

Info #1

Apr 12 2007

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, March 21, 2007 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:37 p.m.
2. Pledge of Allegiance led by Commissioner Cason.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders
Vice Chairman Rick Heumann
Commissioner Michael Cason
Commissioner Mark Irby

Absent and Excused: Commissioner Dick Gulsvig
Commissioner Angela Creedon
Commissioner Brett Anderson

Also Present:

Mr. Bob Weworski, Planning Manager
Mr. Hank Pluster, Long Range Planning Manager
Mr. David De La Torre, General Plan Coordinator
Mr. Alberto Varela, Long Range Planner
Mr. Erik Swanson, Planner
Mr. Bill Dermody, Planner
Mr. Kevin Mayo, Senior Planner
Ms. Jodie Novak, Senior Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER IRBY, seconded by **COMMISSIONER CASON**, to approve the minutes of the March 7, 2007 Planning Commission meeting. Motion to approve carried 4-0. Commissioners Gulsvig, Creedon and Anderson were absent.
5. CONSENT 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 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 with one motion. Consent items on the agenda are highlighted by an asterisk. The audience will have the opportunity to pull any of the items for discussion.

MR. BOB WEWORSKI, PLANNING MANAGER, stated items A and L are on the action agenda at this time. The following items are for consent agenda approval along with any additional stipulations.

B. DVR06-0049 CIRCLE K AT CARMEL VILLAGE PLAZA

APPROVED.

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended to allow the sale of gasoline, with Preliminary Development Plan (PDP) approval for the construction of a gasoline station on approximately 2-acres of a 12.48-acre site located at the southwest corner of Gilbert and Queen Creek Roads.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CIRCLE K @ CARMEL VILLAGE PLAZA" kept on file in the City of Chandler Current Planning Division, in file number DVR06-0049, except as modified by condition herein.
2. Right-of-way dedications to achieve full half width for Gilbert Road and Queen Creek Road, including turn lanes and deceleration lanes, per the standards of the Chandler Transportation Plan.
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. 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.
7. Completion of the construction, where applicable, 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.
8. 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.
9. The developer shall be required to install landscaping in the arterial street median 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.

10. The source of water that shall be used on the open space, common areas, and landscape tracts shall be reclaimed water (effluent). If reclaimed water is not available at the time of construction, and the total landscapable area is 10 acres in size or greater, these areas will be irrigated and supplied with water, other than surface water from any irrigation district, by the owner of the development through sources consistent with the laws of the State of Arizona and the rules and regulations of the Arizona Department of Water Resources. If the total landscapable area is less than 10 acres in size, the open space common areas, and landscape tracts may be irrigated and supplied with water by or through the use of potable water provided by the City of Chandler or any other source that will not otherwise interfere with, impede, diminish, reduce, limit or otherwise adversely affect the City of Chandler's municipal water service area nor shall such provision of water cause a credit or charge to be made against the City of Chandler's gallons per capita per day (GPCD) allotment or allocation. However, when the City of Chandler has effluent of sufficient quantity and quality which meets the requirements of the Arizona Department of Environmental Quality for the purposes intended available to the property to support the open space, common areas, and landscape tracts available, Chandler effluent shall be used to irrigate these areas.

In the event the owner sells or otherwise transfers the development to another person or entity, the owner will also sell or transfer to the buyer of the development, at the buyer's option, the water rights and permits then applicable to the development. The limitation that the water for the development is to be owner-provided and the restriction provided for in the preceding sentence shall be stated on the final plat governing the development, so as to provide notice to any future owners. The Public Report, Purchase Contracts, and Final Plats shall include a disclosure statement outlining that the CARMEL VILLAGE development shall use treated effluent to maintain open space, common areas, and landscape tracts.

11. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
12. All raceway signage shall be prohibited within the development.
13. 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.
14. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.
15. Gasoline tank vent piping shall be screened from street view.
16. The applicant shall work with Staff to consider an alternative trash enclosure location.
17. ***The applicant shall work with Staff to provide a finished edge to the fuel canopy bottom, such as a cornice. Details to be worked out with Staff.***
18. ***The applicant shall work with Staff to break-up the stucco wall planes through additional colors, scoring and/or architectural features.***

C. DVR06-0061 MONTAGE BY CHARLEVOIX
CONTINUED TO THE APRIL 4, 2007 PLANNING COMMISSION MEETING.

Request amendment of existing Planned Area Development (PAD) zoning in order to allow increased lot coverage, eliminate certain two-story restrictions, and eliminate the requirement for copper plumbing. The site, which is approximately 35 acres, is located ¼ mile north of the northeast corner of Chandler Heights and Lindsay Roads.

