

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, July 26, 2012 at 7:04 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
*Rick Heumann	Councilmember
Matt Orlando	Councilmember
Jack Sellers	Councilmember

\*Councilmember Heumann participated in the meeting telephonically.

Absent and excused: Councilmember Kevin Hartke

Also in attendance:

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

INVOCATION: Susan Stevens-Clarke of Chandler Baha'i Faith

PLEDGE OF ALLEGIANCE: Donovan Reeves, Boy Scout Troop #233, led the Pledge of Allegiance.

UNSCHEDULED PUBLIC APPEARANCES:

DANNY RENISON, 2121 W. Straford Dr. Chandler, Arizona, came forward to address the Council. MR. RENISON said that he purchased his home in 1997 and one of the key points that interested him was the fact that it had an additional driveway. He said that he was informed by a zoning enforcement officer that the gravel area needed to be modified to asphalt or concrete in order to legally park in that area. Mr. Renison said he complied and everything was fine for ten years until 2-3 weeks ago when an enforcement officer came to his door and said he can no longer park there. He said he was told because the driveway is not on the same side as the garage.

MR. RENISON said that this differs from what he was told in 2002 by the enforcement officer at that time. The zoning officer said that the reason that Mr. Denison is no longer able to park there is because there was a complaint. MR. RENISON said that he believes that he should be grandfathered in based on what he was told ten years ago by City staff. He said that with this extra parking three of his families' vehicles can be parked in the driveway rather than on the street.

MR. RENISON said that had he been told ten years ago that he was not allowed to park in this area of his home, he would not have spent the money to invest in concrete for the driveway.

MAYOR TIBSHRAENY thanked Mr. Renison and asked that staff please follow-up with him and let the Council know the determination.

CITY MANAGER RICH DLUGAS advised that staff will look into this matter.

CONSENT:

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

MAYOR TIBSHRAENY requested that staff come forward to briefly address Item no. 39.

VICE-MAYOR WENINGER VOTED NAY ON ITEM NO. 39.

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

1. ZONING CODE AMENDMENT: Parking and Loading Regulations Ord. #4375

Item #1 Moved to the Action Agenda at the request of Vice-Mayor Weninger.

2. RIGHT-OF-WAY VACATION: Queen Creek Road / Arizona Avenue Ord. #4378

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4378 authorizing and approving the vacation of a portion of the south right-of-way of Queen Creek Road west of Arizona Avenue at the City's cost basis of \$4.53 per square foot.

BACKGROUND/DISCUSSION

The City of Chandler entered into an Intergovernmental Agreement (IGA) with Maricopa County in September of 2000 to improve Queen Creek Road from just west of Arizona Avenue to just east of McQueen Road. Pursuant to the terms of the IGA, the County acquired an eighty (80) foot wide strip on both the north and south sides of the Queen Creek Road center line for right-of-way for the project. Under the IGA, the City reimbursed the County for the right-of-way acquisitions up to 65 feet for the half right-of-way and 71 feet for corners. The County paid the balance.

Pulte Home Corporation is developing the Hamilton Heights project west of the southwest corner of Arizona Avenue and Queen Creek Road. So that the proposed Pulte Plat will conform to the City of Chandler standard details and adjacent developments, Pulte has agreed to acquire a 9-foot wide by 202-foot long portion of the Queen Creek Road right-of-way (1,817 square feet) and reimburse the City at the City's cost basis of \$4.53 per square foot for a total of \$8,231.00. These funds will be paid to the County under the IGA.

3. AMENDED ZONING: Almeria at Ocotillo Ord. #4379

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4379, DVR12-0010/PPT12-0005 Almeria at Ocotillo, amended PAD zoning with PDP and PPT for a multi-family residential development on approximately 25 acres NE of the intersection of Dobson and Price roads. (Applicant/Owner: GP Chandler, LLC (Gilbane Properties.))

BACKGROUND

The application requests amendment of the existing PAD zoning in order to provide relief from previously adopted zoning conditions and also PDP approval for modified site layout, architecture, landscaping and signage. The requested land use, multi-family residential, is unchanged from the existing zoning.

The currently vacant subject site consists of two parcels in the Waters at Ocotillo development. One parcel is located at the northeast corner of Dobson and Price roads, with the other parcel just to the north across Market Place Loop. Northeast of the subject site is an apartment complex. To the east, across a lake, are parcels recently approved for single-family homes. To the west, across Dobson Road, is the Orbital office building and vacant land zoned for multi-family uses. South of the subject site, at the southeast corner of Dobson and Price roads, is vacant land zoned for office and retail uses.

The subject site is part of the 2,700-acre Ocotillo Area Plan originally adopted in 1983. The subject parcels received PAD zoning and area plan amendment approval for multi-family uses as part of the 74-acre Waters at Ocotillo development in 2007. The 2007 approval included a PDP that established a strong community identity for the 8 parcels included in The Waters at Ocotillo, with bridges over the lake and common connections to a central community center on the subject site that was to service the whole area. The 2007 approval designated the subject site for multi-family in the form of 2- and 3-story buildings containing 358 residential units (14.4 units/acre).

#### REZONING

The application requests rezoning in order to remove Condition No. 20 and Condition No. 23 contained within Ordinance No. 3890 that established the existing PAD zoning. No change is requested to the existing approved use of multi-family residential. Condition No. 20 had required the multi-family units to be "for sale only"; the subject request would allow for rental units instead. Condition No. 23 referred to design quality for pedestrian bridges throughout the larger Waters at Ocotillo development; the subject request eliminates pedestrian bridges from the development finding them unnecessary due to the adjacent parcels having been recently rezoned to single-family residential uses.

#### PRELIMINARY DEVELOPMENT PLAN

The proposed development provides vehicular access to both parcels via landscaped boulevard entries from North Market Place Loop, each parcel having a second point of access on its opposite side that is exit only. The apartment buildings are generally placed around the parcel perimeters and in their centers, with parking in between. The larger clubhouse is located in the southeast portion of the southern parcel, on a peninsula fronting on the lake. A smaller clubhouse is located in the central portion of the northern parcel. A lakeside walking path connects the two parcels underneath Market Place Loop, allowing the larger clubhouse to be easily accessible by residents of both parcels. Textured paving provides a sense of arrival at the vehicular entrances and also internal to the site at the larger clubhouse's turnaround/drop-off area.

Both of the project's parcels are gated and fenced. The apartment buildings form part of the external barrier, with fences filling in the gaps to complete the barrier. Fences are generally wrought iron with occasional stucco columns that draw from the building architecture. Solid screen walls are also provided adjacent to parking as necessary.

The Ocotillo lake system surrounds parts of the parcels' east, north and south sides allowing for numerous viewing opportunities from the apartment buildings, a lakeside walking path, pedestrian seating areas, and the large clubhouse amenity. Pedestrian seating areas feature shade and

amenities such as bbq grills and fire pits. The large clubhouse has two pools, a spa and a large sunning deck near the lake. Overall, the site is highly amenitized with 21 amenities compared to the Zoning Code requirement of 6 for a development of this size.

The apartments range from 2 to 3 stories (38') in height and feature elements of the Santa Barbara architectural style such as arched and recessed windows, decorative iron and accent tiles, exposed rafter tails, chimneys, light-colored stucco façades and barrel tile roofs. The proposed architecture also features undulating building footprints, varied window sizes, decorative window shades and shutters, façade color changes and horizontal popouts that provide aesthetic interest. Some of the apartments have ground-level garages.

The smaller clubhouse features a modified version of the apartments' architecture, though with more color and a large arch outlined with cantera stone. The larger clubhouse is substantially more grandiose with a large tower element, several broad arches, a balcony wrapping around the building's rear and plenty of windows on the rear side facing the pool area.

The project provides sufficient landscaping including generous amounts of turf, a variety of streetside trees, and Date Palm and Olive trees highlighting the entrances. A double row of trees along the east-facing apartment buildings provides a visual buffer from the approved single-family uses across the lake. Lakeside buffer trees include Brazilian Pepper, Olive, Live Oak, Sissoo and Mondell Pine. Italian Cypress trees are used around the pools in a manner that conveys a Mediterranean atmosphere and provides a visual tie to the nearby Downtown Ocotillo commercial development.

The development provides sufficient parking with 733 spaces compared to the Zoning Code requirement of 760 spaces. The 27 space deficiency is warranted by the developer's experience on other apartment sites and by the lack of potential spillover effects since on-street parking is prohibited on adjacent streets. It is also worth noting that a Zoning Code amendment is being considered on this same agenda that would lessen parking requirements for apartments.

Monument signs are located flanking the two entrances and at each of the three corners along Dobson Road. Signs are approximately 6'-7" tall and include the development name on a scored stucco background below a decorative trellis arch and beside columns that draw from the building architecture. Landscaping frames the signs and is located in planter boxes below the signs. Signs will be indirectly lit.

#### CODE DEVIATIONS

The application requests relief from several Zoning Code requirements as allowed for consideration through the PAD zoning and associated PDP. First, many of the buildings encroach into the minimum setbacks from Dobson Road, Market Place Loop or the Ocotillo lake system. The requested encroachments allow for angled building orientation and a varied streetscape alignment. Second, many of the buildings exceed the maximum height of 25' at the building setback line (maximum height in the parcel interiors is not exceeded), similar to what was permitted by the 2007 approval. Third, many of the patios do not provide the required 12-(ground floor) and 8- (upper floors) diameter circle of private outdoor open space. Instead, the private patios and balconies are elongated and sometimes wrap around corners so as to provide more overall square footage in these areas. Fourth, in several parking lot locations, the development does not provide one landscape planter per 10 parking spaces, instead allowing runs of up to 11 uninterrupted spaces. Fifth, some of the solid fencing is up to 7'-6" in height (exceeds code limit of 3'6") in order to abide by Ocotillo Community Association parking screen requirements. Sixth, the maximum number and square footage of monument signs is exceeded in order to provide

attractive signage at logical locations in these irregularly shaped parcels. Seventh, only 733 parking spaces are provided compared to the requirement of 760 spaces as discussed previously.

### DISCUSSION

The Planning Commission and Staff find the proposed development to be of a high quality and appropriate for the area. The generous amenities and attractive architecture suggest that it will be a positive and sustainable addition at this location. The aesthetic effect of the building heights is mitigated by the undulating building footprints and stylized architecture.

The Planning Commission and Staff had previously recognized a potential land use conflict between the subject use and the planned single-family homes across the lake to the east at the time those homes were going through the rezoning process in early 2012. The potential conflict stems from visibility into the single-family homes' typically "private" back yard space across the relatively narrow lake (as little as 55' across). It was determined that the conflict could be effectively mitigated by several factors including that the subject parcels provide a double row of trees in order to improve the visual buffering between uses.

### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held April 3, 2012. The only neighbor in attendance was the General Manager of the Ocotillo Community Association. The applicant team has been in ongoing discussion to coordinate their designs with the Ocotillo CA design committee. Representatives of the Chuparasos Apartments (2222 S. Dobson Road) attended the Planning Commission hearing in opposition to the request. The neighboring property owner to the east provided a letter of support.

### PLANNING COMMISSION VOTE REPORT

Motion to approve: In favor: 7      Opposed: 0

Three representative of the Chuparasos Apartments (located approximately one mile to the north) spoke in opposition to the request. The speakers raised concerns about oversaturation of the rental apartments market especially in light of recent construction in the area.

### RECOMMENDATIONS

#### **Rezoning**

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

#### **Preliminary Development Plan**

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

1. 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 DVR01-0052 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**

The Planning Commission and Staff recommend approval subject to the following condition:

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

4. REZONING: Stellar Business Center

Ord. #4382

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4382, DVR12-0014 Stellar Business Center, rezoning from PAD for a business park to PAD Amended for additional uses within an existing 11-acre business park located west of the NWC of Chandler Boulevard and Juniper Drive. (Applicant: Ed Bull; Burch & Cracchiolo, P.A.)

### BACKGROUND

The subject site is located west of the northwest corner of Chandler Boulevard and Juniper Drive, within the western portion of the larger 30-acre Stellar Business Park development. Immediately north is vacant land that was approved for a self-storage facility; east is vacant land currently planned for office development. West are the Desert Breeze Police and Fire substations. South, across Chandler Boulevard, are the Stellar Airpark Estates residential community and the Stellar Airpark airfield.

The 11-acre, 5-building subject site was initially zoned in 2001 for office and industrial uses as part of the larger 30-acre Stellar Business Park. At the time of approval, a lengthy list of permitted and prohibited uses was approved specifying the allowed types of users. In 2005, the list of uses was amended to further clarify what types of users were allowed within the 30-acre development. The current request is to further amend the list of permitted uses, specifically for the subject site.

Current zoning allows for a variety of office/showroom/warehouse and industrial type uses; however, prohibiting what is regarded as more intense type industrial users such as outdoor storage of materials and equipment, and various manufacturing operations that could be deemed offensive. For all intents and purposes, the subject site operates generally like an office business park. The request is to amend the allowed uses to include: 1) fitness/personal training/athletic training type facilities and 2) bank and/or credit union type operations with an ancillary customer service component.

In recent months, Staff has seen an increased interest in providing "boot-camp" style and specialized sport/athletic training facilities. Historically, Staff has opposed these types of uses when located in larger industrial business parks where concerns in incorporating commercial type operations within industrial operations exist such as traffic and land use conflicts. In this particular situation, Staff is comfortable with the amended use citing that the business park operates largely like a commercial business park allowing for retail/showroom/warehousing/and office uses. Additionally, due to the nature of the business park, parking is addressed and can accommodate the additional uses. Furthermore, "boot-camp" type training facilities are usually restrictive when it comes to the hours of operation, number of clients, size of the business and often is appointment-based, further restricting the ability for a large amount of traffic, which historically has been one of Staff's concerns. Large gym operations such as a Mountainside Fitness would be prohibited.

