

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, June 20, 2007 held in the City Council Chambers, 22 S. Delaware Street.

1. Acting Chairman Flanders called the meeting to order at 5:42 p.m.
2. Pledge of Allegiance led by Commissioner Creedon.
3. The following Commissioners answered Roll Call:

Acting Chairman Michael Flanders
Vice Chairman Mark Irby
Commissioner Brett Anderson
Commissioner Dick Gulsvig
Commissioner Angela Creedon
Commissioner Leigh Rivers

Absent and Excused: Commissioner Michael Cason

Also Present:

Mr. Jeff Kurtz, Assistant Planning & Development Director
Mr. Bob Weworski, Planning Manager
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
Mr. Bob Bortfeld, Senior Engineer/Traffic Engineering

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER GULSVIG, seconded by **COMMISSIONER CREEDON**, to approve the minutes of the June 6, 2007 Planning Commission Hearing. Commissioners Irby and Anderson abstained as they were not present at the meeting.
5. PLANNING COMMISSION BUSINESS MEETING – Election of Officers
ACTING CHAIRMAN FLANDERS entertained a motion for a nomination to elect a Chairman. **VICE CHAIRMAN IRBY** made a motion to nominate Michael Flanders as Chairman. Seconded by **COMMISSIONER ANDERSON**. The vote passed unanimously 6-0 (Commissioner Cason was absent).

6. 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 agenda. He stated that there are two action items, items G and H, which will be presented with a full presentation. Staff will read into record all the items on the consent agenda and the consent will be approved by a single vote. After Staff reads the consent into the record, the audience will have the opportunity to pull any of the items for discussion.

MR. BOB WEWORSKI, PLANNING MANAGER stated the following items are for consent agenda approval along with any additional stipulations:

A. DVR07-0026 NORTHWEST CORNER OF LINDSAY AND CHANDLER HEIGHTS ROADS

APPROVED.

Request the establishment of initial City zoning of Agricultural District (AG-1) on an approximately 5.4-acre site located at the northwest corner of Lindsay and Chandler Heights Roads.

B. PDP07-0008 COOPER GATEWAY BUSINESS CENTER

APPROVED.

Request Preliminary Development Plan (PDP) approval for site layout, landscaping, and building architecture for five office/light industrial buildings totaling 163,500 square feet. The 14-acre site is located at the southeast corner of Cooper 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 "COOPER GATEWAY" kept on file in the City of Chandler Current Planning Division, in file No. PDP07-0008, 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. All parking space canopies shall incorporate building materials, forms, and colors to match the development.

8. Split-faced CMU block shall be incorporated into the building design where exposed masonry is shown.
9. The applicant shall work with staff to enhance the outdoor patio areas to include seating walls, artwork, and/or water features.
10. The parking screen walls shall be consistent with other screen walls in the Chandler Airport Center development. They shall not be plain CMU.
11. Parking screen walls shall be carried through the southwest portion of the site.

C. PDP07-0010 EL POLLO LOCO

APPROVED.

Request Preliminary Development Plan approval for a restaurant to be located at the northeast corner of Frye Road and Chandler Village Drive South, which is approximately one-half mile west of the Price Freeway (Loop 101) on the north side of Frye Road.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “El Pollo Loco”, kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0010, except as modified by condition herein.
2. Landscaping shall be in compliance with current Commercial Design Standards.
3. All raceway signage shall be prohibited within the development.
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. The landscaping in all open-spaces and rights-of-way shall be maintained by the property owners' association.
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 eastern most driveway shall be redesigned to allow for right turn exit only.
8. The menu board, speaker boards, and directional signs shall be modified to delete the black colored base and side panels and replaced with a color complementary to the building colors.

D. PDP07-0015 THE BOULEVARD

APPROVED.

Request Preliminary Development Plan approval for a sign package at an existing commercial shopping center. The subject site is located at the northwest corner of Dobson Road and Chandler Boulevard.

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled “The Boulevard Shopping Center” kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0015, except as modified by condition herein.
2. 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.

3. All raceway signage shall be prohibited within the development.
4. The monument sign's sign panels shall have an integrated or decorative cover panel until a tenant name is added to the sign.
5. Accent landscaping shall be provided at the center identification and monument sign bases. Details to be worked out with Staff.

E. UP06-0066 CHEN ARCHITECTS/MING INT'L REAL ESTATE
APPROVED.

Request Use Permit approval to operate a professional office within a Single-Family (SF-8.5) zoning district for property located at 877 N. Alma School Road, approximately 800 feet south of the southeast corner of Ray and Alma School Roads.

