

UNOFFICIAL

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, January 17, 2007 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Michael Flanders called the meeting to order at 5:35 p.m.
2. Pledge of Allegiance led by Chairman Flanders.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders
Vice Chairman Rick Heumann
Commissioner Michael Cason
Commissioner Dick Gulsvig
Commissioner Angela Creedon

Absent and Excused: Commissioner Mark Irby and
Commissioner Brett Anderson

Also Present:

Mr. Bob Weworski, Principal Planner
Ms. Jodie Novak, Sr. City Planner
Mr. Bill Dermody, City Planner
Mr. Erik Swanson, City Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
COMMISSIONER CASON stated he would like to have a change made on page 18, 3rd paragraph, 4th reference to Commissioner Cason where it reads, "Commissioner Cason stated". He would like it changed to "Commissioner Cason asked".

MOVED BY COMMISSIONER CREEDON, SECONDED BY COMMISSIONER GULSVIG to approve the minutes of December 20, 2006 with noted change. Minutes were approved 5-0. (Commissioner Irby and Commissioner Anderson were absent.)

5. ACTION AGENDA ITEMS

CHAIRMAN FLANDERS explained to the audience that prior to the Commission meeting, Planning Commission members and Staff met in a study session to discuss each of the items on the evening's agenda. He further stated

that Staff would read the consent agenda for the record. At the conclusion of the reading, Commission would be voting on the Consent agenda items. Consent items on the agenda were highlighted by an asterisk. He said that the audience would have the opportunity to pull any of the items for discussion.

MR. BOB WEWORSKI, PRINCIPAL PLANNER, stated the following items were for the consent agenda approval with stipulations for items A, B, D and J.

A. PDP06-0020 ERICKSON CONSULTING

APPROVED.

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for two industrial buildings located at 2350 N. Nevada Street, Lots 11 and 12 of the Westech Corporate Center.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2858, in case PL98-0020 WESTECH PAD.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Erickson Consulting", kept on file in the City of Chandler Planning Services Division, in File No. PDP06-0020, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. 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.
5. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls and the Director of Public Works for arterial street median landscaping.
6. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
7. *The landscaping along Nevada Street shall conform to the commercial design standards for tree sizes and planting in spacing.*
8. No outside storage or display of any kind will be permitted for any business outside of the fenced yards behind buildings. Such storage shall not be taller than the perimeter fence and shall not reduce the amount of available parking spaces as required by Chandler Zoning Code.
9. *Any monument sign or building signage shall be halo-illuminated or non-illuminated.*
10. All raceway signage shall be prohibited within the development.
11. All roof drainage shall be internalized.

B. PDP06-0048 LA PETITE ACADEMY AT CARMEL VILLAGE PLAZA

APPROVED.

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for a child care center on approximately 1.41-acres within the Carmel Village Plaza located at the southwest corner of Gilbert and Queen Creek Roads.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 3788, in case DVR05-0052 CARMEL VILLAGE PLAZA.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "La Petite Academy" kept on file in the City of Chandler Current Planning Division, in file number PDP06-0048 LA PETITE ACADEMY AT CARMEL VILLAGE PLAZA, except as modified by condition herein.
3. The landscaping in all open spaces and rights-of-way shall be maintained by the adjacent property owner or property owners association.
4. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
5. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
6. ***The applicant shall work with Staff to break-up the stucco wall planes through additional colors, scoring and/or architectural features. Details to be worked out with Staff.***
7. 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.
8. All raceway signage shall be prohibited within the development.
9. All future building mounted signage shall be limited to internally lit pan-channel or individual reverse pan-channel, halo illuminated lettering.

C. PDP06-0050 MONTAGE BY CHARLEVOIX

CONTINUED TO THE FEBRUARY 7, 2007 COMMISSION MEETING.

Request Preliminary Development Plan (PDP) approval for single family housing product on 92 lots within a single-family residential subdivision. The site, which is approximately 35 acres, is located ¼ mile north of the northeast corner of Chandler Heights and Lindsay Roads.

D. PDP06-0056 PARCLAND CROSSING

APPROVED.

Request Preliminary Development Plan (PDP) approval of a comprehensive sign package for a mixed-use development with Office, Commercial Retail, and Residential

Condominiums. The property is approximately 40 acres located at the northeast corner of Alma School and Willis Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "ParcLand Crossing Comprehensive Sign Package," kept on file in the City of Chandler Planning Services Division, in File No. PDP06-0056, except as modified by condition herein.
2. Compliance with the original stipulations adopted by the City Council as Ordinance 3858, case DVR05-0063 ParcLand Crossing, except as modified in condition herein.
3. *The freeway pylon monument sign shall be prohibited on the site.*

E. UP06-0056 WARNER/101 MONOPALM

APPROVED.

