

MINUTES OF THE REGULAR MEETING OF THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, held in the Council Chambers, 88 E. Chicago Street, on Thursday, March 14, 2013 at 7:00 p.m.

THE MEETING WAS CALLED TO ORDER BY MAYOR JAY TIBSHRAENY.

The following members answered roll call:

Jay Tibshraeny	Mayor
Jack Sellers	Vice-Mayor
Trinity Donovan	Councilmember
Nora Ellen	Councilmember
Kevin Hartke	Councilmember
Rick Heumann	Councilmember
Jeff Weninger	Councilmember

Also in attendance:

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

INVOCATION: Rabbi Mendy Deitsch – Chabad of the East Valley

PLEDGE OF ALLEGIANCE: Boy Scout Troop 565

UNSCHEDULED PUBLIC APPEARANCES:

None.

CONSENT:

MOVED BY COUNCILMEMBER HEUMANN, SECONDED BY VICE MAYOR SELLERS, TO APPROVE THE CONSENT AGENDA AS PRESENTED. MAYOR TIBSHRAENY DECLARED A POTENTIAL CONFLICT OF INTEREST ON ITEMS 7 AND 15.

MOTION CARRIED UNANIMOUSLY (7-0).

1. MINUTES:

APPROVED the Chandler City Council Regular meeting minutes of February 28, 2013.

2. CONTRACT/EASEMENT: United States of America Ord. #4424

ADOPTED Ordinance No. 4424 authorizing a contract and grant of easement, at no cost, to the United States of America (USA) for the relocation of underground irrigation facilities required for the Alma School Road and Ray Road Intersection Improvement Project ST-0704.

3. DEDICATION IN FEE: Kesler Lane and Colorado Street Ord. #4425

ADOPTED Ordinance No. 4425 authorizing the dedication in fee of a portion of City-owned property for public roadway and the dedication of a sight visibility easement, located near the corner of Kesler Lane and Colorado Street.

4. LEASE AMENDMENT: Las Corrientes, LLC Ord. #4434

ADOPTED Ordinance No. 4434 amending the lease with Las Corrientes, LLC for the Operation of Bear Creek Golf Complex.

5. REZONING: Kyrene 202 Business Park Ord. #4435

ADOPTED Ordinance No. 4435, DVR12-0027 Kyrene 202 Business Park, rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for a business park.

6. AGREEMENT: Level 3 Communications, LLC Ord. #4388

INTRODUCED AND TENTATIVELY APPROVED Ordinance No. 4388 authorizing an agreement with Level 3 Communications, LLC, for the use of facilities in the City's rights-of-way and public places to establish a Class 4 and 5 Communication System.

#### BACKGROUND

Level 3 Communications, LLC has filed for an application with the City to install, operate and maintain a fiber communications system that will provide both telecommunications and possibly non-telecommunications services. This agreement provides terms and fees for both service deliveries. The company holds similar agreements in other valley cities to provide such services. This is a five-year nonexclusive agreement.

#### FINANCIAL IMPLICATIONS

The City has received a \$3,000.00 application fee which should cover the City's cost for processing this application and a 2.75% privilege tax will be paid on any non-interstate telecommunication services. As dictated by federal and state law, there will be no right-of-way use fee for the defined telecommunications portions of the system and its operation, but there is a fee structure established in the agreement for any services that are not exempted by federal or state law. The company will also pay permit, inspection and pavement damage fees.

7. ANNEXATION: SEC Chandler Heights and Gilbert Roads Ord. #4436

MAYOR TIBSHRAENY declared a Conflict of Interest on this item and did not vote.

INTRODUCED AND TENTATIVELY APPROVED (6-0) Ordinance No. 4436 annexing approximately 25 acres located west of the SWC of Chandler Heights and Gilbert roads. (Applicant: Brennan Ray; Burch & Cracchiolo, P.A.)

#### BACKGROUND

The subject site is located west of the southwest corner of Chandler Heights and Gilbert roads, and is currently zoned RU-43 in the County. The site is currently vacant. The Chandler Land Use Element of the General Plan designates the area for Low Density (single-family) Residential. Additionally, the subject site is located within the Southeast Chandler Area Plan and is similarly designated as Rural Agrarian Character, supporting low-density residential development.

