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OCT 22 2007

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, September 19, 2007 held in the City Council Chambers, 22 S. Delaware Street.

1. Chairman Flanders called the meeting to order at 5:33 p.m.
2. Pledge of Allegiance led by Commissioner Creedon.
3. The following Commissioners answered Roll Call:

Chairman Michael Flanders
Vice Chairman Mark Irby
Commissioner Dick Gulsvig
Commissioner Angela Creedon
Commissioner Mike Cason
Commissioner Leigh Rivers

Absent and Excused: Commissioner Brett Anderson

Also Present:

Mr. Bob Weworski, Planning Manager
Mr. Kevin Mayo, Principal Planner
Ms. Jodie Novak, Senior Planner
Mr. Bill Dermody, City Planner
Mr. Glenn Brockman, Assistant City Attorney
Ms. Joyce Radatz, Clerk

4. APPROVAL OF MINUTES
MOVED BY COMMISSIONER GULSVIG, seconded by **VICE CHAIRMAN IRBY**, to approve the minutes of the September 5, 2007 Planning Commission Hearing. Minutes were approved 6-0 (Anderson was absent – Cason and Creedon abstained as they were not at the meeting).
5. ACTION AGENDA ITEMS
CHAIRMAN FLANDERS explained to the audience that prior to the Commission meeting, Planning Commission members and Staff met in a study session to discuss each of the items on the agenda. Staff will read into record all the items on the consent agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There is one action item, item B.

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

A. DVR07-0024 ALGODON PARK

Request action on the existing Planned Area Development (PAD) zoning to extend the conditional schedule for development, remove, or determine compliance with the three year schedule for development or to cause the property to revert to the former Planned Industrial District (I-1), Community Commercial District (C-2), and Agriculture District (AG-1). The existing PAD zoning is for a conceptual commercial center with a transit oriented multi-family overlay on approximately 22 acres at the southeast corner of Arizona Avenue and Chandler Heights Road.

C. UP07-0075 BUDGET RENT-A-CAR

Request Use Permit approval to allow a rental car company with rental inventory within an existing commercial retail center. The property is located at 2950 S. Alma School Rd. at the northwest corner of Alma School and Queen Creek 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. The Use Permit is non-transferable to other store locations.
3. Rental inventory shall be no more than 10 vehicles with vehicles parked in the parking spaces as represented in the exhibit.
4. The site shall be maintained in a clean and orderly manner.
5. **There shall be no business advertising on vehicles, and commercial moving trucks and trailers are prohibited.**

D. UP07-0076 KIZAKE, LLC

Request Use Permit approval to allow liquor sales and service under a Series 12 Restaurant License for on-premise consumption indoors and within outdoor patios at a new restaurant in Historic Downtown Chandler. The property is located at 91 West Boston Street, west of Arizona Avenue on the south side of Boston Street.

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, other than for special events, 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.
5. The patio shall be maintained in a clean and orderly manner.

E. UP07-0077 FRESH & EASY NEIGHBORHOOD MARKET (FULTON RANCH)

Request Use Permit approval to allow liquor sales under a Series 10 Beer & Wine License within a new grocery store. The property is located at 4920 S. Arizona Ave., northwest corner of Arizona Ave. and Chandler Heights Rd.

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 10 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 store locations.
5. The site shall be maintained in a clean and orderly manner.

F. UP07-0078 QDOBA MEXICAN GRILL

Request Use Permit approval to allow liquor sales and service under a Series 12 Restaurant License for on-premise consumption indoors and within an outdoor patio at a new restaurant. The property is located at 2855 W. Ray Rd. within the Raintree Ranch Center development, which is at the southeast corner of Ray Rd. and the Loop 101 Price Freeway.

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.
5. The site shall be maintained in a clean and orderly manner.
6. The patio shall be maintained in a clean and orderly manner.

G. PPT07-0007 THE METROPOLITAN OF CHANDLER

Request preliminary plat approval for a residential and commercial office/retail mixed-use development located at the southeast corner of Chandler Boulevard and Hearthstone Way (1/2 mile west of the Loop 101 Price Freeway).

H. PPT07-0036 DOLLAR SELF STORAGE (SOUTHSHORE TOWN CENTER PHASE II)

Request preliminary plat approval for three lots for a rental self-storage business located east of the southeast corner of Arizona Avenue and Ocotillo Road.

CHAIRMAN FLANDERS asked if there was anybody in the audience that wanted to pull any of the items from the Consent Agenda for a full presentation. He stated he has a "conflict of interest" on two items. On item E he said they are employed by the client. On item F the owner of the shopping center is also a client. He will be abstaining from the vote on those two particular items. He then entertained a motion.

A motion was made by **VICE CHAIRMAN IRBY** to approve the Consent Agenda with the additional stipulations as read into the record by the Staff, seconded by **COMMISSIONER CREEDON**. Motion to approve passed unanimously 6-0 (Anderson was absent.).

ACTION:

B. UP07-0064 SAN TAN JUNIOR HIGH/T-MOBIL

Request Use Permit approval to install a 65-foot monopalm wireless communication facility on San Tan Junior High School property. The property is located at 1550 E. Chandler Heights Road, west of the northwest corner of Chandler Heights and Cooper Roads.

MR. BILL DERMODY, CITY PLANNER, stated Item B is a Use Permit request for a T-Mobile Monopalm for a wireless communications facility disguised as a palm tree at the San Tan Junior High School. San Tan Junior High is on the north side of Chandler Heights in between Cooper and McQueen Roads. Mr. Dermody showed where this is. He showed the school with the track on the site and a couple of ball fields. The approximate location of the monopalm and its equipment is in between the track and one of the ball fields. What is proposed is a 65-foot high monopalm with associated ground equipment. It is something that Staff recommends approval on whenever you go in a commercial district or residential - anything but industrial. They put a new pole and it requires Use Permit approval. There aren't really other options out here. There is no industrial and there aren't ball field lights. They feel it's appropriate to have a monopalm verticality introduced here. It's located about as far as you can possibly get from residential on the site about 270 feet or so from the nearest residential. It's pretty close to the school. He said you couldn't do much better than that on this particular site. The request as he mentioned is for 65 feet high. Planning Commissioners during Study

Session suggested that it should be limited to 50 feet high. He said they have a potential stipulation that he would like to read into the record that they will be discussing. It would be new condition no. 4. "The monopalm shall not exceed 50 feet in height as measured to the top of the fronds." Staff's opinion on this is somewhat ambivalent. They see the benefit of going to 65 feet in height and that would reduce the number of facilities that would be needed in the area from three to one according to the application materials. However, they also support the idea of limiting it to 50 feet. They understand the logic that it is a more realistic height for a palm tree. You never see a 65-foot high palm tree. He understands that the applicant would like to discuss this issue and is not in agreement with this proposed condition no. 4. They have had some neighborhood input. A number of people came out to the neighborhood meeting. They were more worried that this would be ball field lights than a monopalm. He said that was what was relayed to them. They weren't in opposition when they found out what it was. They have heard from other people since that. They had a phone call in opposition. They also have a letter in opposition that was handed out to the Commissioners this evening and they expect some neighbors to speak against this tonight. Again, the Staff recommendation is for approval with additional condition no. 4.

CHAIRMAN FLANDERS asked if there were any questions of Staff. He then went to the applicant and asked him to please step forward and state his name and address for the record.

RULON ANDERSON, 3523 E. PRESIDIO CIRCLE, MESA, ARIZONA 85213 representing T-Mobile. He stated that what they have in front of them is one of the best applications that they can do in the valley that provides coverage that's needed in residential districts. He has had this same conversation with them before. He will try to cut it short but traditionally people have used their cell phones in business corridors and highways. Unfortunately, now everybody uses them in their homes and they demand service in their house. Nobody likes to walk out on his or her back patio and have to crook your neck a certain way to get a signal so that you can use your phone. The customer demand is in home service. Tied to that is E911 which is the emergency response system to a 911 call. If he was to dial 911 on his phone they know that he's standing right here and he is not at your house or off somewhere else. They locate him through GPS and they know exactly where he is at so emergency response can come. If he is in their backyard and he has an emergency, he can call 911 and they will respond to the location as opposed to when you traditionally dialed 911 they responded to your address. Now they go to the phone, which is a federally mandated system and they must provide it.

The whole purpose in trying to reduce the number of sites is to reduce the clutter that most neighborhoods complain about. He said so here they are trying to put up one 65-foot pole to avoid two other locations where they are going to have the same problem. So if you are going to cover the area, they need to cover it. He stated if he could do 50 feet, he would be glad to do 50 feet. He has information in the packet from their RF engineer that says this is what happens if we don't get 65 feet. He doesn't like the alternative. He

guesses that he should say he likes the alternative because they pay him by the site. Having two more sites is good for his income but it's really bad for Chandler. He said he is not in favor of reducing it because of the consequence of that reduction. He would also state that he would like to see this site not be co-locatable. They should have a stipulation in there that says that this site is not co-locatable. He showed a co-locatable site at Gilbert and McKellips in Mesa. Sprint at the top and Cricket on the bottom. What ends up happening is they destroy the aesthetics of what you are trying to do. Just north of this is AT&T on another tree. He hasn't taken the picture showing both. In Las Vegas they have done this on one site where there is actually five carriers on palm trees. Desert Ridge Marketplace has this where they have done two. The Staff says that trees don't grow to 65 feet. He begged to differ because there is a site at Southern and Mesa Drive which has a 65 foot pole and the tree to the left is actually that tall. So in fact, they do grow to 65 feet. A palm tree treated right will grow six to eight feet in a year depending on the type of palm. The put up date palms because they believe date palms look better. The Mexican fan palm which is the first pictured he showed them actually doesn't provide very good coverage for the antennas. To better disguise it they choose date palms. They are a little more expensive but they end up with a better look.