1. Any expansion or modification beyond the approved Site Plan and Floor Plan shall void the Use Permit and require a new Use Permit application.
2. The number of employees occupying the residential conversion shall not exceed one full-time and two part-time employees.
3. The Use Permit is effective for a period of three (3) years from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
4. Parking shall occur at the rear of the site. Parking in the front yard is for delivery drop-off and pick-up only.
5. 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.
6. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or homeowners' association.
7. The site shall comply with A.D.A. requirements in regards to parking and pedestrian access.

F. UP07-0023 MCDUFFY'S RESTAURANT
APPROVED.

Request Use Permit approval to sell liquor (Series 12 Restaurant License) for on-premise consumption indoors and within an outdoor patio at a new restaurant within the Monterey Vista Village commercial retail center. The property is located at 980 East Pecos Road, northwest corner of Pecos and McQueen Roads.

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 re-application 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.

5. 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.
6. The landscaping in all open-spaces and rights-of-way shall be maintained by the adjacent property owner or property owners' association.
7. 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.

I. UP07-0029 TU SUONG

APPROVED.

Request Use Permit approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within a new restaurant. The subject site is located at 2055 N. Dobson Road, Suites 3-4.

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. 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. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit is non-transferable to other store locations.
5. Customer access into the restaurant from the rear, thru the service door, shall be prohibited.
6. No noise shall be emitted so that it exceeds the general level of noise emitted by uses outside the premises of the business

J. UP07-0031 FIRESTONE COMPLETE AUTO CARE

APPROVED.

Request Use Permit approval to operate a motor vehicle repair business in a Planned Industrial (I-1) zoning district. The property is located at 6930 W. Chandler Boulevard, east of the northeast corner of Chandler Boulevard and 56th Street.

K. UP07-0032 SUNSTATE

APPROVED.

Request Use Permit approval to conduct motor vehicle repairs and auto accessory sales in a Planned Industrial (I-1) zoning district. The property is located at 6930 W. Chandler Boulevard, north of the northeast corner of Chandler Boulevard and 56th Street.

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. Conformance with the application materials (site plan, narrative, etc.).
3. The landscaping shall be maintained at a level consistent with or better than at the time of planting. The site shall be maintained in a clean and orderly manner.
4. 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 applicant shall work with Staff to better match the colors of the proposed building to the south in place of the gray tones shown in the booklet.
8. The building shall incorporate metal awnings of a similar profile and color to the adjacent proposed building.

L. UP07-0039 SAU'TEE

APPROVED.

Request Use Permit approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within a new restaurant. The subject site is located at 4949 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.

M. UP07-0040 RUMBI ISLAND GRILL

APPROVED.

Request Use Permit approval for a Series 12 (Restaurant) liquor license for on-premise consumption only within a new restaurant. The subject site is located at 855 N. 54th Street.

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.

N. UP07-0046 RUBIO'S FRESH MEXICAN GRILL

APPROVED.

Request Use Permit approval for a Series 7 (Restaurant) liquor license for on-premise consumption only within a new restaurant. The subject site is located at 2970 E. Germann Road, Suite 6.

1. The Use Permit is granted for a Series 7 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.

O. PPT07-0009 COOPER PARK MARKETPLACE

APPROVED.

Request preliminary plat approval for a grocery anchored shopping center and office development located at the northwest corner of Chandler Boulevard and Cooper Road.

ACTION:

G. UP07-0024 HOLLYWOOD BILLIARDS

Request Use Permit approval to sell alcohol (Series 12 Restaurant License) in an establishment at 3029 N. Alma School Road, Suite #114, at the northeast corner of Elliot and Alma School Roads.

MR. BILL DERMODY, CITY PLANNER stated that this was a Use Permit request to sell alcohol in conjunction with a Series 12 liquor license for on premise consumption in an existing facility. They are located at 3029 N. Alma School Road, Ste. 114 (NEC Elliot and Alma School roads) in a space formerly occupied by Peter Piper.

A Series 12 license requires that 40% of all sales be in food and non-alcoholic beverages. In this case Staff has a great deal of doubt that this establishment will be able to attain the food sales percentages. However, rather than looking at state laws, Staff looked at the land use implications. This site is in a commercial center. The Use Permit is for alcohol sales in a pool hall with no live entertainment or noise that could potentially bother the neighbors to the east and north. Mr. Dermody noted that it is Staff's belief that there should be no problem handling traffic that would be generated by this business. With a Series 12, all alcohol must be consumed on premise, and Staff did not see an issue with broken bottles bothering the rest of the complex. He said that it should be noted that if there were an application for a different type of license, there are state laws that would prevent them from having most other types of licenses, such as a Series 6 or Series 7, because there is a church almost directly upstairs.

