

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 1, 2016 held in the City Council Chambers, 88 E. Chicago Street.

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

Chairman Matthew Pridemore  
Vice Chairman Andrew Baron  
Commissioner Katy Cunningham  
Commissioner Bill Donaldson  
Commissioner David Rose  
Commissioner Devan Wastchak

Absent and Excused: none

Also present:

Mr. Kevin Mayo, Planning Manager  
Ms. Jodie Novak, Senior City Planner  
Ms. Susan Fiala, City Planner  
Ms. Lauren Schumann, City Planner  
Mr. Glenn Brockman, Asst. City Attorney  
Ms. Lucy Vazquez, Clerk

4. APPROVAL OF MINUTES  
**MOVED BY VICE CHAIRMAN BARON**, seconded by **COMMISSIONER CUNNINGHAM** to approve the minutes of the May 18, 2016, Planning Commission Hearing. The motion passed 6-0. (Commissioner Foley, resigned)

5. ACTION AGENDA ITEMS  
**CHAIRMAN PRIDEMORE** informed the audience 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.

- A. APL16-0002 PETERSON FARMS AREA PLAN AMENDMENT/DVR16-0010 QUIKTRIP

**Approved. (REQUEST CONTINUANCE TO THE JUNE 15, 2016, PLANNING COMMISSION HEARING)**

Request Area Plan Amendment to the Peterson Farms (Section 7) Area Plan from Low Density Residential to Commercial, along with rezoning from Agricultural to Planned Area Development

for commercial uses including a fuel station for 24-hour uses under the Late Hour Business Policy, and Preliminary Development Plan approval for site layout and building architecture for a fuel station. The subject site is located at the northeast corner of Gilbert and Queen Creek roads (**REQUEST CONTINUANCE TO THE JUNE 15, 2016, PLANNING COMMISSION HEARING**)

**B. DVR16-0002 SAN MARCOS DRIVE CUSTOM HOME**

**Approved.**

Request rezoning from Agricultural (AG-1) to Planned Area Development (PAD) for single-family residential with Preliminary Development Plan (PDP) for site layout and building design for one single-family residential home on property located at 900 W. San Marcos Drive, east of Alma School Road and north of Frye Road.

**Rezoning**

1. Development shall be in substantial conformance with Exhibits A, B, C, and D as represented by the applicant and kept on file in the City of Chandler Planning Division, in File No. DVR16-0002 SAN MARCOS DRIVE CUSTOM HOME, modified by such conditions included at the time the Exhibits were approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. 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.
3. Completion of the construction of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
4. 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.

**Preliminary Development Plans**

1. Development shall be in substantial conformance with Exhibits A, B, C, and D as represented by the applicant and kept on file in the City of Chandler Planning Division, in File No. DVR16-0002 SAN MARCOS DRIVE CUSTOM HOME, modified by such conditions included at the time the Exhibits were approved by the Chandler City Council and/or as thereafter amended, modified or supplemented by the Chandler City Council.
2. Approval by the Director of Transportation & Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Transportation & Development for arterial street median landscaping.
3. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or association.
4. Perimeter walls shall be designed to be compatible with adjacent walls.

5. 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.

D. LUP16-0009 COCONUTS FISH CAFÉ

**Approved.**

Request Liquor Use Permit approval to sell and serve spirituous liquor for on-premise consumption indoors and within a new outdoor patio as permitted under a Series 12 Restaurant License. The new business is located at 1155 West Ocotillo Road, Suite 1, the southwest corner of Alma School and Ocotillo roads.

1. Expansion or modification beyond the approved exhibits (Floor Plan, Patio Plan, and Narrative) shall void the Liquor Use Permit and require new Liquor Use Permit application and approval.
2. The Liquor Use Permit is granted for a Series 12 Restaurant license, and any change of license shall require reapplication and new Liquor Use Permit approval.
3. The Liquor Use Permit is non-transferable to any other location.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. Liquor Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Liquor Use Permit shall apply.