The subject site is a conglomeration of seven parcels that are all currently zoned RU-43 within the County. It is surrounded by agricultural land and residential development. North is Chandler Heights Road with residential and agricultural uses located in the County beyond. East and south is the Circle G at Riggs Ranch single-family custom home subdivision. West are residential and agricultural uses located within the County.

A City Initial Zoning designation was granted for the site; however, an error in the processing of the annexation requires that the request go through the hearing process. Following the annexation process, a new request for City Initial Zoning will be brought forward.

UTILITY SERVICES:

Existing municipal water service and sewer service mains are located within Chandler Heights Road. The developer will be required to extend a 12" reclaimed water line in Chandler Heights Road to serve their property.

8. DEVELOPMENT AGREEMENT: General Motors, LLC Res. #4655

ADOPTED Resolution No. 4655 authorizing a development agreement with General Motors LLC, and its Subsidiaries in an amount not to exceed \$1,125,000.00.

Economic Development Director Chris Mackay reported this project would be a new construction of a building and 1,000 new, permanent full time jobs, as well as construction jobs. Ms. Mackay explained the Council is voting on a job creation, performance based program. It is paid in arrears. She said this is only the fifth time in more than 150 projects, that Chandler has financially assisted a company in bringing these high quality, high wage jobs in to Chandler. She explained the terms of the agreement. She noted the City ran an economic impact model that assumes 138 jobs in Year 1, 300 jobs in Year 2, 300 jobs in Year 3, 100 jobs in Year 4, and 103 jobs in Year 5. She said the model shows an economic impact to Chandler over a 5 year period of \$1.9 million as well as \$1.23 million in building permit fees. The Arizona Commerce Authority also had an independent economic impact analysis and reports more than \$300 million in economic impact to the State of Arizona over the 5 year period with this project. She explained the fiscal impact to Chandler on their model was \$974,000; this combined with the permit revenue of \$1.23 million equals the fiscal impact of \$2.2 million in the memo provided to Council.

She stated at a point of clarification on the Arizona Commerce Authority model, as there was some confusion as to whether it was a new building. The economist running the model capitalized the investment over a 5 year period of time as an existing building, and not a new building. She explained that model is ultra conservative as it does not take into account the construction sales tax.

COUNCILMEMBER WENINGER noted the other impacts to the area. MS. MACKAY stated the secondary impact from those jobs as it drives up home values and impacts and provides ancillary jobs.

COUNCILMEMBER HEUMANN inquired about the average pay. Ms. Mackay said it would be about double the average wage that is seen in Arizona, above \$70,000. Councilmember Heumann asked if there was a claw back. Ms. Mackay said this is why the money is being paid in arrears, over a two year period.

COUNCILMEMBER ELLEN thanked Ms. Mackay and her staff. She asked how the recruitment would work. Ms. Mackay said these are new jobs to the market, although there may be a few

jobs to keep continuity and for training. She stated these jobs are not transferring from another location.

**BACKGROUND:**

Resolution No. 4655 approves and empowers the Mayor to execute a Development Agreement between the City of Chandler and General Motors LLC (GM). This allows the City to support a Job Creation/Training Fund that will be paid to GM and its subsidiaries after they create and maintain new jobs within the City for a specified time.

GM and its subsidiaries intend to occupy a building to be constructed in the business park known as Chandler Freeway Crossing located at the northeast corner of Loop 101 & 202. GM will sign a long-term lease for the entire building of approximately 150,000 square feet. Initial occupancy of the facility will take place on or about February 1, 2014. GM anticipates securing temporary space and starting the hiring process immediately, while the new space is being constructed. The total employee count for this project is estimated at 1,000 new jobs to Chandler over the next several years.

The terms of the Development Agreement call for the City to establish a Job Creation/Training fund to assist GM in creating new jobs in Chandler. The City shall reimburse GM in the following manner as jobs are created:

0-750	Staffed Positions	\$1,200 per position
751-1,000	Staffed Positions	\$ 900 per position

In no event shall the total amount reimbursed to GM exceed \$1,125,000.00.

Payments to GM will be made annually based on Job Creation for a five-year period. At or before the end of a year in which payment is due, GM shall request the payment from the City in writing. The first payment will be made upon request of GM based on the initial employment through the end of Year One. The payment for Year One positions shall be made at the end of Year Two; the payment for Year Two positions shall be made at the end of Year Three; the payment for Year Three positions shall be made at the end of Year Four; both Year Four and Year Five positions shall be paid at the end of Year Five. The terms of this Development Agreement will be considered fulfilled on the last day of the fifth year of the Effective Date of this Agreement and no further Job Creation funds will be issued for positions created after this date. The City will make payments to GM annually as GM submits reports to document the employment increase until March 13, 2018 or the total reimbursement amount has been met.