The floor plan is mostly entertainment oriented with about 32 pool tables, an Internet café, as well as some food tables in the front part of the facility. They have been open for several months, but without alcohol sales.

Staff recommended approval of this Use Permit, finding no land use conflicts resulting from the facility; however, Staff recommends an additional condition that was not in the original packet. It is similar to one that was recommended for another site on the north side of the city. It reads,

- 6. The applicant shall install software on the computers to prevent access to all adult oriented sites, Internet gambling sites, and other inappropriate sites for children.***

Mr. Dermody stated that there had been some neighbor input. No one attended the neighborhood meeting, but Staff has received correspondence. The letters were in opposition, unanimously, going in two veins. One was a group of people who are against alcohol sales at this corner. The other vein of opposition were people who did not think this establishment would make the food sales requirement, and that they would operate as a rowdy type of pool hall that would bring down their neighborhood.

Mr. Dermody noted that there was a one-year time stipulation on this request so that an evaluation could occur in twelve (12) months.

1. The Use Permit granted is for a Series 12 License only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
5. There shall be no customer access through the rear of the building.
- 6. The applicant shall install software on the computers to prevent access to all adult oriented sites, Internet gambling sites, and other inappropriate sites for children.***

CHAIRMAN FLANDERS commented that based on the floor plan that had been submitted there were a lot of pool tables and Internet tables. He asked what was the percentage of the total square footage for that area.

MR. DERMODY stated that the Internet and pool tables area would be around 80%, give or take, of the total floor area being dedicated to those uses. He said he was excepting the kitchen in that figure.

CHAIRMAN FLANDERS said that he was basically looking for the entertainment, other than kitchen, restaurant tables, or storage.

MR. DERMODY said that it would be approximately 80% entertainment, 20% eating tables.

CHAIRMAN FLANDERS asked if the kitchen and storage were within the 20%?

MR. DERMODY responded that in breaking down the total site plan area there would be 65% entertainment area, 10% for tables, and the rest for the kitchen.

COMMISSIONER ANDERSON said that he did not see anyplace on the floor plan for a bar. He asked if the alcohol would be served out of the kitchen or the café? He asked Mr. Dermody how they were planning to serve the people?

MR. DERMODY stated that the alcohol could be served in two ways. The primary way would be a walk-up counter where drinks and food could be picked up. This area was just beyond the Internet café on the left. He said this was an open area. He added that they would also have service in which the drinks were taken to the customer in the seated areas.

COMMISSIONER RIVERS stated that he agreed with Staff's opinion that people would go in to play the computers and to play pool and have a drink. He also felt, as did Staff, that it would be hard for this business to attain the 40% in food sales.

CHAIRMAN FLANDERS asked the Applicant to speak.

MR. SAM LEE, 2307 HIDDEN VALLEY COURT, OXNARD, CA 93036, stated that he was a long-time friend of Mr. Park and also business advisor for the management of Hollywood Billiard and Internet Café. He said he had known Mr. Park for over 10 years. Mr. Lee said that he did not hesitate to fly in from California to assist with the application. Mr. Lee stated that he knew the Commission had concerns with the request, but that he was there to alleviate their concerns.

Mr. Lee stated that Hollywood Billiard and Internet Café had opened about four months prior. He said the business area was 4,800 sq. ft. in size with 32 pool tables and 30 video arcade games. There are also 10, 42-inch flat screen televisions, 25 high-speed Internet computers, and 25 dining tables.

He pointed out that Peter Piper Pizza had been at this location for many years. It had left the location due to unknown matters, but left the complete restaurant facility, which could be utilized as a full service restaurant. Mr. Lee said the kitchen alone was 25% of the total area. He said that it was his understanding that Peter Piper Pizza served customers with alcoholic beverages and had a liquor license. Prior to Peter Piper Pizza this location was Pistol Pete's, who also served alcohol under a Series 12 license.

Mr. Lee stated that they had sent out the notice of a neighborhood meeting months prior. The letter said, "Hollywood Billiard and Internet Café is a new concept business in the family entertainment and dining out where all family members can enjoy entertainment, playing billiards, using the Internet, playing video games, etc while dining out as a family together."

