

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 20, 2012 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Leigh Rivers
Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan

Also present:

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

4. APPROVAL OF MINUTES
MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER PRIDEMORE** to approve the minutes of the June 6, 2012 Planning Commission Hearing. The motion passed unanimously 5-0 with 2 abstentions (Commissioners Baron and Donaldson were not present at that meeting).
5. ACTION AGENDA ITEMS
CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Items A and D were pulled for action.

B. DVR12-0014 STELLAR BUSINESS CENTER

Approved.

Request rezoning from Planned Area Development (PAD) for a business park to PAD Amended for additional uses within an existing 12-acre business park. The subject site is located west of the northwest corner of Chandler Boulevard and Juniper Drive.

1. Compliance with original conditions adopted by the City Council as Ordinance Nos. 3301 and 3761 in cases DVR01-0021 STELLAR BUSINESS PARK and DVR05-0049 STELLAR BUSINESS PARK, except as modified by condition herein.
2. **Drive-thru bank operations shall be prohibited.**
3. Large-scale gymnasiums shall be prohibited.
4. Fitness activities shall be restricted to indoors only.

C. LUP12-0010 SPEAK EASY SALOON & GRILL

Approved.

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant that includes a new outdoor patio and live music (Series 12 Restaurant License) at 7450 W. Chandler Boulevard.

5. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
6. The Use Permit is non-transferable to any other location.
7. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plans, and Narrative) shall void the Use Permit and require new Use Permit application and approval.
8. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
9. The site shall be maintained in a clean and orderly manner.
10. No alcohol shall be carried beyond the indoor or outdoor serving areas into the parking lot or off-premises.
11. Music shall be controlled so as to not unreasonably disturb area properties.
12. The patio fence design shall be commensurate with the building's architectural quality.
13. There shall be no live music on the outdoor patio.

E. LUP12-0012 SZECHWAN PALACE

Approved.

Request Use Permit approval to sell liquor for on-premise consumption only within a restaurant (Series 12 Restaurant License) at 2386 N. Alma School Road, approximately 1,800 feet north of Warner Road.

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. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.

F. GPA12-0001 AGGREGATE SOURCES GENERAL PLAN AMENDMENT-
Approved.

City initiative to amend the Land Use Element of the General Plan to address aggregate sources as required by Arizona Revised Statutes.

Staff recommends approval of the proposed text amendment that addresses a new requirement in Arizona Revised Statutes regarding aggregate sources.

G. ZCA12-0001 PARKING AND LOADING REGULATIONS
Approved.

City initiative to amend Article XVIII Parking and Loading Regulations of Chapter 35 (Zoning Code) of the Chandler City Code.

There was a recommended deletion of Section 35-1807.2b3 and 35-1807.3d3 to remove wording regarding the procedure to appeal the Zoning Administrator's decision which is currently provided for elsewhere in the Zoning Code.

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

ACTION:

A. DVR12-0010/PPT12-0005 ALMERIA AT OCOTILLO
Request amended Planned Area Development (PAD) zoning with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval for a multi-family residential development on approximately 27 acres northeast of the intersection of Dobson and Price Roads.

Rezoning

Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval of the rezoning from PAD to PAD Amended in case DVR12-0010 ALMERIA AT OCOTILLO subject to the following conditions:

1. Development shall be in substantial conformance with the Development Booklet, entitled "Almeria at Ocotillo" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0010, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.

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.

Preliminary Development Plan

Planning Commission and Staff, upon finding consistency with the General Plan, recommend approval of PDP in case DVR12-0010 ALMERIA AT OCOTILLO subject to the following conditions:

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “Almeria at Ocotillo”, kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0010, 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.

Preliminary Plat

Planning Commission and Staff recommend approval of the Preliminary Plat PPT12-0005 ALMERIA AT OCOTILLO 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.

BILL DERMODY, SENIOR CITY PLANNER stated this is 2 lots within the Waters at Ocotillo development that was approved in 2007. Waters at Ocotillo encompassed most of the vacant dirt you see on this aerial photograph. These 2 lots were zoned and received PDP approval for multi-family at that time. They are coming back now for a couple of reasons with regard to the zoning. They need to amend the approved conditions to eliminate 2 specifically. They were previously tied to having for sale housing, basically condos. They would like to remove that stipulation so they can have rental apartments on this site. Secondly, there was a stipulation that tied them to bridges across the lake system with the other parcels here going to single-family. There is no longer a use for a bridge system. The entire multi-family development is now contained on these 2 parcels and they have a connection underneath the vehicular bridge so there is no reason for pedestrian bridges any longer. In addition to those zoning condition changes they are also getting there PDP approval for a somewhat modified architecture and site layout. Changes are not major. They are going from 358 to 389 units on this site. They were 2 and 3 story buildings before. They are 2 and 3 story buildings now. He said he would go through the site layout. He showed the 2 near Dobson and Price intersection. There are 2 separate parcels. The access for both of them is off of Market Place. He showed a median break. They have community amenities in the center of the northern parcel and a larger clubhouse amenity in the southeastern portion. These clubhouse amenities as well as many of the buildings and a pedestrian pathway are taking advantage of the lakes to the extent possible. They have view areas and pedestrian connections and then a large pool and fire pit, sort of a deluxe luxury clubhouse to take advantage of that peninsula. He showed a picture of the building architecture – modified Santa Barbara style of architecture with the stucco and the barrel tile roofs, lots of arches, tile iron work and that sort of thing. They have worked

extensively with them. Staff has to make sure even the 3 story buildings are effectively broke enough so it is not large masses viewed by people either living there or passing by. Overall, changes aren't major from what they saw before. Staff does recommend approval of both the zoning and the PDP as well as the Plat that goes with it. Mr. Dermody said he would be glad to answer any questions or go into more detail at their request.

MR. ED BULL, 702 E. OSBORN RD., PHOENIX, stated he was there with Mike Perry and Christine Naiman from Whitneybell Perry but also with Mike Truman from PB Bell. The builder has worked closely with Staff and with the folks at Ocotillo and with Pulte to their east to design what he believes is an extraordinary project. The rendering and the elevations in the booklet speak volumes for themselves. As they know, they are putting multi-family on a site that is zoned for multi-family. They have 2 and 3 story buildings on a site that is zoned for 2 and 3 story buildings and they have done the kind of things that Staff and Ocotillo and their neighboring property to the east asked them to do with respect to building orientation and landscaping and pedestrian amenities and other kinds of things which help make this an extraordinary development.

They are there to seek their approval in accordance with Staff's recommendation. They are completely comfortable with Staff's stipulations. If they have questions, they will be happy to answer them. Mr. Bull said if they need a full presentation, they would be happy to provide that but if they are comfortable with Staff's recommendation and stipulations, they are too.

CHAIRMAN RIVERS asked if there were any questions for the applicant. There were none. He asked if there was anybody in the audience that wishes to discuss this item. He asked because he did not have any speaker cards for this item. There were people that said they wished to speak.

