

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, May 1, 2013 held in the City Council Chambers, 88 E. Chicago Street.

1. Vice Chairman Veitch 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:

Vice Chairman Stephen Veitch
Commissioner Matthew Pridemore
Commissioner Andrew Baron
Commissioner Katy Cunningham
Commissioner Bill Donaldson
Commissioner Phil Ryan
Commissioner Devan Wastchak

Also present:

Mr. Kevin Mayo, Planning Manager
Mr. David de la Torre, Principal Planner
Ms. Susan Fiala, City Planner
Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

Absent and excused:

Commissioner Devan Wastchak

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER CUNNINGHAM, seconded by COMMISSIONER RYAN to approve the minutes of the April 17, 2013 Planning Commission Hearing. The motion passed unanimously 3-0 with 3 abstentions (Commissioners Baron, Donaldson and Pridemore abstained as they were not present at the meeting). Commissioner Wastchak was absent for this meeting.

COMMISSIONER PRIDEMORE said since he was not here for Chairman River's last meeting he wanted to wish him good luck and thanked him for his service. He said it is a little late but the thoughts are there. **VICE CHAIRMAN VEITCH** said he is sure they are appreciated.

5. ANNUAL PLANNING COMMISSION BUSINESS MEETING
Election of Officers:
 - A. Chairman

B. Vice Chairman

COMMISSIONER PRIDEMORE nominated Stephen Veitch for Chairman. **COMMISSIONER CUNNINGHAM** moved that the nominations for Chairman be closed. Stephen Veitch was voted in as Chairman unanimously 6-0 (Commissioner Wastchak was absent.)

COMMISSIONER BARON nominated Matthew Pridemore for Vice Chairman. **COMMISSIONER DONALDSON** moved that they close the nominations for Vice Chair. Matthew Pridemore was voted in as Vice Chairman unanimously 6-0 (Commissioner Wastchak was absent.)

6. ACTION AGENDA ITEMS

CHAIRMAN VEITCH 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 C was an action item.

A. DVR12-0044 MCQUEEN COMMONS

Approved.

Request rezoning from Planned Area Development (PAD) Mini-Storage to PAD Townhomes with Preliminary Development Plan (PDP) approval for a 20-unit Townhouse development on approximately 1.5 acres located south of the southeast corner of Ray and McQueen roads.

1. Development shall be in substantial conformance with the Development Booklet, entitled "McQueen Commons PAD" and kept on file in the City of Chandler Planning Division, in File No. DVR12-0044, 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. 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.

6. 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.
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.

Preliminary Development Plan

1. **Development shall be in substantial conformance with the Development Booklet, entitled “McQueen Commons” 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.

B. LUP13-0001 BEEF O’BRADY’S

Approved.

Request approval of a Use Permit to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption indoors within a restaurant and within an outdoor patio. The property is located at 6045 West Chandler Boulevard, Suite 7, at the southwest corner of Chandler Boulevard and Kyrene 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 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. Any changes in the floor plan related to but not limited to the addition of entertainment related uses such as a stage shall require re-application and approval of a Liquor Use Permit.
4. The Use Permit is non-transferable to any other location.
5. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
6. Music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise level as measured at the commercial property line.
7. No noise shall be emitted from the televisions located within the outdoor patio or from the televisions, speakers or live entertainment 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 residential areas.
8. The patio shall be maintained in a clean and orderly manner.

CHAIRMAN VEITCH said he had one speaker card concerning Item B from Jan Hoskovec and according to the card she wished not to pull the item from the Consent Agenda but to make a comment prior to the vote.

JAN HOSKOVEC, 5971 W. COMMONWEALTH AVE., CHANDLER said she wants to support this movement especially the recommendation about the noise and not having live music on the patio since this is in the same area as the former Regal Beagle that they have dealt with for 4 years. They appreciate the time and effort that has gone into looking at their concerns and are willing to approve that as a neighborhood.

MOVED BY COMMISSIONER RYAN, seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda as read into the record by Staff with the revised stipulation. The Consent Agenda passed unanimously 6-0 (Commissioner Wastchak was absent).

ACTION:

C. ZCA12-0004 CITY OF CHANDLER, URBAN CHICKENS ZONING CODE AMENDMENT

Approved.

City initiative to amend Chapter 35-Land Use and Zoning of the City Code to permit residents to raise chickens on single family lots.

Upon finding the request to promote the General Plan's goals encouraging sustainable living practices, and upon finding hens to be compatible with single family residential areas, Planning Staff recommends approval.

MR. DAVID DE LA TORRE, PRINCIPAL PLANNER, stated Item C is ZCA12-0004 which is a City initiated effort to amend the City Code to allow residents to keep chickens on single-family lots.

The effort began last year when a group of residents approached the City Council and asked the City Council to change laws so that they could have chickens in their back yard. Since then Staff has researched how other cities regulate chickens. He said they will talk about that in a little bit more detail in a few minutes. Staff has also met with a Council Subcommittee earlier this year in February. Staff has also sought input from Chandler residents who spoke as well as residents who are involved with the Valley Permaculture Alliance which is a local organization that promotes sustainable living practices in the desert region that we live in and they have websites with different forums and dedicated to different topics and one of the forums is in regards to keeping chickens. They had the draft posted on their websites and obtained a lot of feedback from that; a very constructive feedback. Staff has also met with their Police Departments and Code Enforcement office and obtained input from them as well as obtained input from our City Attorney's office. The draft that they have before them today is a culmination of all the input

that has been received through these steps up to this point in time. Again, as Chairman Veitch noted, there are revisions that have been made since the draft was first made available and a list of those provisions have been attached to the memo. There are 2 other revisions which they are opposing tonight which they will state into the record at the end of his presentation. Before they get into the details of the proposed amendment, it would be worthwhile to talk about why a resident may want to have chickens and then talk about the potential issues after which they review how other cities regulate chickens in the Phoenix area. Finally, they will conclude the presentation with the details of the proposed amendment.