The stipulation as read to you by Staff that the monopalm shall not exceed 50 feet in height as measured at the top of the fronds is also a problem because basically that says it's 45 foot. The fronds go anywhere from three to five feet up depending on how the winds are blowing on a given day. They measure their poles to the top of the pole and the fronds extend above that. At 45 feet his RAD center of his antennas would be 42 and a half feet. It's worse than a 50-foot pole. It is seven and a half feet lower per RAD center or actually just 5 feet lower. He has a problem with the condition as read because it bodes worse than what the RF engineer calculated it at.

CHAIRMAN FLANDERS asked if he has any towers in Tempe at all?

MR. ANDERSON said they have several. They have probably done six palm trees in the last year and a half to two years. They have a new pine tree that is going in. He is not a fan. Pine trees don't really occur naturally here, but Tempe wants it so they are going to build it. When it is done, he will take pictures around to show people why they don't want to do it. He has told Tempe that but they are putting in the best-looking pine tree they can do. The only other pine tree in the valley that he knows of is on the Broadway curve on the 60 on the east side. You will see a very deep dark green tree on the right hand side with upswept needles. They don't have upswept needles here – in California they do. But they are not dark green like that. What they have is an anomaly and it draws people to it, which they are trying not to do.

CHAIRMAN FLANDERS asked if he has facilities at the intersection of Warner and McClintock? Mr. Anderson answered they do. Chairman Flanders said he knows that there are two sites over there. One is behind the Bashas and the other one is behind the Walgreens or the storage area. Is either one of these his? Mr. Anderson said he believes they are behind the Bashas on the west side of the road. Chairman Flanders asked how

tall is it? Mr. Anderson said he thinks it's 50 feet. Chairman Flanders said he has seen that one because he lives about a mile down the road. That one does very well in how it's placed and everything else. Even the one that's on the east side is probably about the same height and they went ahead and added the trees to it as a result of the residential. That was one of the reasons why he proposed the stipulation to be 50 feet was to provide a little more of a blend with what is in the area. He knows at the ballpark here there is not a lot of landscaping around it at least it provides some continuity as far as other landscape palms in the area. Mr. Anderson said he understands. They have a couple of issues. One is that they are trying to cover the residential neighborhoods around the school and when you are only at 50 feet and you have a thirty-five foot high gymnasium, it's hard to shoot through it – it blocks. One of the reasons the engineer shows lack of coverage because he is taking into account the blockage from the buildings that you are up to. If you get too high, it's a real problem. He can't go up on South Mountain anymore because it interferes with the other sites. They had to turn that site off along time ago. So when you get too high it's bad and when you get too low it's bad. You are trying to hit the happy medium. At other sites they have had approved in Chandler recently, they have gone to 50 feet where they could and others have stayed at 65 feet which seems to be the standard because these towers talk to each other. He said when you are driving down the road those towers hand you off from tower to tower. They send and receive back and forth between the towers. If they can't see the other tower and they can't talk to it, then you drop calls and the thing that people hate the most about wireless is dropped calls. It's a big issue.

CHAIRMAN FLANDERS said he thinks the standard across the city should be foot then? Mr. Anderson said no because you would still have interference. It doesn't work. He did Dallas and Fort Worth. He did 390 sites and the shortest tower he did was 75 feet. Some of them went to 240 feet. But Dallas is different than Phoenix because we have some areas where they can get elevation. He said we have mountains and hills. They don't have any of that out there. Literally, it's a different scenario depending on the site and where that site is located. In this case, he believes that 65 feet is justified.

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

COMMISSIONER GULSVIG asked how many sites do we have in Chandler? Mr. Anderson said in Arizona T-Mobile has in excess of 500 sites. In Chandler he said probably 12 to 15 if he was guessing. He doesn't have that data in front of him. Commissioner Gulsvig asked him what his projections say five year from now? Mr. Anderson said if he could tell him where they are going to annex next he would be better qualified to answer that. Commissioner Gulsvig said you are covering an area and even the County areas. If you look at the city property right now, it doesn't matter if it's annexed or not. His concern is if 65 feet eliminates two or three other towers, then that's going to become a requirement as they grow. The statistic he read is that there is going to be a 45% increase over the next five years in towers. Is that realistic? Mr. Anderson said it is realistic. Commissioner Gulsvig said so if we allow it to go with 50 feet they will have to add two more towers. Mr. Anderson said in the current environment that is what

the engineer is saying. Commissioner Gulsvig said there will be a significant number of towers going up all over Chandler. But if they are 65 feet there will be less. Mr. Anderson said when they built the cardinal stadium and the arena for the ice hockey it was in a flat field. Carriers had a real problem because typically jurisdictions take flat fields and say build whatever you need. They had to cover that. To do that, there are 93 antennas inside the Cardinal Stadium that service T-Mobile. 20,000 people on any given Sunday are all there sitting there saying "Mom look at me". Then they push this button to show the picture so that they can see them. Well pictures and the latest thing is video and data stream because people want to be able to use a PDA and access their information off their computer on their phone. Unbeknownst to most people that takes radios and it takes a lot of radios to accommodate that. When you build those stadiums out in the middle of the field, they have six full sites around that stadium plus 93 antennas inside that stadium. You have to have a willing landlord. They choose schools because schools get revenue from this. He likes to go to cities because he is a taxpayer. If there was a city lot here that would let him put it on there, he would be at the city knocking on their doors saying "please can I give you rent to have a cell site here". They do a lot of churches for the same reason. It's not a bad thing; it's a good thing.

COMMISSIONER CASON stated to Mr. Anderson that when he came before them for the tower at Cooper and Chandler Blvd. there was a statement that he made about a condition that existed out in the radio environment that allowed them to lower the height of their towers. What allows them to lower the height of your antenna? Mr. Anderson said the closer the cell sites become the lower your RAD centers can go. What happens to us is that it is driven by quantity of phones and in essence the quantity of radios required to cover it. That is why there are so many sites around the arena because they have a quantity that they have to deal with. In a normal residential environment there is a set number of homes. The quantity of phones in there tends to be fairly stable. He has four married children who have no landlines in their homes because they aren't going to pay for a cell phone and a landline. They demand that they be able to use that cell phone in their home because they don't even have a regular home phone. Commissioner Cason said in regards to Commissioner Gulsvig's point given the further explosion of cell phone usage, wouldn't it be safe to say that even if this tower were at 50 feet that he is going to have to put extra towers in this area anyway because of the additional phones that are going to be in the area. Mr. Anderson said he would answer that in the negative. It would not be. The reason that the 45% explosion growth is happening is because when you go out, the annexation was his point. The further you go out and build more homes you've got to put sites out to cover these areas. The developers who come into the city for site plan approval, come in and say they need power and state here's our streets and our infrastructure. Not one of them comes in and says here's how we are going to provide cell service to all these residents. They don't say here's the bell towers we are going to build and the structures we are going to put up that will provide cell coverage for all these people. Everybody approves their site plans and the master planned communities. They are left in the lurch trying to figure out how to do something of a vertical element to cover all those people because the developers don't. Commission Cason asked that in this particular neighborhood where they are looking to canvas the entire neighborhood

with a single monopalm, have they investigated any other sites to place their additional antennas if this monopalm is limited in height? Mr. Anderson said no sir.

Commissioner Cason asked when they were investigating an applicable site for this particular tower, did they limit your investigation to the school because schools o.k. this? Mr. Anderson said no, actually not. They have been through a number of sites. He said he had a letter from the Site Development Coordinator from SRP that said regarding the Cooper Substation they can't go there because they don't have space. This was one site they tried to develop. They don't like to put up vertical elements if they can avoid it because it costs them money especially when they do palm trees. They cost a lot of money. It's a better look for the neighborhood than a cell tower. He said they didn't investigate this before because when T-Mobile or a wireless company designs a site, they have rings. He said if you could be perfectly in the center of every ring, the design works. What happens is that if he has a highway that goes through there is a lapse in coverage. Anybody that was driving their car down there and on their phone, they would drop a call there. They would say they need a new ring in there. The center of that ring would be in the middle of a highway and they can't put it there. They end up squeezing them off to the side of the ring that provides marginal coverage for there. They react in the industry to people's complaints specifically in residential neighborhoods for lack of service. Then they send the RF engineer out to investigate. They look at where the towers are relative to the location to infill these rings. That's how they get 500 sites in the state of Arizona. Some of them are very sparse. Mount Ord covers a large area and is very high on the way into Payson so you pick up 40 miles of road. Whereas here at these heights, they are limited to about a mile in terms of coverage. About a half of a mile out in each direction. Commissioner Cason asked what was the maximum distance you can go from the antenna ray to your processing equipment in the building? Mr. Anderson said it depends on the size of the cable. They use 7/8 inch cables. He can go about 120 feet. He can come down the pole 60 feet and over 60 feet and he could probably stay at the 7/8-inch. If he is farther than that than it goes up to an inch and a quarter. An inch and a quarter gets really big. It doesn't sound like a lot but it's huge. You have 24 of these cables going up through the trunk of the tree so to speak. That's what drives the size of the flagpoles that you see. They are huge. They look unnatural because they are big and fat and they are big and fat because they have the cables going down the middle of them. Commissioner Cason asked if there inch and a quarter cable is the largest cable. Mr. Anderson said no they go bigger. Commissioner Cason asked what would be distance for a 2-inch cable? Mr. Anderson said you could probably go 200 feet.

