

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, April 12, 2012 at 7:00 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: Reverend Ozetta Kirby – Holy Trinity Community A.M.E Church

PLEDGE OF ALLEGIANCE: VICE-MAYOR WENINGER

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY COUNCILMEMBER DONOVAN, to approve the Consent Agenda as presented.

MOTION CARRIED UNANIMOUSLY (7-0).

1. MINUTES:

APPROVED the following minutes:

- 1a. Chandler City Council Budget Workshop of March 5, 2012
- 1b. Chandler City Council Regular Meeting of March 22, 2012

2. REZONING: Covo Café Ord. #4355

ADOPTED Ordinance No. 4355, DVR11-0045 Covo Café, rezoning from Community Commercial with a Planned Area Development overlay (C-2/PAD) to PAD for a new restaurant at 55 W.

Chicago Street approximately 200 feet west of Arizona Avenue at the SWC of Chicago and Wall streets.

3. DEDICATION IN FEE: SEC McQueen and Queen Creek Roads Ord. #4357

ADOPTED Ordinance No. 4357 authorizing the dedication in fee of portions of a future park site located at the SEC of McQueen and Queen Creek roads for public roadway purposes.

4. POWER DISTRIBUTION EASEMENT: SRP Ord. #4358

ADOPTED Ordinance No. 4358 granting a no-cost power distribution easement to Salt River Project (SRP) at the SWC of Gilbert and Ocotillo roads as part of the Gilbert Road Improvement Project from Queen Creek Road to Hunt Highway.

5. REZONING: The Presidio Ord. #4359

ADOPTED Ordinance No. 4359, DVR11-0016 The Presidio, rezoning from PAD to PAD Amended to increase the allowed percentage of Medical Office utilizing an off-site shared parking model for a business park on approximately 6.35 acres south of the SWC of Pecos and Dobson roads.

6. R-O-W VACATION: 55 W. Chicago Street Ord. #4353

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4353 authorizing the vacation of a 5-foot strip of right-of-way and extinguishment of an easement at 55 W. Chicago Street.

The applicant and owner of 55 W. Chicago Street has requested the City consider vacating a 5-foot strip of right-of-way at the north property line of 55 W. Chicago Street in order to accommodate improvements to the property which is planned to be a restaurant. Vacating the right-of-way will allow an upgraded entrance area and an outdoor seating area, fence and other amenities for the restaurant. A public utility easement will be retained in the 5-foot strip of vacated right-of-way to accommodate existing utilities.

The applicant is also requesting the City consider extinguishing a 15' x 30' easement for ingress, egress and utilities at the south end of the property to further increase utility of the property.

The total market value of \$2,026.27 has been established as consideration for the right-of-way to be vacated and the easement to be extinguished. The property owner will compensate the City at the fair market value upon approval.

7. CITY CODE AMENDMENT: Chapter 29 Ord. #4360

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4360 amending Chapter 29, Subsection 29-2.4 of the Chandler City Code expanding the types of work exempted from building permit requirements.

The currently adopted Building Code and City amendments exempt certain types of minor work from permitting requirements. Building Code ordinances of other local jurisdictions and permit and fire incident records were analyzed to see if clarifications and refinements to these permit exemptions were warranted to promote the safe and efficient replacement of building equipment such as water heaters, air conditioning units and circuit breakers in single family dwellings.

Ordinance No. 4360 is the result of this effort and represents a change to the existing adopted Building Code to allow the replacement of “like for like” equipment in single family dwellings without requiring the issuance of a building permit.

8. LEASE AGREEMENT: University of Arizona

Ord. #4366

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4366 authorizing a new lease agreement with the University of Arizona, 125 E. Commonwealth Avenue.

To encourage expansion of higher education in Chandler, particularly in Downtown, Chandler City Council has worked with state universities over the past few years. While working with the University of Arizona, dialogue began about their desire to continue to develop new and innovative pathways to provide students across the state access to their programs. As the discussion progressed, a plan was formulated to locate several of their educational programs in a City-owned building. Ultimately, a portion of the Community Center at 125 E. Commonwealth was chosen to house these programs.

The Community Center’s second floor formerly housed the Community Services Administration, the Aquatics Division and several classrooms. After the construction of City Hall and the Tumbleweed Recreational Facility, the offices and programs that had been housed in the Community Center building were partially relocated into this new space, leaving the Community Center’s second floor available for a new use.

With the U of A’s desire to house classrooms, programs and administrative staff, this space was determined to be ideal for their programs, while requiring only minor modifications and some “freshening up”.

The U of A has slated a number of Masters and Graduate programs to operate from this facility through a phased approach. They include Teach Arizona, Master-IP and Graduate Education Specialist Program, which will all start in May 2012; Management Information Systems to include Graduate Certificate in Enterprise Security, Graduate Certificate Program in Business Intelligence and Analytics, Masters in Management Information Systems, which will phase their start from spring 2012 through 2013; and the School of Information Resources and Library Science, which will be offered in June 2012.

