

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 6, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

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

Absent and excused:

Commissioner Phil Ryan

Also present:

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

4. APPROVAL OF MINUTES  
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER BARON to approve the minutes of the October 16, 2013 Planning Commission hearing. The motion passed 5-0 with 1 abstention (Commissioner Donaldson did not attend that meeting). Commissioner Ryan was absent at this meeting.
5. 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 A was an action item.

B. DVR13-0027 VALLEY CHRISTIAN HIGH SCHOOL

**Approved.**

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agricultural District zoning. The existing PAD zoning is for an approximate 18-acre Campus Master Plan including recreation fields, classroom and maintenance buildings, performing arts center, and parking. The campus is located at both the southeast and northeast corners of Galveston and 56th Streets.

Planning Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

C. LUP13-0003 CIRCLE K STORE

**Approved.**

Request Liquor Use Permit approval to sell beer and wine for off-premise consumption as permitted under a Series 10 Beer & Wine Store License. The new store is located at 6015 South Arizona Avenue, southeast corner of Riggs Road and Arizona Avenue.

1. The Use Permit granted is for a Series 10 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

D. LUP13-0014 GOGI

**Approved.**

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a new restaurant, within a new outdoor patio, and have live acoustic music indoors only. The restaurant is located at 2095 North Dobson Road, Suite 8, northeast corner of Dobson and Warner roads.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

5. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
6. Live music and speakers shall be prohibited within the outdoor patio.
7. No noise shall be emitted from the live 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 residential areas.
8. The site shall be maintained in a clean and orderly manner.
9. The patio shall be maintained in a clean and orderly manner.

E. LUP13-0016 HOT POT CARIBBEAN CUISINE

**Approved.**

Request Liquor Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption in a restaurant. The restaurant is located at 2081 North Arizona Avenue, Suite 132, northeast corner of Arizona Avenue and Warner Road.

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

F. ZUP13-0017 VERIZON PHO – LEE LEE

**Approved.**

Request Use Permit approval to install a 65 ft. high monopalm wireless communication facility at 2055 N. Dobson Rd., north of the northeast corner of Dobson and Warner roads.

1. Development shall be in substantial conformance with approved exhibits except as modified by condition herein. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The monopalm height shall be a maximum of 55 feet to the top of antennas.

G. PPT13-0015 MCQUEEN COMMONS

**Approved.**

Request Preliminary Plat approval for a 20-unit residential townhouse development located approximately ¼-mile south of the southeast corner of Ray and McQueen roads.

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

H. PPT13-0025 OCOTILLO VILLAGE HEALTH CLUB

**Approved.**

Request Preliminary Plat approval for a 5-lot commercial development that includes a health club located at the southwest corner of Alma School and Ocotillo roads.

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

**MOVED BY VICE CHAIRMAN PRIDEMORE** seconded by **COMMISSIONER CUNNINGHAM** to approve the Consent Agenda as read into the record by Staff with the clarification on Item F. The Consent Agenda passed 6-0 (Commissioner Ryan was absent).

**ACTION:**

A. ZCA13-0002 GROUP HOMES ZONING CODE AMENDMENT

**Approved.**

City initiative to amend Chapter 35, Land Use and Zoning Code, of the Chandler City Code related to adult care homes, group homes and related residential use categories.

**DAVD DE LA TORRE, PRINCIPAL PLANNER** stated Item A is a City Initiated request to amend the City Code related to adult Care Homes, Group Homes and any other related residential use categories. He said just to provide a little bit of background, not too long ago the Commission reviewed a Use Permit request for a Group Home to increase the number of residents from 5 to 10 and the Use Permit was subsequently denied by the City Council. Through that review of that Use Permit the City became aware that the subject Group Home was one of three Group Homes on the same street and that all three Group Homes were spaced less than 200 feet apart. To exacerbate the issue, residents in the city later found out that another property which abuts one of those three Group Homes was purchased by another Group Home provider with the intent of opening a fourth Group Home on the same block. The residents needless to say were not very happy about the clustering issue on their block and contacted the City with their concerns and to have the City address the clustering issue.

On September 26 Council held a Sub Committee meeting to discuss the issue at length and a possible Zoning Code Amendment. On October 24 the Council formerly directed Staff to initiate an amendment to the zoning code. Through this process Staff had looked at how other cities regulate Group Homes as well as working very closely with the City Attorney's office in drafting the language that is proposed before them tonight. Thirty days before tonight's hearing notices were distributed to residential neighborhood organization contacts throughout the city as well as the residents who had contacted the city with concerns about the clustering issue. The City also sent postcards out to all of the Group Homes that are licensed by the Arizona Department of Health Services or ADHS as well as applicants who have pending applications for Group Homes that are currently in the process. Citywide notification was provided through Facebook, Twitter, the City website as well as the newspaper as required by state law. Here they

are today with the Planning Commission. The Introduction of the Ordinance is going tomorrow to the City Council for their consideration and then on Friday for the Final Adoption of the ordinance.

To analyze the clustering issue, Staff mapped out all of the Group Homes that are licensed by ADHS, the Arizona Department of Health Services, and found that there were 152 total number of Group Homes in the city. This number may seem like a big number but when you consider that there are almost 70,000 single-family homes in Chandler and that comes out to only 0.2% of the single-family homes in Chandler. Another note he would like to make is 91% of those 152 homes are Assisted Living Homes which are homes that provide continuous care to the elderly. 9% or 14 of those are Behavioral Health Homes and Behavioral Health Homes provide housing for people who have been diagnosed with mental issues or addictions. An example of mental issues includes schizophrenia, bi-polar and depression and the addiction can be any kind of addiction. It could be substance abuse or it could also be other types such as gambling, for example. 93% of the homes are the Group Homes that they see on the map have 5 or less residents. Only 10 of those homes on the map have 6 or more residents. This next map identifies the location of Group Homes that are located within 1200 feet of another Group Home and that ends up being 65% or 99 out of 152 Group Homes that are located within 1200 feet. They can see from the map that the issue is not limited to one neighborhood but is a prevalent issue that is citywide.

Currently, going through their zoning regulations the Zoning Code defines family as any number of related residents or up to 5 unrelated residents. Group Homes with 5 or less residents meet this definition of a family and therefore are allowed by right in a single-family home and they are not required to be separated currently a minimum of 1200 feet which is why again thinking back to that map, 93% of those dots on there have 5 or less residents. That is why they have the clustering issue because currently the Zoning Code does not regulate those. Group Homes with 6 or more residents do not meet this definition of Family and therefore, a Use Permit is required in a single-family home and a minimum separation of 1200 feet must be maintained as well as in compliance with other standards.

There are two different types of Use Permits that the Zoning Code currently provides for. Adult Care Homes and Group Homes. Adult Care Homes is a term that originated from the Arizona Revised Statutes but the statutes have been revised since they used that term and now it's been replaced with Assisted Living Homes, which again is a home that provides continuous care for the elderly. Group Homes is defined currently by our Zoning Code as anything else that is not an Adult Care Home basically. Both kinds of Use Permits have practically the same standards that are applied to both except Group Homes do contain an additional set of considerations when you are going through the review process. Examples for those standards include maintaining compliance with building code, fire code, parking requirements, no signage on their homes and they have to maintain their property and so on.

Group Homes for the developmentally disabled are excluded per Arizona Revised Statutes. The State prohibits cities from treating specifically developmentally disabled Group Homes differently than any single-family home in the city. Developmentally disabled homes are homes

for people who have autism, epilepsy, cerebral palsy or other types of cognitive disorders that are more severe and chronic in nature. Basically, the state is saying that the city cannot touch those specific types of Group Homes. When they looked at other municipalities, they found that Gilbert and Phoenix also define family as having any number of related persons or only up to 5 unrelated persons except in Gilbert's case. Gilbert, even they define family as having no more than 5 unrelated. They can have a Group Home with up to 10 unrelated people so that the number 5 in Gilbert does not correlate to the number of resident allowed in a Group Home. The same for Tempe. Tempe's definition of family says no more than 3 unrelated people but just like Gilbert you can have a Group Home that has more than 3 in Tempe. So that number in the definition of Family does not correlate to the number of people you can have in a Group Home. In Prescott, they have their maximum at 6 of unrelated people and they just amended their code to say that. Scottsdale does not have a limit. A new term for Chandler but a term that other cities use pretty frequently is 'single housekeeping units'. This is a term that they are proposing in their draft code amendments because it allows us to define whether a group of people who live in a house are considered a family or if they are considered a Group Home. This is the term they are using for that purpose. In Mesa and Glendale they found they did not have a definition for family.

They also looked at the review and the approval process for Group Homes in these cities and they found that Chandler is unique in that it requires a Use Permit for Group Homes that have more than 5 residents. Phoenix was the only other city that requires a Use Permit. However, in Phoenix's case, the Use Permit is only required when the Group Home does not have residents who have a disability. If the residents have a disability, then the Group Home in Phoenix can have as many as 10 unrelated people. Most cities they looked at allow up to 10 unrelated persons living in their Group Homes and those requests are reviewed administratively so they submitted an application and there is someone at the City who works there, who reviews the standards to make sure that they are separated (the minimum separation), and that they comply with all the other standards that they have. In Prescott's case, they allow up to 6 administratively approved. However if they have more than 7, a Use Permit is required in a multi-family district only. When they looked at minimum separation requirements, most cities require 1200 feet separation from each Group Home. Phoenix and Glendale were similar but slightly different and Scottsdale was the only city that was really significantly different.