DEANN HOOP, 2222 S. DOBSON ROAD, CHANDLER, stated she is opposed because PB Bell just got approved on a location at Germann and Dobson for 192 units. This is a mile and a half down the road for another 394 units. She lives in the vicinity and she feels that Chandler is a little bit landlocked and they are not thinking of the future with the Intel and the job growth. She had a map that she showed. She said in a 3-1/2 mile radius there are 28 existing apartment communities. Those are the ones in red. The four that are in green were the ones that were approved in the last year so they have added 4 more apartment communities and that would make it 32 and then this one would be another 33. What she sees on Price Road the big companies like your E-Bay and Pay Pals and the Motorola building that is being turned over. Those people want houses or condos to buy; they don't need another apartment community. These were supposed to be condos to be sold originally. **CHAIRMAN RIVERS** said they were to be condominiums originally - correct. Ms. Hoop asked where the people are going to move. They are going to move to Gilbert so there are no other homes. She has talked to a realtor and he can't find anything in Chandler in their zip code area for purchase. She has talked to a lot of apartment managers that are here today to also voice their concern that they have enough occupancy but if they get more and more apartment communities, they are not going to be at the occupancy that they are used to performing at. It kind of hurts that 32 of them are going to have

to fill these vacancies when they keep adding more and more. They are landlocked because if you look at Intel and the Airpark and the Indian Reservation there is not a lot of land for building homes. She thinks the condos. are very important to have for sale if you look to the future. Also, they have been looking at the ugly concrete 5-story monstrosity by the Chandler Mall for years which was supposed to be condos. or apartments and it is zoned for multi-family and it is just sitting. That would be nice if that got taken down to dirt level where it would be enticing for someone to build there where they are pretty much landlocked. We like Ocotillo as an upscale community so she thinks with the traffic even from Dobson Road there is not an exit off of the freeway. They would have to go Alma School and they just built another community on Alma School. Her kids go to Hamilton High School and it's full so where are you going to build another High School or another elementary school. They don't have a lot of land. She has driven the area and there are not a lot of openings. She just feels very strongly on this.

KAYLEE PERU, 2222 S. DOBSON ROAD AT THE CHUPAROSA APARTMENTS, CHANDLER, stated while she does know a lot about the area, there are no nearby gas stations that you have to go to for when you are heading downtown or when you are heading to Tempe. She would like to personally too see more businesses in the area rather than more apartments just because there are so many around and especially the 3-story buildings because she thinks they would block the view because they have a wonderful view of the sunset over the mountains. Three story buildings would also hinder that even if the other homes or condominiums were built there so she would like to oppose at least the height of the building.

NICHOLAS HECKEL, 2050 W. HAYDEN PEAK DRIVE, SAN TAN VALLEY, stated he works in the area as an Apartment Manager and when he learned of this along with the other apartment communities that they have going up currently, it reminded him a lot of the West Valley. When they learned that the Coyotes and the Cardinals were going to go out there they massively built up. What he sees now in a lot of reports is that they have the lowest occupancy rate in the Phoenix Metro area. A lot of that is because people have many, many places to go. He knows that we have Intel along with the other businesses that area coming in soon but they are seeing a good growth from that. The only thing he is concerned about is if they have another one come in, they don't even know the impact of the three that are currently being built. If they add another one on top of that, they don't know if it is going to further take people away from them who are currently making decent money for Chandler. He is afraid that if they have too much competition, it is going to lower the prices which in turn can lower the quality of the people that they approve for apartments.

COMMISSIONER PRIDEMORE said he would be curious to know if he has spoken out about any of the other 32 apartment complexes and obviously there are several that have come through here recently. He is curious as to why this one is the tipping point. Mr. Heckle replied that this is the tipping point just because they are experiencing so many coming up. In driving around they see they are being built. When you work in a business and have competition, it generally can be a good thing. One thing that is paramount in their business is their own ability to sell. That is kind of what they pride themselves on. So there is a certain amount of growth they can handle. When it comes to this one, they don't know the impact of the 3 that are being

built currently so he would like to see what the impact of that is and see if they and the other apartment communities can handle it before they add another 400 plus units.

CHAIRMAN RIVERS asked the applicant to see what information he can give them on what they talked about.

MR. BULL said he was pleased to say with respect to Staff's review of this application, Staff recognizes that not only is this site already zoned for multi-family and their density is almost the same as what's under the already approved plan and the heights are virtually the same. In fact, the 3-story buildings on the previously approved plan are a little taller building than what the 3-stories are on here. In addition to the Planning Staff's recommendation for approval which is based upon land use and quality and design and all of the kinds of things that you deal with all of the time, Economic Development has been involved in some oversight of whether this makes good sense in context of commercial development that is located immediately to the west of this site. That commercial developer is very supportive of this development and looking forward to additional residents looking and living next to his commercial development and economic development.

Their Director recognized the importance of this land use in this location as well. In addition to being within Ocotillo, in fact Waters at Ocotillo right next to Downtown Ocotillo they are very in tuned with the people who have for many years been integrally involved in Ocotillo from a land use perspective and design review perspective because they go through not only the City's systems but Ocotillo's design review systems as well. PB Bell along with Mike Perry's office has worked hand and glove with the Ocotillo folks. In addition to that this type of land use in this type of area, while it wasn't a poster child of the Mayor's 4-Corner Commercial Committee, it could have been as an example of the type of place that certainly does not need additional commercial development-it needs additional multi-family development in order to help some commercial in the area some of which is challenged because of reduced population numbers in the area. So they have a multi-family zoned site that is approved for 2 and 3 story buildings, they have support of Planning Staff, support of Economic Development Staff, support of the neighbors to the east and to the west, and they have support from folks who have been integrally involved with the development and design of Ocotillo for many years.

Behind this development of course is PB Bell who has been in the business for many, many years and they are very comfortable with the marketplace. They are teamed up with Gilbane who has been in the business for many, many years and who is very comfortable with this land use on this site. In addition to that Gilbane is the one who with Mike and I and others were here years ago dealing with the zoning on Waters at Ocotillo beforehand recognizing at that time Ocotillo and area probably made sense for condominiums. It doesn't today; they are not financeable and not marketable and he anticipates the City Attorney's office would say that the old 'for sale' stipulation is not legally enforceable because the City doesn't get into forms of ownership. So they have an excellent development that is in the right use with the right design in the right location that when built will be supportive of area businesses not only those that are immediately next door to the west but to those nearby be it at the intersection of Alma School or

along Arizona Avenue. While he respects the concerns that were expressed, the vast weight of the opinion of Staff and others and PB Bell and Gilbane who have been involved in the business for many, many years, with the right views, right design, right location, it will be an asset for Ocotillo and the City and the area and it is one they would request be approved as presented to them by Staff this evening.

CHAIRMAN RIVERS asked if there were any questions for the applicant. He said he had two questions. He asked Mr. Bull if he could give some information regarding the impact on local schools of this project. Mr. Bull replied that is a two-fold answer. To begin with Mike's office in conjunction with working the application up initially, of course, contacted the school district as they were asked to do and he can't off the top of his head give him capacity versus enrollment numbers but the school district was fine. Generally speaking his experience while there will be some school age children in a development like this because of the overall character of the development, the rental structure and that type of thing, the number of school age children in a very high end multi-family development is typically very low. So the school impact as far as children are concerned is low, benefits to schools through increased valuations and that type of thing is good. Each school was consulted early on in the processes. **CHAIRMAN RIVERS** said he believes he heard him say that the 3-story buildings in this development are actually shorter than they were when they were to be condominiums. Is that correct? Mr. Bull replied yes and that he and Mike Perry were looking at that earlier today. He thinks that these buildings are on average about 4 to 5 feet shorter than the 3 story buildings that were approved several years ago. The locations of these 3-story buildings are very consistent with where 3-story versus 2-story were approved several years ago.