D. PDP06-0044 LMA MIXED-USE
APPROVED.

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for an office development on approximately 19-acres located at the southwest corner of the Loop 202 Santan Freeway and Price Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "LMA MIXED-USE" kept on file in the City of Chandler Current Planning Division, in file number PDP06-0044, 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 property owners association.
3. Approval by the Director of Planning and Development of plans for landscaping (open spaces and rights-of-way) and perimeter walls.
4. 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.
5. Completion of the construction, where applicable, of all required off-site street improvements including but not limited to paving, landscaping, curb, gutter and sidewalks, median improvements and street lighting to achieve conformance with City codes, standard details, and design manuals.
6. 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.
7. The applicant shall work with Staff to enhance the mechanical screening elements at the building's roof. Details to be worked out with Staff.
8. 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.
9. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
10. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.
11. All raceway signage shall be prohibited within the development.

12. *The applicant shall work with Staff to provide a public art feature at each building's main entrance. Details to be worked out with Staff.*

E. PDP06-0054 CHANDLER AIRPORT CENTER – MARK IV

APPROVED.

Request Preliminary Development Plan (PDP) approval for site layout, landscaping, and building architecture for a multi-tenant office/industrial development on approximately 14-acres located at the northeast corner of Wright Drive and Germann Road (approximately ¼ mile east of the northeast corner of Copper and Germann Roads

1. Completion of the construction of all required off-site 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.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “CHANDLER AIRPORT CENTER – MARK IV.” kept on file in the City of Chandler Current Planning Division, in file No. PDP06-0054, 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. All raceway signage shall be prohibited within the development.
7. The development shall contribute a proportionate amount to the design plus construction cost for a traffic signal at Germann Road/Wright Drive, as determined by Traffic Engineering staff. The second development to receive building permit approval at the north intersection corners will be required to design and install the traffic signal.
8. The development shall provide additional trees adjacent to the buildings.
9. All potential future parking space canopies shall incorporate building materials, forms, and colors to match the development.
10. The perimeter landscaping shall be installed as part of Phase I.
11. The applicant shall work with Staff to adjust the retention basin design to be more ‘natural and pleasing’. Details to be worked out with Staff.
- 12. *The canopy design shall include materials and elements found upon the buildings.***

F. PDP07-0003 THE PARK AT SANTAN

APPROVED.

Request Preliminary Development Plan (PDP) Amendment approval amending a comprehensive sign package for a Mixed-Use Office and Retail development on approximately 18.23-acres located at the southwest corner of Ray Road and the Loop 101 Price Freeway.

1. Compliance with the original stipulations adopted by the City Council as Ordinance 3622, case DVR04-0048 SANTAN MIXED USE AMENDED, except as modified by condition herein.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "The Park at Santan" kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0003, except as modified by condition herein.
3. Sign packages, including free-standing signs as well as wall-mounted signs, shall be designed in coordination with landscape plans, planting materials, storm water retention requirements, and utility pedestals, so as not to create problems with sign visibility or prompt the removal of required landscape materials.
4. All building mounted signage facing Federal Street shall be non-illuminated.
5. All raceway signage shall be prohibited within the development.
6. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
7. All future signage shall be consistent with the signage contained within the attached exhibits with regards to sign type and quality. Any deviations shall require separate Preliminary Development Plan approval.
8. ***Building mounted signage shall occur on the building's facades in an orderly manner.***

G. UP06-0058 CIRCLE K AT CARMEL VILLAGE PLAZA

APPROVED.

Request Use Permit approval to sell liquor (beer & wine) for off-premise consumption only (Series 10 License) within a future convenience store to be located on approximately 2-acres at the southwest corner of Gilbert and Queen Creek Roads.

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 Use Permit is granted for a Series 10 liquor license only, and any change of license shall require reapplication and new Use Permit approval.
3. The Use Permit is non-transferable to another store location.

H. UP06-0084 ELDERCARE – SANTA ANNA

APPROVED.