Moving on to the proposed draft amendment, the new definition of family would read:

*One or more persons living together as a single housekeeping unit in a dwelling unit.*

So again, this is where they mention single housekeeping unit and this term is where they define any number of related or up to 5 unrelated persons living as a functional equivalent of a traditional family. So they are keeping that 'any number of people who are related or up to 5 unrelated the same as it currently defines it in our zoning code'. However when you continue to read, it says 'if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease'. He underlined this for emphasis because this makes a distinction that if there is a group of 5 people living in a home, who decide to rent out the home under one lease, then they would be considered a single housekeeping unit

and a family and therefore they would be allowed. A Group Home however would have separate contracts for each resident and so they would not meet this definition and therefore be held to Group Home standards. It goes on to say 'with joint use and responsibility for the premises and the makeup of the household is determined by the residents of the dwelling unit rather than the landlord or the property manager'. These are other distinctions that they can use to determine whether a group of people living in a household are family or a Group Home. This wording by the way is taking word for word from City of Prescott and other cities that they looked at.

In the proposal they are eliminating the term Adult Care Home. Again, this is an outdated term that the state no longer uses and they are redefining Group Homes into 2 separate categories; First, Residential Care Homes and Group Homes. Residential Care Homes would be Group Homes for people that have disabilities and Group Homes would be Group Homes for people that do not have disabilities. The reason why they are defining them in this manner in terms of whether they have residents that have disabilities or not is to comply with the Federal Fair Housing Act which prohibits cities from discriminating against homes for people that have disabilities. It also requires cities to provide reasonable accommodations for those homes that have people with disabilities. For that reason they are defining them in terms of whether or not they have a disability so that they address them accordingly. The definition of disability is taking directly from the Fair Housing Act and ADA (American Disabilities Act) which reads, 'a physical or mental impairment that substantially limits one or more major life activities, a history of such impairment, or the perception by others as having such an impairment'. Again, this is word for word from the FHA and ADA. So again 2 different categories that they are proposing; Residential Care Homes for people with disabilities and Group Homes for people with no disabilities. Both would be reviewed administratively. They are getting rid of the Use Permits. Both would be allowed up to a maximum of 5 unrelated residents to be consistent with their definition of a single housekeeping unit. Both would be required to be separated a minimum of 1200 feet from any type of Group Home whether it is a Residential Care Home or just a Group Home. The Residential Care Homes according to FHA would be eligible to submit a request for a reasonable accommodation. Reasonable accommodations are essentially waivers to sway from the standards that they are proposing in this ordinance. Again, only the Residential Care Homes would be eligible and the criteria that they have for determining whether or not to grant a reasonable accommodation waiver are as follows:

The Group Homes must maintain compliance with all applicable building and fire codes and they must not create a substantial detriment to neighboring properties such as traffic impacts, parking impacts, impacts on water, sewer or other similar adverse impacts. The profitability or financial hardship of the owner or Group Home provider shall not be considered by the Zoning Administrator in determining whether or not to grant the waiver. After the notification was sent out to the Group Homes, he was contacted by several Group Homes; less than 10 Group Homes. The one point they all asked about was whether they are going to be grandfathered in and the answer is yes. If they are legally operating today as a Group Home and they are closer than 1200 feet or if they have received a Use Permit approval from the City Council to have more than 5 residents in the past, then they would honor that and that would be grandfathered in. They could continue to operate their Group Homes as long as they wish. The zoning code states that the legal non-conforming status is lost only when the Group Home is discontinued for more than 12

consecutive months or also if they change their request for entitlements. At that time they could lose their grandfathering as well. Planning Staff will work with all of the existing Group Homes to make sure that they are all registered with the City so that they can have a solid base of grandfathered Group Homes so that when a new Group Home comes in, they know exactly where they need to measure from to maintain that 1200 feet separation.

He wanted to make one other point and that is that through this process Staff acknowledges that Group Homes provide a necessary and important need to the community and they are very grateful for the services that they provide. However, as he mentioned in the Staff memo, when they are clustered together in a neighborhood, they can begin to change the character of that neighborhood and create adverse impacts to the neighborhood. It runs really against the intent of integrating them into the neighborhood and for this reason they are moving forward with the proposal to address this issue of clustering and because of the urgency they have also scheduled it for City Council tomorrow night for the introduction and then the final adoption on Friday.

Mr. De la Torre said with that he would be happy to answer any questions.

**CHAIRMAN VEITCH** asked the Commissioners if they had any questions for Mr. De la Torre.

**VICE CHAIRMAN PRIDEMORE** asked Mr. De la Torre if he could go back in his slides where he talks about the 12 months and conditions that would need to be met in order for it to go away, what if there is an ownership change in the facility. He thinks they have similar situations that Use Permits aren't transferrable necessarily. Was there any consideration given there to more than just not operating? Mr. De la Torre said the change in ownership would not trigger or lose their legal non-conforming status. According to the zoning code they would need to be discontinued for 12 consecutive months in order for them to lose their non-conforming status. However, if there was a change in ownership and they were asking for additional entitlements such as more residents they might lose their grandfather status because they are changing their entitlements to what was previously grandfathered in. **VICE CHAIRMAN PRIDEMORE** said in looking at the more big picture now, he agrees that the clustering is an issue and the 1200 foot number that they are going to be using now he does not have an issue with. He is glad for that but he is curious as to why the changes went beyond that. Why did they not just address the clustering with a larger separation and leave it at that? Mr. De la Torre replied that through the discussions with Council and particularly on the Council Sub Committee there was a desire to control and to be more in control of the entitlements that a Group Home could have. In a sense they are getting rid of the Use Permit process and making it an administrative process. So any Group Homes that would want to have more than 5 residents would still be able to do that if they had residents with disabilities but they would go through a Reasonable Accommodation Request. So it is not taking it away the ability to have more residents but it is controlling it in such a manner to make sure that it doesn't adversely impact the neighborhood. That was the direction they received from the Sub Committee. **VICE CHAIRMAN PRIDEMORE** said he was surprised there were more hoops to jump through if he wanted 6 or more residents in his facility. The matter is what type of facility he has and whether or not he can have 6 or more residents? It seems like the number up to 10 has kind of gone away in certain situations. Correct? Mr. De la Torre replied as a matter of right, yes. You can still ask for 10 through a Reasonable

Accommodation Request and that would be looked at on a case-by-case basis. It may make sense on one particular property that has access to an arterial street so that they don't bring traffic through the neighborhood and have enough spaces for parking if the residents drive. If it is in the middle of a neighborhood and it doesn't have sufficient amount of spaces for parking that might be a different situation. It would really have to be looked at on a case-by-case basis. **VICE CHAIRMAN PRIDEMORE** said but it doesn't matter the type of facility that he may be running whether it was elderly care or behavioral. Whether he is running either of those facilities there is a process for him to get to 8 or 10 if he wants it. Correct? Mr. De la Torre said only if you have a Residential Care Home as they are defining which are Group Homes with people who have disabilities. **VICE CHAIRMAN PRIDEMORE** said so why is there that limitation now when you look at the numbers. Obviously, when the case came through that precipitated all this, they had no clue how many homes that they were looking at in total. We now have some numbers that they can look at and they see that there are only 152 homes in the city total and of those there are only 10 that have 6 or more. He is curious as to why they are making these changes when it's 6 homes. He doesn't understand why they are going above and beyond. It seems more than they need. To him separation is all they need so why are they going farther with that too? Mr. De la Torre replied that again the intent was to protect and preserve the character of the neighborhood. The direction was to limit the amount of residents who are not disabled in those Group Homes and again, to preserve the character in the neighborhood. **VICE CHAIRMAN PRIDEMORE** said he had a question for Kevin Mayo, the Planning Manager. Is there any precedent for a Zoning Code Amendment to come before this Commission as they usually see code amendments twice, one as a preliminary and one with the final language and then go to City Council the next day and another special meeting the day after? Is there a precedent in that?

**KEVIN MAYO, PLANNING MANAGER**, replied he couldn't think of one. He has been here 14 years and historically like the 2 most recent code amendments, the parking code and the proposed chicken ordinance that ultimately didn't pass at Council, had some different characteristics to them in which they brought them before Planning Commission in a draft reform and sought comment and advice suggestions. They then went forward with a formal draft to Sub Committee then ultimately came back to Planning Commission and Council for approval of the formal ordinance. This one is unique in that it is going through in a 3 day time period. Ultimately there are always those 3 days. You always have a Planning Commission hearing at a minimum and an introduction and a final. The difference with this one is that those 3 days are compressed basically against each other versus historically being separated by weeks. Ultimately the entire time frame becomes months so it is a little bit unique. When you look at the parking code and the chicken ordinance that came through, there are probably some unique characteristics of those 2 codes but are different from this one and a difference in a line can be drawn between them but this one is moving through pretty quick. Again, at the request by Council due to the urgency of the clustering that is occurring within a specific neighborhood.