CHAIRMAN RIVERS asked if there were any more questions for the applicant. Seeing none he closed the floor for discussion and possible motion.

VICE CHAIRMAN VEITCH said they had to consider 3 separate motions on this.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER RYAN** to approve the rezoning of case DVR12-0010 ALMERIA AT OCOTILLO as recommended by Staff. The motion passed unanimously 7-0.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER CUNNINGHAM** to approve the Preliminary Development Plan in case DVR12-0010 ALMERIA AT OCOTILLO subject to the conditions as recommended by Staff. The motion passed unanimously 7-0.

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER RYAN** to approve the Preliminary Plat case PPT12-0005 ALMERIA AT OCOTILLO subject to the condition recommended by Staff. The motion passed unanimously 7-0.

ACTION:

D. LUP12-0011 SIDELINES GRILL & TAVERN

Request Use Permit approval to continue selling liquor for on-premise consumption only within a restaurant that includes an outdoor patio and live music (Series 12 Restaurant License) at 2980 S. Alma School Road, Suite 2.

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. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication of the Use Permit.
4. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
5. The Use Permit is non-transferable to any other store location.
6. The patio and area adjacent to the restaurant entrance shall be maintained in a clean and orderly manner.
7. **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.**
8. Outdoor music shall not utilize bass speakers or sub-woofers.
9. The maximum diameter of speakers used in conjunction with outdoor music shall be 12”.
10. **Music shall not be played after 10 p.m. on evenings with music. Music shall not be played before 9 a.m. on any day.**
11. Music shall be limited to Thursday through Sunday.
12. Music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise level as measured at the commercial property line.
13. The restaurant shall provide contact information for a responsible person (restaurant owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.

MR. BILL DERMODY, SENIOR CITY PLANNER, stated this is a Use Permit request to continue selling liquor for on-premise consumption only in conjunction with a Series 12 Restaurant License. Significantly, that includes the right to do outdoor music on their patio. This particular site has been a restaurant for quite a while. They had approval in 2002 for liquor service indoor and outdoor and then they came back a few years ago and got approval for an expanded patio and then last year they modified that to have the ability to have live music specifically on the outdoor patio which was a right they didn't have previously. There were a number of conditions with that including that it was limited to one year which basically was a trial basis and also that it does not unreasonably disturb the area residences and that the noise

level not exceed the ambient noise level at the property level which essentially in this case means don't be louder than the general traffic noise at Queen Creek Road.

They heard from a lot of neighbors, many opposed, many in support of this request last year. Most of the subdivision to the southwest along the golf course was involved, in reality less than half, many of them signed petitions and many came to the hearings. We will hear from them tonight as well. In the past year they had not heard anything in the Planning dept. until April. To their knowledge there has been music going on all year about once or twice a week on average. They received complaints on 2 dates that he is sure they will talk about more. On April 7 and April 20 there were apparently noise issues. April 7 was a special situation. They had received a 'Special Events Permit' to have a festival basically in the parking lot with live music, games for the kids, etc. They had special permission for that event it really doesn't fall under the strict guidelines of Liquor Use Permit. April 20 was not a special event it was just a Friday night with music. Apparently on that night, the music bothered one of the neighbors to the southwest and they had called the restaurant and the noise level was not reduced which would be in violation of the previously approved conditions so therefore a concern of Staff. Generally over the past year in evaluating this it appears that music can occur on the patio and not disturb the neighbors because most of the time that appears to be what happened. They would emphasize that the conditions be abided by and if they are not, there can be a revocation process in which case this Use Permit would be revoked. Of course there is a due process and they can have a hearing and so forth. They might have the right to outdoor music taken away and have to abide by the previous liquor use permit on the site. Of course, they don't want to go down that path. The recommendation from Staff is for approval. If these conditions are abided by, which they can be there is not a land use conflict with any adjacent land users including those residential neighbors to the southwest. His recommendation is for an additional 3 years and said he would be glad to answer any questions.

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

VICE CHAIRMAN VEITCH asked Mr. Dermody if this Use Permit was to be revoked the only privilege that is lost is the outdoor music. Mr. Dermody replied that is correct in this case. It's not always in other cases but in this one they have multiple Use Permit approvals over the years including one that is essentially the same as this minus live music. They could fall back on that. **VICE CHAIRMAN VEITCH** said his understanding is that there is a vested Use Permit approval for service in the restaurant and on the patio and just the music is what is on the table tonight. Mr. Dermody replied that was correct.

COMMISSIONER RYAN said he thought the case was to allow a Use Permit for liquor inside and outside? Mr. Dermody said it is for both. Mr. Dermody said at its heart this is a Liquor Use Permit. **COMMISSIONER RYAN** said last year they gave them a Liquor Permit to allow outdoor music with a one year stipulation. Mr. Dermody replied that technically that was a Liquor Use Permit. In the City of Chandler we do not have a Use Permit specifically for music. For liquor servicing establishments we tend to handle that through a Liquor Use Permit. We previously had conditions that included all activities on the side essentially must be in

conjunction with the representations. Since music and live entertainment was never represented they had to come back and ask for that specifically. Even though this is a Liquor Use Permit he thinks they will spend most of their time talking about this condition having to do with music or these conditions. **COMMISSIONER RYAN** asked Mr. Brockman if it was o.k. then to discuss the outdoor music part of it and hinge that with the Liquor Use Permit. **GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, replied that was correct.

AMY NATIONS, AZ LIQUOR INDUSTRY CONSULTANTS, 1811 S. ALMA SCHOOL ROAD, MESA, stated she had been hired by Sidelines Grill to help them obtain their Use Permit. She said this is a Mom and Pop restaurant just trying to survive in these times. Right now they are the anchor in the shopping center. The shopping center is dying and they are doing everything they can to stay alive. The live entertainment was added to bring more people into the restaurant – which it has. They were here last year to get their Use Permit for the live entertainment. They have abided by all of the rules and regulations and were even asked to send out a neighborhood mailer with the owners telephone numbers on it and the restaurant number so if the music ever got out of hand, they could call and have it turned down. Most of the time they shut down the music before the time stipulated on the Use Permit. The police called for their 10-year anniversary which they had a ‘Special Event’ application in to have a dunk tank out front and a bouncy house and live entertainment. That doesn’t really fall under this Use Permit. The second time the police were called they had been called because of the music. The police had shown up and the police couldn’t hear the live entertainment of the singer from the parking lot. There was no amplified music that night. He was playing on the patio but he did not have his amp plugged in and this person called one of the owners at home and screamed and yelled at her and told her she would not get her Use Permit renewed. They haven’t had a complaint all year until these 2 separate instances. They are just hoping to continue and try to survive like everybody else right now and this is helping them and she said any consideration would be appreciated.

