Staff partnered with Chandler Unified School District (CUSD) and issued an RFP that included estimated volume for both the City and the School District. Representatives from Purchasing, Fleet Services, Fire Department, Municipal Utilities and the School District evaluated the responses to the RFP. This agreement sets a card-lock fuel purchase price that ranges from \$0.04 - \$0.048 (the margin) per gallon over the Oil Price Information Service (OPIS) index. Pricing for fuel is based on OPIS + margin + taxes. The margin will remain fixed during the term of the contract. The OPIS index, which is an independently published fuel index, adjusts weekly in accordance with the fuel market.

Chandler uses a card-lock system of fuel delivery for the majority of City-owned vehicles. A card-lock system is a bulk fuel system operated by a private vendor who supplies fuel through a system of private pumps located throughout an area. Cities surrounding Chandler use self-contained bulk systems for the delivery of fuel to their respective vehicles. Chandler has not built any infrastructure (tanks and pumps) to purchase its own bulk fuel, with the exception of small bulk tanks for generators and fire trucks. Flagstaff is the only large city in Arizona with a system similar to Chandler; their current contract is for margin rate of \$0.14 over OPIS.

The agreement is based on the City's historical consumption of 600,000 gallons per year at an estimated cost of \$4.00 per gallon (OPIS/margin/taxes). Each year of the contract has an estimated value of \$2,400,000.00. In FY 2010/11, the City consumed 593,430 gallons of fuel.

19. No item.

20. No item.

21. AGREEMENT: Wilson Engineers, LLC

APPROVED Agreement #WA0808-452 with Wilson Engineers, LLC, for construction management services for the Appleby Well Equipping/Iris Well site improvements, pursuant to annual contract #EN1003-101, in an amount not to exceed \$161,180.00.

22. AGREEMENT: Wilson Engineers, LLC

APPROVED Agreement #WW1101-451 with Wilson Engineers, LLC, for construction management services for the Tumbleweed Aquifer Storage and Recovery Well 8, pursuant to annual contract #EN1003-101, in an amount not to exceed \$105,379.00.

23. AGREEMENT: CH2M Hill, Inc.

APPROVED Agreement #WW0813-452 with CH2M Hill, Inc., for construction management services for Ocotillo Water Reclamation Facility (OWRF) Maintenance and Operational Improvements Phase II, pursuant to annual contract #EN1003-104, in an amount not to exceed \$268,156.00.

24. AGREEMENT AMENDMENT: Jeff Martin Consulting

APPROVED Agreement Amendment No. 3 with Jeff Martin Consulting for transportation consulting services in an amount not to exceed \$35,000.00.

With the continued decrease in Regional Sales Tax Revenue for transit as part of Proposition 400, there continues to be a need for transit consultant services. The Consultant will assist the City in reviewing options on a regional basis for the needed transit reductions.

25. AGREEMENT AMENDMENTS: Entellus, Inc.

APPROVED Agreement #ST0809-201, Amendments No. 1, 2 & 3 with Entellus, Inc., for engineering services for the design of roadway and utility improvements for Gilbert Road from Queen Creek Road to Hunt Highway, in a combined amount not to exceed \$551,862.00, for a revised contract amount of \$3,143,037.00.

The original intent of this project was to design and construct the entire scope from Queen Creek Road to Hunt Highway. Due to past budget constraints, it was put on hold at 60% design until additional funding could be secured. During this period it was decided to split the project design and construction into one mile segments or phases. Entellus was asked to reallocate funds remaining in the contract and concentrate on Phase I, Queen Creek Road to Ocotillo Road. This design has been completed and construction was started in early December. The construction Guaranteed Maximum Price (GMP) for Phase I was negotiated well within the construction budget, so Staff was asked to work with the contractor and designer to evaluate the possibility of designing and constructing an additional half mile of Ocotillo Road. This too was estimated to be well within both construction and design budgets. The designer was instructed to develop plans within current design budget. This portion of Ocotillo Road, Phase IA, will be constructed toward the end of Phase I in November 2012. Phase 2 plans are currently at 95% design. Upon Council

approval of Contract Amendment No. 3, Entellus will be given instructions to complete the design of Gilbert Road south to Wood Drive, a quarter mile south of Chandler Heights and to include final design down to Hunt Highway now designated as Phases 3 and 4. During that time, a Phase I construction GMP will be negotiated with the same general contractor.

26. AGREEMENT: Entellus, Inc.

APPROVED Agreement #ST0809-454 With Entellus, Inc., for professional engineering and construction services for Gilbert Road (Queen Creek Road to Hunt Highway) Construction Management Services in an amount not to exceed \$273,444.00.

27. CONSTRUCTION CONTRACT: SDB Contracting, Inc.

APPROVED Construction Contract #PR0605-403 with SDB Contracting, Inc. for Paseo Vista Recreation Area Drainage in an amount not to exceed \$533,163.50.

28. CONTRACT: Citywide Contracting

APPROVED Contract #WA0808-402RB to Citywide Contracting for construction of the Appleby Well Equipping/Iris Well site improvements in an amount not to exceed \$1,331,650.00.

29. CONTRACT: Garney Companies, Inc.

APPROVED Contract #WW1101-401 with Garney Companies, Inc. for construction of Tumbleweed Aquifer Storage and Recovery (ASR) Well 8 in an amount not to exceed \$795,000.00.

30. CONTRACT: AJ Roberts Industrial, Inc.

APPROVED Contract #WW0813-402 with AJ Roberts Industrial, Inc., for Ocotillo Water Reclamation Facility (OWRF) Maintenance and Operational Improvements, Phase II, in an amount not to exceed \$1,937,146.13.

31. PURCHASE: Toter

APPROVED the Purchase of refuse and recycling containers from Toter, Incorporated, utilizing the National Intergovernmental Purchasing Alliance (National IPA), in an amount not to exceed \$218,000.00.

32. USE PERMIT: Pro Edge Performance Training LLC

APPROVED Use Permit ZUP11-0028 Pro Edge Performance Training LLC, to operate a personal training fitness business within the I-1 (Planned Industrial District) zoning located at 500 N. 56<sup>th</sup> Street, Suites 1 & 2, north of Chandler Boulevard. (Applicant: Derek Kennard, Owner)

The subject site is located at 500 N. 56<sup>th</sup> Street, Suites 1 & 2, which is north of Chandler Boulevard and west of 56<sup>th</sup> Street. The industrial development consists of two, multi-tenant one-story light industrial warehouse buildings which include an ancillary office space and warehouse area.

The I-1 zoning district allows a variety of storage, wholesale, warehousing, manufacturing, assembly type uses and accessory/incidental office and retail sales. Since the late 1980s, there have been several Use Permits granted for commercial uses within this industrial development including a wholesale auto dealership, an auto detail shop, an equipment rental store, a lawnmower sales and repair store, a swim school and an auto sales broker. At this time, there is one auto related business, a window tinting company that received Use Permit approval in January 2012. Businesses within the development include Oracle Forensics, Audio Recording Studio, Magic Touch Carpet Cleaning, Global Electronics, Pest Tube System, One Stop Signs, Choice Health Care, Energy 1<sup>st</sup>, Fastenal, Scion Gypsy Trading and Apex Tint. There are several vacant tenant spaces.

Pro Edge has been in business at this location since September 2007 without Use Permit approval. Staff was made aware of this business upon a site visit for another fitness center in violation. There are approximately 75 to 100 clients and three personal trainers and the business owner on staff. The business is open Monday through Saturday from 5 a.m. to 9 p.m. with the majority of clients exercising there between 5 a.m. to 9 a.m. and 5 p.m. to 9 p.m. Clients are scheduled by appointment only. Pro Edge offers one-on-one personal training, small group personal training, exercise classes and athletic training.

The business is located at the building's most northern tenant space fronting 56<sup>th</sup> Street and is adjacent to Fastenal, which is a parts supplier. There are four parking spaces at the north end of the parking lot and parking spaces east of the building that front 56<sup>th</sup> Street. The adjacent business has four employees and is open from 7 a.m. to 5 p.m. A parking analysis of other businesses' parking needs was submitted to Staff for review. Parking needed for the personal training business does not conflict with parking needed for adjacent businesses. Upon site visits, Staff did not observe parking issues.

The proposed personal training business is compatible with existing businesses in the development. It has been at this location for four years and Staff is not aware of any concerns or opposition for adjacent tenants. The business does not generate much traffic and tends to have peak traffic prior to other businesses being open or after they are closed. The Planning Commission and Planning Staff recommend a five (5) year approval with conditions given this business has operated since 2007 at this location without issue.

This request was noticed in accordance with the requirements of the Chandler Zoning code with a neighborhood meeting being held January 16, 2012. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

Upon finding consistency with the General Plan, the Planning Commission and Planning Staff recommend approval subject to the following conditions:

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, Narrative) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit shall remain in effect for five (5) 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.
3. The use shall be in substantial conformance with exhibits and representations.
4. The property shall be maintained in a clean and orderly manner.
5. All personal training and classes shall occur indoors only.

33. USE PERMIT: Jersey D's Tavern & Grill

APPROVED Use Permit LUP11-0021 Jersey D's Tavern & Grill, Series 6 Bar License, to sell liquor as permitted for on-premise consumption indoors and within an outdoor patio area and live entertainment indoors at an existing bar/restaurant located at 5945 W. Ray Road, Suite 13, on the SEC of Ray and Kyrene roads. (Applicant: Dennis Delaney, business owner.)

The bar/restaurant currently has a Series 6 Bar License and was approved a Liquor Use Permit for a Series 6 in September 2006 when the business was Copper Canyon Grill and Brew Pub. The new owner purchased the business and received a Series 6 State Liquor License for this establishment in April 2007.

The 2006 Liquor Use Permit was approved with a two-year time limit, expiring in September 2008. The approval conditioned any addition or expansion of entertainment related uses requiring a new Liquor Use Permit and conformance with the exhibits and representations submitted with the request. The outdoor patio remained as-is without expansion at that time. The business had been Copper Canyon Brewery since about 1997. The brewery had various liquor licenses including a brewery, beer and wine bar, restaurant and bar license. The business had changed owners a few times. With the last liquor approval in 2006, the floor plan included two pool tables and multiple freestanding video game machines, and represented daily events including Tex Hold 'em tournaments, acoustic bands, karaoke, live amplified bands and free pool. The music occurred in a small area by the front entrance. No stage existed and a new Liquor Use Permit was required if a stage was desired.

There were concerns with the existing outdoor patio during the last case. Council had requested additional information due to a neighbor concern about noise from the patio. Two zoning conditions were added stating the patio shall not be open to patrons after 10 p.m. Sunday through Thursday, and decibel levels of recorded or live music shall be controlled so as not to present a nuisance to residential properties beyond the boundaries of the shopping center.

Jersey's recently submitted building permits to the City and through this process, the contractor and owner were notified of the expired Liquor Use Permit. Staff was made aware of a stage inside for live music and changes to the outdoor patio as well as building improvement violations that have no building permits. Changes to the outdoor patio are in violation of the development's Preliminary Development Plan (PDP) approved with the C-2/PAD zoning and being addressed separately from the Liquor Use Permit.

The bar/restaurant is approximately 4,500 square feet in size with an outdoor patio approximately 380 square feet in size. The interior of the bar includes table seating, booths and bar seating with approximately 150-200 seats. That patio was originally designed to seat approximately 30 patrons; however, due to changes to this area, it appears that number has increased slightly. The patio is adjacent to an existing pedestrian walkway to and from the adjacent single-family residential subdivision south of the shopping center. The patio was originally walled off from the interior and accessed by a doorway. A portion of the wall is removed and now is built with a sliding window system with roll-up metal doors providing an outdoor bar top. This area is located at the patio's north end.

An indoor stage was constructed at the northwest corner of the interior. The stage is triangular in shape and covers approximately 150 square feet of interior space. Live music is represented to occur on Friday and Saturday from 9 p.m. to 1 a.m.; however, days and times may vary pending customer demand and events. Dancing does occur in front of the stage.

The business is open seven days a week from 11 a.m. to 2 a.m. During football season, the business opens at 8:30 a.m. The patio has a couple of televisions. Breakfast is served during the football season with lunch and dinner served regularly.

Planning Staff recommends approval of this request finding that the business operations, as they exist, including a Series 6 bar liquor license, live entertainment, pool tables and the like have operated for several years and have been compatible with the surrounding area.

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on January 24, 2012. There were no neighbors in attendance. The Police Department has been informed of the application and has responded with no concerns. Planning Staff has received two phone calls regarding this application. One person does not support approval for liquor at this business and the other resident does not want music on the patio, which is not proposed.

Upon finding consistency with the General Plan and C-2/PAD zoning, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 6 Bar License only and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. Music, including live music and speakers, are prohibited on the outdoor patio.
7. Live music and entertainment as represented shall occur indoors only and shall be controlled so as to not unreasonably disturb area residences or adjacent businesses and shall not exceed the ambient noise level as measured at the commercial property line.

34. LIQUOR LICENSE: D'Vine Bistro & Wine Bar

APPROVED a Series 12 Restaurant Liquor License (Chandler #139789L10) for Randy D. Nations, Agent, D'Vine Wine Bar & Bistro LLC, dba D'Vine Bistro & Wine Bar, 3990 S. Alma School Road. A recommendation for approval of State Liquor License #12078981 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. This application reflects a change in ownership. Transportation and Development advises that a new Use Permit is not required since this will be a continuation of the location's previous use as D'Vine Bistro & Wine Bar.