The U of A intends to start their enrollment of these programs thoughtfully and will initially be home to approximately 40 students and faculty, while continuing to grow and expand over the coming years. This project is an exciting win for Downtown Chandler adding even more vibrancy to the area with students coming into Downtown for their classes each week.

The term of the lease is for a five (5) year period with an option for a five (5) year renewal. The lease agreement with the U of A is specific to educational programs and authorizes a lease rate of \$1.00 per year. Further, once the lease commences, the U of A will pay the City of Chandler their pro rata share of the utilities and janitorial costs for +/- 9,000 square feet of space.

The projects costs include minor modifications to the classrooms, carpet, paint, signage and classroom furniture, which will be funded out of Downtown’s Annual Operating Budget in an estimated amount of \$133,900.00.

9. INTERGOVERNMENTAL AGREEMENTS: School Resource Officers Res. #4591

ADOPTED Resolution No. 4591 authorizing Intergovernmental Agreements with Chandler Unified School District No. 80, Kyrene School District No. 28, and the Mesa Public Schools for the assignment of School Resource Officers (SRO) to schools located within the Chandler City limits and authorize the Police Chief to administer, execute and submit all documents and other necessary instruments in connection with said program.

The Safe Schools Program grant that the various school districts currently receive from the State, sets funding allocations for each school district. The State has recently cut funding for this program resulting in an overall reduction in the number of SROs allocated to each district. Of the nine SRO positions within Chandler City limits, six are funded by the Safe Schools Program and three are not. This reduction results in shortfalls between the allocation and total actual officer cost. The schools endeavor to split the shortfall 50% with the City, which is the result this year. The City's portion of all shortfalls totals \$173,023.00.

10. ASSESSMENTS: Downtown Chandler Enhanced Municipal Services District Res. #4592

ADOPTED Resolution No. 4592 authorizing modification of the assessment diagram; making a statement and estimate of expenses for the Downtown Chandler Enhanced Municipal Services District; completing the assessment; setting the date for the hearing on the assessment; and ordering the giving of notice of such hearing.

On May 25, 2006, the Mayor and City Council approved Resolution No. 3971 creating the Downtown Chandler Enhanced Municipal Services District with the mission to provide marketing, promotion, security, enhanced beautification and district management. The City subsequently executed a master contract with the downtown Chandler Community Partnership (DCCP) to perform such services for a period of 10 years. Fiscal Year 2012-13 represents the 7<sup>th</sup> operating year of the district.

As part of the annual assessment procedures, each year the Assessment Diagram and Assessment Roll need to be updated due to changes in ownership, plats and land uses. Additionally, a public hearing must be held along with the opportunity for district property owners to file objections.

As required by the resolution creating the District, the following documents are submitted with this report: 1) Resolution No. 4592; 2) Notice of Hearing on Assessments; 3) Boundary Map; 4) Statement and Estimate of Expenses for the District; 5) Assessment Roll; and 6) Assessment Diagram.

The purpose of Resolution No. 4592 is to set the public hearing to notify property owners of the intent to modify the assessments for property in the District, a required formal step. This resolution also authorizes the Mayor and City Council to make an estimate of the expenses for the District for 2012-2013, to set the date for the hearing on the assessment and to give the public notice of the hearing date.

As a result of Resolution No. 4592, the hearing for the setting of the assessments will be held May 24, 2012, at 7:00 p.m. in the City Council Chambers. DCCP Staff will appropriately notify all property owners within the District boundary and the City will publish the notice of the hearing in a daily newspaper for five days as required by State Statute.

Assessments in the District will be based on three weighted factors including assessed value, building square footage and land square footage. All properties will be assessed at the same rate with the exception of buildings along the Historic Square, which will be assessed double the building square footage rate.

In May, Staff will return with a resolution to approve the annual assessment roll, which will memorialize the amount assessed each parcel and property owner. After Council approval, the roll is sent to the County Assessor for inclusion on the fall property tax bills. In June, Staff will present the Chandler Enhanced Municipal Services Agreement with the Downtown Chandler Community Partnership for Fiscal Year 2012-2013, which includes an Operating Plan and District Budget.

The total assessments for Fiscal Year 2012-2013, including the City's voluntary contribution, total \$256,400.00. Given the success of the DCCP in building profitable events and the need to spend down the existing reserve to be in contract compliance, the FY 2012-13 operating budget for the District will exceed this amount. The final amount will be presented to the Council in June as part of the DCCP contract with the City for District management services.