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

COMMISSIONER PRIDEMORE said putting aside the ‘Special Use Permit Events’ and in looking at the April 20 event from people in the audience, from her point of view once the owner of the establishment was called was any other call made. Ms. Nations said the first time the business was called she said she guesses they didn’t respond to it quick enough. When the complainant called the owner at her house, she called the restaurant to have the music turned down and they had already done it by that time. The police did come before they turned down the music at 8:25 p.m. and said they couldn’t hear it in the parking lot. **COMMISSIONER PRIDEMORE** asked to the best of her knowledge did she know that all of the employees at the establishment were aware of the stipulations that are in place regarding noise. Ms. Nations replied yes they are aware that if there was a problem in the time frame. Ms. Nations said they know this is very, very important to the business. She would have been talked to about that but like she said by the time the owner was aware of it she called down there and it had already been done.

CHAIRMAN RIVERS said he had several speaker cards and he said he was going to go through the ones that are not marked that they desire to speak. If that is incorrect and they do wish to speak, please just let him know.

KRISTINA GRAKO, 1641 S. EMERSON PLACE, stated she was the owner of Sidelines. They were here last year. There are a lot of concerns to her. She is a small business owner. Anybody knows the shopping center on Alma School and Queen Creek is dying. She is the anchor there. She has several businesses next to her that say they wouldn't be there if it weren't for her. When she has live music and all of these things, she floods Cold Stone and Water N' Ice. She floods these things because there are parents on the patio and the kids go over there. She does whatever she needs to do to survive. She told them last year that even if it brings an extra \$300 or \$400 a night that adds up tremendously. You do whatever you have to do. She has not had a complaint in an entire year. She has done everything she needs to do. Yes, they did have the complaint on the anniversary party. She had music from 12:00 p.m. to 9:00 p.m. Her permit said she could have that until 11:00 p.m. We stopped at 9:00 p.m. She got an extremely upsetting phone call at her home when she was home with a very sick child at 8:45 p.m. There is such a thing as Caller I.D. They had told her last year when anyone calls they have to call the restaurant first and let the manager on duty know and then call the owners cell phone number. She never received a call on her cell phone. She said can she have their name and number and don't worry about this. They knew the dates of when her renewal was up. They knew things she didn't even know which obviously concerned her because why was a homeowner calling her at her home and harassing her. So she went down to the restaurant because an officer had called right after that and asked if she could come down there and show him her Use Permit. She said it wasn't even worth it and let's shut it down. She did have a permit to 11:00 p.m. and it was 8:45 p.m. She has the report number and the officer's number and everything. That is kind of null and void because that was their 10 year anniversary party. Hopefully, she will have another 10 year anniversary party.

The other one was April 7. She got another phone call from the exact same person. It was the exact same number that called on the first noise complaint. They called and spoke with her manager, Jessica Love, and said they were instructed to turn her music down. Jessica got her name and address and phone number so that they could put this in the record. She did that and called her. She met the police officer and he said it was ridiculous because he can't even hear the music in the parking. She has his name and received the police report. She did talk to him yesterday. He was working so he couldn't come today. She showed a picture of Allan who plays for her every Friday if not every other Friday. She even has a recording of him and you can't hear Allan in the parking lot. On four different occasions she recorded the noise with a decibel meter. She went over to the person that had called her and made these complaints, put them on the backyard and it doesn't even register. She has Nancy and another girlfriend that couldn't come tonight as a witness that it didn't even register. You could barely hear the street traffic going by. They even walked all the way over to a pony wall right behind Keagan's and placed the meter on that – you could not hear a peep. She understands you could probably hear it on the Special Use Permit because that was a full band. She had music from 12:00 p.m. to 10:00 p.m. and stopped it at 9:00 p.m. She got a phone call at 8:45 p.m. Why didn't she get the phone

call the entire day? She doesn't get it. She feels like somebody is out to get her and it is very stressful. This is costing her \$2500 every time she has to do this which anybody knows as a small business owner that is a lot of money. She is up to \$5000 now and they have no traffic in their shopping center. She said she was nice enough to give out her phone number and has had no complaints the entire year up until the week before it was going to be expired and she started getting harassing phone calls. This one person has gone door to door, neighbor to neighbor, and they have all called and told her. They were at the neighborhood meeting and some of them said they would come again. Ms. Grako said here we go again, there is one person out to get her and it is just unfortunate that one person can ruin it for everybody. She said she has a one or two man guy singing acoustics and that is it. It has never ever registered. A normal talking conversation is 45 and it registered less than 5 every time. Sometimes it didn't even read. There are 4 or 5 different meter readings.

COMMISSIONER PRIDEMORE said putting that particular performer aside, how often would she say she has music a week? Either a week or a month, he just needed an idea. Ms. Grako replied 3 or 4 times a month. She said every time she was putting that they were having live music on Facebook or on her website that was when they would get the phone calls. The second she stopped putting it on, the phone calls stopped. When they had their neighborhood meeting, she told her liquor rep. that something was fishy and she felt that when she put this on Facebook she gets the phone calls. She stopped putting it in the website; the phone calls stopped. When they were at the neighborhood meeting, the same lady that had been harassing her asked why she didn't have music anymore. She said it is not on her website anymore. Ms. Grako replied that it was because she figured her out a long time ago and the phone calls just went away. She is just trying to stay alive. She has been there 10 years and is very, very blessed. They have to do whatever they have to do to keep that shopping center going. She doesn't ask for much – just one or two guys with a guitar. She has had no complaints up until the week before, so something is weird.

CHAIRMAN RIVERS asked if she could put her picture back up. He asked regarding the speakers that are visible in this picture, what are they used for? Ms. Grako replied the speakers are used for his voice. When they go on break, they plug in and then they will put a little soft music on as background music. **CHAIRMAN RIVERS** asked so there is not an electric guitar? Ms. Grako said no this is it.

COMMISSIONER CUNNINGHAM asked if that was a cord coming out of the guitar. Ms. Grako replied yes. **KEVIN MAYO, PLANNING MANAGER**, said he has been around guitars his entire life so he would like to answer that. He either has a thin line pick up that sits underneath the saddle which is basically underneath his right hand. It is an amplified acoustic guitar so there are pick-ups in it and it just amplifies the sound of the acoustic guitar. That cord is going over to either the PA that is sitting on a table or whatever it is that is sitting next to him on his left. **CHAIRMAN RIVERS** asked so the guitar is amplified then? Mr. Mayo replied it is. Ms. Grako said when the police officer came out that night it was 'Desert Dixie' and they don't use anything. One has a female vocalist and then one guy with a guitar but no speakers, nothing when they play. That was the night they received a phone call.

MARY MARKS GIBBS, 1321 W. HONEYSUCKLE, said she lived along the golf course in the neighborhood. She showed where she lived on the map. When they talked about the mall dying, in the San Tan paper there was a big article on this whole mall being dead. That picture of Allan with 2 speakers, they face toward the building they don't face out. They are coming in towards the building. She volunteers for an Animal Shelter at 5:30 in the morning. She is an avid walker and she doesn't walk in the morning anymore but she comes home and walks in the evening. She hears nothing at all. She has mailed a few letters to a few of the Commissioners stating how important it is for their economy and for their home and resale value. She is concerned about the Alma School and Queen Creek area dying. It hurts all of them as far as home values. That is a big concern for herself as well as a lot of the community. Last year she was the one who did the petitions and passed them around. The majority of the people are against Sidelines closing. She just didn't want to do it again but in talking to people they do not want it to close.