COMMISSIONER RIVERS asked in going back to the number of locations they would require and in talking about co-locatable, does that mean that Sprint and Verizon and Brand X have to go out and build their own palm trees? Are we going to actually have a forest of palm trees in Chandler? Mr. Anderson showed a picture of five on one site. It doesn't always happen that way. Designs don't always end up being the same and they have different technologies. The carriers each are sold spectrum from the Federal government – they auction it off and the carriers buy it. They use that spectrum to decide

where they can provide coverage. If you go up I-17 or on the I-40 corridor up north, they roam. It's called roaming when you are off your system and on another system. Those aren't actually T-mobile towers; those are actually AT&T towers. When you get into metropolitan areas like that with the different technologies, you can't roam on a whole city on another carrier's spectrum. Basically, they pay a lot of money to the Federal government for the spectrum and because they have done that if they allowed you to roam then they crowd your system and cause you to have build more towers. Even though they pay for the right it becomes very complicated. In your metropolitan areas he would say no roaming. Everybody has to do their own towers. Commissioner Rivers asked since he estimated 500 towers in Arizona for his company, are there also 500 towers in Arizona for each of those other companies? Mr. Anderson replied yes sir. The only thing that affects that is when Sprint bought Nextel. Nextel bought Qwest. So Qwest, Sprint and Nextel all combined and when they find out that they have excess resources, they either take them down or sell them to another carrier. AT&T and Singular just combined. They are in that process now of allocating their resources and figuring out where they have double coverage and where they don't need a tower. They go through that process. Commissioner Rivers said in talking about the height of their tower, taller is better apparently. Mr. Anderson said in some instances. Commissioner Rivers said if we build a 50 foot tower and we build two more, then we build two more and so on.

It's hoped that in Chandler we're going to have some taller buildings. Are they going to be in their way or they going to be a benefit to you because you can put your towers on top of them? Mr. Anderson said they use rooftops wherever they can. In Paradise Valley, which has been anti-wireless for years, they have recently got approval to put a site on top of City Hall at their maintenance facility just to the north end. East of that they have a 50-foot palm tree going in and currently has an application in for a 65-foot palm tree just off Scottsdale Road, which is in Paradise Valley. For the same kind of reasons they can do 50-feet there but they will have a problem. This is not the first time they have been through this and it won't be the last. If he could do 50-foot here he would here telling you he would. He has done it before. Commissioner Rivers asked if you have a 50-foot tower here and over there is a building that's 80 feet tall with a tower on top of it, can they talk to each other? Mr. Anderson replied that they would probably not be on top of that 8 story building because it's too high. They would have antennas mounted on the side somehow – built-in structurally.

Commissioner Rivers asked if it's possible that rather than arbitrarily settling on 50 or 65 feet that there is some medium that would work out for both? Mr. Anderson said he has done 55-foot and 60-foot sites and 65-foot sites that have been all palm trees by the way in Phoenix in different areas where we can control the height? They have one down by the ball field that they are proposing at 50 feet. It's in a corridor where they have a lot of sites around Bank One Ball Park. Commissioner Rivers said but for Chandler if they are looking at building at 50 feet, you have to build two more, if you build it at 65 feet you don't have to have two more. If you build it at 60 feet, would you be able to not have two more? Or 61 feet or 58 and half feet? Where are we going to avoid these other two

towers? Commissioner Rivers said from his point of view, if they can get along with fewer towers that is probably the better way to go. Mr. Anderson said they have the data in front of them from the RF engineer. He is an advocate for his position. If you stipulated it at 60 feet, which would ultimately give you 65 feet total height, he probably could live with that. But since he didn't ask him that he might execute him for having committed him to that. There is wiggle room but there isn't fifteen feet minus five feet of wiggle room. That's twenty feet difference for them. Commissioner Rivers said as this tower is presented its 65 feet to the bottom of the fronds. Mr. Anderson said no it's 65 feet to the top of the pole. The antennas go to the top of the pole. Commissioner Rivers said then there is another 5 feet of fronds on top of that. They are going from seventy to fifty. Mr. Anderson said if you drive down the 60 and look off to the south at Stapley you will see one that looks like it needs water because it's fronds are melted. They had a manufacturer that had that problem. They are replacing their fronds. That happens to not be their tower. If you want to see one that has zero feet on top of it, that's a good one to look at. Commissioner Rivers said from his perspective, if they are going to only eliminate two towers by raising this tower to seventy feet in height including the fronds and they are going to have other wireless companies coming in here and building more of these things anyway, and they end up with 60, 80 or 90 of these structures in our city, they're not really saving much by knocking off two from the total by lowering this thing twenty feet. Mr. Anderson said from his perspective if you do it this time and then you hold to that 2 x 2 x 2 because it doesn't work in other areas for whatever reason, you are going to have a multiplying effect that's not good for Chandler. He thinks you need to understand that it's not a good thing always. Where it's acceptable, he would be glad to tell you.

VICE CHAIRMAN IRBY asked if he has talked to the school about mounting this to one of the buildings versus the palm? He likes palm looks, but if this palm is out of place and you have to add two friends to it to make it looks like it belongs, maybe there is a tower that's attached to the building that looks like it belongs more. Mr. Anderson said they have and there's not. Mr. Anderson stated that you have a 35-foot high building, the gymnasium, with a rounded roof. There is no place they can go and you can't put a tower up on top of the building to support it structurally. That's always been an issue. Vice Chairman Irby said he was trying to think if the architecture allowed some type of structure attached to the side or next to it where it looked like it was part of the architecture. Mr. Anderson said the architecture at that building does not lend itself to a cell application. He has walked the site. The first thing they do is a feasibility walk to see what's feasible at this site. Because he doesn't like flagpoles he says they are not feasible. They only have one antenna per sector versus three on a palm three. So you have more capacity and fewer towers. Vice Chairman Irby asked if there was a different location for your secondary structure? Mr. Anderson said typically they put their equipment next to the pole for purposes of the size of the cable to limit the size of the pole. They try not to get it to big because 24 cables is a lot of cables going up. They provide the security of the pole. Kids won't be messing around with the pole because it's inside the compound and covered. It's not something they are going to be engaging in.

CHAIRMAN FLANDERS said to Mr. Anderson that as far as health risks are concerned to please give him some information about that. Mr. Anderson responded that he could give him a pamphlet. He said there are no significant health risks. They are mandated by the Federal government and they are controlled by the Federal government. They actually put out less than 3% of what the Federal government allows. If the Federal government allows you 100% emissions, they put out 3% of that as tested by an independent laboratory on a school in Colorado Springs. He showed a copy of the report done in October of 2005. They say 2% but that's why he says less than 3%. There ultimate answers were less than 2%. There are websites that talk about health risks and you will find some good and some bad. On the back of the pamphlet is all of the websites that say no problem including the American Cancer Society, The Food and Drug Administration, The Medical College of Wisconsin, National Council on Radiation Protection and Measurements and The World Health Organization. All of these organizations have come down and said no health risks.

BILL DERMODY, CITY PLANNER, stated that our zoning code does not allow consideration of environmental effects of radio frequency emissions when considering this Use Permit.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said that the reason the code says that is because the Federal regulations would pre-empt us. That language had to be in the codes and they have to comply with it.

MR. ANDERSON said he usually doesn't talk about it and it's not a secret and it's nothing he is trying to hide. They have the data and the data is available to the public.

CHAIRMAN FLANDERS said he has a couple of speaker cards and he is sure that point will be made so he just wanted to ask that question. Chairman Flanders went to the audience at that time and asked them to please step forward and state their name and address for the record when he calls their name.

ALAN PEDERSEN-GILES, 1650 E. LYNX PLACE, CHANDLER, AZ 85249, stated he is a neighbor speaking in opposition to the tower. His property directly abuts the San Tan K-8 property on the east. He is directly affected by this proposed tower. He said he is there to give them a little bit of ground truth as to what the area looks like. It described in the application as being surrounded by parkland and horse farm. In reality the school is very residential and is surrounded by single-family homes on three sides. The tallest thing in the area is the top of San Tan Elementary School gymnasium, which is about 30 feet high. Other than the school there is nothing approaching even the lower proposed height of 50 feet. This would be something that would dominate the vertical site from three sides. If it were 65 feet or even 50 feet, it would be close to twice as high as anything else around it. He thinks it would be an eyesore. He said he just heard the discussion about the Commission not being able to consider health affects. The fact is that these towers emit hundreds of watts of radio frequency radiation. If they must be located somewhere he questions the wisdom of locating them right smack dab in the

middle of a school and it's not just a junior high school. It is also an elementary school that's located there with children as young as five, kindergartners on up, who congregate and wait outside the school in the morning for their teachers to come up out and pick them up. The proposed site would be right next to where the buses drop the kids off. It's absurd to him the Park passed on this so we are going to locate it in the midst of the school children. His final point is that T-Mobile is only one of a number of cellular providers. In addition to T-Mobile there is also AT&T, Verizon Wireless, Sprint and there is a subtext that T-Mobile bringing wireless to the neighborhoods. He lives in the neighborhood and he has fine wireless service in the street and in his house. It's not through T-Mobile but he thinks it is interesting to note that T-Mobile doesn't even allege that they can't serve the existing area now. What they say is cell density is low and in-building coverage is weak. This is not an area that is under served by other wireless providers or is particularly under served by T-Mobile. He said he wanted to make the point to the Commission that this is an at the margin installation. It's T-Mobile wanting to beef up their network but it's not providing a new utility or providing anything that the broader residents are crying out for. There are plenty of existing wireless carriers that serve the surrounding neighborhoods very well and that are not asking insert a 65-foot palm tree next to the elementary and junior high school.

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

JORDI FERRE', 1649 E. LYNX PLACE, CHANDLER, ARIZONA 85249, stated he is also a resident of the subdivision that sides the east side of the San Tan Elementary. The side of his house also faces the school so this tower would actually be planted right in front of the view from his backyard. As far as his opposition to the tower, which has been stated by Mr. Pederson, he opposes the way that this tower will be located in the school because of its appearance. Like Mr. Pederson says there is nothing around the area where they live that reaches any comparable height to what is proposed at either one of the two levels. The appearance of it is not natural even with two 25-30 foot palm trees located next to it. That is one of his concerns. The other concern is the health risks and he knows the applicant has said there are no health risks. He has found information on the Internet that speaks to the contrary. He said that is also one of his concerns as well given that they have this cell tower in a public school.

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

COMMISSIONER GULSVIG asked if he was aware of the neighborhood meeting that was conducted. Mr. Ferre' said he was not aware of it. Commissioner Gulsvig asked if hadn't seen any mailings? Mr. Ferre' said he guessed he received something. His wife made him aware of this and wrote up a letter and distributed it through the neighborhood so that other neighbors would know what's going on with this tower.