As a public entity, the City is not required to pay in to the District assessment, but has done so since the District's inception on a voluntary basis. As the largest single property owner in the Downtown, the City has taken a leadership role in supporting the District both financially and operationally. As in prior years, the City has elected to cap its voluntary contribution as the level contributed in the prior year. This means the City's maximum contribution is \$118,804.00 which represents 46.3% of the total assessment budget. Funds to provide the City's voluntary contribution are provided for in the Downtown Redevelopment budget request for Fiscal Year 2012-13.

11. 2012 PRIMARY AND GENERAL ELECTION DATES Res. #4593

ADOPTED Resolution No. 4593 designating the 2012 Primary and General election dates.

Resolution No. 4593 designates August 28, 2012, as the date of the Primary election and November 6, 2012, as the date of the Regular (General) election for the City of Chandler in consolidation with the statewide election dates. The Primary election will be held for the purpose of electing a Mayor and three Council members. A candidate may be declared elected at the Primary election if he/she receives a majority of the votes cast for the Office of Mayor. If there are any offices to which no candidate was declared elected, then a runoff election will be held.

In addition, the resolution authorizes the City Clerk to enter into an agreement with the Maricopa County Elections Department to coordinate the administration of the elections in regards to services and fees.

A candidate must file the required nomination papers and signature petitions no later than 5:00 p.m. on May 30, 2012, in order to have his or her name placed on the ballot. Voter registration for the primary election will close on June 30, 2012, and on October 8, 2012, for the General election.

12. ZONING TIMING EXTENSION: Staybridge Suites and Holiday Inn Express & Suites

APPROVED a 3-year timing extension, Zoning DVR11-0007 Staybridge Suites and Holiday Inn Express & Suites, for the existing PAD zoning designation for two hotels and commercial retail

development on approximately 14.5 acres located at the NEC of McClintock Drive and Chandler Boulevard. (Applicant: Jordan Scott; Diversified Partners.)

The site has a long zoning history with the most recent zoning extension being granted in late 2006. The PAD zoning was conditioned to start construction above foundation walls within three (3) years of the ordinance effective date, requiring construction to have started in December 2009. The current application requests a three-year time extension; the timing condition expired on December 16, 2009. The three-year time extension would be in effect until December 16, 2012, as the time limit is calculated from the previous zoning approval's expiration. The filing of the extension requested was delayed due to the approval of a Preliminary Development Plan for a commercial center that included two hotels in 2008. Shortly after approval, construction documents were submitted for the site, staying a need to extend the zoning. Interest in moving forward with the construction documents has ceased and the developer is looking at a new plan.

### BACKGROUND

The subject site is located at the NEC of Chandler Boulevard and McClintock Drive. North and east of the site is the Pepperwood single-family residential neighborhood and the Chandler Court apartments. South, across Chandler Boulevard, is the Pueblo Alto single-family residential neighborhood. West of the site, across McClintock Drive, is the Chandler Corporate Center with a Mobile gas station located at the intersection corner. At the SWC of Chandler Boulevard and McClintock Drive are the Chandler Gateway Office Park condominiums.

In 1998, the property was rezoned from Agricultural (AG-1) to Planned Area Development (PAD) to allow for a hotel/retail commercial development along with a Preliminary Development Plan (PDP) approval for a 2.8-acre 122-room hotel. Extensions have been granted for the site in 2000, 2003 and 2006. A PDP was approved in 2008 with construction documents being submitted and reviewed in 2009 staying an extension action.

### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on February 29, 2012. There were no neighbors in attendance; however, Staff has received two phone calls and one letter from area residents that had concerns with illegal dumping and dust generation on the site. The residents were supportive of the extension. The applicant has been made aware of the concerns and will have fencing installed on the site, as well as have a water truck drive the site to provide a crust in the effort to mitigate dust issues.

### RECOMMENDED ACTION

Upon finding consistency with the General Plan, the Planning Commission and Staff recommend approval with all of the conditions in the original approval remaining in effect.

13. AGREEMENT: Arthur J. Gallagher Risk management Services, Inc.

APPROVED Agreement #RM2-953-3096 with Arthur J. Gallagher Risk Management Services, Inc. for insurance broker services in an amount not to exceed \$132,000.00, for the initial three-year period. The contract amount includes pricing for Broker Fees of \$23,000.00 per year 1, \$24,000.00 for year 2, \$25,000.00 for year 3 and additional services of \$60,000.00 to include but not be limited to, an annual actuarial report, public official and notary bonds, aviation policy commission, catastrophe modeling, and an environmental risk exposure proposal. This pricing represents a cost reduction of \$19,500.00 (three-year total) over the previous contract. The

contract term is for a three-year period, July 1, 2012 through June 30, 2015, with options to extend for two additional one-year periods.

14. AGREEMENT: Dibble Engineering

APPROVED Agreement #AI1204-201 with Dibble Engineering for the design of a new Airport Automated Weather Observation Station (AWOS), through an annual contract, in an amount not to exceed \$71,509.00 to be fully funded with an FAA and grant.