Additionally, Staff supports the use of the bank and/or credit union type operations with an ancillary customer service component. While general office is a permitted use within the

business park, the applicant requested that additional language be introduced to allow specifically for the bank type operations. The intent of the bank operations use is not to allow a local bank branch, but rather a more specialized component of a bank operation such as the mortgage arm of the branch or the customer service component. The ancillary customer service component allows for the ability to provide an ATM or crediting services where required by FDIC regulations and would be contained internal to the building. Drive-thru ATM's will be prohibited. Staff is supportive of the additional use for the bank operations, as it will operate more like an office than a stand-alone bank, which addresses Staff's concern of parking and the commercial nature of stand-alone banking institutions.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on May 31, 2012. There were three neighbors in attendance. Two of the neighbors are the adjacent property owners to the north; the third neighbor was a representative of the homeowner's association to the west. No opposition was expressed at the meeting.

Staff has received one telephone call from a resident of the Wild Tree single-family residential subdivision to the west. The resident was supportive of the request; however, was concerned about the fitness users utilizing the parking lot for exercise activities. Staff assured the property owner that fitness activities would be prohibited outdoors.

#### RECOMMENDATION

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

#### 5. AGREEMENT: Affordable Rental Movement

Res. #4585

ADOPTED Resolution No. 4585 authorizing the agreement with the Affordable Rental Movement (ARM) of Save the Family Foundation of Arizona for the purchase and rehabilitation of properties to be developed as affordable rental housing for economically disadvantaged families using HOME Investment Partnership Program funds in the amount of \$422,245.00 and authorizing the City Manager to sign the agreement and all related documents on behalf of the City.

#### BACKGROUND

The City of Chandler, along with seven other local municipalities and Maricopa County, formed the Maricopa HOME Consortium for purposes of administering the U.S. Department of Housing and Urban Development's (HUD) HOME Program. The goal of the HOME Program is the development and preservation of affordable housing. Local jurisdictions can expend HOME funds for homebuyer programs, homeowner rehabilitation programs, rental housing programs and tenant based rental assistance programs to assist targeted populations such as homeless individuals and families.

Of the total funds allocated to each jurisdiction under the HOME Program, 15% must be reserved for specific types of nonprofit organizations known as Community Housing Development Organizations (CHDO). In January of 2011, ARM of Save the Family obtained a resolution of support from the Chandler City Council for an application to the Maricopa County Consortium for CHDO HOME funds. The application was approved and ARM was awarded funds to develop up to four units of affordable rental housing in the City of Chandler. In order for funding to be implemented, the City of Chandler must enter into an agreement with ARM and the County

Consortium for the administration of the contract for the purchase and acquisition of the housing units.

#### DISCUSSION

ARM of Save the Family is a non-profit that provides affordable rental housing and case management services for low income families in Chandler, Gilbert, Mesa, Scottsdale and Tempe. The goal of Save the Family's program is to assist low-income families in achieving self-sufficiency. Families in ARM units will have access to Save the Family's supportive and educational services. ARM currently owns seven, two and three-bedroom units in Chandler.

In their application to the Maricopa HOME Consortium, ARM requested funding to acquire and rehabilitate three to four housing units in Chandler. The Consortium approved ARM's application for funding for these units which, per HUD guidelines, must be offered at below fair-market rents to working poor families and participants in the Save the Family program. The current average rent for an ARM two bedroom rental unit is \$550.00 per month.

ARM has designated Chandler's 85225 zip code as their primary focus area for the acquisition of units. ARM clients participating in the program must have an annual household income at or below 60% of area median income. For 2012, the income limit for a family of four totals \$39,840.00 annually. Currently, the average price of acquisition for ARM housing units in Chandler is \$89,247.00 and the average rehabilitation cost per unit is \$11,324.00. As all applications for HOME funding require matching funds for the project, ARM's application indicates they are providing a \$15,000.00 cash match, as well as providing \$105,561.00 in match through other agency funding sources.

The HOME Program requires a minimum affordability period for all projects receiving HOME funds, depending on the average amount of HOME funds invested in each unit and the type of activities performed. The affordability period for the units to be assisted in this case is 15 years. The HOME required affordability period is secured by a Deed of Trust and Promissory Note recorded against the property. These instruments insure that the units are operated as affordable rental housing under HUD regulations for the required 15-year period.

At their meeting on March 28, 2012, the Housing and Human Services Commission unanimously recommended the Mayor and Council authorize an agreement between ARM and the City for development of permanent affordable rental housing.

#### FINANCIAL IMPLICATIONS

All costs associated with the HOME Program will be paid by the federal government and do not require repayment on the part of the City of Chandler.

6. AGREEMENT: Newtown Community Development Corporation Res. #4601

ADOPTED Resolution No. 4601 authorizing the agreement with Newtown Community Development Corporation for the acquisition, rehabilitation and resale of properties for low to moderate income first-time homebuyers using HOME Investment Partnership Program funds in the amount of \$340,000.00 and authorizing the City Manager to sign the agreement and all related documents on behalf of the City.

#### BACKGROUND:

The City of Chandler, along with seven other local municipalities and Maricopa County, formed the Maricopa HOME Consortium for purposes of administering the federal HOME Investment

Partnership Program. Of the total funds allocated to each jurisdiction under the HOME Program, 15% must be reserved for specific types of nonprofit organizations known as Community Housing Development Organizations (CHDO). In January 2012, Newtown Community Development Corporation obtained a resolution of support from the Chandler City Council for an application to the Maricopa County Consortium for CHDO HOME funds. The application was approved and Newtown was awarded funds to acquire and rehabilitate up to four single-family residences for resale to low to moderate income first time homebuyers. In order for the funding to be implemented, the City of Chandler must enter into an agreement with Newtown and the County Consortium for the administration of a contract for the purchase, rehabilitation and resale of the housing units.

Newtown Community Development Corporation is a non-profit that provides first time homebuyer programs to individuals and families in Tempe, Glendale, Scottsdale and Chandler. Newtown first began providing its Community Land Trust (CLT) program in Chandler in 2009 when they received an allocation of Neighborhood Stabilization Program (NSP) funds. Since that time, the City has awarded an additional allocation of NSP funds as well as City of Chandler HOME funds to Newtown.

Through NSP and HOME funding, the City has created a successful community land trust program with Newtown. Newtown's CLT program provides access to homeownership for people who are otherwise priced out of the housing market. At the time of sale, the CLT buyer purchases the improvements only (the house) and enters into a 99-year renewable ground lease for the land. Newtown holds the land in perpetuity. The ground lease contains resale restrictions that require that if the home is sold, it must be sold to another income eligible buyer. Permanent affordability is maintained through a shared equity provision that limits the amount of appreciation the seller may take and establishes an affordable sales price. The ground lease also requires owner-occupancy and gives Newtown the right of first refusal.

Newtown's CLT program is designed to balance the interests of individuals and the larger community. CLT homeowners have an opportunity to build wealth through homeownership. At the same time, the community's investment (subsidy) is protected; it is retained in the property and a long-term community asset is developed. Through the CLT program, a stock of permanently affordable homes is created and the homes stay affordable for future generations. In addition to meeting income eligibility requirements, all CLT homebuyers must successfully complete Newtown's Homebuyer Assistance and Individual Development Account Programs and attend a CLT orientation. To date, there are a total of 27 CLT homes in Chandler, 18 assisted with NSP funds and 9 with HOME funds. In addition, Newtown is the only land trust in Arizona. Currently, the average price of acquisition for CLT homes in Chandler is \$129,716.00; the average rehabilitation cost per unit is \$63,349.00 and the average subsidy is \$80,000.00 per unit.

While Newtown's NSP funded program is operating only in clearly defined census tracts, HOME funds are not restricted for expenditure to any specific area of the City. Participation in the program is only limited by income level. Clients requesting assistance must have an annual household income at or below 80% of the Area Median Income (AMI).

Homes to be acquired and rehabilitated may be a foreclosed or regular sale home. Under the current contract, Newtown will acquire and rehabilitate four additional single family homes in the City of Chandler. Newtown's application to the Maricopa County Consortium was for \$340,000.00 or 41% of the total projected development costs for the project. As all applications for HOME funding require matching funds for the project, Newtown's application indicates that other resources that will support the project include conventional loan sources, Federal Home

Loan Bank funds and Individual Development Account funds. All properties acquired and rehabilitated with HOME funds will be placed in the Newtown Community Land Trust Program.

The HOME Program requires a minimum affordability period for all projects receiving HOME funds, depending on the average amount of HOME funds invested in each unit and the type of activities performed. The affordability period for the units to be assisted in this case is fifteen years. The HOME required affordability period is secured by a Deed of Trust and Promissory Note recorded against the property. These instruments insure that if the unit is resold during the fifteen year affordability period, the subsequent homebuyer will meet the income limits under which the funding was awarded during the required fifteen year period.

At their meeting on July 11, 2012, the Housing and Human Services Commission (HHSC) unanimously approved recommending that the City Council adopt Resolution No. 4601.

#### FINANCIAL IMPLICATIONS

All costs associated with the HOME program will be paid by the U.S. Department of Housing and Urban Development (HUD) and do not require repayment on the part of the City of Chandler.

7. SIXTH AMENDMENT: Maricopa County Library District IGA Res. #4614

ADOPTED Resolution No. 4614 authorizing the sixth amendment to the Intergovernmental Agreement (IGA) for the Reciprocal Borrowing Program with the Maricopa County Library District (MCLD).

#### BACKGROUND/DISCUSSION

On June 28, 2001, Council approved the renewal of the IGA between MCLD and the City of Chandler for participation in the Reciprocal Borrowing Program for fiscal years 2001-2006. Since that time, Council has approved five amendments to the renewal of the IGA. The Fifth Amendment, approved on August 18, 2011 with a reimbursable rate of \$28.50, extended the agreement through June 30, 2012. In addition, as a participant in the reciprocal borrowing program, Chandler received \$82,840.00 in material assistance and database access valued at \$40,000.00. MCLD has reduced the reimbursement rate to \$25.00 for the Sixth Amendment, which covers FY 2012-2013. The material assistance and database access will continue to be available to program participants in FY 2012-2013. MCLD is also planning to offer participants some summer reading program assistance as well.

Under provisions of the agreement, residents of Chandler may obtain library cards free of charge from any other library in Maricopa County. In return, the Chandler Library also issues cards free of charge to all Maricopa County residents.

The MCLD administers the program and reimburses all libraries that are "net lenders" (i.e. have more nonresident users using the library than resident users using other libraries) at the per person rate specified in the current agreement. Reciprocal revenue for FY 2011-2012 was \$126,853.50. The Sixth Amendment will extend the agreement through June 30, 2013 with the reimbursement rate of \$25.00.

8. CITYWIDE FEE SCHEDULE AMENDMENT: Section 6.3.3 Res. #4615

ADOPTED Resolution No. 4615 amending the Citywide Fee Schedule deleting Section 6.3.3 for Home Occupations (Zoning) Approval.

### BACKGROUND

In 2009, the City adopted a fee associated with the review time spent collecting information needed to determine if a specific home business qualified as an allowed use as defined by the Zoning Code. The fee was based upon historical practice and experience to account for the activity's administrative costs expended.

Since the fee's adoption, Staff reviewed the activities involved with assessing zoning compliance and the fee collection. Staff has recently modified the assessment process eliminating certain procedures previously performed as a part of the activity. The result has been a decrease in the Staff time expended determining if the particular home occupation is an allowed use. Additionally, due to the business license approval process, Staff has found that often the fee collection has become a cumbersome process resulting in additional administrative costs not anticipated at the time the fee was originally adopted.

Staff has decided that the administrative activities associated with a home occupation zoning determination can be accounted in Staff's standard workload without an additional fee. Secondly, deleting the fee will result in a lesser administrative cost related to the fee collection and thirdly, deleting the fee results in an enhanced education opportunity on how home occupations must be performed in order to be and remain an allowed use under the Zoning Code.

9. PROJECT AGREEMENT: Maricopa Association of Governments Res. #4619

ADOPTED Resolution No. 4619 authorizing a project agreement with the Maricopa Association of Governments (MAG) for regional reimbursement in the amount of \$3,243,873.00 for design and right-of-way acquisitions for the Gilbert Road (Queen Creek Road to Hunt Highway) Arterial Capacity Improvement Project.

### BACKGROUND/DISCUSSION

This project agreement is for reimbursement of Proposition 400 funds to the City of Chandler for design and right-of-way acquisitions for Gilbert Road (Queen Creek Road to Hunt Highway). This project involves street widening improvements to Gilbert Road (Queen Creek Road to Hunt Highway). Based upon the City's Transportation Master Plan Update (April 2010) and a 20-year design life (2030 roadway system), the corridor is going to be widened as follows: Queen Creek Road to Ocotillo Road from 2 thru lanes to 6 thru lanes and remaining segments from Ocotillo Road to Hunt Highway from 2 thru lanes to 4 thru lanes. The intersections at Ocotillo Road, Chandler Heights Road and Riggs Road will have 6 thru lanes with left and right turn lanes.

The Transportation Commission reviewed the Project Agreement on June 21, 2012 and recommended approval.

### FINANCIAL IMPLICATIONS

This Project Agreement will provide regional reimbursement for design and right-of-way to the City of Chandler for Gilbert Road (Queen Creek Road to Hunt Highway) in the amount of \$3,243,873.00. Reimbursement is programmed in 2012 and 2013 and will be adjusted annually for inflation in accordance with Maricopa Association of Governments (MAG) policies.

10. PROJECT AGREEMENT: Maricopa Association of Governments Res. #4620

ADOPTED Resolution No. 4620 authorizing a project agreement with the Maricopa Association of Governments (MAG) for regional reimbursement in the amount of \$7,537,169.00 for construction

improvements to the Gilbert Road (Queen Creek Road to Ocotillo Road) Arterial Capacity Improvement Project.

#### BACKGROUND/DISCUSSION

This project agreement is for reimbursement of Proposition 400 funds to the City of Chandler for construction improvements to Gilbert Road (Queen Creek Road to Ocotillo Road). This project involves street widening improvements to Gilbert Road (Queen Creek Road to Ocotillo Road). Based upon the City's Transportation Master Plan Update (April 2010) and a 20-year design life (2030 roadway system), the corridor is going to be widened as follows: Queen Creek Road to Ocotillo Road from 2 thru lanes to 6 thru lanes and remaining segments from Ocotillo Road to Hunt Highway from 2 thru lanes to 4 thru lanes. The intersections at Ocotillo Road, Chandler Heights Road and Riggs Road will have 6 thru lanes with left and right turn lanes.