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

RICH SWEENEY, 1789 E. LYNX PLACE, CHANDLER, ARIZONA 85249, stated he was from Creekwood Ranch and also a homeowner association member, but he is not representing them right now. He said the big deal here is that he thinks they are saving money. He was a recent ex T-Mobile user and had no problem in the areas he has highlighted. He had it for two years. There is another cell site not even a mile away from the school. If nobody is aware of that he just wanted to let us know. There is a larger picture that he would love to see be taken up. It's a tough job though. He said it seems like they are going to get the piece meal approach. Everybody wants to put a tower in. He thinks it's a cost saving issue for them. Schools are always an easy prey. He thinks that's a wrong thing. He thinks it would be nice if there a planned Chandler approach to all these people who are going to come in here one at a time. He said he thinks it would be great if you could stop this one because it would be more than an eyesore and he is an RF engineer and have been working with the RF power and the human head is always be worked on as the model and it penetrates. He is not a doctor or anything but just because there are no reported incidences that we can probably talk about, it is a wait and see that's going on for how many tumors will come up for their children. Beams from the towers are really important to us because even though it's 3% of the power on an average it would be much than 3% if they all came together. You never know what student is sitting in that spot. He doesn't think it's a moot point he thinks it's an important point. He said we can't judge on that but it's true. You can judge on is that everybody is going to come in here with all their towers and want to put them up. Let's put them where we want that makes sense. You are not talking to the expert here. You are talking to someone who is going to be paid to put it up. The experts and the moneymen are all behind someplace else. It would be nice if you could say please come together and let's talk about our area and what would be best. We wouldn't prey on eighth on the list schools. He said that he hopes that other pole a mile a way makes some difference in your mind because he concurs with the other speaker who said he never had any problem. As a matter of fact, he really likes the coverage T-Mobile provides now. He is not sure why they are planning on coming closer to the edge where there are no people. He thinks people are more important and he thinks secondarily is the aesthetics. He said he knows that you can't judge it on people and health, which is tying their hands already. The coverage he showed when he drew it and I know he's an expert but he thought the scale was off and misleading. The road that he drew through the pictures made it look like he had to move it over. He thinks that would give you the wrong impression that they have to put that at our school. He said he really appreciated the cable questions and he thinks that putting it at the school is not a good idea.

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

COMMISSIONER GULSVIG asked Mr. Sweeney if he said he was representing the HOA? Mr. Sweeney said he is not representing the HOA. Commissioner Gulsvig asked him what community did he belong to? Mr. Sweeney replied Creekwood Ranch right along the Chandler Heights Road to the right.

COMMISSIONER RIVERS asked Mr. Sweeney for clarification purposes if he could put the map back up under the Elmo and point to where his house is. Mr. Sweeney did.

JIM MACDONALD, 1653 E. SAN CARLOS PLACE, CHANDLER, ARIZONA 85249 stated he is the guy that lives 270 feet away from the cell tower. He said he could show you exactly where he lives as well. He said he is there to oppose the tower. His wife gave him the notice and realized on the notice itself it said everybody has been notified within 600 feet of the cell tower. He did some research and spoke to people at work and people who actually live around these and it's all been bad news. He would like to submit a 112-page report regarding the hazards and health hazards of having one of these towers. On top of that it's a tower that's probably 65 feet if the applicant would like to have his way. He said they are talking about a ball field. It wouldn't fit, it wouldn't look right. He thinks this could begin a cell tower war. This could equate to one or five or who knows down the road. There are two other cell towers; one on Pioneer Rock on McQueen and Riggs and if you go there, one of them actually hums. The voltage going through that he said he is not sure about. Twenty-four cables that are an inch and ¼ thick tell me there is a lot of voltage. It doesn't make any sense at all to have this at a school. Why is a commercial company trying to place something in a school like that? There is another cell tower also at San Tan Nursery, which is between Cooper and Chandler Heights. That's about 50 feet as well. We are talking about three towers in less than a mile. This would actually be the fourth tower, the tallest tower. Again, it's in the middle of a ball field and his backyard would face this. He is the guy that's right at 270 feet as he said earlier. He opposes this 100%. He has three boys and plans on staying in this neighborhood for a very long time. In south Chandler he thinks the applicant tried to imply that they are so out in the middle of boonesville that we need these. He doesn't think they do and has never had an issue with his cell.

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

COMMISSIONER GULSVIG said just as a point there is another tower on Ocotillo and McQueen. You can look up behind the Walgreens and you will see it.

CHAIRMAN FLANDERS said to Mr. MacDonald to please give the information if you want to submit it for the records to Joyce the Clerk.

LISA MACDONALD, 1653 E. SAN CARLOS PLACE, CHANDLER, ARIZONA 85249, stated she is Jim's wife and has been a stay at home mom for ten years. The tower is right next to her house and she is there a lot during the day and I oppose putting in anything that's going to be a health risk to me and she doesn't appreciate them putting it around students and school. She walks her kids to school every day and she sees a lot of kids around that area, even after school. They play baseball. She just thinks it's very unfair to put any kids at risk for any reason at all. She doesn't think there is any reason for it. The site is one thing, but actually the health risks that they don't know that could affect her and her children and anybody in the school, she doesn't understand why that would happen. That is why she is opposed to it. The health risks for any kid and to

herself and to other stay at home moms in that area because they are home a lot and they are right next door to it.

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

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, asked Lisa MacDonald if she had conveyed her concern or have any of your neighbors conveyed your concern regarding the health risks to the school district or to the board of the school district? Mrs. Macdonald said she had not but she will. Mr. Brockman said they are the landowners. Our role here is as a regulatory body. They are the landowners and they can choose whether to lease or not to lease to Mr. Rulon Anderson.

CHAIRMAN FLANDERS said that was all of the speaker cards that he had. He asked if there was anybody else in the audience that would like to speak regarding this item tonight. He called back the applicant for follow up.

RULON ANDERSON said he has heard a lot of misinformation and he has been as honest and forthcoming as he could be. He will tell you that a COAX cable is no different than the COAX cable that feeds your television antenna. He said go home and pull off the cover and stick your finger on it and see how much electrical power you get through that. There isn't any. There is no hum that comes from a COAX cable. They have equipment that obviously has fans on it that are inside the equipment compound. They are less than 50 decibels at the edge of the compound. If you go past the wall you can't hear it. It's like your computer at home-it has a fan that cools it. We have fans that cool their equipment. There is no electrical power. You have heard that hundreds of watts are going to be put out. Their towers put out 6 watts. He said he has a microwave in his house and it has a little clear window. Sometimes he likes to go up to that microwave and watch their food catch and its 1500 watts and they aren't very far from it. People are worried about a health risk of antenna or anything else that puts out 6 watts that's 65 feet off the deck. The facts just don't support what you have heard tonight. Also, this wasn't eighth on our list because they tried to do it in different areas. They tried other options to try and not do this. He prefers to give the money to the schools. The schools like our sites. They have sites at schools all over this valley. There are no health risks whatsoever related to those sites. McClintock High School in Tempe must have six sites on its ball field. There is no issue with the parents. They like it and they like the income from it. It's a viable necessity. He said he might be able to get coverage here but if five hundred people get on the phone at the same time in that same geographical location there will 450 of those calls dropped. That's an issue and it's an issue that everybody needs to understand. E911 doesn't work for anyone else and E911 is a serious issue that affects everybody that has a T-Mobile phone in that neighborhood. They didn't send out a mailer to every T-Mobile user in the neighborhood to say please come to the hearing if you want to improve your service. They could have but they choose not to do that generally. Then you would have a flood of people up here saying they need it. The marginal in-building coverage they talked about is the margin in-building coverage that says they can't use the phone in my house and I have to go out and

crook my neck in my backyard. People don't like to do that. They want to be able to use their phone in their home.

CHAIRMAN FLANDERS asked if there were any questions or comments to the applicant. He said he was going to close the floor for discussion and motion.

COMMISSIONER RIVERS said as they have been instructed they are not to involve themselves with health or radiation issues and he's thinking for him if it's a choice of having a 65 foot tower that eliminates two other towers or a 50 foot tower that invites two other towers, he is tending toward the 65 foot tower. He asked with the stipulation as it is read in that's not what we would be voting on?

CHAIRMAN FLANDERS said the stipulation has not been approved yet but there is the possibility of modifying it.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, the stipulation was a suggestion that could be included in any motion but it's not part of any motion right now.

COMMISSIONER RIVERS stated he knows in his neighborhood if he was in that situation there would be about ten homes that would actually have visibility from this thing. The rest of them can't see it because of their neighbors houses and he doesn't know how many two stories or one stories there are, but again as a land use issue if we are looking at 65 or 50 feet, he would go for the one instead of three.

VICE CHAIRMAN IRBY had a question for Staff. He said he was having a little bit of a problem with this yard location because it looks like it bottle necks between the track and field and the baseball field. He was wondering if anybody has looked at it from an emergency access with vehicles and fire trucks? Is placing it in this location is it hampering those types of needs and requirements?

BILL DERMODY, CITY PLANNER, said they haven't explicating evaluated for a fire access. In just looking at it, it wouldn't impede anything. There is no driveway here so it's not blocking a driveway. The opening between the ball field and the track is being decreased but only marginally. There will still be plenty of room to for instance, to carry stretchers through or a fire hose through if any of that were necessary. Vice Chairman Irby thought it wasn't a problem, but he didn't know if anyone every analyzed it. Because one site there is a SRP transformer in the way so you would have to be between this and the ball field. He has no clue on this particular site as to where fire truck access is if they need to get out on the field to provide services to the backside of the gym. Mr. Dermody replied that would be evaluated through the building permit process when it came in for building permits, the Fire Marshall would take a look at this. It is a good idea for future issues as well. Vice Chairman Irby said o.k. He also said that 50 foot or 65 foot towers to him becomes something you can't notice. Once it is built it's there. To him 50 feet seems pretty tall and he's not sure if 65 feet means that much of a difference once it's built. He probably would lean towards the 65 foot with the hope that eliminates

additional towers in the future. He will pay more attention in the future as to seeing a site with a 65 foot palm and see how out of scale or out of portion it is. But right now he leans toward the 65 foot.