Request Use Permit approval to install a 50-foot monopalm wireless communication facility within an Agricultural (AG-1) zoning district. The property is located north of the northeast corner of Price Road (Loop 101 Freeway) and Colt Road, about 1,000 feet north of Warner Road.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. There shall be two live palm trees installed and maintained adjacent to the monopalm. The trees shall be of 20' and 25' heights at the time of planting and shall match the monopalm's appearance.
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.

F. UP06-0072 CHEVRON MONOPALM

APPROVED.

Request Use Permit approval to install a 65-foot monopalm wireless communication facility within a Community Commercial (C-2) zoning district. The property, which contains a Chevron service station, is located at the southeast corner of Cooper Road and Chandler Boulevard.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. Landscaping shall be installed along the ground equipment screen wall nearest to the Consolidated Canal. As necessary, the ground equipment shall be moved away from the canal in order to accommodate the landscaping.
3. The wireless facility shall be limited to a height of 50'.
4. 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.

G. UP06-0078 HONG KONG BISTRO

APPROVED.

Request Use Permit approval for a Series 12 (Restaurant liquor license) for on-premise consumption within a new restaurant. The subject property is located at 4990 S. Gilbert Road, Suite #8.

1. The Use Permit is granted for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. 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.
3. The Use Permit is non-transferable to other store locations.
4. In order to serve alcohol on the patio, the patio must meet enclosure requirements.

H. UP06-0080 VILLALPANDO'S MEXICAN RESTAURANT

APPROVED.

Request Use Permit approval to sell liquor (Series 12 Restaurant License) for on-premise consumption only within a new restaurant. The property is located at 7450 West Chandler Boulevard.

1. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit re-application and approval.
2. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
3. The Use Permit is granted for a Series 12 license only, and any change of licenses shall require re-application and new Use Permit approval.
4. The Use Permit is non-transferable to other restaurant locations.
5. Landscaping throughout the site, including adjacent to the building, is required to be in compliance with the site's original landscape plan. Landscaping shall be installed within 30 days after City Council approval of the Use Permit. The applicant is responsible for contacting Site Development for a landscape inspection.
6. The site shall be maintained in a clean, weed, and debris free manner.

I. UP06-0082 PEKING GARDEN

APPROVED.

Request Use Permit approval to sell alcohol (Series 12 Restaurant License) within a new restaurant located at 4055 S. Arizona Avenue, Suite #8, at the southeast corner of Ocotillo Road and Arizona Avenue.

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. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.

J. UP06-0083 FAMOUS SAM'S

APPROVED.

Request Use Permit approval for a Series 6 (Bar liquor license) for on-premise consumption within an existing restaurant and bar. The subject property is located at 940 N. Alma School Road, Suites #106-109.

1. The Use Permit is for a Series 6 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.
2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of a Use Permit.
4. The Use Permit is non-transferable to any other store location.
5. *The Use Permit shall remain in effect for five (5) years 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.*

CHAIRMAN FLANDERS stated the consent agenda would be approved by one single vote. He had two speaker cards for Item K so he said that there would be a full presentation. He inquired if any member of the audience would like to pull any of the Consent items. There was no response from the audience.

MOTION BY COMMISSIONER CREEDON, SECONDED BY COMMISSIONER CASON to approve the Consent Agenda with the additional stipulations as read in by Staff. Motion was approved 5-0 (Commissioner Irby and Commissioner Anderson were absent.)

ACTION:

UP06-0085 IBIZA BLUE RESTAURANTE

Request Use Permit approval to sell alcohol (wine & beer) by individual portions for on-premise consumption or in the original container for off-premise consumption (Series 7 License). The restaurant is located at 1964 North Alma School Road, within the Pollack Warner Plaza at the southwest corner of Warner and Alma School Roads.

