Info #1
October 22, 2012

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 19, 2012 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Rivers called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Commissioner Baron.

3. The following Commissioners answered Roll Call:

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

   Also present:

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

4. APPROVAL OF MINUTES
   MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER CUNNINGHAM** to approve the minutes of the September 5, 2012 Planning Commission Hearing. The motion passed unanimously 7-0.

5. ACTION AGENDA ITEMS
   CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item A was pulled to action.

B. DVR12-0016/PPT12-0009 BELMONT ESTATES

Approved.

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) along with Preliminary Development Plan and Preliminary Plat approval for a single-family residential

subdivision on approximately 33.8 acres. The subject site is located at the northwest corner and west of the southwest corner of Appleby and Gilbert roads.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "BELMONT ESTATES" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0016, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
9. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
10. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the

owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the Belmont Estates development shall use treated effluent to maintain open space, common areas, and landscape tracts.

12. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to agricultural properties that have horse and animal privileges and shall state that such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the home builder/lot developer, and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.
13. Prior to the time of making any lot reservations or subsequent sales agreements, the home builder/lot developer shall provide a written disclosure statement, for the signature of each buyer, acknowledging that the subdivision is located adjacent to or nearby a heliport at the Chandler Municipal Airport that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Purchase Contracts", CC&R's, and the individual lot property deeds shall include a disclosure statement outlining that the site is adjacent to or nearby a heliport, and the disclosure shall state that such uses are legal and should be expected to continue indefinitely. The disclosure shall be presented to prospective homebuyers on a separate, single form for them to read and sign prior to or simultaneously with executing a purchase agreement. This responsibility for notice rests with the homebuilder/lot developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

The following stipulations shall be the responsibilities of the sub-divider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler:

a) Prior to any lot reservation or purchase agreement, any and all prospective homebuyers shall be given a separate disclosure statement, for their signature, fully acknowledging that this subdivision lies within the Chandler Municipal Airport Impact Overlay District, as specified in the Chandler Zoning Code. The disclosure statement shall acknowledge the proximity of this subdivision to the Chandler Airport and that an avigational easement exists and/or is required on the property, and further, shall acknowledge that the property is subject to aircraft noise and overflight activity. This document signed by the homebuyer shall be recorded with Maricopa County Recorders Office upon sale of the property.
b) The subdivider/homebuilder/developer shall also display, in a conspicuous place within the sales office, a map illustrating the location of the subdivision within the Airport Impact Overlay District, as well as the noise contours and overflight patterns, as identified and depicted in the document entitled Chandler Municipal Airport, F. A. R. Part 150, Noise Compatibility Study, Noise Compatibility Program, Exhibit 6A (Potential Airport Influence Area), as adopted by the Chandler City Council (Resolution No. 2950, 11-5-98). Such map shall be a minimum size of 24" x 36".
c) The above referenced information shall also be included within the Subdivision Public Report to be filed with the State of Arizona Department of Real Estate, as required by Arizona Revised Statute 28-8486 and Arizona Revised Statute 28- 8464.
d) Compliance with this condition shall be demonstrated by the subdivider/homebuilder/developer by submittal of a signed affidavit and photograph that acknowledges this disclosure and map display prior to beginning any sales activity. Failure to comply with this condition will result in revocation of the Administrative Use Permit for the temporary sales office. All requirements as set forth in this condition are the obligation of the subdivider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler.
e) The subdivider/homebuilder/developer shall provide the City with an avigational easement over the subject property in accordance with Section 3004 of the City of Chandler Zoning Code.
f) All homes and buildings shall be designed and built with noise attenuation construction to achieve an interior noise level of 45 decibels for a single event from an aircraft. A registered engineer shall certify that the project is in conformance with this condition.
g) The Final Plat shall contain the following statement on the cover sheet in a prominent location and in large text:

   "This property is located within the Chandler Municipal Airport Impact Overlay District and is subject to aircraft noise and overflight activity, and is encumbered by an avigational easement to the City of Chandler."

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit No. 7, Development Booklet, entitled "BELMONT ESTATES", and kept on file in the City of Chandler Planning Division, in File No. DVR12-0016, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
3. The same elevation shall not be built side-by-side or directly across the street from one another.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. No more than two, two-story homes shall built side-by-side for lots 16-27.
6. Lots along the southern property line shall be limited to single-story homes.

Preliminary Plat

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

C. DVR12-0023 MAPLEWOOD COURT

Approved to continue to the October 3, 2012 Planning Commission Hearing.

Request rezoning from Planned Area Development (PAD) to PAD Amended along with Preliminary Development Plan approval for housing product for a 32-lot single-family residential subdivision located at the southwest corner of Maplewood and Vine streets. **(REQUEST CONTINUANCE TO THE OCTOBER 3, 2012 PLANNING COMMISSION HEARING.)**

D. DVR12-0025 SPECTRUM SENIOR LIVING AT OCOTILLO

Approved.

Request rezoning from Planned Area Development (PAD) for a church to PAD for an assisted living care center along with Preliminary Development Plan approval for building architecture and site layout. The subject site is located at 1500 NW Jacaranda Parkway, the southeast corner of Pennington Drive and Queen Creek Road.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "SPECTRUM SENIOR LIVING AT OCOTILLO", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0025, except as modified by condition herein.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.

4. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
5. Approval by the Director of Transportation and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
6. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
7. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
8. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
9. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
10. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
11. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

    In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the

preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the SPECTRUM SENIOR LIVING AT OCOTILLO development shall use treated effluent to maintain open space, common areas, and landscape tracts.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit No. 4, Development Booklet, entitled "SPECTRUM SENIOR LIVING AT OCOTILLO", and kept on file in the City of Chandler Planning Division, in File No. DVR12-0025, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. The site shall be maintained in a clean and orderly manner.

E. DVR12-0029/PPT12-0013 JACKSON PLACE

Approved.

Request rezoning from Planned Area Development (PAD) Commercial to PAD Single-Family Residential with Preliminary Development Plan (PDP) and Preliminary Plat (PPT) approval on approximately 6.5 acres at the southeast corner of Ray Road and Jackson Street, 450 feet west of McQueen Road.

Rezoning

1. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
2. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
3. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
4. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
   Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
5. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
6. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for

development or take legislative action to cause the property to revert to its former zoning classification.

7. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
8. The covenants, conditions and restrictions (CC & R's) to be filed and recorded with the subdivision shall mandate the installation of front yard landscaping within 180 days from the date of occupancy with the homeowners' association responsible for monitoring and enforcement of this requirement.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit No. 8, Development Booklet, entitled "Jackson Place", and kept on file in the City of Chandler Planning Division, in File No. DVR12-0029, except as modified by condition herein.
2. No more than two identical side-by-side roof slopes should be constructed along arterial or collector streets or public open space.
3. The same elevation shall not be built side-by-side or directly across the street from one another.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. For lots adjacent to an arterial street, two-story homes are limited to every third lot, with no more than two, two-story homes built side-by-side.
6. Window mullions, consistent with the architectural style of the home, shall be provided throughout all elevations.
7. Stone elements shall be standard on one elevation of every floor plan.
8. Exterior lighting, consistent with the architectural style of the home, shall be provided.

Preliminary Plat

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

F. LUP12-0019 WAL-MART NEIGHBORHOOD MARKET

Approved.

Request Use Permit approval to allow the sale of beer, wine and all spirituous liquor under a Series 9 liquor license for off-premise consumption. The approval is requested for a Walmart Neighborhood Market that will be constructed at the northwest corner of Chandler Boulevard and Cooper Road.

1. The Use Permit is for a Series 9 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall oid the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other location.

G. LUP12-0020 BAY LEAF CAFÉ

Approved.

Request Liquor Use Permit approval to allow liquor sales as permitted under a Series 12 Restaurant License to sell and serve liquor for on-site consumption indoors and on an outside patio at an existing restaurant. The property is located at 955 W. Chandler Heights Road, Suite 1.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new liquor Use Permit re-application and approval.
2. The liquor Use Permit is granted for a Series 12 (Restaurant License) only, and any change of licenses shall require re-application and new liquor Use Permit approval.
3. The liquor Use Permit is non-transferable to other restaurant locations.
4. The site shall be maintained in a clean and orderly manner.

COMMISSIONER RYAN stated that he provided consulting services on Item D and his consent vote will not include that project.

MOVED BY COMMISSIONER BARON, seconded by **VICE CHAIRMAN VEITCH,** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

ACTION:

A. DVR12-0007 NUVO

Request rezoning from Planned Area Development (PAD) Commercial to PAD Multi-Family/Commercial with Preliminary Development Plan (PDP) approval on approximately 9 acres at the southwest corner of Erie Street and McClintock Drive.

Rezoning

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "NUVO", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0007, except as modified by condition herein.
2. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be

located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.

5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. The multi-family apartment manager shall display, in a conspicuous place within the rental office, a map illustrating the location of the NUVO Multi-Family Apartments in the context of Stellar Airpark. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the property owner or multi-family apartment manager by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges such map is on display prior to beginning any rental activity.
9. Prior to execution of any lease, prospective apartment tenants shall be given written disclosure in their lease and in a separately signed disclosure statement acknowledging that this apartment community is located proximate to the Stellar Airpark, that an avigational easement exists on the property, and that the property is subject to aircraft noise and overflight activity. The requirement for such disclosures shall be confirmed in an Avigation Notice Covenant that runs with the land and is recorded with the Maricopa County Recorder prior to issuance of the first Building Permit for this development.
10. All apartment buildings shall be designed and built to achieve an interior noise level not to exceed 45 decibels (Ldn) from aircraft noise. A professional acoustical consultant, architect or engineer shall certify that the project's construction plans are in conformance with this condition.
11. The developer shall provide the City with an avigational easement over the subject property in accordance with Section 3004 of the City of Chandler Zoning Code.
12. Prior to building permit issuance for any structures the developer shall provide a DETERMINATION OF NO HAZARD TO AVIATION approval as issued by the FAA after filing an FAA Form 7460, Notice of Proposed Construction or Alteration.
13. In the event the development is proposed to be subdivided to allow individual condo unit ownership, the proposed condos shall be processed in accordance with City of Chandler plat requirements which includes public hearings and, if such Condo Plat is approved and Recorded, the following stipulations shall be the responsibilities of the sub-divider/homebuilder/developer and shall not be construed as a guarantee of disclosure by the City of Chandler:
    a) Prior to any condo unit reservation or purchase agreement, any and all prospective condo buyers shall be given a separate disclosure statement, for their signature, fully acknowledging that this subdivision lies proximate to the Stellar Airpark and that an avigational easement exists and/or is required on the property, and further, shall acknowledge that the property is subject to aircraft noise and overflight

activity. This document signed by the condo buyer shall be recorded with the Maricopa County Recorder's Office upon sale of the condo to such buyer.

b) The subdivider/homebuilder/developer shall also display, in a conspicuous place within the condo sales office, a map illustrating the location of the Condo Plat in the context of Stellar Airpark. Such map or aerial photo shall be a minimum size of 24" x 36". Compliance with this condition shall be demonstrated by the subdivider/homebuilder/developer by submittal to the Zoning Administrator of a signed affidavit and photograph that acknowledges this map is on display prior to beginning any sales activity.

c) The Condo Plat shall contain the following statement on the cover sheet in a prominent location and in large text:
"This property is located within or adjacent to the Stellar Airpark and is subject to aircraft noise and overflight activity, and is encumbered by an avigational easement to the City of Chandler."

d) The aircraft noise, overflight activity and avigational easement information referenced above in "a" and "c" shall also be included within the Subdivision Public Report to be filed with the State of Arizona Department of Real Estate, as required by Arizona law.

14. Prior to the execution of any lease, prospective apartment tenants shall be given a written disclosure statement acknowledging that the apartments are located adjacent to or nearby existing and future industrial uses that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Lease/Purchase Contracts", CC&R's, and individual rental contracts shall state such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the subdivider/apartment builder/developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.

15. All leases at the NUVO multi-family apartments shall provide that all questions, concerns or complaints any tenant may have about Stellar Airpark of the operation of aircraft landing at, taking off from or operating at or on Stellar Airpark shall be directed solely to the manager of NUVO and not to the Stellar Airpark, the City of Chandler, the FAA, any aircraft owner or any pilot. All leases shall also provide that it shall be within the sole and absolute discretion of the Manager of NUVO (and not the tenant) to determine (after the Manager's due consideration of all Stellar-related acknowledgements and disclosures that are required by these Zoning Stipulations and consideration of all information known to NUVO's Manager) whether or not, when and how to communicate any tenant's question, concern or complaint to the manager of the Stellar Runway Utilizers Association or elsewhere. This requirement shall be confirmed in a Stellar-related Communications Covenant that runs with the NUVO land and is Recorded with the Maricopa County Recorder prior to issuance of the first building permit for this development.

Preliminary Development Plan

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "NUVO", kept on file in the City of Chandler Planning Services Division, in File No. DVR12-0007, except as modified by condition herein.

2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
4. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. The parking space canopies shall incorporate building materials, forms, and colors to match the development.

CHAIRMAN RIVERS stated that Staff will be giving a presentation, the developer will be giving a presentation and they will move to audience participation. He has been given approximately 146 speaker cards for this item. In the interest of time, for the 144 speaker cards that are opposed to this item he is going to allow an hour and a half to speak. How they speak, how many speak and how long they speak is up to them but they are going to limit this to an hour and a half. They will have their turn to speak after the first 2 presentations are given.

MS. JODIE NOVAK, SENIOR PLANNER, stated this is a rezoning application in which the property owner and developer has filed an application with the City of Chandler to request changing the land use on the property. Along with that land use change they have a Preliminary Development Plan which is a very detailed oriented development plan including site design, landscape design, building design, grading design, amenity design, etc. As a part of this application, they have submitted a development booklet which they have which is a very detailed development proposal for their review.

The property has been a part of a larger master planned industrial business park. In 2009, this property was rezoned and approved by our City Council as part of a 26-acre project. The project at the time had a mix of office uses and commercial uses. The subject site in question is 9 acres of that larger 26 and at that time of what is still allowed to be built today if the property owner wanted to develop it, is a 9 acre project that included retail. It had several in-line shop buildings for retailers and merchants. It had 3 free standing retail restaurant pads and it also had a four-story high hotel building that was also approved. As you know, the property never did develop with those uses but those are the uses currently approved for the property.

The application before them is a request to build a multi-family residential development. This project would include 222 multi-family apartment units. The development booklet includes the siting of the buildings, the orientation of the building, its' relationship with the landscaping, parking as well as access to and from this particular property. This property is located in an area of this larger master planned industrial business park which has yet to be completed and

developed. They don't know ultimately how it will develop. They know what the current land uses are but as you know zoning can change in the future. The property is surrounded on all sides by roads. They are City owned public streets. Some of them are collector streets and some of them are arterial streets. It is right along McClintock Drive. It is north of Chandler Boulevard. It has Erie Street on the north and Juniper Drive on the west.

This particular project from the detailed exhibits they have been able to review is a very distinctive urban oriented modern design project. They have one other similar type of a project already approved by their City Council to develop in another part of the City of Chandler that would deemed more of a modern urban type of a scene. This would be the second one coming in for the city. This project is not their traditional looking apartment community. It is very unique in how the buildings are oriented, access into the unit, access into the building, how the parking is established and so forth. It is intended to be urban in nature and more compact. A little bit more dense and really geared to a specific life style people that would be locating within this particular residential community. This project is in conformance with the City's adopted Plan. City Council adopted the General Plan which went to a citizen vote several years ago. It is in conformance with all of our zoning codes, site development standards except for the developmental waivers that are included in the development booklet for your review. It does meet and exceed the City's quality expectations for design when it comes to the building architecture and the layout and so forth.

This project is a part of the Stellar Airpark area in terms of an Airport Impact Overly (AIO) district. This AIO is specifically described in the City Council adopted Zoning Code manual and the Zoning Code does establish boundaries of where this Airport Impact Overly District is. It runs north to Ray Road, south past the existing Loop 202 Freeway. It is surrounded by Kyrene Road on the west and is bounded by McClintock Drive on the east. It is within that overlay area, however, it does not have any noise contours directly on this particular piece of property per the City's adopted noise contours and our Zoning Code as well as our zoning maps. That is explained a little bit in detail in the Staff report that they have.

As a part of meeting all of the City's design requirements as well as conformance with our General Plan, all of our adopted land use documents and our zoning code allowances. The Planning Staff is of the opinion that they feel this is a very supportable project that meets all of the requirements that they would have typically looked for. The applicant and developer has taken lots of time to speak with individual homeowners or property owners and business owners, they have had multiple neighborhood meetings as well. They have even had a neighborhood meeting just recently. There are individuals that do support this project and there are individuals that don't support this project. The reasoning's are outlined in a general summary in the Staff Report. She is sure individuals will speak to it in more details this evening. There are our standard zoning conditions for both the rezoning component as well as the Preliminary Development Plan component and their motion is that they support and approve both the rezoning request as well as the Preliminary Development Plan that is before them this evening. She said she would be very happy to answer any questions they have keeping this brief because they do have a lot of the material before them as well.

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

COMMISSIONER CUNNINGHAM said that Ms. Novak mentioned that the General Plan was adopted in 2008 and she brought the book with her today because she studied it and reviewed it and it appears on the land use map that this area is to be used for employment. How many people will this project employ? Ms. Novak replied that the category designated over this land is employment. That is not the use that is necessarily allowed. Under the employment category the General Plan specifically describes and defines all uses that are permitted in an employment category. High-density residential is one of those listed allowed uses so employment throughout the City of Chandler they have in west Chandler and I-10 and Ray, in this location, in South Chandler along Price Road, and in north Chandler. It's a broad category and the General Plan further defines what uses are allowed. Secondarily to that it also is in what's called a growth expansion node. That section of the General Plan explicitly states the northwest corner of Chandler Blvd. and McClintock is allowed to have high-density residential. So it's in 2 locations of their General Plan. It is not required that this property has to be a business that hires employees and pays them. That is not how that employment category has ever been defined in the City under any of their General Plan. **COMMISSIONER CUNNINGHAM** said she questioned in the book that it specifically states that the General Plan, the build out and beyond from 2008 that the City was trying to become a Work/Home environment and she asked how many people Creative Leather factory employees? The City only has 7.8% of the City's land for employment and they are running out of space and she wants to know how many people at this point will it going to employ. Ms. Novak said the apartment complex itself will have employees, how many she didn't know. They have maintenance staff, management staff, leasing staff. That is all part of any residential community. They do have staff that will work on that property. As far as the other businesses in that area, she doesn't have how many employees that they have hired, how many are working there currently and what their future expectation for that number is. **COMMISSIONER CUNNINGHAM** asked if she had any idea how many people are employed at Creative Leather. Ms. Novak said she does not know. She didn't know if their Economic Development office has that information for this evening but she didn't.

CHRIS MACKEY, ECONOMIC DEVELOPMENT DIRECTOR, stated they regularly visit with their companies. Most recently in visiting with Creative Leather, they are right around 30 employees at that particular location. There are multiple businesses in that location. They do share their space.

CHAIRMAN RIVERS asked the developer to come up and speak.

ED BULL, 702 E. OSBORN ROAD, PHOENIX, said he is here representing BUTTE. He has several people here with him which he will introduce in a moment in case they have questions for them. They appreciate Staff's recommendation for approval. They accept all of Staff's recommended stipulations and will do their best to focus the presentation on the site and area and the plans that are before them and so on. He anticipates there will be other issues and will be asked to address through rebuttal. So with their permission he would like to reserve some time

for rebuttal after other speakers have spoken. Some of those questions he may be able to answer or for other questions he may asked for the answer from Ed Lewis who is the head of Butte Development or by Anthony Jaurigue who is their architect or Tony Sola who is the acoustical consultant for about 25 years or by Ray Friedlobe who is a lawyer who has dealt with FAA issues for about 30 years. Between the group of them it is his hope they can answer most questions that they have.

NUVO for all the reasons that are shown in the project booklet and also touched on by Jodie and detailed more so in her Staff report, is an absolutely wonderful development that just shines with quality. It does the kinds of things that Chandler has asked happen not only on multi-family but other kinds of developments as well. He said he will get into more detail but at the end of this presentation he will ask that this Commission recommend approval in accordance with Staff's recommendation.

He showed the land use map out of the City's General Plan which is attached to their Staff Report. He showed where they were located and as was discussed a few moments ago, said this is designated as a growth node. When they look at definitions in the land use plan and language in the General Plan that talks about various things and the growth node including high-density multi-family and then when they look under employment, it once again recognizes that residential multi-family is appropriate in locations like this particularly in a growth node where mixed use including a residential component is encouraged.

As Jodie mentioned, the site is surrounded on 3 sides by streets; an arterial on the east and collector's on the north and west. In addition to that the site is surrounded by 69kv power lines and light poles. The tall 69kv power lines are 56 to 57 feet tall. Looking at the exhibit in addition to being surrounded by the 3 streets, the red dots shown designate engineering determined 69kv power pole heights that run all along McClintock. As they may be able to tell, they are between 56 and 57 feet tall. Along both Erie and Juniper, there are light poles. The yellow dots designate the light pole height. They are running 34 to 36 feet tall. So in many respects not only surrounded by streets but fenced in by power poles and by light poles on 3 sides. As they look at the area in the context of the City's adopted No Build area which is shown, this is the area that the City long ago identified as a No Build zone to offer protection to planes coming to or leaving from Stellar. As they look at the development that is approved on the property today and as Jodie mentioned, this exhibit shows the existing zoning approvals that are out there on the approximately 25 or 26 acres. With the NUVO site surrounded with a variety of retail and a 4 story hotel; a 4 story hotel that is not as tall as the 69kv power lines along McClintock but is very close to the tallest building that is centralized on their site plan. The difference is that the hotel is further to the west where they are providing 3 story buildings where the hotel was 4-story.

As they look at the City's official adopted noise contours, which are a product of City approvals and have been on the City zoning maps and are officially on the City zoning maps, the NUVO site is located here and as Jodie mentioned in her opening presentation, the NUVO site is located within the 6-mile Stellar Airport Overlay Impact zone - a 6 square mile zone that has hundreds if

not thousands of homes and other residential uses in it, they are also in that overlay but they are outside any of the noise contours that in anyway restrict residential development. In addition to that they had Tony Sola do, in the field noise studies, taking in the field noise measurements and he knows there can be argument over whether or not they were taken on the right days and right times and that type of thing. They were in the field measurements and importantly, those 3 noise studies which he believes are on their dais, did various things but also focused on the fact that in the field studies were very consistent with what Tony expected the noise studies would show per these adopted contours. In other words, there was consistency there. Secondly, he was picking up noise off of McClintock that was typically higher than noise coming from airplane over flights and thirdly, the noise he was picking up was in compliance with all Federal criteria, both interior and exterior. If they have questions of Tony, he can get into more detail on it but importantly, it is not even close as far as the Federal criteria coming anywhere close to being what would be appropriate for residential on this site.

The site plan they know from the project booklet; tremendous layout, tremendous landscaping package. If they are looking at this particular exhibit, these buildings along McClintock are 2 stories. This building on the corner is one, the building by the pool is one. There are some 1 story enclosed garages that occur. These buildings are over to the west that he mentioned in part is where the 4 story hotel is approved. Ours are 3 story and the buildings centered in the middle are 4 story. The elevations from the book and as Jodie touched on show extraordinary urban architecture and tremendous use of materials. The architectural conditions that are occurring on this building, which is the corner building, is something that includes a great deal of architectural and glass and natural light. It also provides something that rather than just being a clubhouse that's available to residents typically is the center on the site, is a clubhouse where the intention is there will also be a publicly acceptable coffee bar and wine bar for use by other people whether they are living or residing or working in the area. Something that in talking with some neighbors to the east and north, most neighbors found to be a very pleasing kind of opportunity and something that many of them would likely use whether by walking or by bicycling to it. Again, the architecture of the corner building they think is extraordinary. These are the 2-story buildings along McClintock. He showed the 3-story buildings along the western most edge of the property. Again, architectural movement and style being carried throughout. He showed the 4-story buildings but again they are centralized in the middle of the site.

The last drawing that has to do with elevations and so on is a drawing that again goes back to talking about these power poles and streetlights. This drawing shows the 56 to 57 foot tall power poles along McClintock and it shows the light poles that are in the 35 to 36 foot range occurring on the other collector streets and shows how it is that these power poles are the tallest item on the site by far and all buildings are under that. The 3 story buildings that are over where the 4-story hotel was are very close to being the same as the heights of the streetlights that are on both Juniper and Erie.

Again, they believe that when they look at this site based upon as Staff stresses in their report, the City's officially adopted ANO's-they are outside of them; in accordance with the City's officially adopted noise contours that are on the zoning map. Noise contours that in some

circumstances restrict residential development-they are outside of them and field studies verified the consistency between measurements being taken on the field and measurements on those noise studies. Again, circling back as well to this particular exhibit which shows without showing the noise contours but shows the no build zone or the clear zone-importantly, that is substantially to their west and while they recognize some flights take off to the north (most typically take off to the south) flights often come in from the north. They need to get to this location but once aligned with the runway that is the area they should be in for their safety and the safety of others and it is substantially west of the western most part of their development.

This overall area as they can tell from the aerial, has been pretty much skipped over for many years now. They believe it is time-it's this areas turn and something that this kind of development because of the mixed use aspect in providing opportunities for employers to have employees and to have first class opportunities, is what they believe to be an A+ quality development. It is a real opportunity to help jump start development in this overall area and bring some real excitement to the area. When Ed Lewis first came to him with this idea and concept, they started by having preliminary meetings with Staff. Those meetings were encouraging. It was clear that quality was important. He then embarked on getting consultants on board who could work with him on quality and deal with these plans. They did it and it is something he believes that Staff has been at least as complimentary of this architectural plan as any that he has had the opportunity to work with Staff on over the past 25 years or so. At the end of the day as he is sure they are aware Chandler is in a position where they have the 3rd highest household income in the valley, second to Gilbert and Scottsdale. The 3rd highest percentage of college degrees and again second to Scottsdale and Gilbert. They have very educated high wage earning employees in Chandler. Some choose to live here in single-family homes, some choose to live here in multi-family. Some of them though choose to live in other cities because they are not today getting the A+ quality that they may want to have. This development is elevator served to a development that has about 75% enclosed garages built into the buildings and into a development that has good sized units, high rents and about twice as many amenities as required and tremendous opportunities for people to live in a very safe, secure first class facility.