Request Use Permit approval to operate an assisted living facility for 7 residents within an existing residential home. The subject site is located at 921 N. Santa Anna Place.

1. The assisted living home shall have no more than seven (7) residents at any time.
2. Should the applicant sell the property, this Use Permit to operate an assisted living home shall be null and void.
3. This 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 reapplication to an approval by the City of Chandler.

I. UP07-0002 WHOLE FOODS MARKET

APPROVED.

Request Use Permit approval to sell liquor (beer and wine) within a new grocery store (Series 7). The subject site is located at 2955 W. Ray Road.

1. The Use Permit is for a Series 7 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. The Use Permit is non-transferable to any other store location.

J. UP07-0005 D'VINE WINE & BAR

APPROVED.

Request Use Permit approval for a liquor license (Series 12 Restaurant) for on-premise consumption within a new restaurant. The subject property is located at 3990 S. Alma School Road.

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.

K. UP07-0016 318 S. OREGON STREET

APPROVED.

Request Use Permit approval to locate a single-family home within a multi-family zoning district. The subject site is located at 318 S. Oregon Street.

COMMISSIONER IRBY asked if a stipulation to work with Staff on the mechanical screen was being added to D. **MR. WEWORSKI** responded there already was a stipulation within the conditions. **MR. MAYO** added it was condition no. 7, "the applicant shall work with Staff to enhance the mechanical screening elements at the building's roof. Details to be worked out with Staff."

CHAIRMAN FLANDERS stated that prior to making a motion, he has a "conflict of interest" on item I so he will be abstaining on that item.

MOVED BY COMMISSIONER IRBY, seconded by **COMMISSIONER CASON**, to approve the Consent Agenda with the additional stipulations read into the record. Motion to approve carried unanimously 4-0 with one abstention on Item 'I'. (Commissioners Gulsvig, Anderson and Creedon were absent.)

CHAIRMAN FLANDERS stated that they were not able to discuss Item 'L' in the Study Session, therefore he is going to have that item presented first and then they will go to item A.

L. ZCA07-0001 EXTENSION OF LIQUOR PREMISES IN THE CITY CENTER ZONING DISTRICT

City Initiative to amend Chandler City Code Section 35-3203/D (City Zoning Code) and Chandler City Code Sections 46-4.2/A and 46-4.2/B.

HANK PLUSTER, LONG RANGE PLANNING MANAGER, stated this item is a request to amend both the City Zoning Code and a companion amendment to the City Code, both pertaining to the CCD, the City Center District. That's the zoning district that is a fairly unique district in the zoning code pertaining to the area of the downtown square. It's the southwesterly and also the northern sides of the AJ Chandler Park Square. It's unique in the sense that it is really based upon historic considerations. In the year 2000, they wrote that district to get land uses and development standards in line with the downtown setting. This particular amendment would allow liquor uses, such as restaurants, microbreweries and wineries, to extend their premises, only within this district, out onto the sidewalk. Typically, that would be under the colonnade that the City owns on the south, west and the north sides of the square. There might be one or two other areas in addition to that, within the CCD, that a restaurant or another liquor-oriented use might want to take advantage of to extend their premises out onto the sidewalk. As far as the zoning code amendment itself, it's fairly straightforward. There are two primary features to it. First of all, it would trigger a use permit. Standard use permit rules apply that you typically see for any liquor use permit; you will see a site plan and architectural considerations. In this case, they are going outside onto the sidewalk so there will be some geometry there; entrances, and how does this tie back into the adjoining storefront. In this case, the restaurant, the winery or the microbrewery, as the case may be. The other feature has to do with a couple of basic standards pertaining to the method of enclosure. For example, Kokopelli, which is on West Boston. There are two features that the code will specify. One has to do with a fence enclosure. In this case, staff chose 42" of wrought iron fence enclosure that is specified as part of the code standard. The reason for doing that is because staff has had some discussions with the State of Arizona Liquor License Control and they are very adamant about the fact that there must be some sort of containment; some sort of what they call 'permanent enclosure'. They don't define what a permanent enclosure is, but there has to be something. They leave that up to the city's choice, but you have to have something. Staff chose a 42" wrought iron fence simply to match what is already out there. Again, this example is with Kokopelli; La Stalla has something very similar. It can have gates if necessary and most likely will have gates. The code amendment would require those to be self-closing and self-latching.