One of the main reasons why residents may want to have chickens is for the eggs and not just to get eggs but to get healthy eggs. There have been several studies that have shown that eggs from backyard chickens are healthier. They have less cholesterol, less saturated fats, more omega-3 fatty acids, and more vitamin A compared to store bought eggs that meet or comply with the Standard USDA requirements. Also, the residents can be assured that the eggs are not coming from chickens that have been fed hormones or antibiotics as many chicken factories have been known to do. Another benefit to having chickens is free pest control. They eat practically anything that moves. They eat insects, scorpions, lizards, snakes and he has even read reports that they have also been known to eat small rodents as well. The chicken droppings are excellent garden fertilizer but you can't take the droppings and put them directly in the garden because it has a high level of nitrogen; you have to compost it first. Composting the droppings will reduce the level of nitrogen but it will also eliminate the odors so it has a double effect – very beneficial for the garden.

Some residents may also want to have chickens to connect to nature and may be part of a larger effort to live as sustainably as possible; to grow your own food and to provide for one self. Having chickens is also an excellent way to educate children about biology, about how chickens and the cycle of life and so on, where they get their food and also about responsibility to help keep up and maintain the chickens. Believe it or not, the chickens are also used as therapy for a number of reasons including for people with autism and the elderly. He was able to find several instances of this by googling therapy and chickens because he wasn't familiar with this use of chickens previously. It is a very legitimate use and in fact they have a Use Permit that was submitted by a Chandler resident to have chickens in their home and the use permit application has been on hold pending the on-going code amendment that they are talking about today. This resident submitted in their Use Permit application 2 letters; one was from a doctor and one was from a licensed psycho therapist and both of them say this resident needed the chickens for therapeutical reasons.

When they talk about chickens, it is hard not to talk about potential issues as well. One that comes to most peoples mind is noise. When it comes to noise, the roosters are really the main culprit. The rooster's crow not only in the morning but during the day and in the middle of the night sometimes. The City currently prohibits roosters anywhere in the city and Staff is not proposing to change that. They are proposing to continue prohibit roosters anywhere in the city. Hens in comparison are very quiet and will cluck or cackle typically once a day for about 5 minutes either directly before or immediately after they have laid an egg. Chickens will lay

approximately 1 egg a day but they do skip days for a variety of reasons. It is not every single day that they lay an egg but when they do lay an egg, they will make that noise – that clucking noise for about 5 minutes and then they are quiet for the rest of the day. The clucking noise is not considered to be louder than a barking dog than a neighbor may have. In Staff's opinion having chickens from a noise standpoint would not be incompatible with the neighborhood or single-family land use.

Another issue may be odor. This may be an issue if it's not handled correctly. There are ways to address this issue by requiring that the coop be cleaned on a regular basis; that the droppings be picked up. Either removed and sealed and thrown away or composted on a regular basis again so that the droppings are not left to accumulate and produce an odor over a length of time. The chickens in of themselves do not stink but the droppings certainly could create an odor problem if they are not picked up and maintained.

With respect to health, the American Planning Association just this month published an article in their journal 'The Zoning Practice' and the article addressed the practice of having micro livestock in single-family residential areas and the author of the article states that public health scholars have concluded that backyard chickens present no greater threat to public health than ordinary household pets such as dogs and cats. As with any animal, there is a risk of disease being spread through their feces, through their droppings. That is certainly true with chickens as well. According to the Center for Disease and Control and Prevention chickens have salmonella, which is a bacterium that occurs naturally in their system and is shed along in their droppings and so the CDC, the Center for Disease and Control, recommends that people wash their hands thoroughly and do other regular sanitation methods to make sure that they don't get infected with Salmonella. Neighbors would not be at risk of being infected with Salmonella unless they too had direct contact with the chickens or with the contaminated surfaces which they could assume would be any surface where the chickens are kept.

Another health issue which may come up is bird flu. Bird flu is a theoretical risk because it has not been reported anywhere within the western hemisphere. He apologized because in his memo he stated that it has not been found anywhere in the world except for China, however, after he wrote the memo he realized that the source where he obtained that information was referring to the latest strain of bird flu which is the H7 and 9 strain. That one has only been found in China. That is the most recent one that has been in the news lately. Previous to that the older strain, H5 and 1 was reported in 15 countries in the eastern hemisphere. It was not ever reported anywhere in the Western Hemisphere. In the event that bird flu was spread over to the Western Hemisphere and the United States, neighbors would probably still not be at risk from being infected with the bird flu because according to the world health organization, the strains have been found up-to-date, human to human transmission is extremely rare in the strains that have been found. Most cases that have been reported of human infection with bird flu are as a direct result of a human having direct contact with a chicken that has been infected whether the chicken has been dead or alive.

Another issue that may come with having chickens is trespassing. In their research when they were preparing the draft, they contacted all of the code enforcement officers of all the cities that are in the spreadsheet that are attached to the memo. They asked them what kind of complaints they are hearing from residents because most of those cities do allow chickens and a larger portion of their single-family residential neighborhood compared to Chandler. One response they got was that they do receive complaints every now and then of chickens flying around on someone else's property or crossing the street or something like that and so for that reason they are proposing a requirement which many other cities do to contain the chickens in their backyard. This could be their backyard fence, by keeping them in their coop or in some residences have chickens also clip their wings so that they can't fly. They can't fly very high anyways but if they clip their wings, it lessens the risk of them flying out of the backyard, if you have a 6 foot high wall or so.

Another issue is building safety. If they look at the picture on the bottom right of the screen, this is a picture that is found on the internet and he has no idea where this property is located. They can see an extension that is being run to the coop maybe to operate a fan in the summer or perhaps a heat lamp in the winter or maybe both. They are proposing that any coop that has connections to electricity or to plumbing, receive a building permit for that. They can make that those connections are done properly and safely.