Jodie mentioned neighborhood outreach and they did have 2 neighborhood meetings. One in April and one in September, a week ago. We had a couple of meetings with the Stellar Airpark Board. There was some discussion with some single-family neighbors as well. A lot of stuff was generated, a lot of opposition was generated. They know that many people have received this development very well except for folks that are associated with Stellar and they respect their positions but in many ways they simply disagree with some of the perceptions that they have articulated to them through the board meetings and the neighborhood meetings. They know that many at Stellar simply do not want this development here. We get that. They simply disagree with them and they believe that on this site, which has been skipped over in this area, needs a shot in the arm. This is exactly the kind of development in the right location. Each issue that has been raised to us and they respect the people that have expressed these concerns, they just haven't pushed back saying you're right and you're wrong. Each issue whether it has to do with noise or FAA concerns or other kinds of concerns, they have either dealt with City approvals, FAA approvals or independent studies and independent analysis to deal with them. For example,

with respect to noise and they may or may not agree but they do not see this as an airport noise case. They are outside the City's officially adopted map for noise contours. The noise studies show that they are consistent in the context of not only airport noise but McClintock noise that was in accordance with Federal criteria. It is a scenario where they understand that there is a concern with noise; it is not born out on the City's officially adopted maps which are ones that they rely on and it is not born out in the field studies. Even if the amount of air traffic were increased as the numbers in his studies would show, Tony Sola would talk with you about how decibels or ldm's would go up some but it is a minimal increase compared to what they think it might be on air traffic or other issues.

They were asked to look at it from a safety perspective. The entity they turned to for that in part is the FAA. Again, in addition to the fact that they have power lines that he was talking about, the streetlights, the approved 4-story hotel, they also went to the FAA or submitted to the FAA asking them to analyze whether or not this development to the highest point on their tallest building could be a hazard to air and navigation. The FAA's official determination based upon the information they gave which was measuring to 50 feet to slightly above the top of the tallest building, came back with the determination that it is no hazard to air navigation per the FAA's official approval which they have a copy of at their dais. They also heard concerns with the FAA in general like would the FAA shut down Stellar Airpark. Would the FAA do this, would the FAA do that? He thinks it is important to keep in mind that aircraft while in flight are subject to FAA review. That is true irrespective of whether NUVO is developed, not developed or how it is developed. FAA monitoring of aircraft is what it is.

In the context of being asked to determine whether or not the FAA could shut down Stellar Airpark they retained a gentleman who is here this evening, Ray Friedlobe, a lawyer who has been involved in various aspects of FAA related issues be it for Denver International, for the FAA or for other developments over the years both in the Denver area and here in the valley. Ray put together his letter which they have on the dais based upon various information such as the FAA does not have jurisdiction over Stellar Airpark and cannot close Stellar Airpark even if it wanted to. The FAA is in the business of keeping planes in the air and airports and in this case an airpark open, not closed. The FAA believes most people acknowledge it has no jurisdiction over Stellar. Stellar Airpark came into the city as a legal non-conforming use out of the County. It is beyond his imagination that the City could or would ever entertain the possibility of closing Stellar. He can't imagine the folks who live at Stellar would close it either. There just really isn't an issue or concern once they studied it where the FAA would close Stellar. They were also asked to deal with a hazardous issue and again, that is the FAA letter plus other aspects of it that they have already touched on. They have been told that if residents make noise complaints, the FAA will step in and close an airport. Again, the FAA has no jurisdiction over Stellar Airpark but in addition to that they have been advised that while he recognizes that there have been airports closed around the country, he has been advised that there has never been an airport closed by the FAA based upon noise complaints and that too is in Ray's letter. Ray's letter goes on to discuss other kinds of issues, some of which you may have questions for him about, some of which you may not, but it is a very genuine attempt that Ed Lewis wanted us to make whether the issue had to do with noise, perceptions of hazardous conditions or whether it had to do with

perceptions of FAA closures. For each of those and other issues, they didn't just push back and say no, they are right and you're wrong. They studied and they went to the City's officially adopted plans and they went to FAA approvals and to a noise consultant in the business for 25 years or more and FAA consultant business for 30 years or more. Having said that from their perspective and while they appreciate that there are perceptions of concerns with noise and safety and so on, they have lined up against each one of those perceptions objective studies and objective data and confirmed approvals which they believe are very important. We hope their Commission believes they are very important because they are dealing with private property and private property rights. They have some people at a private airpark that are asking the City to engage and encumbering or controlling the use or other private property. It is very different than issues perhaps by a municipal airport because here they are dealing with a private airpark but be that as it may, municipal or private, they did their very best to square up on each issue, study it, look at the approvals and go to a Federal agency that has control over it and get the answers. He is hoping that they are important to their Commission.

In addition to doing all of those things, they worked with Staff on the stipulations that are a part of their Staff report and are a part of what they think is very important in a case like this where they know that people are concerned that somebody may move in and they would say they didn't know Stellar was there. In all of the stipulations that they have in their Staff report, several of them which they worked with Staff on have to do with acknowledgements and disclosures. For example, in a stipulation they are talking about having at least a 24 x 36 inch aerial or map of the area that is right in the rental office itself. In addition to that they talk about having a signed acknowledgement that they intentionally put on the aerial showing and labeling Stellar, showing the subject site, labeling the streets, the 202 and McClintock and so on and in the verbiage putting in all kinds of disclosure about Stellar Airpark and over flights and noise. They also expressly requested that it would be signed by both the landlord and the tenant and that a copy of this disclosure document would be kept in the file and if requested by either Stellar Airpark or requested by the Zoning Administrator, a copy of this would be produced upon request. Point being absolutely no one could take the position that they had become a tenant at NUVO with no knowledge of Stellar and no knowledge of over flights. They were then asked to put something to create a document that they recorded that would require the signature on this kind of a disclosure document. This is at recordation or what will be the recordation of an Avigation Noise Covenant. It requires that they include this in every lease package and that this be signed and does the things he just talked about.

In addition to that the City typically requires an Avigation Easement and that is in the stipulations as well. An Avigation Easement gets recorded on a plat or re-plat or a map of dedication. The City has a standard form Avigation Easement. It is basically fill in the blanks. This is it and they agree completely with it. It too discloses the airpark and discloses over flights. They have also talked with Staff about a couple other possible disclosures and waivers they can get into later if they want but it is very clear from the get go Ed Lewis and Butte have considered Stellar to be an asset, not a problem neighbor. They have welcomed the opportunity to be a neighbor in this mixed use master plan. They have welcomed the opportunity to tell every tenant that Stellar is there, that there are over flights, noise and so on. It is something they

believe the tenants will appreciate and certainly would not be in a position to say they didn't know anything about it or have any basis to complain about it. He said again, they can discuss as much as they want the stipulations, disclosures or other possible disclosures but the collective package with respect to land use from the get go through discussions with Planning Staff and Economic Development Staff, knew that under the City's adopted plans this was to be mixed use in this growth node and high-density multi-family was an important part of that mixed-use. It is something they could provide and provide in a very exciting way. They also knew that they would need to make sure it is very high quality. He thinks the exhibits are second to none in that regard.

They also knew they would need to reach to their neighbors, which they have done. They had no hesitancy whatsoever to provide the disclosures, to provide the recordation of documents which to his knowledge isn't typically provided and he thinks Staff can confirm that. At the end of the day NUVO is an outstanding development that is consistent with the General Plan, consistent with the City's Stellar Airpark related approvals and it will be a shot in the arm for this northwest quadrant that is identified as a growth node. They have addressed the issues in every specific way that they knew. They have accepted Staff's stipulations. They appreciate Staff's recommendation for approval and they request the Commission's recommendation in accordance with Staff's recommendation for approval and stipulations.

CHAIRMAN RIVERS asked if there were any questions for the developer. He asked Mr. Bull if he could display the map of the development that was already approved. He had a map that showed the old development and also where the NUVO project is. He asked Mr. Bull where this development that was originally approved was; it looks like a hotel and five different commercial pads or retail pads. Now all those things have been replaced by one apartment complex. Is that correct? Mr. Bull replied that was correct. With one apartment complex that in this area also includes a combination of residential and commercial with the wine bar and coffee bar. **CHAIRMAN RIVERS** said so a lot of the retail part of this area is being wiped away for apartments? Mr. Bull said this whole area has been zoned for various types of retail for upwards to 25 years and it's gone through various amendments over the years. The most recent is this plan and PDP included retail and a hotel. The 25-26 acres of retail has never come out of the ground and through various discussions with the 4-Corners Commercial Committee discussions and so on and he would anticipate Chris Mackey may better address retail needs and sustainability needs. Part of what they were advised of early on in discussions with Economic Development and Staff is that the last thing the City needs in this location is 25 acres of retail. What they need is additional very high-quality multi-family residential to support the mall and other uses and to support employers in the area and other very high-end employers with high end employees. He is correct in that there is a multi-family development that is replacing these buildings that are here on paper but with respect to the benefits that arise from it, the anticipation at least is getting high-end residential should help jump start other commercial development here and helps support other commercial development elsewhere. **CHAIRMAN RIVERS** said to the point Commissioner Cunningham was making earlier, they are running out of retail space in Chandler and they are taking up a good chunk of it right here with this one development. Mr. Bull said he doesn't think they are running out of retail space in Chandler. He believes our

Economic Development Director can more specifically address it. He and many other people were involved in 4-Corners Committee several months ago and there is a much higher percentage of retail land in Chandler than is typical throughout the state or throughout the country. We are dealing with whether or not we are better off as a City to support high quality retail we have or is top notch locations as opposed to just hanging on to retail land that is undeveloped. He may want to ask the Economic Development Director for more specifics. He doesn't see this as being a situation where they have a shortage of retail land. He thinks that is the exact opposite of the scenario. Here they are helping to support retail that exists or can exist in prime locations. **CHAIRMAN RIVERS** said in regards to item no. 12 under the rezoning recommendation it says "prior to building permit issuance for any structure the developer shall provide a Determination of No Hazard to Aviation approval as issued by the FAA". Have they received that yet? Mr. Bull replied the letter which is at the dais which was one of the pass outs right before the hearing called 'Determination of No Hazard to Air and Avigation' which Staff concurs satisfies that stipulation. **CHAIRMAN RIVERS** asked if this project is built and if the worst happens and there is a plane crash in this apartment complex, is Chandler liable for changing the zoning and allowing this to be constructed in a flight path? Does he need to ask the Asst. City Attorney?

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated the City is not liable because this is a decision being made and so essentially a legislative decision of the Council. Having said that a plaintiff in that type of situation can makes all sorts of claims and allegations but in general he doesn't think there is a liability issue of any significant magnitude for the City.

COMMISSIONER DONALDSON asked in the 'no build zone' which is the red area, is that a part of recommendations or requirements or is that the only item-it's a 'no build zone' and it's a specific zone? Mr. Bull said under the City's airport overlay which is included in the City's overall zoning ordinance and then is also mapped on the City's zoning maps, this is simply the City's zoning map north of Chandler Blvd. That 'no build zone' was mapped by the City per the City's adopted zoning ordinance that has to do with the airport or in this case airpark overlay. This 'no build zone' which is putting an encumbrance on this private property says essentially you can't building anything higher than the surface parking lots. He does not know if anybody was compensated for that or people doing title searches to try to understand this better and not finding any evidence but the underlying property owner was ever compensated for that or for that matter compensated for the noise contours that were put into place. The 'no build zone' is one of those City approvals that are per the City Ordinance and City zoning map. **COMMISSIONER DONALDSON** said when he as a neighbor was involved with the Stellar Business Park development, he was invited and attended a neighborhood meeting and made comments and voiced approval for that project, he remembers hearing there were only certain uses available for the adjacent property. Maybe that red zone was only for parking but he couldn't remember whether there was anything that was recommended not to be built there – schools, preschools, and daycare. He is just trying to figure out whether there is a different zone other than just the red one which is the 'no build zone'.

KEVIN MAYO, PLANNING MANAGER, stated the clear zone is a defined area and mapped out on the map and adopted back in 1985 or 1986. Outside of that the ANO's that start to dictate noise sensitive uses and where they can and can't go is depending on that kind of 'graphical gradation' of noise impact around the airport. The ANO's through the original zoning case that established that business park, the discussion didn't involve yes this use, no this use. It was simply it was consistent with Employment Designation in the General Plan and then following anything the ANO's would have had but ultimately the only ones that reach this at this point were the ANO-1 and ANO-2 and it allows for almost all types of uses within reason. Once you get into residential in the ANO-1 there is noise. Any of the business uses can fall into those zones. It wasn't part of the zoning case that went through with this business park except for that clear zone. The clear zone really doesn't have anything to do with it because it is a map thing on our zoning map.

Mr. Bull said if he didn't answer it completely, he believes Kevin did and all he was reaching to grab was part of the airport related definitions or in this case airpark related because the definition of clear zone and it more or less describes the area. It is very height restrictive as to what can go in there under the City's current zoning ordinance. Those restrictions do not apply outside of the red 'no build zone'. He said he mentioned earlier that there are some possible additional disclosures that could be made. Part of that is also the possibility if there were complaints, who would they be voiced to such as their manager and in addition to other disclosures having to deal with certain waivers as well. Again, it is probably better that they talk about that later but it is not that they have turned a deaf ear to any request or any suggestions that have been made.

CHAIRMAN RIVERS asked Chris Mackey to come up and let them know about retail land.

CHRIS MACKEY, ECONOMIC DEVELOPMENT DIRECTOR, stated it is especially kind of pertinent to them now as they just finished the Mayor's 4-Corner Retail Study. It has been published in the newspaper and they are working on implementing the recommendations that came out of there. As you look at Chandler as a whole, they currently by their own admission are completely out of whack on their retail development. To give them some statistics that have been quoted most recently and they have done their research and validated, in any other given city in the southeast valley there is 43 square feet per capita of retail space that exists in any city. If they look at it on a national average, it is 47 square feet per capita and exists across the country in their larger cities. In Chandler they have 71 square feet per capita. They are heavily over retailed. What they have found is you will see as they are driving along Arizona Avenue, Alma School and Dobson, especially north Chandler, you see large vacant retail boxes. Even by their own admission and by our traffic engineer she doesn't believe they realized in the old days they had arterial streets and that is how people moved through Chandler on the grid system. As they went home, they exited the 60 and they were on Alma School, Dobson or some other street. But as they brought the 101 in and the 202 so much traffic has fled the arterial streets and gone for the freeways. They see a lot more of the traffic that used to have a drive by opportunity for these retail establishments now moving to the freeways.

Secondly, most people want to shop in newer, prettier, more exciting vibrant centers. When the mall came in, they implemented a program. There used to be a Mervyn's at Alma School and Elliot roads. It's long gone. That was their greatest fear at the time that the Mervyn's would be challenged when the mall came in. They were adding 1.3 million square feet of retail under roof and were afraid that it was going to affect that older establishment. It didn't in the beginning but as the neighborhoods really found the 101 and moved in those directions, the Mervyn's went through a bankruptcy nationwide but that Mervyn's had started to struggle. As they do visits with their industrial companies, they also visit with their retail companies and they have struggled greatly in those areas. What they have been looking at as opportunities and several of the people in the audience sat on the Mayor's 4-Corner Retail Committee, was looking at those opportunities not only where they have existing buildings that will never be retail again. Some good examples are putting the Chandler Preparatory Academy on Alma School and Warner, the old Smitty's and then Bankfirst but still had the underlying retail zoning on it. They have a number of other things across the city where they have switched the zoning like the Jewish Community Center which was once the former Osco on Ray and Alma School and so forth and so on. They were even looking more bold than looking at existing buildings that will never be retail again. They need to be office or medical office or an entertainment use for families or compatible uses to draw people back into those centers. They really took a look at the remaining land in the city and said there may be some strategic corners in the far southeast portion of Chandler that they probably want to keep their own retail sales tax from fleeing to Gilbert or a bordering community but where they would simply be pillaging ourselves in dividing the pie up smaller without adding back to the pie. As Staff, they even looked at opportunities of land that had been by their General Plan and by even zoning regulations planned for decades to be retail. Let's look at Banner Health going in at Alma School and the 202. That was area planned for office but predominantly retail. From a retail standpoint they really feel in that market they really are at a tipping point. If they add much more retail in that area, unless it's true vaccination retail that will bring dollars from outside the market into the market, they are really just cannibalizing the existing retail and jeopardizing their success. They visit with them and they really feel the same way, including Westcor.

Ms. Mackey said she would like to answer a question that Commissioner Cunningham had earlier with an excellent point she made about employment and kind of looking at those retail establishments and what employment are they giving up in that area. The way that Economic Development looks at it is they look at it not only as employment and they all know how hard she fights for employment, but they also look at it from a residential opportunity. They look at it from an economic impact model and they say by bringing this new development in whether it is office industrial, whether it streets, residential, medical or whatever it is, what economic impact does that really provide for the market. How does that benefit the surrounding areas? So as they looked at this project and they looked at the retail that was planned there, they grew more and more concerned especially in that area as they dumped more retail in. Let's pretend there are 220 people and if they look at the number of units provided approximately 220 people could move into that area. Typically as most people look at their pocketbooks about 1/3 of their income is dedicated to their residential living environment whether it's your rent or mortgage. Typically, about 30% of their income is dedicated to your home cost. So they took that and put

that into their model. They looked at the average rental opportunity in that particular subdivision. If their average rental cost per unit is approximately $1300- about 30%. You come up with the monthly wage and then you apply a disposable income to that and they can show what money those 220 people will be spending close to where they live. As they attract jobs into the market, they know that about 25% of the people will live in Chandler. We know what their spending habits are based on their housing costs and their average wage and since they don't know the employee's wages here they have to hypothesize based on what the rental cost would be. We know that they are missing a key component where it comes to high-density residential to really attract those executives that come in for the Intel's and Microchips - kind of that higher end that right now they are losing to Gilbert and Scottsdale because it is some product that they have. They kind of put that all in and they look at it. So unlike a business where 25% of the people would live in the market and spend their disposable income in that market, in a residential opportunity 100% of the people live in the market and they tend to shop where they live. So they are able to apply that model to 100% of those 220 people as opposed to jobs that would have gone in retail jobs which would have been a little smaller. She said she hopes that provides them a little clarity on their thinking.

CHAIRMAN RIVERS asked if there were any questions for Ms. Mackey. There were none. He said they would be taking a 10 minute break.

CHAIRMAN RIVERS recalled to order the Planning and Zoning Commission meeting. He said he had 139 speaker cards from people who do not wish to speak. They only wish to go on record as being opposed to this item. The reasons given on these cards are safety issues, noise issues and incompatible land use issues. He also had 4 speaker cards who favor the item who wish to speak and 10 speaker cards from those opposed who wish to speak. He asked the audience if they live in the City of Chandler or own land in the City of Chandler and they oppose this item, please stand up. If they live in the City of Chandler or own land in the City of Chandler and are in favor of this item, please stand up.

SPEAKER CARDS OF PEOPLE OPPOSED TO THE PROJECT BUT DID NOT WISH TO SPEAK:

Tom Errickson
9390 S. Rural Rd.
Tempe, AZ 85284

Brian Kotarski
400 & 450 S. 79th Street
Chandler, AZ 85226

Diego Tambriz
318 N. Nevada St.
Chandler, AZ 85225

Leo Perez
(No address)

Ruben Velduzco
3649 W. Ruth Ave.
Phoenix, AZ 85051

John Prescott
4129 W. Milky Way
Chandler, AZ
(not good use of land)

Douglas Fulton
4291 W. Folley Place
Chandler, AZ 895226
(hazardous bldg.. within Stellar flight path)

Jane Fulton
4291 W. Folley Pl.
Chandler, AZ 85226
(high density family under flight path)

Joanne Osiol
4306 W. Saturn Way
Chandler, AZ
(incompatible land use)

Lisa Perry
4304 W. Mercury Way
Chandler, Arizona
(incompatible land use)

Peggy Perkins
4300 W. Jupiter Way
Stellar Airpark
(against multi-family or Residential development)

Gary Bennett
375 Enterprise
Chandler, AZ
(safety-dangerous)

James H. Stone
4303 W. Mercury Way
Chandler, AZ 85226
(safety & noise big issues)

Diane Kottke
4257 W. Rickenbacker Way
(not a place for an apartment bldg.-very dangerous)

Angela Hanson
4307 Jupiter Way
Chandler, AZ 85226

Bob Hanson
4307 Jupiter Way
Chandler, AZ 85226

Milo Beck
4302 W. Venus Way
Chandler, AZ

Sue Beck
4302 W. Venus Way
Chandler, AZ

Kim Buher
4492 W. Kitty Hawk

William Miller
2112 W. Harrison St.

Bambi Gillette
4256 W. Rickenbacker Way
Chandler, AZ 85226

T. Randy Gillette
4256 W. Rickenbacker Way
Chandler, AZ 85226
(has seen this situation at other airports and seen disastrous results)

Mack Dobkins
4303 W. Venus Way
Chandler, AZ

Issac Arzt
4376 W. Rickenbacker Way
Chandler, AZ 85226

Kathleen Gearhart
4437 W. Rickenbacker Way
Chandler, AZ 85226
(wants safety first-protect
our investment in Chandler)

Pamela Gottlieb
209 S. Stellar Pkwy.
Chandler, AZ 85226

James Dickey
1932 E. Kentucky Ln.
Tempe, AZ 85284

Nick Azmann
4301 W. Saturn Way
Chandler, AZ

David Purcell
4306 W. Venus Way
Chandler, AZ

Dan Lane
4546 W. Harrison St.
Chandler, AZ 85226

Susan Lane
4546 W. Harrison Street
Chandler, AZ 85226

Sally lane
4413 W. Kitty Hawk
Chandler, AZ 85226

Robert Garrett
4476 W. Rickenbacker Way
Chandler, AZ 8522

Barbara Garrett
4476 W. Rickenbacker Way
Chandler, AZ 85226

Michael Lane
4413 W. Kitty Hawk
Chandler, AZ 85226

Barbara Smith
4304 W. Jupiter Way
Chandler, AZ

Robert Watts
4350 W. Earhart Way
Chandler, AZ 85226
(apts. under a final turn
makes no sense)

Tim Brexler
6293 W. Megan St.
Chandler, AZ 85226

Pam Brexler
6293 W. Megan St.
Chandler, AZ 85226

S. Steve
503 S. Stellar
Chandler, AZ

Joseph M. Smith
12014 Hacienda Dr.
Sun City, AZ

Jeannette Baugh
21241 Boegle Road
Redding, CA 96003

Mike Jennings
209 W. Secretariat Dr.
Tempe, AZ 85284

Cassie Walker
4336 W. Rickenbacker Way
Chandler, AZ

Allan Tellam
4294 W. Lindbergh Way
Chandler, AZ

Steve Smith
4304 W. Jupiter Way
Chandler, AZ
(too much misinformation-all facts need clarification)

Bonnie Berlanol
4293 W. Kitty Hawk
Chandler, AZ

Denise Latim
4417 W. Rickenbacker Way
Chandler, AZ

May Hsieh
16210 S. 34th Way
Phoenix, AZ 85048

Cyndie Gaines
1844 E. Calle de Arcos
Tempe, AZ 85284

Ann Preston
5505 W. Del Rio Ct.
Chandler, AZ 85226

Clayton Saffell
4309 W. Saturn Way
Chandler, AZ

Chris Sands
4336 W. Rickenbacker Way
Chandler, AZ

Wallace Campbell
3851 W. Sheffield Ave.
Chandler, AZ 85226

Kimberly Gearhart
4437 W. Rickenbacker Way
Chandler, AZ

Craig Berlanol
4293 W. Kitty Hawk
Chandler, AZ

Todd Lasher
2433 W. Enfield Way
Chandler, AZ 85286

Lynn Smith
4307 W. Saturn Way
Chandler, AZ

George Hsieh
16210 S. 35th Way
Phoenix, AZ 85048

Richard Roderick
1844 Calle de Arcos
Tempe, AZ 85284

Billie Saffell
4309 W. Saturn Way
Chandler, AZ

Larry Preston
5505 W. Del Rio Ct.
Chandler, AZ 85226

Al Roberts
4139 W. Venus Way
Chandler, AZ

Rosemary Bates
4308 W. Jupiter Way
Chandler, AZ
(unfair, unnecessary & unwarranted)

Ronald Bates
4308 W. Jupiter Way
Chandler, AZ
(unfair, unnecessary & unwarranted)

Joe Sottile
4305 W. Venus Way
Chandler, AZ

Lori Sottile
4305 W. Venus Way
Chandler, AZ

Bob Gottlieb
209 S. Stellar Pkwy.
Chandler, AZ 85226

Carol Brower
1233 N. Alder Dr.
Chandler, AZ 85226

Stan Brower
1233 N. Alder Dr.
Chandler, AZ 85226

Mike Broegger
3317 E. McDowell Rd.
Mesa, AZ 85213
(when will it end?)

Dennis Kottke
4257 W. Rickenbacker Way
Chandler, AZ

Michele Dustman
4147 W. Venus Way
Chandler, AZ 85226

Larry Dustman
4306 W. Mercury Way
Chandler, AZ 85226

Jim Moore
14 S. Stellar Pkwy.
Chandler, AZ

Melissa Holper
4451 W. Folley Place
Chandler, AZ

Tyler Slesman
4451 W. Folley Place
Chandler, AZ

Christi Moore
14 S. Stellar Pkwy.
Chandler, AZ

Ted Dearing
112 S. Stellar Pkwy.
Chandler, AZ
(who would want to live under airplanes on 2 sides & a few hundred ft. over their house?)

Ronald Smith
3938 E. White Aster St.
Phoenix, AZ

Amy Dicky
1932 S. Kentucky Ln.
Tempe, AZ 85284

Cheryl Walker
4558 E. La Mirada
Phoenix, AZ 85044

Trent Bowman
2 Stellar Parkway
Chandler, AZ

Christina Arsenis
3631 W. Butler St.
Chandler, AZ 85226

Doug Thaxton
4111 W. Venus Way
Chandler, AZ 85226

Thomas W. Warner
4455 W. Lindbergh Way
Chandler, AZ 85226

Douglas Davies
887 W. Rockrose Way
Chandler, AZ 85248

Jean Brown
4255 W. Lindbergh Way
Chandler, AZ 85226

VA Ferguson
106 S. Stellar Pkwy.
Chandler, AZ 85226

Fred Ferguson
106 S. Stellar Pkwy.
Chandler, AZ 85226

Jeanelle Graham
4317 W. Rickenbacker Way
Chandler, AZ 85226

William Arsenis
3631 W. Butler St.
Chandler, AZ 85226

Mary Stone
4303 W. Mercury Way
Chandler, AZ

Scott Williamson
162105 34th Way
Phoenix, AZ 85048

Suzanne B. Warner
4455 W. Lindbergh Way
Chandler, AZ 85226

Susan Davies
887 W. Rockrose Way
Chandler, AZ 85248

Ronald Brown
4255 W. Lindbergh Way
Chandler, AZ 85226

L. N. Bangs
4375 W. Lindbergh Way
Chandler, AZ 85226

Kay Bangs
4375 W. Lindbergh Way
Chandler, AZ 85226
(housing complexes near airport result in years of complaints from residents)

William Wilt
13627 S. Canyon Dr.
Phoenix, AZ

Billy Walker
4558 E. La Mirada Way
Phoenix, AZ

George F. Raiser
4292 W. Kitty Hawk
Chandler, AZ 85226

Charlayn Griffin
4477 W. Rickenbacker Way
Chandler, AZ 85226

Marco Di Prima
4417 W. Rickenbacker Way
Chandler, AZ 85226

Skip Schipper
103 S. Stellar Parkway
Chandler, AZ 85226

Sharon Young
4356 W. Rickenbacker Way
Chandler, AZ 85226

Joyce "Gail" Ferrantelli
4411 W. Folley Place
Chandler, AZ 85226

Linda Smith
4307 W. Saturn Way
Chandler, AZ

John Coffman
4497 W. Rickenbacker Way
Chandler, AZ 85226

Marlo Bender
4309 W. Jupiter Way
Chandler, AZ 85226

Andrew Black
4436 W. Rickenbacker Way
Chandler, AZ 85226

Adriana Gonzales
4111 W. Venus Way
Chandler, AZ 85226

Tiffany C.C. Raiser
4292 W. Kitty Hawk
Chandler, AZ 85226

Andrea Di Prima
4417 W. Rickenbacker Way
Chandler, AZ 85226

Andy Di Prima
4417 W. Rickenbacker Way
Chandler, AZ 85226

Julie Anderson
4300 W. Saturn Way
Chandler, AZ 85226

Bob Garrett
4476 W. Rickenbacker Way
Chandler, AZ 85226

Dan Harned
4301 W. Mercury Way
Chandler, AZ

Rose Osiol
4306 W. Saturn Way
Chandler, AZ

Jan Banka Coffman
4497 W. Rickenbacker Way
Chandler, AZ 85226

Tracy Cliff
5191 W. Kesler Ln.