E. LUP16-0010 FIRED PIE

**Approved.**

Request Liquor Use Permit approval to sell and serve spirituous liquor for on-premise consumption indoors and within a new outdoor patio as permitted under a Series 12 Restaurant License. The new business is located at 1155 West Ocotillo Road, Suite 8, the southwest corner of Alma School and Ocotillo roads.

1. Expansion or modification beyond the approved exhibits (Floor Plan, Patio Plan, and Narrative) shall void the Liquor Use Permit and require new Liquor Use Permit application and approval.
2. The Liquor Use Permit is granted for a Series 12 Restaurant license, and any change of license shall require reapplication and new Liquor Use Permit approval.
3. The Liquor Use Permit is non-transferable to any other location.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. Liquor Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Liquor Use Permit shall apply.
7. No noise shall be emitted from the patios so that it 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 establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and direct.

9. The Liquor Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Liquor Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

F. LUP16-0012 GOOD TIME CHARLI'S

**Approved.**

Request Liquor Use Permit approval to sell and serve spirituous liquor for on-premise consumption indoors and within an outdoor patio as permitted under a Series 12 Restaurant License, and request live music indoors and within an outdoor patio at a new restaurant located at 6045 West Chandler Boulevard, Suite 7, the southwest corner of Chandler Boulevard and Kyrene Road.

1. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Liquor Use Permit and require new Liquor Use Permit application and approval.
2. The Liquor Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Liquor Use Permit approval.
3. The Liquor Use Permit is non-transferable to other store locations.
4. The site shall be maintained in a clean and orderly manner.
5. No noise shall be emitted from outdoor speakers or acoustical musicians on the patios so that it 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.
6. Music shall be controlled so as to not unreasonably disturb area residents and shall not exceed the ambient noise level as measured at the commercial property line.
7. The establishment shall provide a contact phone number of a responsible person (restaurant owner and/or manager) to interested neighbors to resolve noise complaints quickly and direct.
8. Live music on the patio can occur Friday through Sunday, no later than 7 p.m, and limited to acoustic bands only.
9. The Liquor Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Liquor Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

G. LUP16-0013 QUIKTRIP

**Approved. CONTINUED TO THE JUNE 15, 2016, PLANNING COMMISSION HEARING**

Request Liquor Use Permit approval to sell beer and wine as permitted under a Series 10 Beer and Wine Store License for off-premise consumption at a new convenience store. The subject site is located at the northeast corner of Gilbert and Queen Creek roads. **(REQUEST CONTINUANCE TO THE JUNE 15, 2016, PLANNING COMMISSION HEARING)**

H. ZUP16-0007 PINNACLE CROSSFIT

**Approved.**

Request Use Permit approval for a personal trainer/fitness center within a Planned Industrial District with a Planned Area Development overlay (I-1/PAD) that allows for industrial, retail showroom, and motorcycle sales with accessory repair uses. The subject site is located at 3245

North Arizona Avenue, Suite 10, within Pollack Business Park North, southeast corner of Arizona Avenue and Chilton Drive.

1. 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.
2. The site shall be maintained in a clean and orderly manner.
3. The Use Permit shall remain in effect for two (2) years from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

**CHAIRMAN PRIDEMORE** stated he had a speaker card for Item E, Amy Eby that is in favor of the item, however, did not wish to speak. He also mentioned another speaker card for Chad Eby that is also in favor of Item E, however, did not wish to speak. A speaker card for Theresa Morse was also presented in favor of Item E, however did not wish to speak. The last speaker card for Item E is from Fred Morgan, whom is also in favor of Item E, however did not wish to speak.

**CHAIRMAN PRIDEMORE** asked the audience if anyone had any questions on the consent agenda or want any items pulled for a full presentation. There were none.

**MOVED BY VICE CHAIRMAN BARON** seconded by **COMMISSIONER ROSE** to approve the Consent Agenda as read in by Staff with the exception of Item C that is pulled for a full presentation. The Consent Agenda passed 6-0 (Commissioner Foley, Resigned).