So each city addresses all of these issue a little bit differently. Gilbert, for example, allows chickens in lots as small as 8,000 square feet. Lots that are zoned SF-8, SF10, SF15, SF35 and SF43. So if you have a lot that is 8,000 square feet and it is zoned SF-8, you can have as many as 25 chickens if you live in the Town of Gilbert. 25 chickens are allowed for the first 20,000 square feet and then an additional 25 chickens for another 20,000 feet. If you have a 40,000 square foot lot in Gilbert, you can have as many as 50 or more chickens. Roosters are allowed technically if they do not create a nuisance but he didn't know of any roosters that do not create a nuisance so in Chandler they are just keeping the same prohibition of roosters that currently exists. In Gilbert, coops are required to be setback 100 feet from any property line and as they discussed in their Study Session, this is effectively prohibitive for most properties to have chickens or to have coops in Gilbert. When he spoke with their code enforcement office, they told him that they just turn the other way and ignore that particular requirement because no one can meet it. With respect to sanitation, the coops are required to be cleaned at least twice weekly.

Scottsdale, Peoria and Mesa are all grouped together because they all allow chickens to be kept in all single-family residential lots regardless of zoning. There is no limit in any of those cities as to how many chickens they can have on those lots. They do allow roosters if they don't become a nuisance. The 3 cities however differ when it comes to setbacks. Scottsdale does not have setbacks; Peoria requires a coop setback of 20 feet from any property line. City of Mesa requires different setbacks; one for what they call an enclosure which he guesses could be a fence, 40 feet from the property line and 75 feet for the coop - that 75 feet is measured from any residence not from the property line. Scottsdale and Mesa require the coop to be cleaned twice weekly; Peoria requires it to be cleaned at least once weekly.

The City of Tempe allows chickens also on all single-family residential lots. They do have a maximum limit of 5 chickens. Roosters are only allowed in their agricultural zoning districts and their coops are required to be set back from the property line only if their coops are over 200 square feet which would trigger their structure into the definition of an accessory building. They would have to meet the requirement development standards for accessory buildings if they were over 200 square feet. If they are less than 200 square feet, no setback is required. Tempe doesn't have a weekly requirement for the droppings to be picked up but they do have a general statement that says they shall be unlawful for chickens to become a nuisance. In Phoenix chickens are allowed on lots under 10,000 square feet with written consent from adjacent neighbors. No consent is required for residents who on lots that are larger than 10,000 square feet. They are allowed 20 chickens per ½ acre and this is not prorated so if you have a 7,000 square foot lot you can have 20 chickens on your lot - again if you have written consent from your neighbors. Roosters are not allowed unless they are muted. In Phoenix coops must be set back 80 feet from any residence. Again, measure from the residence and not from the property line. It could be less if they obtain written consent from their neighbor. With respect to sanitation the City of Phoenix does not specify a number of times that you need to clean up the droppings but it does specify that chickens cannot be slaughtered on lots less than 10,000 square feet. Glendale allows chickens on lots that are a minimum of 12,000 square feet and greater. There is no limit to how many chickens they can have on those lots. Roosters are not allowed within 500 feet of any residence and the coops must be set back 100 feet from any residence. They do not specify any requirements for picking up or cleaning the coop.

Currently, the City of Chandler allows chickens in SF-33 and AG-1 or agricultural zoning districts. Generally, this equates to any lots that are 33,000 square feet or greater. There is no limit to how many chickens residents can have on these lots. A different section of our Code, Section 14 prohibits roosters citywide. In SF-33 the coops must be set back 100 feet from the front property line and cannot be any closer to the side street on corner lots than the house. In agricultural zoning districts there are no setback requirements unless the coop is greater than 120 square feet and then it needs to meet accessory building setbacks. Section 14.3 requires setbacks of 200 feet from adjacent residences unless written consent is provided and he has mentioned in the Study Session Chapter 14 is not in the legal prevue however Staff is proposing to eliminate this requirement of obtaining written consent from residents within 200 feet of the property where you want to keep chickens. They can see how the cities differ in how they regulate chickens but they were able to identify common regulations or common themes in all these regulations such as most of them require weekly maintenance, most of them do not allow roosters or roosters that are a nuisance. Most of them require minimum setbacks for coops. Most of them require enclosures to prevent chickens from trespassing onto other properties or unto possible streets.

Finally, he didn't talk about this for each city but all of the cities have some sort of reference to a public nuisance law. All the cities make it unlawful to keep chickens in a manner that creates a public nuisance. With that, they are proposing that chickens be permitted on all single-family lots regardless of zoning. Again, they are keeping the prohibition of roosters; they are proposing

a maximum limit of 5 hens per lot and he will talk about in more detail how they got to the number 5 in just a few minutes. Chickens must be contained again and not allowed to trespass onto adjacent properties or in the public streets. Coops are required to be set back from 10 feet from the property line that is shared with another residential property. They are proposing that droppings must be composted or removed at least once weekly or more frequently as necessary in order to prevent odor and the breeding of flies. Coops exceeding 120 square feet or 7 feet in height which is their threshold for what they consider to be accessory buildings would require a building permit and would need to follow a setback for an accessory building or 10 feet whichever is greater. Coops connected to utilities such as water or electricity would require a permit regardless of how big or small the coop is. Again, it would be unlawful to keep chickens in such a manner that presents a public nuisance and it references Chapter 11 for noise and Chapter 30 for odor, health and sites.