CHAIRMAN FLANDERS said he knows there is a 65-foot palm right between the 101 and Dobson Road (Cornerstone Christian Church).

COMMISSIONER CASON asked if there has to be an aircraft light on top of this structure?

BOB WEWORSKI, PLANNING MANAGER, said there is no requirement in that case at this height,

COMMISSIONER CASON stated his curiosity surrounds sites A, B, C, D, E & F and if there were any economic reasons why they aren't using those and they have sort of found the lesser of two evils. When he went out to the site and he envisioned across Chandler Heights Boulevard where he parked in the gravel this tree standing up there. He said it was like the tallest thing in the entire quarter section. The folks that will probably only be able to see it are there immediately adjoining the school. Certainly driving by you would be able to notice it. His biggest concern was the building. He was so concerned that he actually went to look for people to comment on how close the building was to the track. There is a gate there where vehicles can go through. It really looked disjointed there. He would actually prefer the site to be on the south side of Chandler Heights Road and obviously the applicant couldn't come to terms with any of the property owners down there to place this site there. If the issue is health, there are sites all over schools not only here but also all over the United States. He doesn't know that they can limit the economic viability of one company over another because one company is lining work and if another one wants to come in the area that they should have that opportunity as well. He doesn't have any objection to T-Mobile coming into the area. He just doesn't like them at the school. It doesn't have anything to do with the safety it just happens be based on the fact that it's just not going to look very good there. He will be opposing the application.

COMMISSIONER GULSVIG said he shares Commissioner Cason's concerns. He has a concern about putting a structure of that height in the middle of a schoolyard. If it was a larger schoolyard where you could get more distance away from the residents, than he thinks it would be o.k. In this case it is in an odd location as far as closeness to the residents and at 65 feet he realizes it can't be less than that to meet the viability of putting the tower in. He is in opposition to it in the sense of going into an elementary and junior high school. Going into a regular high school area probably with more mature students around would be o.k. He just can't see it at this particular site.

CHAIRMAN FLANDERS stated he knows they have had this applicant before and have asked and have gotten the 50-foot height. That was a height that he has heard they have in a lot of cities. He was hoping they could get a consistent height across the City of

Chandler. That was the reason for the 50-foot stipulation. Staff has provided the additional two palm trees, which he thinks is a great idea. Is this site going to stick out like a sore thumb, absolutely. As the area matures it will start to blend with the neighborhoods and everything else. As far as the stipulation, he had asked to the top of the fronds to be 50-foot. He would like to modify that stipulation to read, height of monopalm to be limited to 50 feet. This gets rid of that little addition of the fronds and everything else. He thinks as far as the location, they have done them before in other schools around the city so he didn't have a problem with that.

CHAIRMAN FLANDERS entertained a motion.

COMMISSIONER CREEDON said she is going to agree with many of their points that it is going to stick out like a sore thumb. It is located at many different schools throughout the valley. The health risks she doesn't want to even speak to those at all. Vice Chairman Irby stated that the difference between 50 and 65 feet probably wouldn't be a drastic difference. She would have preferred some sort of compromise but she thinks she would rather run the risk of 65 foot here and perhaps the elimination of the other two monopalms at another location.

A motion was made by **COMMISSIONER CREEDON** to approve UP07-0064 SAN TAN JUNIOR HIGH/T-MOBILE with the 65-foot tall and elimination of the stipulation, seconded by **COMMISSIONER RIVERS**. The item was defeated 4-2 (Anderson was absent).

GLENN BROCKMAN, CITY ATTORNEY, said if they wish, they can have another motion or the Commission can choose not to make any motion.

There was not an additional motion. Item B was denied. It will go before City Council on October 25, 2007.

CHAIRMAN FLANDERS thanked all the residents that came out.

6. DIRECTORS REPORT

There was nothing to report.

7. CHAIRMAN'S ANNOUNCEMENTS

The next regular meeting is October 3, 2007 at 5:30 p.m. in the Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:57 p.m.

Michael Flanders, Chairman

Douglas A. Ballard, Secretary

MINUTES OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF CHANDLER, ARIZONA, October 3, 2007 held in the City Council Chambers, 22 S. Delaware Street.

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

Chairman Michael Flanders
Vice Chairman Mark Irby
Commissioner Dick Gulsvig
Commissioner Mike Cason

Absent and Excused: Commissioner Angela Creedon
Commissioner Leigh Rivers

Also Present:

Mr. Bob Weworski, Planning Manager
Mr. Kevin Mayo, Principal 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 CASON, seconded by **VICE CHAIRMAN IRBY**, to approve the minutes of the September 19, 2007 Planning Commission Hearing. Minutes were approved 4-0 (Creedon, Rivers were absent).
5. ACTION AGENDA ITEMS
CHAIRMAN FLANDERS explained to the audience that prior to the Commission meeting, Planning Commission members and Staff met in a study session to discuss each of the items on the agenda. Staff will read into record all the items on the consent agenda and the consent agenda will be approved by a single vote. After Staff reads the consent agenda into the record, the audience will have the opportunity to pull any of the items for discussion. There were two action items, items C and G.

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

A. DVR07-0025 WARNER COMMERCE PARK

Request rezoning from Planned Area Development (PAD) to Planned Area Development (PAD) Amended to expand the list of permitted uses within the zoning district on an approximately 12-acre business park development with commercial and industrial uses located on the southeast corner of Warner Road and Delaware Street.

1. Development shall be in substantial conformance with all exhibits and representations kept on file in the City of Chandler Current Planning Division, in file number DVR07-0025 WARNER COMMERCE PARK, except as modified by condition herein.
2. Compliance with original stipulations adopted by the City Council as Ordinance No. 3653 in case DVR04-0036 WARNER COMMERCE PARK, except as modified by condition herein.
3. Any building area utilized for training, classes and/or clinics shall be considered part of the maximum allowable area for office/showroom uses outlined as follows; Buildings 1-3 are 55% max office/showroom, buildings 4-6 are 25% max office/showroom, and buildings 7-8 are max 30% office /showroom.
4. Future property owners and potential sub-lease tenants shall comply with the PAD zoning land-use restrictions while maintaining the square-footage limitations as identified in Condition 3.

B. DVR07-0029 CACTUS TOWING PARCEL 2

Request rezoning from Planned Area Development (PAD) for Conceptual Planned Industrial District (I-1) uses to Planned Area Development (PAD) Amended, along with Preliminary Development Plan (PDP) approval for the expansion of an impound yard and towing facility on approximately 3-acres located at the southwest corner of Delaware and Highland Streets (approximately ¼ mile south and east of the southeast corner of Arizona Avenue and Warner Road).

1. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "CACTUS TOWING PARCEL 2" kept on file in the City of Chandler Current Planning Division, in file number DVR07-0029, except as modified by condition herein.
2. Right-of-way dedications to achieve full half widths for Highland Street and Delaware Street, 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. There shall be no stacking, demolition, salvage, dismantling, sale, or long-term storage of impounded vehicles.
9. All vehicle storage shall occur behind the eight-foot high screen walls within the designated impound yard.
10. 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.
- 11. The adjacent rights-of-way shall be kept in a clean and orderly manner.**

D. PDP07-0009 SANTAN CROSSING PLAZA

Request Preliminary Development Plan (PDP) approval including building and site design for a retail development located at the southeast corner of Cooper and Pecos Roads.

1. Compliance with original stipulations adopted by the City Council as Ordinance No. 2701, in case PL98-0118 RIO DEL VERDE, except as modified by condition herein.
2. Development shall be in substantial conformance with Exhibit A, Development Booklet, entitled "Santan Crossing Plaza " kept on file in the City of Chandler Current Planning Division, in file number PDP07-0009, except as modified by condition herein.
3. 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.
4. Landscaping shall be in compliance with current Commercial Design Standards.
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 site shall be maintained in a clean and orderly manner.
7. All trees along the southern property line are to be 12' tall at planting, spaced at 20' on center to achieve a dissimilar land use buffer.
8. Signage is not permitted on building elevations facing the office development to the east and residential development to the south.
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 monument signs shall include internally illuminated routed-out, push-through acrylic lettering. All building signage shall be halo-illuminated reverse pan-channel letters.
11. 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.
12. All raceway signage shall be prohibited within the development.
13. 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 Santan Crossing Plaza development shall use treated effluent to maintain open space, common areas, and landscape tracts.

- 14. The applicant shall work with Staff to ensure four-sided architecture upon all architectural projections.**
- 15. The applicant shall work with Staff to provide pedestrian connections to the adjacent office development.**
- 16. The applicant shall work with Staff to further develop the architectural detailing of the bank pad.**
- 17. Decorative lights shall match lighting utilized within the adjacent office development.**

E. PDP07-0021 FULL CIRCLE AUTOWASH

Request Preliminary Development Plan (PDP) Amendment approval for the fuel station facility. The subject site is located at 2755 W. Chandler Boulevard, located east of the southeast corner of the Price-101 freeway and Chandler Boulevard.

1. Development shall be in substantial conformance with Exhibit A, entitled "CANOPY ELEVATIONS AND DETAILS", kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0021, except as modified by condition herein.
2. All raceway signage shall be prohibited within the development.
3. Any future signage will require separate Preliminary Development Plan approval.
4. **The applicant shall work with Staff to monitor the level of intensity for the LED lighting.**

F. PDP07-0022 DESERT SUN CHILD DEVELOPMENT

CONTINUED TO THE OCTOBER 17, 2007 PLANNING COMMISSION HEARING.

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for two school-related buildings. The subject site is located east of the northeast corner of Dobson and Elliot Roads, at 1512 W. Elliot Road.

H. UP07-0058 LATITUDE 8

CONTINUED TO THE OCTOBER 17, 2007 PLANNING COMMISSION HEARING.