1. The Use Permit granted is for a Series 7 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the 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.
3. The Use Permit is non-transferable to any other location.
4. No alcohol shall be carried outside of the building into the parking lot or off-premises. Also, the sale of "To Go" packaged liquor is prohibited.
5. 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. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication and approval of the Use Permit.
3. Decibel levels of music shall be controlled so as not to present a nuisance to residential properties beyond the boundaries of the Warner Plaza shopping center.
4. Customer access into the restaurant from the rear (alley side), or south (Stotler Street side) shall be prohibited.
9. *Security shall be provided when there is live entertainment.*
10. *A system will be set up with a responsible party for the neighbors to have access to for any concerns.*

Bill Dermody, City Planner, stated this is for a Liquor Use Permit to be used in conjunction with a series 7 (wine and beer) license at 1964 N. Alma School Road, Suites 1 through 4. This is within the shopping center at the southwest corner of Alma School and Warner Roads. This particular set of suites is at the far southern end along Stotler Drive with residences immediately west and southwest of it. This is one in a long series of restaurants and bars at the site. Previous restaurants and bars were series 12 and series 6 licenses; the most recent one *Mariscos Mi Lindo Mazatlan 2* had a series 7. This particular restaurant also has a series 7. A series 7 license from the state allows for both on-site and off-site consumption of alcohol. However, Staff has recommended a stipulation that limits this to on-site only and NO on to-go liquor.

Mr. Dermody said that there have been problems with the neighborhood. This center is not designed how they would design it today, having a restaurant so close to a residential neighborhood. These problems have been handled the best as possible over time. These

have included graffiti, noise and people parking in the neighborhood. Foremost among these, has been noise. That is the complaint they've had just recently with this particular location. There are a couple of stipulations that have been added on Staff's recommendation that would address this to some degree. One of these is number seven that says "Decibel levels of music shall be controlled so as not to present a nuisance to residential properties beyond the boundaries of the Warner Plaza shopping center". Number eight says, "Customer access into the restaurant from the rear (alley side) or south (Stottler Street side) shall be prohibited". If these stipulations are violated, which they have been recently, then Neighborhood Services Staff can site the property and in fact, they have been working with the owner recently to try to eliminate these problems. The owner has responded and done a number of things to the property including sound padding on the inside, upgrading the windows and double-weather paning the doors to try to eliminate the noise coming out. According to some neighbors that we'll hear testimony from, it is still a problem anyway. Mr. Dermody said the owner had arrived so she would be able to respond to this.

This is a Series 7 license. They are a restaurant at the same time and they do serve food. The layout has a restaurant area and a bar area. At a large area in the northern end of the suites you have some live entertainment on a regular basis, as well as a few pool tables. Staff does recommend approval of this Use Permit for one year. A one-year time limit would allow them to evaluate how well this is conforming to stipulations regarding noise and any other stipulations. Mr. Dermody said he would be glad to answer any questions that we have.

CHAIRMAN FLANDERS asked if there were any questions of Staff.

VICE CHAIRMAN HEUMANN asked Mr. Dermody if this is operating under the Use Permit from the last one 14 months ago? Mr. Dermody answered, "yes, that is our practice even if the previous one has expired and as long as you're in the process of getting a renewal to allow you to stay open". **VICE CHAIRMAN HEUMANN** also asked if the last one did not have access from Stottler or from the rear of the property? Mr. Dermody said that was correct. **VICE CHAIRMAN HEUMANN** wanted to know if the new owner wasn't aware of these stipulations? Mr. Dermody said regarding access they were not aware of a problem with that right now with the current owner. Perhaps the neighbors have a different feeling. He has not heard anything about access being an issue. **VICE CHAIRMAN HEUMANN** asked what were the police calls for? Mr. Dermody said the police calls were for noise. **VICE CHAIRMAN HEUMANN** inquired how many nights was there entertainment? Is it just Friday and Saturday nights or is it other nights and what are those hours of entertainment? Mr. Dermody said he believed it was just Friday and Saturday, maybe Thursday also. He didn't have this in his notes so he said we would have to ask the applicant. Mr. Dermody said that on Fridays and

Saturdays they are open until 2:00 a.m. and there is no restriction on the hours of entertainment, so that can happen whenever the facility is open.

CHAIRMAN FLANDERS asked the applicant to please come forward and state her name and address for the record.