Going to back to the issue of how they got to the number 5, when they first started this process, they contacted the residences who spoke at the City Council meeting. They also asked the Valley Permaculture Alliance residents to tell them how many chickens should the city allow? How many chickens would they want to have on their property? Most of them 4 or 5 are sufficient. A couple of them said it shouldn't be any limit at all or it should be a ratio. They were originally proposing a ratio. They ended up going with a fixed number of 5 because it was in line with what the residents and the initial feedback that they got from the residents and it was also in line with the City of Tempe as well as Maricopa County who are currently going through a similar Code Amendment process and they are also proposing a limit of 5. Going back to their initial proposal they were going to propose a ratio based on lot size. They were thinking of one hen per 1500 square feet of lot area, the thought being that larger lot had more space and could have more chickens based on that amount of space that they had on their lot. To give you an idea of what this would equate to, a 7500 square foot lot which is a pretty typical size for an older neighborhood in Chandler, could have 5 chickens with that ratio. What they did is they randomly selected a portion of a neighborhood in an older part of Chandler. This is zoned at 8.5 and the size of lots in this aerial photograph that they see on the screen ranges from around 6500 square feet to about 13,000 square feet. The numbers in yellow that they see on top of the lots are the numbers of hens that they could have on those lots if they were to adopt a ratio of 1 hen per 1500 square feet. What they noticed when they looked at this example, is that there are bigger lots. There is a wide range of lot sizes and the lots that are directly adjacent to the bigger lots may be impacted. They have the risk of being impacted greater than other lots elsewhere in the subdivision because a lot right next to the big lot that says 12 could have potentially no more noise or odor from the increase number of chickens and so to level the playing fields and make it fair for everybody, they decided to go with the fixed number. Now if all of the lots in the same subdivision were roughly the same size, the strategy with the ratio might make more sense, but because there is such a range in lot sizes, they didn't think it was fair to create more of a potential for negative impact on some areas of the neighborhood versus other areas.

One last point that he would like to make is that if this Code Amendment were approved by City Council, residents who live within homeowner associations would still need to comply with the CC&R's (Codes, Covenants & Restrictions) that have been adopted as per of their HOA's. If the

HOA's don't allow chickens, they would not be able to have chickens. They would need to comply with both the city rules as well HOA rules. They estimate that approximately 82% of single-family residential lots in Chandler are within HOA's. This Code Amendment could potentially only affect 18% of the single family lots in Chandler depending on whether or not the HOA's allow chickens.

In summary, the list of regulations that they are proposing are on the screen. Staff is proposing approval. They have received a number of comments from residents both in favor and against. They have been contacted by 30 residents in favor of the proposed amendment and to-date they have received about 9 e-mails that are opposed to the proposed amendment.

There are two revisions they are proposing that he said he would read into the record and the first one is for 35-2211.3 subsection b. They are proposing to amend the wording so that it reads:

Hens shall be contained within the rear or side yards and shall not be permitted to trespass upon another property or upon any street, alley or other public space.

What they are doing is they are eliminating the test 'within a suitable enclosure (e.g. fence or chicken coop)'. They are learning that text because what they realized is that create confusion as to what is a suitable enclosure and that is not the intent of the regulation. The intent of the regulation is to prohibit chickens from trespassing on to other properties or on to the public streets. Chicken coops are required on a different subsection of the same proposal so they still need to have a chicken coop but the idea is that residents would be able to open their chicken coop and allow the chickens to roam around the back yard if their contained by the backyard wall and don't trespass on to other properties.

The second amendment or revision that they are proposing to the amendment is with Section 35-2211.1 in the first sentence under Urban Chickens. They are proposing that to be re-written to read:

The keeping of chickens for non-commercial purposes only is permitted on any lot located within a residential district the principal use of which is a single family dwelling.

Mr. De la Torre said with that Staff is recommending approval and he said he would be happy to answer any questions.

CHAIRMAN VEITCH thanked him for the thorough presentation and the great PowerPoint and interesting photos. He asked if there were any questions for Staff.

VICE CHAIRMAN PRIDEMORE said a question came up from watching his PowerPoint slide. Is there language already in the code or is there something in the proposed ordinance dealing with the slaughtering of chickens. He noticed in the one city they had to have a certain lot size. They didn't actually bring that up in their Study Sessions so he wasn't sure if that was dealt with anywhere. Mr. De la Torre replied no, that is not currently in the City Code and that is

not part of the proposal. They did discuss that at a Council Subcommittee and the discussion was that it would be no different than a hunter coming home from a hunting trip and bringing a deer and butchering the deer in the backyard basically. A resident who has chickens should be allowed to slaughter a chicken for personal consumption purposes. **VICE CHAIRMAN PRIDEMORE** said obviously they still have the language about public nuisance in terms of odor and noise. There is some coverage there but he wasn't sure if there was the actual act of it.

COMMISSIONER DONALDSON said to Mr. De la Torre that in their memo it states that most cities in the Phoenix area allow chickens in most if not all of their single family neighborhoods. The question he asked in Study Session relates to the setbacks in most of the cases of the cities that indicated the setbacks really do technically disallow chickens under approximately 40,000 square foot lots. He had mentioned that one of those cities mentioned that they kind of looked the other way with respect to the setback but he is trying to ask the question that in most cities are chickens really disallowed by the law. Mr. De la Torre said his point is well taken. There are some cities that require setbacks to the point where it becomes prohibitive to have chickens if the chicken coop is required. He didn't know if they require a chicken coop or if that is optional that you can have chickens without having a chicken coop. There might be a way to get around that. He said he didn't know. There are some cities where it becomes prohibited based on their setbacks that are required; Gilbert as they talked about but there also may be some others such as Mesa. At the same time there are other cities here in the valley that are not prohibited such as Tempe that does not require any setbacks for coops that are less than 200 square feet. Scottsdale is the same way. Scottsdale allows chickens anywhere and there is no limit or setback requirement either. He thinks it is a mix. He has not tallied up how many setbacks that become prohibitive but it looks like it is well mixed. They are just all over the place. **COMMISSIONER DONALDSON** said he had done some of the math and he just wanted to share that.

CHAIRMAN VEITCH said at this point they would go to the audience speaker cards in the order in which he received them.