NANCY BENEDAL said she is in favor this item but does not wish to speak.

JULIE ALLEN, 3160 S. VISTA DRIVE, showed where home was on the map. She said first of all she is not opposed to Sidelines. They want business to be thriving in the Ocotillo area. What she is opposed to is having their entertainment out on the patio. You can't hear it every night but you can hear it on some nights and it is loud. It doesn't always get shut off early. She doesn't know how often the owner monitors her business but she can tell her that her staff is not following her guidelines because she lives on the block that is closest to that restaurant and there are times when they are sitting on their patio and they can clearly hear their music. It is plugged into some time of an amplifier or you wouldn't hear it across the street. There is traffic that goes up and down Queen Creek all the time. For them to hear their music over that traffic it has to be fairly loud. The other thing is they passed out information to the homeowners giving them a contact number. They have never gotten that by mail, at their door or any other way. Nobody has dropped off anything, mailed them anything, etc. If she had a number, she would be calling and they can mark it down from today going forward, she will look up their number and every time the music is loud she is going to call both them and the police because obviously they go by how many phone calls they get. If she knew that, she would have been calling all year. She thinks people have the right to go out to eat and enjoy music. They love music not necessarily their kind of music, but they like music. The thing that they are not considering is not everybody stays up late. They get up at 5:00 a.m. When the music goes late at night, it is disturbing their sleep. They like to sleep with the windows open when the weather is cool. They can't do that and sleep because they are hearing the music. She is just asking for consideration for other people and not just what they want and their time schedule. She would also like it limited to one year versus a 3-year permit because she believes they have already violated it once and if they had documented how many times it was violated, it would have been more than once. Let them prove for the next 12 months that they will abide by their liquor license and they will be considerate of the neighbors that live closest to them, not the ones that live over on the golf course which is by far more than 600 feet away; then come back a year from now and they will see what the toll is. If they manage their business, music and entertainment, she is all for it-no

problem. It has not been managed well and the attitude is kind of a rude "I'll do whatever she has to do to keep her business open". Her husband owns his business. You still have to be considerate of other people. It's not just about you and your business. There are other people and other considerations and she would like it limited because of that to one year and she would like them to send out to their entire neighborhood their contact numbers so that when it is too loud, they can call them. She hates to involve the police, it is so petty to take their police officers and send them over to a restaurant when they can make a call to the manager at the restaurant and ask them to turn down the music. They can have it to 10:00 p.m. but don't blare it into their neighborhood. She said those were her concerns.

CHAIRMAN RIVERS said he is a little confused because he is hearing information that isn't the same. He asked how often she thinks they have music that is too loud for her. Ms. Allen replied at least one time a month. She has mentioned she has music until 9:00 p.m. She said if you get home from work at 6:00 p.m. you are not going to be calling her about music that is going on. It tends to amp up at night. She doesn't know if that is because there is less noise in the area and not as much traffic going on at night as you do during the day with school, deliveries and traffic going back and forth for businesses. She personally knows that there have been at least 6 or 8 times when she and her husband have been extremely annoyed where they have been outside trying to enjoy their patio with a cup of coffee. Their anniversary party was over the top and as a homeowner there, they deserve the courtesy of being notified that there is going to be a 10-year anniversary party that doesn't have to comply with their liquor license. They were not aware of that. That was extremely annoying. She doesn't tend to pick up the phone and call the police every time she is annoyed but that doesn't mean she doesn't have the right to come there and tell them that there are more incidences that she is alluding to. **CHAIRMAN RIVERS** said so what she wrote on her speaker card was she would be content if their music was limited to 10:00 p.m. Ms. Allen replied that she thought that was reasonable for people who have to get up early or for people who have small children that sleep, etc. Ten at night is plenty late and you can tone it down and you can still have music, it just doesn't have to be loud. Have it insider versus outside and then you don't have to deal with irritating anybody in the area. **CHAIRMAN RIVERS** said she stated she heard the music once a month. Ms. Allen replied she can't say that it is every 30 days but several times. **CHAIRMAN RIVERS** asked if it was 12 times during the year? Ms. Allen replied it was 10 or 12 times.

COMMISSIONER RYAN said first off this lady has a very reasonable request. Secondly, she is right. The night air is much thinner and sound travels about 3 times further at night than during the day. He said the other thing is he probably wouldn't have really favored her side of it but he was driving down Queen Creek about 2 months ago and he had the windows rolled up in the car and the music was so loud when he went by there. He didn't even realize there was a bar there and he turned around trying to found out where the noise was from. It was quite loud and this was at 8:00 p.m. at night and fairly early. He thinks her request is reasonable to terminate it at 10:00 p.m. and take it inside and be done with it. He doesn't care if it is one night a month or one time a year, he thinks her request is reasonable. If she hears it, obviously others hear it. Maybe they just don't feel like they can do anything about it. She experienced the same thing at his house when he lived out in the southeast valley. Three miles away there is a restaurant and

when they turned the patio music on, he could hear it. He knows what she is talking about. If they are sleeping with the windows open, it is a nuisance. He is in favor of what she is saying. Ms. Allen said she would also like to point out that building is stucco so when you turn the speakers toward a stucco building, it does not deaden the sound it just blasts it out. You are hitting a hard surface and it is bouncing back out. It is not absorbing that sound. Maybe it would be louder if it was turned outward but it is loud enough for them to hear in their home with the windows open. Twice they have had to turn the TV up so they could hear the TV.

RICHARD ALLEN was the next speaker card. He is opposed to this item but does not wish to speak.

SHARON JOYCE, 1221 W. HONEYSUCKLE LANE, showed where her house on the map is. She said she is not opposed to the restaurant, their liquor license or music. However, she is opposed to having to hear the music in the neighborhood. She has 3 dates written down where she called to have them deal with the music. One was on the 10th of November in 2011. She could hear the music clearly at 10:30 p.m. with the doors and windows closed. She didn't call anyone on that day because she didn't want to bother anybody. In February on the 23rd of 2012 she called. She thinks she spoke with Heather and she said that would have it turned down. It was at 9:23 p.m. and the music was in fact turned down. The fact is she could hear it over the ambient noise level of the road. On the 8th of March in 2012 she called because the music was too loud. It was at 9:02 p.m. She thinks she spoke with Elisa. She also has an Ashley written down. The music wasn't turned down and she called the police after that. The music was turned down after that. It took some time for the police to get there. She just wanted to add that there were some more dates. She also added that she is away on a lot of weekends so there could have been other weekends where it was loud and she didn't hear it. These are 3 she wrote down and she just wanted to present those. Once again, she is not opposed to the music. She is not opposed to the liquor license and she is certainly happy for them that their business is there and doing well but she doesn't think the music should be played in such a way that it can be heard by the neighborhood at all. That is the way it is written into the Staff Report. It wouldn't be over the ambient noise level of the road which means you wouldn't hear it over the road noise. If that can be done, she is fine that but there have been some times when it hasn't been.