The Transportation Commission reviewed the Project Agreement on June 21, 2012 and recommended approval.

#### FINANCIAL IMPLICATIONS

This agreement will provide regional reimbursement for construction to the City of Chandler for Gilbert Road (Queen Creek Road to Ocotillo Road) in the amount of \$7,537,169.00. Reimbursement is programmed in 2014 and 2016 and will be adjusted annually for inflation in accordance with Maricopa Association of Governments (MAG) policies.

11. AGREEMENT AMENDMENT: Arizona Board of Regents Res. #4622

ADOPTED Resolution No. 4622 authorizing amendment number one to the Affiliation Agreement with the Arizona Board of Regents for and on behalf of Arizona State University and authorize and direct the various City officers and employees to perform all acts necessary to give effect to this Resolution.

#### BACKGROUND/DISCUSSION

On August 7, 2009, the Chandler City Council adopted Resolution No. 4322 approving the Affiliation Agreement between Arizona State University and the City of Chandler. The term of the agreement was three years, renewable on a year-to-year basis. The three-year term ends September 4, 2012.

Several City departments provide an educational experience for students and interns enrolled in various programs of study at Arizona State University. For example, the Fire Department's Crisis Response Program offers internships to social work students as does the Police Department's Victim Services Unit. The Affiliation Agreement must be renewed in order for the City to continue offering internships to students.

12. GRANT AGREEMENT: Arizona Department of Transportation Res. #4623

ADOPTED Resolution No. 4623 authorizing a grant agreement with the Arizona Department of Transportation (ADOT) accepting grant number E2S2H in the amount of \$261,757.00 as the state's share to design and construct a 50-unit car parking lot.

#### BACKGROUND/DISCUSSION

The City received notification of a state grant offer (ADOT Grant #E2S2H) in the amount of \$261,757.00 as the state's share to design and construct a 50-unit auto parking lot that is associated with the Northwest Apron Project currently under design. This grant was anticipated

with the approval of a 5-year Capital Improvement Program presented to City Council earlier this year.

#### FINANCIAL IMPLICATIONS

The grant represents the state share of 90% of the total project value of the design and construction of the parking lot. The remaining 10% of \$29,084.00 is in the form of previously donated land with a value of \$27,841.00 and \$1,243.00 from the Airport Operating funds.

At the February 8, 2012, regular meeting, the Airport Commission voted unanimously to accept the ADOT grant.

13. GENERAL PLAN AMENDMENT: Aggregate Sources

Res. #4624

ADOPTED Resolution No. 4624, General Plan Amendment GPA12-0001 Aggregate Sources, City initiative, to amend the Land Use Element of the General Plan to address aggregate sources as required by Arizona Revised Statutes.

#### BACKGROUND

Arizona Senate Bill 1598, passed during the 2011 legislative session, applied a number of new regulations to local governments. One of these new regulations requires the Land Use Element of the General Plan to identify sources of aggregates and establish policies to preserve those resources and avoid incompatible land uses.

Aggregates are particular materials such as sand, gravel and crushed stone, used in construction to make concrete and are typically mined from riverbeds. The law was adopted to minimize conflicts between aggregate mining and nearby residents which may be affected by noise, dust or other impacts associated with mining activities.

As adopted, Arizona Revised Statute 9-461.05.C.1 (g) requires the Land Use Element of the General Plan to:

“include sources of currently identified aggregates from maps that are available from state agencies, policies to preserve currently identified aggregates sufficient for future development and policies to avoid incompatible land uses, except that this subdivision shall not be construed to affect any permitted underground storage facility or limit any person’s right to obtain a permit for an underground storage facility pursuant to Title 45, Chapter 3.1.”

Staff obtained maps from Arizona Geological Survey, Arizona Department of Transportation and the Arizona Department of Mines and Mineral Resources, all of which indicate there are no currently identified sources of aggregate within the City of Chandler’s municipal planning boundaries.

#### DISCUSSION

In order to eliminate any ambiguity as to whether this requirement has been addressed, the proposed text amendment simply states that there are no currently identified sources of aggregate in Chandler.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

As required by Arizona Revised Statutes, hearing dates for the Planning Commission and City Council as well as availability of a summary related to the hearing, has been published in the newspaper at least fifteen and not more than thirty calendar days before each hearing.

As required by Arizona Revised Statutes, notices were sent to the following agencies to advise and provide an opportunity to comment: Maricopa County, Chandler Unified School District, Gilbert Unified School District, Mesa Unified School District, Kyrene Elementary School District, Maricopa Association of Governments (MAG), City of Phoenix, City of Tempe, City of Mesa, Town of Gilbert, APS, SRP, Gila River Indian Community, Arizona Department of Transportation, Arizona Department of Mines and Mineral Resources and the Arizona Geological Survey, Chandler Chamber of Commerce and Valley Partnership.

The Planning Commission and Staff recommend approval.

14. CONTRACT: Legal Services

Res. #4625

ADOPTED Resolution No. 4625 authorizing the contract for legal services with Engelman Berger, P.C. and an Intergovernmental Agreement (IGA) among the Cities of Avondale, Glendale and Scottsdale relating to joint representation in settlement efforts relating to the Water Rights Claims of the White Mountain Apache Tribe.

BACKGROUND

Mr. Anger has represented the Cities of Avondale, Chandler, Glendale and Scottsdale for several years in the negotiation of a final settlement of the water rights claims of the White Mountain Apache Tribe. The White Mountain Apache Tribe, the United States as trustee for the Tribe, Salt River Project (SRP), Roosevelt Water Conservation District, several Arizona cities and several other entities are parties to this settlement agreement. The White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Act) requires certain further actions that must be taken to finalize the Settlement Agreement.

The Cities of Avondale, Chandler, Glendale and Scottsdale would like to continue to be jointly represented by Engelman Berger, P.D. in order to finalize this Settlement Agreement and take all actions required for it to become enforceable pursuant to the Act. The Settlement Agreement must be submitted to the Gila River Adjudication Court for review and approval before it will be deemed enforceable. Under the terms of the Settlement Agreement, the City of Chandler will be entitled to lease additional CAP water from the White Mountain Apache Tribe. The IGA will enable the Cities to fund and contract for joint representation. The IGA also authorizes the City Attorney to approve one-year extensions of the contract.

FINANCIAL IMPLICATIONS

The four Cities would like to contract for representation from date of execution to July 1, 2013. The contract amount for legal fees is a maximum of \$80,000.00. The Cities have determined that legal fees shall be split equally among the four Cities. Chandler's share would therefore be a maximum of \$20,000.00. These fees will be funded by the Water Operation Fund.

15. No item.

16. APPROPRIATION: Dispatch Services

APPROVED the appropriation for fire and emergency medical dispatch services in accordance with the Intergovernmental Agreement (IGA) with the City of Phoenix in an amount not to exceed \$1,098,414.00.

BACKGROUND/DISCUSSION

The current IGA with the Phoenix Fire Department has been in effect since 2003. This IGA provides dispatch services, technical services and equipment maintenance. In fiscal year 2008/09, a full cost recovery approach was instituted by the Regional Dispatch Consortium. This full cost recovery is based on recovery of operating budget which includes personnel, equipment and upgrades to current equipment.

The public/private partnership that the Fire Department has with Southwest Ambulance and PMT Ambulance provides for dispatch services for ambulances through the Fire Department's IGA with the Phoenix Fire Department. The ambulance contracts amount for \$296,784.00 of the total Chandler cost to Phoenix. In accordance with the contracts, this money is collected and deposited on a monthly basis into the City's Ambulance Revenue account.

FINANCIAL IMPLICATION

\$296,784.00 of the appropriated FY 2012/13 Budget amount of \$1,098,414.00 will be reimbursed to the City by the ambulance companies.

17. APPROPRIATION: Firefighter Physical Examinations

APPROVED the appropriation for Firefighter physical examinations in accordance with the Intergovernmental Agreement (IGA) with the City of Phoenix in an amount not to exceed \$165,000.00.

BACKGROUND/DISCUSSION

Annual medical exams are required by OSHA for Firefighters who wear breathing apparatus in order to enter hazardous atmospheres. The City of Chandler entered into an Intergovernmental Agreement (IGA) with the Phoenix Fire Department Health Center in 2002 to perform these exams. This IGA provides Chandler Fire Department personnel with annual medical and physical fitness examinations. These exams are performed by occupational physicians whose primary focus is firefighter health and wellness. All exams are done in accordance with the recognized national standard, NFPA 1582.

18. SETTLEMENT: Ahmad v. City of Chandler et al.

APPROVED settlement in the matter of *Ahmad v. City of Chandler, et al.*, Maricopa County Superior Court, Case No. CV2008-030707, in the amount of \$99,999.00 in full and final satisfaction of all claims asserted against the City of Chandler therein and further authorized the City Attorney to sign any necessary documents in such form as are approved by the City Attorney to effectuate the terms of settlement and this motion.

BACKGROUND

This lawsuit stems from a vehicle accident on McKellips Road just east of the Price Freeway. The accident occurred in 2007 after a fleeing felon drove his car across the center line and crashed into an oncoming vehicle.

19. SUBORDINATION: Exterior Improvement Loan Program Lien

APPROVED subordination of the Exterior Improvement Loan Program Lien on Project EIG10-0006, located at 2310 E. Buffalo Street in the amount of \$10,000.00. (Hamilton)

#### BACKGROUND/DISCUSSION

In 2011, the owners of a single-family, owner occupied home at 2310 E. Buffalo Street received a \$10,000.00 loan through the City of Chandler's Exterior Improvement Loan Program. The City loan is a 5-year forgivable loan with 20% of the loan forgiven each year through 2016, secured by a Deed of Trust recorded as a lien against the home. The lien is in third position behind two previously recorded liens.

The owners are now seeking to refinance the home through a Home Affordable Refinance Program (HARP) loan which will allow the owners to refinance their first lien mortgage at a lower interest rate. The owners will receive no cash out as a result of the refinancing transaction. The new loan is for \$126,549.00. In order to obtain the loan, the lender requires that the City lien be subordinated to a new loan so as to remain in their position.

#### FINANCIAL IMPLICATION

The City will not be prejudiced by the refinancing or the subordination. The City's lien is in third position and will remain so after the refinancing. The refinancing will reduce the amount of the owner's monthly payments on their first lien obligation, which reduces the likelihood of default on the first lien. The City lien will not be released until the City loan is fully forgiven in 2016.

#### 20. CLAIMS REPORT

APPROVED the Claims Report for the quarter ended June 30, 2012.

#### 21. AGREEMENT: VisionConnect, LLC

APPROVED Agreement #CSI-946-3000 with VisionConnect, LLC, to provide Fundraising Consulting Services for a Veterans' memorial in an amount not to exceed \$51,100.00.

#### BACKGROUND/DISCUSSION

Veterans Oasis Park, located at the corner of Chandler Heights and Lindsay roads in southeast Chandler, was developed in 2009. This 113-acre community park features an Environmental Education Center, urban fishing lake and an extensive network of trails. Included in the overall master plan of the park is a Veterans' Memorial that has a primary goal of providing a reflection space for individuals and groups of various sizes to honor the sacrifices of veterans and their families.

In 2010, City of Chandler Staff began working with various veterans groups on a conceptual plan for this very special space. Public input from Chandler residents and local veterans groups was identified and developed. To date, the conceptual master plan for the project has been reviewed and approved by various veterans groups and the Chandler Parks and Recreation Board. The preliminary estimated cost for the project is \$2,000,000.00 to \$2,500,000.00.

A Request for Statements of Qualifications and Experience for consulting services related to the development of a fundraising campaign for the memorial was issued in May 2011. The City Manager awarded a contract to VisionConnect, LLC, for the purpose of conducting a feasibility study regarding the potential of the City to successfully conduct a fundraising campaign for the project. In April 2012, VisionConnect reported the positive findings of that study to the City

Council. As a result, Staff entered negotiations with VisionConnect for consulting services to initiate and conduct the fundraising campaign for a Veterans' Memorial.

22. AGREEMENT: The Artisan Group, LLC

APPROVED Agreement #ST3-988-3141 with The Artisan Group, LLC for revegetation-storm repair-landscape maintenance of City streets for a two-year period in an amount not to exceed \$650,000.00 per year with the option to renew for one additional two-year term.

23. AGREEMENT AMENDMENT: Brown Wholesale Electric

APPROVED Agreement #WH1-14-3005, Amendment No. 1, for the purchase of electrical supplies with Brown Wholesale Electric for a one-year extension in an amount not to exceed \$175,000.00 with the option to renew for three additional one-year periods.

24. AGREEMENT AMENDMENT: Plumbing and Irrigation Supplies

APPROVED Agreement #WH1-670-3004, Amendment No. 1, for the purchase of plumbing and irrigation supplies with Browns PartsMaster, Inc., Ewing Irrigation, Ryan Herco Flow Solutions and Sprinkler World of Arizona, Inc., for a one-year extension in a combined total amount not to exceed \$120,000.00 with the option to renew for three additional one-year periods.

25. AGREEMENT AMENDMENT: Hansen Information Technologies

APPROVED Agreement #MRO-7030-1640, Amendment No. 5, for the purchase of software maintenance for the City's Utility Billing software with Hansen Information Technologies for one year in a total amount not to exceed \$88,206.00.

Because the Utility Billing System software is proprietary to Hansen, they are the only source that can provide this maintenance. The original agreement allows for annual renewals of the maintenance. The vendor has typically increased the maintenance cost by 5% annually, however, this year the increase is approximately 2%.

26. AGREEMENT: Cleanview Sewer Inspections LLC

APPROVED Agreement #WW2-962-3128 with Cleanview Sewer Inspections LLC for video inspection of sewer lines in an amount not to exceed \$344,000.00 for a two-year term with provisions to extend one additional two-year term.

27. AGREEMENT AMENDMENT: Standard Construction Company, Inc.

APPROVED Agreement #MU2-745-3077, Amendment No. 1, for an increase of \$50,000.00 with Standard Construction Company, Inc., for right-of-way repairs in a total amount not to exceed \$149,000.00.