Lori Tapia, 1964 N. Alma School Road, Suite 1-4, Chandler, Arizona 85224 stated that as far as the questions from the Vice Chairman they do not have side or rear access to the location at any time. The only thing that comes in through the back door is deliveries, which is during the day and during the week. As far as that being an issue when they have live entertainment, it is not an issue. They are aware of the issue with sound and she invites and asks any of the neighbors that have that issue to please make sure they are in constant communication with her. They are working to address the issue. The police that have come to the business in the evening have said that they are not in violation. As long as she continues to have a neighbor who is uncomfortable with the situation, she will continue to work with this. They have purchased sound absorption, siliconed windows and have done a great deal to reduce it. They know they have nights where things are better than others. Apart from that, when you are in an empty location and you have live music, there's more vibration. As they are now starting to build clientele, there are more people inside which consumes the sound and which will eliminate a lot of the sound going out. Obviously, there's not a lot she can do when people are coming into the location or out because they have to open that front door. From the very beginning they are using the farthest door north. There are three entryways into the business from the front side and they are using the farthest door north so they are as far away from the side entrance as possible. That also helps reduce that a little bit so that they are not as close to the street. During regular dining hours, the door closest south to the street is their main entrance into the restaurant. Anytime they have live music, they move it over. They only have live entertainment on Friday and Saturday. As they grow, they hope to grow their entertainment hours as well, but live entertainment will only be on Friday and Saturday. Anything that would happen on a Thursday night would be DJ music, which is a little bit lower. That shouldn't be an issue. As far as security, they have a contract with Sentinel Security Company, which is armed security. They do everything from cart at the door to pat search everybody coming in. There is a presence within the building and outside of the building so that at all times they have a secure premise.

CHAIRMAN FLANDERS asked if there were any questions of the applicant.

VICE CHAIRMAN HEUMANN asked what time does the music go to? Ms. Tapia said it starts at 9:30 p.m. and ends at 2:00 a.m. He also asked how long have they been open? She answered they opened on the 18th of November, 2006. **VICE CHAIRMAN HEUMANN** inquired if she had met with the neighbors in terms of addressing some of their concerns? Ms. Tapia said that every time the police have come, she asks them because they say everybody is anonymous and she respects that. Finally, she was able to

she speak to one of the neighbors and they did let her know that apparently, some of the previous owners were not very cooperative in that sense. When Neighborhood Services came and when the police came, she said for them to please contact her. She can't fix what she doesn't know is broken. They go out with cell phones at night and walk the

premises and they are working very hard to adjust the noise level. She has had a phone conversation with one lady representing the neighborhood association and also a neighbor. **VICE CHAIRMAN HEUMANN** asked Staff if this was required to have a neighborhood meeting? Mr. Dermody, City Planner, answered that it was required and said no citizens attended that meeting which was held on Wednesday, January 3. **VICE CHAIRMAN HEUMANN** inquired how many feet out did we go on this and if we mailed them out or does the applicant mail them out? Mr. Dermody said as far as the notices to advertise the hearing, we went out 600 feet from the entire shopping center as well as neighborhood organizations registered with the City within a quarter of a mile and that we mail these out. The neighborhood meeting is mailed out by the applicant and they provided mailing labels that match the ones we used to advertise this hearing. He is pretty confident that was an accurate list they used. **VICE CHAIRMAN HEUMANN** asked Ms. Tapia if this was her only property? She answered that this was her only property.

CHAIRMAN FLANDERS asked if there were any other questions for the applicant.

CHAIRMAN FLANDERS went to the audience and said he had two speaker cards. He asked Lisa Lugar to please step forward and state her name and address for the record.

Lisa Lugar, 1801 N. Apache Drive, Chandler, Arizona 85224, said she has an issue with the noise. She first wanted to address the point about the neighborhood meeting. She received a notice about the neighborhood meeting on Friday the 29th of December for a meeting that was on the 3rd of January. Previous to that she had called and spoke with Bill Dermody and told him of her concerns. At that time, he told her it wasn't necessary for her to attend the meeting because she had spoken with the owner and she had spoken with Sandy Whitten at Neighborhood Services and with him. Her complaint would be noted. Aside from that, she has called the police several times complaining of the noise. She stated that it's the kind of noise you hear when you're in a car and you hear the car next to you with that loud thump, thump noise. If you heard that constantly from 9:00 p.m. to 2:00 a.m. on Friday and Saturday night, it would probably drive you crazy. She did talk to Lori on the phone and said she was very receptive to her concerns and she would be working on soundproofing. That was December 28 and she is still hearing it. She talked to one officer who called her when he was out there and said that he wasn't hearing the sound. She didn't either. Maybe the band was on a break and maybe the timing was bad. He told her if she hears it again, to call. Twenty minutes later she called back because she heard it again. She understands it's live music and she understands going out and having fun. She honestly feels that if she can hear it in her house with the doors and windows shut, it should be loud enough for the people in the club. She doesn't understand why lowering it slightly should be that much of an issue.