35. LIQUOR LICENSE: Mama's House

APPROVED a Series 12 Restaurant Liquor License (Chandler #138857L12) for Michael Vachon, Agent, Sun Valley Bistros LLC, dba Mama's House, 2394 N. Alma School Road. A recommendation for approval of State Liquor License #12078956 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation

and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Kiley's Grill.

36. LIQUOR LICENSE: Porkopolis Bar-Be-Que

APPROVED a Series 12 Restaurant Liquor License (Chandler #139319L12) for Matthew Bray Hamilton, Agent, Hamrod Holmbogen LLC, dba Porkopolis Bar-B-Que, 1445 S. Arizona Avenue, Suite 5. A recommendation for approval of State Liquor License #12078974 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Four Fourteen Bistro and Bar.

37. SPECIAL EVENT LIQUOR LICENSE: Chandler Sunbird Lions Club

APPROVED a Special Event Liquor License for the Chandler Sunbird Lions for a Wine and Cheese Expo Fund-raiser on March 31, 2012, at the Chandler Sunbird Golf Resort, 6250 S. Sunbird Boulevard. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Special Event Liquor License, the organization can sell all alcoholic beverages within the confines of the event during the designated event periods. The Police Department has no objections to this extension and the applicant has applied for a Temporary Sales and Promotional Event Permit through Neighborhood Resources.

38. SPECIAL EVENT LIQUOR LICENSE: Downtown Chandler Community Foundation

APPROVED a Special Event Liquor License for the Downtown Chandler Community Foundation for the Chandler Jazz Festival, March 30 & 31, 2012, at Dr. A.J. Chandler Park, 3 S. Arizona Avenue. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Special Event liquor License, the organization can sell all alcoholic beverages within the confines of the event during the designated event periods. The Police Department reports no objections to the issuance. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

39. SPECIAL EVENT LIQUOR LICENSE: Matthew's Crossing

APPROVED a Special Event Liquor License for Matthew's Crossing for a Matthew's Crossing St. Patrick's Day Fundraising Bash, March 17 & 18, 2012, at McDuffy's Grill, 980 E. Pecos Road, Suite 5. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Special Event Liquor License, the organization can sell all alcoholic beverages within the confines of the event during the designated event periods. The Police Department has no objections to this extension and the applicant has applied for a Temporary Sales and Promotional Event Permit through Neighborhood Resources.

THE MAYOR STATED ANNOUNCEMENTS WOULD BE DONE PRIOR TO THE ACTION AGENDA BEGINNING.

CURRENT EVENTS:

A. Mayor's Announcements

MAYOR TIBSHRAENY announced that residents can comment on the City's budget process during Budget Connect, a virtual community budget meeting scheduled for Wednesday, February 29 beginning at 6:30 p.m. Citizens can participate through Twitter ([@cityofchandler](#)), the City's Facebook page [www.facebook.com/cityofchandleraz](#), or through a web page set up that day specifically for Budget Connect linked off of the City's web page at [www.chandleraz.gov](#). Participants will be able to log in at noon on February 29 to start the online dialogue and pose questions. The Mayor invited individuals who would like to participate personally to attend the meeting in the Chandler Council Chambers.

MAYOR TIBSHRAENY also announced the Classic Car and Hot Rod Car Show scheduled for Saturday, February 25, 10 a.m. to 4 p.m., in Downtown Chandler. He indicated that all proceeds will benefit ICAN.

MAYOR TIBSHRAENY also announced the Annual Ostrich Festival Parade on Saturday, March 3, at 10 a.m. The Festival then continues March 9-11 at Tumbleweed Park.

MAYOR TIBSHRAENY advised that he had the chance to attend the Presidential Debate in Mesa. It was great for the second time in a month to have the East Valley spotlighted nationally and internationally. He reminded everyone that a month ago President Obama visited Chandler at the Intel site.

B. Councilmembers' Announcements

COUNCILMEMBER HEUMANN reported on the incredible turn out for the three-day First Annual SciTech Festival. He thanked Intel, Microchip, Air Products, and Innovations for their participation. He also thanked the Downtown Chandler Community Partnership for the largest Art Walk and the school district and the business community for showcasing the brightest and best students. He acknowledged City staff, in particular Chris Mackay and Jane Poston.

COUNCILMEMBER HEUMANN announced the 5K run in conjunction with the Ostrich Festival Parade.

VICE-MAYOR WENINGER announced a Child Help Fundraiser for abused children at the Camelback Inn from 10:30 a.m. to 1:30 p.m. He said his kids will be in the fashion show and Ms. Arizona and Tara Hitchcock will be there as well.

COUNCILMEMBER HARTKE said he would not be participating in the 5K run due to a wedding occurring and the arrival of his guests.

C. City Manager's Announcements: None

ACTION

40. USE PERMIT: Mid Mountain Excavation

Use Permit ZUP11-0003 Mid Mountain Excavation, to operate an excavation business at 930 E. Germann Road, west of the NWC of Germann and McQueen roads. (Applicant: Mid Mountain Excavation; Owner: Executive Property Dev, LLC.)

This item was continued from the August 18, 2011, City Council meeting in order to allow the applicant to review the likely timeframe for a more permanent development to occur on the site and to work with Staff to explore other options for executing required site improvements should the use permit be approved. The likely timeframe for the site's long-term development remains uncertain for the foreseeable future due to the economy and the property owner has no plans to develop in the short-term. The applicant's plans for the short-term excavation business also remain unchanged – he plans to operate as-is for a couple of years until the property owner decides to develop. Staff has re-examined the likely application of the Zoning Code's site development standards to the business, but has found that further relief is not justifiable administratively. However, Staff notes that the numerous standards that were already anticipated to be relaxed or waived in August 2011 (e.g. sewer/water connections, landscaping amounts and sizes, screen wall design, retention, curbing, etc.) are still anticipated to be relaxed if this Use Permit is approved now in 2012.

The contents of the memo presented in August 2011 are unchanged except to note that the 2008 PAD zoning for the property has been extended by City Council for an additional three (3) years.

#### BACKGROUND

The application requests Use Permit approval to allow an excavation business to be operated on land zoned PAD for a mixed-use project with fuel station, RV storage and retail elements. The excavation business has reportedly been operating on a portion of the 9 acre site (in violation of the zoning) since 2004. West of the excavation business, on the same site, is a legal nonconforming auto repair business that includes a metal building and a paved parking lot. Besides the two businesses and a cell tower at the northern end, the rest of the site is vacant.

The General Plan refers to the Airpark Area Plan for detailing the goals, objectives and policies that apply to the 9-square mile area surrounding the Chandler Municipal Airport that includes the subject site. The Airpark Area Plan designates approximately the eastern  $\frac{3}{4}$  of the subject parcel for Neighborhood Commercial uses and the western  $\frac{1}{4}$  of the parcel for Light Industrial uses. The Neighborhood Commercial designation generally calls for uses like grocery stores, clustered retail, personal services and restaurants on developments of 10 to 20 acres in size that attract patrons primarily from a 1- to 2-mile radius.

The site received PAD zoning and Preliminary Development Plan (PDP) approval in 2008 for a fuel station, RV storage, and retail project that was to take up the entire site (DVR08-0005 EXECUTIVE TOY STORAGE). The PAD zoning was extended in January 2012 for an additional three (3) years. The project has not been developed and is not anticipated to be developed in the next couple of years. The subject business is currently located in an area that straddles the fuel station and RV storage areas, effectively precluding any part of the approved plans from being developed unless the subject business is removed or relocated elsewhere on the site.

The subject business is primarily a swimming pool excavation business with ancillary contractor and municipal construction services. It uses an existing house on the property for its main office that is set back approximately 90' from the Germann Road ROW. Surrounding the office building, is a 36,000 square foot vehicle and equipment storage yard enclosed by a chain-link fence that is set back 35' from the Germann Road ROW. Vehicles and equipment stored in the yard include dump trucks, backhoes, smaller trailers and employee vehicles. The yard surface is unimproved. An unimproved driveway connects the gate on the eastern portion of the fencing to the existing Germann Road curb cut. Hours of operation will vary seasonally within the window of approximately 5 a.m. to 5 p.m. The applicant would like to continue operating the business in largely the same manner as it is currently. Staff recommends relocating the storage yard farther

back on the site in order to lessen the aesthetic impact, and notes that a number of site development standards must be applied that will somewhat change the overall effect.

If the Use Permit is approved, the business will be subject to administrative review of conformance to site development standards. Due to the use's temporary nature, Staff does not anticipate that all such standards will be strictly applied. However, it is anticipated that the following improvements would be among those required:

- Pave drive aisles inside and outside of the storage yard;
- Move fences at least 50' from planned right-of-way (the minimum setback);
- Replace chain-link fence with solid block fence and solid gates;
- Install landscaping (trees and shrubs) along south and east sides of storage yard in the amounts and sizes required by the Zoning Code;
- Remove piles of material located outside of the fenced area.

The Planning Commission and Staff find the requested use to be compatible as a temporary use if modified by condition. The primary negative effects of the use in its current form are its poor aesthetics and its moderate hindrance to a permanent development solution. The poor aesthetics will be mitigated by application of the above-noted site development standards, including solid walls and landscaping. The Planning Commission and Staff also recommend partially relocating the storage yard so that no part of it is closer to Germann Road than the office building, thereby moving it somewhat farther from public view and reducing the aesthetic impact. It is noted that a construction-oriented excavation business will be somewhat easier to relocate than many other types of businesses when the time comes for permanent development. The Planning Commission and Staff recommend a one (1) year time limit to allow evaluation of conformance with the recommended conditions.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 30, 2011. There were no neighbors in attendance. Staff has received no correspondence in opposition to this request.

#### PLANNING COMMISSION VOTE REPORT

The applicant stated that the site development standards noted in the memo would be very expensive for him to implement. He asked the Commission for any assistance or suggestions in reducing the cost of these requirements. Staff advised that the only legal avenues for relief from City Code standards would be either a rezoning to PAD or a variance application to the Board of Adjustment rather than relief through the Use Permit. The Commission reiterated that these Code-required items referred to are part of an administrative review process that is outside of their purview and so the Commission voted (6-0 with 1 absent) to approve per Staff recommendation.

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval subject to the following conditions:

1. Substantial conformance with application materials (Site Plan, Narrative) kept on file in the City of Chandler Planning Division, in file No. ZUP11-0003, except as modified by condition herein.
2. Site improvements required to comply with the Zoning Code's site development standards shall be completed within six (6) months of City Council approval.
3. No materials may be located outside of the storage yard. Existing materials piles outside the storage yard must be removed within one (1) week of City Council approval.

4. Landscaping planted in and adjacent to the storage yard shall be maintained at a level consistent with or better than at the time of planting.
5. The storage yard shall be relocated so that no part of it is closer to Germann Road than the existing office building. Also, no part of the yard may be moved closer to McQueen Road than currently exists.
6. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
7. In order for the Use Permit to be valid, a signed and completed Agreement For Waiver of Claim form, under A.R.S. §12-1134, shall be provided to Transportation & Development Department's Planning Division Staff within three (3) weeks of City Council approval.

### DISCUSSION

SENIOR CITY PLANNER, BILL DERMODY, advised that this use permit request was first brought before Council last August, but was continued for six months for two primary reasons: first, to allow staff and the applicant to work to develop a creative solution to the site development standards. Staff tried, but was unsuccessful. Second, to gain a better understanding as to when a permanent solution might develop.

MR. DERMODY advised that both the applicant and the property owner see this as an interim use until the already Council approved gas station and permanent development goes in.

MR. DERMODY explained that in speaking with the applicant and he having talked to the property owner, there is no certainty as to when the project will develop. It certainly won't develop within the next year. The property owner is waiting for the economy to improve.

MR. DERMODY advised staff does recommend approval. MR. DERMODY said that the applicant agrees with all conditions is asking for some relief from our site development standards. He further explained that normally if a use permit gets approved certain improvements must be made to the site and said there is no differentiation between temporary or permanent use. MR. DERMODY advised there is a concern for setting a precedent for other uses in the City. The three largest issues that are cost prohibitive for the applicant are: Building a driveway off of Germann into his site; Putting up a block wall around the site; and making landscape improvements in accordance to code on the south and east sides, adding trees and shrubs.

MR. DERMODY said that the applicant is willing to do some of the improvements requested such as putting up a solid fence around the property, not block. He is also willing to add some landscaping, not trees but possibly cacti or succulents and some boulders out front. MR. DERMODY said it would require additional conditions be placed by Council to specify what the site development standards are that would apply to this site. He further explained that normally it would be necessary to get a variance or rezone the PAD to get that type of consideration.

COUNCILMEMBER HARTKE referenced the specific notations (e.g. one week to move materials outside of the yard and six months to build a wall) and asked Mr. Dermody what happens if the conditions are not met.

MR. DERMODY advised that if the conditions are not met the use permit could be declared not in conformance and the relocation process would start. A revocation notice would be sent and the City could take legal proceedings from there.