Bryan Sailors
4303 W. Jupiter Way
Chandler, AZ

Jenelyn Sailors
4303 W. Jupiter Way
Chandler, AZ

Jason Sarell
4147 W. Venus Way
Chandler, AZ

Naomi Labanow
6745 S. Poplar St.
Tempe, AZ

Lois Westphal
4412 W. Kitty Hawk
Chandler, AZ 85226

Mark Romero
4451 Folley Place
Chandler, AZ 85226

Brian Kozarsel
400 S. 79th Street
Chandler, AZ

Bob Notswom
5585 W. Geronimo
Chandler, AZ

Lance Winter
4147 W. Venus Way
Chandler, AZ

LaVerne Kempinen
4303 W. Venus Way
Chandler, AZ 85226

D. Ronald Boice
4251 W. Farmers Way
Chandler, AZ

Rose Osiol
4306 W. Saturn Way
Chandler, AZ

Denise Latim
4417 W. Rickenbacker Way
Chandler, AZ 85226

Robert J. Nachtman
4477 W. Rickenbacker Way
Chandler,AZ

JOE MARTIN, 4306 W. JUPITER WAY, said he is a resident of Stellar Airpark for over 15 years. He also served on the Airport Master Plan on the advisory committee. He is President of the Stellar Runway Utilizer's Association known as SRUA. SRUA governs the airport and its operations and in fact the airport is privately owned but open to the public. Stellar Runway Utilizer's Association represents over 200 residential and commercial properties and businesses. He said he is starting out with an overview tonight on what they were going to be presented by the people after him. They will give them a detailed presentation.

He started out with a brief history of Stellar and what makes up Stellar. Then they will talk about why NUVO is incompatible with the current standard airport zoning practices. Why NUVO is incompatible with the City's General Plan which was approved by the voters on 2 separate occasions. How NUVO would expose the potential residents and families to undo danger and they will also tell them why NUVO will generate a barrage of needless noise and complaint calls to the City, to the FAA and Stellar as well. Furthermore, how NUVO will increase the potential for lawsuits, liability and needless expense and finally why NUVO is a

threat to their very existence at Stellar. Why this request should be turned down especially when promises were made to Stellar from the City. Keep in mind the data and related information that is presented here tonight are from reliable sources and the information they present is from credible professionals and expert witnesses.

One of the first points he wanted to share with them was a little bit of history about Stellar. He showed Stellar Airpark around 1975. It was platted in 1969 as a live with your plane residential development. It was zoned as an airport in Maricopa County. It was totally compatible. There was no encroachment. There were no safety issues and there were noise issues at that time. As they can see, it was surrounded by 100% farmland. He showed Stellar today. It has changed a lot. He showed the new entrance, the airpark which is distinctly different from what they saw a few slides ago. Now within Stellar Airpark today there is 154 residential lots on the west side of the airpark. On the east side of the airpark there are 67 commercial lots including 30 businesses on the field. Back on the entire airpark there are approximately 180 aircraft based here full time plus in the mid-field there is parking, fuel and maintenance available there. On the airport itself designated as P1-9 by the FAA has approximately 50,000 annual operations. Now that is down substantially since about 2006 because of the economy, the price of fuel, the temperature, even at this time of the year. This is the slowest they have seen it in years. Once the economy comes back and fuel prices drop, that number could go right back up to 80,000 in the late months of the year and early spring. That is the best time to fly because of the lack of the heat. Once the airpark is built out they expect the number to go past the 80,000 number substantially.

In talking about Stellar Airpark in general, it is a place that aviation enthusiasts join together in their business with their families with a common interest towards aviation. It is a great place to live. He said he would ask the big question and he said he was going to share a quote right out of Chandler's own Airpark Area Plan. It states the two major goals of the plan are 1) the protection of the municipal airport from residential encroachment 2) an aggressive economic development of the airpark area. They have the same airpark area designed for employment-same as Chandler. Why are they any different than Chandler municipal? That is their question. He said if there were any questions, he would be happy to do it.

COMMISSIONER PRIDEMORE stated at the end of this statement he was comparing the airpark to Chandler Municipal Airport. He interprets Stellar Airpark as a private facility. By being a private facility it brings its own set of things both positive and negative. He doesn't see that comparison yet. Can he enlighten him to that? Mr. Martin said Stellar Airpark is residential and commercial as in Chandler Municipal. It is all privately owned. The residential and the commercial property is privately owned but the runway is privately owned also. **COMMISSIONER PRIDEMORE** said earlier tonight Mr. Bull put up a visual showing the exclusion zone north of the runway and on that it showed the businesses that are currently north of Chandler Blvd. Are any of those properties that were shown north of Chandler Blvd., have they ever spoken out against any of those projects that have already been developed? Mr. Martin said they realized that the property was designed to be commercial property or retail. When those properties were built, Stellar supported them because they felt they made a good fit and they wanted to be accommodating. If fact, the picture they saw of the hotel and some PADS,

that was not the proper zoning for that but because the property had not been moving, they felt it was close enough and safe enough to go ahead and write a letter recommending that they go ahead and support that kind of a development. There will be some discussion about that in one of the presentations that is coming. **COMMISSIONER PRIDEMORE** said he is trying to get a handle on why is this the tipping point. Why when there has been other developments that have been constructed, there are businesses open, and there have been plans that have come through that have not been built that showed hotels so he is trying to get a handle on why did they not hear this outcry for any of those but they are hearing it tonight for this particular project. What makes it different? Mr. Martin said they are going to answer that. It's a multi-family, ultra high density housing and none of the property up there is that. They are going to go into a lot of detail about that which he is sure will answer his question.

CHAIRMAN RIVERS said he had two questions. Furthering what Commissioner Pridemore was asking, there actually was a project not too long ago involving houses up there. If he remembered correctly, the Stellar folks spoke against those houses. They were going to build houses between Desert Breeze Blvd. and Chandler Blvd. or at least a good chunk of the way up. Stellar was against that residential development were they not? Mr. Martin replied that was correct. There were actually two developers that were trying to put in homes-some very high end homes and low end homes. He believes it was Hancock. Before his time he thought there was even an apartment developer that tried to develop there and every time Stellar was against what they consider to be dangerous high density residential. **CHAIRMAN RIVERS** said his other question was simply clarification. He said that Mr. Martin stated that Stellar Airpark is privately owned but it is a public airport. Is that correct? Mr. Martin replied yes, it is open to the public so anybody can use it. **CHAIRMAN RIVERS** said so on that level it is akin to Chandler Municipal? Mr. Martin replied yes it is. They are actually a reliever for Sky Harbor Airport and because of that planes that go into Sky Harbor if they can't get in there because of weather, they can use Stellar to fly into so they can land. In case they are low on fuel they could land on Stellar. It is free of charge. We don't charge anything at Stellar for people to come in to land. There are no fees at all. It is totally funded by the people at Stellar. Everybody can use it. It is open to anybody that wants to use it. He turned in a petition with 289 signatures against this project. He turned to the Planning Commission Clerk.

DAN PERRY, 4303 W. MERCURY WAY, said he has resided at Stellar Airpark since 1991. He served on the Board of Directors of the Stellar Runway Utilizers Association and as its President for eight years. He said that tonight he would like to present information on the zoning history of the parcel at issue and how it fits into Chandler's General Plan. We want the Zoning Commission to understand that it is no accident that this property has been zoned as it has for almost 50 years. In 1969 before the City even annexed this area the airstrip that would become Chandler Airpark or Stellar Airpark was recognized in Chandler's General Plan and the parcel to the north was designated for industrial park and major employment. Throughout the 70's the major employment area designation was maintained including once again in the 1976 General Plan. In 1979 Stellar Airpark and its surrounding areas were annexed into the city. In order to receive the signatures from Stellar residents that were necessary for the annexation, Stellar was given assurances that the parcels to the north would never be rezoned for any residential purpose.

In 1982 the CLUE plan which was an acronym for circulation and land use element once again reserved this property for major employment. Major employment is not retail. In fact, it was the CLUE plan that entitled the construction of the Intel plant just to the west of the site they are referring to. In 1984 zoning was approved as PAD Commercial for Williams Field Property Associates who had purchased 83 acres there in 1983. In 1986 the current Airport Noise Study was ratified by the Council and today 27 years later is still in use. It has never been updated and it is totally obsolete and inaccurate. In 1990 the CLUE plan was updated and the major employment designation was once again maintained. In 1998 and 2000 the city again reserved this property for employment. In 1998 the city even discouraged developer's from building a large warehouse project here because it was not consistent with zoning in an employment zone. In 2002 Chandler's General Plan was ratified by Chandler voters and this site again remains designated as a major employment area. In 2003, Maracay Homes filed and then withdrew an application to build single-family residences on 83 acres. Maracay withdrew their application after failing to receive support from the City or surrounding property owners. In a hearing on this application Mr. Hank Pluster who was the former Chandler Long Term Planning Director stated that the Maracay project did not make the fiscal impacts desired in an employment zone or ensure that the city could sustain itself and prosper in the future. Mr. Pluster also stated that the noise contours and Airport Noise Overlay Study was prepared in 1985 and at 18 years old at that time was outdated and obsolete. In December of 2003 Sooner Land purchased the site with the full knowledge of decades of zoning history and its designation of a major employment center. Sooner named the property Chandler Corporate Center. From 2003 to 2005 Sooner Land sold off most of their land in the Chandler Corporate Center. Since then, two corporate buildings have been constructed; one for Garmin, one for Rockefeller, the police stations and fire stations are built, Creative Leather is built, Stellar Business Center is built, Garage Town is built. Chandler Corporate Center is becoming exactly what Chandler Planners envisioned. It is becoming a major employment zone. In 2008, after over a year of study that included the current Mayor, four sitting Council members and many, many others, the General Plan is placed on the ballet and once again ratified by the City's voters.

The parcel remained reserved as a major employment zone. Again, it is no accident that this property is zoned as it is. It is the result of 33 years of careful land planning by the city. It is a result of thousands and thousands of hours of study by Commission after Commission by Board after Board that were made up of hundreds of local leaders. It is also the result of the promises and the guarantees made by all of the Mayors, Council and Zoning Commissions in all the years preceding this application. Promises that were made to protect Stellar Airpark from residential encroachment which is universally recognized as the greatest killer of general aviation airports.

Why are employment zones so critical to the city? The General Plan states economic considerations are more than important than ever. The city has less available land. As Commissioner Cunningham pointed out, as of mid-2008, less than 8% of the land designated in Chandler for employment remains available for development. Stated specifically in the plan is the goal of creating a fiscally sustainable city by refraining from changing the designation of employment zone land reserves to housing. That is a quote right out of the plan. The plan says on page 20 despite pressure like they are hearing tonight from developers for more dwelling

units, the General Plan recommends continuing to reserve land for non-residential development purposes. Also stated specifically are the objectives of seeking well-paying job opportunities for the local work force and encouraging revenue producing business. He quoted from page 20 that Chandler has grown rapidly but according to plan. Now with less available land it is time for evaluating existing conditions to make the best possible future decisions. About the employment category, the plan states that Chandler's strong base will continue to rely on attracting a diverse base of high paying industries. The plan states the strategic use of the city's remaining land supply presents the best opportunity to develop a self-sustaining city.

What about growth expansion nodes? They have heard that growth expansion nodes are appropriate for high-density multi-family development. That is just not in keeping with the plans goals and objectives. In fact, there are five growth expansion nodes identified in the General Plan. Two of these nodes, the Chandler Fashion Mall and the Chandler Regional Hospital vicinity are mentioned as being appropriate for residential development. Two others, the Price and San Tan Freeway and the I-10 and Ray Road nodes as described in the plan as being strategic locations for specialized commercial employment. They are also mentioned as opportunities for urban residential densities but only because they are located at major transportation junctions. The northwest corner of Chandler Blvd. and McClintock not being located at a major transportation junction is only mentioned in the growth node plan as being appropriate for innovation zoned businesses. There are no apartments, multi-family or residential listed there. Read it for yourselves. The plan states innovation zones are considered to be in the employment zone category. Once again, right out of the General Plan from the City of Chandler. The node that they are discussing here tonight is not recommended for multi-family residents. He doesn't know where that came from but that is not the case.

Stated goals and objectives of the General Plan for employment zone in growth area nodes are to attract well-paying jobs, to gain maximum long-term advantage from Chandler's remaining land resources and to generate sufficient revenue from non-residential land to help sustain Chandler's fiscal strength. The City's own studies verified again from the General Plan that a common principal of municipal finance that residential uses cause more disservice than the return in revenue while business and good paying jobs bring a positive return to the city. Even stated specifically in the growth area plan is the objective of protecting the flight corridor approaching and departing Chandler Municipal Airport from high-density development. They would not approve this project at Stellar Airport if it was located in a similar area at Chandler Municipal. They would reject it out of hand because of the City's zoning requirements. The overall message of the General Plan is that the sustainability cycle of Chandler depends on its employment base which in turn creates demand for housing. It doesn't go the other way around. In other words, they don't kill the golden goose especially when killing the golden goose endangers one of the oldest and best assets of the city, Stellar Airpark. He said tonight they ask this Commission stay the course of so many years and allow this property to be developed as it was always intended. Approving this application would be short-sided for Chandler and put into jeopardy the very existence of Stellar Airpark. Please don't force a round peg into a square hole. He said thank you.

There was applauding. **CHAIRMAN RIVERS** asked that they avoid outbursts and out of politeness to everybody who speaks to just avoid the outbursts. There were no questions for the speaker.

JOHN MORRIS, 4300 W. SATURN WAY, stated he first moved to Stellar Airpark in 1998 and has operated aircraft every year since that time up to and including a corporate turbo prop and jet aircraft. He has been employed as an airline pilot for the past 9 years and is also a SRUA board member.

He said he wanted to discuss accidents and incidents occurring within the City of Chandler. Those accidents date from 1973 to 2011. He showed an overview for those who might not be familiar with the area showing the three airports within the general plan here.

There have been 152 accidents within the City of Chandler, 86 of those occurring at the Chandler Municipal Airport, 29 at Stellar Airpark and 37 other places within the City of Chandler. Additionally, there have been 113 incidents, 50 of those occurring at the Chandler Municipal Airport, 22 at Stellar Airpark and 41 elsewhere within the City of Chandler. An accident is simply a crash that involves and injury or fatality or results in substantial damage to the aircraft. An incident would be any other event that could affect safety of operations.

He showed on the overview the accidents and incidents that have occurred in closest proximity to Stellar Airpark. They can see the north end of the runway again represented in the green area and there are 4 accidents and 1 incident within the view of this slide and they can see the dates of those occurrences as well. He showed the proposed NUVO site relative to the north end of the runway and those accidents. He showed a caricature represents where you might likely see aircraft approaching to land on runway 17 at Stellar Airpark and that would be a southbound landing aircraft. He showed some of the national statistics. If they examine all of the national statistics and their locations relative to the runways and safety zones, their primary resources are California Airport Land Use Planning handbook. It is dated October 2011. Why would they use the California Airport Land Use Planning handbook? Simply stated Arizona does not have one. There are several states that do. Many of them however refer directly to the California handbook.

California was really the first state to begin addressing zoning issues surrounding airports as far back as 1953. They were also the first state to plot geographical accident data in 1992. It is the most comprehensive of all the state planning handbooks at 455 pages in length. The California Handbook is clearly referenced in the FAA Advisory 150-5300-13 for the protection of aircraft as well as people and property on the ground. The data that is contained in the California Handbook was compiled by the University of California Berkley. Exhibits E1 and E2 plot airport vicinity accidents and if they are taken individually, E-1 plots arrival accidents to runways. He showed on the overview accidents represented as both X's and O's. The O's are from the 2002 handbook and the X's are from the 2011 handbook. They are all national accidents plotted against the baseline at the arrival end of the runway. For illustration and clarity purposes, if they turn this over it will be much easier to illustrate. This would be for runway 17

arrivals for aircraft landing southbound at Stellar Airpark. The runways are represented by the green ribbon, the NUVO site is represented in the yellow and red area. If you look closely, there are 3 accidents within the confines of the proposed site. This represents accidents specific to Stellar Airpark and they will notice that pattern closely resembles that which the California Handbook has outlined in this illustration. Their typical traffic pattern would reside within this rectangle. There is no requirement for the traffic to reside there but that would be the typical place that you would see traffic when runway 17 was in use.

Exhibit E2 would cover departure accidents and if they zoom in the same illustrations here, the X' s and O's, represent national data. They illustrate Stellar's Runway in the green band and if you look closely there are 3 accidents within the confines of that site as well. These are the 2 accidents specific to Stellar Airpark that he was able to definitively attribute to operations from runway 35 and again, that is northbound departures from Stellar Airpark. This is where you typically see the traffic pattern. Again, no requirement for the aircraft to occupy that space but this is the typical pattern for runway 35. The only deviation from that which is mandated by the FAA would be a takeoff from runway 35 during times of high winds, low visibility and the weather where an aircraft was operating under that set of guidelines. In doing so the aircraft departing to the north are required to make a right turn as listed in the red box. That would require a right turn off runway 35 to proceed southbound. There is no discussion about that. That is a requirement. As they can see in all likelihood this would be aircraft taking off at high power settings in low attitudes and he said he couldn't help but believe that would include an over flight over the proposed NUVO site.

If you go back into the California Planning handbook Chapter 3 discussions, Building and Airport Land Use Compatibility Plan, page 3-17. There are 3 examples and example 2 is really the most relevant for our operation based on runway. 3-20 discusses adjusting generic safety zones to individual airports. The most important elements from this paragraph are as follows:

Runway length is the primary consideration, however the type of aircraft that you use on the runway can also be considered. A short runway using more demanding types of aircraft may warrant starting a larger set of safety zones. The question is do high performance airplanes operate at Stellar Airpark? Absolutely yes. This is not an exhausted list. These are just 2 of the aircraft that operate or are based at their airport-also jet and turban powered aircraft and helicopters as well. We used example 2 to construct an illustration of the Stellar Airpark runway listed in the green band. The first zone is safety zone 1 defined as the runway protection zone for the clear zone. Its name is very clear to define what it is supposed to do. The nature of the risks are numerous. The most important element here however is that the risk level is considered very high for an accident. The percentage of near runway accidents occurring in mid-zone is 20 to 21%. The basic compatibility policies right out of the California Handbook is to prohibit all new structures and residential land uses.

In Safety Zone number 2, which is defined and titled 'The Inner Approach and Departure Zone'. The nature of the risks are listed here out of the California Planning Handbook. The risk level is

high with the percentage of near runway accidents occurring mid zone slightly higher than zone 1 and up to 22%. The compatibility policies are listed as follows:

To prohibit theatres, meeting halls, office buildings greater than 3 stories, children schools, etc.

Perhaps the most important zone that they should discuss this evening is safety zone 3 defined as the inner turning zone. Why, because the proposed site is squarely inside of the inner turning zone. From the California Handbook the common types of aircraft accidents that would occur for arrivals would be stalls, spins and uncontrolled crashes. For departures it would be mechanical failures on takeoff where the pilot has few options. The risk level is still moderate to high within safety zone 3 and the percentage of near runway accidents is 4 to 8%. If you look at the compatibility policies in the handbook, they request that you limit residential uses to very low densities. Avoid any structures with 3 above ground habitable floors and prohibit major shopping centers; theatres, meeting halls, schools, large daycare centers, hospitals and stadiums. What do all of these facilities have in common? They are all high density uses and that is what they are talking about with the proposed NUVO site.

To recap limit residential uses to very low densities, avoid buildings with more than 3 habitable floors and the risk level remains moderate to high with runway accidents occurring at 4 to 8%. Our statistics to date and as he mentioned earlier, 22 incidents and 29 accidents at Stellar Airpark. Over the 44 years that means one incident every 2 years and one accident every year and a half. They have had one fatal accident in 44 years and that is something they are extraordinarily proud of. Shortly after that one fatal accident occurred, this article appeared in the Arizona Republic and it has a couple of notable quotes that he is going to read:

‘Because the runway is oriented north to south the City has banned residential zoning immediately north or south of the airport that would keep houses out of the flight path said Planning Director Jeff Kurtz.’ Homes have been built in the flight path but they aren’t right next door to the airport. Later it was quoted as saying in a vacuum things like an airport is probably best without anything around them anywhere but in terms of doing conscious planning, efforts and care has been taken to assure that there are compatible uses around the airport. He can only imagine that he may have been referring to City of Chandler Ordinance 1583 at the time which states ‘whereas special protective measures are also necessary to protect activity at Stellar Airpark from incompatible land uses and to protect the health, safety and welfare of existing and future residences and businesses in the vicinity of Stellar Airpark’.

Just last year there was a Planning and Zoning Commission meeting on September 7, 2011. There was a proposed daycare center that he believes was ‘Wee Blessings’ near the Chandler Airport and Kevin Mayo, Planning Manager, was quoted during that meeting to say the majority of airplanes don’t crash when they are in a glide path. They crash on takeoff, landing and turning. He can’t disagree with Mr. Mayo’s assessment at all as an aviation professional. He concurs whole heartedly with that and he submits to them that any aircraft that might crash at the Chandler Airport is no different or no more or less susceptible to any accident that might occur at Stellar Airpark. Here are the facts that he presented this evening. This apartment will reside

squarely within safety zone 3 where a risk of accidents is deemed to be moderate to high. Data driven statistics show accident potential at the proposed site to be 4 to 8%. Any new question considered within safety zone 3 should be limited to low intensities and very low densities. Any structures with more than 3 habitable floors should be avoided within safety zone 3. In conclusion, based on reliable safety data there is no compelling reason to deviate from the General Plan and grant any residential zoning to the property in question.

CHAIRMAN RIVERS asked Mr. Morris if he was a pilot. He answered that he was. **CHAIRMAN RIVERS** asked what kind of aircraft he flies. Mr. Morris replied that he currently flies an Airbus A-320. **CHAIRMAN RIVERS** said he meant out at Stellar Airpark. He thinks he would have seen that. Mr. Morris replied he currently owns a Piper Comanche which is a single engine aircraft.

KURT GEARHART, 4437 W. RICKENBACKER WAY, stated he is going to talk about compatible airport land use. He has been a Stellar resident since 2003 and after graduating from the Air Force Academy he became a pilot and so became an instructor in the T37 and eventually the F16. While flying F16's he was sent to the University of Southern California and became an aircraft investigator for the Air Force. He is currently a flight instructor certified by the FAA and a pilot working for a major airline.

Clear zones were the original terminology for airport safety zones. In 1952, the Presidential Commission to Airports, President Truman was worried about runway encroachment and protection and peace of mind with people having moving closer and closer to our nation's airports. Runway protection zones were what they were renamed in 1981 as defined in Part 150 of the Title 14. Their size was determined by airplane type and/or port use and airport size also. There are 6 standard zones that are the common practice now days in airport safety zones and each of them is defined by different areas depending on where their location is around the airport. Today they are concerned with inner zone turning 3 which has already been mentioned by John. What do they have for documents to use for current standard resources for Airport Land Use Planning? He said they had been mentioned before but he would go over them briefly. The Arizona Title 28 Chapter 25 Article 7 Airport Zoning and Regulation which encourages cities and municipalities to incorporate compatible land use around the state's public use airports. They have Part 150 Noise Compatibility Planning, the FAA Airport Compatibility Guide Book which recommends the California Airport Land Use Planning Handbook which was seen just a minute ago and lastly the Airport Cooperative Research Program Report 44 which documents the reasons for closures of public use airports over the past few decades. This is the standard. It is approved by FAA and recommended by the FAA in addition to several other states and closer to home they see the Prescott Airport which they used to create their Airport Master Plan in 2009.

State law governing creation of Airport Land Use Commissions applies to every County in California having an airport operate for the benefit of the general public. Airport Land Use Commissions have been granted statutory authority to repair an Airport Land Use Compatibility Plan and to review local government, general and specific plans for consistency against the Airport Land Use Compatibility Plan. The government code goes further on to state that a

County or City's General Plan as well as any applicable specific plan shall be consistent with an Airport Land Use Compatibility Plan and the City must amend to keep them consistent. Why? Incompatible land use by responsible zoning agencies has led to encroachment, safety compliance issues to the tune of airport closures at a rate of 1.5 per month in the United States. Since 1969 25% of the public use airports have closed.

According to the Airport Cooperative Research Program, their guidebook, Preservation for the Public Use of Airports, their data suggests that in 1970 there were 2847 privately owned public use airports in the United States. Move forward to 2007, there are only 933 privately owned public use airports remaining. Only 33% of them remain. They give 16 reasons for closures. If they eliminate the economic problems, they have the community and environmental reasons. When a community doesn't share their economic vision or share their environmental concerns about updating an outdated noise study or even accepting their own Part 150 Study, then it attempts to rezone adjacent property to incompatible land use, we realize the community environment leading to unfavorable flying and living conditions at Stellar. Their resources begin to diminish as fewer people want to buy and reside in the airport and then the economic and infrastructure issues soon to begin to take over. Do they feel threatened at Stellar? You bet they feel threatened.

Public use airports under private ownership have a significantly higher risk of potential closure than public use airports under public ownership and that is from Report 44 that he just quoted. NUVO threatens their existence. Stellar has 4000 feet of runway available for takeoff and landing, over 180 general aviation aircraft, 22 plus turban aircraft, and about 10 helicopters. They have an instrument approach when the weather is less than optimum. They will grow in size as has been mentioned earlier. They are 81% built out. Most of all they require no public funding. They just need the consideration to retain compatible zoning so it remains a viable public use airport - a gem in the City of Chandler.

