

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF
CHANDLER, ARIZONA, April 4, 2007 held in the City Council Chambers, 22 S.
Delaware Street.

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

Chairman Michael Flanders
Vice Chairman Rick Heumann
Commissioner Michael Cason
Commissioner Mark Irby
Commissioner Brett Anderson
Commissioner Dick Gulsvig
Commissioner Angela Creedon

Also Present:

Mr. Bob Weworski, Planning Manager
Mr. Kevin Mayo, Senior City Planner
Ms. Jodie Novak, Senior 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

MOVED BY COMMISSIONER IRBY, seconded by **COMMISSIONER HEUMANN**, to approve the minutes of March 21, 2007. Motion was approved 4-0 with 3 Abstentions. (Commissioners Gulsvig, Anderson & Creedon were absent on 3/21/07.)

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 B and F are on the action agenda at this time. The following items are for consent agenda approval along with any additional stipulations:

A. DVR06-0061 MONTAGE BY CHARLEVOIX

APPROVED.

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.

1. Development shall be in substantial conformance with existing Planned Area Development (PAD) zoning approved through Ordinance No. 3607 and Preliminary Development Plan (PDP) approval except as modified by the application materials of this request (narrative, site plan, and illustrations) and associated conditions of approval.
2. One-story homes shall be limited to 50% maximum lot coverage. Two-story homes shall be limited to 45% maximum lot coverage.

C. PDP07-0005 CHANDLER AUDI MONUMENT SIGN

APPROVED.

Request Preliminary Development Plan (PDP) approval for new freestanding monument signs as part of an automotive sales and service development on approximately 24.14-acres located west of the northwest corner of 54th Street and Orchid Lane (1/4 mile north of Ray Road).

1. Compliance with the original stipulations adopted by the City Council as Ordinance 3642, case DVR04-0056 MERCEDES BENZ & LEXUS OF CHANDLER, except as modified by condition herein.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CHANDLER AUDI MONUMENT SIGN" kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0005, 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 raceway signage shall be prohibited within the development.
5. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
6. 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.

D. UP07-0015 BELLA VINO RISTORANTE
APPROVED.

Request Use Permit approval for a liquor license (all spirituous liquor) for on-premise consumption within a new restaurant (Series 12 Restaurant). The subject property is located at 985 W. Chandler Heights Road, Suites 4-8.

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.

E. UP07-0020 SPICES MEDITERRANEAN KITCHEN
APPROVED.

Request Use Permit approval to sell liquor (Series 12 Restaurant License) for on-premise consumption only within an outdoor dining area for a new restaurant. The property is located at 4040 West Ray Road, Suite 12, which is at the northwest corner of Ray Road and McClintock Drive in the Copper Point (Albertson's) commercial center.

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, a bar serving area or the addition of entertainment related uses shall require new Use Permit reapplication and approval.
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.

G. UP06-0065 SETON CATHOLIC HIGH SCHOOL
APPROVED.

Request approval for a Use Permit extension for the use of a modular building for classroom uses. The subject property is located at 1150 N. Dobson Road.

1. The Use Permit shall remain in effect for three (3) years from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to the City of Chandler and approval by the City of Chandler.
2. Substantial expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.

H. UP06-0081 CENTRO DE ALABANZA JUDA
APPROVED.

Request Use Permit approval to locate and operate a Church in a single-family zoned district. The subject site is located at 450 S. Hamilton St.

1. Substantial expansion or modification beyond the approved exhibits shall void the Use Permit and require new Use Permit application and approval.

I. PPT07-0006 AIRPARK SOUTH PROFESSIONAL VILLAGE
APPROVED.

Request condominium preliminary plat approval for an office development near the Chandler Municipal Airport located at the southwest corner of Cooper Road and Queen Creek Road.

J. PPT07-0002 POLLACK BUSINESS PARK SOUTH LOTS 1 THRU 9
APPROVED.

Request preliminary plat approval for a commercial retail, office, showroom, and light industrial development located at the southeast corner of Arizona Avenue and Elliot Road.

CHAIRMAN FLANDERS asked if there was anybody in the audience who wanted to pull any of the items from the Consent Agenda for a full presentation.

VICE CHAIRMAN HEUMANN stated he would not pull "Item A" but would be voting against it. He would like to send a message to Council to take a look at the requirement for PEX. They have been told that PEX is a great material. One of the flaws in it is 'under pressure' and rather than him sitting there making a stipulation on pressure regulators, he would like to have Council take a look at the building code as to whether it is sufficient. There are issues in the City of Chandler in terms of pressure; extreme pressure is being put on plumbing around town. He said with that he would be voting No on 'Item A'.