On December 15, 2011, Council approved an agreement with Standard Construction Company, Inc. for right-of-way repairs for an amount not to exceed \$99,000.00. There has been an unexpected increase in the number of right-of-way repairs since the approval of this agreement. Temporary asphalt and concrete repair will be required if additional funds are not secured for permanent repairs. The original term of the agreement remains the same.

28. AGREEMENT AMENDMENT: Wilson Engineers

APPROVED Agreement #EN1003-101, Amendment No. 2, with Wilson Engineers to increase the annual limit of the annual contract from \$1,500,000.00 to \$2,000,000.00 for annual permitting, study and design services for water/wastewater facilities.

Staff anticipates needing services related to permitting, study and design for water and wastewater facilities. Design of the projects requires a wide range of expertise and experience. The City has improved project delivery time and efficiency through the use of annual contracts with established design firms. These annual contracts provide consulting services for a range of projects including permitting, studies and design for water and wastewater facilities. Work will rotate among the five firms based on availability and expertise.

Under this contract, individual project agreements will be prepared for execution and approval for each project. Project agreements over \$30,000.00 will be submitted for Council approval up to the annual aggregate of \$2,000,000.00. This action will save on the cost of the selection process and time to bring individual projects forward.

29. AGREEMENT AMENDMENT: Black and Veatch

APPROVED Agreement #EN1003-101, Amendment No. 1, to Black and Veatch to increase the annual limit of the annual contract from \$750,000.00 to \$1,000,000.00 for annual permitting, study and design services for water/wastewater facilities.

Staff anticipates needing services related to permitting, study and design for water and wastewater facilities. Design of the projects requires a wide range of expertise and experience. The City has improved project delivery time and efficiency through the use of annual contracts with established design firms. These annual contracts provide consulting services for a range of projects including permitting, studies and design for water and wastewater facilities. Work will rotate among the five firms based on availability and expertise.

Under this contract, individual project agreements will be prepared for execution and approval for each project. Project agreements over \$30,000.00 will be submitted for Council approval up to the annual aggregate of \$1,000,000.00. This action will save on the cost of the selection process and time to bring individual projects forward.

30. AGREEMENT AMENDMENT: CH2M Hill

APPROVED Agreement #EN1003-104, Amendment No. 1, to CH2M Hill to increase the annual limit of the annual contract from \$750,000.00 to \$2,000,000.00 for annual permitting, study and design services for water/wastewater facilities.

Staff anticipates needing services related to permitting, study and design for water and wastewater facilities. Design of the projects requires a wide range of expertise and experience. The City has improved project delivery time and efficiency through the use of annual contracts with established design firms. These annual contracts provide consulting services for a range of projects including permitting, studies and design for water and wastewater facilities. Work will rotate among the five firms based on availability and expertise.

Under this contract, individual project agreements will be prepared for execution and approval for each project. Project agreements over \$30,000.00 will be submitted for Council approval up to

the annual aggregate of \$2,000,000.00. This action will save on the cost of the selection process and time to bring individual projects forward.

31. PROJECT AGREEMENT: SDB, Inc.

APPROVED Project Agreement #WW1206-401 with SDB, Inc. for Santan Vista Water Treatment Plant Belt Press, pursuant to Job Order Contract 1201-401, in an amount not to exceed \$419,567.00.

This is a joint project with the town of Gilbert. Gilbert has already purchased the belt press. The belt press is needed to process sludge and eliminate odor issues impacting residents near the facility. The Job Order Contractor (JOC) shall provide labor and materials to install a belt press at the Santan Vista Water Treatment Plant. Chandler and Gilbert will equally fund the project.

32. PROJECT AGREEMENT CHANGE ORDER: Achen-Gardner Construction, LLC

APPROVED Project Agreement #WW1105-402, Change Order No. 1, to the Construction Manager at Risk contract with Achen-Gardner Construction, LLC for Phase II of the Ocotillo Water Transmission Main and Wastewater Forcemain, in an amount of \$142,068.49 for a revised contract price of \$13,199,264.37.

On May 24, 2012, Council approved a Construction Manager at Risk contract with Achen-Gardner Construction, LLC to construct the Ocotillo Water Transmission Main and Wastewater Forcemain. Work under this project included a new sewer forcemain to transfer wastewater flows from the Ocotillo Water Reclamation Facility to the Airport Water Reclamation Facility for treatment and a new water transmission main to serve future system demands in southwest Chandler.

On Ocotillo Road, west of Arizona Avenue, the forcemain crosses under the Union Pacific Railroad. The forcemain design brings the pipe very close to an existing SRP irrigation channel, necessitating filling or temporarily piping the channel to accommodate construction. Achen-Gardner included an allowance in their existing GMP to accommodate this work near the existing channel. An estimate was prepared to determine the cost to backfill the channel with dirt during the pipe work, then re-open and repair the channel when the forcemain is complete.

Future construction of the Ocotillo Road Improvement project includes relocation and undergrounding of the same irrigation channel with work anticipated to begin in the fall of 2013. To save the cost of performing irrigation work twice, Staff believes the best approach is to shift the permanent location of the irrigation line to Achen-Gardner's scope of work in the Ocotillo Water Transmission Main and Wastewater Forcemain contract. Cost for permanent relocation of the irrigation line will be covered by a \$65,000.00 contribution from Municipal Utilities, equal to those costs that would have incurred for the temporary filling of the channel. Transportation & Development will contribute the remainder of funds from the Ocotillo Road Improvement project.

The difference of \$107,297.25 between the allowance total and the temporary channel fill estimate will be realized as a savings to the forcemain project. The Ocotillo Road Improvement project also benefits by a \$65,000.00 cost savings for relocation of the SRP lateral paid for by the forcemain project.

33. PROJECT AGREEMENT AMENDMENT: McCarthy Building Companies, Inc.

APPROVED Project Agreement #WW1013-251. Amendment No. 1, to the Construction Manager at Risk contract for pre-construction services to McCarthy Building Companies, Inc. for the Airport Water Reclamation Facility expansion in an amount not to exceed \$377,005.00 for a revised contract price of \$877,005.00, contingent upon written notification from Intel and appropriate funding.

The Airport Water Reclamation Facility is located on Queen Creek Road, just west of McQueen Road. Staff identified the need for design and construction of new wastewater treatment capacity to accommodate Intel's plant expansion on South Dobson Road. Public information meetings were held on May 31, 2012 with residents neighboring the facility to discuss expansion and odor control. Construction will begin in 2012 and is expected to be completed in spring 2014. Treatment capacity of the facility will increase from 15 million gallons per day (MGD) to 22 MGD.

The initial pre-construction phase was the first step in the process. The contractor developed a construction schedule based on field inspections and also provided reviews, value engineering suggestions and prepared the project cost model and the first two guaranteed maximum prices (GMP) for Phase 1 and Phase 2. With this amendment, the contractor will continue to develop the schedule, provide value engineering analysis, constructability reviews and subcontractor coordination. Additionally, they will prepare the pricing for Phases 3, 4 and 5 to be approved by Council in the future.

34. AGREEMENT: CH2M Hill, Inc.

APPROVED Agreement #WW1301-101 with CH2M Hill, Inc. for the Chandler Water Reclamation site evaluation, pursuant to annual contract EN1003-104, in an amount not to exceed \$197,888.00.

The City operates three wastewater reclamation facilities, Airport (AWRF), Ocotillo (OWRF) and Lone Butte. The AWRF currently treats up to 15 million gallons per day (MGD) and is under expansion to manage and treat capacity up to 22 MGD. The OWRF and Lone Butte can treat up to 10 MGD each. The interconnection of the City's wastewater treatment facilities has provided Chandler with unique capabilities for managing system wastewater collection flows, achieving treatment objectives, and meeting long-term reclaimed water delivery obligations while at the same time maximizing operational efficiency and regulatory compliance.

The 2008 Water, Wastewater and Reclaimed Water Master Plan Update recommended siting an additional wastewater treatment facility adjacent to the existing Ocotillo Wastewater Reclamation Facility (OWRF). The Capital Improvement Program provides \$119 million to cover the estimated cost for the design and construction of a wastewater treatment plant beginning in FY 13/14.

35. AGREEMENT: Carollo Engineers

APPROVED Agreement #WW1205-201 with Carollo Engineers for professional services for sewer assessment and rehabilitation design in an amount not to exceed \$396,205.00.

The Wastewater Master Plan identified an on-going need to evaluate, prioritize and repair sewer lines and manholes within the City's collection system. A Sewer Evaluation Assessment was conducted as part of the Master Plan process resulting in a multi-year sewer management program which ran through 2010.

This project will identify the structural condition of the sewer collection system at various locations throughout Chandler. The result of this assessment will be a prioritized program to rehabilitate, repair or replace wastewater collection manholes and sewer pipes to adequately maintain the wastewater collection system. Inspections will be conducted through closed circuit television (CCTV) inspection of sewer pipelines and manned entry inspections for sewer manholes. Wastewater facility rehabilitation projects will be brought forth for Council approval as they are identified.

36. AGREEMENT: Achen-Gardner Engineering, LLC

APPROVED Agreement #ST0809-402 with Achen-Gardner Engineering, LLC for Construction Manager at Risk for utility improvements on GMP 1- Phase 1 Wet Utilities Gilbert Road (Ocotillo Road to Riggs Road), in an amount not to exceed \$6,195,761.33.

37. CONTRACT: B&F Contracting, Inc.

APPROVED Contract #ST1006-401RB to B&F Contracting, Inc., for construction of Paseo Trail Traffic Signals and Geometric Improvements in an amount not to exceed \$428,377.00.

38. AGREEMENT AMENDMENT: Entellus

APPROVED Agreement #ST0809-454, Amendment No. 1, with Entellus for professional engineering and construction services for Gilbert Road Improvements (Ocotillo Road to Riggs Road) Construction Management Services in an amount not to exceed \$244,882.00 and a revised contract price of \$518,326.00.

39. CONTRACT: Smithcraft

VICE-MAYOR WENINGER VOTED NAY ON ITEM 39. He said he has concerns about the phases with the potential for additional costs in the future.

APPROVED (5-1) Contract #ST0721-402 with Smithcraft for construction services relating to Downtown Chandler Wayfinding in an amount not to exceed \$189,796.00.

The sign package was originally envisioned as part of the Arizona Avenue streetscape and infrastructure to support future signs was put in place during construction. Over the past year and a half, City Staff has been working in partnership with the Downtown Chandler Community Partnership (DCCP) to finalize the design of the sign package. The decision was made to break the sign package into phases. The first phase represents elements that both parties found to be the most impactful locations and signage types. It is anticipated that additional phases will be brought forward as needed and as funding permits.

The DCCP has agreed to fund half the cost of the first phase of the sign package with the City portion coming from remaining Arizona Avenue bond funds. All signs are considered City property. For the standard and DCCP kiosk sign types, a kiosk element will be licensed to the DCCP. This kiosk element will be for the purpose of marketing the District and special events. A directory of the Downtown will also be included. On the DCCP kiosk, a special event banner is also available for DCCP programming. A Memorandum of Understanding will be executed with the DCCP to memorialize the business terms of this agreement.

DISCUSSION:

TERI KILLGORE, DOWNTOWN REDEVELOPMENT MANAGER, said she is excited to present to Council a sign package for Arizona Avenue. MS. KILLGORE said that the signs are intended to create a sense of place, provide wayfinding, and directions for people visiting the Downtown. She said it will also allow the City to better communicate with its customers. MS. KILLGORE said she believes that an attractive and efficient design has been developed that is modular in nature and can grow and expand and be customized with the growing needs of the community. MS. KILLGORE said that the sign package was a result of a collaborative design effort with the Downtown Chandler Community Partnership (DCCP), in which staff, a professional designer, and DCCP provided input on the style, the branding, and the communication elements as part of this package.

MS. KILLGORE stated that she would like to point out some of the elements, including the gateway element, which is nearly 35 feet tall. She asked that everyone keep in mind that they are sitting adjacent to future developments that are intended to be three to five stories tall. She stated that with future developments the signs actually shrink considerably in scale. MS. KILLGORE said that the base of the gateway is a mixture of rusted steel and concrete. As you go north, the Downtown Chandler letters are similar to those in front of City Hall, which during the day they read blue and in the evening they glow as a beacon to indicate where the boundaries of Downtown Chandler exist. MS. KILLGORE explained that the importance is not necessarily to tell people that they are in Downtown, the intention is to help create place and lend those iconic elements, which people begin to identify with a destination. In addition, the gateways are two of the eight signs that are included as part of the sign package. MS. KILLGORE said that the remaining six signs are made up of the district standard, as well as the DCCP kiosk signs. MS. KILLGORE said these provide a mix of car-oriented navigation identifying parking locations, key destinations like City Hall, Center for the Arts, the courts, as well as the Historic Square, where people can shop and dine. She noted that the DCCP kiosk is more pedestrian-oriented. MS. KILLGORE explained that the wayfinding is more at a human scale and there is a kiosk element on both of these sign types that include directory features like what one would find in a shopping center, where local businesses can be listed. The directories would display the full offering of the types of businesses in Downtown. MS. KILLGORE said this has been an evolving process. She noted that in 2009, a full sign package was presented for the entire stretch from Chandler to Pecos that would range in cost approximately \$500,000. At that time, Council asked staff to go back to see if there was the ability to phase the signage and create partnerships to decrease the costs. She advised that was done and believes that has resulted in an even better design. The elements for the majority are stocked parts, they are very modular which allows some to be moved and reconfigured. This sign package is less costly and it includes a matching contribution from the DCCP. The total sign package is just under \$190,000. The City is responsible for contributing only half of that cost, which is approximately 20% of the originally estimated costs. MS. KILLGORE believes this sign package will be a very impactful statement on the Downtown streetscape.

MAYOR TIBSHRAENY asked for clarification about the \$190,000 for the sign package. He asked if the City is to pay half and the other half to be paid by the Downtown Chandler Community Partnership. He asked because the full amount of \$190,000 was posted on the Council Agenda.

MS. KILLGORE advised that the DCCP will reimburse the City half of that amount. She explained that in order to be in compliance with State procurement laws, the City was instructed that it had to bid the project as though it would be a full City process and the Council would need to approve the entire amount giving it the volume of City dollars involved in the project. MS. KILLGORE confirmed that the DCCP will then reimburse the City as expenses are incurred.