9. **PRELIMINARY DEVELOPMENT PLAN:** Fulton Ranch Promenade

APPROVED Preliminary Development Plan (PDP) PDP12-0016 Fulton Ranch Promenade amending the existing comprehensive sign package and paint color palette for an existing retail shopping center located at the NEC of Alma School and Chandler Heights roads. (Applicant: Ed Bull, Burch & Cracchiolo, P.A.)

**BACKGROUND**

The request is for Preliminary Development Plan (PDP) approval to amend the existing comprehensive sign package and paint color palette for an existing commercial retail center. The

center is developed within the Fulton Ranch master planned community. The subject site is located at the northeast corner of Alma School and Chandler Heights roads. The PDP requests several amendments which include allowing additional tenant name panels on two freestanding monument signs, increase building signage lettering height, allow lettering type options, update custom sign criteria and add accent paint colors on building façades.

Currently, there are three freestanding monument signs, two for the commercial center and one for the office component. The request includes increasing the number of tenant panels on the two commercial center signs, one along Chandler Heights Road and one along Alma School Road, from two (2) tenant panels each to five (5) tenant panels each. The tenant panels are in addition to an existing center identification name panel at the top of each sign. The sign's height remains the same at 12'9" to top of tenant panels; 16' to top of architectural embellishments. With the addition of two more tenant panels, all five tenant panels will have an upgraded lettering style of routed-out push-thru with ½-inch push-thru to provide dimension to each tenant name panel.

The commercial center's allowed lettering for building mounted signage on major tenants is a maximum 60 inches and a logo height of 72 inches. The request is to allow the lettering height on major tenants up to a maximum of 72 inches, matching the allowed logo height and does not exceed 80% of the architectural area of the building façade.

Existing sign criteria limits all building mounted sign lettering to individual reverse pan channel lettering. The request is to allow the option for pan channel or reverse pan channel lettering types for a major, shop and pad tenants.

The existing comprehensive sign package includes criteria for custom designed signs. The original sign criteria include examples of custom signage that a tenant may include on building façades. The request includes expanding the allowance for custom signs by providing additional examples of unique, creative sign types such as 3-dimensional signs, thin profile panels, integrated 3-D signs, projecting signs and the like.

Lastly, the request includes adding six (6) accent colors to building façades to enhance tenant visibility. Accent paint colors have already been applied to certain tower/store entry elements in the center.

Staff supports the proposed additional tenant name panels for two of the freestanding monument signs. The increase in tenant panels from two to five is consistent with additional panels approved for other commercial centers, maintains the architectural quality of existing signs and upgrades tenant panels with routed-out push-thru lettering giving dimension to each panel. Increasing lettering height to be consistent with allowed logo heights offers business name signage flexibility and does not affect the overall look of wall mounted signage. The addition of pan channel lettering along with the existing reverse pan channel lettering for business name signage is consistent with the two other Fulton Ranch commercial centers, the Towne Center and Marketplace, which allow pan channel lettering. Additional custom sign criteria allow tenants more options for creative signage.

The additional signage and paint colors provide existing and future tenants in this large commercial retail center visibility along both street frontages.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

The request was noticed in accordance with the requirements of the Chandler Zoning Code with a neighborhood meeting being held on October 1, 2012. There were no neighbors in attendance. Two tenants/business owners from the adjacent office condos attended. Staff has received no correspondence in opposition.

#### PLANNING COMMISSION VOTE REPORT

The motion to approve passed unanimously 4-3 with Commissioners Baron, Cunningham and Pridemore absent.

#### RECOMMENDED ACTION

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

1. The monument signs shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Promenade at Fulton Ranch", kept on file in the City of Chandler Planning Services Division, in File No. PDP12-0016, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3560 in case DVR03-0044, except as modified by condition herein.
3. All signage shall be consistent with the signage contained within the exhibits with regards to sign type, quality and quantity. Any deviations shall require separate Preliminary Development Plan approval.

#### 10. PRELIMINARY DEVELOPMENT PLAN/PRELIMINARY PLAT: Layton Lakes Parcel 22

APPROVED Preliminary Development Plan (PDP) PDP12-0020 Layton Lakes Parcel 22, amending the subdivision layout.