**ACTION:**

C. LUP16-0008 THE CASUAL PINT

**Approved.**

Request Liquor Use Permit approval to sell and serve beer and wine for on-premise consumption indoors and within a new outdoor patio and to sell liquor “to-go” in original, unopened containers as permitted under a Series 7 Beer and Wine Bar License, including indoor live music. The new business is located at 1095 West Queen Creek Road, Suite 8, west of the southwest corner of Alma School and Queen Creek roads.

1. Expansion or modification beyond the approved exhibits (Floor Plan, Patio Plan, and Narrative) shall void the Liquor Use Permit and require new Liquor Use Permit application and approval.
2. The Liquor Use Permit is granted for a Series 7 Beer and Wine Bar license, and any change of license shall require reapplication and new Liquor Use Permit approval.
3. The Liquor Use Permit is non-transferable to any other location.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. 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.
7. Music shall occur indoors only.

8. Liquor Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Liquor Use Permit shall apply.
9. The Liquor Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Liquor Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

**MR. KEVIN MAYO, PLANNING MANAGER** stated he wants to outline a couple of things to keep the discussion focused. The discussion is about a liquor use permit that is not about a permissiveness of a restaurant being located in that suite. The land use is approved and when it comes to parking. If there can be a clear link between the liquor use permit and a link to the increase intensity that can be considered and discussed. But if it's just a restaurant being located at the end-cap and a parking issue, that becomes a management issue. However, the land use is for a liquor use permit. He stated unfortunately the state controls the things that they can look and talk about, so they cannot discuss the hours of operations or the type of liquor permit.

**CHAIRMAN PRIDEMORE** stated that Commissioner Cunningham asked if it was a bar or a restaurant.

**MR. MAYO** stated they could have a bar/ restaurant serve food and non-alcoholic beverages by right.

**CHAIRMAN PRIDEMORE** stated that Commission received a copy of the letter Ms. Joan Maloof provided staff. He also mentioned he received speaker cards and will announce them in no particular order. Item C, Amy Eby is in favor of the item and did not wish to speak. Chad Eby is also in favor, however, did not wish to speak. Theresa Morse in favor of the item and did not wish to speak. Fred Morgan is in favor and did not wish to speak. Joan Maloof is opposed and did wish to speak.

**JONE MALOOF, 3140 S. VISTA DR.** stated she lives in the subdivision closest to the proposed business. She stated she is not opposed to the business itself, but is concerned about the location. By looking at the neighborhood and the map that she submitted to commissioners that showed the location in proximity to the nearest home and where the patio is located is approx. 100ft. from the nearest backyard. Keegan's also has a patio, but it is further away and they have never heard any noise from that restaurant. She also mentioned that there is a patio area that is behind Jersey Mikes and Gigi's cupcakes but it is hardly used and is approximately 200ft. from the nearest back yard. The problem that she sees is the possibility for neighborhood disturbance, given the experience with Sidelines restaurant which is across the street from the neighborhood. She stated they went through several years of complains because they put in a patio and they started having live amplified music outside and she believes they had to get a variance and it was granted to them to have the music that they didn't provide any neighborhood disturbance which they did. They had a few sessions with Planning Commission and Council in regards to that situation. Her concern is how close is the proposed patio to the neighborhood that she's lived in since 1997, and has been quiet and peaceful. She thinks that there is another suitable location for the business. At the neighborhood meeting the tenants stated that there wouldn't be any disturbance and they would like to make it into a community hub. When she looks at the location

and where there are a total of 14 parking lots, she thinks it doesn't seem like the right location for a community hub. Her concern is about the location not the business itself or the people that want to have it there.

**CHAIRMAN PRIDEMORE** asked if anyone had questions for the speakers. There were none. He mentioned he had one last speaker card, Cassie Millar and is opposed and wished to speak.