MAYOR TIBSHRAENY noted that the way that the Agenda was posted might have caused some confusion for our residents thinking it was the City's full share when in fact it is half that amount.

COUNCILMEMBER ORLANDO said that DCCP has been working on this issue for quite some time. He said that this sign package appears to be much more artistic and said it fits with the artistic environment of Downtown. He noted that there is some design and thought process that went into this as well as being functional to be able to show individuals where businesses are located. He said he wholeheartedly supports this project.

VICE-MAYOR WENINGER noted that the "Background Discussion" for this project indicated that there will be additional phases brought forward as needed as funding permits. He asked if there are any estimates on how much of the sign package is done at this point.

MS. KILLGORE advised that future phases could occur as Downtown Chandler expands further south to Pecos Road. Also, as development comes into the existing Downtown between Chandler and Frye, additional signage might be necessary to help orient people to parking garages and destinations on the side streets like Washington and Oregon. She said it would depend on what kind of development comes in and how quickly it happens. MS. KILLGORE estimates that this sign package will likely carry the City for approximately five years before it will be necessary to come back to Council for future consideration. She believes this sign package would likely be about 40 percent complete for the ultimate sign package.

VICE-MAYOR WENINGER said that the future signage would possibly go with development east and west and some places where future district gateways could be added, one on each end.

MS. KILLGORE said there is the potential for that and explained that as part of the Arizona Avenue project electricity was stubbed and placeholders put down for future foundations. The thought tonight would be to begin with these, see how they wear, and try to determine if this is enough signage. She noted that when some folks saw the original sign package they felt like it might be too many locations. MS. KILLGORE said there is some flexibility to judge that after they are installed and see how effective they are.

MAYOR TIBSHRAENY said this is part of the City's overall efforts to improve Downtown. He said that Chandler has one of the most dynamic Downtowns in the entire Valley, noting that the Council continues to be interested in this area. MAYOR TIBSHRAENY said that he and Council continue to encourage both private and public investment. Public investments, like the universities who have agreed to locate in Downtown: ASU and UofA, in addition to the private companies that have come Downtown to open restaurants and shops, like Ports America.

MAYOR TIBSHRAENY said the City will continue to make improvements to continue to bring good things to this are for all citizens of Chandler. He hopes to make it even better in the future.

40. AGREEMENT AMENDMENT: Lopez & Associates L.L.C.

APPROVED Agreement CIP #ST0809, Amendment No. 2, with Dennis Lopez, Lopez & Associates, L.L.C., to provide professional appraisal services for Gilbert Road Improvements Phase 2 from Queen Creek Road to Hunt Highway, in the amount of \$4,000.00 for a revised total amount of \$61,500.00.

On March 25, 2010, Council approved a contract with Dennis Lopez & Associates for the Gilbert Road Improvement project from Queen Creek Road to Hunt Highway. The contract awarded to Lopez provided enough funding for 30 appraisal reports. Amendment No. 1 authorized the reappraisal of 20 parcels for Phase 2. However, research of the title reports for the project determined that appraisal services were needed for 5 additional parcels at \$800.00 each for a total cost of \$4,000.00.

41. No item.

42. CONTRACTS: Salt River Project

Approved Contracts ST0809 to Salt River Project (SRP) for design and construction for removal of overhead facilities to accommodate the Gilbert Road Improvements in an amount not to exceed \$14,431.82.

43. PURCHASE: American Telephone

APPROVED the purchase of an SV8500 telephone system, Voice Over Internet Protocol (VOIP) phones, and Metropolis call accounting software from American Telephone, utilizing agreement #CS8-915-2526, in an amount not to exceed \$288,060.00.

As part of the 2012/13 budget process, there were several requests related to improving citywide telecommunications. The following items were approved as part of that process and are now being requested for purchase:

1. The SV8500 Telephone System and software will establish a second phone switch for the City that will provide a backup system to the current unit. This second unit will allow for load balancing and will reduce the possibility of phone service loss. The unit cost includes five years of software support and maintenance.
2. Currently, the City has over 1,300 legacy desktop digital phones that are no longer supported by the manufacturer. The City has begun a multi-year process to replace these digital phones with VOIP phones based on current, supportable technology. This year 100-150 desktop phones will be replaced.
3. Metropolis Office Watch Web 3000 software application will replace the City's current telephone call accounting software. The City's current call accounting system is beyond useful life and does not provide necessary call information. This solution will allow provision of better reports and analysis on City phone usage information that could help identify areas for increased efficiencies.

In February 2008, Council awarded an agreement to American Telephone for the maintenance and support of the City's telephone system and for the purchase of related components including all parts and labor. The original agreement allowed for six one-year extensions and has been extended through March 2013 and will be re-bid at that time. The agreement allows for volume discounts on the purchase of new telecommunication equipment. For this particular equipment purchase, the discounts range from 25% to 51% off of MSRP.

44. PURCHASE: Traffic Paint

APPROVED the purchase of Waterborne Fast Dry Traffic Paint from Ennis Paint, Inc., and Sherwin-Williams, utilizing the State of Arizona contract, in a combined total amount not to exceed \$130,000.00.

45. PURCHASE: Tata Consultancy Services, Ltd.

APPROVED the purchase of annual maintenance of the Tax Mantra system from Tata Consultancy Services, Ltd., sole source, in an amount not to exceed \$126,181.00.

The Tax Mantra system is the City's privilege (sales) tax collection and licensing software system, providing the administration and process in functionality necessary for collection of nearly 50% of the City's General Fund revenues. The original five-year maintenance agreement ended July 31, 2010. Because the City's client-based version is approaching obsolescence, the vendor will not enter into a long-term maintenance agreement. Therefore, ongoing maintenance agreements will only be renewed on an annual basis.

In May 2004, Council awarded the purchase of the Tax Mantra system from Tata Infotech Ltd., now known as Tata Consultancy Services, Ltd. The purchase included a five-year agreement for annual maintenance services to be automatically renewed every August 1<sup>st</sup> of subsequent years. Because the system is proprietary, the ongoing maintenance service is available only from Tata Consultancy Services. No other vendors are authorized to provide these maintenance services.

46. USE PERMIT: Ocotillo Grill, LLC

APPROVED Use Permit LUP12-0013 Ocotillo Grill, LLC, Series 12 Restaurant License, to sell liquor for on-premise consumption only within a restaurant and outdoor patio located at 2625 W. Queen Creek Road, Suite 1. (Applicant: Christine Naiman; Whitneybell Perry, Inc.)

BACKGROUND

The subject site is located west of the southwest corner of Queen Creek and Dobson roads, within the Downtown Ocotillo commercial shopping center. The subject site is located in the end suite of an inline shops space with a dance studio located west of the subject suite. A parking field is located north of the site with Queen Creek Road beyond the parking field. East, adjacent to the restaurant, is a vacant pad.

The suite is approximately 3,800 square feet that occupies the eastern portion of a roughly 17,000 square foot inline shops building. The dining and bar area is approximately 2,419 square feet and can accommodate up to 139 patrons. The Ocotillo Grill will be open from 4 p.m. to 10 p.m. Sunday through Thursday and 4 p.m. to 11 p.m. Fridays and Saturdays. A weekend brunch will be provided 11 a.m. to 3 p.m. The narrative references the possibility for live entertainment, however no details are provided; as such, any live entertainment will require a new Use Permit.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 21, 2012. There were no neighbors in attendance. The Police Department was notified of the request and responded with no concerns.

RECOMMENDATION

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. 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.
4. The site shall be maintained in a clean and orderly manner.
5. The Use Permit is granted for a Series 12 license only and any change of license shall require reapplication and new Use Permit approval.

47. LIQUOR LICENSE: Ocotillo Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #141627 L12) for Thomas Robert Aguilera, Agent, Ocotillo Grill LLC, dba Ocotillo Grill, 2625 W. Queen Creek Road, Suite 1. A recommendation for approval of State Liquor License #12079133 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.

48. USE PERMIT: Yogi's Grill

APPROVED Use Permit LUP12-0015 Yogi's Grill, Series 12 Restaurant License, to sell liquor for on-premise consumption only within a restaurant at 6050 W. Chandler Boulevard, Suite 3. (Applicant: Yogi's Grill #7.)

BACKGROUND

The subject restaurant occupies one of the middle suites in a multi-tenant retail strip building located at the northwest corner of Chandler Boulevard and Kyrene Road. Commercial and industrial uses surround the subject site to the north and west. The intersection's other corners also have commercial uses. The subject suite is accessed by a parking lot to the north; the suite has no access facing the adjacent streets. Though the restaurant sometimes puts a table near the parking lot for outdoor dining, they will not allow alcohol in this area. The 1,670 square foot suite has seating for approximately 34 people indoors. Hours of operation are approximately 10:30 a.m. to 9 p.m. Monday through Saturday. There is no live entertainment proposed.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 25, 2012. There were no neighbors in attendance. The Police Department has been informed of the application and has no issues or concerns. Staff has received no correspondence in opposition to the request.

RECOMMENDATION

Upon finding consistency with the General Plan and Community Commercial (C-2) zoning, 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. 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.

49. LIQUOR LICENSE: Yogis Grill #7

APPROVED a Series 12 Restaurant Liquor License (Chandler #131225 L12) for Byeong Joo Kwak, Agent, P & K Mot LLC, dba Yogis Grill #7, 650 W. Chandler Boulevard, Suite 3. A recommendation for approval of State Liquor License #12079115 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.

50. USE PERMIT: Szechwan Palace

APPROVED Use Permit LUP120012 Szechwan Palace, Series 12 Restaurant License, to sell liquor for on-premise consumption only within a restaurant at 2386 N. Alma School Road. (Applicant: Szechwan Palace Restaurants LLC.)

BACKGROUND

The subject site is a freestanding pad building located within the Alma School Village shopping center on the west side of Alma School Road approximately 1,800 feet north of Warner Road. North and south of the subject site are other commercial uses. West of the shopping center, beyond a 7'-high property wall and across Comanche Drive, is a single-family neighborhood. East, across Alma School Road, is a retention basin, beyond which is another single-family neighborhood.

The existing restaurant would like to serve beer and sake as a complement to their food service, with no changes proposed to their existing operation. The restaurant seats 120 people and is open 11 a.m. to 9:30 p.m. Monday through Saturday.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 14, 2012. There were no neighbors in attendance. The Police Department has been informed of the application and has no issues or concerns. Staff has received no correspondence in opposition to this request.

RECOMMENDATION

Upon finding consistency with the General Plan and Planned Area Development (PAD) zoning, 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. 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.

51. LIQUOR LICENSE: Szechwan Palace

APPROVED a Series 12 Restaurant Liquor License (Chandler #140546 L12) for Zingjiang Zhao, Agent, Szechwan Palace Restaurants LLC, dba Szechwan Palace, 2386 N. Alma School Road. A recommendation for approval of State Liquor License #12079144 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.

52. USE PERMIT: Seksun Sushi Goaround

APPROVED Use Permit LUP12-0009 Seksun Sushi Goaround Series 12 Restaurant License, to sell liquor for on-premise consumption only within a restaurant at 1175 W. Ray Road, Suite 1. (Applicant: CRI Groups LLC.)

BACKGROUND

The subject restaurant occupies the northernmost suite in a multi-tenant retail strip building located along Ray Road. Adjacent uses to the south and east include an office building and a roller skating facility. A single-family neighborhood is located to the west. The 2,500 square foot suite has seating for approximately 108 people, all indoors. Hours of operation will be approximately 11 a.m. to 10 p.m. daily. There is no live entertainment proposed.

PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 25, 2012. There were no neighbors in attendance. The Police Department has been informed of the application and has no issues or concerns. Staff has received no correspondence in opposition to the request.

RECOMMENDATION

Upon finding consistency with the General Plan and Community Commercial (C-2) zoning, 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. 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.

53. LIQUOR LICENSE: Seksun Sushi Goaround

APPROVED a Series 12 Restaurant Liquor License (Chandler #136375 L12) for Tai Zhou Zhao, Agent, CRI Groups LLC, dba Seksun Sushi Goaround, 1175 W. Ray Road, Suite 1. A recommendation for approval of State Liquor License #12079054 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.

54. USE PERMIT: Speak Easy Saloon & Grill

APPROVED Use Permit LUP12-0010 Speak Easy Saloon & Grill, Series 12 Restaurant License, to sell liquor for on-premise consumption only within a restaurant that includes a new outdoor patio and live music at 7450 W. Chandler Boulevard. (Applicant: Jon J. Harris, Triple J Restaurant Group LLC.)

## BACKGROUND

The currently vacant subject building is located within the Chandler Technology Center business park at the northeast corner of I-10 and Chandler Boulevard. Since the building's construction in 1989, it has been occupied by three restaurants: Sizzler, Damon's and Villalpando's. Adjacent uses include two hotels to the north, an office building to the west and a Denny's restaurant to the east. Farther east is the new Rudy's BBQ restaurant. Farther north are several industrial buildings.

The site's most recent tenant, Villalpando's Mexican Restaurant, was approved for a Use Permit, without time limit, that allowed alcohol service under a Series 12 Restaurant License with live entertainment (DJ and dancing). The subject application is necessary because of an expanded bar area, a new stage, a new interior mezzanine and a new outdoor patio to be constructed to accommodate the new tenant.

The building is currently 5,700 square feet in size. The new mezzanine will add approximately 625 square feet and the outdoor patio will add approximately 1,475 square feet. The total seating capacity will be approximately 152 seats. The stage, labeled "platform" on the floor plan, is being added to the north end of the interior. Some of the seating near the stage is moveable so as to allow for a dancing area. The building's only customer entrance is on its northeast end and includes two sets of doors with a small vestibule.

The new outdoor patio will displace a landscaped area on the building's south side, facing Chandler Boulevard, though three existing trees will be maintained within the patio area. The existing sidewalk will remain just outside the patio. No live entertainment will occur on the patio, though it will have speakers to broadcast ambient music and any live music occurring indoors. The patio will be enclosed by a 5'-high fence.

Hours of operation are 3 p.m. to 2 a.m. daily. In the future, the establishment may add a catering element that occurs during other hours, but it would not involve on-site service.