COUNCILMEMBER HEUMANN said it doesn't appear that anything has been done to the property since six months prior. He asked if the applicant has agreed to the stipulations.

MR. DERMODY advised that the applicant has agreed to the conditions but he has concern with the administrative process that happens afterward. He explained if someone gets approved for a use like this certain upgrades must be made to the site. The applicant is not financially able to make all of them, essentially he is asking for some relief from our normal standards.

COUNCILMEMBER HEUMANN asked what would happened, if approved, if the applicant does not make the necessary improvements if it will be brought back six months or a year from now to not allow the use permit to continue. COUNCILMEMBER HEUMANN is concerned that the applicant has already said that he is unable to meet the stipulations and questions the purpose in approving a use permit knowing this.

MR. DERMODY advised that might be a better question for the applicant, but noted from staff's point of view, they look at the use and determine whether this use is appropriate.

ED JOHNSON, 8001 S. 12<sup>th</sup> St., Phoenix, AZ said he is the applicant for the use permit. He said he didn't quite understand all of what MR. DERMODY was asking.

MR. DERMODY responded to Mr. Johnson by restating the three items: Requirement to pave a driveway; Placement of a block wall around the facility; and additional landscape requirement on two sides of the site.

MR. JOHNSON stated this is a zoned PAD for a storage yard and a gas station on the corner. He said it is a storage yard and it is simply a technicality as to what is stored in the yard, whether it be RV's or equipment. MR. JOHNSON advised he is not sure how long he plans to stay. He knows that he does not plan to stay for five years. MR. JOHNSON said that he told Mr. Dermody that he would like to leave the chain link fence and either place fabric or slotting in the fencing. MR. JOHNSON also said he would add some landscape boulders and rock to the front. He said he plans to place surfacing at the entrance. Other than that, MR. JOHNSON said he doesn't have any other ideas. MR. JOHNSON said the block wall is cost prohibitive for him. He cited an example of another site a bit further from this property that is also a commercial yard with a chain link fence with screening surrounding it. MR. JOHNSON told the Council that he is open to any other suggestions that they might have.

COUNCILMEMBER HEUMANN asked about the timing of site being developed.

MR. DERMODY advised that it is based on the larger economy and that is unknown at this time.

COUNCILMEMBER HEUMANN asked the applicant if the improvements could be done in the next three months, some type of screening and not slatting, which will be maintained with a use permit for two years.

MR. JOHNSON said he felt he could probably get that done.

COUNCILMEMBER HARTKE asked if the applicant had any issues with cleaning up the general area and not having anything outside of the fence and asked if there would be any issues or problems with maintaining inside the fence if the use permit were to be approved.

MR. JOHNSON agreed there would be no issues with that.

COUNCILMEMBER SELLERS confirmed with Mr. Dermody that the request is for a use permit for only one year.

MR. DERMODY confirmed that the use permit is for one year with the potential to renew after the first year.

COUNCILMEMBER HEUMANN suggested requiring the applicant get the fence and landscape portion of the property done to the satisfaction of the zoning administrator within the next three months. If that were to be done, COUNCILMEMBER HEUMANN said he would be willing to approve a two-year use permit. He feels this will improve the appearance of the site without creating a financial hardship for the applicant. COUNCILMEMBER HEUMANN stated that the stipulation is that the work must be completed within three months or the use permit would be void at that point.

COUNCILMEMBER HEUMANN asked the applicant if he felt that the work could be done within this time frame.

MR. JOHNSON said he believed the work could be done within a three month period.

COUNCILMEMBER HEUMANN MADE A MOTION TO APPROVE THE USE PERMIT WITH THE APPLICANT ABLE TO MAKE THE IMPROVEMENTS IN TERMS OF LANDSCAPING AND SCREENING COMPLETED WITHIN THREE MONTHS. IF IT IS NOT COMPLETED WITHIN THREE MONTHS, THE USE PERMIT IS VOID. OTHERWISE, THE USE PERMIT COULD STAY IN PLACE FOR TWO YEARS.

MR. DERMODY advised that he would put that into a Condition no. 8. He also noted No. 6 changing from one-year to two-years. He stated No. 8 would read "Site development improvements shall consist solely of chain link fence with slats, and boulders and desert landscaping along the Germann Road frontage. The improvements should be completed within three months of City Council approval."

COUNCILMEMBER HEUMANN advised he is not a fan of slats, but advised staff can work with the applicant on an appropriate fencing option.

COUNCILMEMBER HEUMANN noted Stipulation no. 2 site improvements required to be completed within six months should be removed since it is a three month completion requirement.

MAYOR TIBSHRAENY confirmed with Councilmember Heumann that he is making a motion subject to the seven stipulations, changing two of them and adding an eighth.

COUNCILMEMBER HEUMANN confirmed his motion includes Stipulation no. 2 would be changed read the site improvements to comply with the stipulations within three months, if not the use permit would be void. Item no. 6 would be changed to two years and Mr. Dermody's eighth stipulation.

VICE-MAYOR WENINGER SECONDED THE MOTION.

COUNCILMEMBER HARTKE asked if the paving would also be included in the motion.

MR. DERMODY advised that the applicant was looking at a different, temporary form of paving and from what he could tell it appeared that Councilmember Heumann was in favor of that.

COUNCILMEMBER HEUMANN advised that would be fine. MR. DERMODY said that staff would take that direction.

COUNCILMEMBER DONOVAN advised that she has some concern about other parcels in the community that may have a temporary use such as this. She added that she feels it falls on the property owner to make the necessary improvements rather than the applicant. COUNCILMEMBER DONOVAN asked what the unintended consequences of approving this use permit against City standards might be.

TRANSPORTATION AND DEVELOPMENT DIRECTOR, R.J. ZEDER, responded by saying that this would have to be dealt with on a case-by-case basis, as staff seeks to enforce the development standards. MR. ZEDER said it is difficult to say that one situation spells out how every situation is handled, but some precedent would be set.

WHEN THE VOTE WAS CALLED, THE MOTION CARRIED BY MAJORITY (5-2) WITH MAYOR TIBSHRAENY and COUNCILMEMBER DONOVAN VOTING NAY.

41. USE PERMIT: Kwik Mart/Uhaul

Use Permit ZUP11-0008 Kwik Mart/Uhaul to allow motor vehicle and trailer rentals in a Neighborhood Commercial (C-1) zoning district located at 600 W. Galveston Street at the NWC of Galveston and Hartford streets. (Applicant: Nawal Aranki; Owner: Sun Garden LLC.)

The site contains a small neighborhood retail center with a convenience store, laundromat and beauty salon on a 33,384-square foot parcel near the corner. Northwest of the neighborhood retail center is a larger, 102,068-square foot vacant parcel that is bordered by a residential alley. The subject business would occur on both parcels, which have the same ownership. Residential uses surround the site in all directions, including mostly single-family homes, but apartments on the intersection's northeast and southwest corners. Galveston and Hartford Streets are residential collector streets.

The requested business is already operating at the site and the applicant has been working with Staff on the Use Permit application since May 2011. According to the applicant, the maximum number of trucks and trailers that would be on the site at any given time is 20. So far in 2011, the business has averaged 10 vehicles on site. The vehicles are currently parked on the west side of the retail center in the access drive that goes around the back of the center. The retail business transactions are conducted from the convenience store's service counter.

In order to conform to the Zoning Code's site development standards, 10 new parking spaces will be constructed west of the convenience store, complete with landscaping, if the Use Permit is approved. The new spaces will be 10' x 30' in order to accommodate either customer traffic or the rental equipment (trucks and trailers). There will also be a 2'-6" high parking screen wall surrounding the spaces on the north, west and south sides. Currently, most of the site is not landscaped, except only two small clusters of Palo Verde trees. The site currently has approximately 27 parking spaces, including five (5) behind the buildings.

Motor vehicle and trailer rentals are allowed in the Community Commercial (C-2) and Regional Commercial (C-3) zoning districts. Though the C-1 zoning district does not specify that this use

can be requested through a Use Permit, C-1 does allow a Use Permit to be considered for “any other use the City Council determines is compatible and in the best interest of the community”.

The Planning Commission and Staff recommend denial of the request, finding the proposed use to be a neighborhood nuisance that is more appropriate in a C-2 or C-3 zoning district than in a C-1 district in such close adjacency to residences. Though the proposed landscaping would significantly upgrade the site’s aesthetic appearance, it would not completely screen the rental trucks and trailers from offsite view. Such vehicle storage is not appropriate or expected in the middle of a residential neighborhood. It is noted that, though traffic generation has been low so far at this site, it is typically much higher for this type of use.

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on August 29, 2011. There were no neighbors in attendance. One neighbor contacted Staff in opposition to the request stating that the use belongs in an industrial area and not a neighborhood where it will be an eyesore. The applicant went door-to-door collecting petition signatures from adjacent residents regarding the request. Approximately 80 signatures were collected in support of the application. No signers were opposed or uncertain, though one person who was opposed refused to sign. Some neighbors did not answer the door even after repeated attempts, but the applicant did manage to reach a majority of the neighbors.

#### PLANNING COMMISSION VOTE REPORT

The Planning Commission voted to deny this use permit. Commissioners noted that the proposed use appears out of place in this neighborhood and that it is more of a community or regional use. Upon finding inconsistency with the General Plan and C-1 zoning, the Planning Commission and Staff recommend denial.

#### DISCUSSION

MR. DERMODY advised that this case was brought to the Council in January, 2012 and was continued for one month to allow the applicant to work with the neighbors.

MR. DERMODY advised that the applicant has a petition that was signed by 80 residents and the applicant also has a supplement with an additional 16 residents in favor of the request. He noted that the individuals who signed the petition live within one square mile of the site. Mr. Dermody displayed a map containing the data. MR. DERMODY indicated that 19 people in the immediate area signed the petition in favor and one resident verbally voiced opposition.

MR. DERMODY advised that the green properties on the map signed in favor, the black property was opposed and the blue portion includes apartment complexes with individuals who signed in favor of the request. MR. DERMODY said that overall, 19 to 1 in the immediate area are in favor of this project.

MR. DERMODY stated that the Planning Commission and Planning Staff are recommending denial due to incompatibility.

VICE-MAYOR WENINGER stated that the zoning is commercial and asked Mr. Dermody if this use is seen as too heavy of a commercial use and one that is typically not found in this type of commercial development.

MR. DERMODY advised that this is a C-1 district neighborhood commercial, which is meant to be the least intense commercial district that serves the immediately surrounding neighborhood with service goods just like a convenience store and laundry mat, which happen to be there right now.

VICE-MAYOR WENINGER asked Mr. Dermody what staff envisions for this property.

MR. DERMODY said that staff looks at the particular use and whether it is appropriate. In this case, staff finds that it is not.

VICE-MAYOR WENINGER asked if it could, at a later time, result in a zoning change to residential or something else.

MR. DERMODY advised that staff might see multi-family as a good fit or possibly when the economy changes something else might work well five or ten years from now.

MAYOR TIBSHRAENY noted that it appears that the applicant is using very little of the vacant ground, using only a few parking spaces to the west of the existing parking lot for the trailers. He said he noticed that they would not be using the entire parcel.

MR. DERMODY replied they would use just enough to put in 12 parking spaces or so.

MAYOR TIBSHRAENY asked if stipulations were established.

MR. DERMODY advised that there are stipulations and they are available.

COUNCILMEMBER HEUMANN asked Mr. Dermody for clarification on the individuals who signed the petition. He would like to know if they are property owners or tenants.

MR. DERMODY advised that the individuals that signed the petition are tenants. There was a petition at the store and the applicant also went door to door.

ROB ARANKI, applicant, 5822 E. Thunderbird, Scottsdale, AZ, advised that the lady who is in opposition of this use permit asked him if it can be moved from the front of her house to the back of the laundry mat. He said everyone else was in favor.

MAYOR TIBSHRAENY thanked MR. ARANKI for his work on contacting the neighbors as requested.

VICE-MAYOR WENINGER asked staff if the stipulations could be read into the record.

MR. DERMODY agreed to read the five stipulations into the record:

1. The use permit shall remain into effect for one year from the date of City Council approval continuation of the use permit beyond the expiration date shall require reapplication to an approval by the City of Chandler, basically a trial period.
2. Expansion and modification beyond the approved exhibits site plan and narrative shall void the use permit and require new use permit application and approval.
3. Site improvements including parking spaces, screen walls and landscaping shall be installed to City code standards within six months of City Council approval.
4. 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.

5. In order for the use permit to be valid, a signed and completed agreement for waiver of claim form under ARS12-1134 also known as the *Consent to Conditions Waiver* shall be provided to Transportation and Development Department's Planning Division staff within three weeks of City Council approval.

VICE-MAYOR WENINGER asked for clarification on the length of time that the applicant is requesting.

MR. ARANKI advised that he asking for what Council will allow, but two years would be nice to help pay for the costs of the necessary improvements to the property.

MOVED BY VICE-MAYOR WENINGER, SECONDED BY MAYOR TIBSHRAENY TO APPROVE ZUP11-0008 KWIK MART/UHAUL USE PERMIT FOR MOTOR VEHICLE AND TRAILER RENTALS WITH THE CONDITIONS OUTLINED BY MR. DERMODY, ALSO STIPULATING A TWO-YEAR USE PERMIT.