15. AGREEMENT AMENDMENT: Di-Mor Business Forms, Inc.

APPROVED Agreement #WHO-310-2849, Amendment No. 1, with Di-Mor Business Forms, Inc., for the purchase of envelopes for one year in an amount not to exceed \$65,000.00. This is the first of three additional one-year renewals.

16. AGREEMENT AMENDMENT: Aquatic Consulting and Testing, Inc.

APPROVED Agreement #RO8-485-2582, Amendment No. 4, with Aquatic Consulting and Testing, Inc., for pond management (midge fly/mosquito and odor control) in an amount not to exceed \$170,000.00. This is the final one-year extension.

17. AGREEMENT CHANGE ORDER: Achen-Gardner Engineering, LLC

APPROVED Agreement #ST-0809-401, Change Order No. 1, to the Construction Manager at Risk contract with Achen-Gardner Engineering, LLC, for Gilbert Road (Queen Creek Road to Hunt Highway), in an amount not to exceed \$50,752.56, for a revised contract price of \$12,557,569.48.

18. AGREEMENT: Achen-Gardner Construction, LLC

APPROVED Agreement #WW1105-401 with Achen-Gardner Construction, LLC, for Construction Manager at Risk for Phase 1 of the Ocotillo water transmission main and wastewater force main, in an amount not to exceed \$7,262,532.60, contingent upon written notification from Intel and appropriate funding.

19. AGREEMENT: Chasse Building Team, Inc.

APPROVED Agreement #GG1203-404 with Chasse Building Team, Inc., for construction services for ASU Downtown Site Demolition, pursuant to Job Order Contract #JOC1202-401, in an amount not to exceed \$141,983.80.

On February 23, 2012, Council approved the Arizona State University lease for the Chicago Yard and authorization for improvements. The former Public Works yard is a +/- 33,000 foot industrial building that is ideal for the uses of the ASU College of Technology and Innovation. ASU has proposed for three programs to operate in the facility expanding from the Polytechnic campus. Initially, the building will house approximately 100 students and faculty, expanding over the next three years to house approximately 1,000 students and faculty.

This site will require re-engineering and reconstruction to replace a crumbling parking lot, as well as to modify the drainage on site that now ponds at the rear of the building. This project is for the first phase of the site renovation, the site demolition and clearing.

20. AGREEMENT: Stantec Consulting Services, Inc.

APPROVED Agreement #ST12-3041 with Stantec Consulting Services, Inc., sole source, for data collection and analysis services for the City's pavement management system, Stantec RoadMatrix, in an amount not to exceed \$139,200.00.

Stantec RoadMatrix is a large computerized database information system that assists decision makers in the process of managing a network of roadway pavements. The Street Division has successfully worked with Stantec Consulting Services, Inc. and Stantec RoadMatrix for years. This system allows the Street Division to analyze the current condition, future condition and expected budgetary needs of the City's roadway system as it relates to rehabilitation and maintenance projects.

However, as with any pavement management system, Stantec RoadMatrix analyses depend on up-to-date pavement condition information. The pavement data in Stantec RoadMatrix has to be updated every few years to maintain its accuracy in predicting pavement performance. This is accomplished through a pavement assessment survey and data collection. As part of this contract, Stantec Consulting Services, Inc. will also do a software upgrade that will improve overall software performance by refining decision trees and budget scenarios and by providing user training on the updated system. The last data collection and update was in February 2009.

As Stantec RoadMatrix is a Stantec Consulting Services, Inc. product, they are the only vendor that can work within this proprietary software.

21. No item.

22. AGREEMENT AMENDMENT: Y.S. Mantri & Associates, LLC

APPROVED Agreement #ST1006-451, Amendment No. 1, with Y.S. Mantri & Associates, LLC, for professional services for Paseo Trail signals in the amount of \$9,727.00, for a revised contract total of \$29,399.00.

23. AGREEMENT: Ritoch-Powell and Associates

APPROVED Agreement #ST0806-451, with Ritoch-Powell and Associates for professional services for Chandler Boulevard and Price Loop 101 intersection improvements construction management services in an amount not to exceed \$257,796.00.

The City has received Federal Congestion Mitigation and Air Quality (CMAQ) funds for design and construction of bicycle lanes and an additional left turn lane for westbound to southbound traffic movements under the Price Loop 101 Freeway at Chandler Boulevard to improve traffic circulation. This project will also include modifications to the Price Loop 101 Freeway underpass bridge retaining wall, landscaping, street lighting, traffic signals, and traffic signal interconnects.

24. USE PERMIT: Boston Street Restaurant

APPROVED Use Permit LUP12-0001 Boston Street Restaurant, Series 12 Restaurant License, to sell liquor as permitted for on-premise consumption indoors and within an outdoor patio area at a new restaurant located at 11 W. Boston Street, Suite 1, which is located west of the SWC of Arizona Avenue and Boston Street. (Applicant: Lori Rutten, owner.)