Stellar's patterns are determined by a wide variety of aircraft, aircraft type, pilot skill, winds and others will determine where the airplanes fly. 60 to 70% of the time you will see the airplanes fly in the blue or yellow zone directly over the proposed NUVO property or very close to it. What altitude will the airplanes fly directly over the NUVO property? If they use the FAA standard 3 degree glide slope with about 318 feet loss per nautical mile, we will see that the traffic will fly over that proposed property at less than 95 feet. Less than 40 feet over those buildings is what you are going to see the airplanes doing. The airplanes flying the yellow might be a little bit higher because they are not in a straight path and they have a little more to accomplish to line up with the runway. What does that look like if you are sitting on the NUVO property? If they are looking out to the east, this is what you are going to see every day - a normal traffic pattern at Stellar Airpark of an airplane coming in just trying to make his way over to runway 17 at Stellar. The guys on the 4th floor of the proposed complex are going to get a great view. While don't they just fly a little bit higher? He said the reason they don't is the same reason you don't put a kid in a wagon, put him at the top of the hill and let him go downhill. The odds of them making it to the bottom of the hill safely are not very good. If he was to fly over that pattern of higher altitude, he would be diving at the runway and by the time he got to the

point where he needed to touch down, his speed would be so great there would be either damage to his aircraft or he would go off into the runway. That is considered an unstable approach, unsafe in the FAA's eyes and you must go around. Planes must remain in the yellow pattern dictated there. No wonder with airplanes flying this low over property in the inner turning zone they limit residential to very low densities. Additionally, any building above 3 floors they are going to have planes flying really close over the top of it.

He said let's look at another state to see how they do the airport land use planning. They picked Florida. Take the runway lane and put 4000 feet in there for Stellar and divide that in half and you have a 2000 foot radius that they say to draw around your airport. Within that radius they say no residential or education. Does NUVO fall within that? Of course it does. It is only a ¼ of a mile away. He said let's go to Idaho. They use yet another methodology to determine their airport traffic pattern. They use the performance of the airplane. We have category A, B, and C aircraft at Stellar C being the most critical and fastest air pattern. It's probably the largest. When you look at the table, they need to put 2.25 miles around Stellar for safety purposes and of course, being ¼ of a mile way, NUVO falls well within that. If they go to Idaho's matrix as to what can fall in there residential wise; they have C1, 3 and 6 as warnings. Warning 3 says limit residential density to a maximum of 1 dwelling per 5 acres. Again, not compatible with high-density like NUVO. He said let's move closer to home and look at Prescott Airport. In 2009 they updated their Airport Master Plan. Let's look at the resources use – the same ones they were discussing today. They added the Washington State Airport Land Use Compatibility Program. He showed the Airport Land Use Plan coming from the FAA and California Handbooks. They have drawn their zones. Every runway has its down diagram off the end based on the handbooks and the guidance. We look at zone 3 – yes, around the end of every runway there is a zone 3. Their zone 3 does not allow single-family residential, multi-family residential, mobile home parks, group homes, convalescing homes, nursing homes, secondary residence 1200 square feet or less. They do allow care taker units 1200 square feet or less and you will also find there are other pages of what is compatible in zone 3.

In fact, they would love to see the proposed property properly developed north of Stellar but it needs to be done correctly with commonly accepted Airport Compatibility Zoning. He showed 4 pages of zoning uses from the Washington State Airport Land Use Guide. Most of them are compatible with zone 3. From a pilot's perspective and because of his flying and safety experience he felt it was necessary and try to show from a pilot's perspective what it's like to fly over the NUVO property (will show a video clip). He showed the plane that they were going to fly-low wing, single-engine aircraft which is typical of what they have at Stellar. He showed a map of the area. He pointed out Chandler Blvd. and McClintock labeled to help get them orientated. Stellar Airpark is circled in yellow and they are going to fly the airplane in the normal pattern for runway 17 right over the proposed property. He said the video is going to start halfway through the final turn about 750 feet. Notice how fast things happen and how quickly they descend. They are now down around 500 feet, 400 feet, approaching McClintock they are less than 300 feet over the property, less than 200 feet, turning final and trying to finalize and make that sweet landing every pilot tries to make. A lot of concentration is involved. Notice how fast things happen. He said let's look at it from the reverse view. They

are over McClintock at 300 feet, there's the apartment complex down around 200 or less and he is trying to make sure he is not too fast or too slow that he stalls.

No Federal or State Airport Land Use Guide support high-density residential like NUVO. It is incompatible with all current land use zoning guides for this location near an airport. History has shown since 1969 that only 33% of privately owned public use airports remain with encroachment and incompatible land use being a major factor. Some residents have decided their sound proof dwellings may not hear or see every aircraft that goes by like when outside on their patios or in their pools but the shadows flying by their windows is going to keep them praying that those planes safely make it to the runway every day.

COMMISSIONER RYAN stated that in the last 3 or 4 presentations they have referred to a lot of guidelines and so forth. He asked if every pilot follows the same course into the airport. Mr. Gearhart replied that no, they don't. It depends on the type of aircraft, the pilot skill, the winds, number of airplanes in the pattern. There are lots of things that determine exactly where the pilot is going to fly. **COMMISSIONER RYAN** said actually they are flying over residential on the east side of McClintock. Mr. Gearhart said at a higher altitude-they are not flying 40 feet over tops of buildings. **COMMISSIONER RYAN** asked what it would take to readjust that flight pattern to make a little longer loop out further north. Mr. Gearhart replied that airspace is owned by the Federal government. Access is granted to the people in the airplanes in order to land at Stellar. If they don't want airplanes flying over that property, then they need to move the property out of zone 3 which is the inner turning zone as specified by the FAA. **COMMISSIONER RYAN** said they are looking at the zoning residential but yet they are saying put a restaurant there or ten restaurants there and that's fine. Mr. Gearhart said it has to deal with being at night and living in a place of high-density where they going to have to deal with it every night and worry about it. **COMMISSIONER RYAN** said you basically want to leave the ground empty and void of any development. He doesn't get what he is saying. If you put restaurants or employment or any type of use there, you could have at least as high a density as people as you would with this residential development. Mr. Gearhart said they are going by what is standardly used by the FAA and the most widely recognized source, The California Land Use Handbook, which states these are the items which are compatible use and inner turning zone 3. Again, if you look at Washington State Program for Airport Compatibility Land Use, there are plenty of uses there specifically many uses that would help with the economic and job growth output. **COMMISSIONER RYAN** said he just doesn't agree with what he is saying. The uses that he is saying that are fine to put there, in his mind, they are just as big a problem as the residential use. If you had a fatal attack at any point during the day time, you may have as many fatalities in a restaurant or in employment or in a commercial retail, maybe even more as you would a residential project. He's not the one presenting it and he's not saying that it's right to put this development there. He is just asking why are they picking and choosing uses that really have the same risk. Mr. Gearhart said they did not make that decision. They are looking to the guidance provided by the FAA and the most recently accepted compatibility uses around. It was not their decision. They just said this is what is standard for airport use in the United States today.

CHAIRMAN RIVERS asked if he owned an aircraft other than the one he showed them? Mr. Gearhart replied it's half finished.

RUSS OSIOL, 4306 W. SATURN WAY, stated he is a Stellar Airpark resident and a board member at Stellar Airpark. He is an airline pilot and airline pilot instructor, certificated, flight instructor by the FAA and a 30 year resident in Arizona.

He has two topics. The first topic will be the noise contours depicted in the current zoning charts are outdated. New noise charts would clearly depict that the buildings would be exposed to high noise levels not allowed by city ordinances and intolerable by the residents. The second topic will be city ordinances and city zoning codes.

He started his video presentation with a satellite view of Chandler Municipal Airpark only because this is where they started all of the zoning rules. In 1985 and in conjunction with the roadway expansion, the city needed to learn in order to get the money from the FAA how to define the airport overlay districts. To do that they had to come up with sound charts. This is the original sound contour for Chandler Airpark. If this chart would have been submitted to the FAA in its present condition today, it would be laughable and they would turn it down. It doesn't have any of the necessary wording there; the numbers aren't on there-it's just laughable. It is completely outdated just do to the software version in itself. The Arizona Republic noted that money exchanged hands about $360,000 worth for them to come up with these newer contours. Newer contours were clearly defined what was right for Chandler. They have had several revisions of their contours while they at Stellar Airpark haven't had any. This is just one of them. They got a little more compact and a little bit wider. He showed another version where it is the same kind of thing. Their airport usage has increased but nothing like the string bean design that they still show over at Stellar Airpark. These outdated noise contours both the original ones in 1985 done for Chandler and also for Stellar were originally produced in 1985 in accordance with the ordinance no. 1583.

All eligible parties including city planners now admit to their obsolescence. In 2011, Kevin Mayo stated that contours produced in the 90's were outdated. He also said that every time the FAA updates their software, the contour lines change. In 2003, Long Range Planning Manager, Hank Pluster stated that the map was 18 years old at that time. As the late Planning Commissioner Mark Irby expressed, he would like Staff to pursue the issue regarding an update and this was never done. He showed Stellar's old, outdated 1985 noise contour chart that is still in use today. This was produced in 1985 by Kaufman & Assoc. and he has the pleasure of talking with Dave Fitz, who is now the Principal of Kaufman & Associates. He has a letter from Dave Fitz saying this is outdated. He asked him what he used to come up with this stuff. How did they come up with this contour? They are all confident that when they did this in 1985 it was probably a good contour at that time. It is not relevant now though. He asked what they did. He told him that when this was made they used software that used punch cards. He calls this the hanging chad chart. There is no way for them to describe how this contour came to be. They talked in length and detail about how it got this curb. There is no other contour that is done in any of his research that has got these kinds of wavy turns. Their best guess is that this was done

with an old outdated software version to come up with an old outdated chart. What they might have done was come up with single event level matrix would commonly depict this. Everybody knows this isn't accurate today. They probably did this because they had 40 homes. They know they had about 50 airplanes around that time. They had no neighbors. The significance of not having any neighbors is they didn't have a good neighbor policy at that time. They are very proud of the fact that they have very low noise complaints. If they had a lot of noise complaints, they wouldn't be here today because they would have updated our noise contour chart. They would have been forced to in order to stop the noise complaints. They don't have noise complaints because they have a good neighbor policy. The good neighbor policy forces us to fly right over that unoccupied land. That is where they fly. There are no residents there and no business there and they fly right over that land and that keeps everybody else in that area happy.

The runway is half the size it was today. The significance of it being half the size is that they didn't have high performance airplanes coming in back then. They didn't have any jets, helicopters or high performance airplanes were in use at Stellar at that time. Any one of these instances would make the sound contours invalid beside the fact that they were done in 1985 with punch cards.

This is the same contour that is depicted on the zoning chart. Note, it is not a FAA noise contour chart. It is a zoning chart that they took this old outdated noise contour and slapped it on top of there. He thinks he is the only one that has this kind of version because he had to go the zoning charts and grab one version of it and another version of it, photo shop them together and make them look pretty so they can see this string bean design that is in existence for Stellar Airpark. The problem is this depicted zoning chart with this old chart depicted on a good zoning chart with all of those residences around there, it almost looks like a current chart. It is not a current chart; it is the old outdated chart on top of your current zoning chart. He put color on this thing. It looks even better now but it is still an old outdated chart until now.

City ordinances are directly tied to noise overlay districts. The only way you can define those noise overlay districts is to have current charts. The original city ordinance of 1433 provided for periodic updating. They all know that was never done. 1433 has been amended and the periodic update thing got dropped. Stellar Airpark has taken on the task to develop current charts that are accurate and also depict the noise contours. How do they go about doing this? You have to use the FAA approved software. You can't use architectural field guys in the parking lot holding meters. That is not what the FAA uses. There is only one thing that is approved to come up with a noise contour. It is a FAA approved software. It is called The Integrated Noise Mileage software (INM Version 7.0). They update this stuff on a regular basis. This is the current version. What do you do with it? You have to reference FAA Appendix 150 Part Noise Disclosure Maps. He makes his living and several of the people over here following procedures by the FAA. As a flight instructor, he enforces procedures in FAA. As a former airman, he was tasked with regulating procedures of the FAA. He knows how to follow FAA procedures. In the FAA procedures it also says that if after submission of a map, if there is any substantial change meaning airplanes doubled, runways doubled, flight path changes, any of these things, it says the airport operator shall prepare and submit a revised noise exposure map. They were bad on the

promptly thing. They never had this thing come up so they were bad on the promptly thing but the operator has now come up with a map for them. How did they go about making this map? They had to get data. They don't have punch cards anymore; they have really good software now. They petitioned the FAA. They said to show them the radar tracks. He said they would notice in the center of this map there is a yellow circle. That is the property. They will also notice there are no hooks going out here; no hooks off to the left. They don't fly that way. All of their patterns are done in a left have pattern most of the time. Sometimes they fly in left hand patterns, sometimes they take off to the north and sometimes they are required to take off to the north and fly directly over the building. This is just a sample of partial air traffic display of radar traffic. There are a lot of air planes that aren't even on here because they only pick up the radar traffic when they are higher up in the altitude. As the airplane starts descending, they lose their radar signature. Also, there are a lot of airplanes that are flying in and out their airpark that don't have what they call a transponder. A transponder is a thing that gives the signature to the radar. It picks it up and identifies it. If you don't have a transponder, it is not going to be recognized on this map. It was good enough to do the test for them.

What else do they have to do? They have to find out what kind of airplanes they fly. The original software only had jet airplanes. The original software was designed for places like Phoenix Sky Harbor or Chicago O'Hare. They get jet airplanes. They didn't have the modeling software designed for specific aircraft let alone specific general aviation aircraft. They also have to put in the expected traffic pattern use. You tell the program that most of the time they take off to the south, most of the time they are making left traffic on 17. Most of their patterns are going to be flown in this direction. Sometimes they take off to the north. You punch all this stuff in there and analyze it over time and it gives you a current chart. What are they going to get out of this thing? They are going to get this thing that they refer to as a dnl. So what is a dnl? A dnl is an average. How do they come up with the average? They come up with a decibel. He wants to make sure they aren't confused with a decibel versus a dnl. A decibel is just a unit of measure per sound. If they set up a meter right here, he would be talking at 65 decibels. As he gets a little more excited, he is probably talking at 70 decibels. It's about 65 decibels in normal conversation. Why is that significant? Because later on he will be talking about 85 decibels. Why is 85 decibels significant? Because 85 decibels is when you start getting hearing loss. They take these decibel levels and they come up with averages. At Stellar Airpark they don't have a whole lot of airport operations like Chandler Municipal. They have a lot airport operations compared for their airport but there is a lot of down time; a lot of time between 2:00 and 4:30 a.m. when they don't fly. The average of 0 decibels versus 85 or 120 is really what gets you the 65 decibels; the stuff that really starts bothering people.

Back in 1973 the EPA came up with this dnl. It is just a metric for coming up with an average and a way for them to define what is really going to bother the people. It is just an average. It is used to define what they refer to as the noise annoyance relationship. They have charts and they can figure out how many people were going to get mad. It just represents the need for community activity and also airplanes making noise and they have to find out how they can make this balance. It is really just devised as a threshold of tolerable noise complaints. He showed a chart that came out of the National Academy of Science, a committee on hearing and

biometrics. It shows dnl on the right highlighted at 65. That is the normal dnl number that people are looking for in their contours. They have heard a lot about California. California average was cutting edge there as well; 65 California - it really is about the same thing for their smaller airport with the amount of operations that they have. Either way it is going to show them that 14 to 23% is the percentage of people that are highly annoyed. They have 300 to 400 possible new residents in this apartment complex. That means 42 to 92 highly annoyed people.

The dnl contours are not represented of the actual noise; it is just an average - the average of the overall expected tolerance. The actual noise can be depicted by other metrics. There is single event metrics. He showed a single event metric chart. This is one airplane on one day. So coming from the bottom right side corner this is how they normally approach our field. They approach the airport at a 45 degree angle; that is the standard pattern. Make a U-turn and come around and land. Obviously, sometime before they land they have to take off and that is what is depicted over here.

He showed the glowing yellow area in the lower left hand corner is the area of the subject property. So what they see off of the upper right hand corner it is 55 decibels. That is not too bad, that is quieter than him now. The light purple is 65 decibels; that is noise about what he is talking right now. 70 decibels it gets a little bad further on in. The blue in the center is 85 decibel noise contour. That is the part where hearing loss occurs. That is the part where most of the complex is at. The single event sound bar gives them a prediction that they might get 85 decibels of noise on that property location.

In difference to the applicant's noise study, he said that the road noise is going to be louder than the airplane noise. A couple of weeks ago, they had Vice Mayor Weninger to visit and no less than 3 times during the short visit, they had to stop their conversation because they couldn't continue talking because they couldn't hear each other. He showed a short video about what they were doing out there at that time. They had a little sound meter off to the right. The sound meter is reading low and there is an airplane taking off to the north. He showed the meter shows it peaked up below 86 decibels. It pretty much validates what they found out. They got this latest greatest offer from the FAA. They put in the good information. It says they got 85 and it comes up at 86. He showed Stellar Airparks latest sound contour on the right. On the left is the old outdated hanging chad. They had 40 homes with the old one and now they have 200 homes and businesses. They had 50 airplanes with the old one. Now they have approximately 100 airplanes; not only 100 airplanes but now they have helicopters and jets. Helicopters are the number 1 single biggest source of complaint for Chandler Municipal Airport. In 2007 the Chandler Master Plan states Stellar Airpark had an average of 45,800 operations. Everything they have done in their study has been on the low side. Everything has been conservative. All of their numbers have grown since then and like Joe first said in the beginning they really expect that everything is going to turn around and we are going to have higher operations in the future.

He showed a blow up of the sound contours, which is also going to depict the airport noise overlay districts. There is a contour of 55 on the right (the lighter green shading) and the first purple shading is what comprises the airport noise overlay district of two. The other one which

is 70 decibels and above that is the noise overlay district of three. That is all out of the Chandler code. A further blow up of it shows that half of the property is going to be in the noise overlay district of 2 with a current chart. The other half might be in the overlay district of 1 but they have guidance that says that if half of it is in there, it's all in it. Out of the Chandler code, what do you do if you are located in the airport noise over districts which they found out today that this property is in the airport noise over district? They have now defined which airport noise overlay segment they need to apply. Up in the left hand corner it shows anything in the grey area, the uses in this category are not permitted; residential, single-family, duplex, multi-family or manufactured housing is not permitted. It is just not permitted.

Noise contours presented today have been developed using standard practices in accordance with the guidelines suggested by the FAA and the software developer. The SRUA Board of Directors has approved this map as an accurate representation of the noise generated by their airport. The copy of this map has been presented to the City Planners and a copy has also been filed at the County Recorder's office as a matter of public record in accordance with Arizona revised Statutes Title 28. Our duty as airport operators has been to inform the surrounding property owners and the city regarding the noise generated by our airport. They also stress that higher noise levels will occur at frequent levels. The levels depicted on the map will occur at frequent levels. The levels depicted on the map are 24 hour weighted averages that they talked about. The actual noise levels in this building are going to be much higher.

It is up to them to hold to the intent of the city ordinances and deny the applicant due to incompatible land use. He wanted to gift them which he has already presented to the city planners, a copy of the new Noise Contours Chart.

COMMISSIONER PRIDEMORE said to Mr. Osiol that he said it was recorded. He sees him carrying a copy of this at this meeting but things are getting late. Mr. Osiol responded that 2 weeks ago it was presented to the City Planners. The fact is that this is a private airpark. They pay the money to upkeep it. With that comes certain burdens and looking at his presentation right now, one of those burdens is making sure that the noise contours are up-to-date. The question is why wasn't this looked at prior to this particular catalyst of the NUVO? Mr. Osiol replied the only way he could explain is that they had so many promises from City that said residents weren't going to build there and then also it wasn't that long ago that they got assurances from the City that they were going to look into updating these noise contours. They were the ones that originally came up with them. They had provisions in the city ordinances that they were supposed to update them so the standard was made for them to make them and to update them. Now is has gone on too far. He wasted so much time of his life and all of the people over here in the last 2 months just trying to prepare this. They were promised before this wasn't going to happen so they trusted them that they didn't have to do this stuff. Money was exchanged hands and he is sure the City paid a good portion of it-$230,000 for a noise study. That is a lot of money for their airport to come up with a noise plan. He understands that they probably shouldn't have trusted the City 10 years ago when they promised them they were going to do it but they had. **COMMISSIONER PRIDEMORE** asked if he knew how many noise complaints they get a year. Mr. Osiol said he would have to defer the question to Joe Martin,

their President. He is the one that actually has the cell phone that he carries with him all of the time and takes care of the complaints. At every one of their annual meetings, they have a good policy. They do everything they can to avoid bothering other people. The fact that their noise complaints are low should not be relevant because if they weren't doing things the right way they would have a lot of complaints. **COMMISSIONER PRIDEMORE** said by that same argument if you have a good neighbor policy so now you have 200 new neighbors, how does it change? He understands he can talk volume, 20 calls versus 1 call. Mr. Osiol said the only reason they can sustain the low level of complaints right now is because they have the property that nobody is at. They tell all of their people to fly over that property. When that building is over there, they have to fly around it; most of the time they won't be able to fly around it first of all. But if they have to fly around it they are going inconveniencing the other people. Then the noise complaints are going to start. Noise is going to happen. **COMMISSIONER PRIDEMORE** said as an observation even with the noise contours that he is now presenting, quite a few homes obviously fall within the 85 decibels not even counting theirs. There is obviously a subdivision directly west of Stellar that has been there since the early 80's and obviously there are other subdivisions on each of the corners. Mr. Osiol showed that the new properties further to the east are not in the higher decibel levels. Those are in the ANO-2 district. The brand new properties just to the east are in the new district. Half of the properties that are in Stellar are within the ANO-2 district where residents are allowed. There are some properties that are right next to the runway and those are in the ANO-3 district. Those are the loud ones. Still those aren't as loud as it's going to be at the apartment complex because the noise is pressure so the noise is coming across those houses. That noise is going to be directed right towards the apartment complex.

COMMISSIONER CUNNINGHAM said to Mr. Osiol that he mentioned 220 homes and businesses. Is there a figure of how many businesses rely on Stellar being there? Mr. Osiol said he would have to refer the question.

MR. JOE MARTIN said he would have to say he doesn't know that exactly right now but he would be happy to give her that. He said it is probably at least half of the businesses. **COMMISSIONER CUNNINGHAM** asked how many is half? Mr. Martin replied there are probably 30. Twenty of the businesses have aircraft that they fly in and out on a regular basis. **COMMISSIONER CUNNINGHAM** asked if he had any idea of any of the businesses at Stellar Industrial Park that also rely on Stellar. It is a public use field. Does he know if any of the businesses at Stellar Industrial Park directly across Chandler Boulevard rely on Stellar being there? Do they fly in and out to support their business? This is on the north side of Chandler Boulevard. Mr. Martin replied he didn't know the answer to that.

COMMISSIONER PRIDEMORE said NUVO goes away and other businesses are put in there and he is a business owner and one of those properties and he calls with a noise complaint. What is he going to do? What can you do for him? His business is there and whether his complaint is valid or not because that is another issue. The reality is people are always going to complain no matter what you do on just about anything; they are going to find somebody that is not happy. Whether it is justified or not that is part another discussion. In this scenario, he is a property owner and a business owner and I'm within your 85 decibel contour. He would think that he

wouldn't get to that point without knowing of their existence. So he consciously made the decision to put his business there. Somebody flies over his business and it is 86 decibels and he calls to complain. What are they going to do? Mr. Osiol replied that like he said there isn't anything they could do but they have heard the term airport encroachment. That is the problem. Airports keep getting encroached on and they have run out of options and they can't do anything to prevent it. If in fact Stellar Airpark did own that property, the FAA would prevent them from building out there. They would say you just can't do it. Further, Mr. Osial said that's what everybody trusts them for. This is what the zoning thing is about. This land was there and these guys bought and they know the airport is there. There is some land that really shouldn't be built on. There are compatible land issues for it but when it gets that close to an airport, it really might not be safe to put people there. Like he mentioned earlier it might not be safe to put businesses there. It is an unsafe place and that is why the FAA has come up with those turning zones. They say it is not a good place to put people there. If somebody really, really wants to do it, there are taking that risk but they trust these guys to protect the safety and welfare of the people. That is what it says in that code. People will do dumb things if you let them. Your job is to stop people from doing dumb things. **COMMISSIONER PRIDEMORE** said he just made the statement that if you own the land, the FAA would not allow you to build anything there. Yet, they have a document in their possession that is from the FAA that says there is no hazard. Mr. Osiol said this is a balancing act that they are all going to have to work on. They have two meetings; this one with them and the Council meeting. **COMMISSIONER PRIDEMORE** said he understands. They are a recommending body and he applauds everybody for taking the time to put their presentations together. They very seldom see this level of commitment and of preparedness. He thinks it is a good test ground. Obviously, they have to come through this body before you get to Council. Council is the one they have to convince in the end. They are doing very well on how they are making their arguments. It's that balancing act. He understands both sides of it. Again, he makes the comment that the FAA wouldn't allow it yet he has a document that says the FAA looked at it and they are o.k. with it. How do they reconcile that? Mr. Osiol replied that it is stated in the memo that the document really doesn't matter. That letter he has is only a preliminary finding. 10 days prior they have to put the other one in. That letter he has there he is not sure if it is the most accurate one because they have found holes in all those letters. They really have the most accurate letter. **COMMISSIONER PRIDEMORE** said he has the most accurate letter. What letter is that?

COMMISSIONER RYAN said this whole thing is kind of confusing for them. They have to understand this is their business, these fly zones, etc. and they have a lot of self-interest for this airport the City wants to have, but on the other hand we want to develop the rest of that property that has been sitting out there vacant for 30 years too. It is a real balancing act for them. They look at what Staff presents to them as gospel; not what these guys present to them. They appreciate what they have done and the hard work. It needs to go through Staff and Staff needs to digest it and then come to them with a recommendation. They can't really say for certain that in all of this stuff and he has heard and he sat on this Commission 10 or 15 years ago, and it was just as confusing then. The thing is they have a great looking project in front of them. They would like to approve it and recommend it to Council to approve it. All of you show up and now they are really confused. It's a flip of the coin for them. He is not really sure what they need to

do at this point and maybe a continuance to get this thing digested a little bit further with Staff. He doesn't think it is right to bring all this information up in front of the Commission like this without having Staff privy to it. That's how he feels.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated he didn't remember which Commissioner referenced the letter of Determination and No Hazard to Air Navigation. The document indicates that it appears to have been issued on July 5 and that determination becomes final on July 15, 2012 and that it is effective until the end of this year. That is what he is reading. You never know with the Federal Government but that looks like the dates that are correct. Also, in response to Commissioner Ryan all the information they are providing today is usable information to the City or if Council was engaging in considering an amendment or change to the zoning code; that portion that deals with the noise overlays and so forth. As several of these people have indicated, that isn't the case. Back in 1986 the airport was different and decisions were made to create those noise overlays. There is nothing that suggests that was unreasonable at the time given the nature of the airport and the uses that were there at the time. Those are still the rules that they operate under and are part of our zoning code. Those are the rules that they provide and inform developers when they are coming in; that these are the zones we have created and recognized. Whether it ought to be changed or not isn't really the issue before this body tonight but what do the current rules allow and provide for.