MR. PLUSTER continued the other requirement in the code amendment has to do with minimum unobstructed sidewalk clearance remaining. In most cases, under the colonnade, that will vary. Right now, today, from the storefront going to the inside face of the columns, that will vary anywhere from 11 feet to 13½ feet. Staff has physically measured that. There is a little bit of variable there. If there is, for example, a minimum six-foot unobstructed sidewalk width, that will leave about a 7½-foot area for restaurants to enclose, at most. There is a provision in the code where that can go down to five feet

in cases where the city is modifying the right-of-way with new construction. There will be an example of that in a couple of months involving the microbrewery. There was a Use Permit on the last agenda for the southwest corner of San Marcos Place and Commonwealth. In a situation like that, the sidewalk width, unobstructed clear pedestrian width, can go down to five feet. The reason for that is to still allow for some landscaping and planters there. That's really in a new construction situation. If you are under the colonnade, for the most part, that would be a six foot minimum width unobstructed area, after the enclosure. Staff doesn't pretend to predict all of the various nuances of any particular use; those are best left to individual use permit applications. There may be times when thought will need to be given about hours of operation outside, noise, music and those sorts of compatibility issues. That will vary from use to use as it comes forward on a case-by-case basis. Commission will have all of the typical use permit options to stipulate various conditions to address any particular nuance of any particular application. Staff doesn't expect a large number of Use Permit applications coming forward, however, there have been some discussions with the microbrewery already and staff anticipates they will apply. He feels there will probably be two or three other establishments that will want to do this. Staff feels this is consistent with the ambience they are trying to create downtown; the CCD has been successful. A number of successful, strong restaurants and food service can already be extended out onto the public sidewalk, simply by obtaining an encroachment permit. The next step would be to take that one more level, which would be liquor premises, but again, this gets into fence enclosures and other considerations.

MR. PLUSTER continued staff has pretty well extended notice for this item. Staff presented the proposed amendment to the Downtown Chandler Community Partnership merchants. They were very supportive of the notion of extending liquor premises out onto the sidewalk. The issue of smoking came up. Staff's first inclination was to prohibit smoking. The merchants' observation was to have a level playing field. Not only for downtown, but Citywide, a lot of businesses will be applying for outdoor patios for the purpose of smoking because of proposition 201 that goes into effect on May 1st. Staff has looked at those standards and been in contact with the State Department of Health. They have some preliminary standards right now and would allow smoking underneath a solid patio as long as the sides are open, which is the case on the Downtown Square. There are some distance separations, but some of those will not apply if a proprietor designates an outdoor smoking area. Another consideration in support of not prohibiting smoking was the fact that a patron wanting to smoke after a meal could simply step outside the enclosure, smoke, and then step back inside the enclosure. The practicality of prohibiting smoking began to be a real challenge. As far as the merchants were concerned, they just wanted a level playing field. A proprietor can still go beyond the requirements of Prop. 201 and simply ban smoking altogether. The City can also go beyond and ban smoking altogether. As far as the downtown merchants are concerned, they simply wanted to have the opportunity to meet state regulations. Staff's feeling was to defer to the state regulations. Staff also visited with the Downtown Chandler Community Partnership Board. There is a letter in the Commissioner's packets from the

DCCP supporting this amendment, and staff appreciates their support. Staff recommends approval of this case.

CHAIRMAN FLANDERS stated this is an extremely important amendment for the downtown area. It gets everybody on a level playing field with the rest of the City as far as activities and flexibility. He and Vice Chairman Heumann attended the DCCP meeting in February when this amendment was presented. Everybody was behind it 100%.