The subject site is located in a suite within a larger building that includes a bridal shop, specialty tea shop, winery/restaurant, and wine bar.

The subject site's zoning is CCD, which is a unique district that promotes specialty retail, cultural, dining, entertainment and other storefront businesses traditional to a downtown setting. The South Arizona Avenue Corridor Area Plan (SAZACAP) designates the subject site for Urban Commercial, which is intended for certain pedestrian-oriented uses that draw from a larger market area than the immediately surrounding neighborhoods. Across the alley to the south is the Site 6 city-owned parking lot that the SAZACAP designates for Cultural/Entertainment uses, which could include a range of more intense cultural, commercial, entertainment and office uses. An established residential neighborhood that the SAZACAP designates for Low Density Residential uses with a Future Growth Area overlay for possible future expansion of the Cultural/Entertainment uses is located one block south of the subject site. North of the subject site is the A.J. Chandler Park.

The subject suite is approximately 2,600 square feet and will provide seating for 72 patrons in the dining area and an additional 20 patrons at the bar. Additionally, a small outdoor patio area is proposed that will allow for seating for four to eight patrons. The restaurant will be open from 11:00 a.m. to 2:00 a.m. daily. A stage is provided in the interior of the restaurant for live music ranging from individual musicians to small bands.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held March 8, 2012. Three interested parties attended the meeting including the business owners to the east and the Downtown Redevelopment Manager. A concern was raised by the adjacent business owner regarding the live entertainment component and the potential for sound proofing the common wall. The applicant indicated that live acts would more than likely be acoustic during early evening hours up to 10:00 p.m. with larger acts after 10:00 p.m. Staff has received no correspondence in opposition to this request. Staff has notified the Police Department of the request and is unaware of any concerns.

#### RECOMMENDED ACTION

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

1. The Use Permit granted is for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The site and outdoor patio shall be maintained in a clean and orderly manner.
5. Music shall be controlled so as to not unreasonably disturb area residences.

#### 25. USE PERMIT: Vien Minh Buddhist Temple

APPROVED Use Permit ZUP11-0027 Vien Minh Buddhist Temple, a time extension for a Use Permit to allow a place of worship in a single-family home zoned ST-8.5 (Single-Family District) located at 285 N. Comanche Drive. (Applicant: Sister Lien Thuy Ngo.)

The property is located north of Chandler Boulevard and west of Alma School Road off of Comanche Drive. The home is part of a larger planned residential subdivision, Arrowhead Meadows 3. The subdivision was platted in 1965. The property is zoned SF-8.5 (Single-Family District), which permits single-family dwellings and uses permitted by Use Permit that are compatible with other uses in the area and consistent with the General Plan. The property is surrounded by single-family residential homes to the north, south and east. West of the property is the Saga Condos residential community.

The application requests re-approval to allow a place of worship, Vien Minh Buddhist Temple, on the single-family property. The temple has been conducting services at this home since approximately February 2006. The home was purchased in November 2005 and has been the primary residence for the owner, a Buddhist nun, and up to three other nuns. A Use Permit was approved by City Council in September 2009 to allow a place of worship subject to conditions. A renewal of the Use Permit was granted for one additional year in December 2010. The Use Permit expired December 9, 2011.

The single-family residence was constructed in 1968 and occupies an 8,250 square foot lot. The home's total square footage is approximately 1,953 square feet. The home's interior has been modified to function as a worship hall and community gathering space. Two of the three original bedrooms were removed and the space became a part of the worship area/shrine room, which is where Sunday services are held. The garage is used for storage with several refrigerators, freezers, vinyl flooring, and cabinets. The temple has been advised the garage cannot be used as an assemble/gathering area. In the past, the temple had placed a white board behind the garage door to insulate this area and use a portion as a sleeping area. Upon recent inspection, the board was removed and the space did not appear to have any sleeping area.

The temple provides worship services, religious education and pastoral counseling. The temple maintains the same operating hours being open seven days a week from 9 a.m. to 11 a.m. and from 5 p.m. to 7 p.m. Monday through Saturday. However, if persons need to meet with the nuns, they will help them at any time. There is one organized service per week on Sundays typically from 10 a.m. to 12 p.m. During the week, there are a limited number of visitors who meet with the nuns. The temple does not expect weekly traffic to be any greater than what would be expected from the activities at a typical single-family residence. There are three major celebrations/holidays recognized each year that occur in January, May and August. The celebrations are held on Sundays and become a part of the Sunday worship service.

On a typical Sunday, there are approximately 25 to 40 people attending worship. When there are celebrations/events, such as Buddha's birthday, the number of attendees can double or triple with persons coming and going throughout the day, not all attending at one time. However, building code occupancy limits the maximum number of persons on site to 49. Worship occurs in the main residence. The outdoor patio includes several tables and chairs to accommodate approximately 40 people outside for socializing. There are no events that involve live music or entertainment related activities. There are no employees, no administrative office, or the like. The nuns receive no salary and have taken vows of poverty and celibacy. The nuns exist solely on donations from the temple's members and receive help for various tasks from volunteers.