**CHAIRMAN VEITCH** asked Mr. de la Torre on the proposed language itself. He said the first concerns the locations standards. It is the location sub paragraph under the Standards section for both types of facilities where in addition to the 1200 foot nominal separation it goes on to say there is no separation required where a freeway, arterial street, canal or railroad intervene. In

other words, one of those physical things trumps the 1200 foot separation. Does he understand that correctly? Mr. De la Torre replied that is correct. **CHAIRMAN VEITCH** said the other one was concerning the Reasonable Accommodation Waiver for the facilities to which it would apply. He doesn't see a limit in there as to the number of residents that can be requested through that process. In other words, he doesn't see a limit of 10. Did he miss something? Mr. De la Torre said that is correct. There is no maximum limit that can be requested. The State has a maximum of 10 for their licensed Group Homes so they would probably develop to their maximum.

**CHAIRMAN VEITCH** said at this point they will hear from the public. He said he had a number of speaker slips which he has separated into those that have indicated they wish to speak and those who have not indicated that. He said he would read the names on the speaker cards who have indicated they are in favor of the item but have not indicated a desire to speak.

**ROBERT KAMPFE, 2481 E. BELLEVUE PLACE**

**JOHN HENRY, 2163 E. FIRESTONE DRIVE**

**QUENTIN GERBICH, 6870 S. JUSTIN WAY**

**JAMES DUNLAP, 2105 E. COUNTY DOWN DR.**

**DAVE SCHLAU, 2184 E. FIRESTONE DRIVE**

**GARY HOWARD, 2121 E. DESERT INN DRIVE**

**LEO MAHONEY, 2123 E. FIRESTONE DRIVE**

**KAREN MAHONEY, 2123 E. FIRESTONE DRIVE**

**MARY ELLEN COE, 2163 E. FIRESTONE DRIVE**

**AMY OCEAN, 2185 E. COUNTY DOWN DR.**

**SHERRI DUNLAP, 2105 E. COUNTY DOWN DR.**

**JANET HOFFMANN, 2195 E. COUNTY DOWN DR.**

**KAREN FRANUS, 2081 E. ARIZONA AVE.**

**CHAIRMAN VEITCH** said all of those people have indicated their support for the proposal. He said he had 4 speaker slips from people who have indicated that they wish to speak. He will call them up in the order he received them.

**JEFFREY MARSH, PROPIETOR OF A SOBER LIVING RESIDENCE WITHIN THE CITY LIMITS OF CHANDLER**, said he is here to speak on behalf of his company and himself to say he is not in favor of this amendment that is coming up. He said he operates what is considered a Sober Living Residence which is actually not classified as a Group Home and not classified as a Residential Care Home because they provide no services as such. He was informed about this law in September or early October while he was in the process of applying for a Use Permit from the City of Chandler for his Sober Living Residence. He was doing that process and he was asking for a variance of more than 5 people located in the house and asking for 10 and within a month period he was told about this amendment coming through on November 2<sup>nd</sup> and that this process was going to happen and since he was an owner of what the City of Chandler is classifying as a Group Home, he would be affected by this legislation. He immediately raised a concern with the City of Chandler via his e-mails and stating if they are considered into this classification of a Group Home, this will definitely adversely affect his business.

Basically he is opposed to this amendment based on 3 reasons. One is the classification that they are a Group Home. His business that he runs is a Sober Living Residence which does not provide any services whatsoever like a Group Home would. They don't provide any counseling, any medical, any food or oxygen to residents. They are not considered a traditional Group Home for the handicapped for the elderly. They are not licensed so they are not falling under any of the licensing from the State of Arizona. What they give is basically a safe place for recovering addicts and alcoholics and the City of Chandler and the State of Arizona a safe place to come and stay between 3 to 6 months and achieve a level of sobriety so they can go back into normal society. What he is asking for is that they have a continuance on this and not rush to make this pass which seems rather quickly that they are going through this process because it will adversely affect him. One of the primary reasons he wants to ask for a continuance is that they can have Study Sessions like the parking problem they were having in the City of Chandler where it took about 7 to 8 months. They had different Study Sessions with both the public and the owners of the businesses and what not and were able to get all parties involved. He feels he did not have an appropriate voice to speak his concerns. After the e-mail he sent, he was not responded to. He was just basically told that they were going through this and he can come and speak. That is the first issue and they want to come and educate the City of Chandler and the public of what their business is and it is not considered a Group Home and they don't want to be lumped in with that.

The second concern as the Vice Chairman stated, is the insistence of having no more than 5 unrelated persons excluding staff living together as a single housekeeping unit. The issue he has with this and again if they are going to classify them as a Group Home is that under the Fair Housing Act and Housing and Redevelopment Organization by the Federal government that a Sober Living Residence is considered a family unit. It is not classified as a Group Living Home. They are actually classified as a family unit. If he is restricted on the amount of people he can have in that house, the City of Chandler is breaking Federal law. He already notated in some of the other amendments from other cities especially with the City of Sedona and some other cities in California, it has been proven by Federal law that they are considered a family unit and any kind of restrictions has direct impacts on the Fair Housing Act.

The third issue he has with this ordinance, the City of Chandler has defined a group of unrelated persons of 5 or more as not a family unit. Basically, if he was an operator of a Group Home per say or a Sober Living Home, he could come in here in the City of Chandler now according to this law and operate and not have to register. The law is saying that you have 5 or less people. Technically, he doesn't have to register as a Group Home because he is already under the law as 5 unrelated people. Basically, the law of 5 or more people doesn't apply to him because he would have 5 or less people. They already have a law stating 6 or more, they are not going to allow it unless by special permit but anybody with 5 residents that are unrelated are still allowed to live in a house. If he was an operator, why would he have to go and register that he is a Group Home if he is already legally allowed. He doesn't even have to register he can just call the rental property and have 5 people there and he wouldn't be violating any laws. He thinks it is not clearly defined. That is why he is asking that they have a continuance to they can better vet the process and the ability for operators like himself and other operators within the City of Chandler and obtain Use Permits and not rush this whole process through within a month's time. That is pretty much his oppositions as to why they are having this meeting and why they are going to try to go through with this. He asked Commission if they had any questions for him.

**COMMISSIONER CUNNINGHAM** asked where Mr. Marsh lived. He replied he lived in Tempe, Arizona. **COMMISSIONER CUNNINGHAM** asked if he lived in a neighborhood. Mr. Marsh said yes he lives in a neighborhood. **COMMISSIONER CUNNINGHAM** asked if there was a business right next door to him. Mr. Marsh replied yes there is a Group Home right next door. **COMMISSIONER CUNNINGHAM** asked how many people were in that Group Home. Mr. Marsh replied he thought there were 5 or 6 residents but he wasn't sure. It is an elderly care home. **COMMISSIONER CUNNINGHAM** said so it is an elderly care home. Are there multiple cars coming and going? Mr. Marsh said there are maybe 2 or 3 since it is elderly and most of them are disabled so there is not a lot of traffic for that. **COMMISSIONER CUNNINGHAM** asked if they were active. Are they out in the backyard? Mr. Marsh replied they are in the back yard. **COMMISSIONER CUNNINGHAM** asked if they were interfering in his back yard. Mr. Marsh replied no. **COMMISSIONER CUNNINGHAM** said the Group Home that he is talking about, how does it function? Does it have several vehicles there? Mr. Marsh said how he operates as a Sober Living Residence is that he limits the amount of vehicles to what available parking spaces they have within the house. This particular house that he has in Chandler is a 3800 square foot, 2 floors with 10 people in there. It is a 5 bedroom house, 3 baths and he has 2 people in each room. There is a 3-car garage and there are 3 additional parking spots outside the garage. They only allow a maximum of 6 residents to have a car there. He has additional homes in other cities in the east valley. He and his business partner coordinate based on availability and space of the different homes. Who has cars and who doesn't have cars? They abide by the HOA laws and the City of Chandler laws for parking. **COMMISSIONER CUNNINGHAM** said so you try to blend in as good neighbors. Mr. Marsh replied yes. **COMMISSIONER CUNNINGHAM** said that is very good and she commends him for that. However, in this city they have had circumstances where some Group Homes did not try to fit in and did not act as good neighbors in the neighborhood and made it very obvious that they were not a residential home and they were in fact a business. That is the reason this has come up before them. She is not sure if it is necessary or unnecessary to rush it through but she does

know that to protect their neighborhoods they have to be vigilant and they have to have something that gives them the power and the authority to be vigilant. When you asked for it not to be done, they are leaving neighborhoods open to businesses who are not treating the neighborhood as a residential neighborhood. Mr. Marsh said he is not asking that he doesn't pass this. He is asking that they have a continuance so they could go through the process and vet it out a lot better for both the City of Chandler and the operators of these types of businesses. **COMMISSIONER CUNNINGHAM** asked him what in this concerns him. If his particular Group Home is dealing with disabilities and would not necessarily be affected, what in it concerns him? Mr. Marsh replied the Residential Care Home addition under the Article 235-200 definition. His understanding of this amendment is it is going to include any Group Home or anything that is involved with 6 or more people living in a house for whatever reason. That is where his issue is. He has no issue with the location of having the 1200 feet distance between those homes. He thinks that is a great idea but he does have an issue with the capacity and grouping what they do in with the Group Homes. It will severely limit his ability to operate and provide the housing that he does. He is not saying that he doesn't want to stop this. He just wants to ask for a continuance so that they can go and vet the process and come up with a solution that meets everybody's needs and actually have some of the owners participation in it – other businesses classified as Group Homes to have some participation in this process as well not just the citizens and the City of Chandler. He is all for having the regulations of some sort. He is not saying he doesn't want any regulations. They are doing this in the City of Gilbert right now. They have created a Sober Living Residence ordinance that is very similar but does not have that 5 person limitation. **COMMISSIONER CUNNINGHAM** said she had a question for Staff. If they tabled this for further discussion, is there any way to suspend processing applications until this is reviewed and settled?