## DISCUSSION

The Planning Commission and Staff support the request finding the live entertainment and outdoor patio in conjunction with alcohol sales to be appropriate at this location. It is noted that there is no outdoor live entertainment and that Chandler Boulevard traffic already creates a substantial amount of noise at this location. The Planning Commission and Staff recommend a condition that addresses noise volume in order to prevent a land use conflict with the adjacent hotels.

## PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 5, 2012. Two representatives of the adjacent hotels, Hampton Inn and Homewood Suites, attended to gather general information about the request. The Police Department has been informed of the application and has no issues or concerns. Staff has received no correspondence in opposition to this request.

## PLANNING COMMISSION VOTE REPORT

Motion to approve: In Favor: 7 Opposed: 0

The Planning Commission added Condition No. 9 in order to emphasize that live music not be conducted on the outdoor patio because of the potential impacts on neighboring hotels.

### RECOMMENDATION

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

55. LIQUOR LICENSE: Speak Easy Saloon and Grill

APPROVED a Series 12 Restaurant Liquor License (Chandler #141427 L12) for Jon Jeffrey Harris, Agent, Triple J Restaurant Group LLC, dba Speak Easy Saloon and Grill, 7450 W. Chandler Boulevard. A recommendation for approval of State Liquor License #12079122 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.

56. WINE FESTIVAL/WINE FAIR LICENSE: Kokopelli Winery

APPROVED a Wine Festival/Wine Fair License for KWB Chandler LLC, dba Kokopelli Winery for a Castle & Corks event August 17, 18 & 19, 2012 at The Castle at Ashley Manor, 1300 S. Price Road. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Wine Festival License, a licensed domestic farm winery, within the confines of the event during the designated event periods, can serve samples of its products, sell such products for consumption on the premises and sell their products in original containers for consumption off the premises. The Police Department reports no objections to the issuance of this license and the wine festival fees have been paid.

57. SPECIAL EVENT LIQUOR LICENSE: Downtown Chandler Community Foundation

APPROVED a Special Event Liquor License for the Downtown Chandler Community Foundation for "Taste" Chandler's Culinary Festival on October 6, 2012 at Dr. A.J. Chandler Park, 3 S. Arizona Avenue. A recommendation for approval will be forwarded to the State Department of Liquor Licenses and Control. With a Special Event Liquor License, the organization can sell all alcoholic beverages within the confines of the event during the designated event periods. The Police Department reports no objections to the issuance of this license. As this applicant is a non-profit organization, no sales tax license is required; however, the special event liquor fee has been paid.

58. CONDOMINIUM PLAT: Westech Condominium-Lot 1

APPROVED Condominium Plat CPT12-0001 Westech Condominium-Lot 1, creating four units within Building 3 of Lot 1, which amends the existing plat for Westech Lot 1 only at 2551 N. Arizona Avenue at the SEC of Arizona Avenue and Palomino Drive. (Applicant: Cottrell Engineering Group, Inc.)

59. CONDOMINIUM PLAT: Westech Condominium-Lot 5

Approved Condominium Plat CPT12-0002 Westech Condominium-Lot 5, creating four units within Building 4 of Lot 5, which amends the existing plat for Westech Lot 5 only at 2541 N. Arizona Avenue at the SEC of Arizona Avenue and Palomino Drive. (Applicant: Cottrell Engineering Group, Inc.)

60. FINAL PLAT: Westech Lots 1, 5 and 6

APPROVED Final Plat FPT12-0004 Westech Lots 1, 5 and 6 amending lot lines and easements for Lots 1, 5 & 6 in Westech at 2551, 2541 and 2521 N. Arizona Avenue at the SEC of Arizona Avenue and Palomino Drive. (Applicant: Cottrell Engineering Group, Inc.)

61. AMENDED FINAL PLAT: Kesler Addition

APPROVED Amended Final Plat FPT12-0001 Kesler Addition, for a 6-lot existing single-family development on approximately 1.63 acres owned by the City of Chandler located at the NEC of Kesler Lane and Colorado Street. The plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way. (Applicant: City of Chandler.)

62. FINAL PLAT: Hamilton Parcel

APPROVED Final Plat FPT12-0013 Hamilton Parcel, for a 6-lot existing single-family development on 1.45 acres located at the SEC of Hamilton Street and Commonwealth Avenue owned by the City of Chandler. The plat creates the lots and tracts, establishes the necessary easements, and dedicates the required rights-of-way. (Applicant: City of Chandler.)

63. FINAL PLAT: Finisterra

APPROVED Final Plat FPT12-0007 Finisterra, in conjunction with an approved 133 single-family development on approximately 38 acres located at the SWC of Ocotillo Road and 148<sup>th</sup> Street. The plat creates the lots and tracts, establishes the necessary easements, and dedicates the required rights-of-way. (Applicant: United Engineering Group.)

64. VACATION PLAT: Finisterra

APPROVED Vacation Plat VPT12-0001 Finisterra, in conjunction with an approved single-family development located at the SWC of Ocotillo Road and 148<sup>th</sup> Street. (Applicant: United Engineering Group.)

BACKGROUND

The Vacation Plat is proposed in conjunction with an approved single-family development on approximately 38 acres. It will vacate 10-feet of right-of-way along Ocotillo Road, west of 148<sup>th</sup>

Street. The vacation of the right-of-way follows the recently approved Finisterra residential subdivision. When the subdivision was initially developed, it was developed according to County requirements, which at the time, required a 65-foot right-of-way. Upon annexation and review of a modified subdivision layout, Staff determined that a 55-foot right-of-way is sufficient to meet the City's Circulation Plan.

65. FINAL PLAT: Archstone Village Crossing At Chandler

APPROVED Final Plat FPT12-0012 Archstone Village Crossing At Chandler, for a multi-family residential apartment development and future commercial/office/business park parcel located at the NEC of Arizona Avenue and Queen Creek Road. The plat creates the two lots and tracts, establishes the necessary easements and dedicates the required rights-of-way. (Applicant: Clouse Engineering, Inc.)

66. FINAL PLAT: Arizona Elliot Center

APPROVED Final Plat FPT12-0012 Arizona Elliot Center, for a commercial development approved for fuel station, car wash, self-storage and fast-food restaurant uses located at the SWC of Elliot Road and Arizona Avenue. The plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way. (Applicant: Arizona Elliot Holdings, LLC.)

67. FINAL PLAT: Hamilton Heights

APPROVED Final Plat FPT12-0003 Hamilton Heights, in conjunction with an approved single-family development on approximately 9 acres located west of the SWC of Arizona Avenue and Queen Creek Road. The plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way. (Applicant: Bowman Consulting Group.)

68. FINAL PLAT: The Estates at Arboleda

APPROVED Final Plat FPT12-0015 The Estates at Arboleda, for a single-family residential subdivision approved for custom homes located west of the SWC of Germann and Alma School roads. The plat creates the lots and tracts, establishes the necessary easements and dedicates the required rights-of-way. (Applicant: Civil Group, LLC.)

69. TEMPORARY EXTENSION OF PREMISES LIQUOR LICENSE: McDuffy's Grille

APPROVED a Temporary Extension of Premises for a Series 12 Liquor License (Chandler #130729 L12) held by Gamma Brother's LLC, dba McDuffy's Grille, 980 E. Pecos Road, Suite 5, for McDuffy's Customer Appreciation Luau on July 28, 2012. A recommendation for approval of a Temporary Extension of Premises for State Liquor License #12078438 will be forwarded to the State Department of Liquor Licenses and Control. 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.

**ACTION:**

1. ZONING CODE AMENDMENT: Parking and Loading Regulations

Ord. #4375

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4375, Zoning Code Amendment ZCA12-0001, Parking and Loading Regulations, amending Article XVIII Parking and Loading Regulations of Chapter 35 (Zoning Code) of the Chandler City Code. (Applicant: City Initiative)

### BACKGROUND

The proposed code amendments were initially prompted by a comment made in the TechSolve Report stating that Chandler's requirements for the number of parking spaces is too high and needs to be reduced.

More recently, the Mayor's 4-Corner Retail Committee examined aging commercial areas and made the following recommendations, among others, for revitalizing those areas:

- The current parking ratios are a challenge to redevelopment and the City's ordinance needs to be reviewed and reconsidered, particularly in identified redevelopment areas.
- The process to change parking requirements is a hindrance to both new developments and redevelopment, and Staff should have additional flexibility to determine parking requirements without Council approval.
- The City needs to incorporate more of a shared parking model, particularly in identified redevelopment areas, as many of these tenants do not generate activity that approaches the parking required by the current code. There needs to be flexibility in these areas, creating a "win-win" to bring in tenants.

These comments/recommendations provided Staff with two primary goals: (1) reduce high parking ratios, and (2) increase flexibility at Staff's level in order to be more responsive to developments.

With the assistance of parking consulting firm Carl Walker, Inc., Staff diligently reviewed existing parking ratios and compared them with other cities in the area, national industry standards recommended by Urban Land Institute, National Parking Association and the Institute for Transportation Engineers and parking demand studies that have been conducted for specific land use categories in Chandler. The analysis led to a handful of proposed reductions as well as several new categories for clarification purposes.

The proposed amendments also include parking reduction tools to address the parking recommendations from the Mayor's 4-Corner Retail Committee. One such tool, the Parking Demand Studies section, would allow Staff to review and approve requests to reduce parking requirements up to 40% based on a quantitative parking analysis that demonstrates unique parking demand for a proposed use. Another tool is the shared parking model that would allow mixed use developments or two or more non-residential uses to reduce the amount of parking required by demonstrating that the peak parking time periods are offset from each other.

Section 35-1804.8 establishes a maximum parking ratio of 125% of the minimum parking requirement in order to improve streetscape quality and help mitigate the urban heat island effect. Several exceptions were identified and developments are allowed to exceed the maximum if the increase is justified by a parking demand study and at least half of the parking area is built to help mitigate urban heat island effect. Mitigation measures include providing shade and utilizing paving materials that have a greater ability to reflect the sun's heat.

The amendments also include provisions for tandem parking, parallel parking, and off-street parking credits, none of which are currently allowed to be counted towards the required parking.

These provisions will encourage more efficient use of land and could particularly benefit infill properties and redevelopment projects.

After conducting a thorough analysis as described above, Staff feels that Chandler's parking ratios with the proposed reductions are appropriately aligned with typical parking demands of each land use category. Requiring too much parking could potentially create negative effects such as reduced development feasibility, reduced streetscape quality, reduced density in areas where density is desired and discourage mixed use developments. On the other hand, if parking ratios are too low, they may potentially create other negative effects such as encouraging illegal parking on neighboring properties or public streets which may also lead to traffic and public safety issues. Based on comparisons with national standards, local jurisdictions and specific parking demand studies, Staff believes that the proposed parking ratios are not too high nor too low, thus avoiding potential problems with either scenario.

While the proposed parking ratios are aimed at typical parking demands, Staff acknowledges that many developments will have legitimate atypical parking demands. The proposed parking reduction tools will increase the City's ability to be more responsive to land uses with atypical parking needs as well as have the desired effect of encouraging infill development/redevelopment, adaptive re-use of existing buildings and higher densities in areas where encouraged by the General Plan. Such innovative zoning tools will facilitate the implementation of these various goals from the Chandler General Plan.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

- As required by Arizona Revised Statutes, hearing dates for the Planning Commission and City Council, as well as the complete text of the draft Code amendments have been published in an eighth-page newspaper ad at least fifteen days prior to the first required public hearing.
- Notices containing a website link to view and print the proposed amendments were mailed to approximately 150 stakeholders consisting of applicants, developers, zoning attorneys, architects and contractors that have been involved in a new development in Chandler within the last two years.
- Electronic notices were sent to the following professional organizations: Chandler Chamber of Commerce, Downtown Chandler Community Partnership, Valley Partnership, Arizona Multihousing Association, Home Builders of Central Arizona, and the Arizona Chapter of the NAIOP Commercial Real Estate Development Association.
- Staff received three responses from stakeholders; two provided constructive feedback which led to more revisions and the third made a positive comment that the City was headed in the right direction with the proposed amendments.
- Staff briefed the Planning Commission to obtain feedback on two separate occasions, March 7 and May 16, 2012, and on June 20, 2012, the Planning Commission voted in favor of the proposed amendments. All three were conducted as regular public hearings and noticed accordingly.

#### PLANNING COMMISSION VOTE REPORT

Motion to approve: In Favor: 7, Opposed: 0

The Planning Commission unanimously voted to recommend approval of the ordinance with a minor revision that was suggested by the City Attorney's office. The revision removed wording regarding the procedure to appeal decisions made by the Zoning Administrator. This procedure is currently specified elsewhere in the Zoning Code.

### RECOMMENDED ACTION

Upon finding consistency with the General Plan and recommendations from the Mayor's 4-Corner Retail Committee, the Planning Commission and Staff recommend approval.

### DISCUSSION

VICE-MAYOR WENINGER said that he has been speaking with the City Attorney and advised that an amendment cannot be made by taking one item out because it deals with zoning. He asked staff if the item pertaining to the maximum parking spaces is new or if it already existed.

DAVID DE LA TORRE, Principal Planner, said that it is a new proposal that does not currently exist. Staff is proposing to add a maximum parking ratio of 125%, which is not currently in the zoning code. He said there are some exceptions to that parking ratio. For example, if the additional parking is located within the same building footprints, whether it be on top of the building or within an underground parking garage, then there would be no maximum in that type of situation. MR. DE LA TORRE noted there are other exceptions that would allow developers to exceed the maximum parking ratio without any other requirements. If the exceptions are not met, the developer would still have the option of exceeding the maximum parking ratio if they show staff that they need the additional parking through a parking demand study and also if they provide half of the parking area. MR. DE LA TORRE also said that they could use mitigation measures to help mitigate the urban heat island effect. He explained that it could be one mitigation measure or a combination of mitigation measures including adding more shade trees, adding architectural structures for shade such as covered parking, covered walkways inside the parking area, or it could be alternative paving materials with a certain solar reflectance index (SRI) or pervious paving is another option that would help mitigate the urban heat island effect.

MR. DE LA TORRE said that this is completely new. He noted that this is not a new concept, as other cities have adopted similar measures. MR. DE LA TORRE said it is required for a Leadership in Energy and Environmental Design (LEED) credit. It also is required by the International Code Council for their International Green Building Code.