PAUL GRAKO, 1641 S. EMERSON PLACE, stated Kristine is his wife and they have owned the restaurant for 10 years. They don't want to upset people. They have been there a long time and want to get along with the neighbors. They want to do what is right for them and us in terms of what is it going to take for them to survive. They want to make sure that nobody misinterprets in what they are going to do and what it takes to survive. This income even though some nights it's \$200, \$300 or \$400 additional helps them on the slow days. Some days are good, some days aren't. They are trying to make every day the best they can and then supplement their income so they can stay in business and keep the doors open. Unfortunately, the shopping center is done with Target, Bashas and Big 5 being gone. It is down to them in terms of who is the biggest draw in there right now. They want to continue to be that way. The part for him that is frustrating when he looks at it they have had music 50 times and they haven't had one call. That is the part he looks at. All they had to do is just call down there and the girls will turn the music down. He

knows this for a fact that they are going to make that happen as far as the calls go. They have called twice in a year and he looks at that and thinks that is pretty good. One is because they had a 10-year anniversary which he is very proud of and is disappointed that she said she didn't know about it because he sent out about this to San Tan News, etc. He wants them to be part of the neighborhood, part of what it takes to be successful. They are not there to upset anybody and they want to live within their means in terms of they agree to have the music turned off at 10:00 p.m. He knows for a fact it is done at 10:00 p.m. They monitor that and they are gold citizens from that standpoint.

He thought tonight would be an easy situation and did not realize there would be so much grief in terms of people saying they can hear the music and yet with the decibel meter he went across the street and went by Keagan's and went further and further and it did not register a blip. What's frustrating is everybody looks at it from the standpoint that Kristina is right in that if a situation comes up and she puts in on the website, it is kind of ironic that the police got called right away. When the police did show up he looked at them and said this is a waste of his time. That is frustrating for him as a citizen because he could be doing better things than coming down there and bothering us - when they have music going and a neighbor says they can hear and they are 2500 feet away. It still comes down to what they are going to do as a group to make them happy and to make us happy too. It's got to be a win win for everybody. He is hoping they can come to that resolution tonight. When they talk about doing this a year from now, this costs them a lot of money in terms of sending mailers out and everybody gets notified. Obviously, she is involved through their agency they utilize to help us do things like this. He was going to ask for a 5-year because he looks at it that until a month ago they abided by everything you people ask for. It's frustrating because again they are down here and now they have to fight a battle. If he needs to talk to anybody, he will give his cell phone number and he will do what he has to do to make sure that when people leave here tonight they are on the same page and they walk away with a good feeling.

COMMISSIONER CUNNINGHAM asked Mr. Grako if it is possible that his Staff is not aware of just how important it is to turn the music down if a phone call comes in and that they log it. Mr. Grako said when a person calls in they are supposed to get that person's name and number. No one has ever left a name and number that he knows of that had called in. He thought there was just one call and now he is hearing that she said she has called in. She didn't leave her name and number because they would respond. It is to their advantage to make that person happy. What was the situation, what is it going to take to resolve it; we'll resolve it and let's move on. He is shocked that it is at this point when they are trying to renew and they are hearing all these negative things. He is frustrated from that standpoint. **COMMISSIONER CUNNINGMAN** stated she agrees that it feels like they were just doing this. **MRS. GRAKO** said she wanted to say one thing that they are wrong on. She was given the permit last year to play to 11:30 p.m. Once in a blue moon she plays to 10:30 p.m. He said they stop every night at 10:00 p.m. Once in a while they have played to 10:30 p.m. but they don't play until 11:30 p.m. so that wasn't correct. There was no police report that the last lady was saying. They have only the one police report.

CHAIRMAN RIVERS asked Mr. Grako if he would be content with the 10:00 p.m. upper limit on this music playing. Mr. Grako responded yes but on Thursday night, Friday and Saturday he would like to keep it at 11:00 p.m.

STUART FANKHAUSER, 3121 S. VISTA DRIVE, showed where his house on the map is. He said that businesses are important to Chandler. They all recognize that. That corner is drying up. They don't want them to leave, they want them to stay. What they need to do is continue to foster a relationship with the community. He is opposed to the 3 years because he would like to see it renewed on an annual basis with respect to the music on the patio. He is fine with the liquor license. He would like to have the music on the patio reviewed on an annual basis for this very purpose. There are a couple of additional things that he would like. Commissioner Ryan pointed out that in the evening sound travels much further than it does in the day time. There are a lot of reasons why that is. He is an engineer not a physicist. The other thing is the placement of the speakers. If they could try some different placements because currently they are pointed right at the walls which creates what is called reflection. It is almost as if they are pointing out into the neighborhood because that sound hits a hard surface and bounces back. Sometimes it is even amplified depending on the materials of the walls. As part of that, if there is an option for them to explore different sound attenuating materials that could be placed on the exterior of the wall where the speakers are pointed to absorb some of it but will still allow the necessary and appropriate amplification of music for the seating area within the patio. They don't want to see them go away. There have been times where he has heard it in his backyard. He read the letter from the other owner. He has the benefit of having quite a high wall; the rest of them do not. He thinks that probably helps attenuate a lot of the noise coming off of the street. In his backyard he can't hear the music but the times he has heard it he has not called. He promises that he will be very professional and work with them. They just retire to the inside of the house. It is important that they support them. They don't want to see them go away they would just like a little bit better community reaction. He thanked them for their time.

CARLOS BARRERAS, 3120 S. VISTA DRIVE, stated there is no structure to block the noise. They don't have the traffic at night. They are in the line of fire with the music and he has heard it until 11:00 p.m. He lives right on the corner and is the closest one to it. He has grandchildren that spend the night at times because his daughter lives 4 houses down and it wakes them up at times. Even inside the house they hear the music – not only outside but inside the house. He turns up his big TV so he doesn't hear it. It still is noisy so they go to the bedroom. This is something that they don't like to live with. They are all for Sidelines and it is a good establishment and they put out a good service with good food and all. The music is the only complaint he has. It is very annoying and he would like to see it until 10:00 p.m.

JOAN MALOOF, 3140 S. VISTA DRIVE, pointed out where she lives on the map. She lives next door to Carlos. She thanked them for receiving the input from the neighborhood. She was feeling at the neighborhood meeting like she was the only one that had heard and complained about the music. She is finding out now there were many others as well. She would also like to say probably in the last year and a half they have had some major storms that have taken out some trees that did provide somewhat of a buffer between their home and some of the neighbors'

homes that kind of deadened the music. They do have a lower wall than the gentleman who wrote the letter who says he has never heard a thing. From the direction of his property there is a bank of buildings at the Falls and there are also several large trees so if he didn't hear the music she thinks that would be the reason why. She is somewhat of a newcomer to this. She didn't even realize the music was going on at the establishment until recently and it started with the anniversary party which they didn't know about ahead of time. When it happened, they were really surprised about the volume of the noise and it was that night that she called the management. She actually went on line to find out what had transpired between Sidelines and the Chandler City Council. Because it is all public record she was able to read the minutes of that meeting and the decision by the Council to allow the live music. She also read the conditions and the conditions were 'that the music should be controlled as to not unreasonably disturb area residents and shall not exceed the ambient noise level as measured up at the commercial property line'.