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said if this got continued to another time, then the current rules are still in effect.

**COMMISSIONER WASTCHAK** said he can understand that his concern is that he feels Sober Living falls under a definition of a Group Home. Mr. Marsh replied that his concern is that is what the City of Chandler would consider it as – a Group Home. **COMMISSIONER WASTCHAK** asked Staff that in the table Residential Care Homes and Sober Living Homes falls under a Residential Care Home and a Residential Care Home is eligible for a Reasonable Accommodation Waiver which would allow anything over 5 people there. Mr. De la Torre replied that is absolutely correct. Sober Living Homes are considered Group Homes for people with disabilities and therefore are considered a Residential Care Home which would be eligible to request a Reasonable Accommodation Waiver. **COMMISSIONER WASTCHAK** said so if this is approved, you could apply for a Reasonable Accommodation based on what he is saying. He said he wanted to clarify that because Mr. Marsh falls into that ability to get more than 5 where if he was truly a Group Home under that definition, he wouldn't. Mr. Marsh replied his adherence to that is that means every time he apply for permit, he will have to apply for this application to have a Reasonable Accommodation which is up to one person to arbitrarily decide if he is going to have it or not have it. It is just going to be an approval process and somebody could actually not approve it and say no they are not going to allow it. They could be having a bad day and decide not to approve his Reasonable Accommodation. **COMMISSIONER**

**WASTCHAK** said his concern is that it will not be heard by Planning Commission or Council as it is now. Mr. Marsh replied yes.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, said the procedure that has been developed and the changes that are proposed deal with that particular situation that the speaker is talking about by providing for an appeal to the Board of Adjustment. The Zoning Administrator or one of his designees has to make the initial decision or determination that a Reasonable Accommodation waiver should or should not be granted. If they denied the application, the applicant could still appeal to the seven member body that makes up the Board of Adjustment.

**COMMISSIONER DONALDSON** asked how long Mr. Marsh has been operating the business in Chandler. Mr. Marsh replied he has been operating the one in Chandler since February of this year. He has been in business since January 1, 2012 with other residents in other cities in the east valley. **COMMISSIONER DONALDSON** said so since February they have been operating with 10 residents and he was approaching a Use Permit and became aware of this because he had over 6 residents. Mr. Marsh replied correct. In early August he received a citation from Code Enforcement for having more than 5 unrelated people in his house which he wasn't aware of the rule. At that point he went through the process of going to the City and saying what does he need to do be lawful. He was told to go through Chandler's Use Permit process. That is what started the ball rolling. **COMMISSIONER DONALDSON** said when he started the business in Chandler did he believe that he had just the property right in order to have 10 residents. Mr. Marsh said yes he didn't understand the rule of the 5 or more residents in an unrelated home. **COMMISSIONER DONALDSON** said so when he started the business in Chandler he didn't find what the rules were associated with starting a business in Chandler. Mr. Marsh replied he did not.

**VICE CHAIRMAN PRIDEMORE** asked Staff who made up the Sub Committee for this change to the code. Mr. De la Torre replied the Sub Committee was attended by six Council members. The only person not attending was the Mayor and the Mayor doesn't attend the Sub Committee so as many Council members as they could have had were present at that meeting. **VICE CHAIRMAN PRIDEMORE** asked if that was for the members of the public as well. Mr. De la Torre replied yes it was noticed and open to the public and in fact they did have one member from the public in attendance. **VICE CHAIRMAN PRIDEMORE** said so did that Sub Committee meet only one time? How long did the Sub Committee meet? Mr. De la Torre said it was a one-time event for a couple of hours or so. **VICE CHAIRMAN PRIDEMORE** said so there was the six Councilmembers, not the Mayor and one resident.

**GLENN BROCKMAN ASSISTANT CITY ATTORNEY**, said to elaborate on that, the Sub Committee's recommendation was presented to Council as a group who then directed Staff to go forward with this matter and secondly the use of the Sub Committee is not unusual. They did it with the Medical Marijuana regulations as well.

**CHAIRMAN VEITCH** thanked him for that clarification.

**LARRY HOFFMAN, 2195 E. COUNTY DOWN DR.** said he is here to represent Cooper Commons Neighborhood Preservation Action Committee and by default a lot of other Chandler residents who purchased homes in single-family neighborhoods at least that are zoned to single family. He spoke before Planning and Zoning and to Council back in June of this last year and with that said he could tell them that none of the people in their group feel like this is an issue that has been rushed through to produce a new ordinance. It has been extraordinarily challenging to meet the needs of both single-family residences and the residences being operated as Group Homes.

At the time he was here they clearly stated that our intentions were not to eliminate Behavioral or Assisted Living for those who were in need. What they did state in regards to their intentions amongst other issues is that they needed a limitation on the number of patients housed in a single-family home and they needed help in preserving the integrity of their single-family neighborhoods by addressing the density issue. They called on the City to consider an ordinance that would one preserve the integrity of their single-family neighborhood and that would be the density. Insure the safety of those who reside in there and this case it would be the significant traffic and protect their personal and financial investment in their homes. They have before them tonight a proposal designed to do just that. After careful study by the City of Chandler Planning has proposed one, a plan that leaves the definition of family as it has always been but creates a definition Residential Care Facility for a Behavioral Group Homes and Assisted Living Facilities. They also have proposed a plan that addresses the density of such homes in a single-family community. It creates that mandatory 1200 foot separation from any other Residential Care Facility. It also as you know and was stated earlier, that separation now only applies to homes operating with a Special Use Permit for greater than 5 residents. It is important to them because Chandler's density in regards Residential Care Facilities to the total of single-family residences is .02%. If this 4<sup>th</sup> house is approved in their neighborhood, they are going to be at 15%. Out of 27 houses on a 2 street area in Cooper Commons they are going to have 15% Residential Care Facilities. It certainly compromises the neighborhood they thought they bought into as residences.

Another important thing to point out is that the 1200 foot designation is consistent with what the state does and what Gilbert, Tempe, Mesa and Prescott also do. They have not established or asked for anything that was out of the ordinary or something that hasn't been done before. Finally, Planning has proposed a plan that maximizes the number of residents in any facility. There may only be 5 facilities in the City of Chandler that have as many as 10 patients but he's telling you if you are the person that owns the home next to the one that has 10 residents, it is a challenge that you have to deal with not only in everyday living but as you attempt to sell your house as well. Planning has put thoughtful consideration into this proposal. It's not perfect for them as owners of single-family residences but generally it meets the needs of them as single-family homeowners. It still allows for the operation of businesses in single-family areas that are not zoned for businesses. Frankly, that is a privilege that his business does not enjoy. In a positive for that side, it does provide for the neighborhood experience for the patients that are being served by the residents of these homes. He thinks that is a win for that side as well. For all this said, they respectfully request they support the ordinance proposal before them with a yes vote.

**VICE CHAIRMAN PRIDEMORE** welcomed Mr. Hoffman back. He asked Mr. Hoffman if it was his back yard that backed up into one of the facilities. Mr. Hoffmann said correct it was a Behavioral Group home that was trying to expand. **VICE CHAIRMAN PRIDEMORE** said he was curious to know if things had calmed down with that facility and have there been any more incidences since the last time he was there. Mr. Hoffman said not to the degree they spoke to the last time.

**DEBORAH KOPP, 21012 S. COOPER, FACILITY ADDRESS IS 2053 E. TORREY PINES PLACE** said this facility is also in the Cooper Commons neighborhood and they have been existing there for about 5 years. The traffic they are having an issue with is not an issue with an elderly home or a home that accommodates the elderly because typically they are not getting up, going and doing. In another city in Gilbert they had an issue with the Assisted Living home until the prominent attorney in the neighborhood needed assistance for their mother-in-law and then it was o.k. The HOA was o.k. with it. That struggle has always been prevalent. She did not get a letter saying that they were having a struggle in their neighborhood with the occupation of Assisted Living facilities. She does not have an aversion to the 1200 foot rule but she truly does have an issue with the number of occupants.

The Chandler home was her 3<sup>rd</sup> facility and she took that home over for someone who apparently thought there was a lot of money to be made and could not keep staff, could not pay the rent for 6 months and this is during the time when the economy was recessed to that and there were vacant homes everywhere – 6 vacant homes just on their block. She took the home over and her intention was to occupy more residents because her other facilities are all 10 bed facilities. When they told me of the restrictions, she went with that and intended to get a zoning variance. That process is very cumbersome so ultimately when they keep saying 6 residents, what are they implying because she keeps seeing that it is 5. She was told originally that it was only 5 residents. Truly is it 6 residents or 5? Mr. De la Torre replied that currently if you have 5 or less residents then you can be there as a matter of right. You don't need any kind of permission for the City to be there. If you have 6 or more that is when the Use Permit requirement kicks in. Ms. Kopp said so what about her staff because now that the law – Arizona Dept. of Health Services has just changed, the rules are that she must have 24 hours of staff. Now that means there is another resident of the facility 24 hours of the day. Mr. De la Torre said if the staff do not live there, they are not included as part of the count. If it is 6 residents with staff that don't live there, than it is still 6 residents. Ms. Kopp said so if she owned that home herself and she opened that home and she was the one that did the care with her cousin who performed the night and day duties, does that now mean she can only have 5 residents or because now she is a resident of her home that equals 4 residents. Mr. De la Torre said that is correct because if she lives there she is counted as one of the residents.