VICE CHAIRMAN HEUMANN thanked Mr. Pluster for the presentation. He asked if any liability issues have been worked out through legal. **MR. PLUSTER** responded that liability is already accounted for in Chapter 46 of the City Code. Any encroachment permit the City issues have to have the liability considerations satisfied; insurance in the amount specified by the City's Risk Management Division. **VICE CHAIRMAN HEUMANN** asked how the City is going to handle a situation where someone only wants the extension of premises for a few months. Will they have to go through the Use Permit process? **MR. PLUSTER** responded there are a couple of options under the current City Code. There might be one or two examples in the Downtown Square where a business would want to do this once a month, once a year, or sporadically throughout the year, and don't want to go through the Use Permit process which requires a permanent enclosure. That has been done in the past with a Special Events license. 98 South would be an example where they are part of the Jazz Festival celebration and have a little bit of a white fencing affair outside. That example was part of staff's presentation to the merchants. That may or may not be an everyday affair for them. It comes back to the applicant to decide if they want to meet these standards and get that approval. The Use Permit might be for a year, 3 years, 5 years or permanent, that is the judgment of Planning Commission and City Council. Or they can keep on doing what they have done in the past if it's not going to be a customary part of their business. **VICE CHAIRMAN HEUMANN** said his concern is the temporary ones. Wrought iron is the standard for the permanent fences, will there be a standard for the temporary ones so there isn't all different types put up. Obviously, temporary means it's not going to be anchored, but will they be allowed to put whatever they want out there. He would like to see some standards. The little market has done some things; they do some wine tasting. Will there be a standard so there isn't a hodgepodge of fences. Kokopelli went through the expense and did a nice job. He has heard about some of the plans for the brewery and it will be very well done. Would this amendment control the temporary fences at all? **MR. PLUSTER** responded the code amendment says you have to have a 42" high wrought iron containment, even for the temporary functions. This has already passed approval of State Liquor License Control. The temporary fencing looks permanent, but it's actually rather simple. A leg is bolted into the concrete with relatively small holes in the concrete. The City's concern is how to physically attach fencing into city of right-of-way. This is probably the very simplest form of doing that. There are some things internally that need to be worked out administratively for the encroachment permit. Those are the kind of details that city Staff, through our department, will be doing. The simplest standard will be wrought iron with a leg bolted into the concrete. Code requires pavement restoration.

That is something much more expensive. Normally, this is a very minor hit on our pavement but it is still an impact. In this case, there are flanges at the base of the wrought iron fencing. It's permanent in the eyes of the State, temporary in our eyes. If a tenant goes out after a year and the next use doesn't want to have liquor uses, this is very easily removed. The City will probably formalize something like this as a standard over the front counter so people will know what is expected. **VICE CHAIRMAN HEUMANN** said this is great, but again going back to the temporary fencing, if somebody is going to do it for a weekend, during Jazz Festival for example, he doesn't think the City wants them bolting something into the ground and then fixing it. Is there going to be a standard for the temporary events. Some kind of uniformity so we don't have somebody throwing up a green fence one weekend and then a white and purple fence. Is there a standard for those temporaries that go in? They are not mounted to the ground and he doesn't think that will work because then they are repairing the concrete every other day or every other weekend. Is there something that is going to stay for temporary stuff with some kind of standardization? **MR. PLUSTER** responded that Staff could do that. It would probably go the Special Event license route. At Commission's direction, staff can develop a standard that would be pretty uniform fencing whatever the affair may be. Staff doesn't think that will be too wide spread other than special events. Again, the Jazz Festival is a good example. By in large, folks that really want to make that statement to expand their premises will likely be coming here through you and Council for a bonafide use permit. **VICE CHAIRMAN HEUMANN** said he thinks those people should be protected. Kokopelli spent the money to do it and it is very well done. He was down there last Saturday night and there were a lot of people outside. **MR. PLUSTER** stated that can be done just for the temporary or occasional weekend; there can be a standard that is handed out over the front counter. **VICE CHAIRMAN HEUMANN** stated he thinks that would be fair to the merchants who are spending the money to maintain the fencing on a permanent basis; since wrought iron does take some maintenance. He feels it's a great addition to the square for people to be able to have a drink and relax.

COMMISSIONER IRBY stated he was excited when he saw this item on the agenda, but was disappointed in the fencing. He was hoping they would be able to eliminate the permanent fencing; or any fencing, and just see a nice café. He doesn't understand the State's logic that the fence keeps a drink within that area. Hopefully, somewhere in the future that issue can be resolved. **MR. PLUSTER** commented that staff agrees. He had that conversation with the State Liquor Department staff because it's not in the Statutes or even in their Administration Regulations. People in the restaurant business will confirm that the State is adamant about a permanent enclosure and they will not issue a license without one. Staff finally conceded the issue.