COMMMISSIONER RYAN said he doesn't feel like they are hearing the whole story directly. He feels like this is politics and they are hearing what one party wants for their interest and another party wants for their interest. He doesn't feel like they are getting the information correctly enough to really make the decision to approve this project or not. That is the concern that he has. It is very, very confusing. He sees one graph that shows a flight pattern coming in from the west landing. They talked all night coming in counterclockwise. The information is all confusing. When he looked at this project, he though it is out of the way of the direct approach to the airport. What does he know about flying-nothing. That is what he saw. There is no reason why this couldn't go. This project is a good looking project but the way they explain their approach and video with the airplane coming over 30 feet over the top of the building, who is going to vote for this? That is pretty crazy. So is this information really correct or is this just kind of drafted up a little bit?

CHAIRMAN RIVERS said that Commissioner Ryan makes valid points and as always he has keen insight, however, he said he was a little bit early. He wants to get through the rest of the speakers and then they can talk among themselves.

MS. JODIE NOVAK, SENIOR CITY PLANNER, stated she wanted to clarify something. Commissioner Ryan made the comment that City Staff was not aware of any of this information. A lot of this information, no. She said Mr. Osiol wanted to come in and talk with them recently. On his own personal time decided he was going to figure out what the new noise contours would be but they were very clear and explicit with them that is not something that is a part of this zoning case action process. The zoning case action process is not a discussion to look at 'is the zoning code correct'? Is the zoning code's ANO's correct? Are the noise contours lines on a

City Council official adopted zoning map book correct? That has nothing to do with this zoning case. As with any zoning cases that comes before Commission and Council, they are based on the City's adopted General Plan. Any other specific area plans, any other development plans and policies as well as what the current zoning is in the current zoning code. They have explained that and while they may feel that the noise contour lines are not correct and while they may have made comments stating that yes, there is that possibility that they may not be current today, they are not saying that is incorrect. There are separate processes that you have to go through the City of Chandler's jurisdiction to approach and coming through and asking the City Council to redo our zoning code book, re-evaluate how we define land issues and ANO's and look at redoing all of our zoning maps. They have had zoning cases that have come through in and around our Chandler Municipal Airport and they have never had these types of discussions at our Planning Commission or City Council because they had an understanding that if somebody didn't agree with our zoning code or the zoning maps, those are separate processes aside from this. Obviously, Board members and Council members can take in that information and that at the end if they feel maybe there should be those other processes, then that is their determination as part of how they vote on the particular zoning case. A zoning case typically isn't held off or continued to educate Planning Staff and City officials on how an airport really runs or doesn't run or whether the FAA agrees to doesn't agree on how flights go or noise contours work. That is not really a juncture of a point of contention with a particular zoning case. You make your findings off of what's adopted and whether what is proposed for a land use is consistent or not consistent with the adopted land plans and appropriate for that particular location. They had that discussion with them and advised them but the City has not taken those plans to process a zoning code amendment or an update to our zoning map. That is not something they submitted to the City Clerk or City Council for them to look at as a separate process for the municipality at this time. They haven't agreed to those contours, the City hasn't recorded them and they haven't signed off nor have any of the property owners, homeowners, subdivisions, commercial or industrial. In the new contours they have no idea about this new overlay over their properties, which cause problems for them every time somebody has to pull a title report now. Property owners have no idea that this airport is infringing on them with additional noise contours that were historically never a part of this property. That is a legal issue separate from the zoning case that they will have to address through the processes. She said she just wanted to clarify that for the record so there is no confusion. She respects where they are coming from and maybe their attorney can add to that if needed, it wasn't that they were blindsided. She doesn't want them to feel that they blindsided us. They have been pretty open with us this whole time.

COMMISSIONER RYAN and **CHAIRMAN RIVERS** thanked her.

MR. OSIOL said he still had his 2nd topic. Topic number 2 is addressing the city ordinances and the city zoning codes. Straight out of the city zoning code it says the principal purpose of the airport in the overlay district is to protect the public safety and general welfare in the vicinity of the Chandler Municipal Airport and Stellar Airpark by minimizing exposure to high noise levels, accidents generated by airport operations to encourage future developments which is compatible with continued operations of the airport.

He said he would like to address within that section of the zoning code, there is an avigational easement and a release of city liability. This avigation easement which was talked about already has to be signed and what it limits is the City of Chandler from liability for any claims of damages originating from dust, noise, vibrations, fumes, fuel particles and so on. This standard avigation easement contains within it a normal 350 foot over flight as contained within the language. What that means is from the ground up to 350 feet it is owned by the people that own the building. They have demonstrated that they are not going to be able to fly 350 feet over that building. They are going to be flying at levels much lower than the 350 over the building. So that standard language is going to have to be amended. Airplanes will definitely have to fly lower in order to safely land. Any time you have to change that standard, a red flag should really rise. This is not the standard; this is something different, this is something wrong. The language in the city ordinance may provide the City with some comfort that they are covered. There is no way that the City of Chandler will not become liable litigation if an accident were to occur. The facts have been provided from the FAA. The NTSB which is the National Transportation Safety Board can review the aviation experts, City Staff members and City Planners. Numerous state planning guides said it is incumbent upon the City of Chandler to avoid incompatible land uses and avoid liability. They also will have trust in them to hold the process of common sense, checks and balances and that this request should be denied.

MICHAEL WOLF, 4411 W. FOLLEY PLACE, stated he is a homeowner in Stellar Airpark and he is new to the Stellar Board. He first got his license at Stellar Airpark in 1980. In those days, it was half the strip it is today surrounded by cotton fields and lots of desert. Obviously, things have changed. His presentation is going into summarizing their entire position and he isn't going to talk about ANO's and he is going to keep it very simple and very understandable.

He said before he jumped into his presentation he would like to address one item. The idea of the hotel, a 4-story hotel which has been brought up several times. Mr. Bull has used that thing and said the Commission approved a 4-story hotel, what's the deal with a 4-story apartment complex. It is confusing and looks strange. The first time Mr. Bull presented a neighborhood meeting, half of them fell off of their chairs when he said there was a 4-story hotel approved on the property. They said that is not possible, how could that be? They went back through their records and they wrote a letter to the developer. They went through all of this plans and he was putting a 2-story hotel on that property. They said they don't like a hotel but it's 2-stories and they approved it in a formal letter that property for the 2-story hotel. After 5 or 6 continuances in April of 2009, a 4-story hotel was approved on that property. They didn't know that was approved and if you look around this room, he thinks there would have been a lot of people at that meeting. How many Stellar people were at the meeting in April. Zero. Nobody knew about it. That is their fault but they would never have approved a 4-story hotel on that property.

He said he wanted to get to his conclusions on what they have seen tonight. First, the NUVO project is inconsistent with over 30 years of zoning protection. The NUVO project land is identified in the General Plan as part of a growth expansion node. He is sure most of them don't know what a growth expansion node is. He looked it up. A growth expansion node is defined as a strategic location for placing specialized commercial and employment. He doesn't read multi-

family into that. In fact zoning to support jobs and income generation for that particular property has been around before Stellar was even annexed into the City of Chandler in 1979. Multi-family housing in this location is inconsistent with 30 years of rezoning. The City has always protected Stellar against improper encroachment. Stellar Airpark has consistently supported all of the efforts. They have supported new development in that area. They don't want dirt out there. They understand they can't keep dirt out there. They want property that is commercial and is relatively low density with a few number of people; not hotels, it is not 400 people in an apartment complex. It is usage patterns where they fly in the mornings and on the weekends and these people are going to be in their houses on the weekend. They are going to be out by their pools on the weekends. They have supported all the major changes and rezoning for that particular property with the exception of anything that was residential. They are not nimby's. He said he had to learn what nimby meant; not our backyard. They are not saying not in our backyard. They are saying put the proper buildings out there; businesses that generate revenue and businesses that are jobs that fit the General Plan. The NUVO project is incompatible with the General Plan and as they talked about earlier, it eliminates that 7.8% of remaining land that is left in Chandler. It eliminates that valuable limited land that they need for jobs and income generation.

The NUVO project exposes its residents and their families to well documented, unnecessary danger and the City's potential litigation. They aren't trying to scare people and say people are going to die and these planes are going to come raining out of the sky. They are talking about real danger with real examples that have occurred over the last 3 or 4 years. They aren't making this up. They have real documentation. This project is being placed at a location where the land is cheap. That is why they are here today. That land is cheap. You can stand on that dirt and look at three other parcels that would be much more compatible and much safer across on the east side of McClintock and south side of Chandler Blvd. Much more logical. You can bet that at that particular location where it is at today, it wasn't picked by Mr. Lewis because it had a beautiful unobstructed at the end of Stellar Airpark with airplanes coming straight at the building. Unfortunately, NUVO is proposed to be built right squarely in the 3rd most dangerous location that you can put a building; the inner turning zone. It's where the risk of the accidents is considered by all accounts moderate to high. Both U.S. and California data show that this is a location where accidents not only historically but statistically are going to happen. Forget the statistics. At Stellar their accidents and incidences occur in exact places where they are predicted to have occurred. That is a dangerous place to be putting apartments.

The FAA clearly stated to us at Stellar Airpark that if they owned the dirt that NUVO wants to build on, the FAA would prohibit them from building on that property. They don't control the space so they don't have anything to say about that but if they owned the property the FAA would not let us build on that property. It is his belief that ultimately the forms and hazards of navigation, he thinks they are going to see some changes in that document. All he can do is predict but they know there are some issues with that document.

This site disrupts departures where they are under the control of air traffic control and you do exactly what they tell you. You don't make up where you fly. If you are a standard flight, you

can turn to the right over that building every single time if you want to but when you are on an IFR flight, you only fly it one way and that is the way air traffic control tells you. As demonstrated earlier, they show exactly where they must fly to the right directly over the building.

He asked how many of the people in the room would be anxious to move your families to the apartment complex that he is describing with the kinds of hazards that exist on that particular property. He doubts that Mr. Bull and Mr. Lewis are going to be moving there any time soon so they aren't worried about that. This is a dangerous place to be putting an apartment complex.

The NUVO project will expose the City of Chandler, the FAA and Stellar Airpark to a never ending series of noise complaints. This site will regularly experience 85 decibels. They have flown planes over it and have taken the decibel meters and actually measure it. The Vice Mayor stood there with us as they looked at planes coming over. They measured them. They are not making it up that there are going to be 85 decibels regardless of where the ANO's lines are. Those decibels by the way are ground level and not at the upper levels. Those numbers will be higher. There will be planes regularly flying over the top at 50 feet or less and it is not going to be uncommon for certain planes, some WWII planes have smoke on them. So they will be coming into your complex with smoke billowing and the residents are going to look up and think the plane is on fire and about to crash into their apartment but in fact, that is a standard approach for these planes.

Noise and fear are going to become a constant event. Phone calls, the FAA and the City of Chandler are going to skyrocket. Remember, you can mitigate the noise but you can't mitigate safety. They have seen a tremendous amount of very detailed and complex information tonight and he is sure a bunch of these terms were very foreign and some of the charts were pretty darn detailed. He suspects some of it was pretty confusing. He said let's ignore all that complexity for just a second and think about this in very basic levels. What reasonable person would think that it is smart to build a 4-story apartment complex housing several hundred families in the known departure and approach path to an airport less than 1300 feet away. What reasonable person would think that it is smart to build apartments where planes are going to come down less than 50 feet over the roof. Finally, what reasonable person would think that it is smart to build high end luxury A+ apartments close to airplanes that are going to produce engine noise up in excess of 85 decibels. Does that sound like a luxury environment and experience to them. Every single person he has exposed to this plan and he is not talking about the pilots and the folks in the room, he is talking about average people on the street all see the exact same thing. This is crazy. What are they doing? What could they possibly be thinking? Yesterday, a former high level INTEL executive put it in a way that he didn't think it was particularly appropriate. The owner of one of the adjoining properties thought it was crazy that they were even considering it. The project absolutely fails the reasonable person test.

Finally, he would argue the NUVO project threatens the very existence of Stellar Airpark. As they showed earlier, nothing kills airports more effectively than residential encroachment. 1.4

airports get closed in the US every month. In California alone, there have been 25 closures in the last 10 years.
Let's imagine for a minute that the proposed apartment project was already built. Let's say it existed first and Stellar didn't exist and there was nothing to the south. Let's imagine that Mr. Bull works for them and they want to put in a brand new airport to the south. Let's imagine that they are going to put this airport within 1300 feet and they are going to bring it in front of the Council. What's the likelihood that he could come to them tonight and you would vote yes to a brand new airport in front of an existing apartment complex with 400 people in it. He doesn't think so. Yet, tonight they are standing here considering that exact same scenario with that exact same horrible repercussion. Well guess what, the apartments weren't there first. Stellar was there first by almost 44 years. In closing, they come to them tonight and only ask that they respect the hundreds of millions of dollars that the private citizens of Chandler have all collectively invested and creating one of the finest airparks in the United States. That airpark is a freely shared public use airport as they discussed earlier. It generates revenue for the City of Chandler, yet it is no cost to the taxpayers. Chandler should be proud of Stellar, Chandler should do everything it can to protect it. He implores them to do the right thing tonight. Do the right thing and reject the NUVO rezoning request.

CHAIRMAN RIVERS said he had other speaker cards. These people could not stay at the meeting. They were:

Edgar P. Van Cleve
4171 W. Linda Ln.
Is in favor of this item.

Wesley Van Cleve
4066 W. Monterey St.
Is in favor of this item.

Jeri Henry
3838 W. Laredo St.
Is in favor of this item.

CHAIRMAN RIVERS called up the next speaker to the podium.

MICHAEL MYRIC said he actually lives in Tempe but lives about a mile from the proposed site. He is here on a mutual basis. He is not a pilot and he is not Mr. Lewis' commercial real estate broker although he has been involved in commercial real estate and development along with his family for the last 40 years. He has done a number of commercial transactions in that corridor and is there sort of waving the peace flag to the Commission to give them a perspective from the development community and the commercial real estate community in general.

He attended the last meeting and was very vocal. He raised his hand and asked the tough questions from height to density to sound contours to traffic counts to all the demographics and

things of that nature and really didn't get the answers that he was looking for. He took it on his own initiative to set up a meeting and meet personally with Mr. Lewis. He thinks he is one of the very few that have done that. They had a great meeting and he walked away from that meeting finding someone who he feels personally is committed to the city, to the project and to the community.

He has heard a lot of interesting statements here tonight. He thinks this is somewhat of a sacred cow argument. You have a group of pilots whose passion is their sacred cow and you have a developer who wants to move with a project that is obviously their sacred cow. He thinks in life they will find we live in a world of mostly gray and it's not black and white. He understood earlier there were a 139 people that opposed the project. I wish there was 139 people to add comment to find a happy medium to this project. One of the things he has heard over and over again which annoys him personally, is recommendations and case studies of here is what California does, what Idaho does but the fact is this is Chandler, Arizona. That being said if they want use case studies in California, San Diego International Airport is a great case study. There is tons of multi-family that have 737 airplanes flying 50 feet over their house every single night. He knows he used to live in one of them. He also used to live in the City of Chandler. He lived in an apartment complex at Warner and Price Roads prior to the 101 being built. When the 101 was being built and traffic was terrible, he moved.

A lot of the pilots here talk about how they are going to have all these noise complaints. He thinks the reality is they are going to have tenants, if they don't like it they will leave at the end of their lease. In this down economy they look at a lot of options and best uses and the things the troubles him is one of the gentleman came up here and said they fought this last time. He thinks it doesn't matter if it is an apartment complex or a retail center because no matter what is going on here it's going to be opposed by this aviation community rather than trying to find a happy medium. He hopes the Commission will find a happy medium in this gray area and recommend a comparable solution that both parties can agree with.

NICOLLE HOOD, GENERAL COUNSEL FOR THE GROUP OF COMPANIES THAT OWN THE CREATIVE LEATHER BUILDING, 450 N. MCCLINTOCK DRIVE, stated she did not mark whether they directly oppose or support the project. There were some questions about the number of employees. There building is directly north of the proposed project. They would share Erie, the collector road there as their main entrance. The Creative Leather building as it has been referred to in this meeting actually houses several businesses. Half of the building is occupied by Creative Leather and then there are several smaller users in the building and then they would say roughly the second largest user is southwest bakery group which is all owner occupied. Southwest Bakery Group also has about 30 plus employees, bakeries and workers and then the second level of the building is all administrative staff for all of the companies which include First Cup Arizona which is the largest Dunkin Donuts franchisee on west coast, Zoyo which is a yogurt shop and several of the other related land holding and real estate kind of companies held by the same principal of Creative Leather and First Cup. All in all, they have in the peak season they are a restaurant user for the most part of the First Cup side. They have just fewer than 900 employees. They have five Dunkin Donut stores in Chandler and

two Zoyo stores in Chandler. That gives them a little bit of background on this center. They don't directly oppose or support this building. They would not support this building and they would oppose it if some of their concerns are not adequately addressed.

They have been in contact with Mr. Bull and Mr. Lewis and these are items that they are hoping they can work out with them but they are some items that she would like to put of record and to make sure that the City would be working in conjunction with the developers to help them make sure these items are properly addressed.

They are light industrial and the bakery has trucks going out at all hours of the night. All of their runs are to all of the Dunkin Donut stores and then in the next months they expect those runs will at least triple. They are talking about 20 trucks going out at 3:00 a.m. in the morning. Many more trucks would be coming in during the day. They could be seeing about 100 trucks in and out on any given day. There is also on the Creative Leather side, their furniture is actually manufactured directly in the back half of one-half of the building. So there is noise, sawdust and lots of things that you would expect with light industrial use. That is what they are concerned with. They are concerned with residents coming in and having complaints regarding the smells, the look, the traffic, and anything else that you would anticipate with light industrial. They would like to see a stipulation that would require not just disclosure but also acknowledgement like is being proposed for the aviation issues where the residents of the building would directly acknowledge them as well as the landlord. They would like something recorded as well that would suggest this is an industrial property that is right next door and you have to know what they are coming to. That is the first item they would like addressed in some fashion in stipulations by the developer and by the City.

The second is Erie Street. They have voiced concern to the developer. They understand that the only access point in terms of entrance will be off of Erie. That is also the street that they use to run all of their trucks through. If you can imagine Erie running east/west and if you entered on Erie, all of the trucks go to the back of the building through that direction and most of their trucks can't even come through the front entrance due to size. They can but it would not be their preference. All of their deliveries and everything else definitely comes through the back through Erie. They have proposed a traffic study. Mr. Lewis offered to do a traffic study and they would be interested in the results of what high density residential would do to the use of Erie. As they can anticipate, retail would have a different flow of traffic throughout the day on Erie Street if that was used for commercial or other retail developed as opposed to the peak hours of use. There will be people leaving at a certain time and people coming home at a certain time. What they want to make sure is that there are proper queue areas for cars turning in. She has lived in 2 apartment complexes. Anytime she was lucky enough to get off of a work between 5 and 5:30 p.m. and try to get home, she waited in a turn line with other traffic uses because you can only have 2 or 3 cars stacked to get in. There is somebody at the front who is not a resident who's punching the key code trying to get in and there are cars that start to stack. They can't really afford that loss of time when they are on specific runs to get any type of bakery product to a customer whether the truck is coming in to the store to pick up product or whether the truck is leaving the store to deliver product. Make sure that there is adequate queue space.

They also asked the developer and meeting with Ms. Mackey if it was possible to consider another entrance way. She knows Juniper is being used as an exit. Is it possible to consider another collector street or another collector street on the opposite side of the project? These are things they would like addressed. They want to make sure their concern regarding traffic on Erie Street is well researched before they can make an educated decision about how they feel about this user coming in.

Finally, the last item was their view corridor. They do not have a monument sign. Their signage is on the top of their building for the Creative Leather showroom. It is also a showroom and factory in the back. When they bought and developed the building, they anticipated that they would have the traffic from other retail and commercial and have a monument or a pylon sign out if front was not really the biggest concern because they figured that traffic would be coming to us. It would be a commercial area. If that goes away and they have a residential development right next to them and this residential development is slightly different than what they thought commercial looked like at the property. Mr. Bull has pointed out that they are not entitled. It is not necessarily given that the view corridor that they have would remain no matter who bought it but the truth is they are faced with the loss of both their view from Chandler of their signage and they are also losing out on that retail traffic. Their concern is that they are both losing out on all visibility and the traffic that would be associated with retail. They are losing that synergy and they want to be sure that they receive some kind of protection to make sure that they are at least able to place the signs and not on their property. To place the sign that gives them visibility they believe that they should have with this change coming into place.

Those were really the 3 items that they are most concerned with that we would like addressed and said she would be happy to answer any questions.

CHAIRMAN RIVERS said he is going to defer to Glenn Brockman, Asst. City Attorney on this. Is this something for Planning Commission? Ms. Novak, Senior Plan said she could answer that as these are not legal questions.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said these are issues to consider in connection with the approval or non-approval of this application because essentially she is asking for conditions to be put on to the zoning that is being applied for.

MS. NOVAK, SENIOR CITY PLANNER said her first point about having a special condition is kind of an awareness condition. They have done that where single-family subdivisions are building next to agricultural dairy farms or horse properties and they have had a long zoning condition that basically states any perspective home buyer etc. they are made aware of if they are near an airport or they are near horse privilege properties or whatever it may be. If they are near the railroad tracks and those uses will be there indefinitely, here is a stipulation on record and then it would be part of any kind of recorded document. They could draft up a really general one this evening. The real specific language she doesn't have with her. It is very long and something they could definitely do for Council. That wouldn't be an issue to add something on

there that really takes into account her concern about making sure everyone who does go in there is aware that there is an industrial business park around them and it will be there indefinitely. That could be something that could get documented and signed by each leasee similar to some of the other conditions.

The other concern was Erie and dealing with truck traffic and queuing. All of that has been addressed. Traffic count, the amount of traffic they generate for multi-family use is the City's owned and managed and maintained roads in the Juniper area in McClintock and Chandler Blvd. It's already in place and wide enough and big enough to handle apartments and vehicles in apartments, existing industrial that already have regular vehicles and truck traffic, and future industrial. They don't design these roads to then have an afterthought later and think 18-wheelers aren't going to work on here and they just approved an industrial business park for this area or commercial retail and hotel going in here and they don't know where their driveways are going to go. That had all been thought through from the previous case in 2009 but even with this case the City goes through a very thorough technical review with their traffic engineering staff. This meets all of their code requirements. There is nothing incorrect with how it has been designed. It doesn't affect how their trucks come in out of the road because the road is staying the way that it is. There is nothing that affects the traffic on McClintock, an arterial street; same with Chandler Blvd. This has little impact on the overall traffic counts, volumes, trips per day, driveway locations are appropriate. There is no need for them to have a secondary entrance. The traffic that would even occur from this is minimal and doesn't warrant that. From that standpoint they have already done that review. There is not a necessary process, secondary to the months and time that has taken to design this project with the City to rehash and go back over the traffic because it has already been appropriately done with the developer to make sure they follows city codes and requirements from a transportation standpoint. The other comment was about view corridors. This zoning case has no legal authority to give rights to somebody else's property on whether they should or shouldn't or can or can't have a freestanding monument sign. If any business in the City of Chandler wants to inquire with the City with what their sign code allowances are, if they can't have a monument sign, where that monument sign can be located, what of the heights and number of panels is a whole separate sign permit process with our Planning Division but it wouldn't be something related to this particular project to assure them that they have a right to get a sign. They can't put that on somebody else's property. That is not tied to this zoning case. That summarizes what they are. They only thing they can do this evening is either insure that they will come up with that specific stipulation, give her a copy of that so she knows exactly in which that will be forwarded over to Council. If she drafts something up, it is very general today and she is going to have to change it for the Council report anyway.

Ms. Hood said she thinks based on that if it is being suggested that nothing would be done for either the view corridor issue that they bring or the street issues to be sure there is another traffic study done or something else, they would not support the development.

CHAIRMAN RIVERS asked Ms. Novak if she wanted to go ahead and put the stipulation in and forward that on to Council in any case. Ms. Novak replied that she could try to create

something that is similar to the one on here. She may modify it to give to her - that is more of the exact ones that they have done on every other kind of disclosure stipulation that we have on record because there may be some language she would be missing that would be more pertinent to have in it. She can get to that as they get toward the end when there is a motion.

COMMISSIONER CUNNINGHAM said she stated that there were approximately 900 employees related to the businesses in this location. How many specifically are there daily in this building? Ms. Hood said in this building there is probably about 30 + Creative Leather, 30 + in the factory and another 15 administrative staff in the upstairs just related to their companies. Related to the 3rd party tenant she does not have an accurate count but she doesn't think it would exceed 10 on a daily basis. **COMMISSIONER CUNNINGHAM** asked if the bakery had 30. Ms. Hood replied yes about 30.

JIM ORMSBY, 3131 E. HORSHOE DRIVE, said the comments about the noise and all the numbers have been fascinating but from his perspective and in listening to Chandler's Municipal Airport problems over the past few years, it is not the numbers that people call about. The aviation community does not oppose everything and anything that happens near an airport even in apartments. The Chandler Municipal community has recently supported two apartment communities; one fairly small and fairly close to the airport but it is off to the side and not off of the ends and another one is over by Arizona Avenue and it is large and very nice. It is about a mile and a half to 2 miles away so there were some concerns and some protections were put in and most of them eagerly supported that project and cautiously supported the small 2 building 2 story project that was much closer to the airport. They aren't knee jerking on just about everything that is going to go on but this airport compared to everything else they have seen is too close to the airstrip and too tall. It is a beautiful and wonderful place and he has seen the drawings but it is in the wrong place. The aircraft will nearly circle the building when they are trying to land and that is going to be too close. It is completely predictable that the City will get many complaints from the residents who see aircraft some hundreds of feet instead of a thousand feet away from their back porch.

Two years ago in the San Tan Sun there was a letter to the editor from a resident who lived about a mile away from Chandler's airport. He complained about aircraft noise and invited the City Council to come out and have a cup of coffee with him in the morning at about 6:30 a.m. when this noisy fleet of aircraft was supposedly coming over him so that he couldn't even hear himself talk with his neighbors inside his garage. He has no idea whether the City Council members followed up on that but he did. On a good morning when there was going to be all the traffic going to the north he parked his pickup truck a block away from his house, set his lawn chair up in the back of the pickup truck, poured himself a cup of coffee and started counting airplanes and listened to the noise. He said he was giving the complainer one point right off of the bat. There was a twin engine that was flying way too low. That kind of thing should stop but that is only one airplane. He counted about 60 airplanes each morning and he never had to worry about having a conversation with anybody in the pickup truck if they had been there. Normal tone of voice and much quieter than what he is talking now when he is nervous would have been sufficient. People don't pay attention to 85 db or 65 db. They don't know what a db is. What

they hear is something they don't like; something unusual. The City doesn't get complaints very often about somebody with a Harley Davidson motorcycle next door. But let somebody who doesn't like airplanes and airports for whatever reason, hear one going overhead and the City website has a place for if you have a complaint about the noise. The actually solicit the complaints. Park residents don't complain much, they tend to move. That is true. They have 220 apartments there and the airplanes are going to be very close. He thinks it is easily predictable that they will have a lot of complaints and these things are preventable and they are incompatible.