Ms. Kopp wanted to address the value of the homes. An Assisted Living Facility cannot be purchased as a home. It does not denigrate the value of the home itself. It is still the home only with the business operating there per say as a business because you have people who are residing there with lease agreements. If they are going to be purchasing that, it would have to be as a business loan – a commercial loan. It is very difficult and those types of people who are taking

that business are very conscientious of the laws, the rules. They adhere to the Arizona Department of Health Services and the NCIA rules so ultimately it's not just anybody that throws a residence in a house and starts jamming up the parking.

She said when they are talking about a disability she doesn't know if alcoholism or drug use is a disability which would definitely hinder the first speaker and she definitely thinks of the residents she takes care of with Parkinson's, Dementia, and Alzheimer's. Alzheimer's is consuming our population. It increases by the millions every year so the families they serve have families that cannot care for that person in their own home. For them to go to a center or a larger facility is very, very expensive so they serve the community in so many ways that it is not even plausible to restrict that. Her 10 bed facilities are not encumbering to her neighborhood. They are grateful. They bring things over at Christmas, they ask the Girls Scout groups to come and perform skits and volunteers. She is not exactly sure that their elderly should be daunted as far as where they choose to live. If they are choosing to live in that neighborhood because their family lives 2 or 3 doors down or 2 miles away, that should still be their choice. It is the State's limits at 10 which most every other city does – limits 10 for a care home. She doesn't see why it is such an issue with the City of Chandler because that is why you have your density issue.

**SUSAN ARCHER, 3348 N. CHESTNUT STREET, MESA**, said she is representing the Arizona Coalition for Assisted Living and they are a homeowner's type of association for Assisted Living Homeowner's to give themselves a voice in these communities and within the state. They have been down with the state department on new rules within the department's health services, they have been part of that integration, and take their industry and the lives they protect very seriously. She would not be in favor as it stands for this proposal though she doesn't vote in the Chandler area. She is just thankful for the opportunity to have her voice heard today.

It is unfortunate that they have had experiences with bad neighbors that some happen to be Group homeowners. She has had bad neighbors who have nothing to do with Group Home ownership. She doesn't know if that is a conclusive statement to say that a Group Home owner should all be restricted because of the situation of a bad neighbor. They have all experienced bad neighbors. She had an old dog pound open in her neighborhood that made the news and everything and it was horrific and that was because they weren't caring properly for the animals that they said they would take care of. Those that bring people into their care homes to take care of, 99% of them do a great job. The ones you hear on the news are the anomalies not the regular events. Most other cities do allow up to 10 residents in the home provided the home is large enough to accommodate those residents. They all follow HOA rules. The Department of Health Services in addition to that will tell them if their house needs to be painted because they would call that in disarray so they are under more scrutiny than the average homeowner. They did not present a parking issue as their residents by definition are disabled. If they have come to them, it is because they need assistance with their activities of daily living. They cannot shower alone, they cannot medicate themselves properly alone, and they cannot cook their own meals and be nourished and hydrated properly alone, so by definition they are disabled. She would like to see the Assisted Living Home classification be removed from the Group Home setting because she

believes they are a very different, unique population and they are not ex-cons who are in a halfway house not recovering drug addicts. Those homes are needed also.

She is in agreement with the 1200 foot limitation which most other cities stated do have. In the other cities anything that is above 6 to 10 has that distance barrier. Anything 5 or below have been allowed to cluster. There is no distance requirement for them. Perhaps that could be the place to start and as the first gentleman suggested, take some time. He understands that it seems a pressing issue but it is a pressing issue on both sides. Both sides need the opportunity to express what they do, what they bring to a neighborhood instead of only what they detract from a neighborhood so she requests that they take a little more time, talk about the clustering issue, and obviously places are grandfathered in. She is a real estate broker who specializes in the buying and selling of Assisted Living Homes. She just did a deal in Chandler and had to call and make sure that somebody who buys an existing business has gone through the whole SBA loan process and they will be allowed to continue running that business with the 10 residents. They happen to be 2 of the homes that have 10 residents and she was told yes and they went through with the deal. So if somebody purchases an existing care home at whatever number they are, they are grandfathered in provided it has been a continuance of residency. She asked if that was correct. Mr. De la Torre replied that was correct. Other cities are doing some other clamping down too and they are very involved right now with several other City Councils. All of this is putting the squeeze on.

Everybody is aware that the baby boomers are here and this population is ever aging and she is going to speak for the Assisted Living part of this. They need some place to be. The most abuse they hear about is within their very own family homes because they are neglected and not treated properly because those sons and daughters are out working all day – not intentionally, not purposely causing harm but not properly housing their loved ones in a place like an Assisted Living Home so that they can be properly cared for. Please do take some time and consider the issues, consider the population that they are dealing with and they would certainly hate to be putting people out on the street.

**CHAIRMAN VEITCH** asked Mr. De la Torre to reiterate that Assisted Living Homes will be considered Residential Care Homes and would also be eligible for the Reasonable Accommodation. Mr. De la Torre replied to the Chairman that was correct and Assisted Living Homes would be considered Group Homes with people who have disabilities and therefore would be eligible to a request for a Reasonable Accommodation who have more than 5 residents in their home. Ms. Archer asked if he had a percentage number of people who have asked for that variance and not received it. Mr. De la Torre said they don't have that process right now so it is a new proposal. The details haven't been hammered out yet so they will be figuring details as they move on. Ms. Archer said they have trepidations about what percentage of people who would be allowed to have that kind of variance and make those homes function the way they need to. **CHAIRMAN VEITCH** said as the Assistant City Attorney indicated a moment ago, a denial of a Request for Reasonable Accommodation is appealable to the Board of Adjustment.

**COMMISSIONER CUNNINGHAM** thanked Ms. Archer for being there. She mentioned that they have 2 people in each bedroom. Is that a state requirement – no more than 2 in a bedroom?

Ms. Archer replied that is correct. **COMMISSIONER CUNNINGHAM** said so the very size of the house would limit how many residents there would be. Ms. Archer replied that is correct and also the size of the room. There is a square footage minimum for each resident. **COMMISSIONER CUNNINGHAM** asked if that would also include Staff. Ms. Archer said yes. **COMMISSIONER CUNNINGHAM** said so a 4 bedroom house could have however many staff members in one bedroom and no more than 6 residents per State regulations? Ms. Archer said it couldn't be however many caregivers, it would still be limited to 2 provided that it still meets the square footage and window egress, fire department codes and all of that. The room still has to meet those codes so within the City of Chandler the answer to that question was no because you could not have those 4 or 5 people into caregivers or 3 caregivers – if the caregiver is living on the premises. **COMMISSIONER CUNNINGHAM** said if it was 6 residents plus staff members then it wouldn't be one of the special requirements. She is just asking how many actual people could live there according to state regulations. Ms. Archer replied that according to State regulations currently in other cities you can have 10 residents and the caregivers if they live on site are not included in your population because they are able bodied. They are there to help the others get out if there is an emergency.

**COMMISSIONER WASTCHAK** said to Mr. De la Torre that when he was reading the Residential Care Home in parenthesis it excludes service providers, members of the service provider's family, or persons employed as facility staff. It doesn't say that those people wouldn't be living there so the way he reads it is they are allowed to be living there and not included in the 5 because it specifically excludes them, right? Mr. De la Torre replied that was correct and that is what they are proposing. Currently that is not how the Zoning Code defines it. **COMMISSIONER WASTCHAK** said so the new code would not include staff that are living there. You could have up to 5 and staff and that would be 7 and that would fall under an allowed use and you don't need to get the Reasonable Accommodation waiver. Mr. De la Torre said that was correct. **CHAIRMAN VEITCH** said you can always provide it if the structure offers enough room to meet the state licensing. **COMMISSIONER WASTCHAK** said he just wanted to clarify that. Ms. Archer said thank you because that sounds like a different answer than what was previously answered when Deborah Kopp was up there and maybe she misunderstood. **CHAIRMAN VEITCH** said the difference is that sometimes there is confusion with what the current ordinance says and what the proposed ordinance says. Ms. Archer said so the proposal would allow 5. **COMMISSIONER WASTCHAK** said the proposal is a little better. Ms. Archer asked also additional in-home live-in type of staffing? Mr. De la Torre said that is correct. The proposal would allow up to 5 unrelated persons excluding staff who are not living together. That number excludes staff.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY** stated that currently that same type of facility with just 5 would be defined as family under their current code. The current code uses the term 'excluding servant' which is kind of old language but it is the same thing. There really isn't going to be any change in the way they calculate the number of people under the new provisions.