RON MULLINS, 1661 E. ELGIN ST., CHANDLER said they have been in their house for 27 years and they are in the 18% which he spoke about that will probably be affected because they have no homeowners association. They have lived this. Last year they spent 8 months battling the existing code to have chickens removed from their neighbor's house who is here tonight. He can tell you it is not enjoyable. Try to sit down on your patio at night and have a cocktail or a coffee in the morning. You can smell the chickens. They do put out odor and you can hear them clucking. He has had them over his fence and left droppings on his pool so they are able to fly. He is asking them before they vote to think about sitting out on their own patio and having chickens next door because it is not that enjoyable. He doesn't have anything against chickens but not on a small lot, and not in a small community where you have a small lot and there is really no place for them to go when they get out in free range other than over the fence.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, asked Mr. Mullins with the problems he was having, did he attempt to work through the neighborhood code enforcement?

Mr. Mullins said he did and they went through the Zoning Commission and it was 8 months in the works to finally have the chickens removed by Court Order. Now they are going to let everyone that has a single-family home have chickens, how are they going to enforce that? Chandler doesn't have the resources to go out and answer the codes. It took 8 months to resolve the issue they had. That was one case.

ANNI BEACH, 603 E. CARLA VISTA DRIVE, CHANDLER, said she is Mrs. Annie Beach and lived in a very old neighborhood, the Galveston neighborhood since 1985. She wanted to commend them for a really thorough job. She said she has never seen such a thorough job put out on anything really. He did a good job. They had some chickens back in 1987 or so; the very ones listed up there looked just like them. Mr. Beach brought home little chicks to her for Mother's Day and they raised them for many years. The Neighborhood Services was established around 1994 or 95 to address traditional neighborhoods. The first day on the job somebody drove down the alley and saw the chickens. They live on a corner, very large and nice. She had a very short fight. She didn't go on 8 months but she tried to keep them and she was informed it would be a very large fine. She only had 4; they had to go away. She never could understand the attitude that they live in a rural community basically. There were 60,000 people when they came here and there were even cows down the street with horse places. There seems to be no reason in the world they make far less mess, noise, anything than even a single dog and you know there are people that don't pick up their droppings and stuff like that. All of the points that he made up there from educational to health to enjoyment are present in chickens. She could go on and on about everyone having their individual personality. They all do. They do different things and make wonderful pets besides contributing something. She is very sorry to hear 82% of people live in HOA's. She didn't realize that. They will not have the privilege of having a few chickens and having eggs. Many of the people in Chandler are immigrants and they are used to raising their own food and this is one way they can do it. If they every new Gene Woods that lived down on Morales or Elgin Street, he was one of the very early pioneers and he had chickens and roosters and everything and she doesn't think anybody ever made him give them up. He is gone now. That is LaVonne Woods father. She truly thinks this is a time Mr. Pappay has worked tirelessly to bring this about. What his neighbor is talking about she never saw. She was over there and the chickens were air conditioned, had music and they were really truly loved and taken care of. It was a very disgruntled situation and it was too bad that neighbors came to such a pass. She said they should go for it – it's something brave.

JOE PAPAY, 3125 S. LAGUNA DRIVE, CHANDLER, said Mr. De la Torre has done quite a good job. David did most of his job for him so he only has to cover a few issues here. Not to turn this into a personal battle but his neighbor did want to bring this up. Yes, they had a court case to remove the chickens. They were removed and they have since moved to eliminate the issue. The only complaint that was against him and the chickens was there sheer existence in the yard. Based on current Chandler codes they are just not allowed. He never filed a complaint, there was never a complaint. There was never an odor complaint, a noise complaint or anything. Code enforcement came out after speaking with them many times. There was never any other complaint other than it just existed. As far as maybe a bigger picture here as Mr. De la Torre covered, to expand on that and additionally some of the complaints from his former neighbor, he

says he would sit on his patio and have a cocktail and listen to the chickens cluck. At dusk, about ½ hour before dark, chickens put themselves away and go to bed and go to sleep. They are completely quiet when it is dark just as you put a sheet over a bird cage, the bird goes asleep. Chickens do the same thing when it gets dark. So unless he is drinking cocktails at 4:00 pm in the afternoon, which is his business, he doesn't care, but he couldn't have heard them because they don't make noise after 6, 7 or even 8 if it is the summertime. As far as the other issues, they have no roosters - that is fine. If they have odors, if you have noises, if you have them running at large, those are all just pet issues in general and no different than if you had a dog do the same thing. No problem with an issue as far as having laws regulating those things. Chicken droppings without having a demonstration don't smell any more than dog droppings and actually far less. They can be used to compost. They don't throw away such as a dog's waste which then as they all know in the summer, will sit in the trash can for a week and get worse. At this point it seems some of the major complaints they have had are either people who have fears because they don't understand something. Ignorance can turn into fear so people who haven't had chickens, haven't lived next to chickens and dealt with them personally, whatever the case may be, this may be more of an educational issue than a real problem because they just haven't experienced it yet.

As far as the building regulations, those are fine. They certainly want anybody that has chickens to have them stay safe just as anybody who has dogs. They don't want them running in the street getting hit or biting people. Obviously chickens don't bite people but they wouldn't want to bother your neighbor with them as far as escaping. If they are talking about things that annoy your neighbors because they just don't want them to have them, there are a lot of things they can outlaw. Dogs will bark all night if poorly taken care of. The odor will come across your yard and wind if it is not cleaned up after. Somebody that works a night shift that drives a Harley might start it up at midnight to go to work. That is just far louder than the chicken who is sleeping. There are a lot of things that they can just complain about because they don't like this or don't like that or somebody keeps a different way of life than you do, that doesn't make it wrong or even should be illegal. There are far more benefit in the chickens than there is sometimes arguably in a cat or a dog. Some people say your cat or dog is your pet or companion. Chickens can do the same thing. In all the research he has done, he heard Mr. De la Torre say that there was actually some sort of zoning variance request for an autistic child for a companion for some sort of therapeutic program with the chicken. That is great because people do that for dogs all the time as companions. This is actually a smaller version of a companion. In the zoning laws and even in the ones they are proposing, how many Great Danes can they keep on any square foot lot. There is no regulation on that. Great Danes are much larger than a chicken and create immensely more waste but that is not regulated. They could make noise all night long and not regulate it except for the noise ordinance.