Residential use is a special concern because people are more protective of their homes than they are of businesses. He doesn't hear very many complaints about people going into K-Mart or Target and saying they heard an airplane on the way in. Residences are very special because people have an investment in time and money in them.

RUSS WESTPHAL, 4412 W. KITTYHAWK, stated he has been a resident of Stellar Airpark for 4 years. He currently owns and flies 3 aircraft off of that airport two of which are high performance aircraft. His point here tonight and a lot of the things he was going to say have been covered.

His business for the last 40 years has been as a commercial real estate developer and he has built hundreds of apartments. In addition to that he is an 8 to 9000 hr. commercial pilot that has flown all types of high performance aircraft including helicopters. He said he thinks he is going to bring a perspective to this that maybe they haven't heard. His theory is this. He has had to be in a position of Mr. Bull's client to make a decision about a site for an apartment complex. In all of the 40 years that he has done this after looking at this site and hearing the information he heard tonight he would not consider this site in any shape or form. It is unsafe for all the reasons they have heard. He can tell them from a personal standpoint when he gets into one of his high performance aircraft, take off on runway 35 and make that right turn, if he has an engine failure in those two aircraft, he is going to hit that building. He has been in this situation and that is a normal access route for them on 35. One of his aircraft is a high performance warbird in excellent condition. If he thought it was going to fail, he wouldn't be flying. Things happen in life and sometimes life is not fair. He thinks the number is way too low from his experience in apartments. You could have as many as 600 people in that building based on the number of units and the bedroom count. People are doubling up today. You are not getting one or two people in those units. You could have as many as four or five. When he is in the airplane and he is departing that 35 route, he is putting all those people at risk. That is not a fair risk. It is unreasonable and as an apartment builder would not be willing to take that risk and put those families at risk.

CHAIRMAN RIVERS asked what two aircraft does he fly. Mr. Westphal said he flies a Citation 525 twin engine jet and a North American NA-50 P-64 light World War II fighter. **CHAIRMAN RIVERS** said so specifically talking about your jet how fast are they going when they take off? Mr. Westphal replied his rotation speed subject to weight and temperature and can be anywhere from 85 knots to 108 knots-lift off. By the time he lifts off he is about halfway

down that runway. If he were to have an engine failure within the next 5 to 6 seconds, he would not have enough altitude to miss that building.

MIKE TRAGARZ, 1043 W. IRIS DR., said he is a resident of Gilbert. He is not going to talk a lot about noise. He is with one of the major airlines and flight operations and he is a graduate of the FAA TERPS School of the FAA out in Oklahoma City and has been actively involved. TERPS is the standard terminal instrument procedures development and the criteria of surrounding the application for airports and procedures. That is what he wants to talk about because it has much more impact than even noise. Noise is a nebulous thing to him but these are the numbers and he wants to share them with you. He said he would breeze through these slides.

He was the designer and the major contributor for the Phoenix Area Northwest 2000 Airspace Redesign here in Phoenix. He participated in the hazard assessment team for the City of Tempe stadium move. As a matter of fact, this particular building has many of the same characteristics of that building. You will notice that building was not put in Tempe but now as it resides in Glendale for the very same reason he is going to share with them today.

Las Vegas and Los Angeles are now redesigned due to an implementation team. He is a member of that. For the last 10 years he has been on numerous implementation and design teams around the world. He is going through these slides because they have seen and identified area 3 which is where this particular project is proposed to be built. The risk level is moderate to high by the FAA standards and by the criteria. He wanted to get to the application of this particular letter that has so much weight on it that says this building is not hazardous. This is exactly the same point that Tempe found itself in because of the application of what a hazard actually is in relationship. They have heard the proponents to this project tell them that letter does state that it is a non-hazard. Well that is not the entire story and it is not the entire story in the letter but that wasn't share with them and he wants to make sure they do share that with them so they have all of the information. This is the location of the building that was provided to the FAA to do their assessment. He pointed to where exactly the location by latitude and longitude and they have identified the height of the building and they used a nominal 50 feet. Why did they do that? Well, if you look at the guidance that establishes a hazard to navigation, it is really simple. If it not over 50 feet it is not considered a hazard. Does that mean it is not a hazard to aviation? That is not at all true but for the purposes of this guidance and the lighting the top of the building, it is not considered a hazard but that is not the entire story. Right out of these letters because there were three projects there and the FAA has some specific guidance on what they have to tell people. They can see based on the evaluation it doesn't have to be lit because it is not a hazard to aviation. It does go on to say in the letter that the structure is considered under the Study in proximity to the airport and the occupants will be subject to noise from aircraft operating to and from the airport. Once again, any height above 50 feet is not considered a hazard but what are the effects on aviation? They say no effect on arrival and departing aircraft under visual flight rule. They go on to say specifically and they will note they misidentify the airport. This letter was written for an airport in Texas. What the developer's failed to bring to their attention is that the FAA in this letter identifies specifically that this building penetrates the obstacle assessment zone or slope for the protection of the aircraft and against the obstacles by the Terminal

Instrument Criteria for developing airport procedures and instrument procedures. It does do that. They identify it in this letter.

There are three advisories that they are supposed to and do that often. In fact, some of the other identified obstacles in that particular area were given as advisory. This structure will fall within the runway protection zone of the airpark. Structures will result in the congregation of people within the area are strongly discouraged and in the cases where the airport exercises no such control advisory, recommendations are issued to inform the sponsor of the inadvisability of the project from the standpoint of safety to personnel and property. That is in these letters that was not shared with them.

This is the guidance and TERPS is the guidance. This is the bible for the FAA to create procedures. It is what guides them. It is what guides the airport here for the approach and the departure. In this particular case what is applicable to the departure end of this runway they already saw they have identified in the non-hazard letter that this building will penetrate the obstacle assessed area. They all can agree on what thing and that is it is always best to operate the aircraft in normal conditions. When you start operating aircraft non-normally, that is when you begin running into exposures. You increase the exposure and you increase the level of hazard to unacceptable levels and you have to do something beyond that. Paragraph 203 of these special criteria directly relates to this particular departure into the runway where you have a sloping obstacle clearance surface. It basically says that when climbing on a departure or a missed approach, in this case it's a departure, the concept of providing the obstacle clearance in the climb segment in and instrument procedure is based on the aircraft maintaining a minimum climb gradient. That minimum climb gradient is 200 feet per nautical mile. This is right out of the guide. Where the obstruction penetrates the OCS or the obstacle clearance surface, you have to apply a non-standard climb gradient to that. In their letter they correctly identify in the case of an instrument departure. They must re-evaluate the procedures which means once that building goes up the procedures are no longer valid and they must publish a non-standard climb gradient for aircraft departing that area. It really doesn't much matter whether they are IFR (under instrument flight rules) or VFR (visual flight rules). They are talking about performance of aircraft. Can the aircraft climb above that building to a proper height that guarantees the safety of both the aviator and the persons and property on the ground. This guidance mandates that they apply their climb gradient. Their letter fails to identify that and take the 35 feet at the end of the runway improperly.

Under extraordinary circumstances they just heard a gentleman stand up and talk to you about engine failures. The FAA does not apply TERPS or instrument procedures to engine failure procedures. So they have multi-engine airplanes flying out of that particular airport and each one of the operators is responsible for their own assessment and finding a path out of there. As this relates to the stadium issue, this is exactly the issue that got the stadium moved to Glendale. It is was impossible to get out of Sky Harbor without having the wings of the airplane on a single-engine or engine failure be less than 40 feet below the top of the building that was going to be there. This is exactly the same issue they have here except one. There is no other place to go. They can't take the airplane on an engine failure any other place so that building is absolutely in

direct line of a performance base-it's all math and has nothing to do with noise and all that other stuff. They may or may not be able to make it over the top of that building and if they don't it is not detected by the procedure and it must be accommodated by each individual operator.

The last thing is the flight tracks. As they heard, these flight tracks don't reflect all of the aircraft that are there because many of the aircraft (he showed the radar data from Phoenix Tracon) they indicate the air flights that they were able to continually get on radar but there are many more that fall below the altitude on the arrival that they just don't see. They see many more aircraft then are even depicted here.

He said he wanted to finish up with one last item and that is something that they have heard many times in this presentation about this being over the building a certain height. He said he wanted to show them the map on exactly how the FAA and TERPS criteria address this. He said he would it to them exactly. The basis for the flight path calculations is a 3 degree flight path angle which is a nominal flight path angle by the FAA. Anything exceeding 3.1 is considered to be a steep approach and they have gone away in the recent times from this dive and drive issue to prevent the flight into terrain and buildings for that matter by having high rates of descent. So 3 degrees is the flight path that they plan for and they calculate to. That equals 318 feet of nautical mile, a stabilized descent rate which they talked about and a nautical mile of course is 6076 feet approximately. This gives that particular building of 1395 feet from the runway at 50 feet you come up with a height of 73.14 feet above the ground which if you remove that 50 feet puts that plane on 3 degree flight path angle at 23.14 feet above that whole area there. The end result is do you really want to see airplanes there? The FAA and the visual segment-it is not a problem. With engine failures on single-engine airplanes there will be no place to go except into that building. That is why they make clear areas and that is why they produce procedures and that is why compatible land use comes into play. It prevents high-density at least. They asked a very good question. What is the difference? You have a lot of restaurants there or whatever. The EPA decides this. They make a decision that says for arbitrarily or otherwise, they make a decision that says that a high-density residential district has more weight than a restaurant district or a commercial district or school or a church has higher rated for whatever reason they do. That is what they decide. They make the rules on what is compatible land use and this just doesn't meet it. So here they see this airplane at the end of the day less than 25 feet above it on approach.

In conclusion, the hazard determined specifically addresses the need to light the obstacle. Although it would be considered a hazard navigation their result would be that they would light it on top and then they would post it. The FAA recommends the use of the California book. It's clear that the construction and in habiting this project, will put the occupants at a high risk and significant noise footprint as outline in the Hazard Evaluation that the FAA did provide. The height does not exceed 50 feet and thereby does not constitute a hazard to navigation. However, they do correctly identify the obstacle in their guidance to them by finding a non-hazard they specifically identify that it does penetrate the departure path of their departure protected area of the current procedure as it exists. What it doesn't do and it will never do because the FAA doesn't do that, is take into account the non-normal engine failure on a multi-engine (3 or 4

engine and above). One engine inoperative performance characteristic, the FAA does not do that. It is up to the individual operator. Every operator is required to find a way out. This building blocks all the operators from finding anyway out of there because of the proximity to the runway.

The last thing it does is have an adverse effect on the airport and it does shut down immediately when that building goes up. It will shut down that procedure, the instrument procedure out of Stellar and it will cause the FAA to go back and revisit and redo the procedures which will trigger because somebody asked why don't you just move the traffic – just move them downwind? You can't do that because Part 150 doesn't allow you to do that. You can't just say they don't want the traffic here I am going to put it over by those guys. You can't do that without doing a full blown Part 150 Study which they are all familiar with and the City of Phoenix for Sky Harbor and the Northwest 2000 spent millions of dollars doing a Part 150 Study with the new procedures here. That is exactly what will be triggered to the extent both the City, the airport operator and the local people that the instrument for departure will be shut down and a complete review and a new development of the new procedure will have to be made. Remember, you can't go straight out of that airport because it interferes with Phoenix Sky Harbor traffic inbound and Phoenix Tracon will never allow it. That is why you have a right turn.

CHAIRMAN RIVERS asked when he said they would be shut down, who would shut it down? Mr. Tracarz said once it was triggered so that a climb gradient would have to be published, that would require a review of the TERPS procedure and the FAA would shut down that procedure because of a known obstacle that has not been evaluated. In order to get over that obstacle, there are only 2 options based on the criteria and this is Federal law which has nothing to do with if Chandler likes this or Phoenix likes this, it is Federal law. They will have to produce a non-standard climb gradient to open that thing back up again. If they are lucky with the government and the FAA, they would do that. However, it is going to cause the operators to have to perform a non-normal departure every single time. That means they are operating the aircraft not outside the perimeters of aircraft but certainly any time you apply non-normal procedures, you start raising that risk. Somebody not doing it. It happens. They would have to produce a non-normal climb gradient and have it published. That should today trigger a new procedure for FAA for them to publish and that will cause them to have to do a re-evaluation of the departures procedures at Stellar and if in fact they have to move the traffic that will trigger a Part 150 Study. There can be no new procedures today going anywhere new other than where the flight tracks already are today without triggering a full Part 150 Study. That is not this noise thing that they are talking about although that is a component. It will take 5 years to do guaranteed. That is how long it took Sky Harbor to do or Phoenix to do a full blown Part 150 Study in order to get this air space redesigned. **CHAIRMAN RIVERS** said they have been told that the FAA can't shut down the airport. Mr. Tragarz said they won't shut down the airport. They will shut down the procedures. When they do have a situation where the aircraft departing that require that procedure, they won't be able to use that procedure. That procedure will be closed. You can still go and come at the airport and you can take your Cessna 172 or some of these other aircrafts and you can access in and out with no problem. You still have the same problem but you are not

limited because the proceduret is not published. Like all of the aircraft that are transitioning into the air traffic system will be shut off. They will not be able to use that procedure. Plain and simple. It's really the facts of the case. All of this noise stuff; this is where these airplanes will be. That building because of the way aircraft actually operate, the performance characteristics of aircraft, the turn radiuses, the speeds. When you start adding those things up and start to look at them from a mathematical standpoint, when you look at the criteria you find out they don't have anywhere to go. Airplanes can't go straight up, they have to turn. They have a bank angle, they have a turning radius based on wind and temperature and based on speed. All of that stuff gets played into this criteria that he has shared with them today, the TERPS.

They have heard all about the noise, the compatible land uses. This TERPS is the bottom line. It is the bible for the FAA. That hazard letter is misleading. It tells you just like it did for the stadium in Tempe that yes, you don't have to light it but it further says in that letter that this building penetrate and is a non-frangible obstacle by the way which differentiates from those lights out there.

COMMISSIONER RYAN asked what about departing and arriving from the south. Mr. Tragarz said first off the instrument procedure for that runway which is published right now does not allow that because of descent angle. It does not allow arriving on runway 35. You have to make your approach from the south and circle in that pattern that they have showing you to the left or on the right side of the airport if you will. Depending on your category of aircraft, you have to stay within a certain distance from the runway and make your approach to 17. That is the way the procedures are written by the FAA. There is no let's just land on 35. It is specifically not allowed to land on 35 based on the procedures and what is required with the obstacle requirements that they have for the procedure and air space issues.

CHAIRMAN RIVERS said for those of them up there who are non-pilots, when they talk about runway 35 what he is really talking about is the only runway at that airport and it just happens to be northbound. There is physically one slab of concrete out there and it is a single-runway going northbound which are 35, 350 degrees and the other way is 17, 170 degrees. When the prevailing winds come out of the south, the aircraft lands on 17 southbound. That is why they see that pattern and you see all the traffic over there because that is the predominant runway for that airport. You can't even extend the traffic further down to the north because of Sky Harbor traffic. It would conflict with Tracon Airspace and they won't allow that. They have produced these procedures to stay within a certain distance of that airport and land on runway 17. That is the way that airport has always been. Once again, you trigger all of those things he told them about before. If you want to cancel that procedure and go back and build a procedure for runway 35, it would require a complete Part 150 Study and a complete redesign. He said he likes it but they don't.

COMMISSIONER BARON said in his packet he has Conditional Use Rules for aircraft from Stellar Airpark and he is a little confused because it appears that the rules for the airport states that departures from runway 35 that you maintain runway heading until you reach 500 and past Chandler Blvd. Mr. Tragarz replied 500 feet AGL. If you look at another airport in a local area

like Mesa Gateway, they have a procedure exactly like that. It says you will take off and you will fly and make a right hand turn staying south of these power lines, which are about a mile off the end of the runway. That is called their fly friendly procedure. It's what they ask their VFR pilots to do under visual flight rules. We ask them to do that. The FAA on the other hand dictates instrument flight rules and traffic rules. Those rules are different. Those are right turn immediately to intercept that radial and go southbound and get out of their airspace as quick as you can and to prevent conflicts. So what he is looking at is what people have asked these guys to do to make it fly friendly, to keep the noise down, go straight out before you make any turns but that still doesn't resolve the problem with mechanical failures and the TERPS. It still doesn't guarantee you obstacle clearance. All they are doing is asking to go out to 500 feet before you make any turns because that is going to get you up and out because aircraft reduce their rate of climb in a turn because they have to, they lose lift. As that airplane starts through that turn, it is not climbing as fast as it would if it would go straight out to 500 feet; so getting up and away as fast as they can. That is a great procedure but it is not mandatory. **COMMISSIONER BARON** said these rules don't necessarily apply that he is telling him. Mr. Tragarz said they apply until they are usurped by the FAA.

CHAIRMAN RIVERS called a recess for 10 minutes.

At 10:06 p.m. **CHAIRMAN RIVERS** called to order the meeting. He thanked everyone who came out this evening to support or oppose this motion. It is probably quite a bit later than they thought it would be and they all deserve an award for hanging on to the bitter end. He invited Mr. Bull back to the podium to give them his rebuttal.

MR. BULL he wants to re-emphasize what they all know to be true and this zoning application being heard in the City of Chandler needs to be considered under Chandler's adopted plans and Chandler's zoning ordinance and Chandler's rules and regulations. In that context there is no question what the noise contour that show up on the City's zoning map whether people agree with them or disagree with them, those are the noise contour s that the City adopted and they are the noise contours that effect private property rights on not only the NUVO site but all other sites in that area as well.

Noise contours are adopted not just in overall zoning code but on the zoning map itself. There has been considerable discussion about the General Plan. There is no doubt that the General Plan has been adopted. There is no doubt that whether people agree or disagree or how it is proved, the development that is on the property includes a 4 story hotel. There is no doubt that the City's adopted zoning ordinance and zoning map includes ANO's and there is no doubt that this NUVO site has never been within an ANO which precludes residential development. In fact, pursuant to one of the charts that was put on your screen earlier, the ANO's expressly provide the opportunity for residential development in a site that is designated as our site is designated which allows multi-family. In any event, they are within the area that expressly under the adopted zoning ordinance and zoning district that applies to us allows residential including multi-family under Chandler's adopted rules that apply to the NUVO site and other properties around this.

With respect to the General Plan there has been considerable discussion about the General Plan about what it does and doesn't authorize with respect to uses within the growth node and uses within this particular property. Importantly, he believes is that their Staff Report at the get go confirms that this application is in accordance with Chandler's adopted General Plan and is in accordance with Chandler's regulations and guidelines. As they are looking at the General Plan and as they remember the map shown up here earlier that shows the growth node and so on, then you go to the General Plan that talks about growth areas and in particular you go to page 50 of the General Plan under growth nodes. He is not the one who wrote a Staff's Report so he won't pretend to speak for them, but he anticipates this page and other things under growth nodes was important to Staff in making their determination that were in accordance with the General Plan and no General Plan limits required. A gentleman mentioned that there are multiple growth nodes. Yes there are. He thinks there were quotes being taken from different places. That is fine. One quote is not in the right place. The one that applies to this site is down here being one of the other growth expansion nodes; a major transportation junction and so on and so forth. The General Plan expressly states even though they are designated employment, it is also appropriate for additional opportunities for high urban residential densities in mixed-use developments.

As they know, Chandler has historically capped multi-family at 18 units per acres except in certain locations, this being one of them where it has been identified as being appropriate for not only multi-family but multi-family at high urban residential densities. On Pages 1 Staff indicated that it is consistent with the General Plan then also at Page 4 of the Staff Report, Staff talks considerably about residential densities, opportunities for high to urban residential densities, insuring a variety of housing choices and on and on and on in part because they are not only in this growth node but they are also at the intersection of what the City considers to be a high capacity transit corridor. It is the right place for high quality high density multi-family under the City of Chandler's adopted General Plan and it in no way violates the City's adopted City's ordinance or the City's zoning map including the ANO's. This hearing body and Council typically rely on these City's approvals as a heart of the cornerstones that they base their decisions on.

One of the things they also typically rely on are stipulations one of which in this case is the stipulation that calling for an FAA No Hazard Letter. He doesn't want to read too much or too little into some of the comments about the FAA No Hazard Letter and he can assure that they made this submittal in accordance with what their consultants were told to do. The letter came back signed and approved by the FAA's Manager of the Obstruction Evaluation Group. It seems to be somebody fairly high in the chain of command who signed off on this letter. In dealing with letters like this anywhere near an airport, he believes it is a standard stipulation for the City to call for stipulation 12 that they provide to the City a Determination of No Hazard of Aviation letter. This is that letter. On page 1 it says in the opening paragraph 'No substantial Adverse Effect' on the safe and efficient utilization of navigable air space. Down here it says this building which they said would not exceed 50 feet doesn't even require lighting. Down here it points out because they are around an airport there may be some noise. No doubt about that. At the neighborhood meeting the other night and some tonight, there was discussion about how he

failed to point out the sentence that talks about how height exceeding 50 feet would be a hazard. That is irrelevant in the context of NUVO because the consultant who submitted the application knew that the absolute maximum to the top of the peak of the highest thing would certainly be no more than 50 feet and is in fact, slightly less than that. There was no reason to apply for 55 feet or 60 or 65 feet on this building. They knew it was a building slightly under 50 feet. The fact that over 50 feet would be considered a hazard is irrelevant. They keep going through the letter and at the bottom of page 2 it says the study disclosed that the described structure would have no substantial adverse effect on air and navigation. Page 3 is where the Manager of the Obstruction Evaluation Group signed off. Page 4 indicates that this building does not exceed 14Cfr Part 77 Obstruction Standards. The effect on VFR's – none. It talks about northbound departures from everything they have been told and observed are rare. They happen but they are rare. The northbound departures would have a 15 feet penetration under certain situations. Importantly though if you go on down to the bottom of the letter where it explains the basis for the decision and it explains that although this 15 foot penetration may occur, it does not increase the instrument departure gradient or have any other adverse effect on instrument approach or departure procedures. Right above that it expressly states that it is determined that the proposed construction would not have a substantial adverse effect on the safe and efficient use in navigable air space by aircraft. There is nothing in this letter that to his knowledge would suggest to Staff or anyone else that there is a FAA identified hazard on this site This is the type of letter that Staff relies on all the time in issuing building permits for projects that get letters like this approximate to wither Chandler Municipal or Stellar Airpark. There is nothing in this letter that suggests that Stellar needs to create a new departure procedure. Be that as it may this again under Chandler rules that they have followed for as long as he can remember, is what a developer of private property is supposed to do. Private property owners along with the City rely on FAA issued letters like this in determining whether or not they have FAA clearance to proceed.

He didn't know much if you want to talk about noise. There was a considerable discussion about it before. Then a gentleman said noise really isn't an issue in his mind. Clearly, just as Asst. City Attorney Glenn Brockman stated this is not time or place to be changing rules on private property that has to do with a pending zoning case operating under the City's occurring rules or abiding by those rules. The City Map is what it is whether people agree with it or like it or not, it is the City's official map. He is very curious about the proposed new contours and who created them and the fact that they got recorded and seemingly recorded over other people's private property which Jodie indicated may offer some other challenges for those folks. He doesn't know if it will or won't. He finds it kind of interesting that those contours which we don't agree with and don't see what applicability they have here this evening, go way north and go over existing residential neighborhoods and so on and so forth but be that as it may, the City's rules are adopted and on a map and those are what should be judged by. They are not a threat to Stellar according to the FAA and according to everybody here. He believes the FAA is recognized as not having jurisdiction over Stellar. There is no way in being any kind of threat to Stellar Airport. They have agreed to various disclosures that are already in there stipulations. He suggested earlier and provided a draft copy to Staff that they would also agree to a further disclosure that indicates that if there are questions or concerns wanting to be expressed by one of

their residents that they should be told that those should be expressed to their manager not to the City, not to Stellar, not to the FAA and that is expressly stated in the lease and they would record something requiring that be part of the lease. They are willing to do that because they can understand that there may be concerns with 229 dwelling units. Maybe there is someone who is just odd and no matter how many things they sign, no matter how many photographs they saw, they are just unhappy at the world, they will channel those calls and complaints and deal with them in that matter. Ed Lewis has even authorized for them to say if there is just a problem child, he will find them a new place to live. That is how serious he is about believing that this is an excellent development in the right place and is not going to in any way endanger Stellar Airpark or the pilots that use it.

It is also interesting when they talk about some of the uses. This is a follow up to some of the questions that were asked by some Commissioners. They could get into all kinds of discussions about how many people are in an apartment building versus how many people are in an office building versus how many are in a restaurant or a restaurant with a playground. They believe on average they are going to have in apartments two people more or less per 1000 square feet, 5 people or less probably in a 1000 square feet of office, 6 or 8 hotel rooms in a 1000 square feet. Certainly strong arguments can be made that there is less occupancy per square foot in an apartment building than there would be in some of the other uses that some people would suggest be more appropriate even though they haven't been built and there is no indication in this economy that they will be. As Chris Mackey indicated, there are lots of reasons why that type of development shouldn't be continued to be held on to on this site.

They also find it interesting as they were look at different displays that at least from where he was sitting there was lots of noise tracks coming back into the airport on the landing route. There are lots of tracks going to the north and lots of tracks going to the west of the NUVO site. He couldn't tell for sure but it looked like 3 coming across the NUVO site. He could tell them that when Tony Sola was in the field he wasn't seeing traffic going over the site. He thinks he had 1 or 2 that went over the site when he was out there in the course of 3 days. He is not about to say that there aren't planes going over the site, there are, but it's not like the flights that are lining up where they are supposed to be in the context of the no build zone indicating that if planes are there they are operating in a safe corridor and they are west of this property. He said he found it very interesting that a couple people said that if Stellar owned this private land that Stellar could not develop anything on it. He doesn't know what that means other than here is private land. Yes, somebody is thinking it shouldn't be developed at all and in fact one person said that some land just shouldn't be built on. That's not private property rights in Chandler or the State of Arizona or in the United States of America. This is private land and they do not have the no-build zone encumbering this land. They do not have adopted noise contours encumbering this land. This land is privately owned and is appropriate for development and it should not be banned or effectively taken from the opportunity to develop for any purpose be it a City purpose or a purpose of Stellar Airpark.

It was a suggestion that the only reason Ed Lewis is working on this property is because the land is cheap. That isn't the case. For a whole lot of reasons he picked this land and it isn't cheap but

he had opportunities in various pieces in conjunction with discussions with Staff including Economic Development. They knew that this was to be mixed use, they knew that this was a growth node and they knew it was an excellent opportunity to provide what they believe to be A+ product in a site which has employment all throughout this region of Chandler and more employment coming in a location where they want to make sure and Economic Development and Planning wants to make sure that they are providing absolute expensive top notch multi-family. Here is the opportunity to do it rather than working here and going home to Scottsdale and spending their money in Scottsdale.