In addition to the primary residence serving as the worship hall, there is a detached accessory building in the rear yard that serves as a memorial prayer room for the temple, which is approximately 320 square feet in size. The prayer hall allows members to post photographs for deceased members, family and the like and they may offer incense and prayers to their ancestors. Adjacent to the prayer hall is a storage shed.

The temple recently purchased the single-family home immediately to the south, 271 N. Comanche Drive, and is using this property as a single-family residence for the nuns. The nuns reside at the new home and walk over to the existing home for temple functions. The common backyard fence in between the two lots has been removed to allow direct pedestrian access between the lots. The new property is not permitted to be used for gatherings assembly, services, temple related events, or the like.

Since the previous Use Permit's approval, Planning Staff has received one telephone call from a concerned homeowner along Comanche Drive. The complainant has communicated with City Staff in the past as well. The homeowner's concerns are vehicle traffic, parking and associated temple activities including a commercial tour bus that was idling at night while waiting to pick up the nuns and temple members for a trip to California. The homeowner has conveyed there are more than 50 vehicles parking up and down Comanche Drive and adjacent streets every weekend. City Staff has observed Sunday worship and has not observed more than 5 vehicles on the street related to the temple. All other vehicles, approximately 20 or more, are related to residents in the immediate area, the same number of vehicles observed during the week as well. However, City Staff did observe on one Sunday, approximately 8 vehicles parking on the subject site and adjacent residential properties in violation of Zoning Code parking regulations. Vehicles were parked in the front yard gravel, side yard of home's livable space (Code requires parking only adjacent to required covered parking area on a paved surface), and parking in front and side yards of adjacent homes unpaved surface or adjacent to livable space.

The temple has had a plan of action in place to better ensure new and existing parishioners understand to park vehicles at the school but at times may have a handful of cars park on the street as would occur with a typical residence. The plan includes posting a sign outside to advise vehicles to park at the school and having someone outside to direct people to the school. The temple continues to have an agreement with Chandler Unified School District's Erie Elementary School to the north off of Galveston Street for parishioners to park vehicles. City Staff observed approximately 20 vehicles parked there on a Sunday.

#### DISCUSSION

Historically, the City has approved churches and places of worship in many residential neighborhood areas, subject to compliance with City codes and development standards. Schools and churches are encouraged within single-family residential areas and are an integral component of neighborhood design. The Zoning Code allows churches and places of worship within residential zoning districts subject to Use Permit approval. The request does not represent any negative land use impacts upon the surrounding area.

The Planning Commission and Planning Staff are of the opinion that the use is compatible with the area's existing single-family residential, multi-family residential, and school uses. The Planning Commission and Planning Staff recommend approval subject to conditions with particular conditions related to occupancy restrictions and parking.

The outstanding concern that the Planning Commission and Planning Staff have been aware of with the proposed use, is parking. Chandler Boulevard and Comanche Drive is a signalized intersection which generates traffic north on Comanche Drive to access Galveston Street, schools and places of worship in the area. Speed humps have already been constructed along Comanche Drive to slow down drivers. Commission and Staff are of the opinion the private agreement for off-site parking is an appropriate solution to curb large amounts of vehicles parking along Comanche Drive and other adjacent streets. The temple is permitted to have typical

vehicle traffic that would be usual for any single-family residence; however, Commission and Staff's concern is worship services and events that generate more than normal traffic with the maximum occupancy of 49 persons on-site.

**PUBLIC/NEIGHBORHOOD NOTIFICATION**

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 8, 2012. Seven people attended in support of this request. Staff is aware of one resident in opposition.

**RECOMMENDED ACTION**

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

1. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
2. Expansion or modification beyond the approved exhibits (Site Plan/Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. In accordance with the Building Code's maximum occupancy load, there shall be no more than 49 persons on-site at any time.
4. Parking for gatherings such as worship services, celebrations/events, and the like shall not occur on-site. Parking shall occur off-site at an appropriate location in accordance with the Zoning Code.
5. Worship services shall occur only within the single-family residence and cannot occur outside.
6. The outside area, the backyard, may be accessed during worship services pending compliance with all building codes, permits and lot coverage requirements.
7. The site shall be maintained in a clean and orderly manner.

26. **USE PERMIT:** Stepping Stones Pediatric Therapy

APPROVED Use Permit ZUP11-0031 Stepping Stones Pediatric Therapy, to continue operation of a commercial business within a residential home located at 1505 N. Alma School Road. (Applicant: Jonathan and Lindsay Cavern.)