There needs to be some logic here in a way to explain how you get from point A to point B to create the restrictions that are in place now. Personally, he doesn't think there should necessarily be such a tight restriction on the number. He thinks 5 can be prohibitive to a degree also. He talked to Mr. De la Torre in great length and he understands a lot of the discussion on it. Likely 20 to 25 might be excessive in most cases too. There is no real good way that he could think of to determine the best number. The sliding scale is one that they had first put forward. 1 per 1500

square feet of lot size is o.k. but he thinks they are being prohibitive for people with smaller lots. For people with large lots presumably in some cases have a larger house, which could equal larger family, more kids, and the need for more eggs. As he correctly stated, depending on your breed and time of year and things like that, these chickens can produce different amounts of eggs. It could be 3 weeks, some 4, 5 or 6 weeks, some might be 2 weeks especially as they age. If you rely heavily on eggs in your diet or even as a good supplement to the family budget for groceries, you can eat a lot more eggs and spend less on groceries. If they have a large family, they can produce that many more eggs and apparently also slaughter chickens. He wasn't aware that was going to be part of it. If you are interested in slaughtering chickens, that could be an issue too as far as food goes. So he thinks 5 is overly prohibitive. He doesn't know that 25 is necessarily the case but he thinks they do have to take into consideration and maybe moving that number upward some because of larger families having a greater need for more eggs. He thinks as far as the odor, noise and those things, those are covered under just general code violations. He can't run his saw in the middle of the night just as you can't have a dog barking all night, just as you wouldn't want a rooster crowing all night.

He thinks it is pretty solid what they have put together. He thinks 5 is a good starting point although he thinks they can do a little better than that but he thinks the rest of it is very solid and he would be happy to see this pass.

RENU KAUR SIDHU, 1082 W. ORCHID LAND, CHANDLER, said she is a Chandler resident and she also works for the Valley Permaculture Alliance. She thanked the Commission for hearing this issue. She thanked David de la Torre for all the work he did on this. She is one of the 82% that lives in an HOA so years ago when she wanted to get chickens and looked at those laws. It was confusing so she looked at the city laws and found out that it was prohibited. She sat on her hands for a while. It is something that is meaningful to her. Everything he went over as far as the health benefits is great. She is an organic gardener. Everything they have heard over the past decade about raising your own food and eating local and using all these pesticides, the same thing carries over to raising your own chickens. Her biggest point of contention is she wants these laws to be usable and reasonable and to her that means not having setbacks that are prohibitive. Also, not having too many chickens on a lot that doesn't support some of these numbers of 25 and you are on a postage stamp size lot. She thinks that's too many. That being said she does think 5 as a blanket number is too few. She would love to see a sliding scale in place; something more along the lines of 1 per the 1500 square feet. She wants these to be usable and reasonable. She wants people to take care of their children and their dogs and their chickens and themselves and to be responsible and tidy. She thinks people as a general rule of thumb who want to raise chickens in this area, and she knows a great number of them through Mesa, Phoenix and the rest of the valley, really take great care of them. They really love their animals and she thinks it is the exception where it is a problem. Just like with dog owners, it is generally the exception. Most dog owners are great. Most people who want to have chickens are going to also have very high standards. She is glad that this is moving forward and would like a little more time and thought on the number 5 being a maximum.

SHEILA PAPAY, 3125 S. LAGUNA DR., CHANDLER indicates that she is in favor but does not wish to speak.

JEFF PEIFFER, 5831 W. FOLLEY ST., CHANDLER indicates that he is favor and does not wish to speak.

LISA DEPASQUAL, 314 W. CURRY ST., said she is in favor and has offered the comment, 'she is in favor of a well regulated flock' and indicated she does not wish to speak.

LAURA PEIFFER, 5831 W. FOLLEY ST., CHANDLER said she is in favor but does not wish to speak.

MARGIE ALDRICH, 3207 N. CARRIAGE LANE, CHANDLER, said eggs are very nutritious and good quality. If you have done an egg test between an organic egg, an egg that has been raised in the back yard and the ones in the grocery store, there is no comparison; the flavor and everything is just excellent. You know what is going into it because you know where they have been. The bird waste is excellent in the composter. She has done it in a side by side comparison between herself without any birds and her friend who has birds, and her compost goes super-fast. It is a month for her to go and 3 months for her to go so it is excellent for the garden. It is true about the noise and the birds and the dogs barking. She hears her dogs 4 doors down barking all night long whereas you don't hear any chickens when she goes to her friend's in Gilbert. She is an organic agent; myorganicagent.com. She would love to have chickens and be able to throw them on her website as well.

RALPH BREKAN, 3404 N. MEGAN STREET, CHANDLER, stated he is very impressed with this as it was very thorough. He thanked the Valley Permaculture Alliance for everything they have done to expand this and the knowledge about it. Quite frankly, he had chickens and would like to have chickens again. His neighbor complained his dog was barking. The City came for the noise complaint and found the chickens. Now he has the dog under better care. The reality is the chickens weren't the nuisance. Chickens are no bigger of a nuisance than any other pet so he really does find this very impressive. He thinks everything here is laid out very well. He lives on a smaller lot so the number is not prohibitive to him. He would keep 4. They like to be in pairs but 4 to 6 on a small lot is not unreasonable and if they need to make concessions for larger lots, that is also reasonable.