COMMISSIONER CASON said his skepticism of this product is on the record and it would be nice if the homebuilders took the responsibility to ensure against the two items that the manufacturer sites as being at risk. He said they are 'pressure and temperature'. All of their studies have shown that these are the two risks for the product. It would be nice if the homebuilders would install items into their homes that protect the citizens of Chandler against these two known defects by the manufacturer.

CHAIRMAN FLANDERS asked for a motion for the Consent Agenda. **MOVED BY COMMISSIONER CREEDON**, seconded by **COMMISSIONER ANDERSON**.

Motion to approve the Consent Agenda as read in by Staff passed unanimously 7-0 with the noted exceptions.

ACTION:

B. PDP06-0061 HOLIDAY INN/T-MOBILE

Request Preliminary Development Plan approval for a wireless communications facility located on top of an existing hotel. The subject site is located at 1200 W. Ocotillo Road.

MR. ERIK SWANSON, CITY PLANNER, stated that this was a request for a Preliminary Development Plan amendment to allow for the location of a wireless communication facility on top of an existing hotel located west of the northwest corner of Ocotillo and Alma School Roads.

The applicant is requesting to deviate from the code requiring screening around mechanical equipment. Code requires that all mechanical equipment be screened. In addition, any screening needs to be architecturally integrated to match with the existing elevations. The request did not meet either of those requirements. The applicant is requesting that no mechanical screening be used.

Mr. Swanson explained that the antennas exceed the height of the parapet on the building by approximately 5 feet. In addition, associated mechanical equipment extends above the parapet approximately one foot. According to code the entire area needs to be screened to block it from view. The applicant is proposing to not screen the antennas or mechanical equipment, feeling that it draws attention to the area. Mr. Swanson stated that Staff had heard from two neighbors both stating that they would be able to see this from their homes.

The applicant has made attempts to find other locations where the antennas could be located. One area was at the Snedigar Sports Complex. Currently, there are three existing towers. In addition, the applicant went to the owners of the water tanks; the owners declined. The City of Chandler Parks and Recreation department also decided that three towers were enough at the ballpark. Some of their concerns deal with access easements, how to get to the mechanical equipment, and concerns of that nature.

Because the request goes against zoning code, Staff is requesting denial.

CHAIRMAN FLANDERS asked if, in the past, there were combined carriers on one tower?

MR. SWANSON stated that current code allows for two ballfield lights to have carriers on them; however, it's not allowed to co-locate on a pole. There can be two carriers per ballfield, but only one on a light pole. He said that it restricted it in this case.

In response to a question from the Chairman, Mr. Swanson responded that this particular area offers a wider range of reception.

MR. SWANSON again explained the code, which allows for two carriers per individual ballfield; however two carriers were not allowed to co-locate on one pole.

CHAIRMAN FLANDERS noted that there are other opportunities for the applicant.

MR. SWANSON said that he had contacted the Parks and Recreation department and their board determined that three towers were enough at the Snedigar Sports Complex due to the access and easement issues, as well as parking concerns.

VICE CHAIRMAN HEUMANN asked if there was a new ballfield that had been opened up to the east of Snedigar. Mr. Swanson said that he was not aware of any. He said that there was an expansion, but nothing had been planned for there at this point in time and there was nothing out there.

VICE CHAIRMAN HEUMANN stated that he believed that a cricket field had been approved for this area.

MR. BOB WEWORSKI, PRINCIPAL PLANNER, said that the additional area was related to Fulton Ranch. There are recreational fields, but it did not dictate if there was lighting or exactly what would be on there. It would be a park area.

DECLAN MURPHY, T-MOBILE, 2601 W. BROADWAY, TEMPE, AZ stated that they had earlier approached the City of Chandler zoning in early 2005. They had a design to place antennas and equipment on the rooftop of the Holiday Inn. The design did not propose screening due to their interaction with the Ocotillo HOA design review board. It was the HOA's preference that the equipment not be screened; they felt the antennas on their own would be less noticeable. The applicant stated that they had gotten feedback from the city zoning department stating that with no screening it would not be in compliance with code; however, if the request could be brought into compliance, it would be an acceptable design and that they could move forward with the site. Mr. Murphy said that at that time they went back to the Ocotillo design review board and explained that they needed to come into compliance with the wireless ordinance and screen the equipment. He went on to say that they had a letter to that affect which stated that if they screen the antennas and equipment, it would be acceptable.

Mr. Murphy then explained that at that point they moved forward and started investing in construction analysis and drawings, which showed the screening of the antennas. When they submitted for a building permit, they found that it wasn't acceptable. He said by that time they had invested a lot of time and effort.