VICE-MAYOR WENINGER said that he really likes a lot of the work that staff has done. However, he believes that by requiring businesses to use newer materials and require more shaded areas will involve more upkeep and maintenance for developers and property owners, which means that the rent will be higher in the newer centers.

MOVED BY VICE MAYOR WENINGER TO SEND THIS ITEM BACK TO PLANNING AND ZONING WITH THE MAXIMUM PARKING SPACES SECTION DELETED. MOTION DIED DUE TO LACK OF SECOND.

COUNCILMEMBER DONOVAN asked if this piece offers the ability for someone who plans to exceed the parking requirements an opportunity to meet the requirements by doing additional items. COUNCILMEMBER DONOVAN noted that sometimes individuals request exceptions and provide justification for those exceptions and they are listed in the documents that Council receives for review. She asked if it could be possible that when someone exceeds the maximum parking ratio by 125%, but is unable to mitigate the urban heat island effect, could those be reviewed on a case-by-case basis and possibly approved with the exceptions noted.

MR. DE LA TORRE advised that as it is written currently that would not be the case. If the individual exceeds the maximum parking 125% ratio and do not meet any of the exceptions, they

would need to provide at least half of the parking area with some combination of those mitigation measures in addition to showing staff that the additional parking is needed.

COUNCILMEMBER DONOVAN asked for clarification on half of the area being built. For example, if they exceed the parking ratio by 140%, would half mean 70% mitigated or half of the overage.

MR. DE LA TORRE confirmed that it would be 70%, which would be half of the entire parking area.

COUNCILMEMBER HEUMANN advised that this would impact new development. He asked if Council has the authority under the PAD (Planned Area Development) process to approve these types of items.

MR. DE LA TORRE said that is correct, under the PAD process Council does have the authority and flexibility to approve. MR. DE LA TORRE advised he was speaking in terms of hard zoning instances that there would not be any flexibility.

COUNCILMEMBER HEUMANN asked if there are any large hard zoned pieces that could be impacted by this.

MR. DE LA TORRE said theoretically yes, this would apply to all properties. This would impact regional commercial shopping centers. In practical terms, it is not likely to have any hard zoning properties that will be affected by this particular part of the zoning ordinance.

COUNCILMEMBER HEUMANN reiterated that under the PAD Council has the discretion to do this. This serves as a guideline for development. He said that staff has done a good job. He said as part of the 4-Corner Retail project that we are allowing a lot of reductions in parking. He believes that with the PAD process in place, this is the only place this could come up. COUNCILMEMBER HEUMANN said he is fine with this moving forward.

MOVED BY COUNCILMEMBER ORLANDO, SECONDED BY COUNCILMEMBER DONOVAN TO INTRODUCE AND TENTATIVELY APPROVE Ordinance No. 4375, Zoning Code Amendment ZCA12-0001, Parking and Loading Regulations, amending Article XVIII Parking and Loading Regulations of Chapter 35 (Zoning Code) of the Chandler City Code.

MOTION CARRIED BY MAJORITY (5-1). VICE-MAYOR WENINGER VOTED NAY ON THIS ITEM.

70. USE PERMIT: Sidelines Grill & Tavern

APPROVED Use Permit LUP12-0011 Sidelines Grill & Tavern, Series 12 Restaurant License, to continue selling liquor for on-premise consumption only within a restaurant that includes an outdoor patio and live music at 2980 S. Alma School Road, Suite 2. (Applicants: Sidelines Tavern and Grill Corporation/Arizona Liquor Industry Consultants.) with modified stipulations on items 7, 10, and 13.

The modified conditions read:

(7) The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler

(10) Music shall not be played after 10 p.m. on Thursday and Sunday and not after 11:30 p.m. on Friday and Saturday evenings. Music shall not be played before 9 a.m. on any day.

VICE-MAYOR WENINGER also requested that both Mr. and Ms. Grako's cell phone numbers be provided for item number 13.

(13) The restaurant shall provide contract information for a responsible person (restaurant owner and/or manager) to interested neighbors that allow music complaints to be resolved quickly and directly

#### BACKGROUND

The subject restaurant is located west of the northwest corner of Alma School and Queen Creek roads within the Ocotillo Plaza shopping center that contains the vacant anchor stores formerly occupied by Target and Basha's. The restaurant occupies the southern end of a pad building along Queen Creek Road. The subject request is to extend the approval for alcohol service with live music on the outdoor patio.

The restaurant first received a Use Permit for alcohol service under a Series 12 Restaurant License in 2002. It received a new Use Permit in 2009 to accommodate a patio expansion. In April 2011, it received a Use Permit, limited to one (1) year, to allow the addition of live music on the outdoor patio. The 1-year time limit was intended to allow re-evaluation after a track record had been established regarding the effect of the music on surrounding neighborhoods.

The restaurant has an estimated seating of 202 persons, including 60 seats on a 1,150 square foot outdoor patio along its southeastern wall. The patio is enclosed with 36-inch tall decorative railing and includes a fireplace and six televisions. The restaurant has been in operation since 2002 (always under a Series 12 Restaurant License) and is open Sunday and Monday from 11 a.m. to 11 p.m., Tuesday through Thursday from 11 a.m. to 12 a.m., and 11 a.m. to 1 a.m. on Fridays and Saturdays.

The application requests permission to continue hosting live music as previously approved in 2011. The 2011 approval contained several conditions relating to the music, including that music "not unreasonably disturb area residences," and that music "not exceed the ambient noise level as measured at the commercial property line," and that the restaurant provide a phone number for a responsible person in order to quickly resolve any noise complaints. Music is allowed until 10 p.m. on Thursdays and Sundays, and until 11:30 p.m. on Fridays and Saturdays; in practice, the restaurant has chosen to limit music to before 10 p.m. on those days. Music speakers are 12" in diameter and are directed toward the building.

On April 7<sup>th</sup>, the restaurant held a 10-year anniversary party as administratively approved by the City through a special event permit. The special event permit allowed for amplified music and for part of the parking lot to be occupied by a tent, games, etc. The special event permit is separate approval for a one-time event that is not considered part of the Liquor Use Permit.

The Planning Commission and Staff recommend approval of the request with a time limit of one (1) year to allow for re-evaluation of conditions regarding amplified music. It is a matter of debate between neighbors and the restaurant owner how many times the music has been too loud and how many times phone calls have been made to the facility. It is apparent that the music sometimes bothers the neighbors and possibly fails to abide by the previously approved conditions. However, the restaurant has hosted live music many times over the past year, oftentimes not bothering the neighbors, which indicates that it is possible to abide by the recommended conditions and be compatible with the surrounding area. It is expected that the restaurant comply 100% of the time in the future with their Use Permit conditions. As always, noncompliance with approved Use Permit conditions could be grounds for revocation of the Use Permit and the associated permissions for live music and alcohol sales.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

This request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on June 5, 2012. All neighbors who provided their addresses on signed petitions (either for or against) regarding last year's Use Permit were sent notification of the request. A neighbor couple attended the meeting with concerns about live music that they had previously communicated to City Councilmembers and Staff in April. Essentially, the neighbors report that the live music usually does not disturb them, but that it disturbed them on two occasions in April. One of the two occasions was the restaurant's 10-year anniversary party, which received a special events permit from the City of Chandler. The other occasion involved a phone call to the restaurant that did not result in a change of music volume and the disturbance continued. The concerned neighbors are okay with the approved Use Permit conditions as long as they are actually abided by. However, the neighbors are concerned by the past noncompliance. About 10 people associated with the restaurant also attended the meeting in support. The Police Department has been informed of the application and has no issues or concerns. Staff has received no further correspondence in opposition to this request.

#### PLANNING COMMISSION VOTE REPORT

Motion to approve: In Favor: 7      Opposed: 0

The Planning Commission heard testimony from several neighbors residing in the Stillwater Cove neighborhood located southwest of the subject site, across Queen Creek Road. Five neighbors spoke with concerns about the effects of music on their neighborhood. The neighbors conveyed being disturbed by the restaurant's music between 3 and 12 times over the past year. Two of the neighbors reported making calls to the restaurant, which sometimes did and sometimes did not result in the volume being lowered to their satisfaction. Other neighbors did not call at all, but rather just went inside or tried to ignore the music. It was decided that residential wall heights might have something to do with why some neighbors were bothered while others were not. The neighbor's requests included that the music stop at 10 p.m. (rather than the previously allowed 11:30 p.m.), that the Use Permit be limited to one year, that the music be kept quieter, and that their phone calls requesting a volume adjustment be abided by.

One neighbor spoke in support of the request saying that she has never heard the music when out walking her dogs at night. Additionally, two other neighbors attended but chose not to speak - one in favor and one opposed.

The restaurant representatives denied some of the alleged music violations contending that there were only two noise events one of which was the 10-year anniversary. However, they expressed a willingness to work with the neighborhood to control the music volume and adjust it upon receiving any neighbor phone calls.

The Planning Commission modified two conditions as they were originally presented by Staff so that the Use Permit be approved for one year (rather than three years) and that the music stop at 10 p.m. on all nights (rather than allowing it until 11:30 p.m. on Fridays and Saturdays).

The Commissioners expressed a hope that neighbor/restaurant communication would be improved over the coming year.

### RECOMMENDATION

Upon finding consistency with the General Plan and PAD zoning, Staff recommends 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. 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 allow music complaints to be resolved quickly and directly.

### DISCUSSION

SENIOR PLANNER BILL DERMODY said that this is a request by Sidelines Grill and Tavern for a use permit approval to continue to sell alcohol under a Series 12 license; however, there will also be much discussion about music. Sidelines Grill is located in the shopping center at the northwest corner of Queen Creek and Alma School roads. MR. DERMODY said that the center was formerly anchored by Target and a grocery store; both of those stores are now vacant. Sidelines is located along Queen Creek Road on the southern part of that building. MR. DERMODY said that Sidelines has had a series of liquor use permits in the past, one for the inside of the restaurant and a small patio. Sidelines then came back and expanded to a larger patio. Last year Sidelines requested live music outdoors, which they did not have previously. MR. DERMODY said that among the conditions that were placed upon that were a one-year time limit,

any music not unreasonably disturb area residences, that the music not exceed the ambient noise level as measured at the commercial property line, and that the restaurant provide a phone number for a responsible person to quickly resolve any noise complaints.

MR. DERMODY advised that neighborhood input was received from the subdivision southwest across Queen Creek Road on the other side of the commercial center, along the golf course. He said that many neighbors spoke last year and we will hear from some of them again tonight. He noted that during the Planning Commission Hearing there were several speakers with a debate about how the live music has gone during the past year. He said there were between one and five noise issues, depending on who was asked. Those issues will be discussed in more detail tonight.

MAYOR TIBSHRAENY asked that anyone interested in addressing the Council on this issue to please feel out a speaker card.

MR. DERMODY said that the individuals who spoke in opposition asked that the music be turned off at 10:00 p.m. and Sidelines generally had ended the music by that time, even though the business had permission to play the music until 11:30 p.m. MR. DERMODY noted that one neighbor spoke in support of this use permit.

MR. DERMODY said in regard to the condition about having a responsible person answer the phone and adjust the music level that condition shall be abided by. With that, including the amendment on the time, Planning Commission and staff recommended approval for a time period of one-year. He noted that there was one issue with the noise during the past year; however, there has been live music played many times without incident. The Planning Commission and staff believe that it is possible to have alcohol and live music and maintain compatibility with the neighbors.

MR. DERMODY advised that Sidelines could have its use permit for live music revoked if it does not abide by the conditions.

MAYOR TIBSHRAENY asked Mr. Dermody for clarification on the proposed motion.

MR. DERMODY said that the motion changed a bit from what was presented to the Planning Commission. What is in the motion includes a one-year time limit and the 10:00 p.m. end time for the music.

MAYOR TIBSHRAENY asked on recommendation number 10. Music shall not be played after 10:00 p.m. or before 9:00 a.m. on any day. The music shall be limited to Thursday through Sunday.

MR. DERMODY said that is correct.

MAYOR TIBSHRAENY asked the applicant to come forward.

MR. RANDY NATIONS, 1811 S. Alma School Rd. #268, Mesa, Arizona, came forward. He said that he owns and operates Arizona Liquor Industry Consultants. MR. NATIONS said he is the Agent on the liquor license application and use permit.

MR. NATIONS said that believes that one or two individuals have their own private agenda. He said that the individuals are disseminating misinformation to the neighborhood in an attempt to

garner support for their opposition of Sidelines playing live music. He noted that there have been neighborhood meetings to resolve neighborhood issues.

MR. NATIONS said that there were two individuals in opposition of this item at the neighborhood meeting. MR. NATIONS noted that he believes that their issues were resolved, since they were not present at tonight's meeting.

MR. NATIONS said that nobody was in agreement at the Planning and Zoning meeting.

MR. NATIONS said that Sidelines has had the use permit for one year and there have not been any substantiated calls for service in regard to noise complaints. MR. NATIONS said that Sidelines has done everything to adhere to the requirements of this use permit. He noted that this costs Sidelines approximately \$2000 each time that they request a new use permit. MR. NATIONS said that Sidelines has been a good neighbor and is requesting that a permanent use permit be issued for Sidelines.

COUNCILMEMBER ORLANDO asked if the proprietor that runs Sidelines is present.

MR. NATIONS said that he is present.

MAYOR TIBSHRAENY read a Comment Card: "In support of allowing/granting 3 yr. use permit for Sidelines Restaurant and Grill Tavern." The comments were submitted by Amy and Garry Blackwell, 3040 S. Rosemary Dr. Chandler, AZ 85248. MS. BLACKWELL said she would also like to speak.

MAYOR TIBSHRAENY added Ms. Blackwell to the list of speakers.

MR. PAUL GRAKO came forward and said that he and his wife, Christina, own the Sidelines restaurant. He said he and his wife are looking at increasing cash flow to their restaurant business. He said that the music has helped tremendously. When business is slow, the music brings people in, they stay, have a good time, and they spend money. MR. GRAKO said that they have had music approximately 50 times. During that course of time, there was one complaint and another complaint during Sidelines ten-year Anniversary party, when there was a full band. There was a separate use permit for the Anniversary party. Currently, there is a person singing and playing a guitar.