Request Use Permit approval to sell alcohol (Series 12 Restaurant License) for on-site consumption in a new restaurant at 11 W. Boston Street, Suite #4.

I. UP07-0061 BASHA HIGH/T-MOBILE

CONTINUED TO THE OCTOBER 17, 2007 PLANNING COMMISSION HEARING.

Request Use Permit approval to install a 50-foot monopalm wireless communication facility on Basha High School property at the northwest corner of Riggs Road and Val Vista Drive.

J. UP07-0063 ZPIZZA

Request Use Permit approval to sell alcohol (Series 12 Restaurant License) to restaurant patrons within a new restaurant located at 2855 W. Ray Road, Suite #7 within the Raintree Ranch shopping center.

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, and Floor Plan) shall void the Use Permit and require new Use Permit application and approval.

3. The Use Permit is non-transferable to other store locations.

K. UP07-0068 ST. MARY'S CATHOLIC CHURCH
**CONTINUED FOR DESIGN REVIEW TO THE NOVEMBER 7, 2007
PLANNING COMMISSION HEARING.**

Request Use Permit approval to allow the addition of new buildings within the existing church property, which is located at 230 West Galveston Street.

L. UP07-0069 REGAL BEAGLE

Request Use Permit approval to sell alcohol (Series 6 Bar License; all spiritous liquor) within an existing restaurant located at 6045 W. Chandler Blvd., Suite #7, within the Kyrene Village Shopping Center.

1. The Use Permit granted is for a Series 6 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. No alcohol shall be carried outside of the building into the parking lot or off-premises. Sales of "to-go" liquor shall be prohibited.
4. 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.
5. 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.
6. 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.
7. **Any outdoor music shall be non-amplified acoustic. Neither indoor nor outdoor music shall not disturb area residences.**
8. Transfer of ownership shall require a new Use Permit.
9. The applicant shall provide security on the weekends, if necessary.
10. The applicant shall maintain a liaison program with the adjacent neighborhood that allows neighbors to directly contact a representative of the establishment with their concerns.
11. The applicant shall work to mitigate litter issues resulting from the use.
12. The patio and surrounding area shall be maintained in a clean and orderly manner.

M. UP07-0081 BEVMO

Request Use Permit extension approval to sell alcohol (Series 6 Bar License) for a liquor store that will have a sampling bar (wine, beer, liquor). The subject property is located at 7230 W. Ray Road, Suite #4 within the Chandler Pavilions Shopping Center.

1. The Use Permit is for a Series 6 liquor license only, and any change in type of license shall require reapplication and new Use Permit approval.

2. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
3. The Use Permit is non-transferable to any other store location.
4. **The site shall be kept in a clean and orderly manner.**

N. UP07-0082 WINGSTOP

Request Use Permit extension approval to sell alcohol (Series 12 Restaurant License) to restaurant patrons within an existing restaurant located at 5905 W. Chandler Boulevard, Suite #1, within the Kyrene Crossing shopping center.

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. No alcohol shall be carried outside of the building into the parking lot or off-premises, with the single exception of the patio.
4. 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.
5. 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 and approval by the City of Chandler.
6. Televisions, speakers, and music are prohibited outside of the restaurant.
7. The patio shall be maintained in a clean and orderly manner.

O. UP07-0084 98 SOUTH

Request Use Permit approval to allow liquor sales and service under a Series 12 Restaurant License for on-premise consumption within an outdoor patio at an existing restaurant in Historic Downtown Chandler. The property is located at 98 South San Marcos Place, west of Arizona Avenue at the northwest corner of Boston Street and San Marcos Place.

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, other than for special events, 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.
5. The patio shall be maintained in a clean and orderly manner.

P. UP07-0086 BRAVI

Request Use Permit approval to sell alcohol (Series 12 Restaurant License) to restaurant patrons within a new restaurant located at 4991 S. Alma School Road, Suite #123, within the Fulton Ranch Promenade shopping center.

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. The patio shall be maintained in a clean and orderly manner.

Q. UP07-0088 MAJERLE'S SPORTS GRILL

APPROVED TO WITHDRAW FOR THE PURPOSE OF RE-ADVERTISING.

Request Use Permit approval to allow liquor sales and service under a Series 12 Restaurant License for on-premise consumption within an expanded patio area.

R. PPT07-0025 COOPER CROSSING CONDOMINIUMS, PHASE II

Request preliminary condominium plat approval for office and retail space located at the northwest corner of Ray Road and Cooper Road.

CHAIRMAN FLANDERS asked if there was anybody in the audience that wanted to pull any of items from the Consent Agenda for a full presentation. He stated has a "conflict of interest" on item J as he is employed by the architect of record and will be abstaining from that.

A motion was made by **COMMISSIONER GULSVIG** to approve the Consent Agenda with the additional stipulations as read into the record by Staff, seconded by **COMMISSIONER CASON**. Motion to approve passed unanimously 4-0 (Creedon, Rivers were absent.)

ACTION:

C. PDP07-0002 VILLAGE AT THE SPRINGS PLAZA

Request Preliminary Development Plan (PDP) approval for site layout and building architecture for a commercial retail development on approximately 10-acres located west of the southwest corner of Chandler Boulevard and Cooper Road.

1. Development shall be in substantial conformance with exhibits submitted as part of this application and shall be kept on file in the City of Chandler Planning Services Division, in File No. PDP07-0002 VILLAGE AT THE SPRINGS PLAZA.

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. 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 development shall be in conformance with the City's Commercial Design Standards including landscaping.
7. All raceway signage shall be prohibited within the development.
8. **The applicant shall work with Staff to ensure 4-sided architecture upon all architectural projections.**

KEVIN MAYO, PRINCIPAL PLANNER, stated this is a request for Preliminary Development Plan approval for site layout and building architecture for a commercial center on approximately 5 acres of the 10-acre commercial corner located at the southwest corner of Chandler Boulevard and Cooper Road. There is an existing Walgreens building and the existing Blockbuster shops building west of that. This almost completes out the rest of that 10-acre commercial corner with the exception of a small piece out along Cooper Road. There are four buildings, listed as shops A, B, C and D. It totals only about 35,000 square feet and it's all single story. The applicant's been really good to work with in trying to incorporate some of the architectural elements and materials that are on those existing buildings. While they are about eight years old and they are of an older design, there are still some elements that they were able to pull from to make this piece seem like one cohesive development while giving it detailing and such to give it a nice feel. The application includes a comprehensive sign package. It's very high quality and doesn't include any additional freestanding monument signs out along the arterial streets. Architecturally, Staff is very please with it. It does include along the south property line that they will see in their packet, the continuation of a 10-foot wide equestrian trail. When the Tuscan Springs residential development west of Lakeview was done, the Senate Acres subdivision neighbors who have equestrian privileges has requested that a dedicated connection be made from their subdivision all the way to the canal where they frequently ride their horses. The Tuscan Springs 10-foot wide path gets them right to Lakeview. There is a piece between Lakeview and this subject site. They are working right now with that property owner on a development that they will be seeing shortly and it also has the final missing link of that equestrian path. This piece provides the last piece that gets you down to the canal. Landscaping is a good quality infill development that almost finishes off this entire corner. During the Study Session there was some discussion on what would be the future shops building out along Cooper Road. They went back and forth on how do we treat that. Do we want that building to be a PAD? The end result was it slide shops D all the way to that east property line of this site with the intention when the future property owner to the east comes in to develop, we

would construct that shops building right next it and just basically continue it on so that it feels like one consistent multi-tenant shop space. They did have a neighborhood meeting. They have had some neighborhood discussion and overall everybody seemed very pleased with it and there weren't any concerns that weren't either answered or addressed.

CHAIRMAN FLANDERS said it is a great infill type use and it finishes off that corner with the commercial parts and he thinks it is a good example of the quality they are looking for. He asked if there were any questions of Staff.

COMMISSIONER CASON asked Mr. Mayo if he would be working with the property owner of the adjacent property to see if we can put some landscaping in there as well?

KEVIN MAYO answered that Staff did get direction during the Study Session to work with the adjacent property owner east of this site to look at doing some temporary landscaping adjacent to Shops D. It will give it a finished edge until that piece comes in. Staff will be contacting that property owner.

CHAIRMAN FLANDERS asked the applicant to please step forward and state their name and address for the record.

KEVIN YU, 155 E. ORANGEWOOD AVENUE, PHOENIX, ARIZONA 85020, said they are the architects for this project and they are waiting to answer any questions they have.

CHAIRMAN FLANDERS said he thinks they have pretty much worked everything out in Study Session beforehand. He also said they have one resident that would like to speak in regards to that. Maybe after she speaks they may have the architect come back up and address any issues. He also asked the audience if anybody wishes to speak in regard to the item, to please step forward and state their name and address for the record.

CAROLYN FOX, 83 NORTH AMBER COURT, CHANDLER, ARIZONA, said that they are Lot 507, which is adjacent to the south side of the property. One concern that the homeowners addressed at the neighborhood meeting was that they believe there is a seven to ten foot easement that they own that is on the north side of the wall. The wall was built 10 feet inside their property. They had addressed that and the developers were going to check into that and get back to them but they have not heard from them and they had our contact information. That's why she came today to see if that had been brought up to the committee or to the Council. She said she believes in her homeowner paperwork it shows that it is an easement now.

CHAIRMAN FLANDERS asked Mr. Mayo if that is referring to the equestrian easement? Mr. Mayo answered that the equestrian trail isn't really an easement it is just something that's being place in this property. He knows the question was raised at the neighborhood meeting and the applicant looked into it. He doesn't think there was evidence of anything other than the wall was built on the property line. He would have to

refer back to the applicant to see if they had any other additional information. He doesn't think there was anything that showed an easement.

CHAIRMAN FLANDERS asked Ms. Fox if that was the only issue she had. Ms. Fox said when they went to the meeting they were concerned that it was going to be a grocery anchored development. They were told these shops were small and it's less than 40,000 square feet. She was a little disappointed to come and see that the proposal was a grocery-anchored plaza when that wasn't the issue at the meeting.