He pointed out that they had explored other alternatives. The park was an option for them; co-locating with another carrier was desirable and was an easy process; however,

code would not allow that. He said that the other next high verticality was the water tank, which is south of the hotel. He said there was no other option, but to go back to the hotel. He commented that they had done a mock up of the project and determined that it could be seen by the neighborhoods to the southeast and southwest. Mr. Murphy said that the neighbors' concerns were genuine.

Mr. Murphy said that what they're proposing now with the screening was to mimic one of the hotel's apexes. He said that they could use a tile similar to the roof tile. He felt this would be a way to integrate the design as far as the antennas were concerned. He said there would also be equipment on the rooftop and noted that the equipment cabinet would protrude about one foot above the parapet, which would be visible. Mr. Murphy said they are proposing some type of screening for the equipment as well. He said with that he felt they would be in compliance and would address the neighbors' concerns.

CHAIRMAN FLANDERS asked the applicant if they had considered a monopalm.

MR. MURPHY said that the monopalm was one of the most common sites throughout the state, and they wouldn't hesitate doing a monopalm. He said that T-Mobile was trying to respond to customer demand in this particular area. They had explored an area where a monopalm could be used; however, they were not able to find a suitable location.

COMMISSIONER GULSVIG asked if the applicant was now going to provide the screening that Staff was objecting to and put them in compliance with the code?

MR. MURPHY said that was correct. They were trying to comply with the wishes of the Ocotillo HOA design review board, whose wish was to have no screening. He said that he believed that they would be able to get the approval of the design review board with the current proposal. He said they were proposing to screen everything and felt it would be in a tasteful manner that would blend in with the building architecture. That would bring them into compliance and hopefully satisfy the neighbor concerns.

COMMISSIONER GULSVIG asked Council if the city would not prevail over an HOA?

MR. GLENN BROCKMAN, ASST. CITY ATTORNEY, stated that they were parallel regulations. One was the HOA requirement and the other was the city code. The problem the applicant had was that he needed to satisfy each of the requirements, the private as well as the public requirements. He felt that part of the problem wasn't just the screening issue, but the requirement from the city code that requires the facility to be architecturally compatible and designed to be an integral part of the support structure. He felt that was part of why staff was objecting to this, the design did not meet that standard.

COMMISSIONER GULSVIG asked Mr. Swanson if this would satisfy the requirement?

MR. SWANSON responded that Staff would have to review it. He said that there were two issues. One was that all the mechanical equipment needed to be screened. The problem was that when they went to screen it, it created a wall that was not architecturally integrated. Staff was not in support of that because it did not integrate with it. The applicant then came back and said that if Staff were not going to support it anyway, they would move ahead and get it approved without the screening. Mr. Swanson stated that that was what the memo was based off of. He had not reviewed what the applicant was now proposing. He said that was definitely something that they could work towards. Mr. Swanson said that Commission may want to stipulate that the applicant work with Staff to do an architecturally integrated screening.

COMMISSIONER GULSVIG said that he would make that stipulation because what he had heard was the applicant wanted to do that.

MR. GLENN BROCKMAN stated that legal staff would have a problem with that stipulation, as it was too vague and ambiguous for this type of matter. He said that legal would request that the case either be continued (*to a later commission date*) or forward the case to a design review session.

VICE CHAIRMAN HEUMANN said that was based on last minute information that had come in. He said that by continuing the case for 30 days it would give the applicant time to meet with Staff, and there would be time for Staff review as well. Mr. Swanson noted that he had not seen the new plan.

CHAIRMAN FLANDERS stated that he felt it would be a good idea to continue the case. It would give the applicant time so that he could come back with something that was architecturally integrated as far as profile and colors. He felt that would help with the HOA design review board as well.

MR. DECLAN MURPHY apologized for the late design change. He said they didn't have a huge arsenal to work from in terms of design. There's monopalms or antennas that could be seen. He felt this design would be architecturally integrated.

COMMISSIONER IRBY said that he was going to recommend the case be continued after the applicant had made his presentation. He also requested the applicant to exhibit all the different angles. Commission also needed to see materials, colors, how it all integrated from multiple perspectives.

COMMISSIONER CREEDON commented with regard to the parks department not wanting anyone else to co-locate, she wanted to know in the future if there wasn't that possibility. She said that the existing verticality would make much more sense than trying

to go through what the applicant was going through. She said she could sympathize with their position in trying to place this equipment. She said that if they could get more information on that in the future, it would be great.

CHAIRMAN FLANDERS asked if anyone in the audience wished to speak on this item. There was no response from the audience.