Mr. Lee said that he has three grown sons of whom two are doctors, and the youngest son is attending the University of Chicago. He said that he believed he and his wife raised their sons right and they are very proud of them. He said that he did have one regret - he did not spend enough time with his sons when they were young. He said he wished he could turn the clock back and have the opportunity to spend more time with his sons together. Mr. Lee said that he wonders what they are going to say about him when they get older. He's afraid that they will say that their father had not spent enough time with them when they were young. He said he believes that is true. Hollywood Billiard and Internet Café will provide a location to do what he had missed before his sons left for college.

Mr. Lee stated that he suspected the Commissioners were wondering what the Internet Café was all about. He said that these days no one could do much without a computer. Furthermore, we would get behind without a working knowledge of the Internet. He said that the Internet affects our daily lives every day, whether we like it or not. He went on to state that many of the coffee shops in Los Angeles provide Internet service to their customers, some with a fee and some as a courtesy to their customers.

He said that he wanted to emphasize that times have changed and more people are looking for places where they have access to the Internet while they are out with the family for entertainment or dining. Hollywood Billiards and Internet Café will be the first business to provide Internet service with a dining facility in this area. Mr. Lee said that if Hollywood Billiards were to serve alcohol, it would be a 'one stop service'. He believed that would make an enjoyable afternoon, dining out with the whole family together.

Mr. Lee commented that he had seen the protest letter. He stated that it was unrealistic to expect a doorman at a restaurant to check IDs. He re-emphasized that this was a new business concept – playing games and enjoying things together as a family, along with dining together. Hollywood Billiards and Internet Café will be an upscale entertainment center. The interior décor is very luxurious with bright colors to provide a more welcome feeling like at home.

Mr. Lee explained that Mr. Park opened his first billiards over 10 years ago in California. Members of the Commission and Council had their concerns as well. They pictured it to be a typical dark, smoke filled room. He said that he had attended the Commission meeting 10 years ago and explained what kind of business was going to open. The Commission members listened to them, gave them the opportunity, and said, "Prove it." Now, 10 years later, the business is still in operation with a liquor license and is very

successful. Mr. Lee said that he had spoken to the city officials and found that they are very pleased with the way the business was being operated.

Mr. Lee stated that the entire area of Hollywood Billiards in Chandler is all non-smoking. He felt that anyone that goes there would say that it is a very nice place and very comfortable. He said he had approached two gentlemen earlier in the day that were at the restaurant playing pool, and they asked him when the restaurant was going to sell alcohol. He told them that he was going to the Planning Commission to request an application. He also told them that there had been a protest letter going around with signatures. Mr. Lee stated that one of the gentlemen said that they knew who had started the letter. The gentleman commented that the competition didn't want them to open at this location.

He said that any business under good management would succeed because good management would make sure that the business is running right and maintain a high-level customer service reputation. He said that he knew Mr. Park would do that because he had 15 years experience with this type of business and that they knew how to keep a clean operation. He said that they know how to work with the community, which is very important. Mr. Lee stated that he felt Hollywood Billiard would stand out as the best in the county and state. He said that the management would make sure that they comply with state laws and city requirements.

Mr. Lee stated that he understood the Commission's concern regarding 40% food sales. He reminded the Commission that this was a full service restaurant with 25 dining tables. They can serve 90 customers at the same time. Playing the pool and video games are very inexpensive, but the food would be more expensive. That is why it isn't going to be a problem. They estimate that more than 50% of the revenue will be generated from the food and non-alcoholic drink sales, under proper management.

Mr. Lee asked the Commission to give them the opportunity to prove that they could do it.

COMMISSIONER RIVERS clarified with the applicant that the entire establishment was non-smoking.

MR. LEE stated that the establishment was completely non-smoking.

CHAIRMAN FLANDERS asked the applicant what the percentage was currently in food sales?

MR. LEE stated that they had been open for only four months. They are serving pizza with side dishes and drinks. Currently about 45% of the sales are from food and soda.

CHAIRMAN FLANDERS asked the applicant that if Commission were to approve the Use Permit and the applicant did not meet the 40% that the state requires, what would be the applicant's fallback position?

MR. LEE said that the State Department of Liquor would perform an audit to find out what their sales were for food and alcohol. If they do not meet the 40%, they don't sell alcohol anymore.

CHAIRMAN FLANDERS asked Mr. Dermody if he would consider this almost like a bowling alley situation?

MR. DERMODY said yes, he would assume so. The applicant was hoping to have children at their business much like bowling alleys do. It doesn't have a lot of seating, much like a bowling alley. He felt it was a good comparison.