APPROVED Preliminary Plat (PPT) PPT12-0018 on approximately 44.5 acres located south and east of the SEC of Gilbert and Queen Creek roads. (Applicant: Brennan Ray; Burch & Cracchiolo, PA.)

#### BACKGROUND

The approximate 832-acre Layton Lakes Master Planned development received PAD zoning in March 2001. Of the 832 acres, approximately 373 acres are within the City of Chandler with the majority of Phase I occurring in the Town of Gilbert. In December 2003, a PDP was approved for the 21.6-acre Community Recreation Center as part of Phase I within the City of Chandler. In February 2004, Council approved a Preliminary Development Plan (PDP) and Preliminary Plat involving the subdivision layout and landscape plans for Phases 2, 3 and 4 of the master planned community. The subject Parcel 22 was part of this PDP approval and included 95 residential units. Each of the 7 residential subdivisions within the Chandler portion of Layton Lakes would be required to process future PDP's for the housing product.

The subject Parcel 22 is bordered to the north by a portion of the Layton Lakes' lake system and open space with Parcel 21 located north of the lake and stream. Layton Lakes Boulevard abuts the site's east side, with additional Layton Lakes open space and the Eastern Canal abutting the site's western side. The Appleby Road alignment borders the site's southern side with existing rural residential properties within Maricopa County located south of the Appleby Road alignment.

The request is for PDP and Preliminary Plat approval to amend the subdivision layout and standard lot size for Parcel 22. The original approval included 95 lots with a standard lot size of 90' x 120' (10,800 square feet). The proposed amendment includes 96 lots with a standard lot

size of 90' x 140' (12,600 square feet). The original approval included various techniques to provide appropriate transitions and buffering from the adjacent rural residential large-lot homes to the south. Nineteen (19) homes abutted the southern property line that were separated from the rural residential homes by a 40-foot wide (total) RWCD easement, and a 25-foot wide landscaped recreation pathway. Additionally, all lots along the southern property line were at least 125-feet wide. The design utilized physical width to reduce the number of homes adjacent to the existing rural properties. The proposed plan utilizes a different approach, although just as effective, to provide a natural transition and buffering for the adjacent rural properties. Twenty-six (26) homes are proposed along the south property line that continue to be separated by a minimum 25-foot wide landscaped area including a 10-foot wide granite equestrian pathway, as well as the 40-foot RWCD easement. The current proposal not only increased the minimum lot depth from 120 feet to 140 feet, but along the southern property line, the lots were increased even further to a minimum of 167 feet in depth. Finally, through feedback gathered during the Public Notification process, the applicant has agreed to provide a 45-foot rear yard setback for all homes along that southern side. The proposed approach continues to provide an appropriate transition from the rural neighbors.

The lot setbacks are front yard minimum of 120 feet (15 feet to livable/side loaded garage), side yard minimum of 5 feet and 10 feet, rear yard minimum of 15 feet for a single-story home (25 feet along collector) and 25 feet for a two-story home (35 feet along collector). The request includes provisions for architectural projections, fireplaces, entertainment centers and such to project 3 feet into the setback for a maximum of 15 feet in width for a single story element and 6 feet in width for a two story element. However, in all cases, the projection must maintain a minimum of 3 feet to the property line. As found within the Residential Development Standards (RDS), since all lots are greater than 12,000 square feet in size, Parcel 22 is not required to comply with the Subdivision Diversity Standards. However, the proposed subdivision layout clearly meets the intent of the RDS by providing a high quality subdivision.

Staff supports the request finding the proposed amendment to not only represent a quality subdivision layout, but also continue to acknowledge and provide buffering and transition to the adjacent rural residential properties.

#### PUBLIC/NEIGHBORHOOD NOTIFICATION

The request was noticed according to the provisions of the City of Chandler Zoning Code with a neighborhood meeting being held on October 29, 2012. There were three rural residential neighboring property owners in attendance with questions regarding the original versus the proposed layout. Following the neighbor meeting, the applicant met with one of the rural property owners who attended the neighborhood meeting. This meeting resulted in the applicant's agreement to provide the 45-foot rear yard setback for lots along the southern property line. The neighbor contacted Staff with a letter of support. Staff has received no correspondence in opposition.

#### PLANNING COMMISSION VOTE REPORT

The motion to approve passed unanimously 4-3 with Commissioners Baron, Cunningham and Pridemore absent.