MOTION FAILED FOR LACK OF MAJORITY (3-4) COUNCILMEMBERS HEUMANN, ORLANDO, DONOVAN AND HARTKE VOTED NAY ON THIS ITEM.

42. USE PERMIT: Chateau De Vie

Use Permit ZUP-110012 Chateau De Vie to allow an event facility with a bed & breakfast and a bistro on property zoned AG-1 with an existing single-family dwelling on 10 acres located at 1220 N. Kyrene Road approximately one-quarter mile north of Ray Road on the west side of Kyrene Road. (Applicant: Ralph Pew with Pew & Lake, P.L.C.)

The applicant requested a continuance of this case from the February 9<sup>th</sup> Council meeting to allow further discussion with area property owners in regards to their concerns with the proposed Use Permit. The applicant and property owner met with several area homeowners. As a result of this meeting, area neighbors are still not supportive of the Use Permit and the application will proceed to Council without any changes or modifications to the proposal except for moving the trash containment area off of the south property line to the site's interior as agreed to at Planning Commission.

BACKGROUND

The subject site is surrounded by property zoned and developed with single-family residential uses. North of the site is property zoned AG-1 with an existing single-family residence and ancillary buildings. Trovita, a gated single-family subdivision zoned Planned Area Development (PAD) for single-family residential uses, abuts the site's south side. Immediately west and abutting the subject site, are two properties owned by the Ganem family. Each parcel is zoned AG-1 and developed with one single-family residence with ancillary buildings. West of these two properties and along the northwest boundary of the subject site, is the approximately 50-foot wide Gila Drain canal. Beyond this canal is an approximately 140-foot wide retention basin tract as part of the Ray Ranch Estates single-family subdivision zoned SF-10 for single-family residential use. The subject site's eastern boundary abuts Kyrene Road. East of Kyrene Road is the Warner Ranch single-family residential subdivision within the City of Tempe. Kyrene Road right-of-way is also within the City of Tempe.

In October 1974, the subject property was annexed into the City of Chandler as part of a larger annexation. The property has been zoned AG-1 (Agricultural District) which permits agricultural

uses and one single-family dwelling per acre. The property has changed ownership several times since the 1980s. The Owens family owned several parcels in this area and sold this property to the Erickson family in December 1983. According to Maricopa County records, in 1984 the property was developed with an approximately 13,131 livable square foot single-family dwelling. The Erickson family sold the property in 2002 to Cable Rosenberg. In 2007, the property was sold to the Soraya family, a dentist, who left the property in 2009 when a bank took ownership. The Goodman family purchased this property in June 2010. There was a Use Permit application filed in early 2010 to allow a rehabilitation facility for alcohol and drug patients; however, that application was withdrawn once the bank sold the property to the Goodmans.

The existing mansion house has multiple floors and levels with various sleeping rooms, living rooms, entertainment rooms, mezzanine/loft area and kitchen. The existing attached garage can accommodate several types of vehicles including an RV motorcoach and limousine. The property includes hills, pine trees, various shade trees, lily pad ponds, streams and pedestrian bridges, flowering plants, a boat dock and pond stocked with fish as well as ducks and geese residing on the site. The property has existing solid masonry block walls along the south, west and north property lines. Citrus trees line the walls on the site's interior. The property's frontage along Kyrene Road includes a low brick wall with decorative wrought-iron view fencing and columns. A mix of tree types lines the interior of the wall and large pine trees are on the wall's exterior along Kyrene Road.

#### PROPOSAL SUMMARY

The Use Permit requests land uses that are not specifically permitted under the AG-1 zoning district. Permitted AG-1 zoning uses include single-family dwellings, farming of field crops, raising and marketing of poultry and small animals, grazing and raising of livestock, farm roadside stand and home occupations as permitted by Zoning Code. Uses permitted by Use Permit include any other use determined by City Council to be compatible with other uses in the area and consistent with the General Plan. Approval of Use Permits is subject to the standards and procedures as set forth in Section 305 of the Zoning Code.

The request includes a variety of events such as, but not limited to, weddings and ceremonies, corporate events and retreats, birthday and anniversary parties, charitable events and concerts, and auctions. Other uses include film/photo shoots, tea parties and poker and gaming tournaments, and live music and dancing associated with events. There will be lodging and dining in connection with events including a bed & breakfast component. There will be a full service kitchen for onsite dining events and catering services. In conjunction with events, there may be gondola rides, paddle boats, fishing and horse-drawn carriage rides. A bistro is planned for an existing accessory building, the exercise building/boat house, with indoor and outdoor seating areas.

The majority of uses are intended to be outside. Gathering areas will occur in the existing mansion home (to become an event space, room accommodations and business offices), mansion garage (to become a commercial kitchen, meeting and event space), exercise building/boat house (to become a restaurant and meeting space), tennis court (to become an English Garden for events), and swimming pool area (to become a gathering area). It is likely multiple areas of the property will be in use at the same time for one or more events, for example, a wedding would have an area set up for the ceremony, reception, hors d'oeuvre and cocktail gathering and photo shoot. An event may be utilizing the mansion house as well as an outdoor area at the same time. Additional details and list of uses is provided in the Development Booklet.

Business hours of operation will also vary depending on the use and event. Outdoor activities and events are anticipated to occur 8 a.m. to 12 a.m. Monday through Sunday. Uses inside buildings are planned to occur 24-hours a day, 7 days a week due to the nature of some uses such as the bed & breakfast. The Development Booklet indicates that the bistro is planned to offer breakfast and lunch operating 7 a.m. to 3 p.m., 7 days a week; however, when there are events on the property, the bistro will be used only by the events occurring and not open to the public as clarified through the parking analysis, and confirmed by the property owner and applicant.

There is no Liquor Use Permit application request filed. A request for on-site liquor to be sold and served for the bed & breakfast, bistro, and/or events by the property owner/business owner will require a City Liquor Use Permit application to be approved by City Council in addition to a City liquor license and State liquor license.

### SITE IMPROVEMENTS

The main improvements include a paved surface parking lot and drives, a new gated two-way vehicular access off of Kyrene Road, replace existing gates along Orchid Lane with solid panel gates, and building tenant improvements for the house and ancillary buildings to meet commercial building codes. The swimming pool is currently empty and will be removed to allow for a gathering area and the tennis courts will be converted to an English Garden for events. Additional structures added to the site will include ramadas and gazebos associated with the English Garden and gathering area west of the mansion in the former pool site. The bistro building will add an outdoor patio area covered with a wood beam trellis structure. There will not be a tent structure erected at all times on the site. If a scheduled event requires a temporary tent structure, a separate Special Event Permit application is required to be submitted to the City in advance for review, approval and inspection prior to its use. The location of a tent for a specific event will occur only on the southeast corner of the site as depicted on the site plan.

The existing one-way vehicular drive to the house will be improved to meet City Codes in order to be utilized for vehicular access. The property's main vehicular access is from Kyrene Road. This new gated entrance is designed to meet requirements for the City of Chandler and the City of Tempe providing both entrance and exit. All guests and vendors will enter at this main entry in lieu of using the Orchid Lane private easement drive to the site's south side, which was opposed by neighboring property owners. Orchid Lane is a 20-foot easement that is on both the Ganem and Goodman properties. The existing one-way gate along Kyrene Road will be for exit only. The existing gates along Orchid Lane will be used only for accessing refuse containers and secondary emergency access. Trash pickup for this property currently occurs along Orchid Lane in which the regular trash and recycling containers are rolled outside of the property for trash truck pickup. The new trash containment area with commercial sized containers will be located along Orchid Lane as well. The containment area is screened with 6-foot high solid masonry screen walls and is sited within the subject site facing Orchid Lane to accommodate trash truck pickup.

Currently there are additional parking spaces on the site for residential purposes in addition to the garage. There are some parking spaces delineated in front of the mansion house and by the English Garden. There is a round-about and decorative paver areas for vehicles to park as well. However, the proposed use requires a permanent parking area in accordance with Zoning Code for a commercial use. There will be a new asphalt parking area at the site's north end off of the new main gated entrance and exit. The parking area extends westerly and continues along the west property line, also extending south to the existing paved drive on the site's east side. The parking areas will have low level bollard light fixtures instead of typical tall light poles. The

decorative paver drive leads to the mansion house and is 16 feet wide. In order to meet City fire code requirements, continued use of this drive for vehicles requires widening the entire drive to 20 feet and ensuring the bridges over the streams are structurally sound thus possibly rebuilding them to meet code requirements. If this is not achieved, this drive will be cordoned off and the drive throat minimized to prevent vehicular access by personal and emergency vehicles.

There is no building signage or freestanding monument signage proposed with this request. Any signage would need to comply with the Sign Code.

#### PARKING/TRAFFIC ANALYSIS

A parking/traffic analysis was submitted and reviewed by Staff and amended to address Staff comments. The parking analysis concluded that the number of vehicle trips generated by the proposed uses will not affect traffic counts on Kyrene Road since this road is an arterial street intended to accommodate large amounts of traffic. Departures from an event will occur during non-peak hours thus expected to have minimal impact.

The analysis determined approximately 220 parking spaces are required to accommodate all uses (including staff and employees) and would have a negligible impact on the efficiency of traffic flow on Kyrene Road. The analysis studied five other similar event facilities to compare provided parking spaces, capacity and the average number of persons per vehicle attending events. The analysis concluded that the proposed event site will average 1 parking space per each 3.5 persons with an approximate total capacity for the entire site, assuming simultaneous events and uses, to be approximately 770 persons. This number is lower (i.e more parking spaces) than most of the five similar facilities studied.

The Zoning Code does not have a specific parking requirement for an event facility as proposed. As with other uses that are not specified in the parking code, Planning Staff finds similar uses or developments and/or requests a parking study to determine appropriate parking. Other similar event facilities in Chandler include Ashley Manor and The Castle at Ashley Manor; however Ashley Manor is no longer in business. While both event sites operate separately, they have cross-access for parking areas. Ashley Manor provides approximately 71 parking spaces accommodating approximately 350 guests. The Castle at Ashley Manor provides approximately 89 parking spaces accommodating approximately 400 guests for a total of 160 parking spaces. The subject site provides more parking and a lower total capacity than the two sites combined, which are known to operate without parking issues. Planning Staff finds the analysis determined appropriate parking spaces needed for the project based on a total on-site capacity of 770 persons.

#### NOISE STUDY

A noise study was submitted and reviewed by Planning Staff. The study measured existing noise levels in the area and compatibility of proposed live music outside near existing residential. The study concluded that the loudest noise would be generated from outdoor gathering areas (ceremonies and dinner), the English Garden (events with live outdoor music), and lake side (events with live outdoor music). During the loudest possible hour, noise levels from the events could exceed the existing noise levels to residences south and southwest of the site. The loudest noise level is not predicted to significantly increase the noise level at residences east and northwest of the site. Amplification of live music will occur by a single instrument not collectively as a group, thus speakers, bass, microphones and the like for all musician members and all instruments will not occur. Planning Staff finds that noise from the site will not be a nuisance to adjacent property owners based on the applicant's representation and conclusions found by the noise study.

The proposed event facility with a bed & breakfast and a bistro is a unique reuse of the residential property. The Use Permit process allows consideration of uses deemed compatible to the surrounding area, in compliance with the General Plan, and meeting development codes. With proposals of this nature, there are understandable concerns related to traffic and noise. Planning Staff has evaluated the traffic/parking study and finds that the event facility is compatible with adjacent residential based upon the representations by the applicant and maximum on-site capacity of 770 people. Planning Staff has evaluated the noise study and finds that the proposed event facility should not unreasonably disturb adjacent property owners. The subject site is approximately 10 acres with large landscape areas. Buildings are sited greater than 100 feet from the nearest residential property, while the site layout and perimeter landscaping provides that natural sense of containment. Planning Staff finds on-going compatibility will be determined by the day-to-day on-site management and their ability to quickly remedy possible issues as they arise. Planning Staff's recommendation of approval includes a 3-year time condition that allows the City and the adjacent neighbors the opportunity to verify compatibility.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with and beyond the requirements of the Chandler Zoning Code. Public hearing notice postcards were mailed to all property owners within the required 600-foot radius of the subject site. Property owners and a few tenants beyond the 600-foot radius were also notified which included a few property owners in Trovita that did not fall within the 600-foot radius and several property owners that had contacted Planning Staff to advise they wanted to be notified of hearings. Notification included property owners within both the City of Chandler and Tempe. In addition, notification was mailed to City Registered Neighborhood Organization (RNO) contacts within a ¼-mile radius of the subject site. Some postcards for RNOs were returned as persons no longer resided at the listed address. Planning Staff informed Neighborhood Resources Staff so that the database can be updated.

Planning Staff contacted some property owners prior to the hearing notice mailing to ensure the correct address was on record. Several postcards were returned due to forwarding addresses being expired, property ownership changes and, in one instance, no mailbox on site. Planning Staff made efforts to update addresses and property ownership in order to resend hearing notice postcards.