CHAIRMAN FLANDERS asked what the typical bar license was for a bowling alley?

MR. DERMODY responded that Staff had not done that analysis, but he would assume it was a Series 6. He said that he would have to do research on that.

COMMISSIONER GULSVIG asked if there was a similar type of proposal about six months prior. He believed that it was on Warner and Arizona Avenue. He said that it didn't have as many pool tables, but it did have the Internet service and an eating facility. He asked Mr. Dermody if Staff had had any feedback on how that facility was working out?

MR. DERMODY responded that that site was owned by the same people and was not yet opened for business. Thus, they were not able to evaluate it at this time.

COMMISSIONER GULSVIG asked if the applicant had ever done anything with that facility?

MR. DERMODY responded that the applicant had received building permits for certain things and not others. Work is being done on the inside of that facility.

There were no other comments or questions from Commission.

MR. CARL NEILSON, 3029 N. ALMA SCHOOL ROAD, CHANDLER, stated that he has a business, Priceless Too, at this center and was the first business to go in over 25 years ago. He said that he had been involved in this business for over 25 years. He said that he had some information that might help Commission make a decision.

Mr. Neilson stated that the subject site is not a restaurant; it is a snack bar. They are serving a little bit of pizza and coca cola. He said that in order to qualify for a liquor license they must do 40% food. Mr. Neilson said that if you do not do 40% food, the liquor department would come in and shut you down and require the owner to have a Series 6 license. He said that everything that was being discussed could be done with a Series 6. Mr. Neilson stated that a Series 12 license is the most abused license that is in

the liquor industry today. He gave a brief history on liquor licenses and how they evolved over the years. He said that a Series 12 liquor license costs about \$2,000; however, a Series 6 costs approximately \$80,000 to \$100,000. The Priceless Too possesses a Series 6 license. He felt that Hollywood Billiards should possess a Series 6 license as well. Mr. Neilson maintained that the Series 12 is abused because the state does not have enough staff to do the audits on every business, as they should. He related his own experience with the liquor department when he owned a business in Mesa.

Mr. Neilson went on to comment that the applicant was calling this a family dining room. He stated that liquor could not be sold to anyone unless the family is there with that child. He said 'family' could be anyone. There must be an adult that is a parent in order to sell 'booze' to them. He asked what was going to happen if a child comes in without their parents. There would have to be a doorman to check identities, and there would be problems. Mr. Neilson stated that there were more pool tables at the site than dining facilities.

Mr. Neilson said that he wasn't trying to keep the applicant from doing business, but he was trying to keep him from putting a license in where he's not going to do 40% food.

VICE CHAIRMAN IRBY asked Mr. Neilson if he had a business in this same center?

MR. NEILSON responded that he did and the business was called Priceless Too. He said that they had been there for 25 years. He also stated that there is a church facility at the very end (of the center), but it had not bothered him as they were grandfathered.

COMMISSIONER GULSVIG said he had a concern with Mr. Neilson's Series 12 argument. He said that they had just processed and recommended approval for three other facilities. He asked Mr. Neilson if his argument applied to them as well, or was it just because this request is in the location where he is?

SHARIE NEILSON, 3016 N. DOBSON #7, CHANDLER, AZ responded that Hollywood Billiards comes off as a family restaurant, and that was where they had an issue. A billiard is more of a bar atmosphere. She had a concern that people would sit around there and drink and then drive the children home. Ms. Neilson stated that for themselves, they had to pay the money up front to operate as a full blown bar where it is an adult playground and not meant for children. That is where the concern is. She said that legally they can have children in their bar, but neither she nor her father allow them in their establishment because they don't want the adults on the road with their kids in the car. She said that Hollywood Billiards is a great concept with the Internet, video games, and the pool tables. She said that it sounds as though the parents can sit around and drink while the kids are out playing on the pool tables. Ms. Neilson said they both think it's a great idea, less the alcohol.

COMMISSIONER CREEDON stated that she was going to agree with Ms. Neilson. She did not think that this Use Permit request with 32 pool tables compared to the other

Use Permit requests that Commission had approved that night. She felt they were drastically different and had concerns. She didn't hear out of the Neilsons' argument that it was specific to the location as much as it was the abuse of the Series 12. She said that she did not see the comparison.