With respect to Creative Leather they will continue to work with them. There was a meeting with Creative Leather several months ago that included representatives, Chris Mackey, Ed Lewis and himself. Since then there were discussions of varying levels between Ed Lewis and one of the people at Creative Leather. Ed was of the impression that issues were resolved. He got a call this afternoon from Ms. Hood indicating that they still had more things to talk about including the three she mentioned tonight. He told her then and will say again now that they are willing to make disclosures concerning the industrial use and so on. That was never an issue. She saw a few minutes ago during the break a draft of the disclosure stipulation that Jodie worked up. She is not sure if it is o.k. with Creative Leather or not but it is certainly o.k. with them. He agrees with what Jodie said with respect to traffic as far as Erie as a collector. It is supposed to collect interior traffic. They went through review by the City's traffic reviewers and everything passed muster and everything is just fine. He also understands that there are additional questions and a request was made that they do some kind of traffic study looking at average daily trips and peak hour trips and distributions. Ed Lewis told Ms. Hood and one of her clients this afternoon that he would engage someone to do that. On one hand they could say that shouldn't be necessary because they passed muster. Between now and the Council Hearing they will do that and see if they can resolve that issue. With respect to view corridors, it doesn't make any difference what gets built on this site Creative Leather is not going to have an open and unobstructed view corridor from Chandler Blvd. They were asked if they had a problem with Creative Leather having a monument sign and as was discussed here whether or not Creative Leather currently qualifies or can qualify for a monument sign, it isn't what is advertised for this hearing tonight. He will say as they said this afternoon during a conference call shortly before this Study Session, Ed Lewis and Butte do not have a problem with Creative Leather having a monument sign. It is really between Creative Leather and Staff. His gut tells him it qualifies for a monument sign on McClintock if they want one but that is not his decision. It is certainly something Creative Leather would need to explore no matter what occurs on this site unless as some have suggested it was to stay vacant forever.

Circling back where they started they appreciate Staff's recommendation for approval which is based upon Chandler's plans and Chandler's rules. They accept the stipulations including the additional stipulation and they are willing to agree to the additional stipulations that he alluded to. It talks about any questions or concerns be voiced to their manager rather than Stellar or others. They also mention that they could expand some of the disclosure to include some waiver language. They are to the best of this knowledge willing to step up higher than any one he knows of to make the disclosures and to be a good neighbor. That is exactly what they believe

will be because as everyone seems to recognize this is an outstanding design and a tremendously high quality development. It is in a location where they are putting some land to work. It is not only the right thing to do for the underlying property owner and for Butte but it is the right thing to do for the City and this area; to recharge this site, to recharge this area and bring in residents that can support some of the other uses. If they have questions, they will do their best to answer them and again particularly if it has do with noise, Tony Sola is here. If it has to do with FAA issues, Ray Friedlob is here and he and Ed Lewis will do their best to answer any questions they may have. Otherwise, they request their approval in accordance with Staff's recommendation and stipulations.

VICE CHAIRMAN VEITCH said it is getting late and his eyes might be playing tricks on him but he thought that one of the previous speakers, perhaps the one just before he began his rebuttal, put up on the screen another version of a 'no hazard letter'. The reason he thought it was different he just realized it had a different date on the top of it but he didn't see the rest of the content that clearly. Mr. Bull said to his knowledge there are three FAA approval letters that exist today on what he calls the greater 25 or 26 acres. Two of the letters were processed by the underlying property owner Sooner. After Sooner obtained their zoning approval for the retail, hotel and so on they applied for the FAA No Hazard letters. As was indicated, the FAA No Hazard letters have a clock ticking on how long their valid. So a part of what Sooner did is effectively renew those prior FAA approval letters one of which was for 30 foot tall predominately retail buildings down approximate to Chandler Blvd. That letter points out that a part of that building he thinks has some encroachment into the No Build zone. That letter and that comment have nothing to do with the NUVO site. A second letter that was also processed by Sooner has to do with approval of their hotel site. Again, he thinks this is effectively a renewal of a prior approval of their hotel site. That letter was also issued by the FAA. The one and only letter they submitted and was issued and approved, is the one that he had up there earlier with the blue highlights on it that has to do with their maximum 50 feet or less kind of building. **VICE CHAIRMAN VEITCH** asked if that was the one dated June 5th of this year? Mr. Bull replied that their letter is dated June 5.

COMMISSIONER DONALDSON said on page 4 of the same letter, can he explain to him 'runway 35 penetrates the initial climb area 40 to 1 slope by 15 feet requiring a take-off minimum and obstacle departure procedures' note. What is that 'penetrates the initial climb area by 15 feet' mean? Mr. Bull replied he would like to ask Ray Friedlob to address that because where he would go with that is yes, they say that and that at the very bottom of this same letter is when they explain that it doesn't increase this and that. They make their determination and then they explain their determination but he is going to defer to Ray to comment further on this.

RAY FRIEDLOB, ARIZONA OFFICE AT 60 RIO SOLADO, SUITE 900; COLORADO OFFICE, 950 17TH STREET, SUITE 2400, DENVER, said in issuing these No Hazard' letters there are many cases where there are slight encroachments under the FAA reg. This is one of them. However, they have determined on this letter and others even where there are slight encroachments they are not a hazard to air navigation. He can get into the history of all this and the whys and wherefores but too make a long story short, the reason is with development and the

improvement in aircraft machinery today and techniques they do not consider it a hazard to navigation. If they did, they would not issue the letter or they would turn down the application.

COMMISSIONER DONALDSON asked is that because the pilot or the aircraft is expected to avoid it? Mr. Friedlob replied that under the standard procedures the pilot's follow, they are expected to be able to deal with it. For instance, look at Sun Devil Stadium and Tempe Butte. For years people have said that is a hazard because pilots landing and taking off from Sky Harbor would be distracted or there will be birds eating the leftover hot dogs and they will fly up and will get into the engines and things like that. Just because of natural occurrences and development, look at Los Angeles LAX, you see buildings and everything lining the runway. With the advent of air travel today and increased efficiency and design of aircraft equipment the FAA makes a continuing determination on these and has determined that it is not a hazard to navigation so when they issue a letter like this, it is with all of those considerations. He even went so far to ask a team member of his who was with the FAA for 40 years and was the Acting head of the FAA under President H. W. Bush 41 whether he has ever heard of them pulling these back and he said he heard of one instance but he wasn't sure that it was ever done. They are very careful about these. If things change, they would amend the letter but these are things that the aircraft pilots face every day. **COMMISSIONER DONALDSON** said his comment about the expectation of the pilot and aircraft were related to some of the vintage aircraft, warbirds, WWII planes, etc. that fly in and out of Stellar and how these are either adjusted for those or how they consider them or if they don't because the technology isn't there in that particular aircraft. Mr. Friedlob thanked him for that question. Mr. Friedlob replied that the pilot has the responsibility of judging the performance of their equipment in a given airport.

CHAIRMAN RIVERS said he is concerned about the reference to 350 feet. It was in one of the letters. It was in an avigation agreement and something about folks going to be allowed to fly 350 feet above their project up to infinity. What if they need to fly below 350 feet? Mr. Bull replied the 350 feet is straight out of the City's standard form avigation easement. It is the avigation easement that provided and per title searches he believes is the same avigation easement that has been recorded on a variety of other private properties even including the storage facility a few hundred feet north of Chandler Blvd. He doesn't know why the City originally picked 350 feet versus some other number. He knows simply that it is the number that is in the City's standard form avigation easement. He thinks it is one that is actually attached to one of the earlier airport overlay districts going back into 1985 or 1986 if he remembers correctly. He is not saying that there are never any flights that go over the NUVO site just like there are never flights that ever go over Creative Leather or any flights that go over this neighborhood or that neighborhood, they are going somewhere. At least at the time when Tony Sola was there two flights actually went over the site on the edge and most of them were several hundred feet to the west which candidly is very consistent with the no build zone, the red triangle he was talking about. Obviously you are aligned if you are departing on a rare occasion to the north but also aligning with as you are approaching to land from the north. It is consistent with other contours that they have seen as well. He knows that pilots in taking off obviously are from 0 up to whatever altitude they are going to, at least under the Stellar transient rules that are published on line if they are taking off to the north you are going to be at 500 feet altitude before

they turn. He can't tell you whether they are or aren't, he can only read what their own internal rules say and he has been told by a pilot who is also a flight instructor that it is also good practice and recommended practice to be at 500 feet before they turn or take-off but he can't tell them it is a per say requirement. **CHAIRMAN RIVERS** said the video they saw was actually the pilot landing and he was at 200 feet over the property, so what he is asking is what happens when an aircraft flies across the property below 350 feet? He is being told from one side of the room that they are probably going to fly under 350 feet and he is being told on the other side of the room that the regulation is 350 feet. It didn't help him to know that. Mr. Bull said the avigation easement says 350 feet. He doesn't know that the avigation easement prevents somebody flying at an altitude lower than that in a landing pattern. He is not trying to evade his question. He knows what the avigation easement says and he knows it is the City's standard form. **CHAIRMAN RIVERS** said so he is telling him that there won't be an issue with the property owner if the flights are lower than 350 feet? Mr. Bull said that he and Ed Lewis presume that underlying his question is that they have a pilot who is operating in a reasonable and prudent manner that is respectful of other people and their private properties. Ed Lewis understands that and doesn't have a problem with that. In the disclosures they provided other than the avigation easement, they didn't put in 350 feet. They put in their flights and so on and so forth. The City's own document says 350. If he is asking me do they recognize there may be some people flying under 350, it looks like from what they saw here today that on occasion there may be or that there will be. That's not what Tony Sola observed as far as their particular sites are concerned when he was out there but he also hasn't had him out there from sunup to sundown 365 days. They understand there may be some flights less than 350 and they anticipate with flights going both ways that is not problematic.

CHAIRMAN RIVERS asked when the folks in the apartments complain to the manager, what will the manager do with the complaints? Mr. Bull replied what the draft language says is that all leases would provide that all questions, concerns or complaints any tenant may have about the operation of aircraft landing at, taking off from or operating at or on Stellar Airpark shall be directed solely to the manager of NUVO and not to the Stellar Airpark, City of Chandler, the FAA or any aircraft owner or pilot. All leases shall also provide that it shall be within the sole and absolute discretion of the manager of NUVO and not the tenant to determine after the manager's due consideration of all Stellar related acknowledgements and disclosures that are required by these zoning stipulations and consideration of all information known to the NUVO manager. That manager will determine whether or not, when and how to communicate any tenants question, concerns or complaints to the manager of the Stellar Runway Users Association or elsewhere. As he mentioned before, this requirement shall be confirmed in a Stellar related communications covenant that runs with the land. In other words it gets recorded so that it is something that runs through land that will apply not only to NUVO but any successor to NUVO so that this requirement is there. In specific answer to his question, if a tenant called to the manager and said he is surprised that there are planes flying around out here, he is sure that the manager would pull out various disclosures and point to various things and various signatures which they talked about earlier and explain that of course there are planes flying around here and as a part of your agreement to lease an apartment here voluntarily, you recognized and acknowledged that would occur. He does believe that the manager would deal with it and that

probably would be the end of the discussion. They also have other things that they may do in that context that is in a different kind of stipulation but here the idea is talk to the manager, the manager will talk with you and decide if any other communication should occur with Stellar or anyone else. They are happy to offer this stipulation if it is something that the Commission is interested in. It is something that Staff hasn't had much time to look at it.

COMMISSIONER CUNNINGHAM said he brought up a good point on this avigation easement, the language specifically. As she understands it, they obtained a sample of a previous avigation easement that the City has. Is that correct? Mr. Bull replied yes and that he knew that an avigation easement would be required. He asked for a current copy that the City uses. He was provided that. He had been asked a question earlier in the process about the 350 feet versus something else. He specifically asked if the 350 feet is the City's standard language and he was reassured that yes it is. When he was looking at the 1985 or 1986 ordinances that created the ANO's initially, one of them attached the standard form avigation easement to it and that is what continues more or less to be used today. **COMMISSIONER CUNNINGHAM** said if she is reading it correctly, then this avigation easement allows for flights from 350 feet above the surface to an infinite height but not 350 feet to below. Who would determine what is reasonable and prudent when the pilots have specifically said they fly anywhere from 200 feet to down as low as 50 feet to make the turn over this property? She is thinking that this avigation easement is possibly not going to do what the City might want it to do although she is not an attorney or a title expert. Mr. Bull said with apologies for repeating himself here is what he believes to be true. What he believes to be true is that this is what has been represented to me and this is the City's standard form avigation easement and the 350 feet is the height that goes into these easements. From other title search work that was done from at least other avigation easements that he has seen, contain the same 350 feet language. Also, know that under some circumstances he suspects that particularly straight off of the runway, there are situations where planes are considerably less than 350 feet. What this does is releases the City from various things and so on and so forth. He doesn't know that this prohibits somebody from flying less than that height. As people are coming and going from the north, they obviously need to stay above streetlights and Chandler Blvd. which involves considerable clearances but he doesn't know that this per say prohibits somebody from flying below 350 feet. It just is a situation where a private property owner grants to the City an easement of 350 feet up.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated he was going to use his best recollection because to a large extent the 350 feet has been on the forms for a long time but the original concept was based on the fact that most of the properties that they have had to secure these from were not properties that we were going to develop with structures of significant height. They are mostly residential structures and single-family. The 350 was kind of a measure of what would be the outside useable height of the property by the landowner who might want to put a structure on that. They didn't want the easements to be lower than that because then they would get into an issue about if they were taking their airspace is that a taking of property and do they have to compensate for that and so forth. From 350 and above for most properties anyway it is not issue, it's not useable space. They may have rights going indefinitely upward but if they can't use them that is kind of where they came up with the 350. He doesn't know if they varied

from that in any individual sites or not. The idea was simply to establish that there wouldn't be a complaint by a landowner who saw a plane flying above this property that was over a certain height basically.

Mr. Bull said he re-read the document and the context of some of the questions and Glenn's response. He said that makes sense to him because what the City is doing in part is protecting itself from a claim as Glenn indicated. The government through a regulatory taking or otherwise taking of somebody's private property rights is different than a private pilot flying. A private pilot is not a governmental body engaged in a regulatory taking.

CHAIRMAN RIVERS closed the floor and looked to the Commissioners for discussion and possible motion.

COMMISSIONER PRIDEMORE said to bear with him. He is going to be making a motion and obviously that doesn't preclude other discussions here on the dais but he also needs to qualify it so that they understand how he has gotten there. In the end we are looking at the land use of this particular use and piece of dirt and based on the information that is currently approved by the City of Chandler he believes this meets those criteria. However, from all of the discussion that they have seen tonight he now believes very strongly that the information that they are using to base that on is flawed. What he is relying on is the process that they are going through and that process obviously is the Commission here tonight, which is a recommending body, and City Council can kind of take in some of these intangibles which he thinks are part of a compelling argument. Part of the arguments that they have heard tonight and he will share his opinion of them is that he personally doesn't see the benefit of the argument to show that while there is statistically there is going to be problems, incidents and accidents. With those obviously there could be deaths and injuries. To him by pointing that out it makes him think he doesn't want your facilities there at all. It is a danger. He also knows the reality that they have been there for quite a long time. In his mind it is a unique development.

When his family first came to even look at moving to Arizona and his father worked for Intel; they were in California. They came down in 1981 to look at potentially moving to Arizona and a friend of his father who had worked with him in California had actually already moved down. He happened to live in this subdivision directly west of Stellar. His first trip here he saw Stellar and he thought it was the most amazing thing that you could have a garage for an airplane that is attached to your office. He thought that was cool. They have obviously lived in harmony for the most part. He is relying on the aviation professionals in this room that you take care of your business and that they are good at what they do. He goes on that faith every time he flies and he isn't the one driving. He is a control freak and it bugs the crap out of him but he is willing to take that leap of faith. He thinks no matter what goes here that they will be good neighbors and they will continue your good neighbor policy. He also doesn't understand and Commissioner Ryan tried to bring this up, he doesn't see the difference between 200 people getting hurt by an incident or 1 person getting hurt by an incident. That doesn't compute for him. In his opinion you can't live life through fear like that. You have to live life. Statistically, there are going to be problems with their facility. They have accepted that. You continue to use it and continue to

love to do it. The reality is that there are problems. He just doesn't see whether it's this development or another project; that argument doesn't work for him. That is his opinion. All that being said, he thinks the property owner is do their due process. They have gone through more hoops than most projects he has seen that have come through the City.

With that he moved to approve this item based on the land use they have in front of them. He would ask that at least 2 stipulations be added. One is one that Staff mentioned earlier about bearing near an industrial zone and the second would be the one that Mr. Bull put up about how issues brought to the management of this facility. That being said he is putting that out there and we'll see if it gets a second and if it is voted on. He is being open in this room to say that if that doesn't pass and somebody made a counter motion to recommend denial of this, he would support that as well and unfortunately they are passing the buck to Council to say that they have quite a task ahead of them and he doesn't envy them. Again, this hasn't been stated by both City Attorney and by Planning Staff they need to base our decision on the approved ordinances that they already have. Based on that, he couldn't see denying it. He think the information that they are basing it on is flawed. It will lead to future discussions and issues for future items that need to be resolved. Again, based on what they are seeing now he is going to make that motion because the developer and landowner is due that opportunity to see how it will go and if doesn't pass, they will get another motion and go from there. He said he doesn't mean to be wishy washy as this one has really confused him. He doesn't think it is this body's prevue to get into some of those discussions even though they are relevant to the overall approval or denial of the project. He thinks that where they are going to need to focus and they are going to need to make compelling arguments which they have made some tonight. He also thinks they have some flaws that they can try to address but he leaves that up to them.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, stated there are two motions required. One is for the zoning and one is for the PDP. He thinks they should treat this one as to the zoning which is the use issue.

COMMISSIONER PRIDEMORE said in that case both of these added stipulations would be part of the zoning.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISSIONER RYAN** to recommend approval for DVR12-0007 NUVO from PAD Commercial to PAD Multi-Family Commercial subject to conditions as recommended by Staff with the added two additional conditions. The motion passed 4-3.

COMMISSIONER PRIDEMORE re-iterated that this has been very difficult and he would like to think that he always keeps an open mind but they need to separate what this body is looking at and the information that they need to base that on and again Council has the ability to take in those other intangibles.

MS. JODIE NOVAK, SENIOR CITY PLANNER, read in the two additional stipulations which read as follows:

14. Prior to the execution of any lease, prospective apartment tenants shall be given a written disclosure statement acknowledging that the apartments are located adjacent to or nearby existing and future industrial uses that may cause adverse noise, odors, and other externalities. The "Public Subdivision Report", "Lease/Purchase Contracts", CC&R's, and individual rental contracts shall state such uses are legal and should be expected to continue indefinitely. This responsibility for notice rests with the subdivider/apartment builder/developer and shall not be construed as an absolute guarantee by the City of Chandler for receiving such notice.
15. All leases at the NUVO multi-family apartments shall provide that all questions, concerns or complaints any tenant may have about Stellar Airpark of the operation of aircraft landing at, taking off from or operating at or on Stellar Airpark shall be directed solely to the manager of NUVO and not to the Stellar Airpark, the City of Chandler, the FAA, any aircraft owner or any pilot. All leases shall also provide that it shall be within the sole and absolute discretion of the Manager of NUVO (and not the tenant) to determine (after the Manager's due consideration of all Stellar-related acknowledgements and disclosures that are required by these Zoning Stipulations and consideration of all information known to NUVO's Manager) whether or not, when and how to communicate any tenant's question, concern or complaint to the manager of the Stellar Runway Utilizers Association or elsewhere. This requirement shall be confirmed in a Stellar-related Communications Covenant that runs with the NUVO land and is Recorded with the Maricopa County Recorder prior to issuance of the first building permit for this development.

COMMISSIONER CUNNINGHAM stated the fact is they are being asked to change zoning on a property. It is not a slam dunk. If it was, they wouldn't have had to sit there tonight. The fact is there are a lot of issues here. The City of Chandler needs this kind of property, needs this kind of development but she doesn't know if she is convinced that it needs it on this lot. The discretionary income that it would bring to our City is remarkable but it also might chase away some of the industrial that they might be able to attract to the area. It might also chase away some of the industrial that they already have in that area. If it doesn't adversely affect the ability to Stellar to function, there are 15 businesses at Stellar that will be gone. If Creative Leather decided they don't want to work at that location anymore because they don't have the items they have requested, they can move to another community. A lot of adverse things can happen by passing this. Economically, to gain 229 tenants and possibly about 20 jobs that are mostly part-time jobs without benefited employees is not as great a gain if it costs the loss of 105 on-site employees at Creative Leather, if it costs approximately each business at Stellar (15 with approx. 2 employees ea.) another 30 people, they are losing those full time jobs. For that reason she will be opposed to this motion and will introduce a different motion.

COMMISSIONER DONALDSON, said to bear with him because it's late and his notes are a little scratchy. He took a little bit of a different perspective here. He is a very close neighbor to Stellar Airport and Airpark and built his house in 1989 23 years ago just to the east of

McClintock at now what is the border of the San Tan Freeway. He is very immediate to Stellar. Over the years he has supported the businesses that have gone in north of Chandler Blvd. and have been vocal and present at the neighborhood meetings that he was invited to. He opposed the single-family residential development that was proposed there. Residential encroachment has been mentioned a few times tonight. That is a danger to their very good neighbor at Stellar. He lives on the very south end of the Hearthstone Neighborhood and planes going into Stellar northbound and making their U-turn fly over his property by the counts hundreds of times a day. His dogs chase them up and down their yard and they are 1000 feet above his property at that point. He can read the numbers on the bottom of the wings. Until he learned otherwise, it felt like they were 100 feet over his property. Very close. It didn't necessarily bother him. It bothered his dogs and probably bothered his neighbors more by his dogs barking. Anyway, that is his perspective and again the motive of the commercial businesses major employment district that is north of Stellar Airpark is they need that light industrial in a commercial property. They need to not scare away as Commissioner Cunningham mentioned potential light industrial commercial properties or developers from going into that area. One of the quotes was 'they need to make a conscious planning effort' and he thinks that is why they are here. A little bit contrary to the process maybe but he thinks to put residential multi-family or single-family residential in this area is irresponsible and unconscionable.

He promotes the 4-Corner Retail Study that the Mayor has been taken by the City. He thinks there are a lot of corners that could use a product like this. They recently approved an apartment product at Germann and Dobson, the southeast corner. That fits the 4-Corner Retail Study and the needs that they have for that and there are needs for multi-family residential in Chandler. He has stood in the field that would be this property and watched the planes go over and they feel very, very close at that point. He has flown overhead on that approach and recommend that everybody who has that opportunity to do that to do it. It is a great experience but everything up there goes really, really fast. That is why he asked about the bi-plane approach and the adjustments for things because everything feels very fast whenever you are there and you are trying to make those changes and he commends the pilots for being able to do that. It is amazing. His fear would be that they would have complaints from the residents of this property and then the operations would have to be moved further to the north and then the Park Promenade residents may feel that their rights have now been encroached upon. Complaints will ensue. As Commissioner Cunningham already mentioned, he has a fear that the industrial park that is associated with the airpark could and would be significantly impacted. Both the residents who have hangars and the industrial businesses there that rely on the airport would move away and then they would have negative employment consequences as opposed to having major employment on that site from businesses.

In closing, as development increases and it will and as Mr. Bull mentioned, they need a shot in the arm but they need to be very careful, conscious and responsible. Just because something wants to go there, it doesn't belong there and that is why he won't be supporting a motion to approve this.

VICE CHAIRMAN VEITCH stated that in a very long career in local government, planning and management he has spent a large number of evenings just like this and he believes the issues that are properly before them and he believes they have been articulated vigorously by Ms. Novak and Mr. Brockman and Mr. Bull. He does not believe that this development would be a threat to Stellar Airpark which he agrees is an asset to the city.

COMMISSIONER BARON said obviously there has been a lot of information shared tonight, some of which he understands and a lot of which he doesn't. He looks at it from the standpoint of the need for commercial on this site he would find very questionable just because the saturation of commercial to the east which has a much larger transportation corridor and access to it. With the addition of this property in the practice that he does for a living, they look at projects like this as Mr. Bull stated, a shot in the arm because the reality of it is this is the beginnings of creating a true mixed-use development which would actually create jobs, create additional money to be spent within the city. He understands there are some concerns about flight path and access and how it is going to impact the airpark and he actually doesn't think any of those were really substantiated. Having this apartment complex will help create additional developments in this area. To the extent that they say commercial is o.k. and he thinks Commissioner Ryan mentioned this, he guesses they have a hard time understanding or differentiating between a 4-story hotel and 3-story apartment building versus a large big box commercial user or an office complex; they are all kind of indifferent especially when you are talking about true mixed-use development. So with that being said he feels like this is a good project in a good location and will actually lead to additional development in the area.

CHAIRMAN RIVERS stated that for 23 years they have lived three-quarters of a mile from Stellar Airport runway; 3 times farther than the proposed apartment building and the planes fly higher over their house but the noise is still quite noticeable. The proposed location is just apparently 1300 feet from the end of the runway. Not only will the residents be subject to aircraft noise, all of the pilots will face an additional major hazard with each northbound take-off or southbound landing. Some may argue that this proposal is no different than the hotel already approved but it is. When someone stays in a hotel and is bothered by noise, the next time they come to town they choose a different hotel. When it is your home, you complain. If this project changes from apartments to condominium, that will only get worse. They heard talk about disclosures and the disclosures if mandated and used correctly are fine. Stellar and its residents have been there for years, for decades and so were the Chandler dairies that used to be all over our city but those are mostly all gone now.

He thinks the residents of this project when they have a notice of complaint, will call the FAA. He thinks they will give them the aircraft code number and the FAA won't care about disclosures and this may result in action being taken against the pilots or the aircraft or the airport or all of them. They have been told how quiet it will be inside these homes with additional insulation and such but what if you want your window open. What about patio noise or noise around the pool. He suspects that folks in the penthouse won't happily accept the turbo jet flying by 20 yards above their patio while entertaining or the bi-planes flying by. Like the residents around Chateau de Vie, the people of Stellar built their homes and businesses relying on Chandler to maintain

current zoning and to keep the City's promise of protecting them against unreasonable encroachment that will destroy their lives and damage their property value. Unlike the Chateau and most other developments that they look at, this one threatens more than just the bordering property owners. This one threatens every single one of them with more than 200 residents living and working at Stellar. In his opinion the only thing worse than giving an o.k. to this project would be the precedent it could set for the next one.

MOVED BY COMMISSIONER PRIDEMORE, seconded by **COMMISIONER RYAN** to recommend approval for the Preliminary Development Plan for DVR12-0007 NUVO for the multi-family residential project. The motion passed 4 to 3.