Prior to filing the Use Permit application, the applicant held a pre-neighborhood meeting on April 26, 2011, at the subject site to notify area property owners of the planned Use Permit request. Approximately 40 area residents attended the meeting including the applicant, property owner, and Planning Staff. Property owners voiced concerns with traffic, noise, property values, outside music and partying, liquor, parking, how the business operates, and hours of operation. Notification was also above and beyond requirements to ensure individuals who contacted the City previously regarding this property were notified and those owning property beyond the 600-foot notice area.

A second neighborhood meeting was held on October 26, 2011, at a local hotel conference room. Approximately 13 people attended the meeting including the applicant, property owner, and Planning Staff. Residents voiced concerns with traffic, noise, live music, parking, liquor, capacity, lighting, management of the property, and signage.

Planning Staff has received several phone calls from area property owners opposed to this request conveying it is a good use but the wrong location. They do not want any negative impacts such as noise, liquor, traffic, property value decline, and the like. Staff received a phone

call in support from a resident south of the subject site stating this will be a unique addition to the area and bring in needed tax revenue to the City. The resident stated he would like to see a quick solution to address other resident's concerns with noise and traffic.

At the time of this memo, Planning Staff is aware of opposition with this request from both Chandler and Tempe residents. Petitions and emails in opposition were presented to Staff. Following the Planning & Zoning Commission meeting, Staff received emails in support.

#### PLANNING COMMISSION VOTE REPORT

Upon finding the request to be inconsistent with the General Plan, the Planning Commission recommends denial of the request. Commissioners expressed concerns stating the proposed commercial uses are not okay in the heart of a residential area, noise and onsite parking can be a nuisance being so close to residences, vehicle exhaust fumes along with hours of operation and trash dumping late at night is not okay next to residential, and the permanence of changes to the site and building as well as a potential ownership/management change in future is a concern.

Two Commissioners opposed to the recommendation of denial conveyed the site's existing building setbacks from property lines, access off of an arterial street, and that this facility is less intense than other similar facilities in operation make this an ideal location and will have a negligible effect on surrounding residential. Further comments included that the Use Permit is the most preferred way to manage and control the use and property, the applicant must abide by the zoning conditions, noise will not be as bad as perceived and this is a viable use.

There were approximately 20 speakers at the hearing with the majority voicing opposition to this request. There were over 80 comment cards submitted with approximately 50 in opposition and 38 in support. The Commission asked those in favor if they live in the immediate area and they did not. Those in opposition do reside in adjacent residential subdivisions including the property owner of an estate that abuts the site's west side.

#### USE PERMIT AMENDMENT SUBMITTED BY THE APPLICANT

The applicant submitted a letter and site plan to Planning Staff dated February 16, 2012, which serves as an amendment to the Use Permit request and Development Booklet. In summary, the letter itemizes five changes to the proposed site plan including removal of a sliding gate along Orchid Lane, relocation of trash containment bins from Orchid Lane, keeping the existing swimming pool thus reducing the size of an outdoor gathering area, incorporating a 6-foot high block wall west and south of the swimming pool area with new landscaping to serve as an additional barrier to homeowners to the west and south, and reducing parking spaces to 212 and an agreement to reduce the maximum occupancy to 650 persons which equates to 3.06 persons per vehicle.

In addition, the list of uses in the Development Booklet is modified by deleting three types of event/uses from the proposal, which include bachelor/bachelorette parties, charity concerts, and poker and gaming tournaments. The uses and events proposed are modified as well to limit live and recorded amplified music to indoors only. Any live outdoor music is limited as per zoning conditions 6 and 7.

Lastly, the business hours represented in the Development Booklet are modified to limit all outside events ending by 10 p.m. Sunday through Thursday nights and end by 11:30 p.m. Friday and Saturday nights. The bed and breakfast may have a 24-hour operational cycle.

#### PLANNING COMMISSION RECOMMENDED ACTION

Upon finding inconsistency with the General Plan, the Planning Commission recommends denial.

#### PLANNING STAFF RECOMMENDED ACTION

Upon finding consistency with the General Plan, Planning Staff recommends approval subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Chateau De Vie", kept on file in the City of Chandler Planning Division, in File No. ZUP11-0012, except as modified by condition herein.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, Narrative and Parking Plan) shall void the Use Permit and require new Use Permit application and approval.
3. 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.
4. The property shall be maintained in a clean and orderly manner.
5. Liquor shall be reviewed and approved through a separate Liquor Use Permit application process.
6. Noise shall not exceed the general level of noise emitted by uses outside the premises of the subject site and further will not disturb adjacent residential areas.
7. Amplification of live music will occur by a single instrument, not collectively as a group, thus speakers, bass, microphones and the like for all musician members and all instruments will not occur. Outdoor live music shall occur only in the areas represented. Musicians shall include bands, groups, individuals, disc jockey and the like.
8. The maximum total on-site capacity is 650 persons.
9. Live and recorded amplified music will only occur indoors.
10. All outside events will terminate by 10 p.m. on Sunday through Thursday nights and 11:30 p.m. on Friday and Saturday nights.
11. Bachelor/bachelorette parties, charity concerts and poker and gaming tournaments are prohibited.

#### DISCUSSION

MAYOR TIBSHRAENY assured the audience that Council has received many emails on both sides of this issue. MAYOR TIBSHRAENY encouraged everyone to keep the decorum civil, understanding that everyone feels strongly about this case and also recognizing that their emotions are heartfelt. He asked for speakers to be respectful of others and of the Council.

MAYOR TIBSHRAENY advised that there are a large number of speaker cards that have been submitted. He would like to give both sides an hour, exclusive of Council's questions, to present on this issue and is tasking each side with determining how to best use that hour. He noted that there are two main speakers for the applicant side: Nick Goodman and Ralph Pew and two for the opposition side: Tom Axelsen and Mike Fong. MAYOR TIBSHRAENY advised that before the break, he would provide the stack of speaker cards to the main speakers for each side and ask that they decide how to organize other speakers.

MAYOR TIBSHRAENY advised that when the Council meeting reconvenes, the leaders on both sides will provide him with a schedule of speakers.

RECESS: The meeting was recessed at 8:23 p.m. and reconvened at 8:44 p.m.

MAYOR TIBSHRAENY asked for a staff presentation on Chateau De Vie.

MS. JODIE NOVAK, SENIOR PLANNER provided the background for the case.

MS. NOVAK noted that the development booklet that was provided in the staff report is very detailed and includes the request and a list of all the uses that could potentially occur on the property. She said that the applicant would like to take advantage of using the existing mansion, the existing garage, and existing exercise room and converting those into commercial uses.

MS. NOVAK advised that the property will be improved. It will have a new asphalt parking lot on the property to accommodate vehicular parking for the events. She also noted that extensive neighborhood work was done by the applicant.

MS. NOVAK advised that this case was scheduled to be on the Agenda for February 9 and the applicant requested a continuance to meet with residents. MS. NOVAK said that an addendum memo has since been provided with the request to conduct the uses of various events, Bed and Breakfast, and a bistro. She further stated that there are 11 zoning conditions in which the applicant has proposed amending some of them to specifically address some of the concerns that residents have raised. Some of those concerns include limiting the occupancy on the entire property to 650, limiting live and recorded amplified music to indoors only, limiting events Sunday through Thursday to 10:00 p.m. and 11:30 p.m. on Fridays and Saturdays and also eliminating some of the suggested uses: bachelor, bachelorette parties, charity concerts, poker and gaming tournaments. Furthermore, from when this went through Planning and Zoning Commission, additional modifications to the site plan have been made. MS. NOVAK advised that those changes were included in the addendum memo to Council and she would provide a quick overview of the main changes that have occurred.

MS. NOVAK advised there are plans to keep the existing swimming pool, they will fence it in and create a smaller gathering area. They also plan to get rid of one of the two sliding gates off of Orchid Lane, which is an easement that provided access to a residential lot to the west of the subject site and the subject site. There also plans to add a new 6-ft. tall block wall on the west side of the garage, mansion house to create a further visual and noise barrier. The applicant also plans to reduce the parking spaces to 212, which is due in part to relocating trash containment off of Orchid Lane onto the property within the interior.

MS. NOVAK placed an aerial map of the property site at the request of the residents.

MS. NOVAK advised that she wanted to clarify some information, as some residents have had questions about the tents that might be used during inclement weather. There were concerns as to whether or not the tents would be considered indoor or outdoor as it pertains to music.

MS. NOVAK confirmed with the applicant that the tent is considered an outdoor area, as it is a temporary structure. Therefore, live music will only be occurring as indicated on the plans. This has not changed from what was presented to the Planning Commission.

COUNCILMEMBER SELLERS asked MS. NOVAK if non-amplified live music outdoors in certain areas is permitted.

MS. NOVAK said that the request states that live and amplified music will be played indoors only. A violinist or someone playing the harp or an acoustic guitar with a small microphone could occur in certain areas, as noted in the Noise Study.

COUNCILMEMBER SELLERS asked MS. NOVAK to point out on the map where that type of music could be permitted.

MS. NOVAK pointed out the proposed areas for live music, including the English Garden, a tennis court that is planned to be converted into an area where people could have events, and the outdoor gathering area, just west of the existing mansion. MS. NOVAK mentioned that through the addendum memo, this is a much smaller area than what was originally proposed. She said there could be some light background music as well.

COUNCILMEMBER HARTKE asked in relation to the music if there is a noise level that would fall under ambient noise. He is concerned that collectively the music could create a pretty high decibel level.

MS. NOVAK advised that there could be non-amplified musicians that could or could not be deemed disruptive to nearby residents. She advised that there is nothing in the City Code or zoning code that specifies noise decibel ratings for someone playing an instrument. She noted that there were four locations where monitoring occurred to gain a better understanding of noise likely to occur in the natural environment. MS. NOVAK explained whether the music is amplified or not it will be based on an individual basis as to whether or not it is deemed disruptive.

COUNCILMEMBER HEUMANN noted that Item no. 6 talks about noise shall not exceed the general level of noise emitted by uses outside the premises and asked if that noise study was based on Kyrene at 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. He said he is trying to get a handle on what ambient noise means.

MS. NOVAK explained that the applicant can provide further details about the Noise Study. MS. NOVAK advised that some of the four locations the Noise Study was conducted in the evening at approximately 9:30 p.m. MS. NOVAK advised that noise included quiet times and noise was applied to determine how disruptive the noise can get.

COUNCILMEMBER HEUMANN commented on Councilmember Hartke's previous comment regarding amplification of live music that will occur by a single instrument, stating that the information mentions that musicians shall include bands, groups, individuals, DJ's, and the like. COUNCILMEMBER HEUMANN said a band could be a saxophone, drummer, and guitar and still produce significant sound. COUNCILMEMBER HEUMANN asked if that is true based on this stipulation.

MS. NOVAK advised that COUNCILMEMBER HEUMANN is correct on his comment pertaining to Item no. 7. She further stated as part of the addendum conditions that she believes the hours that were established for the various types of music/noise are similar to those hours found in other cities.

COUNCILMEMBER HEUMANN asked if an unamplified band could play in the approved areas that allow music.

MS. NOVAK answered affirmatively.

COUNCILMEMBER DONOVAN asked how that reconciles with the other stipulation regarding the facility not being any noisier than the surrounding areas.

MS. NOVAK advised that there are no defined decibel ratings. She said it is on an individual case-by-case basis. The Noise Study provides details on some of the types of noise that would be occurring in that area. Staff applied the same type of situation to other types of applications where live outdoor music of bands is occurring on patios. MS. NOVAK noted that if there are many complaints from residents saying that the noise is going beyond the boundaries of the property, it would be in violation of stipulation no. 6. The instruments and/or individuals playing outdoor music cannot play to a level that could be deemed disruptive.

COUNCILMEMBER DONOVAN stated that if a band were to go to the Chateau and play in full force they would likely be in violation of stipulation no. 6.

MS. NOVAK advised that is correct.

MAYOR TIBSHRENY asked the applicant for Chateau De Vie to come forward.

MR. RALPH PEW, 1744 S. Val Vista Drive, Mesa, AZ, representing the applicant, advised that Shelly Goodman will present her and her husband's vision for the site as well. But before doing so, MR. PEW said he would like to take a moment to clarify some things.

MR. PEW answered COUNCILMEMBER SELLER'S question about where outdoor music would occur. He said that as Ms. Novak indicated there were originally three places where outdoor music could occur. That concept has been revised to only two: the English Garden, which is the existing tennis court and the area around the swimming pool. These are the only two areas where outdoor music could occur. He further explained if there was inclement weather and a temporary tent structure was erected, they could have outdoor music there. To further clarify on Councilmember Heumann's comment about the stipulation no. 6, MR. PEW said that noise shall not exceed the general level of noise emitted by uses outside the premises of the subject site and will not disturb adjacent neighbors. He explained that language is not based upon the sound study, instead it is an ambient noise standard. MR. PEW confirmed that the applicant cannot cause noise on this property that is any different or adversely affects any of the neighbors any more than outside influences affect properties today. MR. PEW advised that they have been trying to demonstrate that during this entire case.

MR. PEW advised that there are no plans for outdoor concerts and there will not be amplified music outside. MR. PEW said they intend for the only outside music to be acoustical. He also mentioned that there will be no percussion instruments outside. In regard to balancing musician's volumes, MR. PEW used the example of a string quartet. He said when one of those instruments may not have the same balance as the others, it might be necessary to mic that one instrument to balance with the other four. MR. PEW assured the Council that under no circumstances will any music be played outside where all of the sound from all musicians funnels to an amplifier and then is broadcast to the group.