CHAIRMAN VEITCH said if there is no further comment from the audience he would close the public portion of the hearing and open up the floor for discussion by the Commission for a possible motion.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said he doesn't know how this is going to turn out but to the extent that it was to be voted for approval, it would helpful from an interpretive standpoint in the future when they are all gone and somebody else is trying to understand this, to make clear whether or not they are allowing through this ordinance not only the raising of chickens but also the slaughtering of chickens. He said he doesn't care which way

they go on it but it would be helpful if it could be made clear. Secondly, the original proposed language of 35-2211 was for the keeping of chickens for personal consumption. Maybe that needs to be changed to personal use or something of that nature. He knows that the revised language is going to be non-commercial use. That seems to him to be a broader concept than personal consumption and what he heard here from the speakers in favor of the proposal, they all seem to justify the chickens on the basis that they were going to be used for some sort of personal use. It's up to them what they want to do with that. He thinks there is more potential for abuse. For example, if somebody were to be able to have 20 chickens and they only had a family of mother, father and 1 child that they could create an egg producing factory not on a commercial basis but for distribution and that is really not what the original language was suggesting. **CHAIRMAN VEITCH** asked Mr. Brockman if he was more comfortable with the personal consumption language. Mr. Brockman said either personal consumption or personal use because it is kind of an odd thing to say 'keeping of chickens for personal consumption'. That seems to eliminate the eggs all together. He doesn't want to do that.

CHAIRMAN VEITCH said they also should clarify what the status of the slaughtering activity is although he thinks that has been answered at least once by David and his comments. Perhaps when they get to the motion stage if they could make clear what they mean with respect to slaughtering and if there is interest in further amending 35-2211 – one, to go back to personal use or personal consumption rather than non-commercial purposes or whatever those words were. It would be appropriate to include that at that point as well. He asked if there were any comments or discussion from the Commission.

COMMISSIONER DONALDSON said he had a couple thoughts he would like to share. He said he doesn't have the ordinances in front of him from the other cities but again he tends to disagree with the statement that most cities in the Phoenix area allowing chickens in most if not all of their single family neighborhoods. From what he can see coops and enclosures are required and setbacks would accomplish approximately 40,000 square foot lot size in order to have chickens in 4 out of the 7 cities that have been used for the information that they have in front of them. He thinks that is a lot closer to their current code which is at 33,000 square feet. He thinks if they are going to use the other cities as examples, he thinks they need to be clear that their laws according to what they have in front of them, do prohibit chickens or at least practically and technically prohibit chickens under 40,000 square feet in 4 out of the 7 cities. It is on his mind quite a bit because enforcement and ordinances shouldn't be in place to look the other way. They are supposed to be there to help us in our cities as citizens. They have barking dog laws and they have police and code enforcement officers out there enforcing their current codes and laws and they are busy with those things. He thinks a lot of looking the other way basically comes from not enough time in energy and resources to be able to accomplish enforcement of their current ordinances. Allowing chickens in a more concentrated neighborhood and more dense areas he thinks would increase the neighbors policing our ordinances, which is already a very heavy load on the citizens at this point. He has always been involved in neighborhoods and property rights but also in property rights of the folks that may have to police their own city ordinances. He thinks they need to look at this, as they have some things that are really similar to most of the cities that have been used in our information and he

thinks by loosening up those rules. He thinks they are opening us up to not necessarily responsible pet owners, but the ones who are not responsible.

In not allowing roosters, he is picturing somebody bringing in hens from another location and a fertilized egg results in a rooster, what happens to that animal. How is disposed? How is it treated? Our County shelters are full of abandoned, unwanted animals. What is going to happen? Are they going to drop this animal at the end of McClintock Road? Maybe the agency that has been a big help on this study, might have some information and maybe it is an education process. He said those were his general thoughts and he would be interested in what the rest of the Commission has to say.

COMMISSIONER RYAN said he wasn't going to be a very popular guy today. Dogs and cats are pets typically. They will sleep with you inside your house. He doesn't see chickens sleeping inside your house. They are not considered pets, it is a farm animal. He doesn't think raising chickens is going to be a huge problem because most HOA's aren't going to allow them. He does see an ordinance like this that is going to end up being a bit of a problem. Because where there is a hole that you didn't think about filling, they are going to end up sitting up here and trying to referee between two neighbors that don't agree with the chicken ordinance. Regardless of every other city in the valley having an ordinance, he just doesn't believe they need one. They have gone this long. He said David did a great job and up until about 10 minutes ago he was going to vote his way on it but he just got to thinking that chickens are farm animals, they carry diseases, they are dirty and they are not like a house kept animals. That is the way he looks at it.

VICE CHAIRMAN PRIDEMORE said overall he doesn't have an issue with what is being proposed here tonight. Is he going to take advantage of it himself, no. Does he feel that the benefits outweigh the negatives, right now he would probably say yes. He lives in an HOA neighborhood anyway. Regarding the number of chickens, that was one of the questions he had coming in here tonight. He thinks he is o.k. with 5 right now. The sliding scale while on the surface sounds good, even as David's slides show even in a typical neighborhood, the number varies significantly even through a neighborhood and he thinks that would add some undue burden in terms of enforcement. He is o.k. with the number 5. Also, he would almost consider this a trial program assuming that this does go forward and is approved by Council. To him they start with 5 and see how it goes. If over time they don't have a significant number of complaints, maybe then they could move to change it. This is never written in stone. To him it is temporary until they kind of find a better way or they get more data. He hears and sympathizes with some of the people that have dealt with this closely already but he thinks now the fact that they are going to have the ordinances covering the noise and the odor, there is something now through the law to fall back on and he would hope that is not putting an undue burden on other city services. Right now he is not convinced that it would. Again, if it bears out differently over time, they will relook at it. The issue slaughtering he brought up earlier, he agreed with Staff's comments. He doesn't see any difference in slaughtering a chicken on your property than a hunter bringing back a deer or a javelin and doing the same thing. To him again, the ordinances that would cover noise and the nuisances would cover that as well so he would say slaughtering would be allowed. He doesn't know if they need to add that formally but he would be in favor of it in that case.

Again he doesn't see himself ever raising chickens but he doesn't have an issue with someone that would. The reality with the HOA's is that it really is what governs the majority of Chandler; he thinks they are talking about a very small area. He is willing to give it a try.