COMMISSIONER RIVERS stated that he agreed with Commissioner Creedon. He said that in looking at the floor plan only about 20% of it is set up as a restaurant and the rest is set up as an Internet café and a pool parlor. He felt that all the other restaurants on the list were all 100% restaurants, as they were listed as restaurants. This subject request was listed only as an establishment. He did not feel that the comparison was appropriate.

MR. GLENN BROCKMAN, ASST. CITY ATTORNEY, stated that, given the tenor of the discussion, he needed to remind Commission that the liquor use permit process that is done through the zoning and through the Planning and Zoning Commission is substantially different than the liquor license process that the state liquor board does, and it deals with entirely different issues. The city has no percentage requirement for food. The city does not establish a Series 12 license. The City has a liquor Use Permit for the sole purpose of assessing if that particular type of liquor establishment was to go into a particular spot, what, if any, adverse land use impacts there are. He stated that he would caution Commission not to get involved in an assessment of whether or not the liquor license that would be issued by the state is appropriate or not. There is a process for that. The city is advised of the application that is reviewed through the Management Services and tax people. Mr. Brockman advised Commission that their role is to consider whether or not, assuming the Series 12 license was to be granted by the state, are there some adverse negative land use impacts that would justify not allowing a permit to be issued by the city. He went on to say that if Commission did not find any, then presumably there would be no basis for refusing the liquor Use Permit. However, if Commission does find some, and they could articulate them, then Commission was entitled to either reject the permit or add conditions. But the issue before Commission was not whether this business would survive with a Series 12 liquor license. The issue is, if the applicant does have a Series 12 liquor license and they can dispense liquor under that license, are there adverse impacts in the context of the land use?

CHAIRMAN FLANDERS thanked Mr. Brockman for bringing them back on point.

MR. BROCKMAN stated that his general concern was to keep the liquor Use Permit process here separate from the liquor license process that the state is involved with.

CHAIRMAN FLANDERS asked if there were any audience members that wished to speak?

The applicant stated that he was disappointed. He said that he had concerns with the protest letter and some of the signatures. He felt that some of the letters had been written and signed by the same person. He wondered what was behind Mr. Neilson's motivation.

He felt it was because of the location. He went on to say that they are prepared to utilize full kitchen facilities due to the 40% requirement.

COMMISSIONER ANDERSON said that at first he was opposed to the request because of the liquor license issue not making 40% in food sales. He said that he didn't want to speculate on whether the business would or would not succeed. He said that he was leaning toward approval of the request. He felt land use wise it would fit.

COMMISSIONER CREEDON said that she believes that they will not make the 40%. She also felt that if they don't, this would have a negative impact on the surrounding neighborhood. She felt there would be a negative impact with the close proximity of the school, as well as a dance academy and a church in close proximity. She said that she was opposed to the Use Permit request.

CHAIRMAN FLANDERS stated that there was a stipulation in place to achieve what they want to achieve. He said that the applicant would have to regulate the children in the establishment.

In response to a question posed by Chairman Flanders, Mr. Dermody said it was correct that Hollywood Billiards would not be allowed to use a Series 6 at this location. A Series 6 requires that there be a 300-ft separation from churches and schools. A Series 12 does not have a separation requirement like that.

COMMISSIONER GULSVIG said that he did not find any negative impact in the surrounding area. He said that he didn't feel the applicant would make the 40%; however, that was the applicant's business. He said that he was prepared to make a motion to approve the request.

MOTION BY COMMISSIONER GULSVIG, SECONDED BY COMMISSIONER ANDERSON to approve UP07-0024 Hollywood Billiards as recommended by Staff.

COMMISSIONER RIVERS thanked Mr. Brockman for bringing them back to focus. He said that he had a real problem with the land use; however, since there was a stipulation for one year, it was appropriate to allow the applicant to succeed on those terms, and if they fail to succeed, Commission would deal with that in one year.

WHEN THE VOTE WAS TAKEN, motion was approved 5-1 (Creedon).

MR. DERMODY stated that this item would go for City Council approval on July 26, 2007.

H. UP07-0027 EVDI MEDICAL IMAGING

Request Use Permit extension approval to allow for a mobile Positron Emission Tomography (P.E.T.) Scanner unit to be parked outside of EVDI Medical Imaging. The subject site is located at 1076 W. Chandler Boulevard, Suite #120.