**CASSIE MILLAR 1095 W. QUEEN CREEK RD. SUITE 6** stated she has a couple of concerns, not about the business itself but the location for it. She stated she owns a pre-school and Kindergarten program that is right directly next door to the suite. It was brought to her attention from some of the parents. Her main concern is the safety of her students. They will serve alcohol during her business hours and there is one way in and one way out. So they will be driving directly in front of their school. She mentioned they are not a day care so the kids are there three hours of the day and there are multiple drop offs and pick-ups at the parking lot and that is her concern with the kids out there. Another concern of hers is that they share a very thin wall and she can hear the working talking through it and it is one of her classroom walls and thinks it is going to disturb her class. They teach quiet class time such as reading groups and thinks if there is going to be music, it will disturb her classes. Parking is already an issue with Keegan's and she doesn't know how there is going to be any parking for the business. The parents have to walk in and are only there for five to ten minutes to drop their kids off and it is going to cause an issue with the business if they are not able to park to drop off their kids. She asked if they are able to compromise, their hours end at 3:45p.m. and maybe the proposed business can start at 4pm. If that's possible that would be the compromise she would suggest.

**CHAIRMAN PRIDEMORE** asked if anyone had questions for the speakers. There were none.

**CHAIRMAN PRIDEMORE** asked a question to Commission if they were comfortable leaving Item C on consent or pulling it for action.

**MR. GLENN BROCKMAN, ASST. CITY ATTORNEY** asked the speaker if she was operating a Kindergarten.

**MS. MILLAR** stated that they are a private pre-school and kindergarten. They have two locations one in Gilbert that has kindergarten however, they currently are not operating a kindergarten at the Chandler location. But they still offer it.

**KEVIN MAYO, PLANNING MANAGER** stated that there are things that the state prohibits the City from taking into consideration when looking at liquor use permits. One would be hours of operation, they cannot use liquor use permit to limit or control the hours of operation. The state controls any liquor based permits. Secondary, when it comes to separations from schools, that liquor license is something that is regulated and controlled by the state and the city cannot take that into consideration. The speaker mentioned they do not have a kindergarten there so it does not trigger the separation requirement. However, if approved and they decide to open the kindergarten, it ends up grandfathering the use for the separation.

**COMMISSIONER CUNNINGHAM** asked for staff to read the stipulations on the approval of the case.

**MS. SUSAN FIALA, CITY PLANNER** read the conditions into the record.

1. Expansion or modification beyond the approved exhibits (Floor Plan, Patio Plan, and Narrative) shall void the Liquor Use Permit and require new Liquor Use Permit application and approval.
2. The Liquor Use Permit is granted for a Series 7 Beer and Wine Bar license, and any change of license shall require reapplication and new Liquor Use Permit approval.
3. The Liquor Use Permit is non-transferable to any other location.
4. The site shall be maintained in a clean and orderly manner.
5. The patio shall be maintained in a clean and orderly manner.
6. 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.
7. Music shall occur indoors only.
8. Liquor Use Permit approval does not constitute Final Development Plan approval; compliance with the details required by all applicable codes and conditions of the City of Chandler and this Liquor Use Permit shall apply.
9. The Liquor Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Liquor Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.

**COMMISSIONER DONALDSON** mentioned he had been in defense for the item for two reasons with one being the parking. He mentioned it gets very thin where the unit is located and because a couple of speakers also had that concern. He thinks the noise is going to be kept indoors and thinks if the tenant is a good neighbor, they will have that controlled. Also, the neighborhood has access to the stipulations for the tenant and business owner to do that. He stated he is in favor of it staying on consent.

**VICE CHAIRMAN BARON** asked staff when the case will go to Council.

**MS. FIALA** stated June 23, 2016.

**VICE CHAIRMAN BARON** asked when the business is planning to open.

**MS. FIALA** stated she did not know. However, the applicant is present.

**CHAIRMAN PRIDEMORE** stated he will pull the case for action with a full presentation and ask more questions.

**VICE CHAIRMAN BARON** he understands the process of the Liquor permits, however, what he was trying to paint a picture of is the duration of which the business would be open before they have to re-apply for another use permit.