COMMISSIONER PRIDEMORE asked Jodie when this would go to City Council. Ms. Novak said this will be going to the City Council on October 25, 2012. City Council only has one meeting in the month of October so there is a little bit of extended delay getting to that meeting from tonight.

CHAIRMAN RIVERS said to the audience that this is going to the City Council and is their next opportunity to voice their opinions on this matter. Again, as they just said it is October 25, 2012.

6. DIRECTOR'S REPORT

Mr. Mayo said he is going to be sending out an e-mail at the tail end of this week. They are running into scheduling crunch issues. They basically have four Council hearings from here on out for the rest of the year; September 27, October 25, November 8 and December 13. Getting everything scheduled at P & Z and then tracking to one of those four is becoming slightly problematic. They know that in November they have currently on their schedule two Planning Commission hearings; one on November 7 and then one on Wednesday, November 21, the day before Thanksgiving. Knowing that he is going to probably have a real hard time reaching quorum but needing to have two Planning Commission hearings that month, he is going to be sending out an e-mail taking a poll to see who is available to move that day one day forward and move it to Tuesday, November 20. They have already reserved this room and it is available. He will be probably sending out that e-mail probably tomorrow or Friday just polling you to make sure that they can get a quorum. If they can, then at the November 7 hearing we will make the note that the next regular hearing will be Tuesday, November 20 and not on Wednesday, November 21, 2012.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN RIVERS announced that the next regular meeting is October 3, 2012 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 11:30 p.m.

_____

Leigh Rivers, Chairman

_____

Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 3, 2012 held in the City Council Chambers, 88 E. Chicago Street.

1. Chairman Rivers called the meeting to order at 5:30 p.m.

2. Pledge of Allegiance led by Vice Chairman Veitch.

3. The following Commissioners answered Roll Call:

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

   Also present:

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

4. ACTION AGENDA ITEMS
   CHAIRMAN RIVERS informed the audience that prior to the meeting Commission and Staff met in a Study Session to discuss each of the items on the agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. Item B was pulled to action.

A. DVR12-0018 PECOS & DOBSON APARTMENTS

Approved.

Request rezoning from Planned Area Development (PAD) Townhomes to PAD Apartments with Preliminary Development Plan (PDP) approval for approximately 163 units on 6.8 acres at 2300 W. Pecos Road, ¼ mile west of Dobson Road.

Rezoning

1. Development shall be in substantial conformance with the Development Booklet, entitled "Pecos & Dobson Apartments" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0018, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.

2. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
3. Right-of-way dedications to achieve full half-widths, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
4. Undergrounding of all overhead electric (less than 69kv), communication, and television lines and any open irrigation ditches or canals located on the site or within adjacent right-of-ways and/or easements. Any 69kv or larger electric lines that must stay overhead shall be located in accordance with the City's adopted design and engineering standards. The aboveground utility poles, boxes, cabinets, or similar appurtenances shall be located outside of the ultimate right-of-way and within a specific utility easement.
5. Future median openings shall be located and designed in compliance with City adopted design standards (Technical Design Manual # 4).
6. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
7. The developer shall be required to install landscaping in the arterial street median(s) adjoining this project. In the event that the landscaping already exists within such median(s), the developer shall be required to upgrade such landscaping to meet current City standards.
8. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.

Preliminary Development Plan

1. Development shall be in substantial conformance with the Development Booklet, entitled "Pecos & Dobson Apartments" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0018, except as modified by condition herein.
2. The landscaping shall be maintained at a level consistent with or better than at the time of planting.
3. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.

C. <u>DVR12-0033 ALLRED CHANDLER AIRPORT CENTER II</u>

Approved.

Request rezoning from Planned Area Development (PAD) to PAD Amended to allow for the additional uses of athletic training facilities and family recreational/instructional uses. The subject site is located at 2150 E. Germann Road, east of the northeast corner of Cooper and Germann roads.

1. Development shall be in substantial conformance with Exhibit 7, Project Narrative, entitled "Allred Chandler Airport Center II", and kept on file in the City of Chandler Planning Division, in File No. DVR12-0033, except as modified by condition herein.

2. Compliance with conditions adopted by the City Council as Ordinance No.3673 in case DVR04-0037 CHANDLER AIRPORT CENTER and with cases PDP10-0011, and PDP06-0057, except as modified by condition.
3. The site shall be maintained in a clean and orderly manner.
4. All fitness, family recreational, and instructional activities shall be restricted to indoors only.

D. PDP12-0001 BOARDWALK AT ANDERSON SPRINGS

Approved.

Request Preliminary Development Plan approval for additional tenant panels on new monument signs. The subject site is located at the southeast corner of Dobson and Ray roads.

1. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
2. Landscaping shall be in compliance with current Commercial Design Standards.
3. Monument signs shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
4. The monument signs shall be in substantial conformance with the attached site plan and sign elevation exhibits, kept on file in the City of Chandler Current Planning Division, in File PDP12-0001 BOARDWALK AT ANDERSON SPRINGS, except as modified by condition herein.

E. PDP12-0009 THE PROMENADE AT FULTON RANCH FARMERS MARKET

Approved.

Request Preliminary Development Plan (PDP) approval to allow an outdoor farmers market within a parking area of an existing retail shopping center to occur on a permanent basis located at the northeast corner of Alma School Road and Chandler Heights Road.

1. Development shall be in substantial conformance with application materials (site plan, narrative), except as modified by condition herein.
2. **Live entertainment special events or seasonal events may require separate temporary special event permit approval through the Neighborhood Resources Department.**

F. LUP12-0006 MAMA'S HOUSE

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 6 Bar License for on-premise consumption only and within an existing outdoor patio. The subject site is located at 2394 N. Alma School Road.

1. The Use Permit is granted for a Series 6 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

3. Expansion or modification beyond the approved exhibits (Floor Plan and Patio Plan) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit is non-transferable to other store locations.
5. The site shall be maintained in a clean and orderly manner.
6. **No noise shall be emitted from outdoor speakers on the patios or from music occurring indoors, that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and area residents.**

G. LUP12-0022 FLORIDINO'S PIZZA & PASTA

Approved.

Request Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption within an additional dining area of an existing restaurant. The subject site is located at 590 N. Alma School Road.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Floor Plan) 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 area adjacent to the establishment shall be maintained in a clean and orderly manner.

H. ZUP12-0025 BRENNTAG PACIFIC, INC.

Approved to continue to the October 17, 2012 Planning Commission Hearing.

Request Use Permit approval to allow for additional storage tanks within an existing outdoor storage tank yard. The subject site is located at 6750 W. Boston Street. (**STAFF REQUESTS CONTINUANCE TO THE OCTOBER 17, 2012 PLANNING COMMISSION HEARING.)**

MOVED BY VICE CHAIRMAN VEITCH, seconded by **COMMISSIONER PRIDEMORE** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed unanimously 7-0.

ACTION:

B. DVR12-0023 MAPLEWOOD COURT

Request rezoning from Planned Area Development (PAD) to PAD Amended along with Preliminary Development Plan approval for housing product for a 32-lot single-family residential subdivision located at the southwest corner of Maplewood and Vine streets.

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0023, modified by such conditions included at the time the Booklet was approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3764 case DVR05-0009 MAPLEWOOD COURT, except as modified by condition herein.
3. Construction shall commence above foundation walls within three (3) years of the effective date of the ordinance granting this rezoning or the City shall schedule a public hearing to take administrative action to extend, remove or determine compliance with the schedule for development or take legislative action to cause the property to revert to its former zoning classification.

MR. ERIK SWANSON, CITY PLANNER, stated this is rezoning from Planned Area Development (PAD) for a single family residential subdivision to Planned Area Development (PAD) along with an amended Preliminary Development Plan (PDP) for a single-family residential development.

The primary reason behind the rezoning is that with the initial approval in 2005 a condition requiring it to be custom homes. The request tonight is to eliminate that condition and then allow for the development of production homes. The subject site is a 32 lot subdivision and it was originally zoned in 2006 as part of that development for the custom homes and extension was granted in 2009 and the current request is to extend that for an additional 3 years as well.

They had a neighborhood meeting where a number of residents came out to discuss the project with some general questions. At that point in time they were unaware of any neighborhood opposition. Following the Study Session some residents to the east of the subject site came and they were discussing that there were some concerns with primarily what appears to be Lots 22 through 26 and a condition to get that limited to single story homes. Rather than going through a full detail of what is being proposed with housing products they will kind of just address that if that is alright and answer any questions.

With the original approval in 2005 and 2006 there was a lot of neighborhood discussion with the development. What resulted from that were some development conditions restricting lots 1 through 21 to single-story homes and basically what that equates to is all the lots on the west side adjacent to Eden Estates and all of the lots on the south side that are adjacent to more of our rural

agrarian homes. In addition to that there was a condition that was approved that restricted lots 22 through 32 which would be all the lots on the east and all of the lots on the north to have deeper rear yard setbacks for single-story homes and 2 story homes. Additionally, there was a condition that restricted any rear facing balconies on Lot 22. Again, at that point in time it was all approved. The developer was o.k. with it with the understanding that at that point in time the homes would be custom homes and could be easily accommodated. With this particular request part of that PDP is for production homes with a homebuilder. He said he would be happy to go into detail with anything further on the project and would be happy to answer any questions.

CHAIRMAN RIVERS asked if there were any questions for Staff.

VICE CHAIRMAN VEITCH said it was his understanding that the custom home provision was not a condition exactly it was for a representation imbedded in the narrative. Mr. Swanson replied it was a condition that was in the development booklet and Staff memo but not by an actual ordinance condition.

MARIO MANGIAMELE, IPLAN CONSULTING, CHANDLER, stated he was there on behalf of Taylor Morrison homes with is the entity that is purchasing this subdivision from the developer.

He said he didn't have a very detailed presentation to give them. Staff has done a very thorough and detailed job with providing you with the overview of the reason why they are here tonight with respect to the PAD Amendment as well as PDP (Preliminary Development Plan) for the architectural product. In going through the public participation part of the primary development process they did hold one neighborhood meeting as Staff had indicated. There were a number of neighbors that did show up and a lot of the discussions were for the most part, are you going to hold your word to what was previously approved that being with respect to their concerns of wall height as well as concerns with the existing stipulations concerning the building height for the overall development. Staff has indicated that the previous zoning entitlements for this project did limit the building heights for a considerable number of lots around the development. His client doesn't have any problem with those limitations whatsoever. In fact, in addition to the ones Staff has stated Chandler's policy as well as the policy of his client is to limit the building height on corner lots. So in addition to the ones discussed along the south end, west of the project's boundary there are the corner lots throughout the project where the walls are to be limited to one story in height. He said that will conclude is very brief presentation but he will be available for any questions or be able to respond to any comments or concerns that the neighbors might have on the project.

CHAIRMAN RIVERS said so he is saying that Lot 26 is going to have a single-story house on it anyway. Mr. Mangiamele replied that is absolutely correct, Lot 26 will have a single-story home on it. **CHAIRMAN RIVERS** thanked him and said he would invite him back up after the audience has spoken in case he wants to give them more information.

CHRIS PLATT, 740 W. MAPLEWOOD STREET, said he just really has one question. He just wanted to make sure that some trees were put along Maplewood Street. Mr. Swanson, City Planner, said he was pulling up his landscape plan but generally speaking that is a requirement along Maplewood to provide that landscaping within that area. He said there will be number of trees there. It will actually line that whole southern part of Maplewood for the length of the subdivision as well as down Vine Street.

ROBERT CUTLIP, 1747 S. VINE STREET, said he lives by the eastern part of the subdivision that they are proposing. Five years ago when they had their meetings, he thought during the meetings they had stipulated no 2 stories would be along Vine Street which would be the corner lots now. He is stipulating that they will not be 2 story but the interior lots which are 22 through 26 could possibly be 2-story. They problem he has is their front door faces that subdivision. They have several hundred thousand dollar homes along there. There are 3 of them. When they talked originally, they were going to do an eight foot wall that was going to be landscaped and there would be no 2-stories. They don't want to look out their front door and look at somebody's back of their house. It would be different if they would have turned the houses and faced them toward Vine Street but that is not the way the subdivision is laid out. They were going to make the lots bigger and deeper. At the neighborhood meeting a couple of the neighbors came to him and stipulated that they said they would possibly do some 2-stories right there so they oppose that. Every one of the neighbors that are here tonight and every one of his neighbors that live on the road oppose the 2-stories there. There are some conditions that they had talked to Erik about and he said they could address them in a separate meeting as far as road alignment, the height of the wall that was never discussed, and whether there would be a sidewalk. They have never seen a finished plan on the proposed project at all. They have had several conversations with Morey Tanner's representative but nothing has ever come out of it. They are kind of up in the air about the project. They don't know what they are getting and what is going to be in front of them. They are opposed to the 2-stories for sure.

COMMISSIONER RYAN asked Mr. Cutlip if he didn't get a request to attend the neighborhood meeting. Mr. Cutlip replied he missed it and he didn't know it was there. He is the sole supporter of his family so he works and was unable to be there. **COMMISSIONER RYAN** said he hasn't seen his home or the other homes that are next to him but are they 2 stories as well? Mr. Cutlip replied no they are all single-story. He said he is on three and a third acres and he has about a 3600 square foot livable home. His neighbor is on an acre and a half and he has a 5400 square foot livable home and the neighbor to the north of him is on approximately three acres and he has about 3700 square foot livable. They are custom homes. Obviously, they know it is going to be built on. They thought originally they were going to be nice custom homes. **COMMISSIONER RYAN** said these are very upscale homes. They are on some pretty large lots too. He asked Mr. Cutlip if he is in the County. Mr. Cutlip replied no they were annexed in 1976 into the city. They have buried the irrigation ditches; they have put in their own water lines and paid for it out of their own pockets. They take a lot of pride in their neighborhood. They just want to make sure that things are done right. He doesn't want to look out his front door and see a 2-story in front of him. **COMMISSIONER RYAN** said there is quite a large landscape tract along Vine Street on the west side that the developer is going to

install. The trees he is providing there will provide a pretty dense screen and you probably in five or six years wouldn't see the building. Mr. Cutlip said unfortunately they have to live there now. They have a view of the mountain and he understands why they are not putting them on adjacent Eden Estates but their homes are just as nice as Eden Estates. They eliminated them from Eden Estates which backs their backyards. All of those houses their backyards face that wall. Their front doors face that wall.

MR. SWANSON, CITY PLANNER, said there is also a condition with the original approval that restricted no more than two 2-story homes built next to each year. Virtually, with the exclusion of Lot 26 as a single-story, they are basically having three 2-story homes along there depending on how it is done.

COMMISSIONER DONALDSON said these are fairly large lots. Is lot size changing from the custom home development that was approved compared to these production homes? Mr. Swanson replied no, they are all the same lot size.

VICE CHAIRMAN VEITCH had a question for Mr. Swanson. When Vine Street becomes a fully dedicated right-of-way, if it isn't already, its width will be what? Mr. Swanson said the half street of Vine Street on the west side will be 21 feet. Ultimately right now unless development comes along these folks' properties, that right-of-way is at 15; that would be 42 because they would require that additional. Right now they have what's needed to be dedicated. Vine Street at this point in time only serves these property owners so it is not going to be a through thoroughfare. **VICE CHAIRMAN VEITCH** said so in terms of separation between structures they have the extra deep rear yards in Maplewood, a street right-of-way and whatever the front yard setbacks are on the east side of Vine. Mr. Swanson said if you do kind of a rough measurement from the front of Mr. Cutlip's home basically with the additional deeper rear setbacks as conditions, they are looking at a distance of 140 to 150 feet from the front of his home to the back of a house. **VICE CHAIRMAN VEITCH** said so it is structure to structure he is talking about. Mr. Swanson said that was correct. **VICE CHAIRMAN VEITCH** said on the Eden Estates side, the west side, structure to structure would be a much smaller distance. Mr. Swanson said correct.

CHAIRMAN RIVERS asked the developer if he wanted to come back and say a few more words.

MR. MANGIAMELE said in response to two comments they heard tonight he believes the first question by the gentleman was with respect to the trees being planted along Maplewood Street. Although Taylor Morrison is not developing the property, Mr. Tanner is going to be developing this property. The approved landscape plans for this project do identify 24" boxes which are fairly sizeable trees, Chinese Elm, to be planted all along Maplewood Street as well as all along Vine Street adjacent to their development. In addition to those large box trees, there will also be a minimum 6 foot high theme wall surrounding the development both adjacent to Maplewood as well as Vine Street.

While he fully respects the neighbor's comments, he is not quite sure he understands what their concerns are with respect to the 2 story. As they look at the development now and what was actually imposed on this development back when it was approved back in 2006, there were quite a few limitations imposed on the 2 story as it now. He was not privy at that time and not involved with the project and he was not privy to whatever discussions or communications that took place but as Council approved it again there are a considerable number of limitations with respect to 1 story versus 2 stories. In fact in doing some calculations, the limitations are imposed now along with Chandler's policy and Taylor Morrison's policy on limiting single story to the corner lot, they are probably looking at about maybe 35% to 37% of the remaining lots can be developed as 2 story. Another thing they might want to realize here is the reality of where the current housing market is and where it has been and that 2 stories for the most part just are not selling. They are a very small percentage of what is selling for a lot of the homebuilders that they represent across the valley.

As Staff had indicated and he and Staff had previously discussed this, the closest house along on the east side of Vine Street structure to structure considering that they go by 2 story setbacks on the rear yards of Lots 22 through 26 on the east side, does not include Ramada's, casitas or gazebos in some of the backyards but actual house to house. They are looking at about 145 foot distance. You are also separated with Vine Street and a six foot high wall as well as the landscaping that is going to be installed. Without talking to the neighbors he just doesn't fully grasp or understand their concerns with respect to the two stories.

COMMISSIONER RYAN asked Mr. Mangiamele if he could summarize what the limitations of the two stories are. He knows it backs up to Eden Estates on the west side. Correct? Mr. Mangiamele replied that Los 1 through 21 are limited to a single story development only. Lot 22 is limited to no two story elements or balconies. If they further look at Chandler's policy as well as his client's policy, no two story homes on corner lots. Lots 12, 17, 19, 26, 27 and 32 are going to contain single story homes only as well. **COMMISSIONER RYAN** asked how he ended up with the limitation on the south side. Is that through his neighborhood meeting? Mr. Mangiamele said that was actually through their due diligence that they did on the existing zoning ordinance for the property back when Council approved this in 2006. Obviously, they want to honor all of Council's previous Commissions and approvals. **COMMISSIONER RYAN** said this is a new case so they can do what they want to do. He is all for spreading the two stories out instead of clumping all in one area.

KEVIN MAYO, PLANNING MANAGER, said that question was intended for them to look at the potential for spreading out the two stories around lots 1 through 11 and 20 and 21. There are neighbors that were involved in the original zoning and then they would have had the opportunity to see this request and if they saw this request, indicated an acknowledgement to honor the previously approved conditions for two stories.

COMMISSIONER PRIDEMORE asked Staff if there was anything in the prior approval on the screen wall along Vine for its height. Was is always six feet? Mr. Swanson replied it is six feet. There was a condition and agreement between the previous development and the property

owners to the south. They have basically what is an 8 foot wall on the inside of this development which roughly equates to about a 10 foot wall on the south side. A neighbor wanted that. The developer at that time was agreeable to it. So that on the south side in the vicinity of Lot 6, 7 and 8 is going to be a higher wall but the remaining perimeter walls are going to be 6 feet on the east and north. **COMMISSIONER PRIDEMORE** said his other question is for the applicant. He asked if he said that two story houses don't sell very well in this market. Mr. Mangiamele replied that based on their experience over probably the last year and half when the market started turning a little north for most of their clients and homebuilders, what they have been experiencing and hearing from the homebuilding community is that two story home sales are a very small portion of their sales right now. They are finding that the buyers are leaning more towards single-story homes. That is the way it has been for probably the last year or so with respect to the clients they do represent. **COMMISSIONER PRIDEMORE** said taking that statement then he doesn't see the issue with making Lots 22 through 25 restricted to single-story as well given the comment that he just made. Mr. Mangiamele said the reality is and if he overheard Staff correctly, there is a stipulation for no two two-stories in a row or adjacent to each other. Mr. Swanson said it is 'no more than two two-story homes adjacent to each other'. Virtually what you end up with is if 26 is a single story by condition, then 25 would be a two story and you could possibly do to 24 as a two-story. Then you have to skip one. The max they are looking at is 3 lots with two-story homes along Vine Street. **COMMISSIONER PRIDEMORE** said to him they are talking about the potential of 3 two-story homes along Vine. He understands the residents to the east of Vine. Their concerns given the nature of how their houses are oriented and hearing his comments about two-story houses don't sell as well as single-story, he would say make 23 through 25 single-story and be done with it. Mr. Mangiamele replied that he would support that. Mr. Mangiamele said he wanted to respond to one last comment he heard from the neighbors. There appeared to be some concerns with respect to transparency. They weren't quite aware of what was going on or how the development was going to look. He said he would like to go on record that they would be more than willing to meet with the neighbors and/or City Staff at the same time to go over what plans had been approved for this project. As he indicated about why he is representing the homebuilder that is purchasing this property from the developer, the property owner is going through the City process with their improvement plans. He is not sure what review they are in but they are very close. They would be very open and very willing to meet with the neighbors if there are concerns of what this is going to look like. They have never tried to hide anything. The can e-mail documents or they can meet one on one to make sure the neighbors do have a certain comfort level or at least they are aware of what is being proposed with this project.

CHAIRMAN RIVERS suggested then that right after this meeting he might want to talk to the folks and see what they can work out. He asked if he had an objection to a stipulation limiting to one story for Lots 22 to 25. Mr. Mangiamele replied that in not seeing his client here, he would represent that yes they would have a concern with limiting any additional two stories in this development.

CHAIRMAN RIVERS closed the floor and turn to the Commissioners for discussion and possible motion.

COMMISSIONER PRIDEMORE asked Staff if there is an additional stipulation regarding single story houses, where would it go? Mr. Swanson said if he was asking if it is under the Rezoning or the Preliminary Development Plan, he is inclined to say that they go ahead and put it underneath the Preliminary Development Plan.

COMMISSIONER PRIDEMORE said he would move to approve DVR12-0023 MAPLEWOOD COURT Rezoning as recommended by Staff and then on the PDP in addition to the lots that are already indicated on the site plan as being single story, to add lots 22 through 25 to being restricted to single story as well.

COMMISSIONER PRIDEMORE moved to approve DVR12-0023 as recommended by Staff, and was seconded by **COMMISSIONER CUNNINGHAM**.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY said he needed a clarification on what that motion is. They have a motion for a rezoning and they are not adding an additional condition to that? **COMMISSIONER PRIDEMORE** said no, not to the rezoning. Mr. Brockman said what is the original zoning? Mr. Swanson said the addition of condition no. 3 which is addressing the 3 year timing condition. Mr. Brockman said the original zoning that he is trying to incorporate here bringing and amending it and making reference to it being continued with the conditions that are in the original zoning, that is where it is spelling out what is single-story. He thinks if Commissioner Pridemore is going to make the type of amendment that he wants to do, he needs to make it in the zoning because you are essentially trying to modify what is currently going to be carried forward with the original proposed motion that Staff put down here. Mr. Swanson stated with condition no. 2 of the Preliminary Development Plan recommendation that also addresses the original ordinance except there is that provision that says 'acceptance modified by condition herein'. They are simply dealing with the design aspect of it not necessarily a land use component. Mr. Brockman said the problem he have is they have essentially the same motion, same set of conditions. One and two are essentially repetitive of each other. What he is looking at is in both of them he is saying he is going to comply with the original zoning conditions that are spelled out in Ordinance 3764. It is not just a design issue, it is a real use. He is essentially saying that he can't have a second floor. You can't use property to construct a two-story building. Mr. Swanson said so would your recommendation be to add condition no. 4 under the rezoning. Mr. Brockman said his recommendation to Commissioner Pridemore that if he wants to modify the conditions that were originally approved in the original zoning. Just modify it in both motions. They will take care of it. He said his recommendation to Mr. Swanson is that when they bring the new ordinance for him to review he wants him to spell out all of the stipulated conditions that are going to be in effect without having to make a reference back to the previous ordinance 3764. It's too hard to flip through two ordinances and two different booklets to try to figure out exactly what they have done in terms of an amendment. Just clarify that in the ordinance that goes to Council.

COMMISSIONER PRIDEMORE said he would modify the motion to say for the rezoning that he would like to add stipulation no. 4 restricting lots 22 through 25 to single-story.

CHAIRMAN RIVERS said the motion had been changed. He asked if the Commissioner that seconded the first motion wished to change as well or if that was o.k. Commissioner Cunningham said she did not want to second the motion.

CHAIRMAN RIVERS stated that seeing there was no second the motion died for the lack of a second. He looked for another motion as far as the rezoning.

COMMISSIONER CUNNINGHAM said she has driven through a lot of neighborhoods and she understands that when you walk outside you don't necessarily want to see the back of a house. She has reviewed this builder's plans thoroughly and it is not just a block wall or a stucco wall, these are really extraordinarily nice back walls. Additionally, the subdivision walls are very lovely and nicely designed. When you are driving down a street into your front yard and you look across the street, you most likely will see your neighbor's front yard with trees. In this case you are going to see lots of Chinese Elms, which are a nice substantial tree. Not a whole lot different than probably the front yards that you have except they have quite a bit larger lots. They are not likely to see much of your neighbor's house. If they have a RV barn or any of their neighbors do, you are going to see those. If they have a barn, it is going to be taller than one-story. She doesn't see that 2-story houses, two or three on this one block are an issue when you have such large properties on their side and then so many trees and such lovely construction on the other side. He commend for the plans that he has here. The architectural design is quite lovely.

COMMISSIONER CUNNINGHAM moved to approve DVR12-0023 MAPLEWO**OD** COURT with the stipulations that exist (rezoning), seconded by **COMMISSIONER RYAN**.

VICE CHAIRMAN VEITCH asked if this is the motion to approve the rezoning as recommended by Staff with the addition of stipulation 3 which is the 3-year time stipulation? **CHAIRMAN RIVERS** said yes and called for a vote.

The motion passed unanimously 7-0. **CHAIRMAN RIVERS** looked for a motion for the PDP.

COMMISSIONER RYAN moved to recommend approval of the Preliminary Development Plan for the housing product subject to conditions stated by Staff, seconded by **COMMISSIONER BARON**. The motion passed unanimously 7-0.

CHAIRMAN RIVERS said they are a recommending body to the City Council. This item will be on their agenda on October 25, 2012 and they are welcome to go and express their concerns to them at that time.

5. DIRECTOR'S REPORT
Mr. Mayo said he had nothing to report.

6. CHAIRMAN'S ANNOUNCEMENTS
CHAIRMAN RIVERS announced that the next regular meeting is October 17, 2012 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

7. ADJOURNMENT
The meeting was adjourned at 6:18 p.m.

_____
Leigh Rivers, Chairman

_____
Jeffrey A. Kurtz, Secretary