COMMISSIONER CUNNINGHAM thanked everybody for being here this evening and said David de la Torre did a great presentation and thanked him for his work. For years she has sought fresh eggs to feed his family. Just on a taste level alone, they are extraordinary. She is an egg fan and she didn't use to be. She continues to seek out fresh eggs from neighboring cities and looks forward to being able to purchase them from someone in the City of Chandler. As a barter system, she'll trade some sewing or something else and they can give them some of their eggs. She would appreciate that there was a sliding scale for a number of household members and size of lots. There are many large families who bought homes in areas that could have chickens to help feed their families and they bought large lots. If they are not able to have enough chickens to feed their families, it really isn't going to benefit them a whole lot. Their children will be healthier from having their own fresh eggs. Their food that they try to grow themselves is far more nutritious and it just seems to her they need to address that. That being said it is better to go for something than to get nothing. She said she will be in favor of this and will watch it closely and see what troubles it may bring or what solutions it may bring but she thinks it is a move on behalf of the citizens of Chandler to try and create a healthier environment. One that perhaps did exist when Chandler was first created and when households had their own chickens and had their own cows and their own goats and their own pigs and yes they weren't in a 7500 square foot lot or less. They had larger lots but people did grow their own food and they didn't rely on steroids and they didn't rely on pesticides to keep their family healthy. She thinks for that reason Chandler is making a move in the right step, a forward move in looking at the past and realizing that our past was not so bad and our future looks horrible if they don't start realizing the errors of our current ways. She will be voting for this.

COMMISSIONER BARON said he actually had a question for David. There is a lot of dialogue how they came up with the data and what city has this and what city has that. There is a ton of information and he did a great job. There is so much back and forth right now about how it is going to be regulated and are there problems and if there are problems, how do they deal with it. He guesses his question really stems from in all of the research that he did, did he look at how other cities have dealt with issues or if they have issues and if they did, are they significant issues or just neighborly disputes. What data did he uncover, if any?

MR. DE LA TORRE, PRINCIPAL PLANNER said that was an excellent question and they had that same question. For that reason they contacted the Code Enforcement offices of all the cities that are listed on that spreadsheet that was attached to the memo. We expected there to be a long list of issues and long list of complaints and a very strong opposition from the Code Enforcement offices but they did not get that. Scottsdale is an example where there are no limitations as to how many chickens you can have. There are no requirements for setbacks and he was really expecting their Code Enforcement office to give him dim or dire views of the situation over there but that was not the case. They said they hardly get any complaints and when they do, it is maybe noise or maybe a chicken on the loose or something like that but what

they conveyed to him was that it was not a big deal and that when issues do come up they are able to resolve them through their Code Enforcement.

COMMISSIONER BARON thanked David and said that was kind of what he suspected. He thinks a lot of it is just change and sometimes change is hard to swallow and he personally doesn't see any issue with the proposal as written and he will be in favor of it.

CHAIRMAN VEITCH said he doesn't live in an HOA neighborhood and lives in what they call in Chandler a traditional neighborhood, which he thinks has a nice ring to it. He is not particularly worried about this. He thinks five is a reasonable number to begin with and maybe they end there too but it seems like a good place to start. He thinks Vice Chairman Pridemores comments build an adequate record he hopes for the City Attorney's office with respect to how slaughtering is being addressed or rather not addressed in the ordinance. Having heard the attorney's comments he has flip flopped himself and thinks personal use is a better terminology in Section 2211.1 than non-commercial purposes was. He confessed that was him practicing law without a license which he sometimes wants to do but he stands corrected and would urge that if anyone makes a motion to recommend approval of this, that language change be built into the motion. If there are no further comments, he said he supposed it is time to consider a motion. There is one provided in the memo if it is Commission's wish to recommend approval, which can be modified to the discussion that they had there.

VICE CHAIRMAN PRIDEMORE said using the language that they have front of them he made a motion to recommend approval of Draft Ordinance 4449 including the revisions listed in the attached list of revisions as presented in case ZCA12-0004 URBAN CHICKENS ZONING CODE AMENDMENT as recommended by Planning Staff with the change to 3522 to 'Personal Use' as previously stated. This was seconded by **COMMISSIONER CUNNINGHAM**.

DAVID DE LA TORRE asked if he could clarify that the other revisions that he read are also included in that motion and he said he would be happy to re-read that in for the record. **CHAIRMAN VEITCH** asked the revisions that were attached as well as those that were read in tonight? **DAVID DE LA TORRE** replied correct. **VICE CHAIRMAN PRIDEMORE** asked if David could go ahead and restate it.

DAVID DE LA TORRE said the first revision is revision to 35-2211 subsection 3, subsection b and it shall read:

Hens shall be contained within the rear or side yards and shall not be permitted trespass upon another property or upon any street, alley or other public place.

Revision no. 2 is revising the wording for 35-2211 subsection 1 which is re-written to read:

The keeping of chickens for personal consumption only is permitted on any lot located within a residential district the principal use of which is a single family dwelling.

CHAIRMAN VEITCH said he thinks they had a consensus around ‘personal use’ rather than ‘personal consumption’. **DAVID DE LA TORRE** said he was right. **CHAIRMAN VEITCH** said it was to avoid a possible distinction between the chicken and the egg. He said somebody had to say that at some point and he is glad that he got that opportunity.

CHAIRMAN VEITCH asked if there was any further discussion. Hearing none he took a vote. The item passed 4-2 (Commissioner Donaldson and Ryan opposed). Commissioner Wastchak was absent. He announced that this will go to the City Council on May 23, 2013 to be considered.

7. DIRECTOR’S REPORT

8. CHAIRMAN’S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is May 15, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

9. ADJOURNMENT

The meeting was adjourned at 6:56 p.m.

Stephen Veitch, Chairman

Jeffrey A. Kurtz, Secretary