COMMISSIONER IRBY asked about the issue of a continuous walkway. For example, Downtown Tempe has some outdoor patio spaces that are up against the building, and others end up being out towards the curb line. He is concerned about too many establishments having little fences and yards creating the need for pedestrians to have to

zigzag their way down the sidewalk instead of a nice continuous walk. He doesn't think it will be a big issue, but it can be annoying.

MR. PLUSTER responded that did occur to staff, as well. That's one of the reasons this amendment requires the enclosure to be contiguous; part of the enclosure has to be the storefront, it can't be an island. Staff didn't want to mix patron traffic with servers carrying liquor across the public right-of-way to an island. Another consideration is that the proposed smoking regulations under Proposition 201 require that if there is an outdoor designated smoking area, it also must be contiguous to the building front.

COMMISSIONER IRBY asked how this amendment will affect a business that doesn't serve alcohol but wants tables and chairs in the right-of-way. **MR. PLUSTER** responded it won't affect them at all. As long as they have a City encroachment permit for food service only, and not liquor, they don't need the fence enclosure. They can even have an island setup as long as they're not serving liquor and there's no smoking.

MOVED BY VICE CHAIRMAN HEUMANN, seconded by **COMMISSIONER IRBY**, to approve ZCA07-0001 EXTENSION OF LIQUOR PREMISES IN CCD. Motion carried unanimously 4-0 (Commissioners Gulsvig, Anderson and Creedon were absent).

VICE CHAIRMAN HEUMANN asked staff when this would go into effect if approved by City Council. **MR. PLUSTER** responded the introduction of the ordinance will be April 12th and the final adoption on April 26th. The ordinance would take affect 30 days later on May 26th.

A. AP05-0003 / DVR05-0040 PINELAKE CONDOMINIUMS

Request an Area Plan amendment from business park to multi-family residential land use, and Rezoning from Planned Area Development (PAD) zoning for business park and Agricultural (AG-1) zoning to PAD for residential condominiums with Preliminary Development Plan (PDP) approval to allow a residential condominium development. The property is located at the southeast corner of Pinelake Way and Ocotillo Road, which is approximately one half-mile east of Arizona Avenue and on the south side of Ocotillo Road.

MS. JODIE NOVAK, Senior Planner, informed the Commission that the applicant on this case is going to come forward and request a continuance.

MR. RALPH PEW, 1930 E. Brown Rd., Mesa, stated he has an unusual request and they are in a difficult and interesting circumstance. On behalf of the applicant, Sudbury, LLC., they have significant neighborhood support for this request. It's one of those rare occasions when an applicant is missing his neighborhood support. One member of the Board of Director's of Pinelake is here, Mr. Jim Hallman. There is also a senior member of the City's traffic engineering staff present to talk about the access point on Pinelake Way. Mr. Pew continued that he would like this case to be continued to the April 18,

2007 agenda. That would give them time to work out the access issue with the engineering department and to have the support present from the neighborhood that they have been working on for the past 1½ years. The neighborhood is very supportive of this case and he wants the Commissioners to know that.

VICE CHAIRMAN HEUMANN stated they are really dealing with two issues on this case; whether this is a viable use on the property and the access onto Pinelake Way. Additionally, he asked if it is necessary to postpone the case until April 18th.

MR. PEW responded that typically he would want to take the case forward as quickly as possible, but given the technical aspect of getting everyone together, it's going to take longer than a few days to get an answer and provide the information to staff in time for their staff report in two weeks. Therefore, they are asking for a 30-day continuance.

MS. NOVAK stated the information for the April 4th meeting is being prepared within the next few days. The applicant has been aware of staff's issues with that access, and the neighborhoods don't want it. It's important for the applicant to take the time to work with that neighbor, or neighbors, and see if something might change with that issue.

MOVED BY VICE CHAIRMAN HEUMANN, seconded by **COMMISSIONER CASON**, to continue AP05-0003/DVR05-0040 PINELAKE CONDOMINIUMS to the April 18, 2007 Planning Commission Meeting. Motion to continue carried unanimously 4-0 (Commissioners Gulsvig, Anderson and Creedon were absent).

6. DIRECTOR'S REPORT
None.

7. CHAIRMAN'S ANNOUNCEMENT
The next regular Planning Commission meeting will be April 4, 2007 at 5:30 p.m. in the City Council chamber.

8. ADJOURNMENT
Meeting adjourned at 6:14 p.m.

Michael Flanders, Chairman

Douglas A. Ballard, Secretary