MR. PEW said it is difficult to understand how condition no. 7 works, but explained that the reference in the last sentence defining musicians as bands, groups, individuals, disc jockeys and the like was used to define the term "musicians" in the first sentence. He would like to make it perfectly clear that microphoning those types of uses outside is prohibited. MR. PEW explained that is what that condition means. MR. PEW reiterated that there will be no amplified music, live

or disc jockeys outside and also confirmed that there will be no concerts as part of this use permit.

MS. SHELLY GOODMAN said that the Chateau De Vie is a beautiful property and that she was able to see past the things in disrepair to see its potential. MS. GOODMAN advised that she has experience in corporate event planning and wedding planning and coordinating. MS. GOODMAN said her first thought was about the neighbors and how she and her husband, Nick, could develop a business plan that would be beneficial to the community as well as saving and preserving the Chateau.

MS. GOODMAN said that they have a vision for the property and believes it will fit well in the City of Chandler and the neighboring cities and could possibly become a destination location.

MS. GOODMAN asked to read an email, which was quoted with permission: "My family and I live in Ray Ranch Estates, a direct neighbor of Chateau de Vie. We have decided this neighborhood is for us in the long term. We love the area, the schools (we have two little boys) and the sense of community here. For as long as I can remember, I have wondered about that beautiful house (my older son calls it "the castle") that was our neighbor. As I started to hear about plans for its future, I was shocked and more than a bit disappointed at what I thought was short sighted, knee-jerking, "not in my backyard" opposition to the plans. Smart people can disagree. I respect anyone's open dialogue on a subject. But it isn't "he who yells the loudest wins." Or it shouldn't be. The few that are in opposition are vocal, sure. They are also organized, aggressive and, at least from the hysterical literature they are leaving on my front door, determined. But they are not the only voice. I have to admit, being a reluctant participant in this discussion at all. I don't like politics and don't really take up the pen on much. I find I have a hard enough time getting through a day as a mother, spouse, full time worker, etc. But I really felt the need to say something this time.

I am a partner in a law firm less than 2 miles from home. I don't just live in this area as part of our new commitment to home, family, and community, I work here too. I could see using the Bed and Breakfast as a suggestion for a business lunch or to hold our small firm events. I could see telling out of town clients to visit or stay there to keep their dollars in Chandler instead of at a downtown high rise. When you want to compete, you have to do something different. And this is different.

This Saturday we saw that "the castle" was having an open house. My mother and I went over and wandered the property. What an amazing thing to do. Not a guided tour with some advocate "yapping" in our ear. Just an opening of their investment, for supporters and neigh sayers alike. The place is spectacular. It is a wonderland. I couldn't contain myself. I came home and told my husband that our young son (who is in a dragons and knights phase at 3) just HAD to see it. We went back again. I wish you could take the "tour" through my son's eyes. All of the secret passage ways, the stained glass knight and princess windows, the duck pond. Regardless of your politics, I guarantee you would be unable to resist getting caught up in his enthusiasm. The City of Chandler has an obligation to help Chandler share such a wonderful treasure. If the plans are successful, even though we live a stone's throw from the property, my family will be one of the first guests. We will spend a family night in a castle. How memorable for Chandler families just like mine to do the same.

And then, we met Mr. Goodman. Not in a fancy suit waving and shouting like the opposition is. Not a bit of elitism in him. Just standing outside, greeting all who entered. Answering questions. Telling them his vision. Asking for help. Being the exact sort of neighbor I want and strive to be. If anyone cares about a community, it is him, and his wife, who also made a point to say hello to us. Forget for a moment, what they want to do. Here we have two Chandler residents, wanting to

start a small business, out in the sun, letting people run unsupervised through their property. Offering facts, not hysteria. Respecting everyone's thoughts. Soliciting input. Trying to make it work-employing people if they are able to. Chandler should be supporting those efforts.

Personally, I left that day with a great deal of respect for them, a new found passion for trying to help them, and a promise to a wide eyed three year old that if they would let us, we'd come back some day and stay at the castle and feed the ducks. But it isn't the Goodmans I need to let us. It is you. It is our other neighbors. I write to you in full support of the plans proposed by the Goodmans for Chateau de Vie. Frankly, in this day and age, don't we have better things we can organize against?"

MS. GOODMAN thanked the Council for their time.

MR. PEW advised that the reason that they seek a use permit is because the property is zoned agricultural and the nature of this use is the wedding and event center requires a use permit to be an allowed use in the agricultural district. The allowed uses in agricultural district are very limited.

MR. PEW said he would like to make it very clear that the applicant agrees and consents to all of the 11 conditions contained in the staff report. He said if this use permit is approved, it will be conditioned upon the Goodman's compliance with everything stated in the narrative booklet that was provided with this case. Secondly, if there is any expansion of the use permit, condition no. 2 is very clear that any expansion beyond what is approved must go back through the entire process and be reconsidered as part of the use permit. The use permit is for a three-year period, as recommended by Planning staff.

MR. PEW continued by advising that the property must be maintained in a clean order. Liquor shall be reviewed by a separate use permit process.

MR. PEW advised that the maximum occupancy at any one time is 650 people including those working on the site. MR. PEW asked to explain condition no. 9 so that everyone can understand that condition. He said that live and recorded amplified music will only occur indoors. MR. PEW said he hopes this evening that none of the speakers claim that there will be concerts and loud music on site, as this will not be the case.

MR. PEW explained that condition no. 10 notes that all outside events will terminate by 10:00 p.m. on Sunday through Thursday nights and 11:30 p.m. on Fridays and Saturdays. MR. PEW wanted to let everyone know that the following uses that were originally listed in the application are now prohibited: bachelor and bachelorette parties, charity concerts, and poker and gaming tournaments. MR. PEW urged the Councilmembers to please weigh the comments of those who speak tonight against those standards because if something is said that is contrary to those standards it is either that the speaker does not believe that those standards will be enforced, that the Goodman's will not adhere to them, or that the City won't do anything about it. None of which are true.

MR. PEW said that the design and operational issues in the site plan and the hours of operation and all that has been agreed upon make the site compatible with adjoining neighbors, while preserving a wonderful marquee property. MR. PEW said that this property was built in 1984. He said it is not historic, but it is a landmark. He said it is an interesting and important venue for Chandler and one that he believes Chandler should keep and utilize as a wedding and event center that will help sustain and promote and provide locations for Chandler businesses to have

an event or a corporate meeting or families to have events, receptions, and weddings. MR. PEW said it would be a wonderful time and location to do that.

He said it is a complete misnomer to assume that all of those in support tonight are from disparate parts of Chandler. MR. PEW noted that he and the applicant respected the privacy of residents living in the Trovita and Tuscany neighborhoods, as they are gated communities. He said they had two informal meetings, one formal meeting, and a separate meeting at one of the neighbor's homes.

MR. PEW presented a revised site plan, noting the main entrance to the project is on the north end with parking predominantly along the north and west, all screened by a 6-ft. plus block wall and large mature citrus and other trees. The venues that will be used are the existing tennis court, which will become the English Garden.

MR. PEW pointed out the main mansion or Chateau, the garage area, the bistro, formerly the old exercise facility, and the swimming pool area and assembly. MR. PEW said he believes the changes that have been made to the plan further mitigate the impact of this property even further on the surrounding neighbors. He stated that much concern was raised about the impact on the neighbors who live to the south of the site in Trovita and to Mr. and Mrs. Ganem, who live to the west.

MR. PEW advised that the first thing that was done to mitigate the impact was to leave Orchid Lane exactly as it is today. Orchid Lane will have a solid block wall. There will be no traffic penetration whatsoever from Orchid Lane into the site. MR. PEW explained that the gate on the map is a crash gate. It is an emergency access gate for Fire, paramedics, and others on an as needed basis. As it relates to the property to the south, Orchid Lane will not be disturbed. There will be no traffic to the Chateau through deliveries, providers, caterers, florists, etc.

MR. PEW noted that all trash enclosures have been moved to the northwest corner of the property where they are the furthest away from any particular residents. Trash pick-up can occur on site and exit on site. Another issue that arose had to do with the neighbors involving the swimming pool area. The pool will be used and restored to its condition as a swimming pool rather than filled in. It will have its security fencing around it. The net impact of that will be that the gathering space and the ability to have large gatherings there will now be significantly reduced. MR. PEW notes that with the pool at that location there could not be a large event.

MR. PEW advised to mitigate the issue further, the Goodman's have agreed to construct a 6-ft. block wall to produce a significant sound barrier. MR. PEW advised that the parking spaces have also been reduced to 212 and the maximum capacity at any one time was also reduced to 650.

MR. PEW stated that to have the capacity of 650 people at one time would be on a rare occasion, when two events occur at the same time. One could occur in the English Garden and another one in the mansion. The events may overlap. MR. PEW indicated that there was some degree of concern that as individuals enter and valet the cars and exit the west side, near the Ganems' and closer to the Ray Ranch neighbors this would cause too much noise.

MR. PEW again advised that would be on rare occasion. The reason for that is because it has been agreed upon to widen the road 20-ft. He said that the bridges will also be widened to accommodate two-way traffic. MR. PEW stated that in that regard, much of the valet can occur on the front side of the project. It will not all be limited to the western end.

MR. PEW said that another concern that is often expressed involves alcohol. MR. PEW said that the fact that there is alcohol served on site will only occur when the caterer serves it and has the proper licensing or the guests want to have alcohol, they buy it and the Goodman's require them to hire licensed and insured bartenders.

MR. PEW advised that there will be no signage with this application that goes beyond the normal sign requirements. He said the prohibited uses have already been read. MR. PEW said he has discussed many of what he anticipates might be neighborhood concerns heard this evening, including noise and crime.

MR. PEW stated that the likelihood of crime increasing if the use permit is approved is not a valid argument, particularly with the site improvements that are proposed, the property being occupied and having security. MR. PEW said that the likelihood of crime increasing if the site remains undeveloped and abandoned is much more likely.

MR. PEW advised that those who claim that this event center will cause a problem with traffic either haven't read the statistics in the traffic study or simply choose to ignore it. He indicates that Kyrene Road at this location is designed for 35,000 vehicles a day. The maximum number of cars at any one time is 212. MR. PEW advised if all 212 vehicles either arrived or departed within 30 minutes of each other, it has an absolutely negligible, almost non-measurable effect on Kyrene Road. When considered further, the Ray Ranch residents to the west enter their subdivision from the north through the industrial subdivision in Tempe or from the south on Ray Road. MR. PEW said he cannot fathom how this facility could cause one ounce of problem with traffic.

MR. PEW stated that he is also aware of a couple of issues have come up at the very last minute. One has to do with the concern that the Goodman's have, through their campaign of "Saving the Chateau", somehow tried to deceive everyone that the "Save the Chateau" campaign is setting forth a proposition that the only alternative use to this property is to demolish the Chateau and develop residential houses. MR. PEW advised that the likelihood of a very wealthy individual buying this property that is now 30 plus years old, maintaining it, and using it as a single-family residence is very unlikely. MR. PEW said it could happen, but he doesn't think it will. MR. PEW advised that the "Save the Chateau" campaign was not intended to save it from demolition, but rather to restore it, use it, make it viable, bring it to life from where it was when the Goodman's bought it and have a very wonderful venue in Chandler to occupy and use for events.

MR. PEW advised that Mr. Goodman is delivering to the City Clerk the signature petitions for over 950 individuals in support of the application. One of the other criticisms MR. PEW noted during this process is that the signatures are predominantly from other parts of the City of Chandler and nowhere near the proposed project. MR. PEW displayed a map that states otherwise.

MR. PEW stated that 36 signatures from residences within Ray Ranch, 119 from individuals within Warner Ranch, 127 south of Ray Road and the rest are in the City in general. MR. PEW felt it was an unfair criticism. He stated that there is a difference of opinion in the immediate neighborhoods as to what is the appropriate use for this property. MR. PEW asks that the Mayor and Council please give the Goodman's a chance.

MAYOR TIBSHRAENY invited those in support of the project to come forward.

ANNE MCCARTHY, 231 W. Calle Monte Vista, Tempe, AZ 85284

MS. MCCARTHY said she believes this project will raise her property values and she will enjoy having a neighborhood bistro that she and her neighbors could walk to or a have a lovely Bed and Breakfast for out of town guests.

JOSEF MERRILL, 1142 E. Canyon Way, Chandler, AZ 85249

MR. MERRILL said he is a business man with an International education company and said he looks at issues and makes fact-based decisions. He said he grew up next to the Stonedene Mansion in Suisun, California. He said the situation is almost identical to the Chateau. MR. MERRILL said it was something that raised their property values and it was a landmark in his community, something that he and the neighbors cherished.

JACK CARTWRIGHT, 162 N. Pineview Dr., Chandler, AZ 85226

MR. CARTWRIGHT said he feels that this would be a good project for Chandler and the area.

STEVE TOON, 1574 W. Pelican Ct., Chandler, AZ 85286

MR. TOON said he is a local business person and very involved in the wedding business in Arizona and the Valley. MR. TOON said that Chandler needs a venue like this. MR. TOON believes this project will help with unemployment. MR. TOON also said it will be a revenue source for Chandler.