North and east of the subject site are existing mobile homes. South, adjacent to the site, is a gas station and convenience store. West, adjacent to the site, is Alma School Road.

The 1,600 square foot building was built in 1972. The building provides two equal size suites, with Stepping Stones occupying the northern suite. On-site parking is provided by four spaces on the north side of the home, and five spaces on the south side. The property fronts onto Alma School Road, while Calle Del Norte and the adjacent alley provide access to the parking areas.

The subject site has a history of allowing business operations consistent with the Residential Conversion Policy starting in 2003. The current property owner was granted a Use Permit in late 2010 to operate the in-house business portion of a therapeutic medical service that provides services to children ranging from newborns to 18 years. All therapeutic services are provided offsite at a separate location. The subject site will strictly be used for administrative operations only. Typical hours of operation are Monday through Friday from 7:30 a.m. to 5 p.m. The office manager and part-time schedule coordinator would primarily be at the site, with the occasional

visit from a therapist to process paperwork. At most, four people would be at the site and only temporarily.

The home has two suites; the northern suite will be occupied by the business. The property owners would like the option to rent out the southern suite to a small business if the opportunity arises. The business would need to comply with the requirements of the RCP, and have limited employees with no visitors coming to the site. Any future business desiring to occupy the southern suite would be required to obtain a Use Permit. No plans are in place at this point in time for a second business.

As part of the original approval in 2010, a condition was added that required the removal of the low wall adjacent to Alma School Road due to the wall being located in the right-of-way. The wall was constructed illegally and was done by a previous owner. Additionally, the condition was added to pave the parking areas. Following Use Permit approval, the applicant decided to pave the parking areas first and, due to this, was not financially able to remove the wall. The applicant is aware of the issue and will have the wall removed within the next six months.

The RCP was established in 1989 to allow single-family homes the opportunity to convert into small commercial businesses within a residential zoning district through the approval of a Use Permit. Such homes must have direct frontage or access to an arterial street, and propose a business compatible with the existing neighborhood. Within this policy, criteria were established to accommodate the conversion of homes into professional offices or like businesses. Such criteria includes the requirement of an improved parking lot, preservation of front yard landscaping for the aesthetic streetscape setting of the home and buffering from adjacent residences. The request meets the requirements of the RCP.

Staff supports the request citing that the use is consistent with the RCP, is a good reuse of an existing vacant property with previous commercial uses and has demonstrated compatibility with the surrounding residential uses.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on March 9, 2012. There were no neighbors in attendance. Staff has not received any correspondence in opposition to the request.

#### RECOMMENDED ACTION

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

1. Any expansion or modification beyond the approved Site Plan shall void the Use Permit and require a new Use Permit application.
2. The screen wall that is located in the right-of-way shall be completely removed within six months of Council approval.
3. The Use Permit shall be effective for a period of three (3) years from the date of Council approval. Operation of the business beyond that date shall require re-application and approval of a new Use Permit.
4. The site shall be maintained in a clean and orderly manner.
5. Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Use Permit shall apply.

27. USE PERMIT: Szechuan Garden

APPROVED Use Permit LUP12-0002 Szechuan Garden, Series 12 Restaurant License, to sell liquor as permitted for on-premise consumption indoors at an existing restaurant located at 5055 W. Ray Road, Suite 1. (Applicant: JoJo Li.)

The subject site is located at the SEC of Ray and Rural roads within the Harmon Ranch Plaza. It is located in a suite within an inline shops space with a tanning salon and restaurant directly north of the suite. Directly south, adjacent to the suite, is the San Brias apartment complex.

The suite is approximately 2,900 square feet that occupies the western portion of an approximate 13,300 square foot inline shops building. The dining portion is approximately 750 square feet and can accommodate 24 patrons. The applicant is not requesting alcohol for the outdoor patio at this time. The outdoor patio is located on the south side of the building and wraps around to the eastern portion of the restaurant. Szechuan Garden is open from 11:00 a.m. to 9:30 p.m. Monday through Thursday and 11:00 a.m. to 10:00 p.m. Friday through Sunday.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on February 21, 2012. There were no neighbors in attendance. Staff has received no correspondence in opposition to this application. The Police Department has been notified of the request and responded with no concerns.

RECOMMENDED ACTION

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

1. Expansion or modification beyond the approved exhibits (Site and Floor Plans) shall void the Use Permit and require new Use Permit application and approval.
2. The Use Permit is non-transferable to other store locations.
3. The site and outdoor patio shall be maintained in a clean and orderly manner.
4. The Use Permit is granted for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.

28. LIQUOR LICENSE: Szechwan Garden

APPROVED a Series 12 Restaurant Liquor License (Chandler #137758 LI12) for Ying Tao, Agent, Hong's USA LLC, dba Szechwan Garden, 5055 W. Ray Road, Suite 1. A recommendation for approval of State Liquor License No. 12078963 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.