#### RECOMMENDED ACTION

##### **Preliminary Development Plan**

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

1. Development shall be in substantial conformance with Exhibit A, Development Booklet entitled "LAYTON LAKES PARCEL 22" kept on file in the City of Chandler Planning Services Division, in File No. PDP12-0020, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3250, case DVR00-0025 LAYTON LAKES, except as modified by condition herein.
3. Compliance with the original stipulations adopted by City Council as case PDP03-0038 LAYTON LAKES, except as modified by condition herein.
4. All homes built on corner lots within the residential subdivision shall be single-story.
5. The same elevation shall not be built side-by-side or directly across the street from one another.
6. Lots 2-13 and 18-31 shall have a rear yard setback of 45-feet.

**Preliminary Plat**

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

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

11. LIQUOR LICENSE: O'Shay's Pub

APPROVED a Series 6 Bar Liquor License (Chandler #145863 L6) for Theresa Morse, Agent, O'Shay's Pub & Grill LLC, dba O'Shay's Pub, 70 W. Warner Road, Suite 105. A recommendation for approval of State Liquor License #06070623 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Tom Ryan's Lounge.

12. LIQUOR LICENSE: Crown Plaza San Marcos Golf Resort

APPROVED a Series 6 Bar Liquor License (Chandler #145695 L6) for CRAZ Associates LLC, Agent, Crown Plaza San Marcos Golf Resort, 1 San Marcos Place. A recommendation for approval of State Liquor License #06070352 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as San Marcos Conference Center and Resort.

13. LIQUOR LICENSE: Whiskey Rose Saloon

APPROVED a Series 12 Restaurant Liquor License (Chandler #145660 L12) for Lauren Kay Merrett, Agent, W.R.S. Chandler LLC, dba Whiskey Rose Saloon, 135 W. Ocotillo Road. A recommendation for approval of State Liquor License #12079395 will be forwarded to the State Department of Liquor Licenses and Control. The Police Department reports no objections to the issuance of this license and no written protests have been received. All licenses, permits and fees have been paid and the applicant is in compliance with the City's Tax Code. Transportation and Development advises a new Use Permit is not required since this will be a continuation of the location's previous use as Old Chicago.

14. FINAL PLAT: The Plaza

APPROVED Final Plat FPT12-0024 The Plaza, for 65 single-family residential lots located west of the NWC of 56<sup>th</sup> and Harrison streets. (Applicant: Troy Peterson; Bowman Consulting Group, Ltd.) The plat creates the lots and tracts, establishes the necessary easements, and dedicates the required rights-of-way.

15. FINAL PLAT: Belmont Estates

MAYOR TIBSHRAENY declared a Conflict of Interest on this item and did not vote.

APPROVED (6-0) Final Plat FPT12-0020 Belmont Estates, for 91 single-family residential lots on approximately 34 acres located NW and west of the SWC of Appleby and Gilbert roads. (Applicant: Troy Peterson; Bowman Consulting.) The plat creates the lots and tracts, establishes the necessary easements, and dedicates the required rights-of-way.

16. WITHDRAWN CITY CODE AMENDMENT: Chapter 2 Ord. #4439

WITHDRAWN Ordinance No. 4439 amending Chapter 2 of the Chandler City Code by adding a new Section 2-17 relating to the establishment of fee amounts and rates. The withdrawal will allow additional time for review through a Council subcommittee.

CURRENT EVENTS:

A. Mayor's Announcements

The Mayor said a successful "Caffeine and Commerce" was held at the Chamber earlier in the day. He noted a resident in attendance gave compliments to members of the Chandler Police Department, in particular Det. Kaminsky, who helped bring justice to a case involving his family.

He announced the construction kickoff of Chandler Regional Hospital's new patient tower. He added that Chandler Gilbert Community College will break ground on its new Coyote Center that will house athletics and student services.

He noted a fundraiser would be occurring at area restaurants on March 19, with a portion of those proceeds assisting Matthew's Crossing food bank.

Mayor noted the birthday of Grace Weninger, daughter of Councilmember Weninger.

B. Councilmembers' Announcements

Councilmember Heumann noted the Relay of Life Event on May 3. He noted the recent Fun Run that was done in conjunction with the Ostrich Festival.

Councilmember Weninger congratulated the Chamber of Commerce on another successful Ostrich Festival. He wished his daughter Grace a happy birthday.