BILL KALAF, 5641 W. Park Ave., Chandler, AZ 85226

MR. KALAF said he walks and bikes around the property. He asked that Council consider a three-year use permit with the changes that have been presented by the Goodman's.

ELYN MORTON, 244 W. Vera Ln., Tempe, AZ 85283

MS. MORTON said that she lives in Warner Ranch lives within walking distance and looks forward to having a place to go, a true destination in the City of Chandler. MS. MORTON views it as the Wrigley Mansion of Chandler and said she hopes that Council votes in favor of this.

JAMES C. MEYER, 5781 W. Dublin Ln., Chandler, AZ 85226

MR. MEYER said he lives in the Gila Springs neighborhood and is the President of the Northlake Homeowner's Association (HOA) and on the Board of Directors for the Gila Springs Homeowner's Association (HOA). MR. MEYER said he is a 27-year veteran of Intel and chose Chandler for the many unique events. He said when he lived in Oregon he lived just down the street from one of the McMenamin properties which include a number of historic and distinct properties that are used as brew pubs, Bed and Breakfasts, and the like. He believed this would improve the property values and he said it would be a pleasure to be able to walk down and enjoy the facility.

LENETTA LEGER, 306 W. Boxelder Pl., Chandler, AZ

MS. LEGER said she and her husband also own a home in Ray Ranch Estates, 6402 W. Kent Dr., Chandler, AZ. MS. LEGER said they purchased their home in 1996 when the area was being developed and believes that the Chateau and the surrounding neighborhoods can coexist in a respectful manner.

MS. LEGER said she has been doing event planning for more than 12 years, weddings and different types of fundraising events, etc. and often look at places like The Waterfront, The Wright House, Wrigley Mansion, all of which are located in residential neighborhoods. MS. LEGER said that the issues and concerns that have been raised by residents are valid. However, each one of the facilities that she mentioned has very strict policies and procedures that help protect the neighborhoods. MS. LEGER believes that the Goodman's have taken every step to ensure that will be the same situation with their event center.

ERIC PAPADEAS, 6241 W. Corona Dr., Chandler, AZ 85226

MR. PAPADEAS said he lives in Ray Ranch Estates where he has lived for the past 15 years. He and his wife attended four different meetings about the mansion and support the recommendation of a three-year use permit. MR. PAPADEAS said this venue will provide opportunities for local jobs and help area businesses such as florists, caterers, and the like.

ANNETTE AUXIER, 2843 W. Ironwood, Chandler, AZ 85224

MS. AUXIER said when she first became aware of the project she likened it to a church that came into her neighborhood that brought about concerns. Consequently, the church has become a very good neighbor and the community has adjusted to the traffic patterns associated with the church. MS. AUXIER spoke in support of the applicant.

MR. PEW stated he does not believe that the Goodmans would spend this type of money and commit to more than one million dollars in expenses to upgrade the mansion only to operate the facility in a way that irritates the neighbors.

MAYOR TIBSHRAENY asked if Council had any questions.

COUNCILMEMBER HEUMANN asked for the anticipated number of events at the facility.

MR. PEW said that there will likely be double bookings and two different venues on Fridays and Saturdays during the times of year when the weather is nice such as, now, Spring, and Fall. MR. PEW said that the number of booking nights and events that are needed to sustain the project would need to be discussed with the Goodman's to make that determination. MR. PEW said that the facility will need to be booked at least one-third of the year with events.

COUNCILMEMBER HEUMANN asked what happens when 240 or 250 cars show up, since there are only 212 parking spaces.

MR. PEW clarified by saying that there are about 60 parking spaces around the Chateau itself. Those spaces would predominantly be used by employees, but vehicles could also be parked there if there were a smaller event at the Chateau in order to avoid valet parking up to the north side.

MR. PEW said there is a significant set-back from that parking to the wall on Orchid Lane. With respect to parking that might exceed the 212 spaces, on the occasion that the Goodman's and their management become aware, arrangements could be made for the valet to park the cars closer together or they could arrange for off-site parking. MR. PEW said that they don't envision that but either way would work.

COUNCILMEMBER HEUMANN asked MR. PEW to clarify where the kitchen location and staging areas are in terms of closeness to the homes.

MR. PEW pointed out the requested area on the map and advised that there will be facilities for preparation of food in what is now known as the garage area, the kitchen area along with other potential uses. There is also a kitchen area at the Chateau which will be used for serving, not cooking or preparation.

COUNCILMEMBER HEUMANN asked if the area noted is the same area where tables and chairs will be delivered.

MR. PEW advised that is not necessarily the case. MR. PEW pointed out a storage room on the map, near the dumpsters on the northwest side. He said that storage room could also serve for the purposes of storing tables and chairs and the like.

COUNCILMEMBER HEUMANN asked for clarification on the hours and whether or not staff will continue to clean up after the event times.

MR. PEW advised that the tear down and clean up could continue following the ending hours. He did state it would likely be contingent on what the schedule is for the next day. Sometimes that clean up would occur immediately, other times it may occur the next morning, depending on what is happening at the Chateau.

COUNCILMEMBER HEUMANN asked what time in the morning.

MR. PEW advised that decision has not yet been made, but should there be a problem with early morning usage the applicant would agree to any reasonable time. He reassured Councilmember Heumann that there are no plans to have people moving chairs at 4:30 a.m.

MAYOR TIBSHRAENY asked if there are other questions of the applicant.

## **RECESS**

The Mayor recessed the meeting at 10:11 p.m. and RECONVENED at 10:21 p.m.

COUNCILMEMBER ORLANDO confirmed he was still connected via phone.

MAYOR TIBSHRAENY invited the next speaker to come forward.

TOM AXELSEN, 6095 W. Trovita Place, Chandler, AZ 85226

MR. AXELSEN said he lives in the Trovita subdivision, directly south of this project. MR. AXELSEN said that according to the application there will be corporate events, corporate retreats, lodging, catering of events, full service kitchen and dining, alcohol service, parties, live music, dancing, auctions. He said that sounds a lot like a hotel to him, a hotel with a maximum occupancy of 650.

MR. AXELSEN said once this use permit is granted, acres of grass are going to be turned into acres of asphalt. He said there will be a whole network of roadways and parking lots that will be installed. These are permanent changes. There will be new commercial driveways, widening of streets. The boat house will be torn down and commercial restrooms will be added by retrofitting the plumbing to accommodate up to 650 people. MR. AXELSEN said there will also be a commercial restaurant with a full commercial kitchen. The commercial system will piggy back on the residential system, he questions whether they will work together. MR. AXELSEN said that the same type of conversions will need to be done with the sewer, power, and everything else.

MR. AXELSEN said as soon as this use permit gets approved all of these permanent changes begin to occur, before it even opens for business. MR. AXELSEN said that these changes to the infrastructure will forever limit what the property can be used for in the future. According to Mr. Pew it will revert back to residential. MR. AXELSEN states that it can't. He is concerned about the permanency of the changes.

MR. AXELSEN said if Council wants to save the mansion, do not approve this use permit. The mansion is not conducive to large public gatherings. He contends that it was never built to be a hotel with meeting rooms for 650 people. MR. AXELSEN said that the largest room in this mansion holds about 40 people. This is why the majority of events will be held outdoors. He noted if there is a haboob on a day there is a wedding planned, it will be necessary to move the wedding indoors.

MR. AXELSEN stated that the bottom line is if this use permit is granted, the mansion will be gutted. Anything special in that mansion is going to be converted into banquet rooms, meeting rooms, and commercial restrooms. It will look nothing like it does today. He said that one of the proponents mentioned the Wrigley Mansion. MR. AXELSEN noted the Wrigley Mansion has a great deal of historic significance and this one has none. MR. AXELSEN said they took the mansion and converted it and it is nothing like it once was. He believes the same thing is going to happen at the Chateau. MR. AXELSEN contends that this mansion was not built for this type of use.

MR. AXELSEN referred to the legal protest document. He said it is a petition and protest and believes it triggers the super majority provision found in ARS462.04H. As a result, he understands that a 75 percent vote by this Council is necessary to approve the use permit. MR. AXELSEN said he understands MS. NOVAK'S contention is that the super majority provisions don't apply in the context of a use permit. However, he does not believe this to be just a use permit, but rather a zoning change because of the permanency of the changes that are going to occur immediately and the fact that those changes go to the very essence of the property and are contrary to the existing zoning.

MR. AXELSEN said that use permits were never intended to promote permanent changes that are contrary to the existing zoning. MR. AXELSEN said that the existing zoning is AG-1 Agricultural. The stated purpose of that zoning is set out in Chandler City Code, Section 35-400. A hotel is not consistent with that zoning. MR. AXELSEN said that Mr. Pew should not be permitted to circumvent the protections associated with a zoning change by calling it a use permit.

MR. AXELSEN said that he and the citizens whom the super majority provisions in the statute were intended to protect, have invoked those super majority provisions. He indicated that the legal protest was signed by far more than the 20 percent of the surrounding homeowners that is required by the statute. It was signed by 90 to 100 percent of the surrounding property owners. MR. AXELSEN asked Council to keep in mind the permanency of the changes if this use permit is approved.

CORTLAND SILVER, 6112 W. Victoria Pl., Chandler, AZ 85226

MR. SILVER said he lives in the Trovita subdivision, about 100 feet from the applicant's property. He said he welcomes the Goodman's as neighbors and any responsible plan for that property. However, he will not support a commercial use that is inconsistent with the property rights and rights as homeowners to enjoy their quiet the existing neighborhood.

MR. SILVER said that Mr. Pew stated that the impact of 200 vehicles on Kyrene Road is negligible, but Mr. Pew did not take into account that the vehicles will both arrive and leave the facility, doubling the count. Since the operating hours occur from early morning until late evening, if there are multiple events in a day, negligible times four, maybe more. Mr. SILVER said that the single-family home that exists now is truly negligible, as compared to what is proposed.

MR. SILVER said that Mr. Pew mentioned at the Planning meeting that 212 parking spaces on the property will be created and 41 of the spaces are required for site employees. MR. SILVER believes that with a capacity of 650 people on the site, the property will run out of parking from time to time.

MR. SILVER stated that when Mr. Pew suggested that the valets may park the cars closer together, it makes the 212 parking space number not all that meaningful. MR. SILVER also commented on Mr. Pew's statement regarding off-site parking. MR. SILVER said that the off-site parking will likely occur in the neighborhoods to the east of Kyrene and in Warner Ranch. MR. SILVER said it has happened before and he believes it will happen again. He also understands that there will be valet parking and a certain number of people that will object to valet parking may choose to park in the residential neighborhoods.

MR. SILVER said that the valet service and the excess parking will allow the site to operate more efficiently and comfortably, but believes it will negatively impact the neighborhood, due to two-way traffic competing with valets and possibly people who self-park on either a 20-ft. wide driveway in the back or a 20-ft. driveway in the front.

MR. SILVER said regarding the Kyrene traffic, the traffic study does not take into account that from time to time people in Trovita and Warner Ranch will have difficulty exiting their neighborhoods. He mentioned that this has happened before, as recently as this past weekend during the applicant's Open House. MR. SILVER said there will be 200 cars a day or more of internal site traffic on a site where the internal site traffic is negligible. MR. SILVER asks that the Council deny the application.

WILLIAM SWIRTZ, 6054 W. Trovita Pl., Chandler, AZ 85226

MR. SWIRTZ said he is the Vice-President of the Homeowner's Association (HOA) in Trovita and he does not approve of this commercial business in a residential neighborhood. They did not want to live next to a hotel, restaurant, and party house; they opted for a residential flavor instead. The reasons this use permit is not compatible with the surrounding properties as mentioned earlier, noise. MR. SWIRTZ questions where the sound level goes when free alcohol is served. He also mentioned the noise associated with deliveries and valet drivers. MR. SWIRTZ said that while the hours of operation were reduced, the hotel operation was exclusive of those times. There was also no mention about the trucks set-up, clean up and trash removal. MR. SWIRTZ encourages Council to uphold the Planning Commission's findings and deny this commercial use application.

MARK WEBER, 6163 W. Kent Dr., Chandler, AZ 85226

MR. WEBER said he lives in Ray Ranch Estates, approximately 150 ft. from the applicant's property. MR. WEBER questions how one can convert a single-family residential home into a commercial wedding and party facility for up to 600 people with over 200 vehicles on site and how that can be compatible with the surrounding residential community, which consists of 550 or more residential homes and 1500 total single-family homes within just a few blocks.

MR. WEBER believes that justifying compatible use to adjacent properties for the Bed and Breakfast is false, misleading, and inaccurate. Planning staff found that the ongoing compatibility would be determined by the day-to-day onsite management and their ability to remedy possible concerns of the neighbors.

MR. WEBER believes that multiple events occurring at the same time will undoubtedly interfere with the nearby properties. He noted that the homes most greatly impacted are, the Ganem's,

Owen's, and Trovito homeowner's, the adjacent properties located just on the other side of the wall. MR. WEBER said that this use will interfere with the surrounding homeowners but the everyday activities of the surrounding homeowners could also interfere with the Goodman's ability to run their business, which was discussed at length at Planning and Zoning meeting.