CHAIRMAN FLANDERS asked if Commission had any questions for the speaker. He went back to the applicant to see if they would address the comment from the resident.

Mr. Yu said they found out from the civil plan the wall is built right at the property line. There was a three-foot easement on the residential side. That is the only thing they could find. Chairman Flanders asked if it is actually off their site then? Mr. Yu said yes. The wall is built right on the property line. The easement is on the residential side - only a three-foot slope easement. Chairman Flanders said it's not a problem then. He said to Kevin Mayo in looking at the civil drawings it shows the location of the property line and then it shows the wall to the subdivision to be to the west of that. This is not really any of our concern, is it? Mr. Mayo answered if he is referring to the southwestern corner of that property, the wall does look like it's built on the residential property line - if he is reading it correctly. Mr. Flanders said he sees a property line adjacent to a retention area, then a double line just to the west of that. It looks like the wall is off property. Is the intent to leave the wall where it is and just go from there? They don't know what that easement is? Mr. Mayo said the intent is not to build another wall on this property line to create a no mans land. The intent was just to landscape up to the existing wall.

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

KEVIN MAYO said that at the Study Session the question was raised about the four-sided architectural nature of the projections of the building. They did have condition 8 read into the Consent Agenda before it was pulled. He didn't know if he should read it again.

GLENN BROCKMAN, ASSISTANT CITY ATTORNEY, said at this point it would be part of the record so any approval would include that stipulation that was already read in.

CHAIRMAN FLANDERS entertained a motion.

COMMISSIONER CASON moved to approve PDP07-0002 VILLAGE AT THE SPRINGS PLAZA with stipulations as read in by Staff, seconded by **VICE CHAIRMAN IRBY**. The item passed unanimously 4-0.

ACTION:

G. UP07-0008 BEVERLY ANN CARPENTER

Request Use Permit approval to allow horses to be kept on two lots zoned Agricultural District (AG-1) that are less than 35,000 square feet in size. The properties are located at the southeast corner of El Alba Way and the Loop 101 Price Freeway.

1. Expansion or modification of the use beyond approved exhibits shall void the Use Permit and require new Use Permit application and approval.
2. The number of horses kept on the subject properties shall be limited to six (6).
3. There shall be no horse boarding nor riding lessons unless and until first receiving separate Use Permit approval from the City of Chandler.
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. **The site shall be maintained in a clean and orderly manner.**
6. **Structures on the site shall meet applicable city codes and acquire any necessary permits.**

BILL DERMODY, CITY PLANNER, stated Item G is a Use Permit request UP07-0008 BEVERLY ANN CARPENTER named after the owner of record of the property. This is a request to allow horses to be kept on two lots zoned AG-1 that are less than 35,000 square feet combined and to also allow accessory structures to remain on the lots associated with the horses there. These are two remnant parcels right up against the freeway on the south side of El Alba Way where it dead ends into the 101 Price Freeway. These two are among several that are in the same situation that were annexed into the city back in the 70's but are basically surrounded by County properties – large lot 2-acre County properties to the east in the form of an established subdivision. This is a little bit north of Warner Road also. These two lots were sold back to the adjacent owner who in turn sold them to her mother and they are used and enjoyed by the adjacent property owner in the County. There are two horses on the property in general and up to six depending on the grazing schedule and rotation pattern that they use. They have heard just in the last few days from some neighbors who are in opposition to this request, mostly having to do with the history of the site. Reportedly, there was a horse boarding operation with twenty to thirty people on the site. Those who have called to complain about that are in opposition to any Use Permit being granted on this property out of fear that it would revert to that situation. The current situation is exactly what's being asked for and is something that Staff supports. There would be no horse boarding on the site, no riding lessons and it could only be used for no pay for free recreation by the adjacent property owner or by anyone else who had permission from the property owner on the site. They would be limited to at most 6 horses on the site at any given time. If they wanted to come back for horse boarding or riding lessons this would have to be under a separate Use Permit. He said he believes that they will have some neighbors speaking in opposition to this, but as he mentioned Staff recommends approval.

CHAIRMAN FLANDERS asked if there were any questions of Staff. He went to the applicant and asked her to please step forward and state her name and address for the record.

SANDRA CARPENTER-DIXON, 2819 W. EL ALBA WAY, CHANDLER, ARIZONA, stated her mother is the applicant.

CHAIRMAN FLANDERS asked if there were any questions for the applicant. There were none. He said he had a couple of speaker cards. They will listen to what they have to say and then he will come back to her to address the issues.

CHAIRMAN FLANDERS said when he calls their name to please step forward and state their name and address for the record.

GIL MONTANEZ, 2822 W. EL ALBA WAY, CHANDLER, ARIZONA, said that for the record that he is right across the street from the applicant. He pointed out that he has lived there for 12 years and the 12 years across from Mrs. Carpenter has been a nightmare for not only his family but for the other neighbors that live in that area. There has been a horse riding school over there and a boarding operation that has been run there. Maricopa County has denied the same request that is in front of you right now that they spoke in opposition to, which clearly showed that this particular parcel of land has structures put up on it illegally without a permit. There has also been a trailer that they were leasing out. It has strictly been a revenue based stream operation. If the Commission allows these six horses it will turn into more horses and then into riding. In her application she would like to have riding on the property for ministries. There haven't been any ministries there. It has been strictly a for profit operation in their neighborhood. It is terrible. If you check with the Sheriff's office records, you will see that there have been numerous complaints with boarders and also animal humanity complaints against that residence. There are no streetlights because it is a County area and there are no sidewalks. There is no parking to accommodate it. These people would park in his yard and use his trashcans. It is unbelievable. He stated he had photos if they would like to see them of what the current status of the house is and what the property looks like. It's strictly a for profit center. There is nothing about boarding horses or having your own personal horses there. He is completely opposed to it.

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

COMMISSIONER CASON asked Mr. Montanez when they were having all the complaints and vehicles parked in front of his house and all the other issues that were associated with this property, how long ago was that? Mr. Montanez answered it was two years ago. Commissioner Cason asked if this after the freeway was built? Mr. Montanez said yes. Commissioner Cason also asked how many horses did they have boarded on that property? Mr. Montanez said they counted up to 38 horses at one time. Commissioner Cason asked if they were all within the boundaries of that property? Mr.

Montanez restated that there were up to 12 to 14 horses on that particular piece of property.

VICE CHAIRMAN IRBY said he would like to see what photos he had.

Mr. Montanez said the picture on the upper right hand side shows there are no sidewalks or streetlights provided in this area because it's a rural area. Some of the other houses in this neighborhood keep their property up to a certain standard. He showed another typical house in the area. He also showed a picture of one of her boarders or friends that are parking across the street in the "no parking" area. Mr. Montanez showed a picture of the front of the property site along with their mailbox. He said these pictures are very typical of what's on the property or been on that property.

VICE CHAIRMAN IRBY asked if he had some that showed when it was maxed out with horses. Mr. Montanez said no he left those with the County when he opposed them at that hearing two years ago.

CHAIRMAN FLANDERS asked the next speaker to come up and state his name and address for the record.

JAMES LA VANWAY, 2807 W. EL ALBA WAY, CHANDLER, ARIZONA, stated he lives right next door to the applicant. He wanted to expand on a few things that Gil had to say. The County determined that the lot size wasn't large enough to board horses beyond personal use. Typically, horses for personal use are a luxury item. He said Gil and he have been good neighbors because they mow the front of their yard because they just don't mow it. He said he doesn't know if it's appropriate to say they can afford horses and afford to take care of their yard and do a few things to be in harmony with the neighborhood. His concern is that the traffic that comes through there the neighbor does not gear up for it. Their kids ride their bikes in the street because they don't have sidewalks. It's not a problem when there is very low traffic. He has spoken with the Sheriff several times and they were out there for some Humane Society issues. Apparently, the boarder wanted her horse back and couldn't get it and has since filed a lawsuit because the attorney called me asking me some questions. When you board horses, you have boarder problems. They are not geared up to be commercial and for the traffic whether it's five or ten cars out there. It's not appropriate and it's not a business area. The trailer that Gil mentioned was a boarder staying there living in the trailer. They don't know who he was. There is no record of him – they don't know if he's a predator and anything about him. He just appeared. They have concern for the neighborhood. The history for ten years has indicated that they do not want to conform to the neighborhood and want to run a business out of there. It's just not appropriate.

CHAIRMAN FLANDERS asked if there were any questions of the speaker. He also asked if there was anybody else in the audience that would care to speak regarding this item? He went back to the applicant.

Ms. Carpenter-Dixon stated that in reference to boarders there are no boarders. They own 12 horses and she can give them paperwork and documentation. There have been seven or eight years ago there were two or three of the horses that belonged to friends and they shared in expenses and it “technically boarding” but it was not for profit and it has never been for profit. There has not been anything commercial for almost three years. Even to hint at commercial. There has not been any for profit commercial in the whole history of them being there. This has been 12 years now. Apparently, they moved in shortly after Gil moved. The pictures that Gil showed are the 2918 El Alba Way. The trailer that he talked about was six years ago for a few months. She said she actually knocked on Gil’s door and asked him for advise on how to get the person out because that situation was a college student that was staying with them for part of a school year. His father brought the trailer and stayed for a few months and was a pain in the neck. She asked Gil to give assistance to have the fellow moved. That was years ago. There was not a penny passed and there has never been a commercial operation and there has never been anything close to 38 horses.