**QUENTIN GERBICH, 6870 S. JUSTIN WAY**, said the issue of Sober Living really bothered him when that was brought up. That being they said 10 residents, 6 cars in a residential

neighborhood; six cars of drug addicts and people trying to get sober. In his mind that is extremely dangerous. That is like a DUI haven for people who are using drugs and people to be drinking. He knows they are in a Sober Living but there is a reason they are in Sober Living – they are not sober yet. If they are driving around the neighborhood while impaired by alcohol and drugs and they are in residential neighborhoods where there are kids and people walking around, that is extremely dangerous. It is still unclear to him whether they are included in the whole Group Home thing but that is just one of the many, many issues as to why they are here tonight because of that danger factor. If they can't be safe at home, where can they be safe at? The big thing for him that keeps coming up that really bothers him the most is they keep saying their business. He lives in a residential community with a family, his wife and his kids. He doesn't live in a business district where he would buy house above a bar like Cheers or something. It is a residence and that is the way he would like to keep it – as a residence. He understands there is a need for things and he is not against Assisted Living. He understands there is a need for it but it does bring a lot of traffic at least to the ones on his block. He understands it is the nurses and they do their best to drive properly and everything else like that but the whole behavioral health issue and the Sober Living thing is a whole another ballgame. It is bringing in an entity of unsafe behavior into some place that should be place for our families.

**MR. DE LA TORRE, PRINCIPAL PLANNER** said he would wanted to clarify that Sober Living homes and the residents who live in Sober Living Homes are actually sober and the purpose of the home is to provide a transitional living environment that is structured. At the time that they are living in a Sober Living environment they are not using drugs or alcohol and they are sober but they just need a little bit of help to transition from the rehab they came from to live independently. He just wanted to clarify that. Mr. Gerbich replied he understands that. He said he didn't want to bring this up but he is a DUI Police Officer. It is what he does and he has won major awards for it. They are in transition and they are getting sober. However, things slip up – it is part of the process. When they slip up, that is when it gets dangerous. Most of the things that happen when they are trying to get sober and they slip up, who is paying the consequences for that. Yes, they are sober for 2 months and then they slip up and then there is a major consequence for it. He takes fatal collisions all the time because of that and that is when it really gets bad too - when you are sober and then you have that flip. It does happen and it happens quite a bit. He said he promised himself he was going to stay quiet tonight but when he heard that, it just really bothered him. **CHAIRMAN VEITCH** said he indicated on his speaker card that he is in favor of the proposal and the proposal would subject facilities of the sort he is talking about to more regulation than they are subject to now, at least at the 5 and under population level.

**CHAIRMAN VEITCH** closed the floor for public speaking and invited discussion from the Commission and questions of Staff.

**VICE CHAIRMAN PRIDEMORE** said as he stated earlier, he thinks they have an issue that needs to be addressed and that is the separation issue to hopefully deal with the clustering issue that has been brought to the City's attention. What he wants to do for his peace of mind is there are two things that he has issue with and the current situation they are seeing here. One, he thinks it could have been restricted to just changes to the separation and he doesn't think the

other language changes were necessary at this time. He is also concerned that some of those changes may lead to litigation to the City down the road if they would pass in their current form. The second issue he has is the due process for this particular item, as it is going through and how quickly it has been going through. Even if there was a week before this would get to Council, that would alleviate some of his concerns but the fact that they are seeing it here tonight for the first time and it could potentially go to Council tomorrow with a Special Council meeting on Friday, that really bothers him. Because of that he is going to make a motion for a continuance and he doesn't know if that has any traction up here but again, for his peace of mind he at least needs to put it on the table.

**MOVED BY VICE CHAIRMAN PRIDEMORE** to continue Item ZCA13-0002 GROUP HOMES ZONING CODE AMENDMENT to the November 20, 2013 Planning Commission hearing

**COMMISSIONER BARON** asked Vice Chairman Pridemore what he was expecting to happen in the time frame. **VICE CHAIRMAN PRIDEMORE** said he would really like to see the language reduced to just the separation. He said they all know this was precipitated by the case they saw during the summer. The homes existing in the area obviously nobody seemed to know about because they were acting like residences, looked like residences. They had one troublemaker which they obviously recommended denial on when that was carried through. It did bring an issue with the current code which is the separation. He really would like to see the language reduced to the separation issue. The other is the speed. Even if they would approve it or however it went forward if there wasn't a continuance tonight, somebody who is out of town is going to basically miss the opportunity to speak on this whole thing. He would like to see at least a week between their meetings and Council. They don't have that in this case and it bothers him.

**COMMISSIONER BARON** said he completely understands what he is saying. He has been pretty quiet tonight but from his perspective in doing the type of work that he does, he doesn't know that he has ever gotten a project through Commission and Council back to back especially something of this magnitude. When they are making a code change, it really is about the public and municipality. His biggest challenge is that they are taking away the one process that they have as a Commission to be able to hear challenges in a community and that is the Use Permit. For them to be able to be able to weigh in on whether or not from a practical sense like it makes sense where it is located, or if there are issues and there is some recourse to be able to sort of penalize folks not doing what they should be doing to be a good neighbor. That does bother him a bit. As Vice Chairman Pridemore pointed out, he thinks there probably should have been a little bit more public outreach and involvement so that they could solicit feedback from operators and find out maybe if there are some processes that should be in place to help sort of check and balance. That being said the language itself he doesn't necessarily have an issue with. He thinks the spacing has really been the biggest issue from the very beginning from the various cases that they have heard. He does agree with Vice Chairman Pridemore that he feels like this is being rushed from the standpoint that they do have folks in a neighborhood that are very concerned about it because it is immediate to them. Frankly, he thinks that this in some form would probably be passed but he doesn't know that they have given it the time it should be given. It is

a code change and it affects more than just one neighborhood; it affects the entire city. He agrees they should continue it to the next meeting to allow some time possibly for initial public outreach and some additional discussion for maybe some other business operators and other public. He said he would second the motion.

**CHAIRMAN VEITCH** said regarding the Vice Chairman's suggestion it seems he is suggesting that they keep the same regulatory scheme by right 5 and under, Use Permit for 6 and above. **VICE CHAIRMAN PRIDEMORE** replied correct. **CHAIRMAN VEITCH** said also adding in the location restrictions that have been proposed. That will of necessity require registration even of the 5 and under. **VICE CHAIRMAN PRIDEMORE** said they should already know the number of homes in the city if they didn't. That's a bigger problem for him. He is going on the assumption and maybe he is wrong. He asked Staff that before this issue, did they know how many homes existed. If he had come to them six months ago and asked how many Group Homes existed in the city, would they be able to answer him? And get down to the detail and tell him where they are.

**ERIK SWANSON, CITY PLANNER** replied yes. They have a zoning clearance application form for Assisted Living facilities both for the elderly care process and for the behavioral health group home. They have that process and they track that. They also create maps that correlate what the state has registered with what they have registered. Granted, the only fault in that is that the application is only a few years old so homes that have been in existence for a decade obviously they don't pick up on their process but they do pick up through the states process. They always check those back and forth and update. This does not solve the issue of those that kind of go rogue and open up illegally but if you came to them and said you would like to know at the next Commission meeting how many homes they have that is certainly something they could do and they could produce the map. **VICE CHAIRMAN PRIDEMORE** said it sounds like there is an on-going dialogue or at least some back and forth in between the City and the State regarding this item even if it hadn't come up before them. There is some dialogue that takes place regularly. Correct? Mr. Swanson replied yes he is the one that usually does the zoning clearance forms so he has return conversations with various numbers of the State staff and it is a list that they produce in multiple formats on line that they generally send monthly. They always update as soon as they get it out. They try to keep their database as current as possible. **CHAIRMAN VEITCH** said so with the current procedures they could add in the location restriction without any difficulty. Their current zoning clearance process if they were now to add in the 1200 foot separation with the exceptions for the arterial streets and canals, they would be able to do that? Mr. Swanson replied yes, absolutely.

**GLENN BROCKMAN, ASSISTANT CITY ATTORNEY**, pointed out that he knows this process seems a bit rushed with the Council meeting tomorrow but there has been over two weeks' worth of notice of both this meeting and the one tomorrow. The process typically with anything coming before them that involves a zoning action or a zoning code change will have dual long term notification process. A matter comes before their group for a recommendation, when it comes to Council there is still the opportunity for every one of these folks to appear tomorrow. Having received more than 2 weeks' worth of notice of that meeting, typically the 3<sup>rd</sup> meeting (the odd one for them) is the Friday meeting but that is a final approval process that

involves no public hearing. The other thing he wanted to make clear is that the distance requirements to the extent that are in the code now, the measurement is of other group type homes of the same type – that is more than 5. They don't measure the distance from those facilities that will constitute Group Homes or Residential Care units that currently are defined as family. **CHAIRMAN VEITCH** said he thinks they do understand that under 5 is not currently subject to a separation requirement but would be under the proposal. **VICE CHAIRMAN PRIDEMORE** said in the end he acknowledges that there is a problem and he would like to see that problem fixed. He thinks it could be handled differently than what they have seen up to this point. He said he would like to see something get approved but he would like to see it in a different form than what they are seeing.

**KEVIN MAYO, PLANNING MANAGER** said he wanted to add to the notion of a continuance. As they prepared this draft code and ultimately set forth the process in which it is going through, it is not something that is done haphazardly and it is not something that is kind of pulled out of thin air. Ultimately, this code change is at the direction of Council and ultimately the time frame and compressed process which they are going through is a direction from Council. They have recognized and identified the urgency and have set forth the request to have this compressed process. They are looking to Planning Commission for a recommendation. In the event that if there is a different way to skin this cat, he would urge them to send forward that recommendation of either a denial with these changes that are necessary or a recommendation of approval with some caveated changes as well. Simply a recommendation for a continuance will be troublesome simply because they are the ones that have identified the issue, the urgency, the draft code and ultimately the process in which it is going through. He said he wanted to pass that along.