29. CONTINUED LIQUOR LICENSE: Someburros Mexican Food

CONTINUED TO MAY 10, 2012, Liquor License, Series 12, for Timothy Vasquez, Agent, Someburros, Inc., dba Someburros Mexican Food, 3461 W. Frye Road, to allow the applicant time to complete the requirements for a new use Permit.

30. LIQUOR LICENSE: Fat Willy's Family Sports Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #140076 L12) for Christopher Robert Gelenites, Agent, Fat Willy's Chandler LLC, dba Fat Willy's Family Sports Grill, 4850 S. Gilbert Road, Suite 4. A recommendation for approval of State Liquor License No. 12079030 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 Red, White and Brew.

31. TEMPORARY EXTENSION OF PREMISES: Dos Gringos Mexigrille

APPROVED a temporary extension of premises for a Series 6 Bar Liquor License (Chandler Liquor License #125773 L06) held by DG Warner LLC, dba Dos Gringos Mexigrille, 1361 N. Alma School Road. A recommendation for approval of a temporary extension of premises for State Liquor License No. 06073005 will be forwarded to the State Department of Liquor Licenses and Control. The extension is requested for a Cinco de Mayo Celebration to be held May 4 & 5, 2012. 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.

32. TELE-TRACK WAGERING FACILITY SITE LICENSE

APPROVED TP Racing LLLP (dba Turf Paradise) currently holds two Tele-Track Wagering Facility Site licenses within the City of Chandler. This application represents a request to establish a third location at 1949 W. Ray Rd., Suite 11. No objections to the issuance of this license have been received from the Police, Fire, or Transportation and Development Department. The applicant has met all of the requirements of City Code Section 58-2.1-3 and all fees have been paid.

CURRENT EVENTS:

A. Mayor's Announcements

MAYOR TIBSHRAENY announced a Holocaust Remembrance Day event scheduled for Tuesday, April 17 at the Chandler Center for the Arts. He said it will be the first time 89-year-old war hero, Colonel Edward Shames, speaks about his experiences at a German concentration camp. Also on display at the Center starting at 4:30 p.m. is a WWII-era rail car. This 11-ton, 30-foot rail car is certified as 'being of the type and era' used to transport Holocaust victims to death camps.

MAYOR TIBSHRAENY said he will be recognizing the volunteers who donate their time at the Center for the Arts. MAYOR TIBSHRAENY mentioned two individuals in particular, Bill and Evelyn Newland. They have each donated more than 5,000 hours at the Center. In addition, the City will also celebrate the work of the 228 Board and Commission members who serve the City in a number of critical areas and act in an advisory capacity to the City Council.

MAYOR TIBSHRAENY also announced that Chandler Airport Dayz is taking place on Saturday, April 14 from 8 to 5, and Sunday, April 15 from 8 to 4, at the Chandler Municipal Airport.

B. Councilmembers' Announcements

COUNCILMEMBER HEUMANN announced that this Saturday, April 14, ICAN will have a 5K Fun Run at Tumbleweed Park.

COUNCILMEMBER HEUMANN also announced the Desert Cancer Foundation Annual Wine Tasting Event on Sunday, April 22 from 4:00 p.m. to 6:30 p.m. at the San Marcos He said that he and Councilmember Hartke both serve on the Board of Directors.

COUNCILMEMBER DONOVAN announced that the Chandler Christian Community Center is doing a fundraising walk, A Walk in the Park, on April 21 from 8:00 a.m. to 10:00 a.m. COUNCILMEMBER DONOVAN said that the Chandler Christian Community Center will also be celebrating a ground-breaking for the expansion on April 26 at 3:00 p.m. She said that the expansion was funded partially through the Community Development Block Grant.

COUNCILMEMBER HARTKE gave kudos to Anne Marie Riley, Jeff Stanton, and Mike Mah for Chandler's recent cycling event. He said that did an amazing job to make the event successful.

COUNCILMEMBER HARTKE also announced Saturday, April 21 as the Annual Live Love Day. He said there will be an amazing amount of volunteers from the community rehabbing houses and cleaning up properties.

COUNCILMEMBER HARTKE noted there will be a Blackhawk helicopter and a bomber from vintage World War II, and fly-overs at the Airport Dayz event.

COUNCILMEMBER ORLANDO wished Arizona Republic reporter, Edythe Jensen, well in her retirement. He said that he might not have always agreed with her articles, but he respected her work. COUNCILMEMBER ORLANDO complimented Edythe for doing her homework, professionalism, and being a good journalist. He wishes her well in her retirement and enjoyment raising goats on her farm.

C. City Manager's Announcements: None

Adjournment: The meeting was adjourned at approximately 7:08 p.m.

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

\_\_\_\_\_  
Mayor

Approved: April 26, 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 12<sup>th</sup> day of April 2012. I further certify that the meeting was duly called and held and that a quorum was present.

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

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