The second condition is that the restaurant shall provide contact information for a responsible person, restaurant owner and/or manager to interested neighbors to allow music complaints to be resolved quickly and directly. When she had that information, she did call the establishment and was told the music was within limits and she wasn't told by that manager that it was a special occasion. She did pick up the phone and call the owner that night to complain about the volume of the music and that is when she explained to me that there had been a special permit issued by the City and that they were allowed to have the music. It probably would have been helpful to know ahead of time because what she and her husband concluded was that was going to become the norm for this establishment and then 2 weeks later they heard the music again. She is not opposed to the music and Sidelines conducting business and having a liquor license. What she is opposed to is them not following the conditions. They have been given conditions to follow and then the homeowners have criteria to follow if they are in fact disturbed by the music.

When they had the neighborhood meeting a couple of weeks ago, she and her husband were the only ones that showed up in opposition. The conclusion was that they were the only people over the last year that had heard the music that were disturbed by it in any way. She is hearing otherwise tonight. What she was really surprised about was the tone and the manner in which her complaint was handled. At the meeting she was called a crazy woman and was implied that she and her husband were liars because there hadn't been any other complaints and in fact with all of the meters measuring the sound levels nobody could hear any music except her and her husband. She was kind of surprised that they wouldn't have been a little more courteous to those who do have a complaint and really try to resolve that which is what this says. There is supposed to be someone right there on the property to help them resolve that. When the music wasn't turned down she did not call the owner again but they did call the police. Again, she doesn't object to them having live music at any time. She would prefer it to be indoors but if it is outdoors she would really hope they would comply with the conditions that were set out. She does think maybe an extension of 1 year would be preferable to 3 years. When they moved to the area in 1997 they were assured that any businesses that were developed in the area would be held to strict zoning regulations so as to not disturb the peace of the residents of the area. Until this happened it was pretty peaceful around there. If they just considered 1 year and then revisit

it. She would love to work with the owners but when they respond with hostility it makes it really tough. She doesn't want to file a formal police complaint. She doesn't want to go there. She was just hoping that she would be met with this responsible approach when she did complain. She hasn't been involved in this. She wasn't at the meeting last year and she doesn't know what went on at that meeting. It was implied that she was running around collecting signatures and that is just not the case. She heard music and she looked up what the residents were supposed to do if they did. She did that but the response she got was pretty rough. She thanked them for allowing them to have their input into this and she hopes that she would really consider what it is doing to the residential neighborhood just south of this business. The music does exceed the street noise by far and she has not looked up on the internet to see when they are having music and making up these dates. She didn't even know she put them on her website until after she made her 2nd call to the establishment so that is just not the case.

COMMISSIONER PRIDEMORE said in putting aside the 2 times she did call the establishment was there any other days throughout the year that she heard the music? Ms. Maloof replied in all honesty she has not. She goes to bed early and she turns the TV on and the radio on and that pretty much blocks it. Her husband stays up much later and watching TV and he has heard it on numerous occasions with the doors and windows closed. They are second in line and their back patio and their family room is in direct line with Sidelines. They can see the Sidelines sign from their backyard and there is nothing to block it.

CHAIRMAN RIVERS said he had no more speaker cards and asked if anyone else in the audience wished to address the Commission on this matter. Seeing none he said he would go back to the applicant but he had a question first for Staff. He asked Mr. Dermody if he could tell them what happens to this Use Permit if this establishment gets a lot of complaints during the year. Does that affect their Use Permit in any way or not? Mr. Dermody said a complaint in itself is reason for Staff to investigate whether the stipulations are abided by if this were to be approved. Any failure to abide by the approved conditions could be grounds for revocation of the Use Permit. It is up to the Zoning Administrator to start those proceedings.

COMMISSIONER RYAN said he has been thinking about this. He is sympathetic to both parties because he knows it is a struggle to stay in business with your competition that can open their patios to any time at night and so forth. This is not the greatest location in town to be doing that. He was thinking they should continue this to maybe the second meeting in October which is a pretty substantial amount of time and let the homeowners and the shop owner try and work things through and let's see where it goes from there. If they continue bothering the neighborhood, then it would be his feeling to revoke the Use Permit which is going to kill the bar. If they don't, maybe they can work something out with the owner. That is his feeling on this.

CHAIRMAN RIVERS invited the applicant back up.

MS. GRAKO said she doesn't want to be negative with any of the homeowners. That is why last year she gave them her personal cell phone. She hasn't had one phone call since last year. Not

one. She said Mr. Dermody was there at the meeting and she thinks people were frustrated but nobody was called crazy. Another couple went to them and asked them to Sidelines with them and listen to it. They tried to invite everybody. She knows even last time their main Chairman came by and said this was a cool place. They put a \$100,000 patio on it 2 years ago. Having the live music is kind of paying back their loan. Their landlords have really been good with them in working with that. She doesn't care if they have her cell phone number. She does have a problem when somebody calls her house and goes crazy on me that night. Like she said she was home with a very sick child. Call her cell phone or call her husband's cell phone. The 2 documented phone calls were to Jessica Love who has been her manager for 4 years. Her Friday night crew is her A team. They know the drill, they have a log right by the phone, get somebody's name/phone number. Just because of last year they wanted to make sure that it wasn't one person and abusing the policy. Their next door neighbors did write a letter in favor for us. They said they are the closest house next to Sidelines and they can't hear anything. She doesn't want it to be about whether you can hear her dogs barking or you can hear Sidelines. It is not that. She wants everybody to be happy.

She lives right next door to Cornerstone. It is so incredibly loud but it's not something that is affecting her life. Sometimes it bugs me but it is a church. If she really has a problem, she will talk to them about it but call her or her husband's number. She doesn't go out, she is never there. She is always home as she has 3 little kids. She is always just like them. She is in bed by 9:30, 10:00 p.m. They have the Use Permit to play until 11:30 p.m. 90% of the time they shut down at 10:00 or 10:30 p.m. just because she doesn't want to even risk the phone calls. It's not worth it. If somebody says to turn down the speakers or maybe go to one speaker, she doesn't know. Does one speaker balance it out? She doesn't know how all that goes. Somebody had mentioned that it bounces off of the stucco. There is no stucco. Their whole patio is completely wide open so it doesn't bounce off. She will do whatever she has to do. Her girls are awesome. They call her the second a phone call comes in-hey, we just had a noise complaint. We turned it down but she wants her to know there are no speakers tonight so she doesn't know what they are getting a call about. That is the only reason why she wanted it monitored because she did last year feel like she was getting attacked by one person and this year the only phone call she has gotten is from one person. So all of these people are saying they can hear this all these nights, why are they just hearing about it now?