**CHAIRMAN VEITCH** said he sympathizes with the concerns that have been expressed about the process. Rushing public policy often doesn't result in good public policy but he doesn't share all of Vice Chairman Pridemore's concerns about the scope of the proposal. Sure it is a lot of words. A lot of it just goes to clarify definitions of things and get them into a modern state in terms of the way that the other levels of government define them and so forth. All they are fundamentally doing is registering every Group Home so they know where they are so that they can enforce the separation requirement and applying some standards uniformly to all and then offering the types of facilities that are eligible for the opportunity to go above 5 through the Reasonable Accommodation procedure. Granted that does not necessarily include a public hearing unless the request of waiver is denied in which case there could be a public hearing if there is an appeal to the Board of Adjustment. That may or may not be a flaw depending upon your point of view.

**COMMISSIONER WASTCHAK** asked what was the thinking in taking out the public hearing process and putting it into a Zoning Administrator decision? Mr. De la Torre said that was a great question. The intent of taking the Use Permit process out was to better comply with FHA requirements which prohibit discrimination of Group Homes who have residents with a disability from other single family residents. Currently they don't require single family residences to receive a Use Permit for any reason and the decision was made to try to make our code more compliant with FHA requirements and that was the reason why it was taken out.

**COMMISSIONER CUNNINGHAM** said she has to disagree with Vice Chairman Pridemore on this as it did not seem like it had been rushed to her. This came to their attention on this Board in June. That is 5 months that they have known this was coming. She wished they would have seen something in this format 2 or 3 weeks ago but she doesn't think it would have changed the format and she doesn't think it would have changed what was presented to them had it come here sooner. For one she is surprised it came through in 5 months but she is encouraged to know that some kind of government can get something done in 5 months whether it is just an ordinance or not. She commended Staff for their efforts on this.

**CHAIRMAN VEITCH** said they have a motion on the floor to continue the matter to their next meeting on November 20 in order to give it some additional vetting.

**COMMISSIONER DONALDSON** said the Chairman summarized his comments which were that he believes the language, he believes the scope, the timing he is used to more notice and more information earlier, but he doesn't believe that would have changed the product they have in front of them.

**CHAIRMAN VEITCH** took a vote on the motion to continue. The motion failed 2-4 (Cunningham, Donaldson, Veitch, Wastchak were opposed to the continuance). He said the floor was open for another motion.

**MOVED BY COMMISSIONER CUNNINGHAM**, seconded by **COMMISSIONER DONALDSON** to approve Item ZCA13-0002 GROUP HOMES ZONING CODE AMENDMENT. The item passed 4-2 (Vice Chairman Pridemore and Commissioner Baron were opposed).

**CHAIRMAN VEITCH** said that means that a positive recommendation will be forwarded to the City Council.

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN VEITCH** said the next regular meeting is November 20, 2013 at 5:30 p.m. in the Council Chambers at the Chandler City Hall, 88 East Chicago Street, Chandler, Arizona.

8. ADJOURNMENT

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

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Stephen Veitch, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, November 20, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

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

Also present:

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

4. APPROVAL OF MINUTES  
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the November 6, 2013 Planning Commission Hearing. The motion passed 6-0 with 1 abstention (Commissioner Ryan was not at the meeting).
5. 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. There were no action items.

A. DVR13-0004/PPT13-0002 MAPLEWOOD COURT II

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, Preliminary Development Plan (PDP) approval for housing product and subdivision layout, and Preliminary Plat approval of a 14-lot single-family residential subdivision. The subject site is located at the southwest corner of Willis Road and Vine Street. **(REQUEST CONTINUANCE TO THE DECEMBER 18, 2013 PLANNING COMMISSION HEARING.)**

B. PDP13-0010 WINCO FOODS STORE

**Approved.**

Request Preliminary Development Plan (PDP) approval for a new grocery store development. The property is located at the northwest corner of Arizona Avenue and Willis Road, on the west end of the San Tan Plaza commercial retail center.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "WINCO FOODS STORE", kept on file in the City of Chandler Planning Division, in File No. PDP13-0010, except as modified by condition herein.
2. Compliance with original conditions adopted by the City Council as Ordinance No. 3396 in case DVR02-0017 KOHL'S CENTER, except as modified by condition herein.
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
4. Raceway signage shall be prohibited within the development.
5. All parking planter islands to remain consistent with the islands within the adjacent Kohl's center.
- 6. In the landscape tract west of the building adjacent to the five single family lots, install a second row of trees staggered with existing row of trees. The trees shall be placed every 20 feet on center with a minimum of 12 feet in height at time of planting. Trees shall match existing Mondell/Elderica Pine and Sissoo Tree.**

C. PDP13-0017 CHANDLER CORPORATE CENTER II

**Approved.**

Request Preliminary Development Plan (PDP) approval amending the conceptual site layout and maximum building height on approximately 17.25 acres located at the northwest corner of McClintock Drive and Galveston Street, within the Chandler Corporate Center business park.

1. Development shall be in substantial conformance with exhibits and representations entitled "CHANDLER CORPORATE CENTER II" kept on file in the City of Chandler Planning Services Division, in File No. PDP13-0017, except as modified by condition herein
2. Compliance with the original stipulations adopted by the City Council as Ordinance 1968, case Z88-018 CHANDLER CORPORATE CENTER, except as modified by condition herein.
3. Compliance with the original stipulations approved by the City Council as case PDP05-0009 CHANDLER CORPORATE CENTER, except as modified by condition herein.
4. Building heights in Phase One shall be limited to 30-feet in height, building heights in Phase Two shall be limited to 35-feet in height.

D. LUP13-0017 FIRED PIE

**Approved.**

Request Use Permit approval to sell liquor as permitted under a Series 12 Restaurant License for on-premise consumption both indoors and within an outdoor patio at an existing restaurant. The

property is located at 2855 W. Ray Road, Suite 5, at the southwest corner of Ray Road and Coronado Street.

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
4. The site and outdoor patio shall be maintained in a clean and orderly manner.
5. Music shall be controlled so as to not unreasonably disturb area residents.

E. MOTION TO CANCEL THE DECEMBER 4, 2013 PLANNING COMMISSION HEARING.

**Approved.**

**CHAIRMAN VEITCH** said he had a speaker slip from Mr. Jim Balonis of Nebraska Place and he thinks his interest was in perhaps making a comment for the record concerning Item B. Mr. Balonis said he was o.k. with Item B after hearing the added stipulation that Ms. Novak, Senior City Planner, read into the record. The Chairman thanked him.

**MOVED BY VICE CHAIRMAN PRIDEMORE**, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff with the additional stipulation concerning Item B. The Consent Agenda passed 7-0.

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said there was nothing to report this evening. Mr. Mayo wished the Commission a Happy Thanksgiving.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN VEITCH** said the next regular meeting is December 18, 2013 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 5:43 p.m.

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Stephen Veitch, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 18, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

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

Absent and excused: Commissioner Andrew Baron

Also present:

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

4. APPROVAL OF MINUTES  
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the November 20, 2013 Planning Commission Hearing. The motion passed 6-0 (Commissioner Baron was absent).
5. 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. There were no action items.

A. DVR13-0004/PPT13-0002 MAPLEWOOD COURT II

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, Preliminary Development Plan (PDP) approval for housing product and subdivision layout, and Preliminary Plat approval of a 14-lot single-family residential subdivision. The subject site is located at the southwest corner of Willis Road and Vine Street.

**Rezoning**

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0004, except as modified by condition herein.
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. 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. 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.
6. 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.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
8. 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.
9. 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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's 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.

**Preliminary Development Plan**

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Transportation & Development Services Department, Planning Division, in File No. DVR13-0004, 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 floor plan and elevation shall not be built side-by-side or directly across the street from one another.
4. Preliminary Development Plan approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Preliminary Development Plan shall apply.

**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.

**B. DVR13-0020 CHANDLER CREEK LP**

**Approved.**

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning allows industrial uses. The property is located at the northeast corner of Queen Creek Road and the Union Pacific railroad tracks just east of Arizona Avenue.

Planning Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

**C. DVR13-0028/PPT13-0017 OCOTILLO LANDING**

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, with Preliminary Development Plan approval for housing product and subdivision layout, and Preliminary Plat approval for a 62-lot single-family residential subdivision on approximately 19 acres. The subject site is located south of the southwest corner of McQueen and Ocotillo roads, at the Brooks Farm Road alignment.

**Rezoning**

1. Development shall be in substantial conformance with the Development Booklet, entitled "OCOTILLO LANDING", kept on file in the City of Chandler Planning Division, in File No. DVR13-0028, except as modified by condition herein.
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.

#### **Preliminary Development Plan**

1. Development shall be in substantial conformance with the Development Booklet, entitled "OCOTILLO LANDING", kept on file in the City of Chandler Planning Division, in File No. DVR13-0028, except as modified by condition herein.
2. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
3. 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.
4. Two-story homes shall be prohibited on lots 1-19.
5. For lots 21-38 lots shall be restricted to single-story homes when adjacent to single-story homes located within the McQueen Lakes subdivision.
6. Preliminary Development Plan approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Preliminary Development Plan shall apply.
7. The side yard setbacks shall be a minimum of 5 feet and 10 feet, for those lots adjacent to McQueen Road side setbacks shall be 10 feet.
8. The applicant shall work with Planning Staff to incorporate additional architectural elements to the side and rear elevations of the 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.