CHAIRMAN FLANDERS asked if there were any questions of the speaker.

VICE CHAIRMAN HEUMANN asked Mr. Dermody if he had a map and if the speaker could point out where she's located. Ms. Lugar pointed out where she lives.

CHAIRMAN FLANDERS asked the second speaker to please step forward and state her name and address for the record.

Rebecca Gooch, 1106 W. Stottler Drive, Chandler, Arizona 85224, came tonight because the original letter said they were going to have off-premise liquor sales which she didn't like. She has been in the neighborhood 10 years and the place has changed so many times. There has been shootings in the parking lot, a dead infant found in the dumpster, and the neighborhood is going down. She thought if they were going to be selling alcohol that people would be hanging around drinking. She doesn't have a problem with a restaurant in the neighborhood, but if you have to be patted down before you go in, she doesn't really understand that.

CHAIRMAN FLANDERS inquired if she was in agreement with stipulation no. 4 for no off-site liquor (beer and wine)? Ms. Gooch said she was fine with that.

CHAIRMAN FLANDERS asked if there were any questions of the speaker and if there was anybody else in the audience that would like to speak in regard to this item. He went back to the applicant as they had additional questions for her.

CHAIRMAN FLANDERS wanted to know if Ms. Tapia had a schedule as far as soundproofing windows and doors? Ms. Tapia answered as far as what they've done with windows and doors they have been completed. They are waiting for the sound proofing materials; holiday season had backed it up and it's on back order. They have soundproofed the front part of the building. When she spoke with Lisa, she wasn't aware of the problem behind. In the beginning, they thought the problem was what was happening on the side. After speaking with her, she purchased additional soundproofing materials so that they made sure they could do the back of the building as well. They should be done by the end of this month.

COMMISSIONER GULSVIG said with the kind of music they're having with the low resonance, it is going to be very difficult to soundproof because it will penetrate through many different materials. If that's the problem, they are going to have more of a problem trying to soundproof that because the low resonance that comes from a deep bass will penetrate through most objects, except lead. Whatever kind of music you have that's generating that is what you need to look at, as opposed to spending a lot of money trying to buffer it, because you won't be able to cut it all out. Ms. Tapia responded as far as that goes, they also own a recording studio and have been professional musicians for fifteen

years, so they have gone through the investigation of exactly what type of material to use for sound absorption. It maintains the sound within the facility versus it bouncing around and going out windows and doors. She said she appreciated that because it is very true. When the police officer did come this Saturday, she was on-stage. She came off-stage to

go outside and speak with the police officer. For the record, the band was playing at that time when he said he could not hear the noise.

VICE CHAIRMAN HEUMANN asked Ms. Tapia who is her audience they are attracting? One of the neighbors is talking about pat down searches and things like that. Ms. Tapia said when you hire the services of a security company that's what they do. They maintain security within your premises in any restaurant. If you go to Scottsdale, a lot of those places have security that double-check that you're not carrying a gun, pocket knife and anything that's going to come in and produce a risk to the patrons. She really couldn't say she has a specific audience because they get everything from young college kids to married couples to just people out having a good time. Yes, they have the Hispanic crowd which is their main audience, but they also get a lot of other people such as people from the Greek restaurant three doors down. When they close down at 11:00 p.m. a lot of the people from the Greek restaurant come over and sit at her bar. She just likes to know that she has a secure premise. The women, unless they have a big, bulky bag that looks like they have stuff in it, do not get patted down.

VICE CHAIRMAN HEUMANN asked what kind of music are they playing? Ms. Tapia answered they have Cumbias, plata, meringue - music to dance to. **VICE CHAIRMAN HEUMANN** wanted to know if she had some kind of system set up to have communication where there's a person they can contact when there is issues regarding the noise. We have been able to do that in other areas where there are restaurants that are very close. It's important you work with a neighborhood and you become good neighbors, like Famous Sam's that works with the neighbors really well. As a business owner and a new restaurant owner, Ms. Tapia said she has been in business for years and has no desire to be in conflict with the neighbors. She feels like she needs to be part of the neighborhood and she welcomes any comments and anybody coming in saying there's a problem. That's the only way they can address things. They want to be part of the neighborhood; they don't want to be a nuisance in the neighborhood. That's not good business.