MOTION BY COMMISSIONER IRBY, SECONDED BY VICE CHAIRMAN HEUMANN to continue PDP06-0061 HOLIDAY INN/T-MOBILE to the May 2, 2007 Planning and Zoning Commission meeting agenda. Motion was approved 7-0.

F. UP07-0026 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.
6. 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.
7. No noise shall be emitted so that it exceeds the general level of noise emitted by uses outside the premises of the business. Such comparison shall be made at the western property line.
8. Customer access into the restaurant from the rear (alley side), or south (Stottler 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.

MR. BILL DERMODY, CITY PLANNER, stated this was a Use Permit request for alcohol sales in conjunction with a Series 7 Wine and Beer license. This had been on an earlier agenda in January.

This is a restaurant that serves alcohol. There is live entertainment on Friday and Saturday, and associated with that live entertainment, there have been noise problems. It has been discussed with this applicant and with previous applicants. After a Planning Commission hearing in January, there were problems with citations due to the noise

emanating from this property at the southwest corner of Warner and Alma School Roads towards the neighbors to the west of this shopping center. The case went forward to Council. Council had concerns with the citations that were on the record and granted a very short term two-month Use Permit.

Staff recommends approval with all the stipulations in place, including the stipulation that noise not create a nuisance off the property, that the applicant have a program for staying in touch with the neighbors, etc.

MR. DERMODY stated that since City Council hearing, the applicant made improvements to the interior to the restaurant, as well as work around the rear doors. There have been no noise complaints and the police record is clean as far as calls for service.

MR. DERMODY stated that Staff recommended approval of the Use Permit for one additional year.

VICE CHAIRMAN HEUMANN said that he asked for this case to be pulled, more so to get it on the public record. He felt there had been a lot of promises made in January when the case had been before Commission. He said that he had corresponded with one of the neighbors, and they said there had been just one incident when they had called the owner to turn the music down. Vice Chairman Heumann said that he felt it was important to get on public record that he felt the Commission had not been lived up to, and he was upset about that in terms of what had been promised. He wanted to make sure there was an understanding on the record that the one-year time permit would be watched closely. Vice Chairman Heumann stated that he was in contact with a couple neighbors, and if there were any incidents it would come to light very quickly. He was hoping this was a fresh start and that what happened over the last couple months is cleaned up. He was in hopes that the applicant understood that very clearly. If there are any other incidents that come up and it has to be pulled, he would not be voting for it. He stated he was okay with everything else.

COMMISSIONER CASON said that he needed clarification with regard to the recommendation. He noted that the memo stated, "or in the original container for off-premise consumption", but in the stipulation, "no alcohol shall be carried outside of the building into the parking lot or off-premises". Commissioner Cason said that he was assuming that the stipulation is going forward and not the comment within the recommendation on the first page of the memo.

MR. BILL DERMODY stated that was correct. What was shown on the first page was supposed to be a description of a Series 7 License. The restriction to keep it on-premise only was something that Staff was recommending and that the applicant was agreeing to.

CHAIRMAN FLANDERS asked the applicant to speak.

LORI TAPIA, 1964 N. ALMA SCHOOL ROAD, CHANDLER, stated she wanted to respond to Vice Chairman Heumann about what was and wasn't promised. She said that they had gone through the first stage of soundproofing. Directly after leaving the meeting there had been an issue with the sound, and they were only found guilty on one of the citations. Ms. Tapia said that they had their engineers come back and make improvements to the back portion of the building. She said that she had conversed with the neighbors as well. She said that she did not want to be a nuisance to the neighborhood; they wanted to be a part of the neighborhood. She felt that the issues had been taken care of.

VICE CHAIRMAN HEUMANN said it was important that the applicant understand the relevance of the whole thing.

CHAIRMAN FLANDERS stated to the applicant that he hoped it would work out for the applicant and wished her good luck.

CHAIRMAN FLANDERS asked if anyone in the audience wished to speak on this item. There was no response from the audience.

MOTION BY VICE CHAIRMAN HEUMANN, SECONDED BY COMMISSIONER IRBY to approve UP07-0026 IBIZA BLUE RESTAURANTE with the stipulations in the packet. Motion was approved 7-0.

6. DIRECTORS REPORT

Mr. Bob Weworski, Planning Manager, reminded the Commission of the Planning and Development Spring Picnic on Thursday, April 19, 2007 at Desert Breeze Park.

7. CHAIRMAN'S ANNOUNCEMENT

The next regular meeting is April 18, 2007.

8. ADJOURNMENT

The meeting was adjourned at 6:10 p.m.

Michael Flanders, Chairman

Douglas A. Ballard, Secretary