D. DVR13-0046 BELMONT ESTATES – NORTH 17’ STRIP

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential as part of the Belmont Estates single-family residential subdivision. The subject site is located north of the northwest corner of Gilbert Road and Sunrise Place.

**Rezoning**

1. Compliance with original conditions adopted by the City Council as Ordinance No.4401 in case DVR12-0016 BELMONT ESTATES.

E. LUP13-0018 WALMART STORE

**Approved.**

Request Use Permit approval to allow the sale of all spirituous liquor as permitted under a Series 9 Liquor Store License for off-premise consumption. The store will be located at 3460 West Chandler Boulevard, northwest corner of Metro and Chandler boulevards.

1. The Use Permit granted is for a Series 9 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

F. PPT13-0005 STAYBRIDGE SUITES HOTEL

**Approved.**

Request Preliminary Plat approval for a hotel located at the northeast corner of Chandler Boulevard and McClintock Drive.

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

G. PPT13-0008 CIRCLE K RIGGS ROAD & ARIZONA AVENUE

**Approved.**

Request Preliminary Plat approval for a commercial center that includes a fuel station and a convenience store located at the southeast corner of Arizona Avenue and Riggs Road.

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

H. PPT13-0028 GARDENS AT OCOTILLO

**Approved.**

Request Preliminary Plat approval for an assisted living care center located at 1500 NW Jacaranda Parkway; southeast corner of Queen Creek Road and Pennington Drive.

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

**TERRY SRAMEK, 625 W. WILLIS ROAD**, stated he wanted to make a comment. He said he is opposed to changing the zoning from AG-1 to the PAD because he would prefer the rural atmosphere with people being able to have horses and maybe cows or chickens if they want it. He also prefers the Eden Estates type layout which is south of Maplewood II. He believes they have ½ acre lots in that area. He is not crazy about this PAD.

**MOVED BY VICE CHAIRMAN PRIDEMORE**, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed 6-0 (Commissioner Baron was absent).

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said this is their last Planning Commission hearing for 2013 and he wanted to wish the Commission a happy holiday and a happy safe New Year. He thanked them for their service this year of 2013 and is looking forward to 2014.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is January 15, 2014 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 5:51 p.m.

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Stephen Veitch, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 18, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

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

Absent and excused: Commissioner Andrew Baron

Also present:

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

4. APPROVAL OF MINUTES  
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the November 20, 2013 Planning Commission Hearing. The motion passed 6-0 (Commissioner Baron was absent).
5. 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. There were no action items.

A. DVR13-0004/PPT13-0002 MAPLEWOOD COURT II

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, Preliminary Development Plan (PDP) approval for housing product and subdivision layout, and Preliminary Plat approval of a 14-lot single-family residential subdivision. The subject site is located at the southwest corner of Willis Road and Vine Street.

**Rezoning**

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0004, except as modified by condition herein.
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. 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. 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.
6. 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.
7. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or a homeowners' association.
8. 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.
9. 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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's 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.

**Preliminary Development Plan**

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Transportation & Development Services Department, Planning Division, in File No. DVR13-0004, 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 floor plan and elevation shall not be built side-by-side or directly across the street from one another.
4. Preliminary Development Plan approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Preliminary Development Plan shall apply.

**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.

**B. DVR13-0020 CHANDLER CREEK LP**

**Approved.**

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Agricultural District (AG-1) zoning. The existing PAD zoning allows industrial uses. The property is located at the northeast corner of Queen Creek Road and the Union Pacific railroad tracks just east of Arizona Avenue.

Planning Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

**C. DVR13-0028/PPT13-0017 OCOTILLO LANDING**

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, with Preliminary Development Plan approval for housing product and subdivision layout, and Preliminary Plat approval for a 62-lot single-family residential subdivision on approximately 19 acres. The subject site is located south of the southwest corner of McQueen and Ocotillo roads, at the Brooks Farm Road alignment.

**Rezoning**

1. Development shall be in substantial conformance with the Development Booklet, entitled "OCOTILLO LANDING", kept on file in the City of Chandler Planning Division, in File No. DVR13-0028, except as modified by condition herein.
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.

#### **Preliminary Development Plan**

1. Development shall be in substantial conformance with the Development Booklet, entitled "OCOTILLO LANDING", kept on file in the City of Chandler Planning Division, in File No. DVR13-0028, except as modified by condition herein.
2. The same floor plan and elevation shall not be built side-by-side or directly across the street from one another.
3. 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.
4. Two-story homes shall be prohibited on lots 1-19.
5. For lots 21-38 lots shall be restricted to single-story homes when adjacent to single-story homes located within the McQueen Lakes subdivision.
6. Preliminary Development Plan approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Preliminary Development Plan shall apply.
7. The side yard setbacks shall be a minimum of 5 feet and 10 feet, for those lots adjacent to McQueen Road side setbacks shall be 10 feet.
8. The applicant shall work with Planning Staff to incorporate additional architectural elements to the side and rear elevations of the 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.

D. DVR13-0046 BELMONT ESTATES – NORTH 17’ STRIP

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential as part of the Belmont Estates single-family residential subdivision. The subject site is located north of the northwest corner of Gilbert Road and Sunrise Place.

**Rezoning**

1. Compliance with original conditions adopted by the City Council as Ordinance No.4401 in case DVR12-0016 BELMONT ESTATES.

E. LUP13-0018 WALMART STORE

**Approved.**

Request Use Permit approval to allow the sale of all spirituous liquor as permitted under a Series 9 Liquor Store License for off-premise consumption. The store will be located at 3460 West Chandler Boulevard, northwest corner of Metro and Chandler boulevards.

1. The Use Permit granted is for a Series 9 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The site shall be maintained in a clean and orderly manner.

F. PPT13-0005 STAYBRIDGE SUITES HOTEL

**Approved.**

Request Preliminary Plat approval for a hotel located at the northeast corner of Chandler Boulevard and McClintock Drive.

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

G. PPT13-0008 CIRCLE K RIGGS ROAD & ARIZONA AVENUE

**Approved.**

Request Preliminary Plat approval for a commercial center that includes a fuel station and a convenience store located at the southeast corner of Arizona Avenue and Riggs Road.

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

H. PPT13-0028 GARDENS AT OCOTILLO

**Approved.**

Request Preliminary Plat approval for an assisted living care center located at 1500 NW Jacaranda Parkway; southeast corner of Queen Creek Road and Pennington Drive.

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

**TERRY SRAMEK, 625 W. WILLIS ROAD**, stated he wanted to make a comment. He said he is opposed to changing the zoning from AG-1 to the PAD because he would prefer the rural atmosphere with people being able to have horses and maybe cows or chickens if they want it. He also prefers the Eden Estates type layout which is south of Maplewood II. He believes they have ½ acre lots in that area. He is not crazy about this PAD.

**MOVED BY VICE CHAIRMAN PRIDEMORE**, seconded by **COMMISSIONER RYAN** to approve the Consent Agenda as read into the record by Staff. The Consent Agenda passed 6-0 (Commissioner Baron was absent).

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager, said this is their last Planning Commission hearing for 2013 and he wanted to wish the Commission a happy holiday and a happy safe New Year. He thanked them for their service this year of 2013 and is looking forward to 2014.

7. CHAIRMAN'S ANNOUNCEMENTS

CHAIRMAN VEITCH said the next regular meeting is January 15, 2014 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 5:51 p.m.

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Stephen Veitch, Chairman

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Jeffrey A. Kurtz, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, December 18, 2013 held in the City Council Chambers, 88 E. Chicago Street.

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

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

Absent and excused: Commissioner Andrew Baron

Also present:

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

4. APPROVAL OF MINUTES  
MOVED BY VICE CHAIRMAN PRIDEMORE, seconded by COMMISSIONER CUNNINGHAM to approve the minutes of the November 20, 2013 Planning Commission Hearing. The motion passed 6-0 (Commissioner Baron was absent).
5. 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. There were no action items.

A. DVR13-0004/PPT13-0002 MAPLEWOOD COURT II

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential, Preliminary Development Plan (PDP) approval for housing product and subdivision layout, and Preliminary Plat approval of a 14-lot single-family residential subdivision. The subject site is located at the southwest corner of Willis Road and Vine Street.

**Rezoning**

1. Development shall be in substantial conformance with the Development Booklet, entitled "MAPLEWOOD COURT II", kept on file in the City of Chandler Planning Services Division, in File No. DVR13-0004, except as modified by condition herein.
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.
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6. 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.
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8. 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.
9. 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 existing ranchette and animal privilege properties that may cause adverse noise, odors and other externalities. The "Public Subdivision Report", "Purchase Contracts", and CC&R's 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.

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**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.

**B. DVR13-0020 CHANDLER CREEK LP**

**Approved.**

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Planning Staff, upon finding consistency with the General Plan, recommends approval to extend the timing condition for three (3) years with all of the conditions in the original approval remaining in effect.

**C. DVR13-0028/PPT13-0017 OCOTILLO LANDING**

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G. PPT13-0008 CIRCLE K RIGGS ROAD & ARIZONA AVENUE

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8. ADJOURNMENT

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Stephen Veitch, Chairman

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Jeffrey A. Kurtz, Secretary