MR. ERIK SWANSON, CITY PLANNER, stated that this was a Use Permit extension for EVDI Medical Imaging. It is for an extension for a P.E.T. scanner unit located outside in front of the medical imaging center. The subject site is located at the NWC of Alma School Road and Chandler Boulevard. The request is to have the scanner located outside the imaging center for approximately three days during the week, and an extension of the Use Permit for a period of three years. The P.E.T. scanner is currently located in six parking spaces in front of the building where it was approved with the past Use Permits. This is the third request. There was an extension prior to this, as well as the initial Use Permit approval. Mr. Swanson stated that there had been no issues from surrounding neighbors or businesses. There have not been any issues with the parking spaces that are being utilized by the unit. Mr. Swanson also stated that there had been a neighborhood meeting; however, no one attended the meeting.

Mr. Swanson explained that the Use Permit granted in 2005 was intended to be a final approval for the Use Permit. Due to some financial reasons and federal funding, EVDI has lost some of its income and therefore, has had difficulty in being able to purchase a scanner unit to locate inside the building. That is why they are requesting a Use Permit extension. The current Use Permit will not expire until December 2007, but EVDI decided to be proactive to see if they would get the extension. If not, they will have to look further in surrounding municipalities. The scanner serves Chandler Regional Hospital. They get a lot of recommendations from Chandler Regional, and this seems to be a good location that is convenient not only to the community, but also to the hospital. The applicant does not intend on requesting an extension, although that is definitely something up to them or City Council approval once they get to the three-year mark.

Staff recommends extension of the Use Permit for a period of three years, with an increase from 2 days to 3 days per week.

1. The Use Permit shall be granted for a period of two (2) years, at which time re-application shall be required. The two-year time period shall begin from the date of City Council approval.
2. Substantial expansion, modification beyond the approved exhibits, or increase in number of days the temporary unit is on site shall void the Use Permit and require a new Use Permit application and approval.

CHAIRMAN FLANDERS stated that Commission had required the applicant to install additional landscaping. He asked Mr. Swanson if they had achieved that?

MR. SWANSON said that it had been verified that the applicant met that standard.

VICE CHAIRMAN IRBY said that he did not have a problem with the use. Instead he had a problem with things that continue on and on. He asked how many days out of the week they had been initially approved for.

MR. SWANSON stated that the original Use Permit request was for one time per week. The extension in 2005 was a request for up to two times per week. This extension request is for three times per week. The increase in times for the unit to be located on site is partially due to the financial reasons. They have lost funding and this is a way to compensate that loss in funding.

VICE CHAIRMAN IRBY asked if, during the three-year period, if EVDI was being subsidized with federal funding.

MR. SWANSON said that was a difficult question for him to answer, but it was his understanding that through the medical insurance companies the federal government will give some sort of kick-back or pay for a portion of the expenses through Medicaid and Medicare. There has been a deficit reduction that cuts down on some of the financial funding that the medical imaging company would receive from the government.

VICE CHAIRMAN IRBY asked about the applicant's building lease?

MR. SWANSON responded that if the Use Permit extension was granted, and EVDI is able to get a permanent unit into the center, then that further establishes them; however, he said this was only speculation. If they are not permitted, the extension may lead the applicant to look for another location.

VICE CHAIRMAN IRBY asked what Commission required the applicant to do with the landscaping through the prior submittal?

MR. SWANSON stated that Commission requested the applicant to increase the landscaping in the parking islands.

MR. DERMODY responded that he had worked on this case last time and the landscaping actually preceded his time as well. He said that he believed there were two or three islands including the island immediately east that had to have additional landscaping. It was done within the original Use Permit timeframe.

CHAIRMAN FLANDERS asked the applicant to step forward.

ELLODIA MARTIN, stated that she was representing EVDI Medical Imaging at 1076 W. Chandler Boulevard. She said that EVDI had been in Chandler for quite some time performing out-patient services for the surrounding community. Currently EVDI has a mobile P.E.T. CT unit located outside the facility. They have had that there for two years with two per week to accommodate the patients in the vicinity. A P.E.T. CT scanner is

state-of-the-art medical technology that detects cancer in patients, as well as determines the progress of the disease and evaluates the success of therapy. With that this tool has been very beneficial to cancer specialists in determining the type of therapy for these types of patients with their cancer treatment. She stated that they have an agreement with Chandler Regional Hospital to accommodate their patients.

Based on the current Use Permit, EVDI thought that this would be their final permit. They were in hopes of having the financial stability to put in their own P.E.T. scanner and have it as a permanent fixture in their facility. Unfortunately, they had rate reductions with Medicare and Medicaid from 2003 to the current time. There has been a 15% to 70% reduction in reimbursements, based on legality. P.E.T. CT alone has taken a 50% decrease. In 2008 there is a proposal for another 10% decrease on P.E.T. CT, which is a very hard decrease for EVDI and the P.E.T. scenario.