MR. GRAKO said he is frustrated that they have been playing live music for one year, with only one complaint out of approximately 50 times. If there was a complaint someone could call the restaurant and the music would be turned down, if that didn't happen, Ms. Grako's cell phone number was provided as a secondary number.

MR. GRAKO said that Sidelines has been a good neighbor and they have done what they were supposed to do. MR. GRAKO said that during the Planning and Zoning Commission meeting was cut down the time with a renewal for another one-year. MR. GRAKO is proposing to leave the music time until 11:30 p.m. on Friday and Saturday night and to extend the use permit permanently, noting that if there is an issue, an individual can call the restaurant and staff will turn down the music. If the music is not turned down, the second phone number provided is to his wife's cell phone. MR. GRAKO said if his wife receives a phone call she will go to the restaurant to ensure that the music is turned down.

MR. GRAKO said that Sidelines is the largest tenant left in that shopping center. He said that the extra hour and a half on a Friday and Saturday night helps the restaurant to survive during the slow times.

MAYOR TIBSHRAENY asked Mr. Grako if he is proposing the end time for the music be 11:30 p.m. on Friday and Saturday instead of 10:00 p.m. Limiting the music to be played Thursday through Sunday. MAYOR TIBSHRAENY also clarified that Mr. Grako is asking for more than one-year.

MR. GRAKO said that is correct, based on the stress, time involved, and money they would like more than a one-year use permit.

COUNCILMEMBER ORLANDO asked if guitar is the only music played.

MR. GRAKO said that his wife could provide additional details, as she and his mother-in-law coordinate the day-to-day operations.

MS. CHRISTINA GRAKO came forward to provide details on the types of music that is played at Sidelines.

MS. GRAKO said that she is at the restaurant as much as she can be. For tonight's meeting, she brought with her three of the managers who are there when she is not. MS. GRAKO said that she has a log right next to the phone following last year's one-year use permit. The music times are limited to 10:00 p.m. on Thursdays with the ability to play the music until 11:30 p.m. on Friday and Saturday evenings.

MS. GRAKO said that the phone log includes the name, phone number, if anyone were to ever call and complain. MS. GRAKO said that during the past year she has not received a call on her cell phone. MS. GRAKO said one of her managers (Jessica) did call her on April 7, during the Sidelines Anniversary party when they had a band. She said that at that time after receiving the complaint they shut it down. MS. GRAKO said that Jessica called again on April 20, which was two weeks later and the music was turned down right away. Those are the only two items on the log.

MS. GRAKO said that during the last meeting, a lady said that she called to complain about the music on numerous occasions. MS. GRAKO said that upon looking at the records, Sidelines did not have music on those dates. MS. GRAKO said that she brought several of the girls who run the restaurant and they are available to speak.

COUNCILMEMBER ORLANDO asked what kind of music is being played.

MS. GRAKO said that they have acoustic guitar. A man named Allen plays music like Neil Diamond, Neil Young, etc. He has a 12 inch or smaller speaker. Once in a while, she said that another group, Desert Dixie, performs. MS. GRAKO said that the evening that Desert Dixie played was the night that a phone call was received and the music was turned down right away.

MS. GRAKO said that since the last meeting they have called the neighbors to advise that they have been working with a sound engineer to help with this issue. Stuart thought by turning the speakers toward the parking lot instead of toward the restaurant that might help mitigate the situation. Bamboo shades were also added.

MR. and MS. GRAKO said that on three different occasions they visited Stuart's house (3121 S. Vista Dr.) and said that you could not hear any noise.

MR. GRAKO said that unfortunately Stuart is out of the country or he would have spoken in favor of this use permit because they have done what they said they would do.

COUNCILMEMBER ORLANDO asked when the speakers were turned.

MS. GRAKO said that the speakers were turned right after the Planning and Zoning meeting. The speakers were facing west, now they are facing north.

COUNCILMEMBER ORLANDO clarified that these changes have taken place since the last Planning and Zoning meeting.

MS. GRAKO said that is correct.

MS. GRAKO said that the neighbors were great. They all met outside and the Grako's asked what else they could do. The neighbors provided their phone numbers. MS. GRAKO said that Joan Maloof, (3140 S. Vista Dr.) a neighbor who was previously in opposition is no longer against the use permit. MS. GRAKO said Ms. Maloof has been wonderful.

MAYOR TIBSHRAENY invited Amy Blackwell, 3040 S. Rosemary Dr. Chandler, AZ 85248 to come forward. MS. BLACKWELL said that she lives on the southwest corner of Queen Creek and Alma School, against the property line wall. She said there aren't any sound barriers to her home. MS. BLACKWELL said that she and her family are outside a lot and have never heard anything when Sidelines is playing music. She is not sure how the other neighbors are hearing anything.

MS. BLACKWELL said that the excess costs and the inconvenience of requesting a use permit annually can be cost prohibitive for a small business. MS. BLACKWELL asked that the Council consider granting the use permit to Sidelines, extending the hours for music to 11:30 p.m. from 10:00 p.m. and also extending the term of the use permit. MS. BLACKWELL noted that there have been no substantiated noise complaints.

MS. HEATHER PICCIRILLO, 1817 N. Dobson Rd. #1080, Chandler, Arizona. MS. PICCIRILLO said that she has been a manager at Sidelines since 2004. She said that the patrons and guests love the music on Friday and Saturday nights. She said that the music is detrimental to the business.

MS. JESSICA LOVE, 280 S. Evergreen Rd. #1332, Tempe, Arizona. MS. LOVE said that she is also a manager at Sidelines and has worked there for three years. MS. LOVE said that business has increased as a result of the music. She said that she has only received one noise complaint and turned down the music right away. She said that she can't hear the music outside while she is working inside. MS. LOVE said that she is also requesting the extended hours, as well as an extended use permit.

MS. KAREN NADEAU, 12228 S. Oneida St., Phoenix, Arizona. MS. NADEAU said that she is Paul Grako's mother-in-law who helps run Sidelines. MS. NADEAU said that she has worked there for approximately 10 years. She said that she takes her job very seriously and the music situation very seriously as well. She said that she always makes sure that the speakers are turned in the proper position. MS. NADEAU said that she has had no complaints, but would address complaints immediately. She said they would like to get along with the neighborhood so

that everybody benefits. MS. NADEAU said it is a nice place for the customers to go. MS. NADEAU said that she would like to have the music as long as permissible, with the hours extended.

COUNCILMEMBER HEUMANN asked what hours MS. NADEAU.

MS. NADEAU said she is normally there from 7:30 a.m. until late, depending on how busy it is. She assured the Council that there is always a manager on site available to handle situations. MS. NADEAU said she is usually there long enough to make sure that the music is taken care of and set up properly before leaving.

VICE-MAYOR WENINGER MOVED TO APPROVE USE PERMIT LUP12-0011 SIDELINES GRILL & TAVERN, SUBJECT TO THE CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION AND STAFF AND ALL ATTACHMENTS WITH AMENDMENTS TO CONDITION NUMBERS 7 AND 10.

(7) The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler

(10) Music shall not be played after 10 p.m. on Thursday and Sunday and not after 11:30 p.m. on Friday and Saturday evenings. Music shall not be played before 9 a.m. on any day.

VICE-MAYOR WENINGER also requested that both Mr. and Ms. Grako's cell phone numbers be provided for item number 13.

(13) The restaurant shall provide contract information for a responsible person (restaurant owner and/or manager) to interested neighbors that allow music complaints to be resolved quickly and directly

COUNCILMEMBER HEUMANN said that about a week ago he had a conversation with Ms. Grako. He said that it is very important that the managers understand the situation. COUNCILMEMBER HEUMANN said that he believes that was displayed by the managers tonight. He asked that Ms. Grako reiterate what has been done.

MS. GRAKO said that she brought the managers here tonight to confirm that all of the managers understand the importance of handling any complaints that come through. MS. GRAKO said that she is there when she can be. She lives right across the street. On the two occasions where she received a phone call she responded within five minutes.

COUNCILMEMBER HEUMANN said that he realizes how important this business is to the Grako's. He said that while he is supportive of this, but reminded Ms. Grako that the zoning administrator can come back should there be any issues down the road. COUNCILMEMBER HEUMANN said that he wants Sidelines to be successful and he is appreciative of the efforts they have made to reach out to the neighbors.

COUNCILMEMBER DONOVAN acknowledged that the Grako's have been working with the neighbors, but asked Bill Dermody if he could explain the process for a three year use permit should an issue arise at a later time.

MR. DERMODY advised that if this use permit was approved and Sidelines did not abide by the conditions, there is a revocation process in the zoning code. The zoning administrator would need to make a determination, gather evidence and if it was found that Sidelines was not in compliance the revocation process would start. There is due process. They would receive written notice, an opportunity to ask for a hearing, etc. Shortly thereafter, they could lose the right to have any live music. They would have to abide by the previous use permits that they had in the past.

COUNCILMEMBER DONOVAN asked if there has been a revocation in the past.

MR. DERMODY said that he does not recall the revocation process taking place in the past.

COUNCILMEMBER DONOVAN asked if a neighbor were to call if they do not receive a response from Sidelines, they would not be able to call City staff about loud music. COUNCILMEMBER DONOVAN asked Mr. Dermody how Planning staff would proceed with the revocation process in those instances.

MR. DERMODY said that should a revocation process need to occur, staff would likely rely on police records to research any complaints.

COUNCILMEMBER DONOVAN said that she is encouraged how well both sides have worked together. She was also pleased when concerns were identified during the Planning Commission meeting how quickly Sidelines was able to resolve some of those concerns that were presented. COUNCILMEMBER DONOVAN said she is hopeful that if this use permit is approved for three years, it won't be necessary to deal with the worst case scenario. She also wants to be mindful of neighborhood concerns. She noted this is not a permanent use permit. Sidelines will be required to come back in three years.

COUNCILMEMBER DONOVAN said that she appreciates the neighbors who contacted the Mayor and Council to share their thoughts on this issue.

When the vote was taken, MOTION CARRIED UNANIMOUSLY (6-0).

#### CURRENT EVENTS:

##### A. Mayor's Announcements

MAYOR TIBSHRAENY reminded residents that the last day to register for the August 28, 2012 primary election is Monday, July 30. Citizens may go to the County Recorder's website [www.recorder.maricopa.gov](http://www.recorder.maricopa.gov) or [servicearizona.com](http://servicearizona.com), for questions on registration requirements and how to register online.

MAYOR TIBSHRAENY congratulated City Clerk Marla Paddock for being named Clerk of the Year" by the Arizona Municipal Clerks' Association during their annual business meeting last week.

Marla was nominated by her peers who wanted to recognize her work as Education Committee Chair, where she helps to develop the training and education programs necessary for Clerks around the state to receive and maintain their certification.

MAYOR TIBSHRAENY announced that motor vehicle crashes are the leading cause of death among children ages 2 to 14, due in large part to the non-use or improper use of child seats and seat belts. He said that the Chandler Fire Department offers residents free car seat inspections and training to help ensure that the child safety seats in their vehicles have been properly installed.

The clinics are offered most Saturdays from 9 a.m. to noon, at various sites around the City -- and appointments are available by calling 480-782-2046.

The Chandler Child Safety Seat Program uses certified car seat technicians in the Fire Department to inspect and install car seats, and educate parents and caregivers on their proper use.

MAYOR TIBSHRAENY encouraged residents to take advantage of this important, free service.

MAYOR TIBSHRAENY announced that this Saturday, July 28 marks the second anniversary of the death of Carlos Ledesma. He asked that residents take some time to reflect on the work he did for the department and for the community.

MAYOR TIBSHAENY also asked that residents take time to reflect on the work of our public safety personnel who work day in and day out to keep this community safe.

MAYOR TIBSHRAENY said he would appreciate it if the community would keep the Ledesma family in their prayers.

MAYOR TIBSHRAENY also announced the 5<sup>th</sup> Annual City of Chandler Water Drive has been extended to July 31. The water collected is donated to local Chandler charities for distribution to those in need. The goal is to surpass last year's donation of 1200 cases of water. In order to meet this goal an additional 300 cases is needed.

As the cases of water are received, they are distributed to agencies like Matthew's Crossing and the Chandler Christian Community Center to hand out to those in need.

If residents would like to donate water or make a cash donation the can contact James Kame at 480-782-3367 or Nan Kahl at 480-782-2184.

MAYOR TIBSHRAENY also announced that Salt River Project sent a notice about a proposed rate increase of 4.8% that could possibly take effect on the November billing. If residents are interested in providing input visit [www.srpnet.com/priceinfo](http://www.srpnet.com/priceinfo) or call 602-236-8888.

#### B. Councilmembers' Announcements

VICE-MAYOR WENINGER congratulated Marla Paddock for receiving the Clerk of the Year award. He also announced that his mom; his son, Christian; and his daughter, Grace, are at tonight's meeting.

VICE-MAYOR announced the abrupt closing of the Urban Tea Loft. He said that Eric LaGrand had a tumor and had to have emergency brain surgery. Tyler Hearst at Gangplank are doing a

fundraiser a week from tonight there will be 11 restaurants that will donate a portion of the proceeds on that night directly to Glynis and Eric LaGrand.

VICE-MAYOR WENINGER said the participating restaurants include both of his restaurants in addition to Pittsburgh Willies Gourmet Hotdogs, Coach and Willies, Jimmy and Joe's, Chase's Diner, The Living Room, The Sushi Room, El Zocalo, BLD on Thursday night.

San Tan Brewery will participate in the fundraiser on Wednesday night.

MAYOR TIBSHRAENY confirmed with Vice-Mayor Weninger that Floridino's and Dilly's Deli would participate in the fundraiser on Thursday evening.

Vice-Mayor Weninger asked that he be contacted if there are any other restaurants that might want to participate in the fundraiser.

COUNCILMEMBER ORLANDO thanked Vice-Mayor Weninger for coordinating this fundraiser.

C. City Manager's Announcements

None.

Adjournment: The meeting was adjourned at approximately 8:18 p.m.

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

\_\_\_\_\_  
Mayor

Approved: August 15, 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 26<sup>th</sup> day of July 2012. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this \_\_\_\_\_ day of August, 2012.

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