CHAIRMAN FLANDERS asked her why she needed six horses on the property? Ms. Carpenter-Dixon answered that is was to manage the flow so that there is always grass and there is always room for them to move and scratch and be healthy. It works out really well. Chairman Flanders asked if she had other properties that have horses on them or this the only property that she has? She replied that this is the only property where she has her own horses. She has 12 horses – the others are at 2819 W. El Alba Way. Chairman Flanders said so they are on an adjacent property. She said on the whole two and half acres she has twelve horses. This is to keep grass green so that there aren’t dust bowls and so that manure is managed and they have the space they need to be healthy animals. She said all the pictures Gil took were of 2819 W. El Alba Way. Robert manages the up keep of the property. It is out of her hands. With permission to use this other property she will have more authority to manage it in a way she thinks the neighbors will be really happy about. Chairman Flanders asked her why she needs 12 horses? She replied she didn’t know and why does the next-door neighbor have 50 cars? Why does Gil have three or two horses? Chairman Flanders asked if she had family that comes over and rides them all at the same time? Ms. Carpenter-Dixon said she has her daughter’s very first horse and she is about 30+. She has earned her right to live until she doesn’t want to live anymore. She is so arthritic and old the only other option for her is to put her down and she doesn’t want to do that. Another one is younger but similar and there is no real market for him. He is a big pet like a Labrador. One of them is a stallion that got hurt that is real sweet but he is crippled. Again, there is really not a market for him but he is sweet and nice to ride on. Another one is her daughters show horse. Another one is her old first horse that she has. She is 24 and she has had her since she was seven. Another one is her baby who is now 7 years old. Another one is a project that she bought to be the next better move up show horse for herself and her daughter. Another is her show horse in the western arena. He’s of age now and temperament now that he is really mellow. There is another she works with and would love to have him sold because he is an ideal horse that a lot of people want. For the last three years she has done nothing with the animals or with the property other than make sure that they have

their basic needs met because of the conflicts with Robert and because of not wanting to do anything that even approached a picture or a question of business.

Ms. Carpenter-Dixon said with the County there were some meetings and a hearing. The County said she needed to get a Use Permit to be able to do training and teaching. They said they would approve it. She can supply a letter to the city. The letter says it would be approved. However, Robert needed to be on board with that and he has not been all these years. It's never been applied for. The County has never disapproved anything because she has never applied for anything. What was with the County was Robert and the neighbors accusing her of having a business and the only thing that looked like a business was that she has a web site that includes listing boarding and training. She has other locations. They have properties in Maricopa. The web site hasn't been updated in three years. At the time, she also had an agreement with some friends that horse property and had a stable up in Desert Hills. All the business activities were other than the County Island and other than the property that we're talking about - the section next to the sound barrier wall. She found everything completely ridiculous.

CHAIRMAN FLANDERS asked if there were any other questions or comments to the applicant.

VICE CHAIRMAN IRBY said he wanted to ask her about two issues. One is does this property have structures on it that have not been permanent? Ms. Carpenter-Dixon said it had structures on before 101 Price Road and part of what is on it was still back from the early 70's. When she purchased that property she was told that the property was County Island just like the adjacent 2819 W. El Alba Way. Up until roughly two years ago she still was told and believed it was County Island and as a County island property R-43, there didn't need to be any permit for what's on it or what she put on it or the use of it. Vice Chairman Irby asked Staff if they are aware of any? Mr. Dermody answered that yes some of the structures on the property need permits and variances before that and that will be taken care of through a separate process if this is approved. Vice Chairman Irby said so if it is approved, it will need to be brought up into compliance. Mr. Dermody said that is right. Not only would they have to meet set backs and get variances, they would have to get permits. That hasn't been done for all the structures on the site. Vice Chairman Irby said the last item is the issue that she was investigated for some animal abuse issues or care issues. Could she address that for them? Ms. Carpenter-Dixon said that if you look at the record you would see that there was a lady about four or five years ago that gave her a horse. A year after she gave her the horse she decided she wanted the horse back. The lady was bi-polar; the lady no longer lives in the state. The lady complained to Animal Control. Animal Control came out and the only criticism that they had of her and her animals and of the property was that she should put a couple of them on a diet because they were carrying more weight than what they would like to see. They told her to do whatever she can to get her satisfied and gone because she was driving them bananas. It was finally resolved by her and Robert paying the lady a thousand dollars for the horse that was given her. Vice Chairman Irby asked her if the horse is now her property? She answered that the horse is fit and she has veterinarian records to

verify that. She can supply pictures to verify that. That is the only time in all of the years and they have been there roughly eleven years. That is the only thing that has been an issue with Animal Control. Vice Chairman Irby asked Staff if they have had a chance to look into those issues at all? Mr. Dermody said they haven't been made aware of animal cruelty and haven't investigated that. They have a call into the County on other issues and they haven't heard back from them.

COMMISSIONER CASON asked Ms. Carpenter-Dixon that when her older horses pass on is she going to reduce the amounts or will she buy new horses? Ideally, 4 to 6 horses would be what she would ideally enjoy and feel like that would be what she wants. Her daughter and the history and the babies and she feels like she has been so blessed. Robert's income is \$175,000. Plus they have rental properties that also support income. Their income has always been anywhere from \$150,000 and \$200,000 a year for the last eleven plus years. There has not been an issue of ability to care for the property and the animals and to care for the home. The resources they have she feels very blessed about. Commissioner Cason said if he hears her correctly she would really like to only have six but because of the demands on their family or the demands by their family they will probably always have more but never more than twelve. Is that what he is hearing her say? Ms. Carpenter-Dixon said she will not buy another horse and she will not be given another horse. She has also been in pre-med classes and is also just been finishing other schooling to have another livelihood outside of what she has done in past years. Commissioner Cason asked her when she is buying and selling show horses does she take them to stockyards or do people come by and look at them at her property? How does that work? She answered she has two. Her daughter was showing and she was showing. It was kind of a family thing. They are talking about one or two horses and there is no business. She said that his question kind of leads to wondering if there is traffic for business. The comments on traffic are just ridiculous. She said even when she was really active with her daughter having her activities and her pony club activities and the ministry get together - even at the most there were never more than a few cars coming and going out of the ordinary in a course of an afternoon or an evening. Commissioner Cason she was exactly right in that his question did try to address traffic on the street. He asked further to that point, people don't come by to buy horses or to sell horses or anything like that? That transaction will happen someplace else? Mr. Carpenter-Dixon said there hasn't been an ad run for about three months and there have been time periods for a few months in a row where they would run ads for a horse or two for sale. What they got was one or two calls a month and maybe one person coming out and looking, which is why they still have so many horses.

COMMISSIONER GULSVIG asked Staff if the property was city property? Mr. Dermody said it is part of the City of Chandler. Commissioner Gulsvig asked what they are looking at is AG-1 and in Staff's determination this is an appropriate use of this particular property for the City of Chandler? Mr. Dermody said yes that was correct.

VICE CHAIRMAN IRBY asked if the maximum is six horses on all her property – two and a half acres or just a little strip? Mr. Dermody said it's just the little strip – less than one acre. They can't regulate the other one.

COMMISSIONER CASON asked Staff if they could walk them through how they would monitor this property to make sure it's in compliance and if it's not in compliance what action would the city take to address those? Mr. Dermody replied that if this site were not in compliance, they would rely on the neighbors to pass that information along. They don't regularly drive through the city and monitor all the use permits on a regular basis. If they got a call to the city, an inspector would go out and check on the situation. If the complaints were found to be true and were not in compliance with the use permit as granted, then they would get a violation notice. Actually, that is what started this whole process. They didn't have a Use Permit and just like any other non-compliant zoning issue they get a notice and they have to remedy the situation within a certain time and if they don't, the case could get taken to court. It would be up to a judge to mandate a remedy if none were made by the landowners.

CHAIRMAN FLANDERS thanked the applicant. He closed the floor for discussion. He said he is hearing a lot of stuff as far as what the neighbors said, the buildings that aren't in compliance and everything else. He is thinking about putting a time stipulation of one year to see where they are to make sure the city is satisfied as far as those items with the buildings go. The neighbors can at least look at it for a year to see how they are doing. As far as the number of horses goes, an acre with six he doesn't have a problem with. To the applicant he hopes that she maintains the property in a little bit better manner than what has been shown here tonight. Also, he asked Staff that he knows that they have put this on as a stipulation on some projects as far as keeping the property in a neat and orderly manner. Would that be an appropriate stipulation for this application? Mr. Dermody said absolutely is they would like it. Chairman Flanders said he thinks they should go ahead and do that.

VICE CHAIRMAN IRBY said he would still like to have it on as a stipulation that the property shall be brought into full code compliance. Somewhere it needs to still say that it needs to have structures that meet code and all structures permitted or removed.

CHAIRMAN FLANDERS asked if there were any other comments.

VICE CHAIRMAN IRBY said he was also going to recommend a one-year stipulation.

CHAIRMAN FLANDERS asked Mr. Dermody to read those items back to them. Mr. Dermody said the new stipulation number four would read:

4. The Use Permit shall remain in affect for one 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.

5. The site shall be maintained in a clean and orderly manner.
6. Structures on the site shall meet applicable city codes and acquire any necessary permits.

A motion was made by **VICE CHAIRMAN IRBY** to approve item G with those added stipulations, seconded by **COMMISSIONER GULSVIG**. The item passed unanimously 4-0.

CHAIRMAN FLANDERS asked Staff when this would go before City Council? Mr. Weworski, Planning Manager, answered it would go October 25, 2007. Chairman Flanders told the neighbors to look at that meeting if they want to speak their mind.

6. DIRECTORS REPORT

Mr. Weworski, Planning Manager, invited the Commissioners to the Planning & Development Department Fall Picnic at Desert Breese Park on October 25. He said they will be getting some additional information about it. Also, he wanted to let them know that they are planning to cancel their November 21 meeting. It's the night before Thanksgiving and they are able to manage their upcoming zoning cases to the point where there will not be any conflicts. They will be recommending canceling it. The cancellation item will be on the November 7 agenda.

7. CHAIRMAN'S ANNOUNCEMENTS

The next regular meeting is October 17, 2007 at 5:30 p.m. in the City Council Chambers, 22 S. Delaware Street, Chandler, Arizona.

8. ADJOURNMENT

The meeting was adjourned at 6:36 p.m.

Michael Flanders, Chairman

Douglas A. Ballard, Secretary