**CHAIRMAN PRIDEMORE** turned it over to the applicant.

**CHAD EBY, 1780 W. MACAW DR.** stated he wanted everyone to understand the type of business they will be operating. He stated it is more of a beer craft market with a tasting lounge. There will be a section with shelving for people to get six-packs and coolers so they can fill up growlers. He mentioned it will be a low key and almost like a low key wine bar, except for high end craft beer. Any music that will be indoors will not be the focus it will just be there to help create an ambiance for the guest to socialize. They don't want the music to be overpowering that people have to talk over it. It is only to create an ambiance. He mentioned they are keeping the sound tiles in the space. They mentioned a wall that they share with the Pre-school Kinderbugs, they are going to place a cooler which is 15 ft. x 8 ft. So a lot of the noise will be away from that wall. As far as being a good owner/tenant, they will have a policy and procedures manual which all of the employees will have sign so everybody knows what the policy and procedures are. He stated that him and his wife will be very involved in the business and live very close to where they can ride their bikes there.

**VICE CHAIRMAN BARON** asked the applicant when they were planning on opening.

**MR. EBY** stated they are planning to open the business mid-August.

**VICE CHAIRMAN BARON** stated they were going to be losing a month, so they would have to prove they are good neighbors in 11 months.

**CHAIRMAN PRIDEMORE** asked the audience if anyone had any more questions. There was one.

**MS. MILLAR** stated she forgot to mention that they are license to offer kindergarten and have the ability to offer it, however, the business in Gilbert has been open for 9 years and the business in Chandler has been open for two years so it is a supply and demand factor.

**MR. GLENN BROCKMAN** stated that regardless to the fact that they are license to offer kindergarten, there has to be an ongoing kindergarten program operating at the time that the applicant pulled his application for a liquor license with the state and they didn't have one then. Per state statute the 300 ft. will not apply.

**CHAIRMAN PRIDEMORE** asked the audience if anyone had any more questions. There was one.

**MS. THERESA MORSE, 530 E. MCDOWELL RD.** stated she is the applicant that filed the paper work to the city. She mentioned she wanted to pass information regarding the fact that it is true what was mentioned about once the application has been submitted, there was no kindergarten at that time. However, her clients searched high and low for a location that would be suitable for their needs and because of her expertise in law enforcement and working at state liquor she was aware of the 300 ft. rule. She mentioned her clients called their landlord Ocotillo Falls and the landlord informed them that Kinderbugs is not allowed to put a kindergarten in that space.

**CHAIRMAN PRIDEMORE** stated they are not there to debate neighboring properties and what they are allowed and not allowed to do. He asked the dais if they had any questions for the speaker. There were none. He then mentioned that Planning Commission is only a recommending body and encourages everyone to attend the City Council meeting to speak their mind.

**MOVED BY VICE CHAIRMAN BARON** seconded by **COMMISSIONER DONALDSON** to approve Item C, LUP16-0008 THE CASUAL PINT. The Consent Agenda passed 6-0 (Commissioner Foley resigned).

6. DIRECTOR'S REPORT

Mr. Kevin Mayo, Planning Manager stated the next meeting will be on June 15, 2016, and with the departure of Commissioner Foley, and Chair and Vice Chair not present on that meeting date they will need the rest to be present to set a quorum. If anyone knows that they are going to be absent, he needs to know. There are a couple of items that are going on June 15, 2016 that are fast-track to June 23<sup>rd</sup> Council because for the last six months of the year there will only be one Council meeting a month so it is important to meet quorum on June 15, 2016.

**CHAIRMAN PRIDMORE** stated they came across the same situation a long time ago and since Commissioner Foley is still on the books is there any way he can participate for one last time, if that is possible.

**MR. MAYO** stated assuming they can make quorum, he won't make that extra effort but he is already working out alternatives.

**CHAIRMAN PRIDMORE** asked commission to stay in contact with Kevin.

7. CHAIRMAN'S ANNOUNCEMENTS

**CHAIRMAN PRIDMORE** stated the next regular meeting is June 15, 2016 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 6:05 p.m.

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Matthew Pridemore, Commissioner

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Jeffrey A. Kurtz, Secretary