She said that they are asking for an extension of three years. They have installed landscaping in the past and done what they felt would help the community, as far as providing this service to cancer patients. She went on to say that they are hoping to increase the days to three days per week in order to increase their volume as they are seeing a need to cover their costs with the P.E.T. unit.

COMMISSIONER GULSVIG asked if the P.E.T. unit was owned by EVDI?

The applicant said that Alliance Imaging owns the scanner and EVDI is purchasing the unit as a mobile unit. She said they would pay a slot fee to Alliance. EVDI would do the services and reading of the exams. Everything is done through EVDI. At the moment the unit is leased. If they have the funding and get to the point where they can do a fixed unit, they will begin looking for equipment.

COMMISSIONER GULSVIG stated that this had been a perpetual Use Permit. He asked if a P.E.T. unit would fit in their existing facility. The applicant stated that it would. She said that with a 3-year extension and an additional day to increase the patients, it might help them towards a permanent CT.

COMMISSIONER GULSVIG asked Staff if there had been any complaints with regard to parking at the center?

MR. SWANSON stated that the P.E.T. scanner sticks out like a sore thumb, but stated that there is significant landscaping and buildings that prevent the view. The scanner is tucked behind the covered drive of EVDI. He said that Staff did not have a concern with being able to see the unit. He also added that there really hadn't been any issues.

COMMISSIONER GULSVIG stated that he would rather allow a 2-year extension. He was still concerned about the appearance.

COMMISSIONER RIVERS asked if EVDI was going to buy the mobile unit as well as one for the office?

The applicant stated No. They are currently leasing the mobile unit, but will be purchasing a unit later.

CHAIRMAN FLANDERS asked the applicant if two years would give her enough time to get everything in place?

The applicant stated that she was hoping so, but would take whatever they can get. She said that they really wanted a three-year extension.

VICE CHAIRMAN IRBY stated that the applicant originally wanted a one-year period and to use that time as a test period to see what the demand was and whether it would support the unit. He said that it sounds as though there is a need for the unit. Vice Chairman Irby said that if they just purchased one they would have it five days out of the week and would be able to support the unit.

The applicant stated that right now they were at two days per week and they were close to capacity. Adding a third day will be able to accommodate those patients that they cannot currently accommodate. The issue they have now is with the reduction act and the P.E.T. CT reimbursements being reduced by 50%; they are struggling to cover costs. That is why they are unable to do a fixed unit at the moment.

VICE CHAIRMAN IRBY asked if, during these three years, the applicant had been able to determine if a permanent scanner would be used five days out of the week, or 80% of the time or 100% of the time?

The applicant stated that she did not have those statistics, but felt that they could probably accommodate 3-4 days.

VICE CHAIRMAN IRBY said that from a land use point of view, he saw the mobile unit as a negative to the shopping center. He also commented that he felt the mobile unit kept them from making their improvements. Vice Chairman Irby said that if EVDI were to purchase their own unit it sounded as though there would be enough clients to pay for it. He stated that he was not against the use and the need for the area. He asked about their current lease.

The applicant stated that she was not sure when the lease would expire, but they were pretty stable at the facility and believed it was a long-term lease.

VICE CHAIRMAN IRBY said that he would support a two-year extension and wished there was a way to dress up the mobile unit so that it would blend in better with the center.

COMMISSIONER ANDERSON said that he would be in support of a two-year extension. He felt that the two years would give EVDI time to know whether this would be profitable or something that they would not be able to do anymore. He stated that he would like to make this non-renewable.

MR. GLENN BROCKMAN commented that Commission could add that, but it is not renewable now and two years from now the applicant had every right to go back before Commission and ask again for another extension. It would be up to Commission at that time to make a recommendation one way or the other.

CHAIRMAN FLANDERS asked if anyone in the audience wished to speak? There was no response.

MOTION BY VICE CHAIRMAN IRBY, SECONDED BY COMMISSIONER CREEDON to approve UP07-0027 EVDI Medical Imaging with the modification of stipulation no. 1 for a two-year period. Motion was approved 6-0.

7. DIRECTOR'S REPORT

There was nothing to report.

8. CHAIRMAN'S ANNOUNCEMENTS

The next regular meeting is July 18, 2007 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

9. ADJOURNMENT

The meeting was adjourned at 7:15 p.m.

Michael Flanders, Chairman

Douglas A. Ballard, Secretary