VICE CHAIRMAN HEUMANN said this site has had seven owners in seven years. Ms. Tapia said she would not like to be labeled to any of the previous owners. They would like the opportunity to demonstrate that they are here for the community as well. **VICE CHAIRMAN HEUMANN** asked her if the reason for a series 7 is that they don't feel that if they had a 12 they would be able to meet the 40% number? Ms. Tapia said they would like to take the time to make sure they understand everything that's going on. Yes, the 40% is an issue right now because they are a new business. The restaurant is not picking up as fast as the live music is. Once they come to a balance, then yes, they will come back and ask for a series 12. They initially had a series 12 simultaneously. They decided to rescind that for now. For the record, they have no off-site. **VICE**

CHAIRMAN HEUMANN said it would be a one-year time stipulation and thinks that what is going to happen in that one year is that they are going to have make sure they are working with the neighborhood and taking care of things. Prior to the one year and if there are issues with noise and things like that, the permit can be pulled before that or at

least a citation issued. Mr. Dermody said that is correct. If the Use Permit isn't abided to and all of the stipulations, there could be a citation issued by our Neighborhood Services at any time. **VICE CHAIRMAN HEUMANN** said it sounds like she wants to work with the neighborhood and a series 12 is not going to happen if the series 7 doesn't work out. He said he wanted her to be successful. The restaurant was successful at one time, but it's been many years.

COMMISSIONER CASON asked Ms. Tapia if she is providing the amplification in the speaker equipment or does her bands bring their own in? Ms. Tapia answered that there are actually two separate systems. They have different music each weekend and different bands coming in. There is one stable set, which also serves as part of the DJ equipment and also her band, when they do play. Other than that, they have the other bands coming in that are providing the system. They monitor it all times. **COMMISSIONER CASON** asked if it would be easier to control if the bands had to work through her amplification and her speaker system and because maybe then they could control them by not having them sit on the floor and be able to damper them by having them installed in such a manner that it minimizes the bass reverberation? Ms. Tapia said there are several bands that do come in and use their equipment. Those that do not, she makes sure during the day when they're doing their set up that they're very clear on the noise levels. If there is an issue, she's going to come and ask them to lower it. That's all very clear with any new band coming in. They are all very aware of the process and they are all working with them. **COMMISSIONER CASON** asked that by having them go through their system there's really no advantage to have better control over that then there would be otherwise? Ms. Tapia replied, "not really".

CHAIRMAN FLANDERS asked if there were any other questions for the applicant and said he was going to close the floor for discussion and a possible motion.

VICE CHAIRMAN HEUMANN stated that they have seen this site change over and they have both been on Commission for a while. At least this applicant seems to have a better grasp of what's going on. He thinks there are neighborhood issues and it is very important that the applicant works with the neighborhood. He proposed stipulation no. 10 that there is a set up of a communication system and that there is an accessible person at all times on site that can be reached if the neighbor has an issue. There needs to be a responsible person if Ms. Tapia is not there and somebody that is easy to find. This is a one year Use Permit and if they are not a good neighbor and they're not living up to some of these things, Neighborhood Services can get called out, citations can be issued and it can come back to them. He said he was comfortable enough that he thinks with the applicant coming up there that she is going to work with the neighborhood and he thinks adding the stipulation will help a little bit. It seems like there is some communication.

With a new business, you have to get that balance of things to work. Whether it's three months from now or a year from now and there's issues and it's not being resolved, then he'll be the first to lead the charge to make sure there's no Use Permit renewed.

MOTION BY VICE CHAIRMAN HEUMANN, SECONDED BY COMMISSIONER GULSVIG to approve Item K, UP06-0085 IBIZA BLUE RESTAURANTE with the addition of stipulation no. 9 as read in by Staff earlier, "security shall be provided when there is live entertainment" and no. 10, "A system will be set up with a responsible party for the neighbors to have access to for any concerns". Item K was approved unanimously 5-0. (Commissioner Irby and Commissioner Anderson were absent.)

VICE CHAIRMAN HEUMANN stated as a note to the neighbors this will go on to City Council for the final approval. The next Council meeting is February 8, 2007, so if there are concerns they can address them that evening.

6. DIRECTORS REPORT
There was nothing to report.
7. CHAIRMAN'S ANNOUNCEMENT
The next regular meeting is February 7, 2007.
8. ADJOURNMENT
The meeting was adjourned at 6:11 p.m.

Michael Flanders, Chairman

Douglas A. Ballard, Secretary