MR. WEBER lastly wanted to respond to the alternative uses. He said that the applicant mentions that if the use permit is not granted, the property would fall further into disrepair and further decay. MR. WEBER said this is simply false and another scare tactic used by the applicant. There have been several other parties interested in this property to be used as a single-family home, but were outbid by the applicant. MR. WEBER urged Council to deny this commercial use in a residential area and to follow the recommendations of the Planning and Zoning Commission. He also urged Council to save the Chateau from the changes that would occur by converting this to commercial use and urged them to deny this use permit.

JACQUE GANEM, 6240 W. Orchid Lane, Chandler, AZ 85226

MS. GANEM said she also own 6250 W. Orchid Lane. Both homes border the entire west side of the mansion property and only an 8 inch block wall separates their properties from the mansion.

MS. GANEM said that the mansion has been a single-family home since it was built. She said that the Goodman's want to turn the mansion into a huge, all encompassing, busy, noisy, business for profit and not just one business, but three businesses.

MS. GANEM stated her concerns with the noise from the traffic and activity that will occur on the property. MS. GANEM respectfully asked the Council to deny the use permit.

GEORGE GANEM, 6240 W. Orchid Lane, Chandler, AZ 85226

MR. GANEM said that the Owen's, Goodman's and Ganem's all share a common ditch for irrigation purposes. He said that he and the Owen's have repeatedly asked the Goodman's to trim their orange trees that overhang the ditch in the wall and clean up their mess. He stated that because they have not acted, he has been responsible for removing the debris probably 15 times since the Goodman's have owned the property. He does this so the underground pipes will not get clogged up and stops up the water flow. MR. GANEM asked the Council to please not approve this use permit as it will destroy the quality of life for the neighborhood.

SUEANN OWENS-SINGER, 1300 N. Kyrene Rd., Chandler, AZ 85226

MS. OWENS-SINGER said that she and her family are in opposition as she is concerned about the gate that is proposed very close to the southern edge of her property. MS. OWENS-SINGER explained that she has a circular driveway and believes there is a good chance that the new driveway will severely impact her tenant's ability to come in and out of the property. Furthermore, she believes the interface between a residential community and a business creates a situation designed to generate friction. She explained that the better that the Goodman's business does, the more the neighborhood suffers. She urged the Council to vote against this project.

PAULA WEBER, 6163 W. Kent Dr., Chandler AZ 85226

MS. WEBER said that their backyard is 150 ft. from the border of the mansion property. MS. WEBER believes that in the real estate market perception is reality and the perception of having a commercial site so close to homes is not favorable, regardless of what the Goodman's plan to do. MS. WEBER advised that one of her biggest concerns involves alcohol, since she has a 15 year old son. She is concerned for the safety of the neighborhood teenagers coming home from their jobs. She believes that the percentage of people that attend events and get out of control is likely higher than what Mr. Pew indicated. MS. WEBER asked Council to deny this use permit.

MARIA TURCOTT, 1140 N. Judd Pl., Chandler, AZ 85226

MS. TURCOTT said she has lived in her home since 1997. MS. TURCOTT's father who recently passed away also owns a house at 6323 W. Kent Dr. in the Ray Ranch Estates. She said when she first moved in it was a joy to walk down the canal and to see all of the wildlife along the SRP canal. MS. TURCOTT said she has seen white cranes, blue herons, ducks, a various amount of birds, and rabbits. She is concerned about where all of these animals will go if there are venues that have noise, light and car pollution. MS. TURCOTT feels that it sets a dangerous precedent to have any kind of business in the middle of a residential neighborhood. She does not feel that it's in the best interest of the people who bought these homes and have enjoyed the ambiance to be subjected to such issues. MS. TURCOTT said that sound does carry, light does pollute, and 6-ft. fences aren't tall enough. She said there will be pollution no matter how many restrictions are imposed.

KEITH MADY, 6143 W. Kent Dr. Chandler, AZ 85226

MR. MADY said he has heard a backyard party from a much further distance from his home than what he would likely hear at the mansion property. Mr. Mady stated his quality of life would be gone indefinitely if this use permit is approved. He asked the Council to vote no on this project.

DANIEL KUSH, 21 W. Stacey Ln., Tempe, AZ 85284

MR. KUSH said that he lives just east of the facility and has been involved with and is pro-economic development in the City of Chandler. But, he opposes granting this use permit on a basis of traffic congestion, noise, parking, and potential jurisdictional issues between Tempe and Chandler Police Departments, based on the location of the property and the borders. Personally, MR. KUSH said he has heard concerts, conversations, traffic, and witnessed the congestion and traffic along Kyrene Road while events are going on while trying to enter and exit Warner Ranch. He finds that all these issues are inconsistent with the General Plan within the City of Chandler and the goals of quiet and peaceful neighborhoods in the cities of Chandler and Tempe.

JULIE FOSHIE, 471 W. Laron Ln., Tempe, AZ 85284

MS. FOSHIE said she lives east of Kyrene, directly across from the property. MS. FOSHIE said she is very concerned about the traffic and the noise. MS. FOSHIE said it is difficult to get out of Warner Ranch currently. She asked that the Council please consider the residents of these surrounding neighborhoods.

NANCY SWIRTZ, 6054 W. Trovita Pl., Chandler, AZ 85226

MS. SWIRTZ said she and her husband, William, live just south of the Chateau in the Trovita subdivision. She said it is a drastic change that is being proposed and asked that Council oppose the Goodman's proposal.

MIKE FONG, 6195 W. Trovita Pl., Chandler, AZ 85226

MR. FONG said he lives in the Trovita subdivision, just south of the property in question. He believes that if this business is placed in the center of the neighborhood it will create a lot of conflict. He said there is a philosophical difference between the goals of the business and the goals of the neighborhood. The business purpose is to maximize revenue and profits and have a number of events daily while the neighborhood would like peace, quiet, and safety. Mr. Fong contends that good communication and trust would be vital for the relationship between the business and neighborhoods to work. He said that trust does not exist between the parties. Since the Planning and Zoning meeting, the neighborhood feels that they have been the target of an aggressive public relations attack campaign. MR. FONG presented a press release that he believes publicly attempts to discredit the speakers and their arguments. MR. FONG spoke on

behalf of all the speakers in opposition of the project that not a single person has an economic interest in the property.

MR. FONG asked the Council to take these types of tactics and accounts when making their decision. He believes approval of the use permit will place many of the citizens into a highly charged adversarial situation with the Goodman's business. It is his understanding from the Planning and Zoning meeting that the applicants don't have extensive experience operating a hotel, restaurant, or party venue this size. He said that lack of experience adds to the risk. MR. FONG asks that the neighborhood not be subjected to the learning curve of the applicant.

He said that 28 out of 30 in Trovita signed the opposition, as did the Ganem's and Owen's, who live adjacent to the property. There were 100 homeowners that are very close in Ray Ranch and Warner Ranch who are also against this project. MR. FONG said this business is 100 percent incompatible with a residential area.

MAYOR TIBSHRAENY offered an additional 13 minutes of time to the applicant if he would like to have additional speakers speak since Mr. Fong's presentation went over by the same amount of time.

MR. PEW said he does not need additional time for speakers but wanted to address a couple of questions with respect to the breakdown of events and timing. He reminded everyone that all activity will cease at 10:00 p.m. on Sunday through Thursday on all outside events. The cleaning will be done if the event terminates earlier or it will be done the next day. All activities ceases at 10:00 p.m. on Sunday through Thursday and 11:30 p.m. on Friday and Saturday.

MR. PEW said that the next question dealt with car lights penetrating the property into the neighborhood. He said that cannot happen as there is a 6 ft. block wall surrounding the entire site. He said they are not asking the neighbors to become the police of this project, Mr. Goodman's phone number was simply provided as an expression of good faith commitment in the future as the site is operated so if there were problems they could call.

COUNCILMEMBER HEUMANN asked what would be the traffic flow in terms of cars if there is an event planned in the English Garden at 4:00 p.m. and there is another event at 7:00 p.m. He asked if vehicles would be driven around the back of the property or would the cars drive by the wedding.

MS. GOODMAN showed the flow of traffic on the map and advised that the vehicles would be driven past the wedding or event taking place in the English Garden area.

MR. PEW said the Goodman's would also be concerned with noise. Particularly, if there are two events taking place at the same time as they would not want one event to interfere with another from a noise level standpoint.

COUNCILMEMBER HEUMANN asked if the back side of the property would be utilized to get people to the other side.

MR. PEW said not necessarily. He clarified by stating that he is speaking about noise generated in general.

COUNCILMEMBER HEUMANN asked when there are major events taking place if the Bed and Breakfast and bistro also be open.

MR. PEW said the bistro will not be open during times that events are occurring on the property, especially at the English Garden and in the general vicinity. He said it could be open during a small event, but not a large one. The times of operation are 7:00 a.m. to 2:00 p.m. or 3:00 p.m., serving breakfast and lunch.

COUNCILMEMBER HARTKE asked Mr. Pew if he could give the distance between the driveway entrance and the edge of the property. Mr. PEW stated that the driveway location and its design were approved by the City of Tempe because they have jurisdiction over Kyrene at that location.

MR. PEW stated that the distance is approximately 80 ft. from the north property line to the northern portion of the driveway. To the middle would be closer to 100 ft.

COUNCILMEMBER HEUMANN asked Mr. Pew if the City of Tempe approved this plan. MR. PEW advised that Ms. Novak might need to provide further clarification, but when applying for this use permit, they were directed to the City of Tempe for engineering requirements, design criteria, then it was then reviewed by Chandler, but both governmental entities were satisfied.

COUNCILMEMBER HEUMANN asked staff to clarify.

MS. NOVAK advised as part of the process, the applicant was asked to submit to the City of Tempe Planning Division staff. MS. NOVAK said that the proposal was forwarded to a number of other divisions at the City of Tempe. Their traffic engineers provided comments early in the process about where the gated entrance can be on City of Tempe's right-of-way, how the design needs to be, and what kind of queuing depth needs to occur from the right-of-way line into the property, and further coordinated with the Chandler Fire Department. MS. NOVAK said that the City of Tempe corresponded with her and provided comments. She said that the City of Tempe approved the design that is being submitted as part of the use permit, although no permits have yet been submitted. MS. NOVAK said that the plans meet both cities' requirements.

COUNCILMEMBER HEUMANN clarified that this case did not go before the Tempe City Council, only the City of Tempe staff.

MS. NOVAK said yes, that is correct.

COUNCILMEMBER SELLERS told Mr. Pew that his biggest concern is complying with condition number 6. and asked if the applicant is willing to take further measures, if necessary, to meet that condition.

MR. PEW advised that condition number 6 is not designed to regulate sound decibels at the boundary. Condition 6 is designed to demand that sound emanating from this project not disturb the neighbors, the same requirement that exists in any other Chandler neighborhood. Chandler does not have a specific decibel number which sound above that constitutes a nuisance. There is no standard. If there are ways to mitigate that sound further, the Goodman's are open to that.

MOVED BY VICE-MAYOR WENINGER, SECONDED BY COUNCILMEMBER HEUMANN TO DENY ZUP-110012 CHATEAU DE VIE.

COUNCILMEMBER HEUMANN said he appreciated everyone coming out to discuss this issue and the civility displayed by all involved. He said he struggled with this decision and explained that the reason that he voted the way that he did was because the property is zoned residential

and there is an expectation of peace and quiet for those living in the neighborhood. The zoning should stay the same to maintain those expectations.

Councilmember Orlando's telephonic connection was dropped. MAYOR TIBSHRAENY said that Councilmember Orlando would need to be reconnected before Council votes on this issue.

COUNCILMEMBER HARTKE explained that he was looking for a win-win situation, although he can't find a way to see how this could work for both sides. Therefore, he will be voting no.

COUNCILMEMBER ORLANDO was reconnected via telephone. COUNCILMEMBER ORLANDO said that he believes this will be too intensive of a use for a neighborhood. As in a previous zoning case with a commercial use within a neighborhood he voted against it. COUNCILMEMBER ORLANDO said to be consistent; he cannot support this case and will be voting no on this use permit.

MAYOR TIBSHRAENY asked CITY ATTORNEY MARY WADE why this was submitted at a use permit application instead of a zoning change application.

MS. WADE advised that under the City Code, this is allowed as a special use permit consideration by the Council. This is not a rezoning. The super majority is not needed, just a simple majority.

COUNCILMEMBER SELLERS said he, like Councilmember Hartke, would like to see a win-win. COUNCILMEMBER SELLERS is concerned about whether common ground can be found where the neighbors would feel comfortable. He believes that the applicant's ability to perform over the next three years could be jeopardized. COUNCILMEMBER SELLERS said he likes the ideas and wishes there was a way for the neighbors to happy with the proposal.

WHEN THE VOTE WAS TAKEN, THE MOTION TO DENY CARRIED BY MAJORITY (6-1) WITH COUNCILMEMBER SELLERS VOTING NAY.

Adjournment: The meeting was adjourned on February 24, 2012 at approximately 12:06 a.m.

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved: March 22, 2012

#### CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Chandler, Arizona, held on the 23<sup>rd</sup> day of February 2012. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this \_\_\_\_\_ day of March 2012.

\_\_\_\_\_  
City Clerk