COMMISSIONER RYAN said a lot of it could be that some people don't know they can complain about it. They don't know their recourses. Like he said he was driving by one night and he heard a lot of music and it looked like a big party. He was looking for the party because he wanted to go to the party. They are in a residential area so they have to work with these people. Those are the choices. Ms. Grako said she does and that is what she wants. Her concern also is on all of these occasions when she put that decibel reader they all tried so hard to hear everything because she wants to be sympathetic. She would be upset to. Why couldn't they hear these on 4 or 5 different occasions? It didn't even read on it and they put it on all their back fences, even the Keagan's fence. **COMMISSIONER RYAN** said he understands but it's at night and he doesn't know what it is, but it is the night air and it is the way the music travels. A decibel reader won't pick it up but you can pick it up. It's like a subconscious noise but not a

real irritating noise. Ms. Grako tried it just so her friends could tell her she is crazy. She said she couldn't hear anything. On that kind of a thing, just call her or call the restaurant. The same girl has been there and in both of the complaints, Jessica Love, she wrote everything down and called her right away and by that time that is when the police officer came. He was in the parking lot and said he couldn't hear anything and said they are wasting his time. Somebody also said they didn't know they could make a police report. Somebody did call a detective in the City of Chandler and launched this big complaint and the officer seemed pretty upset and he did call her and said he needed to know what was going on here. Never heard noise, never heard any noise complaints and she never heard anything. Why was this put on his desk? Somebody did and that was from that resident.

CHAIRMAN RIVERS asked her if she would be willing to put a 10:00 p.m. limit on her music. Ms. Grako said she would like to do Friday night at 10:30 p.m. Normally what happens on a Friday night is you have your dinner crowd until 8:00 p.m. and then to get people to stay longer like an extra 2 hours it's huge for them. Everybody is closing everywhere you go. **CHAIRMAN RIVERS** asked if she wouldn't be happy with 10:00 p.m. Ms. Grako said she would be happier with 10:30 p.m. if anything at all. The Commission gave her the 11:30 p.m. last year and she has been good with 90% closing at 10:00 or 10:30 p.m. but they have never gone past 10:30 p.m. **CHAIRMAN RIVERS** said in thinking as a neighbor, if they could count on it going to quit right here, if it is too loud before then, I call. That would give him some piece of mind.

COMMISSIONER PRIDEMORE said just to try to get a handle on this, to her knowledge over the past year, how many calls have there been to their establishment, not to herself but to the business itself to turn the business down. Ms. Grako said 2 times, the 7th and the 20th. **COMMISSIONER PRIDEMORE** asked to her knowledge there was no other calls ever made undocumented to turn the music down? Ms. Grako said they have caller ID at the restaurant and there is a log right next to the phone.

CHAIRMAN RIVERS said he was going to close the floor and look to the Commission for discussion and possible motion.

COMMISSIONER PRIDEMORE said having heard both sides he can understand that he would lean towards some of the suggestions that have been made already limiting it to 10:00 p.m. on any night. He would also be in favor of a 1-year instead of 3 so that again they can take a look at this. He understands the cost involved in that but he also knows that it costs money to run a business. This falls under that. They have had several instances over the past several years of dealing with the noise with an establishment. They started trying to get a phone number out there to the community that they can use. Personally, he doesn't want to be the police. It would have to be really annoying for me to start making calls. He appreciates when the owner of the establishment is willing to give those numbers out and he is glad to hear that there are neighbors that are willing to use those numbers. Personally, I don't like to do that because he doesn't want to be the police but he also doesn't want to be annoyed. He is still struggling with that and he has struggled with that in the past in terms of he thinks it is a good policy. To him it should be a policy that you never have to use. He knows they have talked about the 10th anniversary and

how it really doesn't affect this. He also has an issue with a Special Permit being an excuse to make more noise especially when everybody involved with this is already aware of the tender nature of the noise issue here. Putting that one aside, they still have one other. Again, one is still too many. It also sounds like from hearing some of the speakers there seems to be a disconnect on how many times people have actually called the establishment. That bothers him as well. So again he would be in favor of a 1 year to keep an eye on this because it does seem like they have issues. He is in favor of providing that number. They may have a disconnect in terms of how did that information get to the public so that is something they may need to look at. Again, he would be in favor of limiting it to 10:00 p.m. on any day.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER BARON** to approve case LUP12-0011 SIDELINES GRILL & TAVERN, in accordance with the stipulations read into record by Staff with revisions to Stipulation No. 7 that they change that to 1 year instead of 3 and Stipulation No. 10 that reads music shall not be played after 10:00 p.m.

CHAIRMAN RIVERS said he wanted to make a comment before they vote. He actually was leaning toward agreeing with Commission Ryan in his continuance into September but he hesitates to do this again in 1 year based on 1 complaint. **COMMISSIONER RYAN** said he liked the continuance but he didn't think he had the support so he went along with the Commissioner. He thinks they really have to look at it again in 1 year because now the neighborhood is cognizant about what their rights are and you are going to have more than 1 or 2 or 3 if the shop isn't doing their thing. If he hadn't been by this shop at one time and didn't hear that music, he probably wouldn't have listened so intently to these neighbors but he thinks they have the right. This is a nice single-family development and needs to be heard again in 1 year and either denied or approved and extended for 3 years at that time. He thinks because of the amount of controversy they have they need to go 1 year.

COMMISSIONER DONALDSON said his comment is more about the disconnect between the calls and reports and he doesn't see any police comments or how many reports there were versus how many complaints there were versus how many calls there were made to the establishment or cell phones. He asked Staff to work with the applicant on the best way to notify the interested parties. He thinks they probably need some work on that overall. Now that folks do know that they have a voice in this he would be in support of the 1 year.

COMMISSIONER BARON said he remembered this last year. They had a discussion and there were a lot of neighbors who came that evening as well. There was a lot of dialogue about the exact same topic. His concern is that nothing really seems to have improved to the point where he hears that they are working with the neighbors and they are trying to resolve these things and they want to be part of the community. He kind of feels like there should be a little bit more effort to be able to go and work with the neighbor's one on one. If they are really complaining and they can hear it at 10:00 at night at their house, he would be knocking on their door if he was a business owner in their position saying 'can I hear'. Can I call my establishment and have them turn it up and let me see if I can hear this. What can I do to make it better? If you are really going to have a place in the community and work with these neighbors so that next

year when they approve this for a 3 year Use Permit rather than continuing it every year or ultimately denying it, he thinks there is going to have to be some extra effort put in.

COMMISSIONER CUNNINGHAM said she also found it interesting that this evening they heard quite a bit from the neighbors that are closest to the establishment whereas a year ago they were hearing more from neighbors closest to the golf course and the people closest to the establishment couldn't hear it. This year they are hearing that it is there so there is obviously a disconnect on keeping the decibel level down. She agrees that they need to limit the time and she is glad that they will revisit this in a year and she hopes in a year there are no neighbors here to complain but rather to support the establishment. She said she has been to the establishment. She went after last year's meeting and took her whole family. She had a great time and enjoyed it. It's a nice place to go if you neighbors haven't been there. It's a good place to go have dinner. There is a friendly atmosphere. There's your commercial.

CHAIRMAN RIVERS called for the vote. The motion passed unanimously 7-0.

6. DIRECTOR'S REPORT

Mr. Mayo said for the neighbors and everybody involved with this case this will go to City Council on July 26 on Thursday night at 7:00 p.m. for this Use Permit.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN RIVERS announced that the next regular meeting is July 18, 2012 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 7:21 p.m.

Leigh Rivers, Chairman

Jeffrey A. Kurtz, Secretary